

# Terms & Conditions

## 1. Definitions

**Agreement:** the Client's agreement to these Terms & Conditions by making use of the Port with a Vessel, using the Port's facilities and purchasing Services from the Supplier.

**Applicable Law:** all international, European and the laws of the Republic of Cyprus, SOLAS Convention, regulations, regulatory requirements, codes of practice, practice directions of the International Maritime Organization and the Director of the Department of Labor Inspection, sanctions and bylaws.

**Baggage:** any property carried by or belonging to a Passenger but excluding any Goods contained in or carried on board a Vessel.

**Client:** natural person or legal entity making use of the Port with a Vessel or purchasing Services from the Supplier

**Customs & Excise:** the Republic of Cyprus Department of Customs & Excise.

**Days:** working days, when banks are open in the Republic of Cyprus, excluding public holidays in Cyprus.

**Equipment:** including but not limited to any plant, machinery, container package, case, pallet, vehicle, trailer and truck of any description.

**Force Majeure Event:** the events listed in Clause 19.4(a).

**Goods:** cargo of whatever nature.

**Order:** the Client's purchase order form.

**Passenger:** any person using the Port Area as a point of on boarding and off boarding a Vessel for the purpose of travelling.

**Port:** the port of Larnaca.

**Port Area:** the land and water space of the port of Larnaca.

**Port Community System:** the computer system used by the Supplier, shipping lines, agents, forwarders, hauliers, freight operating companies and other persons for the purpose of customs clearance and inventory control of imports and exports and any electronic data system that may succeed it.

**Port Dues:** as specified in Part 2.

**Rates:** as specified in Part 2.

**Retail Price Index:** the measure of inflation published by the office for national statistics.

**Services:** any operation, work or services performed or provided by the Supplier in connection with Goods, Equipment or a Vessel and in particular with the berthing, unberthing, moving and servicing, repairing for any Vessel or Equipment, shipping and unshipping of Goods, sorting, weighing, marking, checking, recording, storing, general handling and movement of Goods and Equipment by road or otherwise, embarking, disembarking and movement of crews and Passengers and as specified in Part 2.

**SOLAS:** the International Convention for the Safety of Life at Sea of the International Maritime Organization supplemented by the SOLAS guidelines as amended from time to time.

**Supplier:** Kition Ocean Port Ltd including an affiliate of Kition Ocean Port Ltd.

**Vessel:** any floating mean of transportation used for transportation by water or for carrying objects.

**VAT:** the value added tax as specified by the laws of the Republic of Cyprus.

**Waste Fee:** the contribution in the costs of the receipt, storage and disposal of ship-related waste.

## 2. Applicability

2.1 These Terms & Conditions apply to the use of the Port Area by the Client, to all agreements under which the Supplier provides Services to the Client and to all offers and quotations of the Supplier, unless otherwise agreed by the parties in writing.

2.2 Unless otherwise agreed explicitly and in writing, the Client waives the applicability of any other including its own terms and conditions.

2.3 These Terms & Conditions apply to the Agreement to the exclusion of any other terms that the Client seeks to impose or incorporate, or which are implied by law, trade, custom, practice or course of dealing.

2.4 Where the Client is required to obtain any security pass in connection with its access to the Port Area, the Client must comply with any additional terms and conditions governing the obtaining and use of such security pass.

2.5 These Terms & Conditions constitute the entire agreement between the Supplier and the Client and supersede any previous agreement between them relating to the subject matter.

2.6 Subject to Clause 2.5, the Supplier may issue separate terms and conditions governing the provision of specialist services. Unless specified explicitly and in writing, such additional terms

and conditions shall apply in respect of the specialist services but these Terms & Conditions shall continue to apply to the extent they are applicable.

2.7 Subject to Clause 2.5 and Clause 2.6, the use of the Port Community System, is subject to the standard terms of use for the Port Community System.

2.8 Where the Client is acting or purports to act as an agent for a principal, they shall be bound to the Supplier under the provisions of these Terms & Conditions.

2.9 Any amendments and/or deviations from these Terms & Conditions will only be binding on the Supplier if explicitly accepted by the Supplier in writing.

### **3. Order and Agreement**

3.1 The Order constitutes an offer by the Client to purchase Services in accordance with these Terms & Conditions.

3.2 The Order shall only be considered as accepted when the Supplier issues a written acceptance of the Order at which point and on which date the Agreement shall come into existence.

