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PORT AUTHORITIES ORDINANCE, 1961

SAMALAJU PORT AUTHORITY BY-LAWS, 2016

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PORT AUTHORITIES ORDINANCE, 1961
SAMALAJU PORT AUTHORITY BY-LAWS, 2016
(Made under section 64(3))

In exercise of the powers conferred upon the Samalaju Port Authority by section 64(3) of the Port Authorities Ordinance, 1961 [**Ord. No. 1/61**], the following By-laws have been made:

Part I
Introduction

Citation and commencement

1. These By-laws may be cited as the **Samalaju Port Authority By-laws, 2016**, and shall be deemed to have come into force on the 21st day of April, 2014.

Interpretation

2. In these By-laws—

“anchorage area” means any area within the port limits as may be designated by the Authority from time to time for the anchorage of vessel;

“approved port operator” has the same meaning assigned to that expression under the Ordinance;

“Authority” means the Samalaju Port Authority established under section 3 (1) of the Ordinance;

“Authority’s premises” means all immovable properties belonging to, occupied by or vested in the Authority and includes wharf, dock, pier, landing places and water limit under the control of the Authority;

“Authority’s wharf” or “wharf” means a quay, pier, jetty or other landing places and includes any wall or building adjoining the foreshore, seabed or river bed;

“day” means one calendar day from 0000 hours to 2400 hours;

“night” means the period from 1800 hours in one day to 0559 hours on the next day;

“Ordinance” means the Port Authorities Ordinance, 1961 [**Ord. No. 1/61**];

“port” means the Samalaju Port within the limits declared under the Ordinance;

“port charges” means the charges that are prescribed in the Samalaju Port Authority (Dues, Rates and Charges) Regulations, 2016 [*Swk. L.N. 290/2016*];

“port user” means the owner of vessels, goods or operators including their representatives, successors and permitted assigns of such persons, shippers or agents for the custody, shipping and landing of goods or any person transacting business or entered into a contractual obligation with the Authority or the approved port operator;

“underway” means that a vessel is not at anchor, or made fast to the shore or a ground;

“vehicle” includes a carriage travelling on its own wheels or runners and used or intended to be used for the conveyance or carriage of persons, animals or goods.

Part II General

Tampering with Authority’s equipment

3. No person shall, without the approval of the Authority or the approved port operator, tamper with any machineries, water appliances, electrical fittings or power mains, or other fittings or equipments, on the Authority’s premises.

Nuisance

4. No person shall, within the Authority’s premises, commit any nuisance (including touting) or do any obscene or immoral act (including importuning for immoral purposes).

Offensive cargo

5.—(1) The Authority or the approved port operator may, with the consent of the State Director of Royal Customs Malaysia and after giving at least two hours’ notice to the owner or other person entitled to receive the goods, or, if the owner or consignee cannot be found, then without such notice, order the removal, and if necessary the destruction, of any cargo or matter of an offensive nature which may be landed or placed upon any part of the Authority’s premises.

(2) The cost of any such removal or destruction shall be charged to the owner or consignee and may be recovered as a civil debt.

Dogs

6. Every dog permitted to enter the Authority’s premises shall be kept on a leash while in those premises.

Animals

7.—(1) Every animal within the Authority's premises, or in any vessel alongside those premises, or when being embarked on or discharged from any such vessel, shall be treated in a humane manner and in accordance with veterinary practice.

(2) The Authority or the approved port operator may in its discretion refuse to land or ship any animal if such landing or shipping would in the opinion of the Authority or the approved port operator entail unnecessary suffering to the animal.

Spitting prohibited

8.—(1) No person shall spit within, upon, from or against any part of the Authority's premises.

(2) Any person continuing so to spit after having been requested to desist by a servant or agent of the Authority or the approved port operator may be removed from those premises by or under the direction of any such servant or agent.

Fishing and bathing

9. No person shall fish or bathe from or at any of the Authority's premises.

Advertising on the Authority's premises

10. No person shall, without having been previously authorized in writing to do so by the Authority or the approved port operator, advertise or cause any advertisement to be exhibited within the Authority's premises.

Part III**Fire****Fire hydrants**

11. No vehicle of any description, nor any package, parcel or other obstruction shall be placed within two metres of any free fire hydrant.

Fire-fighting operations

12. No person shall, while within the Authority's premises, disobey any directions of the fire officer, port security officer or other person authorized in that behalf by the Authority or the approved port operator, or in any other way obstruct or interfere with any fire-fighting operations.

Power to exclude public in case of fire

13. The Authority or the approved port operator may, in the event of any outbreak of fire or an explosion, exclude the public from the vicinity of the fire and may close to the public such part of its premises as it may deem fit.

Vessels at Authority's wharf

14. Every vessel lying at any of the Authority's wharf shall take adequate preventive precautions to ensure that fire hazards, which might endanger any of the Authority's premises or property, do not arise from any work being carried out on board.

Fires on vessel

15.—(1) In the event of a fire occurring on board of any vessel while lying at any of the Authority's wharf, anchorage, jetty or pier, the master or person in charge of the vessel shall at once make the alarm signals for vessels on fire as prescribed in the Merchant Shipping Ordinance, 1960 [*Ord. No. 2/60*], and shall take such action as the master is capable of to extinguish or control the fire, and shall take all such steps as the Authority or the approved port operator may direct for the protection of the Authority's premises and properties.

(2) The master of any vessel on fire may request the assistance of the Authority or the approved port operator in combating the fire and the Authority or the approved port operator will, to the best of its ability, provide such assistance with its own equipment; and if the Authority or the approved port operator considers it can best protect its own premises or property it shall do so whether or not the master requests assistance.

(3) The cost of supplying such assistance, whether requested or not, shall be a charge on the vessel and shall be levied at the rates specified in the Samalaju Port Authority (Dues, Rates and Charges) Regulations, 2016 [*Swk. L.N. 290/2016*].

Smoking, naked flames

16. No person shall smoke or carry or cause any naked flame in any part of the Authority's premises except in such places as smoking is expressly permitted by the Authority or the approved port operator by notice in writing.

Explosives and guns not to be discharged

17. No guns or firearms, except such as are necessary for such salutes as may be authorized under the Merchant Shipping Ordinance, 1960 [*Ord. No. 2/60*] and no explosives of any other nature (including rockets and flare lights), shall be fired from, or ignited on, any vessel lying at any of the Authority's wharf except when such vessel is in distress or in want of urgent assistance.

Part IV**Safety****Gangways**

18. Every vessel using any of the Authority's wharf shall provide safe access or gangway and supply all necessary tackle for hoisting, lashing and securing any of the ship's gangway or Authority's gangways supplied for her use, and shall do all

that is necessary to make such gangways securely fast and safe for users thereof, and shall provide safety netting and adequate lighting thereof between sunset and sunrise.

Safe means of access to holds for labour to be provided

19. The master of any vessel lying at any of the Authority's wharf shall be responsible for the provision of safe means of access to, and escape from, any hold or other part of the vessel to which it is necessary for any workman, officer or employee of the Authority or the approved port operator to enter.

Unattended vehicles

20. No mechanically propelled or driven vehicle on the Authority's premises shall be left unattended (except in a car park approved by the Authority or the approved port operator) or with the engine running, and no petrol or oil shall be allowed to leak from any such vehicle, nor shall any fuel tank be filled in those premises without the permission of the Authority or the approved port operator.

Part V

Dangerous Goods, Penalties, etc.

Definition

21. In this Part—

“IMDG Code” or “Code” means the latest edition of the International Maritime Dangerous Goods (IMDG) Code published by the International Maritime Organization.

“dangerous goods” means—

(a) goods specified in the First Schedule; and

(b) such other goods which are not specified in the First Schedule, but listed in the Code,

and includes empty containers, crates, boxes or receptacles used for the carriage, storage or keeping of dangerous goods unless they have been cleared and rendered safe;

“dangerous cargo anchorage” means an anchorage area within the limit of the port as designated in the navigational chart as approved by the Marine Department for the loading and unloading of explosives substances; and

“premises” in reference to the Authority, means any wharf, open yard, godown, warehouse, building or structure belonging to the Authority.

Inspection of IMDG Code

22.—(1) The Authority or the approved port operator shall maintain at its premises the latest edition of the Code for inspection by any port user.

(2) An extract of the Code either generated by photocopying thereof or by computer, may be obtained by or supplied to a port user upon payment of a sum to be determined by the Authority.

Classification of list of dangerous goods

23. For the purposes of these By-laws and all purposes connected with the transport, shipment, carriage, storage, handling and other dealings with dangerous goods, such goods may be grouped into such classes or divisions as the Authority or the approved port operator may deem fit or expedient, as set out in the First Schedule.

Compliance with this Part

24.—(1) No person shall ship, transport, load, discharge, store or otherwise deal with dangerous goods or caused to be shipped, transported, loaded, discharged, stored or otherwise dealt with such goods within the port limit under the jurisdiction of the Authority, except in accordance with the provisions of this Part and the provisions and requirements of the Code and any other written law in force for the time being.

(2) If any particular kind or description of dangerous goods are not specifically mentioned in the First Schedule or in the Code, the owner, master, agent or person in charge of the vessel or such goods shall notify the Authority or the approved port operator that goods of such kind or description are not mentioned in the First Schedule or the Code and shall thereafter comply with the direction of the Authority or the approved port operator with regard to the shipment, transport, handling or dealing of such goods.

(3) The provisions of this Part shall not apply to—

(a) dangerous goods forming part of the equipment or stores of a vessel on which they are carried provided the quantity of such goods are deemed by the Authority or the approved port operator to be reasonable or required for the operational needs or usage of the vessel;

(b) reasonable quantities of dangerous goods taken as samples for testing or examination to be conducted under any written law; and

(c) any vessel or person exempted specially by the Authority.

Classification for berthing

25. No vessel carrying any dangerous goods shall berth alongside any Authority's wharf unless—

(a) such goods have been declared and described in the form prescribed in the Second Schedule;

(b) such goods have been packed, labelled, and stored strictly in accordance with the provisions or requirements of the Code; and

(c) permission in the form prescribed in the Third Schedule has been given by the Authority or the approved port operator.

Restrictions on night movements of vessels carrying Group I dangerous goods

26. No vessel carrying Group 1 dangerous goods shall be underway within the Port at night without the written permission of the Authority or the approved port operator:

Provided that—

(a) this by-law shall not prevent a vessel from entering the port to proceed to an explosive or such other anchorage area as may be approved by the Authority or the approved port operator;

(b) this by-law shall not apply to a vessel (other than a harbour craft) unberthing from an explosive anchorage or such anchorage area as may be approved by the Authority or the approved port operator.

Group I dangerous goods prohibited alongside Authority's wharf

27. No vessel containing Group I dangerous goods shall be berthed alongside the Authority's wharves except with the written permission of the Authority or the approved port operator and subject to such terms and conditions as it may deem fit to impose.

Anchoring and mooring

28.—(1) No vessel carrying Group I dangerous goods shall moor or anchor at any place other than at a designated explosives anchorage except with the written permission of the Authority or the approved port operator or for the purpose of obtaining quarantine or immigration clearance.

(2) No vessel, other than a vessel loading or discharging or intending to load or discharge or carrying dangerous goods, shall anchor or moor within a designated explosive anchorage.

Group II dangerous goods – direct delivery

29. Group II dangerous goods shall only be conveyed from a vessel to vessel or across such open wharves as shall have been authorized for that purpose in writing by the Authority or the approved port operator:

Provided that—

(a) such conveyance shall only take place in the course of direct transit of such dangerous goods from vessel to vessel or to a vehicle from a vessel or from a vehicle to a vessel; and

(b) such dangerous goods during such transit shall not without the written permission of the Authority or the approved port operator be deposited or stored at any time upon the premises.

Group III dangerous goods

30. Group III dangerous goods shall either be removed from the Authority's premises with all convenient speed or stored at such place or places as may be authorized in writing for that purpose by the Authority or the approved port operator.

Landing or loading at authorized places

31. Subject to by-law 27, no Group I dangerous goods shall be loaded or discharged at any place other than an explosive anchorage or a wharf or place declared by the Authority from time to time as petroleum or dangerous goods landing place.

Restrictions on night loading or discharging of dangerous goods

32.—(1) No Group I dangerous goods shall be loaded or discharged within the Port at night without the written permission of the Authority or the approved port operator.

(2) No Group II dangerous goods other than goods contained in containers which are 6.1 metres or more in length equipped with corner castings to facilitate handling by mechanical equipment shall be loaded if discharged alongside any Authority's wharf at night without the written permission of the Authority or the approved port operator.

(3) Notwithstanding paragraph (2), the Authority or the approved port operator may prohibit the loading or discharging of dangerous goods in such containers at night if in its opinion it is not safe for such goods to be so loaded or discharged.

Discharging and loading of dangerous goods

33.—(1) Dangerous goods shall, unless otherwise directed by the Authority or the approved port operator, be discharged prior to the discharge of other goods on board any vessel berthed alongside the Authority's wharf.

(2) Dangerous goods shall, unless otherwise directed by the Authority or the approved port operator, be loaded on board such vessel, after the completion of all other loading operations.

Carriage of dangerous goods on passenger vessels

34. Unless permitted by the Authority or the approved port operator, no dangerous goods shall be loaded onto or carried on any vessel used for the carriage of passengers, and the Authority or the approved port operator shall not give such permission unless the goods are of the kind recommended by the Code for carriage on such vessel.

Defective packages

35. No package or receptacle, having dangerous goods, found to be damaged, defective or not packed or labelled in accordance with the provisions or requirements of the Code, shall be discharged onto or landed on any wharf or brought into any Authority's premises.

Conditions for storage

36.—(1) No dangerous goods shall be brought into the Authority's premises or allowed to pass over such premises, unless the Authority or the approved port operator is satisfied that the packing and labelling of such goods conform with the provisions and requirements of the Code and permission for such storage has been obtained from the Authority or the approved port operator.

(2) The Authority or the approved port operator may direct that such steps, as it may deem necessary, guard, remove, destroy or otherwise disposed of any dangerous goods stored or found in the Authority's premises and charge the costs or expenses thereby incurred to the owner, master, agent or person in charge of the vessel which brought the goods into the port or the owner or person entitled to such goods provided that before such action is taken, the Authority or the approved port operator shall notify any of the persons hereinabove referred to, if their identities or whereabouts are known to the Authority or the approved port operator.

Dangerous goods without declaration

37.—(1) The Authority or the approved port operator may permit dangerous goods which could not be immediately imported or exported for failure to comply with the requirements of other written laws, to be temporarily stored in any of the Authority's premises, designated by him, pending compliance with such laws, provided that the consignee or exporter, as the case may be, undertakes to pay special port charges or surcharge equivalent to twice the port charges or surcharge payable on such goods as prescribed in the Schedule of the Samalaju Port Authority (Dues, Rates and Charges) Regulations, 2016 [*Swk. L.N. 290/2016*].

(2) Any permission given under paragraph (1) shall be subject to such terms and conditions as the Authority or the approved port operator may deem fit to impose.

Dangerous goods remaining on board

38. Dangerous goods may be permitted by the Authority or the approved port operator to remain on board a vessel alongside the wharves in the form as prescribed in the Third Schedule hereto:

Provided that—

- (a) the goods are stored on the vessel in a place which is not accessible to unauthorized persons but is readily accessible in case of fire or accident and is effectively protected from damage and possible ignition by means satisfactory to the Authority or the approved port operator;
- (b) the goods are barricaded off and are clear of the hatches so as to ensure safe cargo working;
- (c) adequate precautionary arrangements, satisfactory to the Authority or the approved port authority, have been made for dealing promptly with any outbreak of fire or other danger;
- (d) a competent watchman is placed in charge of any open hatch or consignment of deck cargo containing any dangerous goods from the time the vessel berths until the vessel is clear of the wharf; and
- (e) the master of the vessel or his agent has signed and delivered an undertaking to comply with the provisions of this by-law.

Cautionary notices

39. No person shall cut, deface, damage or otherwise interfere with any cautionary notice which may be used in relation to any dangerous goods in the course of their unloading, loading, conveyance or storage.

Penalties

40. Any person who contravenes any of the provisions in this Part shall be guilty of an offence and shall, upon conviction, be punished with a fine of not exceeding ten thousand ringgit or imprisonment for a term not exceeding two years or to both:

Provided that the offence may be compounded in accordance with section 53A of the Ordinance.

Protection against suit and legal proceedings

41. No action shall be brought, instituted or maintained in any court against the Authority or the approved port operator, or any person acting for or on behalf of the Authority or the approved port operator either personally or in his official capacity for or on account of or in respect of any act directed or done by him or purporting to have been directed or done by him for the purpose of carrying into

effect these By-laws, and no suit or prosecution shall lie in any court against any other persons for or on account of or in respect of any act done or purporting to have been done by him under the direction or instruction of the Authority or approved port operator for any such purpose as aforesaid:

Provided that the act of such person was done in good faith and in the reasonable belief that it was necessary for the purpose intended to be served by it and for the carrying out of the provisions of these By-laws.

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FIRST SCHEDULE

SAMALAJU PORT AUTHORITY
CLASSIFICATION OF DANGEROUS GOODS

(By-law 21 (a))

The classifications in the International Maritime Dangerous Goods Code ("IMDG Code" or "Code") are as follows:

- Class 1: Explosives Substances
- 1.1. Substances and articles which have a mass explosion hazard
 - 1.2. Substances and articles which have a projection hazard but not a mass explosion hazard
 - 1.3. Substances and articles which have a fire hazard and either a minor blast hazard or a minor projection hazard or both, but not a mass explosion hazard
 - 1.4. Substances and articles which present no significant hazard
 - 1.5. Extremely insensitive articles which do not have a mass explosion hazard
- Class 2: Gases
- 2.1. Flammable gases
 - 2.2. Non-flammable non-toxic gases
 - 2.3. Toxic gases
- Class 3: Flammable liquids
- Class 4: Flammable solids
- 4.1. Readily combustible solids and solids which may cause fire through friction, self-reactive (solids and liquids) and related substances, desensitized explosives
 - 4.2. Substances liable to spontaneous combustion
 - 4.3. Substances which in contact with water emit flammable gases
- Class 5: Oxidizing substances and organic peroxides
- 5.1. Oxidizing substances
 - 5.2. Organic peroxides
- Class 6: Toxic and infectious substances
- 6.1. Toxic substances
 - 6.2. Infectious substances
- Class 7: Radioactive materials
- Class 8: Corrosive substances
- Class 9: Miscellaneous dangerous substances and articles

Explanation of Authority's Grouping

All dangerous goods having properties coming within the classes listed in the IMDG Code are regrouped into three (3) groups according to their degree of hazard. For packaged and containerized dangerous goods, different treatment of handling within the port is assigned to each group as follows:

Group 1

Dangerous goods that fall under this group are to be discharged and delivered at the explosive anchorage.

