

IRISH FERRIES LIMITED TRADING AS 'DFT'.

TERMS AND CONDITIONS COVERING THEIR OPERATIONS AS  
STEVEDORES AND TERMINAL OPERATORS AT DUBLIN PORT

FEBRUARY 2008

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CLAUSE 1. DEFINITIONS

“DFT” is the trade name under which Irish Ferries Ltd. having its registered offices at Ferryport, Alexandra Road, Dublin 1 carries on business as Stevedores and Terminal Operators at Dublin Port,

“CARGO” means goods of any kind whatsoever whether or not stowed in a container of any kind or on flat racks, platforms or any kind of flat or similar piece of equipment for consolidating cargo.

“OWNERS” includes the registered owner, managing owner, part owner, disponent owner, charterer or operator of any vessel to which these Terms and Conditions shall apply.

“UNIT / PACKAGE” where a container, pallet or similar article of transport is loaded with more than one package or unit, the packages or other shipping units enumerated in the Bill of Lading as packed in such article of transport are deemed packages or shipping units except as aforesaid, such article of transport shall be considered the package or unit.

“SCHEDULE OF CHARGES “ means the schedule of rates and charges agreed from time to time between DFT and the owners of a vessel using the DFT (Terminal).

CLAUSE 2. NOTICE

Use of the Terminal and/or stevedoring services by the Owners of a vessel shall be deemed to constitute notice of and agreement to these Terms and Conditions provided that DFT shall take all reasonable steps to ensure that the Owners are made aware of these Terms and Conditions before the commencement of operations.

CLAUSE 3. DURATION

These Terms and Conditions shall be applicable during such time as the Terminal is being used by the Owners Vessels for the loading and discharging of containers and cargo, stores and bunkers and at any time that it is being used for the reception, accommodation and delivery of containers and cargo in connection with the Owners Vessels.

CLAUSE 4. NOTICE OF ARRIVAL OF VESSELS AT DFT TERMINAL

- 4.1 Unless as otherwise agreed in writing between the Owners and D.F.T., Owners shall give DFT at least 48 hours notice of the E.T.A. of their vessel at Dublin Port and shall confirm such E.T.A. each day and notify DFT of any change in their vessel's E.T.A. at Dublin Port.
- 4.2 It is agreed that DFT will not be liable for any Demurrage, detention or other costs incurred by Owners as a result of any delay caused to Owners by the fact that the berths at the DFT Terminal are occupied by other vessels or any other cause beyond the control of DFT including any trade dispute involving shore workers.

CLAUSE 5. STEVEDORING OPERATIONS AT DFT TERMINAL

- 5.1 DFT shall perform or provide such stevedoring services as DFT in its reasonable discretion considers appropriate and expedient for each vessel and its containers and cargo, unless instructed to the contrary in writing by the Owners of the vessel and agreed in writing by DFT.
- 5.2 DFT may use such plant and equipment on cargo handling services as it considers appropriate and expedient.
- 5.3 DFT shall provide the necessary labour, supervision, plant and equipment for the discharging, loading, receiving and delivery of containers and cargo at the terminal.
- 5.4 The vessels using the DFT Terminal shall be discharged/loaded at D.F.T.'s discretion and but this shall at all times be subject to any decision of the Harbourmaster of Dublin Port.
- 5.5 D.F.T. shall be entitled not to commence any cargo handling services until a suitable berth and suitable plant and equipment are available and sufficient port operations workers and other employees are available to perform cargo handling services on the Owners Vessel or on the Terminal. After the commencement of cargo handling services, such services will be continued as and to the extent that suitable plant and equipment and sufficient port operations workers and other employees are reasonably available in all the circumstances from time to time having regard to the need to meet the requirements of other users of the terminal.
- 5.6 No liability shall attached to D.F.T. in consequence of its not commencing or continuing cargo handling services for the reasons specified in Clause 5.5 or in consequence of any action taken in pursuance of Clauses 5.1 and 5.2.
- 5.7 DFT will provide accommodation in its Terminal for containers and cargo to be loaded on to or discharged from Owners' vessel at the Terminal.

