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FMC Agreement No. 011790

Original Title Page

DOLE OCEAN CARGO EXPRESS/
KING OCEAN SERVICES LIMITED
SLOT ALLOCATION AGREEMENT

A Cooperative Working Agreement

Expiration Date: None.

EFFECTIVE
APR - 7 2002
UNDER THE SHIPPING ACT OF 1984
Federal Maritime Commission

This Agreement has not been published previously.

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This Slot Allocation Agreement is made as of this 21st day of February, 2002

BETWEEN:

DOLE OCEAN CARGO EXPRESS, INC. whose office is at 9485 Regency Square Boulevard, Suite 425, Jacksonville, Florida 32225 ("Dole Express") and

KING OCEAN SERVICES LIMITED whose registered office is at 7570 N.W. 14th Street, Miami, Florida 33126 ("KOLTD")

to provide slots for the transportation of containers under KOLTD bills of lading to and from Port Everglades, Florida and Puerto Moin, Costa Rica in accordance with the following terms.

1. **VESSELS**

Dole Express may provide space on vessels owned, managed or available to Dole Express of Italian, Liberian or other flags which are capable of carrying at least 508 FEU reefer containers operating reefer generators at twelve plus kilowatts (12+K), with a gantry crane with a thirty metric ton maximum lift capable of handling up to thirty lifts per hour (hereinafter referred to as "Vessel").

2. **SCOPE**

This Agreement covers the transportation of containers to and from Port Everglades, Florida and Puerto Moin, Costa Rica on a weekly basis, subject to weather and other force majeure events:

Departures:
Port Everglades - Wednesday
Puerto Moin Costa Rica - Sunday

Arrivals:
Port Everglades - Thursday
Puerto Moin Costa Rica - Saturday

Any change in this schedule must be communicated in writing to KOLTD ninety (90) days prior to the effective date of the change, unless the parties agree otherwise.

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3. **TERM**

(a) This Agreement is for a term of twelve (12) months commencing on the date it becomes effective under the Shipping Act of 1984, as amended. This Agreement will automatically be renewed for one year on the same terms and conditions, unless either party gives written notice to the other of its intent to cancel at least one hundred twenty (120) days prior to the expiration of this Agreement or any renewal thereof.

(b) If the Agreement is renewed then subsequent to the renewal date, either party can cancel the Agreement upon one hundred twenty (120) days written notice to the other.

4 **DOLE EXPRESS RIGHT TO UNILATERAL TERMINATION UPON DISCONTINUANCE OF SERVICE**

Should Dole Express in its sole discretion choose to discontinue service between Port Everglades, Florida and Puerto Moin, Costa Rica, this Agreement shall be terminated upon Dole Express giving to KOLTD one hundred and twenty (120) days written notice (hereinafter "Notice"). Termination shall be effective as of the date of discontinuance of services specified in the Notice, but not less than 120 days from the date of Notice. Termination under this provision shall release and relieve both parties from any further rights, liabilities or obligations under this Agreement, but termination under this provision shall not relieve or release either party from any rights, liabilities or obligations which have accrued prior to the date of termination.

5 **SPACE/SLOTS**

During the term of this Agreement, or any extension thereof, Dole Express agrees to make available and KOLTD agrees to utilize per voyage thirty (30) FEU slots for the carriage of 40' containers or flat racks on the regularly scheduled voyages of the Vessels to and from Port Everglades, Florida and Puerto Moin, Costs Rica. Ten of the thirty (30) FEU slots may be 45' containers. Flat racks may contain only "in gauge" cargo, meaning the flat racks will not contain oversized cargo.

At Dole Express' option, Dole Express agrees to make available additional 40' and/or 45' slots to KOLTD at the rates agreed upon by the parties from time to time, provided space is available.

