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Incoterms® 2020

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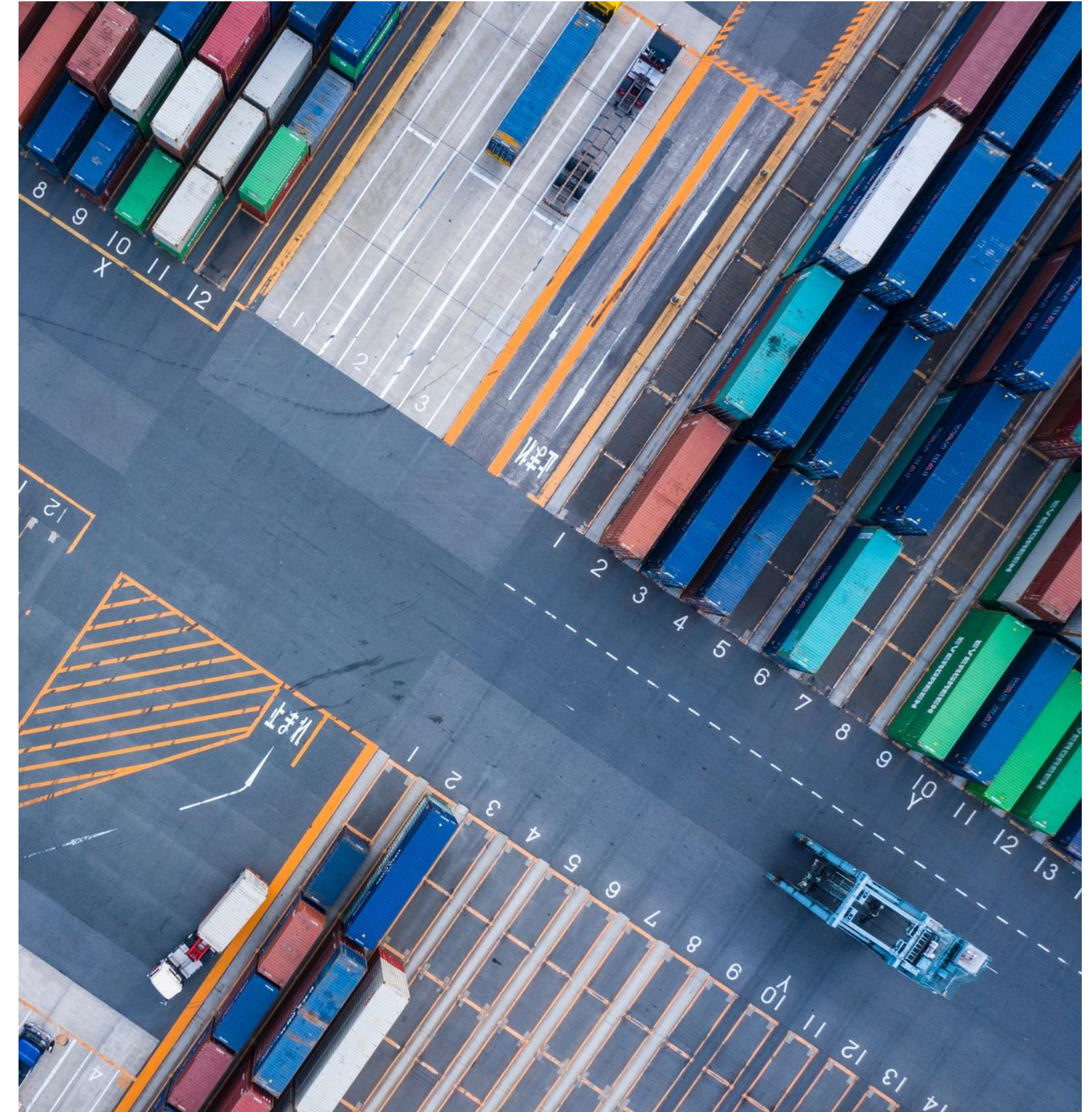
→ What are Incoterms®?

