

General Terms and Conditions for EXWORKS MOBILE SERVICE of Lufthansa Cargo Aktiengesellschaft

The following General Terms and Conditions as amended from time to time are applicable for all Agreements/Contracts named "exWorks Mobile Service" and executed by Lufthansa Cargo Aktiengesellschaft (Carrier) and a Partner to the Contract(Principal).

1. Subject Matter of Contract

- 1.1. The object of these Terms and Conditions is freight handling services by the Carrier at the Principals warehouse for ULD/BUP shipments (CARGO), provided that the subsequent contract of carriage is concluded with the Carrier.
- 1.2. After the receipt of a pre-advice, the Carrier shall perform the acceptance, securing of cargo, transshipment and transportation, as the case may be, of all export shipments handed over by the Principal to the Carrier from the warehouse of the Principal to the Carriers station or the apron, and shall provide the corresponding personnel and equipment required for this purpose.
- 1.3. The contractual and statutory provisions underlying the subsequent air or road transport will not be affected by this agreement.

2. Description of the services by the Carrier

- 2.1. Subject to the conditions set out below, the Carrier shall undertake to pick-up the freight at the Principals warehouse and transport it to the designated Carrier station for acceptance of the shipment according to the Carriers standard acceptance procedures for subsequent air or road transport.
- 2.2. For exWorks Mobile Goods Acceptance service the physical and documentary acceptance of CARGO will be provided by the Carrier at the warehouse of the Principal, which includes the build-up according to standard acceptance procedures by the Carrier, and if necessary the transportation to the apron. Transportation shall be made by sealed means of transportation by the Carrier.
- 2.3. The Carrier is authorized to use other carriers or non-carrier sub-contractors if necessary to provide the services and guarantee the required performance success level under this Agreement. It is the Carrier's responsibility to inform the Principal and manage the performance of such sub-contractors to the performance levels stipulated in this Agreement.
- 2.4. The Carrier shall offer this service on an "around the clock" basis, 365 days per year, depending on availability and only when all prerequisites according to Section 3 are met by the Principal.

3. Prerequisites for the services

- 3.1. Prerequisites to be met by the Principal:
 - 3.1.1. Access to the warehouse: Access for the operational staff of the Carrier must be ensured by the Principal. All staff employed by the Principal which assists with exWorks Mobile Goods Acceptance service must have a background check according to national regulatory requirements. In the event of any misconduct of staff employed, the Principal shall notify the Carrier.
 - 3.1.2. Scales: For exWorks Mobile Goods Acceptance service, the Principal shall provide a suitable and calibrated set of scales for weighing the shipment to be accepted. For the ULD/BUP shipments the Principal shall provide a copy of the current calibration report to the Carrier with the start of Contract and after each calibration. The Principal shall be responsible for operating the scales.
 - 3.1.3. Inspection and control equipment: To be able to check the units to be accepted, the appropriate contour frames and loading gauges shall be provided by the Principal. Subject to availability, such frames and loading gauges may be made available by the Carrier.
 - 3.1.4. Pre-advice: The Principal shall provide a list of the shipments to be accepted on the preceding evening, by 6:00 p.m. at the latest. This list shall be sent by email to the following address: mobile.acceptance@dlh.de. Each list shall include the AWB number, pieces, weight and dimensions of shipments and the scheduled time of collection. Final updates on the day of collection must be communicated in good time before the actual collection to ensure timely pick-up by the Carrier. If Carrier does not agree to the collection time indicated, it will notify the Principal by email within 2 hours of receipt of the pre-advice.
 - 3.1.5. BUP certification: The Principal must have a valid BUP certification when shipping BUP units under this Contract. All necessary evidence of this must be presented to the Carrier prior to transportation. LCAG will not be liable for damages due to i) incorrect ULD build-up, ii) lack of "Ready for Carriage" status, and

iii) deviations between documents and BUP as agreed upon by the parties in the respective BUP certification.

- 3.1.6. Truck dock access: Appropriate access to the truck dock must be provided to the Carrier at the agreed time of collection. If the truck dock cannot be accessed at agreed time of collection, a penalty fee is due in accordance with Sect. 5 of these General Terms and Conditions:
 - Monday, Tuesday, Friday, Sunday: penalty of 50€ per hour after 30min waiting time
 - Wednesday, Thursday, Saturday: penalty of 70€ per hour after 20min waiting time
- 3.1.7. "Ready for Carriage" for exWorks Mobile Goods Acceptance service: When making use of the exWorks Mobile Goods Acceptance service, the Principal shall hand the shipment over to the Carrier at the time of collection in an airworthy condition so as to be "Ready for Carriage" according to IATA regulations.
- 3.1.8. The Principal is responsible for the loading of the CARGO into the vehicle with appropriate loading devices.
- 3.1.9. The Principal must provide operating equipment such as forklifts stackers for loading of CARGO, printers for shipment documents and personnel to the handling agent of the carrier to ensure proper performance of service.
- 3.1.10. Documentation: The Principal shall provide the Carrier with all documents and information required for the freight handling process, in particular but not exclusively with those information and documents required for security purposes, customs, local, national or international legal provisions and/or IATA, ICAO or the Carriers rules and regulations (e.g. product and service information, handling manuals etc.).
- 3.2. The Carrier shall not be liable for delays arising from non-fulfilment of these prerequisites for acceptance of the shipment, in particular if the shipment is not "Ready for Carriage", or if any rectification of the shipment or item undertaken by the Principal has not been promptly completed.
- 3.3. The Principal shall be obliged to comply with the relevant export and import regulations as well as the customs regulations in origin, destination and transit countries and be responsible for any customs fees according to the subsequent contract of carriage.
- 3.4. The Principal warrants that any documentation and information regarding the shipment is complete and accurate, the items are properly packed, labelled and marked, and comply with all applicable laws, e.g. are not prohibited from transportation.
- 3.5. The Principal is responsible for customs clearance at the LCAG station for the subsequent transport. The Carrier may assist to arrange for a customs provider for a consideration.
- 3.6. In case of irregularities or violations of Regulatory Compliance regulations according to Art. 5.3 of the General Terms and Conditions of Carrier (here not only local but also worldwide regulations may apply) the CARGO cannot be accepted by the Carrier at Carrier's station. The Principal is responsible for the return transportation of CARGO in a timely manner.

