

**GT USA, LLC, d/b/a Canaveral Cargo Terminal**

**STANDARD TERMS AND CONDITIONS**

**FOR SHIPPING AND CONTAINER OPERATIONS AT**

**GULFTAINER-OPERATED FACILITIES WITHIN PORT CANAVERAL, FLORIDA**

**STANDARD TERMS AND CONDITIONS FOR THE HANDLING OF CONTAINERS  
AND CONTAINER VESSELS AT GULFTAINER-OPERATED FACILITIES  
AT PORT CANAVERAL, FLORIDA**

**I. GENERAL TERMS AND CONDITIONS**

1. **APPLICATION OF STANDARD TERMS AND CONDITIONS:** Use of the Terminal by any User shall constitute consent to all of the terms of the STC and a valid and enforceable agreement between all Users and the Terminal Operator that all Users shall abide by all of the terms and conditions stated herein. Notwithstanding anything to the contrary herein, the rights of any User to utilize the Terminal shall be subject to the prior approval of the Terminal Operator. Notwithstanding anything contained herein to the contrary, all obligations of the Carrier contained herein shall constitute joint and several liabilities of any and all owner(s), agent(s), operator(s) and charterer(s) of all Vessels utilizing the Terminal.
2. **DEFINITIONS:** Capitalized terms used throughout these Standard Terms and Conditions and the Tariff shall have the meaning set forth below:

**“Authority”** means the Canaveral Port Authority, an independent special taxing district created by the State of Florida;

**“Berth”** means the place or location assigned to a Vessel while in the Port for anchoring or docking, typically alongside a pier or dock, where the Vessel may Load or Unload Cargo;

**“Cargo”** means all types of bulk, break bulk, dry bulk or any other forms of cargo whatsoever, including but not limited to any solid, liquid, live animals, vehicles, loose cargo or an empty container or whatever is conveyed or to be conveyed in a Vessel;

**“Carrier”** means any party or parties either owning, nominating or contracting with the Vessel including, but not limited to, its agent(s), owner(s), operator(s) and/or charterer(s);

**“Container”** means a demountable and reusable freight-carrying unit designed to be transported by different modes of transportation and having construction, fittings, and fastenings able to withstand, without permanent distortion or additional exterior packaging or containment, the normal stresses that apply on continuous all-water and intermodal transportation and or as defined by ISO standards. The term includes dry cargo, ventilated, insulated, refrigerated, flat rack, vehicle rack, liquid tank, and open-top containers without chassis, but does not include crates, boxes or pallets;

**“Consignor”** means a person or entity placing cargo on a Carrier named in the bill of lading as shipper;

**“Consignee”** means one to whom Cargo is sent as stated on the bill of lading;

**“Dangerous Cargo”** shall include explosives, gases: compressed/liquefied/dissolved under pressure, flammable liquids, flammable solids, substances liable to spontaneous combustion, oxidizing substances, organic peroxide, poisonous and infectious substances, radioactive substances, corrosives or any other dangerous substances in any form or condition whatsoever or as defined by IMDG Code;

**“Insurance Policy”** means the commercial general liability insurance policy of the Terminal Operator;

**“Loading”** and **“Unloading”** shall mean the service of loading or discharge of Cargo, as the case may be, between any place at the Terminal and railroad cars, trucks, Vessels, barges or any other means of conveyance to or from the Terminal;

**“Port”** means Port Canaveral;

**“Port Authority”** shall mean the Canaveral Port Authority;

**“Public Holiday”** shall mean the legal holidays recognized by the Port Authority;

**“STC”** means these Standard Terms and Conditions;

**“Tariff”** means the Terminal Operator’s tariff of charges marked as schedule A to this STC and subject to change without notice;

**“Terminal”** means the Terminal Operator’s multi-user container Berths and land and premises leased by the Terminal Operator at Port Canaveral pursuant to that certain Marine Terminal Lease and Operating Agreement dated June 23, 2014;

**“Terminal Operator”** means GT USA, LLC, a Florida corporation doing business as “Canaveral Cargo Terminal” or “CCT”;

**“Terminal Facilities”** mean all the quays, anchorage areas, loading/unloading areas, docks, storage areas, roads, paths, buildings and any other facilities operated or managed by the Terminal Operator;

