

# GENERAL TERMS AND CONDITIONS

## 1. General provisions, Scope

- (1) These General Terms and Conditions (the "HARDER T&Cs") shall exclusively apply to any offers, orders and agreements concerning services of all kind in the field of logistics (the "Logistics Services") rendered by HARDER Logistics or its legal successors ("HARDER Logistics") within the course of business with entrepreneurs as defined in section 14 German Civil Code (§ 14 BGB), legal entities under public law or special funds under public law (the "Customer") in the context of freight, freight forwarding, storage, removal, industrial disassembly and reassembly, relocation or other agreements in the field of logistics (the "Logistics Contracts").
- (2) Unless otherwise provided in the HARDER T&Cs, the General Terms and Conditions of Storage of the German Furniture Removal Industry ("*Allgemeine Lagerbedingungen des Deutschen Möbeltransports*"; the "ALB") shall apply additionally to the Logistics Services of storage and in all other cases the German Freight Forwarders' Standard Terms and Conditions ("*Allgemeine Deutsche Spediteurbedingungen*"; the "ADSp") shall apply and, insofar as these are not applicable for logistical services, the general terms and conditions of logistics-services providers (the "DSLVL Logistik AGB"), in their respective latest version shall apply.
- (3) For offers of HARDER Logistics, Logistics Contracts of HARDER Logistics with the Customer and individual orders the HARDER T&Cs in their latest version shall apply exclusively. The HARDER T&Cs shall also be applicable in the context of ongoing business relations between HARDER Logistics and the Customer, even if they have not been expressly agreed between the parties again.
- (4) Any conflicting or deviating conditions of the Customer are hereby expressly contradicted, unless HARDER logistics has given express consent in text form to the applicability thereof. These HARDER T&Cs shall also apply in case HARDER Logistics unconditionally provides Logistics Services to the Customer even though Harder Logistics is aware of conflicting conditions or conditions deviating from these HARDER T&Cs.
- (5) The respective latest version of the HARDER T&Cs and the ALB, ADSp as well as the DSLVL Logistik-AGB are available under [www.harder-logistics.com](http://www.harder-logistics.com) or can be obtained by the Customer via email under [info@harder-logistics.com](mailto:info@harder-logistics.com).
- (6) The price lists of HARDER Logistics are available under [www.harder-logistics.com](http://www.harder-logistics.com) or can be obtained by the Customer via email under [info@harder-logistics.com](mailto:info@harder-logistics.com).

## 2. Conclusion of Contract, Scope, Amendments

### (1) Offers, Conclusion of Contract, Obligation to Provide Information

- a. Offers made by HARDER Logistics are non-binding.
- b. A Logistics Contract shall only become legally valid upon HARDER Logistics' written confirmation or, in case HARDER Logistics has issued a binding time-limited offer, upon Customer's written acceptance thereof within due time. The Customer shall be bound to its offer for two weeks. For compliance with the written form according to **Section 2 (1) b.**, fax, email or comparable electronic text forms shall be sufficient.
- c. The Customer undertakes to provide Harder Logistics with all information and documents necessary to carry out the agreed Logistics Services in Customer's offer or acceptance.

### (2) Scope, Side Agreements

- a. The kind, extent and time of performance of the Logistics shall be finally determined by the written order confirmation by Harder Logistics and annexes thereto.
- b. Side agreements, changes and amendments of the scope of the Logistics Agreements only valid if these have been confirmed in text form by Harder Logistics.

## 3. Prices, Payment Terms, Default in Payment

### (1) Prices

- a. Unless otherwise agreed in text form, the prices laid down in the price list of HARDER Logistics valid at the time of the conclusion of the respective Logistics Contract shall apply. The provisions set forth in **Section 1 (6)** shall be applicable to the price list. Unless otherwise provided in the price list or in a separate agreement in text form, prices are subject to Value Added Tax.
- b. In case of an increase of (raw) material prices, wages and salaries or production costs between conclusion of contract and execution of the Logistics Services, HARDER Logistics shall be entitled to raise the prices agreed on according to the increase and taking into account any decrease of prices in other cost types. Upon demand, HARDER Logistics will substantiate the relevant factors for the prices and the increase thereof in the individual case.
- c. The Value Added Tax will be indicated separately in the invoice at the legally applicable rate on the date of submission of the invoice.
- d. Supplements and additional services will be charged separately in accordance with the prices determined by Harder

# GENERAL TERMS AND CONDITIONS

Logistic's current price list at the time of conclusion of the Logistics Contract. The provisions set forth in **Section 1 (6)** shall apply for the price list.

