

## GUARANTY

THIS GUARANTY ("**Guaranty**") is made as of \_\_\_\_\_, 2023 ("Effective Date"), by Ocean Network Express Holdings, Ltd, a Japanese Corporation ("**Guarantor**") to and for the benefit of the CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Harbor Commissioners ("**City**").

### WITNESSETH:

A. Pursuant to Section 14 of Permit No. 881 ("Permit") between City and TraPac, LLC ("Tenant"), City received the transfer notice attached hereto and incorporated by reference as Exhibit A; and

B. Mitsui O.S.K. Lines, Ltd. ("MOL") has requested to terminate the existing guaranty which is attached hereto and incorporated by reference as Exhibit B in favor of a new guaranty furnished by Guarantor; and

C. As a condition to the effectiveness of the City's consent to the transfer described in Exhibit A ("Transfer"), City has requested and Guarantor has agreed to irrevocably guarantee the timely payment and performance of all obligations of Tenant arising under the Permit; and

D. Guarantor acknowledges that the consummation of the transactions hereunder and under the Permit provides direct benefits to Guarantor.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in order to obtain City's consent to the Transfer, and intending to be legally bound, Guarantor does hereby warrant, represent, and covenant unto City as follows:

#### 1. GUARANTY AND SURETY.

Guarantor hereby absolutely, irrevocably and unconditionally guarantees, and becomes surety for, the full and timely payment and performance of the debts, obligations and liability of Tenant under the Permit, whether now or hereafter made, incurred or created, voluntary or involuntary, due or not due, absolute or contingent, liquidated or unliquidated, determined or undetermined, and regardless of whether recovery against Tenant with respect to such obligations is prevented by bankruptcy, or otherwise (collectively, the "**Guaranteed Obligations**").

#### 2. SUBSEQUENT ACTS BY CITY.

City may, in its sole and absolute discretion and without notice to Guarantor, take any action which might otherwise be deemed a legal or equitable release or discharge of Guarantor's obligations hereunder without either impairing or affecting the liability of Guarantor for payment of the Guaranteed Obligations, which actions might include, by way of illustration and not limitation:

2.1 the renewal or extension of any of the Guaranteed Obligations or any payments hereunder;

2.2 the acceptance of partial payment or performance of the Guaranteed Obligations;

2.3 the settlement, release, compounding, compromise, cancellation, rearrangement or consolidation of any of the Guaranteed Obligations;

2.4 the collection of or other liquidation of any claims City may have in respect to the Guaranteed Obligations;

2.5 the granting of indulgences, forbearances, compromises, extensions or adjustments in respect to any covenant or agreement under the Permit;

2.6 the release from liability of any Guarantor, or payment of the Guaranteed Obligations or any portion thereof;

2.7 the release, surrender, exchange or compromise of any lien, security or collateral held by City as security for the Guaranteed Obligations; or

2.8 the release or compromise of any lien or security held by City as security for the liability of any person who is guaranteeing the Guaranteed Obligations.

Any alterations of the terms of this Guaranty shall be in writing, mutually agreed to by City and by Guarantor and in conformity with the procedures set forth in City's Charter and Administrative Code.

### 3. EXPENSES.

Guarantor agrees to reimburse City for all expenses (including without limitation reasonable attorneys' fees, costs and expenses) incurred by City in enforcing the Guaranteed Obligations, pursuing any remedies relating to the Guaranteed Obligations set forth in the Permit, and enforcing this Guaranty.

### 4. PAYMENT BY GUARANTOR.

In the event of any default by Tenant with respect to the Guaranteed Obligations, Guarantor agrees to pay or perform on demand (either oral or written) such obligations. City shall not be required to liquidate any lien or any other form of security, instrument, or note held by City prior to making such demand. THIS IS A GUARANTY OF PAYMENT AND PERFORMANCE AND NOT OF COLLECTION, and Guarantor hereby waives all rights that Guarantor may have, if any, to require that any action be brought against Tenant (or any other person) or to require that resort be first made against any security prior to demanding payment or performance hereunder.

5. CUMULATIVE REMEDIES.

Guarantor hereby agrees that all rights and remedies that City is afforded by reason of this Guaranty are separate and cumulative and may be pursued separately, successively, or concurrently, as City deems advisable. In addition, all such rights and remedies are nonexclusive and shall in no way limit or prejudice City's ability to pursue any other legal or equitable rights or remedies that may be available. Without limiting the generality of the foregoing, Guarantor agrees that in any action by City by reason of the Guaranteed Obligations, City at its election may proceed (a) against Guarantor together with Tenant, (b) against Guarantor and Tenant individually, or (c) against Guarantor only without having commenced any action against or having obtained any judgment against Tenant.

6. WAIVERS BY GUARANTOR.

6.1 Guarantor hereby waives:

6.1.1 notice of acceptance of this Guaranty and of creation of the Guaranteed Obligations;

6.1.2 presentment, notice of non-payment, and demand for payment of the Guaranteed Obligations;

6.1.3 protest, notice of protest, and notice of dishonor or default to Guarantor or to any other party with respect to any of the Guaranteed Obligations;

6.1.4 the right to receive demand for payment under this Guaranty;

6.1.5 any defense or circumstance (including, without limitation, disability, insolvency, lack of authority or power, insanity, minority, death or dissolution), other than payment of the Guaranteed Obligations, which might otherwise constitute a legal or equitable discharge of Guarantor's liability hereunder;

6.1.6 any defense of Tenant to the Guaranteed Obligations;

6.1.7 any rights to extension, composition or otherwise under the Bankruptcy Code or any amendments thereof, or under any state or other federal statute;

6.1.8 the right to trial by jury in any litigation arising out of, relating to, or connected with this Guaranty;

6.1.9 all rights or defenses that Guarantor may have as set forth in Division Three, Part 4, Title 13, currently Sections 2787 through 2914, of the California Civil Code, which address generally suretyship;

6.1.10 Guarantor waives any and all demands, actions,

defenses, defaults, claims, breaches, causes of action, obligations, damages, and/or liabilities of any nature whatsoever existing as of the date hereof which Guarantor has or may have against City arising from or out of the Permit.

6.2 It is expressly agreed that Guarantor shall remain liable hereon regardless of whether Tenant is held to be not liable on the Guaranteed Obligations. It is agreed between Guarantor and City that the foregoing waivers are of the essence of the Permit transaction and that, but for this Guaranty and such waivers, City would decline to enter into the Permit.

7. WAIVER AND RELEASE OF SUBROGATION AND PARTICIPATION.

Until such time as all obligations of Tenant under the Permit have been satisfied, Guarantor shall have no right of subrogation in or under the Permit, and no rights of reimbursement, indemnity or contribution from Tenant or any other rights by law, equity, statute or contract that would give rise to a creditor-debtor relationship between Guarantor and Tenant. Effective for the time period described in the preceding sentence, Guarantor hereby explicitly waives and releases any of the above-described rights of subrogation, reimbursement, indemnity, contribution, participation, and any right to require the marshaling of Tenant's assets under any circumstances.

8. SUBORDINATION.

Any obligation or debt of Tenant now or hereafter held by Guarantor is hereby subordinated to the Guaranteed Obligations and Guarantor shall not enforce or collect any such indebtedness from Tenant. Nevertheless, upon request by City, Guarantor shall collect, enforce and receive such indebtedness of Tenant to Guarantor. Any sums collected at City's request or collected in contravention of the prohibition set forth herein shall be held by Guarantor as trustee for City and shall be paid over to City on account of the Guaranteed Obligations; provided, however, such payments shall not impair, reduce or affect in any manner the liability of Guarantor under the other provisions of this Guaranty.

9. REPRESENTATIONS AND WARRANTIES.

Guarantor hereby represents and warrants to City that:

9.1 Guarantor now has no defense whatsoever to any action, suit or proceeding whatsoever that may be instituted on this Guaranty;

9.2 No other agreement or special condition exists between Guarantor and City regarding the liability of Guarantor hereunder; and

9.3 This Guaranty constitutes a valid and binding obligation of Guarantor, enforceable in accordance with its terms.

10. STRICT PERFORMANCE: WAIVERS.

No failure, delay or omission by City to exercise any of the rights, powers,

remedies and privileges hereunder shall be deemed a waiver thereof and every such right, power, remedy and privilege may be exercised repeatedly. No notice to or demand on Guarantor shall be deemed to be a waiver of the right of City to take further action without notice or demand as provided herein. In no event shall any modification or waiver of the provisions of this Guaranty be effective unless in writing executed by City. Any waiver granted shall be applicable only in the specific instance for which it is given. Failure of City to insist upon strict performance or observance of any of the terms, provisions and covenants hereof or to exercise any right herein contained shall not be construed as a waiver or relinquishment of the right to demand strict performance at another time. Receipt by City of any payment or performance on the Guaranteed Obligations shall not be deemed a waiver of the breach of any provision hereof or of the Permit.

11. CAPTIONS.

The captions appearing herein are used for reference only and shall not be construed as limiting anything set forth herein.

12. SEVERABILITY.

If any term, covenant, condition or provision of this Guaranty, or the application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, covenants, conditions or provisions of this Guaranty, or the application thereof to any other person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

13. GOVERNING LAW.

This Guaranty shall be governed by the laws of the State of California without reference to choice of law rules.

14. ASSIGNMENT: DELEGATION: BINDING EFFECT.

The duties and obligations of Guarantor may not be delegated or transferred by Guarantor without the prior written consent of City. The duties and obligations of Guarantor shall bind Guarantor's heirs, personal representatives, executors, successors and assigns.

15. TERMINATION: REINSTATEMENT: LIMITATION.

15.1 Subject to Section 15.2 below, Guarantor's obligations hereunder shall terminate, and this Guaranty shall be released, upon payment and performance in full of all debts, obligations and liabilities of Tenant to City under the Permit.

15.2 This Guaranty shall remain in full force and effect and continue to be effective should any petition be filed by or against Tenant under the Bankruptcy Code, as at any time amended, for liquidation or reorganization, or should Tenant become insolvent or make an assignment for the benefit of creditors or a receiver

or trustee be appointed for all or any significant part of Tenant's assets, and this Guaranty shall continue to be effective or be reinstated, as the case may be, if at any time payment of the Guaranteed Obligations, or any part thereof, is, pursuant to applicable law, rescinded or reduced in amount, or must otherwise be restored or returned by City, whether as a "preferential transfer," "voidable preference," "fraudulent conveyance," or otherwise, as if the portion of such payment rescinded, reduced, restored or returned had never been made.

16. NOTICES.

**To City:** The City of Los Angeles  
Executive Director  
425 S. Palos Verdes Street  
San Pedro, California 90731

**To Guarantor:** Ocean Network Express, Holdings, Ltd  
11F W Building, 1-8-15 Kohnan  
Minato-ku, Tokyo, 108-0075, Japan

[signature page follows]

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## EXHIBIT A



TraPac, LLC  
920 West Harry Bridges Boulevard  
Wilmington, CA 90744

May 17, 2023

Port of Los Angeles  
425 South Palos Verdes Street  
San Pedro, CA 90731  
Attn: Executive Director  
gene\_seroka@portla.org

Re: Permit No. 881 – Transfer Notice

To Whom it May Concern:

Reference is made to that certain (x) Permit No. 881, dated as of September 29, 2009 (as amended, supplemented and/or otherwise modified, the “**Permit**”), between the City of Los Angeles, a municipal corporation (“**City**”) acting by and through its Board of Harbor Commissioners (the “**Board**”), and TraPac, LLC (f/k/a TraPac, Inc.), a California limited liability company (“**Tenant**”),<sup>1</sup> and (y) Transfer Notice dated December 13, 2022, delivered pursuant to Section 14.2 (*Procedure to Obtain Consent to Transfer*) of the Permit, in which Tenant notified the Board of the entry into the EPA (as defined below), and the proposed transfer thereunder (such notice, the “**Transfer Notice**”). At the request of City staff, Tenant hereby supplements and updates certain information set forth in the Transfer Notice, as set forth in this letter.

As you are aware, Mitsui O.S.K. Lines, Ltd., a Japanese corporation (“**MOL**”), currently owns 100% of the outstanding equity security securities of International Transportation, Inc., a Delaware corporation (“**ITI**”), which owns 100% of the outstanding equity securities of TraPac.<sup>2</sup> On November 11, 2022, MOL, as seller, ITI, TraPac, and MIP VI Holdings II, LLC, as buyer, entered into that certain Equity Purchase Agreement (the “**EPA**”). Pursuant to the EPA, MIP VI Holdings II, LLC agreed, among other things, to purchase from MOL 49% of the direct or indirect equity interests in TraPac. As noted in the Transfer Notice, and as permitted under the EPA, MIP VI Holdings II, LLC assigned its interests under the EPA to Skipjack Terminal Holdings, L.P., a Delaware limited partnership (“**Skipjack Terminal Holdings**”). Subsequent to the delivery of the Transfer Notice, and in accordance with certain structure principles set forth in the EPA, the parties thereto have determined the final transaction structure, which contemplates that the acquisition of 49% direct and/or indirect equity interest in TraPac will be consummated as follows: (a) Skipjack Terminal Holdings will acquire approximately 22.2% of the equity interests in ITI from MOL; and (b) Skipjack (ECI) Holdings, LLC, a Delaware limited liability company (“**Skipjack (ECI) Holdings**”) and, together with Skipjack Terminal Holdings, “**Transferees**”), will acquire approximately 34.5% of the equity interests in TraPac from ITI. Both Transferees are managed and controlled by subsidiaries of Macquarie Infrastructure Partners Inc. (“**MIP**”), a leading manager of investments in port and other

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<sup>1</sup> Capitalized terms used herein but otherwise not defined herein shall have the respective meanings ascribed thereto in the Permit.