- Incoterms® were first published in 1936 and have subsequently been updated multiple times
- Devised, maintained, and published by the International Chamber of Commerce (ICC)
- Incoterms® 2020 was published in September 2019 and took effect on January 1, 2020
- It is important to clarify in contracts (sell or buy) what version of Incoterms® is being applied



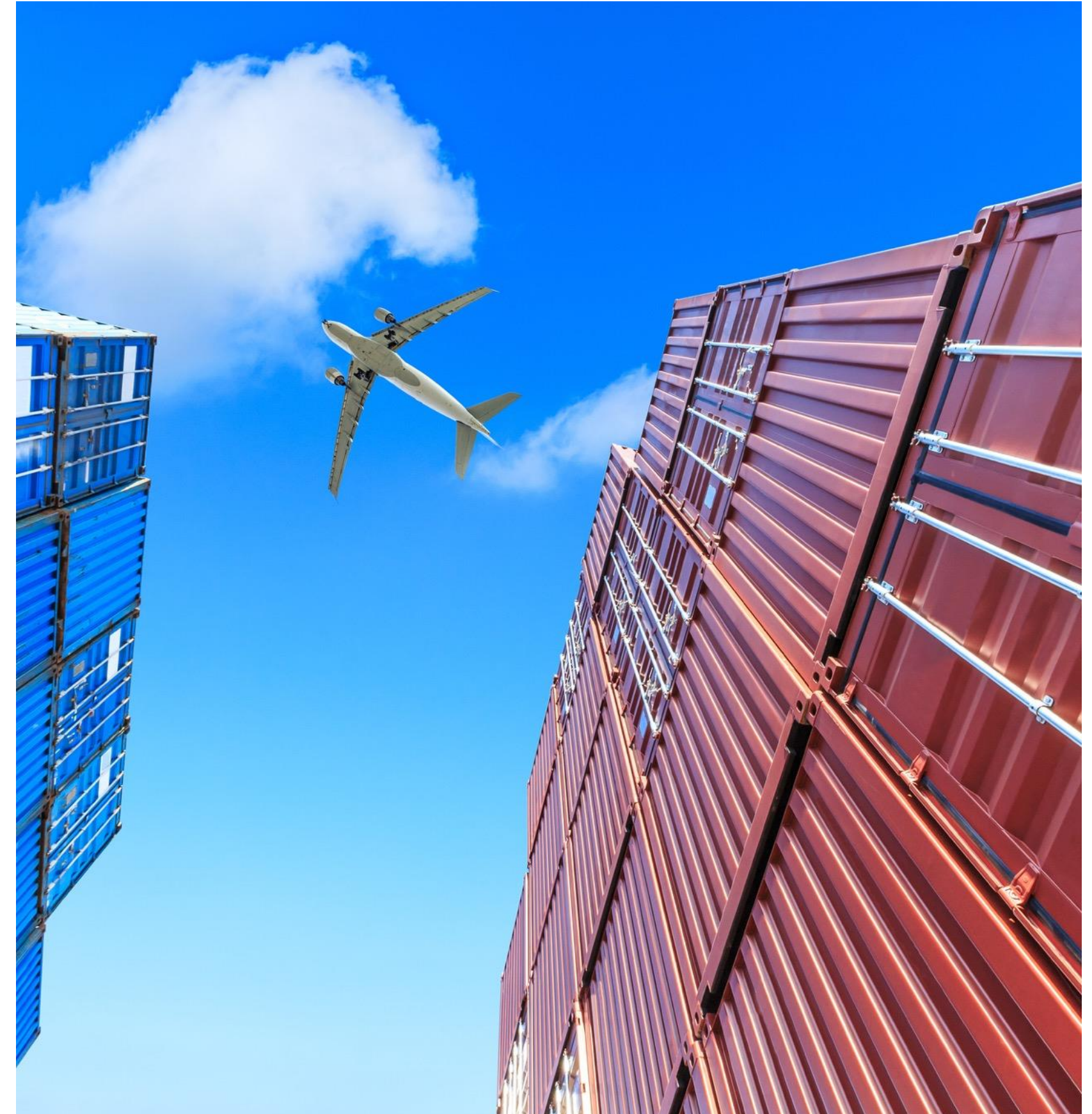
→ What are Incoterms®?

- A series of three-letter trade terms related to common contractual responsibilities and are always followed by a named place.
For Example: [FCA Port of Miami, Florida, Incoterms® 2020](#)
- The standard trade definitions most commonly used in international contracts, and they are also used increasingly for domestic transactions here in the United States.
- Incoterms® are recognized by the United Nations Commission on International Trade Law (UNCITRAL) as the global standard for foreign/international trade. They are even recognized in a court of law.



