

TITLE PAGE

AGREEMENT NAME: MAERSK SEALAND/HAPAG-LLOYD  
MEDITERRANEAN U.S. EAST COAST SLOT  
CHARTER AGREEMENT

FMC NUMBER: \_\_\_\_\_

011834

CLASSIFICATION: The generic classification of this Agreement in conformity with 46 C.F.R § 535.104 is a Space Charter Agreement.

DATE LAST REPUBLISHED: Not applicable.

CURRENT EXPIRATION DATE: See Article 8



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**ARTICLE 1: FULL NAME OF THE AGREEMENT**

The full name of this Agreement is the Maersk Sealand / Hapag-Lloyd Mediterranean U.S. East Coast Slot Charter Agreement (“Agreement”).

**ARTICLE 2: PURPOSE OF THE AGREEMENT**

The purpose of this Agreement is to permit the parties, through space chartering, to achieve efficiencies and economies in their respective services offered in the Trade (as hereinafter defined) covered by the Agreement, all to the benefit of the parties and the shipping public.

**ARTICLE 3: PARTIES TO THE AGREEMENT**

The parties to the Agreement (hereinafter “party” or “parties”) are:

1. Aktieselskabet Dampskibsselskabet Svendborg and Dampskibsselskabet af 1912, Aktieselskab, trading under the name of Maersk Sealand (hereinafter referred to as “Maersk Sealand” or “MSL”)  
50, Esplanaden  
DK-1098, Copenhagen K.  
Denmark
2. Hapag-Lloyd Container Linie GmbH (“Hapag-Lloyd”)  
Ballindamm 25  
20095 Hamburg  
Germany  
Attn: Ulrich Kranich  
Managing Director

**ARTICLE 4: GEOGRAPHIC SCOPE OF THE AGREEMENT**

The geographic scope of the Agreement shall extend to and from the ports of Newark, NJ, Charleston, SC, Norfolk, VA, and other U.S. East Coast ports which may be served by Maersk Sealand from time to time on the one hand, and Spanish ports in the Algeciras to Cadiz range on the other hand (hereinafter referred to as the "Trade").

**ARTICLE 5: AGREEMENT AUTHORITY**

**1. Slot Sale**

- a. On Maersk Sealand's services in the Trade, Hapag-Lloyd shall charter between 20 and 150 TEUs per week on a used/unused basis. Within this range, the number of slots chartered shall be adjusted from time to time as the parties shall agree. The parties may consult and agree on the terms and conditions relating to such sale, including terms and conditions relating to the compensation to be paid for such slots.
- b. Hapag-Lloyd may not slot charter or sub-charter to any third party any slots the use of which has been granted to Hapag-Lloyd under this Agreement without Maersk Sealand's prior consent.
- c. Maersk Sealand may provide to Hapag-Lloyd slots under this agreement on any of Maersk Sealand's existing or future Mediterranean services in the Trade. Any decision as to which service within the Trade on which to provide Hapag-Lloyd slots shall be entirely at the discretion of Maersk Sealand. Initially, Hapag-Lloyd shall charter 50 TEU per week on a used/unused basis, to be carried on Maersk Sealand's Mediterranean-Gulf service.

**2. Efficient Use of Equipment, Terminals, Stevedores, Ports and Suppliers**

The parties may interchange containers, chassis and/or equipment to provide for the efficient use of such equipment on such terms as they may agree. The parties may cooperate or coordinate in contracting with stevedores, terminals, ports, and suppliers of equipment, land or services or may designate a party to provide such services on the designating party's behalf. This Agreement does not authorize joint operation of a marine terminal by the parties in the United States.

**3. Feeder Services**

The parties may discuss and agree between themselves and with carriers operating feeder vessels which do not call U.S. ports on all matters relating to the transshipment and carriage on such feeder vessels of cargo moving in slots chartered by Hapag-Lloyd under this agreement which has a prior or subsequent movement between a port in the Trade and a foreign port wherever located.

