

MEMBER OF INTERPROVINCIAL ASSOCIATION OF STEVEDORING CONTRACTORS
MEMBER OF MARITIME EMPLOYERS ASSOCIATION
MEMBER OF HALIFAX EMPLOYERS ASSOCIATION

STANDARD STEVEDORING AND TERMINAL CONTRACT
TERMS AND CONDITIONS

EMPIRE STEVEDORING CO. LTD.

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CANADA

In Canada, Operating at:

ALL ST. LAWRENCE RIVER PORTS
ALL CANADIAN EAST COAST MARITIME PORTS
ALL GREAT LAKES PORTS
and
CHURCHILL, MANITOBA

In the U.S.A., Operating at:

HOUSTON, TEXAS
NEW ORLEANS, LOUISIANA
BATON ROUGE, LOUISIANA
MOBILE, ALABAMA

STANDARD STEVEDORING AND TERMINAL CONTRACT

This Standard Stevedoring and Terminal Contract ("Standard Contract") comprises Part I (General Terms and Conditions applicable to all Services), Part II (Specific terms and Conditions for Stevedoring Services) and Part III (Specific terms and Conditions for Terminal Services).

GENERAL TERMS AND CONDITIONS APPLICABLE TO ALL SERVICES

1. It is expressly understood and agreed that the Company includes the owner and managers of the vessels for which the contemplated services are to be provided.

It is further expressly understood and agreed that the Contractor includes associated or affiliated Companies and Sub-Contractors of Empire Stevedoring Co. Ltd., any of whom may perform the services contemplated by this contract for the Company.

2. **APPLICATION**

In the absence of any valid Agreement between the Parties to the contrary, all of the terms and conditions herein contained shall be deemed accepted by and binding upon the Company even in the event this form is not signed, if the stipulated rates have been submitted to the Company and the contemplated services performed.

3. **LABOUR**

The Contractor will provide sufficient labor for the performance of the services herein contemplated in accordance with prevailing Collective Agreement(s), but always contingent upon labor being available to the Contractor hereunder. The contractor shall not be responsible for any loss, damage, delay or non-performance hereunder whatsoever arising from labour shortage, strikes, lockouts, Union disputes, deliberate work slow-down or stoppage or other labor difficulties.

4. **INCREASE OR DECREASE IN COSTS**

All rates quoted are based on and are subject to:

a) The employment of present labor at the prevailing wage scale and working conditions in the port or ports where services are performed and in the event of an increase or decrease in the scale of wages, fringe payments or change in working conditions whatsoever, the rates will as a consequence be increased or decreased accordingly; retroactively if applicable.

b) Contribution for Workmen's Compensation, Unemployment Insurance, Federal, State or Provincial Government Pension Plans and Health Plans shall be made as required, and in the event of any change in such contributions or the establishment of other mandatory contributions then all rates to be adjusted accordingly.

5. **EXTRA LABOR SERVICES**

When extra labor services are ordered by the Company or when Contractor is required to perform any services that interrupts or is necessary to maintain normal operations, such as staging, flooring, working around other cargo, shifting dunnage, etc., the Contractor will be reimbursed at cost of labor and equipment plus 25% and all insurances. Any required service not specifically stipulated as included in the rates is to be considered an extra service.

6. **EQUIPMENT**

The Contractor will provide all normal gear and equipment for the efficient performance of the services herein contemplated unless otherwise agreed or stipulated herein.

7. **COMMODITIES FOR WHICH NO RATES ARE REQUIRED**

Rates for substantial handling of any commodity not covered by Rate Schedule(s) are to be mutually negotiated on the basis of productivity and such rates will become a part thereof and subject to the general terms and conditions hereof unless otherwise specified.

Rates quoted subsequent to the acceptance of this contract will become a part hereof and will be subject to the general terms and conditions of this contract unless otherwise specified.

