

GENERAL TERMS OF BUSINESS

The following general terms and conditions ("**Terms Of Business**" or "**TOB**") shall apply to all work and services performed by Chennai Container Terminal Private Limited (hereinafter referred to as "**CCT CFS**" or "**Container Freight Station**", which expression shall, unless repugnant to the context or meaning hereof, be deemed to mean and include its employees, agents, contractors and sub-contractors) in its capacity as a container freight station. Any user of Container Freight Station Services (hereinafter referred to as "**Customer**", which expression shall, unless repugnant to the context or meaning hereof, be deemed to mean and include its employees, agents, contractors, sub-contractors and permitted assigns) is deemed to have acknowledged, read, understood, agreed to, and accepted these Terms of Business upon the entry of their Container or Cargo or Container-transporter into the Container Freight Station. These Terms of Business are in addition to the rules and regulations of CCT CFS as may be updated from time to time.

1. DEFINITIONS AND INTERPRETATION:

1.1. In these Terms of Business, the following words and expressions shall, unless the context shall otherwise require, have the following meanings:

"Authority" means Chennai Port Trust (ChPT) including its employees and agents;

"Cargo" means (i) any goods or articles of any kind whatsoever including Hazardous Cargo, transported in a Container-transporter, Container, Non-standard Container or Out of Gauge Container, excluding Non-containerised Cargo and (ii) empty Containers;

"Container" means

- a) Any container 20', 40' or 45' in length, 8' in width and 8'6"/9'6" in height or any other container developed for use in liner shipping at any time, including, but not limited to, flat-racks, platforms, Reefer Containers and tanks, with ISO recommended lifting arrangements and consistent with the safety requirements of CSC (Convention for Safe Containers) plates, and which can be handled by means of a standard 20', 40' and 45' spreader;
- b) A non-standard Container; and/or
- c) An Out of Gauge Container.

"Container Ship" means a ship fitted for the carriage of Containers;

"Claimed Cargo" – means CARGO or CONTAINER not abandoned by the Customer.

"N BLOC NOMINATION / Movement" - refers to the established market practice where a Customer through written express instructions order CCT CFS to move containers from "The Container Terminal" to the CCT CFS for road drays.

"Container Terminal" means the container terminal comprising container berths, the Container Yard and all other equipment and buildings within the Chennai Port Trust. The Following Container Terminals are covered under this TOB 1. Chennai Container Terminal Private Limited, Chennai International Container Terminal Private Limited, Kattupalli International Container Terminal.

"Container-transporter" means any road vehicle (including articulated vehicles) used for the carriage of Cargo, Containers, Non-standard Containers and Out of Gauge Containers or any vessel other than a Container Ship;

"Container Yard" means the land and premises used by CCT CFS at the Container Freight Station where Containers are, amongst other things, stored, received and delivered;

"Contract of Carriage" means any contract or other document including, but not limited to bills of lading and contracts of affreightment, seen and accepted by CCT CFS, which evidence a contract between two parties to ship Containers and/or Cargo onboard a Containership for reward;

"Container Freight Station Services" means the services to be provided to the Customer by CCT CFS under these TOB;

"Dray Services" – means the movement of container and or cargo from the Container Terminal to the Container Freight Station or Vice Versa, it would also include such movement within the premise of the Container Freight Station.

"Dutiable Cargo" means dutiable goods as defined by the relevant customs and excise authorities;

"EDI System" means an electronic data interchange system whereby any Message is transmitted from one party to another party by electronic means;

"EIR / CARGO INTERCHANGE DOCUMENTS" – Documents issued by CCT CFS in electronic or paper form evidencing receipt and delivery of Containers (Empty or laden) AND OR Cargo. These documents are 1. Daily Gate in / Gate out report for containers sent to Customs 2. Daily Carting, StuffingDestuffing Reports sent to Customers 3. Physical gate pass copy of the Cargo Exiting CCT CFS in non containerized form.

"Hazardous Cargo" means Cargo of any kind classified by the International Maritime Organisation as hazardous cargo and shall include "dangerous goods" as defined in the International Maritime Dangerous Goods Code;

"Indemnify" means indemnify and keep indemnified and hold harmless on demand regardless of the negligence or gross negligence of the indemnified party;

"Intermediary Service" means, in relation to the use of the EDI Service, services or facilities provided by an intermediary as mutually agreed by the parties to facilitate the interchange of data by electronic means;

"Message" means data structured in accordance with the User Manual and adopting the EDIFACT standards which is transmitted between CCT and the Customer using an EDI System through the medium of the Intermediary Service;

"Message Date Log" means a complete record maintained by the parties of Messages, Message Transmissions and Message Retrievals transmitted to and received from the Intermediary Service database;

"Message Retrieval" means the access by any of the parties to the Intermediary Service data base and the retrieval by such party of any Message stored in the data base;

"Message Transmission" means the deposit of a Message by any of the parties in the Intermediary Service database;

"Movement Order" – Express instructions issued to the Container Freight Station in writing by the Customer to arrange for transportation of its Cargo and or Containers into and out off the Container Freight Station.

"Non-containerised Cargo" means any cargo, which cannot be handled by means of normal use of a container spreader, even with attachments;

"Non-standard Container" means a Container accepted for transport/carriage on a Container Ship which cannot be handled by means of a normal use of a container spreader, even with attachments;

"Out of Gauge/Over dimensional Container" (OOG/ODC) means any Container carrying over dimensional cargo beyond the normal size of standard Containers and needing special devices like slings, shackles, lifting beam, etc. Damaged Containers and Containers requiring special devices for lifting are also classified as Over Dimensional Container;

"Reefer Container" means a Container used for the transportation of refrigerated Cargo;

"Sub-contractor" means any sub-contractor appointed by CCT CFS for the performance of the Container Freight Station Services or any part thereof;

"User Manuals" means the documents or instructions which are produced from time to time by CCT CFS by way of guidelines to govern the methods and operation of the structure, transmission and receipt of Messages each of which such documents may cover one or more Messages;

"Vessel Voyage" means the specific container ship identified its name and its voyage number as declared by the concerned Container Terminal on its berthing in the port of Mundra.

"Working Day" means any day (including any public holidays and Sundays), upon which the Container Freight Station is open for business.

