

## 1. Definitions

**Additional Volume Rebate** – An Additional Volume Rebate is an amount payable by us to you where the amount of cargo properly tendered by you and accepted by us for carriage in a given Review Period exceeds the Minimum Quantity Commitment.

**Affiliates** - In relation to either Party, Affiliate means an entity in the same group-ownership as that Party.

**Agreement** – Any reference to the “Agreement” is a reference to the legally binding agreement entered into by the parties as well as any other terms incorporated by reference.

**Allocation Week** - Each week during the Term is an Allocation Week.

**Backhaul Trades** – Your Backhaul Trades are set out in the Contract Output.

**Booking Confirmation** – The Booking Confirmation is a document sent by us confirming the details of a booking made under your Agreement with us.

**Calendar Quarter** – Calendar Quarter means a period of 3 consecutive months ending on the last day of March, June, September, or December respectively. Calendar Quarter as used in this Agreement includes any Part Calendar Quarter.

**Carrier** – A Carrier is a party that is responsible for the physical carriage of any goods booked under this Agreement.

**Carrier Commitment Option** – A Carrier Commitment Option is either Load as Booked or Space and Equipment Guarantee.

**Charges** – Charges are any and all freight, costs, fees, expenses, commissions, duties, penalties, compensation, surcharges, charges or any other amounts whatsoever payable to us in respect of the services provided to you under this Agreement.

**Compensation Fee** – A Compensation Fee is a USD amount that we will pay you on a per FFE basis for a failure to load your cargo in accordance with our Load as Booked promise, or a failure to provide space or Equipment in accordance with the Space and Equipment Guarantee, as applicable.

**Contract Output** – The Contract Output is a document containing the key commercial terms of this Agreement, including (a) the parties’ contact details; (b) the Term of this Agreement; (c) the parties’ Affiliates; (d) any applicable payment terms; (e) the agreed space allocation; (f) the Ocean Base Rates; (g) inland rates; (h) the rate review mechanisms; (i) the Port Pairs; (j) the Free Time; (k) the Liquidated Damages Rate and (l) the Bunker Adjustment Factor terms.

**Dangerous Goods** - Dangerous Goods are Goods which are or may become dangerous, hazardous, noxious (including radioactive materials), inflammable, explosive or which are or may become liable to damage any property or person whatsoever. Dangerous Goods includes, but is not limited to, any Goods that are specified as dangerous or requiring any particular special handling for the safety of the vessel, crew or Goods under the United Nations IMDG Code.

**Dangerous Goods Declaration** – A Dangerous Goods Declaration is a declaration in a form acceptable to us in our sole discretion.

**Effective Date** – The Effective Date is the date on which this Agreement comes into effect, as set out in the Contract Output.



**Equipment** – Equipment refers to a container or containers. The defined term “Equipment” does not include any extra equipment beyond the container itself or any special equipment (e.g. flat racks, open tops, chassis).

**Equipment Drop Off Point** – The Equipment Drop Off Point is the place set out in the Booking Confirmation as the place at which you will return the Equipment.

**Space and Equipment Guarantee** – If you select the Space and Equipment Guarantee, we will be under an obligation to provide you with vessel space for your cargoes within the Weekly Volume Nomination, as well as the Equipment indicated in the Booking Confirmation, or a reasonable alternative.

**Equipment Pick Up Point** – The Equipment Pick Up Point is the place set out in the Booking Confirmation as the place at which you will pick up the Equipment.

**Expiry Date** – The Expiry Date is the date on which this Agreement terminates, as set out in the Contract Output.

**Extenuating Circumstance** – An Extenuating Circumstance is a circumstance that relieves us of our obligation to accept a booking, load cargo or provide Equipment, as applicable.

**Free Time** – The Free Time is a period during which you will not be liable to pay us detention and demurrage Charges. Your Free Time entitlement is set out in the Contract Output.

**Goods** – Goods means the whole or any part of the cargo and any packaging accepted from you including any Equipment not provided by us, any packing case, pallet, container, flat rack, platform, trailer, transportable tank or other item used for or in connection with the carriage of Goods by any means whatsoever.

