TERMINAL SERVICES STANDARD TERMS AND CONDITIONS ("CONDITIONS")

1. DEFINITIONS AND INTERPRETATION

1.1 In these Conditions, the words and phrases below have the following meanings:

Agreement means these Conditions, inclusive of all schedules and appendices hereto, subject to such modifications made by the Operator from time to time.

Berthing Window Plan means the berthing window plan relating to any Terminal Services to be provided by the Operator to the Customer in respect of Customer Vessels.

Business Day means a day (other than a Saturday or Sunday or declared public holiday) on which banks are open for business in the state where the Terminal is located.

Cargo means any goods, merchandise or other property whatsoever, whether or not in a Container and includes goods carried on Equipment (other than a Container).

Chain of Responsibility Laws means any Commonwealth or State law or regulation relating to chain of responsibility obligations, including laws and regulations relating to driver fatigue, fatigue management, vehicle mass and dimension, vehicle maintenance, loading requirements (including load restraint), speed management, towing and coupling requirements, vehicle permits, transport documentation for goods, container weight declarations and dangerous goods.

Claim means any claim by any person for loss or damage arising out of or relating to any or all of the Cargo, any Container, any Vessel or Vessel's equipment, the Terminal Services or any delay or other failure in supplying the Terminal Services pursuant to these Conditions.

Competent Authority means any national, regional, local or other authority, ministry, inspectorate, department, court, arbitral tribunal, administrative agency or commission or any other governmental, municipal, administrative or regulatory body, to the extent it has jurisdiction over either or both of the parties, the Cargo, the Vessel, the Terminal or the Services.

Confidential Information of a Party means information of a confidential nature which is communicated by or on behalf of that Party to the other Party, including, without limitation, information relating to the financial or trading position of the first- mentioned Party and practices, techniques, processes, trade secrets and know-how relating to the operation of the Terminal (being Confidential information of the Operator) or of a Customer Vessel (being Confidential information of the Customer).

Consequential or Indirect Loss means any loss or damage (including incidental, exemplary or indirect loss, or special damages) that, although in the contemplation of the parties at the time they entered into this agreement, is not loss or damage which may fairly and reasonably be considered to arise naturally (that is, in the usual course or things) from the breach or other acts or omission, including loss of income or revenue, loss of profit, loss of incentive payments, loss of use, contracts or business opportunity, loss or corruption of data, payment of liquidated sums, penalties or damages under any agreement (other than this Agreement), and any other loss which, at Law, would be deemed to be an indirect or consequential loss arising from the act or omission in issue and a liability to third parties, but excludes loss arising from criminal acts or fraudulent acts omissions or misrepresentations, third party property damage, personal injury, nervous shock or death.

Container means any container, flat-rack, open top, artificial tween-deck, pallet-wide, platform, Reefer and tank container, bolster or other unit conforming with ISO dimensional standards for international shipping and which is owned, leased, chartered, managed, operated and/or used by the Customer.

Contract of Carriage means a bill of lading or other transport document, evidencing contracts of carriage, being issued in respect of Cargo.

Corporations Act means Corporations Act 2001 (Cth).

Credit Period has the meaning given to that expression in clause 7.1.

Criminal Code means the Criminal Code Act 1995 (Cth).

Custody has the meaning given to it in clause 3.6.

Customer means any person to whom or on behalf of whom Operator provides any Service including the owner of, charterer (of whatever nature) of, the Vessel, the members of any shipping consortium or alliance or any person who is or may become interested in a Vessel calling at the Terminal, the Vessel's master and any person who has control of the operation of such Vessel.

Customer's Visitors means all employees, agents, subcontractors and any other person whom the Customer may direct or invite to enter the Terminal.

Dispute means a dispute arising out of or relating to these Conditions including without limitation, a dispute about the breach, termination, validity or subject matter of these Conditions, or a claim in equity or in tort relating to the performance or non-performance of these Conditions.

EDIFACT means the United Nations standards for Electronic Data Interchange for Administration, Commerce and Trade.

Equipment means any plant, machinery, Container, package, case, pallet, vehicle, trailer, truck or wagon of any description which is not owned or leased by Operator and which is not Cargo.

E-services means all the electronic services offered by Operator through various e-service platforms.

ETA means the estimated time of arrival.

Facility Security Plan means the security plan established by the Operator in relation to the operation of the Terminal, as amended from time to time.

Good Industry Practice means the exercise of that degree of skill, diligence, prudence, foresight and practice which would reasonably and ordinarily be expected from:

(a) in relation to the carriage of containerised and un- containerised cargo by sea, an experienced shipping operator; and

(b) in relation to Services, an experienced port terminal operator, under the same or similar conditions.

Hazardous Cargo means Cargo of any kind which is or may become dangerous (whether or not so listed in any applicable law, regulations, codes or requirements), inflammable, damaging, injurious (including radioactive materials), toxic, noxious, liable to give off injurious gas, fumes or liquid or which is or may become liable to contaminate, injure, pollute or damage or be a nuisance to the environment, any property and/or person whatsoever.

IMDG means the International Maritime Dangerous Goods Code, as amended from time to time.

Insolvency Event means in relation to any Party:

(a) the appointment of a mortgagee, receiver, receiver and manager, liquidator, provisional liquidator or any kind of external administrator to that Party or any of its assets or business;

(b) the entering into of any arrangement or compromise between that Party and its creditors;

(c) that Party seeking protection from its creditors under any Law, entering into a compromise, moratorium, assignment, composition or arrangement with, or for the benefit of, any of its members or creditors;

(d) that Party ceasing to be able to pay its debts as and when they fall due;

(e) that Party ceasing to carry on its business in the ordinary course;

(f) that Party being subject to any analogous event or circumstance to those described in paragraphs (a) to (d) under any law; or

(g) that Party taking any step or being the subject of any action that is preparatory to, or reasonably likely to result in, any of the above.

ISPS Code means the International Ship and Port Facility Security Code forming part of the Safety of Life at Sea (SOLAS) Convention of the International Maritime Organisation.

Laws means all applicable international, Commonwealth and state laws, including any relevant standards, awards, codes, rules and regulations (including without limitation, Port Authority regulations, AMSA Marine Orders, IMO Dangerous Goods Code, collective bargaining agreements and any awards and laws applicable to the Operator's employees and applicable regulations introduced pursuant to the ISPS Code).

Operations Manager means any manager duly appointed from time to time by Operator to oversee any operation at or on the Terminal and shall include their deputies and/or assistants.

Operator means **DP World Australia Limited (ACN 129 842 093)** of Level 40, 25 Martin Place, Sydney, NSW, Australia, and where applicable or where the context requires, includes the Relevant TOC.

Operator Group means the Operator and its Affiliates and “member of the Operator Group” shall be construed accordingly. For the purpose of this definition: (i) Affiliate means, in relation to a person, any other person which directly or indirectly Controls, is Controlled by or is under common Control with that person, and (ii) Control means, in relation to a person, the direct or indirect ownership of more than 50 per cent of the voting capital or similar right of ownership of that person or the legal power to direct or cause the direction of the general management and policies of that person whether through the ownership of voting capital, by contract or otherwise, and Controls and Controlled shall be interpreted accordingly.

Party means a party to this Agreement and includes that party’s successors and permitted assigns and **Parties** shall have a corresponding meaning.

Port means the ports of Brisbane, Sydney, Melbourne and Fremantle.

Receival Advice means the declaration of the Customer, shipper or packer in respect of the Container or Cargo being imported or exported.

Reefer means any Container requiring refrigeration.

Related Body Corporate has the meaning given to that term in the Corporations Act.

Relevant TOC means, with reference to the table below the TOC performing the Terminal Services at the corresponding Terminal called at by a Vessel:

TERMINAL	RELEVANT TOC	ADDRESS
Sydney	DP World Sydney Limited (ACN 001 351 159)	Level 40, 25 Martin Place, Sydney, NSW, Australia
Melbourne	DP World Melbourne Limited (ACN 000 049 301)	
Brisbane	DP World Brisbane Pty Limited (ACN 130 876 701)	
Fremantle	DP World (Fremantle) Limited (ACN 009 106 763)	

Services or **Terminal Services** means all services and activities performed or arranged, and all the facilities made available, by Operator, in each case whether gratuitous or not.

SOLAS Convention shall mean the International Convention for the Safety of Life at Sea 1974 of the International Maritime Organisation (SOLAS) as supplemented by the SOLAS Guidelines as amended from time to time.

SOLAS Guidelines means the guidelines issued under the SOLAS Convention including those regarding the verified gross mass of a container carrying cargo (MSC.1/Circ.1475) published by the International Maritime Organization, as amended or updated or replaced from time to time.

SOLAS Requirements means any law, order or regulation introduced pursuant to the SOLAS Convention.

Tariffs or **Charges** means the charges payable by the Customer to the Operator for the Terminal Services, as amended from time to time, in the Tariff Schedule provided by the Operator.

Tariff Schedule means the tariff schedule provided to the Customer upon request.

TOC means terminal operating company.

Terminal means the Container or multi-purpose Terminal operated by Operator at the Port, and any land thereon or adjacent thereto leased or otherwise occupied by Operator or Relevant TOC for the purposes of providing its Services.

Users means the (i) Customers (including Customer's Visitors) and (ii) owner, or any other person who is or may become interested in, or entitled to possession of, the Cargo; (iii) the owner, or any other person who is or may become interested in, or entitled to possession of, the Containers, or in any Equipment; (iv) the owner, or any other person who is or may become interested in, or entitled to possession of, any road or rail vehicle which enters the Terminal; and (v) any person who drives or operates such vehicle and (vi) any person who uses and/or enters the Terminal.

Vessel means any ship, container ship, barge, lighter or other ship of any description, including all lashing equipment for the proper securing of Containers, Equipment or Cargo, its gear and all other equipment or other property on board.