3.3 In the absence of any express acceptance by the Client of these Terms & Conditions, acceptance is implied upon the entry or delivery of any Vessel, Passenger, person, Goods, Luggage or Equipment into the Port Area and/or the submission of any documentation in the Port Community System or the [oral] application to the Supplier for entry to the Port Area and/or for any Services and/or the use of any facility by or on behalf of any Client.

### **4. Invoicing**

4.1 Port Dues, facilities and Services shall be invoiced to the Client with one invoice listing all the Services provided to the Client.

4.2 All amounts due are VAT exclusive, which shall be paid by the Client to the Supplier in addition to the amounts due.

### **5. Payment**

5.1 The Client shall effect the payment of Port Dues to the Supplier no later than 7 (seven) Days from the date of issuance of the invoice, to the Supplier's bank account as indicated on the invoice.

5.2 Any disputes between the Supplier and the Client do not entitle the Client to suspend or delay any payment due to the Supplier.

5.3 Any deductions, discounts and/or set off are excluded from the payments.

## **6. Port Dues**

6.1 Port Dues are incurred by the Client upon commencement of the use of berthing facilities, other Port Area facilities and/or any Services performed by the Supplier.

6.2 Port Dues are calculated according to Part 2.

6.3 For calculating and collecting purposes of the Port Dues, the Port shall be regarded as a single entity.

6.4 The Client shall provide to the Supplier all information for the determination of the Port Dues.

6.5 The Supplier shall be entitled to charge an overtime rate for each part of the day or for any time worked by individuals whom it engages on the Services outside the hours.

6.6 In addition to these provisions, the Supplier shall be entitled to charge the Client additional fees for accidents or spills caused by the Client, general non-performance or for breach of these Terms & Conditions or any Applicable Law or for not acting with reasonable skill and prudence which may result to delays, costs or any additional work to be performed by the Supplier.

## **7. Waste Fee**

7.1 The Waste Fee rate is calculated according to the rates as set out in Part 2.

7.2 Waste Fee is incurred every time the Client uses the Port with a Vessel, irrespective of whether any waste has actually been generated.

7.3 The Client shall provide the Supplier with all information about the determination of the Waste Fee.

## **8. Variation of Terms & Rates**

8.1 The Supplier reserves the right to unilaterally vary these Terms & Conditions, including the Rates in Part 2 at any time.

8.2 The Supplier reserves the right to increase the Rates on an annual basis in line with the percentage increase in the Retail Price Index in the preceding 12-month period and the first such increase shall take effect on 1st January and shall be based on the latest available figure for the percentage increase in the Retail Price Index.

## **9. Supply & Performance of Services**

9.1 The Supplier endeavors to provide the Services with reasonable skill and care.

9.2 The Supplier reserves the right to make use of items other than those agreed and engage third parties, if required under circumstances, provided that the quality of performance is not compromised as a result.

9.3 Pursuant to Clause 9.2, the Client agrees that circumstances including but not limited to a shortage of berths and unforeseen circumstances, may affect the agreed or expected time at which the Services will be completed or performed.

9.4 The Supplier shall exercise reasonable care in executing Orders but shall not be liable for any delays whatsoever and howsoever caused.

9.5 Goods and Equipment which for any reason cannot be delivered will be placed on the quays, in a transit shed or elsewhere within the Port Area at the sole risk and expense of the Client, subject to charge.

9.6 The Client shall provide the Supplier with all information and cooperation necessary for the proper performance and billing of the Services.

9.7 The Client agrees that the Supplier shall solely decide and at its absolute discretion in the allocation of berths, quay plant, machinery, cargo handling gear, labor and storage space.

9.8 The Client understands and agrees that shipment of Goods is at the sole responsibility of the Client and acceptance of Goods for shipment by the Supplier does not warrant that the Goods will be shipped.

9.9 The Client warrants to the Supplier that:

1. a) it has the authority of all owners having any title or interest to the Goods, Equipment or Vessel including any Luggage, to accept these Terms & Conditions on their behalf; and
2. b) has notified these Terms & Conditions to such persons.

9.10 Unless the Supplier is notified in writing of any title or interest to Goods, Equipment, and/or Luggage, these Terms & Conditions are deemed to have been accepted with the authority of the persons having the title or interest.

9.11 Pursuant to the provisions of Clause 9.10, such title or interest is subordinated to the rights of the Supplier under these Terms & Conditions.

9.12 The Client agrees that the rights, exceptions and defenses available to the Client in relation to third parties, either by statute or agreement, are extended to the Supplier.

