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## 1. Definitions.

**Mooring operation** - the mooring or unmooring of floating objects to/from the port infrastructure or another floating object.

**Service** - a service ordered by the Clients, consisting, in particular, in placing or removing mooring ropes/wires of a floating object to/from the mooring equipment of the port infrastructure or another floating object, also using mooring motorboats or other floating equipment and technical vehicles of the Contractor.

**Floating object** - any floating object, in particular a ship or a towing tandem

**Clients** - owners of a floating object or an entity acting on their behalf or other entity holding the legal title to manage that floating object, ordering the Contractor to perform the service.

**Contractor** - Fairplay Towage Polska sp. z o.o. sp.k.

**Mooring Operation Commander** - the master of a ship, the designated person in charge of a towing or a floating object responsible for the command of that ship, towing tandem or floating object during its mooring and un-mooring.

**Mooring Team Leader** - a mooring officer appointed by the Contractor who directs the mooring Team in accordance with the orders given by the Mooring Operation Commander.

**Mooring Team** - a group of Contractor's linesmen responsible for carrying out the orders of the Mooring Team Leader.

**Quay Manager** - the entity having the legal title to manage the port infrastructure on which the service is performed.

**Force Majeure** - means any event which could not have been foreseen or which is foreseeable, but unavoidable, including any natural disaster or human action such as fire, flood, storm, rainfall, earthquake, explosion, strike or other major labour dispute, riot, war or change of law, order, ordinance or governmental regulation.

## 2. General information.

These general terms and conditions of providing mooring services, in effect on the date of the service order placement, shall apply to all mooring services provided by the Contractor.

The Contractor reserves the right to stipulate additional or deviate from part or all of these General Terms and Conditions of Providing Mooring Services, which shall then be agreed upon with the Clients for a specific service order.

## 3. Commissioning of services, fees and complaints.

The rules for ordering and accepting service orders for execution, the amount of fees for the services and the rules for lodging complaints are contained in the current edition of the Tariff.

## 4. Rules for providing the services.

The services shall be performed to order of the Clients and under the command of the Mooring Operation Commander, according to the sequence of service orders received and confirmed by the Contractor ("first-come, first-serve" principle), provided that the sequence in which orders are executed is in accordance with port customs or recommendations issued by the port authorities.

The Contractor is entitled to:

- apply priority to the provision of services in cases of emergency = threats to the safety of life or property;



- refuse or interrupt the service for justifiable reasons, including where port infrastructure, quay mooring facilities or access to the site of the service are not available or ready for the safe performance of the service;
- refuse or interrupt the service if the floating object or access to it is not ready for the service;
- refuse or interrupt the service if, in the opinion of the Mooring Team Leader, the performance of the service endangers the safety of persons or property. In the event of a decision to refuse or interrupt the service due to a threat to the safety of people or property, the commencement or resumption of the service shall take place without undue delay once the reason for the refusal or interruption of the service has ceased.

The Contractor shall not be liable for any delays in the performance of the services resulting from the above, for the delays resulting from previous mooring operations beyond the Contractor's control, decisions made by the Mooring Operation Commander, or due to force majeure.

The fees for the use of the Contractor's mooring motorboats or other floating equipment in mooring operations shall be charged and collected in accordance with the current Tariff, as for the rental of floating equipment.

The General Terms and Conditions of Towing Services shall also apply to services performed by the Contractor's mooring motorboats or other floating equipment.

#### **5. Readiness of the port infrastructure to perform the service.**

Readiness of the port infrastructure for the performance of the service is understood to mean, in particular, that:

- it is authorised for use by the relevant administration and equipped with mooring and fender facilities and life-saving equipment in accordance with the relevant regulations;
- the mooring pathway is clear of obstructions, cleared of snow and ice in winter and illuminated after dark;
- access equipment to the port infrastructure such as access ladders, railings, jetties, etc. are approved for use, in working order and safe for mooring teams to operate;
- mooring equipment is approved for use, operational and safe for mooring teams. In the case of powered mechanical equipment - the power supply is provided and the equipment is checked in operation by the Harbour Infrastructure Manager;
- efficient and safe access is provided for the Contractor's mooring teams and technical vehicles to the harbour infrastructure from the land side and/or the mooring motorboats from the water side.

