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FEDERAL MARITIME COMMISSION

NAME: NYK/WWL SOUTH AMERICA SPACE CHARTER AGREEMENT

FMC NO: 011775-002 (2nd Edition)

CLASSIFICATION: SPACE CHARTER AGREEMENT

EXPIRATION DATE: NONE



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ARTICLE 1: FULL NAME OF AGREEMENT

The full name of this Agreement is the NYK/WWL South America Space Charter Agreement (“the Agreement”).

ARTICLE 2: PURPOSE OF AGREEMENT

The purpose of this Agreement is to authorize the parties to agree on cooperative working arrangements and to charter space on each other’s vessels in connection with the carriage of cargo on terms and conditions agreed to between the parties in the trades defined in Article 4 of this Agreement.

ARTICLE 3: PARTIES TO THE AGREEMENT

The parties to this Agreement are:

- (1) Wallenius Wilhelmsen Logistics AS
188 Broadway
P.O. Box 1232
Woodcliff Lake, NJ 07677

(hereafter “WWL”)

- (2) Nippon Yusen Kaisha
3-2, Marunouchi 2-Chome,
Chiyoda-ku,
Tokyo 100-91, Japan

(hereafter “NYK”).

ARTICLE 4: GEOGRAPHIC SCOPE OF THE AGREEMENT

The scope of this Agreement is transportation of vehicles and other cargo between ports on the Atlantic and Gulf Coasts of the United States and U.S. inland and coastal points served via such U.S. ports, on the one hand, and, on the other hand, ports in Mexico, Central America, South America and the Caribbean Islands, and inland and coastal points served via such non-U.S. ports (the foregoing geographic scope referred to in this Agreement as “the Trade”).

ARTICLE 5: OVERVIEW OF AGREEMENT AUTHORITY

5.1 Vessels.

(a) The parties are authorized to discuss and agree upon the number, size, capacity, speed and other features of the vessels to be operated under this Agreement. Without further amendment hereto, the parties are authorized to operate up to eight (8) vessels hereunder, each with a capacity of up to 8,000 RT. Initially, the parties shall operate five (5) vessels hereunder, three (3) of which shall be provided by NYK and two (2) of which shall be provided by WWL. Each of the NYK vessels shall have a capacity of approximately 4,000 to 4,500 RT, and each of the WWL vessels shall have a capacity of approximately 5,000 to 6,800 RT.

(b) The parties are authorized to discuss and agree upon the deployment, scheduling, ports to be called and port rotation of the vessels operated hereunder, and to modify sailing frequencies and itineraries from time to time. Initially, the parties shall operate two loops, one of will operate initially on a 45-day cycle using two vessels provided by WWL and one vessel provided by NYK. The other loop will operate initially on a 60-day cycle using two vessels provided by NYK. The parties are authorized to discuss and agree upon matters relating to the timely and efficient operation of the loops, including remedial measures to be taken in the event of disruption to or delays in the agreed-upon schedule and responsibility for costs arising from such remedial measures.

5.2 Use of Space.

(a) Except as provided in Article 5.2(b) below, each party shall have equal rights to use space on each vessel deployed hereunder, regardless of which party contributes the vessel. At a time to be mutually agreed between the parties, initially six (6) weeks prior to the commencement of either the northbound or southbound leg of a particular sailing, the parties shall agree on a basic allocation for each party per vessel and voyage, broken out by low-sided vehicles, high-sided vehicles and high & heavy/RORO cargo. Thereafter, the parties will regularly review and discuss their space requirements. In the event the performing vessel is overbooked, each party shall be required to remove that portion of its bookings which exceeds the agreed upon allocation in the relevant type of space on that vessel, unless the parties agree otherwise based on

commercial or operational urgency. The parties shall discuss and agree on the terms applicable to the use of space, including the amount to be paid for space and the frequency of financial settlements hereunder.

(b) In recognition of the parties' pre-existing service patterns, unless otherwise agreed by the parties, it is understood that space on the vessels deployed hereunder shall not be used by WWL to load cargo to/from Houston or Delta Dock, Argentina, and shall not be used by NYK to load cargo to/from Galveston or Rio Grande, Brazil.

(c) Neither party shall sub-charter space made available to it hereunder to another carrier without the prior consent of the other party.

5.3 Terminals and Stevedores.

The parties are authorized to discuss and agree upon arrangements for the use of terminals in connection with the chartering of space hereunder, including entering into exclusive, preferential, or cooperative working arrangements with marine terminal operators and any person relating to marine terminal, stevedoring or other shoreside services. Nothing herein, however, shall authorize the parties jointly to operate a marine terminal in the United States.

5.4 Each party may act as the agent of the other in any part of the Trade upon such terms and conditions as they may from time to time agree.

5.5 The parties are authorized to exchange information on any matter within the scope of this Agreement and to discuss and reach agreement on any and all administrative and operational functions related hereto including, but not limited to, forecasting, terminal operations, stowage planning, insurance, liability, cargo claims, indemnities, the terms of their respective bills of lading, failure to perform and force majeure.

5.8 Pursuant to 46 C.F.R. §535.407, any further agreement contemplated herein cannot go into effect unless filed and effective under the Shipping Act of 1984, as amended, except to the extent that such agreement concerns routine operational or administrative matters.

ARTICLE 6: OFFICIALS OF THE AGREEMENT AND DELEGATION OF AUTHORITY

The following shall have the authority to file this Agreement and any modification hereto and to delegate same:

- (a) any authorized officer or official of each party;
- (b) legal counsel for each party.

ARTICLE 7: MEMBERSHIP, WITHDRAWAL, READMISSION AND EXPULSION

Either party hereto may resign upon not less than sixty (60) days advance written notice to the other party; provided, however, that no such notice may be given by either party until three (3) months after the effective date of Amendment No. 2 to this Agreement.

ARTICLE 8: VOTING

Except as may be otherwise provided herein, all decisions hereunder shall require the agreement of both parties.

ARTICLE 9: DURATION AND TERMINATION OF THE AGREEMENT

This Agreement shall take effect on the date it becomes effective under the Shipping Act of 1984, as amended and shall remain in effect until it is terminated by mutual agreement of the parties or until one of the parties resigns pursuant to Article 7 hereof.

NYK/WWL South America
Space Charter Agreement
FMC No. 011775-002 (2nd Edition)

SIGNATURE PAGE

IN WITNESS WHEREOF, the parties hereby agree this 18th day of
November, 2009 to amend and restate this agreement and to file same with the
U.S. Federal Maritime Commission.

NIPPON YUSEN KAISHA

By: 

Name: Yusuke Sasada

Title: Vice President; Ro/Ro Div.

WALLENIUS WILHELMSSEN LOGISTICS AS

By: _____

Name:

Title:

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SIGNATURE PAGE

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NIPPON YUSEN KAISHA

By: _____

Name:

Title:

WALLENIUS WILHELMSSEN LOGISTICS AS

By: David R. Minetti

Name: DAVID R. MINETTI

Title: AUTHORIZED REPRESENTATIVE

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