



Heysham Port Limited  
Maritime Centre, Port of Liverpool L21 1LA

**HEYSHAM PORT LIMITED**

**TERMS AND CONDITIONS**

**FOR HANDLING RO/RO TRAFFIC**

September 2018

Heysham

## 1. Interpretation

In these conditions:-

### 1.1

“Agreed Slot Times” means periods for which the use of the Berth between certain hours has been booked pursuant to a separate agreement between the Company and a Ro/Ro Traffic Operator

“Berth” means any berth operated by the Company in the Port, including connecting linkspans and related infrastructure and shall include any quay, transit shed or other area situate thereat

“Company” means Heysham Port Limited whose registered office is situate at Maritime Centre, Port of Liverpool L21 1LA, England

“Contract of Carriage” means any contract between the Shipowner and Goods Owner in relation to the Ro/Ro Service evidenced by any booking note, waybill, bill of lading, consignment note or other similar document(s)

“Data Protection Legislation” means all applicable data protection and privacy legislation, regulations and guidance including, without limitation the Data Protection Act 2018, the GDPR (Regulation (EU) 2016/679) (as amended or re-enacted from time to time and including any replacement or subordinate legislation). Terms in this agreement shall, so far as the context permits and unless otherwise stated, have the meanings given to them in the Data Protection Legislation.

“Export Goods” means Goods to be shipped from the Port on a Vessel

“Goods” means any cargo, merchandise articles and things of any description (including any packages within or by which the said cargo merchandise articles and things may be contained or carried) including Ro/Ro Traffic

“Goods Owner” means the owner of any Goods and any bailor bailee consignor shipper consignee or other respective agents in relation thereto (but shall not include the Company) including the Ro/Ro Traffic Operator

“Harbour Master” means the Harbour Master or other Officer appointed by the Company to act as Harbour Master as defined by The Heysham Harbour Byelaws 1979 or any modification or re-enactment thereof

“Import Goods” means Goods which have been unloaded from a Vessel at the Port for collections and onward carriage by road or rail

“ISPS Code” means the International Ship and Port Facility Security Code

“Owner” means the Shipowner and/or Goods Owner, as appropriate

“Port” means the Heysham Harbour as defined in the Sealink (Transfer of Heysham Harbour) Harbour Revision Order 1991 or any statutory modification or re-enactment thereof

“Port Tariff” means any published charges issued by the Company from time to time in respect of its statutory charges, charges for the Services or Special Services, or such ad

hoc charges that the Company may from time to time levy in its discretion and/or in accordance with its statutory powers, in respect of handling of Vessels and Goods at the Terminal, including quay standage (parking) charges.

“Ro/Ro Service” means the service operated by the Shipowner using the Port for the carriage thereto and therefrom of Goods

“Ro/Ro Traffic” means any self drive vehicles, drop trailers or mobile units, chassis, wheeled units, trailers or vehicles of another description or any other towable or drivable units to be handled by a Ro/Ro operation including block stowed containers and neo-bulk cargo which are so loaded or discharged

“Ro/Ro Traffic Operator” means the owner or operator of the Ro/Ro Traffic

“Shipowner” means the owner of any Vessel to which these Terms and Conditions relate and any part owner charterer master or other person in charge of the Vessel disponent owner consignee or mortgagee in possession

“Services” means the services provided by the Company described at clause 5 and, except as described at clause 5, shall be taken elsewhere in this Agreement to include the Special Services

“Special Services” means any work in addition to the Services which the Company provides at the request of the Shipowner and/or Goods Owner

“Standage Areas” means the designated parking areas for Ro/Ro Traffic in the Terminal

“Terminal” means the Ro/Ro terminal at the Port including the docks quays berths stages jetties bridges linkspans and all works lands and property of every description whatsoever, and the buildings structures and erections thereon for the time being vested in or occupied by the Company, together with the Standage Areas.

