

GENERAL CONDITIONS
FOR SERVICES AND FACILITIES

provided by **EXOLGAN S.A**

DEFINITIONS AND INTERPRETATION

1. DEFINITIONS

- 1.1 Each of the following expressions and their grammatical variations used in the Contract shall have the following meaning unless the context of the Contract requires otherwise:
- 1.1.1 “**Applicable Laws**” means, as to any person, all applicable constitutions, treaties, laws, statutes, codes, ordinances, orders, decrees, rules and regulations binding upon such person or to which such a person is subject including any requirement imposed by the International Maritime Organization.
- 1.1.2 “**Application**” means the application for the Services/Facilities, made by or for the Customer to EXOLGAN in writing or by any other mode required or accepted by EXOLGAN and granted by EXOLGAN.
- 1.1.3 “**Claim**” means any loss, damage, cost, expense and/or liability incurred due to any circumstances, including but not limited to the following:
- (a) any loss, destruction or damage of any property (including the property of the person suffering such loss, damage, cost or expense);
 - (b) any damage to the environment;
 - (c) the death or injury of any person;
 - (d) any economic or consequential loss or loss of profits suffered by any person and any demand or legal proceedings made or instituted in respect of such loss, damage, cost or expense (including solicitor and client costs); and/or
 - (e) compliance with Applicable Laws and/or obligations, and shall include any claims in respect of any of the above matters.
- 1.1.4 “**Code**” means The Code, the code of conduct setting out EXOLGAN business principles and that offers guidance on what is expected of EXOLGAN employees in dealing with critical issues, the latest version which may be found at: <https://www.itl.com.ar/institucional-compliance/>
- 1.1.5 “**Conditions**” means these General Conditions and the Specific Conditions.
- 1.1.6 “**Container**” means (a) a receptacle 6.1 metres or more in length equipped with corner castings to facilitate handling by mechanical equipment constructed in accordance with International Organization for Standardization (“**ISO**”) specifications; or (b) any other nonISO standard and/or out-of-gauge containers, save that the Customer shall not tender the Containers in (b) to EXOLGAN for Services except with EXOLGAN’s prior written approval .
- 1.1.7 “**Contract**” means the contract constituted by the Application including the Conditions and any other document expressly agreed between the Parties as forming part of such contract.

- 1.1.8 “**Contract Period**” means the period of the Contract from the commencement date until the expiry date both stipulated in the Application or in the absence of such stipulation:
- (a) until the complete performance of the Contract; or
 - (b) until the termination of the Contract in accordance with the other provisions of the Contract, whichever shall be earlier.
- 1.1.9 “**Contract Sum**” means all or any sums payable by or for the Customer to EXOLGAN under the Contract or at law in accordance with the rate stipulated in the Contract or in the absence of such stipulation, in accordance with the rate stipulated in the EXOLGAN Price List.
- 1.1.10 “**Customer**” means the person who is party to a Contract with EXOLGAN, or the successors and permitted assigns of such person.
- 1.1.11 “**Customer's Representative**” means anyone or more persons authorised by the Customer and approved by EXOLGAN under General Condition 8.1.
- 1.1.12 “**Facilities**” means all or any part of the facilities described as such in the Application or any facilities provided by EXOLGAN in replacement therefor pursuant to General Condition 3.2, whether for use in themselves or for use in connection with the provision of the Services.
- 1.1.13 “**Force Majeure**” means any of the following events occurring beyond the affected party’s reasonable control (but shall not include lack of financial capacity or inability to make payments for any reason):
- (a) any act of God; act of war, rebellion, riot or civil commotion, insurrection, looting, blockade or embargo, act of public enemy, strike, action to work to rule, occupation or lock-out; theft, acts of terrorism or cyber-terrorism or sabotage; compliance with any regulation, measure, direction, order or request of any competent authority or person purporting to act therefor, mobilisation or requisitioning; movement control order, public health emergency, quarantine measure, pandemic or epidemic; obstruction of access, prohibition or restriction of import, export or transit, attachment or arrest of any property used for the performance of the Contract; abnormally high prices or failure of or stagnation in the supply of power, fuel, transport or equipment affecting the availability of materials or labour necessary for EXOLGAN’s performance of the Contract to a degree not existing at the time of commencement of the Contract Period, or any other similar circumstances occurring beyond the reasonable control of EXOLGAN Terminal;
 - (b) any fire, smoke, explosion or water used to extinguish fires; atomic nuclear reaction; haze; flood or storm; peril of the sea; breaking adrift of any vessel from any EXOLGAN Terminal; damage by aircraft or vessel; obstruction to shipping or roads that provide access to or egress from any EXOLGAN Terminal or interruption of use of the Services/Facilities due to any cause whatsoever; or
 - (c) any other circumstances the occurrence or extent of which EXOLGAN could not reasonably have controlled, foreseen, avoided, prevented or forestalled, including, without limitation, a third party’s interference with EXOLGAN’s computer systems, hacking, cyber-attack, computer viruses, the stability or availability

of the internet or a part thereof or a network or device failure, whether within or external to EXOLGAN's data centre.

