



STANDARD TERMS AND CONDITIONS

1 April 2026–31 March 2027



PORT OF SUNDERLAND

STANDARD TERMS AND CONDITIONS

These terms and conditions contain provision by way of indemnity and exclusion and limitation of liability in favour of the port which undertakes no obligation to effect insurance (and makes no charge for insurance) in relation to the customers, their employees, goods, plant or vessels or liabilities. Customers are therefore advised to effect insurance themselves.

Where inconsistent with any other terms and conditions previously applying or understood to apply between the port and a customer these terms and conditions will prevail.

1. DEFINITIONS AND INTERPRETATION

- 1.1 In these Terms and Conditions the following words shall have the following meanings:
- 1.1.1 **“Customer”** includes any person corporation firm or body of persons whether incorporated or unincorporated who:
- (a) visits the Port Premises; or
 - (b) delivers or brings Goods or Plant onto the Port Premises or whose Goods or Plant come howsoever to be on the Port Premises; or
 - (c) is the owner, master or crew of or a passenger on a Vessel which enters the Port Premises; or
 - (d) bring themselves within the jurisdiction of the Port; or
 - (e) who by themselves, their employees, contractors or agents avail themselves or seeks to avail themselves of any facility or service provided by the Port;
- 1.1.2 **“Charges”** includes all charges, dues, fees, costs, expenses, any interest payments and any other payments due and payable by the Customer to the Port including those payable pursuant to or arising under these Terms and Conditions;
- 1.1.3 **“Goods”** include cargo of any description whatsoever together with any Plant, package, case, pallet, container or other thing which conveys, carries, contains, encloses, protects or supports cargo or is intended or made so to do;



- 1.1.4 **“the Harbour Master”** means any harbour master duly appointed from time to time by the Port and shall include his deputies;
- 1.1.5 **“the Owner”** means:-
- (a) when used with reference to Goods or Plant includes the owner, container owner, container lessee, agent, bailee, consignor, consolidator, consignee, freight operating company or other person in charge or possession of the Goods or Plant and their respective agents in relation thereto;
 - (b) when used with reference to any Vessel includes the registered owner, agent, charterer (time, voyage or demise), line operator, manager, master or other person in charge of the Vessel; and
 - (c) when used with reference to any road vehicles includes the owner, agent, driver or other person in charge of the vehicle.
- 1.1.6 **“the Port”** means the Port of Sunderland;
- 1.1.7 **“the Port Premises”** means the docks, piers, wharves, quays, berths, roads, bridges, the lands, buildings and property of every description and of whatever nature for the time being vested in or occupied by the Port;
- 1.1.8 **“Plant”** includes any vehicle, trailer (whether or not carrying or incorporating any tank or container), machinery, equipment, pallet or container;
- 1.1.9 **“Services”** means any operation, work or services performed or provided by the Port in connection with Goods, Plant or a Vessel and in particular with berthing, unberthing, moving, servicing or repairing any Vessel or Plant, the shipping and unshipping of Goods, the sorting, weighing, marking, checking, recording, storing and general handling and movement of Goods and Plant by road, rail or otherwise and the embarking disembarking and movement of crews and passengers;
- 1.1.10 **“Unavoidable Event”** means:-
- (a) any force majeure event including, storm, tempest, lightning, flood;
 - (b) fire (including steps taken for the extinguishment thereof), explosion, smoke;
 - (c) strikes, combinations, lock-outs, go-slows, blockades, or other industrial action (whether lawful or not) by any person or anything done in the course of furtherance of a trade dispute;
 - (d) improper, insufficient, indistinct or erroneous documentation, marking or addressing of Goods or Plant;



- (e) improper or insufficient packaging of Goods or Plant;
- (f) any inherent vice or quality of the Goods or Plant;
- (g) any act of the Port, its employees, agents or contractors reasonably necessary for the safety or preservation of persons, the Port Premises, a Vessel and/or any Goods and/or any Plant;
- (h) theft or wilful damage unless proved to have been committed by the Port;
- (i) vermin, insects, fungal attack, rot or corrosion;
- (j) heat or cold;
- (k) any act directly or indirectly occasioned by happening through or in consequence of war, threat of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military or usurped power, terrorism or acts of terrorism;
- (l) any act of any person or persons acting on behalf of any organisation with activities directed towards the overthrow by force of any de jure or de facto government;
- (m) civil disobedience at or in the vicinity of the Port Premises;
- (n) shortage of berthing space, labour, plant, fuel or power or secure covered storage accommodation;
- (o) insufficient depth of water at any berth or the approaches thereto or the unsafe condition of any berth;
- (p) any failure of the Port's plant, equipment or infrastructure including the dock gates;
- (q) late receipt of HM Revenue & Customs entries or deliveries or landing orders, disputes in respect of documents, or declarations made for entry purposes by or on behalf of any person, delay in passing HM Revenue & Customs entries or obtaining clearance of the Goods, or omission of information from or an incorrect statement in any order to the Port relating to the Goods or Plant;
- (r) the total or partial failure of any electronic services or systems offered at any time by or on behalf of the Port including the total or partial failure of any communication links with those services or systems;



- (s) human error on the part of the Port, its employees, agents or contractors in inputting any information into any electronic service or system operated or managed by the Port or its contractors;
- (t) compliance with the instructions of HM Revenue & Excise or any other regulatory or statutory body;
- (u) any other cause or event which the Port is unable to avoid, and the consequences of which the Port is unable to prevent.

