

# GENERAL TRANSPORT CONDITIONS

(Version October 2020)

## 1. General:

1.1. Transport orders performed by motor vehicles shall only be carried out in accordance with the following conditions. Differing agreements require the signatures of both parties.

1.2. The AÖSp (General Austrian Forwarders' Terms and Conditions), as well as the general terms and conditions of the contractor do not apply.

## 2. Placing of orders:

Transport orders are generally placed in writing (including fax, e-mail and electronic transport portal). This shall also apply for additions, amendments, instructions or other agreements regarding transport orders. In particular cases, verbally placed transport orders shall require a subsequent written confirmation by the principal in order to become valid.

## 3. Order acceptance:

If the contractor does not immediately reject the transport order in writing after placing of the order, transport orders shall be considered accepted by the contractor.

## 4. Changes to the transport order:

4.1. Changes to the transport order made by the principal shall be deemed accepted, if the contractor does not immediately reject in writing.

4.2. If the contractor, for whatever reason, wants to deviate from the transport order, he must communicate this to the principal without delay and request his decision about a deviation from the transport order. This concerns in particular a possible non-compliance with agreed loading or unloading times, difficulties at the location of loading or unloading, damage to the goods or the like.

## 5. General requirements:

5.1. By accepting the transport order the contractor declares to be entitled to perform the transport of the goods taken over and confirms the provision of all necessary qualifications, concessions, permissions, delivery documents and other authorisations to enable the transport or, where required, to obtain these in due time and at his own expense.

5.2. The transport order, as well as all related instructions of the principal regarding the transport must be complied with. Furthermore, all applicable legal provisions such as, in particular, the Motor Vehicles Act (KFG), the Convention on the Contract for the International Carriage of Goods by Road (CMR), the Güterbeförderungsgesetz (GüterBfG = law on carriage of goods), the ADR agreement and official orders are to be observed.

5.3. The contractor shall ensure that the transportation vehicles comply with the transported goods and the applicable provisions. Furthermore, the vehicles shall be in a clean and proper condition, properly loaded and correctly identified.

5.4. Compliance with Regulation (EC) No 852/2004, especially with regard to cleanliness of the transportation vehicle when transporting food or feed, is explicitly declared here. All necessary measures and precautions required for this, have to be taken by the contractor independently and on his own responsibility.

## 6. Loading and unloading:

6.1. When transporting bulk goods, the transportation vehicle has to be weighed at full and empty state. Furthermore, when transporting bulk goods, the contractor shall ensure that during loading - using the packaging provided by the loader - a representative retain sample of the transported goods will be taken and sealed. This shall be taken over by the contractor (driver), who has to properly store it for a period of four weeks and which shall immediately be made available to the principal on the latter's request. When unloading customer taken samples, the contractor has to confirm on the sample packaging that the samples were taken from the delivered goods.

6.2. For loading and unloading, a demurrage charges free period of four hours in the domestic country and eight hours in a foreign country shall apply.

## **7. Reloading:**

Bulk goods must not be reloaded (absolute prohibition of reloading). Exceptions require our prior written consent.

## **8. Processing:**

- 8.1. The principal shall be advised in writing of the loads no later than the working day before the transport (until 15:00), however, the advice may be accepted or rejected by the principal. Advised loads and dates, as well as all specifications and instructions stated in the transport order and/or accompanying documents, especially such as loading and unloading times, unloading sequence, types of vehicles and the like, must be observed.
- 8.2. If the customer has set up an electronic advice system (transport portal), the contractor has to enter the corresponding data on his own responsibility.
- 8.3. For non-advised collections a fixed processing fee of EUR 100 will be charged. Besides, it may not be loaded.

## **9. Drivers:**

Only trained drivers with relevant qualification certificates, who are familiar with the relevant requirements and legal provision regarding the respective transport, shall be appointed.

## **10. Transport documents / registration:**

- 10.1. In accordance with the legal provisions applicable, all freight and accompanying documents required for the transport shall be fully and correctly completed by the contractor and are to be carried.
- 10.2. In addition, a cleaning certificate stating the five previous loads of the transportation vehicle (cf. Regulation (EC) No 852/2004 Chapter IV of Annex II), shall accompany each transport and shall be submitted without prior request at the location of loading and unloading.
- 10.3. Transportation vehicles, which transported forbidden loads according to the ICRT/IDTF Database ([www.icrt-idtf.com](http://www.icrt-idtf.com)), shall in no way be used for the transport.
- 10.4. Upon acceptance of an order transporting animal feeds, the contractor confirms to be registered according to Article 9 of Regulation (EC) No 183/2005 in conjunction with the "Futtermittelverordnung 2010" (Austrian Feed Regulation).

## **11. Presentation of transport documents / accounting and freight prices:**

- 11.1. After completion of the transport order, all transport documents shall be immediately transmitted to the principal. If, at this time, the original documents are not yet available, copies may be used for accounting and the original documents shall be submitted at a later date. Settlement may also be carried out by way of credit notes.
- 11.2. All settlements require information, provided by the contractor, about order number, including indication of weight when unloaded, as well as, if available, delivery note number of the principal.
- 11.3. After receiving the complete and proper original documents, the principal will settle the freight invoice according to the agreed payment terms.
- 11.4. The agreed freight prices are quoted including all additional costs, fees and charges, especially such as toll and cleaning costs.
- 11.5. If the original documents are not, not completely, or in terms of content defectively transmitted, or contain notes on objections or deficiencies, the invoice shall not be deemed to fall due and will be returned.

## **12. Right of lien and retention / collection:**

- 12.1. The contractor waives the right of lien or retention, possibly granted according to legal or other regulations applicable, of the goods taken over.
- 12.2. Collection may only be performed by the contractor, if instructed by the principal in writing.

## **13. Set-off:**

The principal is entitled to set off counterclaims against the contractor.

#### **14. Use of subcontractors:**

The use of subcontractors is permitted after the written consent of the principal. In this case, the contractor must ensure that the order placed by the principal, in particular with reference to the order number for traceability, is performed by the subcontractor and complies with the present conditions.

#### **15. Force Majeure:**

- 15.1. Force majeure is an event which is beyond the control of the parties to the contract and could not have been foreseen and which either prevents, significantly hampers or makes uneconomical the performance of the contract or the mutually presupposed use of the subject matter of the contract, such as in particular strike, war, civil war, riot, terrorism, cybercrime, natural disasters or natural events such as e.g. low or high water, ice, storm, lack of energy, transport and customs clearance delays, official decrees, as well as all measures, effects or events in connection with epidemics, epidemics or pandemics (in particular COVID-19), or other comparable cases.
- 15.2. In the event of the occurrence of force majeure, the principal is entitled to extend the performance period of the contractor by the duration of the force majeure and an additional reasonable grace period. Furthermore, the principal is entitled to withdraw from the contract with immediate effect for the duration of the force majeure, irrespective of the extension of the deadline.
- 15.3. The contractor cannot assert any rights against the principal from or in connection with this withdrawal from the contract or the extension of the performance period; in particular, claims for damages from any legal title whatsoever are excluded to the extent permitted by law. The contractor waives the assertion of a possible discontinuation of the basis of the business and related claims.
- 15.4. The aforementioned provisions shall also apply in the event that a force majeure event occurs at the principals customers or vicarious agents.

#### **16. Duty of confidentiality and Data protection:**

The content of the transport order and all related business processes, as well as all information gathered during negotiations and performance of the order, especially with regard to the transported quantity and customers, who were supplied, must be treated as confidential and - unless otherwise provided by law - shall not be passed on to third parties. This shall apply until the completion of the transport order and, in addition, for another period of three years.

The contractor undertakes to process the person-related data sent by us in accordance with the currently valid data protection laws, as amended, for the sole purpose of performing the contract and to delete these data promptly when there is no longer any reason justifying the processing.

Regarding our duties to provide information under data protection law according to Articles 13 and 14 of the General Data Protection Regulation (GDPR), please refer to the data protection statement on our website.

Upon request, the contractor will be provided with a copy of this data protection statement at no charge.

#### **17. Liability:**

- 17.1. The contractor undertakes to perform a transport order in compliance with the present conditions and obligations, with the due care and diligence of a prudent businessman. Furthermore, he undertakes to indemnify and hold the principal entirely harmless from all disadvantages and/or claims - also from third parties - which result from the culpable non-compliance with the transport order and/or these conditions and/or legal provisions.
- 17.2. The contractor shall be liable, especially for the delivery of the goods taken over in unchanged quality and for all damages arising in connection with the transport, as well as loading and unloading of the goods, such as spills of the product or commingling during transport. He shall also be liable for damages caused to the principal or customer, who was supplied, resulting from delay in delivery, as well as loss of the goods taken over.
- 17.3. The inspection of deficiencies regarding transport shall always be carried out on the latest state of the art and immediately be disclosed to the principal.
- 17.4. The contractor also undertakes to properly insure the risks arising from the completion and performance of a transport order, in accordance with the scope and amount of coverage. Evidence of the existence of such insurance shall be provided to the principal at any time on the latter's request.

**18. Place of jurisdiction and choice of law:**

- 18.1. The exclusive place of jurisdiction for all legal disputes related to a transport order, including those over its existence or non-existence, is the respective competent court in Vienna.
- 18.2. Austrian law applies under the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).