

THE MERSEY DOCKS AND HARBOUR COMPANY

COMMON USER TERMS AND CONDITIONS

FOR ROYAL SEAFORTH CONTAINER TERMINAL

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## INDEX TO CLAUSES

<u>Clause No.</u>	<u>Title</u>
1.	<u>INTERPRETATION</u>
2.	<u>BERTHS AND SERVICES</u>
3.	<u>NOTICE</u>
4.	<u>EXTENT</u>
5.	<u>MANNING &amp; PERFORMANCE OF SERVICES</u>
6.	<u>FORCE MAJEURE</u>
7.	<u>SERVICES</u>
8.	<u>GENERAL OPERATIONS</u>
9.	<u>ANCILLARY OPERATIONS</u>
10.	<u>WORKING TIME</u>
11.	<u>LOST TIME</u>
12.	<u>LASHING OF CONTAINERS AND RO/RO TRAFFIC</u>
13.	<u>REEFER CONTAINERS</u>
14.	<u>HAZARDOUS AND HIGH DUTY CARGOES</u>
15.	<u>UN SOUND CARGO</u>
16.	<u>UNDERTAKINGS BY THE SHIPOWNER AND/OR CARGO OWNER</u>
17.	<u>STOWAGE PLANS AND CONTAINER DELIVERIES</u>
18.	<u>DATA COLLECTION AND TRANSMISSION</u>
19.	<u>H.M. REVENUE &amp; CUSTOMS CLEARANCE</u>
20.	<u>OPERATIONAL CHARGES</u>
21.	<u>RENT CHARGES</u>
22.	<u>VESSEL CHARGES</u>
23.	<u>LIEN ON GOODS</u>
24.	<u>BILL OF LADING</u>
25.	<u>LIMITATION OF LIABILITY</u>
26.	<u>INDEMNITY</u>
27.	<u>PROTECTION OF TERMINAL OPERATOR'S SERVANTS AND AGENTS</u>
28.	<u>SECURITY</u>
29.	<u>BYELAWS AND REGULATIONS</u>
30.	<u>RELATIONSHIP TO SPECIAL AGREEMENTS</u>
31.	<u>JURISDICTION</u>
32.	<u>ALTERATIONS AND VARIATIONS</u>

# THE MERSEY DOCKS AND HARBOUR COMPANY

## COMMON USER TERMS AND CONDITIONS

### FOR ROYAL SEAFORTH CONTAINER TERMINAL

#### 1. Interpretation

In these Conditions:-

- 1.1 "Bank Holidays" means Bank and other National Holidays. Such Holidays are deemed to commence at 0700 hours on the relevant day and be of 24 hours duration.
- "the Berth" means the berth referred to in Clause 2.
- "cargo" and "goods" means any goods, merchandise, articles and things of any description (including any packaging within which the said goods, merchandise, articles and things may be contained) including, but without prejudice to the generality of the foregoing, liquids and gases (but excluding ship's stores and bunkers) which are, have been or are to be carried on a Vessel or handled by the Terminal Operator in connection with a Landward Container.
- "the Cargo Owner" means the owner of any goods and any bailor, bailee, consignor, shipper, consignee or other respective agents in relation thereto, (or any person, firm or company tendering goods and or containers, Ro/Ro traffic, flats or vehicles to the Terminal Operator for the performance of the Services) (but shall not include the Terminal Operator).
- "container" means any container which complies with I.S.O. standards, including by way of example only reefer and tank containers, and flats which is, has been or is to be carried on a Vessel or handled by the Terminal Operator as a Landward Container.
- "Container Freight Station" means the container freight station situate within the Terminal and operated by the Terminal Operator for the purpose of stuffing and stripping containers and handling uncontainerised cargo.
- "the Dock Estate" means the quays, berths and all works, lands and property of every description whatsoever and the buildings, structures and erections thereon for the time being used by the Terminal Operator.
- "flat" means any I.S.O. flat, platform or bolster 20' 30' or 40' in length and 8' wide that possesses lifting lugs.
- "Harbour Master" means the Harbour Master or other Officer appointed by the Terminal Operator to act as Harbour Master as defined by The Mersey Docks and Harbour Acts 1857 to 1992 or any statutory modification or re-enactment thereof and shall include his Assistants.
- "Landward Container" means any container brought onto the Terminal by or on behalf of the Owners which is not to be loaded on or has not been discharged from a Vessel at the Terminal.
- "the Owner" means the Shipowner and/or Cargo Owner, as appropriate.
- "the Port" means the Port of Liverpool as defined in The Mersey Docks and Harbour Act 1971 or any statutory modification or re-enactment thereof.
- "the Rail Terminal" means the Rail Terminal situate adjacent to the Terminal
- "Ro/Ro traffic" means any trailers, chassis, wheeled units, vehicles or any other towable or driveable units to be handled by a Ro/Ro operation including block stowed containers and neo-bulk cargo where these are loaded onto or discharged from a Vessel by means of a Ro/Ro operation.

"the Services" means any operation or service specified or referred to herein and provided or performed by the Terminal Operator in connection with the receiving or delivering, or loading or discharging of goods, containers, Ro/Ro traffic, flats or vehicles into or from a Shipowner's Vessel and the storing, general handling and movement of goods, containers, Ro/Ro traffic, flats or vehicles.

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

"the Terminal" means the Royal Seaforth Container Terminal situate at Berths S.3 to S.6 inclusive, Royal Seaforth Dock, Liverpool, together with the parking, stacking and other areas relating thereto and, unless the context otherwise dictates, the Rail Terminal.

"the Terminal Operator" means The Mersey Docks and Harbour Company whose head office is situate at Maritime Centre, Port of Liverpool, L21 1LA.

"uncontainerised cargo" means any goods which have been, are, or are to be transported on a Vessel which are not carried in a container and can not be handled by the normal use of container spreaders or without the use of ancillary gear or manning

"vehicle" means any vehicle, including a trailer used or to be used for the carriage of goods or containers.

"Vessel" means any cellular vessel which is capable of being handled at the Terminal and is owned by, or in the possession of, or managed by, or under charter to the Shipowner.

- 1.2 The headings to clauses are for ease of reference only and shall not affect the interpretation thereof.
- 1.3 Unless the context otherwise requires, the singular shall include the plural and vice versa and words importing gender shall include any other gender.
- 1.4 Reference to clauses or schedules are references to the clauses and schedules of these Terms and Conditions unless otherwise stated.

## **2. Berths and Services**

- 2.1 The Terminal Operator shall provide the use in common with vessels in other ownerships of a berth ("the Berth") at the Terminal and shall provide or perform the Services thereat upon the terms and conditions hereinafter mentioned.
- 2.2 Priority use of the Berth is only available to Shipowners who have long term contractual agreements with the Terminal Operator or who, with the agreement of the Terminal Operator, are operating regular scheduled sailings to/from the Port.

