



DP WORLD

TERMS OF BUSINESS- LOGISTICS SERVICES

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Version 1

This version of the Terms of Business cancels and supersedes any and all previous editions of the terms of business of DP World Group of Companies towards provision of Services mentioned hereunder. Any other services not mentioned hereunder shall continue to be governed by the respective Terms of Business of the DP World Group Relevant Entity providing such services. Any reference in the Contracting Documents (as defined below) to the Terms of Business shall be deemed to refer to this version.

Customer acknowledges and agrees that the Service Provider may amend these Terms from time to time and without notice to the Customer. Customer agrees and undertakes to keep itself appraised and updated with the latest Terms available at [\[insert hyperlink\]](#).

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DP WORLD – TERMS OF BUSINESS

These Terms of Business (“**Terms**”) govern the terms and conditions applicable for the provision of Services by the Service Provider to the Customer (the terms “**Services**”, “**Service Provider**” and “**Customer**” are as defined below).

These Terms are divided into 2 (**Two**) Sections as set out in the Table of Contents presented above. While **Section A** comprises of general terms applicable to all Services requested by the Customer, Part 1 to Part 10 of **Section B** (“**Specific Terms**”) shall be applicable as per the Services selected by the Customer under the Contracting Documents (as defined below).

SECTION A – GENERAL TERMS

(Applicable to Section B – Part 1 to 10)

1. Definitions

- 1.1. “**Affiliate**” means in relation to any party, (a) in the case of any person other than a natural person, any other person that, either directly or indirectly through one or more intermediate persons which Controls, is Controlled by or is under common Control with such person; (ii) in the case of any person that is a natural person, any other person who is a relative of such party as defined in the Companies Act, 2013.
- 1.2. “**Applicable Laws**” mean, any statute, law, regulation, ordinance, rule, judgement, rule of law, order, decree, ruling, bye – law, approval of any Competent Authority (as defined below), directive, guideline, policy, clearance, requirement or governmental restriction or any similar form of decision of or determination, or any interpretation or administration having the force of law of any of the foregoing by any Competent Authority having jurisdiction over the matter in question, whether in effect as on the date of these Terms or at any time thereafter.
- 1.3. “**Applicable Permits**” means all permits, licenses, authorisations, consents, clearances, franchises, exemption decrees, waivers, privileges, acknowledgements, concessions, approvals, rulings, orders, decisions under Applicable Laws, and filings or registrations with or applications submitted to, any Competent Authority or court or tribunal of competent jurisdiction necessary, from time to time, for or in relation to the performance of the obligations under the Contracting Documents.
- 1.4. “**Competent Authority**” means any governmental, quasi – governmental, statutory, departmental, regulatory authority or public body constituted by any statute or ordinance or a court of competent jurisdiction.
- 1.5. “**Confidential Information**” means any and all information disclosed to or otherwise received or acquired by the parties from or on behalf of such party including proprietary information, either directly or indirectly, in writing, orally, electronically, photographically, or in any other form or by inspection of tangible objects that is treated by the party as confidential, or any other information of such nature as may be reasonably construed to be confidential.
- 1.6. “**Consignment**” means the bulk or set of Goods handed over to Service Provider for provision of Services under a request made by the Customer as specified under the Contracting Documents.
- 1.7. “**Container**” means and includes, unless otherwise excluded, any container, trailer, transportable tanks, flat rack, pallet or any other similar equipment used to consolidate and to store and transport the Consignment, including any connected equipment such as gensets.
- 1.8. “**Contracting Documents**” means these Terms and the request, order, or communication between the Customer and the Service Provider including without limitation, a contract, service agreement, proforma invoice, Lorry Receipt, bill of lading and other similar documents, email correspondence in relation to the Services (as defined below) or any other document creating a contractual relationship and includes all modifications, amendments, additions, deletions, or restatements to such documents and / or Terms from time to time.
- 1.9. “**Control**” means, with respect to any person, whether directly or indirectly: (i) the beneficial ownership of more than 50% (fifty percent) or more of the equity shares, equity securities or other voting securities of such person; or (ii) the possession of the power to direct the management and policies of such person; or (iii) the power to appoint a majority of the directors, managers, partners or other individuals exercising similar authority with respect to such person by virtue of ownership of voting securities or management or contract or in any other manner.
- 1.10. “**Customer**” means the person that has entered into the Contracting Documents as a party thereto with the Service Provider or has availed the services of Service Provider otherwise.
- 1.11. “**Dangerous Goods / Hazardous Goods**” means Goods which are or may become dangerous, hazardous or noxious (whether or not listed in any Applicable Laws) including without limitation weapons and ammunition, wastes, radio-active, inflammable, damaging, injurious, toxic, liable to give off injurious gas, fumes, or liquid or which is or may liable to contaminate, injure, pollute or damage or be a nuisance to the environment, any property and / or person, living botanicals, livestock, animals, derivatives of endangered species (such as for example, skin, fur, teeth, shell, feathers or blood and parts of some plants, such as for example, seeds), contraband Goods, Goods which are restricted, stolen, infringing of any third-party rights whether or not so listed in any official or unofficial, international or national code, convention.
- 1.12. “**DP World Group Policies**” means the policies of the Service Provider as applicable to the conduct of business and provision of Services, including without limitation:
(i) DP World Code of Conduct;
(ii) DP World Anti – Corruption and Anti – Bribery Policy;
- 1.13. “**DP World Relevant Entity**” means the relevant company under DP World group acting as the Service Provider under the Contracting Documents (including these Terms).
- 1.14. “**Effective Date**” shall have the meaning ascribed to the term in the Contracting Documents.
- 1.15. “**Equipment**” means any plant, machinery, Container, package, case, pallet, vehicle, trailer, truck, or wagon of any description which is not owned or leased by the Service Provider, and which is not the Consignment.
- 1.16. “**Fees**” means all amounts of any nature, pending, due or claimed to be due to the Service Provider under the Contracting Documents at any time, for provision of the Services and includes expenses, advances, interest charges and all other amounts and expenses of every nature, present and future, incurred by or for the account of Customer or with respect to any component of the Services or part thereof.
- 1.17. “**Goods**” means the goods or items to be transported and/or stored by Service Provider as per terms of the Contracting Documents;
- 1.18. “**Information**” means data, messages, advice and / or information (including electronic data) in any form.
- 1.19. “**Information System**” means any computer hardware, computer software, website, portal, communication lines and information processing technologies operated and / or used by the Service Provider, the Customer or any third party used in connection with the Services including any system which sends or receives any Information or is otherwise used for Information

interchange.

- 1.20. **“Invoice”** means the invoice raised by the Service Provider against the Services rendered to the Customer under the Contracting Documents.
- 1.21. **“KYC Documents”** means the documentation submitted by the Customer to the Customer for completion of KYC Check (*as defined below*) as set out in the DP World Policies.
- 1.22. **“Lorry Receipt”** means the document carried by the personnel operating the Vehicle(s) for the purpose of delivering the Consignment to the Customer. Lorry Receipt shall have 4 (Four) copies, one for consignor, one for consignee, one proof of delivery, and one for the Service Provider account. Such Lorry Receipts shall be as per the format prescribed by the Service Provider and must contain information regarding details of Consignment, consignee, Destination, and delivery schedule.
- 1.23. **“Reefer Container”** means a Container used for the transportation of refrigerated Consignment.
- 1.24. **“Services”** means the services provided by the Service Provider to the Customer pursuant to the Contracting Documents from time to time or in the absence of any specific Contracting Documents, as more particularly described in the Specific Terms.
- 1.25. **“Service Provider”** means the DPW Relevant Entity providing Services to the Customer pursuant to the Contracting Documents or otherwise.
- 1.26. **“Vessel Voyage”** means the specific Container Ship identified by its name and voyage number as declared by the Container Terminal on its berthing at the port.
- 1.27. **“Warehouse”** means the premises owned and / or occupied by the Service Provider for provision of Warehousing Services.

2. Principles of Interpretation

- 2.1. In these Terms, unless the context otherwise requires:
- a) the words importing singular shall include plural and vice versa, pronouns importing a gender include each of the masculine, feminine and neuter genders, and where a word or phrase is defined, other parts of speech and grammatical forms of that word or phrase shall have the corresponding meanings;
 - b) headings, subheadings, titles, subtitles to clauses, sub-clauses and paragraphs are for information only and shall not form part of the operative provisions of these Terms and shall be ignored in construing the same;
 - c) the words “include” and “including” are to be construed without limitation;
 - d) reference to days, months and years are to Gregorian calendar days, calendar months and calendar years, respectively, unless defined otherwise or inconsistent with the context or meaning thereof;
 - e) any reference at any time to any agreement, deed, instrument, license or procurement of any description shall be construed as reference to that agreement, deed, instrument, license or other procurement as amended, varied, supplemented, modified or suspended at the time of such reference;
 - f) any reference to any period commencing “from” a specified day or date and “till” or “until” a specified day or date shall include both such business days and dates;
 - g) reference to a “person” includes a reference to any individual, firm, company, corporation or other

body corporate, government, state or agency of a state or any joint venture, association or partnership, works council or employee representative body (whether or not having separate legal personality);

- h) any reference to a document in “agreed form” or anything “agreed to in writing” or “mutually agreed” shall be to a written document which shall be initialed for the purpose of identification by or on behalf of each of the parties (in each case with such amendments as may be agreed by or on their behalf) or where agreed in email, by the parties expressly agreeing to amend the Terms or any statement of work in such email exchange. Any reference to “writing” shall include printing, typing, lithography, and other means of reproducing words in visible form including e-mails;
- i) certain terms may be defined in the Clauses in these Terms and wherever, such terms are used in these Terms, they shall have the meaning so assigned to them;
- j) all references in these Terms to statutory provisions shall be construed as meaning and including references to: (a) any statutory modification, consolidation or re-enactment made after the Effective Date and for the time being in force; (b) all statutory instruments or orders made pursuant to a statutory provision; and (c) any statutory provisions of which these statutory provisions are a consolidation, re-enactment or modification;
- k) in case of ambiguities or discrepancies within these Terms, the following shall apply: (a) between two Clauses of these Terms, the provisions of specific Clauses relevant to the issue under consideration shall prevail over those in other Clauses; and (b) between any value written in numerals and that in words, the latter shall prevail;
- l) errors shall be corrected by parties in writing especially in relation to correct rates and other typographical errors;
- m) no other DP World Relevant Entity other than the entity named as Service Provider in the Contracting Documents shall be liable to the Customer in respect of the Services;
- n) in case of ambiguities or discrepancies within the general section of the Terms and the Specific Terms, the provisions in the specific Clauses relevant to the issue under consideration as contained in the Specific Terms shall prevail over Clauses contained in the general section of the Terms; and
- o) any document, challan, order, receipt or note issued pursuant to these Terms or in respect of the Services signed and delivered by one party may be relied on by the other party without requirement of further verification.

3. Applicability and Acceptance of Terms

- 3.1. These Terms shall be applicable to all Services as rendered by the Service Provider to the Customer or for and on behalf of the Customer.
- 3.2. The contract between the Service Provider and Customer is concluded upon the acceptance of these Terms. These Terms read with the Contracting Documents irrespective of whether or not these Terms are referred to in such Contracting Documents shall form the entire contract between the Service Provider and Customer in respect of the subject matter hereof. These Terms apply exclusively and prevail, without any reference to any conflicting or inconsistent or deviating provisions contained in such Contracting Documents or any other correspondence between the parties. These Terms shall be read in addition to and in conjunction with the Contracting Documents and Applicable

Laws, as the case may be, applicable to the relevant party.

4. Services

- 4.1. Pursuant to the terms of the Contracting Documents and subject to these Terms, the Service Provider shall provide the Services to the Customer from time to time unless terminated in manner set out below.
- 4.2. The terms contained in this section shall be read in consonance with the Specific Terms.
- 4.3. Any clause or provision of any document, whether pre-printed or otherwise issued by the Customer to the Service Provider which is contrary to or inconsistent with these Terms shall be considered to be overridden by these Terms and shall not be binding on the Service Provider.
- 4.4. Any new or additional Services availed by the Customer pursuant to the Contracting Documents shall be governed by this Section and the other terms as agreed between by the Parties with reference to such Services.

5. Fees and Payment Terms

- 5.1. The Customer shall pay the Fees as contained in the Contracting Documents and modified from time to time in the manner set out in the Contracting Documents.
- 5.2. The Service Provider shall submit an Invoice to the Customer along with relevant supporting documents within the due date prescribed in the Contracting Documents and if not prescribed in the Contracting Documents, then in the Specific Terms below (“**Due Date**”). In the event that the Contracting Documents provides for payment of Fees in advance, such Fees shall be paid by the Customer as intimated by the Service Provider from time to time and the Service Provider shall not be liable to the Customer to provide Services till payment of such advance Fees.
- 5.3. The Customer shall make payments in the manner set out in the Contracting Documents. Payments to the Service Provider, in respect of the Invoices, shall be paid without any set – off, counter claim, deduction (except for withholding taxes) and shall not be unreasonably withheld or delayed.
- 5.4. When the Service Provider is instructed to collect Fees from any person other than the Customer, the Customer shall be responsible for the same on receipt of evidence of demand and non – payment by such other person when such Fees become due and payable.
- 5.5. Fees are payable based on the particulars furnished by the Customer. If such particulars are found to be incorrect, the relevant Customer shall be liable for the payment of the correct revised Fees, including any expenses incurred in connection with such correction, and examining, weighing, measuring, or valuing the Consignment.
- 5.6. Payment of Fees to any person other than the Service Provider shall not be deemed payment to the Service Provider and shall be made at the Customer’s own risk.
- 5.7. Wherever Services are provided to the Customer on the basis of a rate card, such rate card shall be subject to amendment at the Service Provider’s sole discretion for any reason whatsoever including but not limited to, increase in fuel rates, market conditions, changes in routes, revision in haulage rates by Competent Authority and/or negotiation between the parties. In the event of any amendment to the rate card, Service Provider shall share the amended rate card with the Customer in writing which shall be deemed to be accepted by the Customer if no protest is raised against the amended rate card within 2 (Two) Business Days of its receipt.

6. Know Your Customer and Credit Terms

- 6.1. Any Customer requesting the receipt of Services pursuant to the Contracting Documents will be subject to the conduct of mandatory know your customer checks in compliance with DP World Group Policies (“**KYC Check**”).
- 6.2. The Customer shall upon request from the Service Provider, furnish all KYC Documents to the Service Provider’s satisfaction in the manner communicated by the Service Provider in writing.
- 6.3. The KYC Check conducted by the Service Provider will provide the credit rating for the relevant Customer. Basis the credit ratings so received, the credit terms if any, permitted by the Service Provider towards receipt of Services by the Customer shall be provided in line with the DP World Policies. No credit shall be granted to the Customer unless expressly agreed in writing by the Service Provider. Where credit is granted to the Customer under the Contracting Documents and the credit terms are breached by the Customer, such credit shall be immediately withdrawn.

7. Taxes

- 7.1. All Fees to be paid in respect of the Services are exclusive of goods and services tax (“**GST**”) and / or any other tax, duty, cess or other levies instituted by the Competent Authority that may become applicable to the Services provided under the Contracting Documents. All taxes arising from or in relation to the Services shall be borne by the Customer and shall be charged separately by the Service Provider in its invoices at the prevailing rate under Applicable Law. Provided however that the Customer shall be responsible for the payment of all Fees after deducting tax at source as under the Income Tax Act, 1961.
- 7.2. The Customer acknowledges that as on the date of acceptance of these Terms, GST shall be charged at applicable rates prevailing at the time of raising the invoice. The Service Provider shall charge GST at the applicable rates based on “Place of Supply Rules” under Applicable Law.
- 7.3. Any increase in Fees on account of the change in rate of taxes or imposition of any new taxes, duties, levies or otherwise any amounts by a Competent Authority shall have to be borne by the Customer. Such imposition of taxes may be without prior notice to the Customer and may also be retrospective subject at all times to Applicable Laws.

8. Delay in Payment

- 8.1. In the event there is a delay in payment of Fees beyond the Due Date, then without prejudice to its rights under Clause 9**Error! Reference source not found.** (Title and Risk) as well as under Applicable Laws, the Service Provider shall be entitled to charge, at its sole discretion, interest at such rate as prescribed in the DP World Group Policies on the delayed payments for the period commencing from the Due Date until the date of actual payment.
- 8.2. During the period of such delay, whether such delay is in respect of Fees, interest or both, the Service Provider shall, in its sole discretion, be entitled to suspend all Services.
- 8.3. The Customer shall be liable to pay demurrage charges, if applicable, at the rates agreed under the Contracting Documents or if not prescribed in the Contracting Documents, then in the Specific Terms below, for reasons not attributable to the Service Provider.
- 8.4. If the Services require the usage of specific areas over and beyond the free days, which are governed by Competent Authority including without limitation ports and / or private terminals (“**Statutory Areas**”), the Customer shall be liable to pay any additional charges, as may arise towards the usage of such Statutory Areas save and except for any levy of charges

which are on account of events attributable to the Service Provider.

9. Title and Risk

The title in the Consignment shall, at all times, remain with the Customer. No right of ownership in the same vests with the Service Provider, however, in case of any default in payment by the Customer, the Service Provider shall have the right under Applicable Law to retain the Consignment in its possession and dispose-off such Consignment either by way of sale or auction at a consideration deemed fit in the circumstances by the Service Provider in its sole discretion to recover its Outstanding Dues (*as defined below*) from the Customer. In the event that the consideration of such sale by the Service Provider is not sufficient to fulfill the amounts due by the Customer to the Service Provider, the balance amount shall continue to be deemed to be Outstanding Dues from the Customer to Service Provider, and the Service Provider shall continue to have all rights under Applicable Law and the Contracting Documents to recover such outstanding amount from the Customer till such time as all Outstanding Dues under the Contracting Documents have been satisfied.

