



Platform Terms of Use

March 2023

Private & Confidential

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## **1. Introduction**

Shipergy Ltd, a private limited company organised and existing under the laws of England and Wales, whose registered office is at 83 Cambridge Street, Pimlico, SW1V 4PS, London, England (“SHIPERGY”), is the sole and exclusive owner of an online platform that contains information (including, without limitation, data, databases, standards, photographs, web logs, maps), web tools, search engines and software (the “Platform”). The Platform is administered by SHIPERGY and/or by its affiliates.

Access to the Platform is conditional upon (a) your registration and consent to the present Terms of Use (the “Terms of Use”) and the Privacy Policy, and (b) creation of your account by SHIPERGY, or signing-in with existing Google or LinkedIn or e-mail Accounts (when using the free edition and features available without creating an account).

Your agreement with SHIPERGY includes the present Terms of Use and the Privacy Policy (together the “Agreement”). Unless otherwise provided herein, defined terms shall have the meaning ascribed to them in the Privacy Policy.

By registering or signing-in to the Platform, you represent that you are authorized to bind yourself and the business or company that you are affiliated with (if applicable) to use the Platform. If the Platform is being used on behalf of a business or company, such business or company shall be responsible for said use as well as for all decisions regarding said use, such as the selection of the subscription package, the number of users who have access to it and the termination of the accounts of users affiliated with the business or company.

SHIPERGY shall have the right to grant to third parties a license to access and use the Platform or any of the material contained therein or resulting therefrom at any time.

## **2. Consent to the Terms of Use**

You acknowledge that, following your registration and upon creation of your account by SHIPERGY, or by signing-in with existing Google or LinkedIn or e-mail accounts you have entered into a legally binding agreement with SHIPERGY under the Terms of Use and represent that you have the power and authority to do so.

You represent that you have read and agree to be bound by the Terms of Use. SHIPERGY reserves the right to modify or revise the Terms of Use at any time, unilaterally and without notice. The revised Terms of Use become effective on the date they are published on the website hosting the Platform, which is accessible via <https://wave.shipergy.com/> (the “Website”) and/or the Platform. SHIPERGY advises you to periodically check the Terms of

Use for any such modifications or revisions. In the event of any material changes to the Terms of Use, SHIPERGY will also notify you via e-mail at the email address you have provided upon registration. Your continued use of the Platform after such changes have been posted as provided above constitutes your binding acceptance of such changes.

### **3.Registration**

For the purposes of registering and creating an account, which are necessary for your access to the Platform when purchasing a paid account, you shall select a username and a password. You shall provide SHIPERGY with registration information that will be requested, all of which you warrant and represent to be accurate, truthful and will be updated, if any of such information changes. When accessing and using the Website and the Platform by using the free edition and features available without creating an account, you will be asked to sign in via Google Sign-In or LinkedIn Sign-In or e-mail Sign-In. Therefore, you will need to create or have an existing Google or LinkedIn or e-mail account, which is a prerequisite for you to use the free edition product.

You may only register if you are 18 years old and above.

You shall not: (i) select a username already used by another person; (ii) use a username in which another person has rights without such person's authorization; or (iii) use a username or password that SHIPERGY, in its sole discretion, deems offensive or inappropriate.

You shall be solely responsible for maintaining the confidentiality of your username and password.

SHIPERGY reserves the right to deny creation of your account.

You are solely responsible for all use, authorized or unauthorized, of the Platform under your username and password, regardless of whether you are accessing through an account created by SHIPERGY or through Google or LinkedIn or e-mail Sign-In. You must notify SHIPERGY immediately of any unauthorized use of the Platform.

You may not, directly or indirectly, in whole or in part, by operation of law or otherwise, assign, transfer or delegate any of your rights or obligations under this Agreement without the prior written consent of SHIPERGY. Any attempted assignment, transfer or delegation without SHIPERGY's prior written consent will be void and unenforceable.