## (2) Payment Terms

- a. Unless otherwise agreed in text form, all invoices of Harder Logistics are payable without deductions immediately at the time the Customer receives the invoice and the Logistics Services have been executed.
- b. Deviating from **Section 3 (2) a.**, the following shall apply to the due date of payments for the Logistics Services of removals and the storage:
  - i. Unless otherwise provided by the parties in text form, invoices for Logistics Services of removals are payable immediately after Customer's receipt of invoice and **(i.)** for domestic transports before completion of delivery of the removal goods or **(ii.)** in the case of international transports before loading.
  - ii. Unless otherwise provided by the parties in text form, the payment for the monthly Logistics Service of storage (monthly storage fee) is payable in advance by the 3rd working day of each month even without specific invoicing.
- c. A cash discount will only be deducted according to the discount rates valid on the day of invoicing and, if **(i.)** this has been agreed in text form, **(ii.)** all older invoices due have been paid, **(iii.)** no bills of exchange are outstanding and **(iv.)** the Customer takes part in the SEPA Direct Debit Scheme (SEPA Direct Debit B2B) after placing a direct debit order. Cash discounts are not granted for payments by Cheque or bill of exchange.
- d. HARDER Logistics reserves the right to accept cheques and bills of exchange in each individual case. All payments shall only be deemed valid with the final credit to HARDER Logistics' bank account. Costs caused by payment by cheque or bill of exchange, in particular discount, bill or stamp costs as well as bank charges, shall be borne in full by the Customer.
- e. HARDER Logistics reserves the right, in case of non-compliance with the terms of payment as well as in case of becoming aware of circumstances, which make the credit-worthiness of the client questionable, to render any further execution of Logistics Services to the Customer only under the condition that the Client provides prepayment or adequate security. For this purpose HARDER Logistics may set an appropriate deadline to the Customer. After the unsuccessful expiry of such deadline, HARDER Logistics may refuse performance of all open Logistics Services and rescind from all Logistics Contracts concluded with the customer. The assertion of further rights of HARDER Logistics re-

mains unaffected thereby. Claims for damages of the Customer are excluded to such extent.

- f. HARDER Logistics further reserves the right, in case of non-compliance with the terms of payment for the Logistics Services of removals to stop the transport of the removal goods or to keep the removal goods in storage after transportation at the Customer's expense until the payment of the remuneration for the Logistics Service of removal and the necessary expenses incurred has been made.

## (3) Default of Payment

- a. In the event of default of payment on the part of the Customer interest for default in the amount of 8 percentage points above the respective base interest rate shall be paid. HARDER Logistics reserves the right to assert higher damages.
- b. The Customer shall be in default 14 days after receipt of invoice by the Customer and execution of the Logistics Service even without any reminder, unless – in exceptional cases – a longer or shorter term of payment has been agreed in text form.

## 4. Set-Off, Retention, Assignment

- (1) The Customer shall only be entitled to set off such counterclaims which have been finally and conclusively established, are undisputed or acknowledged by HARDER Logistics.
- (2) The Customer has a right of retention only insofar as the Customer's counterclaim is based on the same contractual relationship.
- (3) Harder Logistics is entitled to set off its own claims against the Customer.
- (4) Any assignment or pledging of Customer's rights and claims against HARDER Logistics requires the prior consent of HARDER Logistics in text form.

## 5. Packaging Materials

- (1) To the extent the Customer requests that HARDER Logistics uses packaging materials belonging to or under the legal control of the Customer to perform its obligations under the Logistics Contract, the Customer shall be, at its sole cost and expense, responsible for timely delivery of such materials to HARDER Logistics in sufficient quantity and quality at the place of execution of the Logistics Services.
- (2) The Customer shall be fully liable to HARDER Logistics for any additional costs arising from the Customer's failure to fulfill its obligations for timely delivery of packaging materials set forth in **Section 5 (1)**.

## GENERAL TERMS AND CONDITIONS

### 6. Execution of Logistics Services of Relocations

The following provisions of **Section 6** shall apply exclusively if the Logistics Services are related to relocations (the “**Relocation Services**”).

#### (1) Additional Load

The Relocation Services may also be carried out by way of transport of additional load.

#### (2) Transportation Protection, Inspection and Notification obligation of Customer, Collection of the Removal Goods

- a. The Customer is obliged to have moving or electronic parts of the removal goods properly protected for transport, especially in case of damageable equipment.
- b. HARDER Logistics is not obliged to assess the transportation protection.
- c. If the removal goods include dangerous items (e.g. gasoline or oils), the Customer is obliged to give notice in text form to HARDER Logistics about the exact nature of the risk and the precautions to be taken.
- d. At HARDER Logistics collection of the removal goods, the Customer is obliged to check that no item is taken along or left over by mistake.

