

**STANDARD TERMS AND CONDITIONS FOR THE HANDLING OF CONTAINERS  
AND CONTAINER VESSELS AT SHARJAH'S CONTAINER TERMINALS**

**Effective from 05/06/2018**

## 1. DEFINITIONS

Defined terms are identified throughout this STC and the Tariff by the capitalisation of the initial letter of a word or phrase. Where capitalisation of the initial letter is not used, an expression has its natural meaning.

The following defined terms have the meaning given below:

**"Authority"** means applicable agencies and authorities having jurisdiction over the Port, customs, immigration and related activities for the Emirate of Sharjah, UAE, and any federal authorities within the UAE;

**"Berth"** means the Terminal berth;

**"Carrier"** means any party or parties either owning, nominating or contracting with the Vessel including, but not limited to, its agent(s), owner(s), operator(s) and/or charterer(s);

**"Cargo"** means all types of cargo including but not limited to solid, liquid, live animals, vehicles, loose cargo, an empty Container and whatever is conveyed or to be conveyed in a Vessel, and/or loaded in a Container;

**"Container"** means the standard I.S.O. certified container suitable for stacking and transportation of Cargo including dry, liquid gas or Reefer Cargo, constructed of metal, fiberglass, plastic or wood and must be capable of being handled as a unit and lifted by a crane with a container spreader;

**"Consignor"** means a person or entity who delivers his/its Cargo to a Carrier and is named as the shipper in the transportation documents;

**"Consignee"** means a person or entity (which can also be the buyer of the Cargo) who has the financial obligation towards the receipt of the Cargo;

**"Conventions"** means the conventions relevant to ports or shipping issued by the International Maritime Organization, the International Labour Organization or the regional conventions related to shipping or the protection of the environment;

**"Dangerous Cargo"** means any Cargo that contains materials or items with hazardous properties which, if not properly controlled, present a potential hazard to human health and safety, infrastructure and/ or their means of transport and shall include Cargo of any kind classified by the International Maritime Organization as hazardous cargo and shall include "dangerous goods" as defined in the International Maritime Dangerous Goods Code;

**"EDI"** means Electronic Data Interchange;

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

**"Force Majeure"** shall have the meaning given to it in Clause 34.1;

**"Insurance Policy"** means the Terminal Operator Liability Insurance of the Terminal Operator;

**"International Maritime Dangerous Goods Code"** means the International Maritime Dangerous Goods Code published by the International Maritime Organization, as may be amended from time to time;

**"Loading"** and **"Unloading"** shall mean the service of loading or discharge of Cargo, as the case may be, between any place at the Terminal and railroad cars, trucks, Vessels, barges or any other means of conveyance to or from the Terminal;

**"Legal Requirements"** means, insofar as they may apply to a User, all international, local or federal laws and Conventions and all regulations, orders, codes of practice or delegated or subordinate legislation and any building or health and safety codes of practice so enacted or issued or which are customarily used in the UAE made thereunder and the regulations, requirements and by-laws of the Port or any other Authority;

**"Port"** means sea ports at Sharjah, Khor Fakkan and Hamriyah;

**"Port Authority"** shall mean the Sharjah Port Authority;

**"Port Procedures"** means any policies and procedures specified by the Terminal Operator and the Port Authority relating to the entry and exit of Vessels and persons to the Terminal and the handling of Cargo at the Port, as may be amended from time to time;

**"Port Rules"** means any Legal Requirements of the Port Authority or any other Authority relating to the entry and exit of Vessels and persons to the Port and the handling of Cargo at the Terminal;

**"Reefer Cargo"** means refrigerated Cargo;

**"Services"** means all the services and activities performed by the Terminal Operator or any of its subcontractors;

**"STC"** means these Standard Terms and Conditions of Sharjah Container Terminals;

**"Tariff"** means the Terminal Operator's schedule of charges as published on the Terminal Operator's website and subject to change from time to time;

**"Terminal"** means the Terminal Operator's multi-user container Berths, land and premises owned and/or used by the Terminal Operator at the Port;

**"Terminal Operator"** means Gulftainer Company Limited or any of its subsidiaries or affiliates, and shall, where the context admits, include its employees, agents and sub-contractors;

**"Terminal Facilities"** mean all the quays, anchorage areas, loading/unloading areas, docks, storage areas, roads, paths, buildings and any other facilities operated or managed by the Terminal Operator;

**"User"** or **"Users"** shall include: i) any person or entity using the port facilities or to / from whom any service, work or labour is furnished, performed, done or made available by the Port Authority / Terminal Operator or any other person using the Port facilities; ii) any person or entity owning or having custody of the Cargo moving in, over or through the Port facilities; or iii) each Carrier, Vessel, Consignee, Consignor and all other individuals or business entities, including all Vessels, barges, trucks, railroad cars or other means of conveyance and/or Equipment used by said individuals or business entities, which utilise the Services and/or facilities of the Terminal;

“Vessel” or “Vessels” shall include any vessel, or barge, that utilizes the Services and facilities of the Terminal for the Loading, Unloading, storage, handling or transfer of Cargo; and

“VGM” means Verified Gross Mass.

Capitalised terms used but not defined in this STC shall be interpreted in accordance with industry norms.