## **3. Notice**

Use of the Berth, Terminal and/or Services by the Owner shall be deemed to constitute notice of and agreement to these Terms and Conditions provided that, prior to the use of the said Berth, Terminal and/or Services, the Terminal Operator shall take all reasonable steps to ensure that the Owner is aware of these Terms and Conditions and that copies are available on request.

#### **4. Extent**

These Terms and Conditions shall be applicable during such time as the Berth is being used by the Shipowner's Vessels for the loading and or discharging of goods, containers, Ro/Ro traffic, flats, stores or bunkers thereat and at any time the Terminal or other area at the Port is being used by the Terminal Operator for the receiving, handling, storage or delivery of containers, goods or Ro/Ro traffic.

#### **5. Manning and Performance of Services**

5.1 Subject to these Terms and Conditions, the Terminal Operator shall provide supervision, labour, plant and equipment for the discharging and loading, receiving, handling and delivery of containers, goods and Ro/Ro traffic at the Terminal.

#### **5.2 Services**

The Terminal Operator shall perform or provide such of the Services as the Terminal Operator in its reasonable discretion considers appropriate and expedient for the particular goods unless instructed to the contrary in writing by the Owner.

#### **5.3 Plant and equipment**

The Terminal Operator may use such plant and equipment on the Services as it considers appropriate and expedient, unless instructed to the contrary in writing by the Owner.

#### **5.4 Working Practices**

All stevedoring or other operations to be performed by the Terminal Operator shall be performed in accordance with the normal working practices of the Terminal Operator. The Terminal Operator reserves the right to alter such working practices at any time and without prior notice.

#### **5.5 Shipment**

The acceptance by the Terminal Operator of goods, containers, Ro/Ro traffic or flats for shipment onboard a vessel or train does not imply that such goods, containers, Ro/Ro traffic or flats will be shipped. The acceptance or refusal of goods, containers, Ro/Ro traffic or flats for shipment is the responsibility of the Owner, for whom the Terminal Operator accepts as agent.

#### **5.6 Receiving/delivering**

5.6.1 The Terminal Operator shall be entitled to refuse to receive a container from or deliver a container to any vehicle at the Terminal if:

- (a) the Terminal Operator has not been presented with the correct information and documentation in respect of such container, or
- (b) such container is not sealed, or
- (c) in respect of a container carrying hazardous cargo, such container is not fully and correctly labelled.

In addition, the Terminal Operator shall be entitled to refuse to receive/deliver a container to/from any vehicle whose driver:

- (a) declines to be photographed in accordance with the Terminal Operator's security requirements applicable from time to time, or
- (b) has not presented to the Terminal Operator either a current EC driver's licence or a valid passport.

#### 5.7 Weighing

The Terminal Operator reserves the right to check the weight of any container, goods or Ro/Ro traffic at the expense of the Owner.

#### 5.8 Performance

No liability shall attach to the Terminal Operator in consequence of any failure to:

- (a) undertake or complete the loading/unloading of any vessel or vehicle, or
  - (b) provide a Berth at the Terminal for any vessel,
- at or by a particular time, or within a particular interval or period of time, notwithstanding any representation made by any servant or agent of the Terminal Operator, and the Owners (and the haulier in the case of receiving/ delivering goods to road vehicle) shall release and indemnify the Terminal Operator from and against all such liability.

### 6. Force Majeure

The Terminal Operator shall not be liable for any failure to perform or provide the Services or for any loss and or damage arising or resulting from Act of God; Casualty (including fire or explosion) unless caused by the negligence of the Terminal Operator, its servants or agents; damage; breakdown; any consequence of war or hostilities (whether war be declared or not); riots, civil commotions or invasions; industrial disputes or actions of any nature; storm, flood, earthquake, subsidence, epidemic or other natural physical disaster; act of any Government or any other cause or event which could not be avoided and the consequence whereof could not be prevented by the exercise of reasonable care by the Terminal Operator.

### 7. Services

Subject to these Terms and Conditions, the Terminal Operator undertakes to:-

- 7.1 Provide the use, in common with vessels in other ownerships, of a berth at the Terminal for the Vessels on such dates/tides as shall be advised to and agreed from time to time by the Terminal Operator. Confirmation of the expected arrival date of each Vessel and notification of each Vessel's expected time of arrival at the Berth ("E.T.A.") shall be given in writing to the Terminal Operator not later than ten days prior to the expected date of arrival of the Vessel at the Berth, and all subsequent changes to the said dates and E.T.A. shall be promptly notified to the Terminal Operator by the Shipowner.

Notice of the Vessel's final E.T.A. at the Berth shall be given to the Terminal Operator not later than twenty four hours before the arrival of the Vessel at the Berth, except that when the Vessel is due to arrive at the Berth on a Monday morning the Shipowner shall use its best endeavours to provide such notice before 12.00 noon on the preceding Friday and,

when the Vessel is due to arrive at the Berth within the period 0700 hours Saturday to 0700 hours Monday, or on a Bank Holiday, the final E.T.A. at the Berth shall be given not later than 12.00 noon on the last normal working day prior to such period or Bank Holiday as appropriate.

- 7.2 Provide craneage and other equipment, superintendence and labour for the loading and discharging of the Vessels together with plant and plant drivers for the reception thereof and delivery therefrom of containers, goods, Ro/Ro traffic and cargo.
- 7.3 Take reasonable care of and control over the Owner's equipment.
- 7.4 Provide documentation and accounting in accordance with the normal working practices of the Terminal Operator.
- 7.5 Permit the Shipowners to load and discharge Vessel's stores and bunkers at such times as shall be agreed in advance with the Terminal Operator and to allow necessary equipment alongside to accomplish this whilst the Vessel is alongside the Berth, provided that such equipment does not interfere with the operational requirements of the Terminal Operator.
- 7.6 Permit a Vessel once on the Berth to remain at the Berth (subject to the discretion of the Terminal Operator in regard to its operational requirements for the Berth and to the statutory powers of the Harbour Master of ordering the movement of vessels within the Port of Liverpool) until such time as the loading and discharging of that Vessel has been completed.

## **8. General Operations**

- 8.1 Subject to these Terms and Conditions, the Terminal Operator shall perform and provide at the Terminal the services listed below in respect of receiving and loading, discharging and delivering containers, goods, Ro/Ro traffic and cargo transported or to be transported on the Vessels, together with such associated operations and services as are normally provided by the Terminal Operator as at that date. Such services will be undertaken by the Terminal Operator at such rates as the Terminal Operator shall specify from time to time.

