

# TERMS OF BUSINESS

## MICT CFS

**Address:**

**New Mundra Port, Navinal, Mundra, Kutch, 370-421, Gujarat, India.**

## GENERAL TERMS OF BUSINESS

The following general terms and conditions ("**Terms Of Business**" or "**TOB**") shall apply to all work and services performed by Mundra International Container Terminal Private Limited (hereinafter referred to as "**MICT CFS**" or "**Container Freight Station**", which expression shall, unless repugnant to the context or meaning hereof, be deemed to mean and include its employees, agents, contractors and sub-contractors) in its capacity as a container freight station. Any user of Container Freight Station Services (hereinafter referred to as "**Customer**", which expression shall, unless repugnant to the context or meaning hereof, be deemed to mean and include its employees, agents, contractors, sub-contractors and permitted assigns) is deemed to have acknowledged, read, understood, agreed to, and accepted these Terms of Business upon the entry of their Container or Cargo or Container-transporter into the Container Freight Station. These Terms of Business are in addition to the rules and regulations of MICT CFS as may be updated from time to time.

### 1. DEFINITIONS AND INTERPRETATION:

1.1. In these Terms of Business, the following words and expressions shall, unless the context shall otherwise require, have the following meanings:

**"Authority"** means Adani Port & Special Economic Zone Limited (APSEZ) including its employees and agents;

**"Cargo"** means

- (i) any goods or articles of any kind whatsoever including Hazardous Cargo, transported in a Container-transporter, Container, Non-standard Container or Out of Gauge Container, excluding Non-containerised Cargo and
- (ii) empty Containers;

**"Container"** means

- (i) Any container 20', 40' or 45' in length, 8' in width and 8'6"/9'6" in height or any other container developed for use in liner shipping at any time, including, but not limited to, flat-racks, platforms, Reefer Containers and tanks, with ISO recommended lifting arrangements and consistent with the safety requirements of CSC (Convention for Safe Containers) plates, and which can be handled by means of a standard 20', 40' and 45' spreader;
- (ii) A non-standard Container; and/or
- (iii) An Out of Gauge Container.

**"Container Ship"** means a ship fitted for the carriage of Containers;

**"Claimed Cargo"** – means CARGO or CONTAINER not abandoned by the Customer.

**"N BLOC NOMINATION / Movement"** - refers to the established market practice where a Customer through written express instructions order MICT CFS to move containers from "The Container Terminal" to the MICT CFS for road drays.

**"Container Terminal"** means the container terminal comprising container berths, the Container

Yard and all other equipment and buildings within the NEW Mundra Port<sup>1</sup>. The Following Container Terminals are covered under this TOB, 1. Mundra International Container Terminal Private Limited, New Mundra Port, Navinal, Kutch, Gujarat, India PIN 370 421, 2. Adani Ports and Special Economic Zone Limited, Adani Mundra Container Terminal, Navinal Island, Mundra, Gujarat , India PIN 370 421, 3. Adani International Container Terminal Private Limited, New Mundra Port, Navinal, Kutch, Gujarat, India PIN 370 421, 4. Adani CMA Mundra Terminal Private Limited, Navinal Island, Mundra, Gujarat, India PIN 370 421

**"Container-transporter"** means any road vehicle (including articulated vehicles) used for the carriage of Cargo, Containers, Non-standard Containers and Out of Gauge Containers or any vessel other than a Container Ship;

**"Container Yard"** means the land and premises used by MICT CFS at the Container Freight Station where Containers are, amongst other things, stored, received and delivered;

**"Contract of Carriage"** means any contract or other document including, but not limited to bills of lading and contracts of affreightment, seen and accepted by MICT CFS, which evidence a contract between two parties to ship Containers and/or Cargo onboard a Containership for reward;

**"Container Freight Station Services"** means the services to be provided to the Customer by MICT CFS under these TOB;

**"Dray Services"** means the movement of container and or cargo from the Container Terminal to the Container Freight Station or Vice Versa, it would also include such movement within the premise of the Container Freight Station.

**"Dutiable Cargo"** means dutiable goods as defined by the relevant customs and excise authorities;

**"EDI System"** means an electronic data interchange system whereby any Message is transmitted from one party to another party by electronic means;

**"EIR / Cargo Interchange Documents"** – Documents issued by MICT CFS in electronic or paper form evidencing receipt and delivery of Containers (Empty or laden) AND OR Cargo. These documents are

- (i) Daily Gate in Gate out report for containers sent to Customers
- (ii) Daily Carting, Stuffing, Destuffing Reports sent to Customers
- (iii) Physical gate pass copy of the Cargo Exiting MICT CFS in non containerized form.

**"Hazardous Cargo"** means Cargo of any kind classified by the International Maritime Organisation as hazardous cargo and shall include "dangerous goods" as defined in the International Maritime Dangerous Goods Code;

**"Indemnify"** means indemnify and keep indemnified and hold harmless on demand regardless of the negligence or gross negligence of the indemnified party;

**"Intermediary Service"** means, in relation to the use of the EDI Service, services or facilities provided by an intermediary as mutually agreed by the parties to facilitate the interchange of data by electronic means;

**"Message"** means data structured in accordance with the User Manual and adopting the EDIFACT standards which is transmitted between MICT and the Customer using an EDI System through the medium of the Intermediary Service;

**"Message Date Log"** means a complete record maintained by the parties of Messages, Message Transmissions and Message Retrievals transmitted to and received from the Intermediary Service database;

**"Message Retrieval"** means the access by any of the parties to the Intermediary Service data base and the retrieval by such party of any Message stored in the data base;

**"Message Transmission"** means the deposit of a Message by any of the parties in the Intermediary Service database;

**"Movement Order"** – Express instructions issued to the Container Freight Station in writing by the Customer to arrange for transportation of its Cargo and or Containers into and out off the Container Freight Station.

**"Non-containerised Cargo"** means any cargo, which cannot be handled by means of normal use of a container spreader, even with attachments;

**"Non-standard Container"** means a Container accepted for transport/carriage on a Container Ship which cannot be handled by means of a normal use of a container spreader, even with attachments;

**"Out of Gauge/Over dimensional Container"** (OOG/ODC) means any Container carrying over dimensional cargo beyond the normal size of standard Containers and needing special devices like slings, shackles, lifting beam, etc. Damaged Containers and Containers requiring special devices for lifting are also classified as Over Dimensional Container;

**"Reefer Container"** means a Container used for the transportation of refrigerated Cargo;

**"Sub-contractor"** means any sub-contractor appointed by MICT CFS for the performance of the Container Freight Station Services or any part thereof;

**"User Manuals"** means the documents or instructions which are produced from time to time by MICT CFS by way of guidelines to govern the methods and operation of the structure, transmission and receipt of Messages each of which such documents may cover one or more Messages;

"Vessel Voyage" means the specific container ship identified its name and its voyage number as declared by the concerned Container Terminal on its berthing in the port of Mundra.

