



GENERAL TERMS & CONDITIONS

1 Definitions

“Inverness Harbour Trust” means Inverness Harbour Trust;

“Acts” means all applicable Acts of Parliament, by laws, laws, orders, regulations, directions, codes of practice and international conventions relating to the Port Area

“Byelaws” means bye laws as dated 1977 and 1979

“Charges” means vessel, cargo and any other dues and charges levied by Inverness Harbour Trust as Harbour Authority for Inverness Harbour Trust and any other sum payable to Inverness Harbour Trust;

“Equipment” means any plant, machinery, container, package, case, pallet, vehicle, trailer, truck wagon or other piece of equipment of any nature;

“Goods” means cargo and goods of whatever nature;

“Harbour Limits” means the Port of Inverness as defined in the within Section 107 of the Inverness Harbour Order 1911;

“Harbour Master” means the Inverness Harbour Trust Harbour Master, his deputy or any nominee of theirs;

“Harbour Office” means; Harbour Office, Longman drive, Inverness IV1 1SU.

“Owner” means any persons (other than Inverness Harbour Trust with or claiming to have any proprietary or possessory interest including lessors, charterers, sub-charterers, consignors, consignees, shippers and receivers;

“Port Area” means any area of land, premises or water owned, leased or operated by Inverness Harbour Trust, including for the avoidance of doubt that area of water within the Harbour Limits;

“Quay” means any quay, pier, jetty, berth, mooring or other place at which Vessels can load or discharge Goods or embark or disembark passengers or vehicles, and the waters surrounding the same, all within Harbour Limits;

“Representative” means any employee, agent, broker, driver, contractor, sub-contractor, master or any other person having command or crew of any Vessel;

“Services” means any service or facility that Inverness Harbour Trust provides to the User;

- “Terms”** means these General Terms & Conditions;
- “User”** means (a) any person who enters the Port Area; (b) any person who or by any Representative requests or receives the benefit of any Services; and (c) any Owner or carrier of any Vessel, Goods or Equipment which may be on or come into the Port Area;
- “Vessel”** means any boat, ship, barge or other vessel of any description and any part thereof.

2 Interpretation

- 2.1 Words importing the neuter gender only include the masculine and feminine genders, words importing the masculine gender only include the feminine gender and vice versa.
- 2.2 Words importing the singular number only shall include the plural number and vice versa. Where there are two or more persons included in the expression “User” then obligations undertaken by the User shall be obligations undertaken by such persons jointly and severally and their respective executors and representatives whomsoever.
- 2.3 Any reference to an Act of Parliament or Statutory Instrument shall include any modification, extension or re-enactment thereof for the time being in force and shall also include all instruments, orders, plans, regulations, permissions and directions for the time being made, issued or given thereunder or deriving validity therefrom.
- 2.4 Condition headings are for ease of reference and do not form part of or affect the interpretation of these Terms.
- 2.5 Any phrase introduced by the terms “including”, “include”, “in particular”, or any similar expression shall be construed as illustrative and shall not limit the sense of the words proceeding those terms.
- 2.6 Any reference to “person” includes any natural person, company, body corporate or un-incorporate or other judicial person, partnership, firm, joint venture or trust.
- 2.7 The rights of Inverness Harbour Trust under these Terms are in addition to the rights and powers conferred by statute, the Acts, the Byelaws and the Directions, each of which take precedence over these Terms in the event of any inconsistency.

3 Application of Conditions

- 3.1 These Terms shall apply:
- (a) to all Services provided by Inverness Harbour Trust whether directly or indirectly and whether within the Port Area or elsewhere; and
 - (b) to all physical access by any Vessel, person, Goods or Equipment to or from the Port Area.
- 3.2 In the absence of express acceptance of these Terms by the User, acceptance shall be implied and constituted in the event of the entry of any Vessel, person, Goods or Equipment into or onto the Port Area or by application (oral or otherwise) to Inverness Harbour Trust for entry to the Port Area or for any Services or the use of any facility by or on behalf of any User.
- 3.3 Subject to Condition 3.4, no terms or conditions whether express or implied which are at variance with these Terms shall apply unless and to the extent that they have been agreed in writing by Inverness Harbour Trust.
- 3.4 Inverness Harbour Trust may issue special terms and conditions governing the provision of certain services. Such special terms and conditions shall apply in respect of the certain services. These Terms shall continue to apply to the extent they are not at odds with the special terms and conditions.

