

Portico Shipping Limited Standard Trading Conditions

Standard Trading Conditions for the supply of Services at the Cargo Terminal at Portsmouth.

Portico Shipping Limited (Company no. 02012886) with its Registered office at c/o Portsmouth City Council, Civic Offices, Guildhall Square, Portsmouth, Hampshire PO1 2BG (the **"Operator"**).

The Operator and the Customer are hereinafter referred to individually as a **"Party"** and collectively as **"the Parties"**.

WHEREAS:

(A) The Operator operates a marine cargo Terminal at its place of business within the port of Portsmouth ("the Port") in connection with the import and export of Goods into and out of the Port.

(B) The Operator is a member (membership number 51005) of the United Kingdom Warehousing Association ("UKWA"). Unless otherwise agreed in writing (and signed by an authorised officer of the Operator) all warehousing Services and work performed by the Operator at the Terminal is undertaken on the basis of the terms and conditions set out in this Agreement, which incorporates and is subject to the current version of the UKWA Contract Conditions for Logistics as amended in accordance with Clause 20 of this Agreement.

(C) The Operator is a member (membership number 2398) of the British International Freight Association ("BIFA"). Unless otherwise agreed in writing (and signed by an authorised officer of the Operator) all freight forwarding Services and work performed by the Operator at the Terminal is undertaken on the basis of the terms and conditions set out in this Agreement, which incorporates and is subject to the current version of the BIFA – Standard Trading Conditions as amended in accordance with Clause 21 of this Agreement.

(D) The Operator is a member (membership number 0269) of the Institute of Chartered Shipbrokers ("ICS"). Unless otherwise agreed in writing (and signed by an authorised officer of the Operator) all shipping agency Services and work performed by the Operator at the Terminal is undertaken on the basis of the terms and conditions set out in this Agreement, which incorporates and is subject to the current version of the ICT – Standard Trading Conditions.

(E) The Operator operates a customs clearance agency. Unless otherwise agreed in writing (and signed by an authorised officer of the Operator) all customs clearance agency Services and work performed by the Operator at the Terminal is undertaken on the basis of the terms and conditions set out in this Agreement, which incorporates and is subject to the customs clearance agreement which is available on request.

(F) The Customer is a vessel operating common carrier / importer / exporter utilising the Terminal and /or Services provided by the Operator at the Port.

(G) The use of the Terminal and / or the Operator's Services by the Customer will be regarded as an acceptance of the terms of this Agreement and all Schedules which form part of it. Even if this Agreement is not signed by the Customer, it will remain in force during the provision of the Services unless otherwise modified by the Operator. Its terms (and all Schedules which form part of it) shall apply to all legal relationships between the Operator and the Customer whether in respect of contract, bailment, licence or tort.

THE PARTIES AGREE AS FOLLOWS:

1. Definitions

1. "Agreement" means the terms of this Agreement and all Schedules forming part of it subject to any agreed written amendments as envisaged in Clauses 2 and 4.
2. Save where indicated to the contrary, the terms and expressions used in this Agreement have the same meaning as when they are used in the UKWA conditions as amended in accordance with Clause 20 of this Agreement, the BIFA – Standard Trading Conditions as amended in accordance with Clause 21 of this Agreement, the ICT – Standard Trading Conditions and the customs clearance agreement.
3. Any reference to statute, conditions, codes, directives, regulations or other applicable laws or Byelaws in this Agreement includes all regulations and / or other instruments arising thereunder and all consolidations, amendments, re-enactments or replacements of any of them.
4. "Customer" shall include any person, firm or company (including any affiliated and / or associated companies of the Customer) to whom Services are provided by the Operator pursuant to this Agreement and / or who brings any Vessel, Plant, or Goods onto the Terminal.

5. "Goods" shall include cargo of any description whatsoever together with any package, case, pallet, container (or any other equivalent in which the Goods are stowed) and any other structure which is designed or intended to support or protect the Goods.
6. "Perishable Goods" shall include (without limitation) cargoes of fruit, vegetables, meat, fish or any other products which must be used within a short period of time before they may deteriorate and / or reduce in value.
- 1.7 "Plant" shall include any vehicle, trailer, equipment or machinery.
- 1.8 "Vessel" shall include any ship, boat, or other craft within the contemplation of Clause 7 of this Agreement.
- 1.9 "Interested Party" means any party other than the Customer, with any interest in the Goods or contractual obligations in respect of the Goods irrespective of whether the interest or obligation is proprietary.
- 1.10 "Terminal" means the land, premises and berth space used by the Operator at the Port for the provision of services to the Customer.
- 1.11 "Services" includes all stevedoring, shipping agency, customs clearance agency, freight forwarding and Terminal services provided by the Operator to the Customer for and in connection with the import and export of Goods at the Port. The supply of the Services includes (subject to such exceptions and limitations as are included in this Agreement) the maintenance of Plant required to perform the Services.
- 1.12 "Rates" and "Tariffs" means the prices charged by the Operator and agreed with the Customer for the services to be provided in accordance with this Agreement.

2. Agreement

- 2.1 The Customer has requested that the Operator should supply the Services as agreed, and has agreed to enter into a contract with the Operator on the terms and subject to the conditions of this Agreement.
- 2.2 Any additional Services not already identified must be agreed upon in writing by duly authorised representatives of both Parties prior to provision.
- 2.3 The terms of this Agreement cannot otherwise be varied or replaced unless any such modification is in writing and has been specifically agreed by a duly authorised representative of the Operator. The Operator reserves the right to modify and / or replace any provision of this Agreement as may be required upon giving fourteen (14) days written notice to the Customer.

