

General Terms and Conditions for Transport Services (AVB)



1. Scope / Component parts of the Contract

1.1. The following General Terms and Conditions apply to all contracts awarded by Deutsche Post AG and its affiliated companies, hereinafter referred to as "Customer", for the carriage of goods in domestic and international road transport.

1.2. The component parts of the contract, in the order of precedence given below, are:

1.2.1. The individual order,

1.2.2. Any supplementary agreements made such as master agreements, written undertakings or service specifications,

1.2.3. The General Terms and Conditions for Transport Services (this document),

1.2.4. The Supplier Code of Conduct of Deutsche Post AG, as amended.

1.3. The application of the Contractor's different standard terms and conditions, in particular of the ADSP (General German Terms and Conditions for Freight Forwarders, Allgemeine Deutsche Spediteurbedingungen) or the VBGL (Standard Terms and Conditions for Haulage and Logistics Operators, Vertragsbedingungen für den Güterkraftverkehrs-, Speditions- und Logistikunternehmer) is excluded. In other respects, the provisions on carrier business (Sections 407 et seq. of the German Commercial Code – HGB) will apply, as will the conditions of the Convention on the Contract for International Carriage of Goods by Road (CMR) for crossborder transport.

2. Contractor's services

2.1. The subject of the order is the carriage of goods by motor vehicle.

2.2. The Contractor will in particular ensure that the goods are accepted on time within the agreed time window at the loading point, carried and delivered on time, and free from loss and damage, to the recipient at the destination. It will notify the Customer – using the emergency call numbers if informed of such by the Customer – immediately of hindrances to take-over, carriage and delivery and of any delays which become apparent, of deviations from the order issued (such as quantity deviations, damage) and of all other interference with and threats to transport, including when these are the result of an unavoidable event or an Act of God, and will seek the instructions of the former. In the event of an accident, fire or theft, the local police authorities must always be notified.

2.3. In the absence of an agreement to the contrary in the individual instance, the Contractor will assume responsibility for the loading and unloading of the goods (loading in a manner that ensures safe and secure transport of the goods and operation of the vehicle), securing of these on the vehicle, and adequate supervision. If, in the absence of such an agreement, loading is performed by the Customer in individual cases, the latter will be acting in the capacity of the Contractor's vicarious agent.

2.4. The Contractor will fully and accurately record the acceptance and delivery of the goods either on the transport documents specified by the Customer or using electronic systems. When goods are accepted, and at each subsequent interface, the Contractor will check the shipments for completeness and identity as well as for externally visible damage and broken seals and closures and will record any irregularities discovered in writing. The Contractor will ensure that irregularities that occur are confirmed by the party from whom it has accepted the goods and by the party to whom it hands the goods over, in writing and giving the details. An interface is any transfer of the goods from one legal entity to another as well as the delivery at the end of any leg of a route. If the Contractor accepts a sealed unit (i.e. swap bodies, interchangeable boxes, containers), then its inspection responsibility will be limited to a check of the identity and external integrity of the unit and of the seal.

2.5. Cash on delivery shipments (COD goods and freight) will only be delivered by the Contractor against cash payment for the costs associated with the goods.

2.6. If the Contractor does not perform the contractually agreed services itself, but instructs a third party (sub-contracted carrier, executing carrier) to perform the service, it will use appropriate agreements with the third party and existing controls to ensure that this third party and its vicarious agents comply with the statutory and contractual obligations of the Contractor, in particular the provisions of figures 4 and 8 of these AVB. The Contractor is obligated to pay compensation for any damages incurred by the Customer through the violation of the obligations of this paragraph.

2.7. If the Contractor does not comply with the agreed obligations, the Customer will also be authorized to commission a third party with performance of the agreement.

The Contractor will refund any additional costs incurred.

3. Vehicles used

3.1. The Contractor will only use vehicles that are in a technically sound, clean and roadworthy condition, have a dry and odorless loading space and undergo repair and maintenance at the legally required intervals and/or the intervals recommended by the manufacturer. In principle, only vehicles that comply with the current standards, in particular the current European emission standards, should be used. Only vehicles that offer protection against climatic influences and that are fitted with the required loading safety devices, so that the goods are protected at all times against loss and damage, and in particular against access by unauthorized persons, shall be used.