4 Provision of Services

- 4.1 Subject to any other provisions of these Terms, Inverness Harbour Trust shall exercise reasonable skill, care and speed in carrying out the Services. No greater obligation, express or implied, is accepted.
- 4.2 Inverness Harbour Trust reserves the right to appoint sub-contractors to perform all or any part of the Services. Any sub-contractor shall have the benefit of these Terms. Inverness Harbour Trust shall have no greater obligation or liability in respect of any sub-contracted services than it would have had if the Services had been provided by them directly.
- 4.3 Unless specifically otherwise agreed in writing with the User, where Inverness Harbour Trust provides Services in respect of Goods or Equipment being loaded onto or unloaded from or passengers and their Goods and Equipment embarking or disembarking from any Vessel it does so purely as agent of the actual and/or contractual carrier.
- 4.4 Inverness Harbour Trust shall have absolute discretion in the handling, storage and transportation of any Vessel, Equipment or Goods and in the allocation of Quays, plant, machinery, labour and storage space. All Vessels must berth in the Port Area or anchor within the Harbour Limits according to the directions of the Harbour Master. No Vessel is to be launched, lifted into or out of the water at any Quay without prior permission of the Harbour Master.
- 4.5 Other than as provided for in s.33 of the Harbours, Docks, and Piers Clauses Act 1847, Inverness Harbour Trust may in its absolute discretion:
- (a) refuse to permit any User to enter the Port Area and refuse to accept any Vessel, Equipment or Goods on or into the Port Area;
 - (b) require any User, Vessel, Equipment or Goods who/which has entered the Port Area to leave it or require the same to be removed at any time;
 - (c) decline to undertake or suspend the performance of all or any part of Services;

In such event Inverness Harbour Trust shall not have any liability and shall not be liable to pay any compensation in respect thereof. The User waives any and all claims against Inverness Harbour Trust for any breach of statutory duty relating to the exercise of its above discretion.

- 4.6 Following any exercise of Inverness Harbour Trust's rights under Condition 4.5, the User shall remove the Vessel, Equipment and Goods from the Port Area within 14 days of request. Inverness Harbour Trust shall refund any Charges paid in advance in respect of Services not performed but may deduct any sums due to it as well as any loss, damage, liability, cost or expense incurred by or caused to Inverness Harbour Trust by or in respect of such Vessel, Equipment or Goods.
- 4.7 In the event that:
- (a) the User fails to remove the Vessel, Equipment and Goods from the Port Area within 14 days following the exercise of any of Inverness Harbour Trust's rights under Condition 4.5;
 - (b) any Goods and Equipment are not collected and removed from the Port Area by the User at the time of landing;

Inverness Harbour Trust shall be entitled at the expense and sole risk of the User to remove and place wherever Inverness Harbour Trust (acting reasonably) deems appropriate such Vessel, Goods and Equipment. Charges for transit shed, Quay rental and any other storage will be made where appropriate.

5 Payments

- 5.1 The User shall be liable for all Charges, payments, fines and expenses due in connection with any Vessel, Equipment or Goods and for any loss and/or damage suffered or incurred by Inverness Harbour Trust in connection therewith.
- 5.2 Prior to a Vessel entering the Port Area, the User shall provide Inverness Harbour Trust with:

- (a) details of the length (measured to the next highest full metre) and draft of the Vessel;
 - (b) details of the gross and net tonnage of the Vessel;
 - (c) details of the purpose of the port call and type (including the gross tonnage) of any cargo to be loaded or discharged;
 - (d) any other information requested by Inverness Harbour Trust or required to be disclosed to Inverness Harbour Trust in terms of the Merchant Shipping (Vessel Traffic Monitoring and Reporting Requirements) Regulations 2004 prior to arrival.
- 5.3 All Goods and/or Equipment brought to the Port Area must be accompanied by a manifest, which manifest shall be delivered to Inverness Harbour Trust on the earlier of (i) request by Inverness Harbour Trust; and (ii) the arrival of such Goods and/or Equipment at the Port Area. Unless otherwise agreed by Inverness Harbour Trust, the manifest must specify marks and number of packages, description of Goods, gross weight, any weight imbalances, cubic measurement, name of Vessel, port to which the Goods or Equipment are to be shipped, port from which the Goods or Equipment have arrived, any special carriage or storage requirements of the Goods or Equipment and the name and address of the User or the User's Representative to whom Charges are to be rendered. Where a fishing Vessel discharges fish or shellfish, details including the species and value must also be provided. In the absence of such details, Inverness Harbour Trust reserves the right to invoice Vessels/agents/Owners, as it shall deem appropriate, on an estimated basis.
- 5.4 All sums payable are exclusive of value added tax and any other duty or tax, which shall (to the extent applicable) be payable by the User at the rate and in the manner from time to time prescribed by law.
- 5.5 Payment of all sums due by the User to Inverness Harbour Trust shall be made within 30 calendar days of receipt of the Services or request for payment, whichever shall occur earlier. Payment shall be made without deduction, withholding, abatement, set-off, or any counterclaim whatsoever, save as may be required by law. All payments shall be made in cleared funds in GB pounds sterling.
- 5.6 The User shall be liable to pay interest to Inverness Harbour Trust on any sums outstanding for the period from the due date to the date of payment (i) in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 (where applicable); or (ii) where the said Act is not applicable, at 4 per cent per annum above the base lending rate of The Royal Bank of Scotland.
- 5.7 (a) Subject to all applicable laws and regulations, Inverness Harbour Trust shall have a general and specific lien over any Vessel, Equipment or Goods and all documents relating thereto in respect of its Charges and in respect of any other indebtedness to Inverness Harbour Trust of the User or the owner of such Vessel, Equipment or Goods. Inverness Harbour Trust shall be entitled to refuse to deliver up any Vessel, Equipment or Goods until all such sums have been paid. Storage and other charges accruing shall continue to accrue during such period. If any sums remain unpaid for a period of 60 days from the invoice date Inverness Harbour Trust shall be entitled to take possession of any such Vessel, Equipment or Goods and to sell them, reimbursing the User the sale proceeds less sums due to Inverness Harbour Trust and the reasonable sale costs and expenses incurred by Inverness Harbour Trust. Inverness Harbour Trust shall have no liability in this regard.
- (b) In the exercise of Condition 5.7(a) Inverness Harbour Trust reserves to itself absolute discretion as to the means and procedure to be followed in the handling, storage and transportation of any Vessel, Equipment or Goods notwithstanding any express instructions given by the User in relation thereto.
- 5.8 If the User ceases to trade (either in whole, or as to any part or division involved in the performance of these Terms), 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 or if 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 User shall become bankrupt or make any composition or arrangement with its creditors, or anything analogous happens in any jurisdiction, then Inverness Harbour Trust shall be entitled immediately to recover from the User or any other person liable for the Charges (notwithstanding that the periods stated above or any period of credit extended to the User may not have expired) all sums then due to Inverness Harbour Trust

(including any accrued interest and other Charges properly levied in accordance with these Terms) and all loss and expense incurred by Inverness Harbour Trust as a result of such circumstances arising.

- 5.9 Any query to be raised by the User on any invoice issued by Inverness Harbour Trust must be made in writing within 30 days of the invoice date failing which the User shall be deemed to have accepted the invoice.
- 5.10 The User will be responsible for ensuring all their staff and contractors whilst on the Premises comply with the requirements of the ISPS Code. The level of security may change at the discretion of IHT from time to time. IHT reserves the right to exclude any person/vehicle or customer who is found to have breached security regulations in any way.
- 5.11 Inverness Harbour Trust require all port Users, their employees, contractors and non-permanent employees to adhere to the standards as set out in the Safety in Ports Guidance notes issued by Port Skills & Safety or an equivalent or higher standard as may be required by Inverness Harbour Trust in respect of all Health & Safety matters.
- 5.12 No private vehicles are permitted within the Port Area at any time for any reason, unless with the express written consent of Inverness Harbour Trust. Any vehicles entering the Port Area without such prior consent, will be required to leave immediately. Inverness Harbour Trust will not be liable for any loss or damage to any vehicle entering the Port Area, unless access has been agreed in advance by Inverness Harbour Trust but subject always to the terms hereof.
- 5.13 The User, his employees or agents are prohibited from carrying out repairs to or servicing or washing vehicles or plant while in the Port Area save as previously agreed in writing by Inverness Harbour Trust.
- 5.14 Only vehicles that are roadworthy and comply with the requirement of the road Traffic Acts will be permitted to operate in the Port Area.

