

# The value of contractual safety net for port and terminal operators

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TT CLUB  
IS MANAGED  
BY **THOMAS  
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Established expertise

**TT Club is the leading provider of insurance and related risk management services to the international transport and logistics industry.**

- Over 50 years' experience serving the industry
- Comprehensive cover
- Loss Prevention and expert support
- Integrated global reach – managed by Thomas Miller
- Membership advantages
- Our claims and underwriting executives work together as single team

## TT Club overview

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1968

The year TT Club was established and containers revolutionised freight transport.

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80%

Percentage of the world's maritime containers insured by TT Club.

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65%

We have an insurable interest in 2/3 of the top 100 ports worldwide.

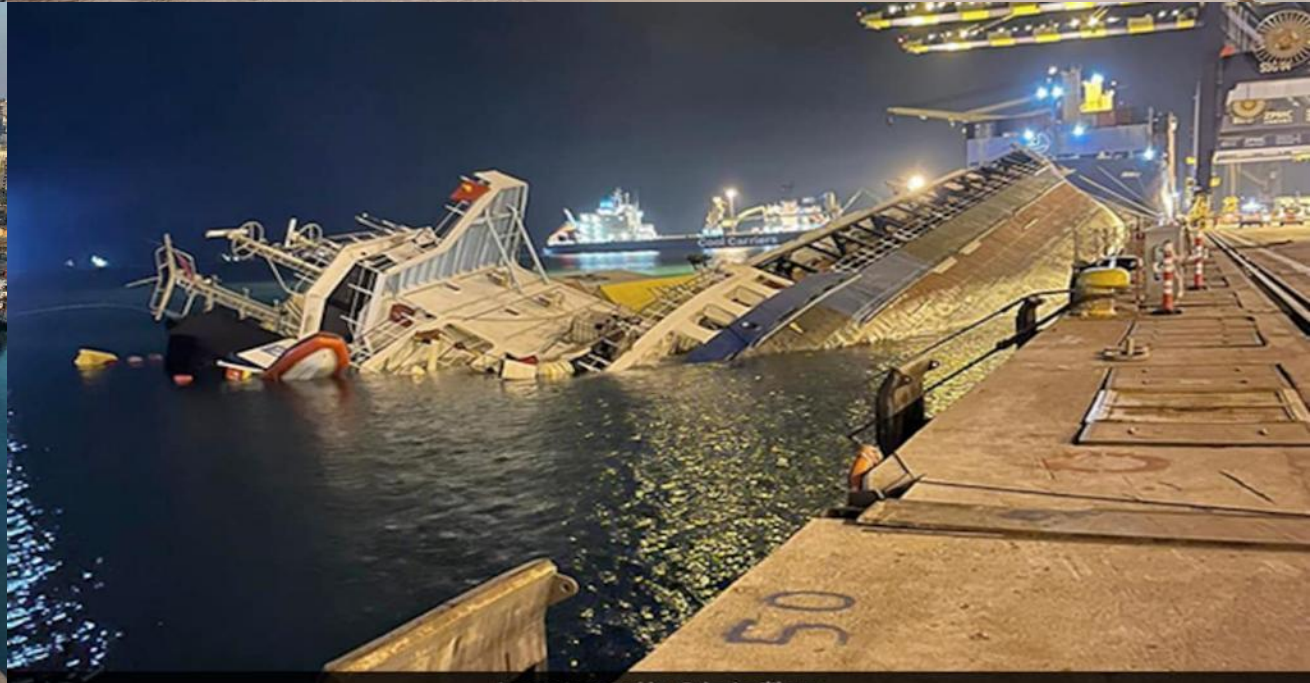
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20+

The number of dedicated countries in which TT Club has dedicated offices.

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## Contracts

**A contract is a legally enforceable agreement, giving rise to new rights and binding obligations between those who agree to its terms**

### Key elements:

- Offer
- Acceptance
- Consideration
- Intention to create legal relations
- Certainty of terms
- Contractual Terms can be express or implied and can be agreed orally or in writing

# Why contracts are important?

- **Provide certainty**
- **Act as a representation of obligations in writing**
- **Allocate risks between contracting parties**
- **Avert expensive legal proceedings**
- **Increase operational efficiency**
- **Ensure confidentiality**