8. **DETENTIONS, WAITING OR LAY TIME**

When labor is employed and detentions occur, or when labor is employed and unable to work through causes beyond the Contractor's control, or when labor is to be paid for a minimum working period in accordance with

prevailing Collective Agreement, or when adequate labor is not dispatched and detentions are thereby incurred or traveling time has to be paid, the cost of such time will be charged at cost plus 25%.

9. EXPLOSIVES OR DANGEROUS CARGO

When such cargoes are loaded or discharged, a charge will be made by the Contractor based on the provisions of the wage scale applicable to these commodities, or in the absence of wage scale, charges will be made on the basis of the compensation which the Contractor may be compelled to pay for the performance of the work, and cost of equipment plus 25% in lieu of the rates quoted.

10. CONDITION OF CARGO

If the condition of the cargo or packages is other than in customary good order, thereby delaying prompt handling, or when bulk cargo is required to be broken out by mechanical equipment, the labor and/or equipment necessary to effect the handling of such cargo or packages will be charged in addition to rates quoted.

11. OVERTIME, MEAL HOURS, TRAVELING TIME AND TRANSPORTATION

Overtime and meal hours, when worked, will be charged for on the basis of the rates provided in the prevailing wage scale of the port. When men are employed to work outside the Harbor limits and travel time must be paid, the Contractor shall be entitled to charge the Company for such travel time. When vessels are worked in the stream or other places where transportation of labor is required any expenses incurred will also be charged. All costs incurred for the above will be charged at cost plus 25%.

12. FORCE MAJEUR, ABNORMAL CONDITIONS, ETC.

In the event of force majeure, cas fortuit, act of God, war, civil disturbance, fire, severe port or terminal congestion, strikes, lockouts, union disputes, deliberate work slow-down or stoppage or other labor difficulties or other abnormal conditions which materially interfere with Contractor's normal operations, the Contractor will, if able to perform the services contemplated, do so, at its option, on the basis of cost of labor and equipment and all insurances in addition to the stipulated rates or, the conditions for performance of the contemplated services shall be mutually agreed upon by the Parties.

13. WEIGHT AND MEASUREMENT TONS

It is understood that 2204 lbs. shall constitute a weight ton (MT) and 1 CBM shall contribute a measurement ton.

It is expressly agreed that the General Cargo rate appearing in the rate Schedule(s) is based on cargo manifested weight measuring not more than 70 cubic feet to the ton, and any cargo measuring over 70 cubic feet per ton will be billed on a measurement ton basis irrespective of the basis of affreightment, unless otherwise stipulated herein.

14. PAYMENT

Contractor's accounts for all services performed and materials supplied shall be due and payable immediately upon rendering of such services.

It is expressly understood and agreed the services contemplated are to be performed on the credit of the vessel without which the Contractor would not provide same, and the Contractor shall have a right of action against the vessel or any other property for payment.

All work performed as a consequence of this contract to be the responsibility of the Company including charges for account of other parties, such as delays due to defective ship's equipment, discharging and/or loading cargo for which cargoes are payable by consignees and/or shippers, overtime for account of others, etc.

15. INSURANCE

The Contractor agrees to carry and include in the rates quoted, Workmen's Compensation Insurance for the protection of its employees, and Public Liability Insurance for the protection of third parties. The Contractor also agrees to insure against its Legal Liability for Damage to the vessel and its equipment and for loss of or damage to cargo.

16. HIMALAYA CLAUSE

It is expressly understood and agreed that the Company will include the Contractor 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 affreightment, as evidenced by its or carrier's standard bills of lading and/or passenger tickets, issued by the Company or the carrier during the effective period of this agreement. Whenever the customary rights, immunities and/or liability limitations are waived or omitted by the Company, as in the case of ad valorem cargo, the Company agrees to include the Contractor as an assured party under its insurance protections and ensure that the Contractor is indemnified against any resultant increase in liability.