**Headhaul Trades** – Your Headhaul Trades are set out in the Contract Output.

**Index-Based Rebate** - An Index-Based Rebate may be payable by either you, or us (as applicable) where the parties have agreed to periodical rebates calculated by reference to a selected index. An Index-Based Rebate will be determined by comparing an index-linked Ocean Base Rate against an agreed benchmark rate.

**Inland Corridor** – An Inland Corridor is an inland route between an ocean terminal and an inland location or vice versa.

**Inland Documents** – The Inland Documents are all documents and information that are required or desirable for us to arrange inland transportation. The Inland Documents will at all times include (but will not be limited to): (a) any VGM documentation; (b) inland shipping Instructions; (c) an inland Dispatch Order (including customer facility address, operation window, etc); and (d) MSDS, if required. We may request additional documents for inland transportation (in our reasonable discretion) and any such documents shall be Inland Documents.

**Inland Rate Review** – An Inland Rate Review is an adjustment to the prevailing rates for inland transport in an Inland Corridor.

**Intra Trades** – Your Intra Trades are set out in the Contract Output.

**Liquidated Damages** – Liquidated Damages are an amount payable by you in respect of certain breaches, which the parties have agreed is a genuine pre-estimate of the loss suffered by your failure to perform the underlying obligation.



**Liquidated Damages Rate** – The Liquidated Damages Rate is a USD amount, against which Liquidated Damages are calculated on a per FFE basis. The Liquidated Damages Rate is contained in the Contract Output.

**Load as Booked** – If you select Load as Booked, we will be under an obligation to load any bookings within your Weekly Volume Nomination accepted by us for carriage.

**Long Haul Trades** – Your Long Haul Trades are set out in the Contract Output.

**Month** – A Month means a calendar month, or any part of a calendar month between: (a) the Commencement Date and the end of the first month of the Term; or (b) between the first day of the month in which the Term expires and the end of the Term. A Month is comprised of Allocation Weeks and we may use any reasonable logic in our sole discretion to apportion Allocation Weeks within any Month.

**Minimum Quantity Commitment (“MQC”)** – The Minimum Quantity Commitment is a minimum volume of cargo that you have committed to tendering in each Review Period, as set out in this Agreement. Failure to tender the MQC shall in most cases give rise to a payment obligation in the form of Liquidated Damages, subject in each case to the terms of this Agreement.

**Ocean Base Rates** – Ocean Base Rates are the base ocean freight rates agreed by the parties which do not include surcharges, accessorial charges, or any other charges that may otherwise be applicable to the ocean transportation of cargo.

**Ocean Contract Product General Terms and Conditions** – the Ocean Contract Product General Terms and Conditions are standard terms and conditions applicable to this Agreement, which are available at <https://terms.maersk.com/GTC>.

**Origin-Destination Group** – An Origin-Destination Group is a collection of Port Pairs aggregated by us between origin ports and destination ports within the same region. The Origin-Destination Groups are selected by us in our sole discretion.

**Part Calendar Quarter** – A Part Calendar Quarter is a period smaller than a Calendar Quarter, and which is the duration between the Effective Date and the end of the first Calendar Quarter, or between the start of the last Calendar Quarter in the Term and the end of the Term.

**Port Pair** – A Port Pair is a load port and a discharge port, between which we may have agreed to carry Goods under this Agreement for a specified rate.

**Rebate Rate** – The Rebate Rate is a USD amount, against which an Additional Volume Rebate will be calculated on a per FFE basis. The Rebate Rate is contained in the Contract Output.

**Review Period** – A Review Period may be a period of one Month, or one Calendar Quarter depending on the agreed MQC compliance cycle, as set out in the Contract Output.

**Tariff** – The Tariff sets out our tariff rates for all Port Pairs and is available on request. The Tariff is particularised in the Incorporation of Tariff Clause of this Agreement. By entering into this Agreement, you confirm that you are aware of the existence of, and how to access, the Tariff and our tariff rates.

**Tendered Volume** – The Tendered Volume is the actual amount of cargo properly tendered to us for ocean carriage in accordance with the terms and conditions contained in this Agreement.