## 2. APPLICATION OF STANDARD TERMS AND CONDITIONS

- 2.1 Use of the Terminal Facilities and Services managed and operated by the Terminal Operator shall constitute consent to this STC and evidence an agreement with all Users who shall abide by all the terms and conditions stated herein.
- 2.2 Notwithstanding anything to the contrary herein, the rights of any User to utilize the Terminal shall be subject to the prior approval of the Terminal Operator.
- 2.3 Unless explicitly agreed otherwise, in the event of any inconsistencies or ambiguity between the terms of this STC and any agreement with a User, the terms of this STC shall prevail.
- 2.4 This STC shall apply to all Services provided by the Terminal Operator. It shall also apply to any other relationship between the Terminal Operator and any party entering onto the Terminal or otherwise dealing with the Terminal Operator or the Terminal.
- 2.5 The User hereby warrants that it is the owner of the Cargo, the Equipment or Vessel or that it is authorised by the owner and/or other persons who has legal right over the Cargo, the Equipment or the Vessel to accept this STC not only for itself but also as agent for and on behalf of the owner or other persons who has legal right over the Cargo.
- 2.6 This STC shall contain the entire agreement between the Terminal Operator and the User and the terms shall prevail over any other agreement unless expressly agreed by the parties in writing.
- 2.7 This STC shall apply to the exclusion of any printed terms and conditions of any purchase order or other correspondence or documents issued by a User in connection with the Services unless expressly accepted in writing by the Terminal Operator.
- 2.8 Any notice to be given under this STC must be given in writing as follows:
  - 2.8.1 in the case of a notice to the Terminal Operator, to the registered office of the Terminal Operator; or
  - 2.8.2 in the case of a notice to the User, to the registered office of the User or the branch or agency office of the User, in each case as notified to the Terminal Operator in writing, through which User has dealt with the Terminal Operator in respect of the provision of the Services.
- 2.9 The Terminal Operator shall, at its discretion, arrange for the Services or any part thereof, to be carried out by one or more sub-contractors or agents.
- 2.10 The terms of this STC shall, insofar as possible, be construed in accordance with applicable Legal Requirements and Port Procedures. If any of these terms are found by any competent court or tribunal to be contrary to any applicable Legal Requirements and Port Procedures, those terms

shall be varied only to the extent necessary to comply with such Legal Requirements and Port Procedures.

- 2.11 Each sub-clause of this STC shall be construed severally.
- 2.12 This STC shall also govern the relationship between the Terminal Operator and any third party entering on to the Terminal whether or not that third party is a User. The Terminal Operator shall be entitled to rely on the limits of and exclusions to liability within this STC as against any User or other person entering on to the Terminal. The User warrants that it will bring the terms of this STC (including the limits and exclusions herein) to the attention of any person who the User may instruct to enter upon the Terminal or otherwise deal with Terminal Operator including, but not limited to, any subcontractor, agent, employee or other party instructed by the User.
- 2.13 Any User or other party entering on to the Terminal shall ensure that it is familiar with and that it follows any applicable Legal Requirements and Port Procedures, including regulations, instructions or directions issued by the Terminal Operator, any Terminal Operator employee or any authorised agent of the Terminal Operator which relate to the use of the Terminal, entry thereon or the use of any Equipment or Vessel thereon or there at. The User shall ensure that any third party which it might instruct to enter on to the Terminal (including, but not limited to, any subcontractor or employee) is familiar with any such applicable Legal Requirements and Port Procedures, including regulations, instructions or directions.

### 3. CARRIER

Notwithstanding anything mentioned expressly to the contrary, any obligations imposed on the Carrier contained in this STC shall be construed as imposing joint and several liabilities upon the owner(s), agent(s), operator(s) and charterer(s) of the Vessel.

### 4. NOTICE OF ARRIVAL

Each Carrier expecting to berth a Vessel at the Terminal for the purpose of Loading or Unloading Cargo shall give the Terminal Operator a notice of at least 72 hours prior to the arrival of such Vessel, and thereafter 48 and 24 hours prior to arrival, and furnish such information as the Terminal Operator may request. The acceptance and berthing of each Vessel must be agreed in writing in advance by the Terminal Operator.

### 5. INSTRUCTIONS AND DOCUMENTATION

- 5.1 The Carrier shall provide to the Terminal Operator at least 48 hours prior to the Vessel's arrival the documents listed in Clause 5.2 below and clear instructions in respect of all work to be performed on Vessels, Containers and Cargo. The Terminal Operator reserves the right to request any additional documents which they or any Authority deem fit at their sole discretion. Failure of the Carrier to provide the documents listed below and any additional documents requested by the Terminal Operator or the Authority may result in withholding the Vessel's clearance to berth at, or to sail from, the Terminal until such time as they are made available.
- 5.2 Documents and information:
- (a) Cargo stowage plan/legible bay plan/profile
  - (b) Discharge list, including VGM
  - (c) List of Dangerous Cargo, out-of-gauge Cargo and Reefer Cargo control lists when applicable
  - (d) Dangerous Cargo declaration

- (e) Cargo loading list
- (f) Instructions for Loading and Unloading
- (g) Vessel particulars
- (h) Baplie if EDI available
- (i) Any special Berthing requirements
- (j) Cargo manifest
- (k) Passenger manifest
- (l) Any other information, which would help the Terminal Operator in the process of Vessel operation

5.3 Vessel particulars as stated in Clause 5.2(h) above should contain the following details:

- (a) Vessel name
- (b) Service
- (c) Flag
- (d) Official Code and International Maritime Organization number
- (e) Call sign
- (f) LOA, beam and draft
- (g) TEU capacity and reefer plug availability
- (h) Number of hatch lids
- (i) ISPS Status

5.4 Discharge list as stated in Clause 5.2 (b) above should contain the following details:

- (a) Vessel name and voyage number
- (b) Container number
- (c) Size and type
- (d) Gross weight (or VGM)
- (e) Port of Loading
- (f) Port of discharge and or final destination
- (g) Status as follows:
  - i. FCL –Container Local Delivery
  - ii. LCL- Consolidated cargo for unpacking at CFS
  - iii. T/S – transshipment
  - iv. MT-Empty containers
- (h) IMCO Class number and UN code number and copy of manifest
- (i) For LCL Cargo, LCL manifest must be submitted to CFS Department
- (j) Highlight if cargo is out of gauge

