

Dated 6th day of November 2013

**DYNAMIC FREIGHT CO., LTD.
(as Mortgagor or Borrower)**

and

**ON TIME EXPRESS LIMITED
(as Mortgagee or Lender)**

Charter Capital Mortgage Agreement



**Chiu & Partners
Solicitors
40th Floor, Jardine House,
1 Connaught Place,
Central, Hong Kong.
Ref.: GC/SHL/120116**

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THIS CHARTER CAPITAL MORTGAGE AGREEMENT (“MORTGAGE AGREEMENT”) is made on 6 November 2013

BY:

DYNAMIC FREIGHT CO., LTD., a company incorporated under the laws of Vietnam with limited liability and having its registered head office at E. Town 2 Building, No. 364, Cong Hoa Road, Ward 13, Tan Binh District, HCMC, Vietnam (the “**Mortgagor**” or the “**Borrower**”); and

IN FAVOUR OF:

ON TIME EXPRESS LIMITED, a company incorporated under the laws of Hong Kong with limited liability and having its registered office at Flat/RM 18, 1/F., Sino Industrial Plaza, No. 9 Kai Cheung Road, Kowloon, Hong Kong (the “**Mortgagee**” or the “**Lender**”).

WHEREAS

- (A) At the request of the Borrower, on 27 October 2005, the Lender advanced to the Borrower, and the Borrower borrowed from the Lender, the Loan for the purpose of the Borrower’s charter capital contribution in the Company. To record the parties’ respective rights and obligations in relation to the Loan, the Lender and the Borrower entered into a loan agreement (the “**Loan Agreement**”) on the date of this Mortgage Agreement.
- (B) As security for due performance and due payment in full of the Loan, the Borrower had mortgaged its interests in the charter capital of, and has assigned its certain interests and control in, the Company to the Lender by way of verbal agreements between the Borrower and the Lender since its incorporation. To record such charter capital mortgage and as continuing security to secure the Borrower’s obligations and performance under the Loan Agreement and/or Security Documents, the Borrower has agreed to mortgage its Mortgaged Equity in accordance with the terms and conditions set forth herein.

NOW THIS MORTGAGE AGREEMENT WITNESSES as follows:

1. Interpretation

1.1 Unless otherwise defined in this Mortgage Agreement, terms and expressions defined or construed for the purposes of the Loan Agreement shall have the same meanings or construction when used in this Mortgage Agreement.

1.2 In this Mortgage Agreement, except where the context otherwise requires:

“**Company**” means On Time Worldwide Logistics (Vietnam) Co., Ltd., a limited liability company incorporated in Vietnam on 22 December 2005;

“**Disposition**” means any sale, exchange, transfer, concession, loan, direct or indirect

reservation, waiver, compromise, release, dealing with or in or granting of any option, right of first refusal or other right or interest whatsoever and include any agreement so to do and “**Dispose**” and “**Disposal**” shall be construed accordingly;

“**Encumbrance**” means any mortgage, charge, pledge, lien, hypothecation or other encumbrance, priority or security interest, and includes any agreement for any of the same and “**Encumber**” shall be construed accordingly;

“**Mortgaged Equity**” means the registered charter capital of the Company for the amount of US\$34,300 (equivalent to VND524,782,698) registered in the name of the Borrower as at the date hereof;

“**Mortgaged Interests**” means the Mortgaged Equity and all further charter capital, warrants, securities, rights, money or property (i) accruing, paid, offered or deriving from the Mortgaged Equity (or the cancellation thereof) at any time and in any manner whether by way of substitution, redemption, bonus, preference, option, exchange, dividend, distribution, scheme of arrangement or organisation or otherwise to the same or in respect thereof; and (ii) from time to time acquired and held by the Borrower whether by way of acquisition from the other owner(s) of the Company or by further contribution to the charter capital of the Company;

“**Secured Obligations**” means the Loan and all monies, costs, charges, expenses, liabilities, obligations, compensation and damage of the Borrower from time to time owing to the Lender under the Loan Agreement and/or any of the Security Documents;

“**US\$**” means United States dollars, the lawful currency of the United States for the time being; and

“**VND**” means Vietnamese Dong, the lawful currency of Vietnam for the time being.