**4. Miscellaneous**

The parties may discuss and agree upon such general administrative matters and other terms and conditions concerning the implementation of this Agreement as may be necessary or convenient from time to time, including, but not limited to, their respective rights, change in ownership, insolvency, performance procedures and penalties, procedures for allocating space, forecasting, terminal operations, stowage planning, schedule adjustments, record-keeping, responsibility for loss or damage, the terms and conditions for force majeure relief, insurance, liabilities, claims, indemnification, consequences for delays, port omissions, documentation, joint negotiations, and treatment of hazardous and dangerous cargoes.

**5. Further Agreements**

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.

**6. Implementation**

The parties shall collectively implement this Agreement by meetings, writings, or other communications between them and make such other arrangements as may be necessary or appropriate to effectuate the purposes and provisions of this Agreement.

**7. U.S. Flag Cargo**

Hapag-Lloyd shall not use space chartered pursuant to this agreement for the carriage of cargo reserved to U.S.-flag vessels pursuant to the cargo preference laws of the United States (including, but not limited to, Public Resolution No. 17, sections 901(b) and 901b of the Merchant Marine Act, 1936, as amended, and the Military Cargo Preference Act of 1904).

**ARTICLE 6: AGREEMENT OFFICIALS AND DELEGATIONS OF AUTHORITY**

The following are authorized to subscribe to and file this Agreement and any accompanying materials and any subsequent modifications to this Agreement with the Federal Maritime Commission:

- (i) Any authorized officer of either party; and
- (ii) Legal counsel for either party.

**ARTICLE 7: VOTING**

All actions taken pursuant to this Agreement shall require unanimous agreement of the parties.

**ARTICLE 8: DURATION AND TERMINATION OF AGREEMENT**

This Agreement shall take effect the date it becomes effective under the Shipping Act of 1984, as amended. The parties may establish a reasonable period for implementation prior to beginning service under the agreement. This Agreement shall remain in effect for a minimum duration of 6 months. This Agreement may be terminated by either party, provided that any notice of termination must be tendered no less than three months prior to the date of such termination. No notice of termination of this agreement may be tendered earlier than three months after the agreement's effective date. The Federal Maritime Commission shall be promptly notified in writing if this agreement is terminated under this section.

**ARTICLE 9: NON-ASSIGNMENT**

Neither party shall assign all or any part of its rights or delegate all or any part of its obligations under this Agreement to any other person or entity without the prior written consent of the other party.

**ARTICLE 10: FORCE MAJEURE**

1. Neither MSL nor Hapag-Lloyd 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); terrorism; hostilities; warlike or belligerent acts or operations; piracy; 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 interdiction 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 labor 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 which can cause operational hindrance.

2. Any Party claiming an event of Force Majeure shall exercise reasonable endeavors 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 11: INSURANCE**

For the duration of this Agreement, each party shall undertake to have valid P&I Insurance for all conventional P&I Risks with a club being a member of the International Group of P&I Clubs. In the event the terms and conditions or the cover in general are materially amended, the affected party shall notify the other party without delay.

#### **ARTICLE 12: APPLICABLE LAW AND ARBITRATION**

This Agreement shall be governed by and construed exclusively in accordance with the laws of the United States and by the laws of the State of New York, to the exclusion of its rules on the conflict of law, which would refer the matter to the laws of another jurisdiction. However, nothing herein shall relieve the parties of their obligation to comply with the U.S. Shipping Act of 1984, as amended. Except as otherwise agreed, all disputes in connection with this Agreement, which cannot be resolved amicably, shall be referred to arbitration in New York,

and governed by the Rules of the Society of Marine Arbitrators, New York. A party must provide the other party at least sixty (60) days' notice of its intention to refer a matter to arbitration, specifying the nature of the controversy or claim. Such notice must be delivered in writing to the other party. The arbitration shall be referred to a single arbitrator to be appointed by agreement of the parties, or failing such agreement within fourteen (14) days of such reference, to three arbitrators. The party referring a matter to arbitration and the remaining party shall appoint one arbitrator each and the third arbitrator shall be appointed by the two arbitrators appointed by the parties. If the two selected arbitrators fail to appoint a third arbitrator within thirty (30) days after the request for arbitration, such third arbitrator shall be selected and appointed by the Society of Marine Arbitrators, New York. The arbitrator(s) shall not have the power to award punitive or consequential damages. Unless agreed otherwise, all discovery and evidence pursued or submitted in connection with the arbitration shall be subject to the Federal Rules of Civil Procedure and the Federal Rules of Evidence. The parties agree to exclude any right of application or appeal to any courts in connection with any question of law arising in the course of such arbitration or with respect to any award made therein. Any arbitration award rendered will be final and binding upon the parties, shall not be subject to appeal, and may be enforced in any court of competent jurisdiction.

