

General Terms and Conditions of Business (T&Cs)

As of 01/01/2018

KTL Kombi-Terminal Ludwigshafen GmbH

1. Scope and additional terms and conditions

- 1.1 KTL shall provide the services connected with the use of the transshipment facility in accordance with these Terms and Conditions of Business and the additional provisions of the Terms and Conditions of Use (TCUSF) as amended. The afore-mentioned Terms and Conditions of Use (TCUSF) can be found on the website: <http://www.ktl-lu.de> under the link "Kombinierter Ladungsverkehr" (combined loading transportation) and shall be sent upon request.

If KTL provides services that are not included in the use of the transshipment facility as a service facility for the purpose of Sec. 10. 114 ERegG, the supplementary application of the Terms and Conditions of Use (TCUSF) is dispensed with.

- 1.2 The customer's (dispatcher, shipper, storer) general terms and conditions (T&Cs) only apply with the explicit written confirmation of KTL.
- 1.3 These T&Cs are not applicable for contracts with consumers. A consumer is a natural entity that concludes the contract for a purpose, which can neither be attributed to its commercial nor its independent professional activity (Sec. 13 BGB – German Civil Code).

2. Scope of services

- 2.1 KTL shall provide the following services:
- Handling of loading units by combined transportation;
 - Transport-related intermediate outdoors storage of loading units;
 - Storage of loading units outdoors;
 - Delivery and collection of loading units of combined transportation on the road;
 - Service features for participants and service providers of combined transportation.
- 2.2 Within the framework of these T&Cs, KTL offers additional services that respectively require separate agreements.

2.3 Loading units for the purpose of these T&Cs are:

- Large containers (according to ISO standards)
- Swap containers (according to ECS standards)
- Semi trailers (according to German Road Traffic Act - StVZO).

The customer has to make sure that the loading units for the unaccompanied combined road-rail transportation is technically licensed, i.e. in particular that signs on the codification, in the case of ISO containers, the safety sign – "Safety Approval Plate" pursuant to "Container Safety Convention" – are available.

The condition of the loading unit, which lead to the licensing for the combined transportation, may not have been changed since then.

3. User agreement, placing an order, order confirmation

3.1 A condition for the access and the use of the transshipment facility pursuant to Sec. 10. 11 ERegG is the conclusion of a user agreement (Clause. 3 TCUSF), on the basis of which concrete individual orders are made.

The placing of an individual order is the written or electronic transmission of the loading unit type (Clause 2.3 T&Cs) and the day of despatch before the takeover of the loading unit by KTL. This also includes transmission by fax. Defining individual orders pertaining to loading units under the terms and conditions are deemed to be accepted by KTL when they are placed, provided they are not immediately objected to by KTL .

If loading unit type and despatch day are already included in the user agreement (such as with a one-off use of the support facility for example), then the user agreement applies in the same way as placing and accepting an order does for the purpose of this provision.

3.2 Orders to KTL, which concern the execution of services, which are not included in the use of the transshipment facility as a service facility for the purpose of Sec. 10. 11 ERegG, must contain all information necessary for the proper execution of the order and must be made in writing or electronically. This also includes the transmission of an order by fax. A written order confirmation is only issued by KTL if this is specifically agreed with the customer.

4. Handling

- 4.1. Handling is the reloading of a transport means to another or from one transport carrier to another. The service of KTL exists in the use of the crane for the loading unit/cargo.
- 4.2. The use of the crane commences as soon as the cargo gear of the handling device is lowered onto the loading unit.
- 4.3. The use of the crane ends as soon as the cargo gear of the handling device is removed from the loading unit, is raised and is away from the loading unit.

5. Storage

- 5.1. Storage is retaining for later use as well as for handing over to another. KTL calculates the warehouse rent from the first day – based on calendar day – and in fact including the day of removal.
- 5.2. KTL stores all loading units/cargoes **outdoors**. The customer bears the risk that the properties and condition of the loading units/cargoes are suitable for storing outdoors. If the loading unit is unsuitable, KTL is entitled to refuse the loading unit/cargo for storage. The customer is liable for damage or loss, expenses or other costs, which KTL incurs as a result of the loading unit/cargo not being suitable for storing outdoors, according to the provisions of Clause 7.5.
- 5.3. Storage is charged according to KTL's respective current price list. As a general rule the price list is made available to the customer respectively at the start of the business relationship in writing or electronically (email, telefax or computer fax).

6. Transport-related intermediate storage

- 6.1. Transport-related intermediate storage is an integral part of the forwarding/shipping and includes the temporary laydown of loading units on the KTL premises. This applies equally to loaded and empty loading units with or without hazardous goods.
- 6.2. Transport related intermediate storage is charged according to KTL's respective current price list. As a general rule the price list is made available to the customer respectively at the start of the business relationship in writing or electronically (e-mail, telefax or computer fax).