- 1.111 **“Vessel”** means every description of vessel, however propelled or moved, including any containership, barge, lighter, boat, pleasure craft or other vessel of any description constructed or used to carry persons or Goods or Plant by water, or part thereof.
- 1.2 Where the context permits words in the singular shall include the plural and words in the plural shall include the singular and words importing any particular gender shall include masculine feminine and neuter genders.
- 1.3 The headings set out in these Terms and Conditions are provided for convenience and they shall not limit, control or affect the meaning of the provisions to which they refer.
- 1.4 The terms “includes” and “including” shall be interpreted in these Terms and Conditions as meaning “without limitation”.
- 1.5 References to any statute, statutory provision or code of practice shall be construed as a reference to that statute, statutory provision code of practice as from time to time amended, consolidated, modified, extended, re-enacted or replaced except to the extent that any amendment, consolidation, modification, extension, re-enactment or replacement after the date the parties entered into a relationship would extend or increase the Port’s liability.
- 1.6 These Terms and Conditions and in particular the limitations on liability are intended to inure for the benefit of both the Port and its employees, agents and contractors to which end the Port contracts on these Terms and Conditions on its own behalf and as agent for and trustee for the benefit of its employees, agents and contractors.



2. APPLICATION OF CONDITIONS

- 2.1 These Terms and Conditions shall apply to:
- 2.1.1 all Services to be performed by the Port whether directly or indirectly and whether within the area of the Port Premises or elsewhere;
 - 2.1.2 to all or any physical access by any person or vehicle or Vessel to or from the Port Premises;
 - 2.1.3 any use of the Port's facilities; and
 - 2.1.4 all other relationships between the Port and any Customer whether contractual or otherwise and whether created with or without the express agreement of the Port.
- 2.2 These terms cannot be varied otherwise than in writing signed by an authorised officer of the Port.
- 2.3 All Customers (including their employees, agents and contractors), Goods Plant or Vessels are subject to, and shall comply with, the Sunderland Corporation Act 1972, the Port Byelaws and all other statutory provisions and requirements for the time being in force including any H.M. Revenue & Customs approvals and bonds. All Customers shall obtain and maintain at all times all necessary statutory consents, permissions and licences which are required for any activity they are undertaking within the Port.
- 2.4 No employee or agent of the Port has authority to make any representation, waiver or variation inconsistent with any of these Terms and Conditions, verbally or by conduct or to make any collateral contract or other arrangement to which these Terms and Conditions do not apply.
- 2.5 In the absence of express acceptance by the Customer of these Terms and Conditions, acceptance will be implied in the event of the entry or delivery of any person, Vessel, Goods or Plant onto, into or upon the Port Premises and/or the submission of any written or oral application to the Port for entry to the Port Premises or for any Service or the use of any facility by or on behalf of any Customer. These Terms and Conditions are the only terms on which the Port is willing to enter any legal relationship with any Customer.
- 2.6 No terms and conditions whenever or however expressed which are at variance with these Terms and Conditions or purport to exclude or restrict any right of which the Port would have had the benefit in contract, tort or by statute or which provides for any party other than the Port to be indemnified against the consequences of the negligence or



breach of duty, contract or statute by that party, its employees or agents or contractors shall be incorporated in any contract or other legal relation between the Port and any party.

- 2.7 The Port reserves the right to amend, cancel or add to the Terms and Conditions at any time.

3. PROVISION OF SERVICES

3.1 In consideration of the payment of all Charges, the Port shall perform or procure the provision of any Services in accordance with these Terms and Conditions.

3.2 The Port warrants that any Services shall be carried out with reasonable skill and care.

3.3 The Port shall exercise reasonable despatch in executing orders for its Services but will not be liable for any delay whatsoever, howsoever caused.

3.4 Goods and Plant which for any reason cannot be delivered at the time of landing will be placed on the quays, in a transit shed or elsewhere within the Port Premises (as determined by the Port) and at the expense and sole risk of the Customer.

3.5 The Port reserves the right to:-

3.5.1 appoint sub-contractors to perform all or any part of the Services;

3.5.2 at any time before it commences the performance of the Services, serve written notice on the Customer declining to undertake the performance of such Services; or

3.5.3 suspend the provision of any Services in the event of any breach of these Terms and Conditions (including any breach of the warranties contained in clause 4 below) by the Customer.

3.6 In the event that the Port declines to perform the Services or suspends performance of the Services in accordance with clauses 3.5.2 or 3.5.3, the Port shall not have any liability to the Customer. In such circumstances, the Customer shall, at its own expense, remove any Goods and Plant from the Port Premises within 30 days of the date of the said written notice, failing which the Port may so remove them at the expense and risk of the Customer.