1.2. The headings in these TOB are for information only and shall not be construed as forming part of these TOB.

1.3. Unless the context otherwise requires:

- a) Words importing the singular include the plural and vice versa;
- b) Words importing any gender include all genders; and
- c) A reference to a person includes a reference to a body corporate and to an unincorporated body of persons.

2. SAILING SCHEDULE AND VESSEL VOYAGE CUT OFFS

2.1. The Customer shall provide 48 hours of minimum advance notice when issuing a Movement Order for dray of Export Stuffed laden Containers from CCT CFS to the Container Terminal prior intended Vessel Voyage cut off. CCT CFS shall not be responsible for positive Vessel Voyage connection of the Export Laden Containers if a Movement order is accepted for Dray by CCT CFS lesser to 48 hours of intended Vessel Voyage Cut off.

2.2. The Customer shall provide 48 hours of Free Time (free of all ground rent and charges at the Terminal) to CCT CFS for dray of laden and empty Containers nominated "N" Bloc to CCT CFS. Time to count from Discharge of the Container.

2.3. The Customer is required to inform CCT CFS, on real time basis, of any changes in gate cut off positions for intended Vessel Voyages, if changed and in variance to what is indicated in the publicly available Berthing Reports of the Respective Container Terminal's on their public websites'.

2.4. Acceptance of Business by CCT CFS:

CCT CFS expressly reserves the right to accept or refuse a Customer or a service of an existing Customer at its sole discretion.

2.5. Container, Cargo at the Container Freight station

- a) CCT CFS shall provide the Customer with an efficient Container Freight Station control system controlling the movement of Containers and or CARGO at the Container Freight Station and shall report activities relating to Containers and or CARGO.
- b) The Customer shall ensure that all Containers / CARGO / Equipment it tenders to CCT CFS for handling is technically compatible with CCT CFS's equipment at the Container Freight Station.
- c) CCT CFS shall permit the Customer to bring Container-transporters inside The Container Freight Station to load and discharge at such times as may be agreed and shall allow access to the Container Freight Station to personnel for the purpose of carrying out repairs. CCT CFS and the Customer agree that access as referred to in this Clause is permitted by CCT CFS on condition that the same is carried out in accordance with the rules and regulations of CCT CFS and the Customs Authorities. CCT CFS will not be responsible or liable in any way for any loss, damage, cost, expense or injury arising in any way howsoever to any person or thing granted access in accordance with this Clause. The Customer will indemnify CCT CFS for any loss, damage, expense, cost or injury in any way howsoever caused by reason of CCT CFS permitting access under this Clause.

3. CONTAINER FREIGHT STATION SERVICES

3.1. Subject to what is stated in Clause 2 above, CCT will provide the following Container Freight Station Services to the Customer at Container Freight Station and where necessary shall act on behalf of the Customer:

- a) Receiving Containers from the Container Terminal for road movement to CCT CFS;
- b) Transferring the Containers from the Container Terminal to CCT CFS Container Yard;
- c) Receiving and delivering Containers from and to Container Transporters;
- d) Movement to and from between Rail Sidings of the Container Terminal and CCT CFS;
- e) Reefer electricity supply, monitoring, PTI of Reefer containers within CCT CFS;
- f) Receiving and Delivering Cargo from and to Cargo transporters within the premises of CCT CFS;
- g) Together with any other services which may be agreed in writing or requested and accepted through SSR (Special Service Request);
- h) The Containers referred to above could be both laden or empty.

3.2. Acceptance of Containers AND OR Cargo.

- a) CCT CFS will be deemed to be custodian of the Containers and or Cargo only whilst they are under the premises of CCT CFS. Thus Custodianship of Containers and or Cargo by CCT CFS commences once they gate in to the CFS premise through CFS IN GATE. CCT CFS ceases to be the custodian of the Container and or the Cargo once they exit the CCT CFS through CFS OUT GATE.
- b) CCT CFS is not obliged to receive or deliver Containers AND OR CARGO unless full covering documentation has been provided to CCT CFS. CCT CFS's responsibility to the Customer for Containers AND OR CARGO shall commence only when the Containers have been received as referred to in Clause 3.2 (a) above and notice of acceptance has been duly given by CCT CFS.

- c) Prior to the presentation for acceptance to CCT CFS of any Containers AND OR CARGO, the Customer shall supply to CCT CFS such particulars in writing thereof and where appropriate of the contents of a Container, NATURE AND TYPE OF CARGO, including weight and other measurements or as may be requested by CCTCFS and as Required by The Customs rules and regulations. CCT CFS is entitled to rely upon such particulars of the Container AND OR CARGO including but not limited to the contents of a Container, as are furnished by the Customer or Consignor. Any damage or loss resulting from the inaccuracy of, or omission from, such particulars given by the Customer or the Consignor shall be the Customer's responsibility and the Customer shall Indemnify CCT CFS against any loss, penalties, fines, damages, claims, costs and expenses which CCT CFS may suffer or incur directly or indirectly, as a result of such inaccuracies or omissions.
- d) CCT CFS will accept no Containers AND OR CARGO for handling until CCT CFS is satisfied that adequate space reservation arrangements have been made for the onward carriage of the same by [the Customer] within a period of time acceptable to CCT CFS
- e) CCT CFS will not be bound to accept any Container/ AND OR Cargo if the same is being transported in an unsafe manner or without adequate securing arrangement. This includes but is not limited to ODC's/OOG's which require transportation on 'Low-Bed' trailers. OOG's/ODC's Cargoes, which by virtue of their dimensions and stuffing disposition, require to be handled with additional resources and shall be levied with the appropriate charges to cover all additional resources deployed to handle them. Any request to handle such Cargo should be made well in advanced to ensure acceptability by both parties.
- f) With Specific Regard to Import N Bloc movements , CCT CFS shall not accept responsibility of commencement of Dray Services from The Container Terminal to CCT CFS unless the Containers are Customs approved for CFS dray, All required customs and government formalities like filing of Inward General Manifest etc are completed by the Customer, the Container is physically sound and worthy for road transportation and is not damaged in any way, and the Container is free from any regulatory holds instituted by any government, quasi government body, the Container Terminal or the Authority.

