

**AGENCY AGREEMENT**

**GRINDROD SHIPPING Pte LTD**

-and-

**PHILIPPINE TRANSMARINE CARRIERS, INC.**

MARCH 2011

COA Standard  
Revision 01

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## AGENCY AGREEMENT

This Agreement, entered into by and between:

**Grindrod Shipping Pte Ltd**, a corporation duly organized under the laws of **Singapore**, with offices at **200 Cantonment Road #06-04 Southpoint Singapore 089763** hereinafter referred to as the **PRINCIPAL**;

-and-

**PHILIPPINE TRANSMARINE CARRIERS, INC.**, a corporation duly organized under Philippine laws, with offices at First Maritime Place, 7458 Bagtican Street, San Antonio Village, Makati City hereinafter referred to as the **AGENT**;

### WITNESSETH

WHEREAS, the PRINCIPAL desires to hire qualified and competent Filipino crew for its vessels;

WHEREAS, the AGENT represents that it is a duly-licensed manning or crewing agency and is competent to carry out the services required by the PRINCIPAL;

NOW, THEREFORE, for and in consideration of the foregoing premises and the mutual covenants herein contained, the parties hereby agree as follows:

1) **Appointment**

The PRINCIPAL hereby appoints the AGENT as the manning or crewing agent for its vessels identified in Schedule 1 (as such schedule may be supplemented from time to time), for purposes of recruiting Filipino crew for employment onboard the vessels owned or operated or managed by the PRINCIPAL as listed in Schedule 1, and the AGENT hereby accepts such appointment under the terms of this Agreement.

2) **Scope of Services and Responsibilities**

- a) The AGENT shall screen and engage competent and qualified Filipino crew in accordance with the recruitment instructions of the PRINCIPAL. For this purpose, the AGENT shall cause all crew hired pursuant to this Agreement, to enter into such shipboard and employment contracts under such terms and conditions as are prescribed by the Philippine Overseas Employment Administration (POEA), and under such terms and conditions as are agreed upon by the PRINCIPAL and the AGENT.
- b) The AGENT shall arrange for the pre-employment physical and medical examinations of the crew.
- c) The AGENT shall arrange all visas, passports and other travel permits and documents of the crew, including pre-departure orientation seminars.
- d) The AGENT shall make the necessary arrangements to ensure the timely arrival of the crew at the designated port, for the account of the PRINCIPAL.

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- e) The AGENT shall effect the prompt payment of allotments to the crew's designated allottees in accordance with POEA rules and regulations and pertinent Philippine Laws.
- f) The AGENT shall be responsible for the payment of contributions to the Social Security System; the owner's contribution shall be chargeable to the PRINCIPAL, and the crew's contribution, shall be deducted from the monthly payroll.
- g) The AGENT shall also be responsible for the payment of crew contributions to the Seamen's Welfare Fund.
- h) The AGENT shall, upon prior instructions from the PRINCIPAL, effect the transfer, replacement or termination of crew.
- i) The AGENT shall keep the PRINCIPAL informed at all times of any demand, claim, or legal action brought against the PRINCIPAL and/or the AGENT, by the crew hired under this Agreement.
- j) The AGENT shall maintain complete accounts and records of all crew hired on behalf of the PRINCIPAL under this Agreement.
- k) The AGENT shall provide the PRINCIPAL, if it so requires, information on conditions of payment, rates of pay, manner of payment to allottees, copies of payroll, personal data of the recruits, deductions and/or contributions that may be payable under established plans, and other such information as may be reasonably required by the PRINCIPAL.
- l) The AGENT shall act faithfully and responsibly in accordance with the Special Power of Attorney executed by the PRINCIPAL in its favour, and shall notify the PRINCIPAL in writing, of any action it intends to take pursuant to the Special Power of Attorney.
- m) The AGENT shall assume jointly and severally with the PRINCIPAL any liability that may arise in connection with the crews' recruitment and/or implementation of the employment contract and other terms and conditions of the appointment as referred to in this Agreement, **PROVIDED**, that said liability will not prejudice the right of the AGENT TO REIMBURSEMENT or ADVANCEMENT OF FUNDS in accordance with the provisions of this Agreement.

3) **Responsibilities of the PRINCIPAL**

- a) The PRINCIPAL shall furnish the AGENT with recruitment instructions in regard to the required manpower complement for a particular vessel.
- b) The PRINCIPAL shall provide the AGENT with a complete set of its policies relative to shipboard personnel or standards for recruitment or any other material or information that may assist the AGENT in the performance of its undertakings under this Agreement.
- c) The PRINCIPAL shall be responsible for the payment of the crew's airfare and other travel expenses to and from the vessel, except when the crew is dismissed for just causes under the POEA Standard Employment Contract and the Labor Code of the Philippines, or voluntarily terminates his employment contract prior to the expiration of his shipboard employment contract, in which case the crew shall shoulder his return airfare and other expenses.