<sup>2</sup> As was previously communicated to the Board, and as contemplated by the EPA, prior to the closing of the transactions under the EPA, ITI will convert from a Delaware corporation to a Delaware limited liability company, and will change its name to TraPac Holdings, LLC.



## EXHIBIT A

infrastructure assets, which itself is an indirect subsidiary of Macquarie Group Limited (collectively, “Macquarie”).

Under this transaction, MOL will retain an approximate 77.8% ownership interest in ITI, and the existing guaranty MOL provides would continue to be in effect. ITI will retain an approximate 65.5% ownership interest in TraPac. The exact percentage of such ownership interests are subject to nominal adjustments that will be determined prior to the closing of the transfer, but will in all cases result in Skipjack Terminal Holdings and Skipjack (ECI) Holdings holding in the aggregate a 49% direct and/or indirect equity interest in TraPac, with MOL retaining through its ownership of ITI the remaining 51% indirect equity interest in TraPac.

The aforementioned modifications have not altered the fundamental aspect of the terms of the Transfer, and the Transfer is consistent with the terms of the Transfer Notice, assignees of MIP VI Holdings II, LLC (the signatory to the EPA) will acquire an aggregate 49 percent of the direct and/or indirect equity interest in TraPac. These modifications were expressly contemplated and are permitted under the EPA, and do not constitute material changes to the terms of the proposed Transfer as set forth in the Transfer Notice.

The consummation of the transactions under the EPA is subject to customary closing conditions and is required to occur no later than August 11, 2023 (subject to extension in limited circumstances to November 11, 2023).

The transaction contemplated by the EPA does not entail the transfer of the Permit, nor any interest therein or any right or privilege thereunder (nor the transfer of any entity that directly or indirectly controls or owns 50% or more of Tenant, nor any reduction of the net worth of Tenant), in each case as prohibited without City’s consent by Section 14.1 (*Transfer Prohibited*) of the Permit. However, it does entail the transfer of more than 25% of the economic interest in Tenant or ITI (which directly owns and controls 100% of Tenant), which, under Section 14.9 (*Transfers of Ownership*) of the Permit, is deemed to constitute a Transfer within the meaning of Section 14.1 (*Transfer Prohibited*) of the Permit. Hence, Tenant previously provided the Transfer Notice pursuant to Section 14.2 (*Procedure to Obtain Consent to Transfer*) of the Permit, pursuant to which Tenant requested City’s consent to the Transfer contemplated by the EPA, and in respect of which it hereby provides certain updated information.

With regard to Tenant’s operations at the Port of Los Angeles, Tenant will remain the tenant under the Permit, and the current day-to-day operations of Tenant are expected to be unaffected as a result of the Transfer. Subsequent to the Transfer, Transferees will not, individually or combined, own a majority interest in ITI nor Tenant. In addition, the existing guaranty provided by MOL to City under the Permit (which guaranty unconditionally guaranties Tenant’s obligations under the Permit) will remain in place.

In connection with the Transfer, as set forth in the Transfer Notice, Tenant authorized MOL to take all actions on behalf of Tenant in connection with this Transfer Notice and the Transfer contemplated by the EPA (solely until the date of consummation thereof), including but not limited to responding to all requests from City, the Board and/or the Los Angeles City Council regarding the foregoing.

Set forth below are updates to the information required by Section 14.2.1 (*Procedure to Obtain Consent to Transfer*) of the Permit in connection with the Transfer Notice:

**(a) Identification of Transferees**

Seller proposes to Transfer, in accordance with the terms of the EPA, an aggregate 49% direct and/or indirect equity interest in TraPac, as follows: (a) Skipjack Terminal Holdings will acquire approximately 22.2% of the equity interests in ITI from MOL; and (b) Skipjack (ECI) Holdings will acquire approximately

## EXHIBIT A

34.5% of the equity interests in Tenant from ITI.

### **(b) Description of Transferees**

Skipjack Terminal Holdings is a newly-formed Delaware limited partnership, created for the purpose of acquiring the equity interests in ITI in accordance with the terms of the EPA. Skipjack (ECI) Holdings is a newly formed Delaware limited liability company, created for the purpose of acquiring the equity interests in TraPac in accordance with the terms of the EPA. As noted above, Transferees are controlled by private funds managed by MIP, a leading manager of investments in port and other infrastructure assets and an indirect subsidiary of Macquarie Group Limited. MIP is part of the Real Assets division of Macquarie Asset Management (“MAM”), an operating group of Macquarie. The Transferees have no subsidiaries.

MAM is, among other things, a global asset manager with more than \$582.4 billion (as of March 31, 2023) in assets under management. In particular, Macquarie’s Real Assets division manages over \$131.4 billion of equity across its infrastructure, green investments, and natural assets platforms. With a portfolio that spans more than 172 portfolio companies, 22 GW of renewable energy assets and ~4.7 million hectares of farmland in Australia, its global team partners with clients, governments, and communities to manage, develop and enhance essential real assets that are relied upon by more than 100 million people every day. Macquarie has built up through investment in infrastructure opportunities across the North American region over more than 25 years, and is a global organization with a team over 2,350 people operating across 34 countries, leveraging expertise, diversity and culture of innovation to identify opportunities, mitigate risks and drive value for clients and stakeholders. In particular, MIP has a proven history as a manager of container terminal assets in North America, which are owned and operated through MIP’s managed funds.

### **(c) Description of the proposed Transfer**

As detailed in the EPA, and as set forth herein, the proposed Transfer will consist of the acquisition by the Transferees (directly or indirectly, as the case may be) of an aggregate 49% equity interest in TraPac. As noted above, there will be no assignment or other transfer of the Permit, nor any interest therein or any right or privilege thereunder, and Tenant will continue to be the sole obligor thereunder, both before and after the contemplated Transfer.

### **(d) Description of the operations proposed to be undertaken at the Premises**

There are no changes to the operations of Tenant at the Premises expected to occur as a result of the Transfer contemplated by the EPA. As noted above, Tenant will continue as the sole obligor under the Permit, and will continue to operate at the Premises in accordance with the terms thereof. All that will change is that Transferees will together obtain (directly or indirectly, as the case may be) an aggregate 49% minority equity interest in TraPac; however, it is anticipated that Tenant (and its management team) may benefit from the expertise of Macquarie as a global investor in and operator of container terminal assets.

### **(e) Terms of the proposed Transfer**

As the contemplated Transfer is structured as an acquisition by Transferees of, among other things, a direct or indirect minority equity interest in Tenant in accordance with the terms of the EPA (and Tenant holds other assets unrelated to its rights under the Permit), the consideration payable to MOL thereunder is not allocable to the use of the Premises under the Permit. In any case, the amount of such consideration is a highly confidential term of the proposed transaction under the EPA. A redacted copy of the EPA has previously been provided. As noted above, the consummation of the Transfer under the EPA is subject to customary closing conditions and is required to occur no later than August 11, 2023 (subject to extension in limited circumstances to November 11, 2023).

## **EXHIBIT A**

***(f) Proposed form of guaranty***

The guaranty of Tenant's obligation under the Permit previously provided by MOL in 2009 will remain in place, in full force and effect, and will be unaffected by the Transfer contemplated by the EPA.

***(g) Business plan for Transferee***

The Tenant will continue to operate the terminal facility at the Premises and therefore there are no changes contemplated to any business plan of Tenant that may currently be in effect. There are not anticipated to be changes to the terms of (including estimates of cargo volume under) existing contracts of the Tenant in connection with the contemplated Transfer.

***(h) Description of any planned Alterations or improvements to the Premises***

No Alterations or improvements to the Premises are planned as a result of, or in connection with the Transfer, and any Alterations and improvements currently in progress or that have been previously approved with respect to the Premises are intended to be completed as currently contemplated.

***(i) Authorization allowing City to inspect and review information of Tenant or Transferees***

Pursuant to the Transfer Notice, Tenant authorized City to inspect and review (but not to copy), at times and locations reasonably selected by City, any books and records or other information of Tenant or Transferee (or third parties acting for or on either of their behalves) reasonably determined by City to be necessary for its assessment of Tenant's request for consent pursuant to the Transfer Notice.

The parties to the EPA continue to be available to answer any questions or provide further information upon request in respect of the contemplated Transfer.

*[Remainder of page intentionally left blank]*

## EXHIBIT A

Sincerely,

TRAPAC, LLC

By: R. Triemstra  
Name: Ron Triemstra  
Title: Senior Vice-President, Chief  
Financial Officer & Corporate Secretary

cc: Los Angeles City Attorney's Office  
425 South Palos Verdes Street  
San Pedro, CA 90731

Mitsui O.S.K. Lines, Ltd.  
1-1, Toranomon 2-Chome, Minato-ku  
Tokyo 105-8688 Japan

Skipjack Terminal Holdings, L.P.  
c/o Macquarie Asset Management  
125 West 55<sup>th</sup> Street, Level 15  
New York, NY 10019  
Attn: Richard J. Nicholson, Managing Director – Ports  
Email: [richard.j.nicholson@macquarie.com](mailto:richard.j.nicholson@macquarie.com)  
[mamrlegalnotices@macquarie.com](mailto:mamrlegalnotices@macquarie.com)

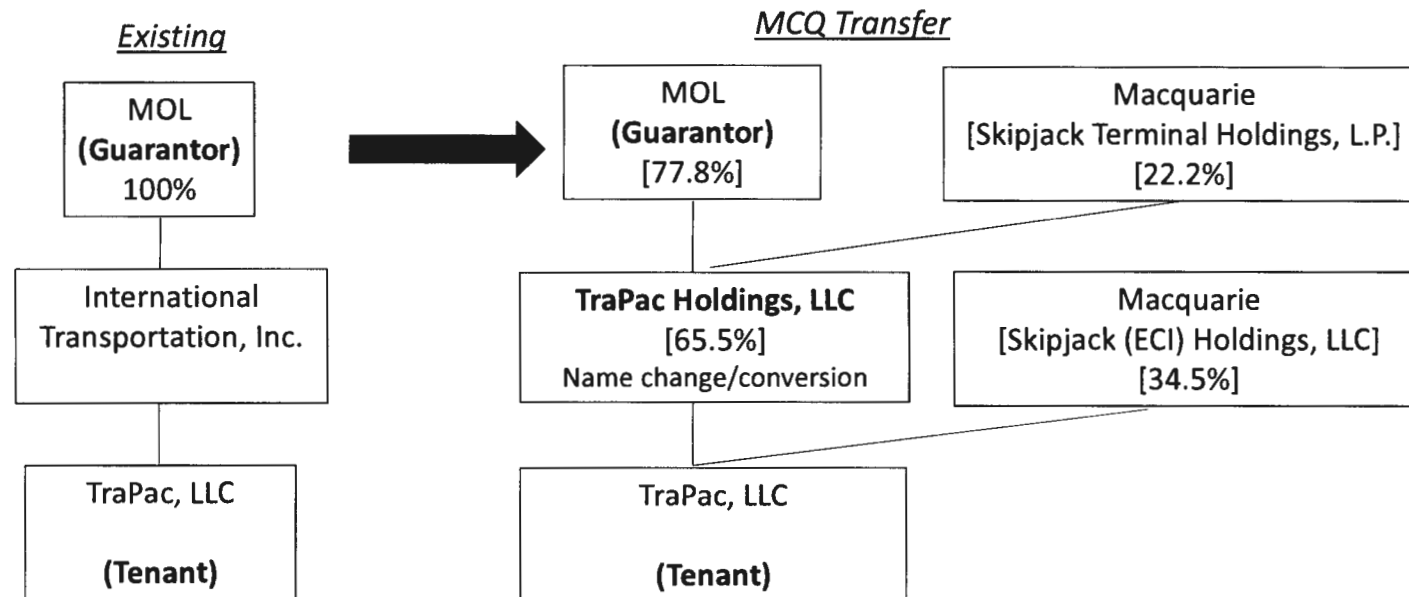
Nixon Peabody LLP  
55 West 46th Street  
New York, NY 10036-4120  
Attn: Richard F. Langan, Jr., Esq.  
Email: [rlangan@nixonpeabody.com](mailto:rlangan@nixonpeabody.com)

Gibson, Dunn & Crutcher LLP  
200 Park Avenue  
New York, NY 10166-0193  
Attn: Toren J. Murphy  
Email: [tmurphy@gibsondunn.com](mailto:tmurphy@gibsondunn.com)

*[Signature page to Supplement to Transfer Notice (City of LA)]*

## EXHIBIT A

### Hierarchy Chart – Transmittal No. 2



Note: Bracketed figures remain subject to nominal adjustments prior to the closing of the transfer, but will in all cases result in Skipjack Terminal Holdings and Skipjack (ECI) Holdings holding in the aggregate a 49 percent direct and/or indirect equity interest in TraPac

Transmittal is abbreviated for ease of review

## EXHIBIT A

## EXHIBIT A



TraPac, LLC  
920 West Harry Bridges Boulevard  
Wilmington, CA 90744

May 17, 2023

Port of Los Angeles  
425 South Palos Verdes Street  
San Pedro, CA 90731  
Attn: Executive Director  
Email: gene\_seroka@portla.org

Re: Permit No. 881; Supplement to Transfer Notice – Sale to ONE

Dear Mr. Seroka:

Reference is made to that certain Permit No. 881, dated as of September 29, 2009 (as amended, supplemented, and/or otherwise modified, the “**Permit**”), between the City of Los Angeles, a municipal corporation (“**City**”) acting by and through its Board of Harbor Commissioners (the “**Board**”), and TraPac, LLC (f/k/a TraPac, Inc.), a California limited liability company (“**Tenant**”).<sup>1</sup> Reference is further made to that certain Transfer Notice dated January 20, 2023, in which Tenant notified the Board of the entry into the ONE EPA, and the proposed transfer thereunder (such notice, the “**Transfer Notice**”). At the request of City staff, Tenant submits this supplement to the Transfer Notice (the “**Supplement**”).

