

MEMORANDUM

Agenda Item No. 8(J)(4)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: November 15, 2022

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution approving and authorizing the County Mayor to execute and exercise all rights set forth in (1) the Second Amendment to the Campus Lease (Second Amendment) between Miami-Dade County (County) and Royal Caribbean Cruises Ltd. (RCG) with an estimated net fiscal impact of \$260,000,000.00 in favor of the County, (2) the Construction Agency Services Agreement between the County and RCG with fiscal impact not to exceed \$450,000,000.00, plus financing costs and capitalized interest, and (3) the cruise terminal usage agreement between the County and RCG with an estimated net fiscal impact of \$2,500,000,000.00 in favor of the County; with respect to the Second Amendment, directing the County Mayor to provide the Second Amendment to the Property Appraiser's Office in accordance with Resolution No. R-791-14, to present (upon RCG's concurrence with the terms thereof) such ordinance(s) or resolution(s) as are necessary to fund the projects contemplated in the Second Amendment in an amount not to exceed \$450,000,000.00, and to negotiate and enter into an agreement for the County's use of temporary office space with buildings leased to RCG; with respect to the Construction Agency Services Agreement, waiving formal bid procedures under section 5.03(D) of the Home Rule Charter and section 2-8.1 of the Code of Miami-Dade County (Code); with respect to the cruise terminal usage agreement, upon the issuance of the financing confirmation, authorizing the County Mayor to take all actions necessary to effectuate same, including entry into design-build agreements at an estimated cost of \$325,000,000.00 with reimbursement from RCG in an amount of at least \$152,750,000.00, plus interest and costs, authorizing the County Mayor to solicit and award design-build agreements under the PortMiami Expedite and Acceleration Ordinance in section 2-8.2-15 of the Code, and authorizing the County Mayor to negotiate and execute an agreement with United States Customs and Border Protection for approximately \$2,000,000.00 for security equipment; approving waiver of Resolution R-130-06 with respect to any agreement for the County's use of temporary office space; authorizing the County Mayor to take such other acts, within certain parameters, as necessary to give effect to the agreements contemplated herein

Resolution No. R-1104-22

The accompanying resolution was prepared by the Port of Miami and placed on the agenda at the request of Prime Sponsor Commissioner Rebeca Sosa.



Geri Bonzon-Keenan
County Attorney


MDC001

Memorandum



Date: November 15, 2022

To: Honorable Chairman Jose “Pepe” Diaz
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor 

Subject: Resolution Approving Cruise Terminal Usage Agreement between Miami-Dade County and Royal Caribbean Cruises Ltd. d/b/a Royal Caribbean Group; Authorizing Award and Management of Cruise Terminal G and Berth 10 Projects to the terms of the Seaport Expedite & Acceleration Ordinance; Authorizing the Negotiation and Execution of a Memorandum of Agreement with US Customs & Border Protection for Security Equipment; Approving the Second Campus Lease Amendment between the County and RCG

Executive Summary

This item seeks approval of (1) a Cruise Terminal Usage Agreement (“Cruise Terminal Usage Agreement”) between the Miami-Dade County (the “County”) and Royal Caribbean Cruises, Ltd.. d/b/a Royal Caribbean Group (“RCG”); (2) the Second Campus Lease Amendment (“Second Campus Lease Amendment”) between the County and RCG; (3) authorization to negotiate and execute an agreement with United States Customs and Border Protection (“CBP”) for the reimbursement of costs incurred by CBP in connection with security equipment (including services and maintenance) for the new Cruise Terminal G (“CTG”); and (4) adds the CTG project and Berth 10 project to the list of capital improvement projects under the Miami-Dade Seaport Department Capital Improvement Programs Expedite and Acceleration Ordinance (“Seaport Expedite Ordinance”) set forth in Section 2-8.2.15 of the Code of Miami-Dade County (the “Code”).

Approval of the items in the Resolution will among other things:

- Add approximately 12,000 permanent direct, indirect, and induced cruise related jobs and,
- Add an additional 1,000 employees at RCG’s campus with \$100 million in annual wages and,
- Generate 66,350,000 more contractually obligated passenger movements at PortMiami and,
- Construct new CTG and portions of Berth 10 estimated at \$325 million through County funded projects and,
- Have RCG contribute 47% of project costs compounded at 6.5% for interest and costs and,
- Complete RCG’s Global Campus capped at \$450 million in County-funded project costs including any improvements at the existing 1050 and 1080 buildings that collectively exceed \$11.5 million and,

- Increase Campus lease payments by 125% of the County’s project costs including the financing costs for the campus project and,
- Generate 9,634 estimated construction jobs from these projects and,
- Generate \$2.8 billion in net County revenues after considering all debt service costs, incentives, credits, CBP security equipment, offsets and capital contributions, during the term of the Agreements and extensions and deducting the net revenues from the existing RCG Agreements for the Campus and CTG replaced with these items.

Recommendation

It is recommended that the Board approve the accompanying resolution to:

1. Approve the Cruise Terminal Usage Agreement between the County and RCG, providing for the construction of a new CTG and Berth 10. This agreement is for a 36-year term inclusive of three 7-year extensions. As part of the Cruise Terminal Usage Agreement, the County agrees to undertake the CTG and Berth 10 capital improvements projects, not to exceed \$325 million, with RCG reimbursing the County 47% of project costs with interest and issuance costs (with certain provisions that could result in a reimbursement of 53% of project costs) via a capital recovery surcharge fee.
2. Authorize the County Mayor or the County Mayor’s designee to competitively procure and contract for capital improvements in connection with the design and construction of new CTG and Berth 10 projects under the terms of the Seaport Expedite Ordinance.
3. Authorize the County Mayor or County Mayor’s designee to negotiate and enter into an agreement with CBP for combined one-time and recurring expenses not to exceed \$2 million for equipment, services, and maintenance of security equipment necessary for CTG.
4. Approve the Second Campus Lease Amendment to the Campus Lease, providing for the County to fund the project. The Amendment consisting of rental revenues over the 50-year term, inclusive of two 5-year extensions, includes the repayment of 125% of the capital construction costs, including financing costs over the first 30-years of the term. In consideration, in part, of RCG’s significant commitments made in the Cruise Terminal Usage Agreement to the County, financing the completion of the campus improvements for RCG’s global headquarters at PortMiami will be undertaken by the County up to a maximum project investment of \$450 million.
5. In the best interest of the County, waive formal bid procedures under Section 5.03(D) of the Charter and Section 2-8.1 of the Code to select RCG as the County’s construction agent for the construction of the RCG campus improvements.
6. Direct the County Mayor or County Mayor’s designee to provide a copy of the Second Campus Lease Amendment to the Property Appraiser’s Office in accordance with Resolution No. R-791-14.

7. Direct the County Mayor or County Mayor’s designee to appoint staff to monitor compliance with the Cruise Terminal Usage Agreement; the development and construction agreements for new CTG and Berth 10 capital projects; the memorandum of agreement with CBP; and the Second Campus Lease Amendment, including the associated Construction Agency Services Agreement.
8. Waive Resolution No. R-130-06 with respect to the finalization and execution of any agreement for the County’s use of temporary office space within building(s) leased to RCG. A waiver of Resolution No. R-130-06 is necessary as the terms of such agreement will depend on subsequent events; accordingly, that agreement has not been prepared but will be subsequently prepared, in accordance with the parameters set forth in the accompanying resolution.

Delegated Authority

This item authorizes the County Mayor or County Mayor’s designee to:

- (1) execute the Cruise Terminal Usage Agreement and to exercise all County rights conferred therein, including rights of extension or termination;
- (2) execute the Second Campus Lease Amendment and to exercise all County rights conferred therein, including rights of extension or termination;
- (3) negotiate and enter into a memorandum of agreement for the CBP equipment necessary for CTG, in an amount not to exceed \$2 million, consistent with the similar agreements approved by the Board in Resolution Nos. R-910-21 and R-293-21;
- (4) negotiate and enter into an agreement for the use of temporary office space within one or more buildings lease to RCG, subject to the parameters set forth in the Second Amendment; and
- (5) take any other acts as are necessary to give effect to the Cruise Terminal Usage Agreement, Second Campus Lease Amendment, and memorandum of agreement; provided, however, that such acts shall (a) be consistent with the disclosures in the memorandum and the delegations set forth in this resolution; (b) not put the County in any less favorable position, financially or otherwise, than that outlined in the accompanying memorandum, this resolution, and the agreements accompanying this resolution; (c) not contravene the policy, intent, or purpose of the Board as expressed in any of its legislative enactments; and (d) as applicable, be reduced to writing and subject to the approval of the County Attorney’s Office as to form and legal sufficiency.

Scope

PortMiami is located within District 5, represented by Commissioner Eileen Higgins. The impact of this agenda item is countywide as PortMiami is a regional asset and generates employment for residents throughout Miami-Dade County.

Fiscal Impact/Funding Source

The combined net positive fiscal impact over and above the County’s existing Campus and Cruise Terminal G Agreements (after debt service, credits, incentives, and any other offsets) from the agreements in this item is \$2.8 billion (\$2.5 billion from the Cruise Terminal Usage Agreement plus \$260 million from the Second Campus Lease Amendment).

The funding sources for the projects will be from new debt issuances of the Seaport Department with the strategic use of Department funds, commercial paper, and other short-term financing instruments during the development cycle (including potential future grants for the cruise facilities).

Risk Mitigation

All long-term agreements relying on future performance contain an element of risk. These agreements, for which approval is sought, limit risk where possible and include,

- Maximum cost caps on the projects. Terms providing for project descoping or RCG increasing their capital contribution if budget increases materialize.
- Capital Recovery Surcharge (CRS) payments to the County for RCG’s portion of capital contributions, which will survive all events, including termination and force majeure.
 - Under the Cruise Terminal Usage Agreement, force majeure includes, acts of God, unusual weather, pandemics, an act of state or war, public emergency, strikes, boycotts, picketing, work stoppages, or labor troubles of any other type (whether affecting the County, RCG, or their subsidiaries, divisions, affiliates, or contractors or subcontractors) or due to causes or conditions not caused or contributed to by the County, RCG, or their agents.
 - Force majeure generally will not result in the termination of CRS payments, as the Cruise Terminal Usage Agreement provides that the CRS payment obligation is terminated only upon a County default resulting in termination of the agreement or upon total destruction of the terminals accompanied by a County decision not to reconstruct same.
 - In addition, the Cruise Terminal Usage Agreement provides if RCG’s portion of the capital contribution cannot be repaid through the CRS (e.g., in the event of reduced passenger volumes), RCG is required to repay its portion of the capital contribution through any other means reasonably acceptable to the County within the same time frame (or sooner) as provided in the Cruise Terminal Usage Agreement.
- The CRS is set to be 47% of the CTG and Berth 10 cost plus interest and costs compounded at 6.5%. The Agreement, starts the CRS at 53% only lowering it to 47% if the first extension, guaranteeing an additional seven-years of the revenues is exercised early.

- RCG guarantees this will be their largest revenue deal in the Caribbean Basin for the first five years and is contractually obligated to increase the revenues, if necessary, for the County to retain that position.
- RCG indemnifies the County for any of the previous works completed for the campus.
- RCG will deposit \$10,000,000 pre-paid rent or letter of credit when the Campus Lease commences that remains in place until ten years of on-time lease payments have occurred.
- There is a cross-default provision to incentivize timely meeting all campus lease obligations. If there is a default on the lease the County can, at its own option, accelerate all extensions on the Cruise Terminal Usage Agreement or cancel the Cruise Terminal Usage Agreement. This reduces the likelihood, primarily in the case of bankruptcy or insolvency proceedings, that the campus lease agreement will be discharged with RCG retaining the benefit of the revenue-generating Cruise Terminal Usage Agreement.
- In the unanticipated event of a full default on the lease, RCG is required to fully satisfy the lease component for the financing plus 25% and pay the next two years of the scheduled rent.
- The Department will also be seeking risk management advice on potential additional insurance riders specific to these County funded campus and CTG projects. This could include riders that reduce the County’s deductible in the event of a loss, including hurricane events and business interruption. If these policies are determined to be warranted, their cost would reduce the net positive fiscal impacts, though minimally.

A. Cruise Terminal Usage Agreement

The Cruise Terminal Usage Agreement provides the County with a Minimum Annual Guarantee (“MAG”) ranging from its current 600,000 annual passenger movements during a development period increasing to 1.5 million annual passenger movements upon substantial completion of CTG (estimated for early FY 2027) and further increasing to 2.1 million annual passenger movements from years 11 through the conclusion of the 36-year term, which is inclusive of three 7-year extensions exercisable by RCG. Approval of the Cruise Terminal Usage Agreement will generate a net positive fiscal impact to the County of \$2.5 billion, after debt service, shared parking revenue rebates and marketing incentives paid to RCG and deducting the net revenues of the current CTG Agreement with RCG that expires in 2033. Once RCG’s passenger traffic reaches 2.1 million annual passenger movements plus RCG’s approximately 1.55 million annual passenger movements at Cruise Terminal A, the Port’s guaranteed passenger movements will exceed our record Fiscal Year 2019 volumes by 22%.

RCG pays a unitary fee per passenger movement which combines wharfage, dockage, and harbor fees. The unitary fee increases 3% compounded annually over the life of the Agreement as shown in Exhibit B of the Cruise Terminal Usage Agreement.

As provided for in the existing Cruise Terminal Agreement, the County will provide RCG parking revenues and an annual marketing incentive, consistent with other cruise line agreements. The value of the parking incentive is anticipated to range between \$1.4 million and \$4.9 million per year during the term, including extensions. The marketing incentive is anticipated to range between \$2.9 million and \$6.4 million per year during the term, including extensions.

Under the Cruise Terminal Usage Agreement, capital costs associated with the construction of the CTG and Berth 10 improvements are capped at \$325 million, excluding the cost of the roadwork and the marine improvements for Berth 10, which will be borne by the County of up to \$178.9 million listed in the Multi-Year Capital Plan previously approved by the Board. The County will recover 53% of the \$325 million, unless RCG exercises its first option to renew and extend the Cruise Terminal Usage Agreement early, in which case the County will recover 47% of the \$325 million, in each case through a capital recovery surcharge (“CRS”) imposed on passenger movements occurring on and after October 1, 2024 (on all RCG passengers other than Cruise Terminal A passengers) requiring a minimum amount of annual CRS payments. The CRS also includes interest and costs compounded at 6.5% in addition to the repayment of the capital. The reimbursable portion of the County’s capital contribution is unsecured, but is otherwise irrevocable and survives all other events, including force majeure and termination.

B. Second Campus Lease Amendment

The Second Campus Lease Amendment will generate an estimated net positive fiscal impact of \$260 million after debt service, credits for County use of RCG space, other offsets described, and the net revenues of the existing lease being replaced with this item. The County’s maximum investment in the campus improvements will not exceed \$450 million for project costs plus financing costs including capitalized interest, other costs and maintaining adequate reserves to be incorporated into the lease payments.

The construction of CTG requires the demolition of the port’s administration complex that was constructed in 1963. Rental revenues might decrease for tenants that are not relocated on port and is currently estimated at up to \$560,000 of annual rent revenues for up to 6 years or \$3.36 million. The port will also credit RCG for the relocation of the port’s temporary offices within the RCG campus (or in downtown locations leased by RCG). If the port occupies existing RCG space for the maximum period, the credit is estimated at a total of \$3.49 million over the six years. The net fiscal impact of the Agreements and Amendments includes these items.

The Second Campus Lease Amendment also provides for RCG’s temporary leasing of 500 parking spaces within Parking Garage K, with estimated total additional revenues from the temporary leasing arrangement of \$1,204,884 and is also included in net fiscal impact.

As a publicly owned building, the County shall have the right to utilize the Campus for community events which are not primarily intended to showcase or promote competing cruise ship companies. When making requests to access space on the Campus, the County shall be entitled to notify the tenant of its request for specific components of the communal portions of the Campus (e.g., auditorium,

cafeteria, etc.) for such community events and requires the tenant’s confirmation that the requested area is available.

C. CBP Memorandum of Agreement

The anticipated fiscal impact of the memorandum of agreement with CBP for security equipment for CTG is estimated, based on prior similar projects, at approximately \$2 million. These costs will consist of one-time and recurring costs, including upgrade costs, at an estimated annual average upgrade cost of \$77,000. The costs associated with the memorandum of agreement will be funded through the use of Seaport funds, including its commercial paper program and future revenue bond issuances.

Track Record/Monitor

The Seaport Department staff members responsible for monitoring the agreement are Andy Hecker, Deputy Port Director; Elizabeth Ogden, Assistant Port Director, Capital Development; George Andrews, Assistant Port Director, Strategy and Economic Development; and Becky Hope, Assistant Port Director, Planning, Environment, Resiliency.

Background

RCG is the second-largest cruise operator in the world, with 24% of the market share and a growing global fleet of 64 ships traveling to approximately 1,000 destinations and catering to multiple segments of the cruising public, including families and luxury travelers. Royal Caribbean International continues to be one of the fastest growing cruise lines in the world, with 12 new ships on order from 2022 through 2027. In October 2022, RCG announced details of its new Icon-class vessels currently under construction with the first Icon-class ship debuting in January 2024 from PortMiami; announcement of that new vessel led to record-breaking first-day bookings for RCG.

With almost 100% of vessels back in service, the post-pandemic cruise industry continues to show the expected signs of strength and resiliency as cruise travel continues to trend upward. The consensus among industry experts is that passenger numbers will surpass pre-pandemic levels by the end 2023, and possibly increase 10%-12% or more in 2024. Cruise tourism in the Caribbean region has seen a 42% passenger growth in the last decade. On November 3, 2022 RCG reported on its earnings call that its vessel occupancy for the Caribbean Basin was at 105%.

Consistent with this growth, by 2031, the Cruise Terminal Usage Agreement, combined with guarantees with the other cruise lines holding preferential berthing rights at PortMiami, will result in a higher guaranteed passenger count than PortMiami experienced in its record-breaking 2019 cruise season. Specifically, in 2019, PortMiami’s record-breaking year, PortMiami welcomed approximately 6.8 million passengers. Upon approval of the Cruise Terminal Usage Agreement, by 2031, PortMiami’s partner cruise lines will collectively guarantee 10.2 million passengers at PortMiami.

In preparation for increased future berth and passenger demand, PortMiami has negotiated a new Cruise Terminal Usage Agreement increasing RCG’s passenger movement guarantee by 66,350,000 and a restructured financing model for the construction of their global headquarters at PortMiami.

RCG’s global headquarters will bring approximately 1,000 new RCG employees and \$100 million in increased annual wages to Miami-Dade County and the Cruise Capital of the World.

In exchange for the significant commitments made by RCG in the Cruise Terminal Usage Agreement, RCG has requested that the County finance, up to a maximum of \$450 million, the completion of the campus improvements for RCG’s global headquarters, which are located at PortMiami. RCG will repay the financed amount, plus interest and costs plus an additional 25% over a 30-year period. As a result of the interconnectedness of the Cruise Terminal Usage Agreement and the Second Campus Lease Amendment, following Board approval, the Cruise Terminal Usage Agreement and Second Campus Lease Amendment do not become effective until the County confirms that it will secure financing for the completion of the headquarters project subject to the financing threshold. In the event a financing package is not secured, the parties will meet to consider alternatives which could include bringing revised items back to the Board for consideration.

The successful financing of the projects contemplated in the Cruise Terminal Usage Agreement and Second Campus Lease Amendment will deepen an important economic relationship for both PortMiami and Miami-Dade County at large, in cruise and non-cruise sectors of the economy.

RCG has homeported in Miami-Dade County for more than 50 years, investing in the community, creating jobs, and generating economic benefits for the County. As this transaction demonstrates, by locating and expanding its global headquarters at PortMiami, RCG is induced to expand its strong passenger cruise presence at PortMiami, cementing PortMiami’s status as the Cruise Capital of the World. Headquarter firms contribute to the business identity of a location (i.e., PortMiami as the Cruise Capital of the World); create feedback effects with supporting industries that, in turn, locate (or relocate) their own headquarters to be in proximity to one another; and result in statistically significant benefits to the not-for-profit sector through increased charitable contributions.¹

Already one of the top-15 employers in Miami-Dade County, the continuation of the campus construction will increase office space at the Port ensuring 1,000 additional employees in Miami-Dade County (over the existing 2,000 employees) and improving RCG’s ability to attract workers for decades to come. According to RCG, the additional jobs generated by the campus expansion would be high-paying jobs, with average salaries exceeding \$100,000. These jobs and more than \$100 million in added annual wages will add to the 30,088 jobs that, according to a 2017 economic study (the “2017 PortMiami Economic Impact Study”), are created in Miami-Dade County, directly or indirectly, by the cruise industry.

The benefits of the projects are not limited to jobs created directly at RCG. Given the magnitude of investment in these projects, the local economic impact arising out of direct, indirect, and induced construction industry-related jobs may produce nearly 10,000 jobs during construction, according to

¹ Jacob Dearman, Ph.D., et al., *The Economic & Social Impact of Headquarters and Headquarter Relocations*, Steven C. Agee Economic Research and Policy Institute, https://cdn2.assets-servd.host/oklahomacity-university/production/business/docs/Economics-of-Headquarter-Cities-_Final-Draft.pdf.

some economic studies.² After construction, permanent employment will be created for port services, labor, transportation services, food and beverage suppliers and ancillary local purchases within Miami-Dade County. Additionally, the impact of indirect jobs touches several community-wide industries including aviation, hospitality, information technology, hotels, agriculture, manufacturing, and tourism, among others. Based on extrapolations from the 2017 PortMiami Economic Impact Study, the estimated total of permanent direct, indirect, and induced employment generated from these projects over and above RCG’s increased campus headquarters hiring for from these projects is 12,144.

This Board has previously recognized (e.g., Resolution No. R-381-21) that the cruise industry has economic impacts that extend well outside of a port’s boundaries. A study conducted by the Greater Miami Convention & Visitors Bureau revealed that, in 2019, there were approximately 1.7 million overnight cruise visitors in Miami, who spent a combined \$1.1 billion in the community on hotels, food and beverage, transportation, entertainment, and shopping. Further, the 2017 PortMiami Economic Impact Study revealed that the cruise industry had an estimated positive economic impact of approximately \$5.8 billion for Miami-Dade County, generating about \$190 million in state and local tax revenues.

Cruise Terminal Usage Agreement

The Cruise Terminal Usage Agreement will represent RCG’s largest annual minimum passenger commitment between any cruise line and any port worldwide. Compared to RCG’s existing agreement for the use of CTG (expiring in 2033), the Cruise Terminal Usage Agreement represents an additional \$2.5 billion in net funds for the County after debt service, incentive payments and deducting the net revenues of the current RCG CTG Agreement being replaced by this item.

Under the Cruise Terminal Usage Agreement, RCG’s MAG will range from 600,000 annual passenger movements during the development period, increasing to 1.5 million annual passenger movements after substantial completion of CTG, and reaching 2.1 million annual passenger movements from the 11th year of the term (substantial completion of Berth 10) through its conclusion. This represents a minimum passenger throughput guarantee of 73.7 million passengers, generating approximately \$3.6 billion in gross revenues to the County and \$2.7 billion in net revenues after debt service and incentives earned by RCG which is also \$2.5 billion in net revenues after deducting the current CTG Agreement. This commitment compares exceptionally favorably to the annual guaranteed revenues stipulated in the current agreement.

Coupled with RCG’s current commitment at Cruise Terminal A, upon the completion of CTG, RCG will guarantee PortMiami approximately 3.05 million annual passenger movements increasing to 3.65 million passenger movements annually during the term. This represents an increase of 66,350,000 guaranteed additional passenger movements and, RCG’s total annual passenger guarantee will reach a level that surpasses any other cruise line’s passenger guarantee at PortMiami by 62%.

² Economic Policy Institute Table of Construction Jobs per \$1 million of construction project expenditures with a 2.26 multiplier for indirect and induced employment

Without the expansion the Port will have limited capacity for RCG’s new vessels including its largest ever, the ICON class. Previously in 2009, when RCG launched its then largest ships, the Oasis class, the County did not have a usable berth for a vessel that size, and the Oasis class of ships sailed out of another South Florida port until CTA opened in FY 2019. When the Oasis arrived after CTA was opened, it generated an additional 1.7 million passenger movements in its first year.

Most favored Port

In addition, for a 5-year period following the substantial completion of CTG, RCG agrees that its MAG at PortMiami (on a per terminal basis) will be the largest revenue guarantee at any port with sailings into the Caribbean Basin. To the extent that RCG enters into an agreement with a higher MAG with another Florida port, then the MAG under our agreement will automatically adjust to the higher MAG.

Home Port Obligation

Furthermore, commencing upon the substantial completion of CTG, RCG has pledged to homeport at least one Oasis- or Icon-class vessel at PortMiami for at least 1 cruise season per year for a minimum of 7 cruise seasons during first ten years 10-year period. RCG will also homeport 1 or more new-builds at PortMiami, including the Icon of the Seas in January 2024, for deployment to the Caribbean market.

The new CTG, which will be constructed in accordance with the County’s Sustainable Buildings Ordinance, will include solar panel arrays, a multi-level shared parking garage with ground-level intermodal facility, connecting roadways, and a provisioning building which is necessary to accommodate RCG’s newer, state-of-the-art, larger Icon-class vessels capable of accommodating up to 7,000 cruise passengers. In contrast, the existing CTG is capable of accommodating vessels with capacities of approximately 4,000 passengers. The new CTG will occupy both the site of the existing CTG and PortMiami’s administrative building, which was constructed in 1963. PortMiami’s replacement administrative building will be in a location to be subsequently determined, possibly in the garage constructed in connection with the new CTG facility; during the construction of CTG, RCG will allow PortMiami to use office space within its PortMiami office towers or its downtown Miami office space.

In addition to granting RCG preferential berthing rights at the new CTG, the Cruise Terminal Usage Agreement provides for RCG’s usage of the Shared Terminal, which is currently under construction by MSC Miami Cruise Terminal LLC (“MMCT”) and Berth 10 (accessed through the Shared Terminal). Under the lease with MMCT for the Shared Terminal, the County is required to construct Berth 10 by October 31, 2028 and guarantees revenues to MMCT based on passenger throughput. RCG’s agreement to operate from the Shared Terminal and Berth 10 offsets the cost of the Berth 10 improvements and secures a source of passenger throughput to meet the County’s commitment under its lease with MMCT, the shared terminal operator.

Finally, the Cruise Terminal Usage Agreement provides that RCG agrees to use shore power in accordance with port-wide standards, reimburse the County for electrical charges, and pay any future fees established in the Port Tariff regarding the use of shore power at any current or future shore power capable berths.

Second Campus Lease Amendment to the Campus Lease

On May 7, 2019, the Board adopted R-520-19, approving the Campus Lease between the County and RCG. The Campus Lease provides for the development of a new state-of-the-art office campus to serve as RCG’s global headquarters, including renovations to existing buildings occupied by RCG. Under the Campus Lease, RCG committed to finance the development of those improvements (with limited County contributions) and to transfer ownership to the County immediately upon their completion. With that commitment RCG’s lease payments were set at a level that accommodated their financing of the campus improvements.

On May 15, 2020, to mitigate financial risks after the COVID-19 pandemic (which resulted in the global cessation of passenger cruising), RCG, after expending approximately \$70 million, suspended construction of the campus improvements. In July 2021, RCG notified the County of its intent to resume the campus improvements and requested an extension of deadlines in the Campus Lease that were impacted by the cessation. Accordingly, on July 19, 2022, the Board approved Resolution No. R-40-22, extending various deadlines under the Campus Lease.

RCG desires to resume construction of its global headquarters, consolidate its employment at PortMiami (Miami-Dade County), and provide space to complete its hiring program; however, with RCG prioritizing its new ship build program, and much of the growth coming to Miami-Dade County upon approval of the Cruise Terminal Usage Agreement, RCG has requested to reverse the financing role, with the County undertaking the financing of the campus improvements, subject to a maximum project amount of \$450 million. Under this arrangement, RCG will repay the County 100% of its outlay via a revised rent schedule reflecting a more typical owner-funded facility structure lease including coverage of owner’s debt service required in connection with such financing. In concert with the Second Campus Lease Amendment, RCG has agreed to the above-described Cruise Terminal Usage Agreement for CTG, Shared Terminal, and Berth 10.

Financing Contingency

Under the proposed Second Campus Lease Amendment, the County is responsible for financing the completion of the campus improvements via the issuance of Seaport revenue bonds or other mutually agreed financing mechanism up to a maximum of \$450 million. RCG is required to accept any financing proposal offered by the County that would result in lease payment increases of \$44 million per year over thirty years or less (“Financing Threshold”). Once the financing is agreed upon, the County will issue a financing confirmation notice, which will trigger the effectiveness of the Cruise Terminal Usage Agreement and set in motion the below-described Construction Agency Services Agreement, which provides for RCG’s supervision of the construction of the campus improvements.

If the County is unable to secure adequate financing for the campus improvements or if the financing exceeds the Financing Threshold, RCG can accept the higher amount or either (a) reduce the total financing amount and provide for bridge financing until alternative financing is secured or (b) suspend the project and renegotiate in good faith a further amendment to reflect the delay in financing without increasing the County’s exposure. If, however, the total anticipated costs of the project were to exceed the maximum project cost, RCG would have the option to either (a) descope the project in coordination with the Port or (b) fund all excess costs on its own. In any case, the projects will not

commence until the County is able to issue a financing confirmation notice, whereby the County confirms that it will secure the \$450 million necessary to finance the campus improvements on such terms in accordance with the Second Campus Lease Amendment.

Project Scope

As construction agent for the County, RCG will contract for the construction of the campus improvements, which include (a) constructing a new building and parking garage, various surface parking areas throughout the Campus, (b) performing enhancements and improvements to the 1050 Building and 1080 Building, and (c) developing other portions of the campus.

During redevelopment of CTG, which includes demolition of the existing PortMiami administration building, RCG will provide temporary office space for PortMiami personnel upon 90 days’ prior notice, but not earlier than January 2024, through and up to three years after CTG is constructed. This will provide PortMiami sufficient time to relocate, design, bid and construct its new office location. During such time when the County has possession of the temporary offices, RCG lease payments will be reduced.

Maximum Project Cost, Revised Rent Schedule and Payment Guarantee

The original Rent Schedule comprised lease payments in excess of \$311 million through the initial term, or \$430 million if both 5-year renewal options were exercised. Such schedule has been revised to include the County’s financing of the project, the capitalization of any interest that would otherwise be due under the financing during the development period, and any reserve requirements established as part of the financing arrangements. The updated rental schedule provides lease payments to cover 125% of these costs as shown in Exhibit 1 to the Lease.

As an additional guarantee, within 30 days of the Lease Term Commencement Date, RCG will deposit \$10 million as Pre-Paid Rent (or a letter of credit in the same amount), which shall be applied to the Campus Rent obligation commencing in the 11th year of the term or be used to cure any defaults. In addition, as a precaution against an unanticipated bankruptcy the Second Campus Lease Amendment provides that the initiation of bankruptcy (or similar) proceedings may, in the County’s option, result in an extension of the guarantees set forth in the Cruise Terminal Usage Agreement or result in the termination of both the Campus Lease and Cruise Terminal Usage Agreement accelerating the guaranteed receipt of cruise revenues.

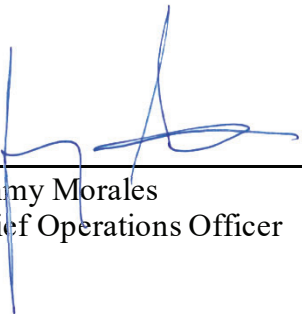
Maintenance Obligations and Credit

This Second Campus Lease Amendment also accounts for RCG taking over the maintenance responsibilities of all campus improvements, including the existing buildings, beginning July 1, 2023, instead of the current contractual date of April 1, 2033. In return, RCG will be entitled to receive an annual credit toward the Campus Rent in an amount equal to 100% of the actual annual cost of all maintenance and repair services, but not to exceed \$750,000 and subject to County review and approval of the applicable invoices. Starting on April 1, 2033, and continuing for the duration of the term, the annual credit shall be reduced to 50% of the actual annual cost of all maintenance and repair services provided by RCG, but not to exceed \$1 million. This obligation by RCG includes capital maintenance and replacements of building systems and infrastructure as needed over the life of the lease and relieves the County’s obligation for these future costs and services. When the lease ends

the building will be returned in good condition commensurate with a well-maintained building of similar age.

Transfer of Ownership

The Campus Lease is further amended to provide that the County shall own the Campus Improvements during construction as they are being financed by the County. On or before thirty (30) days from the Effective Date of this amendment, RCG shall transfer title to the existing campus improvements to the County, free and clear of any liens or any encumbrances of any kind whatsoever, and at no cost to the County.




Jimmy Morales
Chief Operations Officer



MEMORANDUM
(Revised)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: November 15, 2022

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 8(J)(4)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's present , 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(J)(4)
11-15-22

RESOLUTION NO. _____ R-1104-22

RESOLUTION APPROVING AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE AND EXERCISE ALL RIGHTS SET FORTH IN (1) THE SECOND AMENDMENT TO THE CAMPUS LEASE (SECOND AMENDMENT) BETWEEN MIAMI-DADE COUNTY (COUNTY) AND ROYAL CARIBBEAN CRUISES LTD. (RCG) WITH AN ESTIMATED NET FISCAL IMPACT OF \$260,000,000.00 IN FAVOR OF THE COUNTY, (2) THE CONSTRUCTION AGENCY SERVICES AGREEMENT BETWEEN THE COUNTY AND RCG WITH FISCAL IMPACT NOT TO EXCEED \$450,000,000.00, PLUS FINANCING COSTS AND CAPITALIZED INTEREST, AND (3) THE CRUISE TERMINAL USAGE AGREEMENT BETWEEN THE COUNTY AND RCG WITH AN ESTIMATED NET FISCAL IMPACT OF \$2,500,000,000.00 IN FAVOR OF THE COUNTY; WITH RESPECT TO THE SECOND AMENDMENT, DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO PROVIDE THE SECOND AMENDMENT TO THE PROPERTY APPRAISER'S OFFICE IN ACCORDANCE WITH RESOLUTION NO. R-791-14, TO PRESENT (UPON RCG'S CONCURRENCE WITH THE TERMS THEREOF) SUCH ORDINANCE(S) OR RESOLUTION(S) AS ARE NECESSARY TO FUND THE PROJECTS CONTEMPLATED IN THE SECOND AMENDMENT IN AN AMOUNT NOT TO EXCEED \$450,000,000.00, AND TO NEGOTIATE AND ENTER INTO AN AGREEMENT FOR THE COUNTY'S USE OF TEMPORARY OFFICE SPACE WITH BUILDINGS LEASED TO RCG; WITH RESPECT TO THE CONSTRUCTION AGENCY SERVICES AGREEMENT, WAIVING FORMAL BID PROCEDURES UNDER SECTION 5.03(D) OF THE HOME RULE CHARTER AND SECTION 2-8.1 OF THE CODE OF MIAMI-DADE COUNTY (CODE); WITH RESPECT TO THE CRUISE TERMINAL USAGE AGREEMENT, UPON THE ISSUANCE OF THE FINANCING CONFIRMATION, AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO TAKE ALL ACTIONS NECESSARY TO EFFECTUATE SAME, INCLUDING ENTRY INTO DESIGN-BUILD AGREEMENTS AT AN ESTIMATED COST OF \$325,000,000.00 WITH REIMBURSEMENT FROM RCG IN AN AMOUNT OF AT LEAST \$152,750,000.00, PLUS INTEREST AND COSTS, AUTHORIZING THE COUNTY MAYOR OR COUNTY

MAYOR'S DESIGNEE TO SOLICIT AND AWARD DESIGN-BUILD AGREEMENTS UNDER THE PORTMIAMI EXPEDITE AND ACCELERATION ORDINANCE IN SECTION 2-8.2-15 OF THE CODE, AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO NEGOTIATE AND EXECUTE AN AGREEMENT WITH UNITED STATES CUSTOMS AND BORDER PROTECTION FOR APPROXIMATELY \$2,000,000.00 FOR SECURITY EQUIPMENT; APPROVING WAIVER OF RESOLUTION R-130-06 WITH RESPECT TO ANY AGREEMENT FOR THE COUNTY'S USE OF TEMPORARY OFFICE SPACE; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO TAKE SUCH OTHER ACTS, WITHIN CERTAIN PARAMETERS, AS NECESSARY TO GIVE EFFECT TO THE AGREEMENTS CONTEMPLATED HEREIN

WHEREAS, Royal Caribbean Cruises, Ltd., d/b/a Royal Caribbean Group ("RCG") is an established passenger cruise line, and the second-largest cruise operating in the world, with 24 percent of the cruise market share and a growing fleet of 64 ships that travel to approximately 1,000 destinations worldwide; and

WHEREAS, in addition to its prominence as a passenger cruise line, RCG is one of the top-15 employers in Miami-Dade County, currently employing approximately 2,000 people, and employing 1,000 additional people after completion of the RCG headquarters office campus expansion improvements in jobs with average salaries exceeding \$100,000.00; and

WHEREAS, to that end, on May 7, 2019, the Board adopted Resolution No. R-520-19, approving and authorizing the County Mayor or County Mayor's designee to enter into the Campus Lease between the County and RCG, which provided for RCG's design, construction, financing, operation, and maintenance of new office structures at PortMiami that would serve as RCG's global and United States headquarters; and

WHEREAS, this Board has previously recognized the significant economic impact that the cruise industry has in Miami-Dade County; and

WHEREAS, for example, in Resolution No. R-381-21, the Board acknowledged, based on economic impact studies commissioned by the County, Greater Miami Convention & Visitors Bureau, and Cruise Lines International Association, that the cruise industry directly and indirectly supports many sectors of the local economy; and

WHEREAS, one such study showed that in 2019 there were approximately 1,700,000 overnight cruise visitors in Miami, who spent a combined \$1,100,000,000.00 in the community on hotel, food and beverage, transportation, entertainment, and shopping; and

WHEREAS, another study showed that, in 2017, the cruise industry at PortMiami alone generated 30,088 jobs, directly or indirectly, and that the cruise industry has had a positive economic impact of approximately \$5,800,000,000.00 for Miami-Dade County and generated about \$190,000,000.00 in state and local tax revenues; and

WHEREAS, before the Board are interrelated and interdependent transactions that would secure the future of RCG at PortMiami, promising unprecedented cruise passenger throughput at PortMiami that would exceed, on an annual basis, the best passenger throughput volumes that PortMiami experienced before the coronavirus disease 2019 pandemic; and

WHEREAS, key to RCG's agreement to produce such passenger throughput volumes is the County's agreement to pursue financing of the completion of improvements to the RCG headquarters office campus, which will allow RCG to focus its post-pandemic investment on an aggressive shipbuilding program; and

WHEREAS, as the transactions are structured, to the extent the County secures financing for the completion of the design and construction of the RCG headquarters office campus within the parameters set forth in the Second Amendment to the Campus Lease (the "Second Amendment"), the County will issue a Financing Confirmation notice, which will trigger the rights and obligations set forth in the Cruise Terminal Usage Agreement and Construction Agency Services Agreement; and

WHEREAS, this Board finds that these contemplated transactions, collectively, will further important public purposes, including (without limitation) by providing for the construction of County-owned improvements to PortMiami, enhancing the prestige of and civic pride in PortMiami as the “Cruise Capital of the World” both by providing for increased cruise passenger throughput and by securing its identity as the location of the headquarters of a major passenger cruise line, securing a long-term presence of RCG at PortMiami, providing high-paying jobs within Miami-Dade County, fostering the well-established economic benefits flowing from headquartering, and providing for the economic development spurred the cruise industry; and

WHEREAS, this Board desires to accomplish the purposes set forth in accompanying memorandum, which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board:

Section 1. Adopts as true and correct and incorporates herein the foregoing recitals and makes findings consistent therewith.

Section 2. Approves and authorizes the County Mayor or County Mayor’s designee to execute (a) the Second Amendment to the Campus Lease between the County and RCG, in substantially the form attached hereto as Exhibit A, with an estimated net fiscal impact of \$260,000,000.00 in favor of the County; (b) the Construction Agency Services Agreement between the County and RCG, in substantially the form attached to the Second Amendment as Exhibit 2, with a fiscal impact to the County that shall not exceed \$450,000,000.00 plus financing costs and capitalized interest; and (c) the Cruise Terminal Usage Agreement between the County and RCG,

in substantially the form attached hereto as Exhibit B, with an estimated net fiscal impact of \$2,500,000,000.00 in favor of the County. With respect to each of the Second Amendment, Construction Agency Services Agreement, and Cruise Terminal Usage Agreement, the Board authorizes the County Mayor or County Mayor's designee to exercise all rights contained therein, unless expressly reserved to the Board, including rights of extension and termination.

Section 3. With respect to the Second Amendment:

(a) Directs the County Mayor or County Mayor's designee to provide a copy of the Second Amendment to the Property Appraiser's Office in accordance with Resolution No. R-791-14.

(b) Directs the County Mayor or County Mayor's designee, upon RCG's concurrence with the terms thereof, to present such ordinance(s) or resolution(s) as are necessary for the issuance of the debt required to finance the projects contemplated in the Second Amendment. The County Mayor or County Mayor's designee is further authorized to issue the Financing Confirmation once the County Mayor or County Mayor's designee has raised sufficient funds, in an amount not to exceed \$450,000,000.00, for the design and construction of the project contemplated in the Second Amendment. Alternatively, if the County Mayor or County Mayor's designee is unsuccessful in raising sufficient funds as set forth in the preceding sentence, the County Mayor or County Mayor's designee is authorized to deliver notice of such occurrence to RCG.

(c) Authorizes the County Mayor or County Mayor's designee to negotiate and enter into an agreement for the use of temporary office space within one or more buildings leased to RCG; provided, however, that such agreement shall adhere to the parameters set forth in the Second Amendment.

Section 4. With respect to the Construction Agency Services Agreement, finds it in the best interest of the County to and hereby waives formal bid procedures under section 5.03(D) of the Home Rule Charter and section 2-8.1 of the Code of Miami-Dade County by a two-thirds vote of the Board members present to approve the Construction Agency Services Agreement between the County and RCG.

Section 5. With respect to the Cruise Terminal Usage Agreement, upon the issuance of the Financing Confirmation:

(a) Authorizes the County Mayor or County Mayor's designee to take all actions necessary to effectuate the Cruise Terminal Usage Agreement, including entry into a design-build agreement for the construction of the cruise terminals contemplated in the Cruise Terminal Usage Agreement, at an estimated cost to the County of \$325,000,000.00, with reimbursement from RCG in the amount of at least \$152,750,000.00, plus interest and costs;

(b) Authorizes the County Mayor or County Mayor's designee to solicit and award design-build agreements for improvements to Cruise Terminal G and Berth 10 pursuant to the PortMiami Expedite and Acceleration Ordinance in section 2-8.2.15 of the Code of Miami-Dade County, Florida; and

(c) Authorizes the County Mayor or County Mayor's designee to negotiate and execute an agreement with United States Customs and Border Protection ("CBP") for approximately \$2,000,000.00 for the reimbursement of CBP's costs in connection with security equipment (including services, maintenance, and recurring expenses) for Cruise Terminal G, consistent with similar agreements previously approved by the Board through Resolution Nos. R-910-21 and R-293-21; and

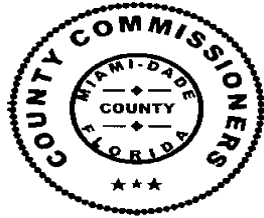
Section 6. Approves the waiver of Resolution No. R-130-06, with respect to the execution by all non-County parties of any agreement for the County’s use of temporary office space within building(s) leased to RCG.

Section 7. Authorizes the County Mayor or County Mayor’s designee to take any other acts as necessary to give effect to the agreements contemplated herein; provided, however, that such acts shall (1) be consistent with the disclosures in the memorandum and the delegations set forth in this resolution; (2) not put the County in any less favorable position, financially or otherwise, than that outlined in the accompanying memorandum, this resolution, and the agreements accompanying this resolution; (3) not contravene the policy, intent, or purpose of the Board as expressed in any of its legislative enactments; and (4) as applicable, be reduced to writing and subject to the approval of the County Attorney’s Office as to form and legal sufficiency.

The foregoing resolution was offered by Commissioner **Rebeca Sosa**, who moved its adoption. The motion was seconded by Commissioner **Oliver G. Gilbert, III** and upon being put to a vote, the vote was as follows:

	Jose “Pepe” Diaz, Chairman	aye	
	Oliver G. Gilbert, III, Vice-Chairman	aye	
Sen. René García	aye	Keon Hardemon	aye
Sally A. Heyman	aye	Danielle Cohen Higgins	aye
Eileen Higgins	aye	Kionne L. McGhee	aye
Jean Monestime	aye	Raquel A. Regalado	aye
Rebeca Sosa	aye	Sen. Javier D. Souto	absent

The Chairperson thereupon declared this resolution duly passed and adopted this 15th day of November, 2022. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this resolution and the filing of this approval with the Clerk of the Board.



MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: Basia Pruna
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

MAG

Miguel A. Gonzalez

Exhibit "A"

EXECUTION COPY

SECOND AMENDMENT TO CAMPUS LEASE

THIS SECOND AMENDMENT TO CAMPUS LEASE (the "Second Amendment") is entered into and effective as of November __, 2022 (the "Effective Date") by and between Miami-Dade County, a political subdivision of the State of Florida ("County"), and Royal Caribbean Cruises Ltd. (d/b/a Royal Caribbean Group), a Liberian corporation ("Lessee").

RECITALS

WHEREAS, County and Lessee are parties to that certain Campus Lease dated June 13, 2019 (approved through Resolution No. R-520-19) (the "Campus Lease"), as amended by that First Amendment to Campus Lease dated January 31, 2022 (approved through Resolution No. R-40-22) (the "First Amendment" and together with the Campus Lease, the "Lease") pursuant to which Lessee leases from County the Leased Premises located at 1050 and 1080 Caribbean Way, Miami, Florida, and Lessee and County committed to developing additional improvements for its global headquarters campus on the Leased Premises, defined in the Lease as the "Campus Improvements," including, but not limited to improvements to existing office buildings, a new office building and a new parking garage; and

WHEREAS, as a result of the global COVID-19 pandemic and its impacts, including restrictions on travel, closure of many ports globally, and significant economic and operational repercussions on the cruise industry, construction of the Campus Improvements was suspended as of May 15, 2020 (the "Project Suspension Date") by notice from Lessee to County dated April 3, 2020; and

WHEREAS, prior to the Project Suspension Date, Lessee commenced work on the Campus Improvements, such that as of the Effective Date of this Second Amendment, partial completed structures exist on the Premises and the 1040 Building has been fully demolished; and

WHEREAS, in July 2021, Lessee notified County of its intent to resume the Campus Improvements and sought an extension to certain timelines set forth in the Lease, resulting in the First Amendment, which extended the Completion Deadline to December 31, 2024; the Development Period Rent Adjustment Date to December 31, 2022, at the latest; the Lease Term Commencement Date to May 17, 2024; and the issuance of the Maintenance Credit to April 1, 2033; and

WHEREAS, Lessee subsequently requested that County undertake the financing of the New Campus Improvements, with Lessee agreeing to repay County's financing of the New Campus Improvements through a revised Rent Schedule that would reflect the cost of completing the New Campus Improvements, including additional debt service coverage required in connection with such financing; and

WHEREAS, in addition to providing for County's financing of the completion of the Campus Improvements, and amending the Lease in other respects, the Lessee desires to seek extensions of certain timelines set forth in the Lease, including extending the Completion Deadline, and the Lease Term Commencement Date; and

WHEREAS, the Lessee represents that it has, through competitive processes consistent with the competitive processes required under Florida law, identified architectural, engineering, and construction firms for the design and construction of the Campus Improvements, and County desires to engage Lessee to provide construction agency services for the design and construction of the Campus Improvements pursuant to that certain Agreement for Construction Agency Services by and between County and Lessee dated even date herewith (the “Construction Agency Services Agreement”); and

WHEREAS, County’s maximum investment in the Campus Improvements pursuant to the Campus Financing shall not exceed Four Hundred Fifty Million Dollars (\$450,000,000.00) (the “Maximum Project Cost”) exclusive of (i) the capitalization of any interest that would otherwise be due under the financing during the Development Period and (ii) any reserve requirements established as part of the financing arrangements, interest and other financing costs in an amount to meet bond covenant debt service coverage, if applicable; and

WHEREAS, in conjunction with and as partial consideration for entering into this Second Amendment, the Parties have agreed to an expansion of Lessee’s cruise business at PortMiami pursuant to that certain Cruise Terminal Usage Agreement for Cruise Terminal G, Shared Terminal, and Berth 10 dated even date herewith, providing for Lessee’s cost sharing in new PortMiami facilities, and which Cruise Terminal Usage Agreement will result in an additional 66,350,000 contractually obligated cruise passenger movements (through all extensions in such agreement) and generate additional economic benefits to the County from such cruise passenger movements, including additional employment in and stimulation of the tourism sector in Miami-Dade County, and other sectors of the economy that support the tourism sector and cruise industry generating great public benefit; and

WHEREAS, County and Lessee desire to enter into this Second Amendment in order to amend the Lease, as set forth below.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which being hereby acknowledged, County and Lessee agree to amend the Lease as follows:

TERMS AND CONDITIONS

1. **Recitals**. The Recitals are adopted as true and correct and incorporated into this Second Amendment.
2. **Application of Lease Terms**. Capitalized terms used in this Second Amendment and not defined herein shall have the meanings ascribed to them in the Lease.
3. **Definitions**. Exhibit A is hereby amended to provide for the following amended and restated definitions.

