

**GAC PORT AGENCY SERVICES
STANDARD TERMS AND CONDITIONS ("Conditions")**

1. DEFINITIONS

1.1 In these Conditions, the following words shall have the following meanings:

"**Agency Services**" means the services to be provided by the Sub-Agent as more specifically described in Schedule 1.

"**Booking Confirmation**" means the booking note, email or other document containing the confirmation of the appointment of the Sub-Agent by the Hub Agent acting as agent for and on behalf of the Principal.

"**Disbursements**" means the costs and expenses payable to the Sub-Agent for the provision of the Agency Services.

"**FDA**" has the meaning given to it in Clause 4.1.

"**Hub Agency Agreement**" means the agreement between the Hub Agent and the Principal for hub agency services.

"**Hub Agent**" means GAC HUB SERVICES DWC-LLC, a company incorporated and registered in the Emirate of Dubai with company number 8240, whose registered office is at WH: CL-1-WA 65, Logistics District, Dubai World Central, Dubai, UAE.

"**Liabilities**" means all costs (including the costs of investigating and defending any claims), expenses, claims, losses, liabilities, orders, awards, fines, proceedings and judgments of whatsoever nature.

"**Parties**" means the Hub Agent and the Sub-Agent.

"**PDA**" has the meaning given to it in Clause 4.1.

"**Principal**" means the Customer of the Hub Agent on whose behalf the Hub Agent is appointing the Sub-Agent.

"**Region**" means the port(s), place(s) or geographical area specified in the Booking Confirmation.

"**Remuneration**" has the meaning given to it in Clause 5.

"**Sub-Agent**" means the port agent appointed by the Hub Agent, as agent for on behalf of the Principal, to provide the Agency Services in the Booking Confirmation.

1.2 References to an enactment, order, regulation or other similar instrument shall be deemed to include reference to any amendment by any subsequent enactment, order, regulation or similar instrument.

1.3 Clause and Schedule headings are for convenience of reference only and are not to be taken into account in construction.

1.4 In these Conditions, unless the context requires otherwise:

(a) words in the singular shall be deemed to include the plural and vice versa;

(b) words importing any particular gender shall include all other genders;



- (c) references to persons shall include bodies of persons whether corporate or incorporate;
- (d) words importing the whole shall be treated as including a reference to any part of the whole; and
- (e) the words include(s) or including shall be deemed to have the words "without limitation" following them.

2. **APPOINTMENT**

- 2.1 The Hub Agent has been appointed by the Principal pursuant to the Hub Agency Agreement to make all necessary arrangements for the Agency Services as agent for and on behalf of the Principal.
- 2.2 The Hub Agent, acting as agent for and on behalf of the Principal, hereby appoints the Sub-Agent to provide the Agency Services to the Principal.
- 2.3 These Conditions governs the relationship between the Hub Agent and the Sub-Agent. The Sub-Agent recognises and irrevocably agrees that the contractual relationship for the provision of the Agency Services is between the Principal and the Sub-Agent and that the Hub Agent has no liability, responsibility or obligation whatsoever to the Sub-Agent to perform any of the Principal's obligations arising out of or in connection with such contractual relationship.
- 2.4 Without prejudice to the generality of Clause 2.3, the Principal shall be responsible for paying the Disbursements and Remuneration and the Hub Agent shall have no liability whatsoever to the Sub-Agent for these amounts. Any payment of the Disbursements and Remuneration made by the Hub Agent shall be made by the Hub Agent acting as agent for and on behalf of the Principal.

3. **SUB-AGENT'S OBLIGATIONS**

- 3.1 The Sub-Agent acknowledges and agrees that it shall be under the control and supervision of the Hub Agent who shall, acting as agent for and on behalf of the Principal, manage and co-ordinate the provision of the Agency Services performed by the Sub-Agent. The Sub-Agent agrees to act only as expressly authorised in these Conditions, or in writing by the Hub Agent, and not to commit, bind or incur any liability on behalf of Hub Agent and/or the Principal beyond the express terms of these Conditions or as expressly authorisation by the Hub Agent in writing.
- 3.2 The Sub-Agent warrants and undertakes that it shall:
 - (a) provide the Agency Services with all due skill, care and diligence;
 - (b) provide the Agency Services in accordance with the Hub Agent's instructions and all applicable laws;
 - (c) obtain and maintain all necessary licences and permits required to provide the Agency Services in accordance with all applicable laws;
 - (d) engage appropriately experienced, skilled and trained personnel in connection with the performance of the Agency Services; and
 - (e) at all times comply and act in accordance with the Hub Agent's Code of Ethics and Anti-Corruption and Bribery Policy which can be found on the Hub Agent's website (<https://gac.com/about-gac/gac-compliance-and-ethics/>).



