

**COMBINED TRANSPORT SERVICE  
AND  
TERMINAL SERVICES TARIFF  
  
FOR  
  
DP WORLD (CANADA) INC.**

**EFFECTIVE JUNE 1, 2013**

**(Labour Rates Effective April 1, 2013)**

**“ NOTICE ”**

Take notice that the terms and conditions of this Tariff contain provisions limiting and/or excluding liability on the part of DP World (Canada) Inc. and the Authority. (See Definitions, Terms and Conditions and, in particular, Limitation and Exclusion of Liability).

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## COMPANY INFORMATION

|                             |  |   |
|-----------------------------|--|---|
| <b>Hours of Operations:</b> | Regular Office Hours                               | 0800 to 1630 Monday to Friday,<br>excluding Public Holidays |
|                             | Terminal Operations                                | 24 hours per day, 7 days a week                             |
| <b>Telephone Numbers:</b>   | Main Office:                                       | (250) 722-2290  |
| <b>Address:</b>             | 750 Jackson Road<br>Nanaimo, BC V9X 1J2<br>Canada  |   |
| <b>Website:</b>             | <a href="http://www.dpworld.ca">www.dpworld.ca</a> |   |

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## PART I – INTRODUCTION, DEFINITIONS AND CONVERSION FACTORS

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### 1. PREFACE AND BASIC TERMS

#### ***Short Title***

This Tariff may be cited as the “Combined Transport Service and Terminal Services Tariff,” and is generally referred to as the “Tariff.”

#### ***Publication***

This Tariff is published by DPWC with the approval of the Authority, where such approval is required.

#### ***Effective Date and Changes***

This Tariff shall be subject to change without specific notice and such changes will be effective from June 1, 2013, or such other date specified in the notice.

#### ***Scope of Tariff***

This Tariff and all rates, charges, terms, conditions, rules and regulations contained herein shall apply to (i) the combined transport and container services defined in Section 2.1 (the “**Combined Transport Service**”); and (ii) the container and related marine operations at Terminal Areas (“**Terminal Services**” and, together with the Combined Transport Service, the “**Services**”). The Terminal Areas are owned by the Authority and operated by DPWC. General terminal services at the Port of Vancouver are governed separately by the DP World Vancouver Port Metro Vancouver’s Terminal Services Tariff. This Tariff does not cover the loading, unloading, handling, storage, and transshipment of import, export and transit cargoes at the Terminal Areas that are not in a Container, whether in liquid bulk, dry bulk, break-bulk cargo, or ro-ro.

DPWC provides the Services to the Users, subject to the terms, conditions, rules, regulations and definitions of this Tariff, which shall govern the relationship between DPWC and such Users. Those Users that receive Combined Transport Service from DPWC shall be subject to Part I (Introduction, Definitions and Conversion Factors), Part II (Combined Transport Service) and, as applicable, Part IV (General Terms and Conditions). Those Users that only receive Terminal Services from DPWC and, thus, are not part of the Combined Transport Service, shall be subject to Part I (Introduction, Definitions and Conversion Factors), Part III (Terminal Services) and Part IV (General Terms and Conditions).

#### ***Notice to Public***

This Tariff is notice that the rates, charges, terms, conditions, exclusions from liability, limitations, rules, regulations and definitions contained herein apply to all Users of any of the services described herein, or any of the property described herein without specific notice, quotation or prior arrangement. Where there is a direct conflict between this Tariff and the Authority Terminal Services Tariff, the Authority Terminal Services Tariff shall apply but only to the extent of such conflict.

The Authority provides berthage at the Terminal Areas, subject to all of the terms and conditions of the Authority Fee Document. The use of any of the Services, the terminals, docks, wharves, and facilities at the Terminal Areas shall be deemed complete acceptance of this Tariff and the Authority Fee Document and any revisions or supplements thereto.

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

#### ***Limitations and Exclusion of Liability***

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

#### ***Charges***

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

## 1.1. DEFINITIONS

In this Tariff:

**Abandoned Cargo** - means any Cargo that is under DPWC's control due to not having been withdrawn from the Terminal by a User or Vessel Owner, as applicable, sixty (60) days after the expiration of any applicable Free Time or the Cargo Owner has confirmed in writing that they have abandoned the Cargo.

**Authority** – means the Nanaimo Port Authority and its office is located at 100 Port Drive, Nanaimo, BC, V9R 5K4, Canada.

**Authority Fee Document** – means the fee document in the Nanaimo Port Authority Terminal Services Tariff published on April 1, 2012.

**Authority Property** – those facilities which are owned, administered or operated by the Authority and to which both this Tariff and the Authority Terminal Services Tariff applies.

**Authority Terminal Services Tariff** - means the Nanaimo Port Authority Terminal Services Tariff published on April 1, 2012.

**Waybill** – has the meaning set forth in Section 2.4 of this Tariff.

**Cargo** – means all goods, personal property, effects and movables (whether in a Container or not) other than a Vessel and the Container within which cargo is stowed.

**Cargo Owner** – includes the actual owner, shipper, consignee, receiver, or bailee of the Cargo, and the carrier of such Cargo to, upon, over or from the Authority Property, but does not include DPWC

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

**Container** – means a container without wheels or chassis that is rigid, reusable, capable of being mounted or dismounted, and that is used by Ocean Carriers for the transportation of goods on board Vessels, that conforms to ISO dimensional standards and includes a container that is insulated, refrigerated or dry Cargo, or described as flat rack, vehicle rack, liquid tank or open top.

**Container Crane** – means a crane used in loading or discharging Containers from a Vessel at the Terminal Areas or DPWC's Vancouver Facility.

**Container Storage Area** – means an area of open space provided for storing Containers (usually in idle status).

**Container Yard** – means a place designated within the Terminal Areas where Containers, which are in transit between Vessels and Inland Carriers or CFS, are temporarily held or assembled.

**DPWC** – means DP World (Canada) Inc., a corporation pursuant to the Federal laws of Canada and extra-provincially registered in British Columbia (Reg. no. A0058667) having an office at 777 Centennial Road, Vancouver, British Columbia V6A 1A3, Canada.

**DPWC's Vessel** – means any vessel, including a barge, scow or tug, or any combination of vessels used or hired by DPWC to provide the water transportation portion of the Combined Transport Service. DPWC's Vessel may be operated or owned by a different person or company.

**DPWC's Vancouver Facility** – means the container terminal facility located at the Port of Vancouver where DPWC performs terminal operations.

**Domestic Reposition (DRP)** – Use of a DPWC Customer's Ocean Carrier container to ship domestic cargo to Vancouver Island and making the empty container available to the Terminal Areas for export cargo.

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

**Free Time** – means a period of time during which goods may be left on Authority Property without demurrage charges being incurred either before loading on or after unloading from a Vessel.

**Inland Carrier** – means railroad, truck line, cartage company, private carrier or inland waterway carrier including barges and scows, that receives or delivers Cargo, Containers or any other goods by rail car, chassis, other vehicle or inland waterway craft, but does not include DPWC's Vessel.

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

**Ocean Carrier** – refers to a Vessel Owner, their agent, employee, operator or charterer, but does not include DPWC or DPWC's Vessel.

**Overtime** – means hours of work performed in premium pay periods as defined in a Collective Agreement.

**Shipment** – means a quantity of goods tendered at one time for transport from one point of origin to one point of destination.

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

**Terminal Areas** – means those portions of the maritime port terminal at the Duke Point Terminal, Port of Nanaimo, British Columbia and (i) Authority Property; (ii) such other terminal areas, docks and facilities within the Port of Nanaimo which are owned by the Authority at the date of this Tariff and for which the ILWU has jurisdiction for collective bargaining purposes; or (iii) such other areas which are mutually agreed in writing from time to time between the Authority and DPWC to be added to this Tariff.

**Terminals** – means DPWC's Vancouver Facility and the Terminal Areas.

**Tonne** - means:

with reference to weight                      W – one thousand kilograms

with reference to measurement              M – one cubic meter

**User** – includes any person, legal personal representative, corporation, body corporate, firm, partnership or business, whether incorporated or not, using or requesting any of the services described in this Tariff and any Cargo Owner presenting or delivering Cargo either personally or through an agent to DPWC for the provision of any of the services described in this Tariff.

**Vessel** – means any motor vessel, steamship, scow, barge or other watercraft that is presented for berthing other than DPWC's Vessel. Reference to the Vessel includes, without exception, its owner, charterer, agent, operator and employees.

**Vessel Owner** - includes the actual or registered owner, agent, operator, charterer by demise and master of the Vessel.

### **Abbreviations**

In this Tariff, the following abbreviations are used:

**CY** means Container Yard.

**CFS** means container freight station.

**M** means that the number of Tonnes is calculated by measurement, in cubic meters.

**M/E** means that the charge is based on man-hour rates and charges for equipment rental, as set out in this Tariff.

**N.O.S.** means Cargo not otherwise specified.

**TEU** means a twenty-foot Container or a Container unit that is the equivalent of a twenty-foot Container.

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

### **Conversion Factors**

|              |   |
|--------------|---|
| Metre        | = 3.2808 feet                             |
| Kilogram     | = 2.2046 pounds                           |
| Litre        | = 0.2200 gallons (0.2642 U.S. gallons)    |
| Metric Tonne | = 1000.0 kilograms                        |
|              | = 2204.6 pounds                           |
|              | = 1.1023 short tons (2000 pounds)         |
|              | = 0.9842 long tons (2240 pounds)          |
| Cubic meter  | = 1000.0 litres                           |
|              | = 35.315 cubic feet                       |
|              | = 0.8830 measurement tons (40 cubic feet) |
|              | = 0.4238 Mfbm (thousands of board feet)   |

|      |  |
|------|--|
|      | = 220.0 gallons (Imperial)                                   |
|      | = 27.50 bushels (Imperial)                                   |
|      | = 6.290 barrels (42 U.S. gallons)                            |
| Mfbm | = 1000 board feet of lumber (12" x 12" x 1")                 |
| Mscr | = 1000 board feet of logs, as determined by "Scribner" scale |

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## PART II - COMBINED TRANSPORT SERVICE

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### 2. COMBINED TRANSPORT SERVICE

#### 2.1 Scope of Combined Transport Service

DPWC may, upon request of a User, provide the Combined Transport Service in respect of Cargo in a Container for the freight rate set out in this Section 2. Unless otherwise expressly agreed in writing with DPWC, Sections 2.1.1, 2.1.2 and 2.1.3 set forth the Combined Transport Service's (i) rates, exclusive of all taxes, and (ii) scope of such services.

