



General Terms and Conditions of Business and Working Regulations

- AGBO -

of

North Sea Terminal Bremerhaven GmbH & Co.

**(Translation for purposes of convenience, only the German wording being
authentic)**

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I. General Provisions

1. Bases of contract

- 1.1 North Sea Terminal Bremerhaven GmbH & Co. (**NTB**) conducts handling and interim storage of goods on areas rented or leased within the Bremerhaven port as well as in facilities for handling and interim storage or other operative facilities owned or rented by NTB. Relating to the aforementioned and all other connected activities, NTB contracts with private-law enterprises, public law legal entities and special estates regulated by public law (**Customer**) exclusively on the basis of the present Terms and Conditions of Business and Working Regulations (**AGBO**) as well as on the basis of NTB's tariff in its latest version (**Tariff**). These Conditions do not apply if consumers are involved in the sense of § 13 BGB (German Civil Code).
- 1.2 Any agreements deviating from No. 1.1 have to be made in writing. Any Customer's general terms and conditions of trade conflicting with AGBO or the tariff shall be considered as waived.
- 1.3 In addition, the legal provisions, in particular the „Bremisches Hafengesetz“ (Bremen port statute) and the „Bremische Hafenordnung“ (Bremen port regulations) shall be applied to the use of NTB's facilities.

2. Purpose of facilities; transit goods

- 2.1 The function of NTB's sheds, open area and other facilities is the handling of incoming and outgoing goods in sea transport. As far as for this purpose NTB takes over goods from sea vessels or inland means of transport, it accepts these as transit goods to make these temporarily available for (re-)forwarding them. At express request, NTB may grant – without being obliged hereto – the person being entitled to dispose of the goods access to the transit goods, e.g. for the purpose of inspection.
- 2.2 Should transit goods not be reloaded within 6 (six) days for reasons NTB cannot be blamed for, these will be treated as stored goods (see Nos. 30 seqq.).

3. Safety Rules

- 3.1 At all NTB's facilities the rules of the ISPS-Code (International Ship and Port Facilities Security Code) are applicable. NTB may take all measures which are necessary to fulfil and perform these rules of the ISPS-Code. The costs incurred hereby have to be borne by the customer in form of a safety fee which will be imposed per container / means of transport. Except when otherwise stipulated, the amount of the safety fee can be taken from NTB's tariff.
- 3.2 The customer warrants:
 - a) that it is not a terroristic, criminal or anti-constitutional association, organisation, union of people or person (hereinafter together called "Terrorist") and that it does not have any commercial or other relationships to Terrorists; and
 - b) that it will take appropriate measures in its business operation to secure compliance with the respective valid individual-related EU-Embargo regulations (in particular Council (EC)-Regulations No. 2580/2001 for the Combating of Terrorism) and the applicable US-American Anti-Terrorism Laws

(in particular: International Emergency Economic Powers Act; 31 CFR Part. 594 – 597; International Traffic in Arms Regulation; and the respective implementation rules), each in the version as valid and applicable at any given time; and

- c) to check its employees, contractual partners and all other associations, organisations, unions of people and persons which directly or indirectly receive economic resources from it, according to the laws and provisions mentioned in sub-section (b) above and to immediately inform NTB in writing of any positive inspection results.
- 3.3 NTB may at any time deny persons and/or means of transport access to the facilities if objections as to safety exist and/or refuse acceptance or delivery of stored or handled or delivered goods and/or take measures which it deems necessary to prevent risks for the safety and public order on and at NTB's facilities. Every measure requested by authorities in this respect is a "necessary measure" in the sense of this rule. The Customer has to bear the costs incurred by measures to which it has contributed by its negligent acts or omissions.
- 3.4 Should goods and/or means of transport (eg containers) be confiscated by authorities on the premises or at the facilities of NTB and/or should otherwise – for whatever reason – the delivery of goods and/or means of transport (eg containers) to the Customer or any third party be refused by authorities and should the Customer, its customers, servants or agents have contributed to the official order by a negligent act or omission, the Customer shall bear the charges listed in the Tariff or otherwise agreed for the time during which the goods and/or means of transport (eg containers) remain on the terminal. The Customer has further to reimburse NTB for all costs incurred by the official measures.

4. Domestic Authority/Non Smoking Rule; Welding and Combustion Work

- 4.1 NTB have the exclusive domestic authority on all their premises and all plants and equipment, buildings and facilities.
- 4.2 Smoking is strictly prohibited on all of NTB's premises, including all office buildings, staff canteens and creation rooms, garages, sheds, storehouses, storage rooms. The Customer is expressly advised of this prohibition.
- 4.3 The usage of fire and open light and in particular welding and combustion work have to be approved of by NTB beforehand in writing irrespective of permission by authorities.

5. Prevention of Accidents; NTB's Authority to Give Instructions

- 5.1 Persons operating vehicles in areas belonging to NTB's facilities or otherwise using such facilities or staying there have to observe any instructions or prohibitions made public on signboards as well as to comply with directions received from NTB staff members being assigned to supervise. Furthermore, such persons shall comply with the regulations for prevention of accidents issued by the competent professional corporation.
- 5.2 During the handling operations, nobody may stay under the lifting gears or within their boom swivelling ranges respectively.
- 5.3 If facts are known against persons justifying the presumption that their staying on the NTB premises might endanger safety or order of operation, NTB may forbid

such persons to enter the operation areas, either permanently or for a limited period of time.

