

Oman International Container Terminal

STANDARD TRADING TERMS & CONDITIONS

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PART I

DEFINITIONS

1.1 In these Terms and Conditions the following words and expressions shall have the following meanings, namely:

"Cargo"	shall mean any packed or unpacked freight whether containerized or otherwise, including without limitation, anything stowed within a Container or loose cargo not so stowed but which has been unpacked from or is intended for packing into a Container, and includes any passenger luggage and effects.
"C.F.S."	shall mean any container freight station operated by or on behalf of the Company.
"Company"	shall mean Oman International Container Terminal L.L.C. (OICT) including its successors or assigns.
"Container"	shall mean any box or article of transport equipment (including tanks, flats and Non- Standard Containers) having a permanent character and being specially designed for the transportation of Cargo by one or more modes of transport, without intermediate reloading, and fitted with devices permitting its ready handling particularly its transfer from one mode of transport to another.
"Container Yard"	shall mean any area of the Terminal used for storage of Containers (whether full or empty) and Cargo.
Dangerous Goods"	means any substance that may cause danger of explosion, fire, corrosion, poisoning, intoxication or radiation, as mentioned in the IMO International Maritime Dangerous Goods Code (IMDG Code), the (International) Code for the Construction and Equipment of ships carrying Dangerous Chemicals in bulk and the (International) Code for the Construction and Equipment of ships carrying Liquid Gases in Bulk of the IMO.

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"Dutiable Goods"	shall mean any goods, commodities, materials or equipment which are subject to customs duties and tariffs, including special licence fees and exemptions (whether or not the same shall be applied), upon the importation or exportation thereof across the borders of the Sultanate of Oman under its laws and regulations from time to time in force.
"IMO"	shall mean the International Maritime Organisation and any successor thereto.
"ISPS Code"	shall mean the International Ship and Port Security Code of the International Maritime Organization and includes any amendments or extensions thereto and any regulations issued pursuant thereto.
"Line"	shall mean any person (including without limitation shipping companies, ship owners and charterers) who, having any interest in a Vessel and may include a person who is an Operator, enters into any contract, agreement or arrangement with the Company.
"Line/Operator"	shall mean the Line and/or the Operator as may be applicable.
"Operator"	shall mean any person who enters into a contract, agreement or arrangement with the Company, including all those directly or indirectly who enter into any contract, agreement or arrangement with the Company in relation to the transport, storage or distribution of Containers and/or Cargo and includes without limitation exporters, importers, consignors and consignees thereof and any person who is a Line.
"Reefer Container"	shall mean any Container designed or used for the transportation of refrigerated cargo.
"Tariff"	shall mean the schedule of fees and charges as may be agreed by the Company and the Line/Operator from time to time.

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"Terminal"	shall mean the Company's container terminal premises at Sohar Industrial Port and/or such further or other premises as may be designated by the Company from time to time.
"T.R.S."	shall mean any terminal receiving station operated by or on behalf of the Company.
"Non-Standard Containers and Uncontainerized Cargo"	shall mean Containers used for transport or carriage of Cargo on a Vessel which cannot be handled by means of normal use of container spreaders.

- 1.2 The headings are inserted for convenience only and shall be disregarded in the construction or interpretation of these Terms and Conditions.
- 1.3 Except where the context otherwise requires in these Terms and Conditions "person" shall include any legal person, such as for example a firm, company or partnership and the singular shall include the plural and vice versa.
- 1.4 Where two or more persons shall enter into a contract, agreement or arrangement incorporating these Terms and Conditions (whether as the Line, the Operator or otherwise), their obligations and liabilities hereunder shall be joint and several.
- 1.5 These Terms and Conditions shall apply to all Lines, Operators and all other persons, firms, companies and Vessels who enter into any relationship with the Company whether implied by law or otherwise.
- 1.6 ALL BUSINESS IS CONDUCTED BY THE COMPANY SUBJECT TO THE EXCLUSIONS AND LIMITATIONS ON LIABILITY SET OUT IN PART V.
- 1.7 Any reference to time in these Terms and Conditions shall be construed in accordance with the Gregorian calendar.

