

TERMS OF SERVICE

**TERMS AND CONDITIONS
APPLICABLE FOR PROVISION OF TERMINAL SERVICES
AT
SOUTH ASIA GATEWAY TERMINALS (PVT) LTD.
PORT OF COLOMBO, SRI LANKA**

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SCHEDULE 1: SAGT – Container Terminal Tariff (available at www.sagt.com.lk)

TERMS & CONDITIONS OF TERMINAL SERVICES
AT South Asia Gateway Terminals, PORT OF COLOMBO,
SRI LANKA

RECITAL

This document comprises the terms & conditions applicable for the provision of Terminal Services by South Asia Gateway Terminals (Pvt) Ltd (SAGT) hereinafter referred to as the **SAGT** in the Port of Colombo. The Customer hereby agrees that it shall be bound by the Terms and Conditions of services at SAGT for the provision of terminal services at SAGT automatically no sooner any terminal services have been provisioned by SAGT. Terms & Conditions are subject to change anytime without prior notice and the applicable terms and conditions will be published digitally at www.sagt.com.lk.

1. INTERPRETATION

1.1 Interpretation

In this document, unless the context otherwise requires:

- (a) the singular includes the plural and vice versa;
- (b) words importing any gender include the other genders;
- (c) reference to any statute ordinance or other law includes all regulations and other instruments and all consolidations amendments re-enactments or replacements for the time being in force and applicable for provision of Terminal Services;
- (d) all headings bold typing and italics (if any) have been inserted for convenience of reference only and do not define limit or affect the meaning or interpretation of this document;
- (e) reference to a Recital, Schedule, Annexure or Exhibit is to a Recital, Schedule, Annexure or Exhibit of or to this document;
- (f) reference to a person includes a natural person, body corporate, unincorporated association, government or governmental, semi-governmental or municipal entity; and
- (g) reference to a party means a party to this document and includes that party's successors, legal personal representatives and permitted assigns.

1.2 Definitions

- a. **"Agents"** means the sole, duly licensed company appointed by the shipping line to act as a representative of ship owners, managers or charters and carries out all necessary duties and obligations.
- b. **"Arrive"** or **"Arrival"** means the arrival of a ship at the designated anchorage point of the Port of Colombo in coordination with the pilot station / port control.
- c. **"Arriving on Schedule"** means Arrival within three [3] hours of commencement of the Berthing Window
- d. **"Authorized Person"** means a person of either SAGT or the Customer authorized to commit and enter into business agreements with the other
- e. **"Bay Plan"** means the full profile of a Container ship, giving information as per internationally accepted formats about Containers stowed on board, by slot, by row and by bay which used for vessel planning purposes
- f. **"Berth on Arrival"** means to have a berth free for the designated ship at the time of arrival
- g. **"Berthing Program"** means the schedule of ships to be allocated for berthing on a specific day at the terminal.
- h. **"Berth"** or **"Terminal"** (as the case may be) means such wharf area contained within area presently owned, leased or managed by SAGT and any other wharf area within the **Port of Colombo** which SAGT may in the future own, lease or have access together with adjacent areas in which Containers or Cargo are received, handled and stored for the purpose of loading onto or discharging from a Vessel.
- i. **"Berthing Window"** means the agreed time frame within which a Customer Container ship is to Arrive, complete Cargo operations and depart

- j. **"Berthing Plan"** means the berthing window plan communicated by SAGT to the Customer under Clause 11.6
- k. **"Calendar Day"** means a continuous period of twenty-four hours from 00.00 to 23.59 hours (including any public and mercantile holidays)
- l. **"Cargo"** means any goods, merchandise or other property whatsoever, whether or not in a Container, in respect of which SAGT provides the terminal Services
- m. **"Container"** means any container, whether laden or empty, 20', 40' or 45' in length, 8' in width and 8'6"/9'6" in height or any other container developed for standard use in liner shipping at any time whilst these Terms are in force including, but not limited to, dry, open top, flat-racks, platforms, reefer and container tanks, with ISO recommended lifting arrangements and consistent with the safety requirements of CSC (Convention for Safe Containers) plates, and which can be handled by means of a standard 20', 40' and 45' spreader;
 - i. Non-standard Container; and/or
 - ii. Out of Gauge Container;
- n. **"Customer"** means any person or entity requesting receiving or benefiting from the delivery of Services by SAGT. Including, without limitation: (i) the owner of, charterer (of whatsoever nature) of, or any other person who is or may become interested in a Vessel calling at SAGT, the Vessel's master and any person who has control of the operation of such Vessel; (ii) the owner or any other person who is or may become interested in the Goods; (iii) the owner, or any other person who is or may become interested in, the Containers, or in any plant, machinery, package, case, pallet; (iv) the owner, or any other person who is or may become interested in, any road or rail vehicle which enters the Terminal; and (v) any person who drives or operates such vehicle and any person who visits, uses and/or enters the Terminal.
- o. **"Customer's Visitors"** means all employees, agents, subcontractors or any other person whom the Customer may direct or invite to enter the Terminal on its behalf
- p. **"EDI"** means electronic data interchange between the Parties
- q. **"EDIFACT"** means United Nations standards for the Electronic Data Interchange for Administration, Commerce and Transport
- r. **"Export Reveal Advice"** means the declaration of the shipper or packer in respect of the Cargo being shipped
- s. **"Goods"** means the whole or any part of the cargo of any kind, size or weight/measurement whatsoever, transported or to be transported in a Container and includes non-containerized Cargo and Hazardous Goods carried on a Vessel
- t. **"Hazardous Goods"** means Goods which are, or which may become, of a dangerous, noxious, toxic, poisonous, hazardous, explosive, flammable, or otherwise damaging nature (including radioactive material), or which may, or may become liable to, damage any persons or property whatsoever, and whether or not so listed in any official or unofficial, international or national code, convention, listing or table;
- u. **"Party"** or **"Parties"** means the Customer and SAGT to be referred to as a "Party" individually or as the "Parties" collectively.
- v. **"Principal"** means the statutory legal commercial entity established such as a company, firm or a proprietor who has or whose representatives have instructed the respective entity and who is the owner or charterer or manager of the vessel represented by the respective entity and/or the carrier under the bill of lading in connection with which Services are provided by the respective entity.
- w. **"Non-standard Container"** means any Container which SAGT cannot handle as a normal lift with a container spreader but can handle with alternative means;
- x. **"Normal Working Hours"** means Monday to Friday from 0800 hours to 1700 hours excluding public and mercantile holidays in Sri Lanka.

- y. **“Out of Gauge Container”** means any Container whose Goods exceed the dimensions of a standard Container as specified in section (a) of the definition of Container;
- z. **“Services”** means the Terminal Services to be provided by SAGT to the Customer under Clause 7 below, on the terms provided for under this terms and conditions
- aa. **“Terminal”** means terminal facilities at SAGT, Port of Colombo, Sri Lanka
- bb. **“Vessel”** means any vessel within the contemplation of Clause 4.
- cc. **“Working Day”** means Monday to Friday from 0800 hours to 1700 hours excluding public and mercantile holidays in Sri Lanka.

2. SCOPE

- 2.1. These standard terms of business (the “Terms”) shall apply to any provision of Services [of any nature whatsoever] by SAGT to the Customer and all Vessels which call at the Terminal and otherwise to any Customer. By requesting the delivery of Services, the Customer warrants to be authorized to enter into a Service arrangement with SAGT not only for itself but also as agent for the owners of the Vessel (if chartered), Goods and Containers.
- 2.2. SAGT shall only be bound and an agreement for the provision of Services between SAGT and the Customer on these Terms shall only be concluded once SAGT confirms any request by Customer for the provision of Services (the “Confirmation”). Notwithstanding the foregoing, the use of the Terminal or the Container Terminal Services by the Customer, entry into the Terminal or berthing of any Vessel at the Terminal, shall be treated as acceptance of these Terms.
- 2.3. Notwithstanding any language to the contrary in any Customer documents, any correspondence or any other form of acknowledgement, the Customer shall be bound by these Terms and any other terms and conditions are hereby expressly excluded and rejected.
- 2.4. No variation to these Terms shall be binding unless agreed in writing by an authorized representative of SAGT. Prior dealings, usage of trade or a course of performance shall not be relevant to determine the meaning of these Terms even though the accepting or acquiescing party had knowledge of the nature of the performance and opportunity for objection.
- 2.5. If not otherwise agreed in writing between the Parties, the scope of Services (kind of Services, Service description, rates) shall be as set out in the applicable tariff of SAGT as published at www.sagt.com.lk (“Tariff”). The terms and conditions of the applicable Tariff are incorporated hereinafter. In the case of inconsistency between these Terms and the Tariff (Schedule 1) shall prevail. The Services shall herein after sometimes be referred to as “Container Terminal Services”.

3. TARIFF RATES

3.1 Payment of Tariff Rates

Payment of Tariff rates shall be as set out in Schedule 1 hereto.

3.2 Tax Gross Up

The applicable tax gross up shall be as detailed in Schedule 1 hereto

4. VESSELS

4.1 Vessels Serviced by SAGT

The Vessels governed by these Terms for whom the relevant Services herein are provided, shall be those Vessels:

- a. operated by the Customer and notified in writing by the Customer to SAGT, whether prior to the commencement of Services or from time to time as appropriate;
- b. which comply with all relevant international standards with respect to safety for SAGT’s staff and equipment, stability and fitness for purpose; and

- c. once notified to SAGT under paragraph (a) hereinabove, shall automatically be deemed to have been warranted by the Customer to SAGT as being safe, stable and fit for purpose.