10. Customer Covenants

10.1. The Customer will reasonably cooperate with the Service Provider and its personnel and representatives to perform the Services as and when reasonably requested by the Service Provider from time to time.

10.2. Goods

- a) The Customer shall ensure that the Consignment provided to the Service Provider shall conform with the requirements under the Contracting Documents.
- b) Customer shall not transmit, handover or allow to be handed over to the Service Provider, any Consignment consisting of Prohibited Goods under Applicable Laws or such Consignment for which customs declaration is not made as required under applicable customs regulations. In any case, the Service Provider shall not be liable for any such Consignment which is disallowed by law, either specifically or otherwise.
- c) The Customer acknowledges that the Consignment entrusted by Customer shall be on "Said To Contain Basis" i.e., Service Provider shall be under no obligation to verify the description and physical contents of the Consignment declared by the Customer or otherwise provided in custody of the Service Provider. In any case, the Service Provider shall not be liable for any such Consignment which is disallowed by law, either specifically or otherwise.
- d) If the Service Provider agrees to provide Services in relation to Dangerous Goods / Hazardous Goods, the Customer or any person acting on its behalf, shall give the Service Provider written notice of the nature of the Dangerous Goods / Hazardous Goods as the case may be prior to the Service Provider's receipt of the Consignment. The written notice shall include all information necessary for the Service Provider to perform its obligations in connection with the Dangerous Goods / Hazardous Goods as the case may be, in accordance with all Applicable Laws or requirements (or any combination of the foregoing), including information about the characteristics of the Dangerous Goods / Hazardous Goods as the case may be, the appropriate manner and method of storage, handling, and transportation of the Dangerous Goods / Hazardous Goods as the case may be or any other information reasonably sought

by the Service Provider. The Dangerous Goods / Hazardous Goods, as the case may be, must be distinctly marked on the outside so as to indicate the nature and characteristics of the Dangerous Goods / Hazardous Goods, as the case may be and so as to comply with all Applicable Laws, regulations and requirements.

- e) Dangerous Goods / Hazardous Goods which have been tendered to the Service Provider in breach of this Clause 10.2 or which, in the opinion of the Service Provider, constitute a risk to other goods, property, life or health may, at the sole discretion of the Service Provider and without notice to the Customer, be destroyed or otherwise dealt with at the expense and at the risk of the Customer and without liability to the Service Provider.
- f) If the Consignment is likely to taint or affect other Consignments or liable to cause contamination, soiling and remedial cleaning expenses to be incurred, or likely to harbour or encourage vermin or other pests, such goods may, without notice, to the Customer, be destroyed or otherwise dealt with at the expense and risk of the Customer and without any liability whatsoever to the Service Provider.
- g) Consignments which, on account of its inherent nature is subject to deterioration, shrinkage, oxidization, wastage, decay will be accepted at the Customer's sole risk for any loss or damage that may occur despite practices for the care of such Consignments.
- h) Customer shall notify the Service Provider within 5 (five) days upon arrival of the relevant Consignment, if any temperature deviation (excursion or incursion) takes place during the transit period of the Consignment.

10.3. Compliance

- a) The Customer is responsible for compliance of Applicable Laws irrespective of whether or not such requirement is contained in these Terms. The Customer shall comply with the guidelines for packaging of Consignment as set out under Applicable Laws and in the Contracting Documents including without limitation, rules and regulations prescribed by Competent Authority under customs' laws pertaining to opening and packing of Containers and the Consignment, Container Ship, use of Terminal, or the use of any Equipment or Vessel thereon or thereat.
- b) The Customer shall maintain, at its cost, all Applicable Permits to perform its responsibilities and obligations under the Contracting Documents including without limitation all Applicable Permits in relation to the Consignment handed over to the Service Provider.
- c) The Customer shall promptly provide in writing all Information required in order to enable the Service Provider to comply with Applicable Laws in respect of the Services.
- d) The Customer agrees to be bound by the DP World Group Policies and confirms to observe and comply by the same.
- e) The Service Provider assumes no liability to the Customer, or to any other person, for any loss or expenses including without limitation, fines, and penalties, due to Customer's failure to comply with any Applicable Laws relating to export of the Goods and / or Applicable Permits.

10.4. Containers

- a) The Service Provider shall permit the Customer to bring Container transporters engaged by the Customer for loading and discharge the Containers at such times as may be agreed in writing with the Customer. The access as referred to in this Clause a) is subject to the condition that the Customer shall

- procure that its personnel shall carry out the activities at the Container Freight Station in accordance with the DP World Group Policies and applicable rules for use of the Container Freight Station enacted by Competent Authority from time to time. Service Provider will not be held responsible or liable in any way for any loss, damage, costs, expenses, death, or injury arising in any manner whatsoever to any person granted access to the Container Freight Station and the Customer shall indemnify and keep indemnify the Service Provider from all such Claims arising hereunder.
- b) The Customer shall ensure that each Container it delivers or causes to be delivered to the Service Provider is secure, in a good state of repair and suitable for its purpose. The Service Provider reserves the right to refuse to load or handle any Container which is not in the conditions required as per this Clause b).
- c) If Containers supplied by or on behalf of the Service Provider are unpacked by the Customer and / or any other person engaged by the Customer, the Customer shall be responsible for returning the empty Containers with clean and odour free interiors and in the same condition as received to the point or place designated by the Service Provider, within the time prescribed. Should a Container not be returned in the condition required and / or within the time prescribed in the Contracting Documents, the Customer shall be liable for any detention, loss or expense incurred as a result thereof.
- d) The Service Provider shall not be bound to accept any Container including the Containers required for transportation of Goods if the same is being transported in an unsafe manner without adequate securing arrangement.
- e) While receiving any Services in respect of the Containers, the Customer shall act in a safe and efficient manner and in accordance with any lawful and reasonable directions given from time to time by the Service Provider.
- f) The Customer shall inform the Service Provider on a 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 berthing reports of Container Terminals as available in public domain.
- 10.5. The Customer shall bear and pay for each Consignment, all freight and any other charges including cess, clearance charges of any nature, insurance premia, levies, fines, imposts, expenses, losses, import, transportation, customs duties, excise duties, entry tax, taxes by whatsoever name called or any sum payable to a Competent Authority or any amounts as incurred or suffered by reason of any failure to comply or by reason of any illegal, incorrect or insufficient declaration, marking, numbering or addressing of the Consignment and shall indemnify the Service Provider in respect thereof.
- 10.6. The Customer shall provide verified weight of the Consignment and / or Containers obtained on calibrated and certified equipment permitted under Applicable Laws to the Service Provider for provision of the Services. If there is a difference in the weight provided by the Customer and the actual weight of the Consignment, the Customer shall be liable to pay to the Service Provider: (i) any cost, penalty, or liability levied by a Competent Authority that the Service Provider is required to pay on account of such mis-declaration; and (ii) additional Fees for the Services as computed by the Service Provider.
- 10.7. Containers released into the care of the Customer for packing, unpacking or any other purpose whatsoever are at the sole risk of the Customer until redelivered to the Customer. The Customer shall indemnify the Service Provider for all loss of and / or damage to and / or delay to such Containers, and all Third Party Claims or costs or fines resulting from the Customer's use of such Containers. Customers are deemed to be aware of the dimensions and capacity of any Containers released to them.
- 10.8. The Customer shall be solely responsible for any delays arising in movement of the Consignment due to any error in information / declarations provided by the Customer in relation to documentation including without limitation, e – way bill, Lorry Receipt, packing list, Invoice, HSN code classification and other necessary or relevant Information.
- 10.9. The Service Provider shall have no liability whatsoever for any loss or damage to Consignment, however caused, if such loss or damage arises before acceptance by the Service Provider of custody of the Consignment or after the Service Provider tendering the Consignment for delivery.
- 10.10. The Service Provider shall not be liable to the Customer for the death of or personal injury to any of the Customer's personnel, occurring during the performance of Services unless such death or personal injury is directly attributable to proven gross negligence or wilful conduct of the Service Provider.
- 10.11. An exchange rate if provided in the Contracting Documents is indicative only and may therefore differ from the exchange rates provided in the invoice raised by the Service Provider.
- 10.12. The Service Provider does not undertake that the Consignment or documents relating thereto shall arrive or be available at any point, place at any stage during the provision of Services or at the port of discharge or the place of delivery at any particular time or to meet any particular requirement of any license, permission, sale, contract or credit of the Service Provider or any market or use of the Consignment and the Service Provider shall under no circumstances whatsoever arising be liable for any indirect, indirect or consequential loss or damage caused by any delay.
- 10.13. Service Provider shall have no liability towards the Customer once an intact sealed Container is delivered to the point of delivery specified in the Contracting Documents.
- 10.14. In no event shall the Service Provider be responsible to the Customer if the Consignment or any part thereof is confiscated by a Competent Authority for any reason whatsoever. The Customer shall indemnify and hold the Service Provider harmless against any Claims if any, incurred by the Service Provider on this account.
- 10.15. Without prejudice to any of the foregoing, all Sub-contractors, and all members of the DP World group, together with all their respective sub-contractors, employees, directors, officers, and agents (“**Relevant Third Parties**”) shall have the benefit of all provisions herein, as if such provisions were expressly for their benefit. In entering into the Contracting Documents, the Service Provider does so (to the extent of such provisions) not only on its own behalf but also as an agent and trustee of the Relevant Third Parties.
- 10.16. The Customer undertakes that no claim in respect of the Consignment shall be made against the Service Provider by any person other than in accordance with these Terms.
- 11. Service Provider's Rights**
- 11.1. Without prejudice to the other rights under these Terms or otherwise, the Service Provider reserves the right but is under no obligation to:
- a) open and / or inspect the Consignment, Containers, Equipment and / or the Vessel;
- b) move the Consignment and / or Equipment immediately which the Service Provider believes is

- c) Hazardous Goods and dispose of such Consignment and / or Equipment without notice; refuse to handle, move or otherwise deal with the Consignment or Equipment which in the Service Provider's opinion appear to be or may become Hazardous Goods or are in violation of Applicable Laws;
- d) refuse acceptance of damaged or distorted Containers or Equipment, or of any Container or Equipment which in the Service Provider's opinion is in an unsatisfactory condition; and
- e) repack the Consignment at the expense of the Customer.

12. Personnel

- 12.1. In the course of providing Services, the Service Provider may deem it necessary or appropriate in its reasonable discretion to:
 - a) use personnel of the Service Provider; and/or
 - b) engage the services of its Affiliates and sub – contractors at its sole discretion.
- 12.2. The Service Provider shall oversee any Services provided by its Affiliates and / or subcontractors as the case may be. References in these Terms to “providing” or “performing” will include both direct Services provided by the Service and Services provided by its Affiliates and / or sub – contractors or both.
- 12.3. Each party shall comply with all applicable laws in respect of anti – corruption anti – bribery in India and shall not, in connection with the transactions contemplated by these Terms, transfer anything of value, directly or indirectly, to any government official, employee of a government-controlled company, political party, or other private (non-government) persons or entities working on behalf of any government in order to obtain any improper benefit or advantage. Each Party shall comply with all applicable labour and employment laws (including without limitation, human rights, safety, and environment laws) during the term of their engagement and ensure that all compliances / payments in respect of all such laws for its entity, employees or personnel engaged / deployed by the party are paid on a timely basis.

13. Representations and Warranties

- 13.1. Each party represents and warrants to the other that:
 - a) it is validly existing and in good standing under the laws of India and is qualified to do business and is in good standing in all other places where necessary in light of the business and properties it conducts and owns;
 - b) it has taken all necessary corporate and other actions under Applicable Laws to authorise the execution and delivery of these Terms and to validly exercise its rights and perform its obligations under the Terms;
 - c) these Terms constitute a legal, valid, and binding obligation of such party, enforceable against such party in accordance with its terms and the party is not subject to an insolvency event;
 - d) there are no pending proceedings, which may have an adverse effect on the ability of the other party to perform and meet its obligations under the Terms; and
 - e) it has and will maintain in force all Applicable Permits necessary for the performance of its obligations under these Terms.
- 13.2. In addition to the above-mentioned representations and warranties, the Customer represents and warrants to the Service Provider that:
 - a) it either: (i) is the lawful owner of the Consignment, which is not subject to any lien or security interest of others; or (ii) is the authorized agent of the lawful

- b) owner and of any holder of a lien or security interest (which lien or security interest is subordinated to the lien and security interest of Service Provider under this Clause) and has full power and authority to enter into the Contracting Documents.
- c) it accepts these Terms not only for itself, but also as the authorised agent for and on behalf of any person owning or entitled to possession and / or control of the Consignment;
- d) the description and particulars of the Consignment and / or the Container (except for Containers stuffed at the Container Freight Station), including marks, numbers, quantity and weight are full and accurate;
- e) the Consignment and / or Container is properly and sufficiently packed, marked, labelled, stuffed and stowed in a manner appropriate to any operations or transactions affecting the Consignment and / or Container or its characteristics;
- f) the Consignment does not include any of Prohibited Goods, Dangerous Goods / Hazardous Goods;
- g) it has complied with all Applicable Laws in respect of the Consignment and / or Container;
- h) Containers if any, as provided by the Customer are weatherproof, fit for the intended purpose 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 by the Container Freight Station;
- i) all Reefer Containers are properly pre – cooled or pre – heated as appropriate and their controls have been properly set prior to receipt thereof by Service Provider;
- j) upon receipt of delivery of the Consignment and / or Container, as the case may be by the Service Provider, all values and particulars in respect thereof supplied to the Service Provider for other purposes and all Applicable Permits will be complete, accurate and where appropriate, shall be valid and in full force and effect;
- k) the Consignment does not require the Service Provider to obtain any special license or permit for provision of the Services and, to the extent required by Applicable Laws, the Customer has obtained all necessary export, re-export, and/or import licenses or permits;
- l) neither the receipt, delivery, or handling of the Consignment nor any payment or other transaction relating to the Consignment will expose the Service Provider or any member of the DP World group, its subcontractors or any of their employees, servants, agents, banks, insurers or reinsurers to any sanction, prohibition, or penalty (or any risk of sanction, prohibition, or penalty) whatsoever imposed by any Competent Authority); and neither the Customer nor any person the Customer trades in relation to or in connection with the Consignment, is or is owned or controlled by or is acting on behalf of a person which is included on any list of individuals or entities with whom transactions are currently prohibited or restricted under any sanction, prohibition or restriction imposed by any state, country, supranational or international governmental organization or other Competent Authority.

- 13.3. Any warranties of the Service Provider expressly set forth in the Contracting Documents are the sole warranties made by the Service Provider and are in lieu of all other warranties, express, implied, or statutory, including implied warranties of merchantability, of title or non – infringement, of fitness for a particular purpose, or arising from the course of performance of the Services or dealings under the Terms.

14. Insurance

- 14.1. The Customer shall obtain a comprehensive insurance policy, for the Consignment including risk in transit at their own cost throughout the Term of the Contracting Documents and for such other insurances as may be required by Applicable Law.
- 14.2. The Customer shall provide the Service Provider with copies of insurance policies for the Consignment being handled, wherever requested by the Service Provider. The Customer shall ensure that its insurer agrees to waiver of all rights of subrogation and / or recourse against Service Provider on behalf of its insurers. Failure by the Customer to insure the Goods shall be deemed to be a material breach of the Contracting Documents by the Customer, and any loss or damage that accrues to the Service Provider for such failure shall be fully and completely indemnified by the Customer.
- 14.3. If the Customer fails to recover their losses from insurance due to any reason, it shall not be entitled to claim the same from the Service Provider.
- 14.4. The Service Provider shall provide necessary documentary assistance as required by the Customer to process insurance claims. The Service Provider shall immediately bring to the notice of the Customer, any damage to the Consignment / Containers of which they become aware during the routine course of the business, whilst the Consignment / Containers are within its premises, which could reasonably lead to insurance claims.

15. Indemnification

- 15.1. The Customer shall fully and promptly indemnify and keep fully and promptly indemnified the Service Provider and its representatives, contractors, sub – contractors, officers, employees, advisors and agents (or any of them) (“**Indemnified Parties**”) against any costs (including loss, penalty, expenses, reasonable attorneys’ fees), losses, damages, injury, claims, charges, demands, opportunities, liabilities or expense suffered or incurred by the Indemnified Parties (“**Claim**”) arising directly or indirectly or in whole or in part out of a breach by the Customer of its obligations under these Terms whether or not such Claim or the consequences of such a breach by the Customer of its obligations were foreseeable at the effective date of the claim giving rise to indemnification.
- 15.2. Notwithstanding anything to the contrary contained hereinabove, the Customer shall indemnify and keep fully and promptly indemnified the Indemnified Parties against any and all Claims arising out of:
- the nature of Consignment;
 - a third party asserting a superior right to the Customer for ownership and possession of the Consignment;
 - design, manufacture, packaging, distribution, marketing, use or sale of the Consignment or Customer’s instructions regarding such Consignment or lost, delayed, damaged or undelivered Consignment;
 - not taking timely delivery or possession of Consignment as per terms of Contracting Documents;
 - breach of any of the representations and warranties by the Customer;
 - the Service Provider acting in accordance with the Customer’s instructions;
 - negligence of the Customer and / or its personnel, representatives, agents, vendors and contractors;
 - failure of Customer to comply with Applicable Laws;
 - any damage to Warehouse, injury or death of any persons authorised by the Service Provider in relation to the storage and / or handling of Consignment caused by the Customer or its

directors, officers, employees, agents, representatives, vendors or any person functioning under its instruction or control;

- failure of the Customer to obtained and / or renew Applicable Permits in relation to its business and / or requirements of any Competent Authority in relation to any the Consignment, Equipment and / or the Vessel; or
- any duties, taxes, imposts, levies, deposits, and outlays of whatsoever nature levied by any Competent Authority in respect of the Consignment and for all liabilities, payments, fines, costs, expenses, loss, and damage sustained by the Service Provider in accordance therewith.