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PART II

SERVICES IN RELATION TO VESSELS

- 2.1 The service provided by the Company to the Line may include but without limitation docking of Vessels at the Terminal, rendering attendant facilities to berth Vessels and loading and unloading Containers and Cargo to/from Vessels by means of shore cranes and fork lift trucks and may, where circumstances require, include moving Containers and Cargo from the berth side to the Container Yard and/or CFS and/or TRS and vanning and devanning Containers.
- 2.2 The Line shall furnish to the Company a sailing programme of each Vessel not later than 21 days before the estimated time of arrival thereof and shall promptly notify the Company of any change in any such sailing programme.
- 2.3 The Line shall confirm the final estimated time of arrival of each Vessel in writing not less than 36 hours before arrival and in the case of any Vessel scheduled to arrive on a Thursday or a Friday before noon, not later than the preceding Wednesday noon (Oman time).
- 2.4 The berth allotted to a Vessel by the Company may be notified to its master in such manner as the Company may think appropriate having regard to the circumstances. Vessels shall be dealt with in the order determined by the Company in its sole discretion and the Line shall procure that no Vessel shall berth or attempt to berth alongside the Terminal until due notice has been given by the Company.
- 2.5 The Line shall be solely responsible for all Vessels berthing, unberthing, and whilst alongside and Vessels shall at all such times be at the sole risk of the Line unless any loss sustained is proved to be caused by the wilful misconduct or gross negligence of the Company.
- 2.6 The Company makes no warranty or representation by allocating berths that any Vessel will not ground whilst approaching, leaving or resting at any berth, or that there are no obstructions on the sea-bed and it shall be the Line's sole responsibility to satisfy itself in advance as to such matters including the suitability or fitness of any berth so allocated.
- 2.7 The Company may at the request of the Line provide a berthing officer and mooring crew to render assistance to any Vessel in making fast or

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casting off hawsers at the Terminal. Such berthing officer and mooring crew shall act in accordance with the instructions and directions from the Line or the master of the Vessel and in rendering such assistance be deemed to be servants and/or agents of the Line, and such assistance shall be rendered at the direction and sole risk and liability of the Line. The Company accepts no responsibility in carrying out such instructions or for the sufficiency of such operations unless any loss sustained by the Line is proved to be caused by the wilful misconduct or gross negligence of the Company, its servants or agents.

- 2.8 Supply of all gangways, their safety and illumination shall be the sole responsibility of the Line. In particular, the Line shall ensure that gangways do not obstruct the passage of the Company's quayside container cranes.
- 2.9 The Line shall be solely responsible for all dockage, wharf age and other charges levied or incurred as a result of use of the Company's berths, piers or premises.
- 2.10 The Line shall be solely responsible for any injury or damage to the Terminal and/or the Company's premises and/or equipment (including without limitation all fendering or mooring bollards) arising directly or indirectly from the berthing, unberthing or mooring of its Vessels.
- 2.11 The Line shall procure the compliance with and observance of the laws of the Sultanate of Oman and all applicable International conventions rules and regulations (the "Laws and Regulations") in force relating to its Vessels and/or their operation including but not limited to the ISPS Code.
- 2.12 The Line shall procure that its Vessels shall immediately vacate any berth upon being requested to do so by the Company and shall procure that nothing shall be done which might immobilize the engine of any Vessel so that such Vessel is prevented from vacating its berth upon demand being made under this clause. In the event that a Vessel fails or is for whatever reason unable to vacate its berth the Company shall without prejudice to any other remedy or right the Company may have be entitled to charge the Line for each day or part of a day until the Vessel shall have been completely removed.
- 2.13 The Company will supply labour for lashing and unlashng Containers and/or Cargo in accordance with the instructions and requirements of the Vessel's master which instructions shall bind the Line. Such labour shall in carrying out such work be deemed to be servants and/or agents of the Line. Such work shall be carried out at the sole risk of the

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Line, and in particular, without prejudice to the generality of the foregoing, the Line shall be responsible in respect of the sufficiency thereof and for any act or omission of any person employed in its execution. The Company shall not be responsible for any loss caused by such work unless it is proved that such loss is caused by the wilful misconduct or gross negligence of the Company, its servants or agents.

