

Terms and Conditions

THE PROVISION OF SERVICES BY NORTHPORT IS ON THE FOLLOWING TERMS AND CONDITIONS. ALL USERS ARE DEEMED TO HAVE AGREED TO AND TO BE BOUND BY THESE TERMS.

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1. DEFINITIONS (for the purposes of these terms and the Principal Tariffs)

- 1.1 **"cargo"** means any goods, merchandise or other property whatsoever, whether or not within a container, in respect of which Northport provides or is requested to provide services, and includes any container.
- 1.2 **"container"** means any article of transport equipment (including lift, movable tank, flat or otherwise similar structure constructed to the specifications of an international standards organisation and having standard ISO means of top corner lifting).
- 1.3 **"dangerous cargo"** means cargo of an actual or potentially dangerous, hazardous, noxious, inflammable, radioactive or damaging nature as defined from time to time in the International Maritime Dangerous Goods Code and/or any relevant New Zealand legislation or regulations.
- 1.4 **"day"** means the 24 hour period between midnight and midnight or any part of such.
- 1.5 **"Northport"** means Northport Limited and includes its directors, employees, agents, and subcontractors as well as any related company as defined in section 2(3) Companies Act 1993 (except to the extent that any such related company carries on business under its own contractual arrangements).
- 1.6 **"person"** includes non-natural persons.
- 1.7 **"Port"** means the Northport facility at Marsden Point including all waters, wharves, channels and anchorages forming the port and all of the associated land, buildings and facilities owned, leased or otherwise operated by Northport regardless of where situated.
- 1.8 **"Principal Tariffs"** means Northport's schedule of charges in force at the date of provision of the services by Northport.
- 1.9 **"services"** means all services of any nature provided by Northport at any time and includes, without limitation, storage of cargo, berthage, services for the loading and/or discharging of vessels, provision of areas for the User to carry out its operations, the movement of cargo, towage and pilotage, the maintenance of berths and channels, the provision and maintenance of buoys, lights and other navigational aids, use of the Dynamic Under Keel Clearance system, marine traffic control, advice and information. It does not include services that Northport does not deliver

directly to the User that is provided to the User by another company at the Port including, without limitation, services for stevedoring, marshalling, fumigation, storage, bunkers, other fuel supply and shipping agents.

- 1.10 **"subcontractors"** means direct or indirect subcontractors and their respective employees and agents.
- 1.11 **"tonnage"** in respect of any vessel shall mean the vessel's tonnage as shown on its certificate of registry.
- 1.12 **"User"** means any person for whom Northport provides or is to provide services and includes any employee, invitee, subcontractor or representative of the same, and the obligations and liabilities of all such persons or entities under these terms will be joint and several. Without limiting the generality of this definition, "User" will include the owner, lessee, charterer, operator, Master or manager of any vessel, a road or rail carrier, a vessel, stevedore or a combination of any two or more of those parties, or the agent or undisclosed principal of any User or any person holding himself out to be such agent (whether or not such agency is disclosed to Northport, with the intention that undisclosed principals shall be bound by these terms).

2. SERVICES

- 2.1 Northport may provide services for the loading and/or discharging of vessels, for the handling and storage of cargo and containers, for the transport of cargo and containers between the wharf and the marshalling area and all other services referred to in the Principal Tariffs.
- 2.2 Northport may provide berthage for the User's vessels at the Port. Northport shall have the absolute right to require a vessel berthed at any wharf to be moved or relocated to another berth in the Port, or to vacate the allocated berth and to moor in the designated anchorage areas as directed and any such requirement will be carried out by the Master. The usual costs and expenses of the required vessel movement shall be invoiced to and paid by the User.
- 2.3 Northport will use its best endeavors but shall be under no obligation to provide a berth for the User's vessel on a date convenient to the User's sailing schedules. Northport will be under no liability for the consequences, whether direct or indirect, if any, if for any reason Northport is unable to provide berthage as requested by the User.
- 2.4 The User will abide by the "Port Information and Operating Criteria for Shipping Operations at Northport", available on Northport's website, which sets out, amongst other things, the minimum notice requirements for vessel arrival.

