

GENERAL TERMS

1 Definitions and interpretation

1.1 In these General Terms, unless the context otherwise requires, the following words and expressions shall have the following meanings:

Agent shall be an agent appointed by the Customer in respect of the Services

Cargo means any cargo, including passengers, navy personnel, goods of all types including liquids, bulk, unitised, vehicles, hazardous goods, empty containers, non-containerised and containerised cargo, dry bulk, break bulk and gas bulk

Civil Code means *Sultani Decree No. 29 of 2013 promulgating the Civil Transactions Code*

Competent Authority means the Port Authority and other organisations designated by the Government or by a Government of a GCC member state to process information reported pursuant to these General Terms or to take any action in respect of or in connection with these General Terms

Confidential Information means all information in any form or medium which is secret or otherwise not publicly available (either in its entirety or in part including the configuration or assembly of its components) including commercial, financial, marketing, or technical information, know-how, trade secrets, business methods and other information in any form or medium whether disclosed orally or in writing, together with any reproductions of such information in any form or medium or any part(s) of this information

Consequential Loss has the meaning given in condition 11.7

Custody means the period in which any Cargo is:

- (a) within the exclusive control of the Terminal Operator for the purpose of performing the Services; and
- (b) handled by cargo handling equipment owned by the Terminal Operator to the extent such equipment is required,

for example, (i) in respect of export Cargo, the period which begins when the Cargo is physically lifted off from the truck for stacking at the container yard of the Terminal and ends when the Cargo is laid to rest on the Vessel's deck, hold or on top of another container on the Vessel, at all times by cargo handling equipment owned by the Terminal Operator and (ii) in respect of transshipment Cargo, the period which begins when the Cargo is physically offloaded or lifted off from one Vessel's deck, hold or from the top of the containers on one Vessel and ends when the Cargo is loaded or laid to rest on another Vessel's deck, hold or on top of another container on another Vessel, at all times using cargo handling equipment owned by the Terminal Operator

Customer means:

- (a) any person (which for the avoidance of doubt includes any Agent, freight forwarder or person authorised by such person) who receives or benefits from the Services including, without limitation, the owner of, charterer (of whatsoever nature) of, or any

other person who is or may become interested in a Vessel calling at the Terminal, the Vessel's master and any person who has control of the operation of such Vessel;

- (b) the owner of, or any other person who is or may become interested, in the Cargo;
- (c) the owner of, or any other person who is or may become interested in, any road vehicle which enters or uses the Terminal;
- (d) any person who drives or operates such vehicle; and
- (e) any person who uses and/or enters the Terminal

Dangerous Cargo means any materials or components of hazardous nature or as per the IMDG Code issued by the IMO and related conventions

Force Majeure Event has the meaning given in condition 14

GCC means the Cooperation Council for the Arab States of the Gulf, with its members the Kingdom of Bahrain, the Kingdom of Saudi Arabia, the State of Kuwait, the State of Qatar, the Sultanate of Oman and the United Arab Emirates who each signed the GCC Charter at Abu Dhabi City, United Arab Emirates, on 21 Rajab 1401, corresponding to 25 May 1981

General Terms means these general terms and conditions

Government means the Government of the Sultanate of Oman

Health and Safety Rules means the health and safety rules of the Terminal Operator from time to time as published on its official website at www.portofduqm.om and the publication of such shall be deemed notification to the Customer

IMDG Code means the International Maritime Dangerous Goods (IMDG) Code as Amendments to SOLAS chapter VII (Carriage of Dangerous Goods)

IMO means the International Maritime Organisation

Liabilities means any and all costs (including the costs of investigating and defending any claims), expenses, claims, demands, losses, damages, liabilities, orders, awards, fines, penalties, proceedings and judgments of whatsoever nature

Port Authority means the Port of Duqm Company SAOC acting, pursuant to the concession agreement made between the Government and the Port of Duqm Company SAOC and ratified by Sultani Decree 28/2015, in its capacity as the port authority for the Terminal and for the Port of Duqm generally

