

DP WORLD LOGISTICS CANADA INC.– STANDARD TRADING CONDITIONS FOR FREIGHT FORWARDING AND LOGISTICS SERVICES (the “Conditions”)

PART I: GENERAL CONDITIONS

Definitions

1. In these Conditions

(A) Authority. A duly constituted legal or administrative person, acting within its legal powers and exercising jurisdiction within any nation, state, municipality, port or airport.

(B) Carriage means the whole or any part of the operations and services of whatsoever nature undertaken by the Company in relation to the Cargo, including but not limited to the carriage, loading, unloading, storage, warehousing and handling of the goods.

(C) Company is DP World Logistics Canada Inc. (“DPWL”), the company contracting under these Conditions and the Tariff.

(D) Container means a container without wheels or chassis that is rigid, reusable, capable of being mounted or dismounted using a crane with a container spreader, and that is used by vessel owners for transportation on board vessels, that conforms to ISO dimensional standards and includes a container that is suitable for stacking and transporting dry, liquid gas or refrigerated Cargo, or a container that is described as flat rack, vehicle rack, liquid tank or open top..

(E) Customer means any person, whether themselves an agent or a principal, at whose request or on whose behalf the Company provides a service, and includes any Cargo Owner presenting or delivering Cargo either personally or through an agent to the Company for the provision of any of the services described in the Conditions or the Tariff .

(F) Dangerous Cargo includes Cargo, goods, substance or material that is or may become of a dangerous, inflammable, radio-active or damaging nature, cargo liable to taint or affect other cargo and cargo likely to harbour or encourage vermin or other pests, as well as any Cargo, goods, substance or material that is listed, defined or otherwise designated as (a) “hazardous”, “noxious” or “dangerous” under any applicable laws or international convention or standard including, without limitation, the International Maritime Dangerous Goods Code or the Hazardous and Noxious Substances Convention as defined in the *Marine Liability Act* (b) any chemical; (c) any hydrocarbons, petroleum, petroleum products or waste; (d) any metabolite or chemical breakdown product or derivative or component part of substances identified above; and (e) any other chemical, substance or waste, that is regulated by, or may form the basis of liability under, any applicable laws..

(G) Cargo includes the cargo and any container not supplied by or on behalf of the Company, in respect of which the Company provides a service;

(H) Hague Rules means the provisions of the International Convention for the Unification of certain rules Relating to Bills of Lading signed at Brussels on 25th August 1924;

(I) Instructions means a statement of the Customers specific requirements;

(J) Cargo Owner includes the owner, shipper and consignee of the Cargo and any other Person who has or may have a legal or equitable relationship to the Cargo at a relevant point of time and anyone acting on their behalf.

Person includes persons or anybody or bodies corporate.

(K) SDR means Special Drawing Right. The SDR shall be as defined by the International Monetary Fund and the value of a SDR in relation to any claim arising hereunder shall be calculated as at the date when settlement is agreed or the date of any judgment.

*Heading of clauses or groups of clauses in these Conditions are for indicative purposes only.*

*The Customer’s attention is drawn to the Clauses hereof that exclude or limit the Company’s liability and those that require the Customer to indemnify the Company in certain circumstances as set out herein and as set out in the Logistics Services Tariff for DPWL (the “Tariff”) available online at [www.dpworld.com/canada](http://www.dpworld.com/canada).*

Application

2. (A) All services and activities to be provided by Company are subject to strict compliance with all applicable Sanctions and Export Control laws, which include laws, regulations, enforcement actions and denial orders, relating to export and/or re-export controls, economic sanctions, embargoes and sectoral sanctions of the United States, the United Kingdom, the European Union and its member states, the United Nations, and any other country with jurisdiction over any aspect of the services and/or activities. Thus, if Company determines, by its sole discretion, that any aspect of the services or activities of the Company cannot be provided in strict compliance with applicable Sanctions and Export controls laws, the Company may treat performance of its obligations as immediately

terminated and the responsibility of the Company in respect to the Cargo shall cease. Customer acceptance of this Quote is effective only if Company successfully completes denied party screening and validates that neither Customer, nor any beneficial owner, director and/or officer of Company is not identified on any applicable denied party list (e.g., designation on the “Specially Designated Nationals” (“SDN”) List maintained by the United States Office of Foreign Assets Control).