3. Duration of Agreement

This Agreement shall take effect from the commencement of the Services including any preparatory work, and remain in force during the provision of Services.

4. Agreed Rates and Tariffs

- 4.1. The Rates and Tariffs initially applicable to the Services have been supplied and agreed between the Parties prior to the provision of the Services.
- 4.2.1 The Rates and Tariffs will be reviewed and may be adjusted by written agreement between the Operator and the Customer, as may be appropriate taking into account any relevant factors, every twelve (12) months whilst this Agreement remains in effect, commencing twelve (12) months from the commencement date of the Services.
- 4.2.2 In the event of no agreement being reached between the Operator and the Customer pursuant to clause 4.2.1 above on the occasion of any annual pricing review, the Operator shall in its discretion apply an inflationary increase (based on the RPI as published on the website of the Office of National Statistics) to all or any of the Rates and Tariffs.

5. Invoicing and payment

- 5.1 The Operator shall periodically issue invoice(s) addressed to the Customer or its nominated representative in respect of the Services to be provided to each Vessel pursuant to this Agreement.
- 5.2 Without prejudice to condition 6.3 of the UKWA conditions as amended by Clause 20 of this Agreement and any other written requirement by the Operator to make payment at an earlier date, the Customer shall pay the Operator's invoices in full, in the same currency as that in which the invoice is issued (or, if payment is made in a different currency, in an amount equivalent to the full value of the invoice, as at the date on which payment is received by the Operator), and without any deduction in respect of bank charges, within thirty (30) days of receipt of each invoice.

6. Performance of the Operator

6.1 The Operator shall exercise reasonable endeavours to supply the Services to the Customer:

- (a) in accordance with the terms of this Agreement and the Schedules forming part of it;
- (b) in a safe and efficient manner;
- (c) in accordance with applicable laws in relation to Port security, including (without limitation) the ISPS Code. The Operator shall be entitled to recover from the Customer any costs arising from Port security related legislation and / or any other industry requirements relating to Port security;
- (d) in accordance with any reasonable and lawful instructions provided by the Customer in connection with the specific Services to be provided.

6.2 Without prejudice to Clause 6.1 or any other provision in this Agreement, the Operator shall exercise reasonable endeavours to provide Services on a twenty-four (24) hour basis with no additional overtime payable. Unless otherwise agreed in writing at least 7 days beforehand, no Services will be provided on Christmas Day, Boxing Day or New Year's Day.

6.3 When a Vessel berths and is ready to discharge an imported containerised cargo, the Operator's responsibility for the Goods starts when the crew of the Vessel have unlocked the relevant container and the Operator engages lifting equipment to the container, and such responsibility ends when the Operator has completed loading the relevant container to the collecting vehicle. In the case of containerised cargo to be exported, the Operator's responsibility for the Goods starts when the Operator begins unloading the relevant container from the delivery vehicle, and such responsibility ends when the Operator has lifted the container on to the Vessel for carriage by sea. The Operator has no responsibility for opening or closing hatch covers or the doors of haulage vehicles.

6.4 When a Vessel berths and is ready to discharge an imported non-containerised cargo (other than heavy cargo, Plant or motor vehicles – see Clauses 6.5 and 6.6) the Operator's responsibility commences once the relevant pallet or cargo has been engaged for lifting onto fork lift trucks and such responsibility ends when the Operator has completed loading of the Goods to the collecting vehicle. In the case of non-containerised cargo to be exported (other than heavy cargo, Plant or motor vehicles), the Operator's responsibility for the Goods starts when the relevant pallet or cargo to be unloaded from the delivery vehicle has been engaged for lifting onto fork lift trucks and such responsibility ends when the Operator has lifted the relevant Goods on to the Vessel. The Operator has no responsibility for opening or closing hatch covers or the doors of haulage vehicles.

6.5 In the case of non-containerised motor vehicles which are to be imported, the Operator's responsibility for the Goods commences at the point when the Operator's stevedore enters the motor vehicle in order to drive it into the car transporter. In the case of motor vehicles which are to be exported, the Operator's responsibility for the Goods commences once the Operator has completed a vehicle condition report form following the arrival of the motor vehicle(s) at the Terminal for export and such responsibility ends once the motor vehicle(s) are loaded on board the Vessel.

6.6 When a Vessel berths and is ready to discharge imported heavy project cargo, Plant, or any other similar cargo falling outside the scope of Clauses 6.3 to 6.5, the Operator's responsibility commences once the Goods have been engaged for lifting onto shore cranes and such responsibility ends when the Operator has completed loading of the Goods to the collecting vehicle and / or ashore or, in the case of Vessel to Vessel operations, upon release of the Goods onto any receiving Vessel. In the case of heavy project cargo, Plant, or any other similar cargo falling outside the scope of Clauses 6.3 to 6.5 to be exported, the Operator's responsibility for the Goods starts once the Operator engages shore cranes for lifting from the delivery vehicle, Terminal or, in the case of Vessel to Vessel operations, from the delivery Vessel, and such responsibility ends when the Operator has lifted the Goods on to the receiving Vessel for carriage by sea. The Operator has no responsibility for opening or closing hatch covers or the doors of haulage vehicles.