KOLTD warrants that the slots are to be employed only in lawful trades for the carriage of lawful cargo properly packaged and appropriately stowed in sealed

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seaworthy containers (such cargo and containers hereinafter referred to as the "Shipped Equipment"). No livestock or injurious, inflammable or dangerous goods (such as acids, explosives, Calcium carbide, ferro silicone, naphtha, motor spirit, tar and any other products) to be shipped without Dole Express' written consent. Dole Express' consent to one such shipment shall not constitute consent to subsequent shipments of the same commodity.

6 REMUNERATION

The parties are authorized to discuss and agree on the remuneration to be paid to Dole Express by KOLTD for services hereunder, and the terms and procedures relating to the payment of such remuneration.

7 STEVEDORING AND TERMINAL SERVICES

KOLTD shall be physically and financially responsible for the inland movement of Shipped Equipment, including the receipt and delivery of containers at Dole Express' designated terminals in the port of loading and discharging. At Port Everglades, however, Shipped Equipment will be discharged from the Vessel by Dole Express upon the pier and KOLTD will take delivery at that point and will utilize its own equipment to move the Shipped Equipment to its own terminal. Otherwise Dole Express shall take delivery of import Shipped Equipment and make delivery of export Shipped Equipment from and to Dole Express' designated terminal in the port of loading, or discharge, as the case may be.

Export containers shall be delivered sealed by KOLTD within the time restrictions specified in Dole Express' tariff. Late arrivals may at Dole Express' discretion be accepted in accordance with local operational procedures, provided that vessel operations are not hindered.

KOLTD shall be liable for excess storage charges for Shipped Equipment remaining at the terminal beyond the allocated free storage period as set forth in Dole Express' tariff.

8 INSURANCE

Both parties shall insure themselves against any liabilities that may accrue to them in connection with the matters in this Agreement.

9 RESPONSIBILITIES, LIABILITIES AND EXCEPTIONS

It is the intention of the parties that each party shall bear responsibility and liability for its own fault.

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9.1 **KOLTD Responsibilities**. KOLTD shall, with respect to the underlying shipper employ and issue its regular bill of lading or non-negotiable sea-waybill as the case may be. Such bills of lading shall contain terms no more onerous than those contained in the United States Carriage of Goods by Sea Act. KOLTD is not authorized to sign bills of lading on behalf of Dole Express or the Master. Bills of lading issued by or on behalf of KOLTD shall extend to Dole Express, the Demise Charterer and Owners of the vessels all defenses, limitations and exceptions which are granted or extended to KOLTD and/or the carrier. The bills of lading shall also provide that the Owner and Demise Charterer of the vessel shall be deemed carriers thereunder.

KOLTD shall be solely responsible for claims for loss of or damage to the Shipped Equipment in the same manner and to the same extent and degree as if the Shipped Equipment had been carried on KOLTD's own vessel. Dole Express shall provide any documentation relating to the vessel and otherwise assist in the defense of such claims as KOLTD may reasonably request.

KOLTD shall defend, indemnify and hold harmless Dole Express and the vessel from any and all claims, damages, fires or penalties relating directly or indirectly from inherent vice of the cargo, misdescription of goods, improper stowage of cargo within containers or defects in the containers tendered by KOLTD to Dole Express, or from fines, penalties, duties or other expense imposed on the latter due to errors in cargo manifests or any other documents, whether furnished by KOLTD or its agents, or for any other cause relating to the Shipped Equipment, unless resulting from the unseaworthiness of the vessel or the fault of Dole Express, its officers, crew, agents or servants.

KOLTD shall indemnify Dole Express against any expenses, liabilities, loss, damage, claims or demands which Dole Express may incur or suffer with respect to Shipped Equipment by reason of any failure by KOLTD or its agents, assigns, shippers or consignees, to comply with any relevant laws, regulations, direction or notices of customs, ports and any other authorities, or by reason of any infestation, contamination or condemnation of the Shipped Equipment. The indemnity provided in this clause shall extend to any loss suffered by Dole Express in procuring by reasonable and lawful means the release of a Vessel where a Vessel has been arrested or attached either because of any act done or omitted to be done by KOLTD or pursuant to a claim of loss of or damage to Shipped Equipment, unless caused by the fault of Dole Express, its officers, crew, agents or servants.