4.2 Customer’s Obligation In Respect of Vessel Information

The Customer shall provide to SAGT the general arrangement and plan of every Vessel and any other appropriate information as set-out in more specific detail throughout this document in relation to the Vessel(s) and operational information and its communication of such as requested by SAGT at least seven (7) Calendar Days prior to the date of the Vessel’s registration and Cargo opening.

5. OBLIGATIONS OF SAGT

- 5.1. SAGT shall at all times provide the Customer with:
 - a. details of the Berthing as set-out in detail under clause 11.2, 11.3 and 11.6
 - b. handling equipment and human resources necessary for the loading and discharging operations provided for in Clause 7, so as to ensure that the Containers and Cargo of the Customer are handled in a safe and efficient manner;
 - c. suitable handling and storage areas based on the frequency of calls and the volume to be handled as notified to SAGT together with a gate operation for the receipt and delivery of Containers;
 - d. proper care and control of the Customer’s Containers and Cargo while under SAGT’s control, including the prompt reporting of any damage to such Containers and Cargo as and when detected by the SAGT.
 - e. vessel planning services in accordance with the Customer’s instructions;
 - f. bay plan and a working sequence for acceptance by the Vessel’s command prior to the commencement of operations;
 - g. SAGT shall handle Containers stuffed with dangerous goods of any kind subject to prior approval being granted by SAGT to the Customer minimum 72 hours before Vessel arrival at port. SAGT’s approval is predicated on the details as received from the Customer and reported in the dangerous goods manifest or as otherwise determined by the Customer and shall keep SAGT indemnified in that regard, and shall ensure that all such information is disclosed in accordance with all domestic and international safety rules and regulations, including conformance with the International Convention for Safe Containers, 1972 (CSC), International Maritime Organization (IMO) regulations and International Maritime Dangerous Goods (IMDG) Code. Any irregularity, any spill or any condition which might result in a spill shall be declared in advance by the Customer to SAGT and whilst in the custody of SAGT shall be reported immediately to the Customer by SAGT. The Customer and SAGT as appropriate shall use all reasonable measures to contain and remediate the damage. With respect to Customer’s Containers laden with and/or labelled as hazardous goods, which are being transported pursuant to a Customer’s or vessel’s bill of lading, the Customer shall ensure that such shipments are documented, labelled, packed, packaged and secured in accordance with current IMO requirements for international freight appearing in the IMDG Code and in accordance with current regulations promulgated under any Government or statutory authority with jurisdiction over same. The Customer is solely responsible and liable to ensure that all statutory approvals for any class of hazardous/ dangerous goods are duly obtained and furnished to SAGT where needed prior to vessel arrival including but not limited to in-transit Cargos (staying onboard).

- h. UN/EDIFACT standard messages including codes, data and references as per guidelines defined by the Ship Message Design Group (SMDG) in accordance with the rules of the International Transport Implementation Guideline Group (ITIGG) of the UN EDIFACT Working Group (EWG) for transport.
- i. SAGT reserves the right to apply due charges as it deems necessary where EDI facilities for specific communications are available but not availed of by the Customer. For avoidance of doubt these charges will apply where SAGT offers the facility to send/ receive via a universal electronic information platform, but the Customer is unable/ unwilling to align with the available electronic protocol.
- j. Direct access to the SAGT's e-Port web application available on the SAGT website; <https://eport.sagt.com.lk/Login.aspx> and the Customer will be provided with secure login access to the e-Port portal.
- k. SAGT shall not be obliged to provide any services which are not permitted under, or are not in line with, the laws, rules or regulations as set forth by the Sri Lanka Ports Authority ("Port of Colombo Guidelines") or other mandatory applicable laws, rules and regulations. In particular, SAGT shall not load any packed Container on board a Vessel to which the SOLAS Regulations apply without a verified gross mass provided by the Customer or obtained by SAGT by weighing the packed Container. If there is any discrepancy between a verified gross mass provided by the Customer and that obtained by SAGT by weighing the packed Container, the verified gross mass obtained by SAGT shall be used as the verified gross mass in accordance with the SOLAS Regulations.
- l. SAGT shall not be required to provide Services if the applicable terminal manager at the Terminal, at his sole discretion and after informing the issue to the Vessel's master, reasonably believes that safety violations or deficiencies exist relating to the Vessel. The preceding sentence will not preclude the applicable terminal manager at the Terminal from suspending the provision of Services on a temporary basis prior to informing the issue to the Vessel's master.
- m. SAGT shall under no circumstances be responsible nor liable for any failure or discontinuance or interference from time to time in the power supply howsoever arising and SAGT shall not be obliged to maintain an auxiliary power supply at the Terminal.
- n. SAGT shall inform the Customer of any damage to any Container, its contents or packaging which comes to the attention of SAGT and may refuse to load or handle such Containers. If SAGT gives notice to the Customer of damage to a Container, its contents or packaging, the Customer shall be entitled, immediately after such notice being dispatched, to inform SAGT in writing that an inspection of the relevant item is required. SAGT will thereafter permit the Customer or its duly appointed agents upon reasonable notice to inspect the Container, its contents or packaging. For storage and handling of any such Container, its contents or packaging the rates as agreed between the Parties or, in the absence of such agreement, as set forth in the Tariff (Schedule 1), shall apply.

5.2. Technical agreements for EDI

- a. All relevant data and/or information for provision of the Services shall be exchanged between the Parties, digitally using standard UN/EDIFACT or other relevant EDI messaging protocols or using the internet collaborative platforms or by email, or using web services, or using the SAGT e-Port facilities and/or any other digital facility as

mutually agreed between SAGT and the Customer. Manual exchange of information or manual validation of digital data exchanged will neither be accepted nor performed.

- b. SAGT e-Port shall be used to satisfy all other information requirements of the Customer.
- c. Following EDI messages or information shall be exchanged between SAGT and the Customer digitally, for provision of the Services. Applicable versions, formats, codes and messaging protocols will be discussed and agreed between the Parties prior to the implementation.

EDI Message/Digital Information	Format	Originator
Vessel Registration	Email	Customer
BAPLIE (Inward)	UN/EDIFACT	Customer
MOVINS	UN/EDIFACT	Customer
COARRI	UN/EDIFACT	SAGT
COPARN	UN/EDIFACT	Customer
CODECO	UN/EDIFACT	SAGT
BAPLIE (Outward)	UN/EDIFACT	SAGT
INVOICE	UN/EDIFACT	SAGT
TDR	Local Format	Customer
Load List	Local Format	Customer
COPRAR	UN/EDIFACT	Customer
COREOR	UN/EDIFACT	Customer

- d. An emergency procedure must be agreed between the Parties in case of non-availability of the communication system for any reason whatsoever or in case of technical problems in the chain of communication, subject however that:
 - i. In the event that one of the Parties cannot send a message, it will notify the other Party as soon as possible.
 - ii. If the receiving Party is aware that a message has not been received, it will notify the other Party to re-send the message.
 - iii. Both Parties undertake to notify each other of errors in data content or message construction as soon as possible after such error is detected.
- e. Where the standard procedure/methods as agreed above are used, each Party will bear their own costs and will not charge the other for EDI Services. Costs for deviations from the above defined standard will be charged per event.
- f. Both Parties will retain all messages sent and received for a period of 5 days for use in case of queries. Neither Party will be obliged to resend a message more than 5 days after it was first sent for the respective incident.
- g. The sender is responsible for the accuracy of all EDI messages.
- h. The Parties shall ensure that messages are maintained in confidence and are not disclosed or transmitted to any non-authorized persons nor used for any purpose other than those intended by the Parties.
- i. Non-delivery or rejection of any EDI message must be notified to the intended receiving party within two hours of non-delivery or rejection.
- j. Parties may discuss and mutually agree on implementing other digital interfaces to satisfy/facilitate relevant information sharing requirements using modern internet based B2B collaborative technology. In such situations, the Parties will agree on the operational and functional process to follow with regard to such digital interfaces either replacing the above EDI messages or in addition to the above interfaces as required.