- 1.1.14 “**Goods**” means all or any part of any property of any kind whatsoever brought into (or intended to have been brought into) any EXOLGAN Terminal by the Customer or for the Customer for the purposes of the Contract including any Container.
- 1.1.15 “**Party**” means EXOLGAN or the Customer.
- 1.1.16 “**EXOLGAN**” means (i) EXOLGAN S.A; or (ii) the related corporation of EXOLGAN S.A, as specified in the Contract; and its successors and assigns.
- 1.1.17 “**EXOLGAN Price List**” means the document titled as such and listing charges payable to EXOLGAN from time to time for the use of the Services/Facilities, the current edition of which has been made available to the Customer (and which the Customer hereby acknowledges as having read and agreed to).
- 1.1.18 “**EXOLGAN Safety Rules**” means the document titled as such and containing the rules set by EXOLGAN from time to time governing the safety of activities and persons within the EXOLGAN Terminals, the current edition of which has been made available to the Customer (which the Customer hereby acknowledges as having read and agreed to).
- 1.1.19 “**EXOLGAN Security Rules**” means the document titled as such and containing the rules set by EXOLGAN from time to time governing the security of persons and property within the EXOLGAN Terminals, the current edition of which has been made available to the Customer (and which the Customer hereby acknowledges as having read and agreed to).
- 1.1.20 “**EXOLGAN Terminal**” means all or any part of any land, place, structure or building in which the Services/ Facilities shall be provided by EXOLGAN irrespective of whether or not such land, place, structure, or building shall be owned, operated, managed or controlled by EXOLGAN, including any berth, jetty or wharf.
- 1.1.21 “**EXOLGAN Traffic Rules**” means the document titled as such and containing the rules set by EXOLGAN from time to time governing the movement, use and parking of vehicles within the EXOLGAN Terminals, the current edition of which has been made available to the Customer (and which the Customer hereby acknowledges as having read and agreed to).
- 1.1.22 “**Services**” means any service described as such in the Application.
- 1.1.23 “**Services/Facilities**” means the Services and/or the Facilities, as the case may be.
- 1.1.24 “**Specific Conditions**” means the conditions referred to as such in the Application.
- 1.1.25 “**Vessel**” means the vessel in respect of which any Service/Facilities is provided or to be provided under the Contract.

1.2 Interpretation

- 1.2.1 Words importing the singular number shall include the plural number and vice versa.

- 1.2.2 Words importing the masculine gender shall include the feminine or neuter gender.
- 1.2.3 The several documents or other modes of communication forming the Contract shall be taken as mutually explanatory of one another and unless expressly provided otherwise in the Contract:
- (a) the Contract shall prevail in the event of any contradiction or inconsistency between any Specific Condition, or General Condition, and any other provision of the Contract;
 - (b) these Specific Conditions shall prevail in the event of any contradiction or inconsistency between any Specific Condition and any General Condition; or
 - (c) in the event of any contradiction or inconsistency between any provision of the Contract (except the Conditions) and any other provision of the Contract (except the Conditions), the provision with a later date shall prevail.
- 1.2.4 All agreements and undertakings on the part of either Party which comprise more than one person or entity shall be joint and several.
- 1.2.5 All applications, orders, instructions, notices, requests, descriptions, directions, declarations, permissions, consents and other communication required or permitted under the Contract to be made or given to EXOLGAN shall be made or given in writing or by such other mode as may be accepted by EXOLGAN.
- 1.2.6 Reference in the Contract to any statute includes a reference to such statute in force from time to time and any regulations or orders made under such statute.
- 1.2.7 If the whole or any part of any provision of the Contract shall be or become illegal, invalid or unenforceable for any reason whatsoever including by reason of any statutory provision

or by reason of any decision of any Court or any other body or authority having jurisdiction over the Parties or the Contract, such whole or part of such provision shall be deemed to be deleted from the Contract provided that if any such deletion substantially affects or alters the commercial basis of the Contract, the Parties shall negotiate in good faith to amend the provisions of the Contract as shall be necessary or desirable in the circumstances.

- 1.2.8 The headings of the provisions of the Contract are for reference and the convenience of the Parties only and do not define, limit or enlarge the meaning, interpretation or scope of the provisions.
- 1.2.9 EXOLGAN RESERVES THE RIGHT TO REVIEW, REVISE, AMEND OR REPLACE ALL OR ANY PART OF THESE GENERAL CONDITIONS AND/OR THE SPECIFIC CONDITIONS FROM TIME TO TIME WITHOUT NOTICE. THE PREVAILING VERSION OF THESE GENERAL CONDITIONS AND/OR THE SPECIFIC CONDITIONS APPLICABLE FROM TIME TO TIME MAY BE FOUND ON <https://exolgan.itl.com.ar/>

2. CONTRACT

2.1 The Contract

2.1.1 EXOLGAN shall provide and the Customer shall accept the Services/Facilities during the Contract Period in consideration of the payment of the Contract Sum, all in accordance with the terms and conditions of the Contract.

2.1.2 Any undertaking by EXOLGAN under the Contract to do any act may be carried out by its authorised servants or agents, in which event all acts or omissions which may be permitted of EXOLGAN under the Contract shall also be permitted of such persons and all exemptions, defences, immunities, liability limitations, liberties and rights afforded to EXOLGAN by the Contract, including the right to enforce any law and jurisdiction clause, shall also be afforded to such persons.

2.2 Sooner termination for urgent reasons

2.2.1 Notwithstanding the other provisions of the Contract, EXOLGAN may terminate the Contract forthwith at any time without any claim or charge by the Customer if EXOLGAN has an urgent reason for so doing.

2.2.2 Such urgent reasons shall include but not be limited to:

- (a) if the Customer shall fail to observe or perform any of its obligations under the Contract and shall not remedy its failure within a reasonable time after EXOLGAN has notified the Customer of such failure;
- (b) if EXOLGAN shall be of the opinion that the presence of the Goods at any EXOLGAN Terminal may lead to any Claim against EXOLGAN, its servants or agents; and/or
- (c) if EXOLGAN shall be prevented from providing the Services/Facilities or if the Services/Facilities shall become unsuitable in any way for use due to any Force Majeure.

