

STANDARD TERMS AND CONDITIONS FOR THE PURCHASE AND/OR HIRE OF GOODS/SERVICES BY PEEL PORTS GROUP COMPANIES

(Edition Date: August 2020)

1 Interpretation

1.1 In these Terms:

"Agreement" means any written agreement between the Parties signed by authorised representatives of the Parties or signed by authorised agents on behalf of the Parties relating to the sale and purchase of the Goods and/or the hire of the Hire Goods and/or the supply and purchase of the Services;

"Buyer" means the applicable company within the Peel Ports Group which places the Order;

"Consignment Stock" means Goods which are held in store or consignment at any location and are made available for the Buyer to call off out of store or consignment into the Buyer's possession and put into actual use at any time;

"Contract" means the contract for the sale and purchase of the Goods and/or the hire of the Hire Goods and/or the supply and purchase of the Services which comprises the applicable Order, Specification, Agreement (if any) and these Terms;

"Deliverables" means any documents, information, products and materials supplied by the Supplier to the Buyer in connection with or related to the Goods or Services or otherwise pursuant or related to the Contract;

"Delivery Address" means the delivery address stated in the Order or otherwise agreed by the Parties in writing;

"Goods" means the goods (including any instalment of the goods or any part of them and any Consignment Stock) described in the Order and references in these Terms to Goods shall include Hire Goods unless stated or the context requires otherwise;

"Hire Goods" means any Goods which are described in the Order as being hired to/by the Buyer (as opposed to being sold to and purchased by the Buyer);

"Order" means the Buyer's purchase order to which these Terms are annexed;

"Parties" means the Buyer and the Supplier and "Party" means either of them;

"Peel Ports Group" means the group of companies owned and/or controlled whether directly or indirectly by Peel Ports Group Limited of Maritime Centre, Port of Liverpool, Liverpool, L21 1LA, England (company number 5965116);

"Price" means the price of the Goods and/or the charge for the Services;

"Supplier" means the person, firm or company so described in the Order;

"Services" means the services described in the Order;

"Specification" means any plans, drawings, data, requirements or other information relating to the Goods or Services either supplied by the Buyer to the Supplier or (if applicable) agreed or accepted in writing by the Buyer;

"Terms" means the standard purchasing terms and conditions set out in this document and any special terms agreed in writing between the Parties;

"Warranty Period" means (in the case of the Services and all Goods other than Hire Goods) whichever is longest of the following: (i) 12 months after either the date on which delivery of the Goods or performance of the Services has been completed or (if later) the date of acceptance of the Goods or Services by the Buyer (and such references to Goods and Services shall also include repaired Goods or replacement Goods or Services referred to in section 8.2.1); (ii) the duration of the Contract; or (iii) such other warranty period confirmed in writing by the Supplier or agreed by the Parties in writing or which the Supplier offers to any of its other customers in respect of the Goods or Services; and (in the case of Hire Goods) the duration of the period of hire of Hire Goods to the Buyer.

1.2 The headings in these Terms are for convenience only and shall not affect their interpretation. References herein to 'in writing' shall include by email. References herein to 'sections' are to sections of these Terms.

1.3 Where the words "including" or similar expressions are used in these Terms, they are deemed to have the words "without limitation" following them.

1.4 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.

2 Basis of supply

2.1 The Order constitutes an offer by the Buyer to purchase the Goods and/or hire the Hire Goods and/or purchase the Services subject to these Terms.

2.2 The Supplier must acknowledge receipt of the Order and confirm its unconditional acceptance of the Order and these Terms in writing within 7 days of the Order date, failing which the Buyer reserves the right to withdraw the Order in writing at any time thereafter whereupon the Order shall lapse and cease to be capable of being accepted by the Supplier. Subject to the previous sentence, if the Supplier delivers the Goods or performs the Services or carries out any work in relation to either of the foregoing, that shall be deemed to be conclusive evidence of the Supplier's unconditional acceptance of the Order and these Terms.

2.3 Subject to section 2.4, unless expressly agreed otherwise in writing between authorised representatives of the Parties or authorised agents on behalf of the Parties, no variation to the Order or these Terms shall be binding and these Terms shall apply to the Contract to the exclusion of any other terms on which any quotation has been given to the Buyer or subject to which the Order is accepted or purported to be accepted by the Supplier.

