

**STANDARD BUSINESS TRADING
TERMS AND CONDITIONS**

Hutchison Port Jazan Limited

(03102022-v4f)

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PART I

DEFINITIONS

1.1 In these Terms and Conditions, the following words and expressions shall have the following meanings, namely:

JCPDI means Jazan City for Primary & Downstream Industries, is situated at Jazan Economic Zone under the authority of Royal Commission for Jubail and Yanbu.

PORT means the port facility at JCPDI Port, in Jazan Region, Saudi Arabia

COMPANY shall mean Hutchison Port Jazan Limited.

CARGO shall mean any packed or unpacked freight whether containerized or otherwise, including without limitation, Bulk Cargo, Break-Bulk Cargo, Wheeled Vehicles, anything stowed within a Container or loose cargo not so stowed but which has been unpacked from or is intended for packing into a Container, and includes any passenger luggage and effects.

BULK CARGO is a raw material Cargo that is shipped in large unpackaged parcels. Bulk cargo consists of mostly unprocessed materials that are shipped by Bulk Vessel.

BREAK-BULK CARGO shall mean any general Cargo which is not containerized and shall include Cargo which has been removed from or is intended to be packed into a Container or platform.

HAZARDOUS CARGO means articles of any kind classified by IMO as hazardous for man and the environment.

CONTAINER shall mean any box or article of transport equipment (including tanks and flats) having a permanent character and being specially designed for the transportation of Cargo by one or more modes of transport, without intermediate reloading, and fitted with devices permitting its ready handling particularly its transfer from one mode of transport to another.

REEFER CONTAINER shall mean any Container designed or used for the transportation of refrigerated cargo.

CONTAINER YARD shall mean any area of the terminal used for storage of Containers (whether full or empty) and Cargo.

WHEELED VEHICLES shall include any motor car, single deck bus, articulated lorry,

tractor unit, mini-bus, general goods vehicle, container chassis, trailer, tracked vehicle, bulldozer, crane truck, crawler crane, pile driver, excavator, tank lorry, fire engine (with or without appliances), refuse collection vehicle, forklift, double deck bus, bus chassis and any other industrial or construction equipment or vehicle.

DAY shall mean a calendar day.

LINE shall include any person (including without limitation shipping companies, ship owners and charterers) having any interest in a Vessel and may include a person who is an Operator.

LINE/OPERATOR shall mean the Line and/or the Operator as may be applicable.

OPERATOR shall include any person who directly or indirectly enters into any contract, agreement or arrangement with the Company in relation to the transport, storage or distribution of Containers and/or Cargo including Break-Bulk / General Cargo and Dry Bulk Cargo and/or Wheeled Vehicles or any matter connected therewith and includes without limitation exporters, importers, consignors and consignee thereof and may include a person who is a Line.

SHIPPING AGENT shall mean a licensed shipping company or person who's fully responsible for preparing shipping documents, ensure the berth for incoming vessels, arrange for Pilot and Tug, dealing with Customs documentation, arrange for essential vessel supplies/provisions, crew transfers, bunkering, waste declarations and conveying instructions between the Line/Operator and the Company are arranged with the Port without delay.

TARIFF shall mean the schedule of fees and charges agreed by the Company and the Line or as amended by agreement from time to time.

TERMINAL: shall mean terminals at JCPDI Port and/or such further or other premises as may be designated by the Company from time to time.

TON shall, unless otherwise specified, be regarded as 'Freight Ton' and shall be determined by a weight of 1000 kilos or a measurement of one cubic meter, whichever is greater.

VESSEL shall include any ship or boat (including for the avoidance of doubt, any lighter or barge) and including all equipment thereon.

FORCE MAJEURE shall mean any event or circumstance which (i) is beyond the reasonable control of the Party affected; (ii) is not attributable to the fault or negligence of the Party affected; (iii) could not have been prevented by the Party affected using due care and reasonable expense; and (iv) has the effect of making it impossible or unlawful for the Party affected to substantially carry out its obligations under the Agreement, including, but not limited to, acts of God, storms, fires, floods, wars, hostilities (whether

war be declared or not), invasions, accidents, strikes, sabotages, blockades, civil disorder, interference by civil or military authorities, regulations and acts of Government or Governmental authorities or agents, and accidents or breakdowns in machinery or in the supply of feedstock

1.2 APPLICATION OF TARIFF: Rules, rates and regulations inside this Tariff shall apply unless specified otherwise in written amendment.

1.3 The headings are inserted for convenience only and shall be disregarded in the construction or interpretation of these Terms and Conditions.

1.4 Except where the context otherwise requires in these Terms and Conditions person shall include a firm or company and the singular shall include the plural and vice versa.