Campus Rent: shall be the rent payments due under this Campus Lease and shall encompass the rent payments due for Lessee’s use of Area 1 and Area 2. Campus Rent includes Area 1 Rent, Area 2 Rent, and Area 2 Additional Rent. The obligation to pay Campus Rent (including each of its subcomponents) under this Campus Lease, shall be in accordance with the terms of this Campus Lease and Exhibit 1 to

this Second Amendment. The subcomponents of Campus Rent are not severable and the failure to pay any subcomponent of Campus Rent shall constitute a failure to pay Campus Rent, subject to the rights and remedies provided in the Campus Lease as amended through this Second Amendment.

Completion Deadline: October 31, 2026, which date shall be extended on a day-by-day basis for each day after the Financing Deadline that a failure or delay in obtaining funding for the New Campus Improvements creates a delay on the critical path of the design or construction of the New Campus Improvements.

Construction Agency Services Agreement: shall mean that certain Agreement for Construction Agency Services by and between County and Lessee dated as of the effective date of the Second Amendment in substantially the form attached hereto as Exhibit 2.

Development Period: the period commencing on the Effective Date and running through the day prior to the Lease Term Commencement Date, including both the First Development Period and the Second Development Period.

Lease Term Commencement Date: shall mean the earlier of (1) the date of Substantial Completion and (2) June 30, 2026, which date shall be extended on a day-by-day basis for each day after the Financing Deadline that a failure or delay in obtaining funding for the New Campus Improvements creates a delay on the critical path of the design or construction of the New Campus Improvements.

Maintenance Credit: the annual maintenance credit provided by County to Lessee, as more particularly described in Section 16.2(b).

View Corridor: the existing views of the downtown Miami skyline to the south, west, and southwest from the Buildings depicted in **Exhibit K**. The View Corridor shall not be construed to prohibit the construction of permanent, vertical structures in areas outside of the darkened boundary line depicted in **Exhibit K**.

The following definitions are hereby added to Exhibit A:

Area 1: shall mean that portion of the Campus leased by the Lessee during the Development Period, consisting of the 1050 Building, 1080 Building, and certain portions of the 1050 Property and 1080 Property, as more particularly described on Exhibit 3 to the Second Amendment.

Area 1 Rent: shall mean that portion of the Campus Rent that is due, in accordance with Exhibit 1 to this Second Amendment, for Lessee's use of Area 1.

Area 2: shall mean that portion of the Campus leased by the Lessee as of the Lease Term Commencement Date, consisting of the New Building, New Parking Garage, certain portions of the 1050 Property and 1080 Property, and the Expansion Property, as more particularly described on Exhibit 4 to the Second Amendment.

Area 2 Rent: shall mean that portion of the Campus Rent that is due, in accordance with Exhibit 1 to this Second Amendment, for Lessee's use of Area 2.

Area 2 Additional Rent: shall mean that portion of the Campus Rent that is due, in connection with the Campus Financing in accordance with Exhibit 1 to this Second Amendment, from the Lease Term Commencement Date through the conclusion of the thirtieth (30th) rent year following the Lease Term Commencement Date.

Campus Financing: shall mean the mutually agreed County-arranged financing through Seaport revenue bonds or other allowable financing mechanism to fund completion of the New Campus Improvements as agreed by County and Lessee per Section 21 of this Second Amendment.

Campus Financing Adjustment: shall mean a one-time adjustment in the Rent Schedule to accurately reflect the debt service payment requirements under the Campus Financing once the Campus Financing is finalized.

Capital Expenses: shall mean all expenditures made for extensions, additions, improvements, renewals, and replacements (other than ordinary maintenance and repairs) acquired, constructed, or installed for the purpose of preserving, extending, increasing, or improving the service rendered by PortMiami or for reducing the cost of operation of the Project, and shall include the cost of purchasing and installing such equipment and appurtenances as may be necessary to meet the demands upon the Seaport Department; it shall include the acquisition of such lands and rights-of-way and such engineering, legal, and administrative expenses as may be required in connection with the foregoing.

County Temporary Office Space: shall mean the combination of temporary office space in the 1050 Building, 1080 Building, or Lessee's office space in downtown Miami to be utilized by County as more particularly described in Section 24 to the Second Amendment.

Existing Campus Improvements: shall mean the Campus Improvements developed and constructed by Lessee as of the Effective Date of the Second Amendment, pursuant to the Campus Lease. For clarity, the Existing Campus Improvements excludes the Existing Buildings and consists of the partially constructed New Building and New Parking Garage.

Financing Confirmation: shall mean the irrevocable written notice issued by County to Lessee certifying that the County has raised sufficient funds in the amount of the Maximum Project Cost for the purpose of performing the development and construction of the New Campus Improvements.

Financing Deadline: shall mean July 1, 2023, as may be extended by the agreement of the Parties, which extensions cannot be unreasonably conditioned, withheld, or denied.

Financing Threshold: shall mean that the Campus Financing would lead to Area 2

Additional Rent after the Campus Financing Adjustment in an amount not to exceed Forty-Four Million Dollars (\$44,000,000) based on a 30-year repayment term.

Future Improvements: shall mean those Campus Improvements that may, at Lessee's option and in accordance with the Construction Services Agency Agreement, be developed at a date later than the Completion Deadline. The Future Improvements are more particularly described in Exhibit I to the Construction Services Agency Agreement. County shall not be required to expend more than the Maximum Project Cost, inclusive of both the Campus Improvements and Future Improvements, and any overruns beyond the Maximum Project Cost shall be borne exclusively by the Lessee.

First Development Period: shall mean the development period between the Effective Date of the Campus Lease and the Project Suspension Date.

Letter of Credit: shall have the meaning set forth in Section 9 of this Second Amendment to the Campus Lease.

Maximum Project Cost: shall mean Four Hundred Fifty Million Dollars (\$450,000,000), including (i) Existing Building Capital Improvements exceeding County's obligation to pay the first Eleven Million Five Hundred Thousand (\$11,500,000) but not to exceed Thirty Million Dollars (\$30,000,000), (ii) Future Improvements, and (iii) all hard and soft costs, contingency allowance, and costs of complying with applicable County programs, but exclusive of the capitalization of any interest that would otherwise be due under the financing during the Development Period and any reserve requirements established as part of the financing arrangement(s), interest, and other financing costs in an amount to meet bond covenant debt service coverage, if applicable.

New Campus Improvements: shall mean the Campus Improvements developed and constructed by Lessee as construction agent on behalf of County in accordance with Construction Agency Services Agreement, after the Effective Date of the Second Amendment.

Pre-Paid Rent: shall mean the pre-paid rent as more particularly described in Section 9 of this Second Amendment.

Project Suspension Date: shall mean May 15, 2020.

Second Development Period: shall mean the development period between the Effective Date of the Second Amendment and the day before the Lease Term Commencement Date.

The following definitions are hereby deleted from Exhibit A: Development Period Rent Adjustment Date, Exclusive Negotiation Period, Lessee's First Right of Negotiation, and Maintenance SLA.

4. Grant of Leasehold. Section 3 of the Lease is hereby amended to provide that during

the Second Development Period, Lessee shall only have a leasehold interest in Area 1. Commencing on the Lease Term Commencement Date, Lessee's leasehold interest shall consist of the entire Campus including both Area 1 and Area 2.

5. Renewal of Representations of Lessee and County. Each of the representations set forth in Sections 5 and 6 of the Campus Lease are hereby renewed and incorporated herein. In addition, the following representations by Lessee in favor of County are hereby inserted into Section 5.1:

g. Lessee and Lessee's design and construction professionals have designed and constructed the Existing Campus Improvements in a manner that meets or exceeds all Applicable Laws (including applicable building codes); equals or exceeds the quality of the existing office buildings and parking garages at the Port; and (to the extent applicable as of the Effective Date of the Second Amendment) incorporates high quality interior finishes, exterior finishes, mechanical, plumbing, and electrical systems.

h. Lessee has no actual or constructive knowledge of patent or latent defects concerning the Existing Campus Improvements or of environmental or subsurface conditions adversely affecting the integrity of the Existing Campus Improvements or the constructability of the New Campus Improvements within the Maximum Project Cost.

i. Lessee has selected or will select the design and construction professionals with which Lessee will contract for the completion of the New Campus Improvements in a manner that is consistent with the competitive selection processes set forth in Applicable Law.

j. Lessee has no actual or constructive knowledge of encumbrances on County's title to the Premises as a result of the design or construction of the Existing Campus Improvements or of threatened or asserted claims, demands, or legal proceedings arising out of the design or construction of the Existing Campus Improvements.

k. Lessee has no actual or constructive knowledge of defects or deficiencies, of any kind, in the Plans and Specifications for the New Buildings that would result in a claim for additional compensation from the General Contractor.

l. Prior to the Project Suspension Date, Lessee received no claims from the predecessor to the General Contractor seeking additional compensation based on defects or deficiencies with the Plans or Specifications for the New Buildings, unforeseen site conditions, or any other matter for which the General Contractor was entitled to additional compensation other than an extension of the deadline for Substantial Completion.

m. Lessee has no actual or constructive knowledge of Harmful Substances on or about the Project Site.

n. Lessee has solicited proposals from General Contractors and obtained responsible bids providing that the Project may be completed, consistent with the Conceptual Plans and any developed Plans and Specifications, within the Project Price of Four Hundred Fifty Million Dollars (\$450,000,000.00).

6. Development of Campus. Section 9 of the Lease is hereby amended and restated as follows:

9. Development of Campus.

During the Second Development Period, Lessee, as construction agent for County, shall contract for the construction of the Campus Improvements, including, without limitation, (i) constructing the New Building in approximately the location shown on the Plans and Specifications, (ii) constructing the New Parking Garage in approximately the location shown on the Plans and Specifications, (iii) constructing various surface parking areas throughout the Campus, and (iv) otherwise developing other portions of the Campus, all as more particularly described herein and in accordance with the Construction Agency Services Agreement, incorporated as Exhibit 2. County hereby approves of the Campus Improvements, subject to the following: (i) the terms and conditions of this Lease, (ii) the terms and conditions of the Construction Agency Agreement, and (iii) Lessee's compliance with all Applicable Laws.

7. Rent Schedule. The Rent Schedule attached hereto as Exhibit 1 shall replace the Rent Schedule attached to the Lease as Exhibit C.

8. Rents. Section 10.1 of the Lease is hereby amended and restated as follows:

10.1 Campus Rent. Commencing on the Effective Date and throughout the Term, Lessee shall pay to County the Campus Rent, plus any applicable sales tax, in accordance with the Campus Rent Schedule that is attached hereto as **Exhibit 1** to the Second Amendment. The Parties agree to review and update the Campus Rent Schedule with respect to Area 2 Additional Rent as required after the Campus Financing Adjustment is determined.

A. Reserved.

b. Commencing on the Effective Date until the Lease Term Commencement Date, Lessee shall pay Campus Rent to County in the annual amount set forth in the Campus Rent Schedule, subject to annual adjustments pursuant to Section 10.2(a) below. In the event payment of rent under this Section 10.1(b) occurs in the middle of a monthly payment period, the last month's rent shall be prorated accordingly.

c. Commencing on the Lease Term Commencement Date, Lessee shall pay Campus Rent to County in the amount set forth in the Campus Rent Schedule, subject to (i) the Campus Financing Adjustment, and (ii) annual adjustments pursuant to Section 10.2 below. If the last month of the Term is less than a complete

month, the last month's rent shall be prorated accordingly.

9. Pre-Paid Rent. Within thirty (30) days of the Lease Term Commencement Date, Lessee shall deposit with County as pre-paid rent the sum of Ten Million Dollars (\$10,000,000) (the "Pre-Paid Rent"). To the extent the Pre-Paid Rent is not utilized to offset a default of the Lessee under this Lease, the Pre-Paid Rent shall be applied to the Campus Rent obligation commencing in the eleventh (11th) year of the Term. To the extent the Pre-Paid Rent is utilized to offset a default of the Lessee under this Lease, the Lessee shall be required to replenish any amounts utilized by County within thirty (30) days of County's issuance of a written demand therefor, and the Pre-Paid Rent shall be retained by County until such time as Area 2 Additional Rent is no longer due in accordance with Exhibit 1.

In lieu of delivery of cash as the Pre-Paid Rent, Lessee may deliver to County an irrevocable letter of credit in favor of County in the amount of Ten Million Dollars (\$10,000,000), issued by a banking institution mutually acceptable to the Parties (the "Letter of Credit"). The form and terms of the Letter of Credit shall be subject to the prior approval of County. Such Letter of Credit shall continue for a duration of no less than ten (10) years from the date of issuance; provided, however, that Lessee may provide County with a Letter of Credit with a shorter duration than ten (10) years and Lessee shall thereafter have the obligation to provide County with either cash or a replacement Letter of Credit prior to the expiration date of the Letter of Credit held by County. In addition to any and all other remedies available to it, County shall have the right, after the occurrence of a default of the Lessee under this Lease, at its option at any time and from time to time, with or without notice, to draw upon the Letter of Credit in whole or partial satisfaction of such default. To the extent County draws upon the Letter of Credit to offset a default of the Lessee under this Lease, the Lessee shall be required to post a replacement letter of credit for the full amount of the Pre-Paid Rent within thirty (30) days of County's issuance of a written demand therefor, and such Letter of Credit shall continue in place until such time as Campus Rent for Area 2 is no longer due in accordance with Exhibit 1. County shall return the Letter of Credit to Lessee within thirty (30) days after the date on which the Tenant is no longer required to post a Letter of Credit as set forth above.

10. County's Title: Sections 12.1 and 12.2 are hereby amended and restated as follows:

12.1 Permitted Exceptions. County represents and warrants as a condition of this Lease that it possesses fee simple title to the Land and the Campus subject to no encumbrances other than the Permitted Exceptions that are attached hereto as **Exhibit F**, all of which have been approved by Lessee prior to the Effective Date of the Second Amendment; that it is authorized to make this Lease for the Term hereof; that the provisions of this Lease do not and will not conflict with or violate any of the provisions of existing agreements between County and any third party; that Lessee shall be entitled to use the Campus for the purposes described in Section 7 of this Lease upon the issuance of one or more certificates of occupancy; and that County will deliver the Campus free of all lessees and occupants (except as herein provided) and claims thereto.

12.2 Transfer of Ownership. On or before the date thirty (30) days from the Effective Date of the Second Amendment, Lessee shall transfer fee simple title

to the Existing Campus Improvements to County, free and clear of any liens or any encumbrances of any kind whatsoever, in a form reasonably acceptable to County. Upon transfer of the Existing Campus Improvements to County, Lessee shall be credited with a pre-paid contribution in an amount equal to the book value of the Existing Campus Improvements. Such contribution shall not impact the Campus Rent Schedule set forth on Exhibit 1.

11. Utilities: Section 15.2 is hereby amended and restated as follows:

15.2 Payment for Utilities. For the period between the Effective Date and the Lease Term Commencement Date: (i) County shall pay for the cost of the Utilities for the 1050 Building and 1080 Building, and (ii) Lessee shall pay for the cost of the Utilities for all other portions of the Campus (including the Innovation Lab). After the Lease Term Commencement Date, Lessee shall be responsible for the payment of all Utilities on the Campus.

12. Maintenance. Section 16.1, Section 16.2, and Section 16.3 are hereby amended and restated as follows, which amended provisions shall survive the termination of this Second Amendment and shall be deemed incorporated into the Lease (so long as the Lease has not otherwise been terminated):

16.1 County Maintenance Responsibilities. Subject to the limitations set forth in Section 768.28, Fla. Stat., County shall be responsible, at its sole cost and expense, for all maintenance, replacement, and repair to the Campus Improvements due to the acts, omissions, neglect, negligence, or willful misconduct of County, its employees, agents, or contractors. Until July 1, 2023, at its sole cost and expense, for the repair and maintenance of: (i) the currently existing Structure of the Existing Buildings including, without limitation, (a) the foundation and foundation systems; (b) the roof system, including, without limitation, the roof drainage system; (c) beams and columns, load bearing or otherwise exterior walls; (d) all utility and plumbing lines, cables, and pipes on the Campus as of the Effective Date; and (e) the Premises Service Systems for the Existing Buildings; and (ii) all maintenance and repair (including sweeping, striping and standing water removal) necessary to maintain all driveways, sidewalks, street and parking areas in a clean, safe, sightly, and serviceable condition.

16.2 Lessee Maintenance Responsibilities

a. In addition to the maintenance and repair, including landscaping and janitorial, obligations of Lessee under the Campus Lease, beginning on July 1, 2023, Lessee shall be responsible, at its sole cost and expense, for the maintenance and repair, including landscaping and janitorial and cleaning services of all Campus Improvements, including the Existing Buildings and all future elements of the Campus Improvements as they are constructed. Lessee's maintenance responsibilities hereunder shall include the repair and maintenance, at its sole cost and expense, of: (i) the currently existing Structure of the Existing Buildings including, without limitation, (a) the foundation and foundation systems; (b) the

roof system, including, without limitation, the roof drainage system; (c) beams and columns, load bearing or otherwise exterior walls; (d) all utility and plumbing lines, cables, and pipes on the Campus as of the Effective Date; and (e) the Premises Service Systems for the Existing Buildings; (ii) all maintenance and repair (including sweeping, striping and standing water removal) necessary to maintain all driveways, sidewalks, street and parking areas in a clean, safe, sightly, and serviceable condition; and (iii) all maintenance, replacement and repair due to the acts, omissions, neglect, negligence or willful misconduct of Lessee, its employees, agents, or contractors. Lessee's maintenance responsibilities shall specifically include, as to all Campus Improvements, the periodic recertifications required by Applicable Law (e.g., 30- and 40-year recertifications).

b. For its maintenance of the Campus Improvements as provided in Section 16.2, Lessee shall receive an annual credit toward the Campus Rent in an amount equal to one hundred percent (100%) of the actual annual cost of all maintenance and repair services provided by Lessee the preceding year, but not to exceed Seven Hundred Fifty Thousand Dollars (\$750,000) and subject to County review and approval of the applicable invoices. Commencing on April 1, 2033, and continuing for the duration of the Term, Lessee shall receive an annual credit toward the Campus Rent in an amount equal to fifty percent (50%) of the actual annual cost of all maintenance and repair services provided by Lessee over the preceding year (e.g. from April 1, 2032 through March 31, 2033), not to exceed One Million Dollars (\$1,000,000) (together with the credit provided under the preceding sentence, the "**Maintenance Credit**"). Notwithstanding the foregoing, the Maintenance Credit shall not apply to any maintenance or repair services provided by Lessee for the Campus Improvements, other than those provided for the 1050 Building and 1080 Building.

16.3 Maintenance Level of Service. Any maintenance and repair services required to be provided hereunder shall be performed on a continual basis and as soon as reasonably possible following the other Party's notice regarding the need for same. Lessee shall maintain the Existing Buildings and Campus Improvements (as applicable) in good order, condition, and repair, reasonable wear and tear excepted. Each Party may contract, in accordance with Applicable Law (including those provisions stipulating the wages to be paid for such services), with third parties to perform its required maintenance and repairs pursuant to this Lease.

13. Proceeds of Casualty Termination. Section 17.5 of the Campus Lease is hereby amended and restated as follows:

17.5 Proceeds of Casualty Termination. In the event of a Casualty termination, the net proceeds of insurance procured by Lessee pursuant to Section 40 of this Lease and covering such damage or destruction shall be paid to County.

14. Waiver of Lien. Section 20.3 of the Campus Lease is deleted.

15. Indemnity Regarding Existing Campus Improvements. In addition to the indemnity

provided under the Construction Agency Services Agreement, with respect to those Campus Improvements constructed by Lessee before the Effective Date of the Second Amendment and pursuant to the Development Rider accompanying the Campus Lease, Lessee agrees to indemnify, defend, and hold County harmless from and against any loss, cost, damage, claim, liability, and expense (including reasonable attorneys' fees and disbursements) resulting from or arising out of any (i) breach of the representations set forth in Section 5.1; and (ii) defects, of any degree of severity, in the construction of such structures. This section shall survive the expiration or earlier termination of the Campus Lease, as amended.

16. Notices. Section 25 of the Lease is hereby amended to provide that notice to Lessee shall be provided to the attention of EVP, Shared Services Operations.

17. Shared Garage. Section 26.3 of the Campus Lease is hereby amended and restated as follows, which amended provision shall survive the termination of this Second Amendment and shall be deemed incorporated into the Lease (so long as the Lease has not been otherwise terminated):

26.3 Shared Garage. In addition to Lessee's right to exclusively use one thousand (1,000) spaces in the Shared Garage until the expiration of the Campus Lease, from the Effective Date of the Second Amendment through the date on which a temporary certificate of occupancy is received for the New Parking Garage, Lessee shall pay for five hundred (500) parking spaces at the open ground rate established in Port Tariff No. 010 (calculated based on 153 square feet per space), as may be amended from time to time. Thereafter, Lessee shall be required to pay for its use of parking spaces in the Shared Garage at the parking rate established in Port Tariff No. 010 of \$5.25 per square foot as may be amended from time to time. To the extent Lessee requires spaces in addition to the 500 spaces provided herein and County confirms the availability of those spaces, Lessee shall pay for such spaces at the open ground rate established in Port Tariff No. 010.

18. Default.

(a) Default by Lessee. Section 30.1(2) of the Campus Lease is hereby amended and restated as follows:

(2) if Lessee shall materially default in the performance or observance of any of its other covenants or obligations set forth in this Lease, and if such default shall continue for thirty (30) days after notice thereof from County specifying in what manner Lessee has defaulted (except that if such default cannot by its nature be cured within said thirty (30) day period, this period shall be extended for a reasonable additional time, to be determined in the County's reasonable discretion, provided that Lessee commences to cure such default within the thirty (30) day period and proceeds diligently thereafter to effect such cure), County may, subject to Section 30.1(3) below, but only during the pendency of any such default or upon expiration of any applicable cure period, elect one or more of the following remedies:

a. Cure such default and any costs and expenses incurred by County therefore shall be paid within forty-five (45) days of Lessee's receipt of an invoice therefore. In curing such default, County may utilize the Pre-Paid Rent; and

b. Lawfully and subject to Applicable Laws, enter the Campus and repossess the same as the former estate of County and expel Lessee and those claiming under Lessee without being deemed guilty of any manner of trespass and without prejudice to any other remedies which County may have for arrears of Campus Rent or preceding breach of covenant. Upon entry as aforesaid, this Lease shall terminate and Lessee covenants that in case of such termination it shall pay (i) the remaining Campus Rent for Area 2 Additional Rent as set forth in the Campus Rent Schedule, and (ii) Area 1 Rent and Area 2 Rent for a period of two (2) years from the date of termination of the Lease pursuant to this Section 30.1.

c. In the event that the Financing Confirmation has been provided and Lessee is thereafter adjudicated bankrupt, or if Lessee shall make a general assignment for the benefit of creditors, or if any proceedings based upon the insolvency of Lessee are commenced and not dismissed within sixty (60) days of filing or a receiver is appointed for all of the property of Lessee which proceeding is not dismissed within sixty (60) days of such appointment, then:

(i) County may declare, without the requirement that Lessee assent thereto, that each of the three (3) additional periods of seven (7) years each set forth in Section 1.03(b) of the Cruise Terminal Usage Agreement for Cruise Terminal G, Shared Terminal, and Berth 10 have been exercised; or

(ii) In the alternative to the remedy set forth in Section 30.1(2)(c)(i), County may declare that the Lessee has defaulted under the Cruise Terminal Usage Agreement for Cruise Terminal G, Shared Terminal, and Berth 10 and terminate such agreement. In such event, and notwithstanding anything to the contrary in the Cruise Terminal Usage Agreement, the County shall not be required to provide any additional opportunities to cure the default.

(b) Default by County. Section 30.3(b) of the Campus Lease is hereby amended and restated as follows:

b. Lessee's Remedies. If Lessee declares an event of default (excluding those defaults which result in Lessee losing access to all or a material portion of the Campus), Lessee may (1) withhold payment of Area 1 Rent and Area 2 Rent due and to accrue hereunder (to the extent necessary to cover the costs estimated by Lessee to cure such default) so long as County remains in default, or (2) cure such default and invoice County for costs and expenses (including reasonable attorneys' fees and court costs) incurred by

Lessee therefor. If County does not reimburse Lessee within thirty (30) days after it receives Lessee's invoice, Lessee may deduct all such costs and expenses from the Area 1 Rent and Area 2 Rent due and to become due hereunder plus interest at the statutory rate established by the Florida Chief Financial Officer. For such events of default (without Lessee loss of access to a material portion of the Campus), Lessee shall not be entitled to reduce or offset Area 2 Additional Rent, which shall be due without reduction in the manner set forth in the Campus Rent Schedule.

If Lessee declares an event of default as a result of County preventing Lessee from using all or a material portion of the Campus, then Lessee shall be entitled to a pro rata reduction in the Area 1 Rent (to the extent the County's actions impact Area 1) or Area 2 Rent (to the extent the County's actions impact Area 2), as applicable, until County restores Lessee's access to the respective Area(s). The amount of reduction shall be calculated on the same basis as the calculation of Area 1 Rent and Area 2 Rent. If the County fails to restore Lessee's access to the material portions of the Campus within ninety (90) days, then Lessee shall be entitled to terminate the Campus Lease (as amended) and no further payments of Area 1 Rent, Area 2 Rent, or Area 2 Additional Rent shall be due from Lessee to County.

19. Exclusive Negotiation Period and Right of First Offer. Sections 55.1 and 55.2 of the Lease are hereby deleted in their entirety.

20. Development Rider. The Construction Agency Services Agreement attached hereto as Exhibit 2 shall replace the Development Rider attached to the Lease as Exhibit D.

21. Campus Financing. Prior to the expiration of the Financing Deadline, County shall be solely responsible for obtaining the Campus Financing for the New Campus Improvements.

(a) County's Financing Rights. County agrees to reasonably pursue financing for the New Campus Improvements in accordance with Applicable Laws, as determined in the sole discretion of County, and County's sole judgment regarding the cost, benefit, and risks (of any kind) to County of the financing options considered by County. County does not hereby make representations regarding the characteristics or availability of financing for the New Campus Improvements, and County's sole obligation hereby shall be to make inquiries regarding financing and to present financing options (subject to the preceding sentence) to Lessee. With respect to any financing options presented by County to Lessee, the timing and terms of the Campus Financing (including tenor, amortization profile, callability, capitalized interest, debt reserves, etc.) shall be mutually agreed by the Parties with Lessee final approval, which Lessee may not unreasonably withhold, condition, or delay and which Lessee shall not withhold, condition, or delay if the Campus Financing offered by the County meets the Financing Threshold. County may, if required by Applicable Laws, limit the Campus Financing to Capital Expenses, and as a result any deficit between the Campus Financing obtained by County and the cost of the New Campus Improvements shall be funded through an alternative financing source mutually agreed by the Parties. In the event County does not obtain the Campus Financing in an amount sufficient to fund the design and construction of

the capital components of the New Campus Improvements up to the Maximum Project Cost, on terms mutually acceptable to the Parties, on or before the Financing Deadline, County shall provide written notice to Lessee and the Parties shall promptly meet in order to discuss alternate arrangements for the resumption of the construction of the New Campus Improvements. If, after such discussions, the Parties are unable to arrive at an acceptable resolution as determined by the County in its reasonable discretion, the County shall provide written notice to Lessee and Lessee shall then have the rights set forth in Section 21(b). Within thirty (30) days of the County's written notification to Lessee under the preceding sentence, Lessee shall notify County of its election under Section 21(b).

- (b) Lessee Options Upon Failure to Obtain Campus Financing. In the event County provides Lessee with written notice of the failure to obtain Campus Financing pursuant to Section 21(a), Lessee shall have the right to elect one of the following options:
- (1) If County is able to obtain the Campus Financing, but it is on terms that Lessee previously rejected under Section 21(a), Lessee may request that County reduce the total financing amount to provide for bridge financing until alternative financing is obtained, subject to the Parties agreeing to a further amendment to the Campus Lease, at a minimum, to provide for Lessee's repayment of the bridge financing, with costs and interest; or
 - (2) If Lessee is able to obtain alternative financing in an amount sufficient to complete the New Campus Improvements, Lessee may terminate this Second Amendment and the Parties shall revert to their obligations under the Campus Lease, as amended through the First Amendment, and the Parties will negotiate in good faith a further amendment to the Lease to reflect the new financing structure and updated completion timelines;
 - (3) Lessee may choose to further suspend the Project and the Parties will negotiate in good faith a further amendment to the Lease to reflect the delay in obtaining financing; provided, however, that such amendment shall be limited to reasonable postponements of the timelines associated with the completion of the New Campus Improvements (as in the First Amendment); or
 - (4) Accept the financing offered by the County, in which case the Financing Confirmation shall be deemed to have been delivered to Lessee.

22. Subleases and Licenses. Section 23.2 of the Campus Lease is hereby amended and restated as follows:

23.2 Subleases and Licenses. With respect to the Existing Buildings, Lessee shall be entitled to sublease and license any portion of the Existing Buildings during the Term without the prior consent of County. With respect to the New Campus Improvements or any other portion of the Campus that is constructed or

improved utilizing the Campus Funding, Lessee shall not be entitled to sublease and license any such portion of the Campus or New Campus Improvements without the prior written consent of County, which will not be unreasonably withheld, conditioned, or delayed. In either case, any subleases and licenses must comply with Applicable Laws and, with respect to any such subleases and licenses, Lessee shall require the subtenants or licensees to comply with Applicable Laws, including, without limitation, all deed and title restrictions.

23. Leasehold Financing. Notwithstanding anything to the contrary in the Campus Lease and provided that County obtains the Campus Financing, Lessee shall not be entitled to secure any past, present, or future debt utilizing either the Land, Campus Improvements, or Lessee's Property Interest, unless County, in its sole and exclusive discretion (notwithstanding Section 47 of the Campus Lease), provides its written consent thereto. Such consent shall not be unreasonably withheld to the extent that the financing is secured for the purpose of making improvements to the Campus.

24. County Temporary Use of Portion of Existing Buildings.

(a) Temporary Office Space. Except as set forth in this Section 24 and as otherwise expressly provided in this Lease, Lessee shall have exclusive possession of the Campus. Upon the receipt of at least ninety (90) days' written notice from the County to Lessee, through the substantial completion of the Port's new offices, which shall, in no event, exceed three (3) years from the Substantial Completion of the Cruise Terminal G Improvements (as defined in the Cruise Terminal Usage Agreement for Cruise Terminal G, Shared Terminal, and Berth 10), Lessee shall provide County with exclusive use of approximately 25,000 square feet of usable office space in either the 1050 Building, 1080 Building, or partially in Lessee's office space in downtown Miami, which Lessee shall leave furnished but unoccupied (the "County Temporary Office Space"); provided, however, that regardless of when County issues its written notice, County shall not be entitled to occupy the County Temporary Office Space before January 2, 2024. To the extent any improvements and/or modifications are required to be made the 1050 Building or 1080 Building in order to accommodate County's use of the County Temporary Office Space as office space for the Port (i.e., separate entrance, signage, wayfinding), such improvements and/or modifications shall be (1) at County's sole cost and expense, and (2) approved by Lessee which approval will not be unreasonably withheld, conditioned, or delayed. Prior to the date County takes occupation of the County Temporary Office Space, the Parties agree to enter into an "Office Use Agreement" that shall detail each Party's rights, responsibilities, and obligations with respect to the County Temporary Office Space; provided, however, that (1) such Office Use Agreement shall be limited to ensuring that the County refrain from committing waste upon the County Temporary Office Space, reasonable wear and tear excepted; (2) such Office Use Agreement shall not require the County to make payments to Lessee, except to the extent that County fails to repair any damage (other than reasonable wear and tear) caused by County during its possession of the County Temporary Office Space and such work is undertaken by Lessee, in which case County shall only be required to reimburse Lessee its actual cost for such repairs; (3) such Office Use Agreement shall not obligate the County to incur any expense on account of Lessee; and (4) failure of the Parties to execute the Office Use Agreement shall not prevent County from taking possession of the County Temporary Office Space on the date specified herein. County shall turn over possession of the County Temporary Office Space to Lessee within sixty (60) days of the

substantial completion of the Port's new offices, in substantially similar condition to that existing on the date County took possession of the County Temporary Office Space, except for ordinary wear and tear. During the period that County has possession of the County Temporary Office Space, Rent shall be reduced on a pro rata basis based upon the square footage of the County Temporary Office Space, calculated on the same basis as Area 1 and Area 2 Rent. If the new Cruise Terminal G Usage Agreement has become effective, the County's right to use the County Temporary Office Space in accordance with this Section 24(a) shall survive the termination of this Second Amendment.

(b) Community Events. Subject to availability, as determined by Lessee, in Lessee's reasonable discretion, the County shall have the right to utilize the Campus for community events which are not primarily intended to showcase or promote competing cruise ship companies. When making requests pursuant to the preceding sentence, the County shall be entitled to request specific components of the communal portions of the Campus (e.g., auditorium, cafeteria, etc.) for such community events. All requests for use of the Campus shall be in writing and shall be made no earlier than six (6) months and no later than forty-five (45) days prior the requested use date by the County and include a description of the proposed event, the hours the facility is to be utilized, and the anticipated number of people who will be attending. Lessee (acting reasonably) shall approve a request within five (5) days of receipt unless the requested Campus facility is unavailable on the requested date(s). Any use approved by Lessee shall be subject to such reasonable rules and regulations that Lessee deems appropriate and shall be subject to payment by the County of all actual operating, security, and cleaning costs (but specifically excluding reductions in Rent, other than to offset the actual operating, security, and cleaning costs assessed under this section) associated with such use. In no event shall any rules and regulations adopted by Lessee for community events be more restrictive on the County's use of the Campus than the rules applicable to Lessee.

25. No Other Amendments. Other than the amendments expressly set forth above, the remainder of the Lease shall be unaffected hereby.

26. Counterpart Execution. This Second Amendment may be executed in multiple counterparts, each of which shall be fully effective as an original, which together shall constitute only one (1) instrument.

27. Entire Agreement. This Second Amendment contains the entire agreement of the parties hereto with respect to the matters specifically addressed herein, and other than as expressly set forth in this Second Amendment, no other agreement, statement or promise, regarding the matters covered hereby, made by any party hereto, or to any employee, officer or agent of any party hereto, which is not contained herein, shall be binding or valid. This Second Amendment may not be amended, modified or supplemented except by written instrument executed by County and Lessee, and, as to County, only after such written instrument is first authorized by an effective written resolution duly approved by the Board of County Commissioners of Miami-Dade County.

28. E-Verify. Lessee shall be required to comply with the applicable provisions of Section 448.095, Florida Statutes, titled "Verification of Employment Eligibility." This includes but is not limited to utilization of the U.S. Department of Homeland Security's E-Verify System to verify the employment eligibility of all newly hired employees by the Lessee from and after

January 1, 2021. If Lessee has a good faith belief that a person or entity with which Lessee is contracting has knowingly violated Section 448.095(1), Florida Statutes, Lessee shall terminate the contract with such person or entity. If the County has a good faith belief that a subcontractor of Lessee knowingly violated this subsection, but Lessee otherwise complied with this section, the County shall promptly notify Lessee and order Lessee to immediately terminate the contract with the subcontractor. The subcontractor or sub-subcontractor may file an action with a circuit or county court challenge the termination within twenty (20) days of such termination. If the County has a good faith belief that Lessee has knowingly violated Section 448.09(1), Florida Statutes, the County shall terminate this Agreement for cause, notwithstanding anything to the contrary in this Agreement limiting the County's termination rights.

Lessee may file an action with a circuit or county court to challenge such termination no later than twenty (20) days after the date the County terminates this Agreement pursuant to this section. If this Agreement is terminated for a violation of the statute by the Lessee, the Lessee may not be awarded a public contract for a period of one year after the date of termination. Public and private employers must enroll in the E-Verify System (<http://www.uscis.gov/e-verify>) and retain the I-9 Forms for inspection. The provisions set forth in this Section 28 shall survive the termination of this Second Amendment to the Campus Lease.

29. Transportation of Unauthorized Aliens. In accordance with Section 908.111, Florida Statutes, Lessee shall be required to complete an attestation, in conformity with Section 92.525, Florida Statutes, that Lessee is not willfully providing and will not willfully provide any service during the contract term in furtherance of transporting a person into Florida knowing that the person is an unauthorized alien, except to facilitate the detention, removal, or departure of the person from Florida or the United States. If the Lessee is found in violation of its attestation, notwithstanding anything to the contrary in this Agreement limiting the County's termination rights, the County shall terminate this Agreement for cause. The provisions set forth in this Section 29 shall survive the termination of this Second Amendment to the Campus Lease.

30. Berthing Rights Upon Unavailability of Cruise Terminal G. The Parties acknowledge that the County will be undertaking improvements to the berth associated with Cruise Terminal G between 2024 and 2026, during which time the County cannot guarantee the availability of a berth at Cruise Terminal G. The Parties further acknowledge that the County has received and confirmed berthing requests for RCG through December 1, 2026, which berthing schedule is attached to the new Cruise Terminal G Usage Agreement as Exhibit I. After December 1, 2026, a failure to provide RCG with a berth at Cruise Terminal G as a result of a delay in the substantial completion of either the Cruise Terminal G Improvements (as defined in the new Cruise Terminal Usage Agreement) or the bulkhead project, shall not constitute a breach of the existing agreement between the Parties for the usage of Cruise Terminal G. In such case, with respect to each affected call, RCG's sole remedy (except as otherwise provided in the new Cruise Terminal G Usage Agreement, if effective), if the County is unable to provide a berth and terminal elsewhere in PortMiami that can safely accommodate the impacted vessel, shall be a reduction in the applicable minimum annual guarantee based on the average number of passengers on each affected vessel in the preceding six (6) months. This provision shall survive the termination of this Second Amendment.

IN WITNESS WHEREOF, this Second Amendment has been executed and delivered as of the date first written above.

Attest: _____

COUNTY:
MIAMI-DADE COUNTY, FLORIDA,
a political subdivision of the State of Florida

Approved as to form and legal sufficiency:

By : _____

Miguel A. Gonzalez
Assistant County Attorney:

Name: _____

Title: _____

LESSEE:
ROYAL CARIBBEAN CRUISES LTD.
DBA ROYAL CARIBBEAN GROUP,
a Liberian corporation

By : _____

Name: Laura Hodges Bethge

Title: EVP, Shared Services Operations



EXHIBIT 1
REVISED RENT SCHEDULE

EXHIBIT 1						
DEVELOPMENT PERIOD MONTHLY RENTS						
Monthly Rent Start Date			Base Monthly Rent	County Credit	Monthly Rent	
August	17	2022	\$362,398		\$362,398	
September	17	2022	\$362,398		\$362,398	
October	17	2022	\$362,398		\$362,398	
November*	17	2022	\$460,836		\$460,836	
December	17	2022	\$460,836		\$460,836	
January	17	2023	\$460,836	(\$50,917)	\$409,919	
February	17	2023	\$460,836	(\$50,917)	\$409,919	
March	17	2023	\$460,836	(\$50,917)	\$409,919	
April	17	2023	\$460,836	(\$50,917)	\$409,919	
May	17	2023	\$470,006	(\$50,917)	\$419,089	
June	17	2023	\$470,006	(\$50,917)	\$419,089	
July	17	2023	\$470,006	(\$50,917)	\$419,089	
August	17	2023	\$470,006	(\$50,917)	\$419,089	
September	17	2023	\$470,006	(\$50,917)	\$419,089	
October	17	2023	\$470,006	(\$50,917)	\$419,089	
November	17	2023	\$470,006	(\$50,917)	\$419,089	
December	17	2023	\$470,006	(\$50,917)	\$419,089	
January	17	2024	\$470,006		\$470,006	
February	17	2024	\$470,006		\$470,006	
March	17	2024	\$470,006		\$470,006	
April	17	2024	\$470,006		\$470,006	
May	17	2024	\$479,359		\$479,359	
June	17	2024	\$479,359		\$479,359	
July	17	2024	\$479,359		\$479,359	
August	17	2024	\$479,359		\$479,359	
September	17	2024	\$479,359		\$479,359	
October	17	2024	\$479,359		\$479,359	
November	17	2024	\$479,359		\$479,359	
December	17	2024	\$479,359		\$479,359	
January	17	2025	\$479,359		\$479,359	
February	17	2025	\$479,359		\$479,359	
March	17	2025	\$479,359		\$479,359	
April	17	2025	\$479,359		\$479,359	
May	17	2025	\$488,898		\$488,898	
June	17	2025	\$488,898		\$488,898	
July	17	2025	\$488,898		\$488,898	
August	17	2025	\$488,898		\$488,898	
September	17	2025	\$488,898		\$488,898	
October	17	2025	\$488,898		\$488,898	
November	17	2025	\$488,898		\$488,898	
December	17	2025	\$488,898		\$488,898	
January	17	2026	\$488,898		\$488,898	
February	17	2026	\$488,898		\$488,898	
March	17	2026	\$488,898		\$488,898	
April	17	2026	\$488,898		\$488,898	
May	17	2026	\$498,628		\$498,628	
June	17	2026	\$498,628		\$498,628	
Rent escalates annually at 1.99% compounded every 12 months (May 17th anniversary) until Lease Term Commencement Date is reached						
*The rent adjustment reflected as November 2022 will be pro-rated and occur on the Effective Date of the Second Amendment						

EXHIBIT 1

LEASE RENT SCHEDULE EFFECTIVE on LEASE TERM RENT COMMENCEMENT DATE (Earlier of (1) June 30, 2026 or (2) Substantial Completion)

		Area 1 Rent	Area 2 Rent	Area 2 Additional Rent*	Total Rent			Area 1 Rent	Area 2 Rent	Area 2 Additional Rent*	Total Rent
Rent Year	1	\$3,590,119	\$2,393,412	\$44,000,000	\$49,983,531	Rent Year	21	\$5,324,277	\$3,549,518	\$44,000,000	\$52,873,795
Rent Year	2	\$3,661,562	\$2,441,041	\$44,000,000	\$50,102,603	Rent Year	22	\$5,430,230	\$3,620,153	\$44,000,000	\$53,050,383
Rent Year	3	\$3,734,427	\$2,489,618	\$44,000,000	\$50,224,045	Rent Year	23	\$5,538,291	\$3,692,194	\$44,000,000	\$53,230,486
Rent Year	4	\$3,808,742	\$2,539,161	\$44,000,000	\$50,347,903	Rent Year	24	\$5,648,503	\$3,765,669	\$44,000,000	\$53,414,172
Rent Year	5	\$3,884,536	\$2,589,691	\$44,000,000	\$50,474,227	Rent Year	25	\$5,760,909	\$3,840,606	\$44,000,000	\$53,601,515
Rent Year	6	\$3,961,838	\$2,641,226	\$44,000,000	\$50,603,064	Rent Year	26	\$5,875,551	\$3,917,034	\$44,000,000	\$53,792,585
Rent Year	7	\$4,040,679	\$2,693,786	\$44,000,000	\$50,734,465	Rent Year	27	\$5,992,474	\$3,994,983	\$44,000,000	\$53,987,457
Rent Year	8	\$4,121,088	\$2,747,392	\$44,000,000	\$50,868,481	Rent Year	28	\$6,111,724	\$4,074,483	\$44,000,000	\$54,186,207
Rent Year	9	\$4,203,098	\$2,802,065	\$44,000,000	\$51,005,163	Rent Year	29	\$6,233,348	\$4,155,565	\$44,000,000	\$54,388,913
Rent Year	10	\$4,286,740	\$2,857,826	\$44,000,000	\$51,144,566	Rent Year	30	\$6,357,391	\$4,238,261	\$44,000,000	\$54,595,652
Rent Year	11	\$4,372,046	\$2,914,697	\$44,000,000	\$51,286,743	Rent Year	31	\$6,483,904	\$4,322,602		\$10,806,506
Rent Year	12	\$4,459,050	\$2,972,700	\$44,000,000	\$51,431,749	Rent Year	32	\$6,612,933	\$4,408,622		\$11,021,555
Rent Year	13	\$4,547,785	\$3,031,856	\$44,000,000	\$51,579,641	Rent Year	33	\$6,744,531	\$4,496,354		\$11,240,884
Rent Year	14	\$4,638,286	\$3,092,190	\$44,000,000	\$51,730,476	Rent Year	34	\$6,878,747	\$4,585,831		\$11,464,578
Rent Year	15	\$4,730,587	\$3,153,725	\$44,000,000	\$51,884,312	Rent Year	35	\$7,015,634	\$4,677,089		\$11,692,723
Rent Year	16	\$4,824,726	\$3,216,484	\$44,000,000	\$52,041,210	Rent Year	36	\$7,155,245	\$4,770,163		\$11,925,408
Rent Year	17	\$4,920,738	\$3,280,492	\$44,000,000	\$52,201,230	Rent Year	37	\$7,297,634	\$4,865,090		\$12,162,724
Rent Year	18	\$5,018,661	\$3,345,774	\$44,000,000	\$52,364,435	Rent Year	38	\$7,442,857	\$4,961,905		\$12,404,762
Rent Year	19	\$5,118,532	\$3,412,355	\$44,000,000	\$52,530,887	Rent Year	39	\$7,590,970	\$5,060,647		\$12,651,617
Rent Year	20	\$5,220,391	\$3,480,261	\$44,000,000	\$52,700,652	Rent Year	40	\$7,742,030	\$5,161,354		\$12,903,384
Option Year	41	\$7,896,097	\$5,264,065		\$13,160,161	Option Year	46	\$8,713,656	\$5,809,104		\$14,522,760
Option Year	42	\$8,053,229	\$5,368,819		\$13,422,048	Option Year	47	\$8,887,058	\$5,924,705		\$14,811,763
Option Year	43	\$8,213,488	\$5,475,659		\$13,689,147	Option Year	48	\$9,063,910	\$6,042,607		\$15,106,517
Option Year	44	\$8,376,937	\$5,584,625		\$13,961,561	Option Year	49	\$9,244,282	\$6,162,855		\$15,407,137
Option Year	45	\$8,543,638	\$5,695,759		\$14,239,396	Option Year	50	\$9,428,243	\$6,285,496		\$15,713,739
The Area 1 Rent will be adjusted if necessary to reflect any change to the Lease Commencement Date											
Area 2 Additional Rent is subject to the Campus Finance Adjustment Period and Financing Threshold. The amounts set forth above represents the Financing Threshold											

EXHIBIT 2

CONSTRUCTION AGENCY SERVICES AGREEMENT

AGREEMENT

Between

MIAMI-DADE COUNTY

and

ROYAL CARIBBEAN GROUP

for

CONSTRUCTION AGENCY SERVICES

for

ROYAL CARIBBEAN CAMPUS PROJECT

November __, 2022

TABLE OF CONTENTS

ARTICLE 1	Defined Terms	2
ARTICLE 2	Appointment of Construction Agent and Obligations of Construction Agent	8
ARTICLE 3	Responsibilities of County.....	11
ARTICLE 4	County Ownership of Project	13
ARTICLE 5	Cooperation	14
ARTICLE 6	Maximum Project Cost; Project Budget and Project Schedule	14
ARTICLE 7	Method of Billing and Payment	15
ARTICLE 8	Competitive Solicitation of General Contractor	17
ARTICLE 9	GMP	18
ARTICLE 10	Changes in Scope of Work; Construction Agreement	19
ARTICLE 11	County Requirements.....	19
ARTICLE 12	Term of this Agreement and Termination	22
ARTICLE 13	Indemnification and Insurance.....	24
ARTICLE 14	Limitation of Liability for Consequential Damages, and Liquidated Damages	25
ARTICLE 15	Audit Right and Retention of Records.....	26
ARTICLE 16	Discriminatory Vendor and Scrutinized Companies List.....	27
ARTICLE 17	Public Entity Crimes Act	28
ARTICLE 18	No Contingent Fee	28

ARTICLE 19	Representatives of County and Construction Agent - Notices	28
ARTICLE 20	Independent Contractor; Third Party Beneficiaries; No Joint Relationship.....	30
ARTICLE 21	Compliance with Laws	30
ARTICLE 22	Severability; Waiver of Breach, Time, and Materiality.....	31
ARTICLE 23	Joint Preparation	32
ARTICLE 24	Priority of Provisions and Separate Agreements	32
ARTICLE 25	All Prior Agreements Superseded.....	32
ARTICLE 26	Amendments	32
ARTICLE 27	Jurisdiction, Applicable Law, Venue, Waiver of Jury Trial	32
ARTICLE 28	Multiple Originals	33
EXECUTION PAGE	34

EXHIBITS

- Exhibit A: Site Plan
- Exhibit B: Plans and Specifications
- Exhibit C: Project Budget
- Exhibit D: Project Schedule
- Exhibit E: Project Area
- Exhibit F: Art in Public Places Procedure Manual
- Exhibit G: Indemnification and Insurance Requirements for General Contractor
- Exhibit H: Competitive Procurement Requirements

THIS AGREEMENT FOR CONSTRUCTION AGENCY SERVICES (this “**Agreement**”) is made this ___ day of November, 2022 (the “**Execution Date**”), by and between:

- A. MIAMI-DADE COUNTY**, a political subdivision of the State of Florida (with its permitted successors and assigns, hereinafter referred to as “**County**”), of the first part, and;
- B. ROYAL CARIBBEAN CRUISES LTD. DBA ROYAL CARIBBEAN GROUP**, a Liberian corporation (hereinafter referred to as “**Lessee**” or “**Construction Agent**”), of the second part.

