

PORT AGENCY SERVICES STANDARD TERMS AND CONDITIONS

The Port Agency Terms and Conditions regulate the contractual relations arising when a Company engages Agency Services from the Agent. Unless the contrary is expressly agreed upon between the Parties it is presumed that the Company accepts the Terms and Conditions as an integral part of the Agency Appointment.

1. Definitions

- 1.1 In these Terms and Conditions, the following words shall have the following meanings:
- 1.2 **“Agent”** means Bergenhus Shipping Services AS or any affiliate thereof which has accepted an appointment to act on behalf of a Company under these conditions.
- 1.3 **“Agency Appointment”** means any request from the Company to the Agent for the provision of Agency Services entered into between the Parties upon these Terms and Conditions, as amended from time to time.
- 1.4 **“Agency Services”** means the services to be provided by the Agent (or any Sub-Agent appointed pursuant to clause 2.3 below) to the Company pursuant to any appointment of the Agent as may be more specifically described in Annex 1 attached hereto.
- 1.5 **“Company”** means any relevant legal or natural person entering into any Agency Appointment with the Agent for the provision of any Agency Services.
- 1.6 **“Confidential Information”** means any and all information (whether marked as “Confidential” or otherwise”) provided by one Party to another, included but not limited to any drawings, sketches, specifications, engineering data, calculations, analyses, data sheets and all other business, technical, operational, commercial, marketing, planning and any other information, data, material and expertise of whatever kind whether in written, oral or any other form and any intellectual property rights.
- 1.7 **“Parties”** means the Agent and the Company and **Party** means either of them as the case may be under the context.
- 1.8 **“Pre-Funding”** shall have the meaning given to it in clause 5.3 below.
- 1.9 **“Sub-Agent”** means any Agent appointed by the Agent to perform the Agency Services on behalf of the Company as if it was the Agent.
- 1.10 **“Terms and Conditions”** means the conditions set out herein.

2. Appointment

- 2.1 The Agent has been appointed by the Company pursuant to the Agency Appointment to make all necessary arrangements for the Agency Services as Agent for and on behalf of the Company.

2.2 Each Agency Appointment forms a separate agreement between the Parties (each subject to the Terms and Conditions stated herein).

2.3 The Agent shall have authority to appoint Sub-Agents to perform the Agency Services on behalf of the Company as if they were the Agent. The Agent shall remain responsible for the actions of its Sub-Agents in relation to the Agency Services.

3. Agent's obligations

3.1 In relation to the Agency Services to be provided, the Agent undertakes the following obligations:

- (a) to exercise reasonable skill and care in the performance of its services;
- (b) to provide the Agency Services in accordance with the Company's instructions and applicable laws; and
- (c) to use all reasonable endeavours to comply with the Company's reasonable requirements in relation to the performance of the Agency Services.

4. Company's obligations

4.1 In addition to its other obligations set out herein, the Company undertakes to:

- (a) provide the Agent with information and documentation necessary to fulfil the Agency Services in well advance to the commencement of the Agency Services;
- (b) pay the Pre-Funding prior to the commencement of the Agency Services and immediately upon request, provide the Agent with all necessary funds to cover advance disbursements;
- (c) comply with all applicable laws, rules and regulations.

5. Remuneration

5.1 As consideration for the Services provided by the Agent, the Company undertakes to pay the Agent the commissions and fees as agreed between the Parties in the Agency Appointment.

5.2 The Agent is entitled to reimbursement of reasonable disbursements provided that the Agent provides documented evidence that such disbursements have incurred.

5.3 Prior to the Agent commencing the Services, the Company is obliged to pay the Agent one hundred percent (100%) of estimated disbursements, commissions and fees that will be charged by the Agent for the Agency Services as stated in the Agency Appointment (the "**Pre-Funding**"). The Parties may agree that the Pre-Funding should be lower than one hundred percent (100%). The Pre-Funding shall be paid to a bank account specified by the Agent.

5.4 If the scope of the Agency Services increases following the Agency Appointment, or if the Pre-Funding appears to be lower than the actual disbursements and commissions, the Agent shall be entitled to issue revised disbursement accounts specifying a further sum to be paid as Pre-Funding prior to the commencement of the Agency Services.

5.5 Unless otherwise agreed between the Parties, all invoices issued by the Agent shall be paid by the Company within 14 days of the date of the invoice.

6. Limitation of liability

6.1 Under no circumstances shall either Party be liable to the other for any of the following types of loss or damage arising under or in relation to these Terms and Conditions or any Agency Appointment (however caused):

- (a) any loss of profits, business, contracts, anticipated savings, goodwill, or revenue, any wasted expenditure, any loss of market or any loss or corruption of data (regardless of whether any of these types of loss or damage are direct, indirect or consequential); or
- (b) any indirect or consequential loss or damage whatsoever, even if the parties were aware of the possibility that such loss or damage might be incurred.
- (c) Subject to clause 6.1 (a) and (b), the Agent's aggregate liability arising in connection with the performance of any Agency Appointment, whether in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, shall in no circumstances exceed the amount paid for the Agency Appointment.