→ What are Incoterms[®]?

- Incoterms[®] are intended to reduce or remove altogether uncertainties arising from different interpretation of the rules in different countries and avoid “lost in translation” issues between languages.
- They clearly define the responsibilities of both seller and buyer for all “phases” of the transaction and address:
 - Obligations
 - Risks
 - Costs
- It is important to “vet” if a supplier or customer can actually execute their responsibilities under a given Incoterm.
- Incoterms[®] do not define payment terms, ownership, or title.



→ What Incoterms[®] rules do



The Obligations

Who does what as between seller and buyer, e.g., who organizes carriage, who is responsible for insurance, who obtains shipping documents, who is responsible for export licenses, etc.



The Risks

Where and when the seller “delivers” the goods, in other words, where risk transfers from seller to buyer.



The Costs

Which party is responsible for which costs, for example transport, packaging, loading or unloading costs, security-related costs, etc.

→ What Incoterms® rules do



Divide costs, risks,
responsibilities
between sellers and
buyers



Guide the parties into
subsidiary contracts
required to fulfill tasks,
such as contract of
carriage and (in some
cases) contract of
insurance



Reduce potential for
seller-buyer
misunderstanding



Address cargo security



Increasingly
considered a
replacement for
Uniform Commercial
Code (UCC)
shipment/delivery
terms

→ What Incoterms® rules DO NOT DO



Address recognition of revenue, title, or “ownership”



Address remedies for breach of contract



Provide relief from obligations/exemptions from liability in unexpected or unforeseeable situations



Refer to “ship’s rail”



Specifically task a party with container stowage obligations

→ What Incoterms[®] rules DO NOT DO



Incoterms[®] do not govern the transfer of property or title to goods, though many companies are under that impression.



This misunderstanding arises from the fact that Incoterms[®] determine the place of “delivery.”



“Delivery” under Incoterms[®] rules does not necessarily equate with transfer of ownership (although it can)*



This is why it is critical under a separate sales/purchasing contract to call out exactly when the transfer of property/ownership occurs.

*In fact, there is no standard international legal practice regarding the transfer or title or property in international transactions, nor is the matter addressed by the CISG (The United Nations Convention on Contracts for the International Sale of Goods also known as the Vienna Convention).

→ Key questions of Incoterms® and the rules

- Who furnishes the goods?
- Who packages the goods in a manner suitable for export?
- Who moves the goods from the seller's factory/warehouse to a port, airport, or border crossing in the seller's country (pre-carriage)?
- Who arranges for export clearance in the seller's country?
- Who arranges for "main carriage" (international transportation) from the departure port to the arrival port?
- Who pays for the main carriage?
- Who insures the shipment? Is insurance even required and if so what level?
- Who arranges for import clearance and is the "importer of record"?
- Who pays import duties?
- Who pays for "on-carriage" from the arrival port to the delivery destination?
- Who arranges and pays for country-specific documentation (e.g., consular invoices, inspection reports, licenses)?

→ Incoterms® 2020

- EXW – Ex Works
- FCA – Free Carrier
- FAS – Free Alongside Ship
- FOB – Free on Board
- CPT – Carriage Paid To
- CIP – Carriage & Insurance Paid To
- CFR – Cost and Freight
- CIF – Cost Insurance & Freight
- DAP – Delivered at Place
- **DPU – Delivered at Place Unloaded**
- DDP – Delivered Duty Paid



→ Incoterms® 2020

- EXW – Ex Works
- FCA – Free Carrier
- FAS – Free Alongside Ship
- FOB – Free on Board
- CPT – Carriage Paid To
- CIP – Carriage & Insurance Paid To
- CFR – Cost and Freight
- CIF – Cost Insurance & Freight
- DAT – Delivered at Terminal
- DPU – Delivered at Place Unloaded
- DDP – Delivered Duty Paid





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Omnimodal Terms



→ Ex Works (EXW)

- The seller “delivers” when it places the goods at the disposal of the buyer at the seller's premises (i.e., works, factory, warehouse, etc.).
- The seller is not required to load the goods or clear them for export.
- The parties should precisely specify the point within the named place of “delivery”, as all costs and risks up to that point are for the seller's account. The buyer thereafter bears all costs and risks of transport.



