



Subject : APM TERMINALS BAHRAIN - TERMS OF BUSINESS (TOB)		
Document no : POL-COM-002	Date of effect : 20-05-2014	
Prepared by : Mahesh Manikoth	Revision number : 000	
Approved by : Simon Brebner	Controlled by : Ebrahim Al-Salem	

APM TERMINALS BAHRAIN TERMS OF BUSINESS (TOB)

Revision History			
Revision No	Date	Description of Changes	Revised By
000	12/05/14	Original created based on ISO 9001:2008 requirements	MJM023

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Khalifa Bin Salman Port


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Customer Portal : <http://termview.apmterminals.com/TERMView/Login>


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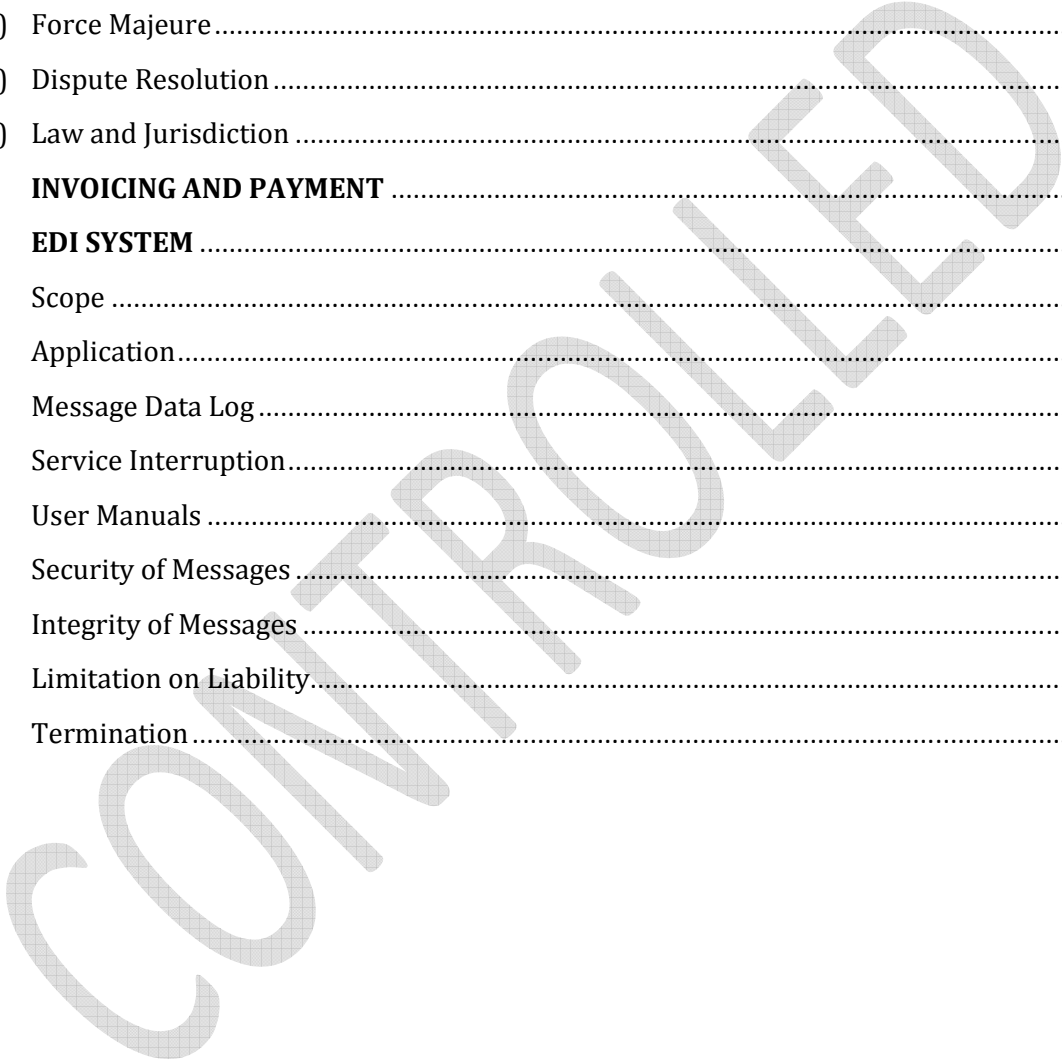
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A. APPLICATION

Save as otherwise specifically provided, the following Terms of Business (hereinafter referred to as “**TOB**”) apply to all the Port Services (as defined hereinafter) provided by the Port Operating Company (as defined hereinafter) managing “Khalifa Bin Salman Port” (hereinafter referred to as “**Port**”). Any user of Port services (hereinafter referred to as “**Customer**”) is deemed to have accepted these TOB upon entry of their cargo or Ship (as defined hereinafter) into the Port / Terminal (as defined hereinafter) and/or the use of marine services for the port / private jetties. These TOB are in addition to the rules and regulations of the Port as updated from time to time.

B. DEFINITIONS AND INTERPRETATION:

- 1) In this TOB the following words and expressions shall, unless the context shall otherwise require, have the following meanings:

“**ATA**” means the actual time when the ship is moored at berth and all lines are fully secured;

“**Authority**” means *The Ministry of Transportation’s Port and Maritime Affairs*, Kingdom of Bahrain, including its employees and agents;

“**Bahrain Port Control**” means the port control function in the Port which is responsible for Vessel Traffic Services;

“**Bahrain Ports Tariff**” means a table of charges applicable for various port related services provided by the Port Operating Company. The Bahrain Ports Tariff is approved by the Authority and published by the Port Operating Company on its website;

“**Berth**” means a berth, quay, pier, jetty, docks, ramp, landing place and any wall and building adjoining the foreshore, sea-bed or river bed;


“**Bulk Cargo**” means commodity cargo that is transported unpackaged in large quantities, including liquid or granular, particulate form, as a mass of relatively small solids, such as sulphur, grain, or coal;

“**Break Bulk Cargo**” means goods that must be loaded individually, and not in intermodal Containers nor in bulk as with oil or grain;

“**Cargo**” refers to (i) any goods or articles of any kind whatsoever including Hazardous Cargo, transported in a container, non-standard container or out of gauge container, including Non-containerised Cargo, livestock, general cargo, break-bulk and (ii) empty Containers;

“**Cargo Handling**” refers to the services and facilities provided by the Port Operating Company for which the Customer may make an application and which may include but not limited to the following:

- (i) discharge of Cargo between any Ship and the Berth;
- (ii) shifting Cargo from place to place within the Port;
- (iii) shifting Containers from place to place within or from and to a Ship;

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- (iv) loading or unloading Hazardous Cargo in containerized or break-bulk form;
- (v) lashing/unlashing Cargo;
- (vi) stuffing/un-stuffing Cargo;
- (vii) stowage planning of any Ship;
- (viii) storing Cargo;
- (ix) delivery of any Cargo; and
- (x) pre-trip inspection of any Cargo.

"**CFS**" means the Container Freight Station where, amongst other things, cargo is packed, unpacked and cleared. This may include but not limited to all such activities performed either within covered sheds or in open spaces within the port premises;

"**Consignee**" means a person other than the Customer entitled to receive cargo;

"**Consignor**" means any person other than the Customer who delivers cargo;

"**Container**" means

- a) Any container 20', 40' or 45' in length, 8' in width and 8'6"/9'6" in height or any other container developed for use in liner Shipping at any time, including, but not limited to, flat-racks, platforms, reefer containers and tanks, with ISO recommended lifting arrangements and consistent with the safety requirements of CSC (Convention for Safe Containers) plates, and which can be handled by means of a standard 20', 40' and 45' spreader;
- b) A non-standard container; and/or
- c) An out of gauge container.

"**Container Load**" means Volume of Cargo that can be shipped in a standard shipping Container without exceeding its payload


"**Container Ship**" means a ship fitted for the carriage of Containers;

"**Container-transporter**" means any road vehicle (including articulated vehicles) used for the carriage of Containers, non-standard Containers and out of gauge Containers;

"**Contract of Carriage**" means any contract or other document including, but not limited to bills of lading and contracts of affreightment, seen and accepted by the port, which evidence a contract between two parties to ship Containers and/or cargo onboard a Ship for reward;

"**Controlled**" and "**Control**" means the holding of power to direct or cause the direction of management, policies and decisions of a company, corporation, partnership or other entity including, without limitation, through control by direct or indirect means of not less than 50% of the voting rights in such company, corporation, partnership or other entity;

"**Customer**" has the meaning given to it at the beginning of these TOB;

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"DoS" means the *Declaration of Security* document aimed at identifying all security requirements that shall be shared between the Port Operating Company and a Ship and clearly states the responsibility for each;

"Dutiable Cargo" means dutiable goods as defined by the Bahrain customs and excise authorities;

"EDI System" means an electronic data interchange system whereby any message is transmitted from one party to another Party by electronic means;

"ETA" means estimated time of arrival of a Ship as declared by the Ship or its agents, through a proforma berth window, ship schedule or an arrival notification;

"FCL" means full Container Load;

"Force Majeure" means any acts of God (including fires, lightning, floods, earthquakes, storms, hurricanes, cyclones, typhoon, tempest, tsunamis or other natural disaster), act of public enemies, war, invasion, warlike acts, hostilities (regardless of whether war is declared), rebellion, revolution, insurrection, military or usurped power or confiscation, terrorism, restraint of governments, princes or peoples of any nation, riots, strikes, lockouts, insurrections, civil commotion, civil disobedience, nationalisation, government sanction, blockage, embargo, labor dispute, strike, restrictions due to quarantines, epidemics, interruption or failure of electricity or telephone service or any other causes beyond the reasonable control of the Party claiming an event of Force Majeure;

"Government" means the government of the Kingdom of Bahrain;

"Hazardous Cargo" means cargo of any kind classified by the International Maritime Organisation as hazardous cargo and shall include "dangerous goods" as defined in the International Maritime Dangerous Goods Code;

"IMO" means International Maritime Organization which is the United Nations specialized agency with responsibility for the safety and security of shipping and the prevention of marine pollution by ships.


"Indemnify" means indemnify and keep indemnified and hold harmless on demand regardless of the negligence or gross negligence of the indemnified Party;

"Intermediary Service" means, in relation to the use of the EDI Service, services or facilities provided by an intermediary as mutually agreed by the Parties to facilitate the interchange of data by electronic means;

"ISPS" means The International Ship and Port Facility Security Code (ISPS Code) which is a comprehensive set of measures to enhance the security of Ships and port facilities;

"KBSP Concession" means the Khalifa Bin Salman Port concession agreement between the Government and the Port Operating Company;

"LCL" means less than Container Load;

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"Message" means data structured in accordance with the user manual and adopting the UN/EDIFACT standards which is transmitted between port and the Customer using an EDI system through the medium of the intermediary service;

"Message Data Log" means a complete record maintained by the Parties of messages, message transmissions and message retrievals transmitted to and received from the intermediary service database;

"Message Retrieval" means the access by any of the Parties to the intermediary service data base and the retrieval by such Party of any message stored in the data base;

"Message Transmission" means the deposit of a message by any of the parties in the intermediary service database;

"Non-containerised Cargo" means any cargo, which cannot be handled by means of normal use of a container spreader, even with attachments;

"Non-standard Container" means a container accepted for transport/carriage on a Ship which cannot be handled by means of a normal use of a container spreader, even with attachments;

"Out of Gauge Container" (OOG) means a container whose contents exceed the dimensions of the standard container of 20', 40' or 45' in length, 8' in width and 8'6"/9'6" in height;

"Party" or **"Parties"** means the Customer and / or the Port Operating Company, as the case may be;


"Package" includes any box, basket, barrel, case, receptacle, sack, bag, wrapper, envelope or other covering or material in which Cargo is placed for the purpose of carriage, consignment, freight, importation or exportation;

"PFSO" means the Port Facilities Security Officer who is a person designated as responsible for the development, implementation, revision and maintenance of the Port Facility Security Plan and for liaison with the Ship Security Officers and Company Security Officers;

"Pilot" means any person not belonging to a Container Ship who has conduct thereof and is in possession of a valid license to act as a marine pilot under the applicable laws and decrees of the Government;

"Port" means Khalifa Bin Salman Port, the primary port in Bahrain consisting of the infrastructure, equipment, and the adjacent marine area and approach channels. The position of the Port is Lat 26° 10.9' N Long 050° 43.1' E and is located at Building 107, Avenue 13, Block 115, Hidd, Kingdom of Bahrain, including its successors, legal heirs, executors, administrators, operators (port operating company) and permitted assigns.

