



RICHARDSON STEVEDORING & LOGISTICS SERVICES, INC.
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GENERAL TERMS AND CONDITIONS FOR THE PROVISION OF SERVICES

ARTICLE I – DEFINITIONS

When used herein, the following terms or phrases shall be defined as follows:

- 1.01 The term “**operations**” refers to all acts and/or omissions of the stevedore.
- 1.02 The term “**premises of the stevedore**” and “**terminal facility**” each shall refer to all real property and improvements on which or in which the stevedore’s operations are performed, and includes, without limitation, all buildings, piers, structures, cranes, rails, roads, or bodies of water, whether on or adjacent to such property.
- 1.03 The term “**affiliate**” shall include Golden Stevedoring & Logistics Services, Inc.; R. Warehousing & Port Services, Inc.; Richway Transportation Services, Inc.; and Robin International Transport, Inc.
- 1.04 The term “**stevedore**” refers to Richardson Stevedoring & Logistics Services, Inc. (hereinafter “Richardson”) and includes, without limitation:
 - (a) Richardson;
 - (b) Richardson’s affiliates;
 - (c) the co-leasees, partners, joint ventures, co-owners, members and managers of Richardson and its affiliates;
 - (d) Richardson’s contractors and subcontractors and their affiliates of every tier; and
 - (e) the agents, officers, directors and employees of any of those encompassed by 1.04(a), (b), (c), or (d) herein.
- 1.05 The terms “**stevedoring**” and “**stevedoring services**” each include the following services:
 - (a) Vessel Loading Operations: Moving cargo from either its point of rest or a transport unit (whether ground or rail) within the terminal, and stowing same on a vessel, excluding any lashing or securing of the cargo thereafter;
 - (b) Vessel Unloading Operations: Moving the cargo from a vessel to either point of rest or a transport unit (whether ground or rail) within the terminal, excluding any prior unlashings of cargo from the vessel, subsequent truck loading operations, or other re-delivery of the cargo for onward shipment thereafter; and
 - (c) Extra Labor Services: Those services not included within loading or unloading operations that the stevedore may, at its sole option, perform for an extra labor



charge, including, without limitation: lashing and securing of cargo, unlashings of cargo, line handling, cleaning of holds, staging, flooring, working around other cargo, shifting other ports' cargo (OPC), shifting dunnage, opening and closing of hatches, rigging of derricks or winches, placing and removal of gangways, and any other work which is necessary in order to commence, continue or complete the stevedoring services requested by the customer. Any required service not specifically stipulated as included in the stevedore's rates for loading or unloading is to be considered an extra labor service.

- 1.06 The term “**control services**” shall mean services used to assess the quantity or quality of the cargo, such as tallying, weighing, measuring, gauging, sampling, sorting, etc.
- 1.07 The term “**customer**” refers to all parties engaging the services of the stevedore, all parties benefiting from the performance of the stevedore's services, and all parties to whom the stevedore's invoices for services are addressed, and includes, but is not limited to, the vessel for which such services are provided, the owner of the cargo as evidenced by documentation in the hand of the stevedore as of the date when the stevedore's services in connection with that cargo commence.
- 1.08 The term “**customer group**” shall mean individually and collectively: (1) customer; (2) its affiliates; (3) the co-owners, members and managers of customer and its affiliates; (4) customer's independent contractors and subcontractors of every tier and their respective affiliates; and (5) the agents, officers, directors and employees of any of those encompassed by 1.08(1), (2), (3) or (4) herein.
- 1.09 The term “**claims**” shall mean all claims, demands, causes of action, liabilities, damages, judgments, fines, penalties, awards, losses, costs, expenses (including, without limitation, reasonable attorneys' fees and costs of litigation) of any kind or character arising out of, or related to, the performance of or the subject matter of this Agreement (including, but not limited to, property loss or damage, bodily injury, sickness, disease or death, loss of services or wages, or loss of consortium or society).
- 1.10 The term “**extra labor charge**” refers to amount stevedore will charge customer for performance if “Extra Labor Services,” and shall be calculated based upon the stevedore's cost of labor, equipment, and insurance plus 20%.
- 1.11 The term “**principal**” refers to the owner, mortgagor, mortgagee, operator, and charterer of a ship or vessel, and includes all agents of the foregoing having actual or apparent authority to act on behalf of the principal.
- 1.12 The term “**other party**” refers to any other person or entity other than a customer or principal who is bound to these Terms and Conditions by the acceptance of any services of the stevedore.
- 1.13 The term “**cargo vehicles**” refers to all vehicles delivering or receiving cargo at the terminal facility.



- 1.14 The term “**terminal users**” shall exclude drivers of cargo vehicles. Subject thereto, “terminal users” shall otherwise refer to employees, members, representatives, agents, vendors, clients, patrons, and invitees of a principal, customer, or other party, including, without limitation: pushers employed by commercial trucking companies, marine surveyors, cargo brokers, ship agents, port captains, and other vessel service providers and representatives.
- 1.15 The term “**private vehicles**” shall exclude cargo-carrying vehicles and any vehicles handled or received by the stevedore as cargo. Subject thereto, “private vehicles” shall otherwise include vehicles belonging to or driven by customer group members or terminal users.
- 1.16 **THE TERM “REGARDLESS OF NEGLIGENCE OR OTHER FAULT” SHALL, EXCEPT AS OTHERWISE EXPRESSLY MODIFIED, BE DEFINED TO MEAN WITHOUT LIMIT AND WITHOUT REGARD TO THE CAUSE OR CAUSES THEREOF, INCLUDING PRE-EXISTING CONDITIONS, STRICT LIABILITY, UNSEAWORTHINESS, UNAIRWORTHINESS, DEFECT, OR THE NEGLIGENCE OR OTHER FAULT OF ANY INDEMNITEE OR ANY OTHER PERSON OR ENTITY, WHETHER SUCH NEGLIGENCE OR OTHER FAULT BE SOLE, JOINT OR CONCURRENT, ACTIVE OR PASSIVE, OR WHETHER SUCH NEGLIGENCE, FAULT, UNSEAWORTHINESS, UNAIRWORTHINESS, DEFECT, CONDITION, OR EVENTS ARISE BEFORE OR AFTER THE EXECUTION OF THIS AGREEMENT.**