6.7 Prior to the commencement of the Operator's responsibility for imported Goods, the Operator shall engage in work preparatory to the berthing of the Vessel including (without limitation) arrangements for tugs to assist the Vessel in approaching the berth and Vessel clearances. Any expenses including (without limitation) third party costs incurred by the Operator in preparation for the berthing / movement of a Vessel at the Port shall be reimbursed to the Operator by the Customer at the Rates and Tariffs as agreed, subject always to the proviso that the Operator shall be entitled to be reimbursed in full by the Customer in respect of the charges actually received from the third party provider(s).

6.8 If the only Services to be provided by the Operator for the Customer in respect of a specific Vessel(s) are the provision of berth space at the Terminal to facilitate Vessel to Vessel cargo transfers or similar floating operations undertaken exclusively by the Customer without any risk or expense to the Operator and, in particular, without the involvement of the Operator's equipment or personnel, all expenses including (without limitation) third party costs incurred by the Operator in preparation for the berthing / movements of the Vessel(s) at the Port shall be reimbursed to the Operator by the Customer at

the Rates and Tariffs agreed, subject always to the proviso that the Operator shall be entitled to be reimbursed in full by the Customer in respect of the charges actually received from the third party provider(s).

6.9 The Operator has sole discretion to handle all Goods, Vessels and Plant arriving at the Terminal in such order and manner as it deems fit including (without limitation) the right to decline Goods and Vessels if, for any reason whatsoever and howsoever arising, the Services cannot be provided to the Customer. The Operator shall not be liable to the Customer for any demurrage, compensation or other losses incurred as a consequence.

7. Performance of the Customer

7.1 A list provided by the Customer of all Vessels (together with details of their General Arrangement plans) which are intended to call at the Port for the provision of Services shall be provided by the Customer and agreed by the Operator prior to the provision of Services.

7.2 If, during the term of this Agreement, the Customer wishes to introduce a Vessel which has not previously been agreed, the Customer shall notify the Operator in writing at least twenty-one (21) days in advance of the intended Vessel's call at the Terminal and provide full details (including the intended Vessel's General Arrangement plans), or as agreed by the Operator if shorter notice is required. The Operator may, at its sole discretion, decline to accept any additional Vessels not previously notified and shall not be liable to the Customer or any other Interested Party as a consequence of such declination.

7.3 If, during the term of this Agreement, the Customer introduces a Vessel which has not previously been agreed by the Operator, the Operator reserves the right to review the performance standards of that Vessel and, in particular, review the applicable tariff rates if the Operator is unable to provide Services as efficiently as with other Vessels due to the lack or inefficiency of (amongst other things) automatic twist locks and / or other Vessel equipment, machinery or cargo gear.

7.4 The Customer shall ensure that all Vessels calling at the Terminal comply with all of the necessary national / international / insurance / safety regulations and are fully certified for sea worthiness by Lloyds Register or equivalent Classification Society.

7.5 The Customer shall provide the Operator with a sailing schedule and berthing requirements no later than twenty-one (21) days before the date of each Vessel's intended arrival at the Terminal, or as agreed by the Operator if shorter notice is required.

7.6 The Customer and any of its employees, servants, subcontractors, agents or any third parties entering the Terminal in its behalf shall comply with all applicable laws and regulations pertaining to Port security. No later than twenty-four (24) hours prior to each Vessel's arrival at the Terminal, the Customer shall provide the Operator with a validly completed Pre-Arrival Notification Form and crew list indicating all intended crew changes at the Port. The Operator shall have the right to refuse berthing and / or the provision of Services to the Customer in the event of the Customer's non-compliance with any applicable laws or regulations relating to Port security, any failure by the Customer to provide a compliant Pre-Arrival Notification Form at least twenty-four (24) hours prior to each Vessel's arrival at the Port, and / or any failure to comply with any additional instructions or requirements that the Operator might provide in relation to Port security. In the event that a Vessel is already berthed at the Terminal at the time of any non-compliance in respect of the Operator's Port security requirements, the Customer shall fully reimburse the Operator in respect of any additional costs and all consequences resulting from any such failure and / or immediately vacate the berth upon receipt of a written request from the Operator.

7.7 The Customer shall, no later than forty-eight (48) hours prior to each Vessel's arrival, provide the Operator with a complete set of documentation as may be required to facilitate the prompt loading / discharge of Goods at the Terminal. This documentation shall include (without limitation) an accurate container stowage plan, details of all container weights, a list of all containers / cargo to be loaded / discharged at the Terminal, details of any applicable stowage positions, holding and carrying temperatures, a description of the commodity to be carried including (where relevant) details of its size, height, type, gross weight, details of the Port of discharge and any relevant IMO codes. Details of any heavy lift or break-bulk cargo should include (without limitation) the quantity, weight, measurement, type of cargo, packing, stowage, IMO codes (if applicable) any special lifting requirements or other relevant information. Full details and documentation must be provided in respect of any hazardous cargo which is to be loaded or discharged at the Terminal.

7.8 The Customer shall arrange for the delivery of any Goods to be loaded on board designated Vessels at the Terminal at least one (1) clear week day (Monday to Friday) prior to the intended Vessel's arrival and also provide (without limitation) within the same timeframe accurate booking lists, bay plans, stowage plans, container and serial numbers, details of the commodity, size, type, weight, quantity, Port of Discharge and IMO code (if applicable). Details of carrying temperatures for refrigerated cargoes shall also be provided to the Operator prior to delivery.

7.9 The Customer shall manage and control the movement of Vessels and / or Vessel related equipment within the Terminal with all due care and skill to avoid causing any damage to the Terminal facilities, its surrounding waters, or any persons or property on or in the vicinity of the Terminal.