### **8.1.1 Receiving/Delivering and Loading/Discharging Containers**

- (a) Receiving/delivering of containers at the Terminal, and all clerical work and reporting normally undertaken by the Terminal Operator in connection therewith.
- (b) Transporting import containers from the Vessel to the stacking area at the Terminal and subsequently from the stacking area to road vehicles for delivery.
- (c) Transporting export containers from road vehicles to the stacking area at the Terminal and subsequently from the stacking area to the Vessel for loading.
- (d) Transporting import containers from the stacking area at the Terminal to the gate of the Rail Terminal and export containers from the gate of the Rail Terminal to the stacking area at the Terminal, including loading import containers at the Terminal onto road chassis and offloading export containers at the Terminal from road chassis.
- (e) Loading containers from the quay to the Vessel's hold/cell/deck and discharging containers from the Vessel's hold/cell/deck to the quay.

The discharging and loading of containers from and into holds that are not fully cellular or weather decks that do not have purpose built I.S.O. fittings or otherwise from or into vessels that are not suitable for the carriage of containers stowed fore and aft, shall be regarded as an ancillary operation within the meaning of Clause 9.

- (f) Inspection at the gatehouse to the Terminal of the seal on a container, where such seal is readily and safely accessible, noting the seal number and comparing it with the seal number pre-supplied by the Owners. Promptly reporting to the Owners any missing or incorrect seals observed.  
Performance at the Owner's request of other seal and ISPS related operations/services will be subject to an additional charge as advised from time to time by the Terminal Operator.
- (g) Checking against the Vessel's stowage plan containers loaded/discharged at the Vessel.
- (h) Prompt reporting to the Shipowner of major damage observed to containers or known to have been occasioned thereto whilst at the Terminal.
- (j) Preparing Terminal Operator's Transaction Records.
- (k) Planning the stowage of the Vessel in so far as is reasonably necessary for the loading and discharging of containers (including restows) undertaken at the Terminal.
- (l) Completing stowage plans in accordance with the instructions given by the Shipowner and agreed with the Terminal Operator .
- (m) Prompt reporting of container movements into and out of the Vessel.
- (n) Normal securing and releasing of containers, by the use of patent or purpose made lashing equipment that is fit for purpose and that is to be provided, and made readily and conveniently available, by the Shipowner.
- (o) Performing such other services and preparing and reporting such other information as the Shipowner may require, subject to the Terminal Operator being able and willing to perform them and subject also to such additional charges as shall first be agreed with the Shipowner.

#### 8.1.2 Ro/Ro Traffic (other than Cars on wheels)

- (a) Discharging:- removing from Vessel by driving or by towing unit, conveying to a parking area at the Terminal and making available for delivery on wheels. Discharging and delivering to road transport where such Ro/Ro traffic can not be driven, towed by tugmaster or otherwise handled without the assistance of extra labour or additional gear (such as a crane) will be subject to additional charges.
- (b) Loading:- receiving into a parking area at the Terminal, conveying into Vessel by driving or by towing unit and stowing. Receiving from road transport and loading Ro/Ro traffic which can not be driven, towed by tugmaster or otherwise handled without the assistance of extra labour or additional gear (such as a crane) will be subject to additional charges.
- (c) Recording the discharging, loading and movement on the Terminal of Ro/Ro traffic, and, so far as is reasonably practicable, recording and advising the Shipowner of material damage occasioned thereto whilst on the Terminal or onboard a Vessel.
- (d) In respect of inward cargo, providing a delivery out-turn in the form prescribed by the Terminal Operator as at the date hereof.
- (e) Normal securing and releasing of Ro/Ro traffic, by the use of patent or purpose made lashing equipment that is fit for purpose and that is to be provided, and made readily and conveniently available, by the Shipowner.
- (f) Reasonable external inspection of Ro/Ro traffic for visible material damage and preparation of the Terminal Operator's Transaction Records for Ro/Ro traffic.

### 8.1.3 Ro/Ro traffic (Cars on wheels)

- (a) Discharging:- releasing on board the Vessel and driving individually to a parking area at the Terminal, making available for delivery on wheels and provision of a delivery out-turn in the form prescribed by the Terminal Operator.
- (b) Loading:- receiving into a parking area at the Terminal, including the provision of relevant and necessary documentation, driving individually from the parking area at the Terminal into the Vessel, stowing and securing using patent or purpose made lashing equipment provided by and made readily available by the Shipowner.

### 8.1.4 Non-Standard Containers

For loading/discharging any non-standard Containers (including overheight and overwidth Containers) involving the use of extra manning or the use of special spreaders or equipment, the Shipowner will pay an additional charge.

45ft Containers which comply with ISO standards will be charged as for ISO in-profile Containers provided they have lifting points at 40ft, otherwise they will be charged at the relevant rates applicable to non-ISO Containers.

- 8.2 Without prejudice to the Terminal Operator's statutory powers, the Terminal Operator may direct a Vessel to leave the Berth by a stated time when the scheduled work programme for the Vessel does not require immediate or continuous operations at the Terminal. If the Shipowner does not comply with such directions prior to the time directed by the Terminal Operator ("the Departure Time"), then the Terminal Operator may at its discretion charge the Shipowner for each hour or part thereof that the Vessel remains at the Berth after such Departure Time. All costs and expenses relating to the movement of a Vessel pursuant to this sub-clause shall be borne by the Shipowner of the Vessel undertaking such movement.
- 8.3 The Terminal Operator reserves the right at any time and without prior notice to block stow empty containers on the Terminal. In such event, empty containers that are to be loaded to a Vessel from, or delivered to road/rail transport from, an empty container stack shall be selected by the Terminal Operator according to the size and type requested by the Shipowner and not by individual container number. In so doing, the Terminal Operator shall endeavour to rotate the stock of containers held in the empty container stack and to accede to special requests timely made by the Shipowner for particular containers to be moved.

## 9. Ancillary Operations

- 9.1 Subject to these Terms and Conditions, the Terminal Operator will endeavour to provide labour and equipment subject to availability for the following ancillary operations at the Terminal in connection with the Vessels, for which (except in respect of re-stowing containers and Ro/Ro traffic on the Vessel) it is recommended that the Shipowner gives at least 24 hours prior notice (excluding Bank and other National Holidays and the period 0700 hours Saturday to 0700 hours Monday):-
  - (a) Loading/discharging of containers that are not stowed fore and aft or are stowed on vessels that are not fully cellular.
  - (b) Removing and replacing of Vessels' hatch covers (including securing and unsecuring), if requested by the Shipowner, but otherwise such operations shall be undertaken by the crew of the Vessel.

