

General Conditions

United Stevedores Amsterdam V.O.F.

Article 1 Definitions

- 1.1 Contract
The agreement established between the stevedore and the other party.
- 1.2 Stevedore
United Stevedores Amsterdam V.O.F.
- 1.3 The other party
The legal entity or natural person, or its contracting partner or representative that has entered into an agreement with the stevedore.
- 1.4 Auxiliary person
The legal entity or natural person, including subcontractors, agents and representatives of the stevedore or another party who is employed by, has received an order from, or has been appointed by the stevedore.
- 1.5 Means of transport
All vessels and vehicles, including sea-worthy ships, inland vessels, train wagons, lorries and delivery vans in the widest sense.
- 1.6 The content of the individual articles of these General Terms and Conditions is not limited to the definitions cited as titles to the articles. The individual articles may contain provisions which extend beyond the definition cited as titles to these articles.

Article 2 Applicability

- 2.1 These General Terms and Conditions apply to all legal relationships between the stevedore and the principals, even after their termination, including the stevedore's offers and the orders issued to the stevedore, irrespective of their nature and, with regard to those which do not constitute the actual work of the stevedore, each time irrespective of whether the stevedore is fully or partially obliged to carry out the work concerned and whether this work is to be carried out in return for payment, such with the exception of forwarding work within the meaning of Article 8:60 of the Civil Code, in which case Article 3 will apply.
- 2.2 Deviations from these General Terms and Conditions can only be agreed in writing and on a case by case basis.
- 2.3 Once these General Terms and Conditions have been declared legally applicable to a particular agreement, the most recent valid version of the General Terms and Conditions will be considered to be applicable to all following agreements between the same parties, unless agreed otherwise in writing.
- 2.4 The stevedore is entitled at all times to declare valid (provisions referred to in) conditions of third parties with whom it has entered into agreements for the execution of a given order.

Article 3 Forwarding work

In the event that the stevedore undertakes vis-à-vis the other party, solely or jointly, to carry out forwarding work, the General Terms and Conditions of the Fenex (Netherlands Organisation for Forwarding and Logistics) will apply to this forwarding work, as filed at the office of the District Court in Amsterdam (the most recent version), with the exception of the disputes regulations included in those conditions.

Article 4 Establishment of contract

- 4.1 The agreement will be established after the written statement from the stevedore to the other party has been confirmed by the latter in writing, signed and returned to the stevedore, all this within the relevant deadline set by the stevedore.
- 4.2
- a. The offers made by the stevedore are non-binding and may be revoked at any time, even if they contain a deadline for acceptance
 - b. Offers may be accepted in writing only; nonetheless the stevedore has the right to verbal acceptance as if the offer had been made in writing.
 - c. If the other party accepts an offer, the stevedore nonetheless has the right to revoke it (verbally or in writing) within three days after receipt of the acceptance, in which case no contract will have been established between parties.
 - d. In deviation from paragraphs a to c of this article, the other party will be regarded as having accepted the written offer from the stevedore if the other party does not voice an objection thereto within one hour after commencement of the work by the stevedore.
 - e. An offer from the stevedore relating to stevedore's work will be valid for a maximum of 1 month from the day on which the offer is signed.
- 4.3 If the other party sends import documents to the stevedore, or has documents sent, the other party will be regarded as having granted the stevedore a power of attorney to release items to which the documents refer. The stevedore is not liable for loss or damage resulting from the late extension of the import documents.

Article 5 Payment

- 5.1 All amounts owed by the other party to the stevedore must have been received by the stevedore within fourteen days after date of invoice, unless other agreements concerning a different deadline have been made in writing, in cash or by means of crediting to an account specified or not, in the absence of which the other party will be in default without the need for a notice of default to be given with regard to that which is owed, and in addition will owe over that which is owed, commencing on the payment deadline date, a contractual interest amount equal to five percent above the applicable discount rate for promissory notes of De Nederlandse Bank, to the stevedore, and the other party will in addition be liable to pay extra-judicial and judicial collection costs amounting to at least fifteen percent, but with a minimum of NLG 250.00 of that which is owed by the other party to the stevedore.
- 5.2 As long as the other party has not entirely fulfilled all its obligations vis-à-vis the stevedore, the stevedore will be entitled to retain all items, documents and monies

which the stevedore has, or will have, in its possession on behalf of the other party until the other party has fulfilled all its obligations vis-à-vis the stevedore to the latter's satisfaction. In addition to a right of retention, the stevedore will be assigned a right of pledge in the case in question with regard to the items, documents and monies concerned which are (to be) retained by the stevedore on behalf of the other party.