3. PRINCIPAL TARIFFS

- 3.1 Unless otherwise agreed in writing, the charges for services will be in accordance with Northport's Principal Tariffs, a copy of which is available on Northport's website.
- 3.2 For the avoidance of doubt, Northport will utilise the gross registered tonnage of the User's vessel for the purposes of computing the marine service and berthage charges.

4. PAYMENT FOR SERVICES

Unless otherwise agreed in writing prior to provision of the requested services:

- 4.1 Payment for services shall, if required by Northport, be made in full in cash prior to the departure of the vessel to which services have been provided.

4.2 Where payment for services is not required to be made in accordance with clause 4.1, payment shall be made no later than the 20th day of the month following the date of Northport's invoice to the User.

4.3 If any amounts payable by the User are not paid by the due date, the User will pay Northport interest at the rate of 1.5% per month on the amount outstanding calculated from the due date until payment is made in full. The User indemnifies Northport for all costs incurred in the recovery of any amounts owing by the User.

5. SECURITY INTEREST

5.1 Subject to clause 5.6, Northport shall have a security interest in any goods as described in the User's Application for Credit ("goods") or cargo belonging, consigned to or otherwise under the control of the User passing through or stored at the Port, and the proceeds of sale of such, and any documents of title relating to such goods or cargo, securing performance of the following obligations:

5.1.1 Payment for services provided by Northport for goods or cargo in Northport's possession;

5.1.2 Payment for all unpaid Northport charges invoiced to the User for services in relation to goods or cargo which is no longer in Northport's possession;

5.1.3 All costs, including Northport's legal costs on an indemnity basis, of recovering payment of any Northport invoices unpaid by the User;

5.1.4 In the event of default by the User or where the goods or cargo is at risk, all costs incurred by Northport in the exercise of its statutory and common law remedies, or the defence of the same, including Northport's legal costs on an indemnity basis; and

5.1.4 Any deficit owing to Northport for unpaid invoices and costs following the exercise of its statutory and common law remedies.

5.2 Northport's express or implied consent to the transfer of the proprietary interest of Users in goods or cargo in Northport's possession to another User or third party is made on the condition that Northport's security interest in the transferred goods or cargo retains its priority and is not extinguished.

5.3 The User agrees that Northport's security interest shall rank in priority ahead of any security interest of the User in the same goods or cargo. Without limitation, this term applies to subordinate the security interest of any principal who uses Northport services through an agent, whether or not such agency is known to Northport.

5.4 Northport shall be entitled to prohibit any vessel from leaving the Port until payment of all charges in respect of any such vessel or any goods or cargo carried or intended to be carried on that vessel or any previous cargo or vessel legally or beneficially owned by the same person has been paid. For the purposes of this clause, goods, cargo or vessels owned by a receiver of the owner or an associated person of the owner (in accordance with the tests of association set out in Section YB of the Income Tax Act 2007) shall be deemed to be owned by the User.

5.5 As between Northport and the persons liable to pay charges, Northport's interest and right to detain goods, cargo or vessels at law or pursuant to these terms shall apply notwithstanding that such cargo may have left or never have been in Northport's possession.

5.6 The security interest in this clause 5 is in addition to and not in substitution of any lien or other remedy that may be available to Northport at common law or in statute. Northport reserves the right to rely on the remedies available to it under statute or common law.