3.3. The Condition of Containers AND OR CARGO

- a) The Customer undertakes that, each Container AND OR CARGO which it delivers or causes to be delivered to CCT CFS is upon delivery secure, in a good state of repair and suitable for its purpose. CCT CFS reserves the right to refuse to load or handle any Container AND OR CARGO which is not in the condition required by this Clause.
- b) CCT CFS shall inform the Customer of any VISIBLE damage to any Container AND OR CARGO, its contents or its packaging coming to the attention of CCT CFS at the time of Receipt as defined by clause 3.2a. CCT CFS will not however carry out any visual check of top and bottom sides of the Containers AND OR CARGO where visual inspection is not practically feasible under the normal process of business and trade. In the notice, CCT CFS will convey its decision of whether it will load or handle the Container AND OR CARGO or if it is refusing to load or handle such Container AND OR CARGO
- c) In the scenario where CCT CFS agrees to load or handle, CCT CFS shall not, in such case, be responsible for any damage to Container AND OR CARGO or its contents thereof, UNLESS and OTHERWISE it arises out of gross negligence on part of CCT CFS
- d) Where CCT CFS gives notice to the Customer of damage to a Container AND OR CARGO, its contents or its packaging, the Customer shall be entitled, within seven (7) days

of such notice being dispatched, to inform CCT CFS in writing that an inspection of the relevant items is required. CCT CFS will thereafter permit the Customer or its duly appointed agents upon reasonable notice to inspect the Container AND OR CARGO, contents or packaging.

3.4. Reefer Containers

Subject to instructions being given in writing to CCT CFS at least two (2) working days in advance of receipt of a specific Reefer Container and such instructions are accepted in writing by CCT CFS, CCT CFS will check and report upon the temperature of Reefer Containers stored at the Container Freight Station. CCT CFS may check and report upon the temperatures of Containers as mutually agreed.

- a) All the export reefer Containers need to be delivered at CCT CFS gate in **“POWER ON”** condition. CCT CFS will confirm received temperature / status and accept the reefer ensuring that the stated temperature is maintained. If there is a variance, the CFS shall inform the same to the Customer and a fixed charge shall be levied until the temperature is brought in line to the set temperature.
- b) CCT CFS shall not be responsible or liable in any way for any Reefer Container or the refrigeration of refrigerated Cargo if the Customer fails to give written instructions, or provides wrong or inadequate instructions concerning the handling thereof.
- c) If CCT CFS is instructed in writing in accordance with Clause 3.4 (a) CCT CFS will, within a reasonable time of receipt, connect the Reefer Container to a main power supply. CCT CFS shall not be obliged to maintain an auxiliary power supply and CCT CFS shall under no circumstances be responsible for any failure or discontinuance or interference from time to time in the mains power supply howsoever arising or any consequent damage to the contents of the Reefer Container AND OR CARGO
- d) Considering perishable and high value of reefer cargo, CCT CFS reserves the right to reject acceptance of any Reefer Container at CCTCFS with maximum variance of 05 degrees from set temperature. Should this not be adhered to, and should the Reefer Container arrive at the Container FREIGHT STATION with a variation greater than 05 degrees, CCT CFS may, at the request of the Customer, accept the Container and perform the necessary service at a fee in order to attain the set temperature due to high consumption of electricity against a Reefer Container received with nil variation. In case of variance of 05 degrees , CCT CFS has the right to refuse to accept the Container however in case of special request of the Customer these Containers can be off loaded in a special reefer yard till the temperature of the Container reaches to the declared temperature. This additional function will be carried out only on the special request of the Customer.

3.5. Stripping of Containers

- a) CCT CFS will carry out as per instructions of the Customer stripping of Import Laden Containers as per scope of services provided in its Tariff and if any additional services needed through the tender and acceptance of a SSR (Special Service Request) by the Customer.
- b) The Stripping of Containers (Import laden) shall only be carried out subject to all government and customs rules and regulations being honoured by the Customer, all necessary documents furnished to CCT CFS, and the Container and or Cargo free of Carrier lien or hold in terms of being released through a valid Import Delivery order issued by the Carrier.

- c) Post Stripping of Import laden Containers, CCT CFS shall as mandated by rules and regulations weigh the Import Cargo at the time of its delivery to the Customer's transport Vehicle at the CFS Weigh Bridge and the CCT CFS weighment slip so issued will be final and binding as evidence of import Stripped cargo weight to the Customer.

3.6. Insurance of Containers and or CARGO –

- a) CCT CFS shall not be responsible in any way whatsoever for any costs consequences or liabilities arising out of any accident or event which impacts the Container AND OR CARGO whilst outside the CFS premises regardless of whether its transportation was contracted for by CCT CFS, unless or otherwise arising due to GROSS negligence of CCT CFS.
- b) The Customer is required to insured its Containers AND OR CARGO as required by these TOB whilst within the Custody of CCT CFS or without it.

3.7. Weighment of Containers / CARGO:

- a) CCT CFS will NOT weight as per standard process, unless expressly requested to do otherwise by the Customer, any CARGO being moved into CCT CFS for the purposes of EXPORT Carting or Coastal Carting. The Customer will have deemed to have waived his rights to claim any damages what so ever arising out of his decision to not ask CCT CFS to weigh this cargo on receipt.
 - b) CCT CFS will NOT weigh as per standard process, unless expressly requested to do otherwise by the Customer, any CARGO being moved out of CCT CFS as long as it is NOT Import CCT CFS Destuffed cargo. The Customer will have deemed to have waived his rights to claim any damages what so ever arising out of his decision to not ask CCT CFS to weigh this cargo on exit of CCT CFS premises.
- 3.8. CCT CFS Shall NOT be deemed nor shall act as the AGENT of the Customer with Customs as regards "Claimed Cargo and liasoning with Customs by CCT CFS on Claimed Cargo is not included and clearly beyond the scope of its services.
- 3.9. Only on express agreement by CCT CFS will the Customer be entitled to use his own resources which could include labor or machinery for the purposes of handling CARGO AND OR CONTAINER within the premise of CCT CFS. In which case the Customer shall indemnify CCT CFS from all costs, consequences and liabilities arising out of such deployment by the Customer and guarantees to CCT CFS unequivocally that all CCT CFS rules and regulations including those of SAFETY will be adhered to without fail.
- 3.10. CCT CFS shall not be responsible in any fashion whatsoever for poor return of CARGO whether carted for Export / COASTAL Stuffing or imported, arising due to the nature or inherent vice of the Cargo.
- 3.11. The Customer shall ensure compliance with the rules and regulations of Customs for opening and unpacking of any Container. CCT CFS may, but shall be under no obligation to do so close, reconnect, or connect to a power supply for Reefer Containers, repack or otherwise deal with any such Container and/or its contents at the sole cost and expense of the Customer.