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d) The PRINCIPAL shall be responsible for the payment of hospitalization, sickness, compensation, disability, death benefits and other payments due to the crew. The scope of such payments is to be specified and is in accordance with relevant Collective Bargaining Agreements (CBA's) and/or benefits also to be specified under the POEA Standard Employment Contract in case of sickness, injury or death of the crew.

d) The PRINCIPAL shall also be responsible for the payment of a war risk premium pay in accordance with the schedule prescribed by the POEA.

e) The PRINCIPAL shall be responsible to take or arrange Protection and Indemnity (P&I) coverage with a reputable P & I Club, specifically to cover the benefits to which the crew are entitled under the POEA Standard Employment Contract while this Agreement is in effect. The PRINCIPAL and the AGENT shall be named as co-assured in the certificate of entry to be issued by the vessel's P & I Club during the term of this Agreement.

The PRINCIPAL shall also have FD&D Coverage to take care of all claims/cases filed in POEA, regarding crew claims, not limited to the dismissal of the crew.

g) The PRINCIPAL shall remit through the AGENT, 80% (or higher than 80% if the crew so request) of the crew's basic pay or allotment to be paid by the AGENT to the nominated beneficiary.

h) The PRINCIPAL shall reimburse the AGENT for all reasonable and necessary disbursements and expenses of whatsoever kind, which are incurred by the AGENT in connection with the services hereby contracted for and whether incurred before, during or after the period of the Agreement.

#### 4) **AGENT's Compensation and Reimbursable Expenses**

For and in consideration of the services of the AGENT as enumerated in Section 2 of this Agreement, the PRINCIPAL agrees to pay and reimburse the AGENT the following:

a) The sum as agreed for each crew on every vessel of the PRINCIPAL as listed in Schedule 1.

Such Agency fees shall commence on the first day of the month upon the crew's embarkation.

b) Other amounts to be remitted to the AGENT upon actual assignment of crew on board a vessel:

i) Crew Social Costs (payments to the Social Security System)

ii) Cost of uniforms (excluding working shoes)

For Crew in Engine and Deck Depts.

For Crew in Steward Dept.

For Chief Cook/Steward

iii) One-time joining expenses, which will be billed on the month of embarkation of each crew.

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Joining expenses pertain to all the costs contained in the recruitment/selection of crew namely: POEA engagement fee, employer's contribution to the Seaman's Welfare Fund, crew documentation, clearing expense, regular pre-employment physical and medical examination including Drug & Alcohol Test (except specialized tests such as HIV Testing (Aids Test), Hepatitis Test and other similar tests). Joining expenses do not pertain to expenses incurred abroad by the AGENT.

- c) Subject to the presentation of the necessary supporting documents, other reasonable charges and expenses actually incurred specifically enumerated below:
- i. airfare and other travel expenses of crew, including accommodation allowance in the applicable cases,
  - ii. mailing, courier charges and bank charges
  - iii. overseas telephone and telex charges
  - iv. cost of visas, clearances and other fees required by the Philippine Government prior to departure and placement onboard the vessel
  - v. other expenses based on actual cost
- d) The remittance of the monthly estimated expenses together with the payment of the AGENT'S fees as provided in Paragraph 4.a, shall be made by the PRINCIPAL to the AGENT's designated bank account via telegraphic transfer, upon receipt of the AGENT's fund request sent by fax or telex.

5) **Special Services**

If, as agreed upon by the parties, it is necessary for a representative of the AGENT to be sent abroad to attend to any Filipino crew problem or dispute, the reasonable transportation, accommodation, per diem and meal expenses of such representative will be borne by the Principal.

6) **Period of Agreement**

This Agreement shall be effective from the date of execution until terminated in accordance with Section 7 hereof.

7) **Termination of Agreement**

This Agreement, upon written notice to the other party, shall be terminated or cancelled effective immediately, upon the occurrence of the following:

- a) Default in the performance of any obligation under this Agreement by either party, and continuance of such default for a period of thirty (30) days after written notice has been given to the other party specifying such default and the demand for performance; or
- b) In case the PRINCIPAL or the AGENT becomes insolvent or goes into liquidation for a purpose other than merger, consolidation or corporate restructurings acceptable to the other, or undergo substantial change in its management or control; and

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- c) If the performance of this Agreement is impeded or there are reasonable grounds or anticipating that the same is or threatens to be impeded or rendered impossible by force majeure such as the imminent outbreak of or existence of hostilities or war-like operations, whether declared or not, international or civil, involving the Government of either of the Parties to this Agreement or other major powers, or force majeure of any kind and such situation continues for a prolonged period, then either party may by giving notice to the other, terminate this Agreement provided that such termination shall not become effective until the vessel has been delivered to a safe port and shall be without prejudice to existing rights and obligations at the date of termination.
- d) This Agreement may further be terminated by either party giving two (2) months' notice in writing to the other party in the event the vessel(s) is/are laid up, sold or become a total or constructive loss or the Principal ceases to have the vessel(s) at his disposal as registered Owner and/or Operator, or the Principal is requested to change flag not allowing Filipino crew, in which case during the period of termination, the Agency Fee in respect to crew onboard shall continue for a period of one month from the date the vessel is withdrawn and the crew is repatriated.
- e) It is understood however, that the liability of the Principal will continue for as long as any actual or contingent liability of any nature whatsoever may remain undetermined or unsettled with respect to claims of any person recruited for employment on board the vessel of the Principal, in accordance with the terms and conditions of this Agreement but such liability will be subject to the time limit prescribed by Philippine law.
- f) This Agreement may be terminated by the Parties with a ninety (90) day prior written notice given by either party.

