



STANDARD TERMS AND CONDITIONS

FOR BULK CARGO HANDLING TERMINALS

OPERATED BY MEMBERS OF PEEL PORTS GROUP

June 2022

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INTERPRETATION

1. In these conditions:-

- 1.1 **"the Berth"** means any berth operated by the Terminal Operator and shall include any quay, silo, transit shed or other area situate thereat.
- 1.2 **"the Cargo 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 Terminal Operator).
- 1.3 **"charges"** includes charges of every description for the time being payable to the Terminal Operator in respect of the Services.
- 1.4 **"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 used herein shall, so far as the context permits and unless otherwise stated, have the meanings given to them in the Data Protection Legislation.
- 1.5 **"the Dock Estate"** means the docks locks passages quays berths stages jetties bridges 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 Terminal Operator.
- 1.6 **"goods" or "cargo"** means any cargo, goods, articles and things of any description (including any packages or containers within which the said cargo, goods, articles and things may be contained) including, but without prejudice to the generality of the foregoing, all dry and agri-bulk commodities.
- 1.7 **"the Harbour Master"** means the Marine Operations Manager or other Officer appointed by the Terminal Operator to act as Harbour Master and shall include his Assistants.

- 1.8 **“IMDG Code”** means the International Maritime Dangerous Goods Code as incorporated into Chapter VII of the International Convention for the Safety of Life at Sea 1974 (SOLAS).
- 1.9 **“the Owner”** means the Shipowner and/or Cargo Owner, as appropriate.
- 1.10 **“the Port”** means the statutory administrative port area within which the Terminal is situated.
- 1.11 **“the Rail Operator”** means the operator of any rail freight services calling at the Terminal.
- 1.12 **“Regulatory Authority”** means any governmental or quasi-governmental body, authority or department enforcing legislation, byelaws, regulations and standards, including by way of example only H.M. Revenue & Customs, Department for Transport, Maritime & Coastguard Agency, Health & Safety Executive, Classification Society, and Statutory Harbour Authority.
- 1.13 **“the Services”** means any operation or service of the nature described in Clause 11.1.
- 1.14 **“the 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.
- 1.15 **“Special Agreement”** means a bespoke charging agreement between the Terminal and the Owner.
- 1.16 **“Special Terminal Conditions”** means any special conditions in Schedule 2 concerning Services at the relevant Terminal.
- 1.17 **“Statutory Harbour Authority”** means the entity responsible for and having powers pursuant to statute for the regulation conservancy and administration of a port or harbour, which expression shall include Competent Harbour Authority.
- 1.18 **“Storage Facility”** means any area of the Terminal where cargo is designated or permitted to be stored from time to time.
- 1.19 **“the Terminal”** means the applicable cargo handling terminal, its facilities and the Dock Estate, including the Berths and all storage and warehousing facilities thereat.

- 1.20 **"the Terminal Manager"** means the manager of the Terminal.
- 1.21 **"the Terminal Operator"** means the applicable operator of one of the Terminals listed in Schedule 1.
- 1.22 **"Vessel Suitability Criteria"** means the vessel's being suitable for acceptance to operate at the Terminal in accordance with these Terms and Conditions
- 1.23 **"Website"** means www.peelports.com.
- 1.24 Words importing the singular shall include the plural and vice versa unless the context otherwise requires.
- 1.25 The headings for clauses are for ease of reference only and shall not affect the construction hereof.
- 1.26 Reference to clauses or schedules are references to the clauses and schedules of these Terms and Conditions unless otherwise stated.
- 1.27 Attention is drawn to the Special Terminal Conditions, and differences in operational practices (e.g. Working Hours), and cargo specific provisions which may vary between Terminals (e.g. Schedule 2 A IV – Special Provisions for handling grain at Royal Seaforth Grain Terminal, Liverpool).
- 1.28 All quotations, orders and contracts of the Terminal Operator are subject to the Terms and Conditions set out herein. Any variations to these Terms and Conditions are of no effect unless confirmed in writing by the Terminal Operator.
- 1.29 These Terms and Conditions prevail over and apply to the exclusion of any terms and conditions proposed by the Owner (whether in writing or otherwise) and any terms implied by trade, custom or practice unless specifically agreed to in writing by the Terminal Operator.

2. BERTHS AND SERVICES

- 2.1 Subject to the provision in these Terms and Conditions, the Terminal Operator shall provide the use in common with vessels in other ownerships of a Berth and shall provide or perform the Services thereat upon the terms and conditions hereinafter mentioned.
- 2.2 A vessel's call at the Terminal is subject always to the Terminal Operator's prior written approval, and all Vessels and vehicles subject to the Services must be acceptable to the Terminal Operator.
- 2.3 The suitability and safety of the Berth for the Vessel shall be a matter for the

Shipowner to determine exercising its own due diligence and subject always to the restrictions (e.g. in relation to size, draft etc.) as advised by the Terminal Operator (see Clause 10).

3. NOTICE

- 3.1 Use of the Berth, Terminal and/or Services by the Owner shall be deemed to constitute notice of and agreement to these Terms and Conditions the current version of which is available to view and download on the Website and which may also be obtained upon request to the Terminal Manager.
- 3.2 No terms or conditions (save for the terms of any Special Agreement) whether express or implied which are at variance with these Terms and Conditions shall have any application. These Terms and Conditions shall constitute the entire agreement between the Terminal Operator and the Owner and supersede any previous agreement or arrangement between them relating to the subject matter hereof.
- 3.3 The Owner expressly warrants that it is authorised to accept and is accepting these Terms and Conditions not only for itself as the principal but also as agent for and on behalf of all persons who have or may hereafter have title to or otherwise have an interest in the cargo and/or containers, and the Owner shall indemnify the Terminal Operator against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, and all interest, penalties and legal and other professional costs and expenses) and against any other consequence arising out of or in connection with the fact that such person referred to (including the Owner) shall lack the title or authority referred to above.

4. APPLICATION

These Terms and Conditions shall be applicable to all legal relationships between the Terminal Operator and the Owner whether in contract bailment or tort and will either apply by reason of the Owner's express acceptance hereof, or will be implied from the entry of any vessel into the Terminal, or the landing of any goods at the Terminal, or during such time as a Berth is being used by a vessel for the loading, discharging or stowing of goods by the Terminal Operator or the loading, discharging or stowing of ship's stores or bunkers and at any time a berth quay transit shed or other area at the Terminal is being used for the receiving, delivering, loading or discharging, stowing, handling or storage of goods by the Terminal Operator.

5. PERFORMANCE OF WORK

The Terminal Operator shall perform or provide such of the Services as the Terminal Operator in its reasonable discretion considers appropriate and expedient for each vessel and its cargo or for particular goods unless instructed to the contrary in writing by the Shipowner or the Cargo Owner and agreed in advance by the Terminal

Operator. The vessel shall comply with the Vessel Suitability Criteria and any requirements stipulated by any Regulatory Authority.

6. MANNING AND PERFORMANCE OF SERVICES

- 6.1 Subject to these Terms and Conditions, the Terminal Operator shall provide supervision and labour as available and necessary plant and equipment for the discharging, loading, receiving, delivering, stowing, handling and storage of goods at the Berth, or such other services as the Terminal Operator may agree to perform pursuant to these Terms and Conditions.
- 6.2 The Terminal Operator shall not be under any obligation to receive or handle vessels or road vehicles at the Berth in any particular order.
- 6.3 The Terminal Operator shall be entitled not to commence the Services until a suitable berth, quay and, if required, silo, transit shed or storage area and suitable plant and equipment are available and sufficient port operations workers and other employees are available to perform the Services on the vessel, the quay or in the silo, transit shed or storage area, and until the Cargo Owner had provided a material data sheet in relation to the cargo which is satisfactory to the Terminal Operator so far as concerns the safe handling and storage of the cargo. After the commencement of cargo handling services, they will be continued as and to the extent that plant and port operations workers and other employees are reasonably available in all the circumstances from time to time.
- 6.4 The Terminal Operator may decline at any time to perform or provide or (within a reasonable time after relevant information is learnt by the Terminal Operator,) to continue to perform or provide all or any work or the Services where the qualities or characteristics of the cargo are considered to be unsafe or potentially unsafe by the Terminal Operator, and/or the cargo is outside agreed specifications or does not adhere with the description in the material data sheet, the cargo is unsound or exceptionally difficult to handle, or if otherwise the performance of the Services would be detrimental to the safety or efficiency of the performance of the Services.
- 6.5 The Terminal Operator may use such plant and equipment in relation to the Services as it considers suitable for the type of cargo being handled.
- 6.6 No liability shall attach to the Terminal Operator in consequence of its not commencing or continuing the Services for the reasons specified in Clause 6.3, nor in relation to Clause 6.4.
- 6.7 Without prejudice to the generality of the foregoing when a cargo is exceptionally difficult to work due to unsoundness of the cargo, bad or collapsed stowage, damage to the cargo or the vessel or other matter creating exceptionally difficult working conditions then the Terminal Operator may in its absolute discretion elect whether to perform or provide or continue to perform or provide the Services and if it should so elect and inform the Shipowner for that vessel or the Cargo Owner thereof then the Terminal Operator shall not be liable for any loss or damage whatsoever howsoever

caused (including where caused by the negligence of the Terminal Operator its servants agents or independent contractors) to the cargo or the vessel including any claim for loss of use or loss of a particular market and the said Shipowner or Cargo Owner shall indemnify the Terminal Operator against all proceedings claims and expenses arising out of or consequent on any such election by the Terminal Operator including all proceedings claims and expenses relating to the handling of cargo on the quay or in a shed or store. The Terminal Operator by reason of its specialised knowledge shall be the sole arbiter as to whether a cargo is exceptionally difficult to work or not.