(B) Subject to sub-clause (C) below, all services and activities of the Company in the course of business of the Company whether gratuitous or not are subject to these Conditions and the Tariff. When there is a direct conflict between these Conditions and the Tariff, the provisions of the Tariff shall apply but only to the extent of such conflict.

The provisions of Part I shall apply to all such services and activities.

The provisions of Part II shall only apply to the extent that the Company provides such services and activities as agents.

The provisions of Part III shall only apply to the extent that the Company provides such services and activities as principals.

(C) The following provisions shall be paramount in so far as such provisions are inconsistent with these Conditions:

(i) the provisions embodied in a document bearing a title of or including “bill of lading” or “waybill” (whether or not negotiable) where such document is issued by or on behalf of the Company and provides that the Company contracts as a carrier. In the situation where a “waybill” is issued for Carriage by barge, whether within Canada or to or from Canada, the Cargo is carried on deck at the sole risk of the Customer and or Cargo Owner of the Cargo. Despite any terms to the contrary contained herein, the Company, its servants, sub-contractors and agents, including any vessel (or the vessel owner(s)) used for Carriage, shall, in no event be liable for any loss or damage (consequential or otherwise) in respect of Cargo carried on deck howsoever caused, and without limiting the generality of the foregoing, even if such loss or damage resulted from unseaworthiness of the vessel or any equipment used to transport the Cargo, or from the negligence, error, act or omission of the Company or of its servants, sub-contractors and agents, including any vessel owner(s) used for Carriage.

(ii) The provisions of Part IV of these Conditions, to the extent that the Company provides the services of cleaning, maintenance, repair or storage of Containers and ancillary services connected therewith.

(D) Every variation, cancellation or waiver of these Conditions must be in writing signed by a director of the Company. Notice is hereby given that no other person has or will be given any authority whatsoever to agree to any variation, cancellation or waiver of these Conditions.

3. All services and activities are provided by the Company as agents except in the following circumstances where the Company acts as principal:

(A) where the Company performs any carriage, handling or storage of Cargo but only to the extent that the carriage is performed by the Company itself or its servants and the Cargo are in the actual custody and control of the Company, or

(B) where prior to the commencement of any carriage, handling or storage of Cargo the Customer in writing demands from the Company particulars of the identity, services or charges of persons instructed by the Company to perform part or all of the carriage, the Company shall be deemed to be contracting as a principal in respect of that part of the carriage in respect of which the Company fails to give such particular demanded within 28 days of the Company’s receipt of such demand, or

(C) to the extent that the Company expressly agrees in writing to act as a principal, or

(D) to the extent that the Company is held by a court of law to have acted as a principal.

4. Without prejudice to the generality of clause 3,

(A) the charging by the Company of a fixed price for a service or services of whatsoever nature shall not in itself determine or be evidence that the Company is acting as an agent or a principal in respect of such service or services;

(B) the supplying by the Company of their own or leased equipment shall not in itself determine or be evidence that the Company is acting as an agent or a principal in respect of any carriage, handling or storage of Cargo;

(C) the Company acts as an agent where the Company procures a bill of lading or other document evidencing a contract of carriage between a person, other than the Company, and the Customer or Cargo Owner;

(D) the Company acts as an agent and never as a principal when providing services in respect of or relating to customs requirements, taxes, licenses, consular documents, certificates of origin, inspection, certificates and other similar services;

(E) Quotations are given on the basis that immediate acceptance shall follow and are subject to the right of withdrawal or revision. If any changes occur in the rates of freight, insurance premiums or other charges applicable to the goods, quotations and charges shall be subject to revision accordingly with or without notice.

#### Obligations of Customer

5. Quotations are made on the basis that they will be accepted without variations to these Conditions. The tender of goods by Customer to the Company shall be deemed an acceptance of these Conditions.