**"Working Day"** means any day (including any public holidays and Sundays), upon which the Container Freight Station is open for business.

1.2. The headings in these TOB are for information only and shall not be construed as forming part of these TOB.

1.3. Unless the context otherwise requires:

- (i) Words importing the singular include the plural and vice versa;
- (ii) Words importing any gender include all genders; and
- (iii) A reference to a person includes a reference to a body corporate and to an unincorporated body of persons.

## 2. SAILING SCHEDULE AND VESSEL VOYAGE CUT OFFS

- 2.1. The Customer shall provide 48 hours of minimum advance notice when issuing a Movement Order for dray of Export Stuffed laden Containers from MICT CFS to the Container Terminal prior intended Vessel Voyage<sup>2</sup> cut off. MICT CFS shall not be responsible for positive Vessel Voyage connection of the Export Laden Containers if a Movement order is accepted for Dray by MICT CFS lesser to 48 hours of intended Vessel Voyage Cut off.
- 2.2. The Customer shall provide 72 hours of Free Time (free of all ground rent and charges at the Terminal) to MICT CFS for dray of laden and empty Containers nominated "N" Bloc to MICT CFS. Time to count from Discharge of the Container.
- 2.3. The Customer is required to inform MICT CFS, on real time basis, of any changes in gate cut off positions for intended Vessel Voyages, if changed and in variance to what is indicated in the publicly available Berthing Reports of the Respective Container Terminal's on their public websites'.
- 2.4. Acceptance of Business by MICT CFS:

MICT CFS expressly reserves the right to accept or refuse a Customer or a service of an existing Customer at its sole discretion.

### 2.5. Container, Cargo at the Container Freight station

- (i) MICT CFS shall provide the Customer with an efficient Container Freight Station control system controlling the movement of Containers and or CARGO at the Container Freight Station and shall report activities relating to Containers and or CARGO.
- (ii) The Customer shall ensure that all Containers / CARGO / Equipment it tenders to MICT CFS for handling is technically compatible with MICT CFS's equipment at the Container Freight Station.
- (iii) MICT CFS shall permit the Customer to bring Container-transporters inside The Container Freight Station to load and discharge at such times as may be agreed and shall allow access to the Container Freight Station to personnel for the purpose of carrying out repairs. MICT CFS and the Customer agree that access as referred to in this Clause is permitted by MICT CFS on condition that the same is carried out in accordance with the rules and regulations of MICT CFS and the Customs Authorities. MICT CFS will not be responsible or liable in any way for any loss, damage, cost, expense or injury arising in any way howsoever to any person or thing granted access in accordance with this Clause. The Customer will indemnify MICT CFS for any loss, damage, expense, cost or injury in any way howsoever caused by reason of MICT CFS permitting access under this Clause.

## 3. CONTAINER FREIGHT STATION SERVICES

- 3.1. Subject to what is stated in Clause 2 above, MICT will provide the following Container Freight Station Services to the Customer at Container Freight Station and where necessary shall act on behalf of the Customer:

- (i) Receiving Containers from the Container Terminal for road movement to MICT CFS.
- (ii) Transferring the Containers from the Container Terminal to MICT CFS Container Yard.
- (iii) Receiving and delivering Containers from and to Container Transporters.
- (iv) Movement to and from between Rail Sidings of the Container Terminal and MICT CFS.
- (v) Reefer electricity supply, monitoring, PTI of Reefer containers within MICT CFS;
- (vi) Receiving and Delivering Cargo from and to Cargo transporters within the premises of MICT CFS.
- (vii) Together with any other services which may be agreed in writing or requested and accepted through SSR (Special Service Request)
- (viii) The Containers referred to above could be both laden or empty

### 3.2. **Acceptance of Containers AND OR Cargo.**

- (i) MICT CFS will be deemed to be custodian of the Containers and or Cargo only whilst they are under the premises of MICT CFS. Thus Custodianship of Containers and or Cargo by MICT CFS commences once they gate in to the CFS premise through CFS IN GATE. MICT CFS ceases to be the custodian of the Container and or the Cargo once they exit the MICT CFS through CFS OUT GATE.
- (ii) MICT CFS is not obliged to receive or deliver Containers AND OR CARGO unless full covering documentation has been provided to MICT CFS. MICT CFS's responsibility to the Customer for Containers AND OR CARGO shall commence only when the Containers have been received as referred to in Clause 3.2 (a) above and notice of acceptance has been duly given by MICT CFS.
- (iii) Prior to the presentation for acceptance to MICT CFS of any Containers AND OR CARGO, the Customer shall supply to MICT CFS such particulars in writing thereof and where appropriate of the contents of a Container, NATURE AND TYPE OF CARGO, including weight and other measurements or as may be requested by MICTCFS and as Required by The Customs rules and regulations. MICT CFS is entitled to rely upon such particulars of the Container AND OR CARGO including but not limited to the contents of a Container, as are furnished by the Customer or Consignor. Any damage or loss resulting from the inaccuracy of, or omission from, such particulars given by the Customer or the Consignor shall be the Customer's responsibility and the Customer shall Indemnify MICT CFS against any loss, penalties, fines, damages, claims, costs and expenses which MICT CFS may suffer or incur directly or indirectly, as a result of such inaccuracies or omissions.
- (iv) MICT CFS will accept no Containers AND OR CARGO for handling until MICT CFS is satisfied that adequate space reservation arrangements have been made for the onward carriage of the same by [the Customer] within a period of time acceptable to MICT CFS
- (v) MICT CFS will not be bound to accept any Container/ AND OR Cargo if the same is being transported in an unsafe manner or without adequate securing arrangement. This includes but is not limited to ODC's/OOG's which require transportation on 'Low-Bed' trailers. OOG's/ODC's Cargoes, which by virtue of their dimensions and stuffing disposition, require to be handled with

additional resources and shall be levied with the appropriate charges to cover all additional resources deployed to handle them. Any request to handle such Cargo should be made well in advanced to ensure acceptability by both parties.

