

**SHORT SEA SHIPPING TRANSPORT SERVICES TARIFF**

**FOR**

**DP WORLD (CANADA) INC.**

**Trading as DP World Vancouver**

**EFFECTIVE APRIL 1, 2025**



**DP WORLD**

**“ NOTICE ”**

Take notice that the terms and conditions of this Tariff as referenced herein contain provisions limiting and/or excluding liability on the part of DP World (Canada) Inc. and others.

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## COMPANY INFORMATION

<b>Hours of Operation</b>	Regular Office Hours	0800 to 1630 Monday to Friday, excluding Public Holidays
	Terminal Operations	24 hours per day, 7 days a week
<b>Telephone Numbers:</b>	Office: Security (24 Hours)	(250) 772-2290
<b>Address:</b>	851 Centennial Road Vancouver, BC	(604) 255-5151
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# 1 PREFACE AND BASIC TERMS

## **Short Title**

This document may be cited as the "Short Sea Shipping Transport Services Tariff," and is generally referred to as the "Tariff."

## **Publication**

This Tariff is published by DP World (Canada) Inc. as the Operator. .

## **Effective Date and Changes**

This Tariff shall be subject to change without specific notice and such changes will be effective from April 1, 2025 (the "Effective Date"), or such other date specified in the notice.

## **Scope of Tariff**

This Tariff and all rates, charges, terms, conditions, rules, regulations and definitions contained herein shall apply to the Transport Services as defined below in Section 1.1

The Operator provides the Short Sea Shipping Transport Services to the Customers, subject to the terms, conditions, rules, regulations and definitions of this Tariff.

Services outside the scope of this Tariff, including general terminal services, may be provided at Centerm by the Operator under the terms of the Operator's Terminal Services Tariff., at DPWFS under the terms of the Terminal Services Tariff for DP World Fraser Surrey Inc, or at Duke Point under the terms of the Terminal Services Tariff for DP World (Nanaimo) Inc. All these Tariffs are available on-line at [www.dpworld.com/canada](http://www.dpworld.com/canada) and should be consulted by Customers as they contain provisions limiting, and/or excluding liability.

## **Notice to Public**

This Tariff and the Conditions are notice that the conditions, rates, charges, terms, conditions, exclusions from liability, limitations, rules, regulations and definitions contained herein apply to all Customers of any of the services described herein, or any of the property described herein without specific notice, quotation or prior arrangement.

The Operator reserves the right to furnish all equipment, supplies and materials and to perform all services in connection with the Transport Services.

## **Limitations and Exclusion of Liability**

Take notice that the terms and conditions of this Tariff contain provisions limiting, and/or excluding liability on the part of the Operator, its respective affiliates and others.

## **Charges**

Charges for Transport Services shall not exceed the rates published in this Tariff. All charges quoted herein are in Canadian dollars and based on performing the work during Straight Time operating periods.

## PART 1

### 1.1 DEFINITIONS

In this Tariff:

The definitions set out in the Conditions are incorporated herein.

**“Operator”** -means DP World (Canada) Inc and its directors, officers, employees, agents, representatives, authorized external advisors and other third parties acting on the Operator’s behalf; and

**“Port Authority”**- means the port authority as defined in the Canada Marine Act, S.C. 1988, c. 10 having jurisdiction over the port in which the Transport Services are provided and includes the officers, employees, servants and agents of the respective Port Authority.

**Abandoned Cargo** - means any Cargo that is under the Operator’s control due to not having been withdrawn from the Terminal by a Customer or Cargo Owner, as applicable, thirty (30) days after the expiration of any applicable Free Time or the Customer or Cargo Owner, as applicable, has confirmed in writing that they have abandoned the Cargo.

**Barge** – means any tug and/or barge or other Vessel, whether owned, chartered, hired, used or otherwise engaged by the Operator, for the provision of Short Sea Shipping Transport Services.

**BC Ports** - means all port terminals located in the Province of British Columbia, Canada.

**Carrier’s Bill of Lading** - means a bill of lading issued by a carrier, whether a Customer or not, to distinguish a single Shipment of Cargo carried by a Vessel.

**Carrier’s Waybill** - means a waybill issued by a carrier, whether to the Customer or not, to distinguish a single shipment of Cargo carried by a Vessel.

**Cargo** - means any goods, merchandise or other property whatsoever, whether or not in a Container and includes goods carried on Equipment (other than a Container) and containerized Cargo.

**Centerm** – means the container terminal operated by the Operator known as Centennial Container Terminal located on the south shore of Burrard Inlet in the Port of Vancouver.

**Collective Agreement** – means an agreement in writing between an employer and an organization of employees that concerns, rates, charges, terms, conditions of employment.

**Container** - means any container, flat-rack, open top, artificial tween-deck, pallet-wide, platform, reefer and tank container, bolster or other unit conforming with ISO dimensional standards for international shipping and which is owned, leased, chartered, managed, operated and/or used by the Customer.

**Customer** - means any person to whom or on behalf of whom the Operator provides any Transport Service including the owner of, charterer (of whatever nature) of, the Vessel, the members of any shipping consortium or alliance or any person who is or may become interested in a Vessel calling at the Terminal, the Vessel’s master and any person who has control of the operation of such Vessel.

**Demurrage** - means the daily charge payable on Imported and Exported Cargo which remain on the Terminal longer than the applicable Free Time.

**DPWFS** – means the multi-purpose marine terminal operated by DP World Fraser Surrey Inc. known as DP World Fraser Surrey located on the Fraser River in the Port of Vancouver.

**Duke Point** – means the multi-purpose marine terminal operated by DP World Nanaimo Inc. known as Duke Point Deep Sea Terminal located on Vancouver Island in the Port of Nanaimo.

**Effective Date** - has the meaning set forth in Section 1 (Preface and Basic Terms).

**Export** - means the movement of Cargo from an Inland Carrier to a place of rest at the Terminal and its subsequent transfer onto a Vessel.

**Free Time** – means a period of time specified in this Tariff during which containerized Cargo or non- containerized Cargo, as applicable, may occupy space assigned to it in the Terminal, free of storage charges, either prior to the loading to a Vessel or subsequent to the discharge from a Vessel.

**Hazardous Cargo** - means Cargo of any kind which is or may become dangerous (whether or not so listed in any applicable law, regulations, codes or requirements), inflammable, damaging, injurious (including radioactive materials), toxic, noxious, liable to give off injurious gas, fumes or liquid or which is or may become liable to contaminate, injure, pollute or damage or be a nuisance to the environment, any property and/or person whatsoever, including any Cargo, substance or material that is listed, defined or otherwise designated as “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, SC 2001, c 6.

**Import** - means the movement Cargo from a Vessel to a place of rest at the Terminal, and its subsequent transfer to an Inland Carrier.

**Inland Carrier** – means railway company, rail carrier, truck carrier, cartage company, tug and barge company operating within the coastal and/or inland waters of British Columbia, a private carrier, or any other transport vehicle that receives or delivers Cargo discharged from or to be loaded onto a Vessel.

**International Transport Service(s)** - means the provision by the Operator of Cargo transportation services to or from any international location and Centerm, DPWFS or Duke Point, or such other BC Ports as may be agreed, and unless otherwise expressly agreed is limited to a single one-way trip from a load port to a discharge port with handling limited to the loading and discharging of Cargo to and from a Barge .

**OOG** – means out of gauge and in respect of a Container means it does not conform to ISO dimensional standards.

**Shipment** – means a single consignment of Cargo tendered on one shipping document at one time from one point of origin by one shipper for one consignee or receiver to one point of destination. A shipment which is transported by a Vessel is distinguished by a separate Carrier’s Bill of Lading or Carrier’s Waybill.

**Short Sea Shipping Transport Service(s)** - means the provision or arrangement by the Operator of Cargo transportation services within Canada as described in Part 2 between any of Centerm, DPWFS or Duke Point, or such other BC Port(s) as may be agreed.

**Straight Time** – means the hours of work defined in a Collective Agreement as regular straight time hours.

**Statutory Holidays** - means has the meaning set forth in the Collective Agreement.

**Terminal(s)** – means one or more of Centerm, DPWFS or Duke Point.

**Transport Services** – includes Short Sea Shipping Transport Services and International Transport Services.

**Tonne** - unless otherwise specified, all “Tonnes” shall be regarded as freight tonnes and shall be determined by a weight Tonne of one thousand (1,000) kilograms or a measurement of one (1) cubic meter, whichever is greater.

**W.T.** - means that the number of Tonnes is calculated by weight, in metric Tonnes.

**WTI** - means the West Texas Intermediate crude oil price.

**Verified Gross Mass (VGM)** – as defined by the International Maritime Organization (IMO) Regulation 2 of Chapter VI of the International Convention for the Safety of Life at Sea (“SOLAS”).

**Vessel** – includes any motor vessel, steamship, scow, barge or other watercraft. Reference to the Vessel includes, without exception, its owner, charterer, agent, operator and employees.

**Vessel Owner** - includes (a) the actual or registered owner, agent, operator, charterer by demise and master of the Vessel; and (b) the agents, employees, operators or charterers of the individuals set forth in sub-clause (a) of this definition.

## 1.2 CONVERSION FACTORS

The following conversion factors will be used to convert weight and measurements or other values when needed to apply to the applicable fee(s) contained in this Tariff.

<b>Converting From</b>	<b>Converting To</b>
Kilogram (“kg”): one Litre (“L”):	equals 2.2046 pounds
one	equals 0.2200 Imperial Gallons or 0.2646 U.S. Gallons equals 3.2808 feet
Metres (“m”): one Cubic meter	equals 1,000 Litre, or 35.315 cubic feet, or 0.08830 measurement tons (40 cubic feet), or 0.4238 MFBM, or 220.0 Imperial Gallons, or 27.50 Imperial Bushels, or 6.290 barrels (42 U.S. gallons)
Metric Tonne	equals 1000.0 kilograms, 2204.6 pounds, 1.1023 short tons (2000 pounds), or 0.9842 long tons (2240 pounds)
MFBM	equals 1000 board feet of lumber (12” x 12” x 1”)

# PART 2

## 2 SHORT SEA SHIPPING TRANSPORT SERVICES

### 2.1 Scope of Short Sea Shipping Transport Services

The Operator may, upon request of a Customer, provide Short Sea Shipping Transport Services in respect of Cargo in a Container for the rates set out in this Part 2. Unless otherwise expressly agreed in writing with the Operator, Section 2.1. A sets forth the Short Sea Shipping Transport Service's (i) rates, exclusive of all taxes, and (ii) scope of such services.

