

**SHAREHOLDERS' AGREEMENT PART 2/
BUSINESS COMBINATION AGREEMENT**

21 NOVEMBER 2024

between

HGV Hamburger Gesellschaft für Vermögens- und Beteiligungsmanagement mbH

and

SAS Shipping Agencies Services S.à r.l.

and

Hamburger Hafen und Logistik Aktiengesellschaft

as well as

Port of Hamburg Beteiligungsgesellschaft SE

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THIS AGREEMENT is made

BETWEEN:

- (1) **HGV Hamburger Gesellschaft für Vermögens- und Beteiligungsmanagement mbH**, incorporated in Germany, registered with the commercial register of the local court of Hamburg under number HRB 16106 and having its registered office at Gustav-Mahler-Platz 1, 20354 Hamburg, Germany (“**HGV**”),
- (2) **SAS Shipping Agencies Services S.à r.l.**, incorporated in Luxembourg, registered with the Luxembourg trade and company register under number B113456 and having its registered office at 11B Boulevard Joseph II, 1840 Luxembourg, Luxembourg (“**SAS**”),
- (3) **Hamburger Hafen und Logistik Aktiengesellschaft**, incorporated in Germany, registered with the commercial register of the local court of Hamburg under HRB 1902 and having its registered address at Bei St. Annen 1, 20457 Hamburg (“**HHLA**”, together with its subsidiaries the “**HHLA Group**”), as well as
- (4) **Port of Hamburg Beteiligungsgesellschaft SE**, incorporated in Germany, registered with the commercial register of the local court of Hamburg under number HRB 183205 and having its registered office at Am Sandtorkai 31, 20457 Hamburg (the “**Company**”).

Each of HGV and SAS shall hereinafter also collectively be referred to as **Shareholders** and each of them as a **Shareholder**. The Shareholders, HHLA and the Company shall hereinafter also collectively be referred to as **Parties** and each of them as a **Party**.

WHEREAS:

- (A) HGV is a wholly-owned subsidiary of the Freie und Hansestadt Hamburg (“**FHH**”).
- (B) The shareholding structure of SAS is set out in Clause 6.2 of the Offer Document (as defined below).
- (C) The statutory capital of HHLA consists of two different classes of shares (*Spartenaktien*): the class A shares (for the Port Logistics subgroup, *Teilkonzern Hafenlogistik*) (the “**A-Shares**”) and the class S shares (for the Real Estate subgroup, *Teilkonzern Immobilien*) (the “**S-Shares**”). The A-Shares are listed on the stock exchange in the regulated market. HGV holds 100 % of the S-Shares and approx. 69.25% of the A-Shares. As of the date hereof, 0 (in words: zero) A-Shares are held by SAS.
- (D) On 23 October 2023, the Company published the offer document (the “**Offer Document**”) regarding the voluntary public takeover offer to the shareholders of HHLA for the acquisition of all A-Shares against payment of a cash consideration in the amount of EUR 16.75 per A-Share and, for regulatory reasons, of all S-Shares against payment of a cash consideration in the amount of EUR 38.96 per S-Share (the “**Takeover Offer**”).
- (E) On 13 September 2023, the FHH and MSC have entered into a binding memorandum of understanding according to which they have agreed to enter, through the Company, into a strategic joint venture with respect to HHLA (the “**MoU**”). With the aim to, under the majority ownership of HGV, improve, develop and expand the operations of the Port Logistic subgroup of HHLA, the Shareholders are envisaging a target structure in which (i) 100% of the A-Shares are held by the Company; and (ii) HGV holds a majority stake of 50.1% and SAS holds a stake of 49.9% in the Company.
- (F) On the basis of the MoU, the Shareholders and the Company intend to enter into an investment agreement setting out the framework for their cooperation with respect to HHLA Group and a

Hamburg, Germany, Luxembourg and Switzerland (in any event excluding Saturdays, Sundays and public holidays).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Business Plan

has the meaning set out in Clause 3.1(b).

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED]

Company

has the meaning set out in the Parties section.

Competitively Sensitive Information

has the meaning set out in Clause 10.3.

Equity Injection

has the meaning set out in Clause 3.8.

FHH

has the meaning set out in Preamble (A).

Force Majeure

has the meaning set out in Clause 4.2(b).

Force Majeure Event

has the meaning set out in Clause 4.2(c).

Guaranteed Volumes

has the meaning set out in Clause 4.1.

Guiding Principles

has the meaning set out in Clause 3.1.

HGV

has the meaning set out in the Parties section.

HHLA

has the meaning set out in the Parties section.

HHLA Group

has the meaning set out in the Parties section.

HHLA Competing Activity

has the meaning set out in Clause 5.7(a)(i).

HHLA-Management Board

means the management board of HHLA.

HHLA-Supervisory Board

means the supervisory board of HHLA.

HHLA Terminals

means Terminal CTA, Terminal CTB, and Terminal CTT jointly.

Independent Expert

has the meaning in clause 4.4(d)(ii).

Initial Business Plan

has the meaning set out in Clause 3.1(b).

Initial Investment Plan

has the meaning set out in Clause 3.1(a).

Investment Plan

has the meaning set out in Clause 3.1(a).

Long-Term Goals

has the meaning set out in Clause 2.

Managing Director(s)

[REDACTED]

means the managing directors of the Company.

[REDACTED]
[REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

MoU

has the meaning set out in Preamble (E).

MSC

means MSC Mediterranean Shipping Company S.A., incorporated in Switzerland, registered with the commercial register of the Swiss canton of Geneva under number CHE-111.954.803 and having its registered office at Chemin Rieu 12-14, 1208 Geneva.

[REDACTED]

[REDACTED]

MSC Group

MSC together with all of its Affiliates.

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Offer Document

[REDACTED]

has the meaning set out in Preamble (D).

[REDACTED]

Originating Party

has the meaning set out in Clause 5.8(a).

Part(y/ies)

has the meaning set out in the Parties section.

Prospective Counterparty

has the meaning set out in Clause 5.8(a).

Rail Cargo Business

means rail cargo business in the sense of operating and/or owning block trains and inland terminal operations.

Receiving Party

has the meaning set out in Clause 5.8(a).

RETT

has the meaning set out in Clause 11.1.

Real Estate Assets

has the meaning set out in Clause 11.2.

S-Shares

has the meaning set out in Preamble (C).

SAS-Nominees

has the meaning set out in Clause 10.6.

Settlement Date means the day on which the A-Shares tendered into the Takeover Offer have been transferred and assigned to the Company.

SHA has the meaning set out in Preamble (F).