Mitsui O.S.K. Lines, Ltd., a Japanese corporation (“**MOL**”), currently owns 100 percent of the outstanding equity securities of International Transportation, Inc., a Delaware corporation (“**ITI**”), which owns 100 percent of the outstanding equity securities of Tenant.<sup>2</sup> On December 26, 2022, MOL and Ocean Network Express Pte. Ltd., a Singapore private limited company (“**ONE**”), entered into an Equity Purchase Agreement (the “**ONE EPA**”) wherein ONE has agreed, among other things, to purchase from MOL 51 percent of the equity interest in ITI (the “**ONE Transaction**”). Subsequent to the delivery of the Transfer Notice, and as contemplated by the EPA, the parties thereto have modified the ONE Transaction such that United Pacific Ports B (UK) Ltd., a private company limited by shares under the laws of England and Wales and a wholly owned subsidiary of ONE (“**UPP**”, or the “**Transferee**”), will purchase a 77.8 percent ownership interest in ITI. The exact percentages of such ownership interests are subject to nominal adjustments that will be determined prior to the closing of the transfer, but will in all cases result in UPP holding, in the aggregate, a 51 percent indirect equity interest in TraPac.

Section 14.9.1 of the Permit defines a “Transfer” under the Agreement (which is prohibited without the consent of the City) to include, in part, the transfer of more than 25 percent of the economic interest in Tenant or any entity that directly or indirectly controls or owns 50 percent or more of Tenant. Tenant

<sup>1</sup> Capitalized terms used herein but otherwise not defined herein shall have the respective meanings ascribed thereto in the Permit.

<sup>2</sup> As was previously communicated to the Board in connection with the Macquarie Transaction, and as contemplated by the Macquarie EPA, prior to the closing of the transactions under the Macquarie EPA, ITI will convert from a Delaware corporation to a Delaware limited liability company, and will change its name to TraPac Holdings, LLC. This will result in TraPac Holdings, LLC replacing ITI as the entity which holds 100 percent of the ownership interest of Tenant, TraPac. This conversion will not have any effect on the operations of Tenant.



## EXHIBIT A

previously requested, pursuant to Section 14.2 of the Permit, the City's consent to the Transfer contemplated by the ONE Transaction. By this Supplement, Tenant provides additional information concerning the structure of the ONE Transaction requested by the Board.

The aforementioned modifications have not altered the fundamental aspect of the terms of the Transfer, and the Transfer is consistent with the terms of the Transfer Notice, assignees of Ocean Network Express Pte. Ltd. (the signatory to the EPA) will acquire an aggregate 51 percent of the direct and/or indirect equity interest in TraPac. These modifications were expressly contemplated and are permitted under the ONE EPA, and do not constitute material changes to the terms of the proposed Transfer, as set forth in the Transfer Notice.

With regard to Tenant's operations at the Port of Los Angeles, TraPac, LLC will remain as the Tenant under the Permit, subject to all rights and obligations pursuant to the Permit.

Separately, as the Port leadership is aware, on November 11, 2022, MOL, as seller, ITI, TraPac, and MIP VI Holdings II, LLC, as buyer, entered into that certain Equity Purchase Agreement under which MOL agreed to sell 49 percent of the direct or indirect equity interests in TraPac (the "**Macquarie EPA**" and transactions related thereto, the "**Macquarie Transaction**"). On December 13, 2022, we delivered a transfer notice for the Macquarie Transaction. Contemporaneously herewith, we have delivered a supplement to Macquarie Transaction transfer notice.

The transaction addressed in the present Transfer Notice and this Supplement, the ONE Transaction, is separate and independent from the Macquarie Transaction. Accordingly, we ask that the Port's evaluation and consent be focused solely on the terms of and parties to the ONE Transaction.

In connection with the ONE Transaction, as set forth in the Transfer Notice, Tenant authorized MOL to take all actions on behalf of TraPac, LLC as Tenant under the Permit relative to this request and the transfer contemplated by the ONE EPA (solely until the date of consummation thereof), including but not limited to responding to all requests from the Port staff, the Board and/or the Los Angeles City Council regarding the foregoing.

Set forth below is all of the information required by Section 14.2.1 of the Permit in connection with this Transfer Notice:

**(a) Identification of Transferee**

In connection with the ONE Transaction, MOL proposes to sell 77.8 percent of the outstanding equity securities in ITI, which owns 100 percent of Tenant, to United Pacific Ports B (UK) Ltd. a wholly owned subsidiary of ONE.

**(b) Description of Transferee**

United Pacific Ports B (UK) Ltd. is a wholly owned subsidiary of ONE. United Pacific Ports B (UK) Ltd. was formed on March 18, 2022 as a private company limited by shares under the laws of England and Wales. United Pacific Ports B (UK) Ltd. will be a holding company and will conduct no business or operations other than owning the equity securities of ITI. ONE is the operating company and wholly owned subsidiary of Ocean Network Express Holdings, Ltd., which was established on July 7, 2017 as a joint venture between K Line, MOL, and Nippon Yusen Kaisha ("**NYK**"). The venture merged the container shipping divisions of the three companies, forming the sixth-largest container shipping company in the world at that time. NYK owns 38 percent of ONE, while MOL and K Line each own 31 percent of ONE, respectively.

## **EXHIBIT A**

### ***(c) Description of the proposed Transfer***

As detailed in the ONE EPA, the proposed Transfer will consist of Transferee's purchase from MOL of an aggregate 51 percent equity interest in Tenant. There will be no assignment or other transfer of the Permit, nor any interest therein or any right or privilege thereunder, and Tenant will continue to be the sole obligor thereunder, both before and after the ONE Transaction.

### ***(d) Description of the operations proposed to be undertaken at the Premises***

At this time, there are no changes to the operations of Tenant at the Premises expected to occur as a result of the Transfer contemplated by the ONE Transaction. As noted above, TraPac, LLC will continue as the Tenant and sole obligor under the Permit, and will continue to operate the Premises in accordance with the terms thereof. Nevertheless, Tenant's businesses will benefit from the industry expertise and capital of ONE to support its operations as a result of ONE's investment.

### ***(e) Terms of the proposed Transfer***

In accordance with the terms of the ONE EPA, the ONE Transaction involves the purchase by UPP of 77.8 percent of the outstanding equity securities in ITI. As TraPac, LLC is (at present) a wholly owned subsidiary of ITI, UPP will purchase an indirect majority equity interest in Tenant. In addition to its rights under the Permit, Tenant also holds other assets and operates other terminal facilities unrelated to the Port of LA and Tenant's rights under the Permit. In connection with the ONE Transaction relative to the Permit, ONE intends to offer the Port a replacement guaranty for Tenant's obligations under the Permit in substantially similar form to that certain Guaranty from MOL to and for the benefit of the City that was delivered by MOL in 2009 as a condition to the effectiveness of the Permit (the "2009 Guaranty").

The ONE EPA governs the terms of the ONE Transaction; there are no other proposed assignments, encumbrances or transfers of the Permit obligations. As explained above, the Transaction involves the acquisition of an indirect interest in TraPac, including assets unrelated to the Port of Los Angeles or the Permit, through TraPac's parent company ITI, and as such, the consideration payable to MOL thereunder is not allocable to the use of the Premises under the Permit. In any case, the amount of such consideration is a highly confidential term of the proposed transaction under the ONE EPA. A redacted copy of the ONE EPA has previously been provided. The consummation of the ONE Transaction under the ONE EPA is subject to customary closing conditions.

Under the ONE EPA, the ONE Transaction is set to close following the satisfaction or waiver of several closing conditions. Consent granted by the City is a condition to the closing of the ONE Transaction. MOL and ONE strongly desire to close the ONE Transaction as soon as possible.

### ***(f) Proposed form of guaranty***

In accordance with the ONE EPA, ONE intends to offer the Port of Los Angeles a replacement guaranty for Tenant's obligations under the Permit in substantially similar form to 2009 Guaranty. Once the replacement guaranty is approved, accepted by the Port, and executed by the parties thereto, the 2009 Guaranty would terminate and MOL will be released from its obligations thereunder.

### ***(g) Business plan for Transferee***

Subsequent to the ONE Transaction, TraPac, LLC will remain the Tenant under the Permit and will continue to operate the terminal facility at the Premises. At this time, it is contemplated that TraPac's operations will continue following the closing of the ONE Transaction without any material modification



## EXHIBIT A

notwithstanding the change in the ownership of ITI. Nevertheless, TraPac's businesses will benefit from the industry expertise and capital of ONE to support its operations as a result of ONE's investment.

***(h) Description of any planned Alterations or improvements to the Premises***

No Alterations or improvements to the Premises are planned as a result of, or in connection with, the ONE Transaction. Any Alterations and improvements currently in progress or that have been previously approved with respect to the Premises are intended to be completed as currently contemplated.

***(i) Authorization allowing City to inspect and review information of Tenant or Transferee***

In the Transfer Notice, Tenant authorized City to inspect and review (but not to copy), at times and locations reasonably selected by City, any books and records or other information of Tenant or Transferee (or third parties acting for or on either of their behalves) reasonably determined by City to be necessary for its assessment of Tenant's request for consent pursuant to the Transfer Notice.

The parties to the ONE EPA are enthused about the ONE Transaction and happy to provide additional information about the contemplated ONE Transaction described above as may be reasonably requested by the Port of Los Angeles. We all hope for an expedited review and stand ready to assist the Port in completing its necessary diligence.

*[Remainder of page intentionally left blank]*

## EXHIBIT A

Sincerely,

TRAPAC, LLC

By: RB Triemstra  
Name: Ron Triemstra  
Title: Senior VP, Chief Financial Officer  
& Corporate Secretary

cc: Marisa L. Katnich, Director of Cargo and Industrial Real Estate  
Eric Caris, Director of Cargo Marketing  
Port of Los Angeles  
425 South Palos Verdes Street  
San Pedro, CA 90731  
Emails: [mkatnich@portla.org](mailto:mkatnich@portla.org)  
[ecaris@portla.org](mailto:ecaris@portla.org)

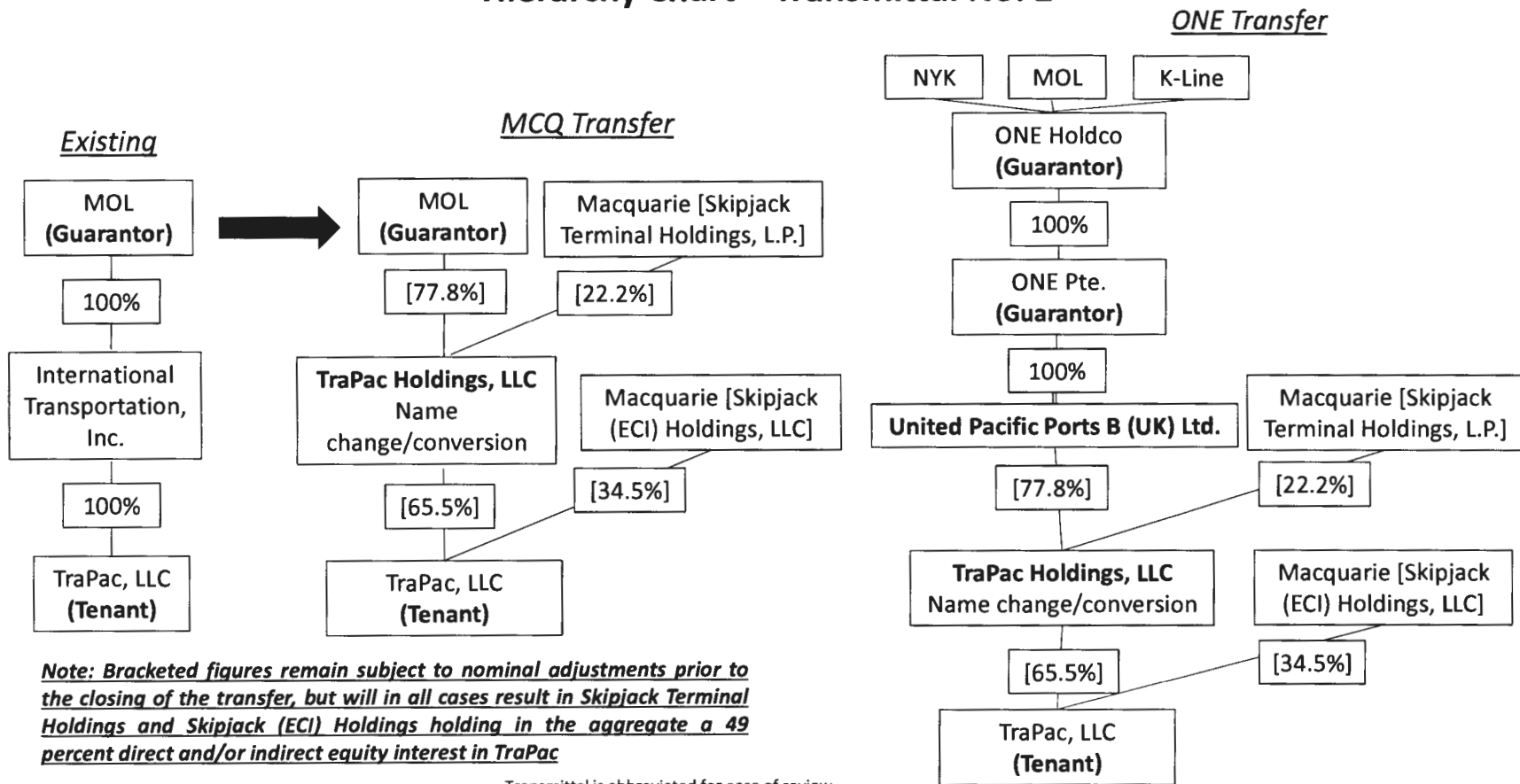
Ocean Network Express Pte. Ltd.  
7 Straits View, Marina One East Tower,  
#16-01, Singapore 018936  
ONE Terminal Management Department  
Attn: HOD Teck Jin Goh  
Email: [teckjin.goh@one-line.com](mailto:teckjin.goh@one-line.com)