The Port comprises of Marine Facilities, General Cargo and Container Terminals that include berths, the Container and General Cargo Yard and CFS and all other equipment and buildings at the Port whether constructed or under construction, together with any additional land, berths, buildings, yards and CFS to be installed in connection with any further developments thereto for the purpose of providing port services;

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"Port Facility" refers to the "Port" as defined above.

"Ports Law" means any laws and regulations issued by the Authority or the Government regarding to the Port;

"Port Operating Company" means APM Terminals Bahrain BSC(c), a closed joint stock company organized and existing under the laws of the Bahrain with its offices located at Khalifa Bin Salman Port, Building 107, Avenue 13, Hidd 115, Kingdom of Bahrain;

"Port Services" means the services to be provided to the Customer by the Port Operating Company under this TOB;

"Private jetty" or "Private Jetties" means

- a) the BAPCO jetty, the GPIC jetty, the GIIC jetty, the Hyundai jetty, the Aluminum Bahrain (ALBA) Imports jetty, the Industrial Area private jetty, the Arab Shipbuilding and Repair Yard Co. (ASRY) jetty and the Dhow Piers;
- b) the commercial loading and unloading facilities at Mina Salman operated for the benefit of Delmon Poultry Company BSC (DIPCO) and Bahrain Flour Mills BSC;
- c) any jetty or jetties as may be licensed by the Authority pursuant to the Ports Law for the loading or unloading of industrial bulk, liquid or gas Cargo but not for the handling of Containers, general Cargo or grain or feed (with the exception of Mina Salman in respect of grain and feed); and
- d) such additional private jetty or jetties as may be licensed by the Authority pursuant to the Ports Law for the loading or unloading of Containers, general Cargo and non-industrial bulk (such as grain or feed) for the sole use of the owner or tenant of such jetty.

"Reefer Container" means a container used for the transportation of refrigerated cargo;


"ROPME Sea Area" means the Sea Area governed by the Regional Organization for the Protection of the Marine Environment. It is designated as a Special Area in accordance with the IMO Resolution as from the 1st of August 2008;

"Ship" means any vessel, including, but not limited to a Container Ship;

"SSO" means the Ship Security Officer who is the person onboard the Ship, accountable to the Master, designated by the Company as responsible for the Security of the Ship, including implementation and maintenance of the Ship Security Plan and for liaison with the Company Security Officer and Port Facility Security Officers;

"Sub-contract" means any sub-contract for the provision of port services or any part thereof by the port to a sub-contractor;

"Sub-contractor" means any sub-contractor appointed by the port for the performance of port services or any part there-of;

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"TERMView" means a web-based application that has been developed to support shipping lines and agents in various work processes, including data management and reporting, providing improved data integrity and real time information availability;

"Terminal" means General Cargo and Container Terminals as described under **"Port"** above.

"Terms of Business" or **"TOB"** means this document;

"User Manuals" means the documents or instructions which are produced from time to time by the port by way of guidelines to govern the methods and operation of the structure, transmission and receipt of messages each of which such documents may cover one or more messages or activities;

"Vessel Traffic Services" means a service implemented by the Port and Maritime Affairs Authority, which has the capability to interact with Ships in order to provide navigational guidance and to respond to traffic situations, with the overall objective of improving marine safety and protecting the marine environment in the Port;

"Wharf" includes a berth, quay, pier, jetty, docks, ramp, landing place and any wall and building adjoining the foreshore, sea-bed or river bed;

"Working Day" means any day (including any public holidays and weekends), upon which the port is open for business;

"Yard" means the land and premises used by the Port where Containers and Non-containerised Cargo are, amongst other things, stored, received and delivered;


- 2) The headings in this TOB are for information only and shall not be construed as forming part of this TOB.
- 3) Unless the context otherwise requires:
 - i) Words importing the singular include the plural and vice versa;
 - ii) Words importing any gender include all genders; and
 - iii) A reference to a person includes a reference to a body corporate and to an unincorporated body of persons.
- 4) Time indications used to in these TOB refer to UTC + 3 hours.

C. GENERAL

1) Contacts

The following contact details are relevant for the purposes of these TOB:

- **Port Control**
 - VHF Channel numbers 74 and 16
 - Tel : +973 1716 2010
 - E-mail : bpcu@gop.gov.bh
 - Fax :+973 1716 2008

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- **Harbour Master**
 - Tel no : +973 1736 5534
 - GSM : +973 3888 5521
 - E-mail : adel.almaskati@apmterminals.com
 - Fax no : +973 1716 2100

- **Emergency Response (24x7)**
 - Tel no : +973 1736 5540
 - Duty GSM: +973 3888 5540
 - E-mail : hssbah@apmterminals.com
 - Fax no : +973 1736 5637

- **PFSO**
 - Tel no : +973 1736 5544
 - GSM: +973 3888 5547
 - E-mail : sameer.alzayani@apmterminals.com
 - Fax no : +973 1736 5637

- **Planning - Operations**
 - Tel no : +973 1736 5548
 - Duty GSM :+973 3888 5548
 - E-mail : plnbah@apmterminals.com

- **Shift Manager – Operations**
 - Tel no : +973 1736 5501
 - Duty GSM : +973 3888 5501
 - E-mail : opsbah@apmterminals.com


- **General Cargo**
 - Tel no : +973 1736 5631
 - Duty GSM : +973 3888 5572
 - E-mail : gctbah@apmterminals.com

2) **Business Timings**

The Port is open for business on a 24 hourly and 7 days a week basis for 365 days of the year.

Gate timings for Container related traffic is between 0400-2200 hrs each day from Saturday to Thursday and between 0800-1600 hrs on Fridays. No time restrictions apply to Non-containerised Cargo arriving at or departing from the Port.

The CFS (FCL & LCL activity) operates between 0700-1700 hrs each day from Saturday to Thursday.

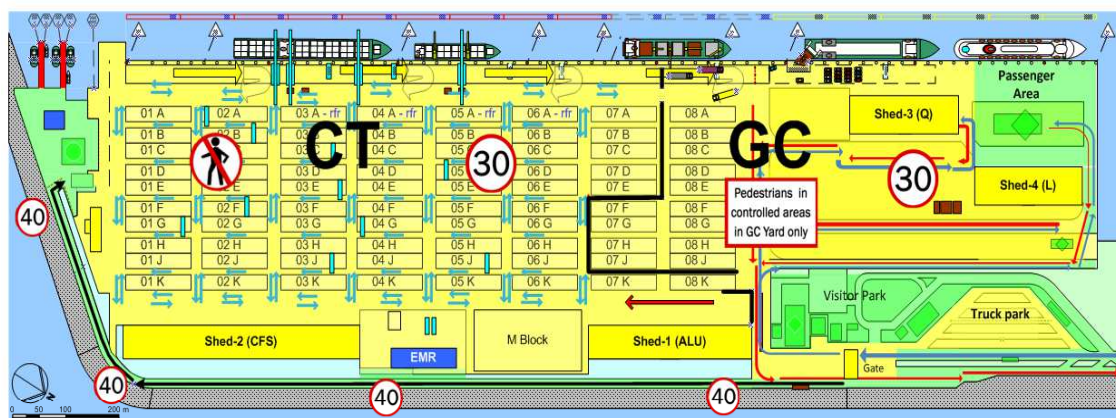
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The appointments/cash receipt section shall accept business transactions between 0700-1500 hrs each day from Saturday to Thursday.

Working hours for administrative offices is between 0800-1630 hrs each day from Sunday to Thursday.

3) PPE and Traffic Plan

APM Terminals Bahrain PPE and Traffic Plan



Wearing full personnel protective equipment (hard hat, steel cap shoes/boots, high visibility vest) is mandatory at APM Terminals Bahrain with the exception of the following areas:

- Main Administration and Security Offices
- Canteen
- EMR Office Building
- Store Offices
- Harbour Master Building
- Operations Building
- Switzer Offices
- Inside Military Controlled Areas
- Passenger Terminal / Duty Free / Seafarers Centre and area directly outside these locations
- Car Parking areas outside all of the above

Hardhat is not required inside of equipment, however equipment operators must have their full PPE available with them at all times

Pilots, Line Handlers, Fuel Barge Crew and others working directly at the quay edge must wear a life vest in addition to full PPE

Transportation of people on the back of pick up vans is not permitted.

All personnel entering the gate are required to wear high visibility vest even while travelling in a vehicle. Use of the high visibility vest is mandatory in all areas inside the port, with the exception of covered office areas.

Speed Limit on the access road to the Harbour Master Building is 40 km/hr. Mixed Zone (Man and Machine) is 20km/hr and the rest of terminal is 30 km/hr

- No PPE
- Full PPE
- Full PPE & Revolving Light
- Life Vest, Safety Shoes and Hard Hat


**NO PEDESTRIANS IN CT YARD AREAS /
PEDESTRIANS IN CONTROLLED AREAS IN GC YARD ONLY**



D. MARINE AND STEVEDORING SERVICES

1) Scope

- i) Marine services provided by the Port Operating Company to the Customer include pilotage, towage and mooring services for Ships that use marine facilities and which are usually required by users of port facilities in Bahrain (including Khalifa bin Salman Port and the Private Jetties), together with any other services agreed in advance in writing at prices agreed mutually.

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- ii) For purposes of all-in pilotage and towage assistance, the start and completion times for purposes of billing, shall be from cast off of tug boat or Pilot boarding, whichever is earlier up to Pilot dis-embarkation or tug back at berth/operations complete, whichever is later.

For tugs/Pilot boats hired separately, the start and completion times shall be from cast off of tug boat/Pilot boat up to return of tug/Pilot boat to berth.


If a Pilot is separately engaged, then the start and completion times for Pilot hire shall be from Pilot boarding up to Pilot dis-embarkation.

- iii) Stevedoring services provided by the Port Operating Company covers Ships calling Khalifa bin Salman Port. These may include but are not limited to the following :

- a) Unloading from and loading onto Ships carrying Containers, livestock, bulk and general Cargo.
- b) Acceptance into and removal from the Port of Containers by means of shore based cranes including lashing and unlashng of Containers on a Container Ship.
- c) Acceptance into and removal from the port of Non-containerised Cargo by means of Ship and/or shore based cranes of Non-containerised Cargo from Ships.