- k. SAGT is not obliged to provide any Services unless complete information has been provided.
 - l. In cases of: (a) unannounced or not timely announced changes or (b) in the absence of an acceptance and no cancellation of the change request; SAGT shall be entitled at its discretion to accommodate the changes or provide the Services as initially agreed. In case SAGT accommodates the change, the rates as agreed between the Parties or, in the absence of such agreement, as published in the Tariff (Schedule 1) subject to and additional charge ("Change Request Surcharge"), shall apply. SAGT reserves the right to claim reimbursement of any additional costs that result from the provision of the Services in excess of the Change Request Surcharge.
 - m. The service mailbox or any other receiver, receiving date and time of the transmitted message (or of the first or original transmission in case of repeated transmission of the same message) shall be treated as the receiving date and time of the message by the recipient.
 - n. The Parties shall maintain (without modification) a message data log containing dates and times of transmission of all EDI messages ("Message Data Log"). Data contained in the Message Data Log shall be retained by way of record for a period of not less than twelve (12) months. The Message Data Log may be maintained on computer media or other suitable means provided that, if it is necessary to do so, the data must be capable of being readily retrieved and presented in human readable form.
 - o. Each of the Parties shall:
 - (i) take reasonable care in so far as it is within its power to do so to ensure that the transmissions of messages are secure and prevent unauthorized access to its EDI Communication and the Message Data Log;
 - (ii) ensure that messages containing confidential information as designated by the sender of the message are maintained by the recipient in confidence and are not disclosed to any person not otherwise authorized or used by the recipient outside the terms imposed by the sender. Any authorized disclosure to a third party shall be made only after getting a prior written approval of SAGT;
 - (iii) apply special protection, where permissible, by encryption or by other agreed means unless the Parties agree otherwise.
 - p. SAGT and the Customer accept the integrity of all messages and agree to accord these the same status as would be applicable to notices or information sent other than by electronic means, unless such message can be shown to have been corrupted as a result of technical failure on the part of any machine, system or transmission by the Customer. Where there is evidence that a message has been corrupted or if any message is identified or capable of being identified by the sender as incorrect, it shall be re-transmitted as soon as practicable with a clear indication that it is a corrected message.
 - q. If the recipient has reason to believe that a message is not intended for it, reasonable action should be taken to inform the sender and it should delete the information contained in such a message from its system apart from the Message Data Log.
- a. be solely responsible for compliance with all applicable laws, rules and regulations in force relating to the Vessel and all matters whatsoever relating to the Vessel, including these Terms.
 - b. SAGT shall permit the Customer to bring trucks alongside Vessels and to load and discharge Vessels' stores at such times as may be agreed and shall allow access to the Container Terminal to personnel to proceed on board a Vessel for the purpose of carrying out repairs. SAGT shall not be responsible or liable in any way for any loss, damage, cost, expense or injury arising in any way howsoever to any person or thing granted access in accordance with this Clause. The Customer will indemnify SAGT for any loss damage, expense or injury arising in any way howsoever caused by reason of SAGT permitting access under this Clause.
 - c. comply with SAGT's Berthing Plans described in clause 11.2, 11.3 and 11.6
 - d. provide regular sailing schedules and notification of ETAs of Vessels in accordance with clause 11.6
 - e. submit to SAGT no later than twelve (12) hours before the ETA of the Vessel, all relevant information which are necessary for the orderly planning and execution of discharge/loading of that Vessel; In the event the transit time between the last port and the Port of Colombo is less than 12 hours, then the information shall be made available to SAGT six (06) hours before the ETA of the Vessel.
 - f. arrange for the delivery of Containers or Cargo to the Berth/ Terminal in accordance with the cut-off procedures described in Clause 7.3 and supply information sufficient to enable SAGT to provide the Services not later than twelve (12) hours before commencement of any loading, including the validation of any domestic export Containers to be loaded;
 - g. inform SAGT of any exceptions or changes to the information referred to in Clause 5.1(a) within three (3) Calendar Days of receipt of such information. Absence of response from the Customer will be deemed as acceptance.
 - h. If not agreed otherwise, the Customer shall or shall procure to provide SAGT with,
 - (i) the verified gross mass obtained in accordance with IMO International Convention for the Safety of Life at Sea (SOLAS) Chapter VI, Part A, Regulation 2 ("SOLAS Regulations"), for all:
 - packed Containers for export when gated in; and
 - packed transshipment Containers 24 hours prior Vessels berthing, or
 - (ii) the confirmation that the packed Container for export carry a verified gross mass in accordance with the "SOLAS Regulations".
 - i. pay and/or warrant the payment of applicable storage charges which accrue beyond the free storage period in respect of all the Customer's Containers handled by SAGT, as described in Schedule 1.
 - j. ensure that all equipment on a Vessel for loading and discharging Containers must technically be compatible with ISO standard equipment provided by SAGT. The Customer warrants that all Vessels are fitted with twist-locks which are in good working order.
 - k. ensure that all containers for export shall be customs cleared when gated in.
 - l. warrant and undertake that each Container which it delivers or causes to be delivered to SAGT is upon delivery secure, in a good state of repair, appropriately certified and suitable for its purpose. SAGT reserves the right at its own and sole discretion to refuse to accept any Containers or

6. OBLIGATIONS OF THE CUSTOMER

- 6.1. The Customer shall at all times whilst obtaining Services from SAGT;

- Goods which appear to be damaged or are in its opinion in an unsatisfactory condition.
- m. In respect of all Goods and Containers, the Customer warrants and represents that they:
- (i) are properly and sufficiently prepared, packed, stowed, labelled and/or marked, and that the preparation, packing, stowage, labelling and marking are appropriate to any operations or transactions affecting the Goods and the Containers;
 - (ii) are not liable to give off any injurious dust, gas, fumes, liquid or radiation;
 - (iii) are not infested, verminous, rotten or subject to fungal attack and not liable to become so while at the Terminal;
 - (iv) are not over-heated or under-heated or liable to become so while at the Terminal;
 - (v) will not contaminate or cause danger, injury or pollution or damage to any person, the Terminal, any other goods, equipment or vessel or the environment adjacent thereto or generally;
 - (vi) require for their safekeeping no special protection (other than as may be agreed in writing between the Parties) but will remain safe if left standing at the Terminal;
 - (vii) contain no drugs, prohibited or stolen goods, contraband, pornographic or other illegal matter; and
 - (viii) are fit for their intended purpose and is in a fit and proper condition to be handled or otherwise dealt with by SAGT for the provision of the Services.
- n. The Customer shall pay any costs and expenses which may be incurred by SAGT in the clean-up of any leaking Container or in complying with any applicable laws, rules and regulations requiring the movement, treatment, removal or destruction of waste material of Goods or infested, contaminated or condemned Goods or the treatment of the Terminal as a result of any infestation or contamination arising from handling such. In the event that a part of the Terminal cannot be occupied as a result of SAGT complying with such applicable laws, rules or regulations. The Customer shall pay the rates outlined in the Tariff (Schedule 1) as if such yard space was fully occupied by the Customer.
- o. All Containers under the Customer's control, and to be handled under these Terms, shall at all times be in conformance with the International Convention for Safe Containers, 1972 (CSC) as may be amended from time to time.
- p. All Containers and Goods and all documents relating to Containers and Goods shall be subject to a particular and general lien respectively for charges due to SAGT in respect of such Containers or Goods from the Customer. If any charges are not paid within [one (1)] calendar month after notice requiring payment has been given to the Customer, the Containers or Goods subject to such lien, may be sold and the proceeds applied in or towards satisfaction of the outstanding charges and the costs incurred by SAGT in such sale.
- q. Abandoned Containers/ Customs detained (Hold) and Customs seized Containers
- (i) Abandoned Containers
The Customer shall settle all charges accrued for Cargo deemed by SAGT as abandoned.
 - (ii) Customs Detained (Hold) Containers
The Customer is responsible for engaging with relevant authorities to facilitate the release of

the detention (hold) to mitigate accruing charges payable to SAGT as per Schedule 1.

The Customer shall settle all charges accrued for Containers placed on hold or detained by Sri Lanka Customs (including the period during which the hold is applied).

(iii) Customs Seized Cargo

The Customer shall remain responsible for settling all charges accrued until (including the date of receiving the seizure notice) the seizure notice is received by SAGT.

In the event, a Container is not removed from SAGT's premises following the issuance of the seizure notice, the Customer shall be liable to settle all applicable charges for storage at SAGT's premises (e.g.- electricity charges for refrigerated Containers).

7. SERVICES

SAGT shall provide the following services:

7.1 Receival and Delivery

- a. delivery of import Containers at the Terminal upon the instruction of and on behalf of the Customer and all relevant arrangements and reporting associated with such delivery;
- b. receival of export Containers prior to the regular or extended cut off time agreed between the Customer and SAGT in accordance with the cut-off procedures described below in clause 7.3;
- c. arrange to transfer transshipment Container discharged at SAGT, to other terminals at the Port of Colombo subject to a minimum connecting time of ninety-six (96) hours from actual time of completion (ATC) of the discharge Vessel
- d. Customer shall check with SAGT in writing for any hot Inter-Terminal (ITT) connections expected to be delivered faster, and SAGT will check the feasibility and advice the Customer formally if such connections could be granted.
- e. In reference to clause 7.1. (c) & (d) for avoidance of doubt the ITT of transshipment Containers to other terminals is subject to the receiving (other) terminal's acceptance of same. SAGT undertakes to keep the Customer duly informed of such instances where the receiving (other) terminal is not receiving ITT Containers within 48 hours of loading Vessel's listed time of Berthing as per the terminal's published Berth Plan
- f. Storage of export Containers by SAGT shall be in accordance with the charges and provisions contained in Schedule 1;
- g. Storage of import Containers by SAGT following the completion of Vessel operations shall be in accordance with the charges and provisions contained in Schedule 1;

7.2 Loading and Discharging

- a. movement of Containers from Vessel's cell or deck to wharf or vice versa. Planning, unpinning, lashing, or unlashng of Containers on board or on the ground,
- b. movement of Containers from wharf to yard locations or vice versa;
- c. confirming Container numbers;
- d. reporting of discharge/load Container movements of the Vessel;
- e. stowage planning based upon instructions received from the Customer

7.3 Cut off procedures

- a. The receival period for laden export Container is seven (7) days prior to the day of ETA of the loading Vessel
- b. The receival period for an empty outbound Container is five (5) days prior to the day of ETA

- c. The "Cut Off" for export/ outbound Containers arriving through the gate is 12 hours prior to the ETA of the Vessel as per SAGT's published berth plan
- d. Only by written (email) correspondence will arrangements be considered for receivals after the "Cut Off" Arrangements which must be agreed no later than 12 hours prior to the ETA of the Vessel and must include full details of the Container being received late. The maximum extended "Cut Off" for confirmed late receivals will be six (06) hours prior to Vessel ETA. Such arrangement is subject to the approval of the Vessel and Container operator
- e. No Container maybe nominated for loading to a Vessel at the SAGT berth from a discharge Vessel that has not (may not) completed operations at the time of the loading Vessel's expected time of arrival (ETA) to the Port of Colombo
- f. ITT connections from other primary terminals in the Port of Colombo shall be received at SAGT at least six (06) hours prior to the ETA of the on-carrier ship. Any deviations from the above requires a formal written agreement between SAGT and the Customer and may be subject to any applicable charges.
- g. Containers received into the SAGT's terminal for another Vessel and outside the agreed receival period for the subject Vessel cannot be automatically swapped between Vessels. Such change will be subjected to agreement and payment of any storage or additional movement charges as outlined in Schedule 1.
- h. SAGT and Customer can vary the above procedures by mutual agreement considering specific operational situations.