Nixon Peabody LLP  
55 West 46th Street  
New York, NY 10036-4120  
Attn: Richard F. Langan, Jr., Esq.  
Email: [rlangan@nixonpeabody.com](mailto:rlangan@nixonpeabody.com)

Wilmer Hale Cutler Pickering & Dorr  
7 World Trade Center  
New York, NY 10007  
Attn: Robert Finkel  
Email: [Robert.Finkel@wilmerhale.com](mailto:Robert.Finkel@wilmerhale.com)

## EXHIBIT A

### Hierarchy Chart – Transmittal No. 2



Transmittal is abbreviated for ease of review

## EXHIBIT A

## EXHIBIT B

### GUARANTY

THIS GUARANTY ("Guaranty") is made as of \_\_\_\_\_, 2009, by Mitsui O.S.K. Lines, Ltd. ("Guarantor") to and for the benefit of the CITY OF LOS ANGELES, acting by and through its Board of Harbor Commissioners ("City").

### WITNESSETH:

- A. A wholly owned subsidiary of Guarantor known as TraPac, Inc. ("Tenant") has requested that City issue to it Permit No. 881 ("Permit"); and
- B. As a condition to the effectiveness of the Permit, City has requested and Guarantor has agreed to irrevocably guarantee the timely payment and performance of all obligations of Tenant arising under the Permit; and
- C. Guarantor acknowledges that the consummation of the transactions hereunder and under the Permit provides direct benefits to Guarantor.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in order to obtain City's approval to issue the Permit, and intending to be legally bound, Guarantor does hereby warrant, represent, and covenant unto City as follows:

#### 1. GUARANTY AND SURETY.

Guarantor hereby absolutely, irrevocably and unconditionally guarantees, and becomes surety for, the full and timely payment and performance of the debts, obligations and liability of Tenant under the Permit, whether now or hereafter made, incurred or created, voluntary or involuntary, due or not due, absolute or contingent, liquidated or unliquidated, determined or undetermined, and regardless of whether recovery against Tenant with respect to such obligations is prevented by bankruptcy, or otherwise (collectively, the "Guaranteed Obligations").

#### 2. SUBSEQUENT ACTS BY CITY.

City may, in its sole and absolute discretion and without notice to Guarantor, take any action which might otherwise be deemed a legal or equitable release or discharge of Guarantor's obligations hereunder without either impairing or affecting the liability of Guarantor for payment of the Guaranteed Obligations, which actions might include, by way of illustration and not limitation:

- 2.1 the renewal or extension of any of the Guaranteed Obligations or any payments hereunder;
- 2.2 the acceptance of partial payment or performance of the Guaranteed Obligations;
- 2.3 the settlement, release, compounding, compromise, cancellation, rearrangement or consolidation of any of the Guaranteed Obligations;

## EXHIBIT B

2.4 the collection of or other liquidation of any claims City may have in respect to the Guaranteed Obligations;

2.5 the granting of indulgences, forbearances, compromises, extensions or adjustments in respect to any covenant or agreement under the Permit;

2.6 the release from liability of any Guarantor, or payment of the Guaranteed Obligations or any portion thereof;

2.7 the release, surrender, exchange or compromise of any lien, security or collateral held by City as security for the Guaranteed Obligations; or

2.8 the release or compromise of any lien or security held by City as security for the liability of any person who is guaranteeing the Guaranteed Obligations.

Any alterations of the terms of this Guaranty shall be in writing, mutually agreed to by City and by Guarantor and in conformity with the procedures set forth in City's Charter and Administrative Code.

### 3. EXPENSES.

Guarantor agrees to reimburse City for all expenses (including without limitation reasonable attorneys' fees, costs and expenses) incurred by City in enforcing the Guaranteed Obligations, pursuing any remedies relating to the Guaranteed Obligations set forth in the Permit, and enforcing this Guaranty.

### 4. PAYMENT BY GUARANTOR.

In the event of any default by Tenant with respect to the Guaranteed Obligations, Guarantor agrees to pay or perform on demand (either oral or written) such obligations. City shall not be required to liquidate any lien or any other form of security, instrument, or note held by City prior to making such demand. THIS IS A GUARANTY OF PAYMENT AND PERFORMANCE AND NOT OF COLLECTION, and Guarantor hereby waives all rights that Guarantor may have, if any, to require that any action be brought against Tenant (or any other person) or to require that resort be first made against any security prior to demanding payment or performance hereunder.

### 5. CUMULATIVE REMEDIES.

Guarantor hereby agrees that all rights and remedies that City is afforded by reason of this Guaranty are separate and cumulative and may be pursued separately, successively, or concurrently, as City deems advisable. In addition, all such rights and remedies are nonexclusive and shall in no way limit or prejudice City's ability to pursue any other legal or equitable rights or remedies that may be available. Without limiting the generality of the foregoing, Guarantor agrees that in any action by City by reason of the Guaranteed Obligations, City at its election may proceed (a) against Guarantor together with Tenant, (b) against Guarantor and Tenant individually, or (c) against Guarantor only without having commenced any action against or having obtained any judgment against Tenant.

## EXHIBIT B

### 6. WAIVERS BY GUARANTOR.

#### 6.1 Guarantor hereby waives:

6.1.1 notice of acceptance of this Guaranty and of creation of the Guaranteed Obligations;

6.1.2 presentment, notice of non-payment, and demand for payment of the Guaranteed Obligations;

6.1.3 protest, notice of protest, and notice of dishonor or default to Guarantor or to any other party with respect to any of the Guaranteed Obligations;

6.1.4 the right to receive demand for payment under this Guaranty;

6.1.5 any defense or circumstance (including, without limitation, disability, insolvency, lack of authority or power, insanity, minority, death or dissolution), other than payment of the Guaranteed Obligations, which might otherwise constitute a legal or equitable discharge of Guarantor's liability hereunder;

6.1.6 any defense of Tenant to the Guaranteed Obligations;

6.1.7 any rights to extension, composition or otherwise under the Bankruptcy Code or any amendments thereof, or under any state or other federal statute;

6.1.8 the right to trial by jury in any litigation arising out of, relating to, or connected with this Guaranty;

6.1.9 all rights or defenses that Guarantor may have as set forth in Division Three, Part 4, Title 13, currently Sections 2787 through 2914, of the California Civil Code, which address generally suretyship;

6.1.10 Guarantor waives any and all demands, actions, defenses, defaults, claims, breaches, causes of action, obligations, damages, and/or liabilities of any nature whatsoever existing as of the date hereof which Guarantor has or may have against City arising from or out of the Permit.

6.2 It is expressly agreed that Guarantor shall remain liable hereon regardless of whether Tenant is held to be not liable on the Guaranteed Obligations. It is agreed between Guarantor and City that the foregoing waivers are of the essence of the Permit transaction and that, but for this Guaranty and such waivers, City would decline to enter into the Permit.

### 7. WAIVER AND RELEASE OF SUBROGATION AND PARTICIPATION.

Until such time as all obligations of Tenant under the Permit have been satisfied, Guarantor shall have no right of subrogation in or under the Permit, and no rights of reimbursement, indemnity or contribution from Tenant or any other rights by law, equity, statute or contract that would give rise to a creditor-debtor relationship between Guarantor and Tenant. Effective for the time period described in the preceding sentence, Guarantor hereby explicitly waives and releases any of the above-described rights of subrogation, reimbursement, indemnity,

## EXHIBIT B

contribution, participation, and any right to require the marshaling of Tenant's assets under any circumstances.

### 8. SUBORDINATION.

Any obligation or debt of Tenant now or hereafter held by Guarantor is hereby subordinated to the Guaranteed Obligations and Guarantor shall not enforce or collect any such indebtedness from Tenant. Nevertheless, upon request by City, Guarantor shall collect, enforce and receive such indebtedness of Tenant to Guarantor. Any sums collected at City's request or collected in contravention of the prohibition set forth herein shall be held by Guarantor as trustee for City and shall be paid over to City on account of the Guaranteed Obligations; provided, however, such payments shall not impair, reduce or affect in any manner the liability of Guarantor under the other provisions of this Guaranty.

### 9. REPRESENTATIONS AND WARRANTIES.

Guarantor hereby represents and warrants to City that:

9.1 Guarantor now has no defense whatsoever to any action, suit or proceeding whatsoever that may be instituted on this Guaranty;

9.2 No other agreement or special condition exists between Guarantor and City regarding the liability of Guarantor hereunder; and

9.3 This Guaranty constitutes a valid and binding obligation of Guarantor, enforceable in accordance with its terms.

### 10. STRICT PERFORMANCE: WAIVERS.

No failure, delay or omission by City to exercise any of the rights, powers, remedies and privileges hereunder shall be deemed a waiver thereof and every such right, power, remedy and privilege may be exercised repeatedly. No notice to or demand on Guarantor shall be deemed to be a waiver of the right of City to take further action without notice or demand as provided herein. In no event shall any modification or waiver of the provisions of this Guaranty be effective unless in writing executed by City. Any waiver granted shall be applicable only in the specific instance for which it is given. Failure of City to insist upon strict performance or observance of any of the terms, provisions and covenants hereof or to exercise any right herein contained shall not be construed as a waiver or relinquishment of the right to demand strict performance at another time. Receipt by City of any payment or performance on the Guaranteed Obligations shall not be deemed a waiver of the breach of any provision hereof or of the Permit.

### 11. CAPTIONS.

The captions appearing herein are used for reference only and shall not be construed as limiting anything set forth herein.

## EXHIBIT B

### 12. SEVERABILITY.

If any term, covenant, condition or provision of this Guaranty, or the application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, covenants, conditions or provisions of this Guaranty, or the application thereof to any other person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

### 13. GOVERNING LAW.

This Guaranty shall be governed by the laws of the State of California without reference to choice of law rules.

### 14. ASSIGNMENT: DELEGATION: BINDING EFFECT.

The duties and obligations of Guarantor may not be delegated or transferred by Guarantor without the prior written consent of City. The duties and obligations of Guarantor shall bind Guarantor's heirs, personal representatives, executors, successors and assigns.

### 15. TERMINATION: REINSTATEMENT: LIMITATION.

15.1 Subject to Section 15.2 below, Guarantor's obligations hereunder shall terminate, and this Guaranty shall be released, upon payment and performance in full of all debts, obligations and liabilities of Tenant to City under the Permit.

15.2 This Guaranty shall remain in full force and effect and continue to be effective should any petition be filed by or against Tenant under the Bankruptcy Code, as at any time amended, for liquidation or reorganization, or should Tenant become insolvent or make an assignment for the benefit of creditors or a receiver or trustee be appointed for all or any significant part of Tenant's assets, and this Guaranty shall continue to be effective or be reinstated, as the case may be, if at any time payment of the Guaranteed Obligations, or any part thereof, is, pursuant to applicable law, rescinded or reduced in amount, or must otherwise be restored or returned by City, whether as a "preferential transfer," "voidable preference," "fraudulent conveyance," or otherwise, as if the portion of such payment rescinded, reduced, restored or returned had never been made.

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## EXHIBIT B

16. NOTICES.

**To City:** The City of Los Angeles  
Executive Director  
425 S. Palos Verdes Street  
San Pedro, California 90731

**To Guarantor:** Mitsui O.S.K. Lines  
Group Leader, Ports and Terminals Group  
1-1, Toranomon 2-Chome  
Minato-ku, Tokyo 105-8688  
Japan

IN WITNESS WHEREOF, Guarantor has duly executed this Guaranty the day and year first above written.

**Guarantor:**

Mitsui O.S.K Lines, Ltd.

By: [Signature]  
Name: Masakazu Takushiji  
Title: Executive Vice President

Attest: [Signature]  
Name: Junichiro Ikeda  
Title: Executive Officer

APPROVED AS TO FORM  
8/6, 2009  
ROCKARD J. DELGADILLO, City Attorney

By [Signature]  
STEVEN Y. OTERA, Deputy



## GUARANTY

THIS GUARANTY ("Guaranty") is made as of \_\_\_\_\_, 2023 ("Effective Date"), by Ocean Network Express Pte, Ltd, a Singapore Private Limited Company ("Guarantor") to and for the benefit of the CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Harbor Commissioners ("City").