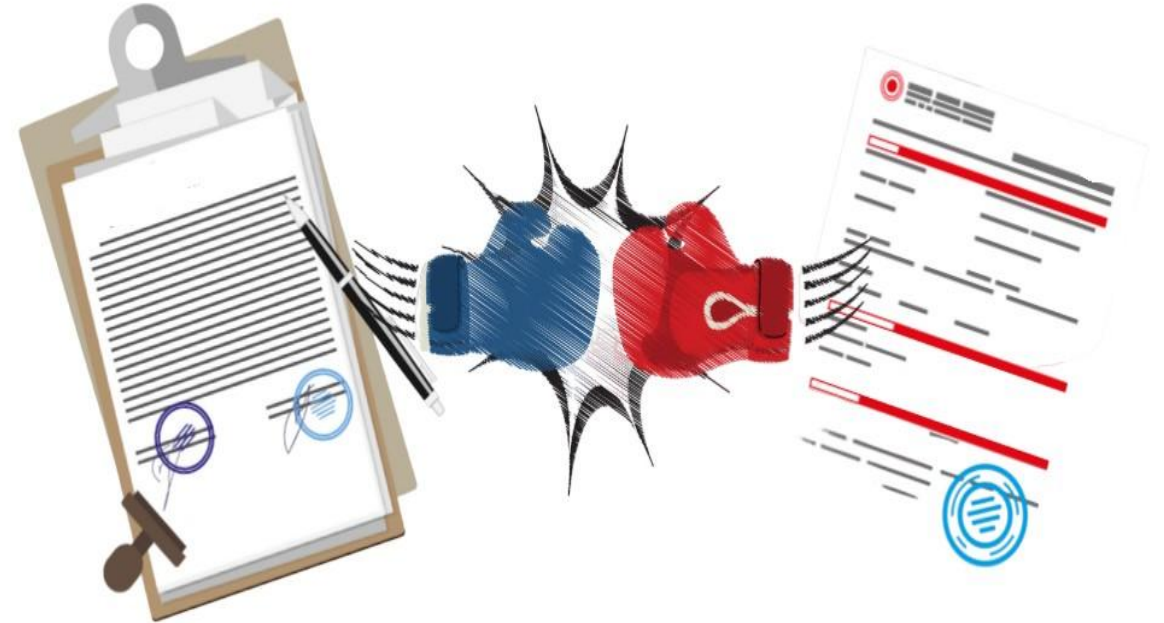
*“...contracts are so one-sided that I am surprised to find them written on both sides of the paper...”*

Raymond Evershed, British judge



## The battle of the contracts

- **Shipping Line Agreement (SLA) vs. Terminal Service Agreement (TSA)**
- **Standard trading conditions (STC)**
- **Driven by bargaining power and market conditions**
- **Insurance considerations**
- **Legal considerations**



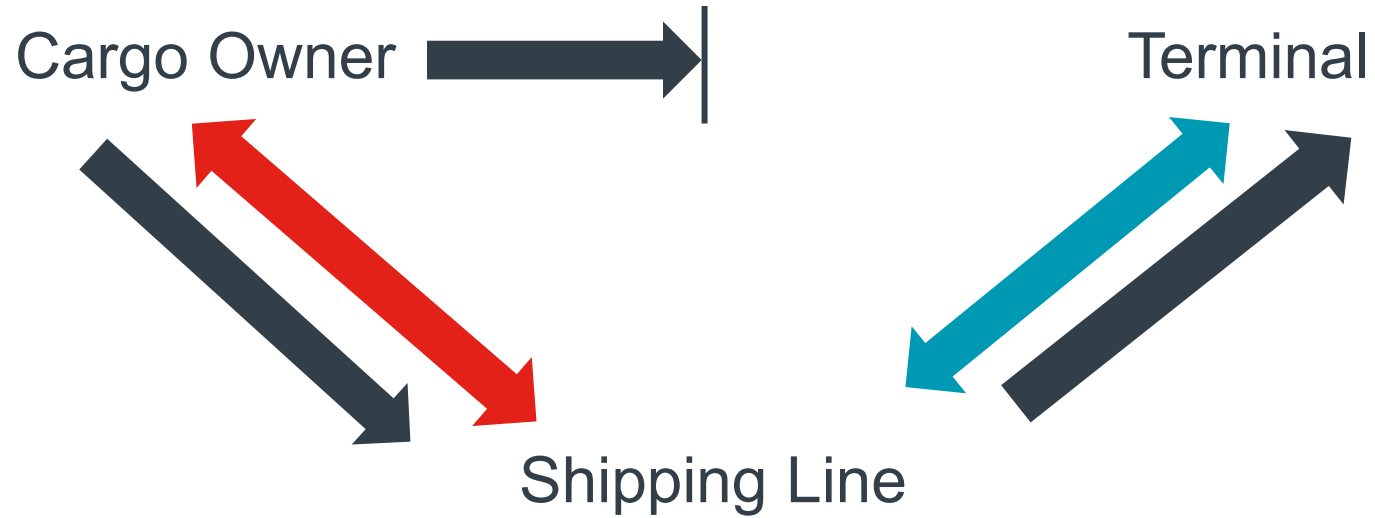
## Non-contractual claims against terminal operators