Port Law means, collectively, any decree, ministerial decision, statute, statutory instrument, law, proclamation, order, regulation, resolution, notice, ruling by a court, by-law, directive, treaty or other instrument or requirement having the force of law within the Sultanate of Oman issued, declared, passed or given effect to in any manner by the Government or any Competent Authority, or any court or other judicial forum having competent jurisdiction

Port Rules and Regulations means the Port of Duqm rules and regulations establishing the legal framework for all activities and operations in the Port of Duqm in the Al Wusta region of

the Sultanate of Oman, as amended from time to time, a copy of which can be obtained from the official website of the Port of Duqm at www.portofduqm.om

Services means services and goods of any nature whatsoever that are provided by, or arranged for by, the Terminal Operator, including without limitation berth allocation, stevedoring, the handling, loading and offloading of Cargo, the provision of water, the receipt of water sewage, oily water reception, garbage collection, food, drinks and entertainment

Tariff means the Terminal Operator's tariff of charges or costs for the Services from time to time as published on the official website of the Port of Duqm at www.portofduqm.om

Terminal means each of the dry bulk facilities, the container terminal, the ro-ro facilities, the navy facility, the grain and food terminal and multi-purpose facility operated by the Terminal Operator or by any of its subsidiaries or affiliates in the Port of Duqm in the Al Wusta region of the Sultanate of Oman

Terminal Operator means the Port of Duqm Company SAOC

Terminal Services Agreement means any agreement entered into between the Terminal Operator and a Customer for the provision of Services

Third Party Claim means any claim whatsoever made by any third party including, without limitation, a claim made by the owner of the Cargo, any other person who is or may become interested in the Cargo or any customs or tax authority

USD means United States Dollars

Vessel means a ship of all kinds, including navy vessels, general cargo vessels, tankers, container ships, dry bulk carriers, barges, pleasure boats, dhows, fishing craft, trawlers and roll-on/roll-off (ro-ro) ships. In these General Terms, a Vessel includes all equipment, gear or other property on board

Working Day means any day on which banks are open for business in the Sultanate of Oman (excluding Fridays, Saturdays and public holidays)

1.2 In these General Terms:

- (a) a statutory provision includes a reference to the statutory provision, as modified or re-enacted or both from time to time, and any subordinate legislation made or other thing done under the statutory provision or under such re-enactment;
- (b) a person includes a reference to a government, state, state agency, corporation, body corporate, association or partnership;
- (c) a person includes a reference to that person's legal personal representatives, successors and permitted assigns;
- (d) the singular includes the plural and vice versa (unless the context otherwise requires);
- (e) any words following the word **including** shall be interpreted, without limitation, to the generality of the preceding words;

- (f) a reference to a condition, unless the context otherwise requires, is a reference to a clause of these General Terms; and
- (g) references to all dates and periods of time are by reference to the Gregorian calendar.

1.3 The headings in these General Terms do not affect their interpretation.

2 Application

- 2.1 These General Terms apply to any provision of Services to the Customer, all Vessels, cars and trucks which call at or enter the Terminal and otherwise to any person using or entering the Terminal or its facilities.
- 2.2 The Terminal Operator may enter into a Terminal Services Agreement with a Customer and such Terminal Services Agreement incorporates these General Terms.
- 2.3 The use of the Terminal or the Services by a Customer or by any person, the entry into the Terminal or berthing of a Vessel at the Terminal shall be treated as acceptance of these General Terms.

3 The Port Rules and Regulations

- 3.1 All terms, provisions and conditions set forth in the Port Rules and Regulations are hereby incorporated herein by reference with the same force and effect as though fully set forth herein.
- 3.2 Except as otherwise provided in these General Terms and for matters relating strictly to marine services such as pilotage, mooring, towage, bathymetric soundings, provision of oil spill equipment (Tier I and Tier II), supply of fenders and monitoring of aids to navigation, if any provision contained in these General Terms conflicts with any provision in any of the Port Rules and Regulations and/or Port Law, the provision contained in these General Terms shall prevail to the extent permitted by Port Law.