**“User”** or **“Users”** the term shall include each Carrier, Vessel, Consignee, Consignor and all other individuals or business entities, including all Vessels, barges, trucks, railroad cars or other means of conveyance and/or equipment used by said individuals or business entities, which utilize the services and/or facilities of the Terminal;

**“Vessel”** or **“Vessels”** shall include any vessel, including a barge, that utilizes the services and facilities of the Terminal for the Loading, Unloading, storage, handling or transfer of Cargo;

**“Vessel ETA and ETD”** shall mean the Estimated Time of Arrival at Pilot and Estimated Time of Departure from Berth for a Vessel.

3. **HOURS OF OPERATION:** Normal working hours are from Monday through Friday, excluding Public Holidays, from 8:00 am to Noon and 1:00pm to 5:00pm. Any activity outside of normal working hours must be pre-arranged with the Terminal Operator and overtime rates will apply as per the Tariff, including overtime rates for Stevedores in accordance with the terms of Terminal Operator’s arrangements with such Stevedores.

## **II. VESSEL ARRIVAL, POLICIES AND PROCEDURES AND BERTHING**

4. **NOTICE OF VESSEL ARRIVAL:** Each Carrier expecting to berth a Vessel at the Terminal for the purpose of Loading or Unloading Cargo shall give the Terminal Operator notice at least 72 hours prior to the arrival of such Vessel, and thereafter 48 and 24 hours prior to arrival, and furnish such additional information as the Terminal Operator may request. The acceptance and berthing of each Vessel must be agreed in advance between the Carrier and Terminal Operator. If a Vessel arrives at the Terminal at its agreed time the Terminal Operator will use best efforts to ensure a Berth is available for such Vessel upon arrival. The Carrier must keep the Terminal Operator informed of any alteration, cancellation or postponement to the Vessel’s ETA.
5. **INSTRUCTIONS AND DOCUMENTATION:** At least 48 hours prior to the Vessel’s arrival the Carrier shall provide the Terminal Operator the documents listed in Section 5.1 below, as well as clear instructions regarding the full nature and extent of any work to be performed on the Vessel’s Containers and Cargo. Terminal Operator reserves the right to request such additional documentation from Carrier as the Terminal Operator deems necessary and appropriate. Failure to provide all documentation

requested by the Terminal Operator may result in withholding the Vessel's clearance to enter or depart the Terminal until such time as the requested documents are produced to the Terminal Operator by the Carrier.

5.1 Documents and information:

- (a) Cargo stowage plan/legible bay plan/profile.
- (b) Unloading list.
- (c) List of Dangerous Cargo, out-of-gauge Cargo and refrigerated Cargo control lists when applicable.
- (d) Dangerous Cargo declaration.
- (e) Passenger manifest.
- (f) Customs-endorsed import and export declarations (as appropriate for each shipment).
- (g) Cargo Loading list.
- (h) Instructions for Loading and Unloading.
- (i) Vessel particulars.
- (j) BAPLIE message if Electronic Data Interchange (EDI) is available.
- (k) Any special berthing requirements.
- (l) Any other relevant and pertinent information that would assist the Terminal Operator in managing the Vessel while in Port.
- (m) Vessel crew list, crew replacements and list of all anticipated Vessel vendors and/or visitors.

5.2 Vessel particulars as stated in Section 5.1 (i) above should contain the following details:

- (a) Vessel name.
- (b) Service.
- (c) Flag.
- (d) Official Code and IMO (International Maritime Organization) number.
- (e) Call sign.
- (f) LOA (Length Overall), beam and draft.
- (g) TEU (Twenty Foot Equivalent Unit) capacity and refrigerated cargo plug availability.
- (h) Number of hatch lids.
- (i) ISPS (International Ship and Port Facility Security Code) Status.

5.3 Unloading list as stated in Section 5.1 (b) above should contain the following details:

- (a) Vessel name and voyage number.
- (b) Container number.
- (c) Size and type.
- (d) Gross weight.
- (e) Port of Loading.
- (f) Port of discharge and or final destination.