4. CONDITIONS RELATING TO THE PROVISION OF CONTAINER FREIGHT STATION SERVICES

4.1. Circumstances preventing safe handling

When, in CCT's CFS'es sole opinion, there are any circumstances which will or may prevent or hinder the safe handling, storage, loading, unloading or transport of any Containers AND OR

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CARGO, CCT CFS may, in its sole discretion, refuse to handle the same and shall give notice of such refusal to the Customer or Consignor, as the case may be. The recipient of such notice will remove or procure the removal of Containers and/or its contents AND OR CARGO from the Container FREIGHT STATION forthwith at its own risk and expense.

4.2. Warranties and Indemnities given by the Customer

- a) So as to enable CCT CFS to perform the Container FREIGHT STATION Services efficiently, the Customer warrants and undertakes that:
- (i) It is duly incorporated, validly existing and in good standing under the laws of the place of their incorporation, having full power to carry on their businesses and to enter into and perform their obligations;
 - (ii) All particulars relating to Containers AND OR CARGO (including, but not limited to Reefer Containers) furnished by the Customer in accordance with these Terms of Business are accurate;
 - (iii) All Containers AND OR CARGO are properly packed and labelled and the contents are properly stowed and secured therein; (Applies to Inbound Laden Containers, Applies to Cargo when carted and received by CCT CFS for Export and or Coastal Stuffing, does NOT apply to export Stuffing of Containers done within CCT CFS¹².)
 - (iv) All Containers and or cargo are fit for their intended purposes and in a fit and proper condition to be handled or otherwise dealt with in the normal course of business by the equipment and operating procedures usually employed at the Container freight station;
 - (v) All Containers and Cargo comply with applicable laws, orders, regulations, or other requirements of Government, customs, municipal or other authorities whatsoever;
 - (vi) All Reefer Containers have been properly pre-cooled or pre-heated as appropriate and their controls have been properly set; prior to Receipt by CCT CFS.
 - (vii) All Containers delivered to CCT CFS are weatherproof;
 - (viii) Upon the delivery of any Container to CCTCFS , all values and other particulars in respect thereof supplied to CCT CFS for customs or other purposes and all necessary customs removal permits will be complete and accurate and, where appropriate, will be valid and in full force and effect; and
 - (ix) The Customer shall Indemnify CCT CFS in respect of the consequence of the breach of any of these warranties and against all loss, damages, claims, costs, expenses, fines and penalties that CCT CFS may incur or suffer directly or indirectly as a result of any breach of any of these warranties.
- b) CCT CFS shall not be responsible for or liable in any way, and the Customer shall Indemnify CCT against all damages, claims, costs and expenses suffered or incurred by CCT CFS resulting directly or indirectly from any defects in a Container and/or its contents AND OR CARGO
- c) The Customer is solely responsible for compliance with all laws, ordinances or regulations in force relating to the Container Ship, EXPORTATION AND IMPORTATION OF CARGOES AS PER GOVERNMENT OF INDIA AND ALL CONCERNED REGULATORY BODIES, and all matters

whatsoever relating to the Container Freight Station usage.

- d) The Customer shall be responsible for any damage to CCT CFS, premises, equipment all other property, other Containers, Other CARGO and property belonging to the third parties, caused during or arising from movement of its own Equipment and or labor within the CFS and shall indemnify CCT CFS against all claims, demands, losses, costs and expenses arising from any such damage.
- e) The Customer shall Indemnify CCT CFS, against all claims arising by reason of: (i)
 - Any defects in any Container or the contents thereof;
 - (ii) Any mixture or confusion of Cargo; and/or
 - (iii) Shifting or movement of the Cargo.
- f) Overweight Containers - In case the weight of Cargo or Container is understated in the declaration submitted by the Customer, the handling of such Cargo or Container is at the sole risk and responsibility of the Customer and Customer hereby indemnifies the Container Freight Station against all injury, loss and damage resulting from the handling of such Cargo or Container.

4.3. Delivery Orders etc.

- a) As regards delivery of Containers / AND or Cargo CCT CFS will provide delivery of Containers and or Cargo (Containers whether loaded or empty) to parties holding valid delivery orders as issued by the carrier. Import Delivery order for imports and Export Delivery order for Exports.
- b) Deliveries affected by CCT CFS in adherence to clause 4.3(a) shall constitute full discharge of responsibility as Custodian with regard to the concerned Export / Import Delivery order.
- c) CCT CFS shall not be responsible for verification of the authenticity of the Delivery Order it receives be it for Export or Import, and shall assume it to be Original and bonafide document issued by the issuer unless there is a specific written SOP with the customer as regards treatment of its Delivery order instructions.

4.4. Hazardous Cargo and Dutiable Cargo

- a) The Customer shall ensure that all goods tendered to CCT CFS for loading and/or unloading, comply with all applicable regulations for Hazardous Cargo and/or Dutiable Cargo and shall Indemnify CCT CFS against any breach of this Clause 4.4 of these Terms of Business.
- b) The Customer warrants that full details of any hazardous cargo will be correctly declared in writing to CCT CFS.
- c) CCT CFS has the right to refuse to handle Cargo which, upon inspection, is found not to comply with the applicable rules or regulations or ordinances or laws of India and to reject and/or return such Cargo at the sole expense and risk of the Customer.
- d) CCT CFS stands Indemnified by the Customer from all costs, consequences and liabilities arising out of handling Hazardous cargoes in Containers.

4.5. Lien

All Containers, Cargo and all documents relating to Containers and Cargo shall be subject to a particular and general lien respectively for charges due to CCT CFS in respect of such

Containers or Cargo from the Customer. If any charges are not paid, the Containers or Cargo, subject to such lien, may be sold and the proceeds applied in accordance with the provisions of the Customs Act, 1968. CCT CFS shall not be liable for any loss and/or damage to any person whatsoever as a result thereof.