3. FACILITIES

3.1 EXOLGAN Replacement facilities

If the Facilities shall become damaged or destroyed or shall become unfit for use due to the wilful intent or recklessness of EXOLGAN, EXOLGAN shall use its best endeavours to make other facilities available for the Customer's use in replacement for the Facilities.

4. SPECIFIC MEASURES

4.1 Fixtures, fittings and measures

Notwithstanding the other provisions of the Contract, EXOLGAN shall be entitled immediately and at the risk and expense of the Customer:

- (a) to install or modify any fixture or fitting to the Facilities which may be required by the competent authorities for the provision of the Services/Facilities or to prevent or reduce the emission of smoke, dust, fumes, vapours or other matter resulting from the provision of the Services/Facilities; and/or
- (b) to take every measure reasonably deemed by EXOLGAN to be necessary for the prevention or reduction of risk of any Claim suffered by EXOLGAN and/or its servants or agents, including the cessation of provision of the Services/Facilities and the removal or disposal of the Goods.

4.2 Notification to Customer

EXOLGAN shall as soon as possible, notify the Customer of such installation, modification and measures but any failure by EXOLGAN to notify the Customer shall not entitle the Customer to make any Claim against EXOLGAN in respect thereof.

4.3 Property of EXOLGAN

Notwithstanding that the cost of such installation, modification or measures shall have been borne by the Customer, such fixture or fitting shall be the property of EXOLGAN.

5. INSPECTION AND WORKS

5.1 Circumstances

If in the reasonable opinion of EXOLGAN:

- (a) any inspection of the Facilities;
- (b) any works for the routine maintenance or repair or alteration or addition to the Facilities; and/or
- (c) any other works,

shall become necessary as a result of any amendment or re-enactment of any law taking effect during the Contract Period, EXOLGAN shall be entitled to carry out such inspection or such works at the risk and expense of the Customer.

5.2 Movement of Goods

EXOLGAN shall be entitled to move the Goods from the Facilities to any other part of the EXOLGAN Terminal or to any other EXOLGAN Terminal if EXOLGAN shall deem such movement to be necessary or desirable for EXOLGAN to carry out such inspection or works and in such event the Customer shall not be entitled to make any Claim against EXOLGAN that has either directly or indirectly arisen in the course of carrying out any action taken by EXOLGAN as set out in General Condition 5.1 or from the deprivation of the use of the Facilities for any duration as a result of such works unless such Claim has arisen from the wilful intent or recklessness of EXOLGAN.

5.3 Payment of charges

EXOLGAN shall be entitled to payment by the Customer of the Contract Sum even for any period that the Customer may be deprived of the use of the Services/Facilities arising in the course of carrying out any action taken by EXOLGAN as set out in General Condition 5.1.

6. WORKING HOURS

6.1 Normal working hours

Except where expressly agreed otherwise, the Services/Facilities shall be provided by EXOLGAN during the normal working hours stipulated by EXOLGAN from time to time.

6.2 Outside normal working hours

6.2.1 Notwithstanding the other provisions of the Contract, EXOLGAN may at its absolute discretion provide any Services/Facilities outside the normal working hours if EXOLGAN shall reasonably deem it necessary to do so or if required by the competent authorities.

6.2.2 Any cost or expense incurred by EXOLGAN arising from providing any Services or Facilities outside the normal working hours pursuant to General Condition 6.2.1 shall also be payable by the Customer to EXOLGAN.

7. REMOVAL OF VESSELS

The Customer shall ensure that the Vessel shall be removed from the EXOLGAN Terminal immediately upon completion of the discharge or loading of the Goods or sooner where deemed necessary by EXOLGAN to facilitate other operations at the EXOLGAN Terminal.

8. CUSTOMER'S REPRESENTATIVE

8.1 Representation of Customer

- (a) EXOLGAN may in its absolute discretion, grant approval for any one or more persons authorised by the Customer to deal with EXOLGAN, its servants and agents for the purposes of the Contract, in which event all acts or omissions by such authorised person shall be deemed to be acts or omissions of the Customer.
- (b) Without prejudice to the foregoing General Condition 8.1(a), EXOLGAN shall be entitled to deem that any person actually (whether expressly or impliedly by way of conduct, course of dealing, usage or custom, or otherwise) or ostensibly or apparently authorised by the Customer to deal with EXOLGAN, its servants and agents for the purposes of or in connection with the Contract (including without limitation hauliers and truckers) is the Customer's Representative, in which event all acts or omissions by such person shall be deemed to be acts or omissions of the Customer.

8.2 Customer's responsibility

- 8.2.1 The Customer shall ensure that only itself or the Customer's Representative shall deal with EXOLGAN for the purposes of the Contract.
- 8.2.2 Any undertaking by the Customer under the Contract to do or not to do or not to omit any act shall be deemed to include an obligation to ensure that such undertaking shall be carried out by the Customer's Representative.
- 8.2.3 Notwithstanding the provisions of this General Condition, the Customer shall at all times be responsible for the due observance of and compliance with the provisions of the Contract.

8.3 Liability and indemnity for Customer's Representative

EXOLGAN shall not be liable for any Claim suffered by any person due to any cause whatsoever arising from the act or omission of any Customer's Representative or any other person ostensibly or apparently engaged or authorised by the Customer to deal with EXOLGAN and the Customer shall absolve EXOLGAN, its servants and agents in respect of such Claim and shall indemnify EXOLGAN, its servants and agents in respect of such Claim.