RECITALS

WHEREAS, County owns certain lands located in Miami-Dade County, Florida, on which the Dante B. Fascell Port of Miami-Dade County, Florida (the “**Port**”) is located; and

WHEREAS, County operates the Port through the Miami-Dade County Seaport Department, which is a department of County; and

WHEREAS, Lessee is a leading international cruise company (with a number of cruise lines including Royal Caribbean International, Celebrity Cruises, and Silversea Cruises) that presently uses the Port as a homeport, has its corporate headquarters located at the Port, and has experience in the development and construction of cruise ship related facilities including structured parking garages; and

WHEREAS, County and Lessee are parties to that certain Campus Lease dated June 13, 2019 (approved through Resolution No. R-520-19 of the Board of County Commissioners of Miami-Dade County), as amended by that First Amendment to Campus Lease dated January 31, 2022 (approved through Resolution No. R-40-22 of the Board of County Commissioners of Miami Dade County) (the “**Lease**”), pursuant to which Lessee leases from County the Leased Premises located at 1050 and 1080 Caribbean Way, Miami, Florida, and Lessee committed to developing additional improvements for its global headquarters campus on the Leased Premises, defined in the Lease as the “**Campus Improvements**,” including, but not limited to a new office building and a new parking garage; and

WHEREAS, as a result of the global COVID-19 pandemic and its impacts including resulting restrictions on travel, closure of many ports globally, and significant economic and operational impacts on the cruise industry, construction of the Campus Improvements was suspended as of May 15, 2020, as set forth in that certain “**NOTICE regarding the Campus Improvements as set forth in the Campus Lease dated June 13, 2019 between Royal Caribbean Cruises Ltd. (‘RCL’) and Miami-Dade County (‘County’)**” dated April 3, 2020 and sent to the County by Lessee; and

WHEREAS, County and Lessee have agreed to enter into that Second Amendment to

Campus Lease dated even date herewith (the “**Second Amendment**”), which among other things, provides for the resumption of construction of the Campus Improvements and extension of certain timelines set forth in the Lease and other updates to the Lease due to the aforementioned suspension of the project; and

WHEREAS, the Second Amendment provides that the County shall be solely responsible for financing the cost of completing the Campus Improvements; and

WHEREAS, upon the issuance of the Financing Confirmation, County desires to engage RCG to provide construction agency services for the design and construction of the Campus Improvements, and Lessee desires to perform such services; and

WHEREAS, County and RCG are entering into this Agreement to provide for the design and construction of the Project and to set forth RCG’s rights and responsibilities with respect to its role as construction agent,

NOW THEREFORE, in consideration of the mutual covenants and agreements set for herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto intending to be legally bound, hereby agree to the following:

ARTICLE 1
DEFINED TERMS

As used in this Agreement, each of the following defined terms shall have the meaning set forth below and any capitalized term in this Agreement which is not defined in this Agreement, shall have the meaning set forth in the Construction Agreement:

- Applicable Laws:** shall mean: (a) any federal, State, County or local law, statute, code, tariff, or regulation, and (b) any formally adopted and generally applicable rule, requirement, determination, standard, policy, or other order of any Governmental Authority having jurisdiction.
- Architect:** shall mean Hellmuth Obata & Kassbaum, Inc.
- Board:** shall mean The Miami-Dade County Board of County Commissioners.
- Campus Improvements:** shall have the meaning set forth in the Lease.
- Change Order:** shall mean a written document (i) authorizing a change in the Plans and Specifications, (ii) an increase or decrease in the GMP, or (iii) a change in the Substantial Completion Date, executed by Construction Agent and General

Contractor, and if the GMP is increased or Substantial Completion Date extended, approved by the Contract Administrator, in accordance with the procedures set forth in the Construction Agreement.

- Construction Agent:** shall mean Lessee.
- Construction Agreement:** Construction Agreement shall mean the Construction Agreement between Construction Agent, as construction agent for County, and the General Contractor for performance of the construction management portions of the Work with respect to the Project.
- Contract Administrator:** The Port Director or designee. All parties may rely on the instructions or determinations made in writing by the Contract Administrator, provided, however, that the Contract Administrator's instructions and determinations do not amend the terms of this Agreement or any of the other Contract Documents, except in the case of Change Orders approved by the Contract Administrator and Construction Agent or as otherwise expressly provided in this Agreement and provided that the Contract Administrator's instructions or determinations, including with respect to Change Orders, do not exceed the scope of the Board's delegations or obligate the County to expend amounts greater than those expressly approved by the Board.
- Contract Documents:** shall mean all documents relating to the design, construction, testing, inspection and commissioning of the Project, specifically including, without limitation, this Agreement, the Construction Agreement, the Plans and Specifications, Change Orders, and any acquisition contracts for equipment acquired, utilized and incorporated into the Project.
- Contract Time:** shall mean the time set forth in the Project Schedule for completion of the Project.
- County:** shall mean Miami-Dade County, a political subdivision of the State of Florida.
- Effective Date:** The effective date of this Agreement shall be the date on which the County issues the Financing Confirmation.
- Execution Date:** The Execution Date of this Agreement shall be the date first

set forth above.

- Final Completion:** shall mean the date, as certified in writing by the General Contractor and Construction Agent in the final Application and Certificate for Payment, and as finally determined by the Contract Administrator in his or her reasonable discretion, upon which: (i) all conditions and requirements of the Contract Documents, permits and regulatory agencies have been satisfied with respect to the Work; (ii) any and all documents required by the Contract Documents have been received by County and Construction Agent; (iii) all required inspection and testing of the Work has been successfully passed; (iv) a certificate that, to the best of the General Contractor's and Construction Agent's knowledge, information and belief, all Work required for the Project has been fully completed in all material respects in accordance with the terms and conditions of the Contract Documents and it has passed all inspections, testing and commissioning by regulatory agencies; and (v) all equipment and system manuals and guides, and all required warranties, have been turned over to Contract Administrator. A Final Certificate of Completion or Occupancy or other permit closures by the authority having jurisdiction must be issued for Final Completion to be achieved.
- Final Completion Date:** The date upon which the Final Completion occurs, as determined by the Contract Administrator and Construction Agent.
- Final Plan:** shall mean the final site plan for the Campus Improvements accepted by County and RCG.
- Final Cost:** shall mean the final cost of the Campus Improvements, including all soft and hard costs associated with predevelopment, development, and construction, as determined by the Parties upon Final Completion of the Campus Improvements.
- Force Majeure:** shall mean acts of God, acts of public enemy, acts of governmental authority, or any other circumstance beyond the reasonable control of either party that delays or prevents performance under this Agreement, including delays caused by County in connection with its review and approval of matters in its regulatory capacity pursuant to this

Agreement (but not if such delays are the result of deficiencies in the work of the Construction Agent, or its agents, including, but not limited to, the General Contractor and its General Contractor's subcontractors or materialmen). Force Majeure shall not include ordinary weather conditions or unforeseen site conditions if such conditions are of the kind that should have been discovered by the General Contractor through the preconstruction studies including soil and geotechnical testing. A Force Majeure delay shall extend the Contract Time by the delay time due to such Force Majeure event. Either party desiring to rely upon a Force Majeure event as the cause of any delay or nonperformance shall, when the cause arises, give prompt written notice to the other party and, when the cause ceases to exist, shall give prompt written notice to the other party.

Future Improvements: shall mean those Campus Improvements that may, at Lessee's option and in accordance with this Agreement, be developed at a date later than the Completion Deadline (as defined in the Second Amendment to the Campus Lease). The Future Improvements are more particularly described in Exhibit I attached hereto. County shall not be required to expend more than the Maximum Project Cost, inclusive of both the Campus Improvements and Future Improvements, and any overruns beyond the Maximum Project Cost shall be borne exclusively by the Lessee.

General Contractor: shall mean the legal entity with which Construction Agent will contract to provide construction services during the construction phases of the Project at a GMP in accordance with the Construction Agreement, and which is responsible for the acceptable performance of construction phases of the Project and for the payment of all legal debts pertaining to the construction phases of the Construction Agreement. All references in the Contract Documents to third parties under contract or control of the General Contractor shall be deemed to be a reference to the General Contractor.

GMP: shall mean the Guaranteed Maximum Price contained within the Construction Agreement for the performance of the construction management services by General Contractor on the Project. Notwithstanding industry practices, the use of the "GMP" terminology shall not be construed to imply that

Project savings shall inure to the benefit of the General Contractor; any such savings shall inure to the benefit of the County unless otherwise agreed by the County in its sole discretion.

- Governmental Authority:** shall mean the government of Florida, Miami-Dade County, and the United States of America or any department thereof, or any other governmental agency having jurisdiction over the Project Area.
- Harmful Substances:** shall have the meaning set forth in Section 3.2.
- Insurance Requirements:** shall mean in the insurance requirements set forth in Exhibit G.
- Lessee:** shall mean Royal Caribbean Cruises Ltd. dba Royal Caribbean Group, a Liberian corporation.
- Maximum Project Cost:** shall mean the total not-to-exceed maximum price for the Project, as set forth in Section 6.1.
- Parties:** shall mean the collective reference to the parties to this Agreement, and individually, a “**Party**”.
- Plans and Specifications:** shall mean the plans and specifications approved by the County and provided by Construction Agent to the General Contractor for the Project, which plans and specifications are attached hereto as Exhibit B.
- Port:** shall have the meaning set forth in the Recitals.
- Project:** shall mean completion of construction of the Campus Improvements (excluding the Future Improvements), including but not limited to finishing construction of the New Building and New Parking Garage, construction of surface parking, greenspace, fitness center and daycare, and other improvements and modifications to the Campus as substantially depicted on the Site Plan and in the Plans and Specifications.
- Project Account:** shall have the meaning set forth in Section 3.1.3.
- Project Area:** The area within the Port described as the Project Area on Exhibit E attached hereto.

Project Budget: shall mean the budget for the entire Project, including the Project Manager Fee. The Project Budget will be attached to this Agreement as **Exhibit C** once prepared in accordance with Section 6.3.

Project Manager: shall mean Lehrer Cumming or its successor.

Project Manager Fee: shall have the meaning set forth in Section 7.1.

Project Schedule: shall mean the construction schedule for the Project, as such schedule may be modified from time to time in accordance with the terms of this Agreement and the Construction Agreement. The initial Project Schedule will be attached to this Agreement as **Exhibit D** once prepared in accordance with Section 6.4.

RFP: shall mean the Request for Proposal issued by Construction Agent in order to procure the General Contractor, in accordance with the procurement requirements set forth in **Exhibit H**.

Site Plan: shall mean the conceptual site plan for the Project as set forth on **Exhibit A**.

Substantial Completion: shall mean the date, as certified in writing by the General Contractor, and as finally determined by Construction Agent and the Contract Administrator in their respective reasonable discretion, that the Work is at a level of completion in substantial compliance with the Contract Documents and permits, such that the Work has passed inspection and testing by the applicable Governmental Authorities, and the Campus Improvements are able to be used for its intended purpose. A Temporary Certificate of Occupancy or Certificate of Occupancy by the authority having jurisdiction must be issued for Substantial Completion to be achieved; provided however, the date of issuance of a Temporary Certificate of Occupancy or Certificate of Occupancy is not to be determinative of the achievement or date of Substantial Completion.

Third Party Contracts: shall have the meaning set forth in Section 2.5.3.

Work: shall mean the totality of the obligations, including, but not

limited to, administration, procurement, materials, equipment, labor, testing, inspections, construction and other services necessary for the General Contractor or its agents to fulfill the General Contractor's obligations under the Construction Agreement. The Work shall encompass all inspections and testing required by Applicable Laws or prudent construction practices given the nature of the Project and the qualities of the Project Area.

The Parties agree that any additional terms, words and phrases used in this Agreement or in an Exhibit to this Agreement but not defined above shall have the meanings as defined in this Agreement below, or if not defined in this Agreement, shall have the meanings defined in the Second Amendment to the Campus Lease or Construction Agreement, or if not defined therein, shall have their usual and customary meanings.

ARTICLE 2
APPOINTMENT OF CONSTRUCTION AGENT AND
OBLIGATIONS OF CONSTRUCTION AGENT

2.1 Appointment. Subject to the terms and conditions set forth herein, County hereby appoints Construction Agent to act as County's exclusive agent to contract for, administer, and oversee the construction and completion of the Project, substantially in accordance with the Contract Documents, and Construction Agent hereby accepts the designation and appointment as Construction Agent. Furthermore, County approves the appointment of Project Manager as lead project manager for purposes of construction of the Project. The County shall have the right to request the substitution of employees of the Project Manager if it would otherwise be in the best interests of the Project to substitute such employee.

2.2 Construction Agent Duties. Subject to the terms, conditions, restrictions and limitations set forth in this Agreement, County hereby expressly authorizes Construction Agent, or any agent or contractor of Construction Agent, and Construction Agent unconditionally agrees, for the benefit of County, to take all action necessary or desirable to construct the Project pursuant to the Site Plan and Contract Documents.

2.3 Project Design.

2.3.1 The Project was designed by the Architect during the planning and design process. The Construction Agent represents and warrants that the Plans and Specifications are consistent with the Site Plan, County design and construction parameters and requirements, and any other requirements contained in this Agreement. The project design for the Project is set forth in the Site Plan attached hereto and incorporated herein as **Exhibit A**, the Plans and Specifications are attached hereto and incorporated herein as **Exhibit B**, and as otherwise set forth in this Agreement. The Parties acknowledge and agree that, subject to the terms and conditions hereof, the Project will be developed in accordance with the Plans and Specifications and Applicable Laws

and the Project consists, among other things, of the following:

Completion of construction of the Campus Improvements, including but not limited to finishing construction of the New Building and New Parking Garage, construction of surface parking, greenspace, fitness center and daycare, and other improvements and modifications to the Campus as substantially depicted on the Site Plan and in the Plans and Specifications.

2.4 Exclusive Control of the Project. Subject to the terms and conditions of this Agreement, General Contractor shall, subject to substantial conformity with the Plans and Specifications, have sole management, control and responsibility for the construction, construction means, methods, sequences and procedures, and the hiring, termination and contracting for and supervision of and payment for labor, personnel, and services with respect to the construction of the Project, provided that General Contractor's decisions with respect to these matters shall not obligate the County to expend funds beyond those approved by the Board or unreasonably interfere with the day-to-day operations of the Port or its tenants and users. Construction Agent acknowledges and agrees that until such time as County has taken possession of the Project through the exercise of remedies under this Agreement or after the Final Completion Date of the Project, as between County and Construction Agent, General Contractor will have at all times sole dominion over and control of the Project, the Campus Improvements, and the Project Area. The County shall turn over control of the Project Area to General Contractor in accordance with the delivery schedule contained with the Project Schedule in its as-is, where-is condition. Upon delivery of all or a portion of the Project Area, General Contractor shall have the responsibility to cause the installation of construction fencing to enclose the delivered portion of the Project Area and the engagement of a security firm and/or security personnel to provide security for the delivered portion of the Project Area. Notwithstanding the foregoing, the County shall be entitled to appoint, at its own expense, one or more representatives, who shall be entitled to enter the Project Area to inspect the progress of the Work and its compliance with the terms of this Agreement, to attend Project meetings (with any comments to be provided through the Construction Agent) and, through the Construction Agent, to request documents relating to the Project, including the progress of the Work.

2.5 Authority of Construction Agent.

2.5.1 Construction Agent shall have the authority, on County's behalf, to oversee and direct the construction of the Project, including but not limited to, approval of building, site and other plans (to the extent the Construction Agent's directions are consistent with the County's approved Plans and Specifications), obtaining building and other permits, negotiating and executing the Construction Agreement and other contracts, monitoring construction and making periodic inspections, approval of any of the General Contractor's invoices for payment (to the extent those invoices are consistent with the GMP and the cost loaded Project Schedule prepared in accordance with Section 6.4, except as otherwise approved by County), and submission of payment, all in accordance with the terms and conditions contained herein. Nothing in the foregoing, however, shall be read or construed to authorize the Construction Agent to override a

requirement of this Agreement or an approval or prerogative reserved to the County pursuant to this Agreement.

2.5.2 Construction Agent shall have sole authority to manage the Construction Agreement and the Project Budget, and shall have the ability to transfer money among line items under the GMP in order to successfully deliver the Project in accordance with the County-approved Plans and Specifications, including but not limited to allocation of the Project's contingency, so long as the GMP is not increased as a result of such transfers without County approval pursuant to Section 6.2. Prior to transferring money among line items under the GMP, Construction Agent shall provide County written notice of the proposed transfer and certify that: (i) such transfer will not lead to a reduction in the scope of or deletion of an element of the Project; (ii) such transfer will not create a probable overrun in the overall Project Budget; and (iii) after such transfer there will be sufficient money within the GMP to obtain Final Completion in accordance with the Plans and Specifications. In the event Construction Agent is unable to make the aforementioned certifications, Construction Agent shall be required to first obtain County approval prior to making the proposed transfer among line items.

2.5.3 Construction Agent, as County's agent, is hereby authorized on behalf of County to negotiate and execute, and shall execute on behalf of County, such construction and other contracts (including the Construction Agreement) as may be required for the construction of Project (the Construction Agreement and such other contracts being hereinafter called collectively, "**Third-Party Contracts**", provided that in no event shall such term include subcontracts entered into by the General Contractor) in accordance with the Plans and Specifications, as long as the total amount of such Third Party Contracts does not obligate the County to expend amounts in excess of the Maximum Project Cost. Any Third-Party Contract that would obligate the County to expend amounts in excess of the Maximum Project Cost shall be subject to the cost-reduction procedures set forth in Section 9.3. It is the intent of the Parties that all Third-Party Contracts be entered into by Construction Agent as agent for County, and each Third-Party Contract entered into by the Construction Agent shall identify the County as an intended third-party beneficiary. For the avoidance of doubt, to the extent that Construction Agent is not deemed, for any reason, to have been acting as agent for County in connection with the execution of any Third Party Contracts, Construction Agent hereby irrevocably assigns to County all of the rights arising under and related to each and every Third Party Contract and all documents executed pursuant thereto, and County hereby expressly assumes and agrees to observe and perform its obligations under each such Third Party Contract executed by Construction Agent on behalf of County in accordance with this Agreement. Notwithstanding the preceding sentence, the County shall not be required to assume (i) any Third-Party Contract entered into by the Construction Agent for any purpose other than for the construction of the Project in accordance with the Plans and Specifications, or (ii) any Third Party Contract(s) if the assumption of such Third Party Contracts would collectively require the County to expend amounts in excess of the Maximum Project Cost.

2.6 Covenants of Construction Agent. Construction Agent hereby covenants and agrees that with respect to the Project it will:

- (i) provide County with reasonable access to the Project Area and to all construction records in possession of Construction Agent to the extent reasonably necessary to confirm compliance with this Agreement, during normal business hours, subject to reasonable safety requirements of Construction Agent and its contractors, including the requirement that County be accompanied by an authorized representative of Construction Agent or its contractors;
- (ii) comply with the Insurance Requirements set forth in this Agreement in all material respects;
- (iii) provide to County, promptly upon receipt thereof, copies of all material written notices received by Construction Agent from any Governmental Authority with respect to the Project Area and/or the Project;
- (iv) protect the County's financial interests by, without limitation, not entering into any contractual obligations, written or otherwise, that would cause the County to incur expenses greater than the Maximum Project Cost and where appropriate, by disputing unsubstantiated claims by any claimants under Third Party Contracts entered into by Construction Agent under this Agreement; and
- (v) act in the County's best interests when making any determinations required under this Agreement, including with respect to the declaration of Final Completion.

2.7 Extent of Responsibility. Construction Agent shall exercise reasonable care in preparing and reviewing schedules and estimates. Construction Agent, however, does not warrant or guarantee estimates and schedules and is not required to ascertain that the Plans and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but Construction Agent shall promptly report to County any material nonconformity discovered by or made known to Construction Agent. Notwithstanding the foregoing, Construction Agent shall ensure that the General Contractor does warrant and guarantee estimates and schedules and the Architect shall be required to ascertain that the Plans and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities. Construction Agent shall not be required to fund any of the costs of the Work under this Agreement, the Construction Agreement, or any other Contract Documents, and all such costs shall be funded by County up to the Maximum Project Cost.

ARTICLE 3
RESPONSIBILITIES OF COUNTY

3.1 Information and Services Required of County.

3.1.1 The County shall provide to Construction Agent, upon Construction Agent's request, on an ongoing basis during the Project, all information and documentation (whether in paper and/or digital format) in County's possession or control, with reasonable promptness, with respect to the Project, the Project Area, and existing improvements, setbacks, easements, known utility locations, and encumbrances, if any, located on or within the Project Area. All information provided under this paragraph shall be used by the Construction Agent and General Contractor for reference purposes only, and notwithstanding the information provided by the County under this paragraph the Construction Agent and General Contractor shall exercise proper precautions relating to the safe performance of the Work.

3.1.2 Prior to the execution of the Construction Agreement, Construction Agent may request in writing that County provide reasonable evidence that County has made financial arrangements to fulfill County's obligations under the Construction Agreement, which evidence may consist of a resolution approved by the Board and written concurrence from the County's Budget Department specifying that the funding is legally available. After County furnishes the evidence, County shall not diminish the availability of such funding without prior approval of Construction Agent.

3.1.3 The County shall establish a designated charge point for the costs of the Project that is solely designated for the Project (the "**Project Account**"). The County shall, upon written request of Construction Agent, provide to Construction Agent all public records relating to, or otherwise concerning, the Project Account. The County shall not, without the prior written approval of the Construction Agent, make any disbursements from the Project Account for any reason whatsoever, except to pay: (a) County's obligations under this Agreement with respect to the Project and (b) the GMP under the Construction Agreement.

3.1.4 To the extent reasonably required to complete the Project in accordance with the Construction Agreement, County will cooperate with Construction Agent with respect to: (i) granting of easements, licenses, rights-of-way and other rights and privileges in the nature of easements reasonably necessary or desirable for the development, use, repair, or maintenance of the Project, in each case, in form and substance acceptable to County's designee, and (ii) releasing or modifying any document described in clause (i) of this sentence and of any existing easements or other rights and privileges in the nature of easements affecting any portion of the Project Area, in each case, in form and substance acceptable to County's designee. Notwithstanding the foregoing, the County shall not be required to incur any costs that, when combined with all other expenditures required under this Agreement, would cause the County to expend funds beyond the Maximum Project Cost, terminate or modify existing agreements, enter into new agreements, or modify any applicable deed restrictions or restrictive covenants in order to grant the Construction

Agent the rights described in (i), all subject to the same cost restriction previously described in this sentence.

3.2 Harmful Substances.

3.2.1 If County or any third party performing any test with respect to any portion of the Project Area encounters a Harmful Substance (hereinafter defined), then, County shall advise Construction Agent immediately and County shall cause the applicable party which is performing such tests to stop such testing activities in the affected area until otherwise advised by Construction Agent. If Construction Agent encounters a Harmful Substance and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from such Harmful Substance encountered on the site by the General Contractor, Construction Agent shall, upon being notified in writing of the condition, immediately instruct the General Contractor to stop Work in the affected area and report the condition to County in writing.

3.2.2 Construction Agent shall not be liable for any hazardous, toxic, or contaminated substances, chemicals, pollutants, or other material of any kind or description, including but not limited to asbestos or polychlorinated biphenyl, which may cause injury, sickness, or harm to persons or property (herein "**Harmful Substances**"). The sole exceptions to the foregoing exemption from Construction Agent's liability are Harmful Substances which Construction Agent brought or brings onto the Project site or which Construction Agent negligently generates from operations at the Project Site. Construction Agent is not in the business of and shall not be considered as a handler, generator, operator, treater, storer, transporter, or disposer of Harmful Substances. Except for the exceptions stated in this Section 3.2.2, Construction Agent shall not be responsible for the identification, testing, handling, removal, treatment, storage, transportation, disposal and other activities related to Harmful Substances. If Harmful Substances are introduced into the Project Site by the Construction Agent or the General Contractor or persons or entities working under either Construction Agent or General Contractor, then in addition to completing the delivery of the Project in accordance with the Plans and Specifications, the Construction Agent or General Contractor shall be responsible, at their own expense, for the remediation of the Project Site in accordance with any orders issued by the authority having jurisdiction.

3.2.3 Subject to the indemnity obligations set forth in Section 39 of the Ground Lease, upon receipt of County's written notice described in Section 3.2.1 or upon Construction Agent's discovery of any Harmful Substance described in Section 3.2.1, then County shall either (i) authorize the transfer of funds from the Project's contingency, if such transfer would not jeopardize the completion of the Project within the Project Budget or (ii) increase the GMP in accordance with the terms of this Agreement, for the costs for all delays and extra costs related in any way to Harmful Substances, including, without limitation, the shutdown, delay, disruption and start-up of the General Contractor's operations for the Project, provided such increase would not jeopardize the completion of the Project within the Project Budget. Construction Agent, at County's expense, (i) shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by Construction Agent and, (ii) in the event such

material or substance is found to be present, shall obtain the services of third party environment firm(s) and other contractors to remediate such material or substance and/or cause it to be rendered harmless. When the material or substance in question has been remediated and/or rendered harmless by such third-party firms and other contractors, then the Work in the affected area shall resume. By Change Order, the Contract Time shall be extended appropriately and the GMP shall be increased in the amount of Project Manager and General Contractor's reasonable additional costs of shut-down, delay and start-up, unless sufficient funds are available in the Project's contingency.

3.2.4 The County acknowledges that Construction Agent has not, and does not, assume the risk for any claims, damages or liabilities arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 3.2.1 and has not been rendered harmless; except to the extent that such damages, loss or expense proven to be due to the negligence of Construction Agent.

3.2.5 The County shall not be responsible under this Section 3.2 for materials or substances Construction Agent or General Contractor brings to the site.

3.2.6 If, without negligence on the part of Construction Agent or General Contractor, Construction Agent is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, County shall reimburse Construction Agent for all cost and expense thereby incurred.

3.2.7 The obligations under this Section 3.2 shall survive the expiration or earlier termination of this Agreement for all purposes until the expiration of any applicable statute of limitations for any claim, demand, cause of action, or proceeding of any kind.

ARTICLE 4 COUNTY OWNERSHIP OF PROJECT

4.1 Ownership by County. Ownership of, and title to, any and all fixtures, equipment, materials, and improvements installed in connection with the Project, shall automatically and immediately vest in County when such items are paid for by County in accordance with this Agreement, irrespective of whether any retainage withheld from such payment has been released. Lessee's Property shall at all times remain the property of Lessee.

4.2 Delivery of Documents, Reports and Studies. All finished and unfinished documents, including plans, drawings, manuals, photographs, studies, surveys and reports, and any and all tangible items of non-consumed equipment, materials, supplies, and furnishings purchased by Construction Agent and General Contractor, the costs of which have been paid by County as a direct cost, shall be turned over to County on or before Final Completion of the Project or as soon as reasonably practicable thereafter.

ARTICLE 5
COOPERATION

5.1 Mutual Cooperation. Construction Agent and County agree to cooperate with each other and the General Contractor in connection with enabling performance of the services contemplated by this Agreement, including, but not limited to, granting to the General Contractor and Construction Agent, the right to come onto County property (including the Project Area as set forth in **Exhibit E** attached hereto) as reasonably required in connection with performing the services (provided that said Parties shall comply with the security requirements of County and RCG in connection therewith).

5.2 Cooperation. Construction Agent shall assist the General Contractor to help to expedite issuance of the applicable governmental approvals to permit construction of the Project in accordance with such Plans and Specifications, including, but not limited to, applicable building permits. Without limiting the foregoing, County, as the Owner of the Project Area, shall join in such governmental applications as reasonably necessary to obtain permits, licenses and other governmental approvals necessary for performance of the Work under this Agreement.

5.3 Owner Direct Purchasing Program. Construction Agent shall cooperate with County in the utilization of the owner direct purchasing program to reduce expenditures through savings on sales taxes that would otherwise be expended on the purchase of construction equipment, materials, or supplies in connection with the Project.

5.3.1 General.

5.3.1.1 Any equipment, materials or supplies directly purchased by the County that are included in the Construction Contract shall be referred to as Owner Direct Purchased Materials and the responsibilities of both Owner and the General Contractor, as the case may be, relating to such Owner Direct Purchased Materials shall be governed by the terms and conditions of these procedures.

5.3.1.2 Material suppliers shall be selected by the General Contractor awarded the Construction Contract. The General Contractor has included the GMP for all construction materials plus applicable taxes. Owner Direct Purchasing of construction materials, if selected, will be administered on a deductive Change Order basis, the GMP shall be reduced by the net undiscounted amount of these purchase orders, plus all sales tax.

5.3.2 Execution.

5.3.2.1 The General Contractor, through the Construction Agent, shall provide the County a list of all intended suppliers, vendors, and materialmen for consideration as Owner Direct Purchased materials. This list shall be submitted at the same time as the preliminary schedule of values and the Project Schedule. The General Contractor shall submit a description of the materials to be supplied, estimated quantities, and prices.

5.3.2.2 Upon request from County, and in a timely manner, the General Contractor, through the Construction Agent, shall submit the attached purchase order requisition form to the County, to specifically identify the materials which County has, at its sole option, elected to purchase directly. On the purchase order requisition form, the General Contractor will provide the County, through the Construction Agent, the required quantities of material at the price established in the vendor's quote to the General Contractor, less any sales tax associated with such price.

5.3.2.3 Such purchase order requisition forms are to be submitted to the Construction Agent no less than two (2) weeks prior to the need for ordering such Owner Direct Purchased Materials, in order to provide sufficient time for County review and approval and to assure that such Owner Direct Purchased Materials may be directly purchased by County and delivered to the Project site so as to avoid any delay to the Project.

5.3.2.4 After receipt of the purchase order requisition form, County shall prepare its purchase order for equipment, materials or supplies which the County chooses to purchase directly. Promptly upon receipt of each Purchase Order, General Contractor shall verify the terms and conditions of the Purchase Order prior to its issuance to supplier and in a manner to assure proper and timely delivery of items. After such verification by the General Contractor, County shall issue the Purchase Order to the supplier or vendor. The Purchase Order shall require that the supplier provide the required shipping and handling insurance. The Purchase Order shall also require the delivery of the Owner Direct Purchased Materials on the delivery dated provided by the General Contractor in the Purchase Order Requisition Form and shall indicate F.O.B. jobsite. The County's Purchase Order shall also provide that the supplier shall invoice the County directly for the items purchased and not the Contractor. The County's Purchase Orders shall contain or be accompanied by the County's exemption certificate and must include the County's name, address, and exemption number with issue and expiration date shown. The County shall issue each supplier or vendor, with each Purchase Order, a certificate of entitlement.

5.3.2.5 General Contractor shall be fully responsible for all matters relating to the receipt of materials in accordance with these procedures, including, but not limited to, verifying correct quantities, verifying documentation of orders in a timely manner, coordinating purchases, providing and obtaining all warranties and guarantees in favor of and for the benefit of the County required by the Construction Contract, inspection and acceptance of the goods at the time of delivery. At the time of, and subsequent to, the delivery of such materials, the County shall be liable for all loss or damage to equipment and materials purchased pursuant to the Purchase Order. The General Contractor shall coordinate delivery schedules, sequence of delivery, loading orientation, and other arrangements normally required by the General Contractor for the particular materials furnished. The General Contractor shall provide all services required for the unloading, handling and storage of materials through installation. The Construction Agent shall ensure that the General Contractor shall indemnify and hold harmless the County from any and all third-party claims of whatever nature resulting from non-payment of goods to suppliers to the extent caused by the negligent actions or directions of General Contractor. Notwithstanding the foregoing, the

County shall be responsible for payment of the invoices issued by the supplier or vendor pursuant to the procedures in Section 5.3.2.6.

5.3.2.6 As Owner Direct Purchased Materials are delivered to the jobsite, the General Contractor and the Construction Agent, shall visually inspect all shipments from the suppliers, and approve the vendor's invoice issued to the County for material delivered. The General Contractor shall assure that each delivery of Owner Direct Purchased Material is accompanied by documentation adequate to identify the Purchase Order against which the purchase is made. This documentation may consist of a delivery ticket and an invoice from the supplier delivered to the County conforming to the Purchase Order, together with such additional information as the County, Construction Agent, or General Contractor may require. The General Contractor shall verify in writing to the Construction Agent that the materials were received in order for the County to agree to approve the invoice for payment of the invoice issued directly to the County. The County shall have the right to assign personnel to verify and audit the accuracy of all direct purchase documents.

5.3.2.7 The General Contractor shall insure that Owner Direct Purchase materials conform to the Plans and Specifications and determine prior to incorporation into the work if such materials are patently defective, and whether such materials are identical to the materials ordered and match the description on the bill of lading. If the General Contractor discovers defects or non-conformities in the Owner Direct Purchased Material upon such visual inspection, the General Contractor shall not utilize such nonconforming or defective materials in the work and instead shall promptly notify the vendor of the defective or non-conforming condition to pursue repair or replacement of those materials without any undue delay or interruption to the Project. Additionally, the General Contractor shall notify the Construction Agent of such occurrence. If the General Contractor fails to perform such inspection and otherwise incorporates Owner Direct Purchased Materials, the condition of which it either knew or should have known by performance of an inspection, General Contractor shall be responsible for all damages to Construction Agent resulting from General Contractor's incorporation of such materials into the Project, including Liquidated Damages. If materials furnished are found to be defective or nonconforming, the General Contractor shall promptly take action to remedy the defect or nonconformance so as not to delay the work.

5.3.2.8 The Construction Agent, through the General Contractor, shall be responsible for managing all warranties and guarantees in favor of and for the benefit of the County for all materials and products as required by the Contract Documents. All repairs, maintenance or damage repair calls shall be forwarded to the General Contractor for resolution with the appropriate supplier or vendor. However, if legal action must be pursued against the supplier or vendor providing the Owner Direct Purchased Materials, the responsibility for such enforcement and all associated costs, including but not limited to attorney's fees and legal costs, shall rest completely with the County since the County is the party that issued the Purchase Order.

5.3.2.9 The transfer of possession of Owner Direct Purchased Materials from the County to the General Contractor, through the Construction Agent, shall constitute a

bailment for mutual benefit of the County and the General Contractor. The County shall be considered the bailor and the General Contractor the bailee of the Owner Direct Purchased Materials. Owner Direct Purchased Materials shall be considered returned to the County for purposes of its bailment at such time as they are incorporated into the Project or consumed in the process of completing the Project. Bailee shall have the duty to safeguard, store and protect all Owner Direct Purchased Materials. The General Contractor shall maintain insurance in favor of and for the benefit of the County and Construction Agent pursuant to the requirements set forth in the Construction Contract which shall be sufficient to protect against any loss of or damage to Owner Direct Purchased equipment, materials or supplies. Such insurance shall cover the value of any Owner Direct Purchased Materials not yet incorporated into the Project from the time the County first takes title which shall be at the time of delivery and acceptance of the materials by the General Contractor as provided in Section 5.3.2.5.

5.3.2.10 On a monthly basis, Construction Agent and General Contractor shall be required to review invoices submitted by all suppliers of Owner Direct Purchased Materials delivered to the Project site during that month and either concur or object to the County's issuance of payment to the supplier, based upon Construction Agent's and General Contractor's records of materials delivered to the site and any defects in such materials.

5.3.2.11 In order to arrange for the prompt payment to the supplier, the Construction Agent shall provide to the County a list indicating the acceptance of the goods or materials in accordance with the established payment schedules. The list shall include a copy of the applicable Purchase Order, invoices, delivery tickets, written acceptance of the delivered items, and such other documentation as may be reasonably required by the County. Upon receipt and verification of the appropriate documentation, the County shall prepare a payment to the supplier based upon the receipt of data provided. This payment will be released, delivered and remitted directly to the supplier by the County. The Construction Agent agrees to assist the County to immediately obtain partial or final release of lien waivers as appropriate.

5.3.2.12 Salvage materials shall be the property of the County and stored or removed from the site by the General Contractor at the Construction Agent's discretion.

5.3.2.13 From the time of delivery and acceptance, the County shall have and retain title to any and all Owner Direct Purchased Materials.

5.3.2.14 Upon completion of the Project, the General Contractor shall execute and deliver to the Construction Agent, one or more deductive Change Orders, referencing the full value of all Owner Direct Purchased Materials purchased directly, plus all sales tax savings associated with such materials in the GMP to Construction Agent.

ARTICLE 6
PROJECT PRICE; PROJECT BUDGET AND PROJECT SCHEDULE

6.1 Maximum Project Cost. Maximum Project Cost shall have the meaning set forth

in the Second Amendment to the Campus Lease.

6.2 Project Budget. The Project Budget for the Project will be prepared by Construction Agent and approved by County within thirty (30) days of the Execution Date and will be attached hereto as **Exhibit C.** The Project Budget shall be updated within thirty (30) days of the Effective Date and shall replace the Project Budget initially attached hereto as **Exhibit C.** In either case, the Project Budget shall not exceed the Maximum Project Cost. The Project Budget shall include adequate contingencies of both time and money (with detailed contingency categories) as mutually agreed by the Parties to ensure successful delivery of the Project. Any increases to the Project Budget must be approved by the written consent of both Construction Agent and the Contract Administrator, subject to the limitations on the Construction Administrator's authority as previously provided.

6.3 Project Schedule. The Project Schedule for the completion of the Project will be prepared by Construction Agent and approved by County within thirty (30) days of the Execution Date and will be attached hereto as **Exhibit D.** The Project Schedule shall be updated within thirty (30) days of the Effective Date and shall replace the Project Schedule initially attached hereto as **Exhibit D.** Prior to execution of the Construction Agreement, which shall not occur before the Financing Confirmation, Construction Agent shall provide County with a cost-loaded Project Schedule in general conformance with the updated Project Schedule (except as otherwise mutually agreed upon by the Parties), in accordance with critical path methodology, prepared with industry standard scheduling software, which, at a minimum, contains the critical dates set forth in the Agreement for commencement and completion of construction activities and the anticipated cost of such construction activities. Construction Agent shall have the exclusive right, power and authority to initiate and/or approve any changes to the Project Schedule; provided that Construction Agent provides Contract Administrator with prior written notice of such changes. Construction Agent shall submit to County a monthly work progress schedule and copies of any and all other schedules used by Construction Agent to manage the construction of the Project.

ARTICLE 7 METHOD OF BILLING AND PAYMENT

7.1 Payments to Construction Agent. County shall pay Construction Agent in accordance with the terms and conditions contained in this Section 7.1.

7.1.1 County shall pay Construction Agent a lump sum not-to-exceed amount of Nine Million Five Hundred Thousand Dollars (\$9,500,000) as payment for Construction Agent's project management services ("**Project Manager Fee**") under this Agreement with respect to the Project. County shall pay RCG its Project Manager Fee on a monthly basis commencing on the Effective Date within ten (10) Business days from receipt of Construction Agent's Application and Certificate for Payment.

7.1.2 County shall pay Construction Agent a lump sum not-to-exceed amount of Ten Million Dollars (\$10,000,000) to reimburse Construction Agent for certain costs and expenses

incurred by Construction Agent in connection with the design and development of the Project between the Project Suspension Date and the Second Development Period. Within thirty (30) days of the Effective Date, Construction Agent shall provide County with supporting documentation of the costs and expenses incurred by Construction Agent, and County shall have thirty (30) days to review and comment on such supporting documentation. The Parties shall meet to discuss the County's comments, if any, and County shall issue payment to Construction Agent within ten (10) days of approval of the supporting documentation.

7.1.3 Payments will be made by County to Construction Agent via electronic transfer of funds in accordance with the following wiring instructions:

USD

Bank Name:	JP Morgan Chase Bank
Routing # (ABA):	021000021
SWIFT:	CHASUS33
Beneficiary Name:	Royal Caribbean Cruises Ltd.
Beneficiary Account #:	9102763274
Reference:	Project Manager Fee- Campus Project

In order prevent cases of wire fraud, any instructions from Lessee received by the County changing the above wiring instructions must first be verbally confirmed by Lessee Treasury prior to implementation by County.

7.2 Payments to General Contractor. County shall pay General Contractor in accordance with the terms and conditions contained in this Section 7.2. The Construction Agreement shall provide for the withholding of retainage in an amount not lower than ten percent (10%), which shall be released only upon Final Completion of the Project.

7.2.1 “Application and Certificate for Payment” or “Application for Payment”. Construction Agent shall require the General Contractor to submit a monthly Application for Payments to Construction Agent, unless another format is later reasonably required by County. Construction Agent shall review the initial Application for Payment for the month in question in unsigned draft “pencil format” in order that Construction Agent and County may review such proposed Application and communicate their respective comments, questions and revisions to the General Contractor in a timely manner. After receiving their timely comments, the General Contractor shall submit the revised Application for Payment for such time period. Exhibits, updated Project Schedule, Timesheets, Certificates of Payment, or Schedule of Values may be required to include submittal of electronic copies using software specified by the Contract Administrator, as well as the number of hard copies required by the Contract Administrator. If required by the Contract Administrator, all costs must be classified and sorted based on the work breakdown structure (WBS) (i.e., cost accounting) provided by the Contract Administrator. When requested, and as applicable depending upon whether the particular costs involved are compensated on an hourly basis or as a lump sum, Construction Agent shall require the General Contractor to provide detailed backup for past and current pay requests that record actual hours,

unit prices, salary costs, and expense costs on an item basis, and by employee category so that total hours and costs by item may be verified. These records must be made available to the Contract Administrator upon request. For each pay request, Construction Agent shall submit an original pay request and at least two copies (with all back-up) to the Contract Administrator. When requested by County, Construction Agent shall require General Contractor to submit certified payroll records for past and current pay requests.

7.2.2 County shall comply with the Florida Prompt Payment Act, Florida Statutes 255.0705-255.078 (as the same may be amended from time to time) with respect to all payments owing by County under this Agreement and under the Construction Agreement.

7.2.3 All Applications and Certificates for Payment produced by the General Contractor, shall include a partial release of lien(s) or consent of surety. All pay applications shall show a summary of salary costs and reimbursables with accrual of the total and credits for portions paid previously. External reimbursables and subcontractor's fees must be documented by copies of invoices or receipts which describe the nature of the expenses, and contain a project number and project title which clearly indicate the expense is identifiable to the Project. Subsequent additions of the identifier to the invoice or receipt by General Contractor are not acceptable, and the General Contractor must be required to resubmit such invoices or receipts in compliance with this subsection.

7.2.4 Notwithstanding any provision of this Agreement to the contrary, the General Contractor shall not be entitled to payment of any statement unless the Contract Administrator is reasonably satisfied that the statement reflects a level of effort and stage of completion of the respective deliverables that is in accordance with the Project Schedule.

7.2.5 Payments will be made by County to General Contractor via electronic transfer of funds wiring instructions to be provided by General Contractor to County. Prior to the first wiring of funds under this Agreement, General Contractor shall provide the Contract Administrator with a reference number to accompany each wiring of funds, and County shall use such reference number in each wire transaction.

7.2.6 Notwithstanding any provision of this Agreement to the contrary, County may withhold, in whole or in part (as applicable), payment to the extent necessary to protect itself from loss on account of inadequate or defective services which have not been remedied, or from loss due to fraud or reasonable evidence indicating fraud by Construction Agent or the General Contractor, or failure by Construction Agent to comply with the terms and conditions of this Agreement. When the above reasons for withholding payment are removed or resolved in a manner reasonably satisfactory to Contract Administrator, payment shall be made. The amount withheld shall not be subject to payment of interest by County.

7.2.7 County agrees to assist Construction Agent in an effort to mitigate taxes in connection with the construction of the Project, including seeking from the appropriate State authority any sales tax exemption letters and other documentation reasonably required by the

contractors, suppliers and materialmen in connection with the construction of the Project, to the extent legally permissible.