Vessel GA Plan means the Vessel general arrangement plan.

VGM or **Verified Gross Mass** means the total gross mass of a packed container as obtained by one of the two methods prescribed by the SOLAS Convention and otherwise in accordance with applicable laws.

VGM Procedures means any procedures or requirements for the production and provision of a VGM in accordance with applicable Laws, including any procedures or guidance published or made available from time to time by the Operator (or service provider 1-Stop Connections Pty Ltd), such as the guidance available at https://help.onestop.co/hc/en-us/articles/20750644223385-Third-Party-PRAs-Common-reasons-for-PRA-rejection.

Working Day means any day in which receival and/or delivery is available at the Port excluding closed port days nominated by the Operator, even if worked.

1.2 In these Conditions:

1.2.1 each sub-clause shall be construed severally;

1.2.2 where the context permits, words in the singular shall include the plural and vice versa and words importing any gender shall include all other genders;

1.2.3 where the context permits, any reference to: (i) Containers will include laden and empty Containers; (ii) Cargo will include the Equipment the Cargo is contained or carried on or in and (iii) Equipment will included loaded and empty Equipment;

1.2.4 the words **include(s)** or **including** shall be deemed to have the words "without limitation" following them.

1.3 Legislation

1.3.1 If any Laws are compulsorily applicable and cannot be derogated from, these Conditions shall, in so far as possible, be construed in accordance with such Laws. If any of these Conditions are found by any competent court or tribunal to be contrary to such Laws, these Conditions shall be varied only to the extent necessary to comply with such Laws[1].

1.3.2 Nothing in these Conditions shall operate to limit or deprive Operator of any statutory protection, defence, exception or limitation of liability authorised by any Laws, and Operator shall have the full benefit of such Laws.

2. APPLICATION OF THESE CONDITIONS

2.1 These Conditions shall apply to:

2.1.1 all Services provided, or made available, by Operator or the Relevant TOC;

2.1.2 the use by any User of the Terminal and/or the facilities at the Terminal;

2.1.3 all Vessels which berth at the Terminal.

2.2 In the absence of express acceptance by the User of these Conditions, by receiving or using the Services from Operator, or by using or entering the Terminal, including by berthing any Vessel at the Terminal, the User is deemed to have read, understood and agreed to these Conditions, without amendment.

2.3 These Conditions shall apply to the exclusion of any printed (whether in electronic form or otherwise) terms and conditions of any purchase order or other correspondence or documents issued by the User in connection with the Services unless expressly accepted in writing.

2.4 There shall be no variation to these Conditions unless expressly agreed by both Parties in writing. Any notice to be given under these Conditions must be given in writing to the registered

office of Operator or the User or the branch or agency office of the User through which it has dealt with Operator in respect of the Services.

2.5 The User represents and warrants that it will bring these Conditions (including the limits, defences, exceptions, liberties and exclusions herein) to the attention of any person who the User may instruct to enter upon the Terminal or otherwise deal with Operator including any subcontractor, agent, employee or other party instructed by the User.

2.6 The User shall ensure that it is familiar with, and that it follows, any regulations, instructions or directions issued by Operator, the Operations Manager, any Operator employee or any authorised agent of Operator which relate to the use of the Terminal, entry thereon or the use of any Equipment or Vessel there on or there at.

2.7 The User shall ensure that any third party which it might instruct to enter on to the Terminal (including any subcontractor, agent, employee or other party) is familiar with any such regulations, instructions or directions.

2.8 If the Customer has appointed an agent, or if Operator reasonably believes that the Customer has appointed an agent, in respect of the Services the Customer shall be deemed to have authorised such agent to act on its behalf in respect of all matters hereunder including to pay to or receive from Operator all sums due under these Conditions unless the Customer notifies Operator to the contrary at any time and Operator shall be entitled to act upon any instruction, request, notice or other communication from such agent without prior reference to the Customer.

2.9 The User is solely responsible for, and will indemnify the Operator and hold the Operator harmless from, all and any duties, taxes, imposts, levies, deposits and outlays of whatsoever nature levied by any Competent Authority and/or any expenses incurred in complying with the requirements of any authority in relation to the Cargo, Equipment and/or Vessel.

2.10 These Conditions do not create a relationship of employer and employee, principal and agent (except for the limited purpose stated in clause 9.8) or partnership between the Operator and the Customer.

3. SERVICES PROVIDED

3.1 Operator will provide the Services using reasonable care and skill.

3.2 Subject to specific written instructions given by the User and accepted by Operator in writing, Operator reserves to itself complete freedom in respect of the means and procedures to be employed in the provision of the Services. Operator may deviate from the User's instructions (whether or not accepted by Operator) in any respect if Operator considers it is necessary in the interest of the User and the User shall reimburse Operator with all reasonable expenses incurred thereby.

3.3 Operator will exercise reasonable despatch in providing Services but will not be liable for any delay whatsoever, howsoever caused (including negligence), unless a special arrangement is agreed to the contrary in writing with Operator. If such arrangement is agreed, Operator's liability will be limited in accordance with clause 8.6.5.

3.4 Operator may, at its discretion, arrange for the Services or any part thereof, to be carried out by one or more sub-contractors or agents on any terms whatsoever. Where such a sub-contractor is appointed at the request of the Customer, Operator shall have no liability for the acts or omissions of sub-contractor.

3.5 Annexure A details certain Services, and the terms that apply to the provision of those Services.

3.6 Custody

3.6.1 Containers, non-containerised Cargo and Equipment shall be deemed to be in the custody of Operator:

(a) in respect of import Containers, non-containerised Cargo or Equipment: when the Container, non-containerised Cargo or Equipment is physically lifted off from the Vessel's deck, hold or from the top of other Containers on the Vessel;

(b) in respect of export Containers, non-containerised Cargo or Equipment: when the Container, non-containerised Cargo or Equipment is (i) physically lifted off from the truck or wagon by Operator's cargo handling equipment for stacking at the container yard of the Terminal or (ii) detached from the incoming truck;

(c) in respect of transhipment Containers, non-containerised Cargo or Equipment: when the Container, non-containerised Cargo or Equipment is physically lifted off from one Vessel's deck, hold or from the top of the Containers on one Vessel.

3.6.2 Containers, non-containerised Cargo and Equipment shall cease to be deemed to be in the custody of Operator:

(a) in respect of import Containers, non-containerised Cargo or Equipment: when the Container, non-containerised Cargo or Equipment is (i) mounted onto the withdrawing truck or wagon by Operator's cargo handling equipment for delivery to the consignee or (ii) attached to the withdrawing truck for delivery to the consignee;

(b) in respect of export Containers, non-containerised Cargo or Equipment: when the Container, non-containerised Cargo or Equipment is restowed on the Vessel's deck, hold or on top of another container on the Vessel (as from locking twist locks on board);

(c) in respect of transhipment Containers, non-containerised Cargo or Equipment: when the Container, non-containerised Cargo or Equipment is restowed on another Vessel's deck, hold or on top of another container on another Vessel (as from locking twist locks on board).

3.6.3 With regards to any vehicle which is driven by a passenger using the Terminal as the point of embarkation or disembarkation in connection with travelling on a passenger Vessel (**Passenger Vehicles**), the Operator shall only be liable in respect of any damage to or loss of a Passenger Vehicle whilst the Passenger Vehicle is on land within the Terminal. The Operator accepts no liability in respect of such loss or damage after such Passenger Vehicle has crossed the Vessel’s loading ramp to embark that Vessel or before such Passenger Vehicle has left the Vessel’s loading ramp to disembark that Vessel. The Operator accepts no liability in respect of damage to Passenger Vehicles resulting from the malfunctioning of any apparatus or equipment belonging to a Vessel and used for loading Passenger Vehicles. The Operator accepts no liability in respect of damage to or loss of Passenger Vehicles resulting from the instructions issued to the drivers of those Passenger Vehicles by or on behalf of the Customer or its appointed agent during the embarkation or disembarkation of those Passenger Vehicles.

3.7 Without prejudice to any other rights under these Conditions or otherwise, Operator reserves the right, but is under no obligation, to:

3.7.1 open and/or inspect any Containers, Equipment, Vessel and/or Cargo;

3.7.2 remove Cargo and/or Equipment immediately which the Operator reasonably believes is Hazardous Cargo and to dispose of such Cargo and/or Equipment without notice;

3.7.3 refuse to handle, move or otherwise deal with Cargo or Equipment which in Operator's opinion appear to be or may become Hazardous Cargo;

3.7.4 refuse acceptance of damaged or distorted Containers or Equipment, or of any Container or Equipment which in its opinion is in an unsatisfactory condition;

3.7.5 refuse to handle any Container or Cargo with a weight which exceeds its stated weight or the safe working load of any cargo handling equipment; or

3.7.6 take any action which Operator considers is reasonable to comply with applicable law and/or the lawful requirement of any Competent Authority.

3.8 The User shall be responsible for the safe keeping of any data, figures, passwords or other information of any nature entered within the E-services or any other computer or operating system used or operated by or on behalf of Operator or any other party and supplied to the User, its agents or employees which might be used to demand or otherwise facilitate the release of any Cargo or Equipment from Operator.

3.9 If Operator releases or allows the release of the Cargo or Equipment to a party who uses correct data, figures, passwords or other information as entered within the E-services or such other computer or operating system, Operator shall have no liability whatsoever for such release unless it can be shown that Operator was negligent in disclosing the data, figures, passwords or other information or in releasing the Cargo or Equipment. The burden of proving that Operator was negligent in the disclosure or release shall rest with the User.

3.10 Cargo and Equipment which for any reason whatsoever cannot be delivered at the time of delivery into the Terminal from a Vessel or otherwise will be placed on the quays, or elsewhere within the Terminal at the expense and risk of the User. Operator's charges, including quay rental, will be paid by the User. Details of Operator's charges will be provided to the User upon request.

