
TERMINAL SERVICES AGREEMENT

BETWEEN

[Terminal Operating Entity]

AND

**[Entities contracting for the Line or
Lines as the Customer]**

FOR

Provision of Terminal Services

at the port of [Port]

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This agreement (the **Agreement**) is made and entered into at the Port(s) of [Port] between:

[Terminal Operating Entity] of [insert address] (*the Operator*); and

[Local Agency], as Agents for and on behalf of [Customer] of [inset address], trading as [line brand] (*the Customer*)

BACKGROUND

- (A) The Operator supplies the Terminal Services at the Port.
- (B) The Customer requires the Terminal Services at the Port.
- (C) This Agreement:
 - (a) defines the Terminal Services the Operator will supply to Cargo, Containers and Vessels owned, chartered, operated, leased or otherwise under the control of the Customer at the Port;
 - (b) states the terms on which the Operator will supply and the Customer will acquire those Terminal Services;
 - (c) is governed by the laws of [England] and each Party submits to the non-exclusive jurisdiction of the courts of [England] for the purposes of enforcement of any arbitral award obtained in accordance with this Agreement;
 - (d) shall take effect from specify date (**the Commencement Date**); and
 - (e) unless otherwise terminated in accordance with this Agreement, shall be valid for specify years years (**the Term**) starting from the Commencement Date.
- (D) Any schedule or appendix to this Agreement shall take effect as if set out in this Agreement and references to this Agreement shall include its schedules and appendices.

Executed by the Parties on [insert date]

EXECUTED BY [OPERATOR]

.....
Signature of Authorised Person

.....
Signature of Authorised Person

.....
Office Held

.....
Office Held

.....
(Print) Name of Authorised Person

.....
(Print) Name of Authorised Person

EXECUTED BY [CUSTOMER]

.....
Signature of Authorised Person

.....
Signature of Authorised Person

.....
Office Held

.....
Office Held

.....
(Print) Name of Authorised Person

.....
(Print) Name of Authorised Person

GENERAL TERMS & CONDITIONS

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement:

1996 Protocol means the Convention on Limitation of Liability for Maritime Claims 1976 and the 1996 Protocol thereto, excluding Article 2 paragraph 1(d) and (e) of the Convention on Limitation of Liability for Maritime Claims 1976, together with any amendments of limits that have entered into force pursuant to Article 8 of the Protocol of 1996 to amend the Convention on Limitation of Liability for Maritime Claims 1976, whether or not enabling legislation is required.

Affiliate means in relation to a body corporate, any subsidiary or holding company thereof and any subsidiary of any such holding company or any entity which Controls, is Controlled by, or is under the common Control of such body corporate.

Agent means the agent(s) of the Customer appointed in accordance with clause 24.

Applicable Laws means all applicable mandatory laws, regulations and international conventions which are binding in effect.

Arrive or **Arrival** means the arrival of a Vessel at the Terminal.

Berthing Window or **Berthing Window Plan** means the timings specified in Appendix 3 at which a Vessel is to Arrive and complete cargo operations.

Cargo means any goods, merchandise or other property whatsoever, whether or not in a Container, in respect of which the Operator provides the Terminal Services.

Commencement Date has the meaning given to it in Recital C(d).

Confidential Information of a Party means the following information in any form:

- (a) the terms and conditions of this Agreement (which is Confidential Information of each Party);
- (b) the Rates (being Confidential Information of the Operator); and
- (c) information of a confidential nature which is communicated by or on behalf of that Party to the other Party, before or after the date of execution of this Agreement including, without limitation, information relating to the financial or trading position of the first-mentioned Party and practices, techniques, processes, trade secrets and know-how relating directly or indirectly to the operation of the Terminal (being Confidential Information of the Operator) or of a Vessel (being Confidential Information of the Customer).

Container means any container, flat, bolster or other unit conforming with ISO dimensional standards for international shipping and which is owned, leased, chartered, managed, operated and/or used by the Customer.

Control or **Controlled** means the holding of power to direct or cause the direction of management, policies and decisions of a company, corporation, partnership or other entity

through, including without limitation, control by direct or indirect means of more than fifty per cent (50%) of the voting rights in such company, corporation, partnership or other entity.

Credit Period has the meaning given to it in Appendix 4, clause (b).

Customer's Visitors means all employees, agents, subcontractors and any other person whom the Customer may direct or invite to enter the Terminal.

EDI means electronic data interchange between the Parties.

EDIFACT means the United Nations standards for Electronic Data Interchange for Administration, Commerce and Trade.

Electronic Track Data means a digital or electronic recording of the track of a vessel (including any associated visual or aural recordings) as recorded by, for example, ship or shore-based AIS (Automatic Identification System), ECDIS (Electronic Chart and Display Information System), or a voyage data recorder.

ETA means estimated time of Arrival.

Facility Security Plan means the security plan established by the Operator in relation to the operation of the Terminal.

Force Majeure Event has the meaning given to it in clause 13.4.

General Terms and Conditions means clauses 1 to 26 (inclusive) of this Agreement.

Good Industry Practice means the exercise of that degree of skill, diligence, prudence, foresight and practice which would reasonably and ordinarily be expected:

- (a) in relation to the carriage of containerised and un-containerised cargo by sea, from an experienced shipping operator; and
- (b) in relation to Terminal Services, from an experienced port terminal operator under the same or similar conditions.

Hazardous Cargo means Cargo of any kind classified by the International Maritime Organisation or International Maritime Dangerous Goods Code as hazardous or dangerous.

ISPS Code means the International Ship and Port Facility Security Code forming part of the Safety of Life at Sea (SOLAS) Convention of the International Maritime Organisation.

Liability Ceiling Amount has the meaning given to it in clause 18.2.

Liability Floor Amount has the meaning given to it in clause 18.3.

Limitation Conventions means the Convention on Limitation of Liability for Maritime Claims 1924, the Convention on Limitation of Liability for Maritime Claims 1957, the Convention on Limitation of Liability for Maritime Claims 1976, and the 1996 Protocol thereto.

Marks means a Party's name, business name, trade name, trademark, service mark, logo, or other indication of brand whether owned and/or controlled.

Party means a party to this Agreement and includes that Party's successors and permitted assigns and **Parties** shall have a corresponding meaning.

Performance Standards means the standards set out in Appendix 3 against which the Parties are measured under the terms of this Agreement.

Permissible Delay has the meaning given to it in Appendix 3.

Port means the port(s) of [Port], as further defined by the geographic marine services area specifically designated by the local government authority.

Rates means the prices charged by the Operator and agreed with the Customer in respect of Terminal Services rendered by the Operator under this Agreement as set out in Appendix 4.

Shipper has the meaning given to it in the SOLAS Guidelines.

SOLAS means the International Convention for the Safety of Life at Sea of the International Maritime Organization as supplemented by the SOLAS Guidelines, as amended from time to time.

SOLAS Guidelines means the *Guidelines regarding the verified gross mass of a container carrying cargo* (MSC.1/Circ.1475) published by the International Maritime Organization.

Strings means those container shipping trades set out in Appendix 3, as amended from time to time in accordance with the terms of this Agreement.

Term has the meaning given to it in Recital C(e).

Terminal means such wharf area within the Port owned, leased, operated or managed by the Operator at any time during the Term, together with adjacent areas in which the Operator provides the Terminal Services.

Terminal Services means the services and/or facilities to be provided at the Terminal to the Customer as set out in the Agreement including all such other services which may be agreed between the Parties from time to time.

TEU means twenty-foot equivalent unit and in calculating TEUs, a 20' Container shall comprise one (1) TEU, a 40' Container shall comprise two (2) TEUs, and a 45' Container shall comprise two point two five (2.25) TEUs.

US Dollars or **USD** or **US\$** means the lawful currency of the United States of America.

Vessel means any ship calling at the Terminal for the carriage of Cargo of which the Customer is the owner, charterer or disponent owner; which shall include mother vessels, full container vessels, feeder vessels or barges owned, chartered, operated or used by the Customer.

Vessel Operator means the operator in control of any vessel at the Port.

Vessel Owner means both the registered owner and the beneficial owner of the Vessel.

VGM or Verified Gross Mass means the total gross mass of a packed Container as obtained by one of the two methods prescribed by SOLAS and otherwise in accordance with Applicable Laws.

VGM Declarant means the Customer, Shipper or another person on behalf of the Customer or Shipper.

1.2 Interpretation

- (a) In this Agreement unless the contrary intention appears:
- (i) a reference to a part, clause, schedule, annexure or appendix is a reference to a part or clause of or schedule, annexure or appendix to this Agreement and references to this Agreement include any recital, schedule, annexure or appendix;
 - (ii) a reference to this Agreement or another instrument includes any variation or replacement of either of them;
 - (iii) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
 - (iv) the singular includes the plural and vice versa;
 - (v) the word **person** includes an individual, a firm, a body corporate, an unincorporated association or an authority;
 - (vi) a reference to a named person includes a reference to the person's executors, administrators, successors and permitted assigns;
 - (vii) if a period of time is specified and dates from a given day or the day of an act or event, it is to be calculated exclusive of that day;
 - (viii) a reference to a "day" is to be interpreted as the period of time commencing at midnight and ending twenty four (24) hours later, in the time zone in which the Terminal is located; and
 - (ix) a reference to a "business day" means a day (other than a [Saturday or Sunday] or declared public holiday) on which banks are open for business in the country where the Terminal is located.
- (b) Save to the extent expressly set out in this Agreement, this Agreement is not intended to nor shall it create any rights, claims or benefits enforceable by any person that is not a party to it. Accordingly, save to the extent expressly set out in this Agreement, no person shall derive any benefit or have any right or entitlement in relation to this Agreement by virtue of the Contracts (Rights of Third Parties) Act 1999.

2. TERM

2.1 Term

This Agreement shall take effect from Commencement Date and, unless otherwise terminated in accordance with this Agreement, shall remain in effect for the Term.

2.2 Expiry

During the last 3 (three) months of the Term, the Parties shall negotiate in good faith with a view to agreeing upon mutually acceptable terms and conditions on which contractual relations shall continue following expiry of such period (in the form of extension and/or variation of this Agreement). In the absence of such agreement, this Agreement shall terminate upon the expiry of the Term.

3. TERMINAL SERVICES

In receiving the Terminal Services from the Operator, the Customer shall:

- (a) not use any entity other than the Operator to supply any Terminal Services (or any services substantially similar to the Terminal Services) to any String within the Port for the Term;
- (b) act in compliance with the Applicable Laws;
- (c) be deemed to have satisfied itself as to the safety and suitability of the Terminal, the Port, its navigable waters and approaches, and any tug and / or pilotage services as may be required, for the purposes of berthing the Vessel and receiving the Terminal Services;
- (d) act in a safe and efficient manner;
- (e) promptly perform each task allocated to it in this Agreement;
- (f) act in accordance with any lawful and reasonable directions given from time to time by the Operator within the scope of this Agreement;
- (g) comply with any applicable anti-slavery and human trafficking laws, statutes, regulations and codes in force from time to time;
- (h) represent and warrant that none of its activities conducted whilst in Port violate any applicable anti-slavery and human trafficking laws, statutes, regulations and codes in force from time to time; and
- (i) notify the Operator as soon as it becomes aware of:
 - (i) any breach, or potential breach of any applicable anti-slavery and human trafficking laws, statutes, regulations and codes; or
 - (ii) any actual or suspected slavery or human trafficking occurring whilst it is docked at the Port.¹

4. VESSELS

4.1 Which Vessels

The Vessels governed by the provisions of this Agreement are the Vessels notified in writing by the Customer to the Operator, whether prior to the commencement of this Agreement or from time to time during the Term (including, without limitation, the Vessels specified in Appendix 3).

4.2 Vessel Warranty

The Customer warrants and undertakes to ensure that the Vessels are operated in compliance with all 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.

4.3 Reserved Right

1

If during the Term, the Customer introduces any Vessel not fully cellular and / or outfitted with semi-automatic twist locks, the Operator reserves the right to:

- (a) review the applicable tariff rates if the Operator cannot work that Vessel as efficiently as previous Customer Vessels; and
- (b) review the Performance Standards in relation to that Vessel.

5. RIGHT TO INSPECT

5.1 Inspection of Operator Equipment

The Customer may, upon reasonable notice, inspect any equipment used to supply the Terminal Services. Such inspection must take place at a time suitable to all relevant Parties.

5.2 Inspection of Customer Vessels and Cargo

The Operator may, from time to time, conduct Vessel, Container and Cargo compliance surveys and inspections as a part of the Operator's occupational health and safety responsibility and security requirements. Any such inspections undertaken by the Operator shall in no way relieve the Customer of any of its obligations under this Agreement, including pursuant to clause 4.2. The Customer acknowledges that the Operator is required to provide its employees and subcontractors with a safe working environment and will comply with all reasonable requests to achieve this.

6. CONFIDENTIALITY & PUBLICITY RESTRICTIONS

6.1 Use of Confidential Information

Each Party:

- (a) undertakes to use the Confidential Information of the other Party solely for the purposes of performing its obligations under this Agreement; and
- (b) except as permitted under clause 6.2, must ensure that it maintains, and that its officers and employees maintain, the confidentiality of all Confidential Information of the other Party.