ARTICLE II - GENERAL PROVISIONS

- 2.01 These General Terms and Conditions for the Provision of Stevedoring Services (“Terms and Conditions”) apply to all operations of the stevedore, irrespective of their nature, regardless of whether or not such operations would be considered stevedoring operations under any common understanding or trade usage of that term and regardless of whether any charge is made or paid for such operations. These Terms and Conditions apply to all operations performed directly by the stevedore, as well as to all operations performed by agents, affiliates, contractors or subcontractors of the stevedore.
- 2.02 The acceptance by the customer, the principal or any other party of any services of the stevedore shall be deemed an agreement by the customer, the principal, or such other party to be bound to all of these General Terms and Conditions, whether or not a charge is made or paid for such services.
- 2.03 If the stevedore either directly or indirectly performs any services that are not commonly understood to be stevedoring services, including, but not limited to, the provision of tug services, warehousing services, or marine terminal services, then, by the acceptance of such services, the customer or principal shall be deemed to have agreed that the stevedore shall also have the benefit of all standard contracts or standard terms and conditions pertaining to such other services, as if the stevedore were a named party thereto, and such standard contracts and standard terms and conditions shall be deemed to be incorporated herein. In the event of any conflict between these Terms and Conditions and such other standard contracts or standard terms and conditions, these Terms and Conditions will prevail, but only to the extent of such conflict.
- 2.04 These Terms and Conditions are also to be supplemented by, but not superseded by, the customs and practices of the Port of Houston, which are deemed to be incorporated herein. In the event of



any conflict between these Terms and Conditions and such customs and practices, these Terms and Conditions will prevail, but only to the extent of such conflict.

- 2.05 In addition to the rights and remedies provided under these Terms and Conditions, the stevedore shall also be entitled to the benefit of any and all rights, remedies, defenses and limitations on liability provided at law, in admiralty or in equity, or contained in any applicable bills of lading, warehouse receipts, or tariffs, which are deemed to be incorporated herein.
- 2.06 The failure by the stevedore to exercise any right granted to it hereunder shall not be deemed a waiver of that right, nor shall the invocation by the stevedore of a particular provision hereunder be deemed to be a waiver of the stevedore's right to rely upon any other provision hereunder.
- 2.07 These Terms and Conditions, and any contracts based thereon, are severable, so that if any single provision or part thereof is found to be invalid or unenforceable, such invalidity or unenforceability shall not affect the remainder of these Terms and Conditions, which shall continue in full force and effect.

ARTICLE III – OFFERS, TARIFFS AND PAYMENT OF CHARGES

- 3.01 A quotation of rates by the stevedore shall be deemed an offer to provide the quoted services, conditioned upon the express warranty made hereunder by the customer, principal or other party that the cargo will require ordinary handling by gangs of regular size during regular working hours, that the cargo is sound and has been packaged in a safe and customary manner, and that there are no other circumstances that would necessitate any special gear, additional personnel or extraordinary handling. The stevedore shall have the right to revoke its offer at any time prior to acceptance by the customer, principal or other party, in which case, the stevedore shall have no further obligation to the customer, principal or other party.
- 3.02 If the stevedore's offer is not expressly rejected by the customer, principal or other party, then the stevedore's offer will be deemed to be accepted by the customer, principal, or other party upon commencement of the provision of services by the stevedore.
- 3.03 If any of the conditions stated in Paragraph 3.01 cease to apply between the date of acceptance of the offer and the date when the provision of stevedore services has been completed, then the stevedore shall have the right to adjust the rates and tariffs contained in the offer accordingly, and the customer, principal or other party hereby agrees to accept all such adjustments.
- 3.04 The stevedore shall maintain documentation of the nature, scope and extent of services it has provided in the form of daily work logs and tally receipts of the cargo (when applicable) and shall make such documentation available upon request to the customer or principal. The stevedore's documentation shall be deemed conclusive and irrefutable evidence of the work actually performed by the stevedore.



3.05 At the request of the customer, principal or other party, the stevedore shall make a report on the condition of the cargo at discharge or prior to loading, to the best of its ability. However, the stevedore does not hold itself out to be a marine surveyor and makes no representations or warranties whatsoever regarding the accuracy or other character of its discharge condition report.

NOTE: BY REQUESTING SUCH A REPORT, THE CUSTOMER, PRINCIPAL AND/OR OTHER PARTY AGREE TO RELEASE, PROTECT, DEFEND, INDEMNIFY AND HOLD THE STEVEDORE AND ITS RESPECTIVE OFFICERS, DIRECTORS, MANAGERS, EMPLOYEES, AGENTS, ASSIGNS AND REPRESENTATIVES HARMLESS FROM AND AGAINST ALL CLAIMS, WITHOUT LIMIT, IN CONNECTION WITH ANY VARIANCE BETWEEN THE CONDITION OF THE CARGO AS NOTED IN THE BILLS OF LADING AND THE CONDITION OF THE CARGO AS NOTED BY THE STEVEDORE AT DISCHARGE OR PRIOR TO LOADING, REGARDLESS OF THE NEGLIGENCE OR OTHER FAULT OF THE STEVEDORE TO THE FULLEST EXTENT PERMITTED BY LAW.

3.06 The stevedore shall present the customer, principal or other party with an invoice for the stevedore's services. However, all customers, principals and other parties accepting the stevedore's services covered by said invoice shall be deemed to be jointly and severally liable for the payment of the invoice, regardless of the name of the party to which the invoice is addressed, including the owner of the cargo as evidenced by documentation in the hand of the stevedore as of the date when the stevedore's services in connection with that cargo commence. Payment of all invoices shall be due in full upon presentation, without any right of set-off, counterclaim or deduction whatsoever by the customer, principal or other party. Payment of invoices shall be by cash, certified funds, or wire transfer to the stevedore's designated account unless prior written permission is received from the stevedore for some other method of payment.

