

BEFORE THE  
FEDERAL MARITIME COMMISSION

December 13, 2021



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DOCKET NO. 21-11  
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OJ COMMERCE, LLC,

COMPLAINANT,

v.

HAMBURG SÜDAMERIKANISCHE  
DAMPFSCHIFFFAHRTS-GESELLSCHAFT A/S & CO KG

and

HAMBURG SUD NORTH AMERICA, INC.,

RESPONDENTS.  
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**VERIFIED COMPLAINT**

Complainant OJ Commerce, LLC (“Complainant” or “OJC”), by its undersigned attorneys, files this Complaint against Respondents herein, alleging violation of the Shipping Act of 1984, 46 U.S.C. § 40101, *et. seq.* (the “Shipping Act”) as follows:

**I. COMPLAINANT**

1. Complainant OJC is a limited liability company organized and existing under the law of the State of Delaware, with a principal place of business at 3076 N. Commerce Parkway, Miramar, Florida 33025.

## II. RESPONDENTS

2. HAMBURG SÜDAMERIKANISCHE DAMPFSCIFFFAHRTS-GESELLSCHAFT A/S & CO KG (“Hamburg Germany”) is a corporation organized and existing under the laws of Germany, with a principal place of business at Willy-Brandt-Str. 59-65, 20457 Hamburg, Germany. Hamburg Germany is and was at all times relevant to this Complaint a common carrier within the meaning of the Shipping Act, 46 U.S.C. § 40102(7), subject to regulation by the Federal Maritime Commission (“FMC”).

3. HAMBURG SUD NORTH AMERICA, INC. (“Hamburg NA”) is a corporation organized and existing under the laws of the State of Delaware, with a principal place of business at 465 South Street F 3 STE 300, Morristown, New Jersey 07960, having its registered agent as THE CORPORATION TRUST COMPANY, located at CORPORATION TRUST CENTER 1209 ORANGE ST, WILMINGTON, DE 19801. Hamburg NA is and was at all times relevant to this Complaint a marine terminal operator (“MTO”) within the meaning of the Shipping Act, 46 U.S.C. § 40102(15), subject to regulation by the FMC.

## III. JURISDICTION

4. The FMC has subject-matter jurisdiction over this Complaint pursuant to the Shipping Act of 1984.

5. This Complaint is being filed pursuant to Section 11(a) of the Shipping Act, 46 U.S.C. § 41301. OJC is seeking reparations for injuries caused to it by Respondents due to their violations of 46 U.S.C. § 41102(c).

6. The FMC has personal jurisdiction over Hamburg Germany as a “common carrier” as defined in 46 U.S.C. § 40102(7).

7. The FMC has personal jurisdiction over Hamburg NA as a "MTO" as defined in 46 U.S.C. § 40102(15).

8. Respondents' actions alleged herein constitute failures by each Respondent to establish, observe, and enforce just and reasonable practices relating to receiving, handling, storing, and delivering the property of OJC, in violation of 46 U.S.C. § 41102(c) and 46 C.F.R. §§ 545.4 and 545.5.

#### IV. FACTUAL ALLEGATIONS

9. On or about June 23, 2020, OJC entered into a service agreement with Respondents, for the shipment of goods by sea and delivery to warehouse facilities within the United States via truck, a copy of the agreement is hereby attached as Exhibit A. (the "Agreement").

10. The Agreement governed the parties' relationship between June 23, 2020 to May 31, 2021 (the "Active Term").

11. During the Active Term of the Agreement, Respondents wrongfully billed 13 containers a total of \$40,680.32 in demurrage fees, as follows:

11.1. Container No. MRKU2875026. The container was discharged on February 1, 2021, the last free day on port was February 5, 2021, yet gate out was not until March 3, 2021. OJC was nevertheless wrongfully charged a total of \$7,540 in demurrage fees.

11.2. Container No. BEAU5182625. The container was discharged on February 2, 2021, the last free day on port was February 8, 2021, yet gate out was not until March 2, 2021. OJC was nevertheless wrongfully charged a total of \$6,280 in demurrage fees.

11.3. Container No. SEGU4327705. The container was discharged on January 27, 2021, the last free day on port was February 2, 2021, yet gate out was not until March 1, 2021. OJC was nonetheless wrongfully charged a total of \$7,855 in demurrage fees.

11.4. Container No. MSKU0595352. The container was discharged on May 22, 2021, yet OJC did not receive notice until May 25, 2021. Additionally, the container was subject to a VACIS exam, but OJC did not receive such notice until June 1, 2021. Gate out was on June 7, 2021. Despite that, OJC was wrongfully charged a total of \$3,765 in demurrage fees.

11.5. Container No. SUDU8646980. The container was discharged on June 16, 2021. Hamburg NA failed to schedule a delivery order for the trucking company altogether resulting in a gate out date of July 8, 2021. Nevertheless, OJC was wrongfully charged a total of \$4,075 in demurrage fees.

11.6. Container No. MRKU3142506. The container was discharged on June 23, 2021. But the prepull pickup process was delayed because Hamburg NA failed to provide the proper equipment to its truckers to do a pre-pull resulting in a July 14, 2021 gate out date. Nonetheless, OJC was wrongfully charged a total of \$2,485 in demurrage fees.

11.7. Container No. GCXU5721300. The container was discharged on June 23, 2021. But the prepull pickup process was delayed because Hamburg NA failed to provide the proper equipment to its truckers to do a pre-pull resulting in a July 14, 2021 gate out date. Nonetheless, OJC was wrongfully charged a total of \$2,750 in demurrage fees.

11.8. Container No. MSKU1597679. The container was discharged on June 23, 2021. But the prepull pickup process was delayed because Hamburg NA failed to provide the

proper equipment to its truckers to do a pre-pull resulting in a July 15, 2021 gate out date. OJC was nonetheless wrongfully charged a total of \$3,015 in demurrage fees.

11.9. Container No. TLLU6852525. The container was discharged on June 23, 2021. OJC did not receive the arrival notice until June 24, 2021. Such a delay in arrival notice prevented OJC from making the proper arrangements for a timely pickup or pre-pull resulting in a July 1, 2021 gate out date. OJC was thereafter wrongfully charged a total of \$645 in demurrage fees.