- (vi) With Specific Regard to Import N Bloc movements , MICT CFS shall not accept responsibility of commencement of Dray Services<sup>3</sup> from The Container Terminal to MICT CFS unless the Containers are Customs approved for CFS dray, All required customs and government formalities like filing of Inward General Manifest etc are completed by the Customer, the Container is physically sound and worthy for road transportation and is not damaged in any way, and the Container is free from any regulatory holds instituted by any government, quasi government body, the Container Terminal or the Authority.

### 3.3. **The Condition of Containers AND OR CARGO**

- (i) The Customer undertakes that, each Container AND OR CARGO which it delivers or causes to be delivered to MICT CFS is upon delivery secure, in a good state of repair and suitable for its purpose. MICT CFS reserves the right to refuse to load or handle any Container AND OR CARGO which is not in the condition required by this Clause.
- (ii) MICT CFS shall inform the Customer of any VISIBLE damage to any Container AND OR CARGO, its contents or its packaging coming to the attention of MICT CFS at the time of Receipt as defined by clause 3.2a. MICT CFS will not however carry out any visual check of top and bottom sides of the Containers AND OR CARGO where visual inspection is not practically feasible under the normal process of business and trade. In the notice, MICT CFS will convey its decision of whether it will load or handle the Container AND OR CARGO or if it is refusing to load or handle such Container AND OR CARGO
- (iii) In the scenario where MICT CFS agrees to load or handle, MICT CFS shall not, in such case, be responsible for any damage to Container AND OR CARGO or its contents thereof, UNLESS and OTHERWISE it arises out of gross negligence on part of MICT CFS
- (iv) Where MICT CFS gives notice to the Customer of damage to a Container AND OR CARGO, its contents or its packaging, the Customer shall be entitled, within seven (7) days of such notice being dispatched, to inform MICT CFS in writing that an inspection of the relevant items is required. MICT CFS will thereafter permit the Customer or it's duly appointed agents upon reasonable notice to inspect the Container AND OR CARGO, contents or packaging.

### 3.4. **Reefer Containers**

Subject to instructions being given in writing to MICT CFS at least two (2) working days in advance of receipt of a specific Reefer Container and such instructions are accepted in writing by MICT CFS, MICT CFS will check and report upon the temperature of Reefer Containers stored at the Container Freight Station. MICT CFS may check and report upon the temperatures of Containers as mutually agreed.

- (i) All the export reefer Containers need to be delivered at MICT CFS gate in **"POWER ON"** condition. MICT CFS will confirm received temperature / status and accept the reefer ensuring that the stated temperature is maintained. If there is a variance, the CFS shall inform the same to the Customer and a fixed charge shall be levied until the temperature is brought in line to the set temperature.
- (ii) MICT CFS shall not be responsible or liable in any way for any Reefer Container or the refrigeration of refrigerated Cargo if the Customer fails to give written instructions, or provides wrong or inadequate instructions concerning the handling thereof.
- (iii) If MICT CFS is instructed in writing in accordance with Clause 3.4 (i) MICT CFS will, within a reasonable time of receipt, connect the Reefer Container to a main power supply. MICT CFS shall not be obliged to maintain an auxiliary power supply and MICT CFS shall under no circumstances be responsible for any failure or discontinuance or interference from time to time in the mains power supply howsoever arising or any consequent damage to the contents of the Reefer Container AND OR CARGO
- (iv) Considering perishable and high value of reefer cargo, MICT CFS reserves the right to reject acceptance of any Reefer Container at MICT CFS with maximum variance of  $\pm 05$  degrees from set temperature. Should this not be adhered to, and should the Reefer Container arrive at the Container FREIGHT STATION with a variation greater than  $\pm 05$  degrees, MICT CFS may, at the request of the Customer, accept the Container and perform the necessary service at a fee in order to attain the set temperature due to high consumption of electricity against a Reefer Container received with nil variation. In case of variance of  $\pm 05$  degrees, MICT CFS has the right to refuse to accept the Container however in case of special request of the Customer these Containers can be off loaded in a special reefer yard till the temperature of the Container reaches to the declared temperature. This additional function will be carried out only on the special request of the Customer.

### 3.5. Stripping of Containers

- (i) MICT CFS will carry out as per instructions of the Customer stripping of Import Laden Containers as per scope of services provided in its Tariff and if any additional services needed through the tender and acceptance of a SSR (Special Service Request) by the Customer.
- (ii) The Stripping of Containers (Import laden) shall only be carried out subject to all government and customs rules and regulations being honoured by the Customer, all necessary documents furnished to MICT CFS, and the Container and or Cargo free of Carrier lien or hold in terms of being released through a valid Import Delivery order issued by the Carrier.
- (iii) Post Stripping of Import laden Containers, MICT CFS shall as mandated by rules and regulations weigh the Import Cargo at the time of its delivery to the Customer's transport Vehicle at the CFS Weigh Bridge and the MICT CFS weighment slip so issued will be final and binding as evidence of import Stripped cargo weight to the Customer.



**3.6. Insurance of Containers and or CARGO –**

- (i) MICT CFS shall not be responsible in any way whatsoever for any costs consequences or liabilities arising out of any accident or event which impacts the Container AND OR CARGO whilst outside the CFS premises regardless of whether its transportation was contracted for by MICT CFS, unless or otherwise arising due to GROSS negligence of MICT CFS.
- (ii) The Customer is required to insured its Containers AND OR CARGO as required by these TOB whilst within the Custody of MICT CFS or without it.

**3.7. Weighment of Containers / CARGO<sup>4</sup>:**

- (i) As per Customs Rules and Regulations MICT CFS will mandatorily weigh ALL Export Laden Containers moved from MICT CFS to The Container Terminal and ALL IMPORT Laden Containers moved from MICT CFS for Warehouse/Factory Destuffing before exiting the MICT CFS premise. This weighment shall be done on the MICT CFS weighbridge and its weigh slip shall be final and binding on the Customer.
- (ii) MICT CFS will NOT weigh as per standard process, unless expressly requested to do otherwise by the Customer, any Container not falling within the stipulation of clause 3.7(i).
- (iii) MICT CFS will NOT weight as per standard process, unless expressly requested to do otherwise by the Customer, any CARGO being moved into MICT CFS for the purposes of EXPORT Carting or Coastal Carting. The Customer will have deemed to have waived his rights to claim any damages what so ever arising out of his decision to not ask MICT CFS to weigh this cargo on receipt.
- (iv) MICT CFS will NOT weigh as per standard process, unless expressly requested to do otherwise by the Customer, any CARGO being moved out of MICT CFS as long as it is NOT Import MICT CFS Destuffed cargo. The Customer will have deemed to have waived his rights to claim any damages what so ever arising out of his decision to not ask MICT CFS to weigh this cargo on exit of MICT CFS premises.

