

TERMINAL SERVICES AGREEMENT

THIS TERMINAL SERVICES AGREEMENT (including any appendices and schedules, the “**Agreement**”) is made on [DATE]:

BETWEEN:

1. APM Terminals Algeciras S.A., incorporated and registered in Spain with company number A28984045 having its registered address at Muelle Juan Carlos I s/n (“**APM Terminals**”); and
2. [CUSTOMER], incorporated and registered in [COUNTRY] with company number [-] having its registered address at [ADDRESS] (the “**Customer**” and together with APM Terminals, the “**Parties**” and individually a “**Party**”),

NOW IT IS HEREBY AGREED as follows:

1. **TERM**

- 1.1 This Agreement shall take effect from of February 1st, 2021 (the “**Commencement Date**”) and will continue for five 2 years from the Commencement Date (the “**Term**”).
- 1.2 At the end of the Term, this Agreement will automatically continue on a year-to-year basis unless either Party provides the other Party a six (6) month written notice of its intent to not automatically continue the Agreement. APM Terminals shall complete any Container Terminal Services which it may be performing or handling on the effective date of such termination. The terms and conditions set forth in this Agreement shall apply to any such Container Terminal Services.

2. **APMT CONTAINER TERMINAL SERVICES AND OBLIGATIONS**

APMT shall provide the following container terminal services (“**Services**”) at the Container Terminal provided that Customer complies with its obligation under Clause 3:

- 2.1 The services described in the Schedule of Rates at the agreed applicable rates;
- 2.2 Berthing. Provide berth on arrival for all Customer container ships arriving on schedule, details of the berth allocation planning and scheduling is at APMT’s sole discretion. APMT will advise Customer should any modification of planned berthing be arranged.
- 2.3 Stevedoring. Cranes, labor and handling equipment necessary for container loading and discharging operations and lashing and unlashng containers.
- 2.4 Vessel stowage planning. Preparation of vessel loading/unloading sequence sheets, vessel stow plans/bay plan and other required documentation provided that the Customer has instructed APMT to provide such services in accordance with the stowage plan approved for the purpose by the Customer’s central stowage planning office;

2.5 EDIFACT. Provide Customer upon completion of cargo work with complete cargo plan/bay list, and other reports as may be requested or required. Data and reports will be prepared by APMT on mutually agreed terms and in compliance with EDIFACT standards and communicated electronically of containers loaded or discharged and of containers and movements into and within the Container Terminal;

EDIFACT standards to be sent to the Customer as follows:

- (a) Confirmation of vessel moves (containers discharged/loaded) (COARRI D95B).
 - (b) Confirmation of gate moves (containers gated in/out) (CODECO 1.4).
 - (c) Bay Plan / Stowage Plan Occupied and Empty (BAPLIE 1.5 / 2.0 / 2.2)
- 2.6 Reefer Containers. Plugging/unplugging, electricity supply and supervision/monitoring of reefer containers according to settings and type of reefer container specifications agreed between customer and APMT.
- 2.7 Gate. Receiving and delivering of containers at the gate together with EDI interchange receipts and other clerical work such as checking of container seals presence or weighing at the gate in the APMT Container Terminal.
- 2.8 Yard Services. Transportation of containers to/from ship's side to/from container yard. Provide yard space for hauling, sorting, storing and handling containers carried or to be carried by Customer container ships as notified to APMT. Mounting/dismounting of containers from/to the yard from/to truck.
- 2.9 Damages. Prompt reporting of any loss or visible damage or malfunction of which APMT is aware, and if instructed by Customer, taking all necessary measures to restrict or minimize any damages and protect for further damages.
- 2.10 Breakbulk and other Services. Breakbulk and out of gauge handling and other services for the receiving/loading of breakbulk or other will be provided for as set forth in a separate Exhibit in writing at prices to be specifically agreed and within the scope of this Agreement.
- 2.11 Due Care and Diligence. APMT will comply with the due care and diligence established by standard industry practice in the carrying out of its obligations under this Agreement and while under APMT's control. Specifically, APMT will act in compliance with all applicable standards, laws and regulations including without limitation, Port Authority regulations, collective bargaining agreements and any laws applicable to APMT employees and applicable regulations introduced pursuant to the ISPS Code and/or Spanish law.

3. CUSTOMER OBLIGATIONS

Customer shall provide the following:

- 3.1 All Services requested through EDIFACT standards and information to be sent by Customer to APMT within the following time frames:
- (a) Reception and/or Delivery of stow plans (BAPLIE 2.0 or 2.2) 24 hours prior to vessel arrival including VGM certificate properly signed per SOLAS Convention in container message, COPRAR, VERMAS or any other valid EDI format.
 - (b) Stowage instructions (MOVINS 2.0) 18 hours prior to vessel arrival.
 - (c) Reception of Discharge and/or Load lists (COPRAR D:95B or D:00B). Discharge 24 hours prior to vessel arrival (except for tight connections). Load 18 hours prior to vessel arrival.
 - (d) Reception of Container Release Order Message for Gate activities (COREOR D:95B).
 - (e) Reception of Admittance/Delivery instructions for Gate activities (COPARN D:95B).
 - (f) Reception of Verified Gross Mass message (VERMAS D:16A)

APMT does not guarantee any speed or starting or completion times for the performance of its obligations under Clause 2 above other than due care and diligence. However, if the required information is not received within the indicated timeframe as set out in this section then APMT may have to direct Customer container ship to wait in turn.