11.10. Container No. MRSU3300327. The container was discharged on June 25, 2021. But the prepull pickup process was delayed because Hamburg NA failed to provide the proper equipment to its truckers to do a pre-pull resulting in a July 13, 2021 gate out date. OJC was nonetheless wrongfully charged a total of \$742.22 in demurrage fees.

11.11. Container No. SUDU6976489. The container was discharged on June 24, 2021. But the prepull pickup process was delayed because Hamburg NA failed to provide the proper equipment to its truckers to do a pre-pull resulting in a July 13, 2021 gate out date. OJC was nonetheless wrongfully charged a total of \$742.22 in demurrage fees.

11.12. Container No. MSKU1228177. The container was discharged on June 23, 2021. But the prepull pickup process was delayed because Hamburg NA failed to arrange for a proper trucking company. Instead, it arranged for a trucking company that could not handle more than 3 containers per day, and this container was not one of those, resulting in a July 8, 2021 gate out date. OJC was nonetheless wrongfully charged a total of \$392.94 in demurrage fees.

11.13. Container No. BMOU4268879. The container was discharged on July 1, 2021. But the prepull pickup process was delayed because Hamburg NA failed to provide the proper equipment to its truckers to do a pre-pull resulting in a July 14, 2021 gate out date. Again, OJC was wrongfully charged a total of \$392.94 in demurrage fees.

12. Additionally, pursuant to the Agreement, Respondents agreed to a minimum volume commitment of 400 TEU, which is equivalent to 200 containers.

13. During the Active Term, OJC repeatedly provided adequate booking notice to schedule shipment of containers, pursuant to the Agreement, but Hamburg NA refused to schedule such shipments.

14. During the Active Term, Hamburg NA provided a total of 185 containers, which is 30 TEUs below the 400 TEU minimum commitment in the Agreement.

15. As a result of Respondent's wrongful conduct, on some occasions OJC was forced to retain alternate shipping carriers at significantly higher shipping rates per container.

16. Also as a result of Respondent's wrongful conduct, on some occasions OJC was unable to retain alternate shipping carriers at all, and incurred significant economic damages in excess of \$100,000, including but not limited to costs for warehouse facilities and manufacturers, as well as lost sales, cancellations of orders, customer appeasement expenses, and unutilized marketing expenses.

## **V. VIOLATIONS OF THE SHIPPING ACT**

17. Section 41102(c) of the Shipping Act (46 U.S.C. § 41102(c)) prohibits a common carrier or marine terminal operator from failing to "establish, observe, and enforce just and reasonable regulations and practices relating to or connected with receiving, handling, storing, or

delivering property.”

18. Respondent Hamburg Germany is an ocean common carrier as defined by the Shipping Act.

19. Respondent Hamburg NA is a marine terminal operator as defined by the Shipping Act.

20. Respondents’ practices and regulations relating to the assessment of demurrage are directly related to receiving, handling, storing, or delivering property, are occurring on a normal, customary, and continuous basis, and are unjust and unreasonable.

21. Respondents failed to establish and observe just and reasonable practices in violation of § 41102(c) by assessing demurrage charges against Shipments Nos. 1-3 (B/L Nos. SSZ0849867, SSZ0845076, and SSZ0852138) that were subject to governmental holds for examination by Customs, and therefore, unavailable for pick-up.

22. Respondents failed to establish and observe just and reasonable practices in violation of § 41102(c) by assessing demurrage charges against Shipment No. 4 (B/L No. SSZ0853173) that was unavailable for pickup due to congestion-related delays at the Port.

23. Respondents failed to establish and observe just and reasonable practices in violation of § 41102(c) by assessing demurrage charges that serve no incentivizing principle and do not promote freight fluidity.

24. Respondents failed to establish and observe just and reasonable practices in violation of § 41102(c) by failing to provide OJC with detailed billing information and/or invoices relating to the demurrage charges assessed that would allow OJC to meaningfully understand and contest the charges.

25. Respondents failed to establish and observe just and reasonable practices in violation of § 41102(c) by refusing to extend free time and/or waive or reduce demurrage charges for the Shipments that were unavailable for pickup.

26. Respondents failed to establish and observe just and reasonable practices in violation of § 41102(c) by failing to have a clear dispute resolution policy with respect to demurrage charges.

27. Respondents failed to establish and observe just and reasonable practices in violation of § 41102(c) by failing to honor the minimum 400 TEU minimum volume within the Active Term.

#### **VI. CAUSATION AND INJURY TO COMPLAINANT**

28. As a result of Respondents' violations of the Shipping Act, the Complainant has sustained injuries and damages in the amount of well over \$50,000, including \$40,680.32 in erroneous demurrage charges and additional damages in the amount to be determined but in excess of \$100,000, for Respondents' failure to honor the minimum 400 TEU commitment.

#### **VII. ALTERNATIVE DISPUTE RESOLUTION**

29. OJC made numerous unsuccessful attempts to resolve this matter with Respondents prior to filing this Verified Complaint. Considering statements made by Respondents and noncooperation from Respondents in resolving this matter, OJC did not seek to use the FMC's alternative dispute resolution procedures prior to filing this Verified Complaint. For the same reasons, Complainant has not had any preliminary consultations with the FMC's Dispute Resolution Specialist regarding the availability of alternative dispute resolution (ADR) under the FMC's ADR program, 46 C.F.R. § 502.64.



## VIII. PLACE OF HEARING

30. Complainant does not request a hearing on this matter.

## IX. PRAYER FOR RELIEF

WHEREFORE, Complainant respectfully requests that Respondents be required to answer the charges in this Complaint, and that after the Commission's investigation, the Commission issue an order:

- A. Requiring Respondents to pay Complainant reparations for the unlawful conduct described herein, along with interest and Complainant's attorneys' fees and costs pursuant to 46 U.S.C. 41305;
- B. Requiring the payment of any other amounts that the Commission deems appropriate; and
- C. Providing such other and further relief that the Commission deems just and proper.