Group 2

Vessel conveying dangerous goods that fall under this group may come alongside the Port Authority's wharf but the dangerous goods must be in direct transit in the open from land to vessels and vice versa and shall not be accepted into the Port Authority's premises for storage unless otherwise agreed by the Port Authority or the approved port operator.

Group 3

Dangerous goods that fall under this group may be stored at such places as may be authorized by the Port Authority or the approved port operator depending on space availability.

The handling method as assigned to each of the aforementioned group is not applicable to bulk dangerous cargoes.

*SECOND SCHEDULE*SAMALAJU PORT AUTHORITY
DECLARATION OF DANGEROUS GOODS ON BOARD

(By-law 25 (a))

For discharge at

Substance/Article or Proper Shipping Name	UN. No.	Class	Properties /Flashpoint	Net Wt. or Net Vol.	Storage	Marketing

(Entries made shall be adequate to disclose the nature of the dangerous goods in relation to the classification in the International Maritime Dangerous Goods Code (IMDG) Code).

I hereby declare and certify on behalf of the owners of the M.V.
..... ETA.....that:

- (i) The above/attached is a full and complete list of all cargo possessing dangerous properties on board the vessel.
- (ii) The package and stowage of the dangerous goods on board are in accordance with the International Maritime Dangerous Goods Code.
- (iii) The package and stowage of the dangerous goods have not been disturbed since leaving the port of

Signature: _____

Name: _____

Agent: _____

Date: _____

THIRD SCHEDULE

SAMALAJU PORT AUTHORITY
DANGEROUS GOODS REMAINING ON BOARD

(By-law 25(c))

Date:.....

Messrs.:

.....

Sirs,

With reference to your application datedfor a berth for your
M.V.....on..... I have
to advise that a berth will be allocated for this vessel atif
possible on the date named, subject to the following conditions:-

- (a) The following goods are removed from the vessel at and before she arrives at
.....
- (b) The following goods may remain on board provided that the enclosed undertaking
(Fourth Schedule) is returned to me, duly signed when the vessel arrives:

Yours faithfully,

Authorized Officer
Samalaju Port Authority

FOURTH SCHEDULE

SAMALAJU PORT AUTHORITY
UNDERTAKING IN RESPECT OF DANGEROUS GOODS ON BOARD

M.V.
.....

I, the undersigned, hereby undertake to fulfil the requirements of by-law 25 of the Authority's By-Laws which is reproduced on the reverse hereof.

.....
Signature of Master or Chief Officer

Date:

Conditions for berthing

25. No vessel carrying any dangerous goods shall be berthed alongside any Authority's wharf unless—

- (a) such goods have been declared and described in the form prescribed in the Second Schedule;
- (b) such goods have been packed, labelled, and stored strictly in accordance with the provision or requirements of the Code; and
- (c) permission in the form prescribed in the Third Schedule has been given by the Authority.

Made this 9th day of November, 2016.

DATUK AMAR TAN SRI HAJI MOHAMAD MORSHIDI BIN ABDUL GHANI,
Chairman
Samalaju Port Authority

SAGC

Swk. L. N. 290

PORT AUTHORITIES ORDINANCE, 1961
SAMALAJU PORT AUTHORITY
(DUES, RATES AND CHARGES) REGULATIONS, 2016

ARRANGEMENT OF REGULATIONS

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PORT AUTHORITIES ORDINANCE, 1961
SAMALAJU PORT AUTHORITY
(DUES, RATES AND CHARGES) REGULATIONS, 2016
(Made under section 64(1))

In exercise of the powers conferred upon the Samalaju Port Authority by section 64(1) of the Port Authorities Ordinance, 1961 [*Ord. No. 1/61*], and with the approval of Majlis Mesyuarat Kerajaan Negeri, the following Regulations have been made:

Citation and commencement

1. These Regulations may be cited as the **Samalaju Port Authority (Dues, Rates and Charges) Regulations, 2016**, and shall be deemed to have come into force on the 21st day of April, 2014.

Interpretation

2. In these Regulations, unless the context otherwise requires—

“approved port operator” has the same meaning assigned to that expression under the Ordinance;

“authorised officer” means any officer appointed by the Authority or the approved port operator to be in charge of a port or a terminal and includes his assistants and any other officer acting under or with his authority;

“Authority” means the Samalaju Port Authority established under section 3 (1) of the Ordinance;

“base” in respect of towage, fire-fighting service or any other services provided by the Authority or the approved port operator means an area normally occupied by the Authority’s or the approved port operator’s tugs, fire-fighting personnel, fire-fighting vessels and equipment when not attending any function or performing any service or activity;

“damaged goods” means goods which upon inspection thereof by an authorised officer are found to be deteriorating or leaking in the case of chemicals and if left lying in the warehouse could, in the opinion of such officer, be a hazard to health;

“day” means one calendar day from 0001 hours to 2400 hours;

“daylight” means the period from 0600 hours on one day to 1759 hours on the same day;

“export goods” means goods taken out or caused to be taken out from the port, by sea, to any place outside the port water limit;

“import goods” means goods brought into or caused to be brought into the port, by sea, from any place outside the port water limit;

“lay-up” in relation to a vessel, means not actively employed provided that the master or owner of such vessel has given written notice to the Authority or the approved port operator that the vessel is in such condition and the Authority or the approved port operator has given their written approval;

“night” means the period from 1800 hours in one day to 0559 hours on the next day;

“Ordinance” means the Port Authorities Ordinance, 1961 [**Ord. No. 1/61**];

“port” means the Samalaju Port within the limits declared under the Ordinance;

“port notice” means notices issued by the Authority to the attention and not limited to ship manager, master, officer, crew of vessel, ship owner, shipping agent, cargo owner, port operator and terminal operator;

“Port Pilot Boarding Ground A” means the point where a pilot embarks a vessel for the purpose of piloting a vessel at latitude 03° 37.0’ north, longitude 113° 16.4’ east or at any point determined by the Authority;

“Port Pilot Boarding Ground B” means the point where a pilot embarks a vessel for the purpose of piloting a vessel at latitude 03° 34.7’ north, longitude 113° 18.3’ east or at any point determined by the Authority;

“port premises” means all immovable properties belonging to, occupied by or vested in the Authority and includes wharf, dock, pier, landing places and water limit under the control of the Authority;

“port user” means the owners of vessels, goods or operators including their representatives, successors and permitted assigns of such persons, shippers or agents for the custody, shipping and landing of goods or any person transacting business or entered into a contractual obligation with the Authority or the approved port operator;

“promotional rate” means the rates and charges for all service lines provided by the port as per promotional rate and charges approved by the Authority;

“Ro-Ro (Roll-on Roll-off)” means a method of marine cargo service using a vessel with ramps which allows wheeled vehicles such as automobiles, trucks, semi-trailer trucks, trailer vehicles to be driven on or off the wharf or vice-versa on their own wheels, excluding cargo on the vehicle to be loaded and discharged without using cranes;

“shift” means a working period of eight hours or twelve hours;

“ship to ship operation” means the transfer of cargo between seagoing vessels positioned alongside each other either while stationary or underway at the identified Authority’s anchorage as determined by the Authority;

“shut-out goods” means goods which are manifested for loading onto a vessel but are rejected by the vessel and are returned to the port for re-storage;

“tonne” means one metric ton of one thousand kilograms or one cubic metre or part thereof, except for timber which shall be calculated on the basis of 1.25 cubic metre to the tonne;

“wharf” includes all berth, quay, terminal, pier, jetty, docks, ramp, landing place and any wall and building adjoining the foreshore or sea-bed;

“working hours” means the working hours at the Authority’s wharf and godown from 0800 hours to 1200 hours and 1300 hours to 1700 hours.

Palletised and unitised goods

3.—(1) Palletised or unitised goods rates shall apply to goods in respect of which the following conditions are fulfilled—

- (a) the cargo is in packages or units which are wrapped or strapped together onto a pallet;
- (b) the weight or volume per unit shall not be more than two thousand five hundred kilograms or four cubic metres;
- (c) the goods are manifested and the manifest is duly endorsed at the port of loading that the goods are palletised or unitised and the bill of lading, delivery order or shipping order is similarly endorsed; and
- (d) the palletised or unitised goods are discharged or loaded as single units.

(2) For the purposes of this regulation, a “pallet” is a device on the deck on which a quantity of goods can be assembled to form a unit load for the purpose of transporting or handling or stacking with the assistance of mechanical appliances, and is made up of two decks separated by barriers or of a single deck supported by feet, in which its overall height is reduced to the minimum compatible with handling by forklift trucks and pallets trucks and it may or may not have a superstructure.

Trans-shipment cargo

4. “Trans-shipment cargo” means cargo which fulfils the following conditions—

(a) the cargo is trans-shipped on a through bill of lading dated at the port of loading and showing that the destination is via the port;

(b) the cargo is discharged by the first carrier or lighter onto the wharves and remain in the custody of the Authority or the approved port operator until it is trans-shipped; and

(c) the goods shall be reshipped through the Authority’s wharves by the same or by another vessel.

Restriction in trans-shipment cargo rate

5. Trans-shipment cargo rate does not apply to dangerous goods falling under Classes 1, 2 and 3 as specified in the First Schedule to the Samalaju Port Authority By-laws, 2016 [*Swk. L.N. 289/2016*].

Chargeable tonnage

6.—(1) Whether or not a ship’s manifest or shipping note is lodged with the Authority or the approved port operator, the Authority or the approved port operator may elect to calculate all tonnage of goods according to the cubic measurement or gross weight, whichever is the greater.

(2) The Authority or the approved port operator may levy charges on the measurement tonnage if the weight tonnage cannot be ascertained or vice-versa.

(3) In the case of a vessel with dual tonnage or a vessel with an open or closed shelter deck, the higher tonnage shall be deemed to be the gross registered tonnage of the vessel.

Payment of charges

7.—(1) Except in the case of a person holding a ledger or other credit account, all charges shall be payable in cash.

(2) Cheques shall not be accepted in any payment to the Authority or the approved port operator except by special arrangement with the Authority or the approved port operator.

(3) Where credit facilities are made available to the port users, accounts in respect of such credit facilities shall be settled within a period of thirty days from the date on which such accounts were dispatched.

(4) Accounts which are not settled within the period specified in sub-regulation (3) shall be subject to a surcharge of ten per cent thereof and any account

which is not settled within a subsequent period of fourteen days shall be subject to a further surcharge of ten per cent.

(5) As security for payment for rendering the services, the port users will provide appropriate bank guarantees from the approved financial institutions at such amount as shall be agreed from time to time between the Authority or the approved port operator and the port users.

Responsibility for charges

8. Unless otherwise specifically provided for or previously agreed upon, responsibility for all charges shall be as stated in the Schedule hereto.

Undercharge

9.—(1) The Authority or the approved port operator shall be entitled to collect any amount which may be ascertained to have been undercharged or that which may otherwise be found to be due and shall demand in writing the payment of any such amount within three years from the date the transaction is completed.

(2) For the purpose of this regulation, “transaction” shall include all services rendered, supplies provided or contracts to which the Authority or the approved port operator is a party.

Overcharge

10.—(1) A person shall not be entitled to a refund of any overcharge unless such person refers in writing to the Authority or the approved port operator within three years from the date the delivery bill or the shipment bill or any other bill is issued to him, giving full information and supported by such other documentary evidence as may be required.

(2) Where any goods have been measured or weighed by the Authority or the approved port operator, no claim for a refund shall be accepted by the Authority or the approved port operator unless the person claiming the refund had disputed the measurement or weight of such goods at the time such goods were measured or weighed.

Store rent

11.—(1) Import goods shall be allowed a free storage period of three days commencing from the end of the shift which the vessel completed discharge, and the charges, if incurred, shall be calculated per day commencing from the expiry of the free storage period of three days.

(2) Export goods shall be allowed a free storage period of five days calculated from the end of the shift during which storing commences, and the charges, if incurred, shall be calculated per day commencing from the expiry of the free storage period of five days.

(3) Storage charge for damaged and shut-out goods shall be twice the normal rate of such cargo and no free storage period shall be given for such cargo.

(4) Removal to warehouse shall be at the discretion of the authorised officer and may be done either on acceptance of an application to transfer to warehouse storage or, in respect of goods not removed from transit sheds, whenever necessary for the convenience of the port.

(5) Dangerous goods in Classes 1 and 2 including those in containers, as specified in the First Schedule of the Samalaju Port Authority By-laws, 2016 [*Swk. L.N. 289/2016*] or any amendment to the Schedule as issued in the port notices shall not be received into storage by the Authority or the approved port operator, whereas dangerous goods in Classes 3 and 4 may be received into storage at the discretion of the authorised officer.

(6) Any goods left in the port premises without approval shall incur store rent of twenty ringgit per square metre or part thereof, per day or part thereof or any other rates as may be approved by the Authority from time to time, and may, at any time be removed by the authorised officer, at the owner's expense.

Labour requisition

12.—(1) An application for labour to work the vessel shall be made not less than four hours before any following shifts.

(2) An application for labour made in contravention of sub-regulation (1), shall be charged at the rate of additional fifty percent of the published rate per gang.

Condition of hire of mechanical equipment, gears and appliances

13.—(1) The Authority or the approved port operator, while taking all reasonable precautions to ensure that the mechanical equipment, gears and appliances are in sound and usable condition, shall not be responsible for any consequences which may arise as a result of breakage or other unforeseen circumstances occurring during the period of hire.

(2) The articles are hired on condition that the entire liability rests with the hirer, who shall be required to indemnify the Authority or the approved port operator accordingly.

(3) Any expenses for repairs or renewal of mechanical equipment, gears and appliances hired from the Authority or the approved port operator, over and above that was caused by ordinary wear and tear, shall be charged in addition to the normal charges for the hire of such mechanical equipment, gears and appliances.

(4) When cranes or heavy lifting gears of the capacity required are not available from the Authority or the approved port operator, the authorised officer may, on request, allow a crane of a suitable type to be brought in from outside the port subject to an approval from the Authority or the approved port operator before

cranes with an approved permit from the relevant authorities or heavy lifting gears are allowed to enter the port.

General conditions

14.—(1) The Authority or the approved port operator shall not provide any service or accommodation to any person unless such person makes a request in writing for the same, and where such request is made, the Authority or the approved port operator may, where it deems fit to do so in the interests of the Authority or the approved port operator, refuse the request without assigning any reason therefor.

(2) A delivery order for delivery of imported goods shall not be acted upon until such order in writing has been received from the ship owners or agents.

(3) A shipment order for shipment of goods shall not be acted upon unless it is endorsed by the ship owners or agent.

(4) In all cases, Customs requirements shall be complied with before delivery or shipment is carried out, and where cargo is stored for longer period than would otherwise be of up to thirty days due to Customs formalities, the authorised officer may waive the storage charge for the period of the said delay, after which the normal rental rate shall apply.

(5) The Authority or the approved port operator shall be entitled to sell goods which have not been claimed for more than ninety days provided that a written notice has been given to the cargo owner of the intention to sell and the cargo owner still fails to collect the cargo after fourteen days of issuing the notice, and proceeds from the sale shall be returned to the cargo owner after deductions for payment of all port charges and Customs duties have been made:

Provided where the goods are perishable in nature, the Authority or approved port operator may direct their removal within such shorter period (not being less than twenty-four hours after the landing) as the authority may think fit, and the said power of sale may be exercised at the expiration of such period.

Promotional rates, scales of rates, dues and charges and off-tariff items

15. Notwithstanding the Schedule, the Authority may approve a special rate for promotional purposes in circumstances and on terms and conditions the Authority deems fit.

Channel maintenance fee

16.—(1) Every vessel when entering and leaving the port for the purpose of—

(a) loading or discharging cargo may, whether or not such cargo is worked at a wharf belonging to the Authority, be charged channel maintenance fee at the rate to be determined by the Authority from time to time; and

(b) embarking or disembarking passengers may, whether or not such passengers embarked or disembarked at a wharf belonging to the Authority, be charged channel maintenance fee at the rate to be determined by the Authority from time to time.

(2) All channel maintenance fee so received by the Authority under sub-regulation (1) shall be accounted for the Government and form part of the State Consolidated Fund.

(3) This regulation does not apply to vessels carrying passengers or cargoes originating within Sarawak and plying between Sarawak ports.

SCHEDULE

PART I

CHARGES FOR ACCOUNT OF VESSEL

1. Harbour service charge

Subject to the exceptions specified hereunder, harbour service charge is payable by all vessels entering the port at the following rates—

(a) 30 days and below

<i>Items</i>	<i>Vessel length overall (LOA) (metres)</i>	<i>Per metre visit (RM)</i>
1.	30 and below	9.00
2.	30 < 60	10.00
3.	60 < 90	11.00
4.	90 < 120	14.00
5.	120 < 150	24.00
6.	Above 150	32.00

(b) Above 30 days

<i>Vessel length overall (LOA) (metres)</i>	<i>Per metre visit (RM)</i>
All vessels	32.00

(c) For lay-up vessels

<i>Vessel length overall (LOA) (metres)</i>	<i>Per metre visit (RM)</i>
All vessels	48.00

Exceptions:

- (i) Vessels belonging to the Government of Malaysia and the State Government of Sarawak;
- (ii) Vessels which call at the port solely for seeking medical aid and disembarking persons, who are ill or vessels forced to seek shelter in a port because of damage, storms or other adverse weather conditions;
- (iii) Vessels belonging to the Authority or the approved port operator or in its services;
- (iv) Vessels passing through port limit on innocent passage; or
- (vi) Other vessels as may be exempted by the Authority with the approval of the Minister.