Shareholders has the meaning set out in the Parties section.

Shares means all shares in the Company issued from time to time.

[REDACTED]

Takeover Offer has the meaning set out in Preamble (D).

Terminal means the cargo and containers handling facilities at the seaport (*Seehafencontainerterminals*).

Terminal CTA means HHLA Container Terminal Altenwerder located at Am Ballinkai 1, 21129 Hamburg.

Terminal CTB means HHLA Container Terminal Burchardkai located at Waltershofer Damm - Bürogebäude 3, 21129 Hamburg.

Terminal CTT means HHLA Containerterminal Tollerort located at Am Vulkanhafen 30, 20457 Hamburg.

Terminal Service Agreement has the meaning set out in Clause 4.5.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

TEU

means twenty-foot equivalent unit.

Transaction

has the meaning set out in Clause 11.1.

VAT

means:

- (a) any tax imposed in compliance with the Council Directive of 28 November 2006 on the common system of value added tax (EC Directive 2006/112); and
- (b) any other tax of a similar nature, whether imposed in a member state of the European Union in substitution for, or levied in addition to, such tax referred to in paragraph (a) or imposed elsewhere.

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

Volume Commitment

has the meaning set out in Clause 4.1(a).

Volume Notice

has the meaning set out in Clause 4.4(a).

Volume Confirmation Notice

has the meaning set out in Clause 4.4(c).

Written Statement

has the meaning set out in Clause 4.4(c).

- 1.2 The definitions set out in Clause 1.1 apply throughout this Agreement, unless the contrary intention appears. Terms defined in the singular shall have the comparable meaning when used in the plural, and vice versa.
- 1.3 If there is any conflict or inconsistency between a term in the body of this Agreement and a term in any of the Schedules or any other document referred to or otherwise incorporated into this Agreement, the term in the body of this Agreement shall take precedence, unless the relevant Schedule or other document which is referred to or otherwise incorporated into this Agreement expressly provides that the term in it is to take precedence over the term in the body of this Agreement.
- 1.4 In this Agreement, unless the contrary intention appears, a reference to a Clause or Schedule is a reference to a Clause or Schedule of or to this Agreement. The Schedules form part of this Agreement.
- 1.5 The headings in this Agreement do not affect its interpretation.
- 1.6 In this Agreement, unless otherwise indicated:

- (a) references to statutes or regulations are to be construed as including all statutory or regulatory provisions consolidating, amending or replacing the statute or regulation referred to;
- (b) any reference to a time of day is to the time in Hamburg, Germany;
- (c) the words “including”, “includes” and “include” shall be deemed to be followed by the words “without limitation”;
- (d) references to agreements, other contractual instruments and schedules shall be deemed to include all subsequent amendments, extensions and other modifications to such agreements, instruments and schedules (otherwise than in breach of this Agreement or that document);
- (e) any reference to a “person” includes any bodies corporate and unincorporated associations of persons; any reference to a “company” or “entity” includes any partnership, company, corporation or other body corporate wherever incorporated; and
- (f) references to persons, companies or other entities include their respective permitted successors and assignees and, in the case of governmental institutions, institutions succeeding their respective functions and capacities.

1.7 Where a German translation has been added in parenthesis after an English word or phrase, only such German translation shall be decisive for the interpretation of the relevant English word or phrase.

1.8 References to any German legal term or concept shall, in relation to any jurisdiction other than Germany, be construed as references to the term or concept which most nearly corresponds to it in that jurisdiction.

2. LONG-TERM-GOALS

2.1 HHLA is one of Europe’s internationally interconnected leading port and logistics companies with its core business anchored in the port of Hamburg and it has developed, over time, an European logistics network in Germany and in its neighbourhood countries as well as some port operations in Trieste, Estonia and Odessa.

2.2 To maintain and grow the competitiveness of the HHLA Group, [REDACTED] including, for the avoidance of doubt, the national and international port logistics subgroup (*Teilkonzern Hafenlogistik*), comprising (i) container segment, (ii) intermodal segment, and (iii) logistics segment while retaining the HHLA Group’s headquarters, management and staff functions as well as key business activities in Hamburg, Germany, the Parties agree on the following long-term goals (the “**Long-Term Goals**”):

- (a) to anchor the port of Hamburg as an important hub in the global shipping and intermodal network [REDACTED]
[REDACTED];
- (b) to further strengthen the sustainable development of HHLA Group with the focus on Hamburg (*mit Schwerpunkt auf Hamburg*) and Metrans A.S. [REDACTED]
[REDACTED]
- (c) to foster HHLA Group’s existing viability strategy and accelerate its transformation to become a “best in class” terminal and intermodal operator [REDACTED]
[REDACTED]
[REDACTED]

- 2.3 The Parties will also evaluate in good faith new business opportunities for HHLA to further expand its footprint in view of the above Long-Term Goals as well as to support its sustainability and digitalization strategy in order or to enhance HHLA's competitiveness, quality and profitability considering the dynamic market it is involved in.
- 2.4 The Parties will discuss in good faith, mutually agree on and continuously review a strategy to pursue the Long-Term Goals, including investments.
- 2.5 The Parties agree to discuss in good faith and update the Long-Term Goals from time to time as appropriate.

3. BUSINESS PLAN AND ANNUAL BUDGET; INVESTMENT PLAN

- 3.1 The Parties agree that, as soon as possible [REDACTED] after the Settlement Date, the Parties shall, in each case (i) on the basis of a detailed operational, commercial and financial analysis of each material entity of HHLA Group, including alignment to industry standard KPIs, and (ii) in line with the investment areas and the level of importance assigned to such investment areas as well as the amounts committed to the relevant investment areas as a minimum floor, as set forth in further detail in **Schedule 3.1** (the "**Guiding Principles**"):
- (a) prepare and agree on a medium and long-term investment plan for the development of the HHLA Group's business for the financial years 2025 through 2028 (the "**Initial Investment Plan**"; the Initial Investment Plan and each subsequent investment plan updated and approved by the HHLA-Supervisory Board in effect from time to time, the "**Investment Plan**"); as well as
 - (b) prepare and agree on a budget for the financial year 2025 and business plan for the HHLA Group for the financial years 2025 through 2028 (the "**Initial Business Plan**"; the Initial Business Plan and each subsequent business plan updated and approved by the HHLA-Supervisory Board and in effect from time to time, the "**Business Plan**").

In the event of material adverse change affecting HHLA's business, the Parties agree to discuss and revisit in good faith the Guiding Principles as well as the Investment Plan and Business Plan derived therefrom.

