



**AGREEMENT NO. 201176
LICENSE AGREEMENT**

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This License Agreement ("License") is made between the **Jose D. Leon** FEDERAL MARITIME COMMISSION
Guerrero Commercial Port (Port Authority of Guam) (the "Port") whose address is 1026 Cabras Highway, Suite 201, Piti, Guam 96915, the **Matson Navigation Company Inc.** ("Matson"), whose address is 1026 Cabras Highway, Suite 115, Piti, Guam 96915 and **Horizon Lines, LLC** whose address is 1010 Cabras Highway, Piti, Guam 96915 ("Horizon") (Matson and Horizon are sometimes referred to collectively as the "Crane Owners".)

RECITALS:

I. The Port of Los Angeles has offered for sale three 50-foot container gantry cranes (the "Cranes"). Matson and Horizon intend to purchase the Cranes, substantially renovate and improve them, ship them to Guam, and install them on the existing gantry crane rails (the "Rails") at the commercial pier area of the Jose D. Leon Guerrero Commercial Port of Guam (the "Commercial Port") and then use the Cranes for loading and off-loading cargo from their ships calling on the Commercial Port. Matson and Horizon estimate that the cost for purchasing, renovating, transporting and installing the Cranes will be from \$12,000,000 to \$15,000,000.

II. On December 14, 2007, the Board of Directors of the Port agreed to allow Matson and Horizon to use the Rails and other related property within the Commercial Port to land, install, maintain and use the Cranes and therefore has

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agreed to give Matson and Horizon this non-exclusive license to use the property more particularly identified below.

III. The Port acknowledges that Matson and Horizon will not acquire and bring the Cranes to Guam unless the parties enter into this License.

IV. The Port Board of Directors ("Board") has the authority to make, negotiate, and issue a five (5) year license for the use of its real property and other related facilities pursuant to 12 Guam Code Annotated ("GCA") § 10105(i). Furthermore, the Board has jurisdiction, control, and management over all government of Guam lands within the areas of the Commercial Port pursuant to 12 GCA § 10104(f). Therefore the parties agree as follows:

WITNESSETH:

1. Grant of License:

Provided that the Crane Owners successfully acquire the Cranes, the Port hereby grants to the Crane Owners the non-exclusive right to use the Rails and those portions of the Commercial Port as are identified on Exhibit A for the exclusive use of and for landing, installing, using, and maintaining the Cranes. The Port further grants to the Crane Owners, their respective officers, contractors, employees and agents, the right of access over and across any and all property within the Commercial Port necessary to land, install, use, and

maintain the Cranes. In the exercise of any privilege granted by this License, the Crane Owners shall comply with all applicable laws. Except as may be otherwise provided herein, the Crane Owners shall not cause any property of the Port or of the government of Guam to be destroyed, displaced, or damaged in the exercise of the privilege granted by this License without the prior written consent of the Port. The Crane Owners shall confine activities on the property strictly to those necessary for the enjoyment of the privilege hereby licensed, and shall refrain from marring or impairing the appearance of said property, obstructing access thereto, interfering with the transaction of the Port's or the government of Guam's business and the convenience of the public, or jeopardizing the safety of persons or property, except as may be otherwise provided for herein.

In order to protect public safety, the Crane Owners may use any and all reasonably appropriate means of restricting public access to the Cranes, subject, however, to Section 2 below.

2. Port's Control Over Use:

The Crane Owners' use of the Rails and related property, as set forth in Section 1 above, and use of the Cranes under the terms of this License, shall be at all times subject to the direction and control of the Port, through its General Manager. The Port shall have the right to determine the timing, placement and manner of use of the Rails for the purpose of ensuring the efficient, safe and

proper operation of the Commercial Port.

3. Use of the Cranes:

The Crane Owners shall have the right to use and maintain the Cranes and to load and off load containers and cargo from their vessels calling upon the Commercial Port. To the maximum extent possible the Cranes shall be operated by qualified employees of the Port, subject to the direction and control of the General Manager of the Port. The Crane Owners shall be responsible for all maintenance and repairs necessary to keep the Cranes in a good and safe working order and condition. In consultation with the General Manager, such repairs and maintenance shall be accomplished using skilled and qualified employees of the Port, to the extent reasonably available, who shall not for any purpose be considered employees of the Crane Owners. In consultation with the General Manager, the Crane Owners shall determine and control the nature, scope and finished quality of all repairs and maintenance to be completed by the Port employees. In the event the Crane Owners are dissatisfied with the work or services of a particular Port employee, then they shall so notify the General Manager in writing who shall then determine the placement of the employee subject to applicable law. In the event the Crane Owners, in consultation with the General Manager, shall reasonably determine that specific and necessary repair or maintenance work requires skills or expertise not then available through Port employees or that skilled or qualified

Port employees are not immediately available to complete the required repairs, then the Crane Owners may use others, including their own employees, for such repairs or maintenance, at their own cost and expense.