3.07 Questions regarding the validity or accuracy of any invoice must be submitted to the stevedore in writing within ten (10) days of presentation, after which such invoice shall be deemed accurate, valid and accepted by the customer, principal or other party.

3.08 Interest shall accrue on all invoices that have not been paid for thirty (30) days or more shall accrue interest at the rate of one and one-half percent (1.5%) per month from the date due until paid in full ("Late Payment Charge"), provided however that if the foregoing rate of interest shall be deemed in excess of a lawful maximum rate, the interest rate to be applied shall be reduced to the highest lawful rate. The stevedore's failure to impose a Late Payment Charge shall not be a waiver of stevedore's other rights and remedies for such late payment, nor of stevedore's right to later present and collect such Late Payment Charge.

3.09 The customer, principal or other party shall be liable for all reasonable costs, including attorneys' fees, in connection with stevedore's collection of unpaid invoices.

3.10 Notwithstanding the foregoing, should the stevedore at any time deem itself insecure with respect to the payment for any services provided hereunder, whether past or present, the stevedore may exercise any or all of the following rights at any time:



- (a) Demand a down payment, advance, pre-payment in full, or other form of security before commencing, continuing or completing work;
- (b) Refuse to perform or suspend or terminate performance of work, without prior warning, until all unpaid invoices are paid;
- (c) Declare all claims of the stevedore against the customer, principal or other party to be immediately due and payable;
- (d) Exercise any other rights permitted at law, in admiralty, in equity or elsewhere under these Terms and Conditions.

NOTE: Examples of the types of circumstances that might cause the stevedore to deem itself insecure are, without limitation: the lack of a prior commercial relationship between the stevedore and the customer, principal or other party; the voluntary or involuntary bankruptcy of the principal, customer or other party; the appointment of a receiver for the principal, customer or other party; the arrest of a ship or any sister ship of the principal, customer or other party; the suspension of any payments by the principal, customer or other party; the cessation of any operations by the principal, customer or other party; the seizure of any goods of the principal, customer or other party; seizure of any cargo, bunkers or earned or unearned freights of a vessel, principal, customer or other party; or any other circumstance that causes the stevedore, in its sole discretion, to believe that it might not receive payment for its past or present services.

NOTE: The exercise of any rights under Paragraph 3.10 by the stevedore shall not be deemed a breach of contract by the stevedore, and the stevedore shall have no liability for any consequences to the cargo, customer, principal, other party or any third party that may be caused by the stevedore's exercise of any of its rights hereunder.

3.11 The stevedore shall have a maritime lien on a vessel for all services furnished thereto. In addition, the stevedore shall have a lien on all cargo in its possession for any charges for services rendered, storage, demurrage and any other charges due, including all costs and legal fees associated with collection of amounts due and enforcing this lien, or any other sums whatsoever payable by or chargeable to or for the account of cargo under any bailment, receipt or other document issued by the stevedore, and any contract preliminary hereto and any sums owed to the stevedore by the person responsible for the account of cargo or any affiliates thereof on prior accounts or shipments, and the cost and expenses of recovering the same (all such charges, fees and costs collectively the "**charges and costs**"), and may hold the cargo until all such charges and costs are fully settled, or until other security for payment satisfactory to the stevedore has been furnished.

NOTE: If the charges and costs are not fully settled by the time of the cargo release, or if the cargo is otherwise unclaimed, after a reasonable time not to exceed thirty (30) days after arrival at the terminal, or the time set forth in any applicable tariff provision, receipt or other document issued by the stevedore, the stevedore may sell the cargo privately or by public auction, or otherwise dispose of such cargo, ten (10) days after sending the owner of record notice, via letter (U.S. Mail, postage prepaid, return receipt requested) or by actual notice by any appropriate means, of the amount of charges and costs owed, the date of sale and a statement informing the



registered owner that if the charges and costs are not fully settled by the date of sale the cargo will be sold and the proceeds of such sale will be used to settle the charges and costs owed plus the costs of the sale. If the owner of record does not fully settle the outstanding charges and costs within ten (10) days of the mailing of the notice letter or giving actual notice, the sale will proceed as described in the notice. If the sale proceeds fail to cover the outstanding charges and costs, the stevedore may recover the deficit from the party responsible for such charges and costs, or its affiliates owing any unsatisfied portion thereof. Sale proceeds beyond the charges and costs owed will be returned to the registered owner if claimed within one (1) year of the mailed notice.

- 3.12 The customer, principal or other party grants a security interest to the stevedore in the cargo and all proceeds derived from the cargo in a maximum amount of \$1,000,000 for all charges and expenses other than described above (including money advanced and interest), whether incurred before or after delivery, and customer agrees to execute and deliver all such documents as may be required to perfect such security interest. If cargo is transferred from one party to another, and should the charges relating to such cargo not be paid in full on the date of such transfer, the lien for such charges shall attach to the cargo retained by the transferor and to cargo transferred to the transferee. In the event a proceeding is brought by one party against the other to enforce any provisions herein, the prevailing party shall be entitled to legal fees and costs.
- 3.13 The stevedore shall have a right of set-off against all goods, documents, or monies of the customer, principal or other party in the hands of the stevedore for any unpaid claims that the stevedore may have against the customer, principal or other party.
- 3.14 In the event that the stevedore retains or asserts a right of set-off against any goods of the customer, principal or other party in the stevedore's hands and the customer, principal or other party does not make payment, provide alternative security or otherwise satisfy the stevedore's claim within thirty (30) days, the stevedore shall be entitled to sell the goods by public or private sale in a manner permitted by law.
- 3.15 Payment to an agent of the customer, principal or other party shall not be deemed payment to the stevedore. Unless otherwise instructed in writing by the stevedore, all payments must be made to the stevedore directly.

