

MISSISSIPPI PORT AUTHORITY
BOARD OF COMMISSIONERS
REGULAR MEETING

January 25, 2024

Minutes of the Mississippi State Port Authority Board of Commissioners Meeting,
Thursday, January 25, 2024, at 2510 14th Street, Suite 1450, Gulfport, Mississippi at
which the following Commissioners and staff were present:

- Commissioners:

John Rester, President
Cowles Symmes, Vice-President
Mark Loughman, Secretary
Robert J. Knesal, Treasurer
Kathryn Dennis Spear, Commissioner
- Staff:

Jon Nass, CEO
Jennifer Smith, Chief of Staff
DeeDee Wood, CFO
Shawn Meyer, COO
Kim Purchner, Executive Asst./HRO
Teresa Ehrlich, Project Manager
Gary Pitcovich, Deputy Operations Director
Hannah Milliet, Public Affairs Officer
Allison Chimenya, Marketing & Educational Coordinator
James Buras, Port Engineer
Errol LaRue, General Counsel
Tammy Salisbury, Asst. Comptroller
Matt Gabbett, Director of Operations

David Duhe, Legal Counsel
- Others:

Philip Carter, MDA (via telephone)
Nick Moody, MP Designs
David Machado, MP Designs
Joey Beattie, Cadence Insurance
Chelsea Paige, Hilton Garden Inn Gulfport
Max Nassar, WSP USA
Keith Blystone, Ocean Aero

Commissioner Rester noted the presence of a quorum and called the meeting to order at approximately 9:00 a.m.

The Pledge of Allegiance was led by Commissioner Rester.

The invocation was given by DeeDee Wood, MSPA.

PUBLIC COMMENTS:

There were no public comments.

Commissioner Symmes moved to approve the Minutes from the December 14, 2023 Board Meeting. Commissioner Spear seconded, and the motion was unanimously approved.

Commissioner Symmes moved to approve travel (Jan 22-24) – Nass to Tampa, FL; (Jan 29-Feb 1) – Meyer to Atlanta, GA; (Feb 6-10) – Nass to Mexico; (March 2-6) – Meyer to Long Beach, CA; (March 4-5) – Spear to New Orleans, LA; Commissioner Loughman seconded and the motion was unanimously approved.

Commissioner Knesal moved to approve the disbursements listed below. Commissioner Symmes seconded and the motion was unanimously approved.

DISBURSEMENTS THROUGH JANUARY 10, 2024			
BILLS FOR THE MONTHS OF DECEMBER 2023 AND JANUARY 2024 APPROVED AND PAID			
FROM THE GROSS REVENUE FUND OF THE MS STATE PORT AUTHORITY AT GULFPORT			
CHK#	VENDOR	DESCRIPTION	CHK AMT
60404	Kentwood Springs	Drinking Water	439.18
60405	AGI Systems & Networks, Inc.	Computer Maintenance	4,569.00
60406	AirGas Gulf States	Acetylene, Oxygen and Argon Cylinders	200.59
60408	Benecorp, Inc.	Remove and Replace Passage Doors for Shed 50	16,394.00
60410	Cadence Insurance, Inc.	Public Officials Bond	300.00
60411	City of Gulfport	Water	10,783.01
60412	C Spire Wireless	Cell Phone Services	1,001.87
60413	Emerald TC, LLC	Software Support	1,300.00
60414	Federal Express Corp.	Express Mail Services	40.78
60415	Foliage Design Systems, Inc.	Interior Plant Maintenance	279.69
60416	Fuelman	Fuel for MSPA Vehicles	75.31
60417	Grainger, Inc.	Water Tank for Concrete Saw	159.33
60418	Great Southern Club	Monthly Dues	104.00
60419	Gulf Ports Association	Membership Dues	500.00
60420	Harbor Square Parking Garage	Parking Garage Quarterly Rent	3,185.25
60421	Hostpapa, Inc.	Website Hosting	89.96
60422	HRdirect	Poster Guard Renewal	189.98
60423	MS State Treasurer Fund 3360900000	Telephone/Internet Services	354.33
60424	Newell Paper Co.	Office Supplies	252.00
60425	Jerry's Lawn Mower Sales	SCAG Cheetah Lawn Mower Repair	468.99
60426	Kiwanis International of Gulfport	Quarterly Dues	322.00
60427	Errol LaRue	Travel Expenses	135.00
60428	Lowe's Home Center, Inc.	Small Tools and Janitorial Supplies	350.59
60429	Mark Dunning Industries, Inc.	Waste Removal Services	4,305.00
60430	McClatchy Company, LLC	Advertising	178.80
60431	MS Economic Council	Membership Dues	402.63
60432	Micro-Methods, Inc.	Asbestos Inspection - 34th Street Property	1,875.00
60433	IDEMIA	K. Gill TWIC Card	125.25
60434	MS Gulf Coast Chamber of Comm.	Sponsorship	500.00
60435	MS Power Company	Electricity	135,214.52
60436	MS Pub. Employees Credit Union	Employee Deductions	445.00
60437	Jon T. Nass	Travel Expenses	3,718.80
60438	The Port Employees Assoc.	Employee Deductions	156.00
60439	Portable Services, Inc.	Portable Restroom Services	425.00
60440	Legal Shield	Employee Deductions	30.91
60441	Redd Pest Solutions	Pest Control Services	163.50
60442	RJ Young Company, Inc.	Printer Maintenance	540.00
60443	Rotolo Consultants, Inc. dba RCI	Landscape Services	1,508.52
60444	Southern Printing & Silkscreen	Logos and Names for Employee Uniforms	611.00
60445	Southern Admin. and Benefits	Monthly Service Fee	209.00
60446	Swetman Security Services, Inc.	Security Guard Services	32,886.30
60447	Trane U.S., Inc.	Boiler Step Controller Replacement for Marine	2,707.00

		Research Facility	
60448	United Way of South MS, Inc.	Employee Deductions	171.42
60449	DeeDee Wood	CPA License Renewal	115.49
60450	Zoro Tools, Inc.	Maintenance, Janitorial and Office Supplies	1,260.58

CHECKS DATED 12/20/23 AND RELEASED PRIOR TO SCHEDULED CHECK RUN

60388	Sage Abra	Office Supplies	212.05
60389	Sparklight	Cable Services	237.56
60390	Card Services	Fire Alarm Parts and Office Supplies	359.32
60391	Card Services	Conference Registration Fee	1,400.00
60392	C Spire Business Solutions	Telephone/Internet Services	2,582.10
60393	Guardian	Employee Deductions	1,359.52
60394	Mark Dunning Industries, Inc.	Waste Removal Services	2,350.00
60395	MS Dept. of Human Services	Employee Deductions	263.56
60396	Redd Pest Solutions	Pest Control Services	73.50

CHECK DATED 12/29/23 AND RELEASED PRIOR TO SCHEDULED CHECK RUN

60397	Fuelman	Fuel for MSPA Vehicles	364.62
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CHECKS DATED 01/04/24 AND RELEASED PRIOR TO SCHEDULED CHECK RUN

60398	Sparklight	Internet Services	93.18
60399	CenterPoint Energy	Natural Gas Services	35.15
60400	MS Dept. of Human Services	Employee Deductions	263.56
60401	Pass Road Mini Storage, LLC	Storage Unit Rent	185.00
60402	Stericycle, Inc.	Document Shredding Services	169.51

TRANSFERS

12/15/23	Deferred Compensation	Employee Deductions	1,370.00
12/20/23	Federal Tax Deposit	Payroll Tax Deposit	25,339.14
12/28/23	Connected Oceans LLC	Business Development and Consulting Services	22,916.23
01/04/24	Federal Tax Deposit	Payroll Tax Deposit	25,890.21
01/05/24	State School Insurance Fund/DFA	01/2024 Employee Health and Life Insurance	15,253.20
01/05/24	Public Employment Retirement	Retirement Match and Withheld	89,711.67
01/10/24	MS Dept Of Revenue	Sales Tax Payment	8,580.25
Total			<u>\$428,053.91</u>

FINAL CHECKLIST FOR JANUARY 25, 2024

BILLS FOR THE MONTHS OF DECEMBER 2023 AND JANUARY 2024 APPROVED AND PAID
FROM THE GROSS REVENUE FUND OF THE MS STATE PORT AUTHORITY AT GULFPORT

CHK#	VENDOR	DESCRIPTION	CHK AMT
60455	A-1 Elevator Service, LLC	Quarterly Elevator Maintenance	2,832.00
60456	Kentwood Springs	Drinking Water	361.24
60457	AFLAC	Employee Deductions	1,255.52
60458	AirGas Gulf States	Acetylene, Oxygen and Argon Cylinders	399.16
60459	Alexander, Van Loon, Sloan	Audit Services	6,130.00
60460	All Safe Technologies, LLC	Fire Alarm Monitoring	239.70
60461	Ben Nelson Golf & Utility Vehicles	Battery for Golf Cart	169.95
60462	Card Services	Sage Software Renewal, Maintenance Parts and Office Supplies	3,731.81
60463	Card Services	Registration Fees and Travel Expenses	3,766.00
60464	William A. Colgin II	Video and Photography Services	450.00
60466	Cresco Inc.	Dole Administration Building HVAC and Chiller Repairs	2,608.46
60467	Deluxe Cleaners, Inc.	Tablecloth Cleaning	67.39
60471	Eagle Energy, Inc.	Diesel Fuel	2,229.60
60472	Emerald TC, LLC	Software Support	250.00
60473	Federal Express Corp.	Express Mail Services	25.86
60474	Fuelman	Fuel for MSPA Vehicles	485.45
60475	Guardian	Employee Deductions	1,367.49
60476	Whitney Bank Divisional Property	February Lease for Suite 1450	26,858.42
60477	Whitney Bank Trust & Asset Management	Investment Advisory Service Fees	26,714.54

60479	Journal Communications, Inc.	Advertising	8,000.00
60480	KLDiscovery Ontrack, LLC	Professional Services	1,477.00
60481	Robert J. Knesal	Per Diem and Travel Expenses	335.74
60482	Mark P. Loughman	Per Diem	160.00
60484	MS DHS - State Disbursement Unit	Employee Deductions	263.56
60486	MS Pub. Employees Credit Union	Employee Deductions	445.00
60487	Secretary of State	Notary Renewal	25.00
60488	Gary Pitcovich	Space Heaters for Emergency Heating at Crowley Administration Building	235.31
60489	John Rester	Travel Expenses	215.74
60490	SBL Strategies, LLC	Professional Consulting Services	10,000.00
60491	South Mississippi Business Machines	Copier Maintenance	569.00
60492	Jennifer Smith	Travel Expenses	138.12
60493	Norma Jean Soroe	Transcription Services	344.48
60494	Specialty Hose & Fabrication	Hydraulic Hose Assembly for Street Sweeper	117.65
60495	Kathryn Dennis Spear	Per Diem and Travel Expenses	575.74
60496	SSA Gulf Inc.	Office Trailer Rent for Cotton Compress	900.00
60497	Sterling Solutions LLC	Professional Services	12,500.00
60498	Swetman Security Services, Inc.	Security Guard Services	65,138.10
60499	Cowles Edgar Symmes	Per Diem and Travel Expenses	370.91
60500	Zoro Tools, Inc.	Employee Uniforms	317.96
CHECK DATED 01/11/24 AND RELEASED PRIOR TO SCHEDULED CHECK RUN			
60451	James Buras	Travel Expenses	610.62
CHECKS DATED 01/18/24 AND RELEASED PRIOR TO SCHEDULED CHECK RUN			
60452	Sparklight	Cable Services	249.36
60453	MS Dept. of Human Services	Employee Deductions	263.56
60454	Pass Road Mini Storage	Storage Unit Rent	175.00
TRANSFERS			
01/10/24	Deferred Compensation	Employee Deductions	1,370.00
01/12/24	MS Department of Revenue	Employee Deductions	11,717.00
01/18/24	Federal Tax Deposit	Payroll Tax Deposit	28,138.37
Total			<u>\$224,595.81</u>

Commissioner Loughman moved to approve the Port User Licenses, pending receipt of all fees and insurance documents. Commissioner Symmes seconded and the motion was unanimously approved.

The following items were approved:

RENEWAL LICENSES:

Vendors: Martin Energy Services; Snider Tire, Inc.; Whitestone Transportation, LLC

NEW LICENSES:

Apprentice Pilot: Benjamin E. Hilton

Commissioner Spear left the meeting.

Commissioner Symmes moved to approve the following progress payments: DNP, Inc. (\$287,042.50); and Hopkins Construction & Maintenance, LLC (\$98,141.65). Commissioner Loughman seconded and the motion was unanimously approved.

Commissioner Spear returned to the meeting.

Commissioner Symmes moved to approve the following progress payments: Balch & Bingham (\$31,950.45); Covington Civil & Environmental (\$401.25); Digital Engineering (\$721.50); Dredging Professor (\$240.00); and MP Design Group (\$76,183.71). Commissioner Spear seconded and the motion was unanimously approved.

Commissioner Loughman left the meeting.

Commissioner Symmes moved to approve a progress payment to Mississippi Power (\$248,100.99). Commissioner Spear seconded and the motion was unanimously approved.

OLD BUSINESS:

Commissioner Symmes moved to approve a Notice of Completion with Mississippi Power for Work Order No. 59011030Y7A for the relocation of underground power lines. Commissioner Spear seconded and the motion was unanimously approved.

Commissioner Loughman returned to the meeting.

Commissioner Loughman moved to approve the following Modifications and Closeouts to Contract No. 17-EN-04 with Digital Engineering:

Modification No. 9 to Work Order No. 1 for a credit of \$775.72 for on-call engineering services.

Modification No. 2 to Work Order No. 9 for a credit of \$160,411.25 for East Pier Road Improvements Project.

Modification No. 1 to Work Order No. 20 with additional funding of \$12,241.50 for the Hurricane Zeta armor & erosion project.

Modification No. 1 to Work Order No. 21 for a credit of \$29,922.00 for East Pier Shed 50 repairs.

Commissioner Symmes seconded and the motion was unanimously approved.

Commissioner Symmes moved to approve Amendment No. 1 to the Lease Agreement with Ocean Aero. Amendment No. 1 increases the amount of MSPA's reimbursable construction contribution by \$1,000,000.00 with all other terms remaining the same. Commissioner Spear seconded and the motion was unanimously approved.

NEW BUSINESS:

Commissioner Loughman moved to approve the disposal of the following obsolete and/or inoperable assets: John Deere Tractor, Caterpillar Backhoe, Tsurumi Generators (3), 2009 Ford F-150, 2010 Chevrolet Colorado Trucks (2), Canon Plotter, Generac Generator, Edgestar Ice Maker. Commissioner Knesal seconded and the motion was unanimously approved.

Commissioner Loughman moved to approve a Strategic Regional Alignment Agreement between the Mississippi State Port Authority and the Gulf Coast Business Council, Inc. to help expand the local economy by sharing combined efforts in Legislative Advocacy, data sharing, agency information, and communication. Commissioner Symmes seconded and the motion was unanimously approved.

Commissioner Symmes moved to approve Resolution No. 24-01, authorizing MSPA to pursue and apply for grant funds, including, without limitation, Mississippi Strategic Multimodal Investment Funds to make rail improvements to the East and West Pier. Commissioner Loughman seconded and the motion was unanimously approved.

Commissioner Loughman moved to approve Resolution No. 24-02, authorizing MSPA to allocate and expend 40% matching funds for the grant-funded rail project contemplated in Resolution 24-01. Commissioner Symmes seconded and the motion was unanimously approved.

Commissioner Knesal moved to authorize the issuance of an RFP for Geotechnical Engineering, Construction Materials Testing and Inspection services on current and

future construction, maintenance, and repair projects. Commissioner Symmes seconded and the motion was unanimously approved.

Commissioner Symmes moved to approve Contract No. 24-EN-03 with WSP for consulting services related to Planning Support Services and Work Orders Nos. 1-3:

Work Order No. 1 – has a not to exceed amount of \$50,000.00 for preliminary work requests and services.

Work Order No. 2 – has a not to exceed amount of \$45,000.00 for Phase 1 Workforce Development Plan to support the Channel Deepening and Widening Feasibility Study.

Work Order No. 3 has a not to exceed amount of \$115,000.00 for a Market Analysis in support of Channel Deepening and Widening Feasibility Study.

Commissioner Loughman seconded and the motion was unanimously approved.

Commissioner Symmes moved to approve Contract No. 24-EN-04 with HDR for consulting services related to Planning Support Services and Work Order No. 1. Work Order No. 1 has a not to exceed amount of \$20,000.00 and will provide for preliminary work requests and services. Commissioner Knesal seconded and the motion was unanimously approved.

ENGINEERING UPDATE:

James Buras and Teresa Ehrlich reported on current engineering projects.

PUBLIC RELATIONS/MARKETING REPORT:

Allison Chimenya and Hannah Milliet gave a presentation regarding the Port Affairsreported on current public relations and marketing events.

OPERATIONS REPORT:

Shawn Meyer reported on the maritime activity for December of 2023:

Vessels	13		Vehicles	11,837
Tugs	5		Railcars	718
Tonnage (YTD)	904,475		Barges	25
TEU's (short tons)	88,857			

Tonnage is down 14% and TEU count is down 6%. Unfortunately, this is currently standard for the industry.

EXECUTIVE DIRECTOR’S COMMENTS:

Commissioners received a report from Director Nass on 2023, looking back on the many positives.

Welcome to Katie Gill, MSPA’s most recent hire. Katie will fill the role of Entry Level Accountant and is a recent graduate of Mississippi State University.

Plans are underway for staff and Commissioners to visit Costa Rica with Dole representatives in March.

Director Nass is speaking at two events within the next week – Friday, January 26th at the GCBC Legislative Launch Luncheon and Wednesday, January 31st at the Annual Meeting of the Foreign Trade Zone.

GENERAL COUNSEL’S COMMENTS:

David Duhe had no comments.

MDA'S COMMENTS:

Philip Carter had no comments.

COMMISSIONERS' COMMENTS:

There were no Commissioners' comments.

Commissioner Symmes moved to close the meeting to discuss the need for an Executive Session. Commissioner Spear seconded and the motion was unanimously approved.

Commissioner Symmes moved to enter Executive Session to discuss a real estate matter (prospective lease). Commissioner Spear seconded and the motion was unanimously approved.

(THE BOARD OF COMMISSIONERS ENTERED INTO EXECUTIVE SESSION AT APPROXIMATELY 10:05 A.M.)

Commissioner Symmes moved to come out of Executive Session. Commissioner Spear seconded and the motion was unanimously approved.

Commissioner Rester stated that no action took place during Executive Session.

Commissioner Symmes moved to amend the agenda to add approval of Resolution No. 24-03 and a lease approval to the agenda. Commissioner Loughman seconded and the motion was unanimously approved.