6.2 Use of Confidential Information – Exception

A Party (the **Receiving Party**) may disclose Confidential Information of the other Party (the **Disclosing Party**) to a third party, to the extent that:

- (a) such Confidential Information becomes public knowledge otherwise than as a result of a breach of clause 6.1, or the Receiving Party receives such information from another person in circumstances which do not involve any breach of any obligation of confidence owed to the Disclosing Party;
- (b) the Disclosing Party consents in writing to such disclosure;
- (c) such disclosure is required in order to enable the Receiving Party to perform its obligations under this Agreement in accordance with applicable regulations (including, without limitation, prevailing port authority, harbour master, customs or security procedures); or

- (d) such disclosure is otherwise required by Applicable Law, or by any court of competent jurisdiction or any competent judicial, governmental, supervisory or regulatory body.

6.3 Use of Information

Neither Party shall knowingly use or permit the use of any Confidential Information obtained during their relationship to the disadvantage of the other Party or for the profit of its own or any third party's interest.

6.4 Return of Confidential Information

Upon termination of this Agreement, each Party must, promptly following receipt of a written request from the other Party return to the latter Party, and where not possible destroy, all Confidential Information of the latter Party in material form (including without limitation, those parts of all notes and other records of the first Party containing Confidential Information of the latter Party in the first Party's possession or control.

6.5 Announcements

- (a) No public announcement of any kind shall be made by any Party in relation to the subject matter of this Agreement without the consent of the other Parties as to the form, content and timing of the announcement, subject to any overriding statutory or regulatory obligations of disclosure imposed by law or the rules of any applicable regulatory body.
- (b) Unless otherwise agreed in writing, neither Party shall at any time, whether during or after the Term hereof:
 - (i) display or in any other way use the name, the Marks or any content of the other Party in which the other Party or any of its Affiliates hold an intellectual property right, in connection with publicity, advertisements, or promotion of a Party's own business; or
 - (ii) identify the other Party or any of its Affiliates in any manner on its own customer list or its website (or on any third party website) or include its name in the metatags of any website.

6.6 Continuing Obligations

The provisions of this Clause 6 shall remain in full force and effect notwithstanding the expiry of the Term or earlier termination of this Agreement (for whatever reason).

7. HEALTH, SAFETY AND ENVIRONMENT

7.1 Operator

The Operator is required to:

- (a) ensure that Good Industry Practice and the Applicable Laws relating to health, safety and environment are followed when providing the Terminal Services;
- (b) ensure its subcontractors' compliance with health, safety and environment requirements of this Agreement;

- (c) ensure its employees, servants, agents and subcontractors are provided with the necessary and adequate safety and environment training for performing the Terminal Services;
- (d) monitor and evaluate its safety performance, based on Operator lead and lag indicators and take such actions as are required or appropriate to rectify and improve its overall safety and environmental performance;
- (e) maintain an emergency response plan to deal with unforeseen events, including, but not limited to, fire and explosion, and carry out drills periodically, including in such a manner and with such frequency as may be required to comply with local Applicable Laws; and
- (f) ensure that the Customer and the Customer's employees, servants, subcontractors, agents and other stakeholders receive health and safety instructions when entering the Terminal.

7.2 Customer

The Customer is required to:

- (a) ensure that its employees, servants, subcontractors and agents comply with the health and safety regulations and instructions as set out by the Operator.
- (b) ensure that its Vessels comply with the Applicable Laws and reasonable instructions as set out by the Operator. The Operator shall have the right to refuse provision of the Terminal Services to the Customer in the event of, and to the extent of, the Customer's non-compliance with any of such Applicable Laws or instructions of the Operator. If a Vessel is at berth at the time of such non-compliance, the Customer undertakes to meet any additional costs resulting from such non-compliance and/or ensure that the berth is vacated immediately upon receipt of written request from the Operator.

7.3 Removal of Objectionable Cargo

The Operator reserves the right to move to another location and/or inspect any Cargo which in its judgement is reasonably likely to damage other Cargo or property, at the risk and expense of the Customer. The Customer will be notified prior to such removal if practicable.

8. SECURITY AT THE TERMINAL

8.1 Vessel at Customer's Risk

The Operator will not be responsible for the security or safety of any Vessel while tied up at the Terminal.

8.2 Compliance with Security Requirements

- (a) The Customer shall comply with all Applicable Laws pertaining to security requirements, the Facility Security Plan and any of the Operator's standing instructions which may be operative at such time. The Operator shall have the right to refuse provision of the Terminal Services to the Customer in the event of the Customer's non-compliance with any of such laws, regulations, instructions or requirements of the Operator. If a Vessel is at the Terminal at the time of such non-compliance, the Customer undertakes to meet any additional costs resulting from such non-

compliance and/or ensure that the berth is vacated immediately upon receipt of written request from the Operator.

- (b) The Operator undertakes to implement and maintain such security measures necessary to ensure that the Terminal complies with Good Industry Practice and the Applicable Laws in relation to security, including such security measures as required by the ISPS code (together, the **Security Measures**).

8.3 Costs of compliance with Security Requirements

In the event that, as a result of a change in Good Industry Practice or the Applicable Laws, the Operator deems it necessary to change the Security Measures in order to comply with its obligations at clause 8.2(b), and such change results in an increase in the cost of the provision of such Security Measures, the Operator may recover such additional costs from the persons (including, for the avoidance of doubt, the Customer) to whom the Operator provides services and/or facilities at the Terminal.

8.4 Stowaways

- (a) The Customer shall enforce strict access controls at the gangway on all Vessels whilst berthed at the Terminal, in order to prevent unauthorised access to those Vessels.
- (b) The Operator shall enforce strict access controls at the perimeter of the Terminal to prevent unauthorised access to the Terminal.
- (c) The Operator will not be liable for any loss or damage suffered or incurred by the Customer (including, without limitation, any fines or penalties or the payment of expenses by the Customer on account of care, lodging, medical attention, security or repatriation) arising from the presence on board Vessels of stowaways, or other unauthorised personnel.

9. CUSTOMER ACCESS TO TERMINAL

Subject to the Applicable Laws and the Facility Security Plan, the Operator shall allow reasonable access to the Customer and the Customer's Visitors, upon reasonable request, to attend the Terminal for the purpose of carrying out the business and agency requirements of the Customer relating to the Terminal Services supplied by the Operator to the Customer. The Customer and the Customer's Visitors shall observe all requirements of the Facility Security Plan, all safety regulations and any of the Operator's standing instructions which may be operative at that time. The Customer will be fully liable for the acts and omissions of the Customer's Visitors while they are present at the Terminal and shall indemnify and keep indemnified the Operator in respect of any loss or damage suffered or incurred as a consequence of any such act or omission.

10. OBLIGATIONS AND RELATIONSHIP ISSUES

10.1 Appoint Representative

The Customer and the Operator must:

- (a) each appoint and maintain, for the Term, a suitable full time employee to represent it and to supervise the performance of its obligations (the **Representative**);
- (b) each ensure its Representative regularly meets with the other's Representative to discuss the progress of this Agreement; and

- (c) if reasonably requested by the other, replace its Representative.

10.2 Applicable Laws to Override

Each Party acknowledges that the Applicable Laws may regulate how the Operator can perform the Terminal Services. The specifications of the Terminal Services, including without limitation the Operator's obligations, are subject to such Applicable Laws.

10.3 Interdependence of Performance of Obligations

The Parties acknowledge that each Party's ability to meet its obligations under this Agreement is dependent upon the other Party meeting its obligations under this Agreement. Accordingly, neither Party shall be in breach of its obligations under this Agreement to the extent that its ability to meet those obligations has been materially adversely impacted by a failure of the other Party to meet its obligations under this Agreement.

10.4 Review of Obligations

At least once during each 12-month period during the Term, the Representatives must:

- (a) review in good faith Appendices 3 and 4 with the intention of enhancing the performance of the Terminal Services, such as operating requirements, performance standards, berthing window plan and operational safety;
- (b) decide whether these Appendices should be varied; and
- (c) if the Parties agree to make any variation, ensure that it is constituted in an amendment to this Agreement,

provided that if no such variations are agreed, the existing Appendices shall continue to apply.

10.5 Maintenance of Records

Each Party must maintain and retain relevant documents and records, for the Term, sufficient to enable verification of compliance with its obligations under this Agreement and, where reasonably required by the other Party, shall provide copies of such records (or reasonable access, as appropriate, during normal business hours) for the purposes of such verification.

11. SERVICE ISSUES

Each Party must notify the other Party, without undue delay, after becoming aware of anything that is likely to, or will, adversely impact on the either Party's ability to perform its obligations under this Agreement, specifying at least:

- (a) the nature and cause of the problem; and
- (b) the steps, if any, being taken to minimise the impact of the problem.

The Parties must use their reasonable efforts to resolve the problem as quickly as possible.

12. SUBCONTRACTING

- (a) The Operator may sub-contract the performance of the Terminal Services or any part thereof, but, unless such a sub-contract is at the request of the Customer, any sub-contracting shall in no way relieve the Operator of any of its obligations under this Agreement and the Operator shall remain responsible for any sub-contractor and its performance. The Operator shall ensure that any such sub-contractors comply with and observe the terms and conditions of this Agreement as if they were an original party to this Agreement, in particular, but in no way limited to, the obligations of confidentiality provided in Clause 6.
- (b) If the Customer makes a request, the Operator may sub-contract the provision of Terminal Services with respect to the Vessel to another terminal operator in the Port upon such terms and conditions as the Operator may negotiate with that operator, provided that the Operator will not be liable to the Customer for any adverse performance or acts or omissions of that operator. Notwithstanding the foregoing, the provisions of this Agreement shall continue to apply as between the Operator and the Customer, including, without limitation, the payment of rates by the Customer in accordance with the Rates set out in Appendix 4.
- (c) In the event of a Vessel call being subcontracted or transferred to another terminal operator at the request of the Customer, any Containers received into the Operator's Terminal will be relocated to the other operator's terminal at the expense of the Customer and each Container will be charged for the gate-in, gate-out and any storage accruing in accordance with the Rates set out in Appendix 4.

13. FORCE MAJEURE

13.1 Relief from Liability

A Party (an **Affected Party**) shall be relieved from liability (except for any accrued payment obligations) for any delay in the performance of, or inability to perform, an obligation under this Agreement which is directly caused by or results from a Force Majeure Event, for so long as the inability to perform continues.

13.2 Obligations of Affected Party

- (a) Notwithstanding the foregoing, the Affected Party shall:
 - (i) make reasonable efforts to prevent, minimise and thereafter mitigate any delays or costs occasioned by any Force Majeure Event, including recourse to alternative acceptable sources of services, equipment and materials; and
 - (ii) use all reasonable efforts to ensure resumption of normal performance of this Agreement after the occurrence of any Force Majeure Event and perform its obligations hereunder to the maximum extent practicable.
- (b) Each Party shall bear their respective costs and neither Party shall be required to pay to the other Party any costs arising out of a Force Majeure Event.

13.3 Notification

If a Force Majeure Event occurs, the Affected Party shall notify the other Party as soon as reasonably practicable and in any event within 10 business days after the Affected Party reasonably determines that the occurrence of the Force Majeure Event affects the performance of its obligations under this Agreement in a material way. The notification shall

comprise details of the suspected Force Majeure Event, the estimated financial consequences thereof and the measures and efforts exerted by the Affected Party to mitigate and overcome the effects of the occurrence of the Force Majeure Event.

13.4 Force Majeure

In this Agreement, a **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 in Clause 13.5 for so long as such event or the inability to perform continues, and:

- (a) is outside the control of the Affected Party;
- (b) could not be avoided, prevented or overcome with reasonable foresight, prudence and diligence or otherwise by taking action according to Good Industry Practice; and
- (c) materially prevents, hinders or delays performance of all or a material part of the Affected Party's obligations under this Agreement

13.5 Categories of Force Majeure Events

Without limiting the generality of Clause 13.4 and subject to Clause 13.2, a Force Majeure Event shall include, but not be limited to, the following categories or circumstances of a natural or general nature, including:

- (a) acts of God;
- (b) nuclear explosion, radioactive, biological or chemical contamination;
- (c) landslides, earthquakes and tsunamis;
- (d) epidemic, plague or quarantine;
- (e) blockade or closure of the Port;
- (f) strikes or other industrial action affecting the Terminal and/or the Terminal Services, other than those caused by or directly attributable to the Operator or Customer (as the case may be);
- (g) war (whether declared or not), civil war, invasion, embargo, military coup, revolution or armed conflict on a national scale;
- (h) sabotage, criminal damage, terrorism, but only when any of the Terminal Services are directly affected;
- (i) expropriation or nationalisation of a Party's assets;
- (j) power outage at the Terminal other than those caused by or directly attributable to the Operator;
- (k) catastrophic impact on the Operator's information technology ecosystem (software and hardware), including malicious cyber-attacks or cyber terrorism;
- (l) riot, civil commotion, insurrection on a massive or national scale;
- (m) adverse weather conditions; and
- (n) any change in Applicable Laws after the Commencement Date of this Agreement.