3.2. The vehicles must be fitted with a communication device (car phone, mobile, etc.) during the time the order is being executed that is permanently on stand-by; the Contractor will inform the Customer of the current telephone numbers at any time. The driver must be accessible by phone at all times.

4. Other obligations of the Contractor

4.1. The Contractor will warrant that it holds the necessary permits and authorizations in accordance with Sections 3, 6 of the Road Haulage Act (Güterkraftverkehrsgesetz – GüKG) (permission to carry out commercial road haulage, Community license, third country permit, CEMT permit, Swiss license) in accordance with industrial law and other legal regulations. The Contractor will immediately notify the Customer of the loss or refusal of a necessary permit. Moreover, the Contractor will present the Customer, at its request, with an extract from the commercial register and/or proof of registration of a business as well as a current police clearance certificate for itself or for its executive bodies and for any vicarious agents it uses. The Contractor will warrant that the aforementioned police clearance certificates contain no criminal records due to offences against property or motoring offences.

4.2. The Contractor will guarantee that the services will be executed in the context of the statutory provisions applicable to it and its vicarious agents, in particular in compliance with the labor time regulations for drivers (social welfare provisions). The Contractor will ensure in particular that it and its subcontractors – where applicable – comply with the regulations of the German act on strengthening collective bargaining autonomy (Tarifautonomiegesetz), in particular with the duty to pay minimum wages as defined in the German Minimum Wage Act (Mindestlohngesetz). The Contractor assures that it has not been sanctioned in the past by a public authority or a court as a result of violations of these or other legal obligations (where already applicable to the Contractor) in the area of payment of wages, and in particular that it has never been excluded from public contracts in this context. The Contractor will notify the Customer immediately if such violations or exclusions occur during the term of contract. The Contractor will also conclude identical or at least analogous agreements with its subcontractors (sub-contracted carriers) and will pay them remunerations that allow them to pay their employees the minimum wage.

4.3. The Contractor will fulfill the obligation to give notice in accordance with Section 36 of the German Postal Act (Postgesetz). This means that it must, if applicable, give written notice to the Federal Network Agency (Bundesnetzagentur) within one month of the acceptance, modification and termination of the provision of postal services in accordance with Section 4 of the Postal Act.

4.4. The Contractor will grant the Customer the right to check at any time compliance with all applicable statutory provisions; the Customer may carry out these checks itself or have them carried out by a third party on its behalf. The Contractor will assist in these checks and work closely with the Customer or the third party appointed by the Customer. The Contractor will provide documentary evidence of compliance with the applicable legal provisions upon request, in particular by submitting a so-called certificate of non-objection (Unbedenklichkeitsbescheinigung) from the social insurance institution and an excerpt from the central commercial register as well as information from its tax accountant. If, due to requirements imposed by the Customer, the Contractor runs the risk of non-compliance with these legal obligations, in particular with the driving and rest hours, it will bring this fact immediately to the Customer's attention in writing.

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4.5. The Contractor will adhere strictly to the relevant provisions on the transport of hazardous goods. In the event that hazardous goods have to be carried it will, where necessary, use only personnel and vehicles that have an ADR certificate or are equipped to carry hazardous goods in accordance with the regulations for the carriage of hazardous goods by road and rail (GGVSE). The Contractor will, if necessary, ensure that the required protective clothing is worn.

4.6. The Contractor will only use vicarious agents with the necessary knowledge and capabilities and the required reliability for carrying out the transport. It will train its vicarious agents regularly, especially with regard to carrying the necessary documents and complying with the applicable legal requirements, and also notify said agents that illicit drug consumption is prohibited. It will only employ vicarious agents who hold the required driving license, the required professional driver's qualification, a current police clearance certificate and – if legally required – a residence title in accordance with Section 4, paragraph 3 of the German Residence Act (Aufenthaltsgesetz), a residence permit or exceptional leave to remain, which authorize employment, or a valid driver's attestation issued by a domestic authority in accordance with Article 5 of Regulation (EC) No. 1072/2009. Persons, who have previous convictions for offenses against property, in particular for theft, embezzlement and robbery, or for traffic offenses, must not be employed under any circumstances to perform the services under the respective contract. The vicarious agents must be well groomed when they meet clients, the Customer's employees and the public, and should have good knowledge of German or English if possible.

