

CHIEF EXECUTIVE OFFICER EMPLOYMENT AGREEMENT

This **EMPLOYMENT AGREEMENT** (the "Agreement") is made effective as of the twenty-ninth day of September 2014, by and between the **PORT COMMISSION OF THE PORT OF SEATTLE**, a municipal corporation of the State of Washington ("Commission") and Ted Fick ("CEO").

1. **Compensation, Benefits and Reimbursements.**

(a) **Annual Base Salary.** In consideration for his service under the terms of this Agreement, the Port of Seattle ("Port") shall pay to the CEO an annual base salary ("Base Salary"), which amount shall be paid in installments in accordance with the normal payroll payment practices of the Port and shall be subject to such deductions and withholding as are required by law and by the policies of the Port, from time to time in effect. The Base Salary shall be at the rate of Three Hundred Fifty Thousand Dollars (\$350,000.00) per year.

(b) **Pay for Performance Based Increases and/or Bonus Compensation.** The Commission shall review and evaluate the performance of the CEO in accordance with goals and objectives developed jointly by the Commission and the CEO. The CEO shall be eligible for salary increases and/or bonus compensation based on the Commission's evaluation of CEO's performance consistent with the Port's Pay for Performance policy. Any performance based increases and/or bonus compensation shall be set by the Commission in public session.

(c) **Standard Benefits.** In addition to the salary and other specifically described benefits payable to CEO hereunder, the CEO shall receive such benefits as may be made available to Port employees generally by the Commission from time to time, including, without limitation, life insurance, medical insurance, dental insurance, long-term disability insurance, short-term disability insurance, and extended illness leave; *provided, however,* that to the extent there is a conflict between the terms of this Agreement and the Commission's standard employee benefits, the terms of this Agreement shall govern.

(d) **Relocation.** The Port shall provide relocation expense reimbursement as described in Attachment A.

(e) **Salary & Benefits Resolution.** The CEO is subject to the terms and conditions of the Port's 2014 Salary & Benefits Resolution No.3686 and all subsequent salary and benefits resolutions; however, any terms, conditions, and adjustments to pay or salary range for the CEO adopted in open session shall prevail over relevant conflicting or

inconsistent terms and conditions in the applicable salary and benefits resolution.

2. CEO's Services.

The CEO shall (a) devote his entire professional time, attention, and energies to his position with the Port, (b) use his best efforts to promote the interests of Port, (c) perform faithfully, loyally, and efficiently his responsibilities and duties, and (d) refrain from any endeavor outside of his employment which interferes with his ability to perform his obligations. Notwithstanding the foregoing provisions, during the term of this Agreement the CEO may on his own time (e.g. after close of business or during Paid Time-Off), serve as a member of a board of directors of a non-profit or for-profit entity; *provided*, (i) that no service on a for-profit board shall occur in the first two years of this Agreement; (ii) that the CEO shall not serve on any for-profit board of directors for entities doing business in aviation, real estate, warehousing, maritime or logistics, or otherwise doing business related to Port activity; and (iii) that prior to accepting such appointment, the CEO shall obtain approval of the Commission. The Commission encourages the CEO to be involved consistent with this section in local non-profit organizations or trade associations. In all events, such service shall not occur if it will create an actual conflict of interest or will reasonably create an appearance of conflict of interest. The Commission has been informed that the CEO currently serves as a member of the board of directors of United States Distilled Products, and the CEO has agreed to resign this position by March 31, 2015.

3. Term and Termination of Agreement.

(a) **Term.** This Agreement shall commence on September 29, 2014 (the "Effective Date") and shall end on September 30, 2017. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the Commission by a majority vote to terminate the services of CEO at any time, without notice, subject only to the provisions set forth in Section 3(b)(i) of this Agreement. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the CEO to resign at any time from his position, subject only to the provisions set forth in Section 3(b)(ii) of this Agreement. **The Port's policies and procedures regarding discipline and termination of employment are not intended to and will not apply to the CEO's employment and this Agreement. The CEO's employment is at the will of a majority of the Commission.**

(b) **Termination and Severance Pay.**

(i) In the event the CEO's employment is involuntarily terminated by action of the Commission at any time before September 30, 2017 and if the CEO is willing and able to perform his duties under this Agreement, the Port shall pay the CEO any payments or benefits pursuant to Section 1 above which have been earned but

have not been provided through the date of termination and a lump sum separation payment in the amount of one-half year's base salary; provided, however, that if the CEO's employment is terminated because of "gross misconduct," the Commission shall have only the obligation to provide payments or benefits pursuant to Section 1 above which have been earned but have not been provided through the date of termination. For purposes of this Agreement, "gross misconduct" shall mean conduct by the CEO amounting to criminal conduct, fraud, dishonesty, malfeasance, or conduct by the CEO that demonstrates a flagrant and wanton disregard of and for the rights, title or interest of the Port or the CEO's fellow employees, including but not limited to repeated public conduct by the CEO contrary to the policies and direction of the Commission; or a material breach by the CEO of this Agreement, if such breach is not cured within sixty (60) days after written notice thereof from the Commission to the CEO.

