

General Terms and Conditions of trans-o-flex Schnell-Lieferdienst GmbH & Co. KG (November 2005)

1. Scope of Application/ Contractual Relationship

- 1.1. These General Terms and Conditions (GTC) shall apply to all contracts concluded with trans-o-flex Schnell-Lieferdienst GmbH & Co. KG (trans-o-flex) and in the trans-o-flex network, hereinafter "trans-o-flex", for all services, in particular the organisation of transports of shipments. One shipment consists of one package or several packages, and/or one pallet or several pallets. The services provided include in particular the handling, the trans-shipment, the storage and organisation of the transport to the determined consignee. They also supplementary apply to individual agreements with the customer.
- 1.2. The transport is effected via the transportation system of trans-o-flex. In general, the contract shall be established by taking over a shipment for transport. Any deviating conditions must be agreed upon in writing. Any contrary General Terms and Conditions of the customer are hereby expressly objected to.

- 1.3. To the extent these General Terms and Conditions do not contain anything to the contrary, the Allgemeine Deutsche Spediteurbedingungen (ADSp/General Terms and Conditions of German Forwarders) – in their relevant latest version – shall apply, supplemented by the statutory provisions. To international transports the provisions of the CMR (Convention on Contracts for the International Carriage of Goods by Road) and to airfreight shipments the Warsaw Convention respectively the Montreal Convention shall be applicable.

2. Kinds of goods/goods excluded from services

- 2.1. The packages handed over for shipping must be compact and stackable. They must not exceed a maximum weight of 50 kg, a length of 160 cm and a girth of 360 cm. Also for goods observing these requirements, trans-o-flex shall be entitled in individual cases to levy a surcharge due to bulkiness.
- 2.2. Other shipments will be accepted on pallets with a maximum loading height of 2.00 m and a maximum weight of 800 kg.
- 2.3. In addition, the following goods are excluded from taking over for national and international transports in the absence of a separate agreement:
- shipments of consumers;
 - goods with inadequate packaging or labelling;
 - goods of high value, e.g. precious metals, jewellery, cash, coins, antiques, objects of art, furs, deeds, documents, securities, credit- and telephone-cards (class II valuables);
 - packages whose content, transport or exterior make-up violate legal provisions;
 - firearms, explosives and military goods;
 - shipments whose content or exterior make-up can injure or infect persons or cause damage to property;
 - living or dead animals and plants, human remains, body parts or organs, perishable goods of all kinds;
 - not packed moving goods.
- In addition, the following goods are excluded from international shipments:
- personal effects and Carnet-ATA-goods, delivery against letter of credit or FCR;
 - goods whose import or export is prohibited according to the provisions of the relevant countries;
 - goods for whom the customer has declared or is going to declare a value and/or special interest according to Art. 24 CMR and/or Art. 26 CMR. The same applies to declarations of value and special interest according to the Warsaw Convention respectively Montreal Convention.

- 2.4. The taking over of goods which are excluded according to no. 2.1 – 2.3 shall not constitute a waiver of an exclusion from transport. Prior to handing over of the goods, the customer is obligated to control the goods and inform trans-o-flex whether excluded goods are contained. In case of doubt, he must inform and obtain a decision from trans-o-flex.

- 2.5. trans-o-flex shall not be responsible for the content of the shipments in any way. The customer shall be liable besides the statutory cases for all direct or indirect damages caused by the sending of excluded goods, also those excluded according to other provisions than these GTC.

3. Obligations and duties of the customer

- 3.1. The customer shall ensure adequate packaging on the outside and inside as well as provide adequate labelling of the package, the pallet respectively the shipment. The packaging of all shipments must comply with the special requirements of the transport and of mechanical trans-shipment. Also the packaging must adequately protect the goods against damage and unauthorised access to their contents without leaving outwardly visible traces. trans-o-flex shall not be obligated to examine the packaging.
- 3.2. The customer shall label each package with the designation of the country of destination, the consignee's address (no post-box), the customer number, and any other identification required or agreed on in addition. The customer shall indicate all packages of one shipment as belonging together.
- 3.3. When sending dutiable goods, the customer shall provide all documentation properly and completely filled in, which are necessary for the customs proceedings. trans-o-flex rejects any responsibility for the contents of the accompanying documentation. The customer shall be fully responsible for the documentation.

