

TAXES

17. Lessee shall be liable for, and shall pay throughout the term of this lease, all license fees and all excise taxes payable for, or on account of, the activities conducted on the Premises and all taxes on the property of Lessee on the Premises and any taxes on the Premises and/or on the leasehold interest created by this lease and/or any taxes levied in lieu of a tax on said leasehold interest and/or any taxes levied on, or measured by, the rentals payable hereunder, whether imposed on Lessee or on the Port. With respect to any such taxes payable by the Port which are on or measured by the rent payments hereunder, Lessee shall pay to the Port with each rent payment an amount equal to the tax on, or measured by, that particular payment. All other tax amounts for which the Port is or will be entitled to reimbursement from Lessee shall be payable by Lessee to the Port at least fifteen (15) days prior to the due dates of the respective tax amounts involved; provided, that Lessee shall be entitled to a minimum of ten (10) days written notice of the amounts payable by it.

COMPLIANCE  
WITH PORT  
REGULATIONS  
AND WITH  
ALL LAWS

18. Lessee agrees to comply with all applicable rules and regulations of the Port pertaining to the building or other realty of which the Premises are a part now in existence or hereafter promulgated for the general safety and convenience of the Port, its various tenants, invitees, licensees and the general public. Lessee further agrees to comply with all applicable federal, state, and municipal laws, ordinances, and regulations, including without limitation those relating to environmental matters. Any fees for any inspection of the Premises during or for the lease term by any federal, state or municipal officer and the fees for any so-called "Certificate of Occupancy" shall be paid by Lessee.

ASSIGNMENT  
OR SUBLEASE

19. (a) Except as provided in subparagraph 19(b) and paragraph 42 below, Lessee shall not assign or transfer this lease or any interest therein nor sublet the whole or any part of the Premises, nor shall this lease or any interest thereunder be assignable or transferable by operation of law or by any process or proceeding of any court, or otherwise. If Lessee is a corporation, Lessee further agrees that if at any time during the term of this lease more than one-half (1/2) of the outstanding shares of any class of stock of Lessee corporation shall belong to any stockholders other than those who own more than one-half (1/2) of the outstanding shares of that class of stock at the time of the execution of this lease or to members of their immediate families or to any estates of, or trusts established for the benefit of, any of the foregoing persons, such change in the ownership of the stock of Lessee shall be deemed an assignment of this lease within the meaning of this paragraph.

(b) The parties understand and agree that the Independent Packers Corporation sublease, dated October 1, 1984, is approved.

DEFAULTS

20. Time is of the essence of this agreement. Lessee shall pay interest monthly at a default rate which shall be the lesser of (a) five (5%) percentage points over the "Prime Rate" or (b) the maximum rate permitted from time to time by applicable law, on all sums owing to the Port under this lease, commencing thirty (30) days after the date each sum is due and payable. For the purpose of this paragraph, the Prime Rate shall mean that rate of interest publicly announced by Seafirst Bank in Seattle, Washington (or any successor thereto) as its prime rate on the date of default. In the event of the failure of Lessee to pay the rents, interests, and any and all other charges provided in this lease at the time and in the manner herein specified, for or to keep any of the covenants or agreements herein set forth to be kept and performed, including without limitation the Provisions of paragraph 4 relating to the Bond or Letter of

CONSENT TO  
FINANCING

42. The Port shall consent to the assignment of this lease by Lessee to Key Bank of Puget Sound ("Key Bank") to secure indebtedness of Lessee to Key Bank in amount not to exceed \$3,000,000; provided, that the Port's consent shall only be given subject to the terms and conditions contained in and upon execution by the Port's Executive Director of the form of document entitled "Consent to Financing Agreement," a copy of which is attached hereto as Exhibit G, with such modifications thereto as are requested by Key Bank in accordance with commercially reasonable lending practices and as the Port's Executive Director shall in his sole discretion deem reasonable and necessary. Upon completion of the construction of the improvements to the New Premises referenced in Paragraph 9(b) (3) (ii) and thereafter as requested by the Port, Lessee shall verify to the Port, in writing, that Lessee has since the Commencement Date of the Lease used proceeds of any Key Bank loan secured by this lease pursuant to the Consent in accordance with the terms of the Consent. Lessee also, from time to time at the Port's request, shall allow the Port, through a reputable firm of certified public accountants satisfactory to the Port, access to Lessee's financial records to allow the Port to confirm Lessee's use of the loan proceeds.