15.3. In the event that any written claim, demand or liability is asserted against or sought to be collected from the Service Provider by a third party or any Competent Authority (“**Third Party Claim**”), the Service Provider shall promptly, notify the Customer in writing of such Third Party Claim, the amount or the estimated amount of damages sought thereunder to the extent then ascertainable and any remedy sought thereunder (“**Claim Notice**”). The Service Provider shall decide whether the Service Provider or the Customer shall defend or pursue such Third-Party Claim.

15.4. In the event that the Customer receives any Claim Notice or any other communication with respect to the Consignment, the Customer shall entirely deal with such Third-Party Claim and ensure that no such claim is further made upon the Service Provider. All such claims that are settled, compromised, or otherwise defended shall be intimated to the Service Provider from time to time. The Customer shall not take any action or omit to do something which shall affect adversely the ability of the Service Provider to obtain any relief or make any claims vis-à-vis such third party with respect to that subject matter or otherwise. In the event that the Service Provider is also made a party to such Third Party Claim, the Customer shall, at its cost indemnify, defend or hold harmless the Service Provider and ensure that all aforesaid principles of defense as contained in this Clause 15 (*Indemnification*) are adhered to in spirit.

15.5. In the event the Customer accepts the amount, or the estimated amount of damages sought under the Claim Notice, in full or in part, (“**Claim Response Notice**”) the Customer shall make payment of the full amount under the Claim Notice to the Service Provider and perform all the necessary actions so as to make full restitution to the Service Provider, within a period of 30 (Thirty) days from the date of the Claim Response Notice. If the Customer fails to issue the Claim Response Notice within 30 (thirty) days of the Claim Notice, the amount or the estimated amount of damages sought under the Claim Notice shall be deemed to have been fully accepted by the Customer and such amount shall be payable forthwith and immediately by the Customer.

15.6. The Customer undertakes that no Claim shall be made against any Sub-contractor, agents, employees, servants of the Service Provider nor any other member of the DP World group which imposes or attempts to impose upon any of them any liability whatsoever in connection with the Services, and if any such Claim should nevertheless be made, to indemnify the Service Provider against all consequences thereof, including any costs incurred by the Service Provider therefrom.

16. Limitation of Liability

16.1. Notwithstanding anything contained in these Terms, in no event shall the Service Provider be liable to the Customer for any damages or any third - party claims whatsoever arising under or pursuant to these Terms (whether arising in tort including negligence, contract, theory of strict liability or any other legal or equitable theory) for exemplary, punitive, special, incidental, indirect, consequential, or other damages including without limitation, loss of customers, business, opportunity, revenue,

profits, savings, goodwill, data or economic advantage however caused, regardless of the nature of the claim, even if advised of the possibility of such damages. The foregoing limitations of liability will apply notwithstanding the failure of the essential purpose of any limited remedy herein.

- 16.2. Notwithstanding anything to the contrary contained and irrespective of whatever is the value of Consignment or quantum of damage, Service Provider, its Affiliates, group companies and sub-contractor's aggregate liability to the Customer or any other third party, for any claims, losses, injuries, suits, demands, judgments, liabilities, costs, expenses or damages for any cause, whatsoever arising out of or in connection with the performance of Services contemplated under this Terms, unless and then only to the extent that such damage is determined by a court in a final order from which no appeal is taken, to have resulted primarily from gross negligence or willful misconduct or fraud on the part of Service Provider and regardless of the form of action or legal theory, shall be limited to the Fees received by the Service Provider against the said Consignment, for which claim is raised. The limitations specified in this section, will survive and apply, even if any remedy specified in the Contracting Documents fails its essential purpose.
- 16.3. Service Provider will not, under any circumstances, be liable to Customer or any third party for any damages or loss or liability caused (a) due to confiscation of the Consignment or any part thereof by any Competent Authority; (b) owing to any errors and/or omissions in any information/data that is imparted in respect of the Consignment by the Customer; (c) on account of any personal injury or death to the extent that such loss, damage, death or injury is caused by or contributed to by defective protection or packing, latent or natural wastage or contamination of Consignment, mis-declared Consignment information, failure or malfunction of refrigerated container equipment or refrigerants or defective or malfunctioning twist locks of the container (d) if the Consignment has been accepted without any demur by signing on the Proof of Delivery (e) by delays for any reason whatsoever though Service Provider shall make every reasonable effort to deliver the Consignment according to its regular delivery schedules. Unless the Services to be performed by the Service Provider are delayed by reason of the gross negligence or willful misconduct of Service Provider, Service Provider shall not be responsible for any loss, damage or expense incurred by Recipient or any third party because of such delay. In the event Service Provider is adjudicated at fault as above described, its liability of Service Provider shall be limited in accordance with the provisions of liability cap as mentioned in these Terms.
- 16.4. The Services are provided on an "as is" and "as available" basis. Service Provider expressly disclaims all warranties of any kind, whether express or implied, including, but not limited to the implied warranties of merchantability, reasonably fit for all purposes.
- 16.5. Information in whatever form or manner it may be given is provided by the Service Provider: (a) in good faith, but is not held out to be, nor to be taken as guaranteed, complete, accurate or timely, and no warranty, representation or undertaking whatsoever is given in respect of any information; and (b) is for the Customer only, and the Customer shall defend, indemnify and hold harmless the Service Provider for any liability, loss, damage, cost or expense arising out of any other Person relying on such Information.
- 16.6. Subject to the above and unless otherwise agreed by the parties in writing or specifically provided under the Specific Terms, Service Provider shall not be liable to the Customer in respect of any damages or any third - party claims whatsoever arising under or pursuant to these Terms. The limitations specified in this Clause 16 (*Limitation of Liability*) will survive, and apply, even if any remedy specified in these Terms fails its essential purpose.

17. Confidentiality

- 17.1. Each of the Parties shall keep all Confidential Information confidential and shall not divulge any Information to any other person or use the Confidential Information other than in accordance with these Terms, except to the extent:
- such Confidential Information is in the public domain other than by breach of these Terms;
 - such Confidential Information is required to be disclosed under the Applicable Laws or pursuant to any applicable regulatory requirements or by any Competent Authority; and
 - any of the Confidential Information is later acquired by a party from a source not obligated to any other party, or its Affiliates, to keep such Information confidential.
- 17.2. Each party agrees that Confidential Information shall at all times remain the property of the relevant party.
- 17.3. Upon termination of the Terms, each party shall return the Confidential Information to the other party within 15 (Fifteen) days.

18. Information System

- 18.1. The Customer and the Service Provider may co – operate in the exchange of Information through their respective Information Systems and may enter into separate written agreements regarding such co – operation including without limitation, permitting the Service Provider to allow exchange of Information across its Affiliates and group companies. The provision of such separate agreements shall be paramount in so far as such provisions are inconsistent with these Terms.
- 18.2. The Service Provider shall not be liable for any loss, damage, cost or expense arising out of or in connection with the Service Provider: (a) entering or sending incorrect information (or failing to enter or send information) to the Customer's or any third party's Information Systems; (b) damaging, corrupting, losing or disclosing Customer's or any third party's information or Information System; or (iii) using the Customer's or third party's Information System that is defective or is malfunctioning.
- 18.3. The Service Provider shall have no liability whatsoever in respect of any Information System or information howsoever arising. Any representation, statement, warranty, or other undertaking whether made orally or written elsewhere made in respect of any Information System or Information and which is not fully reflected in these Terms is hereby excluded (including such representations or statements were made negligently).

19. Intellectual Property Rights

- 19.1. Each party hereby agrees, confirm, and warrant that it shall have no right, title, interest, or other claim whatsoever over the Intellectual Property of the other Party or its Affiliates, and that all rights, title and interest in respect of the Intellectual Property shall continue to vest solely with such Party.
- 19.2. Neither party shall, during or at any time after the expiry or termination of these Terms in any way question or dispute other Party's ownership of the Intellectual Property.
- 19.3. Neither party shall, without obtaining the prior written consent of the other party use, display, reproduce, duplicate, or publish any of the Intellectual Property of such other party.

20. Data Protection

If either party is processing any information on behalf of the other party which is personal data, it shall do so in accordance with all applicable data laws, rules, and regulations in India particularly the Information Technology Act, 2000 and Information Technology Information Technology (Reasonable

security practices and procedures and sensitive personal data or information) Rules, 2011.

21. Term, Termination and Event of Default

- 21.1. These Terms shall come into effect on and from the acceptance or execution of the Contracting Documents and shall remain in effect unless terminated earlier in the manner provided hereunder (“Term”).
- 21.2. Either party may, at any time, terminate the Terms by providing 30 (Thirty) days’ prior written notice to the other party without assigning any reason or in the manner set out in the Specific Terms.
- 21.3. Service Provider, at its sole discretion, terminate these Terms forthwith by providing a notice to the Customer on the occurrence of any of the following events:
- a) breach of any terms or conditions of these Terms and / or the Contracting Documents by the Customer;
 - b) if any direction or order from any Competent Authority or any change in Applicable Laws is implemented which prevents or significantly impairs the implementation of these Terms or directly or indirectly restricts the scope and exercise of rights and privileges of either of the parties hereto so as to render the objectives of these Terms impossible to achieve;
 - c) any representation, warranty or undertaking given by the Customer becoming materially untrue, misleading or invalid in any respect during the Term;
 - d) the receipt of any claim by the Service Provider and / or discovery of Prohibited Goods under the Consignment provided by the Customer to the Service Provider for provision of Services;
 - e) if winding up petition is admitted against the Customer or the Customer goes into liquidation or passes a resolution for voluntary winding up or appointment of receiver or liquidator (except in case of voluntary liquidation for the purposes of amalgamation or reconstruction) in any winding up or insolvency proceedings initiated by any third party against the Customer, which order is not set aside or stayed within 30 (Thirty) days;
 - f) failure of the Customer to procure and maintain during the Term, any insurance policy, clearances, approvals, licenses, and permissions required to be maintained by the Customer to perform its obligations hereunder; or
 - g) the Customer being debarred by a Competent Authority from carrying on its business or rendering it impossible or illegal to perform its business, which bar is not set aside by the Competent Authority within 15 (Fifteen) Business Days.
- 21.4. Upon the occurrence of any event set out under Clause 21.1 above by Customer, the Service Provider may, at its sole discretion, deliver upon the Customer a notice to cure the said event of default within a period of 30 (thirty) days from the date of such notice. In the event the Customer fails to cure such event of default within the said cure period, the Service Provider shall have the right (but not an obligation) to forthwith terminate these Terms.
- 21.5. Service Provider shall be entitled to terminate these Terms forthwith in the event that: (a) the Customer fails to make payment towards Fees as due under the Contracting Documents for a period exceeding 2 (Two) months; or (b) the Customer fails to provide accurate instructions to the Service Provider for the purpose of carrying out the Services.
- 21.6. Notwithstanding anything to the contrary, termination of these

Terms for any reason whatsoever shall be without prejudice to the rights of the Service Provider available under Applicable Laws or otherwise, and obligations arising under the Terms which have accrued prior to termination.

21.7. Consequences of Termination

- a) In the event of termination of these Terms for any reason whatsoever, the Service Provider shall be entitled for immediate payment by the Customer of any Fees due calculated on a pro – rata basis until the effective date of termination before withdrawal of any Consignment from the custody of the Service Provider.
- b) Notwithstanding anything to the contrary contained in these Terms, upon termination of these Terms the Service Provider shall be entitled to exercise its rights as under Clause 9 (Title and Risk) until all outstanding amounts due to the Service Provider are paid to the Service Provider.
- c) Subject to clause 21.7, upon termination, any Consignment in transit will continue to be governed by the terms of these Terms and the delivery of such in-transit Consignment will be provided by the Service Provider as per the relevant Lorry Receipt. For Consignments which are not in transit or to the Service Provider for storage, handling or otherwise, the Customer shall pick – up or cause to be picked – up, the Consignment from the Warehouse, Container Terminal, or Container Yard as the case may be.

22. Force Majeure

- 22.1. Service Provider shall not be held liable or responsible to the Customer nor be deemed to have under default or breach of the Contracting Documents for failure or delay in fulfilling or performing any term of the Contracting Documents when such failure or delay is caused by or results from causes beyond the reasonable control of the Service Provider, including, but not limited to, fire; floods; storms; embargoes, war or acts of war (declared or undeclared); insurrections, riots or other civil commotions; acts of terrorism; strikes, lockouts, or other labour disturbances; explosions; sabotage; accidents; governmental orders; change in statutes, rules or regulations; delays by unaffiliated suppliers or carriers; shortages of fuel, power, raw materials or components; acts of God; or acts, omissions, or delays in acting by any governmental or military authority, or the Customer (collectively, “Force Majeure”).
- 22.2. An event of Force Majeure shall not absolve the Service Provider from any liability for an obligation which arose before the occurrence of that event, nor does that event affect the obligation of the Customer to pay money in a timely manner which matured prior to the occurrence of that event.
- 22.3. If Service Provider’s performance under the Contracting Documents is prevented or delayed due to an event of Force Majeure applicable to the Service Provider, the Service Provider shall, as soon as possible and in any event within 10 (Ten) days of (i) the event of Force Majeure; or (ii) becoming aware that an event of Force Majeure is preventing, delaying or significantly disrupting the performance of Service Provider’s obligations, whichever is earlier, giving full particulars of the event of Force Majeure and the reasons of the event of Force Majeure preventing Service Provider from, or delaying the Service Provider in performing its obligations under the Contracting Documents.
- 22.4. Upon occurrence of an event of Force Majeure, the Parties shall mutually discuss an equitable extension of time as per the terms of the Contracting Documents.
- 22.5. Service Provider shall use its reasonable efforts to mitigate the effect of the event of Force Majeure upon performance of its obligations under the Contracting Documents and shall

recommence the performance of the obligations affected thereby as soon as practicable after cessation thereof.

- 22.6. If the event of Force Majeure prevents performance according to the Contracting Documents for more than 30 (Thirty) consecutive days, the Contracting Documents may be terminated by either Party. In the event of such termination, the Customer shall pay to the Service Provider all Fees due and payable under the Contracting Documents.

23. Permissible Delay

- 23.1. The following events on behalf of the Service Provider shall constitute "Permissible Delays":

- a) A Force Majeure event;
- b) Failure and / or interruption to power supply;
- c) Delays caused by Governmental Authorities, if any;
- d) Any delays caused by compliance with or enforcement of good faith of the provisions of any applicable collective bargaining agreement if any, related to operations of the pick – up location;
- e) Weather delays; and
- f) Such other delays identified in the Specific Terms.

- 23.2. In case of occurrence of an event of Permissible Delay, the affected party shall:

- a) be excused from performing those obligations affected by a Permissible Delay, and shall not be deemed to be in breach of such obligations and shall not be liable to the other Party to the extent thereof; and
- b) use its best efforts to resume performance of these Terms as soon as possible.

- 23.3. The Customer shall not be entitled to exercise any right of termination under these Terms for any delay in the performance of, or inability to perform, an obligation under these Terms which is directly caused by or results from a Permissible Delay, for so long as the inability to perform continues.

24. Governing Law

These Terms and the rights and obligations hereunder shall be interpreted, construed, and governed by the laws of India. Subject to the provisions of Clause 25 (*Dispute Resolution*), the Parties submit to the exclusive jurisdiction of the courts situated at Mumbai, Maharashtra.

25. Dispute Resolution

- 25.1. Any dispute, difference or controversy of whatever nature howsoever arising out of or in relation to these Terms (including its interpretation or application) between the parties ("Dispute") shall in the first instance be dealt with, at the request of either of the parties, by amicable negotiations between them.

- 25.2. The Parties agree to use their best efforts for resolving all Disputes arising under or in relation to these Terms promptly, equitably and in good faith, and further agree to provide each other with reasonable access during normal business hours to all non-privileged records, information and data pertaining to any Dispute.

- 25.3. Any Dispute which is not resolved by amicable negotiations within 1 (one) month of the date such negotiations were requested shall be:

25.3.1 For Disputes with monetary claim of less than INR 25,00,000/- (Rupees Twenty-five Lakhs only), the Parties agree to submit such Disputes to the courts of Mumbai, India;

25.3.2 For Disputes with monetary claim of above INR 25,00,000/- (Rupees Twenty-five Lakhs only) but less

than INR 50,000,000/- (Rupees Five Crore only), the Parties agree to resolve such Disputes through arbitration under the provisions of the Arbitration and Conciliation Act, 1996, by a sole arbitrator mutually appointed by the Parties;

25.3.3 For Disputes with monetary claim of above INR 50,000,000/- (Rupees Five Crore only), the Parties agree to resolve such Disputes through arbitration under the provisions of the Arbitration and Conciliation Act, 1996. The arbitral tribunal shall comprise of 3 (three) arbitrators with each Party having the right to appoint 1 (one) arbitrator and the 2 (two) arbitrators so appointed, shall appoint the third presiding arbitrator.

- 25.4. Any such arbitration shall be subject to the following:

- a) The seat of arbitration shall be at Mumbai;
- b) The arbitration proceedings shall be conducted in English language;
- c) Parties shall bear and pay their respective expenses, costs, fees, disbursement, and other charges of counsel, in connection with the arbitration except as may be otherwise determined by the arbitrator in the arbitration award; and
- d) The award of the sole arbitrator shall be final and binding on both Parties.

- 25.5. For avoidance of doubt, the parties agree to waive any right to lead oral evidence and shall be precluded from raising any issues regarding the same post a Dispute arising.

26. Miscellaneous

26.1. Relationship: The Terms are entered into on a principal-to-principal basis and the parties are independent contractors. Nothing in these Terms shall be construed or treated by the parties or by any third party to create any relationship of any kind such as association, partnership, franchise, joint venture or relationships of principal agent or master and servant, Affiliate or subsidiary, or employer and employee between the parties or creates any fiduciary relationship between the parties. Neither party shall enter into any commitments, undertakings, or agreements purporting to obligate such other party in any way, or amend, modify or vary any existing agreements to which such other party may be a party.

