

General Towage Conditions

1. Definitions

Assistance: Services rendered in Close Proximity of a manned Towed Object under the command of its master or pilot, as the case may be.

Customer: The party which has contracted with the Tug Owner to perform the Services.

Services: The services required by the Customer in relation to a Towed Object or otherwise, including but not limited to Assistance.

Close Proximity: The area within which the Tug and the Towed Object affect or may affect each other or are or may be subject to the influence of each other.

Towed Object: Any floating object, including, in particular, seagoing vessels, whether manoeuvrable or not, in respect of which the Services are being rendered.

Tug: The tug or tugs including their master and crew and equipment actually performing the Services, whether or not owned by the Tug Owner or by third parties (see Clause 2.3 below).

Tug Owner: The party which undertakes to perform the Services.

2. Provision of Services

(1) All Services of the Tug Owner shall be rendered exclusively on the basis of these General Towage Conditions, unless otherwise expressly agreed.

(2) When Services are rendered in respect of manned Towed Objects which are under the command of a master or pilot, the duty of the Tug Owner shall be limited to making the Tug's services available to carry out the instructions of the Towed Object's master or pilot, as the case may be.

(3) The Tug Owner is entitled to make use of one or more Tugs owned by third parties.

(4) If the provision of the Services is impossible or significantly more difficult due to circumstances beyond the Tug Owner's control, in particular weather constraints, e. g. storm, ice or bad visibility, the Tug Owner shall be under no obligation to provide the Services.

(5) The Tug Owner renders services on a first-come, first-serve basis. According to the custom of the port or port authorities' orders, inbound vessels may have to be served with priority. The Tug Owner shall always be entitled to render emergency assistance to people or crafts. This may lead to delays when rendering the Services, for which the Tug Owner shall not be responsible.

(6) In the cases referred to in Clauses 2.4 and 2.5 sentences 1 and 2, the Tug Owner shall also be entitled to interrupt the Services rendered, whereby appropriate regard shall be had to the safety of the Towed Object. Once the cause for the interruption of Services has ceased, the Tug Owner shall resume with the Services without undue delay.

3. The Customer's Duties

(1) The Customer shall ensure that the Towed Object is in all respects ready to allow the safe performance of the required Services, that all safety regulations relevant to the Towed Object are observed, that all required permissions in respect of the Towed Object and the Services are available and conditions imposed in such permissions are observed.

(2) The Customer shall further ensure that the master or pilot, as the case may be, of the Towed Object gives orders in such a way that neither the Towed Object nor the Tug or interests of third parties are exposed to danger.

4. Remuneration

(1) Unless otherwise agreed, the Customer shall pay a remuneration in accordance with the Tug Owner's tariffs.

(2) The agreed remuneration does not cover any extraordinary services or salvage services.

(3) The remuneration is payable at the Tug Owner's place of business upon rendering the invoice.

(4) The Customer is only entitled to set-off if he has obtained a final and binding judgement against the Tug Owner or if the Customer's claim(s) against the Tug Owner are undisputed.

5. Customer's Liability

(1) The Customer shall be liable for any damage to the Tug caused by the Tug's activities during the time of Assistance, unless the damage was caused negligently or intentionally by the Tug Owner, his servants or sub-contractors or the Tug's master or crew.

(2) The Customer shall be liable for any damage to the Tug incurred during the time of Assistance as a consequence of the Tug following an order or direction given by the Towed Object's master or pilot, as the case may be, unless the damage was Caused by gross negligence or intentional acts of the Tug Owner, his servants or sub-contractors or the Tug's master or crew.

(3) Further the Customer is liable for loss or damage suffered by third parties in the course of the Assistance due to the Tug's manoeuvres carried out upon the orders and directions of the Towed Object's master or pilot, as the case may be, unless the loss or damage was caused by

gross negligence or intentional acts or the non-observance of an essential duty ("Kardinalpflicht"), as the case may be, by the Tug Owner, his servants or sub-contractors or the Tug's master or crew.

(4) In relation to Clauses 5.1 through 5.3 above, the burden of proof in respect of any negligence, gross negligence or intentional act of the Tug Owner, his servants or sub-contractors or the Tug's master or crew as

well as any non-observance of an essential duty ("Kardinalpflicht") by either of them shall rest with the Customer.

(5) Whenever the Tug is out of service due to reasons for which the Customer is liable, the Tug Owner may recover loss of income of EUR 3.000 per calendar day. The Customer shall be entitled to prove that the Tug Owner in fact did not suffer any damage or that the damage actually suffered is substantially less than this amount. The Tug Owner's right to claim damages exceeding this amount as well as his duty to mitigate damages (paragraph 254 German Civil Code) remain unaffected. If Services are rendered by a Tug owned by a third party (see Clause 2.3 above), that third party is also entitled to rely upon the foregoing provisions.

(6) In case of Services rendered by a Tug owned by a third party, the losses suffered by that third party are considered to be the Tug Owner's own losses which he is, thus, entitled to liquidate ("Drittenschadensliquidation").

(7) The foregoing provisions do not in any way affect other rights, claims or remedies the Tug Owner may have against the Customer, be it in contract or tort.

6. Tug Owner's Liability

(1) The Tug Owner shall be liable for loss or damage suffered by the Customer only to the extent that it was caused by gross negligence or intentional acts of the Tug Owner, his servants or sub-contractors or the Tug's master or crew. This does not apply if the loss or damage is due to the non-observance of any of the Tug Owner's essential duties ("Kardinalpflichten").

(2) The Tug Owner shall only be liable in respect of direct loss or damage which is reasonably foreseeable, but not for remote consequential loss.

(3) In respect of loss or damage caused by delayed Services, Clauses 6.1 and 6.2 and Clause 2.5 shall apply. The Tug Owner's liability shall be limited to three times the remuneration which is or would have been payable by the Customer, unless the delay was caused intentionally or by gross negligence.

(4) Clauses 6.1 through 6.3 above do not apply to personal injury claims. In such cases, the relevant legislation shall apply.

(5) In case the Tug Owner is considered to be a carrier, his liability in respect of loss of or damage to the goods including the Towed Object shall not exceed 2 Special Drawing Rights of the International Monetary Fund per kilogram of any goods lost or damaged.

(6) In any event the Tug Owner shall be entitled to limit his liability as provided for in provisions on ship owners' limitation of liability applicable to the Tug which caused the damage, such as the Convention on Limitation of Liability for Maritime Claims, 1976, as amended, or the Convention on Limitation of Liability in Inland Waterway Shipping (CLNI), 1988, or any national legislation, as the case may be. This also applies if the Tug provided by the Tug Owner to perform the Services is not owned, chartered, leased, managed or operated by the Tug Owner.

(7) The exclusions and limitations referred to in Clauses 6.1 through 6.6 above shall apply to any claim be it in contract or otherwise against the Tug Owner. They shall also apply in favour of his servants or sub-contractors including, in particular, any third party owner of the Tug as well as the Tug's master and crew.

7. Indemnity

The Customer shall indemnify the Tug Owner for all third party claims in respect of loss or damage for which, as between the Tug Owner and the Customer, the Customer is liable.

8. Law and Jurisdiction

The contract for tug boat services is subject to German law. Any and all disputes arising under the contract or in connection with the Services rendered shall be subject to the exclusive jurisdiction of the courts of the Tug Owner's place of business.

9. German Version

The German version of these General Towage Conditions shall prevail.