- 3.2 Acknowledging the statutory board competencies with HHLA and applicable legal restrictions, the Parties agree that
- (a) the HHLA-Management Board shall, in each case at the latest [REDACTED] prior to the beginning of the next financial year (*Geschäftsjahr*), prepare and submit to the Shareholders drafts of
 - (i) the Investment Plan on the basis of a planning period of four (4) years;
 - (ii) the Business Plan on the basis of the Investment Plan and a planning period of three (3) years, including a strategy, business, capital expenditures, synergies and value creation plan; and
 - (iii) a budget for the subsequent financial year of the HHLA Group consisting of a profit and loss statement, balance sheet, cash flow statement and capital expenditure budget in each case on a quarterly basis, on the basis of the Business Plan and the Investment Plan (the annual budget as approved by the Board and in effect from time to time, the "**Annual Budget**");

(b) within [REDACTED] after submission to the Shareholders in accordance with Clause 3.2(a), the HHLA-Management Board and the Board shall meet, if reasonably possible in person, to discuss the Investment Plan, the Business Plan as well as the Annual Budget [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

(c) as soon as reasonably practicable after consultation with the Board pursuant to paragraph (b) above, the HHLA-Management Board shall finalize the Investment Plan, the Business Plan and the Annual Budget and submit them to the HHLA-Supervisory Board for approval. If the HHLA-Supervisory Board proposes amendments to the Investment Plan, the Business Plan and/or the Annual Budget, the HHLA-Management Board shall, as soon as reasonably practicable following receipt of such proposals, submit an amended Investment Plan, Business Plan and/or Annual Budget which, as deemed appropriate by the HHLA-Management Board in its sole reasonable discretion, reflects the proposals by the HHLA-Supervisory Board;

[REDACTED]
[REDACTED]

3.3 For the avoidance of doubt, the decision on Investment Plan, Business Plan and Budget shall lie only with the HHLA-Management Board and the HHLA-Supervisory Board and there shall be no obligation of the HHLA-Management Board or HHLA-Supervisory Board to implement any suggestions made by the Shareholders or the Company.

3.4 Once approved by the HHLA-Supervisory Board, the HHLA-Management Board shall adhere to the relevant Investment Plan, Business Plan and Annual Budget and the implementation thereof. The Board shall, and shall to the extent legally permissible and acknowledging the board competencies at the level of HHLA, procure that the HHLA-Management Board will, review the Business Plan at least once every [REDACTED] and the Annual Budget on a [REDACTED] against the latest actual results and current assessment of the future development and inform the Company of any reforecast or other material deviations.

3.5 Unless and until a new Business Plan and/or Annual Budget has been approved by the HHLA-Supervisory Board, the Initial Business Plan or, as the case may be, the most recent approved Business Plan shall remain applicable and shall, with regard to the relevant year, serve as preliminary Annual Budget. Unless and until a new Investment Plan has been approved by the HHLA-Supervisory Board, the most recent approved Investment Plan shall remain applicable.

3.6 Any Investment Plan, Business Plan and Annual Budget shall be based on and serve to achieve the Long-Term Goals.

3.7 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

3.8 It is the Shareholders' joint sincere desire and intent to support funding of investments or projects in Hamburg (taking into consideration the Guiding Principles) [REDACTED] no later than 31 December 2029. Therefore, each Shareholder via the Company undertakes vis-a-vis HHLA to contribute *pro rata* to its (indirect) shareholding in HHLA an aggregate amount of EUR 450,000,000.00 (in words: euro four hundred fifty million) in one or several steps through contribution into the share capital (*Grundkapital*) of HHLA. This undertaking shall be subject to the approval of the Hamburg state parliament (*Bürgerschaft*) (where such approval shall be combined with the approval of the contemplated transaction) and the effectiveness of this Agreement (the "**Equity Injection**"). Against this background, the Parties agree to discuss in good faith the relevant investments or projects and the corresponding Equity Injection, [REDACTED].

4. VOLUME COMMITMENT

4.1 Guaranteed Volume

- (a) SAS shall, and shall procure that MSC will, deliver to HHLA, at the HHLA Terminals and as further specified in this Clause 4, the following minimum "**Guaranteed Volumes**":
 - (i) 375,000 TEU in 2025,
 - (ii) 500,000 TEU per calendar year starting from 2026 through 2027,
 - (iii) 750,000 TEU per calendar year starting from 2028 through 2030, and
 - (iv) 1,000,000 TEU per calendar year starting from 2031.
 (the "**Volume Commitment**").

(b) [REDACTED]

(i) [REDACTED]

(ii) [REDACTED]

(c) [REDACTED]

[Redacted text block]

(d)

[Redacted text block]

4.2 Force Majeure

■ [Redacted text block]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

4.3 Legal Consequences

- (a) Adhering to the Volume Commitment shall be a primary obligation of SAS (*Primärleistungspflicht*) [REDACTED]
- (b) [REDACTED]

4.4 Information and review

- [REDACTED]
- [REDACTED]
- [REDACTED]

■ [Redacted text block]

[Redacted text block]

■ [Redacted text block]

[Redacted]

■ [Redacted]

■ [Redacted]

■ [Redacted]

■ [Redacted]

4.5 Terminal Service Agreement; Terminal CTB; Transshipment

(a) On 19 November 2024, HHLA and MSC have entered into a terminal service agreement including any service level agreements and relevant rates (the “Terminal Service Agreement”), a copy of which is attached as Schedule 4.5. [Redacted]

[Redacted]

(b) [Redacted]

(c) [Redacted]