ARTICLE IV – OPERATIONS

- 4.01 The stevedore shall be entitled to subcontract, on any terms, any or all of its operations to one or more third parties selected by the stevedore, at its sole discretion. However, said third parties shall at all times remain independent contractors of the stevedore and shall not be deemed at any time to be borrowed servants of the stevedore.
- 4.02 The stevedore shall have the option of handling the cargo with its own equipment and gear, or that of the principal, customer or other party. In the event that the stevedore chooses to handle the cargo with the equipment or gear of the principal, customer or other party, said principal, customer or other party shall provide such equipment or gear to the stevedore free of any charge and shall warrant to the stevedore that said equipment and gear is in good repair, safe and



workmanlike condition, and has been certified in accordance with Safety and Health Regulations for Longshoring set forth in Subparts A–F of 29 C.F.R. § 1918, *et seq.*, and applicable classification society and safety standards.

- 4.03 Except in those cases where the stevedore contractually agrees in writing to perform a certain service within a certain time, any information given by the stevedore to the customer, principal or other party regarding times for starting and completing loading, discharging or delivery are estimates only, and the stevedore shall have no liability if these estimates later prove to be inaccurate.
- 4.04 The following extra services are not included within loading or unloading services, and are generally performed by others or, in some cases, by the stevedore for an extra labor charge: lashing and securing of cargo, unlashng of cargo, line handling, cleaning of holds, staging, flooring, working around other cargo, shifting other port's cargo (OPC), shifting dunnage, opening and closing of hatches, rigging of derricks or winches, placing and removal of gangways, and any other work not included within loading or unloading operations but necessary for commencement, continuation or completion of same. However, if the stevedore deems such extra services necessary in order to commence, continue or complete loading or unloading operations, and the principal, customer or other party fails to have such work performed within a reasonable time, then the stevedore may, but is not required to, perform any or all of these extra services itself, in its sole discretion, for the account of and at the sole risk of the customer, principal or other party.
- 4.05 If any services are required to be performed by the stevedore to the vessel or to the cargo by any governmental authority or agency, the customer, principal and other party agree that such services shall be provided by the stevedore for the account of and at the sole risk of the customer, principal or other party and without prior notice to or approval by the customer, principal or other party.
- 4.06 The principal, customer or other party shall take steps to ensure that the lighting in the holds of the vessel, oily surfaces and all causes for electric shock, safety rails against falls and safe access to the vessel and cargo holds are sufficient to permit the stevedore to conduct its operations in the holds safely, and the principal, customer or other party shall be solely responsible for all personal injuries or property damage caused by its failure to ensure sufficient lighting in the vessel's cargo holds.
- 4.07 The stevedore may request that a vessel berthed at its facility leave that berth either temporarily or permanently whenever the stevedore with the terminal owner's approval and coordination, in its sole discretion, deems such a move desirable or necessary to its operations, and the customer or principal shall ensure that the vessel leaves that berth within six (6) hours of the stevedore's written request being submitted to the customer, principal, or the vessel's Master. If the vessel does not leave the berth by the requisite time, the stevedore shall be at liberty to take such measures as it may deem fit to ensure the vessel's departure or otherwise protect its interests, all for the account of and at the sole risk of the customer or principal.



- 4.08 If a customer, principal or other party who has been notified that his goods or cargo is available for delivery from the stevedore's premises fails to take delivery of the cargo within a reasonable time after such notice, the stevedore may, but is not required to, store the cargo for the account of and at the sole risk of the customer, principal or other party, subject to any applicable terms, conditions, storage and handling charges set forth in the applicable Tariff for terminal where the is to be stored. The sale of cargo by the principal, customer or other party to a third party prior to delivery shall not relieve the customer, principal or other party from its obligation to the stevedore to pay storage charges, handling charges, or other expenses incurred by the stevedore in connection with respect to such cargo, unless the stevedore gives prior written consent to the substitution of one debtor for another.

ARTICLE V – CONTROL SERVICES/OUTSIDE CONTRACTORS

- 5.01 The term “**control services**” shall mean services used to assess the quantity or quality of the cargo, such as surveying, tallying, packing, weighing, measuring, gauging, sampling, sorting, marking, and securing of cargo either to be loaded on a vessel or for inbound shipment or delivery after being discharged.
- 5.02 Control services shall be performed by the stevedore for a separate charge, unless the customer, principal or other party and the stevedore mutually agree that such services shall be performed by an outside contractor or some other person or entity engaged by or designated by the customer, principal or other party. However, in the event that such control services are performed by agreement by an outside contractor or other third party, and the performance of such services requires the use of any gear or equipment of the stevedore, then such gear or equipment shall be operated only by the stevedore and for the account of the customer, principal or other party.
- 5.03 Requests to the stevedore by the customer, principal or other party for the performance of control services by a party other than the stevedore shall be made on a timely basis and shall be contingent upon the payment by the customer, principal or other party of any charges by the stevedore for the use of the gear, facilities, premises or equipment of the stevedore by the control services contractor. The failure to make a timely request for outside control services and/or to guarantee payment of the stevedore's charges in connection therewith may result in the stevedore's refusal to allow the control service contractor entry onto the stevedore's premises.
- 5.04 In the event that the control services contractor agrees to pay the stevedore's charges directly, the customer, principal or other party engaging that contractor shall guarantee the payment of such charges and shall be jointly and severally liable with the contractor for the payment of such charges. The provisions of Article III of these Terms and Conditions relating to payment shall also apply in such event.
- 5.05 If the customer, principal or other party declines to have the stevedore or an outside contractor weigh its cargo prior to loading or upon discharge, then the customer, principal, or other party shall be deemed to accept, as conclusive and irrefutable evidence of the quantity and weight of the cargo, the piece count of the cargo made by the stevedore prior to loading or upon discharge.



NOTE: BY DECLINING TO HAVE THE STEVEDORE OR AN OUTSIDE CONTRACTOR WEIGH ITS CARGO PRIOR TO COMMENCEMENT OF STEVEDORING SERVICES, CUSTOMER, PRINCIPAL OR OTHER PARTY AGREES TO RELEASE, PROTECT, DEFEND, INDEMNIFY AND HOLD THE STEVEDORE AND ITS RESPECTIVE OFFICERS, DIRECTORS, MANAGERS, EMPLOYEES, AGENTS, ASSIGNS AND REPRESENTATIVES HARMLESS FROM AND AGAINST ALL CLAIMS, WITHOUT LIMIT, ON ACCOUNT OF ANY DISCREPANCIES BETWEEN ANY "SAID TO WEIGH" OR ESTIMATED WEIGHTS FOR THE CARGO CONTAINED IN THE SHIPPING DOCUMENTS AND THE ACTUAL WEIGHT OF THE CARGO.