26.2. Assignment: The Customer shall not have the right, power, or authority to assign the Contracting Documents or any of its rights or obligations hereunder to any third party without the prior written consent of the Service Provider. Service Provider is entitled to assign or transfer its rights and/or obligations under the Contracting Documents to its Affiliates.

26.3. Sub-contracting: The Parties agree that the Service Provider may provide the Services either by itself or through any third party, including its Affiliates ("Subcontractors") the whole or any part of the Services as may be deemed fit by the Service Provider. No Subcontractor, agent or servant shall in any circumstances whatsoever be under any liability whatsoever to the Customer for any loss, damage or delay of whatsoever kind arising or resulting directly or indirectly from any act, negligence or default on the Sub-contractor, its agents or servant while acting in the course of or in connection with the Services.

26.4. Entire Agreement: These Terms read with the Contracting Documents including any annexures, schedules or exhibits attached hereto and any amendments hereof, sets forth the entire agreement and understanding between the parties and these Terms supersede and override all prior communications, discussions, understandings, negotiations, commitments, or any prior or contemporaneous agreements, express or implied, written, or oral, between them with respect to the subject matter hereof.

26.5. Amendment: No change, variation, amendment or modification of the terms and conditions of these Terms shall be valid or

binding upon the parties unless such change, amendment or modifications is made on email, digitally signed, and executed by both parties through their authorised representative.

- 26.6. Waiver: No failure by either Party hereto to exercise and no delay in exercising any right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right hereunder by either party preclude any other or future exercise of any right hereunder by that party.
- 26.7. Costs and Expenses: Each party shall bear its own costs and expenses, including legal, accounting, and other fees in respect of the Contracting Documents and its implementation. Both Parties shall bear the costs of stamping the Contracting Documents in accordance with Applicable Laws.
- 26.8. Public Announcements: In addition to the limitations on the use and disclosures of Confidential Information set forth herein, it is agreed that neither party shall issue or release or confirm any statement, to the general public, to the news media, or to any third party, except with the prior written consent of the other party, both as to the content and timing of any such issue or release or confirmation.
- 26.9. Cumulative remedies: All rights and remedies of the parties herein shall be in addition to all other rights and remedies available at law or in equity, including, without limitation, specific performance, and temporary and permanent injunctive relief.

SECTION B – SPECIFIC TERMS

PART 1 –ROAD TRANSPORTATION SERVICES

I. Definitions

- (a) “**Ambient Transportation Services**” shall mean the transportation services provided by the Service Provider for movement of a Consignment from Origin to Destination by provision of temperature-controlled solutions in respect of such Consignment as per Section B – Part 1 of the Terms and the Contracting Documents.
- (b) “**Destination**” shall mean the destination set out in the Lorry Receipt for each Consignment of Goods.
- (c) “**First Mile Transportation Services**” shall mean the transportation services provided by the Service Provider for movement of a Consignment from Origin to Destination as per Section B – Part 1 of the Terms and the Contracting Documents.
- (d) “**Last Mile Transportation Services**” shall mean the transportation services provided by the Service Provider for movement of a Consignment from Origin to penultimate Destination as per Section B – Part 1 of the Terms and the Contracting Documents.
- (e) “**Loading ICD**” has the meaning ascribed to the term in the Contracting Documents.
- (f) “**Origin**” shall mean the location of origin of Transportation Services as more particularly set out in the Lorry Receipt for each Consignment of Goods.
- (g) “**Reefer Transportation Services**” shall mean the transportation services provided by the Service Provider for movement of a Consignment from Origin to Destination by provision of cooling and heating solutions in respect of such Consignment as per Section B – Part 1 of the Terms and the Contracting Documents.
- (h) “**Road Transportation Services**” means the services provided by the DP World Relevant Entity more particularly described in Section B - Part 1 of these Terms.
- (i) “**Vehicle**” means vehicle (including a reefer vehicle) deployed by Service Provider to provide Transportation Services and carry out its obligations under these Terms.

II. Specific Terms

1. First Mile Transportation Services

- 1.1 Service Provider shall provide the First Mile Transportation Services to the Customer and transport the Consignment as provided by the Customer from the Origin to the Destination.
- 1.2 For each Consignment, the Customer shall raise a service request at least 48 (forty-eight) hours in advance of the date on which the Consignment is required to be transported (“**Service Request**”). In the event the Customer fails to provide the complete copy of the Service Request with correct details to Service Provider within the time period mentioned above, Service Provider shall have no obligation to provide the Transportation Services in relation to such Consignment as per the timelines specified by the Customer.
- 1.3 Service Provider will issue the Lorry Receipt for the Consignment to the Customer once it is loaded on the Vehicles. Each Service Request and corresponding Lorry Receipt shall represent a separate transaction in itself.
- 1.4 Service Provider shall arrange the Vehicles at the loading point (*as specified in the Lorry Receipt*) for loading of the Consignment for transportation of the Consignment to the Loading ICD (*as specified in the Lorry Receipt*) for onward loading onto the rakes.
- 1.5 For avoidance of doubt, it is hereby clarified that the Service Provider is only required to provide the First Mile Transportation

Services. The Customer shall be responsible for transportation of the Consignment from the loading inland container depot to the delivery inland container depot and from the delivery inland container depot to the delivery point and for storage of the Consignment at the loading inland container depot and/or the delivery inland container depot, as the case may be, unless the Customer agrees to avail, and Service Provider agrees to render any Additional Services.

2. Last Mile Transportation Services

- 2.1 Service Provider shall provide the Last Mile Transportation Services to the Customer and transport the Consignment as provided by the Customer from the Delivery inland container depot to the Destination (delivery point).
- 2.2 For each Consignment, the Customer shall raise a service request at least 48 (forty-eight) hours in advance of the date on which the Consignment is required to be transported (“**Service Request**”). In the event the Customer fails to provide the complete copy of the Service Request with correct details to Service Provider within the time period mentioned above, Service Provider shall have no obligation to provide the Transportation Services in relation to such Consignment as per the timelines specified by the Customer.
- 2.3 Service Provider will issue the Lorry Receipt for the Consignment to the Customer once it is loaded on the Vehicles. Each Service Request and corresponding Lorry Receipt shall represent a separate transaction in itself.
- 2.4 Service Provider shall arrange the Vehicles at the loading point (*as specified in the Lorry Receipt*) for loading of the Consignment for transportation of the Consignment to the Destination (*as specified in the Lorry Receipt*).
- 2.5 For avoidance of doubt, it is hereby clarified that the Service Provider is only required to provide the Last Mile Transportation Services. The Customer shall be responsible for transportation of the Consignment from the loading point to the Loading inland container depot and from the loading inland container depot to the Destination and for storage of the Consignment at the loading inland container depot and/or the Destination, as the case may be, unless the Customer agrees to avail, and Service Provider agrees to render any additional Services.

3. Ambient Transportation Services

- 3.1 For each Consignment, the Customer shall raise a service request at least 48 (forty-eight) hours in advance of the date on which the Consignment is required to be transported (“**Service Request**”). In the event the Customer fails to provide the complete copy of the Service Request with correct details to Service Provider within the time period mentioned above, Service Provider shall have no obligation to provide the Transportation Services in relation to such Consignment as per the timelines specified by the Customer.
- 3.2 Service Provider will issue the Lorry Receipt for the Consignment to the Customer once it is loaded on the Vehicles. Each Service Request and corresponding Lorry Receipt shall represent a separate transaction in itself.
- 3.3 Service Provider shall arrange the Vehicles for loading of the Consignment for transportation of the Consignment to the Destination (*as specified in the Lorry Receipt*).
- 3.4 For avoidance of doubt, it is hereby clarified that the Service Provider is only required to provide the Ambient Transportation Services. The Customer shall be responsible for transportation of the Consignment from the Origin to the Destination unless the Customer agrees to avail, and Service Provider agrees to render any additional Services.

4. Reefer Transportation Services
- 4.1 Service Provider shall not be responsible for any temperature variance or quality of the Goods in case the shipment of Goods is not handed over to the Service Provider at the right temperature at the time of inward.
- 4.2 The Customer shall provide instructions to the Service Provider in writing at least 2 (two) working days in advance highlighting the nature of Goods and the corresponding temperature requirements of such Goods being transported in a Reefer Container.
- 4.3 The Customer acknowledges that considering perishable and high value of reefer Goods, the Service Provider reserves the right to reject acceptance of any Reefer Container for transportation if there is any temperature variance as set out in the Contracting Documents.
- 4.4 The Customer shall ensure compliance with the rules and regulations of Customs for opening and unpacking of any Container. Service Provider 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 Reefer Container and/or its contents at the sole cost and expense of the Customer.
- 4.5 The Customer shall ensure that all Reefer Containers have been properly pre-cooled or pre-heated as appropriate and their controls have been properly set prior to receipt by the Service Provider.
- 4.6 For each Consignment, the Customer shall raise a service request at least 48 (forty-eight) hours in advance of the date on which the Consignment is required to be transported (“**Service Request**”). In the event the Customer fails to provide the complete copy of the Service Request with correct details to Service Provider within the time period mentioned above, Service Provider shall have no obligation to provide the Transportation Services in relation to such Consignment as per the timelines specified by the Customer.
- 4.7 Service Provider will issue the Lorry Receipt for the Consignment to the Customer once it is loaded on the Vehicles. Each Service Request and corresponding Lorry Receipt shall represent a separate transaction in itself.
- 4.8 Service Provider shall arrange the Vehicles for loading of the Consignment for transportation of the Consignment to the Destination (*as specified in the Lorry Receipt*).
- 4.9 For avoidance of doubt, it is hereby clarified that the Service Provider is only required to provide the Reefer Transportation Services. The Customer shall be responsible for transportation of the Consignment from the Origin to the Destination unless the Customer agrees to avail, and Service Provider agrees to render any additional Services.
5. Special Terms
- 5.1 Indenting of Vehicle placement will be received by the Service Provider, from the Customer in case of Customer’s preferred transporter and from the Service Provider’s internal business unit team in case of Service Provider’s own transporter, at least 24 (twenty-four) hours prior to Vehicle placement day and the Customer shall assure that all the prerequisite activities are finished beforehand for release of Consignment. Indenting will cover the type of Vehicle with payload capacity with destination details.
- 5.2 In case of intervening holidays or closure of office, the Service Provider shall deliver the Goods on the next Business Day.
- 5.3 Once the Vehicle is dispatched with all the documents, the Service Provider will send the intimation of dispatch with time and date to record any detention to the Customer.
- 5.4 The Customer will be informed about the arrival of the Vehicle few hours prior to Vehicle reaching at Destination for planning the destuffing activity at the relevant location to eliminate detention.
- 5.5 Any breach of the terms of the Terms by the Service Provider shall not create any lien or encumbrance on any Vehicle or other equipment owned, operated, or leased by the Service Provider. The Customer expressly and irrevocably waives any right that the Customer may have in law, equity or otherwise to arrest or otherwise detain any such Vehicle or other equipment.
- 5.6 Once the destuffing of Goods is finished at the premises as agreed between the Parties in the Lorry Receipt and the necessary documents are handed over, Customer will acknowledge on Lorry Receipt along with time, stamp, and signature. In case of any detention at Destination, it will be charged from the Customer as per charges set out in the rate card.
- 5.7 The occurrence of unprecedented situation handling such as those mentioned below are not covered in this scope and the Service Provider will be handling the Consignment in such situations as and when such situations occur:
- 5.7.1 Non- availability of Consignment post Vehicle placement;
- 5.7.2 In transit break-down; and
- 5.7.3 Holding of Consignment at the Customer’s premises.
- 5.8 The Service Provider will not be responsible for any such request mentioned below:
- 5.8.1 Multipoint delivery.
- 5.8.2 Delivery to locations other than the location mentioned in Lorry Receipt, unless agreed by Parties in writing.
- 5.8.3 All related charges charged for empty drop at the shipping lines yard.
- 5.9 In the case of damage or shortage of goods, the Service Provider shall only be responsible for issuance of observation note within five working days for any claims which are issued under owner’s risk. In the event of failure of the Customer to raise any claim within the prescribed period, the Goods shall be deemed to be accepted by the Customer with no liability on the Service Provider. The Customer shall not deduct, adjust, or set off any claim from outstanding amount payable to Service Provider. Claims settlement and observation note issuance is a separate process and should not be linked with payments.
- 5.10 Changes or variations in fuel rates may trigger escalation of prices. Upon such fuel escalation any modifications in Fees will be intimated to the Customer from time to time.
- 5.11 Conditions for Consignment:
The Customer shall ensure that:
- 5.11.1 All information provided by the Customer, or its representative is complete and accurate;
- 5.11.2 The Goods are properly marked, addressed and packed to ensure safe transportation with ordinary care in handling;
- 5.11.3 The Goods do not contain any banned, restricted, hazardous or dangerous item or any other item not authorized by any law for time being in force.
- 5.12 Goods not acceptable for carriage:
It is agreed between the Parties that the Service Provider shall not carry the Goods:
- 5.12.1 if it is classified as hazardous, dangerous, prohibited, or restricted or

- 5.12.2 the same is not permitted by the laws/rules/restrictions in force;
- 5.12.3 if it pertains to any items notified by the Service Provider to be restricted and/or banned and/or dangerous and/or prohibited from time to time (including but not limited to animals, bullion list to be defined, currency, bearer from negotiable instruments, precious metals and stones, firearms or parts thereof arms and ammunition, human remains, pornography and illegal narcotics/drugs etc.)

5.13 Any Perishable Goods

The Service Provider shall not carry any perishable goods. However, if due to some omission, commission, negligence on the part of the Customer such perishable goods enter into the network of the Service Provider then the Service Provider shall have the right to dispose of or sell the Goods immediately and without notice.

III. Permissible Delays

- 6. In addition to the Permissible Delays set out in Section A, the Customer agrees and acknowledges that Service Provider shall not be held responsible for any delay in delivery due to, including but not limited to, the following reasons, and no penalty shall be levied on or debited from Service Provider's account, if there are:
 - 6.1 Delays from pick – up destination of the Goods to the loading point of the Vehicle as a result of industrial action and authorised stoppages;
 - 6.2 Delays to Vehicle loading caused by late receipt of the Goods or by revisions to load lists or late submission of load / discharge instructions;
 - 6.3 Delays to Vehicle movement caused due to prolonged waiting time at national and state highway check posts;
 - 6.4 Delays to Vehicle movement caused due to movement of consecutive groups of animals including without limitation, cattle, sheep, goats and such other animals and precautionary stoppage of Vehicle for provision of right of way; or
 - 6.5 Breakdown of Equipment, if any used for loading of Goods into the Vehicles.

IV. Limitation of Liability

- 7. Service Provider's aggregate liability to the Customer or any other third party, for any claims, unforeseen events, losses, injuries, suits, demands, judgments, liabilities, costs, expenses, or damages for any cause whatsoever (including, but not limited to, those arising out of or related to these Terms) and regardless of the form of action or legal theory, shall be limited to the Fees received by the Service Provider against the said Consignment. The limitations specified in this section, will survive and apply, even if any remedy specified in these Terms fails its essential purpose. The Customer shall be responsible to make best efforts to recover such losses through insurance.

PART 2 – CONTRACT LOGISTICS / WAREHOUSING SERVICES

I. Definitions

- (a) “**Storage Capacity**” means the capacity of the Warehouse in relation to the storage of Goods;
- (b) “**Throughput Capacity**” means the capacity of the Warehouse in relation to inward and inward transaction of the Goods;
- (c) “**Warehousing Services**” means the services provided by the DP World Relevant Entity more particularly described in Section B – Part 2 of these Terms.

II. Specific Terms

- 1. The Service Provider shall provide Warehousing Services as follows:
 - 1.1 Storage facility for storage and handling of Goods including the Services as set out in the Contracting Documents. The Customer shall provide detailed checklist for material acceptance, unloading and dispatch of Goods from the Warehouse (“**Checklist**”).
 - 1.2 The Storage Capacity of the Warehouses as set out in the Contracting Documents shall be fixed and the Customer may request the Service Provider to provide additional Storage Capacity which may be provided by the Service Provider only upon assessment and examination of the need of the business and upon the parties agreeing to the commercials thereof. The Customer may request for increase in Throughput Capacity up to the limit prescribed in the Contracting Documents (“**Throughput Limit**”). In the event the Service Provider agrees to increase the Throughput Capacity, pro-rated Fees as set out in the Contracting Documents shall be applicable and invoiced in accordance with the terms hereof.
 - 1.3 Any requirement for additional space or increase in Throughput Capacity beyond the Throughput Limit in the Warehouse or there being a requirement to obtain a separate Warehouse premises on a temporary basis (collectively “**Additional Space**”), shall at all times be subject to the prior written approval of the Service Provider. Additional Space, once agreed, shall be treated as new Services. Subject to the provisions of this Clause, the Service Provider shall be provided with prior written notice of at least 3 (three) months to make provisions for any Additional Space. Additional costs for Additional Space shall be agreed in writing in the manner provided in the Contracting Documents.
 - 1.4 Goods which are not as per Checklist provided by the Customer need to be segregated by the Service Provider. Shortage and non-conformity (like excess, damaged, torn, dirty, pest infected, etc.) to be written in lorry receipt and signed by the truck driver.
 - 1.5 Goods will be unloaded as per Checklist provided by the Customer.
 - 1.6 Post sampling plan, de-palletized Goods shall be transferred to the Warehouse for storage.
 - 1.7 Damage/non-conformity Goods shall be stored separately, and damaged Goods shall be returned to the Customer and/or third parties authorised by Customer after communicating the same to the Customer in writing and with pictures.
 - 1.8 Service Provider shall send all the documents (original invoice copy/triplicate for transporter/lorry receipt/packing list/delivery note/road permit forms, etc.) received with the Goods to the Customer by courier on the next Business Day of receipt of such Goods at the Service Provider’s facility.
 - 1.9 Service Provider shall deploy dedicated supervision and sufficient manpower to handle the Goods of the Customer.