2) Sailing Schedule and Berthing Requirements

- i) The Port Operating Company will provide exclusive/fixed berthing windows for the Customer's Ships pursuant to mutual agreement between the Port and the Customer, which includes the validity of each window.
- ii) As and when necessary the Customer and / or the Port Operating Company may give notice to propose changes to the agreed berthing windows. Changes if any to berthing windows shall be undertaken at the sole discretion of the Port Operating Company.
- iii) If the Customer's Ship cannot berth at the beginning of its window plus a "grace period" of three (3) hours, then the berthing window will be forfeited and the Ship will be berthed at the next available berthing window, as determined by the Port Operating Company.
- iv) Unless otherwise agreed with the Port Operating Company, upon completion of operations, the Customer's Ships shall vacate the Berth within one (1) hour after completion of operations (all labour off). Failure to vacate a Berth as agreed may result in a penalty being applied, besides additional costs if the Ship has to be towed to anchorage in order to free up the Berth for other Customers, if safe to do so.
- v) The Customer (or his agent) shall be responsible for arranging and processing the required formalities for the berthing and un-berthing of the Ships, including but not limited to: arranging for Pilots, tugs, mooring, customs inward/outward clearance, immigration, and clearances as required by any other government agencies or authorities, as applicable.
- vi) The Customer shall provide the Port Operating Company with a sailing schedule and berthing requirements for container Ships, not later than three (3) weeks before each Ship's expected

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date of arrival at the port. The berthing requirements shall include details of the projected number of any Containers to be discharged from, or loaded onto, that container Ship at the port. For non-containerised Ships calling the Port, the Customer shall provide details of cargo, passengers and/or nature of services to be provided not less than seventy two (72) hours prior to the ETA at the port. Cruise Ships calling the port are expected to provide their sailing schedule and berthing requirements at least 6 months in advance to their proposed visit to the Port. All data provided to the port shall be in pre-defined standardized formats only.

- vii) In the event of any change to the ETA, if the Customer (or its appointed agent) does not notify the port promptly, but in any event not later than forty eight (48) hours before the ETA of the Ship at the Port, then the Customer may be liable to pay the port standby and/or gang cancellation charges, charged per hour.
- viii) The final time of arrival of a Ship shall be confirmed in writing at least twenty four (24) hours before the container Ship's ETA.
- ix) While every effort will be made by the Port Operating Company to accommodate the Customer's Ships as per the agreed schedule, the port cannot be held responsible in the event that Ships cannot be accommodated as per the agreed schedule, for whatever reason.

3) Operational Requirements Prior to Arrival of a Ship at the Port

i) Container Ships

- a) Not less than seventy two (72) hours before the ETA of a Ship at the Port, the Customer shall supply to the Port Operating Company such particulars in writing as the Port Operating Company may require or as otherwise required from time to time of the Containers (including the contents and value thereof) or Cargo onboard to be discharged from, or loaded onto, that Ship at the Port. These particulars shall include, but not be limited to, information relating to Hazardous Cargo, OOG cargo, reefer Cargo and dutiable Cargo contained in or intended to be contained in a Container or as Non-containerised Cargo.
- b) The discharge BAPLIE (as defined on page 36 below) and discharge list, along with the reefer, OOG and Hazardous Cargo manifests, shall be sent by the vessel operator agency (VOA) at least twenty four (24) hours prior to the Ship's ETA. Besides the Port shall also provide the final load list within the same deadline.
- c) Any adjustment to the discharge and or loading list shall be made up to twenty four (24) hours prior to the ATA of the Ship. Any changes thereafter shall be subject to amendment charges according to the Bahrain Ports Tariff.
- d) The load and discharge lists provided to the Port Operating Company shall include among other details, the port of final destination and the port of origin respectively.


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ii) General Cargo Ships

- a) Not less than seventy two (72) hours before the ETA of a Ship at the port, the Customer shall supply to the port such particulars in writing as the port may require or as otherwise required from time to time of the cargo onboard (including the contents and value thereof) to be discharged from, or loaded onto, that Ship at the Port. The particulars shall include, but not be limited to, information relating to hazardous cargo, OOG cargo, reefer cargo and dutiable cargo carried as Non-containerised Cargo.
- b) The cargo manifest, packing list, stowage plans and Ship related documents such as gear certificates shall be submitted by the Ship's agent at least twenty four (24) hours prior to the ETA of the Ship.
- c) A Ship pre-arrival meeting shall be held between the agent and the Port Operating Company's representative at least twenty four (24) hours prior to the ETA of the Ship, to discuss operational matters that may include but not limited to, the number of Ship hatches to be worked upon, the number of labour gangs and specific equipment if any that would be required for the purpose of Cargo operations.
- d) Berthing of Ships carrying cargo for direct delivery shall be subject to payment of full Cargo related charges applicable.

4) Arrival of a Ship at the Port

- i) The Port Operating Company reserves the right to accept only Ships that are in compliance with the construction and safety rules of classification societies. An agent applying for permission for a Ship to enter the Port must ensure that the standard of the Ship, master and crew certificates are not lower than the standards set by the conventions, protocols, resolutions or codes of the IMO and the ILO to which the Kingdom of Bahrain is a party.
- ii) Acceptance to receive the Ship at the Terminal will be given to the Customer for each call as may be appropriate having regard to the current circumstances at that time and prior/existing commitments of the Port Operating Company. The Customer shall ensure that each of its master's shall not berth or attempt to berth his Ship at a Berth alongside the Terminal until such acceptance has been given by the Port Operating Company to the Customer that the Port Operating Company is ready to receive the Ship. All marine movements in the channel shall be done under Pilot's escort and in compliance with port regulations prevalent at the time. A Pilot Exemption Certificate shall be granted by the relevant Authority, only in exceptional circumstances and subject to the fulfillment of certain pre-defined criteria.
- iii) The Port Operating Company will provide mooring crew to render assistance to the Ship. The mooring crew shall operate under the instructions and the responsibility of the master of the Ship for the sole purpose of making fast or casting off the Ship's hawsers and mooring ropes.
- iv) The Port Operating Company will not be responsible for or liable in any way for latent defects in mooring bollards or dolphins, nor for any improper mooring of the Ship at the port, whether or

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not such mooring was completed with the assistance of a berthing officer and mooring crew provided by the Port Operating Company.

- v) The Customer shall supply gangways from the Ship to the port. The safety and illumination of gangways shall be the sole responsibility of the Customer and at the minimum should comply with the regulations laid down by the International Convention for the Safety of Life at Sea (**SOLAS**) and the International Labour Organisation (**ILO**).
- vi) The Port Operating Company shall not be responsible for any delays to berthing or un-berthing of Ships caused due to adverse weather conditions.


5) Ships at the Port

i) General

- a) The Port Operating Company reserves the exclusive right to provide all Port related services using its own equipment, gear and manpower resources. If resources required for a particular operation are not available, then the Port Operating Company may on a temporary basis, allow for alternative arrangements for such resources to be made by the Customer.
- b) A “Welcome Note” shall be made available to the master of every Ship once alongside. The purpose of this document is to familiarize the Ship and its crew of the safety and operational rules of the port.
- c) None of the Ship’s cranes, hatch covers or other gear may be moved without prior consent of the Port Operating Company.
- d) All Ships calling the port shall maintain engines at short notice for sea. Notwithstanding this, the Ship master should immediately notify the Harbour Control tower of his inability to maneuver the Ship due to any defect, maintenance or repair operations. If the Ship intends to carry out any major maintenance in the engines, then the master may submit a written application to the Harbour Master, in order to obtain his approval before undertaking such maintenance.
- e) The Customer shall ensure that the Port Operating Company’s employees/contractors working on board the Ship are provided with safe access (including guardrails and fencing where applicable) between the gangway and the holds, deck cargoes, lashing platforms etc. that are to be worked. If access is required during the hours of darkness, all access routes should be lit with a minimum of twenty (20) Lux, while all working areas shall have at least fifty (50) Lux, besides taking into account any specific needs that may require additional lighting.
- f) The Ship’s master/crew shall calculate and monitor the stability of the Ship while she is in Port and consequently be responsible should any incident be caused due to trim or stability related issues onboard the Ship.

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- g) The master of Ship shall keep watch over VHF channel seventy four (74) at all times, during the stay of the Ship in the Port.
- h) The Port Operating Company will present the Ship with a 'notice of readiness', minimum two (2) hrs prior to estimated cargo completion. The master of the Ship is expected to acknowledge readiness to sail the Ship at the estimated cargo completion time shown in the notice of readiness, besides advising the number of tugs required and the estimated draft on departure.
- i) The Port Operating Company will thereafter closely monitor the progress of cargo operations. It shall be the responsibility of the agent to obtain necessary departure clearance from the Bahrain Port Control. The master of the Ship shall confirm his readiness to sail one (1) hour before targeted sailing time, by calling Bahrain Port Control on VHF channel seventy four (74).
- j) Husbanding is the responsibility of the Ship and its agents. The agent shall immediately notify the agent and Bahrain Port Control should any equipment or stores fall overboard. The Port Operating Company may recover such Cargo or equipment at the cost and responsibility of the Ship. The Port Operating Company shall not be held responsible for any damage or loss that might be sustained as a result. The Ship crew is advised to contact the Shift Manager on his duty mobile, on berthing of the Ship, for any crane requirements to handle equipment/stores.
- k) The Port Operating Company shall permit the Customer to bring trucks alongside Ships and to load and discharge cargo or Ships' stores at such times as may be agreed and shall allow access to Port Operating Company's personnel to proceed on board a Ship for the purpose of carrying out repairs. The Port Operating Company and the Customer agree that access as referred to in this clause is permitted by the Port on condition that the same is carried out in accordance with the rules and regulations of the Port and the customs authorities. The Port Operating Company will not be responsible or liable in any way for any loss, damage, cost, expense or injury arising in any way howsoever to any person or thing granted access in accordance with this clause. The Customer will indemnify the Port Operating Company for any loss, damage, expense, cost or injury in any way howsoever caused by reason of the Port Operating Company permitting access under this clause.
- l) The Port Operating Company shall be entitled to recover idling charges for any of its resources, that has been idling due to operational delays or change in plans on account of the Customer.
- m) If the ballast water for a Ship is taken inside the ROPME Sea Area, then ballasting and de-ballasting is permitted. However, if the ballast water is taken outside of the ROPME Sea Area then the following shall apply :
- (1) Ships arriving from outside the ROPME Sea Area shall undertake ballast water exchange en route in water over 200 nautical miles from the nearest land and in water having a depth of at least 200 metres.

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(2) If this is not possible for safety reasons the ships should be expected to make minor deviations to areas within the 200 nautical miles limit that can be identified as discharge area, so long as such areas are more than 50 nautical miles from the nearest land and in water having a depth of at least 200 metres.

(3) If this is not achievable then the ship shall provide the respective Authority with the reason as to why it has not been possible to do so and further ballast management measures may be required, consistent with Ballast Water Management Convention developed and adopted by IMO, as they would exist when the Convention is in force and other international laws.

