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FEDERAL MARITIME COMMISSION

# Hanjin-Evergreen Cross Slot Charter Agreement

FMC AGREEMENT NO. 011968

Has Been Made Between



Hanjin Shipping Co., Ltd.  
Hereinafter Referred To As "Hanjin"

And

Evergreen Marine Corp. Ltd. "Evergreen"

**HANJIN-EVERGREEN CROSS SLOT  
CHARTER AGREEMENT**

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Hanjin and Evergreen are also hereinafter referred to in the plural as Parties and in the singular as Party.

### **1.NAME**

The full name of this Agreement is the Hanjin / Evergreen Cross Slot Charter Agreement ("Agreement").

### **2. PARTIES TO THE AGREEMENT**

The full parties to the Agreement (hereinafter "Party" or "Parties) are:

(1) Hanjin Shipping Co., Ltd.  
Hanjin Shipping Building  
25-11, Yoido-dong, Youngdeungpo-ku, Seoul Korea  
(Hereinafter, referred to as "Hanjin")

(2) Evergreen Marine Corp. Ltd.  
166 Sec. 2 Minsheng East Road, Taipei, 104TW  
(Hereinafter, referred to as "Evergreen")

### **3. DEFINITIONS**

**CARRIER:** The Line which provides and maintains vessels within the terms of this Agreement, regardless of whether owned or chartered.

**SLOT CHARTERER:** The Line which utilizes the agreed number of slots as specified in this Agreement.

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**LONG VOYAGE LEG:**

(a) For the ECAS Service, a "Long Voyage Leg" shall be a voyage in either direction between one or more agreed upon ports in North America and one or more agreed upon ports in South America. [See, Cl. 5(1) - (2) below.]

(b) For the ESA Service, a "Long Voyage Leg" shall be a voyage in any direction between one or more agreed upon ports in any two of the following: the Far East, South Africa, and South America. [See, Cl. 5(3) - (5), below.]

A voyage entirely within: (i) North America, or (ii) Far East, or (iii) South Africa, or (iv) South America, is not a "Long Voyage Leg."

Subject to the preceding, a Long Voyage Leg is from the first port of loading in one region to the last port of discharging in another region.

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**4. PURPOSE**

The purpose of this Agreement is to authorize Hanjin to charter slots from Evergreen on FAR EAST-ECSA Service hereinafter referred to as "ESA" and Evergreen to charter slots from Hanjin on USEC-ECSA Service hereinafter referred to as "ECAS".

**5. GEOGRAPHICALSCOPE**

The geographic scope of this Agreement shall cover the trade between ports in the East Coast of the United States and ports in South America and vice versa for the ECAS service, and shall also cover the trade between and among ports in the Far East, South Africa and South America and vice versa for the ESA Service. The particulars of such services are set forth below.

- (1) North America: New York, Norfolk and Savannah
- (2) South America (for ECAS): Rio Grande, Itajai and Santos
- (3) Far East: Shanghai, Ningbo, Kaohsiung, Hong Kong, Yantian, Singapore
- (4) South Africa: Durban, Cape Town
- (5) South America (for ESA): Montevideo, Buenos Aires and Santos

These are the current ports, which the Parties may revise from time-to-time without amendment of this Agreement, so long as in the geographic scope said above.

"The terms of this Agreement and the filing of it with the Federal Maritime Commission ("FMC") do not and are not intended to bring within the scope of the Shipping Act of 1984, as amended (including the antitrust exemption conferred by the Act), or the jurisdiction of the FMC, any activities hereunder relating to service wholly between foreign ports or points.

**6. DURATIONOF AGREEMENT**

The Agreement is effective from the date of the below first voyages on a round voyage basis.

ECAS: M/V YM Santos 0120E  
ETA Rio Grande on and around 25th of July, 2006.

ESA: M/V EVER GENERAL 0110W  
ETA Shanghai on and around 30th of July, 2006.

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Either Party may withdraw from this Agreement at any time by giving three months prior written notice provided that such notice cannot be given until 9 months after the effective date of this Agreement.

Either Party may withdraw from this Agreement at any time by giving specified period of notice of one day (which notice shall not apply to any voyage which has commenced before the notice is effective) without prejudice to any already accrued rights and obligations if the other Party becomes involved in any one of the following situations:

- > Filing of bankruptcy or insolvency procedure
- > Making a general assignment or compromise with its creditors
- > Majority ownership or control by a competitor
- > Commencement of dissolution procedure

Alternatively this Agreement may be terminated by mutual consent on a termination date mutually agreed among the Parties.

