

# General terms and conditions of IP Zollspedition GmbH

1. The IP Zollspedition GmbH (hereinafter: IP Zollspedition) shall process all orders based solely on these terms and conditions. These shall apply to all future business relations, even if they are not expressly agreed. General terms and conditions of the Client that differ from these terms and conditions are hereby rejected. Changes and additions to these terms and conditions shall be made in writing.
  2. Unless otherwise agreed, IP Zollspedition shall pledge to carry out orders for all customs procedures in accordance with Article 5, paragraph 16, and the „temporary storage“ under Article 5, paragraph 17 of the Union Customs Code (hereinafter: UCC), as well as general freight forwarding, customs and logistics services. IP Zollspedition shall be appointed as a „Customs representative“ in accordance with Article 5 para. 6 UCC. The execution of orders shall be carried out in the name and on the account of the Client (direct representation within the meaning of Article 18 para 1 UCC). The commissioning shall include all import duties, fees and expenses which are related to the execution of the orders. The Client shall provide IP Zollspedition with a corresponding proxy. The Client shall be the applicant (within the meaning of Article 5 para. 15 UCC in connection with Article 77 para-graph 3 UCC) (hereinafter „Applicant“), or shall act as proxy of the Applicant within the meaning of Article 19 UCC and shall be entitled to grant powers of substitution in this regard.
- ## 3. PAYMENT
- 3.1 Claims shall be due immediately and without deduction.
  - 3.2 The disbursement fee shall be fully shortened only if paid within 10 days after the invoice date.
  - 3.3 Credit expense shall in principle not be shortened.
  - 3.4 Payment reductions shall be made only as part of the written agreements.
  - 3.5 Complaints and objections shall only be considered within three days.
  - 3.6 For exceeding the target, we shall charge 9% interest p.a. above the prevailing discount rate.
  - 3.7 Customs notifications shall be inspected immediately.
  - 3.8 The opposition period is one month (Section 355 AO).
  - 3.9 Payment shall be seen to be the payment deposit for the Contractor.
  - 3.10 Pre-payment shall be carried out by the Client for the first order commissioning and insufficient creditworthiness.
  - 3.11 The Client shall agree to the immediate payment of all fees and other expenses which are incurred by IP Zollspedition in connection with the execution of the order. Payment date shall be considered to be the date of crediting to one of our corporate accounts. In some cases, the IP Zollspedition may also demand assignment. Other expenses shall include, in particular:
    - 3.11.a the necessary legal expenses to avert unjustified claims against IP Zollspedition arising in connection with its work for the Client;
    - 3.11.b all fees and expenses which IP Zollspedition accrues in connection with the execution of the order - also in advance. This shall also apply in particular if the order is withdrawn, modified or cancelled by the Client;
    - 3.11.c any customs penalties and late payment surcharges for
- the advance to the Customs Office.
- ## 4. COLLATERAL
- 4.1 IP Zollspedition shall be entitled at any time to request the provision of a bank guarantee waiving the benefit of discussion (Section 771 German civil code, BGB). It shall serve to secure the receivables for IP Zollspedition vis-a-vis the Client from the contractual basis between the parties.
  - 4.2 The guarantee may be up to 25% of the costs IP Zollspedition shall probably incur in the first six weeks of its activity (esp. customs and import duties). If the guarantee is requested during the course of the contractual relationship, it shall amount to 25% of these costs.
  - 4.3 Each side can demand an adjustment to the size of the guarantee, if the volume of the costs in the last three months prior to the adjustment demand has changed by more than 15%, which is based on the last guarantee provision.
  - 4.4 To safeguard receivables vis-a-vis the Client in connection with the IP Zollspedition's activities as tax representative, IP Zollspedition may demand an increase of the guarantee in order to cover the import duties due for goods with the same KN code number. IP Zollspedition shall be free to also only demand one guarantee from the Client in the case of tax representation in the amount of the import duties due for goods with the same KN code number.
  - 4.5 As a general rule, the guarantee shall be returned no later than three years after the occurrence of the last customs debt, which resulted from a customs clearance owing to the contract concluded between the two parties. This period shall be extended by the time from the filing of a legal remedy for assessments of customs duties regarding customs clearances which were carried out because of this contract, until such a process comes to a legally binding conclusion.
- ## 5. ASSURANCE OF THE CLIENT
- 5.1 The Client/Applicant shall be entitled to complete pre-tax deduction, unless they let themselves be a tax representative by IP Zollspedition. If the pre-tax deduction is dropped, IP Zollspedition shall be advised of such separately.
  - 5.2 The statutory provisions on the handling of non-union goods are understood by the Client and the subcontractors they employ.
- ## 6. REPORTING OBLIGATIONS OF THE CLIENT
- 6.1 The Client shall inform IP Zollspedition in good time before the customs declaration of:
    - 6.2 the KN code number of the goods to be shipped as well as the 11-digit goods code for imports; if no KN code/11-digit goods code is present, IP Zollspedition shall be entitled, but not obliged, to investigate independently.
    - 6.3 all the information required for the customs declaration, in particular all information about contents, amounts, quantities, weights, as well as minimum import price arrangements;
    - 6.4 the exploitation of time- or amount-limited import quotas.
- ## 7. SUBMISSION OF CUSTOMS DOCUMENTATION
- The Client shall give IP Zollspedition all documents requi-

