

HLAG/ONE GULF-CENTRAL AMERICA SLOT CHARTER AGREEMENT

FMC AGREEMENT NO. 201278

A Cooperative Working Agreement

Expiration Date: None

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**ARTICLE 1: FULL NAME OF THE AGREEMENT**

The full name of this Agreement is the HLAG/ONE Gulf-Central America Slot Charter Agreement ("Agreement").

**ARTICLE 2: PURPOSE OF THE AGREEMENT**

The purpose of this Agreement is to authorize HLAG to charter space to ONE in the Trade (as hereinafter defined) and to authorize the parties to enter into cooperative working arrangements in connection therewith.

**ARTICLE 3: PARTIES TO THE AGREEMENT**

The parties to the Agreement (hereinafter "party" or "parties") are:

1. Hapag-Lloyd AG ("HLAG")  
Ballindamm 25  
20095 Hamburg, Germany
2. Ocean Network Express Pte. Ltd. ("ONE")  
7 Straits View Marine One East Tower  
#16-01/03 and #17-01/06  
Singapore 018936

**ARTICLE 4: GEOGRAPHIC SCOPE OF THE AGREEMENT**

The geographic scope of the Agreement shall extend to the trade between the ports on the U.S. Gulf Coast (Key West, FL to Brownsville, TX range and Puerto Rico) on the one hand, and ports in Mexico, the Dominican Republic, Panama, Colombia, Costa Rica, Guatemala, and Honduras on the other hand, which may be served by HLAG from time to time. All of the foregoing is hereinafter referred to as the "Trade."

**ARTICLE 5: AGREEMENT AUTHORITY**

5.1 (a) HLAG shall charter to ONE, and ONE shall purchase from HLAG, slots for 150 TEUs/2,100 tons (whichever is used first) on a used or not basis on each sailing of HLAG's GCS service, with such slots to be split as follows: 50 TEU/700 tons on a round voyage basis and 100 TEU/1400 tons from southbound Manzanillo to northbound Manzanillo.<sup>1</sup> HLAG shall provide ONE with a total of 25 reefer plugs as part of the foregoing allocation.

(b) Subject to space availability, HLAG may sell ONE slots in excess of the foregoing allocations on an ad hoc basis on terms to be agreed by the parties. ONE may not slot charter or sub-charter slots made available to it under this Agreement to any third party without the prior consent of HLAG. ONE may use slots provided hereunder for cargo originating at or destined to locations outside the scope of this Agreement, or for inter-port cargo, subject to compliance with any local coastal regulations that may apply. IMO and out-of-gauge cargoes and/or special equipment will be accepted only if requested in advance in writing by ONE and agreed by HLAG.

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<sup>1</sup> The inclusion of non-U.S. trades in this Agreement shall not bring such non-U.S. trades under the jurisdiction of the U.S. Federal Maritime Commission or entitle the parties hereto to immunity from the U.S. antitrust laws with respect to such non-U.S. trades.

5.2 The parties are authorized to discuss and agree on the terms and conditions relating to the sale of slots hereunder, including slot hire (including any bunker element thereof) and additional charges for the use of reefer plugs (if any).

5.3 HLAG shall be responsible for the operation of its vessels and shall be entitled to change port coverage, port rotation and voyage profile from time to time. HLAG shall provide ONE with advance notice of any changes in its master schedule. If HLAG expands the coverage of its service, ONE may request participation in the expanded coverage. If agreement with respect to ONE participation in the expanded service is reached, the slot cost will be adjusted to reflect the additional cost of the additional port(s) of call.

5.4 The parties are authorized to discuss and agree on the joint and/or individual negotiation of appropriate contracts with terminal operators and stevedores, and to reach agreement on other issues relating to the loading and/or discharge of cargo, such as overtime and stand-by time.

5.5 The parties are authorized to discuss and agree upon such general administrative matters and other terms and conditions concerning the implementation of this Agreement as may be necessary or convenient from time to time, including, but not limited to, performance procedures; procedures to allocate space; forecasting of bookings; stowage planning; record-keeping; responsibility for loss, damage or delay; insurance; terms and conditions for force majeure relief; the handling and resolution of claims and other liabilities; indemnification; documentation and bills of lading; and the treatment of hazardous and dangerous cargoes.



5.6 Pursuant to 46 C.F.R. § 535.408(b), any further agreement contemplated herein cannot go into effect unless filed and effective under the Shipping Act of 1984, as amended, except to the extent that such agreement concerns routine operational or administrative matters.

5.7 The parties shall collectively implement this Agreement by meetings, writings, or other communications between them and make such other arrangements as may be necessary or appropriate to effectuate the purposes and provisions of 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 either party; and
- (ii) Legal counsel for either party.

