

# SPEDLOGSWISS

## General Conditions (2005) of SPEDLOGSWISS – Swiss Freight Forwarding and Logistics Association – for Shipping Agents GC SPEDLOGSWISS Shipping Agents

Valid from 1st July 2005.

### Scope of Application

#### Art. 1

The GC SPEDLOGSWISS Shipping Agents apply to all orders executed by SPEDLOGSWISS members in their capacity as Shipping Agents and to orders which state that the GC SPEDLOGSWISS Shipping Agents are applicable, insofar as they are not contrary to mandatory provisions of the Law. They encompass all fields of activity of the Shipping Agent as described below.

Any agreements whose terms differ from the GC SPEDLOGSWISS Shipping Agents must be made in writing.

### Fields of Activity

#### Art. 2

A distinction is made between two fields of activity:

##### 1. Activity as Agent

In its main field of activity the Agent concludes freight contracts for ocean and/or combined transports in the name of Shipping Lines, NVOCC's or similar Carriers in the sense of article 418a ff. of the Swiss Code of Obligations (CO).

##### 2. Other Services

The Agent may provide other services which may be directly or only indirectly connected to the Agency activity, such as transportation, forwarding, customs clearance, invoicing, franchising, calling forward of goods, other logistical services and further agreed services.

For these other services the General Conditions of the Swiss Freight Forwarding and Logistics Association (GC SPEDLOGSWISS, newest version) shall apply subsidiarily.

### Offers

#### Art. 3

The Shipping Agent offers freight in the name of and on the basis of the tariffs and conditions of the Carrier/s represented by him.

#### Art. 4

The offers made by the Agent lose their validity upon any tariff adjustment announced by the Carrier, or at the latest 30 days after the date of offer.

### Placing of Orders

#### Art. 5

The order shall be transmitted to the Agent either in writing or by electronic means. If it is transmitted verbally or by telephone, the Customer placing the transport order shall bear the risk of incorrect or incomplete transmission until a written confirmation is received by the Agent.

#### Art. 6

The order must contain all the data required for a proper execution, such as information relating to regulated goods (e.g. hazardous cargoes) or goods that require special handling.

#### **Art. 7**

The Agent shall carefully examine the orders placed with it; however, he is not obliged to check the contents of packages or shipments transported, nor to control weights and dimensions. Should any irregularities be found, the Agent shall clarify them as fast as possible with the Customer placing the transport order.

#### **Art. 8**

The text of documents attached to the order are deemed not to constitute a part of the order unless the Customer placing the transport order expressly designates them as such.

### **Freight Contracts**

#### **Art. 9**

Freight contracts are principally concluded between the Customer placing the transport order and the Carrier, and the corresponding legal terms such as the general conditions of the freight documents (bills of lading, etc.) and tariff regulations of the Carrier shall apply.

#### **Art. 10**

The Shipping Agent transmits the Customer's instructions to the Carrier and issues the freight documents according to the instructions and regulations in their name and on their behalf.

#### **Art. 11**

If the true destination of the goods may not be made known to the consignor, or their origin to the consignee, the Agent must be informed of this in writing.

#### **Art. 12**

The Agent will only declare high value goods as such in the freight documents when this has been expressly requested by the Customer.

#### **Art. 13**

The Agent only arranges transport insurance upon written, express request.

#### **Art. 14**

Intermediate storage of goods either before or after shipment is covered by the terms and conditions of the corresponding freight contract, the tariff of the Carrier, the regulations of the freight conference in the trade concerned, insofar as the Carrier is a member of said conference, and/or the special regulations / general conditions of the warehousing company used. The transport cargo is stored on the docks, in warehouses as well as in transport conveyance, solely at the risk and expense of the Customer. The costs are to be paid by the Customer as they are incurred.

#### **Art. 15**

C.O.D. collections and disbursement collections are only made upon express written instructions from the Customer placing the transport order. They are governed by the conditions of the corresponding freight contract, and payment will only be made by the Agent to the Customer after receipt of the amount from the Carrier. The Agent is not liable for any exchange rate losses which may occur between the date of receipt and date of payment.

Valid C.O.D. collections will only be made against irrevocable Bank Confirmation in favour of the Customer or a Banker's cheque issued in the name of the Customer in the prescribed currency.

### **Liability of the Shipping Agent**

#### **Art. 16**

The Shipping Agent is liable to the Customer placing the transport order for a careful and trusty transmission of the order to the Carrier as well as the transfer of the relative details in the freight documents.

#### **Art. 17**

The Shipping Agent has limited liability for slight negligence or negligence of whatsoever kind caused by its own auxiliary personnel. In such a case the liability of the Agent is limited to maximum 8.33 special drawing rights per kilo gross weight of the part of the shipment involved. The total amount of liability per occurrence shall not exceed 20'000 special drawing rights.

#### **Art. 18**

All claims arising out of the freight contract shall be brought against the Carrier directly at his legal place of domicile or place of jurisdiction as specified in the freight contract.

#### **Art. 19**

Subject to compulsory provisions of the law, all claims against the Agent shall be barred after a period of one year.

### **Liability of the Customer**

#### **Art. 20**

The Customer placing the transport order is liable towards the Shipping Agent for his own errors and omissions as well as for those of his subcontractors, even when not himself at fault, for all consequences arising from :

- ▶ packing which is not suitable for the agreed transportation
- ▶ incorrect, inaccurate or missing information in the order, on the packing or on the goods themselves, in particular for goods which on basis of their properties would not be accepted for transportation, or only under special conditions or whose handling is subject to special regulations.
- ▶ the omission of or delayed presentation of the necessary documents.
- ▶ etc.

#### **Art. 21**

Ignorance of the relevant transport regulations, general business conditions, freight contracts, tariff regulations, insurance conditions, conference rules and laws of the countries crossed during the course of the transportation, does not free the Customer placing the transport order from his liability for any consequences arising therefrom, nor can any right to claim against the Agent be derived therefrom, subject to Art. 16.

### **Conditions of Payment**

#### **Art. 22**

The Shipping Agent collects freight and charges on behalf of the Carrier together with his own fees.

#### **Art. 23**

Debts owed to the Shipping Agent are due immediately.

#### **Art. 24**

The invoices of the Shipping Agent are payable in the tariff currency or local currency.

#### **Art. 25**

The Shipping Agent is not obligated to advance sums for the payment of freights and charges. He can require the Customer placing the transport order to make advance payments either in the tariff currency or local currency.

#### **Art. 26**

The Shipping Agent is not obligated to accept drafts as payment. In case of acceptance of drafts and personal cheques, all discount fees, collection fees, stamp duties and banking charges are at the expense of the Customer placing the transport order.

### **Right of Retention**

#### **Art. 27**

The Shipping Agent shall have a lien on the goods handed over to him or which otherwise come into his possession which belong to the Customer for any outstanding sums owed to him in respect to all business transactions with the Customer.

If payment has not been effected within a time limit set by the Agent with the threat to dispose of the goods, the Agent shall be free without any further formalities to sell the relevant goods at the best obtainable price.

### **Place of Jurisdiction**

#### **Art. 28**

**For the settlement of any claims between the Customer placing the transport order and the Shipping Agent, the domicile of the Agent shall be deemed to be the place of jurisdiction. Swiss law is applicable.**

#### **Art. 29**

The Shipping Agent has the right however to bring court proceedings against the debtor at the domicile of the debtor.

#### **Art. 30**

The General Conditions of SPEDLOGSWISS Shipping Agents have been drawn up in German, and may be translated into other languages. The German version shall be the binding text.

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