Short Sea Shipping Transport Services are provided on the terms and conditions of the Non-negotiable Waybill attached hereto as Appendix A (the "Carrier's Waybill") and Part 2 of this Tariff. The terms and conditions of the Carrier's Waybill are expressly incorporated into and form part of this Tariff in respect of the Short Sea Shipping Transport Services. Where the terms and conditions of the Carrier's Waybill are in conflict with a specific term in this Tariff in respect of the Short Sea Shipping Transport Services, the terms and conditions of the Carrier's Waybill shall prevail, but only to the extent of such conflict.

#### 2.1.A Short Sea Shipping Transport Service - Round and Single Trip rate

The rate charged to Customers is a rate per Container, assessed at a Tier Level, as set out in Clause 2.1.E below, on the date the Container is loaded onto the Barge (not the date the Container arrives at the Terminal) and includes the following services:

##### For an outbound trip (applicable to Single Trip Rates only):

- a) handling of the Container at the outbound Terminal from the customary place of rest for Containers prior to loading to the Barge.
- b) loading of the Container as delivered under hook to the Barge,
- c) water transportation of the Container by the Barge from the outbound Terminal to the destination Terminal concluding upon the Container landing under hook after discharge from the Barge; and
- d) terminal handling of the Container at the destination Terminal to the customary place of rest for Containers after landing.

##### and in the case of a Return Trip (applicable to Round Trip Rates only):

- a) regular terminal handling of the Container at the destination Terminal to and from the gate but excluding any additional freight charges that may be assessed in accordance with the destination Terminal tariff;
- b) loading of the Container as delivered under hook to the Barge for the return trip;
- c) water transportation of the Container by the Barge to the return Terminal including discharge to under hook; and
- d) handling of the Container at the return Terminal to the customary first place of rest for Containers after discharge from the Barge.

- **Rates between the Centerm and Duke Point**

<b>TIER</b>	<b>Container Volume – Booked by Annually</b>	<b>Round Trip Rate</b>
<i>Tier 1</i>	<i>1 to 250</i>	\$960.51
<i>Tier 2</i>	<i>251 +</i>	\$867.95

  

<b>Item</b>	<b>Unit</b>	<b>One-Way Trip Rate</b>
<i>Single Trip</i>	<i>Per Container</i>	\$480.26

- **Rates between DPWFS and Duke Point**

<b>TIER</b>	<b>Container Volume – Booked by Annually</b>	<b>Round Trip Rate</b>
<i>Tier 1</i>	<i>1 to 250</i>	\$960.51
<i>Tier 2</i>	<i>251 +</i>	\$867.95

  

<b>Item</b>	<b>Unit</b>	<b>One-Way Trip Rate</b>
<i>Single Trip</i>	<i>Per Container</i>	\$480.26

- **Rates between Centerm and DPWFS**

<b>TIER</b>	<b>Container Volume – Booked by Annually</b>	<b>One-Way Trip Rate</b>
<i>Tier 1</i>	<i>1 to 250</i>	\$462.83
<i>Tier 2</i>	<i>251 +</i>	\$413.83

**Additional destinations for barge options are available upon request.**

### 2.1.B Trucking Fees

Trucking service is provided on arrangement basis only.

	Unit	Rate
<i>Drayage</i>	Per Container	As per arrangement

### 2.1.C Fuel Surcharge

The Operator will assess a fuel surcharge against all Cargo. The rate will be set on a quarterly basis based on the previous quarters' average crude price per the WTI.

Fuel Surcharge	As applicable
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### 2.1.D Surcharge for Late Bookings Made to the Barge in Two (2) Calendar Days or Less

All bookings to the Barge should be made as far in advance of the Barge cut off as possible in order to ensure the Barge space is secured and appropriate planning for terminal operations and the Barge operations can take place. Customers will have the option to make late bookings to the Barge within two (2) calendar days or less but a surcharge will apply for these late bookings on a per- Container basis.

Item	Unit	Rate
<i>Late Booking Surcharge</i>	<i>Per Container</i>	\$17.42

### 2.1.E Tier Level Assessment and Adjustment

Tier level assessment and adjustment for all routes will be based on Container volumes booked annually on each individual route by the specific individual Customer that requests and pays for the Barge Transport Services. The Operator will review specific Customer volumes performed, and paid for, on each individual route at the end of each quarter and annualize the quarterly volume to assign that Customer's Tier level for the next quarter. Adjustments to Customer Tier levels will be effective on the first day of the following month from the review of volumes. Unless otherwise agreed by the Operator, all Customers will start in Tier 1 on new routes until one quarter's volume history is developed for those new routes. After the conclusion of the first quarter of the new routes, Customer volume transported, and paid for, will be reviewed and adjustments to Customer Tier levels will, subject to the Operator's discretion as referenced below, be effective on the first day of the following month.

For assessment and adjustment purposes, only one Customer may be credited with the transport of a Container.

The assessment and adjustment of a Customer's Tier level is at the sole discretion of the Operator. By requesting and obtaining Barge Transport Services the Customer agrees to abandon, waive and release the Operator from any arbitrations, suits or claims they may have regarding their Tier level assessment or adjustment, including any refusal to make any such adjustment. Without limiting the generality of the foregoing, the Operator may refuse to adjust a Customer's Tier level by reason of any of the following:

- i. A Customer has outstanding fees, rates, charges or payments of any kind due to the Operator whether disputed or not by the Customer;
- ii. Any late payment of fees, rates, charges or payments of any kind due to the Operator by a Customer, even if subsequently paid;
- iii. Non-compliance by a Customer with any provision of this Tariff, as determined by the Operator; or
- iv. Such other grounds as may be determined from time to time by the Operator whether or not advance notice of such grounds is provided to any Customer.

### 2.1.F Administrative Fee

The Operator will assess a charge for administrative fees in consideration of substantial, additional administrative work performed by the Operator's staff at the request of the Customer. The administrative fee covers the costs associated with, but is not limited to, additional documentation, late paperwork submissions and other administrative functions related to fulfilling the Customer's request.

	Unit	Rate
<i>Admin Fee</i>	Per Container	\$50.00
<i>Booking reduction fee</i> <i>(Charged if booking not reduced at least 24 hours</i> <i>prior to Vessel cut off)</i>	Per Container	\$27.23

### 2.1.G Demurrage

For export shipments Customer is allowed 12 days of Free Time calculated from the estimated time of arrival of the exporting Vessel at either Centerm, or DPWFS. Any Cargo received prior to the allowable 12 days of Free Time will incur demurrage, payable by the Customer, in the amount of \$47.76 per day for the first 5 days and \$123.84 for each day before, or portion thereof.

For import shipments, including empty Containers, Customer is allowed 5 days of Free Time following discharge from the Barge at Duke Point. Any Cargo or empty Container remaining at Duke Point beyond the allowable 5 days of Free Time will incur demurrage, payable by the Customer, in the amount of \$47.76 per day for the first 5 days and \$123.84 for each day thereafter, or portion thereof.

Saturdays, Sundays and holidays are counted in computing Free Time and days on demurrage.



## 2.2 Change in Rates

The rates set forth in Section 2.1. A are subject to change without specific notice.

## 2.3 Forty-Five Feet (45') Containers Surcharge

	Unit	Rate
<i>Surcharge to cover the extra space required to handle on the Barge and Terminal</i>	Per Container	\$199.00

## 2.4 Booking Fees

	Unit	Rate
<i>Booking Fees</i>	Per Container	\$54.45

## 2.5 Stuffing Facility and Costs

	Unit	Rate
<i>Stuffing Containers</i>	Per Container	As per arrangement
<i>De-Stuffing Containers</i>	Per Container	As per arrangement
<i>Manual pack / load adjustments</i>	Per Package	\$78.24

## 2.6 Same day cancellation of operations

The charge is applicable when labour has been ordered and the labour is not used due to a cancellation.

	Unit	Rate
<i>Same day cancellation of operations</i>	Per day	\$1,251.86

## 2.7 Carrier's Waybill

Any Customer using the Short Sea Shipping Transport Services agrees that each Shipment shall be evidenced by a Carrier's Waybill whether or not such Carrier's Waybill is actually issued in respect of any Cargo. The Carrier's Waybill may be signed by the Operator or its agents or employees. The Customer is responsible to provide to the Operator before transport a written description of the Cargo for inclusion in the Carrier's Waybill, which description will include the number of Containers, the weight and identifying marks of the Cargo, the destination for the Cargo, and any other necessary information requested by the Operator. All Carrier's Waybills are subject to and shall include the statements: "THE HAGUE-VISBY RULES DO NOT APPLY TO THIS WAYBILL" and "ALL CARGO CARRIED ON DECK AT THE SOLE RISK OF THE SHIPPER IN ACCORDANCE WITH CLAUSE 9 ON THE REVERSE." Clause 9 on the reverse of the Carrier's Waybill contains terms excluding liability on the part of the Operator and others.

The Customer further agrees that all Containers and Cargo transported under this Part 2 are carried on deck and are not "goods" as defined by the provisions of the Hague-Visby Rules (Schedule 3 of the *Marine Liability Act*, S.C. 2001, c. 6, as amended). Containers and Cargo carried on deck are carried at the sole risk of the Customer. In no event shall the Operator, the Barge, or any tower, operator, owner or charterer of the Barge be liable for any loss or damage in respect of Containers and/or Cargo carried on deck howsoever caused, and without limiting the generality of the foregoing, even if such loss or damage results from unseaworthiness of the Barge or any equipment used to transport the Container and/or Cargo, or from the negligence, error, act or omission of the Operator or of the servants or agents of the Operator, or any tower, operator, owner or charterer of the Barge, including all persons described in paragraph 2.9 herein.

## 2.8 Approval and Inspection

The Customer is responsible, following transport of a Container or Cargo by way of the Short Sea Shipping Transport Service, to take delivery of the Container or Cargo at the Terminal or berth designated by the Operator, or in the case of export Shipments, to make all necessary arrangements for the subsequent transport of a Container or Cargo, whether by ocean or otherwise.