2.4 If there is an Agreement, the terms and conditions of the Agreement shall apply to the Parties and form part of the Contract and, in the event of any conflict between the terms and conditions of the Agreement and these Terms, the terms and conditions of the Agreement shall prevail (except as may be expressly stated otherwise in the Agreement).

3 Nature and specification of Goods and Services

3.1 The quantity, quality and description of the Goods and the Services shall, subject as provided in these Terms, be as specified in the Order (including any instructions detailed therein) and in any applicable Specification.

3.2 Any Specification supplied by the Buyer to the Supplier, or specifically produced by the Supplier for the Buyer, together with the copyright, design rights and any other intellectual property rights in such Specification, shall be the exclusive property of the Buyer. In consideration of the Price, the Supplier hereby assigns to the Buyer, with full title guarantee and free from all third party rights, all such copyright, design rights and other intellectual property rights which may be owned by it. The Supplier shall not disclose to any third party or use any such Specification except as required for the purpose of the Contract.

3.3 The Supplier shall comply with all applicable laws, standards, regulations, statutory and other legal requirements (including any which are notified by the Buyer to the Supplier and any relating to health and safety and the environment) concerning the manufacture, packaging, supply, delivery, storage and installation of the Goods and the performance of the Services and which may otherwise apply to the Supplier and/or the Supplier's activities in relation to the Contract.

3.4 The Supplier shall not unreasonably refuse any request by the Buyer to inspect and test the Goods during manufacture, processing or storage at the premises of the Supplier or any third party prior to despatch, and the Supplier shall provide the Buyer with all facilities reasonably required for inspection and testing. Notwithstanding any such inspection or testing, the Supplier shall remain fully responsible for the Goods and any such inspection or testing shall not diminish or otherwise affect the Supplier's obligations under the Contract.

3.5 If as a result of inspection or testing, the Buyer is not reasonably satisfied that the Goods will comply in all respects with the Contract, and the Buyer so informs the Supplier, the Supplier shall take such steps as are necessary to ensure compliance.

3.6 The Goods shall be marked in accordance with the Buyer's instructions and any applicable regulations or requirements of the carrier, and properly packed and secured so as to reach their destination in an undamaged condition.

3.7 The Supplier shall hire the Hire Goods to the Buyer throughout the period of hire described in the Order or, if sooner, until termination of the Contract or cancellation of the Order in accordance with these Terms, whereupon the Supplier shall promptly arrange for the Hire Goods to be collected from the Delivery Address at its own cost.

4 Price of the Goods and Services

4.1 The Price of the Goods and the Services shall be as stated in the Order and, unless otherwise so stated, shall be:

4.1.1 exclusive of any applicable value added tax (which shall be payable by the Buyer subject to receipt of a valid value added tax invoice); and

4.1.2 inclusive of all charges for packaging, packing, shipping, carriage, insurance and delivery of the Goods to the Delivery Address and any duties or levies other than value added tax.

4.2 No increase in the Price may be made without the Buyer's prior written consent.

4.3 The Buyer shall be entitled to any discount for prompt payment, bulk purchase or volume of purchase customarily granted by the Supplier.

5 Payment

5.1 The Supplier may invoice the Buyer on or at any time after delivery of the Goods or performance of the Services has been completed (except in the case of Consignment Stock, in which case the Supplier may invoice the Buyer on or at any time after the applicable Goods have been called off by the Buyer out of store or consignment into the Buyer's possession and put into actual use by the Buyer) or (in any case) at such other time as may be stated in the Order. In any event, the Buyer must receive the Supplier's invoice promptly and in any case no later than 3 months after the date on which the Supplier first became entitled to raise the invoice and each invoice must be a valid VAT invoice and accurately quote the Buyer's valid Order number which is specified in the Order and must not be dated earlier than the date on which it is raised and must comply with any other invoicing conditions, requirements or instructions stated in the Order and include or be accompanied by such other supporting information as the Buyer may request, failing which the Buyer shall not be required to pay such invoice.