4 Services

- 4.1 The Terminal Operator will:
 - (a) provide the Services subject to, and in accordance with, these General Terms; and
 - (b) comply with all laws and regulations in force and applicable to the relevant Services.
- 4.2 Subject to specific written instructions given by the Customer and accepted by the Terminal Operator in writing, the Terminal Operator has absolute discretion in respect of the means and procedures to be employed in the provision of the Services. The Terminal Operator may deviate from the Customer's instructions (whether or not accepted by the Terminal Operator) in any respect if the Terminal Operator considers, in its absolute discretion, it is necessary in the interest of the Customer and the Customer shall reimburse the Terminal Operator with all reasonable expenses incurred thereby within 10 Working Days.
- 4.3 In normal circumstances, the Terminal operates twenty four (24) hours a day, every day throughout the year. That being said, the Terminal Operator may decide at its sole discretion to suspend operations wholly or partially for such period as deemed necessary.

4.4 Notwithstanding condition 4.3, the Terminal Operator has absolute discretion in relation to when different types of Cargo are handled at the Terminal.

5 Customer's obligations and warranties

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

- (a) furnishes adequate lighting and safe access and egress;
- (b) maintains appropriately qualified and experienced officers and crew aboard in order to maintain an alert watch and respond to emergencies and to enable the Terminal Operator to provide the Services;
- (c) maintains engines in a state of readiness to respond to emergency situations and to avoid delays in vacating the berth;
- (d) and its crew members adhere at all times to all Health and Safety Rules whilst within the Terminal (including, for the avoidance of doubt, onboard any Vessels within the Terminal) or an area in which any of the Services are carried out;
- (e) is free of any stowaways (the Customer will be solely responsible for any stowaways who disembark from the Vessel and will be solely liable for any consequences relating to the stowaways); and
- (f) complies with all applicable laws and legal requirements relating to them, the Cargo, their activities and the use of the Terminal.

5.2 The Customer will be solely responsible for complying with all formalities (including, for the avoidance of doubt, payment of any taxes), procedures and regulations prescribed by the relevant customs authority and any governmental authority or other agency having legal jurisdiction over the relevant matter and which arises in connection with the Cargo and/or the Vessel and for obtaining all necessary licenses and authorisations required for the transportation, exportation or importation of the Cargo.

5.3 Customer's warranties

- (a) The Customer warrants and represents that:
 - (i) it is authorised to contract with the Terminal Operator on the terms of these General Terms in respect of the Vessel and the Cargo, and that it is accepting these General Terms not only for itself, but also as agent for and on behalf of the owners of the Vessel (if it is chartered by the Customer) and the Cargo or any other person who is, or may become interested in, the Cargo; and
 - (ii) all the documentation and information provided by the Customer or its representatives in relation to any Cargo is true, accurate, complete and validly executed.
- (b) In respect of all Cargo, the Customer warrants and represents that it:
 - (i) is properly and sufficiently prepared, packed, stowed, labelled and/or marked, and that the preparation, packing, stowage, labelling and marking are appropriate to any operations or transactions affecting the Cargo;

- (ii) is not liable to give off any injurious dust, gas, fumes, liquid or radiation;
- (iii) is not infested, verminous, rotten or subject to fungal attack and not liable to become so while at the Terminal;
- (iv) is not over-heated or under-heated or liable to become so while at the Terminal;
- (v) will not contaminate or cause danger, injury or pollution or damage to any person, the Terminal, any other cargo, equipment or Vessel or the environment adjacent thereto or generally;
- (vi) require for its safekeeping no special protection (other than as may be agreed in writing between the parties) arising from vulnerability to heat, cold, moisture, salt, pilferage or proximity to other cargo or from inflammability but will remain safe if left standing in the open or in covered accommodation at the Terminal if agreed in writing with the Terminal Operator;
- (vii) contains no drugs, prohibited or stolen goods, contraband, pornographic or other illegal matter;
- (viii) is fit for its intended purpose and in a fit and proper condition to be handled or otherwise dealt with by the Terminal Operator; and
- (ix) is not subject to any applicable economic or financial sanction regulation, trade embargo or export control law or regulation.