- (g) Status as follows:
  - i. FCL (Full Container Load) – Container Local Delivery.
  - ii. LCL (Less Container Load)- Consolidated cargo for unpacking at CFS (Container Freight Shipping) and provide LCL manifest to CFS Dept.
  - iii. T/S (Trans-shipment)
  - iv. MT-Empty containers.
- (h) IMCO (International Maritime Consultative Organization) Class number and UN (United Nations) code number and copy of manifest
- (i) Highlight if cargo is out of gauge.

5.4 Cargo Loading List as stated in Section 5.1(g) above should contain the following details:

- (a) Name of the vessel to be loaded.
- (b) Container number.
- (c) Size and type.
- (d) Full or empty.
- (e) Gross weight.
- (f) Destination.
- (g) IMCO class number and UN code number and copy of manifest.
- (h) Highlight if cargo is out of gauge.

6. **SAFETY AND SECURITY:** The Carrier and all of the Vessel's crewmembers shall strictly adhere to all safety and security rules and regulations of the Terminal Operator and the Port Authority. At all times when a Vessel is in a Berth, such Vessel shall not in any way impede the use of the Port by other Vessels and shall not impede the safe ingress and egress of all other Vessels utilizing the Port. When a Vessel is berthing and/or is berthed at any of the Terminal facilities, Carrier shall be solely responsible for the safety of the Vessel and its crew. Any Vessel in a Berth shall at all times maintain appropriate officers and crew aboard such Vessel in order to maintain an alert watch and respond to emergencies. All Vessels and their main engines must be maintained in a state of readiness to respond to emergency situations and to avoid any delays in vacating their respective Berths. All Vessels and their Carriers shall take all necessary and appropriate measures to prevent deballasted water from contacting any personnel, equipment or the pier or dock at the Berth. Certain areas of the Terminal and all of the Terminal's Berths are considered restricted areas. Any unauthorized entry into restricted areas is considered a breach of security and the proper authorities will be notified. Anyone or anything entering into the Terminal is subject to inspection by the Terminal Operator's security personnel, the Port Authority, the US Coast Guard or other appropriate authorities. Failure to consent to inspection will result in denial or revocation of authorization to enter. All vendors and/or visitors requiring access to the Terminal for any reason whatsoever must possess a Transportation Workers Identification Credential (TWIC), present in advance, proof of insurance that meets the Terminal's minimum requirements and sign terminal liability release. Vessel crew members or mariners not possessing a TWIC must be listed on Vessel crew list and possess proper mariners' identification.
7. **NO SMOKING:** No person may smoke or light any match or use a lighter or any form of inflammatory device in the Terminal anywhere in the vicinity of Vessels containing, Loading or Unloading Dangerous Cargo, and in any other area where such is prohibited by the Terminal Operator, the Port Authority, the Fire Department or the US Coast Guard. All persons within the Terminal area are subject to all smoking, drug use and other general policies and procedures of Terminal Operator, the Port Authority, the US Coast Guard and all applicable local, state and federal laws, rules and regulations.
8. **NO LOITERING:** No person may loiter in the Terminal and no unauthorized persons may enter the Terminal.

