

Service Terms and Conditions

Status: November 2021

Subject to these terms and conditions (version March 2020), VTG Tanktainer GmbH, Nagelsweg 34, 20097 Hamburg (hereinafter, "VTG Tanktainer") operates in accordance with the Allgemeine Deutsche Spediteurbedingungen 2017 – ADSp 2017 – (German Freight Forwarders' General Terms and Conditions 2017). The ADSp 2017 can be downloaded in English and German on the website of the German Freight Forwarders Association (DSLV). In case of doubts, the German version of the ADSp 2017 shall prevail.

Note: In clause 23 the ADSp 2017 deviate from the statutory liability limitation in section 431 German Commercial Code (HGB) by limiting the liability

- (i) for multimodal transportation with the involvement of sea carriage and an unknown damage location to 2 SDR/kg and,
- (ii) in any event additionally to Euro 1.25 million per damage case and EUR 2.5 million per damage event, but not less than 2 SDR/kg.

With regard to shipments which involve a carriage of goods by sea the VTG Tanktainer Bill of Lading Conditions (which can be found on the VTG web-site www.vtg.com/logistics/tank-container-logistics), as amended from time to time, shall apply in addition to these terms and conditions. In case of dispute the VTG Tanktainer Bill of Lading Conditions shall prevail.

The Principal is responsible to inform the Consignee(s) and/or buyer(s) of these Terms and Conditions.

1 Definitions

- 1.1 Container means any tank Container or dry box Container equipped with flexi bag(s).
- 1.2 Customer includes the Principal, the Shipper and/or the Consignee.
- 1.3 Customer's Equipment means any Container not provided by the Freight Forwarder.
- 1.4 Demurrage means Container Demurrage and/or other charges including, but not limited to terminal charges, in respect of any Container as described in Clause 5.1.
- 1.5 Force Majeure Event means hazards or dangers incident to a state of war or belligerency; any act or restraint of any government or public authority acting with actual or apparent authority; strikes, riots, or civil unrest (whether or not involving the Freight Forwarder's employees); fires, water damages, floods, tremors, earthquakes, mudslides, snowstorms, tornadoes, hurricanes, monsoons, eruptions and other natural disasters and extreme weather conditions; and/or acts of God and/or other circumstances outside the party's control.
- 1.6 Free Time means the period of time, generally expressed in days, offered by the Freight Forwarder to the Customer free of charge, beyond which additional charges such as, but not limited to Demurrage, will be due to the Freight Forwarder.
- 1.7 Freight Forwarder means VTG Tanktainer GmbH, Nagelsweg 34, 20097 Hamburg.
- 1.8 Freight Forwarder's Equipment means any Container provided by the Freight Forwarder.
- 1.9 Principal means the entity which concludes a freight forwarding contract with the Freight Forwarder.
- 1.10 Supplemental Charges means any and all costs, expenses, charges and outlays which are not expressly stated to be included in the remuneration.

Expressions defined in the ADSp 2017 shall have the same meaning when used in these terms and conditions, unless defined otherwise herein or unless the context does not permit so.

2 Non-binding offers

Any offer/quotation by the Freight Forwarder is non-binding, unless otherwise expressly provided for or agreed upon by the parties. Vessel or rail slots or truck availability are not guaranteed. Acceptance of bookings is subject to, inter alia, the availability of Containers.

3 Remuneration and Supplemental Charges

- 3.1 The services according to the Freight Forwarding Contract are compensated for by the agreed remuneration, which includes the costs for transportation and storage.

- 3.2 Unless otherwise provided or expressly agreed upon by the parties, the following conditions shall apply:
- 3.2.1 The remuneration includes Bunker Adjustment Factor (BAF), Currency Adjustment Factor (CAF), Peak Season Surcharges (PSS), wharfage and International Ship and Port Facility Security (ISPS) charges.
 - 3.2.2 Extraordinary costs occurred during transportation or storage, which were not foreseeable at the time of the offer, and costs not included in the remuneration will be charged separately, unless otherwise agreed.
 - 3.2.3 All prices are net prices, and are exclusive of statutory VAT.
 - 3.2.4 Remuneration and Supplemental Charges are due 30 days after billing and receipt of the invoice.
- 3.3 Due remuneration and Supplemental Charges are primarily charged to the Consignee. The Principal remains under obligation to pay the sums owed under the contract.