5.5 Cargo Loading List as stated in Clause 5.2 (e) above should contain the following details:

- (a) Name of the vessel to be loaded
- (b) Container number
- (c) Size and type
- (d) Full or empty
- (e) Gross weight (or VGM)
- (f) Destination
- (g) IMCO class number and UN code number and copy of manifest
- (h) Highlight if cargo is out of gauge

## 6. DANGEROUS CARGO

- 6.1 Dangerous Cargo will not be provided with any Service of any kind except under advance arrangement with the Terminal Operator and the Port Authority. The Terminal Operator reserves the right to refuse to handle any Cargo or provide any Service which, in its judgment, is likely to harm human health, or damage other Cargo or property. The handling of Dangerous Cargo will be governed by the Port Rules, Port Procedures, the International Maritime Dangerous Goods Code, and any other Legal Requirements on the management of hazardous materials in the Emirate of Sharjah and the UAE.
- 6.2 Dangerous Cargo must be accompanied with full disclosure of the hazardous characteristics, risks and special handling requirements of such Cargo, subject to the relevant rates and charges as per the Tariff. It is the responsibility of the Carrier tendering such Cargo to the Terminal:
- 6.2.1 to fully disclose in writing and in advance all of the Cargo's characteristics, risks and special requirements applicable to its safe Loading, Unloading, handling and storage in bulk;
  - 6.2.2 to obtain all necessary special permits or permissions required by the Port Authority and/or other local or federal authorities in connection with the Loading, Unloading, handling and/or storage at the Terminal; and
  - 6.2.3 to provide the Terminal Operator with the details of the safety requirements to handle and store such Cargo(s).
- 6.3 The Carrier shall comply and advise Consignees and Consignors of their obligation to comply with the terms of this STC related to the Dangerous Cargo.
- 6.4 The Terminal Operator reserves the right to refuse to handle any Cargo or provide storage which, in its judgment, is likely to damage human health, other Cargo or property.

## 7. HOURS OF OPERATION

The Terminal operates 24 hours a day, every day throughout the year, subject to any Force Majeure events.

## 8. SAFETY, SECURITY AND ENVIRONMENT

- 8.1 All Vessels are to furnish, at all times whilst alongside Berth, safe ingress and egress.
- 8.2 When a Vessel is berthing and/or is berthed at any of the Terminal Facilities, the Carrier shall be solely responsible for the safety of the Vessel and their crew. The Vessel whilst alongside Berth shall at all times maintain appropriate officers and crew aboard in order to maintain an alert watch and respond to emergencies. The Vessel and its main engine must be maintained in a state of readiness to respond to emergency situations and to avoid delays in vacating the Berth.
- 8.3 Measures must be taken to prevent deballasted water from coming into contact with personnel, Equipment or the dock.
- 8.4 The Users and the Vessel crew members shall adhere to the safety and security regulations of the Terminal Operator and the Port Authority.

- 8.5 Certain areas of the Terminal and all of the Terminal's Berths are considered restricted areas. Any unauthorised entry into restricted areas is considered a breach of security and the proper authorities will be notified. Anyone or anything entering into the Terminal is subject to inspection according to the regulation of the Port Authority. Failure to consent to inspection will result in denial or revocation of authorisation to enter.
- 8.6 The Carrier or Vessel must cause and ensure that they have appropriate arrangements in place for 'watch keeping' within and around the Vessel and a definitive count and check on persons entering or leaving the Vessel. Stowaways must stay on board the Vessel under the Vessel master's responsibility. If the stowaway escapes from the custody of the Vessel's representative, then the Terminal Operator will inform the Authority and the local police and the Vessel (or the Carrier, as the case may be) shall be responsible for all costs and expenses associated with his/her recovery. The Terminal Operator reserves the right to not allow any proposed repatriation of stowaways by the Carrier or the Vessel, if it considers it may endanger its employees, agent or any person that might be involved in the process.
- 8.7 Photography without previous written permission from the Port Authority is strictly prohibited.

## 9. COMPLIANCE WITH LAWS AND REGULATIONS

All Vessels shall fully comply with all applicable UAE Coast Guard regulations and all applicable Legal Requirements, Port Procedures and Port Rules. For the avoidance of doubt, where any such Legal Requirements, Port Procedures and Port Rules impose obligations that are more onerous than those provided in this STC, the Vessels shall be required to comply with such more onerous terms.

## 10. MARINE SERVICES

- 10.1 The Terminal Operator shall not be responsible for providing pilotage, towage, or any other marine services. The Carrier shall contact the Port Authority to provide such services and the cost of which shall be fully borne by the Carrier.
- 10.2 Any Vessel which is required to shift Berth or to warp will be responsible for any and all expenses pertaining to shifting/warping as levied by the Authority (or by the Terminal Operator on behalf of the Authority).

## 11. USE OF TERMINALS

- 11.1 Carriers are allowed to use the Berth only for Loading and Unloading of Containers or Cargo unless otherwise agreed with the Terminal Operator.
- 11.2 The Terminal Operator may allow a Vessel to lay alongside the Terminal for a limited period and/or following the Loading or Unloading of the Vessel, but the Berth is not intended to be used for the purpose of laying up other than to meet the Terminal Operator's operational requirements. The Terminal Operator will endeavour to provide a lay-by berth at the request of a Carrier subject to the approval of the Port Authority and payment of additional charges as applicable.

## 12. NO ESTATE OR INTEREST

The Users acknowledge that their rights to access or use the Berth rest in contract only and this STC does not create or confer upon the Users any tenancy, estate or other interest in the Berth or the Terminal.