- 2.14 The Line shall procure that each Vessel which shall load or unload Containers (whether with or without contents) and/or Cargo to or from the Terminal shall (unless otherwise agreed by the Company) supply to the Company at least 72 hours prior to commencement of loading or discharging, such particulars of the Containers and/or Cargo to be loaded or discharged as the Company may reasonably require and in a form satisfactory to the Company. Without limiting the generality of the foregoing the Company shall be furnished with full particulars of all Dangerous Goods and/or Dutiable Goods to be loaded or discharged.
- 2.15 All unpaid dues and charges for services rendered by the Company in relation to the handling of Containers and/or Cargo at the Terminal shall be paid by the Line.
- 2.16 Containers and Cargo will be allowed a period of free storage as specified in the Tariff. If the Container or Cargo is not collected from the Terminal within such free storage period, the Line shall give as soon as practicable and in any event within 3 days of the expiry of such free storage period instructions to the Company for the storage/devanning and disposal thereof in default of which the Company may at its entire discretion store the same either at the Terminal or elsewhere at the sole risk and expense of the Line.
- 2.17 The Line shall procure that, during the period from completion of berthing of any Vessel until commencement of unberthing, its engines shall not be operated other than by turning gear, except as agreed in writing by the Company. The Line shall also procure that during such period the Vessel shall not be moved by any means. The Line shall indemnify the Company from and against any loss, expense, damage or liability as a result of the operation of the engines of any Vessel whilst berthed whether such operation shall have been approved in advance by the Company or otherwise.
- 2.18.1 Loading or unloading of any Container and/or Cargo to or from the Terminal or any Vessel by way of lighters or barges as may be requested or engaged by the Line shall be carried out at the sole risk of the Line.

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- 2.18.2 Unloading of yachts or other crafts from the Vessel directly onto water or loading of yachts or other craft to the Vessel directly from water shall be carried out at the sole risk of the Line, unless any damage sustained is proved to be caused by the wilful misconduct or gross negligence of the Company, its servant or agents.
- 2.19 The Company may from time to time issue by notice in writing further reasonable rules and regulations governing procedures to be followed in loading and unloading Vessels and the Line shall comply with all such rules and regulations of which it has received notice.

PART III

CARGO AND CONTAINERS

- 3.1 Where a Line requests or instructs the Company to release, deliver, accept or otherwise deal in any way whatsoever with any Container and/or Cargo to or from or otherwise in respect of an Operator or to perform any related service in respect thereof, the Line shall:
- (a) Contract (and shall be deemed for all purposes to have so contracted) with the Company on these Terms and Conditions on behalf of the Operator as its agent; and
 - (b) indemnify the Company against any claim, damage, loss or expense suffered or incurred by the Company arising from any breach or default by such Operator of these Terms and Conditions and/or arising from any want of authority on the part of the Line to act as agent of such Operator as aforesaid.
- 3.2 The services provided by the Company for or in respect of Operators may include the receipt for loading and unloading of Containers onto/from Vessels alongside the Terminal, transport of Containers to/from the Container Yard, receipt of Cargo from Operators, transport of Cargo to and from the T.R.S and/or C.F.S., movement of empty Containers within the Terminal, packing and unpacking Containers and delivery of Cargo to the Operator.
- 3.3 The Operator shall ensure that all Containers (with or without contents) and/or Cargo shall be delivered to the Company for acceptance at the designated transfer area at the Terminal or such other place within or adjacent to the Terminal as the

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Company shall designate from time to time for the receipt of the same. The Containers are accepted by the Company when they are lifted from the delivery vehicle by the Company's crane.

- 3.4 The Company shall have no responsibility or liability whatsoever in relation to any Container and/or Cargo until the same has been delivered to the area designated in accordance with Clause 3.3 and duly accepted by the Company.
- 3.5 By delivering or causing to be delivered any Container and/or Cargo to the Company the Operator warrants that it is either the owner of same or that it is duly authorised by the owner thereof to enter into a contract in respect of the same on behalf of the owner on these Terms and Conditions
- 3.6 Prior to delivery of any Container and/or Cargo at the Company's premises, the Operator shall furnish to the Company in writing such particulars thereof (including without limitation the nature, description and all applicable weights and measurements) as the Company may reasonably require. The Operator hereby warrants to the Company the accuracy and adequacy of all such particulars and understands that the Company will rely on them.
- 3.7 The Operator covenants that each Container which it shall deliver, cause to be delivered or is instrumental in delivering (whether full or empty) to the Company shall be in good order and repair and the Company shall be entitled to assume that each Container is in such condition. The Company shall not, by reason of the acceptance of any Container or by reason of any other matter or thing, be taken to warrant or accept responsibility for the condition, security, fitness or otherwise of the Container or its seal or of any Cargo contained therein.
- 3.8 Cargo unpacked from a Container will be allowed a period of free storage as specified in the Company's Tariff. The Operator shall arrange for all Cargo to be removed from the Terminal within such period. The Company shall have the right to store any Cargo not collected within such period either at the Terminal or elsewhere at the sole risk and expense of the Operator.
- 3.9 The Operator warrants to the Company the accuracy of all values and other particulars supplied to the Company in respect

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of any Cargo for customs or any other purpose, and the accuracy and validity of customs removal permits.

