



## **General Terms and Conditions – Port and Transshipment Operations claus rodenberg port logistic gmbh**

### **1. Validity**

The General Conditions apply to all orders placed with the port and transshipment company, irrespective of their content, even if they are not expressly mentioned in the offer of the port and transshipment company.

### **2. Rates and Prices**

All handling rates, unless expressly agreed otherwise, are subject to the condition that work can be carried out in normal, fully exploitable working shifts. Surcharges for overtime work, 2nd and 3rd shift as well as on Sundays and public holidays are charged extra.

Offers from the port and transshipment operations are subject to change until the order is placed. Any increase in wages, social security contributions or other costs on which price calculations are based following the submission of offers shall necessitate an appropriate increase in the rates of remuneration. In the case of contracts concluded for a certain period of time, the port and transshipment operator shall be entitled to adjust the agreed prices in accordance with any changes in wages, social security contributions or other costs which may occur during the term of the contract. If the port and transshipment company is obliged by collective agreement to pay wage surcharges such as for work in dirty conditions, cooling surcharges, hardship and hazard allowances, etc., the resulting additional costs shall be reimbursed.

The handling of damaged ships is subject to a special agreement in all cases.

If the goods are weighed during unloading or loading, the client shall pay the port and transshipment company an additional surcharge for this.

### **3. Performance Impediments and Difficulties**

3.1 Force majeure or other events beyond the control of the port and transshipment company which prevent the port and transshipment company from fulfilling its obligations in whole or in part, such as state of war, mobilisation, riots, unrest, government measures, strikes, suspension of work and lock-outs, shall release the port and transshipment company from its obligations arising from the orders affected by such events for their duration.

If, in spite of the above events, the work on the provision of services is continued, the port and transshipment company shall be reimbursed for all extra costs incurred as a result.

3.2 If workers, requested by the client to work, cannot be employed through no fault of the port and transshipment company, the client shall pay the port and transshipment company for this work for the period of non-employment.

3.3 If faults occur in handling equipment through no fault of the port and transshipment company, at unfavourable berths, in or from confined spaces, such as Piecks, storage bunkers, pockets, surveying or private rooms to work in, the rates of the port and transshipment company shall increase in proportion to the loss of performance compared to normal performance. An obstruction surcharge shall also be levied in the case of frozen deck cargo and space cargo or cargo adversely affected by cold, heat, moisture or other weather conditions. In addition, an obstruction surcharge is charged for cargo whose packaging is damaged, for loose bulk cargo for which the grab capacity is not given, e.g. due to wall formation or similar cargoes or cargo which is not properly stowed, for stowage which does not correspond to the stowage plan thus making sorting in the ship necessary.



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When drafting offers, the port and transshipment company generally assume that the goods can be handled in the ship with industrial machinery (forklifts, trim equipment, etc.). Should it turn out that the use of such equipment is not possible, the client shall reimburse the port and transshipment company for the additional costs incurred as a result. If the decks of the ship do not permit the loading by the industrial equipment, the port and transshipment company must be carried out before loading or unloading begins, otherwise any damage occurring shall be borne by the client.

Increases shall occur in the same manner if the delivery or acceptance of the goods does not take place seamlessly, ordered labour cannot be fully utilised at the intended place, wind and weather hinder the work, ship or cargo do not arrive or are damaged, the documents or the completion of formalities are missing, and in all cases comparable to these examples. In order to ensure a smooth movement of the ships, the port and transshipment company may be required to complete up to two hours of overtime at the expense of the client by means of performance and payment. All port and transshipment services are provided under instructions and supervision by the captain or his representative.

### **4. Disclosure**

The port and transshipment company shall provide tangible information regarding the goods, their readiness for loading/unloading, or their final loading/unloading to the best of its knowledge, but with no obligation. No liability is assumed for demurrage, barge, barge or ship demurrage, waiting times of pilots, tugs, and mooring personnel, etc.

### **5. Heavy and Dangerous Goods**

Packages with an individual weight of more than 1500 kg are to be specifically described to the port and transshipment company with regard to their tasks. Goods which are subject to the IMDG Code shall also be specified. In the event of incorrect or insufficient information about such goods, in particular names in a foreign language or in generally unknown technical terms, the client shall be liable to the port and transshipping company for all damages, penalties and disadvantages suffered by the port and transshipping company itself, other persons, goods or the ship.

### **6. Liability of Port and Transshipment Company**

6.1 The port and transshipment company shall be liable for all its activities in accordance with the statutory regulations. However, the following regulations shall apply, unless otherwise stipulated by mandatory or binding legal provisions.