## 2.9 Substitute Equipment and Deviation

If the Barge should become disabled, the Operator may, at its sole discretion, secure or furnish the services of a substitute vessel. Alternatively, the Operator may suspend the Short Sea Shipping Transport Services and if doing so shall have no liability for any costs, damages or loss suffered by a Customer during or arising from said suspension.

It is agreed that the Operator may utilize other carriers as sub-contractors in providing the Short Sea Shipping Transport Services.

The Barge has liberty to call at any port or ports in any order, for any purpose, to sail without pilots, to tow and /or assist vessels in all situations, and also to deviate for the purpose of saving life and/or property.

## 2.10 Risk of Loss and Limitation of Liability

Risk of loss for all Cargo whether in a Container or not shall always remain with the Customer during the Short Sea Shipping Transport Service. For greater certainty and without limiting the generality of the foregoing, risk of loss for all Cargo and Containers remains with the Customer during and upon delivery or presentation of the Cargo at the Terminals, handling at the Terminals, loading of Cargo onto the Barge, during carriage, during unloading of Cargo from the Barge and during handling after discharge as described in Sections 2.1.A above. No inspection, approval or failure to inspect or approve by the Operator under this Tariff shall alter or affect the risk of loss. The Customer releases the Operator, the Barge, and any tower, operator, owner or charterer of the Barge, from any and all claims for loss of or damage to Cargo and Containers occurring during the Short

Sea Shipping Transport Service, including any claims for deductibles under any policy of insurance, and will indemnify and hold harmless the Operator, the Barge, and any tower, operator, owner or charterer of the Barge for any such claims brought against any of them in respect of such Cargo and Containers.

Notwithstanding the foregoing, in no event shall the Operator, the Barge, or any operator, owner or charterer of the Barge be liable for loss or damage to a Container and any Cargo in an amount exceeding Canadian \$500.00 (five hundred dollars) per Container, whether loaded with Cargo or empty, or in the case of Cargo not stowed within a Container an amount exceeding Canadian \$1.00 (one dollar) per Metric Tonne of Cargo unless the nature and value of such Cargo has been declared by the Customer in writing before Shipment and inserted in to the Carrier's Waybill, and the Customer has paid any additional handling charges requested by the Operator, which declaration shall not be binding or conclusive on the Operator. The Operator, the Barge, and any tower, operator, owner or charterer of the Barge shall not in any event be responsible for loss or damage if the nature or value of the Cargo has knowingly been mis-stated by the Customer.

## **2.11 Insurance**

The Customer will at its sole cost and expense, continuously maintain insurance in respect of any Cargo to be handled or transported by the Operator to its full value inclusive of freight, against any and all risks that may arise during the provision of the Barge Transport Services, and the Customer shall ensure that such insurance contains a waiver of subrogation in favour of the Operator, the Barge, and any operator, owner or charterer of the Barge and all those for whom the Operator is legally responsible.

## **2.12 Indemnity**

The Customer shall indemnify, defend and hold harmless the Operator, the Barge, and any operator, owner or charterer of the Barge against all claims, including without limiting the foregoing, damages, liabilities, causes of action, charges, judgments, and expenses (including fines and reasonable legal fees) for property damage, personal injury, or death, environmental contamination, remediation or natural resources damages to the extent arising out of:

- 2.12.A** the performance of obligations under this Tariff by the Customer or any individual or entity acting by, through or under the Customer; including any subcontractors that the Customer may from time to time engage for the performance of the obligations contemplated herein;
- 2.12.B** any breach by the Customer of the terms and conditions of this Tariff;
- 2.12.C** any act or omission of the Customer or of any individual or entity acting by through or under the Customer; and
- 2.12.D** any actual or alleged violation or breach by the Customer, its agents, employees, or subcontractors of any applicable law, including environmental law.

## **2.13 Payment of Freight**

Unless otherwise expressly agreed in writing with the Operator, the fees and charges for the Barge Transport Service shall be paid on transport, and shall be deemed fully earned and non-returnable, upon receipt of the Cargo by the Operator, the Barge and/or Cargo lost or not lost.

# **3 INTERNATIONAL TRANSPORT SERVICES**

## **3.1 Scope of International Transport Services**

The Operator may by agreement and upon request of a Customer, provide International Transport Services in respect of Cargo in a Container for a freight rate and other charges to be determined by the Operator.

International Transport Services are provided on the terms and conditions of the Non-negotiable Bill of Lading attached hereto as Schedule B (the "**Carrier's Bill of Lading**") and Part 2 of this Tariff and the Conditions, except for any portion of the Transport Services that constitute Short Sea Shipping Transport Services in which case that portion of the Transport Services is subject to the provisions of clause 2 of Part 2 above, including the Carrier's Waybill.

The terms and conditions of the Carrier's Bill of Lading are expressly incorporated into and form part of this Tariff in respect of the International Transport Services. Where the terms and conditions of the Carrier's Bill of Lading are in conflict with a specific term in this Tariff or the Conditions in respect of the International Transport Services, the terms and conditions of the Carrier's Bill of Lading shall prevail, but only to the extent of such conflict. Where the terms and conditions of this Tariff are in conflict with a specific term in the Conditions, the terms and conditions of this Tariff shall prevail, but only to the extent of the conflict.

# **4 LIMITATION AND EXCLUSION OF LIABILITY**

## **4.1 Limitation and Exclusion of Liability**

The following are general terms and conditions of this Tariff that apply to the provision of Transport Services, except to the extent of any conflict in respect of:

- the Short Sea Shipping Transport Services with the Appendix "A" – Carrier's Waybill or paragraph 2 of Part 2, in which case the provisions of the said Carrier's Waybill and/or paragraph 2 of Part 2 prevail to the extent of any such conflict, or
- International Transport Services with the Appendix "B" – Carrier's Bill of Lading or paragraph 3 of Part 2, in which case the provisions of the said Carrier's Bill of Lading and/or paragraph 3 of Part 2 prevail to the extent of any such conflict.

For the avoidance of doubt, the terms and conditions of this paragraph 4 of Part 2 shall apply to all Customers that are receiving Transport Services, but paragraph 4 of Part 2 does not apply to any general terminal services provided outside the scope of the Transport Services. Any such general terminal services provided at Centerm, DPWFS or Duke Point are provided and governed separately by:

- in the case of Centerm, the Terminal Services Tariff for the Operator;;
- in the case of DPWFS, the Terminal Services Tariff for DP World Fraser Surrey Inc; and;
- in the case of Duke Point, the Terminal Services Tariff for DP World (Nanaimo) Inc.

#### **4.2 Basis of Liability**

Other than in cases involving property damage, personal injury or death, the total liability of the Operator to a Customer (if any) for the failure to properly perform any of the Transport Services is limited to refunding the amount paid by the Customer for such services and is subject to the liability ceiling amount referred to in paragraph 4.1.

#### **4.3 Delay – Exclusion of Liability**

The Operator shall not be liable for any costs, expenses, damages or losses caused directly or indirectly by delay in loading, unloading, receiving, delivering or handling of any Cargo or Containers arising from any cause whatsoever, including but not limited to negligence, error, act, omission or willful misconduct of the Operator.

#### **4.4 Mixed Cargo – Limitation of Liability**

The Operator will not acknowledge the receipt of or have any responsibility or liability whatsoever for any Cargo that is delivered by the Customer in such a manner that they are likely to be mixed with Cargo covered by more than one bill of lading or waybill, unless an employee or agent of the Operator is given sufficient time and opportunity to sort, count and inspect the Cargo, and the Operator has been paid by the Customer to sort, count and inspect the Cargo.

The record of sort, count or damage compiled by the Operator shall in the event of any claims being made against the Operator for loss, damage or expense be deemed to be an accurate record of sort, count or damage of the Cargo upon receipt from the Customer.

#### **4.5 Damage – Exclusion of Liability**

If, notwithstanding the provisions herein excluding liability on the part of the Operator, the Operator is nevertheless found liable, in no circumstances shall the Operator be liable for any loss or destruction of or damage to Cargo, Containers, chassis or any other property whatsoever unless in each and every case the loss, destruction or damage occurred directly and solely as a result of the proven negligence or willful misconduct of an officer or employee of the Operator while acting within the scope of his duties or employment.

#### **4.6 Exclusion of Liability for Indirect or Consequential Damage or Loss**

Notwithstanding any other provisions of this Tariff, the Operator shall not be liable for any economic loss or loss of profit or bargain or for any indirect or consequential damages or loss whatsoever, whether or not caused by or arising from negligence or willful misconduct of the Operator.

#### **4.7 Exclusions, Exemptions and Limitations in Bills of Lading and Waybills Applicable**

The Operator, its officers and employees shall in addition to the rights, immunities, exceptions, exemptions, restrictions and limitation of liability set out herein, be entitled to the same rights, immunities, exceptions, exemptions, restrictions and limitation of liability provisions of all contracts of carriage as are set out in the ocean carrier's favour in any bill of lading, waybill or similar document relating to the Cargo or Containers in question.

#### **4.8 No Right of Deduction or Set-Off**

Notwithstanding any liability or alleged liability of the Operator under this Tariff or otherwise, Customers and any other persons responsible for charges under this Tariff, shall not be entitled by reason of any such liability or alleged liability to any deduction from, reduction of, set-off against or waiver of any charges payable under this Tariff, all of which shall be paid in full as and when due.

#### **4.9 Exclusions, Exemptions and Limitations are Cumulative**

The exclusions, exemptions and limitations of liability set forth herein either expressly or by reference are cumulative and are in addition to and not in substitution for or in limitation of any other clauses excluding, exempting or limiting liability as set forth in this Tariff or any other exclusions, exemptions or limitations of liability upon which the Operator may rely at law or in equity.

#### **4.10 Weather Damage**

The Operator shall not be responsible for damage to Containers, Cargo, chassis, or any other property whatsoever caused by the weather while in outside storage or in transit or at a Terminal.

## **5 CHARGES GENERALLY**

### **5.1 Charges Generally**

Charges under this Tariff generally are:

- a) based on performing the work during Straight Time operations;
- b) in addition to charges prescribed by any other tariff, notice or by law, or that may be owing to the Operator;
- c) due and payable as soon as they are incurred, or upon completion of such service or use. The Operator reserves the right to require payment of charges in advance, as follows:
  - by the Customer before Cargo leaves the custody of the Operator; or,
  - right is reserved by the Operator to require payment of all charges on perishable Cargo or of doubtful value and household goods; and
- d) payable to the Operator at the address shown on the invoice issued by the Operator.

