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## **1.0 DEFINITIONS AND INTERPRETATION**

### **1.1 DEFINITIONS**

Each of the following expressions and their grammatical variations used in the General Conditions For Services ("GCS") shall have the following meaning unless the terms and conditions of the Contract require otherwise: -

- 1.1.1 "Company" means the Singapore Cruise Centre Private Limited ("Company") its successors and assigns who provides any services upon and subject to the provisions of the conditions herein.
- 1.1.2 "Customer" includes the person or person using the service of the Company and includes his authorized agents and any person at whose request and/or on whose behalf the Company undertakes any business or provides advice, information or services.
- 1.1.3 "Person" includes persons or any Body or Bodies Corporate.
- 1.1.4 "Authority" means a duly constituted legal or administrative person acting within its legal powers and exercising jurisdiction within any nation, state, municipality, port or airport.
- 1.1.5 "Application" means the application for the Services, made by or for the Customer to the Company in writing.
- 1.1.6 "Contract" means the specific terms of agreement reached between the Company and the Customer wherein the specific conditions are stipulated and which will take precedence over the GCS UNLESS OTHERWISE EXPRESSLY stated in the Contract;
- 1.1.7 "Conditions" means the General Conditions For Services.
- 1.1.8 "Contract Period" means the period of the Contract from the commencement date until the expiry date both dates stipulated in the application or in the absence of such stipulation: -
  - (1) until the complete performance of the Contract or
  - (2) until the termination of the Contract in accordance with the other provisions of the Contract

whichever is applicable.

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- 1.1.9 “Services” means services, advice or any business provided by the Company
- 1.1.10 “Dangerous Goods” means
- (a) dangerous goods as defined in the Maritime Port Authority (Dangerous Goods, Petroleum and Explosives) Regulations 1997 as may be amended from time to time and
  - (b) empty receptacles, which were previously used for the carriage of dangerous goods unless such receptacles have been rendered safe.
- 1.1.11 “Goods” means all or any part of any property of any kind whatsoever brought into the Company by the Customer or for the Customer for the purposes of the Contract including any container.
- 1.1.12 “Data Message” means a notice or information generated, sent, received, or stored by electronic, optical or similar means acceptable to the Company, including but not limited to Electronic Data Interchange, Electronic Mail, Telegram or Telex.
- 1.1.13 “Electronic Data Interchange” means the electronic transfer from computer to computer of information using an agreed standard to structure the notice or information.
- 1.1.14 “Originator” in relation to a Data Message means the Customer or any Customer’s representative by whom or on whose behalf the Data Message purports to have been sent or generated prior to storage.
- 1.1.15 “Force Majeure” means any of the following events: -
- (a) any act of God, act of war, rebellion, riot or civil commotion, insurrection, looting, blockade or embargo, act of public enemy, strike, action to work to rule, occupation, lock-out, sabotage, compliance with any regulation, measure, direction, order or request of any competent authority in Singapore or person purporting to act therefor, mobilization, requisitioning, quarantine measure, epidemic, obstruction of access, prohibition or restriction of import, export or transit, attachment or arrest of any property used for the performance of the Contract, abnormally high prices, failure of or stagnation in the supply of power, fuel, transport or equipment affecting the availability of materials or labor necessary for the performance of the Contract to a degree not existing at the time of commencement of the Contract Period, or any other similar circumstances.

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- (b) any fire, smoke, explosion, water used to extinguish fires, atomic nuclear reaction, flood, storm, perils of the sea, breaking adrift of any vessel from the Company's Terminal, damage by aircraft or vessel, obstruction to shipping or roads that provide access to or egress from the Company's Terminal or interruption of use of the Services/Facilities due to any cause whatsoever.
  - (c) any defect, inherent device property, change in quality of the property through leakage, loss of weight, deterioration, decay, damage by vermin, damage caused by other property, any defect whether or not latent of the Facilities of defective packaging, containers or means of transport used in respect of the property, delay in the delivery of the property to or from the Company's Terminal on the part of any person other than the Company, its servants or agents, failure in or delayed arrival of packing materials, containers or means of transport used in respect of the property or a Third Party's interference with the Services/Facilities; or
  - (d) any other circumstances the occurrence or extent of which the Company could not reasonably have controlled, foreseen, avoided, prevented or forestalled.
- 1.1.16 "Company Price List" means the document titled as such and listing charges payable to the Company from time to time for the use of the Facilities and Services are made available to the Customer (and which the Customer hereby acknowledges as having read and agreed to).
- 1.1.17 "Company Safety Rules" means the document titled as such and containing the safety rules set by the Company from time to time governing the safety procedures within the Company's Terminal, the current edition of which has been made available to the Customer (which the Customer hereby acknowledges as having read and agreed to).
- 1.1.18 "Company Security Rules" means the document titled as such and containing the security rules set by the Company from time to time governing the security procedure within the Company's Terminal, the current addition of which has been made available to the Customer (and which the Customer hereby acknowledges as having read and agreed to).
- 1.1.19 "Company Terminal" means all or any part of any land, place, structure or building in which the Facilities and Services are provided by the Company irrespective of whether or not such land, place, structure, or building are owned, operated, managed or controlled by the Company, including any building, berth, jetty or wharf.

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1.1.20 "Company Traffic Rules" means the document titled as such and containing the traffic rules set by the Company from time to time governing the movement, use and parking of vehicles within the Company's Terminal, the current edition of which has been made available to the Customer (and which the Customer hereby acknowledges as having read and agreed to).

1.1.21 "Specific Conditions" means any additional terms and conditions in addition to the terms and conditions contained in the GCS.

