

**INTERGOVERNMENTAL AGREEMENT  
BETWEEN  
TILLAMOOK COUNTY AND OREGON DEPARTMENT OF FORESTRY**

This Intergovernmental Agreement, hereinafter, **AGREEMENT**, authorized by ORS 190.110, is made and entered into by and between Tillamook County, by and through its Board of Commissioners, hereinafter **COUNTY**, and Oregon Department of Forestry, hereinafter **ODF**. **COUNTY AND ODF** are collectively hereinafter referred to as **PARTIES**.

**RECITALS**

**PURPOSE**

- A. The purpose of this **AGREEMENT** is to define **PARTIES'** responsibilities for the common use of undeveloped real property located in Tillamook, Oregon, and leased to Tillamook County by the Port of Tillamook, consisting of approximately .25 acres of land, together with any and all rights, privileges, easements, and appurtenances, subject to all encumbrances of record (defined herein as the "leased premises").

**BACKGROUND**

- B. Vehicles, including recreational vehicles, are often abandoned on the **PARTIES'** respective properties, typically on roads and associated right of ways.
- C. The **COUNTY** acquired the leased premises for the primary purpose of storing abandoned vehicles found on County property. **ODF** is in need of a place to store abandoned vehicles found on **ODF** property. **COUNTY's** lease allows for the short-term storage of vehicles abandoned on state property subject to certain terms and conditions.

**AGREEMENT**

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants, promises, and undertakings hereinafter set forth, **PARTIES** agree as follows:

1. Rights, Duties, and Obligations of **COUNTY**. **COUNTY** shall:
  - 1.1 Allow **ODF** to store abandoned vehicles on the leased premises, at no cost to **ODF**.
2. Rights, Duties and Obligations of **ODF**. **ODF** shall:
  - 2.1 Be responsible for all vehicles **ODF** places on the leased premises; and
  - 2.2 With respect to placement of such vehicles, to comply with the "Tenant" terms and conditions contained in Section 3 of the **COUNTY's** lease agreement with the Port of Tillamook County, which is attached hereto as Exhibit A (County Lease Agreement with Port of Tillamook).

PARTIES understand and agree that ODF bears no other responsibilities assigned to the COUNTY under that Exhibit A (County Lease Agreement with Port of Tillamook) with respect to ODF's use of the leased premises.

3. TERMINATION, This AGREEMENT will terminate:

3.1 Upon the request of either party, after giving the other party ninety (90) days' advance written notice.

4. CONTRIBUTION. Notwithstanding anything to the contrary provided in this AGREEMENT,

4.1 If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 (a Third Party Claim) against a Party (the Notified Party) with respect to which the other Party (the Other Party) may have liability, the Notified Party shall promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party a copy of the claim, process and all legal pleadings with respect to the Third Party Claim. Either Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this paragraph and a meaningful opportunity for the Other Party to participate in the investigation, defense, and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party's liability with respect to the Third Party Claim.

4.2 With respect to a Third Party Claim for which ODF is jointly liable with COUNTY (or would be if joined in the Third Party Claim), ODF shall contribute to the amount of expenses, judgments, fines, and amounts paid in settlement actually and reasonably incurred and paid or payable by COUNTY in such proportion as is appropriate to reflect the relative fault of ODF on the one hand, and of COUNTY on the other hand, in connection with the events that resulted in such expenses, judgments, fines, or settlement amounts, as well as any other relevant equitable considerations. The relative fault of ODF on the one hand, and of COUNTY on the other hand, shall be determined by ODF by reference to, among other things, the Parties' relative intent, knowledge, access to information, and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines, or settlement amounts. ODF's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the State had sole liability in the proceeding.

4.3 With respect to a Third Party Claim for which COUNTY is jointly liable with ODF (or would be if joined in the Third Party Claim), COUNTY shall contribute to the amount of expenses, judgments, fines, and amounts paid in settlement actually and reasonably incurred and paid or payable by ODF in such proportion as is appropriate to reflect the relative fault of COUNTY on the one hand, and of ODF on the other hand, in connection with the events that resulted in such expenses, judgments, fines, or settlement amounts, as well as any other relevant equitable considerations. The relative fault of COUNTY on the one hand, and of ODF on the other hand, shall be determined by ODF by reference to, among other things, the Parties' relative intent, knowledge, access to information, and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines, or settlement amounts. COUNTY's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if it had sole liability in the proceeding, including any limitations or

restrictions established under the Oregon Tort Claims Act.

5. LIMITATION OF LIABILITY.

EXCEPT FOR LIABILITY ARISING UNDER OR RELATED TO SECTION 4, NEITHER PARTY WILL BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, OR OTHER INDIRECT DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, REGARDLESS OF WHETHER THE LIABILITY CLAIM IS BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, PRODUCT LIABILITY OR OTHERWISE. NEITHER PARTY WILL BE LIABLE FOR ANY DAMAGES OF ANY SORT ARISING SOLELY FROM THE TERMINATION OF THIS AGREEMENT IN ACCORDANCE WITH ITS TERMS.

6. INSURANCE. Each party agrees to maintain insurance levels or self-insurance in accordance with ORS 30.282, for the duration of this Agreement at levels necessary to protect against public body liability as specified in ORS Chapter 30.

7. GENERAL PROVISIONS:

7.1 MODIFICATION & WAIVER. The rights and duties under this AGREEMENT shall not be modified, delegated, transferred, or assigned, except upon the written-signed consent of the PARTIES. Failure to enforce any provision of this AGREEMENT shall not operate as a waiver of such provision or of any other provision.

7.2 ALTERNATIVE DISPUTE RESOLUTION. The Parties should attempt in good faith to resolve any dispute arising out of or relating to this Agreement. This may be done at any management level, including at a level higher than persons directly responsible for administration of the Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration ONLY) to resolve a dispute short of litigation.

7.3 NONAPPROPRIATION. ODF's obligations under this AGREEMENT are conditioned upon ODF receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow ODF, in the exercise of its reasonable administrative discretion, to meet its obligations under this AGREEMENT. Nothing in this AGREEMENT is to be construed as permitting any violation of Article XI, section 7 of the Oregon Constitution or any other law regulating liabilities or monetary obligations of the State of Oregon.

7.4 LEGAL REPRESENTATION. In entering into this AGREEMENT, each party has relied solely upon the advice of their own attorney. Each party has had the opportunity to consult with counsel.

7.5 NOTICES. Any notice required or permitted under this AGREEMENT shall be in writing and deemed given when:

7.5.1 actually, delivered if not sent by mail as described below, or

7.5.2 three days after deposit in United States certified mail, postage prepaid, addressed to the other party at the address set forth below.

COUNTY

ODF

District Operations Coord.

5005 3rd St.

Tillamook, OR 97141

503-842-2545

7.6 LANGUAGE. The headings of the contract paragraph are intended for information only and shall not be used to interpret paragraph contents. All masculine, feminine and neuter genders are interchangeable. All singular and plural nouns are interchangeable unless the context requires otherwise.

7.7 SAVINGS. Should any clause or section of this AGREEMENT be declared by a court to be void or voidable, the remainder of this AGREEMENT shall remain in full force and effect.

7.8 JURISDICTION; LAW. This AGREEMENT is executed in the State of Oregon and is subject to Tillamook County and Oregon law and jurisdiction. Venue shall be in Tillamook County, Oregon, unless otherwise agreed by the PARTIES.

7.9 NO THIRD-PARTY BENEFICIARIES. There are no intended third-party beneficiaries of this AGREEMENT.

8. EFFECTIVE DATE. This AGREEMENT shall take effect when executed by both PARTIES or after all necessary approvals have been obtained, whichever is later (Effective Date).

9. COUNTERPARTS. This AGREEMENT may be executed in several counterparts, all of which when taken together shall constitute one agreement, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of the AGREEMENT so executed constitutes an original.

**ACKNOWLEDGEMENT: EACH PARTY REPRESENTS TO THE OTHER BY THEIR SIGNATURES BELOW THAT EACH HAS READ, UNDERSTANDS, AND AGREES TO BE BOUND BY THIS AGREEMENT'S TERMS AND CONDITIONS.**

Dated this \_\_\_\_ day of \_\_\_\_\_, 2022.

**OREGON DEPARTMENT OF FORESTRY**

  
Joe Travers

Dated this 27th day of July, 2022.

THE BOARD OF COMMISSIONERS  
FOR TILLAMOOK COUNTY, OREGON

Aye      Nay      Abstain/Absent

\_\_\_\_\_  
David Yamamoto, Chair

\_\_\_\_      \_\_\_\_      \_\_\_\_/\_\_\_\_

\_\_\_\_\_  
Erin D. Skaar, Vice-Chair

\_\_\_\_      \_\_\_\_      \_\_\_\_/\_\_\_\_

\_\_\_\_\_  
Mary Faith Bell, Commissioner

\_\_\_\_      \_\_\_\_      \_\_\_\_/\_\_\_\_

ATTEST:      Tassi O'Neil,  
                    County Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_  
      Special Deputy

\_\_\_\_\_  
Joel W. Stevens  
County Counsel

APPROVED FOR LEGAL SUFFICIENCY

By: /s/ Anika E. Marriott \_\_\_\_\_  
      Anika E. Marriott  
      Senior Assistant Attorney General

date: 07/22/2022



**LEASE AGREEMENT  
(GROUND LEASE)  
PORT OF TILLAMOOK BAY INDUSTRIAL PARK**

This Lease Agreement ("Lease"), dated April 1, 2022 ("Effective Date"), is by and between the PORT OF TILLAMOOK BAY, a Port District of the State of Oregon ("Port"), and TILLAMOOK COUNTY ("Tenant").

**1. Basic Lease Information.**

**1.1 Basic Lease Information.** Each reference in the Lease to the Basic Lease Information shall mean the respective information set forth below, and such information shall be deemed incorporated as a part of the terms provided under the particular Lease section pertaining to such information. In the event of any conflict between any Basic Lease Information and the Lease, the former shall control.

**1.2 Building.** Property is undeveloped. Land only, plus tenant improvements as developed attached hereto as Exhibit A.

**1.3 Port Addresses.**

**Port's Address for Giving of Notices.**

Port of Tillamook Bay  
Attn: Michele Bradley, General Manager  
4000 Blimp Blvd., Suite 100  
Tillamook, OR 97141  
Fax: (503) 842-3680

✕ **Port's Address for Payment of Rent.**

Port of Tillamook Bay  
Attn: Accounts Receivable  
4000 Blimp Blvd.  
Tillamook, OR 97141

**1.4 Tenant's Address for Giving of Notices.**

Tillamook County  
201 Laurel Avenue  
Tillamook, OR 97141  
(503) 842-1384

**1.5 Premises.** The undeveloped real property located in Tillamook, Oregon, consisting of approximately .25 acres of land, together with any and all rights, privileges, easements, and appurtenances, subject to all encumbrances of record; attached hereto as Exhibit A. The Premises shall include any improvements constructed by Tenant on the Premises as provided in this Lease.

As per Tillamook County Land Use Ordinance (LUO); Section 3.032: General Industrial Zone (M-1); the Port is zoned as M-1 Industrial area. All premises within the Port's property footprint, building and land, must be used within this ordinance standard to support industry businesses. Per this ordinance, establishing a place of residence within this premises are not permissible.

**1.6 Park Common Areas.** The land and improvements constructed and to be constructed thereon as shown on Exhibit B attached and incorporated herein ("Park Common Areas").

**1.7 Parking.** All parking on the Premises shall occur on a short-term basis only.

**1.8 Permitted Use of Premises.** Short-term holding of abandoned vehicles from county and state properties. (60 day maximum)

**1.9 Lease Term.** Annually

**1.10 Commencement Date.** April 1, 2022

**1.11 Expiration Date.** The term "Expiration Date" means 30 days from notice, or such earlier date of termination pursuant to the terms of this Lease.

**1.12 Rent.**

Land	\$765.75 annually (.25/acre at \$255.25/acre per month x 12 months)
Estimated Property Taxes	\$0.00 (Tax Exempt – Government Organization)
Road Maintenance Fee	\$0.00 (Waived due to fee already applied in another agreement)
Water/Sewer/Electric	No utilities currently on this parcel
Total Rent Annually	\$765.75 with an annual CPI increase every January

**Security Deposit** N/A

**1.13 Exhibits.**

Exhibit A – Description of Premises  
Exhibit B – Park Common Areas Map  
Exhibit C – DEQ Stormwater Memo  
Exhibit D– Price Breakdown Summary  
Exhibit E – Tenant Improvements – Work Letter  
Exhibit F – Key Points of Contact List

## **2. Demise, Term, and Rent.**

**2.1 Demise.** Effective on the Effective Date, Port hereby leases the Premises to Tenant, and Tenant hereby leases the Premises from Port, upon and subject to the terms, covenants, provisions, and conditions of this Lease. The provisions of this Lease shall be effective as of the Effective Date.