9. **MARINE SERVICES:** The Terminal Operator shall not be responsible for providing pilotage, towage, or any other marine services. The Carrier shall contact the Port Authority to provide such services and the cost of which shall be borne by the Carrier.
10. **USE OF TERMINALS:** Carriers are allowed to use the Berth only for Loading and Unloading of Containers or Cargo. The Terminal Operator may allow a Vessel to lay alongside the Terminal for a limited period and/or following the Loading or Unloading of the Vessel, but the Berth is not intended to be used for the purpose of laying up other than to meet the Terminal Operator's operational requirements. The Terminal Operator will endeavor to provide a layby berth at the request of a Carrier subject to the approval of the Port Authority and payment of additional charges as applicable.
11. **NO WARRANTY AS TO SUITABILITY:** The User shall be solely responsible for determining if the depth of water (at any state of tide) is sufficient for the Vessel, the Terminal Operator having no responsibility therefore. The User agrees that the Terminal Operator has made no representations and gives no warranty concerning the adequacy or suitability of the Berth and shall not be liable for any damages or compensation caused due to any inadequacy and or delay in providing the Berth. Full and active co-operation of the User is required in all aspects of container operations to enable the Terminal Operator to operate the Terminal as expeditiously and effectively as possible, for the general benefit of all Users.
12. **FITNESS AND SUITABILITY OF THE VESSEL:** The Carrier, at all times, shall remain responsible for the suitable condition of the Vessel in compliance with all local and federal laws and regulations relative to the fitness of the Vessel. The Carrier, at all times, shall maintain the Vessel clean and free of debris. Should Carrier fail to promptly clean and remove any product which renders the deck of any such Vessel hazardous to the safety of any person, the Terminal Operator reserves the right, but not the obligation, to clean and remove the product from the Vessel's deck, which service will be solely on the account of the Carrier. The berthing of any Vessel or delivery of any barge to the Terminal shall constitute a warranty by the Carrier to the Terminal Operator that there are no latent defects in the Vessel or barge and that the same is capable of either being Loaded with the Cargo to be loaded by the Terminal Operator or to be Unloaded by the Terminal Operator using the equipment normally employed by the Terminal Operator. The Terminal Operator reserves the right to refuse any Vessel, considered unseaworthy, due to damage, distribution of load, draft or lack of freeboard, lists or such other reason for which the Terminal Operator deems the Vessel not suitable for handling at the Terminal. In no event shall the Terminal Operator be responsible for the seaworthiness, maintenance, repair or service of Vessels coming into Berth at the Terminal or barges delivered to the Terminal, such responsibility being solely that of the Carrier.
13. **BERTHING AND SAFETY EQUIPMENT:** Upon berthing, the Vessel shall immediately and at all times provide adequate lighting, equipment and appropriate officers and crew aboard to permit Loading or Unloading, as the case may be, of Cargo at any time of the day or night, including Public Holidays. The master and crew of every Vessel will provide assistance in handling lines and operating deck machinery. Competent deck officers must be available to ensure timely response to directions which is relative to handling of mooring lines. In the event that the Vessel fails to comply with these requirements and another Vessel, although filed later, is available for Loading or Unloading operations the Terminal Operator may, in its sole discretion, and without liability to anyone, bypass the subject Vessel. If the Vessel is ordered to Berth, and a delay in excess of 1 hour in the berthing of the Vessel results from circumstances or conditions within the control of, or due to the fault of, the Vessel, the Carrier including its owner(s), operator(s), charterer(s) and agent(s) shall be responsible, jointly and severally, for an idle Berth charge. Such charge shall be as specified in the applicable Tariff, from time to time and shall be due for each hour or fraction thereof and shall be paid in the form of liquidated damages.
14. **VESSEL ROTATION:** The Terminal Operator may adjust the Vessel berthing program, including reassigning any specific Vessel's Berth, in its sole and arbitrary judgment.

15. **STOWAGE:** The Carrier shall be solely responsible for the stowage of the Cargo. Any Vessel which is required to shift Berth or to warp will be responsible for any and all expenses pertaining to shifting/warping.
16. **LOADING OR UNLOADING:** The Terminal Operator shall use its best efforts to make available on the Terminal adequate container handling equipment, comprising cranes and suitable container handling vehicles, but no warranty is given as to the availability or capacity of such equipment at any given time for the Loading and Unloading of container from the Vessel and the handling of Containers, including their transport from the quay to the storage area or vice versa. In no event shall Loading or Unloading of a Vessel, as the case may be, occur until such time as such Vessel has been cleared by the Authority. If a Vessel fails to comply with any of the applicable laws and regulations enforced by the Authority, the Terminal Operator may order the Vessel to vacate the Berth. If the Vessel does not vacate the Berth when so ordered or within one hour of completion of Loading or Unloading, the Vessel will be subject to, in addition to the liquidated damages as mentioned in the Tariff applicable from time to time, all costs (including, but not limited to lawyer's fees) and expenses in connection with the moving of the Vessel, such costs and expenses (and liquidated damages) shall be on the account of and at the full risk of the Carrier. Lighting of a Vessel and its cargo carrying spaces is the responsibility of the Carrier.
17. **MOVEMENT OF VESSEL'S GEAR:** Where the Vessel's gear is used, the Carrier will allow the full use of all cranes, winches, derricks, runners, tackle, etc., and will supply full power at all times without charge. No responsibility will be attached to the Terminal Operator for any accident directly or indirectly arising out of, caused, or contributed to by any defect in gear supplied by the Carrier; and the Carrier shall indemnify the Terminal Operator against any claim arising out of such accident. The Carrier shall maintain all ship's gear in good working order and before work commences shall produce to the Terminal Operator's representative a current certificate of test of such gear that meets the requirements of all statutes, orders, and regulations then in force. None of the Vessel's cranes, hatch covers or other gear may be moved without prior consent of the Terminal Operator.
18. **STEVEDORES:** Stevedore's tools, appliances and equipment, vehicles, or any other material or object which is not part of the Cargo will not be permitted to remain or be stored in the Terminal in any location that will interfere with Terminal operations, and any such storage or placement of any such items shall be approved in advance by the Terminal Operator.
19. **OIL SPILLS:** Any discharges or spills of oil or any other hazardous substance by a Vessel shall be immediately reported to the US Coast Guard and the Port Authority and clean up and remediation shall be the absolute responsibility of the Carrier who shall coordinate all such activity with the US Coast Guard and the Port Authority and all other necessary parties in accordance with all applicable rules and regulations.