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- red for the customs clearance on a case-by-case basis. This includes in particular:
- 7.1 Import and export permits, import and export licenses, proof of final use, international import certificates, export licenses from non-member countries, monitoring documents and goods reports;
- 7.2 valid proofs of origin or preference documents, if the Client is willing to use tariff preferences;
- 7.3 Original proof of delivery within 14 days after customs clearance, if IP Zollspedition shall act as fiscal representative in accordance with Sections 22a et seq. German VAT Act. The resulting effort for the process of producing this evidence may be billed separately by IP Zollspedition.
- 7.4 The Client shall be obliged to present, hand over or send by post the alternative certificates to IP Zollspedition no later than 14 days after the opening of the NCTS dispatch procedure, without having to be informed separately about this obligation by IP Zollspedition again.
- 7.5 IP Zollspedition shall provide the Client with all documents sent either electronically or by post from the customs authorities as part of the order processing, if use is not made of clause 9.
- 8. TAX REPRESENTATION**
- 8.1 If the IP Zollspedition shall act as tax representative for the Client, they shall submit a tax declaration with the tax number supplied by the Client in accordance with Section 18 paras. 3 and 4 German VAT Act, as well as recapitulative statements (section 22b German VAT Act). The IP Zollspedition shall send monthly accounts regarding the imports carried out in their role as tax representative.
- 8.2 The Client shall provide the IP Zollspedition with all documents necessary to comply with their obligations as tax representative. In particular, the Client shall provide proof to the IP Zollspedition regarding the movement of imported goods from Germany into another EU member state by means of a buyer confirmation to the IP Zollspedition. This shall take place by means of a confirmation of arrival in accordance with Section 17a (2) German Turnover Tax Act, alternatively by handing over a certificate for VAT purposes („white shipper's declaration“) or a CMR waybill/delivery report signed by the recipient and the carrier's client. This certificate shall be carried out within the period stated in clause 7.3. Furthermore, the Client shall be obliged to assist and explain reporting cases that they commission as part of a subsequent verification request and VAT tax investigation by statistics and financial authorities.
- 8.3 The Client shall guarantee the transfer of a duplicate invoice vis-a-vis the IP Zollspedition for revenues in Germany, which the tax representative can use.
- 8.4 The IP Zollspedition shall be obliged to check the documents presented by the Client to see if they comply with the formal pre-requisites for the tax representation. The IP Zollspedition shall be liable vis-a-vis the Client for infringements of the obligations stated in Letters a) and d) in accordance with clause 16 of these terms and conditions. The aforementioned obligations shall not entail an audit of documents presented to IP Zollspedition for their content accuracy.