4. FUNDING AND ACCOUNTS

- 4.1 The Sub-Agent shall prepare a draft pro-forma disbursement account detailing the Sub-Agent's best estimate of the Disbursements and final Remuneration ("**Draft PDA**"). The Sub-Agent shall send the Draft PDA to the Hub Agent, via the Hub Agent's port call management software application (or any alternative method as agreed in writing between the Parties), for approval by the Hub Agent before any of the Agency Services are provided.
- 4.2 The Sub-Agent shall not incur any Disbursements until the Hub Agent has approved the Draft PDA in writing ("**PDA**"). Any cost incurred prior to such approval shall be borne by the Sub-Agent.
- 4.3 Provided that the Principal has first advanced the necessary funds to the Hub Agent, the Hub Agent shall, as agent for and on behalf of the Principal, advance an amount equal to the proportion of the value of the PDA as agreed between the Parties in writing ("**Pre-funding**") before any of the Agency Services relating to such PDA are provided.
- 4.4 The Sub-Agent shall not incur any additional Disbursements not included in the PDA without the prior approval in writing of the Hub Agent. Any additional Disbursements incurred without such prior approval shall be borne by the Sub-Agent.
- 4.5 Once all the Agency Services have been provided, the Sub-Agent shall:
- (a) collect and check all invoices and receipts received in connection with the Agency Services; and
 - (b) prepare a final disbursement account confirming the Disbursements incurred ("**FDA**").
- 4.6 The Sub-Agent shall only include in the FDA the additional Disbursements approved in accordance with Clause 4.4. Notwithstanding the provisions of Clause 4.4, the Sub-Agent shall ensure that the difference between the value of the PDA and the value of the FDA is no greater than five percent (5%).
- 4.7 The Sub-Agent shall send the FDA, together with all supporting invoices and receipts, to the Hub Agent as soon as possible, and in any event by no later than thirty (30) days after the vessel's actual time of departure.
- 4.8 Provided that the Principal has first advanced the necessary funds to the Hub Agent and save where Clause 4.9 applies, the Hub Agent shall, as agent for and on behalf of the Principal, pay to the Sub-Agent an amount equal to:
- (a) the total specified in the FDA;
less
 - (b) the amount of any Pre-funding paid under Clause 4.3,
- within ten (10) days of the provision of the FDA by the Sub Agent to the Hub Agent.
- 4.9 Where the total specified in the FDA is less than the amount of any Pre-funding paid under Clause 4.3 ("**Excess Funding**"), the Sub-Agent shall return the Excess Funding to the Hub Agent, to be paid by electronic funds transfer of immediately available funds to the bank account specified by the Hub Agent within seven (7) days of the provision of the FDA by the Sub Agent to the Hub Agent.

4.10 Any item contained within the FDA which is disputed by the Hub Agent, as agent for and on behalf of the Principal, on reasonable bona fide grounds shall be notified to the Sub-Agent within five (5) days of the Sub-Agent submitting the FDA, following which the Parties will attempt to resolve the disputed item as soon as practical thereafter.

4.11 All bank charges shall be for the Principal's account.

4.12 The Sub Agent shall pass the benefit of any brokerages, rebates, discounts, allowances and other remunerations to the Hub Agent.

5. **REMUNERATION**

5.1 Subject to Clause 5.2, as consideration for the Sub-Agent providing the Agency Services, the Sub-Agent's remuneration will comprise a fee as specified in the Booking Confirmation, which will be included in the PDA ("**Remuneration**").

5.2 No fee shall be payable on any Disbursement relating to third party services and or goods procured by the Sub-Agent as part of the Agency Services.]

6. **PAYMENT AND TAX**

6.1 Any payment under these Conditions shall be paid by electronic funds transfer of immediately available funds to the bank account specified by the Party receiving such payment.

6.2 In the event that the Principal fails to pay any of the amounts owed to Sub-Agent in relation to the Agency Services, the Hub Agent will use its reasonable endeavours to recover the same from the Principal, but the Hub Agent accepts no liability to the Sub-Agent if it is unable to do so.

6.3 The Disbursements and Remuneration are exclusive of amounts in respect of value added tax or any equivalent tax ("**VAT**").