2. Pilotage

For piloting a vessel within or outside the port limit, the pilotage dues payable shall be as follows:

2.1 Movement within port limits where the Pilot Boarding Ground A or B (small coastal vessels) is at—

- (a) Vessels proceeding to or from Pilot Boarding Ground A or B within port limits inclusive of berths, jetties and anchorage.

<i>Items</i>	<i>Vessel length overall (LOA) (metres)</i>	<i>Rates per movement (RM)</i>
1.	30 and below	440.00
2.	30 < 60	510.00
3.	60 < 90	610.00
4.	90 < 120	750.00
5.	120 < 150	1,030.00
6.	Above 150	1,260.00

- (b) If the vessel request for the pilot to board other than Pilot Boarding Ground A or B, will be charged three (3) times the rates for movement within port limits.

2.2 Movement outside port limits—

All assistance rendered outside the port limit will be charged at three (3) times the rates for movement within port limits.

2.3 Miscellaneous—

- (a) Pilot cancellation or amendment

If pilot cancellation or amendment is made less than four (4) hours before the time requested on the original booking, pilot dues shall be charged at four hundred and eighty ringgit (RM480.00) per occasion.

- (b) Pilot detention

When a pilot is detained on board a vessel at Pilot Boarding Point, at berth or anchorage area, the following detention charges shall be payable—

- (i) Four hundred and eighty ringgit (RM480.00) per half hour;
- (ii) Three hundred and twenty ringgit (RM320.00) for every subsequent half hour.

- (c) When pilot is ordered but not used

When a pilot is ordered but subsequently not used, a full charge shall be imposed as if the service had been rendered.

- (d) Night services

All pilotage services shall incur an additional charge of one hundred and thirty ringgit (RM130.00) for night services. The rate is also applicable for work commencing earlier than 1759 hours but completing after 1800 hours and also for work commencing earlier than 0600 hours and ending after 0600 hours.

- (e) Double banking or ship to ship operation
If a pilot is deployed for the double banking or ship to ship operation within the port limit the charge will be three (3) times the rates for movement within the port limits.
- (f) Special movement of vessels
If a pilot is deployed for special or abnormal movement of a vessel, the rate will be mutually agreed between the Authority or the approved port operator and the port users.
- (g) General service for pilotage/marine consultation
If a pilot is deployed for any other general services not within the scope of his ordinary course of business or any marine consultation works for any new projects undertaken by the Authority or any third party, there shall be a charge of two thousand ringgit (RM2,000.00) per day for working hours only or part thereof.
- (h) Service rendered on a gazetted public holiday
When pilotage services are rendered on a gazetted public holiday, all the dues payable in this Schedule shall be doubled.

3. Towage

Charges for any tug services rendered shall be calculated from the time the tug leaves its base until the time it returns to the base. The rates are as follows:

3.1 Berthing and unberthing—

- (a) Vessels proceeding to or from any point within port limits inclusive of berths, jetties and anchorages:

<i>Items</i>	<i>Vessel length overall (LOA) (metre)</i>	<i>Per tug per half hour or part thereof (RM)</i>
1.	60 and below	350.00
2.	61< 90	420.00
3.	91< 120	580.00
4.	121<150	800.00
5.	Above 150	960.00

- (b) When tug is ordered and deployed but not used
When a tug is ordered and deployed but subsequently not used, a full charge shall be imposed as if the service has been rendered.
- (c) Night services
All towage services shall incur an additional charge of fifty percent (50%) for night services. The rate is also applicable for work commencing earlier than 1759 hours but completing after 1800 hours and also for work commencing earlier than 0600 hours and ending after 0600 hours.
- (d) Services rendered on gazetted public holiday
When a towage service is rendered on a gazetted public holiday, an extra charge of fifty percent (50%) of the normal towage charges shall be payable in addition to the normal charge due.
- 3.2 Fire fighting or oil spill services—
Charges for the use of tugs or marine craft for fire-fighting or oil spill services, whether at the request of a vessel master for its agent or as ordered by the authorised officer, shall be at the same rate as charges for berthing and unberthing services.
- 3.3 Other services—
- | Items | Type of services | Per tug per half hour or part thereof (RM) |
|-------|--|--|
| 1. | Assisting vessel in difficulties, including attendance using Authority's or approved port operator's tug | 1,920.00 |
| 2. | For anti-pollution operations including attendance or any assistance provided in connection with the operation, using the Authority's or approved port operator's tug | 2,400.00 |
| 3. | Launches and barges used for any general work or work in connection with fire fighting, anti-pollution or salvage operations (including attendance) | 2,400.00 |
| 4 | Using of marine craft to ferry diver, stevedorage worker, ship crew, salvaging crew, surveyor, offshore workers and government officers | 2,400.00 |
| 5 | Any other special services or abnormal movement of a vessel | To be mutually agreed |
| 6 | All other services will incur an additional charge of fifty percent (50%) for night services. The rate is also applicable for work commencing earlier than 1759 hours but completing after 1800 hours and also for work commencing earlier than 0600 hours and ending after 0600 hours | 50% |
- 3.4 Miscellaneous—
- (a)(i) All forms of dry powder, chemicals or other equipment used in fire-fighting, anti-pollution, clean up, or salvage operations or in rendering any other assistance shall be replaced by the owner, or master or agent of the vessel concerned.

- (ii) Any equipment damaged or lost shall be replaced at the expense of the owner, master or agent of the vessel concerned.
- (b) Any assistance rendered outside port limits shall be charged at triple the normal rates applicable.
- (c) Any overtime incurred by the tug crew in fire-fighting or oil spill operations, salvaging operations or in rendering any other assistance shall be borne by the owner, master or agent of vessel concerned.
- (d) If cancellation or amendment is made less than four (4) hours before the time requested on the original booking, towage dues shall be charged at five hundred ringgit (RM500.00) per tug per occasion.
- (e) When a tug is deployed but subsequently not used, charges shall be imposed based on the rates for berthing and unberthing.

4. Mooring charges

Mooring charges shall be payable by every vessel using the wharves. The rate shall be based on per operation.

The rates for all vessels are as follows:

<i>Item</i>	<i>Vessel length overall (LOA) (metre)</i>	<i>Per operation (RM)</i>
1.	30 and below	120.00
2.	30 < 60	160.00
3.	60 < 90	190.00
4.	90 < 120	230.00
5.	120 < 150	260.00
6.	Above 150	300.00

5. Port facilities charges

- 5.1 Port facilities charges shall be payable by every vessel using the Authority's wharves. The rate shall be based on the length overall of the vessel (in metres) and the time it spends at the berth—

<i>Item</i>	<i>Type of wharf</i>	<i>Per metre hour or part thereof (RM)</i>
1.	General cargo	2.50
2.	Bulk cargo	4.00
3.	Container	2.50
4.	Liquid bulk	9.00
5.	Non-cargo carrying ships	5.50

Provided that no charges shall be payable for periods during which the Authority is unable to provide services due to its own inadequacies or to unforeseen circumstances beyond its control.

- 5.2 Vessels remaining at the wharf after they have received instructions in writing to leave are charged at five (5) times the relevant rates shown.

PART II
CHARGES FOR ACCOUNT OF SHIPPER OR CONSIGNEE

6. Cargo handling charge

Cargo handling charge is levied on cargo loaded onto or discharged from a vessel. It is payable by shipper or consignee.

6.1 Between vessel and wharf (break bulk via shed)—

<i>Item</i>	<i>Type of cargo</i>	<i>Per tonne or part thereof (RM)</i>
1.	Palletised or unitised goods	22.00
2.	Bagged cargo	
	- Loose bags	26.50
	- Pre-slung	21.50
3.	Other general cargo	27.00
4.	Sawn timber in bundles	24.00
5.	Heavy lift of 3 tonnes and above	40.50
6.	Long lift of over 9 metres in length	40.50
7.	Bulky lift of over 3 cubic metres	40.50
8.	Vehicles	
	- Ro-Ro	105.00 each
	- Lo-Lo	45.00
9.	Dangerous cargo of all classes	41.00

6.2 Between vessel and wharf (break bulk direct delivery)—

<i>Items</i>	<i>Type of cargo</i>	<i>Per tonne or part thereof (RM)</i>
1.	Palletised or unitised goods	18.00
2.	Bagged cargo	
	- Loose bags	22.00
	- Pre-slung	18.00
3.	Other general cargo	22.00
4.	Sawn timber in bundles	18.00
5.	Heavy lift of 3 tonnes and above	37.00
6.	Long lift of over 9 metres in length	37.00
7.	Bulky lift of over 3 cubic metres	37.00
8.	Vehicles	
	- Ro-Ro	96.00 each
	- Lo-Lo	36.00

9.	Dangerous cargo of all classes	37.00
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6.3 Between vessel and vessel (overside handling)—

When a vessel is berthed at any of the wharves and works cargo directly to or from another vessel or vessel berthed alongside her, she shall pay the charges set out in Item 6.2, in respect of all cargo so worked.

6.4 Shifting in the hold—

<i>Item</i>	<i>Shifting in the hold</i>	<i>Per tonne or part thereof (RM)</i>
1	Within the hold	6.00
2.	Between levels in the same hold	8.00
3.	Between hatches via the wharf	12.00

If the cargo shifted via the wharf is stored in the transit shed prior to reshipment it will be regarded as trans-shipment cargo and charged according to Item 6.8.

6.5 Standby—

When labour and or equipment which have been requisitioned is ready but not working, a standby charge is payable at the rate of five hundred ringgit (RM500.00) per half hour or part thereof. Provided that no standby charge shall be payable due to any of the following causes:

- (a) delay in Custom's and Immigration's clearance.
- (b) equipment transfer in hatch;
- (c) port power failure; or
- (d) bad and threatening weather.

6.6 Cancellation of labour and equipment—

6.6.1 For labour and or equipment ordered but subsequently not utilised, a cancellation fee at the following rates shall be imposed:

<i>Item</i>	<i>Cancellation charge per gang</i>	<i>(RM)</i>
1.	Gang	500.00
2.	Labour per head	80.00
3.	Per crane, conveyor or unloader	960.00
4.	Per equipment other than crane, conveyor or unloader	160.00

6.6.2 No cancellation fee is imposed if cancellation is made two (2) hours before the commencement of any shift.

6.7 Work during meal breaks—

Work during meal breaks is charged at the rate of twenty ringgit (20.00) per man per half hour or part thereof.

6.8 Trans-shipment cargo—

All trans-shipment cargo shall be given preferential rates at ten per cent (10%) below the normal rates as prescribed in Items 6.1 and 6.2.

6.9 Animal and livestock—

Individual animals may be loaded or discharged directly or via wharf, for which the charges are as follows:

<i>Item</i>	<i>Stevedorage charges</i>	<i>Per head/basket (RM)</i>
1.	Livestock, per head	10.00
2.	Animal, per head	30.00

6.10 Dry-bulk cargo handling—

The following charges shall be made on dry-bulk cargo loaded or discharged over the wharves:

<i>Item</i>	<i>Type of services</i>	<i>Per tonne or part thereof (RM)</i>
1.	Wharf handling using the conventional equipment (direct)	20.00
2.	Wharf handling using the conventional equipment (via shed)	25.00
3.	Wharf handling using the conveyor system (direct)	23.00
4.	Wharf handling using the conveyor system (via shed)	29.00

6.11 Liquid-bulk cargo handling—

The following charges shall be made on liquid product in bulk loaded or discharged through pipelines at the port.

<i>Item</i>	<i>Type of services</i>	<i>Per tonne or part thereof (RM)</i>
1.	Handling	
	- Dangerous	6.50
	- Non-Dangerous	5.00

6.12 Container handling—

(a) Stevedorage

Stevedorage charges, at the Authority's wharf, in respect of containers or other goods discharged from a vessel or loaded onto a vessel and other miscellaneous charges shall be as follows:

(i) Between vessel and wharf—

Item	Status of container	Per box (RM)		
		20'	40'/45'	Out of gauge
1.	Laden	144.00	184.00	240.00
2.	Empty	80.00	160.00	
3.	Trans-shipment	All trans-shipment containers and other goods shall be charged at the rate of 50% less than the normal rates.		
4.	Uncontainerised cargo	Per lift per hour or part thereof		
5.	0 < 15 tonnes		160.00	
6.	15 < 30 tonnes		480.00	
7.	Above 30 tonnes		900.00	

(ii) Between vessel and vessel (overside handling) wharf—

When a vessel is berthed at any of the wharves and works cargo directly to or from another vessel or vessel berthed alongside her, she shall pay the charges set out in Item 6.12 (a)(i), in respect of all cargo so worked.

(iii) Shifting—

Item	Type of services	Per box (RM)
1.	Shifting on board	80.00
2.	Discharge, land and restow	160.00

(iv) Standby for labour and equipment—

Item	Standby	Per box (RM)
1.	For the first 15 minutes or part thereof	500.00
2.	For every subsequent 5 minutes or part thereof	100.00

The above standby charges shall apply under the following circumstances:

(a) Awaiting ship's instructions to start operations or other standby including standby during operations caused by the agent or owner of the vessel.

(b) Late arrival of vessel. The standby charge shall commence 30 minutes after the estimates time to berth (ETB) up to the actual time of berthing if the delay is caused by the agent or owner of the vessel.

(v) Miscellaneous stevedorage charges—

<i>Item</i>	<i>Type of services</i>	<i>Per hatch (RM)</i>
1.	Open/close hatch cover	130.00

(b) Handling charges—

Container handling charges, at the Authority's wharf, in respect of containers and other goods received, stored and delivered by the Authority. "DG" shall refer to "Dangerous Goods"—

(i) Receiving or shipping using mobile harbour crane—

<i>Item</i>	<i>Status of container</i>	<i>Per box (RM)</i>	
		20'	40' / 45'
1.	LCL (including stuffing / unstuffing)	384.00	592.00
2.	FCL(excluding stuffing / unstuffing)	168.00	256.00
3.	Empty	128.00	176.00
4.	Out of gauge	800.00 per box	
5.	Uncontainerised cargo	24.00 per tonne or part thereof	
6.	Direct delivery/loading	150% of the applicable tariff	

(ii) Extra movement charges—

Extra movement of containers at the Authority's premises at the request of the shipper or consignee shall incur a charge at the following rates:

<i>Item</i>	<i>Status of container</i>	<i>Per box (RM)</i>		
		20'	40'/45'	Out of gauge
1.	Laden	128.00	256.00	320.00
2.	Empty	80.00	160.00	240.00
3.	Containers for inspection shall incur a charge of RM90.00 per box per round trip.			

These charges shall include the—

- (a) delivery of container after free storage;
- (b) delivery of container without pre-booking;
- (c) receiving of container before opening time;
- (d) failure to take delivery after confirm booking;
- (e) misleading or inaccurate shipping note;

- (f) unspecified return of containers;
- (g) movement of containers in/out of depot; and
- (h) inter terminal transfer (per round trip).

(iii) Lift on/off charges—

Item	Status of container	20'	40'
		RM	RM
1.	Lo-Lo laden	104.00	160.00
2.	Lo-Lo empty	48.00	96.00

(iv) Shut-out containers—

Where an export container or a trans-shipment container is stacked at the export section of the Authority's premises and is shut-out by the vessel and subsequently delivered, the following charges shall be payable:

Item	Per box (RM)		
	20'	40'/45'	Out of gauge
1.	360.00	576.00	640.00

These charges shall be additional to extra movement charges, if any—

Where a container to be exported is shut-out by one (1) vessel and subsequently shipped via another vessel, extra movement charges shall be levied on the container according to the number of extra movements involved. The free storage period shall be calculated from the date the container is first received.