- 5.8 DFT shall provide facilities to keep refrigerated containers on the Terminal pending loading of those containers on to Owners' vessel or delivering such containers to consignees. There is only a limited number of connecting points for refrigerated containers and Owners are required to give DFT at least 72 hours notice of their requirements in respect of refrigerated containers. DFT will take all reasonable steps to try and ensure that there are sufficient facilities to cope with refrigerated containers laid down for shipment or discharged from Owners' vessels but will not accept any liability for any failure on their part to provide an adequate number of connecting points unless they have previously agreed in writing with Owners to provide a specific number of connecting points.
- 5.9 DFT shall not be responsible for any loss or damage whatsoever to any refrigerated or insulated container or its contents occasioned by or resulting from any power failure beyond the control of DFT or from any other event not occasioned by the act or neglect of DFT.
- 5.10 The lashing/unlashing of containers on board the vessel shall be performed by the crew of the vessel using securing and lashing materials and equipment provided by the Owners.
- 5.11 The removing and replacing of Vessel's hatch covers (including securing and unsecuring) shall normally be undertaken by the crew of the Vessel. If D.F.T. is requested by the Owners to lift or move Vessel's hatch covers, the Owners shall pay the rate specified therefore in the Schedule of Charges at Owners Risk.
- 5.12 The operations of discharging or loading and receiving or delivering shall be carried out during normal working hours i.e. between 08.00 to 17.00 hours Monday to Friday inclusive (excluding lunch hour). Unless otherwise agreed in writing between Owners and D.F.T. all operations carried on outside of these hours shall be carried out at overtime rates as set out on the Schedule of Charges.
- 5.13 Owners will give DFT notice within 14 days in writing of any loss or damage to the vessel, containers or cargo sustained during stevedoring operations. Any acknowledgement of this notice by DFT personnel shall not be an admission of liability for such loss or damage. A figured claim shall be submitted in writing within 30 days of the date on which the damage was caused and all claims for damage arising out shall be considered waived and time barred unless Court proceedings are issued within 12 months of the date on which the damage was caused.
- 5.14 DFT will not handle or store any containers said to contain dangerous or hazardous cargo unless DFT receive 72 hours notice of the intention to book the carriage of such cargo and DFT agree in writing to accept.

5.15 DFT will permit Owners to load and discharge vessels stores and bunkers while the vessel is alongside the Terminal provided that such operations do not interfere with the loading/discharging of the vessel.

#### CLAUSE 6 LIABILITY

6.1 The Stevedore shall not be liable for any failure to perform any of these Terms and Conditions or for any loss and or damage arising or resulting from:-

- (a) Act of God
- (b) Casualty (including fire or explosion) unless caused by the negligence of the Stevedore, its servants or agents
- (c) Any consequences of war or hostilities (whether war be declared or not), terrorist acts
- (d) Riots civil commotions or invasions
- (e) Industrial disputes or actions of any nature
- (f) Act of any government
- (g) Storm flood earthquake subsidence epidemic or other natural physical disaster
- (h) Any cause or event which could not be avoided and the consequence whereof could not be prevented by the exercise of reasonable diligence by the D.F.T.
- (i) Quarantine Restrictions
- (j) Act or omission of shipper or owner of goods, his agent or representative
- (k) Wastage in bulk or weight or any other loss or damage arising from inherent defect, quality or vice of the goods
- (l) Insufficiency of packing
- (m) Insufficiency or inadequacy of marks
- (n) Latent defects not discoverable by due diligence

6.2 D.F.T. shall not be liable in negligence or otherwise howsoever for indirect or consequential damage, including any claims for loss of use or profits, or the loss of a particular market.

6.3 DFT shall not be liable for loss or damage to cargo and/or containers/flats caused by the bad stowage of cargo within containers, flats etc. or by any other circumstances outside the control of DFT.

#### 6.4 Limitation of Liability

D.F.T. shall only be liable under these Terms and Conditions for physical loss of or damage to any Vessel, cargo, containers, trailers, chassis or other equipment and such liability shall only apply to extent that the loss or damage exceeds €500 per occurrence or incident and is proved to be caused solely by the negligence of D.F.T. or its employees acting in the course of their employment during the performance or provision of services pursuant to these Terms and Conditions, provided that:-

The liability of D.F.T. hereunder shall be limited to the following maximum amounts:-

- (a) For loss of and or damage to the Vessels - €1.0m per occurrence or incident
- (b) For any loss of and or damage to unit/package, the lesser of
  - i. the value of any goods or equipment lost or damaged **or**
  - ii. 2 SDR's per kilo of gross weight of the unit/package lost or damaged or 666.67 SDR's per package or unit whichever is greater.

For the purposes of this clause the value of goods or equipment shall be calculated on the day they were or should have been shipped.

The value of SDR shall be calculated as at the date when the claim is received by D.F.T. in writing.