Notwithstanding the above, this Agreement shall continue in full force and effect until each vessel completes its cargo discharging at the last port of her final Round Trip Voyage which commences prior to the effective date of the respective termination or withdrawal.

## **7. ADMINISTRATION**

For local operational matters and procedures, the administration will be between the Parties' local agents and the vessel operator.

## **8. MARKETING AND DOCUMENTATION**

Each Party shall retain its separate identity and market its own service with its own independent marketing organization.

The Carrier shall issue non-negotiable Master Bill(s) of Lading for the Slot Charterer's containers loaded on each of the Carrier's vessels as necessary, and it is agreed that the Master Bill(s) of Lading shall be deemed to have been issued and received whether or not it has in fact been issued.

Each Party, in turn, shall use and issue its own Bill of Lading. Notwithstanding the foregoing, Both-to-Blame Collision Clause, New Jason Clause, Hague Visby Rules, or in the case the shipments are to or from the United States, the U.S. Carriage of Goods by Sea Act (COGSA), York-Antwerp Rules 1974, as amended 1994, and Vessel Limitation of Liability as set forth in the Brussels Convention 1976 shall be deemed to form a part of this Agreement and shall be contained in the Bill of Lading issued by each Party.

The Slot Charterer shall undertake to hold harmless and indemnify the Carrier against any/or all consequences of liability of such Slot Charterers or their duly authorized agents in issuing/signing their own Bill(s) of Lading.

#### **9. SLOT/WEIGHT ALLOCATION**

Basic Slot Allocation (BSA) of Hanjin and Evergreen is as below.

Hanjin's Basic Slot Allocation (BSA) on ESA

- Slots : 100 @ an average of 11MT / TEU per voyage leg.
- CDWT : 1,100 Tons per voyage leg.

Evergreen's Basic Slot Allocation (BSA) on ECAS

- Slots : 137 @ an average of 11MT / TEU per voyage leg.
- CDWT : 1,507 Tons per round voyage leg.

A TEU slot is defined as the space occupied by 1 x 20' x 8' x 8.6' ISO container or a predetermined maximum average gross weight, whichever is reached first both East and West bound.

Slots may be used for full/empty containers subject to stowage. 40' High-Cube containers may incur additional space utilization which is to be included in the Slot Charterer's usage/allocation. 40' High-Cube container usage would equate to 225 % of a TEU.

45' container/Reefer containers are excluded.

The Parties may implement the authority to sell and hire slots by deciding on the price and other terms and conditions for the sale and hire of such slots.

Notwithstanding anything to the contrary contained herein, slot allocations and slot costs are limited to Long Voyage Legs. A short leg within a region is not allowed. For any movements within a region (short voyage leg) without prior approval from the Carrier, the Charterer will be charged an additional 25% of the round voyage slottage hire.

#### **10. SUB CHARTER**

Slot Charterer may not slot charter or sub-charter to any third party any slots the use of which has been granted to Slot Charterer under this Agreement, without Carrier's consent.

#### **11. SLOT EXCESS**

Additional slots may be purchased with the prior agreement from Carrier (subject to space availability) on such terms and conditions as the Parties may agree. Requests for additional slots are required 3 working days prior to port cut off. Such agreed space will be considered as guaranteed space and it will be invoiced on a used or unused basis.

Should Slot Charterer exceed its allocation, the excess slots will be calculated based on Slots or CDWT whichever reached first.

Excess slot cost shall be 100% of Slot Price as provided in Clause 11 to this Agreement.

#### **12. TERMINALS**

The vessel's berth at each port of call shall be decided at the discretion of Carrier where the vessel is to be handled by the Carrier's or the other Vessel Operator's agent, and where possible, Terminal User Agreement and Service Agreement are to be concluded individually and separately between Slot Charterer and the Terminal Provider / Operator.

#### **13. CONFIDENTIALITY**

Except as strictly required by law, this agreement shall not be shown nor the contents divulged to any third party by either Party without the prior written consent of the other Party.

**14. WAIVER of COMPENSATION**

The Parties hereby expressly waive any claim they might otherwise have for compensation for loss of business or the like in case of termination of this Agreement.