9. ACCESS TO AND PRESENCE AT EXOLGAN TERMINALS

9.1 Entry and exit

Except with the permission of the EXOLGAN, no person or property shall enter or leave any EXOLGAN Terminal by any place or by any means other than an entrance or exit or means designated by EXOLGAN for that purpose.

9.2 Closure or barriers

EXOLGAN may in its discretion without assigning any reason therefor, close any EXOLGAN Terminal or any part thereof for any period or erect or place any barriers thereat, in which event no person shall enter the same unless he has obtained the express permission of EXOLGAN.

9.3 Evidence of permission

The grant of EXOLGAN's permission under General Conditions 9.1 or 9.2 shall be evidenced by any permanent or temporary pass issued by EXOLGAN subject to such conditions as EXOLGAN may think fit to impose.

9.4 Refusal or removal

EXOLGAN may in its discretion without assigning any reason therefor, refuse entry or exit to or require the Customer to remove any person or property whether or not such person or property is in possession of or covered by a pass or passes issued by EXOLGAN under General Condition 9.3.

9.5 Obedience to directions

The Customer shall, and shall procure that its officers, employees, agents, contractors and representatives will, while it or they remain at any EXOLGAN Terminal, obey all directions given by EXOLGAN in respect of the Services/Facilities and the EXOLGAN Terminals or as indicated by any signboard placed by EXOLGAN.

9.6 During normal working hours and for Contract purposes

Subject to the foregoing paragraphs of this General Condition, EXOLGAN shall grant the Customer and the Customer's Representative, access to the Facilities or the EXOLGAN Terminal, as the case may be, during the normal working hours referred to in General Condition 6.1 or if applicable, outside the normal working hours, only for the purposes of the Contract subject to their compliance with the operational, safety, security and other requirements of EXOLGAN from time to time.

10. ENVIRONMENT

The Customer shall not:

- (a) discharge, throw, deposit or permit or suffer to escape any dirt, ashes, exhaust, steam, oil, water, filth or waste matter whether liquid or solid onto any EXOLGAN Terminal without the permission of EXOLGAN; or
- (b) cause smoke, soot, ash, grit or oil to be emitted from any vessel at any EXOLGAN Terminal in such quantity or density as may be deemed to be a nuisance or annoyance in the opinion of EXOLGAN.

11. PAYMENT FOR SERVICES OR FACILITIES

11.1 Charges and other sums

In consideration of the provision of the Services/Facilities by EXOLGAN, the Customer shall pay to EXOLGAN all charges and other sums which shall be imposed by EXOLGAN under the EXOLGAN Price List or under the Contract or at law.

11.2 Conditions of payment

Except as expressly agreed otherwise between the Parties:

- (a) The Contract Sum shall be:

- (i) payable without demand and without deduction not later than the date for payment stipulated in the EXOLGAN Price List or under the Contract, as the case may be; and
 - (ii) recoverable against the Goods and any other property delivered by the Customer to EXOLGAN under any other contract made between EXOLGAN and the Customer.
- (b) EXOLGAN may at any time and from time to time require the Customer to open and maintain for the duration of the Contract Period an account with EXOLGAN subject to the terms and conditions of the Application.
- (c) The Customer shall furnish security for a sum and of a form approved by EXOLGAN for the prompt and proper performance and observance by the Customer of the Contract (including the obligation to pay the Contract Sum).
- (d) Notwithstanding the period for payment stipulated pursuant to **paragraph (a)(i) above**:
 - (i) if legal proceedings shall be commenced by any person for the bankruptcy, liquidation or winding up of the Customer;
 - (ii) if the Customer shall make any offer of composition to its creditors;
 - (iii) if any order of distress or attachment or similar order shall be made against any property of the Customer (including the Goods); or
 - (iv) if the Customer shall fail to perform or observe any term or condition of the Contract, the Contract Sum shall become immediately due and payable.
- (e) If due to any reason whatsoever (except the default of EXOLGAN) the Customer does not pay the Contract Sum on or before the due date for payment referred to in **paragraphs (a)(i) and/or (d) above**:
 - (i) EXOLGAN shall be entitled to engage the services of any person to recover such sum from the Customer, in which event the Customer shall also be liable for all costs incurred by EXOLGAN for such services (including the legal costs);
 - (ii) regardless of whether or not EXOLGAN shall have engaged the services of any person as described in sub-paragraph (i) above, the Customer shall in addition to the Contract Sum and the costs described in sub-paragraph (i) above (if any), pay to EXOLGAN interest on such sums and the costs at the rate equivalent to the rate stipulated in the EXOLGAN Price List and/or in the Application (as the case may be), which interest shall be payable on a day to day basis from the date immediately after the due date for payment to the date of actual payment of such sums, the costs and interest thereon or to the date of expiry or sooner termination of the Contract, whichever is earlier; and
 - (iii) EXOLGAN shall be entitled to:-
 - a. suspend forthwith upon notice to the Customer any or all of EXOLGAN's obligations under the Contract including, without prejudice to the generality of the foregoing, the provision of Services and/or Facilities; and/or
 - b. terminate the Contract forthwith upon notice to the Customer.

In the event that EXOLGAN elects to suspend any or all of its obligations under the Contract, such suspension shall subsist unless otherwise notified by EXOLGAN. For the avoidance of doubt, EXOLGAN's rights of suspension and termination are cumulative and not in the alternative, and EXOLGAN's exercise of its right of suspension shall not in any way be construed as a suspension and/or waiver of EXOLGAN's rights and the Customer's obligations under the Contract and/or the Customer's breach(es) of the Contract.