##### 2.1.1 Round Trip rate

The rate charged to Users for a round trip is a rate per Container and this rate covers the following services:

###### East Bound

- a) terminal handling of Empty Container at DPWC's Vancouver Facility from the Containers' last place of rest;
- b) water transportation of Empty Container by DPWC's Vessel from DPWC's Vancouver Facility to the Terminal Areas, commencing once the Container is delivered under hook for loading and concluding once the Container is landed under hook upon discharge; and
- c) regular terminal handling of Empty Container at the Terminal Areas to the gate but excluding the Additional Freight Charges that may be assessed in accordance with Section 2.3 below.
- d) regular terminal handling of Full Export Container at the Terminal Areas from the gate but excluding the Additional Freight Charges that may be assessed in accordance with Section 2.3 below;
- e) water transportation of Full Export Container by DPWC's Vessel between the Terminal Areas and DPWC's Vancouver Facility, commencing once the Container is delivered under hook for loading and concluding once the Container is landed under hook upon discharge; and
- f) terminal handling of Full Export Container at DPWC's Vancouver Facility to the first place of rest for Containers.

###### West Bound

- a) terminal handling of Full Import Container at DPWC's Vancouver Facility from the Containers' last place of rest;
- b) water transportation of Full Import Container by DPWC's Vessel from DPWC's Vancouver Facility to the Terminal Areas, commencing once the Container is delivered under hook for loading and concluding once the Container is landed under hook upon discharge; and
- c) regular terminal handling of Full Import Container at the Terminal Areas to the gate but excluding the Additional Freight Charges that may be assessed in accordance with Section 2.3 below.
- d) regular terminal handling of Empty Container at the Terminal Areas from the gate but excluding the Additional Freight Charges that may be assessed in accordance with Section 2.3 below;
- e) water transportation of Empty Container by DPWC's Vessel between the Terminal Areas and DPWC's Vancouver Facility, commencing once the Container is delivered under hook for loading and concluding once the Container is landed under hook upon discharge; and
- f) terminal handling of Empty Container at DPWC's Vancouver Facility to the first place of rest for Containers.

| TIER   | Container Volume – Booked by Annually | Round Trip Rate |
|--------|---------------------------------------|-----------------|
| Tier 1 | 1 to 38                               | \$620.00        |
| Tier 2 | 39 to 250                             | \$560.00        |
| Tier 3 | 251 to 625                            | \$520.00        |
| Tier 4 | 626 to 1,250                          | \$500.00        |
| Tier 5 | 1,251 to 3,750                        | \$480.00        |
| Tier 6 | 3,751 to 7,500                        | \$450.00        |
| Tier 7 | 7,501+                                | \$425.00        |

The tier level is based upon combined container volume for DPW barge service between Vancouver and Nanaimo. Users will commence at Tier 1 for the first 6 months of activity and every 3 months thereafter. DPW will review the volumes and the tier price will be adjusted accordingly to annualized volume. After 12 months of activity, the tier will be calculated based on the prior 12 months of volume. If you are deemed to move to another tier, you will be notified and the new price will be effective the following month.

##### 2.1.2 One way rate

###### From DPWC's Vancouver Facility to Terminal Areas

The rate charged to Users for one way from DPWC's Vancouver Facility to the Terminal Areas is rate per Container and covers the following services:

- a) terminal handling of Containers at DPWC's Vancouver Facility from the Containers' last place of rest;



- b) water transportation of Containers by DPWC's Vessel from DPWC's Vancouver Facility to the Terminal Areas, commencing once the Container is delivered under hook for loading and concluding once the Container is landed under hook upon discharge; and
- c) regular terminal handling of Containers at the Terminal Areas to or from the gate but excluding the Additional Freight Charges that may be assessed in accordance with Section 2.3 below.

**From the Terminal Areas to DPWC's Vancouver Facility**

The rate charged to Users for one way from the Terminal Areas to DPWC's Vancouver Facility is rate per Container and covers the following services:

- a) regular terminal handling of Containers at the Terminal Areas to or from the gate but excluding the Additional Freight Charges that may be assessed in accordance with Section 2.3 below;
- b) water transportation of Containers by DPWC's Vessel between the Terminal Areas and DPWC's Vancouver Facility, commencing once the Container is delivered under hook for loading and concluding once the Container is landed under hook upon discharge; and
- c) terminal handling of Containers at DPWC's Vancouver Facility to the first place of rest for Containers

| <b>Item</b>  | <b>Unit</b>   | <b>Rate</b> |
|--------------|---------------|-------------|
| One Way Rate | Per Container | \$310.00    |

**2.1.3 Domestic Reposition Container (DRP)**

**From DPWC's Vancouver Facility to Terminal Areas**

The rate charged to Users for one way from DPWC's Vancouver Facility to the Terminal Areas is a rate per Container and covers the following services:

- d) terminal handling of DRP Container at DPWC's Vancouver Facility from the Containers' last place of rest;
- e) water transportation of DRP Container by DPWC's Vessel from DPWC's Vancouver Facility to the Terminal Areas, commencing once the Container is delivered under hook for loading and concluding once the Container is landed under hook upon discharge; and
- f) regular terminal handling of Containers at the Terminal Areas to the gate but excluding the Additional Freight Charges that may be assessed in accordance with Section 2.3 below.

| <b>Item</b> | <b>Unit</b>   | <b>Rate</b> |
|-------------|---------------|-------------|
| DRP Rate    | Per Container | \$250.00    |

**2.2. Change in Rates**

The rates set forth in Section 2.1.1, 2.1.2 and 2.1.3 are subject to change without specific notice.

**2.3 Additional Freight Charges**

Additional freight charges are charges that DPWC may also assess against those Users that receive services from DPWC under the terms of the Combined Transport Service (the "Additional Freight Charges"). The Additional Freight Charges are defined from Section 2.3.1 through 2.3.15 below and are in addition to the rates defined in Sections 2.1.1 and 2.1.2. If incurred, Additional Freight Charges are payable by the User and subject to the lien rights set out in Section 2.14.

The Additional Freight Charges are subject to change without specific notice.

**2.3.1 Terminal Throughput**

| <b>Unit</b>   | <b>Rate</b>            |
|---------------|------------------------|
| OOG Surcharge | Per Container \$200.00 |

OOG Surcharge is applicable per Container (in addition to any other charge) for over dimensional Cargo (using a Standard Spreader or Over-height spreader) for cargoes up to 6 feet above the top of the container, up to 2 feet over width and up to 53 feet in length.

Cargo extending more than 6 feet above the top of a Container, 2 feet over width and over 53 feet in length, will be regarded as break-bulk cargo for invoicing purposes.

**2.3.2 Yard Rehandle**

| <b>Unit</b>   | <b>Rate</b>           |
|---------------|-----------------------|
| Yard Rehandle | Per Container \$75.00 |

A yard rehandle covers the extra sorting, stacking or moving of a Container in the Container Yard at the request of the User or at the direction of the Authority.

Containers shall be received and spotted in the Container Yard in accordance with instructions from either the Ocean Carrier or the Cargo Owner. Where instructions are not received or are changed after they are received and rehandling of Containers is necessary, a yard rehandling charge shall be payable for each additional movement of such Containers.

**2.3.3 Gate Charge**

| <b>Unit</b> | <b>Rate</b> |
|-------------|-------------|
|-------------|-------------|

|             |               |         |
|-------------|---------------|---------|
| Gate Charge | Per Container | \$75.00 |
|-------------|---------------|---------|

The gate charge covers the receipt or delivery of a Container at the gate and the unloading or loading of the Container from or to an Inland Carrier at the Terminal Areas and/or DPWC's Vancouver Facility, as applicable. It includes visual inspection of general external condition of the Container, and the giving and taking of equipment interchange receipts ("EIR"). Delivery of an empty will not include opening the Container for inspection.