“Vessel” means any Ro/Ro vessel calling at the Berth

- 1.2 Words importing the singular shall include the plural and vice versa unless the context otherwise requires.
- 1.3 The headings for clauses are for ease of reference only and shall not affect the construction hereof.
- 1.4 Reference herein to any statutory provision includes reference to any consolidation, re-enactment or modification thereof.
- 1.5 Reference to clauses or schedules are references to the clauses and schedules of these Terms and Conditions unless otherwise stated.

## **2. Notice**

Use of a Berth and/or Services by the Owner shall be deemed to constitute notice of and agreement to these Terms and Conditions and Port Tariff, copies of both of which are available upon request.

### **3. Application**

- 3.1 These Terms and Conditions shall be applicable during such time a Vessel calls at the Port for any purpose connected with the loading or discharging of Goods (including the loading or discharging of ship's stores) and/or for any period that Goods in any way connected with the Ro/Ro Services are situated at the Terminal.
- 3.2 These Terms and Conditions are supplemental to any separate agreement made in writing between the Company and the Shipowner or any third party relating to Services and shall therefore apply in conjunction with any such agreement (except if and to the extent otherwise provided by such agreement). In the event of any inconsistency between the provisions of any such agreement and the provisions of these Terms and Conditions, then the former shall prevail.

### **4. Berths**

- 4.1 The Company shall provide the non-exclusive use of the Berths in common with vessels in other ownerships, and subject always to any Agreed Slot Times and/or the notification provisions at clause 10 herein.
- 4.2 Subject to clause 4.3 once a Vessel is at a Berth, the Company shall permit such Vessel to remain at the Berth until the completion of the Services in relation to that Vessel or any termination of the Services (provided that the master shall ensure that the Vessel shall at all times remain always safely afloat).
- 4.3 The Company shall be entitled, in its absolute discretion, to require the Vessel to be moved from the Berth (including outside the Port) to accommodate any operational requirements of the Company for the Berth, notwithstanding that the Services OR Special Services may not have been completed in relation to such Vessel. For the avoidance of doubt, such right may be exercised on any number of occasions prior to completion of the Services or Special Services in relation to such Vessel. The Company will charge for and the Shipowner will pay the cost of any pilotage or ancillary costs payable pursuant to the Port Tariff arising from such movement(s), even if for the Company's own benefit.
- 4.4 Nothing in these Terms and Conditions shall limit or otherwise affect the statutory powers of the Harbour Master in relation to the ordering of the movement of Vessels within the Port.

### **5. Services**

- 5.1 The Company shall provide or perform the Services below in a safe and efficient manner.
- 5.2 The Company shall in relation to the Vessel using the Berth:-
- 5.2.1. provide boatmen to receive, tie and untie the Vessel giving all customary assistance to the Vessel's Master and Crew;
- 5.2.2 permit (with the Company's prior agreement not to be unreasonably withheld) the Vessel to load and discharge stores and bunkers while alongside;
- 5.2.3 provide plant (e.g. tug-masters) and qualified drivers to assist the reception of

Ro/Ro Traffic from the Vessel onto the Terminal and vice versa in relation to delivery of Ro/Ro Traffic to the Vessel.

- 5.3 The Company shall in relation to Export Goods provide:-
  - 5.3.1 a manned security gate at the Port for Ro/Ro Traffic entry;
  - 5.3.2 entry to Ro/Ro Traffic into the Terminal (subject to security clearance under clause 5.3.1);
  - 5.3.3 Standage Areas;
  - 5.3.4 qualified personnel and plant to tow trailers from the Standage Areas to the Vessel's parking deck;
  - 5.3.5 qualified personnel to drive mobile units (e.g. cars on wheels, tractors) from the Standage Areas to the Vessel's parking deck;
  - 5.3.6 superintendence and marshaling on the Terminal quayside for self drive vehicles (e.g. driver accompanied trailers) and in relation to the movements described in clauses 5.3.4 to 5.2.5 above.
- 5.4 The Company shall in relation to Import Goods provide:-
  - 5.4.1 qualified personnel and plant to tow trailers from the Vessel parking deck to the Standage Areas to await haulier collection;
  - 5.4.2 qualified personnel to drive mobile units from the Vessel parking deck to the Standage Areas to await haulier collection;
  - 5.4.3 superintendence and marshaling on the Terminal quayside for self drive vehicles and in relation to the movements described in clauses 5.4.1 to 5.4.2 above;
  - 5.4.4 a manned security gate for Ro/Ro Traffic Port exit clearance.
- 5.5 For the avoidance of doubt excluded from the Services are:-
  - 5.5.1 setting down of outbound (export) Ro/Ro Traffic on the Standage Area, which is the responsibility of the Ro/Ro Traffic Operator
  - 5.5.2 all stowage, lashing, securing of Ro/Ro Traffic on the Vessel parking deck and all marshaling and superintendence on the Vessel in relation thereto which are the responsibility of the Shipowner.
- 5.6 In relation to clauses 5.3 and 5.4, the Company shall further provide relevant administration to record the discharging, loading and movement on the Terminal of Ro/Ro Traffic.
- 5.7 So far as is reasonably practicable, the Company shall advise the Shipowner of any visible material damage to Ro/Ro Traffic while on the Terminal to the extent noted upon any external inspections performed from time to time, notwithstanding that there shall be no obligation on the Company to perform such inspections.