- (f) Time shall be of the essence for the purposes of this General Condition.

12. RIGHTS OVER GOODS AND VESSELS

12.1 Right of lien and retention

- 12.1.1 EXOLGAN shall have the right of lien and retention over all property (including the Goods) and all sums (including any sums collected by EXOLGAN from third parties on behalf of the Customer) and all documents which EXOLGAN shall now or hereafter hold of or for the Customer or which is now or hereafter due to the Customer, to secure the payment of the Contract Sum and the discharge of all liabilities of the Customer to EXOLGAN under the Contract or at law.
- 12.1.2 In the exercise of EXOLGAN's right of lien and retention, EXOLGAN shall be entitled to seize and detain such property, sums and documents until the sums due from the Customer to EXOLGAN are fully paid.
- 12.1.3 EXOLGAN's lien shall have priority over all other liens and claims in respect of such property, sums and documents.

12.2 Power to dispose of Goods remaining in custody

- 12.2.1 If the Goods are not removed from the Facilities within the period stipulated by EXOLGAN under the Contract, EXOLGAN may at the expiration of such period dispose of the Goods by sale or in such other manner as it thinks fit provided that if the Goods are of a perishable nature EXOLGAN may direct their removal within such shorter period as EXOLGAN deems fit, and if not removed then, EXOLGAN may dispose of the Goods in such manner as it deems fit.
- 12.2.2 EXOLGAN shall render the surplus proceeds of sale, if any, to the Customer and any other person entitled thereto on demand, and, in case no such demand is made within one year from the date of the sale of such property the surplus shall be paid to the account of EXOLGAN, whereupon all rights to the same by such person shall be extinguished.

12.3 Power to distrain for non-payment of Contract Sum

- 12.3.1 If the Customer fails to pay the Contract Sum in accordance with the Contract, EXOLGAN may, in addition to any other remedy which EXOLGAN may be entitled to use, distrain or arrest the Vessel in respect of which such Contract Sum is payable and the tackle, apparel or furniture belonging thereto or any part thereof, and detain the same until the amount so due is paid.
- 12.3.2 In case any part of the Contract Sum or of the costs of the distress or arrest, or of the keeping of the Vessel, tackle, apparel or furniture, remains unpaid for a period of not less than 14 days after any such distress or arrest has been so made, EXOLGAN may cause the Vessel or other thing so

distraigned or arrested to be sold, and with the proceeds of the sale may satisfy those charges, other sums and costs, including the costs of sale remaining unpaid, rendering the surplus, if any, to the master or owner of the Vessel on demand.

13. OPERATING REQUIREMENTS, EXOLGAN RULES AND THE CODE

13.1 Operating requirements and Customer defences to be available to EXOLGAN

13.1.1 EXOLGAN may impose operating requirements for the maintenance, control, operation and management of the EXOLGAN Terminals and generally for carrying out the purposes of the Contract.

13.1.2 The Customer shall comply with EXOLGAN's operating requirements, including, but not limited to, those contained in the existing port circulars which have been available to the Customer (which the Customer hereby acknowledges as having read and agreed to) or hereafter notified to the Customer and other users of services and facilities provided by EXOLGAN, insofar as such requirements are applicable to the Goods and/or the Services/Facilities.

13.1.3 The Customer warrants that all and any exemptions, defences, immunities, liability limitations, liberties and rights available to it, whether by statute or by contract, including the right to enforce any law and jurisdiction clause, are extended to EXOLGAN and its employees, servants, agents and independent contractors.

13.2 EXOLGAN Rules

The Customer shall comply with the EXOLGAN Safety Rules, the EXOLGAN Security Rules, the EXOLGAN Traffic Rules and all other rules and conditions set by EXOLGAN from time to time in respect of the EXOLGAN Terminals and activities therein.

13.3 Anti-Corruption, Anti-Bribery and The Code

The Customer shall respect and as far as practicable, commit to implementing an internationally recognized standard within the areas of anti-corruption and anti-bribery. The Customer acknowledges it has read and has full knowledge of The Code. The Code reflects EXOLGAN's business principles and offers guidance on what is expected of EXOLGAN employees in dealing with critical issues. The Customer shall respect The Code and agrees to work with EXOLGAN to comply with The Code.

14. FORCE MAJEURE

14.1 Affecting performance or observance by Customer

14.1.1 If the Customer shall be prevented by any Force Majeure from performing or observing its obligations under the Contract, the Customer shall immediately notify EXOLGAN thereof and identify the Force Majeure, whereupon the Customer shall be released from such performance or observance to the extent that it is prevented by the Force Majeure.

14.1.2 The Customer shall perform and observe its other obligations under the Contract insofar as they shall not be affected by the Force Majeure.

14.1.3 Notwithstanding **General Condition 14.1.1**, the Customer shall fulfil such obligation immediately upon the cessation of the Force Majeure regardless of whether or not the Force Majeure shall cease during or after the Contract Period.

- 14.1.4 Notwithstanding **General Conditions 14.1.1 and 14.1.2**, if the Force Majeure shall continue for a period longer than that which EXOLGAN considers reasonable for the release of the Customer from such performance or observance, EXOLGAN shall be entitled to terminate the Contract immediately by notice to the Customer.

14.2 Affecting performance or observance by EXOLGAN

EXOLGAN's performance or observance of its obligations under the Contract shall be suspended for the period of Force Majeure if such performance or observance shall be prevented by any Force Majeure.