### 7. Performance Times, Dates, Deadlines

- (1) Performance times, dates and deadlines for the provision of the Logistics Services are only then binding for HARDER logistics, if these are marked as binding in the Logistics Contracts in text form.
- (2) Performance times, dates and periods shall not, however, begin before any required official certificates or approvals are available as well as the fulfillment of all contractual and cooperation obligations by the Customer and/or the payment of any down payment owed by the Customer.
- (3) The execution of the Logistics Services is subject to the correct and timely self-delivery, unless the incorrect or delayed self-delivery is due to HARDER logistics fault.
- (4) In the event of force majeure or other impediments that occur outside HARDER logistics’ sphere of influence, e.g. stoppage of work, strike, lockout, state bans, war, energy and transport difficulties and operational disruption any deadlines shall be extended and any dates are postponed according to their effects. The same applies to a time limit set by the Customer for the execution of a Logistics Service, in particular for additional periods according to §§ 281 para 1, 323 para 1 BGB. Such extension shall also apply, if HARDER logistics is already in default concerning the execution of a

Logistics Service. HARDER logistics shall notify the Customer of such delays as early as possible, stating the expected start and end date.

- (5) If HARDER logistics comes in arrears with the performance of the contract with respect to individual Logistics Services for reasons, which are no fault of HARDER logistics and which are not mentioned in **Section 7 (4)**, then the damage caused by delay (which have to be proven) shall be limited to 0.5 % of the part of the price corresponding to the delayed part of the Logistic Service for each full week of delay, but no more than 5 % of the part of the price corresponding to the Logistics Service that is delayed in sum. HARDER logistics reserves the right to prove that the Customer has not suffered any or lower damages caused by default in the individual case. Further claims of the Customer due to delay are ruled out. **Section 7 (5) sentences 1 to 3** shall not be applicable, provided that the legal relationship between HARDER logistics and the Customer is subject to the (i.) Agreement on the contract of carriage in the international Road freight transport (“**CMR**”), (ii.) Convention on international carriage of goods by rail, Annex B (“**CIM**”), (iii.) Budapest Convention on the International Carriage of Goods by Rail Contract for the carriage of goods by inland waterway (“**CMNI**”), (iv.) Convention for the Unification of Certain Regulations on international carriage air transport (“**Montreal Convention**”) or other mandatory legal provisions must be applied.

- (6) If the execution of a Logistics Service is delayed upon the Customer's request or behest, HARDER logistics is entitled, after notification of its readiness to perform, to invoice to the Customer the costs incurred by the delay, at least, however, 0.5 % of the invoice amount of the delayed Logistics Service for each month of delay. Nonetheless, HARDER logistics is entitled, after setting and unsuccessful expiry of a reasonable period of time, to provide the Logistics Services otherwise and to provide the Logistics Services to the Customer within correspondingly extended deadlines. If HARDER logistics exercises such right to provide the Logistics Services otherwise, HARDER logistics is entitled to claim compensation for damages (by way of lessened profit) and accrued costs from the Customer.

### 8. Warranty for Logistics Services of Assembly, Disassembly and Reassembly, Limitation of Warranty Claims

- (1) The following provisions of this **Section 8** shall exclusively apply on the warranty for Logistics Services consisting of assembly, disassembly and reassembly (the “**Logistics Services-Assembly**”).
- (2) The warranty obligation of HARDER logistics for the Logistics Services-Assembly shall be limited to the rework of a defect within a reasonable period of time. Any claims for damages are excluded.

# GENERAL TERMS AND CONDITIONS

(3) The Customer is expressly reserved the right, in case of HARDER logistics' failure of rework, to demand a reduction of the remuneration (the price) or cancellation of the Logistics Contract. A failure in the above-mentioned sense is present in particular, if the rework is impossible, if it is seriously and definitively refused on the part of HARDER logistics, if it is unreasonably delayed or is unreasonable for the Customer due to the accumulation of defects.

(4) All warranty claims of the Customer for Logistics Services-Assembly are time-barred after one year from the beginning of the statutory limitation period. This limitation period shall not apply to damages caused by willful misconduct or gross negligence, to damage to life, limb and health and insofar as statutory limitation provisions must be applied.

## 9. Liability, Limitation of Liability, Limitation

(1) HARDER logistics shall only be liable for claims for damages of the Customer in the cases of violation of life, body, health or breach of essential contractual obligations (so-called "Kardinalpflichten", i.e. obligations, the fulfilment of which is a prerequisite for the proper execution of the contract in the first place and in the compliance with which the Customer regularly relies and may rely) as well as for other damages, which are based on willful misconduct or grossly negligent breach of obligations by HARDER logistics, its legal representatives or vicarious agents and for damages, for which according to a liability is provided for.