4 Terminal Charges

- 4.1 Terminal Handling Charges (THC) at the port of departure are included in the remuneration. However, terminal charges are not included in port-to-port offers.
- 4.2 In case of pier deliveries, Terminal Handling Charges (THC) at the port of destination are not included in the remuneration.
- 4.3 Lift in charges at our depot are included in the remuneration.

5 Demurrage

- 5.1 Demurrage will be charged to the Customer if and to the extent Freight Forwarder's Equipment will be kept by the Customer or by any of its agents in excess of the Free Time ("Container Demurrage"). Container Demurrage is payable in respect of any overdue Freight Forwarder's Equipment until its return in empty condition and free of damage to the designated return location. Further, if and to the extent a Container remains at a port, terminal, depot or other facility in excess of the Free Time, any additional costs arising in connection with the relevant Container, whether Freight Forwarder's Equipment or Customer's Equipment, including, but not limited to storage charges or extra lifting costs, will be charged separately to the Customer, unless the Freight Forwarder is responsible for the Free Time being exceeded.
- 5.2 The applicable Free Time, charges and specific terms and conditions are stated in the Freight Forwarder's offer.
- 5.3 Generally, Demurrage is stated as amount per day. Each day or part thereof is due in full. Demurrage is billed on a monthly basis and/or when the Container is redelivered.

6 Prior day or next day delivery

All costs arising from or in connection with a subsequent change of the agreed loading / delivery schedule are not included in the remuneration.

7 Special equipment

- 7.1 Costs for special equipment (e.g. hoses, pumps, compressors, weight scaling, handrails), if applicable, are not included in the remuneration, unless agreed otherwise.
- 7.2 If the need of special equipment is not mentioned in the order, any consequent costs including, but not limited to extra shunting or trucking costs or waiting time will be charged separately.

8 Heating

In case heating is necessary, all costs for heating and related costs, such as costs for the shunt, handling and waiting time, are not included in the remuneration.

9 Cleaning

- 9.1 The cleaning costs relating to Freight Forwarder's Equipment are included in the remuneration up to the amount and subject to the maximum residue levels (in litres or kilograms) stated in the Freight Forwarder's offer. Any additional costs incurred in order to recondition Freight Forwarder's Equipment to its state at the time of take-over by the Customer, including but not limited to the cost of the removal of stains and residual heel, which cannot be effected by ordinary washing and steam cleaning ("Demand for Extraordinary Reconditioning"), will be charged separately, unless the Customer can demonstrate that the Demand for Extraordinary Reconditioning is due to circumstances the Freight Forwarder is responsible for.

9.2 In any event, residue disposal costs, if any, are not included in the remuneration.

10 Insurance

10.1 The remuneration does not include any kind of insurance premium.

10.2 The Freight Forwarder is not responsible for arranging insurance cover for Customer's Equipment.

11 Customs

11.1 The Customer is responsible for the customs clearance unless there is an explicit agreement between the Principal and the Freight Forwarder according to which this is to be arranged by the Freight Forwarder.

11.2 The Customer shall be liable for any duty, tax, levy, impost, fine settlement or outlay and all associated costs or damages of whatsoever nature claimed or imposed by any relevant authority for, or in connection with, the goods and the connected customs procedures and customs documents. The Customer shall be liable and responsible for any payment, settlement of fines, expense, damage or loss incurred or sustained by the Freight Forwarder in connection therewith.

11.3 The remuneration does not include any customs duties, clearance or fees, costs arising out of customs procedures and/or authorizations, taxes and export formalities whatsoever.

11.4 If the Freight Forwarder has explicitly agreed to arrange customs clearance, an extra fee, to be agreed, on any duty, VAT, any other taxes, expenses and outlays incurred by the Freight Forwarder will be charged.

12 Loading and discharging of the Containers

12.1 The Customer is responsible for loading and discharging the Containers.

12.2 The Freight Forwarder shall be free from any liability for loss of or damage to goods, if such loss or damage was caused in the course of loading or discharging of the goods by or on behalf of the Customer.