II. Placing of Orders; Performance of Orders

6. Orders in the normal course of business

- 6.1 As a matter of principle, NTB shall act exclusively on the basis of written orders placed by using prescribed order forms.
- 6.2 NTB may, generally or for special services, permit or request that orders or any other declarations essential for the execution of orders be transmitted by way of electronic data transfer under observance of the terms of the respective regulation for its use.
- 6.3 The details of the goods to be handled must be completely stated in all order forms and other types of forms. Furthermore, in the event of dangerous goods, the Customer has to furnish, besides information legally required by Bremische Hafенordnung, also the special details in accordance with No. 8 hereof.
- 6.4 In the event of orders having exceptionally been accepted orally, NTB shall not be liable for any consequences resulting from the lack of a written order.
- 6.5 Apart from information stipulated in the respective order forms or specimen, orders shall contain only those declarations and indications by the Customer which are generally accepted by NTB or which have been specially agreed with it. Other declarations shall be deemed as not having been made even if NTB did accept without objecting an order containing such other declarations.
- 6.6 NTB executes the orders placed in a sequence, determined by it in its due discretion. Without a special agreement made in writing with NTB, there is no right to claim the execution of orders within a certain period of time, not even if NTB did accept, without any objection, an order containing a fixed time-limit.
- 6.7 All orders must be submitted in good time in order that they can be executed in the normal course of business.
- 6.8 Dangerous goods within the scope of the relevant legal provisions in force will be accepted at the NTB facilities only as transit goods (No. 2.1).
- 6.9 In case of conventionally shipped import goods, the loading list to be submitted by the vessel in accordance with No. 24.1 must include details as to marks, number, dangerous properties, type of packaging as well as quality, condition and weight of the goods, and, for measuring goods, also their cubical volume.
- 6.10 The loading list pursuant to No. 6.9 shall be considered as the discharging order and the order for acceptance of goods as transit goods. NTB, in its own discretion, shall effect storage either in sheds or in open storage areas.
- 6.11 If a discharging order provided with the ship's agent's release note has been submitted to and accepted by NTB, the Customer shall be considered as the only party authorized towards NTB to dispose of the goods specified in the order, even if the goods have already been discharged and stored in NTB's facilities on the basis of a loading list submitted by the vessel. By submission of an order in accordance with phrase 1, the Customer commits itself towards NTB to bear the discharging costs for the goods mentioned in the order as well as the costs of acceptance at the

NTB facilities, notwithstanding the continued liability of the party having ordered such services in accordance with No. 6.10 to bear the costs involved.

- 6.12 Each order must contain the complete name of the Customer respectively the Customer's complete business name, printed or stamped business names being admissible. Written cargo releases for import goods must bear the signature of the person authorized for such purpose.
- 6.13 NTB shall not be obliged to verify the genuineness of the signatures on order forms or the authority of signatories or bearers of orders unless the signatures obviously give rise to doubts.
- 6.14 If, upon request of the Customer, staff members of NTB make out orders or make statements or give information in respect of such orders, such staff members shall in this respect be considered as assistants of the Customer.
- 6.15 Collateral agreements with regard to orders accepted by NTB shall only be binding if confirmed in writing.

7. Forwarding services rendered by NTB

- 7.1 In the event that NTB assumes in an individual case forwarding services, the General German Forwarders' Conditions (Allgemeine Deutsche Spediteurbedingungen – ADSp -) shall take priority over the provisions set forth in the present AGBO.
- 7.2 NTB may have forwarding services carried out by a third party. In such a case NTB is only liable for negligently choosing the third party. If damage occurs in the custody of the third party without NTB's own fault, NTB's liability towards the Customer shall be restricted to the assignment of its claims against such third party.

8. Dangerous goods

- 8.1 In the event of dangerous goods, the Customer shall check, whether or not their acceptance and handling are admissible in accordance with the relevant legal provisions and official regulations and whether there are any special conditions imposed. If so, the Customer shall in the order draw NTB's attention to any particular supervision of the cargo handling having been prescribed in accordance with legal provisions or official regulations.
- 8.2 The Customer shall deliver the packages with the required identification marks.
- 8.3 For the handling and making available of dangerous goods NTB shall be given in writing or in a clearly readable form all necessary information prescribed by legal and local safety regulations. This information comprises in particular the details to be stated in the declaration of the responsible person or in the dangerous goods list in accordance with the German Regulation on the Carriage of Dangerous Goods at Sea (GGVSee). With respect to containerised dangerous goods, the container number must be stated additionally. The information must comprise the following details without being restricted hereto:

Container	General Cargo
Correct technical name of dangerous goods	Correct technical name of dangerous goods
gross mass, in case of explosive substance and objects with explosive material also the net mass of the explosive material	gross mass, in case of explosive substance and objects with explosive material also the net mass of the explosive material
kind of package, and in case of substances that are carried under N.O.S. or collective name, the packing group	kind of package, and in case of substances that are carried under N.O.S. or collective name, the packing group
number of packages	number of packages
IMO Dangerous Goods Declaration according to § 8 GGVSsee	IMO Dangerous Goods Declaration according to § 8 GGVSsee
IMDG Code	IMDG Code
class, sub-class according to Dangerous Goods regulation (sea) – GGVSsee -	class, sub-class according to Dangerous Goods Regulation (sea) – GGVSsee -

- 8.4 If, in the case of import goods, these are accepted on the basis of a vessel's loading list, such list shall contain the details mentioned in No. 8.3 above. Dangerous goods as specified in the loading list shall be marked. In addition, if loading lists are transmitted by telefax or electronic data transfer, a separate list stating all dangerous goods enlisted in such loading list shall be transmitted at the same time.
- 8.5 Goods not being subject to the provisions concerning transport of dangerous goods but which, due to their specific properties, might give rise to risks during handling operations or interim storage, are to be marked in the orders by a special statement as to the respective properties.
- 8.6 If, in the framework of inland traffic and particularly with regard to consolidated transports, orders are placed with NTB for the handling of goods on the basis of waybills, packing or loading lists, such documents shall contain the details mentioned in Nos. 8.3 to 8.5.
- 8.7 NTB may at any time refuse the handling or the storage (see Nos. 30 sqq.) of dangerous goods or perform these services only subject to special conditions.
- 8.8 NTB is entitled to destroy or otherwise render harmless any dangerous goods which have been handed over to it without information according to Nos. 8.2 to 8.6 without becoming liable to indemnify the Customer, provided that the goods present a danger. The Customer has to bear the costs of such measures.

9. Exclusions from acceptance; handling restrictions

9.1 Goods are excluded from acceptance

if their remaining, handling and carriage is prohibited in the port area in accordance with legal provisions or official regulations or if their the quantities exceed possibly stipulated maximum quantities;

- b) if due to their properties, their condition or their packaging they are unsuitable in NTB's opinion for acceptance in its facilities or might endanger a safe handling.

