DATA SUB-PROCESSING AGREEMENT

BACKGROUND

(A) The purpose of this data sub-processor agreement is to ensure compliance with the requirements of the GDPR and to regulate the processing of Personal Data by the Agent on behalf of WSS.

(B) WSS is appointed as agent for Principal(s) (each a Controller) to perform various services relating to their vessels. WSS processes Personal Data as a Processor in connection with that appointment, in accordance with the instructions of the applicable Controller.

(C) WSS has appointed the Agent to provide various services.

(D) The performance of the Services will require the Agent to process certain Personal Data. The Agent accepts that it will process Personal Data as a Sub-Processor on behalf of WSS as the main Processor, ultimately on behalf of the applicable Controller, and to comply with the terms of this Agreement when doing so.

AGREED TERMS

1. **DEFINITIONS AND INTERPRETATION**

"**Agreement**" means the terms and conditions of this data sub-processing agreement (including its Appendices and Schedules) as amended by the Parties in writing from time to time.

"**Applicable Laws**" means the laws of any Member State of the European Union or by the laws of the European Union.

"**Contract**" means the Particulars.

"**Controller**" shall have the same meaning as in the GDPR, and refers in this Agreement to the Principal.

"**Data Protection Legislation**" the GDPR and any applicable national implementing laws, regulations and secondary legislation, as amended, updated, re-enacted or replaced from time to time.

"**Data Subject**" shall have the same meaning as in the GDPR.

"**GDPR**" means the General Data Protection Regulation (*(EU) 2016/679*)

"**Personal Data**" shall have the same meaning as in the GDPR, and in particular refers to personal data processed by either Party in order to provide the Services.

"**Personal Data Breach**" shall have the same meaning as in the GDPR.

"**Process**" and "**processing**" shall each have the same meaning as in the GDPR.

"**Processor**" shall have the same meaning as in the GDPR.

"**Standard Contractual Clauses**" means the 'Standard Contractual Clauses (Processors)' as laid down in the European Commission Decision 2010/87/EU of 5 February 2010.

"**Sub-processor**" means any person appointed (in accordance with this Agreement) by or on behalf of the Agent to process Personal Data on behalf of WSS, ultimately on behalf of the applicable Controller, for the purpose of fulfilling the Agent's obligations under the Agreement.

1.1   Clause, Schedule and Appendix headings shall not affect the interpretation of this Agreement.

1.2   A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.

1.3   Unless expressed otherwise, a reference to **writing** or **written** includes fax and email.

1.4   Any obligation on a Party not to do something includes an obligation not to allow that thing to be done.

1.5   References to clauses and Schedules are to the clauses and Schedules of this Agreement.

1.6   Any words following the terms **including**, **include**, **in particular**, **for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

2.   **Consideration**

In consideration of WSS proceeding to instruct the Agent under the Contract, the Agent agrees to carry out its obligations under this related Agreement.

3.   **Data Protection**

3.1   This Agreement is in addition to, and does not relieve, remove or replace, a Party's obligations under the Data Protection Legislation.

3.2   References to Personal Data in this Agreement shall be to any Personal Data processed by the Agent pursuant to or in connection with the Agreement.

4.   **Subject-matter, commencement and duration of the processing**

4.1   This Agreement applies to the processing of Personal Data by the Agent as Processor on behalf of WSS, ultimately on behalf of the applicable Controller, in relation to the Contract.

4.2   The Agent may process Personal Data on behalf of WSS, ultimately on behalf of the applicable Controller, for the duration of the Contract. In the event of a breach of this Agreement or the Data Protection Legislation, WSS may instruct the Agent to stop processing the Personal Data with immediate effect.

5.   **Order of precedence**

5.1   In the event of inconsistencies between the provisions of this Agreement and any other agreements between the Parties, including the Contract, the provisions of this Agreement shall prevail.

6.   **The nature and purpose of the processing**

6.1   The nature of the processing shall be those processing operations that are necessary to enable the Agent to provide the Services, which may be more particularly described in the Contract.

7. **The type of Personal Data and categories of Data Subjects**

7.1 The types and categories of Personal Data is limited to what is required in order for the Agent to provide the Services, responsibilities, processes and/or functions that it is required to provide under the Contract.

7.2 Depending on the Services to be provided, the categories of Data Subjects may include: crew; masters and officers; visitors; passengers; port and airport staff; aircraft carrier staff; surveyors; customs and immigration officials; transport or logistics providers; medical professionals; and any other categories of Data Subjects necessary for the provision of the Services.