- (c) Receiving and delivery of containers not to be loaded onto or not having been discharged from a Vessel at the Berth, or not to be stuffed or stripped at the Container Freight Station.
- (d) Receiving and delivery unladen chassis/flats and unladen low loader trailers.
- (e) Receiving Landward Containers from road vehicle or (via rail haulage) from the gate of the Rail Terminal, lifting such containers off chassis and transferring to the stacking area at the Terminal, and thereafter transferring to the delivery area and delivering onto chassis, or to the gate of the Rail Terminal (for rail haulage).
- (f) Chassis movements.
- (g) Performing tailboard inspections, full/part inspections and scanning of containers for HM Revenue & Customs/Port Health as required.
- (h) Services and operations involving the use of extra manning or special spreaders or other equipment (such as wires or chains) in connection with any flats, non-I.S.O. containers or other out-of-profile containers.
- (j) Services and operations in connection with the receiving/loading or discharging/delivering of uncontainerised cargo.
- (k) Moving containers within the same hatch on a Vessel, and moving containers from a Vessel's cell/deck to the quay and restowing into another cell or onto the deck.
- (l) Moving containers on the Terminal, other than as specified in Clause 8.1.1, including moving containers from one chassis to another.
- (m) Re-stowing or re-handling of Ro/Ro traffic onboard a Vessel or on the quay.
- (n) Reprogramming the declared status of a container as previously advised to the Terminal Operator (eg vessel name/voyage number/discharge port).
- (o) Planning the stowage of the Vessel to the extent that such planning is in excess of that reasonably necessary for the loading/discharging of containers (including restows) undertaken at the Terminal (such as co-ordinating the planning requirements for other ports).
- (p) Providing an Interchange Container Damage Report and/or Container Contents Inspection Report when requested by the Owner or haulier.
- (q) Lashing/unlashing containers onboard vessels that are non-cellular vessels.
- (r) Lashing/unlashing containers and units of Ro/Ro traffic onboard the Vessel using securing and lashing equipment that is not patent or purpose made or that is not fit for purpose or not made readily and conveniently available by the Shipowner.
- (s) Handling cars on wheels which can not be driven or which need assistance to start.

9.2 Subject to these Terms and Conditions and to the prior agreement of the Terminal Operator, the Terminal Operator may from time to time provide at the Terminal the services of stuffing/stripping of containers, flats and mafi trailers.

In such event, the Terminal Operator will endeavour to provide labour and equipment subject to availability for the following ancillary operations in connection therewith:-

- (a) Receiving at the Container Freight Station goods for stuffing in LCL containers to be exported on Vessels.
- (b) Selecting to Bill of Lading and delivering to tailboard of collecting vehicle at the Container Freight Station goods imported in LCL containers on Vessels.
- (c) Stuffing (including self-securing and banding of cargo but excluding lashing) and stripping of cargo into/out of LCL containers. Tomming of cargo is subject to an additional charge calculated on the basis of labour and materials used plus appropriate overheads.
- (d) Free storage at the Terminal of import cargo for 2 working days following date of stripping and, subject to Clause 21.2, free storage of export cargo from receiving up to stuffing date.

- (e) Tallying including paperwork (namely, packing lists, damage reports, receipt and delivery notes).
- (f) Reasonable external inspection of goods to be stuffed or having been stripped from LCL containers by the Terminal Operator.
- (g) Sweeping inside of containers which have been stripped (normal dirtiness - brushing) and detaching of invalid labels from such stripped containers.
- (h) Sealing of containers (Shipowners' seals).
- (j) Reporting of container activities.
- (k) Provision of mobile plant up to 7 tonnes capacity.

9.2.1 Subject as above, the operations of stuffing/stripping of LCL containers and receiving/delivery of goods and LCL containers shall take place at the Container Freight Station from Monday to Friday inclusive during the hours 0800 to 1700 (Bank and other National holidays excepted), and the Shipowner shall at all times keep available to the Terminal Operator such number of empty containers at the Terminal as the Terminal Operator shall require for the purposes of stuffing export cargo at the Container Freight Station.

9.2.2 Subject as aforesaid, the Shipowner shall supply to the Terminal Operator a list of LCL containers to be stripped by the Terminal Operator, not later than twenty four hours (excluding Saturdays, Sundays and Bank Holidays) before commencement of discharge of the Vessel on which such LCL containers were imported, and shall deliver at the Terminal all LCL export cargo for a Vessel not later than thirty six hours (excluding Saturdays, Sundays and Bank Holidays) before commencement of loading of that Vessel.

As the ability of the Terminal Operator to complete the stuffing of LCL cargo is dependent on the volume of such cargo presented by the Shipowner and by other users of the Container Freight Station, it is the responsibility of the Shipowner to ensure that LCL cargo for a Vessel is delivered at the Terminal sufficiently early as may enable such cargo to be stuffed by the Terminal Operator and loaded onto that Vessel.

9.2.3 Any tally of goods prepared by the Terminal Operator in or in connection with the stuffing/stripping of LCL containers shall be the property of the Terminal Operator which shall not be under any obligation to disclose such document to any other party as the standard of accuracy required for the Terminal Operator's purposes is such that they record only approximate quantities. Thus the accuracy of any document, based whether wholly or partially upon such tallies, shall not be presumed by any other party unless and until such accuracy is confirmed in writing by the Terminal Operator in respect of the document in question.

References in this sub-clause 9.2 to containers and LCL containers shall be deemed to include flats and mafi trailers.

9.3 Ancillary operations performed by the Terminal Operator in accordance with the provisions of Clauses 9.1/9.2 will be subject to additional charges.

9.4 Each movement of a Container or Landward Container between the container stacking area, a designated scanning or fumigation area or the Container Freight Station before or after stuffing or stripping or for examination or fumigation purposes (if such be required), shall be performed subject to an additional charge for each movement of the Container.

## 10. Working Time

10.1 The Services may be performed or provided during the Midweek Periods and Week-end Periods (together "Normal Working Hours") hereinafter specified (Christmas Day, Boxing Day and New Year's Day excepted unless otherwise agreed in writing by the Terminal Operator):-

(a) Loading and discharging ("Shipwork")

0700 hours Monday to 0700 hours Saturday inclusive (Midweek Periods)  
0700 hours Saturday to 0700 hours Monday inclusive (Week-end Periods)

(b) Receiving and delivering ("Padwork")

0600 to 2200 hours Monday to Friday inclusive (Midweek Periods)  
0700 to 1500 hours Saturday (Week-end Period)

(c) Other landside operations

0800 to 1700 hours Monday to Friday inclusive (Midweek Periods)

Unless otherwise stated herein or specified by the Terminal Operator, the Shipwork periods referred to above shall be of 8 consecutive hours duration.

10.2 Work performed at the request of a Shipowner or Cargo Owner outside the Midweek Periods specified in Clause 10.1 (except on Bank Holidays), will be subject to Overtime Charges - subject to a minimum charge of 4 hours per gang.

10.3 Work performed at the request of a Shipowner or Cargo Owner between 0700 hours on a Bank Holiday and 0700 hours the following day, will be subject to Overtime Charges - subject to a minimum charge of 8 hours per gang.