1.3 Except to the extent that the context requires otherwise, any reference in this Mortgage Agreement to:

- (A) any document shall include that document as in force for the time being and as amended in accordance with the terms thereof or with the agreement of the parties hereto;
- (B) any enactment shall include same as from time to time re-enacted, amended, extended, consolidated or replaced;
- (C) a “person” includes any individual, company, corporation, firm, partnership, joint venture, association, organisation, unit or trust (in each case, whether or not having separate legal personality).

1.4 The headings in this Mortgage Agreement are inserted for convenience only and shall be ignored in construing this Mortgage Agreement. Unless the context otherwise requires, references in this Mortgage Agreement to the singular shall include references to the plural and *vice versa* and references to one gender shall include all genders.

1.5 References in this Mortgage Agreement to Clauses are references to clauses of this Mortgage Agreement.

2. Mortgaged Interests

2.1 In consideration of the premises, the Borrower hereby mortgage, charge and assign all the Mortgaged Interests in favour of the Lender as continuing security for the payment, discharge and performance by the Borrower of the Secured Obligations.

2.2 The Borrower shall deliver to the Lender contemporaneously with the execution of this Mortgage Agreement the certificate of capital contribution in respect of the Mortgaged Equity. The Borrower agrees that upon receipt of any further interests in charter capital or other equity or securities interests of the Company or any dividends, rights, monies or property accruing or offered in respect of the Mortgaged Equity, the Borrower shall forthwith deposit the same with the Lender.

3. Representations and warranties

3.1 The Borrower hereby represents and warrants to the Lender as follows:

(A) the Borrower is the legal and registered owner of the Mortgaged Equity free and clear of all Encumbrances and Dispositions;

(B) the Mortgaged Equity are validly issued and fully paid;

(C) the Borrower has full legal capacity to enter into, exercise its rights and perform its obligations under this Mortgage Agreement; and

(D) this Mortgage Agreement constitutes the legal, valid and binding obligations of the Borrower enforceable in accordance with its terms.

3.2 The Borrower further represents and warrants to the Lender that so long as any part of the Secured Obligations remains outstanding, each of the representations and warranties set out in Clause 3.1 will be correct and complied with in all respects.

4. General covenants and undertakings

4.1 The Borrower hereby covenants with the Lender that for so long as any part of the Secured Obligations remain outstanding, the Borrower will:

(A) warrant and defend its title to and the security interest in the Mortgaged Interests hereby created in favour of the Lender against any and all claims of all persons whomsoever;

(B) procure and do all things necessary to procure that at all times the Mortgaged Interests are free from any restrictions on transfer;

(C) not, without the prior written consent of the Lender, Dispose of, create or

permit to arise or subsist any Encumbrance over the whole or any part of the Mortgaged Interests or any part thereof;

- (D) punctually pay all calls or other payments due in respect of any of the Mortgaged Interests and in case of default, the Lender may (but shall not be obliged to), if it thinks fit, make any such payment on behalf of the Borrower and in which event the Borrower shall reimburse the Lender on demand any sums so paid;
- (E) upon enforcement of this Mortgage Agreement, use all best endeavours to procure the registration of transfers of the Mortgaged Interests and the entry of the Lender or its designated transferee in the member registration book of the Company as the owner of the Mortgaged Interests and give all necessary assistance to the Lender in arranging the registration of the transfer of the Mortgaged Interests to the Lender or its designated transferee in the books of the Company and the entry of the Lender or its designated transferee in the member registration book of the Company as the holder of the Mortgaged Interests; and
- (F) immediately after acquisition of or further contribution to the charter capital of the Company, inform the Lender and mortgage such additional charter capital with the Lender under the terms and conditions hereof.

