



ZONE SCHEDULE

KENT-OTTAWA-MUSKEGON FOREIGN-TRADE ZONE AUTHORITY

FOREIGN-TRADE ZONE #189

GRAND RAPIDS, MICHIGAN

(Grantee)

Operating under granted authority of the Foreign-Trade Zones Board of the United States, the KOM Foreign-Trade Zone Authority, State of Michigan U.S.A.

COLUMBIAN INTERSTATE SERVICES

GRAND RAPIDS, MICHIGAN

(Operator)

Updated: June 2018

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GRANTEE POLICY

It is the policy of the Kent-Ottawa-Muskegon Foreign-Trade Zone (KOMFTZ) Authority to encourage the establishment of usage driven and subzones throughout Michigan for businesses which may see benefits from the features of a zone project when the zone operations cannot feasibly be performed within the confines of any of the established KOMFTZ magnet sites which shall operate as public utilities.

Application process:

Zone applicants may either prepare the application within its own organization, or may choose to utilize outside consultants retained by the applicant, independent of KOMFTZ. Upon completion of the zone application, documents shall be sent to KOMFTZ for review for accuracy and clarity and verification that all documents are included. Once reviewed the KOMFTZ will contact U.S. Customs Border Protection for a letter of support which KOMFTZ will send with the application and to the U.S. Foreign-Trade Zones Board. The applicant will pay KOMFTZ as indicated in Exhibit A for costs incurred by KOMFTZ for the review and the preparation of the letter of support.

KOM Foreign-Trade Zone Authority (KOMFTZ) shall require all zone users to update it with any changes to Zone projects that may affect the zone or its activated status prior to such change occurring. It is not the policy of KOM Foreign-Trade Zone Authority (KOMFTZ) to monitor day-to-day activity of the zone project and it shall have no knowledge, actual or constructive, of the quantity, character, status designation, identification, or time of admission, transfer, or release of goods into or from the zone.

Zone Fees:

In addition to reimbursement of KOMFTZ for any ordinary costs incurred in the preparation and review of the zone application and annual reports, zone users will be responsible for the payment of fees required by the U.S. Foreign-Trade Zones Board for the zone application.

KOM Foreign-Trade Zone Authority (KOMFTZ) shall determine applicability of its rates, rules, regulations or services provided for in its schedule of fees as listed in Exhibit A and shall review these rates as necessary to evaluate their basis to meet the services associated with them. However, any matter involving interpretation or action by any agency of the U.S. government will be determined by the Port Director of U.S. Customs Border Protection or the dually appointed representative.

Following approval by the U.S. Foreign-Trade Zones Board and activation of the zone application by U.S. Customs Border Protection, the applicant will pay to KOMFTZ a zone application fee and a zone annual fee according to the schedule listed on Exhibit A. The first such annual fee payment shall be due ninety days following activation of the zone and annually the first quarter of each calendar year following activation. If the zone has not been activated, it will be charged the un-activated zone fee according to the fee schedule.

Marketing:

KOM Foreign-Trade Zone Authority (KOMFTZ) shall be responsible for marketing the benefits of zones for area businesses to consider using.



Annual Reports:

KOM Foreign-Trade Zone Authority (KOMFTZ) is responsible for filing all Annual Reports and sending updated Zone Schedules to the Foreign-Trade Zones Board and to U.S. Customs Border Protection as required. Any late-filed zone reports may be charged late fees by the U.S. Foreign-Trade Zones Board per their regulations.

Activation Requests:

KOM Foreign-Trade Zone Authority (KOMFTZ) shall concur with U.S. Customs Border Protection (CBP) prior to activation.

Operating Agreements:

KOM Foreign-Trade Zone Authority (KOMFTZ) requires each zone to have an operating agreement in place with KOMFTZ prior to activation.

Grantee Contact Information for KOMFTZ:

Van Andel Global Trade Center, Grand Valley State University
Sonja Johnson – Administrator for #189
50 Front Avenue SW, Suite 1054
Grand Rapids, MI 49504
Phone: (616) 331-6810
Email: Sonja_Johnson@gvsu.edu
Website: www.komftz.org



DESCRIPTION OF FOREIGN TRADE ZONE #189

Pursuant to a Grant issued by the Foreign-Trade Zones Board, United States Department of Commerce Washington, D.C., on January 15, 1993, to the KOM Foreign-Trade Zone Authority, under Provisions of Public Law No. 397, 73rd Congress, approved June 18, 1934, as amended, Foreign-Trade Zone #189 has issued the following publication on rules, regulations and tariff rates.

Whereas, the Kent-Ottawa-Muskegon Foreign-Trade Zone Authority, grantee of Foreign-Trade Zone #189 received Foreign-Trade Zone Board Order number 1846, signed on August 17, 2012, approving it to reorganize under the Alternative Site Framework subject to the FTZ Act and the Board's regulations, including Section 400.13, to the Board's standard 2,000 acre activation limit for KOM Foreign-Trade Zone Authority with active zone sites.

Foreign-Trade Zone #189 currently has two public sites available as activated magnet sites. Addresses for these two sites are: 2900 Dixie Street, Grandville, Michigan, and 900 Hall Street, Grand Rapids, Michigan. Both of these sites are operated by Columbian Interstate Services, and are required to meet the public utility requirements established by the U.S. Foreign-Trade Zones Board.

All rates and charges for services or privileges within the "Magnet Zone" sites shall be fair and reasonable and the operator shall afford all who may apply for the use of the public zone space at its facilities uniform treatment under like conditions, subject to such treaties or commercial conventions as are now in force or may hereafter be made from time in accordance with the Foreign-Trade Zones Board of the United States, Washington, D.C.. Copies are available at the offices of KOMFTZ #189 in hard copy or on its website which can be viewed and/or downloaded at no cost from: www.komftz.org

Rates and Charges for Foreign-Trade Zone #189:

1. **U.S. Customs Bond:** No less than the total value of all freight on hand at any given time. The Foreign-Trade Zone user will provide a letter holding the KOM Foreign-Trade Zone Authority, and its Magnet Site operator Columbian Interstate Services harmless from any liability claims or punitive measures imposed by the U.S. Customs Border Protection (CBP) or other U.S. government agency involved in the FTZ program to admit goods into the zone.
2. Tariff Fee Schedule for Grantee KOMFTZ is indicated on Exhibit A and has been approved by the Kent-Ottawa-Muskegon FTZ Board and will be reviewed on a regular basis.
3. All other charges listed throughout are due to the operator of KOMFTZ #189 as indicated administered by:

Columbian Interstate Services
2900 Dixie Ave SW – Suite 1
Grandville, MI 49418
(616) 514-6002

Holidays:

Those legal holidays during which the Operator of Zone #189 is closed for regular business:

*New Year's Day	*1 st of January
*Memorial Day	*Last Monday in May
*Independence Day	*4 th of July
*Labor Day	*1 st Monday in September
*Thanksgiving Day	*4 th Thursday in November
*Half Day Friday after Thanksgiving	*4 th Friday in November
*Half Day Christmas Eve	*24 th of December
*Christmas	*25 th of December

*Federal holidays observed by U.S. Customs Border Protection – Note: Days are subject to change.