Gate charges will be applied to empty Containers declared to be a bad order by the receiving truck driver, which do not leave the Terminals.

| <b>2.3.4 After Hours Gate Charge</b> | <b>Unit</b>   | <b>Rate</b> |
|--------------------------------------|---------------|-------------|
| After Hours Gate Charge              | Per Container | \$283.94    |

After hours gate charges are charges for any Container received or delivered outside of normal gate operating hours.

| <b>2.3.5 Reprint Out Gate Interchange</b> | <b>Unit</b> | <b>Rate</b> |
|---|-------------|-------------|
| Reprint Out of Gate Interchange           | Per Reprint | \$35.00     |

Reprint out of gate interchange fees are fees applicable for each reprint of out gate interchange.

| <b>2.3.6 Overweight Surcharge</b> | <b>Unit</b>   | <b>Rate</b> |
|-----------------------------------|---------------|-------------|
| Overweight Surcharge              | Per Container | \$300.00    |

DPWC has a zero tolerance policy for handling overweight Containerized Cargo. Containerized Cargo received that exceeds the maximum payload of the Containerized Cargo is considered unsafe. All such cargo will be rejected by DPWC and the amount set forth below shall be assessed. The overweight surcharge is applicable for the special handling required, and DPWC will charge additional fees to remove excess Cargo and the party or parties causing such unauthorized use shall be held liable for all losses, claims, demands and suits for damages including death and personal injury, legal and court expenses, directly or indirectly resulting from such unauthorized use.

| <b>2.3.7 Export Change of Status Charge</b> | <b>Unit</b>   | <b>Rate</b> |
|---|---------------|-------------|
| Export Change of Status Charge              | Per Container | \$200.00    |

Export change of status charges are charges assessed on any export Container received on dock where the booking is subsequently rolled to the next Vessel, the port of discharge is changed or there is any status change to the Container. This is in addition to any demurrage levied but includes all yard rehandling.

| <b>2.3.8 Sweep or Vacuum Containers</b> | <b>Unit</b>   | <b>Rate</b>    |
|---|---------------|----------------|
| Sweep or vacuum Containers              | Per Container | By arrangement |

The clearing and sweeping of dunnage or debris from Containers and / or the internal washing or steam cleaning of the Container.

| <b>2.3.9 Application / Removal of Placard</b> | <b>Unit</b>   | <b>Rate</b> |
|---|---------------|-------------|
| Application or removal of placard             | Per Container | \$65.00     |

| <b>2.3.10 Supply of Placards</b> | <b>Unit</b> | <b>Rate</b> |
|----------------------------------|-------------|-------------|
| Supply of placard                | Per placard | \$10.00     |

| <b>2.3.11 Surveying</b> | <b>Unit</b> | <b>Rate</b> |
|-------------------------|-------------|-------------|
| Surveying Fee           | Per Survey  | \$110.00    |

For an additional surveying fee, Containers may be made available in a safe location for inspection by surveyor(s). Surveyor(s) will be escorted to the location by an agent or employee of DPWC or the Authority. Machinery, if required, will be made available at the earliest convenience for use by the surveyor.

| <b>2.3.12 Container Storage</b>  | <b>Unit</b> | <b>Rate</b> |
|--|-------------|-------------|
| Empty Container not part of throughput daily storage charges (Including day of receipt and delivery) | TEU per day | \$100.00    |

Container Storage is the service of providing open or ground space in the Container Storage Area for empty Containers in idle status.

Empty Containers will be accepted for storage at the Terminals only if there is sufficient designated space available to accommodate them.

Containers accepted for storage will be assembled in a block stow configuration separated by owner, size and general type only. Normal retrieval of Containers will be on the basis of first Container available. Requests to redeliver specific Containers which may result in the need to dig within the storage pile will be assessed a Container handling charge for each additional Container move required.

Storage charges for empty Containers are payable from the time of delivery to a Container Storage Area. These charges shall be invoiced each month and shall be calculated according to the number of Containers in storage each day of the month covered by the invoice.

The reporting of damage to Containers on equipment interchange receipts is limited to obvious external damage that can be readily seen by the human eye. Normal wear and tear, such as minor scrapes, dents and bruises which do not interfere with the serviceability of the equipment, and hidden damage which cannot be seen at the time the inspection is made (such as hairline cracks, pin holes, etc.) and the condition of floors and the undercarriage of Containers are specifically excluded.

### 2.3.13 Demurrage:

Demurrage is daily charge payable on goods and / or Containers in transit which remain at either of the Terminals for longer than the Free Time allowed.

| <u>Import Containers including empty imports:</u>                       | <b>Unit</b> | <b>Rate</b> |
|---|-------------|-------------|
| First five calendar days following Free Time including day of delivery  | TEU per day | \$100.00    |
| Thereafter  | TEU per day | \$220.00    |
| <u>Export Containers including empty exports:</u>                       | <b>Unit</b> | <b>Rate</b> |
| First five calendar days following Free Time including days of receipt. | TEU per day | \$35.00     |
| Thereafter  | TEU per day | \$90.00     |

Rates per day are including part days.

The Free Time allowed is:

- a) in the case of Cargo or goods brought in by DPWC's Vessel, a Vessel or truck, no Free Time following their delivery to the Terminal Areas.
- b) In the case of Containers, loaded or empty, as part of a throughput move:

|                           |   |
|---------------------------|---|
| IMPORT DELIVERED TO       | FREE TIME   |
| Import delivered to truck | five calendar days following the release of DPWC's Vessel or a Vessel (generally after completion). |
| EXPORT REC'D EX           | FREE TIME   |

- Export received from truck five calendar days measured to the day prior to DPWC's Vessel or a Vessel's arriving.
- c) The earliest receiving date applicable for an export truck Container is three working days prior to the Vessel's cut-off.

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

Following the expiry of Free Time, Cargo is subject to demurrage. Beyond a total of thirty calendar days, the Cargo Owner must have the written authorization of DPWC to keep the Cargo on the Terminals, and shall be assessed storage charges by DPWC

Prorations for Cargo in a Container with multiple bills of lading and multiple parties being charged may be provided. The basis for proration will be calculated on the basis of the measurement of Cargo.

| <b>2.3.14 Dangerous and Hazardous Cargo</b>   | <b>Unit</b> | <b>Rate</b> |
|---|-------------|-------------|
| Extra services required in handling dangerous and hazardous cargo ("Hazardous Cargo") | N/A         | M/E         |

The acceptance, handling or storage of explosives or excessively inflammable or hazardous materials will be subject to obtaining prior approval from the Authority and to making special arrangements with DPWC, and will be governed by the rules and regulations of the *Transportation of Dangerous Goods Act, 1992* S.C. 1992, c. 34 and other Federal rules and regulations. There may be additional costs for special handling over and above normal handling rates.

Hazardous Cargo must be presented in accordance with International Maritime Organization (“**I.M.O.**”) regulations and detailed description of the goods, including its I.M.O. code and rating must be provided to DPWC in advance by the Vessel.

| <b>Dangerous goods surcharge for handling Hazardous Cargo</b> | <b>Unit</b>   | <b>Rate</b> |
|---|---------------|-------------|
|   | Per Container | \$200.00    |

The dangerous goods surcharge is a risk premium and surcharge to cover the additional indirect costs associated with the handling of dangerous goods in Containers. This is over and above any direct costs related to special handling requirements.

| <b>2.3.15 Minor Damage to Property on the Terminal Areas</b> | <b>Unit</b>   | <b>Rate</b> |
|--|---------------|-------------|
| Minor damage to Property on the Terminal Areas               | Per Incidence | \$150.00    |

**2.3.16 Abandoned Cargo and Containers**

Notwithstanding DPWC’s other rights and obligations under this Tariff, DPWC, at its sole discretion, may assess a charge against any User or Vessel Owner that leaves Abandoned Cargo at the Terminal. Any charge so assessed is without prejudice and in addition to DPWC’s other rights or remedies under this Tariff, including, without limitation, the rights set out in Section 11.3 (Compulsory Removal of Cargo) and Section 11.7 (Lien and Power of Sale).

|                        |   |             |
|------------------------|---|-------------|
| <i>Abandoned Cargo</i> | Per Container or unit of Cargo, as applicable | \$ 5,000.00 |
|------------------------|---|-------------|

**2.4 Waybill**

Any Cargo Owner using the Combined Transport Service agrees that each Shipment shall be evidenced by a non-negotiable Waybill (“**Waybill**”) in the form attached as “Appendix A” whether or not such Waybill is actually issued in respect of any Cargo. A Waybill may be signed by DPWC or its agents or employees. The Cargo Owner is responsible to provide to DPWC before transport a written description of the Cargo for inclusion in the Waybill, which description will include the number of Containers, the weight and identifying marks of the Cargo, the destination for the Cargo, and any other necessary information requested by DPWC. All Waybills shall include the statements: “THE HAGUE-VISBY RULES DO NOT APPLY TO THIS WAYBILL” and “ALL CARGO CARRIED ON DECK AT THE SOLE RISK OF THE SHIPPER IN ACCORDANCE WITH CLAUSE 9 ON THE REVERSE.” Clause 9 on the reverse of the Waybill contains terms excluding liability on the part of DPWC and others.

The Cargo Owner further agrees that all Containers and Cargo transported under the Combined Transport Service are carried on deck. Containers and Cargo carried on deck are carried at the sole risk of the Cargo Owner. In no event shall DPWC, DPWC’s Vessel, or any operator or owner of DPWC’s Vessel be liable for any loss or damage in respect of Containers and/or Cargo carried on deck howsoever caused, and without limiting the generality of the foregoing, even if such loss or damage results from unseaworthiness of DPWC’s Vessel or any equipment used to transport the Container and/or Cargo, or from the negligence, error, act or omission of DPWC or of the servants or agents of DPWC, or any operator or owner of DPWC’s Vessel, including all persons described in paragraph 2.13 herein.

The terms and conditions of the Waybill are expressly incorporated into and form part of this Tariff in respect of the Combined Transport Service. Where the terms and conditions of the Waybill are in conflict with a specific term in this Tariff in respect of the Combined Transport Service, the terms and conditions of the Waybill shall prevail, but only to the extent of such conflict.

**2.5 Approval and Inspection**

Prior to loading any Container or Cargo on any Vessel, DPWC has the right, but not the obligation, to determine the suitability of the Container or Cargo for transport. The Cargo Owner will not present to DPWC any Container with toxic chemicals, hazardous or dangerous Cargo, industrial, municipal, or any other type of waste.

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

The Cargo Owner is responsible, following transport of a Container or Cargo, to take delivery of the Container or Cargo at the terminals or berth designated by DPWC at the Terminal Areas or the Port of Vancouver, or in the case of export Shipments, to make all necessary arrangements for the subsequent transport of a Container or Cargo, whether by ocean or otherwise.

**2.6 Substitute Equipment and Deviation**

If DPWC’s Vessel should become disabled, DPWC may, at its sole discretion, secure or furnish the services of a substitute vessel. Alternatively, DPWC may suspend the Combined Transport Service and if doing so shall have no liability for any costs, damages or

loss suffered by a Cargo Owner during or arising from said suspension.

