

General Terms and Conditions (GTC) of Zollagentur Milbradt GmbH

§ 1 Applicability

1. Conclusions of contract take place on behalf of and for the account of Zollagentur Milbradt GmbH, Krähenweg 30, 22459 Hamburg.
2. Zollagentur Milbradt GmbH (hereinafter referred to as “ZAM”) processes orders of the contractual partner (hereinafter referred to as “Client”) solely on the basis of these General Terms and Conditions in their version which is valid at the time of the order.
3. The Terms and Conditions apply only to *Unternehmer* (businesspeople) within the meaning of § 14 BGB (Bundesgesetzbuch [German Civil Code]).
4. Terms and conditions of Client or third parties do not apply, even if ZAM has not separately objected to their applicability in an individual case. Even if ZAM refers to correspondence that contains terms and conditions of Client or a third party, or refers to such, this does not constitute any agreement with the applicability of those terms and conditions.

§ 2 Offer and conclusion of contract

1. A contract between the parties is created by the acceptance of the offer presented in text or written form by ZAM, and upon signing and return of the according customs power of attorney by Client at the latest.
2. The agreed contract content, including these General Terms and Conditions, is solely decisive for the legal relationship between ZAM and Client. Verbal commitments by ZAM before the conclusion of this contract are legally non-binding, and verbal agreements by the contractual parties are replaced by the contract concluded in text or written form, unless it is explicitly agreed in the respective case in these agreements that they will continue to be binding.

§ 3 Services of ZAM

1. ZAM carries out import and export declarations in the form of direct representation in accordance with Art. 18(1) Union Customs Code (UCC), whereby the agreed form of representation is specified in the power of attorney submitted to Client in this regard.
2. In addition, ZAM provides the following services in particular:
 - ✓ Subsequent recovery, reimbursement or remission
 - ✓ Specialist advice
 - ✓ Tariff classification
 - ✓ Sanction list review
 - ✓ Reporting and archiving based on client requirements
 - ✓ Support in approval applications

§ 4 Assurances and obligations of Client

1. Client must issue ZAM the power of attorney submitted by ZAM within the framework of the contract conclusion.
2. It is the duty of Client to share with ZAM all information necessary for the respective order processing or customs clearance, or transfer the necessary

- ✓ Information regarding the value, quantity, type and weight of the goods
- ✓ Proof of origin and proof of preferential origin
- ✓ Import and export authorisation, import and export licenses
- ✓ Valid Binding Tariff Information (BTI)/Binding Origin Information (BOI)
- ✓ Notification of coding for documents and declarations about prohibitions and restrictions in the Atlas IT procedure (Y-codes)
- ✓ End-use documents
- ✓ Import certificates
- ✓ Third-country export licences
- ✓ Surveillance documents and goods certificates
- ✓ Commercial invoices and consignment notes

Client guarantees the correctness and completeness of the information provided. ZAM is not obliged to check or supplement the correctness or completeness of this information. Client must respond immediately to queries from ZAM in this regard. Client must inform ZAM of any peculiarities of its own accord.

3. Client is obliged to immediately review the correctness of the information contained in the customs declaration and other sums influencing the value of the goods; this includes the following:

- ✓ Procurement of the goods, tariff number
- ✓ Value of the goods, quantity, type and weight of the goods
- ✓ Transportation costs
- ✓ Tool costs, commission, broker fees, price discounts
- ✓ Status of the goods
- ✓ Coding for documents and declarations about prohibitions and restrictions (Y-codes)

4. Binding Tariff Information (BTI) and Binding Origin Information (BOI) applicable to the goods must be shared with ZAM together with the respective written or text-form order. If no according notification takes place, ZAM is entitled to proceed on the assumption that no BTI or BOI exists (UCC Regulation 952/2013, Art. 33 et seqq.).

5. In the case of export deliveries, Client is obliged, in accordance with Art. 331 UCC-IA, Commission Implementing Regulation (EU) 2015/2447 of the Commission from 24 November 2015, to carry out the presentation of the goods at the customs office of exit or instruct the service provider, which it has tasked, to carry out the presentation.

6. Client must provide the authorities, upon request, with all required documents or make accessible to them the required data and documents, if ZAM is audited by the authorities in connection with the activities for Client.

7. All documents underlying the customs declaration, such as movement certificates (certificate of origin Form A, EUR1, ATR.1, EURMED), declarations of origin, consignment notes etc. and the customs declaration, must be stored by Client on its premises for the time frame of the statutory retention periods.