The parties expressly acknowledge and agree that in no way shall this License be construed as a Public-Private Partnership Contract and Lease Agreement for terminal operations and maintenance, as described in the Port Public-Private Partnership Authorization Act of 2003 (12 Guam Code Annotated Section 10301 et seq.), or that any provisions of the Port Public-Private Partnership Authorization Act of 2003 be construed as applying to this License, except to the extent set forth in Section 10(d) below.

4. Fee for the use of the Rails and Related Property:

For the use of the Rails and related property within the Commercial Port under this License the Crane Owners shall pay to the Port the sum of \$23,556.61 per month commencing on the date the Cranes are landed and installation is begun at the Commercial Port. The fee shall be paid on or before the first (1st) day of each month of the term of this License. Fees for any partial month shall be prorated.

5. Term of the Agreement:

Matson and Horizon shall have the non-exclusive right to use the Rails and related property for the purpose of and on the terms set forth herein for a five (5)

year period commencing on the date installation of the Cranes on the Rails is begun, and shall continue for a period of five (5) years, unless sooner terminated. The Crane Owners shall provide written notice to the General Manager of the date that such installation is to begin, and shall work together with the General Manager in good faith to ensure that such date is acceptable to the Port and does not otherwise interfere with the operations of the Port.

The Crane Owners' right to use the Rails and related property shall not be revocable or terminated by the Port except as provided in Section 8 or 13 of this License.

6. Insurance and Maintenance:

(a) The Crane Owners warrant and agree that at all times that the Cranes are at the Commercial Port they shall be maintained in good condition and repair and, except while undergoing periodic repairs for reasonable time periods, fully operable for their intended purpose.

(b) The Crane Owners, either individually or jointly, shall procure and maintain property insurance covering the Cranes insuring against loss or damage caused by fire, wave and tidal action, typhoon, wind, earthquake, lightning, vandalism and all other perils customarily defined as "Extended Coverage". Such insurance may include a deductible in such an amount, as the Crane Owners shall reasonably determine, from time to time.

(c) The Crane Owners shall procure and maintain, or self-insure as

permitted by applicable law, their respective obligations under applicable workers compensation laws and under the U.S. Longshoreman and Harbor Worker's Compensation Act, in the minimum amount of \$1,000,000 per accident.

(d) The Crane Owners shall procure and maintain, or self-insure as permitted by applicable law, comprehensive general liability insurance with a minimum limit of liability, bodily injury, death or property damage of \$5,000,000 for each occurrence and in the aggregate, for all claims arising from or related to the Cranes.

7. Indemnification:

The Crane Owners shall indemnify and save harmless the Port, its officers, directors, contractors, employees, agents, guests, invitees or customers against any and all loss, damage, claims, or liability whatsoever, or against any fines or penalties imposed by any governmental entity or authority, in any way arising from or related to the Cranes or due to the exercise by the Crane Owners of the privilege granted by this license, except to the extent that such is caused by the wrongful or negligent acts or omissions of the Port, its officers, directors, employees, contractors, agents, guests, invitees or customers.

8. Termination:

The Crane Owners, on the one hand, or the Port, on the other hand

may terminate this License and the Crane Owners' right to use the Rails and the property described herein, on ninety (90) days prior written notice to the other party for cause, provided that the party that is alleged to be in default fails to cure any such default within the ninety (90) day period. For purposes of this License, "cause" shall mean the non-compliance with any term or provision of this License, or non-compliance with any provision of applicable law. In the event that this License is terminated, then the Crane Owners shall, at their expense, cause the Cranes to be removed from the Commercial Port within ninety (90) days after the date of termination pursuant to this Section 8. The Crane Owners shall continue to pay the amount identified under Section 4, above, until the Cranes are removed from the Commercial Port.

9. Assignment:

The Crane Owners, either separately or jointly, may assign this License to a joint venture, partnership, corporation or limited liability company which is wholly owned by Matson and/or Horizon, or any of its subsidiaries or affiliates, subject to the written consent of the Port, such consent not to be unreasonably withheld. Other than as stated in the preceding sentence, Matson and Horizon shall have no right to assign this License or any of their rights or obligations hereunder, except with the express written consent of the Port. A change in control of Matson and/or Horizon shall not be considered an assignment for purposes of this provision.

10. **Miscellaneous:**

(a) **Notice:** Any notice or other communication required or related to this License or the Cranes shall be given in writing to the other parties to this License by being personally delivered to the addresses set forth in the preamble of this License and by being simultaneously delivered by facsimile and deposited in the U.S. Mail to the following addresses:

Port Authority of Guam Attention: General Manager 1026 Cabras Highway Suite 201 Piti, Guam 96915 Facsimile: (671) 477-4445	Matson Navigation Company Attention: Gary J. North, Senior Vice President of Pacific P.O. Box 899 Honolulu, Hawaii 96808 Facsimile: (808) 242-6048
Horizon Lines LLC Attention: Mar Labrador Pier 51-A Sand Island Honolulu, HI 96819 Facsimile: (808) 842-5386	

(b) **Severability:** If any term, provision, covenant or condition of this License is held by a court of competent jurisdiction to be invalid, void or unenforceable, then the rest of this License shall remain in full force and effect.