6 Hazardous Goods And Waste

- 6.1 The User shall remove from the Port Area and dispose of all trade and other waste as often as may be necessary or as reasonably directed by Inverness Harbour Trust
- 6.2 No waste material or goods of a dangerous, hazardous or poisonous nature will be handled by Inverness Harbour Trust except with the prior approval of the Harbour Master and then only in accordance with conditions prescribed by him and all applicable laws, regulations, regulatory requirements and codes of practice.
- 6.3 The User warrants that any approved waste material or goods of a dangerous, hazardous or poisonous nature are stored in suitable containers and properly marked with a warning as to the hazardous nature of any contents and the precautions to be taken in handling the same (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 same.
- 6.4 Inverness Harbour Trust shall be entitled to remove and dispose of any trade or other waste material or goods of a dangerous, hazardous or poisonous nature found within the Port Area in contravention of Conditions 6.1, 6.2 and/or 6.3 and recover their reasonable costs in respect thereof from the User. Inverness Harbour Trust shall have no liability in respect thereof.

7 Import and Export Goods

- 7.1 Authorisation for the removal of imported Goods and Equipment shall not be granted by Inverness Harbour Trust unless such Goods and Equipment are correctly released and cleared with no statutory or other holds.
- 7.2 The User shall be responsible for all import duties, export duties, levies, fines and charges relating to the Vessel, Goods and Equipment. The User shall indemnify Inverness Harbour Trust against any and all claims made against Inverness Harbour Trust by H.M. Revenue & Customs and any other duties, levies, fines, charges and expenses in respect of such Vessel, Goods and Equipment.

8 User Warranties

- 8.1 The User warrants to Inverness Harbour Trust that it has the authority and consent for itself and for and on behalf of all persons having any title to or interest in any Goods, Equipment or Vessel to accept these Terms and has specifically notified these Terms to such persons. Finance companies, lessors and others having or claiming to have title to or an interest in such Goods, Equipment or Vessel are advised that unless Inverness Harbour Trust is notified in writing of their title or interest in any particular Goods, Equipment or Vessel prior to the commencement of any relationship between Inverness Harbour Trust and the User, these Terms shall be deemed to have been accepted with the authority of such persons. Such persons' rights over and in respect of the Goods, Equipment or Vessel shall be subordinated to the rights of Inverness Harbour Trust hereunder.
- 8.2 The User warrants that its employees (and those of any agents or contractors it may engage including hauliers and stevedores) are properly trained and competent to carry out the tasks assigned to them at the time those tasks are assigned and undertaken including in relation to the giving of any instructions to Inverness Harbour Trust or the inputting of any information into any electronic service or system operated or managed by or on behalf of Inverness Harbour Trust. The User warrants that such persons have the full authority to give such instructions or input such information.
- 8.3 The User warrants that it and its Representatives shall at all times comply in all respects with all applicable laws, regulations, codes of practice and international conventions relating to the Port Area and with all directions and requirements of the Inverness Harbour Trust's staff

(including the Acts, Byelaws, Directions and requirements of Inverness Harbour Trust) and to the Vessel, Goods and/or Equipment (including navigation, manning, carriage, packing, handling, storage, and movement).
- 8.4 The User warrants that it shall obtain and maintain at its own expense, all necessary permits, licences and authorisations and shall comply with all applicable laws, regulations, regulatory requirements and codes of practice relating to the relating to the carriage, handling, storage and movement of the Vessel, Goods and Equipment.
- 8.5 Save as otherwise agreed by Inverness Harbour Trust, the User warrants that while within the Port Area any Goods, Equipment or Vessel:
- (a) are not dangerous, hazardous, poisonous, toxic, radio-active, flammable, or injurious or liable to become so;
 - (b) will not contaminate or cause danger, injury, pollution or damage to any person, the Port Area, any other Goods, Equipment or Vessel or any other property or the environment;
 - (c) are not rotten, infested, verminous or subject to fungal attack or liable to become so;
 - (d) do not require for their safekeeping any special protection arising from vulnerability to heat, cold, natural or artificial light, moisture, salt, pilferage, vandalism or proximity to other goods or from their flammability but will remain safe if left standing in the open on the Port Area or in covered accommodation (if agreed with Inverness Harbour Trust);
 - (e) contains no unauthorised controlled substances, contraband, pornographic, sanctioned or other illegal matter;
 - (f) are properly and sufficiently packed, documented and labelled in accordance with all applicable laws, regulations, regulatory requirements and codes of practice for all shipping, handling, storage, dispatch, customs and like purposes;
 - (g) are in a safe, fit and proper condition to be handled or otherwise dealt with by Inverness Harbour Trust, its equipment and its employees, agents and sub-contractors.

