



SEAONUS HOLDINGS LLC

TERMS AND CONDITIONS FOR STEVEDORING SERVICES

1. **STEVEDORING SERVICES.** These terms and conditions shall apply to all stevedoring and related services provided by SEAONUS HOLDINGS LLC, its subsidiaries, affiliates and subcontractors (hereinafter "SEAONUS") to any person or vessel receiving, requesting, or benefiting from said services (hereinafter "Customer"). Customer's instructions to perform stevedoring operations constitutes acceptance of these terms and conditions.
2. **SERVICES.** SEAONUS agrees to perform the following stevedoring services in exchange for Customer's payment of the rates set forth on SEAONUS' rate quotation.
  - A. Transport SEAONUS' gear and equipment to and from pier where the vessel is berthed.
  - B. Provide all necessary stevedoring labor including crane operators, elevator operators, hatch tenders, flagmen, lift truck operators, foremen and such other labor and supervision as needed for the proper and efficient conduct of the work.
  - C. To the extent applicable, first removal and final replacement of hatch covers.
  - D. Shift gangs as required, between inshore and offshore and between hatches.
  - E. To the extent requested, complete plan of all cargoes loaded on the vessel.
  - F. The rates for stevedoring services performed pursuant to these terms and conditions are based on cargo under normal operating conditions in straight-time hours and with cargo in normally accepted good condition. Cargo received otherwise shall be subject to an extra labor services surcharge. Rates cover movement of cargo one (1) time only.
3. **ESTABLISHMENT OF ADDITIONAL COMMODITY STEVEDORING RATE.** Any time cargo not covered by SEAONUS' rate quotation moves in sufficient volume to establish a commodity stevedoring rate, either party may request the establishment of a specific rate and the other party agrees to consider aid request. Rates quoted and accepted subsequent to the first rate quotation will become a part hereof and will be subject to these general terms and conditions unless otherwise specified.
4. **VESSEL EQUIPMENT.** Vessel is to supply adequate elevators and cranes in good order and with sufficient power for their efficient operation and with necessary and current safety inspection certificates, and lights for night work. Vessel shall also supply such special handling equipment on board the vessel necessary to discharge or load Customer's cargo.
5. **EXTRA LABOR SERVICES.** When cargo gangs or other labor services or equipment are ordered by the Customer, or when SEAONUS is required to perform any services that interrupts or is necessary to maintain normal operations, including but not limited to the items listed below, SEAONUS will be paid per SEAONUS' rate quotation. Any required service not specifically stipulated as included in the rates on SEAONUS' quotation (including but not limited to the following) is to be considered an extra service.
  - A. Handling ship's lines, gangways and stores.
  - B. Lashing, shoring, securing of cargo and removal of lashing and shoring. All work shall be performed under the direction, control and supervision of the vessel's Master and/or Chief Officer who shall have the ultimate responsibility for the sufficiency of such lashing and securing and the Customer expressly agrees to hold SEAONUS harmless for an indemnify it against any claims, demands or suits whatsoever relating to insufficiency or alleged insufficiency of such lashing and/or securing of cargo.
  - C. Handling of cargo not in customary good order delaying prompt handling, or when bulk cargo is required to be broken out by mechanical equipment.
  - D. Shifting, re-handling, re-sorting, or re-stowing cargo through no fault of SEAONUS.
6. **DETENTION, WAITING, LAY TIME.** When gangs or additional labor are employed and detentions occur, or when gangs or additional labor are employed and unable to work through causes beyond SEAONUS' control, or when labor is to be paid for a minimum working period in accordance with the customs and practices of the port where the vessel is working, including but not limited to the circumstances that follow, such time will be charged for at rates as provided in SEAONUS' rate quotation:
  - A. Failure of vessel to arrive or late arrival;
  - B. Failure of vessel gear, equipment, or vessel supplied gear or equipment;
  - C. Weather;
  - D. Vessel unable to stay alongside;
  - E. Government clearance; or
  - F. Civil Unrest
7. **OVERTIME, HOLIDAYS, MEAL HOURS.** Overtime and meal hours, when worked at the request of the Customer, will be charged for on the basis of the rates in SEAONUS' quotation.
8. **LABOR ORDERING AND MINIMUM CALL PERIODS.** Labor orders for 0700 through 1800 starting times are to be received from the Customer by 1600 the previous day. Labor orders for 1900 or later starts are to be received from the Customer by 1100 that day. Labor orders for Mondays that are not holidays are to be received from the Customer by 1600 on the preceding Saturday. Labor orders for the day after a holiday is to be received from the Customer by 1600 on the latest regular working day. Labor may be set back or cancelled one time only with such orders received from the Customer prior to four (4) hours before the original ordered starting time with no penalty of minimum call time. Labor may be added for extra services during an operation based on availability upon authorization by the Customer. The minimum call time for labor ordered is two (2) hours on regular working straight time days and four (4) hours for starts on overtime, Saturdays, Sundays, or holidays. The applicable minimum call time, if labor is unable to work through no fault of SEAONUS will be billed to the Customer at the detention and overtime rates, as applicable, provided in SEAONUS' quotation.
9. **TRAVEL TIME AND TRANSPORTATION.** When SEAONUS is required to work at locations where travel is required to be paid employees in accordance with the customs and practices of the port, such travel time will be charged for at cost. When vessels are worked in the stream or other places where means of transportation for the men are required or meal allowances must be paid in accordance with the customs and practices of the port, any expenses incurred will be charged for at cost.
10. **INSURANCE.** The rates quoted include the cost of, and SEAONUS agrees to maintain in full force, Workers' Compensation Insurance covering statutory liability for injury or death sustained by its employees.
11. **LIMITATIONS; HIMALAYA and PARAMOUNT CLAUSE.** Every exemption, limitation, condition and liberty contained in any bill of lading applicable to the cargo or vessel for which SEAONUS has provided stevedoring services or any other services provided pursuant to its Stevedoring Proposal, and every right, exemption from liability, limitation of liability for damages, defense and liberty of whatsoever nature applicable against the claim of any holder of any bill of lading covering the cargo, or applicable to any claim of Customer against vessel interests, vessel owners, operators or charterer's, and every exemption, limitation, condition and liberty benefiting the Customer or to which the Customer might have availed itself in any charter negotiation or bill of lading issued pursuant to charter, or any bill of lading governed by the Hague Rules contained in the International Convention for the Unification of Certain Rules relating to Bills of Lading dated 25 August 1924 (hereinafter referred to as the "Hague Rules") and any legislation making those Hague Rules compulsorily applicable to bills of lading, including the Carriage of Goods by Sea Act of the United States of America, approved 16 April 1936, shall also be available and shall be deemed as between the