4. Services provided by trans-o-flex

- 4.1. The services include the organisation of the transport, the taking over, the trans-shipment, the distribution, and the organisation of the delivery of shipments. Additional services are only provided based on a written agreement.
- 4.2. It is known to the customer that the shipments are transported in form of consolidated shipments. Due to this form of mass transport, trans-o-flex cannot apply and ensure the same standards of custody as for individual transports. Therefore, the customer accepts the interface controls by trans-o-flex as described in the following as proper and diligent transport processing:

- The accepting Distributions GmbH (system partner of trans-o-flex) will scan each package and each pallet received. Received and examined goods will be packed in mixed units (e.g. pallets or pallet cages), secured and labelled (relation label). Complete pallets and mixed units will be scanned during the loading process into a loading unit (e.g. trailer, swap body). After loading is complete, the loading unit will be sealed. If the complete pallets and mixed units are transhipped before the delivery depot at a HUB, complete pallets and mixed units remain unopened and will be examined during unloading and loading for completeness via scans and for the intactness of their packaging on sight. At the delivery depot, the complete pallets are scanned, the mixed units are opened and each single package is scanned. An additional scan will take place during hand-over to the delivery drivers. The consignee confirms the receipt of the shipment by signature. There shall be no additional obligations for control by trans-o-flex.

- 4.3. In case the consignee is not in or the shipment cannot be delivered, a second attempt of delivery will be made.
- 4.4. The regular standard for dispatching is express service. The quoted delivery times are regular transport durations. Regular transport durations are not guaranteed. Special trans-o-flex date services require a separate agreement.
- 4.5. Delivery with the effect of discharge of obligations of trans-o-flex will be made against signature of the consignee or of other persons, whose authority to accept the packages can be assumed according to the outward circumstances. trans-o-flex employs electronic instruments for the proof of correct delivery. The digitalised form of the signature made by the consignee and its reproduction are expressly accepted by the customer as proof of delivery. If requested, trans-o-flex will inform the customer about the time of delivery.
- 4.6. Included in the services is also the return of shipments to the customer which cannot be delivered or the acceptance of which was refused.
- 4.7. In case that delivery or return of shipment are not possible due to missing information of sender or due to other reasons, trans-o-flex shall be entitled to open the shipment in

order to assert the customer or consignee. If such examination is without success, the goods shall be commercialized after expiration of a reasonable period or, if necessary, destroyed beforehand.

5. Dangerous goods

- 5.1. Dangerous goods categorised as class 1 ADR will, in principle, not be accepted. Services for other dangerous goods require a special agreement prior to hand-over.

- 5.2. The customer alone shall be responsible and in case of damages liable for compliance with all applicable legal provisions regarding declaration, packaging, enclosure of transport papers, written instructions, etc. This obligation shall also apply if the dangerous goods are handed over by a different person than the customer.

6. C.O.D.-shipments

- 6.1. C.O.D.-shipments are not accepted without special agreement. Areas exempt from customs (Zollausschlussgebiete) will not be served.

- 6.2. All orders for C.O.D.-shipments must be made out in the currency of the country of destination. C.O.D.-amounts for transports in Germany will be collected in Euro. The maximum amount of C.O.D. per shipment will be € 10,000.00 for cash respectively € 25,000.00 for payment by order or bearer cheque, if such payment has been approved by the customer. Condition for the processing of cheques is an order of the customer for collection of cheques. In international shipments, the maximum amount to be collected will be € 5,000.00.

- 6.3. The customer bears the risk of loss for the forwarding of cheques. trans-o-flex is only obligated to examine the cheque for the correct entry of the amount to be collected. In case of doubt, the value entered in words shall be binding. There is no obligation to examine the authorisation of the signing person, the compliance with formal requirements when completing the cheque, and the creditworthiness. In particular, trans-o-flex will not assume any liability for the creditworthiness.

- 6.4. C.O.D.-shipments and the pertinent shipping documentation must be clearly identified as such on the C.O.D.-label. The amount must be openly designated in the currency of the country of destination. The customer shall be liable for the correct identification. When transmitting data on C.O.D.-shipments, the type of collection and the currency must be declared.

- 6.5. C.O.D.-shipments will only be delivered against complete payment of the C.O.D.-amount in the form approved by the customer.