- 8.5 IP Zollspedition shall be obliged upon request by the Client to transmit all of the provided documents to them, which the Applicant requires to meet their intrastate reporting obligations.
- 8.6 THE CLIENT SHALL BE OBLIGED TO ASSESS WHETHER THE REQUIREMENTS ACCORDING TO SECTION 22A, PARA (1) GERMAN VAT ACT ARE AVAILABLE TO THE TAX REPRESENTATIVE, THAT THEY HAVE THE AUTHORITY TO DISPOSE OVER THE IMPORTED GOODS (I.E. PROPERTY AND AUTHORITY OVER THE IMPORTED GOODS) AND THAT THE CONDITIONS OF THE SECTION 6A PARA. (1) GERMAN VAT ACT FOR A TAX-EXEMPT, INNER-COMMUNITY DELIVERY ARE MET. THE CLIENT SHALL ENSURE WITH AN ORDER THAT THE AFOREMENTIONED AND OTHER RELEVANT LEGAL PROVISIONS ARE ADHERED TO.
- 8.7 The Client shall be obliged to inform the IP Zollspedition immediately if at least one of the pre-requisites stated in Section 22a para. (1) German VAT Act for the tax representation by the tax representative is no longer fulfilled.
- 9. RIGHT OF RETENTION**
- Regardless of clause 20 of the ADSp 2016, the IP Zollspedition shall retain a right of retention until complete payment of the agreed remuneration and repayment according to clause 3, with regard to all documents that they have received from the Client, authorities or third parties in connection with the order processing. This right shall apply even after termination of the contract.
- 10. RIGHT OF REFUSAL**
- The IP Zollspedition shall retain the right to refuse the order for good reason, e.g. for payment default, missing documents for a proper customs declaration, short-term and therefore impending deadlines to the detriment of the IP Zollspedition, or insufficient goods description. Possible demurrage claims of compensation claims by the Client resulting from this are excluded.
- 11. TEMPORARY STORAGE**
- 11.1 „Temporary storage“ is the temporary storage of non-union goods under customs supervision in the period between their provision and their placing in a customs procedure or their re-export. IP Zollspedition accepts the client's request applications for temporary storage in Article 5, Para. 11 UCC in connection with Articles 145 and 146 UCC. The request shall be made in writing. The Client shall produce the documents in connection with the goods in temporary storage as well as their order (Article 145 para. 2 UCC) and, if the goods for which an application has been filed are already in temporary storage, also inform them about the deadlines for transfer to a customs procedure. If the IP Zollspedition is designated as the person who shall meet the customs obligations in relation to the temporary storage, the Client shall relinquish their authority to dispose over the temporarily stored goods for the duration of the storage to the IP Zollspedition. Goods which are in temporary storage may only undergo such treatments which are intended for their preservation in an unaltered state, without changing their appearance or technical characteristics. The treatment, change or transport of temporarily stored goods may only take place upon instruction and in coordination with the IP Zollspedition. In any case, the consent of the IP Zollspedition shall be granted prior to the treatment, change or transport by the Client.
- 11.2 To prevent damages that result from non-adherence to