7.3 The following types of Personal Data may be processed under this Agreement, depending on the Services to be provided:

(a) Name

(b) Contact details (telephone number/address/e-mail)

(c) Passport and immigration details

(d) Information about the Data Subjects' movements

(e) Social security number

(f) Employment status/history

(g) Qualifications

(h) Health information

(i) Biometric information

(j) Financial details (salary information/bank account)

(k) Financial information of companies/persons

(l) Information regarding possible criminal conduct (including whether a person has been suspected of, charged with, indicted for or convicted of a criminal act) (sensitive)

(m) Emails and personal files from WSS's or the Controller's network

(n) Motor Vehicle License Plate Information

8. **Obligations of WSS**

8.1 As a data Processor, WSS will act only on the instructions of the Controller, and instruct the Agent accordingly.

8.2 WSS is also obliged to comply with its obligations as a Processor under the Data Protection Legislation, including but not limited to putting in place appropriate security and assisting the Controller to comply with its own obligations.

9. **Agent's obligation to process only on instructions from WSS**

9.1   The Agent may not process Personal Data in any other way than regulated by this Agreement.

9.2   The Agent shall only process Personal Data on documented instructions from WSS, or of the Controller if it receives direct instructions from the Controller, unless required to do so by Union or Member State law to which the Agent is subject.

9.3   In such a case, the Agent shall inform WSS of that legal requirement before processing, unless that law prohibits such information on important grounds of public interest.

10.   Confidentiality

10.1   The Agent must observe professional confidentiality concerning the documentation and Personal Data to which he has access to in accordance with this Agreement or Contract.

10.2   The Agent shall ensure that all personnel (including that of any Sub-processors) who have access to and/or process Personal Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.

11.   Security

11.1   The Agent shall comply with its obligations as a Processor under the Data Protection Legislation to keep the Personal Data secure.

11.2   In particular, the Agent shall:

(a)   taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, implement appropriate technical and organisational measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1) of the GDPR; and

(b)   in assessing the appropriate level of security, take account in particular of the risks that are presented by processing, in particular from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to Personal Data transmitted, stored or otherwise processed.

11.3   Such measures could include as appropriate:

(a)   The pseudonymisation and encryption of Personal Data;

(b)   The ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services

(c)   The ability to restore the availability and access to Personal Data in a timely manner in the event of a physical or technical incident;

(d)   A process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the processing.

11.4   The Agent shall provide physical security to prevent unauthorized access to areas where Personal Data is stored. The Agent shall furthermore ensure that necessary access controls to all Personal Data and relevant IT-systems are established. Access must be based on the employees' need

for access, taking into account the relevant work tasks. The use of IT-systems covered by this Agreement shall be logged.

11.5 Electronically stored information that contains Personal Data shall be protected with passwords and other similar technical security measures to ensure that electronically stored information is neither available to unauthorized personnel nor that there is any risk of undesirable alteration / deletion of data. The security must meet generally recognized methods, or better.

12. Audits and information to demonstrate compliance with this Agreement

12.1 The Agent shall make available to WSS on request, with reasonable prior notice, all information necessary to demonstrate compliance with this Agreement, including but not limited to its security obligations and the results of any security audits.

12.2 The Agent shall undertake security audits for systems, etc. covered by this Agreement every year. The audit may include a review of routines and policies, random checks, more extensive site inspections and other suitable control measures. WSS has right of access to the documentation held by the Agent that is relevant to this Agreement.

12.3 Upon reasonable prior written notice from WSS, the Agent shall grant access to WSS to its premises to carry out an onsite inspection or spot checks.

13. Assistance with responding to requests for exercising Data Subject rights

13.1 The Agent shall assist WSS by appropriate technical and organizational measures, insofar as this is possible, for the fulfilment of WSS's obligation to the Controller to assist the Controller to uphold Data Subjects' rights under the Data Protection Legislation.

13.2 The Agent shall:

(a) promptly notify WSS if it or any Sub-processor receives a request from a Data Subject under any Data Protection Legislation in respect of Personal Data processed under the Agreement; and

(b) ensure that neither it nor any Sub-processor responds to such request except on the documented instructions of WSS, or as required by Applicable Laws, in which case the Agent shall, to the extent permitted by Applicable Laws, inform WSS of that legal requirement before it or the Sub-processor (as appropriate) responds to the request.

