

## General Terms and Conditions (GTC) for national and international freight transport and terminal services

### 1. Scope of application, parts of the contract and ranking order

- 1.1. These General Terms and Conditions ("**GTC**") form an integral part of all contractual relationships between Schweizerzug AG, Flachsackerstrasse 7, 4402 Frenkendorf, Switzerland ("**Schweizerzug**") and its customers ("**Principal**") for all services provided by Schweizerzug and its auxiliaries in Switzerland and abroad, in particular freight transport and terminal services (transshipment, storage and intermediate storage, repair and maintenance, customs services).
- 1.2. In addition to the GTC, the following guidelines and rules in the most current version for the services provided by Schweizerzug shall form part of the contract with the Principal:
  - the terminal handling rules and tariffs of the respective terminal operator;
  - Special provisions on dangerous goods [\[Link\]](#);
  - CTU packing guidelines in the currently valid version (IMO/ILO/UNECE Code of Practice for Packing of Cargo Transport Units ("**CTU Code**"), [\[Link\]](#)).
- 1.3. The GTC supplement and amend the General Terms and Conditions of Spedlogswiss (Association of Swiss Forwarding and Logistics Companies) and the General Terms and Conditions of Spedlogswiss for Warehousing (hereinafter "**GC Spedlogswiss**" and "**GC Spedlogswiss Warehouse**"). The GC Spedlogswiss and the GC Spedlogswiss Warehouse can be viewed here [\[Link\]](#).
- 1.4. The contractual relationship between Schweizerzug and the Principal is governed by the agreements of the parties in the following order of priority: (1.) the respective individual agreement; (2.) the GTC together with the guidelines and rules of Schweizerzug pursuant to section 1.2, (3.) The GC Spedlogswiss and the GC Spedlogswiss Warehouse. Mandatory legal provisions remain reserved, in particular the following: For transports between Swiss railway stations, the Swiss Freight Transport Act (GüTG) and the Freight Transport Ordinance must be observed; for cross-border transports, the uniform legal provisions for the contract for the international carriage of goods by rail (CIM) apply.

### 2. Conclusion of contract between Schweizerzug and Principal

- 2.1. The services to be provided by Schweizerzug may be based on a service agreement (framework agreement) to be concluded in writing with the Principal and signed by both parties, in which the essential data and tariffs applicable to the services to be provided by Schweizerzug are specified in a binding form.
- 2.2. With or without a service agreement, a contract for an individual service to be provided by Schweizerzug is concluded by the Principal placing an offer request via the electronic booking platform of Schweizerzug (website) or the respective EDI interface (Electronic Data Interchange) between Schweizerzug and the Principal and Schweizerzug accepting this by means of an electronic order confirmation.
- 2.3. (Electronic Data Interchange)
- 2.4. Offers from Schweizerzug in the area of maintenance and repair of loading units are subject to confirmation. They are only binding when the Principal has confirmed the cost estimate of Schweizerzug or its subcontractors in writing.
- 2.5. The Principal must provide Schweizerzug with all information necessary for the proper fulfilment of the agreement. With regard to the carriage and handling of the following goods,

the Principal is obliged to provide the following information to Schweizerzug when placing the order:

2.5.1. For dangerous goods:

- a.) Classification of the dangerous goods to be transported;
- b.) UN number;
- c.) Confirmation that the nature of the goods, the packages, the loading unit comply with the regulations (ADR, ADNR, RID, IMDG Code, etc.);
- d.) Description of the goods in accordance with the dangerous goods regulations, as well as product name and technical designation;
- e.) Number of packages and total weight;
- f.) Written instructions for what to do in the event of accidents or incidents (accident leaflet);
- g.) Name and address of the consignor and consignee of the goods;
- h.) Special instructions for the carrier (e.g. route regulations);
- i.) Proof of a valid and assignable Declaration for Dangerous Goods (DGD).

2.5.2. For waste:

- a.) Type and origin of the waste, stating the European waste code number;
- b.) Confirmation of compliance with the relevant legal standards
- c.) Delivery of the required forms (notification form, etc.).