9.2 Goods are admitted for direct transshipment from common carrier to common carrier (direct handling) only

- a) if they are admitted only for direct handling according to the relevant legal provisions or official regulations;

- b) if, in NTB's opinion, they are unsuitable for acceptance in NTB's facilities on account of their volume, weight or any other condition.
- 9.3 For valuables, works of art, precious metals, money and securities, fragile goods as well as living animals or goods the handling of which requires special precautionary measures throughout NTB's operations, the terms and conditions for acceptance and handling are to be separately agreed between the Customer and NTB.
- 9.4 If no agreement as mentioned in No. 9.3 has been made, NTB shall not be liable for any damage resulting from the specific nature of such goods.
- 9.5 On accepting and handling of temperature-sensitive goods or goods otherwise subject to inherent deterioration, the Customer shall timely prior to delivery or to acceptance respectively of the goods take itself the appropriate measures required for their safe handling, or has to agree with NTB for it carrying out such measures.
- 9.6 Goods which have been salvaged from fire or which, in the opinion of NTB, might on account of their nature and particularly as a result of the damage suffered, negatively affect other goods or NTB's facilities, may be excluded from handling respectively acceptance at the NTB facilities or shall be handled only on terms as NTB may determine in the individual case.
- 9.7 If, in the opinion of NTB, goods on account of their nature or their condition turn out to endanger NTB's facilities or other goods, they have to be repaired immediately upon NTB's request in a professional manner or have to be transferred into other receptacles or have to be removed from NTB's facilities.

10. Inspection of goods

- 10.1 Unless expressly agreed otherwise in writing, NTB will inspect containers / means of transport / other cargo units upon delivery only by a simple visual control at the accessible parts as to any recognisable serious defect impacting their transportability. Only such defects are considered to be serious which have recognisably a direct impact on the transportability and functional capability of the means of transport / containers or other cargo unit.
- 10.2 If during visual control in accordance with No. 10.1 recognisable serious defects are ascertained which in the opinion of the respective member of NTB staff can lead to a damage of the goods in the container / means of transport / other cargo unit, NTB will advise the Customer in a suitable way hereof.
- 10.3 Should goods be accepted without any special means of transport / container or other cargo unit, they will be inspected at the time of acceptance only by simple visual control at the accessible parts as to serious defects of the packaging or – in case of unpacked goods – of the outward condition.
- 10.4 Any inspection of means of transport / containers / cargo units / goods upon acceptance by NTB beyond that according to No. 10.1 needs to be specially agreed upon by the parties in writing.
- 10.5 Any complaints have to be made in writing by the Customer or the receiving third party immediately upon delivery on a standard form of NTB. This form has to be signed. The claimed defects have to be documented by appropriate measures by the Customer or the receiving third party.

- 10.6 Should in NTB's view the means of transport / containers / cargo units / goods not be fit for transport, NTB may refuse their acceptance.
- 10.7 NTB is entitled to inspect the contents of the means of transport / containers / cargo units / goods before their delivery or acceptance if there are indications that the statements made in the accompanying documentation are not correct, that the correctness of the statement of contents has not been proven by sound documents or if the means of transport / containers / cargo units / goods have not been sealed or a seal has been damaged. The Customer has to bear the costs incurred by such measures of NTB except in case that a seal had been damaged by NTB after acceptance.
- 10.8 NTB may refuse to control the marks or the number of the goods delivered to its facilities. This similarly applies to large units of goods, in particular to lots delivered and transhipped in containers.

11. Obligations to declare towards third parties

- 11.1 The Customer shall observe any provisions related to customs, tax, railroad or any other official regulations as well as the provisions referring to the statistics compiled on the movement of goods. In this respect, the Customer shall in particular personally fill in or complete the forms required for the purpose as well as provide for the required clearance of the goods or the accompanying documents.
- 11.2 To the extent as NTB performs the abovementioned activities, it shall exclusively act as a representative of the Customer without assuming any liability whatsoever with regard to the correctness of performance.

12. Insurance of goods

Without having received explicit order, NTB will not conclude an insurance cover for goods delivered to it. This shall similarly apply to goods for which a direct transshipment has been ordered but which for operational reasons had to be put into interim storage and, furthermore, also to goods mentioned in No. 29 and 30.

13. Transfer of rights

The person entitled to dispose of the goods may transfer its rights to the goods in NTB's custody to a third party (Transfer).

14. Prohibition of set-off

A set-off against NTB's claims shall be admissible only in the event of counterclaims being undisputed or ascertained by non-appealable judgment. This also applies in case of a possible right of retention of the Customer.

15. Invoicing of waiting periods

The Customer or the vessel respectively shall pay to NTB the charges in accordance with the Tariff also for waiting periods resulting from the fact that operational facilities or manpower provided by NTB could not be used or only be used inadequately because of measures taken by the Customer, as a result of particular conditions aboard the vessel or due to the fact that the required order had not been available on time.

III. Special Provisions for Handling of Goods

16. Berths

- 16.1 The berths which serve for loading and discharging of the vessels are assigned by the port authorities in co-ordination with NTB. For this purpose all vessels intending to use the berths at the NTB facilities shall beforehand be reported to NTB. At the same time, the ship's agent shall provide the information required in respect of the handling measures to be taken.
- 16.2 Irrespective of the assignment of a berth in accordance with No. 16.1, the vessel must permanently comply with the provisions under public law, particularly those of Bremisches Hafengesetz and Bremische Hafenordnung, for the use of the assigned berth.
- 16.3 In the interest of the best possible utilization of the NTB facilities and to guarantee a smooth operation, NTB may request a vessel to move to another berth or to leave the berth assigned to it immediately after completion of the handling operations. In the event of a vessel not complying with the directions given by NTB in accordance with phrase 1, NTB may upon co-ordination with the port authorities have the ordered measures carried out by third parties for the vessel's account and risk.