9.13 The Supplier reserves the right to:

1. a) decline the provision of the Services; and/or
2. b) suspend the performance of the Services
3. **Non-Performance**

10.1 Subject to Clause 9.13, in the event the Supplier declines or suspends the Services, the Supplier shall not be liable for any loss or damage arising out of the non-performance or the suspension of the Services.

10.2 Subject to Clause 9.13, in the event the Supplier declines the performance of the Services, the Client must at its own expense, remove any Goods and/or Luggage and/or Equipment from the Supplier's premises within 30 (thirty) days of a notice to the Client.

10.3 Pursuant to Clause 10.2, failure of the Client to remove any Goods and/or Luggage and/or Equipment from the Supplier's premises will result in the Supplier removing them at the expense and risk of the Client.

10.4 Subject to Clause 9.13, in the event the Supplier suspends the performance of the Services and declines to resume the performance, the Supplier shall notify the Client and the Client must at its own expense, remove any Goods and/or Luggage and/or Equipment from the Supplier's premises within 30 (thirty) days of a notice to the Client.

10.5 Pursuant to Clause 10.4, failure of the Client to remove any Goods and/or Luggage and/or Equipment from the Supplier's premises will result in the Supplier removing them at the expense and risk of the Client.

10.6 Where it becomes exceptionally difficult to provide the Services due to unsoundness of the Goods, bad or collapsed stowage, damage to the Goods or the Vessel or other matter causing difficult working conditions (including but not limited to adverse weather conditions), the Supplier may at its discretion elect whether to provide or continue providing the Services. If it elects so and informs the Client, then the Supplier will not be liable for any loss or damage whatsoever or howsoever caused (including where caused by the negligence of the Supplier, its employees, agents or independent contractors) to the Goods or the Vessel and the Client shall indemnify the Supplier against all proceedings, claims and expenses arising out of or

consequent on any such election by the Supplier including all proceedings, claims and expenses relating to the handling of Goods on the quay or in a transit shed. The Supplier reserves the right to solely decide on whether the working conditions are rendered as difficult and whether the prevailing weather conditions permit the Services to be provided.

10.7 Where cargo is not sound cargo being able to be worked under normal conditions on a normal Vessel or, at the discretion of the Supplier, for any other reason that a reasonable rate of loading or discharging is not achievable, then the Rates per ton specified from time to time by the Supplier shall not be applicable but shall be substituted by the Supplier charges for labor plant gear and equipment and, in addition, all extra costs, charges and expenses incurred by the Supplier shall be repaid by the shipowner of the Vessel and/or the agent of the Vessel.

## 11. Incorrect Statements

11.1 In the event of any payment deemed as incorrect by the Client due to an incorrect statement by the Client, the Client must inform the Supplier accordingly and in writing, enclosing all documentation evidencing the inaccuracy.

11.2 Subject to Clause 11.1, in the event the Supplier decides that the payment was incorrect, the surplus or deficit amount shall be settled via refund by either the Supplier or the Client accordingly.

11.3 In the event of a deficit due to the Client's incorrect statement, the Client shall pay to the Supplier the amount of the difference plus a 15% (fifteen per cent) surcharge of the difference.

11.4 Pursuant to Clause 11.3, the Client shall be relieved of the 15% (fifteen per cent) surcharge if the Client notifies the Supplier of the difference in writing no later than 2 (two) days after the date of issuance of the invoice.

## 12. Refunds

12.1 In the event of the Client paying Port Dues for a 1 (one) year period and the use of the Port terminates prior to the expiry of the 1 (one) year period, the overpaid amount shall be refunded to the Client, subject to the Client's written request accompanied by all supporting documentation.

12.2 Subject to Clause 12.1, the Client's written request must be received by the Supplier 2 (two) months prior to the termination of use of the Port.

## 13. Berths

13.1 Access to the Port Area does not imply the provision of a berth to the Client. The Supplier reserves the right to refuse the provision of a berth for any reason and subject to the Supplier's sole discretion.

## 14. Pollution

14.1 Any pollution caused in the Port Area by the actions of the Client or a third party associated with the Client's activities, must be cleared immediately at the Client's sole expense and responsibility.

14.2 Pursuant to Clause 14.1, the Client shall immediately notify the Supplier and the Supplier shall decide on the measures to be taken.