2.5.3. For temperature-controlled goods:

- a.) Type and origin of the temperature-controlled goods;
- b.) Specification of the specified cooling temperature with a difference range;
- c.) If necessary, other information such as humidity, etc.

2.6. Contracts between Schweizerzug and the Principal for the carriage of goods are terminated upon delivery of the goods at the agreed delivery point and upon acceptance by the consignee. Other agreements remain reserved. If the goods are not taken over by the consignee in due time and if they are properly cleared for customs purposes (e.g. with regard to T1 documents), Schweizerzug will ask the Principal for instructions. The Principal undertakes to bear any additional costs incurred by Schweizerzug (e.g. detention or demurrage charges, customs fines, location charges at the respective transshipment terminals, etc.) and to indemnify Schweizerzug in this respect.

### 3. Consignment note and transport order

3.1. The Principal undertakes to provide Schweizerzug with one duly completed international CIM consignment note per consignment or all information necessary for the correct preparation of an international CIM consignment note in good time before the carriage is carried out.

### 4. Carriage and transshipment of loading units

#### A. Terminal Handling Rules for Deliveries and Pickups (Semi-Truck/Lorry/Ship/Rail)

4.1. The Principal commits to Schweizerzug to comply with the terminal handling rules and tariffs of the respective terminal operator.

#### B. Wagons, loading units and loading equipment

4.2. Schweizerzug shall make available suitable freight wagons (hereinafter "**wagons**"), loading units (such as in particular containers, trailers, semi-trailers and the like hereinafter "**loading units**") as well as loading equipment for the transport of the Principal's consignment, insofar as they are available and insofar as these are not provided by the Principal himself. If the

wagon type requested by the Principal is not available, Schweizerzug may, at its own discretion, also provide a wagon of a similar type.

- 4.3. For wagons or loading units ordered and provided by Schweizerzug but not used by the Principal, Schweizerzug still charges a fee.

**C. Requirements for the condition of loading units of the Principal**

- 4.4. The Principal is responsible for the proper condition of the loaded and/or empty loading units handed over to Schweizerzug. The Principal must ensure at his own expense that the type and condition of the loading units, the intended loading/use as well as the applicable statutory provisions and technical regulations, in particular the international regulations of the International Convention for Safe Containers (CSC), comply with and are safe to operate and traffic at the time of acceptance by Schweizerzug.
- 4.5. If the loading units provided by the Principal are defective or unsuitable for the transport and handling of the goods, they may be immediately rejected by Schweizerzug or excluded from further transport without prejudice to the contractually agreed remuneration.

**D. Loading, unloading and packaging of loading units**

- 4.6. The Principal is obliged to load the loading units in accordance with the CTU packing guidelines and to hand over the loading units loaded and stowed in this way at the loading/transshipment location in accordance with instructions from Schweizerzug and to ensure that safe and smooth transport and transshipment by Schweizerzug is possible.
- 4.7. Furthermore, the Principal is obliged to ensure that the relevant legal provisions and guidelines concerning labelling (in particular hazardous goods signage), packaging, stowage and securing of the contents of the loading unit are observed for all means of transport suitable for transshipment and transport of the loading unit. In particular, the Principal must ensure that the loading units are properly closed and, in the case of loaded loading units, are also properly sealed and handed over in accordance with customs law and accepted from the place of discharge/receiving in the order determined by Schweizerzug.
- 4.8. Schweizerzug is not obliged, but entitled, to inspect the packaging and stowage of the loaded goods and the load securing on acceptance of the loading unit.
- 4.9. If there is reason to believe that the operational safety of the load is not guaranteed, Schweizerzug shall be entitled to take the necessary measures. This is in particular the case if there is a considerable discrepancy between the agreed load and the actual load, the permissible total weight / centre of gravity is exceeded or the transport is hindered by the type of goods or loading. Schweizerzug is entitled to charge the Principal for the costs of better loading or delays in transport and to claim damages.
- 4.10. If there is reason to believe that goods handed over to Schweizerzug for transshipment, transport or storage pose a risk to persons, other goods or the surrounding area, Schweizerzug shall be entitled to unload and remove these goods at any time and place without liability for damages and at the expense of the Principal, without prejudice to the contractually agreed claim of Schweizerzug against the Principal for transshipment, transport or storage.
- 4.11. The collection and delivery of the loading units for the purpose of transshipment, storage and transport are carried out according to the timetable or individual agreement with Schweizerzug and the Principal or his auxiliaries. Schweizerzug accepts no liability for waiting times for which Schweizerzug is not responsible. Any demurrage and other damage incurred during any waiting period will be charged to the Principal. Waiting times are all times which exceed the individually agreed free loading or unloading time at a terminal or a pick-up/delivery. Should a waiting period exceed the agreed period for reasons for which Schweizerzug is not responsible, Schweizerzug expressly reserves the right to unload, load or tranship the affected loading units at another location or loading point at the expense of the Principal.