1.1.22 "Terminal Facilities and Services" means all or any of the following Facilities and Services provided by the Company: -

- Passenger handling;
- Baggage handling;
- Provision of space for tenancy and advertisement;
- Provision of vehicle parking facilities;
- Provision of IT services;
- Provision of consultation services;
- Handling of Property;
- Berthing or unberthing of any Vessel;
- Survey or inspection of any Property and their contents to ascertain the nature and extent of any loss or damage of the same;
- Ship supplies to any Vessel;
- Supply of fresh water via pipeline to any Vessel;
- Distribution of power supply to any Vessel;
- Fumigation of any Property ;
- Supply of mechanical equipment and manpower for the lifting and movement of any Property; and
- Warehousing;
- Sale of tickets;
- Ancillary services for vessels and passengers.

1.1.23 "Vessel" means the ship, barge in respect of which requisition for Facilities and Services are provided by the Company

## 1.2 INTERPRETATION

1.2.1 Words importing the singular number shall include the plural number and vice versa.

1.2.2 Words importing the masculine gender shall include the feminine or neuter genders.

1.2.3 Words importing a person/party include a firm or Company or Corporation.

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- 1.2.4 Clause headings are inserted for convenience of reference only and shall be ignored in the interpretation of these Conditions.
- 1.2.5 Any reference to any statute shall be deemed also to refer to any statutory modification or re-enactment thereof or any statutory instrument, order or regulation made thereunder or under such re-enactment.
- 1.2.6 Expressions in the GCS shall have the same meaning assigned to them as contained in the Contract. In the event of any inconsistency between the terms and conditions in the GCS and those contained in the Contract, the terms and conditions of the Contract shall prevail.
- 1.2.7 Where two or more persons are included in the expression “the Customer” all covenants, stipulations, and provisions contained herein shall be deemed to be made by and to apply to and be binding upon all such persons jointly and severally and the term “the Customer” shall include their legal personal representatives, successors and permitted assigns.
- 1.2.8 In the GCS where there are two or more persons, all covenants undertakings and provisions herein or therein expressed to be made by or concerning or applicable to the person signing the Contract or hereby or thereby implied shall, where the context admits be deemed to be made by or shall be binding on and applicable to such persons jointly and severally.
- 1.2.9 All applications, orders, instructions, notices, requests, descriptions, directions, declarations, permissions, consents and other communication required or permitted under the Contract to be made or given to the Company shall be made or given in writing or by such other mode as may be accepted by the Company.
- 1.2.10 Reference in the Contract to any statute includes a reference to such statute in force from time to time and any regulations or orders made under such statute.
- 1.2.11 If the whole or any part of any provision of the Contract shall be or become illegal, invalid or unenforceable for any reason of any statutory provision or by reason of any decision of any Court or any other body or Authority having jurisdiction over the parties or the Contract, such whole or part of such provision shall be deemed to be deleted from the Contract PROVIDED ALWAYS That if any such deletion substantially affects or alters the commercial basis of the Contract, the parties shall negotiate in good faith to amend the provisions of the Contract as shall be necessary or desirable in the circumstances.

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## **2.0 CONDITION PRECEDENT**

For the avoidance of doubt, the provision of Facilities and Services as enumerated in sub-clause 1.1.22 are subject to the Company having the right or grant of such Facilities and Services from the Maritime Port Authority or any other Authority. If, for any reason whatsoever, the facilities and services are terminated or withdrawn by the Maritime Port Authority or any other Authority, the Company shall not be liable, in any manner whatsoever to the Customer relating to the termination and withdrawal of Facilities and Services.

## **3.0 GENERAL CONDITIONS**

### **3.1 THE CONTRACT**

- 3.1.1 The Company shall offer and the Customer shall accept the Facilities and Services during the Contract Period in consideration of the payment of the Contract Sum, all in accordance with the terms and conditions of the Contract.
- 3.1.2 Any undertaking by the Company under the Contract to do any act may be carried out by its authorized servants or agents, in which event all acts or omissions which may be permitted by the Company under the Contract shall also be permitted of such persons and all protection from liability afforded to the Company by the Contract shall also be afforded to such persons.
- 3.1.3 Notwithstanding any other provisions in the Contract, the Company may at any time make modifications, alterations and changes to the Contract by serving on the Customer a fourteen (14) days notice in writing of such an intention to change.

### **3.2 DETERMINATION OF THE CONTRACT**

The Parties Agree That: -

- 3.2.1 Notwithstanding any other provisions of the Contract, the Company may terminate the Contract forthwith at any time without any claim or charge or compensate the Customer if the Company has a valid or cogent reason or reasons to do so which shall include but not be limited to following circumstances: -
  - (a) The Customer has failed/omitted to observe or perform any of its obligations under the Contract and such failure/omissions are not cured or rectified within a reasonable period of time after the Company has notified the Customer of such failure;

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- (b) The Company shall be of the opinion that the provision of the services may lead a possible claim against the Company, its servants or agents;
- (c) The Company has to suspend its services due to Force Majeure;
- (d) Clause 2.0 of the Condition Precedent takes effect

#### **4.0 THE SERVICES**

In consideration of the payment of the due charges, the Company will provide the list of Facilities and Services as agreed upon between the parties in the Contract which, with the consent of the parties can be expanded, reduced, amended or cancelled.

#### **5.0 OPERATING REQUIREMENTS AND COMPANY RULES**

##### **5.1 OPERATING REQUIREMENTS**

- 5.1.1 The Company will set forth a series of procedures for the maintenance, control, operation and management of the Company's Terminal.
- 5.1.2 The Customer shall comply with the operating requirements as contained in the existing circulars, which have been made available to the Customer (which the Customer hereby acknowledges as having read and agreed to).