The Terminal Operator shall have the right, having made an election, to subsequently reverse that election in the light of circumstances then prevailing and no liability shall attach to it thereby.

- 6.8 Extra charges may be levied by the Terminal Operator to handle unsound cargo, bad or collapsed stowage, damaged cargo and cargo that is exceptionally difficult to handle, and such extra charges and any costs and expenses incurred by the Terminal Operator hereby shall be repaid by the Shipowner of the vessel on which the cargo was or was to be consigned, or the Cargo Owner, at the discretion of the Terminal Operator.

7. GENERAL WARRANTIES OF THE SHIPOWNER AND/OR CARGO OWNER

- 7.1 The Shipowner warrants and undertakes that:

7.1.1 Vessels calling at the Berth are operated in compliance with international standards and regulatory requirements (including, by way of example only, ISM, flag state, classification society and Maritime & Coastguard Agency or equivalent) with regard to safety, stability, seaworthiness, fitness for purpose and security ("Regulatory Compliant Vessel"). The Terminal Operator will be entitled to refuse to provide the Services to any Vessel that is not a Regulatory Compliant Vessel, and the Shipowner will indemnify and hold harmless the Terminal Operator in respect of any consequences of a Vessel that is not a Regulatory Compliant Vessel presenting at the Berth or within the Terminal that is not a Regulatory Compliant Vessel and/or arising out of the provision of the Services in respect of such Vessel.

7.1.2 Vessels are covered by P&I insurance with reputable P&I or London market insurers in respect of third-party liability risks (including but not limited to cargo damage, pollution and wreck removal) and for levels of cover as would normally be taken out by a prudent operator of comparable Vessels in similar trades, and the Shipowner shall provide the Terminal Operator with documentary evidence of such insurance cover upon request.

- 7.2 The Shipowner and/or Cargo Owner undertake that the cargo:

7.2.1 complies with all applicable international safety regulations and are properly packed and/or fit to withstand the ordinary risks of the Services;

- 7.2.2 is not dangerous, hazardous, poisonous, flammable toxic or liable to become so in the form in which it is delivered and/or in which they are to remain while on the Terminal, or liable to give off any injurious emission, including dust, gas, fumes, liquid or radiation;
- 7.2.3 is accurately described and without prejudice to Clause 7.2.2 that it will not tender any dangerous or hazardous goods or temperature- controlled goods without first presenting to the Terminal Operator a full description of the goods and containers and disclosing their nature without prejudice to the entitlement of the Terminal Operator in its discretion to refuse to provide the Services in respect of dangerous goods whether or not declared by the Shipowner and/or Cargo Owner;
- 7.2.4 is not infested, verminous, rotten or subject to fungal attack and not liable to become so while on the Terminal;
- 7.2.5 is not over-heated or under-heated or liable to become so while on the Terminal;
- 7.2.6 will not contaminate or cause danger, injury, pollution or damage to any person or any other goods, equipment or vessel or the Terminal or the water or air adjacent thereto;
- 7.2.7 does not require for their safekeeping any special protection (other than as may be agreed in writing with the Terminal Operator) arising from vulnerability to heat, cold, natural or artificial light, moisture, salt, pilferage, vandalism or proximity to other goods or from their flammability but will remain safe if left standing in the open on the Terminal or in covered accommodation (if agreed with the Terminal Operator);
- 7.2.8 contains no unauthorised controlled drugs, contraband, pornographic or other illegal matter;
- 7.3 All cargo at or on the Terminal is the sole risk and responsibility of the Cargo Owner. The Cargo Owner is advised to make appropriate comprehensive insurance arrangements in respect thereof.

8. FORCE MAJEURE

The Terminal Operator shall not be liable for any failure to perform or comply with any of these Terms and Conditions or for any loss and/or damage, breakdown, destruction or deterioration arising or resulting from Act of God, casualty (including fire or explosion) unless caused by the negligence of the Terminal Operator its servants or agents, damage, breakdown, any consequence of war or hostilities (whether war be declared or not), riots, civil commotions or invasions, industrial disputes or actions of any nature, storm, flood, earthquake, subsidence, epidemic or other natural physical disaster, act of any Government, any infestation or suspected infestation or from any action by whomsoever taken for the purpose of preventing or remedying such

infestation or limiting the spread or extent thereof (unless caused by the negligence of the Terminal Operator its servants or agents), any mixture of consignments resulting from the provision of services in connection with loading or discharging of separations, any suspension, breakdown or interruption of electronic systems due to external cyber-attack or systems corruption, or any other cause or event whatsoever which could not be avoided and the consequence whereof could not be prevented by the exercise of reasonable care by the Terminal Operator its servants agents or subcontractors.

9. VESSEL ON BERTH

- 9.1 It shall be the responsibility of the master of the vessel or his authorised agent to obtain approval from the Harbour Master for the arrival, departure or movement of the Vessel to and from the Terminal and/or Berth and subject always to any direction of the Harbour Master in accordance with his statutory powers.
- 9.2 The Terminal Operator shall permit a vessel once on a Berth to remain at the Berth until the completion of the Services in relation to that vessel, but subject to the discretion of the Terminal Operator in regard to its operational requirements for the Berth and to the statutory powers of the Harbour Master of ordering the movement of vessels within the Port.
- 9.3 In the event that the discharging of a vessel on the Berth is or may in the reasonable opinion of the Terminal Operator be delayed due to the non-availability of sufficient and suitable storage space at the Terminal, and another vessel wishes to berth at the Berth for the purposes of discharging cargo for which there is sufficient and suitable storage space at the Terminal, then in such event and if so requested by the Terminal Operator the owner of the former vessel shall without delay and at its own cost move the said vessel off the Berth so as to enable the latter vessel to berth at the Berth in a position that will enable the Terminal Operator to discharge such vessel in an efficient manner.
- 9.4 A Shipowner may with the prior approval of the Terminal Manager load/discharge stores and bunkers whilst a vessel is on the Berth, subject to such terms and conditions as the Terminal Operator may from time to time specify and provided also that such loading or discharging does not interfere with the operational activities of the Terminal Operator.
- 9.5 The Shipowner is responsible for ballasting the vessel as necessary to remain within stated restrictions (see Clause 10) at all times during discharge or otherwise while at the Berth.

10. ARRIVAL OF VESSEL AND ADVANCE INFORMATION/DOCUMENTATION

- 10.1 The expected date of arrival of a vessel at a Berth shall be given by the Shipowner to the Harbour Master and to the Terminal Manager via the PortLinks application or such other method as the Harbour Master may from time to time determine not later than

seven (7) days prior to the said date of arrival or such lesser period as may be agreed to by the Terminal Operator and all changes to that date shall be promptly notified by the Shipowner to the Harbour Master and the Terminal Manager.

- 10.2 The vessel's final expected time of arrival at the Berth shall be given in writing to the Harbour Master and the Terminal Manager between the hours 0800 to 1600 Monday to Friday inclusive and not later than 24 hours (excluding Bank or other National Holidays) prior to the said time of arrival.
- 10.3 At least five (5) clear days before the vessels expected date of arrival, the Shipowner shall give notice in writing to the Terminal Operator stating the following information:-

- Name of vessel
- Estimated quantity required to be discharged
- Average stowage factor
- DWCC
- Draft
- L.O.A.
- Beam
- Number of holds/hatches and dimensions.

It shall be the responsibility of the Owner (or their Agent) to confirm with the Terminal Operator the maximum freeboard allowance from waterline to top of hatch coaming full ballasted.

IMO and Drawings of the structure of the vessel showing access ways, ladders and any potentially vulnerable structure inside the holds

See also Clause 17.2 in relation to additional cargo/stowage information and related documentation to be provided not less than 72 hours before Services are required to be performed.

- 10.4 Details of acceptable vessel dimensions and any specific restrictions or limitations at the Terminal may be obtained on written application to the Terminal Operator.

- 10.5 It should be noted that:

10.5.1 Unless otherwise agreed in writing by the Terminal Operator, the Terminal Operator will only handle vessels which are self-trimming, single deck, box hold bulk carriers requiring loading or discharging through the main hatches only. Such vessels shall be gearless vessels, unless otherwise agreed in writing by the Terminal Operator prior to the vessel's nomination at the Berth.

