

General Terms of project lifting and transport

1. General provisions

1.1. General provisions and scope

1.1.1. These General Terms applies when LINDØ port of ODENSE A/S (“LPO”) enters into an agreement (“Agreement”) with a party (“Client”) to carry out one or more tasks (“Task”), including but not limited to heavy weight lifts, handlings and operations of special structures (“Goods”); transport of special structures on quays ect. with special purpose vehicles; project lifting of special structures and technical engineering together with one or more of the tasks. Orders concerning rental of equipment or routine lifting shall not be considered as a Task and are therefore exempted from these General Terms.

1.1.2. Unless otherwise expressly agreed, these General Terms shall apply to any Task as defined in 1.1.1 performed by LPO.

2. Offer, price, payment and lien

2.1. Estimate and offer

2.1.1. Any estimate or offer made by LPO is not binding unless otherwise expressly stated. A definitive agreement is concluded when the Client accepts LPO’s offer or estimate.

2.2. Price and currency

2.2.1. The Client is obligated to pay the price the parties have agreed upon. If the Task is performed according to an estimate, the Client is obligated to pay the price stipulated by LPO according to clause 2.2.4 and 2.2.5.

2.2.2. All prices are exclusive VAT and any other dues and taxes unless otherwise expressly stated.

2.2.3. All prices are in Danish Kroner (DKK) unless otherwise expressly stated. If an alternative currency is expressly stated, the Client bears the risk of any fluctuation of the exchange rate.

2.2.4. LPO will stipulate the price in view of (i) the Tariff Group of the units/cranes involved and the use of standard equipment and tools, (ii) the necessity of technical engineering, calculations and expertise, (iii) performance of the Task in usual team sizes using the gear normally employed in the port in question and within normal working hours and (iv) continuous execution of the Task without interruptions due to the weather, the Goods, inadequate preparation or any other matter caused by the Client.

- 2.2.5. If the parties have not agreed upon a price, if the Task is performed on basis of an estimate or when LPO has performed additional work according to clause 2.2.6 the Client shall pay the price charged by LPO. If the Client cannot accept the charged price, the Client is obligated to give notice within 3 days from the day the Client got knowledge of the price. Furthermore, the Client shall prove that the price is unreasonable.
- 2.2.6. Extra work or any other changes exceeding the agreed scope of the Task shall be considered additional work for which LPO is entitled to separate payment. The price for additional work is subject to clause 2.2.4 and 2.2.5. If the performance of the task is impeded or delayed due to circumstances beyond LPO's control, LPO is entitled to payment for additional work according to this clause.
- 2.3. **Outlays**
- 2.3.1. The Client shall reimburse LPO any documented outlay and costs where such outlay or costs exceeds the amount agreed upon by the parties.
- 2.3.2. If customized equipment or special tools are necessary to perform the Task LPO is entitled to purchase such equipment or tools at the Client's expense if agreed upon by the parties in writing.
- 2.4. **Terms of payment**
- 2.4.1. Unless otherwise agreed the payment of Tasks performed by LPO shall be due 14 days after receipt of a proper invoice.
- 2.4.2. In case of default of payment, LPO is entitled to send a letter of demand giving the Client 7 days' notice to pay. Default of payment after this time constitutes a material breach of contract.
- 2.4.3. LPO is entitled to claim default interest at 2 % per month from the date of maturity plus a compensation fee of DKK 310.
- If a letter of demand must be forwarded to the Client, an administrative reminder fee of DKK 100 will be charged.
- 2.5. **Security**
- 2.5.1. Notwithstanding clause 2.4 LPO is entitled to claim payment in advance when LPO considers it reasonable.
- 2.5.2. LPO furthermore at any time entitled to demand that the Client provides an adequate security for any and all claims LPO has against the Client, including but not limited to claims arising from tasks previously performed by LPO for the Client.
- 2.5.3. If the Client does not fulfill its obligations according to clause 2.5 LPO shall be entitled to discontinue the performance of the Task without prior notice and to terminate the Agreement.

2.6. Lien

2.6.1. LPO shall have a lien on Goods, documents, cash, etc. under LPO's possession or control for any and all claims LPO may have against the Client relating to the performance of the Task or tasks previously performed by LPO for the Client.

2.6.2. The lien includes any amount of compensation and insurance payment substituted for the Goods or objects subject to clause 2.6.1.

2.6.3. If the Client has not paid due claims within 14 days from the date of a letter of demand forwarded by LPO under 2.4.2, LPO is entitled to sell a proportion of Goods large enough to cover the claim. Such sale must be conducted in an appropriate way out-of-court either by public auction or by offering it to relevant buyers. LPO shall notify the Client prior to the sale off if possible.