##### **5.2 COMPANY RULES**

- 5.2.1 The Customer shall comply with the Company Safety Rules, the Company Security Rules, the Company Traffic Rules and all other rules and conditions set by the Company from time to time in respect of the Company's Terminal and activities therein. For the avoidance of doubt, such rules and execution can be varied, expanded, cancelled at the absolute discretion of the Company.

#### **6.0 PAYMENT FOR SERVICES**

##### **6.1 CHARGES AND OTHER SUMS**

In consideration of the provision of the Facilities and Services by the Company, the Customer shall pay to the Company all charges and other sums which shall be



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imposed by the Company under the Company Price List or under the Contract within the time scheduled as agreed or prescribed.

## **6.2 LATE PAYMENT INTEREST**

Upon default of the Customer in payment of any of the monies due and payable hereunder and whether payment thereof shall have been demanded or not, the Customer shall pay interest on any such monies payable at the interest rate as stated in the contract/invoice.

## **6.3 CONDITIONS OF PAYMENT**

Except as expressly agreed otherwise between the Parties: -

- (a) The Customer shall furnish security deposit for a sum to be agreed in a Form of Guarantee approved by the Company for the due observance and performance by the Customer of the Contract.
- (b) The Company may at any time and from time to time require the Customer to open and maintain for the duration of the Contract Period an account with the Company subject to the terms and conditions provided in the Company Price List.
- (c) If the charges of the Company hereby reserved or any part thereof shall at any time be unpaid for thirty (30) days after becoming payable (whether formally demanded or not) or if any condition or stipulation herein contained on the Customer's part to be performed or observed or if the Customer or any other person in whom, for the time being, the Contract shall be vested, shall become bankrupt or enter into any composition with the Customer's creditors or suffer any distress or execution to be levied on the Customer's goods or if the Customer, being a Company, shall go into liquidation whether voluntary (save for the purpose of amalgamation or reconstruction) or compulsory then and in any of the said cases; it shall be lawful for the Company at any time thereafter to re-enter upon the Contract Premises or any part thereof; in the name of the whole and thereupon the Contract shall absolutely determine but without prejudice to the right of action of the Company in respect of any antecedent breach of the GCS and the Contract by the Customer.
- (d) If due to any reason whatsoever (except the default of the Company) the Customer shall not pay the Contract Sum on or before the due date for payment referred to in sub-clause 6.3 (c) above: -
  - (i) The Company shall be entitled to engage the services of any person to recover such sum from the Customer, in which event the Customer shall also be liable for all costs incurred by the Company

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for such services (including the legal costs on an indemnity basis);  
and

- (ii) Regardless of whether or not the Company have engaged the services of any person as described in sub-clause (i) above, the Customer shall in addition to the Contract Sum and the costs described in sub-clause (i) above (if any), pay to the Company interest on such sums and the costs at the rate equivalent to the rate stipulated in the Company Price List, which interest shall be payable on a day to day basis from the date immediately after the due date for payment to the date of actual payment of such sums, the costs and interest thereon or to the date of expiry or sooner termination of the Contract, whichever is earlier.
- (e) Time shall be of the essence for the purposes of the Conditions of Payment.

## **7.0 GOODS AND SERVICES TAX (GST)**

The Customer shall pay any tax, levy, imposition, duty, charge, fee, deduction or withholding of any nature and whatsoever called levied (to be levied), collected (to be collected), assessed (to be assessed) or withheld (or to be withheld) by any governmental authority and/or agency which is payable in respect of the sale or supply of Products, including but not limited to the Goods and Services Tax under the Goods and Services Tax Act (Cap 117A). The Customer shall pay all prevailing GST charges and which rate is subject to review by the Competent Authority from time to time. The Customer indemnifies the Company against such payment of the Company is required by law to collect and make payments in respect thereof.

## **8.0 CUSTOMER'S REPRESENTATIVE**

### **8.1 COMPANY'S APPROVAL**

The Company may in its absolute discretion, grant approval for any one or more persons authorized by the Customer to deal with the Company, its servants and agents for the purposes of the Contract, in which event all acts or omissions by such authorized person shall be deemed to be acts or omissions of the Customer.

### **8.2 CUSTOMER'S OBLIGATIONS**

The Customers and/or agents covenant with the Company as follows: -

#### **8.2.1 Removal of Vessels**

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The Customer shall ensure that the Vessel shall be removed from the Company's Terminal immediately upon completion of the business or sooner where deemed necessary by the Company to facilitate other operations at the Company's Terminal.

#### 8.2.2 Responsibilities of the Customer

The Customer shall perform its duties with a reasonable degree of care, diligence, skill, and judgment.

#### 8.2.3 Liberties of the Company – as Customers and/or as Agents

When and to the extent that the Company in accordance with these conditions, is acting as an Agent on behalf of the Customer, the Company shall be entitled and the Customer hereby expressly authorizes the Company to enter into contracts on behalf of the Customer: -

- (a) for the expedient handling of the services and goods by any route or means or person;
- (b) for the storage, packing, transshipment, loading, unloading, or handling of the services and goods by any person at any length of time;
- (c) for the carriage or storage of goods in or on transport units and with other goods of whatever nature; and
- (d) to do such acts as may in the opinion of the Company be reasonably necessary in the performance of its obligations in the interests of the Customer.

#### 8.2.4 Liberty to delegate

The Company shall be entitled to perform its obligations herein by itself or by its parent, subsidiary, or associated Companies. In the absence of agreement to the contrary any contract to which these conditions apply is made by the Company on its own behalf and also as Agent for and on behalf of any such parent, subsidiary or associated Companies, and any such Company shall be entitled to the benefit of the Contract.