14. Assistance with breach notifications / communications, impact assessments and consultations

14.1 In the case of a Personal Data Breach, the Agent shall without undue delay and, where feasible, no later than 12 hours after having become aware of it, notify the Personal Data Breach to WSS. WSS is responsible for reporting the breach to the Controller

14.2 The Agent shall also help WSS to assist the Controller in ensuring compliance with its obligations under Articles 32 to 36 of the GDPR (with respect to security, breach notifications / communications, impact assessments and consultations with supervisory authorities or regulators). This will include, for example, providing WSS with sufficient information to allow the Controller to meet any obligations to report or inform Data Subjects of any Personal Data Breach under Data Protection Legislation.

15. Return of deletion of Personal Data

15.1 Upon termination or expiry of this Agreement, the Agent shall at the choice of WSS (as instructed by the Controller), delete or return all Personal Data processed under this Agreement within the time frame requested by WSS. This also applies to any back-up copies. In the event no choice is selected by WSS within a reasonable time, Agent shall delete all Personal Data processed under this Agreement.

15.2 The Agent shall document in writing that deletion has taken place in accordance with the terms of this Agreement.

15.3 Notwithstanding Clauses 15.1 and 15.2, the Agent may retain existing copies of the Personal Data if required to do so by Applicable Laws, but must inform WSS of the relevant Applicable Laws. Any retained information shall be subject to the obligations and restriction as imposed on Agent pursuant to this Agreement.

16. Co-operation

16.1 The Agent shall co-operate with WSS and take such reasonable commercial steps as are directed by WSS to assist in the investigation, mitigation and remediation of any Personal Data Breach.

17. Use of a subcontractor

17.1 If WSS has granted the Agent a general authorisation to engage another Processor, the Agent must:

(a) inform WSS of any intended changes concerning the addition or replacement of other Processors, thereby giving WSS the opportunity to object to such changes;

(b) enter into a written contract with the Sub-processor imposing the same obligations as set out in this Agreement and Article 28 of the GDPR; and

(c) acknowledges that it remains fully liable for all acts or omissions of each Sub-processor appointed by it, where that Sub-processor fails to fulfil its data protection obligations.

18. Data transfers

18.1 Where WSS transfers Personal Data from the European Economic Area ("**EEA**") to the Agent and the Agent is located within the EEA, the Agent shall not transfer (and shall procure that no Sub-processor shall transfer) any Personal Data outside of the EEA unless the prior written consent of WSS has been obtained and the following conditions are fulfilled:

(a) The Controller, WSS or the Agent has provided appropriate safeguards in relation to the transfer in accordance with the Data Protection Legislation;

(b) the Data Subjects have enforceable rights and effective legal remedies;

(c) the Agent complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and

(d) the Agent complies with reasonable instructions notified to it in advance by WSS with respect to the processing of the Personal Data.

18.2   Where WSS transfers Personal Data from within the EEA to the Agent outside the EEA, or in any other circumstances where such transfer would be prohibited under Data Protection Legislation in the absence of Standard Contractual Clauses, the Agent and WSS (acting as agent on the Controller's behalf), hereby enter into the Standard Contractual Clauses set out in Schedule 1, which are incorporated into this Agreement.

19.   **Indemnity**

The Agent agrees to indemnify and keep indemnified WSS and WSS Affiliates against all costs, claims, damages (including all legal costs) or expenses incurred by WSS and WSS Affiliates, or for which WSS and WSS Affiliates may become liable, due to any failure by the Agent or Sub-processor and their employees or agents to comply with any obligations under this Agreement.

20.   **Duration and termination of the Agreement**

20.1   This Agreement will continue for as long as the Agent or its Sub-processors process Personal Data in connection with the Services under the Contract, and will terminate when those Services cease to be provided and Agent has complied with its obligations under this Agreement.

20.2   In the event of a breach of this Agreement or the Data Protection Legislation, WSS may terminate this Agreement and give instructions to the Agent in accordance with Clause 15 of this Agreement.

20.3   Clauses which by their nature are intended to survive termination or expiry, shall so survive such termination or expiry of this Agreement.

21.   **Amendments to this Agreement**

21.1   Subject to Clause 21.2, WSS may, on 30 (thirty) days' written notice to the Agent, revise this Agreement by replacing it with any applicable Processor to Processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to the Contract).