ARTICLE 8
COMPETITIVE SOLICITATION OF GENERAL CONTRACTOR

8.1 Procurement Requirements. Construction Agent shall prepare all contract documents and solicitation documents with respect to the Project consistent with this Agreement, subject to the review and approval of County. Construction Agent shall engage the General Contractor after such contractor has been selected pursuant to the competitive procurement requirements set forth on Exhibit H attached hereto, upon the successful negotiation of a Construction Agreement providing for the completion of the Project for a GMP that is within the Project Budget, through a Construction Agreement that meets the requirements of this Agreement. Construction Agent shall negotiate the terms and provisions of the Construction Agreement with the General Contractor, which agreement shall utilize the “AIA A133-2019 Standard Form of Agreement between Owner and Construction Manager” and “AIA A201-2017 General Conditions of the Contract for Construction” or other AIA form mutually agreed upon by Construction Agent and County, subject to the inclusion of the requirements set forth in this Agreement and any other modification as agreed upon by Construction Agent, County, and General Contractor. Construction Agent may execute any of its duties under this Agreement by or through agents, contractors, employees, or attorneys in fact. The County shall be provided with a draft of the Construction Agreement at least thirty (30) days before its execution, and the County shall be entitled, in its sole discretion, to provide comments within fifteen (15) days of its receipt of the Construction Agreement, provided that such comments shall be limited to ensuring consistency between the Construction Agreement and this Agreement, and the County’s comments (if any are provided) shall not be construed as a waiver of any requirements set forth in this Agreement. Upon execution of the Construction Agreement, the County shall be provided with a copy of same and of any amendments subsequently entered.

ARTICLE 9
GMP

9.1 Agreement Regarding GMP and Substantial Completion Date.

9.2.1 The highest ranked RFP bidder and Construction Agent shall negotiate, with input from the Contract Administrator or County’s designee, the terms and provisions of the Construction Agreement which shall include, among other things:

- (a) the amount of the GMP (which shall include the components described in the definition of GMP in the Construction Agreement); and
- (b) Substantial Completion Date for the Project shall occur no later than June 30, 2026, subject to Force Majeure and other permitted extensions set forth

in the Construction Agreement and Second Amendment to the Campus Lease.

Upon the finalization of such negotiations but prior to the execution and delivery of the Construction Agreement by Construction Agent and the highest-ranked RFP bidder, Construction Agent shall deliver written notice to the Contract Administrator of the negotiated GMP and the Substantial Completion Date. So long as (i) the GMP does not exceed the GMP amount set forth in the Project Budget, (ii) the Substantial Completion Date for the Project is June 30, 2026 (subject extension as provided in this Agreement and the Second Amendment to the Campus Lease) or earlier, and (iii) all other requirements of this Agreement are included, Construction Agent, on behalf of County, shall have the right to execute and deliver the Construction Agreement with the General Contractor.

9.3 Revisions to GMP and Substantial Completion Date.

9.3.1 If in Construction Agent's estimation, the GMP or Substantial Completion Date cannot be accomplished within the requirements provided hereinabove, the Contract Administrator and Construction Agent shall meet to review the status of the proposals. The Contract Administrator and Construction Agent shall mutually agree to (i) reduce the scope of work or make other modifications to the Project to ensure the GMP and/or Substantial Completion Date can be met, and/or (ii) reclassify certain of the Campus Improvements as Future Improvements.

ARTICLE 10 CHANGES IN SCOPE OF WORK; CONSTRUCTION AGREEMENT

10.1 Changes to Construction Agreement. Construction Agent shall have the authority to approve any changes to the Construction Agreement that would increase, decrease, or otherwise modify the scope of work to be provided by the General Contractor without the consent of the Contract Administrator so long as such changes do not (i) increase the GMP, or (ii) delay the Substantial Completion Date. Such changes must be contained in a Change Order, a copy of which shall be provided to Contract Administrator. Any change order that impacts GMP or the Substantial Completion Date must be approved by Contract Administrator; provided, however, such approval to increase the GMP shall not be unreasonably withheld so long as the Maximum Project Cost will not be exceeded. Subject to the limitations of the preceding sentences, costs of additional services contained in a written Change Order will be compensated in accordance with the terms and conditions of the Construction Agreement.

10.1.1 Except as permitted by this Agreement and/or by the Construction Agreement, any Change Order to modify the Construction Agreement must be submitted by the General Contractor to Construction Agent in writing and no Change Order shall be effective unless it is executed by both Construction Agent and the General Contractor.

10.2 Additional Work. Subject to the limitations of Section 10.1, the costs of additional Work contained in a written Change Order will be compensated on an agreed upon lump sum amount to be negotiated by Construction Agent and the General Contractor.

ARTICLE 11
COUNTY REQUIREMENTS

11.1 Development Contracts. The Construction Agreement and any other design or construction contract entered into by Construction Agent for the Project shall comply with those County requirements relating to design and construction on property owned by County and constructed for the use and benefit of private parties as specifically set forth in this Article 11, and each general contract and all subcontracts of any tier shall provide the obligation to indemnify, hold harmless, and defend County for, from and against claims or losses arising from the negligence of such general contractor or its subcontractors of any tier, and shall name County as express third-party beneficiary with rights of enforcement of such obligation. The Construction Agreement shall provide that all construction be performed in accordance with Applicable Laws including the requirements set forth in this Agreement, in general, and this Section 11, in particular.

11.2 Bonding Requirements. The General Contractor shall be required to execute, record in the public records of County, and furnish to County before commencing work on the Project, a payment and performance bond in the amount of the GMP, to assure completion of the work and payment of the costs, free and clear of all claims of subcontractors, laborers, mechanics, suppliers and materialmen. General Contractor shall name County and Construction Agent as dual obligees. The payment and performance bond shall be issued through a surety authorized to do business in the State of Florida as a surety and be otherwise in compliance with the requirements set forth in Section 255.05 of the Florida Statutes, and applicable laws.

11.3 Small Business Enterprise. The General Contractor shall at all times comply with the requirements of County's Small Business Enterprise Program. In compliance with applicable requirements, the General Contractor shall deliver proposed contract and design and construction packages to the Small Business Division of the Internal Services Department of County ("**SBD**") for a recommendation (which shall be made in consultation with Construction Agent) to County Mayor of the Small Business Enterprise subcontractor goals applicable to such design and construction. The County Mayor shall establish the applicable measures (the "**Applicable Measures**") upon receipt of the recommendation of the SBD. The General Contractor shall include the Applicable Measures in design and construction documents, as applicable, and shall adhere to those Applicable Measures in design and construction activities. The General Contractor shall incorporate in all design and development contracts the prompt payment provisions contained in applicable law with respect to Small Business Enterprises. Construction Agent agrees to include in construction contracts a prohibition against imposing any requirements against Small Business Enterprises that are not customary, not otherwise required by law, or which impose a financial burden that intentionally impact Small Business Enterprises. The General Contractor shall comply with the Small Business Enterprise requirements during all phases of construction of the Project. Should the General Contractor fail to comply with any of the Small Business Enterprise

requirements, the General Contractor shall be obligated to make up such deficit on future projects in Miami-Dade County.

11.4 Workforce; Residents First. The Construction Contract shall comply with Section 2-11.17 of the Code and Implementing Order 3-61, which require that: (i) all persons employed to perform construction shall have completed the ten (10) hour construction training course established by the Occupational Safety and Health Administration (“OSHA”) of the United States Department of Labor; and (ii) the General Contractor will aspire to promote employment opportunities for local residents and, to the extent reasonably practicable, seek to achieve a project goal of having fifty one percent (51%) of all construction labor hours performed by Miami-Dade County residents. The General Contractor shall coordinate with SBD to implement the provisions of this subsection.

11.5 Workforce; Local Workforce Requirements. The Construction Contract shall comply with Section 2-1701 of the Code and Implementing Order 3-37, as applied to the Port, requiring that a minimum of ten percent (10%) of the construction workers be employed from any Designated Target Areas located within Miami-Dade County. The General Contractor shall coordinate with SBD to implement the provisions of this subsection.

11.6 Responsible Wages. The Construction Contract shall comply with Section 2-11.16 of the Code which requires that construction workers be paid certain published minimum wages. The General Contractor shall coordinate with SBD to implement the provisions of this subsection.

11.7 Employ Miami-Dade Program. In the construction of the Project, the General Contractor shall at all times comply with the requirements of Administrative Order No. 3-63. Entitled “Employ Miami-Dade Program” which, among other requirements, provides for the hiring of certain participants listed in the Employ Miami-Dade register.

11.8 Art in Public Places. The Project is subject to the Art in Public Places (“APP”) provisions in Section 2.11.15 of the Code and Administrative Order 3-11, as managed by the Miami-Dade County Department of Cultural Affairs (“Department of Cultural Affairs”) pursuant to Procedure 358 in the Miami-Dade County Procedures Manual (“Procedures Manual”). The County shall transmit the portion of the Maximum Project Cost allocable to compliance with the APP program (which shall not be less than 1.5% of the Project cost in the amount determined under the Procedures Manual) to the Department of Cultural Affairs for the implementation of the APP program. The Construction Agent and General Contractor are required to work collaboratively with the Department of Cultural Affairs on the implementation of the APP program pursuant to the requirements of said program. The Procedures Manual is attached hereto as **Exhibit F**. County, in coordination with County’s Department of Cultural Affairs, may set aside some or all of the funds in the Project Budget allocated to satisfy the APP requirements and use it in connection with other publicly accessible improvements to RCG’s campus rather than in or on the Shared Garage itself.

11.9 Consideration of Sea Level Rise. General Contractor shall comply with Board

Resolution No. R-451-14, which requires the consideration of sea level rise projections and potential impacts as best estimated at the time of the Project.

11.10 Additional Conditions. All contracts entered into by Construction Agent for construction of the Project shall at a minimum provide for a one (1) year warranty period. In addition, such contracts shall contain standard industry clauses requiring the construction contractor to provide notice of any unforeseen site condition promptly upon discovery and in all events prior to concealing of the condition. Construction Agent shall provide to County notice of such condition within five (5) days of receipt of such notice from its contractor in connection with any condition which Construction Agent believes County responsible for under this Agreement. The contract shall require Construction Agent's contractor to invoice the work related to County's obligations related to unforeseen site conditions separately from other invoicing of the contractor to Construction Agent, and to document its costs relating to such events separately. County shall reimburse Construction Agent for Construction Agent's cost relating to such unforeseen site conditions, separately identified, accounted for, and invoiced, within thirty (30) days of the same being incurred by Construction Agent, upon properly supported invoicing by Construction Agent. Under no circumstances shall County be responsible for any delay claim for damages of Construction Agent or Construction Agent's contractors relating to delay, including but not limited to any direct or indirect jobsite or home office overhead, extended general conditions, or acceleration claims or any markups in the direct cost of the work designed to account for such delay.

11.11 Completion of Construction. When the Project has achieved Substantial Completion, Construction Agent shall furnish County with a complete set of "as built" plans and Survey for the constructed improvements. Within ninety (90) days of Final Completion, Construction Agent shall provide County with two (2) signed and sealed sets of complete Project as-built drawings certified both by the Architect and/or engineer(s) of record and also by the professional surveyor and mapper ("PSM") where required, which as-builts must show all changes and deviations from or to permitted plans and drawings and include as-built dimensions and elevations recorded or verified by the PSM. All as-built information regarding underground or otherwise concealed facilities shall be taken in the field concurrently with the program of construction and before facilities are covered or otherwise concealed. Otherwise, the General Contractor, as the case may be, shall expose (and restore) sufficient areas of work to allow the PSM to meet the aforementioned PSM dimension, elevation, and location verification certification requirements. The as-built drawing shall be submitted to County in AutoCAD for Windows Release 14 format or later and in Geographic Information System ("GIS") as-built information format.

11.12 Sustainable Buildings. Construction Agent shall be required to comply with the County's Sustainable Buildings Program, in effect as of the effective date of the Campus Lease prior any amendments, as implemented pursuant to Implementing Order 8-8.

ARTICLE 12
TERM OF THIS AGREEMENT AND TERMINATION

12.1 Term of this Agreement. The term of this Agreement shall commence on the Effective Date and shall continue until the Final Completion of the Project under the Construction Agreement unless terminated pursuant to the terms of this Article 12; provided however the terms of this Agreement shall continue in effect following termination or the expiration of the term of this Agreement with respect to (i) the enforcement of the indemnification obligations of the Parties until the expiration of the applicable statute of limitation periods for the indemnification obligations set forth in this Agreement, and (ii) the enforcement of warranty claims under the Construction Agreement.

12.2 Termination for Cause. In addition to the termination rights set forth herein, this Agreement may be terminated “for cause” by action of County or by Construction Agent if the Party in material breach (whether such breaching Party is County or Construction Agent) has not corrected the material breach within twenty (20) calendar days' written notice from the aggrieved Party identifying the material breach, or, with respect to any nonmonetary material breach not reasonably capable of being cured within such time, if the Party in material breach fails to commence cure within ten (10) calendar days' written notice from the aggrieved Party identifying the material breach and diligently pursue such cure to completion (in each case, the “**Cure Period**”). Termination of this Agreement “for cause” shall include, but not be limited to, negligent, intentional, or repeated submission for payment of materially false or incorrect bills or invoices, failure to make payment due under this Agreement when due, or failure by a Party to continuously perform its material obligations set forth in this Agreement. This Agreement may also be terminated for cause if Construction Agent is placed on the discriminatory vendor list (as provided in Section 287.134, Florida Statutes, as amended from time to time, or the Scrutinized Companies with Activities in Sudan or in the Iran Petroleum Energy Sector Lists as provided in Section 215.473, Florida Statutes, as amended from time to time).

12.3 Notice of Termination. Notice of termination under this Article 12 shall be provided in accordance with Article 19, except that notice of termination by Contract Administrator where he or she reasonably and in good faith deems necessary to protect the public health, safety, or welfare may be by verbal notice which shall be confirmed in writing within forty eight (48) hours.

12.4 Notice to General Contractor of Termination for Cause. The Parties agree that the Construction Agreement may not be terminated “for cause” unless the General Contractor has materially breached the Construction Agreement as set forth in the Construction Agreement. Upon being notified of County’s election to terminate for cause this Agreement and the Construction Agreement based upon the existence of “cause” under both this Agreement and under the Construction Agreement, then, Construction Agent shall notify the General Contractor that County has terminated the Construction Agreement and advise the General Contractor to cease from performing further services or incurring additional expenses under the terms of the Construction

Agreement with Construction Agent, except for the reasonably necessary services and expenses to secure the Project.

12.5 Assignment/Termination of Construction Agreement. Construction Agent agrees that upon any termination of this Agreement for any reason, County may elect one of the following:

12.5.1 Upon written notification by County to Construction Agent, Construction Agent will cause the assignment of the Construction Agreement to County, and such contract shall contain a provision requiring the General Contractor to accept such assignment and to continue to be bound by the terms of its contract; or

12.5.2 If County desires to utilize other entities to complete the Project, then the Construction Agreement shall terminate on such date as is specified in County's written notice to that effect, and such contract shall contain a provision requiring its termination in such event.

12.5.3 The Parties hereby acknowledge and agree, that in all cases where this Agreement is terminated and/or other agreement is assigned to County as set forth herein, Construction Agent shall be released of all further obligations under this Agreement and under such other agreement that is assigned by Construction Agent to County for events occurring post-assignment.

12.6 Remedies. In the event of a material breach by either County or Construction Agent under this Agreement, which material breach is not cured within the Cure Period or in the event of a termination without cause, then, in addition to the remedies set forth in this Article, the Parties shall be entitled to any and all remedies available at law or in equity with respect to such material breach or termination without cause; provided, however, that such remedies for damages shall be limited to direct damages and shall be subject to Section 14.1 of this Agreement.

ARTICLE 13 INDEMNIFICATION AND INSURANCE

13.1 Indemnification by RCG. During the term of this Agreement and thereafter until the expiration of the applicable statute of limitations period has expired with respect to any claim, RCG shall (except for any wrongful, willful, wanton or intentional act or negligent act of County or its officers, directors, agents or employees), indemnify, hold harmless and at the Miami-Dade County Attorney's option, defend or pay for the reasonable fees of an attorney selected by the Miami-Dade County Attorney and consented to by RCG as provided for herein, to defend County, its officers, directors, agents, and employees against any and all claims, losses, liabilities, and expenditures of any kind, including reasonable attorneys' fees, court costs, and expenses, caused by the negligence, recklessness or intentional wrongful misconduct of RCG, its employees, agents, or officers, accruing, resulting from, or related to RCG's services as Construction Agent for County as set forth in this Agreement; provided however that in no event shall the indemnification set forth in this Section 13.1 include or cover: (i) any of the obligations of the General Contractor

or General Contractor's architect under the Construction Agreement, (ii) any of the obligations of County for County's Work, (iii) any obligations with respect to, or arising under, any of the Plans and Specifications, (iv) any claims of, or damages resulting from, negligence, recklessness or intentional wrongful misconduct of County or its officers, directors, agents or employees, and (v) any claims of, or damages for, statutory violation or punitive damages.

13.2 Limitation on Indemnification by RCG. Notwithstanding the foregoing, the monetary limitation on the extent of the indemnification provided under Section 13.1 in connection with RCG's services as Construction Agent under this Agreement shall not exceed One Million Dollars (\$1,000,000.00).

13.3 Indemnification by County. During the term of this Agreement and thereafter until the expiration of the applicable statute of limitations period has expired with respect to any claim and except as provided in and subject to the limitations and monetary thresholds of Section 768.28 of the Florida Statutes, County shall indemnify and hold harmless Construction Agent and its employees, agents, officers, partners, members and principals from any and all liability, losses or damages, including reasonable attorneys' fees and costs of defense, which Construction Agent or its employees, agents, officers, partners, members or principals may incur as a result of (i) claims arising out of, relating to or resulting from the performance of this Agreement by County or its employees, agents, officers, contractors or instrumentalities, excluding any claims arising out, relating to or resulting from the negligence or willful misconduct of Construction Agent or its employees, agents, officers, partners, members, principals or contractors, and (ii) third party claims against Construction Agent with respect to any of Construction Agent's services performed in the course and scope of Construction Agent's obligations and services as Construction Agent for County with respect to the Project, this Agreement and the other Contract Documents, excluding any claims arising out, relating to or resulting from the negligence or willful misconduct of Construction Agent or its employees, agents, officers, partners, members, principals or contractors. County shall pay all claims, losses and damages in connection with any matters indemnified hereunder, and shall investigate and defend all claims, suits or actions of any kind or nature in the name of Construction Agent, where applicable, with respect to such matters, including appellate proceedings, and shall pay all costs, judgments, and reasonable attorney's fees which may issue thereon.

13.4 Survival. The provisions of this Article 13 shall survive the expiration or earlier termination of this Agreement until the expiration of any applicable statute of limitations for any such claim, demand, cause of action, or proceeding of any kind.

13.5 Insurance Coverage by Construction Agent. Construction Agent shall furnish to County, Certificate(s) of Insurance which indicate that insurance coverage has been obtained which meets the requirements as outlined below:

- (a) Worker's Compensation Insurance and USL&H coverage for all employees of the Construction Agent.

- (b) Commercial General Liability Insurance in an amount not less than \$5,000,000 per occurrence. Policy must be endorsed to include coverage for Products & Completed Operations. Insurance shall include coverage for Explosion Collapse and Underground Hazards. Miami-Dade County must be shown as an additional insured with respect to this coverage.
- (c) Automobile Liability Insurance covering all owned, non-owned and hired vehicles used in connection with the work, in an amount not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage.

13.6 Indemnification and Insurance Coverage by General Contractor. RCG shall require the General Contractor to indemnify County and Construction Agent with respect to the Project and the Construction Agreement and to provide Construction Agent and County with evidence of the insurance coverage required for the Project as set forth in Exhibit G attached hereto.

ARTICLE 14
LIMITATION OF LIABILITY FOR CONSEQUENTIAL DAMAGES,
AND LIQUIDATED DAMAGES

14.1 Mutual Waivers. County and RCG mutually disclaim, waive, and release any and all claims against each other for consequential, special and punitive damages of any kind (including, without limitation, attorneys' fees, court costs, and expenses) arising out of or related to the Project or this Agreement.

14.2. Liquidated Damages. Nothing contained in this Agreement shall preclude Construction Agent from recovering liquidated damages from the General Contractor on behalf of County for Project delays caused by the General Contractor, and recovery of direct damages including the costs of repairing, replacing, or completing defective, or incomplete work under the Construction Agreement. Construction Agent agrees to include in the Construction Agreement a provision to the effect that, if the General Contractor shall fail to achieve Substantial Completion on or before the agreed upon deadline for Substantial Completion (as same may be extended for Force Majeure or as otherwise permitted under the Construction Agreement or Second Amendment to the Campus Lease), then the General Contractor shall be liable to Construction Agent for liquidated damages in an amount of not less than Five Thousand Dollars (\$5,000) per day (provided that the Parties acknowledge that such liquidated damages amount may exceed such per day amount). Further, the Construction Agreement shall include a provision assessing liquidated damages in the amount of not less than Two Thousand Five Hundred Dollars (\$2,500) per day (provided that the Parties acknowledge that such liquidated damages amount may exceed such per day amount) if the General Contractor shall fail to achieve Final Completion on or before the agreed upon deadline for Final Completion (as same may be extended for Force Majeure or as otherwise permitted under the Construction Agreement or Second Amendment to the Campus Lease). All liquidated damages payable by General Contractor shall be paid by General Contractor directly to County.

ARTICLE 15
AUDIT RIGHT AND RETENTION OF RECORDS

15.1 County shall have the right to audit the books, records, and accounts of Construction Agent and its contractors and subcontractors that are related to this Agreement. Construction Agent and its contractors and subcontractors shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement and performance thereunder. All books, records, and accounts of Construction Agent and its contractors and subcontractors shall be kept in written form, or in a form capable of conversion into written form within a reasonable time, and upon request to do so, Construction Agent or its contractor or subcontractor, as applicable, shall make same available at no cost to County in written form.

15.2 Construction Agent and its contractors and subcontractors shall preserve and make available, at reasonable times within Miami-Dade County for examination and audit by County, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for a minimum period of three (3) years after expiration or termination of this Agreement or until resolution of any audit findings, whichever is longer. County audits and inspections pursuant to this section may be performed by any County representative (including any outside representative engaged by County). County reserves the right to conduct such audit or review at Construction Agent's place of business, if deemed appropriate by County, with ten (10) business days advance notice.

15.3 Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for County's disallowance and recovery of any payment upon such entry. If an audit or inspection in accordance with this section discloses overpricing or overcharges to County of any nature by Construction Agent in excess of five percent (5%) of the total contract billings reviewed by County, the reasonable actual cost of County's audit shall be reimbursed to County by Construction Agent in addition to making adjustments for the overcharges. Any adjustments and/or payments due as a result of such audit or inspection shall be made within thirty (30) days from presentation of County's findings to Construction Agent.

15.4 Inspector General and Independent Private Sector Inspector General. The County's Inspector General and any independent private sector inspector general ("IPSIG") retained, exercising any powers afforded under this Agreement or applicable law, shall have the right to examine all documents and records in the Construction Agent's possession, custody or control which, in the their reasonable judgment, pertain to the project design and performance of construction matters under this Agreement, including but not limited to, original estimate files; change order estimate files; worksheets; proposals and agreements from and with subcontractors and suppliers; all project related correspondence, memoranda, instructions, financial documents, construction documents, bid and contract documents; back-charge documents; documents and records which involve cash, trade or volume discounts, insurance proceeds, rebates, or dividends

received; payroll and personnel records; and supporting documentation for the aforesaid documents and records. Upon written notice to the Construction Agent from the Inspector General or an IPSIG retained by the Inspector General, the Construction Agent shall make all requested records and documents available to the Inspector General or the IPSIG for inspection and copying. The Inspector General and the IPSIG shall have the right to inspect and copy all documents and records in the Construction Agent's possession, custody or control which, in the Inspector General's or the IPSIG's sole judgment, pertain to performance of the contract.

15.4.1 The provisions in this Section shall apply to the Construction Agent and its officers, agents and employees. Construction Agent shall incorporate the provisions in this Section in all subcontracts executed by the Construction in connection with the performance of this Agreement, including the Construction Contract and any Third-Party Contracts.

15.4.2 Nothing in this Section shall impair any independent right that the Construction Agent may grant to the County to conduct audit or investigative activities. The provisions in this Section are neither intended nor shall they be construed to impose any liability on County, Construction Agent, or third parties.

15.5 Construction Agent shall include that the requirements of this Section in the Construction Agreement and shall require the General Contractor to include the requirements of this Section in all material agreements with the General Contractor's contractor(s) and subcontractor(s).

ARTICLE 16
DISCRIMINATORY VENDOR AND SCRUTINIZED COMPANIES LIST

16.1 By execution of this Agreement, Construction Agent represents that it has not been placed on the discriminatory vendor list (as provided in Section 287.134, Florida Statutes, as amended from time to time), or the Scrutinized Companies with Activities in Sudan or in the Iran Petroleum Energy Sector Lists (as provided in Section 215.473, Florida Statutes, as amended from time to time). County hereby materially relies on such representation in entering into this Agreement. An untrue representation of the foregoing shall entitle County to terminate this Agreement.

ARTICLE 17
PUBLIC ENTITY CRIMES ACT

17.1 Construction Agent represents that the execution of this Agreement will not violate the Public Entity Crimes Act (Section 287.133, Florida Statutes), which essentially provides that a person, or affiliate who is a contractor, or other provider and who has been placed on the convicted vendor list following a conviction for a Public Entity Crime may not submit a bid on a contract to provide any goods or services to County, may not submit a bid on a contract with County for the construction or repair of a public building or public services, may not submit bids on leases of real property to County, may not be awarded or perform services as a contractor,

supplier or subcontractor under a contract with County, and may not transact any business with County in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of thirty-six (36) months from the date of being placed on the convicted vendor list. Violation of this Article shall result in termination of this Agreement.

17.2 In addition to the foregoing, Construction Agent further represents that, to Construction Agent's knowledge, there has been no determination, based on an audit, that it committed an act defined by Section 287.133, Florida Statutes, as a public entity crime and that it has not been formally charged with committing an act defined as a public entity crime regardless of the amount of money involved or whether Construction Agent has been placed on the convicted vendor list.

ARTICLE 18 NO CONTINGENT FEE

18.1 Construction Agent warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Construction Agent, to solicit or secure this Agreement (other than to assist in the negotiation of this Agreement), and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for Construction Agent any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this provision, County shall have the right to terminate this Agreement, or otherwise recover the full amount of such fee, commission, percentage, gift, or consideration.

ARTICLE 19 REPRESENTATIVES OF COUNTY AND CONSTRUCTION AGENT – NOTICES

19.1 County's Representative. The Parties recognize that questions in the day-to-day conduct of the Project will arise. The Contract Administrator shall inform RCG in writing of County's representative to whom matters involving the conduct of the Project shall be addressed.

19.2 Construction Agent Representative. Construction Agent shall inform the Contract Administrator in writing of Construction Agent's representative to whom matters involving the conduct of the Project shall be addressed. Construction Agent may replace such representative by sending written notice of such replacement to the Contract Administrator.

19.3 Notices. Whenever either party desires to give notice to the other with respect to any matter related to this Agreement, such notice must be in writing, sent by email and certified United States Mail, postage prepaid, return receipt requested, or by reliable overnight courier, addressed to the Party for whom it is intended at the place last specified. The place for giving notice shall remain such until changed in writing in compliance with the provisions of this Article. For the present, the Parties designate the following as the respective places for giving of notice:

For Miami-Dade County:

Hydi Webb
Director, Seaport Department
Miami-Dade County
1015 North America Way
Miami, Florida 33132-2081

with a copy to:

County Attorney
111 Northwest 1st Street
Suite 2810
Miami, Florida 33128
Attn.: Miguel A. Gonzalez, Esquire

For RCG:

Royal Caribbean Cruises Ltd.
1050 Caribbean Way
Miami, Florida 33132
Attn.: Ms. Laura Hodges-Bethge
EVP, Shared Services Operations

With a copy to: General Counsel

ARTICLE 20
INDEPENDENT CONTRACTOR; THIRD PARTY BENEFICIARIES;
NO JOINT RELATIONSHIP

20.1 Construction Agent is an independent contractor of County. Services provided by Construction Agent shall be subject to the supervision of Construction Agent. In providing the services, Construction Agent or its agents shall be acting and shall be deemed as acting as an agent of County expressly with respect to the services set forth in, or contemplated by, this Agreement.

20.2 The Parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement, except as specifically noted in the Agreement. Subject to the same exception, neither Construction Agent nor County intend to directly or substantially benefit a third party by this Agreement. Therefore, the Parties agree, that (except as specifically noted) there are no third-party beneficiaries to this Agreement, and that no third party shall be entitled to assert a right or a claim against either of them based upon this Agreement.

20.3 This Agreement shall not constitute or make the Parties a partnership or joint venture or create any other joint relationship.

ARTICLE 21
COMPLIANCE WITH LAWS

21.1 Subject to Section 2.7 of this Agreement, Construction Agent shall keep fully informed of all federal, state, County and local laws, ordinances, codes, rules, and regulations, and all orders and decrees of bodies or tribunals having jurisdiction or authority which, in any manner, affect the work, the Project or services authorized under the terms of this Agreement, and shall further take into account all known pending changes to the foregoing. Subject to Section 2.7 of this Agreement, Construction Agent shall at all times observe and comply with all such laws, ordinances, codes, rules, regulations, orders, and decrees in performing its duties, responsibilities, and obligations related to this Agreement.

21.2 Construction Agent shall comply with Florida's public records law, including Fla. Stat. § 119.0701. Construction Agent shall specifically: (1) keep and maintain public records that ordinarily and necessarily would be required by the public agency in order to perform the service; (2) upon request of the custodian of public records, provide the County with a copy of the public records or allow the public records to be inspected or copied within a reasonable time and at a cost that does not exceed the cost provided in Chapter 119, F.S., or as otherwise provided by law; (3) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (4) transfer, at no cost, to the public agency all public records in possession of the Construction Agent upon termination of the Agreement and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements or keep and maintain public records required by the public agency to perform the service. All records stored electronically must be provided to the public agency, upon request of custodian of public records in a format that is compatible with the information technology systems of the public agency.

IF THE CONSTRUCTION AGENT HAS QUESTIONS CONCERNING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSTRUCTION AGENT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

PortMiami Customer Service Manager

pomservice@miamidade.gov

305.347.4844

21.3 It is expressly understood that notwithstanding any provision of this Agreement and the County's status thereunder, that the County retains all of its sovereign prerogatives and

rights as a county under Florida laws and shall in no way be estopped from withholding or refusing to issue any approvals of applications for building, zoning, planning, or development under present or future laws and regulations of whatever nature applicable to the operations of the Construction Agent, General Contractor, or Third Party Contractors or be liable for the same. Without limiting the obligations of the County pursuant to this Agreement, the County shall not, by virtue of this Agreement, be obligated to grant the Construction Agent, General Contractor, or Third-Party Contractors any approvals of applications for building, zoning, planning, or development under present or future laws and ordinances of whatever nature applicable to the operations of the Construction Agent, General Contractor, or Third Party Contractors.

21.4 Construction Agent shall be required to comply with the applicable provisions of Section 448.095, Florida Statutes, titled “Verification of Employment Eligibility.” This includes but is not limited to utilization of the U.S. Department of Homeland Security’s E-Verify System to verify the employment eligibility of all newly hired employees by the Construction Agent from and after January 1, 2021. If Construction Agent has a good faith belief that a person or entity with which Construction Agent is contracting has knowingly violated Section 448.095(1), Florida Statutes, Construction Agent shall terminate the contract with such person or entity. If the County has a good faith belief that a subcontractor of Construction Agent knowingly violated this subsection, but Construction Agent otherwise complied with this section, the County shall promptly notify Construction Agent and order Construction Agent to immediately terminate the contract with the subcontractor. The subcontractor or sub-subcontractor may file an action with a circuit or county court challenge the termination within twenty (20) days of such termination. If the County has a good faith belief that Construction Agent has knowingly violated Section 448.09(1), Florida Statutes, the County shall terminate this Agreement for cause, notwithstanding anything to the contrary in this Agreement limiting the County’s termination rights.

Construction Agent may file an action with a circuit or county court to challenge such termination no later than twenty (20) days after the date the County terminates this Agreement pursuant to this section. If this Agreement is terminated for a violation of the statute by the Construction Agent, the Construction Agent may not be awarded a public contract for a period of one year after the date of termination. Public and private employers must enroll in the E-Verify System (<http://www.uscis.gov/e-verify>) and retain the I-9 Forms for inspection.

21.5 In accordance with Section 908.111, Florida Statutes, Construction Agent shall be required to complete an attestation, in conformity with Section 92.525, Florida Statutes, that Construction Agent is not willfully providing and will not willfully provide any service during the contract term in furtherance of transporting a person into Florida knowing that the person is an unauthorized alien, except to facilitate the detention, removal, or departure of the person from Florida or the United States. If the Construction Agent is found in violation of its attestation, notwithstanding anything to the contrary in this Agreement limiting the County’s termination rights, the County shall terminate this Agreement for cause.

ARTICLE 22
SEVERABILITY; WAIVER OF BREACH, TIME, AND MATERIALITY

22.1 In the event any provision of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions of this Agreement shall continue to be effective.

22.2 Failure by either Party to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

22.3 Each reference to a “day” or “days” in this Agreement shall mean “calendar days” unless this Agreement expressly provide for “business days.”

22.4 County and Construction Agent agree that each requirement, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof.

ARTICLE 23
JOINT PREPARATION

23.1 Joint Preparation. The Parties acknowledge that they have sought and received whatever competent advice and counsel necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the Parties than any other.

ARTICLE 24
PRIORITY OF PROVISIONS AND SEPARATE AGREEMENTS

24.1 Conflict. Except as hereinafter provided, if there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached to this Agreement, and any document or events referred to in this Agreement, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of Articles 1 through 29 of this Agreement, the term, statement, requirement, or provision contained in Articles 1 through 29 of this Agreement shall prevail and be given effect.

ARTICLE 25
ALL PRIOR AGREEMENTS SUPERSEDED

25.1 Entire Agreement. This Agreement, as amended, incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained in this Agreement, and the Parties agree that there are no commitments,

agreements, or understandings concerning the subject matter that are not contained in this Agreement. Accordingly, the Parties agree that no deviation from the terms of this Agreement shall be predicated upon any prior representations or agreements, whether oral or written.

ARTICLE 26
AMENDMENTS

26.1 Amendments. No modification, amendment, addendum, or alteration in the terms or conditions contained in this Agreement shall be effective unless contained in a written document prepared and executed with the same formality as this Agreement by County and Construction Agent.

ARTICLE 27
JURISDICTION, APPLICABLE LAW, VENUE, WAIVER OF JURY TRIAL

27.1 The Parties hereby irrevocably submit to the jurisdiction of Florida's state or federal courts in any action or proceeding arising out of or relating to this Agreement, and hereby irrevocably agree that all claims in respect to such action or proceeding shall be heard and determined in Miami-Dade County, Florida, the venue site. The Parties agree that this Agreement shall be construed and interpreted according to the laws of the state of Florida.

TO ENCOURAGE PROMPT AND EQUITABLE RESOLUTION OF ANY LITIGATION THAT MAY ARISE UNDER THIS AGREEMENT, THE PARTIES HEREBY WAIVE ANY RIGHTS EITHER MAY HAVE TO A TRIAL BY JURY OF ANY SUCH LITIGATION.

ARTICLE 28
MULTIPLE ORIGINALS

28.1 This Agreement may be executed in multiple counterparts, each of which shall be deemed an original.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the Parties hereto have hereunto set their hands under seals, the day and year first above written.

Signed, sealed and delivered
in the presence of:

MIAMI-DADE COUNTY,
FLORIDA, a political subdivision
of the State of Florida

By: _____
Daniella Levine Cava
County Mayor

Approved as to legal form and sufficiency

ATTEST:
CLERK OF THE BOARD


Assistant County Attorney

By: _____
Deputy Clerk

Signed, sealed and delivered

ROYAL CARIBBEAN CRUISES LTD.

ATTEST:

By: 

Lauren Ainsley

By: 

Name: Laura Hodges Bethge
Title: EVP, Shared Services Operations

By: 

Camille Mendora Soto



EXHIBIT A

SITE PLAN

EXHIBIT B

PLANS AND SPECIFICATIONS

“EXHIBIT B – PROJECT MANUALS”

New Building & Garage – Core & Shell
Project Manual
Addendum B
May 5th, 2022
Volume 1 of 2
Divisions 00-14

New Building & Garage – Core & Shell
Project Manual
Addendum B
May 5th, 2022
Volume 2 of 2
Divisions 21-33

New Building Interior Fit Out
Project Manual
Addendum C
May 2nd, 2022
Volume 1 of 2
Divisions 00-14

New Building Interior Fit Out
Project Manual
Addendum C
May 2nd, 2022
Volume 2 of 2
Divisions 21-33

EXHIBIT C

PROJECT BUDGET

[Pending per Section 6.2]

EXHIBIT D

PROJECT SCHEDULE

[Pending per Section 6.3]

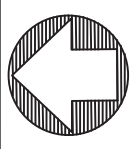
EXHIBIT E
PROJECT AREA



EXHIBIT E

Project Area

DATE: 9/21/2022



Project Area



EXHIBIT F

ART IN PUBLIC PLACES (APP) PROCEDURE MANUAL

SUMMARY

The Art in Public Places (APP) program is a requirement for all capital projects of Miami-Dade County and each municipality in Miami-Dade County that develop new government buildings that shelter people in a wholly or partially enclosed manner and serve a public purpose. New government buildings include newly constructed structures built by and/or for the County or a municipality, prefabricated structures procured for public use, and existing buildings that are converted to a new use. The County Code requires that 1½% of the capital cost of new government buildings be dedicated to public art projects through the APP program. This procedure explains:

- how to work with the Department of Cultural Affairs to implement the APP requirement;
- the processes to follow for repairing, restoring and inventorying public art works;
- procedures for municipalities to comply with the APP requirement;
- procedures for private sector capital development on land owned by local government or on private property with the building owned by local government;
- procedures for accessioning and deaccessioning artworks in the Public Art Collection; and
- “Frequently Asked Questions” that are based on policies established by the Department of Cultural Affairs and a series of opinions issued by the Office of the County Attorney to help clarify the requirements of the APP program.

PROCEDURE

General Information for Implementing APP Projects

1. Contact the Department of Cultural Affairs to set up a meeting to confirm the eligibility of the capital project for the APP program and for the Department of Cultural Affairs to review a complete capital budget for the project and to confirm that an accurate calculation of the APP contribution has been made.
2. All capital costs are included in the calculation of the 1½% APP allocation, including but not limited to:
 - architectural and engineering fees;
 - specialty consulting fees;
 - capital project management fees (for County and/or contracted services)
 - construction costs (including all systems and features that make a facility functional);
 - site work;
 - allowance accounts (e.g., permitting, surveying, inspections); and
 - contingency allowance(s).

The only exclusions are land acquisition and subsequent changes to the construction contract through change orders that do not involve a major change in the project’s scope.
3. Departments convey funds to APP from the moment the department receives spending authority for the capital project, upon award of design contract and/or construction contract.

APP will work with department to determine the best approach and timing for the conveyance of the funds to the Department of Cultural Affairs.

4. APP funds are used by the Department of Cultural Affairs for commissioning works of art, APP program administrative costs, and repair and restoration expenses.
5. Municipal, state, federal, private and other non-County funds for a capital project are subject to the 1½% public art requirement.
6. APP may use funds generated from a construction project for acquisition of art works for other government facilities throughout the County. Every effort is made to use funds generated by a department's project within that department.
7. Projects done through development agreements (i.e., the County contracts with another party to develop a building that the County will own now or in the future) are subject to the APP requirement.
 - All solicitations for and resulting development agreements must include the following language provided by APP regarding the requirement to transfer public art funds to Art in Public Places:

Art in Public Places. This Project is subject to the Art in Public Places (“APP”) provisions in Section 2.11.15 of the Miami-Dade County Code and Administrative Order 3-11, as managed by the Miami-Dade County Department of Cultural Affairs (“Department of Cultural Affairs”) pursuant to Procedure 358 in the Miami-Dade County Procedures Manual (“Procedures Manual”). The Developer shall transmit 1.5% of the Project costs for all development on County land (as outlined in the Procedures Manual) to the Department of Cultural Affairs for the implementation of the APP program. The Developer is required to work collaboratively with the Department of Cultural Affairs on the implementation of the APP program pursuant to the requirements of said program. The referenced documents can be accessed at:

<https://library.municode.com/fl/miami-dade-county/codes/code-of-ordinances>
<http://www.miamidade.gov/ao/home.asp?Process=alphalist>
<http://intra.miamidade.gov/managementandbudget/library/procedures/358.pdf>

Tools for Departments to Implement APP

1. A completed APP Capital Project Budget Allocation Worksheet must be submitted by departments to the Department of Cultural Affairs as soon as a capital project budget is developed and prior to design contract and construction award. APP staff will confirm the accuracy of the calculation of the APP requirement for the project (see sample “APP Capital Budget Allocation Worksheet” at <http://www.miamidadepublicart.org/#tools>; this form also is available from APP staff).
2. The following language must be included by departments under the “General Conditions Section 01042 - Art in Public Places Coordination” of the departments’ capital projects contracts with architects, engineers, consultants, outside project management services, construction and development agreements:

This project is subject to the Miami-Dade County Art in Public Places requirements, pursuant to Section 2-11.15 of the Code of Miami-Dade County, managed by the Miami-Dade County Department of Cultural Affairs as detailed in Procedure 358 in the Miami-Dade County Procedures Manual (see <http://www.miamidadepublicart.org/#tools> or

<http://intra.miamidade.gov/managementandbudget/procedures.asp>).

3. Examples of prior APP projects, the list of members of the APP Trust and other APP background information can be found at www.miamidadepublicart.org.

The APP Artists Selection Process

1. APP works collaboratively with departments on developing the artists' selection process:
 - To identify opportunities for public art in a project (with departments' project managers, planners and architects);
 - To understand the unique features of the department's capital project (e.g., community impact, timetable requirements, etc.); and
 - To draft the "Call to Artists" (i.e., the APP request for artists' qualifications and/or proposals).
2. An APP Professional Advisory Committee (PAC) is convened to review artists' submissions and to make art commissioning recommendations to the APP Trust. PAC members are arts and design professionals appointed by the APP Trust.
 - Departments attend and participate in the PAC selection process (especially, project managers/architects/engineers and representatives from the specific users of the building).
 - Community representatives can participate at the departments' and APP's discretion.
 - The size and scope of the project help determine the opportunities identified for public art and the number of artists that may be selected to work on a project.
3. The PAC's recommendations of artists are approved and finalized by the Art in Public Places Trust (a 15-member board appointed by the Board of County Commissioners).
4. APP staff manages the work of the selected artists and closely coordinates this work with departments' project managers, architects/engineers/specialty consultants and contractors.

Keys to Successful APP Projects

1. Calculation of APP project funds must be done by using the APP Capital Budget Allocation Worksheet in consultation and concurrence with APP staff and based on actual capital project contract awards including but not limited to A&E, consultants' and contractors' awards.
2. It is essential to contact APP as soon as capital project planning begins so that the timetable for the artists' selection process can be coordinated with the overall project's early design work.
3. Departments' full involvement with APP in identifying opportunities for art works, participating in the selection process and developing the art projects helps ensure that departments' needs can be addressed.
4. Departments must include APP requirements and APP-authorized contractual language in all capital projects agreements and contracts.
5. Representatives from departments must be identified for clear, consistent and regular communication and coordination with APP staff for each stage of the work - planning, A&E selection, design, construction, and commissioning; these representatives must have direct access to decision-making authority for APP issues.
6. Departments must keep APP fully informed of capital project developments and especially of changes in order to avoid additional APP costs (e.g., redesign of art works, artists' delay claims, storage costs for art works, etc.); costs associated with failure to communicate with APP are the responsibility of the department.
7. The APP project manager must be included on the department's project management team, the artist(s) on the A&E team and the artist's fabricator/installer on the contractor's team; this is essential to ensure that departments' capital projects and the development of art works remain

interlocked (e.g., planning, design and construction of the building is coordinated closely with the development and installation of the art work).

Repair and Restoration

1. Art in Public Places will dedicate 15% of all new public art allocations to a repair and restoration fund that will be utilized for specialized tasks required to restore and/or repair works of art in its collection (i.e., these funds are allocated from within the 1½% of APP funds generated by the capital project). These funds will be replenished on an ongoing basis with proceeds from new commissions.
2. Regular maintenance requirements of the commissioned artwork and the costs of regular maintenance are discussed and coordinated with the department in advance of the project completion to ensure the long-term care of the work and are the responsibility of the department.
3. Contact APP before undertaking maintenance and/or repair of any art work. Works of art may require specialized treatment for upkeep and qualified professionals for maintenance or repair.
4. When a work of art is designed as an integrated part of a building, it simply may require that the department conduct standard cleaning procedures. For example, an artist-designed terrazzo floor typically requires the same kind of maintenance as a regular terrazzo floor and the department is responsible for doing the day-to-day maintenance. Please call APP if there is any question about the care of a department's integrated art work.
5. Art works fabricated from special materials may require specialized maintenance treatment. For example, a bronze or stone work of art must be cleaned and treated with a specific maintenance product of a certain brand. Please call APP for guidance regarding the maintenance of art works made of special materials.
6. It is the departments' responsibility to train cleaning crews regarding the treatment of public art works to ensure proper care; APP is available to provide guidance for this training.
7. It is the departments' responsibility to inform tenants and lessees of their facilities about the care and requirements of public art works and to include provisions in tenant and lease agreements that make tenants and lessees responsible for the cost of repairing damages to public art works that are the result of negligence by the tenant or lessee.

Repair

1. Never attempt to repair an art work.
2. Contact APP immediately to report any damage to an art work and an APP staff member will be responsible for assessing the damage and determining the repair procedures. Please contact David Martinez-Delgado, Department of Cultural Affairs, for assistance (305-375-1067; david.martinez-delgado@miamidade.gov).

Inventory: Departments' Responsibilities

1. Departments are responsible for conducting an annual inventory of their public art works and for reporting the results to APP.
2. Departments must appoint an APP liaison responsible for the annual inventory and annually inform APP regarding contact information for this individual.
3. Departments cannot move or relocate works of art; APP must be contacted if a department wants to move or relocate a work of art.
5. Site specific and/or integrated works of art (i.e., works of art that are incorporated as an integral part of a building or structure) may not be moved without the review and approval of the Art

in Public Places Trust. When possible, the Art in Public Places Trust will seek the advice and/or involvement of the artist in regard to the advisability and feasibility of moving her/his work of art.

Inventory: APP's Responsibilities

1. APP annually will provide departments with a list of the art works and locations of the works in the departments to initiate the annual inventory.
2. APP will provide departments with contact information for its Collections Manager who is responsible for the inventory results.
3. APP will respond to departments' requests to move or relocate art works.