- 6.6. trans-o-flex shall be relieved of its liability for improper processing of C.O.D.-orders if trans-o-flex does not receive a written protest note of the customer regarding the non-receipt of the C.O.D.-amount respectively of the approved type of cheque within 80 days following delivery.

- 6.7. To the extent the customer claims liability of trans-o-flex in this context, the payment of trans-o-flex will only be made against assignment of the claim of customer against the consignee in the amount of such payment.

7. Remuneration for services

- 7.1. For national shipments the printed pricelists, for international shipments the euro-dis-pricelists in their relevant latest version shall be applicable if there are no deviating agreements. The prices on the day the order was placed shall be applicable.

- 7.2. Instructions for redirection shall be invoiced separately.

- 7.3. Expenditures for import shipments which are delivered in Germany (e.g. customs duties and import levies) will be invoiced to the consignee. If the consignee does not pay following the first request, the customer shall be liable for these costs/expenditures.

- 7.4. To the extent remuneration, costs and/or expenditures are to be paid by a consignee abroad or are caused by her/him, the customer shall be obligated to settle the amounts if the foreign consignee does not settle them following the first request.

- 7.5. The set-off by the customer with claims against trans-o-flex or the assertion of a right of retention shall be excluded, except for such claims that are either finally decided or have been acknowledged by trans-o-flex in writing.

- 7.6. All invoices by trans-o-flex shall be due at once and without deduction.

8. Liability of trans-o-flex

- 8.1. If there is no deviating agreement, trans-o-flex shall be liable for national shipments according to the provisions of the ADSp.

- 8.2. The provisions of the CMR as well as in case of airfreight shipments of the Warsaw convention respectively the Montreal convention on liability shall be applicable to shipments in international transport.

- 8.3. trans-o-flex shall not be liable for consequential damages respectively consequential costs, e.g. purely economic losses, profit setbacks, loss of profits and sales, expenditures for substitutions as well as damages due to delays in the customs procedure.

- 8.4. Against separate remuneration, an agreement on the maximum liability of trans-o-flex per shipment independent of its weight can be concluded. The declaration of the value of the goods will only be required in the event of damage or loss.

- 8.5. Besides the situations governed by legal provisions, the complete or partial liability of trans-o-flex shall be excluded if the damage is caused by actions or omissions of the customer, the consignee or any person employed by them in the performance of their obligations.

9. Insurance

- 9.1. For each shipment complying with the requirements of these GTC, an insurance can be procured in accordance with no. 21.1 ADSp (forwarders' general insurance for transported goods).

- 9.2. For each shipment whose value exceeds € 5.00 per kilogram (according to ADSp), there is the possibility to procure an additional transport insurance by declaring the value of the goods on the front page of the forwarding order. Insured values exceeding € 100,000.00 will only be insured accordingly after prior explicit and written confirmation.

- 9.3. The insurance exceeding the liability according to no. 8 can be accepted for, all shipments which are covered by other insurance.

- 9.4. In particular, the insurance coverage shall not extend to
- excluded shipments according to these General Terms and Conditions.
 - shipments whose exterior make-up or packaging gives an indication of the value of the goods, except for C.O.D.-shipments.
 - damages caused by missing or inadequate packaging or by insured losses caused deliberately by the sender or customer.

10. Data protection

The customer agrees that all data provided by her/him to trans-o-flex including individual-related data may be processed and used in electronic and other forms for the purpose of the implementation of the contractual relationship (including the invoicing) as well as for the fulfilment of the legal duties of trans-o-flex. In this context, trans-o-flex shall also be allowed to pass the data to third parties with whom trans-o-flex co-operates in the fulfilment of its obligations and the exercising of its rights.

11. Limitation of actions

- 11.1. With the exception of the cases listed in 6.6, all claims against trans-o-flex within the scope of these GTC shall be limited, to the extent legally admissible, to one year.

- 11.2. The limitation period shall begin upon expiration of the day on which the shipment was delivered or should have been delivered.

- 11.3. For international shipments the limitation periods shall be governed by the relevant provisions of the CMR respectively the Montreal Convention.

12. Written form/invalidity of clauses

- 12.1. To be valid, all additional and deviating agreements must be in writing. This requirement also applies to the waiver of the requirement of written form itself.

- 12.2. The invalidity of an individual provision of these General Terms and Conditions shall not result in their total invalidity. Other provisions remain valid. The invalid provision shall be replaced by a provision coming as close as possible to the original economic intent of the provision.