5.4 Indemnity

The Customer shall indemnify the Terminal Operator against any and all Liabilities howsoever assumed, incurred or suffered by the Terminal Operator, its employees, servants, agents, insurers or re-insurers as a result of, or in connection with, any of the following:

- (a) any breach by the Customer of the obligations, representations and/or warranties given in condition 5; or
- (b) the Terminal Operator acting in accordance with the Customer's instructions.

5.5 Bank Guarantee

Agents, and other Customers as applicable, may be requested to procure and handover to the Terminal Operator a bank guarantee as a condition precedent to receiving Services. In such event, the text of the bank guarantee (including the amount) and identity of the bank shall be approved in writing by the Terminal Operator prior to the issuance of the guarantee.

6 Dangerous Cargo

- 6.1 Except with the Terminal Operator's express prior written consent, the Terminal Operator will not agree to deal with any Cargo which is, or may become, Dangerous Cargo or, which is, or may become, liable to damage any property, person or the environment whatsoever. Where the Terminal Operator expressly accepts in writing to deal with any Dangerous Cargo:

- (a) the Customer shall promptly provide the Terminal Operator with such information as is necessary and customary for it to perform its obligations in connection with such Dangerous Cargo in accordance with all applicable laws, regulations and/or requirements including, without limitation, information about the nature of the Dangerous Cargo, the appropriate manner and method of storage, handling and transportation; and
 - (b) the Dangerous Cargo must be distinctly marked on the outside of the container, the Cargo itself, the outside of the barrels and/or such other reasonable location depending on the transportation and packaging of such Dangerous Cargo so as to indicate the nature and character of any such Dangerous Cargo and so as to comply with all applicable laws, regulations and/or requirements.
- 6.2 If the Customer fails to provide the information required pursuant to condition 6.1(a) and the Terminal Operator is unaware of the dangerous nature of the Cargo and the necessary precautions that need to be taken and if, at any time, it is deemed to be a hazard to life, environment or property, it may be destroyed or rendered harmless, as circumstances may require, without compensation, and the Customer shall be liable on a full indemnity basis for any and all Liabilities arising out of the Services, the destruction or rendering the Cargo harmless.
- 6.3 The Customer shall indemnify and hold harmless the Terminal Operator against any Liability howsoever arising from any breach of the provisions of this condition 6.

7 Terminal Operator's rights

- 7.1 The Terminal Operator may at any time inspect any Vessel, vehicle, Cargo, container, equipment or other property in the Customer's possession or control for the purposes of ensuring compliance with these General Terms.
- 7.2 The Terminal Operator reserves the right to suspend the provision of any Services in the event of any breach of these General Terms or in the event of a Force Majeure Event.
- 7.3 The Terminal Operator may refuse acceptance of damaged, hazardous or distorted Cargo or containers which, in its opinion, is in an unsatisfactory, unsafe or potentially unsafe condition.
- 7.4 The Terminal Operator may refuse to handle any container or Cargo with a weight which exceeds its stated weight or the safe working load of any cargo handling equipment.
- 7.5 Should any of the Terminal Operator's cargo handling equipment be used in handling an overweight container or Cargo, the Customer shall indemnify and hold harmless the Terminal Operator against any Liability, howsoever arising, from any loss or damage to property or death or personal injury arising out of, or caused by, the handling of the overweight container or Cargo.
- 7.6 The Terminal Operator may install and operate any surveillance device to protect the safety and security of the Terminal, its property and that of the Customers and third parties and to assist in the investigation and/or prosecution of any illegal act or any alleged breach of these General Terms.