6. Customer warrants that neither Customer nor any beneficial owners, subsidiaries, directors, officers of Company, Owner and/or sub-contractor ("Transaction Parties") is the subject or target of any applicable Sanctions or Export Control laws. In accordance with clause 2(A), if Company determines, at any time and by its sole discretion, that any of the Transaction Parties is the subject or target of any applicable sanctions, including identification on any applicable denied party, Company may treat performance of its obligations as immediately terminated and the responsibility of the Company in respect to the Cargo shall cease.

7. Customer warrants that applicable Sanctions and Export Control laws do not prohibit Company from providing the requested services or activities.

8. The Customer warrants that he is either the Cargo Owner or the authorised agent of the Cargo Owner and that he is authorised to accept and is accepting these Conditions not only for himself but also as agent for and on behalf of the Cargo Owner.

9. The Customer warrants that he has reasonable knowledge of matters affecting the conduct of his business, including but not limited to the terms of sale and purchase of the Cargo and all other matters relating thereto.

10. The Customer shall give sufficient and executable instructions. Customer shall fully cooperate and timely provide all information and documentation requested and required by Company to comply with applicable Sanctions and Export controls laws.

11. The Customer warrants that the description and particulars of the Cargo are complete and accurate.

12. The Customer warrants that the Cargo are properly packed, marked, labelled and stowed in a manner appropriate to any operations or transactions affecting the Cargo and the characteristics of the Cargo except where the Company has accepted instructions in respect of such services.

#### Special Instructions, Cargo and services

13. (A) Unless otherwise previously agreed in writing, the Customer shall not deliver to the Company or cause the Company to deal with or handle Dangerous Cargo.

(B) If the Customer is in breach of sub-clause (A) above he shall be liable for all loss or damage whatsoever caused by or to or in connection with the Cargo howsoever arising. The Customer shall defend, indemnify and hold harmless the Company against all penalties, claims, damages, costs and expenses whatsoever arising in connection therewith and the goods may without notice be destroyed or otherwise dealt with at the sole discretion of the Company or any other person in whose custody they may be at the relevant time.

(C) If the Company agrees to accept Dangerous Cargo and then, in the opinion of the Company or any other person, they constitute a risk to other cargo, property, life or health they may without notice be destroyed or otherwise dealt with at the expense of the Customer or Cargo Owner.

14. (A) The Customer undertakes not to tender for transportation any Cargo that require temperature control without previously giving written notice of their nature and particular temperature range to be maintained.

(B) In the case of a temperature controlled Container stuffed by or on behalf of the Customer by a third party, the Customer further undertakes that;

(i) the Container has been properly pre-cooled or preheated as appropriate, and

(ii) the Cargo has been properly stuffed in the Container, and

(iii) its thermostatic controls have been properly set by the Customer or the third party.

If the above requirements are not complied with the Company shall not be liable for any loss of or damage to the Cargo caused by such non-compliance.

15. (A) No insurance will be effected except upon express instructions given in writing by the Customer and by agreement of the Company. All insurance effected by the Company is at the expense of the Customer, and is subject to the usual exceptions and conditions of the policies of the insurance Company or underwriters taking the risk.

(B) The Company is an agent of the Customer in respect of effecting insurance.

(C) Unless otherwise agreed in writing, the Company shall not be under any obligation to effect a separate insurance on each consignment but may declare it on any open or general policy.

(D) Should the insurers dispute their liability for any reason the insured shall have recourse against the insurers only. The Company shall not have any responsibility or liability whatsoever in relation to the insurance notwithstanding that the premium upon the policy may not be at the same rate as that charged by the Company or paid to the Company by its customers.

16. The Company shall not be obliged to make any declaration for the purposes of any statute, convention or contract as to the nature or value of any Cargo, or as to any special interest in delivery unless express written instructions to that effect have been received and accepted by the Company.

17. (A) Unless otherwise previously agreed in writing or otherwise provided for under the provisions of a document signed by the Company, instructions relating to the delivery or release of Cargo against payment or against surrender of a particular document shall be in writing.

(B) The Company's liability resulting from such instructions relating to the delivery or release of the Cargo other than in writing shall not exceed that provided for in respect of mis-delivery of Cargo.

18. Unless otherwise previously agreed in writing that the Cargo shall depart or arrive by a particular date, the Company accepts no responsibility for departure or arrival dates of Cargo, whether or not any such delay is caused by the negligence of the Company and/or its servants or agents.