ARTICLE VI – PACKAGING, MARKING AND DESCRIPTION OF CARGO

- 6.01 Notwithstanding any other term or provision herein, the customer, principal and other party shall ensure that the goods or cargo shall at all times be packaged and marked in accordance with United States law.
- 6.02 The customer, principal, or other party expressly warrants the accuracy of any representation, written or oral, made by one or more of them to the stevedore as to the nature, weight, measurement, quantity, description, or other characteristics of the goods. **CUSTOMER, PRINCIPAL OR OTHER PARTY SHALL RELEASE, PROTECT, DEFEND, INDEMNIFY AND HOLD THE STEVEDORE AND ITS RESPECTIVE OFFICERS, DIRECTORS, MANAGERS, EMPLOYEES, AGENTS, ASSIGNS AND REPRESENTATIVES HARMLESS FROM AND AGAINST ALL CLAIMS, WITHOUT LIMIT, ON ACCOUNT OF ANY LIABILITY FOR PERSONAL INJURY AND PROPERTY LOSS OR DAMAGE, RESULTING FROM ANY INACCURATE REPRESENTATION OF THE CHARACTERISTICS OF THE CARGO MADE TO THE STEVEDORE, REGARDLESS OF THE NEGLIGENCE OR OTHER FAULT OF THE STEVEDORE, TO THE FULLEST EXTENT PERMITTED BY LAW.**
- 6.03 Should any of the following conditions apply to the cargo, same must be clearly indicated and marked on the outside of the cargo, using generally accepted wording (in English) or symbols, in such a way as to be readily visible to the stevedore:
- (a) Cargos susceptible to rust damage or otherwise requiring undercover storage;
 - (b) Cargos that are self heating (spontaneous combustion), flammable or explosive;
 - (c) Cargos that are fragile or require special handling;
 - (d) Cargos that are poisonous, radioactive, intoxicating or otherwise may be dangerous or injurious to man, animals, or the environment;
 - (e) Cargos weighing more than 1000 kg or having a center of gravity that varies from the dead center of the package.

In addition to markings on the outside of the cargo itself, the customer, principal or other party shall also take all other reasonable steps to give advance oral and written notice to the stevedore of the foregoing conditions, where applicable, or of any other condition that the principal or customer believes requires special stowage or handling.



- 6.04 Whether or not a particular unit of cargo is marked in accordance with these Terms and Conditions, the stevedore may refuse to perform, or suspend or terminate performance or operations with respect to any cargo that, in the stevedore's sole judgment, poses a serious danger to persons or property. The stevedore shall also have the right to take such measures in connection with such goods as the stevedore sees fit to protect persons or property, including but not limited to the destruction of those goods, if necessary, all for the account of, and at the sole risk of, the customer, principal or other party.

ARTICLE VII – ACCESS TO THE STEVEDORE'S PREMISES

- 7.01 All agents, employees, outside contractors or other persons or entities of the customer, principal or other party, regardless of the purpose for which they have been engaged or designated, constitute members of the "**customer group**," and shall enter the stevedore's premises or attend the cargo at their own risk and at the risk of the customer, principal or other party requesting their attendance.
- 7.02 The stevedore is entitled to impose any conditions it deems necessary upon the entry of such persons upon its premises, and the failure of such persons to abide by those conditions shall be grounds for their immediate expulsion from the stevedore's premises. In addition, the stevedore reserves the right to deny entry to its premises, for any reason, to any person, vessel, or vehicle, or to demand immediate departure from its premises, for any reason, of any person, vessel or vehicle. Any persons, vessels, or vehicles that fail to comply with all rules, regulations, signs, policies, orders and directives, and traffic control devices applicable to the stevedore's premises, or any persons, vessels, or vehicles that are otherwise deemed by the stevedore, in its sole judgment, to pose a danger to persons or property or to interfere with or be disruptive to the stevedore's operations, may be immediately expelled from, or denied entry to, the stevedore's premises.
- 7.03 The stevedore's premises **are not** a public thoroughfare, and all persons, including customer group members and other terminal users, entering thereon do so at their own risk. Such persons, by entering the stevedore's premises, agree to obey and be bound by all rules, regulations, directives, signs, policies and traffic control devices applicable thereto, including, but not limited to, speed limit, stop, and parking signs, hard hat policies, and other orders and directives of the stevedore, whether or not posted.
- 7.04 All persons, including customer group members and other terminal users, must stand clear of operating cranes, cargo vehicles, power driven trucks, forklifts, front end loaders and other equipment involved in the stevedore's operation at all times.
- 7.05 **FOR THE AVOIDANCE OF DOUBT, CUSTOMER GROUP MEMBERS OR TERMINAL USERS ARE NOT ALLOWED TO ENTER ANY STAGING AREA, TERMINAL STORAGE YARD, WATERFRONT DOCK OR SHIPSIDE AREA WHILE OPERATIONS OR STEVEDORING SERVICES ARE UNDERWAY UNLESS AND UNTIL THEY CONSENT TO BE BOUND BY THESE TERMS AND CONDITIONS AND PROVIDE THE STEVEDORE WITH CERTIFICATE(S) OF INSURANCE EVIDENCING COMPLIANCE WITH THE REQUIREMENTS CONTAINED IN ARTICLE X HEREIN.**