→ Free Carrier (FCA)

The seller “delivers” the goods to the buyer in one of two ways:

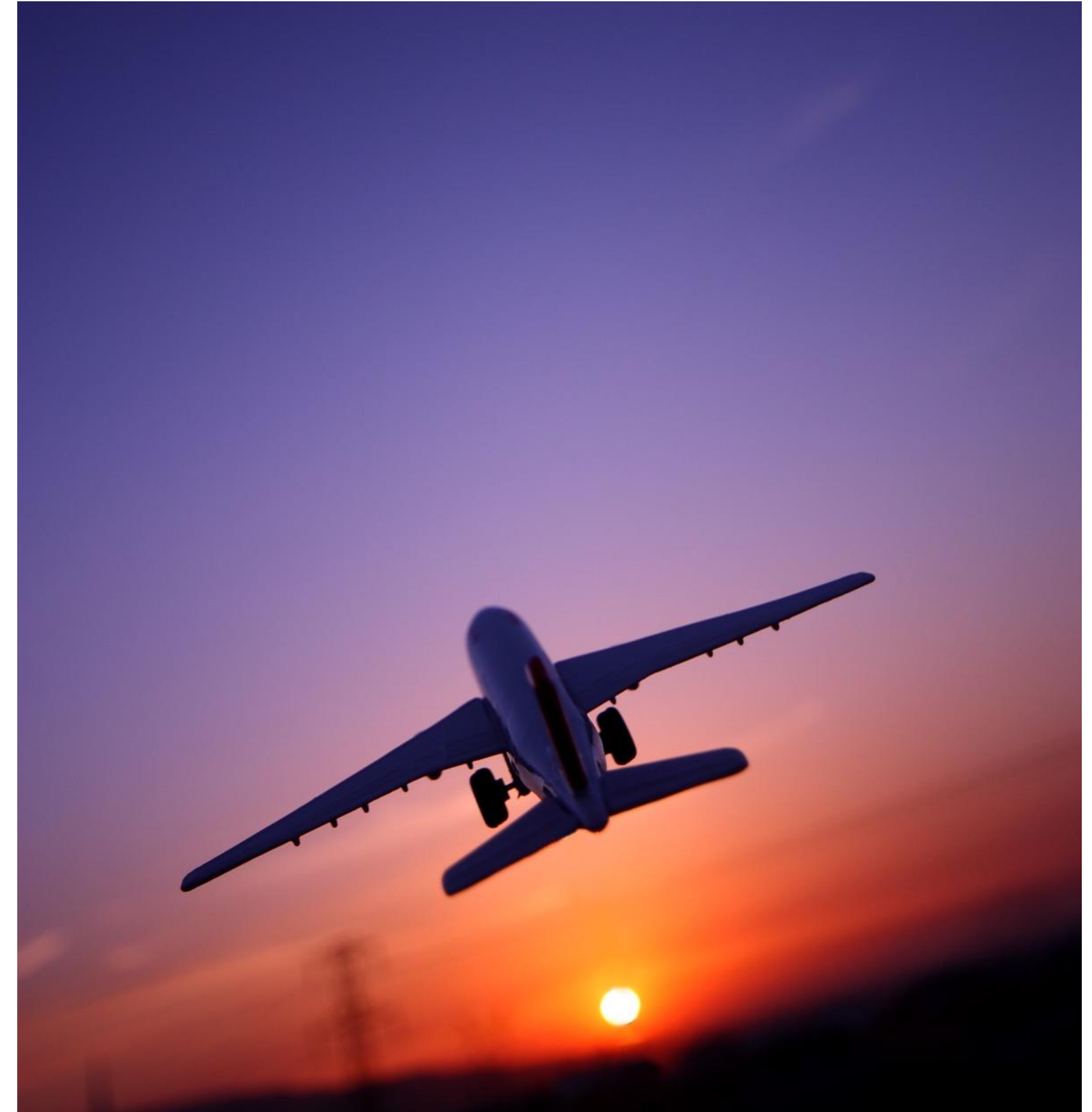
1 When the named place is the seller’s premises, the goods are “delivered” when they are loaded on the means of transport arranged by the buyer.