### **5.2 Taxes**

All amounts payable to the Operator pursuant to this Tariff do not include any value-added, sale, use, consumption, multi-staged, ad valorem, personal property, customs, excise, stamp, transfer, or similar taxes, duties, or charges, (collectively "Sales Tax") and all Sales Taxes are the responsibility and for the account of the person(s) by whom the charges pursuant to this Tariff are payable. If the Operator is required by law or by administration thereof to collect any applicable Sales Taxes from a person responsible for payment of charges pursuant to this Tariff, such person shall pay such Sales Taxes to the Operator concurrently with the payment of any charges payable pursuant to this Tariff, unless such person qualifies for an exemption from any such applicable Sales Taxes, in which case such person shall, in lieu of payment of such applicable Sales Taxes to the Operator, deliver to the Operator such certificates, elections, or other documentation required by law or the administration thereof to substantiate and effect the exemption claimed.

Any exemption claimed from Sales Taxes extended by the Operator to any person is without prejudice to the position of the Operator, which is entitled to charge such person by whom the exemption has been claimed with Sales Taxes at any subsequent date should the taxing authorities determine that the goods and services provided pursuant to this Tariff are taxable.

### **5.3 Payment of Charges**

All charges herein, are for the account of the Customer. On import and export traffic moving in connection with ocean carriers via the Terminal, Duke Point or DPWFS, provisions for complete or partial payment or absorption of terminal charges may be contained in ocean carrier's tariff. Customers are urged to consult with the ocean carrier tariffs for accurate determination of applicable terminal charges if any, for the account of Cargo.

Where credit approval is granted by The Operator, the charges prescribed by this Tariff are payable within seven (7) days from the date due and, where any charge is not paid within that time, an additional charge of one and one-half (1.5%) percent of any such charge shall be imposed for each thirty (30) day period or portion thereof during which it remains unpaid, which additional charge is equivalent to eighteen percent (18%) per annum.

### **5.4 Calculation of Charges**

Where a charge, excepting demurrage, imposed in respect of any Cargo is based on either weight or measurement, it shall be calculated on the weight or measurement of the Cargo, whichever is greater.

No invoice shall be issued where the amount of the charges incurred is less than \$2.00 (two dollars).

### **5.5 Minimum Billing Charge**

All invoices issued by the Operator for any service, or combination of services, as provided in this Tariff shall be subject to a minimum billing charge of \$20.00 per invoice.

### **5.6 Reduction of Charges**

No reduction of charges provided in this Tariff shall operate to reduce the amount payable for any service below minimum charge for that service set out in this Tariff.

### **5.7 Materials Supplied**

Charges for any material furnished in connection with any services performed by the Operator shall be based on the actual cost of the material plus fifteen percent.

### **5.8 Verification of Weights and Measurements/Representation and Additional Indemnity of Customer**

Prior to receiving any Container or Cargo for Transport Services, the Operator has the right, but not the obligation, to determine the suitability of the Container or Cargo for transport. The Customer will not present to the Operator any Container with toxic chemicals or Dangerous Cargo, industrial, municipal, or any other type of waste.

A Container, if containing Cargo, must be properly loaded and sealed by or on behalf of the Customer. The Customer must notify the Operator in writing of any special requirements for any Containers so provided.

Shipping weights and measurements shown on shipping or other documents may be subject to checking by the Operator and the actual scale weight or measurement of the Container or Cargo as determined by the Operator will govern rating and billing.

Shipping weights and measurements, including the VGM, shown on shipping or other documents are provided by or on behalf of the Customer, except to the extent of any VGM service is provided by agreement by the Operator. The Customer represents and warrants the accuracy of the weights and measurements, including the VGM, so provided and agrees to defend, indemnify and hold harmless the Operator from any loss,

damage or injury (including personal injury) caused by any inaccuracy of the weights, measurements or VGM.

The Customer warrants that any Container or Cargo provided is not dangerous or otherwise likely to cause loss, damage or injury (including personal injury), is safe for handling and transport during the Transport Services and that the Cargo complies with all applicable federal, provincial, and local statutes and regulations, including without limitation all applicable environmental legislation, statutes, laws and regulations, and agrees to defend, indemnify and hold harmless the Operator should the Cargo be unsafe, dangerous or otherwise causes (directly or indirectly) loss, damage or injury (including personal injury) to, inter alia, the Operator, the Barge, a Terminal, or any other Vessel or other property, including other Cargo, at any Terminal.

Unless express written notice is provided to the Operator at least 48 hours prior to the arrival of any OOG Container at the Terminal, along with details of the actual dimensions of the OOG Container, the Customer represents and warrants that the Container is not OOG, and is safe for handling and transport by the Operator and agrees to defend, indemnify and hold harmless The Operator should the Container be OOG or otherwise causes (directly or indirectly) loss, damage or injury (including personal injury) to, inter alia, the Operator, the Barge, a Terminal, or any other Vessel or other property, including other Cargo at any Terminal.

## **5.9 Rates Subject to Change**

The rates set out in this Tariff, revisions or supplements thereto, are based upon ordinary traffic and labour conditions. If and when these conditions change because of demands of labour for increased wages, strikes, congestions or other causes not reasonably within the control of the Operator, resulting in an increased cost of service, the rates are subject to change without notice or the charge for the services may be assessed on the basis of man-hour and equipment.

## **6 CARGO**

### **6.1 Cargo Received or Delivered**

Cargo is received for Shipment when the terms of the dock receipt or other document approved or issued by the Operator have been accomplished. Cargo is delivered when the terms of the delivery order or other document approved by the Operator have been accomplished. Cargo received at a Terminal that is waiting for Transport Services is at the sole risk of the Customer and subject to the Terminal tariff where the Cargo is located.

In the event of any claim made against the Operator for damage to, loss or destruction of Cargo while waiting for Shipment at a Terminal or following Shipment at a Terminal, the Operator will, notwithstanding the provisions of this Part, have the benefit of any provisions of this Tariff by which the liability of the Operator is excluded or limited.

### **6.2 Compulsory Removal of Cargo**

The Operator may, by written notice to the Customer, require the removal of their Cargo that is at a Terminal after the expiration of any Free Time. Such removal shall be at the Customer's expense and the Customer, upon the receipt of such notice, shall remove the Cargo immediately. The Operator may, at the risk and expense of the Customer, remove, store or relocate any Cargo that is left on a Terminal, including any Abandoned Cargo.

Where, in the opinion of the Operator, any Cargo is not packed in such a manner that it will withstand handling while in transit, the Operator may without responsibility for demurrage, loss or damage attaching:

- a) refuse to permit the Cargo to be transported; or,
- b) have the Cargo repacked at the expense of the Customer.

The Operator may, at the risk and expense of the Customer, reject or remove from a Terminal any Cargo that, in the opinion of the Operator, is likely to contaminate or endanger other Cargo.

The Operator reserves the right to withhold delivery of Cargo until all accrued Terminal charges and/or advance charges against the Cargo have been paid in full.

### **6.3 Owner's Risk**

Cargo which, because of its inherent nature, is subject to deterioration, shrinkage, oxidization, wastage, decay and glass, liquids, and fragile articles will be accepted only at Customer's risk for rust, tarnish, discoloration, breakage, leakage, chafing, and similar loss or damage that may occur despite accepted practices for the care of Cargo.

### **6.4 Force Majeure**

The Operator shall not be responsible or be held liable in damages if any obligation the Operator may have to a Customer cannot be performed, in whole or in part, due to Force Majeure including but not limited to labour disputes, disturbances, riots, civil commotion, war or the consequences of war (declared or undeclared), terrorism or the consequences of terrorism, insurrections, requisitions, or the threat of requisition, priorities or any other action, direction, regulation or order of any competent authority or agency, acts of God, pandemics, perils of the sea and of other waters, dangers of navigation, ice, public enemies, storms, fire, floods, or any other matter or thing beyond the direct control of the Operator.

### **6.5 Waiver**

No failure or delay by the Operator in enforcing any right or exercising any remedy will be deemed a waiver by the Operator of any such right or remedy.

### **6.6 Lien**

The Operator shall have a lien on Cargo and Container(s) and any documents relating thereto for all sums whatsoever due at any time to the Operator from the Customer, including sums due to the Operator from the Customer arising from any other contract, and for General Average contributions on whomsoever due and for the costs of recovering the same and the Operators shall have the right to sell the Cargo or Container(s) and documents by public auction or private treaty, without notice to the Customer and at the Customer's expense and without any liability towards the Operator.

**APPENDIX "A" – WAYBILL**  
**DP WORLD (CANADA) INC. ("Carrier")**  
**Waybill – Non-Negotiable**

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**Received**, on board at [insert location] B.C. from

\_\_\_\_\_ (the "Shipper") the cargo described below, in apparent good order, except as noted (contents and conditions of contents of packages unknown, sufficiency of packing or marks not admitted), marked, consigned and destined as indicated below, to be carried upon and subject to the conditions on the face and back hereof, to the usual place of delivery at said destination. The nature, weight, quantity, measure, gauge, quality, grade, condition, brand, contents and value declared (if any) by the Shipper and unknown to the Carrier.

**Delivery to:** \_\_\_\_\_ . Destination [insert location], B.C.

Vessel \_\_\_\_\_

PARTICULARS AS PROVIDED BY SHIPPER			
No. Containers	Description of Articles and Special Marks	Weight (Subject to Correction)	Measurem ent (Subject to Correction)

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ALL CARGO CARRIED ON DECK AT THE SOLE RISK OF THE SHIPPER IN ACCORDANCE WITH CLAUSE 9 ON THE REVERSE

Dated at Vancouver, B.C. this \_\_\_\_\_ day of \_\_\_\_\_, 20\_:

**DP WORLD (CANADA) INC.**

Per:

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SEE TERMS AND CONDITIONS ON REVERSE HEREOF WHICH EXCLUDE OR LIMIT THE LIABILITY OF THE CARRIER AND OTHERS  
AND REQUIRE THE SHIPPER TO OBTAIN CARGO INSURANCE. THE HAGUE-VISBY RULES DO NOT APPLY TO THIS WAYBILL

(Waybill Reverse Side)

CONDITIONS OF CARRIAGE

1. **CANADIAN CLAUSE PARAMOUNT.** The cargo carried under this Waybill is not "goods" as defined by the Hague-Visby Rules (Schedule 3 of the *Marine Liability Act*, S.C. 2001, c. 6, as amended ("MLA")), and the Hague-Visby Rules shall not apply to the carriage of cargo under this Waybill, except as provided expressly herein. If despite the foregoing the cargo is determined to be "goods" and/or it is determined that the Hague-Visby Rules apply, then the Carrier shall have the full benefit of all rights, privileges, exemptions and immunities extended to carriers by the Hague-Visby Rules, but if in such circumstances any term of this Waybill is invalid by reason of it being in conflict with the Hague-Visby Rules, then the provisions of the Hague-Visby Rules shall govern to the extent of such invalidity, but the remaining terms hereof shall continue in full force and effect.