Dated: November 23, 2021

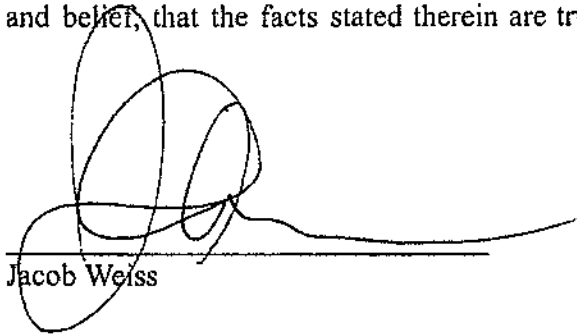
Respectfully Submitted,

By: /s/ Shlomo Y Hecht  
Florida State Bar No.: 127144  
Shlomo Y. Hecht, P.A.  
4538 NW 85th Ave.  
Coral Springs, FL 33065  
Phone: 954-861-0025  
Email: sam@hechtlawpa.com  
*Attorney for OJ Commerce, LLC*

**VERIFICATION**

I, Jacob Weiss, am the President of Complainant OJ Commerce, LLC and hereby declare and attest under penalty of perjury that I have read the foregoing Verified Complaint and believe, to the best of my knowledge, information, and belief, that the facts stated therein are true and correct.

Dated: 11-23-21



\_\_\_\_\_

Jacob Weiss

# Exhibit (A)

<p><b>Contract No.:</b> AECC0000291</p>			
<p><b>Governing Tariff</b>                  Essential Terms Publication: FMC No. 001903 502                  Essential Terms: AECC0000291                  Tariffs of General Applicability: FMC Nos. 001903 501 / 001903 801 or any successor thereto.</p> <p>Except as may otherwise be provided in this Contract, all shipments moving hereunder shall be subject to all other rules, terms, conditions, charges and surcharges set forth in Carrier's governing tariff(s) and in effect at the time of shipment.</p> <p>The parties mutually agree to the rates, terms and conditions set forth in the following pages. In witness whereof, the parties have executed this Contract through their duly authorised representatives as of the date(s) set forth below.</p>			
<p><b>This Contract is entered into between following Parties:</b></p> <table border="0"> <tr> <td style="vertical-align: top;"> <p><b>HAMBURG SÜDAMERIKANISCHE DAMPFSCHEIFFAHRTS-GESELLSCHAFT A/S &amp; CO KG</b>                      (hereinafter "HAMBURG SÜD" or "CARRIER")                      HAMBURG SÜDAMERIKANISCHE DAMPFSCHEIFFAHRTS-GESELLSCHAFT A/S &amp; CO KG                      WILLY-BRANDT-STR. 59-65                      20457 HAMBURG                      GERMANY                      c/o                      HAMBURG SÜD NORTH AMERICA, INC.                      465 SOUTH STREET F 3 STE 300                      MORRISTOWN NJ 07960                      UNITED STATES</p> </td> <td style="vertical-align: top; padding-left: 20px;"> <p><b>OJCOMMERCE</b>                      OJCOMMERCE                      11651 INTERCHANGE CIR S                      MIRAMAR FL 33025                      UNITED STATES</p> </td> </tr> </table>		<p><b>HAMBURG SÜDAMERIKANISCHE DAMPFSCHEIFFAHRTS-GESELLSCHAFT A/S &amp; CO KG</b>                      (hereinafter "HAMBURG SÜD" or "CARRIER")                      HAMBURG SÜDAMERIKANISCHE DAMPFSCHEIFFAHRTS-GESELLSCHAFT A/S &amp; CO KG                      WILLY-BRANDT-STR. 59-65                      20457 HAMBURG                      GERMANY                      c/o                      HAMBURG SÜD NORTH AMERICA, INC.                      465 SOUTH STREET F 3 STE 300                      MORRISTOWN NJ 07960                      UNITED STATES</p>	<p><b>OJCOMMERCE</b>                      OJCOMMERCE                      11651 INTERCHANGE CIR S                      MIRAMAR FL 33025                      UNITED STATES</p>
<p><b>HAMBURG SÜDAMERIKANISCHE DAMPFSCHEIFFAHRTS-GESELLSCHAFT A/S &amp; CO KG</b>                      (hereinafter "HAMBURG SÜD" or "CARRIER")                      HAMBURG SÜDAMERIKANISCHE DAMPFSCHEIFFAHRTS-GESELLSCHAFT A/S &amp; CO KG                      WILLY-BRANDT-STR. 59-65                      20457 HAMBURG                      GERMANY                      c/o                      HAMBURG SÜD NORTH AMERICA, INC.                      465 SOUTH STREET F 3 STE 300                      MORRISTOWN NJ 07960                      UNITED STATES</p>	<p><b>OJCOMMERCE</b>                      OJCOMMERCE                      11651 INTERCHANGE CIR S                      MIRAMAR FL 33025                      UNITED STATES</p>		
<p><b>Shipper Certification</b>                  Pursuant to FMC regulations, Shipper, by execution of this Contract, certifies its status and that of all its affiliates authorized to utilize this Contract as:                  (1) <input checked="" type="checkbox"/> cargo owner or consignee; or (2) <input type="checkbox"/> other (specify: _____); or (3) <input type="checkbox"/> signatory acting as nonvessel operating common carrier(s). If status is (3) above, Shipper further certifies that any such NVOCCs have tariff(s) and bond(s) on file with the U.S. Federal Maritime Commission ("FMC") in full compliance with FMC regulations and that evidence reflecting same have been provided to Carrier.</p>			

**Signatures:**

\_\_\_\_\_  
Jacob Weiss  
President  
OJCOMMERCE

Date:

\_\_\_\_\_  
Pestana Rodrigo  
Rodrigo Pestana  
Product Management - Transpacific Manager  
Hamburg Süd North America, Inc.

Date:

\_\_\_\_\_  
Serena Cheung  
Transpacific Trade  
Hamburg Süd North America, Inc.

Date:

**Duration**

**Contract No.:** AECC0000291

**Contract Effective Date:** 23-JUN-2020

**Contract Expiry Date:** 31-MAY-2021

**1. Geographic Scope:**

This Contract covers the carriage of cargo from the origin points or ports to the destination points or ports set forth in the appendix (or other attachments).

**2. Commodities**

This Contract shall apply to the commodities listed in the Appendix (or other attachments).

**3. Service Commitment, Shipper, and Carrier's liquidated damages**

(a) Carrier agrees to make available to Shipper during the term of this Contract vessel capacity adequate to carry (1) the Minimum Volume Commitment of cargo and (2) at Carrier's option, any additional cargo tendered by Shipper during the term of this Contract.