8) **Indemnity**

The PRINCIPAL shall indemnify the AGENT for and against any and all claims, actions, complaints, demands, cases and/or suits filed by a crew against the AGENT and/or the PRINCIPAL which relate to their employment/embarkation by the AGENT for and on behalf of the PRINCIPAL, except those arising due to the negligence or wilful default of the AGENT.

9) **Dismissal of Seamen**

Subject to the prior approval by the PRINCIPAL, a crew may be dismissed for any of the just causes for dismissal provided for under the Tables of Offense and Penalties of the POEA Standard Employment Contract and the Labor Code of the Philippines, the said dismissal being undertaken in accordance with the procedures of due process and evidentiary requirements as mandated by Philippine law.

10) **Arbitration**

All disputes arising under this Agreement, shall, to the extent possible, be resolved by consultation, both parties striving to reach an amicable settlement.

Any dispute arising under this Agreement shall be referred to Arbitration in Manila, one Arbitrator to be nominated by the PRINCIPAL and another by the AGENT, and in case the Arbitrators shall not agree, they will abide by the decision of an Umpire to be appointed by both parties.

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The award of the Arbitrators or the Umpire shall be final and binding upon both parties.

If either of the appointed Arbitrators refuses to act, or is incapable of acting, or dies, the party who appointed him shall appoint a new Arbitrator in his place. If one party fails to appoint an Arbitrator, either originally or by way of substitution as provided above, for seven (7) working days after the other party, having appointed his Arbitrator, has served the party in default with notice to make the appointment, the party who has already appointed an Arbitrator may appoint that Arbitrator to act as sole Arbitrator and his award shall be binding on both parties as if he had been appointed by consent.

11) **Law**

This Agreement shall be governed by the laws of the Republic of the Philippines.

12) **Notices**

a) Any notice to the PRINCIPAL shall be sent to the PRINCIPAL at the following address:

**Grindrod Shipping Pte Ltd**  
200 Cantonment Road  
#06 – 04 SouthPoint  
Singapore  
089763  
Telephone No. : (65 63230048  
Telefax No. : (65) 6323 0046

b) Any notice to the AGENT shall be sent to the AGENT at the following address:

**PHILIPPINE TRANSMARINE CARRIERS, INC.**  
First Maritime Place, 7458 Bagtican Street  
San Antonio Village, Makati City  
1203 Philippines  
Telephone No. : (63) (2) 8981111  
Telefax No. : (63) (2) 8981107  
E-mail Address : communication@ptc.com.ph  
Website : www.ptc.com.ph

c) Notices required to be given in writing may be given registered mail (postage prepaid), or telefax.

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IN WITNESS WHEREOF, the parties have hereunto set their hands.

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**PHILIPPINE TRANSMARINE  
CARRIERS, INC.**



**GERARDO A. BORROMEO**  
Chief Operating Officer

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Date:

\_\_\_\_\_

IN WITNESS WHEREOF, the parties have hereunto set their hands.

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**Grindrod Shipping Pte Ltd**



**Martyn Wade**  
Chief Executive Officer

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Date: 23<sup>rd</sup> March 2011

**SIGNED IN THE PRESENCE OF:**

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**CAPT. RONALDO S.J. ENRILE**

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## NOTARIAL ACKNOWLEDGEMENT

REPUBLIC OF THE PHILIPPINES)  
MAKATI CITY ) S.S.

BEFORE ME, a Notary Public in and for City of Makati, Metro Manila, Philippines, personally appeared **GERARDO A. BORROMEO**, with Comm. Tax No. 07657439 issued at Muntinlupa City on January 7, 2011 who was being by me duly sworn deposes and says that he is the Vice-Chairman and Chief Executive Officer of **PHILIPPINE TRANSMARINE CARRIERS, INC.** for an **AGENCY AGREEMENT** between the company, and he acknowledged to me that the same is his free and voluntary act and deed and the free and voluntary act and deed of the corporation which he represent.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal this 05 day of APR 2011 at City of Makati, Philippines.

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Series of 2011.

  
ARCHIBALD R. RELLOSA  
NOTARY PUBLIC  
UNTIL DECEMBER 31, 2011  
PTR NO. 2670566 / MAKATI CITY  
IBP NO. 817034 / PASIG CITY  
ROLL NO. 4375 / TIN # 434-075-2287