

# GENERAL TERMS AND CONDITIONS OF TRANSPORT LOGISTICA GMBH AS CONTRACTOR

## 1. Validity

These general terms and conditions (GTC) apply to all services provided or procured by Transport Logistica GmbH as the commissioned freight forwarder or carrier (hereinafter referred to as the "contractor") for their contractual partner (hereinafter referred to as the "principal").

The principal agrees that these general terms and conditions, which can be viewed at [www.agb.translog.com](http://www.agb.translog.com) at any time, apply to all future business transactions, irrespective of any further explicit reference, in particular in the case of orders placed verbally, by telephone or by telex. Differing terms and conditions of the principal which are not explicitly recognised (in writing) by the contractor are invalid, even if they are not explicitly rejected. Under no circumstances can the principal rely on his own general terms and conditions, even if these would be included in orders. No terms and conditions of the principal that contradict these "Transport-Logistica-GTC" and the AÖSp are applicable. Furthermore, the principal agrees that these terms and conditions apply to all future business transactions, irrespective of any further express reference, in particular in the case of orders placed verbally, by telephone or by telex.

## 2. Offer

The contractor's offer is non-binding and is based on the consignment data specified by the principal, current prices, tariffs, exchange rates and other fees of all parties involved in the transport. The prices quoted are subject to the availability of shipping space, cargo space and empty containers.

All surcharges mentioned are valid until revoked and subject to the introduction of further surcharges. All freight rates mentioned are only valid for shipping with partners of the contractor.

The choice of shipping companies and freight carriers is at the discretion of the contractor. Multimodal transports and shipments are generally carried out by signing a multimodal bill of lading of the Transport Logistica GmbH or a bill of lading of the companies represented by them.

## 3. Validity of conventions

The agreement of these terms and conditions does not affect the validity of conventions in their currently valid version as far as their provisions mandate a deviating regulation, such as the CMR.

## 4. Validity of the AÖSp

In addition, the General Austrian Forwarders' Terms and Conditions (AÖSp) apply in their currently valid version, published in the Official Gazette of the Wiener Zeitung 1947/184, last amended by the Official Gazette of the Wiener Zeitung 1993/68 (available in English and German on the Internet at [https://www.wko.at/branchen/transportverkehr/speditionlogistik/Allgemeine\\_Oesterreichische\\_Spediteur\\_bedingungen\\_\(AOeSp\).html](https://www.wko.at/branchen/transportverkehr/speditionlogistik/Allgemeine_Oesterreichische_Spediteur_bedingungen_(AOeSp).html)). The principal declares himself to be a waiver customer ("Verbotskunde") according to §§ 39 ff AÖSp. The AÖSp also apply in relation to foreign principals.

## 5. Cancellation

The order confirmation is binding if no objection is made within one hour from transmission to the principal.

If the contractor does not accept these terms and conditions, this order must be rejected free of charge within 1 hour with a note "STORNO", across all pages of the loading order.

This cancellation must be sent back to the contact person at Transport Logistica using the e-mail address stated in the order confirmation.

If the transport order is not cancelled within 1 hour from transmission of the order confirmation to the principal, the contractor is entitled to a contractual penalty regardless of fault of 80% of the freight price. Any further claims for damages remain unaffected.

## 6. Offsetting

Under no circumstances is the principal entitled to make freight reductions or to set-off counterclaims against claims of the contractor. Without exception, there is a ban on offsetting and retention in favour of the contractor.

## 7. Rights of lien and retention

The contractor has the right of lien and the right of retention on the goods or other items in his power of disposal for all due and not due claims against the principal to which he is entitled under the present contract. If the principal does not explicitly state the owner of the goods in the consignment note when placing the order, the contractor can assume that the freight is the property of the principal. The principal is entitled to prohibit the exercise of the lien if he grants the contractor an equivalent means of security (e.g. bank guarantee).

### **8. Value declaration, special delivery interest**

An increase in value of the maximum amounts according to Art. 24 CMR or a special delivery interest according to Art. 26 CMR cannot be agreed upon. A declaration of value or interest cannot be agreed upon.

The contractor explicitly objects to any kind of declaration of value or interest, in particular those which may increase the maximum limits of liability provided for in international conventions. It is explicitly pointed out that any kind of announcement of an order value, value of goods (etc.) - in any way whatsoever (in invoices, orders, delivery notes, offers etc.) - does not in any case lead to an agreement of a declaration of value or interest, even if there is no explicit objection by the contractor. It is not possible to agree on an increase or waiver of maximum limits of liability determined in contractual terms or in international conventions.

### **9. Loading equipment exchange**

Loading equipment will only be exchanged as far as possible and reasonable and only if explicitly ordered in writing.

The contractor does not assume any obligation to return pallets, loading equipment and empty containers and does not at all assume the so-called exchange risk. In the event that - for whatever reason - an exchange of pallets is not possible with the sender or consignee, the principal is not entitled to any claims against the contractor, except in the case of intentional acts/omissions by the contractor.

The liability of the contractor for "possible differences in loading equipment" is therefore completely excluded. If an exchange of pallets has been agreed, it is the responsibility of the principal to procure an adequate supply of pallets from the consignee. Costs for pallets not exchanged or additional costs for a later collection are charged to the principal. Loading equipment not exchanged due to the fault of the sender will also not be exchanged and returned at the consignee.

### **10. Demurrage**

The contractor is entitled to charge the principal demurrage in the amount of € 400,- per day (at least € 80,- per hour for a standing time of less than 24 hours); the contractor is entitled to the demurrage even if the principal is not at fault. A demurrage claim arises if a waiting time/standing time of 1.5 hours in total is exceeded.

### **11. Transfer, Subcontractors**

The contractor reserves the right to pass on this forwarding or transport order to third parties - even without obtaining the prior consent of the principal. He is therefore entitled to use subcontractors. However, the contractor will exercise the diligence of a prudent freight forwarder or carrier in selecting the company he commissions.

### **12. Delivery deadlines**

Specified loading and unloading dates are not delivery deadlines according to Art. 19 CMR, but only approximate guide values/standard transit times and can therefore not be guaranteed by the contractor. Claims due to the exceeding of performance deadlines (of any kind whatsoever) are therefore not accepted by the contractor, nor are any costs for any consequential damages in the event of delays or late payment fines for documents sent too late. Any liability of the contractor for exceeding loading dates/ for failure to comply with

"loading windows" is generally excluded, unless the contractor has missed these deadlines "through gross negligence".

### **13. Special goods**

The principal is obliged to warn about special characteristics of the freight. The principal therefore must separately declare if the value of the goods exceeds € 10,- per kilogram, if they are dangerous goods, waste or if there is a particular risk of theft associated with the freight.

In addition, the principal must inform the contractor of any particular sensitivity of the goods and correct handling (e.g. transport temperature etc.). The principal confirms that he has a dangerous goods officer in his company and that he provides all data relevant to dangerous goods in accordance with the ADR. Goods which are or may become dangerous goods must only be offered to the contractor for transport, whether they appear in official or unofficial, international or national codes or agreements, if the contractor has been informed in advance in writing of their nature, type, name, labelling and classification and the contractor's prior written consent has been obtained. In addition, the packaging in which the goods are to be transported, as well as the goods themselves, must be clearly marked on the outside with an indication of the type and nature of the goods.

The principal assures to observe and comply with all statutory provisions concerning dangerous goods.

### **14. Damage**

If loss or damage to the goods is not visible from the outside, it is the responsibility of the sender or principal to prove that the loss or damage occurred during the period of liability or transport. Externally visible damage must be reported to the contractor in writing immediately upon delivery, and damage not visible from the outside immediately upon discovery, but within seven days at the latest.

### **15. Transport insurance**

As the contractor's liability is limited, it is recommended to take out transport insurance. However, transport insurance will only be taken out if explicitly requested in writing.

### **16. Compliance with all provisions**

The principal is obliged to comply with all applicable laws, provisions and regulations as well as the provisions of customs, port and other authorities and to bear and pay all customs duties, taxes, charges, etc., as well as to reimburse all penalties, duties, expenses and damages incurred or suffered.

### **17. Staffing of the truck**

The vehicles used by the contractor are generally dispatched with one truck driver. In the event of a written agreement for 2-man staffing and payment of a freight surcharge, the contractor will provide two drivers which can reduce the risk of theft. As a rule, the statutory driving and rest breaks can only be consumed on "conventional parking spaces".

### **18. Loading and unloading**

The principal is responsible for ensuring that the loading and unloading of the freight is carried out. Damage caused by circumstances during loading or unloading falls within the contractor's liability. If in an individual case the loading and

unloading is actually carried out by a vicarious agent of the contractor, this vicarious agent is deemed to be the principal's vicarious agent.

The responsibility for loading and unloading always lies with the principal without exception. The principal must ensure that the cargo is secured in accordance with the regulations, complies with the statutory provisions and, in addition, is secured and stowed in a way that is safe for traffic and operation. The obligation to secure the load is the sole responsibility of the principal, even if the goods have been loaded by the truck driver. The principal assures that the packaging is suitable for transport. The provisions of the AÖSp also explicitly apply to such services (packaging services, stowage services, container stuffing, load securing).

#### **19. Payment claim**

The claim for payment of the freight arises upon delivery of the freight. The contractor grants the principal a payment deadline of 30 days net, starting from the billing date.

Discount deductions are not accepted by the contractor.

In the event of default of payment, the contractor is entitled to interest at the rate of 1.5% per month in accordance with § 29 AÖSp.

In addition, the principal must bear in full all dunning charges incurred as well as the costs associated with the execution of the outstanding claim.

#### **20. Jurisdiction**

The contractual relationship is subject to Austrian law with exclusion of the provisions of the private international law (IPR). For all disputes between the parties in connection with this agreement, including disputes about the effective existence of this agreement, as well as disputes relating to individual agreements concluded in execution of this agreement, the jurisdiction is agreed to be attributed to the court competent in the subject matter of the dispute for A-6020 Innsbruck.

This agreement is valid without confirmation!