parties hereto as applicable, specifically including, but not limited to, limitation of liability for damaged cargo of \$500 per package, and \$500 per customary freight unit for damage to goods not shipped in packages. Customer agrees that the force and effect of this agreement shall extend to the benefit of SEAONUS and shall be deemed applicable at all times and locations SEAONUS performs services, and regardless of whether the cargo is on board the vessel or before or after the cargo is in the vessel's tackle. Through Customer's dealings and contractual arrangements with its related entities, consignees, vessel interests, owners, operators or charterers and/or through issuance of appropriately worded bills of lading, charter agreements, fixtures and similar arrangements, Customer will extend any available defenses and limitations to the benefit of SEAONUS, specifically including but not limited to any COGSA defenses to liability and limitation of damages of \$500 per package or customary freight unit for goods not shipped in packages, and, if COGSA is not applicable, The Hague Rules. In any event, regardless of limitation available under a BOL, Customer agrees as between Customer, Customer's related entities and SEAONUS, to be so bound by a limitation of liability for damage to cargo in the amount of \$500 per package.

12. **INDEMNITY AND LIMITATION OF LIABILITY.**

A. **VESSEL UNSEAWORTHINESS, FAULT, OR FAILURE TO EXTEND LIMITATIONS.**

In the event Customer is owner, charterer, sub-charterer, agent, manager, or owner pro hac vice of the vessel receiving stevedoring services hereunder, customer warrants and agrees to indemnify and hold SEAONUS harmless for any loss, costs (including attorney's fees), damage, injury, death or delay caused in whole or in part, by breakdown or failure or fault in the vessel's gear, or by failure or fault or negligence of vessel's officers or crew, or by any unseaworthiness of the vessel, however created. If Customer issues or controls the issuance of bills of lading covering cargo for which stevedoring services were provided, or, if by any failure of the vessel or Customer to perform any obligation hereunder or in the Stevedoring Proposal, including but not limited to, Customer's failure to extend limitations of liability for the benefit of SEAONUS as required, and SEAONUS is exposed to liability for damages in excess of any such limitations, Customer warrants and agrees to indemnify and hold SEAONUS harmless for any such damages or interest exceeding any such limitation amounts, as well as the costs of defending any such claims, including attorney's fees, and costs.