#### General Indemnities

19. (A) The Customer and Cargo Owner shall defend, indemnify and hold harmless the Company against all liability, loss, damage, costs and expenses arising:

(i) from the nature of the Cargo unless caused by the Company's negligence, out of the Company acting in accordance with the Customer's or Cargo Owner's instructions, or from a breach of warranty or obligation by the Customer or arising from the negligence of the Customer or Cargo Owner; and

(ii) compliance with applicable Sanctions and Export Control laws.

(B) Except to the extent caused by the Company's negligence, the Customer and Cargo Owner shall be liable for and shall defend, indemnify and hold harmless the Company in respect of all duties, taxes, imposts, levies, deposits and outlays of whatsoever nature levied by an Authority in respect of the Cargo, Dangerous Cargo and/or Container and for all liabilities, payments, fines, costs, expenses, loss and damage whatsoever incurred or sustained by the Company in connection therewith.

(C) Advice and information in whatever form it may be given is provided by the Company for the Customer and/or Cargo Owner only and the Customer and/or Cargo Owner shall defend, indemnify and hold harmless the Company for all liability, loss, damage, costs and expenses arising out of any other person relying on such advice or information. The Customer shall not pass such advice or information to any third party without the Company's written agreement and the Customer and/or Owner shall indemnify the Company against any loss suffered because of a breach of this condition.

(D) (i) The Customer undertakes that no claim be made against any servant, sub-contractor or agent of the Company which imposes or attempts to impose upon any of them any liability whatsoever in connection with the Cargo, if any such claim should nevertheless be made, to indemnify and hold harmless the Company against all consequences thereof.

(ii) Without prejudice to the foregoing, every such servant sub-contractor or agent shall have the benefit of all provisions herein, as if such provisions were expressly for their benefit. In entering into this contract the Company, to the extent of those provisions, does so not only on his behalf but as agent and trustee for such servants, sub-contractors and agents.

(iii) The Customer shall defend, indemnify and hold harmless the Company from and against all claims, costs and demands whatsoever and by whomsoever made or preferred in excess of the liability of the Company under the terms of these Conditions and without prejudice to the generality of this clause this indemnity shall cover all claims, costs and demands arising from or in connection with the negligence of the Customer, its servants, sub-contractors and agents.

In this clause, "sub-contractors" includes direct and indirect sub-contractors and their respective servants and agents.

(E) The Customer shall be liable for the loss, damage, contamination, soiling, detention or demurrage before, during and after the Carriage of Cargo (including, but not limited to, Containers) of the Company or any person or vessel referred to in (D) above caused by the Customer or Cargo

Owner or any person acting on behalf of either of them or for which the Customer is otherwise responsible.

Charges, etc.

20. (A) All invoices, bills or accounts rendered by the Company are payable upon receipt and become overdue thirty days after the date of the invoice.

(B) When the Company is instructed to collect freight, duties, charges or other expenses from any person other than the Customer, the Customer shall be responsible for the same on receipt of evidence of demand and non-payment by such other person when due.

(C) On all charges overdue to the Company, the Company shall be entitled to interest due on any outstanding sum at the rate of 1.5% per month (equivalent to 18% per annum) for any period after each amount had become overdue, plus reasonable legal fees and expenses incurred in collecting any sums due.

Liberties and Rights of Company

21. The Company shall be entitled, except insofar as has been otherwise agreed in writing, to enter into contracts, on any terms whatsoever, on behalf of itself or the Customer and without notice to the Customer

(A) for the carriage of Cargo by any route, means or person,

(B) for the carriage of Cargo of any description whether containerised or not on or under the deck of any vessel,

(C) for the storage, packing, transshipment, loading, unloading or handling of Cargo by any person at any place whether on shore or afloat and for any length of time,

(D) for the carriage or storage of Cargo in Containers or with other goods of whatever nature,

(E) for the performance of its own obligations, and to do such acts as in the opinion of the Company may be necessary or incidental to the performance of the Company's obligations.

22. (A) The Company shall be entitled but under no obligation, to depart from the Customer's instructions in any respect if in the opinion of the Company there is good reason to do so in the Customer's interest and it shall not thereby incur any additional liability.