7. Condition of loading units, customer liability

- 7.1 The customer must ensure that the loading unit complies with the current valid statutory regulations and technical provisions.
- 7.2 The customer must provide KTL with all data, supporting documents and purchase information pertaining to the goods in written or electronic form (email, telefax or computer fax), which are required for proper storage/handling and must pack the cargoes properly.
- 7.3 For the rest, the customer must load the cargo in a secure manner (to pad out and make secure).
- 7.4 When accepting the loading units/cargo, KTL merely checks the outer condition of the loading units for the presence of obvious defects. KTL does not assume an obligation to check beyond this. If KTL detects obvious defects or defects of any kind, which suggest that the loading unit/cargo is damaged, then it must immediately seek instructions from the customer.
- 7.5 **The customer is liable, even if through no fault of its own, for all damage and expenses which KTL incurs as a result of an improper condition of the loading unit/cargo and the breach of the obligations specified in clauses 7.1, 7.2 and 8.2. The same applies for damages and expenses that arise as a result of non-proper labelling of the loading unit (cf. Clause 2.3.).**

For damage or loss however the customer is liable up to an amount of 10 special drawing rights per kilogram of the gross shipment.

8. Specials terms and conditions for hazardous goods and substances

- 8.1 The shipping of loading units with hazardous goods (loaded and empty, uncleaned loading units) is subject to the respective current statutory provisions.
- 8.2 The storage of loading units with hazardous substances is subject to company approval and the current statutory provisions.
- Storage is **outdoors** in a hazardous substance store operated by KTL. The customer is therefore responsible for providing KTL with the necessary instructions (in particular product safety data sheets and other goods-related data, supporting documents and precautionary measures) in writing or electronically (email, telefax or computer fax) before storage. This applies to hazardous goods accordingly.
- If this is not the case, then KTL is entitled to refuse the loading units/cargoes with hazardous substances. This applies to hazardous goods accordingly.
- 8.3 If specific indications justify the assumption that as regards a loading unit/cargo, a risk spe-

cific to hazardous goods could come into being or disruption has already occurred and KTL calls the fire brigade as a result, the KTL may demand to be reimbursed for the costs incurred as a result of this. For determining the level of costs, KTL may use the current cost schedule of the BASF fire brigade; to the extent that these costs are not considered to be expenses but damages, the limitation of liability however applies accordingly as per Clause 7.5.

9. Liability of KTL

9.1 KTL is liable:

- for storage arising from Sec. 467 et seq. HGB (German Commercial Code);
- for all other services arising from Sec. 453 et seq. in conjunction with 407 et. seq HGB.

9.2 Liability for claims due to *loss or damage to a loading unit/cargo* is however restricted to 8.33 special drawing rights per kilogram of the gross weight of the shipping. This limitation of liability also applies to claims due to loss or damage caused during storage.

9.3 For *other claims*, KTL is liable to a restricted amount of 2 SDR for every kilogram of the gross weight of the shipment, but to a maximum of up to 1 mill. euros. In the case of several claimants, KTL is liable proportionately in relation to claims of the claimants.

9.4 The above liability exemptions and limitations however do not apply if the damage has been caused;

- with intention or by gross negligence of the bodies of KTL, its managers or its auxiliary agents, the latter during the fulfilment of a contractual main obligation,
- in the cases of Sec. 425 et seq., 461 et seq. HGB intentionally or frivolously by the bodies of KTL or the persons specified in Sec. 428, 462 HGB and in the knowledge that a damage or loss is likely to occur.

10. Payment, late payment and compensation

- 10.1 Basis for the payment calculation is the current valid tariff of KTL, which is exclusive of VAT. Fees must be paid in euros and are calculated taking into account the current VAT legislation.
- 10.2 Payments must be transferred to an account to be specified by KTL at the cost of the customer and shall be payable upon receipt of an invoice. Different payment procedures may be agreed within the context of a separate agreement.
- 10.3 In case of late payment, late interest is levied at 5 percentage points above the current base interest rate of the European Central Bank. For every written reminder the customer must pay KTL a flat-rate processing fee of up to €20.
- 10.4 Set-off or retention is excluded against the claims of KTL, unless the counterclaim is undisputed or legally established.

11. Place of jurisdiction

- 11.1. For all disputes arising from the contract (including objections, cheque and change processes) Ludwigshafen is the sole place of jurisdiction.

KTL may also bring action against the customer in its place of jurisdiction.
- 11.2 The applicable law of the Federal Republic of Germany shall apply for the relationship of privacy of national and foreign parties.

12. Severability clause

If individual clauses of these Terms and Conditions of Business are or become void or ineffective then this shall not affect the effectiveness of the remaining terms and conditions and clauses.