(b) Carrier and Shipper recognize that breach of the Minimum Volume Commitment causes not only loss of freight to Carrier but also instability, adverse impact on Carrier's marketing, logistics, and stowage planning and that a precise quantification of these damages is difficult to calculate. Accordingly, in order to avoid the difficulty and expense of proving actual losses, the parties agree that in lieu of all damages relating to the obligations of Shipper with respect to the Minimum Volume Commitment, liquidated damages shall be assessed as follows: If Shipper fails to tender the Minimum Volume Commitment specified in this Contract, Carrier shall invoice Shipper and Shipper agrees to pay to Carrier liquidated damages on the difference between the quantity of cargo actually shipped and the Minimum Volume Commitment at the rate of USD250 per TEU. The total of any amounts due hereunder shall be paid directly to Carrier within thirty (30) days following written notification by Carrier.

(c) Carrier and Shipper recognize that breach of Carrier's service commitment adversely impacts Shipper's supply chain, logistics and operations and that a precise quantification of these damages is difficult to calculate. Accordingly, in order to avoid the difficulty and expense of proving actual losses, the parties agree that in lieu of all damages relating to the obligations of Carrier with respect to its service commitment, liquidated damages shall be assessed as follows: In the event Shipper is unable to secure space on any particular sailing of Carrier after having given the minimum booking notice, upon written request of Shipper, the Minimum Volume Commitment may be reduced by the quantity of cargo tendered but not carried by Carrier. In the event that the Minimum Volume Commitment of this Contract is reduced by 10% or more as a result of Carrier's failure to provide space, Carrier agrees to pay, and Shipper agrees to accept, in lieu of other damages from Carrier, liquidated damages calculated by subtracting the number of TEUs actually shipped under the Contract from 90% of the MVC and multiplying the TEU deficit, if any, by USD250 per TEU.

#### 4. Rates:

(a) The rates for the carriage of cargo under this Contract shall be those set forth in the appendix (or other attachments).

(b) Rates are valid on direct port calls only. Shipments destined to, or originating at non direct ports that can be accommodated via transshipment or any other alternative route, are subject to arbitrary charges as per Carrier's tariff in effect at time of shipment, unless otherwise noted. Should the port rotation change at any point during the life of this contract, Shipper will be notified 30 days in advance of said change. If alternative service options are available, terms and conditions in this agreement will be changed as described above and rates covering discontinued routes will be expired.

(c) Notwithstanding anything to the contrary in this Contract if, during the term hereof, Carrier increases the tariff rate or rates applicable to one or more of the commodities covered by this Contract (whether such increase is uniform or varies with respect to commodity, routing or other factors) in one or more tariffs applicable to this Contract, then the rates set forth in this Contract shall be increased by the corresponding amount(s) of such increase in the tariff rate(s) as of the date the increase in tariff rate(s) takes effect.

#### 5. Duration

This Contract shall become effective on the date specified in chapter 1 or the date upon which it is filed with the Federal Maritime Commission, whichever is later, and shall be effective through the expiration date specified herein, unless terminated earlier in accordance with the terms of this Contract or FMC regulations. For the purpose of determining whether or not a cargo movement occurs during the term of this Contract, the pertinent date shall be the date when the shipment is received by Carrier or its agent. A shipment shall not be considered as received until the full bill of lading quantity has been received.

**6. Confidentiality:**

Except as otherwise provided herein or required by law or legal process, neither party shall disclose the terms and conditions of this Contract; provided, however, that this paragraph shall not prohibit the disclosure of:

- (a) any Contract information, terms or conditions which otherwise is or are publicly available;
- (b) any Contract information, terms or conditions to Carrier's affiliates, employees, agents, tariff publishers or auditors, or to any party participating in the transportation under the Contract including, but not limited to, inland carriers, stevedores, terminal operators, consolidators, and other subcontractors, or to any party receiving copies of bills of lading for Contract shipments, including but not limited to, consignees, forwarders, customs house brokers, or banks; or
- (c) any Contract information, terms or conditions, without identifying the other contracting party, to the secretariat of an agreement covering all or part of the trade covered by the Contract to which Carrier is a party, for purposes of administering the agreement or for inclusion in a report, analysis or study of rates or conditions in the trade covered by the Contract.

This paragraph shall not be construed to hold either the Shipper or Carrier liable for disclosure of information by a third party. Nothing herein shall prevent either party from disclosing otherwise confidential information with the consent of the other party.

**7. Force Majeure:**

For purposes of force majeure relief under the Contract, force majeure circumstances shall include work stoppages, strikes, accidents, casualties, lockouts, fire, road, marine or rail disasters, acts of God, governmental restraints, war or hostilities, acts of terrorism, embargoes or other similar conditions except commercial contingencies (e.g., changing markets, poor management decisions, business declines, bankruptcy of a customer or of a supplier, etc.). In the event of force majeure circumstances affecting Shipper or Carrier, the affected party shall, within seven (7) working days (or as soon thereafter as is reasonably practicable but in no event later than 30 days after the expiration of the Contract) of the commencement of such circumstances, notify the other party in writing of the existence of same and of the anticipated or actual effect on its ability to perform its obligations under the Contract. The party must submit, within 60 days after its initial notice of force majeure circumstances, documentation that adequately evidences the occurrence of a force majeure event and that supports the impact of such force majeure event on the party's ability to fulfill its obligations under the Contract. Such documentation should include third-party documents (e.g. newspaper articles, insurance reports, government notices), labour reports/statistics, production reports/statistics, documentation to support the amount of force majeure relief requested, and sworn statements. Upon receipt of notice of Force Majeure conditions and adequate proof thereof, the parties shall be excused from their obligations under the Contract to the extent of and for the duration of the disability. Upon cessation of force majeure circumstances, the Contract obligations shall be reinstated, and the Minimum Volume Commitment may be adjusted accordingly.

**8. Termination:**

Either party may, without penalty, terminate this Contract upon 30 days written notice to the other party at any time after the Shipper has satisfied the Minimum Quantity Commitment set forth herein.

**9. Applicable Law / Disputes:**

- (a) This Contract shall be subject to the U.S. Shipping Act of 1984, as amended, and shall otherwise be construed and governed by the laws of the State of New York.