### **III. CARGO AND CONTAINERS**

20. **DANGEROUS CARGO:** Dangerous Cargo will not be provided with any service of any kind except under advance arrangement with the Terminal Operator accompanied by full disclosure of the hazardous characteristics, risks and special handling requirements of such Dangerous Cargo. If Terminal Operator agrees to provide services for any Dangerous Cargo specifically negotiated Dangerous Cargo services rates and charges shall be applied. It is the responsibility of the Carrier tendering such Dangerous Cargo to the Terminal:

- 20.1 to fully disclose in writing, via a Hazardous Cargo Declaration and/or hazardous cargo manifest, and in advance all of the Cargo's characteristics, risks and special requirements applicable to its safe Loading, Unloading, handling and storage in bulk;

- 20.2 to obtain all necessary special permits or permissions required by the Port Authority and/or other local, state or federal authorities in connection with the Loading, Unloading, handling and/or storage at the Terminal; and
- 20.3 to provide the Terminal Operator all safety requirements to handle and store such Dangerous Cargo.

The Carrier shall comply and advise all Consignees and Consignors of any such Dangerous Cargo regarding their obligation to comply with all terms of the STC related to the Dangerous Cargo. Terminal Operator reserves the right to refuse or handle any Dangerous Cargo or provide storage which in its judgment is likely to damage human health, other Cargo or property.

21. **HANDLING OF DAMAGED CONTAINER:** The Terminal Operator may refuse acceptance of damaged or distorted Containers or of any Container which in its opinion is in an unsatisfactory or unsafe condition, or of any non-standard Container. In the event the Terminal Operator agrees to handle such Containers, a further charge may be levied in the Carriers' account, in addition to the applicable Tariff, whether or not such damage or deterioration has been caused wholly or in part by the Terminal Operator, its servants or agents, and any damages caused due to handling of such containers.
22. **REMOVAL OF OBJECTIONABLE CARGO:** The Terminal Operator and the Port Authority reserves the right to move to another location and/or inspect any Cargo or Container, which in its judgment is likely to damage other Cargo or property, at the risk and expense of the Carrier.
23. **CONTROL OF REFRIGERATED CARGO:** The Terminal Operator shall use its best endeavors to provide for the monitoring of refrigerated Cargo while at the Terminal. The checking of temperature recording equipment when receiving and dispatching refrigerated or insulated containers shall be in accordance with the Carrier's instructions and any faults or discrepancies shall be reported to the Carrier. The Terminal Operator shall not be responsible for any loss or damage to any Container or its contents or any Cargo occasioned or resulting by or from any power failure or any other cause outside the control of the Terminal Operator.
24. **ABANDONED CARGO:** If any Cargo remains in the Terminal unclaimed for a period of more than thirty (30) days, or any perishable Cargo remains in the Terminal unclaimed for a period of more than fifteen (15) days, the Terminal Operator reserves the right, without any notice, to remove the Cargo to a bonded storage area and to dispose off the Cargo by auction. The sale of any such abandoned Cargo by auction does not operate to release the financial obligation of the Carrier to pay the full amount of any outstanding payment owed by the Carrier to the Terminal Operator associated with the handling of such Cargo. The Carrier shall indemnify and defend the Terminal Operator from all losses, damages and claims of any nature whatsoever relating to the auction process and the Cargo in general that may arise subsequent to such auction. If the Cargo, as determined in the sole and arbitrary discretion of the Terminal Operator, is unsuitable for auction, the Terminal Operator may proceed with the destruction of the Cargo, provided that the Carrier shall remain liable for all charges accrued through the date of destruction of such Cargo along with the destruction charges and all other related charges. The Carrier shall indemnify and defend the Terminal Operator from and against all losses, damages and claims of any nature whatsoever that may arise subsequent to such destruction. Containers containing Cargo destined for public auction or disposal shall only be released after all stripping and stuffing charges and storage charges have been received by the Terminal Operator. The Carrier shall remain liable for all such charges.
25. **DAMAGED OR DEFECTIVE CARGO:** Damaged or defective Cargo, including perishable Cargo which is likely to deteriorate, must be cleared from the Terminal within thirty (30) days of the date of Unloading. The Terminal Operator will not assume any responsibility for further loss or damage. Any goods not