10.4 Notwithstanding the above provisions of Clause 10, the Terminal Operator may at its absolute discretion elect to provide or perform Shipwork during the following working periods ("Daytime Working Periods"):-

0700 - 1900 hours Monday to Friday inclusive (except on Bank Holidays)

If the Terminal Operator does so elect and inform the Owner thereof in writing, then in such event Shipwork performed or provided at the request of an Owner on Bank Holidays or otherwise outside the Daytime Working Periods indicated above will be subject to Overtime Charges.

10.5 In the event that the Terminal Operator increases the published hours of work for receiving/delivering containers at the Terminal in the period from 0600 hours Monday to 0700 hours Saturday over and above those hours indicated in Clause 10.1(b), such extended hours shall apply to the Shipowner at no additional charge (except on Bank Holidays).

## 11. Time lost

11.1 Time lost or work delayed which may occur by reason or in consequence of the following:-

- (a) Vessels' late arrival or non-arrival on the Berth;  
where labour has been arranged by the Terminal Operator in reliance on the Vessel's final E.T.A. given to the Terminal Operator pursuant to Clause 7.1, or in compliance with the Shipowner's request that work should commence at or finish before a particular time, time lost shall be deemed to commence at the start of the working period for which labour has been arranged and cease in the case of:-
- (1) Late arrival of the Vessel - either (i) in the case of Lo/Lo operations when crane or cranes are in position over the Vessel with boom or booms lowered or in the case of Ro/Ro operations when a Vessel's ramp or ramps are in position lowered, or (ii) on the termination of the working period for which labour has been arranged, whichever shall be the earlier;
  - (2) Non-arrival of the Vessel - on the termination of the working period for which labour has been arranged;
- (b) Material delays which are attributable to the Shipowner, or its agents, servants, independent contractors or sub-contractors (other than the Terminal Operator); shall be charged to the Shipowner at a rate to be specified from time to time by the Terminal Operator Provided always that the Shipowner shall not, in any event, be liable to pay the time lost or work delayed charge if such time lost or work delayed occurs or is solely as a result of breakdown of the Terminal Operator's plant or equipment, or labour disputes between the Terminal Operator and its employees at the Terminal, unless occasioned by or resulting from the act or default of the Shipowner, or its servants, agents, independent contractors or sub-contractors or any other circumstances not being the act or default of the Terminal Operator.

11.2 Notice of cancellation of shipwork labour previously arranged by the Terminal Operator in reliance on the Vessel's final E.T.A. given to the Terminal Operator pursuant to Clause 7.1, or in compliance with the Shipowner's request that work should commence at or finish before a particular time:

- (a) for Week-end Periods or Bank Holidays - must be received by the Terminal Operator not later than 1200 hours on the normal working day, Monday to Friday inclusive (Bank Holidays excepted), next preceeding the day for which such labour has been arranged.
- (b) for any other working periods - must be received by the Terminal Operator not later than 24 hours before the start of the working period for which labour has been arranged.

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

11.3 In the event that the Shipowner requests the Terminal Operator to retain labour for a Vessel in order to load any export Containers that are expected to arrive at the Terminal after the Cut-off Time applicable to such Vessel (as defined in Clause 17.3) and as a result thereof labour employed for that Vessel by the Terminal Operator is caused to be idle, then, to the extent that such labour can not reasonably be redeployed to work another vessel, the Shipowner shall pay to the Terminal Operator compensation for each hour or part thereof that such labour remains idle, at such rates as are specified from time to time by the Terminal Operator.

## **12. Lashing of Containers and Ro/Ro Traffic onboard Vessel**

- 12.1 The lashing and unlashings of containers onboard the Vessel using patent or purpose made securing and lashing materials provided by the Shipowner, shall be performed (i) by the crew of the Vessel, or (ii) at the request of the Shipowner and subject to the availability of suitable labour, by the Terminal Operator. Any lashing/unlashing undertaken by the Terminal Operator shall be regarded as an ancillary operation within the meaning of Clause 9 and be subject to an additional charge where (i) the vessel is a non-cellular vessel or (ii) the securing and lashing materials used are not patent or purpose-made and fit for purpose, or are not made readily and conveniently available to the Terminal Operator.
- 12.2 The lashing and unlashings of units of Ro/Ro traffic onboard the Vessel using patent or purpose made securing and lashing materials provided by the Shipowner shall be undertaken by the Terminal Operator.
- 12.3 The lashing and unlashings of containers and units of Ro/Ro traffic onboard the Vessel using securing and lashing materials that are not patent or purpose made shall be performed by the crew of the Vessel, such materials being provided by the Shipowner.
- 12.4 Where lashing/unlashing operations are undertaken by the Terminal Operator, the Shipowner shall make reasonable inspections during loading operations to ensure that the lashings are carried out in accordance with the Shipowner's requirements and all securing/lashing materials shall be made readily available by the Shipowner. An additional charge will be made where the Terminal Operator deems that the necessary securing and lashing materials are not made readily available by the Shipowner.

## **13. Reefer Containers**

- 13.1 The Shipowner, consignee or shipper, as the case may be shall be responsible at all times for the care and maintenance and connection to and dis-connection from power points of refrigerated and insulated containers to be loaded on or having been discharged from the Vessels ("reefer containers") and their contents whilst situate at the Terminal.
- 13.2 The Shipowner shall pay in respect of each reefer container connected to a power point provided by the Terminal Operator, such sum as shall be specified from time to time by the Terminal Operator for each half day or part thereof that a reefer container is positioned for the Shipowner at a power point, such sum being in respect of the use of such power point and the cost of electrical power consumed thereat.

For the purposes hereof, a half day shall mean the period from 0001 to 1200 hours or the period from 1201 to 2400 hours daily. Such sum shall be invoiced weekly in arrears (each invoice covering the reefer containers that left the Terminal during that week).

## **14. Hazardous and High Duty Cargoes**

No goods of a dangerous, tainted, infested or contaminated nature will be handled by the Terminal Operator except by consent of the Terminal Operator and then only in accordance with the conditions prescribed by the Terminal Operator's directions regulations and byelaws governing the handling of such goods. All extra costs charges and expenses incurred by the Terminal Operator in handling such goods shall be repaid by the Shipowner.

## **15. Unsound Cargo**

- 15.1 When cargo is exceptionally difficult to work due to unsoundness of the cargo, bad or collapsed stowage, damage to the cargo the Vessel or containers or other matter creating exceptionally difficult working conditions, then the Terminal Operator may in his absolute discretion elect to perform or provide or continue to perform or provide the services described herein and if he should so elect and inform the Shipowner in writing thereof then the Terminal Operator shall not be liable for any loss or damage whatsoever howsoever caused to the goods or containers or the Vessel or any other equipment including any claim for the loss of use or loss of a particular market and the Shipowner shall indemnify the Terminal Operator against all proceedings claims and expenses arising out of or consequent on any such election by the Terminal Operator including all proceedings claims and expenses relating to the handling of goods or containers on the Terminal or at the Container Freight Station.
- 15.2 No liability shall attach to the Terminal Operator if by virtue of this clause and after consultation with the Shipowner the Terminal Operator elects not to perform or continue to perform the services described herein. The Terminal Operator shall have the right, having made an election, to subsequently reverse that election in the light of circumstances then prevailing and no liability shall attach to the Terminal Operator thereby.
- 15.3 All extra costs charges and expenses incurred by the Terminal Operator thereby shall be repaid by the Shipowner of the vessel on which the cargo was or was to be consigned.