U.S. Customs Border Protection Grant Requirements:

In order to comply with the terms of the grant and the requirements of the United States Customs Border Protection (see link below), companies wishing to operate under zone procedures should be prepared to do the following:

1. Install a system of security control.

There are no uniform standards as to what security control systems should be, however, the applicant company should be prepared to demonstrate to U.S. Customs that intrusions into the secured area will be detected and handled.

(a) Companies should prepare a list of employees who would have access to the area as U.S. Customs will wish to run background checks on such employees. Although some interpretation and flexibility is afforded U.S. Customs in such matters, current U.S. Customs regulations indicate that a Customs house broker, bonded carrier, bonded warehouse operator, and Foreign-Trade Zone operator may not station convicted felons in secured areas.

2. Be able to demonstrate an adequate system of inventory control to U.S. Customs.

Because of personnel constraints, the U.S. Customs Services has been compelled to move to electronic monitoring of trade movements. Companies should be prepared to show the U.S. Customs Service how they can and will account for materials which will eventually enter the Customs territory. A system of electronic interface may be required by the U.S. Customs service. If a company has capability to do so initially, it would be well advised to do so.

3. Secure a bond from an insurance provider.

Companies must obtain bond adequate enough to cover the value to the merchandise in the secured area at all times. Basically, the bond will commit to the U.S. Customs Border Protection that all due and appropriate duties will be paid on merchandise which leaves the secured area. Evidence of the bond will be provided to the zone operator.

Website: www.cbp.gov/border-security/ports-entry/cargo-security/cargo-control/foreign-trade-zones/about



APPLICATION OF TARIFF

Application of Foreign-Trade Zone #189 – The rates, rules, and regulations of this Tariff shall apply at Foreign-Trade Zone #189.

General Regulations – Foreign-Trade Zone #189 are regulated by the Foreign-Trade Zones Board, Washington, D.C. under Code of Federal Regulations, Chapter IV, Part 400. Copies of these regulations are maintained at the Foreign-Trade Zone #189 office for reference or on KOMFTZ’s website: www.komftz.org

United States Customs Regulations – Foreign-Trade Zone #189 is subject to special Customs regulations (www.cbp.gov/border-security/ports-entry/cargo-security/cargo-control/foreign-trade-zones/about) as defined in U.S. Code of Federal Regulations, Chapter 1, U.S. Customs, Part 146 – Foreign-Trade Zones. Copies of these regulations are maintained at the office of Foreign-Trade Zone #189 for reference of all persons and entities doing business with it or on KOMFTZ’s website: www.komftz.org

Application and Interpretation of Tariff – The Operator shall follow the public utility regulations issued by the U.S. Foreign-Trade Zones Board in interpreting and determining the applicability of any of the rates, rules, regulations or services provided for in this Tariff. However, any matter involving interpretation or action by U.S. Customs or any other agency of the U.S. government will be determined by the U.S. Customs Border Protection (CBP) or his/her duly appointed representative.

SECTION I – OPERATION OF ZONE

General Operations, Forms and Procedures – The merchandise and operations permitted in a zone, the disposition of merchandise in a zone, the zone status of the merchandise and special provisions applicable to each status, the subsequent export-importation of merchandise removed from a zone, and other operations in a zone authorized by the Act, are hereinafter in this Section generally described. The Customs Forms required for such activities are available upon request from the Zone Operator.

Foreign-Trade Zone Customs Forms:

Customs Form 214 – Application for Foreign-Trade Zone Admission and/or Status Designation.

Customs Form 214A – Bureau of Census statistical copy.

Customs Form 216 – Application for Foreign-Trade Zone Activity Permit. Required for any activity which in any way alters merchandise in a zone, including but not limited to manipulation, manufacture, destruction or exhibition.

Customs Form 215 – A form which may be required by the zone operator for zone withdrawal and control purposes as allowed by Customs Border Protection (CBP).

Merchandise Permitted in a Zone – Foreign and domestic merchandise of every description, except as is specifically prohibited by law, may, without being subject to the Customs laws of the United States,

except as otherwise provided in the Act and the regulations made there under, be brought into a zone.

- (a) Merchandise which is specifically and absolutely prohibited by law shall not be admitted into a zone. Any merchandise so prohibited by law which is found within a zone shall be disposed of in the manner provided for in laws and regulations applicable to such merchandise. A distinction is made between (1) merchandise which is specifically and absolutely prohibited by law on the grounds of policy and morals, such as immoral or subversive literature, obscene articles, or lottery matter, and (2) merchandise which is subject to conditional prohibition only, for example, articles which are subject to permits or licenses for the protection of economic or national security or which may be reconditioned to bring them into compliance with the laws administered by various Federal agencies. Directors of Customs are required to exclude the first class of articles and may not permit them to be transferred to a zone if they are aware of their prohibited status, except that the Director may permit the temporary deposit of any such merchandise in zone pending final determination of its status. The transfer of articles of the second class to a zone is subject to any requirements of the Federal agency concerned. There is no prohibition against placing over-quota merchandise in zone pending its right to transfer to Customs territory pursuant to the applicable quota provisions.
- (b) The application for the admission of merchandise, into a zone shall be approved or disapproved by the Director as the representative of the Board, where the merchandise is not excluded by any other Federal agency having jurisdiction over the merchandise.