7.4 Restows

Where the Customer requests a re-stowage, the rate described in Schedule 1 for the re-stowage of Containers on board Vessels (whether shift on board or discharge, land and return) will be applicable. Restows must be declared in advance as part of the operational pre-plan. Late restow requests will be treated as per the applicable tariff including application of crane detention and other charges as maybe relevant.

7.5 Temperature controlled and ventilated Cargo and Containers

7.5.1 General Provision

For Containers requiring refrigeration or forced ventilation at the Terminal. SAGT agrees that it shall provide services in accordance with Clauses 7.5.2, 7.5.3 and 7.5.4.

7.5.2 Refrigeration of Integral Containers

- a. Connecting and disconnecting the power supply to Containers in accordance with the Customer's written pre-advise instructions.
- b. Monitoring the temperature settings displayed on the reefer units whilst on the terminal and on receival or delivery;
- c. In reference to clause 7.5.2 b above, regular monitoring of temperatures shall be carried out at specific intervals not exceeding six (06) hours.
- d. Provide sufficient power supply to refrigerated Containers (including suitable alternate supply in case of temporary interruption to the power supply).
- e. SAGT warrants that while reefer Containers are under its custody, such Containers' temperature and vent settings shall not be changed without the prior written authorization of the Customer. SAGT will not be held liable for any actions by the Customer's reefer contractor in this regard.
- f. SAGT will notify the Customer or its duly appointed nominee of any malfunction/failure of any refrigerated Containers. Such notification

must reach the Customer or its duly appointed nominee within two (2) hours of such time when SAGT detects the malfunction/failure.

- g. SAGT shall only be responsible for attending to refrigerated Containers while the Containers are in the Terminal. SAGT's staff shall not attend to any matters connected with reefer Containers on board, prior to discharge or after loading. SAGT has no responsibility nor liability for reefer Container temperature monitoring while the Container is on a truck even if the truck is on SAGT's premises
- 7.5.3 Ventilated Containers (Fantainers)**
- a. Connecting and disconnecting the power supply to Containers where Customer has pre-adviced the requirement.
 - b. Checking that the fan (i.e. exhaust) is operating correctly on receival;
 - c. Regular monitoring (not exceeding 6-hours) of equipment operation whilst in the Terminal and promptly reporting any faults to the Customer.
 - d. Provide sufficient power supply to Fantainers.

7.5.4 SAGT Excused from Liability

SAGT shall not be liable in respect of any failure or malfunction of reefer Containers or any associated equipment unless failure or malfunction is a direct result of or gross negligence of SAGT.

SAGT shall at its discretion may discontinue any Services to the Customer with or without notice at any time should the Customer fail to provide SAGT with any information, documentation or any assistance it may require for the carrying out of the Services.

8. LIABILITIES

8.1. Liability - SAGT

SAGT shall indemnify and keep indemnified the Customer in respect of any loss or damage suffered or incurred by the Customer as a consequence of any negligent or wilful breach of appropriate actions stipulated within this document by SAGT or any act or omission of SAGT constituting negligence or wilful misconduct except to the extent that such loss or damage is caused by a negligent or wilful breach/misconduct of the Customer.

SAGT shall not make any claim or allegation against any employee or agent of the Customer which imposes or attempts to impose upon any such person any liability whatsoever or howsoever arising; including any liability for negligence in connection with the Containers or Cargo or their carriage or handling, or actions or omissions of any visitor of SAGT.

8.2. The liability of SAGT under this clause shall, in the case of:

- a. Loss or damage to vessel
SAGT's maximum aggregate liability occurred during the provision of the Services shall be limited to the lesser of:
 - i. the reasonable repair cost of the Vessel damaged;
 - ii. the replacement cost (with a Vessel of the same age and in the same condition) of the Vessel lost or damaged; and
 - iii. twenty million US Dollars (USD 20,000,000) per Vessel
- b. Loss or damage to Container;
In the case of physical loss or damage to a Container, or a Container and its ancillary equipment, due to a direct fault on the part of SAGT the maximum liability of SAGT will be the depreciated value or the reasonable cost of repairs, whichever is the less subject to limits of:

i	20' Dry Container	USD2,000 per Container
ii	40'/45' Dry Container	USD3,500 per Container
iii	20' Insulated Container	USD8,000 per Container

iv	20' Reefer Container	USD12,000 per Container
v	40'/45' Reefer Container	USD15,000 per Container
vi	20' Tank Container	USD15,000 per Container

The depreciated value of the Container or other equipment shall be calculated on the basis of the respective values in this Clause with a straight-line depreciation of five per cent. (5%) per annum from the date of manufacture (as evidenced for Containers in the container safety certificate) until the day before the incident.

- c. Loss or damage to goods;
- i. The liability of SAGT for any loss or damage to goods, to the extent caused by fault or negligence on the part of the SAGT's employees while engaged in the delivery, receiving, watching, or storing of such goods as part of Container Terminal Services shall be limited to the lesser of:
 - ii. the value of the goods actually lost or damaged or its reasonable repair cost
 - iii. the limits of liability upon which the Customer could rely in a claim brought against it in accordance with the bill of lading or other transport document, evidencing a contract of carriage which has been issued in respect of goods carried by the Customer ("**Carriage Contract**"); and
 - iv. The Customer shall ensure that all Carriage Contracts incorporate a clause to the effect that SAGT will have the benefit of the provisions, including the law and jurisdiction provisions of that Carriage Contract to the extent such provisions benefit the Customer. SAGT authorizes, empowers and directs the Customer to act, and the Customer hereby agrees to act, as trustee and/or agent for SAGT for the limited purpose only of complying with this Clause. In addition to being able to rely on this document, SAGT has the right to avail itself of and invoke any limitation or exclusion of liability, immunity, defence, right, remedy and/or law and jurisdiction clause contained in the Carriage Contract as if SAGT were the carrier and Customer were the merchant referred to in the Carriage Contract
 - d. Overall liability cap;
The maximum aggregate liability of SAGT in case of:
 - i. losses and/or damages which arise out of a single incident or series of related incidents under Clauses 8.2b and 8.2c, regardless of whether such losses and/or damages are sustained by more than one person, shall in no circumstances exceed ten million US Dollars (USD 10,000,000); or
 - ii. losses and/or damages which arise out of a single incident or series of related incidents under Clauses 8.2a, 8.2b and 8.2c, regardless of whether such losses and/or damages are sustained by more than one person, shall in no circumstances exceed twenty million US Dollars (USD 20,000,000), (Collectively, the "**Overall Liability Cap**").

Where, in respect of a single incident or series of related incidents, the losses and/or damages are sustained by more than one person, the Overall Liability Cap shall be applied to all claims brought by each person on a pro-rata basis (i.e. based on the proportion each person's claims bear to the total amount claimed by all such persons).

The Customer shall not be entitled to bring any claim howsoever arising (including negligence and wilful misconduct) unless and until the

amount of any such claim exceeds one thousand five hundred US Dollars (USD 1,500).