3.11 If the User does not collect any Cargo or Equipment within thirty (30) days of a request from Operator to do so, Operator shall be entitled, without prejudice to any other rights that it may have against the User, to dispose of the Cargo or Equipment in accordance with the procedure set out in clauses 7.11 to 7.13, and thereupon the liability of Operator in respect of the Cargo or Equipment, or that part thereof shall cease.

4. USER WARRANTIES AND OBLIGATIONS

4.1 The User represents and warrants that:

4.1.1 it is either the owner of the Cargo, the Equipment or Vessel or that it is authorised by the owner and/or other persons interested in, or entitled to possession of, the Cargo, the Equipment or the Vessel to accept these Conditions not only for itself but also as agent and/or trustee for and on behalf of the owner or other persons interested therein, or entitled to possession thereof;

4.1.2 its servants (and those of any agents or independent contractors it may engage) are trained and competent to carry out the tasks at any time assigned to them in relation to the giving of any instructions to Operator or the inputting of any information into any electronic service or system operated, managed or utilised by Operator (which shall include the E-services platforms) whether such instruction or input of information is given in writing, verbally or by any electronic or any other means whatsoever and that such persons have the full authority to give such instructions or input such information;

4.1.3 all the documentation and information provided by or on behalf of the User in relation to the Cargo, Equipment and/or Vessel is full and accurate and is sufficient to enable Operator to handle them safely and in full compliance with applicable laws;

4.1.4 none of its activities conducted whilst at the Terminal violate any applicable anti-slavery and human trafficking laws, statutes, regulations and codes in force from time to time; and

4.1.5 it has complied with all relevant Laws relating to the carriage, handling and movement of the Cargo or Equipment and Operator accepts no responsibility whatsoever for the failure of the User to comply with such Laws or the consequences of such failure.

4.2 Unless otherwise specified in writing to the Operations Manager before the Cargo or Equipment is delivered to the Terminal, the User represents and warrants that any Cargo or Equipment which it delivers, directs to or causes to be upon the Terminal:

4.2.1 does not include, or is not, Hazardous Cargo;

4.2.2 is not infested, verminous, rotten or subject to fungal attack and not liable to become so while at the Terminal;

4.2.3 is not over-heated or under-heated or liable to become so while at the Terminal;

4.2.4 requires for its safekeeping no special protection (other than as may be agreed in writing between Operator and the User) arising from vulnerability to heat, cold, moisture, salt, pilferage or proximity to other Cargo or from flammability but will remain safe if left standing in the open or at the Terminal or in covered accommodation if agreed in writing with Operator;

4.2.5 contains no unauthorised controlled drugs, contraband, prohibited or stolen goods, pornographic or other illegal material or substances;

4.2.6 is properly and sufficiently packed in accordance with all Laws from time to time applicable and the codes of conduct, practice directions and SOLAS Requirements;

4.2.7 is properly and sufficiently prepared, marked, packed, stowed, documented and labelled for all carriage, handling, movement and other operations or transactions affecting them; and

4.2.8 is fit for their intended purpose and in a fit and proper condition to be handled or otherwise dealt with by Operator.

4.3 The User will immediately inform the Operations Manager of any occurrence or incident which might affect the safe and efficient operation of Operator or other persons using the Terminal and take, at its own cost, such reasonable steps to control or eliminate any danger or inconvenience as may be required by Operator. Without prejudice to the foregoing, the User shall indemnify and hold Operator harmless from and against any costs, fines, claims, indemnities or other losses of whatever nature arising from such occurrence or incident unless the occurrence or incident has been caused by the negligence of Operator.

4.4 All manifests, delivery orders, sub-orders, shipping notes/advices, consignment notes, documents of title, Cargo handling instructions and orders for any Services provided by Operator which are necessary for Operator's safe and efficient handling of the Cargo, Equipment or Vessel and/or compliance with any obligation imposed by government or regulatory authorities or any similar regulations, rules or requirements must accompany (where required) the Cargo, Equipment or Vessel and be lodged with the Operations Manager or E-services platforms before the Services are required to be performed. Any order given verbally must be confirmed in writing as specified above.

4.5 The User will be solely responsible for complying, and will comply, with all formalities, procedures, regulations, bylaws and guidance prescribed by any Competent Authority which apply to the Cargo, Equipment or Vessel and/or the use of Terminal.

4.6 Subject to alternative arrangements being agreed in writing with Operator any standard shipping note, dangerous goods note (where appropriate), temperature control document, or other document accompanying the Cargo or Equipment as required in clause 4.4 must specify marks and number of packages, description of Cargo, gross weight, any weight imbalances, cubic measurement, the name of any Vessel or port to which the Cargo are to be shipped (where appropriate), any special carriage or storage requirements in relation to the Cargo and the name and address of the User or company to whom charges are to be rendered.

4.7 A standard shipping note or dangerous goods note in respect of Hazardous Cargo must be clearly endorsed to that effect and the User shall provide all information, including the IMDG class and the UN number, necessary for Operator to perform its obligation in connection with such Hazardous Cargo in accordance with all applicable laws, regulations and/or requirements. The User shall ensure that the Cargo is labelled, and the Containers or Equipment distinctly marked, in accordance with applicable laws, regulations and/or requirements.

5. CUSTOMER WARRANTIES AND OBLIGATIONS

5.1 The Customer shall provide all the documents and information to the Relevant TOC to ensure safe and efficient Cargo and Vessel operations, including:

5.1.1 particulars of the Vessel, Vessel GA Plan, lashing manual, container stowage manual at the time the Vessel enters the relevant service;

5.1.2 discharge bayplan at the time the Vessel leaves the last port prior to calling on the Relevant TOC;

5.1.3 stowage and load instructions; and

5.1.4 any other relevant instructions;

at least 16 hours before the estimated time of arrival of the Vessel.

5.2 The Customer shall provide the Relevant TOC with at least 14 days' notice of the ETA of the Vessel and shall promptly advise the Relevant TOC of any changes to the ETA. The Relevant TOC will advise the Customer of the Berthing Window Plan upon receipt of the ETA.

5.3 The Customer will be deemed to have familiarised itself with and considered all conditions which could affect arrival, mooring, manoeuvring, unmooring and departure of any Vessel at the Terminal, including data relating to the Terminal and its surroundings, the minimum water depth (at any state of the tide) and any physical, surface and sub-surface condition and to have taken into account climatic condition (**Site Conditions**). The Customer acknowledges that Operator gives no warranty whatsoever in respect of the Site Conditions and it shall have no liability whatsoever and howsoever arising in respect of the Site Conditions.

5.4 The Customer shall use reasonable skill and care when berthing the Vessel at the Terminal.

5.5 The Customer shall comply with all Laws pertaining to security requirements and any Facility Security Plan and Operator shall have the right to refuse berthing and/or labour assignment to the Customer in the event of the Customer's non-compliance with any of such Laws or the Facility Security Plan.

5.6 The Customer warrants and represents to ensure that the Vessel is operated in compliance with all applicable Laws with respect to safety, stability, seaworthiness, fitness for purpose and security including, without limitation, regulations introduced pursuant to the ISPS Code.

5.7 If in circumstances where the Services are provided in respect of a Vessel, the Operator arranges for labour to work in accordance with the Berthing Window Plan or to service a Vessel during another berthing window as agreed between the Parties and

5.7.1 the Operator's labour is unable to work a shift or part of a shift due to the late arrival of the Vessel for any reason; or

5.7.2 the Operator's labour is prevented from working the Vessel due to:

(a) an event or occurrence within the control of the Customer;

(b) a fault in or on the Vessel;

(c) adverse or severe weather events;

(d) direction of a Competent Authority in relation to the Vessel, Vessel crew or Cargo; or

(e) delays caused by third parties;

the Customer shall be responsible for the costs of any labour which cannot be reasonably utilised elsewhere within the relevant Terminal.

5.8 At all times when a Vessel is berthed at the Terminal, the Customer shall ensure that the Vessel:

5.8.1 furnishes adequate lighting and safe ingress and egress (for the Operator's personnel);

5.8.2 maintains appropriately qualified and experienced officers and crew aboard in order to maintain an alert watch and respond to emergencies and to enable Operator to provide the Services;

5.8.3 maintains engines in a state of readiness to respond to emergency situations and to avoid delays in vacating the berth; and

5.8.4 its crew members adhere at all times to all health and safety rules of Operator notified to the Customer from time to time.

6. SOLAS AND CONTAINER VGMS

6.1 The User's attention is drawn to the SOLAS Convention, and to the VGM Procedures followed in order to address the SOLAS Convention and the need to provide a VGM for every export shipment loaded from the Terminal.

6.2 The User represents and warrants that it shall comply with the VGM Procedures and shall either supply to Operator and to any other relevant party a VGM or instruct Operator to provide a VGM in accordance with Operator's VGM Procedures.

6.3 If, and to the extent that, the User fails to comply with Operator's VGM Procedures, or where Operator reasonably believes that the VGM provided by or on behalf of the User is inaccurate or incomplete:

6.3.1 Operator may, in its absolute discretion, but shall not be obliged to, arrange for a VGM to be provided and the User shall be responsible for any costs or charges arising in relation to the provision of such VGM;

6.3.2 Operator may withhold the Cargo and any Container from shipment and arrange the storage of such Cargo and Container at the sole expense and risk of the Customer; and

6.3.3 the User shall pay any charges which Operator may raise in relation to the relevant Cargo or Container.

6.4 The User agrees that Operator may disclose the VGM to any party which may require disclosure of the VGM for any reason including the maritime and coastguard agency, any Competent Authority and any carrier or service provider interested in or concerned with the carriage or handling of the Cargo or Container.