13.6 Force Majeure Termination

Subject to compliance with Clauses 13.2 to 13.5 (inclusive), if the Force Majeure Event or its consequences continue such that the Affected Party is unable to comply with its material obligations or exercise its material rights hereunder for a continuous period of at least 180 calendar days, either Party shall be entitled to terminate this Agreement by giving written notice to the other Party, unless the Affected Party has during the existence of the Force Majeure Event taken steps reasonably satisfactorily to the other Party to overcome the relevant Force Majeure Event or its consequences and is continuing to implement the same at the end of such period.

14. PAYMENT OBLIGATIONS

14.1 Payment of Rates

Appendix 4 states the Rates the Customer must pay to the Operator under this Agreement for Services rendered. The Operator will, upon the request of the Customer and, where possible prior to carrying it out, price any individual Terminal Service that does not have a corresponding Rate under Appendix 4.

14.2 Taxes

The Rates stated in this Agreement are exclusive of all applicable taxes. Where such tax is payable in respect of the provision of the Terminal Services under this Agreement, then the Operator is entitled to recover that amount from the Customer. In that event the Operator must provide the Customer with a tax invoice with respect to the amount of tax charged.

14.3 Basis of Invoicing

Promptly after each Vessel call, the Operator will invoice the Customer for all amounts owing under this Agreement for Terminal Services supplied in respect of that Vessel call, specifying how those amounts have been calculated as well as providing supporting documentation. Storage and other ancillary charges will be invoiced on a periodic basis.

Any disbursements incurred by the Operator on behalf of the Customer and not related to a particular port call of a Vessel shall, unless otherwise agreed, be computed and settled in the same currency as those in which the expenses included on the invoice were incurred.

14.4 Credit Period

The Customer must pay each undisputed Operator invoice (including excess storage charges and other Operators charges) without set off or counterclaim within the Credit Period.

14.5 Disputed Invoices

If the Customer disputes, acting in good faith, any amount stated in an invoice provided in accordance with clause 14.3, the Customer must notify the Operator within the Credit Period and the relevant Parties must seek to resolve the dispute as quickly as possible. The Customer must pay the non-disputed amount of the invoice within the Credit Period. In the event that the relevant Parties cannot resolve the dispute informally, then they must follow the dispute resolution procedure in clause 15 to resolve the dispute.

14.6 Interest on Overdue Amounts

The Operator may charge the Customer interest on any overdue amount, calculated daily at the lending rate (as charged on the due date by the Central Bank of the country in which the Port is situated) plus 2%, from the due date until the date of payment.

14.7 Remedies for Non-Payment

If the Customer fails to pay undisputed invoices for thirty (30) days after the due date, the Operator shall, without prejudice to any other rights of the Operator under this Agreement or otherwise, be entitled to seek remedy as it sees fit including, but not limited to, elimination of any discount to the Terminal's standard rates, suspension of Terminal Services and termination of this Agreement.

14.8 Increased Costs

In the event that, as a result of a change in Applicable Law, Good Industry Practice or any labour, safety, security or environmental guidelines or requirements, the Operator incurs any increased cost in the provision of services (including any Terminal Services) and/or facilities at the Terminal, the Operator may recover such additional costs from the persons (including, for the avoidance of doubt, the Customer) to whom the Operator provides such services (including any Terminal Services) and/or facilities at the Terminal. The Operator will seek recovery of such increased costs on a non-discriminatory basis from all customers of the Terminal and will endeavour to provide reasonable advance notice to the Customer of any such increased charges.

15. DISPUTE RESOLUTION²

15.1 Dispute Meeting

- (a) In the event of any dispute between the Parties arising out of or relating to this Agreement, representatives of the Parties shall, within 14 days of service of a written notice from either party to the other party (a **Dispute Notice**), hold a meeting (a **Dispute Meeting**) in an effort to resolve the dispute.
- (b) Each Party shall use all reasonable endeavours to send a representative who has authority to settle the dispute to attend the Dispute Meeting.

15.2 Intervention of CEOs

If within 28 days of the date of service of a Dispute Notice, the Parties shall have failed to resolve the dispute, whether or not a Dispute Meeting has been held, each of the Parties shall prepare and send to the other Parties a memorandum stating its understanding of the dispute, its position in relation to the dispute, its reason for taking that position and any proposal for resolving the dispute, and the chief executive officer of each of the Parties shall be provided with copies of all memoranda prepared under this clause 15.2 and shall as soon as reasonably practicable meet to discuss the dispute and use all reasonable endeavours to resolve it.

15.3 Reference to arbitration

Any dispute which is not resolved within 14 days after the service of a Dispute Notice, (whether or not a Dispute Meeting, as provided for in clause 15.1 has been held, or the other requirements of clause 15.2 have been satisfied by the Parties) shall, at the request of either Party, be referred to arbitration under the rules of the London Maritime Arbitrators' Association (the **Rules**) conducted before three arbitrators, one to be appointed by each

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party and the third, subject to the provisions of the Rules, by the two so appointed. The arbitration shall be seated in [England]. The place of the arbitration shall be [London] and the language of the arbitration shall be English.

15.4 Binding effect of arbitral award

The Parties each hereby unconditionally and irrevocably:

- (a) agree that an award by the duly appointed arbitrators pursuant to the provisions of clause 15.3 shall be final, conclusive and binding upon it and may be enforced in any court of competent jurisdiction including, but not limited to, those in [insert jurisdiction in which Customer is located] and [insert jurisdiction in which Operator is located]; and
- (b) consent generally to the giving of any relief or the issue of any process in connection with the enforcement of any arbitral award including, without limitation, enforcement or execution against any assets belonging to it.

15.5 Interim measures not affected

Notwithstanding the foregoing, the Parties agree that either of them may seek interim measures including injunctive relief or specific performance in relation to the provisions of this Agreement or the Parties' performance of it from any court of competent jurisdiction and nothing in this clause 15 will restrict either Party's freedom to commence legal proceedings to preserve any legal right or remedy at any time while the above dispute resolution procedures are in progress or before or after they are invoked.

16. TERMINATION

16.1 Termination for Cause

A Party (the **Non-Defaulting Party**) may terminate this Agreement with immediate effect by giving notice to the other Party (the **Defaulting Party**) if:

- (a) the Defaulting Party breaches any material term of this Agreement (including, without limitation, an obligation to pay) and fails to remedy the breach within 30 days after receiving notice from the Non-Defaulting Party requiring it to do so;
- (b) the Defaulting Party disposes of the whole or any part of its assets, operations or business other than in the normal course of business (except a voluntary liquidation for the purpose of amalgamation or reconstruction if the new company assumes all of the Defaulting Party's obligations under this Agreement on terms satisfactory to the Operator);
- (c) a mortgagee, receiver, receiver and manager, liquidator, provisional liquidator or any kind of external administrator is appointed to the Defaulting Party or any of its assets or business;
- (d) any arrangement or compromise is entered into between the Defaulting Party and its creditors;
- (e) the Defaulting Party ceases to be able to pay its debts as and when they fall due; or
- (f) the Defaulting Party ceases to carry on its business in the ordinary course.

16.2 Duty to Notify

The Defaulting Party must notify the Non-Defaulting Party immediately if any of the events set out in sub-clauses 16.1(b) to 16.1(f) happens to the Defaulting Party.

16.3 All Rights Preserved

Termination of this Agreement under this clause 16 shall be without prejudice to the accrued rights and obligations of the Parties under this Agreement, including, without limitation, the right of the Operator to be paid all accrued fees and charges then outstanding under this Agreement and the obligations of confidentiality imposed on all Parties.

16.4 Right to review applicable Rates

Without prejudice to any other rights of the Operator under this Agreement or otherwise, including the termination rights available under this clause 16, if the Customer repeatedly fails to fulfil any material obligation or breach any material term under this Agreement, the Operator reserves the right to review the applicable Rates. Any change in the applicable Rates shall only take place upon the prior written agreement of the Parties.

17. AFTER TERMINATION

17.1 Cargo Returned Against Payment

Promptly after termination of this Agreement (which expression shall include, for the purposes of this clause 17, expiry of the Term):

- (a) the Operator must return to the Customer, at the Customer's expense and upon fulfilment of the Customer's payment obligations under sub-clause 17.1(b), any Containers or Cargo in the Operator's or its subcontractors' possession or control; and
- (b) the Customer must pay the Operator for all Terminal Services supplied up to and on termination.

17.2 Clauses Survive

Clauses 1, 6, 16.3, 18, 19, 20, 21 and this clause 17 continue to bind the Parties after termination of this Agreement.

18. LIABILITY OF OPERATOR³

18.1 Liability

Subject to clause 21.5, the Operator shall indemnify and keep indemnified the Customer (and its employees, officers, contractors, subcontractors and agents) in respect of any death, personal injury, loss or damage suffered or incurred as a consequence of any breach of the Agreement by the Operator constituting negligence or wilful misconduct or any act or omission of the Operator (or any of its employees, officers, contractors, subcontractors or agents) constituting negligence or wilful misconduct except to the extent that such death, personal injury, loss or damage is caused by a breach of this Agreement or an act or omission of the Customer (or any of its employees, officers contractors, subcontractors or agents).

18.2 Liability Cap⁴

- (a) Subject to the provisions of clause 21.4, the liability of the Operator under this Agreement arising out of any single incident or series of incidents, or breach of this Agreement, in each case arising from a common cause shall not exceed USD one hundred million (US\$ 100,000,000) (the **Liability Ceiling Amount**).
- (b) Subject to clause 18.2(a), the liability of the Operator under this Agreement shall not exceed the financial limits set out below for the specified category of loss or damage:
- (i) In the case of damage to a Vessel, a maximum of USD fifteen million (US\$15,000,000) (the **Vessel Damage Sub-Cap Amount**) arising out of any single incident or series of related incidents or series of incidents arising from a common cause;
- (ii) in the case of physical loss or damage to a Container, or a Container and its ancillary equipment, the depreciated value or the reasonable cost of repairs whichever is less, provided that in no circumstance shall the Operator's liability exceed:
- (A) two thousand five hundred US Dollars (USD 2,500) in the case of any regular twenty foot (20') dry Container;
- (B) three thousand nine hundred US Dollars (USD 3,900) in the case of any regular dry Container of more than twenty foot (20') in length;
- (C) twenty five thousand US Dollars (USD 25,000) in the case of any twenty foot (20') reefer Container;
- (D) thirty two thousand US Dollars (USD 32,000) in the case of any reefer Container of more than twenty foot (20') in length;
- (E) thirty nine thousand US Dollars (USD 39,000) in the case of any 'Super Freezer';
- (F) thirty thousand US Dollars (USD 30,000) in the case of any tank Container;
- (G) five thousand US Dollars (USD 5,000) in the case of any twenty foot (20') Container which is not a regular dry, reefer or tank; and
- (H) eight thousand four hundred US Dollars (USD 8,400) in the case of any Container of more than twenty foot (20') in length which is not a regular dry, reefer or tank.

The depreciated value of the Container shall be calculated on the basis of the respective value above with a straight-line depreciation of five point five per cent (5.5%) per annum from the date of manufacturing as per the Container's container safety certificate until the day before the incident;

- (iii) in the case of physical loss or damage to Cargo, the Customer's liability to its customer under its Bill of Lading or other contract of carriage to a maximum of:
- (A) in the case of containerised Cargo: US\$75,000 per Container; and
- (B) in the case of break bulk or non-containerised Cargo: US\$50,000 per piece arising out of any single incident;

- (iv) in the case of any other equipment owned or operated by the Customer not previously referred to in this clause, subject to a limit of US\$25,000, the lesser of the reasonable cost of repair and the depreciated value.

- (c) Subject to clause 18.2(a), in the case of all other claims, a sum equal to Rates paid by the Customer in respect of the element of the Terminal Services in respect of which the claim arose.

18.3 Liability Floor

The Customer shall make no claim against the Operator for an amount less than USD one thousand (US\$1,000) (the **Liability Floor Amount**).

18.4 No Liability

Notwithstanding the generality of clause 18.1, the Operator shall not be liable for any loss or damage to a Container or Cargo, death or personal injury to the extent that such loss, damage, death or injury is caused by or contributed to by defective protection or packing, latent or natural wastage or contamination of Cargo, misdeclared Cargo information, failure or malfunction of refrigerated container equipment or refrigerants or defective or malfunctioning twistlocks or lashing gear of the Customer.

18.5 Transfer of Risk

For the purpose of this Agreement, the custody of Containers and Cargo will be transferred to the Operator as follows:

- (a) For export Containers/Cargo: upon passing in the Terminal gate according to the relevant equipment interchange receipt to be issued by the Operator, until stowing of the Container/Cargo on the Vessel (locking twist locks on board).
- (b) For import Containers/Cargo: upon unstowing of the Container/Cargo from the Vessel (from unlocking twist locks on board) until either:
 - (i) passing out of Terminal gate into the custody of the person to receive the Container / Cargo according to the relevant equipment interchange receipt to be issued by the Operator; or
 - (ii) received by the person duly authorised to take delivery of the Container / Cargo according to the relevant equipment interchange receipt to be issued by the Operator,whichever happens first.
- (c) For transshipment and restows of Cargo/Containers: as from unstowing of the Container/Cargo from the Vessel (as from unlocking twist locks on board) until restowing of such Container/Cargo on the Vessel (as from locking twist locks on board).

18.6 No other liability

Save as set out in clause 18.2, the Operator shall not have any liability for any loss of or damage arising out of or in connection with this Agreement, its performance or any failure, or loss arising out of delay, whether in relation to the performance of this Agreement, the Terminal Services or the Vessel or otherwise in each case howsoever arising (whether caused by negligence or otherwise).