CUSTOMER ACTING AS VESSEL OPERATOR SHALL SEND THESE COMMUNICATIONS THROUGH ITS CENTRAL PLANNING OFFICE, OR OTHER AUTHORIZED AGENT, CONSOLIDATING ALL INFORMATION FROM THIRD PARTY SLOT CHARTERERS OR OTHER THIRD PARTIES. APMT WILL EXCLUSIVELY LOOK TO COMMUNICATIONS RECEIVED FROM VESSEL OPERATOR TO CARRY OUT ITS OBLIGATIONS UNDER THIS AGREEMENT.

Services requested in a different format or just in time shipments must be agreed to with APMT including any additional charges.

CUSTOMER acknowledges that APMT is not authorized to load a container without VGM onto any SOLAS ship and that in the event of no VGM or random weighing by the authorities CUSTOMER, or its client the shipper, is liable for any delayed or cancelled shipments costs that may be incurred such as, but not limited to, weighing costs, re-packing costs, administration fees for amending documents, port storage charges, demurrage charges, re-routing, or any penalty that may be imposed.

- 3.2 Berthing. Customer shall comply with APMT's berthing requirements. Customer container ship shall vacate the berth without undue delay upon completion of operations and receipt of the documents set out at Clause 2.5.
- 3.3 Other Documentation/Information. Submit to APMT such other documents, information and notifications not later than twenty-four (24) hours before the vessel arrives as APMT may reasonably and specifically request in the discharge of APMT's obligations necessary for the orderly and efficient discharge/loading of that vessel, including but not limited to: (i) the ship's discharge list of containers in damaged condition; (ii) load list of containers in damage condition; (iii) full container details for special cargo including but not limited to hazardous cargo, reefer cargo, tanks, out of gauge containers, heavy lift, and non-containerized or break bulk cargo.
- 3.4 Yard Services. Customer shall arrange availability in the container yard for all containers to be loaded on to the Customer container ship upon arrival or within such reasonable time so that APMT will be able to maintain continuous and uninterrupted operation. Cut-offs for special services shall be agreed between APMT and the Customer:
- (a) Export Containers: Ensuring that the delivery of any export container at the container yard takes place four (4) hours prior to commencement of berthing window of the Customer container ship that the container is to be loaded on.
 - (b) Transshipment Containers: The closing time for receiving a transshipment container at the container yard is after the discharging vessels' operations are completed but before the commencement of loading vessel's berthing window of the Customer container ship that the container is to be loaded on.
 - (c) Tight connections: These will be agreed upon on a case by case basis between Customer and APMT.

Compliance. Comply with reasonable directions imposed by APMT pursuant to the laws of the jurisdiction where the Container Terminal is situated; the Rules applicable to stevedores as promulgated by their association (the "*Sociedad de Estiba Puerto Bahía de Algeciras CPE, S.A.*" or "CPE Algeciras"); the Port Authority; or as otherwise agreed with Customer for the use of the Container Terminal. Customer will comply with due care and diligence as established by standard industry practice in the carrying out of its obligations under this Agreement.

- 3.5 Customer Container Ship Warranty. The container ships governed by the provisions of this Agreement will be those container ships owned, chartered, operated or leased by the Customer and notified in writing by the Customer to APMT, prior to the Effective Date of this Agreement or from time to time during the term of this Agreement. The Customer warrants that the container ships notified in accordance with this Clause are operated in compliance with all applicable laws and international standards with respect to safety, stability, seaworthiness, fitness for purpose and security including, without limitation, regulations introduced pursuant to the ISPS Code. If during the term of the Agreement Customer introduces a new container ship not originally disclosed, the Customer shall inform APMT at least fourteen (14) days prior to its arrival. APMT reserves the right to approve such container ship and

review the applicable rates. Customer warrants that its container ships are technically compatible with APMT terminal equipment at the Container Terminal.

Customer warrants that any shipped container complies with all applicable laws and international standards, including but not limited in respect to safety, stability, worthiness, fitness for purpose and security. Customer in addition warrants the accuracy of any information relating to the containers, including but not limited to, length, weight, dimensions, markings, seals, number and count.

- 3.6 Stowaways. The Customer shall enforce strict access controls at the gangway on all vessels whilst berthed at the Terminal in order to prevent unauthorized access to those vessels. APMT will not be liable for any loss or damage suffered or incurred by the Customer (including, without limitation, any fines or penalties or the payment of expenses by the Customer on account of care, lodging, medical attention, security and repatriation) arising from the presence on board vessels of stowaways, or other unauthorized personnel.

