

RECEIVED
06 OCT 23 PM 3:01
OFFICE OF THE SECRETARY
FEDERAL MARITIME COMM

ORIGINAL

FMC Agreement No. 011977
COSCON/WHL Space Charter Agreement

between

COSCO Container Lines Company, Limited

And

Wan Hai Lines Ltd.

A Space Charter Agreement

Termination: See Article 9

ORIGINAL



TABLE OF CONTENTS

ARTICLE 1. Full Name of the Agreement.....	1
ARTICLE 2. Purpose of the Agreement.....	1
ARTICLE 3. Parties to the Agreement.....	1
ARTICLE 4. Geographic Scope of the Agreement.....	2
ARTICLE 5. Agreement Authority	2
ARTICLE 6. Agreement Officials and Delegations of Authority	4
ARTICLE 7. Membership	5
ARTICLE 8. Voting.....	5
ARTICLE 9. Duration and Termination of Agreement	5
ARTICLE 10. Non-Assignment.....	5
ARTICLE 11. Force Majeure.....	6
ARTICLE 12. Language	7
ARTICLE 13. Notices.....	7
ARTICLE 14. Disclaimer of Partnership.....	8
ARTICLE 15. Condition Precedent.....	8
ARTICLE 16. Law and Arbitration	8
ARTICLE 17. Interpretation.....	9
ARTICLE 18. Severability.....	10
ARTICLE 19. Signature Page	11

ARTICLE 1:FULL NAME OF THE AGREEMENT

The full name of this Agreement is the COSCON/WHL Space Charter Agreement (“Agreement”).

ARTICLE 2:PURPOSE OF THE AGREEMENT

Owner has excess space available in their services in the Trade, as defined below. Charterers are desirous of chartering space from Owner in the Trade. The purpose of this Agreement is to authorize Charterer to slot charter space from Owner as per the terms of this Agreement.

ARTICLE 3:PARTIES TO THE AGREEMENT

COSCO Container Lines Company, Limited (COSCON)
378, Da Ming Road (East)
Shanghai
People’s Republic of China

Hereinafter called “Owner”

Wan Hai Lines Ltd. (WHL)
10th Floor 136 Sung Chiang Road Taipei,
Taiwan R.O.C.

Herein after called “Charterer”

and

ARTICLE 4: GEOGRAPHIC SCOPE OF THE AGREEMENT

The scope of this Agreement is between ports in China, Japan and inland/coastal points served via such ports on the one hand and ports in the West Coast of the United States and inland/coastal points served via such ports on the other hand and vice versa ("the Trade").

ARTICLE 5: AGREEMENT AUTHORITY

5.1 The Owner shall provide and the Charterer shall charter in maximum 800TEU/week at 10 tonnes/teu.

The space shall be paid for by the Charterer whether used or unused in such amounts as the Parties may from time to time agree. The allocation to Charterer and for which Charterer shall be financially responsible under this Agreement can be revised from time to time by agreement between the Owner and the Charterer. The Owner will make reefer plugs available to Charterers each week subject to additional charges as agreed by the Parties.

5.2 Use of Space

Charterers shall be entitled to use their Slot allocation without any geographical restrictions regarding the origin or destination of the cargo. There shall be no priorities for either full, empty, or breakbulk cargo.

Charterers shall be entitled to lift up to the limit of the Slot allocation or the equivalent tonnes per Slot whichever limit is reached first.

In the event that Charterers require additional space from the Owner, then it may request additional Slots on an ad hoc basis. The Charterer shall be liable for payment of the additional Slots sold, whether used or unused.

All purchases of Committed Slots or Ad Hoc Slots under these arrangements will be made at 10 tonnes per Slot unless otherwise agreed by the Owner.

5.3 Financial Arrangements

The Parties shall agree on the amount to be charged for Slots sold under this Agreement and on the means by which Slot payments from Charterer will be collected by the Owner.

5.4 Liabilities

The Parties shall agree on provisions relating to liability in separate working procedures.

5.5 Separate marketing

Each Party shall retain its separate identity and shall have separate sales, pricing and marketing functions. Charterer shall issue its own Bills of Lading.

5.6 Administration

The Parties will develop procedures to handle the day-to-day operational requirements of the space charter.

The communication channels, systems and procedures as well as other general items dealing with the day-to-day work for operation pertaining to the space charter not otherwise covered under this Agreement shall be specified in separate working

procedures. This Agreement shall be administered and implemented by meetings, decisions, memoranda and communications between the Parties to enable them to effectuate the purposes of this Agreement. The Parties are further authorized to obtain, compile, maintain and exchange information related to operations in the Trade, only in so far as the information is necessary for the implementation of this Agreement and, subject to the confidentiality obligations of any Party.

5.7 Amendments

Except for routine operational and administrative matters, in accordance with 46 C.F.R. Section 535.408, amendments to this Agreement shall be filed and become effective prior to implementation thereof.

5.8 Terminals/Vessels

The parties may discuss and agree on (a) the terms and conditions for the use of marine terminals and (b) the deployment of, sailing schedules of and the ports called by vessels under this agreement.

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 each of the Parties; and
- (ii) Legal counsel for each of the Parties.

ARTICLE 7: MEMBERSHIP

Membership is limited to the Parties hereto except that additional carriers may be admitted by unanimous consent of the Parties and subsequent amendment of the Agreement pursuant to the Shipping Act of 1984, as amended.