**Term** - The Term is the total period from the commencement to the expiration of your Agreement with us.

**Total Nomination** - The Total Nomination is the total volume of cargo, measured in FFE, that you intend to tender for carriage during the Term.

**Transport Document** – A Transport Document is the bill of lading or sea waybill, as the case may be, issued by us, or by any of our Affiliates.

**Weekly Volume Nomination (“WVN”)** –The Weekly Volume Nomination is an amount that you have indicated that you intend for us to carry each Allocation Week during the Term.

References to “you” or “your” are references to the shipper. References to “we” or “our” are references to the carrier.

## 2. Scope of this Agreement

- a. This Agreement incorporates:
  - i. The Contract Output; and
  - ii. The Ocean Contract Product General Terms and Conditions.
- b. This Agreement sets out the terms on which we agree to provide the services set out in the Contract Output.
- c. This Agreement does not set out the parties’ liability for loss or damage to Goods or other liabilities arising during carriage. Carriage of any Goods booked under this Agreement will be governed by our Terms for Carriage which are available at [Terms for Carriage | Maersk Terms](#).
- d. Capitalised terms in this Agreement have the meaning given to them in the Definitions section in this Agreement.
- e. This Agreement and the other provisions incorporated by this Agreement shall prevail over any terms and conditions that are included in any booking sent by you, or in any other communication sent by you in the formation of the Contract Output, this Agreement or any booking made pursuant to the Contract Output and this Agreement.
- f. In the absence of any express prior acceptance, the act of making a booking under the Contract Output and this Agreement shall be deemed to be your irrevocable acceptance of this Agreement and the terms in the Contract Output.

## 3. Your responsibilities

### 3.1 The Basics

a. At the time of entering into this Agreement, you may select either a “Flat”, or a “Preset” allocation. You may also select how frequently we will monitor your compliance with the Minimum Quantity Commitment. Your selections will be recorded in the Contract Output. The allocation options and compliance cycles are as per the below table:

	<b>Flat Allocation</b>	<b>Preset Allocation</b>
	You agree to tender a non-fluctuating weekly volume of	You agree to tender varying volumes of cargo based on your seasonal



	cargo, expressed as your Weekly Volume Nomination.  Your cumulative Weekly Volume Nominations for each Review Period are your Minimum Quantity Commitment for that Review Period.	requirements, expressed as your Minimum Quantity Commitments.  From your Minimum Quantity Commitments, we will establish your Weekly Volume Nominations across the Term. These are derived from your pro-rated Minimum Quantity Commitments.
<b>Monthly Compliance Cycle</b>	Each Month is a Review Period under this Agreement.  You must tender the Minimum Quantity Commitment in each Review Period.	
<b>Quarterly Compliance Cycle</b>	Each Calendar Quarter is a Review Period under this Agreement.  You must tender the Minimum Quantity Commitment in each Review Period.	

- b. Details of your allocation are available at <https://www.maersk.com/allocations>.
- c. For the purposes of volume calculations, the following equivalences apply:

Container Type	20'	40' HC / NOR / 45'
Equivalency	0.5 FFE	1 FFE

*In this table, "HC" means high cube container, and "NOR" means non-operating reefer container.*

**3.2 Your Liquidated Damages**

- a. Your compliance with fulfilling your Minimum Quantity Commitment will be reviewed after the end of each Review Period. If you fail to tender 90% of your Minimum Quantity Commitment you will be liable to pay us Liquidated Damages for the shortfall.
- b. Liquidated Damages will be calculated at the Liquidated Damages Rate set out in the Contract Output, multiplied by the sum of:
  - i. 90% of the Minimum Quantity Commitment in FFE; LESS
  - ii. the Tendered Volume during the relevant Review Period in FFE.