4.6. Costs and expenses to be paid by the

Customer The Customer shall pay:

- a) Any costs and expenses which may be incurred by CCT CFS in complying with any Government regulations requiring the movement, treatment, removal or destruction of Hazardous Cargo or infested, contaminated or condemned goods or the treatment of CCT cfs's premises as a result of any infestation or contamination arising from such Hazardous Cargo; and
- b) All costs and expenses incurred by CCT CFS arising out of or incidental to the failure by the Customer to observe these Terms of Business including, but not limited to, the rules for Hazardous Cargo or any one of them.

5. LIABILITIES AND CLAIMS

5.1. Liability and Indemnity

a) Security AND SAFETY

The Customer warrants that it will comply and shall ensure that all its agents and sub-contractors comply with all requirements of the applicable laws and international standards with respect to safety, stability, seaworthiness, fitness for purpose and security including, without limitation, regulations introduced pursuant to the ISPS Code and DP World Safety Requirements.

- b) CCT CFS shall not be responsible for the security or safety of any Customer property barring the Container and Cargo whilst within Container Freight Station, unless caused by any defective equipment of CCT CFS or any wilful misconduct or gross negligence on the part of CCT CFS.
- c) CCT CFS shall not be liable for any loss or damage suffered or incurred by the Customer (including, without limitation, the payment of expenses by the Customer on account of care, lodging, medical attention, security and repatriation) and arising from the presence of unauthorized personnel Within the Container Freight Station Premises,. The Customer shall be fully liable for the acts and omissions of the Customer's visitors.
- d) Liability and Indemnity - The Customer shall indemnify and save harmless CCT CFS against any liability for claims or suits, including all costs, expenses, damages or losses, whatsoever including but not limited to consequential and economic loss, in respect of loss of or damage to any property and death or injury caused directly or indirectly by:
 - (i) The failure of the Container and or Cargo / or of the Customer or its servants, agents and sub-contractors to comply with the requirements of the applicable laws governing the same;
 - (ii) The negligence or default of the Customer or its servants, agents and sub-contractors;

In receiving the services at the Container Freight Station from CCT CFS, the Customer shall:

- (i) Act in compliance with the applicable laws;
 - (ii) Act in a safe and efficient manner; and
 - (iii) Act in accordance with any lawful and reasonable directions given from time to time by CCT CFS.
- e) No Right of Deduction or Set-Off and Right to withhold or removal of Cargo or Container
- (i) Notwithstanding any liability or alleged liability of CCT CFS under these Terms of Business or otherwise, the Customer responsible for payment of charges towards the services rendered by CCT CFS, 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 these Business Terms, all of which shall be paid in full as and when due.
 - (ii) CCT CFS reserves the right to charge on all non-disputed amounts that are outstanding from the due date for payment till the date of payment an annual interest rate of 21%, accruing on a daily basis until payment is made, whether before or after any judgment, and such interest shall be payable on demand provided that, in respect of disputed items, interest will accrue from due date but will only be payable to the extent that the dispute is resolved in the favour of CCT CFS.
 - (iii) CCT CFS reserves the right to withhold the Cargo and / or Container as well as the delivery thereof in the event of default in payment of any charges, including advance charges.
- f) Limitation and Exclusion of Liability
- (i) Injury to Persons (Including Death) – Limitation of Liability. CCT CFS shall not be liable for the death of or personal injury to any persons, including but not limited to Customer or their staff, occurring in or about the Container FREIGHT STATION at CCT CFS, unless such personal injury or death occurs directly and solely as result of the proven gross negligence or willful misconduct of the Container Freight Station.
 - (ii) Basis of Liability - I In the case of loss or damage to cargo, Container or goods, its maximum liability is \$5,000. Claims of less than US \$ 2,000 shall not be entertained by CCT CFS. Liability shall be established by the joint survey of both the parties. The claim shall also exclude all liability to CCT CFS which is either
 - i. Caused by and to the extent of a Force Majeure Event; or
 - ii. Consequential or indirect loss or damage whether arising in contract ,tort, statute or otherwise even if :
 - a) The parties knew they were possible ;
 - b) They were otherwise foreseeable,
 Including, without limitation, loss of revenue, income, profits, market, interest or hire, fiscal loss or loss on currency exchange.

5.2. Claims

- a) In respect of any claim arising under any indemnity in favour of the Customer contained in these Terms of Business the Customer shall:
 - (i) Within fifteen (15) days after becoming aware of the claim, notify CCT CFS in writing of the claim (the "CCT CFS Claim") against which the Customer is seeking to be indemnified together with all details of CCT CFS Claim in the actual knowledge

or possession of the Customer at the time and becoming known to it at any time thereafter; Failure to adhere to this time line relieves CCT CFS from all Claims.

- (ii) Take such other steps as may be necessary or as CCT CFS may reasonably require to avoid or mitigate CCT CFS's Claim
- (iii) Where CCT CFS Claim relates to a claim by any third party against the Customer, not admit liability or make any offer, promise, compromise or settlement with the third party without the prior written consent of CCT CFS (which consent not to be unreasonably withheld or delayed); and
- (iv) Where CCT CFS Claim relates to a claim by any third party against the Customer, at the request of CCT CFS and at CCT CFS's cost, cooperate with CCT CFS or its insurers, in the defence, settlement and/or counter claim of such Customer Claim

b) Delay – Exclusion of Liability

CCT CFS 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 goods, Cargo, empty or laden Containers arising from any cause whatsoever.

c) Damage – Exclusion of Liability

CCT CFS shall not be liable for any loss or destruction of or damage to Cargo, goods, empty or laden Containers, chassis or any other property whatsoever, if the Customer has breached any of the terms of the TOB.

d) Exclusion of Liability for Indirect or Consequential Damage or Loss

Notwithstanding any other provisions of these Business Terms, CCT CFS shall not be liable for any economic loss or loss of profit or bargain or for any indirect or consequential damages or loss whatsoever.