#### **ARTICLE 7: VOTING**

Except as otherwise provided herein, all actions taken pursuant to this Agreement shall be by mutual agreement of the parties.

#### **ARTICLE 8: DURATION AND TERMINATION OF AGREEMENT**

8.1 This Agreement shall become effective on the date it enters into effect under the Shipping Act of 1984, as amended, and may be implemented as of that date or such later date as the parties may mutually agree. It shall continue in effect indefinitely.

8.2 Either party may terminate this Agreement by providing not less than one (1) month's prior written notice of termination to the other party; provided, however, that such notice of termination be effective prior to March 31, 2019.

**ARTICLE 9: NON-ASSIGNMENT**

Neither party shall assign any of its rights or obligations under this Agreement to without the prior written consent of the other party, which consent shall not be unreasonably withheld.

**ARTICLE 10: APPLICABLE LAW AND ARBITRATION**

10.1 This Agreement shall be subject to the U.S. Shipping Act of 1984, as amended, but shall otherwise be governed by and construed in accordance with English law.

10.2 Any dispute arising out of or in connection with this Agreement which cannot be amicably resolved shall be referred to arbitration in London in accordance with the Arbitration Act 1996 or any statutory modification or re-enactment thereof. The arbitration shall be conducted in accordance with the London Maritime Arbitrators Association (LMAA) Terms current at the time when the arbitration proceedings are commenced.

10.3 The reference shall be to three arbitrators. A party wishing to refer a dispute to arbitration shall appoint its arbitrator and send notice of such appointment in writing to the other party requiring the other party to appoint its own arbitrator within 21 calendar days of that notice and stating that it will appoint its arbitrator as

sole arbitrator unless the other party appoints its own arbitrator and gives notice that it has done so within the 21 days specified. If the other party does not appoint its own arbitrator and give notice that it has done so within the 21 days specified, the party referring a dispute to arbitration may, without the requirement of any further notice to the other party, appoint its arbitrator as sole arbitrator and shall advise the other party accordingly. The award of a sole arbitrator shall be binding on both Parties as if he had been appointed by agreement.

10.4 The parties further agree where the amount in dispute is US\$ 200,000 or less, the arbitration will proceed on a documents and written submission basis only. However, oral evidence will be allowed exceptionally and at the discretion of the arbitrator(s).

10.5 The parties further agree that where the amount in dispute is US\$100,000 or less, the arbitration shall be conducted in accordance with the LMAA Small Claims Procedure current at the time when the arbitration proceedings are commenced.

10.6 For the purpose of this clause, a dispute shall consist of all claims and counter-claims in respect of one occurrence or accident or series of occurrences or accidents arising out of one event.

10.7 Notwithstanding any arbitration, the parties shall continue to perform this Agreement, if reasonably practicable.

#### **ARTICLE 11: COUNTERPARTS**

This Agreement and any future amendment hereto may be executed in counterparts. Each such counterpart shall be deemed an original, and all together



shall constitute one and the same agreement.

**ARTICLE 12: SEPARATE IDENTITY/NO AGENCY OR 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 or agency relationship between the parties, or any joint liability under the law of any jurisdiction.

**ARTICLE 13: NOTICES**

All notices required to be given in writing, unless otherwise specifically agreed, shall be sent by registered mail or courier service to the addresses listed in Article 3.

**ARTICLE 14: LANGUAGE**

This Agreement and all notices, communications or other writings made in connection therewith shall be in the English language. Neither party shall have any Obligation to translate such matters into any other language and the wording and meaning of any such matters in the English language shall govern and control.

**ARTICLE 15: 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.

**ARTICLE 16: 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 of 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 other right, power or privilege. No waiver shall be valid against either 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.


**ARTICLE 17: AMENDMENT**

Any modification or amendment of this Agreement must be in writing and signed by both parties and may not be implemented until filed with the FMC and effective under the Shipping Act of 1984, as amended.

HLAG/ONE Gulf-Central America Slot Charter Agreement  
FMC Agreement No.

**SIGNATURE PAGE**

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed  
by their duly authorized representatives as of this this \_\_\_ day of September, 2018.

  
Ulf Schwenh  
Senior Managing Director  
Hapag-Lloyd AG  
Name:  
Title:

  
*Legal Director*


\_\_\_\_\_  
Ocean Network Express Pte. Ltd.  
Name:  
Title:

HLAG/ONE Gulf-Central America Slot Charter Agreement  
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IN WITNESS WHEREOF, the parties have caused this Agreement to be executed  
by their duly authorized representatives as of this this \_\_\_ day of September, 2018.

\_\_\_\_\_  
Hapag-Lloyd AG  
Name:  
Title:

  
\_\_\_\_\_  
Ocean Network Express Pte. Ltd.  
Name: *MICHIO ARAI*  
Title: *Sr Vice President*