- 3.7 In the event that the Port suspends provision in accordance with clause 3.5.3 and declines to recommence the provision of the Services, the Port shall notify the Customer and the Customer shall, at its own expense, remove any Goods and Plant from the Port Premises within 30 days of the date of the said written notice, failing which the Port may so remove them at the expense and risk of the Customer.
- 3.8 For the avoidance of doubt, for the purposes of clauses 3.6 and 3.7, the Customer shall remain liable to the Port for the payment of all Charges in respect of the period up to the date of removal of the Goods or Plant (as the case may be) from the Port Premises.
- 3.9 The Customer acknowledges and agrees that the Port has absolute discretion in the allocation and use of berths, quay, plant, machinery, labour and storage space. All Services and the facilities are provided at the Port on a non-exclusive basis.

4. CUSTOMER WARRANTIES

- 4.1 The Customer warrants (unless otherwise specified in writing to the Port) that any Goods, Plant or Vessel which it delivers, directs to or causes to be upon the Port Premises:
- 4.1.1 are not dangerous or inflammable or liable to become so in the form in which they are delivered and/or in which they are to remain while at the Port Premises;
 - 4.1.2 are not toxic or liable to give off any injurious dust, gas, fumes, liquid or radiation;
 - 4.1.3 are not infested, verminous, rotten or subject to fungal attack or liable to become so while at the Port Premises;
 - 4.1.4 are not overheated or liable to become so while at the Port Premises;
 - 4.1.5 will not contaminate or cause danger, injury, pollution or damage to any person or any other Goods, Plant or Vessel or the Port Premises or the water adjacent thereto or any third party property (whether or not in the Port Premises);
 - 4.1.6 require for their safekeeping no special protection (other than as may be agreed in writing in advance between the Port and the Customer) arising from vulnerability to heat, cold, moisture, salt, pilferage or proximity to other goods or from flammability but will remain safe if left standing in the open on the Port Premises;



- 4.1.7 contain no controlled drugs, (unless the Customer is licensed or otherwise lawfully authorised in respect thereof) contraband or other illegal matter;
 - 4.1.8 are properly and sufficiently packed, properly and sufficiently marked, documented and labelled (including a gross weight) for all shipping, cargo handling, dispatch, customs and like purposes complying with all applicable laws, regulations regulatory requirements and codes of practice, giving warning as to the hazardous nature of any contents and the precautions to be taken in handling the same and (in the event of the escape of anything injurious therefrom) as may be necessary to ensure the safety and health of all persons likely to handle or come into contact with the Goods, with the Customer's effective name and address for any time during which the Goods or Plant remain upon the Port Premises notwithstanding an address has already been notified to the Port in writing; and
 - 4.1.9 are in a fit and proper condition to be handled or otherwise dealt with by the Port, its Plant and its employees, agents and contractors.
- 4.2 The Customer warrants that it shall immediately inform the Harbour Master of any occurrence or incident which might affect the safe and efficient operation of the Port Premises or other persons at the Port Premises or result in adverse environmental impact and shall take, at its own cost, such reasonable steps to control or eliminate any danger or inconvenience as may be required by the Port. Without prejudice to the foregoing, the Customer shall indemnify the Port in respect of any and all claims including claims for personal injury and/or death, actions, liabilities, losses, damages and expenses (including legal expenses) whether directly or indirectly incurred by the Port arising from any Goods, Plant or Vessel or use of the Port's facilities and howsoever caused and even if the occurrence has been caused or contributed to by the negligence of the Port.
- 4.3 The Customer warrants that the rights, exceptions, defences and limits available to the Customer either by statute or by contractual terms are extended to the Port (as employee, agent or contractor).
- 4.4 The Customer warrants that its employees (and those of any agents or contractors it may engage) are properly trained and competent (which for this purpose, includes the ability competently to read and speak English) to carry out the tasks at any time assigned to them including in relation to the giving of any instructions to the Port or the inputting of any information into any electronic service or system operated or managed by or on behalf of the Port whether such instruction or input of information is given in writing, orally, electronically or by any other



means. The Customer further and separately warrants that such persons have the full authority to give such instructions or input such information.

