



百通航運有限公司
PACIFICTOP SHIPPING LTD

Rm 802, Level 8, Millennium City 6,
No. 392 Kwun Tong Road, Kwun Tong, Kowloon, Hong Kong
Tel: (852) 2520 0186 Fax: (852) 2529 4747
E-mail: top001@pacifictop.com.hk Web Site: www.pacifictop.com.hk

STANDARD TRADING CONDITIONS

Effective 11th October 2010

The Customer's attention is drawn to the fact that the liability of the Company is limited in respect of loss or damage to the goods and delay.

DEFINITIONS

In these Conditions the following words shall have the meaning ascribed thereto, if not inconsistent with the subject matter or context: -

- | | | |
|-------|-----------------|--|
| (i) | Company | Pacifictop Shipping Ltd, or any subsidiary or associated company. |
| (ii) | Conditions | the entire undertakings, terms and clauses contained herein. |
| (iii) | Container | Includes any container, flexi tank, trailer, transportable tank, flat, pallet or any article of transport used to carry or consolidate goods and any equipment of or connected thereto. |
| (iv) | Customer | any person at whose request or on whose behalf the Company undertakes any business or services, including advice or information. |
| (v) | Dangerous Goods | any goods classified as dangerous by the International Maritime Dangerous Goods Code (I M C O) issued by the Inter-Governmental Maritime Consultative Organization, or goods likely in the opinion of the Company or their Agents to cause damage to other goods, persons or property. |
| (vi) | Goods | Property of any category, including packaging, containers, equipment, motor vehicles, unaccompanied luggage or goods of any other description, not supplied by or on behalf of the Company and in respect of which the |



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Company undertakes to provide a Service.

- (vii) Instructions a statement of the Customer's specific requirements.
- (viii) Owner Includes the owner, shipper or consignee of the goods or any other person who has or may acquire an interest in the goods and anyone acting on their behalf.
- (ix) Person includes an individual, a firm and a body corporate.

CONDITIONS

1 Introduction

These Conditions shall apply to all business undertaken by the Company including any advice, information or service provided whether gratuitously or not. All other terms and conditions are hereby expressly excluded. No servant or agent of the Company has any authority to add to or vary these Conditions, unless such addition or variation is in writing and signed by a duly authorized representative on behalf of the Company.

The Company shall be entitled to perform any of their obligations hereunder themselves or by their subsidiary or associated companies or by any other person, firm or company carrying out the services contracted for. Any contract to which these conditions apply is made by the Company on its own behalf and also as agents for and on behalf of any subsidiary or associated company or any Servants or Agents of the Company and any such company shall be entitled to the benefit of these Conditions. The Customer will not seek to impose upon any such company a liability greater than that accepted by the Company under these Conditions.

2 As Agent or As Principal

The Company shall be entitled to enter into contracts as Agent for the Customer or act as the Principal to provide services

- (a) for the carriage of the goods by any route or by any means,
- (b) for the storage, packing or handling of the goods by any persons at any place or places and for any length of time;

and to do such acts as may be necessary or incidental thereto at the absolute discretion of the Company and to depart from the Customer's instructions in any respect if in the opinion of the Company it is necessary or desirable to do so in the Customer's interests.



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The Customer hereby expressly authorizes the Company to do such acts and enter into such contracts as are referred to in Clause 2 above hereof on behalf of the Customer so as to bind the Customer by such acts and contracts in all respects, notwithstanding any departures from the Customer's instructions as aforesaid.

3 Obligations of Customer

The Customer warrants:

- a) that he is either the Owner or the authorized agent of the Owner of the goods to which any business relates, and further warrants that he is authorised to accept and is accepting these Conditions not only for himself but also as agent for and on behalf of the Owner of the goods;
- b) that he shall give sufficient and executable instructions;
- c) that the description and particulars of any consignments furnished by or on behalf of the Customer are accurate;
- d) that the Goods are properly packed and labeled, except where the Company has accepted instructions in respect of such services.

4 Quotations, Charges, Freight

- (a) Quotations are given on the basis of immediate acceptance and subject to the right of withdrawal or revision. If at any time there is any alteration in the rates of freight, carriage, handling, storage, insurance premiums or other charges applicable to the goods, quotations and charges shall be subject to revision accordingly with or without notice.
- (b) Notwithstanding that it may be agreed between the Company and the Customer that the Company's charges in respect of any transaction shall be payable by the consignee or any other person, if such consignee or other person shall fail to pay the same or any part thereof within a reasonable time of due demand being made on them, the Customer shall be liable to the Company therefore without prejudice to the Company's rights against such consignee or other person.
- (c) In respect of goods carried by sea, freight is deemed to be earned on shipment and is payable vessel and/or goods lost or not lost. Freight paid is not returnable under any circumstances whatsoever.