### 13. NO WARRANTY AS TO SUITABILITY

- 13.1 The User shall be solely responsible for determining if the depth of water (at any state of tide) is sufficient for the Vessel, the Terminal Operator having no responsibility therefor. The User agrees that the Terminal Operator has made no representations and gives no warranty concerning the adequacy or suitability of the Berth or the Terminal and shall not be liable for any damages or compensation caused due to any inadequacy and or delay in providing access to the Berth or the Terminal.
- 13.2 Full and active co-operation of the User is required in all aspects of Container operations to enable the Terminal Operator to operate the Terminal as expeditiously and effectively as possible, for the general benefit of all Users.

### 14. FITNESS AND SUITABILITY OF THE VESSEL

- 14.1 The Carrier, at all times, shall remain responsible for the suitable condition of the Vessel in compliance with all Legal Requirements, Port Procedures and Port Rules relative to the fitness of the Vessel. The Berthing of any Vessel or delivery of any barge to the Terminal shall constitute a warranty by the Carrier to the Terminal Operator that there are no latent defects in the Vessel or barge and that the same is capable of either being Loaded or Unloaded with the Cargo by the Terminal Operator using the Equipment normally employed by the Terminal Operator. The Terminal Operator reserves the right to refuse any Vessel considered by the Terminal Operator to be in breach of this STC, unseaworthy, or due to damage, distribution of load, draft or lack of freeboard, list or such other reason for which the Terminal Operator deems in its absolute discretion the Vessel not suitable for handling at the Terminal. In no event shall the Terminal Operator be responsible for the seaworthiness, maintenance, repair or service of Vessels coming into Berth at the Terminal or barges delivered to the Terminal, such responsibility being solely that of the Carrier.
- 14.2 The Carrier, at all times, shall maintain the Vessel clean and free of debris. Should the Carrier fail to promptly clean and remove any items which render the deck of any such Vessel hazardous to the safety of any person, the Terminal Operator reserves the right, but not the obligation, to clean and remove the items from the Vessel's deck, which service will be solely on the account of the Carrier.

### 15. UNDERTAKINGS

The Users shall:

- (a) ensure that any of its Vessels entering the Port is seaworthy and holds valid ship certificates and crew certificates certifying the Vessel's condition and competency of the crew, in accordance with international standards and applicable Legal Requirements, Port Procedures and Port Rules;
- (b) ensure that all of its Vessels are adequately covered by insurance policies for Hull & Machinery and Protection & Indemnity, covering oil pollution and third party insurance in accordance with international standards, and that all such insurance is valid throughout the period that such Vessels use a Port or are provided with marine and/or Terminal Services;
- (c) comply with and perform its obligations contained in this STC;
- (d) obtain and maintain at its own expense, all necessary licences and authorisations and comply with all applicable laws, acts, conventions, regulations, regulatory requirements and codes of practice issued by any competent authority;

- (e) comply with all reasonable directions imposed by the Terminal Operator for the safe and/or efficient operation of the Port or Terminal, or as otherwise agreed with the Terminal Operator for the use of a Port or Terminal;
- (f) immediately inform the Terminal Operator of any occurrence or incident which might affect the safe and efficient operation of a Terminal and/or a Port or endanger the health and safety of persons at a Terminal and/or a Port or which may cause pollution or damage to the environment and shall take, at its own cost, such reasonable steps to control or eliminate any danger or inconvenience caused by such occurrence or incident as may be directed by the Terminal Operator;
- (g) complete and provide to the Terminal Operator any documents required pursuant to any applicable laws, regulations, byelaws, standards or directions prior to the use of a Port or receipt of marine and/or port services; and
- (h) accept that this STC constitutes valid and legally binding obligations of the User enforceable against the User in accordance with its terms.

## 16. BERTHING AND SAFETY EQUIPMENT

- 16.1 During Berthing, Unberthing and throughout the duration of the Port stay, the Vessel shall at all times provide adequate lighting, Equipment and appropriate officers and crew aboard to permit Loading or Unloading of Cargo as the case may be at any time of the day or night, including public holidays in the UAE, and maintain an adequate safety and security watch.
- 16.2 The master and crew of every Vessel will provide assistance in handling lines and operating related deck machinery. Competent deck officers must be available to ensure timely response to directions of any representatives of the Terminal relative to handling of mooring lines. Terminal representatives will position lines on the shore side.
- 16.3 In the event that the Vessel fails to comply with these requirements and another Vessel, although arriving or scheduled later, is available for Loading or Unloading operations the Terminal Operator may, in its sole discretion, and without liability to anyone, bypass the subject Vessel. If the Vessel is ordered to Berth, and a delay in excess of 1 hour in the berthing of the Vessel results from circumstances or conditions within the control of, or due to the fault of, the Vessel, the Carrier including its owner(s), operator(s), charterer(s) and agent(s) shall be responsible, jointly and severally, for Standby Time charges. Such charge shall be as specified in the applicable Tariff and shall be due for each hour or fraction thereof.

## 17. VESSEL ROTATION

The Terminal Operator may adjust the Vessel Berthing programme in its sole discretion and judgment in the best interest of Terminal operations.

## 18. STOWAGE

The Carrier shall be solely responsible for the safe stowage of the Cargo.

## 19. LOADING OR UNLOADING

- 19.1 The Terminal Operator shall use its best endeavours to make available on the Terminal adequate container handling Equipment, comprising cranes and suitable container handling

vehicles, but no warranty is given as to the availability or capacity of such Equipment at any given time for the Loading and Unloading of container from the Vessel and the handling of Containers, including their transport from the quay to the storage area or vice versa.