(ii) In the event the CEO elects to resign his position, the CEO shall provide the Commission a minimum of forty-five (45) days' notice and he shall not be entitled to any severance pay.

4. **Conflicts of Interest.** The CEO shall be subject to the provisions of the Port's Code of Conduct and the ethics policies for current and former employees incorporated therein and hereby incorporated by reference into this Agreement.

5. **Protective Covenants.**

(a) **Confidential Information.** The CEO will have access to information that is considered confidential and/or proprietary. "Confidential Information" includes all information that (i) is treated by the Port as confidential or proprietary; (ii) would reasonably be viewed as confidential; (iii) would reasonably be viewed as having value to a competitor; or (iv) the Port is under an obligation to a third party to keep confidential whether or not disclosed in writing, or other fixed media or disclosed in any other manner (including oral, visual, or electronic disclosure). All Confidential Information is the property of the Port and the CEO shall exercise the highest degree of care in safeguarding Confidential Information against loss, theft, or other inadvertent disclosure, and take all steps reasonably necessary to maintain the confidentiality of the Confidential Information subject to the requirements of the state of Washington's Public Records Act. CEO shall not, without the prior written permission of the Port, directly or indirectly, disclose to any person or use in his own or in any other person's business or for the benefit of any person or entity other than the Port, any Confidential Information. This obligation continues after the CEO leaves employment with the Port. The restrictions on disclosure of Confidential Information do not apply to any information that is generally available to the public (provided the CEO played no role in its entering the public domain). If the CEO becomes legally obligated to disclose any Confidential Information (such as by a court subpoena), the CEO shall give the Port prompt written notice so that it may obtain a protective order or other appropriate remedy, and shall disclose only such information as the CEO is legally required to disclose.

(b) **Return of Property.** All equipment, records, files, manuals, forms, data, materials, supplies, computer programs, tangible property, assets and all other information or materials furnished by the Port or used on the Port's behalf, or generated or obtained during the course of the CEO's employment shall remain the property of the Port (collectively "Port Property"). Upon termination of employment or at any time upon the Port's request, the CEO shall return to the Port all Port Property. The CEO shall certify in writing as of the date of termination that none of the Port's Property remains under his control, or has been transferred to any third person.

(c) **Agreement Not to Compete.** Upon the expiration or other termination of this Agreement and the CEO's employment, the CEO agrees that for two years thereafter, he will not accept employment with another port located on the West Coast of North America. The provisions of this Section 5 are in addition to the provisions of Section CC-3 (Former Employees) of the Port's Code of Conduct.

6. Miscellaneous.

(a) **Dispute Resolution.** All disputes arising under the provisions of this Agreement shall be resolved by binding arbitration in Seattle, Washington in accordance with the American Arbitration Association rules governing employment disputes.

(b) **Warranties.** Each party hereto covenants, warrants and represents that it shall comply with all laws and regulations applicable to this Agreement, and that it shall exercise due care and act in good faith at all times in performance of its obligations under this Agreement.

(c) **Headings.** Titles or captions of sections or paragraphs contained in this Agreement are intended solely for the convenience of reference, and shall not serve to define, limit, extend, modify, or describe the scope of this Agreement or the meaning of any provision hereof.

(d) **Waiver.** A waiver by the Commission of any breach of this Agreement by CEO shall not be effective unless in writing, and no such waiver shall constitute a waiver of the same or another breach on a subsequent occasion.

(e) **Governing Law and Jurisdiction for Dispute Resolution.** All questions with respect to the construction of this Agreement or the rights and liabilities of the parties hereunder shall be determined in accordance with the laws of the State of Washington.

(f) **Severability.** All provisions of this Agreement are severable. If any provision or portion hereof is determined to be unenforceable in arbitration or by a court of

competent jurisdiction, then the remaining portion of the Agreement shall remain in full force and in effect.

(g) **Force Majeure.** Neither party shall be liable for failure to perform its obligations under this Agreement due to events beyond that party's reasonable control, including, but not limited to, strikes, riots, wars, fire, acts of God, and acts in compliance with any applicable law, regulation or order (whether valid or invalid) of any governmental body.

(h) **Counterparts.** This Agreement may be executed in one (1) or more counterparts, each of which shall be deemed an original and all of which taken together shall constitute one (1) and the same instrument.

(i) **Entire Agreement and Amendment.** This Agreement:(i) constitutes the entire agreement between the parties with respect to the subject matter hereof; (ii) supersedes and replaces all prior agreements, oral and written, between the parties relating to the subject matter hereof; and (iii) may be amended only by a written instrument clearly setting forth the amendment(s) and executed by both parties.

IT IS SO AGREED, as evidenced by the signatures below:

Ted Fick

Port of Seattle Commission

Date: _____

(Print name): _____

(Title): _____

Date: _____