7.10 The Customer shall provide, at its own expense, all materials necessary safely to secure the Goods on board Vessels and ensure that all lashing gear conforms to international standards and is in good working order.

7.11 The Customer shall ensure that:

- (a) all Goods have been packed and stowed in accordance with best practice;
- (b) the weight of each container does not exceed its load limit and is evenly distributed;
- (c) each container and / or cargo packing is adequate and safe for shipment;
- (d) all refrigerated containers have been properly pre-cooled and / or pre-heated as required and their temperature settings / controls have been properly set;
- (e) any pallets to be loaded are in good repair, adequate and fit for their intended purpose;

7.12 The Customer shall arrange for any imported palletised Goods to be collected from the Terminal within seven (7) days of the date of discharge from the Vessel. All other imported Goods whether containerised, non-containerised, non-palletised, motor vehicles, heavy project cargo or Plant, shall be collected within twenty-four (24) hours (the free storage periods included in the rating tariff). If such Goods are not collected within these free storage periods, the Customer shall pay the applicable excess storage charges as stipulated in the rating tariff. The Operator's liability in respect of any Goods held at the Terminal beyond these agreed free storage periods is excluded under Clause 10.5 of this Agreement;

7.13 The Customer shall arrange for any palletised Goods delivered to the Terminal for export to be shipped within seven (7) days of the date of delivery. Any other Goods for export whether containerised, non-containerised, non-palletised, motor vehicles, heavy project cargo or Plant, shall be shipped within forty-eight (48) hours (the free storage periods included in the rating tariff). If such Goods are not shipped within these free storage periods, the Customer shall pay the applicable excess storage charges as stipulated in the rating tariff. The Operator's liability in respect of any Goods held at the Terminal beyond these agreed free storage periods is excluded under Clause 10.5 of this Agreement;

7.14 The Customer shall arrange for any empty containers (following de-stuffing of imported Goods) waiting at the Terminal to be backloaded for export to be shipped within seven (7) days or on the next available Vessel, whichever is the earlier. If such containers are not shipped within these free storage periods, the Customer shall pay the applicable excess storage charges as stipulated in the rating tariff. The Operator's liability in respect of any containers held at the Terminal beyond these agreed free storage periods is excluded under Clause 10 of this Agreement;

7.15 The Customer warrants that any Goods, Plant or personnel which they cause to be brought into the Terminal will not cause any damage, contaminate or otherwise cause loss, injury or pollution to any other person, Goods, Plant or the Terminal or its surrounding waters. The Operator reserves the right to remove and / or inspect any such Goods or Plant which, in its judgment, is reasonably likely to cause loss, injury or pollution to any other person, Goods, Plant or the Terminal or its surrounding waters. If practicable, the Customer will be notified prior to such removal but the Operator expressly reserves the right to do so without notice. The Customer shall fully indemnify the Operator in respect of any loss, damage or expenses of whatsoever nature and howsoever caused (including, without limitation, any charges or fines levied by HM Customs or other Authorities) if the Customer is in breach of any of these warranties;

7.16 The Customer shall fully indemnify the Operator in respect of all additional handling charges, delays and any other associated costs and expenses incurred as a consequence of dealing with un-barcoded Perishable Goods, in accordance with the rating tariff.

7.17 The Customer shall ensure that any radio equipment used at the Terminal/Port is licenced and operated in accordance with any applicable law / rules or regulations currently in force, or which subsequently come into force at any time during the term of this Agreement.

8. Delays / Removal & disposal of Goods or any empty cases / packaging

8.1 If, for reasons which are not attributable to the Operator, a Vessel is delayed in arriving and / or departing at the Terminal beyond its original scheduled ETA, the Customer shall fully indemnify the Operator in respect of all overtime payable at a cost of £1,500 per gang for each 12 hour shift required to perform the Services beyond the agreed time of arrival, together with any additional third party or other costs incurred by the Operator as a consequence;

8.2 The Operator may at its sole discretion sell or otherwise dispose of any Perishable Goods which are not collected from the Terminal prior to expiry of the agreed free storage periods stipulated in Clauses 7.12 and 7.13 or are, for any reason, liable to perish before shipment or delivery, without notice to the Customer, shipper, owner or consignee of the Goods or any other Interested Party. All costs and expenses incurred as a consequence of selling or disposing of Perishable Goods shall be payable by the Customer. In the event that the Perishable Goods are sold, the Operator shall be entitled to deduct payment of

all costs and expenses incurred as a consequence before remitting the net proceeds of sale and will be discharged from all liability to the Customer or any other Interested Party in respect of the Goods.

8.3 The Operator shall, upon giving twenty-one (21) days notice in writing to the Customer (if known) or publication in the Port Office (if the identity of the Customer is not known), be entitled to sell or otherwise dispose of any Goods which, in the Operator's sole discretion, are inadequately identifiable or addressed for the purposes of shipment or collection from the Terminal. All costs and expenses incurred as a consequence of storing, selling and disposal of the Goods shall be payable by the Customer. In the event that the Goods are sold, the Operator shall be entitled to deduct payment of all costs and expenses incurred as a consequence before remitting the net proceeds of sale and will be discharged from all liability to the Customer or any other Interested Party in respect of the Goods.

8.4 The Customer shall, after shipment or collection of the Goods from the Terminal, ensure that any empty packaging, cases, pallets, containers or anything else used to stow, support or protect the Goods be removed from the Terminal within seven (7) days of such shipment or collection. If the Customer fails to remove these items within the stipulated period, or such other period as may be agreed in writing with the Operator, the Operator shall be entitled to dispose of them at their sole discretion and shall be discharged from all liability to the Customer or any other Interested Party in respect of such items.