- 4.5 The Customer warrants that it shall obtain and maintain at its own expense, all necessary licences and authorisations and comply with all applicable laws, regulations, regulatory requirements and codes of practice relating to the carriage, handling, storage and movement of the Goods and or Plant.
- 4.6 The Customer warrants that it shall not use any radio frequency or radio Plant whilst on the Port Premises without the prior written consent of the Port except that the Customer may use marine band and radar radio frequencies.
- 4.7 Each Customer who avails itself of any Services or facilities of the Port in respect of any Goods, Plant or Vessel warrants to the Port that he has the authority of all persons having any title to or interest in such Goods, Plant or Vessel to accept these Terms and Conditions on their behalf as well as on his own behalf. Lessors of Goods, Plant or Vessel and others having or claiming to have title to or interests in Goods, Plant or a Vessel are advised that unless the Port are notified in writing of their title or interest in any particular arrangement of Goods, item of Plant or Vessel prior to the commencement of legal relations between the Port and the Customer, these Terms and Conditions will be deemed to have been accepted with the authority of such lessor or other party (as the case may be) whose rights over and in respect of the Goods Plant or Vessel or the Customer shall be subordinate to the rights of the Port hereunder.
- 4.8 Where the Port incurs any expense or loss due to the Customer's breach of any of the warranties set out in this clause 4 or in taking any step which the Port consider to have been reasonably required to remedy the same or to comply with any statute or rule or order made thereunder or to comply with the lawful requirements of HM Revenue and Customs, the Police, the Health and Safety Executive, the Environment Agency, the Public Health Authority, HM Immigration Service or any other regulatory body, its officers and agents in respect to the Goods, the same shall be chargeable to and payable by the Customer concerned forthwith.
- 4.9 Where it is reasonably suspected that a breach of any warranty under this clause 4 has been, or might be committed, the Port is entitled to refuse to accept any Goods or Plant, and if Goods or Plant have previously been accepted the Port may nonetheless reject them and require their immediate removal; and in that event the Customer shall be entitled to no recompense but shall remain liable to the Port for any Charges incurred up to the time of such rejection and the cost of any damage caused by such Goods or Plant. Further, if the Customer fails to remove any such Goods or Plant in accordance with the timescales as determined by the Port, it shall be entitled to dispose of the Goods or



Plant without further notice to the Customer and in such circumstances, it shall have no liability to the Customer for any losses arising from the disposal. The costs incurred by the Port in disposing of the Goods or Plant in accordance with this clause 4.9 shall be payable by the Customer forthwith.

- 4.10 Any Plant (other than as Goods) allowed by the Port within the Port Premises (including any Plant left or parked) is so allowed by temporary licence only and no bailment thereof is made to or accepted by the Port who is under no duty to take care in relation to such Plant or the contents thereof.

5. DISPOSAL OF PERISHABLE GOODS

- 5.1 Where the Port is in possession of perishable Goods of any nature which are not taken up immediately upon arrival or which are liable for any reason to perish before shipment or delivery which, in the opinion of the Port, are insufficiently addressed or marked or are otherwise so unidentifiable that the Port cannot determine on what vessel they should be shipped or to whom they should be made available for collection, the Port may sell or otherwise dispose of such cargo without any notice to the Customer, sender, owner or consignee of the Goods.
- 5.2 All charges and expenses arising or incurred by the Port in connection with the sale or disposal of the Goods shall be payable by the Customer, and, in event of a sale, the net proceeds of sale, after deduction of the aforesaid charges and expenses and all other sums due to the Port under these terms and conditions, shall be applied to discharge all liability of the Port to any person, firm or corporation in respect of the Goods. Thereafter, any remaining balance shall be paid to the Customer.

6. DISPOSAL OF UNDELIVERABLE GOODS

The Port shall be entitled to sell or otherwise dispose of all non-perishable Goods which, in the opinion of the Port, are insufficiently or incorrectly addressed or marked or are otherwise so unidentifiable that the Port cannot determine on what vessel they should be shipped or to whom they should be made available for collection or which are not collected or accepted by the consignee, upon giving 21 days notice in writing to the Customer (if known) or the publication of such notice in the Port headquarters. All charges and expenses arising in connection with the storage sale or disposal of the Goods shall be payable by the Customer, and, in the event of a sale, the net proceeds of the sale, after deduction of the aforesaid charges and expenses, and all other sums due to the Port under these conditions, shall be applied to discharge all liability of the Port to any person, firm or corporation in respect of the Goods. Thereafter, any remaining balance shall be paid to the Customer.



7. DISPOSAL OF EMPTY CASES, PACKAGING, ETC.

After shipment or other removal of Goods from the Port Premises any package, case, pallet, container or other thing which conveys or supports cargo, remaining empty or substantially empty and unused shall be removed by the Customer within 28 days of such shipment or other removal of the Goods or their becoming empty or substantially empty (as the case may be). If the Customer fails to remove these items within that period, the Port may for its sole benefit dispose of them (whether by sale, gift, destruction or otherwise) and the Customer shall indemnify the Port against all losses, charges, costs and expenses incurred by the Port in respect of any such disposal. Further the Port shall not be liable, answerable or accountable to the Customer or any person interested in such items for so doing or for the proceeds of any such disposal.

8. HANDLING

Subject to any specific written instructions given to the Port by the Customer and accepted by the Port in writing and in advance, the Port reserves to itself complete freedom in respect of the means and procedure to be employed in the performance of any Services including receipt, collection, unitisation, stuffing, stripping, storage, packing, carrying, handling, tallying, loading, discharging or delivery of Goods. If in the Port's opinion the interests of the Customer so require, the Port shall be entitled to deviate from the Customer's instructions (whether or not accepted by the Port) in any respect and any additional expenses reasonably incurred thereby shall be paid by the Customer.

9. ARRIVAL OF VESSELS AND VEHICLES

The Port will not be bound to admit vehicles to its premises or to allow Vessels to berth at any quay or within the docks except by prior arrangement with the Customer.