2.7. Set-off

2.7.1. The Client have no right to set off whatsoever.

3. Performance of the Task

3.1. Information on the Goods

3.1.1. The Client shall in reasonable time deliver such instructions and information to LPO as necessary for the performance of the Task, including but not limited to:

- a) the nature, weight and volume of the Goods
- b) any special precautions necessary for the performance of the Task
- c) stowage and/or discharge plans
- d) information concerning the protection of individuals, the environment, the property of LPO or any third party against damage caused by the Goods if any special precautions is to be observed
- e) any other relevant information.

3.1.2. Where the Task comprises Goods of sensitive materials of any kind, the Client is responsible for delivering all relevant instructions pertaining to any special warehousing or storage conditions, including temperature, light and humidity conditions, required for the sensitive Goods in question to LPO.

3.1.3. The instructions and information referred to in 3.1.1 and 3.1.2 shall be given by separate written notice to LPO.

3.1.4. If LPO stores the Goods in a way which is customary in the Department in question, at LINDØ port of ODENSE or according to industry standards, LPO shall not incur liability for any damage due to circumstances which LPO could not reasonably foresee or the consequences of which LPO could not reasonably prevent unless LPO has acted against the Client's express instructions.

3.1.5. If the Client does not meet its obligations under 3.1.1 and 3.1.2, LPO shall be entitled, without prior instructions from the Client and for the Client's account and risk, to take any precautions required to prevent damage to the Goods, to individuals, to property or to the environment. If necessary, LPO may thus have the Goods removed, destroyed, rendered harmless or sold pursuant to the provisions of clause 2.6.3.

3.2. **Dangerous Goods**

3.2.1. If the Task involves dangerous Goods or materials, the Client warrants that LPO in reasonable time receives all necessary information regarding the dangerous Goods pursuant to legislation and regulation applicable at the time of performance of the Task.

3.2.2. The Client warrants that all dangerous items are packed, labelled and classified according to legislation and regulation applicable at the time of performance of the Task. Furthermore, the Client warrants that the necessary permits e.g. have been obtained.

3.2.3. If the involved means of transport carries dangerous Goods – even if the Goods are only in transit – the Client shall in reasonable time inform LPO of the nature and classification of the Goods. Additionally, the Client is in such case obligated to ensure compliance with all regulations regarding dangerous Goods.

3.2.4. Clause 3.1.3 and 3.1.5 shall apply to this section 3.2 by analogy.

3.3. **Handling of Goods**

3.3.1. The Client is obligated to perform tallies or any other control functions in connection with the Task unless otherwise expressly agreed.

3.3.2. The Client is obligated to make sure that the Goods are packed and labelled in accordance with the legislation and regulation applicable at the time of performance of the Task. The packaging of the Goods shall be able to resist ordinary handling and any weather conditions.

3.3.3. Moreover, the Client shall make sure that all sea fastening have been removed from the Goods and that the Goods have lifting yokes and anchoring in accordance with LPO's instructions and the current legislation and regulation applicable at the time of performance of the Task.

3.4. **Equipment**

3.4.1. LPO shall provide slings and other usual equipment for lifting, loading and unloading etc.

3.4.2. If the Client is responsible for any transport in connection with the Task, the Client shall ensure that the equipment referred to in 3.4.1 is made available without any costs to LPO provided that LPO in reasonable time instructs the Client to do so. In such case, the equipment shall meet all requirements in current legislation and regulation applicable at the time of performance of the Task as well as any specific requirements set out by LPO prior

to the execution of the Task. In addition, the Client shall ensure that LPO is properly instructed in the use of the equipment and shall, in general, contribute to preventing personal injury or damage to the environment, to the equipment and/or to the Goods.

3.5. Preparation of means of transport

3.5.1. If the Client is responsible for any transport in connection with the Task, the Client shall ensure that the relevant means of transport is prepared for LPO's performance of the Task. This includes ensuring that the holds are clean, that the access to the means of transport and its holds is adequate and safe and that the means of transport is ready in every respect to receive the Goods.

3.5.2. Furthermore, the Client shall ensure that the working conditions on board the means of transport, including ventilation, light, mooring and safety measures, are adequate and comply with the safety regulations applicable at the time of performance of the Task.

3.5.3. If LPO deems that the Client has not met his obligations under 3.5.1 and 3.5.2, LPO is entitled to perform the said tasks for the Client's account and risk. This also applies if the said tasks are usually performed by LPO.

3.6. Insurance

3.6.1. Insurance of the Goods is of no relevance for LPO, thus LPO has no obligation to insure the Goods, whether for its own or the Client's account.