4. Quality of freight handling

- 4.1. The freight handling services undertaken by the Carrier shall generally be performed in accordance with safety requirements and in compliance with the applicable local and international provisions and applicable IATA and/or ICAO and/or other governing laws, rules, regulations and procedures of the Carrier.
- 4.2. Both parties shall provide a dedicated contact for each other that shall be responsible for the handling of the shipments and can be contacted by each party via a dedicated telephone number or email address.

5. Fees and terms of payment

- 5.1. The Principal shall document the shipments delivered under this Contract and provide the information to the Carrier for invoicing.
- 5.2. The Carrier shall send monthly invoices to the address stated by the Principal in the Contract.
- 5.3. Invoices shall be paid by the Principal within 30 days of receipt.

6. Liability

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6.1. For damage, loss or delay of cargo caused by the Carrier the following shall apply unless mandatory law – in particular such as the 1999 Montreal or Warsaw Convention, or national freight law – provides for otherwise:

6.1.1. The Carrier is liable to the Principal to the extent the Principal is liable in turn to its customer or other third party under mandatory law, in particular with regard to a liability of the Principal to its customer under the 1999 Montreal Convention or the Warsaw Convention.

6.1.2. In any event, the liability for damage, loss or delay of cargo shall be limited to an amount equal to nineteen (19) special drawing rights (SDR) per kilogram.

6.1.3. For the sake of clarification, any agreements between the Principal and its customer under which liability is expanded shall not be taken into account, unless expressly stipulated otherwise herein.

6.2. For all other damages and to the extent not in conflict with mandatory statutory provisions the Carrier shall not be liable for any damages to the Principal or his employees, unless such damage arises from gross negligence or wilful misconduct of the Carrier. Nothing in this shall affect the liability for claims arising from injury to life, limb or health or the duties which are an essential prerequisite for the proper performance of the Contract and the observance of which the contractual partner regularly relies upon.

6.3. In no event shall the Carrier be liable for any indirect or consequential damage, including, without limitation, for loss of profit.

6.4. The Carrier shall assume no liability whatsoever for any damages occurring when the cargo is in the custody of the Principal or for delays in the subsequent road or air carriage that result from the cargo not being made available for transport, build-up or loading at the premises of the Principal in time. The customer indemnifies and holds harmless the Carrier against all liabilities, damages and claims (including costs and expenses arising therefrom or incidental thereto) which may be incurred in this regard, including third party claims against the Carrier.

7. Limitation

7.1. The Parties agree that all claims under this Agreement shall become statute-barred in accordance with the applicable statutory provisions.

8. Term and Amendment of this Agreement, Force Majeure

8.1. This Agreement shall continue until terminated in writing by either Party at the end of a calendar month on three (3) months' notice.

8.2. Changes and amendments to this Agreement, including cancellation of this written form clause, require written form.

8.3. Either Party shall have the right to terminate this Agreement in writing at any time, without having to observe a notice period, if the respective other Party becomes illiquid, applies for an arrangement or the initialisation of insolvency proceedings, or if such an application or petition is filed against the respective other party, if its shareholding/business structure changes.

8.4. If a Party is unable to duly perform its obligations under this Agreement, or is unable to perform them in time or otherwise in accordance with this Agreement, for circumstances arising from force majeure such as, for instance, war, civil commotion, strike or lockout, natural disasters or fire, epidemics or quarantine, acts of government or similar, the Party concerned shall be released within the scope of such force majeure event from its obligation to comply with the contractual duty concerned. However, the affected Party shall be under an obligation to notify the respective other Party without undue delay.

9. Miscellaneous

9.1. Unless specifically agreed otherwise in these Terms and Conditions the Carriers "General Terms and Conditions of Carriage" [Allgemeine Beförderungsbedingungen für Fracht] for freight in force on the date the Agreement is signed shall apply.

9.2. The partner to the Contract may assign rights from this Contract only after prior written consent of the Carrier. The Principal shall only have the right to set-off with claims that are undisputed between the parties and/or recognized by court as legally binding.

9.3. In the event that any provision of this Agreement is not in compliance with applicable law, such provision shall be replaced by such other lawful contractual provision as most approximates the intent of the Parties as can be inferred from the invalid provision. This shall not affect the validity of the remaining provisions.

10. Place of Performance, applicable law and place of jurisdiction

10.1. The exclusive place of performance and jurisdiction is Frankfurt am Main, Germany. The contractual relationship between the Parties shall be governed by the substantive law of the Federal Republic of Germany to the exclusion of the UN Sales Convention (CISG).