6. OBLIGATIONS AS TO CARGO

- 6.1 The User will ensure that all cargo presented to Northport is properly packed and labelled, is in every way safe for carriage, does not exceed its rated gross capacity, is in a fit and proper condition to be handled or otherwise dealt with in the normal course of business by the equipment and operating procedures usually employed by Northport and complies with all applicable laws, orders, regulations or other requirements of the New Zealand government and all other local or government authorities whatsoever, and all requirements of any bills of lading applicable to any of the cargo presented to Northport.
- 6.2 The User shall comply with any rules and directions made from time to time by Northport in relation to dangerous cargo and will also comply with any statute, statutory regulations or other legal requirements that may be in force whether prescribed by the New Zealand government or any international agency or institution, and also with rules, requirements or procedures set by owners of cargo as appropriate and in addition comply with all such procedures and rules as are considered current good operating practice.
- 6.3 The User shall comply with the documentation and procedures in respect of all operations as required from time to time by Northport.
- 6.4 The User undertakes not to arrive at Port with any dangerous cargo without having previously given written notice of its nature to Northport and, having received agreement from Northport, marking the cargo on the outside as required by any laws or regulations which may apply. The User will abide by Northport's "Hazardous Substance Storage and Cargo Handling Requirements", available on its website.
- 6.5 If, despite clause 6.4, dangerous cargo arrives at the Port without Northport having previously been given written notice, Northport shall have no liability whatsoever for the loss of or damage to the dangerous cargo, which Northport can destroy or remove or render harmless at its discretion and without compensation being payable. The User shall indemnify Northport against all loss, damage or expense (whether direct, indirect or consequential) arising from the breach of clause 6.4.
- 6.6 If the User fails to remove any cargo from the Port within the time allotted to it, Northport may at its sole and unfettered discretion handle, remove, store or otherwise deal with such cargo at the entire risk and expense of the User. If such cargo is unclaimed after a reasonable time, or whenever in Northport's opinion the cargo has or will become deteriorated, decayed or worthless, Northport may without notice to the User and without prejudice to any other rights which Northport may have pursuant to these terms or at law and without any liability attaching to Northport, sell, abandon, or otherwise dispose of such cargo solely at the risk and expense of the User.
- 6.7 Cargo left on wharves, as authorised by Northport, will be at the sole risk of the owner of the cargo and Northport shall not be liable for any loss incurred by the User or the owner of the cargo. Northport is under no obligation to receive or accept cargo onto a wharf and does so at its absolute discretion.

7. LIABILITY REGIME

7.1 Liabilities of Northport:

- 7.1.1 Subject to any provision of these terms and conditions to the contrary and in particular to clauses 7.2, 7.4 and 7.6, Northport is only liable for physical loss or damage to the User's vessel and/or equipment, and cargo where caused by the negligence of Northport.
- 7.1.2 **Clause Paramount:** Where any physical loss or damage to cargo occurs at a time when the Carriage of Goods Act 1979 or the Amended Hague Visby Rules (Schedule 5, Maritime Transport Act 1994) apply, and Northport is legally entitled to claim the benefit of the limitations of an exclusion from

liability (including limitations as to quantum) contained in the same, Northport's legal liability shall be determined in accordance with the provisions of the Carriage of Goods Act or the Amended Hague Visby Rules, as the case may be, and nothing in these terms and conditions shall be read to the contrary. Northport shall further be entitled to claim and to fully rely on the limitations and exclusions contained in any applicable bill of lading or sea waybill that are expressed to be for the benefit of entities such as Northport.

7.2 Maximum liabilities of Northport:

The Liability Table in this clause 7 sets out:

- 7.2.1 Subject to any provision of law or of these terms and conditions to the contrary, the maximum liability of Northport to the User or any person claiming through the User ("maximum liability");
- 7.2.2 The maximum aggregate liability for all claims for loss or damage by whomsoever made arising out of any one event or series of events arising from the same original cause ("maximum aggregate liability"); and
- 7.2.3 The excess of any claim (which sum will be deducted from the amount payable by Northport for any loss or damage, except where such deduction would be contrary to law).
- 7.2.4 All amounts of loss and damage referred to in this clause 7.2 and the Liability Table are in New Zealand dollars and are GST inclusive.