It is agreed that DPWC may utilize other carriers as sub-contractors in providing the Combined Transport Service.

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

## **2.7 Regulatory Compliance**

The Cargo Owner warrants that any Container or Cargo provided for carriage is safe for handling and transport by DPWC during the Combined Transport Service and that the Cargo complies with all applicable federal, provincial, and local statutes and regulations, including without limitation all applicable environmental legislation, statutes, laws and regulations.

## **2.8 Risk of Loss, Limitation of Liability and Time Bar**

Risk of loss for all Cargo whether in a Container or not shall always remain with the Cargo Owner during the Combined Transport Service. For greater certainty and without limiting the generality of the foregoing, risk of loss for all Cargo and Containers remains with the Cargo Owner during and upon delivery or presentation of the Cargo at the Terminals, handling at the Terminals, loading of Cargo onto DPWC's Vessel, during carriage, during unloading of Cargo from DPWC's Vessel and during handling after discharge as described in Sections 2.1.1 and 2.1.2 above. No inspection, approval or failure to inspect or approve by DPWC under this Tariff shall alter or affect the risk of loss. The Cargo Owner releases DPWC, DPWC's Vessel, and any operator or owner of DPWC's Vessel, from any and all claims for loss of or damage to Cargo and Containers occurring during the Combined Transport Service, including any claims for deductibles under any policy of insurance, and will indemnify and hold harmless DPWC, DPWC's Vessel, and any operator or owner of DPWC's Vessel for any such claims brought against any of them in respect of such Cargo and Containers.

Notwithstanding the foregoing, in no event shall DPWC, DPWC's Vessel, or any operator or owner of DPWC's Vessel be liable for loss or damage to a Container and any Cargo in an amount exceeding Canadian \$500.00 (five hundred dollars) per Container, whether loaded with Cargo or empty, or in the case of Cargo not stowed within a Container an amount exceeding Canadian \$1.00 (one dollar) per ton (2,000 lbs.) of Cargo unless the nature and value of such Cargo has been declared by the Cargo Owner in writing before Shipment and inserted in to the Waybill, and the Cargo Owner has paid any additional handling charges requested by DPWC, which declaration shall not be binding or conclusive on DPWC. DPWC, DPWC's Vessel, and any operator or owner of DPWC's Vessel shall not in any event be responsible for loss or damage if the nature or value of the Cargo has knowingly been mis-stated by the Cargo Owner.

Notwithstanding the foregoing, DPWC, DPWC's Vessel, and any operator or owner of DPWC's Vessel, shall be discharged from all liability in respect of loss or damage unless legal proceedings are brought within one year after delivery of the Cargo or the date when the Cargo should have been delivered.

## **2.9 Insurance**

The Cargo Owner will at its sole cost and expense, continuously maintain insurance in respect of any Cargo to be handled or transported by DPWC to its full value inclusive of freight, against any and all risks that may arise during the provision of the Combined Transport Service, and the Cargo Owner shall ensure that such insurance contains a waiver of subrogation in favor of DPWC, DPWC's Vessel, and any operator or owner of DPWC's Vessel and all those for whom DPWC is legally responsible.

## **2.10 Indemnity**

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

- a) the performance of obligations under this Tariff by the Cargo Owner or any individual or entity acting by, through or under the Cargo Owner; including any subcontractors that the Cargo Owner may from time to time engage for the performance of the obligations contemplated herein;
- b) any breach by the Cargo Owner of the terms and conditions of this Tariff;
- c) any act or omission of the Cargo Owner or of any individual or entity acting by through or under the Cargo Owner; and
- d) any actual or alleged violation or breach by the Cargo Owner, its agents, employees, or subcontractors of any applicable law, including environmental law.

## **2.11 Marine Liability Act**

It is agreed that Cargo carried under this Tariff is not "goods" as defined by the provisions of the Hague-Visby Rules (Schedule 3 of the *Marine Liability Act*, S.C. 2001, c. 6, as amended), and the said Hague-Visby Rules shall not apply to the Combined Transport Service.

## **2.12 General Average**

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

### **2.13 Beneficiary of Contract (HIMALAYA CLAUSE)**

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

### **2.14 Payment of Freight and Non-Payment/Lien Rights**

Unless otherwise expressly agreed in writing with DPWC, the fees for the Combined Transport Service shall be paid on transport, and shall be deemed fully earned and non-returnable, DPWC's Vessel and/or Cargo lost or not lost.

DPWC shall have a lien on the Cargo for freight, deadfreight, demurrage, claims for damages and for all other amounts due or charges under this Tariff including the costs of recovering same. In addition to the foregoing, DPWC shall have a lien upon any Cargo in its possession belonging to the Cargo Owner in default whether or not any amount is due and owing in relation to that specific Cargo, until all outstanding amounts are paid. DPWC has the right to sell any liened Cargo by public or private auction or sale, or otherwise, at its sole discretion.

### **2.15 Application of Other Parts of the Tariff**

The terms and conditions of the other Parts of this Tariff apply to the Combined Transport Service as provided herein, except where such terms and conditions are in conflict with this Part II, in which case the terms and conditions of this Part II shall prevail.

## PART III - TERMINAL SERVICES

### 3. TERMINAL SERVICES CHARGES

#### 3.1 Scope of Terminal Services

The rates for the Terminal Services set forth in this Part III shall apply to all Users that are not receiving the Combined Transport Service. Unless otherwise expressly agreed in writing with DPWC, the services DPWC is providing to each User are considered Terminal Services. The Terminal Services rates are subject to change without specific notice.

#### 3.2 Berthage

The Authority charges a berthage fee based on physical size of Vessel when it utilizes a berth owned by the Port Authority, as well as the Vessel's length of stay at a berth. The fee also applies to Vessels that are fastened to or tied up alongside any other Vessel occupying a berth.

Berthage is assessed on the registered overall length ("LOA") of the Vessel in meters and will be charged from the time when the first line is made fastened to when the last line is cast off.

| Vessels tied up at an Authority Berth | Unit  | Rate      |
|---------------------------------------|-------|-----------|
| - Per hour, or part thereof           | HR/m  | \$ 0.23   |
| - Minimum charge for such Vessels     | Total | \$ 175.00 |

***Note:** AS OF THE DATE OF PUBLICATION OF THIS RATE SCHEDULE, the berthage fees imposed by the Authority are determined as set out above. The berthage fees may be different at the date of service – customers should confirm fees with the Authority.*

#### 3.2 Handling Vessel Lines

|              | A        | B        | C        | D        | E        | F        |
|--------------|----------|----------|----------|----------|----------|----------|
|              | \$       | \$       | \$       | \$       | \$       | \$       |
| - Tying Up   | 1,607.00 | 1,990.00 | 2,436.00 | 2,019.00 | 2,491.00 | 3,080.00 |
| - Letting Go | 1,073.00 | 1,328.00 | 1,619.00 | 1,348.00 | 1,662.00 | 2,055.00 |

A = Monday – Friday 0800 – 1630 Hrs.

B = Monday – Friday 1630 – 0800 Hrs.

C = Monday – Friday 0100 – 0800 Hrs.

D = Saturday – 0800 – 1630 Hrs.

E = Saturday – 0100 – 0800 Hrs, 1630 – 0800 Hrs, Sunday all Shifts.

F = General Holidays – All Shifts

The charges above are computed on a four-hour basis. Where any line calls exceed four hours, the charge for each extra hour or portion thereof, is twenty-five percent of the published charge.

Where more than one Vessel is tied up and let go by the same lines crew gang within a single four-hour period, the charges otherwise payable in respect of each Vessel shall be reduced by thirty percent.

## 4. CONTAINER OPERATIONS

### **4.1 Terminal Throughput**

Container throughput is counted as the movement of a Container loaded or empty from the Vessel to an Inland Carrier or from an Inland Carrier to the Vessel. It includes the movement of the Container between Vessel and place of rest in the Container Yard, ordinary sorting in the yard, and the movement of the Container to / from Inland Carrier (including loading / unloading).

|  | <b>Unit</b>     | <b>Rate</b> |
|--|-----------------|-------------|
| Loaded and empty Container throughput that is placed on or off a truck | Per Container   | \$380.00    |
| OOG Surcharge  | With Throughput | \$200.00    |

OOG Surcharge is applicable per Container (in addition to throughput charge) for over dimensional Cargo (using standard spreader or over height spreader) for Cargoes up to 6 feet above the top of the Container. Cargo extending more than 6 feet above the top of a Container may be regarded as break-bulk cargo for invoicing purposes.

### **4.2 Yard Rehandle**

|               | <b>Unit</b>   | <b>Rate</b> |
|---------------|---------------|-------------|
| Yard Rehandle | Per Container | \$75.00     |

A yard rehandle covers the extra sorting, stacking or moving of a Container in the Container Yard at the request of the User or direction of the Authority.

Containers shall be received and spotted in the Container Yard in accordance with instructions from either the Ocean Carrier or the Cargo Owner. Where instructions are not received or are changed after they are received and rehandling of Containers is necessary, a yard rehandling charge shall be payable for each additional movement of the Containers.

### **4.3 Gate Charge**

|             | <b>Unit</b>   | <b>Rate</b> |
|-------------|---------------|-------------|
| Gate charge | Per Container | \$75.00     |

The gate charge covers the receipt / delivery of a Container at the gate and the unloading / loading of the Container from / to an Inland Carrier. It includes visual inspection of general external condition of the Container, and the giving and taking of equipment interchange receipts ("EIR"). Delivery of an empty will not include opening the Container for inspection.

Gate charges will be applied to empty Containers declared to be a bad order by the receiving truck driver, which do not leave the Terminals.

### **4.4 After Hours Gate Charge**

|                         | <b>Unit</b>   | <b>Rate</b> |
|-------------------------|---------------|-------------|
| After Hours Gate Charge | Per Container | \$283.94    |

Charge for any Container received / delivered outside of normal gate operating hours.