- 3.10 The Company shall not be obliged to accept any Cargo or Container for handling or storage unless it is satisfied that adequate space reservation arrangements have been made to permit the onward shipment thereof within a period acceptable to the Company. Where the Company is not so satisfied, acceptance of any Cargo or Container may be subject to such additional conditions as the Company shall consider appropriate.
- 3.11 (a) The acceptance and delivery of any Reefer Container containing refrigerated Cargo will be subject to instructions to be agreed between the Company and the Line/Operator. Written instructions in terms proposed by the Line/Operator shall be provided to the Company at least 48 hours in advance of delivery. No Reefer Container containing refrigerated Cargo shall be delivered to the Company until the Company has agreed to and confirmed its acceptance of such instructions in writing.
- (b) If and to the extent that such instructions are accepted by the Company, the Company will observe those instructions to check and report upon temperatures of such Containers as indicated by their equipment at such times as are agreed.
- 3.12 At the request of the Line/Operator, the Company may permit the Line/Operator to have or store any of its machinery or equipment (other than Containers) on any part of the Company's premises. The Company shall have no responsibility or liability in relation to any machinery or equipment so left or stored unless any loss is proved to be caused by the wilful misconduct or gross negligence of the Company, its servants or agents. The leaving or storage of the same shall not constitute any contract of bailment or relationship of bailor and bailee between the Line/Operator and the Company unless expressly agreed to the contrary.
- 3.13 Any fees ("Fees") payable by the Operator for services rendered are exclusive of any value added tax or any other taxes ("Tax") which is chargeable in connection with the relevant Fees. If any such Tax is or becomes chargeable, the Operator must pay to the Company, in addition to the Fees payable, amount of that Tax, together with penalties and interest, if any.

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If the Company is required by the introduction of or any change in, or in the interpretation or application of, any law, to make any payment to the tax or other competent authority on, or calculated by reference to the amount of, any Fees received or receivable by the Company from the Operator (1) the Company shall notify the Operator of such a requirement and issue the relevant invoice accordingly, and (2) the Operator shall upon receipt of the invoice pay any such Tax and any penalties thereto and interest thereon. For the avoidance of doubt, the Fees payable by the Operator in respect of which the relevant payment is required shall be increased to the extent necessary to ensure that, after making of such payment, the Company receives a net sum equal to what it would have received had no such payment been required or made.

PART IV

GENERAL CONDITIONS

- 4.1 Without prejudice to any other right or remedy the Company may have at any time the Company shall be entitled to suspend the provision of any of the services to be provided to the Line/Operator hereunder in the event of any breach by the Line/Operator of these Terms and Conditions including without limitation non-payment of any amount due from the Line/Operator to the Company by the due date for payment.
- 4.2 The Line/Operator warrants that Containers received at the Company's premises shall be weather-proof as necessary and are suitable for storage in the open. The Company shall not be responsible for or liable in respect of any rust, deterioration of or damage to any Container or Cargo, including without limitation damage resulting from any of the causes set out in Clause 5.1.
- 4.3 The Company shall report to the Line/Operator upon notice of damage (to the extent reasonably noticeable) to any Container and/or Cargo upon discharge or upon receipt for handling of such.
- 4.4 The Company will use reasonable endeavours to ensure the correct packing and/or delivery of all Containers and/or Cargo but, in the absence of the fraud or wilful misconduct of the Company or its servants or agents being proved, the Company shall not be liable for any error in tallying, packing and/or delivery of any Containers and/or Cargo.