**15. GOVERNING LAW and JURISDICTION**

This Agreement shall be governed by and construed in accordance with English Law. All disputes or differences whatsoever which may arise at any time concerning the construction or effect of this Agreement (including, without limitation, any questions regarding its existence, validity or termination or as to the rights, duties or liabilities of any of the Parties arising out of or in relation to this Agreement) which cannot be amicably resolved shall be referred to arbitration in London in accordance with the London Maritime Arbitrators Association Terms.

**16. NON ASSIGNMENT**

The rights and obligations of each Party under the Agreement herein shall not be assignable except to subsidiaries, parent companies or affiliates or with the prior unanimous agreement of the Parties. Each Party shall warrant that any subsidiary or affiliate to which any assignment is made shall not transfer such assigned rights or obligations to any third party.

**17. LIQUIDATION / BANKRUPTCY**

If at any time during the term of this Agreement a Party becomes bankrupt, insolvent, or have an order made against it, suspending payments, or continuing its business under a receiver for the benefit of any of its creditors, it is agreed that the other Party may withdraw from this Agreement at any time by giving a specified period of notice without prejudice to any already accrued rights and obligations.

## 18. 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, unincorporated association or agency relationship between the Parties, or any joint liability under the law of any jurisdiction.

## 19. FORCE MAJEURE

No Party to this Agreement shall be held 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,

1. War declared
2. Undeclared hostilities
3. Warlike or belligerent acts or operations
4. Piracy
5. Riots
6. Civil commotion or other disturbances
7. Acts of God
8. Blockade of port or place or interdiction or prohibition of or restriction on commerce or trading
9. Governmental action including but not limited to quarantine sanitary or other similar regulations or restrictions
10. Strikes, lockouts or other labor troubles whether partial or general
11. Epidemics or disease
12. Shallow water, ice, landslide or other obstacles in navigation or haulage
13. Unusually severe weather causing operational hindrance
14. Peril of the Sea
15. Terminal closure, either complete or partial for this service

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.

## **20. SEVERANCE CLAUSE**

If any provision of this Agreement proves to be illegal or unenforceable, the remaining provisions of this Agreement shall continue in force and effect unless the Parties would not have entered into the Agreement without that provision which proven to be illegal or unenforceable.

## **21. AMENDMENT**

This Agreement may not be amended, modified or rescinded except in writing and duly signed by authorized signatories of the Parties, and any amendment, addendum or appendix so signed shall constitute a part of this Agreement.

## **22. FURTHER AGREEMENTS**

The Parties are authorized to enter into further agreements with respect to routine operational, accounting and administrative matters to the extent necessary or desirable to implement the general provisions contained in this Agreement without further amendment to this Agreement. Any further agreement contemplated by this Agreement, except to the extent such further agreement relates to routine operational and administrative matters, shall be filed with the U.S. Federal Maritime Commission and shall become effective in accordance with the Shipping Act of 1984 as amended prior to being implemented.

## **23. 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 or 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 right, power or privilege. No waiver shall be valid against any 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.

## **24. NOTICES**

All notices shall be given in writing, unless otherwise specifically agreed, and shall be sent by registered mail or courier service to the addresses set forth in Article 2 of this Agreement, or to such other address as any Party may advise from time to time. Notice may be provided by telefax provided that it is directed to a telefax number provided by the Party to be notified and provided also that the sender receives confirmation of telefax transmission.

## **25. SIGNATURES**

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

This Agreement may also be executed and delivered by exchange of facsimile copies showing the signatures of each Party, and the original signatures need not be affixed to the same copy. The facsimile copies showing the signature of each Party will constitute original signed copies of the same Agreement requiring no further execution.

011968

Signed for and on behalf:

HANJIN SHIPPING CO., LTD.

*Robert B Yoshitomi*

Print Name Robert B. Yoshitomi

Date: July 17, 2006

Title: Legal Counsel

EVERGREEN MARINE CORP. LTD.

Print Name -----

Date: -----

Title: -----

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their  
duly authorized officers or agents as of this July 18, 2006

Signed for and on behalf:

**HANJIN SHIPPING CO., LTD.**

By: -----

Print Name ----- Date: -----

Title: -----

**EVERGREEN MARINE CORP. LTD.**

By: Paul M. Keane

Print Name PAUL M. KEANE Date: JULY 18, 2006

Title: ATTORNEY IN FACT