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**Lolland Kommune**  
Kommunale Havne

**Postadresse**  
Nakskov Havn  
Stensøvej 1  
4900 Nakskov

Tlf.: 54 67 73 32

havne@lolland.dk  
www.nakskovhavn.dk

**Kontaktperson**  
Tummas Juul  
Kommunale Havne

tuju@lolland.dk  
Tlf.: 54677331

## General Provisions for lease of port areas in Lolland Havne

### 1. Taking over and developing the Leased Area

1.1 The Leased Area is taken over 'as is' and in the condition in which it is found on the date of the lease. The Lessee thus takes over the Leased Area without any responsibility or liability for the Lessee or Lessor regarding the Leased Area's soil conditions or for any contamination caused by former lessees.

1.2 The Lessee has familiarised itself with, and observes the contents of, registered easements, profits à prendre and restrictive covenants for the Leased Area.

1.3 If the Lessee wishes to invoke a matter of soil conditions and/or contamination, the Lessee must do so within twenty (20) weeks of taking over the Leased Area. If the Lessee documents that its planned building projects, which have been approved by the Lessor, will be made significantly more expensive as a consequence of soil conditions/contamination, the Lessee may cancel the lease within the stated twenty (20) week period and neither party may subsequently make any claims against the other party.

1.4 If the Lessee excavates or moves soil on or from the Leased Area, the Lessee is obliged to comply with all requirements regarding excavation and moving of soil in accordance with the Danish Soil Contamination Act and to pay all associated costs without being entitled to make any claims against the Lessor in this connection.

1.5 The Lessee is entitled to erect a fence around the Leased Area and is obliged to do so upon the Lessor's demand. The fence must be placed on the Lessee's

area and approved by the Lessor before being erected. Any doors or gates in the fence must not open outwards.

1.6 Maintenance of the fence is the Lessee's responsibility, and the fence must be maintained in good condition. The expenses of any shared fences are paid proportionately by the lessees whose areas border the fences.

1.7 If it appears from statutory or public authority requirements that special measures (access control) must be adopted on the Leased Area under the ISPS Code or similar rules, the Lessee must adopt such measures upon the Lessor's demand at no expense to the Lessor unless the Lessor charges an ISPS fee for gross tonnage or levied on cargo, or another agreement has been made.

1.8 No utilities (electricity, water and heating) are supplied to the Leased Area. If utilities are to be connected to the Leased Area, this will be at the Lessee's expense and subject to the Lessor's prior written approval.

1.9 At its own expense and according to a plan approved by the Lessor, the Lessee must provide drains from the Leased Area and any buildings etc. thereon to the Lessor's or the municipality's sewerage system.

The Lessor may, however, arrange for drainage works etc. to be carried out at the Lessee's expense after fair and reasonable assessment by the Lessor.

1.10 The Lessee has been informed that supply lines may be situated on the Leased Area. If the Lessor is aware of any such lines, the Lessor will provide information on this when entering the lease. The Lessee is obliged to respect the presence of these lines and to give the line owners free access to necessary maintenance work etc. Any relocation of the lines is subject to the consent of the line owners and the Lessor and at no expense to the Lessor. Further information is available from the line owners and in the Danish Register of Underground Cable Owners (LER).

1.11 The Lessee has been expressly informed that there may be remains of earlier buildings on the Leased Area and that anchoring systems, port structures etc. may also be present. Such anchoring systems etc. must in no circumstances be weakened in connection with any demolition or erection of buildings and the Lessee is fully liable to the Lessor and any third party for damage.

1.12 If special foundation work is required for the construction of any buildings, facilities etc., it is the Lessee's responsibility to take measures to ensure that quay structures, adjoining buildings, facilities etc. are not damaged due to excavation, lowering of the water table, discharge of excavation material, piling works or otherwise.

1.13 Lowering of the water table, use of pile drivers and similar particularly hazardous work is subject to the Lessor's prior written agreement.

1.14 If pile foundation is used, the Lessee must arrange for a land surveyor to locate the piles and their positions must be shown on a map to be delivered to the Lessor.

1.15 Any erection of buildings, sheds, other stationary facilities, including silos, large mechanical apparatus, other construction work or similar, and any posting of advertising signs etc. on the Leased Area requires the Lessor's prior written consent.

1.16 Plans and detailed drawings etc. of the desired buildings, facilities etc. as well as documentation that the required permissions from the authorities have been obtained must be submitted to the Lessor for written approval before any such work is commenced.

1.17 When opened, gates, doors, windows etc. must not extend beyond the boundary lines unless their lower edge is at least five (5) metres above ground level.

1.18 Material changes to the outer appearance of the Leased Area and to any buildings and facilities must

not be made without the Lessor's prior written consent.

1.19 The Lessee is fully liable under the general rules of Danish law for any damage to buildings, facilities, port structures and equipment owned by the Lessor or a third party if it is found that such damage was caused by the Lessee's erection of buildings, facilities etc.

1.20 Costs relating to compliance with public authority requirements regarding the Lessee's own erection, layout and operation of buildings and facilities are paid by the Lessee, who is responsible for obtaining the required approvals etc. from the authorities.

The Lessee will also obtain regulatory approvals if required in connection with subsequent changes to the Leased Area.

1.21 Orders from public authorities regarding the Lessee's layout and use, issued after takeover of the Leased Area in conformity with the lease, are irrelevant to the Lessor and the Lessee must comply with them at no expense to the Lessor.

1.22 The Lessee is responsible for providing sufficient parking on the Leased Area for use by staff attached to the Lessee's business. Parking is not allowed on the Lessor's roads etc.

## **2. Use of the Leased Area**

2.1 The Leased Area may only be used for the purposes indicated in section 3 of the lease for the port area. If necessitated for an adjoining quay structure, paving or other circumstances, the Lessor may fix a maximum load limit for the Leased Area.

2.2 Goods and substances which are highly flammable or explosive, corrosive or malodorous or that can be unpleasant or hazardous for the surroundings and otherwise pollute must not be stored unless the Lessor grants special written permission. Such permission cannot be granted unless the Lessee has obtained authorisation, if required, from the environmental authorities. It may be made a condition for permission to store or process such substances or goods that insurance satisfactory to the Lessor be taken out to cover any resulting damage. Any rejection made must be on a fair and reasonable basis.

2.3 From the Leased Area, there must be no smoke, odour or dust nuisance or other forms of pollution and no noise nuisance in excess of what is a necessary consequence of the use permitted under the lease, and activities increasing the fire risk for adjoining businesses must not be carried out on the Leased Area

without the Lessor's prior permission in writing. Any rejection made must be on a fair and reasonable basis.

2.4 The Lessee is liable under the general rules of Danish law to pay damages to the Lessor for any damage caused by pollution, storage etc. attributable to the Leased Area or the associated operations.

2.5 All expenses entailed by the use of the Leased Area are irrelevant to the Lessor.

2.6 Buildings, if any, on the Leased Area must not be fitted out as residences without the Lessor's prior written permission, and shops for retail trade must not be fitted out or operated without the Lessor's written permission.

### **3. Roads etc. in the surrounding area**

3.1 Loading and unloading to and from the Leased Area must not unnecessarily interrupt the traffic on the roads etc. in the surrounding area.

3.2 Fixed or mobile cargo handling gear extending beyond the Leased Area's boundary lines must not be installed without the Lessor's prior written consent. Gear of this or a similar nature for which consent is given must not extend beyond the quay or into the road or railway profile less than 5.0 metres above the road or railway surface.

3.3 Use of the gear must not cause unnecessary nuisance to traffic in the port or on the quay. The Lessee is liable under the general rules of Danish law for any damage to the Lessor or third parties caused by the installation, use or presence of the gear.

3.4 The positioning of handling and similar gear does not result in any preferential right to use the quay outside of the Leased Area but the Lessor will always endeavour to secure the Lessee the best possible access so that it can utilise the gear.

3.5 Immediately after having used cranes, conveyors or similar equipment, the Lessee must clean up the areas used and remove any spillage etc., unless otherwise agreed. If the Lessee fails to do so, the Lessor is entitled to arrange the work at the Lessee's expense.

3.6 The Lessee is not entitled to store materials or establish facilities outside the Leased Area without a written agreement with the Lessor. Any gross or repeated violation of this provision by the Lessee is deemed to be a material breach entitling the Lessor to terminate the lease. The Lessor is in all circumstances entitled to charge rent for the Lessee's unauthorised use of the Lessor's areas, which does not mean that the Lessor has accepted the unauthorised use.

### **4. Cleaning of the area and roads**

4.1 The Lessee must properly clean the Leased Area, including any roads, buildings etc. situated on the Leased Area.

4.2 The Lessee is also responsible for keeping the roads outside of the Leased Area clean as far as the centre line, unless otherwise agreed in writing with the Lessor.

4.3 If the Lessee does not comply with its cleaning obligation, the Lessor is entitled to arrange cleaning at the Lessee's expense after the end of a period of grace fixed by the Lessor for remedying the matter.

4.4 Unless otherwise agreed, the Lessee must perform all obligations incumbent on a landowner under applicable laws and bylaws. The Lessee thus assumes the Lessor's obligations in this respect.

4.5 Unless otherwise agreed, the Lessor is responsible for snow clearing and treating icy roads.

4.6 Snow, ice and waste from the Leased Area must not be dumped on or in the Lessor's areas, roads and port basins unless the Lessor grants permission for this.

4.7 The Lessee pays all expenses of disposal of business waste and must not use the port's waste containers etc. without the Lessor's permission.

### **5. Maintenance of the Lessee's buildings etc.**

5.1 The Lessee is responsible for all maintenance and cleaning of buildings, installations and other facilities situated on the Leased Area and used for its operation. The Lessee is obliged to keep such buildings, installations and other facilities maintained.

5.2 The Lessee is obliged to maintain and clean the Lessee's supply lines, installations and other facilities outside the Leased Area that are used for the operation of the Leased Area. The Lessee is obliged to maintain and clean such supply lines, installations, and other facilities.

5.3 If the Lessee fails to comply with its maintenance or similar obligations, the Lessor is entitled to have the necessary measures implemented at the Lessee's expense after the end of a reasonable period of grace fixed by the Lessor for remedying the matter.

5.4 In the event of gross or repeated failure to maintain the Leased Area or its buildings and facilities, the Lessor may terminate the lease for cause.

### **6. Other rules and regulations**

6.1 The Lessee is subject to the current rules and regulations applicable to the Lessor's area, including the

Danish Executive Order on Standard Regulations for the Observance of Good Order in Danish Commercial Ports.

6.2 The Lessee must, at its own expense, obtain any approvals from the authorities for the purpose of the Lessee's use of the Leased Area and is responsible for always operating the Leased Area within the scope of approvals from the authorities.

6.3 The Lessee cannot claim damages or pursue other remedies for breach against the Lessor should the authorities refuse the necessary permissions for developing, using, setting up the business on and operating the Leased Area, regardless of the reason for such refusal.

## **7. The Lessor's rights regarding the Leased Area**

7.1 The Lessee accepts the inconveniences that will arise when private and public works are being carried out on the Lessor's area outside the Leased Area and cannot claim any compensation or rent reduction in this connection. In particular, the Lessee must tolerate any shift of the quay line outside of the Leased Area.

7.2 The Lessor is entitled to arrange for power cables, lamps and similar items to be installed on the Lessee's buildings and to route water, gas, electricity and sewer lines, tunnels, handling gear etc. across or under the Leased Area against compensation to the Lessee for the direct losses caused by this and provided that the Lessee is not thereby prevented from the use of the Leased Area agreed in the lease. The Lessor is responsible for all maintenance and cleaning of any such facilities, supply lines and installations.

## **8. If the Lessor needs all or part of the Leased Area**

8.1 If, during the term of the lease, the Lessor in its capacity as a port needs the Leased Area for port-related activities, e.g. maintenance or improvement of the port or its facilities, the Lessor may – irrespective of any agreed non-terminability – terminate the lease of the Area at one (1) year's written notice to expire on one of the dates specified as a rent payment day in the lease.

8.2 If the lease with the Lessee is terminated in accordance with clause 8.1, the Lessor is obliged to compensate the Lessee for the Lessee's buildings etc. situated on the Leased Area. No compensation is paid for operating or other indirect losses, unless they are operating losses for supplies that the Lessee is bound to provide under a contract which had been entered into on the date of termination in accordance with clause 8.1.

8.3 When fixing the compensation, the condition of the buildings at the end of the lease and their market value with associated lease must be taken into account. If the compensation cannot be agreed amicably, it must be decided by arbitration: see section 25.

8.4 Instead of the above-mentioned termination and payment of compensation, the Lessor may choose, at one (1) year's written notice to one of the rent payment days specified in the lease, to demand that the Lessee's buildings and facilities be relocated to another area, specified by the Lessor and convenient to the Lessee, of approximately the same size. The Lessor is obliged to pay the relocation costs and other direct, documented and unavoidable expenses, excluding the Lessee's operating and other indirect losses, unless they are operating losses for supplies that the Lessee is bound to provide under a contract which had been entered into on the date of termination in accordance with clause 8.1. If an amicable agreement cannot be reached, the compensation must be decided by arbitration, see section 25.

8.5 If, in the Lessor's opinion, minor allocations of the Leased Area for track, road or similar purposes are necessary and do not – in the Lessor's opinion – prevent the Lessee's use of the Leased Area as agreed, the Lessor is entitled to demand such allocation against payment of compensation which will be fixed by arbitration if an amicable agreement cannot be reached: see section 25.

## **9. Event of fire, unauthorised demolition of buildings or disuse of the Leased Area**

9.1 The Lessee is obliged to use the Leased Area for the activities described in section 3 of the lease.

9.2 If one or more of the buildings on the Leased Area are involved in fire or demolished without prior agreement and the repair or erection of new buildings of similar size has not commenced six (6) months after the Lessor has demanded this, the Lessor is entitled to terminate the lease for material breach. The same applies if the Lessee has not finished erecting or repairing the buildings one (1) year after commencing such work. The deadline may be postponed as further agreed with the Lessor if the Lessee can document that re-building is pending as a result of an insurance case or legal action.

9.3 If the Leased Area is not used regularly in a period exceeding six (6) months or is not used at least three (3) times in any period of two (2) months in a one (1) year period, the Lessor is entitled to demand with three (3) months' notice that regular use of the Leased Area commence unless this is contrary to the use specified in section 3 of the lease. If use is not

commenced, the Lessor is entitled to terminate the lease for material breach.

#### **10. The Lessor's inspections**

10.1 The Lessor or its representatives are entitled to verify that the Leased Area is used in accordance with the provisions of the lease and must thus always be granted access to the Leased Area.

10.2 If goods or objects that are not permitted on the Leased Area are being stored there, the Lessee is obliged to remove them immediately at the Lessor's demand. If this is not done immediately, the Lessor is entitled to have them removed at the Lessee's expense. In the event of repeated violation of this provision, the Lessor is entitled to terminate the lease for material breach.

#### **11. Surrender of the Leased Area on termination**

11.1 If the Leased Area is taken over with paving and/or wearing course, the Lessee must ensure that this paving/wearing course is maintained and can be surrendered without visible damage apart from normal wear and tear at the end of the lease.

11.2 If the Leased Area is not surrendered in conformity with the lease when the lease ends, the Lessor will implement all necessary works at the Lessee's expense so that it is surrendered in the condition required by the lease.

11.3 The Lessee is obliged to pay rent until the Leased Area has been surrendered in the condition required by the lease.

11.4 If the lease is terminated pursuant to section 2 of the lease, the Lessee must reinstate the area as specified in clause 6.2 of the lease unless the parties agree that the Lessor takes over buildings on the Leased Area – with or without compensation – when the Lessee vacates the Area. If the Lessor chooses to take over the buildings on the Leased Area, the Lessor is not entitled to demand clearing of areas where the buildings are situated or which are necessary for operating the buildings: see clause 6.2 of the lease. The Lessee is obliged to sign a conveyance or other transfer documents in connection with such takeover by the Lessor. The Lessor may choose to let a wholly-owned subsidiary take over the buildings directly at the end of the lease. Notice of takeover of the buildings must be given no later than five (5) months before the end of the lease, however no earlier than seven (7) working days after giving/receiving the notice of termination.

#### **12. Subletting and assignment**

12.1 Subletting or other forms of lending of all or part of the Leased Area or of rooms in any buildings on the Leased Area – against payment or free of charge – must not take place without the Lessor's prior written approval. Justification must be given for any rejection.

12.2 The Lessee is not entitled to assign the Leased Area without the Lessor's written approval. Any rejection made must be on a fair and reasonable basis. The Lessor must show special consideration for the need for assignment if this is part of a transfer of the Lessee's entire business.

12.3 In the event of assignment, the Lessor will draw up an addendum to the lease for which the Lessor is entitled to charge a reasonable fee.

#### **13. Rent adjustment**

13.1 Irrespective of any agreed non-terminability, the Lessor is entitled on 1 January each year – for the first time on 1 January in the year after the lease commenced – to increase the applicable annual rent without notice by the percentage change in the net price index from October of the last year but one to October of the year immediately preceding the time of adjustment. However, the minimum adjustment is as stated in clause 4.4 of the lease. If the rent is not adjusted in a year, the Lessor has waived its right to do so for that year.

13.2 If Statistics Denmark ceases calculation of the net price index, the future adjustment will be based on another index which reflects developments in prices. This provision also applies to all other index-linked payments under the lease.

#### **14. Direct and indirect taxes**

14.1 Should public authorities impose any new charges or increases in existing charges on the Lessor during the term of the lease, including direct and indirect taxes, duties and environmental requirements, the Lessor may give notice of an increase at any time and subsequently add it proportionately to the future rent.

14.2 All direct and indirect taxes etc. regarding the buildings etc. that the Lessee has built on the Area must be paid by the Lessee and are irrelevant to the Lessor.

14.3 Indirect taxes, contributions or capital spending imposed on the Lessor as a result of public authority requirements must be paid by the Lessee in equal instalments over eight (8) years unless otherwise agreed. Interest will be charged on the amount at the current discount rate.

14.4 Unless otherwise agreed, the expenses described in this section will be distributed and charged proportionately based on the size of the areas to which they apply.

#### **15. Guaranteed turnover etc.**

15.1 The Lessee undertakes to have its goods volume on the Leased Area (inbound and/or outbound) handled primarily via the quay.

15.2 The turnover generated by the Lessee is calculated for the calendar year. If the Lessee has taken over the Leased Area during the year, the guaranteed turnover for that year is calculated proportionately based on the number of full months the Lessee has had possession of the Leased Area. Turnover from other businesses may be included subject to separate written agreement with the Lessor.

15.3 The Lessee pays ship and cargo dues etc. in accordance with the Lessor's current terms of business.

15.4 Upon the Lessor's demand, and as far as possible, the Lessee must document annually the goods volume transported by land and by sea to and from the business on the Leased Area in the past year.

#### **16. The Lessee's representative**

16.1 If the Lessee does not have its business address on or near the Leased Area, the Lessee must designate another person who can receive notifications and instructions from the Lessor on behalf of the Lessee and be held liable for the obligations under the lease.

16.2 The Lessee is also obliged to specify an email address for communication with the Lessor. The email address must be suitable for receiving enquiries, including demands, from the Lessor with binding effect for the Lessee.

#### **17. Legal service**

17.1 Legal service may be addressed to the email address specified in the lease.

#### **18. Breach**

18.1 In the event of repeated breaches, the lease cannot be terminated until the Lessor has sent a warning letter setting a time limit within which the matter must be remedied.

18.2 If the rent or any other charge or payment stipulated in the lease is not paid, the Lessor is entitled to terminate the lease for breach. However, the lease can only be terminated due to non-payment if the Lessee has not remedied the matter within three (3) working days of receiving a demand letter from the Lessor. It is agreed that a demand letter which is sent no later than 16:00 hours to the agreed email address is

deemed to have reached the Lessee on the same day. Demand letters sent later than that are deemed to have reached the Lessee on the next working day.

18.3 If the Lessor terminates the lease for non-payment or another material breach, the Lessee is obliged – without compensation – to clean, tidy up, clear and vacate the Leased Area as specified in section 11 of these general provisions and section 6 of the lease, by a time fixed by the Lessor.

18.4 If the Lessee has not vacated the Leased Area by the time fixed by the Lessor, the Lessor may take possession of the Leased Area through the bailiff at the Lessee's expense. The Lessee must in all events pay rent for the time until the Lessee is able to terminate the Leased Area with ordinary notice (and otherwise in accordance with section 11), and must compensate the Lessor for all losses resulting from the breach, including expenses of restoring the Leased Area to the agreed condition at the time of vacation.

18.5 The provisions in section 11 on the Lessor's takeover of buildings also apply in the event of termination for breach.

#### **19. Liability in damages**

19.1 The Lessee is liable to the Lessor and third parties for damage and loss inflicted on the Lessor and/or third parties through the Lessee's use of the Leased Area.

19.2 The Lessee is liable to the Lessor under the general rules of Danish law.

19.3 If the Lessor is held liable to a third party, the Lessee is obliged to indemnify the Lessor under the general rules of Danish law to the extent the damage was inflicted on the third party by the Lessee.

19.4 The Lessor is liable in damages under the general rules of Danish law but the liability is limited to the Lessee's direct losses. The Lessor can thus never be liable for the Lessee's indirect losses, including operating losses and loss of profits.

19.5 The Lessee is obliged to take out liability insurance covering the Lessee's potential liability to the Lessor and/or third parties and the Lessor is entitled to be shown a valid policy on request. The scope of cover must at all times match the risk which, in the Lessor's fair and reasonable assessment, is associated with operation of the Lessee's business.

#### **20. Fees for railway wagons**

20.1 When goods on railway wagons are transported to or from the Leased Area without crossing the port's

wharf, inbound or outbound, a fee per railway wagon may be charged at the current rate.

20.2 The fee is payable monthly in arrears and, after the end of each month, the Lessee is obliged to notify, and at the Lessor's request document, the consignments carried by railway wagon to the port, which are subject to the fee.

#### **21. VAT**

21.1 The Lessor is voluntarily registered for VAT for letting of real property.

21.2 Value added tax is therefore added to rent and other payments under the lease in accordance with the current rules. Should any other tax replace VAT, it will be added to the current rent.

#### **22. Registration**

22.1 The Lessee is not entitled to have the lease registered in relation to the Leased Area without separate agreement with the Lessor. The Lessor must grant this permission if it is documented that registration is a requirement for the Lessee's borrowing. If the Lessee obtains permission for registration, the Lessee is obliged to cancel the registered lease immediately after the end of the lease. If this has not been done fourteen (14) days after the end of the lease, the Lessor is entitled to arrange cancellation at the Lessee's expense. Such cancellation can be based on the Lessee's written notice of termination or, in the event of eviction, the bailiff's endorsement of the basis of enforcement.

#### **23. Endorsement**

23.1 If the Lessee mortgages the Leased Area, the current standard document prepared by the Lessor for this purpose must always be used.

#### **24. Expenses of drawing up the lease etc.**

24.1 The Lessor is entitled to charge a fee for drawing up the lease equivalent to the documented associated costs. Each party otherwise pays its own costs in connection with the drawing up of this lease, including fees of its own advisers, lawyer etc.

#### **25. Arbitration**

25.1 Any dispute between the parties and their possible estates concerning the making, interpretation or performance of the lease must be decided finally and bindingly in accordance with the Rules of Arbitration Procedure of Danish Arbitration ("*Regler for behandling af sager ved Voldgiftsinstituttet*").

25.2 However, the Lessor is entitled to commence proceedings in the ordinary courts if the case only concerns the Lessee's payments under this lease.

25.3 Both the Lessor and the Lessee are entitled to commence proceedings in the ordinary courts if the case concerns damage and compensation, including contamination.

#### **26. The Lessor's rights**

26.1 The Lessor may exercise its rights under the lease and these general provisions at its discretion. Failure to exercise such rights for a short or long period does not imply a waiver of the rights, which the Lessor may thus exercise at a later date.

#### **27. Signature**

27.1 The undersigned hereby confirms having received, reviewed and accepted these general provisions as applying to the lease that has been entered into.

Date: [date] [month] [year]

The Lessee:

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[Name]