21.2   WSS may make reasonable amendments to this Agreement by written notice to the Agent from time to time as WSS reasonably considers necessary to meet the requirements of WSS's own contract with the Controller.

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SCHEDULE 1

STANDARD CONTRACTUAL CLAUSES (PROCESSORS)

For the purposes of Article 26(2) of Directive 95/46/EC for the transfer of personal data to processors established in third countries which do not ensure an adequate level of data protection

Name of the data exporting organisation: The WSS entity which has appointed the Agent under the Contract.

On behalf of itself and also as agent on behalf of its Affiliates.

(the data **exporter**)

And

Name of the data importing organisation: The Agent appointed under the Contract

(the data **importer**)

each a 'party'; together 'the parties',

HAVE AGREED on the following Contractual Clauses (the Clauses) in order to adduce adequate safeguards with respect to the protection of privacy and fundamental rights and freedoms of individuals for the transfer by the data exporter to the data importer of the personal data specified in Appendix 1.

Clause 1
Definitions

For the purposes of the Clauses:

(a) 'personal data', 'special categories of data', 'process/processing', 'controller', 'processor', 'data subject' and 'supervisory authority' shall have the same meaning as in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data[1];

(b) 'the data exporter' means the controller who transfers the personal data;

(c) 'the data importer' means the processor who agrees to receive from the data exporter personal data intended for processing on his behalf after the transfer in accordance with his instructions and the terms of the Clauses and who is not subject to a third country's system ensuring adequate protection within the meaning of Article 25(1) of Directive 95/46/EC;

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[1] Parties may reproduce definitions and meanings contained in Directive 95/46/EC within this Clause if they considered it better for the contract to stand alone.

(d) 'the sub-processor' means any processor engaged by the data importer or by any other sub-processor of the data importer who agrees to receive from the data importer or from any other sub-processor of the data importer personal data exclusively intended for processing activities to be carried out on behalf of the data exporter after the transfer in accordance with his instructions, the terms of the Clauses and the terms of the written subcontract;

(e) 'the applicable data protection law' means the legislation protecting the fundamental rights and freedoms of individuals and, in particular, their right to privacy with respect to the processing of personal data applicable to a data controller in the Member State in which the data exporter is established;

(f) 'technical and organisational security measures' means those measures aimed at protecting personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing.

Clause 2
Details of the transfer

The details of the transfer and in particular the special categories of personal data where applicable are specified in Appendix 1 which forms an integral part of the Clauses.

Clause 3
Third-party beneficiary clause

1. The data subject can enforce against the data exporter this Clause, Clause 4(b) to (i), Clause 5(a) to (e), and (g) to (j), Clause 6(1) and (2), Clause 7, Clause 8(2), and Clauses 9 to 12 as third-party beneficiary.

2. The data subject can enforce against the data importer this Clause, Clause 5(a) to (e) and (g), Clause 6, Clause 7, Clause 8(2), and Clauses 9 to 12, in cases where the data exporter has factually disappeared or has ceased to exist in law unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law, as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity.

3. The data subject can enforce against the sub-processor this Clause, Clause 5(a) to (e) and (g), Clause 6, Clause 7, Clause 8(2), and Clauses 9 to 12, in cases where both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent, unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity. Such third-party liability of the sub-processor shall be limited to its own processing operations under the Clauses.

4. The parties do not object to a data subject being represented by an association or other body if the data subject so expressly wishes and if permitted by national law.

Clause 4

Obligations of the data exporter

The data exporter agrees and warrants:

(a) that the processing, including the transfer itself, of the personal data has been and will continue to be carried out in accordance with the relevant provisions of the applicable data protection law (and, where applicable, has been notified to the relevant authorities of the Member State where the data exporter is established) and does not violate the relevant provisions of that State;

(b) that it has instructed and throughout the duration of the personal data-processing services will instruct the data importer to process the personal data transferred only on the data exporter's behalf and in accordance with the applicable data protection law and the Clauses;

(c) that the data importer will provide sufficient guarantees in respect of the technical and organisational security measures specified in Appendix 2 to this contract;

(d) that after assessment of the requirements of the applicable data protection law, the security measures are appropriate to protect personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing, and that these measures ensure a level of security appropriate to the risks presented by the processing and the nature of the data to be protected having regard to the state of the art and the cost of their implementation;

(e) that it will ensure compliance with the security measures;

(f) that, if the transfer involves special categories of data, the data subject has been informed or will be informed before, or as soon as possible after, the transfer that its data could be transmitted to a third country not providing adequate protection within the meaning of Directive 95/46/EC;

(g) to forward any notification received from the data importer or any sub-processor pursuant to Clause 5(b) and Clause 8(3) to the data protection supervisory authority if the data exporter decides to continue the transfer or to lift the suspension;

(h) to make available to the data subjects upon request a copy of the Clauses, with the exception of Appendix 2, and a summary description of the security measures, as well as a copy of any contract for sub-processing services which has to be made in accordance with the Clauses, unless the Clauses or the contract contain commercial information, in which case it may remove such commercial information;

(i) that, in the event of sub-processing, the processing activity is carried out in accordance with Clause 11 by a sub-processor providing at least the same level of protection for the personal data and the rights of data subject as the data importer under the Clauses; and

(j) that it will ensure compliance with Clause 4(a) to (i).

Clause 5

Obligations of the data importer[2]

The data importer agrees and warrants:

(a) to process the personal data only on behalf of the data exporter and in compliance with its instructions and the Clauses; if it cannot provide such compliance for whatever reasons, it agrees to inform promptly the data exporter of its inability to comply, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;

(b) that it has no reason to believe that the legislation applicable to it prevents it from fulfilling the instructions received from the data exporter and its obligations under the contract and that in the event of a change in this legislation which is likely to have a substantial adverse effect on the warranties and obligations provided by the Clauses, it will promptly notify the change to the data exporter as soon as it is aware, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;

(c) that it has implemented the technical and organisational security measures specified in Appendix 2 before processing the personal data transferred;

(d) that it will promptly notify the data exporter about:

   (i) any legally binding request for disclosure of the personal data by a law enforcement authority unless otherwise prohibited, such as a prohibition under criminal law to preserve the confidentiality of a law enforcement investigation;

   (ii) any accidental or unauthorised access; and

   (iii) any request received directly from the data subjects without responding to that request, unless it has been otherwise authorised to do so;

(e) to deal promptly and properly with all inquiries from the data exporter relating to its processing of the personal data subject to the transfer and to abide by the advice of the supervisory authority with regard to the processing of the data transferred;

(f) at the request of the data exporter to submit its data-processing facilities for audit of the processing activities covered by the Clauses which shall be carried out by the data exporter or an inspection body composed of independent members and in possession of the required professional qualifications bound by a duty of confidentiality, selected by the data exporter, where applicable, in agreement with the supervisory authority;

(g) to make available to the data subject upon request a copy of the Clauses, or any existing contract for sub-processing, unless the Clauses or contract contain commercial information, in which case it may remove such commercial information, with the exception of Appendix

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[2] Mandatory requirements of the national legislation applicable to the data importer which do not go beyond what is necessary in a democratic society on the basis of one of the interests listed in Article 13(1) of Directive 95/46/EC, that is, if they constitute a necessary measure to safeguard national security, defence, public security, the prevention, investigation, detection and prosecution of criminal offences or of breaches of ethics for the regulated professions, an important economic or financial interest of the State or the protection of the data subject or the rights and freedoms of others, are not in contradiction with the standard contractual clauses. Some examples of such mandatory requirements which do not go beyond what is necessary in a democratic society are, inter alia, internationally recognised sanctions, tax-reporting requirements or anti-money-laundering reporting requirements.

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2 which shall be replaced by a summary description of the security measures in those cases where the data subject is unable to obtain a copy from the data exporter;

(h) that, in the event of sub-processing, it has previously informed the data exporter and obtained its prior written consent;

(i) that the processing services by the sub-processor will be carried out in accordance with Clause 11;

(j) to send promptly a copy of any sub-processor agreement it concludes under the Clauses to the data exporter.

Clause 6
Liability

1. The parties agree that any data subject, who has suffered damage as a result of any breach of the obligations referred to in Clause 3 or in Clause 11 by any party or sub-processor is entitled to receive compensation from the data exporter for the damage suffered.

2. If a data subject is not able to bring a claim for compensation in accordance with paragraph 1 against the data exporter, arising out of a breach by the data importer or his sub-processor of any of their obligations referred to in Clause 3 or in Clause 11, because the data exporter has factually disappeared or ceased to exist in law or has become insolvent, the data importer agrees that the data subject may issue a claim against the data importer as if it were the data exporter, unless any successor entity has assumed the entire legal obligations of the data exporter by contract of by operation of law, in which case the data subject can enforce its rights against such entity.

   The data importer may not rely on a breach by a sub-processor of its obligations in order to avoid its own liabilities.

3. If a data subject is not able to bring a claim against the data exporter or the data importer referred to in paragraphs 1 and 2, arising out of a breach by the sub-processor of any of their obligations referred to in Clause 3 or in Clause 11 because both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent, the sub-processor agrees that the data subject may issue a claim against the data sub-processor with regard to its own processing operations under the Clauses as if it were the data exporter or the data importer, unless any successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law, in which case the data subject can enforce its rights against such entity. The liability of the sub-processor shall be limited to its own processing operations under the Clauses.

Clause 7
Mediation and jurisdiction

1. The data importer agrees that if the data subject invokes against it third-party beneficiary rights and/or claims compensation for damages under the Clauses, the data importer will accept the decision of the data subject:

(a) to refer the dispute to mediation, by an independent person or, where applicable, by the supervisory authority;

(b) to refer the dispute to the courts in the Member State in which the data exporter is established.

2. The parties agree that the choice made by the data subject will not prejudice its substantive or procedural rights to seek remedies in accordance with other provisions of national or international law.

Clause 8
Cooperation with supervisory authorities

1. The data exporter agrees to deposit a copy of this contract with the supervisory authority if it so requests or if such deposit is required under the applicable data protection law.

2. The parties agree that the supervisory authority has the right to conduct an audit of the data importer, and of any sub-processor, which has the same scope and is subject to the same conditions as would apply to an audit of the data exporter under the applicable data protection law.

3. The data importer shall promptly inform the data exporter about the existence of legislation applicable to it or any sub-processor preventing the conduct of an audit of the data importer, or any sub-processor, pursuant to paragraph 2. In such a case the data exporter shall be entitled to take the measures foreseen in Clause 5(b).

Clause 9
Governing law

The Clauses shall be governed by the law of the Member State in which the data exporter is established.

Clause 10
Variation of the contract

The parties undertake not to vary or modify the Clauses. This does not preclude the parties from adding clauses on business related issues where required as long as they do not contradict the Clause.

Clause 11
Sub-processing

1. The data importer shall not subcontract any of its processing operations performed on behalf of the data exporter under the Clauses without the prior written consent of the data exporter. Where the data importer subcontracts its obligations under the Clauses, with the consent of the data exporter, it shall do so only by way of a written agreement with the sub-processor which imposes the same obligations on the sub-processor as are imposed on the data

importer under the Clauses[3]. Where the sub-processor fails to fulfil its data protection obligations under such written agreement the data importer shall remain fully liable to the data exporter for the performance of the sub-processor's obligations under such agreement.

2. The prior written contract between the data importer and the sub-processor shall also provide for a third-party beneficiary clause as laid down in Clause 3 for cases where the data subject is not able to bring the claim for compensation referred to in paragraph 1 of Clause 6 against the data exporter or the data importer because they have factually disappeared or have ceased to exist in law or have become insolvent and no successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law. Such third-party liability of the sub-processor shall be limited to its own processing operations under the Clauses.

3. The provisions relating to data protection aspects for sub-processing of the contract referred to in paragraph 1 shall be governed by the law of the Member State in which the data exporter is established.

4. The data exporter shall keep a list of sub-processing agreements concluded under the Clauses and notified by the data importer pursuant to Clause 5(j), which shall be updated at least once a year. The list shall be available to the data exporter's data protection supervisory authority.

Clause 12
Obligation after the termination of personal data-processing services

1. The parties agree that on the termination of the provision of data-processing services, the data importer and the sub-processor shall, at the choice of the data exporter, return all the personal data transferred and the copies thereof to the data exporter or shall destroy all the personal data and certify to the data exporter that it has done so, unless legislation imposed upon the data importer prevents it from returning or destroying all or part of the personal data transferred. In that case, the data importer warrants that it will guarantee the confidentiality of the personal data transferred and will not actively process the personal data transferred anymore.

2. The data importer and the sub-processor warrant that upon request of the data exporter and/or of the supervisory authority, it will submit its data-processing facilities for an audit of the measures referred to in paragraph 1.

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[3] This requirement may be satisfied by the sub-processor co-signing the contract entered into between the data exporter and the data importer under this Decision.