(v) Change of status—

The following charges shall apply for any change in status. These charges shall not be levied if the Authority is informed of the change in status at least twenty-four (24) hours before the arrival of the vessel:

Item	Per box per change		
	20'	40'/45'	Out of gauge
1.	RM80.00	RM112.00	RM112.00

(vi) Reefer container services—

Item	Type of services	Per box (RM)	
		20'	40'/45'
1.	Pre-trip inspection (at the request of the shipper or consignee)	48.00	72.00
2.	Connecting or disconnecting electricity supply on board vessel	24.00	

Per box per shift (RM)

3.	Connecting or disconnecting electricity supply at the reefer yard (including electricity consumption)	19.00	38.50
4.	Monitoring services at the reefer yard	8.00	16.00

(vii) Dangerous goods containers—

Item	Type of services	Per box (RM)	
		20'	40'/45'
1.	FCL	504.00	800.00

(viii) Miscellaneous handling charges—

Item	Type of services	Per box (RM)	
		20'	40'/45'
1.	Sweeping, removing dunnage, easing locks and hinges of containers	16.00	32.00
2.	Sweeping, removing dunnage, cleaning with detergent, greasing locks and hinges of containers	24.00	54.00
3.	Sending in export containers after closing time	128.00	270.00

(c) Storage charges—

(i) Storage charges for containers are as follows:

Item	Per container, per day	Per TEU (RM)
1.	20' Empty	11.00
2.	40' Empty	22.50
3.	20' Laden	16.00
4.	40' Laden	30.00

Item	Out of gauge	(RM)
1.	Empty/Laden	48.00
2.	20' DG	96.00
3.	40' DG	192.00
4.	Out of gauge DG	192.00

Provided that container shall be given a free storage period of—

- (a) 3 days for all import containers
- (b) 5 days for all export containers

(c) 14 days for all trans-shipment containers

(d) No free storage for all DG containers

(d) Indirect charges (container)—

All goods in containers shall be charged an indirect charge at the following rates:

<i>Item</i>	<i>Per box (RM)</i>		
	20'	40'/45'	Out of gauge
1.	23.00	40.00	56.00

(e) Stuffing/ Unstuffing charges and weighting charges

<i>Item</i>	<i>Stuffing / Unstuffing charges</i>	<i>20'(RM)</i>	<i>40'(RM)</i>
1.	Stuffing of cargo into container or unstuffing of cargo into warehouse	150	200

<i>Item</i>	<i>Weighting charges</i>	<i>(RM)</i>
1.	Per-weighting	10.00

7. Store rent

All goods lying in the port premises shall incur the following store rent charges:

7.1 Import cargo—

<i>Item</i>	<i>Store rent charges</i>	<i>Per tonne or part thereof</i>	
		<i>Shed (RM)</i>	<i>Open storage (RM)</i>
1.	1st three days or part thereof	Nil	Nil
2.	4th day – 5th day or part thereof	4.50	2.00
3.	6th day – 8th day or part thereof	6.50	3.50
4.	9th day – 11th day or part thereof	11.00	6.00
5.	12th day – 14th day or part thereof	16.00	11.00
6.	Each subsequent week, per week or part thereof	19.00	14.50

7.2 Export cargo—

The storage period for export goods is calculated from the time of receipt of each consignment to the time of completion of loading into the vessel for which the cargo is intended. Store rent shall be charged at the following rates:

<i>Item</i>	<i>Store rent charges</i>	<i>Per tonne or part thereof</i> Shed (RM)	Open storage (RM)
1.	1 st five days or part thereof	Nil	Nil
2.	6th day – 8th day or part thereof	8.00	4.50
3.	9th day – 11th day or part thereof	12.50	6.00
4.	12th day – 14th day or part thereof	16.00	10.50
5.	Each subsequent week, per week or part thereof	19.00	14.50
7.3	Shut-out cargo and damaged cargo— Storage charge for shut-out and damaged cargo shall be twice the normal rate of such cargo. No free storage shall be given for shut-out and damaged cargo.		
7.4	Trans-shipment cargo— Store rent for trans-shipment cargo shall be charged at the following rates:		
<i>Item</i>	<i>Trans-shipment cargo</i>	<i>RM</i>	
1.	If shipped within 14 days from the date of completion of discharge by the first carrier	3.00 per tonne or part thereof	
<i>Item</i>	<i>Trans-shipment cargo</i>	<i>RM</i>	
2.	If shipped after 14 days from the date of completion of discharge by the first carrier	13.00 per tonne per week or part thereof	
7.5	Dangerous goods— Storage charges: (i) No dangerous goods in Classes I and II shall be accepted for storage; (ii) Dangerous goods in Classes III and IV may be allowed storage and shall be charged at the rate of twenty-three ringgit (RM23.00) per tonne or part thereof, per day or part thereof, calculated from twenty-four (24) hours after completion of discharges.		
7.6	Long term storage— Subject to availability of space, the authorised officer may grant long term storage for a minimum period of twenty-one (21) days on application by the shipper or consignee, and store rent shall be charged at the rate as follows:		
	<i>Type of storage</i>	<i>Per tonne per week or part thereof</i>	
	Long term storage	RM 16.00	
	Trans-shipment cargo	RM 6.50	

8. Wharfage

Wharfage charges in respect of the following goods are levied as follows:

<i>Item</i>	<i>Type of cargo</i>	<i>Per tonne or part thereof (RM)</i>
1.	Dry and break bulk cargo	1.60
2.	Liquid bulk	2.40
3.	Cargo at anchorage	1.60
4.	Motor vehicles	
	- Motorcars and trailers	16.00 each
	- Lorries, buses, trucks, vans and other vehicles	24.00 each

9. Port dues

The Authority shall collect on behalf of the State Government, port dues at two ringgit (RM2.00) per tonne or part thereof levied in respect of a vessel entering, using, leaving or plying in the port or in respect of goods conveyed by whatever means, including conveyor system or pipelines through the limits of the port, which does not utilize the facilities and services of the port.

10. Special cargo survey fee

If the Authority or the approved port operator is called upon to undertake any special survey for a period not exceeding two (2) hours, a fee of fifty-six ringgit (RM56.00) per survey shall be payable by the person requesting the survey. For each additional hour or part thereof the fee payable shall be twenty-four ringgit (RM24.00).

11. Use of weighbridge

The use of the weighbridge belonging to the Authority or the approved port operator shall be charged at the rate of ten ringgit (RM10.00) per weighing.

12. Surcharge for under declared cargo

Any cargo found to be under declared by measurement or weight shall be imposed a surcharge of ten percent (10%) of the relevant port tariff.

13. Non-prescribed charges or off-tariff

Any charges which are not prescribed under these Regulations shall be charged and considered under the non-prescribed charges or the off-tariff charges to be determined by the Authority or the approved port operator as it may deem fit from time to time.

Made this 9th day of November, 2016.

DATUK AMAR TAN SRI HJ MOHAMAD MORSHIDI BIN ABDUL GHANI,
Chairman
Samalaju Port Authority

Approved this 10th day of November, 2016.

HAJAH SUTIN BINTI SAHMAT,
Clerk to Majlis Mesyuarat Kerajaan Negeri

[To be laid upon the table of the Dewan Undangan Negeri at its next meeting under section 64(2) of the
Port Authorities Ordinance, 1961]

Swk. L. N. 291

PORT AUTHORITIES ORDINANCE, 1961
SAMALAJU PORT AUTHORITY
(CONDITIONS OF BUSINESS) BY-LAWS, 2016

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PORT AUTHORITIES ORDINANCE, 1961

SAMALAJU PORT AUTHORITY
(CONDITIONS OF BUSINESS) BY-LAWS, 2016

(Made under section 64(3))

In exercise of the powers conferred upon the Samalaju Port Authority by section 64(3) of the Port Authorities Ordinance, 1961 [*Ord. No. 1/61*], the following By-laws have been made:

Part I

Introduction

Citation and commencement

1. These By-laws may be cited as the **Samalaju Port Authority (Conditions of Business) By-laws, 2016**, and shall be deemed to have come into force on the 21st day of April, 2014.

Acceptance of conditions of business

2. The application for use of any of the Samalaju Port Authority's premises or facilities shall imply acceptance of the conditions of business set out in the Schedule together with an undertaking to comply with all the enactments for the time being in force applicable to the Samalaju Port.

Interpretation

3. In these By-laws, unless the context otherwise requires—

“approved port operator” has the same meaning assigned to that expression under the Ordinance;

“Authority” means the Samalaju Port Authority established under section 3(1) of the Ordinance;

“Authority's premises” means all immovable properties belonging to, occupied by or vested in the Authority and includes wharf, dock, pier, landing places and water limit under the control of the Authority;

“Authority's wharf” or “wharf” means a quay, pier, jetty or other landing place and includes any wall or building adjoining the foreshore, seabed or river bed;

“day” means one calendar day from 0000 hours to 2400 hours;

“licensed pilot” means a qualified person from the Authority or the approved port operator who is duly licensed by the Pilotage Committee and is not belonging to a vessel who has the conduct thereof;

“night” means the period from 1800 hours in one day to 0559 hours on the next day;

“officer of Customs” means an authorised officer from the Royal Malaysian Customs;

“Ordinance” means the Port Authorities Ordinance, 1961 [*Ord. No. 1/61*];

“port” means the Samalaju Port within the limits declared under the Ordinance;

“port user” means the owner of the vessels, goods or operators including their representatives, successors and permitted assigns of such persons, shippers or agents for the custody, shipping and landing of goods or any person transacting business or entered into a contractual obligation with the Authority or the approved port operator;

“ship to ship operations” means the transfer of cargo between seagoing vessels positioned alongside each other either while stationary or underway at the identified Authority’s Anchorage as determines by the Port Authority;

“underway” means that a vessel is not at anchor or made fast to the shore or a ground.

Part II

Arrival, Berthing, Unberthing and Departure of Vessels

Notification of vessels’ arrival and departure

4.—(1) The owners or agents of a vessel proposing to call at the port shall, as early as possible, and in any case not less than thirty-six hours prior to the estimated time of arrival, give notice to the Authority or the approved port operator in the form prescribed in the First Schedule of the expected date and time of arrival of the vessel together with such advance information as to the nature and quantity of any cargo to be discharged or loaded, the number of any passengers to be disembarked or embarked, whether any animals and perishable commodities are to be discharged and any other matters of importance relating to the working of the vessel as the Authority or the approved port operator may require.

(2) The owners or agents of every vessel about to leave the Port shall give notice of the vessel’s departure in the form prescribed in the Second Schedule.

Allocation of berths

5.—(1) The Authority or the approved port operator shall allot berth at its premises and the owners or agents of every vessel requiring a berth shall apply to the Authority or the approved port operator in the form prescribed in the Third Schedule.

(2) No vessel shall be placed alongside any of the Authority's wharf without the written permission of the Authority or the approved port operator signified in the form prescribed in the Fourth Schedule, and no vessel shall occupy a berth other than the berth allocated to that vessel.

(3) No vessel shall, without the written permission of the Authority or the approved port operator, make use of any lighter for discharging or loading of cargo other than the one that is provided by the Authority or the approved port operator.

(4) No vessel having any unsafe list or trim by head shall be placed alongside any of the Authority's wharf.

Signals

6. The code letter "N" flag shall be shown at the wharf at the particular berth which a vessel is to occupy and to indicate the approximate position of the vessel's bow or stern after mooring if necessary.

Berthing of vessel

7.—(1) No vessel shall be berthed or leaving a berth by the master without engaging the licensed pilot and crew, and the Authority's or the approved port operator's wharf staff shall be in attendance to render assistance under instruction from the vessel in taking ashore, making fast or casting off wire or rope hawsers or in doing any other similar thing, including the attendance of a mooring boat if so required.

(2) The Authority or the approved port operator shall accept no responsibility for the carrying out of any movement of any vessel and shall not be responsible for any loss or damage caused by or attributable to any act or omission of its employees.

(3) The Authority or the approved port operator shall not be responsible for the insecure or improper mooring of any vessel, or for any defective mooring or appliance, or for any damage or consequence arising from thereof.

(4) The owner of every vessel shall be accountable to the Authority or the approved port operator for any damage done to the Authority's premises, any of the works, plant, machinery or other property of the Authority by such vessel or by any person employed about the same, and the master or person having charge of such vessel through whose wilful act or negligence any such damage is occasioned shall also be liable to make good the same.

(5) The Authority or the approved port operator reserves the right to detain any such vessel until sufficient security to the satisfaction of the Authority or the approved port operator has been given for the damage done as aforesaid.

Vessels in charge of masters

8.—(1) Every vessel shall, while using any of the Authority's wharf, be in the charge of, and her safety shall be at the sole risk of her master and owner, and no instruction or direction given by or act performed by, any of the Authority's or the approved port operator's officers or servants shall place any responsibility upon the Authority or the approved port operator with respect to the security or safety of such vessel.

(2) Every vessel lying at any of the Authority's wharf shall have sufficient hands on board to attend to her moorings and to cause them to be slackened off or hove in as may be necessary, and no rope shall be made fast ashore except to the dolphins, buoys, mooring posts or bollards placed for that purpose, and no chain cable shall be used for mooring alongside except in connection with the use of an anchor, or by permission of the Authority or the approved port operator.

Vessels to be ready to move

9.—(1) Every vessel moored alongside any of the Authority's wharf shall be kept so manned, equipped, provided and loaded or ballasted as to allow of her being moved with safety when required.

(2) No vessel shall, without the written permission of the Authority or the approved port operator, repair or immobilise her main engine while she is alongside at any Authority's wharf or anchorage.

(3) If a vessel is unable to move, as required by this paragraph, the Authority or the approved port operator may perform the necessary work at the vessel's risk and expense.

(4) The Authority or the approved port operator may in writing in the form prescribed in the Fifth Schedule, order the master of the vessel to move or vacate from the berth or shift to another berth when required.

Part III**Vessels Alongside, Movements, etc.****Disposal of certain rubbish**

10. The Authority or the approved port operator may permit the use of its incinerator for the disposal of certain rubbish if requested to do so by the master or person in charge of any vessel lying alongside any of its wharf.

Use of engine

11. No vessel shall try her main engines or turn her propellers when lying alongside any of the Authority's wharf without first giving adequate notice to the Authority or the approved port operator and to other vessels in the vicinity.

Projections outboard of vessels

12. The master or officer in charge of any vessel with its boats swung outboard or with anchors or other projections from the deck which may interfere with the loading, discharging or berthing of the vessel or of any other vessel (including berthing alongside the first vessel) shall remove such obstruction or projection when required to do so, and in any case, shall remove the obstruction or projection on its inboard side, that is to say the side of the vessel lying to the wharf.

Rat guards

13. Every vessel shall, while lying alongside any of the Authority's berth, place rat guards on her mooring lines or take other adequate measures to prevent the passage of rats between the vessel and the wharf.

Watch on board

14. A watch by at least one member of the vessel's crew shall be constantly kept, both by day and night, upon the open deck of every vessel lying alongside any of the Authority's wharf.

Vessels lying alongside other vessels at wharf

15. No vessel shall lie alongside any vessel at any of the Authority's wharf except by permission of the Authority or the approved port operator and the proper officer of Customs, and, in any case, no such vessel shall lie alongside the vessel occupying the berth so that she overlaps the bow or stern of such latter vessel, and one vessel only may lie alongside at each hatch at any one time.

Vessels not to place ship's gear on wharf

16. No boat, spar, anchor, cable or other article of ship's gear, dunnage, horse box or the like shall be placed or remain on the Authority's wharves without the written permission of the Authority or the approved port operator.

Part IV**Working of Vessels****No responsibility for delay**

17. The Authority or the approved port operator shall not be responsible for the detention or delay of any vessel nor for the detention or delay in discharging or loading of cargo arising from any cause whatsoever.

Vessels to be ready to work cargo on arrival

18. Every vessel shall, on completion of mooring alongside any of the Authority's wharf, have all her working hatches and her cargo gear ready to commence working of cargo.

Commencement of discharge of cargo

19. No vessel shall commence to discharge any cargo until she is properly secured at the berth allocated to her.

Inward manifest

20.—(1) A true copy in English of the manifest certified by the master as being complete, containing all particulars as to gross weight, names of shippers, consignees, measurement, marks, numbers and contents of each package shall be deposited with the Authority or the approved port operator thirty-six hours before vessel arrival.

(2) A certified statement of any alterations made in the manifest by reason of re-measurement of goods included therein or otherwise shall also be furnished to the Authority or the approved port operator immediately on completion of discharge of cargo.

List of heavy or awkward lifts

21.—(1) The master or agent of a vessel shall on arrival, supply to the Authority or the approved port operator with a list of all packages or lifts for discharge exceeding four thousand kilograms in gross weight.

(2) If the Authority or the approved port operator supplies a crane, conveyor system or other machine for the purpose of lifting heavy weights, bulk cargo or awkward packages, such lifting or conveyance shall be performed solely on the condition that no liability whatsoever shall attach to the Authority or the approved port operator for any accident or damage howsoever caused to or by any pieces or packages so lifted.

Conditions of working vessels

22. In so far as may be possible or practicable at the time, vessels shall be allocated berths and accommodated and worked at those berths in the order of their arrival at the port, but this shall always be subject to the discretion of the Authority or the approved port operator.

Master to superintend discharging or loading

23.—(1) The master or officer in charge of a vessel, or a responsible officer appointed by him for the purpose, shall, at all times and irrespective of the source of supply of labour for stevedoring, superintend the discharging and loading of cargo on board his vessel.

(2) The vessel shall also be responsible for the rigging, unrigging, trimming and safe working condition of her cargo gear.

Vessels to be worked with reasonable dispatch

24.—(1) Every vessel shall discharge or load her cargo with reasonable dispatch, and, where the berth she occupies is, or shall shortly be required or appears to be required for another vessel, shall work such overtime including working during meal periods, as may be required by the Authority or the approved port operator.

(2) If a vessel fails to effect such dispatch or work such overtime as the Authority or the approved port operator may require, the Authority or the approved port operator may, after due warning has been given to the master or agent, order the vessel to vacate the berth, and the master shall, unless in his opinion the safety of his vessel would thereby be jeopardized, obey such order.

(3) A vessel which vacates her berth pursuant to any such order shall be re-berthed solely at the discretion of the Authority or the approved port operator.

(4) Any expenses incurred in complying with any order under this by-law shall be borne by the vessel concerned.

Responsibility for lighting vessel's working areas

25. The master or officer in charge of a vessel shall be responsible that proper lights are provided in those parts of the vessel where work is going on which is in any way connected, whether directly or indirectly, with the use of any of the berths or other property of the Authority, or when, owing to want of sufficient light, injury might result to life, limb or property from such work being in progress.

Productions of documents

26. The master or agent of a vessel shall produce to the Authority or the approved port operator any book, voucher or other document which may be required in connection with the landing or shipping of her cargo.

Method of discharging and loading and use of Authority's equipment

27.—(1) Every vessel shall, wherever practicable, make up general and bulk packaged cargo sets for discharge to the wharves on the Authority's pallets and trays provided for this purpose.

(2) The hire of these pallets and trays, and any other special equipment, if provided at the instigation of the Authority or the approved port operator shall not be for the account of the vessel; but, if the vessel or her agents request to use any cargo equipment, mechanical aids or other items of gear belonging to the Authority or the approved port operator, the hire of such equipment and gear shall be a charge on the vessel.

Part V

Handling of Cargo – Discharge and in Transit Sheds, *etc.***When cargo considered landed**

28.—(1) Subject to the provisions of by-laws 29 and 36, delivery of cargo shall not be considered to have been made to the Authority or the approved port operator until the goods have been disconnected from the vessels gear:

Provided that in no case, shall cargo be considered landed unless it is pitched not less than two metres inboard from the wharf deck edge at its nearest point.

(2) “Landed” in this by-law, means landed to the wharf deck or to a trailer or other vehicle designated for such use by the Authority or the approved port operator, whether owned by, or being used with the permission of the Authority or the approved port operator.

Free storage period

29. Cargo received into transit sheds after discharge from a vessel shall be held by the Authority or the approved port operator pending instructions from vessel’s agents, or consignees, or owners of the cargo, as to its disposal, for a period of three days from midnight following the time of arrival alongside, and this period shall not include Sundays or public holidays.

Receipt for cargo

30.—(1) The Authority or the approved port operator shall give a receipt to the master or person in charge of the vessel for all cargo received, subject to each item being properly and clearly marked and being discharged in an orderly and proper manner, and shall be based upon the outward appearance only of the packages and shall bear the following endorsement “Received in apparent good order and condition, or as otherwise stated, not accountable for weight, measurement, contents or value and subject to all the clauses governing the relative bills of lading”:

Provided that where, in the opinion of the Authority or the approved port operator, any cargo is of such a nature as to preclude an accurate tally at the time of discharge, a receipt shall be granted only after a further check is made.