III. Permissible Variations

- 2. In addition to the Permissible Delays set out in Section A, the Customer agrees and acknowledges that Service Provider shall not be held responsible for any delay in delivery due to, including but not limited to, the following reasons, and no penalty shall be levied on or debited from Service Provider’s account, if there are:
 - 2.1 Any variations in rates for Taxes levied on the Warehousing Services;
 - 2.2 Any variations or modifications in declarations made by the Customer in relation to storage of Goods as required under the Warehousing Services; and
 - 2.3 Payment of any additional charges by the Service Provider in case of inability of representatives/contractors of Customer to facilitate delivery of the Goods stored at the Warehouse;
 - 2.4 Provision of additional pallets, Equipment, containers or additional space in the Warehouse by the Service Provider on account of fluctuation in quantity or size of Goods;
 - 2.5 Provision of additional temperature-controlled areas or reduction thereof by the Service Provider on account of fluctuation in quantity or size of Goods;
 - 2.6 Enhanced requirement of the Service Provider’s manpower on account of fluctuation in quantity of Goods,
- 3. In case of occurrence of an event of Permissible Variation, the Service Provider shall be entitled to recover the expenses incurred in lieu of a Permissible Variation from the Customer (“**Additional Fees**”), in addition to and excess of the Fees stipulated in the Contracting Documents. The Customer shall be liable to pay such Additional Fees to the Service Provider within 15 (Fifteen) days of receipt of invoice from the Service Provider.

IV. Payment Terms

- 4. Chargeable quantity shall be the maximum quantity stored on any day in a calendar month and the same will be arrived at by adding the opening stock plus receipts for that day. Issues during the day will not be considered while calculating the chargeable quantity.
- 5. The number of pallets would be determined by the number of cartons/bags/drums that can be stored on each pallet based on stock keeping unit, size, and weight of each packing material. The Customer’s representative shall ascertain the same on arrival of Goods for storage and sign off a document stating the different categorization of cartons/bags/drums per pallet basis which the billing would be undertaken.
- 6. The charges will be based on actual commencement date of the Services.
- 7. For storage charges, highest quantity of pallets mentioned in the above table in a month will be considered in the monthly billing cycle.

V. Limitation of Liability

- 8. The Service Provider shall not be liable for any loss or damage, as the case may be, to the extent such is due to a Force Majeure event or any act and / or omission of the Customer, its employees, agents or workers or any defect in the Goods.
- 9. The Service Provider will not, under circumstances, be liable for damages or loss or liability caused due to confiscation of the Consignment or any part thereof by any Competent Authority.
- 10. No liability shall be assumed by the Service Provider for any errors and / or omissions in any information / data that is imparted in respect of the Goods by the Customer.
- 11. The Service Provider shall not be liable for any loss or damage suffered due to the lack of, or insufficient, or unclear, or incorrect information, instructions or requirements in writing of the Customer in relation to the nature, type, weight and measurement of any of the Goods or Specified Goods, including perishable Goods, or the manner of discharge of obligations of the Service

Provider. For any Goods that are perishable in nature or have specific temperature requirements, the Service Provider shall not be held responsible for any loss of quality / shelf life / deterioration of Goods on account of lack of, insufficient, unclear or incorrect written instructions at the time of handing over the Consignment.

12. The Service Provider shall not be liable for any loss, damage or consequence whatsoever in the event the Customer hands over Prohibited Goods to the Service Provider.
13. The Service Provider shall not be responsible for any loss or damage due to natural wastage or natural deterioration of the Goods stored in the Warehouse.
14. The Service Provider shall not be liable to the Customer or any other person for any loss or damage caused to the Consignment or any part thereof, or any diminution in the value of the Consignment or any part thereof, by the Service Provider exercising its right of lien hereof and the consequent right to sell by public auction, tender, private agreement or otherwise or destruction of the same.
15. Service Provider's aggregate liability to the Customer or any other third party, for any claims, unforeseen events, losses, injuries, suits, demands, judgments, liabilities, costs, expenses or damages for any cause whatsoever (including, but not limited to, those arising out of or related to these Terms) and regardless of the form of action or legal theory, shall be limited to the Fees received by the Service Provider against the said Consignment. The limitations specified in this Clause, will survive and apply, even if any remedy specified in these Terms fails its essential purpose. The Customer shall be responsible to make best efforts to recover such losses through insurance.

PART 3 – FREE TRADE WAREHOUSING ZONE

I. Definitions

- (a) “**Applicable Laws**” mean, any statute, law, regulation, ordinance, rule, judgement, rule of law, order, decree, ruling, bye-law, approval of any Competent Authority (as defined below), directive, guideline, policy, clearance, requirement or governmental restriction or any similar form of decision of or determination, or any interpretation or administration having the force of law of any of the foregoing by any Competent Authority having jurisdiction over the matter in question, whether in effect as on the date of the Contracting Documents or at any time thereafter, and includes the Special Economic Zones Act, 2005 (“**SEZ Act**”), the Special Economic Zones Rules, 2006 (“**SEZ Rules**”) and any amendments and regulations made thereunder and the letter of approval in force.

II. Specific Terms

1. The Service Provider shall provide services as follows:
- 1.1 Storage services of goods & containers and providing warehouse space.
- 1.2 Loading of Goods to specified vehicle using labour and/or Fork-Lift.
- 1.3 Loading, unloading, stuffing, destuffing, packing or unpacking.
- 1.4 Destuffed Delivery (Dock Destuffing), Transportation of LDD Container from JNPCT /GTI/ NSICT to NSBP FTWZ, Destuffing the cargo and carrying the empty container to empty yard.
- 1.5 Provision of material handling Equipment on rental or leasing basis with or without operator.
- 1.6 Container Survey, Equipment Survey, Cargo Survey, Operation Survey
- 1.7 Minor Repairing of containers, Container Washing and Cleaning
- 1.8 Providing Freight Forwarding services for export/import business.
- 1.9 Weighment of Cargo under import/ export of shipments
- 1.10 Value added services such as Handling Services (Inbound and Outbound), Sorting, Custom Declaration (DTA to FTWZ), Custom Declaration (PORT to FTWZ), Gate Services, Receiving Registration and Binding Material, Custom Inspection Services, Bar Code, Bar Code Scanning, Labeling, packaging, repackaging, lashing, unlashng, chocking, Strapping Services, Kitting, Palletization Services (Includes standard wooden pallet), shrink-wrapping, unitizing, Tally Services for outbound/inbound shipment, Custom Permit, Courier (Domestic and Overseas), QC, Carton Change Services, Partitioning, Machine and Manpower for QC, Documentation, etc.
- 1.11 Moving or transshipping goods/material from anywhere in India/Port to FTWZ and from FTWZ to Port/ anywhere in India and from one FTWZ to another FTWZ.
- 1.12 Shifting of the nominated Container to stuffing point from within the FTWZ, stuffing the cargo in the container, and transporting the loaded container to JNPCT/GTI/NSICT.
- 1.13 The Service Provider shall not be required to provide any Services or New Services which are contrary to or in contravention of or otherwise prohibited (explicitly or implicitly) under Applicable Laws or any other document, contract, deed, permit or authorization issued to the Service Provider whether as

a Unit or otherwise including without limitation any activity of a hazardous nature, causing or likely to cause emissions or discharge in excess of permitted limits, causing nuisance or annoyance, involving domestic animals or generally outside the purview of authorized operations of the Service Provider under the LOA.

III. Payment Terms

2. Security Deposit
- 2.1 In the event it is agreed between the parties in the Contracting Documents, the Customer shall deposit and keep deposited with the Service Provider on or before the effective date of provision of Services an interest free refundable security deposit as agreed in the Contracting Documents (“**Deposit**”) as minimum deposit to be retained through the term.
- 2.2 The amount of Deposit is determined based on the estimated minimum requirement of Services proposed to be availed by the Customer at the time of execution of the Contracting Documents. The Service Provider is entitled to revise and enhance the amount of Deposit periodically, the first such revision being after a period of 3 (Three) months from the Effective Date based on the actual requirement of Services and the Fees paid by the Customer.
- 2.3 On the expiry or termination of the engagement, the Service Provider shall refund to the Customer the Deposit without interest, after deduction of the amounts due to the Service Provider from the Customer including Fees, Outstanding Dues, and other payments. If the Deposit is not sufficient to adjust the entire amount due, then the deficit amount after adjustment shall be paid forthwith by the Customer before the release of the Customer’s Goods.
- 2.4 In the event of any shortfall in Deposit, the Customer shall make such further payment to the Service Provider in order to maintain at all times the agreed amount of Deposit under this Clause.

IV. Permissible Delays

3. In addition to the Permissible Delays set out in Section A, the Customer agrees and acknowledges that Service Provider shall not be held responsible for any delay in delivery due to, including but not limited to, the following reasons, and no penalty shall be levied on or debited from Service Provider’s account, if there are:
- 3.1 failure and / or interruption of water supply;
- 3.2 delays caused by Competent Authority including obtaining customs or excise clearance;
- 3.3 any delays caused by compliance with or enforcement of good faith of the provisions of any applicable collective bargaining agreement or industrial action and authorised stoppages if any, related to operations of the pick – up location;
- 3.4 delays in transportation caused due to prolonged waiting time at national and state highway check posts or any precautionary stoppage for provisions of right of way; and
- 3.5 breakdown of Equipment.

V. Permissible Variations

4. In addition to the Permissible Delays set out in Section A, the Customer agrees and acknowledges that Service Provider shall not be held responsible for any delay in delivery due to, including but not limited to, the following reasons, and no penalty shall be levied on or debited from Service Provider’s account, if there are:
- 4.1 Fluctuations in commission fees or remittance charges levied by bank or financial institution on payment transfer by Customer;
- 4.2 Any variations in rates for Taxes levied on the Services;
- 4.3 Any variations or modifications in declarations made by the Customer in relation to storage of Goods as required under the Services;
- 4.4 Any differences in customs duty in respect of Goods as paid by Service Provider upon demand by customs authorities for stock transfers or sale to buyers in DTA;
- 4.5 Payment of any additional charges by the Service Provider in case of inability of representatives/contractors of Customer to facilitate delivery of the Goods stored at the Warehouse;

- 4.6 Provision of additional pallets, Equipment, containers or additional space in container yard by the Service Provider on account of fluctuation in quantity or size of Goods;
- 4.7 Provision of additional temperature-controlled areas or reduction thereof by the Service Provider on account of fluctuation in quantity or size of Goods;
- 4.8 Enhanced requirement of the Service Provider's manpower on account of fluctuation in quantity of Goods;
- 4.9 Usage of containers other than the sizes agreed under the Contracting Documents on account of fluctuations in quantity or size of Goods;
- 4.10 Any additional holding of containers for container scanning extending beyond the day on which containers were presented for scanning; or
- 4.11 Any fluctuations in costs of material for fumigation of containers (if applicable) incurred by Service Provider during the provision of Services.

received by the Service Provider against the said Consignment. The limitations specified in this section will survive and apply, even if any remedy specified in these Terms fails its essential purpose. The Customer shall be responsible to make best efforts to recover such losses through insurance.

VI. Limitation of Liability

- 5. The Service Provider shall not be liable for any loss or damage, as the case may be, to the extent such is due to a Force Majeure event or any act and / or omission of the Customer, its employees, agents or workers or any defect in the Goods.
- 6. The Service Provider shall not be liable to the Customer for the termination of the Contracting Documents in the unlikely event of cancellation or suspension of the LOA granted to the Service Provider by the Development Commissioner of JNPT SEZ.
- 7. The Service Provider will not, under circumstances, be liable for damages or loss or liability caused due to confiscation of the Consignment or any part thereof by any Competent Authority.
- 8. No liability shall be assumed by the Service Provider for any errors and / or omissions in any information / data that is imparted in respect of the Goods by the Customer.
- 9. The Service Provider shall not be liable for any loss or damage suffered due to the lack of, or insufficient, or unclear, or incorrect information, instructions or requirements in writing of the Customer in relation to the nature, weight, type, measurement, temperature or humidity requirements of the Goods or Specified Goods, including perishable Goods, or the manner of discharge of obligations of the Service Provider. For any Goods that are perishable in nature or have specific temperature or humidity requirements, the Service Provider shall not be held responsible for any loss of quality / shelf life / deterioration of Goods on account of lack of, insufficient, unclear or incorrect written instructions at the time of handing over the Consignment.
- 10. The Service Provider shall not be liable for any loss, damage or consequence whatsoever in the event the Customer hands over Prohibited Goods to the Service Provider.
- 11. The Service Provider shall not be responsible for any loss or damage due to natural wastage or natural deterioration of the Goods stored in the Warehouse, or due to any unavoidable temperature variation which may occur during the provision of Services.
- 12. The Service Provider shall not be liable to the Customer or any other person for any loss or damage caused to the Consignment or any part thereof, or any diminution in the value of the Consignment or any part thereof, by the Service Provider exercising its right of lien hereof and the consequent right to sell by public auction, tender, private agreement or otherwise or destruction of the same.
- 13. Service Provider's aggregate liability to the Customer or any other third party, for any claims, unforeseen events, losses, injuries, suits, demands, judgments, liabilities, costs, expenses, or damages for any cause whatsoever (including, but not limited to, those arising out of or related to these Terms) and regardless of the form of action or legal theory, shall be limited to the Fees

PART 4 – COLD CHAIN

I. Definitions

- (a) “Cold Store” means the facility of cold storage spaces for temperature sensitive Goods, the locations and/or identified space which is set out in the Contracting Documents hereto.
- (b) “Cold Storage Services” means the services provided by the DP World Relevant Entity more particularly described in Section B – Part 4 of these Terms.

II. Specific Terms

1. The Service Provider shall provide services as follows:
 - 1.1 Cold storage facility for storage and handling of raw material as may be required by the Customer from time to time. The Customer shall provide detailed checklist for material acceptance, unloading and dispatch of Goods from the Warehouse (“Checklist”).
 - 1.2 Goods which are not as per Checklist provided by the Customer need to be segregated by the Service Provider. Shortage and non-conformity (like excess, damaged, torn, dirty, pest infected, etc.) to be written in lorry receipt and signed by the truck driver.
 - 1.3 Goods will be unloaded as per Checklist provided by the Customer.
 - 1.4 Post sampling plan, de-palletized Goods shall be transferred to the Warehouse for storage.
 - 1.5 Damage/non-conformity Goods shall be stored separately and damaged Goods shall be returned to the Customer and/or third parties authorised by Customer after communicating the same to the Customer in writing and with pictures.
 - 1.6 Service Provider shall send all the documents (original invoice copy/triplicate for transporter/lorry receipt/packing list/delivery note/road permit forms, etc.) received with the Goods to the Customer by courier on the next Business Day of receipt of such Goods at the Service Provider’s facility.
 - 1.7 Service Provider shall furnish/communicate the temperature monitoring profile or trend (if any) with the Customer on need basis. Service Provider shall ensure all the date loggers.
 - 1.8 Service Provider shall deploy dedicated supervision and sufficient manpower to handle the Goods of the Customer.

III. Service Specific Obligations – Cold Storage Services

2. The Customer may handover Specified Goods for the provision of Services by the Service Provider only after serving advance notice of 02 (two) days to the Service Provider specifying all information pertaining to such Specified Goods and subject to the Service Provider agreeing to provide Services for the same.
3. In the event Service Provider agrees to render the Services for Hazardous Goods, the Customer shall provide the Service Provider with all documentation necessary to comply with the Applicable Laws related to the handling, storing or transporting of Hazardous Goods, and to cover all costs related to all insurance policies required by law for the handling, cold storage and transportation of Hazardous Goods. Customer shall also indemnify Service Provider from and against any charge, loss, damage, claim, expense, fine, or other expenses arising from any Service in respect of Hazardous Goods.
4. Customer shall notify the Service Provider within 5 (five) days upon arrival of the relevant Consignment, if any temperature deviation (excursion or incursion) takes place during the transit period of the Consignment. The Customer shall pay to the Service Provider additional Fees incurred for stabilization of temperature pursuant to such temperature deviation.

5. The Service Provider at its sole discretion and if it is so needed may take appropriate and necessary steps to prevent loss or damage or wastage of the Goods. The Customer shall be liable to pay all expenses in this behalf. However, the Service Provider shall not be liable for the loss or damage to Goods due to contamination, soiling or due to Force Majeure conditions.

6. Service Provider may, upon written notice to Customer, require the removal of the Consignment, or any portion thereof, from the Cold Store at the suspension or termination of the period of storage, if any, agreed by the Parties or after the expiration of 30 (thirty) days from such notice, whichever is earlier. If, in the opinion of Service Provider, Goods are about to deteriorate or decline in value to less than the amount of Service Provider’s lien under Clause 9 (*Title and Risk*), or there is a threat of damage to the Goods, to other property, to the Cold Store, or to persons, Service Provider may specify in the notice a shorter period for removal. All charges relating to the Goods to be removed shall be paid prior to removal. If such Goods are not so removed and said charges not paid, Service Provider may sell the Goods as provided by Applicable Law and shall be entitled to exercise any other rights it has under this the Contracting Documents and Applicable Law with respect to such Goods.

7. The Customer agrees to forthwith indemnify and hold the Service Provider and its directors, officers and employees harmless from and against any and all actual liabilities, damages, costs, claims, actions, proceedings, judgments, settlements, expenses, losses or the like, which may be suffered, incurred or paid as a result of any and all claims, demand, suits, penalties, causes of action, proceedings, judgements and liabilities of third parties (including reasonable counsel fees) incurred or suffered by or against the Service Provider with respect to or directly arising out of:

7.1 handing over Consignment or any part thereof comprising of Prohibited Goods, expired Goods, Goods not maintaining the requisite temperature, or perishable Goods or consumable Goods to the Service Provider, which are in breach of the FSSAI Guidelines, Drugs and Cosmetics Act, 1940 or other Applicable Laws regarding the consumption period of such Goods; or

7.2 any damage to the Cold Store by the Customer or its directors, officers, employees, agents, representatives, vendors or any person functioning under its instruction or control.