#### 8.2.5 Rights over Goods and Vessels

##### 8.2.5.1 Right of Lien and Retention

The Company shall have the right of lien and retention over all property (including the Goods) and all sums (including any sums

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collected by the Company from third parties on behalf of the Customer) and all documents which the Company shall now or hereafter hold of or for the Customer or which is now or hereafter due to the Customer, to secure the payment of all sums due from the Customer to the Company and the discharge of all liabilities of the Customer to the Company under the Contract or at law.

In the exercise of the Company's right of lien and retention, the Company shall be entitled to seize and detain such property, sums and documents until the sums due from the Customer to the Company are fully paid.

The Company's lien shall have priority over all other liens and claims in respect of such property, sums and documents.

#### **8.2.5.2 Power to dispose of Goods remaining in custody**

If the Goods are not removed from the Company's premises within the period stipulated by the Company under the Contract, the Company may at the expiration of such period dispose of the Goods by sale or in such other manner as it thinks fit Provided that if the Goods are of a perishable nature the Company may direct their removal within such shorter period as the Company deems fit, and if removed then, the Company may dispose of the Goods in such manner as it deems fit.

The Company shall render the surplus proceeds of sale, if any, to the Customer and any other person entitled thereto on demand, and, in case no such demand is made within three (3) months from the date of the sale of such property the surplus shall be paid to the account of the Company, whereupon all rights to the same by such person shall be extinguished.

#### **8.2.5.3 Power to distrain for non-payment of Contract Sum**

If the Customer fails to pay the Contract Sum in accordance with the Contract, the Company may, in addition to any other remedy which the Company may be entitled to, distrain or arrest the Vessel in respect of which such Contract sum is payable and the tackle, apparel or furniture belonging thereto or any part thereof, and detain the same until the amount so due is paid.

In case any part of the Contract sum or of the costs of the distress or arrest, or of the keeping of the Vessel, tackle, apparel or furniture, remains unpaid for a period of not less than fourteen (14) days after any such distress or arrest has been so made, the Company may

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cause the Vessel or other goods so distrained or arrested to be sold, and with the proceeds of the sale may satisfy those charges, other sums and costs, including the costs of sale remaining unpaid, rendering the surplus, if any, to the master or owner of the Vessel on demand.

#### 8.2.6 Delivery

8.2.6.1 If delivery of the goods or any part thereof is not taken by the Customer, at the time and place when and where the Company is entitled to call upon such person to take delivery thereof, the Company shall be entitled to store the goods or any part thereof at the sole risk of the Customer, whereupon the liability of the Company in respect of the goods or that part thereof stored as aforesaid shall wholly cease and the cost of such storage if paid for or payable by the Company or any Agent or Sub-Contractor of the Company shall forthwith upon demand be paid by the Customer to the Company.

8.2.6.2 The Company shall be entitled at the expense of the Customer to dispose of by sale or otherwise as may be reasonable in all the circumstances: -

- (a) on twenty-eight (28) days notice in writing to the Customer, the Customer cannot be traced and reasonable efforts have been made to contact any party who may reasonably be supposed by the Company to have an interest in the goods which have been held by the Company for sixty (60) days and which cannot be delivered as instructed; and
- (b) without prior notice, goods which have perished, deteriorated or altered or are in immediate prospect of doing so in a manner which has caused or may reasonably be expected to cause loss or damage to Third Parties or contravene any applicable law, regulations of the Maritime Port Authority or any other governing Authority.

#### 8.2.7 Advice and Information

Advice and Information, in whatever form it may be given, is provided by the Company for the Customer and the Customer shall indemnify the Company against any liability, claims, loss, damage, costs or expenses arising out of any other persons relying upon such advice or information. Except under special arrangements previously made in writing, advice and information that is not related to specific instructions given by the Company is provided gratuitously and without liability.

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#### 8.2.8 Restrictions on goods to be accepted

8.2.8.1 Except under special arrangement previously made in writing the Company will not accept or deal with bullion, coin, precious stones, jewellery, valuables, antiques, pictures, human remains, livestock or plants.

8.2.8.2 The Company may at any time waive its rights and exemptions from liability under sub-clause 8.2.8.1 above in respect of any or more of the categories of goods mentioned therein or of any part (any category). If such waiver is not in writing, the onus of proving such waiver shall be on the Customer.

8.2.8.3 Except following instructions previously received in writing and accepted by the Company, the Company will not accept or deal with goods of a dangerous or damaging nature, nor with goods likely to harbour or encourage vermin or other pests, nor with goods liable to taint or affect other goods. If such goods are accepted pursuant to special arrangement and then in the opinion of the Company they constitute a risk to other goods, property, life or health, the Company shall where reasonably practicable contact the Customer, but reserves the right at the expense of the Customer to remove or otherwise deal with the goods.

#### 8.2.9 Customer obligations – Warranties

The Customer warrants: -

- (a) That he is either the Owner or the authorized agent of the owner of the goods, and that he is authorized to accept and is bound by the conditions not only for himself and/or his Company but also as an agent if applicable for and on behalf of the owner of the goods.
- (b) That the description and particulars of any goods furnished by or on behalf of the Customer are full, accurate, and true.
- (c) That all goods have been properly and sufficiently prepared, packed, stowed, labeled and/or marked, and that the preparation, packing, stowage, labeling and marking are appropriate to any operations or transactions affecting the goods and the characteristics of the goods.
- (d) That where the Company received the goods from the Customer already stowed in or in a container, trailer, tanker, or any other device specifically constructed for the carriage of goods by land, sea

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or air (each hereafter individually referred to as “the transport unit”), the transport unit is in good condition and is suitable for the carriage to the intended destination of the goods loaded therein or thereon.

