

GTC Contractor

General terms and conditions of the
Gatt Transport & Logistik GmbH as
contractor (GTC Contractor)

1. Validity

These general terms and conditions (GTC) apply to all services provided or procured by Gatt Transport & Logistik GmbH as the commissioned freight forwarder or carrier (hereinafter referred to as the „contractor“) for their contractual partner (hereinafter referred to as the „principal“). The principal agrees that these general terms and conditions, which can be viewed at (<https://www.gatt-tl.com/general-terms-conditions-contractor>) at any time, apply to all future business transactions, irrespective of any further explicit reference, in particular in the case of orders placed verbally, by telephone or by telex. Differing terms and conditions of the principal which are not explicitly recognised (in writing) by the contractor are invalid, even if they are not explicitly rejected. Under no circumstances can the principal rely on his own general terms and conditions, even if these would be included in orders. No terms and conditions of the principal that contradict these „Gatt-GTC“ and the AÖSp are applicable. Furthermore, the principal agrees that these terms and conditions apply to all future business transactions, irrespective of any further express reference, in particular in the case of orders placed verbally, by telephone or by telex.

2. Offer

The contractor's offer is non-binding and is based on the consignment data specified by the principal, current prices, tariffs, exchange rates and other fees of all parties involved in the transport. The prices quoted are subject to the availability of shipping space, cargo space and empty containers. All surcharges mentioned are valid until revoked and subject to the introduction of further surcharges. All freight rates mentioned are only valid for shipping with partners of the contractor. The freight carriers are selected at the discretion of the contractor. Due to the strong daily fluctuations in the price of diesel, the contractor's offer is based on the variable average price for diesel fuel according to the EU Commission's Oil Bulletin (Weekly Oil Bulletin (europa.eu)) that are valid on the day the offer is submitted. The contractor therefore reserves the right to add surcharges due to rising diesel prices. All surcharges mentioned are valid until revoked and subject to the introduction of further surcharges.

3. Validity of the AÖSp

In addition, the General Austrian Forwarders' Terms and Conditions (AÖSp) apply in their currently valid version, published in the Official Gazette of the Wiener Zeitung 1947/184, last amended by the Official Gazette of the Wiener Zeitung 1993/68 (available in English and German on the Internet at [https://www.wko.at/branchen/transportverkehr/speditionlogistik/Allgemeine_Oesterreichische_Spediteurbedingungen_\(AOeSp\).html](https://www.wko.at/branchen/transportverkehr/speditionlogistik/Allgemeine_Oesterreichische_Spediteurbedingungen_(AOeSp).html)). The principal declares himself to be a waiver customer („Verbotskunde“) according to §§ 39 ff AÖSp. The AÖSp also apply in relation to foreign principals.

4. Validity of conventions

The agreement of these terms and conditions does not affect the validity of conventions in their currently valid version as far as their provisions mandatorily prescribe a deviating regulation, such as the CMR.

5. Loading and unloading

It is the principal's own responsibility to ensure that the loading and unloading of the freight is carried out. Damage caused by circumstances during loading or unloading falls exclusively within the principal's liability; this also applies if the principal is not in a contractual relationship with the actual loader/unloader. If in an individual case the loading and unloading is actually carried out by a vicarious agent of the contractor, this agent is regarded as a vicarious agent of the principal. The responsibility for loading and unloading always lies with the principal without exception. The principal must ensure that the cargo is secured in accordance with the regulations, complies with the statutory provisions and, in addition, is secured and stowed in a way that is safe for traffic and operation. The obligation to secure the load is the sole responsibility of the principal, even if the goods have been loaded by the truck driver. The principal assures that the packaging is suitable for transport. The provisions of the AÖSp also explicitly apply to such services (packaging services, stowage services, container stuffing, load securing). Furthermore, the contractor is not obliged to inspect the goods for repair. In the case of temperature controlled transports, the principal is obliged to properly pre-cool the goods.

6. Cancellation

The order confirmation is binding if no objection is made within 1 hour of transmission to the contractor. If the transport order is not cancelled within one hour, the contractor is entitled to a contractual penalty regardless of fault of 80 % of the freight price. Any further claims for damages remain unaffected. The contractor is entitled to cancel the transport order free of charge up to one hour before the agreed collection date.

7. Special goods

The principal is obliged to warn about special characteristics of the freight. The principal therefore must separately declare, among other things, if the value of the goods exceeds € 10,- per kilogram, if they are dangerous goods, waste or if there is a particular risk of theft associated with the freight. In addition, the principal must inform the contractor of any particular sensitivity of the goods and correct handling (e.g. transport temperature etc.). The principal confirms that he has a dangerous goods officer in his company and that he will provide all data relevant to dangerous goods in accordance with the ADR. Goods which are or may become dangerous goods can only be offered to the contractor for transport, whether they appear in official or unofficial, international or national codes or agreements, if prior written notice of their nature, type, name, labelling and classification has been given to the contractor and the contractor's prior written consent has been obtained. In addition, the packaging in which the goods are to be transported, as well as the goods themselves, must be clearly marked on the outside with an indication of the type and nature of the goods. The principal assures to observe and comply with all statutory provisions concerning dangerous goods.

8. Transfer, Subcontractors

The contractor reserves the right to pass on this forwarding or transport order to third parties – even without obtaining the prior consent of the principal. He is therefore entitled to use subcontractors. However, the contractor will exercise the diligence of a prudent freight forwarder or carrier in selecting the company he commissions.