Application and Permit for Admission of Merchandise – Merchandise may only be admitted to a zone upon application on a Customs Form 214 by the applicant having right to make entry and the issuance of a permit by the Port Director. Exceptions to this requirement are for merchandise temporarily deposited in zone or transiting a zone. Domestic status merchandise, including packing and repair material may be admitted to zone without application or permit except: (1) when it is mixed or combined with merchandise in another zone status, or (2) upon order of the Commissioner of Customs.

Disposition of Merchandise in a Zone – In general, merchandise lawfully brought into a zone may, in accordance with these and other regulations made under the provisions of the Act, be exported, destroyed, or sent into Customs territory of the United States therefrom, in the original package or otherwise; but then foreign merchandise, and domestic merchandise whose identity has been lost, is so sent from a zone into Customs territory of the United States it will be treated as foreign merchandise. Any domestic merchandise will be considered to have lost its identity if the District Director determines that it cannot be identified positively by a Customs officer as domestic merchandise on the basis of an examination of the articles or consideration of any proof that may be submitted by a party-in-interest.

Manipulation, Manufacture, Exhibition, Destruction of Merchandise – In general, merchandise lawfully brought into a zone may, in accordance with these and other regulations made under the provision of the Act, be stored, sold, exhibited, broken up, repacked, assembled, distributed, sorted, graded, cleaned, mixed with foreign and domestic merchandise, or otherwise manipulated, or be manufactured, or destroyed except as otherwise provided by the Act.

- (a) Permission for any manipulation, manufacture, exhibition or destruction in a zone shall be

obtained from the Director of Customs. Destruction of merchandise may be permitted outside a zone, in whole or in part and under such conditions necessary to protect the revenues, if proper destruction cannot be accomplished within the zone.

- (b) The Board or Executive Secretary shall approve the application unless (1) the proposed operation would be in violation of law or regulations; (2) the place designated for the operation is not suitable for the preservation of identity or status of the merchandise, or safeguarding the revenues; (3) the Port Director is not satisfied that the destruction will be effective; or (4) the Executive Secretary of the Board has not granted approval of new manufacturing opinions.
- (c) If an approved application is subsequently rescinded by the Board for any reasons, the applicant or grantee may appeal the adverse ruling and request a hearing pursuant to Section 146.82(b)(2).

Status of Merchandise in a Zone – For the purposes of the Act and the regulations of this Section, all merchandise within a zone, except that as defined in Item 107 shall be given a zone status as:

- (1) privileged foreign merchandise
- (2) non-privileged foreign merchandise
- (3) domestic merchandise
- (4) zone-restricted merchandise, in accordance with Subpart C of Customs regulations.

Use of Zone by Carriers – The docking facilities and loading or unloading stations of a zone are intended primarily for the use of vehicles, for unloading merchandise into the zone or loading merchandise from the zone, and their use for other purposes may be terminated by the Secretary of the Treasury if found to endanger the revenue, or by the Board if found to interfere with the primary uses of the zone.

Subsequent Importation of Zone Merchandise – Articles produced or manufactured in zone and exported therefrom shall, on subsequent importation into the Customs territory of the United States, be subject to the import laws applicable to like articles manufactured in a foreign country, except that articles produced or manufactured in zone exclusively with the use of domestic merchandise, the identity of which has been maintained in accordance with the Second Proviso of Section 3 of the Act, as amended, may on such importation, be entered as American goods returned.

Exclusion from Zone of Goods or Process of Treatment – When it shall be reported to the Board that any goods or process of treatment is detrimental to the public interest, health, or safety, the Board shall cause such investigation to be made as it may deem necessary. The Board may order the exclusion from a zone of any goods or process of treatment that in its judgment is detrimental to the public interest, health, or safety.

Retail Trade Within Zone – No retail trade, sales, or offers to sell goods or services to individuals for personal use, shall be conducted within a zone except under permits issued by the grantee and approved by the Board. Such permittees shall sell no goods except such domestic or duty paid or duty-free goods as are brought into zone from Customs territory. Permits which are sent to the Board for approval shall be accompanied by a sworn statement, as specified in Section 400-808, Foreign-Trade Zone Regulations. No goods shall be offered for sale or sold in zone which are not of the same kind and quality permitted to be offered for sale or sold in the political jurisdiction in which a zone is located. If the permittee

violates any provisions of the regulations in this Section, his/her permit shall be revoked by the grantee, who shall immediately report such action to the Board. The Executive Secretary may assess a fine of up to \$1,000 for each violation per Subpart G, 400.61 & 400.62.

Erection of Buildings Within Zone – The grantee may, with the approval of the Board, and under reasonable and uniform regulations for like conditions and circumstances to be prescribed by it, permit other persons, firms, corporations, or associations to erect such buildings and other structures within the Zone as will meet their particular requirements, provided: (a) that such permissions shall not constitute a vest right as against the United States, nor interfere with or complicate the revocation of the grant by the United States; (b) that in the event of the United States or the grantee desiring to acquire the property of the permittee, no goodwill shall be considered as accruing from the privilege granted to the Zone; and (c) that such permits shall not be granted on terms that conflict with the public use of the Zone as set forth in the Act; and provided further, that accepted sanitary practices be followed in the construction, equipment, and operation of such buildings and other structures.

Residence Within Zone – No person shall be allowed to reside within a zone except Federal, State, or municipal officers or gents whose resident presence is deemed necessary by the Board.

Hours of Business and Service – Hours of business and service, for Customs purposes, shall be the same as those prescribed in Customs regulations. The hours of KOMFTZ Magnet sites shall be regular or normal business hours between: 8:00 a.m. and 4:30 p.m., Monday through Friday. The Zone may be opened at other times, on an irregular or regular basis, upon application and with approval of the Operator and Customs Officials.

Employees and Persons Entering and Leaving Zone – Employees and other persons entering or leaving the Zone shall pass through the designated entrances to the Zone. Employees and other persons shall be subject to such examination upon entering and leaving a zone as the Port Director may deem necessary for the protection of the revenue.

All Persons Entering Zone Bound By Regulations – All persons entering the Zone for any reason whatsoever shall be bound by the regulations promulgated by the Board, Customs, and by the Operator of the Zone.

Identification of Employees Within Zone – Every employee within the Zone shall be required while within the Zone to carry identification cards or wear appropriate identification badges to be provided by the Operator of the Zone.