5. HHLA HEAD OFFICE, ORGANIZATIONAL STRUCTURE AND GOVERNANCE

- 5.1 The Shareholders and the Company acknowledge that HHLA's head office in Hamburg, Germany, is an important factor for the local economy and crucial for the seamless and efficient management of the HHLA Group's operations. The Shareholders and the Company, therefore, commit to retain the existing operations of the HHLA Group in Hamburg, Germany.
- 5.2 The business of the HHLA Group as at the date of this Agreement shall always be conducted through HHLA Group. Any changes to HHLA's headquarters, domicile, corporate seat or tax residency, administrative (finance & controlling, legal, HR, IT, work safety etc.) or business centre (sales, procurement, etc.) or its major operations in the segments container (HHLA terminals, container services, etc.), intermodal (METRANS, intermodal services etc.) and logistics (cargo handling by Unikai, HHLA Frucht etc.) shall in any event require the prior approval of the Parties.
- 5.3 The Parties are aware of the organisational structure of HHLA Group and its division into two subgroups units, namely the port logistics subgroup (*Teilkonzern Hafenlogistik*) and the real estate subgroup (*Teilkonzern Immobilien*). The Parties agree that this structure is effective to conduct the current business of HHLA Group while appropriately taking into account concerns of urban development, tourism and preservation order (*Denkmalschutz*). The Parties further agree (i) to take such concerns into account when structuring SAS's influence on HHLA, in particular through an appropriate business allocation within the HHLA-Management Board so that no SAS nominated member of the HHLA-Management Board is primarily responsible for the real estate subgroup, and (ii) that the S-Shares tracking the economic results of the real estate sub-group shall remain with HGV.
- 5.4 The existing rules and regulations, including the rules of procedure for the HHLA-Management Board, shall be amended so to contain provisions customary for a group with the size, legal form and market standing of HHLA Group, in particular an appropriate reserved matters catalogue with appropriate thresholds in line with market standards, but in any event taking into account group policies and requirements of the Shareholders, including any reserved matters agreed between the Shareholders (in particular in a shareholders' agreement part 1 to be concluded between the Shareholders and the Company).
- 5.5 Until 30 December 2026, (i) the Shareholders and the Company commit not to cause HHLA to, as controlled entity, enter into a domination and/or profit and loss transfer agreement in the meaning of sec. 291 para 1 Stock Corporation Act and (ii) HHLA shall maintain the legal form of a German Stock Corporation.
- 5.6 **Brands**
- The Shareholders and the Company acknowledge that HHLA Group owns several brands in certain countries with a high degree of brand awareness by the respective markets and customers, and that HHLA Group consequently considers its brands as material assets. The Shareholders and the Company undertake not to cause HHLA or any member of the HHLA Group to change its company name. The Shareholders shall maintain the HHLA Group brands as independent brands (also as trademark on HHLA Group products and services) and aim to support HHLA Group in further enhancing the brand awareness.

5.7 Non-Compete

- [Redacted]

- [Redacted]

- [Redacted]

- [Redacted]

- [Redacted]

- (ii) [Redacted]

- (iii) [Redacted]

- (iv) [Redacted]

(b)

[Redacted text block]

- [Redacted list item]

- [Redacted list item]

5.8

[Redacted text block]

- [Redacted list item]

- [Redacted list item]

- [Redacted list item]

- [Redacted list item]

[REDACTED]

6. HHLA WORKFORCE AND EMPLOYEES

- 6.1 The Shareholders and the Company acknowledge that the dedicated workforce of HHLA Group is a key pillar for its continued success. The Shareholders and the Company acknowledge that the success of the strategic partnership between FHH and MSC, and in particular the continued success of HHLA Group, depends on the creativity and performance of HHLA Group’s management teams and workforce and their respective potential for innovation.
- 6.2 The Shareholders and the Company are willing to continue and further strengthen a constructive dialogue with all of HHLA Group’s works constitutional bodies (*Betriebsräte und Wirtschaftsausschuss*) and the trade unions represented at HHLA Group and are willing to support the HHLA-Management Board in maintaining and developing an attractive and competitive framework to retain the employee base. The Shareholders explicitly support HHLA’s ongoing efforts to maintain the competitiveness and future viability of the HHLA business operations by implementing the envisaged transformation program CTX in a timely manner in line with the Guiding Principles.
- 6.3 It is each of the Shareholder’s and the Company’s approach to employee relations that those are being dealt with by the HHLA-Management Board and each of the Shareholders confirms its intention by undertaking: At least for five (5) years as of the date of this Agreement,

- (a) not to cause HHLA to take or initiate any action aimed at the amendment or termination of existing works council agreements (*Betriebsvereinbarungen*), collective bargaining agreements (*Tarifverträge*) or similar agreements, in particular relating to work conditions, of the HHLA Group;
- (b) not to cause HHLA or members of HHLA Group to take actions that would result in a change of the existing pension plans or similar commitments for current beneficiaries and to uphold the current funding status of these plans and commitments;
- (c) not to cause HHLA or members of HHLA Group to implement redundancies for operational reasons (*betriebsbedingte Kündigungen*) except for those already agreed within HHLA Group and/or its members;
- (d) not to cause HHLA to outsource substantial activities currently performed by employees of HHLA;
- (e) to ensure the adequate participation of HHLA's management and employees in the HHLA Group's success by maintaining the existing or implementing new incentive schemes;
- (f) not to cause HHLA or members of HHLA Group to implement any material changes in the number of employees pertaining to HHLA's business operations in Hamburg, Germany
- (g) not to cause HHLA to leave the employers' associations (*Arbeitgeberverbände*).

Sufficiently in advance of the lapse of the five (5) year limitation period, the undertakings set out in this Clause 6.3 shall be re-evaluated by the Parties in good faith duly taking into account the principles set out in Clause 2 and perpetuated as appropriate.

- 6.4 The Parties will ensure the continuation of the existing level of the status of co-determination in the HHLA-Supervisory Board in accordance with the co-determination law (*Mitbestimmungsgesetz - MitbestG*) for the duration of this Agreement. Should the envisaged structure or any other future change of the HHLA Group structure result in a change of the currently applicable level of co-determination under the MitbestG, the Parties will ensure a continuous level of co-determination by taking appropriate measures to effectively implement equivalent rights structures, composition and the current board size as the minimum size of the Supervisory Board at HHLA or at any possible legal successor, however always being implemented in the ultimate group holding company of the HHLA Group. In the event that HHLA Group, for whatever reason, becomes a subgroup within a larger group of companies beyond the HHLA Group, and if this leads to the ultimate (sub-) group holding company of the HHLA Group no longer being legally required to have a co-determined supervisory board, the Parties will nonetheless ensure a continuous level of co-determination at the level of the ultimate (sub-) group holding company of the HHLA Group by taking appropriate measures to effectively implement equivalent rights structures, composition and the current board size as the minimum board size.

7. GOVERNANCE

As long as the Company does not hold at least 80% of A-Shares, the Company and the Shareholders aim to have at least one (1) Shareholder representative of the HHLA-Supervisory Board independent from the Shareholders and the Company, it being understood that such independent member shall be elected from among the independent members on the HHLA-Supervisory Board in office at the date of this Agreement.

8. RELATED PARTY TRANSACTIONS

The Parties agree that any and all transactions between (i) HHLA or any member of the HHLA Group on the one hand, and (ii) the Company, any Shareholder or any of its Affiliates, including MSC Group, on the other hand must always be at arm’s length.