9.2 **Dole Express' Responsibilities**. Dole Express shall indemnify KOLTD for loss of or damaged to Shipped Equipment while in the actual possession of Dole Express or the Vessel if such damage results from the unseaworthiness of the vessel or the fault of Dole Express' officers, crew, agents or servants.

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Dole Express shall indemnify KOLTD against any expenses, liabilities, loss, damage, claims or demands which KOLTD may incur or suffer with respect to Shipped Equipment by reason of any failure by Dole Express or its agents, assigns, shippers or consignees, to comply with any relevant laws, regulation, directions or notices of customs, ports and any other authorities. The indemnity provided in this clause shall extend to any loss suffered by KOLTD in procuring by reasonable and lawful means the release of a Vessel where a Vessel has been arrested or attached either because of any act done or omitted to be done by Dole Express or pursuant to a claim of loss of or damage to Shipped Equipment, unless caused by the fault of KOLTD, its employees, agents or servants.

9.3 **Force Majeure**. The obligations of both parties shall be excused to the extent that the existence and continuance of conditions beyond its control render either party unable to perform its obligations hereunder. Such conditions include, but are not limited to, war, civil commotion, invasion, rebellion, strikes, labour disputes, sabotage or other work stoppages, regulations, or order of government authorities, acts of God, or inability to obtain materials or services. If either party asserts the existence of force majeure, that party shall promptly give written notice of the specific conditions to the other party.

9.4 **KOLTD's Option to Carry Refrigerated Cargo**. KOLTD has the option to carry refrigerated cargo in KOLTD's leased or owned refrigerated equipment. If KOLTD exercises this option, KOLTD has the right to utilize the vessel's existing reefer plugs at no extra expense. The vessel's officers and crew shall use due diligence to monitor and maintain the reefer at the temperature designated by KOLTD. KOLTD shall furnish the captain with written instructions concerning the temperature and Dole Express' compliance with KOLTD's written instructions shall satisfy Dole Express' obligations concerning temperature hereunder. The vessel's officers and/or crew shall keep a full and correct temperature log with respect to the operating temperature of each container on a twelve hour basis, as far as practically possible, weather permitting.

KOLTD is to provide necessary spare parts for KOLTD's owned or leased refrigerated equipment. In case of failure of the KOLTD's equipment, Dole Express, officers and crew will attempt to repair KOLTD's equipment while at sea, but Dole Express is not responsible for damage to cargo or to cargo equipment caused by breakdown of KOLTD's equipment or of aggregates, losses or damages which may occur due to the vessel's crew being unable to repair KOLTD's equipment at sea unless the damage was caused by failure by the vessel's electrical power supply.

9.5 Anything to the contrary herein notwithstanding, both parties shall in every case have the benefit of all rights, defenses and indemnities provided by the

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United States Carriage of Goods by Sea Act (COGSA), none of which is hereby waived or amended, and neither party shall take any action which in any way reduces or minimizes the other parties' rights thereunder vis-à-vis third parties.

The liability of Dole Express to KOLTD for loss of or damage to the Shipped Equipment shall in no event exceed the liability (if any) of KOLTD to the person(s) interested in such goods in respect of such loss or damage.

Such liability, if any, for any loss of or damage to a container/owned or hired by KOLTD shall not in any event exceed the cost of repair or the value of the container at the time of such loss or damage, whichever is the lesser. Neither Dole Express nor KOLTD nor the Vessel shall in any event be liable for any damage to a container which does not exceed Five hundred US Dollars (US$500.00) on any one voyage.

Nothing in this Agreement shall prejudice or deprive the parties of their rights of limitation of or exoneration from liability under any applicable4 law.