8 Agent

- 8.1 The Customer may, subject to prior notification in writing to the Terminal Operator, appoint an Agent, in which event the Customer shall be deemed to have authorised the Agent to act on the

Customer's behalf in respect of all matters hereunder including to pay to, or receive from, the Terminal Operator all sums due under these General Terms, unless the Customer notifies the Terminal Operator to the contrary at any time hereafter and:

- (a) the Terminal Operator shall be entitled at any time, and from time to time hereafter, to act upon any instruction, request, notice or other communication from the Agent, without prior reference to the Customer, and to receive from, and to pay to, the Agent any sums due under these General Terms (including any rebate);
- (b) any payment made by the Terminal Operator to the Agent pursuant to these General Terms shall be held by the Agent on trust for the Customer and the receipt by the Agent of such payment shall be considered full and sufficient discharge of the Terminal Operator in respect of such payment; and
- (c) the power granted to the Agent under this condition shall continue until the Terminal Operator receives written notice from the Customer to cease acting upon such communication or to cease the receipt and/or making of such payments from and to the Agent thereafter.

9 Rates and payment

- 9.1 In consideration of the provision of the Services, the Customer will pay the Tariff to the Terminal Operator.
- 9.2 Unless otherwise agreed in writing with the Customer, all Tariffs are payable within 7 calendar days of the date of the invoice for the provision of the Services.
- 9.3 All Tariffs are exclusive of value added tax and any other tax, duty or fee imposed from time to time by any government or other authority which shall be paid by the Customer at the rate and in the manner prescribed by law.
- 9.4 All payments due from the Customer under these General Terms shall be made in full without any set-off, abatement, restriction or condition and without any deduction in respect of bank charges or otherwise or withholding for or on account of a counter claim.
- 9.5 The Terminal Operator reserves the right to charge interest at a rate of 6.5% per annum or any higher percentage set by the relevant authorities from time to time, calculated on a daily basis from and including the due date, on all amounts not received by the due date for payment.

10 Lien

- 10.1 Without prejudice to any other rights and remedies the Terminal Operator may have under these General Terms or otherwise, the Terminal Operator shall have a general as well as a specific lien on the Cargo, the containers and any documents relating thereto for all sums whatsoever due at any time to the Terminal Operator under these General Terms or otherwise.
- 10.2 To enforce and satisfy the Terminal Operator's lien, the Terminal Operator shall have the right, at the Customer's expense, to sell the aforementioned Cargo, containers and documents by public auction or private treaty, without notice to the Customer and without any liability towards the Customer and to apply the proceeds in or towards the payment of such sums. The Terminal Operator shall, upon accounting to the Customer for any balance remaining after payment of any sum due to the Terminal Operator, and for the cost of sale and/or disposal and/or dealing, be discharged of any liability whatsoever in respect of the Cargo, containers or documents.

11 Liability

11.1 Vessel

- (a) The Terminal Operator shall only be liable for loss of, or damage to, a Vessel to the extent the same was caused by the gross negligence or wilful misconduct of the Terminal Operator.
- (b) The Terminal Operator's liability under this condition shall be limited to the lesser of:
 - (i) the reasonable repair cost or replacement cost (with an item of the same age and in the same condition) of the Vessel or the affected part of the Vessel; and
 - (ii) USD 500,000 per incident or series of connected incidents.

11.2 Containers

- (a) The Terminal Operator shall only be liable for loss of, or damage to, any container to the extent the same was caused by the gross negligence or wilful misconduct of the Terminal Operator.
- (b) The Terminal Operator's liability under this condition shall be limited to the lesser of:
 - (i) the reasonable repair cost or replacement cost (with an item of the same age and in the same condition) of the container; and
 - (ii) USD 1,100 per container, unless the container is either: (i) a tank container, in which case the limit shall be USD 2,000 per tank container; or (ii) a refrigerated container, in which case the limit shall be USD 15,000 per refrigerated container.

11.3 Trucks

- (a) The Terminal Operator shall only be liable for loss of, or damage to, any truck to the extent the same was caused by the gross negligence or wilful misconduct of the Terminal Operator.
- (b) The Terminal Operator's liability under this condition shall be limited to the lesser of:
 - (i) the reasonable repair cost or replacement cost (with an item of the same age and in the same condition) of the truck; and
 - (ii) USD 40,000 per truck.