9. METRANS A.S.

9.1 The Parties acknowledge that, as of today,

- (a) Metrans a.s. is an important part of the HHLA Group and HHLA Group’s strategic objectives;
- (b) MSC Group also has business in the same market as Metrans a.s.; and that, therefore,
- (c) the Parties shall observe boundaries under (i) Applicable Law, in particular including competition law, and (ii) Clause 10.

9.2

[REDACTED]

10. THIRD PARTY RELATIONSHIPS OF HHLA

10.1 The Shareholders shall, and shall procure that the Company shall, (i) respect that HHLA continues to provide access to all HHLA infrastructure, including container terminals and hinterland infrastructure (including Metrans) to all vessel operators, in particular container lines, i.e. including those that compete with MSC Group, in a fair and non-discriminatory manner (e.g. regarding the allocation of terminal capacity, the setting of handling fees, etc.), and (ii) continue to respect this commitment in the future.

10.2 SAS shall, and shall procure that MSC and any of its Affiliates will, respect the Company’s and HHLA’s commitment to a fair and non-discriminatory conduct of business and will refrain from demanding any preferential treatment from the Company, or HHLA, or any member of the HHLA Group, and the Company, HHLA and any members of the HHLA Group shall refrain from any preferential or detrimental treatment of SAS and/or MSC as compared to other carriers; [REDACTED]

10.3 The Parties acknowledge that HHLA or any member of the HHLA Group, in its ordinary course of business, may receive or have access to information that are to be considered as competitively sensitive (whether commercially or legally) with a view to SAS and MSC Group (i.e. specific customer, planning, operation and disposition data as well as agreed rates) (the “**Competitively Sensitive Information**”). The Parties agree that the Company, SAS and MSC Group shall not be entitled to receive from HHLA (or any of its corporate body members) or any member of the HHLA Group (or

any of their corporate body members) such Competitively Sensitive Information. [REDACTED]

10.4 To the extent that the Company wishes to provide SAS with certain information that contains Competitively Sensitive Information within its capacity as a shareholder of the Company, e.g. financial information to evaluate the Company’s business performance and strategy, the Company will ensure, and shall to the extent legally permissible procure that HHLA and any member of the HHLA Group ensures, that any information will only be shared with SAS in a manner that removes the competitive sensitivity in particular in accordance with applicable antitrust laws (e.g. through adequate aggregation of data or through effective clean team procedures). The Company is not obliged to share any Competitively Sensitive Information with SAS and/or MSC Group.

10.5 The Parties agree that they may, to the extent necessary to comply with all applicable laws and regulations or the provisions of this Agreement, implement and maintain appropriate safeguards and procedures to ensure (i) that HHLA (in particular, with regard to its intermodal segment) prevents any unauthorized access, disclosure, or use of any Competitively Sensitive Information to SAS and/or MSC Group and (ii) the non-discriminatory access to the intermodal segment of HHLA. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

10.6 [REDACTED]

10.7 The Parties acknowledge that the members of the HHLA Management Board and the HHLA Supervisory Board, respectively, are bound by their respective legal duties (including pursuing the interests of HHLA, confidentiality, legality) in performing their respective mandate.

11. REAL ESTATE TRANSFER TAX

11.1 The Shareholders hereby agree, as joint and several debtors(*Gesamtschuldner*), to indemnify and hold the relevant HHLA Group member harmless on a Euro for Euro basis from and against any real estate transfer tax (“**RETT**”) incurred by any HHLA Group member as a consequence of the actions undertaken to reach (A) the envisaged target structure as described in Preamble (E) (the “**Transaction**”) or (B) any alternative target structure for the Transaction as agreed between the Shareholders. The allocation of this indemnification obligation in the internal relationships (*Innenverhältnis*) of the Shareholders will be agreed separately between the Shareholders.

11.2 HHLA shall, and shall procure that the relevant members of the HHLA Group will, as soon as reasonably practical and at the latest until 15 January 2024, provide the Company with all information

relating to HHLA or any member of the HHLA Group as well as the German real estate assets (within the meaning of Section 2 of the German RETT Act (“**Real Estate Assets**”)) owned by these entities which is requested by the Company within two (2) weeks from the date of this Agreement and which is necessary to file a complete and correct notification (including any precautionary RETT notifications that the Company and/or their Shareholders or its Affiliates in their own reasonable discretion deem appropriate) in accordance with Sections 19 and 20 of the German RETT Act (*Grunderwerbsteuergesetz*) for any Real Estate Assets held by any member of the HHLA Group if and to the extent such information is available to HHLA or any member of the HHLA Group. In case of the Company requesting additional information at a later point in time, HHLA shall, and shall procure that the members of the HHLA Group will, provide such additional information as soon as reasonably practicable. As soon as it transpires that any requested information should not be available to HHLA or any member of the HHLA Group, HHLA will use reasonable best efforts to collect the respective information as soon as reasonably practicable. The Company shall notify HHLA as soon as reasonably practicable if the Company becomes aware that the information provided by HHLA is not sufficient. The Shareholders and the Company shall upon request by HHLA provide HHLA with all information requested by HHLA and which are necessary to file a complete and correct notification in accordance with Sections 19 and 20 of the German RETT Act (*Grunderwerbsteuergesetz*) as a consequence of the Transaction for any Real Estate Asset held by any member of the HHLA Group. The Company shall be entitled to provide the information received pursuant to this Clause 11.2 to its Shareholders.

- 11.3 HHLA shall, and shall procure that any relevant member of the HHLA Group will, file within two (2) weeks from being notified by the Company that RETT pursuant to Section 1 para. 2a or Section 1 para. 2b German RETT Act (*Grunderwerbsteuergesetz*), as the case may be, is triggered, a complete and correct notification in accordance with Sections 19 and 20 of the German RETT Act (*Grunderwerbsteuergesetz*) with the competent tax authority provided the Company and the Shareholders have provided the information requested in accordance with Clause 11.2 sentence five and to the extent the respective RETT is owed by HHLA or a member of the HHLA Group to the tax authorities.
- 11.4 Clause 11.2 shall apply *mutatis mutandis* if the Company or the Shareholders or the Shareholders’ Affiliates are required to submit RETT notifications under the laws of any foreign jurisdiction and to the extent legally possible.
- 11.5 Cooperation.
- (a) The Parties shall cooperate and exchange information to ensure timely and complete RETT notifications at all levels triggered by the Transaction.
- (b) HHLA shall (i) within five (5) Business Days notify the Company of any RETT assessment received by HHLA or any member of the HHLA Group with regard to the Transaction and any other written communication with the tax authorities in relation thereto and (ii) procure that the respective member of the HHLA Group files a precautionary appeal against a RETT assessment notice to ensure that the RETT assessment does not become legally binding . Upon request of the Company, HHLA shall and shall cause the relevant members of the HHLA Group to challenge and litigate any RETT assessment or decision of a tax court related to RETT incurred by any member of HHLA Group as a consequence of the Transaction in line with the instructions of the Company to the extent such instruction complies with applicable law. Any external costs of any member of the HHLA Group caused by a challenge, appeal or litigation of any RETT assessment with regard to the Transaction shall be borne by the Company if the challenge, appeal or litigation (other than the initial precautionary appeal against a RETT assessment notice) was requested by the Company.
- 11.6 Limitation of Liability.