**ARTICLE 13: COUNTERPARTS**

This Agreement and any future amendment hereto may be executed in counterparts. Each such counterpart shall be deemed an original, and all together shall constitute one and the same agreement.

**ARTICLE 14: SEPARATE IDENTITY/NO AGENCY OR PARTNERSHIP**

Each party shall retain its separate identity and shall have separate sales, pricing and, to the extent applicable, separate marketing function. Each party shall issue its own Bills of Lading. This Agreement does not create and shall not be interpreted as creating any partnership, joint venture or agency relationship between the parties, or any joint liability under the law of any jurisdiction.

**ARTICLE 15: NOTICES**

All notices required to be given in writing, unless otherwise specifically agreed, shall be sent by registered mail or courier service to the addresses listed in Article 3.

**ARTICLE 16: LANGUAGE**

This Agreement and all notices, communications or other writings made in connection therewith shall be in the English language. Neither party shall have any obligation to translate such matters into any other language and the wording and meaning of any such matters in the English language shall govern and control.

**ARTICLE 17: SEVERABILITY**

If any provision of this Agreement, as presently stated or later amended is held to be invalid, illegal or unenforceable in any jurisdiction in which this Agreement is operational then this Agreement shall be invalid only to the extent of such invalidity, illegality or unenforceability and no further. All remaining provisions hereof shall remain binding and enforceable.

**ARTICLE 18: WAIVER**

No delay or failure on the part of any party hereto in exercising any right, power or privilege under this Agreement, or under any other documents furnished in connection with or pursuant to this Agreement shall impair any such right, power or privilege or be construed as a waiver of any default or acquiescence therein. No single or partial exercise of any such right, power or privilege shall preclude the further exercise of such right, power or privilege, or the exercise of any other right, power or privilege. No waiver shall be valid against either party hereto unless made in writing and signed by the party against whom enforcement of such waiver is sought and then only to the extent expressly specified therein.

**ARTICLE 19: AMENDMENT**

Any modification or amendment of this Agreement must be in writing and signed by both parties and may not be implemented until filed with the FMC and effective under the Shipping Act of 1984, as amended.

**SIGNATURE PAGE**

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers or agents as of the 20<sup>TH</sup> day of December, 2002:

\_\_\_\_\_  
Maersk Sealand

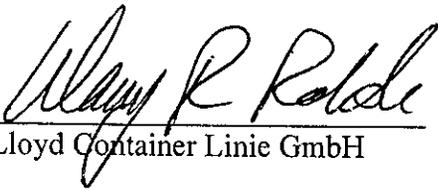
Name:

Title:

\_\_\_\_\_  
Maersk Sealand

Name:

Title:

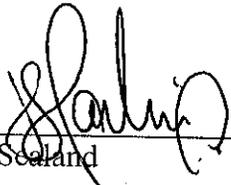
  
\_\_\_\_\_  
Hapag-Lloyd Container Linie GmbH

Name : WAYNE R. POTTE

Title : ATTORNEY-IN-FACT

**SIGNATURE PAGE**

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers or agents as of the \_\_\_ day of \_\_\_\_\_, 2002:

  
\_\_\_\_\_  
Maersk Sealand  
Name: J. HARLING  
Title: V.P.

  
\_\_\_\_\_  
Maersk Sealand  
Name: PETER FREDERIKSEN  
Title: SR. V.P.

\_\_\_\_\_  
Hapag-Lloyd Container Linie GmbH  
Name :  
Title :