EXPIRATION

43. No later than eighteen (18) months prior to the expiration of the term of this lease, if the Port elects to continue to lease the Premises for cold storage activities and before negotiating with any other party, the Port shall offer Lessee the opportunity to negotiate a new lease of the Premises. If the parties are unable to negotiate a new lease at least six (6) months prior to the expiration date of this lease, the Port shall have the right to negotiate a lease of the Premises with other parties.

REPRESENTA-  
TIONS AND  
WARRANTIES  
BY PORT

44. The Port hereby represents and warrants to Lessee that it is the sole owner of fee title to the Premises.

QUIET  
ENJOYMENT

45. So long as Lessee is not in default hereunder (after the expiration of applicable notice and cure periods), Lessee shall peaceably and quietly have, hold and enjoy the Premises without hindrance by the Port or any other person, subject to all of the terms and conditions of this Lease.

MEMORANDUM  
OF LEASE

46. Upon request of Lessee, the parties shall execute a short form Memorandum of Lease suitable in form for recording by Lessee.

SUPERSEDURE

47. The parties understand and agree that this lease on its Commencement Date cancels and supersedes that certain lease agreement as amended, by and between the parties dated July 24, 1984, providing for Lessee's use and occupancy of Premises at Terminal 91, and that this new lease changes the basis of rental calculations to include guaranteed minimum and percentage rentals.

ENTIRE  
AGREEMENT

48. This lease together with any and all exhibits expressly incorporated herein by reference and attached hereto shall constitute the whole agreement between the parties. There are no terms, obligations, covenants or conditions other than those contained herein. No modification or amendment of this agreement shall be valid or effective unless evidenced by an agreement in writing signed by both parties.

**FOURTH AMENDMENT TO LEASE  
BETWEEN  
PORT OF SEATTLE AND CITYICE COLD STORAGE COMPANY  
TERMINAL 91**

THIS FOURTH AMENDMENT TO LEASE made as of \_\_\_\_\_, 2009 by and between the PORT OF SEATTLE, a Washington municipal corporation, hereinafter called "the Port," and CITYICE COLD STORAGE COMPANY a Washington corporation/partnership, hereinafter called "Lessee,"

**W I T N E S S E T H :**

WHEREAS, the parties entered into a lease agreement dated November 10, 1987 hereinafter called "Basic Lease," covering certain premises and activities by Lessee at Terminal 91, Seattle, Washington, which was subsequently amended by Amendment(s) dated May 14, 1991, June 8, 1993 and May 30, 2003; and

WHEREAS, the parties now wish to further revise the Basic Lease as previously amended, by amending Paragraph 19. (a) to allow assignment or subleasing with prior written approval from the Port with certain exceptions as noted below.

NOW THEREFORE, in consideration of their mutual promises, the parties hereby agree as follows:

1. Paragraph 19. (a) of the Basic Lease is deleted and is replaced with:

**19. (a) ASSIGNMENT AND SUBLEASE**

19. (a) (1) Prohibition. Lessee shall not, in whole or in part, assign, sublet, license or permit occupancy by any party other than Lessee of all or any part of the Premises, without the prior written consent of the Port in each instance which consent shall not be unreasonably withheld or delayed. Provided, however, the Port may withhold its consent, whether or not such withholding is considered reasonable, if;

- the proposed assignment of subletting is contrary to Port policy established by resolution, motion or public proclamation by the Port of Seattle Commission and such policy is for the general application to all Port properties and shall not be proposed for application solely to the Premises;
- the proposed assignee of sublessee fails to establish to the Port's reasonable satisfaction that it is financially capable to meet the obligations under the lease;
- the proposed assignee or sublessee is not experienced in operating properties in accordance with the uses allowed under the lease;
- the proposed assignee or sublessee has a criminal record;
- there exists an uncured default under the lease (other than a default which is not capable of being cured by any party other than Lessee);

- the proposed assignee or sublessee is a party who has defaulted under any agreement with or for the benefit of the Port or with whom the Port has had any legal dispute in the past ten years.

