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CMA CGM / APL
West Med - USEC

A Space Charter Agreement

FMC Agreement No. 012417

Expiration Date: No expiration date

This Agreement has not been published previously.

EFFECTIVE
JUN 9 2016
UNDER THE SHIPPING ACT OF 1984
Federal Maritime Commission

FMC Agreement No.: 012417 Effective Date: Thursday, June 9, 2016
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ARTICLE 1: NAME OF THE AGREEMENT

The name of this Agreement is the CMA CGM / APL West Med - USEC Space Charter Agreement (the "Agreement"). The reference service shall be referred to hereinafter as the "Service".

ARTICLE 2: PURPOSE OF THE AGREEMENT

The purpose of the Agreement is to authorize CMA CGM to charter space to APL on certain vessels CMA CGM operates or on which CMA CGM has space in the Trade (as hereinafter defined) in accordance with the terms of this Agreement.

ARTICLE 3: PARTIES TO THE AGREEMENT

The Parties to this Agreement are:

CMA CGM S.A. ("CMA CGM")
4, Quai d'Arenc
13235 Marseille Cedex 02
France

And

APL Co. Pte Ltd
9 North Buona Vista Drive
#14-01 The Metropolis Tower 1
Singapore 138588

American President Lines, Ltd.
16220 N. Scottsdale Rd
Scottsdale, AZ 85253

(collectively "APL")

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ARTICLE 4: GEOGRAPHIC SCOPE OF THE AGREEMENT

The geographic scope of this Agreement shall cover the trade between ports in Italy, France and Spain and the inland and coastal points served by such ports, and ports on the U.S. East Coast (Eastport, Maine to Key West, Florida) and the inland and coastal points served by such ports. The foregoing geographic scope is hereinafter referred to as "the Trade".

For the avoidance of doubt, APL may use its allocation for transshipment cargo originating in or destined to countries outside the scope of this Agreement.

ARTICLE 5: AGREEMENT AUTHORITY

5.1 As from the effective date, or at a later stage as may be agreed between the Parties, CMA CGM shall charter to APL and APL shall purchase from the allocation of CMA CGM on the CMA CGM regular liner service operated pursuant to the Hanjin/UASC/CMA CGM/COSCON Vessel Sharing Agreement (FMC No. 012391) serving the Trade (from /to all ports of call), on a used or not used and FIOS (Free In and Out Stowed) basis, a fixed allocation of 50 TEUs (at 12 tons average per TEU), including 10 reefer plugs per vessel sailing on a voyage leg basis and, on a used and FIOS (Free In and Out Stowed) basis, an additional allocation of 50 TEUs (at 12 tons average per TEU), including 10 reefer plugs per vessel sailing on a voyage leg basis. Without further amendment, the foregoing allocations may be adjusted up or down by up to fifty percent (50%) subject to parties' mutual agreement. The Parties agree that

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use of reefer plugs will be subject to a charge to be agreed between them. The Parties further agree that each 45'HC shall be counted as 2.5 TEUs. The Parties are authorized to agree on the terms and conditions pursuant to which the foregoing space is chartered, including the amount of slot hire to be paid. Subject to the terms herein, provision of such fixed and additional allocation to APL shall be guaranteed by CMA CGM. Upon request and subject to space availability, CMA CGM may make additional slots available to APL on an ad hoc basis in such amounts and on such terms as the Parties may agree from time to time.

CMA CGM shall consult with APL and thereafter provide APL with a minimum of thirty (30) days' prior written notice of any permanent, material change in its service in the Trade. In the case of change in the port rotation, the Parties shall meet to agree on any necessary adjustments to APL's allocation, trading rights and/or slot hire as the case may be. If the Parties cannot reach an agreement in regard to the foregoing, then APL may terminate the Agreement upon 60 days prior written notice.

5.2 APL may not sub-charter space made available to it hereunder to any third-party ocean common carrier, except its affiliated companies and wholly owned subsidiaries that are vessel-operating common carriers, without the prior written consent of CMA CGM and subject to compliance with the filing and effectiveness provisions of the Shipping Act and implementing FMC regulations.

