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Original Title Page

MSC/CMA CGM SPACE CHARTER AGREEMENT

A Space Charter Agreement

FMC Agreement No. 011821

Expiration Date: None

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UNDER THE SHIPPING ACT OF 1984
Federal Maritime Commission

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Article 1: Name of the Agreement

The name of this agreement is the MSC/CMA CGM Space Charter Agreement (the "Agreement").

Article 2: Purpose of the Agreement

The purpose of this Agreement is to authorize MSC to charter space on its vessels in the Trade (as hereinafter defined) to CMA CGM.

Article 3: Parties to the Agreement

The parties to the Agreement are:

Mediterranean Shipping Company, S.A. ("MSC")
40 Eugene Pittard, CH-1206
Geneva, Switzerland

CMA CGM S.A. ("CMA CGM")
4, Quai d'Arenc
13002 Marseille
France

MSC and CMA CGM are hereinafter collectively referred to as the "Parties" and each individually referred to as a "Party".

Article 4: Geographic Scope

The geographic scope of this Agreement shall extend to the transportation of cargo between the United Kingdom, Belgium, France, Germany and Mexico, on the one hand, and the U.S. East and Gulf Coasts (Eastport, Maine to Brownsville, TX), on the other hand (the "Trade").

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Article 5: Chartering of Space

5.1 CMA-CGM shall purchase weekly from MSC 325 TEU per round-voyage, and MSC will provide slots and guarantee availability of such space to CMA-CGM. The foregoing slots shall be allocated on MSC's North Atlantic and South Atlantic services in the Trade as follows:

(a) North Atlantic
Westbound: 225 TEU or maximum 2362.5 mtons weekly
Eastbound: 225 TEU or maximum 2362.5 mtons weekly
Of while 20% maximum to/from Boston
Reefers: 15 plugs

(b) South Atlantic
Westbound: 100 TEU or maximum 1050 mtons weekly
Eastbound: 100 TEU or maximum 1050 mtons weekly
Reefers: 20 plugs

5.2 The maximum average weight per TEU both westbound and eastbound shall be 10.5 tons per TEU. If the actual weight exceeds the total weight allowed, such additional weight will be billed on the basis of the above maximum average weights per TEU on a one way basis, or the prospected excess loadings must be curtailed accordingly. Lost TEUs (out-of-gauge) are to be considered allocation and are to be billed accordingly.

5.3 Out of the actual loaded TEUs, a minimum of 20% must be 20' containers and a maximum of 60% can be 20' containers. The minimum/maximum ratio will only be applied by MSC in case the total capacity for a particular vessel/voyage is restricted.

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5.4 If CMA-CGM wishes to charter space in addition to its fixed allocation, this may be done to the extent unused space is available at rates to be agreed upon by the Parties. This applies to both dry and empty containers. Such rates shall be for one-way movements only, and maximum average weight as specified in Article 5.2 shall apply.

5.5 The Parties shall agree on a slot price to be paid for dry and reefer containers moving in each direction on each service. Said slot price shall not cover stevedoring or other cargo handling costs, which shall be the responsibility of CMA-CGM. The slot price shall be valid for the entire duration of this Agreement unless it is adjusted based on an increase/decrease in bunker prices pursuant to a formula agreed upon by the Parties. In the event that operating conditions such as, but not limited to, strikes by terminal employees impair MSC's ability to sustain a regular weekly service, CMA-CGM may consider, at CMA CGM's option, to accept to pay their proportional share (slots purchased compared to vessel capacity) of any additional operating costs occurred during such period, for instance resulting from MSC's decision to deploy an extra vessel.

5.6 When CMA-CGM cargo destined to U.S. ports/destinations is required to undergo inspection by a national goverment, Customs or other authorized government agencies, MSC will make the laden containers available at the U.S. port of inspection. Costs resulting from such inspection including, but not limited to, spotting of containers at the inspection point, restowing of containers, delay to the vessel and its schedules, and any other consequences from such inspection will be for CMA-CGM expense and risk.

5.7 The Parties shall agree on procedures for the acceptance of dangerous and out-of-gauge cargo.

5.8 Each Party shall retain its separate identity and shall have separate sales, pricing and marketing functions and issue its own bills of lading.

5.9 Pursuant to 46 C.F.R. 535.407, any further agreements contemplated by this Agreement which do not relate to routine operational or administrative matters shall not be implemented until an appropriate amendment to this Agreement has been filed and become effective.

Article 6: Operation and Administration

6.1 Procedures for operation and administration will be in accordance with MSC's standard operating procedures. MSC as provider of all the vessels, will be responsible for all operational aspects.