- 7.06 Any surveys or inspections of cargo in stow aboard vessels by customer group members must be completed prior to commencement of the stevedore's operations. **CUSTOMER GROUP MEMBERS AND OTHER TERMINAL USERS ARE PROHIBITED FROM ENTERING VESSEL HOLDS OR HATCHES WHILE STEVEDORING SERVICES OR OPERATIONS ARE UNDERWAY.**
- 7.07 Subject to paragraph 7.08, all persons, including customer group members and other terminal users, must follow private vehicle car route, and park in designated parking areas within the premises of the stevedore. The stevedore reserves the right to have violator's vehicles towed from the premises of the stevedore at the vehicle owner's expense.
- 7.08 **ABSOLUTELY NO PRIVATE VEHICLES ARE PERMITTED TO ENTER ANY STAGING AREA, TERMINAL STORAGE YARD, WATERFRONT DOCK OR SHIPSIDE AREA WHILE OPERATIONS OR STEVEDORING SERVICES ARE UNDERWAY UNLESS AND UNTIL THEY CONSENT TO BE BOUND BY THESE TERMS AND CONDITIONS AND PROVIDE THE STEVEDORE WITH CERTIFICATE(S) OF INSURANCE EVIDENCING COMPLIANCE WITH THE REQUIREMENTS CONTAINED IN ARTICLE X HEREIN.**
- 7.09 All persons, including customer group members and other terminal users, are required wear proper Personal Protective Equipment ("PPE") at all times while on the premises of the stevedore, including, without limitation, hard hats, safety reflective vests, eye protection, and hard-toe foot protection.

ARTICLE VIII – LIABILITY

- 8.01 The stevedore may refuse to perform, or suspend or terminate its performance or operations whenever, in the stevedore's sole judgment, the commencement or continuance of such performance or operations might pose a risk of danger to persons or property. The stevedore shall also have the right to take such measures in connection with vessels, persons, cargo, vehicles or other property on or at its premises as the stevedore sees fit to protect other persons, vessels, cargo, vehicles or property or to safeguard or protect its operations, generally, and the stevedore shall have not be liable for the consequences of such measures.
- 8.02 The stevedore shall not be liable for any delay, loss or damage arising from any cause that is unavoidable or beyond the control of the stevedore. The following are non-exclusive examples of causes of losses or damages that shall be deemed beyond the control of the stevedore:
- (a) Acts of God;
 - (b) Inherent defects of any cargo or its packaging;
 - (c) Latent or patent defects of any vessel, truck, rail or other means of transport employed for the cargo, regardless of whether the stevedore plays any role in the selection of the means of transport;
 - (d) The insistence of the principal, customer or other party that cargo loading or discharge be accomplished at a speed greater than the stevedore deems prudent under the circumstances;



- (e) Improper handling or stowage of cargo, if the principal, customer or other party failed to provide the stevedore with insufficient handling or stowage instructions or information for the cargo and the principal, customer or other party failed to object in writing to the method of stowage or handling during stevedoring operations;
 - (f) The breakage of hoisting devices, rope wires and other gear not the property of the stevedore or, where such gear is the property of the stevedore, the stevedore shall not be liable if it can prove that the gear was adequately maintained and complied with generally accepted standards or that the breakage was accidental;
 - (g) The performance by the stevedore, at the request of the customer, principal or other party, or as necessitated by circumstances, of work normally performed by others, such as the ship's crew or ship's agent or customhouse broker, regardless of whether the stevedore was paid for such work;
 - (h) Strikes of any persons in the stevedore's employ or in the service of others, labor lockouts, work stoppages or slowdowns, sickouts, or any other labor trouble or delays of any nature, regardless of the cause;
 - (i) Wars, riots, civil disobedience, sabotage, seizure, detention or destruction by an outside group, terrorism or taking of hostages;
 - (j) Burglary, fire or explosion;
 - (k) The failure of persons not servants or employees of the stevedore to comply with these Terms and Conditions, any posted signs, or with any other directive of the stevedore, the terminal manager, port authority, or public authority;
 - (l) High water, storms or similar perils;¹
 - (m) Latent defects in any gear or equipment or facilities of the stevedore not reasonably discoverable by the stevedore prior to the loss or damage;
 - (n) Accidents occurring during the stevedore's operations that are not caused by the negligence of the stevedore;
 - (o) Accidents of unknown cause or of a cause that could not reasonably be prevented by the stevedore;
 - (p) Accidents, delays or detentions caused by the actions of governmental agencies or authorities; and
 - (q) Accidents related to access to the vessel (gangway, D.O.T. ladders, etc).
- 8.03 The customer, principal or other party agrees to waive any right to claim or defense of sovereign immunity with respect to any monetary amount, loss, damage, expense, claim, liability, suit, fine and/or penalty due from customer, principal or other party to the stevedore hereunder.

¹ The stevedore shall not have any liability for cargo stored on its piers or in its sheds that is damaged due to high tides or other high waters.



- 8.04 The customer, principal or other party shall be responsible for ensuring that all bills of lading and transportation agreements applicable to the Cargo incorporates the United States Carriage of Goods by Sea Act (COGSA), 46 U.S.C. §1300 *et seq.*, as amended, or if COGSA is not applicable the Hague Rules of 1921, 51 Stat. 233, as amended, and that all the benefits, defenses, statute of limitations, exceptions, immunities and limitations upon liability granted under such regime for benefit of the carrier are extended to the periods of time prior to and during the loading of the cargo, and during and following the discharging of the cargo, and otherwise to and for the benefit of the stevedore. In addition, whenever any such benefits, defenses, statute of limitations, exceptions, immunities and limitations have been waived, limited or omitted, as in the case of ad valorem or dangerous cargos, for example, customer, principal or other party shall be responsible for providing the stevedore with written notice thereof prior to tender of the cargo to the stevedore. The customer, principal or other party agrees to defend, indemnify and hold the stevedore harmless of and from failure, in whole or part, to meet the requirements of this section.
- 8.05 COGSA is fully incorporated into these Terms and Conditions, and shall be applicable at all times the cargo is, or is deemed, in the care, custody or control of Stevedore. Customer warrants that it has secured all required documentation including any required export licenses and has timely provided and submitted to the United States Customs and Border Protection all documents and information necessary for export or import. In no case shall the stevedore be liable for any loss or damage to cargo in an amount exceeding the lesser of (i) \$500 U.S. per package, or in the event the Cargo is not in such packages per customary freight unit, (ii) \$500 per package as designated on the applicable bill of lading, or (iii) any lesser liability amount in any common carrier's bill of lading under which Stevedore is entitled to the benefit of such limitation, **UNLESS:**
- (a) The customer, principal, other party or other cargo claimant, prior to the commencement of the stevedore's operations with respect to the cargo, declares a higher value for the cargo greater than \$500, in writing to the stevedore, **AND** pays to the stevedore, in addition to other charges for its services, a premium computed at 1% of the declared value of each packaged or non-packaged object.
1. The term "**package**" shall include, without limitation, any container, van, trailer, pallet, bundle or any other type of cargo unitization whatsoever.
 2. The term "**customary freight unit**" shall mean the unit upon which ocean freight was or is to be calculated for items not shipped in packages.
- OR**
- (b) The ocean carrier's Bill of Lading applicable to the cargo contains a limitation upon liability in an amount greater than \$500 per package or per customary freight unit **AND** such amount is binding upon the stevedore by law or by contract.