3.6.2. The Client is obligated to take out insurance against any injury to persons or damage to property caused by the Goods. LPO is entitled to request a copy of the insurance policy to make sure that such insurance has been taken out and is in effect.

3.7. Third Parties

3.7.1. LPO is entitled to have the Task performed partly or totally by a third Party.

3.8. Delay

3.8.1. If the party entitled to take delivery does not receive the Goods within reasonable time after delivery, LPO is entitled to take care of the Goods for the account and risk of the Client.

4. Term and Termination

4.1. The Agreement between the parties enters into force at the time stated in clause 2.1.1 and will expire when the Task is performed by LPO and all amounts due are paid by the Client. If the parties have agreed upon a contract of a continuing nature the Agreement shall expire at the time stipulated or if one of the Parties terminates the Agreement.

4.2. A contract of a continuing nature can be terminated by both Parties by giving at least 30 days' notice to expire on the last day of any month.

5. Breach

5.1.1. Notwithstanding clause 4 a party to the Agreement is entitled to terminate the Agreement with immediate effect without further notice if the other party has not fulfilled its obligations according to the terms of these General Terms or the Agreement and if such non-performance constitute a material breach of contract.

5.1.2. The events specified in the following list shall constitute a material breach of contract (non-exhaustive list):

- a) Failure to pay within the time stipulated in the letter of demand under 2.4.2;
- b) Failure to comply or inadequate compliance with the information requirements stated in clause 3.1 or 3.2;
- c) The Client enters into reconstruction or insolvency proceedings or goes into solvent liquidation.

6. Liability of LPO

6.1. Liability for loss and damage in respect of Goods

6.1.1. LPO is to be considered in possession of the Goods at the time the Goods is hooked up in a crane operated by LPO or is placed on a special vehicle operated by LPO until time of delivery. The Goods is to be considered delivered at the time the Goods is unhooked or unloaded for the Client's disposal or for the disposal of a third party whom the Client is responsible for.

6.1.2. LPO is liable for loss and damage of the Goods if the Client is able to prove that the loss or damage is caused at the time the Goods where in LPO's possession and that the conditions according to the Danish general principles of damages are fulfilled.

6.2. Liability in case of delay

6.2.1. When the Task is not performed at the time expressly agreed upon or if no time is agreed upon, at the time which, having regard to the circumstances of the case, would be reasonable to allow LPO, LPO shall be liable if the Client is able to prove that the delay constitutes a material breach of contract, and that the conditions according to the Danish general principles of damages are fulfilled.

6.3. Liability for any other harm

6.3.1. LPO shall be liable for any harm other than those specified in clause 6.1 and 6.2 if the Client proves that such harm was caused by a deliberate or grossly negligent act of LPO and if the conditions according to the Danish general principles of damages are fulfilled.

6.4. **Liability in respect of third parties**

6.4.1. If the Task according to clause 3.7 is performed partly or totally by a third party, LPO remain liable to the Client even if such third party causes damage, loss, delay or any other harm. LPO's liability shall in such cases not exceed the liability according to clause 6.6.

6.5. **Calculation of compensation**

6.5.1. The compensation for lost or damaged Goods shall be calculated according to the "cost value" of Goods of the same nature and quality at the time and place where LPO got possession of the Goods.

6.6. **Limitation of liability**

6.6.1. The amount of liability shall as a general rule be calculated as stated in clause 6.5.1.

6.6.2. LPO is in no cases liable for loss of profit, lost production, consequential loss or any indirect loss.

6.6.3. If LPO is held liable according to clause 6.1 the liability shall in all cases be limited to 666.67 SDR per parcel or other unit of Goods, or 2 SDR per kilogram of damaged or lost Goods, whichever the higher amount.

6.6.3.1. If containers, trailers, barges or similar articles of transport are used for consolidating the Goods, such article of transport shall, for the purposes of clause 6.5.1, in itself be deemed to constitute a unit. Thus, the calculation of the compensation shall not take into account the number of units consolidated in such article of transport unless otherwise expressly agreed.

6.6.4. If LPO is held liable, the liability shall in no cases notwithstanding of clause 6.6.3 exceed 20 % of the order amount, cf. clause 2.2, or DKK 1,000,000 whichever the lower.

6.6.5. In cases where the Client has limited its liability against any third party, LPO's liability to the Client shall as a matter of course not exceed the Client's liability to such third party.

6.7. **Exemption of liability (Adverse weather)**

6.7.1.1. If LPO due to adverse weather conditions and for safety reasons suspend or postpone the performance of the Task and the Task thus is delayed, LPO is in all cases exempted from liability.

