

# General Terms and Conditions of Logistik Service GmbH, Linz

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## 1. Preamble

The general terms and conditions set forth herein generally apply to all legal transactions entered into with Logistik Service GmbH in Linz (hereinafter referred to as LogServ) to the extent that no other written agreements stipulate otherwise. General agreements, terms and conditions of the business partner are ineffective, even in the event that they do not contradict those of LogServ. All services are subject to the terms and conditions set forth herein.

## 2. Contractual agreement

A service agreement shall become effective as soon as the customer issues an order in verbal or written form and this order is accepted by LogServ. A respective order confirmation is issued by LogServ in written form. Cancellations and interruptions of orders are not accepted unless the parties mutually agree. Any incurred costs in this connection are borne by the customer. Termination of the agreement is possible only in the event that order fulfillment activities have not commenced by us to any extent; in particular, this shall apply to the commencement of the performance of services.

## 3. Order fulfillment

Order fulfillment is based on and compliant with the currently valid legal provisions and standards applicable in Austria. These provisions include the following:

Range of services	Services	Applicable standards and norms
Outsourced logistics	Forwarding services, transport agreements, procurement of transports, consultation, customs, storage and reloading services, provision of logistics, outsourcing	CMR, CIM, AÖSp YAR, Haager Regeln
Transport logistics	Roadway transports, railway transports as sole supplier, national railway transports as sole supplier, international crane and lifting devices	CMR, EisbG, EVO CIM, ATL
River port	Port operations	LogServ port regulations
Railway operations	As operator on third-party lines, sole supplier	EVO, CIM, EKHG
Planning office	Planning and engineering services	General terms, engineering offices
Service logistics	Automotive workshop  Railway freight car and engine shop  Fleet management  Maintenance of signals, rails and safety systems	Repairs, vehicle repairs, vehicle industry, terms of sale and delivery, automotive industry, railway code

## 4. Offers and prices

Our offers are without obligation until the order is placed. Personnel, material costs and exchange rates are those applicable at the time the offer is issued. Offers and project documentation are the intellectual property of the supplier and may not be provided to any third party. Offers and project documentation are immediately returned to the supplier at his request. INCOTERMS 2010 apply to prices as applicable. Deviating provisions in written form may also apply.

## 5. Terms of payment

Our invoices are paid in cash, without deduction of any discount, by the due date. In the event of delayed payment, interest is paid to us in the amount of 5% above the base lending rate of the national bank of each

receiving country, amounting to at least 9% p.a.

All payments requested by us are due immediately independently of other agreements in the event that the agreed payment conditions are not fulfilled or we receive information regarding circumstances that, in our opinion, reduce the creditworthiness of the customer. In such a case we reserve the right to make outstanding deliveries subject to advanced payment or withdraw from the agreement after having granted a suitable grace period. We reserve the right to claim damages for non-performance.

LogServ reserves the right to retain supplies and services until receipt of past-due payments. Goods and spare parts remain the property of the supplier until full payment is received.

## **6. Offset**

Offset and retention are only permitted against the claims of LogServ in the event that the purchaser asserts counterclaims valid and applicable by virtue of a judgment or acknowledgment.

Based on authorizations granted to us by our affiliated companies, we reserve the right to accumulate any obligations entitled against the customer, regardless of the legal basis, as well as against any outstanding debts entitled against us or our affiliated companies, regardless of the legal basis. This also applies in the event that payments in cash are made from one source and payments in bills from another source, or in the event that other services have been agreed on the account of performance. In some instances these agreements may only refer to the account balance. In the event that the deadlines for outstanding debts differ, our outstanding debts become due at the latest by the deadline of our liability and with a deducted validation.

## **7. Defects**

Defects in goods and services, including missing warranted characteristics and properties, are treated in accordance with the following provisions:

After completion of agreed acceptance of the goods or services by the customer, a reporting of defects that could have been identified during the agreed type of acceptance, is excluded. Defects that even upon a most careful inspection cannot be detected within this period are promptly reported upon detection, but not later than three months after receipt of the goods. After expiration of this three-month period, liability for defects, for any reason whatever, is excluded.