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- 4.5 In addition to the routine services to be provided by the Company, the Company may be prepared to supply assistance in connection with special arrangements in loading and discharging of particular Containers and/or Cargo as may be requested by the Line/Operator. Those supplying such assistance shall be deemed to be acting as servants and/or agents of the Line/Operator and shall act under the direction of the Line/Operator. Such assistance shall be supplied at the sole risk and liability of the Line/Operator. The Line/Operator shall indemnify the Company against any loss expense claim or damage arising from the provision of such assistance.
- 4.6 The Company reserves the right (to be exercised reasonably) to refuse to receive and/or handle any Container and/or Cargo and/or to admit any truck or Container and/or Cargo to or from the Terminal and/or to receive, handle or admit the same subject to such requirements as the Company may from time to time impose. In such circumstances, where any truck and/or Container and/or Cargo is already located at the Terminal the Line/Operator shall, if requested by the Company, forthwith comply with or procure the compliance with such requirements (if any) and if required remove or procure the removal thereof or otherwise deal with the same at the sole risk and expense of the Line/Operator as directed by the Company and to the Company's reasonable satisfaction.
- 4.7 If the Company shall be instructed by or on the behalf of a Line/Operator to open, unpack connect, disconnect transport or remove any Reefer Container for any purpose whatsoever, the Company shall in carrying out such instruction be deemed to be acting as servant and/or agent of the Line/Operator and, in the absence of wilful misconduct or gross negligence of the Company, its servants or agents being proved, shall not be responsible for any deterioration of contents thereof or for any contamination to the Cargo therein and/or other Cargo which shall be the sole responsibility of the Line/Operator. The Company's acts or omissions pursuant to the instructions or direction of the Line/Operator are conducted entirely at the expense of and at the sole risk of the Line/Operator.
- 4.8 The Company shall not be responsible for, and the Line/Operator shall indemnify and hold harmless the Company against, all loss, damage, expense and liability incurred by the Company resulting directly or indirectly from any defect or fault in any Cargo (including the packaging thereof) or Container and/or the contents thereof handled by the Company for or on behalf of the Line/Operator or at its request except

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where such defect or default is caused by the wilful misconduct or gross negligence of the Company or its servants or agents.

- 4.9 The Company shall have no responsibility or liability for the contents of any Container or Cargo accepted at the Terminal unless the content therein has been devanned or load thereof broken down (as the case may be) in the Company's premises. All receipts or acknowledgements given by the Company relating to the contents of Containers are for identification purposes only and shall not constitute an acknowledgement by the Company of the actual receipt or condition of the Cargo said to be contained therein.
- 4.10 Where in the reasonable opinion of the Company any damaged or defective Container and/or Cargo is likely to damage or contaminate any Cargo, the Company may by written notice require the Line/Operator to remove the same from the Terminal forthwith and in any event within 24 hours. In default, the Company may remove the same at the Line/Operator's sole expense and risk to such other storage place as the Company may decide and, if in the opinion of the Company no alternative place of storage is reasonably available, the Company may destroy or otherwise dispose of the Container and/or Cargo without further notice. The Line/Operator shall be liable to pay the Company all costs (including expenses and administrative costs) of and incidental to such removal, destruction or disposal and shall indemnify the Company against all costs, claims, damages and expenses arising from the removal, destruction or disposal of such Container and/or Cargo.
- 4.11 Unless notice of loss or damage and the general nature of such loss or damage is given in writing to the Company before or at the time of removal of any Container and/or Cargo from the custody of the Company, and the aforesaid loss or damage is agreed in writing after a joint inspection with the Company, such removal shall be conclusive evidence of delivery in good order and condition of the Container and/or Cargo.
- 4.12 The Company shall be entitled to deliver any Container and/or Cargo to the bearer of a delivery order in respect of the same issued by the Line or any of its servants, employees or agents and the Company shall not be concerned to enquire into such person's entitlement to the Container and/or Cargo unless the Company has actual notice that such person is not so entitled.
- 4.13 The issue by the Line or any of its servants, employees or agents of a delivery order in respect of any Container and/or Cargo shall constitute

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a warranty to the Company by the Line that the bearer thereof is lawfully entitled to the Container and/or Cargo and the Line shall indemnify and hold the Company harmless from and against all damage, liability, claims, costs and expense incurred by or made against the Company arising from any release or delivery made to the bearer of such delivery order.