- n) Handling of sewage from Ships shall be governed by the Regulations for the Prevention of Pollution by Sewage from Ships as defined in Annex IV of the International Convention for the Prevention of Pollution From Ships, 1973 as modified by the Protocol of 1978 (**MARPOL 73/78**).
 - o) Ships shall take suitable measures to ensure that de-ballasted water is prevented from contacting personnel, equipment or the dock.
 - p) Discharge of sewage/sludge from the Ship through sea or land shall be undertaken strictly subject to pre-approval obtained from the port. In addition, the Ship shall be responsible for ensuring that this activity is carried out strictly under the attendance and supervision of its crew.
 - q) All Ships and its crewmembers shall adhere to the safety and security regulations of the Port Operating Company and the Authority.
 - r) Certain areas of the Port and all of the Terminal's Berths are considered restricted areas. Any unauthorized entry into restricted areas is considered a "breach of security" and the proper authorities will be notified. Anyone or anything entering the Port and the premises of the Port Operating Company is subject to inspection according to the regulation of the Authority. Failure to consent to inspection will result in denial or revocation of authorization to enter.
- ii) Container Ships
- a) The Port Operating Company shall provide the Customer with an efficient terminal operating system controlling the movement of Containers at the Terminal and shall report activities relating to Container movement.
 - b) Ship's own cranes shall always face the water side while Ship-to-shore gantry cranes are being operated on the Ship and shall not move before the last Container is discharged or loaded.
 - c) The Ship's master/crew is responsible for checking the Container lashing in a timely manner and reporting non-conformities if any at the earliest to the shift manager. A lashing

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certificate acknowledging satisfactory execution of lashing onboard the Ship shall be signed by the Ship's master/crew.

- d) In case of cranes idling as a result of cancellation without at least twelve (12) hours prior notice, charges applicable as per the Bahrain Ports Tariff will be levied by the Port Operating Company. In the event of cranes idling as a result of delay without at least twelve (12) hours prior notice, or non-readiness of the Ship, charges applicable as per the Bahrain Ports Tariff will be levied by the Port Operating Company.

iii) General Cargo Ships

- a) The Ship's agent shall be responsible for ensuring that the Customer makes adequate arrangements for receiving direct delivery related Cargo from the Ship's hook onto trucks. Any untoward increase in Ship's Port stay due to the delays in transportation shall be on account of the Ship's agent.
- b) The Port Operating Company shall be responsible for receiving, transporting and off-loading Cargo meant for indirect delivery. This includes equipment and manpower resources as may be required. The Ship's agent shall make alternative arrangements through the Customer, in case the Port Operating Company does not have any specific equipment that is required for Cargo handling.


iv) RoRo Ships

- a) The Ship's agent shall be responsible for making necessary arrangements for drivers to discharge vehicles from the Ship to the quay side.
- b) The Port Operating Company shall arrange for stevedoring onboard the Ship and for transportation of the vehicle from the quay side to the storage yard.

E. CONTAINER/CARGO HANDLING AND OTHER SERVICES:

1) Scope


- i) Subject to Clause D above, the Port Operating Company shall provide container handling, cargo handling and other related services to the Customer at the Terminal, including but not limited to the following:
 - a) receiving Containers and Non-containerised Cargo from or for loading aboard Ships berthed at wharves at the Terminal.
 - b) transferring Containers and Non-containerised Cargo to or from the yard.
 - c) receiving and delivering Containers and Non-containerised Cargo from and to Container and Cargo transporters.

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- d) transferring of and Non-containerised Cargo to or from the CFS and/or customs examination areas.
- e) moving empty Containers and other equipment to and from storage yards.
- f) packing and unpacking Containers and Non-containerised Cargo.
- g) providing and maintaining adequate facilities for the embarking and disembarking of passengers on passenger or non-cargo carrying Ships.
- h) reefer electricity supply, monitoring, together with any other services which may be agreed with the Customer in writing.

2) Acceptance of Containers and Non-containerised Cargo

- i) Containers and Non-containerised Cargo delivered from or to the Customer or a Consignor or a Consignee shall be brought for acceptance to or received from, such area within the Terminal or other place adjacent to the Terminal as may be designated from time to time by the Port Operating Company.
- ii) The Port Operating Company is not obliged to receive or deliver Containers and Non-containerised Cargo unless full covering documentation has been provided to the port. The port's responsibility to the Customer for Containers and Non-containerised Cargo shall commence only when the Containers or Non-containerised Cargo have been delivered to the designated area and notice of acceptance has been duly given by the Port Operating Company.
- iii) Prior to the presentation for acceptance to the Port Operating Company of any Containers or Non-containerised Cargo, the Customer shall supply to the Port Operating Company such particulars in writing thereof and where appropriate of the contents of a container or Non-containerised Cargo including weight and other measurements or as may be requested by the Port Operating Company. The Port Operating Company is entitled to rely upon such particulars of the Container, the contents of a Container, or Non-containerised Cargo as are furnished by the Customer or Consignor. Any damage or loss resulting from the inaccuracy of, or omission from, such particulars given by the Customer or the Consignor shall be the Customer's responsibility and the Customer shall indemnify the Port Operating Company against any loss, damages, claims, costs and expenses which the port may suffer or incur directly or indirectly, as a result of such inaccuracies or omissions.
- iv) The Port Operating Company shall accept no Containers or Non-containerised Cargo for handling until and unless it is satisfied that adequate space reservation arrangements have been made for the onward carriage of the same within a period of time acceptable to the Port Operating Company.
- v) Special handling or stacking requirements if any for Cargo being received by the Port Operating Company shall be notified at least twenty four (24) hours in advance to the ETA of the Cargo at the Terminal.


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- vi) The Ship's agent shall obtain prior acceptance from the Port Operating Company for any cargo on-board RoRo Ships that is not self-propelled in nature. Failure to do so could result in such Cargo being retained on-board, in the event of any resource related constraints, for which the Port Operating Company shall not bear any responsibility.
- vii) The Customer shall make immediate arrangements to attend to vehicles that are found to be immobile due to technical difficulties. In the event of any failure to do so, the Port Operating Company shall make its own arrangements to move such vehicles and charge the Customer for all costs involved, besides levying penalties as appropriate.
- viii) Out of Gauge (OOG) Container acceptance: Prior to accepting OOG bookings it is the responsibility of the Customer to inform and secure Cargo acceptance by the Port Operating Company in writing.
- ix) The Customer or his agent shall be responsible for any safety hazard or environmental pollution caused due to the failure to follow IMO rules and regulations, and shall bear, and indemnify and hold harmless the Port Operating Company for, all costs and consequences including but not limited to emergency measures initiated, penalties applicable and replacement costs to make good any damage to infrastructure, shall be fully on account of the agent.
- x) Break Bulk Cargo Acceptance
 - a. Prior to booking Break Bulk Cargo, the Customer shall send the following details in respect of such Cargo to the Port Operating Company
 - i. Technical drawings, including centre of gravity indication
 - ii. Weight
 - iii. Dimensions
 - iv. Photographs of the Cargo
 - v. Lifting points
 - vi. Special handling gear requirements
 - vii. Proposed connections
 - viii. Expected date of arrival/delivery to the Port

The Port Operating Company will thereafter analyze the feasibility of the operation of the Break Bulk Cargo and reply with a written confirmation of acceptance or non-acceptance along with the quotation if not covered by the Bahrain Ports Tariff.
- xi) The delivery of import Cargo and the loading of export Cargo from the Terminal shall be subject to the payment of all Port related charges and relevant approvals from the customs authorities.


3) Imports

- i) FCL
 - a) The de-stuffing of FCL Containers shall be undertaken based on appointments granted by the Port Operating Company upon payment of all amounts due to the Port Operating

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Company. The respective Consignee or their designated clearing agent shall be responsible for getting the Container physically cleared by the customs authorities prior to its opening.

- b) The Port Operating Company shall be responsible for de-stuffing Cargo from an FCL Container and loading it onto trucks. However, it is the responsibility of the trucker and the Clearing agent to ensure, that the cargo is properly secured before the truck departs from the Terminal.
 - c) The CFS is not a designated storage area and any Cargo not taken delivery off upon de-stuffing shall attract storage charges (free time calculations shall apply from date of discharge of container) as per the Bahrain Ports Tariff.
 - d) Vehicles de-stuffed from FCL Containers shall be parked in the CFS shed. Should the vehicle remain un-delivered within twenty four (24) hours of the completion of inspection by the customs and traffic authorities, then the Port Operating Company has the right to move it from the CFS shed to the storage yard. Storage charges shall apply from the date of completion of inspection by the customs and traffic authorities (free time calculations shall apply from date of discharge of container) as per the Bahrain Ports Tariff.
- ii) LCL
- a) Containers declared as LCL in the discharge list shall be moved to the LCL shed within twenty four (24) hours of being discharged in the port.
 - b) LCL Containers are opened and de-stuffed subject to payment of all port dues. De-stuffing of Cargo is carried out under the supervision of the customs authorities and in the presence of the consignee or his clearing agent. Any exceptions noted to Cargo being de-stuffed shall be noted on the cargo tally sheet for the Container.
- iii) Delivery of Containers from the Storage Yard
- a) All import Containers delivered from the storage yard will be subject to customs scanning. The Port Operating Company shall not be responsible for any delays encountered due to issues if any related to the scanner.
- iv) Delivery of Non-containerised Cargo from the Storage Yard
- a) Delivery of Cargo from the storage yard is subject to payment of all relevant rates of and tariffs to the Port Operating Company and necessary clearance from the customs authorities.
 - b) The Port Operating Company shall be responsible for arranging equipment required for effecting delivery of Cargo from the storage yard. If suitable equipment is not available with the Port Operating Company, then the Consignee shall make alternative arrangements for carrying out the delivery of Cargo. In such case the Port Operating Company shall not charge any equipment charges to the Consignee.
 - c) Trucks required for receiving the Cargo in the storage yard shall be provided by the Consignee.

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4) Exports

i) Export Cut-off

- a) Export Cargo for indirect loading onto the Ship shall be made available at the Terminal at least twenty four (24) hours prior to Ship's arrival. However export Cargo for direct loading may be delivered directly under the hook during Ship's operation.
- b) Export Cargo requiring to be stuffed into Containers, shall be made available at the Terminal at least forty eight (48) hours prior to Ship's arrival. The forty eight (48) hour cut-off is to enable the Port Operating Company to plan and undertake the stuffing of Cargo into the Container and its movement back to Container storage yard, prior to its loading onto the Ship.

ii) Loading of Non-containerised Cargo from the Storage Yard

- a) The Port Operating Company shall undertake movement of export Cargo from the storage yard to the Ship's hook using its own equipment. If suitable equipment is not available with the Port Operating Company, then the Customer shall make alternative arrangements for carrying out this movement. In such case the Port Operating Company shall not charge any equipment charges to the Customer.

5) Cross-stuffing of Containers


- i) Cross-stuffing of Containers shall be undertaken only on the specific request of the Customer. Further, it will be carried out under the supervision of a joint surveyor representing the Port Operating Company and the Customer.
- ii) Cross-stuffing activity shall be undertaken strictly subject to an undertaking to be provided by the Customer/container operator to the effect that the Port Operating Company will not be liable for any costs and consequences arising as a result of the cross-stuffing of Cargo, which may include but not limited to cargo shortage, damage to cargo and or its packing.

6) Access for Transport Vehicles

- i) The entry of transport vehicles into the Port shall be restricted to those vehicles that have obtained a pre-approval from the Port Operating Company for drop-off or pick up of Cargo to/from the port.

7) Condition of Containers

- i) The Customer undertakes that, each Container which it delivers or causes to be delivered to the Terminal is upon delivery secure, in a good state of repair and suitable for its purpose. The Port Operating Company shall be entitled to refuse to handle any Container which is not in the condition required by this clause. Even in case where the Container as aforesaid in this clause is accepted by the port to load or handle, the Port Operating Company shall not, in such case, be responsible for any damage to the Container or its contents thereof.