The customer bears the burden of proof for the condition that any defects were already evident at the time of transfer or provision.

In the event of a justifiable defect within the time limit, we take back defective goods and deliver faultless goods or commensurately improve the service.

In the event of delay with regard to replacement deliveries or service improvement, the provisions herein apply with regard to termination of the agreement.

All claims become null and void in the event that the customer does not provide us with an opportunity to be convinced of the defect, does not immediately upon request make available the rejected goods or samples or does not provide us within an appropriate period of time with the opportunity of making an on-site inspection. Claims expire one month at the latest after our written rejection of the claim.

## **8. Liability**

LogServ is held liable for performed services within the limits of legally applicable stipulations on the scope of respective services and deliveries. Liability excludes indirect and/or consequential damages and financial loss, damages arising from the claims of third parties of any kind against the customer. The liability of LogServ for negligent conduct (loss, damage, prolonged delivery time, etc.) is limited to intentional infliction, gross negligence and 1,000,000.00 euros per claim. Liability for force majeure and other non-avoidable events is excluded. The customer reserves the right to demand an explanation from us whether we intend to withdraw or to deliver or perform within a reasonable period of time. In the event we fail to present an explanation, the customer is entitled to withdraw from the agreement.

## **9. Training courses**

To the extent that no other agreements are made with respect to individual training courses, course cancellation

is free of charge up to 14 days prior to the beginning of the course. After that, a cancellation fee of 50% of the course fee is charged. Failing to show on the day of the training course will result in a charge amounting to the full price of the course. Replacement course participants are allowed. LogServ reserves the right to cancel training courses within a reasonable amount of time prior to the course. Expenses are not refunded even in the event of short-term cancellations or postponements.

## **10. Termination of the agreement**

Irrespective of other legally applicable termination provisions, LogServ reserves the right to terminate the agreement with immediate effect in the event of one of the following:

- Insolvency proceedings are instigated against the assets of the other party to the agreement or a lack of sufficient assets is ascertained.,
- Required governmental permits (for operations, concessions, etc.) are withdrawn from the other party to the agreement.
- One party to the agreement sustainably infringes on essential provisions of this agreement in spite of written warnings from the other party to the agreement.

In the event that this agreement is terminated, both parties agree to complete all activities that have been commenced, particularly the proper fulfillment of orders, unless completion would unreasonably extend beyond the duration of this agreement.

## **11. Insurance policies**

Insurance policies of any kind on behalf and to the account of the customer are maintained by LogServ exclusively at the request of the customer and based on written agreement. In such cases, LogServ act exclusively as a mediator between the customer and the respective insurance agent who is selected by LogServ.

## **12. Compliance**

The regulations defined in the Code of Conduct of voestalpine AG, the regulations based on this code and defined in the Code of Conduct for voestalpine business partners as well as the guidelines for sustained, ethical and impeccable business behavior are accessible at <http://www.voestalpine.com/group/de/konzern/compliance/>, as amended, and shall be explicitly accepted and approved by the customer. In individual cases in which the customer evidently and severely infringes on basic principles and regulations of the Code of Conduct, thus making it intolerable for voestalpine to continue the business relationship, voestalpine reserves the right to terminate the contractual agreement for a good cause and with immediate effect. The customer shall respectively indemnify voestalpine in such cases for all arising damages and disadvantages.

## **13. Applicable law, place of fulfillment and jurisdiction**

Applicable Austrian law, to the exclusion of standards of action transfer, applies exclusively to the settling of any disputes and to the interpretation of these General Terms and Conditions, including any lawsuits, in connection with the services and deliveries provided by LogServ. The place of jurisdiction for the settlement of any disputes under this agreement shall be the legally competent court in Linz, Austria.

Revised on 2 August 2017