4. **SCOPE AND RATES**

- 4.1 APM Terminals shall provide to the Customer the container terminal services specified in Appendix I and any other services agreed between the Customer and APM Terminals in accordance with this Agreement (collectively, the "**Container Terminal Services**") at the rates specified in Appendix A (the "**Rates**"). The Container Terminal Services shall be provided at the container terminal which is operated by APM Terminals (the "**Terminal**"). Any Container Terminal Services not specified in Appendix I shall be provided in accordance with this Agreement and at rates included in the standard tariff published or made available to the Customer at the time the Container Terminal Services are provided.
- 4.2 The Rates shall be in effect for a year starting on the Commencement Date (the "**Initial Rate Term**").
- 4.3 APM Terminals and Customer will start negotiations about rate adjustments three (3) months prior to the expiration of the Initial Rate Term. In case the Parties should not agree on a rate adjustment prior to the expiration of the Initial Rate Term, APM Terminals may communicate new Rates to the Customer in writing which shall apply from the day following the last day of the Initial Rate Term.
- 4.4 APM Terminals is entitled to increase the Rates with immediate effect in case of (and to the full extent of):
- (a) any mandatory Labour wage adjustments; and
 - (b) any tax, levy, public tariff adjustment or other charge (or any increase of aforementioned such cost items) becoming applicable to or being imposed by an authority on the provision of the Container Terminal Services during the Term.

- 4.5 Irrespective of Clause 4.4 the Rates shall automatically be adjusted annually effective Feb, 1 of the year of publication in accordance with the Consumer Price Index for All Urban Consumers (CPI-U); U.S. City Average; All items, not seasonally adjusted, 1982–1984=100 reference base. **To be reviewed by local Finance.** Please specify (1) CPI Population, (2) CPI item category, (3) geographic area, (4) reference base, (5) index reference month. Avoid reference to CPI's that are seasonally adjusted/specify that no seasonal adjustment applies.]
- 4.6 In case of a price adjustment in accordance with Clause 4.4 or 4.5 above APM Terminals will submit Customer an accordingly changed Appendix I. Any adjusted Rate will be effective from the date indicated in Appendix I.
- 4.7 APM Terminals shall be entitled to charge directly to Customer in addition to the Rates any costs and expenses incurred by APM Terminals:
- (a) in complying with any government regulations requiring the movement, treatment, removal or destruction of hazardous goods or infested, contaminated or condemned goods or the treatment of APM Terminals' premises as a result of any infestation or contamination arising from such hazardous goods; and
 - (b) as a result of a failure by the Customer to observe this Agreement.

5. PAYMENT TERMS

Payment Terms. Pursuant to attached Exhibit I Credit Agreement incorporated herein by this reference.

- 5.1 All containers and goods and all documents relating to containers and goods shall be subject to a particular and general lien respectively for charges due to APM Terminals in respect of such containers or goods from the Customer. If any charges are not paid within one (1) calendar month after notice requiring payment has been given to the Customer, the containers or goods subject to such lien, may, subject to applicable mandatory laws, be sold and the proceeds applied in or towards satisfaction of the outstanding charges and the costs incurred by APM Terminals in such sale. Any sale of containers or goods by APM Terminals pursuant to this Clause 5.1, may be conducted by private agreement, by public auction or otherwise in such manner as APM Terminals shall in its sole discretion determine in accordance applicable laws and APM Terminals shall not be liable for any loss and/or damage to any person whatsoever as a result thereof. This lien shall be in addition to any statutory lien.

6. LIABILITY

- 6.1 **INDEMNIFICATION:** Subject to the limitations set forth in this Clause 6, each Party shall defend, hold harmless and fully indemnify the other Party, and its respective officers, directors, agents, employees, affiliates, owners, parents, subsidiaries, successors and assigns against and from any and all actions, causes of action, claims, suits, debts, dues, sums of money, judgments, damages, expenses (including attorney's fees) or liability of any kind or nature whatsoever, relating to
- (a) loss or damage to goods, containers, equipment or property, or

- (b) injury or death to any person,

to the extent such liability arises out of or relates to any negligent act or omission of a Party, its employees, representatives, agents, subcontractors or customers resulting from or in connection with the performance of obligations under this Agreement.

Liability limitations

6.2 LOSS OR DAMAGE TO GOODS: The liability of APM Terminals for any loss or damage to goods, to the extent caused by fault or negligence on the part of APMT Terminals' employees while engaged in the delivery, receiving, watching, or storing of such goods as part of Container Terminal Services shall be limited to the lesser of:

- (a) the value of the goods actually lost or damaged, namely the reasonable repair cost or replacement cost (with goods of the same age and in the same condition) of the goods lost or damaged;
- (b) the limits of liability upon which the Customer could rely in a claim brought against it in accordance with the bill of lading or other transport document, evidencing a contract of carriage which has been issued in respect of goods carried by the Customer ("**Carriage Contract**"); and
- (c) 2SDRs per kilo of gross weight of the goods lost or damaged.