6.5 The User represents and warrants that it is the shipper of the Cargo or Container for the purposes of the SOLAS Convention or that it is authorised by such shipper to instruct Operator to perform the Services in accordance with Operator's VGM Procedures.

6.6 The User shall pay any charges which Operator may raise in relation to its VGM Procedures and the User agrees to pay such charges.

7. CHARGES, EXPENSES AND LIENS

7.1 Unless otherwise agreed in writing, the Customer shall be charged the Tariffs / Charges in force from time to time for all Services provided and all charges shall be paid immediately upon presentation of an invoice whether this be before or after the Services have been provided (and in any event, no later than twenty-eight (28) days following the invoice date) (**Credit Period**).

The Customer shall confirm to Operator within three (3) Business Days after receipt by the Customer, the accuracy of actual Vessel working information provided by Operator to the Customer for invoicing purposes.

7.2 The Customer shall pay to Operator in cash or as otherwise agreed all sums immediately when due without reduction or deferment on account of any claim, counterclaim, deduction, abatement or set-off.

7.3 The Charges are exclusive of all applicable taxes, including GST (as defined in A New Tax System (Goods and Services Tax) Act 1999). Where any such tax is payable in respect of the provision of the Terminal Services under these Conditions, then the Operator is entitled to recover that amount from the Customer. In that event the Operator must provide the Customer with a compliant tax invoice with respect to the amount of tax charged.

7.4 If the Customer disputes any amount stated in an Invoice (including, for the avoidance of doubt, any storage fees or other ancillary charges), the Customer must notify the Operator within the Credit Period and the relevant parties must seek to resolve the dispute as quickly as possible. The Customer must pay the non-disputed amount of the Invoice within the Credit Period. In the event that the relevant parties cannot resolve the dispute informally within the Credit Period, then they must follow the dispute resolution procedure in clause 13 to resolve the dispute.

7.5 Operator may charge the Customer interest on any overdue amount, being the higher of: (i) interest of 1% per month (pro rata) on the total amount overdue; and (ii) interest calculated daily at the lending rate (as charged on the due date by the central bank of the country in which the Terminal is located) plus 3% a year, in each case, from the due date until the date of payment. Without prejudice to the foregoing, the Operator shall also be entitled to charge a fixed fee of 2% on any overdue amount.

7.6 Notwithstanding any agreement by Operator to collect charges from any person other than the Customer, the Customer shall remain liable to Operator for payment of all Tariffs / Charges when due.

7.7 The granting of any credit by Operator (including any credit terms shown on any invoice or the credit terms applied by clause 7.1) hereof shall be at the absolute discretion of Operator.

7.8 If the Customer fails to make any payment on the due date or if an Insolvency Event occurs in respect of the Customer:

7.8.1 all and any sums owed by the Customer to Operator (or owed to a Related Body Corporate of the Operator) shall become immediately payable, whether or not such sums are subject to a credit agreement (which shall, for the avoidance of doubt, include the payment terms shown on Operator's invoices (or the invoices of the Operator's Related Body Corporate) and any credit terms applied by clause 7.1); and

7.8.2 Operator may, without prejudice to any other right or remedy available to it, delay or suspend Services, refuse to provide Services or cancel any or all orders for Services with the Customer; and

7.8.3 any Related Body Corporate of the Operator may delay or suspend any services, refuse to provide any services or cancel any or all orders for services with the Customer.

7.9 Operator shall have:

7.9.1 a general lien on all Cargo, Equipment and/or Vessels[2] and any documents relating thereto in respect of which Operator is providing Services or which come into the possession or control of Operator to secure the payment by the Customer of all charges and liabilities whatsoever due at any time from the Customer to Operator under these Conditions; and

7.9.2 a particular lien (or equivalent possessory security rights permitted by local law) on all Cargo, Equipment or Vessels in Operator's possession.

7.10 Operator may exercise its lien at any time and at any place in its sole discretion, whether the Services are completed or not and with or without notice. Upon Operator exercising its lien under clause 7.9 hereof, storage charges shall apply to any Cargo, Equipment or Vessel held subject to the lien. Moreover, other charges such as, but not limited to, equipment demurrage and rental charges may accrue. Operator's lien shall extend to cover such storage charges and other expenses of exercising its lien (including any costs incurred in enforcing and preserving its lien and in recovering or attempting to recover any sums due from the Customer) and any sums due.

7.11 Once a lien under clause 7.9 has been exercised, or where clause 3.11 applies, and upon giving the Customer at least fourteen (14) days written notice, Operator may sell, dispose of or otherwise deal with the Cargo, Equipment or Vessel as agents for and at the expense of the Customer and apply the proceeds towards the payment of any sums due from the Customer.

7.12 Upon accounting to the Customer for any balance remaining after payment of any due sums and the costs of and associated with the storage and other expenses Operator shall be discharged from any liability whatsoever in respect of the Cargo, the Equipment or the Vessel.

7.13 The notice period for the sale, disposal or dealing with the Cargo, Equipment or Vessel in clause 7.11 above shall not apply where the Cargo, Equipment or Vessel are likely to perish, deteriorate, reduce in value or damage other Cargo, Equipment or Vessels or property or if Operator considers them to be a danger or hazard to life or the environment. In such circumstances, the right to sell, dispose or otherwise deal with the Cargo, Equipment or Vessel shall arise immediately upon the sum becoming due. Operator shall take reasonable steps to notify the Customer or other persons interested in the Cargo, Equipment or Vessel of its intention to sell, dispose or otherwise deal with the Cargo, Equipment or Vessel.

7.14 Operator is not obliged to provide any Services unless complete information has been provided by the Customer in accordance with these Conditions. In cases of: (a) unannounced or not timely announced changes or (b) in the absence of a written acceptance by Operator of such change and no cancellation of the change request; Operator shall be entitled at its discretion to accommodate the changes or provide the Services as initially agreed. In case Operator accommodates the change, the rates as agreed between the parties or, in the absence of such agreement, the published tariff, shall be subject to an additional charge ("**Change Request Surcharge**") and Operator reserves the right to claim reimbursement of any additional costs that result from the provision of Services in excess of the Change Request Surcharge.

8. DEFENCES AND LIABILITY LIMITS

8.1 Operator's liability for any loss or damage to the Cargo, Equipment and/or Vessel shall be determined and limited in accordance with the provisions of clauses 3, 8 and 9.

8.2 Operator will not be responsible for the security or safety of any Vessel while tied up at the Terminal.

8.3 Operator shall not be liable for any loss, damage, delay, non-performance, error or omission whatsoever (including for any loss or damage to Cargo, Equipment and/or Vessel) arising directly or indirectly from the following categories of event:

8.3.1 acts of God including storm, tempest, flood, lightning strike or adverse weather conditions;

8.3.2 nuclear explosion, radioactive, biological or chemical contamination;

8.3.3 landslides, earthquakes and tsunamis;

8.3.4 epidemic, pandemic, plague or quarantine;

8.3.5 accident, blockade or closure of the port;

8.3.6 the nature of the Cargo and/or Equipment and/or Vessel exposing them to total or partial loss or damage due to breakage, rust, decay, desiccation, leakage, wastage, inherent or latent defect or vice or natural deterioration;

8.3.7 insufficiency or inadequacy of marks or numbers on the Cargo and/or Equipment and/or Vessel or the packaging of the Cargo or Equipment;

8.3.8 shortage of berth space, labour, plant deficiency, fuel or power or insufficient depth of water at any berth or the approaches thereto, other than those caused by or directly attributable to the Operator;

8.3.9 strikes, lock-out or other industrial action affecting the Terminal and/or the Terminal Services, other than those caused by or directly attributable to the Operator;

8.3.10 lack of or defective condition of packaging;

8.3.11 war (whether declared or not), civil war, rebellion, invasion, embargo, military coup, revolution or armed conflict on a national scale;

8.3.12 sabotage, criminal damage, terrorism, piracy but only when any of the Services are directly affected;

8.3.13 riot, civil commotion, insurrection on a massive or national scale;

8.3.14 compliance with any law, order, rule or regulation of any Competent Authority, acts of any governmental or super-national authority;

8.3.15 expropriation or nationalisation of Operator's assets;

8.3.16 power outage at the Terminal other than those caused by or directly attributable to the Operator;

8.3.17 catastrophic impact on the Operator's information technology ecosystem (software and hardware), including malicious cyber-attacks or cyber terrorism; and

8.3.18 any other cause or event which is outside the control of Operator, could not be avoided, prevented or overcome with reasonable foresight, prudence and diligence and materially prevents, hinders or delays performance of all or a material part of Operator's obligations under these Conditions.

8.4 In respect of loss or damage to Cargo, Operator (or any other party for whom Operator is responsible) shall, in addition and at its option, be entitled to avail itself of the defences, limitations and exclusions of liability which are available to the Customer under the Contract of Carriage which has been issued in respect of Cargo carried by the Customer.

8.5 Operator shall not be liable for loss of or damage to any Vessel, Equipment or Cargo unless the User can establish that the loss or damage was directly caused by Operator or any other party for whom Operator is responsible whilst (i) in respect of Cargo or Equipment, the same was in the Custody of Operator or any other party for whom Operator is responsible or (ii) in respect of the Vessel, the same was at the Terminal. If the loss or damage was contributed to by the act or omission of the User or any other person, Operator shall be exonerated from liability to the extent that such act or omission contributed to the loss or damage.