e) Exclusions, Exemptions and Limitations in Bills of Lading

- (i) CCT CFS, its officers and employees shall in addition be entitled to the same rights, immunities, exceptions, exemptions, restrictions and limitation of liability provisions of all contracts of affreightment as are set out in the Customer's favour in any bill of lading or similar document relating to the Cargo, goods or Containers in question.
- (ii) The Customer will include CCT CFS or arrange to have CCT CFS included as an express beneficiary, to the extent of the Container Terminal Services to be performed hereunder, of all rights, immunities and limitation of liability provisions of all contracts of all contracts of affreightment, as evidenced by its or the Customer's standard bills of lading, issued by the ocean carrier. In the case of ad valorem cargo, the ocean carrier agrees to hold CCT CFS harmless from and indemnify it against any resultant increase in liability.
- (iii) In the event the Customer is not the carrier of the Cargo to be handled by CCT CFS, the Customer expressly agrees that all rights, immunities and liability limitations contained in the involved carrier's applicable bill of lading shall enure to the benefit of CCT CFS. The Customer agrees that in no event shall CCT CFS have any liability in excess of that of the carrier respecting loss or damage of cargo and agrees to hold CCT CFS harmless from and indemnify if against any liability incurred by CCT CFS in excess of that of the carrier respecting loss or damage to cargo.

f) Exclusions, Exemptions and Limitations are Cumulative

The exclusions, exemptions and limitations of liability contained herein set forth in or referred to 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 these Terms of Business or any other exclusions, exemptions or limitations of liability upon which CCT CFS may rely at law or in equity

- (i) Notwithstanding the remaining provisions of these Terms of Business the maximum aggregate liability of CCT CFS to the Customer in any calendar year regardless of the cause of such claim and number of incidents shall in no circumstances exceed US\$ 1000 provided that all amounts payable under any relevant insurances held by the Customer against any Customer claims shall be paid in full to CCTCFS within fourteen (14) days of receipt of the same by the Customer from the relevant insurer of the Customer. CCT CFS shall also not be liable for any claim with a value of less than two thousand United States Dollars US\$ 200
- (ii) Save as provided in this Clause, CCT CFS shall not be under any liability to the Customer whether in contract, tort or otherwise in respect of the use of the Container Freight Station and the provision of the Container Freight Station Services for any death, personal injury, damage or loss resulting from the use of the Container Freight Station and the provision of the Container Freight Station Services or from any work done in connection therewith.
- (iii) CCT CFS shall not be responsible for or liable in any way for, any damage or loss suffered Whilst Customers property outside the premises of the Container Freight Station.
- (iv) CCT CFS will not be responsible or liable for any incorrect or delayed delivery of any Container which is insufficiently, incorrectly or otherwise not properly marked and/or in respect of which full and complete particulars in respect of such delivery have not been provided to CCT CFS.
- (v) CCT CFS shall not, under any circumstances, be responsible for or liable in any way for any damage to Containers AND OR CARGO or their contents caused by rust, rain, typhoon, flood, tempest, lightning, fire or any similar event or occurrence.

5.3. Weather Damage

CCT CFS will not be responsible for damage to Containers AND OR CARGO or contents caused by the weather when such Containers AND OR CARGO are being stored in the Container Freight Station or during transit between Container Freight Station and any other place outside the limits of The Container Freight Station.

5.4. Customer'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 the Customer's sole risk for any loss or damage that may occur despite accepted practices for the care of cargo.

5.5. Transfer of Risk

The custody of the Containers and OR Cargo will be transferred to CCT CFS as follows:

- a) For export / import / coastal Containers AND OR / Cargo: Upon Inward Entry in the

Container Freight Stations gate according to the relevant equipment interchange receipt or CARGO INTERCHANGE DOCUMENTS to be issued by CCT CFS, until outward Exit from the Container Freight Stations gate according to the relevant EIR / CARGO INTERCHANGE DOCUMENTS¹³ to be issued by CCT CFS.

5.6. Compulsory Removal of Goods

- a) CCT CFS may, by written notice to the Customer, at the Customer's sole cost and expense, require the removal of those goods that are at the Container Freight Station at CCT CFS after the expiration of the free period stipulated in the CCT CFS "Standard Published Tariff" (as defined below); and the Customer, upon receipt of such notice, shall remove the goods forthwith from CCT CFS.
- b) CCT CFS may at the risk and expense of the Customer, remove, store or relocate:
 - (i) Any goods that are left at the Container Freight Station beyond the free period stipulated in the CCT CFS "Standard Published Tariff".
 - (ii) Any goods that, in the opinion of CCTCFS, are likely to contaminate or endanger other goods;
 - (iii) Any goods which, in the opinion of CCT CFS, are received by CCT CFS AND not packed in such a manner that they will withstand handling while in transit;
- c) Further, CCT CFS may, without responsibility for demurrage, DETENTION, loss or damage:
 - (i) Refuse to permit the goods to be shipped; or
 - (ii) Have the goods repacked at the expense of the Customer.

5.7. Insurance

- a) CCT CFS is under no obligation to maintain insurance of Containers, Cargo or contents of Containers of the Customer.
- b) The Customer shall:
 - (i) Take out and maintain P&I Insurance in respect of its Container / CARGO, the later from a Club being a member of the International Group of P& I Clubs, together with insurances adequate to cover its liabilities under these TOB. As regards CARGO the Customer is required to take out and maintain due and adequate insurance for CARGO and or any other property (Placed under the Custodianship of CCT CFS) from a first class INSURER to ensure that all CUSTOMER interests as regards INSURANCE are well catered to whilst his property is within or outside the precincts of CCT CFS.
 - (ii) If so requested, provide CCT CFS with a copy of certificate of insurance confirming that these requirements have been complied with. Such request or absence of such a request shall in no way be construed as waiving the Customer's obligations to arrange insurance required by law or under these TOB.
 - (iii) CCT CFS reserves the right to not allow ENTRY of ANY CUSTOMER PROPERTY WITHOUT INSURANCE in respect of its Container and or CARGO, the later from a Club being a member of the International Group of P& I Clubs, together with insurances adequate to cover its liabilities under these TOB.

5.8. General

- a) It is mandatory for the Customer shall follow all common guidelines concerning operational, security and safety matters that CCT CFS may issue from time to time in the interest of the business.
- b) The Customer shall manage and control the movement of its equipment within the Container Freight Station with all due care and skill such that the equipment do not cause any damage to the Container Freight Station or persons or property on or in the vicinity of the Container Freight Station;
- c) The Customer shall provide arrange for the delivery of the Containers or Cargo to the Container Freight Station in accordance with the cut-off procedures of the Container Freight Station.