17. Dispatch of vessels

- 17.1 The order of dispatch of vessels shall be determined by NTB in its own discretion after due consideration of all facts and circumstances.
- 17.2 Manifests (loading lists etc.) shall be submitted in good time thus enabling NTB to make the necessary handling arrangements. Loading or discharging vessels shall arrange their operations in the hatches or on deck in such a manner as to avoid any delay or interruption of works carried out on the quay. NTB may request the vessels to work without interruption until completion of operations.
- 17.3 NTB may suspend the handling of cargo and request the vessel to move to another berth if this proves to be necessary on account of reasons related to the nature of the goods or in the event of the vessel or of the stevedores employed by the vessel not duly complying with their obligations for whatever reason. NTB shall not be liable for any disadvantage arising thereof for the vessel.
- 17.4 Loading and discharging of the vessel by means of the vessel's own lifting gear requires NTB's explicit consent in writing.

18. Ship's representative

Agreements entered upon with the ship's representative (the ship broker acting for the vessel, ship's agent, the shipowner or the carrier) shall be similarly binding for the vessel as agreements made with the master.

19. Railroad transport

- 19.1 To the extent that NTB arranges for the procurement of railway wagons, NTB shall not be liable for timely provision of such wagons. The Customer itself has to obtain information as to timely provision of the wagons from the operating units.
- 19.2 In the event of railway wagons being ordered by NTB and the Customer having failed to specify the type of wagons required, such order shall be made at NTB's discretion and at the Customer's risk.
- 19.3 Loading and discharging at the NTB facilities shall be effected exclusively by NTB or by subcontractors engaged by NTB in accordance with the details specified in the orders placed with NTB.
- 19.4 When loading goods on railway wagons, NTB shall carry out those securing operations for the goods which are required by reason of safety of operation in accordance with the loading regulations of the respective railway operator. Any additional securing measures for the protection of the goods shall be carried out by NTB only if it has been explicitly requested to do so; the costs of such securing measures shall be invoiced separately to the Customer.
- 19.5 In respect of goods discharged by NTB from railway wagons, NTB does not notify the consignee mentioned in the waybill of the arrival of the goods or of differences between statements made in the waybill and the actual facts.

20. Motor vehicle transport

- 20.1 Goods arriving or to be dispatched by motor vehicles are generally discharged or loaded by NTB in accordance with the details stated in the orders received.
- 20.2 Securing of loaded goods for their protection and for the motor vehicle's operational safety does not form part of the handling order. If securing of the goods on motor vehicles is effected by NTB on the basis of a separate order, such securing shall be carried out in accordance with directions received from the responsible driver; costs of such securing shall be invoiced separately to the Customer.
- 20.3 No. 19.5 shall apply mutatis mutandis.

21. Acceptance of goods from inland

- 21.1 If not otherwise agreed in an individual case, goods arriving from inland shall be discharged by NTB from the means of transportation and be accepted for further handling at places to be determined by NTB. Discharging and acceptance of the goods delivered to NTB will be carried out by NTB continuously subject to its operational possibilities.
- 21.2 NTB may refuse acceptance of goods for which there is no evidence that they have firmly been disposed of for onward transport.

- 21.3 For operational reasons NTB may make the acceptance of certain goods subject to prior agreement, particularly those of big consignments.
- 21.4 If containers are being delivered for a certain carrier or shipowner, NTB will accept such containers on behalf of the named carrier or shipowner. In such a case, any onward disposals in respect of such containers will be possible only upon consent of the named carrier or shipowner. If containers are delivered without nomination of the carrier or shipowner, they may be kept in custody for the supplying party until NTB receives directions to the contrary. In this respect, every handling order shall be considered as a direction to the contrary.
- 21.5 Upon delivery of cargo, the Customer and the delivering party are obliged to state the following in writing or in any other legible form:
- name and address of the person making the statement
 - port of discharge
 - name of the vessel
 - quantity, marking and numbering of the packages
 - kind of packaging
 - weight; for items weighing more than 1,000 kg: individual weights
 - for goods based on size (volume measuring more than five times): volume
 - contents (precious objects, inflammable or otherwise dangerous goods, anaesthetics, firearms, as well as goods that are subject to embargo or restrictions as to export and transit have to be marked as such; No. 9.3 has to be complied with.
- 21.6 Prior to the take-over of the goods by the vessel, the Customer is obliged to carry out in time all measures with regard to the goods as required by law or the local authorities.
- 21.7 If the Customer does not give the information in accordance with No. 21.5 or too late or incomplete or does not fulfil his obligations in accordance with No. 21.6, the loading might not be carried out; the Customer is liable for the costs thereby incurred by NTB.
- 21.8 Should goods taken over by NTB not be transhipped within 6 (six) days, - with the exception of goods in containers – NTB may treat these as stored goods (No. 30 seqq.)

22. Packing of containers, flats and trailers

If NTB upon the order of a ship's agent undertakes the packing of conventionally delivered goods into containers, onto flats or trailers, the loading of every single package into container, onto flat or trailer shall be deemed as delivery to the vessel, with the understanding that from this moment NTB will keep custody of the respective package for the vessel, until the packed container, flat or trailer has been put on board of the vessel.

23. Loading of vessels

- 23.1 Empty or loaded containers, flats and trailers are moved by NTB by means of its own equipment to the stowage place stipulated by the vessel. This shall similarly apply to loading units moving by their own power. NTB shall, upon separate order, furthermore assume the lashing of containers, flats, trailers or other cargo units having been loaded by it.
- 23.2 Conventionally transported goods shall be lifted on board the vessel by NTB's own lifting gear. Upon complete passing of the ship's rail, each heave shall be considered as taken over by the vessel. Any activities carried out by NTB after this moment and serving the purpose of moving the goods to their final stowage place, including the further use of equipment, shall be effected on behalf of the vessel. Within the vessel's area, NTB's lifting gears shall operate from and up to the ship's rail in accordance with instructions received from the vessel's crew. Accordingly, the vessel has to provide for competent signalling by a signal man. Furthermore, possibly required supporting measures as, for instance, leading of the goods' movements while being veered and detaching of the goods from the crane hook shall be incumbent upon the vessel at her sole responsibility.
- 23.3 Upon NTB's request access to such areas of the vessel where NTB operates its lifting gears has to be granted to its employees. The responsibility of the staff employed by the vessel for tasks incumbent upon it as, for instance, signalling, shall remain unaffected thereby.
- 23.4 Damage to goods which is outwardly visible has to be notified in writing by the ship's command to NTB upon taking delivery of the goods, failing which the goods are deemed to have been received undamaged.