cleared in accordance with the above may be removed by the Terminal Operator at Carrier's risk and expense.

26. **OVERWEIGHT CARGO:** The Terminal Operator shall not permit its equipment to be used in any way to lift, move or transport a Container or Cargo with a weight in excess of the safe working load. Should the Terminal Operator's equipment be used in handling an overweight Container or Cargo, the Carrier causing such unauthorized use shall be 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. Misdeclared Container or Cargo tendered to the Terminal Operator will be rejected and a fine, as specified in the applicable Tariff, from time to time, will be payable by the Carrier.
27. **DIRECT DELIVERY OF CONTAINERS:** The Carrier shall obtain prior approval to take delivery of the Containers directly from the Vessel by the Consignee or his agent onto road transport or other mode arranged by him. If for any reason whatsoever, goods for direct delivery are Unloaded to the quay and/or removed to the transit sheds or warehouses or stacked in the open yard, full Tariff will be applied.
28. **CONTAINER STRIPPING AND STUFFING:** The Terminal Operator shall use its best endeavors to handle the container stripping and stuffing at the CFS located within the Terminal.

#### **IV. THE TARIFF**

29. **THE TARIFF:** The Tariff is attached hereto as Exhibit A. Terminal Operator may at its sole discretion, estimate and collect in advance all charges which may accrue against Cargo or Vessels from the Carrier. Use of the Terminal, or permission to depart the Terminal, may be denied until such advance charges have been paid. The rates and terms as per the Tariff prevailing at the time the services are provided by the Terminal Operator shall be applicable. The Carrier shall advise Consignees of their obligation to pay certain charges as fully described in the Tariff directly to the Terminal Operator. In the event the Consignee is in breach of its obligation to pay the charges stated in the Tariff, the Carrier will indemnify the Terminal Operator and will pay to the Terminal Operator full charges, compensation for all damages suffered by the Terminal Operator in this respect. The Tariff and any individual agreements with Carriers are subject to revision at any time and from time to time at the Terminal operator's discretion, including, without limitation, to account for inflation, improvement of safety and security of the Cargo and/or Terminal facilities, handling of Dangerous Cargo, revision of governmental regulations applicable to the Port, or any other event which is deemed reasonable for a revision. All invoices are issued as due on presentation, unless otherwise agreed to in writing between the Terminal Operator and the User. The Terminal Operator reserves the right to apply interest at the rate of (1%) per month on any invoice or part thereof remaining unpaid beyond the due date. In the event of the User's failure to pay on the date specified above and without prejudice to all other rights of the Terminal Operator as set forth herein and pursuant to applicable law, the Terminal Operator shall have a lien over all Containers and Cargo and all documents associated therewith in respect of any and all amounts due to Terminal Operator in accordance with these STC and the Tariff. If payment of charges due is not made in full within one month of the lien being exercised, the Terminal Operator shall have the right of sale over all the property, either by direct sale or public auction, and may apply the proceeds received from any such process to the amounts due to Terminal Operator, with the User remaining liable for any amounts remaining owed to the Terminal Operator in excess of the net amount of any such proceeds.