7. Indemnities

7.1 The Company shall indemnify the Agent against all third-party claims, charges, losses, damages and expenses that the Agent (or any Sub-Agent appointed pursuant to clause 2.3 above) may incur in connection with the performance of the Agency Services. This indemnity shall not extend to matters arising by reason of wilful misconduct of the Agent.

7.2 Each Party shall indemnify the other Party against all liabilities, costs, expenses, damages and losses suffered or incurred by the other Party arising out of or in connection with any death, personal injury or damage to property arising out of, or in connection with the acts or omissions of the first Party, its employees, agents or subcontractors.

7.3 The Company shall have no right or claim in respect of any Agency Appointment or any Agency Services against any person other than the Agent, in particular any employee, officer, director, shareholder or other person affiliated with the Agent, which rights and claims, whether known or unknown, actual or contingent, are hereby expressly and forever waived and released. If any person related to the Company in any way should ever bring a claim against the Agent or such person claim in respect of or purported to arise out of any Agency Appointment or any Agency Services, the Company shall indemnify the relevant person against all liabilities, costs, expenses, damages and losses suffered or incurred as a result of such claim being brought.

8. Insurance

8.1 Without limitation of the Company's obligation to maintain insurances, the Company shall ensure that each of the ships, vessels, cargo and other items which are placed in the possession the Agent (or any Sub-Agent appointed pursuant to clause 2.3 above) in connection with the Agency Services, are fully insured against liability, loss, damage and destruction. Upon request from the Agent, the Company shall provide the Agent with details of the relevant insurance policies.

9. Confidentiality

9.1 Any Confidential Information shall not be disclosed and used for any purpose other than in connection with the Agency Services.

9.2 The obligations under clause 9.1 shall not apply to information which:

- (a) is lawfully obtained by a Party from a person other than the other Party or its affiliates or the information subsequently comes lawfully into possession of such person;
- (b) is at the time of disclosure already in public domain or subsequently becomes available to the public through no breach of these Terms and Conditions; and
- (c) is required to be disclosed by any ruling of a government or regulatory authority or court or by mandatory law.

10. Assignment

10.1 Neither Party may delegate or assign any rights and obligations under these Terms and Conditions without the prior written consent of the other Party.

11. Force Majeure

11.1 Neither Party shall be liable for delay or non-performance of its obligations under these Terms and Conditions to the extent that such delay or non-performance is due to cause beyond its reasonable control, including but not limited to strikes, lock-outs, labour disputes (except when such strikes, lock-outs and labour disputes relate to that Party's workforce), cyber-attacks, act of God, war, epidemic, pandemic, riot, civil commotion, malicious damage, compliance with any law or government order, rule, regulation or direction, port security, port authorities and security restrictions in ports, accident, breakdown of plant or machinery, fire, flood, storm, difficulty or increased expense in obtaining workmen (except where such failure to obtain workmen relates to that Party's own personnel), materials, goods or raw materials in connection with the provision of the Agency Services.

11.2 The Party prevented from fulfilling its obligations according to clause 11.1 shall give the other Party written notice of suspension of the obligation(s) as soon as reasonably possible, stating the cause and date of suspension. Omission to give such notice shall forfeit the right of the Party to claim suspension. Any Party whose obligations have been suspended as aforesaid shall resume the performance of the obligation(s) as soon as reasonably possible after the removal of the cause and shall so notify the other party.

12. Termination

12.1 Any Agency Appointment may be terminated with immediate effect if the other Party has committed a material breach of its obligations under such Agency Appointment. Termination may only occur if the Party in breach provides written notice within thirty (30) days of the breach.

12.2 Non-payment of fees, commission or Disbursements due from the Company to the Agent shall amount to a material breach of an Agency Appointment.

13. Governing law and disputes

- 13.1 These Terms and Conditions are governed by Norwegian law. No rule of law which would result in the application of any foreign law on these Terms and Conditions shall apply. Any disputes arising out of these Terms and Conditions shall be finally adjudicated by and be subject to the exclusive jurisdiction of the courts of Norway. The exclusive venue for bringing suit shall be Bergen, Norway. This clause 13.1 shall not restrict a Party from seeking injunctive relief or enforcement of an adjudicated claim, which may be sought in any competent court.

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ANNEX 1 *AGENCY SERVICES*

“Agency Services” means the services to be provided by the Agent (or any Sub-Agent appointed pursuant to clause 2.3, which is if not specifically agreed as follows;

- Reporting to relevant authorities such as Norwegian Coastal Administration, Customs, Police etc
- Ordering of pilot, quayside, linesmen, tug or other required services to enter and/or depart Port as specified by Company.
- Informing all relevant parties of vessels prospect.
- Issuing of cargo documents as required and specified by Company

The “Company” may choose to extend the scope of “Agency Services”, in which case 5.4 shall be applicable, to include, but not limited to;

- Crew change assistance
- Repairs & services
- Local purchases
- CTM
- Transport of spares, custom clearance of spares
- Ok to Board and immigration services
- Warehousing
- Stevedoring services
- Emergency services
- Arrival/Exit Summary Declaration