### WITNESSETH:

A. Pursuant to Section 14 of Permit No. 881 ("Permit") between City and TraPac, LLC ("Tenant"), City received the transfer notice attached hereto and incorporated by reference as Exhibit A; and

B. Mitsui O.S.K. Lines, Ltd. ("MOL") has requested to terminate the existing guaranty which is attached hereto and incorporated by reference as Exhibit B in favor of a new guaranty furnished by Guarantor; and

C. As a condition to the effectiveness of the City's consent to the transfer described in Exhibit A ("Transfer"), City has requested and Guarantor has agreed to irrevocably guarantee the timely payment and performance of all obligations of Tenant arising under the Permit; and

D. Guarantor acknowledges that the consummation of the transactions hereunder and under the Permit provides direct benefits to Guarantor.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in order to obtain City's consent to the Transfer, and intending to be legally bound, Guarantor does hereby warrant, represent, and covenant unto City as follows:

#### 1. GUARANTY AND SURETY.

Guarantor hereby absolutely, irrevocably and unconditionally guarantees, and becomes surety for, the full and timely payment and performance of the debts, obligations and liability of Tenant under the Permit, whether now or hereafter made, incurred or created, voluntary or involuntary, due or not due, absolute or contingent, liquidated or unliquidated, determined or undetermined, and regardless of whether recovery against Tenant with respect to such obligations is prevented by bankruptcy, or otherwise (collectively, the "Guaranteed Obligations").

#### 2. SUBSEQUENT ACTS BY CITY.

City may, in its sole and absolute discretion and without notice to Guarantor, take any action which might otherwise be deemed a legal or equitable release or discharge of Guarantor's obligations hereunder without either impairing or affecting the liability of Guarantor for payment of the Guaranteed Obligations, which actions might include, by way of illustration and not limitation:

2.1 the renewal or extension of any of the Guaranteed Obligations or any payments hereunder;

2.2 the acceptance of partial payment or performance of the Guaranteed Obligations;

2.3 the settlement, release, compounding, compromise, cancellation, rearrangement or consolidation of any of the Guaranteed Obligations;

2.4 the collection of or other liquidation of any claims City may have in respect to the Guaranteed Obligations;

2.5 the granting of indulgences, forbearances, compromises, extensions or adjustments in respect to any covenant or agreement under the Permit;

2.6 the release from liability of any Guarantor, or payment of the Guaranteed Obligations or any portion thereof;

2.7 the release, surrender, exchange or compromise of any lien, security or collateral held by City as security for the Guaranteed Obligations; or

2.8 the release or compromise of any lien or security held by City as security for the liability of any person who is guaranteeing the Guaranteed Obligations.

Any alterations of the terms of this Guaranty shall be in writing, mutually agreed to by City and by Guarantor and in conformity with the procedures set forth in City's Charter and Administrative Code.

### 3. EXPENSES.

Guarantor agrees to reimburse City for all expenses (including without limitation reasonable attorneys' fees, costs and expenses) incurred by City in enforcing the Guaranteed Obligations, pursuing any remedies relating to the Guaranteed Obligations set forth in the Permit, and enforcing this Guaranty.

### 4. PAYMENT BY GUARANTOR.

In the event of any default by Tenant with respect to the Guaranteed Obligations, Guarantor agrees to pay or perform on demand (either oral or written) such obligations. City shall not be required to liquidate any lien or any other form of security, instrument, or note held by City prior to making such demand. THIS IS A GUARANTY OF PAYMENT AND PERFORMANCE AND NOT OF COLLECTION, and Guarantor hereby waives all rights that Guarantor may have, if any, to require that any action be brought against Tenant (or any other person) or to require that resort be first made against any security prior to demanding payment or performance hereunder.

5. CUMULATIVE REMEDIES.

Guarantor hereby agrees that all rights and remedies that City is afforded by reason of this Guaranty are separate and cumulative and may be pursued separately, successively, or concurrently, as City deems advisable. In addition, all such rights and remedies are nonexclusive and shall in no way limit or prejudice City's ability to pursue any other legal or equitable rights or remedies that may be available. Without limiting the generality of the foregoing, Guarantor agrees that in any action by City by reason of the Guaranteed Obligations, City at its election may proceed (a) against Guarantor together with Tenant, (b) against Guarantor and Tenant individually, or (c) against Guarantor only without having commenced any action against or having obtained any judgment against Tenant.

6. WAIVERS BY GUARANTOR.

6.1 Guarantor hereby waives:

6.1.1 notice of acceptance of this Guaranty and of creation of the Guaranteed Obligations;

6.1.2 presentment, notice of non-payment, and demand for payment of the Guaranteed Obligations;

6.1.3 protest, notice of protest, and notice of dishonor or default to Guarantor or to any other party with respect to any of the Guaranteed Obligations;

6.1.4 the right to receive demand for payment under this Guaranty;

6.1.5 any defense or circumstance (including, without limitation, disability, insolvency, lack of authority or power, insanity, minority, death or dissolution), other than payment of the Guaranteed Obligations, which might otherwise constitute a legal or equitable discharge of Guarantor's liability hereunder;

6.1.6 any defense of Tenant to the Guaranteed Obligations;

6.1.7 any rights to extension, composition or otherwise under the Bankruptcy Code or any amendments thereof, or under any state or other federal statute;

6.1.8 the right to trial by jury in any litigation arising out of, relating to, or connected with this Guaranty;

6.1.9 all rights or defenses that Guarantor may have as set forth in Division Three, Part 4, Title 13, currently Sections 2787 through 2914, of the California Civil Code, which address generally suretyship;

6.1.10 Guarantor waives any and all demands, actions,

defenses, defaults, claims, breaches, causes of action, obligations, damages, and/or liabilities of any nature whatsoever existing as of the date hereof which Guarantor has or may have against City arising from or out of the Permit.

6.2 It is expressly agreed that Guarantor shall remain liable hereon regardless of whether Tenant is held to be not liable on the Guaranteed Obligations. It is agreed between Guarantor and City that the foregoing waivers are of the essence of the Permit transaction and that, but for this Guaranty and such waivers, City would decline to enter into the Permit.

7. WAIVER AND RELEASE OF SUBROGATION AND PARTICIPATION.

Until such time as all obligations of Tenant under the Permit have been satisfied, Guarantor shall have no right of subrogation in or under the Permit, and no rights of reimbursement, indemnity or contribution from Tenant or any other rights by law, equity, statute or contract that would give rise to a creditor-debtor relationship between Guarantor and Tenant. Effective for the time period described in the preceding sentence, Guarantor hereby explicitly waives and releases any of the above-described rights of subrogation, reimbursement, indemnity, contribution, participation, and any right to require the marshaling of Tenant's assets under any circumstances.

8. SUBORDINATION.

Any obligation or debt of Tenant now or hereafter held by Guarantor is hereby subordinated to the Guaranteed Obligations and Guarantor shall not enforce or collect any such indebtedness from Tenant. Nevertheless, upon request by City, Guarantor shall collect, enforce and receive such indebtedness of Tenant to Guarantor. Any sums collected at City's request or collected in contravention of the prohibition set forth herein shall be held by Guarantor as trustee for City and shall be paid over to City on account of the Guaranteed Obligations; provided, however, such payments shall not impair, reduce or affect in any manner the liability of Guarantor under the other provisions of this Guaranty.

9. REPRESENTATIONS AND WARRANTIES.

Guarantor hereby represents and warrants to City that:

9.1 Guarantor now has no defense whatsoever to any action, suit or proceeding whatsoever that may be instituted on this Guaranty;

9.2 No other agreement or special condition exists between Guarantor and City regarding the liability of Guarantor hereunder; and

9.3 This Guaranty constitutes a valid and binding obligation of Guarantor, enforceable in accordance with its terms.

10. STRICT PERFORMANCE: WAIVERS.

No failure, delay or omission by City to exercise any of the rights, powers,

remedies and privileges hereunder shall be deemed a waiver thereof and every such right, power, remedy and privilege may be exercised repeatedly. No notice to or demand on Guarantor shall be deemed to be a waiver of the right of City to take further action without notice or demand as provided herein. In no event shall any modification or waiver of the provisions of this Guaranty be effective unless in writing executed by City. Any waiver granted shall be applicable only in the specific instance for which it is given. Failure of City to insist upon strict performance or observance of any of the terms, provisions and covenants hereof or to exercise any right herein contained shall not be construed as a waiver or relinquishment of the right to demand strict performance at another time. Receipt by City of any payment or performance on the Guaranteed Obligations shall not be deemed a waiver of the breach of any provision hereof or of the Permit.

11. CAPTIONS.

The captions appearing herein are used for reference only and shall not be construed as limiting anything set forth herein.

12. SEVERABILITY.

If any term, covenant, condition or provision of this Guaranty, or the application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, covenants, conditions or provisions of this Guaranty, or the application thereof to any other person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

13. GOVERNING LAW.

This Guaranty shall be governed by the laws of the State of California without reference to choice of law rules.

14. ASSIGNMENT: DELEGATION: BINDING EFFECT.

The duties and obligations of Guarantor may not be delegated or transferred by Guarantor without the prior written consent of City. The duties and obligations of Guarantor shall bind Guarantor's heirs, personal representatives, executors, successors and assigns.

15. TERMINATION: REINSTATEMENT: LIMITATION.

15.1 Subject to Section 15.2 below, Guarantor's obligations hereunder shall terminate, and this Guaranty shall be released, upon payment and performance in full of all debts, obligations and liabilities of Tenant to City under the Permit.

15.2 This Guaranty shall remain in full force and effect and continue to be effective should any petition be filed by or against Tenant under the Bankruptcy Code, as at any time amended, for liquidation or reorganization, or should Tenant become insolvent or make an assignment for the benefit of creditors or a receiver

or trustee be appointed for all or any significant part of Tenant's assets, and this Guaranty shall continue to be effective or be reinstated, as the case may be, if at any time payment of the Guaranteed Obligations, or any part thereof, is, pursuant to applicable law, rescinded or reduced in amount, or must otherwise be restored or returned by City, whether as a "preferential transfer," "voidable preference," "fraudulent conveyance," or otherwise, as if the portion of such payment rescinded, reduced, restored or returned had never been made.

16. NOTICES.

**To City:** The City of Los Angeles  
Executive Director  
425 S. Palos Verdes Street  
San Pedro, California 90731

**To Guarantor:** Ocean Network Express, Pte, Ltd  
7 Straits View, #16-01 Marina One East  
Tower, Singapore 018936

[signature page follows]

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IN WITNESS WHEREOF, Guarantor has duly executed this Guaranty  
the day and year first above written.

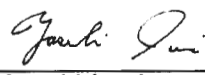
**Guarantor:**

Ocean Network Express Pte, Ltd.

By: 

Name: Hiroki Tsujii

Title: Managing Director , Product & Network

By: 

Name: Yasuki Iwai

Title: Managing Director , Corporate Innovation

APPROVED AS TO FORM

May 4, 2023  
HYDEE FELDSTEIN SOTO, City Attorney  
STEVEN Y. OTERA, General Counsel

By:   
HELEN J. SOK, Deputy City Attorney

## EXHIBIT A



TraPac, LLC  
920 West Harry Bridges Boulevard  
Wilmington, CA 90744

May 17, 2023

Port of Los Angeles  
425 South Palos Verdes Street  
San Pedro, CA 90731  
Attn: Executive Director  
gene\_seroka@portla.org

Re: Permit No. 881 – Transfer Notice

To Whom it May Concern:

Reference is made to that certain (x) Permit No. 881, dated as of September 29, 2009 (as amended, supplemented and/or otherwise modified, the “**Permit**”), between the City of Los Angeles, a municipal corporation (“**City**”) acting by and through its Board of Harbor Commissioners (the “**Board**”), and TraPac, LLC (f/k/a TraPac, Inc.), a California limited liability company (“**Tenant**”),<sup>1</sup> and (y) Transfer Notice dated December 13, 2022, delivered pursuant to Section 14.2 (*Procedure to Obtain Consent to Transfer*) of the Permit, in which Tenant notified the Board of the entry into the EPA (as defined below), and the proposed transfer thereunder (such notice, the “**Transfer Notice**”). At the request of City staff, Tenant hereby supplements and updates certain information set forth in the Transfer Notice, as set forth in this letter.

As you are aware, Mitsui O.S.K. Lines, Ltd., a Japanese corporation (“**MOL**”), currently owns 100% of the outstanding equity security securities of International Transportation, Inc., a Delaware corporation (“**ITI**”), which owns 100% of the outstanding equity securities of TraPac.<sup>2</sup> On November 11, 2022, MOL, as seller, ITI, TraPac, and MIP VI Holdings II, LLC, as buyer, entered into that certain Equity Purchase Agreement (the “**EPA**”). Pursuant to the EPA, MIP VI Holdings II, LLC agreed, among other things, to purchase from MOL 49% of the direct or indirect equity interests in TraPac. As noted in the Transfer Notice, and as permitted under the EPA, MIP VI Holdings II, LLC assigned its interests under the EPA to Skipjack Terminal Holdings, L.P., a Delaware limited partnership (“**Skipjack Terminal Holdings**”). Subsequent to the delivery of the Transfer Notice, and in accordance with certain structure principles set forth in the EPA, the parties thereto have determined the final transaction structure, which contemplates that the acquisition of 49% direct and/or indirect equity interest in TraPac will be consummated as follows: (a) Skipjack Terminal Holdings will acquire approximately 22.2% of the equity interests in ITI from MOL; and (b) Skipjack (ECI) Holdings, LLC, a Delaware limited liability company (“**Skipjack (ECI) Holdings**”) and, together with Skipjack Terminal Holdings, “**Transferees**”), will acquire approximately 34.5% of the equity interests in TraPac from ITI. Both Transferees are managed and controlled by subsidiaries of Macquarie Infrastructure Partners Inc. (“**MIP**”), a leading manager of investments in port and other

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<sup>1</sup> Capitalized terms used herein but otherwise not defined herein shall have the respective meanings ascribed thereto in the Permit.