- 5.2 Subject to the requirements of sections 5.1 and 6.3 the Buyer shall pay all properly raised and submitted invoices within 60 days of their receipt or (if later) on acceptance by the Buyer of the Goods or Services in question. Invoices are properly raised and submitted only where they are submitted via the Buyer's Arriba Network. Invoices not submitted via the Buyer's Arriba Network are not validly submitted and as such shall not be due and shall not be paid.
- 5.3 The Buyer may set off against the Price any sums owed to the Buyer by the Supplier, including the Price for any Goods which are returned pursuant to section 8.2.1.
- 6 Delivery and acceptance**
- 6.1 The Goods shall be delivered to, and the Services shall be performed at, the Delivery Address on the date or within the period stated in the Order, in either case during the Buyer's usual business hours or as otherwise agreed between the Parties in writing.
- 6.2 The time of delivery of the Goods and of performance of the Services is of the essence of the Contract.
- 6.3 A packing list/delivery advice note quoting the Buyer's valid Order number and containing such other details as the Buyer may require must accompany each delivery or consignment of the Goods and must be displayed prominently. An accurate signed timesheet or jobsheet or other documentary evidence or confirmation of completion of the Services, detailing the nature of the Services and the times and locations at which the Services were performed, quoting the Buyer's valid Order number and containing such other details as the Buyer may require must be supplied to the Buyer upon or immediately after completion of the Services.
- 6.4 If the Goods are to be delivered, or the Services are to be performed, by instalments, the Contract will be treated as a single contract and not severable.
- 6.5 The Buyer may reject any Goods delivered or Services performed which are not in accordance with the Contract, and shall not be deemed to have accepted any Goods or Services until the Buyer has had a reasonable time to inspect and/or test them following delivery or performance thereof and the Buyer has confirmed its acceptance in writing (such acceptance not to be unreasonably withheld or delayed).
- 6.6 The Supplier shall supply the Buyer in good time with any instructions or other information required to enable the Buyer to accept delivery of the Goods and performance of the Services.
- 6.7 The Buyer shall not be obliged to return to the Supplier any packaging or packing materials for the Goods, whether or not any Goods are accepted by the Buyer.
- 6.8 The Buyer will not accept any deliveries of Goods or performance of Services in excess of the amount ordered unless previously agreed in writing by the Buyer.
- 6.9 If the Supplier fails to deliver the Goods or perform the Services on the due date in accordance with the Contract then, without limiting any other remedy and without any liability, the Buyer shall be entitled to:
- 6.9.1 terminate the Contract and cancel any Order in whole or in part pursuant to section 9.2.1 and require the Supplier to refund to the Buyer on demand any payments previously made by the Buyer in respect of any cancelled Order and (where applicable) collect from the Buyer at the Supplier's cost any Goods already received by the Buyer pursuant to such Order;
- 6.9.2 refuse to accept any subsequent delivery of the Goods or performance of the Services which the Supplier attempts to make;
- 6.9.3 recover from the Supplier any expenditure reasonably incurred by the Buyer in remedying the Supplier's failure including, if applicable, obtaining the Goods or Services in substitution from another supplier;
- 6.9.4 claim damages for any additional costs, losses or expenses incurred by the Buyer which are in any way attributable to the Supplier's failure;
- 6.9.5 require the Supplier, without charge to the Buyer, to carry out such additional work and take such steps as is necessary to correct the Supplier's failure and ensure future compliance by the Supplier; and
- 6.9.6 deduct from the Price or (if the Buyer has paid the Price) to claim from the Supplier by way of liquidated damages payable on demand for delay 5 per cent of the Price for every consecutive period of 7 days' delay, up to a maximum of 25 per cent or such greater amount as fully compensates the Buyer for any losses, damages, costs and claims it may suffer as a result of the Supplier's failure to deliver the Goods or perform the Services on the due date in accordance with the Contract and the Parties agree that such amount represents a genuine and reasonable pre-estimate of, and is not out of proportion to the Buyer's legitimate interests for, any such losses, damages, costs and claims which may be suffered by the Buyer.
- 7 Risk and Title**
- 7.1 Subject to section 7.3, risk of damage to or loss of the Goods shall pass to the Buyer either on completion of delivery to the Buyer including completion of off-loading in accordance with the Contract or (in the case of Consignment Stock) when the applicable Goods have been called off by the Buyer out of store or consignment into the Buyer's possession and put into actual use by the Buyer.