IV. Payment Terms

8. Chargeable quantity shall be the maximum quantity stored on any day in a calendar month and the same will be arrived at by adding the opening stock plus receipts for that day. Issues during the day will not be considered while calculating the chargeable quantity.

9. The number of pallets would be determined by the number of cartons/bags/drums that can be stored on each pallet based on stock keeping unit, size and weight of each packing material. The Customer’s representative shall ascertain the same on arrival of Goods for storage and sign off a document stating the different categorization of cartons/bags/drums per pallet basis which the billing would be undertaken.

10. The charges will be based on actual commencement date of the Services.

11. For storage charges, highest quantity of pallets mentioned in the above table in a month will be considered in the monthly billing cycle.

V. Permissible Variations

12. In addition to the Permissible Delays set out in Section A, the Customer agrees and acknowledges that Service Provider shall not be held responsible for any delay in delivery due to, including but not limited to, the following reasons, and no penalty shall be levied on or debited from Service Provider’s account, if there are:

- 12.1 Fluctuations in commission fees or remittance charges levied by bank or financial institution on payment transfer by Customer;
- 12.2 Any variations in rates for Taxes levied on the Services;
- 12.3 Any variations or modifications in declarations made by the Customer in relation to storage of Goods as required under the Services;
- 12.4 Payment of any additional charges by the Service Provider in case of inability of representatives/contractors of Customer to facilitate delivery of the Goods stored at the Cold Store;
- 12.5 Provision of additional pallets, Equipment, containers or additional space in the Cold Store by the Service Provider on account of fluctuation in quantity or size of Goods;
- 12.6 Provision of additional temperature-controlled areas or reduction thereof by the Service Provider on account of fluctuation in quantity or size of Goods;
- 12.7 Implementation of measures for reducing the temperature of frozen Goods handed over at a temperature above the declared maximum temperature, or for increasing the temperature of frozen Goods handed over at a temperature below the declared minimum temperature;
- 12.8 Enhanced requirement of the Service Provider's manpower on account of fluctuation in quantity of Goods;
- 12.9 Usage of containers other than the sizes agreed under the Contracting Documents on account of fluctuations in quantity or size of Goods;
- 12.10 Any additional holding of containers for container scanning extending beyond the day on which containers were presented for scanning; or
- 12.11 Any fluctuations in costs of material for fumigation of containers (if applicable) incurred by Service Provider during the provision of Services.

VI. Limitation of Liability

- 13. Service Provider's aggregate liability to the Customer or any other third party, for any claims, unforeseen events, losses, injuries, suits, demands, judgments, liabilities, costs, expenses or damages for any cause whatsoever (including, but not limited to, those arising out of or related to these Terms) and regardless of the form of action or legal theory, shall be limited to the Fees received by the Service Provider against the said Consignment. The limitations specified in this Clause, will survive, and apply, even if any remedy specified in the Terms fails its essential purpose. The Customer shall be responsible to make efforts to recover such losses through insurance.
- 14. Service Provider shall not be liable for any consequences, action and liability due to the lack of, or insufficient, or unclear, or incorrect information, instructions or requirements in writing of the Customer in relation to the nature, type, weight, measurement, temperature or humidity requirements of any of the Goods or Specified Goods, including perishable Goods, or the manner of discharge of obligations of the Service Provider. For any Goods that are perishable in nature or have specific temperature requirements or humidity requirements, the Service Provider shall not be held responsible for any loss of quality / shelf life / deterioration of Goods on account of lack of, insufficient, unclear or incorrect written instructions at the time of handing over the Consignment. The Customer shall indemnify the Service Provider against all and every loss and expense that may arise to the Service Provider on such account.
- 15. The Service Provider shall not be liable for any loss or damage, as the case may be, to the extent such is due to a Force Majeure event or any act and / or omission of the Customer, its employees, agents or workers or any defect in the Goods including temperature deviation, unavoidable temperature variation, natural wastage or natural deterioration of the Goods.
- 16. The Service Provider shall not be liable to the Customer or any other person for any loss or damage caused to the Consignment or any part thereof, or any diminution in the value of the Consignment or any part thereof, by the Service Provider exercising its right of lien hereof and the consequent right to sell by public auction, tender, private agreement or otherwise or destruction of the same.

PART 5 – RAIL TRANSPORT AND HANDLING AND PRIVATE FREIGHT TERMINAL SERVICES

I. Definitions

- (a) “**Applicable Laws**” mean, any statute, law, regulation, ordinance, rule, judgement, rule of law, order, decree, ruling, bye-law, approval of any Competent Authority (*as defined below*), directive, guideline, policy, clearance, requirement or governmental restriction or any similar form of decision of or determination, or any interpretation or administration having the force of law of any of the foregoing by any Competent Authority having jurisdiction over the matter in question, whether in effect as on the date of the Contracting Documents or at any time thereafter, and includes the Railways Act, 1989 (“**Railways Act**”), the Indian Railways (Permission for Operators to Move Container Trains on Indian Railways) Rule, 2006 (“**Rules**”) and any amendments and regulations made thereunder.
- (b) “**Destination**” means the destination set out in Forwarding Note for each Consignment of Goods.
- (c) “**Forwarding Note**” means the document issued by the Service Provider to the Customer against a request made by the Customer for availing Services acknowledging receipt of the Consignment.
- (d) “**Licenses**” means Category 1 License granted to the Service Provider by the Indian Railways under the Indian Railways (Permission for operators to move container trains on Indian Railways) Rule, 2006 for providing rail transportation Services, Concession Agreement executed between the Service Provider and the Indian Railways for providing Private Freight Terminal Services and any other license required to provide the Services under the Contracting Documents, issued by a Competent Authority.
- (e) “**Origin**” means the location of origin of Services as more particularly set out in the Forwarding Note for each Consignment of Goods.
- (f) “**Private Freight Terminal Services**” means the services provided by the DP World Relevant Entity for Consignment at Private Freight Terminal more particularly described in Section B – Part 5 of these Terms.
- (g) “**Private Freight Terminal**” means the terminal operated by the Service Provider for provision of Private Freight Terminal Services to the Customer.
- (h) “**Rakes**” means and includes the rail rakes owned or leased by Service Provider and the rakes for which rail haulage has been paid by Service Provider, to be used by Service Provider to transport a Consignment in accordance with the Contracting Documents and / or these Terms.
- (i) “**Rail Transportation Services**” means the services provided by the DP World Relevant Entity more particularly described in Section B - Part 5 of these Terms.
- (j) “**Rail Receipt**” means the document issued to by the Indian Railways as per the relevant guidelines of Indian Railways.

II. Specific Terms

1. The Service Provider shall provide Rail Transportation Services and Private Freight Terminal Services in conformity with the Licenses issued to the Service Provider under Applicable Laws. The Service Provider shall not be required to provide any Services or New Services which are contrary to or in contravention of or otherwise prohibited (explicitly or implicitly) under Applicable Laws or any other document, contract, deed, permit or authorization issued to the Service Provider whether as an “Operator” under the Rules or otherwise, including without limitation any activity of a hazardous nature, causing or likely to cause emissions or discharge in excess of permitted limits, causing nuisance or annoyance, or generally outside the purview

of authorized operations of the Service Provider as an “Operator” under the Rules.

2. The Service Provider shall (a) operate the Container on the selected Route(s) as specified in the Forwarding Note for rail transportation Services; and (b) handle the Container at the Private Freight Terminals as specified in the Forwarding Note in accordance with the terms of the Contracting documents.
3. The Customer shall, for each Consignment, raise a service request (in writing) by delivering a Forwarding Note to the Service Provider at least 07 (seven) days in advance from the date on which the Consignment is required to be transported. The Customer will specify the Containers required for transportation in the Forwarding Note. Each Forwarding Note shall contain: (a) declaration of the quantity and nature of the Goods; (b) the Origin and destination terminal between which the Goods are to be transported; (c) the date on which Goods movement is expected to commence; and (d) declaration that the Consignment does not include EXIM Goods, Reefer Goods, Hazardous Goods, Prohibited Goods or Specified Goods.
4. On loading of the Consignment in the Container at the Origin, Service Provider shall provide a copy of Rail Receipt (as provided by the Indian Railways) for the same to the Customer.
5. In the event that Destination terminal is owned by the Service Provider and the Consignment reaches such Destination terminal, Service Provider shall unload the Consignment and the consignee shall be responsible to pick up the same from the Destination terminal.

III. Customer Obligations – Rail Transportation Services and Private Freight Terminal Services

6. The Customer agrees that the loading and unloading of the Goods shall be done in accordance with the Railway rules and the rules of the relevant Origin terminal or Destination terminal, as the case maybe. Customer and / or the authorised consignee shall be responsible for the stuffing and de-stuffing of the Consignment in / from the Container at the Origin terminal and Destination terminal, respectively, unless otherwise agreed.
7. The Customer shall ensure that the weight of the Consignment on loading in the Container reaches a minimum carrying capacity, as specified by the Service Provider. The limit on the weight of the Consignment being transported in the Container shall be as fixed by the Competent Authority for the class of axle under the wagon or truck. Customer shall indemnify the Service Provider against any damage or penalty incurred to the Service Provider on account of Customer’s non-compliance of this Clause including any penalty for excess weight.
8. The Customer shall be responsible for transportation of the Consignment from the loading point to the Origin terminal and from the Destination terminal to the delivery point and for storage of the Consignment at the Origin terminal and/or the Destination terminal, as the case may be, unless the Customer agrees to avail, and the Service Provider agrees to render, value added services including the first mile connectivity services, the last mile connectivity services and/or the storage services in accordance with the relevant contract documents.
9. Service Provider shall be responsible for clearance of the Container at check-posts and state border entry points during the transportation of the Consignment from the Origin terminal to the Destination terminal.
10. The Customer shall ensure that all Containers are fitted with semi-automatic twist locks which are in good working order.
11. The Customer shall adhere to the Throughput Capacity as indicated by the Service Provider for the storage services. Throughput capacity shall mean the capacity of the warehouse at the terminal in relation to inward and outward transaction of Container.

12. The storage capacity of the warehouses at the terminals shall be fixed, and the Customer may request the Service Provider to provide additional storage capacity which may be provided by the Service Provider only upon assessment and examination of the need of the business and upon the Parties agreeing to the commercials thereof.

IV. Permissible Delays

13. The following events on behalf of the Service Provider shall constitute "Permissible Delays":
- 13.1.1 For rail transportation Service, delay or detention due to deviation of route for carriage of Goods to any route other than the route booked by the Customer, for any reason beyond the Service Provider's control or due to congestion or any other operational reasons;
 - 13.1.2 Delay due to prolonged waiting time at railway yard, railway stations, check posts or any Private Freight Terminal, as the case may be, or any precautionary stoppage for provision of right of way;
 - 13.1.3 Detention of Rakes and/or Containers at railway yard, railway station, check posts or any Private Freight Terminal, as the case may be, for inspection of Consignment by any Competent Authority;
 - 13.1.4 Unavailability of Rakes as per the specifications agreed under the Contracting Documents for any reason beyond the Service Provider's control;
 - 13.1.5 Delay in issuance of fitness certificate by Indian Railways for the Rakes to be used by the Service Provider for provision of Services;
 - 13.1.6 Suspension of Licenses issued by Indian Railways to the Service Provider;
 - 13.1.7 Damages to Rakes during the course of running of trains;
 - 13.1.8 Delay due to procurement or renewal of any licenses, permits and approvals, including the Licenses, from Indian Railways or any Competent Authority in relation to the running of Container trains or for provision of Services; or
 - 13.1.9 Delays due to scheduled or unscheduled maintenance activity carried out by Indian Railways.

V. Payment Terms

14. In the event it is so agreed under the Contracting Documents, the Customer shall deposit and keep deposited with the Service Provider an interest free refundable security deposit in the manner specified in the Contracting Documents.
15. On the expiry or termination of the Contracting Documents, the Service Provider shall refund to the Customer the Deposit without interest, after deduction of the amounts due to the Service Provider from the Customer including Fees, Outstanding Dues and other payments. If the Deposit is not sufficient to adjust the entire amount due, then the deficit amount after adjustment shall be paid forthwith by the Customer before the release of the Customer's Goods.
16. In the event of any shortfall in Deposit, the Customer shall make such further payment to the Service Provider in order to maintain at all times the agreed amount of Deposit under this Clause.

VI. Permissible Variations

17. The Fees agreed to for the Services maybe enhanced or revised on the occurrence of the following events or existence of the following circumstances, and the same shall be collectively referred to as "**Permissible Variations**":
- 17.1 Fluctuations in commission fees or remittance charges levied by bank or financial institution on payment transfer by Customer;
 - 17.2 Fluctuations in foreign currency;
 - 17.3 Any variations in the rates for Fees or other payments introduced by the Indian Railways or any Competent Authority resulting in variation of the Fees payable under the Contracting Documents;
 - 17.4 Any variations in rates for Taxes levied on the Services;

- 17.5 Any variations or modifications in declarations / instructions made by the Customer in relation to provision Services;
- 17.6 Payment of any additional charges by the Service Provider in case of inability of representatives/contractors of Customer to facilitate delivery of the Goods;
- 17.7 Provision of additional Rakes, Containers, pallets, Equipment or additional space in the Service Provider's warehouse or the goods shed of Indian Railways on account of fluctuation in quantity or size of Goods;
- 17.8 Enhanced requirement of the Service Provider's manpower on account of fluctuation in quantity of Goods;
- 17.9 Replacement of Containers or usage of Containers other than the sizes agreed under Contracting Documents on account of fluctuations in quantity or size of Goods;
- 17.10 Any additional holding of Containers for container scanning extending beyond the day on which Containers were presented for scanning;
- 17.11 Any penalty imposed by Indian Railways for Consignment weighing in excess of the permissible weight limits prescribed by Indian Railways for rail transport;
- 17.12 Any penalty, stabling charges, detention charges, ground usage charges, demurrage or any other payment whatsoever levied by Indian Railways for delay in unloading the Consignment from the railways Rakes or in picking up the Consignment from the railway goods sheds or terminals;
- 17.13 Variation in the rate of stabling charges, detention charges, demurrage charges ground usage charges, demurrage or any other payments whatsoever levied by the Indian Railways, any person or Competent Authority; or
- 17.14 Replacement of Containers or usage of Containers other than the sizes agreed under the Forwarding Note on account of fluctuations in quantity or size of Goods.
- 18. In case of occurrence of an event of Permissible Variation, the Service Provider shall be entitled to recover the expenses incurred in lieu of a Permissible Variation from the Customer ("**Additional Fees**"), in addition to and excess of the Fees stipulated in Contracting Documents. The Customer shall be liable to pay such Additional Fees to the Service Provider within 15 (Fifteen) days of receipt of invoice from the Service Provider.

VII. Limitation of Liability

- 19. No liability shall be assumed by the Service Provider for any errors and / or omissions in any information / data that is imparted in respect of the Goods or the Container by the Customer.
- 20. Any ground rent accrued on account of delay in railing of allotted Containers for reasons attributable to the Customer, shall be borne by the Customer, unless otherwise agreed by the Parties in writing.
- 21. The Service Provider shall not be liable to the Customer or any other person for any loss or damage caused to the Consignment or any part thereof, or any diminution in the value of the Consignment or any part thereof, by the Service Provider exercising its right of lien hereof and the consequent right to sell by public auction, tender, private agreement or otherwise or destruction of the same.
- 22. The Service Provider shall not be liable for any loss or damage suffered due to the lack of, or insufficient, or unclear, or incorrect information, instructions or requirements in writing of the Customer in relation to the nature, type, weight and measurement of Goods or the Specified Goods, including perishable Goods, or the manner of discharge of obligations of the Service Provider in the relevant Forwarding Note, Railway Receipt or any other transport document. For any Goods that are perishable in nature or have specific temperature requirements, the Service Provider shall not be held responsible for any loss of quality / shelf life / deterioration of Goods on account of lack of, insufficient, unclear or incorrect written instructions at the time of handing over the Consignment.
- 23. The Service Provider shall not be responsible for any loss or damage due to natural wastage or natural deterioration of any of the Goods handled or transported through the terminal.

24. For rail transportation Services, the Service Provider shall not be responsible in the event of deviation of route for carriage of Goods to any route other than the route booked by the Customer, for any reason beyond the Service Provider's control or due to congestion in railway yard or any other operational reasons.
25. Service Provider's aggregate liability to the Customer or any other third party, for any claims, unforeseen events, losses, injuries, suits, demands, judgments, liabilities, costs, expenses, or damages for any cause whatsoever (including, but not limited to, those arising out of or related to the Contracting Documents) and regardless of the form of action or legal theory:
 - 25.1 in the event that the claim arises from the Services under Rail Transportation Services, shall not exceed INR 50 (Fifty Rupees) per kg of Goods; or
 - 25.2 in the event that the claim arises from the Private Freight Terminal Services, shall in case of loss or damage of whatever kind to the property shall be limited to the Fees received by the Service Provider against the said Consignment. The Customer shall be responsible to make best efforts to recover such losses through insurance .

PART 6 – CONTAINER FREIGHT SERVICES

I. Definitions

- (a) “**Applicable Laws**” mean, any statute, law, regulation, ordinance, rule, judgement, rule of law, order, decree, ruling, bye-law, approval of any Competent Authority (*as defined below*), directive, guideline, policy, clearance, requirement or governmental restriction or any similar form of decision of or determination, or any interpretation or administration having the force of law of any of the foregoing by any Competent Authority having jurisdiction over the matter in question, whether in effect as on the date of these Terms or at any time thereafter, and includes the Customs Act, 1962 (“**the Act**”), any amendments, rules and regulations thereof and circulars/instructions issued from time to time by the Central Board of Indirect Taxes and Customs (“**the Board**”) in relation to the custody, storage, handling and disposal of Consignment including the Handling of Cargo in Customs Area Regulations, 2009.
- (b) “**Container Freight Services**” means the services provided by the DP World Relevant Entity more particularly described in Section B - Part 6 of these Terms.
- (c) “**Container Freight Station**” means the premises operated by the Service Provider towards dispatch and receipt of Containers from the Container Terminal, and any land thereon or adjacent thereto owned or leased or otherwise occupied by the Service Provider for provision of Services.