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- ii) The Port Operating Company shall inform the Customer of any damage to any Container, its contents or its packaging coming to the attention of the Port Operating Company, and may refuse to load or handle such Containers. If the Port Operating Company gives notice to the Customer of damage to a Container, its contents or its packaging, the Customer shall be entitled, within seven (7) days of such notice being dispatched, to inform the Port Operating Company in writing that an inspection of the relevant items is required. The port will thereafter permit the Customer or it's duly appointed agents upon reasonable notice to inspect the container, contents or packaging.


8) Reefer Containers

- i) The Customer shall be at any time during the term of validity of this agreement, entitled to inspect the facilities provided by the Port Operating Company in relation to reefer Containers without interfering with the operations of the Port Operating Company.

- a) **Reefer Services**

Subject to an agreement with the Customer, the port shall provide the following services:

- (i) A minimum number of reefer plugs where the Customer guarantees reefer volume to support the number of plugs.
 - (ii) Plugging and unplugging of reefer Containers to suitable electric power supply.
 - (iii) Access to an alternative power supply with sufficient capacity to cater for all reefers in the container yard, as well as the procedures to utilize this in a power failure emergency. In case the Port Operating Company has to provide additional power supply to what is available in the Port, any additional costs for doing so shall be borne by the Customer.
 - (iv) Monitoring of reefer temperatures by a pre-agreed schedule with the Customer, if applicable.
 - (v) Where the Port Operating Company is responsible for this monitoring, the Customer shall provide a full contact list including after-hours contacts, and special handling procedures for reporting and handling of special reefers (e.g. Controlled Atmosphere and Super Freezers)
 - (vi) Prompt reporting, in writing, of malfunction of units upon discovery as well as any other damages.
 - (vii) Necessary measures to restrict or minimize any damages and protect against further damage.
 - (viii) Request for data logger download.
- ii) The Port Operating Company will check and report upon the temperature of reefer Containers stored at the container port subject to instructions being given in writing to the Port Operating Company at least two (2) working days in advance of receipt of a specific reefer Container by the port and such instructions are accepted in writing by the Port Operating Company, the Port Operating Company may check and report upon the temperatures of Containers as mutually agreed.

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- iii) Reefer data is considered confidential and therefore the Port Operating Company shall not share reefer related data with any party other than the Customer. Such data shall be shared strictly subject to a written request received by the Port Operating Company from the Customer.
- iv) The Port Operating Company shall not be responsible or liable in any way for any reefer Container or the refrigeration of refrigerated cargo if the Customer fails to give written instructions, or provides wrong or inadequate instructions concerning the handling thereof.
- v) If the Port Operating Company is instructed in writing by the Customer, then the Port Operating Company will, within a reasonable time of receipt, connect the reefer Container to a main power supply. The Port Operating Company shall not be obliged to maintain an auxiliary power supply and the port shall under no circumstances be responsible for any failure or discontinuance or interference from time to time in the mains power supply howsoever arising.
- vi) Reefer repairs shall be performed only by Contractors who have confirmed the capability to conduct Halide Torch testing and thus been approved by the Port Operating Company. Reefer repairs shall be permitted subject to the contractor's fulfillment of Permit to Work (PTW) requirements of the Port Operating Company.

9) De-stuffing of Containers


- i) If the Port Operating Company carries out an instruction to open the doors of a container or to unpack a Container for any purpose whatsoever, this shall be at the sole risk of the Customer and the Port Operating Company shall not be responsible or liable in any way for any deterioration of the contents of the Container or for contamination to other Cargo by reason of such deterioration. The Customer shall ensure compliance with the rules and regulations of customs for opening and unpacking of any Container. The Port Operating Company may, but shall be under no obligation to do so close, reconnect, or connect to a power supply for reefer Containers, repack or otherwise deal with any such Container and/or its contents at the sole cost and expense of the Customer.
- ii) The Port Operating Company bears no liability whatsoever for any shortfall in Cargo or exceptions/damage to Cargo, noticed upon de-stuffing of container at the Port Operating Company. Any validation of the status of Cargo at the time of de-stuffing for purposes of insurance claims is to be pursued directly by consignee or his agent through an independent surveyor.

10) First in - first out (FIFO)

- i) Although the Port Operating Company shall endeavor to allot empty Containers on a FIFO basis, it shall not be responsible for any non-compliance to FIFO and consequently for the refund of any storage charges accruing on Containers that have not been allotted on FIFO basis.

F. CONDITIONS RELATING TO THE PROVISION OF PORT SERVICES


1) Circumstances Preventing Safe Handling

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- i) When, in Port Operating Company's sole opinion, there are any circumstances which will or may prevent or hinder the safe handling, storage, loading, unloading or transport of any Containers or Non-containerised Cargo, the Port Operating Company may, in its sole discretion, refuse to handle the same and shall give notice of such refusal to the Customer or Consignor, as the case may be. The recipient of such notice will remove or procure the removal of Containers and/or its contents or Non-containerised Cargo from the Port Operating Company forthwith at its own risk and expense.

2) Warranties and Indemnities given by the Customer

- i) So as to enable the port to carry out the provision of port services efficiently, the Customer warrants and undertakes that:
- a) All particulars relating to Containers and Non-containerised Cargoes (including, but not limited to reefer Containers) furnished by the Customer in accordance with these terms of business are accurate;
 - b) All Containers and Non-containerised Cargoes are properly packed and labeled and the contents are properly stowed and secured therein;
 - c) All Containers are fit for their intended purposes and in a fit and proper condition to be handled or otherwise dealt with in the normal course of business by the equipment and operating procedures usually employed at the Terminal;
 - d) All Containers and Cargo comply with applicable laws, orders, regulations, or other requirements of Government, customs, municipal or other authorities whatsoever; and
 - e) All reefer Containers have been properly pre-cooled or pre-heated as appropriate and their controls have been properly set and the Customer shall indemnify the port in respect of the consequence of the breach of any of these warranties.
 - f) All equipment on container Ships for discharging and loading Containers is technically compatible with the port's equipment at the port. If Ship's gear is used for discharging and loading of Containers and/or Non-containerised Cargo, then it is the Customer's responsibility to ensure that all gear is fully certified and to produce valid certificates as required upon demand.
- ii) The Port Operating Company shall not be responsible for or be liable in any way, and the Customer shall indemnify the Port Operating Company against all damages, claims, costs and expenses suffered or incurred by the Port Operating Company resulting directly or indirectly from any defects in a Container and/or its contents.
- iii) The Customer is solely responsible for compliance with all laws, ordinances or regulations in force relating to the Ship and the Cargo and all matters whatsoever relating to the Ship and the Cargo.

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- iv) The Customer shall be responsible for any damage to the wharves of Terminal and private jetties, premises, equipment, gendering, mooring bollards, all other property, other Ships, Ships and property belonging to the third parties, caused during or arising from berthing or unberthing and shall indemnify the Port Operating Company against all claims, demands, losses, costs and expenses arising from any such damage.
- v) The Customer shall be responsible for clearing all Cargo dunnage, cargo residue, spillage etc that has occurred as an outcome of Cargo discharge or delivery. Any failure to do so shall result in the Port Operating Company's undertaking cleaning activity and recovering related charges from the Customer as per the Bahrain Ports Tariff.
- vi) Customers are not permitted to carry out the cleaning of their trucks, equipment or Containers within the premises of the Terminal. Any failure to comply with these requirements shall result in suitable disciplinary action and the application of penal charges as per the Bahrain Ports Tariff.
- vii) Upon the delivery of any container or Non-containerised Cargo to the Port, the Customer shall undertake to the Port that all values and other particulars in respect thereof supplied to the Port for customs or other purposes and all necessary customs removal permits are complete and accurate and, where appropriate, are valid and in full force and effect. The Customer shall indemnify the Port and its servants, or agents against all loss, damages, claims, costs, expenses, fines and penalties that the Port or its servants, or agents may incur or suffer directly or indirectly as a result of any breach of this undertaking.
- viii) The Customer shall ensure that Containers delivered to the Port are weatherproof.
- ix) The Customer shall indemnify the Port, against all claims arising by reason of:
 - a) Any defects in any container or the contents thereof;
 - b) Any mixture or confusion of cargo; and/or
 - c) Shifting or movement of the cargo.
- x) Overweight Containers:
 - (a) It is the Customer's responsibility to ensure that the Container's weight is within the weight limits as prescribed on the container's specification plate (**CSC Plate**) or any other applicable statutory regulation.
 - (b) In case the weight of cargo or container is understated in the declaration submitted by the Customer, the handling of such cargo or container is at the sole risk and responsibility of the Customer and Customer hereby indemnifies the Port against all injury, loss and damage resulting from the handling of such cargo or container. The Port reserves the right to arrange for weighing of Containers suspected to be overweight.
 - (c) In the event that a Container is found to exceed the maximum weight specifications of the Container then the Port Operating Company will not accept the unit. The Port Operating

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Company shall endeavour to offer facilities for de-stuffing or cross-stuffing of such overweight Containers.

(d) If the Container weight is found to be mis-declared, then all charges related the weighing of the Container shall be on account of the operator of the container (Customer of the Port Operating Company), in addition to penalties for mis-declaration as specified in the Bahrain Ports Tariff.

(e) The Customer shall be responsible for ensuring that the trucks used for transportation are structurally sound, road-worthy and have the required load bearing capacity to handle Containers and/or Non-containerised Cargo being received from or delivered to the Port Operating Company.

xi) If the Port Operating Company has permitted the use of third party equipment handling Cargo, then it is the obligation of the party sourcing the equipment to ensure that the equipment and its crew are properly certified and that the equipment meets all safety requirements of the Port Operating Company. Failure to comply with these requirements shall result in the equipment and its crew being denied entry into the Port.

3) Customs Rules & Regulations

i) Cargo related activities undertaken by the Port Operating Company are governed by the rules and regulations laid down by the customs authorities of the Kingdom of Bahrain.

ii) Cargo operations on a Ship can only commence once customs authorities have boarded the Ship and have customs cleared the Ship. The Ship operating agent is responsible for coordinating and arranging for customs clearance. The Port Operating Company does not take any responsibility for any delay in organizing customs clearance.

iii) The Ship operating agent is also responsible for submitting the required manifests to customs as per their deadline.


iv) Cargo needs to be customs cleared prior to release, by a customs clearing agent, who shall be appointed by the consignee for this purpose.

v) Cargo and Containers for exports are only accepted through the gate by the Port Operating Company, subject to customs approval.

vi) The Port Operating Company is not responsible for any disputes or delays arising on account of the customs authorities.

4) Delivery Orders

i) The Customer will appoint an agent in the Port for the purposes of this TOB, and shall make the same known to the Port Operating Company by notice in writing. The Port Operating Company

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shall not be required to deliver or otherwise deal with any Container or Cargo except with the authority of a delivery order signed by the Port agent.


- ii) The Customer shall ensure that the Port agent registers with the Port Operating Company, specimen signature(s) of the person(s) authorised to sign on its behalf. The Port Operating Company shall be entitled to deliver or otherwise deal with any Container or Cargo in accordance with a delivery order which appears to it after comparison with the specimen signature(s) registered with it, to have been properly signed by the agent, and shall not be liable to the Customer or any other person in consequence.