Information for Municipalities to Implement APP Projects

1. Municipal governments are required to implement the APP provision set forth in the County Code.
2. Municipalities have the option of enacting their own art in public places programs and administering their own public art projects or working collaboratively with Miami-Dade Art in Public Places for APP to administer, manage and implement their public art projects.
3. If the municipality chooses to implement its own public art projects, the city is responsible for enacting its own art in public places ordinance which adheres to the minimum standards set forth in Section 2-11.15 of the Code of Miami-Dade County ("Code"). APP is available to provide guidance to municipalities in regard to enacting their own ordinances and establishing their programs. The following highlights requirements and guidance for municipal art in public places programs:
 - 1½% of the total capital cost of new government buildings must be allocated for the commission or purchase of artworks as defined in the Code and these procedures;
 - a competitive, quality-based artist selection process must take place and a selection committee with knowledge and expertise in the visual arts must select the art work;
 - APP funds must be used solely for commissioning works of public art and a professional artist must be contracted with to implement the public art project;
 - a percentage of the APP funds may be set aside for program administrative costs and repair and restoration expenses for the public art project. It is recommended that up to 15% of the total public art allocation be set aside for costs associated with administering the project and up to 15% be set aside for costs associated with the future repair or restoration of the public art project;
 - Miami-Dade County Department of Cultural Affairs and its APP staff are available to work with municipalities to assist them and confirm that they are meeting the APP program's requirements;
 - Municipalities must consult with Section 2-11.15 of the Code in regard to the minimum standards and notice required to enact and administer their own art in public places program;
 - for General Obligation Bond-funded (GOB) projects, APP funds must be spent within the project that generates the APP funds; and
 - if a municipality chooses to implement its own public art projects, but requires the technical assistance of Miami-Dade County APP, a negotiated administrative fee can be determined based upon the complexity and duration of the project.
4. If the municipality does not enact its own art in public places program and/or chooses to work collaboratively with Miami-Dade APP to implement the public art requirements, Miami-Dade APP will oversee and provide services, highlighted as follows:

- work collaboratively with the municipality and its project team to identify opportunities for public art in the facility;
 - draft and distribute Call to Artists;
 - administer artist selection process;
 - coordinate the submission of the recommended artist(s) to the Miami-Dade APP Trust;
 - provide contract language for municipality's architect and contractor contracts to ensure APP coordination;
 - provide technical assistance to the selected artist(s) and serve as liaison between the artist(s) and commissioning municipality and its project team;
 - manage contract negotiations and process payments with artist(s);
 - coordinate installation of art work(s) with the municipality's project managers, architects/engineers/specialty consultants and contractor;
 - if a municipality chooses to work collaboratively with Miami-Dade APP, not less than 15% of the total public art funds will be allocated to Miami-Dade Department of Cultural Affairs for costs associated with its administration of the public art project - this administrative percentage may change in consultation with the Department of Cultural Affairs based on the complexity and duration of the administrative services required for the public art project;
 - should the entirety of the APP management services not be required, a negotiated administrative fee can be determined based upon the level of APP services required and the complexity and duration of the project; and
 - if required by the municipality, the selected artist(s)/artwork(s), along with an alternate recommendation, will be presented to and reviewed by the municipality's governing body prior to the final approval of the Miami-Dade APP Trust.
5. Municipalities will own the resulting public art works and will be responsible for the maintenance, repair (as necessary), and inventorying of public art works. Municipalities can consult with Miami-Dade APP for technical assistance with these responsibilities.
 6. County facilities located, or intended to be located, within the boundaries of a municipality are governed solely and exclusively by the Miami-Dade County Art in Public Places program.

Information for Private Sector Capital Development on Land Owned or Leased by Local Government or on Private Property with the Building Owned, Leased or Operated by Local Government

1. Capital projects done through agreements with a private entity, including but not limited to leases or development agreements (i.e., the local government contracts with another party to develop a building that the local government will own now or in the future), are subject to the APP requirement if:
 - The project meets the eligibility criteria for the public art requirement (e.g., it is a building that shelters people in a wholly or partially enclosed manner); and
 - The project serves a public purpose whether operated by local government or on its behalf, by a private operator; and/or
 - The project relies on surrounding or adjacent local government buildings to function and is an integral component of the overall infrastructure of a public complex (e.g., a cargo facility at the airport);
 - The project advances a public policy objective (e.g., an office building or residential development that encourages public transit ridership); and/or
 - The project enhances a patron experience at a local government facility (e.g., a restaurant).

Capital projects that are done through agreements with a private entity, including but not limited to leases or development agreements, may not be eligible for the art in public places requirement if the project meets the following criteria:

- The agreement between the local government and the private entity has a provision that allows the private entity the option to purchase the facility; and/or
 - The project has no public purpose and is not part of a complex of surrounding or adjacent local government buildings that function as a public complex and/or does not enhance a patron experience at a local government facility.
2. Capital projects that include complexes in which one or more of the buildings and/or a portion of a building meet the criteria for the APP requirement need to comply with the APP requirement for those eligible buildings and/or eligible portions of the building (e.g., a public parking garage built as a part of a private development complex that otherwise may not be subject to the APP requirement).
 3. Determinations as to the applicability of the public art requirement are made by the Director of the Miami-Dade Department of Cultural Affairs, are based on the section 2-11.15 of the County Code, Administrative Order 3-11 and the Miami-Dade Procedures Manual (Procedure No. 358), and may be considered by the Review Committee as set forth in Administrative Order 3-11, prior to consideration of the Board of County Commissioners.
 4. Private entities must work collaboratively with Miami-Dade APP to oversee the artist commissioning process to ensure the highest level of artistic quality and adherence to the program's requirements, as outlined in these procedures. APP will oversee and provide services, highlighted as follows:
 - work collaboratively with the private entity and its project team to identify opportunities for public art in the facility;
 - work with the private entity to calculate the APP project funds, using the APP Capital Budget Allocation Worksheet based on actual capital project contract awards including but not limited to A&E, consultants' and contractors' awards;
 - provide the private entity with a payment schedule for the conveyance of the APP project funds to the Department of Cultural Affairs;
 - draft and distribute the Call to Artists;
 - administer the artist selection process;
 - coordinate the submission of the recommended artist(s) for the review and approval of the Miami-Dade APP Trust;
 - provide contract language for private entity's architect and contractor agreements to ensure APP coordination; and
 - provide technical assistance to the selected artist(s) and serve as liaison between the artist(s) and commissioning private entity and its project team.

Once an artist is commissioned, the private entity may choose to oversee the implementation of approved public art projects or work collaboratively with Miami-Dade APP for it to oversee and provide services for the project's implementation. If APP administers the entire project, the private entity shall remit an amount not less than 15% of the total public art funds to the Miami-Dade Department of Cultural Affairs for costs associated with its administration of the public art project; this administrative percentage may change at the discretion of the Department of Cultural Affairs based on the complexity and duration of the administrative services required for the public art project. Should the entirety of the APP management services not be required, a negotiated administrative fee can be determined based upon the level of APP services required and the complexity and duration of the project. If APP oversees

the implementation, APP's services are highlighted as follows:

- manage contract negotiations and process payments with artist(s);
 - coordinate the installation of art work(s) with the private entity's project managers, architects/engineers/specialty consultants and contractor; and
 - oversee the artist's work on design, fabrication, installation and commissioning of the art work(s).
6. The private entity must commit 15% of the total public art allocation for costs associated with the future repair and restoration of the public art project and remit the funds to the Miami-Dade County Department of Cultural Affairs for this purpose, no later than the art work's completion.
 7. Miami-Dade County will own the resulting public art work(s) and will be responsible for costs associated with the implementation of repairs (as necessary and as long as repairs are not the result of negligence on the part of the private entity, in which case the cost of repairs is the responsibility of the private entity), and inventorying of the public art work(s).
 8. Regular maintenance requirements of the commissioned art work(s) and their costs are the responsibility of the private entity. These needs will be discussed and coordinated with the private entity in advance of the project completion to ensure the long-term care of the work.
 9. Works of public art may not be moved without the review and approval of Art in Public Places. Site specific and/or integrated works of art (i.e., works of art that are incorporated as an integral part of a building or structure) may not be moved without the review and approval of the Art in Public Places Trust. When possible, the Art in Public Places Trust will seek the advice and/or involvement of the artist in regard to the advisability and feasibility of moving her/his work of art.

Accession Procedures

1. Accessioning is the formal acceptance of an artwork into the Miami-Dade County Art in Public Places Collection (Collection). Accessioning artwork into the Collection indicates the intent to apply professional standards of care, display, and maintenance over the life of the artwork, or until the artwork is no longer displayable and is deaccessioned from the Collection.
2. Artworks will be entered into the Collection inventory as soon as a commissioning or purchasing contract is executed and these inventory entries will be annotated as "works in progress" with periodic updates included as necessary to describe the status of completion accurately. Artworks will be annotated as fully accessioned in the Collection inventory only upon completion of all facets of the commissioning or purchasing contract or of the required review process for gifts and other artworks. Conditions, restrictions, or limitations cannot be attached to the accessioning that would limit the use of the artwork.
3. The signed contract transferring title for the artwork and clearly defining the rights and responsibilities of all parties will accompany every acquisition.
4. Acquisitions result from:
 - Projects of the Miami-Dade County Art in Public Places Program pursuant to Section 2.11.15 of the Miami-Dade County Code;
 - Gifts with a fair market value greater than \$1,000, which will be reviewed and accessioned in accordance with the Miami-Dade County Administrative Order No. 1-3;
 - Gifts with a fair market value less than \$1,000 that are reviewed and accepted by the Art in Public Places Trust; or
 - Other artworks, including but not limited to work that are un-accessioned items found in the existing Public Art Collection or in the possession of Miami-Dade County government

that are determined to have sufficient artistic merit and recommended for inclusion in the Miami-Dade County Public Art Collection. Factors considered in making this recommendation include: the quality of the work; the artist's intent for the work to be considered a stand-alone art work; the degree to which the design, materials and execution of the work constitutes a finished work of art; the suitability of the work to be placed on public display in furtherance of the mission of the APP program; and the commitment to exercising accountability and care for works of art created through the APP commissioning process and/or owned by the County. These artworks must be reviewed and accepted by the Art in Public Places Trust.

5. All acquisitions will be entered into the Collection inventory and added to the Internal Services Department (ISD) Capital Inventory Record.
6. Once the Art in Public Places program takes possession of an artwork, it should have the sole right to determine how and when that artwork is shown, safeguarded, or de-accessioned, subject to its professional practices and policies and in accordance with County policy.

Deaccession Procedures

1. The deaccessioning of artwork is the removal of an object from the Miami-Dade County Art in Public Places Collection. This includes the removal of the artwork from its public site, removal from the maintenance cycle, and moving of records, both hard copy and electronic, into a Deaccessioned Collection file and as required by Miami-Dade County Administrative Order No. 8-2, transferred into the archived portion of the ISD Capital Inventory Record. Deaccessioning will be considered only after a careful evaluation of the artwork within the context of the Collection as a whole and will be consistent with Miami-Dade County Administrative Order No. 8-2 – Care, Control and Disposal of County Property. Only the Miami-Dade County Art in Public Places Trust has the authority to deaccession artworks in the Art in Public Places Collection.
2. Once an artwork has been accessioned, it may not be deaccessioned on the basis of content.
3. An artwork may be considered for deaccession under the following conditions only:
 - The artwork cannot be located after reasonable and diligent searches. As required by Miami-Dade County Administrative Order No. 8-2, a police report must be filed for unlocated artwork(s) and an investigation report and recommendation must be submitted to ISD;
 - The artwork has been damaged beyond repair, damaged to the extent that it no longer represents the artist's intent, or damaged to the extent that the expenses of restoration and repair are found to equal or exceed current market value of the artwork. As required by Miami-Dade County Administrative Order No. 8-2, a police report must be filed for damaged or destroyed artwork(s) and an investigation report and recommendation must be submitted to ISD;
 - The artwork is not, or is only rarely, on display due to lack of a suitable site;
 - For site-integrated or site-specific artworks, the site for which the artwork was specifically created is structurally or otherwise altered and can no longer accommodate the artwork, is made publicly inaccessible as a result of new construction, demolition, or security enhancement, or has its surrounding environment altered in a way that significantly and adversely impacts the artwork;
 - For site-integrated or site-specific artworks, the site for which the artwork was specifically created is sold or acquired by an entity other than Miami-Dade County;

- The artwork was purchased as a semi-permanent acquisition and the County's predetermined period of obligation is terminated;
 - There is a documented history of incident(s) that shows the artwork is a threat to public safety;
 - The artist legally exercises the right of disassociation granted by the Visual Artists Rights Act of 1990, preventing the use of his or her name as the creator of the artwork;
 - The artwork requires excessive maintenance and/or the condition or security of the artwork cannot be reasonably guaranteed;
 - The artwork has been determined by the Art in Public Places Trust deaccession process to be of inferior quality relative to the quality of other works in the Collection or the County wishes to replace the artwork with a work of more significance by the same artist; and/or
 - At the time of accessioning, complete information on the provenance of the artwork was not available, or more information has since become available, indicating that the artwork should not be part of the Miami-Dade County Art in Public Places Collection.
4. Department of Cultural Affairs staff will prepare a written recommendation for deaccession of artworks from the Collection based on one or more of the conditions in Section 3 above for review and evaluation by the Miami-Dade County Art in Public Places Professional Advisory Committee (Professional Advisory Committee), and subsequent review, evaluation and action by the Art in Public Places Trust. The staff reserves the option of hiring a consultant for advice on specific elements of the artwork being considered through the deaccession process.
 5. Artists whose work is being considered for deaccession shall be notified by mail using the current address provided by the artist. Artists also shall be notified of the recommendation of the Professional Advisory Committee and of the Art in Public Places Trust meeting scheduled to consider this recommendation.
 6. All legal documents relating to the artwork, including but not limited to contracts with the artist and agreements related to a donation of the artwork as applicable, will be consulted as part of the deaccession process. When applicable and feasible, the donor of an artwork under consideration for deaccessioning will be notified.
 7. At a Professional Advisory Committee meeting, Miami-Dade County Department of Cultural Affairs staff will present reports on artworks to consider for deaccession that include:
 - Reasons for the suggested deaccession accompanied by such other documentation and information as may be relevant;
 - Acquisition method, cost, and estimated current market value;
 - Documentation of correspondence with the artist;
 - Photo documentation of site conditions (if applicable);
 - In the case of damage, a report that includes the official police and investigation reports and recommendation, and documents the original cost of the artwork, estimated market value, and the estimated cost of repair; and/or
 - In the case of theft or loss, the official police and investigation report and recommendation, including when possible, a report prepared by the agency responsible for the site of the loss.
 8. The Professional Advisory Committee will then make a recommendation to the Miami-Dade County Art in Public Places Trust, including actions regarding the disposition of the artwork pursuant to Section 9 below. If the Professional Advisory Committee recommends that an artwork be retained, an explanation stating the Committee's reasons and recommendations shall be set forth in the minutes of the Committee's meeting and shall be submitted to the Art in Public Places Trust. The Trust may decide to seek additional information.

9. The decision to deaccession artwork will result from a resolution requiring a majority vote by the Miami-Dade County Art in Public Places Trust. Upon this decision to deaccession artwork, the Trust will consider what action should be taken, with priority given to public benefit from the Collection. Every step will be taken to arrive at a mutual balance between observing the rights of the artist and public benefit. Actions will be consistent with Miami-Dade County Administrative Order No. 8-2 and may include:
 - Trade through artist, gallery, museum, or other institutions for one or more other artwork(s) of comparable value by the same artist or to reduce the purchase price of a replacement artwork;
 - Long-term or permanent loan offered first to other governmental units and then, to eligible community based organizations, such as museums or educational/non-profit institutions, subject to being afforded equal participation opportunity to review and select the artwork(s);
 - Donation first to other governmental units and then, to eligible community based organizations, such as museums or educational/non-profit institutions, subject to being afforded equal participation opportunity to review and select the artwork(s);
 - Sale to interested potential bidders with “first offer” right to governmental units located within Miami-Dade County, in compliance with Administrative Order No. 8-2 governing surplus County property. Any pre-existing contractual agreements between the artist and the County regarding resale shall be honored, including but not limited to the original artist’s having first right of refusal to purchase his or her artwork at its current market value;
 - In special situations, the Miami-Dade County Art in Public Places can negotiate the transfer of an artwork to another entity. For site-integrated or site-specific artworks, when the site for which the artwork was specifically created is sold or acquired by an entity other than Miami-Dade County, the ownership of the artwork can transfer to that entity. Artwork in the Public Art Collection should be in exhibitable condition and continue to reflect the artist’s original intent. Should the artwork selected for transfer need to be repaired cleaned, or restored, the negotiated transfer will include conservation provisions and, unless negotiated otherwise, the receiving entity pays for the restoration. The receiving entity should have an art plan that defines their commitment to the artist and the continued care of the artwork; and/or
 - For artwork(s) not able to be disposed of by the methods outlined above, destruction or recycling of materials comprising the artwork, in accordance with Chapter 274 of the Florida Statutes, so that no piece is recognizable as part of that artwork.
10. In the event the artist disagrees with the decision of the Miami-Dade County Art in Public Places Trust, the artist may request reconsideration of the deaccession. This request must be filed in writing with the Miami-Dade County Department of Cultural Affairs within 30 days of the Trust’s deaccession decision, and it must be based on information that was not considered during the Professional Advisory Committee’s and the Art in Public Places Trust’s meetings on the deaccession.
11. The Miami-Dade County Department of Cultural Affairs will work cooperatively with the Internal Services Department, Fixed Assets & Division Operations section of the County regarding the implementation of this policy for deaccessioned artworks and will notify ISD about all actions under formal consideration and taken by the Miami-Dade County Art in Public Places Trust affecting artwork(s) in the County’s inventory.

12. A report will be sent to the County Mayor, Board of County Commissioners and ISD regarding the Miami-Dade County Art in Public Places Trust's action(s) regarding deaccessioned artworks.
13. The artwork, or its remains, shall be disposed of by the Miami-Dade County Art in Public Places staff, or its agents, upon deaccession action. It is the obligation of the Miami-Dade County Art in Public Places Program to ensure that all disposals with regard to the Collection be formally and publicly conducted and adequately documented in accordance with applicable provisions of the Florida Statutes and the Code of Miami-Dade County utilizing a variety of disposal methodologies.
14. A permanent record of the artwork's inclusion in the Miami-Dade County Art in Public Places Collection, and reasons for its removal, shall be maintained in a Deaccessioned Collection file, and will be kept as a separate section of the Miami-Dade County Art in Public Places Collection records. Miami-Dade County Department of Cultural Affairs staff will notify ISD Fixed Assets & Division Operations section of all deaccessioned artwork(s) so that the artwork(s) can be deleted from the Department's Capital Inventory Record.
15. No artworks shall be sold or traded to a member of a governing body or staff of Miami-Dade County government including the members of the Miami-Dade County Art in Public Places Trust and its Professional Advisory Committee, consistent with Miami-Dade County conflict of interest policies.
16. All proceeds from the sale of any artwork from the Miami-Dade County Art in Public Places Collection shall be deposited in the Art in Public Places Trust Fund. Funds from artwork sales may be used in any manner consistent with the enabling legislation of the Art in Public Places program and County policies regarding public artwork.

Frequently Asked Questions

1. Applicable Projects and Costs.
 - What if we are uncertain about whether the APP requirement applies to a project or components of a project?
 - Call APP staff if you have any questions about the APP requirements. In addition, the FAQs below may provide answers to your questions.
2. Contingency Allowances.
 - Are contingency allowances covered by the APP requirement, even if eventually they are not used or fully used for the project.
 - Yes. The APP allocation is calculated and transferred to APP upon the award of the contract.
3. Calculation of APP Amount.
 - How does a capital project accurately calculate the 1 ½% APP requirement amount?
 - A completed APP Capital Project Budget Allocation Worksheet must be submitted by departments to the Department of Cultural Affairs as soon as a capital project budget is developed and prior to design contract and construction award. APP staff will confirm the accuracy of the calculation of the APP requirement for the project and the final Worksheet must be signed by the department and the Department of Cultural Affairs (see sample "APP Capital Budget Allocation Worksheet" at <http://www.miamidadepublicart.org/#tools>; this form also is available from APP staff).
4. Project Changes
 - Are the costs associated with significant changes in a project's scope and budget subject to the APP requirement?

- Yes. Typically, regular additive change orders are subject to the APP requirement as they are paid for from the project contingency allowance which is covered by the APP requirement. More significant scope additions which are accompanied by increases to the project's capital budget are subject to the APP requirement.
5. Inspector General.
 - In calculating the APP allocation, should the Inspector General cost be included in the base for the APP calculation?
 - Yes, the APP calculation is taken against the total contract amount.

 6. Capital Outlay Reserve Funds (CORF).
 - Are construction projects funded by the Capital Outlay Reserve Fund covered by the APP requirement?
 - Yes. The APP requirement applies to all County construction projects for new buildings.
 7. Funding Sources That Disallow Public Art.
 - Does the APP requirement apply to construction projects that are funded by grants or other sources which disallow public art?
 - If a grant or another funding source specifically prohibits the use of funds for compliance with the APP requirement, the department must use other funds to satisfy the APP requirement.
 8. General Obligation Bond (GOB) Projects.
 - Does the APP requirement apply to GOB projects?
 - Yes, the APP requirement applies to all County construction projects for new buildings. In addition, the APP requirement applies to GOB projects for new buildings done by municipal governments.
 9. Capital Work Done by the County.
 - Does the APP requirement apply to the cost of architectural and engineering services performed by County personnel and to the cost of in-house construction labor, materials, and/or machinery?
 - Yes. The APP requirement applies to the construction cost of new government buildings regardless of the source of funds for the project.
 10. Private Sector-Funded Projects.
 - Does the APP requirement apply to buildings financed and constructed on County property by private sector investors?
 - Yes. The APP requirement applies to the construction cost of new government buildings regardless of the source of funds for the project. Please see the section "Information for Private Sector Capital Development on Land Owned or Leased by Local Government or on Private Property with the Building Owned, Leased or Operated by Local Government."
 - What happens if the APP funds are not included in the development agreement with the private sector and/or are not collected by the department from the private sector?
 - The department will need to convey the funds for the APP requirement from another revenue source.
 11. Conveyance of APP Funds.
 - When are funds conveyed to APP? Whom do we contact for details about conveying funds?
 - Funds are conveyed to APP when the department receives spending authority for the capital project. For example, when an A&E contract is authorized, 1½% of the contract must be

conveyed to APP. Please contact Patricia Romeu, Department of Cultural Affairs, for instructions to convey funds (305-375-5920; romeu@miamidade.gov).

12. Cancellation of Capital Projects
 - Do APP costs incurred to date need to be covered by the department if the capital project is cancelled?
 - Yes.
13. Demolition.
 - Does the APP requirement apply to demolition costs?
 - Yes, if demolition is part of a construction project that is covered by the APP requirements.
14. Building Additions.
 - Are additions to an existing structure covered by the APP requirement?
 - Yes, additions are considered to be “new government buildings.”
15. Building Adaptations.
 - Are existing buildings that are acquired and converted for a new governmental use covered by the APP requirement?
 - Yes, the acquisition cost of the building (excluding the estimated cost of the land) and the capital costs of the conversion of the building for a new governmental use are covered by the APP requirement.
16. Structures
 - Does APP cover structures that are built by or for the County that serve the public (e.g., parks, playgrounds, bridges, pre-fabricated shells, utilities buildings, etc.)?
 - Yes, if the structure is intended to be used directly by the public.
17. Equipment.
 - Are equipment costs subject to the APP requirement?
 - Yes. The APP requirement covers all systems and features that make a facility functional, even if the equipment is acquired through a separate contract.
18. Parking Garages.
 - Does the APP requirement apply to a parking garage?
 - Yes.
19. Roadways, Sidewalks Parking and Site Improvements.
 - Does the APP requirement apply to roadways, sidewalks, parking and site improvements?
 - Yes, if the roadways, sidewalks, parking (e.g., parking lots) and site improvements (e.g., site lighting, signage, etc.) are part of a construction project that is covered by the APP requirement.
20. Selection of Art Must Be by APP.
 - Can a department satisfy the APP requirement by selecting and purchasing an artwork itself?
 - No. Works of art must be selected in compliance with the process required by the APP program and overseen by the APP Trust and staff. Please see the section, “The APP Artists Selection Process” on page 2.
21. Adherence to the Art in Public Places Requirement.
 - Can departments waive the APP requirement?
 - No. Section 2-11.15 of the Miami-Dade County Code sets forth the requirements for the APP program and provides that only the Board of County Commissioners has the authority to waive the APP requirement. Administrative Order 3-11 prescribes a process involving a Review Committee which can be convened to conduct a hearing of a request for a waiver and states that the Review Committee will evaluate such requests as follows: “If the facility

does not conform to the definition of ‘new governmental building’ a waiver will be recommended to the Board of County Commissioners. Only the BCC is authorized to grant waivers. Waivers must be secured prior to the award of the construction contract.”

22. Required Art in Public Places Language

- Can departments change the required APP language that is provided in this Procedure?
- No, departments must use the following language in all solicitations for APP eligible capital projects:

This project is subject to the Miami-Dade County Art in Public Places requirements, pursuant to Section 2-11.15 of the Code of Miami-Dade County, managed by the Miami-Dade County Department of Cultural Affairs as detailed in Procedure 358 in the Miami-Dade County Procedures Manual (see <http://www.miamidadepublicart.org/#tools> or <http://intra.miamidade.gov/managementandbudget/procedures.asp>).

23. Unsuitable Locations.

- Does the APP requirement apply to a new building that may not provide a suitable location for a public artwork and may the APP funds be transferred for expenditure to another site?
- Yes. The APP requirement covers all new government buildings. There is no requirement in Section 2-11.15 of the Miami-Dade County Code that artworks be located at the site of the project that funded the artwork. APP will work with departments to identify suitable alternative locations.

24. Donations of Artwork.

- What is the process for departments to accept donations of art work(s)?
- The process for accepting gifts of art works is covered by Administrative Order No. 1-3. It requires that the APP Trust and its Professional Advisory Committee review and provide the department with a recommendation for all donations of artwork or commemorative and/or memorial structures of artistic merit, valued in excess of \$1,000. The donation of art work(s) does not satisfy the APP requirement for an eligible capital project.

CONTACT(S):

Department/Division

Department of Cultural Affairs

REFERENCE DOCUMENT(S):

Section 2-11.15 of the Miami-Dade County Code

Administrative Order 3-11, Art in Public Places Program Implementation and Fund Transfer Procedure

Administrative Order No. 8-2, Care, Control and Disposal of County Property

Administrative Orders No. 1-3, Gifts to the County

Copies of all County Attorney Opinions related to these procedures are maintained by the Department of Cultural Affairs

EXHIBIT G

INDEMNIFICATION AND INSURANCE REQUIREMENTS FOR GENERAL CONTRACTOR

The General Contractor shall indemnify and hold harmless the County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the General Contractor or its employees, agents, servants, partners principals or subcontractors. General Contractor shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. General Contractor expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by General Contractor shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents and instrumentalities as herein provided.

The General Contractor shall furnish to the County, Certificate(s) of Insurance which indicate that insurance coverage has been obtained which meets the requirements as outlined below:

- A. Worker's Compensation Insurance and USL&H coverage for all employees of the General Contractor.
- B. Commercial General Liability Insurance in an amount not less than \$5,000,000 per occurrence. Policy must be endorsed to include coverage for Products & Completed Operations. Insurance shall include coverage for Explosion Collapse and Underground Hazards. **Miami-Dade County must be shown as an additional insured with respect to this coverage.**
- C. Automobile Liability Insurance covering all owned, non-owned and hired vehicles used in connection with the work, in an amount not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage.
- D. Professional Liability Insurance in the name of the General Contractor, or the licensed design professional employed by the General Contractor, in an amount not less than \$5,000,000 per claim, and \$10,000,000 in the aggregate.
- E. Prior to Commencement of Construction, the General Contractor shall provide Completed Value Builders' Risk Insurance on an "all risk" basis in an amount not less than one hundred (100%) percent of the insurable value of the building(s) or structure(s). **The policy shall be in the name of Miami Dade County and the General Contractor.** This coverage is to be maintained until substantial completion of the work has been reached as determined by Miami Dade County, Seaport Department.

All insurance policies required above shall be issued by companies authorized to do business under

the laws of the State of Florida, with the following qualifications:

The company must be rated no less than “A-” as to management, and no less than “Class VII” as to financial strength, by Best’s Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the County Risk Management Division.

or

The company must hold a valid Florida Certificate of Authority as shown in the latest “List of All Insurance Companies Authorized or Approved to Do Business in Florida” issued by the State of Florida Department of Financial Services.

**NOTE: CERTIFICATE HOLDER MUST READ: MIAMI-DADE COUNTY
111 NW 1ST STREET
SUITE 2340
MIAMI, FL 33128**

EXHIBIT H

COMPETITIVE PROCUREMENT REQUIREMENTS

Construction Agent shall competitively procure and award the Construction Contract in accordance with Florida law and the following County requirements:

1. **Construction Contract – Request for Proposals.** Construction Agent shall prepare and issue in Construction Agent’s name, on behalf of County, a Request for Proposals (“**RFP**”), inviting qualified and licensed construction contractors authorized to do business in Florida to submit proposals to provide construction services for the Project.

1.1 [reserved]

1.2 **RFP Requirements.** The solicitation documents shall include:

- (a) A summary of the Project, scope of services, and a brief description of the solicitation process, including, the solicitation or award protest procedures set forth in Section 1.6 of this Exhibit.
- (b) The form of Construction Contract; proposers shall be asked to identify any objections, issues or concerns they have regarding the form of Construction Contract.
- (c) A bid proposal bond in the amount of Ten Thousand Dollars (\$10,000) shall be delivered with the RFP showing the Construction Agent and the County as the dual obligees thereunder.
- (d) The requirement that each proposer shall provide a certificate of insurance for the insurance required for the Project as described in the RFP.
- (e) Requirements for the use of Building Information Modeling (“**BIM**”) in accordance with the Contract Documents.
- (f) A “Cone of Silence” provision prohibiting contractors and their representatives from communicating in any manner with County and Construction Agent employees (who are discharged with the responsibility to review bid submittals and/or recommend contract award) until the solicitation process is completed upon award or otherwise terminated.
- (g) A requirement that each proposing contractor disclose any Construction Agent or County officer or employee, or any “relative” of any such officer or employee as “relative” is defined in Section 112.3135(1)(d), Florida Statutes, who is an officer or director of, or has a material interest in, the proposer’s business, and who is in a position to influence the procurement. Any Construction Agent or County officer or employee who has any input into the writing of specifications or requirements, solicitation of offers,

decision to award, or any other activity pertinent to the procurement is presumed to be a person having a material interest in the proposer's business if they directly or indirectly own more than five (5) percent of the total assets or capital stock of such proposer, or if they otherwise stand to personally gain if the contract is awarded to the proposer.

- (h) A statement that, upon receipt, all submittals become "Public Records" subject to disclosure in compliance with Chapter 119, Florida Statutes.
- (i) A statement requiring execution of a Nondisclosure Agreement prior to receipt of any solicitation documents containing sensitive security information or other information exempt from public disclosure pursuant to Florida law.
- (j) "Responsiveness" criteria for determining whether each proposer has submitted a proposal which conforms in all material respects to the requirements of the solicitation, including that all required forms, information, signatures, certifications, notarizations, proof of licensure, or other mandated requirements have been submitted with the proposal by the established deadline.
- (l) "Responsibility" Criteria for determining whether each proposer has the capability in all respects to perform the Construction Contract requirements, and the experience, integrity and reliability which will assure good faith performance and successful completion of the Project, including, but not limited to:
 - 1. Current financial information of the proposer;
 - 2. Debarment or removal from either Construction Agent's or County's vendor list;
 - 3. Litigation/ Claims history;
 - 4. If any exist, a final decree, declaration or order by a court, administrative hearing officer or other tribunal within the last five (5) years holding that the proposer breached or failed to perform a construction contract;
 - 5. Performance history, if any, on contracts with Construction Agent and County; and
 - 6. Compliance with CBE Goals.
- (m) Applicable Project-specific evaluation criteria, such as:
 - 1. Experience and capability in designing and constructing pre-fabricated structured parking garages;
 - 2. Ability/adequacy of professional personnel;
 - 3. Past performance;
 - 4. Willingness to meet time and budget requirements;
 - 5. Office location;

6. Recent, current and project workloads;
7. Experience/proficiency in the use of BIM;
8. Experience in LEED certification; and
9. Project approach including schedule and proposed methodologies.

Price shall not be considered as a factor in the evaluation or ranking of the proposers. Each factor shall be assigned a percent (weight) based on importance, the total of which shall equal one hundred percent (100%). The criteria established by Construction Agent for evaluating the RFP shall be approved by the County's Contract Administrator or designee and such approval shall not be unreasonably withheld. The approved criteria, along with standard questions to be answered by all RFP proposers, shall be included in the RFP.

- (n) Disclosure of County's Business Enterprise ("CBE") goal for the Project.
- (o) Disclosure that County's Responsible Wages and Benefits Ordinance shall apply to the General Contractor and require compliance with same.
- (p) Disclosure that the County's Residents First Training and Employment Program shall apply to the General Contractor and require compliance with same.
- (q) Disclosure that the County's Local Workforce and Employ Miami-Dade Programs shall apply to the General Contractor and require compliance with same.
- (r) Disclosure of the requirement that sea-level rise must be considered in the design and construction of the Project in accordance with Board Resolution No. R-451-14.

1.3 Pre-Submittal Conference/Walk-Thru: Construction Agent and County staff shall conduct a pre-submittal conference and/or walk-thru of the Project Area for proposers.

1.4 [reserved]

1.5 Contract Negotiations: Construction Agent shall undertake negotiations for a contract with the first-ranked firm at a guaranteed maximum price that Construction Agent determines is fair, competitive and reasonable. Such determination shall be based on a detailed analysis of the costs of the services in relation to their scope and complexity. If a mutually acceptable contract cannot be executed after a reasonable time, Construction Agent shall declare impasse and proceed to negotiate with the next-ranked proposer(s) in accordance with the procedures herein.

1.6 Discriminatory Vendor Certification: Prior to contract execution, the successful

proposer must certify that it has not been placed on the discriminatory vendor list (as provided in Section 287.134, Florida Statutes, as amended from time to time), or the Scrutinized Companies with Activities in Sudan or in the Iran Petroleum Energy Sector Lists (as provided in Section 215.473, Florida Statutes, as amended from time to time).

- 1.7 Competitive Solicitation or Award Protest.** Any proposer who is aggrieved in connection with the competitive solicitation process may file a protest in accordance with the requirements of Section 2-8.4 of the County Code and Implementing Order 3-21.

* * * * *

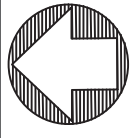
EXHIBIT I

FUTURE IMPROVEMENTS

1. Auditorium
2. Event Space
3. Rooftop Sports Complex (including restrooms)
4. Employee Amenity
5. RCG Logo Store

EXHIBIT 3

AREA 1



DATE: 9/21/2022

EXHIBIT 3

Area 1

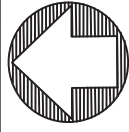


Lease Line



EXHIBIT 4

AREA 2



Lease Line



Exhibit "B"

EXECUTION COPY

CRUISE TERMINAL USAGE AGREEMENT **(Cruise Terminal G, Shared Terminal, and Berth 10)**

This Cruise Terminal Usage Agreement (the "Agreement") is entered into this ___ day of November, 2022 (the "Execution Date"), by and between Miami-Dade County (the "County"), a political subdivision of the State of Florida, and Royal Caribbean Cruises Ltd., d/b/a Royal Caribbean Group ("RCG"), a Liberian corporation. The County and RCG are each a "Party," and, jointly, the "Parties."

RECITALS

WHEREAS, the County owns certain lands located in Miami-Dade County, Florida from which the County operates the Dante B. Fascell Port of Miami (the "Port" or "PortMiami"), by and through the Miami-Dade County Seaport Department; and

WHEREAS, the County and RCG desire to provide for improved and expanded cruise terminal facilities in and around the current location of Cruise Terminal G, at which RCG currently enjoys preferential berthing rights pursuant to that certain Amended and Restated Terminal Usage Agreement dated December 30, 1998, as amended through the Third Amendment to the Amended and Restated Terminal Usage Agreement (the "Existing CTG Agreement"); and

WHEREAS, under this Agreement, RCG will expand its presence at PortMiami, increasing its volumes at a new and improved Cruise Terminal G and utilizing the berthing opportunities created through that certain Amended and Restated Terminal Development Management and Lease Agreement (the "Shared Terminal Agreement") between the County and MSC Miami Cruise Terminal LLC ("MMCT" or "MSC") at the Shared Terminal serving Berths 8, 9, and 10; and

WHEREAS, RCG's entry into this Agreement further demonstrates the cruise industry's resurgence from the COVID-19 pandemic, as also shown by RCG's early termination of its COVID-19 Recovery Rider dated September 30, 2021, which will result in RCG restoring its minimum annual guarantees as of September 30, 2022; and

WHEREAS, on or about June 13, 2019, the Parties entered into a Campus Lease providing for RCG's construction of additional buildings at PortMiami to be utilized as its global headquarters, but such project was halted on May 15, 2020, as a result of the impacts of the COVID-19 pandemic; and

WHEREAS, as partial consideration for the Parties' entry into this Agreement, the County has agreed to finance such improvements to foster the economic development benefits arising out of the presence of the headquarters campus in Miami-Dade County and for the economic benefits to PortMiami and Miami-Dade County at large from entry into this Agreement;

NOW, THEREFORE, in exchange for adequate and valuable consideration, the receipt of which the Parties acknowledge, the Parties enter into this Agreement on the following terms and conditions:

TERMS AND CONDITIONS

ARTICLE I
General Conditions

1.01 **Incorporation of Recitals; Definitions.** The Parties agree each of the foregoing recitals are true and correct and are incorporated herein. The capitalized terms used throughout this Agreement shall have the meanings prescribed in Exhibit A.

1.02 **Effective Date.** This Agreement shall become effective upon the County's issuance of the Financing Confirmation, as such term is defined in the Second Amendment to the Campus Lease; provided, however, that on or before that date, the Board of County Commissioners shall have adopted a resolution approving this Agreement and authorizing its execution, the County Mayor's veto period shall have expired or been waived, and the Agreement shall have been executed by the County Mayor or County Mayor's designee (the "Effective Date").

1.03 **Term of Agreement.** Unless earlier terminated in accordance with the provisions of this Agreement, the term of this Agreement shall commence on the Effective Date and expire on the date that RCG's Preferential Berthing Rights expire under this Agreement (the "Term"), subject to subsection (c) hereof.

(a) **Development Period.** The period between the Effective Date and the Substantial Completion of Cruise Terminal G shall be known as the "Development Period." RCG shall have Preferential Berthing Rights during the Development Period as set forth in Section 3.01. The Development Period shall end on the date on which the County certifies that Cruise Terminal G has reached Substantial Completion.

(b) **Operating Period.** The period between the conclusion of the Development Period and the conclusion of the Term shall be known as the "Operating Period." During the Operating Period, RCG shall have Preferential Berthing Rights for a period of fifteen (15) years commencing immediately upon the conclusion of the Development Period. At its sole discretion, RCG may extend the Operating Period for three (3) additional periods of seven (7) years each, provided that RCG notifies the County in writing (i) thirty-six (36) months before the expiration of the initial fifteen (15) year period and (ii) eighteen (18) months before the expiration of the subsequent periods, of its intent to exercise an extension option. To the extent that RCG does not timely notify the County of its intent to exercise an extension option, then extension of the Operating Period shall require the mutual assent of the Parties.

(c) Survival of Obligations. Certain obligations survive the expiration or earlier termination of this Agreement as more specifically set forth below.

(d) Renewal Incentive. Provided that the RCG is not in default under the terms of this Agreement, if RCG exercises the first renewal option set forth in Section 1.03(b), RCG's repayment of the RCG Contribution will terminate when RCG has been invoiced for and paid the Incentive Revenue Target, which is scheduled to occur in the sixteenth (16th) year of the repayment period as set forth in Exhibit D. In the event the Incentive Revenue Target is met prior to the date RCG is obligated to exercise the first extension option set forth in Section 1.03(d) (36 months before the expiration date), the County shall no longer charge RCG the Capital Recovery Surcharge unless RCG fails to exercise such extension option, at which time the Capital Recovery Surcharge shall be charged by the County until such time as the RCG Contribution is paid in full.

1.04 Nature of Agreement. It is agreed that this Agreement is not a lease, and that no interest or estate in real property or the improvements located at Cruise Terminal G, Berth 10, or the Shared Terminal is created by this Agreement.

1.05 Effect on Existing CTG Agreement. Upon the Effective Date of this Agreement, the Existing CTG Agreement shall terminate and be of no further force and effect, except (i) that any vessel calls confirmed pursuant to the Existing CTG Agreement shall be honored as provided in the Existing CTG Agreement; (ii) that any amounts payable by RCG to the County under the Existing CTG Agreement shall be due as if the Existing CTG Agreement were still in effect; (iii) with respect to any obligations under the Existing CTG Agreement that are identified in such agreement as surviving its termination except to the extent such obligations are superseded in this Agreement; and (iv) as set forth in this Agreement.

ARTICLE II

Development of Cruise Terminal Improvements

2.01 County's Obligation to Make Improvements.

(a) Preparation of Project Design. The Parties agree to collaborate on the preparation of design documents for the Cruise Terminal G (the "Cruise Terminal G Improvements") and Berth 10 (the "Berth 10 Improvements") cruise terminal programs (collectively, the Cruise Terminal G Improvements and the Berth 10 Improvements comprise the "Project").

Cruise Terminal G Improvements Program: Cruise Terminal G shall consist of minimum LEED Silver certified cruise terminal (incorporating other required elements of the County's Sustainable Buildings Ordinance and Implementing Order in effect on the Execution Date), multi-level shared parking garage with a ground level intermodal facility, connecting roadways and a provisioning

building to service up to 7,000 cruise passengers, accommodating an Icon-class vessel (with approximate occupancy of 5,600 passengers at double-capacity). Cruise Terminal G will be designed and constructed with expected sea level rise projections, sustainability measures, Art in Public Places (AIPP), and built-in flexibility to accommodate different types and sizes of cruise vessels. Upon completion of the Cruise Terminal G Improvements, Cruise Terminal G shall be able to lawfully, safely, and securely berth a “ICON Class Vessel” (approximately 242,900 Gross Registered Tons (GRT), and an overall length of approximately 364.96 meters (LOA) as more specifically described in Exhibit H hereto (the “ICON Class Vessel”).

Berth 10 Improvements Program: Berth 10 shall consist of Concourse 10 commencing at the Shared Terminal to the end of the concourse along future Berth 10, all associated build out and egress stairs, provisioning building, connecting roadways, security gates for secure and safe operations and other elements required for cruise vessel operations at Berth 10. Upon completion of the Berth 10 Improvements, Berth 10 shall be able to lawfully, safely, and securely berth a “Quantum Class Vessel” (approximately 167,000 GRT and an overall length of approximately 348 meters LOA as more specifically described in Exhibit H hereto (the “Quantum Class Vessel”).

The Project shall be subject to revision, refinement, and approval during the planning and design process; provided, however, that the Project shall be of equal or better quality than similar existing facilities at the Port constructed within the past three (3) years, with suitable interior and exterior finishes and mechanical, electrical systems, and vertical transportation systems. Subject to RCG’s reimbursement of the RCG Contribution and its payment for RCG Requested Changes as provided herein, the County, at its sole risk, cost, and expense shall design, engineer, develop, and construct the Cruise G Terminal Improvement and Berth 10 Improvements in accordance with the design criteria, program guidelines, plans, specifications, standards, and scope set forth in the Plans and Specifications.

Subject to the terms and conditions of this Agreement, the County shall procure and enter into one or more design-build agreement(s) (the “Design-Build Agreement”) for the implementation of the improvements to Cruise Terminal G and Berth 10, all in accordance with the Conceptual Site Plan attached hereto as Exhibit F, the jointly prepared and approved Design Criteria Documents (“DCD”), and Applicable Law. To the extent the County contracts separately for the Cruise Terminal G Improvements and Berth 10 Improvements, each such contract shall be a “Design-Build Agreement” as used in this Agreement and RCG shall have the same rights of participation for each such Design-Build Agreement.

The County shall procure the design-builder(s) utilizing a competitive selection process consistent with Applicable Law, which shall entail the issuance of an advertised Request for Design Build Services (“RDBS”). The County and RCG shall collaborate on the preparation of the RDBS, including as to the formulation of the selection criteria to be applied by the

selection committee. The RDBS (or each RDBS, if separately issued) shall be issued within thirty (30) days of RCG and the County reaching agreement on the DCD and selection criteria. The Parties agree to work cooperatively towards the expeditious issuance of each RDBS so as to avoid any delays to the Substantial Completion of the applicable project.

RCG shall have the right to nominate voting members to the County's selection committee, which shall be formed in accordance with Implementing Order 3-34, as promulgated by the County. Any RCG nominated voting members shall meet the qualification criteria set forth in Implementing Order 3-34. RCG shall be entitled to have one (1) technical and one (1) voting representative on the selection committee; provided, however, that the selection committee shall have a quorum and may take votes as provided in Implementing Order 3-34, and an RCG member's absence from a selection committee meeting shall not constitute a breach of the foregoing requirement.

Each design-builder under a Design-Build Agreement shall thereafter design the Project in accordance with the Conceptual Site Plan and the DCD, developing Plans and Specifications that shall be used to construct the Project. The County shall provide RCG with copies of the Plans and Specifications for the Project at the thirty percent (30%), sixty percent (60%), ninety percent (90%), and one hundred percent (100%) stages of completion and any material changes that occur thereafter. RCG shall have the right to approve the Plans and Specifications for consistency with the Conceptual Site Plan and Design Criteria Documents; provided, however, that the County shall have the right to deviate from the Conceptual Site Plan (i) to the extent necessary to remain within the Project Budget (defined below), unless RCG agrees to provide for an increase to the Project Budget through the mechanism set forth in this Agreement for RCG Requested Changes, and (ii) to avoid interference with any other Port facilities or functions. The Plans and Specifications shall be approved or, subject to the foregoing limitation on RCG's right to comment on the Plans and Specifications, rejected by RCG, in the exercise of its reasonable discretion, within ten (10) business days of receipt (with the exception of the sixty percent plans (60%) which review period shall be fifteen (15) business days). If the Plans and Specifications are rejected by RCG, RCG shall provide the County with the reasons for such disapproval and proposed revisions. The County shall then instruct the design-builder to revise the Plans and Specifications and resubmit them to the County for approval within ten (10) days, and RCG shall thereafter approve or reject the resubmission within ten (10) business days. If RCG fails to approve or reject the resubmission within ten (10) business days, the resubmission shall be deemed approved. This process shall continue until the approval of the Plans and Specifications is issued by RCG.

(b) Cruise Terminal Improvements. The County shall design, engineer, develop, and construct the Project in accordance with the design criteria, program guidelines, plans, specifications, standards and scope set forth in the final Plans and Specifications for each cruise terminal approved in accordance with the preceding subsection. The County shall contract the preparation of the DCD and RCG shall have the right to review and approve the scope of work being issued to the design-builder for preparation of this document. The DCD shall be mutually agreed upon prior to being issued for purpose of an RDBS and shall be a

comprehensive document with drawings and specifications that clearly state the building's exterior & interior architectural intent, defines the selection of all MEP systems, equipment, finishes, security, vertical transportation, surveillance, audio/visual, FF&E, & signage (regulatory, exterior, wayfinding); notwithstanding the foregoing, the DCD shall not be required to contain the level of detail to be subsequently developed by the Design-Builder as the Plans and Specifications. The Design-Build Agreement shall be subject to the approval of the Board of County Commissioners in the exercise of its sole legislative discretion as the governing board of Miami-Dade County.

2.02 **The Design-Build Agreement.**

(a) Subject to the terms and conditions of this Agreement, the County shall enter into the Design-Build Agreement(s). Such Design-Build Agreement(s) shall provide for the construction of the Project in Substantial Conformity with the jointly prepared and approved DCD), as such DCD may be amended by mutual agreement. The Design-Build Agreement shall require the provision of all necessary or required architectural, design and engineering services, labor, materials, equipment, supplies, tools, transportation, utilities, installations, accounting, record-keeping and all other things and services necessary or required for the full performance and completion of the design, engineering, construction, start-up, and commissioning of the Project including the attainment of all government approvals, licenses, and permits and shall provide for the design and construction of the Project in a good and workmanlike manner that complies with all applicable requirements of federal, state, and local laws (including County ordinances, resolutions, or regulations) and deed restrictions governing the use of PortMiami.