6.2 Insofar as Sections 425 ff. and 461 of the German Commercial Code (HGB) do not apply, the port and transshipment company shall only be liable for damage of any kind in the event of wilful intent or gross negligence on the part of its executive bodies, management staff or employees, or other vicarious agents, unless the damage is based on the violation of an essential contractual obligation, whereby compensation claims in the latter case are limited to the typical, foreseeable damage.

6.3 Insofar as the port and transshipment company only owes the conclusion of the contracts necessary for the provision of the contractual services, it shall only be liable for the careful selection of the third parties commissioned by it.

6.4 In all cases in which the port and transshipment company is liable for loss of or damage to goods, it shall reimburse the value and costs in accordance with Section 429, 430 of the German Commercial Code (HGB).

If damage could result from any of the circumstances listed above, it is presumed that it has arisen as a result of this.



6.5 Insofar as Section 425 ff. and 461 para. 1 of the German Commercial Code (HGB) do not apply, the port and transshipment company shall be liable for damage incurred as a result of:

- force majeure,
- fire and explosion damage,
- atmospheric influences,
- theft, robbery, rioting or looting of ship and cargo,
- breaking of chains, cranes, ropes and other equipment and stowage gear,
  
- the natural condition or lack of or defective packaging of the goods, or incorrect information about the goods as well as defective labelling by the client or third parties;
  
- damage to ship, equipment and accessories which can be found on deck or in the cargo holds, e.g. ship winches, board cranes, tarpaulins, bulkheads, stringers, ship's side walls, bearings, shaft tunnels, room supports, room ladders, spar ceilings, tank caps, or protruding parts, e.g. bearing shoes, grommets, cleats, beams, wooden planks, cuffs on wooden planks, etc., as well as damage to the protective timber itself, only to the extent that culpable causation of the damage is proven to it.

If damage could result from any of the circumstances listed above, it is presumed that it has arisen as a result of this.

## **7. Liability of the Client**

The Client shall be liable for any damage resulting from incorrect, inaccurate, inadequate or delayed information, in particular concerning the number of items, weight, quality or due to defects of the goods or the packaging of the goods itself, at the port and transshipment facilities, in the goods stored or transshipped there or to third parties.

## **8. Limitations of Liability**

8.1 The liability of the port and transshipment company in the event of loss of or damage to the goods (damage to goods) is limited in amount to two units of account for each kilogram of the gross weight of the consignment. The unit of account is the special drawing right of the International Monetary Fund.

- the part of the consignment which has been devalued, if only part of the consignment has been devalued.

8.3 The liability of the port and transshipment company for damage other than to goods, with the exception of personal injury and damage to goods that are not subject of the contract of transportation, is limited to three times the amount payable for the loss of the goods, but not more than € 100,000 per claim. Sections 431 para. 3, 433 of the German Commercial Code (HGB) remain unaffected.

8.4 The liability of the port and transshipment company shall in any event, irrespective of the number of claims arising from an event, be limited to € 1 million per event or 2 SDRs per kilogram of lost and damaged goods, whichever is the greater. In the case of more than one injured party, the port and transshipment company shall be liable in proportion to their claims.



## **9. Non-Contractual Claims**

The aforementioned exemptions and limitations of liability apply in accordance with Sections 434, 436 of the German Commercial Code (HGB) also for non-contractual claims.

## **10. Qualified Fault**

The aforementioned exemptions and limitations of liability do not apply if the damage has been caused:

10.1 by intent or gross negligence on the part of the port and transshipment company or its managerial employees or by breach of material contractual obligations, whereby claims for compensation in the latter case are limited to the foreseeable and typical damage;

10.2 in the cases of Sections 425 ff, 461 (1) of the German Commercial Code (HGB) by the port and transshipment company or the persons referred to in Sections 428, 462 of the German Commercial Code (HGB) intentionally or recklessly and in the knowledge that damage will occur with probability.

## **11. Due Date and Offsetting**

Payments are to be made within seven days following issue of the invoice. Upon completion of the work, the port and transshipment company may demand immediate payment in the approximate amount of the invoice. Offsetting against claims of the port and transshipment company is only permissible with undisputed or legally established counterclaims.

## **12. Statute of Limitations**

All claims against the port and transshipment company shall become statute-barred after one year. In the event of intent or a fault equivalent to intent under section 10.2, the limitation period shall be 3 years.

## **13. Place of Performance, Place of Jurisdiction, Applicable Law**

The place of performance and exclusive place of jurisdiction for all disputes arising from any contractual relationship between the contracting parties shall be Lübeck. German law shall apply to all legal relationships between the port and transshipment company and the client.

## **14. Partial Invalidity**

Should parts of these terms and conditions be or become invalid, the validity of the remaining terms and conditions shall not be affected thereby. The invalid provision shall be reinterpreted by way of contract amendment in such a way that it achieves the intended purpose in a legally permissible manner.