19. LIABILITY OF CUSTOMER⁵

19.1 Liability

Subject to clause 21.5, the Customer shall indemnify and keep indemnified the Operator (and its employees, officers, contractors, subcontractors and agents) in respect of any death, personal injury, loss or damage suffered or incurred as a consequence of any breach of the Agreement by the Customer constituting negligence or wilful misconduct or any act or omission of the Customer (or any of its employees, officers, contractors, subcontractors or agents) constituting negligence or wilful misconduct except to the extent that such death, personal injury, loss or damage is caused by a breach of this Agreement or an act or omission of the Operator (or any of its employees, officers, contractors, subcontractors or agents).

19.2 Himalaya Clause

The Customer:

- (a) must include in all its contracts of carriage for Containers or Cargo loaded or discharged at the Terminal, provisions whereby every sub-contractor of the Customer (including the Operator and each of the Operator's sub-contractors):
 - (i) shall have the benefit of any provision in such contract which limits the Customer's liability relating to such carriage (including, without limitation, any liability caps or limitation periods), and the Operator hereby appoints the Customer as its agent only for such limited purpose; and
 - (ii) shall not be liable to any party other than the Customer in relation to Cargo and, without prejudice to the liability of the Operator to the Customer and the Customer's rights of indemnity under this Agreement, the Customer hereby indemnifies the Operator and each of the Operator's sub-contractors and shall hold them harmless against any claim by a third party relating to Cargo.
- (b) acknowledges that the Operator has agreed with its sub-contractors that they will enjoy the benefit of the exclusion and limitation of liability terms agreed with the Customer pursuant to this Agreement and accordingly agrees that:
 - (i) the exclusions and limitations of the Operator's liability in clauses 18 and 21 of this Agreement shall benefit the Operator's sub-contractors, all employees and agents of the Operator or of any sub-contractor and anyone else who is vicariously liable for acts or omissions of any such person; and
 - (ii) for the purposes of this sub-clause (b) only, the Operator enters into this Agreement as agent for all such persons who shall be treated as if they were parties to this Agreement.

19.3 Liability Cap⁶

Subject to the provisions of clause 21.4, the liability of the Customer under this Agreement arising out of any single incident or series of incidents arising from a common cause shall not exceed the Liability Ceiling Amount.

19.4 Liability Floor

The Operator shall make no claim against the Customer for an amount less than the Liability Floor Amount.

19.5 Waiver of Limitation⁷

To the extent permitted by law, the Customer hereby agrees, for and on behalf of itself, and the Vessel Owner, to waive any statutory right to limit liability for personal injury or property damage by establishing a limitation fund under any applicable international convention or national law governing the liability of owners and/or operators of seagoing ships, including, without limitation, the Limitation Conventions. The Customer hereby warrants that it has the authority to bind the Vessel Owner to such waiver of limitation set out in this clause 19.5.

[19.5 Limitation of Liability⁸

Subject to clause 19.3, the Customer hereby agrees, for and on behalf of itself, and the Vessel Owner, that limitation shall be determined by the 1996 Protocol, regardless of whether the 1996 Protocol has been ratified by the country in which the Terminal is located. The Customer hereby warrants that it has the authority to bind the Vessel Owner to such waiver of limitation set out in this clause 19.5.]

19.6 [Effect of Statutory Limitations

Without prejudice to clause [19.5], to the extent the Customer or Vessel Owner seeks to limit its aggregate liability for personal injury or property damage to an amount which is less than the Liability Ceiling Amount by way of the application of any applicable international convention or national law governing the liability of owners and/or operators of seagoing ships (“**Statutory Limitation**”), any claim(s) by the Operator shall be separated such that to the extent that the value of such claim(s) exceeds the Statutory Limitation, such claim(s) shall constitute a separate claim which the Parties agree shall not be subject to any limitation other than the Liability Ceiling Amount and will be subject to separate proceedings (“**Separate Proceedings**”). Notwithstanding clause (C)(c) (Governing Law) and clause 15 (Dispute Resolution), the Operator shall be entitled to pursue any Separate Proceedings in the courts of England and the Separate Proceedings will be governed by English law. The Customer hereby warrants that it has the authority to bind the Vessel Owner to this clause 19.6.]⁹

20. TERMINAL DAMAGE¹⁰

In case of any vessel allision causing damage to the Terminal or any of the Operator's facilities or equipment, the provisions of this clause 20 shall apply. Vessel allisions cause the Operator and its Affiliates significant financial losses including the costs associated with repair and / or repairing property; operational impact and inefficiencies, reputation damage; loss of business; increases in insurance premiums; unrecoverable legal costs; and management time and cost in responding to vessel allisions and investigating purchase and carriage options for repair and / or replacement of damaged property. In developing the following sections of this Agreement, the Operator has sought to provide for a regime that allows the Operator to recover its losses in a formulaic way and seeks to strike a fair balance between the interests of the Operator on the one hand and the Customer and Vessel Owner on the other hand. The Customer hereby warrants that it has the authority to bind the Vessel Owner to the following terms.

20.1 Security

The Customer hereby agrees, for and on behalf of itself, and the Vessel Owner, that in the event of any vessel allision causing damage to the Terminal or any of the Operator's facilities or equipment:

- (a) The Customer and the Vessel Owner will provide security, in a form acceptable to the Operator, for the Operator's worst realistic case losses, as determined by the Operator, plus 2.5 years interest (calculated in accordance with clause 14.6) and costs together with written agreement from the Customer as to the Operator's submission for appropriate jurisdiction; and
- (b) In the event that such security is not provided, the Operator shall, without prejudice to any other remedies available to it, be entitled to arrest the vessel at the Terminal or elsewhere until such time as appropriately worded security in the form of a letter of undertaking for the full value of the Operator's worst realistic case losses, as determined by the Operator, plus 2.5 years interest (calculated in accordance with clause 14.6) and costs, together with written agreement from the Customer as to the Operator's submission for appropriate jurisdiction, is obtained.

20.2 Liability

(a) Provision of Electronic Track Data

Within 7 days of an allision involving any Vessel and the Operator's facilities or equipment, the Customer and / or the Vessel Owner shall provide to the Operator any Electronic Track Data which is or has been in its control.

(b) Admission of liability

Within 14 days of an allision involving any Vessel and the Operator's facilities or equipment the Customer and / or the Vessel Owner shall admit liability or, in the event that they do not admit liability shall provide a detailed written explanation as to why the Customer or Vessel Owner, as the case may be, is not liable.

(c) Determination of liability

In the event that the Parties cannot agree liability for the allision, the Operator shall be entitled to require that any tribunal constituted pursuant to clause 15 shall:

- (i) Determine liability as a preliminary or otherwise separate issue from any disputes relating to the quantum of the Operator's losses.
- (ii) Adopt a fast track procedure for the determination of issues of liability including making the following orders save where to do so would be manifestly unfair:
 - (A) Limit disclosure to contemporaneous documents made shortly before and shortly after the allision.
 - (B) Limit witnesses to those most closely involved with the allision.
 - (C) Exclude or limit expert evidence.
 - (D) Require the parties to provide a memorandum of points of agreement and dispute, to include an agreed plot of the Vessel's track leading up to the allision.

- (E) Dispensing with an oral hearing, and instead determining issues of liability only on the basis of an agreed bundle of evidence, and written submissions, limited to 10 pages or such other length as is approved by the tribunal, on fault, causation and apportionment.

20.3 Quantum – assessment of property damage

(a) Appointment of experts

Each Party shall appoint, or procure that their insurers appoint on its behalf, a professional and independent expert to oversee the assessment of any damage caused by an allision and steps taken to respond to such damage.

(b) Meeting of appointed experts

Each Party shall procure that the experts appointed in accordance with clause 20.3(a) shall meet to discuss the allision and appropriate methodologies for quantifying the damage caused as soon as reasonably practicable, and in any event no later than [10] days after the date of occurrence of the vessel allision.

(c) Costs of appointed experts

The Parties shall bear their own costs in relation to the appointment of any experts pursuant to this clause 20.3.

(d) Role of the appointed experts and co-operation

The Parties agree and acknowledge that the role of the experts appointed by the Parties (or their insurers) pursuant to this clause 20.3 is to provide contemporaneous and unbiased input to the parties on the extent of any property damage and the steps taken to respond to such damage.

The Parties shall provide all appointed experts with all reasonable co-operation and documents.

(e) Repair/Replacement

- (i) The Customer agrees (for and on behalf of itself and the Vessel Owner) that the Operator shall only be required to obtain a maximum of [three (3)] quotations from contractors in respect of the repair or replacement of damaged terminal infrastructure or equipment.
- (ii) In procuring the selection of a contractor to undertake any repair or replacement work and the proposed scope of such work, the Operator shall take into account any reasonable comments raised at the meeting of the appointed experts pursuant to clause 20.3(b).

20.4 Quantum – measure of recovery in property damage

(a) Basis of recovery

- (i) In the event of the Operator's property being damaged, the Operator shall be entitled to recover from the Customer or the Vessel Owner the cost of repairing or restoring the damaged portion of the property to a condition substantially the same as, but not better or more extensive than, its condition when new.

- (ii) In the event of the Operator's property being destroyed (which for the purposes of this clause shall mean when the property cannot be repaired within a reasonable time or to a condition at least equal to its condition prior to damage without incurring costs greater than the value of the property prior to it being damaged), the Operator shall be entitled to recover from the Customer or the Vessel Owner the cost of replacing the damaged property with a similar property in a condition equal to, but not better or more extensive than, its condition when new.

(b) Interim payments

The Operator shall be entitled to an Order from any tribunal constituted pursuant to clause 15 for an interim payment based on a quotation received from a contractor selected in accordance with clause 20.3(e).

20.5 Quantum – financial and business interruption losses

(a) Appointment of forensic accountants

Each Party shall appoint, or procure that their insurers appoint on its behalf, a professional and independent forensic accountant to quantify the actual losses suffered by the Operator arising from the vessel allision. The Parties shall provide all appointed forensic accountants with all reasonable co-operation and documents.

(b) Assessment of losses

- (i) Within [15] days of the 6-month anniversary of the date of the vessel allision, the appointed forensic accounts shall jointly issue a summary of the actual losses suffered by the Operator arising from the vessel allision during the period of 6 months from the date of the vessel allision.
- (ii) If the forensic accountants disagree on the assessment of losses under limb (i) above, then each forensic account shall, within [5] days of the expiry of the period stipulated in limb (i) above, issue to the parties its sole assessment of the losses suffered by the Operator arising from the vessel allision during the period of 6 months from the date of the vessel allision. If the results of the loss assessments made by the two (2) forensic accountants appointed by the Parties (or their insurers) pursuant to this clause 20.5 differ by [10% (ten percent)] or less, then such values will be averaged and such result shall be final and binding for the Parties as the value of the business interruption element of the Operator's claim for the applicable period.
- (iii) If the results of the loss assessments made by the two (2) forensic accountants appointed by the Parties (or their insurers) pursuant to this clause 20.5 differ by more than 10% (ten percent), then the Parties shall mutually agree and appoint a third independent appraiser or, if not so agreed with seven (7) days of the date of a written notice from one Party to the other proposing the identity of a third independent appraiser then an independent third party appraiser shall be appointed by the ICC International Centre for Expertise (or such other body agreed by the Parties), and such appraiser shall select one (1) of the two (2) valuations which, in its sole opinion, based on good industry practice, shall be final and binding for the Parties as the value of the business interruption element of the Operator's claim for the applicable period.

- (iv) The process set out in this clause 20.5(b) shall be repeated every 6 months until such time as the Terminal has resumed full operations (with a final reconciliation loss assessment to be conducted following the resumption of full operations).

(c) **Costs of appointed forensic accountants**

The Parties shall bear their own costs in relation to the appointment of any forensic accountants pursuant to this clause 20.5. The cost of any third independent appraiser appointed in accordance with clause 20.5(b)(iii) shall be shared equally between the Parties.

(d) **Payment**

The Customer shall pay to the Operator, in addition to any other remedies available to the Operator under this Agreement or at law, the amount determined pursuant to clause 20.5(b) within 30 days of receipt of an invoice from the Operator issued following completion of the process set out in clause 20.5(b).

21. GENERAL LIABILITY PROVISIONS

21.1 No Other Liability

In addition to any applicable legislation (save as waived pursuant to clause 19.5) and subject to clause 21.4, this Agreement states:

- (a) the entire liability of the Parties to each other; and
- (b) the extent of each Party's liability for any claim.

For the avoidance of doubt, the limitations of liability stated in this Agreement shall not prejudice the rights of any Party to pursue any remedy available at law including, without limitation, application for an order for specific performance or injunctive relief to enforce the terms of this Agreement.

21.2 Mitigation

Notwithstanding any other provision herein, both the Operator and the Customer shall, at all times, take all reasonable steps to minimise and mitigate any loss, damage and/or costs and expenses for which the relevant Party is entitled to bring a claim (including for indemnification) against the other pursuant to this Agreement.