2. **Definitions:**

"Vessel" includes any tugs, towboats and barges used by the Carrier to transport cargo.

"Carrier" includes the Vessel, Vessel owner, operator, manager, charterer, master, officers, and crew and all others concerned in the carriage of the cargo.

"Shipper" includes the owner of the cargo, the shipper of the cargo, the receiver of the cargo, the named consignee of the cargo, and anyone else having an ownership or other interest in the cargo.

3. **LIEN.** The Carrier shall have a lien upon the cargo, and the right to sell the same by public or private auction or sale, or otherwise, at its sole discretion, for freight, dead freight, demurrage, detention, charges, expenses and fines.

4. **FREIGHT.** Freight whether prepaid or not is deemed to have been earned on loading of the cargo by the Shipper to a Vessel, and Carrier's claim for other charges under this contract (including dead freight, demurrage, detention, expenses and fines) shall be deemed to be established when the same have been incurred. Freight and/or any such charges shall be paid in full in exchange for this Waybill, Vessel or cargo lost or not lost.

5. **VOYAGE.** The Carrier shall be at liberty (a) to sail with or without pilots or tugs, to adjust compasses, to be drydocked at any time or place for any purpose with or without cargo on board, to tow or be towed, and to assist vessels in all stations: (b) either before or after proceeding towards the port of delivery of the said cargo, to proceed or return to and stay at any ports or places whatsoever (although in a contrary direction to or out of or beyond the route of the said port of delivery), or more often than customary in any order backward or forward for loading or discharging cargo or stores, or for any purposes whatsoever, whether in relation to her homeward voyage or to her outward voyage, or to an intermediate voyage, and all such ports, places and sailings shall be deemed included within the intended voyage of the cargo.

6. **METHODS OF CONVEYANCE.** (a) The Carrier shall be at liberty to lighter or otherwise carry the cargo to or from the ship and/or to trans-ship. (b) In case of accident or should the ship put into a port of refuge or from any cause not commence or proceed in the ordinary course of her voyage, the Carrier shall be at liberty to discharge into craft and/or land the cargo or any part thereof and/or store afloat or ashore and/or trans-ship and/or forward to destination. (c) In case of quarantine, or if entry into the port or place of discharge or trans-shipment or staying thereat would render the ship liable to quarantine there or at any other port or place, or if the ship is prevented from entering the port or place or is likely to be delayed thereat owing to blockage, interdiction, war, strikes, lockouts, disturbances, ice, storms, or any other cause whatsoever beyond the Carrier's control, the Carrier shall be at liberty to proceed to a neighbouring state and convenient port, and there land the cargo and/or store afloat or ashore, and/or transport and/or forward same to their destination by land or water at the sole risk of the Consignee and/or Owners of the cargo who shall pay all extra freight charges and expenses incurred.

7. The Shipper authorizes the Carrier to deliver the cargo at destination without requiring that the Waybill be produced and waives any claims in respect of wrongful delivery if cargo is discharged at the specified destination.

8. **LIMITATION OF LIABILITY AND SUIT TIME.** In no event shall the Carrier be liable for loss or damage to the cargo in an amount exceeding Cdn. \$500.00 (five hundred dollars) per Container of cargo, unless the nature and value of such cargo has been declared by the Shipper before shipment and inserted in to the Waybill, which declaration shall in no event be binding or conclusive on the Carrier. Nor shall the Carrier in any event be responsible for loss or damage if the nature or value of the cargo has knowingly been mis-stated by the Shipper. The Carrier shall moreover be discharged from all liability in respect of loss or damage unless legal proceedings are brought within one year after delivery of the cargo or the date when the cargo should have been delivered.

9. **DECK CARGO.** All cargo is carried on deck unless otherwise expressly stated in this Waybill. Cargo carried on deck is carried at the sole risk of the Shipper and or owner of the cargo. Notwithstanding clause 8, in no event shall the Carrier 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 Carrier or of the servants or agents of the Carrier, including all persons described in clause 14 herein.

10. **GENERAL AVERAGE** shall be adjusted, stated, and settled according to the York-Antwerp Rules of 1994, excluding Rule XXII thereof, at the Port of Vancouver, Canada.

11. **U.S.A. BOTH TO BLAME COLLISION CLAUSE.** If the liability for any collision in which the vessel is involved while performing this contract falls to be determined in accordance with the laws of the United States of America, the following clause shall apply:

If the ship comes into collision with another ship as a result of the negligence or gross negligence of the other ship and any act, negligence, gross negligence, default, error or omission of the Master, mariner, pilot or the servants of the Carrier in the navigation or in the management of the ship, the owner of the cargo carried hereunder will indemnify the Carrier against all loss or liability to the other or non-carrying ship or her owners insofar as such loss or liability represents loss of, or damage to,

or any claim whatsoever of the owners of the said cargo, paid or payable by the other or non-carrying ship or her owners to the owners of the said cargo and set off, recouped or recovered by the other or non-carrying ship or her owners as part of their claim against the carrying Ship or Carrier.

The foregoing provisions shall also apply where the owners, operators or those in charge of any ship or ships or objects other than, or in addition to, the colliding ships or objects are at fault in respect of a collision or contract.

**12. WAR RISKS.** the ship shall have liberty to comply with any orders or directions as to departure, arrival, routes, ports of call, stoppages, destination, delivery or otherwise howsoever given by the government of the Nation under whose flag the vessel sails or any department thereof, or by any other Government or any department thereof, or any person acting or purporting to act with the authority of such Government or any department thereof, or by any committee or person having under the terms of War Risks insurance on the ship the right to give such orders or directions and if by reason of and in compliance with any such orders or directions anything is done or not done the same shall not be deemed a deviation and delivery in accordance with such orders or directions shall be a fulfilment of the contract voyage and the freight shall be payable accordingly.

**13. CONNECTING CARRIERS.** The rights and liabilities of all carriers by water shall be determined hereby; if Carrier delivers said merchandise to any other carrier for carriage, such delivery shall be made as shipper's agent and not as carrier, and if such delivery be to any carrier by land, shipper agrees to be bound by the stipulations and conditions of such transfer receipt, shipping receipt or bill of lading as may be in use for such transfer for by such carrier for like transfer or carriage at place of such transfer. The receipt from a connecting carrier shall be evidence of the condition of the cargo when delivered to such connecting carrier. The responsibility and obligations of the carriers co-operating in the through billing shall be separate and distinct and not joint, several, or in common, each carrier being responsible for loss or damage occurring on his own section of the through route, and no carrier shall be held liable for the duties and/or obligations of any other, or connecting carrier.

**14. BENEFICIARY OF CONTRACT (HIMALAYA CLAUSE).** All exceptions, exemptions, defences, immunities, limitations of liability, indemnities, privileges and conditions granted or provided by this Waybill or by any applicable statute, rule or regulation for the benefit of the parties shall also apply to and be for the benefit of any permitted subcontractors, operators, managers, employees, agents, masters, officers and crew of the Vessel owner, the Vessel owner, any Vessel charterer, and the Vessel, and to be and be for the benefit of all bodies corporate parent of, subsidiary to, affiliated with or under the same management as it as well as all directors, officers, servants and agents of the same and to and be for the benefit of all parties performing services within the same scope of this Waybill for or on behalf of the parties as servants, agents and subcontractors of such party. Each party shall be deemed to be acting as agent or trustee of and for the benefit of all such persons, entities and Vessels set forth above but only for the limited purpose of contracting for the extension of such benefits to such persons, bodies and Vessels.

**15. ENVIRONMENTAL.** The Shipper undertakes to hold harmless and indemnify the Carrier for any breaches by the Shipper of the *Canadian Environmental Protection Act*, the *Transportation of Dangerous Goods Act*, the *Fisheries Act*, and the *Canada Shipping Act, 2001* and all related Regulations thereunder and also from and against all actions, claims, demands, loss, damage, expense, causes of action, fines, penalties, forfeitures, assessments and proceedings of every nature and kind (called "claims" in this section) made, brought or prosecuted by any person, including the Crown, arising out of the loading, transportation, unloading, storage, care, custody, control, ownership, discharge or escape of any cargo which are dangerous goods or pollutants where such claims are caused by perils of the sea or other navigable waters, Acts of God or of the Queen's enemies, an inherent quality or defect of the subject matter, defective or insufficient package, insufficient or improper labelling, default, neglect or wilful act or omission of the Shipper or any of its respective servants or agents. The Carrier may dispose of any pollutant or dangerous good that may, in the opinion of the Carrier, result in claims, without compensation to and at the expense of the Shipper.

**16. INSURANCE.** The Shipper shall insure the cargo at full value and pay for such insurance for the benefit of the Shipper and the Carrier. All deductibles shall be the responsibility of the Shipper.

**17.** Any loss or expense caused owing to Customs, Consular or other regulations not being complied with, or to Customs permit and/or other necessary papers not being lodged within twenty-four hours after Vessel's entry at the Customs, or when required, will be charged to the Shipper who shall indemnify the Carrier, and the Carrier shall be at liberty to return the cargo to the port of shipment at the sole risk and expense of the Shipper.