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- customs obligations in connection with the temporary storage, in particular for an impending deadline in accordance with Article 149 UCC, the IP Zollspedition shall be authorised by the Client to transfer the affected goods into the customs warehousing procedure without a separate order (Article 240 ff. UCC).
- 11.3 The Client shall bear unlimited responsibility for damage that results from non-adherence to the conditions and responsibilities in accordance with Article 147 UCC, in particular the removal from the customs monitoring, and shall settle the resulting receivables waiving the benefit of discussion, with the exception that this is to be paid upon first request by the contractor, by the Client to the contractor.
- 12. SHIPPING PROCEDURES**
- 12.1 The Client shall be responsible for the proper and timely supply of the goods in the customs transit operations (NCTS).
- 12.2 The Client shall ensure that only those goods with the associated control printout of the electronic NCTS delivery registration (accompanying delivery document) are accepted for transportation and are left unchanged within the specified period at the destination customs office. They shall ensure that the carrier / driver and all subsequent carriers are given the following instructions: The goods shall be transported via the route and border crossing points stated in the accompanying document. A change is only permitted with the express permission of the principal, IP Zollspedition. At the destination customs office or at the authorised consignee, to whom the goods are being delivered, the alternative certificate issued by the customs office of departure shall be presented, stamped there and sent back to the principal. Address: IP Zollspedition GmbH, Matthias-Claudius-Str. 10, 23909 Ratzeburg, Germany. The carrier / driver shall be obliged, in the event of a transfer of the shipment during transport to a subsequent carrier, to pass on all necessary documents and to inform them of their obligations under the transit procedure. The transhipment of goods which are under customs supervision to another means of transport, and their discharge, can only take place under customs supervision. In the event of damage to the goods or breach of customs seals, the nearest customs office shall be informed or this event shall be reported to the nearest police station. The IP Zollspedition shall be informed immediately of any circumstance that differs from the normal transport flow or prevent the presentation of the goods at the specified destination by fax (+49 40 507964 - 430) or email revision@ip-zollspedition.de. Notwithstanding the obligations under para. 3, the principal is liable for damages arising from the failure to comply with this notification requirement vis-a-vis the IP Zollspedition.
- 12.3 In the event of incorrect presentation in the NCTS transit procedure, for which the Client commissioned the IP Zollspedition, the Client shall bear all the additional costs of processing of search and dunning. The Client shall agree to pay a minimum processing fee (NCTS Repair fee) for improperly delivered goods in the amount of €200.00 (net) per NCTS procedure plus VAT. Additional costs shall be calculated separately according to time spent.
- 12.4 In the event of the use of the shipping label guarantee beyond the abovementioned presentation deadline sta-
- ted in the accompanying document, 0.08% of the loans guaranteed by the principal shall be taken by the Client. The IP Zollspedition shall not guarantee permanent availability of a flat-rate shipping label guarantee for the implementation of the NCTS transit procedure and shall reserve the demand of the standard bank guarantees of the Client.
- 12.5 The Client shall bear all costs, customs and tax disadvantages incurred in the countries involved in the transit procedure caused by the non-presentation/non-payment of customs duties, through loss, theft or fraud during the transit procedure.
- 13. LIABILITY OF THE CLIENT**
- The Client shall assume full responsibility vis-a-vis the IP Zollspedition for the timely submission of the necessary documents and the completeness and accuracy of all information necessary for the execution of orders, including fiscal representation by the IP Zollspedition. The Client shall bear all costs and tax disadvantages arising from incorrect, incomplete, illegible or late entries or non-submission of the necessary documents, and indemnifies the IP Zollspedition inter partes from all claims by third parties, including customs and tax authorities in connection with the activity for the Client.
- If the Client is not the applicant of the goods, the Client and importer shall be liable vis-a-vis the IP Zollspedition as joint debtors for all costs and tax disadvantages that IP Zollspedition accrues in connection with carrying out the order.
- The client shall assign all compensation and reimbursement claims against the importer to the IP Zollspedition that are based on the fact that the importer submitted the necessary information and documentation inaccurately, incompletely or late.
- In the event of a takeover of temporary storage by the IP Zollspedition, the Client shall bear all costs, duties and tax disadvantages arising from the lack of a timely completion of the temporary storage. This shall also apply in case of loss, deprivation, theft, fraud and improper handling of goods within the temporary storage.
- 14. REPORTING OBLIGATIONS OF THE CLIENT**
- If the IP Zollspedition is used by the competent authorities in connection with the work for the Client, the client shall provide those authorities upon request all requested documents at any time immediately and/or grant these authorities access to the requested documents/data. Damage arising from any breach of this duty to cooperate shall be borne by the Client and indemnify the IP Zollspedition from any claims of parties or third parties.
- 15. INSPECTION OBLIGATIONS OF THE IP ZOLSPEDITION**
- 15.1 The IP Zollspedition shall not be liable for an incorrect determination of the KN code, provided that it has not acted deliberately or grossly negligent.
- 15.2 Customs duty information from the IP Zollspedition is not binding. The Client is advised that binding customs tariff information can be sought from the competent customs authorities.
- 15.3 The IP Zollspedition shall not be obliged to check the pos-