NOTE: In no event shall the stevedore be liable for more than the amount of the loss or damage actually sustained.



- 8.06 The stevedore shall not be liable for any consequential damages, incidental damages or special damages in connection with its performance of services or provision of facilities, and it shall have the option, at its sole discretion, of replacing any lost property or cargo and/or replacing or repairing any damaged property or cargo.
- 8.07 The failure of the principal, customer or other party subject to these Terms and Conditions to notify the stevedore in writing of any loss or damage to persons, cargo, or other property of the principal, customer or other party (except for vessels) within three (3) business days after the loss or damage allegedly occurred or within three (3) business days after the cargo or other property (except for vessels) has left the stevedore's premises, whichever is later, shall be deemed an admission by the principal, customer or other party that no such loss or damaged occurred on or at the stevedore's premises, and the customer, principal or other party shall be estopped from claiming otherwise. In the case of vessels, the failure of the principal, customer or other party to notify the stevedore in writing of any loss or damage to the vessel (other than latent damage) prior to the departure of the vessel from the stevedore's premises shall be deemed an admission by such principal, customer or other party that no such loss or damage occurred to the vessel at the stevedore's premises, and the customer, principal or other party shall be estopped from claiming otherwise.
- 8.08 In the event that the stevedore incurs any costs, lost profits, damages, fines or any other liabilities in connection with an event for which the stevedore is not liable hereunder, the customer, principal and/or other party shall be jointly and severally liable to reimburse the stevedore for all such amounts incurred by the stevedore, upon request.

ARTICLE IX – INDEMNIFICATION AND CONTRIBUTION

- 9.01 As set forth in paragraph 7.01 and elsewhere herein, the principal, customer or other party specifically understand, acknowledge and agree that any and all providing of, access to, or use of the terminal facility or terminal services on the premises of the stevedore by or on behalf of the principal, customer or other party shall be at the sole risk and expense the principal, customer or other party. Aside from loss/damage to the cargo addressed in section 8.07 and elsewhere herein, the principal, customer or other party assumes sole responsibility for all other loss, damage, expense, claim, liability, suit, fine or penalty of any type or nature whatsoever which in any way arises out of or relates to any providing of access to or use of the terminal facility and/or terminal services of the stevedore by or on behalf of customer, including, without limitation, those in regard to any loss/damage to the property of the stevedore, customer or any other, as well as those regarding personal injury, illness or death claims of any person, including without limitation, any agent, employee, representative, guest, invitee, vendor or subcontractor of the stevedore, customer or other party, howsoever caused and regardless of the negligence or other fault of the stevedore. In furtherance of the foregoing, the principal, customer or other party agree to waive any immunity from suit, exclusivity of remedy and limitation upon liability which would have otherwise been afforded pursuant to any workers compensation act or similar law.



- 9.02 **CUSTOMER GROUP MEMBERS OR TERMINAL USERS THAT ENTER ANY STAGING AREA, TERMINAL STORAGE YARD, WATERFRONT DOCK OR SHIPSIDE AREA ON THE PREMISES OF THE STEVEDORE WHILE OPERATIONS OR STEVEDORING SERVICES ARE UNDERWAY AGREE TO RELEASE, PROTECT, DEFEND, INDEMNIFY AND HOLD THE STEVEDORE AND ITS RESPECTIVE OFFICERS, DIRECTORS, MANAGERS, EMPLOYEES, REPRESENTATIVES, AGENTS, AFFILIATED ENTITIES, AND ASSIGNS HARMLESS FROM AND AGAINST ALL CLAIMS, WITHOUT LIMIT, ON ACCOUNT OF BODILY INJURY, SICKNESS, DISEASE OR DEATH OF THE RESPECTIVE CUSTOMER GROUP MEMBER OR TERMINAL USER, OR LOSS OF OR DAMAGE TO PROPERTY ALLEGEDLY OR ACTUALLY SUSTAINED DURING, OR DIRECTLY OR INDIRECTLY ARISING FROM OR RELATING IN ANY WAY TO ENTRY OF THE RESPECTIVE CUSTOMER GROUP MEMBER OR TERMINAL USER ON TO THE PREMISES OF THE STEVEDORE, REGARDLESS OF THE NEGLIGENCE OR OTHER FAULT OF THE STEVEDORE TO THE FULLEST EXTENT PERMITTED BY LAW.**
- 9.03 If the stevedore has expressly agreed to indemnify the principal, customer or other party for damages payable to third parties, by contract or other writing, then the amount of the damages to be paid to the third party by the principal, customer or other party in the first instance shall be determined in consultation with the stevedore. In no event shall the stevedore be required to indemnify the principal for an amount in excess of that actually paid by the principal, customer or other party to the third party.
- 9.04 The charges of the stevedore for its services do not include insurance of any character, unless expressly stated to the contrary. All persons or entities using the gear, equipment, facilities or premises of the stevedore, by such use, warrant to the stevedore that such parties carry sufficient amounts of general liability, public liability, motor vehicle liability and worker's compensation insurance to cover their activities at the stevedore's premises.
- 9.05 In the event of any loss or damage sustained by the principal, customer or other party subject to these Terms and Conditions, whether or not due to the fault of the stevedore, said principal, customer or other party shall in the first instance seek to recover said loss or damage under any policy or scheme of insurance available to it.
- 9.06 In addition to any limitations, defenses or rights conveyed to the stevedore under these Terms and Conditions, the stevedore also shall be entitled to the benefit of all limitations, defenses or rights conveyed to it through applicable bills of lading, dock receipts, warehouse receipts, or contracts or available to it under any applicable law.
- 9.07 All provisions contained in these Terms and Conditions that relate to the rights, defenses, or limitations upon the liability of the stevedore for losses and damages, or to indemnification therefore, shall also inure to the benefit of all agents and independent contractors engaged by the stevedore or performing any of the stevedore's obligations to the cargo, as well as to all other persons or entities who may be deemed to be third party beneficiaries of the contract created by the acceptance of these Terms and Conditions by the customer, principal or other party. In concluding agreements with customers, principals or other parties under these Terms and Conditions, the stevedore shall be deemed to have acted as the agent for all persons benefited by this provision.