ARTICLE 8: VOTING

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

ARTICLE 9: DURATION AND TERMINATION OF AGREEMENT

9.1 This Agreement will take effect when effective in accordance with the provisions of the Shipping Act of 1984, as amended and will be implemented on the date this Agreement becomes effective under the Shipping Act of 1984, as amended, or at the date of the first sailing in the eastbound direction, whichever the latest.

9.2 Subject to Clause 9.1, the parties intend to commence this Agreement from week 44 of 2006.

9.3 This Agreement may be terminated at any time by mutual agreement.

ARTICLE 10: NON-ASSIGNMENT

The rights and obligations of Charterer under the Agreement herein shall not be assignable except to subsidiaries, parent companies or fellow subsidiaries or with the prior unanimous agreement of all Parties and with any required regulatory filing. Charterer shall warrant that any subsidiary or fellow subsidiary to which any assignment is made shall not be sold to a third party ocean carrier.

ARTICLE 11: FORCE MAJEURE

In circumstances such as but not limited to the event of war, whether declared or not, hostilities or the imminence thereof, act of public enemies, restraint of princes, rulers or people, or compliance with any compulsorily applicable law or governmental directive, boycott against flag, political ban or other events which render the Agreement wholly or substantially impracticable, the Agreement shall not thereby be terminated, but (subject always to the various provisions for termination of this Agreement as set out in Clause 9) the performance thereof shall be suspended (in whole or in part as appropriate) until such time as the performance thereof is again practicable, without prejudice to any rights, liabilities and obligations accrued at the date of suspension. Should the Agreement be wholly suspended for a period exceeding six (6) calendar months from the date of commencement of such suspension the Agreement shall terminate.

In the event that a Party considers that any cause, happening or event not within its control substantially impairs its ability to enjoy its rights or carry out its, or other Parties', obligations under this Agreement then, at its request, the Parties shall meet together with all reasonable dispatch in order to consider such adjustment of the terms hereof as may be mutually acceptable.

ARTICLE 12: LANGUAGE

This Agreement and all notices, communications or other writing shall be in the English language and no Party shall have any obligation to translate such matter into any other language. The wording in the English language shall prevail.

ARTICLE 13: NOTICES

Any notice or other communication which one Party hereto may require to give or to make to the other Parties under the Agreement shall, unless otherwise specifically provided herein, be written in English and sent by mail or facsimile with copy by mail, to the points of entry and addresses of each of the other Parties as set out in the working procedures.

ARTICLE 14: DISCLAIMER OF PARTNERSHIP

This Agreement does not create and shall not be interpreted as creating any partnership, joint venture or agency relationship among the Parties, or any joint liability under the law of any jurisdiction.

ARTICLE 15: CONDITION PRECEDENT

The provisions of this Agreement, to the extent applicable to ocean common carrier services and operations in the foreign commerce of the United States, will not be implemented with respect thereto, until the Parties have complied with the provisions of the United States Shipping Act of 1984, as amended, or any successor statute and Parties will do everything necessary to comply with requirements of any other regulatory and governmental bodies, agencies and institutions.

ARTICLE 16: LAW AND ARBITRATION

Subject to the provisions of Article 15, this Agreement shall be governed by and construed in accordance with the laws of England and each Party hereby submits to the jurisdiction of the English Courts.

All disputes or differences arising under this Agreement which cannot be amicably resolved shall be referred to arbitration in England in accordance with the Arbitration Act 1996 together with LMAA (London Maritime Arbitration Association) terms.

The Parties agree to appoint a single/sole arbitrator, having appropriate commercial and consortia experience, within 21 days of any Party seeking an appointment. If any Party should so request, a panel of three arbitrators shall be appointed. Should there be no agreement on the appointment within the said 21 days, then the LMAA President will appoint a single/sole arbitrator (or a panel of three arbitrators, as appropriate) at the request of any Party.

The Parties further agree:-

Where the amount in dispute is US\$ 200,000 or less, the arbitration will proceed as per terms in force of the LMAA Small Claim Procedure.

ARTICLE 17: INTERPRETATION

Headings in this Agreement are used for reference only and shall not be taken into account for the legal interpretation of the respective clauses.

011977

This Agreement represents the full understanding between the Parties and the matters set out herein may not be altered, varied or modified except by written instrument signed by the duly authorized representatives of all the Parties hereto and filed with the Federal Maritime Commission.

ARTICLE 18: 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.

RECEIVED

06 OCT 24 PM 2:46

OFFICE OF THE SECRETARY
FEDERAL MARITIME COMM

ARTICLE 19: SIGNATURE PAGE

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed
by their duly authorized officers or agents as of this 20th day of October 2006.

For and on behalf of COSCO Container Lines Company, Limited

Sam Martinovic V.P. operations 10/20/06
.....
Name: *SAM MARTINOVIC*
Title: *V. P. operations*

For and on behalf of Wan Hai Lines Ltd.

.....
Name:
Title:

ARTICLE 19: SIGNATURE PAGE

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed
by their duly authorized officers or agents as of this 20th day of October 2006.

For and on behalf of COSCO Container Lines Company, Limited

.....
Name:
Title:

For and on behalf of Wan Hai Lines Ltd.

Robert B. Yoshitomi
.....
Name: **Robert B. Yoshitomi**
Title: **Legal Counsel**