- 4.14 The Company shall not be bound to accept Cargo (whether in a Container or otherwise) having, in the reasonable opinion of the Company, principally high value or requiring special care and in the event that such Cargo is accepted by the Company, the Company shall be entitled to impose such further terms and conditions (including but not limited to the effecting of appropriate insurance and the provision of appropriate security services) as the Company in its sole discretion may think fit. The Line/Operator shall give to the Company at least 48 hours prior notice of an intended delivery of such Cargo to the Company to enable the Company to decide whether or not it will accept the same. Under no circumstances shall the Line/Operator deliver to the Terminal any such Cargo without the written approval of the Company.
- 4.15 (a) The Company shall have a lien upon all Containers and/or Cargo received by the Company and all documents relating thereto for all amount due or which may become due from the Line/Operator to the Company, including a general lien for any amount due from the Line/Operator. Without prejudice to any other right or remedy the Company may have, if any lien is not satisfied within one calendar month after notice has been given to the Line/Operator, the Company shall have the right to sell without further notice any Container and/or Cargo the subject of the lien by public auction or private treaty and may apply the proceeds in discharge of all and any costs and charges incurred in the sale and in payment of any charges and expenses due to the Company. The exercise of such right of sale shall be without prejudice to any other right or remedy of the Company, and any deficiency in the proceeds of sale shall be recoverable from the Line/Operator by civil action.
- (b) Payment of the Company's accounts shall fall due 21 days from the date of the Company's invoice. The Line/Operator shall pay interest on all amounts overdue at the rate stated in the Tariff.
- 4.16 The Line/Operator shall be liable and responsible for the charges shown in the Tariff from time to time for all services rendered at its

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request or on its behalf, without set-off or deduction unless otherwise agreed.

- 4.17 (a) The Line/Operator shall and shall use its best endeavours to procure that its employees, contractors, servants, agents and customers, including consignors and consignees, with whom it has entered into any arrangement shall observe comply with and be bound by these Terms and Conditions, the special conditions in the Tariff and the Laws and Regulations applicable directly or indirectly in relation to any Container and/or Cargo handled by the Company for or on its behalf or at its request or which the Line/Operator is instrumental in delivering to the Company for handling.
- (b) Without limiting the generality of the foregoing, any Container loaded with Dangerous Goods shall prior to discharge or delivery to the Company be clearly marked in accordance with all applicable local and/or international codes.
- 4.18 Any cost, expense or liability which may be incurred by the Company in complying with any Laws and Regulations requiring the movement, treatment, removal, destruction or disposal of any Cargo or Container including but without limitation Dangerous Goods or infested, contaminated or condemned Cargo, or in the treatment of the Company's premises or equipment as a result of any infestation or contamination arising there from shall be the sole responsibility of the Line/Operator and shall forthwith be reimbursed to the Company by the Line/Operator on demand.
- 4.19 In any case in which the Company supplies mechanical equipment (hereinafter referred to as "equipment") for use in loading or unloading of any Vessel (including, for the avoidance of doubt, any loading or unloading by means of lighters or barges) or for the handling of any Containers and/or Cargo, and an operator is supplied by the Company with the equipment ("the equipment operator") the Company shall supply a person competent in operating the equipment and such person shall be deemed to be the servant or agent of the Line/Operator in the operation of the equipment. The Company shall not be responsible for any claims arising in connection with such operation of the equipment, unless it is proved that such claims arise as a result of the wilful misconduct or gross negligence of the Company, its servants or agents.
- 4.20 The Line/Operator shall indemnify the Company and/or the equipment operator against any claim made against the Company and/or the

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equipment operator arising out of or in connection with any use of or operation of the equipment referred to in Clause 4.19.

- 4.21 The Line/Operator acknowledges that it has received details of the capacity of the equipment referred to in Clause 4.19 and undertakes that it shall not permit any attempt to load or unload a Container or Cargo beyond the rated capacity of the equipment.
- 4.22 The Company shall be under no obligation to effect insurance in relation to Cargo or Containers in its possession.
- 4.23 Every contract incorporating these Terms and Conditions shall be governed by and construed and interpreted in accordance with the laws in force for the time being in the Sultanate of Oman and the parties hereto submit to the jurisdiction of the Courts of the Sultanate of Oman.
- 4.24 These Terms and Conditions shall apply to all Lines and Operators and the Lines and Operators shall use their best endeavours to procure that these Terms and Conditions shall apply to their respective customers including consignors and consignees with whom they have respectively entered into any arrangement and to all other persons, firms, companies and Vessels who enter into any relationship with the Company whether implied by law or otherwise.
- 4.25 These Terms and Conditions shall apply to the exclusion of any other written or oral terms and/or conditions including without limitation any printed terms contained in printed forms or other documents of the Line/Operator and no variation or waiver of these Terms and Conditions of any nature may be made by any employee of the Company other than a Director or General Manager of the Company who may vary them only in writing referring to these Terms and Conditions and addressed to the person, firm, company or Vessel concerned. All requests for an explanation of the meaning of these Terms and Conditions or their application to any given circumstances shall be made in writing to a Director or General Manager of the Company whose written reply shall alone be binding on the Company.
- 4.26 Without prejudice to the generality of the foregoing the Line/Operator shall indemnify the Company from and against all claims, loss, damage, cost and expense (including without limitation legal costs) suffered or incurred by the Company arising directly or indirectly from:
- (a) Any breach of these Terms and Conditions by the Line/Operator its employees, servants, agents, contractors and to the extent