Inverness Harbour Trust shall be entitled at the User's sole risk and expense to remove and dispose of Goods or Equipment that are not in compliance with any part of this warranty.

8.5 The User 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 Area or other persons at the Port Area or result in adverse environmental impact and shall take, at its own cost, such reasonable steps to control or eliminate any danger or inconvenience arising as a result of the Vessel, Goods or Equipment, as may be required by Inverness Harbour Trust.

8.6 The User warrants that it shall not:

- (a) use any devices which transmit radio signals or attempt to block radio signals (including without limitation G.P.S.) whilst on the Port Area;
- (b) interfere with any systems, communication links and equipment or computer hardware and software whilst on the Port Area;
- (c) use or attempt to use any devices or software to gain access to unauthorised data and information;

without the prior written consent of Inverness Harbour Trust except that the User may use marine band and radar radio frequencies and wi-fi.

8.7 The User warrants the accuracy of all descriptions, weights, values and other particulars relating to Goods and Equipment furnished to Inverness Harbour Trust for handling, customs and any other purposes. Inverness Harbour Trust shall not be responsible for checking the accuracy of any documentation handled by it.

9 Liability

9.1 Nothing in these Terms shall exclude or in any way limit Inverness Harbour Trust'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 by law.

9.2 Any Vessel, Equipment, Goods or other property which is located within the Port Area, is located entirely at the User's and Owner's own risk. Save as otherwise contracted with Inverness Harbour Trust, Inverness Harbour Trust will not be responsible for the safe custody of any Vessel, Goods or Equipment entering the Port Area.

9.3 Inverness Harbour Trust shall have no liability whatsoever (including by way of indemnity) in respect of any of the following howsoever caused or arising and whether or not the same was foreseeable, known or otherwise: (a) any indirect, incidental, special or consequential loss or damage; (b) loss of actual or anticipated income, profits, contracts, goodwill, or business; (c) loss of revenue or of the use of money; (d) loss of anticipated savings; (e) loss which might reasonably have been avoided or minimised by the User; (f) betterment; and (g) any increased costs or expenses or both.

9.4 Inverness Harbour Trust shall have no liability whatsoever for any loss, damage, cost, expense or delay caused by or arising directly or indirectly as a consequence of any of the following: (a) any act, event or omission beyond its reasonable control; (b) force majeure (including adverse weather, storm, high winds, lightning, earthquake, tidal wave storm surge, flood or disease); (c) strike, lock-out or other industrial dispute (whether or not involving the workforce of Inverness Harbour Trust); (d) interruption, disruption or failure of any utility service or transport network; (e) war, riot or civil commotion; (f) malicious damage, theft (unless proved to have been committed by an employee of Inverness Harbour Trust) or piracy; (g) wear and tear, leakage, insufficient or unsuitable packing or packaging or latent defect of Goods or Equipment; (h) compliance with any law or governmental or official order, rule, regulation or direction; (i) accident; (j) damage to or breakdown of Equipment (including without prejudice to the foregoing generality computer hardware, computer software, telephone, radio satellite or other communication system, alarm, C.C.T.V. or refrigeration equipment); (k) loss, deletion or unauthorised access of data; (l) fire (including steps to extinguish fire), smoke, radiation, radioactive contamination or explosion; (m) temperature variation, exposure to heat or cold or light, vermin, mould, insects, rot or corrosion; (n) any Vessel, Goods or Equipment being unfit or in an unsuitable condition for the Service or any Vessel being unseaworthy; (o) acts or default of third parties; (p) insufficient depth of water at any Quay or its approaches; (q) voluntary use of a NAABSA berth; (r) dust emanating from cargoes (s) acts by or on behalf of Inverness Harbour Trust for the preservation of life; and (t) the failure of the User or its Representatives to comply with these Terms, the Acts, the Byelaws or the Directions.

- 9.5 The burden of proof that any loss or damage was caused by the actionable fault of Inverness Harbour Trust shall be on the User. That such loss or damage occurred within the Port Area or under Inverness Harbour Trust's control shall not satisfy the User's burden of proof.
- 9.6 Subject to Condition 9.1, the total liability of Inverness Harbour Trust (if any) for any loss, damage, liability, claim, cost and/or expense in respect of any one event or occurrence shall in no case be more than £10,000,000 and shall be the lowest of the following as applicable:

Vessel:

- (a) the market value at the time of the damage or loss of that part or parts of the Vessel to which the claim relates;

the reasonable cost of repairs

Equipment:

- (a) the reasonable cost of repairs;
- (b) the market value at the time of the damage or loss to which the claim relates;
- (c) the sum of £3,000 per any unit of Equipment.