1.5 Where two or more persons shall enter into a contract, agreement or arrangement incorporating these Terms and Conditions (whether as the Line, the Operator or otherwise), their obligations and liabilities hereunder shall be joint and several.

1.6 Parts I to IV and VII of these Terms and Conditions shall apply to all Lines, Operators and all other person's firms companies and Vessels who enter into any relationship with the Company whether implied by law or otherwise. In the event of the Company handling Bulk Cargo and/or Break-Bulk Cargo the terms set out in Part V hereof shall apply and in the event of the Company handling Wheeled Vehicles the terms set out in Part VI shall apply, in each case in addition to the terms in Parts I to IV and VII hereof.

1.7 All business is conducted by the Company subject to the exclusions and limitations of liability set out in Part VII.

1.8 These Terms and Conditions are subject to JCPDI Port Tariff and Regulations.

1.9 These Terms and Conditions are subject to update from time to time by the Company.

PART II

SERVICES IN RELATION TO VESSELS

- 2.1 The service provided by the Company to the Line may include docking of Vessels at the Terminal, rendering attendant facilities to berth Vessels, loading and unloading Containers and Cargo to /from Vessels by means of shore cranes, ship cranes and forklift, trucks, and may, where circumstances require, include moving Containers and Cargo from the berth side to the Container Yard and vanning and devanning Containers.
- 2.2 The Line shall confirm the final estimated time of arrival of each Vessel in writing not less than 72 hours before arrival.
- 2.3 The berth allotted to a Vessel by the Company may be notified to its master in such manner as the Company may think appropriate having regard to the circumstances. Vessels shall be dealt with in the order determined by the Company in its sole discretion and the Line shall procure that no Vessel shall berth or attempt to berth alongside the Terminal until due notice of readiness has been given by the Company.
- 2.4 The Line shall be solely responsible for all Vessels berthing, unberthing, approaching and leaving the Company's berth and whilst alongside and Vessels shall at all such times be at the sole risk of the Line. The Company makes no warranty or representation by allocating berths that any Vessel will not ground whilst approaching, leaving or resting at any berth, or that there are no obstructions on the sea-bed and it shall be the Line's sole responsibility to satisfy itself in advance as to such matters including the suitability or fitness of any berth as allocated.
- 2.5 Upon prior request to the Company, a berthing officer and mooring crew may be provided by the Company to render assistance to any Vessel in making fast or casting off hawsers at the Terminal. Such berthing officer and mooring crew shall in rendering such assistance be deemed to be agents of the Line, and such assistance shall be rendered at the direction and sole risk and liability of the Line. The Company accepts no responsibility in carrying out such instructions or for the sufficiency of such operations and the Line shall be solely responsible for and shall indemnify the Company against any loss or damage caused directly or indirectly by any act or omission of such berthing officer or mooring crew including, without limitation, loss or damage caused by negligence.
- 2.6 Supply of all gangways, their safety and illumination shall be the sole responsibility of the Line. In particular, the Line shall ensure that gangways do not obstruct the passage of the Company's quay side shore cranes or cargo

handling cranes. The Line shall be solely responsible for all dockage, wharfage and other charges levied or incurred as a result of the use of the Company's berths, piers or premises.

- 2.7 The Line shall be solely responsible for any injury or damage to the Terminal and/or the Company's premises and/or equipment (including without limitation all fenders or mooring bollards) arising directly or indirectly from the berthing, unberthing or mooring of its Vessels.
- 2.8 The Line shall procure the compliance with and observance of all Ordinances, Rules and Regulations in force relating to its Vessels and/or their operation.
- 2.9 The Line shall be procured that its Vessels shall immediately vacate any berth upon being requested to do so by the Company and shall procure that nothing shall be done which might immobilize the engine of any Vessel so that such Vessel is prevented from vacating its berth upon demand being made under this clause. In the event that a Vessel fails or is for whatever reason unable to vacate its berth the Company shall without prejudice to any other remedy or right the Company may have be entitled to charge the Line for each day or part of a day until the Vessel shall have been completely removed.
- 2.10 Subject to availability the Company will supply labour for lashing and unlashng Containers and/or Cargo in accordance with the instructions and requirements of the Vessel's master which instructions shall bind the Line. Such labour shall in carrying out such work to be deemed to be servants of the Line. Such work shall be carried out at the sole risk of the Line, and in particular, without limiting the generality of the foregoing the Line shall be responsible in respect of the sufficiency thereof and for any act or omission (including negligence) of any person employed in its execution.
- 2.11 The Line shall procure that each Vessel which shall load or unload Containers (whether with or without contents) and/or Cargo to or from the Terminal shall (unless otherwise agreed by the Company) supply to the Company at least 72 hours prior to commencement of loading or discharge, such particulars of the Containers and/or Cargo to be loaded or discharged as the Company may reasonable require and in a form satisfactory to the Company. Without limiting the generality of the foregoing, the Company shall be furnished with full particulars of all Hazardous Goods and/or dutiable commodities to be loaded or discharged.
- 2.12 All unpaid dues and charges for Container and/or Cargo discharged from any Vessel shall be paid by the Line, shipper, consignee, or user.
- 2.13 Containers and Cargo will be allowed a period of free storage as specified in the Tariff. If the Container or Cargo is not collected from the Terminal within such free storage period, the Line shall give instructions to the Company for the storage/

devanning and disposal thereof in default of which the Company may in its sole discretion store the same either at the Terminal or elsewhere at the sole risk and expense of the Line, shipper consignee or user