10. SEQUENCE OF HANDLING VESSELS AND VEHICLES

- 10.1 Vessels moored and vehicles arriving at the Port Premises will be dealt with in the order determined by the Port and its sole discretion.
- 10.2 The Port shall not be liable in any circumstances to pay or refund demurrage or any other compensation for the loss of use of Vessels or vehicles or for their not being ready in time, nor to make good any other loss or damage suffered as a result of any delay or interruption in the handling of Vessels or vehicles or in receiving Goods into or delivering them out of the Port Premises.



- 10.3 The Customer shall ensure that all Vessels and vehicles arrive and are handled and depart and otherwise use the Port facilities in strict conformity with the requirements and regulations of the Port, its harbour master and other officials as well as the lawful requirements of HM Revenue and Customs.
- 10.4 The berthing and mooring of all Vessels in the Port shall be on a non-exclusive basis. Further, Owners of Vessels must comply (at their own expense) at all times with the instructions and requirements of the Harbour Master (whether given verbally or in writing) including moving any Vessel from a berth if required by the Harbour Master.
- 10.5 The Port shall not be bound to do any work outside its normal hours of business (details of which can be provided on request), and which may be varied from time to time, unless otherwise agreed in writing by the Port, and shall be entitled to make additional charge for any work done outside such hours at the Customer's request.

11. PAYMENT

- 11.1 The total amount of the Charges for the use of the Port's facilities or Services or in relation to Goods accepted by the Port for any purpose shall be due and payable by the Customer immediately on such acceptance or use (as the case may be) whether demanded or not.
- 11.2 In respect of Charges computed on a daily or other periodic basis the sum due and payable shall be calculated by reference to the number of days before the then agreed date of shipment or other removal of the Goods from the Port Premises. If no such date is known the sum due and payable shall be calculated by reference to fixed and successive periods of 28 days subject to the Customer being refunded Charges paid by him in advance in respect of any unexpired period after the Goods have been shipped or otherwise removed.
- 11.3 Save as where expressly agreed otherwise by the Port in writing the rates of the Port's Charges shall be those issued and currently in force at the time the facilities or Services of the Port are actually utilised by the Customer and the Port may from time to time revise these rates by publishing any such revisions.
- 11.4 The Customer or other person liable for the Port's Charges shall pay to the Port in cash or as otherwise agreed in writing all sums immediately when due without deduction, withholding, abatement, deferment on account of any counterclaim or set off.
- 11.5 All payments hereunder shall be in GB pounds sterling.



- 11.6 In the event that any payment is not made within the periods set out in clause 11.1, or such other period as has been agreed in writing by the Port, then the Port shall be entitled to immediately recover from the Customer or other person liable for the Port's Charges all sums then due to or levied by the Port (including accrued interest all calculated in accordance with clause 11.12 and other Charges properly levied in accordance with these Terms and Conditions) and all losses arising to the Port as a result of such non-payment.
- 11.7 All sums payable under these Terms and Conditions are exclusive of value added tax and any other duty or tax, which shall (if and to the extent applicable) be payable by the Customer at the rate and in the manner from time to time prescribed by law.
- 11.8 If the Customer ceases to trade (either in whole, or as to any part or division involved in the performance of these Terms and Conditions), or becomes insolvent, has a receiver, administrative receiver, administrator or manager appointed of the whole or any part of its assets or business, makes any composition or arrangement with its creditors, takes or suffers any similar action in consequence of debt or an order or resolution is made for its dissolution or liquidation (other than for the purpose of solvent amalgamation or reconstruction) or (being an individual) the Customer shall become bankrupt or make any composition or arrangement with its creditors, or anything analogous happens in any jurisdiction, then the Port shall be entitled to immediately recover from the Customer or any other person liable for the Port's Charges (notwithstanding that the periods stated above or any period of credit extended to the Customer may not have expired) all sums then due to the Port (including any accrued interest and other Charges properly levied in accordance with these Terms and Conditions) and all losses arising to the Port as a result of such circumstances arising.
- 11.9 Notwithstanding clause 11.8, if the Port reasonably considers that Charges levied or to be levied will not be paid within the periods stated in clause 11.1, the Port shall be entitled forthwith upon giving the Customer notice in writing, to withdraw any period of credit extended to the Customer or other person liable for the Port's Charges and to require payment of all such charges forthwith upon receipt of the said notice or subsequent invoice.
- 11.10 Any bona fide query to be raised by the Customer on any invoice issued by the Port shall be made in writing within 28 days of the date of the invoice or the Customer shall otherwise be deemed to have accepted the invoice.



- 11.11 The Port may refuse to deliver or release the Goods until all Charges incurred in relation thereto have been paid and pending such delivery or release any Charges accruing on a daily or other periodic basis shall continue to accrue.
- 11.12 Interest at the rate of 8% per annum above the Bank of England base rate shall be payable by the Customer on any Charges which have been due and owing for 28 days and shall accrue on a daily basis until payment.