**18.** This Waybill is not a document of title and may not be used to transfer title in any cargo carried hereunder.



**APPENDIX "B" – Non-negotiable Bill of Lading**

Bill of Lading No. \_\_\_\_\_

**NON-NEGOTIABLE BILL OF LADING**

**DP WORLD (CANADA) INC.**  
 851 Centennial Road Vancouver,  
 BC V6A 1A3 Canada

SHIPPER (complete name and address)
CONSIGNEE (complete name and address)
NOTIFY PARTY (complete name and address) No responsibility will attach to the Carrier, the Vessel, or its agents through any omission or failure to advise any notify party(s)

VESSEL	VOY NO.	PORT OF LOADING	PLACE OF RECEIPT (Multimodal Transport Only)
TRANSSHIPMENT PORT (If Any)		PORT OF DISCHARGE	PLACE OF DELIVERY (Multimodal Transport Only)

**PARTICULARS BELOW PROVIDED BY SHIPPER**

MARKS AND NUMBERS	NO. OF PKGS.	DESCRIPTION OF PACKAGES AND GOODS	GROSS WEIGHT	MEASUREMENT

<p><b>OCEANFREIGHT AND CHARGES</b></p> <p>Rates, Weight and/or Measurement subject to correction:</p> <p>Prepaid: _____ or Collect: _____</p> <p>Total amount due: _____</p> <p>Freight Payable at: _____</p>	<p>Received by the Carrier from the Shipper, as far as ascertained by reasonable means of checking, in apparent good order and condition unless otherwise herein stated, the total number or quantity of Containers or other packages or units indicated in the box entitled "Number of Packages" for carriage from the port of loading (or the place of receipt, if mentioned above) to the port of discharge (or the place of delivery, if mentioned above), such carriage being always subject to the terms, rights, defences, provisions, conditions, exceptions, limitations, and liberties hereof (INCLUDING ALL THOSE TERMS AND CONDITIONS ON THE REVERSE HEREOF NUMBERED 1-28 AND THOSE TERMS AND CONDITIONS CONTAINED IN THE CARRIER'S APPLICABLE TARIFF) and the Shipper's attention is drawn in particular to the Carrier's liberties in respect of on deck stowage (see clause 27) and the carrying vessel (see clause 15). In accepting this non-negotiable bill of lading, any local customs or privileges to the contrary notwithstanding, the Merchant agrees to be bound by all Terms and Conditions stated herein whether written, printed, stamped or incorporated on the face or reverse side hereof, as fully as if they were all signed by the Merchant. Unless instructed otherwise in writing by the Shipper delivery of the Goods will be made only to the consignee or his authorized representatives. This non-negotiable bill of lading is not a document of title to the Goods and delivery will be made, after payment of any outstanding Freight and charges, only on provision of proper proof of identity and of authorization at the port of discharge or place of delivery, as appropriate, without the need to produce or surrender a copy of this non-negotiable bill of lading.</p> <p><b>IN WITNESS WHEREOF</b> the Carrier by its agents has signed this non-negotiable bill of lading.</p>
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<p>Declare Cargo Value: _____</p> <p>If Merchant enters a value, and extra freight is paid in accordance with clause 11(5) on the reverse Carrier's per package limitation of liability shall not apply.</p>	<p>For and on behalf of the Carrier:</p> <p>By: _____ Agents for the Carrier</p>
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**(Bill of Lading Reverse Side)**

**BILL OF LADING FOR PORT TO PORT SHIPMENT OR FOR COMBINED TRANSPORT DEFINITIONS**

"Merchant" means and includes the Shipper, the Consignor, the Holder of this Bill of Lading, the Receiver and the Owner of the Goods all of whom are liable to the Carrier on a joint and several basis for the fulfilment of the Merchant obligations set out in this Bill of Lading.

"Carrier" means the issuer of this Bill of Lading as named on the face of it.

"Goods" includes any goods, wares, merchandise and articles of every kind whatsoever carried under this Bill of Lading.

"Hague Rules" means the provisions of the International Convention for Unification of certain Rules relating to Bills of Lading signed at Brussels on 25th August 1924.

"Hague-Visby Rules" means the Hague Rules as amended by the Protocol signed at Brussels on 23rd February 1968. "Hamburg Rules" means the provisions of the United Nations Convention on the Carriage of Goods by Sea 1978. "COGSA 1991" means the Carriage of Goods by Sea Act 1991 of Australia dated 1st November 1991.

"COGSA 1971/92" means the Carriage of Goods by Sea Act of the United Kingdom dated 8th April 1971 and also includes the provisions of the Act dated 16th July 1992.

"COGSA 1936" means the Carriage of Goods by Sea Act of the United States of America approved on 16th April 1936 "MLA 2001" means Part 5, and applicable schedules, of the Marine Liability Act of Canada 2001.

"SDR's" means Special Drawing Rights as defined by the International Monetary Fund. "Container" includes any type of Container, Trailer, Flat or Unit Load Device.

"Person" includes an individual, a firm and a body corporate.

**CONDITIONS**

**1. APPLICABILITY**

The provisions set out and referred to in this document shall apply if the transport as described on the face of the Bill of Lading is Port to Port or Combined Transport.

**2. CARRIER'S TARIFF**

The provisions of the Carrier's applicable Tariff, if any, are incorporated herein. Copies of such provisions are obtainable from the Carrier or his agents upon request or, where applicable, from a government body with whom the Tariff has been filed. In the case of inconsistency between this Bill of Lading and the applicable Tariff, this Bill of Lading shall prevail.

**3. WARRANTY**

The Merchant warrants that in agreeing to the terms hereof he is the agent of and has the authority of the person owning or entitled to the possession of the Goods or any person who has a present or future interest in the Goods.

**4. NEGOTIABILITY AND TITLE TO THE GOODS**

(1) This Bill of Lading shall be non-negotiable.

(2) This Bill of Lading shall only be prima facie evidence of the taking in charge by the Carrier of the Goods as herein described, but not if the Goods are stowed in a Container, in which case this Bill of Lading shall only be prima facie evidence of receipt by the Carrier of the said Container.

**5. ISSUANCE OF THIS BILL OF LADING**

By issuance of this Bill of Lading the Carrier assumes liability subject to these Conditions and

(1) For Port to Port or Combined Transport, undertakes to perform and/or in his own name to procure the performance of the entire transport, from the place at which the Goods are taken in charge to the place designated for delivery in this Bill of Lading.

(2) When issued on a Combined Transport basis, the Carrier shall, subject to Clause 26 below, be responsible for the acts and omissions of any person of whose services he makes use for the performance of the Contract evidenced by this Bill of Lading. (3) When issued on a Port to Port basis, the responsibility of the Carrier is limited to that part of the carriage from and during loading onto the vessel up to and during discharge from the vessel and the Carrier shall not be liable for any loss or damage whatsoever in respect of the Goods or for any other matter arising during any other part of the carriage even though charges for the whole carriage have been charged by the Carrier. The Merchant authorizes the Carrier as agent to enter into contracts on behalf of the Merchant with others for transport, storage, handling or any other services in respect of the Goods prior to loading and subsequent to discharge of the Goods from the vessel without responsibility for any act or omission whatsoever on the part of the Carrier or others and the Carrier may as such agent enter into contract with others on any terms whatsoever including terms less favourable than the terms in this Bill of Lading.

**6. DANGEROUS GOODS INDEMNITY**

(1) The Merchant shall comply with the rules which are mandatory according to any applicable national law or by reason of International Convention, relating to the carriage of Goods of a dangerous, hazardous or noxious nature, and shall in any case inform the Carrier in writing of the exact nature of the Goods including their specific danger, before Goods of a dangerous hazardous or noxious nature are placed in the charge of the Carrier, and indicate to the Carrier in writing the precautions to be taken.

(2) If the Merchant fails to provide information to the Carrier regarding the dangerous, hazardous or noxious nature of the Goods and the precautions to be taken, the Goods may at any place be unloaded, destroyed or rendered harmless, as circumstances may require, without compensation to the Merchant, and the Merchant shall be liable to the Carrier, its servants, sub-contractors and agents for all loss, damage, delay or expenses in connection with handling of said Goods or caused by said Goods.

(3) If any Goods shipped with the knowledge of the Carrier as to their dangerous, hazardous or noxious nature shall become a danger to any vessel, vehicle, other cargo, or any terminal or cargo handling facility, the Goods may in like manner be unloaded or landed at any place or destroyed or rendered innocuous by the Carrier, without liability on the part of the Carrier, except General Average, if any.

**7. DESCRIPTION OF GOODS AND MERCHANT'S PACKING**

(1) The Merchant shall be deemed to have guaranteed to the Carrier the accuracy, at the time the Goods were taken in charge by the Carrier, of the description of the Goods, marks, numbers, quantity, weight and/or volume as furnished by him, and the Merchant shall defend, indemnify and hold harmless the Carrier against all loss, damage and expenses arising or resulting from inaccuracies in or inadequacy of such particulars.

(2) Without prejudice to Clause 8 (A) (2) (d), the Merchant shall be liable for any loss, damage or injury caused by faulty or insufficient packing of Goods or by faulty loading or packing within containers and trailers and on flats when such loading or packing has been performed by the Merchant or on behalf of the Merchant by a person other than the Carrier, or by defect or unsuitability

of the containers, trailers or flats, when supplied by the Merchant, and shall defend, indemnify and hold harmless the Carrier against any additional expenses so caused.

(3) It is agreed that superficial rust, oxidation or any like condition due to moisture is not a condition of damage but is inherent to the nature of the Goods and acknowledgement of the receipt of the Goods in apparent good order and condition is not a representation that such conditions of rust, oxidation or the like did not exist on receipt.

(4)(a) The Merchant undertakes not to tender for transportation any Goods which require temperature control without previously giving written notice to the Carrier of their nature and particular temperature range to be maintained and in the case of a temperature controlled Container stuffed by or on behalf of the Merchant further undertakes that the Goods have been properly stuffed in the Container, that the Container has been properly prepared for the Goods, and its thermostatic controls have been properly set by the Merchant before receipt of the Container by the Carrier. If the said requirements are not complied with the Carrier shall not be liable for any loss of or damage to the Goods by such non-compliance.

(b) In addition to the foregoing, the Carrier shall not be liable for any loss of or damage to the Goods arising from latent defects, derangement, breakdown, stoppage of the temperature controlling machinery, plant insulation or any apparatus of the Containers.

## **8. EXTENT OF LIABILITY**

A. (1) Liability, if any, of the Carrier for loss or damage to the Goods is limited to the time between when the Carrier takes the Goods into his charge and the time of delivery.