- 7.2 Subject to section 7.3, title in and to the Goods shall pass to the Buyer either on delivery or (in the case of Consignment Stock) when the applicable Goods have been called off by the Buyer out of store or consignment into the Buyer's possession and put into actual use by the Buyer, unless payment for the Goods is made prior to delivery or call off in which case it shall pass to the Buyer once payment has been made.
- 7.3 Risk of damage to or loss of the Hire Goods and title in and to the Hire Goods shall not pass to the Buyer.
- 7.4 The Supplier shall be responsible for insuring the Hire Goods at all times and for insuring the Goods for the period prior to risk of damage to or loss of the Goods passing to the Buyer in respect of all damage thereto and loss thereof at its full replacement value.
- 8 Warranties and liability**
- 8.1 The Supplier warrants to the Buyer that:
- 8.1.1 throughout the Warranty Period the Goods and Services will be of satisfactory quality and fit for any purpose held out by the Supplier or made known to the Supplier at or before the time the Order is placed or otherwise agreed by the Parties in writing;
- 8.1.2 throughout the Warranty Period the Goods and Services will be free from defects in design, material and workmanship;
- 8.1.3 throughout the Warranty Period the Goods and Services will correspond with the Order, these Terms and any relevant Specification or sample;
- 8.1.4 throughout the Warranty Period the Goods and Services will comply with all laws, standards, regulations, statutory and other legal requirements relating to the sale, hire or supply thereof;
- 8.1.5 throughout the Warranty Period all information supplied by the Supplier to the Buyer in connection with or related to the Goods and Services or otherwise pursuant or related to the Contract shall be and remain true, accurate and complete; and
- 8.1.6 the Services will be performed by appropriately qualified and trained personnel, with due skill, care and diligence in accordance with best industry practice and to such high standard of quality as it is reasonable for the Buyer to expect from a competent and experienced contractor in all the circumstances.
- 8.2 If any Goods or Services are not supplied or performed in accordance with the Contract including the warranties in section 8.1 then, notwithstanding any prior acceptance thereof by the Buyer and without limiting any other remedy and without any liability, the Buyer shall be entitled to:
- 8.2.1 require the Supplier to repair such Goods or to supply replacement Goods or Services in accordance with the Contract at the Supplier's cost within 7 days of being requested to do so by the Buyer (in which case such repaired Goods or replacement Goods or Services shall be subject to the warranties referred to in section 8.1) or the Buyer shall be entitled to return such Goods to the Supplier at the Supplier's cost, in which case the Supplier shall, within 7 days of receipt of such returned Goods, repay to the Buyer the Price paid by the Buyer for such Goods and the costs incurred by the Buyer in returning such Goods to the Supplier in such amount as the Buyer shall advise the Supplier; or
- 8.2.2 exercise the rights described in section 6.9.1 (whether or not the Buyer has previously required the Supplier to repair the Goods or to supply any replacement Goods or Services).
- 8.3 The Supplier shall indemnify the Buyer in full against all claims, actions, liabilities, losses, damages, costs and expenses (including legal expenses) made, taken or awarded against or incurred or paid by the Buyer as a result of or in connection with:
- 8.3.1 any breach of any warranty given by the Supplier in relation to the Goods or the Services;
- 8.3.2 any claim that the Goods or Deliverables infringe, or their importation, use or resale, infringes, the patent, copyright, design right, trade mark or other intellectual property rights of any other person, except to the extent that the claim arises from compliance with any Specification supplied by the Buyer;
- 8.3.3 any act or omission (including any breach, negligence, failure or delay) of the Supplier or its employees, agents or sub-contractors in connection with the Goods and Services or the performance of the Supplier's obligations under the Contract;
- 8.3.4 any accident caused by or involving the Supplier; and
- 8.3.5 any persons employed or engaged by the Supplier or its agents or sub-contractors in connection with the Contract.
- 9 Cancellation and termination**
- 9.1 The Buyer may for any reason cancel an Order in respect of all or part only of the Goods and/or the Services by giving notice to the Supplier at any time prior to delivery or performance, whereupon all work being performed by the Supplier in respect thereof shall be immediately discontinued and the Buyer's sole liability shall be to pay to the Supplier a fair and reasonable proportion of the Price for the Goods or Services in respect of which the Buyer has exercised its right of cancellation, less the Supplier's net saving of costs arising from cancellation (which the Supplier shall, on request, demonstrate in reasonable detail to the Buyer's reasonable satisfaction) and not including any loss of anticipated profits or any consequential loss, to compensate for the Supplier's work-in-progress as at the date of cancellation.
- 9.2 The Buyer may terminate the Contract and cancel any Order, without limiting any other remedy and without any liability by giving notice to the Supplier at any time if:

- 9.2.1 the Supplier breaches any of the provisions of the Contract and either such breach is material and/or incapable of being remedied (which shall include any breach of sections 10.1, 13.5 or 13.6) or the Supplier fails to remedy such breach within 14 days of it being notified of the breach or if the Supplier repeatedly breaches any of the provisions of the Contract in such a manner as to reasonably justify the Buyer's opinion that its conduct is inconsistent with it having the intention or ability to comply with or give effect to the provisions of the Contract;
 - 9.2.2 the Supplier makes any voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation;
 - 9.2.3 an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Supplier;
 - 9.2.4 anything occurs with respect to the Supplier in any jurisdiction that has an effect equivalent or similar to any of the events mentioned in sections 9.2.2 and 9.2.3;
 - 9.2.5 the Supplier ceases, or threatens to cease, to carry on business; or
 - 9.2.6 the Buyer reasonably apprehends that any of the events mentioned above is about to occur in relation to the Supplier and notifies the Supplier accordingly.
- 9.3 The termination of the Contract or cancellation of any Order, however arising, shall be without prejudice to the rights of the Buyer and liabilities of the Supplier accrued prior to termination or cancellation. The provisions of these Terms which expressly or impliedly have effect after termination or cancellation shall continue to be enforceable notwithstanding termination or cancellation.