10.5.2 The Terminal Operator will not work wing tanks, deep tanks or any other restricted spaces on a vessel nor will it handle twin hatch vessels. Such will only be worked upon express request and then at the Terminal Operator's entire discretion, and for which additional charges may apply (see also Clause 11.3).

10.5.3 Vessels must be suitable for grab discharge and the cargo must be in bulk. Unless agreed in advance by the Terminal Operator, cargo in bags will not be handled.

10.6 In the event of the vessel not discharging the entirety of its cargo the Shipowner must supply to the agents, a complete stowage plan and details of which hatches are to be discharged.

10.7 A notice of readiness under the vessel discharge rate guarantee cannot be given unless the provisions of this clause have been fully met.

11. GENERAL OPERATIONS

11.1 Subject to these Terms and Conditions, the Terminal Operator may provide the services listed hereunder:-

- (a) Discharging cargo in bulk from vessels which have no obstructions, including trimming in hold.
- (b) Loading cargo in bulk into vessels which have no obstructions, including trimming in hold.
- (c) Receiving cargo from vessels, weighing, storing and delivering cargo either direct from vessels or the Terminal as required to craft, road vehicle, rail wagon or mill feed.
- (d) Receiving cargo from road vehicles or via rail wagon, weighing, storing and delivering cargo to craft, road vehicle or mill feed as required.
- (e) Recording the weight of consignments of cargo landed and delivered.
- (f) Issuing weight reports on receipt and delivery of cargo into and from the Terminal.

11.2 The Terminal Operator reserves the right (at the Owner's expense):

11.2.1 to "turn" cargo (to prevent overheating) as appropriate. However, the Terminal Operator shall not be responsible for cooling cargo nor for storing cargo at a given temperature.

11.2.2 to order gas checks in the holds of any vessel.

11.3 Subject to these Terms and Conditions, the Terminal Operator may at its discretion provide at the Berth the Services in connection with the loading and discharging of vessels with separations and/or wing tanks, where prior arrangements for the Services have been agreed between the relevant Shipowner or Cargo Owner and the Terminal Manager, but such Services will be subject to additional charges payable by the Owner.

12. WORKING PERIODS

- 12.1 The Services may be performed or provided during the working periods (except for Bank or other National Holidays) for the applicable Terminal indicated in Schedule 2, unless otherwise agreed between the Terminal Operator and the Shipowner or Cargo Owner.
- 12.2 Work performed or provided at the request of a Shipowner or Cargo Owner during Overtime Periods or on Bank or other National Holidays or otherwise outside the Basic Working Periods indicated in Schedule 2 (including work performed or provided during work periods which commence before but cease on or which commence on but cease after the said Holidays) will be at the Terminal Operator's discretion, and subject to additional charges as specified by the Terminal Operator from time to time. However, no work will be performed on Christmas Day, Boxing Day and New Year's Day.
- 12.3 In the context of these Terms and Conditions, Bank and other National Holidays shall be deemed to commence at 0700 hours on the relevant Bank or National Holiday and be of 24 hours duration.

13. PROVISION AND USE OF GEAR, ETC. AND INDEMNITY

- 13.1 The Shipowner shall (if required) permit the Company the full use of all lighting, cranes, gantries, winches, derricks, runners and tackle on the vessel and shall supply full power therefor and for lighting at all times without charge. The Shipowner shall provide all necessary standing and running gear, hatch and winch tents, gear and dunnage.
- 13.2 The Shipowner warrants:
- 13.2.1 that all the equipment and gear referred to in Clause 13.1 shall be maintained in class, and in good and safe working order by the Shipowner, and before work commences the Shipowner shall produce to the Company a current certificate of test for such equipment and gear showing the same meets the requirements of class and any statute, order or regulation then in force within the United Kingdom.
 - 13.2.2 the certified handling/lifting capacity of the vessel's equipment and gear is in all respects accurate and tested in accordance with class and/or regulatory requirements.
- 13.3 To the extent that the equipment and gear referred to in Clause 13.1 is not available to the Company or is not maintained or certified in the manner specified in Clause 13.2, the Company shall be at liberty at its discretion and subject to availability to supply the same at the expense of the Shipowner in accordance with the Company's standard rates current from time to time.
- 13.4 The Shipowner shall indemnify the Company (including its employees, servants,

agents and sub-contractors) against any loss, liability, claims, costs (including legal costs), expenses, fines, or penalties whatsoever (including pure financial losses and liabilities) in relation to any accident or incident howsoever arising out of or caused or contributed to by any defect, breakdown, or other shortcoming in the equipment or gear referred to in Clause 13.1 (and even if contributed to by the negligence of the Company, its employees, servants, agents and sub-contractors) , or arising out of any inaccuracy, mis-description or misrepresentation as to its handling/lifting capacity or other deviation from its specification, certification or required standard.

14. TIME LOST

- 14.1 Where labour has been ordered by the Terminal Operator in reliance on the provisions contained in Clause 10 and time is lost consequent on a vessel's late arrival or non-arrival at the Berth, or due to such information being incomplete or inaccurate, or where a Shipowner wishes cargo handling services to commence at a time other than at the start of any working period, then the period of working time with labour standing by will be charged for as specified in Clauses 14.2 and 14.3.
- 14.2 Time lost shall be deemed to commence at the start of a work period for which labour has been ordered and to cease when a vessel is safely secured at its intended berth or, in the event of non-arrival of the vessel, on the termination of the period for which labour has been ordered and the time lost calculated thereby shall be charged to the Shipowner at the rates specified by the Terminal Operator from time to time.
- 14.3 Time lost or work delayed due to adverse weather or material delays attributable to the Shipowner or the Cargo Owner, their respective servants agents or independent contractors (other than the Terminal Operator) shall also be charged to the Shipowner or the Cargo Owner, as appropriate, at the rates specified by the Terminal Operator from time to time. The Shipowner or the Cargo Owner, as appropriate, shall not be liable to pay for time lost or work delayed if the time lost or work delayed is due to breakdown of the Terminal Operator's plant or equipment or labour disputes between the Terminal Operator and its employees but if labour is ordered for a working period referred to in Clause 14.2 any additional charge payable thereby shall nonetheless continue to be payable despite such breakdown or dispute.

15. ACCURACY OF PARTICULARS OF CARGO AND THE SHIPOWNERS' AND CARGO OWNERS' RESPONSIBILITIES

- 15.1 The Shipowner or the Cargo Owner, as appropriate, shall be deemed to warrant the accuracy of all descriptions values weights and other particulars of any goods supplied to the Terminal Operator for any purpose whatsoever or marked thereon in relation to the Services and shall indemnify the Terminal Operator against all proceeding claims expenses and pecuniary penalties that the Terminal Operator may suffer or incur as a result of any inaccuracy or omission therein.
- 15.2 The Cargo Owner shall ensure that (a) Regulatory Approval for import goods have been obtained prior to seeking delivery thereof, and that (b) all goods sent to the

Terminal Operator for export are accompanied by a National Standard Shipping Note stating the gross weight of each consignment. Weights must be verified before despatching goods to the Terminal Operator and, if the gross weight is omitted on the National Standard Shipping Note, it will be taken as instruction to the Terminal Operator for the goods to be weighed at the Terminal at the expense of the Cargo Owner.

15.3 The Terminal Operator will not be responsible for the accuracy of the weighbridge or for any error in entering on its records or reports the weight of any goods weighed. The Cargo Owners' representative in charge of the goods shall examine the weight records or reports and ascertain that it gives the correct weight as shown by the scale of the weighbridge.

15.4 The Terminal Operator may check the validity of any declarations and if the weight or bulk proves to be in excess of that declared, all charges will be based on actual gross weight. The Cargo Owner will also be liable for the costs of weighing or checking the measurement of the goods in question.

15.5 The Shipowner or the Cargo Owner further warrant that:

15.5.1 their employees (and those of any agents, contractors or subcontractors) are properly trained and competent to perform any roles or functions assigned to them including in relation to the giving of any instructions or information howsoever such may be given (e.g. orally, in writing, or electronically), and that such persons have full authority to give such instructions or provide such information.

15.5.2 neither they, their employees, nor their any agents or sub-contractors and their respective employees will, whilst on or near the Dock Estate: (a) use any devices which transmit radio signals or attempt to block radio signals (including, without limitation, GPS); (b) interfere with any systems, communication links and equipment or computer hardware and software; (c) use or attempt to use any devices or software to gain access to unauthorised data and information without the prior written consent of the Terminal Operator (save in relation to the use of marine band and radar radio frequencies),

and will indemnify the Terminal Operator against all losses, damages, costs, expenses, fines and pecuniary penalties that the Terminal Operator, or its servants or agents acting may incur as a result of any breach of the warranties in Clauses 15.5.1.and 15.5.2.