(2) The Carrier shall, however, be relieved of liability for any loss or damage to the Goods if such loss or damage arises or results from:

(a) An act or omission of the Merchant, or person other than the Carrier acting on behalf of the Merchant or from whom the Carrier took the Goods in charge;

(b) act, neglect, or default of the master, mariner, pilot or the servants of the Carrier in the navigation or in the management of the ship;

(c) fire, unless caused by the actual fault or privity of the Carrier;

(d) handling, loading, storage or unloading of the Goods by the Merchant or any person acting on behalf of the Merchant;

(e) perils, dangers and accidents of the sea or other navigable waters;

(f) act of God;

(g) act of war;

(h) act of public enemies;

(i) arrest or restraint of princes, rulers or people, or seizure under legal process;

(j) quarantine restrictions;

(k) strikes or lock-outs or stoppage or restraint of labour from whatever cause, whether partial or general;

(l) riots and civil commotions;

(m) saving or attempting to save life or property at sea;

(n) wastage in bulk or weight or any other loss or damage arising from inherent defect, quality or vice of the goods;

(o) insufficiency of packing;

(p) insufficiency or inadequacy of marks;

(q) latent defects not discoverable by due diligence; (r) a nuclear incident;

(s) any cause or event which the Carrier could not avoid and the consequences whereof he could not prevent by the exercise of reasonable diligence;

(t) any other cause arising without the actual fault and privity of the Carrier, or without the fault or neglect of the agents or servants of the Carrier.

(3) The burden of proving that the loss or damage was due to one or more of the above causes or events shall rest upon the Carrier. When the Carrier establishes that, in the circumstances of the case, the loss or damage could be attributed to one or more of the causes and events specified in (b) to (t) above, it shall be presumed that it was so caused. The claimant shall, however, be entitled to prove that the loss or damage was not, in fact, caused wholly or partly by one or more of these causes or events.

B. When in accordance with Clause 8 A.(1) the Carrier is liable to pay compensation in respect of loss or damage and the stage of transport where loss or damage occurred is known, the liability of the Carrier in respect of such loss or damage shall be -

(i) determined by the provisions contained in any International Convention or National Law, which provisions

(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 Carrier in respect of the particular stage of transport where the loss or damage occurred and received as evidence thereof any particular document which must be issued in order to make such International Convention or National Law applicable.

(ii) with respect to the transportation in the United States of America or in Canada to the Port of Loading or from the Port of Discharge, the responsibility of the Carrier shall be to procure transportation by carriers (one or more) and such transportation shall be subject to the inland carriers' contracts of carriage and tariffs and any law compulsorily applicable.

## **9. CONTAINERS**

(1) Goods may be stuffed by the Carrier in or on Containers and Goods may be stuffed with other Goods.

(2) The terms of this Bill of Lading shall govern the responsibility of the Carrier in connection with or arising out of the supply of a Container to the Merchant, whether supplied before or after the Goods are received by the Carrier or delivered to the Merchant.

(3) If a Container has been stuffed by or on behalf of the Merchant:

(A) the Carrier shall not be liable for loss or damage to the Goods;

(i) caused by the manner in which the Container has been stuffed;

(ii) caused by the unsuitability of the Goods for carriage in Containers;

(iii) caused by the unsuitability or defective condition of the Container provided that where the Container has been supplied by or on behalf of the Carrier, this paragraph (iii) shall only apply if the unsuitability or defective condition arose (a) without any want of due diligence on the part of the Carrier or (b) would have been apparent on reasonable inspection by the Merchant at or prior to the time when the Container was stuffed;

(iv) if the Container is not sealed at the commencement of the Carriage except where the Carrier has agreed to seal the Container. (B) the Merchant shall defend, indemnify and hold harmless the Carrier against any loss, damage, claim, liability or expense whatsoever arising from one or more of the matters covered by (A) above except for (A) (iii) (a).

(4) Where the Carrier is instructed to provide a Container, in the absence of a written request to the contrary, the Carrier is not under an obligation to provide a Container of any particular type or quality.

## **10. PARAMOUNT CLAUSE**

(1) This Bill of Lading insofar as it relates to sea carriage of the Goods by any vessel whether named herein or not shall have effect subject to the Hague Rules or any legislation making such Rules or the Hague-Visby Rules compulsorily applicable to this Bill of Lading and the provision of the Hague Rules or applicable legislation shall be deemed incorporated herein. The Hague Rules (or COGSA 1936 if this Bill of Lading is subject to U.S. law) shall apply to the carriage of Goods by inland waterways and reference to carriage by sea in such Rules or legislation shall be deemed to include reference to inland waterways. If and to extent that provisions of the Harter Act of the United States of America 1893 would otherwise be compulsorily applicable to regulate the Carrier's responsibility for the Goods during any period prior to loading on or after discharge from the vessel, the Carrier's responsibility shall instead be governed by the provisions of Clause 8, but if such provisions are found to invalid such responsibility shall be subject to COGSA 1936

(2) The Carrier shall be entitled (and nothing in this Bill of Lading shall operate to limit or deprive such entitlement) to the full benefit of, and rights to, all limitations of or exemptions from liability and all rights conferred or authorized by any applicable law, statute or regulation of any country including, but not limited to, where applicable any provisions of sections 4281 to 4287, inclusive, of the Revised Statutes of the United States of America and amendments thereto and where applicable any provisions of the laws of the United States of America

## **11. LIMITATION AMOUNT**

(1) When the Carrier is liable for compensation in respect of loss or damage to the Goods, such compensation shall be calculated by reference to the value of such Goods at the place and time they are delivered to the Consignee or should have been so delivered. (2) The value of the Goods shall be fixed according to the current commodity exchange price, or, if there be no such price, according to the current market price, or, if there be no commodity exchange price or current market price, by reference to the normal value of Goods of the same kind and quality.

(3) Except where otherwise provided in this Bill of Lading, compensation shall not exceed 2 SDR's per kilo of the gross weight, or 666.67 SDR's per package or unit, of Goods lost or damaged, whichever shall be the greater. SDR's shall be calculated as at the date when settlement is agreed or judgment made. However, the Carrier shall not, in any case, be liable for an amount greater than the actual loss to the person entitled to the claim.

(4) Where the Hague Rules, Hague-Visby Rules or COGSA 1991 or COGSA 1936 or Hamburg Rules apply, the Carrier shall not, unless a declared value has been noted in accordance with paragraph 5 of this Clause, be or become liable for any loss or damage to or in connection with the Goods in an amount per package or shipping unit in excess of the package or shipping unit limitation as laid down by the applicable Rules or Act or any legislation making these Rules compulsorily applicable to this Bill of Lading. Such limitation amount, according to COGSA 1971/92 and COGSA 1991 and MLA 2001 is a sum of 2 SDR's per kilo of the gross weight, or 666.67 SDR's per package or shipping unit, of the Goods lost or damaged, whichever shall be the greater, and according to COGSA 1936 is US\$500 per package or shipping unit, of the goods lost or damaged and according to Hamburg Rules is a sum of 2.50 SDR's per kilo of the gross weight, or 835 SDR's per package or shipping unit, of the Goods lost or damaged, whichever shall be the greater. If no other limitation amount is applicable under the relevant compulsory legislation, the limitation shall be according to MLA 2001.

(5) The Carrier's liability, if any, may be increased to a higher value by the Shipper making a declaration, in writing, of the Goods valuation on delivery to the Carrier of the Goods for shipment, such valuation to be inserted on the front of this Bill of Lading, in the space provided, and extra freight paid if required by the Carrier. In such case, if the actual value of the Goods shall exceed such declared value, the value shall nevertheless be deemed to be the declared value and the Carrier's liability, if any, shall not exceed the declared value and any partial loss or damage shall be adjusted pro rata on the basis of such declared value.

(6) Where a Container is used to consolidate Goods and such Container is stuffed by the Carrier, the number of packages or shipping units stated on the face of this Bill of Lading in the box provided shall be deemed the number of packages or shipping units for the purpose of any limit of liability per package or shipping unit provided in any International Convention or national law relating to the carriage of goods by sea. Except as aforesaid the Container shall be considered the package, or shipping unit. The words 'shipping unit' shall mean each physical unit or piece of cargo not shipped in a package, including articles or things of any description whatsoever, except Goods shipped in bulk, and irrespective of the weight or measurement unit employed in calculating freight charges. As to Goods shipped in bulk, the limitation applicable thereto shall be the limitation provided in such convention or law which may be applicable and in no event shall anything herein be construed to be a waiver of limitation as to Goods shipped in bulk.

## **12. DELAY, CONSEQUENTIAL LOSS, ETC.**

(1) Arrival times are not guaranteed by the Carrier, and the Carrier is not liable for any loss, damage or expenses caused by any delay in delivery of the Goods. Further, the Carrier is not liable for any loss of profit or consequential loss or damage howsoever caused, including if caused by reason of any delay in delivery of the Goods. If, despite the foregoing, the Carrier is held liable in respect of delay, consequential loss or damage, other than loss of or damage to the Goods, the liability of the Carrier shall be limited to two and a half times the freight payable for the goods delayed but not exceeding the total freight payable under the contract of carriage or the value of the Goods as determined in Clause 11 whichever is the lesser sum.

(2) If at any time the carriage is or is likely to be affected by any hindrance, risk, delay, difficulty or disadvantage of any kind (including the condition of the Goods), whensoever and wheresoever arising (whether or not the carriage has commenced) the Carrier may: (a) without notice to the Merchant abandon the carriage of the Goods and where reasonably possible place the Goods or any part of them at the Merchant's disposal at any place which the Carrier may deem safe and convenient, whereupon the responsibility of the Carrier in respect of such Goods shall cease; (b) without prejudice to the Carrier's rights subsequently to abandon the Carriage under (a) above, continue the carriage. In any event the Carrier shall be entitled to full charges on Goods received for carriage and the Merchant shall pay any additional costs resulting from the above-mentioned circumstances.

(3) The liability of the Carrier in respect of the Goods shall cease on the delivery or other disposition of the Goods in accordance with the orders or recommendations given by any Government or Authority or any person acting or purporting to act as or on behalf of such Government or Authority.

## **13. DEFENCES**

The defences and limits of liability provided for in these Conditions shall apply in any suit or action against the Carrier for loss of or damage or delay to the Goods whether the suit or action be founded in contract or in tort

## **14. LIABILITY OF OTHER PERSONS**

(1) Any person or vessel whatsoever, including but not limited to, the Carrier's servants or agents, any independent contractor or his servants or agents, and all others by whom the whole or any part of the contract evidenced by this Bill of Lading,

whether directly or indirectly, is procured, performed or undertaken, shall have the benefit of all provisions in this Bill of Lading benefiting the Carrier as if such provisions were expressly for his benefit and in entering into this contract the Carrier to the extent of these provisions, does so not only on his own behalf but also as agent or trustee for such persons and vessels and such persons and vessels shall to this extent be or be deemed to be parties to this contract

(2) The aggregate of the amounts recoverable from the Carrier and the persons referred to in paragraph (2) of Clause 5 shall in no case exceed the limits provided for in these conditions.