## 4. Use of the Platform / Restrictions on use

- a. SHIPERGY grants to you a limited, restricted, non-exclusive, non-transferable and revocable license to access and use the Platform, the material contained therein and resulting therefrom for your internal business purposes and/or for your personal use subject to the provisions of the Terms of Use. You accept usage limits to the Platform and that SHIPERGY may restrict access to it, as set forth under the Terms of Use. You may not use the Platform or any of the material contained therein or resulting therefrom for resale or other transfer or disposition to, or use by, or for the benefit of, any other person or entity. You may not use or dispose of the Platform or any of the material contained therein or resulting therefrom in any manner that could compete with the business of SHIPERGY or its affiliates.
- b. Except to the extent required by law, or as expressly provided herein, you may not copy, take screenshots, (re)distribute, (re)publish, transfer, (re)sell, (sub)/(re)license, lease, give, store, permanently retain, recompile, decompile, disassemble, reverse engineer, disseminate, assign (whether directly or indirectly, by operation of law or otherwise), transmit, scan, publish on a network, display, or otherwise reproduce, disclose, modify, translate into any language or make available to others, or create derivative works from, the Platform or any of the material contained therein or resulting therefrom.
- c. You may not download and/or extract any data or other material contained in the Platform or resulting therefrom, either manually or automatically, including through the use of web scraping software or any technique of screen scraping, web scraping or report mining.
- d. You may not sell, transfer, sublicense, relicense and/or commercially exploit the Platform or any of the material contained therein or resulting therefrom for third-party transactions, commercial time-sharing, rental and/or service bureau use and/or publicly perform and/or publicly display the Platform or any of the material contained therein or resulting therefrom.
- e. You may not remove any copyright notice, trademark and/or other proprietary notices of SHIPERGY, its affiliates and/or any third-party providers contained on or in the Platform or any of the material contained therein or resulting therefrom. You shall take any and all actions that may reasonably be required by SHIPERGY to protect the proprietary rights as owned by SHIPERGY, its affiliates and/or third-party providers.
- f. You may not make or retain copies of the Platform or of any of the material contained therein or resulting therefrom, in any form, except as expressly provided herein.

- g. You acknowledge that the Platform, the material contained therein and any material resulting therefrom, regardless of the form or the medium on which they are delivered or displayed, are developed entirely at private expense, comprise valued proprietary and commercial information of SHIPERGY, its affiliates and/or third-party providers and are the property of SHIPERGY, its affiliates and/or of third-party providers. You acknowledge that the license granted herein does not confer any ownership rights whatsoever in the Platform or any of the material contained therein or resulting therefrom. You must secure the Platform, the material contained therein and the material resulting therefrom to prevent access by unauthorized individuals or local area network users. You shall take all reasonable steps to ensure that no unauthorized persons shall have access to the Platform or any of the material contained therein or resulting therefrom.
- h. You may not use the Platform, or any of the material contained therein or resulting therefrom, for any illegal purpose, for the facilitation of the violation of any law or regulation, or in any manner inconsistent with the Agreement.
- i. To the extent applicable under your subscription package, you may submit Business Information (as defined below) for the provision of broader and more detailed outputs, information and results (the "Own Results"), under the terms provided for in the Terms of Use.
- j. You may "copy to clipboard" any of the material contained in the Platform or resulting therefrom, provided that the Platform enables the relevant functionality.
- k. You represent and warrant: that you own or otherwise control all of the rights to Business Information that you submit; to the extent that you submit Business Information, that you have the power and authority to submit Business Information for the purposes of the Agreement; that Business Information is truthful and accurate; that use by SHIPERGY and/or its affiliates of Business Information for purposes of the Agreement does not violate any agreement. You may not submit Business Information that: (i) are unlawful, harmful, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, libelous, hateful or racially, ethnically or otherwise objectionable; (ii) you do not have the right to make available (such as inside information, proprietary and confidential information acquired or disclosed as part of employment relationships or under non-disclosure agreements); (iii) infringe upon any patent, trademark, trade secret, copyright or other proprietary rights of any party; (iv) contain software viruses or any other computer code, files or programs, designed to interrupt, destroy or limit the functionality of any computer software or hardware, or telecommunications equipment; (v) are promotional in nature, or constitute junk mail, spam, chain letters, pyramid schemes or the like.

Failure by you to comply with this clause might result in termination of the Agreement, in accordance with clause 10 herein, and/or claims for damages.

- I. Unless otherwise agreed, you shall not be entitled to any technical support in relation to the Platform.