- 5.3 Payments made by the other party will apply first to costs owed plus interests (in that order) and thereafter to the main amounts with regard to which old claims take precedence over new claims, irrespective of any other assignments concerning the payments made by the other party in case of (partial) payment to the stevedore.
- 5.4 The other party can only object to the invoice in writing with reasons within the payment deadline. In the event of no written motivated objection to the invoice being forthcoming, or if the objection is insufficiently motivated, the invoice will be binding for the other party. Such an objection will not cause the payment obligation to be suspended.
- 5.5 All payments are to take place without any set-off or discount being applied. The other party is never authorised to set off an obligation, whether due and payable or not, against an obligation of the stevedore.
- 5.7 In so far as VAT has to be levied, the VAT will be included in the prices or be referred to separately. If the VAT rate is increased during the period between the agreement being drawn up and its execution, the increase will be paid for by the other party.
- 5.8 If the stevedore accepts foreign currencies, the exchange rates that are valid at the time of payment will apply. The stevedore can, in this context, charge an amount for administration costs that corresponds to a maximum of 10% of the amount offered in foreign currency. The stevedore can implement such by adapting the applicable exchange rate by a maximum of 10%.

Article 6 Price Changes

- 6.1 The stevedore's prices are based on the price determining factors applicable at the time the offer is issued and, in the absence thereof, at the time of the execution of the work assigned to the stevedore.
- 6.2 The stevedore retains the right, at all times but no sooner than three months after the establishment of a contract, to adjust the prices for services which it will provide and for goods which it will deliver if the other party is a consumer or a person legally recognised as such in Articles 6:235, 236, and 237 of the Civil Code.
- 6.3 The stevedore is at all times authorised to adjust prices immediately, should a legal price determining factor exist which so indicates.
- 6.4 The prices of the work to be carried out by the stevedore are to be based on an hourly labour rate.
- 6.5 If the stevedore carries out the work before 7.30 a.m. and after 4.00 p.m., or on Saturday or Sunday, or during holidays, the hourly labour rates will be increased by a surcharge as specified in the stevedore's price list.
- 6.6 Prices which are related to the lease and/or making available and/or storage of respectively goods and personnel are to be calculated on the basis of an hourly rate, with the travel time of goods and personnel between the stevedore's premises and the site also being charged on the basis of the hourly rate.

- 6.7 The stevedore's price specifies the prices and rates relating to the work to be carried out by the stevedore.

Article 7 Change of Address

If the other party changes its address and/or telephone number, the party is obliged to inform the stevedore in writing of such change(s) without delay.

Article 8 Right of Use

- 8.1 The stevedore grants to the other party, to the exclusion of any other person, the exclusive right to use the object leased and placed at the disposal of the other party for the duration of the contract in accordance with any possible further lease contract under conditions at hand.
- 8.2 The other party may not sub-lease any goods or make them available to a third party without the written permission of the stevedore.
- 8.3 The stevedore retains the right to establish (further) regulations concerning the use of the object leased or of goods which it may have placed at the disposal of the other party.
- 8.4 Should the other party fail to fulfil the regulations of use described in this article and the further regulations of use described in article 8 paragraph 3, then the other party is liable for all costs and loss which the stevedore may incur respectively suffer as a result thereof.

Article 9 Time of Delivery

- 9.1 Loading and unloading times specified and/or established by the stevedore are at no time to be considered as representing statutory limits, unless specific agreements have been reached to the contrary. The mere stating of a delivery time does not bind the stevedore. If work is not carried out on time, the stevedore must be placed in default in writing, with due regard for a reasonable period of time.
- 9.2 If the items are made available by the stevedore without the principal, or another party on its behalf, having determined the condition thereof in the presence of the stevedore, or without it having communicated conditions to the stevedore, in the event of visible loss or damage, at the latest when the items are made available or, in the event of invisible loss or damage, within seven days of the items having been made available, which notification will state the general nature of the loss or damage, the items will, except when proof to the contrary is produced, be considered to have been received in good condition. The conditions referred to above must, in the event of invisible loss or damage, be imposed in writing. The day on which the items are made available is not to be included in the determination of the above-mentioned deadlines.