Liability Table

Loss/Damage	Maximum Liability	Maximum Aggregate Liability	Excess
User's vessels and equipment	Lesser of reasonable cost of repair or market value	\$200,000	\$1,000
Containers	Lesser of reasonable cost of repair or market value or: (i) refrigerated \$7,500 (ii) insulated \$4,000 (iii) other \$1,000	\$100,000	\$300
Cargo	(i) in a closed or sealed container \$5,000	\$75,000	\$300
	(ii) on board a vessel \$750 per manifest tonne or part thereof	\$50,000	\$300
	(iii) elsewhere \$1,000 per tonne or part thereof	\$50,000	\$300
Ancillary Equipment	Lesser of reasonable cost or repair or market value of \$7,000	\$40,000	\$300

- 7.2.5 **Overall Limit on Liability NZ\$2m:** To the maximum extent permitted by law, the maximum sum that Northport shall be liable to pay in respect of all claims arising from one event or series of events arising from the same original cause shall be, first, limited to the maximum liability amount shown in the Liability Table for each type of claim and, second, shall be limited overall to NZ\$2,000,000.00.
- 7.3 **User's Liability:** The User will be liable for all physical and economic loss or damage caused to Northport or a third party at the Port where such loss or damage is caused by the User and shall indemnify Northport in respect of the same.
- 7.4 **Exclusions of Liability:** Notwithstanding clauses 7.1 and 7.2 Northport will not be liable in any circumstances whatsoever:
- 7.4.1 Where any loss, damage, expense, accident or injury to any property or person has been caused wholly or principally by the failure of the User to comply with its obligations under these terms and conditions;
- 7.4.2 Where any loss, damage, expense, accident or injury to any property or person has arisen or resulted from the unseaworthiness of any vessel, or the fact that any vessel is not properly manned, equipped and supplied, or that its holds, refrigerating and all other parts of the vessel in which cargo is carried are not fit and safe for their reception, carriage and preservation;
- 7.4.3 For any demurrage, detention, delay or costs of transportation of any kind howsoever caused including the negligence of Northport, its employees, agents or subcontractors, but Northport will make every reasonable endeavor by liaison with the User, and its carriers and others to achieve the orderly transportation of cargo and containers to and from the Port;
- 7.4.4 To pay any costs, charges, expenses, damages, compensation or any other moneys whatsoever for any injury or loss arising out of a failure by any person, whether or not an agent, employee or subcontractor of Northport to properly and adequately secure any cargo or container on any rail or road vehicle, and on any other form of transport;
- 7.4.5 For any costs, charges, expenses, damages, compensation or any other moneys whatsoever for any injury or loss arising from any failure to inspect containers, any failure to note or report damage to containers (whether apparent damage or not), or any failure to take steps necessary to protect the contents of any container. Northport undertakes no responsibility to inspect containers for damage or to report any damage to the User, but will make every reasonable endeavor to refer all apparent damage to containers to the User and to take any appropriate step necessary to protect the contents of any container noted to be damaged;
- 7.4.6 For indirect, special or consequential loss or damage howsoever caused including the negligence of Northport or for any direct but purely economic loss or damage;
- 7.4.7 Subject to any provision of law to the contrary, where any loss, damage, expense, accident or injury to any property or person has arisen or resulted from: insufficient depth of water; inability to provide a safe berth or anchorage; provision of information to the User (including relating to weather, sea or tidal conditions, keel depths, dredging, advisory services, notice(s) and/or warnings as to navigation); the actual or forecasted weather, sea or tidal conditions; the conditions of Northport's quay, wharves, berths or the approaches to them; or the condition of (or absence of) any lights, markers, beacons or other navigational aids or the inadequacy of any buoys, mooring lines or bollards;
- 7.4.8 Where any loss, damage, expense, accident or injury to any property or person has been caused by a company or person other than Northport providing services to the User at the Port;