## **16. Undertakings by the Shipowner and/or Cargo Owner**

- 16.1 The Shipowner or the Cargo Owner as the case may be shall be deemed to warrant the accuracy of all values, descriptions and other particulars supplied to the Terminal Operator in respect of any goods, or marked on such goods, for the purpose of the Services or for the purposes of H.M. Revenue & Customs and shall indemnify the Terminal Operator against all losses, damages, costs, expenses, fines and pecuniary penalties that the Terminal Operator, or its servants or agents acting in the course of their employment, may incur as a result of any inaccuracy or omission therein.
- 16.2 The Shipowner or the Cargo Owner as the case may be will ensure that H.M. Revenue & Customs clearance for import cargo has been obtained prior to his seeking delivery of such goods.

## **17. Stowage Plan and Container Deliveries**

The Shipowner shall:-

- 17.1 Supply to the Terminal Operator full and accurate details of export containers (including weight and port of discharge) to be loaded onto and import containers to be discharged from a Vessel, not later than 12 hours and 24 hours respectively (excluding Saturdays, Sundays, Bank and other National Holidays) before commencement of operations in respect of that Vessel at the Berth.

- 17.2 Supply to the Terminal Operator a Vessel's outline stowage plan not later than twenty four hours (excluding Saturdays, Sundays and Bank Holidays) before commencement of operations in respect of that Vessel at the Berth.
- 17.3 Deliver at the Terminal all FCL export containers for a Vessel not later than twelve hours before the arrival of that Vessel at the Berth ("the Cut-Off Time"). Deliveries after the Cut-Off Time shall be promptly notified to the Terminal Operator and will be accepted only on agreement by the Terminal Operator, such agreement not to be unreasonably withheld.

The acceptance of late deliveries neither implies nor guarantees that such containers will be shipped on the Vessel on which such containers were or were to be consigned at the time of their acceptance by the Terminal Operator. The Terminal Operator reserves the right to charge the Shipowner or Cargo Owner for receiving containers after the relevant Cut-Off Time.

## **18. Data Collection and Transmission**

- 18.1 Subject to these Terms and Conditions and at the absolute discretion of the Terminal Operator, the Shipowner shall be permitted the use of the data collecting and transmission service at the Terminal.
- 18.2 The Shipowner shall provide in advance the relevant input data for their use of the said service.
- 18.3 Subject to these conditions, the Terminal Operator will provide the Shipowner with:-
- (a) Detailed lists and summaries of container receipts and deliveries;
  - (b) Complete stowage lists for export containers and completed Shipowner's stowage plans of containers loaded;
  - (c) Complete discharge lists of import containers;
  - (d) Summaries by Vessel of import unit deliveries;
  - (e) A weekly statement of import containers remaining on the stacking area one week or more;
  - (f) The use of the Terminal Operator's computerised enquiry service.

## **19. H.M. Revenue & Customs Clearance**

H.M. Revenue & Customs clearance of containers and their contents imported or to be exported on Vessels must be provided to the Terminal Operator in electronic form using the Maritime Cargo Processing (MCP) System.

## **20. Operational Charges**

- 20.1 The Shipowner shall pay to the Terminal Operator for the Services provided by the Terminal Operator pursuant to Clauses 8, 9, and 10 such charges as shall be specified from time to time by the Terminal Operator. Where specifically stated, such charges may include an element for Berth Charges on Vessels handled at the Terminal and Goods Charges on cargo imported/exported on Vessels as may be levied from time to time by the Terminal Operator.

- 20.2 The said charges shall be payable by the Shipowner on demand unless otherwise agreed by the Terminal Operator without reduction or deferment on account of any claim, counterclaim or set off. Interest at the rate of 4 per centum above the prevailing Bank of Scotland Base Rate is payable on charges remaining unpaid twenty eight days after the date of the Terminal Operator's invoice.
- 20.3 The said charges are in addition to Conservancy, Pilotage and Boatmen charges, the Environmental Levy charged by the Terminal Operator, and charges for ancillary services levied by the Terminal Operator.
- 20.4 Notwithstanding the provisions above, if any Statute or Statutory Instrument shall become compulsorily applicable to the operations performed hereunder, the Shipowner will reimburse the Terminal Operator any extra cost to the Terminal Operator occasioned thereby for the duration that such Statute or Statutory Instrument shall apply or until such time as the said extra costs shall be incorporated in the operational charges.
- 20.5 The Terminal Operator reserves the right to require the Shipowner to pay a deposit equal to such percentage as the Terminal Operator may in its absolute discretion determine (up to 100%) of the estimated total charges for the Services to be performed or provided in respect of the Vessel, together with such other charges as may be payable to the Terminal Operator in respect of such Vessel, before the commencement of Services. Such deposit shall be payable on demand and, failing receipt of which, such Services will not be commenced. In addition, the Terminal Operator reserves the right not to commence/continue Services in respect of any Vessel in the event that any charges payable to the Terminal Operator by the Shipowner of such Vessel in respect of previous Vessels of such Shipowner handled in the Port have not been paid.
- 20.6 Charges payable by the Owner to the Terminal Operator in accordance with the Terminal Operator's schedules of miscellaneous and common user rates applicable at the Terminal from time to time, known as the RSCT Common User Rates, shall be reviewed and adjusted by the Terminal Operator on 1<sup>st</sup> April in each year. The charges thence determined shall be applied from 1<sup>st</sup> April in the year of the review.
- 20.7 To the extent that VAT or any tax in substitution therefor ("VAT") is or becomes payable on any charges payable hereunder, the Owner shall pay such VAT to the Terminal Operator as invoiced by the Terminal Operator at the appropriate rate.

## **21. Rent Charges**

- 21.1 Exports: It is the normal practice at the Terminal for full containers (and their contents), units of Ro/Ro traffic and uncontainerised cargo for export through the Berth to be permitted to remain on the Terminal free of Rent Charges from receiving up to the date of loading onto the Vessel.
- 21.2 Notwithstanding the provisions of Clause 21.1, the Terminal Operator reserves the right without prior notice to charge Rent Charges on any full containers, units of Ro/Ro traffic or uncontainerised cargo brought onto the Terminal for export that remain on the Terminal for more than 10 working days.