9. Value declaration, special delivery interest

An increase in value of the maximum amounts according to Art. 24 CMR or a special delivery interest according to Art. 26 CMR cannot be agreed upon. A declaration of value or interest cannot be agreed upon. The contractor explicitly objects to any kind of declaration of value or interest, in particular those which may increase the maximum limits of liability provided for in international conventions. It is explicitly pointed out that any kind of announcement of an order value, value of goods (etc.) – in any way whatsoever (in invoices, orders, delivery notes, offers etc.) – does not in any case lead to an agreement of a declaration of value or interest, even if there is no explicit objection by the contractor. It is not possible to agree on an increase or waiver of maximum limits of liability stipulated in contractual terms or in international conventions.

10. Compliance with all provisions

The principal is obliged to comply with all applicable laws, provisions and regulations as well as the provisions of customs, port and other authorities and to bear and pay all customs duties, taxes, charges, etc., as well as to reimburse all penalties, charges, expenses and damages incurred or suffered.

11. Damage

If loss or damage to the goods is not visible from the outside, it is the responsibility of the sender or principal to prove that the loss or damage occurred during the period of liability or transport. Externally visible damage must be reported to the contractor in writing immediately upon delivery, and damage not visible from the outside immediately upon discovery, but within seven days at the latest.

12. Delivery deadlines

Specified loading and unloading dates are not delivery deadlines according to Art. 19 CMR, but only approximate guide values/standard transit times and can therefore not be guaranteed by the contractor. Claims due to the exceeding of performance deadlines (of any kind whatsoever) are therefore not accepted by the contractor, nor are any costs for any consequential damages in the event of delays or late payment fines for documents sent too late. Any liability of the contractor for exceeding loading dates/for failure to comply with „loading windows“ is generally excluded, unless the contractor has missed these deadlines „through gross negligence“.

13. Loading equipment exchange

Loading equipment will only be exchanged as far as possible and reasonable and only if an explicit written order is received and a surcharge of 10 % of the freight is paid. The contractor does not assume any obligation to return pallets, loading equipment and empty containers and does not at all assume the so-called exchange risk. In the event that – for whatever reason – an exchange of pallets is not possible with the sender or consignee, the principal is not entitled to any claims against the contractor, except in the case of intentional acts/omissions by the contractor. The liability of the contractor for „possible differences in loading equipment“ is therefore completely excluded. If an exchange of pallets has been agreed, it is the responsibility of the principal to procure an adequate supply of pallets at the consignee. Costs for pallets not exchanged or additional costs for later collection are charged to the principal. Loading equipment not exchanged due to the fault of the sender will also not be exchanged and returned at the consignee.

14. Payment claim

The claim for payment of the freight arises upon delivery of the freight. The contractor grants the principal a payment deadline of 30 days net, starting from the billing date. Discount deductions are not accepted by the contractor. In the event of default of payment, the contractor is entitled to interest at the rate of 1.5 % per month in accordance with § 29 AÖSp. In addition, the principal must bear in full all dunning charges incurred as well as the costs associated with the execution of the outstanding claim.

15. Transport insurance

As the contractor's liability is limited, it is recommended to take out transport insurance. However, transport insurance will only be taken out if explicitly requested in writing.

16. Staffing, vehicle, routes

The vehicles used by the contractor are generally dispatched with one truck driver. In the event of a written agreement for 2-man staffing and payment of a freight surcharge, the contractor will provide two drivers, which can reduce the risk of theft. This is recommended due to the current situation of danger in European freight traffic. As a rule, the statutory driving and rest breaks can only be consumed on „conventional parking spaces“. Should the principal wish to consume the prescribed driving and rest breaks on guarded parking spaces, this must be explicitly notified to the contractor in writing in advance and can be agreed by paying a surcharge. The vehicles used are usually ordinary tarpaulin semi-trailers. In order to minimise possible dangers, in particular the risk of theft, it is recommended, however, that the contractor be explicitly commissioned in writing and by paying a surcharge with the use of a so-called box semi-trailer, as this offers increased security. The routes chosen by the contractor are the fastest and most cost-effective routes. Should the principal wish for a special route in order to minimise possible dangers, the contractor must also be informed of this explicitly and in writing in advance and another route can then be agreed upon against payment of a freight surcharge.

17. Rights of lien and retention

The contractor has the right of lien and the right of retention on the goods or other items in his power of disposal for all due and not due claims against the principal to which he is entitled under the present contract. If the principal does not explicitly state the owner of the goods in the consignment note when placing the order, the contractor can assume that the freight is the property of the principal. The principal is entitled to prohibit the exercise of the lien if he grants the contractor an equivalent means of security (e.g. bank guarantee).

18. Demurrage

The contractor is entitled to charge the principal demurrage in the amount of € 450,- per day (at least € 100,- per hour for a standing time of less than 24 hours); the contractor is entitled to the demurrage even if the principal is not at fault. A demurrage claim arises if a waiting time/standing time of 1.5 hours in total is exceeded. In the case of special transport, the contractor is entitled to a demurrage charge of € 600,- per day (at least € 120,- per hour for a standing time of less than 24 hours).

19. Offsetting

Under no circumstances is the principal entitled to make freight reductions or to set-off counterclaims against claims of the contractor. Without exception, there is a ban on offsetting and retention in favour of the contractor. Section 32 AÖSp applies.

20. Contractual language

The contractual languages are German and English. There is a German and an English version of these terms and conditions. In case of difficulties of interpretation, ambiguities and contradictions, the German version prevails.

21. Jurisdiction

All disputes between the parties are governed by Austrian law, excluding the provisions of the international private law (IPR). All disputes between the parties, including disputes on the existence of agreements between the parties, shall be decided exclusively by the court having subject-matter jurisdiction for the municipality of A-6330 Kufstein. The contractual languages are both German and English.

This agreement is valid without confirmation!