- 2.14 Pilotage is compulsory for all vessels entering and leaving the port harbor unless prior agreement is obtained. Pilot will board to seaward of the outer buoy; a safe, adequate and clean pilot ladder should be provided properly lit at nighttime.
- 2.15 Passport, Identification Card, or Seaman's Book must be deposited at the Immigration Office situated at the Port and collected upon return.
- 2.16 The Line shall procure that during the period from completion of berthing of any Vessel until commencement of unberthing, its engines shall not be operated other than by turning gear, except as agreed in writing by the Company. The Line shall also procure that during this period the Vessel shall not be moved by any means. The Line shall indemnify the Company from and against any loss, expense, damage, or liability as a result of the operation of the engines of any Vessel whilst berthed whether such operation shall have been approved in advance by the Company or otherwise.
- 2.17 Loading or unloading of any Container and/or Cargo to or from the Terminal or any Vessel by way of lighters or barges shall be carried out at the sole risk of the Line.
- 2.18 Unloading of yachts or other craft from the Vessel directly onto water or loading of yachts or other craft to the Vessel directly from water shall be carried out at the sole risk of the Line.

The Company may from time to time issue further reasonable rules and regulations governing procedures to be followed in loading and unloading Vessels and the Line shall comply with all such rules and regulations of which it has received notice.

PART III

CARGO AND CONTAINERS

- 3.1 Where a Line requests or instructs the Company to release, deliver, accept or otherwise deal in any way whatsoever with any Container and/or Cargo to or from or otherwise in respect of an Operator or to perform any related service in respect thereof, the Line shall procure the observance by such Operator of these Terms and Conditions and, unless and/or until such Operator enters a separate agreement with the Company in respect of the Container and/or Cargo incorporating these Terms and Conditions, the Line shall:
- (a) contract (and shall be deemed for all purposes to have so contracted) with the Company on these Terms and Conditions on behalf of such Operator as its agent;
- and
- (b) indemnify the Company against any claim, damage, loss or expense suffered or incurred by the Company arising from any breach or default by such Operator of these Terms and Conditions and/or arising from any defect or want of authority on the part of the Line to act as agent of such Operator as aforesaid.
- 3.2 The services provided by the Company for or in respect of Operators may include the receipt for loading and unloading of Containers or Cargo onto/from Vessels alongside the Terminal, transport of Containers to/from the Container Yard, the warehouse, receipt of Cargo from Operators, movement of empty Containers within the Terminal, packing and unpacking Containers, delivery of Cargo to the Operator.
- 3.3 The Operator shall ensure that all Containers (with or without contents) and/or Cargo shall be delivered to the Company for acceptance at the designated transfer area at the Terminal.
- 3.4 The Company shall have no responsibility or liability whatsoever in relation to any Container and/or Cargo until the same have been delivered to the area designated in accordance with Clause 3.3 and duly accepted by the Company.

- 3.5 By delivering or causing to be delivered any Container and/or Cargo to the Company the Operator warrants that it is either the owner of same or that it is duly authorized by the owner thereof to enter into a contract in respect of the same on behalf of the owner on these Terms and Conditions and the Operator further warrants that all fees, taxes, duties, or other sums due or levied on or in respect of such Container and/or Cargo have been fully paid and discharged or will be fully paid and discharged by the Operator forthwith upon demand.
- 3.6 Prior to delivery of any Container and/or Cargo at the Company's premises, the Operator shall furnish to the Company such particulars thereof (including without limitation all applicable weights and measurements) as the Company may reasonably require. The Operator hereby warrants to the Company the accuracy and adequacy of all such particulars and understands that the Company will rely on them.
- 3.7 The Operator covenants that each Container/Cargo which it shall deliver, cause to be delivered or is involved in delivering (whether full or empty) to the Company shall be in good order and repair and the Company shall be entitled to assume that each Container is in any such condition. The Company shall not, by reason of the acceptance of any Container or by reason of any other matter or thing, be deemed to warrant or accept responsibility for, the condition, security, fitness or otherwise of the Container, its seal or of any Cargo contained therein.
- 3.8 Cargo unpacked from a Container or truck will be allowed a period of free storage as specified in the Company's Tariff. The Operator shall arrange for all Cargo to be removed from the Terminal within such period. The Company shall have the right to store any Cargo not collected within such period either at the Terminal or elsewhere at the sole risk and expense of the Operator.
- 3.9 The Operator warrants to the Company the accuracy of all values and other particulars supplied to the Company in respect of any Cargo (including Break-Bulk Cargo and Wheeled Vehicles) for customs or any other purpose, and the accuracy and validity of customs removal permits.
- 3.10 No Cargo or Container will be accepted by the Company for handling or storage until the Company is satisfied that adequate space reservation arrangements have already been made to permit the onward carriage thereof within a period acceptable to the Company. Where the Company is not so satisfied, acceptance of any Cargo or Container may be subject to such additional conditions as the Company shall consider appropriate.