Article 10 Proprietary Clause

- 10.1 The stevedore retains the ownership of all goods which it delivers and/or makes available to the other party, as long as the other party has not fulfilled its obligation(s) concerning:

- a. doing anything in return for goods delivered in the context of the contract and/or on the grounds of extra work; and/or
 - b. doing anything in return for other work carried out in the context of this contract and/or on the ground of extra work by the stevedore; and/or
 - c. claims (including interests and costs) incurred due to shortcomings in the fulfilment of obligations in the context of the contract and/or extra work.
- 10.2 The stevedore does not lose its (reserved) proprietary rights if the goods received by the other party are processed and developed and/or assembled. The other party will in any case automatically retain the goods for the stevedore.
- 10.3 Should the stevedore, contrary to Article 10 paragraph 2, nonetheless lose its proprietary rights, the other party will provide all the necessary assistance vis-à-vis the possessory lien of the goods in question on behalf of the stevedore.
- 10.4 The other party is authorised to sell goods which it has received from the stevedore, on the condition that the other party informs the party making the purchase in writing of the complete contents of this article well before the purchase contract is signed. The other party may only proceed to sell a delivery after none possessory lien has been attached on behalf of the stevedore to the goods in question, if requested to do so by the stevedore. As soon as the stevedore has made this desire known to the other party, the authorisation specified in the first sentence of this article automatically becomes null and void.
- 10.5 The authorisation in Article 10 paragraph 4 automatically ceases if the other party fails to fulfil an obligation specified in the contract and/or to carry out the extra work. If the other party thereafter nonetheless fulfils its obligations, then the authorisation as specified in Article 10 paragraph 4 once again becomes valid.
- 10.6 The other party is at no time authorised to encumber the goods delivered under retention of proprietary rights, and/or to allow another party to have the use of them and/or to hand them over to the possession of another party.

Article 11 Liability of Stevedore

- 11.1 All activities and work are to take place at the expense and risk of the other party, unless the parties have agreed otherwise.
- 11.2 The party entitled will continue to bear all the expenses and risks for third party items retained by the stevedore.
- 11.3 The stevedore is not liable for any damage unless the other party proves that the damage has arisen due to intent or deliberate recklessness on the part of the stevedore or its managers.
- 11.4 The stevedore will be regarded as being unaware of the content, size, nature, quality, weight, number, brands, numbers and value of items. The stevedore is permitted to invoke this ignorance, even if it has been informed of the numbers, weights or dimensions of items and even if it could have had knowledge of the nature or quality etc. of the items.
- 11.5 All subordinates and/or assistants and/or representatives of the stevedore may take recourse against the other party and as necessary against third parties just as the stevedore does to the above-mentioned exclusion or limitation of liability.
- 11.6 The stevedore is, in any case, not liable:
- a. for insured risks.
 - b. damage to the goods which can be entirely or partially attributed to the

- nature and/or condition of the said goods.
 - c. damage to the goods which could have been anticipated or avoided with regard to the material and/or the method of working used (vis-à-vis all aspects of the orders), unless the principal has submitted a reasonable objection beforehand.
 - d. damage to the goods caused by loss of weight, loss of quality, contamination, mixing (including damage due to pollination) or due to the presence of foreign bodies in the goods.
 - e. damage caused by the goods, either due to their nature or as a consequence of any act or omission on the part of the stevedore or a third party, which damage can be (partially) recovered from the stevedore in accordance with current or later legislation by third parties, including contamination of soil, water and air, product liability, dust and nuisance caused by bad smells.
 - f. damage which is caused during execution of the order to means of transport (floating or mobile) or to persons who are deployed for, by order or on account of the principal, or who work for and are not owned by, or have a contract of employment with, the stevedore.
 - g. damage which is caused during the execution of the order to other loads located on board means of transport as referred to under f and which are not objects of the order when the damage occurs.
 - h. damage to the means of transport by, or as a result of, preparatory and supplementary work not related to the order such as the fitting of lights, the execution of repair work, the manipulation of hatches or shifting or moving, etc.
 - i. any damage which result directly or indirectly from, and as a consequence of, damage for which the stevedore has acknowledged liability.
 - j. loss or damage in the form of dispatch money or demurrage to be paid for ships and parking fees for wagons or vehicles regardless of how these are incurred and any form of time loss during or after the completion of the order which is the consequence of repairs under the responsibility of the stevedore.
- 11.7 The stevedore claims all statutory and contractual means of defence which it is able to invoke to avert liability vis-à-vis the other party, partly on behalf of its subordinates, non-subordinates and auxiliary persons and others for whose activities the stevedore might be liable pursuant to the law.