24. Discharging of vessels

- 24.1 The Customer shall provide a loading list at least 48 hours prior to commencement of discharge.

The loading list has to contain the following details:

1. name and address of consignee
 2. quantity, marking and numbering of the packages
 3. kind of packaging
 4. weight, for items weighing more than 1,000 kg: individual weight
 5. for goods based on size (measuring more than five times): volume
 6. contents (precious objects, inflammable or otherwise dangerous goods, anaesthetics, firearms, as well as goods which are subject to embargo or restrictions as to export or transit have to be marked as such).
- 24.2 Containers, flats or trailers are being discharged by NTB and brought ashore by means of its own equipment. As soon as deposited on the first interim storage place ashore they shall be deemed as having been taken over by NTB. The same shall apply mutatis mutandis for cargo units moving by their own power.
- 24.3 If NTB does not unpack goods stowed in containers, on flats or trailers, NTB will keep such goods in its custody for the discharging vessel, until delivery to the consignee or until subsequent transshipment of such containers, flats or trailers onto connecting means of transportation respectively. Goods stowed in containers,

on flats or trailers which are unpacked by NTB upon the order of a ship's agent will be kept in its custody until completion of the unpacking procedures for the vessel. After this moment, the goods unpacked shall be deemed as having been taken over by NTB; from then onwards they will be treated in the same way as conventionally carried goods taken over by NTB from a vessel.

- 24.4 For discharging purposes, conventionally carried goods shall be attached by the vessel's stevedores in the hatches or on deck of the vessel to the lifting gear of NTB in such a manner as to make sure that the crane hook and the crane cable be in a vertical position during the heaving procedures. The vessel has to deliver the individual B/L-consignments separately and completely and, if possible, in equal heaves.
- 24.5 Upon passing of ship's rail, the goods shall – subject to detailed statements as to the respective number of pieces, condition etc. - be deemed as having been taken over by NTB. Besides that, No. 23.2 phrase 4 shall apply mutatis mutandis.
- 24.6 No. 23.3 shall apply mutatis mutandis. In case of handling conventionally carried goods, the vessel shall furthermore always remain responsible for a continued supervision of the handling gear during discharging operations.
- 24.7 In respect of goods taken over from sea-going vessels, NTB does not assume the carrier's task to notify the consignee of the arrival of the goods or of differences between declarations made in the shipping documents and the actual facts.

25. Shore-side delivery and loading

- 25.1 In respect of goods landed by vessels, NTB may, until final completion of the discharging operations of the vessel concerned, refuse delivery and handling of the goods to the extent as otherwise, in its own discretion, proper performance of the discharging operations and the required control of the consignments to be delivered might be impaired.
- 25.2 NTB will deliver the goods to the party submitting, besides a delivery order or shipping order to be filed, a release note of the ship's agent identifying it as the legitimate consignee. At NTB's request, the consignee has to prove its identity; NTB, however, is not obliged to check the identity. The consignee has to acknowledge towards NTB the receipt of the goods.
- 25.3 Delivery of goods shall be effected only against payment of the entirety of remunerations charged by NTB for these.
- 25.4 The goods to be delivered shall be loaded by NTB onto means of land transportation at places to be determined by NTB in accordance with the details set forth in Nos. 19 and 20.

26. Direct and indirect handling

- 26.1 Unless otherwise agreed, the goods to be handled shall be placed into interim storage by NTB. NTB may put goods which are generally suitable for such kind of storage into interim storage in the open.
- 26.2 NTB may refuse direct transshipment operations applied for to the extent as these would unreasonably impair for NTB the handling of the goods concerned or any other handling operations.

- 26.3 If NTB effects direct transshipment as ordered, it shall be responsible for verification of the identification marks on the goods only when such procedure proves to be feasible in the ordinary course of handling operations without particular difficulty.

27. Treatment and processing of goods in transit

- 27.1 In the sheds and open storage areas serving the purpose of interim storage of goods in transit, NTB may grant the persons authorized to dispose of the goods and their representatives permission to treat their goods to the extent customary in the Bremen ports. This shall, however, not apply to goods delivered to such NTB facilities where the treatment is being exclusively effected by NTB.
- 27.2 The persons authorized to dispose of the goods shall make sure that the goods be again properly compiled or stockpiled as well as that the required clearance work is performed. In case of failure to do so, such work will be arranged for by NTB on account of the party entitled to dispose of the goods.
- 27.3 Preparatory measures for handling operations, especially the compilation of goods to units on or inside means of loading or transport as, for instance, pallets, containers, flats or trailers as well as the splitting up of such loading or transport units including any related secondary activities (for instance lashing or unlashng) shall be carried out only by NTB.
- 27.4 To the extent that, in the opinion of NTB, goods delivered would require repairs or other measures in respect of their conservation or securing, NTB may effect or have effected such services on account of the party entitled to dispose of the goods, provided that the Customer or the person entitled to dispose of the goods has not been reachable on time and therefore been unable to personally arrange for such measures.

28. Stoppage of loading. Return of goods

- 28.1 Goods accepted for shipment will be held back if the Customer or the deliverer demands this in writing or in the form requested by NTB. Costs incurred by these measures are to be borne by the Customer.
- 28.2 The deliverer is entitled to take back the goods after payment of all costs incurred unless NTB keep these already for a third party (e.g. the vessel).