14.3 If the Client fails to fulfill its obligations as per Clause 14.1 and Clause 14.2, the Supplier shall clear the pollution at the expense and risk of the Client plus a surcharge of 30% (thirty per cent).

## 15. Imports & Exports

15.1 Authorization for the removal of imported Goods and Equipment shall not be granted by the Supplier unless such Goods and Equipment are correctly released and cleared with no statutory authority holds applied via the Port Community System, or local holds that may be applied via equipment control systems operated by or on behalf of the Supplier. Goods and Equipment which fall outside the scope of the Port Community System are subject to acceptance of other documentation as prescribed from time to time by the Supplier in order for Goods and Equipment to be released.

15.2 All Goods and/or Equipment brought to the Port Area for shipment shall only be accepted to the Port Area if correctly entered by or on behalf of the Client on the Port Community System and arriving at the Port Area within the stated receiving period.

15.3 Any hazardous Goods shall be pre-entered as such on the Port Community System and must include the IMDG class and UN number. Such hazardous Goods must be labelled by or on behalf of the Client in accordance with all Applicable Laws and accompanied by a duly authorized dangerous goods note.

15.4 Goods which fall outside the scope of the Port Community System must be accompanied by a standard shipping note, unit load note, dangerous goods note, vehicle condition report or temperature control document, not later than the arrival of trucks/lorries conveying such Goods and/or Equipment at the Port Area in respect of Goods and/or Equipment brought to the Port Area by road.

15.5 Subject to other arrangements agreed in writing with the Supplier, a standard shipping note, unit load note, dangerous goods note, vehicle condition report or other document accompanying the Goods or Equipment must specify the number of packages, description of Goods, gross weight, name of the Vessel, port to which the Goods or Equipment are to be shipped, any special carriage or storage requirements and the name and address of the Client or the Client's agent to whom charges are to be imposed.

15.6 The Client is responsible for all import duties, export duties, fines, charges and taxes in relation to the Goods.

## 16. Lien

16.1 The Supplier shall have a general lien on all Goods, Equipment and documents relating to the Goods and Equipment in its possession custody or control, for all and any sums due to the Supplier at any time from the Client or any other person interested in the Goods or Equipment whether in relation to the same Goods and Equipment or otherwise.

16.2 Pursuant to Clause 16.1, the Supplier shall be entitled to sell or dispose of such Goods or Equipment or documents at the expense of the Client and apply the proceeds in or towards the payment of such sums upon 14 (fourteen) days' written notice to the Client.

## 17. Indemnities



17.1 The Client indemnifies the Supplier against any claims brought by third parties for damages incurred through the use of the Port Area and/or through the Services provided by the Supplier to the Client.

17.2 The Client indemnifies the Supplier against any claims against the Supplier by the Customs & Excise department or any other Government or regulatory authority in relation to any Goods under bond.

## 18. Joint and Several Liability

18.1 Where the Client comprises of more than one person, those persons shall be jointly and severally liable for the obligations and liabilities of the Client towards the Supplier. The Supplier may take action against, or release or compromise the liability of, or grant time or other indulgence to any one of those persons without affecting the liability of any other of them.

## 19. Exclusion and Limitation of Liability

19.1 The Supplier's liability in relation to any activity carried out by the Supplier or any person covered by the liability of the Supplier by law, shall not exceed the amount of the Supplier's insurance paid to the Supplier by the Supplier's insurer.

19.2 Subject to Clause 19.1, a series of incidents shall be deemed as a single incident in the calculation of the amount to be compensated.

19.3 Except to the extent that liability may not be so excluded under Applicable Law, the Supplier's liability is excluded for:

(a) activities as part of the Supplier's public tasks, loss of profits, reduced revenue and/or turnover, delays and any other indirect and/or consequential losses howsoever caused.

(b) any failure, disruption or other malfunction of the Port Community System.

(c) deficiency, loss, damage, taint, delay, accuracy, failure or mis-delivery of or to Goods or Equipment or damage or delay to a Vessel, however or whenever caused except upon proof by the Client (otherwise than by evidence only of such deficiency, loss, damage, delay, or mis-delivery) that the deficiency, loss, damage, delay, mis-delivery, accuracy or failure was caused by the negligent or unlawful act or omission of the Supplier.