In the event the Company is not the carrier of the cargo to be handled by the Contractor, the Company expressly agrees that all the rights, immunities and liability limitations contained in the involved carrier's applicable bill of lading shall ensure to the benefit of the Contractor, and the Company agrees that in no event shall the Contractor have any liability in excess of that of the carrier respecting loss or damage of cargo.

17. DAMAGED CARGO

Where the performance of the services contemplated herein involves handling by the contractor of cargo damaged by fire, water, oil, etc. and where such damage causes distress or obnoxious conditions, or where Contractor's labor is called upon to handle cargo under distress conditions, the stipulated rates will not apply at Contractor's option and charges will be based upon the cost of labor and equipment plus 25% and all insurances together with the cost of gear and equipment destroyed or damaged and the cost of equipment for the protection of the labor as may be required.

18. POLLUTION

Notwithstanding any other provision herein contained, it is expressly agreed that the Company will hold the contractor harmless from and indemnify it against any loss, damage, cost, liability, expense, fine, penalty, or claim of any kind or nature whatsoever which might be brought against the Contractor directly or indirectly in consequence of or with respect to any discharge, emission, spillage or leakage upon or into the seas, waters, land or air, howsoever caused (Contractor's negligence or that of its employees included) of any pollutant whatsoever or with respect to or as a result of any Federal or State or Provincial or City pollution prevention legislation enacted or proclaimed.

19. SERVICES ORDERED BY OTHERS

The Company agrees not to seek recourse from the Contractor by way of indemnity proceedings or otherwise in the event of legal proceedings against it by third parties arising from personal injury of fatality unless it establishes that such personal injury or fatality was directly attributable to defective gear or equipment furnished by the Contractor or a result of gross negligence by the Contractor.

SPECIFIC TERMS AND CONDITIONS FOR STEVEDORING OPERATIONS

1. RATES

It is expressly agreed that the rates for Loading or Discharging herein mentioned contemplate the handling of cargo from place of stow on board vessel to place of rest in shed and/or on dock and from shed and/or on dock into place of stow on board vessel unless otherwise specified; all under the direction and supervision of the vessel's Master or Chief Officer. Rates are based upon the utilization of standard mechanical equipment so as to maintain a continuous operation.

2. MINIMUM TONNAGE

When cargo handled on any call of a vessel is less than 100 cargo tons or when 25 cargo tons or less is handled in one hatch, the rate schedule shall not apply but loading and/or discharging shall be charged for at cost of labor and equipment plus 25% and all insurances.

3. REHANDLING OR SHIFTING OF CARGO

The rates quoted apply to one handling of cargo. When rehandling, sorting or shifting of cargo is necessary through no fault of the Contractor, the time required for such work will be charged for at cost of labor and equipment plus 25%.

4. GEAR AND EQUIPMENT

The Company shall ensure that vessels will supply booms hoisted in position and automatic hatches opened and ready to work; adequate winches and/or ships cranes with sufficient steam or current for their efficient operation; blocks, guys, preventers and wire or rope in good condition and of sufficient strength for falls, dunnage, hatch tents and gantlines; adequate lighting for night work; tugs; derricks; or cranes and slings for any cargo which cannot safely be handled by vessel's gear is not adequate to handle cargo in a normal and safe manner according to the custom of the port; all materials required for dunnaging, bracing, cooping, shoring, lashing, protection or bulkheading of cargo. In the case of grain cargoes the vessel will supply bags, separation cloths dunnage boards whenever necessary; when requested, the Contractor will at its option, supply such material gear and equipment at current rates.