Commissioner Symmes moved to approve Resolution No. 24-03, approving and authorizing the appointment of legal counsel and payment of costs and expenses associated with the defense of Jon Nass and Matthew Wypyski in their individual capacities against the claims of Yilport. Commissioner Spear seconded and the motion was unanimously approved.

Commissioner Symmes moved to approve a Ground Lease and Development Agreement for Climate Controlled Storage Facilities by and between The Mississippi Development Authority, the Mississippi State Port Authority and Core X Gulfport Propco, LLC. Commissioner Knesal seconded and the motion was unanimously approved.

Commissioner Symmes moved to adjourn.

The meeting adjourned at approximately 10:17 a.m.

Approved and Attested

John Rester
President



Mark Loughman
Secretary



EXECUTION VERSION

**GROUND LEASE AND DEVELOPMENT AGREEMENT FOR CLIMATE
CONTROLLED STORAGE FACILITIES**

by and between

**MISSISSIPPI DEVELOPMENT AUTHORITY and
MISSISSIPPI STATE PORT AUTHORITY AT GULFPORT**

and

CORE X GULFPORT PROPCO LLC

January 25, 2024

**GROUND LEASE AND DEVELOPMENT AGREEMENT FOR
CLIMATE CONTROLLED STORAGE FACILITIES**

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**GROUND LEASE AND DEVELOPMENT AGREEMENT FOR
CLIMATE CONTROLLED STORAGE FACILITIES**

This Ground Lease and Development Agreement for Climate Controlled Storage Facilities (this "Lease Agreement") is executed this 25th day of January, 2024 (the "Effective Date"), by and between, the STATE OF MISSISSIPPI, appearing herein by and through its duly authorized agencies, the MISSISSIPPI DEVELOPMENT AUTHORITY ("MDA") and the MISSISSIPPI STATE PORT AUTHORITY AT GULFPORT ("MSPA") (herein collectively referred to as the "Port Authority") and CORE X Gulfport Propco LLC, a Delaware limited liability company registered and authorized to do business in Mississippi ("CORE X"). Each of MDA, MSPA and CORE X are sometimes referred to individually as a "Party" and, collectively, as the "Parties."

WHEREAS, Port Authority is the owner of certain port facilities, including certain inland facilities, all of which being commonly referred to as the Port of Gulfport, located in the City of Gulfport, First Judicial District of Harrison County, Mississippi (the "Port") and is statutorily charged with the advancement of the development, improvement, and expansion of, among other things, the Port;

WHEREAS, Port Authority has completed an approximately \$600 million restoration and improvement project of West Pier and has recently completed a strategic plan, all with the objective of modernizing the Port in order to improve operational efficiency to increase volumes of Cargo at the Port;

WHEREAS, both the projection and realization of increased volumes of Cargo through the Port are necessary to support Port Authority's application to key stakeholders, including the U.S. Army Corps of Engineers, to obtain requisite approvals for widening and deepening the shipping channels at the Port;

WHEREAS, Port Authority has determined that the re-establishment of climate controlled warehouses at the Port should be prioritized in an effort to increase Cargo volumes and create jobs, which climate controlled warehouses were formerly located on the West Pier and destroyed by Hurricane Katrina;

WHEREAS, in the furtherance of re-establishing the climate controlled warehouses, Port Authority has strategically identified and acquired certain inland Port facilities to mitigate risk associated with the construction and operation of climate controlled warehouses at locations that are materially susceptible to adverse storm impacts;

WHEREAS, Port Authority has identified a utilization of certain inland Port facilities, including certain portions of the Cotton Compress Property, for the development and operation of an industrial-sized, climate controlled warehouse and transloading facility, which will increase and diversify Cargo volumes and will promote the interests of the state of Mississippi and the Port as a world-class, intermodal commercial seaport and marine terminal on the Gulf of Mexico;

WHEREAS, CORE X is an industry leader in the development and operation of climate controlled warehouses with facilities located throughout the United States with an experienced cold storage operation connected by a national logistic supply-chain network utilizing state-of-the-art facilities in an energy-efficient and cost-effective manner;

WHEREAS, the Parties desire to enter into a long-term lease for CORE X's investment in, and development and operation of, the Leased Premises as an industrial-sized, climate-controlled facility designed to maximize utilization of the Port to diversify and increase Cargo volume in order to support deepening and widening of the shipping channels at the Port;

WHEREAS, Port Authority has determined that the transactions described in this Lease Agreement promote the development, improvement, and expansion of the ports, harbors, and inland waterways of the state of Mississippi, which responsibilities and duties are prescribed to Port Authority under the State Ports and Harbors Law (Miss. Code Ann. § 59-5-1, et seq.); and

WHEREAS, CORE X is desirous of leasing certain portions of the Cotton Compress Property for the purposes of developing the Leased Premises into a new industrial-sized, climate-controlled facility and operating and maintaining the same once operational.

NOW, THEREFORE, for and in consideration of the mutual covenants and stipulations herein contained, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties do hereby mutually contract and agree, each for itself and its successors and assigns, as follows:

1. **DEFINITIONS; INTERPRETATION OF AGREEMENT**

1.1 **Definitions.** Capitalized terms used in this Lease Agreement have the meanings identified in this Part 1 or in the body of this Lease Agreement. Terms defined in this Part 1 or within the body of this Lease Agreement may be singular or plural, as the context requires, and, absent an express statement otherwise, have the same meaning in all exhibits and forms incorporated as exhibits. This Lease Agreement is subject to the rules of construction described in Section 1.2 (*Lease Agreement Interpretation*).

1.1.1 **Additional Rent:** As defined in Section 5.4 (*Additional Rent*).

1.1.2 **Affiliate:** With respect to any Person or Party, any other Person that, directly or indirectly, through one or more intermediaries, Controls or is controlled by or is under common Control with such Person.

1.1.3 **Anti-Corruption Laws:** Any applicable Law related to combating corruption or bribery, including the FCPA.

1.1.4 **Anti-Money Laundering Laws:** Any applicable Law related to combating money laundering, suspicious transactions, trade embargos, economic sanctions, or terrorist financing, including the US Bank Secrecy Act of 1986, the USA Patriot Act of 2001 (in each case to the extent applicable to the Parties and to this Lease Agreement), the SDN List or any similar list maintained by OFAC at the United States Department of the Treasury.

1.1.5 **Basic Conditions:** As defined in Section 9.1.2 (*Basic Conditions*).

1.1.6 **Cargo:** General goods, commodities or wares that are shipped in Containers and containerized cargoes together with palletized general goods, commodities or wares and certain non-containerized cargoes, each of which being customarily used on sea- and ocean-going vessels, rail, or truck for the convenient shipment and transport of such goods, commodities or wares.

1.1.7 **Casualty Event:** Fire, flood, or other casualty of any kind or nature (including any casualty for which insurance was not obtained or obtainable), ordinary or extraordinary, foreseen or unforeseen.

1.1.8 **Claim:** Any claim, liability, loss, Lien, cause of action of any kind, order, obligation, cost, royalty, fee, penalty, assessment, fine, judgment, interest, and award (including reasonable legal counsel fees and costs of litigation or non-binding mediation of the Party or Person asserting the Claim), whether arising by law, contract, tort, or voluntary settlement.

1.1.9 **Climate Controlled Freezer Warehouse Facilities:** A stationary facility designed for the storage of goods where the internal temperature is systematically and mechanically regulated to remain at a temperature that chills and freezes Cargo and is more than 20,000 square feet in size. This includes permanent freezer systems and insulated storage spaces but does not include logistics and transloading operations, temporary or mobile cooling

units, ambient or controlled-environment warehouses that do not have integrated systems for sub-zero temperature control, and any other facilities not specifically designed for sub-zero temperature storage.

1.1.10 Container: Any container which complies with ISO standards for freight containers including any standard ISO Container 20', 40' or 45' in length, 8' in width and 8'6"/9'6" in height, including, e.g., flatracks, platforms, reefer and tank containers. Contract Year: (i) The period of twelve (12) months from the Lease Commencement Date (which will be the "first Contract Year"); and (ii) each successive period of twelve (12) months after the end of the first Contract Year and ending on the date of the end of the Term.

1.1.12 Control: The possession, directly or indirectly, of the power to appoint, direct, or cause the direction of the board of directors, management, or policies of a Person or Party, whether through the ownership of voting securities, by contract, or otherwise. The term "Control" includes related terms.

1.1.13 CORE X: CORE X Gulfport Propco LLC, a Delaware limited liability company, registered and authorized to do business in Mississippi.

1.1.14 CORE X Contamination: A Hazardous Substances Contamination on, under, or migrating from (i) the Leased Premises, including the water bodies adjacent thereto, that was caused, permitted, or authorized by CORE X or by any CORE X Responsible Person after the Effective Date; or (ii) the Leased Premises that was otherwise caused, permitted, or authorized on the Leased Premises by CORE X or any CORE X Responsible Person during the Term. A CORE X Contamination does not include (a) Hazardous Substances Contamination at the Port that occurred prior to, or exists as of, the Effective Date, or (b) Hazardous Substances Contamination that migrates to the Leased Premises or any other area under CORE X's control from an area outside of CORE X's control and that was not caused, permitted, or authorized by a CORE X Responsible Person.

1.1.15 CORE X Coverages: As defined in Section 13.1 (*Insurance Generally*).

1.1.16 CORE X Responsible Persons: CORE X or its officers, agents, representatives or employees, contractors, sub-contractors, lessees or sub-lessees, customers, invitees or licensees or any of their employees, contractors, or agents.

1.1.17 Cotton Compress Property: That certain inland Port property, being approximately 38.25 acres, more or less, located in the City of Gulfport, Section 32, Township 7 South, Range 11 West, First Judicial District, Harrison County, Mississippi and more particularly described and depicted on Schedule 1.1.16 (*Cotton Compress Property*) attached hereto and fully incorporated herein by this reference.

1.1.18 Cure Period: A time period, commencing upon the earlier of actual notice of a Default or receipt by the Defaulting Party of a notice pursuant to Section 18.1 (*Default*), as is reasonably necessary to cure the Default, not to exceed thirty (30) days, taking into account the nature and gravity of the failure and cure, unless otherwise expressly provided herein. The Parties agree that if the non-Defaulting Party reasonably believes that the Default constitutes or creates an event of emergency or requires an immediate Response Action or other remedial action in order to preserve the health, safety, or welfare of any Party, Person, or property (including with respect to storm preparation) or Involves an act or omission which materially interferes with or obstructs efficient Port operations, the "Cure Period" will be deemed to require immediate action to remove such Default. The Parties further agree that, with respect to all other Defaults, if Defaulting Party reasonably believes that the Default cannot be cured within thirty (30) days, the Defaulting Party must give written notice to the other Parties describing in detail the actions remaining to be taken and

any extenuating circumstances affecting the Defaulting Party's ability to remedy such Default.

1.1.19 Default: As defined in Section 18.1 (*Default*).

1.1.20 Default Interest Rate: An annual rate of interest equivalent to (i) one percent (1%) above the target federal funds rate, as most recently announced by the Board of Governors of the U.S. Federal Reserve System, or, if no such rate is being announced, (ii) one percent (1%) above the Federal Reserve Bank of New York (FRBNY) rate; in each case as in effect on the date upon which an amount first becomes overdue.

1.1.21 Defaulting Party: As defined in Section 18.1 (*Default*).

1.1.22 Deposit: Fifty Thousand and No/100 Dollars (\$50,000.00).

1.1.23 Due Diligence Period: As defined in Section 2.1 (*Due Diligence Period*).

1.1.24 Effective Date: 12:00:00 a.m. Central time on the day specified in the preamble to this Lease Agreement.

1.1.25 Entitlements all permits and approvals that CORE X, in its sole discretion, deems reasonably necessary for CORE X to develop the Leased Premises and conduct the Permitted Use.

1.1.26 Environmental Laws: All applicable laws, statutes, ordinances, codes, rules, standards and regulations of any Governmental Authority, now or hereafter in effect, and any applicable judicial or administrative interpretation thereof, including any applicable judicial or administrative order, consent decree, order or judgment, imposing liability or standards of conduct for or relating to the regulation and protection of human health, safety, the environment and any and all natural resources (including ambient air, surface water, groundwater, wetlands, land surface or subsurface strata, wildlife, aquatic species and vegetation). Environmental Laws include CERCLA (42 U.S.C. §§ 9601 et seq.); the Hazardous Materials Transportation Authorization Act of 1994 (49 U.S.C. §§ 5101 et seq.); the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. §§ 136 et seq.); the Solid Waste Disposal Act (42 U.S.C. §§ 6901 et seq.); the Solid Wastes Disposal Law of 1974 (Mississippi Code §§ 17-17-1 et seq.); the Toxic Substance Control Act (15 U.S.C. §§ 2601 et seq.); the Clean Air Act (42 U.S.C. §§ 7401 et seq.); the Federal Water Pollution Control Act (33 U.S.C. §§ 1251 et seq.); the Coastal Wetlands Protection Act (Mississippi Code §§ 49-27-1 et seq.); the Mississippi Air and Water Pollution Control Law (Mississippi Code §§ 49-17-1 et seq.); the Mississippi Underground Storage Tank Act of 1988 (Mississippi Code §§ 49-17-401 et seq.) the provisions of the Occupational Safety and Health Act (29 U.S.C. §§ 651 et seq.) relating to exposure to Hazardous Substances; and the Safe Drinking Water Act (42 U.S.C. §§ 300(1) et seq.), and any and all regulations promulgated thereunder, and all applicable analogous state, local and federal counterparts or equivalents.

1.1.27 Escrow Agent: Stewart Title Guaranty Company having an address of 2100 Southbridge Parkway, Ste 640, Birmingham, AL.

1.1.28 Force Majeure Event: Any event beyond the reasonable control of CORE X or Port Authority, as the case may be, that delays or interrupts the performance of the obligations or covenants of CORE X or Port Authority for a period of at least thirty (30) continuous days, including an act of God, war, act of terror, invasion, armed conflict, blockade, strike, earthquake, riot, epidemic, stop-work order or injunction issued by a Governmental Authority of competent jurisdiction, work stoppage or labor shortage, vendor

delays, fire, tornado, hurricane, extraordinary tides or winds or other natural disaster; but only if such event is not the result of (i) the negligence or misconduct of the Party claiming Force Majeure, (ii) any act or omission by CORE X or its representatives in breach of the provisions of this Lease Agreement, or (iii) lack or insufficiency of funds or failure to make payment of monies on the part of CORE X.

1.1.29 Governmental Authority: Any federal, state, provincial, county, regional, local, municipal, or city government, or other executive, judicial or legislative body or authority, including any governmental department, commission, board, bureau, agency or instrumentality thereof. For the avoidance of doubt, the term "Governmental Authority" includes each of MSPA and MDA.

1.1.30 Hazardous Substance: Any hazardous or potentially hazardous substance, material or waste that is regulated by, or forms the basis of liability now or hereafter under any Environmental Laws, including any material or substance that is (a) defined or listed in, or otherwise classified pursuant to, any applicable Environmental Laws as a "solid waste," "hazardous waste," "hazardous material," "hazardous substance," "extremely hazardous waste," "restricted hazardous waste," "pollutant," "contaminant," "hazardous constituent," "special waste," "toxic substance" or other similar term or phrase under any Environmental Laws, (b) petroleum or any fraction or by product thereof, asbestos, polychlorinated biphenyls (PCB's), or any radioactive substance, or (c) any solid, liquid, gas, odor, heat, sound vibration, or combination of that might impair human health, injure or damage the natural environment, or injure or damage natural resources (including ambient air, surface water, groundwater, wetlands, land surface or subsurface strata, wildlife, aquatic species and vegetation).

1.1.31 Hazardous Substances Contamination: The presence, Release, or threatened Release of Hazardous Substances.

1.1.32 Holiday: As defined in Section 1.3 (*Days; Notice or Payment on a Saturday, Sunday, or Holiday*).

1.1.33 Immediately Orally Notify: A verbal report of a Release of a reportable quantity (RQ) to those that need to be notified pursuant to Law or this Lease Agreement within such timeframe as required by Law, to be lodged first with the relevant Governmental Authorities (National Response Center, Harrison County Office of Emergency Management, Mississippi Emergency Management Agency, and Mississippi Department of Environmental Quality), and then with Port Authority.

1.1.34 Indemnitee: As defined in Section 14.1 (*Indemnification by CORE X for Losses*).

1.1.35 Initial Term: As defined in Section 2.2 (*Initial Term*).

1.1.36 Laws: All federal, state and local laws, statutes, regulations, rules, tariffs, permits, treaties, ordinances, judgments, directives, decrees, approvals, interpretations, injunctions, writs, orders, and other similar legal requirements issued by any Governmental Authority, including Environmental Laws.

1.1.37 Lease Agreement: As defined in the preamble.

1.1.38 Lease Commencement Date: As defined in Section 2.1 (*Due Diligence Period*).
Leased Premises: As defined in Section 3.1 (*Leased Premises*).

1.1.39 Leasehold Estate: An interest in the Lease Agreement and grant of rents, royalties, credits and profits created by the Lease Agreement.

- 1.1.40 Leasehold Mortgage: As defined in Section 6.1 (Mortgage of CORE X's Interest)
- 1.1.41 Leasehold Mortgagee: As defined in Section 6.1 (Mortgage of CORE X's Interest)
- 1.1.42 Lien: Any lien, garnishment, charge, claim, encumbrance, or similar right available to creditors at law to secure debts or obligations owed to them.
- 1.1.43 Loss: As defined in Section 14.1 (*Indemnification by CORE X for Losses*).
- 1.1.44 MDA: The Mississippi Development Authority, an agency of the state of Mississippi.
- 1.1.45 Minimum Condition: The condition reasonably necessary to substantially satisfy the Basic Condition and have the operational capacity to handle substantially the same types of services that have been provided upon the Leased Premises, be in a reasonably similar environmental condition existing as of the Effective Date, as evidenced by such environmental or other reports, assessments, or documentation as Port Authority may reasonably require, and to the extent within CORE X's reasonable control.
- 1.1.46 Minimum Investment: As defined in Section 4.1 (*Minimum Investment Schedule*).
- 1.1.47 Monetary Default: As defined in 18.1 (*Default*).
- 1.1.48 MSPA: The Mississippi State Port Authority at Gulfport, an agency of the state of Mississippi.
- 1.1.49 Non-Curable Default: As defined in Section 6.3.2 (*Possession or Foreclosure*)
- 1.1.50 Option Notice: As defined in Section 2.3.1 (*Option Notice*).
- 1.1.51 Option Term: As defined in Section 2.3.1 (*Option Notice*).
- 1.1.52 Parties: MDA, MSPA, and CORE X or the combination of any two of them.
- 1.1.53 Party: MDA, MSPA, or CORE X.
- 1.1.54 Permitted Use: The right to develop, operate and use the Leased Premises as a climate-controlled warehouse facility for the purposes of handling, receipt, delivery, storage, stacking, loading and unloading of Cargo, subject to this Lease Agreement, and for any other purpose under Law reasonably necessary and incidental thereto. The "Permitted Use" does not include any development or use that would constitute a nuisance under, or violation of, Law or that would in any way unreasonably and materially interfere with the normal routine operation of the Port by any Party or Person.
- 1.1.55 Person: (a) any natural person, (b) any corporation, limited liability company, partnership (general or limited), statutory trust, joint stock company, unincorporated association, joint venture or other person established to conduct business or (c) any Governmental Authority, whether domestic or foreign, not a Party to this Lease Agreement.
- 1.1.56 Plans and Specifications: All working drawings and specifications setting forth in detail and prescribing all work to be performed for any improvement or alteration, including the scope of work, schedule, and estimated hard construction cost, together with all, if and as applicable, engineering, geotechnical and design reports, general conditions, special conditions, materials, workmanship, finishes, and equipment required for the architectural, structural, life safety, mechanical, electrical, and plumbing systems, parking, landscaping,

on-site amenities, and facilities, and all addenda thereto and modifications thereof, to be prepared by a qualified and licensed Person.

1.1.57 Port: As defined in the Recitals.

1.1.58 Port Authority: MDA and MSPA.

1.1.59 Price Index: The Producer Price Index (Unfinished Goods) as published by the U.S. Bureau of Labor Statistics.

1.1.60 Proceeding: Any civil, criminal, or administrative action, lawsuit, or other judicial or administrative adversarial proceeding.

1.1.61 Release: Any release, spill, discharge, disposal, leak, leaching, migration, or dispersal of Hazardous Substance.

1.1.62 Rent: The amount of annual rent payable to MSPA by CORE X under Part 5 (*Deposit; Rent; Adjustments; Additional Fees*). The term "Rent" does not include costs associated with Utilities, taxes, or insurance.

1.1.63 Response Action: The investigation, testing, feasibility study, risk assessment, treatment, removal, disposal, reuse, handling, transport, clean up, remediation, containment, capping, encapsulating, mitigation, or monitoring of Hazardous Substances or any Release; the preparation and implementation of any health and safety plans, operations and maintenance plans or any other plans related to a Release; the demolition, reconstruction or construction of any subsurface or surface structures to implement the Response Action; and the Restoration of the Leased Premises after the completion of the Response Action whether required by Environmental Law or this Lease Agreement.

1.1.64 Restoration, Restoring, or Restore: With respect to any Casualty Event, to repair, restore or rebuild the affected portion of the Leased Premises to restore it to its condition prior to the Casualty Event (but in no event to less than the Minimum Condition), as the case may be, ordinary wear and tear excepted. As applicable to CORE X, the term "Restoration, Restoring, or Restore" includes the obligation to promptly and diligently pursue any available claim under the applicable CORE X Coverages for such Casualty Event.

1.1.65 Site Plan: As defined in Section 4.2 (*Site Plan*).

1.1.66 Standard of Care: The development and operation of the Leased Premises for the Permitted Use as a reasonable prudent Person seeking in good faith to perform its contractual obligations in accordance with good industry practice and in compliance with all applicable Laws and, in so doing and in the general conduct of its undertaking, exercising that degree of skill, diligence, prudence, and foresight which would reasonably and ordinarily be expected from a Person engaged in the same type of undertaking under the same or similar circumstances and conditions.

1.1.67 Survey: As defined in Section 3.2 (*Survey*) together with any amendments and revisions thereto as may be mutually agreed upon by the Parties from time-to-time.

1.1.68 Term: Collectively, the Initial Term, and if and as applicable, any Option Term.

1.1.69 Utilities: All electricity, water, gas, refuse collection, sewerage, drainage, telephone, Internet access, pest control, and other services of like nature. The term "Utilities" does not include any fumigation that may be required at the Leased Premises.

1.1.70 West Pier: The area commonly known as the "West Pier" of the Port.

1.2 Lease Agreement Interpretation. In this Lease Agreement:

1.2.1 "include(ing)" means "include, but are not limited to" or "including, without limitation";

1.2.2 "or" means "either or both" ("A or B" means "A or B or both A and B");

1.2.3 "e.g." means "for example, including, without limitation";

1.2.4 "written" or "in writing" includes email or facsimile communication, absent express statement otherwise;

1.2.5 the table of contents and headings in this Lease Agreement are included for convenience and do not affect the construction or interpretation of any provision of, or the rights or obligations of a Party, under this Lease Agreement;

1.2.6 "hereof," "herein," and "hereunder" and words of similar import refer to this Lease Agreement as a whole and not to any particular provision of this Lease Agreement;

1.2.7 "will" or "must" is to be interpreted with equal effect as the word "shall"; and

1.2.8 "arising" (or that "arise" or "arises") "out of this Lease Agreement" includes matters that arise in connection with this Lease Agreement or have a causal connection with, or that flow from, this Lease Agreement or that would not have arisen or occurred but for the entering into of this Lease Agreement, or the performance or failure to perform obligations under this Lease Agreement.

Reference to:

(a) a Party or entity includes any permitted successor or assign thereof;

(b) a specific Governmental Authority includes any other Governmental Authority succeeding to the same function thereof;

(c) applicable Law, a document (including this Lease Agreement, but only to the extent permitted by this Lease Agreement), or a provision, is to the law, document, or provision as modified, restated, supplemented, or amended and then effective or current, unless otherwise indicated;

(d) any article, section, clause, schedule, or exhibit are those of this Lease Agreement unless otherwise indicated;

(e) this Lease Agreement will be deemed to include all exhibits attached to this Lease Agreement;

(f) a Lease Agreement part by heading or number includes all sections, subsections, and clauses within that part or number;

(g) a Lease Agreement section by caption or number includes all subsections and clauses within that section; and

(h) payment is to be deemed to mean the legal currency of the United States.

1.3 **Days; Notice or Payment on a Saturday, Sunday, or Holiday.** Whenever the term "day" is used in this Lease Agreement, it will refer to a calendar day unless otherwise specified. A "business day" will mean any weekday except for those weekdays that banking institutions within the state of Mississippi are authorized by applicable law to be, or in fact are, closed (a "Holiday"). Should the period to make any payment or to give or respond to a notice expire on a Saturday, Sunday, or Holiday, such period will be automatically extended through the following business day.

1.4 **Drafting.** Both Parties were actively involved in negotiating and drafting this Lease Agreement; no rule allowing construction in favor of, or against, a Party according to authorship will apply.

2. **TERM**

2.1 **Due Diligence Period.** The "Due Diligence Period" of the Lease Agreement will commence upon the Effective Date and continue thereafter until the earlier of: (a) the date of Port Authority's receipt of written notice from CORE X that all due diligence is acceptable or waived and all Entitlements have been obtained; and (b) a date that is ten (10) months from the Effective Date, or, if the Due Diligence Period is extended pursuant to this paragraph, a date that is thirteen (13) months from the Effective Date. The "Lease Commencement Date" shall be the date that is no later than thirty (30) days after the expiration of the Due Diligence Period, as may be extended. Such Lease Commencement Date shall be determined by CORE X and such determination shall be communicated by written notice from CORE X to the Port Authority. In the event CORE X, in its sole and absolute discretion, terminates this Lease Agreement during the initial Due Diligence Period, Escrow Agent will return the Deposit to CORE X. CORE X, in its sole and absolute discretion, may, upon written notice, extend the initial Due Diligence Period for up to ninety (90) days and in such case the Deposit will be non-refundable in favor of Port Authority.

2.2 **Initial Term.** The "Initial Term" will commence upon the Lease Commencement Date, unless earlier terminated in accordance with the terms of Part 18 (*Default*), and continue thereafter until the sixtieth (60th) anniversary of the Lease Commencement Date.

2.3 **Option Terms.** CORE X will have the right to extend the Term beyond the Initial Term for two (2) separate and successive fifteen (15) year Option Terms, subject to the following conditions:

2.3.1 **Option Notice.** No earlier than twelve (12) months, but no later than one hundred eighty (180) days, prior to the expiration of the then-expiring Term, CORE X provides written notice (the "Option Notice") of its election to extend the Term of this Lease Agreement for an additional fifteen (15) year period beyond the date of expiration of the then-expiring Term (each, an "Option Term"). In such case, the Term of this Lease Agreement will be extended; and

2.3.2 **No Default.** CORE X is not a Defaulting Party under this Lease Agreement immediately prior to the commencement of the then-applicable Option Term or, in any case where CORE X is a Defaulting Party, such Default is the subject of a good faith dispute by the Parties.

In such case, the Term of this Lease Agreement will be extended.

3. **LEASED PREMISES; MATTERS AFFECTING PREMISES**

3.1 **Leased Premises.** Subject to Section 3.5 (*Title*) and Section 3.6 (*Acceptance of Leased Premises*), Port Authority hereby demises and leases to CORE X and CORE X accepts and leases from Port Authority for the Permitted Use approximately 15.00 acres, more or less, located on a portion of the inland Port property formerly known as the Cotton Compress Property, located in the City of Gulfport, in the First Judicial District of the County of Harrison, State of Mississippi (the "Leased Premises"), as initially generally described on Exhibit 3.1(a) attached hereto and to be more particularly described and depicted on Exhibit 3.1(a) *Depiction of Leased Premises* together with a non-exclusive easement for the reasonable

rights of ingress and egress to and from the Leased Premises upon, over and through existing common driveways and thoroughfares at the Cotton Compress Property initially generally described and depicted on Exhibit 3.1(b). The Parties hereto acknowledge that once the Survey contemplated in Section 3.2 (Survey) has been completed, this Lease shall be modified to replace Exhibits 3.1(a) and 3.1(b) with the Survey.

3.2 **Survey.** During the Due Diligence Period, CORE X will procure an updated boundary survey of the Leased Premises in order to prepare the exhibits described in Section 3.1 (Leased Premises). The Parties agree that any additional survey work for the purposes of facilitating the development of the Leased Premises must also conform to ALTA standards and will be at CORE X's expense. Any such additional survey must reflect all improvements, servitudes, pipelines, utility and other rights-of-way, laydown areas, flood zone classifications and other matters affecting or abutting the Leased Premises and further reflect Table A items customarily depicted for industrial climate-controlled facilities and satisfy all requirements for purposes of providing survey coverage on any Title Policy.

3.3 **Due Diligence.** During the Due Diligence Period, CORE X will have the right and reasonable access to enter upon and inspect the Leased Premises and conduct or observe such boundary and topographic surveys, cultural, geologic, soil and engineering tests, environmental assessments, and any other surface or subsurface inspections and tests as CORE X may deem necessary (collectively, the "Due Diligence Activities"), at CORE X's sole cost and without liability to Port Authority. CORE X will reasonably consult with Port Authority to schedule and coordinate such Due Diligence Activities on the Leased Premises. CORE X will, at its sole cost and expense, promptly restore any portion of the Leased Premises affected by the Due Diligence Activities to its original condition as existed immediately prior to the Due Diligence Activities, reasonable wear and tear excepted.

3.4 **Due Diligence Materials.** To the extent not made available to CORE X prior to the execution of this Agreement, Port Authority will make available the following notices, reports, assessments, disclosures, materials and other items to CORE X, to the extent that the same are within the possession or control of Port Authority (collectively, "Due Diligence Materials"), within ten (10) days following the Effective Date: (A) any title report, title commitment, title policy, or similar materials for the Cotton Compress Property, together with copies of all title exceptions listed therein ("Title Report"), (B) a copy of the most recent survey, if any, of the Cotton Compress Property ("Survey"), (C) true and complete copies of all leases or other occupancy agreements affecting the Cotton Compress Property and that are in effect on the Effective Date, (D) true and complete copies of all other contracts, notices, work orders, directives and assessments affecting the Cotton Compress Property and that are in effect on the Effective Date, (E) true and complete copies all written third party reports and assessments relating to the environmental condition of the Cotton Compress Property, including the presence or absence of any Hazardous Substances on or under the Cotton Compress Property and any remediation thereof ("Environmental Reports"), and (F) any other documents reasonably requested by CORE X. Any inspection, review and copying of any Due Diligence Materials, and any other due diligence inspections, investigations, tests, evaluations or reviews undertaken by or for CORE X, shall be done at its sole cost and expense.

3.5 **Title.** During the Due Diligence Period, CORE X may obtain, at its option, a current title commitment (the "Title Commitment") applicable to the Leased Premises, from Stewart Title Guaranty Company (the "Title Company"), whereby the Title Company agrees to issue at the Lease Commencement Date an ALTA Leasehold Policy of Title Insurance (and Leasehold Mortgagee's Policy of Title Insurance, if applicable) (collectively, the "Title Policy"), in an amount reasonably satisfactory to CORE X and any Leasehold Mortgagee, if applicable, insuring CORE X's leasehold interest to the Leased Premises, including all easements and appurtenances thereto and improvements thereon, and including such additional title endorsements in form and content as CORE X or any Leasehold Mortgagee, if applicable, may reasonably request. The costs of obtaining the Title Commitment and any Title Policy will be at CORE X's sole cost and expense. Within thirty (30) calendar days of the receipt of the Title Commitment, CORE X will give Port Authority written notice of any non-standard exceptions listed in the Title Commitment to which it objects. The Parties will work in good faith to resolve any such non-standard exceptions prior to the expiration of the Due Diligence Period. Notwithstanding, if the non-standard exceptions are of a nature that can be cured within a reasonable time after the Due Diligence Period, such

Due Diligence Period may be extended upon the agreement of both Parties until such time as the exceptions can be cured to the reasonable satisfaction of both Parties. Furthermore, Core X, in its sole discretion, may waive such exception and proceed with the lease.

3.6 Acceptance of Leased Premises. Except as otherwise provided herein, CORE X accepts the Leased Premises as of the Lease Commencement Date, after a full and complete examination and inspection thereof, in its AS-IS, WHERE-IS condition, without representation as to suitability for any purpose. CORE X accepts the Leased Premises as of the Lease Commencement Date subject to: (i) all matters reflected in the Title Policy; and (ii) all Laws affecting the Leased Premises.

3.7 Invitee Compliance. CORE X must at all times, and at no cost to Port Authority, be subject to and faithfully obey and comply with all Laws and will require all users, invitees, and guests of the Leased Premises to comply with same.

3.8 Reserved Easements. Nothing in this Lease Agreement will be construed to relieve Port Authority of the right to grant easements, licenses or permits for construction, maintenance, repair, replacement, relocation or reconstruction of utilities or infrastructure reasonably necessary to serve the Cotton Compress Property, including the Leased Premises, upon reasonable notice to and coordination with CORE X (other than in the event of an emergency or to preserve the health, safety, or welfare of any Person or property (including storm preparation), in which case Port Authority's rights will be immediate). CORE X shall have the sole discretion as to the location of any future easements so as to minimize disruption of CORE X's use and possession of the Leased Premises.

3.9 Quiet Enjoyment. So long as CORE X is not a Defaulting Party, CORE X will have the right to quietly enjoy the Leased Premises, subject to Port Authority's exercise of its regulatory or administrative authority and other rights as expressly provided in this Lease Agreement, and will have the right to perform the Permitted Use at the Leased Premises throughout the Term.

3.10 Rights of First Refusal. In the event Port Authority receives an acceptable (in Port Authority's sole discretion) written offer from a third-party to purchase the Leased Premises within five (5) years after the Lease Commencement Date, Port Authority will promptly provide CORE X with written notice thereof containing a copy of the written offer and granting to CORE X the absolute right to purchase the Leased Premises on the same terms and conditions as contained in the written offer. Upon CORE X's receipt of such written notice then CORE X shall have thirty (30) days within which to notify Port Authority in writing of CORE X's intent to exercise this right of first refusal to purchase the Leased Premises. In the event CORE X fails to timely respond to Port Authority or otherwise elects not to exercise the right to purchase the Leased Premises then Port Authority may proceed to close with the third-party per the terms of the written offer. If, however, Port Authority does not consummate a sale of the Leased Premises to a third-party due to no fault of CORE X, this right of first refusal shall not terminate but shall be revived and continue until such time as Port Authority receives any subsequent bona fide offer to purchase the aforesaid land and then consummates said sale in accordance with and subject to this instrument. It being the intent of the Parties hereto that this right of first refusal shall be revived and continue for the benefit of CORE X each time Port Authority is presented with a bona fide offer to purchase the Leased Premises but does not consummate such sale. Upon termination of the five (5) year period set forth above, CORE X's right of first refusal to purchase the Leased Premises shall automatically expire without further action by any Party hereto. Any written notice provided for under this Section shall be delivered return-receipt request to the address of the parties set forth in this Lease Agreement. Each party shall have the continuing obligation to update the other party as to any change of mailing address.

3.11 Option to Purchase. Within the first thirty (30) years after the Effective Date, CORE X may, on provision to the Port Authority of a ninety (90) day written notice of its desire to purchase the entirety of the Leased Premises or any part thereof, will have the right to purchase the Leased Premises, subject to the following:

3.11.1 Approval of all requisite governmental authorities, including the Secretary of State of the state of Mississippi and MDA;

3.11.2 Compliance with all applicable Laws;

3.11.3 Port Authority has not caused additional encumbrances to be placed against the Leased Premises, unless such encumbrances have been approved by CORE X;

3.11.4 CORE X is not a Defaulting Party; and

3.11.5 The purchase price will be the fair market value as determined by two (2) professional and certified appraisers in the State of Mississippi.

CORE X and Port Authority will, during such notice period, enter into a formal contract of sale on such terms as may be mutually agreed upon by the Parties. Should CORE X and Port Authority fail to consummate such purchase by CORE X, CORE X's rights under this Section shall not terminate; but, CORE X may not exercise its option as provided herein again until twelve (12) months have expired from the date of its prior notice. The term of the Option to Purchase will not extend beyond thirty (30) years after the Effective Date.

4. MINIMUM INVESTMENT; SITE PLAN

4.1 Minimum Investment Schedule. Schedule 4.1 (*Minimum Investment Schedule*), to be provided by CORE X to Port Authority prior to the Lease Commencement Date, sets forth a schedule of the planned capital expenditures that CORE X intends to make for the development of the Leased Premises and the Permitted Use, including development milestones for significant capital expenditures and construction events. Notwithstanding the foregoing or Schedule 4.1 (*Minimum Investment Schedule*), as a minimum capital expenditure requirement of CORE X (the "Minimum Investment"), CORE X will endeavor to spend no less than Forty-Nine Million and No/100 Dollars (\$49,000,000.00) in capital expenditures for the development of the Leased Premises and the Permitted Use within the first thirty-six (36) months following the Lease Commencement Date.

4.2 Site Plan. The Site Plan will set forth a proposed site plan, construction schedule, and other details for CORE X's development and construction work with respect to the Leased Premises (the "Site Plan"). CORE X will perform or cause to be performed all design, procurement, and construction (including oversight) in accordance with the Site Plan at its sole cost and expense. The Site Plan will identify all currently existing and planned improvements situated or to be situated on the Leased Premises, including an industrial, climate-controlled warehouse facility, being approximately 150,000 square feet, more or less, which will be sited at the Cotton Compress Property in a location mutually agreed upon by the Parties. CORE X will endeavor to provide Port Authority with a Site Plan within six (6) months after the Effective Date but in no event less than thirty (30) days prior to the Lease Commencement Date.