#### 8.2.10 Customer obligation – Dangerous Goods

Should the Customer otherwise than under special arrangement previously made in writing as set out in sub-clause 8.2.8.3 above delivery to the Company or cause the Company to deal with or handle goods of a dangerous or damaging nature, or goods likely to harbor or encourage vermin or other pests, or goods liable to taint or affect other goods, he shall be liable for all loss or damage arising in connection with such goods and shall indemnify the Company against all penalties, claims, damages, costs and expenses whatsoever arising in connection therewith, and the goods may be dealt with in such manner as the Company or any other person in whose custody they may be at any relevant time shall think fit.

#### 8.2.11 Customer obligations - Environment

The Customer shall not: -

- (a) discharge, throw, deposit or permit or suffer to escape any dirt, ashes, exhaust, steam, oil, water, filth or waste matter whether liquid or solid onto any of the Company’s Terminal without the permission of the Company;
- (b) cause smoke, soot, ash, grit or oil to be emitted from any Vessel at any of the Company’s Terminal in such quantity or density as may be deemed to be a nuisance or annoyance in the opinion of the Company.

#### 8.2.12 Customer obligations- Safety of passengers and Safe use of equipment

The Customer shall ensure that:-

- (a) at all times during operations of embarking and disembarking sufficient trained staff are deployed to oversee the safety of person and/or passenger and to use the proper facilities that the Company provides;
- (b) elderly and/or handicapped and/or physically disabled person and/or passenger must use the Link-Bridge instead of the gangway;
- (c) in the absence of a link-bridge, the elderly and/or handicapped and/or physically disabled person and/or passenger must be properly and safely guided and assisted when they disembark or use the gangway;

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- (d) the elderly and/or handicapped and/or physically disabled person and/or passenger use the lifts provided instead of escalators and or staircase;
- (e) passenger must not congregate, loiter and/or gather around the pontoon and/or landing craft and/or any floating object when they disembark from the ferry;
- (f) all goods such as firearms, explosives or improvised explosive products in any form or shape under the Arms and Explosives Act, Chapter 13, or any other legislations that are applicable, are prohibited from entry into Singapore or land onto the premises of the Company;
- (g) all chemical weapons under the Chemical Weapons (Prohibition) Act, Chapter 37B or any other legislations that are applicable, are prohibited from entry into Singapore or land onto the premises of the Company;
- (h) No trafficking and/or consumption of drugs under the Misuse of Drugs Act (Chapter 185) are unlawful and strictly prohibited into or by way of transshipment at Singapore and/or at the Company' premises.

#### 8.2.13 Customer obligations – Promise not to sue

The Customer undertakes that no claim shall be made against any Director, Servant, or Employee of the Company that imposes or attempts to impose upon them any liability in connection with the Facilities and Services that are the subject of these conditions and if any such claim should nevertheless be made, to indemnify the Company against all consequences thereof.

#### 8.2.14 Customer obligations – General Indemnities

The Customer shall save harmless and keep the Company indemnified from and against: -

- (a) All liability, loss, damage, costs and expenses whatsoever (including without prejudice to the generality of the foregoing, all duties, taxes, levies, deposits and outlays of whatsoever nature levied by any authority in relation to the goods) arising out of the Company acting in accordance with the Customer's instructions or arising from any breach by the Customer of any Warranty contained in these Conditions or from the negligence of the Customer, and
- (b) Without derogation from sub-clause (a) above, any liability assumed or incurred by the Company when by reason of carrying out the Customer's instructions the Company has reasonably become liable or may become liable to any other party, and



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- (c) All claims, costs and demands whatsoever and by whomsoever made or preferred in excess of the liability of the Company under the terms of these conditions regardless whether such claims (in contract or tort), costs and demands arise from or in connection with the negligence or breach of duty of the Company its Servants, Sub-Contractors or Agents, and
- (d) Any claims under Force Majeure

## **9.0 LIABILITY AND INDEMNITY**

- 9.1 The Company shall not be liable for any claim suffered by any person due to any cause whatsoever arising from the act or omission of the Customer and/or his representative/agents or any other person ostensibly or apparently engaged or authorized by the Customer to deal with the Company and the Customer shall absolve the Company, its servants and agents in respect of such claim and shall indemnify the Company, its servants and agents in respect of such claim.

### **9.2 LIMITATION OF LIABILITY**

Subject to the Customer fulfilling the Contract, the Company's liability, howsoever, arising and, notwithstanding, that the costs of loss or damage can be quantified higher, shall not exceed Singapore Dollars Twenty Five Thousand (S\$25,000.00) per claim and/or per incident.

- 9.3 The Company shall be relieved of liability for any loss or damage if and to the extent that such loss or damage is caused by: -
- (a) strike, lockout, stoppage or restraint of labour, the consequences of which the Company is unable to avoid by the exercise of reasonable diligence;
  - (b) any cause or event which the Company is unable to avoid and the consequences whereof the Company is unable to prevent by the exercise of reasonable diligence;
  - (c) quarantine restrictions including but not limited to the outbreak of diseases as declared by the Authority;
  - (d) an event occasioned by Force Majeure;
  - (e) failure to report any possible claim to the Company within one (1) week from which the claim and/or accident arises;
  - (f) failure/omission to commence legal actions within six (6) months from the date of the claim and/or accident

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- 9.4 By special arrangement agreed in writing, the Company may accept liability in excess of the limits set out in sub-clause 9.2 above upon the Customer agreeing to pay the Company's additional charges for accepting such increased liability. Details of the Company's additional charge will be provided upon request.
- 9.5 In any event a claim whether, in tort or contract, will be void if the Customer have not lodged with the Company thereof within one (1) week after the occurrence of the event giving rise to the claim or within one (1) week after the re-delivery of the goods to the customer, whichever is earlier. The Notification of such claim shall be immediately communicated to the Company.
- 9.6 If any claim have been notified and lodged with the Company in accordance with Clause 9.5, the claim shall become void if the Customer fails to commence legal proceedings in respect thereof within the period of six (6) months after the date of such notice and lodgment.