- 7.4.9 Northport shall not be liable for neglect or want of skill or act or omission of any pilot and the User hereby indemnifies and holds harmless Northport against any and all claims, suits, actions, loss and/or damage whatsoever (direct, indirect or consequential) and however caused that may arise as a direct or indirect result of the provision of a pilot and/or pilotage services to the User; and
- 7.4.10 Northport shall not be responsible for any loss or damage which may be occasioned by a tug during a towage service or which may happen during such service, or be occasioned by the vessel in tow or its cargo however such loss or damage may arise, including by negligence. Without limiting the generality of this provision Northport shall not be liable for any loss or damage caused by defect of or an accident happening to the machinery of the tug or to the towing gear or to any perils of the seas, rivers, harbour or navigation.
- 7.5 **User indemnifies Northport where liability excluded or liability is in excess of limits:** The User hereby holds Northport free and indemnified from and against all claims, suits, costs, charges, expenses (including all legal and Court expenses), damages, compensation or other moneys whatsoever ("the amount") in respect of all loss, damage, expense, accident or injury (whether direct, indirect, special or consequential) to the extent that the liability of Northport for the amount has been excluded under clause 7.4 or any other clause hereof and to the extent that the amount exceeds the maximum liability, maximum aggregate liability or overall limit on liability under clauses 7.1 and 7.2.
- 7.6 **Notification of Claims:**
- 7.6.1 Notice in writing of any loss or damage to cargo must be given to Northport by the User at the time of the removal of the cargo to the custody of the person entitled to delivery of such cargo, or, if the loss or damage is not apparent, within three days of such removal. No action may be brought against Northport unless such notice is given within the times specified. Removal of cargo without complaint shall be prima facie evidence of the delivery by Northport of the cargo in the quantity and in the condition described in the bill of lading issued for such cargo.
- 7.6.2 For all other loss, damage, expense, accident or injury, no action may be brought against Northport unless notice in writing is given to Northport by the User within 30 days after the date when the loss, damage, expense, accident or injury occurred.
- 7.6.3 If no such notice is given within the above periods any claim will be deemed waived and absolutely barred.
- 7.7 **Benefit of bill of lading and establishment of bills of lading:**
- 7.7.1 Without prejudice to the provisions and limitations contained in these terms, the User will incorporate in its bills of lading or other documents evidencing contracts of carriage for cargo carried or to be carried on any of the User's vessels a clause to the effect that Northport, its employees, agents and subcontractors will have the benefit of the provisions of any bill of lading or other contract of carriage and any limitation of liability provided therein and Northport for itself, its employees, agents and subcontractors hereby accepts such benefit.
- 7.7.2 Where cargo is received by Northport prior to the issue of a bill of lading or other document evidencing a contract of carriage the benefit of the intended bill of lading or contractual document will apply in all respects (and in particular as set out in sub clause 7.7.1 above) and will bind all persons interested in the cargo as though such bill of lading or contractual document had then been issued.

7.8 User responsible for safe management:

- 7.8.1 Nothing in these terms affects the User's obligation to exercise due diligence in the safe navigation and proper management of the vessel including, without prejudice to the generality of the foregoing, stowage, trim and stability and operations of berthing, mooring, unmooring and unberthing. Any pilot on a vessel shall be the servant of the Master of the vessel while carrying out pilotage duties.
- 7.8.2 The User warrants that it will at all times comply with its duties and obligations under all statutes including, but not limited to, the Health & Safety at Work Act 2015, the Maritime Transport Act 1994, the Customs and Excise Act 1996, the Maritime Security Act 2004/ISPS code, and the Biosecurity Act 1993, and that it will not do or omit to do anything that breaches or is likely to breach any duty or obligation, or that may result in proceedings, under those Acts.
- 7.8.3 The User warrants that it will comply fully with all directions, requirements and instructions notified to it by Northport, in respect of health and safety or in respect of any duties or obligations of any person under the Health & Safety at Work Act 2015 and/or the Maritime Transport Act 1994. The User acknowledges that this may include producing, on demand, evidence that it is satisfying its obligations under the said Acts. The User shall abide by the "Port Facility: Health and Safety Requirements", available on Northport's website.
- 7.8.4 If at any time the User becomes aware that it is in breach, or is likely to be in breach, of any such duty or obligation, the User shall immediately notify Northport and follow all directions to avoid, remedy, or mitigate any such breach or anticipated breach.
- 7.8.5 The User will ensure that its agents, subcontractors and employees are aware of these terms and will abide by them.