*By way of example for guidance purposes only, if the Minimum Quantity Commitment is 100 FFE and the Tendered Volume in the relevant Review Period is 60 FFE, the Liquidated Damages will be calculated as follows:*

*90% of Minimum Quantity Commitment (90% \* 100FFE) = 90 FFE*

*LESS*

*Tendered Volume (60FFE)*

*= Liquidated Damages (30 \* Liquidated Damages Rate).*

- c. To the extent that your failure to tender the Minimum Quantity Commitment is due to:



- i. any and all events beyond a party’s reasonable control including, without limitation, strikes, work stoppages, lockouts or circumstances arising from the threat thereof, acts of God, states or a public enemy, terrorism, cyber-attack, war, hostilities, riots, civil disorder, insurrection, embargo, pandemic, governmental actions (whether formal or informal) or any similar disruptions or interference with trade, marine disaster, fire or any other casualty (each a “**Force Majeure Event**”); or
- ii. us not accepting and carrying your properly tendered cargo, including due to the unavailability of a vessel due to a blank sailing.  
you shall not be liable to pay us Liquidated Damages.
- d. We may invoice you for any Liquidated Damages due to us on a monthly or quarterly basis, depending on the agreed compliance cycle.

**3.3 Additional Volume Rebate**

- a. You may request that we carry volumes of cargo in excess of the Weekly Volume Nomination each week. Our carriage of cargo in excess of the Weekly Volume Nomination may mean that you exceed the Minimum Quantity Commitment.
- b. Any excess amount of cargo that is properly tendered by you and accepted by us for carriage is the “**Additional Volume**” for the applicable Review Period.
- c. Provided that you have paid in full without deduction in cleared funds in Maersk’s account for all Additional Volume, we will provide you with an Additional Volume Rebate equal to the Rebate Rate per FFE of Additional Volume subject to the provisions of the below table:

<b>Headhaul Trades</b>	<b>Backhaul Trades</b>
The amount of an Additional Volume Rebate for Headhaul Trades will be capped at 30% of the MQC for any given Review Period.	At the time of entering into this Agreement, you may select that the amount of an Additional Volume Rebate for Backhaul Trades will be: <ul style="list-style-type: none"> <li>i. Uncapped; or</li> <li>ii. Capped at 30% of the MQC for any given Review Period.</li> </ul>

- d. Any request to carry volumes of cargo in excess of the Weekly Volume Nomination is subject to our acceptance (which is in our sole discretion).
- e. We will follow a self-billing process for any Additional Volume Rebate due to you under this Agreement. Choice of the payment method is at our absolute discretion.
- f. The parties may agree to customer-specific volume rebate terms, in which case such customer-specific terms will logically amend this Additional Volume Rebate Clause.

**4. Our responsibilities**

**4.1 Load as Booked and Space and Equipment Guarantee**

- a. At the time of entering into this Agreement, you may select one of the Carrier Commitment Options set out in the below table. Your selection will be recorded in the Contract Output.

b. Unless otherwise agreed in writing, we will apply our Load as Booked promise to this Agreement.

	<b>Load as Booked</b>	<b>Space and Equipment Guarantee</b>
<b>Scope of our services</b>	<p>Any bookings made within your Weekly Volume Nomination for that Allocation Week and accepted by us for carriage will be subject to the following commitment:</p> <p>a. We will load the cargo onboard the original first leg ocean going vessel stated in the final Booking Confirmation; and</p> <p>b. We may, in our discretion, load the cargo on an alternative vessel, provided that the alternative vessel departs not earlier or later than three days before or after the scheduled ETD (as applicable) as confirmed in the final Booking Confirmation.</p>	<p>We agree to the following Space and Equipment Guarantee:</p> <p>a. We will accept your bookings for an amount of cargo up to the Weekly Volume Nomination in each Allocation Week;</p> <p>b. We will load and carry your properly tendered cargoes within the Weekly Volume Nomination;</p> <p>c. We shall provide you with the Equipment indicated in the Booking Confirmation or a reasonable alternative;</p> <p>d. We shall not be in breach of the Space and Equipment Guarantee if we are unable to load your cargo on the intended vessel as stated in the Booking Confirmation, provided that the cargo is later loaded onto another vessel.</p>
<b>Conditions Applicable to Our Equipment Guarantee</b>		<p>a. We are under no obligation to provide:</p> <p>i. any special grade containers, including: food/dairy, flexitank, Open Tops, Flat Racks and scrap-grade containers;</p> <p>ii. any Equipment from any location other than the default 'Empty Container Depot' stated in the Booking Confirmation; and / or</p>