4.7. The Contractor will, on request and at short notice, provide the Customer with a current list of names of its employees and names of the sub-contracted carriers used, and their staff, and notify it of any changes to the lists. The Customer is authorized to save and use the data for contractually agreed purposes.

4.8. The Contractor will carry the documents in accordance with Sections 4.1 to 4.6, which must not be shrink-wrapped or covered in a similar way by a protective film, with the exception of the clearance certificate, and all other legally required papers on each journey and on request hand them over to the Customer, or a third party acting on its behalf, for checking whenever an inspection is performed. Moreover, the Contractor will authorize the Customer, and any third parties commissioned by the Customer, to perform vehicle checks at any time. The Contractor will issue corresponding general instructions to its personnel. If faults are determined in the course of checking the documents, the vehicle or the vicarious agents, the Customer can refuse to have the vehicle loaded and demand the immediate furnishing of a vicarious agent or vehicle that meets the requirements of this Agreement or terminate the carriage contract with immediate effect. The Contractor is obligated to pay compensation for any damages incurred by the Customer through the violation of the obligations of this paragraph. If the Contractor does not duly comply with these obligations, the Customer will be authorized to commission a third party with performance of the agreement. The Contractor will refund any additional costs incurred as a result.

4.9. The Contractor will strictly adhere to the patent rights, utility model rights, trademark protection and all other rights of the Customer and its affiliates to protect the authorship, in particular in terms of dealing with its logo, brands, clothing, etc. and will avoid any impairment or improper use.

4.10. The Contractor will confirm in writing the acceptance of resources provided to it by the Customer (e.g. means of transport, hand scanners) and any other objects. It will carry or use these items for contractually agreed purposes only. The Contractor will carefully manage the items handed over to it and protect them against loss and damage. It will return these items to the Customer on request at any time, but at the latest by the end of the Contract, in impeccable condition. Means of transport (swap bodies, roll containers, etc.) are to be immediately returned to the Customer upon completion of the respective transportation for which they were used.

4.11. The Contractor confirms that it will observe all export control regulations and will not maintain any connections with persons or organizations against whom restrictive measures in the fight against terrorism or any other export-related sanctions have been imposed.

5. Charges

5.1. The Customer will pay the agreed remuneration. The application of Section

415, paragraphs 2 and 3 HGB (claims from the carrier in the event of cancellation by the sender) is excluded. Notwithstanding Section 412, paragraph 3 HGB, the Contractor may claim demurrage as defined in Section 412, paragraph 3 HGB only if effective 2018-07-01 DHL Supply Chain Germany & Alps 2018-07-01-AVB-DHL Supply Chain Germany & Alps-without signature has accepted and the waiting time that exceeds the loading or unloading time is more than two hours per loading/unloading event in case of a partial or full truck load or more than one hour in case of less than truckload transport.

5.2. Services rendered by the Supplier for orders the Supplier has received from the DDC (Domestic Dispatch Center) or from the IDC (International Dispatch Center) of the Customer shall be settled by means of self-billing invoices of the Customer. The Customer is entitled to suspend settlement by means of self-billing invoices at any time. In such instances, the general rules of invoicing practice shall apply to the settlement of services rendered. The Customer shall inform the Supplier at least two weeks in advance of any suspension to settlement by self-billing invoices. The Customer is entitled to reinstate settlement by self-billing invoices at any time following a suspension. In such instances, the Customer shall also inform the Supplier at least two weeks in advance of any such amendment. The Customer will draw up the self-billing invoices to the best of its knowledge and belief respectively the instructions given by the Supplier. The Supplier will check the self-billing invoices immediately after he has received them and will inform the Customer in case he does not agree with the VAT treatment of the invoiced items shown on the self-billing invoice. The Customer, then, will after having checked the self-billing invoice again draw-up a corrected self-billing invoice.