#### 9.7 SPECIFIC MEASURES

##### 9.7.1 Fixtures, fittings and measures

Notwithstanding the other provisions of the Contract, the Company shall be entitled immediately and at the risk and expense of the Customer: -

- (a) to install or modify any fixture or fitting to the Facilities, which may be required by the competent authorities for the provision of the Services or to prevent or reduce the emission of smoke, dust, fumes, vapours or other matter resulting from the provision of such Services;
- (b) to take every measure reasonably deemed by the Company to be necessary for the prevention or reduction of risk of any claim suffered by the Company, its servants or agents, including the cessation of provision of the Facilities and Services and the removal or disposal of the Goods.

##### 9.7.2 Notification to Customer

The Company shall as soon as possible, notify the Customer of such installation, modification and measures but any failure by the Company to notify the Customer shall not entitle the Customer to make any claim against the Company in respect thereof.

##### 9.7.3 Property of the Company

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Notwithstanding that the cost of such installation, modification or measures shall have been borne by the Customer, such fixture or fitting shall be the property of the Company.

#### 9.8 INSPECTION AND WORKS

If in the reasonable opinion of the Company: -

- (a) any inspection of the Facilities;
- (b) any works for the routine maintenance or repair or alteration or addition to the Facilities; or
- (c) any other works

shall become necessary as a result of any amendment or re-enactment of any law taking effect during the Contract Period, the Company shall be entitled to carry out such inspection or such works at the risk and expense of the Customer.

#### 9.9 DELAY, DEPARTURE OR ARRIVAL DATES OF VESSELS, GOODS AND/OR SERVICES

Except under special arrangements previously made in writing the Company accepts no responsibility for delay, departure or arrival dates of Vessels, Goods and/or Services.

#### 9.10 APPORTIONMENT OF COMPENSATION

If more than one person shall make any claim against the Company and the Company shall decide to pay compensation in respect of the claim, the Company shall be entitled to apportion such compensation among such persons according to the extent of proven loss or damage suffered by each of them.

#### 9.11 PERSONAL LIABILITY

Notwithstanding the other provisions of the Contract, no matter or thing done and no Contract of any kind entered into by the Company and no matter or thing done by any servant of the Company or any other person whomsoever acting under the direction of the Company shall, if the matter or thing was done or the Contract was entered into bona fide for the purpose of providing the Services, subject the Company's person or persons to personal liability to any action, liability claim or demand whatsoever in respect thereof.

#### 9.12 INDEMNITY

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9.12.1 The Customer hereby agrees to indemnify and hold the Company harmless from and against all and any Third Party claims of any nature whatsoever suffered or incurred by the Company arising out of the provision of services under the Contract unless it is due to the gross negligence or willful misconduct of the Company.

9.12.2 Without limiting the generality of the GCS, the Customer specifically acknowledged the Company's responsibilities and liabilities to the Maritime Port Authority or any other governing Authority within the compounds of the Company's Terminal and hereby agrees to be bound by all terms and conditions referred thereto which are deemed to be incorporated by reference in this GCS and shall indemnify and hold harmless the Company from all claims arising out of the Company's breach of any such responsibilities and liabilities.

## **10.0 HIRED VEHICLE OR EQUIPMENT**

Notwithstanding the other provisions of the Contract, if the Customer shall hire any linkbridge, gangway, crane, forklift or other vehicle or equipment from the Company, the Customer shall be liable for any injury, loss or damage howsoever caused by the vehicle or equipment.

## **11.0 DELIVERY OF PROPERTY**

For the avoidance of doubt, the Customer specifically acknowledges and agrees that the Company shall not be liable for any claim arising before delivery of the Property to the Company or after re-delivery of the Property to the Customer.

## **12.0 DAMAGE TO COMPANY'S TERMINAL OR OTHER COMPANY'S PROPERTY**

If any damage is caused to any of the Company's Terminal or other Property arising out of the provision of the services, the Company may in its discretion carry out such repairs as it thinks necessary, in which event the cost of such repairs, including the payment of administrative, GST and other incidental expenses shall be borne by the Customer.

## **13.0 INSURANCE**

13.1 Without limiting the liability of the Customer under the Contract, the Customer undertakes to obtain and maintain, at its own cost, adequate insurance cover for the Contract Term, including but not limited to any public liability, property and workmen compensation insurance policies, with a reputable insurer acceptable to the

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Company to cover the liabilities of the Customer under the Contract and shall at the Company's request, provide the Company with such satisfactory evidence thereof.

- 13.2 Adequacy on the insurance cover will vary in accordance to industry standard of the risks involved.

#### **14.0 CUMULATIVE RIGHTS AND REMEDIES**

The rights and remedies given to the Company under the Contract shall be cumulative remedies and shall not prejudice any other rights or remedies of the Company contained in the Contract or at law or the right of action or other remedy of the Company for the recovery of any sums due to the Company from the Customer or in respect of any antecedent breach of the Contract by the Customer.

#### **15.0 COMPLIANCE WITH STATUTES**

##### **15.1 BY PARTIES**

The Parties shall comply with the provisions of all statutes, and all rules and regulations made thereunder affecting the Contract.

##### **15.2 PERMISSION, ETC AND INDEMNITY**

The Customer shall obtain all requisite permissions, approvals and consents from the competent authorities and shall indemnify the Company against any fines, penalties, losses, costs or expenses incurred by the Company in respect of any non-compliance with the provisions of such statutes.