6.2 This Agreement shall be administered by meetings or written or oral communications or agreements between the Parties and their duly authorized representatives. The Parties and their counsel are authorized to execute and file amendments to this Agreement.

Article 7: Compensation and Payment

The Parties shall discuss and agree on compensation and payment procedures including the issuance of invoices, the currency in which payment is to be made, the time for making payment, and treatment of delinquent payments.

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Article 8: 3rd Party Slot/Sale/Purchase

8.1 CMA-CGM shall not enter into any other space or slot charter agreement in the Trade except for the following cases, in which CMA-CGM is entitled to enter into slot purchase contract:

- slot charter agreement with Americana
- its own existing TDM services
- *ad hoc* space required by CMA CGM in writing due to additional booking and space declined by MSC to CMA CGM.

8.2 Under this Agreement, CMA-CGM shall not sell slot space to any 3rd party without MSC's prior consent.

8.3 Under this Agreement, CMA-CGM shall not exploit or seek to build up new services, strings and/or feeder services which are alternative to/or in competition with MSC services in the Trade.

Article 9: Omission of Ports

In cases where MSC clearly demonstrates that the need to omit a port or ports to restore the schedule has been caused by proven force majeure (incl. port congestion above 24 hours), then MSC retains the right to discharge and load the cargo at the nearest port of convenience with each Party bearing any transshipment, storage and pre- and on-carriage cost for cargo moving under its bill of lading. MSC shall in this respect undertake to ensure proper and immediate notification and provide consultation as to efforts to minimize related costs. In all other cases of port omissions not related to proven force majeure, MSC remains

the party responsible to pay for all costs incurred (transshipment, pre and on-carriage) and to load those containers on the next sailing within MSC allocation at no cost to CMA CGM.

Article 10: Amendment

Any modification or amendment to this Agreement must be in writing and signed by both Parties.

Article 11: Notices

Any correspondence or notices hereunder shall be made by courier service or registered mail or, in the event expeditious notice is required, by fax confirmed by courier or registered mail, to the following addresses:

MSC:	CMA-CGM:
Mediterranean Shipping Co.S.A. 40, Av. Eugene Pittard 1206 Geneva Switzerland Attention : Line Department E-mail: daponte@mscgva.ch Fax: +41 22 703 87 87	CMA-CGM 4, Quai d'Arenc B.P2409. 13002 Marseille Cedex 02 France Attention : Vice President E-mail: ho.rjsaade@cma-cgm.com Fax: + 33 491 39 30 97

Article 12: Liability

12.1 For each shipment of cargo hereunder, MSC shall issue or be deemed to have issued to CMA-CGM a bill of lading in a form agreed upon by the Parties. If a Party wishes to introduce material amendments to the bill of lading, it must first seek the other Party's prior approval, such approval, however, is not to be unreasonably withheld.

12.2 Between CMA-CGM and MSC, the terms of this bill of lading shall govern the Parties' rights, obligations and liabilities with respect to each such shipment and the number of packages or customary freight units shown on the bill of lading issued by CMA-CGM to its customers shall be conclusive evidence thereof. In the event of damage to CMA-CGM owned, leased or operated containers, they shall be deemed shipper-owned containers and for the purpose of any liability for loss of or damage to CMA-CGM containers hereunder, they shall be considered to form part of the cargo in the memo bill of lading issued or deemed issued for each shipment hereunder.

12.3 CMA-CGM warrants that its bill of lading issued to its customers/cargo interests in respect of cargo carried hereunder, shall contain a "Himalaya Clause" identical in terms to the one contained in Clause 3 of MSC's bill of lading.

12.4 CMA-CGM shall use best endeavours to defend all claims or actions including in personam or in rem writs for loss of, or damage to cargo and/or for

delay in delivery of cargo without prejudice to its rights of recovery against MSC, if any, within this Agreement.

12.5 CMA-CGM warrants that its bill of lading does not contain an Indentity of Carrier (Demise Clause) or similar clause, the purpose of which is to establish any contractual relationship whatsoever between MSC and CMA-CGM's customers and/or to transfer or impose upon MSC responsibilities and obligations, arising under CMA-CGM's bill of lading to third party cargo interests, which are properly those of CMA-CGM as principal/contractual carrier.

12.6 Except where otherwise stated herein, the term "bill of Lading" is understood to comprise a Party's bill of lading, waybill, or other contract of carriage issued hereunder.