## **6. Terminal Security**

The Company warrants that the Terminal is operated in accordance with ISPS Code requirements.

## **7. Vessel Security**

- 7.1 The provision of any security services or anti-terrorist measures in respect of the Vessel shall be the responsibility of the Shipowner.
- 7.2 The Owner shall comply in every respect with the ISPS Code together with all relevant UK and EU Regulations and any instructions or governmental directions issued in respect thereof.
- 7.3 In the event that ISPS conditions and/or the level of security threat at the Port increase at any time, the Company reserves the right to then charge the Owner an additional charge proportional to the increase in port security costs thereby incurred by the Company in relation to the performance of the Services.

## **8. Shipowner's Warranty of Authority**

The Shipowner warrants that in accepting the Services subject to these Terms and Conditions that it does so both for itself and with full authority on behalf of the Goods Owner and agrees to fully indemnify the Company in respect of all liability, cost, expenses, damages and losses and other consequences whatsoever arising in the event that the Goods Owner has not given such authority or lacks authority in any respect.

## **9. Charges and Invoicing**

- 9.1 The Shipowner shall pay to the Company:-
  - 9.1.1 all charges at the Port Tariff in respect of the Services which (where specifically stated) may include an element of ship dues charged on Vessels handled at the Berth and goods dues charged on Goods imported or exported;
  - 9.1.2 all quay rent and special charges at the Port Tariff in respect of Ro/Ro Traffic remaining on the Terminal for more than 24 hours awaiting (in the case of Export Goods) loading onto the Vessel or 24 hours (in the case of Import Goods) awaiting collection by haulier, which charges the Goods Owner shall have a joint and several liability to pay;
  - 9.1.3 all additional charges in relation to extra labour, equipment (e.g. mobile cranes) or plant needed to perform the Services required or requested by the Shipowner as a consequence of the non standard nature or specification of the Goods, or pursuant to clause 13.2 hereof.
- 9.2 The charges referred to in clause 9.1.1 to 9.1.3 are in addition to any conservancy, pilotage and boatmen charges, environmental levies or other statutory charges as may be charged by the Company from time to time.

- 9.3 The Company reserves the right to require the Shipowner to pay a deposit equal to such percentage as the Company may in its absolute discretion determine (up to 100%) of the estimated total charges for the Services to be performed or provided in respect of the Vessel together with such other charges as may be payable to the Company in respect of the Vessel, before the commencement of the Services. Such deposit shall be payable on demand and, failing receipt of which, such Services will not be commenced. In addition, the Company reserves the right not to commence/continue Services in respect of any Vessel in the event that any charges payable to the Company in respect of previous Vessels of such Shipowner handled in the Port have not been paid.
- 9.4 The Port Tariff may be increased at any time with immediate effect to reflect any increases in the Company's costs.
- 9.5 The charges shall be payable on demand in full without any deduction or withholding (except as required by law) and the Owner shall not be entitled to assert any credit, set-off or counterclaim against the Company in an attempt to justify withholding payment of any amount in whole or in part.
- 9.6 If the Owner fails to make any payment due to the Company when due, then the Company may charge interest on the overdue amount in accordance with the Late Payment of Commercial Debts (Interest) Act 1998. The Owner shall pay such interest immediately on demand by the Company.
- 9.7 Where Special Services are provided by the Company then, in the absence of any specified published tariff in respect thereof, such Special Services shall be charged in accordance with the rates of pay of the Company's employees engaged in connection with the relevant Special Services (including a percentage uplift for reasonable overheads) plus the Company's standard charges for plant gear and equipment or the charges of any hirer of plant or sub-contractor.