(2) No receipt shall be given for any cargo landed by a vessel working at night, but a correct return, as soon as the cargo can be checked over, shall be handed to the master or agent of the vessel.

Vessel’s responsibility for sorting cargo improperly marked

31.—(1) A receipt for numbers only shall be given for iron, steel, angles, brass, plates, pipes, rice, flour, bran, cement, fertilizers or other goods which, from their want of description or of proper distinguishing marks, or because of insufficient or illegible marking, may be difficult to deliver to consignees, and the

Authority or the approved port operator shall not be responsible for the correct delivery of those goods.

(2) If it is necessary to recheck and sort to delivery by marks, the charge for this operation shall be for the account of the vessel.

General responsibility and liability

32.—(1) The Authority or the approved port operator shall not be responsible for the weight, size, character or condition of the contents of any packages and shall, in no case, be liable for a great value in regard to any goods than is stated on the vessel's receipt, bill of lading, manifests or other documents, as regards declaration of values; and, for this purpose, the Authority or the approved port operator may rely upon, and the owner of the goods shall be bound by, all statement, exceptions and conditions endorsed upon the above-mentioned vessel's documents.

(2) The Authority or the approved port operator shall in no case be responsible for any loss, damage or deterioration of any contents of packages due to any inherent defect, or to sea or other water, chemical action, act of God, inherent or latent defects in its premises, flood, effects of climate or any other circumstances over which the Authority or the approved port operator has no control, or to any misfeasance, error of judgement, theft, negligence or default of any of the Authority's or the approved port operator's servants, agents, stevedores, labourers, surveyors, tally clerks or other persons, whether or not directly or indirectly employed by the Authority or the approved port operator.

(3) The Authority or the approved port operator shall receive fragile cargo on the conditions that it shall not be responsible for breakage of any fragile or brittle goods or articles such as glassware, glass porcelain, marble or the like.

Responsibility in case of fire, etc.

33. The Authority or the approved port operator shall not be responsible for any loss or damage to goods, while in its custody, caused by fire, or by water used in extinguishing fire, or by vermin, nor for any loss or damage to iron work or goods in an unprotected state while in its custody, nor shall it be answerable or liable for any deficiency of merchandise produced by any natural or unavoidable cause.

Transit sheds, etc.

34.—(1) The Authority's transit sheds shall be closed to all members of the public.

(2) Transit sheds are those godowns for the time being used as godowns for the receipt of ship cargo by arrangement with the State Director of Royal Customs Malaysia and may or may not also be storage godowns.

(3) Every transit shed shall be recognized as such for marine insurance and Customs purposes, and shall not be recognized as a final warehouse, except where consignments of goods are placed on a storage tariff basis in any such shed.

Delivery of goods from transit sheds

35.—(1) Goods shall only be delivered to importers, consignees or their agents on production of a duly endorsed and released bill of lading, or a duly endorsed delivery order from the agents, and, in the event of such having been lodged with the Authority or the approved port operator against partial delivery of consignments, on production of a sub-delivery order from the owner, showing legal title to the goods enumerated thereon.

(2) The Authority or the approved port operator undertakes to sort, stack and deliver vessel's cargoes by leading mark only, and only where such leading mark is clear and legible.

(3) The Authority or the approved port operator does not undertake the sorting or delivery of cargo by numbers or sub-marks and shall only do so at the request and expense of the vessel or owner.

(4) Subject to clearance by officer of Customs, goods shall normally be delivered to consignees between the hours of 8.00 a.m. to 5.00 p.m. weekdays and port user to apply overtime for delivery work on Saturday, Sunday and public holiday.

(5) Notwithstanding the provision of by-law 74, the Authority or the approved port operator may, on the request of the consignee under by-laws 72 or 73(2) and subject to the approval of officer of Customs, undertake to deliver perishable goods or livestock on Sundays and public holidays; and a special fee shall be charged for such deliveries.

Insurance

36.—(1) No insurance on goods against fire, marine and other risks shall be effected by the Authority or the approved port operator except for the protection of the Authority's or the approved port operator's own interest.

(2) The Authority or the approved port operator may, before receiving into its premises any particular goods or goods of any particular class, require the consignee or owner of the goods, or his agent, to effect insurance cover in respect of such goods; and documents relating to any such goods shall have an endorsement on them by the consignee or owner of the goods or his agent, showing that insurance cover has been procured and that it has not lapsed.

Damaged or defective cargo

37.—(1) The Authority or the approved port operator shall use every endeavour to note on a damaged cargo list, the condition in which goods are received but shall not be responsible for—

(a) failing to report damage which cannot be easily detected during discharge (such as hook holes, chafe, stains, breakage, old, second-hand or re-nailed cases or the like); or

(b) failing to locate or report damaged packages discharged at night.

(2) The Authority or the approved port operator may at any time in order to safeguard the contents of packages and facilitate their storage in godowns, repair damaged bags or packages of goods, irrespective of survey; and the cost of such repairs shall be a charge upon the goods.

(3) Identified damaged or defective cargo shall be isolated from the remainder and stored in the Authority's damaged cargo lock-ups pending survey by an authorized surveyor.

(4) The master or officer in charge of the vessel concerned shall be notified of any such cargo specified in paragraph (3), and he or his appointed officer or agent shall examine the damaged or defective cargo, whether isolated on the wharf or in the godown, with a representative of the Authority or the approved port operator.

Delays and detention

38. The Authority or the approved port operator shall not be responsible for any delay in the shipment, discharge or delivery of goods owing to glut of cargo, congestion of shipping or any other circumstances beyond its control.

Tallying and checking goods

39.—(1) The Authority or the approved port operator shall tally the out turn of cargo from a vessel by making a numerical check at the place of discharge on the wharf at the vessel's side, and a full check by marks at the place of sorting and stacking in the transit shed; and receipts issued by the Authority or the approved port operator for cargo shall be based on the second of these tallies.

(2) A copy of the tally sheets made up in the transit shed shall be handed to the vessel after the tally sheets have been signed by the master or officer in charge of the vessel and by the Authority or the approved port operator.

(3) Special arrangements may be made with the Authority or the approved port operator by the vessel, shipper or consignee for additional or separate tallies if required, but such special tallies shall be for the account of the person requiring them.

Landing accounts

40. The Authority or the approved port operator shall prepare a landing account for each vessel after the expiry of the free storage period, detailing packages on manifest not landed, packages landed not on manifest, packages delivered to

consignee and those remaining in transit shed together with any other relevant details.

Cargo weight and measurement

41.—(1) When the weight or cubic measurement, whichever is applicable, of any goods is not available, the goods shall be weighed or measured, as the case may require, by the Authority or the approved port operator, and the charges therefor shall be paid by the person who presents the declaration and disposal order, delivery order or shipping order in respect of such goods.

(2) Every package exceeding two thousand kilograms in gross weight shall have the actual weight thereof legibly painted on the outside of the package in close proximity to the shipping mark; if this is not done, the package may be weighed by the Authority or the approved port operator and all expenses of weighing, extra handling, transport to and from the weighbridge and the like shall be charged to the consignee and may be forthwith recovered from him.

Marking and packages

42.—(1) Every package shall be clearly marked with Romanised shipping and port marks.

(2) Any package with insufficient or indecipherable markings may be refused by the Authority or the approved port operator, and, in any case, the Authority or the approved port operator shall accept no responsibility for any such package.

(3) When any goods are insufficiently or erroneously marked, the Authority or the approved port operator may, notwithstanding that all dues and charges have been deposited or paid, require from any person claiming such goods a special release order, signed by the ship's agents, or an indemnification against any loss or damage which the Authority or the approved port operator may sustain by reason of the delivery to such person.

(4) The Authority or the approved port operator shall not be responsible for any damage, loss, delay or non-delivery of goods occasioned by insufficient or erroneous marking.

Acids and etc., landed in leaking condition

43.—(1) When any acid, grease, oil, tar, pitch, paint or other similar substance comes into the possession of the Authority or the approved port operator in a leaky condition, the Authority or the approved port operator may in its discretion repair the leaky or defective package at the expense of the owner, and may refill any package from which the original contents have leaked with like substance from other leaky or damaged packages forming part of the same consignment.

(2) If the packages are repaired or refilled, the consignee or owner shall have no claim in respect of the manipulation of such packages:

Provided that the owner may, at the time of handling, in his orders notify the Authority or the approved port operator that he wishes such articles to be set aside, and, in that case, they may be removed to a depositing ground or placed in a warehouse at his risk and expense.

Authority may destroy dangerous goods

44. In cases of emergency or for the purpose of securing the better safety of the Port or the shipping therein, the Authority or the approved port operator may, whenever it may seem expedient to do so, destroy or otherwise dispose of any dangerous goods within its premises without compensation to the owner of the goods.

Discharge in the rain

45.—(1) The Authority or the approved port operator shall not accept any responsibility for damage to cargo discharged during rain.

(2) The master or officer in charge of a vessel, or a person duly authorized by him in that behalf, discharging in rain shall sign a certificate to that effect, otherwise the receiving of cargo shall be stopped.

Claims

46. Unless notice of loss or damage and the general nature of such loss or damage is given in writing to the Authority or the approved port operator before, or at the time of, the removal of the goods into the custody of the person entitled to delivery thereof, and the aforesaid loss or damage is agreed in joint inspection with the Authority or the approved port operator, such removal shall, until the contrary is proven, be evidence of the delivery by the Authority or the approved port operator of the goods described in the document of delivery.

Part VI

Handling of Cargo – Export Loading, etc.

Outward manifest

47. The master or officer in charge of any vessel loading cargo shall furnish to the Authority or the approved port operator either before, and in any case within forty-eight hours after, the departure of the vessel, a true copy in English of the manifest certified as being complete, containing all particulars as to shipper, consignees, gross weight, measurement, marks, numbers and contents of such packages.

Receiving cargo for shipment

48.—(1) The Authority or the approved port operator may receive cargo in good order and condition for shipment on a vessel at any date prior to the vessel's loading date and shall, if space is available for the purpose in the transit sheds, give free storage to such cargo for a period of five days prior to shipment.

(2) Goods for shipment shall, if space is available for the purpose, be accepted by the Authority or the approved port operator for storage on tariff rates for periods in excess of the free storage period.

(3) Goods for shipment shall only be received at the port's godowns between the hours of 8.00 a.m. to 5.00 p.m. from Monday to Friday, and port user shall apply before 3.00 p.m. on Friday or a day before holiday for overtime or for receiving work on Saturdays, Sundays and public holidays.

When cargo is considered shipped

49. Goods for shipment shall be placed in suitable sets on pallets or trays or in slings, by the Authority or the approved port operator and transported to the pitch alongside the vessel; and, unless mutually agreed upon to the contrary, or unless such goods are declared by the vessels as damaged or in bad condition, such goods shall be deemed to be properly delivered to the vessel when attached to the vessel's lifting gear.

Receipt for cargo shipped to vessel

50.—(1) The Authority or the approved port operator shall issue a receipt for goods received into its care from a shipper, consignor or agent for shipment.

(2) When the Authority or the approved port operator delivers the goods to the loading vessel, the Mate's Receipt issued in respect of the goods shall be handed to the Authority or the approved port operator by the master or officer-in-charge of the vessel or her agent.

(3) The Authority or the approved port operator shall hold the Mate's Receipt in respect of each parcel of goods it handles against payment of all charges and dues levied in respect of the goods by the shipper, consignor or agent, and when such charges have been made, it shall surrender the Mate's Receipt to the shipper, consignor or agent, in exchange for the receipt of goods issued by the Authority or the approved port operator.

Document required for export

51.—(1) All goods delivered to the Authority or the approved port operator for shipment shall be accompanied by a Shipping Advice Note detailing the marks, numbers, weight and measurement of all the packages and all other relevant details including the name of the vessel in which it is intended that the goods should be shipped, but no such advice note shall be construed as an order to ship.

(2) Goods shall only be delivered to a vessel for loading on receipt by the Authority or the approved port operator of a shipping order from the owner, consignor or agent duly endorsed to show the authority for the issuance of the shipping order, and an authorization by officer of Customs permitting the export of the goods.

Depositing goods for export

52.—(1) Any goods for export shall be deposited in such place as the Authority or the approved port operator may direct.

(2) Any goods deposited in contravention of this by-law may be refused by the Authority or the approved port operator, and the Authority or the approved port operator shall not accept any responsibility for their proper shipment.

Packing of export goods

53. All goods delivered to the Authority or the approved port operator for shipment shall be properly packed as to containers and shall conform in size, weight and measurement to the provision of any enactment in that behalf for the time being in force.

Part VII

Handling of Cargo – Storage

Delivery to storage warehouse

54.—(1) Goods shall be placed on storage in the Authority's premises on receipt of instruction from a vessel's owner or agent, or from a consignee or his agent if—

- (a) storage space is available;
- (b) a officer of Customs has certified in writing that all Customs formalities have been complied with in respect of the goods to be stored; and
- (c) any storage charges which may have been incurred have been paid.

(2) Where goods are to be placed on storage pursuant to paragraph (1), the goods shall be placed on storage—

(a) subject to the provision of by-law 55, directly on discharge from a vessel, in which case the provisions of the Samalaju Port Authority (Dues, Rates and Charges) Regulations, 2016 [*Swk. L.N. 290/2016*], relating to storage shall apply as from the date of receipt of such goods; or

(b) from the Authority's transit sheds during, at the expiry of or after the free storage period, in which case the above-mentioned storage provisions shall apply as from the date of the instructions to effect such storage.

Document for storage for ex vessel

55. If the vessel's agent or the importer, consignee or owner of goods wishes such goods to be placed on storage as from the date of arrival of the carrying vessel, documents relating to this shall be deposited with the Authority or the approved port operator prior to the arrival of the vessel, otherwise the Authority or the approved port operator does not undertake to store the goods within the free storage period and they may be left in transit sheds, and overtime charges shall be incurred.

Liability for storage space

56.—(1) The Authority or the approved port operator shall not be bound to find storage for any goods either in the godowns or in the open, and after notification to the owner, or agent of the vessel and to the consignees, or shippers, or both, that accommodation for such goods is not available, the Authority or the approved port operator shall not be responsible for any loss or damage that may accrue from whatever cause or reason to such goods, and the Authority or the approved port operator may remove such goods at the expense of the owner.

(2) If there is insufficient storage accommodation available, the Authority or the approved port operator may order the owners or agents of any goods to make, within a specified time, their own arrangements for the storage of such goods.

Goods stored in the open

57.—(1) The following goods shall not be accepted for storage in a warehouse, but may, if necessary, be stored or deposited in the open—

Acids	Fertilizer Grade MAP/DAP
Alumina	Machinery (unpacked)
Aluminium	Manganese Alloy
Aluminium fluoride	Manganese Ore
Aluminium product (ingot, billet and alloy wheel)	Marble slabs
Ammonia	Metallic Silicon
Anchors	Metallurgical Grade Silica
Anode Carbon	Mill Scale
Asbestos sheets or ridges	Mono/Di Potassium Phosphate
Ashes	Motor vehicles and chassis
Asphalt	Oil in drums
Ballast beams, etc.	Ores
Boilers	Paint
Bones	Pipes, earthen
Bottles, empty	Pitch
Bricks	Planks
Calcinated Petroleum Coke	Plates, iron, steel, ship and boiler
Calcium Carbonate	Polycrystalline Silicon
Calcium Fluoride	Polycrystalline Silicon (chunks)
Carbon Paste	Porcelain (uncrated)
Cargo in drums	Potassium Hydroxide
Casks, empty	Quartz
	Rails, iron and steel

Caustic Soda	Residual Carbon
Caustic Soda or chloride of lime in drums	Rock Phosphate
Chains	Semi Coke
Charcoal	Silica
Coal	Silica Quartz
Coke	Silicon manganese
Cryolite	Silicon Tetrachloride
Di-Calcium Phosphate	Sinter
Drums, empty	Slates
Earthen jars, full or empty	Sodium Chloride
Earthenware (uncrated)	Sodium Hex Monophosphate
Electrode	Sodium Tropolyposphate
Electrode paste	Spirits, methylated
Expanded metal	Stone
Ferro Silicon	Straw
Ferro-silico-manganese	Sulphur in bulk
Firewood	Sulphuric acid
Food Grade Acid	Tallow
Fume	Tanks
Gas cylinders, full or empty	Tar
Grindstones	Tiles (loose)
Hardware	Timber
Heavy fuel oil	Turpentine
Horses	Wood
Horses boxes	Woodchip
Iron castings	Yellow phosphorous
Iron, bars, coils, girders, pipes	
Iron, pig	
Ironware	
Lead	
Lime in drum	
Liquid pitch	

and any other cargo which in the opinion of the Authority or the approved port operator is not suitable by reason of its bulk or the nature of its contents for storage in a godown, or which is suitable for storing in the open.

(2) The Authority or the approved port operator shall accept no responsibility for rust, damage, or deterioration caused by rain, exposure or other action of climatic conditions, or by any other gradually operating cause, but shall provide, in so far as is possible, tarpaulins or other means of cover when these are available.

Certain goods not accepted for storage

58. The Authority or the approved port operator reserves the right to refuse for storage or warehousing, except under special conditions and always at the sole risk of the owner or his agent, the following goods—

- (a) articles of unusual length, bulk or weight, or of exceptional bulk in proportion to weight;
- (b) articles improperly, insecurely or insufficiently packed, which are consequently liable to loss or damage;
- (c) dangerous, hazardous or offensive goods, being any goods which are likely to cause harm or damage to persons or property; and
- (d) any wild animal or any large animal.

Goods detained by Customs

59. No goods detained by the State Director of Royal Customs Malaysia for examination purposes shall be liable to charges during the period they are so detained, that is to say, from the date the documents are stopped by the officer of Customs until the date of completion of examination:

Provided that during any period of delay (including delay due to falsification of documents or improper declarations) attributable to the importer, exporter or agent during the period of detention, such goods shall not be given the benefit of free storage.

Goods may be transferred

60. Any goods on which storage charges have become due may be transferred by the Authority or the approved port operator, at its discretion, to any point in the port area or left *in situ*.