### **4.5 Reprint Out Gate Interchange**

|   | <b>Unit</b> | <b>Rate</b> |
|---|-------------|-------------|
| Fee applicable for each reprint of out gate interchange | Per Reprint | \$35.00     |

### **4.6 Overweight Surcharge**

|                      | <b>Unit</b>   | <b>Rate</b> |
|----------------------|---------------|-------------|
| Overweight Surcharge | Per Container | \$ 300.00   |

DPWC has a zero tolerance policy for handling overweight Containerized Cargo. Containerized Cargo received that exceeds the maximum payload of the Containerized Cargo is considered unsafe. All such cargo will be rejected by DPWC and the amount set forth below shall be assessed. The overweight surcharge is applicable for the special handling required, and DPWC will charge additional fees to remove excess Cargo and the party or parties causing such unauthorized use shall be held liable for all losses, claims, demands and suits for damages including death and personal injury, legal and court expenses, directly or indirectly resulting from such unauthorized use.

### **4.7 Vessel Container Reposition**

|                                   | <b>Unit</b>   | <b>Rate</b> |
|-----------------------------------|---------------|-------------|
| On Board Vessel From Cell-to-Cell | Per Container | \$150.00    |
| Via Quay, Cell-Dock-Cell          | Per Container | \$300.00    |

### **4.8 Export Change of Status Charge**

|  | <b>Unit</b> | <b>Rate</b> |
|--|-------------|-------------|
|--|-------------|-------------|



Export change of status charge Per Container \$ 200.00  
 Export change of status charges are charges assessed on any export Container received on dock where the booking is subsequently rolled to the next Vessel, the port of discharge is changed or there is any status change to the Container. This is in addition to any demurrage levied but includes all Yard Rehandling.

| <b><u>4.9 Sweep or Vacuum Containers</u></b> | <b>Unit</b>      | <b>Rate</b>    |
|--|------------------|----------------|
| Sweep or vacuum of Containers                | 20 ft. Container | By arrangement |
|  | 40 ft. Container | By arrangement |

The sweep or vacuum of Containers fees covers the clearing and sweeping of dunnage or debris from Containers and / or the internal washing or steam cleaning of the Container.

| <b><u>4.10 Application / Removal of Placard</u></b> | <b>Unit</b>   | <b>Rate</b> |
|---|---------------|-------------|
| Application or removal of placard                   | Per Container | \$65.00     |

| <b><u>4.11 Supply of Placards</u></b> | <b>Unit</b> | <b>Rate</b> |
|---------------------------------------|-------------|-------------|
| Supply of placard                     | Per placard | \$10.00     |

| <b><u>4.12 Surveying</u></b> | <b>Unit</b> | <b>Rate</b> |
|------------------------------|-------------|-------------|
| Surveying Fee                | Per Survey  | \$110.00    |

For an additional surveying fee, Containers may be made available in a safe location for inspection by surveyor(s). Surveyor(s) will be escorted to the location by an agent or employee of DPWC or the Authority. Machinery, if required, will be made available at the earliest convenience for use by the surveyor.

| <b><u>4.13 Container Storage</u></b>   | <b>Unit</b> | <b>Rate</b> |
|--|-------------|-------------|
| Empty Container not part of throughput daily storage charges (Including day of receipt and delivery) | TEU per day | \$100.00    |

Container Storage is the service of providing open or ground space in the Container Storage Area for empty Containers in idle status. Empty Containers will be accepted for storage at the Terminals only if there is sufficient designated space available to accommodate them.

Containers accepted for storage will be assembled in a block stow configuration separated by owner, size and general type only. Normal retrieval of Containers will be on the basis of first Container available. Requests to redeliver specific Containers which may result in the need to dig within the storage pile will be assessed a Container handling charge for each additional Container move required.

Storage charges for empty Containers are payable from the time of delivery to a Container Storage Area, shall be invoiced each month and shall be calculated according to the number of Containers in storage each day of the month covered by the invoice.

The reporting of damage to Containers on equipment interchange receipts is limited to obvious external damage that can be readily seen by the human eye. Normal wear and tear, such as minor scrapes, dents and bruises which do not interfere with the serviceability of the equipment, and hidden damage which cannot be seen at the time the inspection is made (such as hairline cracks, pin holes, etc.) and the condition of floors and the undercarriage of Containers are specifically excluded.

**4.14 Demurrage**

Demurrage is daily charge payable on goods and / or Containers in transit which remain on a Terminal longer than the Free Time allowed. The daily charge for demurrage is as follows:

| <b>Import Containers including empty imports:</b>                       | <b>Unit</b> | <b>Rate</b> |
|---|-------------|-------------|
| First five calendar days following Free Time including day of delivery  | TEU per day | \$100.00    |
| Thereafter  | TEU per day | \$220.00    |
| <b>Export Containers including empty exports:</b>                       | <b>Unit</b> | <b>Rate</b> |
| First five calendar days following Free Time including days of receipt. | TEU per day | \$35.00     |
| Thereafter  | TEU per day | \$90.00     |

Rates per day are assessed on and include any part or partial days.

The Free Time allowed is:

- a) in the case of Cargo or goods brought in by Vessel or truck, no Free Time following their delivery to Terminal Areas.
- b) In the case of Containers, loaded or empty, as part of a throughput move:

IMPORT DELIVERED TO FREE TIME

Import delivered to truck 5 calendar days following the release of the Vessel (generally after Vessel completion).

EXPORT REC'D EX FREE TIME

Export received from truck 5 calendar days measured to the day prior to the actual Vessel arrival.

- c) The earliest receiving date applicable for an export truck Container is 3 working days prior to Vessel cut-off.

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

Following the expiry of Free Time, Cargo is subject to demurrage. Beyond a total of thirty calendar days, the Cargo Owner must have the written authorization of DPWC to keep the Cargo on the Terminal, and shall be assessed storage charges by DPWC

Prorations for Cargo in Containers with multiple bills of lading and multiple parties being charged may be provided. The basis for proration will be calculated on the basis of the measurement of Cargo.

| <b><u>4.15 Dangerous and Hazardous Cargo</u></b>  | <b>Unit</b> | <b>Rate</b> |
|---|-------------|-------------|
| 4.15.1 Extra services required in handling dangerous and hazardous cargo (" <b>Hazardous Cargo</b> ") | N/A         | M/E         |

The acceptance, handling or storage of explosives or excessively inflammable or hazardous materials will be subject to obtaining prior approval from the Authority and to making special arrangements with DPWC, and will be governed by the rules and regulations of the *Transportation of Dangerous Goods Act, 1992*, S.C. 1992, c. 34 and other Federal rules and regulations. There may be additional costs for special handling over and above normal handling rates.

Hazardous Cargo must be presented in accordance with International Maritime Organization ("**I.M.O.**") regulations and detailed description of the goods, including its I.M.O. code and rating must be provided to DPWC in advance by the User or the Vessel Owner

|   |               |             |
|---|---------------|-------------|
| 4.15.2 Dangerous goods surcharge for handling Hazardous Cargo | <b>Unit</b>   | <b>Rate</b> |
|   | Per Container | \$100.00    |

A risk premium and surcharge to cover the additional indirect costs associated with the handling of dangerous goods in Containers. This is over and above throughput costs and any direct costs related to special handling requirements.

| <b><u>4.16 Minor Damage to DPWC's Property</u></b> | <b>Unit</b>   | <b>Rate</b> |
|--|---------------|-------------|
| Minor damage to DPWC's property                    | Per Incidence | \$150.00    |

Notwithstanding DPWC's other rights and obligations under this Tariff, DPWC, at its sole discretion, may assess a charge against any User that damages DPWC's property or the Terminal. Any charge so assessed is without prejudice and in addition to DPWC's other rights or remedies under this Tariff to recover their actual loss.

| <b><u>4.17 Fuel Surcharge</u></b>         | <b>Unit</b> | <b>Rate</b> |
|---|-------------|-------------|
| Crude price between \$ 100.00 - \$115.00  | Full        | \$2.80      |
|   | MT          | \$1.65      |
| Crude price between \$ 115.01 - \$ 130.00 | Full        | \$4.00      |
|   | MT          | \$2.40      |
| Crude price between \$ 130.01 - \$ 145.00 | Full        | \$5.20      |
|   | MT          | \$3.10      |
| Crude price between \$ 145.01 - \$ 160.00 | Full        | \$6.40      |
|   | MT          | \$3.85      |

The fuel surcharge is a charge per Container. The fuel surcharge will only apply once the crude oil price as per the West Texas Intermediate crude oil (WTI) price exceeds \$100 per barrel. The rate will be set on a quarterly basis based on the previous quarters' average crude price per the WTI.

## 5. LABOUR AND EQUIPMENT CHARGES

### 5.1 Straight Time and Shift Differentials

|                      | Straight Time  |                |                | Shift Differentials |                |                |                |
|----------------------|----------------|----------------|----------------|---------------------|----------------|----------------|----------------|
|                      | <u>A</u><br>\$ | <u>B</u><br>\$ | <u>C</u><br>\$ | <u>D</u><br>\$      | <u>E</u><br>\$ | <u>F</u><br>\$ | <u>G</u><br>\$ |
| Head Foreman         | 108.26         | 124.50         | 22.36          | 24.00               | 47.69          | 51.28          | 83.81          |
| Foreman              | 105.67         | 121.52         | 21.13          | 22.77               | 45.24          | 48.81          | 81.36          |
| Longshoreman #1      | 69.62          | 80.06          | 15.95          | 17.18               | 34.13          | 36.83          | 61.39          |
| Longshoreman #2      | 68.38          | 78.64          | 15.95          | 17.18               | 34.13          | 36.83          | 61.39          |
| Longshoreman #3      | 67.80          | 77.97          | 15.95          | 17.18               | 34.13          | 36.83          | 61.39          |
| Longshoreman #4      | 67.56          | 77.69          | 15.95          | 17.18               | 34.13          | 36.83          | 61.39          |
| Longshoreman - Basic | 66.73          | 76.74          | 15.95          | 17.18               | 34.13          | 36.83          | 61.39          |

A = Delay Rates

B = Extra Labour – Cost Plus (i.e., normal charge-out rate).