Article 12 Liability of third parties called in by the stevedore

- 12.1 The stevedore is entitled at all times to call in auxiliary persons to carry out the work.
- 12.2 By agreeing with these General Terms and Conditions, the other party relinquishes the right to claim from third parties in the event of loss and/or damage. The other party will exclusively and only be able to hold the stevedore liable, even if the stevedore has used the services of third parties in the execution of its activities.
- 12.3 Auxiliary persons are in any case to be protected and each to the same extent and are entitled to the same liability exclusions, dispensations and restrictions that apply vis-à-vis the stevedore pursuant to, the agreement entered into or pursuant to these General Terms and Conditions.
- 12.4 Agreements entered into by the stevedore, whether or not in the name of the other party, are considered to be for the account and risk of the other party.

Article 13 Liability of the other party

- 13.1 All activities and work are to take place at the expense and risk of the other party, unless the parties have agreed otherwise.
- 13.2 The other party is liable vis-à-vis the stevedore and/or third parties for loss of and/or damage to people and/or items, including damage and loss suffered by the stevedore itself which occurred during the execution of the agreement(s) entered into by the stevedore and the other party. The stevedore accepts no liability whatsoever for the loss of, and/or damage to, staff and/or items of third parties, unless the stevedore is liable on account of its own wilful misconduct or deliberate recklessness.
- 13.3 The other party is liable vis-à-vis the stevedore and/or third parties for loss of, and/or damage to, people and/or items that has arisen or is to arise due to the non-fulfilment of any obligation imposed on him by virtue of these General Terms and Conditions, or an agreement entered into by the stevedore and the other party, or the late fulfilment of such an obligation, in so far as these General Terms and Conditions do not already include a provision to cover this eventuality.
- 13.4 The other party is obliged at all times to pay the stevedore any amounts to be claimed (additionally) by any authority in connection with the order as well as any related penalties.
- 13.5 The other party is in any case, but not exclusively, required to pay the costs of strikes, worker lockouts, incidences of work-to-rule, illness, import, export and transit bans, transport problems, the non-fulfilment of the obligations by suppliers in the widest sense of the word, production disruptions, natural and/or nuclear disasters and war and/or the threat of war.

Article 14 Obligations of the other party

- 14.1 The principal will ensure and guarantee vis-à-vis the stevedore:
 - a. that the means of transport with all accessories and appurtenances are fully suitable for the goods and for the method of working used in general and for the use of grabs in particular.
 - b. that work on the means of transport can be started immediately and that this work can be continued and completed without delay, which implies that means of transports can be immediately shifted or moved if the stevedore demands such.
 - c. that winches are always available on board of ships being loaded or unloaded for use in the case of shifting operations.
 - d. that there is sufficient lighting on board of ships being dealt with for the execution of the work.
 - e. that the means of transport will be shifted or removed at the stevedore's first request during the work or after completion thereof.
 - f. that the stevedore will be provided with documents and information prior to the execution of an agreement and that reliable resources will be made available (including loading and unloading gear from a ship that complies with Dutch government regulations) which are required for the execution of agreements.
- 14.2 The principal is obliged to remove stored goods (or have such removed) at the latest on the last day of the period of time agreed or, in the event of storage for an indefinite period of time, at the latest on the last day of the period of time of at least

15 days to be imposed by the stevedore. In the event of a late fulfilment of this obligation, the principal will be liable for all costs, loss and damage and interests which the stevedore suffers as a result. In addition, the stevedore is, in that case, entitled to remove the goods at the expense and risk of the principal and to store these, or have these stored, elsewhere at the latter's expense and risk.