(b) RCG shall not be a party to the Design-Build Agreement, except that RCG shall be (1) an intended third-party beneficiary of the Design-Build Agreement, provided that RCG's status as a third-party beneficiary shall extend solely to warranties and the duty of care to be exercised by the design professionals, and shall not entitle RCG to demand changes to the contract(s) or otherwise invoke rights held by the contracting parties; (2) entitled to assert rights under the warranties provided by the County's contractors or their subcontractors; (3) an additional named insured under the insurance policies required under the Design-Build Agreement; (4) an additional named dual-obligee under the payment and performance bond issued thereunder; and (5) an indemnified person for the purpose of the indemnification provisions provided under the Design-Build Agreement which indemnification shall include, without limitation, indemnity against any and all third party claims of whatever nature related to the construction and use of the Project through the Final Completion Date. The Design-Build Agreement shall provide that the design professionals or contractors contracted thereby shall have no recourse against RCG with respect to any breaches or liabilities arising out of those agreements.

(c) The maximum project budget is Three Hundred Twenty-Five Million Dollars (\$325,000,000) (the "Project Budget"), provided that the County shall not be obligated to (but in its sole discretion may) enter into any Design-Build Agreement for the Cruise Terminal G

Improvements exceeding Two Hundred Twenty-Five Million Dollars (\$225,000,000) inclusive of any contingencies and allowances (the “CTG Project Maximum”). The Project Budget shall be mutually agreed by the Parties and shall include all contingencies and provisions for fees and other costs customarily included within County construction contracts such as dedicated allowances for permitting and compliance with the Art in Public Places Program. Any increase in the mutually agreed Project Budget for reasons other than a RCG Requested Change shall be the sole risk, cost, and expense of the County. It is expressly agreed by the County that RCG shall only be liable to County for Project Budget costs up to the RCG Contribution and that RCG shall have no liability for any amount above said contribution, except for a RCG Requested Change.

(1) Cost Overruns. Any costs exceeding the Project Budget, excluding the cost of (i) Marine Improvements, (ii) RCG Requested Changes, and (iii) costs for which the design-builder is liable under the Design-Build Agreement (e.g., costs resulting from the design-builder’s errors or omissions or the errors and omissions of those working for or under the design-builder and its subcontractors) shall be deemed “Cost Overruns.” If the Cruise Terminal G Improvements or Berth 10 Improvements incur Cost Overruns, except for Design-Builder or County-caused Cost Overruns, within seven (7) days of the Parties’ receipt of written notification from the design-builder of a Cost Overrun, the Parties will confer on reductions to the scope, finishes, or materials of the either component of the Project to reduce or eliminate the Cost Overruns. Any agreed-upon reductions to either component of the Project shall be implemented immediately through the mechanisms available for such reductions in the in-progress Design-Build Agreement or, if the Parties are unable to reach an agreement on reductions, the County may unilaterally implement such reductions unless RCG agrees to fund the Cost Overruns as an RCG Requested Change.

(2) Project Budget Savings. To the extent the actual cost of the Project (as determined by the actual costs incurred on the design, engineering, development, and construction of the Project) is less than Three Hundred Eight Million Seven Hundred Fifty Thousand Dollars (\$308,750,000), then the Parties agree that the Capital Recovery Surcharge paid by RCG shall be reduced so that RCG’s repayment obligation is based on the actual cost of the Project (plus costs and interest consistent with those set forth in Exhibit D), except that such adjustment shall be limited to those savings exceeding Three Hundred Eight Million Seven Hundred Fifty Thousand Dollars (\$308,750,000). By way of example, if the actual costs incurred on the Project is Three Hundred Five Million Seven Hundred Fifty Thousand Dollars (\$305,750,000), then the Capital Recovery Surcharge will be adjusted to reflect a Three Hundred Twenty-Two Million Dollars (\$322,000,000) project cost for purposes of the Capital Recovery Surcharge (\$325,000,000 minus \$3,000,000). The County shall credit RCG the difference between the amounts paid by RCG under the pre-adjusted Capital Recovery Surcharge until such credit is exhausted in its entirety.

(3) Exclusions from Project Budget. The Project Budget does not include

the marine components of the Project, consisting of the berth, mooring bollards, and fenders, the costs of which are not subject to reimbursement by RCG under Section 2.09 of this Agreement (the “Marine Improvements”).

(4) Inclusions in Project Budget. The Project Budget includes (i) customary contingencies and allowances and (ii) provision for fees and other contingencies customarily included within County construction contracts such as dedicated allowances for permitting and compliance with the Art in Public Places Program.

(d) The Design-Build Agreement shall provide for Substantial Completion of the Cruise Terminal G Improvements not later than the CTG Substantial Completion Date and for the Substantial Completion of the Berth 10 Improvements by the B10 Substantial Completion Date, which dates may only be extended as provided in this subsection. The Parties agree that time is of the essence and that RCG will suffer financial loss if the Cruise Terminal G Improvements are not completed by the CTG Substantial Completion Date. In order to compensate RCG for damages that are not readily ascertainable at the execution of this Agreement and which RCG will reasonably incur, the County and RCG agree that, only to the extent the County collects such damages from the Design-Builder under the Design-Build Agreement for the Cruise Terminal G Improvements, as liquidated damages for delay (but not as a penalty), the County shall pay RCG the amount of Twenty Five Thousand Dollars (\$25,000.00) for each and every day (including partial day) that the Design-Builder fails to achieve Substantial Completion beyond the expiration of the CTG Substantial Completion Date. To the extent the County collects such liquidated damages from the Design-Builder for the Cruise Terminal G Improvements, the County shall pay the liquidated damages due to RCG hereunder within thirty (30) days of the County’s receipt of RCG’s written demand therefor, and such payment will be without deduction, set-off, reduction or counterclaim; the foregoing, however, shall not be construed as a waiver of any claims that the County might have against RCG, or of any amounts due by RCG to the County, at the time of RCG’s assessment of liquidated damages under this paragraph. It is understood that the rights of RCG set forth herein regarding other breaches by the County unrelated to delays, are not limited by this provision regarding liquidated damages for delay. It is further understood that the County’s obligation to pass through liquidated damages collected from the Design-Builder of the Cruise Terminal G Improvements shall not be construed to limit the County from granting extensions of time to the Design-Builder or from reaching compromises with the Design-Builder regarding pending claims for additional time or compensation; provided, however, in the event the County intends to take any action which may result in the waiver, reduction, or deferral of liquidated damages, the County agrees to first discuss the matter with RCG so that the County can determine the optimal course of action.

(1) With respect to each of the Cruise Terminal G Improvements and the Berth 10 Improvements, “Substantial Completion” shall mean the time at which each respective cruise terminal has progressed to the point where it is sufficiently complete, in

accordance with the Design-Build Agreement, so that all such improvements and work can be utilized for the purposes for which it is intended. Substantial Completion shall be measured and certified separately for each of the Cruise Terminal G Improvements and Berth 10 Improvements. Substantial Completion shall be achieved and certified by the County and the architect of record under the Design-Build Agreement when (a) the cruise terminal improvements have obtained the initial governmental approval necessary for the use (as intended) and occupancy of the terminal by members of the public (i.e., a temporary certificate of occupancy) following the inspections of such improvements necessary to obtain that initial governmental approval; (b) all construction, including, without limitation, all components, facilities and portions of the terminal have been completed, to the extent and in the manner required by the Design-Build Agreement (except that completion of reasonable punch-list items that do not affect County's or RCG's ability to use the improvements and continue with the project as intended shall not be required prior to such certification); (c) Customs and Border Protection (CBP) have inspected and accepted the CBP facilities located within the cruise terminal; (c) except in those areas designated by the Parties for the storage of the equipment and materials necessary for the completion of any punch-list items, the terminal is free from all construction debris, rubbish, materials and equipment with all furnishings and fixtures in place, and all surfaces, flooring, windows cleaned and ready for use as intended; and (d) the Marine Improvements are substantially complete. The terms "substantially complete" and "substantially completed" as applied to all or part of the work shall refer to the Substantial Completion thereof within the Design-Build Agreement.

(2) "Final Completion" shall mean when (a) Substantial Completion has occurred and all punch-list items have been completed; (b) all construction materials and equipment have been removed from the site and adjacent land or staging areas, if any; (c) all final certificates of occupancy have been issued; and (d) County has approved and signed the final acceptance certificate as per the terms of the Design-Build Agreement. Final completion shall be measured and certified separately for each of the Cruise Terminal G Improvements and Berth 10 Improvements.

(3) The Design-Build Agreement shall provide the Substantial Completion Dates, which may be extended where such extension is necessitated by (i) Force Majeure events; (ii) RCG Requested Changes; or (iii) as otherwise mutually agreed.

2.04 **County's Indemnification of RCG.** Subject to the limitations set forth in Fla. Stat. § 768.28 (but only for those claims subject thereto) whereby the County shall not be liable in excess of the monetary limits set forth therein and for acts or omissions for which the County is otherwise immune from liability, the County shall indemnify and defend RCG from any liability, damages, claims or losses of whatsoever nature brought by any third party (including any third-party cruise line or cruise line guest, employee, invitee or vendor) as a result of the construction works being undertaken under this Agreement in connection with the Project or the use of the Project by such third parties from the date of the execution of this Agreement until the Final Completion Date. The County may meet its obligations under this

paragraph through a self-insurance program. The County represents and warrants to RCG that there are no agreements, contracts or other arrangements with third-party cruise operators or other users of the Project that would restrict, prohibit, or otherwise adversely affect County's right to enter into the Design-Build Agreement or otherwise undertake the Project or to perform its obligations under this Agreement; provided, however, that the Berth 10 Improvements shall be subject to the Shared Terminal Agreement.

2.05 **RCG's Right to Appoint a Project Monitor and Inspecting Engineer.** RCG shall have a right pursuant to this Agreement, and the Design-Build Agreement shall authorize the participation of a "RCG Project Monitor" and/or "Inspecting Engineer" who shall be a firm or individual appointed by RCG to oversee the Project on behalf of RCG in accordance with the procedures set forth herein. RCG shall be required to provide the County with the name and contact information (email and physical address) of the RCG Project Monitor and/or Inspecting Engineer in writing and update as required.

(a) **Review of Design-Build Agreement.** The County shall keep RCG timely advised and updated on the negotiations for the drafting of the Design-Build Agreement with the proposed contractor as selected by County and shall circulate the initial draft of the Design-Build Agreement to RCG for review and comment during such negotiations and prior to execution of same by County. RCG may participate in such negotiations and provide simultaneous comment on design items related to the Project, provided that RCG's right to participate in the negotiations of the Design-Build Agreement shall not be construed to require the County to incur additional costs in connection with the Design-Build Agreement unless such costs are treated as RCG Requested Changes as provided in this Agreement. Before the commencement of negotiations, RCG shall have ten (10) business days to review the draft Design-Build Agreement and submit comments to the County for its review. The County and RCG shall hold a progress meeting or meetings, as necessary, to discuss and review RCG comments prior to submission to contractor representatives. The Design-Build Agreement, at a minimum, shall meet the requirements of Section 2.02 of this Agreement and shall otherwise be consistent with the terms of this Agreement and shall be in the best interest of County, as owner, and RCG, as the holder of preferential berthing rights at Cruise Terminal G and Berth 10, containing such terms and conditions as is customary of similar County construction contracts.

(b) **Plan Review.** In addition to RCG's rights to review RCG shall have the right to review any other construction plans prepared by the design-builder in accordance with the same review milestones set forth in the Design-Build Agreement, provided that RCG's comments shall be provided to the County at least seventy-two (72) hours before the County's response to the plans is due to the design-builder under the Design-Build Agreement so that the County, as appropriate, may incorporate RCG's comments into the County's comments, and the design-builder receives a single set of comments.

(c) **Construction Monitoring and Project Timelines.** The RCG Project Monitor shall have access to the site, construction documentation (through a project

management database and document control repository), project milestones and timelines, and shall be invited to attend and participate in regularly scheduled meetings with design professionals and/or contractors responsible for the design and construction of the Project; any input from the RCG Project Monitor or Inspecting Engineer shall only be communicated to the County's project manager responsible for overseeing the implementation of the Project. The RCG Project Monitor shall be kept apprised of any change orders, delays, non-conforming work, site incidents and/or similar issues affecting the design or construction of the Project. The Inspecting Engineer shall have the same rights of access and participation as the RCG Project Monitor to review and inspect the Project as they progress to confirm that the work is being undertaken in a timely manner and in accordance with the Design-Build Agreement and any construction schedule that is a part thereof. The RCG Project Monitor and Inspecting Engineer shall be provided with the schedule of work with appropriate milestones and goals, which schedule shall be reviewed as required during each progress meeting; any known area of delay or known missed targets will be identified and, without requiring the expenditure of additional funds, corrective action will be implemented. Notwithstanding the foregoing, the RCG Project Monitor and Inspecting Engineer shall not have the right to interfere with the progress of the design or construction of the Project or to make any contractual demands under the Design-Build Agreement. The cost of the third party RCG Project Monitor and/or Inspecting Engineer shall be included in the Project Budget.

2.06 RCG's Right to Request Changes. RCG shall be entitled to request changes to the Design-Build Agreement (the "RCG Requested Changes"). RCG shall initiate any desired RCG Requested Change in writing addressed to the County which shall set forth a description of the proposed changes including provisions for any and all architecture and engineering changes. Within fifteen (15) days of receipt of RCG Requested Changes, the County shall review such changes with the design-builder and shall thereafter provide RCG with (a) an estimate of the costs anticipated for such proposed RCG Requested Changes, including all direct and indirect cost of architecture, engineering and construction costs which may result from such proposed change and where applicable the cost of any necessary project acceleration, and (b) the time impact, if any, that would be caused by the implementation of the requested changes. Within ten (10) business days of receipt of the cost proposal from the County, RCG shall provide the County with (a) a statement of how RCG proposes to defray such costs and any and all conditions attendant to the same; and (b) a proposal for addressing all time impacts of the RCG Requested Change without compromising any guarantees made to the County or requiring the County to expend any funds. The County shall adopt the RCG Requested Changes if the County determines in the exercise of its sole discretion that the proposed changes: (a) will not cause the costs to the Project to exceed the Project Budget, including with respect to any sub-budgets established by the County for each of the Cruise Terminal G Improvements (i.e., the CTG Project Maximum) and Berth 10 Improvements (or otherwise, that RCG has made adequate provisions for the payment of such excess costs); (b) will not cause a delay to the critical path of the Cruise Terminal G Improvements or Berth 10 Improvements that will cause, respectively, the Cruise Terminal G Improvements or Berth 10 Improvements to be completed beyond the CTG Substantial Completion Date or B10

Substantial Completion Date, as applicable or, if the RCG Requested Change will cause a delay in the applicable CTG Substantial Completion Date or B10 Substantial Completion Date, as applicable, that the date will be adjusted without an unaddressed financial impact to the County; and (c) will not create adverse impacts to the County's operation and governance of the Port. RCG shall not be obligated to pay for a RCG Requested Change if the total cost of the Project does not exceed the Project Budget upon completion. In the event a RCG Requested Change causes the total cost of the Project to exceed either of the CTG Project Maximum or the Project Budget, RCG agrees that such excess shall be added to the RCG Contribution and shall be repaid through the Capital Recovery Surcharge.

2.07 **Damages for Delay.** RCG's entitlement to collect liquidated damages shall be in accordance with Section 2.02(d). With the exception of the County's recovery of liquidated damages as provided in Section 2.02(d), RCG's sole and exclusive remedy to a delay in the achievement of Substantial Completion shall be the adjustment of the Minimum Annual Guarantees as provided in Exhibit C.

2.08 **County's Obligations Under the Design-Build Agreement.** The County shall be responsible for paying all costs under the Design-Build Agreement, including all cost overruns, except for the cost relating to the RCG Requested Changes, which are to be borne by RCG in the manner set forth in this Agreement. The County shall act with due diligence in the enforcement of the Design-Build Agreement and shall always act as a prudent owner of the Project.

2.09 **RCG's Capital Reimbursement Obligation.**

(a) Provided that the County achieves Substantial Completion on the Project and the Project is thereafter available for RCG's use as provided in this Agreement, RCG shall be obligated to reimburse the County the lesser of (i) fifty three percent (53%) of the Project Budget, or (ii) fifty three percent (53%) of the actual costs incurred by the County in connection with the Project, including the Design-Build Agreement (and any related agreements) for the Cruise Terminal G Improvements and Berth 10 Improvements, with costs including interest calculated at six and one-half percent (6.5%), as reflected in Exhibit D attached and subject to the provisions of 2.02(c)(2). The principal, as may be increased as elsewhere provided in this Agreement, plus the aforementioned financing costs and interest shall constitute the "RCG Contribution," with the total amount of all such permitted costs and interest as reflected in Exhibit D. RCG's obligation to reimburse the County the RCG Contribution under this Agreement shall be in accordance with the "RCG Contribution Payment Schedule and Rates" attached hereto and incorporated herein as Exhibit D (to be amended as per the preceding sentence). As a matter of timing, absent RCG's default, the RCG Contribution payment obligations to the County shall be computed on an annualized basis (based on the County's fiscal year) by multiplying the then-applicable RCG reimbursement rate set forth in the RCG Contribution Payment Schedule and Rates times the greater of (i) RCG's actual total passenger movements in that fiscal year at PortMiami (excluding Terminal A) or (ii) RCG's total minimum annual passenger guarantee at

PortMiami in that fiscal year. RCG's obligation to pay County the entire RCG Contribution shall not be subject to reductions, offsets, or credits, based on the unavailability, sufficiency, or amount of any passenger surcharges or fees imposed or collected by RCG, and RCG may not utilize its Reconciliation Account to meet any shortfalls of payments due under this subsection. RCG's obligation to pay County the entire RCG Contribution shall survive the expiration or early termination of this Agreement, except as otherwise set forth in this Agreement.

(b) RCG's obligation to pay the RCG Contribution in accordance with the RCG Contribution Payment Schedule and Rates shall be through a Capital Recovery Surcharge as provided in Exhibit D and shall apply to the passenger count at any terminal utilized by RCG at PortMiami (excluding Cruise Terminal A) commencing on the Repayment Commencement Date, and, subject to Section 1.03(d), continue until the date on which the County is paid the full RCG Contribution amount, including applicable interest (the "Repayment Period"). At such time as the RCG Contribution amount has been paid in full (as per Exhibit D or sooner as a result of accelerated payments hereunder, savings and/or reductions in the RCG Contribution amount), RCG's obligation to pay the Capital Recovery Surcharge shall terminate. All funds collected as a Capital Recovery Surcharge shall be credited against the outstanding RCG Contribution amount. RCG may pre-pay the outstanding principal balance of the RCG Contribution amount at any time during the Term, without penalty. If for any reason, RCG pays amounts in excess of those required under Exhibit D, the County shall refund such excess payments at the end of the Repayment Period. The existence of a shortfall amount (should the total minimum guarantee of passengers at PortMiami not be met by RCG in any fiscal year) shall not constitute an event of default hereunder so long as RCG pays the shortfall in the Capital Recovery Surcharge within thirty (30) days of receiving an invoice from County therefor, issued after the end of such fiscal year; as provided in the preceding subsection, RCG may not use any Surplus credits in its Reconciliation Account to meet a shortfall of its repayment obligation hereunder. The County represents and warrants to RCG that the financing terms for the Project including the interest rate and financing costs thereunder, are no less favorable than the financing terms payable by other multi-day passenger cruise companies for other comparable cruise terminal construction projects undertaken at PortMiami during the prior three (3) year period from the date of this Agreement. For the purpose of this representation and warranty, the County's assumption of cost related to a cruise terminal development (including, but not limited to, costs related to pre-development costs, land acquisition, environmental remediation, or the purchase of passenger boarding bridges or furniture, fixtures, and equipment), whether or not reimbursable, shall not be considered; this representation and warranty relates exclusively to development or construction costs financed by the County through the issuance of debt. The County further represents and warrants to RCG that the financing terms for the Project, including the interest rate and financing costs thereunder, shall not be less favorable than the financing terms payable by multi-day passenger cruise companies for their comparable cruise terminal construction project; provided, however, that this representation and warranty shall only be effective to the extent the cruise terminal construction agreements with the

aforementioned cruise companies are finalized (as evidenced by the attainment of the final approvals necessary to make those agreements legally binding) within twelve (12) months of the Effective Date of this Agreement. If either of the foregoing representations and warranties is breached, then the County shall notify RCG promptly after the County determines in its discretion, reasonably exercised, that a breach of the immediately foregoing representation and warranty has occurred, and as RCG's sole and exclusive remedy therefor, Exhibit D and the RCG Contribution payable thereunder shall be revised to match the more favorable interest rate and financing costs, which adjustment shall be effective as of the later of (1) the Effective Date of this Agreement, or (2) the effective date of the agreement with the more favorable financing terms.

(c) Upon RCG's failure to pay the RCG Contribution in the manner required under this Agreement, and upon the County's giving of at least thirty (30) days' written notice and opportunity to cure to RCG, in addition to any other remedies available to the County at law or in equity (including termination of this Agreement), RCG's payment default shall render the RCG Contribution immediately due and payable, notwithstanding the schedule established in the RCG Contribution Payment Schedule and Rates.

(d) The County shall invoice RCG for payment of the RCG Contribution on a per vessel call basis, and RCG shall pay the County for same within thirty (30) calendar days of receipt of the County's invoice.

(e) RCG may request that the County increase the amount of the Capital Recovery Surcharge during one or more Fiscal Years during the Term in order to prevent an anticipated shortfall amount for such Fiscal Year(s). In order to increase the Capital Recovery Surcharge, at least thirty (30) days prior to the date the increased Capital Recovery Surcharge is to commence RCG shall provide the County with written notice of (i) the amount of the increased Capital Recovery Surcharge, (ii) the date the increased Capital Recovery Surcharge shall become effective, and (iii) the duration of time the increased Capital Recovery Surcharge shall be charged by the County. At the end of the period set forth in the RCG notice, the Capital Recovery Surcharge shall be reduced back to the amount that the Capital Recovery Surcharge would have been if it had not been increased by RCG pursuant to this Section 2.09(e).

(f) If for any reason RCG's repayment of the RCG Contribution cannot occur through the imposition of a Capital Recovery Surcharge, then RCG shall be obligated to repay the RCG Contribution through any other means reasonably acceptable to the County that would result in the payment of the RCG Contribution within the same time frame, or sooner (if agreed by the Parties), than the payment of the RCG Contribution would be made under Exhibit D; provided, however, that any plan created under the foregoing circumstance shall require periodic payments to the County in an amount that is at least equal to the amounts set forth in Exhibit D or such lower amount as agreed by the Parties in the event of a refinancing on mutually agreeable terms. The foregoing shall not be construed to limit the County's right to accelerate RCG's obligation to pay the RCG Contribution in accordance with Section 7.03 of this Agreement.

ARTICLE III
Terminal Use and Payments

3.01 **Terminal Use.** As used in this Agreement, “Preferential Berthing Rights” shall refer to the first priority right and preference to RCG Vessels over any other ship requesting berthing rights as set forth herein and shall extend and be limited to any vessels sailing under the RCG brands (now or in the future; currently including Royal Caribbean International, Celebrity Cruises, Silversea, and TUI Cruises). With respect to Cruise Terminal G, (i) during the Development Period, RCG shall have Preferential Berthing Rights at Cruise Terminal G 7 days per week, 365 days per year, until Cruise Terminal G is demolished or otherwise rendered, in the County’s determination, unsuitable for cruise operations and (ii) from the Substantial Completion of Cruise Terminal G through the conclusion of the Term, RCG shall have Preferential Berthing Rights, seven (7) days per week and three hundred sixty-five (365) days per year. After the substantial completion of the Shared Terminal (as measured under the Shared Terminal Agreement), RCG shall have Preferential Berthing Rights as follows: (i) prior to and until the Substantial Completion of Berth 10, RCG shall have Preferential Berthing Rights (x) at Berth 8, for up to an Oasis-class vessel, (simultaneously with Berth 9) every other week on Thursday (which may be used for 5/5/4- night year-round itinerary) (i.e., on two (2) Thursdays per month and on any other day not utilized by MMCT and (y) at Berth 9, for up to a Quantum-class vessel, during the winter season (November 1st through April 30th) on Sundays and Thursdays every week (which may be used for a 3- and 4-night itinerary) and year-round every other week on Mondays and Saturdays (which may be used for a 5/5/4- night itinerary); and (ii) after the Substantial Completion of Berth 10, at Berth 10 seven (7) days per week and three hundred sixty-five (365) days per year. The Preferential Berthing Rights granted herein are not exclusive berthing rights and are subject to § 3.01(c) of this Agreement.

(a) **Berth Schedule.** Attached as Exhibit I is the berth schedule for the period commencing on the Effective Date and continuing through November 30, 2026, for RCG Vessels calling at Cruise Terminal G and the dates and times in which RCG intends to berth such RCG Vessels (the “Berth Schedule”). RCG shall submit to County a berth schedule for both Cruise Terminal G, the Shared Terminal, and Berth 10 at least eighteen (18) months in advance to cover each applicable six (6) month cruise berthing period from April 1 to September 30 (e.g., submittal by October 1, 2023 for April 1 through September 30, 2025) and October 1 to March 31 (e.g. submittal by April 1, 2024 for October 1, 2025 to March 31, 2026) (each a “Cruise Berthing Period”), which may be amended from time to time in accordance with the terms and conditions contained herein. Subject to RCG’s Preferential Berthing Rights set forth hereunder, County shall accept all such RCG Vessel reservations for Cruise Terminal G, the Shared Terminal, and Berth 10 as per the Berth Schedule(s) submitted by RCG, without change or modification, by issuing a Confirmation Notice no later than thirty (30) days after RCCL submits the Berth Schedule. Subject to RCG’s Preferential Berthing Rights set forth hereunder, County agrees to make Cruise Terminal G, the Shared Terminal, and Berth 10 available to RCG, its subsidiaries, divisions and affiliates for the berthing of the

RCG Vessels for embarkation and disembarkation of passengers and the use of Cruise Terminal G and the Shared Terminal as requested in accordance with the Berthing Schedule.

(b) **Updates and Revisions to Berth Schedule.**

(1) **Cruise Terminal G.** RCG shall notify the County, in writing, of any changes or amendments to the Berth Schedule not less than twelve (12) months prior to the earliest date affected by the change to such schedule, provided that RCG's changes or amendments shall be accepted by County as long as such changes or amendments do not create a conflict between RCG's use of any of the terminals at which RCG has Preferential Berthing Rights and any third-party cruise line's use of such terminals pursuant to a berth schedule approved by County (and made in accordance with this Agreement) before RCG's requested change or amendment. The Parties acknowledge that it is in the best interest of the cruise lines and the Port to work together cooperatively concerning scheduling to maximize the use of the Port's cruise terminal(s).

(2) **Shared Terminal/Berth 10.** During the Term, updates and revisions to the Berth Schedule shall be provided within the timelines agreed in the Operation Protocol prepared in accordance with the Shared Terminal Agreement.

(c) **Exclusive Rights During Dates/Time in Berth Schedule.** During the dates and times set forth in the Berth Schedule then in effect, the County covenants and agrees that RCG and its subsidiaries, divisions and affiliates shall have the exclusive right to utilize the berths covered thereby, for the berthing and related operations of RCG Vessels for the embarkation and disembarkation of passengers and for other RCG Vessel related events such as inaugural sailings, travel agent, sales employee receptions, cruise to nowhere and other promotional events associated with the marketing of the cruise vessel, RCG or PortMiami so long as the events are reflected in the Berth Schedule, as updated or changed pursuant to this Section 3.01. At Cruise Terminal G, such right shall encompass the exclusive right to utilize the cruise terminal, including designated office, public areas, storage and other interior spaces and facilities therein, other than those offices, public areas, storage and other interior spaces and facilities therein that the County has designated for its own use. At the Shared Terminal (including Berth 10), RCG's right to use the Cruise Terminal shall be non-exclusive and its access to facilities within the Shared Terminal shall be as set forth in the Operation Protocol.

(d) **Third Party use of Cruise Terminal G and Berth 10.** Subject to RCG's Preferential Berthing Rights herein, when the cruise terminals and berths covered in this Agreement are not otherwise being used by RCG pursuant to the Berth Schedule, the County shall have the right to allow other vessels to use such facilities at any time during the cruise period covered by the then-current and applicable Berth Schedule submitted by RCG under subsection (a) above, but not beyond such cruise period, provided such use does not unreasonably interfere with RCG's right to use the facilities pursuant to the then-current Berth Schedule. Except for the vessels of third-party cruise lines that are displaced as a result of the North Bulkhead Realignment Project, for any calls of third-party vessels at either Cruise

Terminal G or Berth 10 during the Term of this Agreement (other than calls during a period of suspension), RCG shall receive credit towards its RCG Contribution payment obligations under Section 2.09 as if such calls had been made by an RCG vessel, regardless of whether the County collects a Capital Recovery Surcharge payment from such third-party vessels.

(e) **Secondary Berthing Rights at Shared Cruise Terminal.** Until the Substantial Completion of Berth 10 and provided that RCG provides at least twelve (12) months' prior notice, RCG shall have a secondary preference at Berths 8 and 9 for all dates not reserved by MMCT in accordance with its rights under the Shared Terminal Agreement. To facilitate RCG's exercise of rights under this subsection, the County shall notify RCG within ten (10) days of its receipt of a berthing schedule from MMCT of the dates that are and are not available, and RCG shall have eighty-five (85) days therefrom to notify the County, in writing, of which available dates RCG desires to utilize at Berths 8 and 9. Once confirmed under the provisions of this subsection, RCG shall have the same rights on such confirmed dates as provided in Section 3.01(c).

(f) **Home Porting Obligation.** Commencing upon the Substantial Completion of Cruise Terminal G and for a period of ten (10) years therefrom, RCG shall be required to commit at least one Oasis- or Icon-class vessel to PortMiami (including at Cruise Terminal A), for at least one cruise season per year (summer or winter), for a minimum of seven (7) cruise seasons during such 10-year period. In addition, RCG shall homeport one (1) or more newbuilds at PortMiami, including the Icon of the Seas in 2023, for deployment to the Caribbean market. RCG shall forfeit the Additional Marketing Incentive during any period in which it is noncompliant with the terms of this subsection.

3.02 **Port Fees.**

(a) **Unitary Fee.** RCG shall be obligated to pay the County a "**Unitary Fee**" in accordance with Exhibit B hereto per passenger embark and per passenger debark at Cruise Terminal G and the Shared Terminal (including Berths 8, 9, and 10) or at any other replacement berth provided by the County if Cruise Terminal G or the Shared Terminal are not available (with the exclusion of Terminal A). In the manner set forth in Exhibit B hereto, the Unitary Fee shall increase each Fiscal Year thereafter by an amount equal to the increase in the wharfage and dockage fees under the published PortMiami Tariff (provided that any such increase in the Unitary Fee shall not exceed three percent (3%), compounded each Fiscal Year, except as provided in subsection (d)(2) below). The County shall not increase the Unitary Fee payable by RCG unless such increases are equally imposed (on the same percentage basis) on all other multiple night cruise operators at the Port, it being understood and agreed by the Parties that this limitation shall apply only to those fees that the County retains and shall not be implicated in instances in which multiple night cruise operators at the Port have been granted the right to establish any of the fees that are the components of the Unitary Fee assessed under this Agreement pursuant to their lease, terminal, management, operating, or similar agreement(s) granting such multiple night cruise operators the right to operate at the Port. The County shall provide RCG with no less than ninety (90) days' prior

written notice of any such proposed increase in the Unitary Fee. The Unitary Fee consists of a combined per passenger fee encompassing the wharfage tariff and dockage tariff. Other than the Unitary Fee, harbor fees, water fees, and any fees associated with the usage and maintenance of shore power facilities that are assessed in accordance with Port Tariff No. 010 (the “Port Tariff”), the Parties acknowledge and agree that there are currently no other fees, rates, or tariffs paid by RCG to the County or the Seaport Department under this Agreement or the Port Tariff.

(b) **New Port Charges.** If, after the date of this Agreement, a new levy, charge, or fee is imposed or assessed under any applicable law, rule, regulation, directive, or other legal requirement of any federal, state, or local governmental authority (excluding the County) including any new charge, fee, or levy for increased security requirements (but excluding any new charge, fee, or levy associated with the usage or maintenance of shore power facilities), specifically against RCG and all other multi-day passenger cruise lines berthed at or operating from PortMiami (a “New Port Charge”), then the Unitary Fee shall be increased to include the New Port Charge as of its effective date.

(c) **New Port Charges Resulting in Material Adverse Changes.** In the event the imposition or assessment of a New Port Charge results in a “Material Adverse Change” on RCG’s operations from the Port, then representatives of the Seaport Department and RCG shall meet to discuss the resulting financial impact on RCG. If the Parties are unable to reach an agreement reasonably satisfactory to RCG within ninety (90) calendar days following written notice to RCG of the imposition or assessment date of the New Port Charge, RCG shall have the right to terminate this Agreement in accordance with § 7.04. Such actions by RCG shall not be deemed a default under the Agreement and the Parties shall thereafter be released and relieved from all further obligations thereunder, other than RCG’s obligation to pay the annual RCG Contribution payment which shall be suspended, but not terminated, as per the terms below. As used herein, the term “Material Adverse Change” shall mean a New Port Charge, which would increase the then-current Unitary Fee payments payable by RCG by Ten Million Dollars (\$10,000,000.00) or greater in any Fiscal Year if RCG were to continue using the Port. If the law or action causing the Material Adverse Change is repealed or changed (such that the Material Adverse Change threshold is no longer met or exceeded) within twelve (12) months of its enactment, RCG shall, as soon as reasonably practicable after such repeal (subject to RCG’s then current itineraries, port commitments, marketing plan and operations, but no later than twelve (12) months following the repeal or modification of the New Port Charge causing the Material Adverse Change) reposition the RCG Vessels to the Port at which time the Parties agree that the terms of this Agreement shall be restored and in full force and effect for the remaining Term. In such an event, the per passenger Capital Recovery Surcharge payable by RCG shall be increased by an amount sufficient to recover the unpaid Capital Recovery Surcharge payments during the termination period to allow the Capital Contribution amount to be repaid in full within the original Repayment Period. After the twelve (12) month period, if the New Port Charge remains a Material Adverse Change, then RCG shall repay the RCG Contribution through any other means reasonably acceptable

to the County that would result in the payment of the RCG Contribution within the same time frame, or sooner (if agreed by the Parties), than the payment of the RCG Contribution would be made under Exhibit D; provided, however, that any plan created under the foregoing circumstance shall require periodic payments to the County in an amount that is at least equal to the amounts set forth in Exhibit D or such other amount as agreed by the Parties in the event of a refinancing on mutually agreed terms and any such plan shall take into account any mitigation of damages by the County, to the extent such mitigation is required by applicable law. Should the County enter into a more favorable provision with another multi-night cruise operator than what is provide in this Section 3.02(c), RCG will be granted the full benefit of such terms.

(d) **PortMiami Specific Charges.** Subject to the limitation on Unitary Fee increases set forth in subsection (a) above, the County shall provide advance written notice of any public meeting at which the Board will consider any new fee that may impact RCG and at least six (6) months' written notice to RCG prior to the effective date of any new levy, charge, or fee imposed or assessed by the County against all multi-day passenger cruise operators using any terminal or berth at PortMiami after the date of this Agreement which is specific to Port or Port operations ("PortMiami Specific Charge"). Such PortMiami Specific Charge would, when added to the existing Unitary Fee, cause the Unitary Fee to exceed the limitation on annual increases hereunder, the Unitary Fee shall not be increased above the annual limitation provided hereunder (i.e., 3%); it being the intention of the Parties that all such PortMiami Specific Charges be subject to the 3% per annum cap on increases in the Unitary Fee. Accordingly, any such new PortMiami Specific Charge shall apply to RCG to the extent that such charge, when added to other increases (if any) in the Unitary Fee, does not increase the amount payable by RCG by more than 3% over the prior Fiscal Year.

Without limiting the foregoing, the County shall provide all the services covered by the Unitary Fee and any New Port Charge or PortMiami Specific Charge in accordance with the terms, conditions, and standards provided in the Port Tariff and consistent with the standards adhered to by the Seaport Department in the operations of the Port; provided that, with respect to the PortMiami Specific Charge and related services, RCG has agreed to pay for such charge notwithstanding the limitations on the cap and the notice requirements set forth in the preceding paragraph.

(e) **Shore Power.** Notwithstanding anything to the contrary in this Agreement, for any shore power enabled vessels berthing at shore power capable berths anywhere at PortMiami, RCG shall be required to utilize shore power in accordance with any port wide standards and practices then in effect, reimburse the County for any electrical charges incurred by RCG, and pay any fees established in the Port Tariff regarding the use of shore power facilities. The imposition on and collection from RCG of such costs and fees shall not constitute a PortMiami Specific Charge or a New Port Charge and shall not be subject to any limitation set forth in this Agreement regarding fee increases; provided, however, that at all times the electrical charges charged to RCG shall be a direct passthrough of those costs

incurred by the County, and the fees established by the County in the Port Tariff for shore power shall represent a reasonable approximation of the costs incurred by the County for the operation and maintenance of shore power facilities at the Port.

3.03 **Minimum Annual Guaranteed Payment.** Commencing on the date of Substantial Completion, RCG Vessels shall berth at Cruise Terminal G, the Shared Terminal, and Berth 10 during each Fiscal Year a sufficient number of times to generate the Minimum Annual Guaranteed Payment from the Unitary Fee payable to the County during each Fiscal Year that this Agreement remains in effect until contract expiration or earlier termination. The Minimum Annual Guaranteed Payment (the “Minimum Annual Guarantee”) is set forth in Exhibit C attached.

(a) **Development Period Safe Harbor.** Notwithstanding anything to the contrary in this paragraph or in Exhibit C, until the Substantial Completion of Cruise Terminal G, RCG shall not be required to (i) make a payment, or (ii) utilize the Reconciliation Account established in Section 3.04, for any Shortfall Amount that is equal to or less than twenty percent (20%) of the Minimum Annual Guarantee that is applicable during the Development Period.

(b) RCG may request that the County increase the amount of the Unitary Fee during one or more Fiscal Years during the Term in order to prevent an anticipated Shortfall Amount for such Fiscal Year(s). In order to increase the Unitary Fee, at least thirty (30) days prior to the date the increased Unitary Fee is to commence RCG shall provide the County with written notice of (i) the amount of the increased Unitary Fee, (ii) the date the increased Unitary Fee shall become effective, and (iii) the duration of time the increased Unitary Fee shall be charged by the County. At the end of the period set forth in the RCG notice, the Unitary Fee shall be reduced back to the amount that the Unitary Fee would have been if it had not been increased by RCG pursuant to this Section 3.03(b).

(c) **Representation Regarding Minimum Annual Guarantee.** For the 5-year period immediately following the Effective Date, RCG represents and warrants that its Minimum Annual Guarantee at PortMiami (on a per terminal basis) shall be the largest revenue guarantee (or equivalent passenger guarantee) at any port with sailings into the Caribbean Basin. To the extent that RCG, in contravention of the foregoing representation and warranty, enters into an agreement with a higher minimum annual guarantee, then the Minimum Annual Guarantee herein shall conform to the higher minimum annual guarantee.

3.04 **Reconciliation Account.**

(a) **Generally.** Within sixty (60) calendar days following the end of each Fiscal Year, the County shall calculate the actual Unitary Fees paid by RCG for such Fiscal Year based on the passenger manifests submitted by RCG and shall send a written notice (the “Differential Notice”) to RCG setting forth the difference (positive or negative) between the Unitary Fees paid and the Minimum Annual Guarantee for such Fiscal Year (the

“Differential”). If the Differential for any Fiscal Year is a negative amount (a “Shortfall Amount”) or a positive amount (a “Surplus”), the Differential Notice shall confirm the Shortfall Amount or Surplus to RCG. Subject to the terms below, if the Differential Notice for a Fiscal Year reflects a Shortfall Amount, RCG shall pay to County, within sixty (60) calendar days of receipt of such notice the Shortfall Amount, subject to RCG’s right to credits from the Reconciliation Account (defined below) as hereinafter provided (for purposes herein, the Reconciliation Account shall include any surplus funds credited under the Existing CTG Agreement). If the Differential for any Fiscal Year (including the first Fiscal Year) is a Surplus, then no shortfall payment shall be due from RCG for such Fiscal Year and County shall allocate the Surplus to an account (the “Reconciliation Account”) held by County to be used solely for the purposes described herein. Such Surplus shall be carried forward to future Fiscal Years, subject to the terms outlined herein, as a credit against any Shortfalls for future Fiscal Years such that any future Shortfall shall first be credited against the amounts of any existing Surplus in the Reconciliation Account prior to any payment by RCG hereunder. Surplus amounts shall accrue each Fiscal Year where RCG exceeds the Minimum Annual Guarantee for that year, not to exceed forty percent (40%) of the then-applicable Minimum Annual Guarantee (taking into account any Surplus credits from the Existing CTG Agreement including, any existing Surplus balance as of the Effective Date herein) (the “Surplus Cap”). Any amount in excess of the Surplus Cap remaining in the Reconciliation Account at the expiration or termination of this Agreement shall be retained by the County. In addition to the foregoing Surplus Cap, RCG shall only be entitled to use Surplus credits in the Reconciliation Account to cover a Shortfall Amount up to twenty percent (20%) of the then-applicable Minimum Annual Guarantee.

For the avoidance of doubt, a Surplus in the Reconciliation Account shall apply and be used as a credit against a Shortfall Amount during the Term of this Agreement, inclusive of extensions, if exercised. To the extent funds in the Reconciliation Account are used during the Term as credits against Shortfall Amounts as hereinabove provided, then any future Surplus shall be used to replenish the account up to the Surplus Cap. If the Reconciliation Account contains unused Surplus funds at the end of the Term of this Agreement, the County shall be entitled to retain all such funds.

Notwithstanding anything to the contrary herein, the payment by RCG to the County of the Shortfall Amount as to any Fiscal Year shall represent the sole and exclusive liability of RCG for failing to reach the Minimum Annual Guarantee for such Fiscal Year and the fact that there exists a Shortfall shall not, in itself, constitute an event of default under the Agreement.

Notwithstanding the foregoing, if RCG has a Shortfall Amount in any Fiscal Year (including the first year) and lacks sufficient credits in the Reconciliation Account to reduce such Shortfall Amount to zero, then any portion of the Shortfall Amount remaining after the available Reconciliation Account credits are consumed, shall be paid by RCG to the County within 60 calendar days of RCG’s receipt of the County’s Differential Notice.

(b) COVID-19 Recovery Rider Limitation. Reference is hereby made to the COVID-19 Recovery Rider between the County and RCG dated September 30, 2021. Notwithstanding anything to the contrary in the preceding subsection, RCG shall not be entitled to utilize any accumulated Surplus credits until the first Fiscal Year following September 30, 2022, in which RCG has met its minimum annual passenger guarantee.

3.05 **Proration.** Unless the Substantial Completion of Cruise Terminal G coincides with the first day of a Fiscal Year, RCG's obligations under this Agreement which are based on Fiscal Year commitments (e.g., the Minimum Annual Guarantee) shall be prorated based on the date of the Substantial Completion of Cruise Terminal G.

3.06 **Terminal Use.**

(a) Generally. Subject to County's reasonable rules and regulations applicable to all cruise line operators at PortMiami, and the berthing schedules then in effect, RCG shall have in connection with its rights as set forth in this Agreement: (a) the right of ingress and egress to and from the Project and related Port facilities, as applicable, for its officers, cruise agents, employees and passengers and those of its principals, (b) the right to embark and disembark passengers, and to bunker, load, store and moor RCG cruise ships at said berth, (c) the right to use all passenger facilities located at such berths, including the use of passenger waiting rooms, comfort and washroom facilities, and the United States Customs and Border Protection and/or federal inspection site (F.I.S. facility) used in connection with the embarking and debarking of passengers and their luggage, during such times and durations as its vessels are at the Port and (d) the right to place signage in the Project in accordance with this Agreement; provided, however, that if interior signage contains the RCG logo or is RCG branded, then such signage shall be easily removable or able to be covered.

(b) Shared Terminal and Berth 10. With respect to RCG's usage of the Shared Terminal and Shared Terminal Parking Garage, including the usage of the Shared Terminal and Shared Terminal Parking Garage during operations at Berth 10, RCG shall abide by the terms of the "Operation Protocol," as such term is defined and used in the Shared Terminal Agreement. RCG shall have the right to participate in the preparation of the Operation Protocol and any dispute resolution proceedings related to its preparation and implementation. The County shall provide reasonable notice to RCG of any scheduled meetings related to the preparation of the Operation Protocol and any dispute resolution proceedings related to its preparation and implementation, if the outcome of such meetings or proceedings would materially impact RCG's usage of the Shared Terminal, Berth 10, or both.

3.07 **Terminal and Port Security.** During the Term, the County shall provide, at its sole cost and expense, security levels at the Port facilities consistent with MARSEC Level 1. In the event the U.S. Coast Guard increases the MARSEC level at the Port above MARSEC Level 1 (or a comparable state of required security readiness), RCG shall pay the County (as part of a line item charge within the Unitary Fee) its pro rata share of the additional related costs and expenses associated with Port Authority providing increased cruise terminal

security services required by the increase in the MARSEC level (provided such costs are also assessed against and paid by other cruise line operators). On days where there is a RCG vessel scheduled to be berthed at Cruise Terminal G or Berth 10, County must, at its own cost and expense, keep Cruise Terminal G or Berth 10, as applicable, and the adjacent areas in an orderly, secure, and safe condition, and in accordance with current practices, be responsible for the security on the areas of the Port surrounding the Terminal and adjacent apron and wharf. RCG shall be responsible for its compliance with applicable federal, state and local laws, rules and regulations and such laws and regulations as may be imposed from time-to-time by the U.S. Coast Guard, U.S. Customs and Border Protection, or other federal or state or local agencies, with respect to passenger security, immigration, drug interdiction and other import and export controls related to its cruise operations at the Project. With respect to the Shared Terminal, the County shall undertake commercially reasonable efforts to ensure that the cruise terminal security obligations set forth herein are observed at the Shared Cruise Terminal.

3.08 **No Unlawful or Unauthorized Use.** RCG shall not use the Project for any unlawful purpose, any use other than a cruise passenger terminal (and related office and administrative uses), or any use prohibited by Applicable Law, as such Applicable Law may be amended from time to time.

3.09 **No Liens or Mortgages.** As relating to the Project, RCG shall not have the authority to and shall not cause any liens to be recorded on County property. In addition, as relating to the Project, RCG shall not have the authority to or cause County property to be mortgaged.

3.10 **No Abandonment or Cessation of Service.** Except as elsewhere permitted in this Agreement, during the Term, RCG shall not abandon or cease service at Cruise Terminal G, the Shared Terminal, and Berth 10.

3.11 **Terminal Advertising and Promotions.** In addition to the County's right to advertise or promote within the Shared Terminal, as such right is defined in the Shared Terminal Agreement, the County shall have the right to advertise or promote in the interior and exterior of Cruise Terminal G and Berth 10, at no charge by RCG to the County (i) any County facilities, parks, attractions, or special events and (ii) any tourism attractions, facilities, or sites, or special events that are located, or to be held, within Miami-Dade County, both subject only to RCG's prior reasonable approval with regard to the number, size, and location of such promotions and advertisements, but only when such advertisements and promotions are proposed for the interior of the Cruise Terminal G or Berth 10, the entrance thereto, or exits therefrom and provided further that such approval may not be unreasonably withheld, conditioned, or delayed, and provided that such promotions and advertisements do not include or directly promote or advertise any cruise vessel operation other than RCG. Notwithstanding the foregoing, the Parties expressly agree that any preexisting port-wide or County-wide agreements for advertising in County facilities shall not be subject to the

restrictions contained herein and shall not require the prior approval or consent of RCG before their installation.