C = Monday – Friday 1630 – 0100 Hrs.

D = Saturday 0800 – 1630 Hrs.

E = Monday – Friday 0100 – 0800 Hrs.

F = Saturday 1630 – 0800 Hrs; Sunday All Shifts.

G = General Holidays All Shifts

#1 = Tradesman (certified).

#2 = Dock Gantry Driver, Locomotive Engineer, Head Checker, Straddle Carrier Operator, Bulk Operator, Hatch Tender, Container Freight Station (CFS) Operations, Re-Load Operations, Container Heavy Lift Truck Driver (15,000 lb. & up, Top Pick, Side Handler, Reach Stacker).

#3 = Switchman, Paperman, Ship and Dock Mobile Equipment Operator (other than in classification 2 or 4), Lead Hand, Tradesman (uncertified).

#4 = Lift Truck Operator (14,000 lb. and under), Checker, Truck Driver (air brake certificate).

**5.2 Shift Extensions and Meal Hour Penalty Differentials**

|              | <u>A</u><br>\$ | <u>B</u><br>\$ | <u>C</u><br>\$ | <u>D</u><br>\$ | <u>E</u><br>\$ | <u>F</u><br>\$ | <u>G</u><br>\$ | <u>H</u><br>\$ | <u>I</u><br>\$ |
|--------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|
| Head Foreman | 41.92          | 83.81          | 75.45          | 77.94          | 113.45         | 118.82         | 131.84         | 167.62         |                |
| Foreman      | 40.68          | 81.36          | 72.38          | 74.84          | 108.53         | 113.90         | 126.91         | 162.70         |                |
| Longshoreman | 30.69          | 61.39          | 54.61          | 56.47          | 81.88          | 85.95          | 95.75          | 122.76         | 34.13          |

A = Monday – Friday 0800 – 1630 Hrs; 1 hr. shift extension and 1/2 hour meal penalty

B = Monday – Friday 0800 – 1630 Hrs; 3 hr. min. – 4 hr. max shift extension

C = Monday – Friday 1630 – 0100 Hrs; All shift extensions and 1/2 hr. meal penalty

D = Saturday 0800 – 1630 Hrs; 1 hr. shift extension and 1/2 hr. meal penalty

E = Monday – Friday 0100 – 0800 Hrs; All shift extensions and 1/2 hr. meal penalty

F = Saturday 1630 – 0800 Hrs; Sunday All shifts; All shifts extension and 1/2 hr meal penalty

G = Saturday 0800 – 1630 Hrs; 3 hr. min. – 4 hr max shift extension

H = General Holidays – All shifts; All shift extensions and 1/2 hr. meal penalty

I = Monday – Friday Dayshift; 0600 start to 0800

For longshore extensions in excess of 1 hour a meal allowance of \$15.00 is also charged.

**5.3 Container Crane** excluding operators

| <b>Unit</b> | <b>Rate</b> |
|-------------|-------------|
| Hour        | \$825.00    |

Minimum charge – four (4) hours

The period of hire of a Container Crane excludes the preparation and positioning time at the beginning of the period of hire, and the shutdown time at the end of the period of hire.

Where a Container Crane is used for any period of time for which the operators are entitled to overtime pay, the difference between the straight time costs and the overtime costs for that period shall be charged to the User.

Where a User requests the use of a Container Crane and, after the Container Crane has been made available, fails to make use of the Container Crane, he shall be liable for all labour costs incurred.

**5.4 Terminal Equipment**

|                                    | <b>Unit</b> | <b>Rate</b> |
|------------------------------------|-------------|-------------|
| Lift Trucks Under 3,629 kg         | Hour        | \$ 65.00    |
| Lift Trucks 3,629 kg to 7,258 kg   | Hour        | \$ 125.00   |
| Lift Trucks 7,258 kg to 13, 688 kg | Hour        | \$ 145.00   |
| Lift Trucks Over 13,688 kg         | Hour        | \$240.00    |
| Tractor                            | Hour        | \$50.00     |
| Trailer Container                  | Hour        | \$25.00     |

**5.5 Man - Hour Rates and Equipment rental**

Charges for labour and for the rental of equipment shall be imposed for services in this Tariff charged according to M/E rates, and also for:

- a) consolidating damaged Cargo for the purpose of inspection and re-coopering;
- b) cleaning or preparing trucks or Containers for loading;

- c) clearing Terminals of dunnage, stevedore gear and other equipment or material; and,
- d) any other service not specified in this Tariff.

These charges shall be base on the rates published in this Tariff and shall be paid by the party requesting the service.

#### **5.6 Minimum Number of Labour Hours** – Dead Time – No Work Provided

Where DPWC furnished labour that is necessary for a specific service and the service is completed before the expiration of the minimum time defined in a Collective Agreement, the person requesting the service shall be charged the additional cost of labour at standby rates to account for the difference between time worked and minimum time.

#### **5.7 Overtime**

Where services are performed by persons working Overtime, the person requesting the services shall pay to DPWC any amount equal to the difference between Straight Time costs and Overtime costs for all labour and supervision according to man-hour rates.

#### **5.8 Foreman Turnaround**

In times of labour shortage where a Vessel gang has been ordered but is not provided, the cost of the foremen ordered to supervise said gang(s) is chargeable at the appropriate shift delay to the ship which requested the gang(s).

#### **5.9 Double Shifting**

In times of labour shortage, where the option exists to double, extend or cover this shift using labour from the preceding and following shifts, labour may be employed at the discretion of the User subject to payment of incremental costs based on shift extension rates plus meal allowance.

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## PART IV - GENERAL TERMS AND CONDITIONS Effective: August 1, 2012

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### 6. LIMITATION AND EXCLUSION OF LIABILITY

#### 6.1 Limitation and Exclusion of Liability

The following are general terms and conditions of this Tariff that apply to the provision of:

- a) Terminal Services referred to in this Tariff or the Authority Fee Document, and of provision of facilities by the Authority; and,
- b) the Combined Transport Service as provided for in Part II, except where such terms and conditions of this Part IV are in conflict with Part II, in which case the terms and conditions of Part II shall prevail.

For the avoidance of doubt, the terms and conditions of this Part IV shall apply to all Users that are receiving Terminal Services and shall apply to all Users that are receiving Combined Transport Service but in respect of the Combined Transport Service only to the extent there is no conflict with Part II.

#### 6.2 Injury to Persons (Including Death) – Limitation of Liability

DPWC shall not be liable for the death of or personal injury to any persons, including but not limited to passengers and crew of a Vessel or DPWC's Vessel, occurring in or about the Terminal Areas, unless such personal injury or death occurs directly and solely as a result of the proven negligence or willful misconduct of DPWC and unless the person sustaining such personal injury or death is not a worker within the meaning of Part 1 of the *Worker's Compensation Act*, R.S.B.C. 1996, c. 492 of British Columbia who sustained such personal injury or death in the course of his employment.

#### 6.3 Basis of Liability

Other than in cases involving property damage, personal injury or death, the total liability of DPWC to a User (if any) for the failure to properly perform any of the Terminal Services is limited to refunding the amount paid by the User for such services and is subject to the liability ceiling amount referred to in paragraph 6.13.

#### 6.4 Delay – Exclusion of Liability

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

#### 6.5 Mixed Cargo – Limitation of Liability

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

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

#### 6.6 Damage – Exclusion of Liability

DPWC shall not be liable for any loss or destruction of or damage to Cargo, Containers, chassis or any other property whatsoever unless each and every case:

- a) the loss, destruction or damage occurred directly and solely as a result of the proven negligence or willful misconduct of an officer or employee of DPWC while acting within the scope of his duties or employment; and
- b) within:
  - i) thirty days after the Cargo, Containers, chassis or property were removed or should have been removed from Terminal Areas, notice of the loss, destruction or damage and the general nature thereof is given in writing to DPWC; and,
  - ii) six months following the incident alleged to have caused the loss, destruction or damage, a detailed and final claim is given in writing to DPWC; and
- c) legal proceedings to enforce a claim for such loss, destruction or damage are brought against DPWC within one year following the incident alleged to have caused the loss, destruction or damage.

### **6.7 Damage – Amount of Liability Limited**

DPWC shall not be liable in any event for any loss or destruction of or damage to Cargo, Containers, chassis or any other property whatsoever in any amount exceeding:

- a) In the case of Cargo:
  - i) the landed cost of the Cargo, including invoiced cost as paid to the supplier, plus freight, insurance and any duty paid and not refundable; or,
  - ii) five hundred dollars (\$500.00) per package or per customary freight unit,

whichever is less, unless the nature and value of the Cargo is declared in writing to DPWC at or before the time the Cargo is received on Terminal Areas, in which case the liability of DPWC shall be limited to the landed cost of the Cargo described in clause a) i) above. For the purpose of clause a) ii) hereof, where Cargo is received or handled by DPWC within a Container, trailer or boxcar, the Container, trailer or boxcar and not the number of articles therein shall for the purpose of clause a) ii) be deemed to be a package or customary freight unit.

- b) In the case of Containers, chassis or other property,
  - i) the replacement value of the Container, chassis or other property; or,
  - ii) five hundred dollars (\$500) per package or unit,

whichever is less. For the purpose of clause b) ii) hereof, a Container and a chassis shall be for the purpose of clause b) ii) be deemed to be a package or unit.

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

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

### **6.9 Vessels and Floating Assets at Vessel Owner's Risk**

Every Vessel, float, derrick, pile driver or section of logs or part thereof, as well as DPWC's Vessel, that is moored or berthed at or adjacent to Terminal Areas or in the process of arriving or departing there from shall be at the sole risk of the Vessel Owner and/or User.

