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

The geographic scope of the Agreement shall extend to the trade between the ports on the U.S. Atlantic ~~and Gulf Coasts~~ (Newark, NJ to Miami, FL range) which may be served by Maersk Line from time to time on the one hand, and those Mediterranean ports in Spain, France, Italy, ~~and Malta and those ports in Egypt, Israel and Turkey~~ which may be served by Maersk Line from time to time, on the other hand. All of the foregoing is hereinafter referred to as the "Trade."

#### **ARTICLE 5: AGREEMENT AUTHORITY**

##### **1. Slot Sale**

a. On Maersk Line's services in the Trade, as from the effective date of Amendment No. 5 to this Agreement or such later date as the parties may agree, Hapag-Lloyd initially shall charter space for 450 ~~550~~ TEUs per week on a used/unused basis (up to a maximum of 5,175 metric tons), which allocation may be revised upward or downward by up to 25% without further amendment to this Agreement. The parties may consult and agree on the terms and conditions relating to such sale, including ~~the division of the slot allocation as between Maersk Line's West Med and East Med services,~~ the number of reefer plugs to be provided, the maximum weight restrictions (if any) applicable to the slot allocation, the permitted ratio (if any) of particular equipment sizes, the handling of breakbulk and/or out-of-gauge cargo, the use of space for wayport cargo, the carriage of empty containers, and the terms and conditions relating to the compensation to be paid for such slots. Maersk Line may sell Hapag-Lloyd slots in excess of the foregoing allocation on an ad hoc basis on terms to be agreed by the parties.

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 Line's

prior consent.

c. Maersk Line will inform Hapag-Lloyd of any permanent/long-term changes to the schedules or rotations once they are known.

**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. Overtime, guarantee and stand-by time which is not included in Hapag-Lloyd's terminal contracts but is invoiced directly to Maersk Line shall be shared on a pro rata basis.

**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. § 535.408(b), 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~~

~~a. HLCL shall have the right to use any or all of the chartered space to carry U.S. flag preference cargo. For the purposes of this Agreement, U.S. flag preference cargo is defined to mean all cargo that is subject to the cargo preference laws of the United States~~

~~Government (e.g. statutes, regulations, government mandated contract provisions, directives, policies). Such laws include, but are not limited to, the Cargo Preference Act of 1904 (10 U.S.C. § 2631), the Cargo Preference Act of 1954 (46 App. U.S.C. § 1241), 10 U.S.C. § 2463, 46 App. U.S.C. § 1241-1, and their associated implementing regulations.~~

~~b. — If Hapag Lloyd exercises its rights under Article 5.7(a) above during a particular quarter by using any or all of the chartered space to carry more than: (i) Twenty five (25) TEUs of U.S. flag preference cargo on any single eastbound or westbound voyage in that quarter; or (ii) seventy five (75) TEUs of U.S. flag preference cargo in total for all voyages during that quarter, then the price(s) per slot applicable to all chartered space on all voyages during that entire quarter shall be adjusted, as agreed by the parties, from the otherwise applicable slot hire rate. For the purpose of this Article, the volume of U.S. flag preference cargo carried by Hapag Lloyd during a particular quarter will be the total of either the eastbound or westbound volume (whichever is higher) carried on each weekly voyage during that quarter. For purposes of this Agreement, the quarters of any given year shall be: (1) January 1st through March 31st; (2) April 1st through June 30th; (3) July 1st through September 30th; and (4) October 1st through December 31st. The day of departure from the last U.S. port on the eastbound leg of a vessel's voyage shall be used to determine the quarter within which a particular voyage shall fall.~~

~~e. — In the event that Maersk Line enters into future agreement(s) to charter space on Hapag Lloyd vessels, Maersk Line will agree to similar arrangements regarding Maersk~~

~~Line rights to use such chartered space to transport U.S. flag preference cargo, provided that the specific arrangements are reasonable under the surrounding circumstances.~~

#### **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**

(a) 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 12 months from the effective date of Amendment No. 5 ~~3~~ hereto. This Agreement may be terminated by either party, provided that any notice of termination must be tendered no less than six months prior to the date of such termination. No notice of termination of this Agreement may be tendered earlier than six months after the effective date of Amendment No. 5 ~~3~~ hereto. The Federal Maritime Commission shall be promptly notified in writing if this Agreement is terminated under this section.

**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**

(a) This Agreement shall be governed by and construed in accordance with the laws of England.

(b) All disputes in connection with this Agreement which cannot be resolved amicably shall be resolved by arbitration in London, England, in accordance with the Arbitration Act 1996 or any statutory modifications or re-enactment thereof. The arbitration shall be conducted in accordance with the London Maritime Arbitrators Association (LMAA) Terms current at the time when the arbitration proceedings are commenced. The Parties further agree that where the amount in dispute is USD100,000 or less, the arbitration shall be conducted in accordance with the LMAA Small Claims Procedure current at the time when the arbitration proceedings are commenced. The Parties shall agree to appoint a sole arbitrator, having appropriate commercial and consortia experience, within 21 calendar days of any Party seeking an appointment. If any