5.9. Unauthorised Access to Container Freight Station

- a) CCT CFS will use reasonable endeavours to enforce strict controls to prevent unauthorised access to the Container Freight Station.
- b) The Customer shall enforce all required security controls on its employees, contractors, and sub contractors whilst engaging and doing business with the Container Freight Station in order to prevent unauthorised access to the Container Freight Station.

5.10. Force Majeure Event

- a) A party shall not be liable for any failure to perform its obligations under these TOB caused by Force Majeure Event provided it gives prompt notification to the other party of (i) the event of Force Majeure Event and its likely duration (ii) the obligation(s) which are affected, and how affected, and provided that it takes all reasonable steps to mitigate the effects of Force Majeure Event.
- b) During the occurrence of a Force Majeure Event, if CCT CFS continues to perform services, the Customer shall be liable to pay for the services at the agreed rates, as if no Force Majeure Event had occurred.
- c) For the purpose of these Business Terms, "**Force Majeure Event**" means any event or circumstance or combination of events whenever occurring which is directly caused by or results from an event described below for so long as such event or the inability to perform continues, and:
 - (i) Is outside the control of the party affected by the Force Majeure Event;
 - (ii) Could not be avoided, prevented or overcome with reasonable foresight, prudence and diligence or otherwise by taking action according to good industry practices; and
 - (iii) Materially prevents, hinders or delays performance of all or a material part of the obligations of the party affected by the Force Majeure Event;

Without limiting the generality of the above and subject to the obligation of the party affected to make all reasonable efforts to prevent, minimise and thereafter mitigate any delays or costs occasioned by any Force Majeure Event, a Force Majeure Event shall include, but not be limited to, any act of God, act of public enemies, war, warlike acts, terrorism, restraint of governments, princes or peoples of any nation, riots, strikes, lockouts, go slow, or other industrial action, insurrections, civil commotion, civil disobedience, fire, restrictions due to quarantines, epidemics,

storms or any other causes beyond the reasonable control of the party claiming an event of Force Majeure.

6. INVOICING AND PAYMENT

- 6.1. Unless otherwise agreed in writing all Business Transactions with CCT CFS shall be on CASH & CARRY basis, NO CREDIT.
- 6.2. The Customer shall pay tariff as per the scale of rates (“**Standard Published Tariff**”) prevailing effective August 01st 2008 and amended from time to time and available at [http://115.111.176.134/dpworldchennai/uploads/userfiles/file/cfs%20charges%202008j%20\(2\).pdf](http://115.111.176.134/dpworldchennai/uploads/userfiles/file/cfs%20charges%202008j%20(2).pdf) “**Notification**” and as applicable as on the date that the Customer avails services at CCT CFS. The Notification forms an integral and operative part of these Business Terms.
- 6.3. Unless otherwise agreed in writing. All sums payable by the Customer as set out in the invoices raised by CCT CFS shall be recovered immediately from the advance deposit amount, A Standard one week Billing Cycle deposit maintained by the Customer with CCT CFS. In the event of any invoice is unpaid for whatsoever reasons, without prejudice to any other rights which CCT CFS shall have under these Terms of Business or at law, the Customer shall pay CCT CFS interest whether before or after judgment, at a rate as per the TAMP regulations in the currency of the invoice, on the unpaid amount, from the date of invoice until the date of actual payment received by CCT CFS.

7. DISPUTE RESOLUTION

- 7.1. Any dispute or difference arising between the Parties out of or in connection with this TOB shall promptly and in good faith be negotiated with a view to its amicable resolution and settlement.

8. LAW AND JURISDICTION

- 8.1. This TOB shall be governed by and construed in accordance with the laws of India.
- 8.2. Any dispute arising out of or connection with this TOB, not resolved between the parties as per clause above, shall be referred to arbitration in Mumbai, India in accordance with the provisions of the Arbitration & Conciliation Act 1996 or any statutory modification or re-enactment thereof.
- 8.3. The reference shall be to one arbitrator mutually agreed upon between the parties. In the event that parties cannot agree upon the sole arbitrator within a period of 30 days from the date when one of the parties gives notice to the other party of its intention to refer the dispute to arbitration, the sole arbitrator shall be appointed in the manner set out in the Arbitration and Conciliation Act, 1996.
- 8.4. Judgment upon the award rendered may be entered in any court having jurisdiction or application may be made to such court for a judicial acceptance of the award and an order of enforcement, as the case may be.
- 8.5. The parties shall use every reasonable endeavor to resolve disputes between them in the shortest possible time consistent with the proper presentation to the expert or arbitration tribunal of their submissions and evidence. The parties will in particular seek, in the absence of any reasonable excuse, to make such submissions and present such evidence within a period of thirty days from the commencement of the proceedings. In the event of unreasonable delay by either party, the expert or the arbitration tribunal shall be entitled to make an award even if that party has failed

to make or complete its submissions.

- 8.6. Any disputed invoice shall be dealt with separately independent of the advance deposit. All such deposit payments shall be subject to statutory deductions on account of income tax, provided however that income tax shall not be deducted by the Customer where CCT CFS furnishes adequate proof of exemption from income tax as per rules applicable.
- 8.7. If any tax and/or public tariff adjustment (including but not limited to consumption tax, value-added tax and/or goods and services tax) during the period of enforcement of TOB becomes applicable to or is imposed on the provision of the Container Freight Station Services, the Customer shall, in addition to the rates and tariffs, also pay to CCT CFS for an amount equal to such tax or adjustment.
- 8.8. CCT CFS may, at its sole discretion, agree to collect some or all of amounts due from the Customer from other persons on behalf of the Customer, provided always that by such agreement CCT CFS shall not in any way affect the liability of the Customer for such amounts.
- 8.9. Subject to the provisions of Clause 7, the courts at Mumbai shall have exclusive jurisdiction.

9. EDI SYSTEM

- 9.1. This Clause 7 shall apply (without prejudice to the other Clauses in these Terms of Business) only where CCT CFS has agreed in writing with the Customer for the partial or exclusive transmission and interchange of Messages between the parties by means of an EDI System.
- 9.2. Upon such agreement, the Customer and CCT CFS shall become subscribers to the Intermediary Service and shall exchange all identification details and similar information to enable each party to effectively utilise the Intermediary Service.