## **10. Vessel Arrival**

The expected date of arrival of each Vessel and notification of each Vessel's expected time of arrival at the Berth ("E.T.A.") shall be given in writing by the Shipowner to the Harbour Master and to the Company's authorized cargo handling representative not later than seven days prior to the said date of arrival or such lesser period as may be agreed to by the Company and all changes to that date shall be promptly notified by the Shipowner to the Harbour Master and the said authorized representative. Notice of the vessel's final E.T.A. at the Berth shall be given in writing to the Harbour Master and the said authorised representative between the hours 0800 to 1600 Monday - Thursday inclusive, 0800 to 1200 Friday and not later than 24 hours (excluding Bank or other National Holidays) prior to the said time of arrival.

## **11. Working Periods and Time Lost**

- 11.1 The Port arranges labour to provide the Services in accordance with Agreed Slot Times of Vessels using the Port, and labour is organised on the basis of the same and/or in reliance upon the ETA provisions described in clause 10.
- 11.2 Where labour has been arranged by the Company in reliance on the Agreed Slot Times and/or the Vessel's final E.T.A. given to the Company pursuant to clause 10 or in compliance with the Shipowner's request that work should commence at or finish before

a particular time, and time is lost consequent on a vessel's late arrival or non arrival at the Berth or due to material delays attributable to the Shipowner or to adverse weather, then the period of working time with labour standing by will be charged for as specified in the Port Tariff.

- 11.3 Time lost shall be deemed to commence at the time for which labour has been arranged and to cease when a Vessel is safely secured at its intended berth and ready to work, or, if later, on the termination of the period for which labour has been arranged; and the time lost calculated thereby shall be charged to the Shipowner at the rates specified in the Port Tariff.
- 11.4 Time lost or work delayed due to adverse weather, or to material delays attributable to the Shipowner its servants agents or independent contractors (other than the Company), shall also be charged to the Shipowner, at the Port Tariff; provided always that the Shipowner shall not, in any event, be liable to pay the time lost or work delayed charge if such time lost or work delayed occurs or is solely as a result of breakdown of the Company's plant or equipment, or labour disputes between the Company and its employees at the Berth, unless occasioned by or resulting from the act or default of the Shipowner, or its servants, agents, independent contractors or sub-contractors or any other circumstances not being the act or default of the Company.
- 11.5 In certain circumstances where Services are required outside the hours of Agreed Slot Times, or on Bank and Public Holidays, additional charges ("Overtime Charge") may be payable pursuant to the Port Tariff.
- 11.6 Notice of cancellation of labour previously arranged by the Company in reliance on the vessel's final E.T.A. given to the Company pursuant to Clause 10, or in compliance with the Shipowner's request that work should commence at or finish before a particular time:
- (a) for any working period for which an Overtime Charge is payable must be received by the Company not later than 1200 hours on the normal working day, Monday to Friday inclusive (Bank/National Holidays excepted), next preceeding the day for which such labour has been arranged.
  - (b) for any other working period - must be received by the Company not later than 24 hours before the start of the working period for which labour has been arranged.

If such notice is not duly received, then the relevant Overtime Charge and/or, at the Company's discretion, charge for lost time will remain payable in full by the Shipowner.

## **12. Documentation and Particulars of Goods**

- 12.1 On request by the Company the Shipowner shall immediately provide all manifests, shipping notes/advices, consignment notes, waybills, bills of lading or other carriage documentation, packing lists and/or all other relevant documents relating to the Goods.
- 12.2 The Shipowner shall be deemed to warrant the accuracy of all descriptions, values, weights and other particulars of any Goods in documents supplied to the Company for any purpose whatsoever and shall indemnify the Company against all proceedings, claims expenses and penalties that the Company may suffer or incur as a result of any inaccuracy or omission therein.