11.4 Cargo

- (a) The Terminal Operator shall be entitled to avail itself of the defences, limitations and exclusions of liability which are available to the Customer under the bill of lading or other transport documents, evidencing a contract of carriage, which has been issued in respect of the Cargo.
- (b) Where no bill of lading or other transport document has been issued in respect of the Cargo, the Terminal Operator shall only be liable for loss of, or damage to, the Cargo to the extent the same is caused by the gross negligence or wilful misconduct of the

Terminal Operator and such liability shall be limited to the reasonable repair cost or replacement cost (with an item of the same age and in the same condition) of the Cargo.

11.5 Delay

- (a) The Terminal Operator accepts no responsibility whatsoever and howsoever arising (including gross negligence) with regard to any failure to adhere to any timeframe or for any delay in the performance of the Services.
- (b) Without prejudice to this condition, if the Terminal Operator is found liable for loss or damage caused by delay, or if the Terminal Operator fails to adhere to timeframes agreed under this condition, the Terminal Operator's liability for the same shall not in any circumstances whatsoever exceed a sum equal to the amount of the Tariffs in respect of the Services provided in relation to the relevant containers, Cargo or Vessels.

11.6 Exclusions

- (a) The Terminal Operator shall not be liable for loss of, or damage to, any Vessel, container or Cargo under the provisions of this condition 11 unless the Customer can establish that the loss or damage was directly caused by the Terminal Operator or any other party for whom the Terminal Operator is responsible whilst (in respect of Cargo or containers) the same was in the Custody of the Terminal Operator or any other party for whom the Terminal Operator is responsible. If the loss or damage was contributed to by the act or omission of the Customer or any other person, the Terminal Operator shall be exonerated from liability under condition 11, to the extent that such act or omission contributed to the loss or damage.
- (b) The Terminal Operator shall not be liable for loss of or damage to any Vessel, container or Cargo under the provisions of this condition 11 unless the Terminal Operator's cargo handling equipment was used.
- (c) Save as set out in this condition 11, the Terminal Operator shall not be liable for the loss of, or damage to, any Vessel, Cargo or container howsoever arising (whether caused by gross negligence or otherwise).
- (d) The Terminal Operator shall not be deemed to have Custody of, or owe any Liabilities in connection with, any Cargo controlled or handled by operating equipment owned by any Customer or third party. This provision applies irrespective of whether such operating equipment is operated by the Terminal Operator or its personnel.

11.7 Consequential Loss and Exoneration

Notwithstanding any other provision of these General Terms, the Terminal Operator shall have no liability for any loss of profit, loss of revenue, loss of sales, loss of business, loss of goodwill or reputation, third party claims (in each case whether direct or indirect) or for any indirect or consequential loss in respect of all claims, losses or damages (collectively, **Consequential Loss**), whether arising from tort (including gross negligence), bailment, breach of contract, termination, breach of statutory duty or otherwise under or in connection with these General Terms, the performance of, or any failure or delay in performance of the Services or any obligation under these General Terms. For the avoidance of doubt, this condition is not mutual.

11.8 **Applicability to actions in tort**

The defences, exclusions and limits of liability provided for in these General Terms shall apply in any action against the Terminal Operator whether the action be found in tort, bailment, contract, breach of express or implied warranty or otherwise.

11.9 **Notification and time limit for claims**

- (a) Any claim by the Customer against the Terminal Operator arising in respect of any Service must be made and notified in writing to the Terminal Operator within a reasonable time but in any event, within ten (10) days from the date of the event or occurrence alleged to have given rise to a cause of action against the Terminal Operator.
- (b) The parties agree that any claim not made and notified in accordance with this condition shall be deemed to be waived and absolutely barred.
- (c) The Terminal Operator shall in any event be discharged of all liability whatsoever and howsoever arising in respect of any Service unless legal proceedings be brought and written notice thereof given to the Terminal Operator within three (3) months from the date of the event or occurrence alleged to give rise to a cause of action against the Terminal Operator.

11.10 **De-minimis**

The Customer shall not be entitled to bring any claim howsoever arising unless and until the amount of any such individual claim exceeds USD 5,000.