(B) The Company may at any time comply with the orders or recommendations given by any Authority. The responsibility of the Company in respect of the Cargo shall cease on the delivery or other disposition of the Cargo in accordance with such orders or recommendations.

23. If at any time the performance of the Company's obligations, in the opinion of the Company or any person whose services the Company makes use of, is or is likely to be affected by any: hindrance, risk, delay, difficulty, or disadvantage whatsoever and which cannot be avoided by reasonable endeavours by the Company or such other person, the Company may, on giving notice in writing to the Customer or Cargo Owner or without notice where it is not reasonably possible to give such notice, treat the performance of its obligations as terminated and place the Cargo or any part of them at the Customer or Cargo Owner's disposal at any place which the Company may deem safe and convenient, whereupon the responsibility of the Company in respect of the Cargo shall cease. The Customer shall be responsible for any additional costs of carriage to, and delivery and storage at, such place and all other expenses incurred by the Company.

24. If the Customer or Cargo Owner does not take delivery of the Cargo or any part thereof at the time and place when and where the Company, or any person whose services the Company makes use of, is entitled to call upon the Customer or Cargo Owner to take delivery thereof, the Company or such other person shall be entitled, without further notice, to store the Cargo or any part of the Cargo in the open or under cover at the sole risk and expense of the Customer. Such storage shall constitute delivery of the Cargo and the liability of the Company shall wholly cease.

25. Notwithstanding clauses 20 and 21, the Company shall be entitled, but under no obligation, at the expense of the Customer payable on demand and without any liability to the Customer and Cargo Owner, to sell or dispose of

(A) on giving 14 days notice in writing to the Customer all Cargo which in the opinion of the Company cannot be delivered as instructed or where delivery has been refused, and

(B) without notice Cargo which have perished, deteriorated or altered, or are liable to do so, in a manner which has caused or may be reasonably expected to cause loss or damage to any person or property or to contravene applicable regulations or requirements.

26. (A) The Company shall have a particular and general lien on all Cargo and/or documents relating to Cargo in its possession for all sums of whatsoever kind and nature due at any time from the Customer or Cargo

Owner and on giving 28 days' notice in writing to the Customer, shall be entitled to sell or dispose of such Cargo and/or documents at the expense of the Customer and without any liability to the Customer and Cargo Owner and apply the proceeds in or towards the payment of such sums. Upon accounting to the Customer for any balance remaining after payment of any sum due to the Company and the costs of sale or disposal the Company shall be discharged of any liability whatsoever in respect of the Cargo and/or documents. If on the sale of the Cargo the proceeds fail to realize the amount due, the Company shall be entitled to recover the difference from any of the parties included in the terms Customer or Cargo Owner. In any event any lien shall: survive the delivery of the Cargo, and extend to cover the cost of recovering any sums due and for that purpose the Company shall have the right to sell the Cargo and documents by public auction or private treaty, without notice to the Customer or Cargo Owner and at the Customer's or Cargo Owner's expense and without any liability towards the Customer or Cargo Owner.

27. The Company shall be entitled to retain and be paid all brokerages, commissions, allowances and other remunerations customarily retained by or paid to freight forwarders.

28. The Company shall have the right to enforce against the Cargo Owner and the Customer jointly and severally any liability of the Customer under these Conditions or to recover from them any sums to be paid by the Customer, which upon demand have not been paid.

Containers

29. (A) If a Container has been packed or stuffed by or on behalf of the Customer, the Company shall not be liable for loss of or damage to the Cargo if:

(i) caused by the manner in which the Container has been packed or stuffed,

(ii) caused by the unsuitability of the contents for Carriage in the Container actually used, unless the Company has approved the suitability.

(iii) caused by the unsuitability or defective condition of the Container actually used provided that where the Container has been supplied by or on behalf of the Company this paragraph (iii) shall only apply if the unsuitability or defective condition:

(a) was not caused by negligence on the part of the Company, or

(b) would have been apparent upon reasonable inspection by the Customer or Cargo Owner or person acting on behalf of either of them at or prior to the time when the Container was packed or stuffed.

(iv) the Container is not sealed at the commencement of the Carriage except where the Company has agreed to seal the Container.