- 3.11 (a) Specific arrangements must be made with the Company for the acceptance and delivery of any Reefer Container containing refrigerated Cargo, and in any event instructions in writing shall be given to the Company at least 36 hours in advance of delivery. No Reefer Container containing refrigerated Cargo shall be delivered to the Company until the Company has accepted such instructions in writing.
- (b) If and to the extent that such instructions are accepted by the Company, the Company shall check and report upon temperatures of such Containers as indicated by their equipment at such times as shall be agreed.
- (c) If so instructed, Reefer Containers will within a reasonable time after delivery be connected by the Company to the mains power supply but there shall be no obligation upon the Company to maintain any auxiliary power in the absence of the fraud or willful misconduct of the Company or its servants or agents being proved, the Company shall not be responsible for or incur any liability in respect of the failure, discontinuance or interference from time to time in the power supply or for any failure to give notice of any such occurrence.
- 3.12 In the event that the Company shall permit the Operator to have or store any of its machinery or equipment on any part of the Company's premises, the same shall be left or stored at the sole risk and liability of the Operator. The Company shall have no responsibility or liability in relation to any machinery or equipment so left or stored and the leaving or storage of the same shall not constitute any contract of bailment or relationship of bailor and bailee between the Operator and the Company.

PART IV

GENERAL CONDITIONS

- 4.1 Without prejudice to any other right or remedy the Company may have by law the Company shall be entitled at any time to suspend the provision of any of the services to be provided to the Line/Operator hereunder in the event of any breach by the Line/Operator of these Terms and Conditions including without limitation non-payment of any amount due from the Line/Operator to the Company by the due date for payment.
- 4.2 The Line/Operator warrants that Containers received at the Company's premises shall be weather-proof as necessary and are suitable for storage in the open. The Company shall under no circumstances be responsible for or liable in respect of any rust, deterioration of or damage to any Container or Cargo caused directly or indirectly by such storage, including without limitation damage caused by any of the causes set out in Clause 7.1.
- 4.3 The Company shall not be concerned or required to note the condition of or damage to any Container and/or Cargo upon discharge or upon receipt for handling of such.
- 4.4 The Company will use reasonable endeavors to ensure the correct packing and/or delivery of all Containers and/or Cargo, but in the absence of the fraud or willful misconduct of the Company or its servants or agents being proved, the Company shall not be liable for any error in tallying, packing and/or delivery of any Containers and/or Cargo.
- 4.5 The Company is prepared to supply assistance in connection with loading and discharge of Containers and/or Cargo and the sequence of such loading and discharge. Those supplying assistance shall be deemed to be acting as agents of the Line/Operator and shall act under the direction of the Line/Operator. Such assistance shall be supplied at the sole risk and liability of the Line/Operator and no responsibility is accepted by the Company for the sufficiency or accuracy thereof and the Line/Operator shall be solely responsible for and shall indemnify the Company against any loss expense or damage arising directly or indirectly from any act, matter or thing done or omitted to be done pursuant thereto or in connection therewith, including without limitation, loss or damage caused by negligence.