#### CLAUSE 7. INDEMNITY

- 7.1 The Owners will be responsible for and provide against all risks and contingencies including death or personal injury of any person or damage to any property whatsoever arising from the use of or presence of the Vessels containers or cargo in D.F.T. including the Terminal and will indemnify D.F.T. against all proceedings claims and expenses (including costs on a full indemnity basis) arising out of such use or presence or of any act neglect or default of the master of a Vessel or the Owners their agents or contractors (other than D.F.T.) or their respective servants or of any inherent quality or defect of cargo in the Terminal or on a Vessel.
- 7.2 The Owners will also pay to the Stevedore full compensation for all damage done to, or suffered by, the property or equipment of D.F.T. or arising as stated in Clause 7.1.

#### CLAUSE 8. DFT ACTING AS TERMINAL OPERATORS

- 8.1 DFT shall provide storage space at its Terminal for an agreed number of empty containers, flat racks etc. on terms to be agreed in writing between DFT and Owners.
- 8.2 DFT shall provide a safe compound for the storage of all containers handled by them. However since DFT does not have the opportunity of checking the quantity/quality of cargo stowed within containers any receipt given for containers landed into their compound for either shipment out or onward delivery to a destination within Ireland shall only be evidence of receipt of the container in question and shall not be evidence of receipt of the goods said to be contained in any container, flat rack etc. DFT therefore shall not be liable for any loss or damage of goods within containers except where such loss or damage has been caused by the proven negligence of DFT, their employees or subcontractors. However in any event the liability of DFT for loss or damage to

goods in their custody shall not exceed the sum of 666.67 SDR's per package or unit or 2 SDR's per kilo of the nett weight of the goods lost or damaged whichever shall be the greater.

#### CLAUSE 9. EXCLUDED CARGOES

Should the Owner otherwise than under special arrangements previously made in writing as set out in Clause 5 above deliver to D.F.T. or cause D.F.T. to deal with or handle goods of a dangerous or damaging nature, or goods likely to harbour or encourage vermin or other pests, or goods liable to taint or affect other goods, he shall be liable for all loss or damage arising in connection with such goods and shall indemnify D.F.T. against all penalties, claims, damages, costs and expenses whatsoever arising in connection therewith, and the goods may be dealt with in such manner as D.F.T. or other person in whose custody they may be at any relevant time shall think fit.

#### CLAUSE 10. OWNER WARRANTIES

The Owner warrants:

- (A) that the description and particulars of any goods furnished by or on behalf of the Owner are full and accurate.
- (B) that all goods have been properly and sufficiently prepared, packed, stored, labeled and/or marked, and that the preparation, packing, stowage, labeling and marking are appropriate to any operations or transactions affecting the goods and the characteristics of the goods.
- (C) that where D.F.T. receives the goods from the Owner already stowed in or on a container, trailer, tanker, or any other device specifically constructed for the carriage of goods by land, sea or air (each hereafter individually referred to as "the transport unit"), the transport unit is in good condition, and is suitable for the carriage to the intended destination of the goods loaded therein or thereon.

#### CLAUSE 11. OWNER SAVE HARMLESS

The Owner shall save harmless and keep D.F.T. indemnified from and against:-

- (A) All liability, loss, damage, costs and expenses whatsoever (including without prejudice to the generality of the foregoing, all duties, taxes, imposts, levies, deposits and outlays of whatsoever nature levied by any authority in relation to the goods) arising out of D.F.T. acting in accordance with the Owner's instructions or arising from any breach by the Owner of any warranty contained in these Conditions or from the negligence of the Owner, and
- (B) Without derogation from Sub-Clause (A) above, any liability assumed or incurred by D.F.T. when by reason of carrying out the Owner's instructions the

Company has reasonably become liable or may become liable to any other party, and

- (C) All claims, costs and demands whatsoever and by whomsoever made or preferred in excess of the liability of D.F.T. under the terms of these Conditions regardless whether such claims, costs and demands arise from or in connection with the negligence or breach of duty of D.F.T., its Servant, Sub-Contractors or Agents, and
- (D) Any claims of a General Average nature which maybe made on D.F.T.

#### CLAUSE 12. DEPARTURE DATES

Departure Dates – except under special arrangements previously made in writing the D.F.T. accepts no responsibility for departure or arrival dates of goods or equipment.

#### CLAUSE 13. GENERAL CONDITIONS

- 13.1 These Terms and Conditions and the rates and charges agreed as specified in accordance herewith may be altered or varied at any time upon DFT giving 14 days notice in writing to Owners, Shippers or consignees.
- 13.2 Unless otherwise agreed in writing between Owners and D.F.T. all charges should be payable with 28 days following the date of invoice. Interest at the rate of 3% above the prevailing Euribor base rate is payable on charges remaining unpaid.

#### CLAUSE 14 LAW & JURISDICTION

- 14.1 Any claims or disputes arising under these Terms and Conditions shall be determined according to the laws of the Republic of Ireland under the exclusive jurisdiction of the Irish Courts.