5) Hazardous Cargo and Dutiable Cargo

- i) The Customer shall ensure that all goods tendered to the port for loading and/or unloading, comply with all applicable regulations for Hazardous Cargo and/or Dutiable Cargo and shall indemnify the Port Operating Company against any breach of this section F (4) of this TOB.
- ii) Prior to accepting Hazardous Cargo bookings, it is the responsibility of the Customer to ensure that such Hazardous Cargo is permitted to be handled and stored at the Port.
- iii) The Customer warrants that full details of any Hazardous Cargo will be correctly declared in writing to the Port Operating Company.
- iv) Port Operating Company has the right to refuse to handle cargo which, upon inspection, is found not to comply with the applicable rules or regulations or ordinances or prevalent laws and to reject and/or return such Cargo at the sole expense and risk of the Customer.
- v) It is the responsibility of the Customer to ensure that all Containers with Hazardous Cargo are properly placarded with the correct IMO label prior to its entry as a full container into the Port. Likewise the Customer is expected to ensure that Containers de-stuffed of Hazardous Cargo are rendered free of IMO labels, prior to the empty Container being gated into the Port. Failure to comply with these requirements shall attract penalties as specified in the Bahrain Ports Tariff.

6) Valuable Cargo

- i) The Port Operating Company shall not be bound to accept Cargo of high value or which requires special care including, but without limitation:
 - a) Gold;
 - b) Silver;
 - c) Bullion, coins and currency notes;
 - d) Precious stones;
 - e) Precious metals;
 - f) Securities for cash and stamping;
 - g) Documents and title deeds;
 - h) Opium, essential oils and similar valuable drugs;
 - i) Lace, fur and feathers;
 - j) Works of art and paintings;

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- k) Scientific instruments of all kinds;
- l) Revenue or postal stamps;
- m) Gold, silver and platinum watches;
- n) Precious metal jewellery works; and
- o) Antiques;
- p) And any other valuables.

- ii) The Customer shall give the Port at least fifteen (15) days prior written notice of its intended delivery of such Cargo to the Terminal whether by Ship or transporter to enable the Port Operating Company to decide whether or not it will accept such Cargo. Under no circumstances shall the Customer deliver to the Terminal such Cargo, without the prior written approval of the Port Operating Company. If such Cargo is delivered to the Terminal without its prior written approval, then that Cargo will at all times be at the sole risk of the Customer and the Port Operating Company shall not be liable for any loss or damage howsoever caused to such Cargo.
- iii) Notwithstanding the prior written approval of the Port Operating Company in accordance with Clause F6(ii) above, the port's liability for loss of and/or damage to valuable Cargo as described in clause F6(ii) above shall be limited to the amounts as set out in Clause F(21) except to the extent the Port Operating Company agrees in writing to a higher limit on liability in a particular case. The Customer shall be responsible for any additional costs of insurance (including, but not limited to, additional premiums and fees) that the Port Operating Company incurs as a consequence of acceptance of valuable Cargo.

7) Lien

- i) All Containers, cargo and all documents relating to Containers and Cargo shall be subject to a particular and general lien respectively for charges due to the Port Operating Company in respect of such Containers or Cargo from the Customer. If any charges are not paid within one (1) calendar month after notice requiring payment has been given to such Customer, the Containers or cargo subject to such lien, may be sold and the proceeds applied in or towards satisfaction of the outstanding charges and the costs incurred by the Port Operating Company in such sale. Any sale of Containers or cargo by the Port Operating Company pursuant to these TOB, may be conducted by a private treaty, by public auction or otherwise in such manner as the Port Operating Company shall in its sole discretion determine and the Port shall not be liable for any loss and/or damage to any person whatsoever as a result thereof. This lien shall be in addition to any allowed by law.
- ii) Cargo in the Terminal that has the intention of being imported or exported, but remaining un-cleared, not taken delivery off or shipped out of the Terminal within a period of one hundred and eighty (180) days from the date of arrival at the Terminal, shall be subject to auction proceedings initiated by the Bahrain Custom Authorities. All costs and consequences arising as a result of such auction proceedings shall be solely on the account of the Customer.
- iii) Release of a Ship involved in any incident or accident will be subject to a letter of undertaking being received from the P&I club representing the Ship.

8) Costs and Expenses to be Paid by the Customer

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The Customer shall pay:

- i) Any costs and expenses which may be incurred by the Port in complying with any Government regulations requiring the movement, treatment, removal or destruction of Hazardous Cargo or infested, contaminated or condemned goods or the treatment of the Terminal's premises as a result of any infestation or contamination arising from such Hazardous Cargo; and
- ii) All costs and expenses incurred by the Port Operating Company arising out of or incidental to the failure by the Customer to observe these TOB including, but not limited to, the rules for Hazardous Cargo or any one of them.

9) Customer Portal

- i) Customer's portal TERMView shall be the preferred mode for processing service requests, reporting of activities and for payment of services.

10) Berthing and Productivity Guarantees

- i) The Port Operating Company does not offer any berthing or productivity guarantees to the Customer.

11) Right to Provide Services


- i) The Port Operating Company reserves the right to provide all services covered under the terms of the KBSP Concession. Included among these but not limited to, is the lashing of Cargo and the use equipment for performing Port Services. Any exceptions need to be specifically authorized in writing by management of the Port Operating Company.
- ii) The Port Operating Company shall be entitled to take suitable steps to recover any loss of revenue that is associated with an activity or service that was performed outside of KBSP Concession, for which the Port Operating Company has the exclusive rights to do so as per the terms of the KBSP Concession.

12) Aids to Navigation

- i) The Port Operating Company is not responsible for the deployment and maintenance of all the channel buoys at the Port or its approaches including light floats and radar beacons.

13) Accidents and Incidents

- i) Any individual who does anything in the Port that results in an incident involving injury to another individual, harm to the environment, damage, or an explosion, fire, accident, grounding, or stranding, must alert the Port Operating Company of the incident without delay on emergency response number +973 3888 5540.


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14) Leakage and Spillage

- i) The Customer shall be held liable for all costs and consequences arising as a result of any spillage or leakage in the Terminal arising on account of, but not limited to, cargo or use of third party equipment.
- ii) In the event of any leakage or spillage the Customer (respective shipping line or agent) involved shall be responsible for undertaking measures to restore the area affected by the spillage to its original condition prior to the spill/leak.
- iii) If the Customer fails to undertake cleaning within 48 hrs of the notification of spillage or leakage, then the Port Operating Company shall initiate steps as required to restore the condition of the affected area to its original state prior to the spill/leak. All costs incurred in this connection shall be fully recovered from the Customer, in addition to those stipulated in the Bahrain Ports Tariff.
- iv) Should the Customer undertake cleaning of the affected area, then an inspection to assess its condition after cleaning shall be conducted by the Port Operating Company. If the cleaning undertaken is deemed ineffective, then the Port Operating Company shall initiate steps as necessary to restore the affected area to its original condition prior to the spill/leak. All costs incurred in this connection shall be fully recovered from the Customer, in addition to those stipulated in the Bahrain Ports Tariff.

15) Work Permit Procedures

- i) Work Permit Procedures apply to all non-routine operations, maintenance, repair or other potentially hazardous operation in workshops, offshore (ships) and any facility within the Port.
- ii) Third parties intending to carry out work activities within the port are required to ensure that relevant Work Permits are obtained from the Port Operating Company. Such work carried out may include but are not limited to the following
 - a) Hot Work
 - b) Confined Space
 - c) Work over the Side/Water
 - d) Civil Work.
 - e) Pressure Systems Work.
- iii) The Port Operating Company shall be responsible for granting Work Permits for work activity undertaken only within its operational control. Hence for activities including but not limited to diving, engine immobilization/repair and hot-work on-board ships, the third party involved, shall be required to obtain a No-Objection Certificate (**NOC**) from the Harbour & Marine Manager, prior to commencement of such Work Activity.

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16) Fire Protection

- i) All Customers are expected to follow the fire protection and prevention measures established for the safety of persons and property in the Port.


17) ISPS

i) Ship - Port Facility Interface

- a) Only Ships possessing confirmed Cargo contracts and meeting the mandated advance arrival notification requirements are allowed entry into the berthing area.
- b) All Ships on international voyage must comply with applicable Flag State rules, international codes, protocols, and conventions. All such Ships must submit in advance a valid ISPS International Ship Security Certificate (**ISSC**), Crew list, and Declaration of Last 10 Ports of Call to the PFSO as specified in the Terminal procedures. Such Ships will be in possession of their own Ship Security Plans and are required also to monitor the surrounding areas for any suspect activity.
- c) Ships interfacing with the Port Facility should never be at a lower security level than the port facility. Section A/7.6, of the ISPS Code requires Ships to set Security Level 2 or 3, as appropriate, prior to entering any port where the Government has set a higher security level. Ships that are unwilling or unable to set the prescribed security level will be denied entry until the matter is resolved by the appropriate authorities.
- d) In the case of a Ship that is at a higher security level than that set by the Port Facility, the Ship is required to immediately notify the PFSO and appropriate Government authorities. Unless otherwise directed, the Port Operating Company will not raise the security level of the Port Facility level based on a Ship setting a security level higher than that prescribed by the Government or the Authority. While completing the DoS, as discussed in Section 7.1 of the ISPS Code, the PFSO and the SSO will mutually agree upon on all security measures to be implemented and any additional actions necessary to accommodate the special circumstance.
- e) Any situation which requires the use of weapons/firearms or ammunition by Ships while in the Port Facility must be cleared in advance with the PFSO.

ii) Access to Ships and the Port

- a) The Port Facility is ISPS certified and will use reasonable endeavours to enforce strict controls to prevent un-authorized access to the Port, as part of its compliance to the ISPS code.
- b) The Ship is responsible for maintaining proper security by restricting access to the Ship during its Port stay. All employees of the Port Operating Company, its sub-contractors and permanent Customers have been issued with plastic photo-ID cards. Additional security can however be provided by the Port Operating Company upon request at costs specified in the Bahrain Ports Tariff.

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- c) In keeping with safety rules, Ship's crew is expected to be attired in safety gear at all times while at the Port. Unescorted personnel in the Port Facility pose both unacceptable security and safety risks. An informative signboard is placed at each of the Ship's gangway for the benefit of the crew. This signboard includes a contact number (HSSE Duty Mobile +973 3888 5540) which may be used by the Ship's Master/ Crew (or their agents) to call for transportation within the Port Facility (for ex: Seafarer's Centre/ Duty Free area). Walking (especially without proper PPE) or using the Port Facility for any recreational activities is strictly prohibited. PPE (as a minimum) consist of a Helmet, Reflective vest and Steel toe shoes.
- d) The entry of private cars into the Port Facility is restricted. All Customers are encouraged to use the shuttle bus service which operates on a 24 hourly and 7 days a week basis throughout the Port Facility . Any exceptions made regarding the use of private cars, shall be at the sole discretion of the management of the Port Operating Company.

18) Stowaways


- i) Stowaways must stay onboard a Ship under the Master's responsibility.
- ii) Should a Customer's representative decide to repatriate the stowaway, all laws, regulations and requirements of the Government must be followed.
- iii) The stowaway will only be allowed to disembark from the Ship to board the flight;
- iv) If the stowaway escapes from the custody of the Customer's representative the Port Operating Company will inform the Authority, Agent and the Local Police and the Agent shall be responsible for all costs that might be involved;
- v) The Port Operating Company reserves the right not to allow such repatriation if it considers it may endanger its employees, agent or any person that might be involved in the process.