10 Confidentiality and Publicity

- 10.1 The Supplier shall at all times keep in strict confidence and shall use only for the purpose of performing its obligations to the Buyer all technical or commercial know-how, data, information, materials, specifications, processes or initiatives which are of a confidential nature and have been disclosed to the Supplier by the Buyer and any other confidential information concerning the Buyer's business, finances, affairs, products, services, suppliers or customers which the Supplier may obtain. The Supplier shall restrict disclosure and use of such confidential material and information to such of its employees and permitted agents or sub-contractors as need to know the same for the purpose of performing the Supplier's obligations to the Buyer and shall ensure that such employees, agents or sub-contractors are subject to equivalent obligations of confidentiality as bind the Supplier.
- 10.2 The Supplier shall not make or procure or permit any other person to make any press or public announcement or publicity concerning any aspect of the Contract without the Buyer's prior written consent.

11 Data Protection

- 11.1 In this section 11, the following definitions shall apply:
 - Data Protection Legislation:** all applicable data protection and privacy legislation, regulations and guidance including the Data Protection Act 2018 and the General Data Protection Regulation (EU (2016/679)) (**GDPR**) (each as amended or re-enacted from time to time and including any replacement or subordinate legislation) and industry guidelines and codes of practice in force from time to time relating to the protection and transfer of personal data. Definitions in these terms shall, so far as the context permits and unless otherwise stated, the meanings given to them in the Data Protection Legislation.
 - Personal Data:** personal data (as defined in the Data Protection Legislation) processed by the Supplier on behalf of the Buyer pursuant to this Agreement.
 - 11.2 Both parties will comply with all applicable requirements of the Data Protection Legislation. This section 11 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.
 - 11.3 The Supplier acknowledges that, in relation to its obligations under this Agreement, it shall act as a data processor on behalf of the Buyer in relation to any Personal Data. Processing of Personal Data by the Data Processor under this Agreement shall be restricted to the duration of the term of the Contract and, in respect of its subject-matter, nature and purpose, to such processing activities and purposes as the Data Processor is reasonably required to undertake in connection with its performance under this Agreement. The types of Personal Data and categories of data subject shall be restricted to such data concerning such data subjects as the Data Controller provides to the Data Processor in connection with parties' performance under this Agreement. To the extent that the Supplier processes any Personal Data pursuant to this Agreement, the Supplier warrants that it shall:
 - 11.3.1 procure that its directors, officers, and employees shall, comply with all applicable obligations and requirements under the Data Protection Legislation;
 - 11.3.2 not transfer or disclose Personal Data to any third party without the Buyer's prior written consent;
 - 11.3.3 keep a record of any processing of Personal Data it carries out on behalf of the Buyer in accordance with the requirements of and to demonstrate compliance with the Data Protection Legislation and shall co-operate with the Buyer in any audits and inspections to monitor such compliance;
 - 11.3.4 promptly comply with any request from the Buyer requiring the Supplier to amend, transfer or delete the Personal Data;
 - 11.3.5 put in place and maintain appropriate technical and organisational measures to protect against the unauthorised or unlawful processing of Personal Data and against the accidental loss or destruction of, or damage to, Personal Data appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures;
 - 11.3.6 ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential;
 - 11.3.7 not transfer any Personal Data outside of the European Economic Area unless:
 - 11.3.7.1 the prior written consent of the Buyer has been obtained;
 - 11.3.7.2 the Supplier has provided appropriate safeguards (as defined in Article 46.2 of the GDPR) in relation to the transfer, and can demonstrate this to the reasonable satisfaction of the Buyer;
 - 11.3.7.3 the data subjects whose Personal Data will be transferred have enforceable rights and effective legal remedies; and
 - 11.3.7.4 the Supplier can provide an adequate level of protection to any Personal Data that is transferred; and
 - 11.3.8 assist the Buyer in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators.
 - 11.4 The Supplier will not use a third party processor (**Sub-Processor**) without prior specific or general written authorisation from the Buyer.
 - 11.5 If the Buyer gives prior specific or general written authorisation for the Supplier to use a Sub-Processor, the following will apply:
 - 11.5.1 the Supplier must notify the Buyer of any changes to Sub-Processors made under prior general written authorisation and must allow the Buyer a reasonable time to object to those changes;
 - 11.5.2 the Supplier must impose such contract terms on the Sub-Processor as are required by the Data Protection Legislation, especially but not exclusively, those contract terms required under Article 28.3 of the GDPR; and
 - 11.5.3 the Supplier will remain fully liable to the Buyer for any acts or omissions of the sub-Processor.
 - 11.6 The Supplier will process Personal Data only in accordance with the written instructions of Buyer unless otherwise required to do so by law. Where the Supplier intends to rely on a requirement of law as the basis for processing the Personal Data, the Supplier will promptly notify the Buyer of this before performing the Processing required unless the requirement of law relied upon prohibits the Supplier from so notifying the Buyer.
 - 11.7 The Supplier shall:
 - 11.7.1 retain all information required to demonstrate that the Supplier and the Buyer have met their obligations under the Data Protection Legislation;
 - 11.7.2 submit and contribute to audits and inspections carried out by the Buyer or a third-party appointed by the Buyer to carry out such audits or inspections. The Buyer will endeavour to provide reasonable written notice of the date of inspections or audits;
 - 11.7.3 inform the Buyer immediately if the Supplier believes or suspects that it has been given an instruction that does not comply with the Data Protection Legislation; and
 - 11.7.4 notify the Buyer immediately if the Supplier becomes aware of or reasonably suspects a personal data breach.
 - 11.8 On termination or expiry of this Agreement, the Supplier shall, at the choice of the Buyer, delete or return to the Buyer all Personal Data and copies thereof it has within its power, ownership or control, and the Supplier shall ensure that any such return or deletion is carried out securely and in accordance with current best practice.
 - 11.9 The Supplier shall not knowingly or negligently do or omit to do anything which places the Buyer in breach of its obligations under the Data Protection Legislation. The Supplier shall indemnify the Buyer, to the fullest extent permitted by law, against any claim, loss, damage, expense or fine arising as a result of a breach by the Supplier of this section 4, or otherwise arising under the Data Protection Legislation caused by any action or omission the Supplier or its personnel, agents or other authorised individuals.
- ## 12 Information Security
- 12.1 In this section 12, **NISRs** means the Network and Information Systems Regulations 2018, as amended or re-enacted from time to time and including any replacement or subordinate legislation, and terms used in this section 12 shall, so far as the context permits and unless otherwise stated, have the meanings given to them in the NISRs.
 - 12.2 The Supplier shall at all times during the term of the Contract comply with its obligations under the NISRs (where applicable). This section 12 does not relieve, remove or replace the Supplier's obligations under the NISRs and the following provisions of this section 12 are to be construed without prejudice to the generality of this section 12.2.