- 21.3 Imports: Full containers imported through the Berth shall be permitted to remain on the Terminal free of Rent Charges until 2359 hours on the fourth working day after the day of completion of discharge of the Vessel on which the container was imported. Ro-Ro traffic, uncontainerised cargo and goods stripped at the Terminal from LCL containers imported on Vessels, shall be permitted to remain on the Terminal free of Rent Charges for two working days following the day of landing (or, if later, the day of stripping) at the Terminal, or, in respect only of breakbulk cargo comprising timber and forest products, for 14 calendar days following the completion of discharge of the importing Vessel.
- 21.4 In respect of any FCL container, unit of Ro/Ro traffic or uncontainerised cargo that remains on the Terminal beyond its respective free storage period, the Shipowner shall pay the Rent Charges relating thereto in force from time to time, in accordance with the General Rules and Regulations of the Terminal Operator, Provided that the charges shall be invoiced in the first instance to the consignee or other the person having title to the goods in the said container or to the said unit but in the event of the said charges not being recovered from them within thirty days from the date of tender of the invoice then the Shipowner shall be liable to pay the said charges.
- 21.5 The Terminal Operator may provide for the Shipowner a free storage allowance at the Terminal for such number of empty containers at any one time as may be agreed from time to time in writing with the Terminal Operator. Rent Charges in respect of the storage of empty containers on the Terminal, excluding those within the Shipowner's free storage allowance (if any), will be charged to the Shipowner on a monthly basis at such rates relating thereto as are in force from time to time.
- 21.6 Rent Charges on full inward containers and on unpacked/uncontainerised Cargo shall be calculated per "working day" or part thereof (excluding Bank Holidays). During the period up to and including 31<sup>st</sup> March 2007, the expression "working day" where used in connection with full inward containers shall mean any day Monday to Saturday inclusive and where used in connection with unpacked/uncontainerised cargo shall mean any day Monday to Friday inclusive. From 1<sup>st</sup> April 2007, or from 1<sup>st</sup> April in any year thereafter, the expression "working day" may, at the discretion of the Terminal Operator, where used in connection with full inward containers also include Sundays and/or where used in connection with unpacked/uncontainerised cargo also include Saturdays and/or Sundays.

Rent Charges on empty Containers shall be calculated per calendar day or part thereof (excluding Bank Holidays).

## **22. Vessel Charges**

- 22.1 Charges in respect of Pilotage and the Terminal Operator's Environmental Levy shall be payable by the Shipowner to the Terminal Operator, in accordance with the published charges relating thereto as adjusted from time to time. Pilotage services shall be provided in accordance with the Pilotage Directions for the Port in force from time to time.
- 22.2 Charges in respect of boatmen/linesmen services provided by the Terminal Operator for the Vessels shall be paid by the Shipowner to the Terminal Operator at the Terminal Operator's published rates relating thereto as adjusted from time to time. The services of such boatmen/linesmen shall be provided in accordance with the Terminal Operator's Terms and Conditions relating thereto in force from time to time.

22.3 The Shipowner shall pay to the Terminal Operator such charges as are applicable from time to time in connection with the provision and operation of a ship's waste reception facility managed by the Terminal Operator, as required pursuant to the Merchant Shipping and Fishing Vessels (Port Waste Reception Facilities) Regulations 2003.

### **23. Lien on Goods**

23.1 The Terminal Operator shall be entitled to refuse to allow containers/goods discharged from a vessel, to leave the docks until (i) all charges claimed by the Terminal Operator for cargo handling services whether in relation to that container/goods (whenever performed) or to other containers/goods of the Cargo Owner have been paid or secured to the satisfaction of the Terminal Operator, and (ii) security to the satisfaction of the Terminal Operator has been given in relation to claims for indemnity pursuant to these Terms and Conditions against the Cargo Owner of those goods (whether or not such claims arise in relation to those goods or any other containers/goods of the Cargo Owner).

23.2 Without prejudice to the Terminal Operator's rights under Clauses 20.2 and 23.1, all cargo (including Ro/Ro traffic) and documents relating thereto, containers, flats and vehicles shall be subject to a particular and general lien for charges due for the performance or provision of Services by the Terminal Operator. If any such lien is not satisfied within one calendar month after notice has been given to the Shipowner or Cargo Owner as appropriate that such cargo, containers, flats or vehicles are detained, they may be sold by auction or otherwise disposed of by the Terminal Operator and at the expense of the Shipowner or Cargo Owner as appropriate and the proceeds applied in or towards satisfaction of such lien.

### **24. Bill of Lading**

24.1 The Shipowner shall include in the Shipowner's Bill of Lading and, if used, Shipping Note, or any other pre-shipment document regarding conditions for carriage, a provision to ensure that whether or not the Terminal Operator is acting solely for the Shipowner, the Terminal Operator shall have the benefit of all provisions therein benefitting the Shipowner and the Terminal Operator hereby accepts such benefit and appoints the Shipowner as the Terminal Operator's agent for the purpose of entering into the contracts of carriage evidenced by the Bill of Lading and the Shipping Note.

24.2 If such Bill of Lading, Shipping Note or other pre-shipment document does not so provide as stipulated in Clause 24.1, then the Shipowner shall, without prejudice to any other rights of the Terminal Operator, indemnify the Terminal Operator against all proceedings, claims and expenses (including legal costs on a full indemnity basis) arising out of or consequent on the failure of such Bill of Lading, Shipping Note or other pre-shipment document so to provide.

### **25. Limitation of Liability**

25.1 The Terminal Operator shall only be liable under these Terms and Conditions for physical loss of or damage to any Vessel or other property of the Shipowner, or to any goods (including Ro/Ro traffic), containers, trailers, chassis, or other property of the Cargo Owner and such liability shall only apply to the extent that the loss or damage exceeds £150 per

occurrence or incident and is proved to be caused solely by the negligence of the Terminal Operator or its servants, agents, independent contractors or sub-contractors acting in the course of their employment during the performance or provision of the Services, provided that:-

25.1.1 The liability of the Terminal Operator shall be limited to the following maximum amounts:-

- (a) For loss of or damage to any vessels of the Shipowner - £1,500,000 per occurrence or incident.
- (b) For loss of and or damage to containers, trailers, chassis or other equipment - to the reasonable cost of repair or replacement (whichever is the lesser) thereof provided that such cost shall be reduced by the following percentages in respect of any such item which has been in use for more than one year:-

<u>Age of item</u>	<u>% Reduction of current replacement value</u>
Within second year	10%
Within third year	20%
Within fourth year	30%
After four years	40%

- (c) For any loss of and or damage to goods - £1.25 per kilo of gross weight of the goods lost or damaged.
- (d) For any loss of and or damage to goods (including Ro/Ro traffic) and or containers, trailers, chassis or other equipment under sub-clauses (b) and (c) of this Clause - an aggregate amount, subject to the above inner limits, of £150,000 per occurrence.