### **13. Hazardous and Unsound Goods**

- 13.1 No Goods of a dangerous, hazardous, poisonous, tainted, infested or contaminated nature including but without prejudice to the generality of the foregoing those enumerated in the International Maritime Dangerous Goods Code will be handled by the Company except with the consent of the Company and then only in accordance with any conditions prescribed by the Company and in accordance with statutory and the Company's directions regulations and byelaws governing the handling of such Goods.
- 13.2 The Owner will indemnify the Company in respect of all extra costs charges and expenses incurred by the Company in handling goods of a dangerous, hazardous, poisonous, tainted, infested, unsound or contaminated nature whether or not handled with the consent of the Company.

### **14. H.M. Revenue & Customs Examination**

No extra charges will be raised for routine Customs examination of Goods carried out in situ at the Berth where the Goods are discharge/received. However, additional charges will be made if the Goods are moved to another location, or if H.M. Revenue & Customs order a more extensive or thorough examination for any reason, including use of a scanning machine.

### **15. Weighing of Goods**

The Company reserves the right to check the weight of any Goods at the expense of the Shipowner of the Vessel on which the same were or are to be shipped.

### **16. Non-Shipment of Goods**

- 16.1 The receiving of Goods by the Company into the Terminal does not imply that such Goods will be shipped. The acceptance or refusal of Goods for shipment is the responsibility of the Shipowner concerned, for whom the Company acts as agent in such respect
- 16.2 Where Goods are not shipped, the Shipowner shall pay to the Company such reasonable sum as the Company shall determine in relation to the work performed by the Company or in connection with the redelivery of such goods to the Goods Owner who shall take delivery of the goods at the part of the Terminal at which they are lying but the Company shall be at liberty nevertheless to transfer such Goods at the expense of the Shipowner to another location if in the opinion of the Company such Goods could otherwise cause congestion at their existing location and to delay or decline to perform the work of redelivery until the reasonable sum aforesaid shall have been paid to them.

### **17. Quay Rent**

- 17.1 Export Goods may remain on the Terminal free of rent charges from receipt into the Terminal up to the date of loading on the Vessel provided such period does not exceed 24 hours (or as otherwise provided in the Port Tariff), following which quay rent

(standage charges) shall be charged by the Company to the Shipowner and/or the Goods Owner at the Port Tariff (see also clause 9.1.2)

- 17.2 Import Goods shall be collected within 24 hours of discharge from the Vessel (or as otherwise provided in the Port Tariff), failing which quay rent shall be charged by the Company to the Shipowner at the prevailing rates (see also clause 9.1.2).
- 17.3 The Company reserves the right on giving 7 days prior notice to the Goods Owner to remove Goods that are on the quayside and/or in the Standage Area to a longer term storage area within the Terminal, including the right to remove/transship contents of the Ro-Ro Traffic to another trailer(s) or storage facility. The Company shall have no liability whatsoever in relation to any loss or damage arising of the performance of such measures. Removal, storage, transshipment and any ancillary costs incurred by the Company in relation to or arising therefrom shall be paid by the Goods Owner.
- 17.4 The exercise of the Company's rights under clause 17.3 shall be entirely without prejudice to its statutory rights of sale and disposal under Torts (Interference with Goods) Act 1977 ("1977 Act"). For the purposes of Schedule 1 Part 2 Section 6(2) to the 1977 Act, a period of 14 days shall be deemed a reasonable lapse of time between giving of notice and entitlement of the Company to exercise its power of sale.