Identification of Visitors and Non-Employee Personnel within the Zone – All persons having business within the Zone, but not possessing appropriate zone-issued badges, passes or other approval to enter the Zone, shall apply for the appropriate approval and entry identification at the Zone Operator Offices.

SECTION II – GENERAL RULES AND REGULATIONS

Zone Regulations – The following rules governing procedures within Foreign-Trade Zone #189 are issued

in conformity with and supplementary to the Foreign-Trade Zones Board's regulations and such of the United States laws and regulations relating to the Port of Entry as are applicable to Foreign Trade Zone operations.

General Regulations – All persons and merchandise of every description entering or leaving Zone #189 for any purpose whatsoever shall be bound by the lawful regulations of the Foreign-Trade Zones Board and by the Zone regulations issued thereunder.

Government Agencies – All lawful regulations regarding government agencies in or about ports of entry must be complied with insofar as they are not in conflict with Public Law 397 of the 73rd Congress and the Regulations issued thereunder.

Compensation Insurance – Every person employed by contractors or customers in the Zone shall be properly covered by Workmen's Compensation Insurance. Proof of this shall be furnished before any work may release of liability must be started, or release of liability must be given to the Zone.

Public Interest, Health, and Safety – No operation or process of treatment will be permitted in the Zone that, in the judgment of the Operator, is detrimental to the public interest, health, and safety.

Confidential Relationship – The Operator will take precaution to avoid the divulging of confidential information regarding merchandise and services thereon performed in the Zone. Any zone employee violating this confidential relationship will be discharged immediately.

Admittance of Persons – Persons desiring admittance to the Zone shall make a request to a designated representative of the Operator. The pass issued must be worn or shown upon request. Upon leaving the Zone, any temporary pass must be surrendered, and any permanent pass must be shown to the representative of the Operator. All persons having business in the Zone will enter and leave at the prescribed entrance.

Charges by Government Agencies – Charges made by government agencies other than the Operator are not included in this Tariff and should be arranged by the owner or his/her agent with the government bureau concerned.

Merchandise Arriving After Hours – Merchandise arriving after regular business hours may, by special arrangements with the Zone Operator, be placed in a designated location and received subject to special charges.

When Charges Are Payable – Zone operator charges are due and payable as they accrue.

Merchandise Held For Charges – The Zone Operator reserves the right to withhold permission to withdraw merchandise from the Zone for users with unpaid charges for zone users.

How Charges are Enforced – For the purpose of enforcing the payment of charges named in this Tariff on merchandise handled over, stored, or manipulated in the Zone facilities, the Zone may take possession of such merchandise and may remove and store some at the charge, risk, and expense of the

owner or consignee thereof and/or may sell the goods by public auction and/or pursue such other remedies as may be provided by law. Zone operator also reserves the right, in his/her discretion, to deny the use of zone facilities and/or services to any user until all outstanding delinquent charges have been paid.

Service Charge – A service charge of 1.5% may be charged on all accounts receivable of 30 days age. No proration will be made and 1.5% will be charged every anniversary date thereafter.

Charges For Special Customs Services – U.S. Customs Border Protection may charge special fees for the activation of a new Foreign-Trade Zone or Subzone, for zone relocations, and for zone boundary alterations. When such fees are assessed as a result of a specific request by a zone user, the Operator may require that user to bear the expense thereof. No fees are charged by Operator for deactivation or reactivation.

Charges For Special Zone Staff Services – The Operator maintains at the Zone a legally assigned staff of employees to assist in the normal operations of the Zone during regular business hours set forth in this Tariff. Zone staff services rendered during National holidays, Saturdays and Sundays, or during overtime hours at the specific request of the user of zone facilities for such purpose will be charged to the user of such services.

Charges, Rates, Rules and Regulations Applicable to Grantee's Zones and Annexes – The Grantee, Operator, and all persons and entities doing business within a zone established by the Grantee must comply with provisions of the Foreign-Trade Zone Act, as amended; with the lawful and effective Rules, Regulations, and Procedures of the Foreign-Trade Zones Board; with such of the laws and lawful regulation of the United States, the States, or the subdivision and agencies thereof as may be applicable to operators, occupants, their employees and invitees, and users of subzones; and with such of the provisions of this Tariff and subsequent issues and modifications thereof as may be applicable to the operations conducted in the zone.

Where an applicant desires to have usage driven or subzone located within Grantee's jurisdiction and Grantee has no site available for its location, or where sites available are not suited for proposed operations, the applicant must arrange for the acquisition of a suitable and available site. The Grantee will provide cooperation with all State or local industrial development agencies, public or private, to assist applicants to the fullest extent possible in securing a suitable location.

All persons/entities who request the Grantee to apply for authority to establish a zone must first enter into an agreement with the Grantee governing the proposed zone or usage driven zone operations. This agreement will contain provisions including, but not limited to, those relating to costs incident to the preparation of the application and any subsequent amendment or modification thereof; costs incident to public hearings and legal proceedings; charges for any required Customs Zone activation, relocation, alteration, audit or spot check; and charges for Grantee's special services not provided in this Tariff. Applicants for the establishment of a zone or usage driven zone will bear application costs charges of preparing and filings of application by Grantee whether or not the application is favorably acted upon by the Foreign-Trade Zones Board.

Inspection – The Zone Operator may inspect the assigned area at any and all reasonable times to ascertain whether or not the covenants or conditions related to its proper use are being observed.

Insurance – Insurance is carried by the Zone Operator on its own property only and does not include insurance on the contents stored therein. Lessee is obligated to put nothing within the Zone which will cause the cancellation or forfeiture of the insurance or affect the premium rate thereof on the building or buildings of which the leased premises forms a part. Insurance on commodities or other property stored on the leased premises, if desired, must be carried by and at the expense of Lessee or owner of the commodities or other properties.

Insurance on Merchandise in Warehouse – Merchandise stored, manipulated, or transferred within the Zone is not insured by the Grantee and the Zone Tariff rates do not include insurance on merchandise.

Customs Bond – The Zone Operator maintains, for Customs purposes, a Foreign-Trade Zone Customs Bond as a guarantee for the payment of all duties and Customs permit to be otherwise found missing from the Zone, and also for the payment of any penalties and liquidated damages that may result. The Zone Operator may if deemed appropriate, require a zone or subzone user to also obtain an individual Customs Bond.