29. Reefer Containers

- 29.1 NTB will connect the reefer containers to be taken over to the electric power supply within 12 hours after receipt, if the documents handed over to NTB clearly show that these reefer containers contain goods to be cooled. This applies only if such a reefer container was notified as a reefer container to be connected to the electric power supply at least 24 hours before its arrival at NTB. The temperature to be set will be derived from the written cooling order to be handed over to NTB before arrival by the Customer or by a third party instructed by it. This cooling order has to clearly state the container number and the minimum information required by NTB. In case such information is missing, is incomplete or not properly given, NTB may, without being obliged hereto, take suitable temperature details from other documents at hand. In this respect NTB is not subject to any responsibility. NTB is further not obliged to check the correctness of the given details in the cooling order or in other documents addressed to it. The Customer bears the costs of the electrical connection and consumption.

29.2 NTB may refuse the acceptance of reefer containers if it is not able to provide any or suitable electrical connections for these reefer containers.

29.3 NTB is not responsible for observing time limits for cooling and storing of goods and need not supervise same.

IV. Storage of Goods

30. Storage

30.1. In general, NTB takes over the goods only for the purpose of cargo handling and in this regard to provide these temporarily for transport. Transit goods staying longer – see in particular Nos. 2.2 and 21.8 – will be treated as stored goods according to the law relating to storage. NTB will store and supervise such stored goods in a customary way. NTB is entitled to store means of transport / containers also in open area on a storage place designated by it. The same applies for goods in seaworthy package and for unpacked goods suitable for storage in open area. NTB may rearrange the storage of stored goods within its facilities. In special cases NTB is also entitled to store the goods with third parties outside of its own premises. NTB shall inform the depositor / Customer of the storage place. The storage fee can be seen from NTB's Tariff subject to a separate agreement.

30.2 The person entitled to dispose of the goods may in co-ordination with NTB inspect the stored goods or may have them inspected by an authorised person, during NTB's business hours, adhering to the internal safety rules and paying the respective charges.

30.3 Without special agreement NTB is not obliged to perform measures for the maintenance or the improvement of the stored goods. However, it is entitled to carry out such measures at the cost of the person entitled to dispose of the goods / Customer if these seem to be necessary to prevent damage to the goods, to other goods or to the storage rooms.

31. Duration of Storage

31.1 If not agreed otherwise with the Customer / person entitled to dispose of the goods, NTB may at any time demand the taking back of the stored goods. Should exceptionally a duration for the storage have been agreed or should NTB have committed itself to store the goods until further notice, NTB may for good cause cancel this agreement without notice, in any case, however, after storage for one month at one week's notice time. A good cause is given in particular if the Customer / person entitled to dispose of the goods is in arrears with payment of the storage fee for more than 2 weeks, if the sales value of the goods does not cover NTB's claims anymore or if the goods pose a danger or if they threaten to deteriorate.

31.2 At the time of termination of the contract or at NTB's request respectively the Customer / person entitled to dispose of the goods has to take the goods back within 3 (three) working days. Should the obligated party not comply herewith after having been given an appropriate additional period to do so, NTB has the rights according to No. 32.

32. Sale of Stored Goods

- 32.1 In the cases of No. 31.2 and as to stored goods which have been stored with NTB for more than two months and for which a beneficiary is not known, cannot be found or is not resident in Germany, NTB may have the goods publicly auctioned or – should they have a market value – sell them in the open market. The same applies if the storage fees due have despite reminders and threat of sale not been paid within an appropriate time limit set by NTB.
- 32.2 The beneficiary will be advised of the intended sale. Should a beneficiary not be known and not to be traced, the intended sale will be announced in an official gazette. The sale must not be carried out until elapse of time of one week after the announcement.
- 32.3 NTB is not bound by the aforementioned time limits and not obliged to advise of the sale if the goods are easily perishable or of inferior value and the sale proceeds will not, in its opinion, cover the charges due.
- 32.4 Should no buyer be found for the goods to be sold, NTB may have them removed or destroyed at the expense and risk of the Customer or the beneficiary respectively.
- 32.5 NTB's claims for storage fees and other costs for the goods may be settled out of the sales proceeds. Furthermore, NTB has a lien on the goods and on the sales proceeds; No. 34 is applicable. Should the beneficiary not be known, its claims for payment of the sale proceeds as far as exceeding NTB's claims according to sentence 1 and 2 are time-barred after one year as from the date of the sale. NTB will deposit publicly the sales proceeds not demanded in time by the beneficiary, if the latter is known.

V. Compulsory Measures

33. Goods which cannot be delivered or are excluded

- 33.1 Goods the acceptance of which is refused or cannot be effected in time or for which no party entitled to dispose of can be identified, or goods whose acceptance is not possible for any other reason whatsoever, may be stored by NTB, at its own discretion, on account and risk of the Customer or of the person entitled to dispose of the goods.
- 33.2 NTB shall be entitled to sell the goods described in No. 33.1 at the best price without any further formalities, if such goods are inherent to deterioration or if, due to given local circumstances, they cannot be stored or if their value due to prolonged storage or due to costs resulting thereof, would be disproportionately diminished. NTB may also sell without further formalities goods for which no party authorized to dispose of can be identified.
- 33.3 Goods having been delivered to NTB's facilities without prior notice or without observing the provisions set forth in No. 11, as well as goods which in the opinion of NTB are to be considered as deteriorated, must be removed at NTB's request. If such request is not immediately complied with, NTB shall, at its own discretion, be entitled to store such goods somewhere else on account and risk of the party authorized to dispose of the goods, to sell such goods without further formalities or, if these alternatives turn out to be unfeasible, destroy or have such goods destroyed.

- 33.4 Where the party authorized to dispose of the goods is known, NTB shall notify the said party of the measures intended to be taken in accordance with Nos. 33.2 and 33.3.
- 33.5 The proceeds from a sale according to Nos. 33.2 and 33.3 after deduction of the incurred costs are held at the disposal of the person entitled to dispose of the goods. The claim for the proceeds will be time-barred after one year as from the date of the sale. Otherwise No. 32.5 is applicable.