#### **V. LEGAL MATTERS**

30. **COMPLIANCE WITH LAWS AND REGULATIONS:** The Terminal is within the jurisdiction of the Port Authority and all Users of the Terminal are subject to the applicable rules and regulations prescribed by the Port Authority as well as by any other lawful authority. All Vessels shall fully comply with all applicable United States Coast Guard regulations and all other applicable local, state and federal laws, regulations,

rules, policies and procedures in effect from time to time at the Port, including, without limitation, the U.S. Maritime Transportation Security Act of 2002; Title 33, Parts 101 and 105 of the United States Code of Federal Regulations; Chapter 311, Florida Statutes; the Memorandum of Understanding between the Canaveral Port Authority and the Naval Ordinance Test Unit Concerning Ship Movement Priority In Port Canaveral; the Port Canaveral Emergency Ship Movement Policy; and all provisions of all tariffs in effect at Port Canaveral, each as amended, supplemented, restated or otherwise modified from time to time.

**31. LIMITATION OF LIABILITY:** The Terminal Operator shall only be liable for loss or damage caused by the negligence or intentional acts of the Terminal Operator, subject to limitation of liability as follows:

31.1 For any loss or damage to the Vessel and equipment, the maximum compensation shall be limited to and paid as per the Insurance Policy.

31.2 The claim for loss or damage caused by the Terminal Operator and/or caused at the premises of the Terminal Operator shall be governed by the terms and conditions of the Insurance Policy.

**32. BAR DATES FOR CLAIMS AGAINST TERMINAL OPERATOR:** The Terminal Operator shall not be liable in respect of any loss of or damage to the Vessel, Cargo, Containers, equipment or any other matter unless notification of a claim in respect of such loss or damage is made in writing (in addition to annotation upon any of the Terminal Operator's documents at the Terminal) within five (5) days from the date of its occurrence and the amount of the said loss or damage submitted in writing to the Terminal Operator within twelve (12) months after the occurrence.

**33. INDEMNIFICATION:** The User shall, jointly and severally, defend, indemnify and hold the Terminal Operator, its affiliates, agents, shareholders, directors, employees and officers harmless against all proceedings, loss, damages, claims and expenses whatsoever arising out of or in consequence of, including but not limited to, the following:

33.1 Any loss or damage caused to the property of the Terminal Operator.

33.2 Claims from any person, entity or third party for personal injury, death, or loss or damage to any property.

33.3 Loss, damage or costs arising from the carriage of Cargo by the Carrier.

33.4 Loss, damages or costs, including lost profits, associated with replacement of products, service interruptions, etc., incurred by the Terminal Operator due to the User's usage of the Terminal.

33.5 Any act, neglect or default of the master, mariner, pilot, or the servants of the Carrier in the navigation or in the management of the Vessel including the Loading and Unloading of ship's stores, fresh water and bunkers.

33.6 The stuffing of the Containers in excess of the rated gross capacity, unless occasioned by the default of the Terminal Operator.

33.7 Any incorrect declarations as to the weight of a Container or Cargo.

33.8 The incorrect stuffing of containers so as to affect the safe handling of any Container unless occasioned by the default of the Terminal Operator not being the result of circumstances outside the Terminal Operator's direct control.

33.9 Structural defects in Containers.

33.10 Any act, neglect or default of the Carrier, its contractors, agents or their respective servants or any person whomsoever in or on the Berth in connection with the use of the Berth by the Carrier's Vessel with the Carrier's permission (whether express or implied) or of any inherent quality or defect of any Cargo in or on the Berth or on any Vessel.

The Carrier will also pay to the Terminal Operator full compensation for all damage done to or suffered by the property or equipment operated by the Terminal Operator and arising as aforesaid including consequential loss.