5. RESPONSIBILITY FOR DAMAGE OR LOSS

It is expressly understood and agreed that the Contractor's responsibility for damage or loss shall be strictly limited to damage to the vessel and its equipment and physical damage to cargo or loss of cargo overside through negligence of the Contractor or its employees. When such damage occurs to the vessel or its equipment or where such loss or damage occurs to cargo by reason of such negligence, the vessel's officers or other representatives of the vessel or the Company shall call this to the attention of the Contractor at the time of the of the accident. The Contractor shall in no event be responsible for loss or damage to cargo in excess of \$500.00 per package or unit of cargo. The Company agrees to indemnify the Contractor in the event it is called upon to pay any sums for damage or loss other than as aforesaid. In the case of bulk cargo or containerized cargo, the Contractor shall in no event be responsible for loss or damage to such cargo howsoever caused and the Company agrees to hold the Contractor harmless from and indemnify it against any and all claims, suits or demands relating to alleged loss or damage of bulk cargo or containerized cargo.

The Contractor will not be responsible for damage which may occur in the course of normal handling due to movement of cargo during the voyage, previously loaded cargo, insufficient packing and crating, or for other reasons provided the Contractor has exercised due care and diligence in the performance of the work.

6. OPENING AND CLOSING HATCHES

Unless otherwise agreed between the Parties, the Contractor will, at its expense, adjust the rigging of guys and derricks and open and close hatches once per day for each gang worked, always provided the labour will perform such services. Should additional rigging and handling of beams and hatch covers be required, such time will be charged for as an extra service. Should any penalty or compensation payment arise due to vessel's crew performing work in contravention of prevailing Collective Agreement, such cost to be for Company's account.

7. HANDLING TO AND/OR FROM OTHER THAN CARGO SPACES

When it is necessary to handle cargo by hand too and/or from compartments other than usual cargo spaces, such as refrigerator space, deep tanks, peaks, store-rooms, bridge, lockers, alleyways or lazarettes spaces are inaccessible to lift-trucks, the labour necessary to accomplish the work will be charged for at cost of labour and equipment plus 25% and all insurances.

8. REFRIGERATED OR COOLED SPACE

Cargo handled to or from refrigerated or cooled space, in the absence of a special rate, will be charged for at cost of labour and equipment plus 25%. When commodities so handled are already quoted in the rate schedule, and premiums must be paid to labour, the additional cost for handling refrigerated cargo will be added to the rates.

9. LASHING AND SECURING

Unless otherwise agreed between the Parties, where the Company or its representative requires lashing or securing of cargo on board a vessel, either on deck or elsewhere, all labour and materials shall be furnished as necessary at cost plus 25% and all insurances and the work shall be performed under the direction, control and supervision of the vessel's Master an/or Chief Officer who shall have ultimate responsibility for the sufficiency of such lashing and securing, and the Company expressly agrees to hold the Contractor harmless for and indemnify it against any claims, demands or suits whatsoever relating to insufficiency or alleged insufficiency of such lashing and/or securing of cargo.

SPECIFIC TERMS AND CONDITIONS FOR TERMINAL OPERATIONS

1. RATES

It is expressly agreed that the rates and charges for terminal services herein mentioned contemplate the provision of customary terminal storage space for cargo duly delivered to the Contractor in or upon the Port Authority transit facilities where the Contractor is requested to provide such space, subject to all applicable Port Authority Regulations, so long as space is available under current conditions and subject to the extra charges stipulated in the Rate Schedule(s) after five days; the receiving of export cargo and delivery of import cargo; normal clerical and checking services (not including hatch tallies) in connection with the receiving and delivery of cargo; normal cooping; and where specified the reimbursement of security services for whose performance the Contractor's specifically held harmless and exonerated from all liability by the Company.

2. ADDITIONAL SERVICES AND MATERIALS

The Contractor further undertakes to provide additional special terminal services including stuffing and stripping containers, sorting, consolidation, and tallying as may from time to time be requested by the Company or its representatives on terms to be agreed, and to furnish cargo protection and other materials including dunnage and coverings at current cost.

3. CONDITION OF FACILITIES

It is expressly understood and agreed that the Contractor shall not be liable for any damage or loss to cargo whatsoever resulting from defects in the design or construction of the terminal facilities or from a want of necessary repairs thereto.