9.3. Application

- a) Until such time as the parties mutually agree that the EDI System may be used exclusively, it is agreed that the EDI System shall be operated in parallel with an accepted manual system. In case of inconsistencies, any Message transmitted through the EDI System shall prevail.
- b) CCT CFS shall determine and monitor the progress of the development, implementation and priority of the EDI System.
- c) All Message Transmissions must properly identify the sender and recipient and comply in all respects with the User Manuals and such of the Intermediary Service standard conditions as may be applicable from time to time.
- d) If the sender issuing a Message Transmission requires a confirmatory receipt and does not receive the same, the original Message should be re-transmitted until a receipt is received.
- e) The Intermediary Service mailbox receiving date and time of the Message (or of the first or original Message in case of repeated transmission of the same Message) shall be treated as the receiving date and time of the Message by the recipient.

9.4. Message Data Log

- a) The parties shall maintain (without modification) a Message Data Log including details of times of transmission and examination of the Intermediary Service mailbox. Data contained in the message Data Log shall be retained by way of record for a period of not less than twelve (12) months.
- b) The Message Data Log may be maintained on computer media or other suitable means provided that, if it is necessary to do so, the data must be capable of being readily retrieved and presented in human readable form.
- c) Each of the parties shall be responsible for making such arrangements as may be necessary for the data contained in its Message Data Log to be prepared and maintained as a correct record of each Message Transmission and Message Retrieval.
- d) The parties acknowledge that in the event of any complete or partial breakdown or failure of the EDI System and/or the Intermediary Service, they will take all necessary steps to ensure the continued transmission and receipt of relevant messages, notices and information by alternative and/or additional means such that the operation of these Terms of Business is not adversely affected.
- e) CCT reserves the right to amend the User Manuals from time to time, such amendment to be notified to the Customer at which time the amendment shall become immediately operative.

9.5. Security of Messages

Each of the parties shall:

- a) Take reasonable care in so far as it is within its power to do so to ensure that Messages are secure and that unauthorised access to its EDI System, Message Data Log and the Intermediary Service system is prevented;
- b) Ensure that Messages containing confidential information as designated by the sender of the Message are maintained by the recipient in confidence and are not disclosed to any person not otherwise authorised or used by the recipient outside the terms imposed by the sender. Any authorised disclosure to a third party shall be made only after getting a prior written approval of CCT CFS;
- c) Apply special protection, where permissible, by encryption or by other agreed means, to those Messages which the parties agree should be so protected. Unless the parties otherwise agree, the recipient of a Message so protected shall use at least the same level of protection for any further transmission of such Message.

9.6. Integrity of Messages

- a) The parties accept the integrity of all Messages and agree to accord these the same status as would be applicable to notices or information sent other than by electronic means, unless such Messages can be shown to have been corrupted as a result of technical failure on the part of any machine, system or transmission by the Customer.
- b) Where there is evidence that a Message has been corrupted or if any Message is identified or capable of being identified by the sender as incorrect, it shall be re-transmitted as soon as practicable with a clear indication that it is a corrected Message.

- c) The sender is responsible and shall use its best endeavours to ensure that Messages are complete and correct. Notwithstanding the foregoing, the recipient must immediately inform the sender if it is, or should in all the circumstances, be reasonably obvious to the recipient that the transmission of such Message is incomplete, incorrect or otherwise deficient and in no event shall any of the parties be liable under this Clause 7.6C for the consequences of any such deficiency
 - d) If the recipient has reason to believe that a Message is not intended for it, it should take reasonable action to inform the sender and should delete the information contained in such a Message from its system apart from the Message Data Log.
- 9.7. Limitation on Liability - Without prejudice to the provisions of Clause 5 of these Terms of Business, none of the parties shall be responsible for any direct, indirect or consequential loss or damage suffered by the other party or any third party howsoever arising solely as a consequence of the use of the EDI System, whether caused by the parties or otherwise, including but not limited to the use or misuse of the User Manuals, the interruption or failure of the Intermediary Service, the EDI System, machines or transmission lines contributory thereto, or any other failures whether or not attributable to human error.

9.8. Termination

- a) The use of the EDI System by the parties may be terminated (without prejudice to the continuing application of the remaining clauses of these Terms of Business) by one party giving to the other not less than three (3) months notice, whereupon the transmission of any message, notice or information between the parties shall revert to the existing manual or other agreed system.
- b) Notwithstanding the termination of the use of the EDI System for any reason:-
 - (i) Each of the parties shall complete and/or implement any action required by any Message sent prior to such termination; and
 - (ii) The rights and obligations of each of the parties as to the maintenance of a Message Data Log and the Security of Messages shall continue after such termination.

10. MISCELLANEOUS

- 10.1. Amendment: CCT CFS reserves the right to amend the Business Terms. It is understood and agreed that the Terms of Business as on the date that the Customer shall avail the Container Freight Station Services shall apply and govern the relationship between CCT CFS and the Customer.
- 10.2. Relationship: It is expressly agreed and understood that the performance of Container Freight Station Services by CCT CFS does not constitute any employer - employee relationship or partnership or agency. The Customer shall not be entitled to commit or bind CCT CFS in any manner
- 10.3. Assignment: The Customer shall not be entitled to assign the benefit or burden of these Terms of Business without the prior express written permission of CCT CFS.
- 10.4. Sub-contract: CCT CFS expressly reserves the right to engage the service of sub-contractors for the performance of the Container Freight Station Services or any service ancillary or incidental to the performance of the Container Freight Station Services.
- 10.5. Severability: If any provision or part of a provision of these Terms of Business is, or is found, by any authority or court of competent jurisdiction to be, invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions or parts of such provisions of these Business Terms, all of which shall remain in full force and effect.

- 10.6. Waiver: All waivers under these Terms of Business shall be in writing, and failure at any time by CCT CFS to require the Customer's performance of any obligation under these Terms of Business shall not affect the right of CCT CFS subsequently to require performance of that obligation.
- 10.7. In case of specific contracts entered into between the Customer and the Container Freight Station the Container Freight Station Service Agreement provisions shall supersede the Terms of Business to the extent covered by the Container Freight Station Services Agreement and for matters not covered under the CFSSA the terms set out in the TOB shall apply.