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sibility and the conditions of customs clearance, in particular at a preferential rate of duty or to inform the client about this. The duty to find out about any tariff exemptions, import capacity and the documents to be supplied in relation to this shall be solely a matter for the customer as the importer of the goods and must be separately indicated in the order to the IP Zollspedition, unless a separate written agreement has been made.

- 15.4 The IP Zollspedition shall not be obliged to check any infringement of industrial property rights or to check for prohibitions and restrictions (import, export or transit bans) as well as external constraints (in particular under the EU dual-use regulation and in accordance with the AWG / AWV). The IP Zollspedition shall presume as part of the order acceptance that the goods to be declared are not subject to prohibitions and restrictions, unless the customer has advised about this in the order separately. These tests must be guaranteed by the Client themselves.
- 15.5 If the IP Zollspedition has justified cause to believe that an order infringes legal regulations or common decency, the IP Zollspedition shall not be obliged to carry out the order. Even in the case of force majeure, there shall be no claim by the Client for the IP Zollspedition to carry out the order. In the cases mentioned, the IP Zollspedition shall be entitled to withdraw from the contract with no notice, without any liability or compensation.

## 16. GENERAL GERMAN CARRIER CONDITIONS (ADSP 2016)

The IP Zollspedition shall operate on the basis of ADSp 2016, unless these terms and conditions do not provide for different arrangements and draw attention to the limitation of liability in paragraph 23 of ADSp 2016. The content of the ADSp is known to the customer and is an integral part of this contract.

## 17. LIABILITY OF THE IP ZOLSPEDITION

The IP Zollspedition has concluded an insurance with the OSKAR SCHUNK AG and Co. KG company in Hamburg. The maximum liability according to the Customs policy is €250,000 per insurance claim, the total damage insured per insurance year is maximum €1,000,000.00. The IP Zollspedition shall be liable for all damages incurred in connection with the customs declaration/tax representation, but only to the limit of the sum insured, unless they acted with intent or gross negligence. Greater liability coverage shall be covered separately upon request against assumption of the additional costs by the Client.

## 18. THIRD-PARTY INVOLVEMENT

The IP Zollspedition shall be entitled to use customs and logistics companies as subcontractors. The client shall agree that these agents selected by the IP Zollspedition may carry out the customs clearance or individual services for them as part of the respective order.

## 19. DATA STORAGE

The IP Zollspedition shall be authorised to store and use data for the purpose of the contracted activities. The Client shall explicitly agree to the use and storage of the data for the aforementioned purpose.

The IP Zollspedition shall ensure to a reasonable extent that the data is not available to unauthorised third par-

ties. The IP Zollspedition shall take the measures necessary for maintaining the confidentiality and data protection requirements in reasonable limits. This shall include the authority to verify the information submitted by the Client to counter any contractual or illegal acts. This shall particularly apply to the suspected manipulation in the context of the information required for the declaration or the entire customs clearance.

## 20. AMENDMENT CLAUSE

The IP Zollspedition shall be entitled to change these general terms and conditions at any time. The IP Zollspedition shall make these changes only for valid reasons, particularly because of new technological developments, changes in jurisprudence or other equivalent reasons. If the contractual balance between the parties is significantly disrupted by the change, the change shall be omitted. As a general rule, modifications shall require the client's consent. The IP Zollspedition shall be obliged to explicitly inform the Client in the consultation about changes to the objection and termination possibilities, the deadline and the legal consequences, especially with regard to a failed objection. The approval of the amendment to the terms and conditions shall be deemed granted, unless the Client objects in writing within one month after receipt of the change announcement or terminates the framework contract. In the event that the Client objects to a change in the terms and conditions, the IP Zollspedition shall have the right to an extraordinary termination of the business relationship.

## 21. SEVERANCE CLAUSE

Should one or more provisions of these terms and conditions be wholly or partly ineffective, the validity of the remaining provisions shall not be affected. The formulations of the UCC shall apply mutatis mutandis for the stipulations of these terms and conditions. In place of the invalid provisions, replacement provisions with content as similar to the original as possible shall apply, that come as close as possible to the purpose of the invalid provision as possible. The place of fulfilment for all services to be provided by the Parties shall be Hamburg. The jurisdiction for all disputes arising from the contractual relationship shall be Ratzeburg. Ratzeburg shall be the exclusive jurisdiction for claims against the IP Zollspedition. German law shall apply.