8.6 The liability of the Operator under these Conditions shall not exceed the financial limits set out below for the specified category of loss or damage provided that the maximum liability of the Operator arising out of any single incident or series of related incidents or series of incidents arising from a common cause, or breach of these Conditions, shall not in any case exceed one hundred million USD ($100,000,000):

8.6.1 in the case of damage to a Vessel, a maximum of USD $15,000,000;

8.6.2 in the case of physical loss or damage to a Container, or a Container and its ancillary equipment, the lesser of (i) depreciated value and (ii) the reasonable cost of repairs of the Container, provided that in no circumstance shall the Operator's liability exceed:

(a) two thousand five hundred USD ($2,500) in the case of any regular twenty foot (20') dry Container;

(b) three thousand nine hundred USD ($3,900) in the case of any regular dry Container of more than twenty foot (20') in length;

(c) twenty- five thousand USD ($25,000) in the case of any twenty foot (20') Reefer Container;

(d) thirty- two thousand USD ($32,000) in the case of any reefer Container of more than twenty foot (20') in length;

(e) thirty- nine thousand USD ($39,000) in the case of any 'Super Freezer';

(f) thirty thousand USD ($30,000) in the case of any tank Container;

(g) five thousand USD ($5,000) in the case of any twenty foot (20') Container which is not a regular dry, Reefer or tank; and

(h) eight thousand four hundred USD ($8,400) in the case of any Container of more than twenty foot (20') in length which is not a regular dry, Reefer or tank.

The depreciated value of the Container shall be calculated on the basis of the respective value above with a straight-line depreciation of five point five per cent (5.5%) per annum from the date of manufacturing as per the Container's container safety certificate until the day before the incident;

8.6.3 in the case of any other Equipment owned or operated by the Customer not previously referred to in this clause, the lesser of (i) the depreciated value and (ii) the reasonable cost of repairs of the Equipment, provided that in no circumstance shall Operator's liability exceed twenty-five thousand USD ($25,000)for any single incident or series of incidents;

8.6.4 in the case of physical loss or damage to Cargo (i) where the Customer is acting as a carrier the Customer's liability to its customer under the Contract of Carriage or (ii) in all other cases the lesser of (A) the reasonable repair cost or replacement cost (with an item of the same age and in the same condition) of the Cargo; and (B) 2 SDRs per kilo of gross weight of the Cargo lost or damaged, in each case provided that Operator's liability shall not exceed:

(a) in the case of containerised Cargo: seventy-five thousand USD ($75,000) per Container; and

(b) in the case of non-containerised Cargo, including Cargo carried on Equipment (other than a Container): fifty thousand USD ($50,000) arising out of any single incident.

8.6.5 in the case of all other Claims, a sum equal to the charges paid to Operator for the Services in respect of which the claim arose.

8.7 Save as set out in clause 8, Operator shall not have any liability for any Claim, loss of or damage arising out of or in connection with these Conditions, performance or any failure to perform the Services howsoever arising (whether caused by negligence or otherwise).

8.8 If the User requires the limits of liability in clause 8.6 to be increased, the User shall request such increase in writing from Operator. No such increase shall be binding upon Operator unless agreed by an authorised officer of Operator. Operator shall consider any such request in its absolute discretion and may agree to such a request subject to any terms which it considers appropriate including, but not limited to, an increase in the charges raised by Operator in relation to the relevant Services.

9. GENERAL LIABILITY PROVISIONS AND INDEMNITY

9.1 Exclusion of certain losses: Under no circumstances shall Operator be liable for any Consequential or Indirect Loss.

9.2 Applicability of limits and exclusions: The limits and exclusions of liability in clauses 8 and 9 shall apply to any Claim made against Operator whether such Claim be made in contract, tort (including negligence), bailment breach of express or implied warranty or otherwise.

9.3 De minimis: The User shall not make any claim against Operator where the value of the loss suffered by the User arising from the incident or event giving rise to the claim does not exceed one thousand USD ($1000).

9.4 Time limits, notice period: No claim may be pursued by either Operator or the User (**Claimant** for the purpose of this clause) against the other (**Recipient** for purposes of this clause) and the Recipient will be discharged of all liability whatsoever and howsoever, unless:

9.4.1 in the case of an event which customarily requires a survey of damage, the Claimant must notify the Recipient as soon as reasonably practicable the Claimant becomes aware of the event. Failure to do so may release Recipient from liability with regards to any claim.

9.4.2 the Recipient has been advised in writing of the event or events giving rise to the claim within sixty (60) days of their occurrence; and

9.4.3 proceedings are commenced in accordance with clauses 13 (dispute resolution) and 16.7 (jurisdiction) and written notice thereof is received by the Recipient, within one (1) year of the occurrence of such event or events.

9.5 To the extent permitted by law, the Customer hereby agrees, for and on behalf of itself, and the Vessel owner, to waive any statutory right to limit liability for personal injury or property damage by establishing a limitation fund under any applicable international convention or national law governing the liability of owners and/or operators of seagoing vessels, including the Limitation Conventions. The Customer hereby warrants that it has the authority to bind the Vessel owner to such waiver of limitation. For the purpose of this clause, "Limitation Conventions" means the Limitation of Liability for Maritime Claims Act 1989, the Convention on Limitation of Liability for Maritime Claims 1924, the Convention on Limitation of Liability for Maritime Claims 1957, the Convention on Limitation of Liability for Maritime Claims 1976, and the 1996 Protocol thereto.

9.6 Neither Operator nor User exclude or limit liability for death or personal injury caused by its negligence or the application of any provision of any applicable law to the extent that such exclusion would contravene that applicable law or cause any part of these Conditions to be void.

9.7 Indemnity: The User shall promptly indemnify Operator, its sub-contractors or any member of the Operator Group (and their respective employees, servants, agents, insurers or reinsurers) against all costs (including the costs of investigating and defending any Claims), expenses, Claims, losses, liabilities, orders, awards, fines, proceedings and judgments of whatsoever nature howsoever assumed, incurred or suffered by Operator, any of its sub-contractors or any member of the Operator Group (and their respective employees, servants, agents, insurers or reinsurers) as a result of or in connection with any of the following:

9.7.1 the act, omission or instructions of the User, consignee, consignor or owner or other persons interested in the Cargo and/or Equipment and/or Vessel;

9.7.2 any breach by the User of any of the warranties given or obligations undertaken by the User under these Conditions, including the provisions of clauses 4, 5 and/or 6;

9.7.3 the User becoming liable to any other party (including to any authority having legal jurisdiction over the Services, the Terminal, the Vessel, the Containers, the Equipment and/or the Cargo) and/or incurring or suffering additional costs by reason of Operator carrying out the Customer's instructions;

9.7.4 any cause arising from or with respect to the Vessel, Containers, Equipment and/or Cargo for which Operator is not responsible;

9.7.5 Operator incurring liability in excess of its liability under the provisions of these Conditions regardless of whether such liability arises from, or in connection with a breach of contract, negligence or breach of duty by Operator, its agents, servants, members of the Operator Group or any of its sub-contractors;

9.7.6 delayed, inaccurate or incomplete information whenever provided, including VGM information provided by, or on behalf of, the Customers on which Operator relies;

9.7.7 any action taken by a Competent Authority in relation to the Vessel, including any detention, arrest, seizure or other restriction affecting the Vessel; and

9.7.8 any failure to collect or take delivery of, or deliver, any Cargo, Container or Equipment from or to the Operator, the Terminal or any berth within any applicable free time, demurrage-free period or other period notified or agreed by the Operator.

9.8 Himalaya Clause – Contract of Carriage:

9.8.1 The Customer (where acting as a carrier) undertakes to incorporate in all its Contracts of Carriage provisions to the effect that:

(a) Operator shall not be liable to any person other than the Customer in relation to the Cargo and no claim or allegation shall be made against Operator or any of its employees or subcontractors whatsoever, whether directly or indirectly, which imposes or attempts to impose upon Operator or any of its employees or subcontractors any liability whatsoever in connection with the Cargo, the carriage of the Cargo or Contract of Carriage, whether or not arising in contract, bailment, tort, negligence, breach of express or implied warranty or otherwise; and

(b) Operator and all its employees and subcontractors shall have the benefit of all terms, rights, defences, provisions, conditions, exceptions, limitations and liberties in the Contract of Carriage benefiting the Customer, including the governing law and jurisdiction clauses (**Defences**), as if the Contract of Carriage (including the governing law and jurisdiction clauses thereof) were expressly for their benefit. In entering into the Contract of Carriage the Customer, to the extent of the Defences, does so not only on its own behalf but also as agent and/or trustee for Operator and its subcontractors, and Operator and its subcontractors shall, to the extent of the Defences, be or be deemed to be parties to the Contract of Carriage.

9.8.2 Notwithstanding the liability of Operator to the Customer under these Conditions, if any claim or allegation should nevertheless be made against the Operator and/or any of its employees or subcontractors (including in the event the Customer fails to incorporate the above-mentioned provisions into the Contract of Carriage), the Customer indemnifies Operator on Operator's own behalf and on behalf of its employees and subcontractors against all consequences thereof.

9.8.3 The Customer:

(a) acknowledges that one of the Operator's promises to the Operator's subcontractors and employees is that they will enjoy the benefit of the exclusion and limitation of liability terms agreed with the Customer and accordingly agree that:

(i) the exclusions and limitations of the Operator's liability under these Conditions benefit the Operator's subcontractors and employees and any anyone else who is vicariously liable for acts or omissions of the Operator's subcontractors and employees; and

(ii) for the purposes of this clause 9.8.3 only, the Operator enters into these Conditions as agent for the Operator's subcontractors and employees and for all such persons referred to in clause 9.8.3 who shall be treated as if they were parties to these Conditions.

9.9 No Personal Liability: There is no agreement between the Customer and any director, employee or consultant (whether employed or self-employed) of the Operator (each an **Employee**) and any services provided by such Employees are provided on behalf of the Operator and not in his or her personal capacity and no Employee assumes any personal responsibility, obligation or duty to the Customer. The Customer undertakes that it will not bring any claim (including under these Conditions or in law of tort) against an Employee.