19) Information

- i) Ships, their Masters, Owners and Agents shall be required to permit access to Cargo manifests, loading or discharge lists, rail carrier or transport vehicle carrier freight bills or other relevant documents for the purpose of audit to determine the correctness of reports filed or for securing necessary data to permit correct billing of charges.

20) Communication Policy

- i) The Port Operating Company and the Customer shall work towards ensuring quick, clear, and concise communication for daily business needs. A communication matrix shall be established per documentation required, detailing the contact persons/addresses for both the port and the Customer. Frequency of reporting will be as mutually agreed according to the set deadlines.

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- ii) The Port Operating Company will maintain (EDI) transactions on all operations and stowage related data exchange according to the UN EDIFACT standard protocols and coding, or other standard protocol and coding to be mutually agreed from time to time.
- iii) The Customer and the Port Operating Company agree to exchange the following EDI messages:


Message	Contents
CODECO	Gate Moves
COARRI	Ship Moves
COPRAR	Discharge Instruction
COPRAR	Load Instruction
COPARN	Pre-advise for Exports
COREOR	Line Release
MOVINS	Inbound Stowage Instruction
BAPLIE	Bayplan/Stowage Layout

21) Claims

- i) Any claims for loss, damage, expense, accident or injury must be submitted in writing to the Port Operating Company immediately upon discovery (in addition to annotation upon any of the Port operator's documents at the Port), and in no event later than two (2) working days from occurrence. Notification of damage caused to Ships shall be an exception where the Customer shall be expected to notify the Port Operating Company within one (1) hour of the damage having occurred. Lack of timely notification shall be cause for denial of any such claims.


In any event, the Port Operating Company shall be discharged from all liability for loss or damage unless suit is brought within sixty (60) days from occurrence. If no such notice is given within the above periods any claim will be deemed waived and absolutely barred.

- ii) Any entity raising a claim against the Port Operating Company needs to have a contractual relationship with it. Failure on the part of the entity to prove such a contractual relationship shall result in the claim being rejected.

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22) Liability and Indemnity

- i) The maximum liability of the Port Operating Company to the Customer for loss of and/or damage to Containers in the custody of the Port (i.e. from the time of receiving up to and including the time of completion of loading onto any Container Ship or Container-transporter), where such loss and/or damage was caused exclusively by the gross negligence or wilful default of the Port Operating Company, its agents, servants or sub-contractors, in relation to each incident for each Container, shall be the lesser of either the depreciated value of the Container or the actual cost of the repair provided always that under no circumstances shall the claim exceed the following amounts:
- a) Depreciated value of the container or USD 500, whichever is less in the case of any 20' dry container;
 - b) Depreciated value of the container or USD 750 , whichever is less in the case of any dry container of more than 20' in length;
 - c) Depreciated value of the container or USD 3,000 , whichever is less in the case of any 20' reefer container; and
 - d) Depreciated value of the container or USD 4,500, whichever is less in the case of any reefer container of more than 20' in length.
 - e) And for the avoidance of doubt, in the absence of gross negligence or willful default, the Port Operating Company shall have no liability whatsoever for such loss and/or damage.
- ii) The maximum liability of the Port Operating Company to the Customer for loss of and/or damage to all Cargo in the charge of the Customer, its sub-contractors, agents or their assignees, whilst in the custody of the Port Operating Company, where such loss and/or damage was caused by the gross negligence or wilful default of the Port Operating Company, its agents, servants or sub-contractors, in relation to each incident for such cargo, shall be limited to the following:
- a) USD 500 in the case of any 20' dry container;
 - b) USD 750 in the case of any dry container of more than 20' in length; and
 - c) USD 1,500 in the case of any reefer container
 - d) And for the avoidance of doubt, in the absence of gross negligence or willful default, the Port Operating Company shall have no liability whatsoever for such loss and/or damage.
- iii) Without prejudice to what is stated in this clause in no circumstances shall the Port Operating Company's liability exceed the limits of liability in accordance with the terms and conditions contained within the Customer's Contract of Carriage or, if applicable, the Ship's limitation fund except to the extent the Port Operating Company agrees in writing to a higher limit on liability in a particular case.
- iv) The limitation of liability per incident under this Clause F(21) shall relate to the whole of any losses and damages which may arise upon any one distinct occasion, although such loss and/or damage may be sustained by more than one person, and shall apply whether the liability arises at common law or under any written law and notwithstanding anything in such written law. The Port Operating Company shall only be liable to a Customer for any loss or damage to a Ship (including gear and all other equipment) where such loss and/or damage was caused by the gross negligence or willful default of the Port Operating Company, its agents, servants or sub-contractors and notwithstanding anything contained in this TOB or elsewhere, the maximum


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liability of the Port Operating Company to the Customer in relation to each incident shall be limited to two hundred thousand United States Dollars US\$ 200,000.


Any damage caused to the Ship during its stay, is to be reported strictly to the Shift Manager on his duty mobile, within one (1) hour of occurrence of damage. Alternatively, it may be reported to the Assistant Manager or Planning-Operations may be notified on the duty mobile. The Port Operating Company will not be liable for any damages to the Ship, reported thereafter.

On being notified of damage caused to the Ship, the shift manager/superintendent on duty shall physically inspect the damage, together with the Ship's officer. In the event of damage, it shall be of mutual interest to have all attempts made to repair the damage prior Ship's departure and this would require near to immediate notification by Ship's crew. It may also be noted that claims for damages will be entertained only subject to its physical inspection by the Port, prior to the Ship's departure.

- v) The Port Operating Company shall not be liable to the Customer for any loss or damage to Hazardous Cargo or for any loss, delay, damage or personal injury (including death) arising out of bad stowage in Containers unless caused by gross negligence or willful default of the Port Operating Company, its agents, servants or sub-contractors and provided that the maximum liability of the Port Operating Company to the Customer in relation to each incident shall be the limits of liability in accordance with clause F 21 (ii) and subject however to Clause F 21 (iv).
- vi) The Customer shall be liable for and shall fully indemnify the Port Operating Company, its servants, agents and sub-contractors against any liability for claims or suits, including costs and expenses incidental thereto, in respect of loss of or damage to any property and death or injury suffered by any person caused by the negligence or default of the Customer, its servant or agents pursuant to these TOB or otherwise.
- vii) The Port Operating Company shall not, under any circumstances whatsoever, be responsible for or liable to the Customer for:
 - a) Any consequential or indirect loss or damage; or
 - b) Loss of profit, revenue, savings or contracts; injury to goodwill or reputation; or delay howsoever caused, including any breach by the port of its obligations under this contract or its breach of duty, negligence or gross negligence.
- viii) In respect of any claim arising under any indemnity in favour of the Customer contained in this contract the Customer shall:
 - a) Within fifteen (15) days after becoming aware of the claim, notify the Port Operating Company in writing of the claim (the "**Port Claim**") against which the Customer is seeking to be indemnified together with all details of Port Claim in the actual knowledge or possession of the Customer at the time and becoming known to it at any time thereafter;
 - b) Take such other steps as may be necessary or as the port may reasonably require to avoid or mitigate Port Claim;

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- c) Where the Port Claim relates to a claim by any third party against the Customer, not admit liability or make any offer, promise, compromise or settlement with the third party without the prior written consent of the Port Operating Company (which consent not to be unreasonably withheld or delayed); and
- d) Where the Port Claim relates to a claim by any third party against the Customer, at the request of the Port Operating Company and at Port Operating Company's cost, cooperate with the Port Operating Company or its insurers, in the defence, settlement and/or counter claim of such Customer claim.
- ix) Notwithstanding the remaining provisions of these TOB the maximum aggregate liability of the Port Operating Company to the Customer in any calendar year regardless of the cause of such claim and number of incidents shall in no circumstances exceed One Hundred Thousand United States Dollars (US\$ 100,000) provided that all amounts payable under any relevant insurances held by the Customer against any Customer claims shall be paid in full to the port within fourteen (14) days of receipt of the same by the Customer from the relevant insurer of the Customer. The port shall also not be liable for any claim with a value of less than five hundred United States Dollars (US\$500).
- x) Save as provided in this Clause F 21 the Port Operating Company shall not be under any liability to the Customer whether in contract, tort or otherwise in respect of the use of the port and the provision of port services for any death, personal injury, damage or loss resulting from the use of the port and the provision of the port services or from any work done in connection therewith.
- xi) The Port Operating Company does not give any warranty or representation that the Ship will not ground whilst approaching, leaving or lying alongside the Port Operating Company. Each Ship approaching, leaving and whilst lying alongside the Port Operating Company does so at the sole risk and responsibility of the Customer.
- xii) The Port Operating Company shall not be responsible for or liable in any way for any damage or loss suffered or incurred during the berthing and un-berthing of a Ship.
- xiii) The Customer shall be solely responsible for any damage to the Berth and or/to the Terminal, container port, equipment, fenders, mooring bollards, Ships, Ships belonging to the Port Operating Company or any third party, caused during or arising from the act of berthing or unberthing, whether by reason of incompetence or negligence of the Pilot in-charge of the Ship belonging to the Customer, or as a result of insecure or improper mooring of the Ship whilst alongside the wharf/Berths, and shall hold the Port indemnified, by payment on demand, against all claims, demands, losses, costs and expenses arising from any such damage, except it is solely caused by gross negligence or default of the Port, its servants or sub-contractors.
- xiv) The Customer and the master of the Ship shall be in sole charge of the Ship whilst using any of the wharves in the Port and Private Jetties and her safety shall be the sole responsibility of the Customer. The Customer shall be held responsible for any loss and/or damage that may arise from faulty navigation, or by reason of her breaking adrift from her moorings. No instruction or direction given, or act performed by the Port Operating Company or its officers shall place any

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responsibility upon the Port Operating Company, with respect to the security or safety of such Ship.

xv) In the event a Ship drifts away from the Terminal while berthing or otherwise, it will be the sole responsibility of the master of the Ship and the Customer.

xvi) The Port Operating Company shall not be responsible for the following events:


- a) Any non-compliance with the ISPS code, or any other related and necessary requirements which may prevent a Ship from being permitted to berth at a Berth at the Terminal.
- b) Breakdown, fire, explosion, sinking or any accident or incident which occurs on the Ship, caused solely due to the Customer, Ship owner's or Ship operator's fault resulting in the Ship being denied permission to berth at a Berth in the Terminal.
- c) Any decision taken by the Government authorities to prevent the berthing or un-berthing of Ships.

xvii) The Port will not be responsible or liable for any incorrect or delayed delivery of any container, its contents or Non-containerised Cargo which is insufficiently, incorrectly or otherwise not properly marked and/or in respect of which full and complete particulars in respect of such delivery have not been provided to the Port.

xviii) The Port shall not, under any circumstances, be responsible for or liable in any way for any damage to Containers or their contents or Non-containerised Cargoes caused by rust, rain, typhoon, flood, tempest, lightning, fire or any similar event or occurrence.

23) Insurance

- i) The Port Operating Company is under no obligation to maintain insurance of Containers, Cargo or contents of Containers or Non-containerised Cargo of the Customer.
- ii) The Customer shall:
 - a) Take out and maintain adequate hull and machinery and P&I Insurance in respect of its Ships, the later from a club being a member of the International Group of P&I Clubs, together with insurances adequate to cover its liabilities under this TOB.
 - b) If so requested, provide the Port Operating Company with a copy of certificate of insurance confirming that these requirements have been complied with. Such request or absence of such a request shall in no way be construed as waiving the Customer's obligations to arrange insurance required by law or under this TOB.
 - c) The Port Operating Company reserves the right to not allow those Ships to enter Port, which do not have adequate hull and machinery and P&I Insurance in respect of its Ships, the later

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from a club being a member of the International Group of P& I Clubs, together with insurances adequate to cover its liabilities under this TOB.