16. HAZARDOUS CARGOES AND ENVIRONMENTAL

16.1 The Owners must comply with the Merchant Shipping (Dangerous Goods and Pollutants) Regulations 1997 (as may be amended or substituted from time to time), and 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 IMDG Code as applicable from time to time will be handled by the Terminal Operator except with the consent of the Terminal Operator and then only in accordance with any conditions prescribed by the Terminal Operator and in accordance with the statutory and the Terminal Operator's directions regulations and byelaws governing the handling of such goods. All extra costs charges and expenses incurred by the Terminal Operator in handling goods of a dangerous hazardous poisonous tainted infested or contaminated nature shall be repaid by the Shipowner of the vessel on which they were or were to be consigned.

- 16.2 The Cargo Owner shall be responsible for and shall indemnify the Terminal Operator against all injury, loss or damage however and whenever caused and against all claims whatsoever made against the Terminal Operator for which they may be or become liable in respect of death or injury to persons or loss of or damage to property or delay arising out of, caused or contributed to by a failure to comply with the conditions, directions, codes and regulations referred to in Clause 16.1.
- 16.3. The Terminal Operator shall be entitled to take all such reasonable measures as it considers in its absolute discretion necessary or desirable to prevent or reduce any possible nuisance or environmental or safety hazard which may be created by or result from the handling or storing of cargo, and may levy charges to the Owner in respect of the cost of such measures.

17. DOCUMENTATION

- 17.1 Every order for the delivery of goods shall be e-mailed to the Terminal Operator by or on behalf of the Cargo Owner and must detail:-
- a) the vessel's name;
 - b) the port of loading and bill of lading number;
 - c) the quantity and description of goods;
 - d) the person to whom charges are to be rendered;
 - e) the delivery order number;
 - f) such other information as the Terminal Operator may reasonably request.

The party sending the email shall be deemed to have been duly authorised for and on behalf of the Cargo Owner.

- 17.2 All manifests, stowage plans, documents of title, details of discharge rotation, vessel structure plan, estimated cargo temperature, vessel fumigation records, and instructions and orders concerning the cargo must be emailed by the Shipowner or Cargo Owner to the Terminal Operator not less than 72 hours (excluding Bank or other National Holidays) before the relevant Service is

required to be or is to be performed or provided. The issuance of an email is to be treated as representing the authority on behalf of the party it was issued.

- 17.3 Where requested to do so by the Terminal Operator, the master or owner of every vessel discharging or loading cargo must supply to the Terminal Operator the following documents confirming the quantity of cargo discharged or loaded in the Terminal and the days upon which discharging or loading took place:
- (a) bills of lading or cargo manifest (indicating the weight of cargo and details of the shippers, consignees and freight payers); and
 - (b) statement of facts.
- 17.4 Where the quantity of cargo discharged does not match that shown on the relevant bill of lading, then a certified discrepancy report (including details of supporting surveys etc.) must be provided by the Owners.
- 17.5 The documents described above must be supplied by the Owner, master, or the appointed agent, to the Terminal Operator within two working days of the day upon which the vessel completes discharging or loading as appropriate. The documents must be submitted (as PDF-format attachments) via e-mail to the Terminal Operator.
- 17.6 Any tally of goods prepared by the Terminal Operator in connection with the loading or discharging of any vessel or vehicle or railway wagon shall be the property of the Terminal Operator which shall not be under any obligation to disclose such document to any other party. The accuracy of any document based whether wholly or partially upon such tallies shall not be presumed by any other party unless and until such accuracy is confirmed by email by the Terminal Operator in respect of the document in question.

18. DELIVERY OF GOODS

- 18.1 No goods shall be available for delivery by the Terminal Operator until such time as H.M. Revenue & Customs clearance has been obtained in respect thereof. The Cargo Owner shall be responsible for the clearance of goods with H.M. Revenue & Customs.
- 18.2 Goods will not be delivered by the Terminal Operator without production of a delivery order issued by, or on behalf of, the Shipowner in his usual form authorising such delivery and in the case of sub-orders issued by or on behalf of the Cargo Owner named in the original delivery order and being in a form satisfactory to the Terminal Operator and authorising such delivery. If any delivery order or document of title is lost, or there is any irregularity, the Terminal Operator will not deliver the goods until it is satisfied that the person or party claiming delivery is entitled to delivery and against an indemnity by a bond or otherwise as the Terminal Operator may require by or on behalf of the person taking delivery of the goods.

- 18.3 The Terminal Operator may by not less than 48 hours written notice given to the Cargo Owner require the removal of goods stored at the Berth within the period specified in the notice, after expiry of which time the goods may at the sole risk and expense of the Cargo Owner thereof be disposed of in such manner as the Terminal Operator shall see fit and without any responsibility whatsoever on the part of the Terminal Operator in respect of any loss or damage sustained by the said Cargo Owner arising out of or in consequence of such disposal.
- 18.4 Cargo Owners requiring delivery of goods from the Berth must make arrangements for delivery with the Terminal Operator before 1500 hours on the working day prior to delivery (Monday to Friday).
- 18.5 Subject to Clause 18.3, the Terminal Operator will not execute the delivery of goods from the Berth except upon prior production of one of the following documents:-
- (i) the delivery order of the Owner of the vessel upon which the cargo has been shipped;
 - (ii) the sub-delivery order of the Cargo Owner identifying a haulier whose name has been previously notified to the Terminal Operator by the said Cargo Owner and is recorded on the Terminal Operator's Terminal Booking Sheet;
 - (iii) in exceptional circumstances only, an email (in lieu of a delivery/sub-delivery order) sent by the Cargo Owner to the Terminal Operator authorising the Terminal Operator to deliver to a specified person named therein.

19. TEMPERATURE CONTROLLED STORES AND COOL STORES

- 19.1 The following additional conditions are applicable to goods stored in any Terminal Operator 's temperature- controlled stores and cool stores.
- 19.2 The Terminal Operator will not accept goods that require any special treatment unless by prior agreement with the Terminal Operator and then only if the goods are accompanied by written instructions. Cargo Owners requiring special treatment for any goods must specify in the written instructions exactly what treatment is required. The Terminal Operator will not be liable for any damage caused to the goods from following such instructions.
- 19.3 Goods shall be presented in good and wholesome condition, and in the form and at such temperature as may be required by statute or any relevant regulations.
- 19.4 The Terminal Operator will not accept goods that require any special treatment unless by prior agreement with the Terminal Operator and then only if the goods are accompanied by written instructions. Cargo Owners requiring special treatment for any goods must specify in the written instructions exactly what treatment is required. The Terminal Operator will not be liable for any damage caused to the goods from following such instruction

- 19.5 Goods which in the reasonable opinion of the Terminal Operator appear either not to be in good and wholesome condition or to be likely to cause personal injury or damage to other Goods or property, must be removed by the Cargo Owner forthwith on receipt of notice requiring the same.
- 19.6 If speedy removal is required to mitigate such damage, the Terminal Operator may at the Cargo Owner's expense and risk arrange for alternative storage or disposal or, if appropriate, destruction of such Goods. The Cargo Owner will be liable to the Terminal Operator for, and shall indemnify the Company in respect of, all claims against and damage, cost and expenses suffered or incurred by the Terminal Operator in consequence of the condition of the Cargo Owner's Goods.
- 19.7 When goods are presented to the Terminal Operator for storage, it shall be entitled to open packages to ascertain whether or not there exists any deficiency in the goods.
- 19.8 If as a result of the presence or handling of the Cargo Owner's goods the Terminal Operator incurs any expenses in complying with the Prevention of Damage by Pests Act 1949 (or any statutory amendment to or replacement thereof), or in complying with any other statutory duties or with EU laws imposed from time to time in relation to the goods, then the Terminal Operator shall be entitled to recover from the Cargo Owner the expense incurred in complying with the said statutory or regulatory duties.

20. DEMURRAGE CHARGES IN RELATION TO ROAD TRAFFIC

- 20.1 Any appointment made with the owner of a vehicle or with the Cargo Owner or their respective employees servants or agents for the receipt from vehicle of goods for shipment, or for the delivery of goods to vehicle, at any particular time or within a particular interval of time shall (notwithstanding any representation made by any servant or agent of the Terminal Operator) be construed merely as the anticipated time when the goods may be received or delivered and shall not oblige the Terminal Operator to accept such goods (nor refrain from accepting other goods) at that time nor determine the order in which vehicles may unload or load.
- 20.2 No liability shall attach to the Terminal Operator in consequence of any failure to permit the loading or unloading of any vehicle at or within the time or interval of time referred to in Clause 20.1, notwithstanding any representation made by any servant or agent of the Terminal Operator at the time of the making of the appointment, or at any time before or thereafter which may occur, and the owner shall release and indemnify the Terminal Operator from and against such liability.