§ 5 Remuneration, payment terms, retention right

1. ZAM will provide the agreed service in accordance with the service prices agreed upon the conclusion of the contract. These prices apply for the listed scope of the service and delivery. The prices are in EUR plus the statutory value added tax.
2. The invoices for provided services and other expenses are generally issued per order. Upon request of Client, the issuing of a collective invoice (weekly or monthly) can also be agreed. Invoice amounts must be paid within ten days, with no deductions. Receipt by ZAM is decisive for the date of payment. If Client does not pay upon the due date, interest of 5% p.a. will be charged on the outstanding amounts as of the due date; the assertion of claims to higher interest and other loss in the event of default remains unaffected.
3. Offsetting against counterclaims of Client or the retention of payments due to such claims is only permitted if the counterclaims are undisputed or determined as legally valid.
4. ZAM is entitled to only carry out or provide outstanding services in exchange for an advance payment or collateral, if ZAM becomes aware, after the conclusion of the contract, of circumstances that are likely to significantly reduce the creditworthiness of Client and because of which the payment of the outstanding receivables due to ZAM by Client resulting from the respective contractual relationship (including other individual orders for which the same framework contract applies) is at risk.
5. Client is obliged to accept the other expenses incurred by ZAM. Other expenses include the following in particular:
 - The necessary legal costs for defence against unjustified claims against ZAM in connection with the order fulfilment for Client
 - Any financial penalties, fines and late-payment fees, and interest for advances to the customs office paid by ZAM
 - Additional fees (so-called demurrage and waiting pay) that are incurred due to delayed customs clearance at the respective ports or at other locations, if the delayed clearance is caused solely or chiefly by Client or is due to reasons that are not within the risk area of ZAM. Fault of Client exists in this regard particularly if it fails to comply with its obligations in accordance with § 4 of these Terms and Conditions. If Client and ZAM are proportionately at fault, the applicable fees will be borne proportionately by ZAM and Client.
 - The additional costs incurred by ZAM due to incorrect and/or incomplete documents of Client. The additional costs will thereby be calculated in accordance with the expenses actually applicable. A net rate of EUR 120.00 per hour commenced is hereby taken as a basis.

§ 6 Right of refusal for cause

ZAM reserves the right to refuse to carry out an order for cause. Such cause exists in particular in the event of:

- Payment default by Client
- Missing documents for a proper customs declaration
- An inadequate goods description

§ 7 Vicarious agents

ZAM is entitled to use vicarious agents. Client confirms that the vicarious agents selected by ZAM may carry out the customs clearance or individual services within the framework of the respective order.

§ 8 Review obligations of ZAM; breach of morals

1. ZAM is obliged neither to review any violation of industrial property rights nor review prohibitions and restrictions, including foreign trade restrictions; this applies in particular for Regulation (EC) 428/2009 (Dual-Use Regulation) incl. the updated attachments. Client is responsible independently for the according reviews and will inform ZAM of the results of the reviews, in writing or text form.
2. If an order breaches morals or statutory prohibitions, or if ZAM is aware of legitimate indications of such a breach, ZAM is entitled to immediately cease the contractually owed services, without paying compensation.

§ 9 Liability of Client, indemnification

1. Client accepts full liability towards ZAM for the timely presentation of the necessary documents and for the completeness and correctness of all details that are necessary for the completion of the orders by ZAM. Client will bear all costs that are incurred due to the incorrect, incomplete or delayed information or failure to present the necessary documents, even if they are not explicitly listed in § 5(5).
2. Client indemnifies ZAM, in the internal relationship, against all claims of third parties, including the customs and tax authorities, in connection with the activities for Client.

§ 10 Liability of ZAM, limitation of liability

1. The liability of ZAM for compensation, regardless of the legal basis, should culpability be involved in each case, is restricted in accordance with this § 10.
2. ZAM is not liable in the event of simple negligence of its bodies, legal representatives, employees or other vicarious agents, if this negligence is not a violation of duties essential to the contract. Duties essential to the contract are such duties of which the fulfilment is necessary to achieve the objective of the contract.
3. Should ZAM be obliged to pay compensation, on its merits, in accordance with § 10(2), this liability is restricted to losses that ZAM foresaw as a potential consequence of a breach of contract or that ZAM would have had to foresee with the application of due diligence.
4. The above-mentioned liability exclusions and restrictions apply to the same extent in favour of the bodies, legal representatives, employees and other vicarious agents of ZAM.
5. If ZAM provides customs-related information or acts in an advisory capacity, and this information or advice is not within the scope of the services contractually agreed and owed by it, this will take place free of charge and with the exclusion of any liability.
6. The restrictions of this § 10 do not apply for the liability of ZAM as a result of intentional actions and loss of life, personal injury or damage to health.

§ 11 Final provisions

1. If Client is a merchant, legal person under public law or a special fund under public law, or if it has no general place of jurisdiction within the Federal Republic, the place of jurisdiction for any disputes resulting from the business relationship between ZAM and Client is, at the option of ZAM, Hamburg or the registered office of Client. For claims against ZAM, however, Hamburg is the sole place of jurisdiction in these cases. Mandatory statutory provisions regarding sole places of jurisdiction remain unaffected by this provision.
2. The relations between ZAM and Client are subject exclusively to the law of the Federal Republic of Germany. The United Nations Convention on Contracts for the International Sale of Goods dated 11 April 1980 (CISG) does not apply.
3. Should the contract or these GTC contain omissions, the legally effective provisions that the contractual parties would have agreed in accordance with the economic objectives of the contract and the purpose of these GTC, had they been aware of the omissions, will apply for the rectification of these omissions.