

Standard Terms and Conditions of Business* of EUROGATE-Group

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I. GENERAL TERMS

Section 1 Scope of Application

- (1) These conditions apply to the handling of cargo, storage and all other services carried out by the company for its client.
- (2) Remuneration for services carried out by the company shall be determined by the latest "recommended prices" of the company, if nothing else has been agreed.
- (3) Agreements deviating from these conditions shall be made in writing. Conflicting terms and conditions of business from the client will not be accepted.
- (4) Apart from these conditions, the client shall observe the regulations under public law regarding use of harbours and dealings with customs.

Section 2 Data Transfer. Performance Period. Broker Clause

- (1) The client shall use the methods of data transfer implemented by the company for the exchange of information, especially forms and Electronic Data Interchange (EDI).
- (2) The company has the right, but is not obliged, to check the authenticity of signatures on orders and messages, as well as the authorisation of the signatory.
- (3) The company is entitled at any time to demand acceptance of its services at a certain time dictated by its business operations.
- (4) If the client uses a third party in order to establish or perform the contractual relationship, the third party shall not be authorised to make obliging statements and accept payment on behalf of the company, unless the third party has especially been authorised in writing by the company.





1. General

Section 3 Handling Procedures

- (1) The goods shall be handled by servants of the company using its equipment. Sling gear used to move the goods shall be provided by the ship.
- (2) The client and the client's servants and agents are obliged to supervise and, if necessary, to assist with the handling.
- (3) Extra work in connection with handling of goods is normally carried out by the company's servants using its equipment. However, the company may allow the client to carry out such work under its supervision.
- (4) The use of the ship's equipment on the premises of the company requires authorisation from the company.
- (5) The company is entitled to carry out orders using third parties hired by it and using equipment other than its own.
- (6) The company will carefully process the orders in sequence at its discretion. Execution within a certain period of time can only be demanded when explicitly confirmed in writing.
- (7) Orders may only contain contents in accordance with corresponding forms and samples and may only contain explanations and notes which are generally permissible or explicitly approved by the company.
- (8) The company is entitled to reject an order from the client for direct transfer.

Section 4 Docking. Towing

Vessels shall be docked at the berth allocated by the company. They shall immediately be hauled away at the demand of the company if this is necessary in order to ensure a smooth work routine; The company is entitled to take all necessary action at the expense and risk of the client if this demand is not complied with.

Section 5 Checking the description and weight of goods

- (1) The company is entitled to demand exhibition of the contents mentioned on the package if there is reason to question the correctness of the description of goods.

(2) The company is entitled to weigh the goods at the expense of the client if weight information is missing or there is any reason to question the correctness. In this case, the client shall only bear the costs if the weighing shows an excess weight of at least 5 per cent of the weight stated.

Section 6

Special goods. Taking back of goods

(1) If goods require special treatment during handling and storage due to their special characteristics (for example precious objects, fragile, bulky or loose goods) the client shall inform the company in detail and in good time regarding peculiarities. The client shall take or arrange measures for the safe handling of refrigerated containers and goods requiring a certain temperature, as well as perishable goods.

(2) The client is obliged to immediately take back goods if delivered or discharged goods cannot be made available, loaded or delivered due to legal regulations or official orders. The company is entitled to destroy goods at the expense of the client if the client does not immediately comply with the demand to take them back.

(3) The company is entitled to refuse acceptance of goods or demand taking back of goods if proof is not given that on-carriage has been arranged.

(4) If, after acceptance of the goods, it appears that the goods present a danger to persons, to other objects or to the environment due to their condition, the goods shall immediately be repaired, transferred into other containers or removed from the premises by the client at the demand of the company.

Section 7

Dangerous goods

(1) Prior to the delivery of the goods which can be dangerous due to their specific characteristics while being handled, prepared for further transport or while being stored, the company shall be informed in writing or in any other readable form about the precise nature of the danger and, if necessary, about the precautionary measures to be taken.

(2) If the handling of dangerous goods is subject to special legal or official regulations the client is obliged to ensure compliance with these regulations. Packages to be dispatched and containers and trailers containing dangerous goods shall comply with the regulations for the transport of dangerous goods.

(3) The company shall especially be given in writing or in a clearly readable form all necessary information regarding legal and local safety regulations required for the handling and making available of dangerous goods, or must at least be informed of the Applicable Declaration or the Dangerous Goods List in accordance with the GGVSee regulations (German regulations for the transport of hazardous goods). With respect to containerised dangerous goods, the container number must be stated additionally.

For the Hamburg location the following regulations apply:

The following shall especially be stated with respect to dangerous goods:

- Class / Subclass in accordance with the regulations for dangerous goods,
- legal and official regulations concerning the goods,
- technical name of the dangerous goods,
- gross mass and, for explosive substances and objects containing explosives, in addition the net mass of the explosive ,
- method of packing and, for materials which are transported under a not otherwise mentioned (nom; German version:nag) entry or which are transported under a collective name, the packaging group.