21. INDEMNITY IN RELATION TO RAIL TRAFFIC

The Terminal Operator shall not be responsible to the Rail Operator for any loss or damage of whatsoever nature or for any demurrage charges in respect of railway wagons and sheets ropes chains or other similar fittings therefor howsoever caused and the Cargo Owner shall be responsible for and indemnify the Terminal Operator against such loss, damage or charges.

22. CHECK WEIGHING

The Terminal Operator reserves the right to check the weight of any goods at the expense of the Shipowner of the vessel on which the same was or is to be shipped.

23. H.M. REVENUE & CUSTOMS ETC EXAMINATIONS

Extra charges will be raised for routine Customs examination, which includes random weighing but excludes weighing or taring for average for specific commodities. An additional charge will be made if H.M. Revenue & Customs, Border Force, Port Health, Forestry Commission (or their equivalent) or other similar bodies order a more extensive or thorough examination for any reason.

24. NON-SHIPMENT OF GOODS

24.1 The receiving by the Terminal Operator for and on behalf of the Shipowner of goods for shipment 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 Terminal Operator accepts as agent.

24.2 Where goods are not shipped the Shipowner or Cargo Owner (as appropriate) shall pay to the Terminal Operator such reasonable sum as the Terminal Operator shall determine in relation to the work performed by the Terminal Operator or in connection with the redelivery of such goods to the Cargo Owner who shall take delivery of the goods at the part of the Dock Estate at which they are lying but the Terminal Operator shall be at liberty nevertheless to transfer such goods at the expense of the Shipowner or Cargo Owner to another location if in the opinion of the Terminal Operator 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.

25. PROTECTION OF TERMINAL OPERATOR, SERVANTS ETC.

25.1 The Shipowner for a vessel which it is intended to sail to or from a Berth shall be the agent of the Terminal Operator for the purposes of agreeing with the Cargo Owners and shippers in his usual contract of carriage to exempt or limit the liability inter alia of the Terminal Operator its servants, agents and sub-contractors whether as his agent(s) sub-bailee(s) stevedore(s) or independent contractor(s) or otherwise

howsoever.

- 25.2 The Shipowner shall, in his bills of lading, shipping notes and notices to shippers regarding conditions for carriage or receiving, use his best endeavours to provide that whether or not the Terminal Operator is acting solely for the Shipowner:-
- (i) the Terminal Operator shall have the benefit of all provisions therein exempting or limiting the liability of the Shipowner;
 - (ii) the law governing such provisions so far as relating to the Terminal Operator shall be English Law determined by English Courts; and
 - (iii) such provisions so far as relating to the Terminal Operator shall be applicable to the period that goods are at or on the Dock Estate or a vessel thereat.

If such bills of Lading, shipping notes or notices to shippers do not so provide then the Shipowner shall, without prejudice to any other rights of the Terminal Operator herein, indemnify the Terminal Operator against all proceedings claims and expenses (including legal costs on a full indemnity basis) arising out of or consequent on the failure of such bills of lading, shipping notes or notices to shippers so to provide.

26. LIMITATION OF LIABILITY

- 26.1 The Terminal Operator shall only be liable under these Terms and Conditions for physical loss of or damage to any vessel or other property of the Shipowner or to any goods or other property of the Cargo Owner and such liability will only apply to physical loss or damage to the extent that such loss or damage exceeds £150 per occurrence or incident and is limited to occurrences proved to be caused solely by the negligence of the Terminal Operator or its employees acting in the course of their employment during the performance or provision of cargo handling services hereunder provided that:-

26.1.1 The Terminal Operator's liability in respect of physical loss or damage to any vessel of the Shipowner shall not exceed £1,000,000 per occurrence.

26.1.2 The Terminal Operator's liability in respect of physical loss or damage to goods shall not exceed a maximum amount of £1.20 per kilo of gross weight of the goods lost or damaged but shall not in any event exceed an aggregate amount of £150,000 per occurrence or incident.

26.1.3 The Terminal Operator shall not be liable for any physical loss or damage, including without limitation contamination or deterioration of cargo, arising from:

- (a) inadequate separation between different types of cargo onboard a vessel, cargo overheating onboard a vessel, or from any other poor or inadequate storage onboard a vessel; or

- (b) the Terminal Operator complying with any instructions given by the Shipowner or Cargo Owner requesting the Terminal Operator to handle or store cargo at the Terminal in a manner other than in accordance with the Terminal Operator's normal working practices as applicable from time to time.

26.1.4 If a deficiency or loss of weight howsoever caused of a consignment of all types of aggregates, minerals, chemical solids, grain or pulses (and their derivatives) in bulk amounts in total to not more than 0.5% of the gross weight of the consignment or, in the case of maize, to not more than 0.2% of the gross weight (if handled within a dedicated grain terminal e.g. Royal Seaforth Grain Terminal, but otherwise 0.5%), or in the case of sand 2.5% of the gross weight of the consignment, the Terminal Operator shall be exempt from any liability whatsoever. For the avoidance of doubt, in the event that there is a loss of weight of a consignment(s) as described in this Clause 26.1.4, then the Terminal Operator's liability shall be only be for that amount in excess of either 0.5%, 0.2% or 2.5% (as applicable) of the gross weight of the consignment and such liability shall be subject to the limitations and exclusions otherwise stated in these Terms and Conditions.

26.1.5 In relation to goods received for shipment by or handled by the Terminal Operator, the Terminal Operator shall not be liable to the Cargo Owner nor to the Shipowner as bailee of the goods for any mis-delivery due to misleading or faint markings or absence of markings.

26.1.6 The Terminal Operator shall be freed and discharged from all liability in respect of any physical loss or damage to any vessel, goods, vehicle or equipment or any other matter or thing, unless notification of a claim in respect of such loss or damage be made in writing (otherwise than upon any of the Terminal Operator's documents) to the Terminal Operator within 30 days of the occurrence causing such loss or damage or from which such loss or damage arose (so as to enable the Terminal Operator to forthwith commence investigations into the alleged loss or damage). In the case of any damage to a vessel, the Shipowner shall give to the Terminal Operator every opportunity to survey the alleged damage before the vessel leaves the Berth.

26.1.7 In the case of latent physical loss or damage to goods the Terminal Operator shall be discharged from all liability unless notice of such loss or damage and the particular nature thereof has been given to the Terminal Operator immediately after the Cargo Owner has been notified of such loss or damage but in any event not later than 40 days after the loading or discharging of the goods by the Terminal Operator or 14 days after delivery of the goods to final consignee whichever shall be the earlier.

26.1.8 The Terminal Operator shall in any event be freed and discharged from all liability for any loss or damage to any vessel, goods or equipment or any other matter or thing unless suit is brought within twelve months of the said occurrence. In the case of loss of or damage to any vessel or any other property of the Shipowner, the Shipowner shall grant full and reasonable

facilities to the Terminal Operator to survey all such loss or damage.

26.1.9 For the avoidance of doubt it is hereby declared that the Terminal Operator's liability in respect of any physical loss or damage shall not extend outside the minimum and maximum limits specified in Clause 26.1 and that the Shipowner and or the Cargo Owner whichever to be at the discretion of the Terminal Operator will indemnify the Terminal Operator 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 26.1.

26.1.10 Without prejudice to the generality of the foregoing but by way of illustration the Terminal Operator shall not be under any liability whatsoever for any personal injury (whether fatal or otherwise) except where the Terminal Operator is proven negligent nor for loss damage or delay caused to vessels, cargoes or vehicles or any other description of property caused by the gangways of the vessel or arising as a result of unsuitability of the vessels, cargoes or vehicles for mechanical handling operations including but without prejudice to the generality of the foregoing the use of grabs and machines (including track vehicles).

In particular, but without limiting the generality of the foregoing, the following will render the vessel, cargo or vehicle (as appropriate) unsuitable:-

- (a) the vessel being a general cargo vessel;
- (b) vessels, cargoes or vehicles whose construction or condition in any respect renders them unsuitable for mechanical bulk cargo handling operations, in particular but without limiting the generality of the foregoing by reason of such vessels not complying with Lloyd's Register regulations in force for the time being for bulk carriers or having inadequately protected tanks;
- (c) obstructions and impedances on decks and in hatches, including overhanging hatch covers;
- (d) appendages/fittings/structures projecting into stowage space and/or otherwise attached, and other parts of the vessel or its equipment which are vulnerable to damage by grabs and machines for example but without limiting the generality of the foregoing shell frames, shell frame heel brackets, beam knees, temporary bulkheads, hold pillars, deck beams, hopper steps, conduit casings, CO2 piping, trimming plates, brackets, frames, girders, floorings, bearers, unprotected tank tops and lids and/or protections, ladders/platforms and associated fittings, shaft tunnels, bolted plates, door screws and bolts, sounding/air pipes, wooden sheathing and securings, cargo battens/cleats, cross beam shelves or shoes, loops or cleats, stanchions or hold pillars, shifting board channels, retractable hatch covers protruding into square of hatch;

- (e) vessels, cargoes or vehicles in respect of which all reasonable steps have not been taken to protect same from such damage as may otherwise occur as a result of mechanical bulk handling operations.