21.3 Claim notification periods

No claim may be pursued by either the Operator or the Customer (the **Claimant** for the purpose of this clause) against the other (the **Recipient** for purposes of this clause) and the Recipient will be discharged of all liability whatsoever and howsoever, unless:

- (a) in the case of an event which customarily requires a survey of damage, the Claimant must immediately notify the Recipient. Failure to do so may release the Recipient from liability with regards to any claim;
- (b) the Recipient has been advised in writing of the event or events giving rise to the claim within sixty (60) days of their occurrence; and
- (c) proceedings are commenced in accordance with clause 15.3, and written notice thereof is received by the Recipient, within one (1) year of the occurrence of such event or events.

21.4 Non-Excludable Condition

Save as expressly set out in this Agreement, the Parties do not exclude or limit the application of any provision of any Applicable Law (such as an implied condition or warranty) to the extent that such exclusion would contravene that Applicable Law or cause any part of this Agreement to be void.

21.5 Exclusions from Liability

Subject to clause 21.4, the Operator and Customer exclude all liability to each other for any loss or damage which is either:

- (a) caused by and to the extent of a Force Majeure Event; or
- (b) consequential or indirect loss or damage whether arising in contract, tort, statute or otherwise even if:
 - (i) the Parties knew they were possible; or
 - (ii) they were otherwise foreseeable,

including, without limitation, loss of revenue, income, profits, market, interest or hire, fiscal loss or loss on currency exchange.

21.6 Applicability of liability provisions

The defences, limits and exclusion of liability provided for in this Agreement shall apply in any action whether the action be found in contract, bailment, tort (including, without limitation, negligence), breach of express or implied warranty or otherwise.

21.7 No Personal Liability

There is no agreement between the Customer and any director, employee or consultant (whether employed or self-employed) of the Operator (each an **Employee**) and any services provided by such Employees are provided on behalf of the Operator and not in his or her personal capacity and no Employee assumes any personal responsibility, obligation or duty to the Customer. The Customer undertakes that it will not bring any claim (including under this Agreement or in law of tort) against an Employee.

22. INSURANCE OBLIGATIONS

22.1 Operator

The Operator must at all times during the Term:

- (a) take out and maintain with insurers of international standing all such insurances and insure against such risks and for such sums as would normally be taken out by a prudent terminal operator and in any event to a level of cover not less than the Vessel Damage Sub-Cap Amount, including, but not limited to, liability insurances in respect of the Operator's negligence; and
- (b) provide evidence of the currency of such insurance coverage upon the Customer's request.

22.2 Customer

The Customer must at all times during the Term:

- (a) take out and maintain with insurers of international standing (which shall include any members of the International Group of P&I Clubs but also any other insurers acceptable to the Operator with a minimum credit rating of BBB) all such insurances and insure against such risks and for such sums as would normally be taken out by a prudent shipping operator and in any event to a level of cover not less than the Liability Ceiling Amount, including, but not limited to, P&I Club insurances; and
- (b) provide evidence of the currency of such insurance coverage upon the Operator's request.

23. RELATIONSHIP BETWEEN THE PARTIES

This Agreement does not create a relationship of employer and employee, principal and agent (except for the limited purpose stated in clause 19.2) or partnership between the Operator and the Customer.

Other than as provided in this Agreement, a Party shall not incur any liabilities nor make any contractual commitment on behalf of the other Party without prior written approval.

24. AGENT

The Customer may, subject to prior notification in writing to the Operator, appoint an agent in respect of the Terminal Services and other services and facilities provided by the Operator pursuant to this Agreement, in which event, the Customer shall be deemed to have authorised the Agent to act on the Customer's behalf in respect of all matters hereunder including to pay to or receive from the Operator all sums due under this Agreement unless the Customer notifies the Operator to the contrary at the time of such appointment or any time thereafter and:

- (a) the Operator shall be entitled at any time, to act upon any instruction, request, notice or other communication from the Agent without prior reference to the Customer and to receive from and to pay to the Agent any sums due under this Agreement (including any rebate);
- (b) any payment made by the Operator to the Agent pursuant to this Agreement shall be held by the Agent in trust for the Customer and the receipt of the Agent of such payment shall be a full and sufficient discharge of the Operator in respect of such payment;
- (c) any payment made by the Operator to the Agent pursuant to this Agreement shall only be made to the Agent for the time being when such payments fall due without any apportionment or deduction whatsoever with any other person; and
- (d) the entitlement of the Operator under sub-clause (a) above shall continue until the Operator receives notice from the Customer to cease acting upon such communication or to cease the receipt and/or making of such payments from and to the Agent thereafter.

25. NOTICES

25.1 Notification

A Party notifying or giving notice under this Agreement must notify:

- (a) in writing;
- (b) addressed to the address of the recipient specified on the first page of this Agreement or as varied by notice given in accordance with this clause; and
- (c) left at or sent by registered post or facsimile to that address or by e-mail to the address set out below.

25.2 Receipt

A notice given in accordance with clause 25.1 will be taken to have been received:

- (a) if delivered by hand to the recipient's address, on the date of delivery, as long as delivery is acknowledged in writing by the recipient;
- (b) if sent by registered post, 5 days after posting; and
- (c) if sent by facsimile or e-mail, on the first working day at the recipient's address, after transmission.

25.3 E-mail

For the avoidance of doubt, any and all notices and communications in relation to this Agreement (including any notices or communications in relation to any dispute or arbitration proceedings arising in connection with this Agreement) shall be treated as effectively served if sent by e-mail to the e-mail addresses as provided for in this clause:

- (a) E-mail address for Operator: [●];
- (b) E-mail address for Customer: [●].

26. GENERAL

26.1 Waiver and Modification

None of the provisions of this Agreement shall be considered waived by any Party unless a waiver is given in writing by that Party. No waiver of any breach shall be deemed to be a waiver of any other or subsequent breach. No alteration or amendment to any provision of this Agreement will be effective or enforceable unless made in writing and signed by the Parties to this Agreement.

26.2 Representations, Warranties and Undertakings

Both Parties shall, throughout the Term, be duly incorporated, validly existing and in good standing under the laws of the place of their incorporation, have full power to carry on their businesses and to enter into and perform their obligations under this Agreement, and shall, throughout the Term, comply with all Applicable Laws.

Both Parties have taken all necessary corporate and other steps, and have obtained all necessary consents and approvals (if any), to authorise the execution, delivery and performance of this Agreement.

The Customer warrants that it is authorised by the Vessel Owner to enter into this Agreement on its behalf.

26.3 No reliance

In entering into this Agreement no Party may rely on any representation, warranty, collateral contract or other assurance (except those set out in this Agreement and the documents referred to in it) made by or on behalf of any other Party before the signature of this Agreement and each of the Parties waives all rights and remedies which, but for this paragraph, might otherwise be available to him in respect of any such representation, warranty, collateral contract or other assurance, provided that nothing in this paragraph shall limit or exclude any liability for fraud.

26.4 Counterparts

This Agreement may be executed in any number of counterparts and all of such counterparts taken together shall be deemed to constitute one and the same instrument

26.5 Further Assurance

Each Party agrees, at its own cost and expense, upon the request of the other Parties, to do and execute or cause to be made done or executed all such acts, instruments, assurances and writings as may be reasonably necessary or desirable to perfect or give effect to the provisions of this Agreement and to use all reasonable endeavours to cause third parties to do likewise.

26.6 Severability

If any provision of this Agreement shall be or be determined to be illegal, invalid, void or voidable, the legality or validity of the remainder of this Agreement shall not be affected and the remainder of this Agreement shall continue in full force and effect.

26.7 Strict Compliance

In the absence of express provision to the contrary, failure or omission by a Party to this Agreement at any time to enforce or require strict or timely compliance with any provision of this Agreement or any related document shall not impair the ability of that Party to exercise the rights and remedies it otherwise has in respect of a breach of any such provision.

26.8 No Merger

None of the provisions of this Agreement will merge in or upon the execution of this or any other agreement, document, act, matter or thing.

26.9 Assignment of Rights

No Party may assign its rights under this Agreement without the prior consent in writing given by the other Party (which may be granted or withheld entirely at the discretion of such other Party), except that in the case of corporate reorganizations or restructurings where the other Party is not materially prejudiced thereby, such consent may not be unreasonably withheld.

26.10 Entire Agreement

This Agreement is the entire agreement between the Parties as to its subject matter and in relation to that subject matter, supersedes any prior understanding or agreement between the Parties, including without limitation, any letter of intent or proposal.

26.11 Precedence

In the event that any conflict arises between the Appendices and the General Terms and Conditions, the provisions set out in the General Terms and Conditions will take precedence.

26.12 Costs

Each Party must bear its own costs and out of pocket expenses (including legal costs) incurred in relation to the negotiation and execution of this Agreement.

26.13 Waiver of Sovereign Immunity

Each Party irrevocably waives all immunity to which it may be or become entitled in relation to this Agreement, including immunity from jurisdiction, enforcement, execution, prejudgment proceedings, injunctions and all other legal proceedings and relief, both in respect of itself and its assets, and consents to such proceedings and relief.

APPENDIX 1: OPERATOR'S OBLIGATIONS

The Operator shall provide the Terminal Services described in this Agreement to the Customer:

- (a) in compliance with the Agreement and Applicable Laws;
- (b) in a safe and efficient manner;
- (c) in accordance with any lawful and reasonable directions given from time to time by the Customer within the scope of this Agreement;

1. BERTHING

The Operator shall:

1.1 **If a Vessel Arrives on Schedule** (meaning arrival at the Terminal within [XX]¹¹ hours of the commencement of the Berthing Window)

- (a) provide a berth on Arrival.
- (b) work the Vessel to maintain the agreed Berthing Window Plan as listed in Appendix 3, provided the Vessel meets the MCD requirement and has an exchange that does not exceed the move count set out in Appendix 3.

1.2 **If a Vessel does not Arrive on Schedule:**

- (a) berth and work the Vessel at the next available opportunity. Work will commence on the Vessel at the normal start of shift after Arrival.
- (b) provide the best productivity possible using Good Industry Practice, however the Operator shall be under no obligation to meet the agreed Berthing Window parameters.
- (c) if multiple vessels are out of window, the Operator reserves the right to determine the priority of such vessels in order to ensure the efficient working of the Terminal.

2. SHIP OPERATIONS

The Operator shall provide:

2.1 Planning

Stowage planning based upon instructions from the Customer including but not limited to:

- (a) accessing the incoming electronic bay plan and retransmitting the completed electronic bay plan immediately upon operations being completed; and
- (b) providing the Vessel with the final bay plan data by electronic format, in accordance with the existing standard, not less than [six (6)] hours prior to scheduled departure subject always to all export Containers being received not less than [twelve (12)] hours prior to scheduled departure.

2.2 Loading and Discharging

- (a) cranes, labour and handling equipment necessary for the loading and discharging operations, so as to ensure that the Containers and Cargo of the Customer are handled in a safe and efficient manner in accordance with Good Industry Practice;
- (b) a bay plan and a working sequence for acceptance by the Vessel's command prior to the commencement of operations provided that the Customer complies with requirements of Appendix 2 (Clause 2);
- (c) movement of Containers from Vessel's cells or deck to wharf or vice versa;
- (d) restowing of containers at the request of the Customer;
- (e) lashing and unlashings of deck Containers and Cargo, where patent lashing fittings only are used;
- (f) opening and closing of twistlocks and attaching and removing twistlocks from Containers on and under deck;
- (g) discharging and loading of Vessel twistlock bins or racks;
- (h) discharging, loading and securing of hatch covers;
- (i) movement of Containers from wharf to stacking area or vice versa;
- (j) checking and confirming Container numbers;
- (k) reporting (in compliance with EDIFACT standards and communicated electronically) of Containers and Cargo loaded and discharged from the Vessel in the format required by the Customer provided that the Customer complies with the provisions of clause 2(d) of Appendix 2; and
- (l) reporting of visual damage as can be reasonably seen to Containers and other equipment.

2.3 Documentation

Upon arrival at the Terminal, the Operator shall provide the Vessels with the following documentation:

- (a) Full stowage plan (soft copy, BAPLIE file format);
- (b) Reefer manifests including slot positions;
- (c) Dangerous Cargo manifests including slot positions, and packing certificates;
- (d) Out of gauge (OOG) manifests including slot positions;
- (e) Work sequence;
- (f) Any specific documentation required on a case by case basis; and
- (g) Scheduled departure time.

Throughout the cargo operation, the Operator shall supply updated documentation to the Vessel as and when this becomes available.

Upon completion of cargo operations the Operator shall supply the Vessel with any of the above documentation that may have changed or otherwise been incomplete.