Goods:

- (a) the market value of the Goods lost or damaged and if any claims 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);
- (b) the reasonable cost of repairs;
- (c) in any other case the sum of £1,300 per tonne (pro rata for any part of a tonne) (or any higher general limit of liability figure per tonne in the Road Haulage Association's standard Conditions of Carriage as amended from time to time) unless the nature and value of the Goods had been declared to Inverness Harbour Trust and Inverness Harbour Trust has agreed a higher limit of liability with the User (as evidenced in writing) prior to such Goods arriving at the Port Area.

9.7 Nothing in these Terms shall prejudice Inverness Harbour Trust's right to rely on any contract, convention or statutory provision providing for limitation and/or exclusion of liability including the provisions of the Merchant Shipping Acts and subordinate legislation.

9.8 It is a condition precedent to any liability of Inverness Harbour Trust that Inverness Harbour Trust is notified in writing in respect of:

- (a) any damage alleged to have been caused to a Vessel (and to be permitted to inspect such damage) prior to sailing or the commencement of repairs;
- (b) any alleged mis delivery 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 within 30 days of the Goods leaving the Port Area [or within 30 days of their arrival];
- (c) any damage alleged to have been caused to Equipment prior to such Equipment leaving the Port Area.

Failure to meet with these requirements shall absolve Inverness Harbour Trust of any liability whatsoever. In any event Inverness Harbour Trust shall be entitled (and the User and Owner hereby grant permission) to inspect any such Goods or Equipment prior to their disposal or destruction by the Owner. The User and/or Owner shall not bring any claim in respect of any single incident below the *de minimis* limit of £200.

9.9 Notwithstanding the provisions of Condition 9.8, Inverness Harbour Trust shall in any event be discharged of all liability whatsoever howsoever arising unless court proceedings are commenced

against Inverness Harbour Trust within 12 months from the date of the event or occurrence alleged to have given rise to a claim against Inverness Harbour Trust.

9.10 Inverness Harbour Trust shall have the following powers in respect of Vessels, Goods and Equipment abandoned on the Port Area:

- (a) the power immediately to remove, store and where necessary dispose of such Vessels, Goods and Equipment in the case of hazard or other emergency without prior notice;
- (b) the power generally to remove, store and dispose of or sell such Vessels, Goods and Equipment on reasonable notice to the User (the length of such notice to be determined by Inverness Harbour Trust acting reasonably on a case by case basis). If the identity of the User or the User's contact details are not known to Inverness Harbour Trust then Inverness Harbour Trust can remove and dispose of or sell such Vessels, Goods and Equipment after leaving written notice on the Vessels, Goods and Equipment for a reasonable period of time (the length of such period to be determined by Inverness Harbour Trust acting reasonably on a case by case basis);

and in each case to charge for the reasonable costs incurred in respect of the removal, storage and disposal/sale of such Vessels, Goods and Equipment.

- 9.11 (a) If Inverness Harbour Trust handles any Vessel, Goods or Equipment whose gross weight is incorrectly stated such handling by Inverness Harbour Trust shall be at the sole risk of the User tendering the said Vessel, Goods or Equipment.
- (b) In particular, Inverness Harbour Trust shall be exempt from all liability whatsoever for deficiency, loss, damage or mis delivery of or to the said Vessel, Goods or Equipment or for delay arising out of, caused or contributed to by the handling by Inverness Harbour Trust of the said Vessel, Goods or Equipment. The person tendering the said Vessel, Goods or Equipment shall be responsible for and shall indemnify Inverness Harbour Trust against all injury (including fatal injury), loss or damage however caused and against all claims made against Inverness Harbour Trust in respect of injury to persons (including fatal injury) or loss or damage to property and against any failure of a load bearing part of any lifting appliance arising out of or caused or contributed to by the handling by Inverness Harbour Trust of the said Vessel, Goods or Equipment.