5.3 The Parties may discuss and agree upon arrangements for the use of terminals, stevedores, and other port facilities. They are authorized, but not required,

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to negotiate jointly with terminal operators in the Trade and to enter into joint or individual contracts with terminal operators and/or stevedores in connection with vessels operated or space provided hereunder. Common terminal charges (as defined by the Parties) shall be shared by the Parties based on their pro rata throughput in each port, unless otherwise agreed.

5.4 CMA CGM and the vessels it provides shall comply with the requirements of the ISM Code. As vessel provider, CMA CGM shall be responsible for all operational aspects of the vessels. The Parties are authorized to discuss and agree on their respective rights and obligations with respect to the omission of port calls and the handling of cargo affected by such omissions.

5.5 The Parties shall both be signatory to the Agreement to Voluntarily Participate in Customs-Trade Partnership Against Terrorism ("C-TPAT Agreement") and agree to develop and implement a verifiable, documented program to enhance security procedures throughout their respective portions of the supply chain process, as described in the C-TPAT Agreement.

5.6 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 and penalties, port omission arrangements; stowage planning; record-keeping; responsibility for loss or damage; insurance; force

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majeure; the handling and resolution of claims and other liabilities; indemnification; documentation and bills of lading; and the treatment of hazardous and dangerous cargoes.

5.7 The Parties may implement any further agreement contemplated herein, subject to the filing and effectiveness requirement of the Shipping Act of 1984, as amended, and implementing regulations of the FMC.

5.8 Each Party shall retain its separate identity and shall have separate sales, pricing and marketing functions. Each Party shall issue its own bills of lading and handle its own claims. Nothing in this Agreement shall give rise to or be construed as constituting a partnership for any purpose or extent and, unless otherwise agreed, neither Party shall be deemed to be the agent of the other.

5.9 The Parties shall comply with all laws, regulations, requirements, directions or notices of customs, port and other authorities, and any consequence to this Agreement resulting from the non-compliance of a Party with mandatorily applicable U.S. federal and state laws will be borne in full by that Party.

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ARTICLE 6: OFFICIALS OF THE AGREEMENT AND DELEGATIONS OF AUTHORITY

The following persons 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:

(a) Any authorized officer of a Party; and

(b) Legal counsel for a Party.

ARTICLE 7: AMENDMENT AND EMBODIMENT

This Agreement may not be amended, modified or rescinded except in writing and duly signed by authorized signatories of the Parties, and any amendment, addendum or appendix so signed shall constitute a part of this Agreement at such time as it has been filed with the FMC and has become effective under the Shipping Act of 1984, as amended.

ARTICLE 8: DURATION AND TERMINATION OF AGREEMENT

8.1 This Agreement shall take effect on the date it becomes effective pursuant to the Shipping Act of 1984, as amended, or the starting date of the first westbound voyage from West Med ports of the Service occurring on or about the beginning of July 2016, or such other date as the Parties may agree in writing provided such date is subsequent to the date the Agreement becomes effective in

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accordance with the Shipping Act of 1984, as amended, whichever comes last. Such date of effectiveness shall be referred to hereinafter as the "Commencement Date". This Agreement shall be valid as from the Commencement Date and will remain in force until July 2, 2017, and thereafter for an unlimited period of time, unless terminated by giving a six (6) months written notice of termination. Such notice of termination shall not be served before January 2, 2017. For the avoidance of doubt, this Agreement shall remain in force until the completion of the full roundtrip voyages in progress at the time such notice of termination would otherwise have taken effect.

8.2 Notwithstanding Article 8.1 above, this Agreement may be terminated pursuant to the following provisions:

8.2.1 If at any time during the term of this Agreement there shall be a change in ownership of a Party, and the other Party determines in good faith that such change in ownership is likely materially to prejudice the cohesion or viability of this Agreement or such Party's commercial interest, then such other Party may, within three (3) months of becoming aware of such change, give not less than one (1) month' notice in writing to the other Party of its intention to terminate this Agreement.