3.8. MICT CFS Shall NOT be deemed nor shall act as the AGENT of the Customer with Customs as regards "Claimed Cargo and liasoning with Customs by MICT CFS on Claimed Cargo is not included and clearly beyond the scope of its services.

3.9. Only on express agreement by MICT CFS will the Customer be entitled to use his own resources which could include labor or machinery for the purposes of handling CARGO AND OR CONTAINER within the premise of MICT CFS. In which case the Customer shall indemnify MICT CFS from all costs, consequences and liabilities arising out of such deployment by the Customer and guarantees to MICT CFS unequivocally that all MICT CFS rules and regulations including those of SAFETY will be adhered to without fail.

3.10. MICT CFS shall not be responsible in any fashion whatsoever for poor return of CARGO whether carted for Export / COASTAL Stuffing or imported, arising due to the nature or inherent vice of the Cargo.

3.11. The Customer shall ensure compliance with the rules and regulations of Customs for opening and unpacking of any Container. MICT CFS may, but shall be under no obligation to do so close, reconnect, or connect to a power supply for Reefer Containers, repack or otherwise deal with any such Container and/or its contents at the sole cost and expense of the Customer.

#### **4. CONDITIONS RELATING TO THE PROVISION OF CONTAINER FREIGHT STATION SERVICES**

##### **4.1. Circumstances preventing safe handling**

When, in MICT's CFS's sole opinion, there are any circumstances which will or may prevent or hinder the safe handling, storage, loading, unloading or transport of any Containers AND OR CARGO, MICT CFS may, in its sole discretion, refuse to handle the same and shall give notice of such refusal to the Customer or Consignor, as the case may be. The recipient of such notice will remove or procure the removal of Containers and/or its contents AND OR CARGO from the Container FREIGHT STATION forthwith at its own risk and expense.

##### **4.2. Warranties and Indemnities given by the Customer**

- a) So as to enable MICT CFS to perform the Container FREIGHT STATION Services efficiently, the Customer warrants and undertakes that:
- (i) It is duly incorporated, validly existing and in good standing under the laws of the place of their incorporation, having full power to carry on their businesses and to enter into and perform their obligations;
  - (ii) All particulars relating to Containers AND OR CARGO (including, but not limited to Reefer Containers) furnished by the Customer in accordance with these Terms of Business are accurate;
  - (iii) All Containers AND OR CARGO are properly packed and labeled and the contents are properly stowed and secured therein; (Applies to Inbound Laden Containers, Applies to Cargo when carted and received by MICT CFS for Export and or Coastal Stuffing, does NOT apply to export Stuffing of Containers done within MICT CFS.)
  - (iv) All Containers and or cargo are fit for their intended purposes and in a fit and proper condition to be handled or otherwise dealt with in the normal course of business by the equipment and operating procedures usually employed at the Container freight station;
  - (v) All Containers and Cargo comply with applicable laws, orders, regulations, or other requirements of Government, customs, municipal or other authorities whatsoever;
  - (vi) All Reefer Containers have been properly pre-cooled or pre-heated as appropriate and their controls have been properly set; prior to Receipt by MICT CFS.
  - (vii) All Containers delivered to MICT CFS are weatherproof;

- (viii) Upon the delivery of any Container to MICTCFS , all values and other particulars in respect thereof supplied to MICT CFS for customs or other purposes and all necessary customs removal permits will be complete and accurate and, where appropriate, will be valid and in full force and effect; and
  - (ix) The Customer shall Indemnify MICT CFS in respect of the consequence of the breach of any of these warranties and against all loss, damages, claims, costs, expenses, fines and penalties that MICT CFS may incur or suffer directly or indirectly as a result of any breach of any of these warranties.
- b) MICT CFS shall not be responsible for or liable in any way, and the Customer shall Indemnify MICT against all damages, claims, costs and expenses suffered or incurred by MICT CFS resulting directly or indirectly from any defects in a Container and/or its contents AND OR CARGO
  - c) The Customer is solely responsible for compliance with all laws, ordinances or regulations in force relating to the Container Ship, EXPORTATION AND IMPORTATION OF CARGOES AS PER GOVERNMENT OF INDIA AND ALL CONCERNED REGULATORY BODIES, and all matters whatsoever relating to the Container Freight Station usage.
  - d) The Customer shall be responsible for any damage to MICT CFS, premises, equipment all other property, other Containers, Other CARGO and property belonging to the third parties, caused during or arising from movement of its own Equipment and or labor within the CFS and shall indemnify MICT CFS against all claims, demands, losses, costs and expenses arising from any such damage.
  - e) The Customer shall Indemnify MICT CFS, against all claims arising by reason of:
    - (i) Any defects in any Container or the contents thereof;
    - (ii) Any mixture or confusion of Cargo; and/or
    - (iii) Shifting or movement of the Cargo.
  - f) Overweight Containers - In case the weight of Cargo or Container is understated in the declaration submitted by the Customer, the handling of such Cargo or Container is at the sole risk and responsibility of the Customer and Customer hereby indemnifies the Container Freight Station against all injury, loss and damage resulting from the handling of such Cargo or Container.

#### **4.3. Delivery Orders etc.**

- (i) As regards delivery of Containers / AND or Cargo MICT CFS will provide delivery of Containers and or Cargo (Containers whether loaded or empty) to parties holding valid delivery orders as issued by the carrier. Import Delivery order for imports and Export Delivery order for Exports.
- (ii) Deliveries affected by MICT CFS in adherence to clause 4.3(i) shall constitute full discharge of responsibility as Custodian with regard to the concerned Export / Import Delivery order.
- (iii) MICT CFS shall not be responsible for verification of the authenticity of the Delivery Order it receives be it for Export or Import, and shall assume it to be Original and bonafide document issued by the issuer unless there is a specific written SOP with the customer as regards treatment of its Delivery order instructions.

#### 4.4. Hazardous Cargo and Dutiable Cargo

- (i) The Customer shall ensure that all goods tendered to MICT CFS for loading and/or unloading, comply with all applicable regulations for Hazardous Cargo and/or Dutiable Cargo and shall Indemnify MICT CFS against any breach of this Clause 4.4 of these Terms of Business.
- (ii) The Customer warrants that full details of any hazardous cargo will be correctly declared in writing to MICT CFS.
- (iii) MICT CFS has the right to refuse to handle Cargo which, upon inspection, is found not to comply with the applicable rules or regulations or ordinances or laws of India and to reject and/or return such Cargo at the sole expense and risk of the Customer.
- (iv) MICT CFS stands Indemnified by the Customer from all costs, consequences and liabilities arising out of handling Hazardous cargoes in Containers.