12. LIEN

- 12.1 The Port is entitled to a general lien on any Goods, Plant and documents relating to Goods and Plant delivered to the Port or remaining in the Port Premises in respect of any Charges or other payments or sums for which the Customer or any other person interested in the Goods or Plant is liable to the Port whether in relation to the same Goods or otherwise and in the event of any such charges, expenses and monies not being paid within 10 days of the notice of the exercise of any such lien, the Port may sell the Goods or Plant and apply the proceeds towards the satisfaction of all such charges, expenses and monies on whatsoever account owing and also all charges and expenses arising and incurred during the exercise of any such lien. If the Customer has sold or shall sell the Goods or Plant which are the subject of the lien the Port may at its discretion accept the payment of the proceeds of sale in substitution for the lien as a condition for releasing the Goods or Plant.
- 12.2 In the event that any Goods or Plant held pursuant to the lien under clause 12.1 are perishable and in the view of the Harbour Master it is impracticable to give the notice required by clause 12.1 because the Goods or Plant will, or may, deteriorate in value during the delay occasioned by the giving of the notice, the Port may sell the Goods and Plant without giving the said notice, but shall as soon as practicable inform the person to whom the notice would have been given of the action being taken.
- 12.3 Upon accounting to the Customer for any balance remaining after payment of any sum due to the Port or its agents (including all costs) pursuant to clauses 12.1 and 12.2 the Port shall be discharged of any liability whatsoever in respect of the Goods, Plant or documents.



13. EXCLUSION OF PORT'S LIABILITY

- 13.1 The Port shall be exempt from all liability whatsoever for deficiency, loss, damage, delay, or misdelivery of or to Goods, Plant and/or to a Vessel however or whenever caused except where it has been proved (otherwise than by evidence only of such deficiency, loss, damage, delay, or misdelivery) that the deficiency, loss, damage, delay or misdelivery was caused by the negligent or unlawful act or omission of the Port or its directly employed employees when in the Port's sole possession or power, in which case the Port shall be liable for any direct losses which ensue from such deficiency, loss, damage, delay or misdelivery subject to the limitations on liability contained in clauses 13, 14 and 15.
- 13.2 If the Port shall be held to liable in tort (including negligence) for bodily injury or death to any person or for damage to any property and if any Customer shall also be liable on whatever grounds in respect of the same personal injury death or damage and is insured in respect thereof then as between the Port and that Customer the Customer shall be solely liable for such damage and shall indemnify the Port against any sum for which the Port shall be liable (whether as damages, costs, interest or otherwise) in respect thereof.
- 13.3 The Port shall be under no liability whatsoever (whether for negligence or otherwise) for any delay (including delay to a Vessel, Goods or Plant) or the consequences thereof or for any loss of income, loss of profits or loss of contracts, hire costs, survey costs, devanning/revanning costs, packing costs or for any indirect or consequential loss or damage of any kind, in each case howsoever arising and whether caused by tort (including negligence), breach of statutory duty, contract or otherwise.
- 13.4 Nothing in these Terms and Conditions shall exclude or in any way limit the Port's liability for fraud, or for death or personal injury caused by its negligence or any other liability to the extent the same may not be excluded or limited as a matter of law.
- 13.5 Notwithstanding the provisions of clause 15, the Port shall in any event be discharged of all liability whatsoever howsoever arising unless proceedings are brought within 12 months from the date of the event or occurrence alleged to have given rise to a cause of action against the Port.
- 13.6 Except as specifically provided, the Port shall not in any event be liable to the Customer for any indirect or consequential loss (including loss of profit, loss of business opportunity, loss of business, loss of goodwill, loss of production and pure economic loss) however caused.



- 13.7 The Port shall have no liability whatsoever (whether for negligence or otherwise) for deficiency, loss, damage, or misdelivery or delay to a Vessel and/or Plant and/or Goods or any deficiency therein if the same arises out of or is caused by any Unavoidable Event.
- 13.8 If the Port handles any Goods or Plant whose gross weight is incorrectly stated or if the Port handles Goods or Plant whose gross weight exceeds the maximum gross weight appropriate for any handling Plant used (whether or not the Port knows at the time of such handling that the gross weight exceeds the appropriate gross weight for such handling Plant) such handling by the Port shall be at the sole risk of the person tendering the Plant or Goods. In particular, subject to clause 13.4, the Port shall have no liability whatsoever for any deficiency, loss, damage or misdelivery of or to the Goods or to the Plant or for delay arising out of, caused or contributed to by the handling by the Port of the Goods or the Plant and the person tendering the Goods or the Plant shall be responsible for and shall indemnify the Port against all injury (including fatal injury), loss or damage however or whenever caused and against all claims made against the Port for which it may be or become liable in respect of injury to persons (including fatal injury) or loss or damage to property arising out of or caused or contributed to by the handling by the Port of the Plant and/or Goods. For the avoidance of doubt, the expression “the person tendering the Goods or the Plant” includes in particular:
- 13.8.1 in the case of imported Plant or Goods, the owner of the carrying Vessel;
- 13.8.2 in the case of Plant or Goods for export, the exporter; and
- 13.8.3 in the case of Plant or Goods for groupage Services, the owner.