8.2.2 If at any time during the term of this Agreement, a Party is dissolved or becomes insolvent or makes a general assignment arrangement or composition with or for the benefit of its creditors or has a winding-up order made against it or enters into liquidation whether voluntarily or compulsorily or seeks or becomes the subject of the appointment of an administrator, receiver, trustee,

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custodian, or other similar official for it or for all or substantially all of its assets or is affected by any event or similar act or which under the applicable laws of the jurisdiction where it is constituted has an analogous affect or takes any action in furtherance of any of the foregoing acts (other than for the purpose of a consolidation, reconstruction or amalgamation previously approved in writing by the other Party), and such event or occurrence is or may be materially detrimental to this Agreement or to payment of sums that may be owed, other than those that may be disputed in good faith, may not be paid in full or may be delayed in payment, then the other Party may give written notice terminating the Agreement with immediate effect. Such termination shall be without prejudice to any accrued obligations arising hereunder prior to the provision of such written termination notice.

8.2.3 In the case of a material breach by either Party, then that Party shall correct such breach within 30 days from the date of written notice of such breach sent by the other Party. In the event that the breach is not resolved within 30 days thereafter, then the non-breaching Party shall have the right to terminate the Agreement effective 30 days from the date notice of termination is given.

8.2.4 Any termination hereunder shall be without prejudice to either Party's respective financial obligations to the other as of the date of termination, and a non-defaulting Party retains its right to claim against the defaulting Party for any loss and/or damage caused or arising out of the breach that prompted such termination.

8.3 Notwithstanding the aforementioned, this Agreement may be terminated

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at any time subject to mutual agreement.

ARTICLE 9: APPLICABLE LAW AND ARBITRATION

(a) This Agreement, and any matter or dispute arising out of this Agreement, shall be governed and construed in accordance with the laws of England except that nothing shall relieve the Parties of their obligation to comply with the US Shipping Act of 1984, as amended.

(b) Any dispute or difference arising out of or in connection with this Agreement which cannot be resolved amicably shall be referred to the exclusive jurisdiction of the High Court of Justice in London. However any dispute relating to loss or damage to cargo or container carried under either Party's B/L shall be referred to the law and jurisdiction mentioned in the B/L of this Party.

(c) Either Party may at any time call for mediation of a dispute under the auspices of the LMAA (London Maritime Arbitration Association). Unless agreed, such mediation shall not otherwise interfere with or affect anything else including the time bars and Court procedure. If a Party calls for mediation and such is refused, the Party calling for mediation shall be entitled to bring that refusal to the attention of the Court.

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(d) The Parties shall keep confidential all awards made, together with all materials in the proceedings created for the purpose of the mediation, and all other documents produced by another Party in the proceedings not otherwise in the public domain – save and to the extent that disclosure may be required of a Party by legal duty, to protect or pursue a legal right or to enforce or challenge an award in bona fide legal proceedings before a court or other competent judicial authority.

ARTICLE 10: NON-ASSIGNMENT

No Party may assign its rights, including its rights to utilize the Container Slots, or delegate its duties under this Agreement to any other person or entity without the prior written consent of the other Party. Notwithstanding the above, each of the Parties may on written notice to the other Party assign its rights or delegate its duties under this Agreement to a fully-owned affiliate or subsidiary that is a vessel-operating common carrier; provided that in the event of such an assignment, the assigning Party shall remain responsible for the due and punctual performance of this Agreement by such an affiliate or subsidiary.

ARTICLE 11: NOTICES

Any formal notice under this Agreement shall be served by mail or by E mail with copy by mail to the other Party's official address.

Notices will be deemed received the day they have been dispatched.

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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.

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SIGNATURE PAGE

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of this 6 day of June, 2016.

By: CMA CGM S.A
Name: Olivier NIVOIX
Title: Vice President US Lines

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

Name:
Title:

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SIGNATURE PAGE

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of this __ day of _____, 2016.

By: CMA CGM S.A

Name:
Title:

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

Name: Erin R. Snelling
Title: VP & General Counsel
Authorized Signatory

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