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applicable, customers, including consignors and consignees, with whom it has entered into any arrangement;

- (b) Any matter or thing which it is provided herein shall be the sole responsibility or risk of the Line/Operator or for or in respect of which it is provided that the Line/Operator shall be responsible or liable.

PART V

LIMITATIONS ON LIABILITY

5.1 It is hereby agreed that subject to these Terms and Conditions, the Company will be liable for any loss or misdelivery of or damage to any Cargo, Container or Vessel or subject to Clause 5.3 herein below, for any detention or delay solely if it is proved that such loss or misdelivery damage detention or delay arose out of or was caused by the wilful misconduct or gross negligence of the Company or any of its agents servants or employees provided that all rights of claim against the Company shall be lost and all liabilities whatsoever of the Company shall be discharged unless suit is brought in a competent jurisdiction within one year of the alleged loss, misdelivery, damage, detention or delay. The Company shall not in any circumstances be liable therefore if such loss or misdelivery damage detention or delay arose out of or was caused by any of the following:-

- (a) acts of God, war, riots, civil commotion, strikes, working to rule, lockouts, labour stoppages or restraints of labour whether general or partial any act or omission or order or decree of any government or government authority or agency, any act of any person or persons acting on behalf of any organisation with activities directed towards the overthrow by force of any de-jure or de facto Government, invasion, act of foreign enemy, hostilities, rebellion, insurrection, terrorist acts or threat of terrorist acts, military or usurped power or confiscation, requisition, destruction of or damage to property by or under the order of any government or public authority;
- (b) Unavailability of labour and/or other services or utilities;

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- (c) Earthquake, tempest, tsunami, typhoon, rain, storm, lightning, flooding, adverse weather conditions and other similar risks;
- (d) Seizure under legal process;
- (e) Fire, theft or explosion unless the loss damage or injury arising there from is proved to be due to the wilful misconduct or gross negligence of the Company;
- (f) Act neglect default or omission of whatever nature of the Line/Operator or its or their servants or agents or of any person having an interest in the Cargo;
- (g) latent or inherent vice of goods, vermin, white ants, rust, dry rot, wastage due to natural deterioration or contamination by other goods, inadequately packed or fragile Cargo;
- (h) the failure of the Line/Operator or their servants or agents or of any person having an interest in the Cargo to take or accept delivery within such reasonable time as may be required by the Company;
- (i) Breakdown failure or malfunction of equipment, cranes or like machinery (other than breakdown failure or malfunction caused by the wilful misconduct or gross negligence of the Company or its servants agents or employees);
- (j) Any radioactive materials or contamination; or
- (k) Any other cause outside the reasonable control of the Company.

5.2 Subject always to the limitations and exclusions of liability contained herein (and in particular, without limitation, those contained in Clauses 5.1, 5.3 and 5.4 hereof) the overall liability of the Company for any loss, damage, claim, cost and/or expense in respect of any one event or occurrence shall be the lowest of the following as may be applicable:-

- (a) The market value of the property to which the claim relates at the time of the damage or loss; or
- (b) The cost of repairing the damage; or
- (c) In the case of loss or damage to:-

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- (i) Cargo, the sum of OMR 1000 per freight tonne of 1,000 kilos (or per cubic meter if the sea freight charges for the item lost or damaged fall to be assessed at the rate per cubic meter).
- (ii) Containers, whether within the definition set out herein or otherwise, the sum of OMR 3000 per Container,
- (iii) Vessels, the sum of OMR 2,500,000.

PROVIDED THAT the maximum liability of the Company shall in no event exceed the sum of OMR 2,500,000 for loss or damage resulting from or otherwise arising out of any one event or occurrence, regardless of whether there shall be one or more claimants and irrespective of the nature or ground of the claim(s).