- 19.2 In no event shall Loading or Unloading of a Vessel, as the case may be, occur until such time as such Vessel has been cleared by the Authority. If a Vessel fails to comply with any of the applicable Legal Requirements, Port Procedures and Port Rules, the Terminal Operator may order the Vessel to vacate the Berth. If the Vessel does not vacate the Berth when so ordered or within one hour of completion of Loading or Unloading, the Vessel will be subject to, in addition to the Standby Time Charges as mentioned in the Tariff applicable from time to time, all costs (including, but not limited to the Terminal Operator's lawyer's fees) and expenses in connection with the moving of the Vessel. Any such costs and expenses shall be on the account of and at the full risk of the Carrier.

## 20. MOVEMENT OF VESSEL'S GEAR

- 20.1 Where the Vessel's gear is used, the Carrier will allow the full use of all cranes, winches, derricks, runners, tackle, etc., and will supply full power at all times without charge. No responsibility will be attached to the Terminal Operator for any accident directly or indirectly arising out of, caused, or contributed to by any defect in gear supplied by the Carrier; and the Carrier shall indemnify the Terminal Operator against any claim arising out of such accident. The Carrier shall maintain all Vessel's gear in good working order and before work commences shall produce to the Terminal Operator's representative a current certificate of test of such gear that it meets the requirements of all statutes, orders, and regulations then in force.
- 20.2 None of the Vessel's cranes, hatch covers or other gear may be moved without prior written consent of the Terminal Operator.

## 21. HANDLING OF DAMAGED CONTAINERS

The Terminal Operator may refuse acceptance of damaged or distorted Containers or of any Container which in its opinion is in an unsatisfactory or unsafe condition, or of any non-standard Container. In the event the Terminal Operator agrees to handle such Containers, a further charge may be levied in the Carrier's account, in addition to the applicable Tariff, whether or not such damage or deterioration has been caused wholly or in part by the Terminal Operator, its servants or agents, and any damages caused due to handling of such containers shall be for the account of the Carrier.

## 22. REMOVAL OF OBJECTIONABLE CARGO

The Terminal Operator and the Port Authority shall have the right to move any Cargo or Container to another location and/or inspect any Cargo or Container, for any reason, at the risk and full expense of the Carrier.

## 23. THE CONTROL OF REFRIGERATED CARGO

The Terminal Operator shall use its best endeavours to provide for the monitoring of Reefer Cargo whilst at the Terminal. The checking of temperature recording Equipment when receiving and dispatching refrigerated or insulated containers shall be in accordance with the Carrier's instructions and any faults or discrepancies shall be reported to the Carrier. The Terminal Operator shall not be responsible for any loss or damage to any Container or its contents or any Reefer Cargo occasioned or resulting by or from any power failure or any other cause outside the control of the Terminal Operator.

## 24. DIRECT DELIVERY

The Carrier shall obtain prior approval to take delivery of the Containers directly from the Vessel by the Consignee or its agent onto road transport or other mode arranged by it. If for any reason whatsoever, Cargo for direct delivery are unloaded to the quay and/or removed to the transit sheds or warehouses or stacked in the open yard, full Tariff will be applied.

## 25. CONTAINER STRIPPING AND STUFFING

In the event the Terminal Operator is requested to handle Container stripping and stuffing, such Services shall be conducted within the Terminal as per the applicable Tariff.

## 26. DISPOSAL OF ABANDONED / UNCLAIMED CARGO BY AUCTION

26.1 Goods remaining in the Port unclaimed for a period of more than:

- (a) 90 days for General Cargo
- (b) 90 days for vehicles and other road-moving Equipment
- (c) 30 days for Dangerous Cargo
- (d) 60 days for Reefer Cargo
- (e) 90 days for all other Containerised Cargo
- (f) 90 days for empty Containers

for which the respective Tariff and customs charges have not been paid, may be auctioned and / or sold without any notice, by the Port Authority. However, this will not release the obligation of the Carrier / User to pay the outstanding payment to the Terminal Operator. The User / Carrier shall indemnify the Terminal Operator from all losses, damages and claims which may arise subsequent to such auction.

26.2 If the Cargo, as determined by the sole discretion of the Terminal Operator, is unsuitable for auction, the Terminal Operator may proceed with the destruction of the Cargo, and all the charges accrued till the date of destruction along with the destruction charges and all other related charges shall be on the Carrier's account. The Carrier shall indemnify the Terminal Operator from all losses, damages and claims which may arise subsequent to such destruction.

26.3 Containers containing Cargo destined for public auction or disposal shall only be released after all the charges including the stripping and stuffing charges and storage charges have been received by the Terminal Operator. These charges will be on the respective Carrier's account.

## 27. DAMAGED OR DEFECTIVE GOODS

Damaged or defective Cargo, including perishable cargo which is likely to deteriorate, must be cleared from the Terminal within 30 calendar days of the date of Unloading. The Terminal Operator will not assume any responsibility for further loss or damage. Any goods not cleared in accordance with the above may be removed by the Terminal Operator at the Carrier's risk and expense.

## 28. MISDECLARATION OF CARGO WEIGHTS

The Terminal Operator shall not permit its Equipment to be used in any way to lift, move or transport a Container or Cargo with a weight in excess of the safe working load of the Equipment. Should the Terminal Operator's Equipment be used in handling an overweight Container or Cargo, the Carrier causing such unauthorised use shall be held liable for all losses, claims, demands and suits for damages including death and personal injury, loss or damage caused to any property, legal and court expenses,

directly or indirectly resulting from such unauthorised use. Containers or Cargo tendered to the Terminal Operator, where the weight is misdeclared will be rejected and a fine, as specified in the applicable Tariff, will be payable by the Carrier.