- 14.3 If the goods (to be stored or stored) have been sold or if ownership thereof has been transferred to third parties by, or on behalf of, the principal, before the date agreed as being the date on which storage was to terminate, the principal will continue to be fully liable vis-à-vis the stevedore for the transferred part unless the new owner has accepted in writing the same obligations and liabilities as the principal had vis-à-vis the stevedore.

Article 15 Indemnity

- 15.1 Without prejudice to that stated in the previous articles, the other party will indemnify the stevedore in relation to claims from one or more third parties, which have arisen from, and/or are connected to, the execution of the agreements entered into by the stevedore and the other party, irrespective of whether the damage has been inflicted by the stevedore or the other party and irrespective of whether the stevedore can appeal to these General Terms and Conditions vis-à-vis those third parties. Moreover, the other party will indemnify the stevedore for damage paid or owed by one or more third parties or paid or owed to one or more third parties. The stevedore will also indemnify the other party in relation to claims from an auxiliary person it has called in.
- 15.2 Should the loss be partially the result of a circumstance which can be adjudged as being the responsibility of the other party, the other party will be obliged at all times to compensate at least a proportionate amount of said loss.
- 15.3 The other party is obliged at all times to do everything in its power to limit said loss.
- 15.4 All subordinates and/or assistants and/or representatives of the stevedore may invoke this article toward third parties at the same level as the stevedore may do so.
- 15.5 The obligation to indemnify referred to in this Article also applies if the agreement with the other party is dissolved entirely or partially for whatever reason.

Article 16 Force Majeure

- 16.1 In the event of force majeure on the part of the stevedore, the stevedore is not obliged to fulfil its obligations as stated in the agreement(s) nor is the stevedore obliged to pay compensation to the other party and/or third parties.
- 16.2 Any costs incurred as a result of force majeure are to be paid for by the other party.
- 16.3 Force majeure on the part of the stevedore will be understood to mean the following:
- a. all foreseeable and/or unforeseeable circumstances which are of such a nature that the execution of the contract becomes impossible or becomes so problematic and/or unreasonably expensive for the stevedore that it can no longer, or no longer immediately, be reasonably be expected to fulfil the contract;
 - b. such circumstances also refer to circumstances affecting auxiliary persons and all those circumstances which apply as force majeure to auxiliary persons or a suspensive or resolute condition, as well as breach of contract by the above-mentioned.

- c. strikes;
- d. war, insurrection and war risk;
- e. sabotage, burglary, fire and explosion;
- f. government conditions and/or infringement of article 13 paragraph 1 by the other party or other circumstances which hinder the stevedore in its efforts to carry out the agreed-upon work;
- g. natural disasters, storm (above 9 Beaufort), high water (over 1 metre above NAP);
- h. changes in quality of the materials delivered by the stevedore;
- i. insufficient and/or defective packaging of goods delivered or to be delivered;
- j. mould, leakage, spoilage of goods with which the stevedore has carried out work or goods delivered by the stevedore;
- k. circumstances in which the stevedore does not at all take delivery of a service which is significant in connection with the service which it is to provide, or does not take such delivery on time and/or correctly.

Article 17 Right to suspend performance

- 17.1 The stevedore is authorised to demand, before fulfilling its obligations, complete payment and/or sufficient security - including by means of a bank guarantee - from the other party, should it seem likely that the other party may not (be able to) probably fulfil its obligations, or not (be able to) fulfil them on time and/or if the other party should fail to fulfil its obligations.
- 17.2 If the other party is in default as regards the correct and/or punctual fulfilment of one or more of its obligations or if damage has been caused, the stevedore will be entitled, with immediate effect, to refuse to fulfil its obligations, or suspend, or interrupt or terminate fulfilment thereof as well as take additional measures, without being liable, until the other party has completely fulfilled that which is claimable (including all interest and costs).