34. NTB's lien and right of retention

- 34.1 NTB as a lien for all claims resulting from the contract with the Customer on the goods of the Customer or of a third party who has agreed to NTB's handling these goods. NTB has also a lien and a right of retention on all goods of the Customer for claims under other contracts with the Customer as far as these claims are undisputed or adjudged by a final judgment. These rights also encompass amounts deposited in lieu of goods as well as claims substituting goods by way of compensation for fire damage or for any other reasons. Claims as described in the preceding phrase shall, as from the date of their incurrence, be considered as assigned to NTB.
- 34.2 If the debtor is in default, NTB shall be entitled - after one demand for payment made in vain - to sell without further formalities such quantity of the goods which, in NTB's discretion, is required to satisfy its claims. A sale without further formalities may also be made if the debtor cannot be traced.

VI. Dealing with Loss or Damage

35. Ascertainment of loss or damage

- 35.1 Upon acceptance and delivery as well as upon direct transshipment of the goods, NTB will ascertain only such defects which can be easily detected by external inspection (see No. 10). The result shall be recorded in writing or collected on electronic data media whereof the party authorized to dispose of the goods will be informed upon request.
- 35.2 In the event a loss or shortage of or damage to the goods having been accepted by NTB is being notified by the party authorized to dispose of the goods, NTB shall ascertain the condition of the goods and, if possible, also the cause of and the date when the damage occurred and shall inform in writing the party authorized to dispose of the goods about the result.
- 35.3 Upon acceptance of goods from a vessel, NTB will not exercise towards the carrier any rights of the consignee arising from the bills of lading, way-bills or other transport documents. In particular, the filing of the notice of loss or damage pursuant to Art. 510 German Commercial Code (HGB) or the participation in the inspection of the goods induced by the vessel shall not be incumbent upon NTB.

36. Notice of loss or damage

- 36.1 Any loss of or damages to the goods shall be notified in writing to NTB no later than upon delivery of the goods to the legitimate consignee or its authorized agent. If the loss or the damage are not externally discernible, it shall be sufficient to dispatch such notice within three days as from that moment. Such notice shall contain an acceptably precise description of the loss or the damage. An only general description of the loss or damage is not sufficient.
- 36.2 The loading of goods into railway wagons or containers, flats or trailers as well as the delivery of the goods to the vessel shall be considered as equivalent to delivery to the legitimate consignee.
- 36.3 A notice in accordance with No. 36.1 shall not be required if the condition of the goods or their measure, number or weight have been ascertained and recorded in writing with the assistance of an NTB employee competent for surveying damages no later than at the moment mentioned in No. 36.1 phrase 1.
- 36.4 In the event of a loss or damage to the goods having neither been notified nor been ascertained in the manner described in No. 36.3, it shall be presumed that the goods have been delivered in their entirety and in the condition stated in NTB's handling documents, and that, in case that evidence of loss of or damage to the goods should be given, such loss or damage has to be attributed to circumstances beyond NTB's control.

VII. Liability; Limitation Period

37. Customer's Liability

- 37.1 The Customer shall be liable for any damage caused by him, in particular for damage resulting from neglect or defaults in customs processes and for damage resulting from incorrect, inaccurate, insufficient or delayed statements, particularly in respect of the number of pieces, weight, nature of goods (for instance dangerous properties), special features of the means of transport and for damage due to inherent vice of the goods or their packing. The liability refers in particular to damage to the goods and their packing itself, to NTB's facilities, to goods stored or handled there as well as to property of a third party or to persons. Sect. 413, 414 German Commercial Code shall apply accordingly.
- 37.2 The Customer shall be liable for faults of its servants to the same extent as for his own faults.
- 37.3 The Customer is liable for all costs, expenses and expenditures incurred due to measures having been taken at administrative request (e.g. police, fire brigade, customs, disaster control or similar) falling into the sphere of risk of the Customer, or because an infringement by the Customer of provisions of these general conditions did lead to such costs, expenses or expenditures incurred by NTB.

38. NTB's Liability: Cargo Handling, Forwarding Operations

- 38.1 NTB is liable according to legal provisions under sec. 425 to 439 German Commercial Code (liability of the carrier) with consideration of the following provisions, for violation of its duties during handling of cargo and all ancillary performance, including interim storage due to cargo handling. For freight forwarding operations by NTB, the ADSp (see No. 7) are paramount and otherwise the following provisions are applicable.
- 38.2 For the indemnity for loss of or damage to goods the following provisions are applicable, which in part differ from the legal provisions:
- a) The indemnity for loss of or damage to goods is limited to the amount of two units of account for each kilogram of the gross weight of the goods.
 - b) If the cargo comprises of several packages (consignment) and if only single packages have been lost or damaged, the calculation according to subparagraph a)
 - (i) shall take as a basis the whole consignment, should the whole consignment be devalued, or
 - (ii) shall take as a basis the devalued part of the consignment, should only that part of the consignment be devalued.
 - c) The above mentioned unit of account is the Special Drawing Right of the International Monetary Fund. The amount will be converted into Euro equivalent to the value of the Euro to the Special Drawing Right on the day of the receipt of the cargo to be handled or on a day agreed by the parties. The value of the Euro to the Special Drawing Right is calculated according to the method which the International Monetary Fund applies for its operations and transactions on that respective day.

- 38.3 NTB is liable for exceeding the delivery date / agreed delivery period only up to threefold the amount of the calculated charge for the container or cargo concerned.
- 38.4 Should the cargo handling by NTB lead to NTB's liability as performing carrier under sec. 509 German Commercial Code, it is expressly agreed that NTB is not liable for negligence of its servants if the damage is due to:
- a) fire or explosion on board the vessel or
 - b) conduct in the navigation or in the management of the vessel (except for measures taken mainly in the interest of the cargo).

In this respect the Customer is explicitly referred to its obligation under No. 41.6.

- 38.5 NTB's liability for consequential cargo damage, mere financial losses and other consequential damage as well as for lost profit is excluded explicitly.
- 38.6 The limitations and exclusions of liability in this section are not applicable if the damage can be attributed to an act or omission which NTB, their bodies, employees or servants have committed intentionally or negligently and with knowledge that damage will probably occur.