9.12 The User is under a duty to mitigate its losses, including for example, in obtaining salvage.

9.13 The User shall save, defend, indemnify and hold Inverness Harbour Trust harmless from and against;

1.1 Any and all claims, damages, losses, expenses and costs including without limitation legal and court costs in respect of any damages to or loss of any property owned, hired, leased or otherwise provided by Inverness Harbour Trust or their affiliates, subsidiaries or parent companies, and any sickness, injury or death of any employee, agent, officer, director or invitee of Inverness Harbour Trust or their affiliates, subsidiaries or parent companies.

1.2 Any and all claims, damages, losses, expenses and costs including without limitation legal and court costs in respect of pollution (including clean-up costs) emanating from any of the User's activities or from property or equipment owned, hired, leased by the User or otherwise provided by Inverness Harbour Trust or their affiliates, subsidiaries or parent companies.

1.3 Any claims by third parties in respect of loss, damage or destruction of property of any description, or any injury or death to third parties.

Arising as a result of the User's or any of their sub-contractors' actions, omissions, negligence, breach of duty or misrepresentation or the breach of any obligation under these Conditions of Business.

1.4 Any claims, damages, losses, expenses and costs including without limitation legal and court costs in respect of any damage to or loss of any property owned, hired, leased or otherwise provided by or to the User or their affiliates, subsidiaries or parent companies, any sickness, injury or death of any employee, agent, officer, director or invitee of the User or their affiliates, subsidiaries or parent companies, or any consequential losses it may incur, however arising.

10 Indemnity

- 10.1 The User shall be liable for and shall indemnify Inverness Harbour Trust against any and all damage, claims, (including claims for personal injury and/or death), actions, liabilities, fines, losses, damages and expenses (including legal expenses) incurred by Inverness Harbour Trust, its employees, servants, agents or sub-contractors howsoever caused, which arise out of or in connection directly or indirectly with:
- (a) any act, omission, instruction, misrepresentation, negligence, recklessness, fraud, wilful misconduct or breach of statutory duty of the User or the Owner or any other person interested in the Goods, Equipment or Vessel;
 - (b) the failure of the User to comply with the requirements of any authority;
 - (c) any inaccuracy (or omission) in any warranties, declarations, particulars or information (including without prejudice to the foregoing generality gross weight) given to Inverness Harbour Trust in respect of a Vessel, Goods or Equipment; and
 - (d) the failure of the User to comply with any of these Terms or to take any step which Inverness Harbour Trust shall consider to have been reasonably required to remedy such failure.
- 10.2 Any sums payable to Inverness Harbour Trust under Condition 10 shall be chargeable to and payable by the User in addition to and subject to the same provisions as the Charges.

The foregoing indemnities shall be deemed to extend to the User's parent companies and/or affiliated and subsidiary companies and where appropriate to co-venturers and their respective directors, officers and employees

11 Insurance

- 11.1 The User shall be fully insured against all risks (including, without prejudice to the generality of the foregoing, fire, damage, environmental incident, salvage, public liability and theft, whether due to the negligence of others or not), for a sum of not less than £10,000,000 at all times that they or any of their Vessels, Goods or Equipment shall remain on the Port Area. Inverness Harbour Trust shall advise the User if they require the sum so insured to be a figure higher than £10,000,000. The User shall provide evidence of such insurance to the Harbour Master on request.
- 11.2 Inverness Harbour Trust has no responsibility to insure Vessels, Goods or Equipment.

12 Miscellaneous Provisions

- 12.1 If and in so far as any part or provision of the Terms is or becomes void or unenforceable it shall be deemed not to be or never to have been or formed a part of the Terms and the remaining provisions of the Terms shall continue in full force and effect.
- 12.2 The failure of either party to exercise or enforce any right conferred on that party by the Terms shall not be deemed to be a waiver of any such right or operate to bar the exercise or enforcement thereof at any time or times thereafter.
- 12.3 These Terms and in particular the limitations on liability are intended to inure for the benefit of both Inverness Harbour Trust and its employees, agents and contractors to which end Inverness Harbour Trust contracts on these Terms on its own behalf and as agent for and trustee for the benefit of its employees, agents and contractors.
- 12.4 All legal relationships and agreements between Inverness Harbour Trust and the User shall be governed in all respects by Scottish law and the User hereby submits to the exclusive jurisdiction of the Scottish courts in connection therewith, save that Inverness Harbour Trust shall be at liberty to seek any interim relief, arrest or secure property of the User or to take steps to enforce any obligation or judgement against the User in any jurisdiction.