II. Specific Terms

1. The Service Provider shall provide Container Freight Services in relation to receipt of Containers, provision of packing, consolidation and deconsolidation and storage facilities, storage and handling of the Containers and Goods in Container Freight Station and deliver Containers and Goods to the appointed carrier or representative of the Customer.
2. The Container Freight Services may include provision of customs clearance and services at its bonded warehouse.
3. Goods not acceptable for carriage: It is agreed between the Parties that the Service Provider shall not carry the Goods:
 - 3.1 if it is classified as hazardous, dangerous, prohibited, or restricted; or
 - 3.2 the same is not permitted by the laws/rules/restrictions in force;
 - 3.3 if it pertains to any items notified by the Service Provider to be restricted and/or banned and/or dangerous and/or prohibited from time to time (including but not limited to animals, bullion list to be defined, currency, bearer from negotiable instruments, precious metals and stones, firearms, or parts thereof arms and ammunition, human remains, pornography and illegal narcotics/drugs etc.)
4. **Perishable Goods:** The Service Provider shall not carry any perishable goods. However, if due to some omission, commission, negligence on the part of the Customer such perishable goods enter into the network of the Service Provider then the Service Provider shall have the right to dispose of or sell the Goods immediately and without notice.
5. The Service Provider shall not be required to provide any Container Freight Services which are contrary to or in contravention of or otherwise prohibited (explicitly or implicitly) under Applicable Laws or the licenses issued by the Office of the Commissioner of Customs or any other document, contract, deed, permit or authorization issued to the Service Provider for the provision of services from the Container Freight Station or otherwise including without limitation any activity of a hazardous nature, causing or likely to cause emissions or discharge in excess of permitted limits, causing nuisance or annoyance, or involving domestic animals.

III. Customer Obligations – Container Freight Services

6. The Customer’s representatives will be granted only occasional entry to the any premises of the Service Provider in the Container Freight Station for the limited purpose of taking physical inventory, inspection, and audit of Goods. Such occasional entry will only be allowed on prior permission requisitioned at least 48 (Forty-eight) hours before its representatives intend to visit the premises of the Service Provider. In any event, the Customer shall ensure that its representatives strictly observe and abide by the Applicable Laws and instructions including safety regulations prescribed and/or required to be complied within the Container Freight Station and as specified by the Service Provider.
7. The Customer shall confirm that the transportation, distribution, and storage of the Goods, will be classified, by its nature as general transportation, distribution and storage and will not be considered as specialized transportation, distribution and storage of hazardous substances, residues, left over, voluminous objects or heavy objects, or any other substance or merchandise, that the Customer acknowledges that requires special permits from the Competent Authorities or which requires special transportation and storage services.
8. The Customer will arrange for examination of the Consignment by the Competent Authority at the Container Freight Station at its own costs. In the event the examination requires any additional time beyond the nominated Business Days for the Competent Authorities, any additional charges arising on account of such overtime hours shall be borne by the Customer.
9. Service Provider shall permit the Customer to bring its Container transporters inside the Container Freight Station upon prior requests made in writing by the Customer to load and discharge the Containers at agreed timings and shall allow access to the Container Freight Station to the Customer’s personnel, surveyors, or such other representatives (“**Customer Representatives**”) for the purpose of carrying out activities in the Container Freight Station as agreed between the Parties. The Parties agree that access under this Clause is permitted by the Service Provider on the condition that the Container Freight Station is used by the Customer Representatives in the manner permitted under Applicable Laws and the Contracting Documents and the Customer will indemnify the Service Provider for any loss, damage, expense, injury, or costs in any way howsoever caused by reason of such access granted under the Contracting Documents.
10. Service Provider 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 after the expiration of the free period stipulated in the Contracting Documents or the maximum duration as permitted under Applicable Laws and the Customer, upon receipt of such notice, shall remove the goods forthwith from the Container Freight Station. Service Provider may at the risk and expense of the Customer remove, store, or relocate: (i) any Goods are left at the Container Freight Station beyond the free period stipulated in the Contracting Documents and the Customer upon receipt of such notice, shall remove the Goods forthwith from the Container Freight Station.
11. Containers
 - 11.1 Prior to the presentation for acceptance to Service Provider of any Containers, the Customer shall supply the Service Provider particulars of such Container in writing including without limitation, nature and type of Goods, weight, measurements, and such other information as requested by Service Provider and required under Applicable Laws.
 - 11.2 The Customer shall ensure that the Containers and / or Consignment tendered to the Service Provider for provision of Services are technically compatible with Service Provider’s

Equipment at the Container Freight Station.

11.3 Customer shall provide all details regarding space arrangements made by Customer for onward carriage of the Containers within the timelines provided by the Service Provider.

11.4 Customer shall ensure that all Containers being transported to the Container Freight Station are transported in a safe manner with secure covering for the Containers and upon being delivery are secure, in a good state of repair and suitable for its purpose. Service Provider reserves the right to refuse to load or handle any Container which is not as per conditions under this Clause.

11.5 In the event any Container, its contents and / or packaging are found to be in damaged condition by the Service Provider, the Service Provider shall notify the Customer of damage and the Customer shall within 7 (Seven) days of such notice, intimate the Service Provider that an inspection of relevant items is required. Service Provider shall thereafter permit the Customer or its duly authorized agents upon reasonable notice to inspect the Containers, its contents or packaging.

11.6 Service Provider may at the risk and expense of the Customer, remove, store or relocate: (i) any Goods left at the Container Freight Station beyond the free period stipulated in the Contracting Documents; (ii) any Goods which in the opinion of the Service Provider, are likely to contaminate or endanger the Goods; (iii) any Goods which in the opinion of the Service Provider are received by Service Provider and not packed in such a manner that they will withstand handling while in transit. Further, the Service Provider 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.

12. The Customer shall forthwith indemnify and hold the Service Provider and its directors harmless from and against any Claims relating to:

12.1 failure of the Customer in complying with the specific requirements of Container and / or Consignment with the requirements of Applicable Laws;

12.2 any liability incurred by Service Provider as a result of the acts or omissions of personnel deployed by the Customer at the Container Freight Station for the purpose of handling the Containers and / or Consignment;

12.3 access to the Container Freight Station granted to the Customer and its representatives under the Contracting Documents;

12.4 any damage to the Container Freight Station, Service Provider's premises and property and all other property, containers and consignments belonging to third parties by the Customer or the Customer Representatives;

12.5 failure of the Customer to withdraw the Container / Consignment from the Container Freight Station or the Service Provider's premises within the free period stipulated in the Contracting Documents or not taking timely possession thereof; or

12.6 inaccuracy of, or omission of the Customer and / or the Customer's Representatives in provision of particulars in respect of the Consignment and / or Containers.

IV. Permissible Variations

13. The Fees agreed to for the Services maybe enhanced or revised on the occurrence of the following events or existence of the following circumstances, and the same shall be collectively referred to as "**Permissible Variations**":

13.1 Fluctuations in commission fees or remittance charges levied by bank or financial institution on payment transfer by Customer;

13.2 Any variations in rates for Taxes levied on the Services;

13.3 Any variations or modifications in declarations made by the Customer in relation to handling or storage of Consignment/Container as required under the Services;

13.4 Payment of any additional charges by the Service Provider in case of inability of representatives/contractors of Customer to facilitate delivery, take possession or remove the Consignment/Container from the Container Freight Station;

13.5 Provision of additional pallets, Equipment, Containers or additional space in container yard by the Service Provider on account of fluctuation in quantity or size of Consignment;

13.6 Provision of additional temperature-controlled areas or reduction thereof by the Service Provider on account of fluctuation in quantity or size of Goods;

13.7 Enhanced requirement of the Service Provider's manpower on account of fluctuation in quantity of Consignment;

13.8 Usage of Containers other than the sizes agreed under the Contracting Documents on account of fluctuations in quantity or size of Consignment;

13.9 Any additional charges incurred due to spillage or leakage caused during stuffing and de-stuffing of Containers, such as cleaning charges;

13.10 Any additional holding of Containers for container scanning extending beyond the day on which Containers were presented for scanning; or

13.11 Any fluctuations in costs of material for fumigation of Containers (if applicable) incurred by Service Provider during the provision of Services.

14. In case of occurrence of an event of Permissible Variation, the Service Provider shall be entitled to recover the expenses incurred in lieu of a Permissible Variation from the Customer ("**Additional Fees**"), in addition to and excess of the Fees stipulated in the Contracting Documents. The Customer shall be liable to pay such Additional Fees to the Service Provider within 15 (Fifteen) days of receipt of invoice from the Service Provider.

V. Permissible Delays

15. The following events on behalf of the Service Provider shall constitute "Permissible Delays":

15.1 Delays at Container Freight Station caused by late receipt of the Goods or by revisions to load lists or late submission of load / discharge instructions;

15.2 Delays caused due to search and seizure procedures as applied by statutory authorities in the Container Freight Station, the issuance of notices and / or seizure of Consignment for inquiry / investigation by statutory authorities;

15.3 The delay in arrival of the vehicle for the agreed window;

15.4 Delays to vehicle movement to Container Freight Station caused due to movement of consecutive groups of animals including without limitation, cattle, sheep, goats and such other animals and precautionary stoppage of vehicle for provision of right of way; or

Breakdown of Equipment if any in the Container Freight Station.

VI. Limitation of Liability

16. The Service Provider shall be deemed to be the custodian of the Containers and / or Consignment only whilst the Containers and / or Consignment, as the case may be, as within the premises of the Container Freight Station. Custodianship of Containers and or Consignment by the Service Provider commences once they gate-in to the Container Freight Station. Service Provider shall cease to be the custodian of the Container and / or the Consignment as the case may be, once they exit the out – gate at the Container Freight Station.

17. The Service Provider does not guarantee any exclusivity in assignment of space in the Container Freight Station. The Goods and / or Containers as received from the Customer shall be placed as per the manner prescribed and demarcations permitted under Applicable Law. The placement of Goods and / or Containers once allocated by the Service Provider (as per demarcated import or export areas within the Container Freight Station) shall not be altered by the Customer Representatives.

18. The Service Provider 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 unauthorised personnel within the Container Freight Station. The Customer shall be fully liable for

the acts and omissions of the Customer's visitors.

19. No liability shall be assumed by the Service Provider for any errors and / or omissions in any information / data that is imparted in respect of the Containers and / or Goods by the Customer.
20. The Customer shall be responsible for any damage to the Container Freight Station, premises, Equipment all other property, other containers, other consignments, and property belonging to the third parties, caused during, or arising from movement of its own Equipment and or labour within the Container Freight Station and shall indemnify the Service Provider against all claims, demands, losses, costs and expenses arising from any such damage.
21. Service Provider 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. The Customer shall be fully liable for the acts and omissions of the Customer's Representatives.
22. In case of transport by Reefer Container, the Service Provider will not be responsible for the safety and quality of Goods which shall be entirely to the account of the Customer.
23. Service Provider's aggregate liability to the Customer or any other third party, for any claims, unforeseen events, losses, injuries, suits, demands, judgments, liabilities, costs, expenses, or damages for any cause whatsoever (including, but not limited to, those arising out of or related to the Contracting Documents) and regardless of the form of action or legal theory, shall be limited to the Fees received by the Service Provider against the said Consignment.. The limitations specified in this section, will survive, and apply, even if any remedy specified in the Contracting Documents fails its essential purpose. The Customer shall be responsible to make best efforts to recover such losses through insurance.

PART 7 – PORTS AND TERMINALS / CONTAINER TERMINAL SERVICES

I. Definitions

- (a) “**Container Terminal**” means the container terminal comprising of container berths, the Container Yard and all other Equipment and buildings which the Service Provider manages and operates at the port.
- (b) “**Container Terminal Services**” means the services provided by the DP World Relevant Entity more particularly described in Section B - Part 7 of these Terms.
- (c) “**Container Yard**” means the land and premises used by the Service Provider at the Container Terminal where Containers are, amongst other things, stored, received, and delivered for the purpose of carrying out the Container Terminal Services.
- (d) “**Vessel**” means any ship, Container Ship, conventional ships, multipurpose ships, supply vessels, naval vessels, barge, lighter or other ship of any description, including all lashing equipment for the proper securing of Containers, Equipment or Consignment, its gear and all other equipment or other property on board.

II. Specific Terms

These terms shall apply to:

- (a) all Container Terminal Services provided, or made available, by the Service Provider;
- (b) the use by the Customer of the Container Terminal and / or the facilities at the Container Terminal; and
- (c) all Vessels which berth at the Container Terminal.

III. Customer Obligations – Container Terminal Services

- (a) The User shall ensure that it is familiar with, and that it follows, any Applicable Laws, instructions or directions issued by Service Provider, its manager, any employee, consultant or - authorised agent of Operator which relate to the use of the Terminal, entry thereon or the use of any Equipment or Vessel there on or thereat.
- (b) The Customer shall ensure that any third party which it might instruct to enter on to the Container Terminal (including any subcontractor, agent, consultant, employee, or other party) is familiar with and agrees to be legally bound by – such regulations, instructions, or directions.
- (c) If the Customer has appointed an agent, or if Service Provider reasonably believes that the Customer has appointed an agent, in respect of the Services the Customer shall be deemed to have authorised such agent to act on its behalf in respect of all matters hereunder including to pay to or receive from Service Provider all sums due under these Terms unless the Customer notifies Service Provider to the contrary at any time and Service Provider shall be entitled to act upon any instruction, request, notice or other communication from such agent without prior reference to the Customer.
- (d) The Customer will immediately inform the Service Provider of any occurrence or incident which might affect the safe and efficient operation of Service Provider or other persons using the Container Terminal and take, at its own cost, such reasonable steps to control or eliminate any danger or inconvenience as may be required by Service Provider. Without prejudice to the foregoing, the Customer its Affiliates, officers, directors and employees shall indemnify and hold Service Provider harmless from and against any costs, fines, claims, indemnities, expenses, damages or losses of whatever nature arising from such occurrence or incident unless the occurrence or incident has been caused by the: (i) negligence of Service Provider, (ii) any defects in any Goods or the Container or the contents thereof; (iii) any mixture or confusion of Goods; or (iv) shifting or movement of the Goods.

- (e) The Customer will be deemed to have familiarised itself with and considered all conditions which could affect arrival, mooring, manoeuvring, unmooring and departure of any Vessel at the Container Terminal, including data relating to the Container Terminal and its surroundings, the minimum water depth (at any state of the tide) and any physical, surface, and sub-surface condition and to have taken into account climatic condition (“**Site Conditions**”). The Customer acknowledges that Service Provider gives no warranty whatsoever in respect of the Site Conditions and it shall have no liability whatsoever and howsoever arising in respect of the Site Conditions.
- (f) The Customer shall use reasonable skill and care when berthing the Vessel at the Container Terminal.
- (g) At all times when a Vessel is berthed at the Container Terminal, the Customer shall ensure that the Vessel:
 - (h) furnishes adequate lighting and safe ingress and egress (for the Service Provider’s personnel);
 - (i) maintains appropriately qualified and experienced officers and crew aboard in order to maintain an alert watch and respond to emergencies and to enable Service Provider to provide the Container Terminal Services;
 - (j) maintains engines in a state of readiness to response to emergency situations and to avoid delays in vacating the berth; and
 - (k) its crew members adhere at all times to all the health and safety rules of the Service Provider notified to the Customer from time to time.

IV. Permissible Delays

The following exclusions constitute “Permissible Delays”:

- (a) Delays caused by the Vessel or its Equipment which prevent or delay Container exchange work being carried out;
- (b) Cessation of exchange work due to Vessel movements on or adjacent to the Terminal;
- (c) Handling of break bulk or over dimensional Goods;
- (d) A Force Majeure Event;
- (e) Delays to Vessel operations as a result of industrial action and authorised award stoppages (including Closed Port Days, whether worked or not). The Customer acknowledges that after industrial action or authorised award stoppages the Service Provider requires a recovery period for berthing of Vessels at the Terminal to return to normal of at least two (2) times the duration of the industrial action or stoppage;
- (f) Delays to Vessel operations caused by late receipt of Containers or by revisions to load lists or late submission of load/discharge instructions;
- (g) Failure and/or interruption to power supply;
- (h) Delays where Containers are worked into or out of non-cellular holds, where two 20ft Containers are stowed in a 40ft cellular hold, or where the stowage plan requires a crane to boom up/down to service cargo either side of a Vessel’s bridge;
- (i) Delays during pilotage and other delays not caused by the Operator before labour aboard and after labour ashore;
- (j) The delay in arrival of the Vessel for the agreed window;
- (k) Delays caused by the discharge of funnel fumes or by insufficient, inaccessible or poorly maintained lashings and fittings including incorrectly fitted lashings or faulty twist locks;
- (l) Delays caused by any statutory authority;
- (m) Bona fide delays to previous ships scheduled to complete before the Closed Berthing Window outside the control of the Operator;
- (n) Any delays caused by compliance with or enforcement in good faith of the provisions of any applicable collective bargaining agreement related to operations at the Container Terminal; and
- (o) Weather delays.

V. Limitation of Liability

- (a) Operator will not be responsible for the security or safety of any Vessel while tied up at the Terminal.

- (b) Service Provider's aggregate liability to the Customer or any other third party, for any claims, unforeseen events, losses, injuries, suits, demands, judgments, liabilities, costs, expenses, or damages for any cause whatsoever (including, but not limited to, those arising out of or related to the Contracting Documents) and regardless of the form of action or legal theory, shall be limited to the Fees received by the Service Provider against the said Consignment. . The limitations specified in this section, will survive, and apply, even if any remedy specified in the Contracting Documents fails its essential purpose. The Customer shall be responsible to make best efforts to recover such losses through insurance.