ARTICLE X – INSURANCE REQUIREMENTS

- 10.01 Prior to entering into cargo staging areas, terminal storage yards, waterfront dock or shipside areas on the premises of the stevedore while operations or stevedoring services are underway, customer group members and other terminal users agree that their respective obligations to defend, indemnify, and hold the Stevedore harmless contained in Paragraph 9.02 above shall be supported by the following insurance:
- a. Workers' compensation coverage as required by the Federal Longshoremen and Harbor Workers' Compensation Act, 33 U.S.C. § 901 *et seq.*; and
 - b. Comprehensive general liability coverage, including coverage personal injury, bodily injury, property damage, completed operations, and contractual liability (specifically covering the liabilities assumed by the respective Customer Group member or Terminal User hereunder) with a combined single limit of \$1,000,000.00USD.
- 10.02 Further, those customer group members and other terminal users seeking to operate their private vehicles within cargo staging areas, terminal storage yards, waterfront dock or shipside areas on the premises of the stevedore while operations or stevedoring services are underway, additionally agree that their respective obligations to defend, indemnify, and hold the stevedore harmless contained in Paragraph 9.02 above shall also be supported by the following insurance:
- a. Comprehensive automobile liability coverage including non-owned and hired vehicle coverage, as well as owned vehicle coverage and contractual liability (specifically covering the liabilities assumed by the respective customer group member or terminal user hereunder) with a combined single limit of \$1,000,000.00USD.
- 10.03 Stevedore shall be named as an additional insured to the designated policies in paragraphs 10.01(b) and 10.02(a) (where applicable) on a primary basis vis-à-vis the Stevedore's own insurance, and each such policy shall waive any "other insurance" clause or condition, such that the respective customer group member's or terminal user's insurer(s) shall not require contribution from any other insurance maintained by the Stevedore.
- 10.04 Stevedore's coverage as an additional insured under the designated policies shall not be more limited than the coverage provided by a policy endorsed to state only the following regarding Stevedore's status as an additional insured:

ADDITIONAL INSURED–RICHARDSON STEVEDORING & LOGISTICS SERVICES, INC.

If required by any contract or agreement, Richardson Stevedoring & Logistics Services, Inc. ("RS&L") is made an additional insured under this policy but only with respect to liability arising out of your operations on the premises of the RS&L, RS&L's premises being utilized or occupied by you, or injury to your employees on the premises of RS&L.



- 10.05 The designated policies in paragraphs 10.01(b) and 10.02(a) (where applicable) shall contain a clause providing the employees of one insured shall be considered third-parties as to any other insured so that if the Stevedore incurs liability to an employee or representative of the respective customer group member or terminal user, the policy will cover the Stevedore against whom the claim is made in the same manner as if separate policies had been issued to each insured.
- 10.06 The designated policies in paragraphs 10.01 and 10.02 (where applicable) shall each contain a provision or endorsement waiving subrogation rights against the Stevedore. Further, the respective customer group member or terminal user releases the Stevedore from all claims arising from loss, damage or liability covered by the required insurance policies in 10.01 and 10.02.

ARTICLE XI – LIMITATION OF ACTIONS

- 11.01 Except as provided in paragraph 10.02 herein, the Stevedore shall be discharged from any and all liability for any loss or damage or any claim of whatsoever kind, nature, or description unless legal proceedings under Article XI of these Terms and Conditions are commenced within one year after the delivery of the cargo or the date when the cargo should have been delivered, or for losses or damages to persons or property other than cargo, within one year after the occurrence of the event giving rise to the claim.
- 11.02 In the event that the stevedore is entitled to the benefit of a bill of lading, dock receipt, warehouse receipt or contract containing a limitation on actions of less than one year, then the stevedore shall be entitled to assert that shorter limitation period as a defense to any claim.

ARTICLE XII – LAW, VENUE AND LEGAL FEES

- 12.01 These Terms and Conditions and all of the rights and obligations of the stevedore and the customer, principal or other party hereunder shall be construed, interpreted and governed by U.S. Federal Maritime Law, as supplemented by the laws of the State of Texas, without reference to its conflicts of law provisions.
- 12.02 Subject to certain relief sought pursuant to provisions of these Terms and Conditions that are subject to the exclusive admiralty jurisdiction of a U.S. Federal District Court, venue for any remaining claim, dispute, difference or controversy between the stevedore and any person or entity subject to these Terms and Conditions, which arises out of or relates to these Terms and Conditions and which cannot be settled by mutual understanding, shall be shall be exclusive to the District Courts of Brazoria County, Texas with the substantially prevailing party entitled to recover legal fees and costs, including attorney's fees.
- 12.03 Any claim, dispute, difference or controversy between the stevedore and any person or entity subject to these Terms and Conditions, which arises out of or relates to these Terms and Conditions and which cannot be settled by mutual understanding, shall be filed in accordance with paragraphs 11.01 and 11.02 and within a reasonable period after the claim or other matter in question has arisen and, in any event, shall not be made after the date when the institution of proceedings would be barred by Article X of these Terms and Conditions.



ARTICLE XIII – EFFECTIVE DATE

13.01 The effective date of these Terms and Conditions is December 1, 2017.