14. LIMITS ON LIABILITY

- 14.1 Subject to clauses 13.4 and 13.6, the total liability of the Port for any loss, damage, claim, cost and/or expense in respect of any one event or occurrence shall in each case be the lowest of the following as applicable:

14.1.1 Vessel:

- (a) the value of that part or parts of the Vessel to which the claim relates at the time of the damage or loss; or
- (b) the reasonable cost of repairs (as agreed between surveyors appointed by the Port and the Owner).



14.1.2 Plant:

- (a) the reasonable cost of repairs; or
- (b) the value of the Plant to which the claim relates at the time of the damage or loss; or
- (c) the sum of:
 - (i) £2,000 per dry/ general purpose container;
 - (ii) £5,000 per refrigerated container; or
 - (iii) £3,000 per any other unit of Plant.

14.1.3 Goods:

- (a) in the case of loss or damage to Goods arising out of the performance of the/a contract of carriage, the defences and limits available to the carrier under the said contract of carriage; or
- (b) the value of the Goods affected to which the claim relates; and in respect of a part consignment, then the value only of the part consignment as a proportion of the whole consignment (to be calculated by weight in the absence of specific values for the damaged part);
- (c) the reasonable cost of repairs; or
- (d) the sum of £1,221 per tonne (or pro rata for any part of a tonne).

PROVIDED THAT the total liability of the Port under this clause 14.1 in respect of any one event or occurrence shall in no circumstances exceed the amount of £5,000,000 (five million pounds)

- 14.2 Notwithstanding clause 14.1, the Port shall have the right, in any circumstance, to elect to rely on (in the alternative) any relevant statutory provision providing for limitation and/or exclusion of liability including, but not restricted to, the provisions of the Merchant Shipping Act 1985.

15. CONDITIONS PRECEDENT TO PORT'S LIABILITY

- 15.1 It is a condition precedent to any liability of the Port under clause 13.1 hereof that the Port must have received notification in writing within 30 days (in the case of import Goods and any Plant) or 60 days (in the case of export Goods) of:-



- 15.1.1 any alleged misdelivery or loss of or damage to Goods or any deficiency therein together with particulars of the nature and the amount of any claim to be made;
 - 15.1.2 any damage alleged to have been caused to a Vessel and to permit inspection thereof prior to sailing;
 - 15.1.3 any damage alleged to have been caused to Plant prior to such Plant leaving the Port Premises.
- 15.2 In any event the Port shall be entitled (and the Customer and Owner hereby grant permission to the Port) to inspect any such Goods or Plant prior to their disposal or destruction by the Owner.

16. INDEMNITY

- 16.1 The Customer shall be liable for and shall indemnify the Port against any and all fines, claims, including claims for personal injury and/or death, actions, liabilities, losses, damages and expenses (including legal expenses) incurred by the Port, its employees, servant, agents or sub-contractors howsoever caused, even if caused or contributed to by the negligence of the Port which arise out of or in connection with:
- 16.1.1 the failure of the Customer to comply with any of these Terms and Conditions or taking any step which the Port considers to have been reasonably required to remedy the same or to comply with the requirements of any authority;
 - 16.1.2 any act, omission or instruction, misrepresentation, negligence, fraud, wilful misconduct or breach of statutory duty of the Customer, the Owner or any other person interested in the Goods, Plant or Vessel.
- 16.2 Any sums payable under this clause 16 shall be chargeable to and payable by the Customer in addition to and subject to the same provisions as the Charges.

17. INSURANCE

- 17.1 The Customer shall be solely responsible for insuring the Goods and/or Plant and/or Vessel for any loss or damage which they may sustain within the Port Premises.

18. ABANDONED GOODS AND PLANT

- 18.1 The Port shall have the following powers in respect of Goods, Plant and Vessels which in the Port's sole opinion appear to have been abandoned in the Port Premises:



- 18.1.1 the power immediately to remove such Goods, Plant and Vessels in the case of a hazard or other emergency (and to dispose of such Goods Plant and Vessels where necessary) without notice; and
- 18.1.2 the power generally to remove, store, dispose of or sell Goods, Plant and Vessels on reasonable notice to the Customer (the length of such notice to be determined by the Port on a case by case basis).

19. RIGHTS TO DETAIN

- 19.1 Where applicable, the Port's statutory right to detain a Vessel shall (to the extent not already granted by statute) apply to all Charges due to the Port arising in respect of the Vessel including harbour dues, quay rent incurred by Goods or Plant discharged from or awaiting loading onto the Vessel.

20. WASTE MANAGEMENT

The Customer shall at all times comply with the Conditions for the Use of Facilities provided under the Merchant Shipping (Reception Facilities for Garbage) Regulations.