(4) The company is entitled to destroy or otherwise render harmless any dangerous goods given to it without information in accordance with paragraphs (2) and (3) without obligation to pay compensation, provided that the goods present a danger. The client has to bear the costs of such measures.

Section 8 Provision. Intermediate Storage

(1) The goods taken over by the company will be made available on the company's premises until they are being taken over by the recipient or, when being despatched, by the vessel.

(2) If goods are stored for more than 4 days, they shall be treated as goods put in store (section 17 and the following).

(3) After elapse of the period mentioned in paragraph (2) the company may at its discretion require that the goods be collected by the entitled person. If this demand is not complied with within a period of notice given by the company, which must be at least 3 days, or if the entitled person is not known or cannot be found, the company may place the goods into alternative storage or store the goods with a third party at the expense of the entitled person.

Section 9 Sale

(1) If goods are stored on the premises for more than two months or if goods are stored with a third party in accordance with section 8 paragraph (3), the company is entitled to publicly auction or - if the goods have a market value - privately sell the goods if

due payments have not been made despite reminders and threats to sell,

or if the entitled person is not known and not to be found.

(2) The intended sale will be announced to the entitled person. If the entitled person is not known and cannot be found, the intended sale will be announced in the Official Gazette. The sale must not be carried out until one week has passed since the announcement was made.

(3) The company is not bound by the period of notice mentioned above and not obliged to threaten with sale if the goods are perishable or of low value and, at the company's discretion, the payment

due would not be covered by the proceeds.

(4) If a buyer for the goods for sale cannot be found, the company is entitled to remove and destroy the goods at the expense of the entitled person.

(5) The company is entitled to satisfy its claims regarding storage charges and other expenses for the goods from the proceeds from the sale. Furthermore, the company has a lien on the goods and on the proceeds with respect to all other claims against the client. If the entitled person is not known, his or her claims for payment of the amount of the proceeds exceeding the amount claimed by the company will lapse in accordance with sentence (1) and (2) after one year.

2. Cargo

Section 10 Necessary Information

(1) With respect to the delivery of cargo, the client and the deliverer are obliged to state the following in writing or any other legible form:

1. name and address of the manufacturer
2. port of discharge
3. name of the vessel
4. quantity, marking and numbering of the packages
5. method of packaging
6. weight; for items weighing more than 1,000 kg: weight individually
7. for goods based on size (volume measuring more than five times): volume
8. contents (precious objects, inflammable or otherwise dangerous goods, anaesthetics, firearms, as well as goods

(2) The client is obliged to carry out in good time and prior to the take-over of the goods by the vessel all procedures with regard to the goods as are required in law or by the local authorities.

(3) If the information in accordance with paragraph (1) is given by the client too late or not at all, or if the client does not fulfil his obligations in accordance with paragraph (2), the loading might not be carried out; the client is liable for costs incurred to the company.

(4) The loading of containers onto the vessel shall be carried out in accordance with the CAL (Container Announcement List). The company shall be informed in writing about the correct stowage locations prior to the loading of containers containing dangerous goods.

Section 11 Necessary Information

(1) The goods shall be handed over to the vessel named in section 10 paragraph 1 letter (c) in accordance with the stowage plan agreed between the parties. The goods shall be regarded as having been taken over by the vessel when they have been set down on the vessel. Apparent damage shall be notified in writing to the company by the master of the ship while the goods are

being handed over; Otherwise, the goods shall be handed over in a condition conforming with the contract.

(2) The master of the ship shall be informed in writing about the dangerous goods to be loaded. The master of the ship shall return the signed document to the company.

Section 12

Stoppage of loading. Return of goods

(1) Loading of the goods accepted for shipment shall be stopped if the client or the deliverer demands this in writing or in the form laid down by the company.

(2) The deliverer is entitled to take back the goods.

3. Goods to be discharged

Section 13

Discharge list

(1) The client shall provide a discharge list at least 48 hours prior to commencement of discharge.

(2) The discharge list shall contain the following information:

- name and address of consignee
- quantity, marking and numbering of the packages
- method of packaging
- weight, for items weighing more than 1,000 kg: weight individually
- for goods based on size (volume measuring more than five dimensions): volume
- contents (precious objects, inflammable or otherwise dangerous goods, anaesthetics, firearms, as well as goods which are subject to export or transit prohibitions or restrictions shall be marked as such)

Section 14

Discharge

The vessel shall hand over the goods in accordance with the discharge list.

Section 15

Taking over. Acknowledgement of receipt

The goods shall be regarded as having been taken over by the company after being tackled on board. At the demand of the client, the company shall issue an acknowledgement of receipt for all goods received.

Section 16

Delivery against declaration for release from the client

(1) The company is entitled to decline delivery until the vessel has been completely discharged if, at the company's discretion, this would impair the proper execution of the handling operation and the necessary overview over the items to be delivered.

(2) The goods to be discharged shall be delivered to the person who presents documents for release from the client in his favour in writing or in any other readable form. The recipient shall prove his identity at the demand of the company. Section 10 paragraph (4) of these Standard Terms and Conditions applies to feeder services.

(3) Reception of goods shall be confirmed to the company by the recipient or the client.

(4) Delivery of goods will only be carried out after payment of all expenses incurred by the company.



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III. STORAGE

Section 17 Storage

(1) The company is obliged to store and to keep the goods if storage was agreed and in cases regulated by section 8 paragraph (2). They shall be guarded in the customary way.

(2) The company is entitled to place the goods in alternative storage on its premises; The new place of storage shall be communicated to the client. The company is only authorised to store the goods in another warehouse if explicit or tacit approval has been given by the client.

(3) Against payment of a fee, the client is entitled to inspect the goods or have them inspected by an authorised person during working hours upon agreement of the company and in compliance with the company's safety regulations.

(4) Without special agreement, the company shall not be obliged to carry out work in order to maintain or improve the goods. However, the company is entitled to take such measures at the expense of the client if they seem to be necessary in order to prevent damage to the goods, to other goods or the storerooms.

Section 18 Information. Special and Dangerous Goods

(1) The client shall specify the nature of goods in a way that enables proper storage.

(2) If goods require special treatment during storage due to their special characteristics (for example, goods which require a certain temperature, precious objects, fragile goods), the client shall inform the company about these characteristics in precise detail. The company shall be informed in good time in writing or any other readable form about the exact nature of the danger and, if necessary, about precautionary measures to be taken prior to delivery of goods which can present a hazard during storage due to their specific characteristics. Section 5 paragraph (1), section 6 paragraph (2), (3), section 7 paragraph (2) to (4) apply mutatis mutandis.

Section 19 Acknowledgement of Receipt

The company may issue an acknowledgement of receipt after storage. Apparent damage to the goods and their packaging shall be noted therein.

Section 20 Period of Storage

(1) The storage contract can be terminated by either party under observance of a period of notice of

one month. If there is an important reason, the contract can be terminated without observance of the period of notice. It is considered to be an important reason in particular if the client is in delay with payments of the storage charges by more than 2 months and if the company's claim exceeds the value of the goods.

(2) After termination of contract, the warehouse keeper is entitled to demand that the client, or if a warehouse warrant was issued, the last legitimate owner of the warehouse warrant known, take back the goods. If the person obliged does not comply with this demand within one month, the company has the rights as stated in section 9.



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IV. LIABILITY

1. Liability of the company

Section 21 Liability during handling of cargo

(1) The company is liable in case of a breach of its duties during the handling of cargo and all connected services apart from storage under section 17 and the following in accordance with the legal provisions of section 425 to 439 HGB (German Commercial Code) concerning the liability of the carrier.

(2) However, the following special agreements apply:

- **Compensation for loss of and damage to goods is limited to an amount of two units of account for each kilogram of the gross weight of the goods.**
- **If only individual parts of the parcel of goods have been lost or damaged, the liability is limited to an amount of 2 units of account for each kilogram of the gross weight**
 - **of the whole parcel of goods, if the entire parcel of goods was devalued,**
 - **of the devalued part of the parcel of goods, if only part of the parcel of goods was devalued.**

Section 22 Liability towards third parties in accordance with section 437 HGB "German Commercial Code"

The client must protect the company towards third parties with whom the client has agreed a contract of carriage against liability above any liability in accordance with section 21 paragraph (2).

Section 23 Liability during storage

(1) When storage was agreed (section 17 and the following, section 8 paragraph (3)), the company is liable in accordance with legal provisions.

(2) However, liability for loss and damage is limited to the normal value of the stored goods, as well as to the maximum amounts mentioned in section 21 paragraph (2). Further financial losses, especially loss of profits, will not be reimbursed.

(3) If the damage can be attributed to

- the nature of the goods,
- lack of or insufficient packaging,
- pest infestation, inherent vice, shrinkage, rust, mould or decay,
- the agreed method of storage in special warehouses or in the open or
- directions given by the client or any third party acting on his behalf

it will be presumed that it was caused by this.

(4) Section 434 HGB (German Commercial Code) applies to the liability of the company, section 436 HGB applies to the liability of the servants of the company.

(5) The limitations mentioned above are not valid if the damage was caused with the intention to cause such damage or recklessly and with knowledge that damage would probably result.

Section 24 Declaration of value

(1) The client may state a higher value for the goods in individual cases and agree to increased liability.

(2) The company may make dependent any agreement on liability exceeding liability in accordance with paragraph (21) to (23) on a surcharge on the usual remuneration.

Section 25 Notice of Damage

(1) Where the loss of or damage to the goods is apparent and the consignee or sender fails to notify the carrier of the loss or damage on delivery of the goods at the latest, it is presumed that the goods have been delivered in a condition conforming with the contract. The notice must specify the damage sufficiently clearly.

(2) The presumption referred to in paragraph (1) shall also apply where the loss or damage was not apparent, provided there has been no notice within seven days after delivery.

(3) Claims for delay in delivery shall expire if the consignee does not notify the carrier of the delay in delivery within twenty-one days after delivery.

(4) After delivery any notice of damage shall be given in writing; transmission of the notice may be effected by telecommunication. A signature is not required if the notice identifies the author in some other way. Dispatch within the applicable notification period is sufficient.

(5) If loss, damage or delay in delivery is notified on delivery, it is sufficient to give notice to the person delivering the goods.

Section 26 Liability for damage caused to transport vehicles owned by the client or a third party

The company is liable for damage caused to watercraft and road vehicles owned by the client or a third party which are used by the client for handing over or collecting goods only if a fault on the part of the company or one of its servants can be proven. Liability is limited to direct damage unless the damage was caused with the intention to cause such damage or recklessly and with knowledge that damage would probably result.

Section 27 Limitation

(1) All claims against the company are time-barred after one year. In case of intent or of fault considered to be equivalent to intent in accordance with section 435 HGB (German Commercial Code) the limitation period shall be three years.

(2) The limitation period runs from the end of the day on which the goods were delivered. If the goods have not been delivered, the limitation period runs from the day on which the goods should have been delivered. The first and second sentences notwithstanding, the limitation period applicable to claims of recourse runs from the day on which the judgement against the recourse claimant becomes final and non-reviewable or, if there is no such judgement, from the day on which the recourse claimant satisfies the claim; this does not apply if the recourse debtor was not informed of the damage within three months after the recourse claimant gained knowledge of the damage and of the identity of the recourse debtor.

(3) With regard to damage to an object owned by the client or a third party hired by the client, especially to watercraft or road vehicles which were used by the client for the handing over or collection of goods, the period of limitation under paragraph (1) shall commence on the day the damage occurred.

(4) The period of limitation of a claim against the company shall be suspended through a written claim from the client until such time as the company rejects the claim by notification in writing. A further claim having the same object shall not suspend the period of limitation again.

2. Liability of the client

Section 28 Liability of the client

(1) The client shall be liable towards the company for all damages and expenses which are caused by insufficient packing or marking of the goods, incorrect, unclear or incomplete information in accordance with sections 7, 10, 13, 18 or in other communications, as well as for damages and expenses caused by the omission to communicate the dangerous nature of the goods, even if the client is not at fault. Section 414 HGB (German Commercial Code) applies.

(2) If a certain point in time has been agreed for services from the company and delays occur caused by the use of ships or other means of transport, the client shall be liable for expenses caused by futile provision and non-utilisation of staff and equipment, unless the client is not responsible for the delay.

(3) The client is liable for damages to quay installations caused by the client's vehicles or staff.





V. COMMON TERMS

Section 29 Lien and Right of Retention. Set-Off

(1) The company has a lien and a right of retention on the goods in its possession or other objects, especially on accompanying documents with respect to all claims it is entitled to for the services it has rendered to the client. However, these rights do not exceed the rights provided by law.

(2) The company shall only make use of its lien or right of retention for claims regarding other cargo handling contracts or storage contracts included with the client if they are uncontested or if the financial situation of the debtor puts at risk the company's claims.

(3) In all cases, the period of notice of one month mentioned in section 1234 BGB (German Civil Code) shall be replaced by a period of notice of two weeks.

(4) Off-set or retention against claims of the company regarding the cargo handling contract and the storage contract and other associated, non-contractual claims is only permissible with respect to a due counterclaim against which objections are not being raised.

Section 30 Termination

In the case of a price having been agreed that is lower than the price stated in the "price recommendations", this special agreement can be terminated by the company without observance of the period of notice if a justified danger becomes known that the client will not be able to meet his financial obligations as stipulated in the contract.

Section 31 Applicability of law. Place of Performance. Jurisdiction

(1) The legal relationship between the company and their clients shall be governed by German law.

(2) Place of performance shall be the seat of the company.

(3) The courts at the company's seat shall have jurisdiction for all disputes which might arise out of or in connection with the contractual relationship. For claims against the company, this jurisdiction shall be exclusive.

Section 32 Partial Invalidity

Should one of the provisions contained in these Standard Terms and Conditions be partly or completely void, the other provisions shall remain unaffected.