PART 8 – EXPRESS

I. Definitions

- (a) **“Express Services”** means the services provided by the DP World Relevant Entity more particularly described in Section B - Part 8 of these Terms.
- (b) **“Delivery Point”** means the destination for delivery of the Consignment as specified in the Service Request.
- (c) **“Loading Point”** shall mean the origin for pickup of Consignment as provided in the Contracting Documents.
- (d) **“Service Request”** means a request for Express Services as raised by the Customer in any acceptable mode including email.

II. Specific Terms

- 1. The Service Provider shall provide Express Services as follows:
 - 1.1 Pick up of Consignment and door to door delivery or door to airport delivery basis the Origin as selected in respect of the Services.
 - 1.2 Transit times are subject to change without notice. The booking cut-off time for pick-up would be as per the Contracting Documents (i.e., inclusive of documents of Consignment with the Goods). All Consignments booked after the cut-off time shall be considered for the next day’s pick-up. Similarly, dispatch instructions received after the cut-off time shall be executed on the next day.
 - 1.3 Customer shall give Service Provider at least 24 (Twenty-four) hours advance written notice of any known or anticipated package volume surges. For each Consignment, a “package volume surge” occurs when Customer tenders Consignment which substantially exceed the number, type, size, and/or weight of Consignment mentioned in the Service Request by Customer. Service Provider may at its sole discretion accept or reject such Consignment.
 - 1.4 **Unclaimed Goods**
 - 1.4.1 Consignments which remain unclaimed shall be identified as such by the Service Provider in accordance with the DP World Group Policies (**“Unclaimed Consignments”**). Unclaimed Consignments will be treated in accordance with the process set out in this Paragraph 1.4 (*Unclaimed Goods*).
 - 1.4.2 All Unclaimed Consignments will be subjected to a minimum of 2 (Two) attempts for delivery within 7 (Seven) Business Days of the arrival of the Consignment at the Delivery Point. In the event that certain free days are agreed to with the Customer, the Unclaimed Consignment shall continue to be held without levy of demurrage or any other related charges for the duration of such free days. Any re-delivery attempts shall be entirely at the Customer’s cost as per the Service Provider’s standard rates.
 - 1.4.3 In the event the Unclaimed Consignment remains undelivered upon completion of attempts set out in Paragraph 1.4.2 above, the Service Provider shall issue a preliminary notice of non – delivery of Unclaimed Consignment in writing (**“First Notice”**) intimating the Customer of such Consignment and seeking instructions towards disposal of such Unclaimed Consignment including reimbursement of any Fees, taxes, levies and demurrage as applicable to such Unclaimed Consignments.
 - 1.4.4 If no response is received to such First Notice from the Customer, the Service Provider will send

another notice of non – delivery of Unclaimed Consignment in writing (**“Second Notice”**) intimating the Customer of such Consignment and seeking instructions towards disposal of such Unclaimed Consignment including reimbursement of any Fees, taxes, levies, and demurrage as applicable to such Unclaimed Consignments.

1.4.5 In the event no response is received from the Customer towards the Second Notice as well, the Unclaimed Consignment shall be considered an abandoned / forfeited Consignment and the Service Provider shall dispose of such Unclaimed Consignment in accordance with the DP World Group Policies.

1.4.6 Customer agrees to all routing and diversion, including the possibility that the Consignment may be carried *via* intermediate stopping places.

1.4.7 Customer shall not transmit handover or allow to be handed over to the Service Provider, any Consignment consisting of banned, restricted or Dangerous / Hazardous Goods. The Customer acknowledges that Consignment entrusted by Customer and booked by Service Provider shall be on “Said To Contain Basis” i.e., Service Provider shall be under no obligation to verify the description and physical contents of the Consignment declared by the Customer on the Consignment Note. In any case, the Service Provider shall not be liable for any such Consignment which is disallowed by law, either specifically or otherwise. For avoidance of doubt, material not acceptable for carriage shall include: (a) Consignment classified as Dangerous / Hazardous Goods, prohibited or restricted by International Air Transport Association (**“IATA”**) and International Civil Aviation Organization (**“ICAO”**) or any government authority for Consignment being delivered through air transport; (b) Consignment not permitted under applicable law or no customs declaration is made when required by applicable customs regulations; (c) goods being carried through surface that are, as per DG regulations or otherwise, notified to be restricted and / or banned and / or to be dangerous and or prohibited from time to time (including but not limited to animals, bullion, currencies, bearer of negotiable instruments, precious metals and stones, firearms or parts thereof and explosives, ammunition, human remains, pornography and illegal narcotic drugs); (d) Dangerous Goods / Hazardous Goods which are articles or substances which are capable of posing a risk to health, safety, property or the environment and which are enlisted in the list of Dangerous Goods / Hazardous Goods in the IATA Regulations (for transport of Consignment through air) or other applicable regulations, (e) any Consignment that is being carried through surface or air and that would require the Service Provider to procure a special certificate for such carriage.

III. Permissible Delays

- 2. In addition to the Permissible Delays set out in Section A, the Customer agrees and acknowledges that Service Provider shall not be held responsible for any delay in delivery due to, including but not limited to, the following reasons, and no penalty shall be levied on or debited from Service Provider’s account, if there are:
 - 2.1 Delays from pick – up destination of the Consignment to the Loading Point of the vehicle (including but not limited to airplanes) as a result of industrial action and authorised stoppages;
 - 2.2 Delays to vehicle loading caused by late receipt of the goods or

by revisions to load lists or late submission of load / discharge instructions;

- 2.3 Delays to vehicle movement caused due to prolonged waiting time at national and state highway check posts;
- 2.4 Delays to vehicle movement caused due to movement of consecutive groups of animals including without limitation, cattle, sheep, goats and such other animals and precautionary stoppage of vehicle for provision of right of way;
- 2.5 Breakdown of Equipment, if any used for loading of Consignment into the vehicles;
- 2.6 Grounding of the aircraft by the appropriate authority for any reasons whatsoever;
- 2.7 Delays or cancellations caused by evacuation of the terminal, re-boarding of aircraft because of security breach, etc; and
- 2.8 Delays caused by airline carriers due to circumstances including maintenance, aircraft cleaning, baggage loading, fueling, airport operations, heavy traffic volume and air traffic control

IV. Permissible Variations

3. The Fees agreed to for the Services maybe enhanced or revised on the occurrence of the following events or existence of the following circumstances, and the same shall be collectively referred to as “**Permissible Variations**”:
 - 3.1 Fluctuations in commission fees or remittance charges levied by bank or financial institution on payment transfer by Customer;
 - 3.2 Any variations in rates for taxes levied on the Services;
 - 3.3 Any variations or modifications in declarations/instructions of the Customer in relation to provision of Services;
 - 3.4 Payment of any additional charges by the Service Provider in case of inability of representatives/contractors of Customer to facilitate delivery of the Goods;
 - 3.5 Enhanced requirement of the Service Provider’s manpower on account of fluctuation in quantity of Goods; or
 - 3.6 Provision of additional space, containers, pallets or Equipment on account of fluctuation in quantity or size of Goods.

V. Limitation of Liability

4. Service Provider’s aggregate liability to the Customer or any other third party, for any claims, unforeseen events, losses, injuries, suits, demands, judgments, liabilities, costs, expenses, or damages for any cause whatsoever (including, but not limited to, those arising out of or related to these Terms) and regardless of the form of action or legal theory, shall always be limited to INR 5,000/- (Rupees Five Thousand Only) or cost of reconstruction or actual invoice value, whichever is lower.
5. The Service Provider will not assume any responsibility or liability for any loss, direct or consequential, irrespective of the amount involved due to (i) delay in pickup, transportation, or delivery of the Consignment regardless of the cause of such delays; and (ii) in case the container seal is damaged / tampered while receiving such container in a tampered condition.
6. The Service Provider will not, under circumstances, be liable for damages or loss or liability caused due to confiscation of the Consignment or any part thereof by any Competent Authority.
7. No liability shall be assumed by the Service Provider for any errors and / or omissions in any information / data that is imparted in respect of the Consignment by the Customer.
8. The Service Provider shall not be liable to the Customer or any other person for any loss or damage caused to the Consignment or any part thereof, or any diminution in the value of the Consignment or any part thereof, by the Service Provider exercising its right of lien hereof and the consequent right to sell by public auction, tender, private agreement or otherwise or destruction of the same.

PART 9 – FREIGHT FORWARDING SERVICES

I. Definitions

- (a) “**Carrier**” means a person, or an entity engaged in the business of transportation of Goods by air, ocean or road and includes non-vessel operating common carriers, acting as an agent or sub-contractor appointed by the Service Provider.
- (b) “**Freight Forwarding Services**” means the services provided by the DP World Relevant Entity more particularly described in Section B - Part 9 of these Terms.
- (c) “**House Bill of Lading**” means the document issued by the Carrier to the Service Provider for carriage of Consignment from origin to destination as specified therein.

II. Specific Terms

1. The Service Provider shall not be required to provide any Freight Forwarding Services which are contrary to or in contravention of or otherwise prohibited (explicitly or implicitly) under Applicable Laws or any other document, contract, deed, permit or authorization issued to the Service Provider, including without limitation any activity of a hazardous nature, causing or likely to cause emissions or discharge in excess of permitted limits, causing nuisance or annoyance, or generally outside the purview of authorized operations of the Service Provider.
2. Service Provider shall provide Freight Forwarding Services from origin countries to PAN India.
3. Service Provider shall pick Consignments from the origin country / location and deliver it to destination as per the serviceability list agreed in the Contracting Documents and as recorded in the House Bill of Lading.
4. The movements of Consignments will happen as per agreed Incoterms and mode of movement with the third party shipper/vendor.
5. Service Provider will receive the booking from the shipper as per the Incoterms. Consignment shall be released to the shipper/vendor with ETD (*as defined below*) and ETA (*as defined below*) details.
6. Shipment pick up shall be done by the Service Provider based on Incoterm and agreed mode of movement from the designated locations to the respective port of delivery. Pickup timings will be allotted as per shipping order. Service Provider will provide the estimated movement details, i.e., ETD (“**Estimated Time of Dispatch**”) from origin port and ETA (“**Estimated Time of Arrival**”) at destination port.
7. Service Provider shall coordinate with shipper and Customer for bill of lading (“**BL**”) / airway bill (“**AWB**”) confirmation and keep a track record of it for future enquiries and provide drafts to the Customer.
8. Goods not acceptable for carriage: Service Provider shall not carry Goods:
 - 8.1 if it is classified as hazardous, dangerous, prohibited, or restricted;
 - 8.2 the same is not permitted by the laws/rules/restrictions in force;
 - 8.3 if it pertains to any items notified by the Service Provider to be restricted and/or banned and/or dangerous and/or prohibited from time to time (including but not limited to animals, bullion list to be defined, currency, bearer from negotiable instruments, precious metals and stones, firearms, or parts thereof arms and ammunition, human remains, pornography and illegal narcotics/drugs etc.)
9. Perishable Goods: The Service Provider shall not carry any perishable goods. However, if due to some omission,

commission, negligence on the part of the Customer such perishable goods enter into the network of the Service Provider then the Service Provider shall have the right to dispose of or sell the Goods immediately and without notice.

III. Customer Obligations – Freight Forwarding Services

10. The Customer shall ensure that the Goods are not in defective conditions or packed in such a manner which could result in damage, deterioration, leakage, or wastage of Goods during its transport. In the event that any such defective or improperly packed Goods (as maybe recorded by in the House Bill of Lading) provided to the Service Provider for carriage are, on arrival at the destination, found to have been damaged or to have suffered deterioration, leakage or wastage, Service Provider shall not be responsible for such damage, deterioration, leakage or wastage.
11. Customer shall notify the Service Provider within 5 (five) days upon arrival of the relevant Consignment, if any temperature deviation (excursion or incursion) takes place during the transit period of the Consignment. The Service Provider shall, upon Customer’s request and at Customer’s cost, make reasonable efforts to identify the root cause for such temperature deviation and provide corrective and preventive action to the Customer within a reasonable period. The Service Provider will also assist the Customer, upon Customer’s request, in facilitating any survey for assessment of damages, if any, to the shipment for insurance claim purposes.
12. The Customer agrees to forthwith indemnify and hold the Service Provider, its directors, employees, officers, representative, Carriers and agents harmless from and against any Claims pertaining to (i) any error in information/ declarations provided by the Customer in relation to House Bill of Lading, invoice, packing list, product catalogues, if required, and any other necessary or relevant information; or (ii) any non-compliance of the statutory requirements (as mentioned in customs bill of entry) including without limitation non-payment of applicable customs duty by the Customer.
13. Customer shall render necessary assistance to Service Provider in the event if Service provider is asked to clarify on any points raised by any Competent Authority concerning any shipment that has been pick-up by Service provider.

IV. Permissible Variations

14. The Fees agreed to for the Services maybe enhanced or revised on the occurrence of the following events or existence of the following circumstances, and the same shall be collectively referred to as “**Permissible Variations**”:
 - 14.1 Fluctuations in commission fees or remittance charges levied by bank or financial institution on payment transfer by Customer;
 - 14.2 Any variations in rates for Taxes levied on the Services;
 - 14.3 Any variations or modifications in declarations/instructions of the Customer in relation to provision of Services;
 - 14.4 Re-packing or additional packing if undertaken by Service Provider on account of leakage or spillage of Goods or upon discovery by Service Provider of Hazardous Goods requiring special packaging requirements;
 - 14.5 Provision of additional temperature-controlled measures or reduction thereof by the Service Provider on account of fluctuation in quantity or size of temperature-controlled Goods;
 - 14.6 Enhanced requirement of the Service Provider’s manpower on account of fluctuation in quantity of Goods;
 - 14.7 Provision of additional vehicle, aircraft or vessel, or additional space in the vehicle, aircraft or vessel, or reduction thereof on account of fluctuation in quantity or size of Goods;
 - 14.8 Provision of additional facilities for transport of Hazardous Goods;
 - 14.9 Provision of additional in – transit facility for docking of Goods other than the in – transit facility if any, listed in the Scope of Services;

- 14.10 Any fluctuations in the rate of fuel and/or fuel escalation for any of the modes of transport booked by the Customer; or
- 14.11 Any fluctuations in costs of material for fumigation of Goods (if applicable) incurred by the Service Provider during the provision of Services.
- 15. In case of occurrence of an event of Permissible Variation, the Service Provider shall be entitled to recover the expenses incurred in lieu of a Permissible Variation from the Customer (“**Additional Fees**”), in addition to and excess of the Fees stipulated in the Contracting Documents. The Customer shall be liable to pay such Additional Fees to the Service Provider within 15 (Fifteen) days of receipt of invoice from the Service Provider.

V. Permissible Delays

- 16. The following events of behalf of the Service Provider shall constitute “**Permissible Delays**”:
- 16.1 Delay due to grounding of aircraft by the Competent Authority for any reason whatsoever;
- 16.2 Delays or cancellations caused by evacuation of the airport, re-boarding of aircraft because of security breach;
- 16.3 Delays caused by airline carrier due to circumstances including maintenance, aircraft cleaning, baggage loading, fuelling, airport operations, heavy traffic volume and air traffic control;
- 16.4 Delays in vessel movement during pilotage and other delays not caused by the Service Provider before labour aboard and after labour ashore;
- 16.5 Delays in vessel movement caused by the discharge of funnel fumes or by insufficient, inaccessible, or poorly maintained lashings and fittings including incorrectly fitted lashings or faulty twistlocks; or
- 16.6 Delays due to scheduled or unscheduled maintenance activity carried out by the Competent Authority having jurisdiction over the mode of transport being used to provide Services.

VI. Limitation of Liability

- 17. The Service Provider will not be liable in any manner whatsoever to the Customer or any other third party if the Customer and / or the consignee has accepted the Goods by signing on the House Bill of Lading without any objectionable remarks. The responsibility of Service Provider with respect to the Goods ceases immediately once the Goods are duly received at the point of destination by the Customer / consignee by affixing his / her signature on the copy of the House Bill of Lading.
- 18. The Service Provider shall not be responsible in the event of deviation of route for carriage of Goods to any route other than the route booked by the Customer, for any reason beyond the Service Provider’s control, or due to congestion or blockage in any of the transport modes booked by the Customer, or any other operational reasons.
- 19. The Service Provider shall not be responsible for any loss or damage due to natural wastage or natural deterioration of the Goods.
- 20. The Service Provider shall not be liable or obliged for payment of demurrage charges and other costs at the destination due to delayed acceptance of the Consignment.
- 21. The Service Provider shall not be liable for any loss or damage caused due to unscheduled, unplanned, or irregular disruption of air operations resulting in delayed delivery of the Consignment.
- 22. The Service Provider shall not be liable to the Customer or any other person for any loss or damage caused to the Consignment or any part thereof, or any diminution in the value of the Consignment or any part thereof, by the Service Provider exercising its right of lien hereof and the consequent right to sell by public auction, tender, private agreement or otherwise or destruction of the same.

- 23. Service Provider’s aggregate liability to the Customer or any other third party, for any claims, unforeseen events, losses, injuries, suits, demands, judgments, liabilities, costs, expenses, or damages for any cause whatsoever (including, but not limited to, those arising out of or related to the Contracting Documents) and regardless of the form of action or legal theory, shall not exceed the value of freight invoice for the relevant Consignment or maximum liability as prescribed under the Applicable Law for carriers, including but not limited to International Air Transport Association (IATA) for air freight and Multimodal Transport Operator (MTO) for sea / ocean freight (as the case may be), whichever is lower. The limitations specified in this section, will survive, and apply, even if any remedy specified in the Contracting Documents fails its essential purpose. The Customer shall be responsible to make best efforts to recover such losses through insurance.

PART 10 – INTEGRATED SALES SOLUTIONS

For the specific terms and conditions pertaining to Integrated Sales Services, please refer to each of the Specific Terms in respect of the relevant services, including the specific payment terms and limitations of liability of the Service Provider as applicable to the relevant service.