### **6.10 Exclusions, Exemptions and Limitations in Bills of Lading and Passenger Tickets Applicable**

DPWC, its officers and employees shall in addition be entitled to the same rights, immunities, exceptions, exemptions, restrictions and limitation of liability provisions of all contracts of carriage as are set out in the Ocean Carrier's favour in any bill of lading or similar document relating to the Cargo or Containers in question and, in the case of a Vessel carrying passengers, any passenger tickets or contracts between the Ocean Carrier and such passenger.

The Ocean Carrier will include DPWC or arrange to have it included as an express beneficiary, to the extent of the services to be performed hereunder, of all rights, immunities and limitation of liability provisions of all contracts of carriage, as evidenced by its standard bills of lading and / or passenger tickets, as issued by the Ocean Carrier, and in the case of ad valorem Cargo, the Ocean Carrier agrees to hold DPWC harmless from and indemnify it against any resultant increase in liability.

In the event the Ocean Carrier is not the carrier of the Cargo to be handled by DPWC, the Ocean Carrier expressly agrees that all rights, immunities and liability limitations contained in the involved carrier's applicable bill of lading shall enure to the benefit of DPWC. The Ocean Carrier agrees that in no event shall DPWC have any liability in excess of that of the carrier respecting loss or damage of Cargo and agrees to hold DPWC harmless from and indemnify it against any liability incurred by DPWC in excess of that of the carrier respecting loss or damage to Cargo.

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

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

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

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

### **6.13 Liability Ceiling Amount**

The liability, if any, of DPWC arising out of a single incident or series of incidents arising from a common cause shall not exceed the amount of \$750,000. In the case of loss or damage to a Vessel and / or her equipment, the maximum liability of DPWC is \$500,000 and in the case of loss or damage to Cargo, its maximum liability is \$250,000.

### **6.14 Authority**

In addition to and not in substitution for or in limitation of the exceptions, exemptions, immunities and limitation of liability provisions set out in the Authority Terminal Services Tariff, the Authority and its employees shall be also entitled to the same exceptions, exemptions, restrictions and limitation of liability provisions set out in this Tariff as are applicable to DPWC.

### **6.15 Weather Damage**

The Authority and DPWC shall not be responsible for damage to Containers, Cargo, chassis or any other property whatsoever caused by the weather while in outside storage or in transit or on Terminal Areas.

### **6.16 Container Crane**

6.16.1 DPWC makes no representations or warranties whatsoever as to the condition or fitness of the Container Crane or the competence of the Container Crane operators or any personnel whomsoever involved directly or indirectly in the preparation, position, movement, use, operation or shut-down of the Container Crane.

6.16.2 DPWC shall have no liability whatsoever for any loss, damage or expense, whether involving economic loss, physical loss or damage, or personal injuries or death, arising from or in any way related to the preparation and / or positioning of the Container Crane prior to or during operations, as well as the use or operation of the Container Crane during the period of hire or the shut-down time of the Container Crane following the end of operations. The Vessel Owner, Cargo Owner and/or User shall indemnify and hold harmless DPWC from all claims, demands, causes of action or liability, whether in contract, tort or otherwise, arising from or in any way related to the preparation and / or positioning of the Container Crane prior to the beginning of the period of operations, including but not limited to claims for economic loss, physical loss or damage, or personal injuries or death, together with all expenses and costs of any nature or kind whatsoever arising therefrom.

6.16.3 The Vessel Owner, Cargo Owner and/or User shall indemnify and hold harmless DPWC from any and all loss, damage and expense incurred by DPWC arising from or in any way related to the preparation and / or positioning of the Container Crane prior to the beginning of the period of operations, the use or operation of the Container Crane during operations or the shut-down time of the Container Crane following the end of operations, which loss, damage and expense shall include but shall not be limited to all physical damage to property of DPWC or for which DPWC is responsible, physical damage to the Container Crane, damage to the Authority's property and all economic loss to DPWC including but not limited to loss of revenue and loss of business. The liability of the Vessel Owner, Cargo Owner and/or User under this Section 6.16.3 and under Section 6.16.2 shall be joint and several.

6.16.4 The provisions of Sections 6.16.1, 6.16.2 and 6.16.3 of this Tariff shall apply whether or not any damage, loss, expense or claims arise directly or indirectly as a result of the act or omission of DPWC, its officers, employees, servants or agents or any other person whomsoever for whose conduct or actions DPWC might otherwise be legally responsible, even if such act or omission constitutes negligence or willful misconduct. The provisions of Sections 6.16.1, 6.16.2, 6.16.3 and 6.16.4 shall apply notwithstanding any other term or condition of this Tariff, unless any such provision conflicts directly with the terms or conditions of the Authority Fee Document, in which case the Authority Fee Document shall apply but only to the extent of any such conflict.

## **7. CHARGES GENERALLY**

### **7.1 Charges Generally**

Charges under this Tariff generally are:

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



## **7.2 Taxes**

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

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

## **7.3 Payment of Charges**

All charges herein, when not paid or absorbed by the Ocean Carrier, are for the account of the User. On import and export traffic moving in connection with Ocean Carriers via DPWC's Vancouver Facility, provisions for complete or partial payment or absorption of terminal charges are contained in ocean tariffs. Cargo Owners are urged to consult with the carrier tariffs for accurate determination of applicable terminal charges if any, for the account of Cargo.

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

## **7.4 Calculation of Charges**

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

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

## **7.5 Minimum Billing Charge**

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

## **7.6 Reduction of Charges**

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

## **7.7 Materials Supplied**

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

## **7.8 Verification of Weights and Measurements**

Shipping weights and measurements shown on shipping documents are subject to checking by DPWC and the actual scale weight or measurement of the Shipment as determined by DPWC will govern rating and billing.

## **7.9 Rates Subject to Change**

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

## **7.10 Charter Party Agreements, Sales Contract, etc.**

The existence of any agreement in connection with a charter party, sales contract, or otherwise, which purports to relieve a Vessel, the Vessel Owner, the Vessels' agent or operator, of any charge properly assessable against same, shall not relieve said Vessel, the Vessel Owner, the Vessels' agent or operator from liability for the payment of such charge under this Tariff.

## 8. COLLECTION OF OCEAN CHARGES

When requested, DPWC may collect such charges on inward Cargo on behalf of the Vessel Owner or the agents, owners or operators of Vessels in accordance with the following:

- a) Any charges to be collected for the Vessel's account must appear on the original and copies of bills of lading and manifest. DPWC is not obligated to calculate any charges on behalf of the Vessel. Expense bills will read "ocean charges collect \$ \_\_\_\_\_" expressed in Canadian currency. The currency conversion to Canadian funds will be calculated at the currency exchange rate as established by the Vessel.
- b) The collect ocean charges may be paid by the consignee or his agent in either U.S. funds as per the bill of lading or in Canadian funds at the Vessel exchange rate. If payment is received in U.S. funds, DPWC reserves the right to make payment to the Ocean Carrier in U.S. funds.
- c) Inbound manifest must be lodged with DPWC three working days prior to the Vessel's arrival to enable DPWC to prepare expense bills in time for discharge.
- d) Additional costs incurred in preparing expense bills for manifests received after the period of three days, or for re-billing of Inward Shipments on instruction from the Ocean Carrier will be for the account of the Ocean Carrier.
- e) DPWC will not accept any corrections or adjustments to collect ocean charges after the surrender of the original bill of lading, release of Cargo by the Ocean Carrier, or payment of ocean charges by the consignee or his agent. Such corrections and adjustments will be the responsibility of the Ocean Carrier to collect directly from the consignee or his agent.

## 9. VESSEL RESPONSIBILITIES

### 9.1 Vessel Security

The Vessel Owner shall ensure that the Vessel shall comply in all respects with the requirements of the *Marine Transportation Security Act*, S.C. 1994, c. 40 (the "**MTS Act**") and the *Marine Transportation Security Regulations*, SOR/2004-144 (the "**MTS Regulations**") made pursuant to the MTS Act and warrants that the operator of a Vessel as defined in the MTS Regulations will comply with all requirements of the MTS Act and the MTS Regulations and any amendments thereto.

### 9.2 Vessel Liability

The Vessel Owner shall indemnify and save harmless DPWC, and the Authority from all costs, expenses, damages or losses whatsoever which they may incur, including but not limited to consequential and economic loss, caused directly or indirectly by:

- a) the failure of the Vessel or the operator of a Vessel to comply with the requirements of the MTS Act, the MTS Regulations and any amendments thereto as referred to in Section 9.1 of this Tariff.
- b) the Vessel making contact with a dock at the Terminal Areas, a Container Crane located at the Terminal Areas or other property of DPWC or the Authority located at the Terminal Areas and
- c) the negligence of the Vessel Owner, its servants or agents.

Where a Vessel has approved a stowage plan and stability calculations prepared by DPWC, that Vessel shall be responsible for the stowage of Containers on board the Vessel and for the stability of the Vessel.

## 10. CARGO

### 10.1 Cargo Received or Delivered

Cargo is received for Shipment when the terms of the dock receipt or other document approved or issued by DPWC have been accomplished. Cargo is delivered when the terms of the delivery order or other document approved by DPWC have been accomplished. Cargo received at the Terminal Areas that is waiting for a Vessel or an Inland Carrier to arrive is in transit until other specific arrangements for its care and custody are made by the Cargo Owner, Vessel and/or Inland Carrier with DPWC. Notwithstanding terms of sale and other considerations or agreements, Cargo in transit in or on the Terminal Areas is under control of the Vessel involved and subject to the terms and conditions of its bill of lading or contract of affreightment issued until loaded on board, released by accomplishment of delivery or released to and accepted by DPWC for other custody.