- 4.6 The Company reserves the right in its absolute discretion to refuse to receive and/or handle any Container and/or Cargo and/or to admit any truck or Container and/or Cargo to or from the Terminal and/or to receive, handle or admit the same subject to such requirements as the Company may from time to time impose. In such circumstances, where any truck and/or Container and/or Cargo is already located at the Terminal the Line/Operator shall, if requested by the Company, forthwith comply with or procure the compliance with such requirements (if any) and if required remove or procure the removal thereof or otherwise deal with the same at the sole risk and expense of the Line/Operator as directed by the Company and to the Company's reasonable satisfaction.
- 4.7 If the Company shall be instructed by or on the behalf of a Line/Operator to open or unpack any Reefer Container for any purpose whatsoever, the Company shall in carrying out such instruction be deemed to be acting as agent of the Line /Operator, and in the absence of the fraud or willful misconduct of the Company or its servants or agents being proved shall not be responsible for any deterioration of contents thereof or for any contamination to other Cargo which shall be the sole responsibility of the Line/Operator. The Company reserves the right, but incurs no obligation so to do, to close, connect or reconnect to power supply, repack, or otherwise deal with any Reefer Container or its contents but entirely at the expense of and at the sole risk of the Line/Operator.
- 4.8 The Company shall not be responsible for, and the Line/Operator shall indemnify and hold harmless the Company against, all loss, damage, expense and liability incurred by the Company resulting directly or indirectly from any defect or fault in any Cargo (including the packaging thereof) or Container and/or the contents thereof handle by the Company for or on behalf of the Line/Operator or at its request, except where the same shall be directly caused by the fraud or willful misconduct of the Company or its servants or agents.
- 4.9 The Company shall have no responsibility or liability for the contents of any Container or Cargo accepted at the Terminal until the load thereof has been broken down in the Company's premises. All receipts or acknowledgements given by the Company relating to the contents of Containers are for identification only and shall not constitute an acknowledgement by the Company of the actual receipt or condition of the Cargo said to be contained therein.

- 4.10 Where in the opinion of the Company any damaged or defective Container and/or Cargo is likely to damage or contaminate other Cargo, the Company may require the Operator to remove the same from the Terminal forthwith upon written notice and in any event within 24 hours. In default, the Company may remove the same at the Line/Operator's sole expense and risk to such other storage place as the Company may decide. Where in the opinion of the Company no alternative place of storage is reasonably available, the Company may state in such notice to the Line/Operator that in default of removal, the Cargo will be destroyed. In default of compliance with such notice, the Company shall be entitled to destroy the whole or any part thereof and the cost of and incidental to such destruction shall be paid to the Company by the Line/Operator, who shall indemnify the Company against all costs, claims, damages, and expense arising from the destruction of such Cargo.
- 4.11 Unless notice of loss or damage and the general nature of such loss or damage is given in writing to the Company before or at the time of removal of any Container and/or Cargo from the custody of the Company, and the aforesaid loss or damage is agreed in writing after a joint inspection with the Company, such removal shall be conclusive evidence of delivery in good order and condition of the Container and/or Cargo.
- 4.12 The issue by the Line or any of its servants, employees or agents of a delivery order in respect of any Container and/or Cargo shall constitute a warranty to the Company by the Line that the bearer thereof is lawfully entitled to the Container and/or Cargo and the Line shall indemnify the Company against all damage, liability costs and expense incurred by the Company directly or indirectly arising from any delivery made to the bearer of such delivery order.
- 4.13 The Company shall not be bound to accept Cargo (whether in a container or otherwise) having, in the reasonable opinion of the Company, principally high value or requiring special care and in the event that such Cargo is accepted by the Company, the Company shall be entitled to impose such further terms and conditions (including but not limited to the effecting of appropriate insurance and the provision of appropriate security services) as the Company in its sole discretion may think fit. The Line/Operator shall give to the Company at least 48 hours prior notice of an intended delivery of such Cargo to the Company to enable the Company to decide whether or not it will accept the same. Under no circumstances shall the Line/Operator deliver to the Terminal any such Cargo without the written approval of the Company.
- 4.14 (a) The Company shall have a lien upon all Containers and/or Cargo received by the Company and all documents relating thereto for all amounts due or which may become due from the Line/Operator to the Company, including a general

lien for amounts due from the Line/Operator. Without prejudice to any other right or remedy the Company may have, if any lien is not satisfied within one calendar month after notice has been given to the Line/Operator, the Company shall have the right to sell without further notice any Container and/or Cargo the subject of the lien by public auction or private treaty and may apply the proceeds in discharge of all and any costs and charges incurred in the sale and in payment of any charges and expenses due to the Company. The exercise of such right of sale shall be without prejudice to any other right or remedy of the Company, and any deficiency in the proceeds of sale shall be recoverable from the Line/Operator by civil action.

(b) Payment of the Company's accounts shall fall due as soon as the services are rendered and/or invoices issued, unless otherwise specifically agreed to. The Line/Operator shall pay interest on all amounts overdue at the rate stated within the Tariff, which will be charged on per calendar month or part thereof on time against outstanding from time to time.

4.15 The Line/Operator shall be liable and responsible for the charges shown in the Tariff from time to time for all services rendered at its request or on its behalf, any such liability shall continue to apply notwithstanding that the Line/Operator may appoint the Company its agent for any purposes and/or the Company may agree to collect some or all of its charges from other persons on behalf of the Line/Operator.