<sup>2</sup> As was previously communicated to the Board, and as contemplated by the EPA, prior to the closing of the transactions under the EPA, ITI will convert from a Delaware corporation to a Delaware limited liability company, and will change its name to TraPac Holdings, LLC.

## EXHIBIT A

infrastructure assets, which itself is an indirect subsidiary of Macquarie Group Limited (collectively, “Macquarie”).

Under this transaction, MOL will retain an approximate 77.8% ownership interest in ITI, and the existing guaranty MOL provides would continue to be in effect. ITI will retain an approximate 65.5% ownership interest in TraPac. The exact percentage of such ownership interests are subject to nominal adjustments that will be determined prior to the closing of the transfer, but will in all cases result in Skipjack Terminal Holdings and Skipjack (ECI) Holdings holding in the aggregate a 49% direct and/or indirect equity interest in TraPac, with MOL retaining through its ownership of ITI the remaining 51% indirect equity interest in TraPac.

The aforementioned modifications have not altered the fundamental aspect of the terms of the Transfer, and the Transfer is consistent with the terms of the Transfer Notice, assignees of MIP VI Holdings II, LLC (the signatory to the EPA) will acquire an aggregate 49 percent of the direct and/or indirect equity interest in TraPac. These modifications were expressly contemplated and are permitted under the EPA, and do not constitute material changes to the terms of the proposed Transfer as set forth in the Transfer Notice.

The consummation of the transactions under the EPA is subject to customary closing conditions and is required to occur no later than August 11, 2023 (subject to extension in limited circumstances to November 11, 2023).

The transaction contemplated by the EPA does not entail the transfer of the Permit, nor any interest therein or any right or privilege thereunder (nor the transfer of any entity that directly or indirectly controls or owns 50% or more of Tenant, nor any reduction of the net worth of Tenant), in each case as prohibited without City’s consent by Section 14.1 (*Transfer Prohibited*) of the Permit. However, it does entail the transfer of more than 25% of the economic interest in Tenant or ITI (which directly owns and controls 100% of Tenant), which, under Section 14.9 (*Transfers of Ownership*) of the Permit, is deemed to constitute a Transfer within the meaning of Section 14.1 (*Transfer Prohibited*) of the Permit. Hence, Tenant previously provided the Transfer Notice pursuant to Section 14.2 (*Procedure to Obtain Consent to Transfer*) of the Permit, pursuant to which Tenant requested City’s consent to the Transfer contemplated by the EPA, and in respect of which it hereby provides certain updated information.

With regard to Tenant’s operations at the Port of Los Angeles, Tenant will remain the tenant under the Permit, and the current day-to-day operations of Tenant are expected to be unaffected as a result of the Transfer. Subsequent to the Transfer, Transferees will not, individually or combined, own a majority interest in ITI nor Tenant. In addition, the existing guaranty provided by MOL to City under the Permit (which guaranty unconditionally guaranties Tenant’s obligations under the Permit) will remain in place.

In connection with the Transfer, as set forth in the Transfer Notice, Tenant authorized MOL to take all actions on behalf of Tenant in connection with this Transfer Notice and the Transfer contemplated by the EPA (solely until the date of consummation thereof), including but not limited to responding to all requests from City, the Board and/or the Los Angeles City Council regarding the foregoing.

Set forth below are updates to the information required by Section 14.2.1 (*Procedure to Obtain Consent to Transfer*) of the Permit in connection with the Transfer Notice:

**(a) Identification of Transferees**

Seller proposes to Transfer, in accordance with the terms of the EPA, an aggregate 49% direct and/or indirect equity interest in TraPac, as follows: (a) Skipjack Terminal Holdings will acquire approximately 22.2% of the equity interests in ITI from MOL; and (b) Skipjack (ECI) Holdings will acquire approximately

## EXHIBIT A

34.5% of the equity interests in Tenant from ITI.

### **(b) Description of Transferees**

Skipjack Terminal Holdings is a newly-formed Delaware limited partnership, created for the purpose of acquiring the equity interests in ITI in accordance with the terms of the EPA. Skipjack (ECI) Holdings is a newly formed Delaware limited liability company, created for the purpose of acquiring the equity interests in TraPac in accordance with the terms of the EPA. As noted above, Transferees are controlled by private funds managed by MIP, a leading manager of investments in port and other infrastructure assets and an indirect subsidiary of Macquarie Group Limited. MIP is part of the Real Assets division of Macquarie Asset Management (“MAM”), an operating group of Macquarie. The Transferees have no subsidiaries.

MAM is, among other things, a global asset manager with more than \$582.4 billion (as of March 31, 2023) in assets under management. In particular, Macquarie’s Real Assets division manages over \$131.4 billion of equity across its infrastructure, green investments, and natural assets platforms. With a portfolio that spans more than 172 portfolio companies, 22 GW of renewable energy assets and ~4.7 million hectares of farmland in Australia, its global team partners with clients, governments, and communities to manage, develop and enhance essential real assets that are relied upon by more than 100 million people every day. Macquarie has built up through investment in infrastructure opportunities across the North American region over more than 25 years, and is a global organization with a team over 2,350 people operating across 34 countries, leveraging expertise, diversity and culture of innovation to identify opportunities, mitigate risks and drive value for clients and stakeholders. In particular, MIP has a proven history as a manager of container terminal assets in North America, which are owned and operated through MIP’s managed funds.

### **(c) Description of the proposed Transfer**

As detailed in the EPA, and as set forth herein, the proposed Transfer will consist of the acquisition by the Transferees (directly or indirectly, as the case may be) of an aggregate 49% equity interest in TraPac. As noted above, there will be no assignment or other transfer of the Permit, nor any interest therein or any right or privilege thereunder, and Tenant will continue to be the sole obligor thereunder, both before and after the contemplated Transfer.

### **(d) Description of the operations proposed to be undertaken at the Premises**

There are no changes to the operations of Tenant at the Premises expected to occur as a result of the Transfer contemplated by the EPA. As noted above, Tenant will continue as the sole obligor under the Permit, and will continue to operate at the Premises in accordance with the terms thereof. All that will change is that Transferees will together obtain (directly or indirectly, as the case may be) an aggregate 49% minority equity interest in TraPac; however, it is anticipated that Tenant (and its management team) may benefit from the expertise of Macquarie as a global investor in and operator of container terminal assets.

### **(e) Terms of the proposed Transfer**

As the contemplated Transfer is structured as an acquisition by Transferees of, among other things, a direct or indirect minority equity interest in Tenant in accordance with the terms of the EPA (and Tenant holds other assets unrelated to its rights under the Permit), the consideration payable to MOL thereunder is not allocable to the use of the Premises under the Permit. In any case, the amount of such consideration is a highly confidential term of the proposed transaction under the EPA. A redacted copy of the EPA has previously been provided. As noted above, the consummation of the Transfer under the EPA is subject to customary closing conditions and is required to occur no later than August 11, 2023 (subject to extension in limited circumstances to November 11, 2023).

## **EXHIBIT A**

***(f) Proposed form of guaranty***

The guaranty of Tenant's obligation under the Permit previously provided by MOL in 2009 will remain in place, in full force and effect, and will be unaffected by the Transfer contemplated by the EPA.

***(g) Business plan for Transferee***

The Tenant will continue to operate the terminal facility at the Premises and therefore there are no changes contemplated to any business plan of Tenant that may currently be in effect. There are not anticipated to be changes to the terms of (including estimates of cargo volume under) existing contracts of the Tenant in connection with the contemplated Transfer.

***(h) Description of any planned Alterations or improvements to the Premises***

No Alterations or improvements to the Premises are planned as a result of, or in connection with the Transfer, and any Alterations and improvements currently in progress or that have been previously approved with respect to the Premises are intended to be completed as currently contemplated.

***(i) Authorization allowing City to inspect and review information of Tenant or Transferees***

Pursuant to the Transfer Notice, Tenant authorized City to inspect and review (but not to copy), at times and locations reasonably selected by City, any books and records or other information of Tenant or Transferee (or third parties acting for or on either of their behalves) reasonably determined by City to be necessary for its assessment of Tenant's request for consent pursuant to the Transfer Notice.

The parties to the EPA continue to be available to answer any questions or provide further information upon request in respect of the contemplated Transfer.

*[Remainder of page intentionally left blank]*

## EXHIBIT A

Sincerely,

TRAPAC, LLC

By: RB Triemstra  
Name: Ron Triemstra  
Title: Senior Vice-President, Chief  
Financial Officer & Corporate Secretary

cc: Los Angeles City Attorney's Office  
425 South Palos Verdes Street  
San Pedro, CA 90731

Mitsui O.S.K. Lines, Ltd.  
1-1, Toranomon 2-Chome, Minato-ku  
Tokyo 105-8688 Japan

Skipjack Terminal Holdings, L.P.  
c/o Macquarie Asset Management  
125 West 55<sup>th</sup> Street, Level 15  
New York, NY 10019  
Attn: Richard J. Nicholson, Managing Director – Ports  
Email: [richard.j.nicholson@macquarie.com](mailto:richard.j.nicholson@macquarie.com)  
[mamrlegalnotices@macquarie.com](mailto:mamrlegalnotices@macquarie.com)

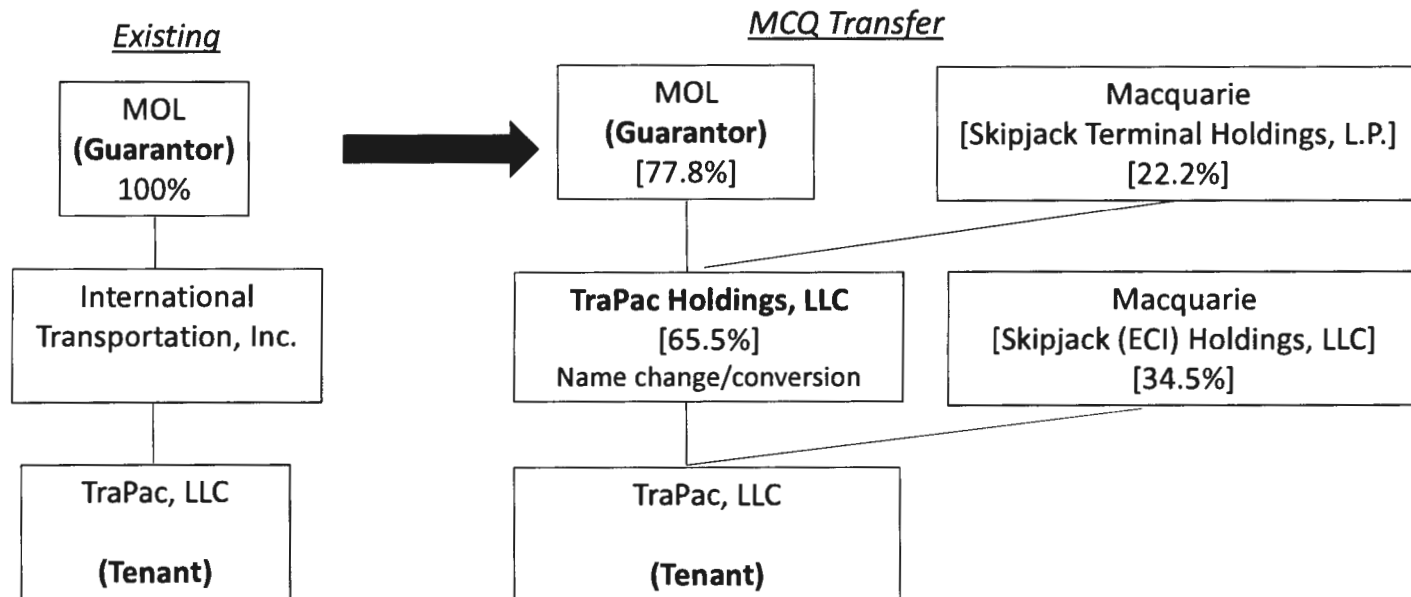
Nixon Peabody LLP  
55 West 46th Street  
New York, NY 10036-4120  
Attn: Richard F. Langan, Jr., Esq.  
Email: [rlangan@nixonpeabody.com](mailto:rlangan@nixonpeabody.com)

Gibson, Dunn & Crutcher LLP  
200 Park Avenue  
New York, NY 10166-0193  
Attn: Toren J. Murphy  
Email: [tmurphy@gibsondunn.com](mailto:tmurphy@gibsondunn.com)



## EXHIBIT A

### Hierarchy Chart – Transmittal No. 2



Note: Bracketed figures remain subject to nominal adjustments prior to the closing of the transfer, but will in all cases result in Skipjack Terminal Holdings and Skipjack (ECI) Holdings holding in the aggregate a 49 percent direct and/or indirect equity interest in TraPac

Transmittal is abbreviated for ease of review

## EXHIBIT A

# EXHIBIT A



TraPac, LLC  
920 West Harry Bridges Boulevard  
Wilmington, CA 90744

May 17, 2023

Port of Los Angeles  
425 South Palos Verdes Street  
San Pedro, CA 90731  
Attn: Executive Director  
Email: gene\_seroka@portla.org

Re: Permit No. 881; Supplement to Transfer Notice – Sale to ONE

Dear Mr. Seroka:

Reference is made to that certain Permit No. 881, dated as of September 29, 2009 (as amended, supplemented, and/or otherwise modified, the “**Permit**”), between the City of Los Angeles, a municipal corporation (“**City**”) acting by and through its Board of Harbor Commissioners (the “**Board**”), and TraPac, LLC (f/k/a TraPac, Inc.), a California limited liability company (“**Tenant**”).<sup>1</sup> Reference is further made to that certain Transfer Notice dated January 20, 2023, in which Tenant notified the Board of the entry into the ONE EPA, and the proposed transfer thereunder (such notice, the “**Transfer Notice**”). At the request of City staff, Tenant submits this supplement to the Transfer Notice (the “**Supplement**”).