3.12 **Parking Incentive and Marketing Incentives.** RCG is hereby granted both a “Parking Incentive” and a “Market Incentive,” which the Parties desire to carry over into this Agreement as set forth herein. For the purpose of calculating the Parking Incentive under Section 3.12(a), *infra*, passenger embarkations across all RCG brands at the Port shall be counted, excluding passenger embarkations at Cruise Terminal A; for the purpose of calculating the Market Incentive granted under Section 3.12(b), passenger embarkations and debarkations across all RCG brands shall be counted, excluding passenger embarkations and debarkations at Cruise Terminal A.

(a) **Parking Incentive.** The County shall pay RCG a Parking Incentive based on the parking revenue collected by the County for those vehicles that park at County-owned and operated parking lots or garages at the Port for the term of this Agreement (“Parking Revenues”). Parking Revenues shall exclude any fees or surcharges imposed on vehicle parking that are additional to or separately listed from the base parking fee established in the Port Tariff. The Parking Incentive shall be determined based on the proportion of RCG embarkations to total embarkations at the Port, excluding embarkations at terminals that are not owned or operated by the County (e.g., Cruise Terminal A and the Shared Terminal). In addition, embarkations associated with port-of-call vessels shall not be included in the calculation relating to the vehicle parking revenue collected by the Port from cruise passengers. As an example, if RCG’s embarkations are fifty percent (50%) of the Port’s total embarkations, then RCG will receive fifty percent (50%) of Parking Revenues. The Port shall remit Parking Revenues to RCG within sixty (60) days of the close of each fiscal quarter, as such fiscal quarter is determined by the County’s fiscal year. RCG shall have the right, directly or through third party auditors, to inspect and audit the County’s books and records relating to the Parking Revenues collected from parking at the Port and shall be entitled to retain copies of all such books and records. The County shall, on no less than 10 days prior written notice from RCG, make all such books and records available to RCG and/or its auditors and shall make County personnel familiar with such books and records reasonably available to RCG and its auditors in connection with any such inspection or audit. County shall maintain such books and records in accordance with applicable law and shall otherwise keep such books and records for a period of three (3) years after expiration or other termination of this Agreement. Given existing and ongoing changes in transportation preferences (e.g., the rising prevalence of ride-sharing services) and development/construction at the Port (including alternate parking arrangements with the Port’s cruise partners, such as tenant-owned garages), the County makes no representations or warranties as to the future price of parking at the Port, revenue expectations, or the amount of parking available at the Port which generates Parking Revenues as defined herein. The County agrees to provide advance written notice to RCG of any public meeting at which the Board of County Commissioners will consider a change to the current Port parking price chargeable at County-owned and operated parking garages or lots at the Port.

(b) Marketing Incentive. The County shall provide RCG with a marketing incentive in accordance with the terms and conditions set forth below:

(i) RCG has conducted and will continue to conduct the Marketing Campaign. The Marketing Campaign shall include print, online, television, videos and other means of advertising. RCG certifies that is shall budget a minimum of One Million Dollars (\$1,000,000.00) for the Marketing Campaign in each Fiscal Year.

(ii) In order to encourage the incremental increase of RCG cruise traffic at the port, County shall provide RCG with the Marketing Incentive in the amount set forth in Exhibit E hereto and based on the passenger movement thresholds set forth in that same exhibit (inclusive of all passenger embarkation and disembarkation across all RCG brands applied to any terminal used by RCG Vessels at the Port other than Cruise Terminal A).

(iii) The Marketing Incentive shall exclusively be used by RCG to offset the cost of the Marketing Campaign, and the annual Marketing Incentive shall be capped at the actual amount spent by RCCL on the Marketing Campaign during such Fiscal Year. Within ninety (90) days of the end of each Fiscal Year and prior to payment of the annual Marketing Incentive, RCG shall provide the County with documentation certifying the amount spent on the Marketing Campaign during the Fiscal Year.

(iv) The County shall pay RCG the incentives due under Exhibit E within sixty (60) days of the receipt of RCG's documentation set forth in subsection (iii) above.

(v) The Marketing Incentive shall be in addition to any other payments or financial incentives payable to RCG under this Agreement. If in any Fiscal Year of the Term (as may be extended hereunder) the County increases the Unitary Fee by up to three percent (3%) per Fiscal Year, then in such event the amount of the Marketing Incentive payment due to RCG for the corresponding Fiscal Year shall increase by the same percentage increase (up to three percent (3%)). If the County does not increase the amount of the Unitary Fee due in any Fiscal Year of the Term (as may be extended hereunder), then the Additional Marketing Incentive due to RCG in the corresponding Fiscal Year shall not increase.

ARTICLE IV

Books and Records and Audit Rights

4.01 County's Right to Audit and Inspect. The County, its auditors, or their designee(s) shall have the right, once a year, at any time during the Term to audit, check, inspect and review the RCG Records and Reports (defined below) pertaining to the obligations of RCG under this Agreement for purposes of determining compliance with this Agreement. At least 30 days prior written notice shall be provided to RCG before the County conducts an audit, and during the conduct of such audit, the County shall not unreasonably

interfere with the conduct of RCG's operations. The County shall endeavor to perform such audit on a yearly basis, and except as noted below, the period for audit may never exceed 3 years. If during any audit, a discrepancy is noted that may affect any unaudited years within a 5-year audit period, then only for the discrepancy noted, the County shall have the right to audit those unaudited years. Notwithstanding the foregoing, if the County is unable or fails to perform an audit in any given year, that shall not mean that the County has waived its rights to audit that year nor that the County has waived any claims it may have for non-compliance with this Agreement for such year.

4.02 **Records and Reports.** RCG shall maintain, at a location within Miami-Dade County or in an electronic format readily accessible by the County, complete and accurate books and records of all passenger movements (based on the cruise ship passenger manifests of RCG Vessels berthing at PortMiami) and, as applicable under this Agreement, expenses chargeable to the County in a form consistent with generally accepted accounting principles for a minimum of five (5) years (the "RCG Records and Reports"). RCG shall maintain such RCG Records and Reports in accordance with generally accepted auditing standards, Government Auditing Standards, and/or professional internal auditing standards.

4.03 **RCG's Right to Audit and Inspect.** RCG, its auditors, or their designee(s) shall have the right, once a year, at any time during the Term to audit, check, inspect and review the County records and reports pertaining to the obligations of County under this Agreement (including the Design-Build Agreement and related contracts) for purposes of determining compliance with this Agreement. At least 30 days prior written notice shall be provided to County before RCG conducts an audit, and during the conduct of such audit, RCG shall not unreasonably interfere with the conduct of County's operations. RCG shall endeavor to perform such audit on a yearly basis, and except as noted below, the period for audit may never exceed 3 years. If during any audit, a discrepancy is noted that may affect any unaudited years within a 5-year audit period, then only for the discrepancy noted, RCG shall have the right to audit those unaudited years. Notwithstanding the foregoing, if RCG is unable or fails to perform an audit in any given year, that shall not mean that RCG has waived its rights to audit that year nor that RCG has waived any claims it may have for non-compliance with this Agreement for such year.

4.04 **Inspector General and Independent Private Sector Inspector General.** Section 2-1076 of County Code establishes the Miami-Dade County Office of the Inspector General, which has the authority and power to investigate County affairs and review past, present, and proposed County programs, accounts, projects, contracts and transactions. According to Section 2-1076 of the Code of Miami-Dade County, as amended, Miami-Dade County has established the Office of the Inspector General which may, on a random basis, perform audits on all County contracts, throughout the duration of said contracts, except as otherwise provided below. In addition to or in lieu of the use and deployment of the Inspector General, the County shall have the right but not the obligation to retain the services of an independent private sector inspector general (IPSIG) who may be engaged to audit,

investigate, monitor, oversee, inspect and review the operations, activities and performance of the County and any contractor retained by County in connection with this Agreement (the “Review”). In connection with the Review by the Inspector General and/or IPSIG, RCG agrees to make available the RCG Records and Reports referenced in Section 4.02 within thirty (30) days written notice to RCG from the Inspector General and/or ISPIG. RCG shall reasonably cooperate with the Inspector General and/or any IPSIG conducting a Review pursuant to this paragraph.

Nothing in this Section shall impair any independent right that RCG may grant to the County to review the RCG Records and Reports as set forth in Section 4.02 herein. The provisions of this Section are neither intended nor shall they be construed to impose any liability on the County, RCG or third parties.

ARTICLE V

Maintenance and Repair of Cruise Terminal G and Berth 10

5.01 **Terminal Maintenance Responsibility.** RCG shall have no responsibility or obligation to maintain Cruise Terminal G and Berth 10, except as expressly provided in this Agreement. The County shall at all times, at its own cost and expense, keep Cruise Terminal G and Berth 10 in a clean, orderly, secure, and safe condition, free of rubbish and trash, and in good working order, maintain the landscaping in the interior and exterior of Cruise Terminal G and Berth 10, and be responsible for the maintenance and security of the apron and wharf portions of Cruise Terminal G and Berth 10 (except as delegated to third parties under the Shared Terminal Agreement). Except where such expenses are the responsibility of third parties (such as under the Shared Terminal Agreement), the County shall make repairs at its own cost and expense to all paved surfaces, all utilities, and lighting.

(a) **Applicable Level of Maintenance; Failure to Maintain to Maintenance Standard.** The County shall keep and maintain Cruise Terminal G and Berth 10 (but shall not have maintenance obligations regarding the Shared Terminal other than using commercially reasonable efforts to enforce the maintenance terms of the Shared Terminal Agreement) at a high level of maintenance to ensure a positive guest experience and shall ensure that all systems, equipment and services are functioning at their designed standard at all times (the “Maintenance Standard”), ordinary wear and tear excepted. At minimum, Cruise Terminal G and Berth 10 shall be maintained at the same level of upkeep and maintenance as the County’s other newly built cruise terminals and as otherwise required by Applicable Law. Should the County fail to meet the Maintenance Standard, and if after having received written notice of its failure from RCG, fails to place Cruise Terminal G and Berth 10 at the Maintenance Standard within thirty (30) days, RCG shall have the right to claim damages against the County (subject to the terms herein) or the right to undertake all maintenance work and correct all deficiencies and charge the County the actual costs of such maintenance work and corrections in accordance with Section 5.07 herein.

(b) **County's Right to Enter Cruise Terminal G and Berth 10.** The County and its agents, consultants, representatives, or other individuals authorized by the County may at all times and without advance notice to RCG enter Cruise Terminal G and Berth 10 to view, inspect, and/or show Cruise Terminal G and Berth 10 for any purpose, so long as the County's activities do not unreasonably interfere with RCG's operations.

(c) **County's Obligations.** At no cost to RCG, the County shall be required to: (a) provide electricity (excluding shore power), water, and sewer service to Cruise Terminal G and Berth 10, provided that RCG shall not be permitted to place an unacceptable load or burden on the capacity of the electrical, water, or sewer utilities at Cruise Terminal G and Berth 10, as determined by either the utility providing such service or the County in the exercise of its reasonable judgment; (b) maintain, repair, and replace, as the need for such maintenance, repair, and replacement is determined by the County, the electrical, heating, ventilating, air-conditioning, elevators, escalators, mechanical, plumbing, safety systems, wiring systems, carpets, fixtures, furniture, lighting, and structural components of the buildings and improvements comprising Cruise Terminal G and Berth 10 and paint the exterior and interior of Cruise Terminal G and Berth 10, as the need is reasonably determined by the County, and keep Cruise Terminal G and Berth 10 in good working order and operating condition, and at all times meeting the Maintenance Standards; and (c) provide all necessary janitorial services such that the terminal and adjacent areas are kept clean without trash, stains, spills, or other waste and comparable to the other terminals at PortMiami. Notwithstanding anything to the contrary in this Agreement, with respect to the Shared Terminal, the County's obligation shall be to take commercially reasonable efforts to enforce the terms in the Shared Terminal Agreement pertaining to the obligations set forth in this subsection.

(d) **Signage.** The County requires the use of international symbols for all safety and visitor signs (such as elevators, check-in, and safety instructions) and the County always agrees to maintain such international signage at Cruise Terminal G and Berth 10 (within the Shared Terminal, such signage shall be provided in accordance with the Shared Terminal Agreement), at its sole cost and expense.

(1) **Cruise Terminal G and Berth 10.** RCG shall at all times be permitted to maintain signage inside and outside of Cruise Terminal G and Berth 10 for RCG and its subsidiaries, divisions, affiliates, and the RCG Vessels, as long as any such signage complies with all Miami-Dade County sign ordinance requirements and has been approved by the Port Director or the Port Director's designee, such approval not to be unreasonably withheld, conditioned, or delayed. Signage identifying Cruise Terminal G and Berth 10 as RCG's spaces shall be located above the entry of Cruise Terminal G and Berth 10, or as elsewhere located in accordance with the County's construction of the Cruise Terminal G Improvements and Berth 10 Improvements. All costs and expenses associated with the design, construction, and installation of such signage shall be included in the Project Budget. To the

extent any interior signage installed under this paragraph contains the RCG logo or is RCG branded, then such signage shall be easily removable or able to be covered.

(2) Shared Terminal. RCG shall have the right to erect branded “Class B” signage on the exterior of the Shared Terminal (identified as the “Cruise Terminals Building” in the Shared Terminal Agreement) or the Shared Terminal Parking Garage (identified as the “Parking Element” in the Shared Terminal Agreement), or both. Within the Shared Terminal and Shared Terminal Parking Garage, RCG shall be permitted to display digital signage identifying RCG as a user of the Shared Terminal. The signage authorized hereunder may be of up to equal size and prominence as the signage installed by MSC. All MSC-branded signage inside the Shared Terminal shall be digital.

5.02 Limitation on Alterations by RCG. RCG shall not make any change or alteration to Cruise Terminal G, the Shared Terminal, or Berth 10 without the prior written permission of the County, such permission not to be unreasonably withheld, conditioned, or delayed, provided that the County may condition such permission on the receipt of any necessary third-party approvals and RCG’s payment for the costs associated with such change or alteration including any additional recurring or non-recurring costs of maintenance or repair, without offset of any amounts due to the County.

5.03 Annual Inspections and Repairs. Within thirty (30) days of each anniversary of the Effective Date of the Agreement (but not sooner than the Substantial Completion of Cruise Terminal G and, with respect to the Shared Terminal and Berth 10, the substantial completion of each), RCG and the County agree to jointly inspect the Project and prepare a joint report indicating the condition of said areas and specifying any damages which shall be repaired by the County or, in the case of the Shared Terminal, submitted to MSC as a requested repair, subject to the standard set forth in § 5.01(a). The County shall see that the necessary repairs are, where reasonably practicable and, in the case of the Shared Terminal, required to be performed under the Shared Terminal Agreement and Operation Protocol, started within thirty (30) days after the issuance of said report, and completed promptly, with RCG bearing no costs of such repairs unless the repairs are to alterations made by RCG pursuant to § 5.02 of this Agreement. Notwithstanding the foregoing, such time periods may be extended by the County in its sole discretion should the County elect to procure the needed repairs using a competitive selection process.

5.04 Remediation of Environmental Conditions. Except where such obligations have been tendered to third parties in accordance with the Shared Terminal Agreement, the County shall be responsible to promptly correct, at its sole cost and expense, to the extent required by Applicable Laws, any environmental conditions or environmental hazards existing at the Project, excluding only any hazards or environmental conditions caused or contributed to by RCG or its agents, employees, or contractors, which hazards and conditions shall be promptly remediated by RCG at its sole cost and expense to the extent required by Applicable Laws. RCG will reasonably cooperate with the County and any third parties in such correction or remediation of any environmental hazards for which the County or the

third party designated under the Shared Terminal Agreement is responsible, provided same is performed in a manner that does not unreasonably interfere with RCG's use of the Project. Similarly, the County will cooperate with RCG in its remediation of any hazards or conditions for which RCG is responsible. RCG shall promptly notify the County of the presence of any environmental conditions or environmental hazards found at the Project which come to RCG's actual knowledge and assist the County and/or any responsible third parties and their environmental consultants in monitoring the environmental condition and conducting any environmental testing.

5.05 **Non-Interference with Third-Party Cruise Lines.** Subject to the terms of this Agreement, to the extent the County enters into an agreement with third-party cruise line(s) for the use of Cruise Terminal G or Berth 10, RCG shall be required to perform all its obligations under this Agreement in a manner that does not unreasonably interfere with the use of Cruise Terminal G or Berth 10 by any third-party cruise line. Similarly, the County shall ensure that the use of Cruise Terminal G and Berth 10 by a third-party cruise line shall not unreasonably interfere with RCG's rights and use of Cruise Terminal G and Berth 10 in accordance with this Agreement.

5.06 **Casualty.**

(a) **Partial Destruction.** If Cruise Terminal G or Berth 10, or any improvement thereto, is partially damaged or destroyed by fire, windstorm, hurricane or any other casualty, the County shall within twenty-four (24) months diligently and, without undue delay, commence and complete the repair, reconstruction, or replacement of the terminal, or those improvements and, if necessary, temporarily relocate RCG in accordance with the provisions below. In such event, the County will be entitled to all insurance proceeds (if any) payable by reason of the casualty to the property, provided that such insurance proceeds shall be applied solely to repair, reconstruct, or replace the terminal, or those improvements. Should such repair or reconstruction work take over thirty (30) days, during which Cruise Terminal G or Berth 10 or a substitute terminal/berth (provided in accordance with this paragraph) is unavailable for use, then the Minimum Annual Guarantee shall be reduced by any missed RCG vessel calls at Cruise Terminal G or Berth 10 due to the unavailability of the berth or Cruise Terminal G or Berth 10 and RCG's obligation to pay the Capital Recovery Surcharge for the impacted terminal shall be temporarily suspended until the substantial completion of the repairs to Cruise Terminal G or Berth 10 allowing for the use of Cruise Terminal G/Berth 10 and its related berth by RCG. During any period that Cruise Terminal G or Berth 10 or the associated berth is unusable because of casualty and any associated maintenance or repairs, the County shall temporarily substitute another available wharf or berth for the terminal/berth if the substituted wharf or berth (i) can safely accommodate the relocated vessel and (ii) allows RCG, in its reasonable discretion, to safely and efficiently perform its required cruise operations including the embarking and debarking of passengers. Upon the County's provision of a terminal/berth in accordance with this paragraph, RCG's obligation to pay the Unitary Fee shall be restored. The County must, if possible, provide written notification of any such substitution to RCG at least ninety (90) days before RCG is required

to occupy the substituted wharf or berth. The Term of this Agreement shall be extended by the period of time under which Cruise Terminal G or Berth 10 or associated berths are under repair or reconstruction (and unused by RCG Vessels) as a result of such casualty event. Upon the substantial completion of the repairs to Cruise Terminal G or Berth 10 such that such terminal and its related berth are available for use by RCG, the Capital Recovery Surcharge payments for such terminal shall resume and be paid over remaining Term, as extended hereby, until the entire RCG Contribution is repaid in full; provided that RCG shall not be assessed any penalty, fee, interest or other charge for any missed payments of the RCG Contribution for the impacted terminal during the period of suspension. It is the intention of the Parties hereby that RCG shall remain obligated to pay the RCG Contribution amount at all times for the unimpacted terminal.

(b) Total Destruction. If County and RCG determine after consultation that Cruise Terminal G or Berth 10 and/or their associated berths have been totally destroyed by fire, windstorm, hurricane, or any other casualty, this Agreement will terminate (without any further liability of the Parties) and the County will be entitled to all insurance proceeds (if any) payable by reason of the casualty to the property, unless the County agrees, within sixty (60) days of the casualty, in its sole and absolute discretion, and without the requirement of additional payments by RCG other than the payments required under this Agreement (as suspended during the rebuilding period), to complete repairs to the totally destroyed facility(ies) within three (3) years of the casualty event causing total destruction. Upon substantial completion of those repairs, RCG and the County shall resume their obligations under this Agreement for the remaining Term, as extended by the rebuilding period, including the payment by RCG of the RCG Contribution through a Capital Recovery Surcharge (or other means of repayment reasonably acceptable to the County) until the entire RCG Contribution is repaid in full within the same time frame, or sooner (if agreed by the Parties), than the payment of the RCG Contribution would be made under Exhibit D; provided, however, that RCG shall not be assessed any penalty, fee, interest or other charge for any missed payments during the rebuilding period.

(c) Definition of Partial and Total Destruction. A “Partial Destruction” shall be any destruction caused by fire, windstorm, hurricane, or any other casualty, that results in the destruction, in any degree that does not constitute a “Total Destruction” as defined herein, of the Project and associated berths. A Total Destruction shall exist when (i) at any point during the Term, the cost of repairs to the damaged terminal and berth exceeds fifty percent (50%) of its appraised value, as such appraised value is determined by a mutually designated appraiser (or, if no agreement is reached as to the appraiser, by the neutral appraiser jointly selected by an appraiser designated by the County and RCG) or (ii) during the last five (5) years of the Term then in effect, the cost of repairs exceeds the average of the remaining payments due under Section 3.03 of this Agreement.

(d) Partial or Total Destruction of the Shared Terminal. To the extent the Shared Terminal suffers a Partial Destruction or Total Destruction as defined in the preceding subsections, the County’s obligations under this section shall be discharged through the enforcement of the conditions set forth in in the Shared Terminal Agreement regarding the

repair and restoration of the Shared Terminal Agreement.

5.07 **Self-Help.** In the event the either Party fails to maintain and repair the Project as required by this Article, which failure is not cured within sixty (60) days' written notice by the Party claiming the lack of maintenance, the other Party may take all actions reasonably necessary, in its sole discretion, reasonably exercised, to remedy such failure. Before utilizing the remedy afforded under this Section, the Party claiming inadequate maintenance shall deliver prior written notice to the other Party at least five (5) days before exercising its rights hereunder. The Party performing the maintenance and repair under this Section shall be entitled to reimbursement for all costs and expenses incurred within thirty (30) days of written demand accompanied by appropriate backup documentation with respect to the costs incurred; provided, that neither Party shall charge a mark-up or other administrative or management fee for the work performed and provided that the costs shall be based on prevailing market and industry rates and practice.

5.08 **Nuisance.** RCG shall not commit any nuisance in Cruise Terminal G, the Shared Terminal, or Berth 10 or do or permit to be done anything that may result in the creation or commission of a nuisance in Cruise Terminal G, the Shared Terminal, or Berth 10.

ARTICLE VI

Insurance and Indemnification

6.01 **Insurance Requirements of RCG.** RCG shall maintain the following insurance coverage from the Effective Date of this Agreement and throughout the Term:

(a) **Comprehensive General Liability Insurance.** RCG shall procure and maintain at its sole cost and expense comprehensive general liability insurance with limit of liability of not less than ten million dollars (\$10,000,000) for all injuries or deaths and property damage liability including, commercial general liability for premises/operations, with contractual liability coverage and independent contractors, from any one occurrence. Miami-Dade County must be shown as an additional insured with respect to Commercial General Liability.

(b) **Comprehensive Motor Vehicle Liability Insurance.** RCG shall procure and maintain at its sole cost and expense Business Automobile Liability in the minimum amount of One Million Dollars (\$1,000,000) per occurrence for all owned, non-owned and hired autos operating in or out of the Port.

(c) **Workers' Compensation Insurance.** RCG shall procure and maintain at RCG's sole cost and expense, workers' compensation insurance for all employees for Statutory Limits in compliance with the applicable State and Federal laws. The limit of liability under the employer's liability section of the workers' compensation insurance policy shall be not

less than One Million Dollars (\$1,000,000). Whenever applicable, coverage shall also include Federal Longshore and Harbor Workers Compensation Act, Jones Act and under any type of admiralty claim, unseaworthiness claim, and/or any claim in admiralty in an amount of not less than One Million Dollars (\$1,000,000.00).

(d) Additional Insurance Requirements After Substantial Completion. Upon the achievement of Substantial Completion, and prior to RCG Vessels berthing at the Project, RCG shall provide and maintain the following insurance coverage throughout the remainder of the Term:

(1) Vessel Liability Insurance (Hull and Machinery) covering all RCG Vessels using the Project, whether owned or chartered, in an amount not less than Ten Million Dollars (\$10,000,000) per occurrence for hull and property damage.

(2) Protection and Indemnity Insurance in an amount not less than Ten Million Dollars (\$10,000,000) per occurrence. Miami-Dade County must be named under a misdirected arrows clause with respect to this coverage. Excess/Umbrella Liability may be used to supplement minimum liability coverage requirements. Follow form basis is required if providing Excess Liability.

(e) Primary Insurance. With respect to RCG's operations at the Project and its obligations under this Agreement, all insurance required of RCG in this Section shall be primary and noncontributory to any similar insurance that may be carried by the County but shall in no way limit RCG's indemnity obligations to the County set forth in this Agreement.

(f) Insurance Certificates. During the Term, RCG shall furnish the County with written evidence of the required insurance coverage set forth above and shall provide copies of annual renewals. In the event RCG fails to maintain the required insurance in accordance with this Section, the County may procure such insurance on RCG's behalf, at RCG's cost and expense, and RCG shall reimburse the County immediately upon notice of such procurement of insurance. The County shall have the right to set-off any amounts otherwise owed or credits due to RCG under this Agreement to reimburse the County for such costs in purchasing the required insurance.

(g) Cancellation Notice. RCG shall promptly notify the County of any material change or cancellation of the insurance coverage required to be maintained by RCG under this Agreement.

NOTE: The Risk Management Division of the Miami-Dade County Internal Services Department reserved the right, upon reasonable notice, to request proof that the policies required under this Agreement have been obtained and remain effective.

All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida, with the following qualifications:

The company must be rated no less than “A-” as to management, and no less than “Class VII” as to financial strength by Best’s Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the County Risk Management Division.

Or

The company must hold a valid Florida Certificate of Authority as shown in the latest “List of All Insurance Companies Authorized or Approved to Do Business in Florida” issued by the State of Florida Department of Financial Services.

CERTIFICATE HOLDER MUST READ:

MIAMI-DADE COUNTY
111 NORTHWEST 1ST STREET, SUITE 2340
MIAMI, FLORIDA 33128

6.02 **Indemnification of the County by RCG.** RCG shall defend, indemnify, and hold harmless the County and its officers, employees, agents and instrumentalities from any and all liability, losses, or damages, including attorneys’ fees and costs of defense, which the County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by RCG or its employees, agents, servants, partners principals or subcontractors. RCG shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney’s fees which may issue thereon. RCG expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by RCG shall in no way limit the responsibility to indemnify, keep, and save harmless and defend the County or its officers, employees, agents and instrumentalities as herein provided. Any language to the contrary notwithstanding, the covenants and agreements contained in this paragraph survive the termination or expiration of this Agreement for whatever cause.

6.03 **Indemnification of RCG by the County.** With respect to claims arising out of personal injury or property damage, the County does hereby agree to indemnify and hold harmless RCG to the extent and within the limitations of Fla. Stat. § 768.28, subject to the provisions of that statute whereby the County shall not be held liable to pay a personal injury or property damage claim or judgment by any one person which exceeds the sum of \$200,000, or any claim or judgments of portions thereof, which, when totaled with all other occurrences,

exceeds the sum of \$300,000, from any and all personal injury or property damage claims, liabilities, losses, and causes of action which may arise solely as a result of the negligence of the County. However, nothing herein shall be deemed to indemnify RCG from any liability or claim arising out of the negligent performance or failure of performance of RCG, its affiliates, licensees, contractors, subcontractors, agents or any other unrelated third party. Further, the County shall not be liable for any liabilities, damages, suits, claims and judgments of any nature (including reasonable attorneys' fees and expenses) arising from or in connection with any loss or liability due to a force majeure. For the avoidance of doubt, nothing in this paragraph shall limit the County's liability for damages payable to RCG pursuant to a claim sounding in contract, which claim arises out of an uncured default by the County of an obligation under this Agreement.

6.04 **Notification of Injury or Damage.** In the event of any injury or damage to persons or property in or around Cruise Terminal G, the Shared Terminal, or Berth 10, RCG shall immediately notify the County in writing and shall promptly thereafter furnish to the County copies of all related reports given to RCG's insurance carrier or carriers.

ARTICLE VII

Default and Termination

7.01 **Events of Default by RCG.** RCG shall be in default under this Agreement if any of the following events occur and continue beyond the applicable grace period:

(a) **RCG's Monetary Obligations.** RCG fails to comply with any payment obligation arising hereunder which is not cured within thirty (30) days from RCG's receipt of written notice from the County of failure to meet such payment obligation.

(b) **RCG's Non-Monetary Obligations.** RCG fails to perform an obligation under or breaches any term, covenant, or condition of this Agreement which is not cured within sixty (60) days after receipt of written notice from the County specifying the nature of such breach; provided, however, that if such breach cannot reasonably be cured within sixty (60) days, RCG shall not be in default if it commences to cure such breach within said sixty (60) day period and diligently prosecutes such cure to completion; provided such breach can be cured within a one-hundred and eighty (180) day period.

(c) **Bankruptcy.** If RCG shall be adjudicated bankrupt, or if RCG shall make a general assignment for the benefit of creditors, or if any proceedings based upon the insolvency of RCG are commenced and not dismissed within sixty (60) days of filing or a receiver is appointed for all the property of RCG which proceeding is not dismissed within sixty (60) days of such appointment.

7.02 **Events of Default by the County.** The County shall be in default of this Agreement if the County fails to perform an obligation under or breaches any term, covenant, or condition of this Agreement and such failure is not cured within sixty (60) days after receipt

of written notice from RCG specifying the nature of such breach; provided, however, that if such breach cannot reasonably be cured within sixty (60) days, the County shall not be in default if it commences to cure such breach within said sixty (60) day period and diligently prosecutes such cure to completion within a one-hundred and eighty (180) day period. Notwithstanding the foregoing, if the alleged default relates to specialized equipment (e.g., passenger boarding bridges) and requires additional time to cure, then the cure period under this Section shall be extended for an additional period of three (3) months. Such cure period is applicable only to any non-payment default of the County hereunder.

7.03 Termination Upon Default. Upon the issuance of the notice(s) required under this Agreement, unless this Agreement specifies an alternative remedy for the breach (e.g., suspension of the Marketing Incentive or reduction of the Minimum Annual Guarantee) the Party asserting a default may issue a notice of termination to the defaulting Party setting forth the date on which the termination of the Agreement is effective. Should this Agreement be terminated by reason of a County default (which shall not include a termination for the County's failure to (i) deliver the Cruise Terminal G Improvements and Berth 10 Improvements on or before the Cruise Terminal G Substantial Completion Date or Berth 10 Substantial Completion Date, respectively or (ii) maintain Cruise Terminal G or Berth 10 in accordance with the Maintenance Standard), the liabilities of RCG for the unpaid portions of the RCG Contribution and the Minimum Annual Guarantee shall be terminated as of the date of termination. Should this Agreement be terminated by County for reason of a RCG default, RCG's obligation to pay the outstanding balance of the RCG Contribution shall be accelerated and become immediately due and payable, provided that if a successor user of Cruise Terminal G and Berth 10 agrees to undertake responsibility for the remaining balance of the RCG Contribution, then the County shall refund any accelerated amounts paid for the period of time in which the successor is paying the RCG Contribution. It is agreed that the County's obligation to refund accelerated amounts under this paragraph shall expire on the date on which this Agreement would have expired, but for the early termination. Upon and during any RCG event of default hereunder, and from the date of termination through the conclusion of the then-current Term, RCG shall be responsible for continuing to pay County the Minimum Annual Guarantee payment for the remaining Term of the Agreement, subject to the County's mitigation of damages (to the extent required by applicable law), such that the berthing of any vessels at Cruise Terminal G and Berth 10 by any third-party cruise line or a RCG vessel shall result in a credit against RCG's Minimum Annual Guarantee payment otherwise payable under this paragraph in the amount of the revenues that are components of the Unitary Fee payable hereunder and collected by the County for the berthing of vessels at Cruise Terminal G and Berth 10. The credit accrued during each year shall be subtracted from such year's Minimum Annual Guarantee payment and shall be reflected on the invoice sent to RCG by County.

7.04 Early Termination or Suspension for Material Adverse Changes. If any new law or change to existing law is enacted, whether such law or regulation governs or relates to RCG's obligations and performance of this Agreement, which imposes a fee, tax or other

requirement which, in RCG's opinion, reasonably exercised, could have a material adverse effect (which shall mean an annual effect of Ten Million Dollars (\$10,000,000.00) in the event of a New Port Charge as described in Section 3.02(c) or, in the event of the enactment of a new law or change to existing law by a non-County United States authority with jurisdiction, an annual effect of Fifteen Million Dollars (\$15,000,000.00 or greater) on RCG and/or its parent, divisions, subsidiaries or affiliates ("Adverse Event") during the Term of this Agreement and such adverse effect could be avoided or reduced, in whole or in part, by the repositioning of RCG Vessels away from the Port, RCG shall have the right to terminate this Agreement (an "Adverse Event Termination") upon written notice to the County, and RCG may cease its operations at Cruise Terminal G, the Shared Terminal, and Berth 10 on the termination date set forth in such notice. For the purpose of this section, the Parties agree that the application of laws in effect on the Effective Date of this Agreement, in the manner in which said laws are being or could be applied on the Effective Date of this Agreement, shall not constitute an Adverse Event. Written notice of an Adverse Event Termination shall be delivered by RCG to the County within thirty (30) calendar days after RCG's actual knowledge of the occurrence of the Adverse Event establishing the basis of the Adverse Event Termination. The Adverse Event threshold set forth above shall increase by three percent (3%) per Fiscal Year commencing as of the Effective Date. If the Applicable Law causing the Adverse Event is repealed or modified within twelve (12) months of its enactment such that the Adverse Event threshold is no longer met or exceeded, RCG shall, as soon as reasonably practicable after such repeal (subject to RCG's then current itineraries, port commitments and marketing plan and operations), reposition the RCG Vessels to the Port, at which time the terms of this Agreement shall be restored and in full force and effect for the remaining Term. After the twelve (12) month period, if the New Port Charge remains a Material Adverse Change, then RCG shall repay the RCG Contribution through any other means reasonably acceptable to the County that would result in the payment of the RCG Contribution within the same time frame, or sooner (if agreed by the Parties), than the payment of the RCG Contribution that would be made under Exhibit D; provided, however, that any plan created under the foregoing circumstance shall require periodic payments to the County in an amount that is at least equal to the amounts set forth in Exhibit D or such other amount as agreed by the Parties in the event of a refinancing on mutually agreed terms and any such plan shall take into account any mitigation of damages taken by County, to the extent such mitigation is required by applicable law. Should the County enter into a more favorable provision with another multi-night cruise operator than what is provided in this Section 7.04, RCG will be granted the full benefit of such terms.

7.05 **Non-Exclusive Remedies.** No remedy or election given by any provision in this Agreement shall be deemed exclusive unless expressly so indicated. Wherever possible, the remedies granted hereunder upon a default of the other Party shall be cumulative and in addition to all other remedies at law or equity arising from such event of default including specific performance, except where otherwise expressly provided. Notwithstanding anything to the contrary herein, each Party waives claims against the other Party for any indirect, special or consequential damages due to an event of default under this Agreement. This

waiver includes damages for loss of financing, business and reputation, and for loss of profit. This waiver is applicable, without limitation, to all consequential damages due to termination that is made effective in accordance with the terms and conditions of this Agreement.

7.06 **No Waiver.** The failure by either party to exercise any right arising under this Agreement shall not constitute a waiver of such right except as expressly provided in this Agreement.

ARTICLE VIII **Notices**

8.01 **Notices.** All notices, demands, and requests which may or are required to be given under this Agreement shall be provided in writing, delivered by personal service, registered or certified U.S. Mail, express carrier (e.g., FedEx or UPS), or electronic mail (but only if confirmation of receipt is received from the intended recipient of the notice). Any notice given pursuant to this Agreement shall be deemed given when received. Any actions required to be taken under this Agreement which become due on a date that is a Saturday, Sunday, or legal holiday under the laws of the United States of America, Florida, or the County, shall be deemed to be timely performed when taken on the succeeding day thereafter which is not a Saturday, Sunday, or legal holiday under the laws of the United States of America, Florida, or the County.

For County: Miami-Dade Seaport Department
1015 North America Way
Miami, Florida 33132-2081
Attn.: Port Director and Deputy Director

With a copy to: Miami-Dade County Attorney's Office
Stephen P. Clark Center
111 Northwest 1st Street, Suite 2810
Miami, Florida 33128
Attn.: Miguel A. Gonzalez, Assistant County Attorney

For RCG: Royal Caribbean Group
1050 Caribbean Way
Miami, Florida 33138
Attn.: VP, Port Operations

With a copy to: Royal Caribbean Group
1050 Caribbean Way
Miami, Florida 33138
Attn.: General Counsel

ARTICLE IX
Miscellaneous

9.01 **Force Majeure.** The County and RCG shall not be liable for any failure, delay, or interruption in performing their individual obligations hereunder due solely to causes or conditions beyond the control of the County, RCG, and their agents, employees, subsidiaries, divisions, affiliates, contractors, subcontractors, and guests including, without limitation, acts of God, unusual weather, pandemics, an act of state or war, public emergency, strikes, boycotts, picketing, work stoppages, or labor troubles of any other type (whether affecting the County, RCG, or their subsidiaries, divisions, affiliates, or contractors or subcontractors) or due to causes or conditions not caused or contributed to by the County, RCG, or either's agents, affiliates, employees, contractors, affiliates, or guests, including without limitation, with respect to vessels, destruction, theft, or seizing of the vessels, RCG vessel mechanical problems of a material nature or other causes of similar type and quality beyond the reasonable control of RCG and its subsidiaries, divisions or affiliates; provided that the party claiming the existence of a Force Majeure event delivers written notice to the other party of such event within fifteen (15) calendar days of the commencement of such event. Upon the completion of a Force Majeure event, the term of this Agreement shall be extended for a period equal to the duration of the Force Majeure event. The existence of a Force Majeure, other than an unremedied casualty pursuant to § 5.06 hereof, shall not be a cause for termination of this Agreement.

9.02 **Obligations Surviving Termination.** Notwithstanding and prevailing over any contrary term or provision contained herein, including any early termination rights contained herein, in the event any Party exercises any lawful termination rights, the following obligations shall survive such termination and continue in full force and effect: (i) all outstanding payment obligations of any Party arising prior to termination; (ii) RCG's obligation to pay the RCG Contribution (except in the circumstances in which payment is excused on account of a County default in accordance with Section 7.03 or termination of the agreement in accordance with 5.06(b)); (iii) all indemnity obligations hereunder of any Party; (iv) the exclusive venue and choice-of-law provisions contained herein; and (v) any other term or provision in this Agreement that expressly indicates either that it survives the termination or expiration of this Agreement.

9.03 **Amendments.** This Agreement and the Exhibits appended hereto and incorporated herein by reference constitute the entire Agreement between the Parties with respect to the subject matter hereof. This Agreement supersedes any prior agreements or understandings between the parties with respect to the subject matter hereof, and no change, modification, or discharge hereof in whole or in part shall be effective unless such change, modification, or discharge is in writing and signed by the party against whom enforcement of the change, modification, or discharge is sought. In the case of the County, the approval of any such change, modification, or discharge shall require the require legislative action, unless the Board has delegated authority to approve the subject change, modification, or discharge

to the County Mayor or the County Mayor's designee. This Agreement cannot be changed or terminated orally.

9.04 **Assignment.** RCG shall not assign or transfer this Agreement, or any rights created under this Agreement, except upon receiving the prior written consent of the County, which consent the County shall not unreasonably withhold.

9.05 **Lack of Agency Relationship.** Nothing contained herein shall be construed as establishing an agency relationship between the County and RCG and neither RCG nor its employees, agents, contractors, subsidiaries, divisions, affiliates or guests shall be deemed agents, instrumentalities, employees, or contractors of the County for any purpose hereunder, and the County, its contractors, agents, and employees shall not be deemed contractors, agents, or employees of RCG or its subsidiaries, divisions or affiliates.

9.06 **Severability; Conflicts.** If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, then the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and shall continue in full force and effect. With respect to RCG's use of the Shared Terminal and Berth 10, to the extent there is a conflict between this Agreement and the Shared Terminal Agreement or the Operation Protocol entered thereunder, the terms of the Shared Terminal Agreement and Operation Protocol and any dispute resolution process conducted pursuant thereto shall prevail.

9.07 **Applicable Law; Venue.** Throughout the Term, RCG shall comply with all Applicable Laws relating to RCG's use of the Project, which Applicable Laws shall include all federal, state, and local laws (including County ordinances and resolutions of general application) and any applicable deed restrictions. This Agreement shall be construed in accordance with the laws of the State of Florida, without regard to any choice-of-laws provisions that would result in the application of the law of any other state or nation. Any dispute arising out of or related to this Agreement shall be adjudicated in a court of competent jurisdiction located within Miami-Dade County, Florida. This provision shall not apply to matters in which exclusive jurisdiction is conferred by law upon the Federal Maritime Commission. In any dispute arising out of or relating to this Agreement, each Party shall bear its own fees and costs.

9.08 **Non-Discrimination.** RCG shall abide by all applicable federal, state, and local mandates with regard to their employment hiring practices, promotions, or use of the Project, or in any other respect; must provide equal access and equal opportunity in employment and services; and will not discriminate on the basis of race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, sexual orientation, gender identity, gender expression, physical ability, or status as a victim of domestic violence, dating violence, or stalking, all in accordance with Title VI and Title VII of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972 as amended (42 U.S.C.

2000d et seq.), the Americans with Disabilities Act (ADA) of 1990, Section 504 of the Rehabilitation Act of 1973, and Chapter 11A of the County Code.

9.09 **Additional Inducements.**

(a) **Terminal Expansion Area.** With respect to the Terminal Expansion Area, which is depicted in Exhibit G hereto, RCG shall have the rights set forth in this paragraph. RCG shall have exclusive negotiation rights for one (1) new passenger cruise terminal capable of berthing a Quantum-class vessel within the Terminal Expansion Area, from the Effective Date of this Agreement, through the earlier of (1) one year after congressional authorization of the Miami Harbor Improvement dredging project; (2) three years after the final Chief Report for the Miami Harbor Improvement dredging project; or (3) unless the County provides 30 days' sooner notice that it will not pursue the dredging project, September 30, 2030.

(1) **No Obligation to Dredge.** Nothing in this Agreement or the preceding grant of exclusive negotiation rights shall expressly or impliedly obligate the County to pursue or perform dredging within the Terminal Expansion Area, even if such dredging is congressional authorized or environmentally and financially feasible. The County's pursuit of dredging within the Terminal Expansion Area is entirely committed to the County's discretion.

(2) **Limitation on Exclusivity.** Notwithstanding the exclusive negotiation rights granted in Section 9.09(a), nothing therein shall prohibit the County from renewing, amending, or entering into a new cruise terminal agreement with NCL (Bahamas) Ltd. at Cruise Terminal J. Additionally, nothing herein shall prohibit the County for entering into a new cruise terminal agreement with any other line based on the existing, pre-dredge usability of the Terminal Expansion Area for passenger cruise purposes.

(3) **Expiration of Exclusive Negotiation Rights.** Subject to the same limitation set forth in Section 9.09(a)(2), upon the expiration or termination of the exclusive negotiation rights provided in Section 9.09(a), RCG shall have a one-time right of first negotiations for the first-available development of a cruise terminal in the Terminal Expansion Area. The first right of negotiation will be for 180 days from the date the County notifies RCG in writing that it intends to pursue development of a new or expanded cruise terminal in the Terminal Expansion Area. The negotiation period may be extended if mutually agreed to by the Parties in their sole discretion.

(4) **Condition on RCG Agreement Within the Terminal Expansion Area.** Any terminal usage agreement between the County and RCG for a new or expanded cruise terminal within the Terminal Expansion Area shall provide for (i) the transition of preferential berthing rights from Berth 10 to the new or expanded terminal within the Terminal Expansion Area, (ii) an additional minimum annual guarantee at the new or expanded terminal within the Terminal Expansion Area, or (iii) a combination of (i) and (ii).

(5) **Amendment of Ground Lease.** From the Effective Date, the foregoing covenants regarding the Terminal Expansion Area shall supplant the agreements made in Section 55 of the Campus Lease, which shall be of no further force and effect.

(b) **Shore Power.** As of the Effective Date of this Agreement, the County's shore power deployment plans do not include shore power capability at Cruise Terminal G or within the

Terminal Expansion Area. To the extent the County develops shore power within those areas, RCG shall be required to utilize shore power in accordance with any port-wide standards and practices then in effect. Any electrical usage and other charges associated with the usage of shore power shall be borne by RCG and shall not trigger any rights under Section 7.04 of this Agreement. Conditions for the usage of shore power at the Shared Terminal and Berth 10, if available, shall be as established under the Operation Protocol. County will work with the electrical utility supplying electricity to PortMiami to determine when additional electrical capacity may be brought to PortMiami to expand PortMiami's shore power program to additional berths (the "Shore Power (Second Phase)"). When the electrical utility confirms that it will be able to deliver additional electrical capacity to PortMiami to support the Shore Power (Second Phase), PortMiami will reasonably determine, in its sole discretion, after consultation with all holders of preferential berthing rights at PortMiami, how the additional capacity will be distributed amongst berths without preexisting shore power capacity.

(c) Office Space. To the extent the Cruise Terminal G Improvements entail the demolition of PortMiami's existing offices at 1015 North America Way, Miami, Florida 33132 (the "PortMiami Administration Building"), RCG agrees that it shall provide office facilities, in a mutually agreed upon combination of the 1050 or 1080 Buildings and at any downtown Miami office space owned or leased by RCG. The office space shall be approximately 30,000 square feet, inclusive of elevators, stairwells, restrooms, hallways and mechanical/electrical rooms shall be furnished for approximately 225 employees and in similar layout to the first or third floor of the 1080 Building. Such office space shall be provided for the use of PortMiami staff prior to the demolition of the PortMiami Administration Building.

9.10 Reservation of the County's Sovereign Rights. It is expressly understood that the County retains all of its sovereign prerogatives and rights under Florida law as applicable with respect to the planning, design, construction, and development of the Cruise Terminal G Improvements and Berth 10 Improvements, and shall not be estopped from withholding or refusing to issue approvals of any applications of building, zoning, planning or development under present or future laws and regulations of whatever nature applicable to the design, construction and development of the Cruise Terminal G Improvements and Berth 10 Improvements referenced herein, and the County is not obligated to grant approvals for any applications for building, zoning, planning or development under present or future laws and regulations of whatever nature.

9.11 Authority to Bind. Each Party represents to the other that this Agreement has been duly authorized, delivered, and executed by such Party and constitutes the legal, valid, and binding obligation of such Party, enforceable in accordance with its terms.

9.12 Counterparts. This Agreement may be signed in any number of counterparts and each counterpart shall represent a fully executed original as if signed by all parties thereto and all such counterparts together constitute one and the same agreement. For purposes of the preceding sentence, a legible facsimile of a properly executed and delivered counterpart shall be acceptable.

9.13 E-Verify. RCG shall be required to comply with the applicable provisions of Section 448.095, Florida Statutes, titled "Verification of Employment Eligibility." This

includes but is not limited to utilization of the U.S. Department of Homeland Security's E-Verify System to verify the employment eligibility of all newly hired employees by the RCG from and after January 1, 2021. If RCG has a good faith belief that a person or entity with which RCG is contracting has knowingly violated Section 448.095(1), Florida Statutes, RCG shall terminate the contract with such person or entity. If the County has a good faith belief that a subcontractor of RCG knowingly violated this subsection, but RCG otherwise complied with this section, the County shall promptly notify RCG and order RCG to immediately terminate the contract with the subcontractor. The subcontractor or sub-subcontractor may file an action with a circuit or county court challenge the termination within twenty (20) days of such termination. If the County has a good faith belief that RCG has knowingly violated Section 448.09(1), Florida Statutes, the County shall terminate this Agreement for cause, notwithstanding anything to the contrary in this Agreement limiting the County's termination rights.