In the event of any claim made against DPWC for damage to, loss or destruction of Cargo, DPWC will, notwithstanding the provisions of this Part, have the benefit of any provisions of this Tariff by which the liability of DPWC is excluded or limited.

### 10.2 Redelivery and Transshipment Cargo

The charge or charges on Cargo received at the Terminal Areas for delivery to a Vessel which, due to conditions unforeseen at the time of receipt, must be redelivered to a land carrier, or similarly, Cargo received at the Terminal Areas, intact in Containers or which

is stuffed into Containers at the Terminal Areas and which is subsequently diverted for transshipment by the Vessel Owners in lieu of a direct call of a Vessel, shall be the same as that applicable to Cargo loaded to a Vessel making a direct call.

For Cargo which is transhipped through the Terminal Areas via separate terminal facilities, i.e., received at one terminal for reloading to a Vessel at an alternate terminal facility, all charges will be charged in accordance with the rates and charges as defined in this Tariff for inbound and outbound goods respectively which is charged once only.

### **10.3 Compulsory Removal of Cargo**

The Authority or DPWC may, by written notice to the Cargo Owner, require the removal of a Cargo Owner's Cargo that is on Terminal Areas after the expiration of any Free Time. Such removal shall be at the Cargo Owner's expense and the Cargo Owner, upon the receipt of such notice, shall remove the Cargo immediately. This provision does not apply to Cargo on the Terminal Areas that is under lease to any person or allotted to any person by the Authority.

DPWC may, at the risk and expense of the Cargo Owner, remove, store or relocate any Cargo that is left on Terminal Areas.

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

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

DPWC may, at the risk and expense of the Cargo Owner, reject or remove from Terminal Areas any Cargo that, in the opinion of DPWC, is likely to contaminate or endanger other Cargo.

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

### **10.4 Documentation**

The cost of supplying clerks, labour, material and equipment for the checking and sorting of Cargo that has not been delivered by the Vessel Owner according to bills of lading at the time they were unloaded from the Vessel may be charged to the Vessel Owner or the Cargo Owner at DPWC's discretion.

Complete documentation of the Cargo shall be provided by the Vessel Owner to DPWC three full working days before Cargo is unloaded or loaded.

Where documentation of the Cargo is not provided by the Vessel Owner to DPWC within three full working days, as a result of which DPWC incurs additional expenses in the calculation of charges or the preparation of Container load plans on behalf of the Vessel Owner, such costs shall be paid by the Vessel Owner.

### **10.5 Demurrage – Vessels**

In furnishing the service of ordering, billing out and of handling to and from Vessels, no responsibility for any demurrage whatsoever, on Vessels, will be assumed by DPWC.

### **10.6 Owner's Risk**

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

## **11. DISPUTE RESOLUTION AND GENERAL TIME LIMIT**

### **11.1 Mandatory Mediation and Arbitration of Disputes**

Any dispute or claim arising out of or in connection with this Tariff shall first be referred to mediation at Vancouver, British Columbia under the mediation rules of the Vancouver Maritime Arbitrators Association ("VMAA"). If the mediation is concluded without settlement of the dispute, the dispute shall then be referred to arbitration at Vancouver under the arbitration rules of the VMAA.

### **11.2 General Time Limit**

Legal proceedings in relation to any dispute or claim arising out of or in connection with this Tariff as against, DPWC, or the Authority, must be brought within one year from the date any such dispute or claim arose, failing which DPWC, and the Authority shall be discharged from all liability in respect of any such dispute or claim.

APPENDIX A – WAYBILL

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

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

**Delivery to:** \_\_\_\_\_.

Destination [insert either Nanaimo or Vancouver], B.C.

Vessel \_\_\_\_\_

**PARTICULARS AS PROVIDED BY SHIPPER**

| <b>No.<br/>Containers</b> | <b>Description of Articles and Special Marks</b> | <b>Weight<br/>(Subject to<br/>Correction)</b> | <b>Measurement<br/>(Subject to<br/>Correction)</b> |
|---------------------------|--|---|--|
|---------------------------|--|---|--|

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

Dated at Vancouver this \_\_\_ day of \_\_\_\_\_, 2012:

DP WORLD (CANADA) INC.

Per:  
\_\_\_\_\_

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

(Waybill Reverse Side)

CONDITIONS OF CARRIAGE

1. CANADIAN CLAUSE PARAMOUNT. The cargo carried under this Waybill is not "goods" as defined by the Hague-Visby Rules (Schedule 3 of the *Marine Liability Act*, S.C. 2001, c. 6, as amended ("MLA")), and the Hague-Visby Rules shall not apply to the carriage of cargo under this Waybill, except as provided expressly herein. If despite the foregoing the cargo is determined to be "goods" and/or it is determined that the Hague-Visby Rules apply, then the Carrier shall have the full benefit of all rights, privileges, exemptions and immunities extended to carriers by the Hague-Visby Rules, but if in such circumstances any term of this Waybill is invalid by reason of it being in conflict with the Hague-Visby Rules, then the provisions of the Hague-Visby Rules shall govern to the extent of such invalidity, but the remaining terms hereof shall continue in full force and effect.
2. Definitions:
  - "Vessel" includes any tugs, towboats and barges used by the Carrier to transport cargo.
  - "Carrier" includes the Vessel, Vessel owner, operator, manager, charterer, master, officers, and crew and all others concerned in the carriage of the cargo.
  - "Shipper" includes the owner of the cargo, the shipper of the cargo, the receiver of the cargo, the named consignee of the cargo, and anyone else having an ownership or other interest in the cargo.
3. LIEN. The Carrier shall have a lien upon the cargo, and the right to sell the same by public or private auction or sale, or otherwise, at its sole discretion, for freight, dead freight, demurrage, detention, charges, expenses and fines.
4. FREIGHT. Freight whether prepaid or not is deemed to have been earned on loading of the cargo by the Shipper to a Vessel, and Carrier's claim for other charges under this contract (including dead freight, demurrage, detention, expenses and fines) shall be deemed to be established when the same have been incurred. Freight and/or any such charges shall be paid in full in exchange for this Waybill, Vessel or cargo lost or not lost.
5. VOYAGE. the Carrier shall be at liberty (a) to sail with or without pilots or tugs, to adjust compasses, to be drydocked at any time or place for any purpose with or without cargo on board, to tow or be towed, and to assist vessels in all stations: (b) either before or after proceeding towards the port of delivery of the said cargo, to proceed or return to and stay at any ports or places whatsoever (although in a contrary direction to or out of or beyond the route of the said port of delivery), or more often than customary in any order backward or forward for loading or discharging cargo or stores, or for any purposes whatsoever, whether in relation to her homeward voyage or to her outward voyage, or to an intermediate voyage, and all such ports, places and sailings shall be deemed included within the intended voyage of the cargo.
6. METHODS OF CONVEYANCE. (a) The Carrier shall be at liberty to lighter or otherwise carry the cargo to or from the ship and/or to trans-ship. (b) In case of accident or should the ship put into a port of refuge or from any cause not commence or proceed in the ordinary course of her voyage, the Carrier shall be at liberty to discharge into craft and/or land the cargo or any part thereof and/or store afloat or ashore and/or trans-ship and/or forward to destination. (c) In case of quarantine, or if entry into the port or place of discharge or trans-shipment or staying thereat would render the ship liable to quarantine there or at any other port or place, or if the ship is prevented from entering the port or place or is likely to be delayed thereat owing to blockage, interdiction, war, strikes, lockouts, disturbances, ice, storms, or any other cause whatsoever beyond the Carrier's control, the Carrier shall be at liberty to proceed to a neighbouring state and convenient port, and there land the cargo and/or store afloat or ashore, and /or transport and/or forward same to their destination by land or water at the sole risk of the Consignee and/or Owners of the cargo who shall pay all extra freight charges and expenses incurred.

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

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

9. **DECK CARGO.** All cargo is carried on deck unless otherwise expressly stated in this Waybill. Cargo carried on deck is carried at the sole risk of the Shipper and or owner of the cargo. Notwithstanding clause 8, in no event shall the Carrier be liable for any loss or damage (consequential or otherwise) in respect of cargo carried on deck howsoever caused, and without limiting the generality of the foregoing, even if such loss or damage resulted from unseaworthiness of the vessel or any equipment used to transport the cargo, or from the negligence, error, act or omission of the Carrier or of the servants or agents of the Carrier, including all persons described in clause 14 herein.

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

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

If the ship comes into collision with another ship as a result of the negligence or gross negligence of the other ship and any act, negligence, gross negligence, default, error or omission of the Master, mariner, pilot or the servants of the Carrier in the navigation or in the management of the ship, the owner of the cargo carried hereunder will indemnify the Carrier against all loss or liability to the other or non-carrying ship or her owners insofar as such loss or liability represents loss of, or damage to, or any claim whatsoever of the owners of the said cargo, paid or payable by the other or non-carrying ship or her owners to the owners of the said cargo and set off, recouped or recovered by the other or non-carrying ship or her owners as part of their claim against the carrying Ship or Carrier.

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

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

13. **CONNECTING CARRIERS.** The rights and liabilities of all carriers by water shall be determined hereby; if Carrier delivers said merchandise to any other carrier for carriage, such delivery shall be made as shipper's agent and not as carrier, and if such delivery be to any carrier by land, shipper agrees to be bound by the stipulations and conditions of such transfer receipt, shipping receipt or bill of lading as may be in use for such transfer for by such carrier for like transfer or carriage at place of such transfer. The receipt from a connecting carrier shall be evidence of the condition of the cargo when delivered to such connecting carrier. The responsibility and obligations of the carriers co-operating in the through billing shall be separate and distinct and not joint, several, or in common, each carrier being responsible for loss

or damage occurring on his own section of the through route, and no carrier shall be held liable for the duties and/or obligations of any other, or connecting carrier.

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

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

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

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

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

**END OF DOCUMENT**