OR

2 When the named place is another place, the goods are “delivered” when, having been loaded on the seller’s means of transport, they reach the named other place and are ready for unloading from that seller’s means of transport and at the disposal of the carrier or of another person nominated by the buyer.

→ Carriage Paid To (CPT)

- The seller “delivers” the goods to the carrier and contracts for and pays the costs of carriage necessary to bring the goods to the named place of destination.
- NOTE: Risk transfers from seller to buyer when “delivered” to the carrier nominated by the seller.



→ Carriage Insurance Paid To (CIP)

- The seller “delivers” the goods to the carrier and contracts for and pays the costs of carriage necessary to bring the goods to the named place of destination.
- NOTE: Risk transfers from seller to buyer when “delivered” to the carrier nominated by the seller.
- The seller also contracts for insurance coverage against the buyer's risk of loss of or damage to the goods during the carriage.
- The seller is required to obtain insurance for maximum cover such as Institute Cargo Clauses (A) or similar taking into account also the mode(s) of transport.



→ Delivered at Place (DAP)

- The seller “delivers” the goods (and transfers risk) to the buyer when the goods, ready for unloading from the arriving means of transport, are placed at the disposal of the buyer at a named place of destination or at the agreed point within that place, if any such point is agreed.
- The seller bears all risks involved in bringing the goods to the named place of destination or to the agreed point within that place.
- In this Incoterm rule “delivery” and arrival at destination are the same.



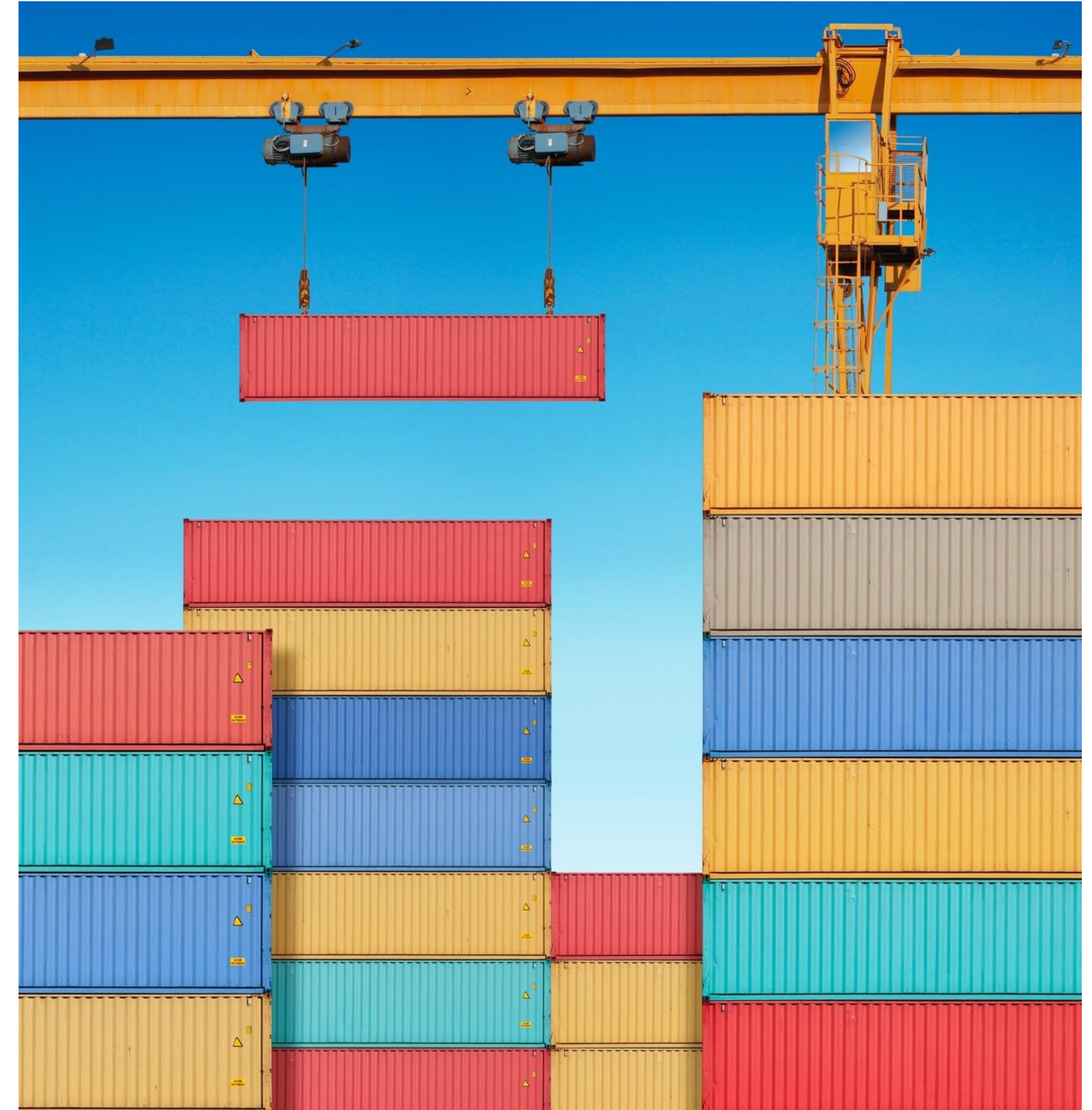
→ Delivered at Place Unloaded (DPU)