- 5.3 Notwithstanding the provisions of Clauses 5.1 and 5.2 hereof the Company shall not be liable for any indirect or consequential losses (including, for the avoidance of doubt, losses of profits) whether the same shall result from damage, delay or detention to or of any Cargo, Container or Vessel or otherwise and whether the same shall arise from a cause for which the Company is otherwise liable or not.
- 5.4 In the event of any claim being made against the Company arising from any damage to any Cargo, Container or Vessel the Company shall be given a reasonable opportunity to inspect such damage.
- 5.5 The provisions in this Part V shall apply to any employee, servant or agent of the Company acting in the course of his employment or the business of the Company and the Company shall for this purpose be deemed to be acting as trustee for all existing and future employees, servants or agents in entering into all contracts to which these Terms and Conditions apply.

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PART VI

UNITED STATES OF AMERICA SECONDARY SANCTIONS REGIME

- 6.1 All known vessels which are, or which operate in sectors that are, subject to the Secondary Sanctions regime of the United States of America (“U.S. Sanctions”) are liable to be purged at any time, and may no longer be registered, in the terminal operating system of OICT at the absolute discretion of OICT without prior notice. Registration in the terminal operating system of OICT of fresh vessels which are, or which are intended to operate in sectors that are, subject to U.S. Sanctions is subject to prior review and approvals of OICT at its absolute discretion.
- 6.2 OICT Operations team shall be entitled to conduct documented due diligence on any scheduled, intended or requested vessel call. Without limiting the generality of the rights and discretion of OICT on, and on the manner of, conducting the due diligence on the vessels, the due diligence may include vessel registration searches on the Specially Designated Nationals and Blocked Persons List (“SDN List”) published on the website of the Office of Foreign Assets Control (“OFAC”) of the United States of America.
- 6.3 All Agents shall provide signed confirmations to OICT that no sanctioned nation’s flagged / owned vessels will be used to transport cargos to and from the Port of Sohar (7 days before vessel arrival).
- 6.4 All Agents in a business relationship with OICT are subject to periodic (whether monthly or otherwise) or ad hoc due diligence to be conducted by OICT Commercial at the absolute discretion of OICT. Without limiting the generality of the rights and discretion of OICT on, and on the manner of, conducting the due diligence on the Agents, the due diligence may involve searches on the SDN List on the basis of the following criteria:
- a. Company name
 - b. Shareholder and manager names
 - c. Vessels utilized

Agents in a business relationship with OICT shall inform OICT Commercial immediately of any changes to the details listed above.

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- 6.5 All new commercial relationships entered into by OICT shall be subject to documented due diligence to be performed by OICT Commercial at the absolute discretion of OICT. Without limiting the generality of the rights and discretion of OICT on, and on the manner of, conducting the due diligence on the commercial relationships, this Know-Your-Client (“KYC”) procedure may apply scrutiny at the level of individuals, companies and vessels involved via the SDN List published on OFAC’s website.
- 6.6 Should an existing Line/Operator be found or be reasonably suspected to be subject to U.S. Sanctions, including without limitation its being included on the SDN List, OICT shall be entitled to immediately suspend the business relationship with such Line/Operator without prior notice.
- (a) If the Line/Operator has any outstanding liability to OICT, OICT shall be entitled to continue to pursue, claim and collect the money through all lawful means including without limitation the institution of legal proceedings at Omani Courts. OICT may also elect, at its absolute discretion, to encash any bank guarantees provided by the Line/Operator without prejudice to the rights of OICT to continue to pursue, claim and collect the money from the Line/Operator for any liability remaining outstanding to OICT.
 - (b) OICT shall be entitled to immediately and without prior notice withhold payments (including without limitation any and all rebates, deposit refunds, or otherwise) to a Line/Operator that has been identified on the SDN List. Payment or any settlement will only be processed if the Line /Operator is removed from the SDN List, and all interest, surcharge, penalty or any other creation, addition, accrual or other accumulation of any additional or new amount arising from, and/or during the period of, such withholding of payments to the Line /Operator, shall cease and shall not apply immediately from the date of such withholding.
 - (c) OICT shall be entitled to immediately and without prior notice seize any and all containers and cargo associated with the Line/Operator that has been identified on the SDN List until the Line/Operator is taken off the SDN List. Containers and cargo seized for longer than the usual grace period for storage at OICT are liable to be auctioned off by OICT pursuant to the procedures provided or permitted by Omani Customs.