**34. THIRD PARTY CLAIMS:** In the event the Terminal Operator suffers any loss or damage as a result of any actions or inactions of any Consignee, Consignor or any other third party, including with respect to any Container or unit handed over to it for shipment aboard any Vessel, the Carrier shall provide all reasonable assistance to the Terminal Operator in recovering from such third party or other party responsible for such loss or damage. In the event the Carrier is in breach of its obligation hereunder in refusing to provide any such assistance it will indemnify the Terminal Operator against all proceedings, claims and costs whatsoever in respect thereof and will pay to the Terminal Operator full compensation for all damage suffered by the Terminal Operator arising as aforesaid. In the event of a claim for any loss of or damage to Cargo being made against the Terminal Operator the Carrier shall lend all reasonable assistance to the Terminal Operator in resisting or defending such claims where the Terminal Operator's liability is expressly or impliedly excluded or limited by the terms of the Carrier's shipping note or Bill of Lading (including for these purposes the lending of the Carrier's name for enabling application to be made to the court so that the Carrier be joined as defendant in any action against the Terminal Operator or that proceedings be stayed against the Terminal Operator in such action). Where the Carrier is in breach of its obligation hereunder in refusing to lend any such assistance it will indemnify the Terminal Operator against all proceedings claims and costs whatsoever as aforesaid.

**35. NO ESTATE OR INTEREST:** The Users acknowledge that their rights to access or use the Berth rest in contract only and this STC does not create or confer upon the Users any tenancy, estate or other interest in the Berth or the Terminal.

**36. FORCE MAJEURE:** No party shall be liable to another party for any delay in or failure to perform its obligations hereunder (other than non-payment of money) if any such delay or failure is due to Force Majeure. Force Majeure is defined as: an act of God or the public enemy, acts or refusals to act of any government or governmental agency in either its sovereign or contractual capacity, governmental restrictions or control on imports, exports or foreign exchange, freight embargoes, non-availability or mechanical breakdown or destruction of equipment vital to the performance of a party's obligations under this STC or in connection therewith not caused by inadequate maintenance, fire, floods, tidal waves, earthquake, storm, slides, epidemics, quarantine restrictions, terrorist acts, war declared or undeclared, revolution, riots, insurrections, hostilities, civil disturbances, power shortage, or stoppages, strikes, walk-outs, work stoppages, lockouts, railroad obstructions or obstruction of ocean navigation, stoppages of labor, deliberate work slowdowns, other labor difficulties, the taking of the Terminal facility by lawful expropriation, other lawful ouster of the Terminal Operator from the Terminal facility or other lawful denial of rights of the Terminal Operator in the Terminal facility or the premises upon which the facility is built or any other cause beyond the reasonable control of a party. However, Force Majeure shall not include a lack of funds. If either party becomes aware of an event of Force Majeure it shall promptly notify the other party in writing within five (5) days of the occurrence of the event of Force Majeure describing the Force Majeure event in reasonable detail and stating, to the extent reasonably practicable at such time, its estimate of the duration of the Force Majeure event, and setting out in reasonable detail the obligations under this STC which cannot be performed as a result of the occurrence of the Force Majeure event. The party which is prevented from performing its obligations by a Force Majeure event shall use all reasonable commercial efforts to curtail, contain or remove the Force

Majeure condition and to resume, with the least possible delay, compliance with its obligations under these STC, and shall keep the other party informed on a timely basis of any progress made in curtailing, containing or removing the Force Majeure condition.

- 37. APPLICABLE LAW AND VENUE:** This STC shall be governed by the applicable laws of the State of Florida and the Unites States of America. Venue for any dispute arising out of or related to this STC or the Vessel operations governed hereby shall lie exclusively in the state and federal courts of Brevard County, Florida, to the exclusion of the jurisdiction of the courts of any other state or country. Use of the Terminal or receipt of Terminal Operator's services by any Users shall constitute that User's consent to jurisdiction and venue in such courts and a waiver of any objections thereto.
- 38. AMENDMENT AND MODIFICATION OF STC:** Amendments to these STC may be issued by the Terminal Operator at any time and from time to time. The STC in effect at any time will be made available to any User upon request to the Terminal Operator. The STC in effect at the time a Vessel docks at the Terminal shall be the STC applicable during the period of time such Vessel is docked at the Terminal for that particular period of time. If an updated STC is in effect at the time of a subsequent dockage by a Vessel such updated STC shall apply.

\*\*\*\*\*

**Schedule A**

**TARIFF**

**(ATTACHED)**