#### **16.0 COMPULSORY LEGISLATION**

If any legislation is compulsorily applicable to any business undertaken, these conditions shall, as regards such-business, be read as subject to such legislation and nothing in these conditions shall be construed as a surrender by the Company of any of its rights or immunities or as an increase of any of its responsibilities or liabilities under such legislation and if any part of these conditions be repugnant to such legislation to any extent such part shall as regards such business be overridden to that extent and no further.

#### **17.0 AUTHORITY CONDITIONS**

- 17.1 In authorizing the Company to enter into any contract with the Customer and/or in accepting any document issued by the Company in connection with such contract,

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the Customer accept these conditions for themselves and their Agents and for any parties on whose behalf they or their Agents may act, and in particular, but without prejudice to the generality of this clause, they accept that the Company shall have the right to enforce against them jointly and severally any liability of the Customer under these conditions or to recover from them any sums to be paid by the Customer which upon proper demand have not been paid.

## **18.0 STATUS OF THE COMPANY**

- 18.1 Subject to Clause 4 above, the Company shall be entitled to procure any or all of its services as an Agent or to provide those services as a Principal.
- 18.2 The offer and acceptance of an inclusive price for the accomplishment of any be arranged by the Company acting as Agent or to be provided by the Company acting as a Contracting Principal.
- 18.3 When acting as an Agent, the Company does not make or purport to make any Contract with the Customer for the carriage, storage, packing, or handling of any goods nor for any other physical service in relation to them and acts solely on behalf of the Customer in securing services and establishing Contracts with Third Parties so that direct contractual relationships are established between the Customer and such Third Parties.
- 18.4 The Company shall on demand by the Customer provide evidence of any Contract entered into as Agent for the Customer. Insofar as the Company may be in default of this obligation, it shall be deemed to have contracted with the Customer as a Principal for the performance of the Customer's instructions.
- 18.5 When and to the extent that the Company has contracted as Principal for the performance of any of its services, it undertakes to perform and/or in its own name to procure the performance of those services, and subject always to the totality of these conditions and in particular to sub-clause 9.3 and 9.4 hereof accepts liability for loss of or damage to goods taken into its charge occurring between the time when it takes the goods into its charge and the time when the Company is entitled to call upon the Customer or Owner to take delivery of the goods.

## **19.0 ASSIGNMENT OF CONTRACT**

The rights and obligations of the Customer under the Contract are personal to the Customer only and save as expressly permitted by the Contract, shall not be assigned or shared in any way to or with any person without the prior written consent of the Company.

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## **20.0 CONFIDENTIALITY**

20.1 No Party shall disclose to any other person any information related to the Contract without the prior consent of the other Party.

20.2 Notwithstanding sub-clause 20.1 above, either Party may disclose information related to the Contract to: -

- (a) such Party's agents or contractors who have a need to know the same provided that such agents and contractors are first subject to the same confidentiality restrictions contained herein;
- (b) any other person pursuant to a legal requirement to disclose or pursuant to any judicial authority which requires disclosure; or
- (c) any other person to the extent that such information shall already be known to such Party.

## **21.0 NON-DEMISE**

The GCS shall not confer on the Customer any lease, tenancy or other greater interest in or possession of the Facilities or any of the Company's Terminal, which possession is retained by the Company subject however to the terms and conditions of the Contract.

## **22.0 NO GRANT OF INTELLECTUAL PROPERTY RIGHT**

No intellectual property right or licence belonging to either Party is hereby expressly or impliedly granted to the other Party.

## **23.0 COMMUNICATION**

### **23.1 OTHER FORMS OF WRITING**

Where the Contract requires any notice or information to be in writing, that requirement is also met by a Data Message if the notice or information contained therein is accessible so as to be useable for subsequent reference.

### **23.2 ORIGINAL**

23.2.1 Where the Contract requires any notice or information to be presented or retained in its original form, that requirement is met by a Data Message if: -

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- (a) there exists a reliable assurance as to the integrity of the notice or information from the time when it was first generated to its final form, as a Data message or otherwise; and
- (b) where it is required that the notice or information be presented, that notice or information is capable of being displayed to the person to whom it is to be presented.

23.2.2 For the purposes of sub-clause 23.2.1: -

- (a) the criteria for assessing integrity shall be whether the notice or information has remained complete and unaltered, apart from the addition of any endorsement and any change which arises in the normal course of communication, storage and display; and
- (b) the standard of reliability required shall be assessed in the light of the purpose for which the notice or information was generated and in the light of all the relevant circumstances.

### 23.3 SIGNATURE AND ATTRIBUTION

23.3.1 Where the Contract requires a signature of the Originator, that requirement is met in relation to a Data Message if: -

- (a) a method is used to identify the Originator and to indicate their receipt of the notice or the information contained in the Data Message; and
- (b) that method is as reliable as was appropriate for the purpose for which the Data Message was generated or communicated, in the light of all the circumstances, including the Contract.

23.3.2 (a) A Data Message is that of the Originator if it was sent by the Originator itself.

- (b) As between the Originator and the Company, a Data Message is deemed to be that of the Originator if it was sent: -
  - (i) by a person who had the actual, ostensible or apparent authority to act on behalf of the Originator in respect of that Data Message; or
  - (ii) by a system for generating, sending, receiving, storing or otherwise processing data messages, programmed by or on behalf of the Originator to operate automatically.