- The seller “delivers” the goods (and transfers risk) to the buyer when the goods, once unloaded from the arriving means of transport, are placed at the disposal of the buyer at a named place of destination or at the agreed point within that place, if any such point is agreed.



→ Delivered Duty Paid (DDP)

- The seller “delivers” the goods when the goods are placed at the disposal of the buyer, cleared for import on the arriving means of transport and ready for unloading at the named place of destination.
- The seller bears all the costs and risks involved in bringing the goods to the place of destination and has an obligation to clear the goods, not only for export but also for import, to pay any duty and to carry out all customs formalities.



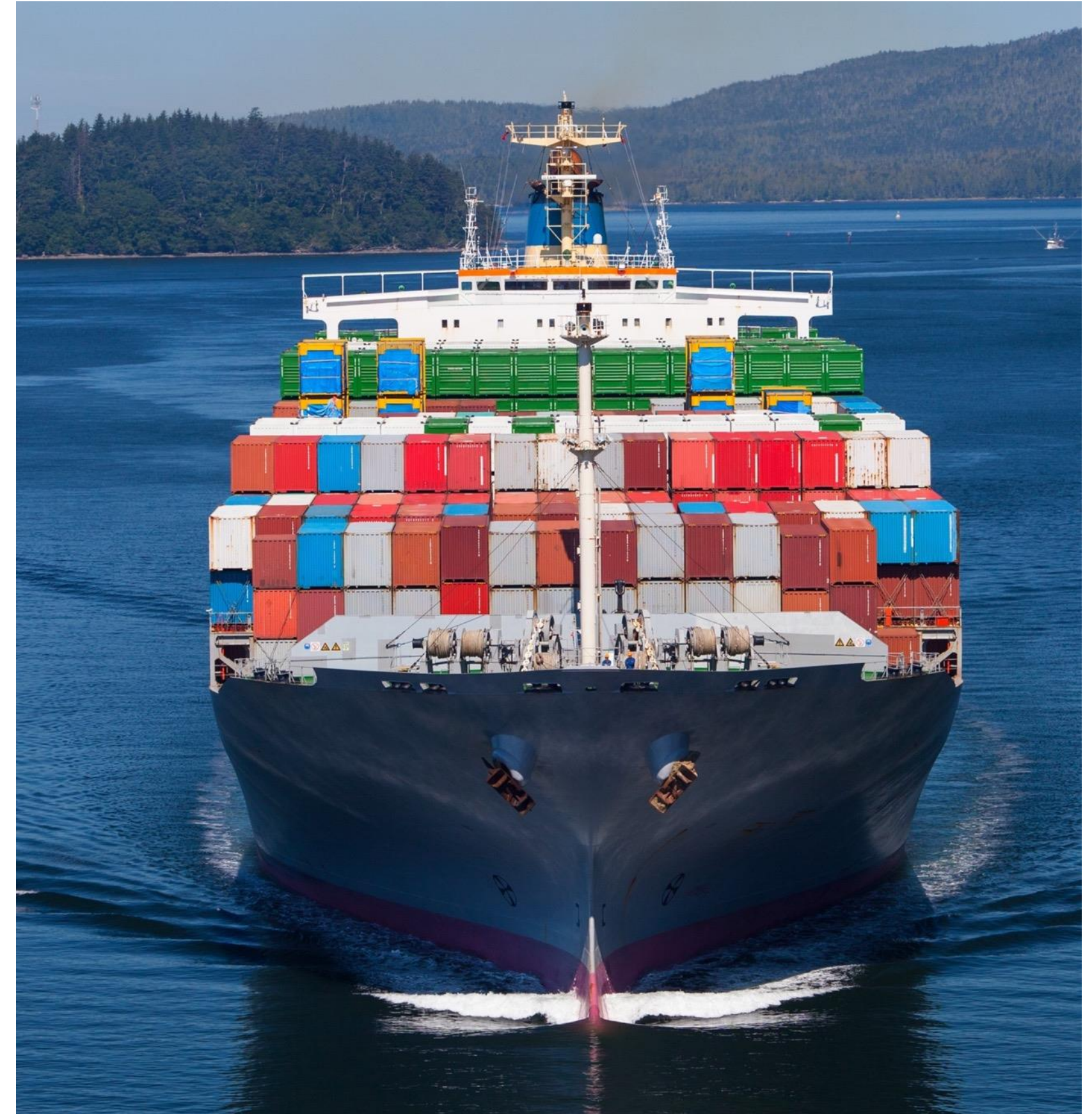


Maritime Only Terms



→ Free Alongside Ship (FAS)

- The seller “delivers” when the goods are placed alongside the vessel (e.g., on a dock or quay) nominated by the buyer at the named port of shipment.



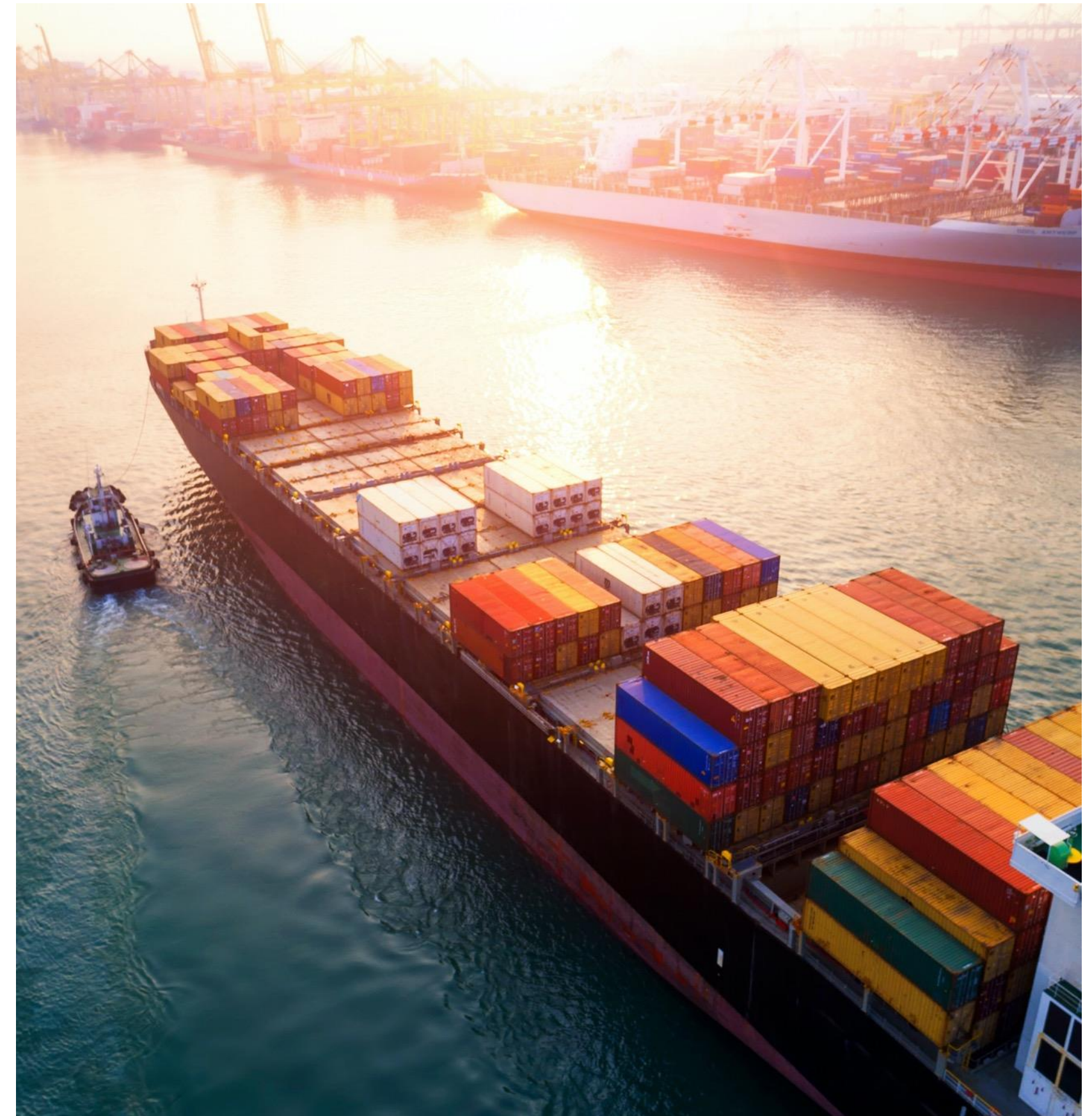
→ Free On Board (FOB)