**2.2 Park Common Areas.** Tenant's use of the Premises shall include the use, in common with others, of the Park Common Areas shown on Exhibit B. Port reserves the right to modify the location, size, and improvements to the Park Common Areas as Port may elect in its sole discretion.

**2.3 Acceptance of Premises.** The Premises shall be deemed accepted by Tenant upon the Effective Date in its then condition and subject to all recorded covenants, conditions, restrictions, and applicable zoning, county, state and federal laws, ordinances, and regulations governing and regulating use of the Premises. Port makes and has made no representations or warranties as to the suitability of the Premises for the Permitted Use.

### **2.4 Lease Term.**

**2.4.1** The Lease Term shall be month to month as specified in Section 1.9 of the Basic Lease Information (or until sooner terminated as provided herein). The Lease Term shall commence on the Commencement Date, unless earlier terminated or extended pursuant to the terms and provisions of this Lease.

**2.5 Rent.** The rents payable by Tenant hereunder shall be and consist of Base Rent ("Base Rent") and Additional Rent ("Additional Rent"). For purposes of this Lease, Base Rent and Additional Rent are sometimes referred to collectively as "Rent." Beginning on the Commencement Date, Rent shall be payable on an annual basis in advance on the first day of each calendar year during the Lease Term. Additional Rent shall consist of all other sums of money as shall become due from and payable by Tenant to Port under this Lease, including, without limitation, Operating Expenses (as defined in Section 2.9), and as defined in Section 2.12; road fees, stormwater, etc. All Rent shall be paid in lawful money of the United States of America to Port at its office or such other place as Port shall designate by written notice to Tenant. Tenant shall pay Rent promptly when due without notice or demand and without any abatement, deduction, or offset for any reason whatsoever, except as expressly provided in this Lease.

**2.6 Late Fee.** Tenant agrees that if Rent from Tenant to Port remains unpaid ten (10) days after said amount is due, the amount of such unpaid Rent or other payments shall be increased by a late fee to be paid to Port by Tenant in an amount equal to five percent (5%) of the amount of the delinquent Rent or other payment ("Late Fee"). The provisions of this section do not relieve Tenant of the obligation to pay Rent or other payments on or before the date on which they are due, nor do the terms of this section affect Port's remedies under Section 20.1 of this Lease in the event Rent or another payment is past due.

**2.7 Returned Checks.** If Tenant's check for payment of Rent or any other amount due under this Lease, is returned for any reason, the payment shall be considered not to have been made and shall be delinquent. In addition to the Late Fee, Port may charge a returned check fee of Fifty and No/100 Dollars (\$50.00), per returned check, which Tenant agrees is a reasonable fee for the additional administrative time and expense incurred to obtain a replacement check. The returned check fee shall accrue at the time Port receives notice of dishonor from the issuing bank.

**2.8 Acceptance of Payment.** Port's acceptance of a late or partial payment of Rent and/or a Late Fee shall not constitute a waiver of any Event of Default (as defined in Section 19.1) nor shall it prevent Port from exercising any of its rights and remedies granted to Port under this Lease or by law. It is hereby agreed



that any endorsements or statements on checks of waiver, compromise, payment in full, or any other similar restrictive endorsement shall have no legal effect. Tenant shall remain in violation of this Lease and obligated to pay all Rent due even if Port has accepted a partial or late payment of Rent.

**2.9 Operating Expenses.** "Operating Expenses" shall include all costs for the operation, repair, and maintenance of all Park Common Areas incurred by Port on account of operating, repairing, and maintaining the Park Common Areas and the real property on which they are situated, except interest on and capital retirement of any Port mortgage loan. Operating Expenses may include, but shall not be limited to:

**2.9.1** All Taxes, assessments, and other governmental impositions and charges whatsoever which are assessed, levied, or imposed during the term of this Lease, or any obligation to any governmental entity assessed upon Port as a result of its ownership or operation of the Park Common Areas and all reasonable costs and expenses incurred by Port in contesting or negotiating the same with governmental authority if Port, in its reasonable discretion, elects to contest or negotiate the same.

**2.9.2** All costs and expenses to Port in maintaining fire and extended coverage insurance including all risk endorsement on the Park Common Areas, public liability, rent loss insurance, difference in conditions and any other insurance maintained by Port covering the Park Common Areas, the part of any claim required to be paid under the deductible portion of any insurance policies carried by Port in connection with the Park Common Area (all such insurance shall be in such amounts as Port may reasonably determine).

**2.9.3** All costs and expenses to Port in providing standard services and utilities to the Premises, if any.

**2.9.4** All costs and expenses incurred by Port in operating, managing, maintaining, and repairing the Park Common Areas, including all sums expended in connection with the Park Common Areas for general maintenance and repairs, resurfacing, painting, restriping, cleaning, sweeping, sidewalks, curbs, streets, industrial park signs, irrigation systems, planting and landscaping, lighting and other utilities; maintenance and repair of any storm drainage systems and any other utility systems; cost of all supplies and personnel to implement such services and to police the Park Common Areas; rental and/or depreciation of machinery and equipment used in such maintenance and services; security and fire protection services; trash removal services; all costs and expenses pertaining to storm debris and snow removal, utilities, premiums and other costs for worker's compensation insurance, wages, withholding taxes, social security taxes, personal property taxes, fees for required licenses and permits, supplies and charges for management of the Park Common Areas.

**2.9.5** Cost of capital improvements, structural repairs or replacements made to the Park Common Areas in order to conform to changes subsequent to the date of this Lease in any applicable laws, ordinances, rules, regulations, or orders of any governmental or quasi-governmental authority having jurisdiction over the Park Common Areas or any such capital improvements, structural repairs or replacements designed primarily to reduce Operating Expenses. Expenditures for the foregoing shall be amortized at market rate of return over the useful life of such capital improvement or structural repair or replacement as determined by Port's accountants; provided that the amortized amount of any cost-saving improvement shall be limited in any year to the reduction in Operating Expenses realized as a result thereof.

## **2.10 Collection of Additional Rent Based on Estimates.**

**2.10.1** For each calendar year of the Lease Term, Port shall, at its option, reasonably estimate the total Operating Expenses for the calendar year and deliver to Tenant a written statement setting forth Tenant's proportionate share of the estimated Operating Expenses for the calendar year ("Estimated Statement"). Beginning on the Commencement Date, and thereafter on the first day of each calendar month during the Lease Term, Tenant shall pay Port in advance as Additional Rent an amount equal to one-twelfth (1/12<sup>th</sup>) of Tenant's proportionate share of estimated annual Operating Expenses. In the event the Port of Tillamook Bay Industrial Park occupancy is not one hundred percent (100%), Operating Expenses shall be adjusted to equal what the total Operating Expenses would be if the occupancy was one hundred percent (100%). Tenant's initial proportionate share of Operating Expenses for the Park Common Areas is to be determined. If the Lease Term commences on a day other than the first day of a calendar month, Tenant shall pay to Port on the first day of the Lease Term, a sum determined by multiplying one three-hundred sixty-fifth (1/365<sup>th</sup>) of Tenant's proportionate share of the estimated Operating Expenses by the number of days remaining in the first calendar month of the Lease Term. Any change in Tenant's proportionate share of the Operating Expenses for the Park Common Areas resulting from changes in total Park Common Areas shall be effective as of the first day of the month following the change.

**2.10.2** In the event Port delivers the Estimated Statement late, Tenant shall continue to pay to Port an amount equal to one-twelfth (1/12<sup>th</sup>) of Tenant's proportionate share of Operating Expenses for the immediately preceding year of the Lease Term until Landlord furnishes the Estimated Statement, at which time Tenant shall pay the amount of an excess of Tenant's proportionate share for the expired portion of the current year of the Lease Term over Tenant's actual payments during such time; any excess payments by Tenant shall be credited to the next due payment of Rent from Tenant. The late delivery of any Estimated Statement by Port shall not constitute a waiver of Tenant's obligation to pay its proportionate share of Operating Expenses, nor subject the Port to any liability, but Port shall use reasonable efforts to deliver such Estimated Statement as soon as reasonably possible.

**2.11 Annual Adjustments.** Within a reasonable time following the end of each calendar year during the Lease Term, Port shall furnish to Tenant an itemized statement certified as correct by Port, setting forth the total Operating Expenses for the preceding calendar year, the amount of Tenant's proportionate share of such Operating Expenses, and the payments made by Tenant with respect to such calendar year. If Tenant's proportionate share of the actual Operating Expenses for such year exceeds the payment so made by Tenant, based on Port's estimate, Tenant shall pay Port the deficiency within thirty (30) days after receipt of said statement. If said payments by Tenant, based on Port's estimate, exceed Tenant's proportionate share of the actual Operating Expenses, Port will credit the amount of such overpayment against Tenant's next Operating Expense payment due.

**2.12 Taxes and Assessments.** In addition to the Rent and any other charges to be paid by Tenant under this Lease, Tenant shall be liable for payment of its proportionate share of any current assessments, fees, and other charges levied or imposed by any governmental body against the Park Common Areas, either directly or indirectly (herein called "Taxes"). Payment of the Taxes shall be made through the Operating Expenses charges as provided in Sections 2.9 through 2.11 of this Lease.

**Tenant is a Government Organization and is tax exempt.**

**2.12.1 Road Maintenance Fee.** Tenant shall pay the Port each month during the Lease Term the Road Maintenance Fee ("Road Fee") assessed against Tenant and the Premises under Ordinance #8, an ordinance creating the Port of Tillamook Bay Road Maintenance Fee; and providing for

penalties for nonpayment of the Road Fee. The Road Fee shall be Additional Rent and shall be payable at the time Tenant pays Base Rent.

**Road Fee has been waived due to being currently applied in Tenant's other leased areas within the Port. If Tenant terminates other areas with the applied Road Fee, the Road Fee will be applied to the premises within this agreement.**

### **3. Use.**

**3.1 Tenant Use.** Tenant shall use the Premises only for the Permitted Use and for no other purpose. If any governmental license or permit shall be required for the proper and lawful conduct of the Permitted Use in the Premises or any part thereof, Tenant, at its expense, shall duly procure and thereafter maintain such license or permit and submit the same to Port for inspection. Tenant shall at all times comply with the terms and conditions of each such license or permit. Tenant shall not do or permit anything to be done in, on, or about the Premises or the Building which will: (i) in any way obstruct or interfere with the rights of other tenants or occupants of the Port of Tillamook Bay Industrial Park, or injure or unreasonably annoy them; (ii) use or allow the Premises or the Building to be used for any unlawful purpose; (iii) cause or maintain or permit any nuisance, nor commit or allow the commission of any waste, nor use or permit anything to be done which will in any way conflict with any law, statute, ordinance, or governmental rule or regulation applicable to Tenant now in force or which may hereafter be enacted or promulgated; and (iv) not do or permit anything to be done on the Premises or bring or keep anything therein which will in any way cause a cancellation of any insurance on the Building or Premises or otherwise affect said insurance in any manner. Tenant shall, at its sole cost and expense, promptly comply with all laws, statutes, ordinances, and governmental rules, regulations, or requirements applicable to Tenant now in force or which may hereafter be in force ("Legal Requirements") and with the requirements of any board of fire underwriters or similar body now or hereafter constituted relating to or affecting the condition, use, or occupancy of the Premises or the Building. The judgment of any court of competent jurisdiction or the admission of Tenant in an action against Tenant, whether Port is a party thereto or not, that Tenant has so violated any Legal Requirement, shall be conclusive of such violation as between Port and Tenant. Tenant shall use its best efforts to prevent any violation of applicable Legal Requirements by its partners, directors, officers, agents, employees, contractors, and invitees.

### **3.2 Environmental Management; Compliance and Liability.**

#### **3.2.1 Definitions.** For the purposes of this Lease, the following definitions shall apply.

**3.2.1.1 "Environmental Cost"** shall be interpreted in the broadest sense to include, but not be limited to, costs and damages arising from or relating to: (i) any actual or claimed violation of or noncompliance with any Environmental Laws (as defined in Section 3.2.1.2); (ii) claims for damages, response costs, fines, fees or other relief relating to matters addressed in any Environmental Laws; (iii) injunctive relief relating to matters addressed in any Environmental Laws; (iv) Hazardous Substance Releases (as defined in Section 3.2.1.4); and (v) violations of any environmental provisions of this Lease. Costs and damages as used in this section shall include but not be limited to: (a) costs of evaluation, testing, analysis, cleanup, remediation, removal, disposal, monitoring and maintenance; (b) costs of reporting to or negotiating with any government agency; (c) fees of attorneys, engineers, consultants, and experts, whether or not taxable as costs, incurred at, before or after trial, appeal or administrative proceedings; and (d) diminution of value, loss, or restriction on use of property.