9. Lien Clause

The Operator may exercise a lien in accordance with condition 6.5 of the UKWA conditions and condition 8(A) of the BIFA Standard Trading Conditions, and exercise a power of sale in accordance with condition 7.2 of the UKWA conditions and condition 8(A) and 8(B) of the BIFA Standard Trading Conditions. Without any prejudice to or limitation upon the provisions contained in the UKWA conditions or the BIFA Standard Trading Conditions, they shall be read and construed as follows:

9.1 The lien shall extend not only to Goods but also to any Plant brought into or onto the Terminal by the Customer or other Interested Party;

9.2 The lien shall secure all sums relating to or arising from the Services or which are otherwise payable by the Customer or other Interested Party under this Agreement or on any other account including any contingent liabilities;

9.3 Upon the exercise of a lien, the Operator may give the Customer written notice of the exercise of the lien requiring the Customer to pay all secured sums within a period of ten (10) days;

9.4 Upon the expiry of ten (10) days from the date of notice of the exercise of the lien, the Operator may exercise the power of sale contained in condition 7.2 in respect of all Goods and Plant subject to the lien under condition 6.5.

10. Liability and Indemnity Provisions

Subject to the amendments indicated in Clause 20 and Clause 21, the Services are supplied subject to condition 3 of the UKWA conditions and Conditions 2 to 16 of the BIFA Standard Trading Conditions and the following additional provisions apply:

10.1 Every effort will be made by the Operator to accommodate Vessels in accordance with any berthing schedules provided by the Customer. However, the Operator cannot be held responsible if, for whatever reason, a Vessel cannot be accommodated at the Terminal. The Operator shall not be liable to the Customer for any demurrage, compensation or other losses incurred as a consequence of any berthing delays at the Terminal;

10.2 If, in the opinion of the Operator, any circumstances arise which make it impossible safely to handle, load, unload and / or transport any Goods, the Operator may, at its sole discretion, refuse to handle the same and notify the Customer accordingly requiring the immediate removal of the Goods from the Terminal at the sole risk and expense of the Customer;

10.3 The Operator shall have no liability for any losses or claims howsoever arising and of whatsoever nature in respect of any un-barcoded Perishable Goods;

10.4 The Customer shall indemnify and hold the Operator fully harmless in respect of any loss and / or damage and, in particular, any claims and all associated costs and expenses resulting directly or indirectly from any breach / failure by the Customer to comply with the provisions of Clause 7 of this Agreement;

10.5 The Operator excludes all liability for any deterioration to Perishable Goods following expiry of the free storage periods stipulated in Clauses 7.12 and 7.13;

10.6 The Customer shall be responsible for any damage to the Terminal including (without limitation) any Terminal equipment, mooring bollards and any other property including other Vessels or property belonging to any Interested Party or any other third parties caused during or arising from berthing or unberthing. The Customer shall indemnify the Operator in respect of any loss / damage, claims and all associated costs and expenses arising as a consequence of any such damage;

10.7 The Operator shall not be liable for any damage sustained to any Vessels or vehicles while they are berthed alongside / on the Terminal;

10.8 In relation to all Services provided, the UKWA conditions limit of £100 sterling per tonne gross weight of that part of the Goods in respect of which a claim arises shall apply to any loss of or damage to cargo. For the avoidance of doubt and notwithstanding their inclusion in the definition of "Goods", in calculating the gross weight of the Goods, the weight of pallets and containers (and any other equivalent in which or on which the Goods are stowed) shall be disregarded;

10.9 The Operator shall have no liability for loss / damage to Vessels, vehicles, Plant, strops or anything else owned or operated by the Customer at the Terminal or in its vicinity, nor for any personnel or other third parties entering the Terminal on behalf of the Customer;

10.10 The Operator has no obligation to examine, inspect or make any record of the condition of the containers at or prior to the time of their discharge from Vessels (or other receipt into the Terminal) and will accept no responsibility for alleged damage to containers in the course of their handling unless the Customer can prove that such damage was caused by the Operator in the handling of the container;

10.11 In the event that the Customer can prove that damage to a container was caused by the Operator's handling at the Terminal, the Operator's liability shall be limited to £100 sterling per tonne on the unladen Tare weight of the container or the reasonable cost of repair, whichever shall be the lesser;

10.12 The Operator has no obligation to compensate the Customer for any additional costs and expenses including (without limitation) re-delivery charges in respect of Goods incurred as a result of loading errors unless the Customer can prove that those errors were caused by the Operator;

10.13 Subject to Clauses 10.3 and 10.12 above, if the Customer can prove misdelivery of the Goods on the part of the Operator, the Customer shall exercise best endeavours to mitigate its losses with the co-operation of the Operator where appropriate and reasonably required. In the event of proven misdelivery of the Goods on the part of the Operator, the Operator's liability shall be determined on the basis of the UKWA conditions limit of £100 sterling per tonne gross weight of the Goods (excluding weight of pallets and containers or any other equivalent in which or on which the Goods are stowed);

10.14 The Operator shall have no liability in respect of any negligent weighing of the Goods or clerical errors on the part of the Customer. In the event that the Customer can prove that losses are attributable to clerical errors on the part of the Operator, the Operator's liability shall be determined on the basis of the UKWA conditions limit of £100 sterling per tonne gross weight of the Goods (excluding weight of pallets and containers or any other equivalent in which or on which the Goods are stowed) up to a maximum cap of £1,000 sterling per incident;