9.10 Insurance: Operator does not arrange insurance for or on behalf of the User or any other party. The User is solely responsible for arranging insurance or ensuring that insurance has been arranged in relation to any Cargo, Equipment, Vessel, subcontractor, agent or any person which or who may, at the instruction or direction of or on behalf of the User, enter upon the Terminal. The Customer must take out and maintain with insurers of international standing (which shall include any members of the International Group of P&I Clubs but also any other insurers acceptable to the Operator with a minimum credit rating of BBB) all such insurances and insure against such risks and for such sums as would normally be taken out by a prudent shipping operator including P&I Club insurances.

10. TERMINAL DAMAGE

10.1 In case of any Vessel allision causing damage to the Terminal or any of the Operator's facilities or equipment, the provisions of this clause 10 shall apply. Vessel allisions cause the Operator and its affiliates significant financial losses including the costs associated with repair and/or repairing property; operational impact and inefficiencies, reputation damage; loss of business; increases in insurance premiums; unrecoverable legal costs; and management time and cost in responding to vessel allisions and investigating purchase and carriage options for repair and/or replacement of damaged property. In developing the following sections of these Conditions, the Operator has sought to provide for a regime that allows the Operator to recover its losses in a formulaic way and seeks to strike a fair balance between the interests of the Operator on the one hand and the Customer and Vessel owner on the other hand. The Customer hereby warrants that it has the authority to bind the Vessel owner to the following terms.

10.2 The Customer hereby agrees, for and on behalf of itself, and the Vessel owner, that in the event of any vessel allision causing damage to the Terminal or any of the Operator's facilities or Equipment, the Customer and the Vessel owner will provide security, in a form acceptable to the Operator, for the Operator's worst realistic case losses, as determined by the Operator, plus two and half (2.5) years interest and costs together with written agreement from the Customer as to the Operator's submission for appropriate jurisdiction. In the event that such security is not provided, the Operator shall, without prejudice to any other remedies available to it, be entitled to arrest the Vessel at the Terminal or elsewhere until such time as the foregoing security and written agreement have been provided by the Customer or Vessel owner.

10.3 The Customer agrees (for and on behalf of itself and the Vessel owner) that the Operator shall only be required to obtain a maximum of three (3) quotations from contractors in respect of the repair or replacement of damaged Terminal infrastructure or equipment. In the event of the Operator's property being damaged, the Operator shall be entitled to recover from the Customer or the Vessel owner the cost of repairing or restoring the damaged portion of the property to a condition substantially the same as, but not better or more extensive than, its condition when new. In the event of the Operator's property being destroyed (which for the purposes of this clause shall mean when the property cannot be repaired within a reasonable time or to a condition at least equal to its condition prior to damage without incurring costs greater than the value of the property prior to it being damaged), the Operator shall be entitled to recover from the Customer or the Vessel owner the cost of replacing the damaged property with a similar property in a condition equal to, but not better or more extensive than, its condition when new.

10.4 Each Party shall appoint, or procure that their insurers appoint on its behalf, a professional and independent forensic accountant to quantify the actual losses (including financial and business interruption losses) suffered by the Operator arising from the vessel allision. The Parties shall provide all appointed forensic accountants with all reasonable co-operation and documents.

10.5 Within fifteen (15) days of the six (6)-month anniversary of the date of the vessel allision, the appointed forensic accountants shall jointly issue a summary of the actual losses suffered by the Operator arising from the vessel allision during the period of six (6) months from the date of the vessel allision.

10.6 If the forensic accountants disagree on the assessment of losses under clause 10.5, then each forensic accountant shall, within 5 days of the expiry of the period stipulated in 10.5 above, issue to the Parties its sole assessment of the losses suffered by the Operator arising from the vessel allision during the period of six (6) months from the date of the vessel allision. If the results of the loss assessments made by the two (2) forensic accountants appointed by the Parties (or their insurers) pursuant to clause 10.4 differ by ten percent (10%) or less, then such values will be averaged and such result shall be final and binding for the Parties as the value of the business interruption element of the Operator's claim for the applicable period.

10.7 If the results of the loss assessments made by the two (2) forensic accountants appointed by the Parties (or their insurers) pursuant to clause 10.4 differ by more than ten percent (10%), then the Parties shall mutually agree and appoint a third independent appraiser or, if not so agreed with seven (7 days) of the date of a written notice from one Party to the other proposing the identity of a third independent appraiser then an independent third party appraiser shall be appointed by the ICC International Centre for Expertise (or such other body agreed by the Parties), and such appraiser shall select one (1) of the two (2) valuations which, in its sole opinion, based on good industry practice, shall be final and binding for the Parties as the value of the business interruption element of the Operator's claim for the applicable period.

10.8 The process set out in clause 10.5 to 10.7 shall be repeated every six (6) months until such time as the Terminal has resumed full operations (with a final reconciliation loss assessment to be conducted following the resumption of full operations).

10.9 Costs of appointed forensic accountants: The Parties shall bear their own costs in relation to the appointment of any forensic accountants pursuant to this clause 10. The cost of any third independent appraiser appointed in accordance with clause 10.7 shall be shared equally between the Parties.

10.10 The Customer shall pay to the Operator, in addition to any other remedies available to the Operator under these Conditions or at law, the amount determined pursuant to clause 10.5 to 10.7 within thirty (30) days of receipt of an invoice from the Operator issued following completion of the process set out in clause 10.5 to 10.7.

11. CHAIN OF RESPONSIBILITY & SOLAS REQUIREMENTS

11.1 Chain of Responsibility

11.1.1 The Customer and the Operator acknowledge and agree that each of them have obligations under the Chain of Responsibility Laws.

11.1.2 Each Party must comply with its obligations under the Chain of Responsibility Laws and, if requested, provide reasonable evidence of such compliance to the other Party.

11.2 SOLAS Requirements

11.2.1 The Customer and the Operator acknowledge and agree that each of them have obligations under the SOLAS Requirements.

11.2.2 Without limiting their obligations under clause 11.2.1, the Parties acknowledge and agree as follows:

(a) The shipper of Containerised goods must provide to each of the Customer, the Operator and the Vessel Operator the verified gross mass of the Container, signed by the shipper, sufficiently in advance of loading to enable the preparation of a stowage plan (**Signed Declaration**).

(b) The Customer, the Operator and the Vessel Operator may rely on a shipper's Signed Declaration to be accurate.

(c) The Customer, the Operator and the Vessel Operator are not responsible for verifying the shipper's Signed Declaration.

(d) The Customer, the Operator and the Vessel Operator must use verified container weights in the stowage plan.

(e) Neither the Customer, the Operator or the Vessel Operator may load a packed Container aboard a Vessel for export unless all such parties have obtained, in advance of Vessel loading, the Signed Declaration.

11.2.3 If a packed Container is received at the Terminal for export without a Signed Declaration, the Operator shall have no obligation to:

(a) obtain a verified weight for that Container; or

(b) perform any of the Terminal Services in respect of that Container.

11.2.4 Each Party must comply with its obligations under the SOLAS Requirements and, if requested, provide reasonable evidence of such compliance to the other Party.

12. MODERN SLAVERY & ANTI-BRIBERY

12.1 The Customer must:

12.1.1 comply with all applicable Laws relating to anti-bribery and corruption including relevant provisions of the Criminal Code (**Relevant Requirements**);

12.1.2 not engage in any activity, practice or conduct which would constitute an offence under the Relevant Requirements or any other form of bribery or corruption that would constitute an offence in Australia or in any other jurisdiction;

12.1.3 comply with the DP World Anti-Bribery and Corruption Policy and Procedure, as may be updated by DP World from time to time (**Relevant Policies**);

12.1.4 have and maintain in place its own policies and procedures, including all adequate procedures, to ensure compliance with the Relevant Requirements, the Relevant Policies and with this clause, and enforce them where appropriate;

12.1.5 promptly report to the Operator any request or demand for any undue financial or other advantage of any kind received by the Customer in connection with the performance of these Conditions; and

12.1.6 immediately notify the Operator in writing if a "Foreign Public Official" (as defined in the Criminal Code) becomes an officer or employee of the Customer acquires a direct or indirect interest in the Customer (and the Customer warrants that it has no Foreign Public Officials as officers, employees or direct or indirect owners at the date of these Conditions).

12.2 The Customer must ensure that any person associated with the Customer who is involved with these Conditions and does so on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Customer in this clause 12.1 (**Relevant Terms**). The Customer will be responsible for the observance and performance by such persons of the Relevant Terms, and will be directly liable to the Operator for any breach by such persons of any of the Relevant Terms. For the purpose of this clause, a person associated with the Customer includes but is not limited to any subcontractor of the Customer.

12.3 The Customer must:

12.3.1 comply with all applicable Laws relating to anti- slavery and human trafficking including, but not limited to, the Modern Slavery Act 2018 (Cth); and

12.3.2 comply with DP World's Modern Slavery and Human Trafficking Policy as amended from time to time.

12.4 If the Customer subcontracts any of its obligations under these Conditions, the Customer shall implement due diligence into, and require contractual undertakings from, its subcontractor to require its compliance with DP World's Modern Slavery and Human Trafficking Policy.

12.5 The Customer must notify the Operator as soon as it becomes aware of any breach, or potential breach, of DP World's Modern Slavery and Human Trafficking Policy; or any actual or suspected slavery or human trafficking in any supply chain which has a connection with these Conditions.

12.6 The Customer permits the Operator and its third-party representatives, on reasonable notice during normal business hours, to have access to, and take copies of, the Customer's records and any other information, and to meet with the Customer's employees, to facilitate the audit of the Customer's compliance with its obligations under these Conditions.