Article 18 Dissolution

- 18.1 The stevedore is entitled to terminate the order prematurely if:
- a. the principal does not fulfil its obligations or it is possible to foresee that it is unwilling or unable to fulfil its obligations.
 - b. the stevedore ends up in a situation in which fulfilment of the order cannot reasonably be demanded from it.
 - c. the other party requests the suspension of payments or if such is granted, if a petition for bankruptcy of the other party is submitted or if the other party is declared bankrupt.
- 18.2 If the other party is late with regard to payment or is, in some other way, imputably in default with regard to the fulfilment of its obligations, the stevedore will be authorised to dissolve the contract with immediate effect and to reclaim goods which are the property of the stevedore which may be in the possession of the other party.
- 18.3 The other party is obliged to compensate such costs (including dismantling costs and shipping costs) to the stevedore as are associated with the termination of the contract.
- 18.4 The stevedore is not liable for any loss suffered by the other party which may result from the action of, or on order to, the stevedore, as a result of the shortcomings of the

other party.

Article 19 Insurance

- 19.1 The party entitled to the items or the other party undertakes – unless it wishes to bear the related risk itself – to insure the items, partly on the stevedore's behalf, against all risks that can be insured on the condition that the insurers of the party entitled or the other party relinquish any right of recourse vis-à-vis the stevedore and that the insurers exclude the latter from the rights of the insured vis-à-vis the insurers and subrogation in those rights, in the absence of which the stevedore's liability vis-à-vis the party entitled or the other party will be excluded.
- 19.2 The stevedore will never bear responsibility for insuring items, unless it has undertaken to do so in writing, in which case the insurance policy will be entered into at the other party's risk.
- 19.3 Insurance on behalf of the other parties will be purchased by the stevedore at the expense and risk of the other party, after an order thereto has been given in writing by the other party, with a precise specification of the risk to be insured. The stevedore is at all times authorised to refuse to purchase insurance for the other party.
- 19.4 The other parties are obliged to compensate the costs - such as own risk, assessment and procedural costs - associated with any claim filed with the insurance company by the stevedore concerning fire, theft, damage to property, vandalism and industrial damage with regard to its property.

Article 20 Entering the stevedore's premises at own risk

The other party, its subordinates, non-subordinates and auxiliary persons who are on the stevedore's sites or who are at the location at which the work is being carried out will be there, possibly with means of transport, at their own risk and must strictly observe the regulations and instructions (to be) issued by government bodies and the stevedore.

Article 21 Final stipulations

In the event of a discrepancy between the Dutch text of these General Terms and Conditions or other conditions which are referred to herein and any translation thereof, or in the event that the Dutch text or any translation thereof can be interpreted in different ways, the Dutch text and/or the explanation given to the Dutch text will have precedence.

Article 22 Conversion

If one of the articles in these terms and conditions is, or becomes, invalid and/or is declared null and void, this will not affect the validity of the other articles. Instead of the article declared invalid and/or null and void, a provision will be agreed at the time which, within the framework of that which is legally possible, corresponds best with the purport and spirit of the article declared invalid and/or null and void.

Article 23 Lapse

- 23.1 Any claims by virtue of the agreement which are related to and/or result from these General Terms and Conditions and/or agreements to which these General Terms and

Conditions apply, will lapse after a period of time of 12 months unless the claim has been brought before the court before then in accordance with that referred to in Article 24.

- 23.2 The lapse will commence on the day after the day on which the items were delivered, should have been delivered or, in the absence of that, as of the day after the day on which the claim came into being.

Article 24 Applicable law and the competent court

- 24.1 All agreements and legal relationships to which these General Terms and Conditions apply, are to be governed by Dutch law.
- 24.2 All disputes which might arise between the stevedore and the other party must, with the exclusion of all other courts, be submitted to the competent court in Amsterdam. The stevedore will, however, continue to be entitled to have the dispute settled by a different competent court or be authorised to submit voluntarily to the jurisdiction of a different competent court or arbitration institution.

Article 25 Citation

These General Terms and Conditions may be referred to as the “General Terms and Conditions of United Stevedores Amsterdam V.O.F.

Article 26 The filed conditions

These General Terms and Conditions have been filed in the Dutch and English language at the Office of the District Court in Amsterdam on 23 April 2001 under number 01.87.