

General Terms and Conditions of KGH Customs Services GmbH

1. Area of Validity

- (1) Contracts shall be concluded on behalf and for the account of KGH Customs Services GmbH (commercial register: Hamburg HRB 142009, VAT Identification Number DE237367380), represented by the Managing Director Cornelis Jan Kuhlman, Haferweg 22, 22769 Hamburg.
- (2) KGH Customs Service GmbH (hereinafter KGH) processes the orders issued to it exclusively on the basis of these terms and conditions according to the version valid at the time of commissioning.
- (3) These terms and conditions shall only apply to business enterprises as defined in § 14 BGB (German Civil Code).
- (4) Business conditions of the client or of third parties shall not apply, even if KGH does not dispute their validity in individual cases separately. Even if KGH makes reference to any document containing business terms of the client or of third parties or refers to such, this shall not constitute any agreement to the validity of those terms and conditions.

2. Offer and Conclusion of Contract

- (1) Agreements between the contracting parties shall be deemed valid if the client accepts the offer submitted by KGH in text form or in writing, no later than after the client has signed and returned the corresponding Customs Power of Attorney.
- (2) The legal relationship between KGH and the client shall be solely governed by the content of the negotiated contract including the present general terms and conditions. Verbal undertakings made by KGH prior to the conclusion of this contract shall be legally non-binding, and oral agreements of the contracting parties shall be replaced by the contract concluded in text form or in writing, as long as they do not explicitly stipulate that they continue to be effective and binding.

3. Services of KGH

- (1) KGH shall provide import declarations in the form of direct and indirect representation according to Section 18 Paragraph 1 Union Customs Code, taking into account that the agreed form of representation shall be defined by the relevant Power of Attorney submitted to the client
- (2) Furthermore, KGH shall in particular provide the following customs services:
 - post-clearance recovery, reimbursement or waiver;
 - laws governing origin of goods/preferential rights;
 - provision of various monitors, such as AEO (Authorised Economic Operators), confirmation of arrival, address monitor;
 - consulting, expert advice for foreign trade
 - tariff group classifications
 - processing/management of supplier's declarations;
 - sanctions list scans;
 - reporting and filing according to customer demands;
 - intrastat;
 - cargo handling and courier service at Frankfurt/Main Airport;
 - assistance with the application of permits.

4. Assurances and Obligations of the Client

- (1) The client shall be obliged to give KGH the Power of Attorney transmitted to the client by KGH within the framework of the conclusion of contract.
- (2) The client shall be obliged to immediately supply KGH with all the details necessary for processing the order and for customs clearance. Also, the client shall ensure a timely hand-over of the required documents, which in particular comprise the following:

- information on value, number, type and weight of the goods;
- proof of origin, proof of preference;
- import and export authorisations, export and import licences;
- valid and binding customs tariff information/binding origin information;
- notification of the encoding of documents and declarations concerning bans and restrictions within the ATLAS IT-system (Y-Codes);
- end-use certificates;
- import certificates;
- export licences of the third country in question;
- surveillance documents and goods certificates;
- commercial invoices and waybills.

The client shall guarantee the accuracy and completeness of the information given. KGH shall not be obliged to verify or complement the accuracy and completeness of the details provided. In case KGH should have relevant enquiries, the client shall be obliged to answer them immediately. The client shall, on his own initiative, make specific reference to any special circumstances and notify KGH accordingly.

(3) The client shall be obliged to immediately review and verify the customs declaration for the correctness of the details contained therein, pursuant to:

- properties of the goods, tariff number;
- value, number, type and weight of the goods;
- transport costs;
- tooling costs, commissions, brokers' fees, price reductions;
- status of the goods;
- encodings for documents and explanations concerning bans and restrictions (Y-Codes)

as well as any other variables with an influence upon the value of the goods.

(4) Any valid and binding tariff information (vZTA) or binding information regarding origin (vUA) pursuant to the goods shall be supplied to KGH in writing together with the order for customs clearance, otherwise KGH shall assume that no binding vZTA or vUA exist.