39. **NTB's Liability: Storage (No. 30 seqq.)**

- 39.1 NTB's liability for loss of or damage to the goods including their packaging is limited to their fair market value. A liability for consequential cargo damage, mere financial losses and other consequential damage as well as lost profit is explicitly excluded. NTB is not liable for an atypical damage.
- 39.2 It is assumed that a damage which according to the circumstances might have resulted from
- a) acts of state, force majeure, terror attacks, strike, lockout or other impairments of work,
 - b) acts or omissions of the party entitled to dispose of the goods or its servants,
 - c) loading or discharging of the goods by the party entitled to dispose of the goods, or its servants,
 - d) missing or defective packaging, insufficient or wrong labelling, markings, indication of measures or weights, insufficient designation of centres of gravity or the points earmarked for the attachment of hooks,
 - e) inherent vices or the peculiar nature and condition of the goods,
 - f) agreed or usually effected storing the goods outdoors, in only roofed sheds or in such rooms in which according to No. 25 treatment of the goods is permitted to the person entitled to dispose of the goods or its representative

has arisen out of such risk. NTB is not liable for such causes of damage.

- 39.3 NTB's liability is otherwise limited according to the provisions in No. 38.2 and 38.3 regarding amounts due.

- 39.4 The exclusion and limitation of liability in this number are not applicable in case of intent or gross negligence of the management or executive employees of NTB as well as in case of violation of fundamental contractual obligations.

If the damage occurred due to a slightly negligent violation of fundamental contractual obligations (Kardinalpflicht) by a simple servant of NTB, the limitations of liability according to this No. 39 are not applicable only in case the customer has notified NTB in writing of a higher value of the goods at the time of placing the order and well in time prior to commencement of NTB's activity. The notified value of the goods is then deemed to be the limit of liability. NTB in this case will insure its activity additionally with regard to the notified value of the goods at the costs of the customer.

- 39.5 The liability of NTB for slightly negligent acts or omissions of its simple servants is excluded (subject to the provision in number 39.4, 2nd paragraph).

40. Force Majeure

Damage, disbursements and/or delays which are caused by force majeure do not result in a claim for damages or reimbursement of the respective other party. Force majeure are in particular, but not limited hereto, natural phenomena (such as storm (more than 7 Bft.), flooding, stroke of lightning, snow, ice, hail), fire, explosion, strike (also in form of working to rule), lockout, theft by third parties (as long as NTB has taken reasonable measures to prevent same), and other events which could not be prevented by the party concerned with reasonable measures. For the period during which the force majeure event or its impacts continue, the party concerned is exempted from its obligation to perform. The party concerned has to inform the other party in writing within 14 calendar days of the occurrence and the expected duration of the force majeure event and, if possible, its impact.

41. Additional Provisions regarding NTB's Liability

- 41.1 NTB is liable for direct damage other than damage to goods or damage due to delays only up to a maximum amount of € 50,000.00 any one event except in a case of intentional or grossly negligent acts or omissions of the management or of executive employees of NTB.
- 41.2 The limitations and exclusions of liability in numbers 38 to 41 do not apply in case of bodily injury, death or injury to health.
- 41.3 The provisions regarding liability in numbers 38 to 41 refer to claims of whatever legal basis, including claims in tort.
- 41.4 Should in the event of damage several persons be entitled to indemnity claims against NTB together exceeding the maximum liability provided for in No. 38 or 39 respectively, the maximum claim of each claimant if it as such exceeds the maximum liability amount is to be reduced to that maximum amount. The maximum amount payable by NTB will then be distributed proportionally in regard of the total sum of all claimed amounts so reduced. Should the amount of individual claims or the distribution among the claimants be disputed, NTB may exempt itself from liability towards all claimants by publicly depositing the total maximum liability amount.

- 41.5 Should claims be directed against NTB's bodies or employees or against such persons for which NTB has a fiduciary duty, these persons may invoke all liability limitations and exclusions to which NTB is entitled. This does not apply if the body, employee or person concerned acts intentionally or negligently and with knowledge that damage will probably occur.
- 41.6 The Customer is obliged to keep harmless NTB, its bodies, employees, sub-contractors or other servants from claims of third parties with whom the Customer has contracted, as far as these claims exceed NTB's limitation of liability according to this section of these General Terms and Conditions. The liability of the Customer has by agreement with the third party to be limited to the amounts mentioned in Section VII of these General Terms and Conditions or to be excluded by agreeing corresponding exclusions of liability.
- 41.7 The Customer and NTB assume that the limitation of liability mentioned in Nos. 38 seqq. corresponds with regard to the amounts with the typically predictable damage according to the type of contract. Should this not be so in individual cases, the Customer has to inform NTB in writing. If in such a case a different limitation amount shall be agreed, this has to be done in writing to be effective.

42. Limitation Period

- 42.1 All claims against NTB its bodies, employees and servants due to damage to or loss of goods or due to exceeding delivery terms, being subject the provisions in No. 38 and 39 shall be time-barred in one year. If the damage has been caused intentionally or negligently and with knowledge that damage probably will occur, the prescription period is three years.
- 42.2 Sec. 439 Abs. 2 HGB (German Commercial Code) is applicable to determine the beginning of the prescription period under No. 42.1. On the preconditions of set out in sec. 439 Abs. 3 HGB (claiming indemnity in writing) the running of the prescription period is suspended.
- 42.3 All other claims – of whatever legal basis – against NTB, its bodies, employees and servants will be time-barred in one year. The prescription period begins at the date of origination of the claim.

VIII. Final Provisions

43. Application of Law; Place of Fulfilment and Jurisdiction

- 43.1 German law applies to all legal relationship between NTB and its Customers.
- 43.2 Place of fulfilment is Bremerhaven; for all disputes out of or in connection with the contractual relationship between the Parties the Amtsgericht Bremerhaven or the Landgericht Bremen respectively shall be competent; for claims against NTB these courts are exclusively competent.

44. Possible Part-Ineffectiveness

- 44.1 Should one of the foregoing provisions be or become ineffective in whole or in part, the effectiveness of all other provisions of these General Terms and Provisions of Business is not affected.
 - 44.2 The ineffective part-provision has to be replaced in the way of an amendment of the contract by such a provision which achieves the intended purpose as far as legally possible.
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