7. **INSURANCE**

7.1 The Sub-Agent shall maintain, at its own expense, the insurances listed below which are to be in place prior to the commencement of the Agency Services and shall provide evidence of such insurances to the Hub Agent upon request:

- (a) Errors and omissions insurance – with the International Transport Intermediaries Club, London (ITIC) or other insurer acceptable to the Hub Agent against errors and omissions of its officers and employees for a minimum limit of indemnity of U.S. Dollars One Million, or such other amount as agreed by the Hub Agent in writing;
- (b) general liability insurance of not less than U.S. Dollars One Million per event or such amount as may be required by the applicable law;
- (c) employer's liability for all of its personnel who perform any Agency Services of not less than U.S. Dollars One Million per event or such amount as may be required by the applicable law; and
- (d) any other insurance as may be required by Applicable Law.



8. EXCLUSION OF LIABILITY AND INDEMNITIES

8.1 The Hub Agent shall have no liability to the Sub-Agent in respect of any Liabilities suffered or incurred by the Sub-Agent arising out of or in connection with:

- (a) any act or omission (including negligent acts or omissions) of the Principal, its officers, employees, agents or sub-contractors; or
- (b) the provision of the Agency Services,

and the Sub-Agent hereby agrees that upon the occurrence of any one or more of the causes of events listed in Clauses 8.1(a) and 8.2(b), it shall only have recourse against the Principal and not the Hub Agent.

8.2 The Sub-Agent shall hold harmless and indemnify the Hub Agent from any Liabilities suffered or incurred by the Hub Agent, its officers, employees, agents or sub-contractors (including as a result of any claims by the Principal, its officers, employees, agents or sub-contractors) arising out of or in connection with:

- (a) any act or omission of the Sub-Agent (including negligence); or
- (b) the performance by the Sub-Agent, or any failure by the Sub-Agent to perform, any of its obligations under these Conditions or the Booking Confirmation.

8.3 The indemnities and remedies contained in these Conditions shall survive the termination of these Conditions.

9. FORCE MAJEURE

10. Neither Party shall be liable to the other for any delay or non-performance of its obligations under these Conditions to the extent that such, loss or damage, delay or non-performance is due to any acts of God, flood, severe weather condition, epidemic, pandemic, compliance with any law, order, rule or regulation of any governmental or other national or supra-national authority, quarantine, acts of any governmental or super-national authority, war or national emergency, riots, civil commotion, acts of terrorism, decrees or restraints by Government Authorities, entry and exit restrictions, restraint of princes, rulers or people, computer viruses, lock-outs, strikes and other industrial disputes (in each case, whether or not relating to that Party's workforce), port congestion, port disruption or any event, circumstance or cause whatsoever beyond its reasonable control.

11. GENERAL

11.1 Neither the Hub Agent nor the Sub-Agent shall assign, novate, transfer or otherwise dispose of its rights and obligations under these Conditions without the prior written consent of the other.

11.2 The waiver by either Party of a breach or default of any of the provisions of these Conditions by the other Party shall not be construed as a waiver of any succeeding breach of the same or other provisions nor shall any delay or omission on the part of either Party to exercise or avail itself of any right, power or privilege that it has or may have hereunder operate as a waiver of any breach or default by the other Party.

11.3 These Conditions and the identity of the Principal are confidential to the Parties and may not be disclosed to any third party (other than to the Parties' professional advisers and save as required by any applicable law) without the prior approval of the other Party.



- 11.4 If any court or administrative body of competent jurisdiction shall find any provision of this Agreement to be invalid or unenforceable the invalidity or unenforceability of such provision shall not affect the other provisions of these Conditions and all provisions not affected by such invalidity or unenforceability shall remain in full force and effect.
- 11.5 These Conditions:
- (a) comprises the entire agreement between the Parties with respect to the provision of the Agency Services and any representations or statements whether made orally or written elsewhere are hereby excluded provided always that this Clause 11.5 shall not exclude or limit any liability or any right which any Party may have in respect of pre-contractual statements made or given fraudulently; and
 - (b) supersedes all previous agreements and arrangements between the Parties with respect to the provision of the Agency Services.
- 11.6 Nothing in these Conditions is intended to, or shall be deemed to, establish any partnership or joint venture between the Parties, constitute any Party the agent of the other Party, or authorise either Party to make or enter into any commitments for or on behalf of the other Party.
- 11.7 Any person who is not a Party may not enforce, or otherwise have the benefit of, any provision of the Agreement under the Contracts (Rights of Third Parties) Act 1999.
12. Any notice to be given under these Conditions shall be in writing in English and served by hand or registered mail or, in the event expeditious notice is required, by fax to the registered office of the other Party. Notice shall be deemed served (i) if sent by hand, on the date and at the time of signature of the courier's delivery receipt, (ii) if sent by registered mail, 9:00 am on the fifth (5th) day after posting, or (iii) if sent by fax when the sender receives one or more transmission reports showing the whole of the notice to have been transmitted to the correct fax number.
- 12.1 The Sub-Agent shall not at any time whilst it provides the Agency Services or during the period of one (1) year from the end of the provision of the Agency Services directly or indirectly:
- (a) solicit or entice away (or attempt to solicit or entice away) the Principal from the Hub Agent in order to provide the Agency Services or similar services directly to the Principal; or
 - (b) induce or attempt to induce the Principal to cease or refrain from conducting business with the Hub Agent or to reduce the amount of business conducted with the Hub Agent.