B. **LIABILITY LIMITATIONS.**

SEAONUS shall not be liable, directly or indirectly, for loss, costs (including attorney's fees), damage, injury, death, or delay unless caused wholly by and due solely to negligence of SEAONUS, its employees or agents. Such liability shall be as a stevedore and not as a bailee. There are no express or implied warranties other than those expressly contained in these terms and conditions. It is specifically agreed that SEAONUS makes no express or implied warranty of workmanlike performance. SEAONUS will not be responsible for damage which may occur in the course of normal handling due to movement of cargo during the voyage, previously loaded cargo, or insufficient packing and crating.

13. **FORCE MAJEURE, ABNORMAL CONDITIONS, ETC.**

In the event of force majeure, act of God, war, civil disturbance, fire, severe port or terminal congestion, strikes, lockouts, union disputes, deliberate work slow-down or stoppage or other labor difficulties or other abnormal conditions, which materially interfere with SEAONUS' normal operations, SEAONUS will, if able to perform the services contemplated, do so, at its option, on a basis to be mutually agreed upon between SEAONUS and Customer for each such job.

14. **WHARFAGE, CARGO ASSESSMENTS, CUSTOMS DUTY, ETC.**

Customer shall pay all wharfage, delivery and related charges, port usage fees and/or assessments, as well as any customs duty or similar charges, and shall hold SEAONUS fully harmless in respect thereof.

15. **DAMAGED CARGO, DANGEROUS CARGO OR CONDITION, AMMUNITION AND EXPLOSIVES.**

When Handling cargo burning or damaged by fire, water, oil, etc., and where such damage causes unusual distress or obnoxious conditions, or in all cases where longshoremen are called upon to handle cargo under dangerous, obnoxious conditions, SEAONUS' charges are to be subject to special arrangements to be mutually agreed between SEAONUS and Customer for each such job. SEAONUS reserves the right to refuse to load or discharge, without liability for default hereunder, any cargo in these instances where, because of the nature of the cargo or its stowage or the condition of the vessel, SEAONUS, in its sole judgment, shall have determined that such handling will seriously endanger the lives, safety, or health of its employees. When such cargoes are loaded or discharged, charges will be made on a basis to be mutually agreed upon between SEAONUS and Customer for each such job.

16. **POLLUTION.**

Notwithstanding any other provision herein contained, it is expressly agreed that Customer will hold SEAONUS harmless from and indemnify it against any loss, damage, cost liability, expense, fine, penalty, or claims of any kind or nature whatsoever arising from or connected with cargo subject to these terms and conditions which might be brought against SEAONUS directly or indirectly in consequence of or with respect to any discharge, omission, spillage or leakage upon or into the seas, waters, land or with respect to or as a result of any Federal or State pollution prevention legislation.

17. **SERVICES ORDERED BY OTHERS.**

Customer undertakes responsibility for payment of all services performed by SEAONUS whenever such services are provided at the verbal or written request or order of the Port Authority or terminal operator.

18. **TERMS.**

This Agreement may be revised, modified or amended only by mutual agreement in writing.

19. **PAYMENT.**

SEAONUS' accounts for all services performed and materials supplied shall be due and payable immediately upon rendering of such services, unless stated otherwise on SEAONUS' rate quotation. In the event Customer is owner, charterer, agent, manager, or owner pro hac vice of the vessel receiving stevedoring services hereunder, it is expressly understood and agreed the services contemplated are to be performed on the credit of the vessel without which SEAONUS would not provide same, and SEAONUS shall a right of action against the vessel or any other property for payment. In the event Customer is owner or agent of any owner of the cargo subject to these terms and conditions at any time prior to the release of such cargo by SEAONUS to Consignee or Customer, Consignee hereby grants and pledges to SEAONUS a continuing security interest in such cargo to secure the payment of all obligations arising under these terms and conditions, whether the same may arise for previous or future cargo shipments. This Security Agreement creates a valid and perfected security interest in the cargo. In the event any cargo which is the subject of these terms and conditions is stored, a warehouseman's lien shall arise in favor of SEAONUS. It is understood that SEAONUS will assess interest against all outstanding charges for account of Customer at the rate of ten percent (10%) per annum, commencing at the time payment is due herein and may suspend further vessel operations for account of Customer until all outstanding charges have been satisfied. It is further agreed that Customer shall not deduct from or set off against SEAONUS' invoices any claims, whether liquidated or non-liquidated, for any reason whatsoever. In the event that litigation is required in order to collect any amount due hereunder, all legal costs including attorney fees shall be the responsibility of Customer. Any lawsuit or other action against SEAONUS must be brought in the state or province where the services are performed or located and will be governed by the laws of such state or province.

In exchange for stevedoring services provided by SEAONUS, Customer agrees to the above terms and conditions.

Customer Name: \_\_\_\_\_

Authorized Signature / Printed Name \_\_\_\_\_

Date: \_\_\_\_\_