10.15 The Operator's liability for consequential losses including (without limitation) any loss of profits, business interruption or loss of market, and the consequences of delay is excluded as provided for in condition 3.4 of the UKWA Conditions;

10.16 If the Services to be provided by the Operator for the Customer in respect of a specific Vessel(s) are the provision of berth space at the Terminal to facilitate Vessel to Vessel cargo transfers or similar floating operations undertaken exclusively by the Customer without any risk or expense to the Operator and, in particular, without the involvement of the Operator's equipment or personnel, the Operator shall have no liability for any damage or loss, howsoever caused, resulting or arising from the performance of such operations by the Customer;

10.17 The Operator shall have no liability for any damage or loss, howsoever caused, resulting or arising from any bunkering operations performed at the Terminal. Any fuel spillages during bunkering operations must immediately be notified by the Customer to the Port Authorities/Harbour Master.

10.18 Without prejudice to any other provision in this Agreement, the maximum aggregate liability of the Operator to the Customer in any calendar year, irrespective of the cause and number of incidents shall not exceed £50,000 sterling.

11. Force Majeure / other Exclusions

11.1 The Operator shall be relieved of its obligations to the extent that performance of the Services to be provided pursuant to this Agreement are prevented, delayed, hindered or otherwise affected by any act or omission of the Customer, any Interested Party, other third party or by force majeure. For the avoidance of any doubt, force majeure means any circumstances or conditions beyond the Operator's control or which are not reasonably practicable for the Operator to control, prevent or avoid;

11.2 Without prejudice to Clause 11.1 above, force majeure includes (without limitation) any one or more of the following:

- (a) Act of God, storm or flood;
- (b) Fire or explosion;
- (c) Strikes or other similar industrial action;
- (d) Unavailability of premises, machinery and equipment, plant, labour, fuel or power;
- (e) War, revolution, riot or civil disturbance;
- (f) Royal Navy or other military operations in or adjacent to the Port or Terminal;

- (g) Governmental action or such other restrictions imposed directly or indirectly by the Government or any person, corporation or body acting under statutory powers;
- (h) Disruption due to the operations of ferries in or adjacent to the Port or Terminal;
- (i) Theft or wilful damage unless the Customer is able to prove liability on the part of the Operator;
- (j) Inherent vice of the Goods or contamination by vermin, insects, fungus, rot, corrosion or any other foreign bodies;
- (k) Improper or insufficient packing, bar-coding, marking, documentation and / or labelling of the Goods;
- (l) Any act which is necessary for the Operator or any of its servants or agents to take in the interests of safety and preserving the Terminal, Plant, Goods or any personnel providing the Services pursuant to this Agreement;
- (m) Late receipt of cargo documentation including (without limitation) Customs clearances.

12. Notification of Claims and applicable Time Limits

The Operator shall not be liable for any claims unless:

12.1 In respect of any alleged loss / damage to Perishable Goods, written notification of the claim has been provided to the Operator within seven (7) days from the date of delivery to the Customer and a fully quantified claim, together with all supporting documentation, is received by the Operator within fourteen (14) days;

12.2 In respect of any alleged loss / damage to other Goods, written notification of the claim has been provided to the Operator within ten (10) days from the date of delivery to the Customer and a fully quantified claim, together with all supporting documentation, is received by the Operator within twenty-one (21) days;

12.3 The Operator shall be discharged of all liability of whatsoever nature and howsoever arising in respect of any Services provided pursuant to this Agreement unless legal proceedings have been issued and served by the Customer within nine (9) months of the date of any alleged breach or occurrence giving rise to the cause of action.

13. Data and Confidentiality

13.1 Without prejudice to any of the provisions contained in Clauses 6.1, 7.6 and 17, each party will observe and comply with its obligations under the EU General Data Protection Regulation (the "GDPR") and/or any other applicable Data Protection laws or regulations (as may be amended from time to time) relating to the security, confidentiality, protection or privacy of personal data.

13.2 The Customer acknowledges that, for safety and security reasons, surveillance systems such as CCTV may be used at the Terminal. The Customer further acknowledges that the information processed by such systems may include personal data about the Customer or any of the Customer's employees, servants, subcontractors, agents or any other third party who may enter the Terminal on behalf of the Customer. This information, together with any other personal data which may be collected by the Operator in connection with the provision of any Services at the Terminal may be processed by the Operator in accordance with its Privacy Notice/Policy, which can be accessed on its Website (www.porticoshipping.com).

13.3 The Customer warrants and confirms that it will make its employees, servants, subcontractors, agents or any other third party who may enter the Terminal on its behalf aware that the Operator may process personal data relating to any such data subjects in accordance with the Customer's instructions and / or the Operator's Privacy Notice/Policy.

13.4 Without prejudice to the above, the Operator may use data supplied by or on behalf of the Customer for purposes appropriate to the performance of the Operator's obligations or the exercise of the Operator's rights pursuant to this Agreement or for business planning by Operator. The Customer authorises the Operator to share that data with any party providing services to the Operator for the purposes of performing its obligations under the Agreement and, where appropriate, with any Government Authority;

13.5 Subject to the above-mentioned provisions and applicable legislation, the Operator and the Customer shall treat all information and data received in connection with the Services to be performed under this Agreement as confidential.

14. Insurance

The Customer shall be responsible for insuring all Vessels, Plant and Goods arriving and / or held at the Terminal against all insurable risks to their full value (including any applicable duties or taxes).

