



Frankfurt Cargo Services

GENERAL TERMS AND CONDITIONS OF BUSINESS
of FCS Frankfurt Cargo Services GmbH (abbreviated "FCS") for handling services
Valid from: 2nd January 2019

Part I.
General provisions

§ 1 Scope of application

These General Terms and Conditions of Business apply to all activities of FCS, particularly handling, transshipment, and storage of airfreight and special services performed in addition to or outside of an existing handling agreement. Nothing herein shall affect the applicability of non-waivable laws, particularly the Warsaw Convention and Montreal Convention, with regard to individual activities of FCS.

§ 2 Scope of services performed by FCS

1. FCS handles airfreight shipments at the Frankfurt am Main airport on behalf of airlines. Export airfreight is received by FCS on ramp, placed in interim storage, prepared for the flight both physically and in terms of documentation, and provided to the apron transportation service or prepared for transportation by other means of transportation than airfreight (e.g., truck transportation), as the case may be. Unloading of export freight from truck is not part of the FCS service, except for trucks operating on behalf of the airline with airline manifest. Import airfreight is divided on a shipment basis after being accepted from the apron transportation service, placed in interim storage, and delivered to the consignee free warehouse ramp or transferred to the airlines that are to carry it onward. Consignments that are to be transported by truck instead of airfreight are handled accordingly. The details of these handling services are stipulated in Part II of the General Terms and Conditions of Business.

2. In addition to export and import handling for airlines, FCS also offers other services (special services) which have to be ordered separately. These other services encompass, in particular, division and commissioning activities, loading and unloading activities for truck transportation, if not a delivery on behalf of the airline under flight manifest, or other consignees, placement in storage as well as storage and removal from storage for non-Community goods in bonded warehousing on behalf of forwarding agents and other participants in the logistics chain. These other services also include acceptance, interim storage, and removal from storage of consignments that, contrary to prior determination, require reverse handling for various reasons of a physical and/or documentation-related nature. The other services offered by FCS are listed in detail in the **list of services** and are subject to extra charges. The list of services is a component of this agreement. It is posted on our website at www.fcs.wfs.aero, under Service / Downloads. The details of these handling services are stipulated in Part III of the General Terms and Conditions of Business.

3. If FCS performs services without explicit order according to point 2., and in doing so acts for the benefit of the responsible party who is in charge of performing the service, the according charges as listed in the list of service are charged.

4. FCS is entitled to have the service owed performed in whole or in part by third parties (subcontractors) or outside personnel.

§ 3 Precedence of the General Terms and Conditions of Business of FCS

General terms and conditions of business of the customer do not apply, even if FCS does not expressly reject the application thereof.

§ 4 General terms and conditions of payment; handling and warehousing fees, fees for special services

1. All payments rendered to FCS are additionally subject to value-added tax (VAT) at the then-applicable statutory rate.

2. All invoiced sums shall fall due for payment immediately after receipt of the invoice, without any deductions whatsoever. Cash payment may be demanded. If checks or bills of exchange are accepted, the claim is not considered settled until the payment is unconditionally credited to the account or effected, as the case may be.

3. Counterclaims can only be offset against claims of FCS if the counterclaim has been acknowledged or determined with final, binding legal force. Any right of withholding or retention can be exercised only if such right is based on a claim under the same contractual relationship and such claim has been acknowledged or determined with final, binding legal force.

4. Handling and warehousing fees as well as fees for special services shall be in accordance with the provisions of the list of services of FCS, in the version thereof applicable at the time at which the contract in question is entered into. The list of services is a component of the General Terms and Conditions of Business of FCS.

5. If payment is delayed, FCS reserves the right to claim interest and damages for delay.

§ 5 General principles

1. The declarations made vis-à-vis FCS within the scope of placement of orders and order handling must be free of errors, complete, and truthful. The customer is therefore obligated to compensate FCS for any damage and/or loss sustained by FCS as a result of the customer having culpably made erroneous, incomplete, or untruthful declarations. Goods whose intrinsic qualities necessitate special handling, particularly goods falling under the ICAO Dangerous Goods Regulations, refrigerated cargo, mortal remains, highly perishable and/or fragile goods, must be stated separately in the orders.

2. FCS is under no obligation to review the authenticity of signatures in written orders, assignments, instructions, or other written documents. The foregoing also applies to the relevant authorization of the signatory or bearer.

3. FCS may review, or have others review, at any time whether the weight, nature, intrinsic quality, and/or volume of the goods carried are in accordance with the information stated in the orders placed in that regard. FCS is not, however, under any obligation

to do so. If the stated information turns out to be incorrect, the relevant contractual partner is required to bear the costs of the review.

4. Handling times depend on the relevant authorities with jurisdiction, including customs authorities, particularly in the case of cargo to be delivered. Handling times depend on the processing times of the authorities to be included in the handling process, especially customs authorities, particularly in the case of cargo to be delivered.

5. FCS is not obligated to accept goods that are not permitted for air transport or storage pursuant to the applicable statutory provisions unless special authorization from the Federal Aviation Office (Luftfahrt-Bundesamt) or the relevant authority with jurisdiction, as the case may be, is presented.

§ 6 Handling of goods under customs law

1. For purposes of customs law, the goods temporarily taken into custody by FCS are considered either Community or non-Community goods.

2. In the case of import and transit consignments, the responsibility and liability of FCS vis-à-vis the customer under customs law ends upon proper surrender of the consignments to the party picking up such consignments. In the event of non-Community goods, such surrender presupposes an admissible customs-approved treatment or use of goods pursuant to Article 48, 49 (1) (b) of the Community Customs Code. In this context, the customer is required to comply with all provisions of customs law and impose a corresponding obligation on any party engaged by the customer to pick up a consignment.