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Appendix 1

to the Standard Contractual Clauses

This Appendix forms part of the Clauses and must be completed and signed by the parties

The Member States may complete or specify, according to their national procedures, any additional necessary information to be contained in this Appendix

Data exporter

The data exporter, WSS, is appointed as agent for ship owners and charterers (each a Controller) to perform various services relating to their vessels. WSS processes Personal Data as a Processor in connection with that appointment, in accordance with the instructions of the applicable Controller. has appointed the Agent to provide various services agreed in the Contract.

Data importer

The data importer is a port agent appointed to carry out a number of different Services relating to the Controller's vessels. The performance of the Services will require the Agent to process certain Personal Data. The Agent accepts that it will process Personal Data as a Sub-processor on behalf of WSS as the main Processor, ultimately on behalf of the applicable Controller.

Data subjects

The personal data transferred concern the following categories of data subjects:

Individuals with some connection to the Controller (as defined in Clause 1 of the main Agreement) or WSS, including: crew; masters and officers; visitors; passengers; port and airport staff; aircraft carrier staff; surveyors; customs and immigration officials; transport or logistics providers; medical professionals; and any other categories of Data Subjects necessary for the provision of the Services.

Categories of data

The personal data transferred concern the following categories of data (please specify):

(a)   Name

(b)   Contact details (telephone number/address/e-mail)

(c)   Passport and immigration details

(d)   Information about the Data Subjects' movements

(e)   Social security number

(f)   Employment status/history

(g)   Qualifications

(h)   Financial details (salary information/bank account/

(i)   Financial information of companies/persons

(j)   Emails and personal files from WSS's or the Controller's network

Special categories of data (if appropriate)

The personal data transferred may concern the following special categories of:

(a)   Health information

(b)   Biometric information for the purposes of identification

(c)   Information regarding possible criminal conduct (including whether a person has been suspected of, charged with, indicted for or convicted of a criminal act)

Processing operations

The personal data transferred will be processed as necessary in order to provide the Services. This may include, for example:

(a)   Arranging berthing of vessels, loading and discharging cargo;

(b)   Arranging and co-ordinating all activities of the terminal operators, stevedores, tallymen and all other suppliers, in the interest of obtaining the best possible operation and despatch of the vessels WSS is appointed agent for;

(c)   Arranging for calling forward, reception and loading of outward cargo and discharge and release of inward cargo and to attend to the transhipment of through cargo;

(d)   To arrange for bunkering, repairs, husbandry, crew changes, passengers, ship's stores, spare parts and technical, nautical and medical assistance;

(e)   To co-operate and assist WSS with its requirements concerning claims handling, P&I matters, General Average and/or insurance, and the appointment of Surveyors;

(f)   To attend to all necessary documentation and to attend to consular requirements;

(g)   To arrange for and attend to the clearance of the vessel and to arrange for all other services pertaining to the vessel's movements through the port;

(h)   To report to WSS the vessel's position and to prepare a statement of facts of the call and/or a port log; and

(i)   To keep WSS regularly and timely informed on port and working conditions likely to affect the despatch of WSS's vessels;

(j)   Maintaining appropriate records of WSS's financial position concerning the obligations undertaken by the Agent under the Contract on WSS's behalf;

(k)   To check all vouchers received for services rendered and to prepare a proper disbursement account in respect of each voyage or accounting period in the agreed format; and

(l)   To advise WSS of all amendments to port tariffs and other charges as they become known.

Appendix 2 to the Standard Contractual Clauses

This Appendix forms part of the Clauses and must be completed and signed by the parties

Description of the technical and organisational security measures implemented by the data importer in accordance with Clauses 4(d) and 5(c) (or document/legislation attached):

Such measures could include as appropriate:

(a)   The pseudonymisation and encryption of Personal Data;

(b)   The ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services

(c)   The ability to restore the availability and access to Personal Data in a timely manner in the event of a physical or technical incident;

(d)   A process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the processing.

The Agent shall provide physical security to prevent unauthorized access to areas where personal information is stored. The Agent shall furthermore ensure that necessary access controls to all Personal Data and relevant IT-systems are established. Access must be based on the employees' need for access, taking into account the relevant work tasks. The use of IT-systems covered by this Agreement shall be logged.

Electronically stored information that contains personal information shall be protected with passwords and other similar technical security measures to ensure that electronically stored information is neither available to unauthorized personnel nor that there is any risk of undesirable alteration / deletion of data. The security must meet generally recognized methods, or better.