(5) In the case of export shipments the client, in accordance with Article 331 UZK-IA, implementing directive (EEC) 2015/2447 of the European Commission of 25th November 2015 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.

(6) 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.

(7) 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.

5. Remuneration, Terms of Payment, Right of Retention

- (1) KGH shall fulfil the orders in accordance with services prices individually agreed at conclusion of contract. These prices shall apply for all deliveries and services listed. Prices are to be understood in EURO exclusive of the statutory value-added tax.
- (2) The billing for services provided shall be effected in principle per order. At the client's request, the parties may also agree on a collective invoice (weekly or monthly). The invoice amounts due shall be payable within ten days without any deduction. The relevant date of payment shall be the date of receipt by KGH. If the client fails to make the payment by the due date, interest on the outstanding amounts shall be charged at a rate of 5 % p.a. as from the due date; the application of higher interest rates and additional damages in case of default shall remain unaffected.
- (3) The set-off with counterclaims of the client or the retention of payment as a result of such claims shall only be permitted to the extent that the counterclaims are undisputed or have been recognised by declaratory judgement.

- (4) KGH shall be entitled to carry out or provide services still pending only against advance payment or securities if, after conclusion of contract, KGH becomes aware of circumstances diminishing the client's creditworthiness considerably and on account of which the payment of KGH's outstanding demands by the client from the relevant contractual relations (including those from other individual orders for which the same framework contract applies) is jeopardised.
- (5) Additional or special services, which the client is obliged to provide in addition to the agreed remuneration under Paragraph 1, shall be invoiced separately in accordance with the list prices as follows:
- a. To the extent that the client makes use of the KGH "deferment accounts", the client undertakes to pay all additional duties and levies accruing in this context, plus an advance commission of 2.5 % on the capital requirements. Payment shall be made within 5 days from date of invoice.
- b. In addition, the client undertakes to take over all other expenditure of KGH. 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 Article 4 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.
- c. 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 128.00 net per hour, charged on the basis that per commenced quarter-hour, one-fourth of the hourly fee shall be due as soon as half of a quarter-hour has elapsed.
 - Should an order be cancelled after the processing of that order has already started, the costs are to be borne by the client up to the volume of that order to the extent of 100 %.
 - 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 net.
 - Should a deadline be exceeded regarding the handing over of the confirmation of arrival (according to Section 17a Para. 2 Cl. 2 VAT implementing regulation): EUR 35.00 net plus the corresponding import turnover-tax which would have been due for payment.
 - Courier charges upon proof plus EUR 10.00 net service charge.
 - The issuing of a 2nd invoice for reasons for which the client bears the responsibility: EUR 5.00 net.

6. Remuneration Conditions in the Field of Consulting

- (1) The billing of outsourced activities such as temporary replacement in case of holiday or sickness or parental leave shall be carried out on a monthly basis together with a list of the transactions actually undertaken. Additional services such as other items, documents, or address verifications shall be billed according to the KGH quotation, provided those services were commissioned.

- (2) For the services area the following shall apply: For the efforts of an 8-hour workday in connection with workshops, inventories, and the subsequent recording / elaborations of concepts / specification sheets, KGH will charge an hourly rate of EUR 125 net (junior consultant), EUR 175 net (consultant), or EUR 245 net (senior consultant). In-house seminars and individual workshops will be charged by KGH according to individual requirements and on the basis of the corresponding amount of preparatory work.
- (3) Supplement for services provided on Saturdays shall be 75% of the correlating consultancy fee; for services on Sundays the supplement shall be 100% of the corresponding consultancy fee. The daily / hourly rate depends on the professional and project experience of the consultants. All KGH consultants have a thorough training background as well as sound professional expertise. With at least 15 years job experience, senior consultants have been responsible for a number of projects in relevant topic areas, have been trained on various specific topics and thus have corresponding special skills and additional qualifications to show for. After the order has been received, and depending on how complex the project is and how many consultancy resources are available, a consultant or senior consultant shall be assigned to the project. When placing the order, the client is called upon to specify if a senior consultant is preferred. One person-day shall be equal to 8 hours on site.
- (4) The billing shall be made after fulfilment of the service, at least, however, once a month. The account to be settled shall be paid strictly net immediately.
- (5) The cancellation / postponing of measures scheduled individually by the client, such as in-house instructions or workshops, shall be free of charge until 28 days prior to the agreed date. Until 14 days prior to the agreed date, 50% of the order value shall be charged, thereafter 100%.
- (6) Travel expenses and allowances shall be:

a. travels

travel hour	–	according to remuneration rate
mileage allowance	–	EUR 0.75 per km
travels by rail, air, or boat	–	reimbursement against proof

b. expenses

when absent up to 8 hours	–	EUR 50.00
when absent over 8 hours	–	EUR 75.00

c. overnight stay

accommodation costs–	–	reimbursement against proof
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7. 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.

8. 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.

9. KGH's Inspection Duties; Violation of the Principles of Common Decency

- (1) KGH is neither obliged to check for any violation of protected commercial rights nor for any bans or restrictions and foreign trade restrictions; this applies in particular to Regulation (EC) No. 428/2009 (Dual-Use Regulation) including the updated attachments. The client shall be independently responsible for the relevant inspections and shall inform KGH in text form or 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.

10. Liability of the Client; Indemnity

- (1) The client shall be fully liable with respect to KGH for the timely presentation of the necessary documents as well as for the completeness and accuracy of all the information required for the execution of the orders by KGH. The client shall bear all costs caused by false, incomplete, or delayed information or by absence of the required documents, even if these are not explicitly listed under Article 5 Section 5.
- (2) The client shall internally indemnify KGH against any third-party claims, including those of customs and excise authorities in conjunction with KGH's activities for the client.

11. Liability of KGH, Liability Limitation

- (1) KGH's liability for damages, regardless of legal grounds, shall be limited according to this Article 11 insofar as there is a question of blame in each case.
- (2) KGH shall not be liable in cases of simple negligence by its bodies, statutory representatives, employees, or other vicarious agents, except in cases of violation by KGH of material contractual obligations. Material contractual obligations are those which enable the fulfilment of the orderly performance of the contract.
- (3) Insofar as KGH is liable for damages on the grounds of and in accordance with the provisions of this Article 11 Section 2, this liability shall be limited to damages foreseen by KGH at conclusion of contract as a possible consequence of a violation, or to damages which KGH, by applying due diligence, should have foreseen.
- (4) In case of liability for simple negligence, KGH's obligation to pay compensation for damages shall be limited for each claim to an amount of the hundredfold of the corresponding service fee per order, even if the claim is the result of a violation of material contractual obligations.
- (5) The above-mentioned liability exclusions and limitations shall apply to the same extent in favour of KGH's bodies, legal representatives, employees, and other vicarious agents.
- (6) Insofar as KGH gives customs-related information or provides advice, and insofar as this information and advice is not part of the contractual agreed scope of services owed by KGH, this shall be done free of charge and with the exclusion of any liability.
- (7) The restrictions of this Article 11 shall not apply to KGH's liability on account of deliberate actions and due to the endangerment of life, limb or health.

12. Final Stipulations

- (1) Insofar as the client is a merchant, a legal entity, or a special assets fund under public law or has no place of general jurisdiction in the Federal Republic of Germany, the place of jurisdiction for all possible disputes arising from the business connections between KGH and the client shall be, at KGH's discretion, Hamburg or the domicile of the client. However, for claims filed against KGH, the sole place of jurisdiction in such cases shall be Hamburg. Mandatory statutory provisions regarding sole places of jurisdiction shall remain unaffected by this stipulation.
- (2) The contractual relationship between KGH and the client shall exclusively be governed by the law of the Federal Republic of Germany. The United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG) shall not apply.
- (3) Insofar as the contract or these general terms and conditions of service contain regulatory gaps, those legally effective provisions, which the contracting parties would have agreed to according to the commercial aims of the contract and the purpose of these general terms and conditions – provided they had been aware of those regulatory loopholes –, shall apply.