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- (d) The Customer shall pay to the Company in cash or as agreed all sums immediately when due without deduction or deferment on account of any claim, counterclaim or set-off.
- (e) All sums due to the Company from the Customer or, in respect of (b) above, the consignee or such other person shall carry interest at 2 % per month or part thereof from the date when such sums become due until the date of payment.
- (f) Company may appoint any person as its agents to perform any of its obligations or exercise any of its powers under this Standard Trade Conditions; and other person or third party (including any debt collection agency or solicitor) to collect any or all indebtedness owed by the defaulter to Company and the defaulters shall be responsible for all reasonable costs and expense which may be reasonably incurred by Company for that purpose on each occasion.
- (g) The defaulters shall pay to Company forthwith on demand costs on a full indemnity basis and all other reasonable cost and expenses reasonably incurred by Company for enforcement of this Standard Trade Condition.

The defaulters shall be liable for settling such outstanding balances. Company shall be entitled to charge finance charges at the rate(s) as Company may from time to time at its discretion specify on any unpaid sums on a daily basis from the overdue date or from the date of incurrance of discovery of the relevant indebtedness until Company shall have actually received payment (whether before or after judgment).

5 Special Instructions

- (A) The Company shall not be obligated to make any declaration for the purpose of any statute or contract as to the nature or value of any goods or as to any special interest in delivery, unless required by law or expressly instructed by the Customer in writing.
- (b) There is not an obligation on the Company to arrange for the goods to be carried, stored or handled separately from the goods of other customers.



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- (c) The Customer shall comply with the rules which are mandatory relating to the carriage or storage of goods of a dangerous nature and shall in any case inform the Company in writing of the exact nature of the danger before goods of dangerous nature are taken in charge by the Company, and if need be indicate the precautions to be taken.
- If the Customer fails to provide such information and the Company is unaware of the dangerous nature of the goods and the necessary precautions to be taken and if, at the time, they are deemed to be a hazard to life or property, they may at any place be unloaded, destroyed or rendered harmless as circumstances may require, without compensation, and the Customer shall be liable for all loss or damage, delay or expenses arising out of their being taken in charge, or their carriage, or of any services thereto.
- If any goods accepted for transportation or storage, with the knowledge of the Company as to their dangerous nature, shall become a danger to the vehicle, vessel, property, cargo or persons, they may be unloaded or landed at any place or destroyed or rendered innocuous, without liability on the Company, except for General Average, if any.
- (d) Unless by special arrangement previously made in writing, the Company will not accept business or provide services in respect of bloodstock or livestock, valuable goods, bullion, bank notes, negotiable securities, title deeds, bonds, stamps, documents, manuscripts or plans. Should any Customer nevertheless deliver any such goods to the Company or cause them to handle or deal with any such goods other than under special arrangements previously made in writing, the company shall not be liable for any loss or damage to or in connection with the goods, however caused.
- (e) The Customer undertakes not to tender for carriage or storage any Goods that require temperature control without previously giving written notice of their nature and particular temperature range to be maintained. In the case of a temperature controlled Container stuffed by or on behalf of the Customer, the Customer further undertakes that the Container has been properly pre-cooled or pre-heated as appropriate, that the Goods have been properly stuffed in the Container and that its thermostatic controls have been properly set by the Customer. If the above requirements are not complied with, the Company shall not be liable for any loss of or damage to the Goods caused by such non-compliance.
- (f) No insurance shall be effected except upon express instructions given in writing by the Customer and all insurances effected by the Company are subject to the usual exceptions and conditions of the Insurance Company or Underwriters taking the risk. The Company shall not be



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obligated to affect a separate insurance on each consignment, but may declare it on an open or general policy. Any claim on the policy and any negotiations with or proceedings against the insurers shall be the responsibility of the Customer and not of the Company and should the Insures dispute their liability for any reason, the Insured shall have recourse against the Insurers only and the Company shall not be under any responsibility or liability whatever in relation to such policy, notwithstanding that the premium upon the policy may not be at the same rate as that charged by the Company or paid to the Company by its customers.