SECTION III – SPECIAL RULES PERTAINING TO MERCHANDISE

Zone Accommodations – Before merchandise may be entered into the Zone, applications on Customs Form 214 must be completed by zone user or his/her agent, filed and approved by the Zone Operator and with the authorized Customs personnel. The application shall describe the merchandise fully, in terms of the Tariff Schedules of the United States Annotated, and be accompanied by an examination invoice and any additional information or documentation requested by the District Director.

Warehouse Receipts – The zone is prepared to furnish non-negotiable warehouse receipts on merchandise stored under zone supervision and control.

Permission to Manipulate – Before merchandise may be manipulate within the Zone, application on Customs Form 216 must be presented to the Operator for concurrence by the Zone. The Operator will then forward the application to the Director of Customs through the Customs officer on duty at the Zone. On approval by the Director, the contemplated manipulation will then be permitted.

Tender for Acceptance – All merchandise for zone acceptance shall be delivered at designated points properly marked and packed and accompanied or preceded by the necessary documents for preserving the identity of such merchandise.

Minimum Acceptance Charges – The Zone reserves the right to refuse acceptance of any merchandise, the value of which may be determined as less than the probable zone charges; or at its discretion it may require the prepayment of all such charges on this class of merchandise.

Clearing Merchandise and Traffic – Merchandise, land carriers, and other users of the Zone, both incoming and outgoing, must obtain clearance through the Zone office.

Customs Permit – Merchandise will not be delivered to or through Customs territory unless delivery order is accompanied by Customs permit.

Non-Liability – The Grantee and Operator are not liable and cannot assume any responsibility for any loss or damage to freight, cargo, merchandise, or other property upon the leased premises, or for any loss or damage arising from acts of commission or omission of covenants, or of the occupants, or users adjacent or contiguous compartments or of other portions in or about the Zone, not for the breakdown of cranes or power service, not for loss or damage occasioned by plumbing, electric wire, automatic fire apparatus, not for any loss or damage from any cause whatsoever.

Limit of Liability – The Zone will not be responsible for loss or damage caused by fire, heat, dampness, leakage, the elements, evaporation, natural shrinkage, wastage or decay, animals, rats, mice or other rodents, moths, weevils or other insects, collapse of buildings or structures, breakdown of plant equipment or machinery, Act of God, the Public Enemy, the inherent nature of the merchandise itself; nor will it be answerable for any loss, damage, or delay arising from the insufficient notification, or from war, insurrection, shortage of labor, combinations, riots or strikes of any persons in its employ or in the service of others or from any consequences arising therefrom.

In performing the service of checking, the Zone will accept no responsibility for concealed damage nor for the condition of contents of packages, cases, or other containers, whether or not receipts issued so state. The Operator will not be responsible for any loss or damage arising from or occasioned by any misunderstanding of orders or instructions received or taken by telephone from the Zone user to the Operator. As a condition precedent to recovery, claims for loss or damage must be made in writing within thirty days after the merchandise is delivered from the Zone, or, in the case of failure to make delivery, then within thirty days after delivery of the last package of the lot in the Operator's apparent possession.

SECTION IV – SCHEDULE OF RATES AND CHARGES

Warehouse Space – Magnet Site Operator will lease space for the storage of general merchandise calculated at a base rate of \$0.69 per square foot per month, commodity, use of space and volume. This rate shall include minimum heat and basic Customs service (during regular business hours).

Private Lease Area – Magnet Site Operator will lease space for handling, processing, manipulation, and manufacture of goods as approved by the Board for a term of not less than 3 months or for extended periods which may be negotiated subject to the rates, rules, and regulations published in the Tariff. The minimum lease requirements will be 1,500 square feet.

Lease forms containing the terms and conditions of leasing such space are available upon request to the Operator of the Zone. All leases are subject to the approval of the Grantee.

Special Alterations – Lessee/User will be responsible for the cost of any special alterations for the installation of machinery and equipment, partitioning, and related construction required for their operation. At termination or end of lease period, permanent alterations will become the property of the

building owner or the premises restored to original condition at the expense of the lessee.

Utilities – If more than minimum heat is required, Lessee/User shall be responsible for cost. Cost of unusual electrical requirements, beyond basic lighting, will be the responsibility of Lessee/User.

Waiver of Storage Charges – Merchandise owned by, or under legal control of, private lease area users shall not be subject to storage charges as set forth in other sections of this Tariff while occupying space in such areas, but shall be subject to storage handling charges as elsewhere provided for in this Tariff.

Exclusive Use – Private lease areas shall be for the exclusive use of Lessee/User.

Office Space – Office space is available for lease by magnet zone users at a rate of \$15.00 per square foot per year. This charge includes air conditioning, heat and utilities, carpeting, and janitorial services. A separate lease agreement is required for office space and is available upon request at the office of the Operator. Tenants may be assessed real or personal property taxes for holdings within the building.

SECTION V – WAREHOUSE HANDLING AND STORAGE CHARGES FOR KOMFTZ #189

Handling Charge – A handling charge of \$42.89 per labor hour will be assessed on all inbound and outbound freight. This rate includes one warehouseman and a hilo.

Storage Charge – Storage space will be at a rate of \$0.69 per square foot per month. This rate shall include minimum heat and basic Customs service (during regular business hours).

Storage rates may be based on split-month billing. A full month's storage charge will apply on all goods received between the first and the 15th, inclusive of a calendar month; one half month's storage charge will apply on all goods received between the 16th and last day, inclusive of a calendar month, and a full month's storage charge will apply to all goods in storage on the first day of the next and succeeding calendar months.

Warehouse Labor – Extra warehouse labor required for sampling, repiling, recouping, tagging, bracing, banding, or other special services will be assessed at the rate of \$42.89 per hour with a one (1) hour minimum. Overtime hours will be billed at \$52.00 per hour. Physical inventories will be at warehouse labor rates with a one (1) hour minimum.

Clerical Labor and Reports – \$31.50 per hour will be charged for extra clerical labor with a one (1) hour minimum. Overtime hours will be billed at \$36.00 per hour. One monthly report showing receipts, withdrawals, and inventory goods on hand will be furnished at the close of business each month at no charge. Additional reports will be furnished at the above rates.