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- 23.3.2 As between the Originator and the Company, its servants and agents, the Company, its servants and agents are entitled to regard a Data Message as being that of the Originator and to act on that assumption, if the Data Message as received by the Company, its servants or agents resulted from the actions of a person whose relationship with the Originator enabled that person to gain access to a method used by the Originator to identify Data Messages as its own.
- 23.3.3 Sub-clause 23.3.3 shall not apply as of the time when the Company, its servants or agents have both received notice from the Originator that the Data Message is not that of the Originator and the Company, its servants or agents had reasonable time to act accordingly.
- 23.3.4 Where a Data Message is that of the Originator or is deemed to be that of the Originator, the Company, its servants or agents is entitled to act on that assumption, then, as between the Originator, and the Company, its servants or agents, the Company, its servants or agents is entitled to regard the Data Message as received as being what the Originator intended to send and to act on that assumption.
- 23.3.5 The Company, its servants or agents is entitled to regard each Data Message received as a separate Data message and to act on that assumption, except to the extent that it duplicates another Data message and the Company, its servant or agent knew that the Data Message was a duplicate.
- 23.4 ACKNOWLEDGEMENT OF RECEIPT**
- Except where expressly agreed otherwise, the Company, its servant or agent is deemed to have received a Data Message when it acknowledges receipt by any communication in writing to the Company, its servant or agent or any conduct of the Company, its servants or agents sufficient to indicate to the Originator that the Data Message has been received.
- 23.5 SERVICE**
- 23.5.1 Subject to sub-clause 23.1 to 23.4, any notice or other document to be given by either Party under the Contract shall be deemed to be received by the other Party if sent by: -
- (a) hand or local urgent mail or express mail or other fast postal service, or
  - (b) registered post

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to the registered or representative office of the recipient in Singapore, or by telex, facsimile or other electronic media, followed by a posted confirmation copy.

23.5.2 Notwithstanding the provisions of sub-clause 23.5.1, the Company may in its absolute discretion where the Company considers appropriate or conducive to efficiency or expediency, choose to give any notice to the Customer required under the Contract, by writing addressed to users of the Facilities and Services generally or by posting a copy of such notice at the Company's Cruise One Stop Documentation Centre or at the site office of any of the Company's Terminal.

#### **24.0 NO CONSENT OR WAIVER**

No consent or expressed or implied waiver by the Company to or of any breach of any of the terms of the Contract or a covenant or duty of the Customer shall be construed as a consent or waiver by the Company to or of any other breach of terms of the Contract, covenant or duty by the Customer and shall not prejudice in any way the rights powers and remedies of the Company under the Contract, Tort or at Law.

#### **25.0 SURVIVAL OR OBLIGATIONS**

Notwithstanding the complete performance of the Contract or the termination of the Contract insofar as it relates to the Customer, the terms and conditions of the Contract shall remain in full force and effect between the Company and the Customer insofar as such terms and conditions shall remain unfulfilled or relevant.

#### **26.0 STAMP DUTY**

The Customer shall bear the costs of and incidental to the stamping of all documents evidencing the Contract and the duplicate thereof.

#### **27.0 LEGAL FEES**

To pay all legal fees (including the Company's solicitors' charges on a solicitor and client basis), stamp duty and all other disbursements and out-of-pocket expenses incurred in the preparation and completion of the Contract and in connection with any assignment, subletting or surrender or other termination thereof otherwise than by efflux ion of time and in case of default in performing or observing any covenants herein contained or implied to pay all legal and other costs, charges and expenses of which the Company shall become liable or incur (including costs on a solicitor

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and client basis) in consequence or in connection with such default (whether or not legal proceedings have been instituted) within seven (7) days of the Company requesting the Customer so to do.

## **28.0 GOVERNING LAW AND JURISDICTION**

- 28.1 The GCS and the Contract shall be governed and construed in all respects in accordance with the laws of Singapore and the Customer hereby submits to the jurisdiction of the courts of Singapore in all matters PROVIDED THAT the Customer's submission to the jurisdiction of the courts of Singapore shall not be construed as derogating from the Company's right to commence proceedings in the courts of any other country.
- 28.2 The Customer shall from time to time notify the Company in writing of any change of address and the Company may, at its option, effect service of any writ of summons or legal process by sending a copy thereof by ordinary or registered post to the last recorded address of the Customer. Any writ of summons or legal process served in the aforesaid manner shall be deemed to have been duly served on the Customer at the time when it would in the ordinary course be delivered, and notwithstanding the fact that it may be returned through the post office undelivered.

## **29.0 THIRD PARTY ACT CLAUSE**

A person who is not a party to the Contract has no right under the Contracts (Rights of Third Parties) Act 2001 to enforce or enjoy the benefit of any term of the conditions herein and the Contract.

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### **30.0 FORCE MAJEURE**

#### **30.1 AFFECTING PERFORMANCE OR OBSERVANCE BY CUSTOMER**

30.1.1 If the Customer shall be prevented by any Force Majeure from performing or observing its obligations under the Contract and shall suffer undue hardship due to such Force Majeure, the Customer shall immediately notify the Company thereof and identify the Force Majeure, whereupon the Customer may be released from such performance or observance to the extent that and for so long as such performance or observance shall be prevented by the Force Majeure and such undue hardship.

30.1.2 The Customer shall perform and observe its other obligations under the Contract insofar as they are not affected by the Force Majeure.

30.1.3 Notwithstanding sub-clause 30.1.1, the Customer shall resume its obligations under the Contract upon the cessation of the Force Majeure.

30.1.4 Notwithstanding sub-clause 30.1.2, if the Force Majeure shall continue for a period longer than that which the Company considers reasonable to the release of the Customer from such performance or obligations the Company shall be entitled to determine the Contract immediately by due notice to the Customer.

#### **30.2 AFFECTING PERFORMANCE OR OBSERVANCE BY COMPANY**

The Company shall be released from performing or observing its obligations under the Contract if such performance or observances are not possible to execute due to Force Majeure.

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