**3.2.1.2 "Environmental Laws"** shall be interpreted in the broadest sense to include, but not be limited to, any and all federal, State of Oregon and local laws, regulations, rules, permit terms,

codes and ordinances now or hereafter in effect, as the same may be amended from time to time, and applicable decisional law, which in any way govern materials, substances, regulated wastes, emissions, pollutants, animals or plants, noise, or products and/or relate to the protection of health, natural resources, safety or the environment.

**3.2.1.3 "Hazardous Substance"** shall be interpreted in the broadest sense to include, but not be limited to, any and all substances, emissions, pollutants, materials, or products defined or designated as hazardous, toxic, radioactive, dangerous or regulated wastes or materials or any other similar term in or under any Environmental Laws. Hazardous Substance shall also include, but not be limited to, fuels, petroleum and petroleum-derived products.

**3.2.1.4 "Hazardous Substance Release"** shall be interpreted in the broadest sense to include, but not be limited to, the spilling, discharge, deposit, injection, dumping, emitting, releasing, leaking or placing of any Hazardous Substance into the air or into or on any land or waters, except in compliance with Environmental Laws, the terms of this Lease, or as authorized by a then current and valid permit issued under applicable Environmental Laws.

**3.3 General Environmental Obligations of Tenant.** Tenant shall manage and conduct all of its activities on or relating to the Premises and the Building: (i) in compliance with Environmental Laws and the environmental provisions of this Lease; (ii) in cooperation with Port in Port's efforts to comply with Environmental Laws; and (iii) in adherence with best management practices applicable to Tenant's use of the Premises.

**3.4 Use of Hazardous Substances.** Tenant will not cause or permit any Hazardous Substances to be brought upon, kept, stored, discharged, released, or used in, under, or about the Premises, including the Building, by Tenant or its employees, agents, contractors, suppliers, or invitees without the prior written consent of Port, which consent may be withheld or conditioned in Port's sole discretion; provided, Tenant may bring onto the Premises small amounts of Hazardous Substances (such as cleaning products and copy toner) which are readily available to Tenant by unregulated retail purchase if the same are necessary for the Permitted Use. If Tenant brings any Hazardous Substances to the Premises, with or without the prior written consent of Port (without waiver of the requirement of prior written consent), Tenant shall: (i) use such Hazardous Substance only as is reasonably necessary for the Permitted Use, in small, properly labeled quantities; (ii) handle, use, keep, store, and dispose of such Hazardous Substance using the highest accepted industry standards and in compliance with all applicable laws and shall not allow any release, spill, or disposal of the same at the Premises; and (iii) comply with such other rules and requirements Port may from time to time impose. Upon expiration or earlier termination of this Lease, Tenant will, at Tenant's sole cost and expense, cause all Hazardous Substances brought to the Premises by Tenant, its agents, contractors, employees, suppliers, or invitees, to be removed from the Premises in compliance with any and all applicable laws.

**3.5 Solid Waste Management and Recycling.** Tenant shall manage all waste stream in accordance with applicable federal, State and local laws and regulations, including meeting recycling goals established by regulatory authorities. Tenant shall place all garbage, refuse and recyclable materials in the appropriate container on the Premises. Tenant shall, at Tenant's sole expense, provide for the neat and sanitary handling of all trash and other refuse generated as a result of Tenant's operations. Tenant shall provide and use suitable covered fireproof receptacles for all trash and other refuse. Tenant shall not permit boxes, cartons, barrels, pallets or other similar items to be piled or stored in view of any Port facilities.

**3.6 Hazardous Substance Storage Tanks.** Except with the prior written consent of Port, which consent may be granted or denied in Port's sole discretion, no above-ground, underground, or mobile storage tanks for the storage of Hazardous Substances shall be used, installed, or operated by Tenant on the Premises or in the Building.

**3.7 Soil or Waste.** Tenant shall not store, treat, deposit, place, or dispose of treated or contaminated soil, industrial by-products, or waste on the Premises, without the prior written consent of Port, which consent may be granted or denied in Port's sole discretion.

**3.8 Environmental Inspection.** Port reserves the right, at any time and from time to time, after notice to Tenant as provided in Section 14, to inspect the Premises, Tenant's operations on and use of the Premises, and Tenant's environmental records.

### **3.9 Tenant's Liability.**

**3.9.1** Tenant shall be responsible for any Hazardous Substance Release on the Premises and/or Building, on other properties, in the air or in adjacent or nearby waterways (including groundwater) which results from or occurs in connection with Tenant's entry upon, occupancy, or use of the Premises and/or Building under this Lease, which either occurs from and after the Effective Date or occurs from and after the Effective Date and continues after the expiration or earlier termination of the Lease.

**3.9.2** Except for the limitations on Tenant's liability as set forth in Section 3.9.3, Tenant shall be responsible for all Environmental Cost arising under this Lease.

**3.9.3** Notwithstanding anything to the contrary provided in this Lease, Tenant shall have no responsibility for Hazardous Substances or Hazardous Substance Releases, or Environmental Cost arising from Hazardous Substances or Hazardous Substance Releases that: (i) existed on the Premises prior to the Effective Date except to the extent caused by Tenant or Tenant's agents, employees, or contractors; (ii) are caused by Port or the agents, employees, contractors, agents, or other tenants of Port; or (iii) that Tenant can demonstrate was caused by a third party which is not a contractor, agent, invitee, or employee of Tenant and which was not exacerbated by the actions of Tenant.

### **3.10 Environmental Remediation.**

**3.10.1** In the event of a violation of an Environmental Law, a violation of an environmental provision of this Lease, a Hazardous Substance Release, or the threat of or reasonable suspicion of the same for which Tenant is responsible under this Lease, Tenant shall immediately undertake all acts necessary or appropriate to cure or correct the violation or investigate, contain and stop the Hazardous Substance Release.

**3.10.2** Tenant shall promptly undertake all remedial and/or removal actions necessary, or appropriate to ensure that any Hazardous Substance Release is eliminated and that any violation of any Environmental Laws or environmental provision of this Lease is cured or corrected. Tenant shall remove, at Tenant's sole expense, all Hazardous Substances for which Tenant is liable under this Lease or under any Environmental Laws, and shall restore the Premises and/or Building or other affected property or water to its baseline condition on the Effective Date. In the event that any remediation or removal required by this Lease cannot reasonably be completed prior to the termination or expiration of this Lease, Tenant shall not be in violation of its remediation obligations so long as Tenant immediately commences all investigation, containment, remediation, and removal activities and diligently and continuously pursues such activities until completion.

**3.10.3** Within twenty (20) calendar days following completion of any investigatory, containment, remediation, and/or removal action required by this Lease, Tenant shall provide Port with a written report outlining in detail what has been done and the results thereof. Tenant shall also provide oral notice to Port of such action within two (2) business days.

**3.10.4** Tenant shall not initiate any risk assessment-based remediation or closure without the prior written consent of Port, which consent may be withheld or conditioned in Port's sole discretion. Port shall have the right to require Tenant to request oversight from the Oregon Department of Environmental Quality ("DEQ") of any investigatory, containment, remediation, and removal activities and/or require Tenant to seek a statement from the DEQ of "No Further Action".

**3.11 Notice.** Tenant shall promptly notify Port upon becoming aware of: (i) a violation or alleged violation of Environmental Laws related to the Premises and/or Building, to Tenant's occupation or use of the Premises and/or Building, or any environmental provision of this Lease; and (ii) any Hazardous Substance Release on, under or adjacent to the Premises and/or Building or threat of or reasonable suspicion of any of the same.

**3.12 Port's Right to Perform on Behalf of Tenant.** Except in the event of an emergency or an agency order requiring immediate action, Port shall have the right, upon giving Tenant seven (7) calendar days written notice, to perform Tenant's obligations arising under this Lease and charge Tenant the resulting Environmental Cost. Port may not commence performance on behalf of Tenant under this section if, within the seven (7) calendar day notice period, Tenant promptly begins and diligently pursues to completion the performance of the obligations set forth in Port's notice.

**3.13 Port's Option to Treat Tenant as Holdover Tenant.** Until such time as Tenant has fulfilled all of its obligations under Section 3 and all applicable Environmental Laws, Port may, in Port's reasonable discretion, treat Tenant as a holdover tenant or Tenant at Sufferance as provided in Section 18.3.

#### **4. Maintenance and Repair.**

**4.1 Park Common Areas.** Port shall maintain the Park Common Areas in reasonably good order and condition. Any damage to the Park Common Areas caused by the acts or omissions of Tenant or its partners, directors, officers, agents, employees, contractors, or invitees shall be repaired by Port at Tenant's sole expense.

#### **4.2 Tenant Obligations.**

**4.2.1** This Lease is a triple net lease, and Port and Tenant intend that the Rent payable by Tenant under this Lease shall be absolutely net to Port so that this Lease shall yield, net to Port, the Rent provided for herein, and that all costs, expenses, or obligations of every kind and nature whatsoever relating to the Premises from the Effective Date until the expiration or earlier termination of the Lease shall be paid by Tenant, except for Rent, which is not payable until the Commencement Date, and Tenant shall indemnify and hold Port harmless from and against the same. Therefore, Tenant will be responsible for paying all costs relating to the Premises and the Building, including, but not limited to, real and personal property taxes (including any fine, penalty or costs for nonpayment), any other taxes, assessments, levies, impositions (collectively, "Premises Taxes"), utilities, maintenance, repairs, interior and exterior structural repairs, interior and exterior structural and nonstructural repairs, insurance, and any and all other expenses relating to the Premises and the Building of either an ordinary or extraordinary nature, including, but not limited to, all capital expenses of the Premises and the Building. When the Premises are separately assessed, Tenant shall

timely pay all Premises Taxes, if any, directly to the applicable taxing authority and promptly provide Port with proof of payment.

**4.2.2** Tenant shall, at all times from the Effective Date until the expiration or earlier termination of the Lease, at Tenant's sole cost and expense, keep the Premises and the Building in good order, condition and repair, which obligation shall include, without limitation, the obligation to maintain, repair, and replace as necessary: (i) all site improvements including, without limitation, landscaping, parking areas, parking signage, on-Premises signage, exterior lighting, driveways, ingress/egress points, garbage containers and containment areas, and irrigation; (ii) paint; (iii) casework; (iv) Tenant's equipment; (v) locks and hardware; (vi) all of Tenant's Property (as defined in Section 12.2 herein) and (vii) any and all tenant improvements. Signage must be approved in writing by Port Manager.

**4.2.3** Port shall have no obligation to repair or maintain the Premises or the Building or replace anything on the Premises or in the Building. Upon acceptance of the Premises as provided in Section 2.3 of the Lease, Tenant shall be deemed to have accepted the Premises in their "AS IS" condition and thereafter, Port shall have no obligation to alter or improve the Premises or any part thereof. The Port has not made and makes no representations to Tenant respecting the condition of the Premises.

**4.2.4** Each year during the Lease Term, the Port shall have backflow testing performed at the Premises and Tenant shall reimburse the Port for the cost of such backflow testing within fifteen (15) days of receipt of an invoice for the testing. The backflow testing reimbursement shall be Additional Rent.

## **5. Security Deposit.**

**5.1 Security Deposit.** Upon the execution of this Lease by Tenant, Tenant shall pay to Port the sum indicated in the Basic Lease Information as security for the full and faithful performance and observance by Tenant of Tenant's covenants and obligations under this Lease and Tenant shall not be entitled to interest thereon (the "Security Deposit"). If Tenant defaults in the full and prompt payment and performance of any of Tenant's covenants and obligations under this Lease, including, without limitation, the payment of Base Rent and Additional Rent, and fails to cure such default as provided for under this Lease, Port may use, apply, or retain the whole or any part of the Security Deposit so deposited to the extent required for the payment of any Base Rent, Additional Rent, or any other sums as to which Tenant is in default or for any such sums which Port may expend or may be required to expend by reason of Tenant's default in respect of any of the terms, covenants, and conditions of this Lease, including, but not limited to, any damages or deficiency in the reletting of the Premises, whether such damages or deficiency accrue before or after summary proceedings or other re-entry by Port.

**5.2 Disposition of Security Deposit.** If Port shall so use, apply, or retain the whole or any part of the Security Deposit, Tenant shall, within five (5) business days after demand, deposit with Port a sum equal to the amount so used, applied, or retained, as replenishment of such Security Deposit. If Tenant fully and faithfully complies with all of Tenant's covenants and obligations under this Lease, including Tenant's surrender obligations, the Security Deposit or any balance thereof shall be returned or paid over to Tenant within thirty (30) days after the date on which this Lease expires or sooner ends or terminates. In the event of any sale of the Premises by Port to a third party, Port shall either transfer the Security Deposit to the third party, or the third party shall assume Port's obligations under this Lease in respect of the Security Deposit. Upon transfer of the Security Deposit to the third party, Port shall thereupon be released by Tenant from all liability for the return or payment thereof; and if the third party expressly assumes Port's obligations in respect of the Security Deposit, Tenant shall look solely to the new landlord for the return or payment of the same.