13. **LAW AND ARBITRATION**

These Conditions shall be governed by and construed in accordance with English Law and the Parties agree that the English courts have exclusive jurisdiction to adjudicate any dispute which arises under or in connection with these Conditions and all non-contractual matters associated with, arising out of or connected with them, save that the Hub Agent retains the right to bring proceedings against the Sub-Agent in any other court of competent jurisdiction.



SCHEDULE 1 AGENCY SERVICES

1. The Sub-Agent shall communicate in a timely manner with:
 - 1.1 the Hub Agent in relation to general inquiries in respect of pro forma port costing, port/berth facilities and restrictions, berthing prospects, arrival details with prospects, statement of facts and any other relevant operational or financial information / data for a Vessel's port stay;
 - 1.2 the Hub Agent in relation to cargo stem, B/L status, berthing prospects, arrival details with prospects, progress report on loading or discharge if applicable, sailing details and final cargo details (if the same were not available at the time of sailing);
 - 1.3 the Master of the Vessel in relation to berth facilities, restrictions, tug requirements (if applicable), cargo details and tank/hold presentation (if loading), stowage bay plans, berthing prospects, labour arrangements and requirements; and
 - 1.4 any third parties in respect of any of the activities listed in this Schedule and to apply for any relevant licences, permits or approvals required in the Region and under applicable laws.
2. In advance of the arrival of Vessels, the Sub-Agent shall:
 - 2.1 provide written acknowledgement / receipt of appointment from Hub Agent and contact the Master to establish any specific requirements of the Vessel and/or crew;
 - 2.2 inform and keep the Hub Agent and Master updated of berthing prospects and the prospects of fulfilling any specific requirements referred to in Paragraph 1.1 of this Schedule 1;
 - 2.3 arrange all activities of the terminal operations, stevedores, tallymen and all other contractors necessary to ensure the proper performance of the specific and customary requirements for the most efficient arrival, port stay and departure of Vessels; and
 - 2.4 arrange husbandry services, as requested, including but not limited to crew changes, passenger change, ship stores, spare parts, technical assistance, nautical charts, equipment, medical assistance, cash to master, shore excursions and coordination of any bunker supply.
3. In order to organise the berthing and un-berthing of Vessels, the Sub-Agent shall:
 - 3.1 maintain close contact with the berth operator to establish prospects on berthing and un-berthing;
 - 3.2 establish tug requirements, if any, by consulting the Master, pilots and port authority or equivalent; and
 - 3.3 arrange berthing or un-berthing with the appropriate parties, including with the harbour office, berth operator, pilot, linesman and/or tug operator.
4. In order to attend on-board the Vessels, the Sub-Agent shall:
 - 4.1 coordinate ship port call formalities (including, but not limited to, immigration, customs, reporting of ship arrivals); and
 - 4.2 confirm ship port call arrangements made for and/or establish additional requirements of the Master and/or crew.



5. In order to attend to cargo/ship documentation, the Sub-Agent shall:
 - 5.1 assist in completing/endorsing cargo/ship documentation;
 - 5.2 prepare cargo related documents included but not limited to bills of lading, manifest, letter of indemnity, statements of fact, notes of protest and letters of repudiation where appropriate; and
 - 5.3 fulfil the requirements of the Hub Agent (acting as agent for and on behalf of the Principal) concerning claims handling, P&I matters, general average and/or appointment of surveyors upon request and generally to assist the Hub Agent (acting as agent for and on behalf of the Principal) with any matters of a similar nature.
6. The Sub-Agent shall keep the Hub Agent informed of the matters listed in paragraphs 1 to 5 of this Schedule using the Hub Agent's web based port call management software as directed.