- (g) Unless otherwise previously agreed in writing or otherwise provided for under the provisions of a document signed by the Company, instructions relating to the delivery or release of Goods against payment or against surrender of a particular document shall be in writing and the Company's liability shall not exceed that provided for in respect of misdelivery of Goods.

6 General Indemnities

- (a) The Customer and Owner shall defend, indemnify and hold harmless the Company against all liability, loss, damage, costs and expenses arising from
- (i) from the nature of the goods unless caused by the Company's negligence,
 - (ii) out of the Company acting in accordance with the Customer's or Owner's instructions, or
 - (iii) arising from a breach of warranty or obligation by the Customer or arising from the negligence of the Customer or Owner.
- (b) Except to the extent caused by the Company's negligence, the Customer and Owner shall be liable for and shall defend, indemnify and hold harmless the Company in respect of all duties, taxes, imposts, levies, deposits and outlays of whatsoever nature levied by any Authority and for all payments, fines, costs, expenses, loss and damage whatsoever incurred or sustained by the Company in connection therewith.
- (c) The Company provides advice and information, in whatever form it may be given, for the Customer only and the Customer shall defend, indemnify and hold harmless the Company for all liability, loss, damage, costs and expenses arising out of any other person relying on such advice or information.



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- (d) (i) The Customer undertakes that no claim be made against any servant, sub-contractor or agent of the Company which imposes or attempts to impose upon any of them any liability whatsoever in connection with the Goods, if any such claim should nevertheless be made, to indemnify the Company against all consequences thereof.
- (ii) Without prejudice to the foregoing, every such servant sub-contractor or agent shall have the benefit of all provisions herein, as if such provisions were expressly for their benefit. In entering into this contract the Company, to the extent of those provisions, does so not only on its behalf, but as agent and trustee for such servants, sub-contractors and agents.
- (iii) The Customer shall defend, indemnify and hold harmless the Company from and against all claims, costs and demands whatsoever and by whomsoever made or preferred in excess of the liability of the Company under the terms of these Conditions and without prejudice to the generality of this clause this indemnity shall cover all claims, costs and demands arising from or in connection with the negligence of the Company, its servants, sub-contractors and agents.
- (iv) In this clause, "sub-contractors" includes direct and indirect sub-contractors and their respective servants and agents.

7 Liberties and Rights of the Company

- (a) The Company shall have a general lien on all goods or documents relating to goods in their possession, for all sums due at any time from the Customer or Owner, and shall be entitled to sell or dispose of such goods or documents at the expense of the Customer and apply the proceeds in or towards the payment of such sums on 28 days notice in writing to the Customer.
- (b) If delivery of the Goods or any part thereof is not taken by the Customer or Owner at the time and place when and where the Company, or any other person whose services the Company makes use of, is entitled to call upon the Customer or Owner to take deliver thereof, the Company or such other person shall be entitled to store the Goods in the open or under cover at the sole risk and expense of the Customer. Notwithstanding the above, and at the expense of the Customer, the Company shall be entitled to sell or dispose of the Goods:
- (i) on 21 days notice in writing to the Customer or where the Customer cannot be traced after the goods have been held by the Company for 90 days, all goods which in the opinion of the



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Company cannot be delivered either because they are insufficiently or incorrectly addressed or because they are not collected or accepted by the consignee or for any other reason, and

- (ii) without notice, perishable goods which are not taken up immediately on arrival or which are insufficiently or incorrectly addressed or marked or which in the opinion of the Company would be likely to perish in the course of the carriage, storage or handling.
- (c) The Company shall be entitled, except insofar as has been otherwise agreed in writing, to enter into contracts on behalf of itself or the Customer and without notice to the Customer
- (i) for the transport, storage, packing, transshipment, loading and unloading or handling of Goods by any person at any place whether on shore or afloat and for any length of time,
 - (ii) for the transport or storage of Goods in containers or with other goods of whatever nature,
 - (iii) for the performance of its own obligations,
- and to do such acts as in the opinion of the Company may be necessary or incidental to the performance of the Company's obligations.
- (d) (i) The Company shall be entitled but under no obligation, to depart from the Customer's instructions in any respect if in the opinion of the Company there is good reason to do so in the Customer's interest and it shall not thereby incur any additional liability.
- (ii) The Company may at any time comply with the orders or recommendations given by any Authority. The responsibility of the Company in respect of the Goods shall cease on the delivery or other disposition of the Goods in accordance with such orders or recommendations.
- (e) Where the Company is acting as Agent on behalf of the Customer in arranging transportation, handling or storage of goods and where there is a choice of rates according to the extent or degree of liability assumed by carriers, warehouse operators or others, no declaration of value, where optional, will be made except under special arrangements previously made in writing; nor shall the Company be under any liability to the Customer by reason of having entered into any contract on behalf of the Customer whereby the extent or degree of the liability assumed by a carrier, warehouse operator or other party is in any respect excluded or limited save where such contract is entered contrary to specific written instructions given by the Customer and accepted by the Company.



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- (f) The Company shall have the liberty, with or without notice to the Customer, to:
- (1) use any means of transport or storage whatsoever,
 - (2) load or carry goods on any vessel,
 - (3) stow the goods on or under deck, whether containerized or not,
 - (4) transfer the goods from one conveyance to another, including transshipping or carrying the same on a vessel other than that originally intended or advertised,
 - (5) unpack or remove goods that have been loaded in or on a Container, Trailer, Flat or other unit load device, at any place, and forward the same in any manner whatsoever,
 - (6) proceed at any speed and by any route at their discretion, whether or not the nearest or most direct or customary or advertised route,
 - (7) stay at or proceed to any place whatsoever once or more often and in any order,
 - (8) load or unload the goods from any conveyance at any place,
 - (9) comply with any orders or recommendations given by any Government or Authority or an official of an Insurer of the vessel or conveyance employed by the Company, who has the right or purports to have the right to give orders or directions,
 - (10) permit the vessel to carry livestock, goods of all kinds, dangerous or otherwise, and sail armed or unarmed,

The Company may invoke the liberties set out above for any purposes whatsoever, whether or not connected with the carriage of goods. Anything done in accordance with this clause or any delay arising there from shall be deemed to be within the contractual obligations and shall not be a deviation of whatsoever nature or degree.

8 Unit Load Device

- (a) The Company may load goods on a Trailer or in a Container or other unit load device, which may be loaded together with other goods.
- (b) These Conditions shall govern the responsibility of the Company in connection with or arising out of the supply of a Container, Trailer or other unit load device, to the Customer, whether supplied before or after the goods are received by the Company or delivered to the Customer or Owner.
- (c) If a Container, Trailer or unit load device (hereinafter referred to as the unit) has been loaded by or on behalf of the Customer, the Company shall not be liable for loss or damage to the goods.
 - (i) caused by the manner in which the unit has been loaded,
 - (ii) caused by the unsuitability of the goods for carriage in the unit,
 - (iii) caused by the unsuitability or defective condition of the unit



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provided that where the unit has been supplied by or on behalf of the Company this paragraph (iii) shall only apply if the unsuitability or defective condition arose without any want of due diligence on the part of the Company or would have been apparent on reasonable inspection by the Customer at or prior to the time when the unit was loaded.

- (iv) If the unit is not sealed at the commencement of the transportation except where the Company has agreed to seal the unit.

The Customer shall defend, indemnify and hold harmless the Company against loss, damage, claim, liability or expense whatsoever arising from matters covered by (i), (ii) & (iv) above, also if the damage would have been apparent on reasonable inspection as stated in (iii).

- (d) Where the Company is instructed to provide a Container or Trailer, in the absence of a written request to the contrary the Company is not under an obligation to supply a unit of a particular type or quality.

9 Liability

When the Company act as Principal Carrier or Warehouse or Depot Operator utilising:

- (a) owned or sub contracted vehicles for the carriage of goods or;
(b) warehouses or depots for the storage of or consolidation/deconsolidation of goods,

the Company shall only be liable to the Customer or Owner for loss, damage, delay, non-delivery or misdelivery of or to the goods including any consequential loss or loss of market if it is proved that the loss, damage, delay, non-delivery or misdelivery occurred whilst the goods were in the actual custody and under the control of the Company and was caused by any negligence or breach of duty on the part of the Company.

The Company shall only be liable to the Customer or Owner for consequential loss or delay or loss of market if a special interest in delivery has been declared in writing by the Customer prior to making the contract and the Company has accepted such liability in writing.

In any event the Company shall be relieved of liability for any loss, damage or delay if such loss, damage or delay was caused by:

- (i) an act or omission of the Customer, Owner or person other than the Company acting on behalf of the Customer or Owner or from whom the Company took the goods in charge.
(ii) insufficiency or defective condition of the packaging or marks and/or numbers.
(iii) handling, loading, storage or unloading of the goods by the Customer



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- or Owner or any person acting on their behalf
- (iv) inherent vice of the goods.
 - (v) strike, lockout, stoppage or restraint of labour, the consequences of which the Company could not avoid by the exercise of reasonable diligence.
 - (vi) Fire, flood or storm.
- (vii) any cause or event which the Company could not avoid and the consequences whereof could not be prevented by reasonable diligence.

The burden of proving that the loss or damage was due to one or more of the above causes or events shall rest upon the Company. When the Company establishes that in the circumstances of the case, the loss or damage could be attributed to one or more of the causes and events specified above, it shall be presumed that it was so caused. The claimant shall, however, be entitled to prove that the loss or damage was not, in fact, caused wholly or partly by one or more of these causes or events.

Where the Company is acting on behalf of the Customer but in any circumstance enters in to a Contract as Principal with any other person for the carriage, storage, packing or handling of the Customer's goods, and without prejudice to exceptions and limitations contained herein the Company shall be entitled to the benefit of all exceptions and limitations of the actual carrier or person storing or handling the goods and where such exceptions and limitations are inconsistent with those contained herein the Company shall be entitled to the benefit of those most favourable to them. The Customer shall not seek to impose on the Company greater liability than that accepted by the actual carrier or person storing or handling the goods.

10 Limitation of Liability

Without prejudice to Clause 9 of these Conditions, in no case shall the liability of the Company however arising, and notwithstanding that the cause of loss or damage may be unexplained, exceed:

- (a) the value of the relevant goods, or
- (b) a sum at the rate of 2 Special Drawing Rights as defined by the International Monetary Fund (SDR's) per kilo of the gross weight of the goods, calculated as at the date when the claim is received by the Company in writing, or
- (c) 50,000 SDR's in respect of any one consignment or contracted service,

Whichever of the above amounts shall be the least.

Compensation shall be calculated by reference to the invoice value of the Goods plus freight and insurance if paid. If there is no invoice value for the



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Goods, the compensation shall be calculated by reference to the value of such Goods at the place and time the Company commences to provide the service in respect of such Goods. The value of the Goods shall be fixed according to the current market price or, if there is no commodity exchange price or current market price, by reference to the normal value of the Goods of the same kind and quality.

By special agreement in writing and on payment of additional charges, higher compensation may be claimed from the Company not exceeding the value of the Goods or the agreed value, whichever is the lesser.

11 Notice of Loss and Time Bar

Without prejudice to Clauses 9 and 10 of these Conditions

- (a) any claim by the Customer or Owner against the Company shall be made in writing and notified to the Company:
- (i) in the case of damage to, or partial loss of, the goods within 3 days of the delivery,
 - (ii) in the case of non-delivery within 7 days of the date when the goods should have been delivered, and
 - (iii) in any other case within 7 days of the event giving rise to the claim.
- (b) the period of limitation for an action relating to any claim by a Customer or Owner against the Company shall be 9 months commencing
- (i) in the case of damage to, or partial loss of, the goods from the date of delivery thereof,
 - (ii) in the case of non-delivery from the date that the goods should have been delivered, and
 - (iii) in any other case from the date of the event giving rise to the claim,
- provided that such date shall not be included in the period of limitation.

12 Miscellaneous

If the Company is subject to legislation compulsorily applicable to any business undertaken, the Company shall be entitled to all the rights, immunities, exceptions and limitations conferred on the Company by virtue of such legislation, and these Conditions shall be void to the extent that they are inconsistent with such rights, immunities, exceptions and limitations, but no further.

If any provision in these Conditions is held to be invalid or unenforceable by any court or regulatory or self-regulatory agency or body, such invalidity or unenforceability shall attach only to such provision. The validity of the remaining provisions shall not be affected thereby and any act or contract to which they apply shall be carried out as if such invalid or unenforceable



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provision were not contained herein.

Any notice served by post shall be deemed to have been given on the third day following the day on which it was posted to the address of the recipient of such notice last known to the Company.

The defenses and limits of liability under these Conditions shall apply in any action against the Company whether such action be founded in contract or tort.

13

Jurisdiction and Law

These Conditions, and any act or Contract to which they apply, shall be governed by the Law of Special Administrative Region of Hong Kong and all disputes arising out of or in connection with any such act or Contract shall be subject to the jurisdiction of the Courts of Special Administrative Region of Hong Kong.