## **6. Subordination, Notice to Superior Mortgagees.**

**6.1 Subordination.** Any Port mortgage or other financial encumbrance to which this Lease is, at the time referred to, subject and subordinate is herein called a "Superior Mortgage" and the holder of a Superior Mortgage, or its successor in interest, at the time referred to, is herein called "Superior Mortgagee." This Lease, and all rights of Tenant hereunder, are and shall be subject and subordinate to all mortgages or other financial encumbrance which may now or hereafter affect the Premises, whether or not such mortgages or financial encumbrances shall also cover other lands and/or buildings owned by Port, to each and every advance made or hereafter to be made under such mortgages or financial encumbrances, and to all renewals, modifications, replacements and extensions thereof. This section shall be self-operative, and no further instrument of subordination shall be required. In confirmation of such subordination, Tenant shall execute, acknowledge, or deliver any instrument that Port or any Superior Mortgagee may reasonably request to evidence such subordination within fifteen (15) days after written demand from Port; failing to deliver such instrument, Tenant does hereby make, constitute and irrevocably appoint Port as Tenant's attorney-in-fact in Tenant's name and stead to do so.

**6.2 Notice.** If any act or omission of Port would give Tenant the right, immediately or after lapse of a period of time, to cancel or terminate this Lease, or to claim a partial or total eviction, Tenant shall not exercise such right: (i) until it has given written notice of such act or omission to Port and each Superior Mortgagee whose name and address shall previously have been furnished to Tenant; and (ii) until a reasonable period of time for such parties to cure the condition has passed.

**6.3 Attornment.** For the purposes of this section, the term "Successor Landlord" shall mean the Superior Mortgagee if the same succeeds to the rights of Port under this Lease, whether through possession or foreclosure action or delivery of a new deed, or any third party that succeeds to the rights of Port under this Lease by virtue of having purchased the Premises at a foreclosure sale. So long as Tenant is not in default of this Lease at the time of succession, the Successor Landlord shall accept Tenant's attornment, and shall not disturb Tenant's quiet possession of the Premises. Tenant shall attorn to and recognize such Successor Landlord as Tenant's landlord under this Lease and shall promptly execute and deliver any instrument that such Successor Port may reasonably request to evidence such attornment.

**6.4 Modifications for Superior Mortgagee.** If any Superior Mortgagee shall require any modification(s) of this Lease, Tenant upon ten (10) days prior written notice of Port's request, shall execute and deliver to Port such instruments effecting such modification(s) as Port shall require, provided that such modification(s) do not adversely affect in any material respect any of Tenant's rights or obligations under this Lease.

**6.5 Non-Subordination.** Tenant shall not pledge, mortgage, or otherwise encumber the Premises as collateral for a loan to build the Building, to finance the Building, to finance any other improvements to the Premises or Building, or for any other purpose, and Port shall not be obligated to subordinate its interest in the Premises for the benefit of Tenant for any purpose whatsoever.

**7. Quiet Enjoyment.** So long as Tenant timely pays all of the Base Rent, Additional Rent, and other amounts due hereunder and performs all of Tenant's other obligations hereunder, Tenant shall peaceably and quietly have, hold, and enjoy the Premises, the Building, and the Park Common Areas.

## **8. Assignment and Subletting.**

**8.1 Generally.** Tenant shall not sell, assign, sublet, encumber, or otherwise transfer by operation of law or otherwise this Lease or any interest herein, or the Premises or any portion thereof, without the prior



written consent of Port, which Port may grant or withhold in its sole and absolute discretion, nor shall Tenant permit any lien to be placed on Tenant's interest by operation of law or otherwise. Any change in effective control of a corporation, partnership, limited liability company, or other entity which is Tenant shall be deemed a transfer of this Lease. Regardless of Port's consent, no transfer hereunder by Tenant shall release or discharge Tenant from its obligations or liability under this Lease. This Lease shall bind any assignee, transferee, or sublessee. Any sale, assignment, encumbrance, subletting, occupation, lien, or other transfer of this Lease which does not comply with the provisions of this Section 8 shall be void. Consent to one transfer, assignment, or sublease shall not be deemed consent to a subsequent transfer, assignment, or sublease.

**8.2 Conditions of Port's Consent.** As a condition to Port's prior written consent as provided for in this Section 8, (i) Tenant shall pay Port's reasonable legal fees and costs incurred due to the transfer; (ii) the transferee(s) shall agree in writing to comply with and be bound by all of the terms, covenants, conditions, provisions and agreements of this Lease; and (iii) Tenant shall deliver to Port, promptly after execution, an executed copy of each transfer instrument and an agreement of said compliance by each transferee. Port may require as a condition of granting consent to a transfer that Tenant shall pay to Port all profits from the transfer determined by deducting from the total consideration paid directly or indirectly to or for the benefit of Tenant or its designee for the transferred interest, the reasonable costs of the transfer incurred by Tenant and subtracting the remaining rent obligation of Tenant at such time under this Lease.

## **9. Insurance.**

**9.1 Tenant's Compliance with Port's Fire and Casualty Insurance.** Tenant shall, at Tenant's expense, comply with all insurance company requirements pertaining to the use of the Premises. If Tenant's conduct or use of the Premises causes any increase in the premium for any insurance policies carried by Port, then Tenant shall reimburse Port for any such increase. Tenant, at Tenant's expense, shall comply with all rules, orders, regulations or requirements of the American Insurance Association (formerly the National Board of Fire Underwriters) and with any similar body.

**9.2 Tenant's Insurance.** Tenant shall, at Tenant's expense, maintain the following coverages in the following amounts at all times from the Effective Date until the expiration or earlier termination of the Lease:

**9.2.1** Commercial general liability insurance covering Tenant against claims of bodily injury, personal injury and property damage arising out of Tenant's operations, assumed liabilities or use of the Premises and/or Building, including a commercial general liability endorsement covering the insuring provisions of this Lease and the performance by Tenant of the indemnity agreements set forth in 16 of this Lease with a combined single limit of not less than One Million Dollars (\$1,000,000) per occurrence with a Two Million Dollar (\$2,000,000) aggregate limit.

**9.2.2** Property damage insurance covering (i) the Building and all improvements and fixtures located therein; (ii) all furniture, trade fixtures, equipment, merchandise and all other items of Tenant's property on the Premises and/or the Building installed by, for, or at the expense of Tenant (if applicable); and (iii) all Alterations and other improvements and additions in and to the Premises and/or Building whether owned or constructed by Port or Tenant pursuant to this Lease. Such insurance shall be written on an "all risks" of physical loss or damage basis, for the guaranteed replacement cost value new without deduction for depreciation of the covered items and in amounts that meet any co-insurance clauses of the policies of insurance and shall include a vandalism and malicious mischief endorsement, sprinkler leakage coverage and earthquake sprinkler leakage coverage.

**9.2.3 Worker's compensation insurance as required by law.**

**9.2.4 Tenant's Risks.** Tenant shall be responsible for obtaining any insurance it deems necessary to cover its own risks, including without limitation: (i) business interruption, such as business income, extra expense, or similar coverage; (ii) personal property; and (iii) automobile physical damage and/or theft. In no event shall Port be liable for any: (a) business interruption or other consequential loss sustained by Tenant; (b) damage to or loss of personal property; (c) damage to or loss of the Building or any fixtures or improvements located therein; or (d) damage to or loss of a vehicle, whether or not such loss or losses are insured, even if such loss is caused by the negligence of Port.

**9.3 Port's Property Insurance.** From the Effective Date until the expiration or earlier termination of the Lease, Port shall maintain property insurance covering the Premises (excluding the property which Tenant is obligated to insure pursuant to the terms hereof). Such policy shall provide protection against "all risk of physical loss." Port shall also maintain commercial general liability and property damage insurance with respect to the operation of the Premises. Such insurance shall be in such amounts and with such deductibles as Port reasonably deems appropriate. Port may, but shall not be obligated to, obtain and carry any other form or forms of insurance as Port or Port's mortgagees or deed of trust beneficiaries may determine prudent. Tenant shall be liable for the payment of all premiums, deductibles, and self-insurance funds created for the specific use of assuming risk. Tenant acknowledges that it has no right to receive any proceeds from any insurance policies maintained by Port and will not be named as an additional insured thereunder.

**9.4 Insurance Requirements.** Tenant's insurance requirements set forth in this section do not in any way limit the amount or scope of liability of Tenant under this Lease.

**9.4.1 Certificates; Notice of Cancellation.** On or before the Effective Date and thereafter during the term of this Lease, Tenant shall provide Port with current certificates of insurance, including an additional insured endorsement, executed by a duly authorized representative of each insurer, evidencing the existence of all insurance policies required under Section 9.2. No insurance policy may be canceled, materially revised, or allowed to expire without at least thirty (30) calendar days prior written notice being given to Port. Upon written request, Port shall also be provided copies of Tenant's policies of insurance.

**9.4.2 Additional Insured; Separation of Insureds.** Port shall be named as an additional insured under liability coverages, but only with respect to operations of Tenant as its interests may appear in each general liability policy and as additional insured and loss payee in each property insurance policy. Such insurance shall provide cross liability coverage equivalent to the standard Separation of Insureds clause published by the Insurance Services Offices or a successor organization.

**9.4.3 Primary Coverage.** The required policies shall provide that the coverage is primary, and will not seek any contribution from any insurance or self-insurance carried by Port.

**9.4.4 Company Ratings.** All policies of insurance must be written by companies having an A.M. Best rating of "A-" or better, or equivalent. Port may, upon thirty (30) calendar days written notice to Tenant, require Tenant to change any carrier whose rating drops below an "A-" rating.

**9.5 Waiver of Subrogation.** If any of Tenant's property or automobile insurance policies do not allow the insured to waive the insurer's rights of subrogation prior to loss, Tenant shall cause such policies to be endorsed with a waiver of subrogation that allows the waivers required by this section. Tenant and Port waive any right of action that they and/or their insurance carriers might have against each other (including their respective employees, officers, commissioners, or agents) or against other tenants of the Premises for

any loss, cost, damage, or expense (collectively "Loss") to the extent that such Loss is covered by any property insurance policy or policies maintained or required to be maintained pursuant to this Lease and to the extent that such proceeds (which proceeds are free and clear of any interest of third parties) are received by the party claiming the Loss. Tenant waives any right of action it and/or its insurance carrier might have against Port (including its employees, officers, commissioners, or agents) for any Loss to the extent such Loss is covered under any applicable automobile liability policy or policies required by this Lease. Tenant waives any right of action it and/or its insurance carrier might have against Port (including its employees, officers, commissioners, or agents) for any Loss described in Section 9.2.3, whether or not such Loss is insured.

**10. Rules and Regulations.** Tenant shall faithfully observe and comply with any rules and regulations for the Building and the Park Common Areas established by Port from time to time and delivered to Tenant. Port shall not be responsible for the nonperformance by any other tenant or occupant of the Building of any said rules and regulations but Port shall use reasonable efforts to enforce uniformly the rules and regulations applicable to any other Building occupant upon Tenant's request.

**11. Building and Alterations.**

**11.1 Construction of Building and Early Access.** Tenant, at its sole cost and expense, shall construct the Buildings and all necessary improvements related thereto including parking, without limitation, on the Premises, in accordance with the terms and conditions of this Lease. Tenant shall have full access to the Premises from and after the Effective Date for the purpose of beginning the process of constructing the Building. Tenant's entry onto the Premises prior to the Commencement Date shall be subject to all the terms and conditions of the Lease except the payment of Rent, including, without limitation, Tenant's insurance obligations set forth in the Lease, which shall be satisfied prior to Tenant entering onto the Premises for any reason, and Tenant's indemnity and environmental obligations under the Lease. Tenant's entry shall mean entry by Tenant, its directors, officers, contractors, licensees, agents, employees, or invitees.