(b) The parties agree that any and all disputes arising out of or in connection with the Contract, including any failure by Shipper to pay or by either or both Carrier(s) to perform as required by the Contract, shall be resolved by arbitration. Arbitration shall take place in the State of New York or such other place as the parties to the dispute may mutually agree. The arbitration shall be before a single arbitrator to be appointed by the parties to the dispute or, failing such agreement and upon the application of any party to the dispute, by the President of the Society of Maritime Arbitrators ("SMA") in New York. There shall be no restrictions on the nationality of the arbitrator. Except by agreement of the parties to the dispute, there shall be no pre-hearing discovery. The costs and expenses of the arbitration (including reasonable attorneys' fees and costs) shall be borne by the non-prevailing party or as the arbitrator shall otherwise determine. The decision of the arbitrator shall be final, binding, and not subject to further review. In all other respects, the procedural rules of the SMA shall govern the conduct of the arbitration; provided, however, if the procedural rules of the SMA do not contain a provision applicable to a given procedural issue, then the law of the State of New York shall govern.

(c) The decision of the arbitrator may be enforced by any court, tribunal or other forum as may properly assert jurisdiction. In the event a party that has prevailed in arbitration finds it necessary to seek enforcement of the arbitrator's decision and award, the party seeking such enforcement shall be entitled to receive from the non-prevailing party the costs and expenses of such enforcement, including reasonable attorney's fees and costs. The parties further agree that any such award may be enforced pursuant to the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards of June 10, 1958.

**10. Entire Contract:**

This Contract (including applicable governing publications) constitutes the full understanding of the parties and complete and exclusive statement of the terms of the Contract. This Contract shall only be binding when fully executed and duly filed with the U.S. Federal Maritime Commission. No modification or termination of this Contract or waiver of any of its terms or conditions shall be of any force or effect unless made in writing and signed by the parties.

**11. Verification of Contract Carryings:**

Each original Bill of Lading governing individual shipments under this Contract and all copies thereof shall bear a notation showing the service contract number of this Contract. The designation by Shipper of cargo as Contract cargo by affixing the Contract number on the bill of lading shall be made at the time of the issuance of the bill of lading. Such designation, or the Shipper's failure to so designate, shall be final, and shall not be modified after the bill of lading has been issued, absent inadvertent error. In its exclusive discretion, Carrier may permit cargoes not so notated to count hereunder upon proof of inadvertent error by Shipper.

**12. Bills of Lading:**

The terms and conditions of Carrier's bills of lading covering individual shipments under this Contract shall apply to shipments hereunder. To the extent the provisions dealing with liability for damage to persons or property (including cargo), delays, misdelivery or any provisions mandated by applicable law in Carrier's bill of lading are in conflict with the Contract, the bill of lading shall prevail.

**13. Assignment:**

Shipper may not assign this Contract in any manner without the written consent of Carrier.

**14. Qualification for Contract Terms:**

The Shipper must be identified as the shipper/exporter or consignee on the applicable Bill of Lading.

**15. Other Provisions of the Contract:**

All rates and charges for transportation under this Contract will be for the account of the shipper or its agent.



**16. Affiliates (if applicable, either option 1 or option 2):****(1)**

In exchange for Carrier's agreement to make the terms of this Contract available to each of the Affiliates of Shipper named herein, Shipper agrees that it shall be jointly and severally liable with each such Affiliate for any and all payments due to the Carrier from the Affiliate hereunder, as well as the proper fulfillment of any and all obligations and duties of that Affiliate under this Contract.

**(2)**

(a) Subject to paragraphs (b) and (c) below, the SHIPPER hereby agrees that the terms of this Contract shall be extended to each of the affiliates named herein ("Affiliates") only so long as each Affiliate complies with and fulfills all conditions and obligations of this Contract in a timely manner.

(b) The terms of this Contract relating to credit (time for payment) and free time periods granted to SHIPPER shall not be extended to any Affiliate unless SHIPPER undertakes in writing to be jointly and severally liable for any and all debts, duties and/or obligations due to the CARRIER by said Affiliate.

(c) The SHIPPER hereby agrees that in the event any Affiliate breaches this Contract (including failure to make timely payment of freight and/or charges), Carrier shall be entitled to immediately discontinue making the terms of the Contract available to such Affiliate unless SHIPPER immediately pays any amounts due and owing to Carrier by such Affiliate and agrees in writing to be jointly and severally liable to Carrier for any and all future debts, duties and/or obligations of such Affiliate to Carrier.

**17. Amendments:**

Amendments to this Contract must be executed by both parties. Such execution may be by original, facsimile, or electronic signature.

After the parties have signed this Contract and it has been filed with the Federal Maritime Commission, the parties may enter into subsequent amendments in an electronic mail format (e-mail), transmitted via the Internet and executed by the parties with an electronic signature. In the event that an amendment to the Contract is executed with an electronic signature, all terms and conditions contained in such amendment and this Contract, shall have full legal effect, validity and enforceability. The term electronic signature means an exchange of e-mails between the parties to which the parties attach the amendments to the Agreement and in which such parties state that they agree to terms and conditions of such amendment.

The following individuals are the only representatives of the Shipper who may sign amendments electronically, and e-mails constituting electronic signatures to such amendments, may only be sent from the following e-mail addresses: [jacob@ojcommerce.com](mailto:jacob@ojcommerce.com)

**18. Hard Copy and Paper Release:**

A Hard copy and Paper release fee of USD30.00 per Bill of Lading will apply to all cargo moving from the United States. This will apply for any Bills of Lading that are released in hard copy format and will not apply to electronic releases. Should shipper or Agent, acting on behalf of the Shipper, require a Bill of Lading revision whether hard copy, or electronic, each re-issue will be assessed this fee.

**Minimum Volume Commitment**

1. Shipper agrees to tender the minimum quantity of TEUs set forth in this agreement for shipment during the term of this Contract (Minimum Volume Commitment). Shipper agrees to give 10 days booking notice of all shipments moving hereunder to Carrier and further agrees that the tender of cargo under this Contract shall be reasonably spaced throughout the term hereof.

**2. Shipper Obligations:**

Shipper, Consignor or their Agent(s) is/are responsible for packing cargo and loading the container in a manner that will permit safe and lawful transportation under ordinary circumstances. For cargoes that will be moved by rail in North America, this obligation includes compliance with the American Association of Railroad's "Intermodal Loading Guides". Any and all costs incurred by Carrier as a result of the failure of Shipper, Consignor or their agents to comply with the Intermodal Loading Guides or otherwise pack the cargo and load the container in a manner that permits safe and lawful transportation of the cargo shall be for the account of the cargo.