## **E. Handling of dangerous goods**

- 4.12. If the Principal does not deliver or collect the loading unit with dangerous goods at the terminal on the day of transport or within the "24-hour rule" or fails to instruct Schweizerzug to store this loading unit in a suitable dangerous goods warehouse, Schweizerzug is entitled to:
- store the dangerous goods in a dangerous goods warehouse at the expense of the Principal;
  - unload, return or, if necessary, destroy or render harmless dangerous goods, without therefore being liable to pay compensation to the consignor, and
  - demand reimbursement of the necessary expenses from the Principal due to these measures.

## **5. Rental of loading units by Schweizerzug**

- 5.1. Schweizerzug undertakes to make load units suitable for use (in particular containers), which comply with the international regulations of the International Convention for Safe Containers (CSC), available for rent to the Principal.
- 5.2. The Principal undertakes to unload the rented containers at the end of the rental period and to return them in proper condition (clean, free of defects) and roadworthy at the agreed time and place. If Schweizerzug ascertains upon return of the loading units that they are not in proper and roadworthy condition, the necessary defect rectification work shall be carried out by Schweizerzug. In this case the Principal is obliged to fully indemnify Schweizerzug and in particular to bear the costs and damages incurred during this period, such as loss of rental income. Schweizerzug is entitled to demand a reasonable security deposit from the Principal when hiring out loading units.

## **6. Reefer Services by Schweizerzug**

- 6.1. If the Principal makes use of Swissterminal's reefer services, he undertakes to inform Swissterminal of the temperatures to be maintained in °C (degrees Celsius) or °F (degrees Fahrenheit) as well as details of the humidity to be maintained etc. Swissterminal shall not be liable for any defects and damage due to incorrect, inaccurate or contradictory temperature data.

## **7. Further services of Schweizerzug, in particular customs and transit clearance**

- 7.1. Schweizerzug shall provide further services, in particular those in the customs area (such as in particular import/export clearance, transit clearance, preparation of customs documents, etc.).
- 7.2. If the consignee of the goods does not accept the properly declared goods or does not unload them properly at the place of destination (e.g. with regard to a T1 document), the Principal is obliged to pay the costs caused by the consignee's conduct (in particular for subsequent customs clearance, new assessment, return transport).

## **8. Warranty for maintenance and repair of loading units**

- 8.1. After delivery of the serviced / repaired loading unit, the Principal must inspect it immediately and give written notice of any obvious defects immediately, i.e. within two working days at the latest. Defects which cannot be detected by careful inspection (hidden defects) must be reported in writing immediately, i.e. within two working days of discovery at the latest. In the event of a late or invalid complaint, the defect rights shall be forfeited.

- 8.2. In the case of existing defects, the Principal shall be entitled to rectification free of charge, unless the cost of rectification is no longer objective in relation to the value of the goods delivered/services rendered and is therefore considered unreasonable. The right to conversion and reduction is excluded. In all other respects, the limitations of liability pursuant to Clause 11 shall apply.
- 8.3. The Principal's claims based on obvious or hidden defects shall lapse within one year of delivery of the serviced or repaired loading unit.