- 12.3 If the Supplier is deemed to be designated under the NISRs as an operator of essential services it shall:
- 12.3.1 take appropriate and proportionate technical and organisational measures to manage risks posed to the security of the network and information systems on which the Supplier's essential service(s) relies (and such measures shall, having regard to the state of the art, ensure a level of security of network and information systems appropriate to the risk posed);
- 12.3.2 take appropriate and proportionate measures to prevent and minimise the impact of incidents affecting the security of the network and information systems used for the provision of the Supplier's essential service(s), with a view to ensuring the continuity of such service(s); and
- 12.3.3 notify the Buyer and the relevant authorities about any incident which has a significant impact on the continuity of the essential service which the Supplier provides, without undue delay and in any event no later than 72 hours after becoming aware of such incident.
- 12.4 If the Supplier is a relevant digital service provider under the NISRs and the Services include cloud computing services, online marketplace or online search engine services, the Supplier shall:
- 12.4.1 take appropriate and proportionate measures to manage the risks posed to the security of network and information systems on which it relies to provide the Services, which prevent and minimise the impact of incidents affecting such network and information systems with a view to ensuring the continuity of those services and which, having regard to the state of the art, ensure a level of security of network and information systems appropriate to the risk posed; and
- 12.4.3 notify the Buyer and the relevant authorities about any incident which has a substantial impact on the Services without undue delay and in any event no later than 72 hours after becoming aware of such incident.
- 12.5 In any event where, in connection with the provision of Goods and/or Services under the Contract, the Supplier has access, directly or indirectly, to any information technology (**IT**) or operational technology (**OT**) systems owned, licensed, operated or maintained by any company within the Peel Ports Group, the Supplier shall:
- 12.5.1 achieve or exceed the security standards, processes and requirements expected as best practice in the Supplier's industry;
- 12.5.2 maintain its own information security and cybersecurity policies, which shall be appropriate to the nature of the Services, and ensure that such policies are complied with by the Supplier and its employees and other authorised individuals;
- 12.5.3 establish and maintain all appropriate technical and organisational measures and safeguards (having regard to the state of the art and the nature of the risks posed) to protect against the unauthorised destruction, loss, corruption, alteration or disclosure of any data provided in connection with the Services, including maintaining appropriate firewalls and anti-virus applications;
- 12.5.4 not, during its use of such IT and/or OT systems, create, introduce, access, store, distribute or transmit:
- 12.5.4.1 any device or thing, including any software, code, file or programme, which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices (a **Virus**); or
- 12.5.4.2 any material that is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive, facilitates illegal activity, promotes unlawful violence, is discriminatory based on race, gender, colour, religious belief, sexual orientation or disability or is otherwise illegal or causes damage or injury to any person or property;
- 12.5.5 in the event that a Virus is found in any of the tools or software used in connection with the provision of the Services, use its best endeavours to delete or otherwise disable the Virus and to assist the Buyer (at no additional cost) in mitigating the effects of the Virus and, to the extent that the Virus causes any loss of operational efficiency or any loss of data, assist the Buyer in restoring or recovering such loss; and
- 12.5.6 not implement or cause any modifications to such IT and/or OT systems without the prior written consent of the relevant company within the Peel Ports Group (provided always that any such modifications shall be subject to the Buyer's change control procedures and processes).
- 12.6 The Supplier shall store data provided to it by any company within the Peel Ports Group on mobile devices only where it is reasonably necessary for the Supplier to do so in connection with the performance of the Services. Such data shall be minimised, retained only for a justifiable length of time and appropriately protected, and mobile devices that hold such data shall be configured according to best practice for the platform, with appropriate technical and procedural policies in place for the users of such devices. The Supplier shall ensure that all data provided to the Supplier by any company within the Peel Ports Group is securely removed from all devices, equipment or removable media before disposal of the same.
- 12.7 The Supplier shall, upon request, provide to the Buyer such information as the Buyer reasonably requires in order to demonstrate the Supplier's compliance with this section 12.
- 13 General**
- 13.1 The Contract and each Order is personal to the Supplier and the Supplier may not assign, sub-contract or otherwise delegate any of its rights or obligations under the Contract or any Order to any third party without the Buyer's prior written consent. The Buyer may assign, sub-contract or otherwise delegate any of its rights or obligations under the Contract or any Order to any third party.