Storage Charge (Minimum) – There is a minimum initial storage charge of \$25.00 for incoming receipt. Refused deliveries and returned materials will be invoiced normal handling charges 48 hours after notification of return. The minimum renewal storage charge is \$1,000.00 per month and \$3.00 per line item.

Handling Charges (Minimum) – There is a minimum initial handling charge of \$25.00 per incoming receipt. Refused deliveries and returned materials will be invoiced normal handling charges.

Online Visibility Charge – An annual fee of \$100.00 will be charged per each user that is set up to use the online visibility feature.

Documentation Preparation – All outbound orders will be assessed a \$5.15 fee for document preparation.

UPS Shipments – The processing of UPS shipments requires special handling. An additional UPS handling fee of \$3.90 per order and \$1.00 per label will be assessed.

Stenciling/Labeling Charge – Will be performed upon request. A \$1.00 charge per label with a \$3.90 minimum per order.

Facsimile And Postage Supplies – Necessary faxes, postage, requested supplies, and special services will be charged at cost plus 10%. Faxes are \$1.50 per each. Photocopies are \$ 0.25 each. Photographs are \$ 2.50 each.

Warehouse Supplies – Any warehousing materials including pallets, shrink wrap, and packaging will be charged at cost plus 10%.

Past Due Accounts – A charge of 2% per month will be assessed on unpaid invoices over 30 days old.

Changes To Charges – All charges are subject to change on 30 days notice. Additional services can be furnished at mutually agreed upon rates.



EXHIBIT A

GRANTEE FEE SCHEDULE

The following fees are due and payable to the Grantee of KOMFTZ #189 upon invoice for the fees detailed below. The KOM Foreign-Trade Zone Authority Board shall review these rates annually to ensure they are normal and customary.

1. Annual Fees: \$9,697 per each Zone Operator

Note: Any Activated Operator will be rebated an equal share of the funds KOMFTZ collects from “Un-Activated Sites” fees assessed as indicated in item #2 below for the first year of use.

2. Un-Activated Zones: \$1,500 will be charged for each *un-activated* zone including Magnet Zones (formerly General Purpose Zones) until such time as these apply for activation or sunset. Full amount due each year after activation.
3. New Applications will be charged a Fee: \$2,500
4. New Zone Activation Fees: \$2,500
5. Boundary Modification or Change in Scope of Authority Fees: \$2,500

Note: Grantee fees do not cover the actual preparation of the application submitted to KOMFTZ for review. Users/Operators are responsible to pay any fees payable directly to the U.S. Foreign-Trade Zone Board with a check sent directly to it as indicated in (19 C.F.R. 400.29) as well as any other consultant utilized in preparation of the required zone application.



EXHIBIT B

DEFINITION OF TERMS

ACT – The Foreign-Trade Zones Act of June 19, 1984 (48 Stat. 998-1003; 19 U.S.C. 81a-81u), as amended by Public Law 566, 81st Congress, approved June 17, 1950.

ACTIVATION – Once a zone or subzone site is approved by the Foreign-Trade Zone (FTZ) Board, an application must be made to the local Customs and Border Protection (CBP) office, with the concurrence of the FTZ grantee, to operate the zone/subzone site (or portion thereof) under FTZ procedures. This CBP process known as “activation” generally includes steps such as background checks, a written procedures manual, posting a bond with CBP, as well as a review of the security of the site(s) and the inventory control methods.

ADMIT, ADMISSION – The U.S. Customs and Border Protection terms describing the shipment of merchandise into U.S. foreign-trade zones under CBP supervision (19 CFR 146.1).

ALTERNATIVE SITE FRAMEWORK (ASF) – An optional approach to designation and management of zone sites allowing greater flexibility and responsiveness to serve single-operator/user locations. The ASF was adopted by the Board as a matter of practice in December 2008 (74 FR 1170, January 12, 2009; correction 74 FR 3987, January 22, 2009) and modified by the Board in November 2010 (75 FR 71069, November 22, 2010).

ARTICLES CONSUMED – Interpretation of the FTZ Act holds that all materials to be consumed in manufacturing or processing operations within a zone must first be entered for consumption with duties paid.

BOARD – The Foreign-Trade Zones Board created by the ACT to carry out the provisions thereof. The Board shall consist of the Secretary of Commerce, who shall be the chairman, and executive officer, the Secretary of the Treasury and the Secretary of the Army.

BULK – In trade, a product, or a mass (of a product) which is not packaged, bundled, bottled, or otherwise packed, so that it is designated a bulk or bulk merchandise.

CONDITIONALLY ADMISSIBLE MERCHANDISE – Merchandise which may be imported into the United States under certain conditions. Merchandise which is subject to permits or licenses, or which may be reconditioned to bring it into compliance with the laws administered by various federal agencies is an example of conditionally admissible merchandise.

CUSTOMS TERRITORY – The territory of the United States in which the general tariff law of the United States applies but which is not included in any foreign-trade zone.

DOMESTIC EXPORTS – Domestic merchandise exported from the United States and particularly such merchandise exported through a foreign-trade zone. It includes merchandise of every description (except articles specifically and absolutely prohibited by statute) which has been (1) grown, produced or manufactured in the United States and not exported therefrom, or (2) previously imported into Customs territory and properly release from Customs custody.

For the purposes of making and labeling, it includes (1) the product of manipulation or manufacture in a zone in which only privileged domestic merchandise is used, (2) the product of manipulation or manufacture in a zone in which there is a mixture of foreign and domestic merchandise which results in a change in form or nature of the commodities, and in which the domestic merchandise consists of a component part or parts or a substantial portion of the finished product, and (3) foreign merchandise which by manipulation or manufacture in a zone has been so changed in form and nature or enhanced in value that the product is deemed to be one of domestic manufacture.

DOMESTIC MERCHANDISE – Merchandise of every description (except articles specifically and absolutely prohibited by statute) which has been (1) grown, produced, or manufactured in the United States and on which all internal taxes have been paid; or (2) previously imported into Customs territory and properly released from Customs custody on which duty and tax has been paid or which was previously entered.

FOREIGN MERCHANDISE – Imported merchandise of every description (except articles specifically and absolutely prohibited by statute) which has not been properly released from Customs custody into Customs territory.

FOREIGN-TRADE ZONE (FTZ or zone) – includes one or more restricted-access sites, including subzones and usage drive zones, in or adjacent (as defined by Sec. 400.11(b)(2)) to a CBP port of entry, operated as a public utility (within the meaning of Sec. 400.42) under the sponsorship of a zone grantee authorized by the Board, with zone operations under the supervision of CBP.

GRANTEE – The KOM Foreign-Trade Zone Authority to which the privileges of establishing operating, and maintaining Foreign-Trade Zone #189 have been granted.

IMPORTS – Foreign merchandise of every description (except articles specifically and absolutely prohibited by statute) entered into Customs territory to become a part of the domestic supply for the purpose of domestic commerce or consumption, and particularly that which is entered into Customs territory through a zone, is said to be “imported” into a foreign-trade zone, Customs bonded warehouse,

or Customs custody. This latter merchandise, in relation to operation of zone, is considered to be foreign merchandise until its entry into the commerce of the United States.

IN-TRANSIT MERCHANDISE – The term “in-transit merchandise” includes all foreign merchandise transported into and out of the United States, whether in and out of the same port, or across the country to another port, with or without transshipment, warehousing, breaking bulk, or change in mode of transportation, which originated in one foreign country and is destined at the same time of the original shipment to another foreign country, under the bill of lading or other documentation for a completed journey. The term is particularly applied to foreign merchandise shipped in transit through a foreign-trade zone.

LEASE – The document of agreement entered into between the Operator and User Client for assignment of space within Foreign-Trade Zone #189 magnet sites.

MAGNET SITE – A site intended to serve or attract multiple operators or users under the ASF.

MANIPULATION – Means breaking up, repacking, assembling, distribution, sorting, grading, cleaning, mixing with foreign or domestic merchandise, or other processing which does not constitute a manufacture.

NON-PRIVILEGED FOREIGN MERCHANDISE – (1) Foreign merchandise properly in a zone which does not have the status of (a) privileged foreign merchandise, or (b) zone restricted merchandise; (2) waste recovered from any manipulation or manufacture of privileged foreign merchandise; or (3) domestic merchandise in a zone which by reason of noncompliance with the regulations has lost its identity as domestic merchandise.

PERSON OF RECORD – The person, firm, or corporation in whose name the application to admit merchandise into the Zone (Customs Form 214) is made, recognized by the Zone grantee as having the legal right to make the application. Evidence of this right of the applicant is the same as would be required to establish the right to apply for release of the merchandise from Customs custody at the end of its transit through Customs territory, and usually consists of an original bill of lading in the name of the applicant, an original bill of lading endorsed to him, or carrier’s certificate.

PORT DIRECTOR – Shall mean a Port Director of Customs Border Protection at any port located within the boundaries of Foreign-Trade Zone #189.

PRIVILEGED FOREIGN MERCHANDISE – Foreign merchandise which has not been manipulated or manufactured so as to effect a change in tariff classification and which is subject to tariff classification according to its character, condition, and quantity at the rate of duty and tax in force on the date of filing

application on Customs Form 214. Privileged foreign status may not be abandoned and remains applicable even if the merchandise is changed in form by manipulation or manufacture.

PROHIBITED MERCHANDISE – Merchandise, the importation of which, is prohibited by law on grounds of public policy or morals, or any merchandise which is excluded from a zone by order of the Board. Books urging treason or insurrection against the United States, obscene pictures, and lottery tickets are examples of prohibited merchandise.

QUANTITY – Means the numerical count of the units composing a shipment of commodity.

RE-EXPORTS OR RE-SHIPMENTS – Merchandise from one foreign country initially destined to the United States which, after being unladen, stored and/or manipulated or manufactured in this country, is transported under a new bill of lading or other new documentation to another foreign country. The term is particularly applied to re-exports or reshipments through a foreign-trade zone.

It includes privileged, non-privileged, or zone-restricted foreign merchandise which (1) is in the same condition as when transported into the United States, or (2) has been manipulated without any change in its form or nature, or (3) has been manipulated or processed in such manner as to change its form, whether or not mixed with domestic merchandise, provided the domestic merchandise is not a component part or substantial ingredient thereof.

Generally, it includes all merchandise of foreign origin which has not been so manipulated or manufactured as to be deemed a product of the United States, and which has not been released from Customs custody in Customs territory.

STORAGE – The keeping of merchandise in or upon the premises within the foreign-trade zone. Covered storage means keeping within a covered and enclosed structure affording weather protection. The term “storage,” without other designation, ordinarily implies covered storage.

SUBZONE – The term “Subzone” means a special purpose zone established as part of a zone project for a limited purpose that cannot be accommodated within the existing zone.

TON – Means weight ton of 2, 000 pounds, unless otherwise indicated, measurement ton 40 cubic feet.

TRANSHIPMENT MERCHANDISE – Foreign merchandise which enters and leaves the United States through the same port, being transferred from one vessel to another directly, or by way of a foreign-trade zone or Customs bonded warehouse. The term is particularly applied to such merchandise transferred through a foreign-trade zone.

UNIQUE IDENTIFIER – The numbers, letters, or combinations of numbers and letters that identify merchandise admitted to a zone with zone status.

UNIT OF QUANTITY – Means the customary grouping of a commodity as a unit to indicate the medium or method of measure.

UNITED STATES – The several States, the District of Columbia, and Puerto Rico. The term “United States” includes all territories and possessions of the United States, except the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, and the island of Guam.

USAGE DRIVEN SITE – A site tied to a single operator or user under the Alternative Site Framework (ASF).

USER/CLIENT – An individual, company, or corporation utilizing the magnet services and facilities of Foreign-Trade Zone #189.

WAREHOUSE – A covered and enclosed structure, affording weather protection, used primarily for short or long-term storage of merchandise, and often containing business offices. A foreign-trade zone also is used for manipulation, manufacture, and exhibition of merchandise.

WEIGHT – The gross weight of the merchandise including container, except as noted to the contrary.

ZONE – The term “Zone” means a “foreign-trade zone” and/or Foreign-Trade Zone #189.

ZONE LOT – A unit or units of merchandise maintained under an inventory control method based on specific identification of merchandise admitted to a zone by lot.

ZONE LOT NUMBER – The sequential controlled number assigned to a zone lot.

