

**1. Area of Validity**

- (1) KGH Customs Service GmbH (hereinafter KGH) processes the orders issued to it exclusively on the basis of these terms and conditions. They shall also apply to all future business relations between KGH and the client, even if their validity should not be explicitly agreed again.
- (2) All orders issued to KGH shall be subject to the General German Freight Forwarding Terms and Conditions (ADSp) in the version thereof valid at the time of the placing of the respective order, inasmuch as the following terms and conditions do not contain any deviating regulations. The client is aware of the contents of the ADSp.
- (3) These terms and conditions apply only to business enterprises as defined in § 14 BGB (German Civil Code).
- (4) Any deviating trading conditions of the client shall not be accepted by KGH, even if KGH should not separately contradict their validity in an individual case.

**2. Assurances and Obligations of the Client**

- (1) The client shall be obliged to supply KGH with all the details necessary for the processing of the order and clearing the goods for customs when placing the order. The client guarantees the correctness and completeness of the details provided, in particular those pursuant to the value, number, nature and weight of the goods. KGH shall not be obliged to verify or complement the correctness and completeness of these details. Any questions that KGH might have shall be answered by the client without delay to the best of its knowledge; moreover it shall also point out any peculiarities pursuant to the goods.
- (2) The client shall be obliged to review the customs declaration for the correctness of the details contained therein pursuant to:
  - Properties of the goods, tariff number,
  - Value, number, nature and weight of the goods,
  - Transport costs,
  - Tool costs, commissions, brokers' fees, price reductions
  - Status of the goods,
 as well as any other variables with an influence upon the value of the goods.
- (3) Any valid binding tariff information (vZTA) or binding information regarding origin (vUA) pursuant to the goods are to be supplied to KGH in writing together with the order for customs clearance, otherwise KGH shall assume that no binding vZTA or vUA exist.
- (4) In the case of export shipments the client, in accordance with Article 796 of the customs code-implementing regulation (Directive (EEC) No. 2454/93), is obliged to undertake the presentation of the goods to the export customs office or to instruct the service providers it has commissioned to do so.
- (5) The client shall be obliged to provide the authorities upon demand with all requested documents or to make the necessary data and documents accessible should recourse be made by the authorities to KGH in connection with its activities on the client's behalf.
- (6) All documents upon which the customs declaration is based such as movement certificates (Form A, EUR1, AT.R, EURMED), declarations of origin, freight documents etc., plus the customs declaration are to be kept by the client on its own premises.

**3. Remuneration, Terms of Payment**

- (1) KGH shall fulfil the orders in return for individually agreed services prices.
- (2) The client undertakes to pay all duties and VAT; if the KGH deferment accounts are used additional 2,5 % commission on

all expenses on the basis of real costs is being charged = 5 days after invoice date

This is also valid for subsequent recoveries within the statute of limitation, even if the business relation has been terminated

(3) Other expenditure includes in particular:

- Necessary costs of legal measures for the defence against unjustified claims asserted against KGH in connection with its activities on the client's behalf,
- Any customs penalties, fines and late payment penalties resulting from advance payments to the customs collection office by KGH,
- Additional fees (so-called standing and waiting charges) that are incurred due to delayed customs clearance in the respective ports or other locations, inasmuch as the delayed clearance is solely or overwhelmingly the fault of the client or is for reasons that do not lie within KGH's area of risk. Fault on the part of the client is to be assumed in particular should it fail to comply with its obligations under Section 2. of these terms and conditions. Should the client and KGH share a portion of the blame, the fees incurred are to be borne proportionately by KGH and the client.
- Extra expenditure incurred by KGH as a result of incorrect and / or incomplete documents provided by the client. All additional expenditure is being charged with 128,00 € per hour or part thereof, based on actual extra work.