Mitsui O.S.K. Lines, Ltd., a Japanese corporation (“**MOL**”), currently owns 100 percent of the outstanding equity securities of International Transportation, Inc., a Delaware corporation (“**ITI**”), which owns 100 percent of the outstanding equity securities of Tenant.<sup>2</sup> On December 26, 2022, MOL and Ocean Network Express Pte. Ltd., a Singapore private limited company (“**ONE**”), entered into an Equity Purchase Agreement (the “**ONE EPA**”) wherein ONE has agreed, among other things, to purchase from MOL 51 percent of the equity interest in ITI (the “**ONE Transaction**”). Subsequent to the delivery of the Transfer Notice, and as contemplated by the EPA, the parties thereto have modified the ONE Transaction such that United Pacific Ports B (UK) Ltd., a private company limited by shares under the laws of England and Wales and a wholly owned subsidiary of ONE (“**UPP**”, or the “**Transferee**”), will purchase a 77.8 percent ownership interest in ITI. The exact percentages of such ownership interests are subject to nominal adjustments that will be determined prior to the closing of the transfer, but will in all cases result in UPP holding, in the aggregate, a 51 percent indirect equity interest in TraPac.

Section 14.9.1 of the Permit defines a “Transfer” under the Agreement (which is prohibited without the consent of the City) to include, in part, the transfer of more than 25 percent of the economic interest in Tenant or any entity that directly or indirectly controls or owns 50 percent or more of Tenant. Tenant

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<sup>1</sup> Capitalized terms used herein but otherwise not defined herein shall have the respective meanings ascribed thereto in the Permit.

<sup>2</sup> As was previously communicated to the Board in connection with the Macquarie Transaction, and as contemplated by the Macquarie EPA, prior to the closing of the transactions under the Macquarie EPA, ITI will convert from a Delaware corporation to a Delaware limited liability company, and will change its name to TraPac Holdings, LLC. This will result in TraPac Holdings, LLC replacing ITI as the entity which holds 100 percent of the ownership interest of Tenant, TraPac. This conversion will not have any effect on the operations of Tenant.



## EXHIBIT A

previously requested, pursuant to Section 14.2 of the Permit, the City's consent to the Transfer contemplated by the ONE Transaction. By this Supplement, Tenant provides additional information concerning the structure of the ONE Transaction requested by the Board.

The aforementioned modifications have not altered the fundamental aspect of the terms of the Transfer, and the Transfer is consistent with the terms of the Transfer Notice, assignees of Ocean Network Express Pte. Ltd. (the signatory to the EPA) will acquire an aggregate 51 percent of the direct and/or indirect equity interest in TraPac. These modifications were expressly contemplated and are permitted under the ONE EPA, and do not constitute material changes to the terms of the proposed Transfer, as set forth in the Transfer Notice.

With regard to Tenant's operations at the Port of Los Angeles, TraPac, LLC will remain as the Tenant under the Permit, subject to all rights and obligations pursuant to the Permit.

Separately, as the Port leadership is aware, on November 11, 2022, MOL, as seller, ITI, TraPac, and MIP VI Holdings II, LLC, as buyer, entered into that certain Equity Purchase Agreement under which MOL agreed to sell 49 percent of the direct or indirect equity interests in TraPac (the "**Macquarie EPA**" and transactions related thereto, the "**Macquarie Transaction**"). On December 13, 2022, we delivered a transfer notice for the Macquarie Transaction. Contemporaneously herewith, we have delivered a supplement to Macquarie Transaction transfer notice.

The transaction addressed in the present Transfer Notice and this Supplement, the ONE Transaction, is separate and independent from the Macquarie Transaction. Accordingly, we ask that the Port's evaluation and consent be focused solely on the terms of and parties to the ONE Transaction.

In connection with the ONE Transaction, as set forth in the Transfer Notice, Tenant authorized MOL to take all actions on behalf of TraPac, LLC as Tenant under the Permit relative to this request and the transfer contemplated by the ONE EPA (solely until the date of consummation thereof), including but not limited to responding to all requests from the Port staff, the Board and/or the Los Angeles City Council regarding the foregoing.

Set forth below is all of the information required by Section 14.2.1 of the Permit in connection with this Transfer Notice:

**(a) Identification of Transferee**

In connection with the ONE Transaction, MOL proposes to sell 77.8 percent of the outstanding equity securities in ITI, which owns 100 percent of Tenant, to United Pacific Ports B (UK) Ltd. a wholly owned subsidiary of ONE.

**(b) Description of Transferee**

United Pacific Ports B (UK) Ltd. is a wholly owned subsidiary of ONE. United Pacific Ports B (UK) Ltd. was formed on March 18, 2022 as a private company limited by shares under the laws of England and Wales. United Pacific Ports B (UK) Ltd. will be a holding company and will conduct no business or operations other than owning the equity securities of ITI. ONE is the operating company and wholly owned subsidiary of Ocean Network Express Holdings, Ltd., which was established on July 7, 2017 as a joint venture between K Line, MOL, and Nippon Yusen Kaisha ("**NYK**"). The venture merged the container shipping divisions of the three companies, forming the sixth-largest container shipping company in the world at that time. NYK owns 38 percent of ONE, while MOL and K Line each own 31 percent of ONE, respectively.

## **EXHIBIT A**

### **(c) *Description of the proposed Transfer***

As detailed in the ONE EPA, the proposed Transfer will consist of Transferee's purchase from MOL of an aggregate 51 percent equity interest in Tenant. There will be no assignment or other transfer of the Permit, nor any interest therein or any right or privilege thereunder, and Tenant will continue to be the sole obligor thereunder, both before and after the ONE Transaction.

### **(d) *Description of the operations proposed to be undertaken at the Premises***

At this time, there are no changes to the operations of Tenant at the Premises expected to occur as a result of the Transfer contemplated by the ONE Transaction. As noted above, TraPac, LLC will continue as the Tenant and sole obligor under the Permit, and will continue to operate the Premises in accordance with the terms thereof. Nevertheless, Tenant's businesses will benefit from the industry expertise and capital of ONE to support its operations as a result of ONE's investment.

### **(e) *Terms of the proposed Transfer***

In accordance with the terms of the ONE EPA, the ONE Transaction involves the purchase by UPP of 77.8 percent of the outstanding equity securities in ITI. As TraPac, LLC is (at present) a wholly owned subsidiary of ITI, UPP will purchase an indirect majority equity interest in Tenant. In addition to its rights under the Permit, Tenant also holds other assets and operates other terminal facilities unrelated to the Port of LA and Tenant's rights under the Permit. In connection with the ONE Transaction relative to the Permit, ONE intends to offer the Port a replacement guaranty for Tenant's obligations under the Permit in substantially similar form to that certain Guaranty from MOL to and for the benefit of the City that was delivered by MOL in 2009 as a condition to the effectiveness of the Permit (the "2009 Guaranty").

The ONE EPA governs the terms of the ONE Transaction; there are no other proposed assignments, encumbrances or transfers of the Permit obligations. As explained above, the Transaction involves the acquisition of an indirect interest in TraPac, including assets unrelated to the Port of Los Angeles or the Permit, through TraPac's parent company ITI, and as such, the consideration payable to MOL thereunder is not allocable to the use of the Premises under the Permit. In any case, the amount of such consideration is a highly confidential term of the proposed transaction under the ONE EPA. A redacted copy of the ONE EPA has previously been provided. The consummation of the ONE Transaction under the ONE EPA is subject to customary closing conditions.

Under the ONE EPA, the ONE Transaction is set to close following the satisfaction or waiver of several closing conditions. Consent granted by the City is a condition to the closing of the ONE Transaction. MOL and ONE strongly desire to close the ONE Transaction as soon as possible.

### **(f) *Proposed form of guaranty***

In accordance with the ONE EPA, ONE intends to offer the Port of Los Angeles a replacement guaranty for Tenant's obligations under the Permit in substantially similar form to 2009 Guaranty. Once the replacement guaranty is approved, accepted by the Port, and executed by the parties thereto, the 2009 Guaranty would terminate and MOL will be released from its obligations thereunder.

### **(g) *Business plan for Transferee***

Subsequent to the ONE Transaction, TraPac, LLC will remain the Tenant under the Permit and will continue to operate the terminal facility at the Premises. At this time, it is contemplated that TraPac's operations will continue following the closing of the ONE Transaction without any material modification

## **EXHIBIT A**

notwithstanding the change in the ownership of ITI. Nevertheless, TraPac's businesses will benefit from the industry expertise and capital of ONE to support its operations as a result of ONE's investment.

**(h)      *Description of any planned Alterations or improvements to the Premises***

No Alterations or improvements to the Premises are planned as a result of, or in connection with, the ONE Transaction. Any Alterations and improvements currently in progress or that have been previously approved with respect to the Premises are intended to be completed as currently contemplated.

**(i)      *Authorization allowing City to inspect and review information of Tenant or Transferee***

In the Transfer Notice, Tenant authorized City to inspect and review (but not to copy), at times and locations reasonably selected by City, any books and records or other information of Tenant or Transferee (or third parties acting for or on either of their behalves) reasonably determined by City to be necessary for its assessment of Tenant's request for consent pursuant to the Transfer Notice.

The parties to the ONE EPA are enthused about the ONE Transaction and happy to provide additional information about the contemplated ONE Transaction described above as may be reasonably requested by the Port of Los Angeles. We all hope for an expedited review and stand ready to assist the Port in completing its necessary diligence.

*[Remainder of page intentionally left blank]*

## EXHIBIT A

Sincerely,

TRAPAC, LLC

By: RB Triemstra  
Name: Ron Triemstra  
Title: Senior VP, Chief Financial Officer  
& Corporate Secretary

cc: Marisa L. Katnich, Director of Cargo and Industrial Real Estate  
Eric Caris, Director of Cargo Marketing  
Port of Los Angeles  
425 South Palos Verdes Street  
San Pedro, CA 90731  
Emails: [mkatnich@portla.org](mailto:mkatnich@portla.org)  
[ecaris@portla.org](mailto:ecaris@portla.org)

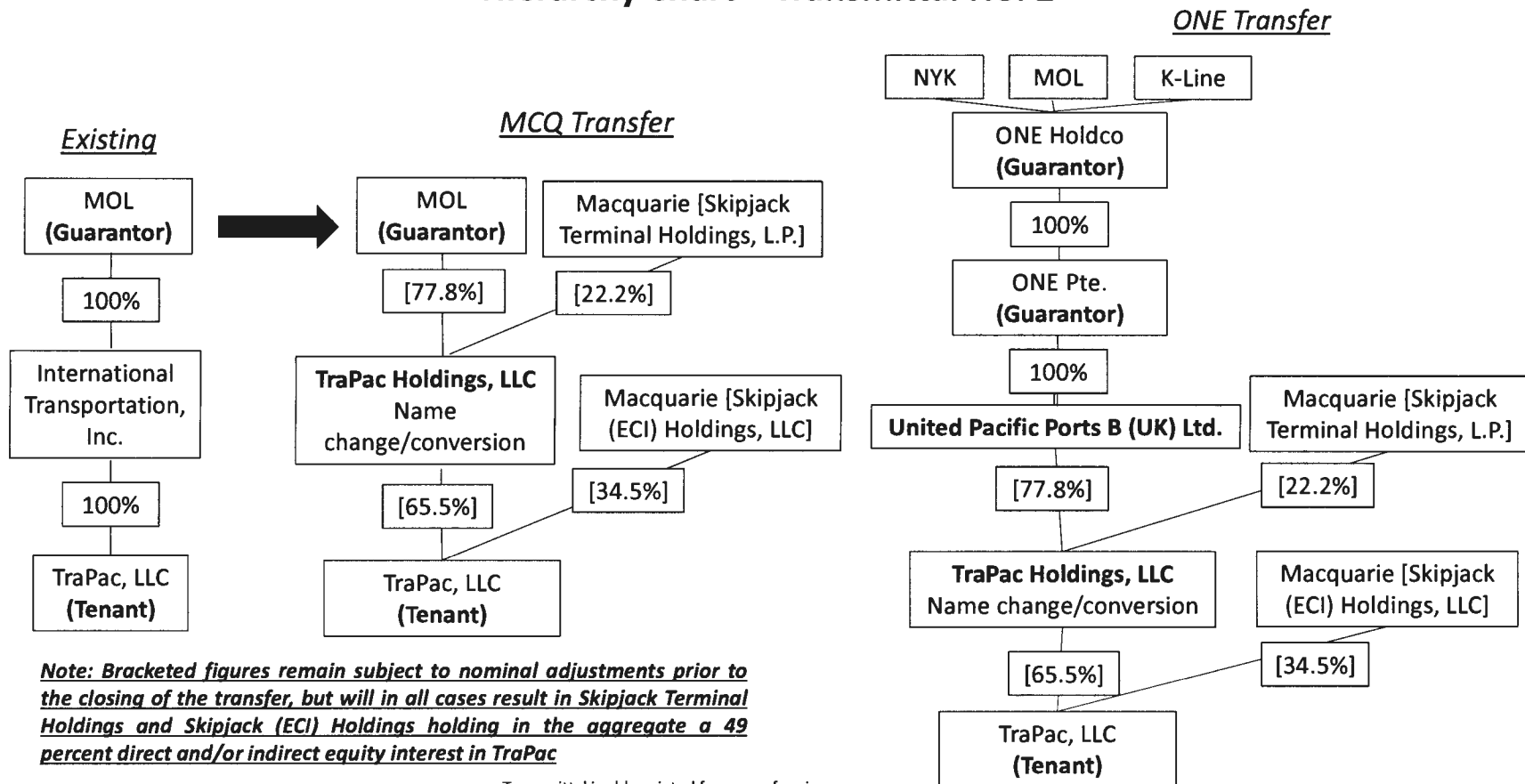
Ocean Network Express Pte. Ltd.  
7 Straits View, Marina One East Tower,  
#16-01, Singapore 018936  
ONE Terminal Management Department  
Attn: HOD Teck Jin Goh  
Email: [teckjin.goh@one-line.com](mailto:teckjin.goh@one-line.com)