4.16 (a) The Line/Operator shall and shall procure that its employees, contractors, servants, agents and customers, including consignors and consignees, with whom it has entered into any arrangement bound by these Terms and Conditions, the special conditions in the Tariff, and all rules and regulations applicable directly or indirectly in relation to any Container and/or Cargo handled by the Company for or on its behalf or at its request or which the Line/Operator is instrumental in delivering to the Company for handling.

(b) Without limiting the generality of the foregoing, any Container loaded with Hazardous Goods shall prior to discharge or deliver to the Company be clearly marked in accordance with all applicable local and/or international code.

4.17 Any cost, expense or liability which may be incurred by the Company in complying with Government regulations requiring the movement, treatment, removal or destruction of any Cargo or Container including but without limitation dutiable goods and Hazardous Goods, infested, contaminated or condemned Cargo, or in the treatment of the Company's premises or equipment as a result of any infestation or contamination of the Company's premises or equipment as a result of any infestations or contamination arising there from,

shall be the sole responsibility of the Line/Operator and shall forthwith be reimbursed to the Company by the Line/Operator on demand.

- 4.18 In any case in which the Company supplies mechanical equipment (hereinafter referred to as "equipment") for use in loading or unloading of any Vessel (including, for the avoidance of doubt, any loading or unloading by means of lighters or barges) or for the handling of any Containers and/or Cargo, and an operator is supplied by the Company with the equipment, the Company shall supply a person competent in operating the equipment and such person shall be deemed to be the servant or agent of the Line/Operator in the operation of the equipment. The Line/Operator shall alone be responsible for all claims arising in connection with the operation of the equipment by the operator.
- 4.19 The Line/Operator shall indemnify the Company against any claim made by any other person against the Company and/or the Line/Operator or their servants or agents arising out of or in connection with any use of or operation of the equipment referred to in clause 4.17 by such operator, including without limitation claims arising from the negligence of the such operator.
- 4.20 The Line/Operator acknowledges that it has received details of the capacity of the equipment referred to in clause 4.17 and undertakes that it shall not permit any attempt to load or unload a Container or Cargo beyond the rated capacity of the equipment.
- 4.21 The Company shall be under no obligation to effect insurance in relation to Cargo or Containers in its possession.
- 4.22 Every contract incorporating these Terms and Conditions shall be governed by and construed and interpreted in accordance with the laws of England and Wales and the parties hereby submit to arbitration under the Arbitration Rules of the London Arbitration Centre.
- 4.23 These Terms and Conditions shall apply to all Lines and Operators and their respective customers including consignors and consignees with whom they have respectively entered into any arrangement and to all other persons, firms, companies and Vessels who enter into any relationship with the Company whether implied by law or otherwise.
- 4.24 If any Term or Condition or part thereof is found by any court or other competent authority to be invalid, illegal or unenforceable, that Term or Condition or part thereof shall, to the extent required, be deemed to not form part of the contract incorporating it and the validity and enforceability of the other Terms and Conditions or the application thereof to other circumstances or other contracts shall not be affected and shall be held valid to the full extent permitted by law.

Such invalid Term or Condition or part thereof shall be amended and replaced by such valid and enforceable provision as will most closely correspond with the legal and economic contents of the invalid one.

- 4.25 These Terms and Conditions shall apply to the exclusion of any other written or oral terms and/or conditions and including without limitation any printed terms contained in printed forms or other documents of the Line/Operator and no variation or waiver of these Terms and Conditions of any nature may be made by any employee of the Company other than a Director or General Manager of the Company who may vary them only in writing referring to these Terms and Conditions and addressed to the person, firm, company or Vessel concerned. All requests for an explanation of the meaning of these Terms and Conditions or their application to any given circumstances shall be made in writing to the Director or General Manager of the Company whose written reply shall alone be binding on the Company.
- 4.26 Without prejudice to the generality of the foregoing the Line/Operator shall indemnify the Company from and against all claims, loss, damage, cost and expense (including without limitation legal costs) suffered or incurred by the Company arising directly or indirectly from:
- (a) any breach of these Terms and Conditions by the Line/Operator its employees, servants, agents, contractors, and customers, including consignors and consignees, with whom it has entered into any arrangement.
 - (b) any matter or thing which it is provided herein shall be the sole responsibility or risk of the Line/Operator or for or in respect of which it is provided that the Line/Operator shall be responsible or liable.

