

APPENDIX E

CENTRALIZED EXAMINATION STATION

OPERATING AGREEMENT

1. This document in conjunction with relevant law and regulations establishes the requirements, terms and conditions for the operation of Centralized Examination Station (CES) (Name of Firm). (CES operator) has been selected as a CES within the Port of (XXX). The physical location of this CES, known as (Name of CES), will be (complete address, city, state).
2. The (Name of CES) will commence full operations on (date). The CES will operate (day to day) between the hours of (XXam and XXpm). These days and hours may change in the future depending upon the needs of Customs and Border Protection and the local trade community.
3. This agreement shall be in effect for (three to five) years from the date of the commenced operations cited in paragraph 2 above. This agreement cannot be transferred, sold, inherited or conveyed in any manner.
4. This agreement may be immediately suspended by the Port Director if it is determined a violation of 19 CFR 118.21(a) has occurred. A proposed revocation and cancellation may be issued by the Port Director for violations of 118.21(b).
5. The designation of a CES carries the following specific responsibilities, which the undersigned CES operator understands and agrees to:
 - a. The facility designated as the CES must meet and maintain the security standards for all cargo handling and storage facilities as outlined in the Physical Security Guidelines for CBP Bonded Facilities;
 - b. The CES operator must execute an agreement that he will reimburse CBP any appropriated funds advanced to procure the required, ADP, Circuit, LAN, IT and TacCom

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equipment and services in conformance with 19
U.S.C. 1499 and
19 C.F.R. Part 118.

- c. The CES operator at his own expense, agrees to maintain adequate liability insurance with respect to the property within his control and with respect to persons having access to the CES;
- d. The CES operator affirms that he currently holds and will maintain a custodial activity bond (bond number) in the amount of (dollar amount) and agrees to its application as a performance bond to the CES program. The CES operator also agrees to increase the amount of this bond if deemed necessary by the Port Director.
- e. The CES operator understands that the CES may only be operated at the location identified in paragraph 1. Any change to the CES location will **VOID** the CES written agreement. In such instances the operator understands that it must provide for the orderly winding down of operations and disposition of merchandise as indicated in paragraph 6 below and as required under his custodial bond, CBPF 301, pursuant to 19 CFR 113.63
- f. The CES operator agrees to provide adequate personnel and equipment to ensure reliable service for opening, presentation for inspection and closing of all types of cargo designated for examination by CBP on an equitable " first-come first-served" basis to all parties whose cargo has been designated by CBP for examination. The type of equipment furnished will be clean, sound and of sufficient quantity and/or capacity to fulfill the requirements of this agreement. The CES operator will provide any necessary accessory equipment including but not limited to forklifts, hand tools for opening and closing crates and yard tractors for backing in containers. The CES operator will provide any other equipment required by the port director in the solicitation. With respect to providing service on a " first-come first-served" basis, CES operators shall grant Front of the Line (FOL) privileges to Customs-Trade Partnership Against Terrorism (C-TPAT) partners for the examination of cargo. CES operators will not grant FOL privileges to C-TPAT partners when doing so may result in damage to other merchandise such as

perishable goods waiting for CBP examination.

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- g. The CES operator will keep current the list of employee names, dates of birth, and social security numbers (voluntary), of the managing officers and employees coming in contact with or handling imported merchandise that has not yet been released by CBP. The CES operator will also provide if requested, the fingerprints of all employees involved the CES operation. Any change in employment status must also be provided to the port director in writing within 10 calendar days of the change;
- h. The CES operator will assume responsibility for any and all damage or injury to persons or property resulting from the use or operation of vehicles or other equipment by employees or agents of said provider in the performance of this agreement;
- 1. CBP is not responsible for the payment of any charges or expenses incurred by the CES operator, any importer or his agent, or other user of the CES in connection with this agreement. The CES operator will bill the user directly for services rendered at the established rates;
- J. The CES operator will assess service fees according to the rate schedule included in the CES operator's approved application or as changed under the provisions of 19 CFR 118.5. The CES operator must provide 90 calendar days written notice to the port director of any proposed fee schedule changes which will include written justification for any increased or additional fee. Fee changes deemed to be excessive may result in a denial. A CES operator will remain bound by the existing fee schedule and shall not implement any fee schedule change prior to receipt of written approval of the change from the Port Director. The CES operator agrees that he is liable for the removal of any merchandise attributable to theft, inadvertence, unusual circumstances, or any other reasons if delivery is not authorized by CBP.
- k. The CES operator agrees that all records connected with the operation of this facility and the CES program will be maintained and made available upon demand by CBP for a period on not less than 5 years from the date of the transaction or examination conducted pursuant to this agreement;

- l. The CES operator agrees to provide office space, parking space, appropriate sanitary facilities and potable drinking water for the CBP employees assigned to the CES in accordance with Customs Directive 5270-00SA, Acquisition of Free Federal Inspection Service Space for Customs Use;
- m. The CES operator agrees to provide and maintain any and all services, facilities and equipment as contained in the approved application;
- n. The CES operator understands that CBP is not responsible for any action taken by the CES operator or his employees that is not in accordance with CBP Directives, and applicable laws and regulations;
- o. The CES operator shall hold and save the United States, its officers, agents and servants and employees, harmless from liability of any nature or kind, including costs or expenses from, or on the account of, any and all suits or damages of any character whatsoever relating from injuries to any person or persons and loss or damage to any property, by virtue of performance of this agreement by the provider of equipment, services, employees or agents of said provider;
- p. The CES operator will perform in accordance with any other reasonable requirements imposed by the port director in the CES solicitation;
- q. The CES operator will comply fully with the McNamara-O' Hara Service Contract Act, 41 U.S.C. §351, et seq., applicable regulations promulgated by the Department of Labor and the Federal Acquisition Regulations (FAR) found at FAR 52.222-1, 52.222-41 through 52.222-43, which are attached hereto and incorporated by reference herein. For purposes of this agreement, the term " Contractor" as used in the Service Contract Act and FAR will refer to the CES operator party to this agreement; "contract" will refer to this specific CES agreement; and "Contracting Officer" will refer to the port director of the area port for which the CES will operate; and
- r. The CES operator agrees to comply with the requirements of Executive Order 12989 dated February 13, 1996, as amended by Executive Order 13465 dated June 6, 2008 and particularly with

Sections 1(a) - (c), pertaining to the unlawful employment of aliens and anti-discrimination requirements of the Immigration and Nationality Act and of any other applicable law. These requirements apply to all persons working, assigned and /or detailed to the CES facility, including all casual and/or temporary labor utilized by the CES operator.

6. If at any time within the (three to five) year period, the CES operator discontinues operations the CES operator agrees to cooperate with importers and the port director to ensure the timely and orderly disposition of merchandise. In addition, the CES operator agrees that it remains liable for any merchandise at the CES facility. In instances were directed by the Port Director, the CES operator further agrees to transfer, under bond, all remaining goods to another CES without expense to the Government.

7. The Parties have attached the prevailing wage rates in accordance with FAR 52.222 which are incorporated by reference herein.

CES Signature

Port Director Signature

CES Operator

Port Director

Date

Date