12.7 The Customer shall indemnify the Operator against any Claim or liability incurred by, or awarded against, the Operator as a result of the Customer's or its subcontractor's breach of any applicable Laws relating to anti-slavery or human trafficking.

13. DISPUTE RESOLUTION

13.1 Duty to Notify: A Party claiming that a Dispute has arisen must give to the other Party a dispute notice specifying the Dispute and requiring its resolution under this clause 13.

13.2 Nomination of Authorised Personnel: Within three (3) Business Days after a notice is given under clause 13.1, each Party must nominate in writing to the other Party a senior employee (other than its Representative) authorised to settle the Dispute on its behalf (Nominee).

13.3 Resolution of Dispute: Each Party must, during the ten (10) Business Days after a notice is given under clause 13.1 (or if the Parties agree a longer period, that longer period), procure that its Nominee uses his or her best efforts to resolve the Dispute.

13.4 Reference to Mediation: If the Dispute is not resolved by the Nominees, then the parties must attempt to settle it by mediation in accordance with the Australian Centre for International Commercial Arbitration (ACICA) Mediation Rules. The mediation shall take place in Sydney, Australia and be administered by ACICA.

13.5 Reference to Arbitration: If a Dispute is not resolved by mediation under clause 13.4, within sixty (60) days following the written invitation to mediate or within such other period as the Parties may agree in writing, the claimant shall refer the matter for arbitration by filing and serving a Notice of Arbitration in accordance with the ACICA Arbitration Rules. The seat of arbitration shall be Sydney, Australia. The language of the arbitration shall be English. The number of arbitrators shall be one.

13.6 The decision of the arbitrator, made for any purpose pursuant to these Conditions, shall be final and binding upon the Parties and will be carried into immediate effect by them. If the party against whom an arbitral award has been made refuses to comply with the award, the other Party may approach any court of competent jurisdiction for the purpose of enforcement of the award.

13.7 Subject to clause 13.5, the Parties agree that, in the event their respective designated representatives shall not be able to resolve matters, they shall have recourse to arbitration as the sole means of dispute resolution to the exclusion of instigating any form of legal proceedings

in the local or foreign courts, except for the permitted purpose of enforcement under clause 13.6.

13.8 Urgent Interlocutory Relief: Nothing in these Conditions prevents a Party from at any time commencing court proceedings in relation to any dispute or claim arising under or in connection with these Conditions where that Party seeks urgent interlocutory relief.

14. TERMINATION

14.1 Termination for Cause: A Party (**first party)** may terminate these Conditions with immediate effect by giving notice to the other Party (**second party**) if any of the following apply: (a) the second party breaches any material term of these Conditions (including without limitation an obligation to pay) and fails to remedy the breach within 30 days after receiving notice requiring it to do so; (b) the second party breaches any material term of these Conditions and the failure is not capable of remedy; (c) the second party repeatedly breaches any term of these Conditions and fails to demonstrate, within 60 days after receiving notice requiring it to do so, to the first party's reasonable satisfaction, that similar breaches will not recur; or (d) the second party is subject to an Insolvency Event.

14.2 All Rights Preserved: Termination of these Conditions under this clause is without prejudice to the accrued rights and obligations of the Parties under these Conditions, including, without limitation, the right of the Operator to be paid all accrued fees and charges then outstanding under these Conditions and the obligations of confidentiality imposed on all Parties.

14.3 Suspension: if the Customer or any Related Body Corporate of the Customer (as applicable) fails to comply with any payment obligations owing to the Operator or any Related Body Corporate of the Operator (as applicable) under any other agreement including, without limitation, any agreement relating to container park services, rail access or road carrier access (**Other Agreement**), the Operator may suspend the provision of Services under these Conditions after providing the Customer with seven (7) days' notice of its intention to do so, until either the amount outstanding under the Other Agreement is paid in full, or a payment schedule is agreed between the parties to the Other Agreement.

15. CONFIDENTIALITY

15.1 Subject to clause 15.2, the Recipient must:

15.1.1 keep confidential, and must not disclose to any third party, any Confidential Information disclosed to the Recipient by the Discloser; and

15.1.2 not use the Confidential Information for any purpose other than for the purposes of these Conditions.

15.2 The Recipient may disclose Confidential Information disclosed to it by the Discloser to a third party where:

15.2.1 the Recipient has obtained the prior written approval of the Discloser to such disclosure; or

15.2.2 disclosure is: (a) required or compelled by any order of a court of competent jurisdiction; or (b) required or compelled by any Law or Competent Authority; or (c) required under any stock exchange listing requirement or rule; (d) to an expert for the purposes of a dispute resolution process, or an auditor for the purposes of an audit, if such expert or auditor has executed a legally enforceable confidentiality deed in favour of the Discloser; (e) to legal practitioners and accountants of the Recipient or a Related Body Corporate of it: (i) whose duties in relation to the Recipient or the Related Body Corporate require the disclosure; (ii) who are under a duty of confidentiality to the Recipient; and (iii) who have been advised of the confidential nature of the Confidential Information; or (f) otherwise permitted or required in accordance with these Conditions.

15.3 The Recipient acknowledges and agrees that a breach of this clause 15 would be harmful to the business interests of the Discloser and that, as a result, the Discloser may seek urgent injunctive relief, specific performance or a similar remedy to prevent the occurrence or continuance of any breach or suspected breach of this clause 15 in addition to any other remedies available at law or in equity under or independently of these Conditions.

16. MISCELLANEOUS PROVISIONS

16.1 Entire agreement: (a) Subject to 16.1(b), these Conditions comprise the entire agreement between the Parties with respect to the Services and any representations or statements whether made orally or written elsewhere are hereby excluded, provided that this clause shall not exclude or limit any liability or any right which any party may have in respect of pre-contractual statements made or given fraudulently. To the fullest extent permitted, all conditions, warranties or other terms implied or expressed by applicable law are hereby excluded; and (ii) these Conditions supersede all previous agreements and arrangements between the Parties with respect to the provision of the Services. (b) Operator may issue separate terms and conditions governing the provision of special services which are not covered by the published tariff or agree that different Tariffs / Charges shall apply to the Services. Unless specified otherwise in writing, such additional terms and conditions shall apply in respect of the special services and these Conditions shall continue to apply to the extent they are applicable.

16.2 EDI Communications: This clause shall apply (without prejudice to the other clauses in these Conditions) where partial or exclusive transmission and interchange of information between the parties happens by means of an electronic data interchange system whereby electronic messages are transmitted from one Party to another Party (**EDI System**). The Parties shall ensure that all such electronic communications are in compliance with EDIFACT. The Parties shall maintain (without modification) a data log of EDI System messages exchanged between them including details of times of transmission (**Data Log**). Data contained in the Data Log shall be retained by way of record for a period of not less than twelve (12) months. The 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 human readable form. Each of the Parties shall take reasonable care, in so far as it is within its power to do so, to ensure that EDI System transmissions are secure and that unauthorised access to its EDI System is prevented. The Parties agree that in the event of any complete or partial breakdown or failure of the EDI System and/or any related intermediary service platform, they will each take 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 these Conditions is not adversely affected. The sender is responsible and shall use its best endeavours to ensure that EDI System 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 EDI System message is incomplete, incorrect or otherwise deficient.

16.3 Waiver: The waiver by either Party of a breach or default of any of the provisions of these Conditions by the other Party shall not be construed as a waiver of any succeeding breach of the same or other provisions, nor shall any delay or omission on the part of either Party to exercise or avail itself of any right, power or privilege that it has or may have hereunder operate as a waiver of any breach or default by the other Party.

16.4 Third Party Rights: The members of the Operator's Group and the Operator' sub-contractors are hereby entitled to enforce and have the benefit of all the liability provisions, warranties, indemnities, limitations and exclusions of liability contained in these Conditions and which benefit Operator. The rights of either Party to agree to rescind, amend or otherwise vary or to waive any provisions of these Conditions or to settle any dispute or other matter arising out of or in connection with these Conditions on such terms as they shall in their absolute discretion think fit shall not be subject to the consent of any member of the Operator's Group or any of Operator' sub-contractors. Except as stated in this clause, any person who is not a party to

these Conditions may not enforce, or otherwise have the benefit of, any provision of these Conditions.

16.5 Economic Sanctions: Each Party represents and warrants it and its Representatives will comply with all restrictions and/or prohibitions of commercial transactions under statute, regulation, rule, or other such rulings published by a governmental entity, including but not limited to the United States, European Union and United Nations, to the extent they are applicable to the Party and these Conditions. Each Party further represents and warrants that it is not, and nor are any of its Representatives, identified or listed by the United States, European Union, or United Nations as a “Blocked Person”, “Denied Person”, “Specially Designated National” nor are they subject to prohibition of commercial transactions under statute, regulation, rule or other rulings published by the United States, European Union, or United Nations. Each Party shall notify the other Parties immediately in the event it is added, or it becomes aware that any of its Representatives have been added, to a sanctions list. No Party shall enter directly or indirectly into any agreement or transaction with a “Blocked Person”, “Denied Person” or “Specially Designated National” in any way related, directly or indirectly, to the goods or services provided or procured under these Conditions.

16.6 Governing law: These Conditions and any contract or other relationship subject thereto shall be governed by the laws of New South Wales. Any dispute arising from or in relation to these Conditions or any relationship subject thereto (whether arising in contract or otherwise) shall be subject to the laws of New South Wales.

16.7 Jurisdiction: Subject to clause 16.8, the Courts of New South Wales shall have exclusive jurisdiction over any dispute arising from or in relation to these Conditions or any relationship (whether arising in contract or otherwise) which is subject to these Conditions.

16.8 Operator shall have the right to bring any claim in connection with or arising out of these Conditions in the court of any jurisdiction.

16.9 Severability: If any provision of these Conditions shall be or be determined to be illegal, invalid, void or voidable, the legality or validity of the remainder of these Conditions shall not be affected and the remainder of these Conditions shall continue in full force and effect.