6. Confidentiality and client protection

6.1. The Contractor will treat all information received directly or indirectly by it or its sub-contracted carriers or other vicarious agents within the context of the cooperation with the Customer under the respective contract as confidential, including for a period of five years after the termination of the contractual relationship. It should not be divulged to third parties or used for its own business purposes to the detriment of the Customer, other than when it is necessary for the fulfillment of the contract for third parties to be informed. Personal data made available to the Contractor is subject to data protection and must be handled accordingly. Commercial and postal secrecy must be observed.

6.2. The Contractor will place its sub-contracted carriers and other vicarious agents under a written obligation of secrecy within the meaning of the circumstances mentioned under number 6.1. The Contractor authorizes the Customer's data protection officer to monitor adherence to this obligation either personally or through a third party. The Contractor will ensure that this right to control also extends to its vicarious agents.

6.3. The Contractor has a client protection obligation towards the Customer. It will not accept orders, either directly or indirectly through third parties, from clients of the Customer, for which it provides services as part of the freight orders received from the Customer and with which it comes into contact as a result of providing these services, for domestic or international transportation, which correspond to the services to be provided for the Customer and named in the respective freight order. It must not pass on such orders or its knowledge of these to third parties. Any existing contractual relationships between the Contractor and clients of the Customer will remain unaffected by these obligations upon completion of the contract.

These obligations will continue to apply for a period of one year in the event of the termination of all contracts covered by these AVB. In the case of termination of the collaboration between the Customer and its clients, these obligations will continue to apply for a period of one year after termination.

6.4. Infringement of the provisions of numbers 6.1 to 6.3 will entitle the Customer to terminate without notice all contracts covered by these AVB, where such infringement is attributable to the behavior of the bodies, employees or vicarious agents of the Contractor.

7. Liability/Indemnification

7.1. The Contractor will be liable for all damage caused by it, the vehicles it uses and the drivers. The Contractor will also be liable to the Customer for the conduct of sub-contracted carriers instructed by it as well as for its other vicarious agents.

7.2. The Contractor will be liable for the loss and damage of resources and other items handed over to it by the Customer in accordance with the legal provisions. In the event of damage, the Customer can undertake repair work at the expense of the

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Contractor. Irrespective of this, the Contractor must also compensate for further damages that were incurred by the Customer as a result of the loss or damage or improper use of items handed over by the Customer. In the event of delayed return, the Customer is entitled to demand a lump sum payment as compensation for the loss of use, which corresponds to the usual fee in the industry for rental of the resources concerned and other items.

7.3. Under its liability vis-à-vis the Customer, the Contractor will indemnify the Customer against any claims made by third parties under civil law against the Customer as a result of its conduct or that of its vicarious agents. Under its liability vis-à-vis the Customer, the Contractor will indemnify the Customer in particular, upon first written request, against any claims made by third parties under civil law that arise from alleged violations of the collective bargaining autonomy act by the Contractor or a sub-contractor. Third parties within the meaning of figure 7.3, sentence 2, are in particular employees of the Contractor or a sub-contractor.

7.4. The Contractor's obligation to indemnify the Customer will also apply to any sanctions, fines or other actions imposed under public law or claims under public law asserted by public law entities due to potential infringements of the German collective bargaining autonomy act by the Contractor or a sub-contractor.

7.5. Any costs incurred in connection with the legal defense, such as attorney's fees and court costs, will also be included in the indemnification obligation pursuant to 7.3 And 7.4.

7.6. Liability under the carriage contract will be in accordance with the provisions of Part Four of Book Four of the HGB.

7.7. In accordance with Section 449, paragraph 2, number 1, HGB, the damages payable for loss or damage to the goods, in derogation of Section 431 paragraphs 1 and 2, HGB, is limited to 40 accounting units (special drawing rights of the International Monetary Fund – SDR) per kg of gross weight of the shipment, if and to the extent that the Customer has a correspondingly high external liability for which it has a right of recourse. Any higher statutory liability accruing to the Contractor will be unaffected by the above rule.

7.8. In cross-border traffic, the liability provisions of the CMR will apply. Sections 425 et seq. of the HGB will also apply.

8. Insurance

8.1. The Contractor will adequately insure its liability, and in particular will contract the following forms of insurance:

- Vehicle insurance (€50m blanket coverage, minimum €3.75m for personal injury)
- Public liability insurance (minimum €2.5m blanket coverage, €25,000 for handling and business losses)
- Standard forwarder's and carrier's liability insurance at minimum in accordance with Section 7a GüKG with the extent of liability mentioned under number 7.7 and in accordance with CMR. Forwarder's and carrier's liability insurance must also be taken out for all transport services that are not subject to the GüKG.