## **9. Entity of charge of maintenance ("ECM")**

- 9.1. In accordance with Article 15 of Appendix G (ATMF) to the international Convention Concerning International Carriage by Rail (COTIF), each wagon must be assigned to an entity in charge of maintenance (ECM). This ECM must also be certified.
- 9.2. The Principal is obliged to ensure that the wagons provided by it are assigned to an ECM and must be able to provide proof of this at the request of Schweizerzug.
- 9.3. If the Principal provides a wagon which is not assigned to an ECM, Schweizerzug may exclude this wagon from transport and charge the Principal for the associated costs.

## **10. Liability of the Principal**

- 10.1. The Principal shall be fully liable for all damages culpably caused by him and his auxiliary persons, in particular also for indirect damages such as loss of business and loss of profit. In addition to Art. 18 GC Spedlogswiss and Art. 27 GC Spedlogswiss Warehouse, the Principal is liable in particular for damage caused:
- by a defect in a vehicle provided by the Principal;
  - the loading of an unsuitable or defective loading unit, the lack of operational or traffic safety of the loading unit, inadequate or improper packaging or other irregularities (e.g. inadequate labelling, missing documents, inadequate customs formalities, etc.);
  - the nature of the goods loaded;
  - by the loading, stowing, handling and unloading of the loading units by the Principal or a third party commissioned by him or otherwise connected;
  - the removal or unloading of dangerous goods in accordance with Clause 4.9.

## **11. Liability of Schweizerzug and Disclaimer of Liability**

- 11.1. The liability of Schweizerzug for itself and its auxiliary persons such as employees, vicarious agents, subcontractors etc. for slight and medium negligence is excluded in all cases to the extent legally permissible. This exclusion of liability applies to all direct and indirect damages, including any consequential damages, consequential harm caused by a defect, loss of profit, damages due to business interruption, etc. and it applies to contractual as well as non-contractual and quasi-contractual liability.
- 11.2. The limitations of liability in accordance with the Freight Transport Act, the Freight Transport Ordinance and CIM shall also apply to non-contractual claims.
- 11.3. Otherwise the liability principles of the GC Spedlogswiss (and Art. 23 et seq. GC Spedlogswiss Warehouse) apply, in particular with regard to the limitation of liability.
- 11.4. Schweizerzug is not liable for any loss, damage or other damage (including consequential damage as well as Demurrage/Detention) that may have been incurred:
- a.) on loaded goods in sealed loading units;
  - b.) by discrepancies in the area of registration, insofar as these are not attributable to gross negligence on the part of Schweizerzug;

- c.) by force majeure (unforeseeable circumstances), in particular hazard, third-party fault, mobilisation, military exercises and undertakings, war, sabotage, riots, insurrection, civil unrest, hostage taking, terrorism, strike (including slowdowns and warning strikes as well as all other labour disturbances), lockout, blockades, requisition, confiscation of the means of transport or the goods, quarantine restrictions, official or governmental measures and interventions of any kind;
  - d.) natural and elemental hazards, in particular high and low water, floods, storms, ice, frost, thunderstorms, rain, hail, snow, sun, heat, cold, temperature differences as well as water and fire;
  - e.) by breakage, accident or other failure of the loading, unloading and lifting equipment (including crane lifts) of any type from Schweizerzug and third parties, breakage or defect of the loading units and resulting collision of the lifting equipment or other damage caused by the handling equipment, careless and/or incorrect handling during loading, stowing, transshipment or unloading, unless gross negligence on the part of Schweizerzug or its auxiliary persons can be proven;
  - f.) by taking over of already damaged loading units, even if Schweizerzug did not carry out a corresponding reverse at the time of taking over;
  - g.) by events or occurrences which could not have been foreseen by Schweizerzug or the occurrence or effects of which could not have been avoided with all due care;
  - h.) due to delays caused by third parties and vicarious agents.
- 11.5. In the event of a case under lit. c)-e) above, Schweizerzug shall inform the Principal in writing as soon as possible and take all reasonable measures to rectify this situation as quickly as possible and to limit the consequences thereof. Any additional costs incurred shall be borne solely by the Principal.
- 11.6. In all cases, a claim can only be made against Schweizerzug for damage after acceptance of the loading units by the Principal if the discovery of externally recognisable damage is notified in writing immediately upon acceptance, in the case of hidden defects within seven (7) days of acceptance. Failure to comply with the complaint deadlines shall result in a complete exclusion of liability on the part of Schweizerzug. However, the formally valid and timely complaint does not release the Principal from the obligation to prove at least gross negligence on the part of Schweizerzug.