- (a) There shall be no obligation of the Shareholders pursuant to Clause 11.1 above if and to the extent that the Shareholders can prove (*beweisen*) that an incurrence of RETT cannot be avoided or reversed (for the avoidance of doubt: irrespective of whether the RETT occurs at the level of HHLA, any member of the HHLA Group, the Company, the Shareholders or its Affiliates), as the case may be, only (A) due to the notification obligations not being fulfilled in full and in a timely manner within the meaning of Sections 18 to 20 of the German RETT Act (*Gründerwerbsteuergesetz*) as a result of any breach by HHLA of Clause 11.2 and/or 11.3 above or (B) due to HHLA's non-compliance with its obligations under Clause 11.5 lit. b). Any RETT amount previously indemnified by the Shareholders pursuant Clause 11.1 shall then be reimbursed by HHLA to the Shareholders if and to the extent an obligation of the Shareholders pursuant to Clause 11.1 is excluded under the previous sentence.
- (b) Any claim under this Clause 11 shall be time-barred upon expiration of a period of 6 (six) months after the respective RETT assessment has become final, binding and unappealable and can no longer be amended under applicable law (*formell und materiell bestandskräftig*).

11.7 If any RETT has been indemnified by the Shareholders pursuant Clause 11.1 is subsequently reduced after a successful litigation of the underlying RETT assessment, the difference between the higher amount paid and the lower amount assessed shall be reimbursed by HHLA to the Shareholders.

12. CONDITION PRECEDENT / TERM

This Agreement shall become effective subject to the condition precedent (*aufschiebende Bedingung*) of, whichever is earlier, the consummation of the contemplated transaction, i.e. the implementation of the target structure as described in Preamble (E), or the Shareholders and the Company entering in the shareholders' agreement part 1. This Agreement and all rights and obligations under it shall automatically end with immediate effect upon the Company being liquidated or the joint venture between HGV and SAS being terminated in any other way.

13. REPRESENTATIONS AND WARRANTIES

13.1 Each Party represents and warrants to the other Parties in the form of an independent guarantee in accordance with Section 311 BGB (*selbstständiges Garantieverprechen*) that the following statements are true as of the date of this Agreement:

- (a) it is duly organised and validly existing under the laws of its country of incorporation;
- (b) the execution and performance of this Agreement by the Party is within the Party's corporate powers, has been duly authorised by all necessary corporate action on the part of the Party, requires no approval or consent by any governmental authority or other regulatory body and does not violate any applicable law or decision by any court or governmental authority or other regulatory body binding on the Party;
- (c) this Agreement constitutes a legal, valid and binding obligation upon the Party; and
- (d) no winding-up, bankruptcy, insolvency or judicial composition proceedings concerning the Party have been initiated or applied for under any applicable law and there exist no circumstances which would justify the opening of such proceedings.

13.2 In the event of any breach of the representations and warranties set out in Clause 13.1 above, the Party in breach shall, upon being notified in writing by any other Party of such breach,

- (a) within a period of three (3) months put the other Parties into the same position it would have been in if the Seller's Breach had not occurred (*Naturalrestitution*); and

- (b) if and to the extent that such restoration (i) is not possible, (ii) is not sufficient or (iii) has not been made by the respective Party within the three months-period, compensate the other Parties in cash for all damages and losses which the other Parties have incurred or suffered as a result of the breach.

14. VAT

Where under the terms of this Agreement one party is liable to indemnify or reimburse another party in respect of costs, charges or expenses, the payment shall include an amount equal to any VAT thereon not otherwise recoverable by the other party or the representative member of any VAT Group of which it forms part, subject to that party or representative member using reasonable endeavours to recover such amount of VAT as may be practicable.

15. REMEDIES AND WAIVERS

- 15.1 The single or partial exercise of any right, power or remedy provided by law or under this Agreement shall not preclude any other or further exercise of it or the exercise of any other right, power or remedy.
- 15.2 The rights, powers and remedies provided in this Agreement are cumulative and not exclusive of any rights, powers and remedies provided by Applicable Law.
- 15.3 A waiver of any right or remedy under this Agreement shall only be effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. A Party that waives a right or remedy provided under this Agreement or by Applicable Law in relation to another party does not affect his or its rights in relation to any other party.
- 15.4 Unless expressly agreed, no variation or amendment shall constitute a general waiver of any provision of this Agreement, nor shall it affect any rights or obligations under or pursuant to this Agreement which have already accrued up to the date of variation or amendment and the rights and obligations under or pursuant to this Agreement shall remain in full force and effect except and only to the extent that they are varied or amended.

16. NO ASSIGNMENT

No Party may, in whole or in part, dispose of with *in rem* effect (*verfügen*) any claims (including future or contingent claims) arising from or in connection with this Agreement by way of assignment, encumbrance or otherwise without the prior written consent of the other Parties.

17. PUBLIC ANNOUNCEMENTS AND CONFIDENTIALITY

17.1 Public Announcements

The Parties shall coordinate in good faith any press releases and announcements in relation to this Agreement, the Company and their cooperation with respect to the HHLA Group and shall in any case consult each other prior to realising any press releases in any of these respects.

