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FEDERAL MARITIME COMMISSION

CMA CGM - APL SPACE CHARTER AGREEMENT ON INDAMEX SERVICE

FMC Agreement No. **012051**

A Space Charter Agreement

Expiration Date: None

This Agreement has not been published previously.

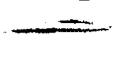


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ON INDAMEX SERVICE  
FMC Agreement No. 012051  
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Article 1:     Name.

The full name of this Agreement is the CMA CGM-APL Space Charter Agreement (the "Agreement").

Article 2:     Purpose.

The purpose of this Agreement is to authorize APL to charter space from CMA CGM's allocation on vessels operated under FMC Agreement No. 011830 as subsequently amended.

Article 3:     Parties.

The names and addresses of the principal offices of the parties to the Agreement are the following:

- (1) CMA CGM S.A. ("CMA CGM")  
4, Quai D'Arenc  
13235 Marseilles Cedex 02  
France

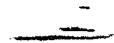
CMA CGM is hereinafter referred to as "CMA CGM".

- (2) APL Co. Pte Ltd / American President Lines, Ltd  
(collectively "APL")  
456, Alexandra Road  
#0600  
NOL Building  
Singapore 119962

APL is hereinafter referred to as "APL".

CMA CGM and APL are hereinafter referred to individually as a "Party" and jointly as the "Parties".





Article 4: Geographic Scope.

This Agreement shall cover transportation between ports on the East Coast of the United States (Eastport, Maine to Key West, Florida), on the one hand; and

- (i) ports and points in India, Pakistan, Sri Lanka, and Bangladesh;
- (ii) ports and points in countries bordering the Mediterranean Sea and in Portugal; and
- (iii) ports and points in countries bordering the Red Sea, and in the United Arab Emirates on the other hand.

All of the foregoing is referred to herein as the "Trade". It is understood that APL may utilize space available to it under this Agreement for the carriage of cargo originating in and/or destined to countries outside the Trade, or for the movement of cargo between any two ports within the Trade, subject to applicable law.

Article 5: Overview of Agreement Authority.

5.1 Provision of Space.

- (a) At the start of the Agreement, APL shall charter from CMA CGM, on average, space for 250 TEUs per, in principle, weekly sailing on the seven (7) vessels operated pursuant

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to Indamex/HL-CMACGM-NYK-OOCL FMC Agreement No. 011830 as subsequently amended, at an average of 10.5 gwt per TEU on such terms and conditions as CMA CGM and APL may from time to time agree.

(b) The space to be provided to APL hereunder is based on:

- Westbound: 250 TEUS at 10.5 tons GWT per TEU or 2625 tons total, whichever is reached first as defined in sub-clause (a).

- Eastbound: 250 TEUS at 10.5 tons GWT per TEU or 2625 tons total, whichever is reached first as defined in sub-clause (a).

(c) The parties are authorized to agree to adjust structurally the number of slots referenced in subparagraph (a) up or down by no more than 50% without further amendment to this Agreement.

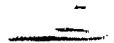
(d) In the event that a vessel's capacity is restricted due to known port draft or other mutually agreed operational restrictions, then APL's allocated capacity will be restricted in proportion to APL's allocated share of space on each vessel. In addition, the Parties may consult and agree on the terms and conditions of ad hoc slot sales of



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space beyond the basic allocation either round trip or one way, in TEU or weight whichever is reached first, on an used / unused basis.

- (e) Out of gauge and IMO cargoes may be accepted by CMA CGM upon written request from APL, subject to compliance with IMDG rules (for IMO cargoes), to operational rules of CMA CGM and to operational constraints.
- (f) HC ratio adopted by the parties to the Indamex agreement, FMC Agreement No. 11830 and its implementing agreements, will apply to APL containers, whether full or empty as per agreed terms between Parties.
- (g) APL shall not provide any space made available to it hereunder to any third party ocean common carrier without the prior written consent of CMA CGM.
- (h) APL shall pay for space made available to it hereunder, whether used or unused, at such slot charter rates as the Parties may from time to time agree.
- (i) In case APL decides to enter into any other regular and/or



permanent slot charter or exchange agreement (whether purchasing or selling), rationalization, or other cooperative container shipping arrangement with any other carrier in the Trade, APL will notify CMA CGM. However, no restrictions shall be placed on APL relating to either ad-hoc purchases required to cure service failures or to enter into such new cooperative agreements.

