

AMENDMENT TO CONCESSION AGREEMENT

THIS AMENDMENT TO CONCESSION AGREEMENT ("Amendment"), is entered into as of this 31st day of December 2019 and shall become effective upon satisfaction of the conditions set forth in Section 7(e) ("Effective Date"), between Diamond State Port Corporation ("DSPC") and GT USA Wilmington, LLC ("GT USA").

Recitals

WHEREAS, DSPC and GT USA entered into that certain Concession Agreement dated as of September 18, 2018 together with all side letters thereto (the "Concession Agreement");

WHEREAS, DSPC supports the continued sustained growth of cargo through the Port of Wilmington and the ultimate development of a new container terminal at the Port of Edgemoor; and

WHEREAS, in order to accelerate bringing new container business to the State of Delaware, DSPC desires to provide GT USA the adjustments set forth herein.

NOW, THEREFORE, in consideration of the fees, covenants and agreements contained in this Amendment, the sufficiency of which is hereby acknowledged by the parties, the parties hereto grant, covenant and agree to and with each other as follows:

1. TEU/FEU Modification to Concession Fee for Years One Through Nine.

(a) Section 4.3(a) of the Concession Agreement is hereby deleted in its entirety and replaced with the following:

"(a)(1) For each calendar quarter during Year One through Year Nine of the Term, with regard to any and all containerized volumes, GT USA hereby agrees to pay DSPC a fee of [REDACTED] per forty foot equivalent units ("FEU") handled over the quay and a fee of [REDACTED] per FEU with respect to non-water borne (*i.e.*, not coming in or going out over the quay) FEUs handled in the Premises.

(2) For each calendar quarter commencing in Year Ten and throughout the remainder of the Term, with regard to any and all containerized volumes, GT USA hereby agrees to pay DSPC a fee of [REDACTED] (as adjusted per the last sentence of subsection 4.3(a)(2)) per TEU handled over the quay and a fee of [REDACTED] (as adjusted per the last sentence of subsection 4.3(a)(2)) per TEU with respect to non-water borne (*i.e.*, not coming in or going out over the quay) TEUs handled in the Premises. Such rates shall be adjusted in accordance

with Section 4.3(d) as if they had been in effect since Year One of the Term.”

(b) The reference to “per TEU fees” in Section 4.3(d) of the Concession Agreement is hereby deleted and replaced with “per FEU fees or per TEU fees, as applicable,”.

(c) All Index (as defined in the Concession Agreement) adjustments shall continue throughout the Term (including, without limitation, the rates set forth in Sections 4.3(a)(1) and (2) as amended herein).

(d) All other references to “TEU” in the remainder of the Concession Agreement, including, without limitation, Section 4.3(c), Section 4.9(b), and Appendix 13 (Volume Schedule) shall remain unchanged.

2. Guaranteed Concession Fees for Year Ten. Notwithstanding anything herein to the contrary (including, without limitation, Section 4.3(a)(2) of the Concession Agreement), as set forth in House Concurrent Resolution 76, GT USA further agrees that in Year Ten of the Term, GT USA shall pay the greater of (i) its actual Concession Fees calculated based on volume or (ii) [REDACTED].

3. Minimum Annual Concession Fee. Nothing herein shall be deemed to remove, reduce or otherwise restrict or eliminate GT USA’s obligation to pay the Minimum Annual Concession Fee as set forth in Section 4.4 of the Concession Agreement.

4. Minimum Annual Volume Guarantee. Section 4.5(a) of the Concession Agreement is hereby amended to add the following capitalized and underlined language:

“(a) APPENDIX 13 sets forth the schedule of planned cargo volumes by type of cargo at the Premises as prepared by GT USA (the “Volume Schedule”). GT USA shall act in good faith using reasonable commercial efforts to achieve the Volume Schedule, but in all events, GT USA agrees to maintain a minimum cargo volume equal to seventy-five percent (75%) of the planned cargo volume (the “Minimum Volume”) or such other volume in such other manner that would result in a Concession Fee equivalent to the Concession Fee calculated using the Minimum Volume EQUITABLY ADJUSTED INTO FEUS FOR YEARS ONE THROUGH NINE FOR PURPOSES OF SUCH CALCULATION AND IN TEUS FOR YEAR TEN (the “Minimum Annual Volume Guarantee”), regardless of actual cargo volumes handled. For the avoidance of doubt, in the event cargo volumes exceed the Minimum Annual Volume Guarantee, the Concession Fee shall be calculated based on actual volume and shall never be less than the Minimum Annual Concession Fee. For years after Year 10 as set forth in APPENDIX 13, the Minimum Annual Volume Guarantee shall be consistent with or greater than the planned cargo volumes set forth in the Volume Schedule for Year 10.”