16.10 Language: Where these Conditions are translated into a language other than English and in the event of any conflict between the English version and the other version, the English version of these Conditions shall always prevail.

ANNEXURE A

1.1 Loading and Discharging

The Operator will provide the following services to the Customer, in each case to the extent applicable depending upon whether the Terminal Services are provided to the Customer in respect of a Customer Vessel or the Customer's Containers on a third party's vessel:

(a) movement of Containers from the Vessel's cell or deck to wharf or vice versa;
(b) lashing and unlashing of deck Containers and Cargo, where patent lashing fittings only are used;
(c) movement of Containers from wharf to stacking area or vice versa;
(d) checking and confirming Container numbers;
(e) reporting of Container movements out of/into the Vessel; and
(f) stowage planning based upon instructions from the Customer's central stowage planning office including but not limited to:
    (1) accessing the incoming electronic bay plan and retransmitting the completed electronic bay plan as soon as reasonably practicable after operations have been completed; and
    (2) providing the Vessel with the final bay plan data by hard copy and on a USB storage device, in accordance with the existing standard, as soon as reasonably practicable after cargo completion and, in any event, not less than two (2) hours prior to scheduled departure, subject always to all export Containers being received not less than twelve (12) hours prior to scheduled departure.

1.2 Restows

(a) Subject to sub-clauses (b) and (c) below, the Operator may restow Containers at the request of the Customer or to improve operational efficiency (as determined by the Operator).
(b) Where the Customer requests a restowage prior to the commencement of work on a Vessel, the Customer must pay the applicable Charge for the restowage of Containers on board Vessels (discharge, land and return).
(c) Where notice of the restow is provided by the Customer after commencement of work on the Vessel, the Customer must pay the Charge applicable to an Unplanned Restow (as referred to in the Tariff Schedule).

1.3 Normal Receival and Delivery

(a) The Operator will provide the following services to the Customer, in each case to the extent applicable depending upon whether the Terminal Services are provided to the Customer in respect of a Customer Vessel or the Customer's Containers on a third party's vessel:

    (1) delivery of import Containers/Cargo at the Terminal (during normal receival and delivery hours) and all clerical work and reporting associated with such delivery in accordance with the Operator's receival and delivery procedures;
    (2) receival of export Containers/Cargo within the delivery period agreed between the Customer and the Operator in accordance with the Operator's cut-off procedures;
    (3) storage for export Containers/Cargo received and not loaded following the completion of Vessel operations, subject to payment of the applicable Charges;
    (4) storage for import Containers/Cargo following the completion of Vessel operations, subject to payment of the applicable Charges; and
    (5) implementing arrangements at the discretion of the Operator for acceptance/delivery of Containers/Cargo outside normal receival and delivery hours.

(b) Normal receival and delivery times are published from time to time in the Daily Schedule Import Availability and Export Receivals Periods applicable to the relevant Terminal. These times may vary between the Terminals. Other times may be arranged by agreement between the Parties.
(c) The "cut-off" for all Vessels will be twenty-four (24) hours prior to the advised Vessel ETA or such earlier time if required by the Vessel Operator (**Cut-Off**).

(d) The receival period for each Vessel (**Receival Period**) will be:
(1) declared by the Operator based on the ETA of the Vessel;
(2) subject to sub-clause (3), five (5) consecutive Working Days before and inclusive of the day of Cut-Off; and
(3) less than five (5) Working Days in the event that the advice of the Vessel's ETA is given less than five (5) Working Days before the Vessel's arrival.

(e) If the Operator is notified that the Vessel will be delayed by more than twenty-four (24) hours, the Receival Period for that Vessel will close on the date of receipt of such notification, and a new Receival Period will be declared once the revised ETA has been received by the Operator.

(f) The Receival Period will apply to all receivals for the Vessel (including those through the Terminal gates and the Terminal rail siding) other than transshipment Cargo.

(g) Subject to the Operator's prior consent and to payment by the Customer of the "Change of Vessel Charge" referred to in the Tariff Schedule, Cargo received into the Terminal for another Vessel and which is received outside the agreed Receival Period for the subject Vessel may be swapped between Vessels.

1.4 Managed Late Receival Policy

(a) Subject to sub-clause (b), the Customer agrees to comply with the Cut-Off for receival of export Containers.

(b) The Parties acknowledge that circumstances may arise from time to time in which the Customer requests the late receipt of a Container (**Late Receival Request**), in which case the Late Receival Request must be submitted in accordance with the procedure set out in sub-clause (e) below.

(c) The Operator may, but is under no obligation to, agree to any Late Receival Request.

(d) Late Receival Requests submitted before Cut-Off will be subject to agreement between the Parties as to responsibility for the costs involved, whether direct or indirect.

(e) A Late Receival Request must be submitted in accordance with the following procedure:
(1) A Late Receival Request (**LRR**) must be lodged through a Special Service Request (**SSR**).
(2) The LRR must be completed and submitted by the Customer to the Operator's National Planning Centre.
(3) LRRs will be subject to the Vessel Operator's prior approval for Hazardous Cargo, Restricted Cargo, Over dimensional Cargo, Reefers and any other special Cargo, if the LRR is submitted after Vessel Cut-Off.
(4) The Operator will promptly respond to the LRR by sending the LRR back advising whether the request has been accepted and, if applicable, specifying:
(A) the Late Receival Fee payable by the Customer;
(B) any other costs referred to in sub-clause (d) above; and
(C) any conditions attaching the Operator's consent to the LRR.

(f) Once the Late Receival arrangements have been agreed between the Parties, the Operator will arrange Terminal time slots for the appointed carrier.

1.5 Temperature Controlled and Ventilated Cargo and Containers

For Containers requiring refrigeration or forced ventilation at the Terminal, the Operator will provide the services set out in sub-clauses (a) and (b) to the Customer:

(a) The Operator will provide the following services to the Customer in respect of Integral

Containers:

(1) connecting and disconnecting the power supply;
(2) furnishing electrical outlets;
(3) setting temperatures in accordance with the set points notified on the ERA and monitoring the temperature settings displayed on the Reefer units twice daily whilst in the Terminal and after receival or prior to delivery;
(4) reporting of faults and machinery malfunctions in Integral Containers to the Customer promptly upon discovery;
(5) recording of variations between the ERA set point and Container set point promptly upon discovery; and
(6) where applicable, establishing and monitoring of fresh air exchange and humidity settings as stated on the ERA.

(b) The Operator will provide the following services to the Customer in respect of Containers requiring forced ventilation (**Fantainers**):

(1) connecting and disconnecting the power supply;
(2) furnishing electrical outlets, distribution boards and recording the power consumed;
(3) checking the fan (i.e. exhaust) is operating when connected to the power; and
(4) monitoring of equipment whilst in the Terminal and promptly reporting any faults to the Customer on discovery.

(c) In respect of temperature controlled and ventilated Cargo and Containers the Operator will not be liable for:

(1) any failure of or interruption in the supply of electrical power to the Containers referred to in this clause 1.5 (**Relevant Containers**);
(2) incorrect or omission of temperature setting and range, as supplied through EDIFACT messages;
(3) any failure or malfunction of a Relevant Container or any associated equipment;
(4) any Claim in respect of any loss of or damage to a Relevant Container or its Cargo where the Claim relates to the refrigeration or ventilation of a Relevant Container, except to the extent that the loss or damage was caused or contributed to by a breach of the Operator's obligations under this clause 1.5 or by any negligence of the Operator; or
(5) any Claim in respect of a Relevant Container or its Cargo arising from or in connection with the Operator not having been provided with the temperature setting, temperature range or other temperature control instructions required for that Relevant Container..

1.6 Dangerous or Hazardous Cargo

(a) The Customer must provide reasonable notice of any Hazardous Cargo and any Cargo that is prohibited by, or subject to restriction under, any Law (**Prohibited Cargo** and **Restricted Cargo**, respectively), to the relevant persons, including the Operator and all relevant authorities, which, in any event, must be no shorter than any notice required to be provided by Law.

(b) The Operator shall not be obliged to handle Hazardous Cargo, Prohibited Cargo or Restricted Cargo.

(c) Subject to sub-clause (b) and without limiting sub-clause (d), if the Operator agrees to provide Terminal Services in respect of Hazardous Cargo or Restricted Cargo, the Operator and the Customer must agree in writing upon arrangements for the handling of such Cargo prior to the arrival of the Cargo.

(d) Subject to sub-clause (b), with respect to all Hazardous Cargo and Restricted Cargo, the Operator may impose:

(1) the Storage - Hazardous Cargo Charges referred to in the Tariff Schedule; and
(2) any further charges to recover the additional costs incurred by the Operator in handling any such Cargo, including any costs for labour delay time, insurance requirements or handling procedures, in each case as required by Law or Good Industry Practice.

(e) The Customer must ensure that all Hazardous Cargo are delivered to and removed from the Terminal within the time limits prescribed by:
   (1) Applicable Laws;
   (2) the requirements, directions, guidelines or procedures of the relevant port authority or other competent authority; and
   (3) any applicable Hazardous Cargo procedures, requirements or directions notified by the Operator to the Customer from time to time.

(f) Without limiting the above subclause (e), the Customer must ensure that Hazardous Cargo is not delivered to the Terminal earlier than permitted and are removed from the Terminal within the period required under the requirements referred to in subclause (e).

(g) If any Hazardous Cargo is not removed from the Terminal within the applicable period, or if the Operator reasonably considers it necessary to do so for safety, operational or regulatory reasons, the Operator may move or arrange for the movement of the Hazardous Cargo to another location at the Customer's risk and cost. The Customer must pay all costs and expenses incurred by the Operator in connection with that movement, including handling, transport and storage charges.