The Customer shall ensure that all Carriage Contracts incorporate a clause to the effect that APM Terminals will have the benefit of the provisions, including the law and jurisdiction provisions of that Carriage Contract to the extent such provisions benefit the Customer. APM Terminals authorises, empowers and directs the Customer to act, and the Customer hereby agrees to act, as trustee and/or agent for APM Terminals for the limited purpose only of complying with this Clause 0. In addition to being able to rely on this Agreement, APM Terminals has the right to avail itself of and invoke any limitation or exclusion of liability, immunity, defence, right, remedy and/or law and jurisdiction clause contained in the Carriage Contract as if APM Terminals were the carrier and Customer were the merchant referred to in the Carriage Contract.

6.3 LOSS OR DAMAGE TO CONTAINERS: APM Terminals shall only be liable for loss of, or damage to, any container or other Customer equipment whilst in the custody or control of APM Terminals to the extent the same was caused by the negligence or willful misconduct of APM Terminals and such liability shall be limited to the lesser of:

- (a) the reasonable repair cost of the container or other equipment damaged; and
- (b) the depreciated value of the Container or other equipment lost or damaged,

provided that in no circumstances shall the liability exceed:

- (i) two thousand nine hundred US Dollars (USD 2,900) per Container in the case of any regular 20' dry Container;

- (ii) four thousand six hundred US Dollars (USD 4,600) per Container in the case of any regular dry Container of more than 20' in length;
- (iii) twenty-five thousand US Dollars (USD 25,000) per Container in the case of any 20' reefer Container;
- (iv) twenty-eight thousand US Dollars (USD 28,000) per Container in the case of any reefer Container of more than 20' in length;
- (v) five thousand US Dollars (USD 5,000) per Container in the case of any 20' Container which is not a regular dry or reefer Container;
- (vi) nine thousand US Dollars (USD 9,000) per Container in the case of any Container of more than 20' in length which is not a regular dry or reefer Container;
- (vii) twelve thousand US Dollars (USD 12,000) per chassis in the case of any chassis;
- (viii) fourteen thousand US Dollars (USD 14,000) per genset in the case of any genset; and
- (ix) five thousand US Dollars (USD 5,000 per piece of other equipment not outlined above.

The depreciated value of the container or other equipment shall be calculated on the basis of the respective values in this Clause 6.3 with a straight-line depreciation of five per cent. (5%) per annum from the date of manufacture (as evidenced for containers in the container safety certificate) until the day before the incident.

6.4 LOSS OR DAMAGE TO VESSEL: APM Terminals maximum aggregate liability occurred during the Term of this Agreement in respect of loss or damage to a vessel shall be limited to the lesser of:

- (a) the reasonable repair cost of the vessel damaged;
- (b) the replacement cost (with a vessel of the same age and in the same condition) of the Vessel lost or damaged; and
- (c) twenty million US Dollars (USD 20,000,000) per vessel.

6.5 LIABILITY CAP: The maximum aggregate liability of APM Terminals in case of:

- (a) losses and/or damages under Clauses 6.1, 6.2 and 6.3 which arise out of a single incident or series of connected incidents, regardless whether such losses and/or damages are sustained by more than one person, shall in no circumstances exceed ten million US Dollars (USD 10,000,000); or
- (b) losses and/or damages under Clauses 6.1, 6.2, 6.3 and 6.4 which arise out of a single incident or series of connected incidents, regardless whether such losses and/or

damages are sustained by more than one person, shall in no circumstances exceed twenty million US Dollars (USD 20,000,000),

(collectively, the “**Overall Liability Cap**”).

Where, in respect of a single incident or series of connected incidents, the losses and/or damages are sustained by more than one person, the Overall Liability Cap shall be applied to all claims brought by each person on a pro-rata basis (i.e. based on the proportion each person's claims bear to the total amount claimed by all such persons).

Liability Exclusions

- 6.6 In no event shall APM Terminals be liable to the Customer for any special, punitive, consequential or indirect losses or damages of any kind whatsoever, it being the express intention of each Party that recovery of any such damages is prohibited with respect to claims arising from or related to this Agreement. This includes any and all liability resulting from any delayed provision of the Container Terminal Services if not specifically agreed differently between the Parties.
- 6.7 APM Terminals shall in any event be discharged of all liability whatsoever and howsoever arising in respect of any Container Terminal Services provided to the Customer, or which APM Terminals has undertaken to provide, unless legal proceedings are commenced and written notice thereof given to APM Terminals within twelve (12) months from the date of the loss, damage, delay or failure to adhere to any timeframe alleged to give rise to a claim.
- 6.8 The Customer shall not be entitled to bring any claim howsoever arising (including negligence and willful misconduct) unless and until the amount of any such claim exceeds one thousand five hundred United States dollars (USD 1,500).
- 6.9 Save as set out in this Clause 6, APM Terminals or any other person or party shall not be liable for loss of or damage to any goods, container(s) or vessel howsoever arising (whether caused by negligence or otherwise). The defences, exclusions and limits of liability provided for in this Agreement shall apply in any claim against APM Terminals whether the claim be founded in tort, bailment, contract, breach of express or implied warranty or otherwise and even if the loss, damage or delay arose as a result of negligence, willful misconduct or fundamental breach of contract.
- 6.10 Nothing in this Agreement shall exclude or restrict the liability of the Parties for death or personal injury caused by its negligence or any other act or omission, for which liability may not be excluded or limited under applicable law.