21. SAFETY AND SECURITY

- 21.1 Where the Port undertakes to handle Explosives (defined as substances and articles listed under Class 1 of the International Maritime Dangerous Goods Code as published by the International Maritime Organisation) or consents to the handling of Explosives on the Port Premises by others, the Customer shall, subject to the limit set out in clause 21.2, be responsible for and pay for any damage or injury which may be caused to any property belonging to the Port or any third party and for any expense to which the Port may be put by reason of or in consequence of a fire or explosion involving the Explosives. Further, the Customer shall, subject to the said limit, indemnify and keep indemnified the Port from and against all actions, claims, demands, costs, losses, charges, damages and expenses which may be incurred by or brought or made against the Port or which the Port may pay, bear, incur or sustain (including any loss of life, injury or damage which may be caused to third parties) by reason or in consequence of or in connection with the handling of the Explosives. The Customer shall be required to provide a letter of confirmation from a reputable and established insurance company in advance of the Explosives entering the Port that the said indemnity is underwritten by a policy of insurance, quoting the policy number and the period of insurance.
- 21.2 The limit under the foregoing clause shall be £5,000,000 (or such higher



sum as may be notified by the Port) in respect of any one accident or series of accidents arising out of one occurrence. This indemnity shall apply whether or not any accident or occurrence is caused by the negligence or default of the Port or its employees.

- 21.3 Where any Goods are, or while in the custody of the Port or its employees, agents, independent contractors, subcontractors or sub-agents become noxious, hazardous, inflammable, explosive or in any way dangerous or otherwise likely to cause damage (which includes Goods which are infectious, diseased or verminous or likely to harbour or encourage infection or disease or vermin or other pests) whether alone or in combination with other Goods and whether or not by reason of the act or omission of any person, the Port or the person in whose custody the Goods then are shall be at liberty to destroy or otherwise deal with the Goods as in its or his discretion may seem desirable for the purpose of rendering the Goods harmless. The Customer shall indemnify the Port against all loss, damage, costs and expenses arising out of or in connection with the handling, disposal and destruction of the Goods (as the case may be).
- 21.4 Goods of an inflammable, explosive, dangerous or offensive nature shall not be brought into or dealt with at the Port Premises unless and until a declaration by the owner or depositor in writing shall have been given of their nature quality and quantity, and the Port's written consent shall have been first obtained, and then only upon such terms and conditions as may be determined by the Port, and or may be prescribed in the byelaws of the Port, or by or under statute.
- 21.5 The Customer shall at all times observe the requirements of and comply with the directions of the Port's employees, agents and contractors in respect of:
- 21.5.1 Safety Management System (SMS)/Port Marine Safety Code (PMSC) and any other security measures in operation at the Port
 - 21.5.2 Marine Safety and Environmental Policy
 - 21.5.3 Port Emergency Plan
 - 21.5.4 Oil Spill Contingency Plan
 - 21.5.5 Port Health and Rabies
 - 21.5.6 Any requirements of the Port's security designation under the International Ship and Port Facility Security Code (ISPS) for protection categories "Other Bulk Cargoes" (OBC) and "Chemical, Oil, Gas" (COG).



22. LIABILITY LIMITS AVAILABLE TO THIRD PARTIES

- 22.1 By delivering the Goods, Plant or Vessel to the Port, the Customer shall be deemed to confer severally upon the employees and agents of the Port, and upon its independent contractors, the benefit of all warranties, representations, limitations and exclusion of or exemptions from liability, indemnities, defences, amenities and rights herein provided for the benefit of the Port, upon any such person as aforesaid providing any services at the Port whether or not of a stevedoring nature in relation to the Goods, Plant or Vessel. This clause also constitutes a separate contract made by the Port on its own behalf and as agent for all persons who are its employees, contractors or agents from time to time whether or not as stevedore providing services as aforesaid in relation to the Goods, Vessel or Plant.
- 22.2 The Customer acknowledges that the Port is owned by Sunderland City Council (“the Council”) and as a consequence the Council is the beneficiary of all warranties, representations, limitations, exclusions, exemptions, indemnities, defences and rights contained herein.

23. GIVING OF NOTICES

Any notice required to be given hereunder shall unless otherwise specified be given if sent by registered or recorded delivery post or left at the principal or registered office for the time being of the party to be served and if served by post on the third day (not being a Sunday or public holiday) following the day of posting.

24. STATUTORY RIGHTS AND POWERS

The rights and powers of the Port under these Terms and Conditions are in addition to and not in substitution of the rights and powers of the Port conferred by the Sunderland Corporation Act 1972 (and any statutory modification or substitution thereof) and/or by the statutes incorporated therein together with any other statutory provision.

25. BYELAWS

The rights and powers of the Port under these Terms and Conditions are in addition to and not in substitution of the rights and powers of the Port conferred by its current Byelaws.

26. ENGLISH LAW AND JURISDICTION

This Contract shall be governed by the laws of England and shall be subject to the exclusive jurisdiction of the English courts.



27. SEVERABILITY

If any provision or term of these Terms and Conditions is held in whole or in part to any extent to be illegal or unenforceable under any enactment or rule of law that term or provision or part shall to that extent be deemed not to form part of these Terms and Conditions and the enforceability of the remainder of these Terms and Conditions shall not be affected.



Capstan House
Greenwells Quay
South Docks, Barrack Street
Sunderland SR1 2BU

Tel: +44 191 553 2100

Email: PortCommercial@sunderland.gov.uk

[@PortSunderland](#)

www.portofsunderland.org.uk