Nixon Peabody LLP  
55 West 46th Street  
New York, NY 10036-4120  
Attn: Richard F. Langan, Jr., Esq.  
Email: [rlangan@nixonpeabody.com](mailto:rlangan@nixonpeabody.com)

Wilmer Hale Cutler Pickering & Dorr  
7 World Trade Center  
New York, NY 10007  
Attn: Robert Finkel  
Email: [Robert.Finkel@wilmerhale.com](mailto:Robert.Finkel@wilmerhale.com)

## EXHIBIT A

### Hierarchy Chart – Transmittal No. 2



Transmittal is abbreviated for ease of review

## EXHIBIT A

## EXHIBIT B

### GUARANTY

THIS GUARANTY ("Guaranty") is made as of \_\_\_\_\_, 2009, by Mitsui O.S.K. Lines, Ltd. ("Guarantor") to and for the benefit of the CITY OF LOS ANGELES, acting by and through its Board of Harbor Commissioners ("City").

### WITNESSETH:

A. A wholly owned subsidiary of Guarantor known as TraPac, Inc. ("Tenant") has requested that City issue to it Permit No. 881 ("Permit"); and

B. As a condition to the effectiveness of the Permit, City has requested and Guarantor has agreed to irrevocably guarantee the timely payment and performance of all obligations of Tenant arising under the Permit; and

C. Guarantor acknowledges that the consummation of the transactions hereunder and under the Permit provides direct benefits to Guarantor.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in order to obtain City's approval to issue the Permit, and intending to be legally bound, Guarantor does hereby warrant, represent, and covenant unto City as follows:

#### 1. GUARANTY AND SURETY.

Guarantor hereby absolutely, irrevocably and unconditionally guarantees, and becomes surety for, the full and timely payment and performance of the debts, obligations and liability of Tenant under the Permit, whether now or hereafter made, incurred or created, voluntary or involuntary, due or not due, absolute or contingent, liquidated or unliquidated, determined or undetermined, and regardless of whether recovery against Tenant with respect to such obligations is prevented by bankruptcy, or otherwise (collectively, the "Guaranteed Obligations").

#### 2. SUBSEQUENT ACTS BY CITY.

City may, in its sole and absolute discretion and without notice to Guarantor, take any action which might otherwise be deemed a legal or equitable release or discharge of Guarantor's obligations hereunder without either impairing or affecting the liability of Guarantor for payment of the Guaranteed Obligations, which actions might include, by way of illustration and not limitation:

2.1 the renewal or extension of any of the Guaranteed Obligations or any payments hereunder;

2.2 the acceptance of partial payment or performance of the Guaranteed Obligations;

2.3 the settlement, release, compounding, compromise, cancellation, rearrangement or consolidation of any of the Guaranteed Obligations;

## EXHIBIT B

2.4 the collection of or other liquidation of any claims City may have in respect to the Guaranteed Obligations;

2.5 the granting of indulgences, forbearances, compromises, extensions or adjustments in respect to any covenant or agreement under the Permit;

2.6 the release from liability of any Guarantor, or payment of the Guaranteed Obligations or any portion thereof;

2.7 the release, surrender, exchange or compromise of any lien, security or collateral held by City as security for the Guaranteed Obligations; or

2.8 the release or compromise of any lien or security held by City as security for the liability of any person who is guaranteeing the Guaranteed Obligations.

Any alterations of the terms of this Guaranty shall be in writing, mutually agreed to by City and by Guarantor and in conformity with the procedures set forth in City's Charter and Administrative Code.

### 3. EXPENSES.

Guarantor agrees to reimburse City for all expenses (including without limitation reasonable attorneys' fees, costs and expenses) incurred by City in enforcing the Guaranteed Obligations, pursuing any remedies relating to the Guaranteed Obligations set forth in the Permit, and enforcing this Guaranty.

### 4. PAYMENT BY GUARANTOR.

In the event of any default by Tenant with respect to the Guaranteed Obligations, Guarantor agrees to pay or perform on demand (either oral or written) such obligations. City shall not be required to liquidate any lien or any other form of security, instrument, or note held by City prior to making such demand. THIS IS A GUARANTY OF PAYMENT AND PERFORMANCE AND NOT OF COLLECTION, and Guarantor hereby waives all rights that Guarantor may have, if any, to require that any action be brought against Tenant (or any other person) or to require that resort be first made against any security prior to demanding payment or performance hereunder.

### 5. CUMULATIVE REMEDIES.

Guarantor hereby agrees that all rights and remedies that City is afforded by reason of this Guaranty are separate and cumulative and may be pursued separately, successively, or concurrently, as City deems advisable. In addition, all such rights and remedies are nonexclusive and shall in no way limit or prejudice City's ability to pursue any other legal or equitable rights or remedies that may be available. Without limiting the generality of the foregoing, Guarantor agrees that in any action by City by reason of the Guaranteed Obligations, City at its election may proceed (a) against Guarantor together with Tenant, (b) against Guarantor and Tenant individually, or (c) against Guarantor only without having commenced any action against or having obtained any judgment against Tenant.

## EXHIBIT B

### 6. WAIVERS BY GUARANTOR.

#### 6.1 Guarantor hereby waives:

6.1.1 notice of acceptance of this Guaranty and of creation of the Guaranteed Obligations;

6.1.2 presentment, notice of non-payment, and demand for payment of the Guaranteed Obligations;

6.1.3 protest, notice of protest, and notice of dishonor or default to Guarantor or to any other party with respect to any of the Guaranteed Obligations;

6.1.4 the right to receive demand for payment under this Guaranty;

6.1.5 any defense or circumstance (including, without limitation, disability, insolvency, lack of authority or power, insanity, minority, death or dissolution), other than payment of the Guaranteed Obligations, which might otherwise constitute a legal or equitable discharge of Guarantor's liability hereunder;

6.1.6 any defense of Tenant to the Guaranteed Obligations;

6.1.7 any rights to extension, composition or otherwise under the Bankruptcy Code or any amendments thereof, or under any state or other federal statute;

6.1.8 the right to trial by jury in any litigation arising out of, relating to, or connected with this Guaranty;

6.1.9 all rights or defenses that Guarantor may have as set forth in Division Three, Part 4, Title 13, currently Sections 2787 through 2914, of the California Civil Code, which address generally suretyship;

6.1.10 Guarantor waives any and all demands, actions, defenses, defaults, claims, breaches, causes of action, obligations, damages, and/or liabilities of any nature whatsoever existing as of the date hereof which Guarantor has or may have against City arising from or out of the Permit.

6.2 It is expressly agreed that Guarantor shall remain liable hereon regardless of whether Tenant is held to be not liable on the Guaranteed Obligations. It is agreed between Guarantor and City that the foregoing waivers are of the essence of the Permit transaction and that, but for this Guaranty and such waivers, City would decline to enter into the Permit.

### 7. WAIVER AND RELEASE OF SUBROGATION AND PARTICIPATION.

Until such time as all obligations of Tenant under the Permit have been satisfied, Guarantor shall have no right of subrogation in or under the Permit, and no rights of reimbursement, indemnity or contribution from Tenant or any other rights by law, equity, statute or contract that would give rise to a creditor-debtor relationship between Guarantor and Tenant. Effective for the time period described in the preceding sentence, Guarantor hereby explicitly waives and releases any of the above-described rights of subrogation, reimbursement, indemnity,



## EXHIBIT B

contribution, participation, and any right to require the marshaling of Tenant's assets under any circumstances.

### 8. SUBORDINATION.

Any obligation or debt of Tenant now or hereafter held by Guarantor is hereby subordinated to the Guaranteed Obligations and Guarantor shall not enforce or collect any such indebtedness from Tenant. Nevertheless, upon request by City, Guarantor shall collect, enforce and receive such indebtedness of Tenant to Guarantor. Any sums collected at City's request or collected in contravention of the prohibition set forth herein shall be held by Guarantor as trustee for City and shall be paid over to City on account of the Guaranteed Obligations; provided, however, such payments shall not impair, reduce or affect in any manner the liability of Guarantor under the other provisions of this Guaranty.

### 9. REPRESENTATIONS AND WARRANTIES.

Guarantor hereby represents and warrants to City that:

9.1 Guarantor now has no defense whatsoever to any action, suit or proceeding whatsoever that may be instituted on this Guaranty;

9.2 No other agreement or special condition exists between Guarantor and City regarding the liability of Guarantor hereunder; and

9.3 This Guaranty constitutes a valid and binding obligation of Guarantor, enforceable in accordance with its terms.

### 10. STRICT PERFORMANCE; WAIVERS.

No failure, delay or omission by City to exercise any of the rights, powers, remedies and privileges hereunder shall be deemed a waiver thereof and every such right, power, remedy and privilege may be exercised repeatedly. No notice to or demand on Guarantor shall be deemed to be a waiver of the right of City to take further action without notice or demand as provided herein. In no event shall any modification or waiver of the provisions of this Guaranty be effective unless in writing executed by City. Any waiver granted shall be applicable only in the specific instance for which it is given. Failure of City to insist upon strict performance or observance of any of the terms, provisions and covenants hereof or to exercise any right herein contained shall not be construed as a waiver or relinquishment of the right to demand strict performance at another time. Receipt by City of any payment or performance on the Guaranteed Obligations shall not be deemed a waiver of the breach of any provision hereof or of the Permit.

### 11. CAPTIONS.

The captions appearing herein are used for reference only and shall not be construed as limiting anything set forth herein.

## EXHIBIT B

### 12. SEVERABILITY.

If any term, covenant, condition or provision of this Guaranty, or the application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, covenants, conditions or provisions of this Guaranty, or the application thereof to any other person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

### 13. GOVERNING LAW.

This Guaranty shall be governed by the laws of the State of California without reference to choice of law rules.

### 14. ASSIGNMENT: DELEGATION: BINDING EFFECT.

The duties and obligations of Guarantor may not be delegated or transferred by Guarantor without the prior written consent of City. The duties and obligations of Guarantor shall bind Guarantor's heirs, personal representatives, executors, successors and assigns.

### 15. TERMINATION: REINSTATEMENT: LIMITATION.

15.1 Subject to Section 15.2 below, Guarantor's obligations hereunder shall terminate, and this Guaranty shall be released, upon payment and performance in full of all debts, obligations and liabilities of Tenant to City under the Permit.

15.2 This Guaranty shall remain in full force and effect and continue to be effective should any petition be filed by or against Tenant under the Bankruptcy Code, as at any time amended, for liquidation or reorganization, or should Tenant become insolvent or make an assignment for the benefit of creditors or a receiver or trustee be appointed for all or any significant part of Tenant's assets, and this Guaranty shall continue to be effective or be reinstated, as the case may be, if at any time payment of the Guaranteed Obligations, or any part thereof, is, pursuant to applicable law, rescinded or reduced in amount, or must otherwise be restored or returned by City, whether as a "preferential transfer," "voidable preference," "fraudulent conveyance," or otherwise, as if the portion of such payment rescinded, reduced, restored or returned had never been made.

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## EXHIBIT B

16. NOTICES.

To City: The City of Los Angeles  
Executive Director  
425 S. Palos Verdes Street  
San Pedro, California 90731

To Guarantor: Mitsui O.S.K. Lines  
Group Leader, Ports and Terminals Group  
1-1, Toranomon 2-Chome  
Minato-ku, Tokyo 105-8688  
Japan

IN WITNESS WHEREOF, Guarantor has duly executed this Guaranty the day and year first above written.

**Guarantor:**

Mitsui O.S.K Lines, Ltd.

By: M. Y. I.  
Name: Masakazu Yakushiji  
Title: Executive Vice President

Attest: [Signature]  
Name: Junichiro Ikeda  
Title: Executive Officer

APPROVED AS TO FORM

8/6, 2009  
ROCKARD J. DELGADILLO, City Attorney

By [Signature]  
STEVEN Y. OTERA, Deputy