

General Terms and Conditions of Business (GTC)

Albanian Ferry Terminal Operator Sh.p.k.

AFTO Sh.p.k.

Sec 1. Scope of application

Unless otherwise expressly agreed in writing or mandated by law, these General Terms and Conditions of Business shall apply to all contracts between **AFTO Sh.p.k** and its clients with respect to Sea and shoreside handling of goods including stevedoring and unloading and intermediate storing related to handling (and traffic) and other contracts.

General terms and conditions of business of the Client shall not be deemed incorporated into the parties' contract even where **AFTO Sh.p.k** does not expressly object to them.

As long as not stipulated differently by these General Terms and Conditions (GTC), the "General Terms for Using the Wharfage of Durres Port Authority (DPA) apply in their individually latest version.

Sec 2. Scope and performance of contract

2.1 The subject-matter of the contract is to render the agreed services, not to achieve any particular outcome.

2.2 The Client hereby undertakes to refrain from doing anything which could place the independence of the Contractor's employees at risk. The foregoing shall apply in particular with respect to offers of employment and to offers to perform contracts for the employee's own account.

Sec 3. Client's duty of co-operation

3.1 The Client and **AFTO Sh.p.k** shall each designate one contact. All information and declarations given by the Client's contact with respect to the contract, the performance thereof and any duties of co-operation of the Client shall be binding upon the Client. The Client's contact shall furnish information and declarations without delay, and shall do so in writing at **AFTO Sh.p.k's** request.

3.2 The Client shall ensure that **AFTO Sh.p.k/** such individual as **AFTO Sh.p.k** may appoint in an individual case shall seasonably receive such documents and information as are required to perform the contract and that such person is timely advised of all transactions and circumstances which might be of significance to the Contractor's performance of the contract. The foregoing shall also apply to documents, transactions and circumstances that only come to light while **AFTO Sh.p.k** is performing the contract.

3.3 **AFTO Sh.p.k** may, in individual cases, request the Client to confirm in writing that the documents submitted and the information and declarations provided are complete.

3.4 To the extent that **AFTO Sh.p.k** employees utilise the Client's catering facilities, the Client shall charge the full costs thereof to those employees.

3.5 The Client shall carry out the duties of co-operation incumbent upon it free of charge to **AFTO Sh.p.k.**

Sec 4. Staff deployment

4.1 **AFTO Sh.p.k** shall deploy a sufficient number of qualified staff members to perform its services. These may both include salaried employees and freelance workers.

4.2 **AFTO Sh.p.k** may delegate the performance of services to sub-contractors.

4.3 Where an employee who was to be deployed is absent due to illness or other reasons for which **AFTO Sh.p.k** does not bear responsibility, **AFTO Sh.p.k** shall replace that employee within a reasonable time.

Sec 5. Exceeding deadlines

5.1 Deadlines and dates set out in the contract shall only be binding if so expressly agreed by the parties in the contract. **AFTO Sh.p.k** shall inform the Client with respect to any failures to meet deadlines as soon as such failures become foreseeable to **AFTO Sh.p.k.**

5.2 Where the failure to meet a deadline is attributable to a breach of the Client's duties pursuant to sec 3 hereof, **AFTO Sh.p.k** shall inform the Client thereof in writing within 10 business days. The Client shall procure that its breach ceases without delay.

5.3 Where additional working time arises for reasons for which the Client bears responsibility, **AFTO Sh.p.k** may demand the contractually agreed remuneration for such additional time and/or a corresponding increase to any agreed fixed price.

Sec 6. Reporting

6.1 The parties shall agree on the type and manner of performing the contract and of reporting (orally/in writing) at the time of awarding the contract.

6.2 Where **AFTO Sh.p.k** is required to prepare a written summary of the results of its work, any statements regarding such results which are given orally shall not be deemed binding. Oral statements or information provided by **AFTO Sh.p.k** employees outside of the contract awarded shall in all cases be deemed non-binding.

Sec 7 Copyright

7.1 The Client hereby warrants that it shall use the results of **AFTO Sh.p.k** work only for its own purposes. Disclosure thereof of any kind to third parties (including in excerpted form) shall only be permitted where **AFTO Sh.p.k** has provided its prior written consent thereto. Excepted from the foregoing is any disclosure to regulatory or approval-granting authorities.

Sec 8. Liability

8.1. In the event of unsatisfactory contractual performance, the Client shall initially only be entitled to claim that the service be re-performed in a proper manner. Only where the service again fails to be performed in a proper manner may the Client demand compensatory damages exceeding such initial claim.

8.2 The Client shall assert any complaints regarding the services in writing and without delay after the grounds of complaint became apparent. Where no timely notification is provided with respect to unsatisfactory contractual performance, any claims for compensatory damages shall be deemed waived.

8.3 Any claims for compensatory damages due to unsatisfactory contractual performance shall be deemed time barred at the end of a six-month period from the date **AFTO Sh.p.k** rendered the service forming the subject-matter of the contract.

8.4 **AFTO Sh.p.k** shall be liable only for intentional acts and omissions and gross negligence, including in connection with sec 278 of the German Civil Code.