7.9 User Environmental Warranties:

- 7.9.1 The User warrants that it will not do or omit to do anything or use materials, substances or processes which breach or are likely to breach any duty or obligation under the Resource Management Act 1991 and/or the Maritime Transport Act 1994 (including subsequent amendments) or which may result in the issue of an abatement order or enforcement proceedings under the Resource Management Act 1991 or Maritime Transport Act 1994.
- 7.9.2 If at any time the User becomes aware that it is in breach, or is likely to be in breach, of any of the warranties in this clause 7.9 the User agrees to immediately notify Northport and follow all directions to avoid, remedy, or mitigate any such breach or anticipated breach.
- 7.9.3 The User will ensure that its agents, subcontractors and employees are aware of these terms and will abide by them.
- 7.9.4 The User warrants that it will comply with the Whangarei District Plan and the Northland Regional Plan, coastal and all other relevant plans and statutes with respect to noise.
- 7.9.5 The User warrants that it will comply with all other relevant statutes, regulations and local authority bylaws including but not limited to those relating to sound environmental practices in the handling of dangerous cargo.
- 7.9.6 The User agrees to indemnify Northport from and against all losses, costs, expenses, claims, demands, liabilities, damages, actions and proceedings suffered by or commenced against Northport which arise out of or in connection with the failure of the User to comply with the provisions of clause 7.8 and 7.9.

7.9.7 The User acknowledges that the provisions of clauses 7.8 and 7.9 shall not cast on Northport any duty to supervise, check, or issue directions to the User and that the User is solely responsible for ensuring that the relevant laws are complied with.

7.10 **Insurance:**

7.10.1 The User shall not permit anything that may adversely affect the insurance policy maintained by Northport, or cause a claim to be rejected, or the premium thereof to be increased.

7.10.2 The User shall maintain insurance policies with a reputable insurer sufficient to cover all of the User's obligations, warranties and indemnities, and potential liabilities under these terms, allowing a claim to be made during or after the use of the services. The User must also insure against public liability risks to a minimum of NZ\$10,000 000.

7.10.3 The User shall provide Northport with a certificate of currency for such insurance at any time when requested by Northport.

8. GENERAL

8.1 The User will ensure that all subcontractors employed by it are authorised to access Northport and will co-operate with Northport and will comply with all requirements of the Port User Operating Rules at all times.

8.2 These terms are subject to the laws of New Zealand.

8.2.1 Subject to sub clause 8.2.2, all disputes between the parties shall be determined by the courts of New Zealand, and the parties submit to the exclusive jurisdiction of the same.

8.2.2 Any dispute under these terms that relates to a claim by either party amounting to NZ\$100,000 (GST inclusive) or less shall be referred to the arbitration of a single arbitrator who will be chosen by agreement between the parties or, failing that, by the President of the Arbitrators' and Mediators' Institute of New Zealand. The arbitration will otherwise be conducted in accordance with the Arbitration Act 1996. For the avoidance of doubt, nothing in this clause shall prejudice Northport's right to apply for injunctive relief or interim measures to arrest the User's vessel or to proceed against the User's vessel "in rem" in any jurisdiction or to exercise any right of lien it has at common law or in statute.

8.3 All notices under these terms must be given by personal delivery, or by registered mail or courier, or facsimile transmission:

8.3.1 To Northport Limited at its office:

21 Ralph Trimmer Drive	or	PO Box 44
Marsden Point 0171		Ruakaka 0151
Whangarei		New Zealand

Phone: 64-9-432-5010

Fax: 64-9-432 8749

8.3.2 To the User at any of the User's last known places of business whether in New Zealand or elsewhere or at the address of the User's last known agent in New Zealand

And, in both cases, will be deemed to have been received upon personal delivery, three days after dispatch by registered mail or courier, or on the day of dispatch by facsimile.