- Operators commonly face claims from cargo owner with whom they do not have a direct contractual relationship
- These claims can be brought in tort of bailment
- Defeating non contractual claims through;-
  - ✓ *Himalaya clause*
  - ✓ *Liberty to subcontract clause*
  - ✓ *Circular indemnity clause*





Always follow the contractual chain



Bill of Lading



Terminal Service Agreement / STCs



Cargo Claim

## Damage to cargo during cargo operation at a Saudi terminal

- **Claim against the terminal → EUR4 million**
- **Contract between the terminal and shipping line provides a defence to the terminal for liability arising from inadequate securing and lashing of cargo in/on containers**
- **The Club supported the insured terminal in court. The terminal was found not liable.**



## Damage to ship's crane during cargo operation at an Omani terminal

- **Claims against the terminal → USD500,000**
- **Contract between the terminal and shipping line limits the terminal's liability for ship damage to USD100,000 per an accident**
- **The Club covered the settlement**






# Loss Prevention Publications available on [www.ttclub.com](http://www.ttclub.com)

## TT Talk

TT Talk - Ports and terminals – standard trading conditions?



**TT LIVE** TT Talk - January 2024: Ports and terminals - standar...  
TT Club • By: TT Club • Jan 09, 2024

It is obvious that ports are pivotal nodes in international supply chains. However, within each setting there will be a broad range of responsibilities and relationships, some statutory or regulatory, some commercial or operational. As a result, there will be an array of terms and conditions to be considered. It remains important to consider standard trading conditions to provide a framework that helps mitigate risks, streamline processes, and foster a fair and efficient trading environment.

Standard trading conditions are pre-determined terms and clauses, in a form that may be widely accepted and recognised but acting as an integral component of your business risk management strategy. In this situation if there are diverse responsibilities that may arise, not all of which will have bespoke, negotiated terms, it is valuable to maintain conditions that will apply as a 'safety net'.

However, drafting a set of standard trading conditions to protect your business is just the start of the process. In order that you may rely on them it will be necessary that the terms are sufficiently incorporated into all relationships where something more specific has not been agreed. Such incorporation plays a pivotal role in ensuring smooth and predictable business transactions.

Recognising that the requirements will differ depending on nature of your relationships and according to your jurisdiction, there are a selection of practical considerations included below aimed at assisting in drafting and incorporation.

- Your standard trading conditions should be a separate and distinct document from your other business documents. This makes it easier for you and your counterparties to locate and reference the terms.
- Where practicable, limit the legal person that may be difficult for non-experts or those less familiar with your transaction, promoting a more predictable business environment, fostering trust among stakeholders and enhancing the overall efficiency of the port community.

**“** Standard trading conditions bring about a sense of efficiency and uniformity in port operations. **”**


Legal Clarity and Consistency

## WindStorm Series

**TT CLUB**

**WindStorm II**  
Practical risk management guidance for marine & inland terminals

transport insurance plus



**TT CLUB**  
BY THOMAS MILLER

Open top containers, flatracks and out-of-gauge items  
The sheets or tarpaulins and all the lashings should be checked before the storm arrives, and tightened where necessary. It may be useful to position other standard (dry van) containers around such units, or to move them close to buildings to protect the loads from damage.

## Joint Industry Reports

**UKP&I** **>NYA** **TT**

**Risk Focus: Cyber**  
Considering threats in the maritime supply chain



UKP&I  
BY THOMAS MILLER

As the connection between offshore and onshore, technology is used to increase the connectivity between ships and onshore offices, and there is a growing demand for this to be the case. Data related to ship operations including way information such as fuel consumption and container tracking are increasingly demanded by onshore offices and are essential for efficiency.

**Ship-to-shore connections**

- Very-small-aperture terminal (VSAT)
- Wireless Networking (WIFI)

Most ships use computers to connect to the Internet to transmit commercial traffic, vessel tracking and general communication with the shore. The general architecture of on board systems relies increasingly on computers to operate, however they are not often interconnected. Maintaining security of standalone systems is considered to be far easier – and containment of a cyber incident much less – than that of connected systems. However, even standalone systems are susceptible to human error. This could involve the use of an



# Thank you Any questions?

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