#### 4.5. Lien

All Containers, Cargo and all documents relating to Containers and Cargo shall be subject to a particular and general lien respectively for charges due to MICT CFS in respect of such Containers or Cargo from the Customer. If any charges are not paid, the Containers or Cargo, subject to such lien, may be sold and the proceeds applied in accordance with the provisions of the Customs Act, 1968. MICT CFS shall not be liable for any loss and/or damage to any person whatsoever as a result thereof.

#### 4.6. Costs and expenses to be paid by the Customer

The Customer shall pay:

- a) Any costs and expenses which may be incurred by MICT CFS in complying with any Government regulations requiring the movement, treatment, removal or destruction of Hazardous Cargo or infested, contaminated or condemned goods or the treatment of MICT CFS premises as a result of any infestation or contamination arising from such Hazardous Cargo; and
- b) All costs and expenses incurred by MICT CFS arising out of or incidental to the failure by the Customer to observe these Terms of Business including, but not limited to, the rules for Hazardous Cargo or any one of them.

### 5. LIABILITIES AND CLAIMS

#### 5.1. Liability and Indemnity

- (i) Security AND SAFETY

The Customer warrants that it will comply and shall ensure that all its agents and sub-contractors comply with all requirements of the applicable laws and international standards with respect to safety, stability, seaworthiness, fitness for purpose and security including, without limitation, regulations introduced pursuant to the ISPS Code and DP World Safety Requirements.

- (ii) MICT CFS shall not be responsible for the security or safety of any Customer property barring the Container and Cargo whilst within Container Freight Station, unless caused by any defective equipment of MICT CFS or any willful misconduct or gross negligence on the part of MICT CFS.
- (iii) MICT CFS shall not be liable for any loss or damage suffered or incurred by the Customer (including, without limitation, the payment of expenses by the Customer on account of care, lodging, medical attention, security and repatriation) and arising from the presence of unauthorized personnel Within the Container Freight Station Premises,. The Customer shall be fully liable for the acts and omissions of the Customer's visitors.
- (iv) Liability and Indemnity - The Customer shall indemnify and save harmless MICT CFS against any liability for claims or suits, including all costs, expenses, damages or losses, whatsoever including but not limited to consequential and economic loss, in respect of loss of or damage to any property and death or injury caused directly or indirectly by:

- (a) The failure of the Container and or Cargo / or of the Customer or its servants, agents and sub-contractors to comply with the requirements of the applicable laws governing the same;

- (b) The negligence or default of the Customer or its servants, agents and sub-contractors;

In receiving the services at the Container Freight Station from MICT CFS, the Customer shall:

- (a) Act in compliance with the applicable laws;

- (b) Act in a safe and efficient manner; and

- (c) Act in accordance with any lawful and reasonable directions given from time to time by MICT CFS.

- (v) No Right of Deduction or Set-Off and Right to withhold or removal of Cargo or Container

- (a) Notwithstanding any liability or alleged liability of MICT CFS under these Terms of Business or otherwise, the Customer responsible for payment of charges towards the services rendered by MICT CFS, shall not be entitled by reason of any such liability or alleged liability to any deduction from, reduction of, set-off against or waiver of any charges payable under these Business Terms, all of which shall be paid in full as and when due.

- (b) MICT CFS reserves the right to charge on all non-disputed amounts that are outstanding from the due date for payment till the date of payment an annual interest rate of 21%, accruing on a daily basis until payment is made, whether before or after any judgment, and such interest shall be payable on demand provided that, in respect of disputed items, interest will accrue from due date but will only be payable to the extent that the dispute is resolved in the favour of MICT CFS.

- (c) MICT CFS reserves the right to withhold the Cargo and / or Container as well as the delivery thereof in the event of default in payment of any charges, including advance charges.

- (vi) Limitation and Exclusion of Liability

- a. Injury to Persons (Including Death) – Limitation of Liability. MICT CFS shall not be liable for the death of or personal injury to any persons, including but not limited to Customer or their staff, occurring in or about the Container FREIGHT STATION at MICT CFS, unless such personal injury or death occurs directly and solely as result of the proven gross negligence or wilful misconduct of the Container Freight Station.
- b. Basis of Liability - I In the case of loss or damage to cargo, Container or goods, its maximum liability is \$5,000. Claims of less than US \$ 2,000 shall not be entertained by MICT CFS. Liability shall be established by the joint survey of both the parties. The claim shall also exclude all liability to MICT CFS which is either
  - i. Caused by and to the extent of a Force Majeure Event; or
  - ii. Consequential or indirect loss or damage whether arising in contract ,tort, statute or otherwise even if :
    - a) The parties knew they were possible ;
    - b) They were otherwise foreseeable,Including, without limitation, loss of revenue, income, profits, market, interest or hire, fiscal loss or loss on currency exchange.

## 5.2. Claims

- (i) In respect of any claim arising under any indemnity in favour of the Customer contained in these Terms of Business the Customer shall:
  - (a) Within fifteen (15) days after becoming aware of the claim, notify MICT CFS in writing of the claim (the "MICT CFS Claim") against which the Customer is seeking to be indemnified together with all details of MICT CFS Claim in the actual knowledge or possession of the Customer at the time and becoming known to it at any time thereafter; Failure to adhere to this time line relieves MICT CFS from all Claims.
  - (b) Take such other steps as may be necessary or as MICT CFS may reasonably require to avoid or mitigate MICT CFS's Claim
  - (c) Where MICT CFS Claim relates to a claim by any third party against the Customer, not admit liability or make any offer, promise, compromise or settlement with the third party without the prior written consent of MICT CFS (which consent not to be unreasonably withheld or delayed); and
  - (d) Where MICT CFS Claim relates to a claim by any third party against the Customer, at the request of MICT CFS and at MICT CFS's cost, cooperate with MICT CFS or its insurers, in the defence, settlement and/or counter claim of such Customer Claim
- (ii) Delay – Exclusion of Liability

MICT CFS shall not be liable for any costs, expenses, damages or losses caused directly or indirectly by delay in loading, unloading, receiving, delivering or handling of any goods, Cargo, empty or laden Containers arising from any cause whatsoever.

- (iii) Damage – Exclusion of Liability

MICT CFS shall not be liable for any loss or destruction of or damage to Cargo, goods, empty or laden Containers, chassis or any other property whatsoever, if the Customer has breached any of the terms of the TOB.