## **18. Lien on Goods and Vessels**

- 18.1 The Company shall be entitled to refuse to allow Goods to leave the Terminal until (i) all charges claimed by the Company for Services whether in relation to those Goods or to other Goods have been paid or secured to the satisfaction of the Company, and (ii) security to the satisfaction of the Company has been given in relation to any claims for indemnity pursuant to these Terms and Conditions against the Goods Owner.
- 18.2 The Company shall be entitled to refuse to allow a Vessel to leave the Berth until:-
- 18.2.1 all charges claimed by the Company for Services whether in relation to that Vessel (whenever performed) or to other Vessels of the Shipowner have been paid or secured to the satisfaction of the Company, and
- 18.2.2 security to the satisfaction of the Company has been given in relation to claims for indemnity pursuant to these Terms and Conditions against the Shipowner (whether or not such claims arise in relation to that or another Vessel).

## **19. Shipowners' Contract of Carriage and "Himalaya" Protection**

- 19.1 The Shipowner shall be the agent of the Company for the purposes of agreeing with the Goods Owner in its Contract of Carriage such terms as afford the Company opposite the Goods Owner the benefit of the Shipowner's exemptions and limitations of liability, whether as agent sub-bailee stevedore or independent contractor or otherwise.
- 19.2 The Shipowner shall, in its Contract of Carriage ensure that there is provision that:-
- (a) the Company shall have the benefit of all provisions therein exempting or limiting the liability of the Shipowner;
- (b) the law governing such provisions so far as relating to the Company shall be English Law determined by English Courts; and

(c) such provisions so far as relating to the Company shall be applicable to the period that goods are at or on the Terminal or a Vessel thereat.

19.3 The Company hereby accepts the benefit of such provisions and appoints the Shipowner as the Company's agent for the purpose of contracting with the Goods Owner pursuant to the Shipowners' Contract of Carriage.

19.4 The Shipowner shall otherwise, without prejudice to any other rights of the Company herein, indemnify the Company against all proceedings claims and expenses (including legal costs on a full indemnity basis) arising out of any failure by the Shipowner to comply with the terms of this clause 19.

## **20. Company's Exemptions and Limitations of Liability**

20.1 Subject to these Conditions, the Company shall not be liable for any partial or total loss of or damage or delay to Goods except upon proof that such loss, damage or delay was caused by the neglect or default of the Company, its employees or agents in carrying out Services to which these Conditions apply and notwithstanding the foregoing the Company shall not have any liability whatsoever for any loss (whether partial or total), damage, deficiency or delay or failure in performing or providing services caused or contributed to by any of the following:-

20.1.1 unsuitable or defective packages or packing of Goods;

20.1.2 any inherent vice or quality of the Goods or packages themselves;

20.1.3 leakage, loss of weight or measure;

20.1.4 improper, insufficient, indistinctive, or erroneous marking or addressing of Goods or packages;

20.1.5 late receipt of customs entries or landing orders, disputes in respect of documents or declarations made for entry purposes by or on behalf of any importer, delay in passing customs entries or obtaining customs clearance of Goods, or omission of information from or a mis-statement in any order to the Company relating to the Goods.

20.2 The Company shall have no liability for loss or damage to Goods:-

20.2.1 occurring on board the Vessel (including the Vessel's ramp connecting the Berth linkspan);

20.2.2 arising from any feature (e.g. clearance heights or widths, parking deck lay out, fixtures, fittings and apparatus) of the Vessel and/or the marshalling of Ro/Ro Traffic on the Vessel by Shipowners' crew and/or employees;

20.2.3 arising from improper or inadequate stowage, lashing or securing of Ro/Ro Traffic on board the Vessel.

20.3 Damage to canvas of trailers will be considered in all cases as normal wear and tear and the Company will have no responsibility for the same.

20.4 The Company will have no liability for loss or damage to Ro/Ro Traffic in relation to periods where Ro/Ro Traffic is parked in the Standage Area, unless such loss or damage is caused by the wilful misconduct of the Company or its employees.