- 8.3. SAGT will not accept responsibility or liability for damage to Vessels/ships arising from the pre-existing condition of the Vessel/ship and/or the failure of the Customer to properly maintain the Vessel/ship. This includes but is not limited to damage to cell guides arising from those guides being in a deteriorated or defective condition and corroded hatch coamings. In the event that SAGT's equipment is damaged as a result of an incident caused by pre-existing damage to the Vessel/ship and/or failure of the Customer to properly maintain the Vessel/ship, SAGT will be entitled to a full indemnity for the costs arising from the damage to its equipment.
- 8.4. SAGT shall be exempt from liability for damage to goods caused by or to the extent contributed to by insufficient protection or packing.
- 8.5. The Customer also acknowledges that data and information is sent and received by SAGT via Electronic Data Interchanges (EDI) in EDIFACT format. The Customer acknowledges that SAGT shall not be responsible for any negligent or wilful errors, inaccuracies, corruption, omissions or misinformation in such data and information howsoever caused and hereby waives any rights it may have against SAGT in this regard.
- 8.6. No claim may be pursued by the Customer (claimant for the purpose of this clause) against SAGT unless;
 - a. SAGT has been advised in writing of the event or events giving rise to the claim within 30 Calendar days of their occurrence; and
 - b. SAGT's liability in respect of such claims shall cease within 12 calendar months of their occurrence.
- 8.7. SAGT reserves the right to amend any of the above clauses in the event of changes to international best practices and/or international conventions and shall keep the Customer informed of such change prior to implementation.
- 8.8. Liability Exclusions
 - a. In no event shall SAGT be liable to the Customer for any special, punitive, consequential or indirect losses or damages of any kind whatsoever, such as but not limited to loss of profits, loss of reputation, loss of alternative business opportunities suffered by the Customer, it being the express intention of each Party that recovery of any such damages is prohibited with respect to claims arising from or related to this Agreement. This includes any and all liability resulting from any delayed provision of the Services if not specifically agreed differently between the Parties.
 - b. SAGT shall in any event be discharged of all liability whatsoever and howsoever arising in respect of any Services provided to the Customer, or which SAGT has undertaken to provide, unless legal proceedings are commenced, and written notice thereof given to SAGT within twelve (12) months from the date of the loss, damage, delay or failure to adhere to any timeframe alleged to give rise to a claim.
 - c. The Customer shall not be entitled to bring any claim howsoever arising (including negligence and wilful misconduct) unless and until the amount of any such claim exceeds one thousand five hundred US Dollars (USD 1,500).
 - d. SAGT or any other person or party shall not be liable for loss of or damage to any Goods, Container(s) or Vessel howsoever arising (whether caused by negligence or otherwise) other than in the manner as herein set out. The defences, exclusions and limits of liability provided for in these Terms shall apply in any claim against SAGT whether the claim be founded in tort, bailment, contract, breach of express or implied warranty or otherwise and even if the loss, damage or delay arose as a result of negligence, wilful misconduct or fundamental breach of contract.

- e. Nothing in these Terms shall exclude or restrict the liability of the Parties for death or personal injury caused by its negligence or any other act or omission, for which liability may not be excluded or limited under applicable law.
- f. SAGT shall have no liability for loss of or damage to any Goods, Container(s) or Vessel howsoever arising (whether caused by negligence or otherwise) if such loss or damage had been caused by matters beyond the control of SAGT including, without limitation the generality of this exclusion;
- i. any failure of the Customer, or any third party, to comply with the advice and recommendations of the IMO/ILO/UNECE Code of Practice for Packing of Cargo Transport Units (CTU Code); or
 - ii. any failure of the Customer, or any third party, to comply with the SOLAS Regulations; or
 - iii. insufficient, inadequate or defective packing or marks; or
 - iv. incorrect setting of any thermostatic, ventilation or other special controls of the Container; or
 - v. inherent vice of the Goods; or
 - vi. instructions of the Customer; or
 - vii. due to any reason beyond the reasonable control of SAGT including any force majeure event (Clause 14)
 - viii. the delivery of Goods, Containers or equipment to incorrect persons where delivery has been made against a fraudulent or stolen bill of lading or similar document of title.
- 8.9. **Proof of Liability**
SAGT shall not be liable under Clause 8 unless the Customer can establish that the loss or damage was caused by the direct negligence or wilful misconduct of SAGT. If the loss or damage was contributed to by the act or omission of the Customer or any other person, SAGT shall be exonerated from liability under Clause 8 to the extent that such act or omission contributed to the loss or damage.
- 8.10. **Delay**
Except under special arrangements made separately in writing between SAGT and the Customer, in no circumstances shall SAGT have any liability whatsoever or howsoever arising (including negligence and wilful misconduct) with regard to any failure to adhere to any timeframe or any delay.
- 8.11. **Entire Liability**
Save as set out in this Clause 8, SAGT or any other person or party shall not be liable for loss of or damage to any Goods, Container(s) or Vessel howsoever arising (whether caused by negligence or otherwise).
- 8.12. **Joint and Several Liability**
These Terms are between SAGT and the Customer. Every person defined as the Customer is jointly and severally liable to SAGT for all of the Customer's undertakings, responsibilities and liabilities under or in connection with these Terms and to pay the rates agreed or listed in the Tariff.
- 8.13. **Application of Claims in Tort**
The defences, exclusions and limits of liability provided for in these Terms shall apply in any claim against SAGT whether the claim be founded in tort, bailment, contract, breach of express or implied warranty or otherwise and even if the loss, damage or delay arose as a result of negligence, wilful misconduct or fundamental breach of contract.
- 8.14. **Indemnity for Excess Liability**
The Customer shall indemnify SAGT against any and all costs (including the costs of investigating and defending any claims), expenses, claims, demands, losses, damages, liabilities, orders, awards, fines, penalties, proceedings and judgments of whatsoever nature howsoever assumed, incurred or suffered by SAGT, as a result of, or in connection with:
- a. any claim (including without limitation a claim made by the owner of the Goods, the Containers
- or the Vessel or any other person who is, or may become, interested in the Goods, the Containers or the Vessel or any customs authority) when such claim arises from or in connection with the Services (whether caused by the negligence of SAGT or otherwise) and to the extent such claim exceeds the liability of SAGT under these Terms;
- b. any breach by Customer of the obligations or warranties given in these Terms (or any combination of the foregoing);
 - c. any costs associated with the weighing, non-loading, storage, demurrage, release or return to the Customer of any packed Container which does not have a verified gross mass provided by the Customer;
 - d. SAGT acting in accordance with Customer's instructions; and
 - e. any death or personal injury of any person or damage to any property whatsoever arising from the presence of the Customer at the Terminal, the use by the Customer of the Terminal, the presence of the Vessel at the Terminal or the presence of the Goods on the Vessel (whilst the Vessel is at the Terminal) or within the Terminal but only to the extent that such is caused by a breach of contract, default or negligence of the Customer or its customers.
- 8.15. **Liability – Customer**
- a. The Customer undertakes that it will include in all its contracts of carriage for Cargo to be handled by SAGT under these Terms a provision to the effect that every sub-contractor of the Customer shall have the benefit of all provisions herein benefiting the Customer and SAGT hereby appoints the Customer as its agent for the purpose of making this stipulation only and also accepts such benefit.
 - b. The Customer shall indemnify and keep indemnified SAGT in respect of any loss or damage incurred by SAGT as a consequence of any breach of these Terms by the Customer or any act or omission of the Customer constituting negligence or wilful misconduct except to the extent that such loss or damage is caused by a negligent or wilful breach of these Terms or an act or omission constituting negligence or wilful misconduct by SAGT or any of its employees, agents or subcontractors. Customer shall keep SAGT indemnified in respect of any damages or loss it may cause to the Terminal, SAGT's equipment, staff or any other property of SAGT due its fault or breach of these Terms.
 - c. The Customer shall not make any claim or allegation against any employee or agent of SAGT which imposes or attempts to impose upon any such person any liability whatsoever or howsoever arising including any liability for negligence in connection with the Containers or Cargo or their carriage or handling, the provision of the Services or actions or omissions of any visitor of the Customer.
 - d. Nothing in these Terms shall be construed as a waiver by the Customer of its right to limit its liability by establishing a limitation fund under an applicable international convention or national law governing the liability of owners and/or Operators of seagoing ships.
 - e. Provided, however and notwithstanding anything to the contrary contained herein, the Customer shall not be liable under any circumstances (including negligence or wilful misconduct or default), whether in contract or in tort, for any indirect loss or damage including loss of profits, loss of reputation, loss of alternative business opportunities or loss due to third party claims suffered by SAGT.

- f. In the case of non-declaration/incorrect declaration of Dangerous Cargo, The Customer will be held fully responsible for any damage that may occur during the handling/storage of the Container. The Customer's liability in this accord includes damages to,
 - (i) SAGT's property / equipment
 - (ii) Third party equipment and Cargo
 - (iii) Injury / loss of life

9. SECURITY AT BERTH

9.1 Damage to Vessels

SAGT shall not be responsible for the security and safety of any Vessel while tied up alongside a Berth, unless any lapse in security or safety is caused by any defective equipment of SAGT or any direct proven fault or neglect on the part of SAGT, its servants, agents, or sub-contractors.

9.2 Stowaways

SAGT shall not be liable for any loss or damage suffered or incurred by the Customer (including, without limitation, the payment of expenses by the Customer on account of care, lodging, medical attention, security and repatriation) and arising from the presence on board Vessels of stowaways, or other unauthorized personnel, unless due to a lapse in security for which SAGT is liable.

10. ACCESS TO BERTH

SAGT shall allow reasonable access to the Customer and the Customer's Visitors, upon reasonable request, to attend at any Berth for the purpose of performing and carrying out the business and agency requirements of the Customer relating to services supplied by SAGT to the Customer subject to such persons observing all safety regulations and standing instructions which may be operative at that time. The Customer shall be fully liable for the acts and omissions of the Customer's Visitors while those persons are present on the Terminal. The Customer will also be liable to provide all Customer's visitors and agents a full set of PPE (Personal Protective Equipment) and safety equipment as stipulated by SAGT.