(4) Any further expenditure incurred by KGH shall be charged to the client at a flat-rate as follows:

- Lodging of a claim to a refund by KGH with the responsible authorities due to excessive charges levied on the basis of incorrect information provided by the client, in particular goods tariff number: EUR 35.00;
- Should an order be cancelled the costs are to be borne by the client up to the volume of that order to the extent of 100 %. Later than 4 hours after order placement, an additional 27,50 € is being charged.
- In the event of the deadline of a transit document expiring: 1 per mil of the value of the goods, but a minimum of EUR 100.00;
- Should a deadline be exceeded regarding the handing over of the confirmation of arrival (according to 17a Para. 2 No. 2 Cl. 3 VAT implementing regulation): EUR 35.00;
- Courier charges up to 2 kg: 19,00 € add. 5,00 € service fee
- The issuing of a 2<sup>nd</sup> invoice for reasons for which the client bears the responsibility: EUR 3.50.

(5) The invoicing of KGH services and other expenses is always by declaration. Collective invoicing (e.g. weekly or monthly) can be agreed upon by request. Payment is to be made within 10 days after date of invoice.

(6) After this deadline has expired the client shall be in default of payment. KGH shall be entitled, from this point in time, to cease all services from ongoing orders without compensation. Further-reaching claims shall remain unaffected by this. KGH shall in particular be entitled to charge to the client any costs incurred from external debt collection agencies or lawyers subsequent to the default. In addition, KGH Customs Services charges interest on arrears (due date +1 day) in the amount of 3 % above the base rate of the ECB

**4. Liability of the Client**

The client assumes full liability towards KGH for the punctual presentation of the necessary documents as well as for the completeness and correctness of all details that are necessary

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for the implementation of the orders by KGH. The client shall bear all costs that are incurred as a result of information that is incorrect or incomplete or that is submitted late, or by the failure to submit the necessary documents, also in cases in which these are not explicitly listed under Section 3 Paragraphs 3 and 4. In terms of their internal relationship it shall exempt KGH in from all third party claims including the customs and fiscal authorities in connection with its activity on behalf of the client.

### 5. Right of Rejection on Important Grounds

KGH reserves the right to reject the implementation of an order on important grounds. Important grounds are given in particular in cases of

- The client being in default of payment
- Missing documents for a proper customs declaration or
- Inadequate description of goods.

### 6. Vicarious Agents

KGH is entitled to deploy the services of vicarious agents. The client confirms that the vicarious agents selected by KGH shall be permitted to undertake customs clearance or individual services in connection with the order in question.

### 7. KGH's Inspection Duties

- (1) KGH is not obliged to check for any violation of protected commercial rights or for any bans or restrictions and foreign trade restrictions; this applies in particular to Regulation (EC) No. 428/2009 (Dual-Use-Regulation). The client shall be independently responsible for the relevant inspections and shall inform KGH in writing of the results thereof.
- (2) Should an order violate the principles of common decency or statutory prohibitions and should KGH be aware of grounds for justifiably suspecting such a violation, KGH shall be

entitled to cease its contractually owed services immediately and without compensation.

### 8. Liability of KGH

- (1) KGH shall be liable in accordance with statutory regulations inasmuch as the client asserts claims for compensation based upon wilful intent or gross negligence on the part of KGH, its legal representative or its vicarious agents.
- (2) Reference is explicitly made to the restrictions contained in the ADSp.
- (3) KGH shall assume no liability with regard to the duties of the client that are pursuant to, for example, the issuing of movement certificates EUR1, declarations of origin, freight documents etc.
- (4) In cases of force majeure KGH shall be entitled to cease its contractually owed services immediately and without compensation. KGH shall inform the client without delay of any instance of force majeure.

### 9. Data Storage

All data provided by the client shall be stored and exploited for the exclusive purpose of fulfilling the service owed under the terms of the contract. The client explicitly grants its consent for the storage and exploitation of the data for the aforementioned purpose.

### 10. Final Stipulations

- (1) The place of fulfilment for all services to be performed by the contractual parties is Hamburg. The court of jurisdiction for any legal disputes arising from this legal relationship is Hamburg.
- (2) These terms and conditions are subject to the laws of the Federal Republic of Germany under exclusion of the UN-Sales Convention.
- (3) Should any single or several stipulations of these terms and conditions be or become ineffective or null and void, this shall not affect the validity of the remaining stipulations.