	<p>iii. any Equipment on a date earlier than the Equipment 'Release Date' stated in the Booking Confirmation.</p> <p>b. Some Equipment grades are subject to additional charges. By making a booking to include such Equipment grades, you agree to pay the additional amount. Details of those charges can be found at <a href="https://www.maersk.com/local-information">https://www.maersk.com/local-information</a> under country specific section or by contacting our relevant local office.</p> <p>c. If the parties have agreed on an Equipment Pick Up / Drop Off Point which is different from the origin / destination locations stated in the Booking Confirmation, you agree to pay any additional charges that may apply to that revised Pick Up/ Drop Off Point.</p> <p>d. We only commit to providing 45' equivalent units and non-operating reefer containers (NORs) if it is expressly confirmed in the Booking Confirmation. We reserve the right to substitute 45' equivalent units and NORs with FFE and/or 40'HC equivalent units.</p> <p>e. A failure to provide the Equipment indicated in the Booking Confirmation or a reasonable alternative will be treated as a failure to fulfil our Space and Equipment Guarantee, and a Compensation Fee may be payable in accordance with the terms of this Agreement.</p>
<p><b>Extenuating circumstances</b></p>	<p>We will bear no responsibility for refusing to accept a booking, load cargo or provide Equipment if any of the following apply (each an "<b>Extenuating Circumstance</b>"):</p> <p>a. the late or non-provision of documents or any incorrect declarations by you;</p> <p>b. the late gate-in of the Goods;</p> <p>c. the containerised Goods being not in compliance with measurement restrictions, including weight restrictions or limitations;</p>





	<p>d. any default or breach of this Agreement or any other set of terms agreed between us, on your part or anyone acting on your behalf, which may result in or create any hindrance to the compliance with our commitment;</p> <p>e. any event beyond our reasonable control, which causes or results in us being unable to perform (in whole or in part) or being delayed in performing any of our delivery promises, including, but not limited to, strikes, work stoppages, lockouts or circumstances arising from the threat thereof; acts of God, states or a public enemy, terrorism, cyber-attack, war, hostilities, riots, civil disorder, insurrection, embargo, pandemic, governmental actions (whether informal or formal government acts) or other similar disruptions or interference with trade, marine disaster, fire and or other casualty; or</p> <p>f. a blank sailing, or any omission of a scheduled call at any relevant port affecting the voyage due to operational reasons or any other reason beyond our reasonable control or anticipation. This sub-clause (f) will not apply:</p> <p>i. in the case of Load as Booked, to cargoes that we are unable to load on an alternative vessel within the applicable 3-day loading window; and</p> <p>ii. in the case of the Space and Equipment Guarantee, to cargoes properly booked for carriage within your Weekly Volume Nomination.</p>
<p><b>Compensation Fee</b></p>	<p>a. If we fail to comply with our Load as Booked promise or Space and Equipment Guarantee (as applicable), we will pay you a Compensation Fee of:</p> <p>i. USD 100 per FFE for Long Haul Trades; and (or)</p> <p>ii. USD 50 per FFE for Intra Trades.</p> <p>b. We shall only be liable to pay one Compensation Fee in total with respect to any/each FFE attracting a Compensation Fee.</p> <p>c. We shall not be liable to pay any Compensation Fee if our failure to fulfil the Load as Booked promise or Space and Equipment Guarantee (as applicable) is due to an Extenuating Circumstance.</p> <p>d. The Compensation Fee is your sole and exclusive remedy for any and all failures to meet our commitments under this Agreement. We shall not be liable to you for any other remedy whatsoever, including but not limited to direct or indirect damages.</p>

#### *4.2 Allocation of Vessel Capacity, Inland Capacity and Equipment where no Carrier Commitment Option Is Selected*

If no Carrier Commitment Option is selected, we do not guarantee the provision of any vessel capacity, inland capacity or of any Equipment under this Agreement. If we are unable to accept your booking for any reason whatsoever, we will not be liable to you.

