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REGULATIONS

THE TANZANIA SHIPPING AGENCIES ACT,
(CAP. 415)

(Made under section 61(2)(g)(ii))

THE TANZANIA SHIPPING AGENCIES (PORT TERMINAL OPERATORS)
REGULATIONS, 2020

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TANZANIA SHIPPING AGENCIES ACT,
(CAP. 415)

REGULATIONS

(Made under section 61(2)(g)(ii))

THE TANZANIA SHIPPING AGENCIES (PORT TERMINAL OPERATORS)
REGULATIONS, 2020

PART I
PRELIMINARY PROVISIONS

- Citation 1. These Regulations may be cited as the Tanzania Shipping Agencies (Port Terminal Operators) Regulations, 2020.
- Application 2. These Regulations shall apply to port terminal operators in the ports of Mainland Tanzania.
- Interpretation
tion
Cap. 415 3. In these Regulations, unless the context otherwise requires-
“Act” means the Tanzania Shipping Agencies Act;
“approved holding capacity” means average quantity of cargo permitted by the Corporation to be held in the port terminal for given period;
“authorised officer” means an employee of the Corporation or any person authorized by the Corporation to perform inspection or monitoring on behalf of the Corporation;
“body corporate” includes corporation, local government and company registered under relevant written laws;
Cap. 212 “certificate of incorporation” means a certificate of company registration issued in accordance with the Companies Act;
Act, No. 6 of 1995
Cap. 212 “citizen” has a meaning ascribed to it in the Tanzania Citizenship Act;
“company” means a company incorporated and registered under the Companies Act;
“Corporation” means the Tanzania Shipping Agencies Corporation established in accordance with the Act;
“Director General” means the Director General of the

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- Corporation appointed in accordance with the Act;
- “general cargo” means non-bulk or non-containerized cargo including miscellaneous goods, cases, bundle of steel, crates, bags and loose pieces;
- “level of solvency” means the financial status whereby a company or body corporate is able to pay all of its debts;
- “licence” means a port terminal operations licence issued in accordance with these Regulations;
- “licensee” means a port terminal operator licensed by the Corporation to carry out port terminal operations in accordance with these Regulations;
- “major inland waterways port” means an inland waterways port listed under Group II of the Third Schedule of these Regulations and any other area as may be declared by the Minister under the Ports Act;
- “major seaport” means a sea port listed under Group I of the Third Schedule of these Regulations and any other area as may be declared by the Minister under the Ports Act;
- “Minister” means the Minister responsible for maritime transport;
- “periodic monitoring” means bi-annual physical visits on the licensee’s premise or facility conducted by the Corporation or authorised officer to observe and/or collect relevant information for determining port terminal operator’s compliance with the conditions of licence;
- Cap. 166 “port” has the meaning ascribed to it under the Ports Act;
- Cap. 166 “port operator” means the Tanzania Ports Authority established under the Ports Act;
- “port terminal” means a link in the transport chain administered by a port terminal operator where cargo interchange operations exist amongst different mode of transport and facilitates embarkation and disembarkation of passengers on board ship;
- “port terminal operator” means a body corporate which performs any duty as a landing contractor, agent or lessee carrying out the functions of port operations in the port terminal;
- “port terminal operation” include loading and unloading of goods on board vessels, shore handling of goods, storage of goods, handling of passengers carried on vessels and handling of crude or refined petroleum products, edible oils and natural or liquidified gases on vessel;
- “small inland waterways port” means an inland waterways port listed under Group IV of the Third Schedule to these

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- Cap. 166 Regulations and any other area as may be declared by the Minister under the Ports Act; and
- “small seaport” means a seaport listed under Group III of the Third Schedule of these Regulations and any other area as may be declared by the Minister under the Ports Act.
- Cap. 166

PART II

APPLICATION FOR PORT TERMINAL OPERATOR’S LICENCE

- Prohibition of unlicensed port terminal operator 4. Any person or body corporate shall not perform port terminal operations without a valid licence issued by the Corporation.
- Groups of ports 5. For the purpose of these Regulations, ports shall be grouped in a manner prescribed in the Third Schedule to these Regulations.
- Application for licence 6. Any person or body corporate intending to carry out port terminal operations shall apply to the Corporation for a licence.
- Categories of licence 7. Subject to the provisions of regulation 6, the Corporation shall issue the following categories of licence-
- (a) petroleum product, edible oils, natural or liquefied gases licence;
 - (b) general and containerized cargo licence;
 - (c) general cargo licence;
 - (d) containerized cargo licence;
 - (e) fishing port licence;
 - (f) passenger services licence; and
 - (g) any other category of port operations licence as may be determined by the Corporation.
- Eligibility for licence Cap. 212 it- 8. A body corporate shall be eligible for a licence where
- (a) is incorporated under the Companies Act or established by any other legal instrument;
 - (b) has a minimum share capital of ten percent held by a citizen;
 - (c) has a director or shareholder who has not been convicted of any offence-

- Cap. 25
- (i) against the national security;
 - (ii) against the national economy;
 - (iii) of fraud, forgery, corruption and/or economic crimes;
 - (iv) of non-payment or evasion of any tax or levy payable under any written law; and
 - (v) against decency or morality;
- (d) is not declared bankrupt in accordance with the Bankruptcy Act; and
- (e) has no record of violation of local and international security and safety regulations in the regulated services.

Require-
ments for
application
of licence

9.-(1) An Application for a port terminal operator's licence shall be submitted in the Form prescribed under the First Schedule to these Regulations together with the following documents:

- (a) a certified copy of certificate of incorporation, certificate of compliance or any other legal instrument establishing the existence of a body corporate as the case may be;
- (b) a certified copy of memorandum and articles of association;
- (c) a certified copy of valid insurance cover for third party liability;
- (d) a certified copy of fire safety certificate issued by relevant authority;
- (e) a certified copy of a certificate issued by relevant authority;
- (f) a certified copy of lease, concession, proof of ownership or any other contractual arrangement between the port terminal operator and the Tanzania Ports Authority;
- (g) a certified copy of the environmental and social impact assessment certificate issued by relevant authority;
- (h) a certification from the relevant authority for compliance with town planning;
- (i) list of available passenger or cargo handling equipment, working gears and tools;
- (j) clearance from customs department for suitability to run customs bonded facility;

- (k) a layout plan of the port terminal for ensuring efficient and safe operations;
- (l) proposed rates and charges for the port terminal operations;
- (m) list of names of management staff, their nationalities, designations and qualifications;
- (n) to submit port terminal security plan compliant with minimum standards prescribed by the Corporation; and
- (o) any other document which the Corporation may consider relevant.

(2) Notwithstanding the requirements under subregulation (1), in the case of an application for passenger services licence, the applicant shall submit photos confirming to have a passenger lounge or shelter, public toilet for both gender and ticket office.

Licensing fees and other charges

10.-(1) A port terminal operator shall pay to the Corporation, fees in respect of a licence as prescribed under the Second Schedule of these Regulations.

(2) Subject to the provisions of subregulation (1), the Corporation shall charge fees according to groups of port as prescribed in the Third Schedule to these Regulations.

(3) The fees and other charges payable under subregulation (1) shall be paid to the Corporation and shall be acknowledge by a receipt.

PART III

DETERMINATION OF LICENCE APPLICATION

Determination of licence application

11.-(1) The Corporation shall consider and determine an application for licence within sixty days from the date of receipt of such application.

(2) Before determination of the application, the authorised officer shall fill in the prescribed Form under the fourth Schedule to these Regulations for prior verification of the application by the Corporation.

Establishment of Port Licensing Committee

12.-(1) There shall be a Port Licensing Committee for the purpose of facilitating determination of licence application.

(2) The Port Licensing Committee shall consist of not less than five members appointed by the Director General from different departments or units of the Corporation.

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- Validity of licence
19. The validity of a licence shall be for a term of:
- (a) ten years for major seaports;
 - (b) five years for major inland waterways ports; and
 - (c) three years for small seaports and small inland waterways ports.
- Non transferability of licence
20. The licence issued under these Regulations shall not be transferable without prior approval of the Corporation.
- Renewal of licence
- 21.-(1) A licensee who intends to continue with port terminal business shall apply for renewal of a licence ninety days before expiration of licence period in the manner set out under the First Schedule to these Regulations and licence shall be accompanied with the following-
- (a) a certified copy of valid insurance cover for third party liability;
 - (b) a certified copy of fire safety certificate issued by relevant authority;
 - (c) a certified copy of a compliance issued by relevant authority;
 - (d) a certified copy of lease, concession, proof of ownership or any other contractual arrangement between the port terminal operators and the Tanzania Ports Authority;
 - (e) list of available passenger or cargo handling equipment, working gear and tools;
 - (f) clearance from Customs Department for suitability to run customs bonded facility;
 - (g) list of names of management staff, their nationalities, designations and qualifications; and
 - (h) any other document which the Corporation consider relevant.
- (2) Notwithstanding the provision of subregulation (1), in the case of an application for passenger services licence, the applicant shall submit photos confirming to have a passenger lounge or shelter, public toilet for both gender and ticket office.
- (3) The licensee shall, during the submission of an application for renewal of licence, file a statement in relation to port performance benchmarks as shall be prescribed by the Corporation.
- (4) The Corporation shall renew a licence upon being satisfied that-
- (i) port performance indicators meet the set benchmarks

as specified by the Corporation;

- (j) licence eligibility, requirements for renewal of licence and conditions of licence under these Regulations have been complied with; and
- (k) payment of application and licensing fees prescribed in the Second Schedule to these Regulations have been made.

(5) Before determination of the application for renewal of a port terminal operations' licence, the authorised officer shall fill in the prescribed Form under the Fourth Schedule to these Regulations for prior verification of the application by the Corporation.

(6) Where a licensee who qualifies for renewal submits an application for renewal of a licence less than ninety days as prescribed in regulation 21(1) before expiry of the previous licence, the licensee shall be liable to pay the penalty charge as prescribed in the Seventh Schedule to these Regulations for sixty days or until when a decision of the Corporation is made, whichever is shorter.

Safety measures

22. A licensee shall maintain and take measures to safeguard life, property and the environment when providing services.

Establishment of customer care service

23. A port terminal operator shall establish a customer care system through which customers may make inquiries and lodge complaints.

Level of solvency

24. A port terminal operator shall at all times, while carrying on such business, maintain a level of solvency of current ratio of 2:1.

PART IV CONDITIONS OF LICENCE

Conditions of licence

25.-(1) A licensee shall be bound by the following conditions-

- (a) to apply tariff or charges approved by the Corporation;
- (b) not to transfer or assign licence without the Corporation's approval;
- (c) to maintain records of passengers and cargo handled;
- (d) to maintain the margin of solvency of current ratio of 2:1;

- (e) to employ a minimum of three staff with at least a diploma or its equivalent in port management or transport logistics;
- (f) to establish a system of resolving complaints and disputes;
- (g) to furnish the Corporation with quarter port terminal performance reports;
- (h) to establish and maintain systems of fire control, waste management and pollution control;
- (i) to maintain a register of incidents and accidents related to services rendered as shall be prescribed by the Corporation;
- (j) to abstain from fraudulent and corruption practices;
- (k) to carry out operations within approved holding capacity;
- (l) to carry out twenty four hours operations in all calendar days;
- (m) to maintain a register of damaged or lost cargo;
- (n) to exhibit in a conspicuous place a licence granted to him under these Regulations;
- (o) to pay the Corporation annual levy fees as prescribed in the Tanzania Shipping Agencies (Service Provider Levies and Fees) Rules;
- (p) to implement port terminal security plan submitted to the Corporation; and
- (q) to observe any professional conduct as may be directed by the Corporation.

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(2) Subject to the provisions of subregulation (1), a licensee for major seaport and major inland waterways port shall be bound by the following conditions-

- (i) to submit report on port performance indicators as shall be prescribed by the Corporation; and
- (ii) to comply with performance benchmarks as shall be prescribed by the Corporation.

Periodic
monitoring

26.-(1) In order to ensure compliance with the licence conditions, the Corporation shall conduct periodic monitoring on the port terminal operator's premises and facility.

(2) The Corporation may, when conducting periodic monitoring, require the port terminal operator to produce any book, record, statement or other document relating to the port terminal operations business and may make copies or extracts therefrom.

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Rectification
notice

27.-(1) Where the Corporation identifies an anomaly rendering the port terminal operator a non-compliant with these Regulations, the Corporation shall issue a notice signed by the Director General requiring the port terminal operator to rectify the anomaly within a specified period.

(2) The rectification notice issued under subregulation (1) shall be copied to the Ministry responsible for maritime transport.

Notice to
show cause

28. Where a licensee fails to rectify an anomaly pointed out in the rectification notice issued under regulation 27, the Corporation may issue a notice to the licensee to show cause within thirty days as to why the licence should not be suspended or revoked.

Suspension
or
revocation
of licence

29.-(1) Where the Corporation is not satisfied with the reasons given by the licensee under regulation 28 or where the licensee fails to respond within time specified in the notice, the Corporation may suspend or revoke a licence.

(2) Notwithstanding the provisions of subregulation (1), the Corporation shall consider the welfare of Tanzania society prior to suspending or revoking a licence.

(3) Where a licensee become ineligible for a port terminal operations licence subsequent to the issuance of such licence contrary to regulation 7, the licensee's licence shall be revoked.

(4) In the event of a suspension or revocation of a licence, the Corporation shall assign reasons for such suspension or revocation.

Cessation
of operation

30.-(1) Where a licence is suspended or revoked, the port terminal operator shall within thirty days from the date of the notice, cease to operate.

(2) Notwithstanding the period for suspension or revocation provided under subregulation (1), the Corporation may extend the time to a longer period of more than thirty days before the port terminal cease to operate.

Lifting of
suspension

31. In the case of suspension of a licence, the Corporation shall lift suspension of a licence upon fulfilment of the requirement as may be stipulated in the notice of suspension.

PART V
GENERAL PROVISIONS

- Offences
32. Any person who-
- (a) carries on the business of port terminal operations without a valid licence;
 - (b) in relation to an application for a licence, makes any statement which is false in any material particular;
 - (c) furnishes to the Corporation a record, statement, declaration, written information or explanation containing any particulars which to his knowledge are false;
 - (d) fails to produce or surrender a licence upon being required to do so by an authorised officer in accordance with these Regulations;
 - (e) hinders or obstructs an authorised officer in the performance of their duties under the Act and these Regulations;
 - (f) fails to comply with any condition of a licence;
 - (g) does or omits to do any act or thing with intent to avoid payment of levy and fees;
 - (h) makes or has in possession of any document closely resembling a licence or any such document which is intended to deceive or alters an entry in a record made under these Regulations,
- commits an offence and shall upon conviction:
- (i) for major seaport and major inland waterways port, be liable to a fine of not less than Tanzania shillings thirty million but not exceeding Tanzania shillings forty million or to imprisonment for a term not less than three years but not exceeding five years or both; and
 - (ii) for small seaport and small inland waterways port, be liable to a fine of not less than Tanzania shillings twenty million but not exceeding Tanzania shillings twenty five million or to imprisonment for a term not less than two years but not exceeding three years or both.
- General
Penalty
33. Where a person contravenes any provision of these Regulations for which no specific penalty is provided commits an offence and on conviction, shall be liable to a fine of not less than twenty million shillings but not exceeding forty million

shillings or to imprisonment for a term of not less than two years but not exceeding five years or to both.

Power to
compound
offences

34.-(1) Notwithstanding the provisions of these Regulations relating to penalties, where a person admits in writing that he has committed an offence under these Regulations, the Director General or a person authorized by him in writing may, at any time prior to the commencement of the proceedings by a court of competent jurisdiction compound such offence and order such person to pay sum of money, not exceeding one half of the amount of the fine to which such person would otherwise have been liable to pay if he had been convicted of such offence.

(2) Where the Corporation compounds an offence under this regulation, the order referred to in subregulation (1)-

- (a) shall be reduced into writing and shall be attached to it the written admission and request referred to in the provision to the said subregulation and a copy of such order shall be given if he so requests, to the person who committed the offence; and
- (b) shall specify the offence committed, the sum of money ordered to be paid and the date on which payment is to be settled.

(3) Where an offence is compounded in accordance with subregulation (1) and proceedings are brought against the offender for the same offence, it shall be a good defence for the offender to prove to the satisfaction of the court that the offence with which the offender is charged has been compounded under subregulation (1).

(4) Where the person fails to comply with the compounding order issued under this regulation within the prescribed period, the Corporation may-

- (a) in addition to the sum ordered, require the person to pay an interest of five per centum of the accrued amount after every thirty days; and
- (b) enforce the compounding order in the same manner as a decree of a court for the payment of the amount stated in the order.

Complaint
handling
G.N. No.
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35. Any person who is aggrieved with the decision of the Corporation made under these Regulations may seek redress in accordance with the Tanzania Shipping Agencies (Complaints Handling) Regulations.

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THE UNITED REPUBLIC OF TANZANIA
MINISTRY OF WORKS, TRANSPORT AND
COMMUNICATION TANZANIA SHIPPING AGENCIES
CORPORATION (TASAC)



FIRST SCHEDULE

(Made under regulation 9(1) and 21(1))

APPLICATION FORM FOR PORT TERMINAL OPERATOR'S LICENCE

1. Name of Applicant:
2. Postal Address:
3. Telephone No.....
4. Fax No:.....
5. E-mail Address:
6. Number of Certificate of Incorporation/Establishment Instrument:

7. Date of issue:
8. Physical registered place of business:
Land Plot No:
District:
Region:
9. State the intended port operation business to be offered:

10. Types of Licence: New Renew
11. Category of Licence:
12. Previous Licence No: Date
13. Any other business carried on by the
Company
14. Particulars of Current Shareholders:

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S/N	FULL NAME	NATIONALITY	ADDRESS	PERCENTAGE OF SHAREHOLDING
1				
2				
3				
4				
5				
6				

15. Particulars of Current Management Staff:

S/N	FULL NAME	DESIGNATION OF POSITION	CITIZENSHIP	AGE	QUALIFICATION		YEARS OF EXPERIENCE		DATE OF APPOINTMENT TO PRESENT POSITION	
					ACADEMIC	PROFESSIONAL				
1.										
2.										
3.										
4.										
5.										

16. Company Work force:

Total Number of Employee:

Foreign Employees:

Local Employees:

17. Submit current Audited Accounts and Bank Statement:
.....
.....

18. State investment available in terms of working port equipment and facilities to carry out the business:
.....
.....

19. State past experience to run similar business:
Where and when?
.....
.....

20. Any other information relevant to this application:
.....
.....

I/We declare to the best of my our knowledge and belief that all the statements contained in this application are true and correct:

Name in full:

Tanzania Shipping Agencies (Port Terminal Operators)

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Position/Designation:
 Signature Date
(Stamp or seal)

FOR OFFICIAL USE ONLY
Approval/Disapproval

Comments:

Licence No:

Validity period from to
 Name Designation
 Signature Date



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 CORPORATION (TASAC)



SECOND SCHEDULE

(Made under regulation 10(1), 17(c) and 21(4)(c))

FEES FOR PORT TERMINAL OPERATOR'S LICENCE

S/N	CATEGORY OF LICENCE	FEES IN U.S DOLLARS				
		Application fees	Major Sea Port	Major Inland Waterways Ports	Small Sea Ports	Small Inland Waterways Ports
1.	Petroleum products, edible oils, natural or liquefied gases licence	50	4500	3000	750	750
2.	Containerized cargo licence	50	3000	1500	-	-
3.	General and containerized cargo licence	50	3000	1500	-	-
4.	General cargo licence	50	1500	750	375	375
5.	Fishing port licence	50	750	375	225	225
6.	Passenger service licence	50	750	375	225	225

***Payments may be made in United States Dollars (USD) or its equivalent in Tanzania Shillings (TZS).*

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THIRD SCHEDULE

(Made under regulation 5 and 10(2))

PORT GROUPS

GROUP	I	Dar es Salaam, Tanga and Mtwara
GROUP	II	Mwanza South, Mwanza North, Kigoma, Bukoba, Kemondo Bay, Musoma, Nansio, Kasanga, Itungi, Manda, Liuli, Mbamba Bay
GROUP	III	Bagamoyo, Kwale, Kilwa Kivinje, Kilwa Masoko, Lindi, Mikindani, Pangani, Mafia and Songosongo
GROUP	IV	Shirati, Kinesi, Maisome, Kome, Bukondo, Kahunda, Chato Darajani, Nyamirembe, Nkome, Muharamba, Buchosa, Solima, Karumo, Tongwe, Kirando, Kalya, Kapalamsenga, Ikola, Mtanga, Kagunga, Karema, Sigunga, Kipili, Msamba, Ninde, Kala, Wampembe, Logosa and Kibwesa, Matema, Lundu, Lupingu, Ifungu, Mkili, Njambe, Ndumbi, Ujiji, Nyakalilo, Mgambo, Kyamkwikwi and Buchenzi

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CORPORATION (TASAC)



FOURTH SCHEDULE

(Made under regulation 11(2) and 21(5))

INTERNAL VERIFICATION OF APPLICATION FOR PORT TERMINAL OPERATIONS'
LICENCE

PART I: VERIFICATION BY MANAGER, PORTS REGULATION

Name of
Applicant:.....
Address:..... Tel. No:.....

- Requirements for Verification:
(i) Attach duly filled in application form.
(ii) For new applicant, attach inspection report form.

Remarks:
.....

Name:..... Signature:..... Date:.....

PART II: RECOMMENDATION BY PORT LICENCING COMMITTEE

This applicant is recommended not recommended

Remarks:
.....

Name:..... Signature:..... Date:.....

PART III: APPROVAL BY DIRECTOR GENERAL

This applicant is approved not approved

Remarks:
.....

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THE UNITED REPUBLIC OF TANZANIA
MINISTRY OF WORKS, TRANSPORT AND
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AGENCIES CORPORATION (TASAC)



FIFTH SCHEDULE

(Made under regulation 17)

Licence No.:

LICENCE TO CARRY OUT BUSINESS AS PORT TERMINAL OPERATOR

M/s:
of P.O. Box is hereby authorized to carry out the
business of port terminal operations for:

.....
(mention category of port terminal)

at.....
(mention name of port terminal)

This licence shall be valid from to

This licence is not transferrable.

.....
Director General
TANZANIA SHIPPING AGENCIES CORPORATION

(Corporate seal)

Date of issue:

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CORPORATION (TASAC)



SIXTH SCHEDULE

(Made under regulation 18(1))

NOTICE OF REFUSAL OF LICENCE

To: Located at
.....

You are hereby notified that your application for licence as port terminal operator under the Tanzania Shipping Agencies Act, Cap. 415 has been REFUSED.

Reasons for the refusal are as follows:

- (1)
- (2)
- (3)
- (4)
- (5)

However, your application may be reconsidered under the following conditions:

- (1)
- (2)
- (3)
- (4)
- (5)

Dated at this..... day of 20.....

Director General
TANZANIA SHIPPING AGENCIES CORPORATION

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THE UNITED REPUBLIC OF TANZANIA
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CORPORATION (TASAC)



SEVENTH SCHEDULE



(Made under regulation 21(6))

PENALTY FOR OPERATING PORT TERMINAL WITHOUT LICENCE

S/N	CATEGORY OF LICENCE	DAILY CHARGE IN U.S DOLLARS			
		Major Sea Port	Major Inland Water Ways Ports	Small Sea Ports	Small Inland Water Ways Ports
1.	Petroleum products, edible oils, natural or liquefied gases licence	500	50	50	20
2.	Containerized cargo licence	500	50	50	20
3.	General and containerized cargo licence	500	50	50	20
4.	General cargo licence	500	50	50	20
5.	Fishing port licence	100	50	50	20
6.	Passenger service licence	100	50	50	20

***Payments may be made in United States Dollars (USD) or its equivalent in Tanzania Shillings (TZS).*

Dodoma,
20th December, 2019

ISACK A. KAMWELWE,
*Minister for Works, Transport and
Communication*