## 5. Fees and terms of payment

- a. The Platform and the full range of services and functions are provided for a fee. Free use of limited content and functions may be available for free, however the registration through an existing Google or LinkedIn or e-mail account is required in order to access such free services. Depending on your business needs and preferences, you or the business or company that you are affiliated with may choose among the subscription packages offered by SHIPERGY, each of which is provided for a fee. More information about the subscription packages can be found on the Website.

Under certain subscription packages offered by SHIPERGY, you or the business or company that you are affiliated with, may switch from one subscription package to another, or increase the number of users that use the subscription package that you or the business or company that you are affiliated with have selected beyond the minimum number of users of such package (any such user, the "Additional User"), subject to the limitations of any such subscription package, as provided for in the Website, at any time, even during the term of a calendar month, provided, however, that you may not make any such changes more often than once per day.

Depending on the subscription package that you or the business or company that you are affiliated with have selected, the fee may be:

- i. adjusted pro-rata to account for (a) the days per calendar month on which such subscription package was active for the minimum number of users under such package, and (b) the days per calendar month on which any Additional User Was active under such package, or
  - ii. fixed based on the duration of the subscription package that you have selected.
- b. Depending on the subscription package that you or the business or company that you are affiliated with have selected, a subscription package may be activated when:
  - i. a user logs into his/her account for the first time under such package, in which case the package gets deactivated when a new subscription package is selected for all users of such package or when all relevant user accounts under such package are cancelled, or

- ii. the payment for the selected package has been effected.
- c. To the extent applicable, an Additional User becomes active when he/she logs in to his/her account for the first time under the subscription package to which he/she was added, and is deactivated when his/her account is included in another subscription package or is cancelled. A calendar month shall be deemed to have thirty-one (31) days.

SHIPERGY will issue and provide you with an invoice in respect of the fee payable for the use of the Platform and its services. Depending on the subscription package that you or the business or company that you are affiliated with selected, the invoice will concern:

  - i. the amount of fees due for the use of the Platform and its services during the preceding calendar quarter at the end of such calendar quarter, in which case the invoice shall be due within thirty (30) days of the date on which it was issued, or
  - ii. the fixed fee that you have paid for your subscription package upon such subscription.
- d. SHIPERGY reserves the right to modify, terminate or otherwise amend the subscription packages or the fees or the terms of payment. You will be notified of any amendments to the subscription packages or the fees 15 days before any such amendment becomes effective.

Additional fees may apply to services of the Platform that may be added from time to time and to which you or the business or the company that you are affiliated with elect to subscribe.

All payments which you are liable to make against the use of the Platform should be made without deduction or withholding for or on account of any tax payable under any law of any pertinent jurisdiction.

## 6. Confidentiality

Where either you or SHIPERGY and/or its affiliates (the "Discloser") provides the other party to the Agreement (the "Recipient") with Confidential Information, such information shall be held in strict confidence and shall not be disclosed or used for any purpose unless (a) the prior written consent of the Discloser is provided, or (b) required by any applicable law or pursuant to the order or demand of a competent court, administrative authority or recognized stock exchange, provided in such case that the Recipient shall promptly notify the Discloser of such requirement before proceeding with any such disclosure and shall disclose only that portion of the Confidential Information as is legally required to disclose, or (c) as otherwise expressly provided in the Agreement. The Recipient shall exercise the same degree of care it uses to protect its own confidential or proprietary information but no less than a reasonable standard of care.

For the purpose of this clause, "Confidential Information" means: (a) Discloser's business, technical, technological, operational, financial, economic, commercial and legal information, including, without limitation, any information relating to Discloser's products, services, prices, marketing plans, analytics, technologies, business process management, business transactions, business relationships, business opportunities, customers, personnel, methodologies, business portfolio; (b) business information provided by you for the use of the Platform and/or its services and/or for the purposes of the provision by SHIPERGY of broader and more detailed outputs, information and results available only to you, unless otherwise provided herein, such as information about transactions, vessel name, vessel size, vessel position, delivery place, vessel status ("Business Information"); (c) any other information of Discloser that is specifically designated as confidential or proprietary; and (d) any information that, by its nature, Recipient knows or should know is confidential or proprietary.