15. EXOLGAN'S LIABILITY

15.1 Standard of performance

EXOLGAN shall provide the Services/Facilities with reasonable care.

15.2 Extent of liability

15.2.1 EXCEPT WHERE EXPRESSLY AGREED OTHERWISE BETWEEN THE PARTIES:

(a) EXOLGAN SHALL NOT BE LIABLE FOR ANY CLAIM ARISING FROM:

- (i) FORCE MAJEURE;**
- (ii) ANY DELAY IN THE DELIVERY OF THE GOODS TO EXOLGAN OR REDELIVERY OF THE GOODS TO THE CUSTOMER;**
- (iii) BREACH OF ANY STATUTORY DUTY (TO THE EXTENT PERMITTED BY SUCH STATUTE); OR**
- (iv) ANY OTHER CAUSE UNLESS IT IS FIRST PROVEN BY THE CUSTOMER THAT SUCH CLAIM HAS ARISEN FROM THE GROSS NEGLIGENCE OR THE WILFUL ACT OF EXOLGAN.**

(b) IN THE EVENT OF ANY CLAIM AGAINST EXOLGAN, EXOLGAN SHALL NOT BE LIABLE FOR

- (i) ANY SUM EXCEEDING SINGAPORE DOLLARS THIRTY THOUSAND (S\$30,000) IN AGGREGATE PER INCIDENT OR SERIES OF INCIDENTS; OR**
- (ii) ANY LOSS OF PROFIT, CONSEQUENTIAL LOSS OR ANY INDIRECT LOSS OR DAMAGE.**

15.2.2 EXOLGAN SHALL NOT BE LIABLE FOR ANY CLAIM ARISING BEFORE DELIVERY OF THE GOODS TO EXOLGAN OR AFTER RE-DELIVERY OF THE GOODS TO THE CUSTOMER.

15.2.3 THE CLAIM WILL BE VOID IF THE CUSTOMER SHALL NOT HAVE NOTIFIED EXOLGAN THEREOF WITHIN ONE WEEK AFTER THE OCCURRENCE OF THE EVENT GIVING RISE TO THE CLAIM OR WITHIN ONE WEEK AFTER THE RE-DELIVERY OF THE GOODS TO THE CUSTOMER, WHICHEVER IS EARLIER.

15.2.4 IF ANY CLAIM SHALL HAVE BEEN NOTIFIED TO EXOLGAN IN ACCORDANCE WITH GENERAL CONDITION 15.2.3, THE CLAIM SHALL BECOME WHOLLY VOID AND EXTINGUISHED IF THE CUSTOMER SHALL NOT COMMENCE LEGAL PROCEEDINGS IN RESPECT THEREOF WITHIN THE PERIOD OF 12 MONTHS AFTER THE DATE OF SUCH NOTICE.

15.3 Apportionment of compensation

IF ANY CLAIM SHALL BE MADE AGAINST EXOLGAN BY MORE THAN ONE PERSON AND EXOLGAN SHALL DECIDE TO PAY COMPENSATION IN RESPECT OF THE CLAIM, EXOLGAN SHALL BE ENTITLED TO APPORTION SUCH COMPENSATION AMONG SUCH PERSONS ACCORDING TO THE EXTENT OF PROVEN LOSS OR DAMAGE SUFFERED BY EACH OF THEM.

15.4 Hired Vehicle Or Equipment

NOTWITHSTANDING THE OTHER PROVISIONS OF THE CONTRACT, IF THE CUSTOMER SHALL HIRE ANY CRANE, FORKLIFT OR OTHER VEHICLE OR EQUIPMENT FROM EXOLGAN, THE CUSTOMER SHALL NOTWITHSTANDING THAT THE SAME BE DRIVEN OR OPERATED BY THE SERVANT OR AGENT OF EXOLGAN BE LIABLE FOR ANY INJURY, LOSS OR DAMAGE HOWSOEVER CAUSED BY THE VEHICLE OR EQUIPMENT AND SUCH PERSON SHALL INDEMNIFY EXOLGAN IN RESPECT OF ANY CLAIM REFERRED AGAINST EXOLGAN BY ANY PERSON ON THAT ACCOUNT.

15.5 Personal liability

NOTWITHSTANDING THE OTHER PROVISIONS OF THE CONTRACT, NO MATTER OR THING DONE AND NO CONTRACT OF ANY KIND ENTERED INTO BY EXOLGAN AND NO MATTER OR THING DONE BY ANY SERVANT OF EXOLGAN OR ANY OTHER PERSON WHOMSOEVER ACTING UNDER THE DIRECTION OF EXOLGAN SHALL, IF THE MATTER OR THING WAS DONE OR THE CONTRACT WAS ENTERED INTO BONA FIDE FOR THE PURPOSE OF PROVIDING THE SERVICES/FACILITIES, SUBJECT ANY SUCH PERSON PERSONALLY TO ANY ACTION, LIABILITY, CLAIM OR DEMAND WHATSOEVER IN RESPECT THEREOF.

15.6 Unfair Contract Terms Act

THE CUSTOMER EXPRESSLY ACKNOWLEDGES THAT GENERAL CONDITION 15 SATISFIES THE REQUIREMENTS OF REASONABLENESS SPECIFIED IN THE UNFAIR CONTRACT TERMS ACT (CHAPTER 396) OF SINGAPORE AND THAT IT SHALL BE ESTOPPED FROM CLAIMING THE CONTRARY AT ANY FUTURE DATE IN THE EVENT OF ANY DISPUTE WITH EXOLGAN CONCERNING EXOLGAN'S LIABILITY HEREUNDER.

