



SEA CORPORATION PTY LTD

STANDARD TERMS AND CONDITIONS FOR ATTENDING AS PROTECTIVE PORT AGENTS IN CHINA

Definitions

“Agency Fees” means the agreed Protective Agent’s remuneration for performing the Protective Agent Services.

“Owner”, when used with reference to any vessel means the registered owner, manager, managing agent, master or other person in charge of the vessel.

“Protective Agent” means Sea Corporation Pty Ltd which has accepted an appointment to act on behalf of an owner and has an obligation to appoint the Receivers Agent at the discharging port(s).

“Protective Agent Services” means all services provided by the Protective Agent which shall consist of keeping all parties informed of the vessel’s schedule, provide berthing line-ups as well as negotiating the vessels’ estimated proforma disbursement with the Receivers Agent.

“Receivers Agent” means the shipping agent appointed by the receivers as per the custom of the trade in China. For the sake of clarity the main role of the Receivers Agent is to organize the vessel’s berthing, sailing, customs clearance and stevedores etc. Furthermore, the Receivers Agent ultimately arranges the release and delivery orders for the cargo with local authorities, whether it being against a presentation of the original Bills of Lading(s) or via a Letter of Indemnity (LOI) arrangement.

1. The Protective Agent shall be the agent of the Owner (as nominated by the charterer in accordance with charterparty provisions) and shall exercise due care and diligence in performing the Services for and on behalf of the Owner
2. The Protective Agent shall not be personally liable to pay any debts due to suppliers from the Owner.
3. In return for performing the Services, the Protective Agent shall be remunerated with the Agency Fees.
4. The Owner shall pay by telegraphic transfer to the Protective Agent’s bank account such sum as the Protective Agent may request as an advance on port and any other disbursements which the Protective Agent estimates will be incurred on the Owner’s behalf. If the Owner should fail to comply with the Protective Agent’s request, the Protective Agent may:-
 - a. at any time give immediate notice of the termination of the agency and/or
 - b. take any necessary measures to detain the vessel in port until such funds are received by the Protective Agent.
5. The Protective Agent shall be entitled to deduct from the sums held by it for the Owner’s account any amount due from the Owner.
6. The Protective Agent shall take every care to ensure that the proforma disbursement account is as accurate as possible. The proforma disbursement account is, however, only an estimate and the actual disbursement account may – and often does for various reasons beyond the Protective Agent’s control – vary from the proforma disbursement account. The Owner is required, and is liable to pay upon demand, the full amount described and shown in the actual disbursement account.
7. To the extent permitted by law, the liability of the Protective Agent to the Owner in respect of any negligent act, error or omission committed by the Protective Agent, its directors or employees shall not exceed the amount of two and a half times the Agency Fees payable by the Owner to the Protective Agent in respect of the Services, which fees shall be deemed earned in any event. The

Protective Agent shall not have any liability for any acts (whether negligent or wilful misconduct), error or omission committed by the Receivers Agent in relation to the vessel's release of the cargo.

8. The Owner shall indemnify the Protective Agent against all third party claims, charges, losses, damages and expenses that the Protective Agent may incur. This indemnity shall not extend to matters arising by reason of the negligence or wilful misconduct of the Protective Agent but shall extend to matters arising by reason of the negligence or wilful misconduct of the Receivers Agent in relation to the release of the cargo.
9. If the Owner fails to make payment in full of any sums due to the Protective Agent on demand or within any period agreed in writing, the Protective Agent shall be entitled to recover interest on any sums outstanding at the rate of 2% above LIBOR applicable during the period when the sums are outstanding.
10. The Owner undertakes with the Protective Agent that no claim or allegation of any kind shall be made against any of the Protective Agent's directors, officers or employees (hereinafter collectively called "the beneficiaries") for any loss, damage or delay of whatsoever kind arising directly or indirectly from any negligent act, error or omission of the beneficiaries in the performance of the Services the subject of these conditions. The beneficiaries shall have the benefit of this undertaking and in entering into this contract the Protective Agent, to the extent of this provision, does so not only on its own behalf, but also as agent or trustee for the beneficiaries, who shall to the extent of this clause only be or be deemed to be parties to this contract.
11. The primary duty of the Protective Agent in respect of the exchange of ISPS Code compliance information between the vessel and the shore authorities is limited to correctly notifying the Owner of the information required, the date by which it is required and the address to which it must be sent. If the Protective Agent is additionally required to pass the information on, his liability is extended to include ensuring the information provided by the vessel is correctly lodged with the relevant shore authority within the required time limit. Any failure by the Protective Agent to undertake these duties with the utmost skill and care can render the agent liable for the loss incurred. Under no circumstances, however, is the Protective Agent held liable for the accuracy of the information provided by the Owner, or if the Owner fails to make the information available to the Protective Agent within the required time limit or for any other error or failure that may occur which is beyond the Protective Agent's reasonable control. These remain at all times the responsibility of the Owner.
12. The Protective Agent shall perform the Services it undertakes to provide with due dispatch but shall not be liable for any loss or damage arising from any delay which it could not reasonably prevent.
13. Where the Protective Agent has spent time and incurred costs in anticipation of the vessel's call which is subsequently cancelled, or for which the Protective Agent is not appointed, then the Protective Agent shall be reimbursed in respect of all time and costs reasonably incurred.
14. The Protective Agent shall be discharged from all liability whatsoever to the Owner and unless suit is brought within one year of the act or default of which complaint is made.
15. These conditions shall be governed by and construed in accordance with the laws of a place mutually agreed by the parties and any dispute arising out of or in connection with these conditions shall be referred to arbitration at the mutually agreed place, subject to the procedures applicable there.
16. These conditions shall prevail unless otherwise agreed between the parties.
17. To the extent that these conditions conflict with the national law of the country in which the Protective Agent is domiciled, then the national law shall prevail.

Updated: 5 August 2014