5.2 Terminals and Related Issues.

- (a) Any change of port and/or terminal decided by CMA CGM will be subject to reasonable notice, whenever possible, to APL. At all ports of call, APL shall arrange with the stevedores/terminals for direct invoicing for its own containers and will have its own individual contracts with the stevedores. Otherwise, APL agrees to pay agreed lump sum rates for such services invoiced by CMA CGM.
- (b) APL shall bear all costs associated with its own chassis fleet in the United States and any assessments, royalties, wharfage dues and any other costs linked to its cargo and containers.



- (c) Each Party shall load and stow, handle and discharge its own goods and containers at its expenses and under its responsibility.

Terminal expenses incurred by CMA-CGM in the Parties' common interest, and unless resulting from delays within the control of CMA-CGM, actions, act or neglect from CMA-CGM shall be borne by each Party in accordance with its share of the total container throughput in that port. If it shall not be practically possible to determine each Party's share of the total container throughput, the Parties agree to pay for such charges, which shall include, but are not limited to:

- (i) expenses resulting from schedule adjustment due to Force Majeure;
- (ii) expenses for exceptional re-handling required by changing port rotation as agreed by the Parties;
- (iii) other expenses which may be unanimously agreed from time to time;
- (iv) surcharges for overtime (included in the normal schedule);
- (v) idle time;
- (vi) surcharges for waiting time;





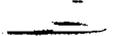
- (vii) extra labour if appropriate and as agreed by the Parties, e.g. shift extension; and
- (viii) similar charges in accordance with the local regulations.

APL shall not be responsible for Overtime, Guarantee and Stand by time and for any other costs which are not related to its cargo and containers. In any event, APL shall not be responsible for payment of any such Overtime, Guarantee and Stand by time in ports where its stevedoring rates already include such elements.

- (d) The Parties may discuss and agree on matters relating to port terminals in the Trade.
- (e) APL may request in writing a change in the destination of cargo stowed on a vessel, provided that CMA CGM determines at its sole and reasonable discretion that operational and time constraints so permit.

5.3 Operational Issues.

- (a) CMA CGM is responsible for all operational aspects in managing the service. The Parties are authorized to consult



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on port calls and port rotation. CMA CGM will consult APL before making any structural operational schedule adjustment and/or any temporary adjustment for the purpose of regaining or maintaining advertised schedule regularity and reliability. It is understood that should circumstances require a rapid decision on an adjustment, CMA CGM may not be able to consult APL.

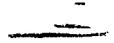
- (b) The Parties may by mutual agreement establish criteria and conditions under which APL may reduce its obligation to purchase slots if the parties to FMC Agreement No. 011830 change structurally the service rotation in a way that has a significant adverse effect upon APL. If the parties fail to reach agreement on such a reduction, APL shall have the right to terminate pursuant to Section 9.5. For purposes of this subsection "significant adverse effect" shall mean loss of a port call that is commercially significant to APL, or a material negative effect on service standards for the rotation caused by the structural change in the rotation.
- (c) Should there be any operational delays of any kind within the geographical scope of this Agreement for which CMA CGM clearly demonstrates that delay has been caused by factors



beyond CMA CGM control or arising from any Force Majeure, the Parties agree that financial responsibility for any costs involved in on-forwarding any containers, and/or delivering containers to a nominated vessel at a nominated port of loading and/or discharge, shall be for the Container Operator under which Bill of Lading it is carried. Any consequences of measures arising from scheduled dry-docking will be borne by CMA CGM.

- (d) Ad-hoc addition of port(s) of call may be implemented, at the discretion of CMA-CGM, if such call(s) does not affect the schedule integrity and the weekly frequency referred to above and the normal transit time. In such a case, CMA-CGM will be responsible for the additional costs and will have exclusive rights of discharge/load at the additional port(s) of call. APL may be invited to load/discharge at additional port(s) of call added to the base service rotation after having accepted to share the additional costs of call including but not limited to port costs, fuel, deviation costs in proportion to its share of containers loaded / discharged / restowed in that port. In case CMA-CGM claims exclusive rights of discharge/load at the additional port(s) of call (whether ad-hoc or permanent), and the schedule





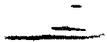
integrity is affected, consequences on schedule integrity will not be impacted on APL.

- (e) In order to preserve schedule integrity, interport loadings, subject to applicable law, are left to the discretion of the vessel operator.
- (f) The Parties will maintain separate marketing in all areas covered by this Agreement.

5.4 Administration and Implementation.

- (a) The Parties may implement this Agreement by meetings, writings and other communications between them, and may make such other arrangements as may be necessary or appropriate to effectuate the purposes and provisions of this Agreement.
- (b) The Parties, in implementing this Agreement, may agree on their respective rights, liabilities, and indemnities arising under this Agreement including but not limited to matters such as failure to perform, Force Majeure and insurances.