PART V

BULK & BREAK-BULK CARGO

- 5.1 This Part shall not apply to Cargo which is contained in a Container or to Wheeled Vehicles.
- 5.2 Before any the Bulk Cargo or Break-Bulk Cargo is landed from a Vessel, the Line shall furnish the Company full particulars of the gross weight, measurements, marks, and contents of each packet, and if any Break-Bulk Cargo is unitized or palletized, particulars against each item of the unit number or pallet number thereof. The company shall have no responsibility or liability in respect of the contents of pallets or any other cargo handling units, until the unit load has been outturned in the Company's premises.
- 5.3 As out-turn report for the Bulk Cargo and/or Break-Bulk Cargo will be issued for each Vessel by the Company after the expiration of the free storage period. The out-turn report will detail the expected cargo list including Bulk Cargo or Break-Bulk Cargo specification or packages or units delivered and remaining as determined by the acquittal of delivery documents and records of transfer, and such out-turn shall constitute the Company's only official receipt. The final out-turn report together with excepted cargo list (see below) shall be treated as conclusive in determining the Bulk Cargo or Break-Bulk Cargo actually landed to the Company's custody and its condition at the time of receipt.
- 5.4 The Break-Bulk Cargo will be inspected immediately after discharge is completed. All Break-Bulk Cargo noted upon such inspection as being damaged will be recorded on the excepted cargo list. Such excepted cargo list will be submitted to the Vessel or its agents for endorsement. In the case of unitized loads, further exceptions may be noted at the time of breaking down the unit or on delivery to consignees or on transfer to storage. A copy of the excepted cargo list will be sent to the Line/Operator. The failure to include any item of Break-Bulk Cargo or damage to the Cargo on the excepted cargo list shall not constitute an admission by the Company that the item has been inspected and/or found in good order and condition.
- 5.5 The Company shall not be responsible for damage caused to the Cargo by any of the causes set out in Clause 7.1.
- 5.6 The Company shall only receive or deliver the Bulk Cargo and/or Break-Bulk Cargo after full covering documentation is made available to the Company as herein elsewhere stipulated to permit reception or delivery.

PART VI

WHEELED VEHICLES

- 6.1 This Part shall not apply to Cargo which is contained in a Container or to Break Bulk and/or Dry-Bulk Cargo.
- 6.2 Before any wheeled Vehicle is removed from a Vessel, the Line shall furnish the Company full particulars of the gross weight and measurements of each Wheeled Vehicle.
- 6.3 The Company shall have no responsibility or liability in respect of any Wheeled Vehicle until the Wheeled Vehicle is received on the Company's premises at such location as the Company may designate from time to time for receipt of the same.
- 6.4 The Line/Operator shall ensure that the driver or operator of any Wheeled Vehicle shall comply with all rules regulations requirements directions and instructions of the Company in relation to the driving parking or operation of any Wheeled Vehicle and shall observe all signals speed limits and lane direction markings as may from time to time be in effect. The Line/Operation shall alone be responsible for and shall indemnify the Company against all claims arising in connection with the driving or operation of the Wheeled Vehicle by the driver or operator, including without limitation claims arising from the negligence of such driver or operator.
- 6.5 Wheeled Vehicles will be inspected immediately after discharge from the Vessel and any damage will be recorded on an excepted cargo list which will be submitted to the Vessel or its agents for endorsement. Failure to include any Wheeled Vehicle or item of damage to a Wheeled Vehicle on the excepted cargo list shall not constitute an admission by the Company that the Wheeled Vehicle has been inspected and/or found in good order and condition.
- 6.6 The Line/Operator shall ensure that all Wheeled Vehicles shall be delivered to the Company for acceptance at such location as the Company may designate from time to time for receipt of the same.
- 6.7 The Line/Operator warrants that Wheeled Vehicles received at the Company's premises are suitable for storage or parking in the open. The Company shall under no circumstances be responsible for or liable in respect of any rust deterioration of or damage to any Wheeled Vehicle caused directly or indirectly by such storage or parking, including without limitation damage caused by any of the causes set out in Clause 7.1

PART VII

LIMITATIONS OF LIABILITY

- 7.1 The Company hereby gives notice that it is a private storer and, subject to these Terms and Conditions, the Company accepts liability for any loss or non-delivery of or damage to any Cargo, Container or Vessel or for any detention or delay if it is proved that such loss or non-delivery damage detention or delay arose out of or was caused by the fraud or willful misconduct of the Company or any of its agents servants or employees, but the Company shall not in any circumstances be liable thereof if such loss or non-delivery damage detention or delay arose out of or was caused by any or the following:
- (a) Acts of God, terrorism, war, riots, civil commotion, strikes, working to rules, lockouts, labour stoppages or restraints of labour whether general or partial any act or omission or order or decree of any government or government authority or agency, any act of any person or persons acting on behalf of any organization with activities directed towards the overthrow by force of any de- jure or de facto Government, invasion, act of foreign enemy, hostilities, rebellion, insurrection, military or usurped power or confiscation, requisition, destruction of or damage to property by or under the order of government or public authority;
 - (b) Unavailability of labour and/or other services or utilities;
 - (c) Earthquakes, tempest, typhoon, rain, storm, lightning, flooding, adverse weather conditions and other similar risks;
 - (d) Seizure under legal process;
 - (e) Fire, theft or explosion unless the loss damage or injury arising there from is proved to be due to the negligence of the Company;
 - (f) Act neglect default or omission of whatever nature of the Line/Operator or its or their servants or agents or of any person having an interest in the Cargo;
 - (g) Latent or inherent vice of goods, vermin, white ants, rust, dry rot, wastage due to natural deterioration or contamination by other goods, inadequately packed or fragile Cargo;
 - (h) The failure of the Line/Operator or their servants or agents or of any person having an interest in the Cargo to take or accept delivery within such reasonable time as may be required by the Company;
 - (i) Breakdown failure or malfunction of equipment cranes or like machinery (other than breakdown failure or malfunction caused by the fraud or willful act, neglect