RCG may file an action with a circuit or county court to challenge such termination no later than twenty (20) days after the date the County terminates this Agreement pursuant to this section. If this Agreement is terminated for a violation of the statute by the RCG, the RCG may not be awarded a public contract for a period of one year after the date of termination. Public and private employers must enroll in the E-Verify System (<http://www.uscis.gov/e-verify>) and retain the I-9 Forms for inspection.

9.14 **Transportation of Unauthorized Aliens.** In accordance with Section 908.111, Florida Statutes, RCG shall be required to complete an attestation, in conformity with Section 92.525, Florida Statutes, that RCG is not willfully providing and will not willfully provide any service during the contract term in furtherance of transporting a person into Florida knowing that the person is an unauthorized alien, except to facilitate the detention, removal, or departure of the person from Florida or the United States. If the RCG is found in violation of its attestation, notwithstanding anything to the contrary in this Agreement limiting the County's termination rights, the County shall terminate this Agreement for cause.

IN ACCEPTANCE WHEREOF, Miami-Dade County and Royal Caribbean Group have set their respective hands as of the date and year appearing by their respective signatures.

**Royal Caribbean Cruises Ltd.
DBA Royal Caribbean Group**

Miami-Dade County, Florida

By: [Signature]
Print: Laura Hodges Bethge
Title: SVP, Shared Services Operations

By: _____
Print: _____
Title: _____

Dated: Nov. 7, 2022.

Dated: _____, 2022.

Attest: [Signature]
Print: Laren Anstey

By: _____
Assistant County Attorney
As to Form and Legal Sufficiency



EXHIBIT A
(Definitions)

The following words shall have the following definitions:

1. “Adverse Event” shall have the meaning set forth in Section 7.04.
2. “Adverse Event Termination” shall mean RCG’s right to terminate this Agreement due to an Adverse Event as provided for in Section 7.04.
3. “Agreement” means this Cruise Terminal Usage Agreement between the County and RCG.
4. “Applicable Law” means those applicable federal, state, and local laws (including County ordinances and resolutions of general application) and any applicable deed restrictions.
5. “Berth 10 Improvements” shall mean Berth 10 consisting of Concourse 10 commencing at the Shared Terminal to the end of the concourse along future Berth 10, all associated build out and egress stairs, provisioning building, connecting roadways, security gates for secure and safe operations and other elements required for cruise vessel operations at Berth 10, as more particularly described in Section 2.01(a).
6. “B10 Substantial Completion Date” shall mean the Substantial Completion date established in the Design-Build Agreement for the Substantial Completion of the Berth 10 Improvements, which shall be no later than October 31, 2028.
7. “Berth Schedule” shall have the meaning set forth in Section 3.01(a).
8. “Capital Recovery Surcharge” shall mean the surcharge paid by RCG in connection with RCG Contribution as detailed on Exhibit D.
9. “CBP” means U.S. Customs and Border Protection.
10. “Cost Overruns” refers to any costs exceeding the Project Budget, excluding the cost of (i) Marine Improvements, (ii) RCG Requested Changes, and (iii) costs for which the design-builder is liable under the Design-Build Agreement (e.g., costs resulting from the design-builder’s errors or omissions or the errors and omissions of those working for or under the design-builder and its subcontractors), as provided for in Section 2.02(c)(1).
11. “County” means Miami-Dade County, a political subdivision of the State of Florida, and all departments, agencies and instrumentalities thereof, including, without limitation, the Miami-Dade County Seaport Department.

12. “Conceptual Site Plan” shall mean the conceptual site plans for the Project attached hereto as Exhibit F.
13. “Cruise Terminal G” shall refer to Terminal G at PortMiami.
14. “Cruise Terminal G Improvements” means a new Cruise Terminal G as described in Section 2.01(a).
15. “CTG Project Maximum” shall mean Two Hundred Twenty Five Million Dollars (\$225,000,000) inclusive of any contingencies and allowances.
16. “CTG Substantial Completion Date” shall mean the Substantial Completion date established in the Design-Build Agreement for the Substantial Completion of the Cruise Terminal G Improvements, to be no later than December 1, 2026, as may be extended due to delays in issuance of the Financing Confirmation (as defined in the Second Amendment) to the extent it creates a delay on the critical path in the design or construction of the Cruise Terminal G Improvements.
17. “Development Period” means the period between the Effective Date and the Substantial Completion of Cruise Terminal G, as further defined in Section 1.03(a).
18. “Design-Build Agreement” means the design-build agreement(s) entered into by the County for the improvements to Cruise Terminal G and Berth 10.
19. “Design Criteria Documents” or “DCD” shall mean the criteria mutually agreed upon by RCG and the County for issuance of the advertised RDBS, which criteria shall be a comprehensive document with drawings and specifications that clearly state the Project building’s exterior & interior architectural intent, defines the intent of all MEP systems, equipment, finishes, security, vertical transportation, surveillance, audio/visual, & signage (regulatory, exterior, wayfinding).
20. “Development Period” means the period between the Effective Date and the Substantial Completion of Cruise Terminal G.
21. “Differential” means the difference (positive or negative) between the Unitary Fees paid and the Minimum Annual Guarantee for each Fiscal Year.
22. “Differential Notice” refers to the written notice the County must send to RCG within 60 days following the end of each Fiscal Year setting forth the Differential.
23. “Dredging Project” refers to the Miami Harbor Improvement dredging project.
24. “Effective Date” shall have the meaning set forth in Section 1.02 hereof.

25. "Execution Date" shall mean the date on which the Agreement is executed by all Parties.
26. "Existing CTG Agreement" means that certain Amended and Restated Terminal Usage Agreement dated December 30, 1998, as amended through the Third Amendment to the Amended and Restated Terminal Usage Agreement between RCG and the County.
27. "Final Completion" shall mean when (a) Substantial Completion has occurred and all punch-list items have been completed; (b) all construction materials and equipment have been removed from the site and adjacent land or staging areas, if any; (c) all final certificates of occupancy have been issued; and (d) County has approved and signed the final acceptance certificate as per the terms of the Design-Build Agreement. Final completion shall be measured and certified separately for each of the Cruise Terminal G Improvements and Berth 10 Improvements.
28. "Financing Confirmation" shall have the meaning set forth in the Second Amendment to the Campus Lease.
29. "Fiscal Year" means the County's fiscal year, which begins October 1 and ends September 30.
30. "Force Majeure" has the meaning set forth in Section 9.01.
31. "ICON Class Vessel" means a Royal Caribbean International cruise ship as described on Exhibit H hereto.
32. "Incentive Revenue Target" shall mean the point at which RCG has reimbursed the County the lesser of (i) forty-seven (47%) of the Project Budget or (ii) forty-seven (47%) of the actual costs incurred by the County in connection with the Project, including the Design-Build Agreement (and any related agreements) for the Cruise Terminal G Improvements and Berth 10 Improvements, with costs, including interest calculated at six-and-one-half percent (6.5%) .
33. "Maintenance Standard" shall have the meaning set forth in Section 5.01(a) hereto.
34. "Marine Improvements" means the marine components of the Project, consisting of the berth, mooring bollards, and fenders.
35. "Marketing Campaign" refers to print, online, television, videos, and other means of advertising with respect to PortMiami and RCG ships sailing from PortMiami to the Caribbean Basin. RCG certifies that it shall budget a minimum of One Million Dollars (\$1,000,000.00) for the Marketing Campaign in each Fiscal Year.
36. "Marketing Incentive" shall have the meaning set forth in Section 3.12(b).

37. “Material Adverse Change” shall refer to a New Port Charge which would increase the then-current Unitary Fee payments payable by RCG by Ten Million Dollars (\$10,000,000.00) or greater in any Fiscal Year if RCG were to continue using the Port.
38. “Minimum Annual Guarantee” means the minimum annual guaranteed payment that RCG shall be committed to pay to the County as provided for in Section 3.03 and Exhibit C.
39. “MMCT” means MSC Miami Cruise Terminal LLC.
40. “MSC” shall mean MSC Cruises, S.A.
41. “New Port Charge” shall mean a new levy, charge, or fee that is imposed or assessed under any applicable law, rule, regulation, directive, or other legal requirement of any federal, state, or local governmental authority including any new charge, fee, or levy for increased security requirements (but excluding any new charge, fee, or levy associated with the usage or maintenance of shore power facilities), specifically against RCG and all other multi-day passenger cruise lines berthed at or operating from PortMiami occurring after the date of this Agreement.
42. “Operating Period” means the period between the conclusion of the Development Period and the conclusion of the Term, as further defined in Section 1.03(b).
43. “Operation Protocol” means the operation protocols for the Shared Terminal and Shared Terminal Parking Garage as defined and used in the Shared Terminal Agreement.
44. “Parking Incentive” shall have the meaning set forth in Section 3.12(a).
45. “Parking Revenues” means vehicle parking revenue collected by the County for those vehicles that park at County-owned and operated parking lots or garages at the Port for the term of this Agreement.
46. “Partial Destruction” shall have the meaning set forth in Section 5.06(c).
47. “Parties” means jointly County and RCG.
48. “Party” means each of the County and RCG.
49. “Plans and Specifications” shall mean the plans developed in accordance with the Conceptual Site Plan, DCD, and Applicable Laws, which shall be used to construct the Project.

50. "Port Tariff" shall mean Port of Miami-Dade Terminal Tariff No. 010, Rates, Rules, and Regulations for the Seaport Facilities of Miami-Dade County, Florida, in effect on the date of this Agreement, which includes tariffs for dockage, wharfage, harbor, water fee, and rental, among others.
51. "Preferential Berthing Rights" shall refer to the first priority right and preference to RCG Vessels over any other ship requesting berthing rights as set forth in Section 3.01.
52. "Project" means collectively the Cruise Terminal G Improvements and Berth 10 Improvements.
53. "Project Budget" is the maximum project budget in the amount of Three Hundred Twenty-Five Million Dollars (\$325,000,000).
54. "Port" or "PortMiami" means the Dante B. Fascell Port of Miami-Dade County.
55. "PortMiami Specific Charge" shall refer to a new levy, charge, or fee imposed or assessed by the County against all multi-day passenger cruise operators using any terminal or berth at PortMiami after the date of this Agreement which is specific to the Port or Port operations.
56. "Quantum Class Vessel" means a Royal Caribbean International cruise ship as described in Exhibit H hereto.
57. "Reconciliation Account" refers to the account held by County to be used solely for the purposes of holding surplus funds resulting from to a Surplus.
58. "RCG" means Royal Caribbean Cruises Ltd., d/b/a Royal Caribbean Group, a Liberian corporation.
59. "RCG Contribution" shall mean RCG's capital reimbursement obligation to the County as provided for in Section 2.09 in this Agreement.
60. "RCG Contribution Payment Schedule and Rates" shall mean the rates attached hereto and incorporated herein as Exhibit D (to be amended in accordance with the terms of Section 2.09 of this Agreement).
61. "RCG Project Monitor" and/or "Inspecting Engineer" shall mean firm or individual appointed by RCG to oversee the Project on behalf of RCG in accordance with the procedures set forth in this Agreement.
62. "RCG Records and Reports" shall have the meaning set forth in Section 4.02.
63. "RCG Requested Changes" shall mean those changes requested by RCG to the Design-Build Agreement(s) as further defined in Section 2.06 of this Agreement.

64. “RDBS” or “Request for Design Build Services” refers to the competitive selection process by which the County shall procure the design-builders(s) for the Project.
65. “Repayment Commencement Date” shall mean the date RCG shall commence payment of the RCG Contribution (October 1, 2024).
66. “Repayment Period” shall mean the period from the Repayment Commencement Date until the date on which the County is paid the RCG Contribution amount plus applicable interest.
67. “Review” shall have the meaning set forth in Section 4.04 hereto.
68. “Second Amendment to Campus Lease” shall mean that certain agreement of even execution date herewith between the Parties concerning the design, financing, construction, operation, and maintenance of the New Campus Improvements.
69. “Shared Terminal” shall refer to the shared cruise terminal serving Berths 8, 9, and 10 located at the Port.
70. “Shared Terminal Agreement” means that certain Amended and Restated Terminal Development Management and Lease Agreement between the County and MSC at the Shared Terminal serving Berths 8, 9, and 10.
71. Shore Power (Second Phase) shall have the meaning set forth in Section 9.09(b) hereto.
72. “Shortfall Amount” means the Differential for any Fiscal Year is a negative amount.
73. “Substantial Completion” shall mean the time at which each respective cruise terminal has progressed to the point where it is sufficiently complete, in accordance with the Design-Build Agreement(s), so that all such improvements and work can be utilized for the purposes for which it is intended.
74. “Substantial Conformity” means conformity with the approved DCD with the exception of minor non-material variations.
75. “Surplus” means the Differential for any Fiscal Year is a positive amount.
76. “Surplus Cap” means that the amount in the Reconciliation Account shall not exceed forty percent (40%) of the then-applicable Minimum Annual Guarantee (taking into account any Surplus credits from the Existing CTG Agreement including, any existing Surplus balance as of the Effective Date herein) as provided for in Section 3.04(a).
77. “Term” shall have the meanings set forth in Section 1.03 hereof.

78. “Terminal Expansion Area” shall have the meaning set forth in Section 9.09(a).
79. “Total Destruction” shall have the meaning set forth in Section 5.06(c).
80. “Unitary Fee” shall have the meaning set forth in Section 3.02(a).

EXHIBIT B
(Unitary Fee)

RCG Unitary Rate			
Fiscal Year	Unitary Rate	Fiscal Year	Unitary Rate
2023	\$22.58	2043	\$40.78
2024	\$23.25	2044	\$42.00
2025	\$23.95	2045	\$43.26
2026	\$24.67	2046	\$44.56
2027	\$25.41	2047	\$45.90
2028	\$26.17	2048	\$47.27
2029	\$26.96	2049	\$48.69
2030	\$27.77	2050	\$50.15
2031	\$28.60	2051	\$51.66
2032	\$29.46	2052	\$53.21
2033	\$30.34	2053	\$54.80
2034	\$31.25	2054	\$56.45
2035	\$32.19	2055	\$58.14
2036	\$33.16	2056	\$59.88
2037	\$34.15	2057	\$61.68
2038	\$35.18	2058	\$63.53
2039	\$36.23	2059	\$65.44
2040	\$37.32	2060	\$67.40
2041	\$38.44	2061	\$69.42
2042	\$39.59	2062	\$71.50

NOTE: RATES ARE ESTIMATED TO RISE 3% ANNUALLY (ASSUMED ESCALATIONS ALREADY REFLECTED IN ABOVE AMOUNTS)

EXHIBIT C
(Minimum Annual Guarantee)

RCG Passenger Movement Minimum Annual Guarantee (MAG)				
Fiscal Year	MAG		Fiscal Year	MAG
Development Phase (1)			First Option to Extend	
2023	600,000		2042	2,100,000
2024	600,000		2043	2,100,000
2025	750,000		2044	2,100,000
2026	750,000		2045	2,100,000
Initial Term Phase I			2046	2,100,000
2027 (2)	1,500,000		2047	2,100,000
2028	1,500,000		2048	2,100,000
2029	1,500,000		Second Option to Extend	
2030	1,500,000		2049	2,100,000
2031	1,500,000		2050	2,100,000
Initial Term Phase II			2051	2,100,000
2032	1,750,000		2052	2,100,000
2033	1,750,000		2053	2,100,000
2034	1,750,000		2054	2,100,000
2035	1,750,000		2055	2,100,000
2036	1,750,000		Third Option to Extend	
Initial Term Phase III (3)			2056	2,100,000
2037	2,100,000		2057	2,100,000
2038	2,100,000		2058	2,100,000
2039	2,100,000		2059	2,100,000
2040	2,100,000		2060	2,100,000
2041	2,100,000		2061	2,100,000
			2062	2,100,000

1. RCG shall not be required to utilize the Reconciliation Account established in section 3.04 for any Shortfall Amount that is equal to or less than twenty percent (20%) of the Minimum Annual Guarantee that is applicable during the Development Period nor shall any Shortfall Amount be owed so long as the Shortfall is within the 20% threshold

2. In the event Cruise Terminal G is not substantially completed by November 1, 2027, the MAG shall remain at 750,000 annual passenger movements (pro-rated accordingly for any partial year) until such time as Substantial Completion is obtained

3. In the event Berth 10 is not substantially complete by the Commencement of Initial Term Phase III, the MAG shall remain at 1,750,000 annual passenger movement (pro-rated accordingly for any partial year) until such time as Substantial Completion is obtained.

EXHIBIT D***
(RCG Project Contribution)

ROYAL CARIBBEAN (RCG) PROJECT CONTRIBUTION PAYMENT SCHEDULE & RATES			
CRS-TERM	\$325,000,000 Project Cap*	Minimum Annual Guarantee	CRS Fee** Per Passenger Movement
17 Years	6.5% Interest Rate		
Year	Capital Recovery Payment 53% of Project Costs	Passenger Movements	
1	\$5,940,000	750,000	\$7.92
2	\$6,120,000	750,000	\$8.16
3	\$12,600,000	1,500,000	\$8.40
4	\$12,990,000	1,500,000	\$8.66
5	\$13,380,000	1,500,000	\$8.92
6	\$13,770,000	1,500,000	\$9.18
7	\$14,190,000	1,500,000	\$9.46
8	\$17,045,000	1,750,000	\$9.74
9	\$17,570,000	1,750,000	\$10.04
10	\$18,095,000	1,750,000	\$10.34
11	\$18,637,500	1,750,000	\$10.65
12	\$19,180,000	1,750,000	\$10.96
13	\$23,730,000	2,100,000	\$11.30
14	\$24,444,000	2,100,000	\$11.64
15	\$25,179,000	2,100,000	\$11.99
16**	\$25,914,000	2,100,000	\$12.34
17**	\$26,691,000	2,100,000	\$12.71
Total	\$295,475,500	28,250,000	

* Includes 2% cost for debt issuance.

** Subject to the Incentive Revenue Target as set forth in Section 1.03(d).

*** Subject to adjustment for Project Budget Savings as provided in Section 2.02(c)(2). Upon such adjustment, a new Exhibit D shall be created and shall replace the existing Exhibit D.

EXHIBIT E
(Additional Marketing Incentive)¹

¹ Subject to Note 2 and Note 3 of Exhibit C, In the event Cruise Terminal G or in the event Berth 10 is not substantially completed, the Additional Marketing Incentive Passenger Threshold Tier will continue at the Tier set for Fiscal Year 2024 increased at the same rate the Unitary Fee increases per annum until Substantial Completion is obtained.

		DEVELOPMENT PHASE			
Passenger Threshold		Fiscal Year	Fiscal Year	Fiscal Year	Fiscal Year
From	To	2023	2024	2025	2026
500,001	550,000	\$957,887	\$986,624		
550,001	600,000	\$1,053,675	\$1,085,286		
600,001	650,000	\$1,149,464	\$1,183,948		
650,001	700,000	\$1,245,252	\$1,282,610	\$1,321,088	\$1,360,721
700,001	750,000	\$1,341,041	\$1,381,272	\$1,422,710	\$1,465,392
750,001	800,000	\$1,436,829	\$1,479,934	\$1,524,332	\$1,570,062
800,001	850,000	\$1,532,618	\$1,578,596	\$1,625,954	\$1,674,733
850,001	900,000	\$1,628,406	\$1,677,259	\$1,727,576	\$1,779,404
900,001	950,000	\$1,724,195	\$1,775,921	\$1,829,198	\$1,884,074
950,001	1,000,000	\$1,819,983	\$1,874,583	\$1,930,820	\$1,988,745
1,000,001	1,050,000	\$1,915,772	\$1,973,245	\$2,032,442	\$2,093,416
1,050,001	1,100,000	\$2,011,560	\$2,071,907	\$2,134,064	\$2,198,086
1,100,001	1,150,000	\$2,107,349	\$2,170,569	\$2,235,686	\$2,302,757
1,150,001	1,200,000	\$2,203,137	\$2,269,232	\$2,337,308	\$2,407,428
1,200,001	1,250,000	\$2,298,926	\$2,367,894	\$2,438,931	\$2,512,098
1,250,001	1,300,000	\$2,394,714	\$2,466,556	\$2,540,553	\$2,616,769
1,300,001	1,350,000	\$2,490,503	\$2,565,218	\$2,642,175	\$2,721,440
1,350,001	1,400,000	\$2,586,291	\$2,663,880	\$2,743,797	\$2,826,110
1,400,001	1,450,000	\$2,682,080	\$2,762,542	\$2,845,419	\$2,930,781
1,450,001	1,500,000	\$2,777,868	\$2,861,204	\$2,947,041	\$3,035,452
1,500,001	1,550,000	\$2,873,657	\$2,959,867	\$3,048,663	\$3,140,123
1,550,001	1,600,000	\$2,969,445	\$3,058,529	\$3,150,285	\$3,244,793
1,600,001	1,650,000	\$3,065,234	\$3,157,191	\$3,251,907	\$3,349,464
1,650,001	1,700,000	\$3,161,022	\$3,255,853	\$3,353,529	\$3,454,135
1,700,001	1,750,000	\$3,256,811	\$3,354,515	\$3,455,151	\$3,558,805
1,750,001	1,800,000	\$3,352,599	\$3,453,177	\$3,556,773	\$3,663,476
1,800,001	1,850,000	\$3,448,388	\$3,551,840	\$3,658,395	\$3,768,147
1,850,001	1,900,000	\$3,544,176	\$3,650,502	\$3,760,017	\$3,872,817
1,900,001	1,950,000	\$3,639,965	\$3,749,164	\$3,861,639	\$3,977,488
1,950,001	2,000,000	\$3,735,753	\$3,847,826	\$3,963,261	\$4,082,159
2,000,001	2,050,000	\$3,831,542	\$3,946,488	\$4,064,883	\$4,186,829
2,050,001	2,100,000	\$3,927,330	\$4,045,150	\$4,166,505	\$4,291,500
2,100,001	2,150,000	\$4,023,119	\$4,143,812	\$4,268,127	\$4,396,171
2,150,001	2,200,000	\$4,118,907	\$4,242,475	\$4,369,749	\$4,500,841
2,200,001	2,250,000	\$4,214,696	\$4,341,137	\$4,471,371	\$4,605,512
2,250,001	2,300,000	\$4,310,484	\$4,439,799	\$4,572,993	\$4,710,183
2,300,001	2,350,000	\$4,406,273	\$4,538,461	\$4,674,615	\$4,814,853
2,350,001	2,400,000	\$4,502,061	\$4,637,123	\$4,776,237	\$4,919,524
2,400,001	2,450,000	\$4,597,850	\$4,735,785	\$4,877,859	\$5,024,195
2,450,001	2,500,000	\$4,693,638	\$4,834,448	\$4,979,481	\$5,128,865
2,500,001	2,550,000	\$4,789,427	\$4,933,110	\$5,081,103	\$5,233,536
2,550,001	2,600,000	\$4,885,215	\$5,031,772	\$5,182,725	\$5,338,207
2,600,001	2,650,000	\$4,981,004	\$5,130,434	\$5,284,347	\$5,442,877
2,650,001	2,700,000	\$5,076,792	\$5,229,096	\$5,385,969	\$5,547,548
2,700,001	2,750,000	\$5,172,581	\$5,327,758	\$5,487,591	\$5,652,219
2,750,001	2,800,000	\$5,268,369	\$5,426,420	\$5,589,213	\$5,756,890
2,800,001	2,850,000	\$5,364,158	\$5,525,083	\$5,690,835	\$5,861,560
2,850,001	2,900,000	\$5,459,946	\$5,623,745	\$5,792,457	\$5,966,231
2,900,001	2,950,000	\$5,555,735	\$5,722,407	\$5,894,079	\$6,070,902
2,950,001	3,000,000	\$5,651,523	\$5,821,069	\$5,995,701	\$6,175,572
3,000,001	3,050,000	\$5,747,312	\$5,919,731	\$6,097,323	\$6,280,243
3,050,001	and Greater	\$5,843,100	\$6,018,393	\$6,198,945	\$6,384,914

		INITIAL TERM PHASE I				
Passenger Threshold		Fiscal Year	Fiscal Year	Fiscal Year	Fiscal Year	Fiscal Year
From	To	2027	2028	2029	2030	2031
1,250,001	1,300,000	\$2,695,272	\$2,776,130	\$2,859,414	\$2,945,197	\$3,033,553
1,300,001	1,350,000	\$2,803,083	\$2,887,175	\$2,973,791	\$3,063,004	\$3,154,895
1,350,001	1,400,000	\$2,910,894	\$2,998,221	\$3,088,167	\$3,180,812	\$3,276,237
1,400,001	1,450,000	\$3,018,705	\$3,109,266	\$3,202,544	\$3,298,620	\$3,397,579
1,450,001	1,500,000	\$3,126,515	\$3,220,311	\$3,316,920	\$3,416,428	\$3,518,921
1,500,001	1,550,000	\$3,234,326	\$3,331,356	\$3,431,297	\$3,534,236	\$3,640,263
1,550,001	1,600,000	\$3,342,137	\$3,442,401	\$3,545,673	\$3,652,043	\$3,761,605
1,600,001	1,650,000	\$3,449,948	\$3,553,446	\$3,660,050	\$3,769,851	\$3,882,947
1,650,001	1,700,000	\$3,557,759	\$3,664,491	\$3,774,426	\$3,887,659	\$4,004,289
1,700,001	1,750,000	\$3,665,569	\$3,775,536	\$3,888,803	\$4,005,467	\$4,125,631
1,750,001	1,800,000	\$3,773,380	\$3,886,582	\$4,003,179	\$4,123,274	\$4,246,973
1,800,001	1,850,000	\$3,881,191	\$3,997,627	\$4,117,556	\$4,241,082	\$4,368,315
1,850,001	1,900,000	\$3,989,002	\$4,108,672	\$4,231,932	\$4,358,890	\$4,489,657
1,900,001	1,950,000	\$4,096,813	\$4,219,717	\$4,346,308	\$4,476,698	\$4,610,999
1,950,001	2,000,000	\$4,204,623	\$4,330,762	\$4,460,685	\$4,594,505	\$4,732,341
2,000,001	2,050,000	\$4,312,434	\$4,441,807	\$4,575,061	\$4,712,313	\$4,853,683
2,050,001	2,100,000	\$4,420,245	\$4,552,852	\$4,689,438	\$4,830,121	\$4,975,025
2,100,001	2,150,000	\$4,528,056	\$4,663,897	\$4,803,814	\$4,947,929	\$5,096,367
2,150,001	2,200,000	\$4,635,867	\$4,774,943	\$4,918,191	\$5,065,737	\$5,217,709
2,200,001	2,250,000	\$4,743,677	\$4,885,988	\$5,032,567	\$5,183,544	\$5,339,051
2,250,001	2,300,000	\$4,851,488	\$4,997,033	\$5,146,944	\$5,301,352	\$5,460,393
2,300,001	2,350,000	\$4,959,299	\$5,108,078	\$5,261,320	\$5,419,160	\$5,581,735
2,350,001	2,400,000	\$5,067,110	\$5,219,123	\$5,375,697	\$5,536,968	\$5,703,077
2,400,001	2,450,000	\$5,174,921	\$5,330,168	\$5,490,073	\$5,654,775	\$5,824,419
2,450,001	2,500,000	\$5,282,731	\$5,441,213	\$5,604,450	\$5,772,583	\$5,945,761
2,500,001	2,550,000	\$5,390,542	\$5,552,258	\$5,718,826	\$5,890,391	\$6,067,103
2,550,001	2,600,000	\$5,498,353	\$5,663,304	\$5,833,203	\$6,008,199	\$6,188,445
2,600,001	2,650,000	\$5,606,164	\$5,774,349	\$5,947,579	\$6,126,007	\$6,309,787
2,650,001	2,700,000	\$5,713,975	\$5,885,394	\$6,061,956	\$6,243,814	\$6,431,129
2,700,001	2,750,000	\$5,821,785	\$5,996,439	\$6,176,332	\$6,361,622	\$6,552,471
2,750,001	2,800,000	\$5,929,596	\$6,107,484	\$6,290,709	\$6,479,430	\$6,673,813
2,800,001	2,850,000	\$6,037,407	\$6,218,529	\$6,405,085	\$6,597,238	\$6,795,155
2,850,001	2,900,000	\$6,145,218	\$6,329,574	\$6,519,462	\$6,715,045	\$6,916,497
2,900,001	2,950,000	\$6,253,029	\$6,440,619	\$6,633,838	\$6,832,853	\$7,037,839
2,950,001	3,000,000	\$6,360,839	\$6,551,665	\$6,748,215	\$6,950,661	\$7,159,181
3,000,001	3,050,000	\$6,468,650	\$6,662,710	\$6,862,591	\$7,068,469	\$7,280,523
3,050,001	and Greater	\$6,576,461	\$6,773,755	\$6,976,967	\$7,186,276	\$7,401,865

		INITIAL TERM PHASE II				
Passenger Threshold		Fiscal Year	Fiscal Year	Fiscal Year	Fiscal Year	Fiscal Year
From	To	2032	2033	2034	2035	2036
1,500,001	1,550,000	\$3,749,470	\$3,861,955	\$3,977,813	\$4,097,148	\$4,220,062
1,550,001	1,600,000	\$3,874,453	\$3,990,686	\$4,110,407	\$4,233,719	\$4,360,731
1,600,001	1,650,000	\$3,999,435	\$4,119,418	\$4,243,001	\$4,370,291	\$4,501,399
1,650,001	1,700,000	\$4,124,417	\$4,248,150	\$4,375,594	\$4,506,862	\$4,642,068
1,700,001	1,750,000	\$4,249,400	\$4,376,882	\$4,508,188	\$4,643,434	\$4,782,737
1,750,001	1,800,000	\$4,374,382	\$4,505,613	\$4,640,782	\$4,780,005	\$4,923,405
1,800,001	1,850,000	\$4,499,364	\$4,634,345	\$4,773,375	\$4,916,577	\$5,064,074
1,850,001	1,900,000	\$4,624,346	\$4,763,077	\$4,905,969	\$5,053,148	\$5,204,743
1,900,001	1,950,000	\$4,749,329	\$4,891,808	\$5,038,563	\$5,189,720	\$5,345,411
1,950,001	2,000,000	\$4,874,311	\$5,020,540	\$5,171,156	\$5,326,291	\$5,486,080
2,000,001	2,050,000	\$4,999,293	\$5,149,272	\$5,303,750	\$5,462,863	\$5,626,748
2,050,001	2,100,000	\$5,124,275	\$5,278,004	\$5,436,344	\$5,599,434	\$5,767,417
2,100,001	2,150,000	\$5,249,258	\$5,406,735	\$5,568,937	\$5,736,006	\$5,908,086
2,150,001	2,200,000	\$5,374,240	\$5,535,467	\$5,701,531	\$5,872,577	\$6,048,754
2,200,001	2,250,000	\$5,499,222	\$5,664,199	\$5,834,125	\$6,009,149	\$6,189,423
2,250,001	2,300,000	\$5,624,204	\$5,792,931	\$5,966,719	\$6,145,720	\$6,330,092
2,300,001	2,350,000	\$5,749,187	\$5,921,662	\$6,099,312	\$6,282,292	\$6,470,760
2,350,001	2,400,000	\$5,874,169	\$6,050,394	\$6,231,906	\$6,418,863	\$6,611,429
2,400,001	2,450,000	\$5,999,151	\$6,179,126	\$6,364,500	\$6,555,435	\$6,752,098
2,450,001	2,500,000	\$6,124,134	\$6,307,858	\$6,497,093	\$6,692,006	\$6,892,766
2,500,001	2,550,000	\$6,249,116	\$6,436,589	\$6,629,687	\$6,828,578	\$7,033,435
2,550,001	2,600,000	\$6,374,098	\$6,565,321	\$6,762,281	\$6,965,149	\$7,174,104
2,600,001	2,650,000	\$6,499,080	\$6,694,053	\$6,894,874	\$7,101,721	\$7,314,772
2,650,001	2,700,000	\$6,624,063	\$6,822,784	\$7,027,468	\$7,238,292	\$7,455,441
2,700,001	2,750,000	\$6,749,045	\$6,951,516	\$7,160,062	\$7,374,864	\$7,596,109
2,750,001	2,800,000	\$6,874,027	\$7,080,248	\$7,292,655	\$7,511,435	\$7,736,778
2,800,001	2,850,000	\$6,999,009	\$7,208,980	\$7,425,249	\$7,648,007	\$7,877,447
2,850,001	2,900,000	\$7,123,992	\$7,337,711	\$7,557,843	\$7,784,578	\$8,018,115
2,900,001	2,950,000	\$7,248,974	\$7,466,443	\$7,690,436	\$7,921,150	\$8,158,784
2,950,001	3,000,000	\$7,373,956	\$7,595,175	\$7,823,030	\$8,057,721	\$8,299,453
3,000,001	3,050,000	\$7,498,938	\$7,723,907	\$7,955,624	\$8,194,293	\$8,440,121
3,050,001	and Greater	\$7,623,921	\$7,852,638	\$8,088,218	\$8,330,864	\$8,580,790

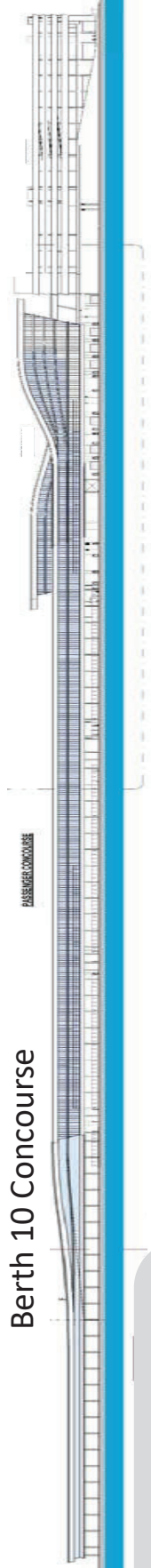
EXHIBIT F
(Cruise Terminal G and Berth 10 Conceptual Plans)

Exhibit F – Berth 10 Conceptual Plan

Shared Terminal

Berth 10 Concourse

PASSENGER CONCOURSE



MDC187

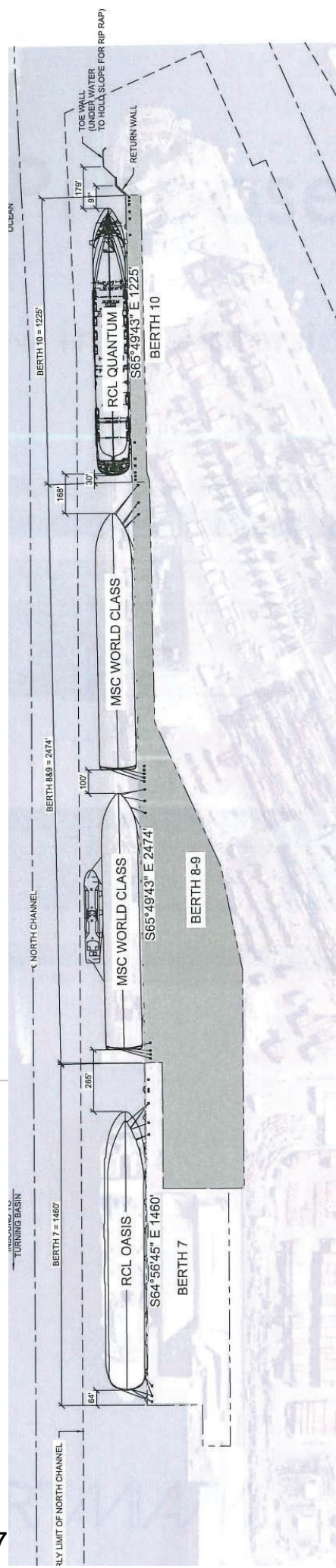
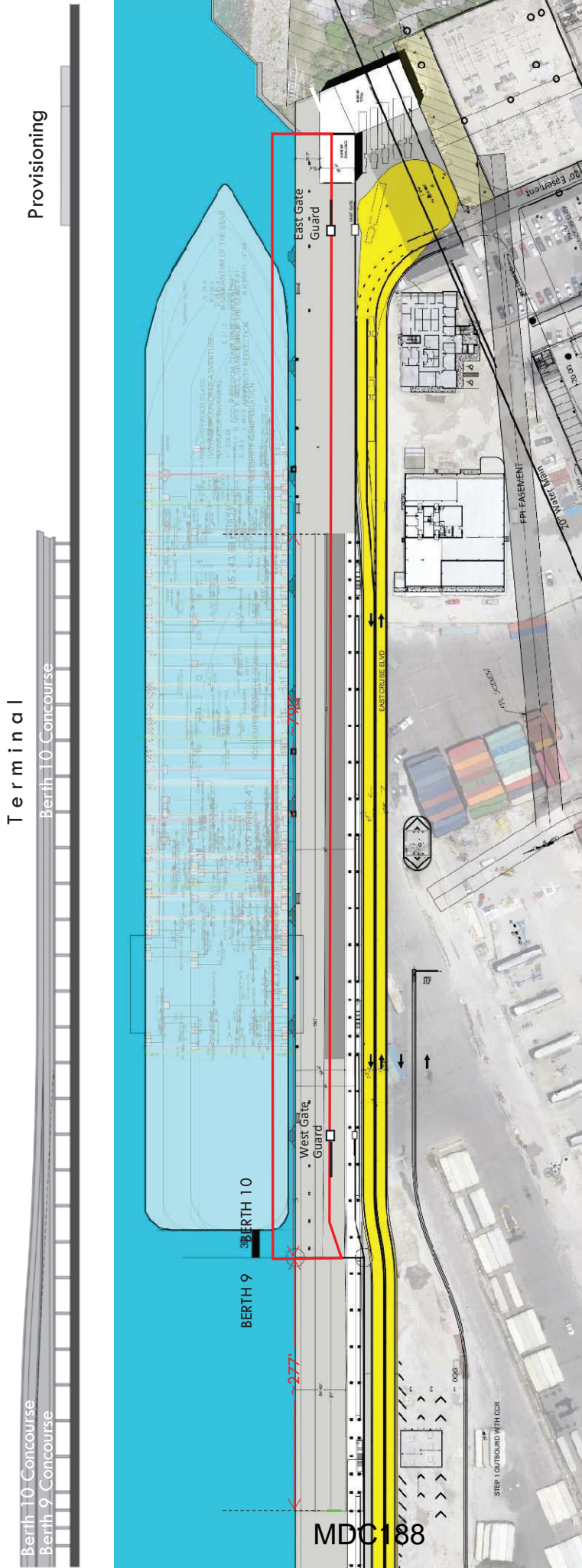


Exhibit F - Berth 10 Conceptual Plan

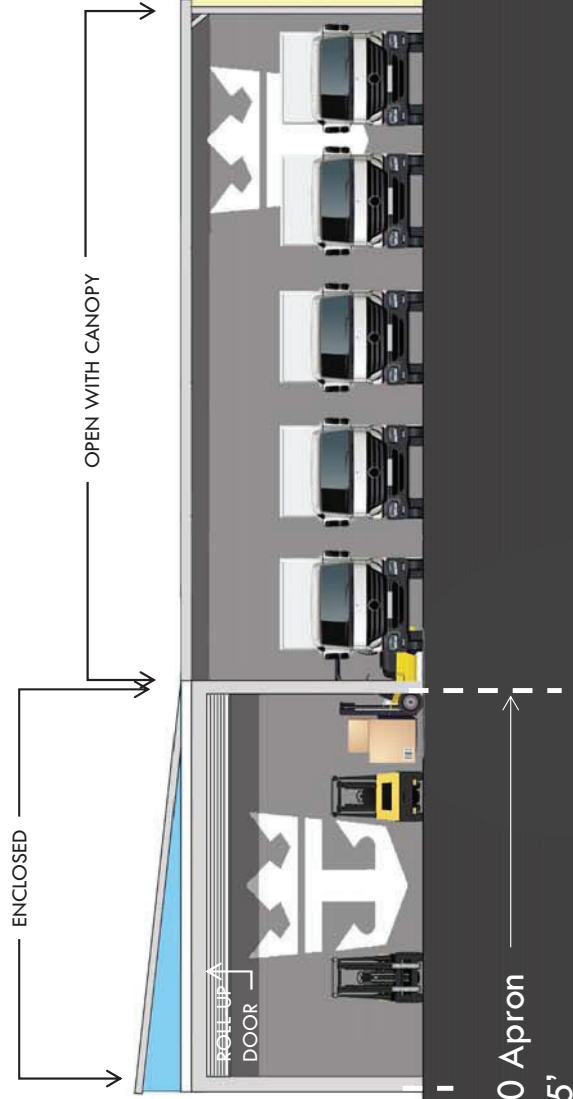


- Roadway along Berth Apron
- Berth 10 Limits
- Berth 10 Concourse
- Berth 10 Provisioning Bldg.

All Dimensions are Approximate

Exhibit F - Berth 10 Conceptual Plan

Provisioning Structure | Elevation A



MDC189

All Dimensions are Approximate

EXHIBIT G
(Terminal Expansion Area)



DATE: 9/21/2022

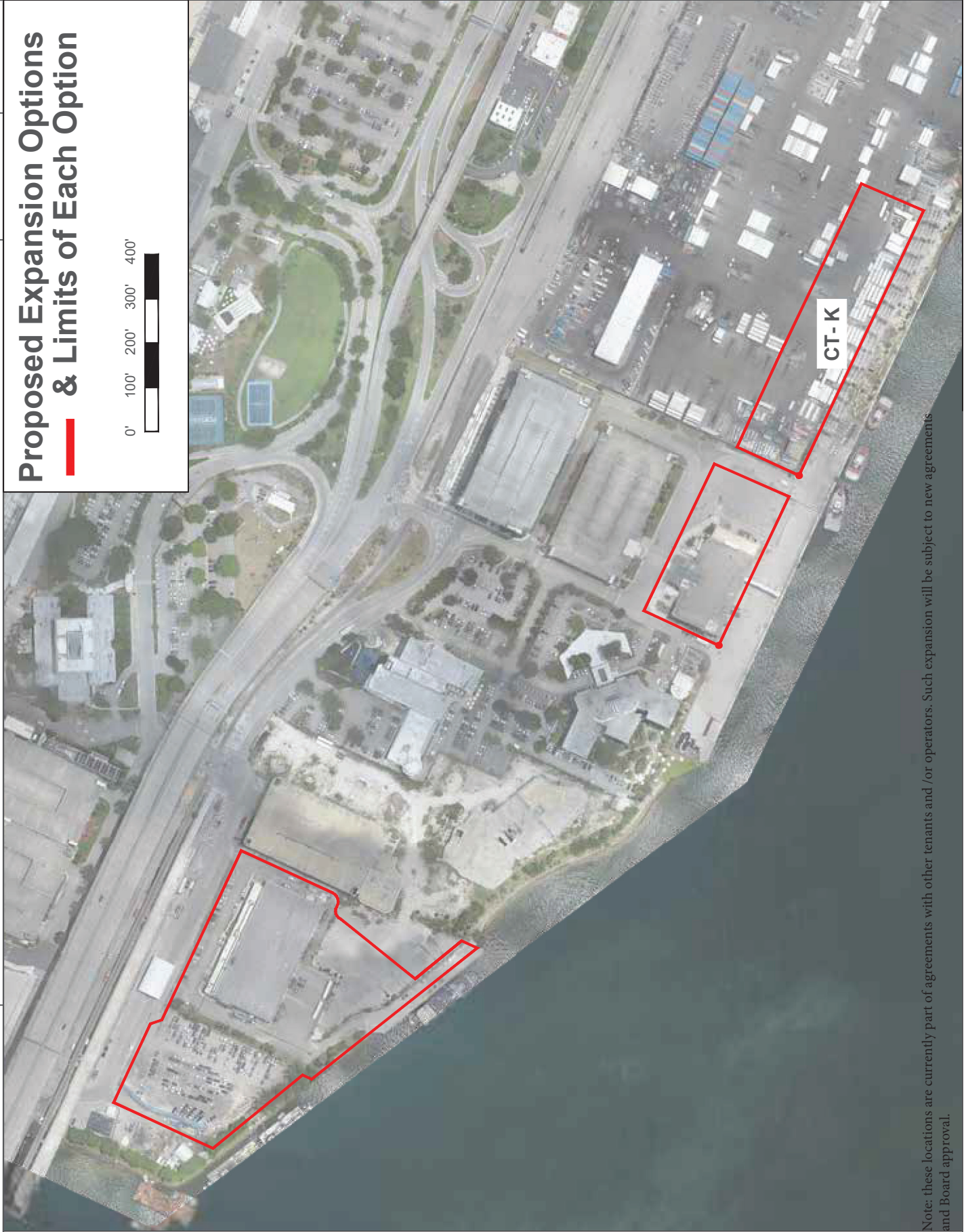
Exhibit G

Terminal Expansion Area

Proposed Expansion Options & Limits of Each Option



0' 100' 200' 300' 400'



Note: these locations are currently part of agreements with other tenants and /or operators. Such expansion will be subject to new agreements and Board approval.

EXHIBIT H
(ICON Class Vessels and Quantum Class Vessels)

Icon Class Vessel

ICON MAIN DIMENSIONS	
Length Overall (Approx.):	364.96m
Length P/P:	351.64m
Beam Moulded:	48.5m
Bulkhead Deck:	12.6
Draft Design (Approx.):	9.1
Draft Max. (Approx.):	9.4
Deadweight @ Max Draft (Approx):	16,200 ton
Air Draft:	62.20m
Tonnage Without Studio (Approx.):	235.500 ton
Tonnage (Approx.):	240.500 ton

Quantum Class Vessel

QUANTUM MAIN DIMENSIONS	
Length Overall:	347.10m
Length P/P:	320.20m
Beam Moulded:	41.4m
Bulkhead Deck:	11.55m
Draft Design:	8.1m
Draft Max:	8.8m
Deadweight:	11,400 ton
Air Draft:	62.9m
Tonnage:	168.666 ton

EXHIBIT I
(Cruise Terminal G Berth Schedule)

EXHIBIT I
(Berthing Schedule)

Ship	Date	Port	Brand	Turn Call	Day	Year	Program	Deployment Season	Terminal
FR	10/10/2026	MIA	RCI	T	Sat	2026	554N	Summer 2026	AA
FR	10/15/2026	MIA	RCI	T	Thu	2026	554N	Summer 2026	AA
FR	10/19/2026	MIA	RCI	T	Mon	2026	554N	Summer 2026	AA
FR	10/24/2026	MIA	RCI	T	Sat	2026	554N	Summer 2026	AA
FR	10/29/2026	MIA	RCI	T	Thu	2026	554N	Summer 2026	AA
EX	11/1/2026	MIA	RCI	T	Sun	2026	9/5N	Winter 2026-27	AA
FR	11/2/2026	MIA	RCI	T	Mon	2026	554N	Winter 2026-27	AA
EX	11/6/2026	MIA	RCI	T	Fri	2026	9/5N	Winter 2026-27	AA
FR	11/7/2026	MIA	RCI	T	Sat	2026	554N	Winter 2026-27	AA
FR	11/12/2026	MIA	RCI	T	Thu	2026	554N	Winter 2026-27	AA
EX	11/15/2026	MIA	RCI	T	Sun	2026	9/5N	Winter 2026-27	AA
FR	11/16/2026	MIA	RCI	T	Mon	2026	554N	Winter 2026-27	AA
EX	11/20/2026	MIA	RCI	T	Fri	2026	9/5N	Winter 2026-27	AA
FR	11/21/2026	MIA	RCI	T	Sat	2026	554N	Winter 2026-27	AA
FR	11/26/2026	MIA	RCI	T	Thu	2026	554N	Winter 2026-27	AA
EX	11/29/2026	MIA	RCI	T	Sun	2026	9/5N	Winter 2026-27	AA
FR	11/30/2026	MIA	RCI	T	Mon	2026	554N	Winter 2026-27	AA