12.3 If any person, used by the Freight Forwarder to perform its obligations, assists in the loading or discharging process, this assistance shall be deemed to be carried out by order, under the supervision, and on behalf, of the Customer. The Freight Forwarder is not liable for any damages incurred in connection with the assistance provided.

13 Additional inspections

Customs and/or other authorities (e.g. veterinary authority) as well as the Customer may carry out additional inspections of the Container and/or the goods. The costs for such inspections and/or any other costs related thereto are not included in the remuneration.

14 Suitability of equipment

The Freight Forwarder is entitled to assume that the Container which is made available to the Customer is suitable for the goods. The Customer must inform the Freight Forwarder without undue delay, in any case prior to loading, if the goods cannot be carried in the respective Container without the risk of causing damage to the Container, especially its interior tank shell, if any.

15 Dangerous Goods / Labelling

15.1 In case of Dangerous Goods, the documentation, that must be transmitted by the Principal to the Freight Forwarder, must include, inter alia, a correct and complete Material Safety Data Sheet (MSDS) and a Dangerous Goods Declaration (DGD).

15.2 The Principal is responsible to arrange the correct labeling of the Container according to all applicable rules and regulations regarding Dangerous Goods. The Principal is obliged to inform the Freight Forwarder if the goods are only regulated on specific legs of carriage (e.g. on specific means of transport or in specific countries).

15.3 If the Freight Forwarder has explicitly agreed to arrange or complete the labeling of the Container, all related costs will be charged separately.

16 Seals

- 16.1 The Principal is responsible to seal the Container properly according to the rules and regulations of the place of receipt, all transit countries and the place of delivery.
- 16.2 If the Freight Forwarder has explicitly agreed to arrange the sealing of the Container, all related costs will be charged separately.

17 Country specific agreements

- 17.1 Turkey If the goods are imported to Turkey and the Customer does not clear the goods at the discharging terminal and requires an inland customs point, there will be a supplemental charge for a bank guarantee to be provided by the Freight Forwarder. Freight and any extra costs will be charged to the Customer.
- 17.2 Russian Federation
- 17.2.1 If the place of delivery is in the Russian Federation, the railhead must be admitted to sending and receiving Containers.
- 17.2.2 The Customer has to arrange the return shipment of the Container from the Customer's railhead at its own expense. This includes requesting the so-called planning and preparing of the consignment note (SMGS waybill) according to the Organisation For Co-Operation Between Railways (OSJD) Agreement on International Railway Freight Communications (SMGS) as amended.

18 Liability of Freight Forwarder

- 18.1 Subject to statutory provisions, which cannot be deviated from by pre-formulated standard terms and conditions, VTG Tanktainer is liable according to the regulations of the ADSp 2017. Particularly, without prejudice to the applicability of other regulations of the ADSp 2017, the liability is limited in accordance with clause 23 ADSp 2017 as follows:

Clause 23 ADSp 2017: Liability limitations

- 23.1 *Except in case of damages during carriage of goods by sea or ordered warehousing, the Freight Forwarder's liability for damages to goods is limited according to section 431 (1), (2) and (4) HGB, to:*
- 23.1.1 *8.33 Special Drawing Rights (SDR) for every kg, whenever the Freight Forwarder is:*
- *a carrier, as defined by section 407 HGB,*
 - *acting as principal ("Spediteur im Selbsteintritt"), fixed costs freight forwarder (Fixkostenspediteur) or consolidator ("Sammelladungsspediteur"), according to sections 458 to 460 HGB or*
 - *care, custody and control Freight Forwarder ("Obhutsspediteur") according to Section 461 (1) HGB.*
- 23.1.2 *2 instead of 8.33 SDR for every kg, whenever the Principal has agreed to a Freight Forwarding Contract which is subject to a variety of transport means and includes carriage of goods by sea and an unknown damage place. In case of a known damage place, the liability according to section 452a HGB is subject to the liability exclusion and liability limitation of the ADSp.*
- 23.1.3 *Whenever Freight Forwarder's liability according to clause 23.1.1 ADSp exceeds an amount of EUR 1.25 million per Damage Case, this liability is furthermore limited to EUR 1.25 million per Damage Case, or to 2 SDR for every kg, whichever amount is higher.*
- 23.2 *The liability of the Freight Forwarder for damages to the goods in its custody for Freight Forwarding Contracts which are subject to carriage of goods by sea and cross-border transportation is limited to the maximum statutory liability amount. Clause 25 ADSp remains unaffected.*
- 23.3 *For all cases out of scope of clauses 23.1 and 23.2, such as section 461 (2) HGB, 280 ff BGB, the liability of the Freight Forwarder for damages to goods is limited according to section 431 (1), (2) und (4) HGB to a maximum of:*
- 23.3.1 *2 SDR per kg for Freight Forwarding Contracts relating to carriage of goods by sea or a transportation by a variety of transport means, but including carriage of goods by sea,*
- 23.3.2 *8.33 SDR per kg for all other Freight Forwarding Contracts.*
- 23.3.3 *Furthermore, the Freight Forwarder's liability is limited to the maximum amount of EUR 1.25 million for each case of damage.*