24) Force Majeure


- i) A Party shall not be liable for any failure to perform its obligations under this TOB caused by Force Majeure provided it gives prompt notification to the other Party of
 - a) The event of Force Majeure and its likely duration
 - b) The obligation(s) which are affected, and how affected, and provided that it takes all reasonable steps to mitigate the effects of Force Majeure.

25) Dispute Resolution


- i) Any dispute or difference arising between the Parties out of or in connection with this TOB shall promptly and in good faith be negotiated with a view to its amicable resolution and settlement.
- ii) In the event no amicable resolution or settlement is reached within a period of thirty (30) days from the date on which the dispute or difference arose, such disputes and/or differences shall be referred to the arbitration as per clause F(25) of this TOB.

26) Law and Jurisdiction

- i) This TOB shall be governed by and construed in accordance with the laws of England and Wales.
- ii) Any dispute arising out of or connection with this TOB shall be referred exclusively to arbitration in London in accordance with the Arbitration Act 1996 or any statutory modification or re-enactment thereof.
- iii) The arbitration shall be conducted in accordance with the London Maritime Arbitrators' Association (**LMAA**) terms current at the time when arbitration proceedings are commenced.
- iv) The reference shall be to three arbitrators. A Party wishing to refer a dispute to arbitration shall appoint its arbitrator and send notice of such appointment in writing to the other Party requiring the other Party to appoint its own arbitrator within fourteen (14) calendar days of that notice and stating that it will appoint its arbitrator as sole arbitrator unless the other Party appoints its own arbitrator and gives notice that it has done so within the fourteen (14) days specified.
- v) If the other Party does not appoint its own arbitrator and give notice that it has done so within the fourteen (14) days specified, the Party referring a dispute to arbitration may, without the requirement of any further prior notice to the other Party, appoint its arbitrator as sole arbitrator and shall advise the other Party accordingly. The award of a sole arbitrator shall be binding on both Parties as if he had been appointed by agreement.

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- vi) Nothing in this Clause F (25) shall prevent the Parties agreeing in writing to vary these provisions to provide for the appointment of a sole arbitrator.
- vii) In cases where neither the claim nor a counterclaim exceeds the sum of USD 50,000 or such other sum as the Parties may agree, the arbitration shall be conducted in accordance with the LMAA Small Claims Procedure current at the time when the arbitration proceedings are commenced.
- viii) Notwithstanding the above, the Parties may agree at any time to refer to mediation any difference and/or dispute arising out of or in connection with this TOB. In the case of a dispute in respect of which arbitration has been commenced, the following shall apply:-
- a) Either Party may at any time and from time to time elect to refer the dispute or part of the dispute to mediation by service on the other Party of a written notice (the "**Mediation Notice**") calling on the other Party to agree to mediation;
 - b) The other Party shall thereupon within fourteen (14) calendar days of receipt of the Mediation Notice confirm that they agree to mediation, in which case the Parties shall thereafter agree a mediator within a further fourteen (14) calendar days, failing which on the application of either Party a mediator will be appointed promptly by the Arbitration Tribunal (the "**Tribunal**") or such person as the tribunal may designate for that purpose. The mediation shall be conducted in such place and in accordance with such procedure and on such terms as the Parties may agree or, in the event of disagreement, as may be set by the mediator;
 - c) If the other Party does not agree to mediate, that fact may be brought to the attention of the tribunal and may be taken into account by the tribunal when allocating the costs of the arbitration as between the Parties;
 - d) The mediation shall not affect the right of either Party to seek such relief or take such steps as it considers necessary to protect its interest;
 - e) Either Party may advise the tribunal that they have agreed to mediation. The arbitration procedure shall continue during the conduct of the mediation but the tribunal may take the mediation timetable into account when setting the timetable for steps in the arbitration;
 - f) Unless otherwise agreed or specified in the mediation terms, each Party shall bear its own costs incurred in the mediation and the Parties shall share equally the mediator's costs and expenses; and
 - g) The mediation process shall be without prejudice and confidential and no information or documents disclosed during it shall be revealed to the tribunal except to the extent that they are disclosable under the law and procedure governing the arbitration.
- ix) Judgment upon the award rendered may be entered in any court having jurisdiction or application may be made to such court for a judicial acceptance of the award and an order of enforcement, as the case may be.

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- x) The Parties shall use every reasonable endeavour to resolve disputes between them in the shortest possible time consistent with the proper presentation to the expert or arbitration tribunal of their submissions and evidence. The Parties will in particular seek, in the absence of any reasonable excuse, to make such submissions and present such evidence within a period of thirty days from the commencement of the proceedings. In the event of unreasonable delay by either Party, the expert or the arbitration tribunal shall be entitled to make an award even if that Party has failed to make or complete its submissions.

G. INVOICING AND PAYMENT

1. In consideration for the provision of the port services by the Port Operating Company to the Customer as per this TOB, the Customer shall pay the Port Operating Company the applicable public tariff rates.
2. If any tax in the nature of a consumption tax, a value-added tax, a goods and/or services tax or similar tax (the “**Tax**”) is, or becomes payable in relation to this TOB under applicable law, during the provision of Port Services, and in case the services rendered under this TOB, come directly under the purview of such an enactment/ amendment and the Tax becomes payable by or is recoverable from the Customer in terms and in accordance with such law, then the Customer shall, in addition to the applicable public tariff rates also be liable to reimburse the port for an amount equal to the Tax.
3. The Customer shall pay all charges in advance to the Port Operating Company before requesting for any of the Port Operating Company’s services under this TOB.
4. General Cargo related services rendered by the Port Operating Company, shall be strictly on cash basis only.
5. Credit limits if granted for Container related services, shall be based on specific terms and conditions approved by the Port Operating Company’s management, which may include among others, the placement of adequate bank guarantees with the Port Operating Company.
6. The preferred mode of payment of charges to the Port Operating Company is by cash.
7. The Port Operating Company accepts payments in the form of cash, cheques and bank transfers. In the event of cheques being dishonoured, the Port Operating Company shall withdraw cheque payment services.
8. In case payment by credit cards is accepted by Port Operating Company as an exception, then the Customer shall be expected to bear the services charges applicable per transaction.

H. EDI SYSTEM

1. Scope
 - i. This section H shall apply (without prejudice to the other sections in this TOB) only where the Port Operating Company has agreed in writing with the Customer for the partial or

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exclusive transmission and interchange of messages between the Parties by means of an EDI system.

- ii. Upon such agreement, the Customer and the Port Operating Company shall become subscribers to the intermediary service and shall exchange all identification details and similar information to enable each Party to effectively utilise the intermediary service.


2. Application

- i. Until such time as the Parties mutually agree that the EDI system may be used exclusively, it is agreed that the EDI system shall be operated in parallel with an accepted manual system. In case of inconsistencies, any message transmitted through the EDI system shall prevail.
- ii. The Port Operating Company shall determine and monitor the progress of the development, implementation and priority of the EDI system.
- iii. All message transmissions must properly identify the sender and recipient and comply in all respects with the user manuals and such of the intermediary service standard conditions as may be applicable from time to time.
- iv. If the sender issuing a message transmission requires a confirmatory receipt and does not receive the same, the original message should be retransmitted until a receipt is received.
- v. The intermediary service mailbox receiving date and time of the message (or of the first or original message in case of repeated transmission of the same message) shall be treated as the receiving date and time of the message by the recipient.

3. Message Data Log

- i. The Parties shall maintain (without modification) a Message Data Log including details of times of transmission and examination of the intermediary service mailbox. Data contained in the Message Data Log shall be retained by way of record for a period of not less than twelve (12) months.
- ii. The Message Data Log may be maintained on computer media or other suitable means provided that, if it is necessary to do so, the data must be capable of being readily retrieved and presented in legible form.
- iii. Each of the Parties shall be responsible for making such arrangements as may be necessary for the data contained in its Message Data Log to be prepared and maintained as a correct record of each message transmission and message retrieval.

4. Service Interruption

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- i. The Parties acknowledge that in the event of any complete or partial breakdown or failure of the EDI system and/or the intermediary service, they will take all necessary steps to ensure the continued transmission and receipt of relevant messages, notices and information by alternative and/or additional means such that the operation of the contract is not adversely affected.

5. User Manuals

- i. The Port Operating Company reserves the right to amend the user manuals from time to time, such amendment to be notified to the Customer at which time the amendment shall become immediately operative.


6. Security of Messages

Each of the Parties shall:

- i. Take reasonable care in so far as it is within its power to do so to ensure that messages are secure and that unauthorised access to its EDI system, Message Data Log and the intermediary service system is prevented;
- ii. Ensure that messages containing confidential information as designated by the sender of the message are maintained by the recipient in confidence and are not disclosed to any person not otherwise authorised or used by the recipient outside the terms imposed by the sender. Any authorized disclosure to a third party shall be made only after getting a prior written approval of the Port Operating Company;
- iii. Apply special protection, where permissible, by encryption or by other agreed means, to those messages which the Parties agree should be so protected. Unless the Parties otherwise agree, the recipient of a message so protected shall use at least the same level of protection for any further transmission of such message.

7. Integrity of Messages

- i. The Parties accept the integrity of all messages and agree to accord these the same status as would be applicable to notices or information sent other than by electronic means, unless such messages can be shown to have been corrupted as a result of technical failure on the part of any machine, system or transmission by the Customer.
- ii. Where there is evidence that a message has been corrupted or if any message is identified or capable of being identified by the sender as incorrect, it shall be re-transmitted as soon as practicable with a clear indication that it is a corrected message.
- iii. The sender is responsible and shall use its best endeavours to ensure that messages are complete and correct. Notwithstanding the foregoing, the recipient must immediately inform the sender if it is, or should in all the circumstances, be reasonably obvious to the recipient that the transmission of such message is incomplete, incorrect or otherwise

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deficient and in no event shall any of the Parties be liable under this Clause G 8 (iii) for the consequences of any such deficiency.

- iv. If the recipient has reason to believe that a message is not intended for it, it should take reasonable action to inform the sender and should delete the information contained in such a message from its system apart from the Message Data Log.

8. Limitation on Liability

- i. Without prejudice to the other provisions of these TOB, none of the Parties shall be responsible for any direct, indirect or consequential loss or damage suffered by the other Party or any third party howsoever arising solely as a consequence of the use of the EDI system, whether caused by the Parties or otherwise, including but not limited to the use or misuse of the user manuals, the interruption or failure of the intermediary service, the EDI system, machines or transmission lines contributory thereto, or any other failures whether or not attributable to human error.

9. Termination

- i. The use of the EDI system by the Parties may be terminated (without prejudice to the continuing application of the remaining clauses of these TOB) by one Party giving to the other not less than three (3) months' notice or otherwise automatically upon termination of the provision of Port Services between the Parties, whereupon the transmission of any message, notice or information between the Parties shall revert to the existing manual or other agreed system.
- ii. Notwithstanding the termination of the use of the EDI system for any reason:-
 - a) Each of the Parties shall complete and/or implement any action required by any message sent prior to such termination; and
 - b) The rights and obligations of each of the Parties as to the maintenance of a Message Data Log and the security of messages shall continue after such termination and the termination of the contract.