5. Satisfaction of Initial Payment.

(a) Regardless of the actual balance of the Initial Payment (as defined in the Concession Agreement) as of the date of this Amendment, GT USA agrees to provide DSPC with a credit in the amount of [REDACTED] [REDACTED] [REDACTED] [REDACTED] (the "Initial Payment Offset Amount").

(b) DSPC shall apply the Initial Payment Offset Amount to fully satisfy and discharge the Initial Payment actual balance on the Effective Date of this Amendment such that the amount is deemed to be repaid in full and no further drawdown or offset obligation is required. The Initial Payment actual balance on the Effective Date of this Amendment shall be calculated to ensure that DSPC receives the benefit of the Concession Fee Differential it has earned through the Effective Date of this Amendment by using actual volumes through the Effective Date of this Amendment at the rates in effect prior to the Effective Date (i.e., "[REDACTED] per TEU handled over the quay and [REDACTED] per TEU with respect to non-water borne TEUs) and assuming a daily prorated Minimum Annual Concession Fee.

(c) In all events, DSPC and GT USA agree that the Initial Payment Offset Amount exceeds DSPC's remaining balance on the Initial Payment. Therefore, the balance remaining of the Initial Payment Offset Amount (after it has been used to satisfy the remaining Initial Payment actual balance on the Effective Date) shall be paid by GT USA to DSPC in four equal annual installments due on or before the anniversary of the first installment made pursuant to this Section 5(c) with the first installment due on or before ten (10) business days after this Amendment becomes effective.

6 Edgemoor Acquisition Costs. Within three business days of the Effective Date of this Amendment, GT USA agrees to make a wire transfer of immediately available funds to the designated bank account provided by DSPC in an amount of [REDACTED] [REDACTED] which DSPC agrees shall be applied towards the acquisition costs with respect to the prior purchase of the land by DSPC at Edgemoor.

7. Miscellaneous.

(a) All capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Concession Agreement.

(b) This Amendment may not be modified, altered or amended except by a subsequent written instrument executed by all the parties hereto. Except as expressly set forth herein, all terms and conditions set forth in the Concession Agreement remain in full force and effect.

(c) This Amendment shall inure to the benefit of and be binding upon the parties hereto, their successors and assigns for the faithful performance of the covenants and conditions contained herein.

(d) Each of the parties hereto represents and warrants that he is duly authorized to execute and deliver this Amendment.

(e) Upon execution of this Amendment by DSPC and GT USA, GT USA shall promptly submit this Amendment to the Collateral Agent as such party is defined in that certain Subordination Agreement executed by DSPC, GT USA and Wilmington Trust, National Association, as collateral agent ("Collateral Agent") dated as of January 14, 2019 (the "Subordination Agreement") for its consent as set forth in the Subordination Agreement and execution of this Amendment. Upon written receipt of the consent, this Amendment shall become effective. Notwithstanding the foregoing, in the event the Collateral Agent has not executed this Amendment on or prior to February 15, 2020, this Amendment shall be null and void.

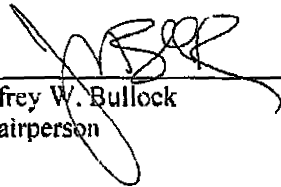
(f) If any term, covenant or condition of this Amendment or its application to any person or circumstances shall be invalid or unenforceable, the remainder of this Amendment, or the application of such term or provision to persons or circumstances other than those to which it is held invalid or unenforceable shall not be affected, and each term shall be valid and enforceable to the fullest extent permitted by law.

[Signature page follows]

IN WITNESS WHEREOF, DSPC and GT USA have caused this Amendment to be executed as of the day and year first above written.

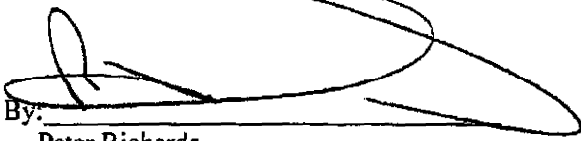
DSPC:

DIAMOND STATE PORT CORPORATION

By: 
Jeffrey W. Bullock
Chairperson

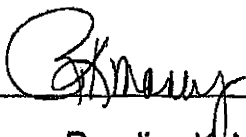
GT USA:

GT USA WILMINGTON, LLC

By: 
Peter Richards
President & Director

Consented to by:
COLLATERAL AGENT:

**WILMINGTON TRUST, NATIONAL
ASSOCIATION, not in its individual capacity,
but solely as Collateral Agent under the
Collateral Agency Agreement**

By: 
Name:
Title: **Roseline K. Maney**
Administrative Vice President

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