## 29. LIABILITIES, INDEMNITIES AND LIMITATIONS OF LIABILITY

- 29.1 The Terminal Operator shall notify the User without undue delay upon becoming aware of any matter which gives rise to or may give rise to a claim for loss or damage(s) against such Carrier in respect of marine and/or port services stating in reasonable detail or with such information as is available, the nature of the matter and claim, and so far as practicable, the amount claimed.
- 29.2 The Carrier shall be responsible for any physical damage arising out of or resulting from the use of the Port. The Terminal Operator reserves the right to replace or repair any such damage caused by a Carrier as it deems fit and correct, at the expense of such Carrier.
- 29.3 The Carrier shall be liable for, and shall indemnify, defend and hold harmless the Terminal Operator, its affiliates, agents, shareholders, directors, employees and officers against any liability for claims or legal actions of any kind brought against the Terminal Operator by a third party, including reasonable costs and expenses incidental thereto, in respect of:
- (a) loss, damages, pollution damages, delay, deficiency, costs (including legal costs), expenses of whatsoever nature, however arising or caused, whether directly or indirectly incurred by Terminal Operator, whether actual or consequential occasioned to and sustained by:
    - (i) a User and/or Cargo and / or Container;
    - (ii) the User or its property, whether owned, hired, leased or otherwise provided;
    - (iii) the property of any third party;
  - (b) loss of life and/or personal injury, including fatal injury and disease, to any person or persons or any legal liability of whatsoever nature, however arising or caused, notwithstanding any defect of any premises, property, machinery, gear or appliance (none of which is in any way warranted by the Terminal Operator as to fitness for use) and notwithstanding any omission, negligence, default or error by the Terminal Operator, its directors, employees, representatives, agents, contractors or any person authorised by the Terminal Operator or any other person, body or authority in connection with the Terminal Operator's marine crafts, cranes, Equipment or employees, representatives, agents and contractors, arising from or during the period of a Vessel's or User's use of the Port or for receipt of marine and/or port services which the Terminal Operator may provide to the User or Vessel; and
  - (c) pollutants or waste matter emanating from a Vessel or the Users' property (other than a Vessel) of whatsoever nature causing pollution and contamination arising out of or in connection with this STC, in each event, whether caused by tort (including negligence), breach of statutory duty, contract or otherwise;
  - (d) any act, neglect or default of the master, mariner, pilot, or the servants of the Carrier in the navigation or in the management of the Vessel including the Loading and Unloading of ship's stores, fresh water and bunkers;

- (e) the stuffing of the Containers in excess of the rated gross capacity unless occasioned by the default of the Terminal Operator;
- (f) any incorrect declarations in respect of the weight or VGM of a Container or Cargo;
- (g) the incorrect stuffing of Containers so as to affect the safe handling of any Container unless occasioned by the default of the Terminal Operator not being the result of circumstances outside the Terminal Operator's direct control;
- (h) any act, neglect or default of the Carrier, its contractors, agents or their respective servants or any person whomsoever in or on the Berth in connection with the use of the Berth by the Carrier's Vessel with the Carrier's permission express or implied or of any inherent quality or defect of any Cargo in or on the Berth or on any Vessel;
- (i) The Carrier will also pay to the Terminal Operator full compensation for all damage done to or suffered by the property or Equipment operated by the Terminal Operator and arising as aforesaid including consequential loss.

29.4 The User agrees that its liability under this STC shall be joint and several with any other User it represents (either as an agent, employee or representative) and shall not be conditional upon Terminal Operator proceeding first against any other person, whether or not such person is party or liable under this STC.

29.5 In no circumstances will the Terminal Operator be liable for any consequential or indirect loss of whatever nature and howsoever arising including (but not limited to) any loss of profit (whether direct or indirect), loss of market share, loss of goodwill, loss of future or anticipated sales, loss of production or factory down time, damages, costs or expenses incurred or payable by the User to any third party or any other indirect or consequential losses.

29.6 Without prejudice to clause 29.5 above, if the Terminal Operator is found liable to the User:

29.6.1 The Terminal Operator shall only be liable for loss or damage caused by the gross negligence of the Terminal Operator and subject to a deductible *de minimis* as stated in the Insurance Policy and a limitation of liability as follows:

(i) For any loss or damage to the Vessel and Equipment, the maximum compensation shall be limited to and paid as per the limits mentioned in the Insurance Policy.

(ii) The claim for loss or damage caused by the Terminal Operator and/or caused at the premises of the Terminal Operator shall be governed by the terms and conditions of the Insurance Policy.

29.7 The Terminal Operator shall only accept liabilities related to the Services and shall not accept any liability for the obligations of the Port Authority or any Authority or any third party whatsoever.

### 30. CLAIMS AND TIME LIMIT FOR CLAIMS

30.1 Subject to clause 29.6 above, the Terminal Operator shall not be liable in respect of any loss of or damage to the Vessel, Cargo, Containers, Equipment or any other matter unless notification of a claim in respect of such loss or damage is made in writing (in addition to annotation of a notice of such claim is noted in any of the Terminal Operator's documents at the Terminal) within fifteen (15) calendar days from the date of its occurrence and the amount of the said loss or

damage should also be submitted in writing to the Terminal Operator within twelve (12) months after the date of occurrence of such loss or damage.

- 30.2 For the avoidance of doubt, it is hereby declared that the Terminal Operator's liability in respect of any loss or damage shall be subject to the deductible *de minimis* and limitation of liability prescribed in Clause 29.6 above. The User shall indemnify the Terminal Operator against all proceedings and claims whatsoever in respect of any amounts claimed by any persons outside the prescribed limits as aforesaid.