(B) The Customer shall defend, indemnify and hold harmless the Company against any claim, liability, loss, damage, costs and expenses arising from one or more of the matters covered in (A) above.

(C) Where the Company is instructed to provide a Container, in the absence of a written request to the contrary accepted by the Company, the Company is not obliged to provide a Container of any particular type or quality.

General Liability

30. (A) Except insofar as otherwise provided by these Conditions, the Company shall not be liable for any loss or damage whatsoever arising from:

(i) the act or omission of the Customer or Cargo Owner or any person acting on their behalf,

(ii) compliance with the instructions given to the Company by the Customer, Cargo Owner or any other person entitled to give them,

(iii) insufficiency of the packing or labelling of the Cargo except where such service has been provided by the Company,

(iv) handling, loading, stowage or unloading of the Cargo by the Customer or Cargo Owner or any person acting on their behalf,

(v) inherent vice of the Cargo,

(vi) riots, civil commotions, strikes, lockouts, stoppage or restraint of labour from whatsoever cause,

(vii) fire, flood or storm, or

(viii) any cause which the Company could not avoid and the consequences whereof it could not prevent by the exercise of reasonable diligence.

(B) Where under sub-clause (A) above the Company is not under any liability for loss or damage caused by one or more of the causes, events or occurrence above, the Company shall only be liable to the extent that the causes, events or occurrences for which he is liable under these Conditions have contributed to the loss or damage. The burden of proof that the loss or damage was due to one or more of the causes, events or occurrences specified in sub-clause (A) above shall rest upon the Company, save that when the Company establishes that in the circumstances of the case, the loss or damage could be attributed to one or more of the causes, events or occurrences specified in (iii) to (vi) of sub-clause (A), it shall be presumed

that it was so caused. The Customer shall, however, be entitled to prove that the loss or damage was not in fact caused wholly or partly by one of the causes, events or occurrences listed under sub-clause (A).

(C) The Company shall not be liable for loss or damage to property other than the Cargo themselves howsoever caused

(D) Subject to clause 15, the Company shall not be liable for economic loss in any form, such as indirect or consequential loss or damage, loss of profit, delay, deviation, howsoever caused.

#### Amount of Compensation

31. Except in so far as otherwise provided by these Conditions, the liability of the Company, howsoever arising, and notwithstanding that the cause of loss or damage be unexplained shall not exceed the following:

(A) In relation to claims for loss of or damage to the Cargo the Company's liability howsoever arising and, notwithstanding that the cause of the loss or damage be unexplained, shall not exceed the lower of:

(i) the value of the relevant Cargo;

(ii) the reasonable cost of repair in the case of damage; or

(iii) 2 SDR per kg of the relevant Cargo, provided always that the Company's liability under this clause shall not exceed a maximum of 2.500 SDR per event or events arising from a common cause.

(B) In relation to claims for delivery of the Cargo to an incorrect Person or destination, the Company's liability howsoever arising shall not exceed the cost of carriage of the Cargo to the correct destination by the originally contemplated mode of carriage.

(C) In relation to all other claims arising out of or in relation to the Carriage or the Cargo, the Company's liability howsoever arising shall not exceed the lower of:

(i) the amount of the Company's Charges in respect of the Carriage in relation to which the claim arose; and

(ii) 1,000 SDR in aggregate per event or events arising from a common cause.

D) If, notwithstanding clause 21, the Company is nevertheless found liable for delay, its liability shall in no circumstances exceed the amount of the Company's Charges in respect of the relevant Carriage.

32. (A) Compensation shall be calculated by reference to the ex works invoice value of the Cargo plus Carriage charges and insurance if paid.

(B) If there is no invoice value for the Cargo, the compensation shall be calculated by reference to the value of such Cargo at the place and time when they are delivered to the Customer or Cargo Owner or should have been so delivered. The value of the Cargo shall be fixed according to the current market price, or, if there is no commodity exchange price or current market price, by reference to the normal value of cargo of the same kind and quality.

33. By special agreement in writing and on payment of additional charges, higher compensation may be claimed from the Company not exceeding the value of the Cargo or the agreed value, whichever is the lesser.