(iv) Exclusion of Liability for Indirect or Consequential Damage or Loss

Notwithstanding any other provisions of these Business Terms, MICT CFS shall not be liable for any economic loss or loss of profit or bargain or for any indirect or consequential damages or loss whatsoever.

(v) Exclusions, Exemptions and Limitations in Bills of Lading

(a) MICT CFS, its officers and employees shall in addition be entitled to the same rights, immunities, exceptions, exemptions, restrictions and limitation of liability provisions of all contracts of affreightment as are set out in the Customer's favour in any bill of lading or similar document relating to the Cargo, goods or Containers in question.

(b) The Customer will include MICT CFS or arrange to have MICT CFS included as an express beneficiary, to the extent of the Container Terminal Services to be performed hereunder, of all rights, immunities and limitation of liability provisions of all contracts of all contracts of affreightment, as evidenced by its or the Customer's standard bills of lading, issued by the ocean carrier. In the case of ad valorem cargo, the ocean carrier agrees to hold MICT CFS harmless from and indemnify it against any resultant increase in liability.

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

(vi) Exclusions, Exemptions and Limitations are Cumulative

The exclusions, exemptions and limitations of liability contained herein set forth in or referred to are cumulative and are in addition to and not in substitution for or in limitation of any other clauses excluding, exempting or limiting liability as set forth in these Terms of Business or any other exclusions, exemptions or limitations of liability upon which MICT CFS may rely at law or in equity

(a) Notwithstanding the remaining provisions of these Terms of Business the maximum aggregate liability of MICT CFS to the Customer in any calendar year regardless of the cause of such claim and number of incidents shall in no circumstances exceed USD 10,000 provided that all amounts payable under any relevant insurances held by the Customer against any Customer claims shall be paid in full to MICTCFS within fourteen (14) days of receipt of the same by the Customer from the relevant insurer of the Customer. MICT CFS shall also not be liable for any claim with a value of less than two thousand United States Dollars US\$ 2,000.

- (b) Save as provided in this Clause, MICT CFS shall not be under any liability to the Customer whether in contract, tort or otherwise in respect of the use of the Container Freight Station and the provision of the Container Freight Station Services for any death, personal injury, damage or loss resulting from the use of the Container Freight Station and the provision of the Container Freight Station Services or from any work done in connection therewith.
- (c) MICT CFS shall not be responsible for or liable in any way for, any damage or loss suffered Whilst Customers property outside the premises of the Container Freight Station.
- (d) MICT CFS will not be responsible or liable for any incorrect or delayed delivery of any Container which is insufficiently, incorrectly or otherwise not properly marked and/or in respect of which full and complete particulars in respect of such delivery have not been provided to MICT CFS.
- (e) MICT CFS shall not, under any circumstances, be responsible for or liable in any way for any damage to Containers AND OR CARGO or their contents caused by rust, rain, typhoon, flood, tempest, lightning, fire or any similar event or occurrence.

### 5.3. **Weather Damage**

MICT CFS will not be responsible for damage to Containers AND OR CARGO or contents caused by the weather when such Containers AND OR CARGO are being stored in the Container Freight Station or during transit between Container Freight Station and any other place outside the limits of The Container Freight Station.

### 5.4. **Customer's Risk**

Cargo which, because of its inherent nature is subject to deterioration, shrinkage, oxidization, wastage, decay and glass, liquids, and fragile articles will be accepted only at the Customer's sole risk for any loss or damage that may occur despite accepted practices for the care of cargo.

### 5.5. **Transfer of Risk**

The custody of the Containers and OR Cargo will be transferred to MICT CFS as follows:

- (i) For export / import / coastal Containers AND OR / Cargo: Upon Inward Entry in the Container Freight Stations gate according to the relevant equipment interchange receipt or CARGO INTERCHANGE DOCUMENTS to be issued by MICT CFS, until outward Exit from the Container Freight Stations gate according to the relevant EIR / CARGO INTERCHANGE DOCUMENTS<sup>5</sup> to be issued by MICT CFS.

### 5.6. **Compulsory Removal of Goods**

- (i) MICT CFS may, by written notice to the Customer, at the Customer's sole cost and expense, require the removal of those goods that are at the Container Freight Station at MICT CFS after the expiration of the free period stipulated in the MICT CFS "Standard Published Tariff" (as defined below); and the Customer, upon receipt of such notice, shall remove the goods forthwith from MICT CFS.



- (ii) MICT CFS may at the risk and expense of the Customer, remove, store or relocate:
  - a. Any goods that are left at the Container Freight Station beyond the free period stipulated in the MICT CFS "Standard Published Tariff".
  - b. Any goods that, in the opinion of MICTCFS , are likely to contaminate or endanger other goods;
  - c. Any goods which, in the opinion of MICT CFS, are received by MICT CFS AND not packed in such a manner that they will withstand handling while in transit;
- (iii) Further, MICT CFS may, without responsibility for demurrage, DETENTION, loss or damage:
  - a. Refuse to permit the goods to be shipped; or
  - b. Have the goods repacked at the expense of the Customer.

#### 5.7. Insurance

- (i) MICT CFS is under no obligation to maintain insurance of Containers, Cargo or contents of Containers of the Customer.
- (ii) The Customer shall:
  - (a) Take out and maintain P&I Insurance in respect of its Container / CARGO, the later from a Club being a member of the International Group of P& I Clubs, together with insurances adequate to cover its liabilities under these TOB. As regards CARGO the Customer is required to take out and maintain due and adequate insurance for CARGO and or any other property (Placed under the Custodianship of MICT CFS) from a first class INSURER to ensure that all CUSTOMER interests as regards INSURANCE are well catered to whilst his property is within or outside the precincts of MICT CFS.
  - (b) If so requested, provide MICT CFS with a copy of certificate of insurance confirming that these requirements have been complied with. Such request or absence of such a request shall in no way be construed as waiving the Customer's obligations to arrange insurance required by law or under these TOB.
  - (c) MICT CFS reserves the right to not allow ENTRY of ANY CUSTOMER PROPERTY WITHOUT INSURANCE in respect of its Container and or CARGO, the later from a Club being a member of the International Group of P& I Clubs, together with insurances adequate to cover its liabilities under these TOB.

#### 5.8. General

- (i) It is mandatory for the Customer shall follow all common guidelines concerning operational, security and safety matters that MICT CFS may issue from time to time in the interest of the business.