#### *4.3 Change to the Service*

We may, in our sole discretion, discontinue any service for any of the Port Pairs referred to in this Agreement. If we discontinue our services, then we shall be under no obligation to carry any Goods affected by such discontinuance. For such time as we discontinue the service, your Minimum Quantity Commitment for any affected Port Pairs will be reduced to zero and will not count towards any remedy assessed by reference to your Minimum Quantity Commitment.

### **5. Making a Booking**

#### *5.1 Cut-off Times*

- a. Bookings may be made under this Agreement from eight weeks prior to the Estimated Time of Departure (“ETD”) of the intended carrying vessel from the port of loading, provided that the booking is made and the Goods are delivered to the relevant terminal before the cut off time for that terminal.
- b. The relevant cut off time applicable to each load port is determined by that load port. Our web-booking platform provides information as to the cut-off times applicable to the load port for each Port Pair. That information is indicative only and without guarantee. We are not liable if a booking is made late based on that information.
- c. We are not liable for any issues in making a booking through third-party booking platforms. We are not liable for any issues in making a booking through our web-booking platform in the event of malware attack or any outage whatsoever.

#### *5.2 Allocation Week*

Each booking will be allocated to a specific Allocation Week in our system. The Allocation Week for the purposes of your bookings is the week in which the vessel carrying the Goods under your booking departs the load port.

#### *5.3 Geographic Flexibility*

- a. Each rate is applicable to a Port Pair. We will aggregate each Port Pair into Origin-Destination Groups.
- b. Your Weekly Volume Nomination will be in respect of each Origin-Destination Group, meaning that you have the flexibility to make bookings in respect of a different Port Pair within the same Origin-Destination Group (provided that you have an agreed allocation for that other Port Pair).

#### *5.4 Cancellation*

- a. No cancellation fee will be applicable to any bookings under this Agreement.
- b. If you cancel a booking after you have collected some or all of the Equipment relating to that booking, you will be required to pay detention and demurrage charges in the amount stated in the



Free Time Appendix in respect of each item of Equipment collected. No Free Time will be applicable to any such booking, and detention or demurrage (or both, as applicable) shall be calculated from the time of the Equipment pick-up, until the time when the Equipment is returned.

## 6. Equipment

### 6.1 *Our responsibility to provide the Equipment*

- a. Unless the parties have agreed to apply the Space and Equipment Guarantee to this Agreement, we are not obliged to provide any Equipment. You will not be charged for any booking where we are unable to provide Equipment or a reasonable alternative.
- b. The Equipment shall be made available to you for pick-up at the "Empty Container Depot" on the "Release Date" stated in the Booking Confirmation. You may not pick up the Equipment before the "Release Date".

### 6.2 *Your responsibilities with respect to the Equipment*

- a. You shall pick up the Equipment at the Equipment Pick Up Point within the applicable dates for collection of the Equipment designated in the Booking Confirmation.
- b. If you fail to pick up the Equipment in accordance with this Equipment Clause, we reserve the right to cancel any bookings affected by such failure on your part. Cancelled bookings will not count towards your Tendered Volume.
- c. You shall return the Equipment to the Equipment Drop Off Point within the applicable dates for the return of the Equipment designated in the Booking Confirmation.
- d. You may nominate an Equipment Drop-Off Point of your choice, from which we will collect the Equipment if agreed in our sole discretion and an additional fee may be payable.

## 7. Inland Transportation

7.1 This Inland Transportation Clause applies where we have agreed to provide inland transportation services to you.

### 7.2 *Inland Volumes*

We will not be under any obligation to provide inland transportation in respect of any booking if:

- a. You have requested inland transportation that differs in any way from the inland transportation that we have provided rates for as set out in the Contract Output;
- b. You have not provided us the Inland Documents at the time of making the relevant booking.