#### **6. Readiness of the floating object to perform the service.**

The readiness of the floating object for the performance of the service is primarily understood to mean that:

- efficient and safe access to, embarkation to and disembarkation from the floating object is ensured (from the harbour infrastructure side via a gangway or other human transfer device, from the water side via pilot ladders or other safe means for the mooring teams);
- the floating object is provided with mooring and fender equipment suitable for it and in sufficient quantity;
- the deck of the floating object, where the mooring team operates the mooring ropes/wires, is prepared for the performance of the service (in the port - a foundation allowing safe movement on it, cleared of snow and ice in winter and illuminated after dark, at sea - in a manner ensuring the safe operation of the mooring teams performing the service);
- the mooring equipment is operational and safe for the mooring teams;
- hydro-meteorological conditions allow for the safe performance of the service and the movement of mooring teams to and from the floating object.

#### **7. Obligations of the Contractor.**

The Contractor's obligations are to:

- ensure that an adequate number of properly trained and equipped linesmen is available to perform the service, in accordance with the conditions specified in the service order and local port regulations;
- perform the service under the command of and in accordance with the instructions issued by the Mooring Operation Commander, in accordance with the conditions set out in the accepted service order, subject to clause 5 of these General Terms and Conditions of providing Mooring Services.

#### **8. Obligations of the Clients.**

Obligations of the Clients are to:

- submit a written service order to the Contractor,
- comply with the provisions of the current Tariff and these General Terms and Conditions of Providing Mooring Services, and pay on time for the services performed;



- specify in the service order, at Client's own risk, the information necessary to perform the service, the conditions for performing the mooring operation issued by the port authority and the Port Infrastructure Manager, any other non-standard requirements concerning the quantity or non-standard equipment of the mooring teams resulting from the instructions issued by the Mooring Operation Commander and the Port Infrastructure Manager, as well as the need to use mooring motorboats;
- appoint and ensure the presence of the Mooring Operation Commander during the mooring operation;
- ensure that the Mooring Operation Commander provides adequate conditions for the mooring team leaders to pass on instructions;
- ensure that the port infrastructure is ready for the service;
- ensure that the floating object is ready for the service;
- obtain from the Harbour Infrastructure Manager all approvals and permits for the entry and performance of the service by the mooring teams and the entry and operation of the Contractor's technical vehicles or mooring motorboats used to perform the service;
- obtain all conditions and approvals from the port authorities and the Harbour Infrastructure Manager for the performance of the mooring operation.

#### **9. Contractor's Liability.**

- (1) The Contractor shall perform the services as directed by the Mooring Operation Commander, at the risk and expense of the Clients.
- (2) The Contractor's liability is limited to the Client's actual, documented losses caused by the Contractor's wilful misconduct or gross negligence. The Contractor's liability, subject to clause (3) below, shall be limited to the amount of the remuneration for the services in respect of which liability has arisen, but not exceeding EUR 10,000 for any damage resulting from the performance of the services covered by the towing services contract.
- (3) The Contractor shall be liable for documented losses of the Clients resulting from the Contractor's wilful misconduct or gross negligence. The Contractor's liability for delayed service shall be limited to three times the remuneration for the delayed service, for the entire period of delay.
- (4) The Contractor's liability for lost profits or any indirect damage is excluded.
- (5) In any event, the Contractor who has caused damage is entitled to limit its liability in accordance with the Convention on Limitation of Liability for Maritime Claims London 1976 (as amended), the Convention on Limitation of Liability in Inland Navigation (CLNI), 1988, or other relevant provisions of international conventions or the internal regulations of the Republic of Poland.
- (6) The exclusions and limitations referred to in this clause apply to any liability of the contractor, whether arising under contract or not (tort), and apply to its subcontractors and other persons it uses in the performance of the services.
- (7) In cases of personal injury, the mandatory legal provisions apply.

#### **10. Clients' Liability.**

The Clients are liable for the accuracy of the data contained in the order.

The Clients are liable to the Contractor for any damage and/or loss and the Clients shall indemnify the Contractor for any damage and/or loss caused in any way in connection with the services.

Damage and/or losses within the meaning of this Clause include, but are expressly not limited to, damage to goods, loss due to death or injury and environmental damage, as well as all costs incurred in order to (legally) defend against any claim.

The Clients warrant that the Contractor shall be able to invoke all exclusion or limitation of liability clauses (including limitation and termination clauses) that are contained in any contract between the Clients and third parties.

#### **11. Dispute resolution and applicable law.**

The law applicable to mooring contracts and mooring orders is English law. Any disputes and claims arising in connection with the provision of services shall be resolved amicably between the Client and the Contractor, and if such resolution is not possible, the disputes and claims shall be resolved exclusively by the International Arbitration Court for Maritime and Inland Shipping in Gdynia.

#### **12. Language version.**

These terms and conditions are drawn up in Polish and English.

In the event of any discrepancy or doubt as to interpretation, the Polish version of these General Terms and Conditions of Mooring Services shall prevail.