- (ii) The Customer shall manage and control the movement of its equipment within the Container Freight Station with all due care and skill such that the equipment do not cause any damage to the Container Freight Station or persons or property on or in the vicinity of the Container Freight Station;
- (iii) The Customer shall provide arrange for the delivery of the Containers or Cargo to the Container Freight Station in accordance with the cut-off procedures of the Container Freight Station.

#### 5.9. **Unauthorised Access to Container Freight Station**

- (i) MICT CFS will use reasonable endeavours to enforce strict controls to prevent unauthorised access to the Container Freight Station.
- (ii) The Customer shall enforce all required security controls on its employees, contractors, and sub contractors whilst engaging and doing business with the Container Freight Station in order to prevent unauthorised access to the Container Freight Station.

#### 5.10. **Force Majeure Event**

- (i) A party shall not be liable for any failure to perform its obligations under these TOB caused by Force Majeure Event provided it gives prompt notification to the other party of (i) the event of Force Majeure Event and its likely duration (ii) the obligation(s) which are affected, and how affected, and provided that it takes all reasonable steps to mitigate the effects of Force Majeure Event.
- (ii) During the occurrence of a Force Majeure Event, if MICT CFS continues to perform services, the Customer shall be liable to pay for the services at the agreed rates, as if no Force Majeure Event had occurred.
- (iii) For the purpose of these Business Terms, "**Force Majeure Event**" means any event or circumstance or combination of events whenever occurring which is directly caused by or results from an event described below for so long as such event or the inability to perform continues, and:
  - (a) Is outside the control of the party affected by the Force Majeure Event;
  - (b) Could not be avoided, prevented or overcome with reasonable foresight, prudence and diligence or otherwise by taking action according to good industry practices; and
  - (c) Materially prevents, hinders or delays performance of all or a material part of the obligations of the party affected by the Force Majeure Event;

Without limiting the generality of the above and subject to the obligation of the party affected to make all reasonable efforts to prevent, minimise and thereafter mitigate any delays or costs occasioned by any Force Majeure Event, a Force Majeure Event shall include, but not be limited to, any act of God, act of public enemies, war, warlike acts, terrorism, restraint of governments, princes or peoples of any nation, riots, strikes, lockouts, go slow, or other industrial action, insurrections, civil commotion, civil disobedience, fire,

restrictions due to quarantines, epidemics, storms or any other causes beyond the reasonable control of the party claiming an event of Force Majeure.

## 6. INVOICING AND PAYMENT

- 6.1. Unless otherwise agreed in writing all Business Transactions with MICT CFS shall be on CASH & CARRY basis, NO CREDIT.
- 6.2. The Customer shall pay tariff as per the scale of rates ("**Standard Published Tariff**") prevailing effective **March 1<sup>st</sup> 2017** and amended from time to time and available at <http://dpworldmundra.com/php/tariff.php?catId=OTQ=&superId=NjM=&masterId=NjY=> (CFS **TARIFF Link**) "**Notification**" and as applicable as on the date that the Customer avails services at MICT CFS . The Notification forms an integral and operative part of these Business Terms.
- 6.3. Unless otherwise agreed in writing. All sums payable by the Customer as set out in the invoices raised by MICT CFS shall be recovered immediately from the advance deposit amount, A Standard one week Billing Cycle deposit maintained by the Customer with MICT CFS. In the event of any invoice is unpaid for whatsoever reasons, without prejudice to any other rights which MICT CFS shall have under these Terms of Business or at law, the Customer shall pay MICT CFS interest whether before or after judgment, at a rate equal to SBI PLR rate plus 2% per annum in the currency of the invoice, on the unpaid amount, from the date of invoice until the date of actual payment received by MICT CFS.

## 7. DISPUTE RESOLUTION

- 7.1. Any dispute or difference arising between the Parties out of or in connection with this TOB shall promptly and in good faith be negotiated with a view to its amicable resolution and settlement.

## 8. LAW AND JURISDICTION

- 8.1. This TOB shall be governed by and construed in accordance with the laws of India.
- 8.2. Any dispute arising out of or connection with this TOB, not resolved between the parties as per clause above, shall be referred to arbitration in Mumbai, India in accordance with the provisions of the Arbitration & Conciliation Act 1996 or any statutory modification or re-enactment thereof.
- 8.3. The reference shall be to one arbitrator mutually agreed upon between the parties. In the event that parties cannot agree upon the sole arbitrator within a period of 30 days from the date when one of the parties gives notice to the other party of its intention to refer the dispute to arbitration, the sole arbitrator shall be appointed in the manner set out in the Arbitration and Conciliation Act, 1996.
- 8.4. Judgment upon the award rendered may be entered in any court having jurisdiction or application may be made to such court for a judicial acceptance of the award and an order of enforcement, as the case may be.
- 8.5. The parties shall use every reasonable endeavor to resolve disputes between them in the shortest possible time consistent with the proper presentation to the expert or arbitration tribunal of their submissions and evidence. The parties will in particular seek, in the absence of any reasonable excuse, to make such submissions and present such evidence within a period of thirty days from the commencement of the proceedings. In the event of unreasonable delay by either party, the expert or the arbitration tribunal shall be entitled to make an award even if that party has failed to make or complete its submissions.

- 8.6. Any disputed invoice shall be dealt with separately independent of the advance deposit. All such deposit payments shall be subject to statutory deductions on account of income tax, provided however that income tax shall not be deducted by the Customer where MICT CFS furnishes adequate proof of exemption from income tax as per rules applicable.
- 8.7. If any tax and/or public tariff adjustment (including but not limited to consumption tax, value-added tax and/or goods and services tax) during the period of enforcement of TOB becomes applicable to or is imposed on the provision of the Container Freight Station Services, the Customer shall, in addition to the rates and tariffs, also pay to MICT CFS for an amount equal to such tax or adjustment.
- 8.8. MICT CFS may, at its sole discretion, agree to collect some or all of amounts due from the Customer from other persons on behalf of the Customer, provided always that by such agreement MICT CFS shall not in any way affect the liability of the Customer for such amounts.
- 8.9. Subject to the provisions of Clause 7, the courts at Mumbai shall have exclusive jurisdiction.