Article 13: Force Majeure

13.1 Neither MSC nor CMA-CGM shall be deemed responsible with respect to its failure to perform any term or condition of the Agreement if such failure, wholly or partly, is due to an event of force majeure, such as, but not limited to: war (declared or undeclared); hostilities; warlike or belligerent acts or operations; piracy; terrorism, riots; civil commotion or other disturbances; participation in the U.S. Department of Defense Emergency Preparedness Program or other U.S. military national security agreements; acts of God; blockade of port or place or interdict or prohibition of or restriction on commerce or trading; governmental

action including but not limited to quarantine sanitary or other similar regulations or restrictions; strikes, lockouts or other labor troubles whether partial or general and whether or not involving employees of any Party; shortage, absence or obstacles of labour or facilities for loading, discharge, delivery or other handling of the goods; epidemics of disease; unforeseeable breakdown or latent defect in the vessel's hull, equipment or machinery; shallow water, ice, landslide or other obstacles in navigation or haulage; any act of barratry and unusual severe weather, flood, earthquake or natural catastrophe which can cause operational hindrance.

13.2 Any Party claiming an event of Force Majeure shall exercise reasonable endeavours to remedy the consequences of such event. Upon the termination of such Force Majeure event causing a Party's failure to perform its obligations under this Agreement, such Party shall as soon as possible resume its performance of its obligations according to the terms and conditions of this Agreement.

Article 14: No Agency or Partnership

Nothing in this Agreement shall give rise to nor shall be construed as constituting a partnership for any purpose or extent. Unless otherwise agreed, and for the purpose of this Agreement and any matters or things done or not done under or in connection with this Agreement, neither Party hereto is or shall be deemed the agent of the other.

Article 15: Assignment

Neither Party shall be entitled to assign or transfer its rights or obligations under this Agreement, unless with the other Party's consent.

Article 16: Insurance

For the duration of this Agreement both Parties undertake to have valid P&I Insurance for all conventional P&I risks with a club being a member of the Group of International P&I clubs. In the event the terms and conditions or the cover in general are materially amended, the respective club shall notify the other Party hereto without delay.

Article 17: Term

17.1 This Agreement shall become effective as of the date it enters into effect pursuant to the U.S. Shipping Act of 1984, as amended, and may be implemented beginning with such sailings as the Parties may mutually agree.

17.2 This Agreement shall continue for a minimum period of 24 months with a minimum notice of termination from either side of 3 months. Such notice of termination shall not be given prior to 21 months after the commencement of the Agreement.

17.3 Notwithstanding Article 17.2 above, this Agreement may be terminated pursuant to the following provisions:

(a) If, at any time during the term of this Agreement, there shall be a change in ownership of a Party, then the other Party may, within 3 months of becoming aware of such change, give not less than 3 months notice in writing terminating this Agreement.

(b) If, at any time during the term of this Agreement either Party (the "Affected Party"):

1) is dissolved;

2) becomes insolvent or fails to pay its debts as they become due;

3) make a general assignment, arrangement or composition with, or for the benefit of its creditors;

4) has a winding-up order made against it or enters into liquidation whether voluntarily or compulsorily;

5) seeks or becomes the subject of the appointment of an administrator, receiver, trustee, custodian or other similar official for it or for all or substantially all of its assets;

and the other Party is of the opinion that:

1) such event or occurrence is or may be materially detrimental to the Service; or

2) sums that may be owed (other than those that would be considered disputed in good faith) may not be paid or have not been paid in full or that their payment may be delayed

then the other Party may give notice to the Affected Party terminating with immediate effect or suspending for such period as the other Party in its sole discretion deems appropriate, this Agreement or any part thereof.

Notwithstanding any termination in accordance with the above, the non-defaulting Party retains its right to claim the defaulting Party for any loss and/or damage caused or arising out of such termination.

(c) Notwithstanding the above, and only applying within the 21 months minimum period, MSC may terminate this Agreement with 3 months notice at any time after 3 months duration in case MSC will have to cease operation of the

service. The same will also apply to CMA-CGM, in case CMA-CGM desires to leave the Trade.

(d) Repeated service disruptions including, but not limited to port omissions, delays to vessel, reshuffling of fleet for more than 5 events in any one quarter will entitle CMA CGM to terminate the contract after a one year initial period. Such termination is subject to 3 months notice. This may be exercised by CMA CGM and is without prejudice to CMA CGM's rights to damages.

Article 18: Governing Law and Jurisdiction

18.1 This Agreement shall be governed by and construed in accordance with the Laws of England. All disputes or differences under this Agreement which cannot be amicably resolved shall be referred to arbitration in England with Arbitration Act 1996 together with LMAA (London Maritime Arbitrators Association terms.

18.2 Notwithstanding the above, any dispute between the Parties relating to loss or damage to the cargo shall be dealt with under terms and conditions included in the relevant bill of lading.

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