ZONE OPERATOR – A corporation, partnership, or person that operates a zone or subzone under the terms of an agreement with the zone grantee (or third party on behalf of the grantee) with the concurrence of the Port Director of Customs Border Protection.

ZONE RESTRICTED MERCHANDISE – Foreign or domestic merchandise taken into a zone for the sole purpose of exportation, destruction (except destruction of distilled spirits, wines and fermented malt liquors), or storage prior to exportation or destruction. Zone restricted status may be requested at the time of admittance to a zone or at any time thereafter, but may not be abandoned once granted. Zone restricted merchandise may only be returned to Customs territory for domestic consumption where the Board determines the return to be in the public interest.



ZONE STATUS – That designation applied for on Customs Form 214 for merchandise admitted to a zone, i.e. non-privileged foreign, privileged foreign, zone restricted, or domestic. Zone status determines the manner in which merchandise shall be classified, appraised and handled.

EXHIBIT C

DEFINITION AND PRIVILEGES OF FOREIGN-TRADE ZONES

Under Section 400, Paragraph 101 Regulations governing the establishment, operation, maintenance, and administration of Foreign-Trade zones in the United States, the term “Zone” means a “foreign-trade zone.” It is an isolated, enclosed, and policed area, operated as a public utility, in or adjacent to a port of entry, furnished with facilities for loading, unloading, handling, storing, manipulating, manufacturing, and exhibiting goods, and for reshipping them by land, water, or air. Any foreign and domestic merchandise, except such as is prohibited by law or such as the Board may order to be excluded as detrimental to the public interest, health, or safety, may be brought into a zone without being subject to the Customs laws of the United States governing the entry of goods or the payment of duty thereon; and such merchandise permitted in a zone may be stored, exhibited, manufactured, mixed, or manipulated in any manner, except as provided in the Act and other applicable laws or regulations. The merchandise may be exported, destroyed, or sent into Customs territory from the Zone, in the original package or otherwise. It is subject to Customs duties if sent into Customs territory, but not if reshipped to foreign points.

Section 3 of the Act, Public Law 397, 73rd Congress, approved June 18, 1934, as amended by Chapter 296, Public Law 566, 81st Congress, approved June 17, 1950, authorizes the following privileges:

“Foreign and domestic merchandise” of every description except such as is prohibited by law, may, without being subject to the Customs laws of the United States, except as otherwise provided in this Act, be brought into a zone and may be stored, exhibited, broken up, repacked, assembled, distributed, sorted, graded, cleaned, mixed with foreign or domestic merchandise, or otherwise manipulated, or be manufactured except as otherwise provided in this Act, and be exported, destroyed, or sent into Customs territory of the United States therefrom, in the original package or otherwise: but when foreign merchandise is so sent from a zone into Customs territory of the United States it shall be subject to the laws and regulations of the United States affecting imported merchandise;

Provided, that whenever the privilege shall be requested and there has been manipulation or manufacture effecting a change in tariff classification, the collector of customs shall take under supervision any lot or part of a lot duties liquidated thereon. Merchandise so taken under supervision may be stored, manipulated or manufactured under the supervision and regulations prescribed by the Secretary of the Treasury, be exported or destroyed, or may be sent into Customs territory upon the payment of such liquidated duties and determined taxes there on.

If merchandise so taken under supervision has been manipulated or manufactured, such

duties and taxes shall be payable on the quantity of such foreign merchandise used in the manipulation or manufacture of the entered article. Allowance shall be dutiable and taxable in its condition and quantity and at its weight at the time of entry. Where two or more products result from the manipulation or manufacture of merchandise in a zone, the liquidated duties and determined taxes shall be distributed to the several products in accordance with their relative value at the time of separation with due allowance for waste as provided for above;

Provided further, that subject to such regulations respecting identity and the safeguarding of the revenue as the Secretary of the Treasury may deem necessary, articles, the growth, product, or manufacture of the United States, on which all internal revenue taxes have been paid, or which have been admitted free of duty and tax, may be taken into a zone from the Customs territory of the United States, placed under the supervision of the collector, and whether or not they have been combined with or made part, while in such zone, of other articles, may be brought back thereto free of quotas, duty, or tax;

Provided further, that if in the opinion of the Secretary of the Treasury their identity has been lost, such articles not entitled to free entry by reason of noncompliance with the requirements made hereunder by the Secretary of the Treasury shall be treated when the reenter Customs territory of the United States as foreign merchandise under the provisions of the tariff and internal revenue laws in force at the time.

Provided further, that under the rules and regulations of the controlling Federal agencies, articles which have been taken into a zone from Customs territory for the sole purpose of exportation, destruction (except destruction of distilled spirits, wines and fermented malt liquors), storage shall be considered to be exported for the purpose of:

- (a) the draw-back, warehousing and bonding, or any other provision of the Tariff Act of 1930, as amended, and the regulations there under; and
- (b) the statutes and bonds exacted for the payment of draw-back, refund or exemption from liability for internal revenue taxes and for the purposes of the internal revenue laws generally and the regulations there under.

Such transfer may also be considered exportation for the purposed of other Federal laws insofar as Federal agencies charged with the enforcement of those laws deem it advisable. Such articles may not be returned to Customs territory for domestic consumption except where the Foreign-Trade Zones Board deems such return to be in the public interest, in which event the article shall be subject to the provisions of Paragraph 1615 (F) of the Tariff Act of 1930 as amended: Provided further, that no operation involving any foreign or domestic merchandise

brought into a zone which operation would be subject to any provision or provisions of Section 1807, Chapter 15, Chapter 16, Chapter 17, Chapter 21, Chapter 23, Chapter 24, Chapter 25, Chapter 26 or Chapter 32 of the Internal Revenue Code if performed in Customs territory, or involving the manufacture of any article provided for in Paragraph 367 or Paragraph 368 of the Tariff Act of 1930, shall be permitted in a zone except those operations (other than rectification of distilled spirits and wines, or the manufacture of production of alcoholic product unfit for beverage purposes) which were permissible under this Act prior to July 1, 1949;

Provided further, that articles produced or manufactured in a zone and exported therefrom shall on subsequent importation into the Customs territory of the United States be subject to the import laws applicable to like articles manufactured in a foreign country with the use of domestic merchandise, the identity of which has been maintained in accordance with the second provision of the section, may, on such importation, be entered as American goods returned.”