8.4 If the User is carrying on business, the User represents and warrants that it is purchasing the services provided by Northport under these terms solely for business purposes and Northport and

the User agree that nothing in the Consumer Guarantees Act 1993 shall apply to the provision of such services to the User.

9. PERFORMANCE

- 9.1 If at any time the performance of the provision of services by Northport is or is likely to be affected by any hindrance, risk, delay, difficulty or disadvantage of whatsoever kind, whether or not the circumstances giving rise to such existed or were anticipated at the time the agreement for services was entered into, which cannot be avoided by the exercise of reasonable endeavors, Northport, whether or not the services have commenced, may treat the performance of this contract as terminated or varied to such an extent as it deems necessary.
- 9.2 In the event of termination all amounts due and unpaid by the User will become immediately payable. The User shall remove all its cargo, equipment and rubbish from the Port and clean the area to the satisfaction of Northport.
- 9.3 Termination will not operate as a waiver of any breach of these rules and will be without prejudice to any rights, liabilities, or obligations of either party that has accrued up to the date of termination. This clause, clause 7 and any others that expressly or by implication are intended to survive termination, will continue in force notwithstanding termination.
- 9.4 **Force Majeure:** Northport will not be responsible for any complete or partial failure to perform or delay in performing or incorrect performance of any services, arising out of or contributed to by one or more of: Act of God, storm, flood, earthquake, fire or explosion, failure of electrical supply, strikes, riots, civil commotions, lockouts, stoppages, restraints of labour of whatsoever nature or kind (whether actual or threatened), any other industrial or environmental action, epidemic, war, civil war, hostilities, acts of terrorists, breakdown of or accident or failure of any crane or plant or machinery or equipment or other facility from any cause whatsoever, improper or insufficient or erroneous marking or addressing of any cargo, inherent vice or quality of goods, or any action or act whatsoever caused beyond the control of Northport.

10. VARIATION OF TERMS

- 10.1 These terms may be varied by Northport from time to time. Such variations will be deemed effective and accepted by the User 30 days after they are publicly circulated by Northport (including on the Northport website) irrespective of whether such notice is actually received.

11. CONTRACTS (PRIVITY) ACT 1982

- 11.1 For the purposes of Section 4 of the Contracts (Privity) Act 1982 all provisions in these terms providing for exemption from or limitation of liability and indemnities in favour of Northport are to the maximum extent permitted by law intended to be for the benefit of and enforceable by the employees and agents of Northport, including any benefits imported into these terms pursuant to clause 7.7.

12. PILOTAGE AND TOWAGE

- 12.1 Where Northport (including through the subcontractor North Tugz Limited) provides tug, towage, line boat or similar services, such services will be subject to the UK Standard Conditions for Towage and Other Services (revised 1986) ("the Conditions") as amended from time to time. For the avoidance of doubt references in the Conditions to "tug owner" and "hirer" shall be read as references to Northport and the User. The User is deemed to be familiar with the Conditions but Northport will make the Conditions available to the User on request.
- 12.2 The expression "whilst towing" as defined in the Conditions shall also include any time where the tug is alongside the User's vessel, whether or not the tug is in a position to receive orders direct

from the User's vessel to commence pushing, holding, moving, escorting or guiding the vessel or to pick up ropes or lines.

- 12.3 Pilotage services shall include any service or advice provided by the pilot at any time and regardless of whether the pilot is at the time the advice is given, on board the vessel to be piloted, on board the pilot launch, on board any other vessel involved in the pilotage, on shore or any other place whatsoever.
- 12.4 A pilot may at his/her discretion decline to undertake any pilotage or terminate any pilotage once commenced, on any grounds including adverse weather conditions, mechanical defects, unreasonable trim or insufficient stability, non-availability or incapacity of crew or any other reason that in the opinion of the pilot compromises, or may compromise, the safety of the persons or vessels involved directly or indirectly in the pilotage.
- 12.5 The limitation of liability where a pilot is engaged shall be in accordance with section 60B of the Maritime Transport Act 1994 and any subsequent amendments.