#### Notice of Loss, Time Bar

34. The Company shall be discharged of all liability unless:

(A) (i) notice of any claim is received in writing by the Company or its agent within 14 days after the date specified in (B) below, except where the Customer can show that it was impossible to comply with this time limit and that the claim has been made as soon as it was reasonably possible so to do, and

(ii) suit is brought in the proper forum and written notice thereof received by the Company within 9 months after the date specified in (B) below.

(B) (i) in the case of loss or damage to Cargo, the date of delivery of the Cargo,

(ii) in the case of delay or non-delivery of the Cargo, the date that the Cargo should have been delivered,

(iii) in any other case, the event giving rise to the claim, otherwise any claim shall be deemed to be waived and absolutely barred.

#### General Average

35. The Customer shall defend, indemnify and hold harmless the Company in respect of any claims for General Average contribution that may be made on the Company, irrespective of whether the Carriage charges are pre-paid or not. The Customer shall provide such security as may be required by the Company for General Average contributions promptly and in a form acceptable to the Company.

#### Miscellaneous

36. Any notice served by post shall be deemed to have to be given on the third day following the day on which it was posted to the address of the recipient of such notice last known to the Company.

37. The defences and limits of liability provided for by these Conditions shall apply in any action against the Company whether such action be founded in contract or tort.

38. If any legislation is compulsorily applicable to any business undertaken, these Conditions shall, as regards such business, be read as subject to such legislation and nothing in these Conditions shall be construed as a surrender by the Company of any of its rights or immunities or as an increase of any of its responsibilities or liabilities under such legislation and if any part of these Conditions be repugnant to such legislation to any extent such part shall as regards such business be over-ridden to that extent and no further. Headings of clauses or groups of clauses in these Conditions are for indicative purposes only. The Company may unilaterally amend these Conditions at any time by publishing the amendments on the Company's website. All contracts concluded by the Company and the Customer after such publication shall be subject to the amended Conditions.

39. Should any clause, or part of a clause, be found to be void or unenforceable, the remainder of that clause or section of the contract shall remain unaffected

#### Jurisdiction and Law

40. These Conditions, and all non-contractual matters associated with, arising out of or connected with them, shall be governed by and interpreted in accordance with the provincial laws of British Columbia and the federal laws of Canada applicable in British Columbia, Canada, without regard to the conflict of law rules of British Columbia that would apply a different body of law. The parties agree that any dispute or claim arising out of or in connection with these Conditions, and all non-contractual matters associated therewith, shall be brought in Canada in either the British Columbia Supreme Court (Vancouver Registry) or the Federal Court (Vancouver Registry) and the Customer irrevocably submits to and accepts generally and unconditionally the exclusive jurisdiction of said courts British Columbia.

#### PART II: COMPANY AS AGENT

##### Special Liability and Indemnity Conditions

41. (A) To the extent that the Company acts as an agent, the Company does not make or purport to make any contract with the Customer for the carriage, storage or handling of the Cargo nor for any other physical service in relation to them and acts solely on behalf of the Customer in securing such services by establishing contracts with third parties so that direct contractual relationship are established between the Customer and such third parties.

(B) The Company shall not be liable for the acts and omissions of such third parties referred to in sub-clause (A) above.

42. (A) The Company when acting as an agent has the authority of the Customer to enter into contracts on the Customer's behalf and to do such acts so as to bind the Customer by such contracts and acts in all respects notwithstanding any departure from the Customer's instructions.

(B) Except to the extent caused by the Company's negligence, the Customer shall defend, indemnify and hold harmless the Company in respect of all liability, loss, damage, costs or expenses arising out of any contracts made in the procurement of the Customer's requirements in accordance with clause 39.

##### Choice of Rates

43. Where there is a choice of rates according to the extent or degree of liability assumed by persons carrying, storing, handling the Cargo, no declaration of value where optional will be made unless otherwise agreed in writing.

#### PART III: COMPANY AS PRINCIPAL

##### Special Liability Conditions

44. To the extent that the Company contracts as principal for the performance of the Customer's instructions, the Company undertakes to perform or in its own name to procure the performances of the Customer's instructions and subject to the provisions of these Conditions shall be liable for the loss of or damage to the Cargo occurring from the time that the Cargo are taken into its charge until the time of delivery.