Lessee shall at the time the Lessee requests the consent of the Port, deliver to the Port such information in writing as the Port may reasonably require respecting the proposed assignee, subtenant or licensee including, without limitation, the name, address, nature of business, ownership, financial responsibility and standing of such proposed assignee, subtenant or licensee. Within twenty (20) business days after receipt of all required information, the Port shall, in its reasonable determination, elect one of the following: (a) to consent to such proposed assignment, sublease or license or (b) to refuse such consent.

19. (a) (2) A condition to the Port's consent to any assignment, sublease or license of this Lease or the Premises shall be the delivery to the Port of a true copy of the fully executed instrument of assignment, sublease or license and an agreement executed by the assignee, sublessee or licensee in form and substance reasonably satisfactory to the Port and expressly enforceable by the Port, whereby the assignee, sublessee or licensee assumes and agrees to be bound by the terms and provisions of this Lease and perform all the obligations of Lessee hereunder.

19. (a) (3) In the event of any assignment, Lessee and each respective assignor, waives notice of default by the tenant in possession in the payment and performance of the Rent, covenants and conditions of this Lease and consents that the Port may in each and every instance deal with the tenant in possession, grant extensions of time, waive performance of any of the terms, covenants and conditions of this Lease and modify the same, and in general deal with the tenant then in possession without notice to or consent of any assignor, including Lessee; and any and all extensions of time, indulgences, dealings, modifications or waivers shall be deemed to be made with the consent of Lessee and of each respective assignor.

19. (a) (4) Lessee agrees that any sublease or license will contain a provision in substance that if there be any termination whatsoever of this Lease then the subtenant or licensee, at the request of the Port, will attorn to the Port and the sublessee or licensee, if the Port so requests, shall continue in effect with the Port, but the Port shall be bound to the subtenant or licensee in such circumstances only by privity of estate. Nothing herein shall be deemed to require the Port to accept such attornment.

19. (a) (5) No assignment, subletting or license by Lessee shall relieve Lessee of any obligation under this Lease, including Lessee's obligation to pay Rent or any other sum hereunder. Any purported assignment, subletting or license contrary to the provisions hereof without consent shall be void. The consent by the Port to any assignment or subletting shall not constitute a waiver of the necessity for such consent to any subsequent assignment or subletting.

19. (a) (6) Lessee shall reimburse the Port in the sum of Five Hundred Dollars (\$500.00) plus any reasonable professionals' fees and expenses incurred by the Port in connection with any request by Lessee for consent to an assignment, subletting or license.

19. (a) (7) Scope. The prohibition against assigning or subletting contained in this Section 19. (a) shall be construed to include a prohibition against any assignment or subletting by operation of law. Furthermore, for purposes of this Section 19. (a), any sale, transfer or other disposition in the aggregate of fifty percent (50%) or more of the equity ownership in Lessee (i.e. stock with respect to tenant corporation, partnership interests with respect to a tenant partnership, etc.) shall be deemed an assignment; provided, however, that transfers of stock or other equity ownership to or among the owners of Lessee as of the date of this Amendment, or to or among members of their immediate families (or trusts for the benefit of any such person), shall not in any event be deemed an assignment. If this Lease be assigned, or if the underlying beneficial interest of Lessee is transferred, or if the Premises or any part thereof be sublet or occupied by anybody other than Lessee, the Port may collect Rent from the assignee, subtenant or occupant and apply the net amount collected to the Rent herein reserved, but no such assignment, subletting, occupancy or collection shall be deemed a waiver of this covenant, or the acceptance of the assignee, subtenant or occupant as tenant, or a release of Lessee from the further performance by Lessee of covenants on the part of Lessee herein contained. No assignment or subletting shall affect the continuing primary liability of Lessee (which, following assignment, shall be joint and several with the assignee), and Lessee shall not be released from performing any of the terms, covenants and conditions of this Lease.

2. Except as expressly amended herein, all provisions of the Basic Lease (as previously amended) shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Fourth Amendment as of the day and year first above written.

PORT OF SEATTLE  
a municipal corporation

CITYICE COLD STORAGE COMPANY  
a Washington corporation

By \_\_\_\_\_  
Its \_\_\_\_\_

By \_\_\_\_\_  
Its \_\_\_\_\_