Notification

- 6.11 Each Party shall promptly notify the other Party in writing upon becoming aware of any matter which gives rise to or may give rise to a claim for loss or damage(s) or defence and indemnity under this Agreement, stating in reasonable detail the nature of the matter and claim and, so far as practicable, the amount claimed. No amounts of indemnity shall be payable by the indemnifying Party with respect to any claim unless the indemnified Party has given the indemnifying Party notice of such claim in accordance with the preceding sentence.

7. INSURANCE

7.1 Each Party shall, at its own expenses, procure and maintain policies of insurance covering

- (a) any liability assumed by it under this Agreement; and
- (b) any requirements by law, including public and third-party liability.

7.2 APM Terminals is under no obligation to maintain insurance for goods, containers or vessels.

7.3 The Customer shall maintain or shall cause its vessels and their equipment, appurtenances, gear and machinery to be maintained in a thoroughly fit and seaworthy condition at all times throughout the duration of this Agreement. Vessels shall be kept continuously in class in accordance with the rules of the vessels' classification society. The Customer shall maintain the following insurances and shall furnish to APM Terminals' representative certificates or copies of policies (or in the case of P&I cover, a certificate of entry) evidencing such insurance:

- (a) Hull and Machinery insurance, in accordance with ITC hull clauses 1983 or equivalent conditions, in an amount no less than the full market value of the Vessel; and
- (b) P&I cover on standard terms and customary limits with a member of the International Group of P&I Clubs.

7.4 The Parties shall provide each other at least thirty (30) days' notice prior to cancellation, non-renewal or material change in any insurance policy. Insurance must be maintained without any lapse in coverage during the Term. Failure by either Party to demand certificates or other evidence of full compliance with these insurance requirements, or failure to identify any deficiency or noncompliance with coverage requirements, shall not be construed as a waiver of either Party's obligation to maintain the insurance required by this Agreement.

7.5 No insurances or the limits of such insurances shall be construed in any way as a limit of either Party's liability hereunder.

8. HAZARDOUS GOODS

8.1 All containers under Customer's control, and to be handled under this Agreement, shall at all times be in conformance with the International Convention for Safe Containers, 1972 (CSC).

8.2 With respect to Customer's containers laden with labelled and/or hazardous goods, which are being transported pursuant to a Customer's or vessel's bill of lading, Customer shall ensure that such shipments are documented, labelled, packed and secured in accordance with current International Maritime Organization (IMO) requirements for international freight appearing in the International Maritime Dangerous Goods Code and in accordance with current regulations promulgated under any governmental authority with jurisdiction over same. Customer shall inform APM Terminals at least 48 hours before arrival on the Terminal.

8.3 Irrespective of its obligations in this Clause 8, Customer shall pay any costs and expenses which may be incurred by APM Terminals in the clean-up of any leaking container or in complying with

any regulations requiring the movement, treatment, removal or destruction of waste material of goods or infested, contaminated or condemned goods or the treatment of APM Terminals' premises as a result of any infestation or contamination arising from such waste material of hazardous goods. In the event that APM Terminals' yard space cannot be occupied as a result of APM Terminals complying with the respective regulations the Rates as if such yard space was fully occupied by containers shall be charged to the Customer.

9. ABANDONED CONTAINERS AND CARGO

If the Customer does not pick up cargo or containers within 90 days after agreed cargo pick up time, APM Terminals may without notice to the Customer, subject to applicable laws, take measures and/or sell or dispose of the cargo and/or to abandon further services and/or to store them ashore or afloat, under cover or in the open, at any place, whichever APM Terminals in his absolute discretion considers most appropriate, which sale, disposal, abandonment or storage shall be deemed to constitute full delivery under the relevant bill of lading. The Customer indemnifies APM Terminals against any reasonable additional expense so incurred. APM Terminals in exercising the liberties contained in this Clause 9 shall not be under any obligation to take any particular measures and shall not be liable for any loss, delay or damage howsoever arising from any action or lack of action under this Clause 9.

10. VERIFIED GROSS MASS

10.1 For the purpose of this clause:

"**Shipper**" has the meaning assigned to it in the SOLAS Guidelines;

"**SOLAS**" means the International Convention for the Safety of Life at Sea of the International Maritime Organization as supplemented by the SOLAS Guidelines and as may be amended or supplemented from time to time;

"**SOLAS Guidelines**" means the Guidelines regarding the verified gross mass of a container carrying cargo (MSC.1/Circ.1475) published by the International Maritime Organization, as amended or supplemented from time to time;

"**VGM**" means the total gross mass of a packed Container obtained and verified in accordance with one of the methods set out in SOLAS.