Confidential Information shall not include: (a) information that is or becomes public knowledge other than by a breach of this clause; (b) information that is obtained from a third party without breach of an obligation of confidentiality; (c) information that can be shown to have been independently developed by means other than through access to the Confidential Information; (d) any and all documents and/or information you submit concerning or containing vessel particulars; you hereby grant the irrevocable license to make any and all such documents and/or information available to all users; (e) any and all documents and/or information you submit to the email address allocated to you by SHIPERGY and/or its affiliates containing the mention "public"; you hereby grant the irrevocable license to make any and all such documents and/or information available to all users, subject to the terms of any further agreement between you and SHIPERGY and/or its affiliates; (f) if the Platform is being used on behalf of a business or company, the name of that business or company, its domain name and its logo as user of the Platform; such information may be disclosed by SHIPERGY and/or its affiliates for promotional and/or marketing purposes.

Each time you submit Business Information, you grant to SHIPERGY and its affiliates the limited, irrevocable, non-transferable right of use of said Business Information, including, without limitation, the right to read, process, analyse, integrate Business Information, combine them or fuse them with other data, subject to the limitations of this clause. SHIPERGY warrants that SHIPERGY and/or its affiliates will not use Business Information that you submit for any other purpose apart from the provision of your Own Results, that will be available only to you, unless you otherwise agree or unless otherwise provided herein.

### **Business Information may only be disclosed:**

- By SHIPERGY and/or its affiliates to comply with any applicable law, including laws outside your country of residence, and to respond to requests from courts, public and/or judicial authorities, which may include such authorities outside your country of residence, provided that SHIPERGY and/or its affiliates shall provide you with prompt written notice thereof and shall disclose only such Business Information as it is required to disclose.
- By SHIPERGY and/or its affiliates to a third-party in the event of a merger, sale or transfer of assets, joint venture, assignment, reorganization or bankruptcy or other similar proceedings.
- By SHIPERGY and/or its affiliates to allow third-party providers to assist SHIPERGY and/or its affiliates in providing you with the services of the Platform, as long as such third-party providers have signed a non-disclosure agreement providing for a similar standard of protection for Business Information as provided for herein.
- By you on pages, features or any services of the Platform to which you are able to post information and materials, provided that a relevant notice is displayed regarding the disclosure of said information and materials to other users. Please note that any information you post or disclose through these pages, features or services may be made available to other users as well.
- By you to anyone with whom you communicate through the Platform.
- By SHIPERGY and/or its affiliates to be made available to all users, subject to your consent.

You shall not provide any Confidential Information about others unless you are authorized to do so. By submitting Confidential Information about others, you represent and warrant

that you are authorized to do so and that you have received authorization from the person about whom you provide information and that that person has consented to have all such information used, disclosed and transferred in accordance with this clause.

You acknowledge and agree that the employees of SHIPERGY and its affiliates may gain access to your Confidential Information. SHIPERGY and/or its affiliates shall limit such access on a need-to-know basis. SHIPERGY and/or its affiliates shall take all reasonable steps to ensure that such employees are informed of the confidential nature of the Confidential Information and comply with the provisions of this clause.

SHIPERGY and its affiliates have put in place reasonable technical, organizational and other measures to protect your Confidential Information from unauthorized use and/or disclosure. Such measures also apply to entities directly or indirectly controlling, controlled by or under common control with SHIPERGY and/or its affiliates.

## **7.Disclaimer / Limitation of liability**

The Platform, the material contained therein and the material resulting therefrom is provided by SHIPERGY “as is” and “as available”. SHIPERGY may add, remove or change functionalities or features. SHIPERGY gives no warranties of any kind concerning the Platform or any of the material contained therein or resulting therefrom, to the fullest extent permissible by law. In particular, SHIPERGY expressly disclaims all warranties, whether express or implied, of availability, accuracy, completeness, currency, reliability, non-infringement of third parties’ rights, merchantability or fitness for a particular purpose of any material contained in, displayed on, resulting from or otherwise available from the Platform, including Business Information and/or third parties’ information and/or data, if applicable, and expressly disclaims (to the maximum extent permitted by any applicable law) any and all liability for any damage or loss resulting from use of or reliance on the Platform or any of the material contained therein or resulting therefrom.

Although SHIPERGY takes all reasonable measures to ensure the security of its systems, it does not warrant that the services and products provided in or through the Platform and/or the material contained therein or resulting therefrom will be uninterrupted, error-free or free from defects in design or engineering, that defects will be corrected or that the online services or the servers that render the functions, services and materials available are free of viruses or other harmful components. SHIPERGY assumes no responsibility for any infection by virus or other harmful material that might infect your computer equipment, computer programs, data or other proprietary material due to use of the Platform or any of the material contained therein or resulting therefrom, and shall not be liable for any related costs incurred, including without limitation the servicing or replacement of equipment or data. You must take all precautions in this respect.



Notwithstanding anything to the contrary in the Agreement, in no event whatsoever shall SHIPERGY, its affiliates and/or their respective directors, officers, shareholders, employees, advisors, agents, and/or SHIPERGY's, affiliates's third-party providers and/or their respective directors, officers, shareholders, employees, advisors, agents be liable for any direct, indirect, incidental or consequential losses or damages, including without limitation loss of profits and opportunity costs, business interruption, loss of data, trading losses, anticipated savings, loss of goodwill, reputation, revenue or business, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, even if foreseeable, even if they have been advised of the possibility of such damages. In circumstances where loss or damage is suffered arising out of or in connection with the use, inability to use or performance of the Platform or any of the material contained therein or resulting therefrom, SHIPERGY, its affiliates and/or their respective directors, officers, shareholders, employees, advisors, agents, and/or SHIPERGY's, its affiliates third-party providers and/or their respective directors, officers, shareholders, employees, advisors, agents shall not be liable for such loss or damage, whether due to inaccuracy, error, omission, delay, unavailability or interruption, failure in performance or any other cause whether on the part of SHIPERGY, its affiliates and/or their respective directors, officers, shareholders, employees, advisors, agents, and/or SHIPERGY's, its affiliates third-party providers and/or their respective directors, officers, shareholders, employees, advisors, agents. In any event, it is your responsibility to evaluate the accuracy, completeness or usefulness of the Platform, the material contained therein and the material resulting therefrom. SHIPERGY, its affiliates and/or their respective directors, officers, shareholders, employees, advisors, agents and SHIPERGY's, affiliates third-party providers and/or their directors, officers, shareholders, employees, advisors, agents shall not be liable for any claims against you by third parties.

The Platform or any of the material contained therein or resulting therefrom might contain references or links to third-party websites, including without limitation links to websites of third-party providers. SHIPERGY assumes no responsibility for the content, accuracy, completeness, up-to-dateness and availability of any website or resources linked on the Platform or any of the material contained therein or resulting therefrom, or for any loss or damage that may arise from the use of such websites or resources. These linked websites and resources are provided solely for your reference and convenience, and not as an endorsement by SHIPERGY of their content or operation. Any decision to visit a linked or referenced third-party website must be taken at your own risk.

To the extent permitted by applicable law, the aggregate liability of SHIPERGY, its affiliates, their respective directors, officers, shareholders, employees, advisors, agents and SHIPERGY's, affiliates, third-party providers and their respective directors, officers, shareholders, employees, advisors, agents, in connection with any claim arising out of or relating to the Platform or any of the material contained therein or resulting therefrom, shall not exceed any amount paid by you, or the business or company that you are affiliated with, for use of the Platform in the twelve (12) calendar months preceding

notification by you to SHIPERGY and/or its affiliates of the claim. If no such amount is paid, then the aggregate liability stated above is equal to zero (0).

The present clause shall survive any termination of the Agreement.

## **8. Indemnification**

You hereby agree and undertake to hold SHIPERGY, its affiliates and their third-party providers, as well as their respective officers, directors, employees, agents, contractors, assignees, third-party providers, suppliers, and successors in interest (the "Indemnified Parties") harmless against any and all demands, actions, claims, liabilities, damages, losses, costs, charges and expenses, including but not limited to attorneys' fees and expenses, (the "Claims") resulting or arising from your use of the Platform or any of the material contained therein or resulting therefrom or any breach of the Agreement (the "Indemnified Causes"). This undertaking shall apply only to the extent that the Indemnified Parties are named, or threatened with being so named, in an action or proceeding alleging that the Indemnified Causes partially or wholly gave rise to the alleged cause of action. The indemnification obligation shall survive any termination of the Agreement. SHIPERGY will provide you with notice of any such Claim or allegation. SHIPERGY always reserves the right to voluntarily participate in proceedings regarding such Claim at its own expense.

## **9. Intellectual Property**

Any technology and other similar proprietary property related to, forming a part of, embodied in, or necessary for use of the Platform, or any of the material contained therein or resulting therefrom (the "Intellectual Property") are, and shall remain, the sole and exclusive property of SHIPERGY, its affiliates, their third-party providers, and/or other entities that have granted SHIPERGY, its affiliates and/or their third-party providers the right and license to use such Intellectual Property (the "Owners"). Owners hold and reserve all right, title and interest in and to their respective Intellectual Property, including but not limited to, copyrights, patents, trade secrets, database rights, trademark rights, rights to software, rights to computer programs, applications and other related products, rights to trade names, service marks, designs and other product and service names and logos, know-how related to the design, function or operation of the Platform. You acknowledge that you have no right, title or interest in and to the Intellectual Property. You may not use, copy, reproduce, retransmit, distribute, disclose, disseminate, sell, publish, broadcast, circulate or interfere with the Intellectual Property in any way without the appropriate Owner's express prior written consent. Except as expressly provided herein, the Owners do not grant to you any express or implied rights to the Intellectual Property.

Actual or attempted illegal or unauthorized use of the Intellectual Property is strictly prohibited and may result in criminal and/or civil prosecution. Unless otherwise provided herein, it is explicitly forbidden to copy or reproduce the Platform, or any part of its content, functionality or design, or the software and the technologies on which the Platform is based. For the avoidance of doubt, it is hereby explicitly provided that the Intellectual Property rights residing in the architecture and software of the Platform and its supporting technology comprise confidential information – in the sense of clause 6 of the Agreement – which is provided to you as part of this Agreement. Without prejudice to the interdictions contained in the preceding paragraph, you shall not disclose any Intellectual Property information and any Intellectual Property information about the Platform, its architecture or software, or its supporting technology to any third party. The present clause shall survive any termination of the Agreement.

## **10. Termination**

- a. You are authorized to use the Platform or any of the material contained therein or resulting therefrom exclusively for the duration of the Agreement. You agree that SHIPERGY at its sole discretion, may terminate the Agreement or suspend your access to and use of the Platform or any of the material contained therein or resulting therefrom, at any time, with immediate effect, if (a) SHIPERGY has reasonable indication that you are accessing or using the Platform or any of the material contained therein or resulting therefrom in violation of the Agreement; or (b) you commit a breach of any term or condition of the Agreement and do not cure such breach within five (5) days of written notice thereof; or (c) you object to the processing of your Personal Information, as further provided for in the Privacy Policy; (d) your assets are transferred to an assignee for the benefit of creditors, to a receiver or to a trustee in bankruptcy, a proceeding is commenced by or against you for relief under bankruptcy or similar laws and such proceeding is not dismissed within sixty (60) days, or you are declared bankrupt; or (e) required by legal or regulatory authority; or (f) so suggested by legal counsel to protect SHIPERGY's and/or its affiliates liability to third parties; or (g) if you fail to make any payment whatsoever due and payable to SHIPERGY; and (h) in the case that you are accessing the free edition and services available, if SHIPERGY and/or its affiliates decides to discontinue your account or the distribution of any free products and/or services. SHIPERGY, at its sole discretion, may terminate the Agreement at any time without cause by giving you prior written notice at least five (5) days. In the event you have submitted payment for a specific period of time, SHIPERGY, at its sole discretion, may terminate the Agreement at any time without cause by giving you prior written notice at least five (5) days prior to the end of your then-current

account commitment.

You may cancel your account at any time.

- b. Upon termination, all licenses granted herein will immediately terminate and all fees and expenses owed by you through the date of termination automatically and immediately become due and payable.

Upon termination, you must immediately (i) discontinue the use of the Platform, the material contained therein and the material resulting therefrom, (ii) destroy and purge from electronic media any items relating to the Platform, any of the material contained therein and any material resulting therefrom without limitation; and (iii) provide a notarized written certification to SHIPERGY that you have complied with this clause.

Upon suspension of your access to and use of the Platform or any of the material contained therein or resulting therefrom, you must immediately discontinue the use of the Platform, the material contained therein and the material resulting therefrom. SHIPERGY may authorize you to continue the use of the Platform or any of the material contained therein or resulting therefrom as soon as it is satisfied at its sole discretion that the reasons for which suspension was decided no longer apply, provided that any such authorization shall be given no later than fifteen (15) business days from the date of suspension. If no such authorization is given, then the Agreement shall be deemed terminated by SHIPERGY.

- c. Accessing the Platform after such suspension or termination shall constitute an act of trespass. Further, you agree that SHIPERGY shall not be liable to you or any third party for any suspension of your access to the Platform or any of the material contained therein or resulting therefrom, or termination of the Agreement.

## **11. Force majeure**

SHIPERGY may be excused from the performance of any obligation under the Agreement due to any act or condition whatsoever beyond the reasonable control of, and not occasioned by the fault or negligence of SHIPERGY, including, without limitation, acts of God, acts of terrorism, acts of nature or of a public enemy, acts of a government or any state or political subdivision thereof, internet outages, fires, floods, explosions, wars, or other catastrophes, labor disturbances, freight embargos, or delays of a supplier or subcontractor due to such causes.

## **12. Security measures**

SHIPERGY may impose any security measures it reasonably deems appropriate to ensure compliance with the Agreement, including covert and overt copy-detection and license awareness technology and encoding of requestor/user information in printed and

electronic formats. Any attempt to circumvent such access restrictions or SHIPERGY security measures will be considered a material breach of the Agreement.

### **13. Notices**

Any notice given under the Agreement shall be sent via email.

You shall communicate with SHIPERGY at the following address: info@shipergy.com. SHIPERGY shall communicate with you at the email address you have provided upon registration. Delivery of a notice is deemed to have taken place on the business day after it has been sent.

### **14. Assignment**

You may not assign or transfer the Agreement or any of the rights and/or obligations hereunder to any third party without SHIPERGY's prior written consent. SHIPERGY reserves the right to assign or transfer the Agreement and/or any of the rights and/or obligations hereunder to any third person provided that it will notify you of any such assignment or transfer within a reasonable time after its execution. Any assignment in violation of this clause shall be null and void.

### **15. Relationship of the parties**

The parties are independent contractors. The Terms of Use do not create an agency, partnership, joint venture, fiduciary duty, employment relationship or other form of legal association between SHIPERGY and/or its affiliates and you.

### **16. Third-party rights**

Except for SHIPERGY, its affiliates, and their respective directors, employees and representatives, a person that is not a party to the Agreement has no right under the UK Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Agreement, but this does not affect any right or remedy of a third party that exists or is available apart from that Act.

## **17. Entire agreement**

The Agreement constitutes the entire agreement. Nothing said by any person on SHIPERGY's and/or its affiliates behalf should be understood as a variation of the Agreement or as an authorized representation about the nature or quality of the Platform or any of the material contained therein or resulting therefrom.

The Agreement supersedes all prior agreements, negotiations and discussions between you and SHIPERGY and/or its affiliates relating to the subject matter of the Agreement, and you acknowledge that you have not entered into the Agreement in reliance on any statement or representation except in so far as the representation has been incorporated into the Agreement. Save for fraud or fraudulent misrepresentation, SHIPERGY shall have no liability for any representation being untrue or misleading.

## **18. Severability**

If any provision of the Agreement is found to be invalid or unenforceable in any jurisdiction, then that provision will be deemed superseded by a valid, enforceable provision that is in line with the intent of the original provision, and the remaining portions will remain in full force and effect.

## **19. Waiver**

A failure or delay by SHIPERGY or its affiliates to exercise any right or remedy provided under this Agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under this Agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy.

## **20. Governing law / Jurisdiction**

The Agreement and its performance (including any non-contractual obligations) shall be governed by the laws of England and Wales, excluding its conflict of laws rules and

provisions. The parties shall submit to the exclusive jurisdiction of the courts of London (England) for any dispute or claim arising out of or in connection with the Agreement.