23.4 *The liability of the Freight Forwarder for all other damages than damages to the goods with the exception of damages during ordered warehousing or damages to personal injury or goods of third parties is limited to three times the amount that would be payable for the loss of goods according to clauses 23.3.1 or 23.3.2 ADSp. Furthermore, the Freight Forwarder's liability is limited for each case of damage to the maximum amount of EUR 125,000. 23.4.1*

23.4.1 *Sections 413 (2), 418 (6), 422 (3), 431 (3), 433, 445 (3), 446 (2), 487 (2), 491 (5), 520 (2), 521 (4), 523 HGB as well as any relevant mandatory liability provisions in international conventions shall remain unaffected. 23.4.2*

23.4.2 *Clause 23.4 ADSp is not applicable on statutory provisions, such as Article 25 Montreal Convention (MC), Article 5 Règles uniformes concernant le Contrat de transport international ferroviaire des marchandises (CIM) or Article 20 Convention de Budapest relative au contract de transport de marchandises en navigation intérieure (CMNI), which extend Freight Forwarder's liability or permit to extend.*

23.5 *If Freight Forwarder's liability according to Articles 23.1, 23.3 and 23.4 ADSp exceeds the amount of EUR 2.5 million per Damage Event, then Freight Forwarder's liability is, irrespective of how many claims arise from a single Damage Event, further limited to a maximum amount of EUR 2.5 million per DamageEvent or to 2 SDR per kg for lost or damaged goods, whichever amount is the higher. When there is more than one claimant, the Freight Forwarder's liability shall be proportionate to individual claims.*

18.2 The Freight Forwarder has no influence on vessel or rail schedules, vessel rotations or Container short shipments based on vessel owner's or rail operator's decisions and therefore cannot be held liable for any consequent delays.

19 Liability of Customer

19.1 The Customer is liable for any damages to the Container, which are caused by the goods or which occur during the custody of the Customer. The Customer is liable for any consequential damage, as well.

19.2 When the Customer returns a Container to the Freight Forwarder, any apparent damage to the Container shall be deemed to be a damage that has occurred during the custody of the Customer, except for damages explicitly reported in the Equipment Interchange Report (EIR) issued by the port, terminal or the Freight Forwarder's appointed depot and/or relevant authority at the time of take-over of the Container by or on behalf of the Customer.

20 Force majeure

The Freight Forwarder is not liable for any loss, delay or non-performance of its obligations to the extent due to a Force Majeure Event. The Principal will reimburse the Freight Forwarder for any increase in costs arising from or in connection with a Force Majeure Event.

21 Applicable law, place of fulfilment, place of jurisdiction

21.1 The legal relationship between the Freight Forwarder and the Principal is governed by German law.

21.2 The place of fulfilment for all involved parties is Hamburg / Germany.

21.3 The place of jurisdiction for all disputes arising out of or in connection with the Freight Forwarding Contract is for all involved parties Hamburg. The aforementioned place of jurisdiction shall be deemed as an additional place of jurisdiction pursuant to Article 31 CMR and Article 46 § 1 CIM, but not in case of Article 39 CMR, Article 33 Montreal Convention, Article 28 Warsaw Convention (Convention for the Unification of certain rules relating to international carriage by air).