11. PERFORMANCE CRITERIA

- 11.1. The performance criteria for Services not recorded in these Terms where relevant will be detailed in a separate commercial agreement
- 11.2. Vessels' Schedule and Berth Windows
SAGT will provide a Berthing Window as mutually agreed with the Customer and in accordance with the Berthing Windows and Reporting Procedures contained in clause 11.6 below.
- 11.3. Berthing Requirements
The Vessels will be required to berth starboard side to the quay within the agreed window in accordance with the Berthing Windows and Reporting Procedures. If a Vessel fails to arrive within three hours of the agreed window that Vessel will be berthed at the next available window. A Vessel shall depart at the agreed window time unless SAGT has delayed the completion of the Vessel's operations or unless mutually agreed otherwise.
- 11.4. Customer Responsibilities
 - a. All export Containers shall be delivered into SAGT's terminal in accordance with the Cut Off Procedures in Clause 7.3 or as mutually agreed between the Customer and SAGT.
 - b. Access to vessel loading holds shall comply with applicable international standards.
 - c. Lashing gear, including stacking cones and twist locks, shall conform to patent type, be in a good state of repair and be fitted in a consistent manner.
- 11.5. Delays
 - a. Any time extending beyond the scheduled Vessel operation start or completion time or hold up during operations, caused by the Customer or Vessel shall incur crane idle/detention charges set forth in the

11.6.

Berthing Plan and Reporting Procedures

Item	Prior to Vessel ETA	Responsibility	Advice
01	30 days	Customer	Projected Gameplan for the next month should be sent to the SAGT on or before 12 noon on the last day of the month
02	7 calendar days	Customer SAGT	ETA (date and time) Discharge / Load / Restow information B/Bulk and other operational requirements Projected berthing window and likely ETD, based on Lines information
03	3 days prior to ETA	Customer	Final gameplan confirmation with accurate data to SAGT and confirm the ETA for the ship
04	Every 24 hours after Item 1	Customer SAGT	Update on advice Update on berthing plan
05	1 calendar day	Customer SAGT	Confirm final ETA Confirm total Container exchange Confirm SLPA navigation charges paid Confirm any other requirements <i>(Changes should then only be made after consultation with the SAGT)</i> Finalize operational plans

- a. All items listed above shall be communicated electronically, where applicable with a follow up telephone call.
- b. The Vessel is to arrive within 3 hours of the Confirmed Berthing Window (CBW) as in item 1 and 3 above otherwise the Vessel will berth on the next available window as determined by SAGT after due consideration and consultation with the Customer and other Customers wishing to berth a Vessel.
- c. The Vessel shall depart before or within 2 hours after the CBW sailing time. If the berth is available after completion of the exchange, the Vessel may remain on the berth only after due consultation has taken place between SAGT and the Customer.
- d. Long term Vessel schedules should be forwarded to SAGT on a regular basis.

12. HEALTH, SAFETY AND ENVIRONMENT

SAGT is required to perform all work and provide all Container Terminal Services hereunder in a manner that ensures adequate protection for:

- a. Its employees and of its sub-contractors;
- b. Other individuals entering the premises of SAGT, such as but not limited to independent contractors;
- c. The public;
- d. The environment; and
- e. The Containers, the Cargo and the Container ship

- f. In full compliance with all applicable international, national, and local health, safety, and environmental laws, rules and regulations.

13. INSURANCE OBLIGATIONS

13.1. Each Party shall

- a. At its own expense, procure and maintain policies of insurance covering:
 - (i) any liabilities assumed by it under these Terms; and
 - (ii) any requirements by law, including public and third party liability.
- b. SAGT is under no obligation to maintain property insurance for Goods, Containers or Vessel.

13.2. Obligation of Customer

The Customer shall:

- a. the Customer shall maintain or shall cause Vessels and their equipment, appurtenances, gear and machinery to be maintained in a thoroughly fit and seaworthy condition at all times. Vessels shall be kept continuously in class in accordance with the rules of their classification society. The Customer shall, and shall procure that third party owners of Vessels shall, maintain the following insurances and shall furnish to SAGT's representative certificates or copies of policies (or in the case of P&I cover, a certificate of entry) evidencing such insurance:
 - i. Hull and Machinery insurance, in accordance with ITC hull clauses 1983 or equivalent conditions, in an amount no less than the full market value of the Vessel;
 - ii. P&I cover on standard terms and customary limits with a member of the International Group of P&I Clubs; and with 4/4th running down cover provided through the insurances at 13.1(i) and 13.2(ii) above.
- b. The Customer shall provide SAGT with written notice at least thirty (30) days prior to cancellation, non-renewal or material change in any policy. Insurance must be maintained without any lapse in coverage. Failure by SAGT to demand certificates or other evidence of full compliance with these insurance requirements, or failure to identify any deficiency or non-compliance with coverage requirements, shall not be construed as a waiver of Customer's obligation to maintain the required insurance.
- c. provide copies of relevant policies to SAGT upon SAGT's request.

14. FORCE MAJEURE

- a. A Party (the "Affected Party") shall be relieved from liability for any delay in the performance or failure to perform part or all of its obligations under these Terms if such delay or failure is caused by or results from Force Majeure for so long as the event of Force Majeure or the delay in the performance or failure to perform continues. Provided however that an event of Force Majeure shall not release any Party from its payment obligations arising under these Terms.
- b. "Force Majeure" means an event or circumstance beyond the reasonable control of the Affected Party including, but not limited to, any act of God, act of public enemies, war, warlike acts, terrorism, restraint of governments, princes or peoples of any nation, riots, strikes, lockouts or other labour or industrial disputes, failure of a utility service, insurrections, civil commotion, civil disobedience, floods, fire, restrictions due to quarantines, sanctions or radioactivity, pandemic, epidemics, storms, tempest, typhoon, tsunami or any other event or circumstance beyond the reasonable control of the Affected Party. Notwithstanding the aforesaid the following shall be considered as Force Majeure within the meaning of these

Terms: (i) Restrictions on imports imposed by the Port Authorities or any other authority, organ or instrumentality of [jurisdiction]; (ii) Confiscation, expropriation or nationalization of Terminal assets; (iii) Commandeering or requisition of Terminal assets; (iv) any law or governmental order, rule, regulation or direction, in each case outlined in (ii), (iii) and (iv), by the Government of the country where SAGT has its registered office or primary place of business; or (v) any event or circumstance of a nature analogous to any of the foregoing.

- c. The Affected Party shall use all reasonable efforts to mitigate and overcome the effects of the occurrence of Force Majeure to maintain or resume performance. Provided that no Party shall be required under this provision to settle any strike, lockout, or other labour or industrial dispute under terms it considers as being unfavourable to itself.
- d. If an event of Force Majeure occurs, the Affected Party shall notify the other Party (the "Non-Affected Party"), as soon as reasonably practicable and in any event
 - i. within seven (7) business days after the Affected Party has reasonably determined that the occurrence of the event of Force Majeure may affect the performance of part or all of its obligations in a material way, of:
 - ii. the occurrence and nature of the event of Force Majeure;
 - iii. its expected duration (so far as can be reasonably assessed);
 - iv. the obligations of the Affected Party, which cannot be fully performed as a result;
 - v. the mitigating actions and remedies, which the Affected Party proposes to take.
- e. The Affected Party shall keep the Non-Affected Party fully informed of developments, including the performance by it of the mitigating actions and remedies, and the results thereof. The Parties shall take best efforts to continue to provide and receive the Services as far as is reasonably possible.

15. CONFIDENTIALITY

15.1 Duty of Confidentiality

The Parties shall at all times treat as confidential and privileged information provided to one of them ("receiving party") by the other ("communicating party") which falls into one of the following categories:

- a. information regarding any aspect of the operation of the Terminal;
- b. information regarding any financial or operational details of the communicating party;
- c. any information belonging to a third party and communicated with that party's consent on terms that such information remains confidential.

The receiving party shall promptly deliver up to the communicating party any information communicated in accordance with the above.

For the purposes of this Clause "information" means practices, any information shared between the Parties pursuant to these Terms, techniques, processes, trade secrets and knowhow which either relate to the communicating party or have an application to the operation of the Terminal.

15.2 Exceptions

The provisions of this Clause 15 shall not apply to information which has entered the public domain otherwise than as a result of a breach of these provisions or, notwithstanding breach, is required to be disclosed by law or the rules of any stock exchange or other regulatory authority provided however a Party required to disclose any information to any such authority shall first keep the disclosing party informed of such requirement prior to doing so, enabling the disclosing party to take any applicable protective orders against such disclosure.

16. LAW AND JURISDICTION

These Terms their interpretation and any contractual obligations arising out of or in connection with them are governed by and shall be construed in accordance with the Laws of Sri Lanka without regard to any conflict of law rules.

17. DISPUTE RESOLUTION

Any and all differences and disputes whatsoever arising between the parties concerning the interpretation or implementation of this Agreement or touching any subject matter arising or in relation to the Agreement shall in the first instance be settled amicably by the parties within a period of 14 days from the date of written notice from the aggrieved party to the defaulting party.

In the event the parties do not resolve the dispute by mutual agreement within 14 days as set out above, such dispute shall be referred for Arbitration by a single Arbitrator, if parties mutually agree to a single Arbitrator, in accordance with the UNCITRAL Rules of Arbitration. In the event the parties are being unable to agree on a single Arbitrator, each party shall nominate its own Arbitrator and the Two Arbitrators shall jointly appoint an Umpire. The decision or award of Arbitration shall be final and conclusive. The place of Arbitration shall be Colombo, Sri Lanka and the language of the proceedings shall be English

17.1 Non-Merger

The relationship of SAGT and the Customer under these Terms is that of independent contractors, and neither Party is an employee, agent, partner or in a joint venture with the other. Each Party shall be solely responsible and liable for any employment-related taxes, insurance premiums or other employment benefits related to its respective performance under these Terms. Neither Party shall be responsible for the payment of any duties or taxes imposed on the income or profits of the other Party.