#### **15. METHOD AND ROUTE OF TRANSPORTATION**

(1) The Carrier may at any time, with or without notice to the Merchant, use any means of transport or storage whatsoever; load or carry the Goods on any vessel whether named on the front hereof or not; stow the Goods, whether containerized or not, on or under deck; transfer the Goods from one conveyance to another including transshipping or carrying the same on a vessel other than that named on the front hereof or by any other means of transport whatsoever; at any place unpack or remove Goods which have been stuffed in or on a Container and forward the same in any manner whatsoever; proceed at any speed and by any route in the Carrier's discretion (whether or not the nearest or most direct or customary or advertised route) and proceed to or stay at any place whatsoever once or more often and in any order; load or unload the Goods from any conveyance at any place; comply with any orders or recommendations given by any Government or Authority or any person or body acting or purporting to act as or on behalf of such Government or Authority or having under the terms of the insurance on the conveyance employed by the Carrier the right to give orders or directions; permit the vessel to proceed with or without pilots, to tow or be towed or be dry-docked; permit the vessel to carry livestock, Goods of all kinds, dangerous or otherwise, contraband, explosives, munitions or warlike stores and sail armed or unarmed.

(2) The liberties set out in paragraph (1) of this Clause may be invoked by the Carrier for any purposes whatsoever whether or not connected with the Carriage of the Goods. Anything done in accordance with paragraph (1) of this Clause or any delay arising there from shall be deemed to be within the contractual Carriage and shall not be a deviation of whatsoever nature or degree.

(3) Subject to Clause 5, the Carrier has the authority to subcontract on any terms whatsoever the whole or any part of the carriage of Goods.

#### **16. DELIVERY**

If delivery of the Goods or any part thereof is not taken by the Merchant, at the time and place when and where the Carrier is entitled to call upon the Merchant to take delivery thereon, the Carrier shall be entitled to store the Goods or any part thereof at the sole risk of the Merchant, where upon the liability of the Carrier in respect of the Goods or that part thereof stored as aforesaid (as the case may be) shall wholly cease and the cost of such storage (if paid by or payable by the Carrier or any agent of sub-contractor of the Carrier) shall forthwith upon demand be paid by the Merchant to the Carrier.

#### **17. BOTH-TO-BLAME COLLISION**

If the vessel on which the Goods are carried (the carrying vessel) comes into collision with any other vessel or object (the non-carrying vessel or object) as a result of the negligence of the non-carrying vessel or object or the owner of, charterer of or person responsible for the non-carrying vessel or object, the Merchant undertakes to defend, indemnify and hold harmless the Carrier against all claims by or liability to (and any expense arising therefrom) any vessel or person in respect of any loss of, or damage to, or any claim whatsoever of the Merchant paid or payable to the Merchant by the non-carrying vessel or object, or the owner of, charterer of or person responsible for the non-carrying vessel or object and set off, recouped or recovered by such vessel, object or person(s) against the Carrier, the carrying vessel or her owners or charterers. The foregoing provisions shall also apply where the owners, operators or those in charge of any vessel or vessels or objects other than, or in addition to, the colliding vessels or objects are at fault in respect of a collision or contact.

#### **18. FREIGHT AND CHARGES**

(1) Freight shall be paid in cash, or in such other manner as agreed by the Carrier, without discount and, whether prepayable or payable at destination, shall be considered as earned on receipt of the Goods by the Carrier and not to be returned or relinquished in any event.

(2) Freight and all other amounts mentioned in this Bill of Lading are to be paid in the currency named in the Bill of Lading or, at the Carrier's option in the currency of the country of dispatch or destination at the highest rate of exchange for Bankers Sight Bills current for prepayable Freight on the day of dispatch and for Freight payable at destination on the day when the Merchant is notified of arrival of the Goods there or on the day of withdrawal of the delivery order, whichever rate is the higher, or at the option of the Carrier on the date of the Bill of Lading.

(3) All dues, taxes and charges or other expenses in connection with the Goods shall be paid by the Merchant.

(4) The Merchant shall reimburse the Carrier in proportion to the amount of Freight for any costs for deviation or delay or any other increase of costs of whatever nature caused by war, warlike operations, epidemics, strikes, governments or force majeure.

(5) The Merchant warrants the correctness of the declaration of contents, insurance, weight, measurement or value of the Goods but the Carrier reserves the right, but has no obligation, to have the contents inspected and the weight, measurement and value verified. If on such inspection it is found the declaration is not correct it is agreed that a sum equal either to five times the difference between the correct figure and the Freight charged, or to double the correct Freight less the Freight charged whichever sum is the smaller, shall be payable as liquidated damage to the Carrier for his inspection costs and losses of Freight on other Goods notwithstanding any other sum having been stated on the Bill of Lading as Freight payable.

#### **19. LIEN**

The Carrier shall have a lien on Goods and any documents relating thereto for all sums whatsoever due at any time to the Carrier from the Merchant, including sums due to the Carrier from the Merchant arising from any other contract, and for General Average contributions on whomsoever due and for the costs of recovering the same and the Carrier shall have the right to sell the Goods and documents by public auction or private treaty, without notice to the Merchant and at the Merchant's expense and without any liability towards the Merchant.

#### **20. GENERAL AVERAGE**

(1) The Carrier may declare General Average which shall be adjustable according to the York/Antwerp Rules of 1994 at any place at the option of the Carrier and the New Jason Clause as approved by BIMCO is to be considered as incorporated herein and the Merchant shall provide such security as may be required by the Carrier in this connection.

(2) Notwithstanding (1) above, the Merchant shall defend, indemnify and hold harmless the Carrier in respect of any claim (and any expense arising therefrom) of a General Average nature which may be made on the Carrier and shall provide such security as may be required by the Carrier in this connection.

(3) The Carrier shall be under no obligation to take any steps whatsoever to collect security for General Average contributions due to the Merchant.

**21. NOTICE**

Unless notice of loss or damage to the Goods and general nature of it be given in writing to the Carrier or the persons referred to in paragraph 2 of Clause 5 at the place of delivery before or at the time of the removal of the Goods into the custody of the person entitled on delivery thereto under this Bill of Lading, or if the loss or damage be not apparent, within three consecutive days thereafter, such removal shall be prima facie evidence of the delivery by the Carrier of the Goods as described in this Bill of Lading.

**22. NON-DELIVERY**

If this Bill of Lading is issued evidencing the Carrier's Contract of Carriage by Combined Transport, failure to effect delivery within 90 days after the expiry of a time limit agreed and expressed herein or, where no time limit is agreed and so expressed, failure to effect delivery within 90 days after the time it would be reasonable to allow for diligent completion of the combined transport operation shall, in the absence of the evidence to the contrary, give to the party entitled to receive delivery, the right to treat the Goods as lost.

**23. TIME BAR**

The Carrier shall be discharged of all liability under the provisions of this Bill of Lading, unless suit is brought within nine months after

- (1) the delivery of the Goods, or
- (2) the date when the Goods should have been delivered, or
- (3) the date when in accordance with Clause 22, failure to deliver the Goods would, in the absence of evidence to the contrary, give to the party entitled to receive delivery, the right to treat the Goods as lost. In the event that such time period shall be found contrary to any Convention or law compulsorily applicable, the period covered by such Convention or law shall then apply but in that circumstance only.

**24. VARIATION OF THE CONTRACT**

No servant or agent of the Carrier shall have power to waive or vary any of the terms hereof unless such waiver or variation is in writing and is specifically authorized or ratified in writing by a director or officer of the Carrier who has the actual authority of the Carrier so to waive or vary.

**25. PARTIAL INVALIDITY**

If any provision in this Bill of Lading is held to be invalid or unenforceable by any court or regulatory or self-regulatory agency or body, such invalidity or unenforceability shall attach only to such provision. The validity of the remaining provisions shall not be affected thereby, and this Bill of Lading contract shall be carried out as if such invalid or unenforceable provision were not contained therein.

**26. MODIFIED COMBINED TRANSPORT CLAUSE.** In case of a combined transport carriage to or from 1.Australia

2. CIS Countries
  3. the Continent of Africa
  4. the Middle East which, for the purposes of this Bill of Lading only, is expressly defined as Afghanistan, Bahrain, Egypt, Iran, Jordan, Kuwait, Lebanon, Oman, Qatar, Saudi Arabia, Syria, Turkey, United Arab Emirates and Yemen Arab Republic
  5. India, Pakistan, Bangladesh and Sri Lanka 6.The Peoples Republic of China
- the responsibility of the Carrier prior to loading and subsequent to discharge from the vessel at a port of loading or discharge to or from such places, notwithstanding the provisions of 5(2) above, the provisions of 5(3) above will apply in that when the stage of carriage where the loss or damage occurred is known and the Carrier has sub-contracted that stage, the Carrier shall have the full benefit of all rights, limitations and exclusions of liability available to such sub-contractor in the Contract between the Carrier and such sub-contractor and in any law, statute or regulation and the liability of the Carrier shall not exceed the amount recovered, if any, by the Carrier from such sub-contractor.

**27. GOODS CARRIED ON DECK**

Notwithstanding any provision, rule or law to the contrary, Goods carried on deck, and which by this Bill of Lading are stated as being carried on deck, are carried at the sole risk of the Merchant and in no event shall the Carrier be liable for any loss or damage (consequential or otherwise) in respect of Goods 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 Goods, or from the negligence, error, act or omission of the Carrier or of the servants or agents of the Carrier, including all persons described in clause 14 herein.

**28. LAW AND JURISDICTION**

- (1) All claims arising hereunder shall be brought and heard solely in the Supreme Court of British Columbia in Vancouver, Canada to the exclusion of any other court or forum. Except as provided elsewhere in this Bill of Lading, Canadian law shall apply to such claims.
- (2) Notwithstanding anything in subparagraph (1) above, the Merchant agrees that the Carrier may commence proceedings against the Merchant before the courts of the Merchant's place of business, the Port of Loading, the Port of Discharging, or any other competent jurisdiction.

**END OF DOCUMENT**