### 31. LOSS OR DAMAGE

- 31.1 In the event of the Terminal Operator suffering loss or damage from the Consignee, Shipper or any other third party, inclusive in respect of any Container or unit handed over to it for shipment aboard any Vessel, the Carrier shall provide all reasonable assistance to the Terminal Operator in recovering from such third party or other party responsible for such loss or damage. In the event the Carrier is in breach of its obligation hereunder in refusing to provide any such assistance it will indemnify the Terminal Operator against all proceedings, claims and costs whatsoever in respect thereof and will pay to the Terminal Operator full compensation for all damage suffered by the Terminal Operator arising as aforesaid.
- 31.2 In the event of a claim for any loss of or damage to Cargo being made against the Terminal Operator, the Carrier shall lend all reasonable assistance to the Terminal Operator in resisting or defending such claims where the Terminal Operator's liability is expressly or impliedly excluded or limited by the terms of the Carrier's shipping note or bill of lading (including for these purposes the lending of the Carrier's name for enabling application to be made to the competent court so that the Carrier be joined as defendant in any action against the Terminal Operator or that proceedings be stayed against the Terminal Operator in such action). Where the Carrier is in breach of its obligation hereunder in refusing to lend any such assistance it will indemnify the Terminal Operator against all proceedings claims and costs whatsoever as aforesaid.

### 32. VERIFICATION OF CONTAINER WEIGHT

- 32.1 The Carrier shall ensure that their Consignor complies with all applicable local, national, and international laws, rules and regulations pertaining to verification of Container weight before loading on the Vessel. If a packed Container has no VGM as required by applicable Legal Requirements, Port Procedures and Port Rules, or if the VGM exceeds the maximum allowed by applicable Legal Requirements, Port Procedures and Port Rules, it shall not be loaded onto the Vessel until a VGM is obtained or until the VGM is within the limits allowed by the relevant applicable Legal Requirements, Port Procedures and Port Rules.
- 32.2 To that end, the proper documentation shall be provided to the Terminal Operator no later than at cut-off time agreed between the Carrier and the Terminal Operator.
- 32.3 If the Terminal Operator has reason to believe that the VGM of any packed Container provided by the Carrier is significantly in error, the Terminal Operator shall inform the Carrier in due course, who in turn shall inform its Consignor.
- 32.4 If required by the Consignor and if the Terminal Operator has the possibility to execute the weighing, the Terminal Operator shall, on an agreed rate, provide related services, to issue a VGM of the Container in due time prior to its loading on to the Vessel.

### 32.5 Charges

The Carrier shall not interfere in settling charges eventually applicable in the event the Terminal Operator delivers VGM information to the Consignor. In such events, the Terminal Operator shall issue the VGM only upon receiving the payment in full from the Consignor or from the Carrier.

### 32.6 Transmission of VGM

For all export Containers including transshipment containers, the Carrier or its agent shall provide the Terminal Operator, latest at time of agreed cut-off, the VGM principally by way of EDI messages, or any other way of transmission of VGM information as agreed between the Terminal Operator and the Carrier. The Terminal Operator shall not be liable towards any of the Users for any loss, damage, or expenses resulting from discrepancies between the weights reported on the VGM and the actual weight of a laden Container unless the VGM has been issued by the Terminal Operator.

## 33. TARIFF, EXPENSES AND LIENS

- 33.1 The Terminal Operator may at its sole discretion, estimate and collect in advance all charges which may accrue against Cargo or Vessels from the respective User. Use of the Terminal, or permission to sail, may be denied until such advance charges have been paid.
- 33.2 The rates and terms shall be as per the Tariff prevailing at the time of the Service provided by the Terminal Operator. Any agreement for Services / Tariff as applicable executed with any individual User shall be privy to and shall remain legally binding upon such User even in the event of any merger, acquisition or formation of any kind of joint venture, consortium or alliance between two or more Users.
- 33.3 The Carrier shall advise any of the Users of their obligation to pay certain charges as fully described in the Tariff directly to the Terminal Operator. In the event the Consignee is in breach of its obligation to pay the charges stated in the Tariff, the Carrier will indemnify the Terminal Operator and will pay to the Terminal Operator any and all costs, expenses, charges and compensation owed to and damages suffered by the Terminal Operator in this respect.
- 33.4 Notwithstanding any agreement by the Terminal Operator to collect charges from any person other than the User, the User shall remain liable to the Terminal Operator for payment of all charges when due.
- 33.5 The granting of any credit by the Terminal Operator (including any credit terms shown on any invoice or the credit terms applied by any separate agreement) shall be at the absolute discretion of the Terminal Operator. Terminal Operator may, in its absolute discretion, require the User to make payment in full or in part immediately upon presentation of an invoice whether this be before or after the Services have been provided.
- 33.6 If the User fails to make any payment on the due date or if the User becomes insolvent or goes into liquidation, either compulsory or voluntary (save for the purposes of reconstruction or amalgamation), or if an administrator, administrative receiver or receiver is appointed in respect of the User and/or the whole or part of the User's assets, or if the User makes any assignment for the benefit of, or composition with its creditors generally or is subject to an equivalent or analogous insolvency event in any jurisdiction:

- (i) all and any sums owed by the User to the Terminal 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 the Terminal Operator's invoices and / or any credit terms agreed separately between the Terminal Operator and the User); and
- (ii) Terminal Operator may, without prejudice to any other right or remedy available to it, delay or withhold Services, refuse to provide Services or cancel any or all orders for Services with the User.