26.2 Save as expressly provided by Clause 26.1, the Terminal Operator shall not be responsible for any loss or damage whatsoever to any vessel or any other property of a Shipowner or of or to goods or any other property of a Cargo Owner howsoever caused or arising, and in particular, the Terminal Operator shall not be liable for pure financial or economic losses (unconnected to physical damage to any vessel, goods or other property) arising out of the performance or non-performance of its contractual undertakings, or in negligence, or arising out of delay to any vessel or goods, nor for indirect or consequential loss or damage including any claims for loss of use or profits or the loss of a particular market.

27. INDEMNITY

The Shipowner or Cargo Owner as the case may be shall be responsible for and provide 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 his vessel or goods at the Terminal and will indemnify the Terminal Operator 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 Cargo Owner their respective contractors agents or servants or of any inherent quality or defect of any goods on the Dock Estate or on the vessel.

28. PROTECTION OF TERMINAL OPERATOR'S SERVANTS AND AGENTS

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

29. SECURITY

29.1 The Shipowner shall take all reasonable steps to ensure the security of the vessel berthing at the Terminal.

29.2 The provision of any security services or anti-terrorist measures in respect of each vessel shall be the responsibility of the Shipowner.

29.3 The Owners their servants, agents and independent contractors shall comply with all directions and requirements concerning security measures in relation to any areas designated as a Restricted Area ("RA"), Restricted Zone ("RZ") or Controlled Zone ("CZ") set up pursuant to the Security Regulations (and comprising part or all of the Terminal and/or other property of the Terminal Operator).

In addition, the Owners shall comply with all reasonable instructions given by the Terminal Operator for the proper operation and security of any such RA/RZ/CZ.

- 29.4 The Owners shall comply in every respect with the Security Regulations, and in particular the Owners shall at all times comply fully with any Terminal Security Plan and any other such Plan approved from time to time by relevant regulatory or governmental body relating to the Terminal and/or any other property of the Terminal Operator adjacent thereto.
- 29.5 The Terminal Operator's charges include port security costs appropriate to the Security Regulations. In the event that the level of security threat in the Terminal increases at any time thereafter, the Terminal Operator reserves the right to then charge the Owners an additional charge proportional to the increase in port security costs incurred by the Terminal Operator in relation to the Services performed or provided by the Terminal Operator hereunder.

30. CHARGES

- 30.1 The charges for the Services are those specified from time to time by the Terminal Operator and are (subject as hereinafter provided) payable by the Shipowner or (where agreed) the Cargo Owner on demand unless otherwise agreed by the Terminal Operator without reduction or deferment on account of any claim counterclaim or set off. Charges and dues published or otherwise quoted by the Terminal Operator are exclusive of Value Added Tax. Where such tax or any other tax substituted for it is payable, the same shall be paid by the Owner, to the Terminal Operator.
- 30.2 Interest at the rate of 4 percentum above the then prevailing Lloyds Bank Base Rate calculated on a day to day basis (or in the election of the Terminal Operator statutory interest pursuant to the Late Payment of Commercial Debts (Interest) Act 1998) will be payable on the charges aforesaid remaining unpaid one calendar month after delivery of the Terminal Operator's account. Delivery of the account will be deemed to have been made two days after mailing. Notwithstanding the foregoing the Terminal Operator reserves the right to require a deposit of 80% of the estimated total charges for the Services to be performed or provided before the commencement of the Services and which deposit shall be payable on demand and failing receipt of which the Services will not be commenced.
- 30.3 The charges aforesaid are in addition to ship dues and goods dues as defined by the Harbours Act 1964 (or any statutory modification or re-enactment thereof), or such other port specific statute, statutory instrument or order entitling such or similar charges to be levied), together with charges levied by the Terminal Operator for services and facilities such as but not limited to pilotage, line handling, towage of ship's waste reception.
- 30.4 The charges for cargo handling services specified by the Terminal Operator from time to time cover the provision of such of the services as are specified by the Terminal

Operator in relation thereto (other than the provision of plant gear and equipment except as expressly stated) where the cargo is sound cargo under normal conditions on a normal vessel such that a reasonable rate of receiving loading or discharging in relation to that particular vessel or cargo is achievable PROVIDED that where time is lost for any reason referred to in Clause 14 hereof such time shall in addition be charged in accordance with the rates specified by the Terminal Operator from time to time.

- 30.5 Any Services (including, but without prejudice to the generality of the foregoing, the provision of all plant gear and equipment) not specified by the Terminal Operator shall be a Special Service, the provision of which shall be at the discretion of the Terminal Operator. Special Services shall be charged for in accordance with the rates specified by the Terminal Operator from time to time and be in addition to the rates per tonne specified by the Terminal Operator from time to time.
- 30.6 Where cargo is not sound cargo able to be worked under normal conditions on a normal vessel or, at the discretion of the Terminal Operator, for any other reason such that a reasonable rate of receiving loading or discharging is not achievable, and in such regard the Terminal Operator by reason of its specialised knowledge shall be the sole arbiter, then the rates per tonne specified from time to time by the Terminal Operator shall not be applicable but shall be substituted by the rates specified by the Terminal Operator from time to time.
- 30.7 Save as may otherwise be agreed by Special Agreement, in relation to the storage of any quantity of cargo that the Cargo Owner has failed to remove from a Berth or Storage Facility upon the Terminal Operator's request to do so, the Terminal Operator shall in its absolute discretion be entitled to levy appropriate charges relative the value of unused but "blocked" space in the storage area caused by the presence of such cargo, preventing or limiting capacity for storage of third party cargoes.

31. RENT CHARGES

Rent charges in respect of goods situate at the Berth shall be paid to the Terminal Operator as and when incurred, in accordance with the rules and regulations of the Terminal Operator in regard to Quay Rent and Special Rent as applicable from time to time.

32. LIEN ON GOODS AND VESSELS

- 32.1 The Terminal Operator shall be entitled to refuse to allow cargo discharged from a vessel, or otherwise received into the Terminal, to leave the Terminal until (i) all charges claimed by the Terminal Operator for the Services whether in relation to that cargo (whenever performed) or to other cargo of the Cargo Owner have been paid or secured to the satisfaction of the Terminal Operator, and (ii) security to the satisfaction of the Terminal Operator has been given in relation to claims for indemnity pursuant to these Terms and Conditions against the Cargo Owner of that cargo (whether or not such claims arise in relation to that cargo or any other cargo of the Cargo Owner).

32.2 The Terminal Operator shall be entitled to refuse to allow a vessel to leave the Terminal until:- (a) all charges claimed by the Terminal Operator for cargo handling services whether in relation to that vessel or to any other vessel of the relevant Shipowner have been paid or secured to the satisfaction of the Terminal Operator, and (b) security to the satisfaction of the Terminal Operator 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 any other vessel of the Shipowner).

33. RELATIONSHIP TO SPECIAL AGREEMENTS

These Terms and Conditions are supplemental to any Special Agreement made between the Terminal Operator and any other party relating to the Services except insofar as is expressly excluded thereby or inconsistent therewith.

34. AUDIT

34.1 The Terminal Operator reserves the right, upon the giving of reasonable notice to the vessel's master, the Owner or its agent to require the production of, and to receive, view and / or copy, any relevant document or material within that party's reasonable control that demonstrates and evidences the quantum or movement of any cargo or other throughput that may be received, loaded, discharged, stored or otherwise handled within the Terminal. Such documentation and materials shall be provided to the Terminal Operator upon request, without charge and during Terminal Operator normal working hours.

34.2 The Terminal Operator also reserves the right and shall be entitled for any reasonable purpose (including but not limited to audit, retrospective review of procedures, claims investigation, compliance analysis etc.) to review any recordings, data, reports, measurements produced from equipment under the control of any party and used to load, discharge or store and monitor cargo e.g. including but not limited to CCTV / ANPR etc.

35. BYELAWS AND REGULATIONS

Use of Berths and or services described herein shall be subject to such Statutes Byelaws Regulations and Directions of the Terminal Operator as may be in force from time to time, and to any published charges, tariffs or suchlike as published by the Terminal Operator from time to time.

36. DATA PROTECTION

The Terminal Operator may collect and process information relating to the Cargo Owner or Shipowner in accordance with the privacy notice which is available on the Website. Each party agrees to comply with their respective obligations under the Data Protection Legislation.

37. VARIATION OF CONDITIONS

37.1 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 Terminal Operator may consider desirable.

37.2 These Terms and Conditions are to be read in conjunction with any Special Agreement. Any variation to these Terms and Conditions must be agreed in writing by the Terminal Operator prior to the vessel's nomination for discharge or loading at the Berth.

38. JURISDICTION

36. 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.

39. MISCELLANEOUS

39.1 Vessel Restrictions and Information

See Schedule 2

39.2 Opening & Closing Hatches

The Shipowner shall (at its own cost and expense) be responsible for the costs of opening and closing hatches.