**11.2 Permits and Governmental Approvals.** The parties acknowledge that Tenant may not be able to use the Premises for the Permitted Use or construct the Building without approvals from various governmental agencies in regard to land use and design review, including, without limitation, building, special, or conditional use permits (all such approvals and permits are collectively referred to as the "Permits"). Tenant will apply for the Permits and shall use reasonable diligence to obtain the Permits within one (1) year after the Effective Date (the "Permit Period"), will begin construction of the Building promptly after receiving the Permits, but in no event later than three (3) months after obtaining the Permits, and will complete construction of the Building within three (3) years after commencing construction. Port, at Tenant's cost, will reasonably cooperate with Tenant in making application for the Permits, including, without limitation, if necessary, signing any such applications or other documents, if reasonably acceptable to Port. If despite Tenant's commercially reasonable efforts, Tenant is unable to obtain the Permits before the expiration of the Permit Period, then the Permit Period shall be automatically extended for a period of six (6) months. If Tenant remains unable to obtain Permits on or before the expiration of the extended Permit Period, then Tenant shall have a one-time right, by giving written notice to Port prior to the expiration of the extended Permit Period, terminating this Lease, in which event this Lease will terminate thirty (30) days after the date such written notice is delivered to Port and after such termination, Tenant shall have no further rights and Port shall have no further obligations hereunder. If Tenant fails to obtain Permits on or before the expiration of the extended Permit Period or fails to begin and/or complete construction of the Building within the time period provided herein, then Port shall have the continuing right, by giving written notice to Tenant after the expiration of the extended Permit Period or the expiration of the time within which Tenant must begin or complete construction of the Building, to terminate this Lease, in which event this Lease will

terminate thirty (30) days after such written notice is delivered to Tenant, and after such termination, Tenant shall have no further rights and Port shall have no further obligations hereunder.

**11.3 Tenant's Work.** Tenant shall, at Tenant's sole cost and expense, perform all work to construct, in a good and workmanlike manner and in compliance with all applicable Legal Requirements, the Building and related improvements in accordance with the Approved Plans (as defined below) and the provisions of this Lease ("Tenant's Work").

#### **11.4 Approved Plans.**

**11.4.1** Prior to expiration of the Permit Period, Tenant shall deliver the preliminary plans and specifications ("Preliminary Plans") for Tenant's Work to Port. Within thirty (30) days following receipt of the Preliminary Plans, Port shall review the Preliminary Plans and shall deliver to Tenant its reasonable objections, if any, to the Preliminary Plans, together with its proposed solution for each objection. Tenant shall thereafter, within twenty-one (21) days, revise and resubmit such revised Preliminary Plans to Port for review and approval. Subject to Section 11.4.2 below, this process shall be repeated until Port approves the Preliminary Plans.

**11.4.2** If the parties are unable to resolve Port's reasonable objections within forty-five (45) days after Tenant has received notice of the objections, Tenant may, by written notice to Port, terminate the Lease, in which event the Lease shall automatically terminate and Tenant shall have no further rights and Port shall have no further obligations hereunder.

**11.4.3** Once Preliminary Plans have been approved, Tenant shall prepare and deliver to Port a set of final specifications and working drawings ("Final Plans") based on the approved Preliminary Plans covering the construction of the Tenant's Work. Provided that the Final Plans do not vary in any material way from the approved Preliminary Plans, Port shall not withhold or delay its approval thereof. Port and Tenant shall indicate their approval of the Final Plans by initialing the same and thereafter they shall be deemed the "Approved Plans."

**11.4.4** Tenant shall endeavor to obtain approval of the Approved Plans and the necessary building permit(s) for construction of the Building and related improvements on the Premises in accordance with the Approved Plans from all appropriate government agencies in accordance with Section 11.2 of the Lease.

**11.5 Port's Right to Enter.** During construction of the Building, Port or its representatives may enter upon the Premises at all reasonable times for the purpose of inspecting the construction of the Building to determine that the work is being completed in accordance with the Approved Plans and in compliance with all Legal Requirements. In no event shall such entry by Landlord interfere with the completion of Tenant's Work.

**11.6 Tenant's Construction Obligations.** Tenant agrees that Tenant's Work shall be performed substantially in accordance with the Approved Plans and in compliance with all Legal Requirements, in a good and workmanlike manner.

**11.7 Alterations.** Tenant shall not make or suffer to be made any alterations, additions, or improvements (collectively, the "Alterations") in, on, or to the Premises and/or Building or any part thereof, without prior written notice to Port. Such notice shall be given no less than thirty (30) days prior to commencement of work on the proposed Alteration and shall contain a set of the final plans and specifications which identify the proposed Alteration. Before proceeding with any Alteration which will cost more than Ten Thousand and No/100 Dollars (\$10,000.00), Tenant must obtain and deliver to Port a

performance bond and a labor and materials payment bond for the benefit of Port, issued by a corporate surety licensed to do business in Oregon each in an amount equal to: (i) one hundred ten percent (110%) of the estimated cost to construct the Building, or (ii) one hundred twenty-five percent (125%) of the estimated cost of any other Alteration, and in form reasonably satisfactory to Port, or such other security as shall be reasonably satisfactory to Port to protect Port's interest in the Premises.

**11.8 Removal and Restoration.** Upon the expiration or earlier termination of the Lease, Tenant shall repair and restore the Premises to their original condition, subject to ordinary wear and tear. Such repair and restoration work shall be done prior to the expiration or earlier termination of the Lease, at Tenant's sole cost and expense. Tenant's repair and restoration obligation, which shall survive the expiration or earlier termination of the Lease, shall not include the removal of the Building or any Alterations, unless designated by Landlord for removal.

**11.9 Compliance.** The Building and all Alterations shall comply with all Legal Requirements in effect at the time they are constructed, the other terms of this Lease, and plans and specifications provided to Port pursuant to the terms of this section. Port shall have no duty to Tenant with respect to the safety, adequacy, construction, efficiency, or compliance with Legal Requirements, with regard to the construction or design of the Building or Alterations, the plans or specifications therefor, or any other matter related to the Building or Alterations, nor shall the approval by Port of the Building or Alterations be deemed to be a representation as to the safety, adequacy, construction, efficiency or compliance of the Building or Alterations. To the extent permitted by law, Tenant agrees to defend (using legal counsel acceptable to Port), indemnify, and hold harmless Port from and against and reimburse Port for any and all actual or alleged claims, damages, liabilities, judgments, charges, expenses, costs, fees (including, but not limited to, attorney, accountant, paralegal, expert, and escrow fees), fines, Environmental Costs and/or penalties which may be imposed upon, claimed against, or incurred or suffered by Port and which, in whole or in part, directly or indirectly, arise from or are in any way connected with the Building and any Alterations or the construction thereof. This indemnity obligation shall survive the expiration or earlier termination of the Lease.

**11.10 No Liens.** Tenant, at its expense, and with diligence and dispatch, shall procure the cancellation or discharge of all notices of violation arising from or otherwise connected with the Building or Alterations, or any other work, labor, services, equipment, or materials done for or supplied to Tenant, or any other person claiming through or under Tenant, which shall be issued by any public authority having or asserting jurisdiction. Tenant shall notify Port of, and shall defend, indemnify and hold harmless Port and any Superior Mortgagee from and against any and all construction and other liens and encumbrances filed in connection with the Building or Alterations, or any other work, labor, services or materials done for or supplied to Tenant, or any person claiming through or under Tenant, including, without limitation, security interests in any materials, fixtures, equipment, or articles so installed in and constituting part of the Premises and/or Building and against all costs, expenses and liabilities incurred in connection with any such lien or encumbrance or any action or proceeding brought thereon. Tenant, at its expense, shall bond around or procure the satisfaction or discharge of record of all such liens and encumbrances within thirty (30) days after the filing thereof. If Tenant bonds around the lien as provided under Oregon law, nothing herein contained shall prevent Tenant from contesting, in good faith and at its own expense, any notice of violation, or lien.

## **12. Port's and Tenant's Property.**

**12.1 Port's Property.** Upon the expiration or earlier termination of the Lease, unless Port designates any such improvements to be removed, the Building, Alterations, and all fixtures, carpeting, equipment, and appurtenances attached to or built into the Premises or Building after the Effective Date, whether or not by or at the expense of Tenant, (a) shall be and remain a part of the Premises, (b) shall

automatically become the property of Port, and (c) shall not be removed by Tenant, except as provided in Section 12.2 of this Lease. Once constructed, Tenant shall not remove any of the foregoing improvements prior to or after the expiration or earlier termination of the Lease without Landlord's prior written consent, and Port's interest in the same shall survive the expiration or earlier termination of this Lease. Tenant shall sign any documents reasonably necessary to vest title to such improvements in Port on the expiration or earlier termination of this Lease.

**12.2 Tenant's Property.** All unattached business and trade fixtures, machinery, and equipment, computer and communications equipment, and other equipment installed in the Building or on the Premises by or for the account of Tenant without expense to Port and which can be removed without structural damage to the Building or Premises, and all furniture, furnishings (excluding window coverings) and other articles of movable personal property owned by Tenant and located in the Building or on the Premises (herein collectively called "Tenant's Property") shall be and remain the property of Tenant and may be removed by Tenant at any time during the Lease Term; provided, that if any of Tenant's Property is removed, Tenant shall repair or pay the cost of repairing any damage to the Premises or to the Building resulting from the installation and/or removal thereof. Tenant shall also remove prior to the expiration or earlier termination of the Lease Term, at Tenant's sole cost and expense, all telephone, computer and other electronic wiring and cabling installed within the Premises and/or Building, provided, however, Tenant shall leave behind all conduits in which such wires and cabling is located. If Tenant fails to remove such wiring and cabling prior to the expiration or earlier termination of the Lease, Port may remove such wires and cables and Tenant shall pay the cost of such removal within ten (10) days after delivery of a statement therefor. Notwithstanding the foregoing, Port may impose its statutory landlord lien rights against the Tenant's Property in the event of a default under the Lease.

**12.3 Abandonment.** Any items of Tenant's Property may be deemed, at the option of Port, to have been abandoned if left on the Premises and/or in the Building after the Abandonment Deadline, and in such case such items may be retained by or disposed of by Port, without liability to Tenant whatsoever, but at Tenant's expense. The "Abandonment Deadline" means the earlier of the expiration date of this Lease, or five (5) days following an earlier termination date, or three (3) business days following entry of an order of possession for restoration of the Premises to Port.

### **13. Services and Utilities.**

**13.1 Utilities.** Tenant agrees to obtain from appropriate carriers and providers any and all utilities required for operation of the Permitted Use on the Premises and to pay as due, all costs and charges associated with such utilities, including without limitation, cost of initial installation, hookup fees, systems development charges, and utility consumption charges. To the extent Tenant fails to pay such costs, any sums payable under this Section 13 may be paid by Port and to the extent so paid, shall be considered Additional Rent and may be added to any installment of Base Rent thereafter becoming due. Port shall have the same remedies for a default in payment of such sums as for a default in the payment of Base Rent.

**13.2 Disclaimer.** Port shall not be in default hereunder or be liable for any damages directly or indirectly resulting from, or by reason of (i) Port's installation, use, or repair of utilities located in the Park; (ii) acts of God or the elements, labor disturbances of any character, any other accidents or other condition beyond the reasonable control of Port; or (iii) the limitation, curtailment, rationing, or restriction on use of water or electricity, gas, or any other form of energy or any other service or utility whatsoever serving the Premises or the Building. Furthermore, Port shall be entitled to cooperate voluntarily in a reasonable manner with the efforts of national, state or local governmental agencies, or utilities suppliers in reducing energy or other resource consumption.

**13.3 Parking Facilities.** Tenant shall have the right throughout the Lease Term to use all parking located within the Premises.

**13.4 Signage.** Tenant shall not install or keep any of its own signs in, on, or about the Premises, which are visible from any public areas, without Port's prior written consent, which shall not be unreasonably withhold if such signage is in compliance with Port's signage program, if any, and applicable laws and ordinances. All Port property shall remain free of any political party affiliations, supportive campaign signage and/or language of any specific person affiliated or not affiliated to any such political party. If there is any sign on or about the Premises or Building without the consent of Port, Port may remove any such sign and Tenant shall pay Port the cost of removal and any repair as Additional Rent. Tenant shall pay such invoices for such costs within twenty (20) days of invoice date. If Port consents to such signs, Tenant shall repair any damage which alteration, renovation, or removal of its signs may cause during or at the expiration or earlier termination of the Lease. Tenant, at its expense, shall remove its signs from the Premises at the termination or expiration of this Lease, repair any damage and restore the Premises.

**14. Access.** Port reserves, and shall at all times have, the right to enter the Premises upon twenty-four (24) hours' prior notice to Tenant (except in an emergency, in which case no notice is required, and except as provided in Section 11.5) to inspect the same for compliance with Tenant's obligations under this Lease; to perform any obligation of Port under this Lease; to show the Premises to prospective mortgagees or purchasers of the Premises; during the last twelve (12) months of the Lease Term to show the Building and/or Premises to prospective tenants; and to post notices of non-responsibility, all without abatement of Rent. Tenant hereby waives any claim for damages for any injury or inconvenience to or interference with Tenant's use of the Premises, any loss of occupancy or quiet enjoyment of the Premises and any other loss occasioned by Port's conduct pursuant to and in compliance with this section. Port shall have the right to use any and all means which it may deem necessary or proper to open doors in an emergency and shall not under such circumstances be construed or deemed to be forcible or unlawful entry into, or a detainer of, the Premises and/or Building, or an eviction, actual or constructive, of Tenant from all or part of the Premises.

**15. Notice of Occurrences.** Tenant shall give prompt notice to Port of: (i) any known occurrence in or about the Premises and/or Building for which Port might be held liable; or (ii) any known fire or other casualty in the Premises and/or Building.

**16. Non-liability; Indemnification and Assumption of Risk.**

**16.1 Assumption of Risk.** Except to the extent of damage resulting from the gross negligence or willful misconduct of Port, to the fullest extent permitted by law, Tenant hereby assumes all risk of loss and damage to property and injury to persons in, on, or about the Premises and/or Building from any cause whatsoever, it being the intent of the parties that it be Tenant's obligation to carry and look to its own all risk insurance policy for coverage of any such loss, damage or injury even if caused by the negligence of Port. Tenant agrees that neither Port, nor its board members, executive director, general manager, Superior Mortgagees, successors, assigns, and each of their respective officers, directors, shareholders, members, agents, property managers, employees, and independent contractors (collectively, the "Port Parties") shall at any time or to any extent whatsoever be liable, responsible, or in any way accountable for any loss, liability, injury, death, or damage to persons or property that at any time may be suffered or sustained by Tenant or by any person(s) whomsoever may at any time be using, occupying, or visiting the Premises and/or Building.

**16.2 Tenant's General Indemnity.** To the extent permitted by law, Tenant agrees to defend (using legal counsel acceptable to Port), indemnify, and hold harmless Port from and against and reimburse Port for any and all actual or alleged claims, damages, liabilities, judgments, charges, expenses, costs, fees (including, but not limited to, attorney, accountant, paralegal, expert, and escrow fees), fines, Environmental

Costs and/or penalties which may be imposed upon, claimed against or incurred or suffered by Port and which, in whole or in part, directly or indirectly, arise from or are in any way connected with any of the following, except to the extent resulting or arising from or are in any way connected with Port's gross negligence or willful misconduct: (i) any act, omission or negligence of Tenant or Tenant's partners, officers, directors, agents, employees, invitees or contractors (together, the "Tenant Parties"); (ii) any use, occupation, management or control of the Premises and/or Building by the Tenant Parties, whether or not due to their own act or omission and whether or not occurring on the Premises or in, under, or on the Building; (iii) except as provided in Section 3.9, any condition created in or about the Premises and/or Building by any party under Tenant's control, including any accident, injury, or damage occurring on or about the Premises and/or Building after the Effective Date; (iv) the conduct of the Permitted Use, and (v) any breach, violation or nonperformance of any of Tenant's obligations under this Lease. This indemnification shall require Tenant to reimburse Port for any diminution in value of the Premises or other adjacent or nearby property of Port, caused by Hazardous Substances, including damages arising from any adverse impact on the leasing of property in or near the Premises, including other property of Port. This indemnity obligation shall survive the expiration or earlier termination of the Lease.

## **17. Damage or Destruction; Condemnation.**

**17.1 Casualty.** If the Premises or the Building are damaged by fire or other casualty, Tenant shall forthwith repair the same unless this Lease is terminated as permitted herein. Within forty-five (45) days from the date of such damage, Tenant shall notify Port if the Premises or the Building is damaged in excess of fifty percent (50%) of the Premises' or the Building's precasualty value, as reasonably determined by Tenant (damage in excess of such amount being referred to as "Major Damage" and damage equal to or less than such amount being referred to as "Minor Damage"). If Major Damage occurs, Tenant may elect to terminate the Lease. If Minor Damage occurs then Tenant shall repair such damage and rebuild that portion of the Building or the Premises damaged. In the event of Major Damage, if Tenant gives its written notice to Port electing to rebuild, within sixty (60) days of the date of damage, or in the event of Minor Damage, this Lease shall remain in full force and effect provided the repairs are completed within one hundred eighty (180) days except the Base Rent shall be reasonably abated during the period of repair based on that portion of the rentable square feet of the Building not reasonably useable by Tenant. If in the event of Major Damage, Tenant elects by written notice to Port not to rebuild, then this Lease shall automatically terminate as of the effective date of such notice, the Rent shall be reduced by a proportionate amount based upon the extent to which Tenant's use of the Building is impaired, and Tenant shall pay such reduced Rent up to the date of termination. Port shall not be required to repair any damage by fire or other cause to the Premises, Building or Tenant's Property.

**17.2 Condemnation.** If more than twenty-five percent (25%) of the Building shall be taken or appropriated under the power of eminent domain or conveyed in lieu thereof, Tenant shall have the right to terminate this Lease. If this Lease is terminated during the ten (10) year initial Lease Term, then Tenant shall receive the award which may be paid or owned in connection with the exercise of such power of eminent domain or conveyance in lieu thereof, as to the Building only and Port shall receive the award as to the Premises. If this Lease is terminated after the initial ten (10) year Lease Term, then Port shall receive the award which may be paid or owned in connection with the exercise of such power of eminent domain or conveyance in lieu thereof, as to the Building and the Premises. Except as provided above, Tenant shall have no claim against the agency exercising such power or receiving such conveyance, for any part of such sum paid by virtue of such proceedings, whether or not attributable to the value of the unexpired term of this Lease. If a part of the Premises and/or Building shall be so taken or appropriated or conveyed and Tenant elects not to terminate this Lease, Tenant shall receive Port shall nonetheless receive the award or any interest thereon paid or owed in connection with such taking, appropriation or conveyance as to that portion



of the Building taken; and if the Premises have been damaged as a consequence of such partial taking or appropriation or conveyance, Port shall receive the award and any interest thereon paid or owed in connection with such taking, appropriation or conveyance as to that portion of the Premises taken. In such case, Tenant shall restore the Building and Premises and this Lease shall remain in full force and effect except that the Rent shall be equitably adjusted according to the remaining rentable area of the Premises and the Building. Notwithstanding the foregoing, the parties' obligations to restore the Building and Premises shall be limited to the extent of available condemnation proceeds. Port will not be required to repair or restore any injury or damage to the property of Tenant.

## **18. Surrender and Holding Over.**

**18.1 General.** On the last day of the Lease Term, or upon re-entry by Port upon the Premises, Tenant shall quit and surrender the Premises to Port "broom-clean" and in good order, condition, and repair and in compliance with the terms of this Lease.

**18.2 Surrender.** No agreement relating to the surrender of the Premises and/or Building by Tenant shall be valid unless in writing and signed by Port.

**18.3 Holding Over.** If Tenant retains possession of the Premises and/or Building, or any part thereof without Port's consent (express or implied) following the expiration or earlier termination of this Lease for any reason, then Tenant shall pay to Port for each day of such retention one hundred fifty percent (150%) of the daily prorated amount of the Rent for the last period prior to the date of such expiration or termination. Tenant shall also indemnify and hold harmless Port from any loss or liability resulting from delay by Tenant in surrendering the Premises and/or Building, including, without limitation, any claims made by any succeeding tenant founded on such delay. Holding over with Port's written consent shall constitute renewal of this Lease from month to month. Acceptance of Rent by Port following expiration or termination shall not constitute a renewal of this Lease, and nothing contained in this section shall waive Port's right of re-entry or any other right. Tenant shall be only a "Tenant at Sufferance", whether or not Port accepts any Rent from Tenant while Tenant is holding over.

## **19. Default.**

**19.1 Events of Default.** The occurrence of any one or more of the following events ("Events of Default") shall constitute a breach of this Lease by Tenant:

**19.1.1** Tenant's failure to pay Base Rent, Additional Rent, or other amount required to be paid under this Lease, when due and such default shall continue for ten (10) days after the date it is due. No notice by Port that any such payment is past due shall be required.

**19.1.2** Tenant fails to comply with any term, covenant or condition of this Lease (other than the payment of Rent or other amounts) within thirty (30) calendar days after written notice by Port describing the nature of the default. If the default is of such a nature that it cannot be completely remedied within the thirty (30) calendar day period, this provision shall be complied with if Tenant begins correction of the default within the thirty (30) calendar day period and thereafter proceeds in good faith and with reasonable diligence to effect the cure as soon as practical, so long as done to the satisfaction of Port. Notwithstanding the foregoing, Port need not give notice for a similar type of default more than two (2) times during any three (3) year period of this Lease, and a failure to perform such type of obligation after the second (2nd) notice constitutes an Event of Default for which no further notice or opportunity to cure need be given. Furthermore, if any Event of Default threatens to cause serious harm to Port or other tenants or persons, then Port shall not be required to serve any notice before proceeding to request immediate injunctive relief.

**19.1.3** If any event shall occur whereby this Lease or the estate hereby granted or the unexpired balance of the Lease Term hereof would, by operation of law or otherwise, be transferred to any person, firm or corporation, except as expressly permitted by Section 8;

**19.1.4** If Tenant makes a general assignment for the benefit of creditors, or shall be unable to pay its debts as they become due, or shall file a petition in bankruptcy, or shall be adjudicated as bankrupt or insolvent, or shall file a petition seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or shall fail timely to contest the material allegations of a petition filed against it in any such proceeding, or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of Tenant or any material part of its properties;

**19.1.5** If within thirty (30) days after the commencement of any proceeding against Tenant seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, such proceeding shall not have been dismissed or if, within thirty (30) days after the appointment without the consent or acquiescence of Tenant of any trustee, receiver or liquidator of Tenant or of any material part of its properties, such appointment shall not have been vacated; or

**19.1.6** If this Lease or any estate of Tenant hereunder shall be levied upon under any attachment or execution and such attachment or execution is not vacated within ten (10) days.

**19.1.7** Failure of Tenant for thirty (30) calendar days or more to use and occupy the Premises for one (1) or more of the Permitted Uses under this Lease, unless such failure is excused under other provisions of this Lease, shall constitute an Event of Default. No notice that an Event of Default has occurred shall be required from Port.

**19.2 Default by Landlord.** In the event of any default by Port under this Lease, Tenant's exclusive remedy shall be an action for damages. Prior to being entitled to maintain any such action, Tenant shall give Port written notice specifying such default with particularity, and Port shall have thirty (30) calendar days within which to cure any such default, or if such default cannot reasonably be cured within thirty (30) calendar days, Port shall then have thirty (30) calendar days to commence cure and shall diligently prosecute cure to completion. Unless and until Port fails to so cure such default after such notice, Tenant shall not have any remedy or cause of action by reason thereof.

## **20. Remedies Upon Default.**

**20.1 Remedies.** Immediately following an uncured Event of Default or an Event of Default for which there is no cure period, Port may terminate this Lease and Tenant's right to possession of the Premises and may exercise any or all of the following remedies, in addition to any other rights and remedies provided in this Lease or at law or equity.

**20.1.1** Port may re-enter the Premises, or any part thereof, by suitable action or proceeding at law, and may repossess the Premises and remove any person or property therefrom.

**20.1.2** Port, at its option, may relet the whole or any part of the Premises from time to time, either in the name of Port or otherwise, to such tenants, at such rental rate, and upon such conditions (including concessions and free rent periods) as Port, in its reasonable discretion, may determine to be appropriate. To the extent allowed under Oregon law, Port shall not be liable for refusal to relet the Premises or, in the event of any such reletting, for failure to collect any Rent due upon such reletting; and no such failure shall operate to relieve Tenant of any liability under this Lease or otherwise affect any such liability. Port may make such physical changes to the Premises as Port, in its sole discretion, considers advisable or

necessary in connection with any such reletting or proposed reletting, without relieving Tenant of any liability under this Lease or otherwise affecting Tenant's liability. If there is other unleased space at the Park, Port shall have no obligation to attempt to relet the Premises prior to leasing such other space at the Park. Port, under its obligations to mitigate its damages, shall not be required to attempt to relet the Premises to a potential Tenant with which Port has been negotiating a lease for other space owned by Port or to whom Port has shown other space owned by Port and Port shall be entitled to use its best efforts to lease such other Port space to such prospective tenant.

**20.1.3** Whether or not Port retakes possession or relets the Premises, Port shall have the right to recover unpaid Rents and all damages caused by the default. Damages shall include, without limitation: (i) all Rent lost; (ii) all legal expenses and other related costs incurred by Port as a result of Tenant's default; (iii) that portion of any leasing commission paid by Port as a result of this Lease which can be attributed to the unexpired portion of this Lease; (iv) all costs incurred by Port in restoring the Premises to good order and condition, or in preparing the Premises for reletting; and (v) all costs incurred by Port in reletting the Premises, including, without limitation, any brokerage commissions and the value of Port's staff time expended as a result of the default.

**20.1.4** Port may sue periodically to recover damages during the period corresponding to the remainder of the term of this Lease, and no action for damages shall bar a later action for damages subsequently accruing.

**20.1.5** Port may seize and dispose of Tenant's Property (as that term is defined in Section 12.2) in any manner permitted by law.

**20.1.6** In addition to any other remedies Port may have under this Lease, and without reducing or adversely affecting any of Port's rights and remedies under this Section 20, if any Base Rent, Additional Rent, or other amounts payable hereunder by Tenant to Port are not paid by the date payment is due, then upon expiration of any cure period provided for in this Lease, the same shall thereafter bear interest at the annual rate of fifteen percent (15%) or the maximum rate permitted by law, whichever is less, calculated monthly from the due date thereof until paid, and the amount of such interest shall be included as Additional Rent.

## **21. Termination.**

**21.1 Duties on Termination.** Upon the expiration or earlier termination of this Lease, Tenant must have fully performed all of its obligations under this Lease including: (i) removal of all personal property; and (ii) performance of any other obligations required to be performed pursuant to this Lease prior to expiration or termination of this Lease.

**21.2 Title to Improvements.** Upon the expiration or earlier termination of this Lease, the Building and all other Alterations erected or installed by Tenant after the Effective Date shall become the property of Port and Port may record this Lease to evidence such transfer of title to Port.

**22. No Waivers of Performance.** The failure of Port to insist in any one or more instances upon the strict performance of any one or more of the obligations of this Lease, or to exercise any election herein contained, shall not be construed as a waiver or relinquishment for the future of the performance of such one or more obligations or any other obligations of this Lease or of the right to exercise such election, but the same shall continue and remain in full force and effect with respect to any subsequent breach, act or omission. The receipt by Port of Rent with knowledge of a breach by Tenant of any obligation of this Lease shall not be deemed a waiver of such breach.

**23. Estoppel Certificates.** Tenant agrees, at any time and from time to time, as requested by Port with not less than fifteen (15) days' prior notice, to execute and deliver to Port a statement certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications), certifying the dates to which the Base Rent and Additional Rent have been paid, stating whether or not, to the best knowledge of Tenant, Port is in default in performance of any of its obligations under this Lease, and, if so, specifying each such default of which Tenant shall have knowledge, and stating whether or not, to the best knowledge of Tenant, any event has occurred which with the giving of notice or passage of time, or both, would constitute such a default, and, if so, specifying each such event, it being intended that any such statement delivered pursuant hereto shall be deemed a representation and warranty to be relied upon by Port and by others with whom Port may be dealing, regardless of independent investigation. Tenant also shall include in any such statement such other information concerning this Lease as Port may reasonably request. If Tenant fails to respond within fifteen (15) days of receipt by the party of a written request for such a statement, such failure shall constitute an Event of Default and Tenant shall be deemed to have given such statement and shall be deemed to have admitted the accuracy of any information contained in the request for such statement and that the Lease is unmodified and in full force and effect, that there are not uncured defaults in Port's performance, and that not more than one (1) month's Rent has been paid in advance.

**24. General Provisions.**

**24.1 Attorney Fees.** If a suit, action, or other proceeding of any nature whatsoever (including any proceeding under the U. S. Bankruptcy Code), is instituted in connection with any controversy arising out of this Lease or to interpret or enforce any rights or obligations hereunder, the prevailing party shall be entitled to recover attorney, paralegal, accountant, and other expert fees and all other fees, costs, and expenses actually incurred and reasonably necessary in connection therewith, as determined by the court at trial or on any appeal or review, in addition to all other amounts provided by law.

**24.2 Broker.** Neither party has been represented by a broker in this transaction. No obligation to pay commission shall arise from the execution of this Lease and each party shall hold the other party harmless from any commission claims arising out of this transaction.

**24.3 Capacity to Execute.** Port and Tenant each warrant and represent to one another that this Lease constitutes a legal, valid and binding obligation of that party. The individuals executing this Lease personally warrant that they have full authority to execute this Lease on behalf of the party for whom they purport to be acting.

**24.4 Counterparts.** This Lease may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

**24.5 Covenants, Conditions, and Restrictions.** This Lease is subject and subordinate to the effect of any covenants, conditions, restrictions, easements, mortgages, deeds of trust, ground leases, rights of way, and any other matters of record now or hereafter imposed upon or pertaining to the Premises and/or Building and to any applicable land use or zoning laws or regulations. Tenant shall, upon request of Port, execute and deliver agreements of subordination in the form reasonably requested by Port.

**24.6 Effect of Expiration.** Upon the expiration or other termination of this Lease, neither party shall have any further obligation or liability to the other except as otherwise expressly provided in this Lease and except for such obligations as by their nature or under the circumstances can only be, or by the provisions of this Lease, may be, performed after such expiration or other termination; and, in any event, unless otherwise expressly provided in this Lease, any liability for a payment (including, without limitation,

Additional Rent, herein) or performance of an obligation which shall have accrued to or with respect to any period ending at the time of expiration or other termination of this Lease shall survive the expiration or other termination of this Lease.

**24.7 Excavation.** If an excavation shall be made upon the Premises adjacent to or under the Building, or shall be authorized to be made, Tenant shall afford to the person causing or authorized to cause such excavation, a license to enter the Premises for the purpose of performing such work as said person shall deem reasonably necessary or desirable to preserve and protect the Building and Premises from injury or damage and to support the same by proper foundations, and without reducing or otherwise affecting Tenant's obligations under this Lease.

**24.8 Entire Agreement; Modification.** This Lease represents the entire agreement between Port and Tenant relating to Tenant's leasing of the Premises. It is understood and agreed by Tenant that neither Port nor Port's agents or employees have made any representations or promises with respect to this Lease or the making or entry into this Lease, except as expressly set forth in this Lease. No agreement shall be effective to change, modify, waive, release, discharge, terminate or effect an amendment of this Lease, in whole or in part unless such agreement is in writing, refers expressly to this Lease, and is signed by both Port and Tenant or their permitted transferee.

**24.9 Exhibits Incorporated by Reference.** Any and all exhibits attached hereto are incorporated by reference in this Lease for all purposes.

**24.10 Force Majeure.** If the performance by either of the parties of their respective obligations under this Lease (excluding monetary obligations) is delayed or prevented, in whole or in part, by any extraordinary act of terrorism, nature, explosion, epidemic, war, civil disorder, change in laws, or unexpected and unavoidable labor strike or material shortage that could not have been reasonably anticipated or avoided by the impacted party (collectively, "Force Majeure"), then that party shall be excused from performance of its obligations until the Force Majeure event has resolved without liability so long as performance occurs as soon as reasonably possible, to the extent performance can occur.

**24.11 Governing Law.** This Lease shall be governed, construed and enforced in accordance with the laws of the State of Oregon. Jurisdiction shall be with Circuit Court of the State of Oregon, Tillamook County or the Federal Court located in Portland, Oregon.

**24.12 Headings.** The section headings contained herein are for convenience in reference and are not intended to define or limit the scope of any provision of this Lease.

**24.13 Interpretation of Lease, Status or Parties.** This Lease is the result of arms length negotiations between Port and Tenant and shall not be construed against either party. Nothing contained in this Lease, including the method of computation of Rent or construction of Improvements on the Premises and/or Building, shall be deemed or construed as creating the relationship of principal and agent, partners, joint venturers, or any other similar such relationship, between the parties hereto.

**24.14 Lease Subject to Agreements with United States.** This Lease shall be subject to the provisions of any existing or future agreement between Port and the United States relative to the operation or maintenance of the Park, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the Park.

**24.15 Lease Subject to Aviation Priority.** Tenant's right to use the Premises and the Building for the purposes as set forth in this Lease shall be secondary and subordinate to the operation of the Airport portion of the Park. Tenant acknowledges that because of the close location of the Premises to the Airport,

noise, vibration, fumes, debris and other interference with the use of the Premises will be caused by Airport operations. Tenant hereby waives any and all rights or remedies against Port arising out of any noise, vibration, fumes, debris and other interference that is caused by the operation of the Airport. Port specifically reserves for itself, and for the public, a right of flight for the passage of aircraft in the airspace above the surface of the Premises and Building together with the right to cause in said airspace such noise, vibration, fumes, debris and other interferences as may be inherent in the present and future operation of aircraft. If continued flight operations so require, height restrictions on the Building and other improvements may be imposed on the Premises.

**24.16 Lease Subject to Bonds and Ordinances.** This Lease shall be subject and subordinate to the bonds and ordinances which create liens and encumbrances affecting the Premises. Tenant agrees that Port may hereafter adopt bond ordinances which impose liens or encumbrances on the Premises and Port's interest in the Premises, and Tenant shall, upon request, Of Port, execute and deliver agreements of subordination consistent herewith. Furthermore, to the extent required by existing Port bond ordinances, Tenant hereby makes an irrevocable commitment not to claim depreciation, cost recovery, or an investment credit with respect to the Premises, space or to any improvements constructed by Port using Port funds or Port bond funds or constructed by Tenant or someone else, but paid for using Port funds or Port bond proceeds.

**24.17 Limitation on Port Liability.** Port shall have no liability to Tenant for loss, damage, or injury suffered by Tenant on account of theft or any act or omission of a third party including other tenants. Port shall only be liable for its own willful misconduct or gross negligence and then only to the extent of actual and not consequential, incidental, special, exemplary, or punitive damages. Although this Lease gives Port certain rights of inspection, such rights shall impose no obligation on Port to make any inspections or impose liability on Port if it fails to make such inspections.

**24.18 No Intended Third Party Benefit.** Nothing in this Lease gives or shall be construed to create a benefit to any party who is not a signatory party to this Lease or a permitted Transferee.

**24.19 No Light or Air Easement.** The reduction or elimination of Tenant's light, air or view will not affect Tenant's obligations under this Lease, nor will it create any liability of Port to Tenant.

**24.20 No Limit on Port's Powers.** Nothing in this Lease shall limit, in anyway, the power and right of Port to exercise its governmental rights and powers, including its powers of eminent domain.

**24.21 Notices.** All notices required under this Lease shall be deemed to be properly served if sent by certified mail, return receipt requested, delivered by hand to the "Attention" person identified in Section 1.3 or 1.4 of this Lease or at the address set forth therein. The date of service of notice by mail is agreed to be three (3) calendar days after the date such notice is deposited in a post office of the United States Postal Service, postage prepaid, return receipt requested, certified mail or, if delivered by hand or facsimile, then the actual date of delivery. Notice given by facsimile shall be sent to the numbers set forth in Sections 1.3 and 1.4, as may be changed by notice in writing. The burden of proof concerning receipt of the facsimile will be on the sender who may satisfy the burden by presenting a receipt of the transmission showing the date the transmission successfully occurred, the facsimile number that the transmission was sent to, the name of the party to whom the facsimile was sent, and a description of the document sent.

**24.22 No Waiver.** Waiver by Port of strict performance of any provision of this Lease shall not be deemed a waiver of or prejudice Port's right to require strict performance of the same provision in the future or of any other provision of this Lease.

**24.23 Nonrecourse Lease.** Tenant shall look only to Port's estate in the Premises (or the proceeds thereof) for the satisfaction of Tenant's remedies for the collection of a judgment (or other judicial process) requiring the payment of money by Port in the event of any default by Port hereunder, and no other property or assets of Port or its agents or officers, disclosed or undisclosed, shall be subject to levy, execution or other enforcement procedure for the satisfaction of Tenant's remedies under or with respect to this Lease, the relationship of Port and Tenant hereunder or Tenant's use or occupancy of the Premises and/or Building.

**24.24 Consent or Action.** In the event this Lease is silent as to the standard for any consent, approval, determination or similar discretionary action by Port, the standard shall be in the sole discretion of Port. If Port requires Tenant's consent or approval pursuant to any provision of this Lease, such consent or approval shall not be unreasonably withheld.

**24.25 Prorations.** Any apportionments or prorations of Base Rent or Additional Rent to be made under this Lease shall be computed on the basis of a three hundred sixty (360) day year, with twelve (12) months of thirty (30) days each.

**24.26 Provisions Applicable to Others.** All provisions of this Lease governing Tenant's use of the Premises and Tenant's activities and conduct on, about or from the Premises and/or Building shall apply to Tenant's officers, agents, employees, invitees and contractors.

**24.27 Severability.** If any provision contained herein is held to be invalid or unenforceable, the remaining provisions, or the application of such provisions to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each provision contained herein shall be valid and enforceable to the fullest extent permitted by law.

**24.28 Successors; Parties.** The rights, liabilities and remedies provided for in this Lease shall extend to the heirs, legal representatives and, so far as the terms of this Lease permit, successors and assigns and transferees of the parties hereto. The words Port and Tenant and their accompanying verbs or pronouns, wherever used in this Lease, shall apply equally to all persons, firms, or corporations which may be or become such parties hereto.