15. Notices and addresses for service

All written notices sent to the Operator should be addressed to Messrs Steve Williams (General Manager), Mike Sellers (Director) and Ben Harraway (Deputy General Manager) at MMD Shipping Services Ltd, Flathouse Quay, Portsmouth, Hampshire PO2 7SP.

16. Compliance

16.1 The Operator's health and safety regulations and instructions for all visitors are set out in Schedule 5. The Customer shall be responsible for ensuring that all of its employees, servants, subcontractors, agents or any other third party entering the Terminal on its behalf comply with these at all times;

16.2 The Customer shall also be responsible for ensuring that all of its employees, servants, subcontractors, agents or any other third party entering the Terminal on its behalf comply with all applicable laws and regulations pertaining to Port security and the Operator's Port security requirements (as set out in Clause 7.6 and Schedule 6) at all times;

16.3 The Customer shall also be responsible for ensuring that all of its employees, servants, subcontractors, agents or any other third party entering the Terminal on its behalf comply with all applicable laws and regulations, codes of practice and internal conventions relating to the Terminal as a Port including (without limitation) Harbour legislation, Byelaws and the Port Marine Safety Code at all times;

16.4 The Customer shall also be responsible for ensuring that all of its employees, servants, subcontractors, agents or any other third party entering the Terminal on its behalf comply with any specific safety codes, health and safety policies, or any other applicable Terminal rules, policies or guidance issued by the Operator which is currently in force, or which subsequently comes into force at any time during the term of this Agreement;

16.5 The Customer shall ensure that all of its employees, servants, subcontractors, agents or any other third party engaged in any of its activities at the Terminal are appropriately trained and qualified for the work in which they are engaged.

17. Miscellaneous

17.1 The Operator is not involved in, and assumes no responsibility in respect of, the navigation of Vessels to the Terminal berth. The Operator gives no warranty that the Terminal berth will be reachable on arrival and accepts no responsibilities until the Vessel is safely berthed alongside. The Operator makes any arrangements for tugs to serve a Vessel only as agents for the Customer and assumes no responsibility in respect of the suitability of the tugs or the performance of towage and like operations;

17.2 The Operator is not involved in, and assumes no responsibility in respect of, any Plant, strops or personnel which the Customer brings onto the Terminal for the purposes of cargo operations;

17.3 In the case of imported cargo, the Customer shall be responsible for arranging the collection of the Goods and their transport from the Terminal. In the event of carriage of the Goods from the Terminal which is subject to CMR, the Customer shall authorise such personnel as it has on-site to stamp the CMR consignment note so that the Customer is the consignor or the first carrier, or alternatively the Customer authorises the Operator to complete the consignment note on its behalf and without any responsibility on the part of the Operator. The Operator has no obligation either to carry Goods or to arrange for the transport of Goods.

18. Severability

If any provision or condition of this Agreement is prohibited or rendered invalid or unenforceable, such prohibition, invalidity or unenforceability shall not affect the validity or enforceability of any other provisions and conditions of this Agreement.

19. Law & Jurisdiction

19.1 This Agreement is governed by and shall be interpreted in accordance with English Law;

19.2 All disputes between the Parties arising out of or in connection with this Agreement shall be subject to the exclusive jurisdiction of the High Court of Justice in London.

20. UKWA conditions

For the purposes of incorporating the UKWA conditions into this Agreement:

20.1 The term "Company" in the UKWA conditions shall refer to the Operator and the term "Customer" in the UKWA conditions shall refer to the Customer;

20.2 In condition 1.1 the Operator's obligation to provide the Services with reasonable skill and care shall be construed as an obligation to exercise reasonable endeavours in accordance with Clause 6.1 of this Agreement. In condition 1.3, the first sentence shall be deleted and the second and third sentences shall apply subject to Clause 6.3 of the Agreement. The fourth sentence concerning forwarding continues to apply;

20.3 "Owner of the Goods" in condition 2.1.1 shall refer to the Customer and any Interested Party as defined in this Agreement;

- 20.4 Condition 2.1.6 shall be deleted;
- 20.5 Condition 3.5.4 shall be deleted;
- 20.6 For the purposes of condition 3.7.1 periods of seven (7) days and fourteen (14) days shall be substituted for ten (10) days and twenty-one (21) days where the claim relates in whole or in part to Perishable Goods;
- 20.7 In condition 6.1 a period of 7 days shall be substituted for twenty-one (21) days in relation to the removal of Goods where the Customer does not agree to the increase in the Operator's charges;
- 20.8 For the purposes of condition 6.3, the Customer shall pay the charges promptly and in any event before any of the Goods cease to be in the Operator's care and control;
- 20.9 Conditions 6.5 and 7.2 shall be read and construed in accordance with Clause 9 of this Agreement;
- 20.10 Condition 9.2 shall be deleted;
- 20.11 The definition of "Goods Transport Unit" in Condition 13 and all other references to a "Goods Transport Unit" in the UKWA conditions shall be deleted;
- 20.12 In the event of any conflict between the terms of this Agreement and the UKWA conditions, this Agreement shall prevail.

21. BIFA Standard Trading Conditions 2017 (England) Edition

For the purposes of incorporating the BIFA conditions into this Agreement:

- 21.1 The term "Company" in the BIFA conditions shall refer to the Operator and the term "Customer" in the BIFA conditions shall refer to the Customer;
- 21.2 Condition 26 shall be deleted and reference made to Clause 10 of this Agreement;
- 21.3 Condition 27 shall be deleted and reference made to Clause 12 of this Agreement.