## **9. EDI SYSTEM**

- 9.1. This Clause 7 shall apply (without prejudice to the other Clauses in these Terms of Business) only where MICT CFS has agreed in writing with the Customer for the partial or exclusive transmission and interchange of Messages between the parties by means of an EDI System.
- 9.2. Upon such agreement, the Customer and MICT CFS shall become subscribers to the Intermediary Service and shall exchange all identification details and similar information to enable each party to effectively utilise the Intermediary Service.
- 9.3. **Application**
  - (i) Until such time as the parties mutually agree that the EDI System may be used exclusively, it is agreed that the EDI System shall be operated in parallel with an accepted manual system. In case of inconsistencies, any Message transmitted through the EDI System shall prevail.
  - (ii) MICT CFS shall determine and monitor the progress of the development, implementation and priority of the EDI System.
  - (iii) All Message Transmissions must properly identify the sender and recipient and comply in all respects with the User Manuals and such of the Intermediary Service standard conditions as may be applicable from time to time.
  - (iv) If the sender issuing a Message Transmission requires a confirmatory receipt and does not receive the same, the original Message should be re-transmitted until a receipt is received.
  - (v) The Intermediary Service mailbox receiving date and time of the Message (or of the first or original Message in case of repeated transmission of the same Message) shall be treated as the receiving date and time of the Message by the recipient.

#### 9.4. **Message Data Log**

- (i) The parties shall maintain (without modification) a Message Data Log including details of times of transmission and examination of the Intermediary Service mailbox. Data contained in the message Data Log shall be retained by way of record for a period of not less than twelve (12) months.
- (ii) The Message Data Log may be maintained on computer media or other suitable means provided that, if it is necessary to do so, the data must be capable of being readily retrieved and presented in human readable form.
- (iii) Each of the parties shall be responsible for making such arrangements as may be necessary for the data contained in its Message Data Log to be prepared and maintained as a correct record of each Message Transmission and Message Retrieval.
- (iv) The parties acknowledge that in the event of any complete or partial breakdown or failure of the EDI System and/or the Intermediary Service, they will take all necessary steps to ensure the continued transmission and receipt of relevant messages, notices and information by alternative and/or additional means such that the operation of these Terms of Business is not adversely affected.
- (v) MICT reserves the right to amend the User Manuals from time to time, such amendment to be notified to the Customer at which time the amendment shall become immediately operative.

#### 9.5. **Security of Messages**

Each of the parties shall:

- (i) Take reasonable care in so far as it is within its power to do so to ensure that Messages are secure and that unauthorised access to its EDI System, Message Data Log and the Intermediary Service system is prevented;
- (ii) Ensure that Messages containing confidential information as designated by the sender of the Message are maintained by the recipient in confidence and are not disclosed to any person not otherwise authorised or used by the recipient outside the terms imposed by the sender. Any authorised disclosure to a third party shall be made only after getting a prior written approval of MICT CFS;
- (iii) Apply special protection, where permissible, by encryption or by other agreed means, to those Messages which the parties agree should be so protected. Unless the parties otherwise agree, the recipient of a Message so protected shall use at least the same level of protection for any further transmission of such Message.
- (iv) Where Edi Messages transferred through FTP option. Both the parties should take precautionary

measures to prevent transfer of Virus, Malware, Ransomware. Etc. through FTP server.

#### 9.6. Integrity of Messages

- (i) The parties accept the integrity of all Messages and agree to accord these the same status as would be applicable to notices or information sent other than by electronic means, unless such Messages can be shown to have been corrupted as a result of technical failure on the part of any machine, system or transmission by the Customer.
- (ii) Where there is evidence that a Message has been corrupted or if any Message is identified or capable of being identified by the sender as incorrect, it shall be re-transmitted as soon as practicable with a clear indication that it is a corrected Message.
- (iii) The sender is responsible and shall use its best endeavours to ensure that Messages are complete and correct. Notwithstanding the foregoing, the recipient must immediately inform the sender if it is, or should in all the circumstances, be reasonably obvious to the recipient that the transmission of such Message is incomplete, incorrect or otherwise deficient and in no event shall any of the parties be liable under this Clause 7.6(iii) for the consequences of any such deficiency
- (iv) If the recipient has reason to believe that a Message is not intended for it, it should take reasonable action to inform the sender and should delete the information contained in such a Message from its system apart from the Message Data Log.

9.7. Limitation on Liability - Without prejudice to the provisions of Clause 5 of these Terms of Business, none of the parties shall be responsible for any direct, indirect or consequential loss or damage suffered by the other party or any third party howsoever arising solely as a consequence of the use of the EDI System, whether caused by the parties or otherwise, including but not limited to the use or misuse of the User Manuals, the interruption or failure of the Intermediary Service, the EDI System, machines or transmission lines contributory thereto, or any other failures whether or not attributable to human error.

#### 9.8. Termination

- a) The use of the EDI System by the parties may be terminated (without prejudice to the continuing application of the remaining clauses of these Terms of Business) by one party giving to the other not less than three (3) months notice, whereupon the transmission of any message, notice or information between the parties shall revert to the existing manual or other agreed system.
- b) Notwithstanding the termination of the use of the EDI System for any reason:-
  - (i) Each of the parties shall complete and/or implement any action required by any Message sent prior to such termination; and
  - (ii) The rights and obligations of each of the parties as to the maintenance of a Message Data Log and the Security of Messages shall continue after such termination.

**10. MISCELLANEOUS**

- 10.1. Amendment: MICT CFS reserves the right to amend the Business Terms. It is understood and agreed that the Terms of Business as on the date that the Customer shall avail the Container Freight Station Services shall apply and govern the relationship between MICT CFS and the Customer.
- 10.2. Relationship: It is expressly agreed and understood that the performance of Container Freight Station Services by MICT CFS does not constitute any employer - employee relationship or partnership or agency. The Customer shall not be entitled to commit or bind MICT CFS in any manner
- 10.3. Assignment: The Customer shall not be entitled to assign the benefit or burden of these Terms of Business without the prior express written permission of MICT CFS.
- 10.4. Sub-contract: MICT CFS expressly reserves the right to engage the service of sub-contractors for the performance of the Container Freight Station Services or any service ancillary or incidental to the performance of the Container Freight Station Services.
- 10.5. Severability: If any provision or part of a provision of these Terms of Business is, or is found, by any authority or court of competent jurisdiction to be, invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions or parts of such provisions of these Business Terms, all of which shall remain in full force and effect.
- 10.6. Waiver: All waivers under these Terms of Business shall be in writing, and failure at any time by MICT CFS to require the Customer's performance of any obligation under these Terms of Business shall not affect the right of MICT CFS subsequently to require performance of that obligation.
- 10.7. In case of specific contracts entered into between the Customer and the Container Freight Station the Container Freight Station Service Agreement provisions shall supersede the Terms of Business to the extent covered by the Container Freight Station Services Agreement and for matters not covered under the CFSSA the terms set out in the TOB shall apply.

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