10.2 The Customer and APM Terminals shall comply with SOLAS and any other applicable local, national and international laws and regulations in respect of VGM. The Parties agree that the following principles shall apply.

10.3 It is understood by the Parties that it is ultimately the responsibility of the Shipper to provide a VGM for each packed container.

10.4 APM Terminals and the Customer shall implement a process for interchanging the VGM of packed containers, whether by use of EDI or other means.

- 10.5 The Customer shall submit a final load list to APM Terminals containing the VGMs of the containers as soon as possible and in any event no later than 18 hours prior to vessel arrival.
- 10.6 APM Terminals shall not load onto a vessel any packed container for which a VGM has not been received or obtained by APM Terminals.
- 10.7 APM Terminals shall be under no obligation to verify the VGM received for any given Container. APM Terminals shall not weigh any Container for which a VGM has already been received by APM Terminals without specific prior request by the Customer. APM Terminals shall not have any liability whether resulting from contract, tort or law with regard to the accuracy and compliance with regard to local, national and international laws and regulations of any submitted VGM.
- 10.8 If APM Terminals offers VGM weighing services and APM Terminals obtains a VGM for a Container upon request of the Customer, APM Terminals will charge rates in accordance with the rate schedule or such other rate as agreed between the Parties. If such VGM differs from any VGM supplied by the Customer or otherwise received by APM Terminals, the VGM obtained by APM Terminals shall be the final VGM used for updating BAPLIE and other relevant files and documents.
- 10.9 Any weight of a Container obtained by APM Terminals shall only be considered a VGM if APM Terminals' weighing facility is certified for VGM by the relevant local and/or national regulatory body.
- 10.10 In relation to VGMs received by APM Terminals from the Customer, the Customer shall indemnify APM Terminals and hold APM Terminals harmless against any loss, damage, expense or other cost arising as a result of any such VGM not having been obtained in accordance with SOLAS.
11. **FORCE MAJEURE**
- 11.1 A Party (the "**Affected Party**") shall be relieved from any liability in connection with its obligations under this Agreement if such liability is caused by or results from an Event of Force Majeure for so long as the Event of Force Majeure continues, provided however that an Event of Force Majeure shall not release any Party from its payment obligations under this Agreement.
- 11.2 "**Event of Force Majeure**" means an event or circumstance beyond the reasonable control of the a Party including, but not limited to, any act of God, act of public enemies, war, warlike acts, terrorism, restraint of governments, riots, strikes, lockouts or other labour or industrial disputes, failure of a utility service, insurrections, civil commotion, civil disobedience, floods, fire, restrictions due to quarantines, sanctions or radioactivity, epidemics, storms, tempest, typhoon, tsunami or any other event or circumstance beyond the reasonable control of the Party . Notwithstanding the aforesaid the following shall be considered as Force Majeure within the meaning of this Agreement: (i) restrictions on imports imposed by the port authorities or any other authority, organ or instrumentality of the country in which The terminal is located; (ii) confiscation, expropriation or nationalisation of terminal assets; (iii) commandeering or requisition of terminal assets; (iv) any law or governmental order, rule, regulation or direction, in

each case outlined in (ii), (iii) and (iv), by the government of the country in which the Terminal is located; or (v) any event or circumstance of a nature analogous to any of the foregoing.

- 11.3 The Affected Party shall use all reasonable efforts to mitigate and overcome the effects of the occurrence of an Event of Force Majeure in order to maintain or resume performance. Provided that no Party shall be required under this provision to settle any strike, lockout, or other labour or industrial dispute under terms it considers as being unfavourable to itself.
- 11.4 If an Event of Force Majeure occurs, the Affected Party shall notify the other Party (the “**Non-Affected Party**”), as soon as reasonably practicable and in any event within seven (7) days after the Affected Party has reasonably determined that the occurrence of the Event of Force Majeure may materially affect the performance of part or all of its obligations under this Agreement, of:
- (a) the occurrence and nature of the Event of Force Majeure;
 - (b) its expected duration (to the extent this can be reasonably assessed); and
 - (c) the obligations of the Affected Party, which cannot be fully performed as a result.
- 11.5 The Affected Party shall keep the Non-Affected Party fully informed of developments, including its performance of mitigating actions and remedies, and the results thereof.

12. **COMPLIANCE**

- 12.1 Each Party represents and undertakes that in the performance of this Agreement, it and all of its affiliates, directors, officers or sub-contractors will comply in all material respects with all applicable laws, rules, regulations or similar instruments including relating to anti-corruption, competition law and foreign trade controls (export controls and sanctions laws of the UN, the EU and US or other relevant regulator).