3. YARD OPERATIONS

3.1 Receival and Delivery:

The Operator shall provide:

- (a) suitable handling and storage areas based on the frequency of calls and the volumes to be handled as notified to the Operator, together with gate operations for the receival and delivery of Containers by road or, where a separate link is in existence, by rail;
- (b) details of the normal receival and delivery times as indicated by the Operator and as may be amended by the Operator from time to time
- (c) delivery of import Containers/Cargo at the Terminal (during normal receival and delivery hours) and all clerical work and reporting associated;
- (d) receival of export Containers/Cargo within the receival period in accordance with the procedures noted below:
 - (i) The **Cut-off** for all Vessels will be [xxx hour(s)/shift(s) preceding the advised time of Arrival] or earlier if required by the Vessel Operator.
 - (ii) Cut-off for transshipment containers shall be [xxx hour(s)/shift(s) preceding the advised time of Arrival].
 - (iii) Receival & Delivery Days are (xxx)day to (xxx)day inclusive
 - (iv) Commencement of the Receival Period will be declared by the Operator based on the estimated time of Arrival.
 - (v) The **Receival Period** for each Vessel will be corresponding to the interval of [xxx] consecutive Receival & Delivery days before and inclusive of the Cut-off day, or the day on which the estimated time of Arrival is notified to the Operator, whichever is the latest.
 - (vi) Once a Cut-off is declared it will not be altered unless the delay in Arrival is more than xx hours and such delay is notified more than xxx days before the previously notified estimated time of Arrival. In this event, the Cut-off will be adjusted according to the notified period of delay in Arrival.
 - (vii) Only in very special circumstances will arrangements be considered for late receivals, and these must be agreed before the agreed Cut-off.
 - (viii) Requests for late receivals made before Cut-off will be subject to agreement between the Parties as to the costs involved. No guarantee will be given that such late receivals will be accepted.
 - (ix) In the event of a Late Receival being requested, the following will apply:
 - 1. All late receival applications must be lodged through the Vessel Operator prior to the normal cargo cut-off for that Vessel.
 - 2. The Vessel Operator's Late Receival Request (LRR) is to be completed and sent to the Receival & Delivery Coordinator at the Terminal.

3. Except in the case of restricted hazardous commodities, LRR's cannot be considered for containers arriving after the vessel commences work.
 4. The Operator will promptly respond to the request by sending the LRR back, advising if the request has been accepted.
 5. Once the Late Receival arrangements are confirmed the Operator will arrange Terminal time slots for the appointed carrier.
- (x) For consortiums where more than one operator is involved, the Operator will only agree receival arrangements, regardless of whether they are normal, late or special receivals, with the Vessel Operator.
- (e) regular reports (in compliance with EDIFACT standards and communicated electronically) of Containers and Cargo movements into and within the Terminal in the format required by the Customer provided that the Customer complies with the provisions of clauses 2(d) and 2(e) of Appendix 2.
- (f) arrangements at the discretion of the Operator for acceptance/delivery of Containers/Cargo outside normal receival and delivery hours.

3.2 Storage

The Operator shall provide:

- (a) storage for export Containers/Cargo received during the Receival Period noted in 3.1(d).
- (b) storage for import Containers/Cargo following the completion of Vessel operations in accordance with the provisions contained in Appendix 4;
- (c) storage for transshipment Containers/Cargo following the completion of Vessel operations in accordance with the provisions contained in Appendix 4;

3.3 Temperature Controlled and Ventilated Cargo and Containers

The Operator shall:

- (a) provide electrical outlets and connect and disconnect the power supply;
- (b) set temperatures in accordance with the set points notified on the [booking advice] and monitoring the temperature settings displayed on the reefer units twice daily whilst in the Terminal and after receival or prior to delivery;
- (c) report faults, variations between the [booking advice] set point and Container set point, and machinery malfunctions (including abnormal temperature variations as nominated and provided by the Customer) to the Customer promptly upon discovery;
- (d) where applicable, establish and monitor fresh air exchange and humidity settings as stated on the [booking advice].
- (e) Operator Excused from Liability

The Operator will not be liable in respect of:

- (i) any failure of or interruption in the supply of electrical power, beyond the control of the Operator, to the Containers referred to in this clause;
- (ii) any failure or malfunction of such Containers or any associated equipment;

- (iii) any claim in respect of a Container or Cargo where the Operator has properly performed all its obligations under this Agreement; or
- (iv) any claim in respect of a container or cargo where the operator has not been advised of the temperature settings required.

3.4 Hazardous Cargo

The Operator shall not be obliged to handle Cargo that is prohibited by any of the Applicable Laws.

- (a) Subject to this clause, with respect to Hazardous Cargo or any Cargo listed as restricted by the Customer, the Operator and the Customer must agree in writing upon arrangements for handling such restricted Cargo prior to the arrival of the Cargo.
- (b) Subject to this clause, with respect to all Hazardous Cargo, the Operator may impose charges to recover extra costs incurred, including costs for labour delay time, and special insurance or handling procedures required by laws or Good Industry Practice.

3.5 Container Weighing¹²

- (a) The Operator shall check the existence of a VGM in the Cargo documentation provided by the Customer and shall not load a packed Container onto a Vessel to which SOLAS applies unless it has a VGM for such Container either provided by a VGM Declarant before the VGM Cut-off or established by the Operator in accordance with clause 3.5(c) below.
- (b) The Operator shall treat as genuine and rely in good faith upon, without further investigation, a gross mass of a Container purporting to be a VGM received from a VGM Declarant in any communication ordinarily used for the provision of information or as otherwise agreed between the Parties.
- (c) If either:
 - (i) a packed Container has been received by the Terminal but the VGM for such Container is not provided to the Operator by a VGM Declarant before the VGM Cut-off; or
 - (ii) it is agreed in writing (including by e-mail) between the Parties that a packed Container shall be weighed by the Operator,then the Operator shall, where applicable, obtain the VGM for such Container using appropriately calibrated and certified equipment as required by Applicable Laws and, for the purpose of paragraph (ii), that VGM shall replace the VGM for that Container previously provided by a VGM Declarant.
- (d) Any weight of a packed Container established by the Operator, other than pursuant to clause 3.5(c) above, shall not be considered as the VGM for the purpose of SOLAS and Applicable Law related thereto.
- (e) The Operator will promptly communicate the VGM obtained in accordance with clause 3.5(c) above to the Customer.

- (f) The Operator shall not load a Container onto a Vessel if the VGM provided by the Customer or established by the Operator in accordance with clause 3.5(c) above shows a VGM greater than the maximum gross mass indicated on the Safety Approval Plate under the International Convention for Safe Containers, as amended (an **Overweight Container**).
- (g) If agreed with the Customer and subject to clause 3.5(f), the Operator will de-stuff Overweight Containers and stuff and seal two or more Containers with the contents of such Overweight Containers and weigh each repacked sealed Container in accordance with clause 3.5(c). The Customer shall be responsible for removing any Overweight Containers from the Terminal without delay at the cost of the Customer.
- (h) The Customer shall pay all such charges arising out of or in connection with the activities performed by the Operator in this clause 3.5 and levied by the Terminal as are set out in Appendix 4 including, but not limited to, checking the existence of a VGM in the Cargo documentation provided by the Customer, establishing a VGM for a Container in accordance with clause 3.5(c) above, additional transport, shunting, handling, re-handling, de-stuffing, stuffing, storage or other charges resulting from Overweight Containers, delays or missed sailings.
- (i) The Operator shall not have any liability arising out of or in connection with delays or missed sailings as a result of:
 - (i) any failure of a VGM Declarant or third party to comply with the requirements of SOLAS or the terms of this Agreement;
 - (ii) the receipt by the Terminal of an Overweight Container;
 - (iii) the Terminal not having received a VGM before the VGM Cut-off; or
 - (iv) establishing a VGM for a Container in accordance with clause 3.5(c) above.
- (j) If as a result of a change in Good Industry Practice or the Applicable Laws (including SOLAS), the Operator's costs in order to comply with its obligations under this clause 3.5 are increased, the Operator may recover such additional costs from the Customer.

APPENDIX 2: CUSTOMER'S OBLIGATIONS

1. BERTHING

The Customer shall

- (a) comply with the Operator's Berthing Window Plan, Minimum Crane Density and exchange parameters described in Appendix 3;
- (b) provide regular sailing schedules and notification of estimated time of Arrival;
- (c) manage and control the movement of Vessels and/or related Vessel equipment within the Port with all due care and skill such that the Vessels do not cause any damage to the Terminal or persons or property on or in the vicinity of the Terminal;
- (d) provide to the Operator the general arrangement plan of any Vessel and any other pertinent information in accordance with the requirements of this Appendix 2;
- (e) berth the Vessel so as to best aid maximum productivity of Cargo transfer. The Operator must specify the working berth most conducive to the efficient operation of the vessel and on which side the Vessel should be berthed. If the Vessel can be worked equally well from either side it shall be berthed so as to minimise tug costs for the Customer. If the Customer (via the Vessel's command) elects not to comply with the Operators berthing request, the Operator reserves its rights to vary the Vessel's working program and Performance Standards; and
- (f) vacate the berth at the agreed window time unless the Operator has delayed the completion of the Vessel's operations or unless otherwise mutually agreed; and
- (g) give at least 3 months notice to the operator of desired changes to the Berthing Window Plan. Changes to the Berthing Window Plan shall be agreed and recorded in writing between the Operator and Customer prior to these changes coming into effect.

2. SHIP OPERATIONS

The Customer shall:

- (a) submit to the Operator not later than [two (2)] days before the Vessel arrives one (1) complete and accurate set of Cargo documentation as is necessary for the safe, orderly and efficient discharge/loading of that Vessel. Such documentation shall be in the format reasonably requested by the Operator and include, without limitation, manifests, bay plans, notifications and detailed descriptions of breakbulk, hazardous and reefer Cargos together with such other documents as the Operator may have notified duly in advance that it reasonably requires the Customer to provide;
- (b) ship bay plan, discharge, load and transshipment instructions twelve (12) hours before Arrival.
- (c) information about late gate arrivals and special stow requirements twelve (12) hours before the estimated time of Arrival.
- (d) arrange for the delivery of Containers or Cargo to the Terminal in accordance with the Cut-off procedures described in Appendix 1 and supply not later than [twenty four (24)] hours before the Vessel arrives, information sufficient to enable the Operator to provide the Terminal Services, including the validation of any export Containers to be loaded;

- (e) confirm to the Operator, not later than the time of receipt of Containers/Cargo by the Operator in its yard, the Customer's instructions in relation to the loading or otherwise of such Containers/Cargo (including a lashing plan);
- (f) ensure that all lashing gear (including (un)locking poles, stacking cones and twist-locks) conforms to international standards, is in good working order, is fitted in a consistent manner and is placed readily available adjacent to the area to be lashed/unlashed. Manual twist locks have been phased out of operations and will only be accepted by exception and subject to prior formal notification;
- (g) comply with all reasonable written requests by the Operator to ensure a safe working environment including, but not limited to, installing necessary handrails and temporary fencing barriers without undue delay for all unprotected edges, particularly around outboard cells and open hatches and ensure that each Vessel's safety equipment (including, but not limited to, hand rails, fencing, catwalks, hatch openings, lashing gear and fire-fighting equipment) is in good working order;
- (h) as soon as possible following receipt of a VGM with respect to any Container which is to be handled at the Terminal, communicate or procure the communication of the VGM to the Operator; and
- (i) hereby confirm as agent of the Shipper that the Operator has authority from the Shipper to act on its behalf and perform all actions contemplated in clause 3.5 of Appendix 1.

3. INVOICING & PAYMENTS

The Customer shall confirm to the Operator within [three (3)] business days after receipt by the Customer, the accuracy of actual ship working information provided by the Operator to the Customer for invoicing purposes. Absence of a response from the Customer will be deemed an acceptance of the information provided, and any dispute with respect to the information must be resolved by the relevant Parties within [three (3)] business days of first receipt;

APPENDIX 3: BERTHING WINDOW PLAN AND PERFORMANCE STANDARDS¹³**3.1 Berthing Window Plan**

The following Berthing Window Plan will apply, which may be varied by mutual agreement between the Parties:

Service / String Name [●]	
Berthing Window parameters:	
Arrival at berth(day/time) ETA	[●] Hrs
Departure (day/time) ETD	[●] Hrs
Maximum Air Draft at cargo stowage bays & obstructions from vessel super structure, cranes etc.	
Vessel Exchange Parameters (VEP):	
Maximum Vessel Length	Up to [●] Mtr. For vessels over [●] Mtr appropriate notice shall be given and agreed mutually as mentioned in sub clause 3.1b of Appendix 3.
Crane Intensity	[●]
Committed moves	[●]
Transshipment Moves	[●]
Flexibility in move count	+ or – [●] Subject to stowage, Crane intensity and terminals acceptance

- (a) The type of Vessel operated by the Customer for each String is disclosed above. If during the Term, the Customer introduces any type of Vessel not disclosed above, the Operator reserves the right to review the performance obligations for that String if the Operator cannot work that type of Vessel as efficiently as those originally disclosed.
- (b) Any changes to the VEP must be communicated by the Customer to the Operator in writing at least 3 months prior to such change becoming effective. Such changes, only once accepted by the Operator, shall be applied for remaining period of the Term and will be recorded in writing. [Any change in the VEP requested by the Customer, including any increase in the length overall (LOA) of the Vessel, which is not accepted by the Operator shall not give rise to a cause for termination of this Agreement.]
- (c) The Parties recognize that cargo volumes are subject to seasonal fluctuations and occasional peaks and drops on the Move Count mentioned above may occur and therefore any variance on same should not be considered as a breach of this Agreement but only outlining the conditions under which the window and productivity can be guaranteed.
- (d) In the event of a restructuring by the Customer of a String during the Term which gives rise to a necessary change in the Berthing Window, the Customer shall give notice to the Operator of desired changes to the Berthing Window Plan in respect of such String. Notice shall be given at the earliest possible time and no later than [XX] weeks before the expected date of arrival of the relevant Vessel at the Terminal.
- (e) Any desired change to a Berthing Window in respect of which the Operator has received notice in accordance with clause 3.1(d) of this Appendix 3 shall only take effect upon the prior written agreement of the Operator and Customer.