15.7 Death or Personal Injury, Fraudulent Misrepresentation

NOTHING IN GENERAL CONDITION 15 SHALL EXCLUDE OR LIMIT EXOLGAN'S LIABILITY FOR DEATH OR PERSONAL INJURY RESULTING FROM EXOLGAN'S PROVEN NEGLIGENCE.

16. **CUMULATIVE RIGHTS AND REMEDIES**

The rights and remedies given to EXOLGAN under the Contract shall be cumulative remedies and shall not prejudice any other rights or remedies of EXOLGAN contained in the Contract or at law or the right of action or other remedy of EXOLGAN for the recovery of any

sums due to EXOLGAN from the Customer or in respect of any breach of the Contract by the Customer.

17. COMPLIANCE WITH STATUTES

17.1 By Parties

The Parties shall comply with the provisions of all Applicable Laws affecting the Contract.

17.2 Permission, etc.

The Customer shall obtain all requisite permissions, approvals and consents from the competent authorities.

17.3 Indemnity

The Customer shall indemnify EXOLGAN against any Claims including charges, fines, penalties, losses, costs or expenses incurred by EXOLGAN in respect of:

- (a) any non-compliance by the Customer with this **General Condition 17**;
- (b) loss of or damage to any property, death or injury suffered by any person caused by any act or omission or misrepresentation, negligence, fraud, wilful default or misconduct of or breach of statutory duty by the Customer, its employees or agents;
- (c) any failure by the Customer to perform duly and punctually any obligation, covenant, agreement or undertaking on the part of the Customer under the Contract;
- (d) compliance by EXOLGAN with any Applicable Law or obligation in respect of the Goods or Vessel;
- (e) compliance by EXOLGAN with any instructions issued by the Customer, its employees or agents; and
- (f) the exercise by EXOLGAN of any of its rights in the event of any of the foregoing or any misrepresentation, negligence, fraud, wilful default or misconduct of or breach of statutory duty by the Customer its employees or agents.

18. ASSIGNMENT OF CONTRACT

The rights and obligations of the Customer under the Contract are personal to the Customer only and save as expressly permitted by the Contract, shall not be assigned or shared in any way to or with any person without the prior consent of EXOLGAN.

19. CONFIDENTIALITY

19.1 No Party shall disclose to any other person any information related to the Contract without the prior consent of the other Party.

19.2 Notwithstanding **General Condition 19.1**, either Party may disclose information related to the Contract to:

- (a) such Party's agents or contractors who have a need to know the same provided that such agents and contractors are first subject to the same confidentiality restrictions contained herein;
- (b) any other person pursuant to a legal requirement to disclose or pursuant to any judicial authority which requires disclosure; or

- (c) any other person to the extent that such information shall already be known to such Party.

20. NON-DEMISE

The Contract shall not confer on the Customer any lease, tenancy or other greater interest in or possession of the Facilities or any EXOLGAN Terminal, which possession is retained by EXOLGAN subject however to the terms and conditions of the Contract.

21. NO GRANT OF INTELLECTUAL PROPERTY RIGHT

No intellectual property right or licence belonging to either Party is hereby expressly or impliedly granted to the other Party.

22. COMMUNICATION

22.1 Definitions

For the purposes of this General Condition, the following expressions shall have the following meanings unless the context requires otherwise:

- (a) **“Data Message”** means a notice or information generated, sent, received or stored by electronic, optical or similar means acceptable to EXOLGAN, including but not limited to Electronic Data Interchange, electronic mail, telegram or telex;
- (b) **“Electronic Data Interchange”** means the electronic transfer from computer to computer of information using an agreed standard to structure the notice or information;
- (c) **“Originator”** in relation to a Data Message means the Customer or any Customer's Representative by whom or on whose behalf the Data Message purports to have been sent or generated prior to storage.

22.2 Other forms of writing

Where the Contract requires any notice or information to be in writing, that requirement is also met by a Data Message if the notice or information contained therein is accessible so as to be useable for subsequent reference.

22.3 Original

22.3.1 Where the Contract requires any notice or information to be presented or retained in its original form, that requirement is met by a Data Message if:

- (a) there exists a reliable assurance as to the integrity of the notice or information from the time when it was first generated to its final form, as a Data Message or otherwise; and
- (b) where it is required that that notice or information be presented, that notice or information is capable of being displayed to the person to whom it is to be presented.

22.3.2 For the purposes of **General Condition 22.3.1**:

- (a) the criteria for assessing integrity shall be whether the notice or information has remained complete and unaltered, apart from the introduction of any endorsement and any change which arises in the normal course of communication, storage and display; and

- (b) the standard of reliability required shall be assessed in the light of the purpose for which the notice or information was generated and in the light of all the relevant circumstances.

22.4 Signature and attribution

22.4.1 Where the Contract requires a signature of the Originator, that requirement is met in relation to a Data Message if:

- (a) a method is used to identify the Originator and to indicate their intention in respect of the notice or the information contained in the Data Message; and
- (b) that method is as reliable as appropriate for the purpose for which the Data Message was generated or communicated, in the light of all the circumstances, including the Contract or is proven in fact to have fulfilled the functions described in sub-paragraph (a), by itself or together with further evidence.