Change of ownership of goods

61.—(1) Any changes of ownership to the goods in storage shall be notified to the Authority or the approved port operator immediately, and in the absence of such notification, the previous owner shall be held responsible for all charges.

(2) No transfer of interest shall be recognized unless registered in the Authority's books.

(3) A fee to be determined by the Authority per warrant shall be charged for each of such transfer.

(4) Negotiability and transfer of a godown warrant shall be subject to the condition that the Authority or the approved port operator neither expressly nor impliedly warrants that it holds any of the goods therein mentioned other than such portion thereof as remains undelivered and is shown in the books of the Authority or the approved port operator to be still on storage.

Cancelling or amending orders

62.—(1) An order from a person in lawful control of any goods, cancelling or amending a previous order, may be accepted by the Authority or the approved

port operator if it is reasonably possible to act upon the order, at the time that it is received.

(2) A charge may be made in respect of each order cancelling or amending a previous order, and such charge shall be paid at the time the new order is delivered to the Authority or the approved port operator.

Damaged cargo for storage

63. The Authority or the approved port operator does not undertake to advise cargo's owners of damage to their goods other than by noting the relevant exception on a godown warrant.

Contamination of goods

64.—(1) If any cargo deteriorates and may contaminate any other cargo, the Authority or the approved port operator reserves the right to require the cargo's owner to remove the cargo within twenty-four hours of notice given to him by the Authority or the approved port operator.

(2) If the cargo's owner fails to comply with such notice, the Authority or the approved port operator may remove the cargo to open storage at the cargo's owner's expense and risk.

Storage advice note and godown warrants

65.—(1) The owner of any goods, or his agent, issuing instructions to the Authority or the approved port operator as to the storage of such goods shall be advised in the first instance, by a storage advice note that his goods have been received.

(2) A stamped godown warrant bearing the Authority's or the approved port operator's seal shall be issued for all goods placed on monthly storage after such goods have been re-checked by the Authority or the approved port operator, and the Authority or the approved port operator reserves all rights of lien upon the goods for storage charges and other expenses due or to become due from the owner or depositor, including a lien for amounts due from the owner or depositor on general account.

Delivery of packages from storage

66.—(1) The Authority or the approved port operator shall deliver packages from storage only on surrender to the Authority or the approved port operator of the relevant warrant endorsed by the party for the time being registered in the Authority's or the approved port operator's books as entitled to the packages, or on a delivery order signed by that party; and such endorsement or signature shall be written in English by that party, in which case it shall be accompanied by the signature of a person or persons authorized to sign on behalf of that party in the English language, and the production by the Authority or the approved port operator of such warrant or delivery order shall, at all times, be conclusive proof that the

packages have been properly delivered by the Authority or the approved port operator, and shall exempt the Authority or the approved port operator from all responsibility in connection with those packages or goods.

(2) The Authority or the approved port operator shall be entitled to assume that the person presenting a warrant or delivery order is the person lawfully entitled to take delivery.

Checking storage cargo

67. In all cases where any weighing, sorting, re-stacking or re-storing is undertaken on request or by order of the owner or agent of goods on storage at any time other than on the original receipt of the goods by the Authority or the approved port operator for storing or on the final delivery from the Authority's warehouse, extra charges shall be levied according to the work carried out.

Insurance of goods on storage

68.—(1) No insurance of goods in storage against fire, loss or damage shall be effected by the Authority or the approved port operator except for the protection of the Authority's or the approved port operator's own interest.

(2) The Authority or the approved port operator may, before receiving on storage terms any particular goods or goods of any particular class, require the consignee or owner of the goods, or his agent, to effect insurance cover in respect of such goods; and documents relating to any such goods shall have an endorsement on them by the consignee or owner of the goods, or his agent, showing that insurance cover has been procured and that it has not lapsed.

(3) If any such goods are transferred on the storage whilst lying in transit sheds or as ship cargo, the owner of the goods or his agents shall produce documentary evidence that the goods are covered by the appropriate insurance, either by an extension clause to the marine policy or by a new policy succeeding the marine policy without termination of cover.

Part VIII

Conveyance of Goods by Lighters

Conditions under which goods shall be received, conveyed and delivered by lighters

69. The receipt, conveyance and delivery of goods by lighters is undertaken upon the express condition that the person with whom any contract is made is either the owner or authorized agent of the owner of goods intended to be carried and accepts both for himself and for all other parties interested in such goods the undermentioned terms and conditions, notice of which is hereby given—

- (a) the goods are carried entirely at the owner's and/or customer's risk;

(b) the Authority or the approved port operator shall not be liable for any loss, damage or delay to such goods from whatever cause arising and whensoever and wheresoever happening, and whether or not the loss, damage or delay be partly or wholly caused by any act, neglect, default, error in judgment or omission of any person or persons in the Authority's or the approved port operator's employ or in the employ of any other person or persons with whom the Authority or the approved port operator may contract for the carriage, loading, unloading, delivery and storage of any such goods and for whose act, neglect, default, error in judgment or omission the Authority or the approved port operator would if not excused by these conditions be responsible; or by the act or default of any other person or persons whatsoever and whether or not the loss, damage or delay be caused by any defect, latent or otherwise, or by any unfitness or unseaworthiness in the carrying lighter or vessel, or its tackle, fittings or appurtenances;

(c) the Authority or the approved port operator shall not be responsible for any loss, damage or delay to such goods arising from any act, neglect, default, error in judgment or omission of any person or persons, whether in the Authority's or the approved port operator's employment or not, on board any tug engaged in towing the carrying lighter or vessel, or for any defect, unfitness or insufficiency of power of any such tug; or for any act, neglect or default of any person or persons in the Authority's or the approved port operator's employ or employed in any other lighter or vessel;

(d) these conditions shall apply though the lighter may for any reason have deviated or departed from the intended course of transit of the goods and although the goods may have been loaded in the lighter with other goods;

(e) the Authority or the approved port operator shall not be liable to contribute in General Average Insurance;

(f) the Authority or the approved port operator shall not be responsible for any consequences arising from strike, lock-outs, or other labour difficulties; and

(g) the Authority or the approved port operator is shall be at liberty to employ any lighter, tug or vessel belonging to other owners or to sublet the whole or any portion of the contract, and in either event the above terms and conditions shall apply to such employment or subletting and shall be deemed to have been agreed to between the owner of the goods or customer and such other owners or sub-contractors.

Part IX

Double Banking or Ship to Ship Operation

Double Banking or Ship to Ship (STS) Operation

70.—(1) Double Banking of vessels or ship to ship operation of cargo, bunker, provision of fresh water or passenger within the Authority's premises, wharf, jetty or anchorages shall be carried in accordance with the standard operating procedures of the Port Authority or the approved port operator.

(2) The owner or agent of a vessel proposing to apply for Double Banking or STS Operation shall as early as possible and in any case not less than twenty-four hours apply to the Authority or the approved port operator in the form prescribed in the Sixth Schedule and shall submit together with the notification of arrival.

(3) All movements of the vessel shall be undertaken by the licensed pilots, mooring gangs and tugs belonging to or authorised by the Authority or the approved port operator.

(4) All charges to the said Double Banking or STS Operation shall be paid promptly and in full as per the prescribed charges, rates and dues being levied on the said vessel as contained in the Schedule of the Samalaju Port Authority (Dues, Rates and Charges) Regulations, 2016 [Swk. L.N. 290/2016].

Part X

Port Working Hours – Overtime, etc.

Working hours, overtime, definition of hours of overtime

71.—(1) Except on Sundays and prescribed public holidays, the working hours at the Authority's wharves and godown shall be 8.00 a.m. to 12.00 noon and 1.00 p.m. to 5.00 p.m. but the actual work of discharging, loading, receiving and delivering of general cargo shall cease at 11.45 a.m. and 4.45 p.m. respectively.

(2) Overtime charges at the appropriate rates specified in the Samalaju Port Authority (Dues, Rates and Charges) Regulations, 2016 [Swk. L.N. 290/2016], shall be levied in respect of any work carried out by the Authority or the approved port operator outside the hours specified in paragraph (1).

(3) Overtime outside the hours specified in paragraph (1) shall be worked solely at the discretion of the Authority or the approved port operator.

Delivery from godowns on weekdays, Sundays or holidays

72. Subject to by-laws 73 and 74, no delivery or receipt of goods will be undertaken by the Authority or approved port operator after 5.00 p.m. on weekdays, and none will be undertaken on Saturdays, Sundays and prescribed public holidays.

Saturday and Sunday working

73. Where it is required to receive and deliver cargo on Saturdays and Sundays, a request in writing shall be made to the Authority or the approved port operator not later than 10.00 a.m. on the preceding Saturday.

Holidays

74.—(1) The Authority's offices and godowns shall normally remain closed on all prescribed public holidays.

(2) Where it is urgently required to work the Authority's godowns on such prescribed public holidays, a request in writing shall be submitted to the Authority or the approved port operator not less than twenty-four hours prior to the period it is required to work.

(3) For the purposes of this Part, "prescribed public holidays" means public holidays as enumerated in the First Schedule and Second Schedule to the Public Holidays Ordinance [*Cap. 8 (1958 Ed.)*] and includes any special public holidays declared from time to time under that Ordinance.

Part XI**Passengers****Landing and embarking passengers**

75. Any passenger may use the Authority's wharf and premises subject to:

- (a) the payment of a charge; and
- (b) terms and conditions,

to be determined by the Authority.

Passengers' baggage

76. The Authority's or the approved port operator's labour to assist in transporting passengers' baggage to and from the vessel's side at wharf and from and to the transit shed doors shall be subject to a charge, the sum of which shall be determined by the Authority.

Port baggage attendants

77. Only duly authorized port labour shall be permitted to handle passengers' baggage or effects within the Authority's premises.

Part XII

General

Responsibilities of masters of vessels

78. Every master or person in charge of a vessel shall be accountable for the acts of her crew and for persons employed on her behalf.

Exclusion of liability

79. The Authority or the approved port operator shall have no liability whatsoever (whether for negligence or otherwise) for deficiency, loss, damage or misdelivery or delay to vessel or goods or any deficiency therein or death or injury to persons, if the same arises out of or is caused by any of the following—

- (a) *force majeure* including storm, tempest, lightning, flood, tsunami;
- (b) fire (including steps taken for the extinguishment thereof), explosion, smoke;
- (c) strikes, lock-outs, go-slow, blockades or other industrial action (whether lawful or otherwise) by any person or anything done in the course of furtherance of a trade dispute;
- (d) improper, insufficient, indistinct or erroneous marking or addressing of goods;
- (e) improper or insufficient packaging of goods;
- (f) any inherent vice or quality of the goods;
- (g) any act of the Authority or the approved port operator, its employees, agents, servants or sub-contractors reasonably necessary for the safety and preservation of persons, port facilities, a vessel and or any goods;
- (h) theft or wilful damage unless proven by the port user to have been committed by the Authority or the approved port operator;
- (i) vermin, insects, fungal attack, rot or corrosion;
- (j) heat or cold;
- (k) any act of directly or indirectly occasioned by happening through or in consequence of war, threat of war, invasion, act of foreign enemy, hostilities (whether declared or not), civil war, rebellion, revolution, insurrection or military or usurped power, terrorism or acts of terrorism;
- (l) any act of any person or persons acting on behalf of any organisation with activities directed towards the overthrow by force of any government;

- (m) civil disobedience at or in the vicinity of the port;
- (n) shortage of berthing space, labour, plant deficiency, fuel or power or secure covered storage accommodation;
- (o) insufficient depth of water at any berth or the approaches thereto or the unsafe condition of any berth;
- (p) late receipt of documents and approvals from the relevant government agencies pertaining to goods and vessel;
- (q) the total or partial failure of any other electronic services or systems offered at any time by or on behalf of the Authority or the approved port operator including the total or partial failure of any communication links with those services or systems;
- (r) voluntary use of a grounding berth;
- (s) human error on the part of the Authority or the approved port operator, its employees, servants, agents or sub-contractors in inputting any information into any electronic service or system operated or managed by the Authority or the approved port operator;
- (t) compliance with the instructions of any regulatory or statutory body;
- (u) any loss or damage to goods, property or death or injury to persons in premises occupied and facilities controlled by the port users within the Authority's premises where such loss or damage or injury or death was not caused by the Authority or the approved port operator, its employees, servants, agents or sub-contractors and port users as occupier of such premises shall indemnify the Authority or the approved port operator, its employees, servants, agents or sub-contractors against any claims for such loss, damage, injury or death; and
- (v) any other cause or event which the Authority or the approved port operator is unable to avoid and the consequences of which the Authority or the approved port operator is unable to prevent by the exercise of reasonable care.

Non-liability of the Authority or approved port operator for delays

80. The Authority or the approved port operator shall not be under any liability whatsoever (whether by negligence or otherwise) for any delay (including delay to a vessel or goods) or the consequences thereof or for any loss of income, loss of profits, loss of contracts, loss of savings, loss of a particular market, hire costs, survey costs, packing costs or for any other consequential loss or damage of any kind, in each case howsoever arising and whether caused by tort, breach of statutory duty, contract or otherwise.

Liability of the Authority or approved port operator

81.—(1) The Authority or the approved port operator shall be exempted from all liability whatsoever for any loss, damage or misdelivery of or to goods, cargo and/or loss or damage to vessels or death or injury to persons howsoever and whenever caused except upon proof by the port user (otherwise than by evidence only of such loss, damage, misdelivery, death or injury) that the loss, damage, misdelivery, death or injury was caused by the negligence or unlawful act or omission of the Authority or the approved port operator.

(2) The total liability of the Authority or the approved port operator for any loss, damage, claim, cost and/or expense shall in no case be more than two hundred and fifty thousand ringgit only in aggregate in respect of any one incident or series of incidents arising from or in connection with or consequent upon one event and shall be the lowest of the following as applicable—

(a) in respect of vessel, the depreciated value of such vessel or the reasonable cost of repairs (as agreed between the surveyors appointed by the Authority or the approved port operator and the vessel owner) whichever is the lesser;

(b) in respect of goods (including goods in container), the reasonable cost of repair or reconditioning in the case of damage or contamination or twenty-five percent of the value of the goods lost, damaged, contaminated or misdelivered whichever is the lesser;

(c) in respect of containers, the depreciated value or the reasonable repair cost of the containers, whichever is the lesser but in no case more than seven thousand five hundred ringgit for twenty footer dry container; twelve thousand ringgit for any other dry container exceeding twenty footer; and sixty thousand ringgit for an insulated, refrigerated or tank container;

(d) in respect of other property, depreciated value of the property or the reasonable costs of repair, whichever is the lesser provided the liability shall not exceed twenty-five thousand ringgit per incident or series of incidents arising from or in connection with or consequent upon one event; or

(e) in respect of death or injury, not more than two hundred fifty thousand ringgit per incident or series of incidents arising from or in connection with or consequent upon one event.

FIRST SCHEDULE

NOTIFICATION OF SHIP'S ARRIVAL

(Made under by-law 4(1))

As required by by-law 4(1) of the Samalaju Port Authority (Conditions of Business) By-Laws, 2016 [**Swk. L.N. 291/2016**], I hereby notify the Samalaju Port Authority that the S.S/M.V. gross tonnes is expected to arrive at the Samalaju Port at on day of, 20.....

Allocation of berthing is required at (wharf) at a.m./p.m.

This vessel shall discharge and load the following at the Samalaju Port Authority's *wharf/anchorage:

Passengers	Persons
General Cargo	Tonnes Weight
General Cargo	Tonnes
Quantity	Unit

Permission is requested to discharge and load the following at the Samalaju Port Authority's *wharf/anchorage for which *partial/full lighterage service is required:

The vessel has the following heavy lifts to discharge:

The vessel shall discharge the following cargo direct to lorry:

..... tonnes of fresh water required. Overall length metres. Gross tonnage alongside shall be metres.

I hereby accept on behalf of the vessel the Authority's Conditions of Business and all other enactments for the time being in force applicable to the Samalaju Port.

Two copies of the Ship's Inward Manifest *are attached herewith/shall be forwarded on

* Delete / complete as necessary

Signed

As Owner/Agents

.....

Date

SECOND SCHEDULE

NOTIFICATION OF SHIP'S DEPARTURE

(Made under by-law 4(2))

As required by by-law 4(2) of the Samalaju Port Authority (Conditions of Business) By-Laws, 2016 [**Swk. L.N. 291/2016**], I hereby notify the Samalaju Port Authority that the S.S./M.V. gross tonnes shall leave/has left the Samalaju Port at on day of , 20.....

During her stay in port the ship has loaded the following:

At Authority's At Wharf/Anchorage

*Insert list of cargo

Two copies of the Ship's Outward Manifest *are attached herewith/shall be forwarded to the Authority on

Signed.....

As Owner/Agents

.....
Date

* Delete / complete as necessary

THIRD SCHEDULE

APPLICATION FOR BERTH

(Made under by-law 5(1))

The General Manager,
Samalaju Port Authority,
Samalaju.

I hereby request that a berth be allocated to S.S./M.V.
..... at Samalaju Port Authority's wharf on
..... at a.m. /p.m.

The vessel shall load and discharge all her Samalaju passengers/cargo at the wharf
except the following:

for which permission to load and discharge at
..... anchorage is requested.

The vessel has the following heavy lifts to discharge:

.....
.....

The vessel shall discharge the following cargo direct to lorry:

.....
.....

..... tonnes of fresh water
required. Overall length metres. Gross tonnage
..... Maximum draft alongside shall be
metres.

I hereby accept on behalf of the vessel the Authority's Conditions of Business and all
other enactments for the time being in force applicable to the Samalaju Port.

Signed

As Owner/Agents

.....

Date

*FOURTH SCHEDULE***ALLOCATION OF BERTH**

(Made under by-law 5(2))

Date :

Messrs

.....

.....

Sirs,

With reference to your application dated
..... for a berth for your S.S./M.V.
..... I have to advise that a berth has been
allocated to this vessel at wharf on
..... at a.m./p.m. on the
following conditions:

- (1) The following goods are removed before the vessel is berthed.
- (2) The following goods remain on board provided that the enclosed undertaking is returned to me duly signed by the vessel's representative.
- (3) The following goods are discharged over the wharf direct into vehicle but shall not be accepted into the Authority's transit sheds.