For the purpose of clarity:

- (a) Neither Party will give, promise or attempt to give or approve the giving of anything of value to any person, for illegal purposes or for improperly obtaining or retaining business.
 - (b) Neither Party shall deal, or cause the other Party to deal, with any person or entity in respect of transactions prohibited by foreign trade controls, except with the other Party’s prior written consent; or which could damage the other Party’s commercial or other reputation interests, even if not in violation of any foreign trade controls.
- 12.2 Each Party has established processes and maintains policies and procedures to prevent violation of Clause 12.1.
- 12.3 If a Party materially breaches any of its obligations or representations in this clause 12, the other Party may terminate this Agreement with immediate effect without incurring any liability.

13. HEALTH, SECURITY, SAFETY AND ENVIRONMENTAL (HSSE)

- 13.1 APM Terminals shall perform all Container Terminal Services in a manner that ensures adequate protection for its employees in full compliance with all applicable international and national laws, rules and regulations and shall - to the extent the safety is in APM Terminals' control - use best efforts to ensure the same level of protection for the Customer's employees, agents and contractors entering the premises of the Terminal.
- 13.2 The Parties shall strive for a continuous improvement of HSSE performance and ensure that management of HSSE is an integral and visible part of their work planning and execution processes.
- 13.3 APM Terminals shall monitor and evaluate its safety performance and take such actions as are required or appropriate to rectify and improve its overall safety performance. The Customer agrees to adhere to any ad-hoc safety measures that will be imposed by APM Terminals in case of a safety incident.
- 13.4 The Customer represents that its vessel and vessel equipment is in safe working order and, if APM Terminals detects, unsafe conditions the Customer shall as soon as possible in consultation with APM Terminals remedy such conditions. APM Terminals is entitled to suspend operations related to a vessel in case of any unsafe conditions and request evidence that the unsafe condition was remedied.
- 13.5 The Customer will ensure that its employees, agents and contractors adhere to the HSSE regulations and instructions in force at the Terminal, as prescribed by applicable laws and regulations and by APM Terminals.
- 13.6 The SLA may contain additional and more detailed HSSE provisions, such as safe bunkering arrangements.

14. CONFIDENTIALITY

- 14.1 The Parties agree and undertake that they and their respective directors, employees, advisers, contractors, sub-contractors or agents will treat and safeguard as strictly private and confidential the terms and conditions of this Agreement and will not at any time, without the prior written consent of the others, disclose or reveal such terms and conditions to any other person whatsoever unless a) such matter is in the public domain (by reason other than disclosure by that Party), b) if any Party shall be compelled by any judicial authority (including, but not limited to, the Authority) to disclose any such information, c) the disclosure is a result of mandatory legal obligations or the disclosing Party, or d) the disclosure is required to fulfil any of the Party's obligation under this Agreement. If any Party is compelled by a judicial authority to disclose or reveal such terms and conditions to any other person, the disclosing Party will immediately notify the other Party of that fact so that the other Party may, if it wishes, seek to prevent or to limit that disclosure.
- 14.2 APM Terminals is an indirect subsidiary of A.P. Møller - Mærsk A/S ("APMM"), a company listed on the Nasdaq OMX Copenhagen A/S, and may be legally obliged to publish certain information relating to it that could influence the price of its shares. The Customer has been made aware that

APMM may be required to announce certain details regarding the Agreement, which may include confidential information as referred to in Clause 14.1, to the Nasdaq OMX Copenhagen A/S and agree that it will abide by these provisions in respect of any announcement to the Nasdaq OMX Copenhagen A/S proposed by APMM.

14.3 No Party shall make any announcement, statement or press release concerning the terms and conditions of this Agreement without the prior written consent of the other Party.

14.4 The provisions of this Clause 14 shall continue to remain in full force and effect for five years from the expiration or termination of this Agreement.

15. **TERMINATION**

15.1 Notwithstanding anything in this Agreement to the contrary, and without prejudice to any other rights of termination provided herein, the Agreement may be terminated immediately at any time effective upon notice under the following conditions:

(a) by either Party if the other Party commits a material breach of the terms of this Agreement, and the breach is not remedied within [30 (thirty) days] of notice of the breach; or

(b) by either Party if the other party ceases to carry on business as a going concern, is continuously unable to pay its debts as they fall due, or any distress or execution will be levied or threatened against it, or a receiver be appointed in respect of any of its assets, or it passes a valid resolution for ceasing operations; or

(c) any approval, consent, license or other approval granted by any regulatory or governmental body being withdrawn, cancelled or otherwise no longer applicable, making it impossible or illegal for APM Terminals to perform its obligations under this Agreement; or

(d) if performance by either Party is prevented because of an Event of Force Majeure and the non-performance continues for 180 (one hundred and eighty) days.

15.2 Notwithstanding Clause 15.1 in case the Customer commits a material breach of this Agreement APM Terminals may suspend all or part of the Container Terminal Services whilst such event continues.