19.4 Subject to Clause 19.3, the Supplier has no liability whatsoever for any deficiency, loss, damage, taint, or mis-delivery or delay, to a Vessel and/or Equipment and/or Goods if the same arises out of or is caused by:

(a) a Force Majeure Event including, storm, tempest, lightning, snow, ice, drought or flood;

(b) fire (including steps taken for extinguishment), explosion or smoke;

- (c) strikes, blockades, or other industrial action (whether lawful or not) by any person or anything done in the course of furtherance of a trade dispute;
- (d) improper, insufficient, indistinct or erroneous marking or labeling of Goods or Equipment;
- (e) improper or insufficient packaging of Goods or Equipment;
- (f) any inherent defect, flaw or quality of the Goods or Equipment;
- (g) any act of the Supplier, its employees, agents or contractors reasonably necessary for the safety or preservation of persons, the Port Area, a Vessel and/or any Goods and Equipment;
- (h) theft or willful damage unless proven by the Client to have been committed by the Supplier;
- (i) parasites, insects, fungal attack, rot or corrosion;
- (j) temperature fluctuations;
- (k) any act directly or indirectly occasioned by happening through or in consequence of war, threat of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, terrorism or acts of terrorism;
- (l) any act of any person or persons for activities directed towards the overthrow by force of the government;
- (m) civil disobedience at or in the vicinity of the Port Area;
- (n) shortage of berthing space, labor, plant deficiency, fuel or power or any form of storage accommodation;
- (o) insufficient depth of water at any berth or the approaches thereto or the unsafe condition of any berth;
- (p) late receipt of Customs & Excise of entries or deliveries or landing orders, disputes in respect of documents, or declarations made for entry purposes by or on behalf of any person, delay in passing Customs & Excise entries or obtaining clearance of the Goods, or omission of information from or an incorrect statement in any order to the Supplier relating to the Goods or Equipment;
- (q) the total or partial failure of the Port Community System or any other electronic services or systems offered at any time by or on behalf of the Supplier including the total or partial failure of any communication links with those services or systems;

(r) human error on the part of the Supplier, its employees, agents or contractors in inputting any information into any electronic service or system operated or managed by the Supplier or its contractors;

(s) Compliance with the instructions or orders of Customs & Excise or any other regulatory or statutory body or court of law, in any jurisdiction; and

(t) any other cause or event which the Supplier is unable to avoid and the consequences of which the Supplier is unable to prevent by the exercise of reasonable care.

## 20. No waiver

20.1 A waiver of any right or remedy under these Terms & Conditions or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.

20.2 A failure or delay by the Supplier to exercise any right or remedy provided under these Terms & Conditions or by law, shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under these Terms & Conditions or by law shall prevent or restrict the further exercise of that or any other right or remedy.

## 21. Suspension and Termination

The Supplier reserves the right to suspend the Services, terminate the Services and dissolve the Agreement to all or part of any unfulfilled portion of the Agreement at the Supplier's sole discretion with a written notice to the Client in the event of:

1. a default by the Client of any of its obligations towards the Supplier.
2. bankruptcy of the Client.
3. suspension or cessation of the Client's business.

The Supplier's right under this Clause 21, does not affect or diminish any other rights which the Supplier has.

## 22. Removal of Vessels

The Supplier reserves the right to remove Vessels from the Port Area, in the event of the Client's failure to fulfill any of its obligations or to fulfill its obligations in a timely manner, at the expense and risk of the Client.

## 23. Severance

23.1 If any provision or part-provision of these Terms & Conditions becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of these Terms & Conditions.

#### 24. Applicable law and disputes

24.1 These Terms & Conditions shall be governed by the laws of the Republic of Cyprus.

24.2 The courts of the Republic of Cyprus shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with these Terms & Conditions.

#### 25. Complaints Handling

25.1 The Supplier maintains effective and transparent procedures for the reasonable and prompt handling of complaints or grievances received from all Clients and keeps a record of each complaint or grievance and the measures taken for the respective resolution, as applicable. Such procedures and records fall under the responsibility of the Complaints Handling Officer:

(a) Clients may send their complaint via email directly to the Complaints Handling Officer at [admin@kitionoceanholdings.com](mailto:admin@kitionoceanholdings.com) or by calling at number: +357 24330000

(b) The Complaints Handling Officer may contact the Client directly in order to obtain further clarifications and information, if needed. The Supplier shall consider the complaint as closed and cease the relevant investigation in case the Client fails to respond to the Complaints Handling Officer within the period of 1 (one) month from the date of the submission of the complaint.

(c) The Supplier examines all complaints received from Clients and provides information accordingly, within 15 (fifteen) Days from the date of submission of the complaint.