- The seller must “deliver” the goods by placing them on board the vessel nominated by the buyer at the loading point, if any, indicated by the buyer at the named port of shipment.
- On board the vessel is not specified in the Incoterm!



→ Cost and Freight (CFR)

- The seller “delivers” the goods on board the vessel.
- The risk of loss of or damage to the goods passes when the goods are on board the vessel.
- The seller must contract for carriage and pay the costs and freight necessary to bring the goods to the named port of destination.
- On board the vessel is not specified in the Incoterm!



→ Cost Insurance and Freight (CIF)

- The seller “delivers” the goods on board the vessel.
- The seller must contract for insurance and pay the costs and freight necessary to bring the goods to the named port of destination.
- The risk of loss of or damage to the goods passes when the goods are on board the vessel.
- The seller is required to obtain insurance only for minimum coverage (C level). Should the buyer wish to have more insurance protection, it will need either to agree as much expressly with the seller or to make its own extra insurance arrangements.
- On board the vessel is not specified in the Incoterm!



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Review

→ Which one is right?



So...Which one is right?



Which one is right for YOU?

→ Which one is right?

They are all right!!!!

- What is best for your company?
- Take a good look at the responsibilities and figure out your as well as your business partner's capabilities...and be truthful about it.
- It is clearly not a good idea to agree to terms that one or more of the parties simply cannot support or execute.

→ Some key considerations

- How much risk are you willing to take on?
- Do you want to control all aspects of the movement of goods?
- Can you even control all aspects of the movement?
- What about freight costs and volume?
- What about assessorial fees and charges—dock fees, unloading fees, port fees, document transfer fees?
- Can your supplier be the Importer of Record (IOR) into the United States?
- Can YOU be the IOR overseas—DO YOU WANT TO BE?
- Do you trust your supplier....or your customer? Is there diversion risk?
- What mode or modes of transport do you use?
- Have you ever done a TRUE total landed cost calculation?

→ Remember...

Incoterms® are widely recognized and minimize confusion.

- Use them accurately and properly.
- Consider the use of only a select set of Incoterms®
- Ensure Incoterms® are consistent with vendors.
- Agreeing to and understanding Incoterms® is critical to:
 - Minimizing exposure to your company
 - Ensuring proper transfer of risk between parties
 - Ensuring expenses are being properly paid by the responsible party
 - Ensuring insurance expenses are being properly paid by the responsible party

→ Global suite of services

Delivering an average of over 3 services per top 500 customer



Truckload



Last mile



Customs & compliance



Managed services



LTL



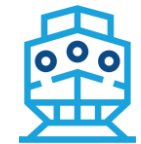
Ocean



Consolidation



Sourcing



Intermodal



Air



Consulting



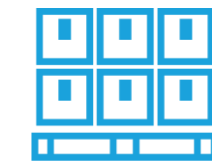
Move the
most truckload freight
of any company
in the world



C.H. Robinson Is
larger than
our
next 5 LTL competitors
combined



#1 NVOCC
China to U.S.
#2 NVOCC
Asia & India to U.S.
and U.S. to Oceania



Nearly
\$20b
freight under
management

Based on 2019 net revenues

→ Legal disclaimer

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Thank you!

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