The Company acknowledges that unless there is any express agreement between Parties to the contrary, the terminal facilities provided shall be unheated and unrefrigerated and agrees to hold the Contractor harmless for any and all claims for loss or damage to cargo by freezing or thawing in the case of refrigerated cargo.

In no event shall the contractor be liable for the inadequacy of berthing or terminal facilities designated by the Port Authority or similar authority.

4. RESPONSIBILITY FOR DAMAGE OR LOSS TO CARGO IN STORAGE

It is expressly understood that the Contractor does not have exclusive use of and control over the terminal facilities, either due to the presence of other operators performing services therein or a per port custom and usage. The terminal services shall be performed or arranged for by the Contractor as agent only for the Company and on the express condition that the Contractor, its agents and employees shall thereby incur no liability whatsoever for misdelivery, pilferage, theft, other loss, damage or mysterious disappearance of cargo, howsoever caused, and the Company agrees to indemnify the Contractor and hold it harmless in the event it be called upon to pay any sums as a result thereof.

Otherwise, the Contractor's responsibility for loss or damage of cargo will be strictly limited to loss or damage directly attributable to the negligence of the Contractor or its employees acting within the scope of their duties, and always expressly subject to the limitation and exceptions herein contained.

In the event of an act of God, war, civil disturbance, fire, shed collapse or other abnormal occurrence involving the intervention of the Port Authority or other authority in the normal operations of the terminal facilities, the Contractor shall have no responsibility whatsoever for any loss or damage whatsoever to the cargo howsoever caused.

Additionally, the contractor shall in no event be liable for and the Company agrees to hold it harmless from and indemnify it against all claims for loss or damage to cargo, howsoever caused, in the following circumstances:

- (i) Cargo packed in containers;
- (ii) Cargo stored outdoors by mutual agreement, regulation, port custom, severe congestion or other cause beyond the reasonable control of the Contractor;
- (iii) Armed robbery or forcible entry;
- (iv) Where import cargo remains in the Contractor's terminal after the expiry of Port Authority free time allowance, unless expressly agreed to the contrary.

5. HARBOUR DUES, WHARFAGE, CARGO, ASSESSMENTS, CUSTOMS DUTY, ETC.

Unless otherwise provided herein, the Company shall pay or be responsible for, to the complete exoneration of the Contractor, all Port Authority wharfage, delivery and related charges, Maritime Employers Association cargo assessments as well as any customs duty or similar charges, and shall hold the Contractor fully harmless in respect thereof.

6. HANDLING DAMAGED CARGO

Where, in the opinion of the Contractor, cargo delivered to it for storage and/or handling appears to be damaged, defective or otherwise liable to create a danger to or contaminate other cargo at the terminal, the Contractor shall have the right to reject such cargo or remove it from the terminal at the risk and expense of the Company. In like manner, if abnormal or extra terminal handling is required because of the damaged, defective or deteriorated nature of the cargo delivered to it, the Contractor shall be entitled to charge the Company therefore at cost plus 25% plus insurances .

7. VALUABLE OR SPECIAL CARGO

In the event the Company delivers or authorizes delivery of valuable or special cargo to the Contractor for terminal services and such cargo requires particular security or special handling, the Company must notify the Contractor expressly of the cargo's valuable or special nature in advance, in default of which the Contractor will have no responsibility whatsoever in the event of loss or damage to the cargo, howsoever caused.

It is expressly understood by both parties that the Contractor does not carry insurances for such cargoes. Should the Line require handling of such cargoes, the Contractor will do so, assuming it can get proper insurances, at rates to be negotiated including insurances.

- 8.** *Les parties aux présentes ont demandé et convenu que le présent contrat soit rédigé en anglais.
The parties hereto have requested and agreed that this Agreement be drawn up in English.
The English version of the agreement will prevail...*