11.11 **Indemnity for excess liability**

The Customer shall indemnify the Terminal Operator against any and all Third Party Claims and Liabilities (including Consequential Loss) arising from, or in connection with:

- (a) a Third Party Claim arising from, or in connection with, the Services (whether caused by the Terminal Operator's negligence or otherwise); and
- (b) to the extent the Third Party Claim exceeds the Terminal Operator's liability to the Customer under the General Terms.

11.12 Without prejudice to any other provisions of these General Terms, the Customer shall incorporate into the bill of lading and other transport documents evidencing contracts of carriage issued in respect of the Cargo, a clause to the effect that while acting in the course of or pursuant to these General Terms, the Terminal Operator shall be entitled to the benefit of all provisions or clauses in the bill of lading or other transport document to the extent such provisions and clauses benefit the Customer and the Terminal Operator for itself, and any party for whom it is responsible hereby accepts such benefit.

12 **Overall cap on liability**

Notwithstanding any other provision of these General Terms, the maximum liability of the Terminal Operator for all claims (whether in contract, tort or otherwise) of every kind arising out of the Services or otherwise will in no event exceed USD 500,000.

13 Insurance

- 13.1 The Terminal Operator is under no obligation to maintain insurance for any Vessels, containers, trucks, passengers, visitors or Cargo.
- 13.2 The Terminal Operator may, at its own expense, procure and maintain policies of insurance covering:
- (a) any liabilities assumed by it under these General Terms; and
 - (b) any requirements by law, including public and third party liability.

14 Force majeure

Neither party shall be liable to the other for any loss or damage to any Cargo, container, truck or Vessel, delay or non-performance of its obligations under these General Terms to the extent that such delay or non-performance is due to any acts of God, flood, severe weather condition, storm, tempest, epidemic, pandemic, compliance with any law, order, rule or regulation of any governmental or other authority, blockade, acts of any governmental or super-national authority, war or national emergency, riots, civil commotion, actual or threatened acts of terrorism, piracy, hijack, actual or threatened acts of sabotage, fire, explosion, heat or cold (including heat within the Cargo itself and unintended exposure to natural or artificial light) criminal acts, computer viruses, acts of violence or detention or any act of depredation, lock-outs, strikes and other industrial disputes (in each case, whether or not relating to that party's workforce) shortages of labour, fuel, materials and services and inability or delay in obtaining supplies and other events beyond a party's reasonable control (a **Force Majeure Event**).

15 Confidentiality

- 15.1 The parties undertake that they shall not at any time disclose to any person any Confidential Information concerning the business, affairs, customers, clients or suppliers of the other party or of any member of the group of companies to which the other party belongs, except as permitted by condition 15.2 below.
- 15.2 Each party may disclose the other party's Confidential Information:
- (a) to its employees, officers, agents, representatives or professional advisers who need to know such information for the purposes of carrying out the party's obligations under these General Terms; and
 - (b) as may be required by law, court order or by any governmental or regulatory authority.
- 15.3 If either party breaches this condition, the other party shall have the right to immediately obtain an injunction to prevent the further disclosure of any Confidential Information, in addition to any other right it may have at law or otherwise.
- 15.4 No party shall use any other party's Confidential Information for any purpose other than to perform its obligations under these General Terms.

16 Sub-contracting and assignment

- 16.1 The Terminal Operator may sub-contract all or any part of the Services or of its obligations under these General Terms.

16.2 The Terminal Operator may assign any or all of its obligations under these General Terms.

16.3 The Customer may not assign, novate or otherwise dispose of its rights or obligations under these General Terms or any part thereof without the prior written consent of the other party (such consent not to be unreasonably withheld or unduly delayed).

17 General provisions

17.1 These General Terms (together with any document expressly incorporated by the parties) comprise the entire agreement between the parties with respect to the provision of the Services and any representations or statements, whether made orally or written elsewhere, are hereby excluded, provided always that this condition shall not exclude or limit any liability or any right which any party may have in respect of pre-contractual statements made or given fraudulently and supersedes all previous agreements and arrangements between the parties with respect to the provision of the Services.