39.3 Vessel Lights & Crew Overtime

All vessels are to give free use of lights and crew members overtime as required for the discharge of the cargo. The Shipowner shall provide adequate lighting at all times for the safe working of vessels, which adequacy the Terminal Operator shall determine for the purpose of allowing cargo or vessel operations to proceed and/or continue.

39.4 Gangways

The Shipowner is responsible for ensuring that any gangways are positioned close to the vessel clear of the stevedoring operations, that there is a safe means of access to

and egress from the vessel at all times, and for the provision of safety nets as necessary.

39.5 **Derricks**

The Shipowner, except in respect of a gearless vessel, is responsible for ensuring that derricks and cranes are positioned so as to avoid any contact with the cranes belonging to the Terminal Operator.

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Peel Ports Limited
Maritime Centre
Port of Liverpool L21 1LA

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SCHEDULE 1

BULK CARGO TERMINALS OPERATED BY PEEL PORTS GROUP

LIVERPOOL

The Mersey Docks and Harbour Company Limited
Maritime Centre
Port of Liverpool
L21 1LA
Company No. 07438262

MANCHESTER

The Manchester Ship Canal Company Limited
Maritime Centre
Port of Liverpool
L21 1LA
Company Number No. 07438096

CLYDEPORT

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16 Robertson Street
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SHEERNESS

Port of Sheerness Limited
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Port of Liverpool
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Company No. 02639118

GREAT YARMOUTH

Great Yarmouth Port Company Ltd
Vanguard House
South Beach Parade
Great Yarmouth
Norfolk
NR30 3GY
Company No. 05971330

SCHEDULE 2A

LIVERPOOL (INCLUDING BIRKENHEAD)

I. CONTACT DETAILS

OPERATIONAL ENQUIRIES (general): 0151 949 6207

AFS and General Bulks 0151 949 6491

Biomass 0151 949 6290

Seaforth Grain Terminal 0151 949 6194

ARRANGEMENTS FOR BERTHING & UNBERTHING OF VESSELS:

Marine Operations Manager 0151 949 6222

Group Marine Planners 0151 949 6154

Seaforth Grain Terminal Manager as above

INFORMATION ON CHARGES & GENERAL ENQUIRIES:

Peel Ports Group (Liverpool) 0151 949 6000

II. TERMINAL WORKING TIMES

Basic Working Periods

- (i) Loading/discharging (shipwork)
0700 hours Monday to 0700 hours Saturday
- (ii) Receiving/delivery
Monday to Friday (excluding Bank and National Holidays): 0800-1700 hours

Overtime Periods

- (i) Loading/discharging (shipwork)
0700 hours Saturday to 0700 hours Monday

Work may at the discretion of the Terminal Operator be carried out at the request of the Owner on Bank and other National Holidays.

No work is undertaken on Christmas Day, Boxing Day and New Year's Day.

III. VESSEL RESTRICTIONS AND INFORMATION

Information (e.g. in relation to draft restrictions, acceptable vessel dimensions, tides, pilotage etc) will be provided by the Terminal Operator upon written request of the Shipowner/its agent.

See above Contact Details.

IV. SPECIAL PROVISIONS

HANDLING OF CARGO AT ROYAL SEAFORTH GRAIN TERMINAL

- 1.1 For the purposes of this Clause, "the Grain Terminal" means the Grain Terminal at Royal Seaforth Docks in the Port of Liverpool and references to "grain" shall mean whole grains of dry free flowing, dry maize, or wheat or soya or other such goods as the Terminal Operator shall approve in writing.
- 1.2 The Terminal Operator shall be entitled not to commence any work or Services until a suitable berth at the Grain Terminal and suitable plant and equipment and sufficient port operations workers and other employees are available to perform the Services on the vessel or at the Grain Terminal. After commencement of the Services, they will be continued as and to the extent that suitable plant and equipment and sufficient port operations workers and other employees are reasonably available in all the circumstances from time to time, having regard to the need to meet the requirements of other users of the Terminal.
- 1.3 The Terminal Operator shall not be under any obligation to receive or handle vessels or road vehicles at the Grain Terminal in any particular order.

Turning

- 1.4 The Terminal Operator reserves the right at the discretion of the Grain Terminal Manager to "turn" grain at the expense of the Owner of the grain. However, the Terminal Operator shall not be responsible for cooling grain at the Grain Terminal nor for storing grain at the Grain Terminal at a given temperature.

Storage

- 1.5 The storage of grain at the Grain Terminal shall be subject at all times to the availability of suitable and sufficient storage space thereat. Subject to the prior written agreement of both parties, the Terminal Operator may enter a Long Term Storage arrangement with the Cargo Owner.

Working Time at the Grain Terminal

- 1.6 The Services will be performed or provided (except on Christmas Day, Boxing Day and New Year's Day) during the following working periods unless otherwise agreed between the Terminal Operator and the Owners:-
- 0700 to 1900 hours Monday to Friday inclusive – all shipwork and deliveries
 - 0700 to 1300 hours Saturday and Sunday - shipwork and mill delivery only
 - 6 hours from whichever is agreed of 0700/0800/0900 hours Saturday and Sunday – road delivery only (by prior arrangement with the Grain Terminal Manager).

Overtime

- 1.7 Work may at the discretion of the Grain Terminal Manager be carried out at the request of the Owner on Bank and other National Holidays or outside the periods stated in Clause 1.6 ("Overtime") but such work shall be subject to additional charges as specified by the Terminal Operator from time to time.
- 1.8 The additional charges in respect of work performed at the request of the Owner outside the periods specified in Clause 1.6 shall be subject to a minimum number of hours determined from time to time by the Grain Terminal Manager. The minimum number of hours to be charged for shipwork undertaken in Overtime (except on Bank and other National Holidays) are as follows:-
- (a) Where shipwork gangs are employed during the working periods specified in Clause 1.6 and, at the discretion of the Grain Terminal Manager, work for a maximum of two hours after the end of such periods to complete a vessel in order to enable such vessel to sail from the Port, a minimum charge of 2 overtime hours per gang shall apply.
 - (b) Where shipwork gangs are employed during the working periods 1300 to 1900 hours Saturdays or Sundays, a minimum charge of 6 overtime hours per gang shall apply.
 - (c) Where shipwork gangs are employed during the working periods 1900 to 0700 hours on any day, a minimum charge of 12 overtime hours per gang shall apply.
- 1.9 In the context of this Clause 1, Bank and other National Holidays shall be deemed to commence at 0700 hours on the relevant Holiday and be of 24 hours duration.

Removal and delivery of grain

- 1.10 As the Grain Terminal is primarily a transit facility, the Terminal Operator may by written notice given to the Cargo Owner not less than 48 hours beforehand require the removal of grain stored at the Grain Terminal within the period specified in the notice, after expiry of which time the grain may at the sole risk and expense of the Owner thereof be disposed of in such manner as the Grain Terminal Manager shall see fit and without any responsibility whatsoever on the part of the Terminal Operator in respect of any loss or damage sustained by the said Owner arising out of or in consequence of such disposal.
- 1.11 In the event that the Terminal Operator operates a vehicle booking system, Owners requiring delivery of grain from the Grain Terminal must make arrangements for delivery with the Terminal Operator before 1500 hours on the working day prior to delivery (Monday to Friday). The Terminal Operator will use its reasonable endeavours to execute delivery orders promptly and in accordance with appointments so made when the requirements of Clause 1.14 are complied with, but any appointment made with the owner of a vehicle or with the Cargo Owner or their respective employees, servants or agents for the receipt or delivery of grain from or to road vehicles at any particular time or within a particular interval of time shall (notwithstanding any representation made by any servant or agent of the Terminal Operator at the time of making the appointment or at any time before or thereafter) be construed merely as the anticipated time when the grain may be received or delivered and shall not oblige the Terminal Operator to exercise receipt or delivery at that time nor determine the order in which vehicles or vessels may be handled.
- 1.12 No liability shall attach to the Terminal Operator in consequence of any failure to receive from or deliver to any vehicle at or within the time or interval of time stated in Clauses 1.10 or 1.11.
- 1.13 Subject to Clause 11.1, the Terminal Operator will not execute delivery of grain from the Grain Terminal except upon prior production of one of the following documents:-
- (a) the delivery order of the Shipowner on whose vessel the grain has been shipped,
 - (b) the sub-delivery order of the Cargo Owner identifying a haulier whose name has been previously notified to the Grain Terminal Manager by the said Owner and is recorded on the Terminal Operator's Terminal Booking Sheet,
 - (c) in exceptional circumstances only, a fax (in lieu of a delivery/sub-delivery order) sent by the Cargo Owner to the Terminal Operator authorising the Terminal Operator to deliver to a specified person named therein.