6.7.2. **Exemption of liability (Force Majeure)**

6.7.2.1. LPO shall under no circumstances be liable for any loss caused by an extraordinary, unavoidable, unforeseeable event beyond LPO's control which is rendering the performance of the Task impossible or exorbitant from an industrial or commercial point of view, e.g. but not limited to natural disaster, strike, lockout, blockade or boycott, whether or not LPO is a party to such a conflict.

6.8. **Non-contractual claims for compensation**

6.8.1. In the event of non-contractual claims for compensation against (i) third parties, which LPO according to clause 6.4 is responsible for, (ii) contractors, subcontractors or (iii) any other part which LPO is contracting with, such party mentioned can avail themselves of the provisions of these General Terms which exclude the liability of LPO or which fix or limit the compensation due.

6.8.2. The total liability incurred by the parties for which LPO is responsible or by contracting parties as listed in clause 6.8.1 shall in no event exceed the limitations of liability set out in clause 6.6.

7. **Liability of the Client**

7.1. **Indemnification**

7.1.1. The Client shall indemnify and hold LPO harmless from any and all liability following from claims, damages or losses of any and all kind following from the Agreement incurred by LPO as a result of the following:

- a) The Client has provided incorrect or incomplete information concerning the Goods;
- b) The Goods were not correctly declared by the Client or any party for which the Client is responsible;
- c) The Client or any party for which the Client is responsible has loaded, unloaded, stowed or secured the Goods incorrectly;
- d) The Goods have harmful properties or weight of which LPO has not been expressly informed;
- e) LPO is ordered to pay a fine, customs duty, VAT or any other public dues or taxes or to provide security concerning the Goods.

7.1.2. The Client shall immediately indemnify LPO to the extent LPO is held liable to a third party for such damage or loss for which LPO according to clause 6.6 is not liable.

7.2. **Adverse weather**

7.2.1. The lessee is responsible for monitoring the weather conditions.

7.2.2. Waiting time due to adverse weather conditions is payable by the lessee at the hourly rate for crew plus any overtime or weekend/holiday charge.

7.2.3. Waiting time not caused by LINDØ port of ODENSE is invoiced at the hourly rate for crane and crew plus any overtime or weekend/holiday charge.

7.2.4. LINDØ port of ODENSE disclaims any liability for operations halted due to adverse weather.

7.2.5. Where agreement is made that a crane operation is to be settled at a rate per tonne, any waiting time will immediately be converted to an hourly rate for the period of waiting time.

7.2.6. Rigging/de-rigging is charged at the hourly rate plus any overtime or weekend/holiday charge.

8. Claims

8.1. Duty to give notice

8.1.1. If the Client intends to hold LPO liable for any loss arising from the performance of the Task, the Client shall give LPO notice hereof immediately after the Client discovers or ought to have discovered the default, giving rise to the claim. If such notice is not given immediately, the Client forfeits its right to pursue the claim and thus the claim will lapse.

8.1.2. If the claim is arising from a delay in delivery of the Task the Client is – notwithstanding of 8.1.1 – obligated to give notice within 3 days from the time where the Task should be delivered if the Client intends to rely on such delay. If such notice is not given within 3 days, the Client forfeits its right to pursue the claim and thus the claim will lapse.

8.2. Forfeiture of claims

8.2.1. Any claim, which the Client has not invoked against LPO within 2 months from the time stipulated in clause 8.2.2 shall be forfeited.

8.2.2. If the claim arises from damage to, or partial loss of Goods the limitation period referred to in clause 8.2.1 shall run from the time of delivery. In case of delay in delivery, total loss of Goods or any other harm, the limitation period referred to in 8.2.1 shall run from the time where the Goods according to the Agreement between the parties should have been delivered. If the claim is arising from a contract of a continuing nature, the limitation period referred to in 8.2.1 shall run from the time the Client discovered or ought to have discovered the default giving rise to the claim.

9. Validity

9.1. In the event, that any individual provisions of these General Terms for any reason should be invalid, the validity of the other provision shall not be affected.

10. Venue and governing law

10.1. Any dispute between the parties shall be subject to Danish law.

10.2. Any dispute arising out of or in connection with the Agreement between the parties, including any disputes regarding the existence, validity or termination thereof, shall be settled by arbitration administered by The Danish Institute of Arbitration in accordance with the rules of arbitration procedure adopted by The Danish Institute of Arbitration and in force at the time when such proceedings are commenced.

- 10.3. The arbitration shall be held in Copenhagen, Denmark, and shall be conducted in the Danish language.
- 10.4. The award or decision made by the arbitral tribunal shall be final and conclusive and have binding effect upon the parties to the arbitration and may be enforced in the same manner as a judgment or order of a court of competent jurisdiction.

Date:

For the Client:

[name]