### 7.3 *Inland Rate Review*

- a. Inland rates may increase or decrease throughout the Term. Inland rates may be increased or decreased to reflect pricing issues related to congestion premiums or line haul changes based on the condition of the respective inland operating environments or for any other reasons whatsoever. If there is an increase or decrease in inland rates for any Inland Corridor applicable to this Agreement, we will provide written notice to you setting out any cost increases (an "**Inland Rate Review**").
- b. Within thirty (30) calendar days of an Inland Rate Review, the Parties agree to review the proposed increase or decrease to the inland rates. If the Parties do not mutually agree to the proposed changes in the Inland Rate Review, the Tariff Inland Rate shall apply and each party shall

have the right to cancel the affected Inland Corridor(s) on not less than 30 days written notice. This cancellation shall not extend to any ocean carriage under this Agreement.

## 8. Remedies

8.1 The parties' remedies are as per the below table:

	<b>Load as Booked or Space and Equipment Guarantee</b>	<b>No Load as Booked or Space and Equipment Guarantee</b>
<b>Your remedies</b>	If you have selected Load as Booked or Space and Equipment Guarantee, we may be liable to pay you a Compensation Fee as set out in this Agreement.	<p>If no Load as Booked or Space and Equipment Guarantee is selected, we do not guarantee that we will make available the vessel capacity or Equipment adequate to meet the Weekly Volume Nomination, the Minimum Quantity Commitment or any request to carry Additional Volume.</p> <p>If we do not make adequate vessel capacity available to meet the Weekly Volume Nomination, or in the event that we do not provide any vessel capacity or Equipment whatsoever, you shall have no claim against us, including in damages or in any other remedy.</p>
<b>Our remedies</b>	We may charge you Liquidated Damages as set out in this Agreement.	

## 9. Ocean Base Rates

9.1 The Ocean Base Rates contained in the Contract Output shall be fixed throughout the Term.

## 10. Index-Based Rebate

10.1 If the parties have agreed to Index-Based Rebates, then this Index-Based Rebate Clause will apply.

### 10.2 *Index-Based Rebate Calculation*

a. The amount of any Index-Based Rebate will be determined based on an index agreed by the parties and subject to the rebate calculation mechanism set out in the below table:

<b>Applicable Indices</b>	<p>The parties may agree to use one of the following indices:</p> <ul style="list-style-type: none"> <li>a) Maersk Spot Rate;</li> <li>b) Shanghai Containerized Freight Index;</li> <li>c) XENETA Short Term Average; or</li> <li>d) XENETA Long Term Average</li> </ul> <p>(each an "<b>Index</b>")</p>
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<p><b>Terms Used for Rebate Calculation</b></p>	<p>The Port Pairs that are subject to this Agreement and included in the Contract Output are grouped into different “<b>Trades</b>”. Each Trade has a “<b>Reference Corridor</b>”.</p> <p>Each Reference Corridor has a “<b>Benchmark Rate</b>”, which is the baseline Ocean Base Rate. Each Reference Corridor also has a “<b>Reference Indexed Rate</b>” which is the Ocean Base Rate after the application of the selected Index. We will also apply a “<b>Discount</b>” in the agreed amount to each Reference Indexed Rate which may be expressed as a percentage or a USD amount.</p> <p>The Trades, Reference Corridors, Benchmark Rates, applicable Indices and Discounts are defined in the Contract Output, or in such other addendum as may be agreed between the parties (as applicable).</p>
<p><b>Calculation Frequency</b></p>	<p>The amount of any Index-Based Rebate will be determined on a monthly basis.</p>
<p><b>Calculation Mechanism</b></p>	<p>In respect of each Reference Corridor, we will establish the difference (positive or negative) between the following values:</p> <ul style="list-style-type: none"><li>a) the Benchmark Rate; and</li><li>b) the average Reference Indexed Rate value taken across the one-Month period prior to the date of the review, minus the Discount</li></ul> <p>(the resulting USD difference is “<b>Rate Delta</b>”).</p>
<p><b>Rebate Payment</b></p>	<p>Where the Reference Indexed Rate minus the Discount is less than the Benchmark Rate, we shall pay you an Index-Based Rebate equal to the Rate Delta multiplied by the number of FFEs accepted by us for carriage on the same Trade as the Reference Corridor.</p> <p>Where the Reference Indexed Rate minus the Discount is greater than the Benchmark Rate, you shall pay us an Index-Based Rebate equal to the Rate Delta multiplied by the number of FFEs accepted by us for carriage on the same Trade as the Reference Corridor.</p>
<p><b>Quarterly Benchmark Rate Review</b></p>	<p>At the end of each Calendar Quarter, we will revise the Benchmark Rate based on the fluctuations in the Bunker Adjustment Factor, Low Sulphur Surcharge (if applicable) and our liability under any Emissions Regulations for that Calendar Quarter.</p> <p>The revised Benchmark Rate will apply in the Calendar Quarter immediately following the Calendar Quarter in which such revision occurred.</p>