4.2 The Borrower hereby undertakes with the Lender that, forthwith on being required by notice from the Lender so to do, the Borrower will at its own costs and expenses, execute and do all assurances, acts, deeds and things as the Lender may require, and procure other interested parties so to do, for protecting or perfecting the security over all or any part of the Mortgaged Interests or for facilitating the realisation of all or any part of the Mortgaged Interests and the exercise of all powers, rights, remedies, authorities and discretions hereby vested in the Lender. The Borrower shall, in particular, execute all transfers and assurances of all or any part of the Mortgaged Interests whether to the Lender or to its designated transferee(s) and give all notices, orders and directions which the Lender may think expedient.

5. Enforcement of security

5.1 The Lender may declare all or any part of the security hereby created immediately enforceable:

- (A) if the Borrower is in default under any of the terms of the Loan Agreement, this Mortgage Agreement and/or other Security Documents; or
- (B) in the event of any proceedings in or analogous to the bankruptcy, insolvency, or composition of the Borrower.

5.2 Upon the security hereby constituted becoming enforceable and at any time thereafter as requested by the Mortgagee/ Lender, the Mortgagor/ Borrower will:

- (A) transfer the entire Mortgaged Interests to the Mortgagee/ Lender, without any condition, if so permitted by the Laws of Vietnam; or
- (B) transfer the entire Mortgaged Interests to a third party appointed by the Mortgagee/Lender, without any condition, if so required and permitted by the Laws of Vietnam; or
- (C) transfer a part of the Mortgaged Interests to the Mortgagee/Lender, without any condition, if so permitted by the Laws of Vietnam, and (ii) transfer the remaining part of the Mortgaged Interests to another party appointed by the Mortgagee, without any condition, if so required and permitted by the Laws of Vietnam.

6. Power of attorney

- 6.1 As continuing security for the discharge of the Secured Obligations and the performance of its obligations hereunder, the Borrower hereby irrevocably appoints the Lender (and any of its instructed persons), with full power of substitution and with full power to act alone, to be its attorneys and in its name and on its behalf to sign, seal and deliver or otherwise execute and do all such assurances, deeds, acts, documents and things (whether as its own act or deed or otherwise) which, in the opinion of the Lender, the Borrower should execute or do pursuant to any of the terms of this Mortgage Agreement or for the purpose of giving the Lender the full benefit of this Mortgage Agreement and the security hereby created and generally to use its name in the exercise of all or any of the powers conferred on the Lender hereunder.
- 6.2 The Borrower hereby ratifies and confirms and covenants to ratify and confirm whatever such attorney shall lawfully do or cause to be done by virtue of Clause 6.1.

7. Release

- 7.1 As soon as reasonably practicable after the discharge of the Secured Obligations but subject to the rights of any other person which have arisen as a result of the exercise by the Lender of any of its powers, rights and remedies hereunder and the rights of any third party, the Lender shall take all steps that may be necessary to release, discharge and reassign the Mortgaged Interests from the security hereby created and where appropriate, re-transfer the Mortgaged Interests to the Borrower or as it may direct.
- 7.2 Clause 7.1 shall apply only in respect of such part of the Mortgaged Interests as remains after the exercise of the rights, powers and remedies of the Lender in the event of the security conferred by this Mortgage Agreement becoming enforceable and shall not in any way restrict or be construed so as to restrict such rights, powers and remedies.
- 7.3 Any release, discharge, reassignment or settlement between the Borrower and the Lender shall be conditional upon no security, disposition or payment to the Lender by the Borrower or any other persons being avoided or reduced pursuant to any reason or ground whatsoever including without limitation any provisions or enactments relating to bankruptcy, liquidation or insolvency and in the event of any such avoidance or

reduction, the Lender shall be entitled to enforce the provisions of this Mortgage Agreement against the Borrower subsequently as if such release, discharge, reassignment or settlement had not occurred.

8. Nature of security

- 8.1 The security created by this Mortgage Agreement is in addition to and not in substitution for and shall not in any way affect or be affected by any other security or guarantee which the Lender may now or at any time hold or take from the Borrower or any other person in respect of the Secured Obligations.
- 8.2 The security created by this Mortgage Agreement shall not be considered satisfied or discharged by any intermediate payment or satisfaction of the whole or part of the Secured Obligations but shall be a continuing security and shall extend to cover any sum which shall for the time being constitute the balance due or expressed to be due from the Borrower to the Lender in respect of the Secured Obligations.
- 8.3 For the purpose of enabling the Lender to sue or claim from the Borrower the full amount of the Secured Obligations or to preserve intact the liability of the Borrower or any other person, the Lender may at any time place and keep for such time as it may think prudent any amounts received, recovered or realised under this Mortgage Agreement or as a result of the exercise of any right conferred herein to and in a separate or suspense account to the credit of the Borrower or of such other person or transaction as it shall in its discretion think fit.

9. Miscellaneous

- 9.1 Save as may be expressly provided herein to the contrary, time is of the essence of this Mortgage Agreement. No failure or delay on the part of the Lender to exercise any power, right or remedy under this Mortgage Agreement shall operate as a waiver thereof nor shall a waiver by the Lender of any particular default by the Borrower affect or prejudice the power, right or remedy of the Lender in respect of any other default or any subsequent default of the same or a different kind nor shall any single or partial exercise by the Lender of any power, right or remedy hereunder preclude any other or further exercise thereof or the exercise of any other power, right or remedy. The powers, right and remedies provided in this Mortgage Agreement are not exclusive of any power, right and remedies but are cumulative and in addition to every other power, right and remedy now or hereafter existing at law, in equity, by statute or contract or otherwise.
- 9.2 If at any time any provision of this Mortgage Agreement is or becomes illegal, invalid or unenforceable in any respect, neither the legality, validity or enforceability of the remaining provisions of this Mortgage Agreement nor the legality, validity or enforceability of such provision shall in any way be affected or impaired thereby.
- 9.3 The Borrower undertakes on demand fully and effectually to indemnify and at all times keep indemnified the Lender against any claim, demand, action, proceeding, liability, loss, damage, penalty, interest, cost, charge or expense, legal or otherwise, taken, made, threatened, sustained or incurred by or against the Lender.

10. Assignment

- 10.1 This Mortgage Agreement shall be binding on and shall enure to the benefit of the parties and their respective successors, permitted assignees and transferees.
- 10.2 The Borrower may not assign or transfer any of its rights or obligations hereunder without the prior written consent of the Lender.
- 10.3 The Lender may assign all or any of its rights or obligations under this Mortgage Agreement to any person without the prior written consent of the Borrower.

11. Notice and communications

- 11.1 Any notice claim, demand, court process, document or other communication to be given under this Mortgage Agreement (collectively “**communication**” in this Clause 11) shall be in writing in the English language and must be served or given personally or sent to the facsimile numbers (if any) of the relevant party and marked for the attention and/or copied to such other person as specified in Clause 11.4.
- 11.2 A change of address or facsimile number of the person to whom a communication is to be addressed or copied pursuant to this Mortgage Agreement shall not be effective until five days after a written notice of change has been served in accordance with the provisions of this Clause 11 on all other parties to this Mortgage Agreement with specific reference in such notice that such change is for the purposes of this Mortgage Agreement.
- 11.3 Except as otherwise provided herein, all communications shall be served by the following means and the addressee of a communication shall be deemed to have received the same within the time stated adjacent to the relevant means of despatch:

<u>Means of despatch</u>	<u>Time of deemed receipt</u>
Local mail	14 days
Local courier/personal delivery	7 days
Facsimile	on despatch
Air courier/Speedpost	3 days
Airmail	5 days

- 11.4 The initial addresses and facsimile numbers of the parties for the service of communications, the person for whose attention such communications are to be marked and the person to whom a communication is to be copied are as follows:

If to the Lender:

Address: Flat/RM 18, 1/F., Sino Industrial Plaza, No. 9 Kai Cheung Road,
Kowloon, Hong Kong
Facsimile no.: (852) 2620 1526