17.2 Confidentiality

- (a) Without prejudice to Clause 17.1, each of the Parties shall, and shall procure (*sicherstellen*) that its Affiliates will, treat as strictly confidential and not disclose or use any information received or obtained as a result of or in connection with the entering into this Agreement which relates to this Agreement, its existence or its provisions or to any agreement to be entered into pursuant to this Agreement, or to the negotiations relating to this Agreement.
- (b) This Agreement shall not prohibit disclosure or use of any information if and to the extent that:

- (i) the disclosure or use is required by law (including, for the avoidance of doubt, laws made by the federal state parliament (*Bürgerschaft*) of FHH);
- (ii) the disclosure or use is required in the context of the reasoned statements to be given by HHLA-Management Board and HHLA-Supervisory Board;
- (iii) the disclosure or use is required for the purpose of any judicial proceedings arising out of this Agreement or any other agreement entered into under or pursuant to this Agreement or the disclosure is made to a competent tax authority in connection with the tax affairs of the disclosing Party;
- (iv) the disclosure is made to professional advisers of a Party, who are subject to professional secrecy rules, on a need to know basis;
- (v) the disclosure is made to professional advisers, who are not subject to professional secrecy rules, of a Party on a need to know basis and on terms that such professional advisers undertake (also for the benefit of the other Parties) to comply with the confidentiality obligations set out in this Clause 17.2 in respect of such information as if they were a party to this Agreement;
- (vi) the information is or becomes publicly available (other than by breach of this Agreement or any other confidentiality agreement between the Parties or any of them);
- (vii) in case of a disclosure or use by any Party, if the relevant other Parties have given prior written approval to the disclosure or use; or
- (viii) the information is independently developed after the date of this Agreement.

18. COSTS AND EXPENSES

Except as expressly stated in any provision of this Agreement, each Party shall pay its own costs and expenses, and SAS shall pay the Company's costs and expenses, in relation to the negotiations leading up to, the preparation and signing of this Agreement.

19. NOTICES

19.1 Any notice or other communication in connection with this Agreement shall be made in writing in the English language. They may be made by (i) e-mail, (ii) fax (if a fax number is given), (iii) hand delivery against receipt, or (iv) mail (return receipt requested). The Parties shall be deemed to have received such notices and communication on the date of (i) the sent time of the e-mail or fax if no failure of delivery notice is received and the hand delivery or mail is received within two (2) Business Days thereof, (ii) the delivery receipt or (iii) the return receipt, respectively.

19.2 Any notices shall be addressed as follows:

To HGV:

HGV Hamburger Gesellschaft für Vermögens- und Beteiligungsmanagement mbH

[REDACTED]
[REDACTED]
[REDACTED]

with a copy for information purposes to:

Allen Overy Shearman Sterling LLP

[REDACTED]

[REDACTED]
[REDACTED]

To SAS:

SAS Shipping Agencies Services Sàrl

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

With a copy for information purposes to

Freshfields Bruckhaus Deringer Rechtsanwälte Steuerberater PartG mbB

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

To the Company:

Port of Hamburg Beteiligungsgesellschaft SE

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

To HHLA:

Hamburger Hafen und Logistik Aktiengesellschaft

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

With a copy for information purposes to
Linklaters LLP

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

19.3 The Parties shall notify without undue delay (*unverzüglich*) any change of their respective addresses set forth in this Agreement in writing to the other Parties of this Agreement. Such change of address shall be deemed effective two (2) weeks following receipt (*Zugang*) of the notice by the other Parties.

20. MISCELLANEOUS

20.1 Amendments and waivers

Any amendment or supplement to or modification or termination of this Agreement, including this provision, shall be valid only if made in writing (*Schriftform*), except to the extent a stricter form (e.g. notarial recording) is required under applicable law. Any waiver, permit, consent and approval under this Agreement must be made expressly and in writing (*Schriftform*).

20.2 **Invalidity, Severability**

Should any provision of this Agreement be or held to be wholly or partly invalid, ineffective or unenforceable, this shall not affect the validity, effectiveness or enforceability of the remaining provisions. Any such invalid, ineffective or unenforceable provision shall, to the extent permitted by law, be deemed replaced, or to the extent this is not possible, shall be replaced through an agreement in the required form by the Parties, by such valid, effective and enforceable provision as comes closest to the economic intent and purpose of such invalid, ineffective or unenforceable provision. The aforesaid shall apply *mutatis mutandis* to any unintended omission in this Agreement. It is the express intent of the Parties that this Clause 20.2 shall not be construed as a mere reversal of burden of proof (*Beweislastumkehr*) but as a contractual exclusion of Section 139 BGB in its entirety.

20.3 **Third-Party Beneficiaries**

Unless explicitly stated otherwise herein, neither this Agreement nor any provision contained in this Agreement is intended to confer any rights or remedies upon any person or entity other than the Parties (*kein Vertrag zugunsten Dritter im Sinne des § 328 BGB*).

20.4 **Entire Agreement**

This Agreement constitutes the entire agreement among and between the Parties with respect to the subject matter hereof and shall replace any negotiations and understandings, oral or written, heretofore made between the Parties or any of them with respect to the subject matter hereof. Side agreements to this Agreement do not exist.

20.5 **Disputes**

All disputes arising from or in connection with this Agreement and its consummation shall be exclusively and finally settled by three (3) arbitrators in accordance with the Arbitration Rules of the German Institution of Arbitration e.V. (DIS) as applicable from time to time without recourse to the ordinary courts of law. The place of arbitration shall be Hamburg, Germany. The language of the arbitral proceedings shall be English.

20.6 **Governing Law**

This Agreement shall be governed by German law excluding conflict of laws rules and the UN Convention on Contracts for the International Sale of Goods (*CISG*).

[Signature pages to follow]

[Signature page – Shareholders' Agreement Part 2 / Business Combination Agreement]

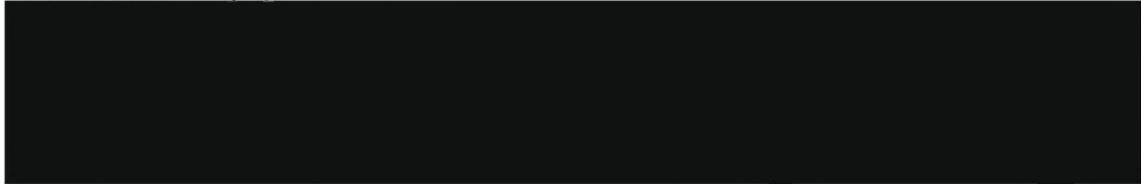


**HGV Hamburger Gesellschaft für Vermögens-
und Beteiligungsmanagement mbH**



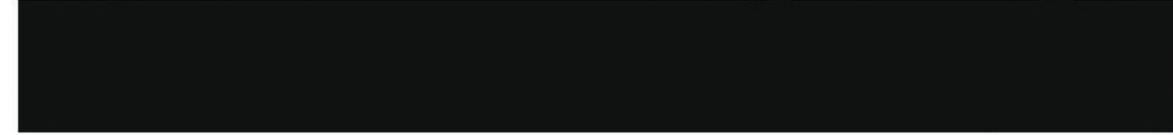
[Signature page - Shareholders' Agreement Part 2 / Business Combination Agreement]

Hamburg, 21.11.2024
Place / Date

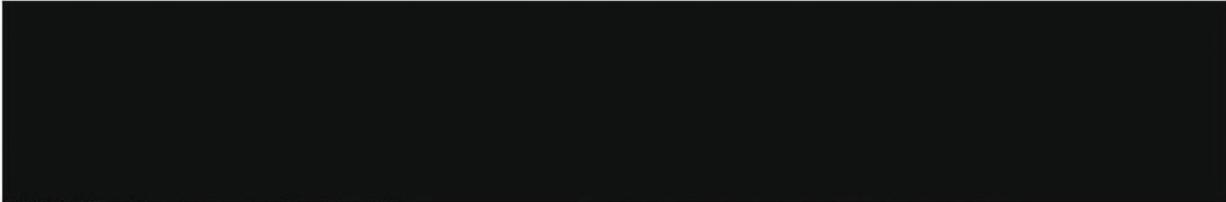


**Hamburger Hafen und Logistik
Aktiengesellschaft**

**Hamburger Hafen und Logistik
Aktiengesellschaft**

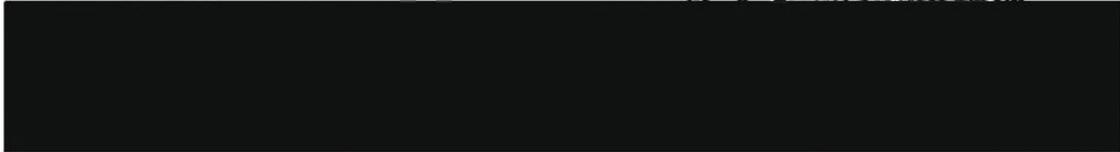


[Signature page – Shareholders' Agreement Part 2 / Business Combination Agreement]



SAS Shipping Agencies Services S.à r.l.

SAS Shipping Agencies Services S.à r.l.



[Signature page – Shareholders' Agreement Part 2 / Business Combination Agreement]



Port of Hamburg Beteiligungsgesellschaft SE



SCHEDULE 3.1

**TO THE SHAREHOLDERS' AGREEMENT PART 2/
BUSINESS COMBINATION AGREEMENT**

GUIDING PRINCIPLES

Schedule 3.1

Guiding Principles

The Shareholders have taken note of the presentation “Financial plan – Details” provided by HHLA attached as **Annex 1** (the “Financial Plan”), which is based on certain envisaged business developments that would make the investments foreseen in the Financial Plan sustainable and necessary to support the operation of HHLA Group.

Therefore, and taking the ideas and investment projects laid out in the Financial Plan into due consideration, the Parties have as of the date hereof agreed:

- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]

■ [REDACTED]

[REDACTED]

■ [REDACTED]

[REDACTED]

[REDACTED]

■ [REDACTED]

[REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

[REDACTED]

■ [REDACTED]

[REDACTED]

SCHEDULE 3.1

**TO THE SHAREHOLDERS' AGREEMENT PART 2/
BUSINESS COMBINATION AGREEMENT**

ANNEX 1 – FINANCIAL PLAN

SCHEDULE 4.5

**TO THE SHAREHOLDERS' AGREEMENT PART 2/
BUSINESS COMBINATION AGREEMENT**

TERMINAL SERVICE AGREEMENT

AGREEMENT FOR CONTAINER TERMINAL SERVICES

BETWEEN

Hamburger Hafen und Logistik Aktiengesellschaft

AND

MSC Mediterranean Shipping Company SA

THIS Agreement is made on the 18 of November, 2024

BETWEEN:

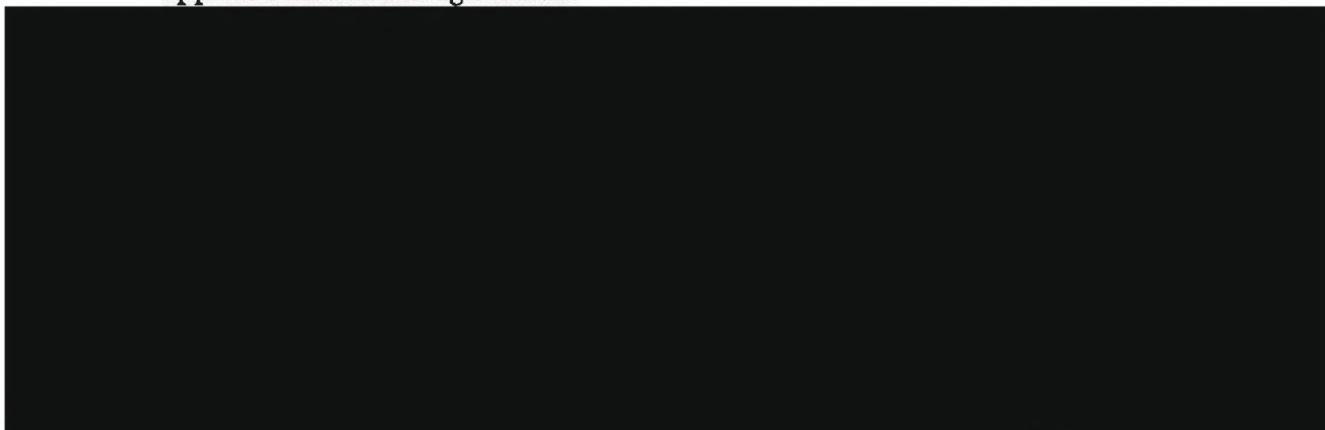
Hamburger Hafen und Logistik Aktiengesellschaft ("HHLA"), a company incorporated in Germany and having its business address at Bei St. Annen 2, 20459 Hamburg, acting in the name and on behalf of its affiliated companies Container Terminal Burchardkai GmbH ("CTB"), Container Terminal Altenwerder GmbH ("CTA") and Container Terminal Tollerort GmbH ("CTT") (hereinafter each and collectively referred to as the "**Terminal Operator**")

AND

MSC Mediterranean Shipping Company SA, a company incorporated in Switzerland and having its business address at 12-14 Chemin Rieu, 1208 Geneva, Switzerland (hereinafter referred to as "**MSC**" or the "**Line**").

WHEREAS:

- A. The Terminal Operator operates the Container Terminal, and its services include, but are not limited to, the loading and discharging of Containers, laden or empty, and transfers of Containers.
- B. The Terminal Operator and the Line recognize the importance of operating in a legal, ethical and responsible manner and confirm that they are committed to undertake business fairly, to achieve high ethical standards and to comply with all applicable laws and regulations.



Handwritten initials 'RI' and a signature.