- 20.5 The Company shall have no liability whatsoever for loss of or damage to Goods where the Ro/Ro Traffic has been awaiting shipment or collection in the Terminal for more than 24 hours.
- 20.6 The Company shall have no liability for indirect or consequential loss or damage, including but not limited to any claims for delay, loss or market or loss of profit.
- 20.7 For the purposes of clause 20.8 the Ro/Ro Traffic and Goods carried therein will constitute one package or unit only.
- 20.8 Unless otherwise agreed in writing, the liability of the Company in relation to loss or damage to Vessel, Goods or Ro/Ro Traffic shall be limited to the following maximum amounts:-
- 20.8.1 For loss or damage to any Vessel: £1 million per occurrence
- 20.8.2 For loss, misdelivery or damage to Goods or Ro/Ro Traffic: £675 per package
- 20.9 Without prejudice to clause 20.7 the Company shall have in parallel to the above the protection of the Shipowners' rights of limitation under the Shipowner's Contract of Carriage Contract pursuant to clause 19 herein, and/or such other applicable statutory or contractual rights of exclusion or limitation.
- 20.10 The Owner will indemnify the Company against all proceedings and claims howsoever arising and by whomsoever brought in respect of the liabilities as mentioned under this clause so far as the amounts so claimed are outside the exclusions or limits prescribed in clause 20.8.
- 20.11 The Company shall be freed and discharged from all liability in respect of any loss or damage to any Vessel, Goods or Ro/Ro Traffic unless written notification of the same has been made to the Company within 3 days, and a written claim within 7 days after the Goods have been loaded into or or unloaded from the Vessel or after entry of the Goods into the Terminal, as the case may be, so as to enable the Company to forthwith commence investigations into the alleged loss or damage.
- 20.12 The Company shall in any event be freed and discharged from all liability in respect of any loss or damage in respect of Vessel or Goods unless proceedings have been issued and served on the Company with 12 calendar months of the occurrence causing such loss or damage.

## **21. Protection of Company's Employees and Agents**

The employees, independent contractors and agents of the Company shall be entitled to the benefit of all provisions herein which exclude or restrict liability of any kind. The Company in undertaking the Services does so on its own behalf and as agent for all its employees, independent contractors and agents.

## **22. Force Majeure**

The Company shall not in any circumstances be responsible for failing to provide or any delay in providing any Services or any other obligations under these Terms and Conditions if and to the extent that it is prevented doing so from by any acts, events, omissions or accidents beyond its reasonable control including strikes, lock-outs or other industrial disputes of any nature (whether involving the workforce of the Company, its

Representatives or any other person), failure of a utility service or transport network, act of God, storm, fire, flood, earthquake, subsidence, epidemic or other natural physical disaster; act of any Government, war or hostilities (whether war be declared or not), invasion, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery or default of suppliers or sub-contractors.

## **23. Indemnity**

- 23.1 The Shipowner or Goods Owner as the case may be shall be responsible for and insure against all risks and contingencies including death or personal injury of any person or damage to any property whatsoever arising from the use of or the presence of its Vessel or Goods in the Terminal and will indemnify the Company against all proceedings and claims by third parties and expenses incidental thereto (including legal costs on a full indemnity basis) arising out of such use or presence or of any act neglect or default of the Master of the Vessel or the Shipowner or Goods Owner their respective contractors agents or servants (other than the Company, its servants and agents) or of any inherent quality or defect of any Goods on the Terminal or on the Vessel.
- 23.2 The Owner shall pay to the Company full compensation for all damage done to or suffered by the Terminal and other property of the Company and arising as aforesaid.

## **24. Data Protection**

- 24.1 The Company may collect and process information relating to the Shipowner or the Goods Owner in accordance with the privacy notice which is available on the Peel Ports Group website. Each party agrees to comply with their respective obligations under the Data Protection Legislation.

## **25. Byelaws and Regulations**

Use of Berths in the Port and or Services described herein shall be subject to such statutes byelaws regulations and directions of the Company as may be in force from time to time.

## **26. Jurisdiction**

- 26.1 All claims under these Terms and Conditions shall be determined according to the Laws of England by the English Courts to the exclusion of the jurisdiction of the courts of any other country.
- 26.2 Where these Terms and Conditions are silent on the rights and liabilities of the Company and or Shipowner or Goods Owner, these shall be determined according to the Laws of England as aforesaid.

## **27. Alterations and Variations**

The foregoing conditions may be altered or varied at any time and from time to time in such respects and in such manner as the Company may consider desirable.

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