4.3 Local Procurement. The Parties agree that, CORE X will endeavor to use commercially reasonable efforts to procure any assets or services, including the Minimum Investment expenditures, from Mississippi-based manufacturers/vendors/suppliers; provided that CORE X, in Core X's sole determination, shall have no obligation to procure an asset from a Mississippi-based manufacturer, vendor or supplier to the extent that such asset may be otherwise procured for a lesser cost or better quality, or to the extent that the time period for procurement and delivery from a Mississippi-based manufacturer, vendor or supplier is reasonably expected to be longer than from a non-Mississippi-based manufacturer, vendor or supplier.

4.4 Joint Pursuit of Business and Funding Opportunities. CORE X will make commercially reasonable efforts to pursue commercial activity at the Port to increase climate-controlled Cargo volume in order to justify and support the deepening and widening of the shipping channels at the Port by Port Authority and/or one or more other Governmental Authorities. The Parties will collaborate in the pursuit of related business development opportunities, including engagement with carriers, beneficial cargo owners (BCOs), and the development of Port-related activity and supporting infrastructure. In addition, the Parties will employ their commercially reasonable efforts to jointly collaborate and dedicate resources to the pursuit of grant funding opportunities beneficial to the advancement, development, improvement, expansion, and

promotion of commercial activities at the Port, including with respect to increased throughput of climate-controlled Cargo, dredging, attraction of shipping lines and related opportunities, and enhancement of logistical transportation methods for Cargo to and from the Port.

5. DEPOSIT; RENT; ADJUSTMENTS; ADDITIONAL FEES

5.1 **Deposit.** Within five (5) days of the Effective Date, Core X will deliver to Escrow Agent Fifty Thousand and No/100 (\$50,000.00) as earnest money (the "Deposit"), which may be refunded to CORE X in the event this Lease Agreement is terminated prior to the expiration of the initial Due Diligence Period as contemplated in Section 2.1 (*Due Diligence Period*).

5.2 **Initial Term Rent.** During the Initial Term, the Rent will be calculated based upon an annual rate of Twenty Cents (\$0.20) per square foot multiplied by the total square footage of the Leased Premises as determined by the Survey, which is expected to be 653,400 square feet. The Rent will be payable in *equal monthly installments* pursuant to Section 5.6 (*Due Date*). In addition to any other offsets or credits provided for in this Lease Agreement, CORE X will receive a credit against any Rent due and payable during the Initial Term in an amount not to exceed the Deposit. Notwithstanding anything contained herein to the contrary, during the first thirty-six (36) months of the Initial Term, the Rent under this Section 5.2 will be deemed to be Zero and No/100 Dollars (\$0.00).

5.3 **Option Term Rent.** If CORE X provides the applicable Option Notice in accordance with Section 2.3.1 (*Option Notice*), the Rent for the Leased Premises during the first Contract Year of any Option Term will be the greater of (i) the average change in the Price Index over the previous five (5) year period (not to exceed ten percent (10%)); and (ii) two and one-half percent (2.5%), multiplied by the Rent, as adjusted, charged during the previous Contract Year, which once applied will remain in place for such Contract Year. Each Contract Year of such Option Term thereafter, the Rent will be increased by two and one-half percent (2.5%) consistent with Section 5.5 (*Adjustment for Rent*).

5.4 **Additional Rent.** CORE X will pay to Port Authority as additional Rent all other sums of money that will become due and payable under this Lease Agreement, including any amounts owed under 5.7 (*Non-Payment*), 9.2.2 (*Self-Help*), 10.3 (*Reimbursement*), or 18.2.1.2 (*Additional Rent*).

5.5 **Adjustment for Rent.** Except with the first Contract Year of any Option Term as provided in Section 5.3 (*Option Term Rent*) and notwithstanding the final sentence of Section 5.2 (*Initial Term Rent*), Rent will be subject to an annual adjustment of two and one-half percent (2.5%) above the amount of Rent assessed for the immediately preceding Contract Year, which once applied will remain in place for such Contract Year.

5.6 **Due Date.** Payments from CORE X to MSPA under this Lease Agreement will be due and payable on the tenth (10th) day of each month during the Term following the month during which such payment accrued. Payments must be in immediately available funds and will be considered made when an electronic funds transfer through the Automated Clearing House (EFT/ACH) to the MSPA is received by the MSPA.

5.7 **Non-Payment.** The obligation of CORE X to make all payments under this Part 5 (*Deposit; Rent; Adjustments; Additional Fees*) during the Term is absolute and unconditional and such amounts must be paid by CORE X on or before each due date. Should payment not be received timely by the MSPA, the MSPA will notify CORE X in writing. All outstanding, unpaid amounts will accrue interest at the Default Interest Rate, excluding the date payment is received by MSPA. Such interest will be computed for the actual number of days elapsed without regard to whether any of such days are or are not business days, and such interest will be immediately due and payable as Additional Rent when incurred and will be in addition to any remedies or claims to which the MSPA may be entitled to in this Lease Agreement or under applicable Laws.

5.8 **Maritime Incentive.** To incentive the movement of Cargo at the Port in connection with the Permitted Use contemplated in this Lease Agreement, CORE X will be entitled to a monthly offset of Rent, due and payable, to the Port Authority in an amount calculated at a rate of Fifteen and No/100 Dollars (\$15.00) per Container or equivalent units of non-containerized Cargo, being equivalent to a 40' Container or twenty (20) pallets (excluding bananas imported by Doie or Chiquita), whether imported to or exported from the Port, and as reflected and verified with the Port Authority's written records, in connection with the Permitted Use. Notwithstanding the foregoing, any Rent, due and payable, may only be reduced up to an amount no greater than seventy-five percent (75%) of the amount of such Rent then due and payable. CORE X will provide MSPA with a Monthly Maritime Incentive Report as described in Section 15.3 (*Monthly Maritime Incentive Reports*) showing the number of Containers or equivalent units of non-containerized Cargo handled during the previous month in connection with the Permitted Use and a calculation of the offset to be applied to the month's Rent.

6. **MORTGAGEE PROTECTION**

6.1 **Mortgages of CORE X's Interest.** Without limiting the rights of CORE X under Section 10 (*Assignment*) of this Lease Agreement, CORE X shall have the right to assign this Lease Agreement for collateral purposes to any Person providing debt or equity financing to CORE X or in respect of the Leased Premises. In the event that any mortgage, deed of trust or other security interest in this Lease Agreement or in the Leased Premises is entered into by CORE X or an Assignee, including a sale-leaseback (i.e., a transaction in which CORE X sells its interest in this Lease Agreement and/or the Leased Premises and then leases those interests back from the purchaser) (a "Leasehold Mortgage"), then any person who is the mortgagee or beneficiary of a Leasehold Mortgage, including the purchaser in a sale-leaseback transaction (a "Leasehold Mortgagee") shall, for so long as its Leasehold Mortgage is in existence and until the lien thereof has been extinguished, be entitled to the protections set forth in this Part 6. CORE X or any Leasehold Mortgagee shall send written notice to Port Authority of the name and address of any such Leasehold Mortgagee, as well as any change of the name or address of any Leasehold Mortgagee.

6.2 **Leasehold Mortgagee's Right to Possession, Right to Acquire, and Right to Assign.** A Leasehold Mortgagee shall have the absolute right: (a) to assign its security interest; (b) to enforce its lien and acquire title to the Leasehold Estate by any lawful means; (c) to take possession of and operate the Leased Premises, the Leasehold Estate or any portion thereof and to perform all obligations to be performed by CORE X hereunder, or to cause a receiver to be appointed to do so; and (d) to acquire the Leasehold Estate by foreclosure or by an assignment in lieu of foreclosure and thereafter to assign or transfer the Leasehold Estate to a third party. Port Authority's consent shall not be required for the acquisition of the encumbered leasehold or subleasehold estate by a third party who acquires the same by or subsequent to foreclosure or assignment in lieu of foreclosure.

6.3 **Notice of Default; Opportunity to Cure.** As a precondition to exercising any rights or remedies as a result of any alleged Default by CORE X, Port Authority shall give written notice of the Default to each Leasehold Mortgagee concurrently with delivery of such notice to CORE X, specifying in detail the alleged event of Default and the required remedy. In the event Port Authority gives such a written notice of Default, the following provisions shall apply:

6.3.1 **Right to Remedy Default.** The Leasehold Mortgagee shall have the same cure period after receipt of notice of Default to remedy the Default, whether a Monetary Default or non-monetary default, or cause the same to be remedied, as is given to CORE X after CORE X's receipt of notice of Default, plus, in each instance, the following additional time periods: (i) sixty (60) days, after receipt of the notice of Default in the event of any Monetary Default; and (ii) sixty (60) days, after receipt of the notice of Default in the event of any non-monetary default, provided that such period shall be extended for the time reasonably required to complete such cure, including the time required for the Leasehold Mortgagee to perfect its right to cure such non-monetary default by obtaining possession of the Leased Premises (including possession by a receiver) or by instituting foreclosure proceedings, provided further that the Leasehold Mortgagee acts with reasonable and continuous diligence. The Leasehold Mortgagee shall have the absolute right to substitute itself for

CORE X and perform the duties of CORE X hereunder for purposes of curing CORE X Defaults hereunder. Port Authority expressly consents to such substitution, agrees to accept such performance, and authorizes the Leasehold Mortgagee (or its employees, agents, representatives or contractors) to enter upon the Leased Premises to complete such performance with all the rights, privileges and obligations of the original Lessee hereunder. Port Authority shall not, and shall have no right to, terminate this Lease Agreement prior to expiration of the cure periods available to CORE X and a Leasehold Mortgagee as set forth above.

6.3.2 Possession or Foreclosure. During any period of possession of the Leased Premises by a Leasehold Mortgagee (or a receiver requested by such Leasehold Mortgagee) and/or during the pendency of any foreclosure proceedings instituted by a Leasehold Mortgagee, the Leasehold Mortgagee shall pay or cause to be paid all other monetary charges payable by CORE X hereunder which have accrued and are unpaid at the commencement of said period and those which accrue thereafter during said period. Following acquisition of CORE X's Leasehold Estate by the Leasehold Mortgagee or its assignee or designee as a result of either foreclosure or acceptance of an assignment in lieu of foreclosure, or by a purchaser at a foreclosure sale, this Lease Agreement shall continue in full force and effect and the Leasehold Mortgagee or party acquiring title to CORE X's Leasehold Estate shall, as promptly as reasonably possible, commence the cure of all Defaults hereunder and thereafter diligently process such cure to completion, whereupon Port Authority's right to terminate this Lease Agreement based upon such Defaults shall be deemed waived; provided, however, the Leasehold Mortgagee or party acquiring title to CORE X's Leasehold Estate shall not be required to cure those non-monetary defaults, if any, which are not reasonably susceptible of being cured or performed by such party (the "Non-Curable Defaults"). Non-Curable Defaults shall be deemed waived by Port Authority upon completion of foreclosure proceedings or acquisition of CORE X's interest in this Lease Agreement by such party.

6.3.3 End of Ownership or Possession. Any Leasehold Mortgagee or other party who acquires CORE X's Leasehold Estate pursuant to foreclosure or assignment in lieu of foreclosure shall not be liable to perform the obligations imposed on CORE X by this Lease Agreement incurred or accruing after such party no longer has ownership of the Leasehold Estate or possession of the Leased Premises.

6.3.4 No Extension. Nothing herein shall be construed to extend this Lease Agreement beyond the Term or to require a Leasehold Mortgagee to continue foreclosure proceedings after the Default has been cured. If the Default is cured and the Leasehold Mortgagee discontinues foreclosure proceedings, this Lease Agreement shall continue in full force and effect.

6.4 New Lease Agreement. If this Lease Agreement terminates because of CORE X's Default or if the Leasehold Estate is foreclosed, or if this Lease Agreement is rejected or disaffirmed pursuant to bankruptcy law or other law affecting creditors' rights, Port Authority shall, upon written request from any Leasehold Mortgagee promptly after such event, enter into a new lease agreement for the Leased Premises, on the following terms and conditions:

6.4.1 Term. The term of the new lease agreement shall commence on the date of termination, foreclosure, rejection or disaffirmance and shall continue for the remainder of the Term of this Lease Agreement, at the same fees and payments and subject to the same terms and conditions as set forth in this Lease Agreement.

6.4.2 Execution. The new lease agreement shall be executed promptly after receipt by Port Authority of written notice of the Leasehold Mortgagee's election to enter into a new lease agreement, provided said Leasehold Mortgagee: (i) pays to Port Authority all fees and payments and other monetary charges payable by CORE X under the terms of this

Lease Agreement up to the date of execution of the new lease agreement, as if this Lease Agreement had not been terminated, foreclosed, rejected or disaffirmed; and (ii) performs all other obligations of CORE X under the terms of this Lease Agreement, to the extent performance is then due and susceptible of being cured and performed by the Leasehold Mortgagee; and (iii) agrees in writing to perform, or cause to be performed, all non-monetary obligations which have not been performed by CORE X that are reasonably susceptible of being performed by the Leasehold Mortgagee and would have accrued under this Lease Agreement up to the date of commencement of the new lease agreement. Any new lease agreement granted to the Leasehold Mortgagee shall enjoy the same priority as this Lease Agreement over any lien, encumbrances or other interest created by Port Authority.

6.4.3 Designation. At the option of the Leasehold Mortgagee, the new lease agreement may be executed by a designee of such Leasehold Mortgagee without the Leasehold Mortgagee assuming the burdens and obligations of CORE X thereunder.

6.4.4 Priority. If more than one Leasehold Mortgagee makes a written request for a new lease agreement pursuant hereto, the new lease agreement shall be delivered to the Leasehold Mortgagee requesting such new lease agreement whose Leasehold Mortgage is prior in lien, and the written request of any other Leasehold Mortgagee whose lien is subordinate shall be void and of no further force or effect.

6.4.5 Survival. The provisions of this Part 6 (Mortgagee Protection) shall survive the termination, rejection or disaffirmance of this Lease Agreement and shall continue in full force and effect thereafter to the same extent as if this Section were a separate and independent contract made by Port Authority, CORE X and such Leasehold Mortgagee, and, from the effective date of such termination, rejection or disaffirmance of this Lease Agreement to the date of execution and delivery of such new lease agreement, such Leasehold Mortgagee may use and enjoy said Leased Premises without hindrance by Port Authority or any Person claiming by, through or under Port Authority, provided that all of the conditions for a new lease agreement as set forth herein are complied with.

6.5 Notice to Port Authority. CORE X shall require of any Leasehold Mortgagee and any subsequent holders of a Leasehold Mortgage that any notice or communication which the holder of a Leasehold Mortgage shall desire or is required to give to or serve upon CORE X regarding default shall also be served promptly upon Port Authority. Further, CORE X shall immediately forward to Port Authority any and all such notices received by CORE X from the holder of any Leasehold Mortgage.

6.6 Leasehold Mortgagee's Consent to Amendment, Termination or Surrender. Notwithstanding any provision of this Lease Agreement to the contrary, the Parties agree that so long as there exists an unpaid Leasehold Mortgage, this Lease Agreement shall not be materially modified or amended and Port Authority shall not accept a surrender of the Leased Premises or any part thereof or a cancellation or release of this Lease Agreement from CORE X prior to expiration of the Term without the prior written consent of the Leasehold Mortgagee. This provision is for the express benefit of and shall be enforceable by such Leasehold Mortgagee.

6.7 No Waiver. No payment made to Port Authority by a Leasehold Mortgagee shall constitute an agreement that such payment was, in fact, due under the terms of this Lease Agreement; and a Leasehold Mortgagee having made any payment to Port Authority pursuant to Port Authority's wrongful, improper or mistaken notice or demand shall be entitled to the return of any such payment.

6.8 Further Amendments. At CORE X's request, Port Authority shall amend this Lease Agreement to include any provision which may reasonably be requested by a proposed Leasehold Mortgagee; provided, however, that such amendment does not impair any of Port Authority's rights under this Lease Agreement or materially increase the burdens or obligations of Port Authority hereunder. Upon

request of any Leasehold Mortgagee, Port Authority shall execute any additional instruments reasonably required to evidence such Leasehold Mortgagee's rights under this Lease Agreement.

7. FORCE MAJEURE

7.1 Effects of Force Majeure Event.

7.1.1 Force Majeure. If either Party is affected by a Force Majeure Event, the provisions of this Part 7 (*Force Majeure*) will apply.

7.1.2 No Liability. Neither CORE X nor Port Authority will be liable for any failure, delay, or interruption in performing their individual obligations hereunder due to a Force Majeure Event if the applicable Party complies with all notice and other requirements under this Part 7 (*Force Majeure*).

7.1.3 Continued Performance. Subject to Section 7.1.2 (*No Liability*), a Force Majeure Event will excuse either Party from whatever obligation such Party, using all commercially reasonable efforts, is not actually capable of performing or causing to be performed, in whole or in part, as a direct result of the Force Majeure Event being claimed for the applicable period stated. Notwithstanding the occurrence of a Force Majeure Event, (i) this Section 7.1.3 (*Continued Performance*) will not excuse the Party claiming a Force Majeure Event from the performance of its obligations under this Lease Agreement that, using commercially reasonable efforts, the Party is reasonably capable of performing or causing to be performed during the applicable period, and (ii) each Party must use its commercially reasonable efforts to minimize the effect and duration of the Force Majeure Event.

7.1.4 Total Loss. If a Force Majeure Event renders all or substantially all of the Leased Premises unusable for the Permitted Use and both Parties reasonably agree that Restoration is not possible by CORE X using commercially reasonable efforts within a three (3) year period from the date of the Force Majeure Event, then the Parties will enter into good faith negotiations for terms and conditions upon which this Lease Agreement can be continued and if the Parties fail to agree upon such terms within a reasonable time after such Force Majeure Event, either Party may terminate this Lease Agreement and neither Party will have any continuing obligations other than those that arose prior to or that survive the termination of this Lease Agreement.

7.1.5 No Extension. The occurrence of a Force Majeure Event will not have the effect of extending the then-current Term of this Lease Agreement.

7.2 Notice of Force Majeure Event. The Party claiming a Force Majeure Event must give notice to the other Parties as soon as practicable and in no event later than five (5) business days following the date on which it first became aware of such Force Majeure Event. The notice of a Force Majeure Event must include (a) a statement of the basis of the Force Majeure Event claim, (b) details of the circumstances from which any delay arises, and (c) an estimate of the delay in the performance of obligations under this Lease Agreement attributable to such Force Majeure Event, including information in support thereof, to the extent known at that time.

8. MAINTENANCE; ALTERATIONS; IMPROVEMENTS

8.1 Maintenance. CORE X must, at its own cost and expense, maintain, in good working order and condition throughout the Term, satisfying the Basic Conditions described in Section 9.1.2 (*Basic Conditions*) below, the Leased Premises (including all portions of the storm water collection system that are on, in, or under the Leased Premises) and perform repair work or replacement work related thereto to ensure that all necessary repairs, improvements and replacements of the facilities at the Leased Premises are made, subject to all applicable Laws, with the exception of any existing systems or additional easements

granted by the Port Authority pursuant to Section 3.8 (*Reserved Easements*), together with any related structures or systems. CORE X will, at its sole cost and expense, keep the Leased Premises in a tidy, clean, and sanitary condition in CORE X's sole but reasonable discretion and will observe all applicable Laws throughout the Term.

8.2 Reserved.

8.3 Unobstructed Operating Easements. CORE X must make commercially reasonable efforts to keep and maintain all common operating areas and driveways on and adjoining the Leased Premises free from obstruction.

8.4 Permits. CORE X is responsible, with the reasonable assistance of Port Authority at CORE X's request, for obtaining all required permits, at CORE X's expense for the Leased Premises and the Permitted Use.

8.5 Joint Inspection. Not less frequently than once every six (6) months during the Term, and without limiting any other inspection rights of Port Authority under this Lease Agreement, CORE X and Port Authority will (upon MSPA's request) undertake jointly an inspection of the Leased Premises to ascertain the compliance of the Leased Premises with the Basic Condition and other applicable provisions of this Lease Agreement. If any aspect of the Leased Premises fails to comply substantially with the Basic Condition or any other applicable provisions of this Lease Agreement in CORE X and the Port Authority's joint determination, CORE X will promptly bring it into compliance therewith. If Port Authority reasonably determines that CORE X has failed to meet its maintenance obligations under this Part 8 (*Maintenance; Alterations; Improvements*), Port Authority will notify CORE X in writing and CORE X will remedy such deficiency within (i) the Cure Period, or (ii) if such deficiencies cannot be remedied within the Cure Period, such additional time as the Parties mutually agree, provided, that CORE X commences and diligently pursues remedial work within the Cure Period.

8.6 CORE X's Failure to Repair and Maintain Leased Premises. If CORE X fails to (i) repair and maintain the Leased Premises in accordance with this Lease Agreement, (ii) adhere to applicable Laws (including Environmental Laws) all in accordance with this Lease Agreement, (iii) perform any Response Action, or (iv) correct deficiencies in accordance with Section 8.5 (*Joint Inspection*) within the Cure Period (other than in the event of an emergency or to preserve the health, safety, or welfare of any person or property (including storm preparation), in which case Port Authority's rights of access will be immediate), Port Authority or its designee may enter the Leased Premises at any time upon reasonable notice and make the required repairs or do the required maintenance or bring the Leased Premises and/or assets into compliance with applicable Laws and CORE X will reimburse Port Authority for Port Authority's reasonable cost thereof (including the cost of labor, materials, and overhead). In such event, CORE X will not offer any obstruction or hindrance to any such maintenance or repairs and, in making such repairs or doing such maintenance, Port Authority and/or its agents are authorized to enter the Leased Premises and may bring and leave upon the Leased Premises all necessary materials, tools and equipment, and Port Authority will not be liable, except for the gross negligence or willful misconduct of Port Authority or its representatives, to CORE X for any inconvenience, annoyance, loss of business, or any injury suffered by CORE X by reason of MSPA effecting such repairs, maintenance, or cleaning. In addition, CORE X shall not be liable for its inability to materially satisfy its obligations hereunder to the extent Port Authority does not materially fulfill its maintenance, repair and restoration obligations set forth in Section 8.1 (*Maintenance*).

9. IMPROVEMENTS; BASIC CONDITIONS; ACCESS AND INSPECTION

9.1 Improvements; Basic Conditions.

9.1.1 Improvements. CORE X will make no material improvements to the Leased Premises or perform any subsurface intrusion or soil disturbing activity (e.g., excavation, grading, removal, trenching, or filling) in connection with any improvements without first submitting and obtaining written approval from Port Authority, which approval will not be unreasonably withheld, delayed or conditioned. The Parties agree that, if CORE X seeks

to install any storage tank (whether above- or under- ground) or other improvement that Port Authority reasonably believes are governed by, or could present a risk of non-compliance with Environmental Laws, Port Authority may require and CORE X will procure and maintain additional coverage for pollution insurance, including gradual pollution coverage, and the Parties further agree that such requirement will not be construed to be an unreasonable withholding, delay, or conditioning of Port Authority approval. If any such alterations or improvements are made or fixtures (other than trade fixtures which can be removed without damage to the Leased Premises) are installed by CORE X, such alterations, improvements, or fixtures must be removed by CORE X, at its expense, upon reasonable request of Port Authority and the Leased Premises Restored to its original condition, reasonable wear and tear excepted, upon the termination or earlier expiration of this Lease Agreement. CORE X will ensure that all paving at the Leased Premises is of requisite grade and thickness for the Permitted Use, including the stacking of Cargo, in accordance with the Standard of Care.

9.1.2 Basic Conditions. All maintenance, alterations, and improvements will be carried out in accordance with the following standards (collectively, the "Basic Conditions"):

9.1.2.1 Leasehold improvements, maintenance and alterations must be consistent with the Permitted Use.

9.1.2.2 Prior to constructing, erecting, or otherwise making any leasehold improvements or alterations, CORE X must procure and pay for all necessary permits, and ascertain and comply with all applicable Laws.

9.1.2.3 Leasehold improvements and alterations may not detract from the value or the character, weaken the structural integrity, or reduce the security of the Port, the Leased Premises and/or assets.

9.1.2.4 Leasehold improvements and alterations must be of first quality materials and related work must proceed in a proper, professional manner following appropriate due diligence.

9.1.2.5 CORE X will promptly discharge, remove, or contest all liens filed against the Leased Premises arising out of any leasehold improvements, alterations, or maintenance.

9.1.2.6 CORE X will not cause or permit any Hazardous Substances to be generated, treated, stored, or Released on or about the Leased Premises or transferred to the Leased Premises, or otherwise in contravention of applicable Environmental Laws, except where CORE X handles such Hazardous Substances in accordance with applicable Law and/or permits.

9.1.2.7 In the event of a Force Majeure Event resulting in a total loss, the Basic Conditions will be satisfied by CORE X if all of the applicable items above are met and the Leased Premises is surrendered by CORE X to MSPA in a condition substantially similar to the condition of the Leased Premises as of the Effective Date, including removal of all debris and, to the extent both (i) the Improvements are unsafe for occupancy and; (ii) CORE X is directed by MSPA, any Improvements, reasonable wear and tear excepted.

9.1.3 Reserved.

9.1.4 Submission of As-Builts. Within a reasonable time following CORE X's completion of construction of any improvements or alterations under Section 9.1.1

(Improvements) or as may otherwise be reasonably requested by Port Authority, CORE X will deliver to Port Authority a current and accurate set of as-built survey drawings of such improvements or alterations.

9.2 **Port Authority's Access and Inspection.**

9.2.1 **Access; Inspection.** If at any time Port Authority reasonably suspects a failure of CORE X to meet the Standard of Care, Basic Conditions, or any other material obligations under this Lease Agreement, including with regard to safety and security, Port Authority will have a right, upon fifteen (15) days' notice to CORE X, to inspect those items of the operations of the Leased Premises and the operational throughput records necessary to resolve the alleged failure. Port Authority may not access the financial information of CORE X, except to the extent that such financial information is reasonably necessary to ensure that CORE X is complying with its financial and other obligations under this Lease Agreement. The failure of Port Authority to notify CORE X of any necessary maintenance or repair will not relieve CORE X of its obligation to so maintain and repair. The right to inspect reserved to Port Authority hereunder will impose no obligation on Port Authority to make inspections to ascertain the condition of the Leased Premises, and will impose no liability upon Port Authority for failure to make such inspections or for failure to discover any defect in the condition of the Leased Premises.

9.2.2 **Self-Help.** Without prejudicing the rights set forth in Section 9.2.1 (Access; Inspection) in the event that CORE X abandons or is unable to occupy and operate the Leased Premises after the Development Term, Port Authority or its designee may enter upon and operate the Leased Premises in the commercially reasonable opinion of Port Authority, to continue orderly operations at the Leased Premises. Port Authority will be entitled to recover any costs incurred by Port Authority under this Section 9.2.2 as Additional Rent.

10. **ASSIGNMENT**

10.1 **Conditions to Assignment.** CORE X may not assign this Lease Agreement or its rights or obligations under this Lease Agreement without the prior written consent of Port Authority, such consent not to be unreasonably withheld, conditioned, or delayed and to be provided no later than sixty (60) days after the request by CORE X. Failure of the Port Authority to approve such assignment, or any part thereof, within sixty (60) days shall be deemed an approval of such assignment. Port Authority's consent will not be deemed to be unreasonably withheld if CORE X has not demonstrated, in Port Authority's commercially reasonable determination, that the proposed assignee: (i) possesses the experience and capability to satisfy the obligations of CORE X under this Lease Agreement; (ii) has the legal power and authority to perform and satisfy the obligations of CORE X under this Lease Agreement, and (iii) assumes and agrees to satisfy all conditions and pay and perform all obligations in favor of Port Authority then-existing or thereafter arising under this Lease Agreement. No assignment of this Lease Agreement or any rights or obligations under this Lease Agreement will relieve CORE X of liability for its obligations under this Lease Agreement without the written release of Port Authority. Any attempted assignment, whether outright or implied, or exercise of any rights pursuant to a collateral assignment, pledge, or grant of a security interest in this Lease Agreement or any related rights or otherwise, that is not in compliance with the terms of this Lease Agreement is voidable and ineffective, at the option of Port Authority. The provisions of this Section do not apply to any Leasehold Mortgagee. Notwithstanding anything contained herein to the contrary, no such consent by the Port Authority shall be required in connection with a merger or sale of all or substantially all of the assets of the business by CORE X.

10.2 **Conditions to Sublease.** CORE X may not sublease the Leased Premises or any part of the Leased Premises without the prior written consent of Port Authority, such consent not to be unreasonably withheld, conditioned, or delayed and to be provided no later than sixty (60) days after the request by CORE X. Failure of the Port Authority to approve such sublease, or any part thereof, within sixty (60) days shall be deemed an approval of such sublease.

10.3 **Reimbursement.** In the event that CORE X requests Port Authority to consent to a sublease, assignment, or any other conveyance or other changes in the terms and conditions of this Lease Agreement thereby causing Port Authority to incur costs or expenses which Port Authority would not have otherwise incurred, then CORE X will immediately reimburse Port Authority as Additional Rent for all reasonable costs or expenses, including attorney and consultant fees costs, upon being invoiced by Port Authority.

11. **UTILITIES: SECURITY**

11.1 **Utilities.** CORE X will pay for all Utilities supplied to the Leased Premises, including all installation and connection charges.

11.2 **Security.** CORE X will ensure and be solely responsible for the security, care, custody and control of any Cargo within the Leased Premises. Port Authority does not accept and specifically disclaims care, custody and control of any Cargo while located at the Leased Premises.

12. **TAXES**

12.1 **Obligation to Pay Taxes.** CORE X will pay all taxes, assessments, fees, or other charges imposed by any Governmental Authority with respect to the use and occupancy of the Leased Premises, any leasehold improvements constructed thereon, and the performance of the Permitted Use. If CORE X wishes at any time to dispute the lawfulness, applicability or amount of any taxes, CORE X must do so with the Governmental Authority imposing the tax. Port Authority hereby notifies CORE X that the interest transferred to CORE X pursuant to this Lease Agreement may be subject to property or possessory interest taxes and CORE X will be subject to the payment of property or possessory interest taxes levied on the interest. CORE X further acknowledges that the exemptions enjoyed by Port Authority for any tax, assessment, or any other fees may not be transferable to CORE X.

13. **INSURANCE**

13.1 **Insurance Generally.** CORE X must obtain and maintain, or cause to be obtained and maintained (as applicable), from the Lease Commencement Date and continuing uninterrupted throughout the Term, insurance coverages, of the types, in the form and substance, and in the amounts described in this Part 13 (*Insurance*). The policies to be obtained and maintained by CORE X in accordance with this Section are collectively referred to as "CORE X Coverages" as follows:

13.1.1 **Commercial General Liability Insurance.** Commercial general liability insurance with minimum coverage as provided under ISO form CG0001 or its equivalent, which insures CORE X, Port Authority, and the state of Mississippi against liability for injury to persons and property, and death of any Person occurring in, on, or about the Leased Premises to the extent arising out of CORE X's management, operation, use, or occupancy thereof, whether pursuant to this Lease Agreement, any sublease, license, or other agreement. In addition to the requirements of Section 13.5 (*CGL Endorsements for Construction*) as applicable in each instance, the liability policy will include minimum coverage for premises/operations, products/completed operations, personal and advertising injury as either an endorsement to the commercial general liability policy or as a separate policy. All commercial general liability policies must contain a provision that Port Authority and the state of Mississippi will be entitled to recover under the policies for any loss occasioned to it, their respective Affiliates, agents and employees, invitees, or permittees. Further, the policies must provide that their coverage is primary over any other insurance coverage available to Port Authority, its Affiliates, and agents and employees. Such insurance must afford protection of not less than \$1,000,000 per occurrence for bodily injury and property damage with a \$2,000,000 per location annual aggregate limit and each liability policy must be written on an occurrence basis.

13.1.2 National Flood Insurance Policy. If a structure is located on any portion of the Leased Premises that is currently or at any time in the future located in a federally designated "special flood hazard area," flood hazard insurance in an amount equal to the maximum amount of such insurance available under the National Flood Insurance Act of 1968, the Flood Disaster Protection Act of 1973 or the National Flood Insurance Reform Act of 1994, as each may be amended naming CORE X as the loss payee and the Port Authority as an additional loss payee as its interest may appear. The maximum deductible will be the minimum amount as required by the Federal Emergency Management Agency or applicable Law. If applicable or if the Port Authority can obtain such insurance at a lesser cost, Port Authority will procure such policy and CORE X will reimburse Port Authority the cost thereof.

13.1.3 Property Insurance. Property insurance with the minimum coverage as provided under ISO form CP1030 Cause of Loss Special Form or its equivalent, including fire, flood, windstorm, lightning, tornado and hail, earth movement, boiler and machinery and electrical injury coverage, on the Leased Premises' physical improvements and all alterations, extensions, and replacements thereof, for the full replacement cost at the time of the loss, including any increased cost of construction, naming CORE X as the loss payee and the Port Authority as an additional loss payee as its interest may appear. Such cause of loss insurance must also include coverage for debris removal, demolition, and ordinance or law with sub-limits commercially reasonable for the risk. In addition, each policy must contain a waiver of coinsurance provisions, or in the alternative, must insure the Leased Premises for values appropriate to make any co-insurance provisions null and void. CORE X will provide values to the Port on an annual basis in connection with equipment, business interruption, and real property insurances. All policies shall carry commercially reasonable deductibles.

13.1.4 Workers Compensation & Employer's Liability Insurance. Workers Compensation and Employer's Liability Insurance in accordance with applicable Laws, including employer's liability insurance, in the minimum amount of \$1,000,000 each accident, \$1,000,000 disease policy limit, and \$1,000,000 disease each employee. Notwithstanding applicable statutory exemptions, workers' compensation insurance must be maintained regardless of the number of employees employed by CORE X or the type of work performed.

13.1.5 Business Interruption and Extra Expense Insurance. Business Interruption and Extra Expense Insurance, as provided within the property insurance policy, set forth in Section 13.1.3 (*Property Insurance*), in amounts sufficient to insure gross Rent payable for twelve (12) months, and notwithstanding that the policy may expire prior to the end of such period. The amount of coverage will be adjusted annually to reflect all Rent payable during the succeeding twelve (12) month period based upon the average of total aggregate of all Rent payable in the preceding three (3) years.

13.1.6 Comprehensive Automobile Liability Insurance including all owned, hired, leased, assigned, and non-owned vehicles, with a minimum combined single limit of \$5,000,000.

13.1.7 Pollution Liability Insurance in the form of a Site Pollution Liability policy, with a limit commercially reasonable for similar properties in the same geographic area engaging in activities similar to the Permitted Use.

13.1.8 Excess Liability Insurance sitting excess of and in compliance with the following:

13.1.8.1 Commercial General Liability, Automobile Liability, and Employer's Liability Insurance in an amount as may be carried by CORE X, but in no event less than \$5,000,000 per occurrence.

13.1.8.2 The policy will be written on an excess "follow form" basis above the coverages described in Sections 14.1.1 (*Commercial General Liability Insurance*), 13.1.4 (*Workers Compensation & Employer's Liability Insurance*), and 13.1.6 (*Comprehensive Automobile Liability Insurance*) above. The policy will also provide a "drop down" feature in case the limits of the primary policy are exhausted.

13.2 Other CORE X Coverage Requirements.

13.2.1 General Requirements. CORE X will pay premiums of each policy as per the payment or instalment schedule set forth in such policy. CORE X must renew or cause to be renewed all such insurance and deliver to Port Authority evidence that such insurance has been renewed as required. Certificates of insurance or other such evidence of insurance, including a list of all required endorsements evidencing the requirements for CORE X Coverage herein, will suffice as proof of coverage if signed and dated by the authorized agent of record. CORE X further agrees that each such insurance policy: (i) will provide for at least thirty (30) days prior written notice to Port Authority prior to any cancellation for any reason other than non-payment of premium and at least ten (10) days prior written notice to Port Authority prior to any cancellation due to any non-payment of premium (it being understood that CORE X will provide this notice of cancellation if any insurance policy will not); (ii) will waive all rights of subrogation against Port Authority and the state of Mississippi as provided under ISO Form CG 29 88 or its equivalent where allowed by Laws; (iii) will include standard primary and non-contributory clauses to the benefit of Port Authority, the state of Mississippi, and any designated Affiliates of either; (iv) in the event that any portion of the Leased Premises constitutes a legal non-conforming use under applicable zoning or land use laws or ordinances, the Property Insurance policy will include an ordinance and law coverage endorsement which will contain Coverage A: "Loss Due to Operation of Law" (which a minimum liability limit equal to Replacement Cost with Agreed Value Endorsement), Coverage B: "Demolition Cost" and Coverage C: "Increased Cost of Construction" coverages with sub-limits as reasonably required by Port Authority and are commercially available; (v) will name Port Authority, the state of Mississippi, and their Affiliates as additional insureds or loss payees as their interests may appear, on each insurance policy as appropriate as provided under ISO Form 20 11 or its equivalent; and (vi) may be in the form of a blanket policy, provided that coverage applies on the same basis as if the coverage was written outside of a blanket program and does not affect or lessen coverage available to the Leased Premises and it otherwise meets all of Port Authority's applicable insurance requirements set forth in this Lease Agreement.

13.2.2 Failure to Maintain Coverage. Approval of any insurance by Port Authority will not be a representation of the solvency of any insurer or the sufficiency of any amount of insurance. If CORE X fails to provide, maintain, keep in force, or deliver and furnish to Port Authority the policies of insurance required by this Lease Agreement or evidence of their placement, replacement, or renewal as required herein, Port Authority may inform CORE X of such non-compliance and if CORE X fails to remedy such non-compliance, within a commercially reasonable amount of time after notice from Port Authority, Port Authority may, but will not be obligated to, procure such insurance and CORE X must immediately upon demand reimburse Port Authority all amounts advanced by Port Authority therefor, together with interest thereon at the Default Interest Rate from and after the date advanced by Port Authority until actually repaid by CORE X. Port Authority will not be responsible for nor incur any liability for the failure of the insurer to perform even though Port Authority has caused the insurance to be placed with the insurer after the failure of CORE X to furnish such insurance.

13.2.3 No Waiver. None of the requirements contained herein as to types and limits of insurance coverage to be maintained by CORE X is intended to and will not in any manner limit or qualify CORE X's liabilities and obligations under this Lease Agreement.

Notwithstanding requirements in agreements between CORE X and any Person, Port Authority will have no responsibilities for insurance deductibles or self-insured retentions.

13.2.4 Periodic Review of Coverage. CORE X and Port Authority each acknowledge that the minimum insurance coverages and associated deductibles required by this Lease Agreement may need to be modified from time to time during the Term as reasonably necessary in order to address changes in insurance markets, changes in applicable Laws impacting insurance, inflation, changes in the composition or nature of improvements at the Leased Premises, modifications to the scope of the Permitted Use, and other factors. From time to time during the Term, but no less than once every five (5) years, the Parties agree to negotiate with each other in good faith with respect to, and to modify, the minimum insurance coverages and associated deductibles required by this Lease Agreement to the extent necessary to address needed modifications, such that the respective interests of the Parties insured thereby remain reasonably protected as contemplated herein.

13.2.5 Evidence of Coverage Acceptable evidence of CORE X Coverages which may be applicable at any given time must be delivered to Port Authority no later than the Lease Commencement Date.

13.3 Contractor and Subcontractor Insurance Requirements. CORE X must cause all of its contractors, subcontractors, vendors, suppliers, and service providers performing any services or providing any materials in or about the Leased Premises at any time during the Term to maintain in effect at all times during the full term of such work, insurance coverage commercially reasonable for the risk. During the period of any construction, renovation, or alteration of or addition to then-existing improvements at the Leased Premises which exceeds \$250,000, unless Port Authority waives such requirement in writing, a completed value, "All Risk" Builder's Risk form or "Course of Construction" insurance policy in non-reporting form, in an amount approved by Port Authority, may be required including completed value form, including delayed completion and soft costs.

13.4 Insurer Requirements. CORE X Coverages pursuant to this Lease Agreement must be effected under a valid and enforceable policy or policies issued by insurers of recognized responsibility authorized or qualified to do business in the state of Mississippi and which have and maintain a claims paying ability rating of "A-" or better by AM Best (or equivalent acceptable to Port Authority). All policies must be for terms of at least one (1) year, with premium prepaid.

13.5 CGL Endorsements for Construction. Prior to the commencement of development or structural construction, CORE X will obtain and maintain or cause to be obtained and maintained commercial general liability insurance provided for in Section 13.1.1 (*Commercial General Liability Insurance*) or other form of coverage reasonably acceptable to Port Authority for injury to persons and property, and death of any Person occurring in, on, or about the Leased Premises, or arising out of CORE X's development or construction thereof, whether pursuant to this Lease Agreement, any sublease, license, or other agreement.

14. INDEMNIFICATION

14.1 Indemnification by CORE X for Losses. CORE X hereby expressly agrees to indemnify, defend, and hold harmless Port Authority and its officers, directors, commissioners, employees, agents, consultants, successors, and assigns (collectively, the "Indemnitees"), or cause Indemnitees to be indemnified, defended, and held harmless, from and against all liabilities, obligations, damages, penalties, Claims, causes of action, costs, charges, and reasonable expenses, including attorneys' fees and costs (collectively "Losses"), imposed upon or incurred by or asserted against Indemnitees during the Term, unless such Loss is the fault, in whole or in part, of the Port Authority, by reason of the following:

14.1.1 any construction, restoration, alteration, repair, or other work or thing done in or on the Cotton Compress Property or any part thereof by or on behalf of CORE X

Responsible Persons or in connection with the Permitted Use, including any improvements, or alterations to the Leased Premises;

14.1.2 If and to the extent CORE X is not otherwise required to indemnify, defend, and hold harmless Indemnitees elsewhere in this Section 14.1 (*indemnification by CORE X for Losses*), any use, non-use, possession, occupation, alteration, repair, condition, operation, maintenance, or management of the Leased Premises, or of any road, passageway, or space which is controlled by CORE X or in which CORE X has an interest comprising a part of or adjacent to the Leased Premises, by or on behalf of CORE X Responsible Persons or in connection with the Permitted Use;

14.1.3 any accident, injury (including death at any time resulting therefrom) or damage to any Person or property occurring in or on the Leased Premises or on any part of the Cotton Compress Property which is controlled by CORE X or in which CORE X has an interest which is caused by any CORE X Responsible Person; any alleged or actual infringement (whether or not the alleged infringement is joint or indirect) of patent rights, trademark, copyrights, or alleged misuse of trade secret information by CORE X Responsible Persons in connection with the Permitted Use, except for those trademarks designated for CORE X's use by Port Authority;

14.1.4 any failure on the part of any CORE X Responsible Person to perform or comply with any applicable Laws or with any of the covenants, agreements, terms, or conditions contained in this Lease Agreement on its part to be performed or complied with, or any breach of any representation, warranty, or covenant of this Lease Agreement which, in each case, continues after any applicable notice and Cure Period;

14.1.5 any Lien or Claim which may have arisen out of any act or omission of CORE X Responsible Persons against or on the Leased Premises or any part of the Cotton Compress Property or any Lien or Claim created or permitted to be created by CORE X Responsible Persons in respect of the Leased Premises or any part of the Cotton Compress Property against any assets of any of the Indemnitees under the laws of the state of Mississippi or of any other Governmental Authority or any liability which may be asserted against any of the Indemnitees with respect thereto. CORE X will promptly pay when due all obligations for labor and material provided to and at the request of CORE X Responsible Persons and waives any right to assert any Liens or attachments, statutory, constitutional, common law, or otherwise on the Cotton Compress Property (including the Leased Premises) and will also promptly discharge, bond, or otherwise secure against any and all Liens and attachments which are filed by its agents, contractors, subcontractors, or employees on account of labor performed for CORE X Responsible Persons or materials, equipment, and supplies furnished to and at the request of CORE X in connection with the Permitted Use, or any of the transactions contemplated under this Lease Agreement;

14.1.6 any failure on the part of any CORE X Responsible Person to keep, observe, and perform any of the material terms, covenants, agreements, provisions, conditions, or limitations contained in any contract for construction of improvements at the Leased Premises on CORE X's part to be kept, observed, or performed which, in each case, continues after any applicable notice and Cure Period; and

14.1.7 any and all liabilities and Claims that may be assessed or levied against CORE X or its Affiliates in connection with their failure to comply with tax and import/export obligations arising out of this Lease Agreement, the Permitted Use, or under applicable Law. If CORE X's or its Affiliate's failure to comply with any such obligation results in Port Authority not receiving the full benefit of, or prejudices any available import/export exemption, or results in failure to pay any import/export charges or obtain any necessary permits, licenses, authorizations, or customs clearances, CORE X will indemnify Indemnitees against all Claims relating to such action or failure to act.

14.2 Liability and Indemnification for Environmental Matters.

14.2.1 Response Actions. CORE X accepts responsibility for all environmental liability arising from any CORE X Contamination and will Immediately Orally Notify all required Persons and conduct and complete all Response Actions necessary to correct any violation of Environmental Laws arising from any CORE X Contamination.

14.2.2 Environmental Indemnity. CORE X will defend, indemnify, and hold harmless Port Authority from and against all Claims, lawsuits brought or threatened, government orders, demands, penalties, fines, liabilities, damages, costs, or expenses of whatever kind or nature, known or unknown, contingent or otherwise, including attorney's and consultant fees, investigation and laboratory fees, monitoring and remediation costs, court costs, and litigation expenses, caused by (i) a CORE X Contamination or (ii) any violation by CORE X Responsible Persons of Environmental Laws.

14.2.3 Environmental Liability. Without limiting its obligations under any other section of this Lease Agreement, CORE X will be responsible for responding to and complying with any administrative order, request, or demand relating to potential or actual violations of Environmental Laws relating to CORE X Contamination. Notwithstanding any provisions of this Part 14, including this Section 14.2 (*Liability and Indemnification for Environmental Matters*) or Section 14.3 (*Defense Obligation*), Port Authority retains the right to defend itself in any action or actions which are based upon or in any way related to CORE X Contamination. In any such case (including any case where Port Authority is not a named party), Port Authority may select its own counsel, at CORE X's expense, provided however, that such counsel has been approved, in advance, by CORE X and its insurance carrier such approval to not be unreasonably withheld, conditioned or delayed.

14.3 Defense Obligation. In case any Proceeding is brought against an Indemnitee by reason of any indemnified Losses, CORE X, upon request of such Indemnitee and at CORE X's expense, will resist and defend such action or Proceeding, or cause the same to be resisted and defended, either by legal counsel designated by Indemnitee or, where such occurrence is covered by liability insurance, by legal counsel designated by the insurer if so required by such insurer, in each case subject to the Indemnitee's reasonable approval of such counsel.

15. RECORDKEEPING AND MONITORING

15.1 Recordkeeping. CORE X must maintain: (i) appropriate financial records, and will impose appropriate financial and accounting controls with respect to the Permitted Use; (ii) copies of all construction contracts, change orders, inspection reports, meeting minutes, construction manager files, shop drawings, product data, samples, applicable manuals and handbooks, maintenance and operating manuals and instructions, warranties, and other documents, purchase orders, contracts, agreements, approvals, correspondence, and other writings related to the Lease Agreement and the Permitted Use; and (iii) all material management report, records, and performance data related to the Permitted Use.

15.2 Management Report. In order to assist Port Authority's evaluation of the performance of the Permitted Use throughout the Term as applicable, CORE X will prepare and submit to Port Authority no later than three (3) months following the close of each Contract Year a management report for the calculating the maritime incentive. The management report will address CORE X's compliance with the objectives of this Lease Agreement, including (i) CORE X's prior scheduled and unscheduled maintenance activities during the prior calendar year; (ii) planned scheduled maintenance activities for the forthcoming calendar year; (iii) capital expenditures at or related to the Leased Premises for the prior and forthcoming calendar year including identification of any amount expended in connection with the Minimum Investment; and (iv) all improvements or alterations for the prior and planned for the forthcoming year. The management report will also include other significant activities that occurred at the Leased Premises during the preceding calendar year and information regarding other significant future planned activities or transactions that would

reasonably be expected to have a material effect on the rights or obligations of the Parties to this Lease Agreement.

15.3 **Monthly Maritime Incentive Reports.** In connection with the payment of any Rent, CORE X will provide to Port Authority a monthly report confirming the cumulative number of Individual Containers or equivalent units utilized at the Leased Premises during the applicable Contract Year to date and a calculation of the offset to be applied under Section 5.8 (*Maritime Incentive*), together with such other information, records, or documents (of a statistical nature or otherwise) relating to, or connected with such cumulative number of units, as MSPA may reasonably request from time to time.

15.4 **Reserved.**

15.5 **Audit Rights.** CORE X will maintain complete and accurate records sufficient to permit Port Authority to fully and accurately audit compliance with the terms of this Lease Agreement, including the Cargo levels and the Minimum Investment. CORE X must retain such records for a minimum period of three (3) years on a rolling basis. Port Authority will have the right to inspect, or to cause its representatives to inspect, such records during normal business hours following reasonable written notice to CORE X. If it is ultimately determined that CORE X's representation to Port Authority regarding any amounts owed are in error by at least five percent (5%), then CORE X will pay the out-of-pocket audit fees incurred by CORE X for its inspection and audit of CORE X's records. CORE X must promptly correct any weaknesses, errors, or discrepancies identified in CORE X's accounting controls or recordkeeping by Port Authority's audit.

16. **REPRESENTATIONS AND WARRANTIES**

16.1 **Representations and Warranties of Port Authority.** Port Authority represents, warrants, and covenants to CORE X that:

16.1.1 **Authority.** Port Authority has all requisite power and authority to lease the Leased Premises for the maximum Term permitted hereby. Port Authority has the power and authority to enter into, deliver, and perform this Lease Agreement and carry out its obligations hereunder. The execution, delivery, and performance of this Lease Agreement have been duly and validly approved by Port Authority and any Person whose approval is necessary to the validity hereof or thereof, and no other action on the part of Port Authority is necessary to approve this Lease Agreement or to consummate the Transactions contemplated in this Lease Agreement. The Lease Agreement has been, or as of the Effective Date, will have been, duly and validly executed and delivered by Port Authority and assuming due and valid authorization, execution, and delivery by CORE X, the Lease Agreement will constitute a valid and binding obligation of Port Authority, enforceable against Port Authority in accordance with its terms, except as enforcement may be limited by general principles of Law or equity, or bankruptcy, insolvency, moratorium, and similar Laws affecting the creditors' rights and remedies.

16.1.2 **No Violations or Defaults.** Neither the execution and delivery of the Lease Agreement by Port Authority nor the consummation by Port Authority of the transactions contemplated herein, nor compliance by Port Authority with the terms and provisions hereof will violate any of the terms or provisions of any instrument or obligation entered into by or by which Port Authority is bound.

16.1.3 **Consents and Approvals.** Except for consents and approvals, the failure of which to obtain will not have and would not reasonably be expected to have a material adverse effect on CORE X, no consents or approvals of, or filings or registrations with any Governmental Authority or with any Person are necessary in connection with the execution, delivery, and performance of this Lease Agreement by Port Authority.

16.2 Representations and Warranties of CORE X. CORE X represents, warrants, and covenants to Port Authority that:

16.2.1 Formation. CORE X is a limited liability company duly formed, validly existing, and in good standing under the laws of the state of Delaware, and is qualified to do business and is in good standing under the laws of the state of Mississippi.

16.2.2 Authority. CORE X has all requisite power and authority to accept the lease of the Leased Premises, subject to the terms and conditions set forth in this Lease Agreement. CORE X has the power and authority to enter into, deliver, and perform this Lease Agreement and to carry out its obligations with respect to the Transaction. The execution, delivery, and performance of this Lease Agreement have been duly and validly approved by CORE X and any Person whose authority and approval is necessary to the validity or enforcement hereof or thereof, and no other action on the part of CORE X is necessary to approve the Lease Agreement or to consummate the Transactions contemplated in this Lease Agreement. The Lease Agreement has been, or as of the Effective Date, will have been, duly and validly executed and delivered by CORE X and assuming due and valid authorization, execution, and delivery by Port Authority, the Lease Agreement will constitute a valid and binding obligation of CORE X, enforceable against CORE X in accordance with its terms, except as enforcement may be limited by general principles of Law or equity or bankruptcy, insolvency, moratorium, and similar Laws affecting the creditors' rights and remedies.

16.2.3 Qualifications. CORE X is, and each of its employees that will be engaged in carrying out its obligations and performing the Permitted Use contemplated by this Lease Agreement will be, sufficiently qualified and possess the requisite skill and professional competence, expertise, and experience to undertake the obligations imposed, and to perform the Permitted Use contemplated, by this Lease Agreement and the requirements of a project of a similar magnitude and scope as the transaction. CORE X will perform all activities in connection with the Permitted Use in a good and workmanlike manner.

16.2.4 Governmental Requirements. CORE X holds, or will hold, and will maintain at all times during the Term, all licenses, permits, authorizations, or other certifications necessary to perform its duties under this Lease Agreement, including the Permitted Use, and is in compliance with and will continue to comply with all applicable Laws.

16.2.5 No Violations or Defaults. Neither the execution and delivery of the Lease Agreement by CORE X nor the consummation by CORE X of the transactions contemplated herein, nor compliance by CORE X with the terms and provisions thereof will violate any of the terms or provisions of any instrument or obligations entered into by or by which CORE X or any Affiliate of CORE X is bound.

16.2.6 Reserved.

16.3 Legal Proceedings. Each Party represents to the other Party that, as of the Effective Date:

16.3.1 Neither Party nor any Affiliate of any Party is a party to any, and to each Party's actual knowledge, there are no pending or threatened Claims or Proceedings of any kind or nature whatsoever pertaining to the Permitted Use or challenging the validity or propriety of the Lease Agreement; and

16.3.2 To each Party's actual knowledge, there is no injunction or writ or governmental order, judgment, or similar decree applicable to such Party or any Affiliate of such Party which imposes any restrictions on such Party or any Affiliate with respect to this Lease Agreement or the Permitted Use.

16.4 **U.S. Patriot Act.** Neither CORE X nor any partner, member, or stockholder of CORE X is, and no legal or beneficial interest in a partner, member, or stockholder of CORE X is or will be held, directly or indirectly, by a Person that appears on a list of Persons for which transactions are prohibited by the United States Treasury Office of Foreign Assets Control or any similar list maintained by any other Governmental Authority, with respect to which entering into transactions with such Person would violate the USA Patriot Act or regulations, or any Presidential Executive Order, or any other similar applicable law, ordinance, order, rule, or regulation.

17. **SUBCONTRACTING**

17.1 **Subcontracting Requirements.** CORE X may perform any obligation or activity required or permitted of it pursuant to this Lease Agreement through contractors or subcontractors. If CORE X retains the services of a contractor or subcontractor to perform any of CORE X's obligations or duties under this Lease Agreement, each such contract or subcontract will require at least the same standards and preserve to Port Authority the same controls with which CORE X would be required to observe and comply.

17.2 **Limitations.** In no event will CORE X enter into any contracts, agreements, subcontracts, or other undertakings in connection with the Permitted Use or this Lease Agreement, including any operating or occupancy agreement that extends beyond the Term of this Lease Agreement. All such contracts, agreements, subcontracts, or other undertakings will expressly (a) be made subject to the terms of this Lease Agreement; (b) be made subject to all applicable Laws; (c) provide for the automatic termination thereof upon the expiration or termination of this Lease Agreement, unless Port Authority, in its sole discretion, approves in writing the continuation and the assumption by Port Authority of such contract, agreement, subcontract, or other undertaking as of the date of such expiration or termination of this Lease Agreement; (d) contain commercially reasonable insurance requirements for coverages and limits not less than those which are customarily required by Port Authority of its like contractors, naming Port Authority and the state of Mississippi as additional insureds; and (e) indemnify Port Authority and the state of Mississippi against any costs or liabilities thereunder using language substantially similar to CORE X's indemnifications contained in this Lease Agreement.

18. **DEFAULT**

18.1 **Default.** A "Default" with respect to a Party (a "Defaulting Party") means any of the following:

18.1.1 The failure to perform any material covenant or obligation set forth in this Lease Agreement, including any material violation of applicable Law and only if the failure is not remedied within the Cure Period, so long as the Party promptly commences and diligently pursues the cure.

18.1.2 The failure of a Party to pay when due any Rent, Additional Rent, fee, payment, real property taxes, insurance premiums or other monetary obligation under this Lease Agreement, if such failure to pay is not cured within thirty (30) calendar days after a notice of the failure has been received from the non-Defaulting Party, unless such failure results from a dispute made in good faith concerning such monetary obligation (a "Monetary Default"); any other event of default is a "non-monetary default."

18.1.3 With respect to CORE X (and only CORE X), CORE X voluntarily or involuntarily through its creditors, seeks relief for protection under any chapter of the U.S. Bankruptcy Code or any similar federal or state Laws.

18.2 **Remedies for Default.**

18.2.1 **Port Authority Remedies.** Notwithstanding anything to the contrary set forth in this Lease Agreement (including Section 18.2.3 (*Good Faith Negotiations*)), but subject to

the rights of a Leasehold Mortgagee as set forth in Part 6, upon the occurrence of and during the continuance of a Default where CORE X is the Defaulting Party, Port Authority may, upon written notice to CORE X, declare CORE X to be in Default. In any such case, Port Authority may (but will have no obligation to) avail itself of the remedies set forth below. Such remedies are not exclusive, and the election of one remedy will not preclude an election of any other remedy (or no remedy) at any later time.

18.2.1.1 For any Monetary Default lasting in excess of ninety (90) days or any non-monetary default lasting in excess of one hundred twenty (120) days, Port Authority may, at its option, terminate this Lease Agreement, including CORE X's right to occupy the Leased Premises and have the Leased Premises and other property returned to Port Authority (including, if and as applicable, transfer of title to improvements, alterations, and fixtures) by giving written notice of termination to CORE X. The foregoing is subject to Section 19.1 (*Surrender*).

18.2.1.2 Port Authority, without waiving or releasing CORE X from its obligations under this Lease Agreement, may observe and perform (or cause to be observed and performed) the covenant or covenants of which CORE X has Defaulted, and in that event may pay such monies as may be reasonably required or as Port Authority may reasonably deem expedient, and Port Authority may thereupon charge all monies to CORE X, together with interest thereon, at the Default Rate, from the date on which Port Authority paid the monies. CORE X will repay such monies to Port Authority on demand as Additional Rent.

18.2.1.3 Port Authority will have the right to recover its Losses arising from such CORE X Default and any amounts due and payable under this Lease Agreement, including any unsatisfied obligations with respect to the Minimum Investment. For the avoidance of doubt, it is the intent of the Parties that if this Lease Agreement is terminated as the result of a CORE X Default prior to CORE X's having satisfied all Minimum Investment obligations that Port Authority be entitled to recover in cash any unexpended portion of the Minimum Investment.

18.2.1.4 Port Authority may seek specific performance, an injunction, or other equitable remedies, it being acknowledged and agreed by CORE X that damages may be an inadequate remedy for a CORE X Default.

18.2.1.5 Port Authority will have any other remedy available under applicable Law or in equity.

18.2.2 **CORE X Remedies.** Subject to Section 18.2.3 (*Good Faith Negotiations*), upon the occurrence of and during the continuance of a Default where Port Authority is the Defaulting Party, CORE X may, upon written notice to Port Authority, declare Port Authority to be in Default. In any such case, CORE X may (but will have no obligation to) avail itself of the remedies set forth below. Such remedies are not exclusive, and the election of one remedy will not preclude an election of any other remedy (or no remedy) at any later time.

18.2.2.1 CORE X may, at its option, terminate this Lease Agreement, which will include termination of CORE X's right to occupy the Leased Premises. The foregoing is subject to Section 19.1 (*Surrender*).

18.2.2.2 CORE X may seek specific performance, an injunction, or other equitable remedies, it being acknowledged and agreed by Port Authority that damages may be an inadequate remedy for a Port Authority Default.

18.2.2.3 CORE X will have the right to recover its Losses arising from such Port Authority Default and any amounts due and payable under this Lease Agreement together with, to the extent permitted by Laws, interest at a rate equivalent to the Default Rate herein.

18.2.2.4 CORE X will have any other remedy available under applicable Law or in equity.

18.2.3 **Good Faith Negotiations.** Notwithstanding any provision in this Lease Agreement to the contrary, if either Party declares a Default under this Part 18 (*Default*), the Parties agree to first enter into good faith negotiations between the executive management of each of Port Authority and CORE X over a period not to exceed thirty (30) days in an attempt to resolve the Default following any applicable Cure Period. Such thirty (30) day period may be extended by mutual agreement of the Parties. The foregoing obligation will not apply to any failure to maintain any CORE X Coverages, any Default involving an emergency or other hazardous condition, or any non-curable Default.

19. TERMINATION

19.1 **Surrender.** Upon the earlier of the expiration or earlier termination of this Lease Agreement, CORE X must surrender and vacate the Leased Premises and turnover all leasehold improvements, with each satisfying the Basic Condition, reasonable wear and tear excepted. Title to any leasehold improvements constructed by CORE X on the Leased Premises during the Term will be transferred by CORE X to Port Authority upon the expiration or earlier termination of this Lease Agreement free and clear of any Liens and at no additional cost to Port Authority. CORE X shall be entitled to remove, at its cost, from the Leased Premises all of its moveable assets (e.g., terminal tractors, vehicles, and other non-affixed equipment, etc.).

19.2 **Additional Documentation.** CORE X will, at MSPA's sole cost and expense, promptly deliver to Port Authority copies of all records and other documents relating to the Leased Premises as Port Authority may reasonably request, including all "as-built" drawings, plans, and otherwise applicable to the Leased Premises and all transferrable permits relating to such leasehold improvements.

19.3 **Transfer of Warranties.** CORE X will, at MSPA's sole cost and expense and to the extent applicable and still in force and effect, assign to MSPA all warranties and warranty obligations relating to any leasehold improvements transferred to MSPA. Further, CORE X must provide MSPA with copies of all building systems, and maintenance manuals, that MSPA may reasonably request or require, except licensed software, items, and intellectual property rights that are proprietary to CORE X's overall business and are not solely used at or developed for the Permitted Use, which (as between the Parties) will remain the sole property of CORE X.

19.4 **Release.** CORE X will execute and deliver to Port Authority a release or other instrument reasonably required by Port Authority to evidence the expiration or termination of this Lease Agreement. In the event CORE X is unable or unwilling to execute such a release then the Port Authority is authorized to unilateral file evidence of such release or other instrument to evidence the expiration or termination of this Lease Agreement.

20. TRANSITION UPON TERMINATION OR EXPIRATION

20.1 **Transition Period.** For a period of one hundred eighty (180) days prior to the scheduled expiration of the Term or during any period after a notice of termination has been delivered hereunder, but prior to the effective date of such termination, CORE X will, unless otherwise notified by Port Authority, perform those transition services or activities required to successfully transition (a) Permitted Use activities from CORE X to Port Authority or a Person designated by Port Authority and (b) the maintenance or operation of any assets hereunder (e.g., performing any related training required to permit Port Authority to

access, use, and maintain the relevant assets until successful completion of the transition to Port Authority). CORE X will perform such transition services or activities without unreasonable interruption, delay, or degradation in quality. Any costs and expenses reasonably incurred by CORE X in providing such services will be payable by Port Authority. Port Authority may, by five (5) business days' written notice to CORE X, discontinue any transition services or activities pursuant to this Section 20.1 (*Transition Period*), and will not be liable to CORE X for any costs or expenses incurred by CORE X with respect to any such discontinued services or activities after the effective date of such discontinuation.

20.2 Personal Property. Upon surrendering the Leased Premises, CORE X must have removed any of its personal property from the Leased Premises. Any such personal property left at the Port after the expiration or termination of this Lease Agreement will automatically be deemed by the Parties to have been abandoned by CORE X and, at Port Authority's election, such personal property will either become the MSPA's property or be disposed of by the Port Authority as it deems fit, including through destruction of same.

20.3 Orderly Transition End of Term. CORE X will assist Port Authority in such manner and with such additional assistance as Port Authority may reasonably require.

21. COMPLIANCE WITH FCPA, AML AND EXPORT CONTROL AND ANTIBOYCOTT LAWS

21.1 The Parties have complied, and will continue to comply, with all applicable Laws, including, without limitation, the Anti-Corruption Laws and the Anti-Money Laundering Laws.

21.2 The Parties have not, and agree that they shall not, in connection with the transactions contemplated by this Agreement, or in connection with any other business transactions involving MSPA, CORE X or either of their subsidiaries, made any payment, transfer anything of value, or offer anything of value, directly or indirectly:

21.2.1 to any governmental official or employee (including employees of a government corporation or public international organization) or to any political party or candidate for public office; or

21.2.2 to any other Person if such payments or transfers would violate the laws of the country in which made, the laws of the United States, including the trade sanction and economic embargo programs enforced by OFAC or the laws of any other applicable country.

21.3 The Parties have at all times complied with all Legal Requirements relating to export control and trade sanctions or embargoes. The Parties have not violated the antiboycott prohibitions contained in 50 U.S.C. Sections 2401 et seq. or taken any action that can be penalized under Code Section 999.

22. EXCLUSIVE USE

22.1 MSPA covenants and agrees that during the Term, MSPA shall not enter into any agreement or lease that permits another person to provide Climate Controlled Freezer Warehouse Facilities, as specifically defined herein, or services of a similar nature on any property owned or controlled by the Port Authority.

22.2 MSPA further covenants and agrees that it will not sell any property owned or controlled by it to any purchaser whose primary business is the operation of Climate Controlled Freezer Warehouse Facilities, as specifically defined herein.

22.3 Notwithstanding anything contained in this Article 22, should the MSPA determine that additional Climate Controlled Freezer Warehouse Facilities are required for its continued operation and growth, MSPA must first offer the development of such additional Climate Controlled Freezer Warehouse

Facilities to CORE X. Should CORE X reject the offer to develop, Port Authority may then offer such development to others.

23. MISCELLANEOUS

23.1 Responsibility for Operations. It is expressly understood and agreed that Port Authority will have no obligation or responsibility for CORE X's business operation at the Leased Premises or for Cargo, which, as between the Parties, will be the sole responsibility of CORE X.

23.2 Community Relations. Throughout the Term, CORE X will support and enhance the reasonable research, exploration, conservation, cultural, civic, community, and education programs and objectives conducted or supported by Port Authority, its tenants (including the University of Southern Mississippi), the City of Gulfport, and other state and local stakeholders. CORE X agrees to utilize its commercially reasonable efforts to support Port Authority in its endeavors to promote the Port and to support the state of Mississippi and the local community.

23.3 Independent Contractor. Nothing in this Lease Agreement will be construed to create a partnership, joint venture, or agency relationship between the Parties, or be interpreted or construed as creating or establishing the relationship of employer and employee between either Party or any employee or agent thereof. Except as otherwise provided herein, each Party will be solely responsible for payment of all compensation owed to its employees and agents, and for all federal and state income tax withholding, Social Security taxes, and unemployment insurance applicable to such personnel as employees of the applicable Party. Each Party shall bear sole responsibility for any health or disability insurance, retirement benefits, or other welfare or pension benefits (if any) to which such Party's employees may be entitled.

23.4 Time of Essence. Time is of the essence in this Lease Agreement, including with respect to Section 4.1 (*Minimum Investment Schedule*) and CORE X's failure to meet any prescribed deadlines within this Lease Agreement will constitute a Default.

23.5 Survival. Notwithstanding other provisions in this Lease Agreement specifically stating intent to survive expiration or termination of this Lease Agreement, if this Lease Agreement expires or terminates for any reason, all provisions in this Lease Agreement containing perpetual waivers, disclaimers, representations, warranties, releases, defense obligations and indemnities, and all provisions related to tax, audit, compliance, insurance, limitations of liability, dispute resolution, confidentiality, retention and inspection of records, and applicable law, and all causes of action which arose prior to completion, expiration, or termination, post-termination property rights and obligations and, unless otherwise specifically provided in this Lease Agreement, all provisions which by their nature contemplate performance after expiration or termination of this Lease Agreement, survive indefinitely until, by their respective terms, they are no longer operative or are limited by an applicable statute of limitations.

23.6 Remedies Cumulative. All rights, powers, and remedies provided in this Lease Agreement are cumulative and not exclusive of any rights, powers, and remedies provided by law or in equity.

23.7 Modification. This Lease Agreement, including all Schedules and Exhibits hereto, may only be amended or modified in a written amendment signed by a duly authorized representative of each Party. Any attempt to change the terms of this Lease Agreement in any other manner will be void and unenforceable.

23.8 Notices. A Party giving notice under this Section must provide the notice to the other Parties' designated contact per Exhibit 22.8 (Notices and Administration), with a copy as shown. Absent a specific Lease Agreement notice requirement, notice under this Section 23.8 (*Notices*) must be by: (i) personal delivery (effective that date); (ii) prepaid nationally- or internationally-recognized commercial overnight courier (effective the next business day); or (iii) first-class certified or registered U.S. mail, with proper postage (effective the following fourth (4th) business day). The Parties may, in writing, from time to

time, mutually designate additional information communication methods (such as email) to facilitate routine, day-to-day communications relating to their performance of this Lease Agreement.

23.9 Entire Agreement; Expense. This Lease Agreement constitutes the entire agreement and understanding between the Parties with respect to the subject matter hereof and supersedes all prior written or oral agreements or understandings of the Parties related thereto. Each Party will bear its respective costs and expenses, including legal fees, incurred in connection with the negotiation and execution of this Lease Agreement.

23.10 Severability. If under applicable law, or in a finding by a court of competent jurisdiction, it is determined that any provision of this Lease Agreement is unlawful and unenforceable, that determination will not affect any other provision of this Lease Agreement, and this Lease Agreement and all remaining provisions will continue in full force and effect to the extent permitted by law.

23.11 No Waiver. If any Party fails to enforce an obligation, waives a breach, elects a remedy, or waives a right in one instance, said Party does not waive a similar, or any other, breach or the right to enforce that, or any other, right, remedy, or obligation, in another instance. Acquiescence to, or acceptance of, late performance, with or without reservation, does not waive a future right to require timely performance.

23.12 Further Assurances. Each Party agrees to do such things, perform such acts and make, execute, acknowledge, and deliver such documents as may be reasonably necessary and customary to carry out the intent and purposes of this Lease Agreement, so long as any of the foregoing do not materially increase any Party's obligations or materially decrease any Party's rights hereunder.

23.13 Successors and Assigns. Covenants and conditions herein contained will, subject to the provisions as to assignment, apply to and bind the successors and assigns of all the Parties hereto.

23.14 No Third-Party Benefit. Nothing in this Lease Agreement will be construed to create any duty, obligation, or liability of either Port Authority or CORE X to any Person not a Party to this Lease Agreement.

23.15 Confidentiality. In connection with CORE X's performance and obligations under this Lease Agreement, Port Authority may be provided with and may accumulate documentation, data, or other information regarding CORE X and the Permitted Use that are confidential and proprietary in nature. Subject to applicable Laws, including Laws regarding open meetings and public access to the records of Port Authority, Port Authority agrees to hold and maintain all such documents and other information, including any Plans and Specifications, budgets, market reports, contracts, intellectual property such as computer programs or coding, and any other reports and data and all components thereof, in the strictest confidence, and will not disclose any such information to any Person without obtaining CORE X's prior written approval. For the avoidance of doubt, confidential information does not include information that: (i) is or becomes generally available to the public; (ii) was within the possession of Port Authority before being furnished to Port Authority, if the source of such information was not known by Port Authority to be bound by a confidentiality agreement with or other contractual, legal, or fiduciary obligation of confidentiality to CORE X regarding such information; or (iii) becomes available to Port Authority on a non-confidential basis from a source other than CORE X, if such source is not bound by a confidentiality agreement with or other contractual, legal, or fiduciary obligation of confidentiality to CORE X regarding such information.

23.16 E-Verify. CORE X represents and warrants that it will ensure its compliance with the Mississippi Employment Protection Act of 2008, and will register and participate in the status verification system for all newly hired employees. Mississippi Code Annotated §§ 71-11-1 et seq. The term "employee" as used in the Employment Protection Act means any person that is hired to perform work within the State of Mississippi. As used herein, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. CORE X agrees to maintain records of such compliance. Upon request of the State and after approval of the Social Security Administration or Department of Homeland Security

when required, CORE X agrees to provide a copy of each such verification. CORE X further represents and warrants that any person assigned to perform services hereafter meets the employment eligibility requirements of all immigration laws. The breach of this agreement may subject CORE X to the following: (1) termination of this contract and ineligibility for any state or public contract in Mississippi for up to three (3) years with notice of such cancellation/termination being made public; (2) the loss of any license, permit, certification or other document granted to CORE X by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year; or, (3) both. In the event of such cancellation/termination, CORE X would also be liable for any additional costs incurred by the State due to Contract cancellation or loss of license or permit to do business in the State.

23.17 Recording. This Lease Agreement will not be recorded in the Harrison County Land Records office, but its approval will be recorded in the minutes of the Board of Commissioners of Port Authority, as required by Law. Port Authority will execute, acknowledge, and deliver to CORE X a memorandum of this Lease Agreement in recordable form, in a form similar to Exhibit 23.17, which may be recorded in the land records of Harrison County, Mississippi.

23.18 Estoppel Certificates. Port Authority and CORE X will execute and deliver to each other, promptly upon any written request therefor by the other Party (in any event within fifteen (15) days of receipt of such written request), or by any Leasehold Mortgagee of CORE X, a certificate addressed as indicated by the requesting party and stating (a) whether this Lease Agreement is in full force and effect, (b) whether this Lease Agreement has been modified or amended in any respect, and submitting copies of such modifications or amendments, (c) whether there are any existing defaults hereunder known to the Party executing the certificate, and specifying the nature thereof, if any, and (d) such other matters as may be reasonably requested.

23.19 Governing Law and Jurisdiction. Mississippi law governs all matters, including torts, arising under, or relating to execution, interpretation, performance, or enforcement of, this Lease Agreement, without regard to choice of law principles. In the event of any dispute or claim arising out of this Lease Agreement, the Parties agree that any claim will be filed in a state or federal court of requisite jurisdiction located in the First Judicial District of Harrison County, Mississippi.

23.20 Attorneys' Fees. If any action at law or equity is brought to enforce or interpret the provisions of this Lease Agreement, each Party will be responsible for its own attorneys' fees and court costs.


23.21 Counterparts. This Lease Agreement may be executed in any number of counterparts, each of which will be deemed to be an original and all of which taken together will constitute one and the same agreement. The Parties may exchange such counterparts via mail or electronic mail (email). An electronic signature or a signature transmitted by portable document format ("pdf") constitutes an original signature for all purposes.

[Signature Page Follows]

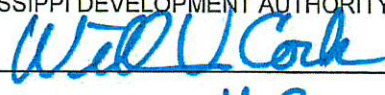
IN WITNESS WHEREOF, the authorized representatives of the Parties have executed this Lease Agreement to be effective as of the Effective Date.

PORT AUTHORITY:

MISSISSIPPI STATE PORT AUTHORITY
AT GULFPORT


By: 
Name: John Rester
Its: President

MISSISSIPPI DEVELOPMENT AUTHORITY

By: 
Name: William V. Cook
Its: Executive Director

CORE X:

CORE X GULFPORT PROPCO LLC

By: 
Name: Edward Shehwen
Its: EVP, Investments

RESOLUTION NO. 24-01

After proper notice, a quorum of the Board of Commissioners ("Board") of the Mississippi State Port Authority at Gulfport ("MSPA") took up for consideration the matter of authorizing the MSPA to pursue and apply for certain grant funds, including, without limitation, Mississippi Strategic Multimodal Investment Funds, for the purpose of making certain improvements to facilities at the State Port. Commissioner Symmes moved for the adoption of the following resolution:

RESOLUTION OF THE BOARD OF THE MSPA AUTHORIZING THE MSPA TO PURSUE AND APPLY FOR GRANT FUNDS, INCLUDING, WITHOUT LIMITATION, MISSISSIPPI STRATEGIC MULTIMODAL INVESTMENT FUNDS, WHICH WILL BE USED FOR CERTAIN IMPROVEMENTS AT THE STATE PORT.

WHEREAS, Section 59-5-37(1) of the Mississippi Code authorizes, among other things, the MSPA to make all contracts and purchases incidental to or necessary for the advancement, promotion and development of the State Port;

WHEREAS, in a manner consistent with the authority granted under Section 59-5-37(1) of the Mississippi Code, the MSPA is eligible to pursue and apply for certain grant funds that will be used for the advancement, development and improvement of facilities at the State Port;

WHEREAS, the MSPA has identified the use of grant funds for certain improvements at the State Port, including, without limitation, rail improvements to the East and West Pier, including an extension to the existing West Pier rail and a new railway that will connect the rail on the East Pier to the rail on the West Pier (the "Project");

WHEREAS, the Project will improve the intermodal capabilities of the Port of Gulfport, which will increase freight capacity and increase economic activity at the State Port and throughout the State of Mississippi;

WHEREAS, the Board of Commissioners of the MSPA hereby authorizes the MSPA to pursue and apply for certain grant funds that the MSPA is eligible to receive for the purpose of advancing, promoting and developing the State Port, including, without limitation, pursuing all those grant opportunities that support projects that will impact the competitiveness of State Port and have the potential to generate increased economic activity at the State Port and throughout the State of Mississippi;

WHEREAS, on April 17, 2023, Governor Tate Reeves signed Senate Bill 2559 into law, establishing the Mississippi Strategic Multimodal Investment Fund (the "SMIF"), which is codified at Section 65-1-901 of the Mississippi Code;

WHEREAS, under the SMIF, grant funds shall be used for projects that increase the capacity for the movement of freight and increased economic activity at the airports, ports and railroads located in Mississippi and to support long-term economic growth in the state;

WHEREAS, the Board of Commissioners hereby authorizes and directs the MSPA, by and through its Executive Director and/or his designee, to pursue and apply for certain Grant Funds that the MSPA is eligible to receive, including, without limitation, SMIF Funds, and to execute, complete and deliver all necessary documentation, applications and other instruments to the appropriate authority administering such grant(s), as may be required at any time and from time-to-time, based upon each Grant's requirements and to do and perform such other acts and deeds on behalf of the MSPA as may be deemed necessary or desirable at any time or from time-to-time in connection with the matters contemplated in this Resolution; and

WHEREAS, that, any and all actions heretofore or hereafter taken by the Executive Director and/or his designee in the name and on behalf of the MSPA in connection with or related to the matters set forth herein as contemplated by the foregoing Resolution be, and are hereby adopted, affirmed, approved and ratified in all respects as the act of the MSPA.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE MISSISSIPPI STATE PORT AUTHORITY AT GULFPORT, AS FOLLOWS:

The Board of Commissioners hereby authorizes and directs the MSPA, by and through its Executive Director and/or his designee, to pursue and apply for certain Grant Funds that the MSPA is eligible to receive, including, without limitation, SMIF Funds, and to execute, complete and deliver all necessary documentation, applications and other instruments to the appropriate authority administering such grant(s), as may be required at any time and from time-to-time, based upon each Grant's requirements and to do and perform such other acts and deeds on behalf of the MSPA as may be deemed necessary or desirable at any time or from time-to-time in connection with the receipt of Grant Funds, which will be used for the advancement, promotion and development of the State Port, including, without limitation, projects that will impact the competitiveness of State Port and have the potential to generate increased economic activity at the State Port and throughout the State of Mississippi.

Commissioner Loughman seconded the motion to adopt the foregoing Resolution, and the vote thereupon was as follows:

Voted:

Commissioner Rester	<u>Aye</u>
Commissioner Symmes	<u>Aye</u>
Commissioner Loughman	<u>Aye</u>
Commissioner Knesal	<u>Aye</u>
Commissioner Spear	<u>Aye</u>

The motion having received the foregoing vote of the Board of Commissioners, the President declared the motion carried and the Resolution adopted, on this the 25th day of January, 2024.

A handwritten signature in black ink, appearing to be 'M. Loughman', written over a horizontal line.

MARK LOUGHMAN, SECRETARY

RESOLUTION NO. 24-02

After proper notice, a quorum of the Board of Commissioners ("Board") of the Mississippi State Port Authority at Gulfport ("MSPA") took up for consideration the matter of authorizing the MSPA to allocate and expend 40% matching funds for the exclusive use of eligible projects being pursued and applied for by the MSPA under the Mississippi Strategic Multimodal Investment Funds ("SMIF") Grant Program for the purpose of making certain improvements to facilities at the State Port. Commissioner Loughman moved for the adoption of the following resolution:

RESOLUTION OF THE BOARD OF THE MSPA AUTHORIZING THE MSPA TO ALLOCATE AND EXPEND 40% MATCHING FUNDS FOR THE EXCLUSIVE USE OF ELIGIBLE PROJECTS BEING PURSUED AND APPLIED FOR BY THE MSPA UNDER THE MISSISSIPPI STRATEGIC MULTIMODAL INVESTMENT FUNDS GRANT PROGRAM, WHICH WILL BE USED FOR CERTAIN IMPROVEMENTS AT THE STATE PORT.

WHEREAS, Section 59-5-37(1) of the Mississippi Code authorizes, among other things, the MSPA to make all contracts and purchases incidental to or necessary for the advancement, promotion and development of the State Port;

WHEREAS, in a manner consistent with the authority granted under Section 59-5-37(1) of the Mississippi Code, the MSPA is eligible to pursue and apply for certain grant funds that will be used for the advancement, development and improvement of facilities at the State Port;

WHEREAS, the Board of Commissioners has authorized, by separate resolution, the MSPA to pursue and apply for SMIF Grant Funds for certain improvements at the State Port, including an extension to the existing West Pier rail and a new railway that will connect the rail on the East Pier to the rail on the West Pier (the "Project");

WHEREAS, the Project will improve the intermodal capabilities of the Port of Gulfport, which will increase freight capacity and increase economic activity at the Port of Gulfport and throughout the State of Mississippi;

WHEREAS, the MSPA hereby accepts the Opinions of Probable Cost for the Project dated January 12, 2024, prepared by MP Design, showing an estimated cost of \$4,360,297.50 to complete the Project, copies of which are attached hereto as Exhibit "A" and fully incorporated herein by this reference;

WHEREAS, in conjunction with the pursuit of such SMIF Grant Funds, the Board of Commissioners of the MSPA hereby authorizes the MSPA to allocate and expend 40% matching funds for the exclusive use of the Project based upon the preliminary cost estimate referenced hereinabove, which amount of said matching funds is currently estimated to be \$1,744,119.00, which matching funds may be increased based upon the MSPA's receipt of final design plans and total project costs;

WHEREAS, the source of the MSPA's matching funds for the Project shall be from the MSPA's operating account, which the entire balance of the matching funds have been presently secured and shall remain as readily available funds exclusively earmarked for the Project in said account until such time as a final eligibility determination for such Project is made and in the event the MSPA is not awarded the SMIF Grant Funds, the matching funds shall be released from its exclusive earmark for the Project without further action by the Board of Commissioners;

WHEREAS, in accordance with Section 59-5-37(1) of the Mississippi Code and in the event the MSPA is awarded SMIF Grant Funds for the purposes stated herein, the Board of Commissioners hereby finds that the allocation and expenditure of 40% matching funds for the exclusive use of the Project is incidental to or necessary for the advancement, promotion and development of the State Port and will increase freight capacity and economic activity at the State Port and throughout the State of Mississippi;

WHEREAS, the Board of Commissioners hereby authorizes and directs the MSPA, by and through its Executive Director and/or his designee, to allocate and expend the 40% matching funds currently estimated to be in the amount of \$1,744,119.00, which amount may be increased based upon the MSPA's receipt of final design plans and total project costs, for the exclusive use of the Project, and to execute, complete and deliver all necessary documentation, applications and other instruments to the appropriate authority administering such grant(s), as may be required at any time and from time-to-time, based upon the SMIF Grant requirements and to do and perform such other acts and deeds on behalf of the MSPA as may be deemed necessary or desirable at any time or from time-to-time in connection with the matters contemplated in this Resolution; and

WHEREAS, that, any and all actions heretofore or hereafter taken by the Executive Director and/or his designee in the name and on behalf of the MSPA in connection with or related to the matters set forth herein as contemplated by the foregoing Resolution be, and are hereby adopted, affirmed, approved and ratified in all respects as the act of the MSPA.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE MISSISSIPPI STATE PORT AUTHORITY AT GULFPORT, AS FOLLOWS:

The Board of Commissioners hereby authorizes and directs the MSPA, by and through its Executive Director and/or his designee, to allocate and expend from the MSPA's operating account the 40% matching funds currently estimated to be in the amount of \$1,744,119.00, which amount may be increased based upon the MSPA's receipt of final design plans and total project costs, for the exclusive use of the Project, and to execute, complete and deliver all necessary documentation, applications and other instruments to the appropriate authority administering such grant(s), as may be required at any time and from time-to-time, based upon the SMIF Grant requirements and to do and perform such other acts and deeds on behalf of the MSPA as may be deemed necessary or desirable at any time or from time-to-time in connection with the matters contemplated in this Resolution.

Commissioner Symmes seconded the motion to adopt the foregoing Resolution, and the vote thereupon was as follows:

Voted:

Commissioner Rester	<u>Aye</u>
Commissioner Symmes	<u>Aye</u>
Commissioner Loughman	<u>Aye</u>
Commissioner Knesal	<u>Aye</u>
Commissioner Spear	<u>Aye</u>

The motion having received the foregoing vote of the Board of Commissioners, the President declared the motion carried and the Resolution adopted, on this the 25th day of January, 2024.



MARK LOUGHMAN, SECRETARY

Opinion of Probable Cost

Mississippi State Port Authority
West Pier Rail Extension

10-Jan-24

Preliminary Evaluation					
ITEM NO.	ITEM	UNIT	ESTIMATED QUANTITY	UNIT PRICE	AMOUNT
1	MOBILIZATION / DEMOBILIZATION	LS	1	\$95,000.00	\$95,000.00
2	DEMOLITION	LS	1	\$175,000.00	\$175,000.00
3	UNCLASSIFIED EXCAVATION	CY	830	\$15.00	\$12,450.00
4	SELECT BACKFILL	CY	555	\$30.00	\$16,650.00
5	LIMESTONE	CY	280	\$125.00	\$35,000.00
6	NEW RAILWAY	LF	650	\$450.00	\$292,500.00
7	#8 RAIL TURNOUT	EA	1	\$50,000.00	\$50,000.00
8	REPLACE RAILROAD TIES	EA	60	\$250.00	\$15,000.00
9	5" THICK CONCRETE (NO REINFORCEMENT)	SY	3,700	\$130.00	\$481,000.00
10	9" THICK CONCRETE (W/ REINFORCEMENT)	SY	1,925	\$145.00	\$279,125.00
CONSTRUCTION TOTAL					\$1,451,725.00
10% CONTINGENCY					\$145,172.50
TOTAL W/ CONTINGENCY					\$1,596,897.50
SURVEY					\$12,500.00
ENGINEERING DESIGN FEE					\$112,000.00
CONSTRUCTION ADMINISTRATION AND TESTING					\$48,000.00
GRAND TOTAL OF OPINION OF PROBABLE COST					\$1,769,397.50

Opinion of Probable Cost

EXHIBIT A

Mississippi State Port Authority
East and West Pier Rail Connector

12-Jan-24

Preliminary Evaluation					
ITEM NO.	ITEM	UNIT	ESTIMATED QUANTITY	UNIT PRICE	AMOUNT
1	MOBILIZATION / DEMOBILIZATION	LS	1	\$140,000.00	\$140,000.00
2	DEMOLITION	LS	1	\$200,000.00	\$200,000.00
3	OVERHEAD ELECTRICAL UTILITY ADJUSTMENT	LS	1	\$100,000.00	\$100,000.00
4	RELOCATE EXISTING ELECTRICAL EQUIPMENT	LS	1	\$150,000.00	\$150,000.00
5	RELOCATE ELECTRICAL POLE	LS	1	\$50,000.00	\$50,000.00
6	RELOCATE LIGHT POLE	EA	2	\$30,000.00	\$60,000.00
6	UNCLASSIFIED EXCAVATION	CY	4500	\$15.00	\$67,500.00
7	SELECT BACKFILL	CY	4050	\$30.00	\$121,500.00
8	LIMESTONE	CY	1275	\$115.00	\$146,625.00
9	HOT MIX ASPHALT, BASE COURSE 19 MM MT	TON	625	\$125.00	\$78,125.00
10	HOT MIX ASPHALT, SURFACE COURSE 12 MM MT	TON	625	\$150.00	\$93,750.00
11	PAVEMENT STRIPING	LS	1	\$10,000.00	\$10,000.00
12	DRAINAGE	LS	1	\$75,000.00	\$75,000.00
13	NEW RAILWAY	LF	1,000	\$450.00	\$450,000.00
14	#8 RAIL TURNOUT	EA	2	\$50,000.00	\$100,000.00
15	PRECAST CONCRETE PANELS	LF	450	\$650.00	\$292,500.00
CONSTRUCTION TOTAL					\$2,135,000.00
10% CONTINGENCY					\$213,500.00
TOTAL W/ CONTINGENCY					\$2,348,500.00
SURVEY					\$7,500.00
ENGINEERING DESIGN FEE					\$164,400.00
CONSTRUCTION ADMINISTRATION AND TESTING					\$70,500.00
GRAND TOTAL OF OPINION OF PROBABLE COST					\$2,590,900.00

RESOLUTION NO. 24-03

RESOLUTION OF THE MISSISSIPPI STATE PORT AUTHORITY

The Board of Commissioners of the Mississippi State Port Authority at Gulfport (the "MSPA") took up for consideration the following resolution pertaining to the approval and authorization of actions necessary to provide legal counsel and associated costs and expenses to Jon Nass and Matthew Wypyski, in their individual capacities, for the defense of claims brought against them by Yilport Holding A.S., Yilport Mississippi Container Terminal Management LLC d/b/a Yilport Mississippi, and Yilport Mississippi Container Terminal Management II LLC d/b/a Yilport Gulfport ("collectively "Yilport") on or about January 19, 2024.

RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE MISSISSIPPI STATE PORT AUTHORITY AT GULFPORT APPROVING AND AUTHORIZING THE APPOINTMENT OF LEGAL COUNSEL AND PAYMENT OF COSTS AND EXPENSES ASSOCIATED WITH THE DEFENSE OF JON NASS AND MATTHEW WYPYSKI IN THEIR INDIVIDUAL CAPACITIES AGAINST THE CLAIMS OF YILPORT.

WHEREAS, the MSPA is an agency of the State of Mississippi charged with the responsibility of managing/operating the State's only deep-water port located at Gulfport, Mississippi;

WHEREAS, Section 25-1-47(1) of the Mississippi Code authorizes the MSPA and the Board of Commissioners to investigate, provide legal counsel, and pay for all costs and expenses incident to such investigation and counsel, for the defense of any claim, demand, or action, whether civil or criminal, made or brought against any state, county, school district, or municipal officer, agent, servant, employee, or appointee as a result of his actions while acting in the capacity of such officer, agent, servant, employee, or appointee;

WHEREAS, Section 2-1-47(1) of the Mississippi code authorizes the MSPA to pay the costs incident to such a defense regardless of whether suit is brought against an employee in their official capacity or as an individual;

WHEREAS, Yilport, on or about January 19, 2024, filed its First Amended Counterclaim, alleging willful and malicious appropriation of trade secrets and civil conspiracy against the MSPA Executive Director and Chief Executive Officer Jon Nass and former Deputy Executive Director and Chief Operating Officer Matthew Wypyski, in their individual capacities;

WHEREAS, the MSPA, through counsel, has investigated the facts of said claims and has found in good faith that there are colorable defenses and a reasonable basis for a defense of the claims;

WHEREAS, the MSPA has investigated the facts of said claims and has found in good faith that Jon Nass and Matthew Wypyski acted in the scope of their employment with MSPA and in their official capacity in the negotiations and actions associated with Yilport's Amended Counterclaim;

WHEREAS, the MSPA desires to approve and authorize the appointment of counsel on behalf of Jon Nass and Matthew Wypyski in their individual capacity, and to pay all costs and expenses incident to such defense of the claims brought against them in Yilport's Amended Counterclaim;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE MISSISSIPPI STATE PORT AUTHORITY AT GULFPORT, AS FOLLOWS:

The MSPA, acting by and through the Board of Commissioners hereby approves and authorizes the appointment of legal counsel and associated costs and expenses for the defense of Jon Nass and Matthew Wypyski, in their individual capacities, against the claims brought against them in Yilport's Amended Counterclaim, subject to the hourly rates for legal services associated with the defense of Jon Nass and Matthew Wypyski being no greater than the hourly rates for legal services charged to the MSPA.

The MSPA, acting by and through the Board of Commissioners hereby approves and authorizes the President of the Board of Commissioners and the Executive Director of the MSPA to execute, deliver, and record additional documents as may be reasonably necessary and appropriate and to take all other reasonably necessary action to carry out the provisions of this Resolution.

Commissioner Symmes moved to approve.

Commissioner Spear seconded the motion to adopt the foregoing Resolution, and the vote thereupon was as follows:

Voted:

Commissioner John Rester:

Aye

Commissioner Bobby Knesal:

Aye

Commissioner Cowles Symmes:

Aye

Commissioner Mark Loughman:

Aye

Commissioner Kate Dennis Spear:

Aye

The motion having received the foregoing vote of the Board of Commissioners, the President declared the motion carried and the Resolution adopted, on this the 25th day of January, 2024.



John Rester, President