Yours faithfully,

.....
Authority/ Approved Port Operator

FIFTH SCHEDULE

ORDER TO MOVE, VACATE AND/OR SHIFT BERTH

(Made under by-law 9(4))

The Master, S.S / M.V	No:	
	Date:	

Dear Sirs,

The above subject refers.

Kindly take note that due to urgent operational requirement your vessel is required to—

[] Vacate the berth by _____ hours on _____

[] Shift from meter no. _____ to meter no. _____

[] _____

For your information, this order is made in exercise of the powers conferred by by-law 9 (4) of the Samalaju Port Authority (Conditions of Business) By-Laws, 2016 *[Swk. L.N. 291/2016]*. Failure to act on this Order shall cause your vessel to be charged five (5) times the normal berth occupancy rate.

Your usual cooperation in this matter is very much appreciated.

Thank you.

Yours faithfully,

.....
Authority/Approved Port Operator

SIXTH SCHEDULE

**APPLICATION FOR SPECIAL MARINE SERVICES
TO PERFORM DOUBLE BANKING / SHIP TO SHIP OPERATION
(CARGO/BUNKER/PROVISION OF FRESH WATER/PASSENGER)**

(Made under by-law 70(2))

**APPLICATION FOR SPECIAL MARINE SERVICE
TO PERFORM DOUBLE BANKING OR SHIP TO SHIP TRANSFER**

☐	CARGO	☐	BUNKER	☐	PROVISION
☐	FRESH WATER	☐	PASSENGER	☐	OTHERS

Please tick (✓) wherever is applicable and cross (X) for those not applicable.

PARTICULARS OF ANCHOR/BIGGER/INNER VESSEL/RECEIVING VESSEL

Name of Vessel :	_____	Type of Vessel :	_____
Flag :	_____	Call Sign :	_____
Port of Registry :	_____	Official No :	_____
Length Overall :	_____ m	Gross Tonnage :	_____ T
Breadth Extreme:	_____ m	Nett Tonnage :	_____ T
D.W.T. :	_____ T	Arr. Displacement :	_____ T
Arrival Draft :	_____ m	Dep. Displacement :	_____ T
Anchor Cable :	_____ Shackles	Crew O/B :	_____ Pax

Type of cargo on board (if any) _____

Date of Arrival (ETA) _____

Expected Duration of Transfer _____

Duration of Port Stay _____

Purpose of Transfer _____

PARTICULARS OF THE OUTER/SMALLER/SUPPLYING VESSEL

Name of Vessel :	_____	Type of Vessel :	_____
Flag :	_____	Call Sign :	_____
Port of Registry :	_____	Official No :	_____
Length Overall :	_____ m	Gross Tonnage :	_____ T
Breadth Extreme :	_____ m	Nett Tonnage :	_____ T
D.W.T. :	_____	Arr. Displacement :	_____ T
No. Mooring Ropes :	_____	Crew O/B :	_____ Pax

AUTHORISED AGENT/OWNER

Name:..... Position:.....

Address:.....

.....

Contact No: Mobile:

PERSON IN OVERALL ADVISORY CONTROL/DESIGNATED PERSON

Name :..... Position:.....

Contact No. 1 :..... No.2:.....

We/I, _____ Owner/Owner's
Representative /Authorised Agent of the above vessel hereby accept and agree to comply with the
terms and conditions of this permit.

Signature : _____ Date: _____

Chop : _____

Name : _____

Address : _____

Email : _____

Tel No : _____ Fax No: _____

- For the purpose of this permit, the person signing this form shall be deemed to be the Owner/Owner's Authorised Agent of this vessel.

FOR OFFICIAL USE ONLY

☐ Approval is hereby granted _____ to perform Double
Banking/Ship to Ship Transfer Operation at _____

Starting From : _____

Complete on or before : _____

Renewed or Extended till : _____

Remarks by Authority/Approved Port Authority

- i) _____
- ii) _____
- iii) _____
- iv) _____
- v) _____
- vi) _____

☐ After careful assessment and consideration, to the best of my knowledge and ability at this moment, we are not granting the Approval

Remarks by Authority/Approved Port Operator

- i) _____
- ii) _____
- iii) _____

Authority/Approved Port Operator

Date: _____

☐ (✓) Tick for approval and cross (X) for not applicable

Made this 9th day of November, 2016.

DATUK AMAR TAN SRI HAJI MOHAMAD MORSHIDI BIN ABDUL GHANI,
Chairman
Samalaju Port Authority

Swk. L. N. 292

PORT AUTHORITIES ORDINANCE, 1961
SAMALAJU PORT AUTHORITY
(CONTROL OF ENTRY AND SECURITY) BY-LAWS, 2016

ARRANGEMENT OF BY-LAWS

Part I
Introduction

By-Law

1. Citation and commencement
2. Interpretation

Part II
Security

3. Admittance to Authority's premises
4. Entering and leaving Authority's premises
5. Wharves and premises may be closed
6. Labour to carry identification
7. Passenger carrying vehicle
8. Vehicles to park at assigned places
9. Vehicles to move when required
10. Behaviour of motorists
11. Dangerous driving
12. Danger signal
13. Dock passes for parcels, etc.
14. Unauthorized craft not to lie at wharves
15. No hawking in Authority's premises
16. Offence and penalty

PORT AUTHORITIES ORDINANCE, 1961
SAMALAJU PORT AUTHORITY
(CONTROL OF ENTRY AND SECURITY) BY-LAWS, 2016
(Made under section 64(3)(d))

In exercise of the powers conferred upon the Samalaju Port Authority by section 64(3)(d) of the Port Authorities Ordinance, 1961 [*Ord. No. 1/61*], the following By-laws have been made:

Part I
Introduction

Citation and commencement

1. These By-laws may be cited as the **Samalaju Port Authority (Control of Entry and Security) By-laws, 2016**, and shall be deemed to have come into force on the 21st April, 2014.

Interpretation

2. In these By-laws—

“approved port operator” has the same meaning assigned to that expression under the Ordinance;

“Authority” means the Samalaju Port Authority established under section 3(1) of the Ordinance;

“Authority’s premises” means all immovable properties belonging to, occupied by or vested in the Authority and includes wharf, dock, pier, landing places and water limit under the control of the Authority;

“Authority’s wharf” or “wharf” means a quay, pier, jetty or other landing place and includes any wall or building adjoining the foreshore, seabed or river bed;

“officer of Customs” means an authorised officer from the Royal Malaysian Customs;

“Ordinance” means the Port Authorities Ordinance, 1961 [*Ord. No. 1/61*];

“port security officer” means the person or persons appointed by the Authority or the approved port operator as provided for by Part X of the Ordinance;

“vehicle” includes a carriage travelling on its own wheels or runners and used or intended to be used for the conveyance or carriage of persons, animals or goods;

Part II
Security

Admittance to Authority’s premises

3.—(1) No person shall enter the Authority’s premises or remain therein without the written permission of the Authority or the approved port operator and every person shall, when asked by any officer or employee of the Authority or the approved port operator, state the nature of his business.

(2) Every person entering the Authority’s premises shall produce identification documents and other documents on demand by any port security officer.

(3) Any person who contravenes this by-law may, without prejudice to his liability to any other proceedings, be forthwith removed from the Authority’s premises and excluded therefrom.

Entering and leaving Authority’s premises

4. Any person entering or leaving the Authority’s premises shall do so through the entrances or exits provided for the purpose and shall, while within the Authority’s premises, be subject to the lawful order of the Authority or the approved port operator.

Wharves and premises may be closed

5. The Authority or the approved port operator may, when it considers desirable to do so, close to the public any part of the Authority’s premises, and may prohibit the use thereof save in accordance with such conditions including the payment of charges as the Authority or the approved port operator may deem fit to impose.

Labour to carry identification

6. The Authority or the approved port operator may require any workman employed within the Authority’s premises to carry and exhibit an identification document.

Passenger carrying vehicle

7. No passenger or passenger carrying vehicle shall enter the Authority’s premises save under and in accordance with the terms and conditions of a permit issued by the Authority or the approved port operator.

Vehicles to park at assigned places

8. Every vehicle within the Authority's premises shall be parked in such a place as may be assigned to it by the Authority or the approved port operator.

Vehicles to move when required

9. Every person in charge of a vehicle within the Authority's premises shall move his vehicle if required to do so by the Authority or the approved port operator.

Behaviour of motorists

10. Any driver or person in charge of any vehicle shall, at all times when arriving at, while within or when leaving the Authority's premises conduct himself in an orderly manner, and shall comply with such directions as may from time to time be issued by the Authority or the approved port operator, and with the terms of all notices or signs exhibited by the Authority or the approved port operator.

Dangerous driving

11. No person shall drive a vehicle on any road within the Authority's premises in a manner which is dangerous to other users of that road.

Danger signal

12. No person shall while in the Authority's premises disregard any danger signal or refuse to stop when called upon to do so by a port security officer or any other person authorized on behalf of the Authority or the approved port operator.

Dock passes for parcels, etc.

13.—(1) Any officer of Customs, police officer, port security officer or other person authorized in that behalf by the Authority or the approved port operator may refuse to allow any person to remove from the Authority's premises any parcel, package or other article unless such person produces in relation to that parcel, package or other article a dock pass issued by the Authority or the approved port operator.

(2) No dock pass in respect of manifested cargo, passenger's baggage or manifested articles "ex ship" shall be issued until all requirements of the Royal Customs Malaysia have been complied with in respect thereof, and until all port dues, rents, rates and charges in respect thereof have been paid or secured.

Unauthorized craft not to lie at wharves

14. No vessel shall, without the Authority's or the approved port operator's permission, lie alongside any of the Authority's wharf or close to any of the Authority's premises or lie alongside any vessel occupying one of the Authority's berths.

No hawking in Authority's premises

15. No person shall vend refreshments, exchange money, sell or expose for sale any goods, hold auctions or solicit customs on the Authority's premises, or from vessels alongside the Authority's premises, unless he has been authorized in writing by the Authority or the approved port operator.

Offence and penalty

16. Any person who contravenes any provision of these By-laws shall be guilty of an offence and shall, upon conviction, be punished with a fine of not exceeding one thousand ringgit:

Provided that this offence may be compounded in accordance with section 53A of the Ordinance.

Made this 9th day of November, 2016.

DATUK AMAR TAN SRI HAJI MOHAMAD MORSHIDI BIN ABDUL GHANI,
Chairman
Samalaju Port Authority

SAGC

Swk. L. N. 293

PORT AUTHORITIES ORDINANCE, 1961
SAMALAJU PORT AUTHORITY (PLACES FOR DISCHARGING AND
LOADING OF CARGO) ORDER, 2016

ARRANGEMENT OF ORDERS

Order

1. Citation, commencement and application
2. Interpretation
3. Handling of cargo
4. Application for use of sufferance wharf
5. Offence and penalty

SCHEDULE

PORT AUTHORITIES ORDINANCE, 1961

SAMALAJU PORT AUTHORITY (PLACES FOR DISCHARGING AND
LOADING OF CARGO) ORDER, 2016

(Made under section 62)

In exercise of the powers conferred upon the Minister by section 62 of the Port Authorities Ordinance, 1961 [*Ord. No. 1/61*], the following Order has been made:

Citation, commencement and application

1.—(1) This Order may be cited as the **Samalaju Port Authority (Places for Discharging and Loading of Cargo) Order, 2016**, and shall be deemed to have come into force on the 21st day of April, 2014.

(2) The Order shall apply to all cargoes which may be discharged from or loaded into any vessel in the Samalaju Port being cargo:

- (a) imported on that vessel; or
- (b) to be exported on that vessel,

into or from Sarawak respectively.

Interpretation

2. In this Order—

“approved port operator” has the same meaning assigned to that expression under the Ordinance;

“Authority” means the Samalaju Port Authority established under section 3(1) of the Ordinance;

“Authority’s premises” means all immovable properties belonging to, occupied by or vested in the Authority and includes wharf, dock, pier, landing places and water limit under the control of the Authority;

“cargo” means any cargo including container—

- (a) which is imported through the port from any places outside of Sarawak;
 - (b) in respect of which the original packaging or volume of content or the name of the consignee remains unchanged, at the time of entering the port;
 - (c) which is exported from the port to any places outside of Sarawak;
- or

(d) in respect of which the original packaging or volume of content or the name of the consignor remains unchanged, at the time of leaving the Samalaju Port.

“Ordinance” means the Port Authorities Ordinance, 1961 [*Ord. No. 1/61*];

“port” means the Samalaju Port within the limits declared under the Ordinance.

Handling of cargo

3. All cargoes to which this order applies shall be discharged or loaded—

(a) at the Authority’s premises; or

(b) with the prior written permission of the Authority or the approved port operator, at any private anchorage or private wharf within the limit of the port.

Application for use of sufferance wharf

4. Any person who wishes to discharge or load any cargo at any private anchorage or private wharf located outside the Authority’s premises (in this Order referred to as “sufferance wharf”) and within the limit of the port shall apply for a permit in the form prescribed in the Schedule.

Offence and penalty

5. Any person who contravenes order 3 shall be guilty of an offence and shall, upon conviction, be punished with a fine of not exceeding fifteen thousand ringgit or imprisonment not exceeding three years or to both:

Provided that this offence may be compounded in accordance with section 53A of the Ordinance.

SCHEDULE

APPLICATION FOR PERMIT FOR THE USE OF A SUFFERANCE WHARF

(Made under order 4)

To: The General Manager/Approved Port Operator,
Samalaju Port Authority

We wish to apply for permission to use a sufferance wharf for vessel/barge
..... from to load/discharge cargo at
..... on

Type of cargoes (per attached manifest):

.....
(Authorized Signature & Name)
Official Stamp of Ships Agent

Date:

(For official use by Samalaju Port Authority)

Reference No:

This application for sufferance wharf is * Approved/Not Approved

.....
(General Manager/Approved Port
Operator)

Date:

(For official use by Royal Customs, Malaysia)

Reference No:

This application for sufferance wharf is * Approved/Not Approved

.....
(Authorized Customs Officer)

Date:

*Delete whichever is not applicable.

Made this 11th day of November, 2016.

DATUK AMAR TAN SRI DR. JAMES JEMUT ANAK MASING,
Minister for Infrastructure, Development and Transportation
Sarawak

Swk. L. N. 294

PORT AUTHORITIES ORDINANCE, 1961
SAMALAJU PORT AUTHORITY (PILOTAGE) REGULATIONS, 2016

ARRANGEMENT OF REGULATIONS

Part I

Introduction

Regulation

1. Citation and commencement
2. Interpretation

Part II

Pilotage District

3. Declaration of pilotage district
4. Type and class of vessels to be under pilotage
5. Authority to employ pilots
6. Vessel to be piloted by a licensed pilot

Part III

Pilotage Committee

7. Rules in relation to Pilotage Committee
8. Appointment and functions of Pilotage Committee
9. Constitution of Pilotage Committee
10. Power of Pilotage Committee to issue licence as pilot
11. Further examination to act as pilot
12. Issuance of licence shall not implicate Pilotage Committee and the Authority
13. Inquiries by Pilotage Committee
14. Submission of Pilotage Committee's findings and recommendations to the Authority

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Pilotage Regulations

15. Pilot deemed to be the servant of the master
16. Training
17. Compliance with requirement while under pilotage restriction
18. Liability of master or owner in cases of vessel under pilotage
19. Limitation of licensed pilot's liability when bond is given
20. Summary proceedings
21. Pilotage services charges
22. Pilot waiting time
23. Exception for pilotage service

Part V
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24. Pilot to be conversant and compliant to all written laws
25. Pilot to attend frequently at the pilotage office
26. Pilot to be in uniform
27. Pilot to carry licence and other documents
28. Pilot to behave in a civil manner
29. Pilot to board vessel upon request
30. Pilot to use care and diligence to prevent any accident or damage while piloting a vessel
31. Pilot to board any vessel displaying international quarantine signal
32. Pilot refused to conduct any vessel
33. Pilot to obtain written statement from master
34. Pilot to report any vessel with unsafe manoeuvring
35. Pilot to immediately report any accident
36. Pilot to report any overloaded vessel
37. Pilot to report any malfunctioning navigation aid
38. Pilot to report any impediment, obstruction or alteration within pilotage district
39. Pilot to have the conduct of an outward and inward bound vessel
40. Pilot to obtain certificate signed by the master before leaving the vessel
41. Pilot to keep record of the vessel piloted
42. Pilot to report any contravention
43. Pilot not to permit unauthorised company when boarding any vessel
44. Pilot to ensure all communication equipment or other equipment in good working condition
45. Pilot to undergo annual medical examination, eyesight and audiometric test
46. Pilot absence from duty
47. Pilot to attend before the Pilotage Committee

- 48. Suspension of pilots
- 49. Suspension of pilot on duty involved in serious incident or accident
- 50. Marine manager to refer to Pilotage Committee
- 51. Pilot to surrender licence upon termination

SAGC

PORT AUTHORITIES ORDINANCE, 1961

SAMALAJU PORT AUTHORITY (PILOTAGE) REGULATIONS, 2016

(Made under section 64(1)(j))

In exercise of the powers conferred upon the Samalaju Port Authority by section 64(1)(j) of the Port Authority Ordinance, 1961 [**Ord. No. 1/61**], and with the approval of the Majlis Mesyuarat Kerajaan Negeri, the following Regulations have been made:

Part I

Introduction

Citation and commencement

1. These Regulations may be cited as the **Samalaju Port Authority (Pilotage) Regulations, 2016**, and shall be deemed to come into force on the 21st day of April, 2014.

Interpretation

2. In these Regulations—

“approved port operator” has the same meaning assigned to that expression under the Ordinance;

“Authority” means the Samalaju Port Authority established under section 3(1) of the Ordinance;

“contractor” means an individual or company engaged by the Authority or the approved port operator and licensed by the Pilotage Committee to provide pilotage service;

“marine manager” means the officer appointed by the Authority or the approved port operator to be in charge of the marine traffic and safety navigation and includes his assistants and any other officer acting under or with his authority;

“Pilot Boarding Ground A” means the point where a pilot embarks a vessel for the purpose of piloting a vessel at Latitude 03° 37.0’ North, Longitude 113° 16.4’ East or at any point as determined by the Authority;

“Pilot Boarding Ground B” means the point where a pilot embarks a small coastal vessel for the purpose of piloting such vessel at Latitude 03° 34.7’ North, Longitude 113° 18.3’ East or at any point determined by the Authority;

“licensed pilot” means a qualified person from the Authority or the approved port operator who is duly licensed by the Pilotage Committee including a pilot duly licensed under regulation 10;

“Ordinance” means the Port Authorities Ordinance, 1961 [*Ord. No. 1/61*];

“Pilotage Committee” means the Samalaju Port Authority’s Pilotage Committee having jurisdiction to examine, regulate the conduct and discipline of the licensed pilots of the Authority or the approved port operator and issuance of the licence;

“pilotage district” means any area in the port or the approaches to the port that has been defined therein the limits to be the Pilotage District of Samalaju Port;

“port” means the Samalaju Port within the limits declared under the Ordinance.

Part II

Pilotage District

Declaration of pilotage district

3. The Minister may from time to time by notification in the *Gazette* declare an area in the port or the approaches to the port to be a pilotage district and shall define therein the limits of the pilotage district.

Type and class of vessels to be under pilotage

4.—(1) The Authority or the approved port operator may require type or class of vessels as it may from time to time specify be under pilotage while navigating in a pilotage district and the master or owner of every vessel or type and class of such vessel shall comply with such requirement.

(2) A vessel while being moved within any area of the port which is or forms part of a pilotage district shall be deemed to be a vessel navigating in a pilotage district.

Authority to employ pilots

5.—(1) Subject to this regulation, the Authority or the approved port operator may employ such number of pilots as it deems necessary or expedient for the purpose of providing an adequate and efficient pilotage service.

(2) No person shall be employed as a licensed pilot in a pilotage district unless he is in possession of a valid licence to act as a pilot in the pilotage district issued under regulation 10.

Vessel to be piloted by a licensed pilot

6. No vessel shall be piloted in a pilotage district by any person other than a person licensed under regulation 10.

Part III
Pilotage Committee

Rules in relation to Pilotage Committee

7. The Minister may make rules for the purpose of regulating the meetings and proceedings of the Pilotage Committee.

Appointment and functions of Pilotage Committee

8. The Authority shall with the approval of the Minister appoint a Pilotage Committee for the purpose of—

- (a) holding examinations and issuing on behalf of the Authority, licences to act as the approved port operator's pilots or as pilots employed by a licensed contractor;
- (b) holding inquiries concerning the conduct of port pilots or persons licensed under regulation 10 in the discharge of their duties as directed by the Authority and making recommendations to the Authority;
- (c) investigating and advising on such matters as may be referred to the Pilotage Committee by the Authority or the approved port operator; and
- (d) carrying out such other functions as are conferred on the Pilotage Committee by this regulation.

Constitution of Pilotage Committee

9.—(1) The Pilotage Committee shall consist of a chairman and four other persons who, by reason of their knowledge of or experience in shipping, nautical or port matters are, in the opinion of the Authority, fit and proper persons to be members of the Pilotage Committee; and the Chairman of the Pilotage Committee shall be the General Manager of the Authority.

(2) The appointment of a member of the Pilotage Committee shall be for a period of not exceeding three years but the member shall be eligible for reappointment on completion of every such period.

(3) Three members of the Pilotage Committee shall form a quorum at a meeting of that Committee.

(4) The Chairman of the Pilotage Committee shall preside at all of its meetings:

Provided that in the absence of the Chairman, the members present shall choose one of their number to preside in his place.

(5) If on any question to be determined there is an equality of votes, the chairman or member presiding shall have the casting vote in addition to his original vote.

(6) Members of the Pilotage Committee who are not officers or servants of the Authority shall be paid such fees and allowances out of the funds of the Authority as the Authority may determine.

Power of Pilotage Committee to issue licence as pilot

10.—(1) The Pilotage Committee shall have power to issue a licence to any employee of the approved port operator or its contractor (including candidates for employment by the Authority or approved port operator) to pilot vessels in a pilotage district of Samalaju Port subject to such terms and conditions as the Authority or the approved port operator deems fit:

Provided that no such licence shall be issued to any such employee or person unless the Pilotage Committee has examined him and be satisfied as to the his general fitness and competency, including his physical fitness, to act as a pilot for the approved port operator or its contractor.

(2) Notwithstanding sub-regulation (1), every pilot holding immediately prior to the coming into force of this regulation a licence to act as a pilot issued under any written law shall be deemed to be qualified for employment by the Authority or the approved port operator as a pilot, and the Pilotage Committee may, on behalf of the Authority or the approved port operator, issue to such pilot when employed by the Authority or the approved port operator a licence to act as an Authority's or the approved port operator's pilot in a pilotage district, subject to such conditions as the Pilotage Committee may impose.

(3) A licence issued under this regulation shall cease to be valid if the person to whom it was issued ceases to be employed by the approved port operator or its contractor.

Further examination to act as pilot

11.—(1) Every licensed pilot shall whenever the Pilotage Committee considers that, owing to change of conditions or for any other sufficient reason, the further testing of the general fitness (including physical fitness) and competency of any such pilot is necessary, be present for further examination, and shall in every such case first deposit with the Pilotage Committee the licence issued by that Committee on behalf of the Authority or the approved port operator to be returned or cancelled by the Committee as the result of such test or examination.

(2) The Authority or the approved port operator shall not continue to employ as a pilot any person whose licence to act as a pilot is cancelled pursuant to sub-regulation (1).

Issuance of licence shall not implicate the Pilotage Committee and the Authority

12. The issuance of a licence to a pilot by the Pilotage Committee on behalf of the Authority or the approved port operator under regulation 10 shall not implicate or impose any liability on the Pilotage Committee and the Authority for any loss or damage occasioned by an act, omission or default of such pilot.

Inquiries by Pilotage Committee

13.—(1) The Pilotage Committee may, and when directed by the Authority or the approved port operator shall, hold an inquiry into the conduct of an Authority's pilot or the approved port operator's pilot or a person licensed under regulation 10 where it appears that he has been guilty of misconduct affecting his capability, or has failed in or neglected his duty, or has become incompetent to act as such pilot.

(2) For the purposes of the inquiry, the Pilotage Committee may summon any person to attend any of its meetings to give evidence or produce any document or other thing in his possession and to examine him as a witness or require him to produce any document or other thing in his possession relating to the matters which are the subject matter of such inquiry.

(3) Any person who—

(a) being summoned to attend any such inquiry, fails so to do; or

(b) being required by the Pilotage Committee to give evidence or affirmation or to produce a document or other thing, refuses so to do,

shall be guilty of an offence and shall, upon conviction, be punished with a fine of not exceeding five thousand ringgit.

Submission of Pilotage Committee's findings and recommendations to the Authority

14.—(1) Where the Pilotage Committee, after due inquiry in accordance with this regulation and after hearing any statement that maybe offered in defence, finds that an Authority's pilot or the approved port operator's pilot or a person licensed under regulation 10 has been guilty of misconduct affecting his capability, or has failed in or neglected his duty, or has become incompetent to act as a pilot, it shall submit to the Authority or the approved port operator a copy of the record of the inquiry and its findings and recommendations in respect of the inquiry.

(2) The Authority or approved port operator may, after considering the findings and recommendations of the Pilotage Committee, suspend or cancel the licence of the licensed pilot or person licensed under regulation 10 or impose such other punishment as the Authority or the approved port operator may deem fit.

(3) Any Authority's pilot or the approved port operator's pilot or any person licensed under regulation 10 who is aggrieved by a decision of the Authority or the approved port operator made under this regulation may, within fourteen days from

the date of such decision, appeal to the Minister whose decision thereon shall be final.

Part IV

Pilotage Regulations

Pilot deemed to be the servant of the master

15. A licensed pilot whilst engaged in an act of pilotage shall, notwithstanding being employed by the Authority or the approved port operator or its contractor, be deemed to be the servant only of the master or owner of the vessel under pilotage and the Authority or the approved port operator or its contractor shall not be liable for any loss or damage occasioned by any act, omission or default of such pilot.

Training

16. All licensed pilots shall be required to undergo training in accordance with the training schedule as approved by the Pilotage Committee from time to time.

Compliance with requirement while under pilotage restriction

17. A pilot whilst under pilotage restriction shall comply with the requirements in the training schedule as may be authorised by the Pilotage Committee from time to time.

Liability of master or owner in cases of vessel under pilotage

18. The master or owner of a vessel navigating in circumstances in which pilotage is compulsory shall be answerable for any loss or damage caused by the vessel or by any fault of the navigation of the vessel in the same manner as he would be if pilotage were not compulsory.

Limitation of licensed pilot's liability when bond is given

19.—(1) All licensed pilot who has given a bond in accordance with sub-regulation (2) shall not be liable for neglect, want of skill or incapacity in office beyond the penalty of the bond and the amount payable to the Authority or the approved port operator on account of pilotage in respect of the vessel in which he was engaged when he became so liable.

(2) Every licensed pilot shall undertake to give a bond in favour of the Authority or the approved port operator in the sum of not exceeding five thousand ringgit for the proper performance of duties under these Regulations and any rules or by-laws made under the Ordinance.

(3) Any bond given by a licensed pilot in accordance with this regulation shall not be liable to stamp duty.

(4) Where any proceedings are taken against a licensed pilot for any neglect, want of skill or incapacity of employment in respect of which his liability is limited

as provided by this regulation, and other claims are made in respect of the same neglect, want of skill or in capacity of employment, the court in which such proceedings are taken may—

- (a) determine the amount of the pilot's liability and, upon payment by him of the amount to court, distribute the amount rateably among the several claimants;
- (b) stay any proceedings pending in any other court in relation to the same matter; and
- (c) proceed in such manner and subject to such directions as to making persons interested parties to the proceedings, and as to the exclusion of any claimant who has not submitted his claim within a certain time, and as to requiring security from the pilot and as to payment of any costs as the court deems fit.

Summary proceedings

20. A court may, if it deems fit, call upon two members of the Pilotage Committee to sit with it as assessors in any proceedings affecting licensed pilots under these Regulations or any rules or by-laws made thereunder.

Pilotage service charges

21.—(1) When a pilot boards a vessel and finds the vessel is not ready to move, he shall wait on board for a maximum period of one hour.

(2) The first half-hour of detention is not chargeable; however, the next half-hour shall be chargeable.

(3) If the vessel is not ready at the end of one hour period, the pilot shall return to the pilotage office and the order to be considered as cancelled and a cancellation charge shall apply.

(4) The agent of the vessel shall obtain a fresh time from the pilotage office and request for a fresh pilot service.

Pilot waiting time

22.—(1) A pilot waiting for incoming vessel whose estimated time of arrival is confirmed shall wait for a maximum period of half hour at the Pilot Boarding Ground A or B as the case may be.

(2) Where a pilot is requested and his services not used, the full charge shall be imposed as if services had been rendered.

Exception for pilotage service

23. All vessels navigating within the pilotage district are required to be under pilotage except —

- (a) vessels owned by the Malaysian Government;

- (b) locally registered small craft of less than 25m length overall; or
- (c) any other vessel as may be determined by the Pilotage Committee from time to time.

Part V

Pilot's Conduct

Pilot to be conversant and compliant with all written laws

24. A pilot shall be conversant and comply with all written laws and directives relating to his duties.

Pilot to attend frequently at the pilotage office

25. A pilot shall attend frequently at the pilotage office to examine the latest plans and charts of the port and other information concerning the port.

Pilot to be in uniform

26. A pilot when on duty either ashore or afloat, shall wear such uniform as prescribed by the Authority or the approved port operator.

Pilot to carry licence and other documents

27. A pilot shall carry his licence and other documents at all times when on duty and shall make the documents available for inspection by the master of any vessel employing him.

Pilot to behave in a civil manner

28. A pilot shall behave in a civil manner towards the owner, master and officers of any vessel under his charge.

Pilot to board a vessel upon request

29. A pilot shall upon request punctually board the vessel at a given time when the owner, master or agent of a vessel requires the services of a pilot for moving a vessel.

Pilot to use care and diligence to prevent any accident or damage while piloting a vessel

30. A pilot shall use care and diligence to prevent any accident or damage either to the vessel he is piloting or to properties of any kind whatsoever and shall not cause obstruction or interference to the navigation of other vessels in any navigable channel or anchorage.

Pilot to board any vessel displaying international quarantine signal

31. A pilot may board any vessel displaying international quarantine signal for the purpose of piloting it.

Pilot refused to conduct any vessel

32. A pilot who has refused to conduct any vessel shall immediately notify the marine manager and submit his reasons for doing so in writing within twenty-four hours of such refusal.

Pilot to obtain written statement from master

33. A pilot on board a vessel the conduct of which has been assumed by the master for whatever reason shall obtain a written statement to that effect from the master of the vessel.

Pilot to report any vessel with unsafe manoeuvring

34. A pilot who having the conduct of a vessel discovers conditions which may be detrimental to the safe manoeuvring of the vessel shall notify the marine manager immediately of such conditions.

Pilot to immediately report any accident

35. A pilot shall immediately notify the marine manager of any accident that occurs whilst the vessel is being piloted and submit a report to the marine manager within twenty-four hours of the accident.

Pilot to report any overloaded vessel

36.—(1) A pilot shall if he finds that a vessel to which he has to conduct appears to be overloaded, immediately report the overloading to the marine manager, and shall not undertake the conduct of the vessel unless instructed to do so or otherwise.

(2) The marine manager having received the report of the overloading shall take immediate steps as he may deem fit.

Pilot to report any malfunctioning navigation aid

37. A pilot shall if he finds or has any reason to believe that any navigation aid has malfunctioned, including being out of its proper position or has broken adrift or is damaged or missing or defective, as soon as is practicable make a report to the port control tower and the marine manager.

Pilot to report any impediment, obstruction or alteration within pilotage district

38. A pilot who finds any impediment, obstruction or alteration within the pilotage district (including any change or apparent change in any landmark) which may pose a risk to navigation, shall forthwith report such impediment, obstruction, alteration or change to the marine manager.

Pilot to have the conduct of an outward and inward bound vessel

39.—(1) A pilot having the conduct of an outward-bound vessel shall remain on board the vessel until the service for which he has been engaged is completed and the master has agreed to resume the conduct thereof.

(2) A pilot having the conduct of an inward-bound vessel shall remain on board the vessel until the vessel has anchored, moored or otherwise secured to the satisfaction of the master.

Pilot to obtain certificate signed by the master before leaving the vessel

40. A pilot shall obtain a certificate signed by the master which shall contain such particulars as may be required by the Authority or the approved port operator before leaving a piloted vessel, and shall deliver such certificate to the marine manager upon completion of the move.

Pilot to keep record of the vessel piloted

41. A pilot shall keep a record of the vessels being piloted which contain information as the marine manager may from time to time direct and shall be submitted to the marine manager for inspection as and when required.

Pilot to report any contravention

42.—(1) A pilot shall report any contravention of the Ordinance or its regulations, orders or any laws to the marine manager.

(2) All reports under this regulation shall be in such a form as may be required to be by the marine manager.

Pilot not to permit unauthorised company when boarding any vessel

43. A pilot shall not permit or be accompanied by any unauthorised person when boarding any vessel.

Pilot to ensure all communication equipment or other equipment in good working condition

44. A pilot shall ensure that all communication equipment or other equipment issued to him is maintained in good working condition and the instructions given for the use thereof shall be complied with.

Pilot to undergo annual medical examination, eyesight and audiometric test

45. A pilot shall undergo a medical examination, eyesight and audiometric test once a year or whenever deemed necessary by the Pilotage Committee.

Pilot absence from duty

46. A pilot shall not be absent from duty unless permitted to do so by the marine manager.

Pilot to attend before the Pilotage Committee

47. A pilot shall attend before the Pilotage Committee upon being summoned to do so by the chairman of the Pilotage Committee.

Suspension of pilots

48.—(1) A pilot who is unable to discharge duties efficiently due to sickness, or any defect to eyesight or hearing or intoxication shall be liable to immediate suspension from duty until certified fit to resume duty.

(2) A pilot who is found to be involved in fraud, bribery, act of corruption, false claims or testimony shall be liable to immediate suspension from duty; and the marine manager shall decide on the duration of suspension as he may deem fit.

Suspension of pilot on duty involved in serious incident or accident

49. A pilot shall be immediately suspended from duty if the piloted vessel is, in the opinion of the marine manager, involved in a serious incident or accident which is caused by the negligence of the pilot; and the marine manager shall decide on the duration of suspension as he may deem fit.

Marine manager to refer to Pilotage Committee

50. The marine manager shall refer any events or reports of misconduct and actions taken under this Part to the Pilotage Committee for its further action under these Regulations.

Pilot to surrender licence upon termination

51. A pilot shall surrender his licence to the Pilotage Committee upon termination of employment with the Authority or the approved port operator.

Made this 9th day of November, 2016.

DATUK AMAR TAN SRI HAJI MOHAMAD MORSHIDI BIN ABDUL GHANI,
Chairman
Samalaju Port Authority

Approved this 10th day of November, 2016.

HAJAH SUTIN BINTI SAHMAT,
Clerk to Majlis Mesyuarat Kerajaan Negeri

[To be laid upon the table of the Dewan Undangan Negeri at its next meeting under section 64(2) of the Port Authorities Ordinance, 1961]

Swk. L. N. 295

THE PORT AUTHORITIES ORDINANCE, 1961
SAMALAJU PORT AUTHORITY (PILOTAGE DISTRICT)
DECLARATION, 2016

In exercise of the powers conferred by regulation 3 of the Samalaju Port Authority (Pilotage) Regulations, 2016 [**Swk L.N. 294/2016**], the Minister has declared that the pilotage district limits of Samalaju Port shall be over the whole area of the Samalaju Port limits as declared under the Port Authorities (Declarations of Port) Notification, 2012 [**Swk L.N. 98/2012**] with effect from the 21st day of April, 2014.

Dated this 11th day of November, 2016.

DATUK AMAR TAN SRI DR. JAMES JEMUT MASING,
Minister for Infrastructure Development and Transportation, Sarawak

SAGC