**24.29 Survival.** Any covenant or condition (including, but not limited to, indemnification provisions), set forth in this Lease, the full performance of which is not specifically required prior to the expiration or earlier termination of this Lease, and any covenant or condition which by their terms are to survive the termination of this Lease, shall survive the expiration or earlier termination of this Lease and shall remain fully enforceable thereafter.

**24.30 Tenant Representations.** If Tenant is an entity other than an individual, each person executing this Lease on behalf of Tenant does hereby covenant and warrant that: (i) Tenant is duly organized and validly existing under the laws of its state of formation, and, if such entity is existing under the laws of a jurisdiction other than Oregon, is qualified to transact business in Oregon; (ii) Tenant has full right and authority to enter into this Lease and perform all of Tenant's obligations hereunder; and (iii) each person signing this Lease on behalf of Tenant is duly and validly authorized to do so.

**24.31 Time of the Essence.** Time is of the essence in the performance of and adherence to each and every covenant and condition contained herein.

**24.32 Effect of Expiration:** Upon the expiration or other termination of this Lease, neither party shall have any further obligation or liability to the other except as otherwise expressly provided in this Lease and except for such obligations as by their nature or under the circumstances can only be, or by the provisions of this Lease, may be, performed after such expiration or other termination; and, in any event, unless otherwise expressly provided in this Lease, any liability for a payment (including, without limitation, Additional Rent, herein) or performance of an obligation which shall have accrued to or with respect to any period ending at the time of expiration or other termination of this Lease shall survive the expiration or other termination of this Lease.

*(Remaining page left blank intentionally)*

*(Acknowledgement and Signatures on following page)*



IN WITNESS WHEREOF, Port and Tenant have duly executed this Lease as of the date and year first above written.

**PORT**

PORT OF TILLAMOOK BAY

By:  Date: 03/16/2022  
Name: Michele Bradley  
Title: General Manager

**TENANT**

TILLAMOOK COUNTY

By:  Date: March 16, 2022  
Authorized Signature

Erin D. Skaar  
Printed Name

Vice-Chair, Board of Commissioners  
Title



# Short-Term Holding / Transfer to Storage Area

Tillamook County

EXHIBIT A



LEGEND:



.25-acre parcel

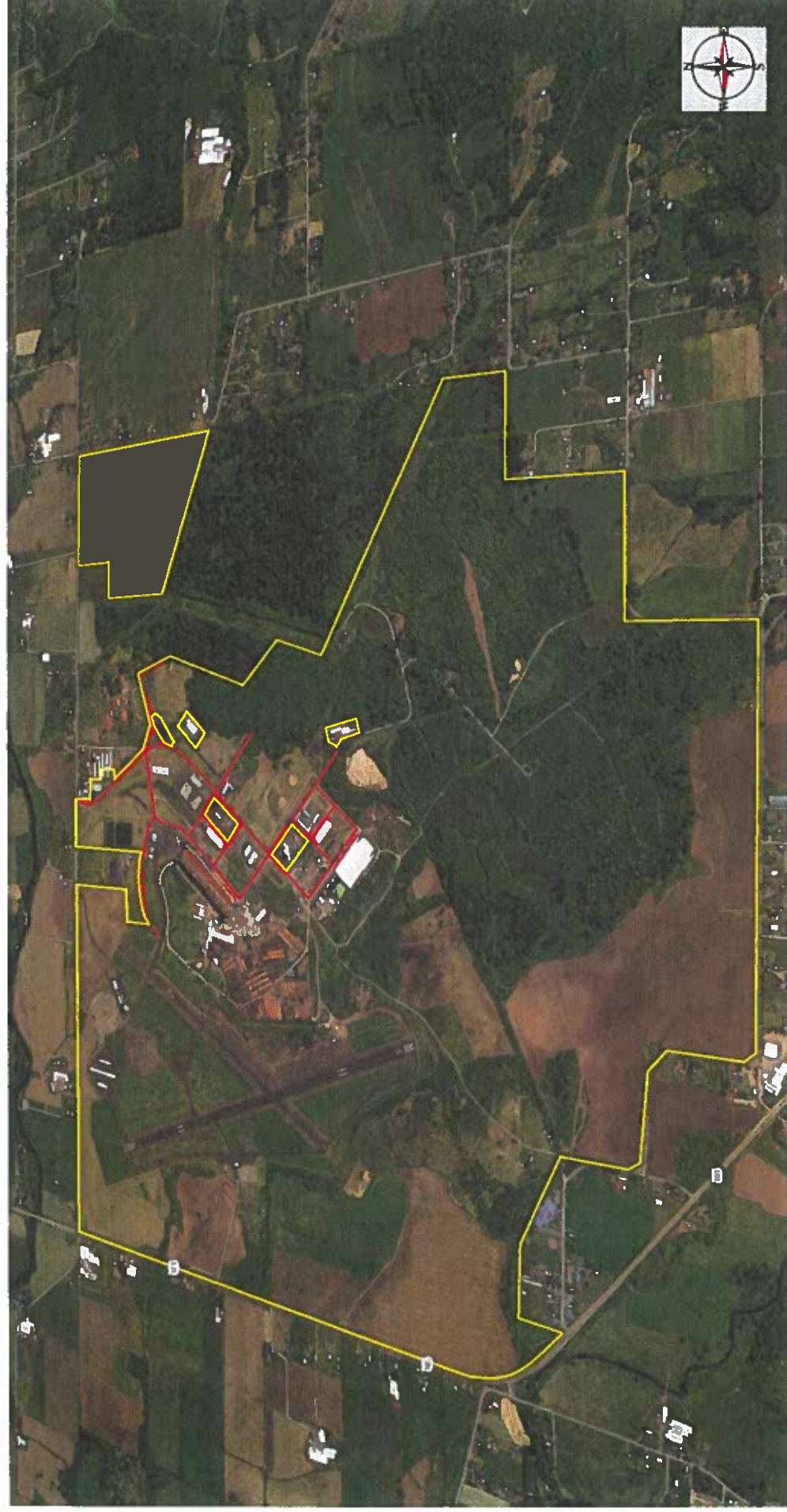


Gate access



## INDUSTRIAL PARK COMMON AREA

**EXHIBIT B**



**YELLOW** – Port of Tillamook Bay Boundary

**RED** – Industrial Park Common Area – Road - Lighting



**EXHIBIT C**

4000 Blimp Blvd., Tillamook, Oregon 97141

Phone: (503) 842-2413 Fax: (503) 842-3680

## Memo

To: Port Tenants and Users  
From: Michele Bradley  
Date: 10/21/2021  
Re: Stormwater

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The Port of Tillamook Bay is in the process of improving our outreach regarding our Oregon Department of Environmental Quality 1200-Z Stormwater Discharge General Permit and the requirements of the permit.

The new general industrial stormwater permit (143 pages) can be found online here: <https://www.oregon.gov/deq/FilterPermitsDocs/wqp1200zPermit.pdf>

or on the Port's utilities website along with Training & Inspection materials and forms at <https://potb.org/utilities-operations/>

For those of you with leases with the POTB, this falls into the section regarding all local, state, and federal laws and rules. For those that own your own property within the boundaries of the Port's stormwater drainage area, this also applies via state laws. The Port's 1200-Z permit covers all industrial activity located within the Port's industrial boundary. Because of your location at the Port, you are mandated to follow the requirements of the permit.

This letter is to notify you that Chance Steffey, PE, District Engineer, will be your contact if you have any questions or concerns regarding your requirements for meeting the Stormwater Discharge Permit. A copy of the inspection requirements are on the back side of this sheet.

Chance Steffey, PE, email: [csteffey@potb.org](mailto:csteffey@potb.org) phone (503) 354-8044

Thank you for your cooperation, and feel free to reach out to me with any questions or concerns. My direct line is (503) 354-8043 and email is [mbradley@potb.org](mailto:mbradley@potb.org).

## **INSPECTIONS**

### **7. Permit registrant must meet the following monthly inspection requirements:**

- A. Inspect areas where industrial materials or activities are exposed to stormwater and areas where stormwater control measures, structures, catch basins, and treatment facilities are located. Inspections must include all discharge points and the following areas:
  - 1) Industrial materials, residue, or trash that may have or could come into contact with stormwater;
  - 2) Leaks or spills from industrial equipment, drums, tanks, and other containers;
  - 3) Offsite and internal tracking of industrial or waste materials, or sediment where vehicles enter or exit the site;
  - 4) Tracking or blowing of raw, final, or waste materials that results in exposure of stormwater falling on the site;
  - 5) Evidence of, or the potential for, pollutants entering the drainage system;
  - 6) Evidence of pollutants discharging to receiving waters at all discharge point(s);
  - 7) Visual observation for the presence of floating, suspended or settleable solids, color, odor, foam, visible oil sheen, or other obvious indicators of pollution in the stormwater discharge at all discharge point(s), including discharge points that have been authorized to be substantially similar.
- 8) Stormwater control measures, including treatment, to ensure they are functioning properly.
  - B. Conduct all inspections by personnel that have completed employee training and are familiar with aspects of the SWPCP.
  - C. Conduct and document visual inspections at the site on a monthly basis when the facility is in operation. Visual observations above must be conducted during a discharge event if one occurs during the month, regardless whether the monthly site inspection has already occurred.
  - D. For exceptionally large facilities where monthly inspections of all areas or visual observation at all substantially similar discharge points are infeasible, DEQ or agent may approve in writing a modified inspection frequency.
  - E. Conduct visual observations during regular business hours of operation and safe conditions
  - F. Document the following in an inspection report that is retained on-site and submitted to DEQ or agent upon request:
    - i. The inspection date and time;
    - ii. The name(s) of inspector(s);
    - iii. Control measures and treatment facilities needing cleaning, replacement, maintenance, reconditioning or repair;
    - iv. The condition of the drainage and conveyance system and need for maintenance;
    - v. Previously unidentified sources of pollutants;
    - vi. Stormwater discharge visual observations, a Tier I report is required if visual observation shows evidence of stormwater pollution.
    - vii. Nature of the discharge; whether snow or rain; and
    - viii. Any corrective action, source control or maintenance taken or scheduled to remedy problems found.



**PRICE BREAKDOWN SUMMARY**  
Tuesday, March 8, 2022

**EXHIBIT D**

Tillamook County  
(503) 842-1384

**Land**

**Base Rent**

.25 acres @ \$255.25 / acre

Per month x 12 months =

\$765.75 annually w/ annual CPI increase every January

**Additional Costs / Services**

Road Maintenance Fee =

\$0.00 (Waived due to fee already applied in another agreement)

Property Taxes =

\$0.00 (Tax Exempt – Government Organization)

Water/Sewer/Electric=

No utilities currently on this parcel

**Total**

\$765.75 annually



## EXHIBIT E

### **Improvements - Work Letter** **Tillamook County Short-Term Holding / Transfer to Storage Area**

All work by tenant must be pre-approved by the Port and completed provided by a licensed and bonded contractor, except for the painting or otherwise granted by the Port.

Refer to Section 11 – Alterations in Lease Agreement

#### **Tenant Responsibility**

1. Surface the premises with impermeable material(s) and cover with gravel to meet the Port's DEQ General 1200-Z Permit.
2. Use identity markers (marked stakes, rope, or equivalent) for the leased area.
3. Provide a contact person if the secured gate access lock combo changes.

#### **Port Responsibility**

1. Provide a lock to secured gate access (as identified in Exhibit A). This gate access is a multi-tenant access point; therefore, these tenants would be assigned access with this lock as well.



## Key Points of Contact

**EXHIBIT F**

### Lease Contact(s)

Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_

Office: \_\_\_\_\_ Mobile: \_\_\_\_\_ Text ok? ☐ yes ☐ no

Email: \_\_\_\_\_

Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_

Office: \_\_\_\_\_ Mobile: \_\_\_\_\_ Text ok? ☐ yes ☐ no

Email: \_\_\_\_\_

### Billing Department Contact

Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_

Office: \_\_\_\_\_ Mobile: \_\_\_\_\_ Text ok? ☐ yes ☐ no

Email: \_\_\_\_\_

### Onsite/Emergency Contact

Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_

Office: \_\_\_\_\_ Mobile: \_\_\_\_\_ Text ok? ☐ yes ☐ no

Email: \_\_\_\_\_

### Stormwater Contact(s)

Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_

Office: \_\_\_\_\_ Mobile: \_\_\_\_\_ Text ok? ☐ yes ☐ no

Email: \_\_\_\_\_

Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_

Office: \_\_\_\_\_ Mobile: \_\_\_\_\_ Text ok? ☐ yes ☐ no

Email: \_\_\_\_\_

### Water/Sewer Utilities Contact

Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_

Office: \_\_\_\_\_ Mobile: \_\_\_\_\_ Text ok? ☐ yes ☐ no

Email: \_\_\_\_\_