Storage Charges

- 1.14 Unless otherwise agreed Inward Grain shall be permitted to be stored at the Grain Terminal free of charges in respect of Short Term Storage for the first 5 calendar days commencing at 0700 hours on the second, or final if earlier, day of discharge of the vessel from which such grain is discharged. Thereafter, grain that is not the subject of Long Term Storage shall be charged weekly in arrears in respect of Short Term Storage at the rates specified by the Terminal Operator from time to time, for each period of 7 calendar days or less that such grain is stored thereat beyond its free storage period, such charges being based on the tonnage of such grain stored at the Grain Terminal at 0700 hours on the first day of each such 7-day period for which such charges apply. Such charges, and those specified by the Terminal Operator from time to time for Long Term Storage, are payable by the Cargo Owner on demand unless otherwise agreed by the Terminal Operator.

SCHEDULE 2B
MANCHESTER SHIP CANAL

I. CONTACT DETAILS

OPERATIONAL ENQUIRIES:

01928 508 581 + 593 or 0151 949 6371

ARRANGEMENTS FOR BERTHING & UNBERTHING OF VESSELS:

Harbour Master's Department:	0151 949 6145
Port Operations Control Centre:	0151 327 4638

INFORMATION ON CHARGES & GENERAL ENQUIRIES:

Peel Ports Group (Liverpool):	0151 949 6000
Marine Commercial	0151 949 6222

II. TERMINAL WORKING TIMES

Basic Working Periods

- (i) Loading/discharging (shipwork)
0700 to 1700 hours Monday to Friday inclusive
- (ii) Receiving/delivery
0700 to 1600 hours Monday to Friday inclusive

Overtime Periods

- (i) Loading/discharging (shipwork)
1700 to 1900 hours Monday to Friday inclusive
0700 to 1700 hours Saturday
0700 to 1700 hours Sunday
- (ii) Receiving/delivery
1600 to 1900 Monday to Friday inclusive

Work may at the discretion of the Terminal Operator be carried out at the request of the Owner on Bank and other National Holidays.

No work is undertaken on Christmas Day, Boxing Day and New Year's Day.

III. VESSEL RESTRICTIONS AND INFORMATION

Information (e.g. in relation to draft restrictions, acceptable vessel dimensions, tides, pilotage etc) will be provided by the Terminal Operator upon written request of the Shipowner/its agent.

See above Contact Details.

SCHEDULE 2C

CLYDEPORT

I. CONTACT DETAILS

OPERATIONAL ENQUIRIES:

0141 745 7402 or 0141 221 8733

ARRANGEMENTS FOR BERTHING & UNBERTHING OF VESSELS:

Marine Operations Manager: 01475 586317

INFORMATION ON CHARGES & GENERAL ENQUIRIES:

0141 221 8733

II. TERMINAL WORKING TIMES

Monday- Friday 0800-1700

III. VESSEL RESTRICTIONS AND INFORMATION

Information (e.g. in relation to draft restrictions, acceptable vessel dimensions, tides, pilotage etc) will be provided by the Terminal Operator upon written request of the Shipowner/its agent.

See above Contact Details.

SCHEDULE 2D

LONDON MEDWAY (SHEERNESS)

I. CONTACT DETAILS

OPERATIONAL ENQUIRIES:

01795 596596

ARRANGEMENTS FOR BERTHING & UNBERTHING OF VESSELS:

Marine Operations Manager: 01795 596331

INFORMATION ON CHARGES & GENERAL ENQUIRIES:

01795 596596

II. TERMINAL WORKING TIMES

Basic Working Periods

- (i) Loading/discharging (shipwork)
0600 hours to 1800 hours (Monday to Friday)
- (ii) Receiving/delivery
0600-1700 hours (Monday to Friday)

Overtime Periods

- (i) Loading/discharging (shipwork)
1800 hours to 0600 hours (Monday to Friday)
Weekend Working – Saturday to Monday
- (ii) Receiving/delivery
1700-0600 (Monday to Friday)
Weekend Working – Saturday to Monday

III. VESSEL RESTRICTIONS AND INFORMATION

Information (e.g. in relation to draft restrictions, acceptable vessel dimensions, tides, pilotage etc) will be provided by the Terminal Operator upon written request of the Shipowner/its agent.

See above Contact Details.

SCHEDULE 2E
GREAT YARMOUTH

I. CONTACT DETAILS

OPERATIONAL ENQUIRIES:

01493 335500

ARRANGEMENTS FOR BERTHING & UNBERTHING OF VESSELS:

Marine Operations Manager: 01493 335529

INFORMATION ON CHARGES & GENERAL ENQUIRIES:

01493 335509 or 01493 335500

II. TERMINAL WORKING TIMES

Monday- Friday 0800-1700

III. VESSEL RESTRICTIONS AND INFORMATION

Information (e.g. in relation to draft restrictions, acceptable vessel dimensions, tides, pilotage etc) will be provided by the Terminal Operator upon written request of the Shipowner/its agent.

See above Contact Details

APPENDIX

DISCHARGE RATE GUARANTEE

In the event that the Terminal Operator and the Shipowner or Cargo Owner wish to enter into a Despatch/Demurrage Agreement in respect of a vessel, such Agreement shall be based upon the following additional terms and conditions.

The Terminal Operator shall be entitled to alter the said terms and conditions in such respects and at such times as it shall determine from time to time.

A. **Discharge Rate Guarantee**

Time to commence when the start of discharge operations is permitted by the Terminal Operator. Vessels will be discharged at such an average rate of metric tonnes per weather working day of 24 consecutive hours as shall be agreed between the parties. Time from 1700 hours on Friday until 0800 hours on Monday and from 1700 hours on days preceding holidays until 0800 hours on the next working day is not to count even if used.

B. **Optional Clause**

The Terminal Operator may if agreed with the Shipowner or Cargo Owner as appropriate pay demurrage at charter party rates (or such other rates as the parties shall agree) for all time used in excess of allowed laytime, in which event the Cargo Owner will pay despatch to the Terminal Operator for all lay time saved at half demurrage rates as above.

C. **Laytime Counting**

Time to count from the start of the first working period on the next business day after vessel is safely secured on the discharge berth and following vessel's custom clearance and receipt at the office of the Shipowner's Agents of written Notice of Readiness ("NOR") accompanied by pass of any national and/or regulatory bodies as may be required, and/or independent surveyor as selected attesting to the fact that the vessel is ready in every respect in all compartments and in possession of valid documents of authorisation.

Acceptance and rotation of vessels in the Port shall at all times to be at the absolute discretion of the Terminal Operator.

D. **Turn Clause**

In the event of the Cargo Owner nominating more than one vessel against the contract, time will not count on the second and subsequent vessel(s) until the Berth becomes available after completion of discharging of the preceding vessel.

E. **Weather**

Rain times during hours worked will be as per statement of facts. Rain time outside hours worked will be as per Met Office Data for Liverpool/Liverpool Bay, or other. If the vessel is unable to discharge due to Environmental Pollution Restrictions beyond the Stevedore's control, time will not count.

F. **Further exclusions/considerations**

Neither laytime nor demurrage shall run where:

- (i) time is lost due to opening of vessel hatches; or
- (ii) any delays are caused by ice, flood, fog, or other adverse weather conditions / precipitation which prevents the safe and / or environmentally acceptable discharge of the cargo; or
- (iii) quarantining of the cargo is required; or
- (iv) cases of Force Majeure as defined in Clause 8 of these Terms and Conditions apply; or
- (v) there are delays attributable to instructions by the Owner; or other delays caused by the Owner, or the vessel / cargo interest; or
- (vi) (as applicable) there is insufficient capacity in the Terminal and/or Storage Facility, except to the extent that there is insufficient capacity caused by the acts or omissions of the Terminal Operator that could not have reasonably been avoided; or
- (vii) the Owner has failed to comply with the Vessel notification provisions hereunder; or
- (viii) the vessel does not meet the vessel requirements (including but not limited to the maximum vessel size or other element of the Vessel Suitability Criteria) for the relevant Terminal; or
- (ix) the Owner has failed to ensure that all operations carried out on its behalf (including, without limitation, by the Shipowner and vessel's crew) at the Terminal are performed by appropriately qualified, trained and competent personnel (who shall be properly and adequately supervised) with due care, skill and diligence, and in accordance with all applicable laws.
- (x) there is any other material failure by the Owner to comply with its material obligations under these Terms and Conditions including but not limited to the provisions relating to unsound cargo or other matters relating to the cargo which creates exceptionally difficult working conditions (including but not limited to overheating cargo).

Further, to the extent any such circumstances prevent the Terminal Operator from achieving the Discharge Rates, the Discharge Rates shall not apply and the

Terminal Operator shall instead discharge the cargo at as high a rate as is reasonably practicable in the circumstances.

G Limitation of liability

The limitation of liability of the Terminal Operator in respect of payment of demurrage, and of the Shipowner or the Cargo Owner in relation to payment of despatch, shall be limited in any event to the sterling equivalent (on the date of completion of cargo operations) of US\$5000 per day, subject to an overall cap per vessel call at the Terminal of US\$ 25,000.