33.7 Terminal Operator shall have:

- i) a general lien on all Cargo, Equipment or Vessel in Terminal Operator's possession to secure the payment by the User of all charges whatsoever due from the User to Terminal Operator;
- ii) a particular lien on all Cargo, Equipment or Vessel in Terminal Operator's possession;
- iii) Upon Terminal Operator exercising its lien under Clause 33.7 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. Such storage charges and other expenses shall be for the account of the User and the User shall indemnify and hold the Terminal Operator harmless from and against all and any such charges and expenses.
- iv) Once a lien under Clause 33.7 has been exercised, the Terminal Operator may sell, dispose of or otherwise deal with the Cargo / Container as mentioned under Clause 26 of this STC; and
- v) Upon accounting to the User for any balance remaining after payment of any due sums and the costs of and associated with the storage, sale, disposal and dealing with the Cargo, the Terminal Operator shall be discharged from any liability whatsoever in respect of the Cargo, the Container or the Vessel.

33.8 The Terminal Operator reserves the right to alter, change or amend any or all charges, terms, conditions or interpretations contained in this STC with or without prior notice. Moreover, the Tariff is subject to revisions and surcharges as imposed by the Authority or governmental or quasi-governmental authorities or bodies, without appropriate advance notice and which automatically become part of the Tariff and payable by the Customer, from the date of their formal implementation (current or retrospective).

33.9. All invoices are issued as due on presentation, unless otherwise agreed to in writing between the Terminal Operator and the User. The Terminal Operator reserves the right to apply interest at the rate of (2%) per month on any invoice or part thereof remaining unpaid beyond the due date.

33.10 In the event of the User's failure to pay on the date specified above and without prejudice to the rights available under Clause 33.5 above, the Terminal Operator shall have a general as well as a particular lien on the Vessel, Containers, Equipment or Cargo and all documents in its possession custody or control to secure payment whatsoever due to the Terminal Operator from the User. Upon exercising a lien, additional charges may apply to a Vessel, Containers, Equipment or Cargo held subject to the lien. Terminal Operator shall be entitled to sell or dispose of a Vessel, Containers, Equipment or Cargo at the User's expense and apply the

proceeds towards payment of any charges due upon 28 days written notice to the User. In the event that any Cargo detained is perishable and may deteriorate during the 28 day notice period, the Terminal Operator may sell such Cargo without giving the said notice. Upon accounting to the User for any balance remaining after payment of any sums due and costs, the Terminal Operator shall be discharged from all and any liability whatsoever in respect of such Vessel, Containers, Equipment or Cargo.

- 33.11 The above mentioned Tariff is in AED and is exclusive of any applicable taxes including Value Added Tax (VAT), levies, duties or charges of similar nature imposed by the Government / Tax Authority, whether applicable now or in future. All such taxes, levies and duties which may become applicable in the future will be charged separately by the Terminal Operator and payable by the Carrier / User.

### 34. FORCE MAJEURE

- 34.1 Neither party shall be liable to the other for any delay in or failure to perform its obligations hereunder (other than non-payment of money) if any such delay or failure is due to Force Majeure. "**Force Majeure**" is defined as: an act of God or the public enemy, acts or refusals to act of any government or governmental agency in either its sovereign or contractual capacity, governmental restrictions or control on imports, exports or foreign exchange, freight embargoes, non-availability or mechanical breakdown or destruction of Equipment vital to the performance of a party's obligations under this STC or in connection therewith, fire, floods, tidal waves, earthquake, storm, slides, epidemics, quarantine restrictions, war declared or undeclared, revolution, riots, insurrections, hostilities, civil disturbances, power shortage, or stoppages, strikes, walk-outs, work stoppages, lockouts, railroad obstructions or obstruction of ocean navigation, stoppages of labour, deliberate work slowdowns, other labour difficulties, the taking of the Terminal facility by expropriation, other ouster of the Terminal Operator from the Terminal facility or other denial of rights of the Terminal Operator in the Terminal facility or the premises upon which the facility is built or any other cause beyond the reasonable control of a party.
- 34.2 If either party becomes aware of an event of Force Majeure it shall promptly notify the other party, the following, in writing within 5 days of the occurrence of the event of Force Majeure:
- 34.2.1 description of the Force Majeure event in reasonable detail and stating, to the extent reasonably practicable at such time, its estimate of the duration of the Force Majeure event; and
- 34.2.2 setting out in reasonable detail the obligations under this STC which cannot be performed as a result of the occurrence of the Force Majeure event.
- 34.3 The party which is prevented from performing its obligations by a Force Majeure event shall:
- 34.3.1 use all reasonable commercial efforts to curtail, contain or remove the Force Majeure condition and to resume, with the least possible delay, compliance with its obligations under these STC; and
- 34.3.2 keep the other party informed on a timely basis of any progress made in curtailing, containing or removing the Force Majeure condition.

### **35. GOVERNING LAW**

- 35.1 All claims under these STC shall be determined according to the laws of United Arab Emirates by the Sharjah Courts, to the exclusion of the jurisdiction of the courts of any other country. Use of the Terminal or receipt of Terminal Operator's Services by any Users shall constitute that User's consent to jurisdiction and venue in such courts and a waiver of any objections thereto.
- 35.2 Where this STC is silent on the rights and liabilities of the Terminal Operator and/or the User hereunder, these shall be determined according to the laws of United Arab Emirates, as aforesaid.

### **36. AMENDMENTS AND MODIFICATION**

Amendments to this STC may be issued by the Terminal Operator at any time. This STC in effect at any time shall be published on the Terminal Operator's website. This STC in effect at the time a Vessel docks at the Terminal shall be the STC applicable during the period of time such Vessel is docked at the Terminal for that particular period of time. If an updated STC is in effect at the time of a subsequent dockage by a Vessel such updated STC shall apply. This STC is subject to change, by the Terminal Operator, from time to time.

### **37. LOCAL AUTHORITY**

The Terminal is within the jurisdiction of Port Authority and the Users of the Terminal are subject to the applicable Legal Requirements, Port Procedures and Port Rules.

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