(2) In the event of a breach of essential contractual obligations, HARDER logistics shall be liable for the contract-typical, foreseeable damage, if caused by simple negligence, unless claims for damages to life, body or health or resulting from mandatory provisions of statutory law are concerned.

(3) Unless a liability is provided by mandatory legal provisions, HARDER logistics' liability is limited in amount to the sum insured by the existing insurance of HARDER logistics, which amounts to € 2.2 million, if not in individual cases a lower liability has been agreed, in particular a lesser liability results from the ADSp or the DSLV Logistics Terms and Conditions in their respective current versions. Section 23 ADSp limits the legal liability for damage to goods according to Section § 431 HGB for damages in freight forwarder's consignment ("speditionellem Gewahrsam") to € 5/kg of the gross weight of the shipment; in the case of multimodal transport including a sea transport to 2 SDR/kg and in addition per claim or event to € 1 million or € 2 million or 2 SDR/kg, respectively, whichever amount is higher.

(4) All claims of the Customer arising from and in connection with the Logistics Contracts are subject to a limitation period of one year from the beginning of the statutory limitation period. This limitation period shall not apply to damages caused by willful misconduct or gross negligence, to damage

to life, limb and health and insofar as statutory limitation provisions must be applied.

(5) To the extent the legal relationship between HARDER logistics and the Customer is subject to the (i.) CMR, (ii.) CIM, (iii.) CMNI or (iv.) Montreal Convention, Section 9 (1) to (4) shall not be applicable to the complete or partial loss and for destruction or damage of the goods to be transported as well as for exceeding the delivery period. Instead the provisions of the CMR, CIM, CMNI and the Montreal Convention shall apply in these cases.

## 10. Confidentiality

(1) HARDER logistics and the Customer (the "**Parties**") undertake to keep confidential all non-public commercial and technical details, in particular trade or business secrets, which may be disclosed to them in connection with of the mutual business relationship (the "**Confidential Information**"). Confidential information may only be transferred, disclosed or otherwise made available to third parties, if and to the extent that the Party concerned has expressly agreed in advance in text form.

(2) This confidentiality obligation does not apply to information, documents and knowledge, which at the time of the respective notification by the other party can be proven to have been already generally known or has become so without breach of this confidentiality obligation. Also, this confidentiality obligation shall not apply to the disclosure of documents and information, which is necessary to obtain official approvals.

(3) The use, storage and duplication of Confidential Information by the parties is only permitted insofar as this is necessary for the proper execution of the contract.

(4) The parties shall also bind all employees, representatives, third parties assigned by the Parties, consultants and legal successors to comply with the obligations arising pursuant to this Section 9.

(5) The parties are obliged to return Confidential Information to the other Party after completion of the contract or, upon request of the other Party, to destroy Confidential Information and prove destruction to the other Party.

(6) The obligation of confidentiality shall also apply after the completion of the contractual relationship. It shall expire, if and to the extent Confidential Information has become generally known without breach of the confidentiality obligation; however, it shall apply for a maximum period of five years after the transmission of the last piece of Confidential Information complete fulfilment of the contractual relationship.

# GENERAL TERMS AND CONDITIONS

## 11. Illustrations, Drawings, Documents

HARDER logistics reserves all ownership rights and other industrial property rights to all illustrations, drawings, calculations and other documents. Such illustrations, drawings, calculations and other documents may not be made accessible to any third parties. The Customer may only pass on such illustrations, drawings, calculations and other documents to third parties with HARDER logistics' express consent in text form.

## 12. Miscellaneous

### (1) Applicable Law

The legal relationship between HARDER logistics and the Customer shall be exclusively governed by the laws of the Federal Republic of Germany excluding the United Nations Convention on contracts for the international sale of goods – CISG and the provisions on conflict of laws.

### (2) Place of Jurisdiction

For all contractual and non-contractual disputes related thereto between the parties the competent courts for Neu-Ulm shall have exclusive jurisdiction, if the client is a businessman ("Kaufmann" within the meaning of Section 1 HGB (German Commercial Code), person under public law or a special fund under public law. This also applies if the Customer has no general place of jurisdiction within the Federal Republic of Germany.

### (3) Electronic data processing

The client agrees that HARDER logistics may use its personal data by way of electronic data processing transmitted, insofar as this is necessary for the execution of the contract and permissible within the scope of data protection regulations.

### (4) Language version

The present HARDER T&Cs are issued in German and English language. In case of deviations between the different language versions, the German version shall prevail.

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