25.1.2 The Terminal Operator shall be freed and discharged from all liability in respect of any loss or damage to the Vessels or goods (including Ro/Ro traffic) or to containers, trailers, chassis, equipment or any other matter or thing unless notification of a claim in respect of such loss or damage be made in writing (otherwise than upon any of the Terminal Operator's documents) to the Terminal Operator within thirty days of the date when the Owner has or ought reasonably to have learned of the occurrence causing such loss or damage or from which such loss or damage arose (so as to enable the Terminal Operator to forthwith commence investigations into the alleged loss or damage) and the amount of the said loss or damage be submitted in writing to the Terminal Operator within twelve months after the said occurrence.

The Terminal Operator shall in any event be freed and discharged from all liability for any such loss or damage other than in respect of goods (including Ro/Ro traffic) unless suit is brought within twelve months of the said occurrence and in this respect time shall be deemed to be of the essence. In the case of loss or damage to any Vessel or any other property of the Shipowner, the Shipowner shall grant full and reasonable facilities to the Company to survey all such loss or damage.

25.1.3 The Terminal Operator shall be discharged from all liability whatsoever in respect of goods (including Ro/Ro traffic) unless suit is brought within twelve months of its delivery or of the date when it should have been delivered to the person entitled to delivery thereof under the contract of carriage with the Shipowner and in this respect time shall be deemed to be of the essence.

Notwithstanding the above, the Shipowner or Cargo Owner as the case may be shall notify the Terminal Operator of any claim for loss or damage as soon as is reasonably possible.

25.1.4 The Terminal Operator shall not be liable for any physical loss of or damage to containers or cargo or personal injury caused by the improper stowage of cargo in containers stuffed by the Terminal Operator where such improper stowage is due to or arises out of incorrect or negligent instructions given by the Shipowner or the Cargo Owner, their respective servants, agents or independent contractors (other than the Terminal Operator).

25.1.5 The Terminal Operator shall not be responsible for any loss or damage whatsoever howsoever caused to any reefer container or its contents occasioned by or resulting from any power failure beyond the control of the Terminal Operator, or from any other event not caused by the act or neglect of the Terminal Operator.

25.1.6 Notwithstanding the above, the Terminal Operator shall have the right in any circumstances to elect or to rely on (in the alternative) any relevant statutory provisions providing for limitation or exclusion of liability.

25.2 For the avoidance of doubt it is hereby declared that the Terminal Operator's liability in respect of any loss or damage whether in contract or in tort shall not extend outside the minimum and maximum limits specified in Clause 25.1 and the Shipowner and or the Cargo Owner, whichever to be at the discretion of the Terminal Operator, will indemnify the Terminal Operator against all proceedings and claims howsoever arising and by whomsoever brought in respect of the liabilities as mentioned under Clause 25 so far as the amounts so claimed are outside the exclusions or limits prescribed in Clause 25.1.

25.3 The Terminal Operator shall not be liable in negligence or otherwise howsoever for indirect or consequential damage, including any claim for loss of use or profits, or for the loss of a particular market, but without prejudice to its liability for direct physical damage.

## **26. Indemnity**

26.1 The Shipowner or Cargo Owner as the case may be will be responsible for and provide against all risks and contingencies including death or personal injury of any person or damage to any property whatsoever arising from the use of or presence of the Vessels containers or goods (including Ro/Ro traffic) in the Port including the Terminal Operator's Dock Estate and its facilities and will indemnify the Terminal Operator against all proceedings claims and expenses (including legal costs on a full indemnity basis) arising out of such use or presence or of any act neglect or default of the master of a Vessel or the Shipowner or Cargo Owner, their respective agents, independent contractors or sub-contractors (other than the Terminal Operator or its employees and/or servants, agents) or their respective servants or of any inherent quality or defect of any cargo on the Terminal Operator's Dock Estate or on a Vessel.

26.2 The Shipowner or Cargo Owner will also pay to the Terminal Operator compensation for all damage done to, or suffered by, the property or equipment of the Terminal Operator and arising out of or in consequence of any act neglect or default of the Shipowner or Cargo Owner, as appropriate, their respective servants agents or independent contractors.

**27. Protection of Terminal Operator's Servants and Agents**

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

**28. Security**

28.1 The provision of any security services or anti-terrorist measures in respect of the Vessels shall be the responsibility of the Shipowner.

28.2 The Owner shall comply in every respect with the International Ships and Ports Facility Security Code ("the ISPS Code") together with all relevant UK and EU Regulations including in particular Regulation 11 of the Ship & Port Facility (Security) Regulations 2004 (SI 2004/1495) and any instructions or directions issued by the Transport Security Directorate (TRANSEC) relating to any of the said Regulations, and in particular the Owner shall at all times comply fully with the instructions of the Port Facility Security Officer(s) in accordance with the Port of Liverpool Port Facility Security Plan and any other such Plan approved from time to time by TRANSEC relating to the Terminal and/or any other property of the Terminal Operator adjacent thereto.

28.3 In the event that ISPS conditions, and/or the level of security threat, in the Port of Liverpool increases at any time, the Terminal Operator reserves the right to then charge the Owner an additional charge proportional to the increase in port security costs thereby incurred by the Terminal Operator in relation to the performance of the Services.

**29. Byelaws and Regulations**

Use of the Berth, the Terminal and or Services described herein shall be subject to such Statutes Byelaws Regulations and Directions of the Terminal Operator as may be in force from time to time.

**30. Relationship to Special Agreements**

These Terms and Conditions are supplemental to any special agreement made between the Terminal Operator and any other party relating to the Services except insofar as is expressly excluded thereby or inconsistent therewith in which event the terms and conditions of such special agreement shall prevail.

**31. Jurisdiction**

31.1 All claims under these Terms and Conditions shall be determined according to the Laws of England by the English Courts to the exclusion of the jurisdiction of the Courts of any other Country.

31.2 Where these Terms and Conditions are silent on the rights and liabilities of the Terminal Operator and/or the Shipowner or Cargo Owner, these shall be determined according to the Laws of England as aforesaid.

## **32. Alterations and Variations**

These Terms and Conditions and the rates and charges agreed or specified in accordance herewith, may be altered or varied at anytime and from time to time in such respects and in such manner as the Terminal Operator may consider desirable.

### **OPERATIONAL ENQUIRIES:**

Tel: 0151-949 6485 or 6442 (Royal Seaforth Container Terminal)

Fax: 0151-949 6417

### **ARRANGEMENTS FOR BERTHING & UNBERTHING OF VESSELS:**

Tel: 0151 949-6140/1 (MDHC Marine Operations Department)

Fax: 0151 949 6150

### **INFORMATION ON CHARGES & GENERAL ENQUIRIES:**

Tel: 0151-949 6306/7 (MDHC Marketing Department)

Fax: 0151-949 6300

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