8.5 Where **AFTO Sh.p.k** or its employees (vicarious agents - "*Erfüllungsgehilfen*") have acted in a negligent manner, **AFTO Sh.p.k** shall bear liability for the individual event of loss up to a maximum of € 50,000.00. Liability in excess of this amount shall require a special agreement between the parties on a case-to-case basis. A 'single event of loss' shall be deemed to encompass the total of claims for compensatory damages of all parties arising out of one and the same act or which are asserted by the same claimant against **AFTO Sh.p.k** or its employees on the basis of various acts where such acts have a common legal or commercial nexus.

8.6 The limitations on liability set forth at 8.4 and 8.5 above shall not apply where there has been an injury to the life, limb or health of another person. The limitations on liability in 8.4 shall not apply to the extent that material contractual obligations ("*wesentliche Vertragspflichten*" - an obligation without performance of which proper performance of the contract is not possible at all and on the satisfaction of which a counterparty would ordinarily rely and be entitled to rely) are involved.

Sec 9. Duty of confidentiality *vis-à-vis* third parties

9.1 **AFTO Sh.p.k** and its employees are obliged to keep confidential all facts coming to their knowledge in connection with their work for the Client except where the Client relieves them of this obligation or provisions of applicable law otherwise require.

9.2 **AFTO Sh.p.k** may not disclose reports, expert reports and other written comments on the results of its work to third parties except with the Client's consent.

Sec 10. Default of acceptance and breach of duties of co-operation

10.1 Where the Client defaults in accepting the services ("*Annahmeverzug*") rendered by **AFTO Sh.p.k** or where the Client breaches the duties of co-operation incumbent on it pursuant to this Agreement, **AFTO Sh.p.k** shall be entitled to terminate the contract without notice.

10.2 Even in cases of such termination, **AFTO Sh.p.k** shall be entitled to assert claims for compensation due to default ("*Verzugsschaden*") or for additional expenses or damages incurred by it due to the Client's breach of its duties of co-operation.

Sec 11. Retention and surrender of documents

11.1 Upon satisfaction of all claims arising out of the contract, **AFTO Sh.p.k** shall, upon the Client's demand, surrender all documents it has received from the Client or for the Client in connection with its work for that Client. However, the foregoing shall not apply to the correspondence between **AFTO Sh.p.k** and the Client and to documents of which **AFTO Sh.p.k** already possessed an original or a copy at the time the contract was awarded to it. **AFTO Sh.p.k** may make and retain duplicates or photocopies of documents it is surrendering to the Client.

Sec 12. Reimbursement of expenses, set-off

12.1 In addition to its claim for fees, **AFTO Sh.p.k** shall be entitled to reimbursement of expenses; VAT shall be charged separately. **AFTO Sh.p.k** may demand reasonable advances on its fees and reimbursement of expenses and may make the rendering of its services conditional upon full satisfaction of its claims. Where there are multiple clients, they shall bear joint and several liability.

12.2 The exercise of set-off against claims of **AFTO Sh.p.k** for fees and reimbursement of its expenses is permitted only where such claims are undisputed or have been determined by unappealable court judgment.

12.3. All receivables of **AFTO Sh.p.k** shall fall due as of the date of the invoice and shall be immediately payable, net of any deductions, but in any event no later than 14

calendar days from the date the invoice was received. The legal rate of VAT must be added to all price quotations and shall be shown separately in all invoices.

12.4. **AFTO Sh.p.k** shall invoice on a monthly basis for its travel costs and other expenses.

12.5. Where a payment period is exceeded, default interest shall be charged (without any need to provide a reminder to the Client) at a rate which is equal to the bank interest rate applicable to bank loans incurred by **FRS GmbH & Co. KG**, but at least at a rate of 5 percentage points over the base interest rate.

Sec 13. Force majeure

13.1 If, due to *force majeure*, for example war or civil unrest, strikes or lock-outs, natural catastrophes or fires, epidemics or quarantines, governmental measures or similar circumstances, contractual obligations cannot be timely performed or otherwise not performed in accordance with the parties' contract, the party in question shall be relieved of the obligation to satisfy those obligations to the extent such force majeure applies or, as the case may be, shall be entitled to postpone the performance of that party's services for the duration of the impediment plus a reasonable preparation time. The parties shall inform one another without delay as to cases of *force majeure*.

Sec14. Final provisions

14.1 By engaging **AFTO Sh.p.k** and by using the services rendered or the product supplied, the customer is deemed to acknowledge these General Terms and Conditions of Business to their full extent. In this context, the present General Terms and Conditions of Business shall apply to all types of goods and services to be provided. Customers may only use the services rendered, or the product supplied where they have fully acknowledged the application of these General Terms and Conditions of Business. Where the customer does not consent thereto (even in part), then the customer may not make any use of the services rendered or of the product supplied.

14.2 If parts of these General Terms and Conditions of Business or individual contractual agreements should be deemed invalid, the validity of the remaining provisions hereof shall not be affected thereby.

14.3 No addenda or amendments to contracts shall be valid unless made in writing, including any amendment to this written form requirement.

14.4 All claims arising out of the business relationship with the Client shall be exclusively subject to the law of the Federal Republic of Germany, excluding application of the provisions of the United Nations Convention on the International Sale of Goods CISG.

14.5 To the extent permitted by law, exclusive jurisdiction and venue shall lie with the courts of Flensburg. Exclusive place of performance is Flensburg.