22.4.2 A Data Message is that of the Originator if it was sent by the Originator itself.

22.4.3 As between the Originator and EXOLGAN, a Data Message is deemed to be that of the

Originator if it was sent:

- (a) by a person who had the actual, ostensible or apparent authority to act on behalf of the Originator in respect of that Data Message; or
- (b) by a system for generating, sending, receiving, storing or otherwise processing data messages, programmed by or on behalf of the Originator to operate automatically, and such Data Message shall not be denied validity or enforceability solely on the ground that no natural person reviewed or intervened in each of the individual actions carried out by the automated systems.

22.4.4 As between the Originator and EXOLGAN, its servants and agents, EXOLGAN, its servants and agents are entitled to regard a Data Message as being that of the Originator and to act on that assumption, if the Data Message as received by EXOLGAN, its servants or agents resulted from the actions of a person whose relationship with the Originator enabled that person to gain access to a method used by the Originator to identify Data Messages as its own.

22.4.5 **General Condition 22.4.4** shall not apply as of the time when EXOLGAN, its servants or agents have both received notice from the Originator that the Data Message is not that of the Originator and EXOLGAN, its servants or agents had reasonable time to act accordingly.

22.4.6 Where a Data Message is that of the Originator or is deemed to be that of the Originator, EXOLGAN, its servant or agent is entitled to act on that assumption, then, as between the Originator, and EXOLGAN, its servants or agents, EXOLGAN, its servants or agents is entitled to regard the Data Message as received as being what the Originator intended to send and to act on that assumption.

22.4.7 EXOLGAN, its servant or agent is entitled to regard each Data Message received as a separate Data Message and to act on that assumption, except

to the extent that it duplicates another Data Message and EXOLGAN, its servant or agent knew that the Data Message was a duplicate.

22.5 Acknowledgement of receipt

Except where expressly agreed otherwise, EXOLGAN, its servant or agent is deemed to have received a Data Message when it acknowledges receipt by any communication in writing by EXOLGAN, its servant or agent or any conduct of EXOLGAN, its servant or agent sufficient to indicate to the Originator that the Data Message has been received.

22.6 Service

22.6.1 Subject to **General Conditions 22.1 to 22.5** (inclusive), any notice or other document to be given by either Party under the Contract shall be deemed to be received by the other Party

(i) after three business days if sent by:

- (a) courier, or
- (b) prepaid registered post, to the registered or representative office of the recipient in Singapore; or (ii) by telex, facsimile or other electronic media, when actually received in readable form.

22.6.2 Notwithstanding the provisions of **General Condition 22.6.1**, EXOLGAN may in its absolute discretion where EXOLGAN considers appropriate or conducive to efficiency or expediency, choose to give any notice to the Customer required under the Contract, by writing addressed to users of the Services/Facilities generally or by posting a copy of such notice at the EXOLGAN Pass Centre or at the site office of any EXOLGAN Terminal.

23. PERSONAL DATA PROTECTION

23.1 Definitions

For the purposes of this General Condition and unless the context requires otherwise, "**Personal Data**" means data, whether true or not, about an individual who can be identified:

- (a) from that data; or
- (b) from that data and other information to which EXOLGAN and/or the Customer has or is likely to have access.

23.2 In the event that the Customer provides Personal Data to EXOLGAN in the course of exercising any rights, fulfilling any obligations, or doing anything related to or arising out of the Contract, the Customer undertakes and warrants that it has obtained all necessary consents required under the Personal Data Protection Act 2012 for EXOLGAN to collect, use and/or disclose such Personal Data for all the relevant purposes which EXOLGAN requires.

23.3 The Customer agrees to fully indemnify EXOLGAN against any and all actions, claims, legal costs, damages and/or other expenses which may arise out of the Customer's breach of **General Condition 23.2**.

24. CONSENT OR WAIVER

No consent or express or implied waiver by EXOLGAN to or of any breach of any General Condition or any covenant or duty of the Customer shall be construed as a consent or waiver by EXOLGAN to or of any other breach of the same or any other General Condition, covenant or duty by the Customer and shall not prejudice in any way the rights, powers and remedies of EXOLGAN contained in the Contract or at law.

25. ARBITRATION

25.1 By consultation

It is the firm intention of the Parties that all disputes arising under, out of or in connection with the Contract (including any question regarding its existence, validity or termination) shall be settled amicably by consultation between the Parties.

25.2 By arbitration

25.2.1 If and to the extent that 60 days after the commencement of consultation under General Condition 25.1, such settlement has not been agreed upon, such dispute shall be referred to and finally resolved by arbitration in Singapore in accordance with the Arbitration Rules of the Singapore International Arbitration Centre (“**SIAC**”) for the time being in force, which rules are deemed to be incorporated by reference into this clause. The law of the arbitration shall be the International Arbitration Act (Chapter 143A) of Singapore (“**IAA**”).

25.2.2 The tribunal shall consist of three arbitrators.

25.2.3 The language of the arbitration shall be English.

25.3 Notification of award

When and so far as it may be necessary that any award, instrument or order issued by the arbitrators or any appeal therefrom should be served on the Customer in any proceedings to be taken for the enforcement of the Contract, the Customer hereby agrees and consents that the service of such award, instrument or order on the Customer in accordance with **General Condition 22.6**, shall be in all respects as operative and effective as if the same were its office.

26. SURVIVAL OF OBLIGATIONS

Notwithstanding the complete performance of the Contract or the termination of the Contract insofar as it relates to the Customer, the terms and conditions of the Contract shall remain in full force and effect between the EXOLGAN and the Customer insofar as such terms and conditions shall remain unfulfilled or relevant.

27. STAMP DUTY

The Customer shall bear the costs of and incidental to the stamping of all documents evidencing the Contract and the duplicate thereof.