Attention: Mr. Spencer Lam / Ms. Tiffany Wong

If to the Borrower

Address: E. Town 2 Building, No. 364, Cong Hoa Road, Ward 13, Tan Binh District, HCMC, Vietnam

Facsimile no.:

Attention: Ms. Tran Thi Huynh Anh – the Director

- 11.5 A communication served in accordance with this Clause 11 shall be deemed sufficiently served and in proving service and/or receipt of a communication it shall be sufficient to prove that such communication was left at the addressee's address or that the envelope containing such communication was properly addressed and posted or despatched to the addressee's address or that the communication was properly transmitted by facsimile to the addressee. In the case of facsimile transmission, such transmission shall be deemed properly transmitted on receipt of a report of satisfactory transmission printed out by the sending machine.
- 11.6 Nothing in this Clause shall preclude the service of communication or the proof of such service by any mode permitted by law.

12. Governing law and dispute resolution

12.1 This Mortgage Agreement shall be governed by and construed in all respects in accordance with the laws of Vietnam

12.2 Dispute resolution

- (A) All disputes arising out of or in connection with this Mortgage Agreement shall be first settled through amicable negotiation between the parties hereto. If no settlement is reached, the disputes shall be submitted by any party for final settlement to Arbitration Tribunal of the International Chamber of Commerce in Singapore or such other place as the parties agree.
- (B) Either party hereto may apply to the arbitral tribunal seeking injunctive relief until the arbitration award is rendered or the dispute is otherwise resolved, that is necessary to protect the rights or property of that party, in accordance with the applicable laws. If so permitted by and to the extent permissible by applicable laws, the arbitral tribunal may also grant arbitration award over the charter capital or land assets of the Company and may make order regarding the conduct of business of the Company or to compel transfer of the charter capital, or to order the parties to procure the winding up of the Company. The determination of the arbitration tribunal established under this Clause shall be final and binding upon the parties. Judgment upon the award may be entered into any court having jurisdiction, or application may be submitted to such court for judicial acceptance of the award and an order of enforcement, as the case may be. All costs for this arbitration proceeding shall be borne by the losing party.

(C) Only the English language shall be used in the arbitration proceedings. The parties hereto shall require the arbitrators to render a written opinion in English supporting their decision.

(D) Either party hereto may, without waiving any remedy under this Mortgage Agreement, seek from the courts of Hong Kong or Vietnam or the Cayman Islands or any court having jurisdiction any interim or provisional relief that is necessary to protect the rights or property of that party, in accordance with applicable laws, pending the establishment of the arbitral tribunal or pending the arbitral tribunal's determination of the merits of the dispute.

12.3 The Borrower irrevocably waives any immunity (on the grounds of sovereignty or otherwise) which it or its assets may at any time enjoy from legal proceedings or arbitration proceedings, from attachment (whether in aid of execution, before judgment, arbitration award or otherwise) or from execution of judgment and/or arbitration award.

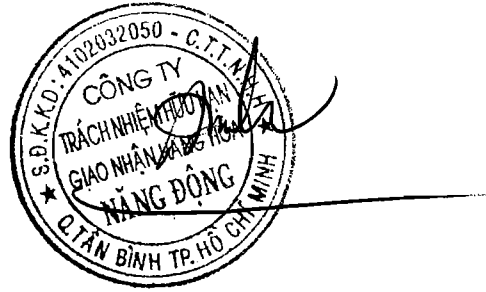
12.4 This Mortgage Agreement is effective from the signing date as first written above.

12.5 This Mortgage Agreement is executed in four (04) original copies in English with equal validity.

IN WITNESS whereof the authorized representatives of the Borrower and the Lender have executed this Mortgage Agreement the day and year first above written.

The Borrower

SEALED with the common seal of)
DYNAMIC FREIGHT CO., LTD.)
and SIGNED by)
its authorized representative)



The Lender

SEALED with the common seal of)
ON TIME EXPRESS LIMITED)
and SIGNED by Lam Chun Chin, Spencer)
its authorized representative)