45. Notwithstanding other provisions in these Conditions, if it can be proved where the loss of or damage to the Cargo occurred, the Company's liability shall be determined by the provisions contained in any international convention or national law, the provisions of which

(A) cannot be departed from by private contract, to the detriment of the claimant, and

(B) would have applied if the claimant had made a separate and direct contract with the actual provider of the particular service in respect of that service or stage of carriage where the loss or damage occurred and received

as evidence thereof any particular document which must be issued if such international convention or national law shall apply.

46. Notwithstanding other provisions in these Conditions, if it can be proved that the loss of or damage to the Cargo occurred at sea or inland waterway and the provisions of clause 43 do not apply, the Company's liability shall be determined by the Hague Rules. Reference in the Hague Rules to carriage by sea shall be deemed to include reference to carriage by inland waterways and the Hague Rules shall be construed accordingly.

47. Notwithstanding the provisions of clause 44 if the loss of or damage to the Cargo occurred at sea or on inland waterways, and the Cargo Owner, Charterer or operator of the vessel establishes a limitation fund, the liability of the Company shall be limited to the proportion of the said limitation fund allocated to the Cargo.

48. Air Carriage

If the Company acts as a principal in respect of a carriage of Cargo by air, the following notice is hereby given:

If the Carriage involves an ultimate destination or stop in a country other than the country of departure, the Warsaw Convention may be applicable and the Convention governs and in most cases limits the liability of carriers in respect of loss of or damage to cargo. Agreed stopping places are those places (other than the places of departure and destination) shown under requested routing and/or those places shown in carriers' timetables as scheduled stopping places for the route. The address of the first carrier is the airport of departure.

49. Both to Blame Collision Clause

The current Both-to-Blame Collision Clause as adopted by BIMCO is incorporated in these conditions.

50. U.S.A. Clause

(A) With respect to the transportation within U.S.A., the responsibility of the Company shall be to procure transportation by carriers (one or more) and such transportation shall be subject to such carrier's contracts and tariffs and any law compulsorily applicable. The Company guarantees the fulfilment of such carrier's obligations under their contracts and tariffs.

(B) If and to the extent that the provisions of the Harter Act of the U.S.A. 1893 would otherwise be compulsorily applicable to regulate the Company's responsibility for the Cargo during any period prior to loading on or after discharge from the vessel on which the Cargo are to be or have been carried, the Company's responsibility shall instead be determined by the provisions of these Conditions, but if such provisions are found to invalid such responsibility shall be determined by the provisions in the Carriage of Cargo by Sea Act of the U.S.A. approved 1936.

**PART IV: COMPANY PROVIDING SERVICES FOR CLEANING, MAINTENANCE, REPAIR OR STORAGE OF CONTAINERS AND ANY SERVICES CONNECTED THEREWITH**

51 Subject to clause 35 above, the Company shall not be liable for any improper performance or non-performance of its services, or the consequence arising therefrom, except to the extent provided in this Part IV.

52 (A) The Company's liability shall not exceed the reasonable cost of rectifying the services improperly or not performed by the Company, subject to a limit per Container of that Container's market value.

(B) At the Company's sole option, the Company may rectify at its own expense the services improperly or not performed. If the Company exercises this option, or is not given an opportunity by the Customer or Cargo Owner to exercise this option, the Company shall not be liable for any costs incurred by the Customer or Cargo Owner in rectifying such services.

53. The Customer and Cargo Owner undertake to inspect the Container on redelivery to the Customer or Cargo Owner or person acting on their behalf. The Company shall not be liable and the Customer and Cargo Owner shall defend, indemnify and hold harmless the Company against any loss, damage, liability, cost and expense in respect of or arising from an improper or non-performance of the Company's services which would have been apparent upon reasonable inspection of the Container at the time of redelivery.

54. The Company shall be discharged of all liability unless:

(i) notice of any claim is received by the Company in writing within 14 days, and (ii) suit is brought in the proper form and written notice thereof received by the Company within 9 months after the date of redelivery of the Container to the Customer or Cargo Owner or person acting on their behalf.