10 CARGO CLAIMS AND RELEASE OF VESSEL FROM ARREST

KOLTD is responsible for investigating, handling, defending and resolving cargo claims relative to the Shipped Equipment. If such claims are ultimately shown to be the result of unseaworthiness or actual fault or negligence on the part of the vessel's crew or Dole Express' officers, agents or servants, Dole Express shall be responsible to reimburse KOLTD for any amount it has reasonably paid to settle said claims.

In the event KOLTD receives notice of a cargo claim which may involve liability on the part of Dole Express and which exceeds 5,000 USD, KOLTD shall immediately advise Dole Express by telefax and letter, giving details of the nature of the claim, the amount involved and the basis for the potential claim against Dole Express.

If the Vessel is arrested or detained or reasonably anticipated to be arrested or detained by reason of cargo claims or for violations of any Custom, Immigration, Government decree or trading regulations by either party or its agents relative to the Shipped Equipment, the responsible party shall bear the cost and expense incurred for releasing and/or avoiding the arrest of the vessel and for any losses resulting from the delay of the vessel, if any. In the event of such a delay, KOLTD shall pay to Dole Express an amount equal to the pro rata daily operating costs of the vessel incurred during the period of delay.

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Neither party shall grant extensions of time with respect to the filing of claims for which the other party may be liable, unless if first obtains written authorization to do so from the other party.

11 **NOTICES**

Any notices or other communications in connection with this Agreement shall be sent by first class mail, postage prepaid, addressed as follows:

If to Dole Express:

Mr. Stuart Jablon
DOLE OCEAN CARGO EXPRESS, INC.
9485 Regency Sq. Blvd., Suite 425
Jacksonville, Florida 32225

If to KOLTD:

Juan Hernandez
KING OCEAN SERVICES LIMITED
7570 N.W. 14th Street
Miami, Florida 33126

12 **ASSIGNMENT**

Neither party may assign its rights or delegate it obligations under this Agreement to any person, firm or corporation without the prior written consent of the other party. The consent of either party will not unreasonably be withheld. Nothing contained herein shall be construed as creating any rights in favor of any third parties, including but not limited to any party which may assert that it is a third party beneficiary hereof.

13 **GOVERNING LAW**

This Agreement shall be construed in accordance with and governed by the general maritime law of the United States of America. Notwithstanding anything contained herein to the contrary, both parties reserve all rights defenses and limitations to which it is entitled under COGSA and both Dole Express' and KOLTD's standard bill of lading form just as though each such right, defense and limitation were set out here in their entirety.

14 **NO LIENS**

Nothing contained herein shall be construed to create a maritime lien against a Vessel and KOLTD specifically disclaims any lien it may have or may acquire, reserving all other rights accorded it by law.

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15 **NOTICE - TIME AND PLACE FOR SUIT**

Notice in writing of any dispute, controversy or claim arising out of or relating to this contract or a breach thereof must be given in writing thirty (30) days of the occurrence giving rise to the dispute, controversy, claim or breach. In any event, either party shall be discharged from, any and all liability unless suit is brought within one (1) year from the date the dispute, controversy, claim or breach arose. Any suit against Dole Express may be brought only in the United States District Court for the Eastern District of Louisiana and any suit against KOLTD only in the United States District Court for the Southern District of Florida.

16 **AMENDMENT**

This Agreement may be modified at any time by a written mutual agreement of the parties provided, however, that a notice of such modification shall be filed with the FMC.

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SIGNATURE PAGE

IN WITNESS WHEREOF the parties have caused this Agreement to be executed by their duly authorized officer or agents as of the date and year first hereinabove written

DOLE OCEAN CARGO EXPRESS

By_____
Stuart Jablon, General Manager

Date_____

KING OCEAN SERVICES LIMITED

By_____

Date_____

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DOLE OCEAN CARGO EXPRESS

By_____

Date_____

KING OCEAN SERVICES LIMITED

By Juan Hernandez

Date_____

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