(c) **Entire Agreement:** This instrument contains the entire agreement of the parties concerning its subject matter. It is final and integrated. All prior understandings are merged herein. This License may only be modified or amended in a written instrument signed by all of the parties.

(d) **Binding Effect**. This License shall bind and inure to the benefit of the parties to this License and any of their respective permitted successors or assigns including any terminal operator designated by the Port pursuant to the Port Public-Private Partnership Authorization Act of 2003 or any other Port privatization or including any contractor designated by the Port pursuant to the "Public-Private Partnership Authorization Through a Performance Management Contract" (12 GCA sections 10401 et seq. (enacted by Public Law 29-23)), subject to any and all requirements of applicable law.

11. **Counterparts and Facsimile:**

The authorized representatives of the parties may execute this License in three or more counterparts and each counterpart shall be deemed an original instrument against any party which has signed it. This License may be delivered and the executed signature page may be transmitted by facsimile.

12. **Choice of Law/Resolution of Disputes:**

This License shall be construed, interpreted, and enforced under the laws of Guam. The exclusive forum for any court action that arises from or that is related to this License shall be the territorial or federal courts of Guam, which shall have the power to specifically enforce this License subject to applicable law.

13. Failure to Obtain and Install Cranes:

This License shall be rendered void and of no effect if the Crane Owners have not obtained and installed the Cranes at the Commercial Port within one year from the entry date of this License.

THIS LICENSE AGREEMENT IS VALID ONLY IF SIGNED AND EXECUTED BY ALL PARTIES, AND WILL BE ENTERED INTO AS OF THE DATE THAT THE LAST REQUIRED SIGNATORY SIGNS AND EXECUTES IN THE APPROPRIATE SPACE BELOW.

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JOSE D. LEON GUERRERO
COMMERCIAL PORT (PORT AUTHORITY
OF GUAM)

By: _____
MONTE MESA
Chairman, Board of Directors

Date : _____

By: _____
KENNETH T. TAGAWA
General Manager

Date : _____

MATSON NAVIGATION COMPANY, INC. HORIZON LINES, LLC

By: *[Signature]* (Gen. Mgr)
for **GARY J. NORTH**, Its senior vice
President

Date : 12/17/07

By: *[Signature]*
MAR LABRADOR, (FOIL MAR LABRADOR)
its VICE PRESIDENT

Date : 12/17/07

By: _____
MEREDITH N. ENDSLEY, Its assistant
Secretary

Date : _____

JOSE D. LEON GUERRERO
COMMERCIAL PORT (PORT AUTHORITY
OF GUAM)

By: [Signature]
MONTE MESA
Chairman, Board of Directors

Date: 12-17-07

By: _____
KENNETH T. TAGAWA
General Manager

Date: _____

MATSON NAVIGATION COMPANY, INC. HORIZON LINES, LLC

By: [Signature] (Gen. Mgr.)
for **GARY J. NORTH**, Its senior vice
President

Date: 12/17/07

By: [Signature]
MAR LABRADOR, (FOR MAR LABRADOR)
Its VICE PRESIDENT

Date: 12/17/07

By: [Signature]
MEREDITH N. ENDSLEY, Its assistant
Secretary

Date: 12/17/07

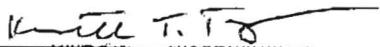
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JOSE D. LEON GUERRERO
COMMERCIAL PORT (PORT AUTHORITY
OF GUAM)

By: 
MONTE MESA
Chairman, Board of Directors

Date: 12-17-07

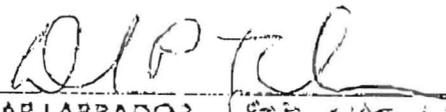
By: 
KENNETH T. TAGAWA
General Manager

Date: 12/18/07

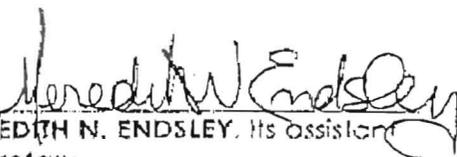
MATSON NAVIGATION COMPANY, INC. HORIZON LINES, L.C

By: 
for GARY J. NORTH, Its senior vice
President

Date: 12/17/07

By: 
MAR LABRADOR (FOR MAT LABRADOR)
Its VICE PRESIDENT

Date: 12/17/07

By: 
MEREDITH N. ENDSLEY, Its assistant
Secretary

Date: 12/17/07

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