5.5 Further Agreements.

Pursuant to 46 C.F.R. §535.407, any further agreement reached pursuant to authority contained in this Agreement that does not concern routine operational or administrative matters will not be implemented until it has been filed with the Federal Maritime Commission and become effective under the Shipping Act of 1984, as amended (if such filing is legally required).

Article 6: Authorized Representatives.

The Parties' authorized representatives and counsel are hereby authorized to subscribe and file with the Federal Maritime Commission this Agreement and any modification hereof.

Article 7: Membership.

Membership in this Agreement is limited to the Parties hereto, except that additional parties may be admitted by unanimous consent of the Parties, and subject to compliance with Shipping Act requirements.

Article 8: Voting.

Except as otherwise specified herein, decisions under this Agreement shall be by unanimous agreement of the Parties.



Article 9: Duration and Termination.

9.1 Subject to the Shipping Act of 1984, this Agreement shall become effective on or about September 25th, 2008 or the first sailing after the date it becomes effective under the Shipping Act of 1984, as amended, whichever is later.

9.2 This Agreement shall remain in force for a first period of time until 7th of August 2010 and may be terminated with a six (6) months notice to be given by either CMA CGM or APL not prior to 6th of February 2010. Thereafter, it shall remain in force for an undetermined period of time unless a six (6) months notice is given by either CMA CGM or APL

9.3 This Agreement may be terminated at any time by mutual written consent of the Parties.

9.4 Notwithstanding above sub clause 9.2, this Agreement shall also terminate automatically in the event FMC Agreement No. 011830 is terminated, and CMA CGM shall advise APL in case of the planned termination of said agreement as soon as known.

9.5 This Agreement may be terminated by APL on ninety (90) days written notice if the structure of the service, including

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ports of call, has been altered without APL's consent.

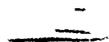
9.6 If at any time during the term of this Agreement there shall be a change in the ownership or control of CMA CGM or APL, or any of the foregoing are dissolved or declare bankruptcy, or are declared insolvent, whether voluntarily or otherwise, and the other Party is of the opinion arrived at in good faith that such change is to materially prejudice the working of this Agreement, then the Party not subject to the change in ownership may within six months of becoming aware of such a change give not less than six months notice in writing of its resignation from this Agreement.

9.7 In the event this Agreement is terminated, it shall be without prejudice to the Parties' respective financial obligations to one another.

Article 10: Law and Arbitration.

The interpretation, construction and enforcement of this Agreement, and all rights and obligations between the Parties under this Agreement, shall be governed by the English Law. However, the foregoing does not preclude application of the U.S. Shipping Act of 1984 as amended by the Ocean Reform





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Shipping Act 1998 or any other U.S. regulatory law.

Notwithstanding anything to the contrary in this Article 10, any dispute between the Parties relating to loss or damage to cargo or containers shall be dealt under conditions and terms to be agreed.

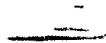
Any dispute (excluding cargo claims) arising from or in connection with this Agreement shall be referred to arbitration in London in accordance with the Arbitration Act of 1996 of the United Kingdom and any reenactments and amendments thereto. The arbitration shall be governed by the rules of the London Maritime Arbitrators Association ("LMAA") then in force.

One arbitrator is

to be nominated by each Party and in the event the arbitrators cannot agree, the case is to be transferred to an umpire to be appointed by them. The award of the arbitrators or of the umpire is to be final and binding upon the Parties and shall be enforceable in any court in which jurisdiction is exercisable.

Nothing herein shall prevent the Parties from agreeing in writing to vary these provisions to provide for the appointment of a sole arbitrator.

In case where neither the claim nor any counterclaim exceeds the sum of US\$ 100,000 the arbitration shall be conducted in accordance with LMAA Small Claims Procedure current



at the time when arbitration proceedings are commenced.

Article 11: Confidentiality.

Except as required by law, activities under this Agreement shall be regarded as confidential to the Parties and no Party acting for itself or on behalf of its employees, agents, and subcontractors shall divulge any information concerning the business and affairs of the other Party that is shall have obtained or received as a result of this Agreement or any discussions under it or leading to its formation. The obligations of this Article survive termination of this Agreement.

Article 12: 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.



SIGNATURE PAGE

IN WITNESS WHEREOF, the Parties have agreed this Agreement to be executed by their duly authorized representatives as of this 23<sup>rd</sup> day of September, 2008.

CMA CGM SA



By: \_\_\_\_\_

Name: Jean-François

Title: Senior Vice

Guillet  
President

CMA CGM

By: \_\_\_\_\_

Name:

Title:

APL Co. Pte Ltd for itself and as agent of American President Lines, Ltd.

By: Eric Swett

Name: Eric Swett

Title: authorized agent