<b>Volume</b>	<b>Unit</b>	<b>Start Date</b>	<b>End Date</b>
400	TEU	23-JUN-2020	31-MAY-2021

**Appendix**

Trade: EAST ASIA-NORTH AMERICA WEST COAST				
<b>Place Of Receipt</b>	<b>Port Of Loading</b>	<b>Transshipment Ports</b>	<b>Port Of Discharge</b>	<b>Place Of Delivery</b>
PORT	FUZHOU, CN LINER IN	XIAMEN, CN	LOS ANGELES, US LINER OUT	CITY OF INDUSTRY, CA, US DOOR, TRUCK
<b>Estimated Transit Time:</b>		21 Days		
<b>Product ID:</b> 00003				
<b>Equipment:</b> 40' GP, FCL		<b>Commodity:</b> CONSUMER PRODUCTS:FURNITURE		
Charges Details				
Charge	Rate / Basis	Floating	Effective Date	Expiry Date
OFREIGHT	1875.00 USD / CONTAINER	No		
BAF	235.00 USD / CONTAINER	Yes		30-JUN-2020
BAF	264.00 USD / CONTAINER	Yes	01-JUL-2020	
DOC F EX	450.00 CNY / B/L	Yes		
THC EX	916.00 CNY / CONTAINER	Yes		
CDC	35.00 USD / B/L	Yes		
EIF	110.00 CNY / CONTAINER	Yes		
SEAL PRO	30.00 CNY / CONTAINER	Yes		
<b>Ocean Freight includes:</b> ECA, ISPS CAR, ONCARR		<b>Applicable for:</b> HAMBURG SÜD		
<b>Product ID:</b> 00004				
<b>Equipment:</b> 40' HC, FCL		<b>Commodity:</b> CONSUMER PRODUCTS:FURNITURE		
Charges Details				
Charge	Rate / Basis	Floating	Effective Date	Expiry Date
OFREIGHT	1875.00 USD / CONTAINER	No		
BAF	235.00 USD / CONTAINER	Yes		30-JUN-2020
BAF	264.00 USD / CONTAINER	Yes	01-JUL-2020	
DOC F EX	450.00 CNY / B/L	Yes		
THC EX	916.00 CNY / CONTAINER	Yes		
CDC	35.00 USD / B/L	Yes		
EIF	110.00 CNY / CONTAINER	Yes		
SEAL PRO	30.00 CNY / CONTAINER	Yes		
<b>Ocean Freight includes:</b> ECA, ISPS CAR, ONCARR		<b>Applicable for:</b> HAMBURG SÜD		

<b>Place Of Receipt</b>	<b>Port Of Loading</b>	<b>Transshipment Ports</b>	<b>Port Of Discharge</b>	<b>Place Of Delivery</b>
PORT	HO CHI MINH CITY, VN LINER IN	VUNG TAU, VN	LOS ANGELES, US LINER OUT	CITY OF INDUSTRY, CA, US DOOR, TRUCK
<b>Estimated Transit Time:</b>		26 Days		

<b>Product ID:</b> 00017				
<b>Equipment:</b> 40' GP, FCL		<b>Commodity:</b> CONSUMER PRODUCTS:FURNITURE		
<b>Charges Details</b>				
<b>Charge</b>	<b>Rate / Basis</b>	<b>Floating</b>	<b>Effective Date</b>	<b>Expiry Date</b>
OFREIGHT	1625.00 USD / CONTAINER	No		
BAF	235.00 USD / CONTAINER	Yes		30-JUN-2020
BAF	264.00 USD / CONTAINER	Yes	01-JUL-2020	
DOC F EX	750000.00 VND / B/L	Yes		
THC EX	169.00 USD / CONTAINER	Yes		
CDC	35.00 USD / B/L	Yes		
SEAL PRO	9.00 USD / CONTAINER	Yes		
<b>Ocean Freight includes:</b> ECA, ISPS CAR, ONCARR		<b>Applicable for:</b> HAMBURG SUD		

<b>Product ID:</b> 00018				
<b>Equipment:</b> 40' HC, FCL		<b>Commodity:</b> CONSUMER PRODUCTS:FURNITURE		
<b>Charges Details</b>				
<b>Charge</b>	<b>Rate / Basis</b>	<b>Floating</b>	<b>Effective Date</b>	<b>Expiry Date</b>
OFREIGHT	1625.00 USD / CONTAINER	No		
BAF	235.00 USD / CONTAINER	Yes		30-JUN-2020
BAF	264.00 USD / CONTAINER	Yes	01-JUL-2020	
DOC F EX	750000.00 VND / B/L	Yes		
THC EX	169.00 USD / CONTAINER	Yes		
CDC	35.00 USD / B/L	Yes		
SEAL PRO	9.00 USD / CONTAINER	Yes		
<b>Ocean Freight includes:</b> ECA, ISPS CAR, ONCARR		<b>Applicable for:</b> HAMBURG SUD		

<b>Place Of Receipt</b>	<b>Port Of Loading</b>	<b>Transshipment Ports</b>	<b>Port Of Discharge</b>	<b>Place Of Delivery</b>
PORT	NINGBO, CN LINER IN	DIRECT ONLY	LONG BEACH, US LINER OUT	CITY OF INDUSTRY, CA, US DOOR, TRUCK
<b>Estimated Transit Time:</b>		18 Days		

<b>Product ID:</b> 00005				
<b>Equipment:</b> 40' GP, FCL		<b>Commodity:</b> CONSUMER PRODUCTS:FURNITURE		

