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Document Title:

First Amendment to Lease Agreement

Reference Number:

200511040141

Grantor(s):

☐ additional grantor names on page ____

1. Commercial Cold Storage, Inc.

2.

Grantee(s):

☐ additional grantee names on page ____

1. City of Mount Vernon

2.

Abbreviated legal description:

☐ full legal on page(s) ____

A portion of the SE 1/4 of the SE 1/4 of section 19, Township
34 N, Range 4 E of the Willamette Meridian

Assessor Parcel / Tax ID Number:

☐ additional tax parcel number(s) on page ____

P26489

SKAGIT COUNTY WASHINGTON
REAL ESTATE EXCISE TAX

MAR 13 2007

Amount Paid \$
Skagit Co. Treasurer
By *Lp* Deputy

First Amendment to Lease Agreement

This First Amendment to Lease Agreement ("First Amendment") is made and entered into this ___ day of January 2007 by and between the City of Mount Vernon, a Washington municipal corporation (hereinafter referred to as the "Tenant") and Commercial Cold Storage Inc., a Washington corporation, with its principal offices located at 1011 South 1st Street, Mount Vernon, Washington (hereinafter "Landlord"). Landlord and Tenant are sometimes hereinafter collectively referred to as the "Parties," and individually as a "Party."

Recitals

Whereas, Landlord and Tenant entered into that certain Lease Agreement dated October 28, 2005 ("Lease") pursuant to which Landlord has leased to Tenant the northerly 187 feet of that certain parcel of land located in Skagit County, Washington owned by Landlord, more fully described in Exhibit A to the Lease (hereinafter the "Premises"); and

Whereas, the Parties desire to clarify their intent with respect to certain provisions of the Lease, including, but not limited to, the right of Landlord under certain circumstances to terminate the Lease prior to the expiration of its Term; and

Whereas, subject to the modifications set out in this First Amendment, the Parties also wish to confirm that the Lease remains in full force and effect, and that there are no events of default thereunder; and

Whereas, capitalized terms not otherwise defined in this First Amendment shall have the meanings ascribed to such terms in the Lease;

Now therefore, in consideration of the mutual covenants set out herein, the sufficiency of which is acknowledged by both Parties, the Parties hereby agree as follows.

1. Modifications to Section 3 (Lease Term). Sections 3.1 (Term) and 3.2 (Options Terms) are replaced in their entirety with the following language:

"3.1 TERM. Subject to the provisions of this Lease, the Term of this Lease is as designated in Section 1.4, commencing on the Commencement Date and ending, unless earlier terminated pursuant to the provisions set out below, at midnight on the Expiration Date. Notwithstanding any other provision of this Lease to the contrary, including the rights of Tenant to extend the Term pursuant to Section 3.2 below, Landlord may terminate this Lease at any time upon 30 days written notice to Tenant by paying to Tenant an amount equal to \$2,666.67 for each year (pro-rated for any part year) remaining in the initial 15 year Term at the time of Tenant's receipt of Landlord's notice ("Termination Payment"). To illustrate, if Landlord terminates this Lease at the end of



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year 5, Landlord shall owe Tenant the sum of \$26,666.70 (10 x \$2,666.67). Upon payment of the foregoing Termination Payment, Landlord shall have no further liability to Tenant, and Tenant shall vacate the Premises, remove any personal property of Tenant located on the Premises, and surrender possession of the Premises to Landlord.

3.2 Option Terms. At the expiration of the initial Term of this Lease, and subject to Landlord's right to terminate this Lease at any time during an extension of the initial Term upon thirty days written notice to Tenant, Tenant may extend the Term for additional periods as set forth in Section 1.5 (each period, an "Option Term"), provided that Tenant has not been in default of any provision of this Lease during the prior Term, and is not in default of any provision of the Lease at the time of exercise, or at any time thereafter prior to the commencement of the Option Term. Such Option Terms may be exercised by Tenant giving Landlord irrevocable and unconditional written notice at least two months prior to the expiration of the then current Term of the Lease. All of the terms and conditions of this Lease shall apply to any Option Term so far as applicable, except that Tenant shall pay rent in an amount determined pursuant to Section 3.4 during any such Option Term. Tenant's failure to exercise any option within the required time period will nullify any remaining options to extend.

2. Modifications to Section 14 (Destruction of Premises). Section 14 is re-titled to read "Destruction or Condemnation of the Premises," and the following language is added to the end of Section 14:

"In the event that all or a portion of the Premises is condemned, this Lease shall automatically terminate, and Landlord shall have no further liability to Tenant. Upon such condemnation, Tenant shall be permitted to remove any personal property from the Premises, but shall have no right to any portion of the proceeds received by Landlord from the condemnation."

3. Modifications to Section 15 (Assignment). Section 15 is replaced in its entirety with the following:

"Tenant may not assign or transfer this Lease, or encumber, or sublet the Premises, in whole or in part, without the prior written consent of the Landlord, which consent may be withheld in the exercise of Landlord's sole and absolute discretion."

4. Modifications to Section 18.4 (Default). The clause in Section 18.4 beginning "PROVIDED HOWEVER..." is replaced in its entirety as follows:

"PROVIDED HOWEVER that should the Landlord, following receipt of notice from Tenant, prevent the Tenant from full and unrestricted use of the Premises for the purposes authorized by this Lease, Landlord shall pay Tenant as liquidated damages, and not as a penalty, the sum of \$2,666.67 for each year, or portion thereof, remaining in the initial Term of the Lease from the date of Landlord's receipt of Tenant's notice. Notwithstanding any other provision of this Lease to the contrary, payment of such



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compensation shall be Landlord's sole liability, and Tenant's sole remedy, for Landlord's failure to permit Tenant to use the Premises for the purposes authorized by this Lease.

5. Entire Agreement. This First Amendment combined with the original Lease constitutes the entire agreement between the Parties with respect to the subject matter hereof. Any further modifications to this Lease, as amended by this First Amendment, must be in writing and executed by both Parties.

6. Counterparts. This First Amendment may be executed in two or more counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one and the same agreement.

In Witness Whereof, the Parties hereunto have set their hands on the day and year first above written.

TENANT:

CITY OF MOUNT VERNON, WASHINGTON

BY: [Signature]
Bud Norris, Mayor

Attest:

[Signature]
Finance Director

Approved as to Form:

[Signature]
City Attorney

LANDLORD

COMMERCIAL COLD STORAGE, INC.

BY: [Signature]
Gary Thor, General Manager



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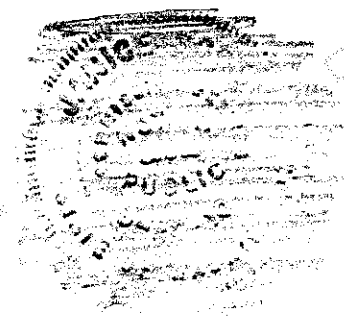
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STATE OF WASHINGTON)
) SS.
COUNTY OF SKAGIT)

On this 23 day of January 2007, before me personally appeared Gary Thor, to me known as the individual who executed the within and foregoing instrument, and acknowledged that he signed the same as his free and voluntary act and deed, for the uses and purposes therein mentioned.

Given under my hand official seal the day and year last above written.

A circular notary seal for Janice Scott, Notary Public in and for the State of Washington. The seal contains the text "NOTARY PUBLIC STATE OF WASHINGTON" and "JANICE SCOTT".
Janice Scott
Notary Public in and for the State of Washington,
Residing at 6305 137th Pl S.W. Edmonds
My Commission expires: 5/20/2010
Printed Name: Janice Scott



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