8.2. The Contractor will inform the Customer without delay when the insurance policy lapses and if a reminder procedure in accordance with Sections 37, 38 of the German Insurance Policy Act *Versicherungsvertragsgesetz*) is initiated.

8.3. Insurance policies must state that the insurance benefits must be paid directly to the Customer, provided that this is legally permissible and is possible in accordance with the standard industry insurance conditions. On request, the Contractor will assign its claims under the insurance policy irrevocably to the Customer for the purposes of fulfillment.

8.4. The Customer is entitled to inspect the policies taken out. On request, the Contractor will at any time provide the Customer with evidence of timely payment of premiums, the current scope of cover and the scope of claims against forwarder's and carrier's liability insurance in the applicable insurance period.

8.5. The Contractor must ensure that all claims for damages asserted by the Customer will be processed without delay and will be reported to the Contractor's public liability insurer for damage to goods. The Contractor will notify the Customer of the insurer's reference number.

8.6. In accordance with Section 7a of the GüKG, the Contractor will carry evidence of valid insurance in the vehicle and present this to the Customer on request. Should the Contractor not comply with this request, then the Customer will be entitled to place the contract with another Contractor or to carry the goods

itself. The Contractor must refund to the Customer any additional costs incurred as a result.

9. Contract term, termination

9.1. Unless otherwise provided for, in the case of ongoing obligations the normal period of notice for termination is one week. The right of extraordinary termination for just cause is not affected by this. A just cause exists for the Customer in particular if:

- the Contractor does not discharge its statutory or contractual obligations
- the application to initiate insolvency proceedings in relation to the Contractor's assets is rejected due to lack of assets
- one or more of the following criteria exist(s) that is/are indicative of a significant deterioration of the financial situation of the Contractor, such as unsuccessful foreclosure procedures by creditors, the cancellation of a loan by the financing bank or a request for debt waivers or subordinations vis-à-vis one or more creditors or shareholders.
- a competitor of Deutsche Post AG or its affiliated companies gains a direct or indirect controlling influence over the Contractor.

9.2. Any termination must be in written form.

10. Changes to the agreement

10.1. Changes to these conditions will be notified by the Customer to the Contractor in writing and in good time. Where the Contractor does not object in writing within 2 weeks of receipt of the notification, the changes will be deemed to have been accepted.

10.2. Changes or additions to the contract made must be in written form. This also applies to any waiver of the written form requirement.

11. Other provisions

11.1. Offsetting or withholding against claims of the Customer is excluded unless the counterclaims of the Contractor falling due are undisputed or have become *res judicata* or are ready for judgment.

11.2. The Contractor waives any right of lien or retention to the goods.

11.3. The pledging of claims against the Customer is excluded. Assignment of a claim by the Contractor (i.e. factoring) will only take effect vis-à-vis the Customer if the Contractor notifies the Customer of the assignment of the claim, including all the necessary information (order and creditor number, name, address, account number of the new creditor, amount, date of validity of the assignment, etc.) and the Customer agrees to the assignment in writing.

11.4. The laws of the Federal Republic of Germany will apply. The exclusive place of jurisdiction is the headquarters of the Customer, provided that the Contractor is a merchant and provided that there are no mandatory provisions preventing this.

11.5. Contracts between the Customer and the Contractor will remain in force even if a condition in these contracts or in the present AVB is, or should become, null and void, ineffective or unworkable. This will not otherwise affect the effectiveness of the contracts made. The parties will in such a case replace the null and void, ineffective or unworkable condition with one that is effective or workable and that corresponds as far as possible to the meaning and purpose of the condition being replaced and the other terms of the contract.

11.6. In order to avoid misunderstandings, the parties will draw up all agreements relating to the contract in German.

The Contractor hereby explicitly confirms that these General Terms and Conditions for Transport Services (AVB), automatically with order acceptance and without Signature, in the version dated July, 01 2018, apply to the current order awarded by DHL Supply Chain Germany & Alps.