- (f) The Customer shall be entitled to cancel or withdraw [the [XX] Service] / [a String], provided that the Customer gives at least 3 months prior written notice of such cancellation to the Operator and provided further that, if during the Term the Customer replaces the cancelled [the [XX] Service] / [String] with another equivalent service of similar size and routing, which is intended to call at any marine terminal within [XX] kilometre radius of the Terminal (**Proximate Terminal**), then the Customer shall grant a first refusal right to the Operator to have such replacement service call at the Terminal, instead of the Proximate Terminal, on the terms and conditions set out in this Agreement.

3.2 Window Performance Review

- (a) At least once during each 3-month period during the Term, the Parties shall undertake a performance evaluation to ascertain the level of volumes in moves for each String as compared to committed moves for such String set out in this Appendix 3. In the event of any material discrepancy between committed moves (as contemplated in this Appendix 3) and actual moves which is attributable to the acts or omissions of the Customer or other reasons attributable to the Customer, the Operator may propose an amendment to the berthing window as set out in Appendix 3 [such amendment to be mutually agreed by the Parties].

3.3 Arrival and Berthing Window Obligations

- (a) The Customer will provide regular sailing schedules as per the following:
 - (i) rolling 3-monthly schedule, updated weekly; and
 - (ii) for each specific Vessel:
 - (A) 7-day ETA
 - (B) 4-day ETA
 - (C) 48 Hour ETA
- (b) Upon receipt of the 48-hour notification from the Customer, provided that a Vessel's ETA is within four (4) hours of that Vessel's agreed Berthing Window, then the Berthing Window will remain as originally allocated to the Customer provided that the Vessel is within the agreed VEP.
- (c) No later than twenty-four (24) hours prior to a Vessel's scheduled arrival at the Terminal, the Customer will notify the Operator of the Vessel's final ETA.
- (d) If a Vessel arrives ahead of the agreed Berthing Window, then it will berth on arrival provided the berth is available.
- (e) If a Vessel at berth or the provision of any Vessel operations are delayed for any reason within the Operator's control, the Operator will prioritise the provision of Vessel operations to such Vessel and will allocate additional equipment (if available) to make up for the lost time in order to complete the applicable Terminal Services within the agreed Berthing Window schedule, stowage allowing, provided that the Vessel's VEP does not exceed the VEP originally stated in the agreed Berthing Window schedule.
- (f) If a Vessel is delayed at berth for more than [XX] hours for reasons beyond the Operator's control (including as result of discrepancies in discharge or load data/information) or on account of default arising from Customer' negligence, the Customer may be requested to shift the Vessel to another berth or anchorage and re-

berth on a first come first served basis when berth and gantries are available again (unless there is no other immediate competing need for such berth and/or cranes beyond the agreed Berthing Window) at the Customer's cost.

- (g) The performance obligations of the Operator during the Berthing Window will not apply if the Vessel is unable to sustain the minimum crane intensity during Vessel working time on the Berth.

3.4 Moves

Discharge or load	per container	= 1 move
Restow same bay	per container	= 1 move
Discharge, land and restow	per complete cycle	= 2 moves
Non-standard Containers	per container	= 6 moves
Each hatch lid	per complete cycle	= 6 moves
Twist lock Flat rack	per complete cycle	= 2 moves

3.5 Minimum Crane Density (MCD)

Minimum Crane Density (**MCD**) is defined as the average number of cranes the Vessel can sustain for the duration of the Berthing Window. This is given by the total exchange divided by the number of moves to be made by the crane with the most moves.

<i>Example</i>	<i>Vessel 1</i>	<i>Vessel 2</i>
Total Exchange (moves)	1,200	1,200
Crane 1 (moves)	300	400
Crane 2 (moves)	300	400
Crane 3 (moves)	600	400
MCD	= (1,200 ÷ 600) = 2.0	= (1,200 ÷ 400) = 3.0

3.6 Permissible delays

- (a) The following exclusions constitute "Permissible Delays":
- (i) Delays caused by the Vessel or its equipment which prevent or delay Container exchange work being carried out;
 - (ii) Cessation of exchange work due to Vessel movements on or adjacent to the Terminal;
 - (iii) Handling of break bulk or over dimensional Cargo;
 - (iv) A Force Majeure Event;
 - (v) Delays to Vessel operations as a result of industrial action and authorised award stoppages (including Closed Port Days, whether worked or not). The Customer acknowledges that after industrial action or authorised award stoppages the Operator requires a recovery period for berthing of Vessels at the Terminal to return to normal of at least two (2) times the duration of the industrial action or stoppage;
 - (vi) Delays to Vessel operations caused by late receipt of Containers or by revisions to load lists or late submission of load/discharge instructions;
 - (vii) Failure and/or interruption to power supply;
 - (viii) Delays where Containers are worked into or out of non-cellular holds, where two 20ft Containers are stowed in a 40ft cellular hold, or where the stowage plan requires a crane to boom up/down to service cargo either side of a Vessel's bridge;
 - (ix) Delays during pilotage and other delays not caused by the Operator before labour aboard and after labour ashore;
 - (x) The delay in arrival of the Vessel for the agreed window;

- (xi) Delays caused by the discharge of funnel fumes or by insufficient, inaccessible or poorly maintained lashings and fittings including incorrectly fitted lashings or faulty twistlocks;
 - (xii) Delays caused by any statutory authority;
 - (xiii) Bona fide delays to previous ships scheduled to complete before the Closed Berthing Window outside the control of the Operator;
 - (xiv) Any delays caused by compliance with or enforcement in good faith of the provisions of any applicable collective bargaining agreement related to operations at the Terminal; and
 - (xv) Weather delays.
- (b) In case of a Permissible Delay, the affected Party shall:
- (i) be excused from performing those obligations affected by a Permissible Delay, and shall not be deemed to be in breach of such obligations and shall not be liable to the other to the extent thereof;
 - (ii) make all reasonable efforts to prevent or minimise and mitigate any effects, delays and costs and expenses arising out of the Permissible Delay; and
 - (iii) use its best efforts to resume normal performance of this Agreement as soon as possible.
- (c) The Customer shall not be entitled to exercise any right of termination under Clause 16 and, without prejudice to the generality of clause 18.6, the Operator shall have no liability (except for any accrued payment obligations) for any delay in the performance of, or inability to perform, an obligation under this Agreement which is directly caused by or results from a Permissible Delay, for so long as the inability to perform continues.

APPENDIX 4: RATES¹⁴

- (a) The Rates set out in this Appendix are all expressed in [currency] (#), unless otherwise indicated. A reference to [currency] (#) means the lawful currency of [country].
- (b) the Credit Period is [specify credit period] days from the date of the invoice (**Credit Period**)
- (c) Rates Review
 - (i) The Rates stated in Part 1 (**Rates**) shall apply until the [specify first/second/other] anniversary from the Commencement Date.
 - (ii) The Parties agree that 30 days prior to [the first (1st) / second (2nd)/each] anniversary of the Commencement Date, the new Rates shall be mutually agreed by the Parties. Failing agreement, the Rates shall be increased by [# xx per unit, or xx %, or x% of the increase in the consumer price index (CPI) as indicated by the [National Bank of Territory] over that period]. The Operator shall issue an updated schedule to reflect the adjusted Rates, which shall apply from [the first (1st) / second (2nd)/each] anniversary of the Commencement Date.

[Minimum Call & Rebate / Bonus Repayment]

- (d) [The Parties agree that any bonus or rebate payable by the Operator to the Customer is subject to a minimum of [XX] Vessel calls by the Customer to the Terminal in a Quarter (**Minimum Call**). If the Customer does not achieve the Minimum Call in a quarter, then:
 - (i) the Operator shall notify the Customer in writing of its failure to achieve the Minimum Call and the Customer shall be required to maintain regular sailing schedule in the subsequent Quarters to ensure a minimum of XX calls in the applicable Contract Year. The total number of calls in a Contract Year for this calculation will be the sum of calls in each Quarter up to a maximum of the stipulated XX calls for each Quarter. Fewer calls in a Quarter cannot be offset against excess calls in a subsequent Quarter.
 - (ii) If the Customer fails to do the minimum XX calls in the subsequent Quarter then the Operator shall be entitled to withhold and reclaim, if already paid, any bonus [and/or the rebate] for the respective defaulting Quarters.
 - (iii) If Customer is unwilling or unable to improve sailing frequency and continues to do fewer calls than the minimum XX calls for more than two (2) Quarters [in any Contract Year]/[during the Term] and is not reasonably expected to meet a minimum of XX calls in the applicable Contract Year then the Customer shall be deemed to be in material breach of this Agreement and the Operator may terminate this Agreement in accordance with its terms or cancel the allocated berth.
 - (iv) For the purpose of this Appendix:
 1. **Contract Year** means the 12-month period commencing on the Commencement Date and each successive 12-month period

thereafter commencing on the anniversary of the Commencement Date; and

2. **Quarter** means, in respect of a Contract Year, the 3-month period commencing on the first day of such Contract Year and each successive 3-month period thereafter.

[Peak Season Surcharge]

- (e) The Parties recognise that cargo volumes are subject to seasonal fluctuation and that additional costs are incurred during the peak season. Should the Customer introduce a surcharge to recoup costs during the peak season (i.e. a Peak Season Surcharge), the Operator reserves the right to apply a corresponding Terminal Peak Season Surcharge of [specify surcharge %] to recover expenses arising from providing additional resources to handle peak volumes.]

[Container Overflow]

- (f) The Terminal may occasionally experience container overflow as a result of an increased move count. The Operator will endeavour to accommodate these volumes but prolonged container overflow can strain operations and severely affect the efficiency, productivity and compromise safety at the Terminal. The Parties agree that, in the event that container overflow continues for [XX] weeks, with cumulative moves above the sum of move count and move tolerance, the Operator shall be entitled to:
 - i. include a surcharge of [specify surcharge %] on all moves above proforma/ contracted moves and move tolerance.
 - ii. cap the empty allocations as per the proforma and reserves the right to refuse empty Containers beyond the allocated freepool after giving XX days notice to the Customer.

For the purpose of this paragraph, “container overflow” means that the number of container moves per call exceeds the sum of contracted/ proforma moves and move tolerance, as determined by the Operator.]

[Standard rate for break bulk cargo]

- (g) [Special request for handling of break bulk, OOG over terminal acceptance guidelines shall be charged as per the average Gross Crane Rate (GCR) for the service. Example if a parcel accepted as B/B per existing and prevailing B/B acceptance guideline of the Terminal and it is envisaged at the time of acceptance that the loading / unloading operation takes 1 hours of QC time the calculation will be as under:
Average GCR 30 – time lost 1hours, QC involved 1, moves lost $30 \times 1 = 30$,
Agreed Tariff per TSA * 30 moves will be the charge applicable.]

[Berth occupancy charge]

- (h) If a Vessel continues to be anchored at berth even after completion of all operations [last line released], beyond a reasonable buffer, as agreed by both Parties to be XX hours, then additional berth occupancy charges of XX US\$ per hour will be charged to the Customer. Costs will be allocated pro rata to the additional time spent in minutes.]

[Reefer temperature variance]

- (i) All export reefer containers shall be handed over to the terminal within +/-5 Degrees Celsius variation of the set point temperature declared by the shipping line failing which special service request shall be charged in addition to the handling, storage and plugin.]

[Move shortfall charges]

- (j) If there is a shortfall in moves below the proforma “committed moves”, as highlighted in [Clause 3.1 of Appendix 3] for a full Quarter, subject to flexibility in moves, due to reasons attributable to the Customer, the Customer shall compensate the Operator for this shortfall by paying XX US\$ per TEU for the delta between committed and actual moves.]

[Charges for direct return of empty containers]

- (k) The direct return of empty Containers shall be considered “Terminal Services” for the purposes of the Agreement and the prices set out below are all inclusive and in particular cover the cost of lift on/ lift off at the Terminal as well as transportation alongside the Vessel. Storage charges shall be as per the Tariff Schedule set out in the Agreement.

[Location] – Rate per 20/ 40 (Advise cap, if any)]

[Exchange rate management]

- (l) The exchange rate applicable for purpose of any rebate pay-out made by the Operator will be the same as that applied for invoicing of each Vessel deployed in service of the Customer and billed by the Operator.]

[Annual Volume Rebate]

- (m) The number of export and import (laden & empty) container moves (“EXIM”) moved through the Terminal by Customer or XX [customer affiliate] during the period XX-XX shall represent the EXIM baseline. The EXIM baseline shall remain unchanged for the duration of the Term.
- (n) Conditional upon Customer achieving the percentage increase in EXIM volumes moved through the Terminal by Customer or XX[customer affiliate] (as against the EXIM baseline) set out in the table below within the period of XX – XX (“Contractual Year”), Operator shall pay Customer the volume rebate set out in table below.

The above rebates apply to all volumes moved by XX [customer] on its own tonnage. Volume calculations will exclude adhoc calls and moves on any common feeder not operated by XX [customer].

Rebates will be payable within XX days of the end of each Contract Year.