## 12. Prices

- 12.1. Unless otherwise agreed, prices are in CHF, excluding VAT and other taxes and duties.
- 12.2. Price specifications of the Principal are only binding for Schweizerzug if they have been expressly confirmed in writing by Schweizerzug.
- 12.3. The prices agreed between Schweizerzug and the Principal only cover the normal transport, handling, material and processing costs ("**normal prices**"). Schweizerzug expressly reserves the right to deviate from the agreed normal prices by +/- 10% and is accepted by the Principal.
- 12.4. If cost increases occur after the conclusion of a respective contract, in particular due to rising energy costs, tariff agreements, changes in material prices, insurance premiums, freight, demurrage, port or transshipment tariffs, Schweizerzug expressly reserves the right to make appropriate corrections to the previously agreed normal prices, which may have been adjusted in accordance with Clause 12.3 above. At the express request of the Principal, Schweizerzug will provide evidence of the respective changes in costs.
- 12.5. Prices for repair, maintenance and assembly work shall be calculated in such a way that any scrap material (in particular stainless steel, aluminium, copper, lead, zinc, tin, etc.) shall become the property of Schweizerzug or the subcontractor without remuneration.

### **13. Invoicing and terms of payment**

- 13.1. Invoices issued by Schweizerzug shall be payable immediately by the due date (30 days from date of invoice; due date) and without deduction (discount). After the due date, Schweizerzug shall be entitled, without reminder, to claim default interest of 5% p.a.
- 13.2. Offsetting against claims of Schweizerzug against counterclaims of the Principal is excluded.
- 13.3. If after conclusion of the contract a circumstance occurs which endangers the solvency of the Principal (in particular insolvency, moratorium, bankruptcy, cessation of activities, transfer of activities to third parties, etc.), Schweizerzug can demand an appropriate security deposit or advance payment from the Principal.
- 13.4. Any complaints about invoices must be made in writing (by e-mail, fax or letter) to Schweizerzug. The complaint must be substantiated. It does not result in a cancellation or postponement of the due date.

### **14. Electronic data transmission and processing / written form**

- 14.1. Insofar as written form is prescribed in the GC Spedlogswiss and the GC Spedlogswiss Warehouse as well as in these General Terms and Conditions between Schweizerzug and the Principal, the transmission of defined data records within the scope of electronic data processing meets the written form requirement (e.g. by e-mail). However, data transmission protocols in electronic data interchange only confirm the transmission of data, but not its specific content.
- 14.2. The performance and binding nature of an electronic exchange of contractual and performance data shall be agreed separately with the Principal in each case.
- 14.3. Schweizerzug is entitled to store the data required for the execution of the order and to pass them on to the necessary parties for the purpose of fulfilling any administrative and customs procedures. Details on data processing by Schweizerzug are regulated in the data protection declaration [[Link](#)].

### **15. Other provisions**

- 15.1. Schweizerzug is entitled to call in third parties as auxiliary persons (vicarious agents) to perform its services, in particular for the provision of all terminal services and customs services.
- 15.2. Should individual provisions of these GTC be or become invalid or unenforceable, the validity of the remaining provisions shall not be affected thereby. Such invalid or unenforceable provisions shall be replaced by such valid and enforceable provisions which correspond as closely as possible to the concurrent intention of Schweizerzug and the Principal.
- 15.3. Amendments and supplements to these GTC must be made in writing.
- 15.4. The contractual relationship between Schweizerzug and the Principal shall be governed by Swiss law, to the exclusion of the UN Convention on Contracts for the International Sale of Goods of 11 April 1980 (Vienna Convention; CISG).
- 15.5. The place of jurisdiction for any disputes arising from or in connection with the contract between Schweizerzug and the Principal is **Zurich**. Schweizerzug shall also be entitled to assert its claims against the Principal in court at the Principal's place of business.