H&S POLICY

- The Customer shall promptly notify the Operator of any health and safety hazards which may arise in connection with the performance of this Agreement.
- The Operator shall promptly notify the Customer of any health and safety hazards which may exist or arise at the Terminal and which may affect the Customer in the performance of their obligations under this Agreement.
- While on the Terminal, the Customer shall fully comply with any health and safety measures implemented by the Operator in respect of personnel and other persons working on those premises. In particular (and without limitation) the following health and safety measures shall be observed:
 1. Protective boots must be worn at all times on the Terminal;
 2. Hi-Visibility vests (of yellow or orange colour) must be worn at all times on the Terminal;
 3. The speed limit on the Terminal is 10mph;
 4. No smoking on the Terminal, except in designated areas;
 5. Any un-escorted visitors arriving at the Terminal must first complete a site induction

Any failure by the Customer (or any other personnel on the Terminal on their behalf) to comply with the above and / or such other health and safety measures as may subsequently be implemented by the Operator during the term of this Agreement, will be removed from the premises and banned from any further visits.

- The Customer shall notify the Operator immediately in the event of any incident or "near miss" occurring in the performance of this Agreement on the Terminal where that incident or "near miss" causes, or may cause, any personal injury or damage to property which could give rise to personal injury.
- The Customer shall take all necessary measures to comply with the requirements of the Health and Safety at Work Act 1974 and any other applicable legislation, conditions, directives, regulations or Codes of Practice relating to Health and Safety which may apply to any personnel engaged by them in the performance of this Agreement.
- The Customer shall ensure that its health and safety policy statement and health and safety management arrangements (as required by the Health and Safety at Work Act 1974) are kept up to date and made available to the Operator on request.

PORT SECURITY POLICY / PRE-ARRIVAL NOTIFICATION FORM

Port Security

In December 2002 the International Maritime Organisation (IMO) formally agreed amendments to the Convention on the Safety of Life at Sea (SOLAS) and an International Ship and Port Facility Security (ISPS) Code. These were developed to counter the threat of acts of terrorism against ships and ports, and set out a mandatory international framework which was implemented on 1st July 2004. The EC Regulation 725/2004 effectively applies Part A and specified elements of Part B of the Code as law across the EU. In the UK further Statutory Instruments, namely SI 2004 No.1495, The Ship and Port Facility (Security) Regulations 2004 and SI 2005 No. 1434, The Ship and Port Facility (Security) (Amendment) Regulations 2005 create the legal powers that ensure the EC Regulation has practical effect.

Portsmouth International Port and the Operator were assessed to fall within the scope of the Code and within UK Protection Categories - Passenger Port Facilities (PAX) and Container Ro-Ro (CRR).

Pre-Arrival Notification Procedures or CERS

Detail of who is responsible for checking PAN's prior to the vessels arrival. RA 2 (CRR) – Ships Agency

Declaration of Security (DoS)

At least 24 hours before the arrival of any Vessel berthing at the Port, the SSO or the Vessel's Master, must advise the PFSO/DPFSO (or Duty Port Operations Manager or the Operator's Agent on duty in his absence), normally through the Vessel's agent, whether there are any circumstances that apply whereby a DoS must be completed. This will be achieved through the completion of the Pre-Arrival Notification form. If the answer is in the affirmative, the PFSO/DPFSO (or Duty Port Operations Manager or the Operator's Agent on duty in his absence) must comply with the following:

- a) contact the Vessel's Security Officer;
- b) establish the security level of the Vessel concerned and confirm the Port facility security level.
- c) obtain details of security measures the Vessel intends to carry out;
- d) draw up details of the security measures the Port will put in place;
- e) ensure the form of DoS in use by the Vessel accords with the model at Annex L, as per the ISPS code;
- f) complete the DoS for signature by both parties;
- g) ensure retention of a copy of the DoS for inspection. There will be a need to complete a DoS whenever the following circumstances apply:-
 - (i) in the unlikely event that a non-SOLAS Vessel requires entry to the Port;
 - (ii) whenever the Port or a Vessel entering the Port is operating at security level 3;
 - (iii) whenever a Vessel is operating at a higher security level than the Port;
 - (iv) following a major security incident or security threat to the Port, Terminal or Vessel's operating within it, such as (without limitation) a bomb warning;
 - (v) when requested by MSRD or MCA.

RA 2 (CRR)

The Operator operates the following procedures for any intended crew changes at the Port. Border Force are notified of all crew either disembarking or embarking Vessel(s) at the Port. All crew members signing off at the Port have their crewman discharge books endorsed by Immigration. The Operator receives a crew list from the Vessel at least twenty-four (24) hours prior to each Vessel's arrival at the Terminal informing it / the Operator's Port Agents of all intended crew changes during the Vessel's call at the Port.

The Operator / its Port Agents ensure that the gatehouse to the Port / Terminal receives a copy of the crew list. To gain entry or exit from the Port / Terminal, the crew member must produce photographic ID by way of a discharge book to the security officer on the main gatehouse. At security level 1, crew members are permitted to enter/exit the Port / Terminal unaccompanied provided photographic ID has been established at the main gatehouse. All joining crew members must then proceed directly to their Vessel. At security levels 2 and 3, all embarking / disembarking crew will be accompanied to and from the Vessel within the Port / Terminal.

Accepted forms of identification:

- In the case of British Nationals, either a full ten year passport, or a British photo card driving licence;
- In the case of EU Nationals, a full Member State passport or National Identity card;
- In the case of other Nationals, a full passport, together with an original Home Office document confirming the right to be in the UK and providing evidence of the right to work in the UK.