17.2 If the Customer's documentation contains terms or conditions additional to or at variance with these General Terms every such additional or varying term or condition shall be of no effect.

17.3 The Customer acknowledges that it does not enter into these General Terms in reliance on any representation, warranty or other undertaking or understanding not fully reflected in the written terms of these General Terms and all conditions, warranties of other terms implied by statute or common law are hereby excluded to the fullest extent permitted by law.

17.4 If any provision of these General Terms is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, these General Terms will be deemed amended to the extent necessary to render the otherwise unenforceable provision, and the rest of the General Terms, valid and enforceable. If a court declines to amend these General Terms as provided herein, the invalid, illegal or unenforceable provision will be severed and the remainder of the provisions hereof will continue in full force and effect as if these General Terms had been executed with the invalid, illegal or unenforceable provision eliminated.

17.5 No waiver of any of the provisions of these General Terms shall be effective unless it is expressly stated to be a waiver and communicated to the other party in writing in accordance with the provisions of condition 17.10.

17.6 Except as expressly stated in these General Terms, no right or remedy conferred upon any party by these General Terms shall be exclusive of any other right or remedy howsoever arising and all such rights and remedies shall be cumulative.

17.7 Any party for whom the Terminal Operator is responsible shall have the benefit of the exclusions of liability contained in, and shall have the right to enforce, the provisions of these General Terms in accordance with Article 162 of the Civil Code. The Terminal Operator has the discretion to vary the scope of the foregoing benefit without notice to, or consent from, the Customer.

17.8 Except as stated in condition 17.7, a person who is not a party may not enforce, or otherwise have the benefit of, any provision of these General Terms under the Civil Code or any other law of the Sultanate of Oman.

17.9 The Terminal Operator is an independent contractor under these General Terms. Nothing in these General Terms shall be construed or interpreted to constitute a partnership, association

or joint venture between the parties, or to make one party an agent or representative of the other party. Neither party shall hold itself out as an agent of, or in a joint venture with, the other party. The Customer shall have no authority to act on behalf of the Terminal Operator, and the Terminal Operator shall have no authority to act on behalf of the Customer, except to the extent necessary for the Terminal Operator to accomplish its obligations under these General Terms.

- 17.10 Notices which serve to alter or revise the terms of or to terminate the agreement constituted by these General Terms, or notices in respect of claims or legal actions or which otherwise have a material impact on these General Terms shall be in writing in English and served to the registered office of the other party or such other address as may be notified to the other party in writing by:
- (a) courier service, and shall be deemed served if sent by courier, on the date and at the time of signature of the courier's delivery receipt if received between normal business hours (normal business hours for this purpose being between 9.00 am and 5.00 pm) and on a Working Day at the place of receipt of the notice or if not, such notice shall be deemed served at the start of normal business hours on the next Working Day; or
 - (b) email to ceo@portduqm.com, and shall be deemed served (provided that the sender does not receive an automatic bounce back) if sent by email, on the date and at the time the email is sent if sent between normal business hours (normal business hours for this purpose being between 9.00 am and 5.00 pm) and on a Working Day at the place of receipt of the notice or if not, such notice shall be deemed served at the start of normal business hours on the next Working Day.
- 17.11 These General Terms and any disputes or claims arising out of or in connection with its subject matter or formation (including non-contractual disputes or claims) are governed by, and construed in accordance with, the laws of the Sultanate of Oman.
- 17.12 Any claims against the Terminal Operator under these General Terms or otherwise arising from the Services shall be determined exclusively by the courts of the Sultanate of Oman to which jurisdiction the Customer irrevocably submits.
- 17.13 The Terminal Operator shall be entitled to bring legal proceedings against the Customer in the courts of the Sultanate of Oman or in any other jurisdiction (including jurisdiction(s) where the Customer has a place of business or assets) and legal proceedings by the Terminal Operator in one or more jurisdictions shall not preclude legal proceedings by it in any other jurisdiction, whether concurrent or not.