18. NOTICES

18.1 Form and Mode of Notice

A notice:

- (a) shall be in writing; and
- (b) shall be left at the address of the addressee or sent by registered post or international courier or by email to the address of the addressee (airmail if the sender is outside the country of destination) or by facsimile transmission to the facsimile number of the addressee as follows:

(i) in the case of:

South Asia Gateway Terminals (Pvt) Ltd.

117, Sir Chittampalam A Gardiner Mawatha,

Colombo 2

Sri Lanka

Facsimile No: +94 11 2457302

Attention: Chief Executive Officer

Email: CEO@sagt.com.lk

19. GENERAL

19.1 Waiver and Modification

No waiver of any breach of these provisions will be effective unless such waiver is in writing and signed by each party to this document against whom such waiver is claimed. No

waiver of any breach shall be deemed to be a waiver of any other or subsequent breach. No alteration or amendment to any such obligation will be effective or enforceable unless made in writing and signed by all parties.

19.2 Strict Compliance

In the absence of express provision to the contrary, failure or omission by a party to this document at any time to enforce or require strict or timeous compliance with any provision of this document or any related document shall not impair the ability of that party to exercise the rights and remedies it otherwise has in respect of a breach of any such provision.

19.3 Entire Terms of Services

These terms of services will constitute the terms and conditions governing terminal services, any previous understandings on that subject matter cease to have any effect.

19.4 Compliance

The Customer agrees to comply fully with all applicable anti-corruption laws and regulations, including (but not limited to) those in the jurisdiction in which the Customer is incorporated or resident, the Bribery (Amendment) Act No. 20 of 1994 *as amended* and the Bribery Act No. 11 of 1954 *as amended* and any related regulations.

19.5 Sustainability

The Parties shall;

- a. observe internationally accepted treaties relating to the protection of human rights; and
- b. observe conditions of labour not less favourable than those conditions established for the law, trade or industry; and
- c. not use child or forced labour; and
- d. not engage in any activity which amounts to discrimination on the basis of race, ethnicity, colour, national origin, sex, disability, veteran status, or age.
- e. not offer, receive, agree to pay or cause the payment by another person of any money or anything of value for the purpose of influencing, improperly or unlawfully any act, decision or judgment of any person relating to the performance of the Business

19.6 Other

- a. Should any term, covenant, condition or provision in these Terms be held invalid or unenforceable, the remainder of these Terms and the application of such term, covenant, condition or provision to persons or circumstances other than those to which it is invalid or unenforceable, shall not be affected thereby and each term, covenant, condition or provision of these Terms shall be valid and enforceable to the extent permitted by law. However, if such term, covenant, condition or provision in these Terms is a material part of these Terms, the Parties shall use their best endeavours to agree a valid and enforceable replacement which achieves (so far as possible) materially the same effect.
- b. SAGT may sub-contract the Services but sub-contracting shall in no way relieve SAGT of any of its obligations under these Terms and SAGT shall remain responsible for its sub-contractors and their performance as far as is possible.
- c. Each Party shall continue to use its own intellectual property and shall not use the other Party's intellectual property for any purpose herein without such Party's prior written cons



SOUTH ASIA GATEWAY TERMINALS (PVT) LTD

COLOMBO

SRI LANKA

CONTAINER TERMINAL TARIFF

With Effect from 01 January 2022

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ANNEXURE14

All Rates in US\$

1. Domestic Rates – per quay crane lift

	20'	40'	Over 40'
Laden	140	212	263
Empty	102	158	200
OOG (Handled by Spreader)	229	338	421
Bundled Empty	140	212	263

2. Transshipment Rates – per quay crane lift

	20'	40'	Over 40'
Laden	46.5	71	80
Empty	46.5	71	80
OOG (Handled by Spreader)	92	136	168
OOG (without spreader equipment)	By prior arrangement		

3. Restow Rates

	20'	40'	Over 40'
Shift on Board (SOB) – not via quay/ or CY	46.5	71	80
Shift via quay or CY (Per two lifts)	93	142	160
OOG (Handled by spreader) Shift on Board (SOB) – not via quay/ or CY	92	136	168
OOG (Handled by spreader) via quay or CY (Per two lifts)	184	272	336

4. Hatch-cover and lock-bin Rates

Hatch-cover (full cycle)	100
Lock-bin (full cycle)	85

5. Re-nominations

Where the second carrier of a transshipment container is subsequently amended or changed, after berthing of the first carrier, charges applicable including all yard moves

20'	US\$ 50
>20'	US\$ 75

6. Ancillary Container Rates

Per Container	20'	40'	Over 40'
a. Change of container information	5	5	5
b. Change of container destination	5	5	5
c. Change of container status	25	25	25
d. Electricity charges for reefers, per hour	2	3	3
e. Internal CY sorting – laden	25	38	47
f. Internal CY sorting – MTY	10	15	18
g. Mounting / Demounting – Laden	25	38	47
h. Mounting / Demounting – MTY	10	15	18
i. T/S Mounting / Demounting for MCC/Special operation	25	38	47
j. Door open inspections for shipper/consignee at the SAGT yard	75	114	123
k. US-CSI Inspection / US-Megaport Inspection (if required)	115	140	160
l. Truck demurrage for US-CSI/US-Megaport inspection. (Per hour or part thereof from 3rd hour)	25	25	25
m. ITT surcharge for transferring containers from SAGT (ex. Discharge) to a secondary terminal as nominated	10	20	20
n. ITT charge for returning containers from SAGT to the primary Terminal (Second transfer on carrier request)	20	40	40
o. ITT Charge for transferring containers from SAGT to secondary terminal which are originally nominated to SAGT (load) and subsequently re-nominated to a secondary terminal.	20	40	40

p. ITT Charge for transferring containers using lowbed trailer from SAGT to JCT/UCT	200	200	200
q. ITT Charge for transferring containers using lowbed trailer from SAGT to CICT/ ECT	150	150	150
r. Complete stuffing / de-stuffing	250	350	350
s. Sealing or resealing, as requested (Seal to be provided by Line)	10	10	10
t. Removing or placing stickers on containers (Sticker to be supplied by Line)	15	15	15
u. Weighing of containers (weighbridge charges)	10	10	10
v. Reefer P.T.I service charge (All in rate including 1-hour power supply)	75	115	130
w. OOG lift on / lift off (requiring special lifting)	80	120	120
x. Point to point shifting	27	41	51
y. Door securing for door open containers	40	40	40
z. Repositioning door direction of container	100	125	135
aa. Delivery advice cancellation charge	25	25	25
bb. Hazardous cargo surcharge (Excluding Class 1,7)	50	50	50
cc. Hazardous cargo surcharge (Class 1,7) delivery from hook	100	100	100
dd. Additional charges for miscellaneous documentation	10	10	10
ee. Removal of stacking cones/Twist locks with special assistance	75	75	75
ff. Removal of stacking cones/ Twist locks with special assistance inclusive of gas cutting	100	100	100
gg. Hire of Forklift – 5 Tons, per hour or part thereof	50	50	50
hh. Hire of Forklift – 30 Tons, per hour or part thereof	250	250	250
ii. Certification of documents and or reissuance of documents	5	5	5
jj. Extra handling charges for container that have transferred to SLPA	100	150	165

7. Bunded Trailer/Leaking Bay

The following charges will be applicable for the use of the Bunded trailer/leaking bay

Item	Charges per day
0 to 07 days	100
07 to 14 days (rate applicable from day 1)	150
14 days onwards (rate applicable from day 1)	200

- In addition to the above charges, the relevant storage charges (Local/Transshipment) will be applicable.
- Cost of any spill absorbent material and extra handling, security, monitoring, labour etc. will be billed separately by SAGT to the box operator as declared to the terminal
- The cleaning charges for the bunded trailer/leaking bay will be billed separately by SAGT to the box operator as declared to the terminal.

8. Transshipment Container Storage Rates

8.1. Non-Hazardous

Charges per day	20'	40'	Over 40'
Empty containers			
1st Day to 14th Day	Free	Free	Free
If not transshipped within 14 Days, storage will commence from 15th Day			
15th Day to 30th Day (per Day)	3	6	8
31st Day to 45th Day (per Day)	7	14	18
46th Day onwards (per Day)	21	42	52
Laden containers			
1st Day to 14th Day	Free	Free	Free
If not transshipped within 14 Days, storage will commence from 15th Day			
15th Day to 30th Day (per Day)	7	14	18
31st Day to 45th Day (per Day)	14	28	36
46th Day onwards (per Day)	21	42	54

For transshipment containers received from a primary terminal to load onto SAGT carrier and subsequently renominated to a secondary terminal, storage will commence from the date of receipt as per below rate schedule.

Empty			
1st Day to 14th Day (per Day)	3	6	8
15th Day to 30th Day (per Day)	7	14	18
31st Day onwards (per Day)	21	42	52
Laden			
1st Day to 14th Day (per Day)	7	14	18
15th Day to 30th Day (per Day)	14	28	36
31st Day onwards (per Day)	21	42	54

8.2. Hazardous

Charges per day	20'	40'	Over 40'
1st Day to 14th Day	Free	Free	Free
If not transshipped within 14 Days, storage will commence from 15th Day			
Hazardous Cargo (DC)			
15th Day to 30th Day (per Day)	9	18	23
31st Day to 45th Day (per Day)	18	35	45
46th Day onwards (per Day)	26	53	68

For transshipment containers (Haz – empty/laden) received from a primary terminal to load onto a vessel at SAGT and subsequently renominated to a secondary terminal, storage will commence from the date of receipt as per below rate schedule.