or default of the Company or its servants, agents or employees);

- (j) Any radioactive materials or contamination; or
- (k) Any other cause outside the reasonable control of the Company.

7.2 Subject always to the limitations and exclusions of liability contained herein (and in particular, without limitation, those contained in Clauses 7.1, 7.3 and 7.4 hereof) the maximum liability of the Company for any loss, damage, claim, cost and/or expense in respect of any one event, or occurrence shall be the lowest of the following as may be applicable:-

- (A) The market value of the property to which the claim relates at the time of the damage or loss; or
- (B) The cost of repairing the damage; or
- (C) In the case of loss or damage to:-
 - (i) Cargo, the sum of US\$1,500 per freight ton of 1,000 kilos (or per cubic meter if the sea freight charges for the item lost or damaged fall to be assessed at the rate per cubic meter) mentioned in Bill of Lading.
 - (ii) The cargo sum of US\$ 10,000 (US\$ Ten thousand) per single accident.
 - (iii) Containers, whether within the definition set out herein or otherwise, the sum of per Container maximum at:

- US \$ 1,800 per 20' dry standard Container
- US \$ 3,060 per 40' dry standard Container
- US \$ 3,780 per high cube or 45' Container
- US \$ 16,000 per Reefer or tank Container
- US \$ 4,700 per 20' FR Container
- US \$ 7,000 per 40' FR Container
- US \$ 2,800 per OT 20' Container
- US \$ 3,700 per OT 40' Container
- US \$ 14,000 per 40' Hi Cube Super Racks Containers
- US \$ 12,000 per 40' Super Racks Containers
- US \$ 4,100 per OTHC 20' Container (Open-top high cube)
- US \$ 6,000 per OTHC 40' Container (Open-top high cube)
- US \$ 9,000 per FLHC 40' Container (Flat-Rack high cube)

- a) Owned container values will depreciate at an annual rate of 5% (straight line depreciation method) from date of manufacture to a minimum residual value of 45% of manufacture price. For leased containers, the Line shall use the depreciated values presented by the leasing companies at the time of loss declaration.

- b) The maximum liability per clause 7.2.c.(iii) above are inclusive all cost related Container repair, the cost of transport of the Container to the place of repair, lifting and other associated costs.

(iv) The sum of US 7,500,000 (US\$ Seven Million Five Hundred Thousand only) per single Vessel

PROVIDED THAT the maximum liability of the Company shall in no event exceed the sum of US\$ 7,500,000 (US\$ Seven Million Five Hundred Thousand only) for loss or damage resulting from or otherwise arising out of any one event or occurrence, regardless of whether there shall be one or more claimants and irrespective of the nature or ground of the claim(s).

- 7.3 Notwithstanding the provisions of Clause 7.2 hereof the Company shall in any event be discharged from all liability whatsoever in respect of any loss or non-delivery of or damage to any Cargo, Container or Vessel or in respect of any other claims, unless suit is brought in the proper forum and written notice thereof received by the Company within 1 (One) month (30 days) from the date of (taking delivery or inspection of cargo / goods / containers whichever takes place earlier by the operator) the event or the date of occurrence of the incident giving rise to the claims. Any right of action shall be extinguished, and the Company discharged from all liability if legal proceedings are not commenced and notified as aforesaid.
- 7.4 Notwithstanding the provisions of Clause 7.2 hereof the Company shall not be liable for any indirect or consequential losses (including for the avoidance of doubt, losses of profits) whether the same shall result from damage, delay or detention to or of any Cargo, Container or Vessel, or otherwise and whether the same shall arise from a cause for which the Company is otherwise liable or not.
- 7.5 In the event of any claim being made against the Company arising from any damage to any Cargo, Container or Vessel the Company shall be given a reasonable opportunity to inspect such damage.
- 7.6 The provisions in this Section shall apply to any employee servant or agent of the Company acting in the course of his employment or the business of the Company and the Company shall for this purpose be deemed to be acting as trustee for all existing and future employees, servants, or agents in entering into all contracts to which these Terms and Conditions apply.

End/