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<b>Charges Details</b>				
<b>Charge</b>	<b>Rate / Basis</b>	<b>Floating</b>	<b>Effective Date</b>	<b>Expiry Date</b>
OFREIGHT	1625.00 USD / CONTAINER	No		
BAF	235.00 USD / CONTAINER	Yes		30-JUN-2020
BAF	264.00 USD / CONTAINER	Yes	01-JUL-2020	
DOC F EX	450.00 CNY / B/L	Yes		
THC EX	916.00 CNY / CONTAINER	Yes		
CDC	35.00 USD / B/L	Yes		
EIF	110.00 CNY / CONTAINER	Yes		
SEAL PRO	30.00 CNY / CONTAINER	Yes		
<b>Ocean Freight Includes:</b> ECA, ISPS CAR, ONCARR		<b>Applicable for:</b> HAMBURG SÜD		
<b>Product ID:</b> 00006				
<b>Equipment:</b> 40' HC, FCL		<b>Commodity:</b> CONSUMER PRODUCTS:FURNITURE		
<b>Charges Details</b>				
<b>Charge</b>	<b>Rate / Basis</b>	<b>Floating</b>	<b>Effective Date</b>	<b>Expiry Date</b>
OFREIGHT	1625.00 USD / CONTAINER	No		
BAF	235.00 USD / CONTAINER	Yes		30-JUN-2020
BAF	264.00 USD / CONTAINER	Yes	01-JUL-2020	
DOC F EX	450.00 CNY / B/L	Yes		
THC EX	916.00 CNY / CONTAINER	Yes		
CDC	35.00 USD / B/L	Yes		
EIF	110.00 CNY / CONTAINER	Yes		
SEAL PRO	30.00 CNY / CONTAINER	Yes		
<b>Ocean Freight Includes:</b> ECA, ISPS CAR, ONCARR		<b>Applicable for:</b> HAMBURG SÜD		
<b>Place Of Receipt</b>	<b>Port Of Loading</b>	<b>Transshipment Ports</b>	<b>Port Of Discharge</b>	<b>Place Of Delivery</b>
PORT	QINGDAO, CN LINER IN	DIRECT ONLY	LONG BEACH, US LINER OUT	CITY OF INDUSTRY, CA, US DOOR, TRUCK
<b>Estimated Transit Time:</b> 23 Days				
<b>Product ID:</b> 00011				
<b>Equipment:</b> 40' GP, FCL		<b>Commodity:</b> CONSUMER PRODUCTS:FURNITURE		

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Charges Details				
Charge	Rate / Basis	Floating	Effective Date	Expiry Date
OFREIGHT	1625.00 USD / CONTAINER	No		
BAF	235.00 USD / CONTAINER	Yes		30-JUN-2020
BAF	264.00 USD / CONTAINER	Yes	01-JUL-2020	
DOC F EX	450.00 CNY / B/L	Yes		
THC EX	916.00 CNY / CONTAINER	Yes		
CDC	35.00 USD / B/L	Yes		
EIF	110.00 CNY / CONTAINER	Yes		
SEAL PRO	30.00 CNY / CONTAINER	Yes		
Ocean Freight Includes: ECA, ISPS CAR, ONCARR			Applicable for: HAMBURG SÜD	

Product ID: 00012

Equipment: 40' HC, FCL      Commodity: CONSUMER PRODUCTS:FURNITURE

Charges Details				
Charge	Rate / Basis	Floating	Effective Date	Expiry Date
OFREIGHT	1625.00 USD / CONTAINER	No		
BAF	235.00 USD / CONTAINER	Yes		30-JUN-2020
BAF	264.00 USD / CONTAINER	Yes	01-JUL-2020	
DOC F EX	450.00 CNY / B/L	Yes		
THC EX	916.00 CNY / CONTAINER	Yes		
CDC	35.00 USD / B/L	Yes		
EIF	110.00 CNY / CONTAINER	Yes		
SEAL PRO	30.00 CNY / CONTAINER	Yes		
Ocean Freight Includes: ECA, ISPS CAR, ONCARR			Applicable for: HAMBURG SÜD	

Place Of Receipt	Port Of Loading	Transshipment Ports	Port Of Discharge	Place Of Delivery
PORT	SHANGHAI, CN LINER IN	DIRECT ONLY	LONG BEACH, US LINER OUT	CITY OF INDUSTRY, CA, US DOOR, TRUCK

Estimated Transit Time: 11 Days

Product ID: 00009

Equipment: 40' GP, FCL      Commodity: CONSUMER PRODUCTS:FURNITURE

Charges Details

Charge	Rate / Basis	Floating	Effective Date	Expiry Date
OFREIGHT	1625.00 USD / CONTAINER	No		
BAF	235.00 USD / CONTAINER	Yes		30-JUN-2020
BAF	264.00 USD / CONTAINER	Yes	01-JUL-2020	
DOC F EX	450.00 CNY / B/L	Yes		
THC EX	916.00 CNY / CONTAINER	Yes		
CDC	35.00 USD / B/L	Yes		
EIF	110.00 CNY / CONTAINER	Yes		
SEAL PRO	30.00 CNY / CONTAINER	Yes		

Ocean Freight includes: ECA, ISPS CAR, ONCARR

Applicable for: HAMBURG SÜD

Product ID: 00010

Equipment: 40' HC, FCL

Commodity:

CONSUMER PRODUCTS:FURNITURE

Charges Details

Charge	Rate / Basis	Floating	Effective Date	Expiry Date
OFREIGHT	1625.00 USD / CONTAINER	No		
BAF	235.00 USD / CONTAINER	Yes		30-JUN-2020
BAF	264.00 USD / CONTAINER	Yes	01-JUL-2020	
DOC F EX	450.00 CNY / B/L	Yes		
THC EX	916.00 CNY / CONTAINER	Yes		
CDC	35.00 USD / B/L	Yes		
EIF	110.00 CNY / CONTAINER	Yes		
SEAL PRO	30.00 CNY / CONTAINER	Yes		

Ocean Freight includes: ECA, ISPS CAR, ONCARR

Applicable for: HAMBURG SÜD

Place Of Receipt	Port Of Loading	Transshipment Ports	Port Of Discharge	Place Of Delivery
PORT	XIAMEN, CN LINER IN	DIRECT ONLY	LOS ANGELES, US LINER OUT	CITY OF INDUSTRY, CA, US DOOR, TRUCK

Estimated Transit Time: 18 Days

Product ID: 00007

Equipment: 40' GP, FCL

Commodity:

CONSUMER PRODUCTS:FURNITURE

Charges Details				
Charge	Rate / Basis	Floating	Effective Date	Expiry Date
OFREIGHT	1625.00 USD / CONTAINER	No		
BAF	235.00 USD / CONTAINER	Yes		30-JUN-2020
BAF	264.00 USD / CONTAINER	Yes	01-JUL-2020	
DOC F EX	450.00 CNY / B/L	Yes		
THC EX	916.00 CNY / CONTAINER	Yes		
CDC	35.00 USD / B/L	Yes		
EIF	110.00 CNY / CONTAINER	Yes		
SEAL PRO	30.00 CNY / CONTAINER	Yes		
Ocean Freight includes: ECA, ISPS CAR, ONCARR			Applicable for: HAMBURG SÜD	

Product ID: 00008				
Equipment: 40' HC, FCL		Commodity: CONSUMER PRODUCTS:FURNITURE		
Charges Details				
Charge	Rate / Basis	Floating	Effective Date	Expiry Date
OFREIGHT	1625.00 USD / CONTAINER	No		
BAF	235.00 USD / CONTAINER	Yes		30-JUN-2020
BAF	264.00 USD / CONTAINER	Yes	01-JUL-2020	
DOC F EX	450.00 CNY / B/L	Yes		
THC EX	916.00 CNY / CONTAINER	Yes		
CDC	35.00 USD / B/L	Yes		
EIF	110.00 CNY / CONTAINER	Yes		
SEAL PRO	30.00 CNY / CONTAINER	Yes		
Ocean Freight includes: ECA, ISPS CAR, ONCARR			Applicable for: HAMBURG SÜD	

Place Of Receipt	Port Of Loading	Transshipment Ports	Port Of Discharge	Place Of Delivery
PORT	YANTIAN, CN LINER IN	DIRECT ONLY	LONG BEACH, US LINER OUT	CITY OF INDUSTRY, CA, US DOOR, TRUCK
Estimated Transit Time:		14 Days		

Product ID: 00013				
Equipment: 40' GP, FCL		Commodity: CONSUMER PRODUCTS:FURNITURE		



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**Charges Details**

Charge	Rate / Basis	Floating	Effective Date	Expiry Date
OFREIGHT	1625.00 USD / CONTAINER	No		
BAF	235.00 USD / CONTAINER	Yes		30-JUN-2020
BAF	264.00 USD / CONTAINER	Yes	01-JUL-2020	
DOC F EX	450.00 CNY / B/L	Yes		
THC EX	1706.00 CNY / CONTAINER	Yes		
CDC	35.00 USD / B/L	Yes		
EIF	0.00 CNY / CONTAINER	Yes		
CNT REL	45.00 CNY / CONTAINER	Yes		
SEAL PRO	30.00 CNY / CONTAINER	Yes		
Ocean Freight Includes: ECA, ISPS CAR, ONCARR			Applicable for:	HAMBURG SÜD

Product ID: 00014

Equipment: 40' HC, FCL      Commodity: CONSUMER PRODUCTS:FURNITURE

**Charges Details**

Charge	Rate / Basis	Floating	Effective Date	Expiry Date
OFREIGHT	1625.00 USD / CONTAINER	No		
BAF	235.00 USD / CONTAINER	Yes		30-JUN-2020
BAF	264.00 USD / CONTAINER	Yes	01-JUL-2020	
DOC F EX	450.00 CNY / B/L	Yes		
THC EX	1706.00 CNY / CONTAINER	Yes		
CDC	35.00 USD / B/L	Yes		
EIF	0.00 CNY / CONTAINER	Yes		
CNT REL	45.00 CNY / CONTAINER	Yes		
SEAL PRO	30.00 CNY / CONTAINER	Yes		
Ocean Freight Includes: ECA, ISPS CAR, ONCARR			Applicable for:	HAMBURG SÜD

Place Of Receipt	Port Of Loading	Transshipment Ports	Port Of Discharge	Place Of Delivery
PORT	YANTIAN, CN LINER IN	DIRECT ONLY	LOS ANGELES, US LINER OUT	CITY OF INDUSTRY, CA, US DOOR, TRUCK

Estimated Transit Time: 20 Days

Product ID: 00021

Equipment: 40' GP, FCL      Commodity: CONSUMER PRODUCTS:FURNITURE

Charges Details				
Charge	Rate / Basis	Floating	Effective Date	Expiry Date
OFREIGHT	1625.00 USD / CONTAINER	No		
BAF	235.00 USD / CONTAINER	Yes		30-JUN-2020
BAF	264.00 USD / CONTAINER	Yes	01-JUL-2020	
DOC F EX	450.00 CNY / B/L	Yes		
THC EX	1706.00 CNY / CONTAINER	Yes		
CDC	35.00 USD / B/L	Yes		
EIF	0.00 CNY / CONTAINER	Yes		
CNT REL	45.00 CNY / CONTAINER	Yes		
SEAL PRO	30.00 CNY / CONTAINER	Yes		
Ocean Freight Includes: ECA, ISPS CAR, ONCARR			Applicable for: HAMBURG SÜD	

Product ID: 00022  
 Equipment: 40' HC, FCL      Commodity: CONSUMER PRODUCTS:FURNITURE

Charges Details				
Charge	Rate / Basis	Floating	Effective Date	Expiry Date
OFREIGHT	1625.00 USD / CONTAINER	No		
BAF	235.00 USD / CONTAINER	Yes		30-JUN-2020
BAF	264.00 USD / CONTAINER	Yes	01-JUL-2020	
DOC F EX	450.00 CNY / B/L	Yes		
THC EX	1706.00 CNY / CONTAINER	Yes		
CDC	35.00 USD / B/L	Yes		
EIF	0.00 CNY / CONTAINER	Yes		
CNT REL	45.00 CNY / CONTAINER	Yes		
SEAL PRO	30.00 CNY / CONTAINER	Yes		
Ocean Freight includes: ECA, ISPS CAR, ONCARR			Applicable for: HAMBURG SÜD	

**Free Time**  
 Free Times for Trades and/or Products are as indicated below, or if not otherwise mentioned, as per Hamburg Süd Tariff.

Trade (Country)	Tariff Type (Equip. Group)	Direction	Size	Free Days	Public Holiday
Product ID					
EAST ASIA - NORTH AMERICA WEST COAST (CHINA)					
	DEMURRAGE + DETENTION	EXPORT	20'	7 calendar days	Included
	DEMURRAGE + DETENTION	EXPORT	40'	7 calendar days	Included

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EAST ASIA - NORTH AMERICA WEST COAST (UNITED STATES)

DETENTION	IMPORT	20'	4 calendar days	Included
DETENTION	IMPORT	40'	4 calendar days	Included