<b>Emergency Benchmark Rate Review</b>	We reserve the right to amend the Benchmark Rate in our reasonable discretion in case of energy price fluctuations, labour issues or disputes, congestion, emergency risks, government or supra-national mandates, capacity or equipment issues, significant market increases, or any other cause whatsoever outside of our reasonable control which causes significantly increased expenditure to us or any of our Affiliates in carrying any shipments booked under this Agreement.
<b>Access to the Index</b>	If you request access to the applicable Index, we will take reasonable steps to share such index with you on your reasonable request.
<b>Errors</b>	If there has been an error in the application of the rebate calculation methodology, we may rectify the error. You may discuss the rebate calculation with us if you consider that the amount of any Index-Based Rebate is inaccurate on the basis of the rebate calculation methodology set out above.

**11. Review, Invoicing and Payment**

*11.1 Reconciliation of Sums Due under this Agreement*

- a. Each party’s liability for any Liquidated Damages, Compensation Fees, or Additional Volume Rebates due under this Agreement will be calculated at the end of each Review Period.
- b. Each party’s liability for any Index-Based Rebates due under this Agreement will be calculated on a monthly basis.
- c. We will send you invoices for any Liquidated Damages and / or Index-Based Rebates due to us within a reasonable time after each review, or at such intervals as we may determine in our sole discretion.
- d. We will follow a self-billing process for any Compensation Fees, Additional Volume Rebates or Index-Based Rebates due to you under this Agreement. This self-billing process shall involve either, in our sole discretion:
  - i. us offsetting against any amounts due to us an equivalent amount due to you;
  - ii. us issuing a credit note in your name for the amount of Compensation Fees, Additional Volume Rebates and / or Index-Based Rebates due to you; and / or
  - iii. us refunding any amounts due to you, provided that:
    - 1. You have provided your bank account details to us in accordance with our request, prior to the date on which this Agreement was entered into; and
    - 2. The amount due to you exceeds the amount due to us.
- e. Even if you would otherwise be entitled to a Compensation Fee, an Additional Volume Rebate and / or an Index-Based Rebate, no credit note will be issued to you and no refund shall be processed if:



- i. You owe us an amount of freight, Liquidated Damages, or any other amount (whether under this Agreement or any other agreement); and
- ii. That amount is overdue; and
- iii. The total overdue amount is more than 10% of the total aggregate invoiced amount payable by you to us under all of your agreements with us.

## **12. 1 FFE**

Notwithstanding anything to the contrary in this Agreement (including in particular the wording at the "Our Responsibilities" and "Remedies" sections), we commit to carrying a minimum of 1 FFE at the applicable rate in the Contract Output provided that it is properly tendered for carriage. If we fail to do so, we will pay you the Liquidated Damages Rate assessed against 1 FFE.

## **13. Suspension of Performance in case of a Force Majeure Event**

- a. If a Force Majeure Event occurs during the Term, we may suspend the provision of services to you under this Agreement, including the fulfilment of our Space and Equipment Guarantee, for the duration of and to the extent of any such Force Majeure Event.
- b. If your MQC for a specific Port Pair is affected by a Force Majeure Event, that MQC will be reduced by a percentage equal to the (i) duration of the Force Majeure Event in calendar days divided by (ii) the duration of the Term in calendar days.
- c. The occurrence of a Force Majeure Event is without prejudice to your obligations with respect to any MQC and payment of any Charges due under this Agreement, save for as provided by this Clause.