1st Day to 14th Day (per Day)	9	18	23
15th Day to 30th Day (per Day)	18	35	45
31st Day onwards (per Day)	26	53	68

9. Domestic Container Storage Rates

9.1. Exports

Charges per day	20'	40'	Over 40'
Empty containers			
5 days of free storage from the date of receipt. If not loaded within 5 days, storage accrues from the date of receipt			
1st day to 14th day	7	14	18
15th day onwards	21	42	52
Laden containers			
7 days of free storage from the date of receipt. If not loaded within the 7 days, storage will accrue from the date of receipt			
1st day to 14th day	7	14	18
15th day onwards	14	28	36

Note: For export containers that are subsequently renominated to a secondary terminal, no free days are applicable, and storage will commence from the date of receipt

9.2. Imports

Charges per day	20'	40'	Over 40'
Empty containers			
5 clear days of free storage from the day following the date of discharge. If not collected within 5 clear days, storage accrues from the day following the date of discharge			
1st day to 14th day	7	14	18
15th day onwards	21	42	52
Laden containers			
General Cargo (Non-Haz/ DG)			
3 clear days of free storage from the day following the date of discharge. If not cleared within the 3 clear days, storage will accrue from the day following the date of discharge			
Basic storage charge (from 1st day to delivery day)	8	16	18
Storage surcharges (from 8th day to 14th day)	15	30	33

Storage surcharges (from 15th day onwards)	23	46	50
Hazardous Cargo (DG)			
If cleared within 48 hours	Free	Free	Free
If not cleared within 48 hours - from date of discharge to date of delivery	28	55	62
Storage surcharges from 8th day to 14th day	52	104	114
Storage surcharges from 15th day onwards	79	159	173

10. Dockage

Per 100grt or part thereof, per hour or part thereof \$0.25

11. Invoicing and Payment Terms

11.1. Tariff

All invoices will be raised electronically in United States Dollars (USD) and are payable in USD.

However, invoices pertaining to charges payable by Consignees clearing domestic import cargo will be invoiced in USD and converted to Sri Lanka Rupees (LKR) at the prevailing exchange rate. Such invoices may be settled in USD or LKR.

11.2. Taxes

All tariff items are net of taxes and levies. All applicable taxes and levies shall be added to invoices raised. SAGT reserves the right to pass on any new or changes to existing taxes, levy's, surcharges, etc., that may be imposed by the Government of Sri Lanka or any other statutory body from time to time

11.3. Payment Terms

Unless otherwise agreed in writing beforehand, full payment for all services, based on the pro-forma move-count and other services to be provided, shall be paid in advance of the vessel's arrival. SAGT will raise the final invoice within **3 (Three)** calendar days of vessel departure.

Advance payment in United States Dollars (USD) should be remitted by Telegraphic Transfer to SAGT's USD bank account, the details of which are as follows:

Beneficiary Name : South Asia Gateway Terminals (Pvt) Ltd
Beneficiary Bank : Hong Kong and Shanghai Banking Corporation
Limited
(HSBC)
Account Number : 011-008844-101 (USD)
Bank Address : 24, Sir Baron Jayatilaka Mawatha, Colombo 01
Bank Branch : Head Office
Bank Branch Code : 001
Bank Swift code : HSBCLKLXXXX

11.4. Credit Terms

Upon receipt of an application in the required format, SAGT may, at its sole discretion, grant credit facilities on terms to be agreed upon in writing, to an international Shipping Line represented in Sri Lanka by a Licensed Shipping Agent.

In general, such credit shall only be granted against:

- An irrevocable, on demand bank guarantee in USD, in a format specified by SAGT, drawn on a bank acceptable to SAGT

OR

- A security deposit in USD lodged with SAGT

The Shipping Line shall settle all invoices within 7 (seven) calendar days from the date of receipt of any invoice

Any disputed invoices/ waiver requests must be brought to the notice of SAGT within 3 (three) working days from the date of receipt of invoice.

Disputed invoices which are resolved in the favour of the Terminal, will incur a surcharge of 3% of the invoice value.

12. Other surcharges

12.1. Dockage – Occupancy Surcharge

A berth occupancy surcharge is applicable for occupying the berth after 1 hour from completion of vessel operations (without permission of SAGT) \$2.50 per hour or part thereof per 100grt or part thereof.

12.2. Crane Idle

Any delay over 15 minutes caused to the vessel operations due to the fault on the part of the vessel operator, the vessel operator is liable to pay the Terminal US\$750 per hour or part thereof.

12.3. Undeclared / mis-declared / incorrectly declared containers

This refers to any container including and not limited to incorrect/partial declaration, late declaration, alteration or omission of declaration. Without prejudice to this definition and in addition to SAGT's Terms & Conditions for the provision of Terminal Services, the container operator shall also pay the below rates as applicable.

a. Undeclared containers

An undeclared container surcharge of US\$ 150 per container is applicable in addition to stevedoring charges for handling undeclared containers

b. Incorrect declaration / under declaration of container weight

Containers that weigh above the ISO / CSC specification will incur a surcharge of US\$ 300 per container

c. Non-declaration of Hazardous cargo

Incorrect, incomplete or non-declaration of hazardous cargo will incur a surcharge of US\$ 2,500 per container.

d. Delay in passing of boat notes

Surcharge for not passing the boat notes within the given time frame,

	20'	40'	Over 40'
Surcharge for not passing the boat notes within the given time frame	30	45	60

e. Shut out charges

Surcharge for Shutting out containers that are already planned for a particular vessel is US\$ 25 per container

f. SOLAS Weight Verification protocols

Respective container operators/carriers are responsible under the Safety of Life at Sea (SOLAS) convention to provide the terminal operator "SAGT" with container load list confirming Weight Verification Authentication. Any container found to be mismatched with Weight Verification declared as per

carrier load list will be withheld from loading pending carrier's further instructions and will be subject to appropriate tariff charges for extra handling as deemed necessary.

12.4. Manual (Non-EDI) Import Laden container Master Delivery Order (DO) advice to Terminal

Surcharge for manual (non-EDI) import laden container Master Delivery Order (DO) advice to terminal by the shipping line,

US\$ 1500	Per 100 units of Imports per vessel
US\$ 5000	Over 100 units of Imports per vessel

13. SAGT Customer Service Center

13.1. SAGT Customer Service operating hours.

	Monday to Friday	Saturday	Non-Mercantile/ Public Holidays
e-DA issuing (electronic Delivery Advice)	8:00am – 7:00pm	8:00am – 4:00pm	8:00am – 4:00pm
e-DA requests can be sent 24/7 to SAGTCHABP@sagt.com.lk	e-DA applications submitted after 7:00pm will be processed within 2.5 hours in the next working day	e-DA applications submitted after 4:00pm will be processed within 2.5 hours in the next working day	e-DA applications submitted after 4:00pm will be processed within 2.5 hours in the next working day

13.2. Afterhours e-DA surcharge

Afterhours electronic-Delivery advice processing fee is **US\$ 50** per request for Delivery advice

13.3. Manual Payment Processing Fee

Manual Payment Processing Fee **US\$ 25** per container

13.4. Manual e-DA processing fee

Manual e-DA processing fee is **US\$ 25** per container

14. Other Services

Any other service requested and/or provided by SAGT but not mentioned within this tariff **MUST** be agreed prior to providing the service.

15. Liability

All transactions shall be governed by the standard Terms and Conditions of Service at SAGT. A copy of which is available at www.sagt.com.lk or on request

16. Notes

16.1. OOG

Means out-of-gauge and includes over-height, over-width, over-length containers which can be lifted with a container lifting spreader. Any cargo height over 8 ft above the container height will require special lifting equipment. Any out-of-gauge container that requires special lifting equipment will be priced on application.

16.2. Bundled Empty

Means one or more empty Flat-rack/Platform containers loaded on to the master Flat-rack/Platform container hereinafter referred to as Master Container. Master Container shall be considered as a laden container and shall apply the Laden handling charge.

16.3. ITT

Means Inter-Terminal trucking. The transfer of transshipment containers between SAGT and any other container terminal in the Port of Colombo is limited to ISO standard marine cargo containers of sizes 20' / 40' / 45' and OOG containers that can be transferred by standard 40' trailers.

16.4. Clear day

Means days free of Saturday/Sunday/Public holidays (non-Mercantile)

16.5. Calendar day

Means consecutive days of the calendar including Saturday/Sunday/Public holidays/Mercantile holiday

16.6. Manual payment

Means any Customer Service Centre charges paid without the SAGT e-port payment reference number.

SAGT reserves the right to change to the terms and conditions of service detailed above and such changes, if any, will be published on the SAGT website www.sagt.com.lk

ANNEXURE

APPLICABLE REBATE

BAY OF BENGAL TRANSSHIPMENT (Previously ECIN – East Coast India) rebate:

A 10 percent rebate will apply on basic stevedoring rate for all Transshipment containers (Empty and Laden) to/from East Coast India, Bangladesh and Myanmar via SAGT.