15.3 Early termination by either Party pursuant to Clause 15.1 shall not be an exclusive remedy, nor serve as a waiver of any other claims. Any such termination shall be without prejudice to the accrued rights and liabilities of the Parties in respect hereof as at the date of such termination or which may thereafter accrue in respect of any act or omission prior to such termination and shall be without prejudice to any provisions of this Agreement which are expressed to remain in force thereafter.

16. GOVERNING LAW AND ARBITRATION

- 16.1 This Agreement and any non-contractual obligations arising out of or in connection with it are governed by and shall be construed in accordance with the Laws of England and Wales without regard to any conflict of law rules.
- 16.2 Any dispute arising out of or connection with this Agreement shall be referred exclusively to arbitration in London in accordance with the Arbitration Act 1996 or any statutory modification or re-enactment thereof. The arbitration shall be conducted in accordance with the London Maritime Arbitrators Association ("**LMAA**") terms current at the time when arbitration proceedings are commenced.
- 16.3 The reference shall be to three (3) arbitrators. A Party wishing to refer a dispute to arbitration shall appoint its arbitrator and send notice of such appointment in writing to the other Party requiring the other Party to appoint its own arbitrator within fourteen (14) calendar days of that notice and stating that it will appoint its arbitrator as sole arbitrator unless the other Party appoints its own arbitrator and gives notice that it has done so within the fourteen (14) days specified. If the other Party does not appoint its own arbitrator and give notice that it has done so within the fourteen (14) days specified, the Party referring a dispute to arbitration may, without the requirement of any further prior notice to the other Party, appoint its arbitrator as sole arbitrator and shall advise the other Party accordingly. The award of a sole arbitrator shall be binding on both Parties as if he had been appointed by agreement.
- 16.4 In cases where neither the claim nor a counterclaim exceeds the sum of USD 100,000 or such other sum as the Parties may agree, the arbitration shall be conducted in accordance with the LMAA Small Claims Procedure current at the time when the arbitration proceedings are commenced.

17. MISCELLANEOUS

17.1 ENTIRE AGREEMENT: This Agreement consists of:

- (a) the body of this Agreement;
- (b) the rate schedule and service description / service level agreement in Appendix I;
- (c) any other documents referred to, incorporated into or attached to any of the documents referred to in Clauses 17.1(a) or (b); and
- (d) the terms of business applicable at the Terminal (if any, and only to the extent they do not conflict with the documents referred to in Clauses 17.1(a), (b) and (c)).

and constitutes the entire agreement between the Parties in connection with the matters agreed therein. Terms and conditions in this Agreement shall supersede and prevail over any other terms and conditions agreed between the Parties. Any additions and modifications to the Agreement must be in writing by both Parties.

17.2 NOTICES: If not provided for differently in this Agreement all notices, consents, demands or permissions permitted or required under this Agreement must be in writing and shall be considered given upon personal delivery of the written document or when received by the other party by registered mail or a reputable courier company and addressed to

The Customer:

[PHYSICAL ADDRESS]

E-Mail: [E-MAIL ADDRESS]

Attn.: [PERSON OR JOB TITLE]

APM Terminals:

Muelle Juan Carlos I s/n

E-Mail: agustin.garcia@apmterminals.com

Attn.: Agustin García

If either Party wishes to change its address for communication, it shall give to the other not less than five (5) days' notice in writing of such change.

All notices and documents to be given or delivered pursuant to or otherwise in relation to this Agreement shall be in English language or be accompanied by a certified English translation.

17.3 ORDER OF PRECEDENCE: If there is any conflict between the documents forming part of this Agreement the order of precedence shall be:

- (a) the body of this Agreement;
- (b) the rate schedule and service description / service level agreement in Appendix I;
- (c) any other documents referred to, incorporated into or attached to any of the documents referred to in Clauses 17.3(a) or (b);
- (d) the terms of business applicable at the Terminal.

17.4 NO THIRD-PARTY RIGHTS: This Agreement is not intended to nor shall it create any rights, claims or benefits enforceable by any person who is not a party to it. Accordingly, save to the extent expressly set out in this Agreement, no person shall derive any benefit or have any right or entitlement in relation to this Agreement by virtue of the Contracts (Rights of Third Parties) Act 1999. No other benefits or rights under the Act shall apply to this Agreement.

17.5 SEVERABILITY: Should any term in this Agreement be held invalid or unenforceable, the remainder of the Agreement shall not be affected thereby and shall remain valid and enforceable to the extent permitted by law. The Parties shall use their best endeavours to agree a valid and enforceable replacement which, as far as possible, achieves materially the same effect.

17.6 ASSIGNMENT: Neither Party may assign or transfer this Agreement or any part of its rights or obligations under this Agreement without the prior written consent of the other Party.

17.7 COUNTERPARTS: This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

This Agreement has been duly executed by the Parties the day and year first written above:

APM Terminals Algeciras S.A.

Name: Jesús Alfredo Caceres Margarit

Title: Chief Operations Officer

[CUSTOMER]

Name:

Title: