

**OPTION 2 BILLING AGREEMENT
(CLIENT)**

This Option 2 Billing Agreement (“Agreement”) is made as of this ____ day of _____, 20____, between **HRCP II, L.L.C.**, a Virginia limited liability company (“HRCP II”) and _____ (“CLIENT”), as follows.

Recitals

R-1 HRCP II operates a pool of intermodal container chassis (the “Chassis Pool”) which serves the ocean marine terminals and ancillary facilities of the Port of Virginia. HRCP II provides an option (known as “Option 2”) under which HRCP II interchanges Chassis in the Chassis Pool directly to CLIENT’s designated motor carriers.

R-2 CLIENT has requested that HRCP II bill CLIENT directly for the motor carrier’s usage of Chassis.

R-3 The following terms shall have the following meanings in this Agreement:

“Chassis” shall mean Chassis which have been contributed to, or leased by, the Chassis Pool for use in over-the-road transportation of intermodal freight containers.

“HRCP II’s Website” means <http://www.portofvirginia.com/tools/trucker-resources/hampton-roads-chassis-pool/>

“Interchange Agreement” means the Chassis Interchange Agreement posted on HRCP’s Website stating the terms of the interchange of Chassis between HRCP II and motor carriers, as amended from time to time. HRCP II will provide a pdf and/or a hard/paper copy of the Interchange Agreement and all amendments thereto to CLIENT upon request.

“Terminals” shall mean Norfolk International Terminal, Virginia International Gateway, Richmond Marine Terminal, and Newport News Marine Terminal, and other chassis and container yards/depos operated by or on behalf of HRCP II.

“Use Period” shall mean the period beginning with the placement of CLIENT’s container on a Chassis, and ending at the time the Chassis is returned to HRCP II according to its rules and regulations.

Now, therefore, in consideration of the foregoing, the mutual promises stated below, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, HRCP II and CLIENT agree as follows:

ARTICLE 1: PAYMENT.

1.1 The rate for payments for use of a Chassis shall apply to each full and partial day of a Use Period.

1.2 Payments for CLIENT’s use of Chassis shall be sent to HRCP II at the address for notices provided in this Agreement on or before the thirtieth (30th) day after HRCP II submits the invoice for payment by CLIENT. Invoices shall be issued twice monthly, or with such other frequency as HRCP II may determine in its discretion.

1.3 Upon CLIENT's request, HRCP II will bill CLIENT for the use of the Chassis used to transport one or more of CLIENT's containers. CLIENT agrees to follow the reasonable rules and protocols for this billing process established by HRCP II or its contractors. HRCP II sets the rate for use of Chassis interchanged to motor carriers under Option 2 from time to time. The current rate for CLIENT for Option 2 is \$21.00 per day, plus tax, including on-terminal use. The terms and conditions and other charges relating to billing and payment for Chassis use under Option 2 are stated in the Interchange Agreement. CLIENT agrees to the terms of the Interchange Agreement relating to billing, payments, and related issues, including without limitation Sections 7, 9, 12, 14, and 20 of the Interchange Agreement.

ARTICLE 2: TERMINATION.

2.1 Either CLIENT or HRCP II may terminate this Agreement with or without cause by giving written notice to the other party of the intent to terminate this Agreement, and this Agreement shall terminate; provided, however, that such termination shall not terminate the parties' obligations incurred prior to the termination.

2.2 HRCP II may terminate this Agreement for cause if: (i) CLIENT commits a material breach of its obligations under this Agreement or fails to comply with a material requirement or duty hereunder, and fails to cure same within thirty (30) days after written notice of such breach; (ii) CLIENT fails to pay undisputed amounts billed to it for sums due hereunder and fails to cure same within ten (10) days written notice of such failure; and/or (iii) CLIENT enters or is placed in bankruptcy, trusteeship, liquidation, or similar proceeding, voluntarily or involuntarily.

ARTICLE 3: CONDITIONS ON USE OF CHASSIS.

3.1 CLIENT may from time to time use a Chassis for on-terminal use. Unless and until the Chassis is interchanged to a motor carrier, CLIENT shall be responsible for the Chassis and charges for its use pursuant to this Agreement.

3.2 Use of Chassis for on-terminal use shall be in accordance with, and may be limited by, HRCP II's policies and procedures as amended from time to time. Those policies and procedures may provide that HRCP II or Virginia International Terminals, LLC ("VIT") may remove/ground CLIENT's container(s) placed on a Chassis for on-terminal use under certain circumstances, including without limitation CLIENT's use of Chassis in excess of limits stated in the applicable policies and procedures. If a container belonging to CLIENT is so grounded, CLIENT shall pay the charge for the grounding to VIT according to VIT's Schedule of Rates.

3.3 If HRCP II notifies CLIENT in writing that a motor carrier is an Unauthorized Motor Carrier (defined below), then CLIENT shall take prompt measures to prohibit the Unauthorized Motor Carrier from transporting CLIENT's containers on chassis in the Chassis Pool. If CLIENT breaches this requirement, then CLIENT shall defend, indemnify and hold harmless HRCP II from and against all charges for use of the Chassis, and all claims, causes of action, liability, damage or loss arising out of the negligent acts or omissions of the Unauthorized Motor Carrier to the same extent the motor carrier is required to do so under its Interchange Agreement with HRCP II. An "Unauthorized Motor Carrier" is a Motor Carrier that HRCP II has not approved, or no longer approves to use Chassis in the

Chassis Pool. HRCP II shall not arbitrarily designate a motor carrier as an “Unauthorized Motor Carrier”.

ARTICLE 4: REPRESENTATIONS, WARRANTIES, AND COVENANTS.

EXCEPT AS EXPRESSLY CONTAINED IN THIS AGREEMENT, HRCP II DOES NOT MAKE, AND EXPRESSLY DISCLAIMS, ANY OTHER COVENANT, REPRESENTATION OR WARRANTY AS TO THE FITNESS, INCLUDING WITHOUT LIMITATION FITNESS FOR USE OR A PARTICULAR PURPOSE, MERCHANTABILITY OR CONDITION OF THE CHASSIS (INCLUDING WITHOUT LIMITATION TIRES AND TUBES) PROVIDED TO CLIENT.

ARTICLE 5: GENERAL PROVISIONS.

5.1 Applicable Law and Forum Selection. This Agreement and all provisions hereof shall be governed by the laws of the Commonwealth of Virginia, and this Agreement shall be deemed made in Virginia regardless of which party is the last to sign. CLIENT and HRCP II agree that the sole venue for all disputes, litigation, and claims between the parties based on or arising out of this Agreement shall be the Circuit Court for the City of Norfolk, Virginia or the United States District Court for the Eastern District of Virginia (Norfolk Division).

5.2 Successors and Assigns. This Agreement and the rights and obligations set forth herein shall bind and inure to the benefit of CLIENT and HRCP II’s respective successors and assigns.

5.3 HRCP II’s Agents and Designees. In performing its obligations under this Agreement, HRCP II may engage or appoint such agents or designees as HRCP II sees fit in its sole discretion, provided that HRCP II notifies CLIENT in writing of such engagement or appointment.

5.4 Assignment; Subleasing. CLIENT may not, in whole or in part, assign this Agreement.

5.5 Severability. Should any terms, covenant, condition or provision in this Agreement be held invalid, illegal or unenforceable, the remainder of this Agreement shall not be affected thereby and each term, covenant, provision or condition of the Agreement shall be valid and enforceable to the extent permitted by law.

5.6 Amendments and Rate Changes.

5.6.1 HRCP II shall have the right, from time to time, to amend the Interchange Agreement, this Agreement, and the rates charged hereunder. To amend the Interchange Agreement, HRCP II will post said amendment(s) on HRCP II’s Website and endeavor to email notice of the amendment to CLIENT. The amendment(s) shall be effective on the later of thirty (30) days after the posting on HRCP II’s Website or the effective date of the amendment(s) stated in the amendment itself. CLIENT agrees to review HRCP II’s Website regularly and to be bound by the provisions of such amendments to the Interchange Agreement.

5.6.2 HRCP II may also amend this Agreement and change the rates charged to CLIENT pursuant to this Agreement from time to time upon emailing notice of the rate change to CLIENT at the email address provided by CLIENT. The rate change shall be effective on the later of thirty (30) days after

the notice is sent to CLIENT or the effective date stated in the notice. If CLIENT does not agree to the amendments or rate changes, CLIENT may terminate this Agreement pursuant to Article 2 above.

5.7 Notices.

5.7.1 Except where only email notice is required under this Agreement, all notices permitted or required to be sent under this Agreement shall only be effective if in writing and if sent via one of the following methods to the addresses specified below: (i) personal delivery; (ii) certified mail, return receipt requested; or (iii) nationally recognized overnight delivery service, such as Federal Express. Notices may also be sent via email and shall be deemed effective upon successful transmission, provided that notice is also sent simultaneously via one of the other methods set forth above. Either party may change its notice address or facsimile number by providing written notice of such change in accordance with this paragraph.

If to CLIENT: **

Attn: _____

Telephone: _____

Email: _____

If to HRCP II:

Attn: Manager

1431 International Terminal Blvd.

Norfolk, VA 23322

Telephone: (757) 440-2892

aellermann@hrcp2.org

** CLIENT's notice information may be completed by CLIENT in its on-line registration for billing pursuant to this Agreement.

5.7.2 If electronic notice is permitted under this Agreement, such notice shall be effective if sent electronically to the addresses specified above. However, if the sending party receives a message or other notification indicating that an electronic transmission was unsuccessful, such as "delivery failure" or words to that effect, such electronic notice shall not be effective, and the sending party shall communicate such notice pursuant to Section 5.7.1 above. Either party may change its notice address for electronic notices by providing notice of such change in accordance with this paragraph.

5.8 Consequential Losses. In no event shall either party be liable to the other for loss of profits or incidental, consequential, or liquidated damages of any nature arising from or in connection with this Agreement.

5.9 No Joint Venture. This Agreement establishes a contract between HRCP II and CLIENT and shall not be construed to create a partnership or joint venture between HRCP II and CLIENT. CLIENT has no ownership rights or interest in the assets of the Chassis Pool or HRCP II.

5.10 Entire Agreement. This Agreement constitutes the entire agreement between HRCP II and CLIENT and supersedes all prior agreements or understandings, oral or written, between HRCP II and CLIENT with respect to the subject matter hereof.

5.11 Execution and Delivery. This Agreement may be accepted and delivered by CLIENT in connection with its on-line application and registration for billing pursuant to this Agreement on HRCP II's Website or HRCP II's billing vendor. When CLIENT's application/registration for such billing is

accepted by HRCP II or its vendor, this Agreement shall also be binding on HRCP II. HRCP II may also require CLIENT to sign a copy of this Agreement. Electronic images of signatures shall be binding, and this Agreement may be executed via counterpart signature pages.

Witness the following signatures and seals to this Option 2 Billing Agreement (CLIENT):

HRCP II, L.L.C.

CLIENT:

By: _____ (SEAL)
Name: _____
Title: _____

By: _____ (SEAL)
Name: _____
Title: _____

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