- 13.2 No waiver by the Buyer of any breach of the Contract by the Supplier shall be binding unless confirmed in writing by an authorised representative of the Buyer or an authorised agent on behalf of the Buyer nor shall it be considered as a waiver of any subsequent breach of the same or any other provision.
- 13.3 If any provision of these Terms or the Contract is held by any court or other competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Terms or the Contract and the remainder of the provision in question shall not be affected.
- 13.4 None of the provisions of the Contract are for the benefit of or may be enforced by any third party (except as expressly stated otherwise in the Agreement) unless the Agreement is entered into by another company within the Peel Ports Group acting as agent for the Buyer, in which case all such provisions shall be deemed to also be for the benefit of and may be enforced by that other company and that other company shall have the right to enforce and take action or bring a claim under the Contract and all references in the Contract to the Buyer shall be deemed to include that other company for such purposes.
- 13.5 Without prejudice to the generality of section 3.3, the Supplier shall comply with all applicable laws, statutes, regulations, codes, standards and policies from time to time in force relating to anti-bribery, anti-corruption, anti-slavery, anti-human trafficking, data protection, the reporting and payment of tax, the prevention of tax evasion and the prevention of facilitating tax evasion, including the Bribery Act 2010, the Modern Slavery Act 2015, the Data Protection Act 1998, the General Data Protection Regulation (Regulation (EU) 2016/679) (GDPR) and the Criminal Finances Act 2017 and the Supplier shall at all times maintain and enforce its own adequate and compliant policies and procedures related to such matters and the Supplier shall not engage in any activity, practice or conduct which may constitute or cause a breach of, or an offence under, any laws, statutes, regulations, codes, standards, policies or procedures by it or any third party (including any company within the Peel Ports Group) and the Supplier shall promptly notify the Buyer if it becomes aware of, or has any concerns regarding, any such potential or actual non-compliance, breach or offence.
- 13.6 The Supplier shall comply with all applicable policies and procedures (as the same may be amended, updated or replaced from time to time) which are relevant to the Supplier, the Goods and/or Services (including policies and procedures related to health and safety, the environment, security and any of the subject matter referred to in section 11.5 as well as the Buyer's Code of Conduct) and which are either made available or accessible to the Supplier or notified or provided to the Supplier from time to time or on request.
- 13.7 The Supplier shall at all times maintain complete and accurate records and information in respect of the Goods and/or Services and/or performance by the Supplier of its obligations under the Contract (including time spent, activities and work undertaken and any materials used by the Supplier in supplying the Goods and/or Services) in such form and of such nature and including such details as the Buyer may require and as may be required for compliance with any applicable laws, statutes, regulations, codes, standards, policies or procedures and/or compliance with the Contract.
- 13.8 The Supplier shall provide the Buyer with copies of any records and information referred to in section 11.7 and/or allow the Buyer and its representatives to have access to them at all reasonable times, in each case as the Buyer may request from time to time including for the purpose of inspecting and/or auditing them and verifying the Supplier's compliance with any applicable laws, statutes, regulations, codes, standards, policies or procedures and/or compliance with the Contract.
- 13.9 In consideration of the payments due to the Supplier pursuant to the Contract, the Supplier hereby assigns to the Buyer by virtue of and upon entering into the Contract (where appropriate, by way of present assignment of rights which arise in the future), with full title guarantee and free from all third party rights, all rights including intellectual property rights (if any) in all Goods, Services and Deliverables which are designed, developed or created for the Buyer pursuant to or in connection with the Contract and the products and results of the Services.
- 13.10 If and to the extent that it is not possible or reasonably practicable for the Buyer to exercise its rights under the Contract or to make full use of the Goods, Services or Deliverables without the use of any rights including intellectual property rights of the Supplier, other than those referred to in section 11.9, in consideration of the payments due to the Supplier pursuant to the Contract, the Supplier hereby grants to the Buyer a non-exclusive, irrevocable, royalty-free and perpetual licence to use such rights as the Buyer may require for that purpose.
- 13.11 The Supplier will use all reasonable endeavours to employ or use local labour or personnel (with reference to the location of the Delivery Address) in connection with the supply of Goods and/or Services to the Buyer wherever it is reasonably practicable and lawful to do so.
- 13.12 Notwithstanding any other provisions, the Buyer's rights under the Contract are in addition to (not in place of) all statutory rights implied in favour of the Buyer.
- 13.13 The Contract shall be governed by the laws of England, and the Supplier agrees to submit to the exclusive jurisdiction of the English courts.

Name:

Title:

Company:

Signature:

Date: