

## General Business Terms for Transport Orders of Hansa-Messe-Speed GmbH

### 1. Scope of Validity

- 1.1 The following General Business Terms apply to all framework and individual orders between Hansa-Messe-Speed GmbH (hereinafter referred to as HMS) and its contractors for all national and international transport orders unless otherwise stipulated by law.

Upon submission of an offer to HMS and/or acceptance of an offer by HMS the contractor acknowledges and agrees to the validity of the General Business Terms. These terms will also apply to cabotage transport in other member states of the European Union and the EEA unless there are contrary provisions of the law.

- 1.2. Contrary General Business Terms by the contractor as well as the ADSP and VBGL will not be valid unless HMS gave its express consent to this.
- 1.3. Orders can be placed in writing in textual form- electronic communication (in particular via e-mail) and by fax will be sufficient- or verbally or over the telephone. Upon receipt of the order, the contractor will be obligated to carry it out.

### 2. Services

#### 2.1. Compliance of German Minimal Wage Law

The agent assures to operate in compliance with the legal regulations especially of the German Minimal Wage Law. In case of forwarding the orders to subcontractors the agent will also oblige them to observe the legal regulations especially of the German Minimal Wage Law.

The agent is obliged to directly hand over all documents (payments) to the principal to examine if the agent acts in compliance with § 20 MiLoG. The duty of submission can also take place through a certificate of the agents` tax advisor who confirms that his client, the agent, acts in compliance with § 20 MiLoG.

#### 2.2. Vehicle standards

The contractor will be obligated to use exclusively suitable, waterproof, clean and odor-free vehicles in a technically impeccable condition and with the necessary loading capacity. The vehicles are equipped with an on-board telephone and GPS. The vehicle has to be capable of transport under customs seal. The contractor will bear all costs for the means of transport.

The contractor guarantees a continuous 24-hour availability for HMS. This will also

apply to vicarious agents and subcontractors hired by him.

#### 2.3. Acceptance of the consignment

Upon acceptance of the consignment for transport the contractor is obligated to immediately inspect the external condition, completeness and identity as well as packaging of the goods. Any complaints are to be made as a detailed report on the transport papers and are to be confirmed by the sender with a signature, date and stamp.

Where the above complaint is not made in writing it will be assumed subject to refutation that HMS or the sender submitted the goods and the accompanying papers (§§ 408, 411, 413 HGB) in a proper condition ready for transport.

#### 2.4. Loading and Unloading

The contractor is liable for the loading, unloading, storage and affixation of the transport goods on the vehicles. Where loading and unloading is carried out by the staff at the place of loading they will be acting as vicarious agents of the contractor. The contractor will be obligated to inspect the loading being carried out and to correct it where necessary. Sufficient material must always be carried and used to secure the loading. The loading security regulations must be complied with by the contractor.

#### 2.5. Additional Cargo and Transfer of Cargo

The transfer of cargo is prohibited when carrying out the transport. Loading of additional transport cargo is not permitted to the contractor unless HMS has approved this explicitly and in writing.

#### 2.6. Parking of Vehicles

The contractor has sole liability for the correct and safe parking of the vehicles. Parking of vehicles, trailers, semi-trailers and swap bodies in non-supervised parking areas is strictly prohibited and will be regarded as gross negligence toward HMS and the contractor and reckless as defined in § 435 HGB and Art. 29 CMR.

#### 2.7. Accompanying Papers/ Delivery Record

The driver must carry all permits and documents necessary for transport with him.

The contractor will be obligated to only carry out transport with the corresponding transport document (bill of lading, electronic bill of lading, etc.) Receipt of the consignment is to be confirmed on the bill of lading in a clearly legible form, with a company stamp, signature and date, stating the time of unloading. The recipient's name is

to be printed in block letters next to the signature.

## 2.8. **Transports of Hazardous Goods**

In the case of the transport of hazardous goods the statutory regulations, in particular ADR/GGVSE must be complied with. The full equipment prescribed by law must be carried.

The contractor must appoint a representative for hazardous goods and provide proof of this to HMS. All drivers being employed must have a valid ADR-certificate.

## 3. **Subcontracting**

Where the contractor hires third parties for carrying out the order (subcontractors) he must ensure that the present terms are complied with likewise by his vicarious agents and the subcontractors hired by him. In particular, the contractor must ensure that only shipping agents having the necessary permits and certificates for carrying out the specific transport are hired.

## 4. **Delivery Deadlines**

4.1. The contractor guarantees compliance with all delivery dates and deadlines agreed on in the transport order. In the case of delays and other transport impediments jeopardizing timely delivery HMS is to be informed immediately and instructions are to be obtained over the telephone.

4.2. The contractor will be obligated to compensate us for the omitted or delayed report of the damage incurred, where he is liable for the damage.

## 5. **Inspection and Supervision Duties**

The contractor guarantees that he has the necessary permits and authorizations for the respective transport of the goods. In particular he will be obligated:

5.1. to have and carry during transport a permit, Community license, third party country permit, CEMT permit pursuant to §§ 3, 6 GüKG. The driving staff hired must carry a transport route booklet pursuant to the Art. 5 CEMT-guideline.

5.2. to ensure that the drivers carry along an official certificate with an officially certified German translation pursuant to § 7b Sect. 1 Clause 2 GüKG and resp. in the case of transnational transports the necessary documents for every transport.

5.3. to only hire drivers and subcontractors with the necessary work permit, valid driver's licenses, passport or identity card.

5.4. to comply with the driving times and rest times.

5.5. to prove the necessary documents to HMS upon request.

## 6. **Liability**

### 6.1. **Agreement of release**

The agent will release the principal of all claimers from third parties which are based on breaches of obligations concerning to the German Minimal Wage Law through the agent or one of his subcontractors or temporary labors.

This Agreement of release covers the civil-law liability and administrative penalties which are fined to the agent or to his subcontractors for any breaches.

This Agreement of releases also applies for claims from social insurance institutions and fiscal authorities.

6.2. **The contractor will be liable within the framework of national transports for damage to goods from shipping and freight orders with 40 special drawing rights for every kilogram of the net weight of the consignment, deviating from § 431 HGB.** This will also apply to damage incurred during interim storage necessary during transport. In the case of transnational transports the contractor will be liable in accordance with the provisions of the uniform applicable transport law.

6.3. The contractor's liability for exceeding the delivery deadlines will follow the statutory provisions.

6.4. The contractor will have unrestricted liability for damage incurred within the scope of ordered storage.

6.5. The contractor will be liable for material damage where it is not damage to the cargo and personal injury caused culpably to legal goods of HMS, the sender, the recipient and the latter's staff, bodies or other auxiliaries as well as other third parties to who HMS has legal obligations upon rendering his contractually agreed service. The contractor will be liable to the same extent as for himself for the fault of one of his associates or other parties employed by him for rendering the service.

6.6. The contractor will be liable within the statutory limits set out in §422 HGB during the consignment period for other financial damage caused culpably where the damage is not damage caused by delay, and outside of the consignment period without restrictions.

6.7. HMS's liability will be limited to typical foreseeable damage upon conclusion of the contract. The aforementioned liability restrictions will not apply to injury to life, limb or health where statutory liability provisions must be applied. Moreover, they will not

apply in the case of culpable breach of cardinal duties by HMS or its vicarious agents and in the case of gross negligent or willful breach of other duties by HMS. Moreover, the aforementioned liability exemptions and liability restrictions will not apply where HMS willfully concealed the damage.

The aforementioned liability restrictions will also apply to any competing claims from an illegal act but not to damage compensation claims from injury to life, limb and health, as well as those based on mandatory statutory provisions.

## 7. Insurance

**7.1.** The contractor will be obligated to take out insurance against all damage for which he is liable in accordance with the statutory provisions and the present General Business Terms at conditions customary on the market and with adequate coverage and to maintain this insurance throughout the entire term of cooperation. Any change or termination of the insurance coverage must be reported immediately. The contractor will provide proof of the existence of the insurance policies to HMS at his own initiative by submitting an insurance confirmation. Upon request, all insurance policies are to be presented to HMS.

**7.2.** The contractor will be obligated to immediately report damage of any kind in writing to his insurer and HMS and to immediately submit all necessary documents for the loss adjustment.

## 8. Remuneration

**8.1.** Remuneration of the contractor will be based on the freight charges agreed on for the individual order.

**8.2.** Payments will be made within 30 work days net. The start of the deadline is the date of the receipt of the invoice. The contractor must specify a correct bank account to which HMS will pay with a debt-releasing effect. Any change of the bank account must be reported immediately in writing to HMS.

**8.3.** The invoice amount will not be due to HMS before receipt of the bills of lading, delivery notes, receipt or delivery records as well as original customs documents together with the shipment invoice.

**8.4.** The waiting periods at the places of loading and unloading are included in the

agreed remuneration. Unless otherwise prescribed by law the demurrage fees are already included in the freight charges unless there is a different agreement with HMS.

## 9. Statute of Limitations

Claims to demurrage fees, additional remuneration as well as compensation of other expenditure must be asserted in writing by the contractor against HMS within a limitation period of two weeks after the agreed delivery date or the delivery carried out.

## 10. Rights of set-off/Retention/Liens

**10.1.** The contractor does not have a right of set off against claims by HMS. The exercise of a right of retention or a lien right by the contractor on the goods consigned for transport by HMS or its clients is excluded unless they are claims due for payment which are res judicata or recognized by HMS as legitimate.

**10.2.** HMS has the right to set-off with claims incurred on the basis of damage caused during consignment of the goods with the contractor.

## 11. Applicable Law

The laws of the Federal Republic of Germany will apply unless there are contrary statutory provisions. This will also apply to the extent that the provisions of the CMR refer to national law.

## 12. Place of Jurisdiction

The exclusive place of jurisdiction for all disputes arising from the orders between HMS and the client is Wuppertal. Where the CMR applies the parties agree to the aforementioned place of jurisdiction as an additional place of jurisdiction as defined in Art. 31 Sect. 1 CMR.

## 13. Final Provisions

**13.1.** Should individual parts of the present General Business Terms be or become legally invalid this will not affect the validity of the remaining terms.

**13.2.** Any amendments, addenda and ancillary agreements must be in writing. The same will apply to the writing requirement per se.

**13.3.** HMS can modify this General Terms and Conditions at any time.