All rebates / bonus payment mentioned herein are gross amounts. Any taxes or levies or government fees on rebates / bonus shall be on account of XX[customer].]

[No set-off]

- (o) Operator may not set off any payables under the Annual Volume Rebate against any receivable owed under any of the TSAs.]

[Covid Cost Recovery Fee]

- (p) Additional Safety & Covid Cost recovery fees (Effective XX on a temporary basis) is applicable to all TEUs handled at the Terminal. This fee is intended to offset costs of additional safety measures at DPW terminals including but not limited to additional personal protective equipment and increased cleaning protocols for buildings, common areas and equipment. This fee is temporary while restrictions imposed by the Government and Health Authorities remain in place and the fee will be reassessed as all government restrictions are lifted. The Covid Cost Recovery Fee is payable in respect of TEUs by the owner of the vessel or its agent.]

[Special Service Request Platform

- (q) The Operator is globally developing a special service request (SSR) platform to manage all special requests. The platform would enable the customer to track status on special requests, receive updates and notifications, improve service delivery and turnaround time as well as reduce disputed invoices. The Operator may require the Customer to lodge all special requests in a digital SSR platform, as and when it becomes available in XX[location]. The Operator may accept the special requests but is under no obligation to fulfill it, especially where it can potentially be dangerous or delay or slow down operations at the Terminal.

For the purpose of this paragraph, “special requests” would include all services not explicitly quoted in the TSA or services requested beyond the relevant cut off time.]

[Adjustment factor]

- (r) There are a few variable cost elements (including fuel and electricity) that are beyond the control of the Operator and impact the Operator’s ability to provide quality services at the agreed Rates. The Parties agree that the Operator shall be entitled to apply an adjustment factor to certain component parts of the Rates to manage fluctuations in such variable costs for the benefit of both Parties. These adjustments are intended to ensure that Operator can adequately resource the provision of quality services to the Customer (and recover certain costs in doing so) and also ensure the Customer benefits from any cost savings (enabling it to offer more competitive rates to its own customers). These adjustments will be evaluated by the Operator every 6 months throughout the Term and the outcome of such assessment will be shared with the Customer within 30 days of completion of such assessment.

The adjustment factors are as follows:

1. Fuel adjustment factor (FA%) – % change in average monthly fuel rate for last 6 months vs. prior 6 months as per XX *(% fuel cost as part of total cost for Terminal in calendar year XX
2. Electricity adjustment factor (EA%)– % change in average monthly electricity rate for last 6 months vs. prior 6 months as per XX] *(% electricity cost as part of total cost for Terminal in the calendar year XX
3. [Local Currency adjustment factor (CA%) –% change in average monthly local currency rate to US\$ for last 6 months vs. prior 6 months as per XX

- (s) DPW reserves the right to review and amend the Rates in case of changes in relevant Applicable Laws.

(t) Schedule of agreed Rates

TARIFF NO	300 - DISCHARGE & LOAD	DISCHARGING		LOADING	
	Description	20'	40' / 45'	20'	40' / 45'
301	Laden	129	129	106	106
302	Empty	44	44	44	44
303	Laden - Transshipment	65	65	65	65
304	Empty - Transshipment	38	38	38	38
305.1	OOG surcharge	50%	50%	50%	50%
305.2	Non-cellular holds surcharge	10%	10%	10%	10%
305.3	IMDG surcharge	20%	20%	20%	20%
306	Break Bulk/Un-containerized (to be set per volume and tonnes)	POA	POA	POA	POA

- i. Discharge and Load tariff items refer to discharge from vessel and transport to stack or lift container from stack and load to vessel
- ii. Bundled Flatbed will be considered individually
- iii. Containers to be transshipped should be reported to Port Operator at least 24 hrs. prior vessel arrival. Otherwise tariff for laden/empty containers will be applicable.
- iv. Terminal operator reserve to not load or discharge damaged containers due to safety reasons.
- v. Break bulk / Un-containerized tariff item will be applicable for structurally damaged containers, if terminal operator approves/accepts handling.
- vi. In order to take container, move in to consideration as t/s move. Either both discharging vessel and loading vessel should be belong to (or subject to having VSA agreement) same entity.

TARIFF NO	310 - RESTOWS	SHIFT ON BOARD (within hatch)		DLR (Discharge / Land / Re-stow)	
	Description	20'	40' / 45'	20'	40' / 45'
311	Laden	79	79	124	124
312	Empty	31	31	44	44
313.1	OOG surcharge	50%	50%	50%	50%
313.2	IMDG surcharge	20%	20%	20%	20%
313.3	Unplanned Re-stow (not advised prior to arrival)	20%	20%	20%	20%

314	Break Bulk/Un-containerized	POA	POA	POA	POA
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- i. Re-stows will not count towards Volume commitments (if any)

Included in the fee for all Re-stow items are the following:

- (a) movement from one cell on board a vessel to another cell on board the same vessel;
- (b) processing of documentation as agreed;
- (c) provision of primary computerised documentation as agreed; and
- (d) All ship planning functions, including production of computerised bay plans.

TARIFF NO	320 - OTHER SHIP OPERATIONS	OTHER ITEMS
	Description	
321.1	Hatch Cover Movements (full cycle per hatch cover)	154
321.2	Hatch Cover locking/unlocking (full cycle per hatch cover)	6
321.3	Hatch Cover DLR with ISO attachments (full cycle per hatch cover)	10%
321.4	Hatch Cover DLR with non-ISO attachments (full cycle per hatch cover)	25%
322.1	Lashing bins movement (per lashing bin)	As per laden box ship operation tariff
322.2	Lashing/Unlashing ISO containers including auto twist locks (per container)	8
322.3	Lashing/Unlashing non-ISO containers / break-bulk	POA
323	Surcharge for handling manual twist locks (per container)	40%
324	Conning / De-conning	8
325	Vessel Dockage	USD 2.15/100 GRT X DAYS
326	Vessel standby / idle waiting	USD 6/100 GRT X HOURS
327	Labour ordered not worked due to Vessel absence/fault (per gang hour)	1300
328.1	Security Surcharge (ISPS) o/d (Laden) - t/s (for each move)	8
328.2	Security Surcharge (ISPS) o/d (Empty) - t/s (for each move)	4

- i. Upper Twin Deck and Lower Twin Deck to be counted as separate hatch cover operations

- ii. ISPS charge is applicable for all containers subject to handling including containers subject to shifting via quay. ISPS charge is not applicable for containers to be shifted on board.
- iii. ISPS charge to be applied once for transshipment containers

YARD OPERATIONS

TARIFF NO	330 - YARD MOVES	CONTAINER	
	Description	20'	40' / 45'
331	Gate In (laden)– export received into terminal via truck	50	50
332	Gate In / Out (empty) – export received into terminal or import delivered out of terminal via truck/ barge	35	35
333.1	Gate In/Out (IMDG surcharge)	20%	20%
333.2	Gate In/Out (OOG surcharge)	50%	50%
	Description	LADEN	EMPTY
334	Shifting within the terminal (THC) – any physical yard moves due to the following reasons: (per move) a. Customer request for additional services (e.g. minor container repair, container grading, weighing, PTI, genset mounting/demounting) b. Missing or change of container information c. Shut outs at alongside/CFS/Warehouse or already moved d. Container positioning to/from Empty depot e. Container flipping on wrong direction deliveries f. Delivering specific unit to 3 rd part for equipment hire in /out	50	35

- i. All charges, except inspection related charges, are exclusive of THC which will be charged separately.

TARIFF NO	340 - REEFER SERVICES	EXPORT
	Description	20' / 40' / 45'
341	Plug / Unplug (per live reefer)	35
342	Monitoring (per day)	35
343	PTI/Pre-Cooling (including power consumption and plug in&out)	40

344.1	Genset Hook up/unhook	35
344.2	Genset refuelling (excluding fuel cost)	35
344.3	Genset inventory management (per transaction)	35

- i. Non-operating reefers should be reported at least 1-day prior arrival to terminal otherwise those will be considered as live reefer.
- ii. Monitoring will be reported as per requirement.
- iii. Terminal operator is responsible to report malfunctions as soon as discovered, part of the monitoring process.
- iv. Terminal operator does not have responsibility to fix any minor and major failures.
- v. Customer is responsible to keep gensets in good order. 344.3 to be charged weekly if genset stays at yard as inactive for a month period.

TARIFF NO	350 - STORAGE	CONTAINER		
	Description	20'	40'	45'
351.1	Export Laden Storage – 0 to 3 days (per day)	Free	Free	Free
351.2	Export Laden Storage – 4 to 10 days (per day)	12	15	17
351.3	Export Laden Storage – 10 to 17 days (per day)	14	17	21
351.4	Export Laden Storage – 17 to 24days (per day)	17	21	25
351.5	Export Laden Storage – 25 days and over (per day)	23	28	30
352.1	Export / transhipment OOG Storage – 0 to 7 days (per day)	71	91	-
352.2	Export / transhipment OOG Storage – 8 to 14 days (per day)	105	132	-
352.3	Export / transhipment OOG Storage – 15 to 21days (per day)	135	145	-
352.4	Export / transhipment OOG Storage – 22 days and over (per day)	151	163	-
353.1	Export / transhipment reefer Storage – 0 to 7 days (per day)	60	80	85
353.2	Export / transhipment reefer Storage – 8 days to 14 days (per day)	65	90	95
353.3	Export / transhipment reefer Storage - 15 days to 21 days (per day)	70	95	100
353.4	Export / transhipment reefer Storage – 22 days and over (per day)	75	100	105
354.1	Transhipment Laden Storage – 0 to 3 days (per day)	Free	Free	Free
354.2	Transhipment Laden Storage – 4 to 14 days (per day)	12	15	17

354.3	Transshipment Laden Storage – 15 days to 21 days (per day)	17	21	25
354.4	Transshipment Laden Storage - 22 days and over (per day)	22	25	29
355.1	Empty (including transshipments) Storage – 0 to 7 days (per day)	Free	Free	Free
355.2	Empty (including transshipments) Storage – 8 to 14 days (per day)	6	8	9
355.3	Empty (including transshipments) Storage – 15 days to 21 days (per day)	8	11	12
355.4	Empty (including transshipments) Storage – 22 days and over (per day)	12	14	16
358.1	Container with leakage (applicable from first day)	350	350	350
358.2	IMDG surcharge	20%	20%	20%
359	Break-bulk /Un-containerized (including t/s)	POA	POA	POA

- i. Starting date of storage: Day of respective vessel berth.
- ii. Storage period ends: Day of respective vessel sail.
- iii. Laden storage fee to be applied for the day of stuffing and stripping.
- iv. The dwell of an off-hired container will count only one time for both operators and the amount of free time will be deducted from both operators depending the time of change
- v. Import full storage tariff will be applicable throughout the container stay at port even if container will be re-exported afterwards
- vi. Electricity is included in reefer storage fee. Plug in & out and monitoring to be billed separately.

TARIFF NO	360 - OTHER YARD OPERATIONS	CONTAINER	
	Description	20'	40'
361	Flat Rack Bundling / Unbundling / Knocking down flat rack side walls	29	29
362.1	Applying / Removing Labels (per container / excluded sticker cost)	17	17
362.2	Carpentry for seal cutting and sealing	9	9
363	Penalty for wrong or none declaration of IMDG containers	57	57
364	Weighing	25	25
365.1	Container Sweep	14	28
365.2	Container Wash (hot and with pressure)	25	45
365.3	Container grading	20	20
365.4	Patching for minor damage	40	40
366	Fitting / removing tarpaulins	30	45
367	Customs Inspection related tariffs (Inspection, x-ray, sampling etc.)	According to published tariff on our web site	

368	Demurrage for internal trucks (per hour / per unit after 6 hrs)	60	60
369	Photo service (per photo)	7	7
	Any other operation not included in tariffs (air pillow, fumigation)	POA	POA

- i. All empty flat racks delivered to Port should be in “knocked down” position. Else Port Operator shall knock down prior to receiving and raise the charges to consignee / agent.

TARIFF NO	370 - OTHER SERVICES		Amount
	Description		
371	Security Charge per guard per hour		POA
372	Cleaning service for cargo residue (non-container related)		POA
373	Attendance fee in case of bunker supply or waste disposal		160
374	Safety Gear Sale		POA
375.1	Fresh water supply		POA
375.2	Electricity supply		POA
376	Domestic solid waste collection		POA
377	Interchange between lines		15
378	Late gate in/container (after cut-off)		15
379	Bay planning upon customer request		POA

TARIFF NO	380 – EQUIPMENT HIRE RATES		Amount
	Description		
381	Gantry crane charge / hour (for non-cargo use)		483
382	Gantry crane charge / hour (general cargo lift with spreader)		924
383	Gantry crane charge / hour (general cargo lift with heavy lift beam)		1082
384	Forklift charge / hour (2-4 tonnes)		60
385	Forklift charge / hour (4-10 tonnes)		115
386	Forklift charge / hour (Over 10 tonnes)		150

TARIFF NO	390 – CFS & WAREHOUSE SERVICES	CONTAINER	
	Description	20'	40'
391	Standard stuffing	123	178
92	Non-Standard stuffing	156	207
393	Stuffing with manpower	342	404
394	Air Pillow Installation (2 pillows per container)	60	60

395	Additional Air Pillow	45	45
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