3. Should the customs authorities assert a claim on FCS in the case of complete units, incorrect statements in the flight manifest, or "aliud" goods (completely different goods), particularly a claim for payment of the customs debt, the customer is required to indemnify and hold harmless FCS from such claims and to reimburse any payments rendered by FCS.

4. In the case of export consignments (ready for carriage), the relevant customer or the freight forwarder responsible for customs clearance, as the case may be, shall bear exclusive responsibility under customs law.

5. In the case of intra-Community air transport, the airlines are required to observe Articles 444 and 445 of the Customs Code Implementing Provisions (CCIP).

Part II.

Acceptance, storage and transshipment of export and import consignments on behalf of airlines

§ 1 General rights and obligations

1. The airlines must provide their flight data, with all necessary information and instructions, to FCS as early and promptly as possible. In the case of delays, the airlines should, wherever possible, notify FCS promptly of their intended utilization of the services.

2. In the case of late flights by the airline, FCS reserves the right to give precedence to scheduled and announced flights in its handling activities.

3. Goods that have not been picked up by the consignee or authorized receiver within 20 days or whose acceptance has been refused or prevented will be handled by FCS in accordance with the provisions of customs law. All costs arising as a result thereof shall be charged to the airlines.

4. Unless expressly agreed, FCS is not obligated to perform customs clearance for the airfreight goods or to fulfill other customs formalities.

§ 2 Acceptance of airfreight goods

1. The party delivering the cargo must identify him- or herself by presenting his or her national ID or passport. Furthermore, all necessary freight documents, including the original air waybill, must be presented.

2. Delivery is free FCS-ramp or on the warehouse area when delivery at a truck gate.

3. If the airline requests special handling for certain goods, written notice thereof must be provided to FCS in due time before the goods are delivered. The foregoing provision does not apply to goods that obviously require special handling.

4. If the airline requests additional workers and/or materials for the acceptance of, or for its later handling of, freight shipments, and if such workers and/or materials are not required, or not required in full, FCS reserves the right to bill the costs arising therefrom to the airlines in addition to the other charges.

5. Upon acceptance of the goods delivered, FCS shall document only such defects as are outwardly apparent.

§ 3 Delivery of airfreight

1. The party picking up the cargo must identify him- or herself by presenting his or her national ID or passport, and in the event that such party is picking up the cargo for a third party, must also present a power of attorney identifying him or her as an authorized party. Furthermore, the necessary freight documents must be presented.

2. Delivery of cargo to the party picking up shall take place through FCS in the name of and for the account of the airline, free ex ramp. Furthermore, presentation of a delivery request approved by the customs authorities and the relevant airline or its authorized representative, or approval of the request in electronic form via the ATLAS customs system, as the case may be, is required.

3. FCS is authorized and empowered by the airline to collect payments due from the party picking up cargo from such party. If such payments are not rendered, FCS will not deliver the goods.

4. Freight shipments will be delivered to the party picking up the cargo in exchange for a receipt, which the party picking up the cargo is required to countersign.

§ 4 Liability

1. FCS is liable for any loss of life, bodily injury, or impairment of health for which it is responsible and in the event of any other damage or loss for which it or any member of its management is responsible due to intent or gross negligence. In the case of intent or gross negligence on the part of simple agents in the performance of the contractual obligations of FCS (its *Erfüllungsgehilfen*) and in the event of negligent violation of a cardinal obligation that jeopardizes the purpose of the contract, FCS is liable for compensation for the amount of damage or loss typically foreseeable in such cases. Cardinal contractual obligations are fundamental obligations that are material to the airline's entry into the contract and in whose case the airline was able to trust that they would be fulfilled. In all other cases, the liability of FCS, its statutory representatives, or its agents in the performance of its contractual obligations (*Erfüllungsgehilfen*) is ruled out in the case of violation of an obligation through ordinary negligence.
2. The airline shall indemnify and hold harmless FCS and its statutory representatives and agents in the performance of its contractual obligations (*Erfüllungsgehilfen*) against all claims asserted by third parties in connection with services undertaken by FCS vis-à-vis the airline and for which FCS is not liable to the airline *inter partes*.
3. The liability of FCS is moreover limited in all cases, with regard to damage or losses sustained by third parties, to the amount of damage or loss for which the airline is required to render compensation to the third party based on the statutory provisions, particularly the Warsaw Convention and the Montreal Convention as well as the IATA Conditions of Carriage.

Part III. Other services (special services)

§ 1 Other services

1. Freight transshipment, warehousing, and other services that are typically part of the freight forwarding trade and are no longer subject to an air transportation contract with the airline shall be handled, including storage, in accordance with the relevant provisions of the Allgemeine Deutsche Speditionsbedingungen (**ADSP**, German General Conditions for Forwarders), in the then-applicable version thereof.
2. The scope of the other services (special services) performed shall be documented by FCS in a work order.

§ 2 Liability

1. Liability in the case of transshipment, warehousing, and other services that are typically part of the freight forwarding trade outside of air transportation shall be in accordance with the relevant provisions of the **ADSP**, in the then-applicable version thereof. **Under number 23 ADSP the liability is limited for damage occurring to goods according to §431 HGB for damages in the custody of freight forwarders to EUR 5,00 per kg. In case of a contract of multi-modal carriage including sea transport to 2 SDR per kg, and to € 1 million, € 2 million or 2 SDR per claim, whichever is higher. Number 27 ADSP extends in deviation to statutory like §507 HGB, Art. 25 Montreal Convention, Art. 36 CIM, Art. 20, 21 CMNI not the liability of the freight forwarder and not the guiltiness of people and other third parties in favor of the ordering party.**
2. In the case of services not falling under the provisions of Subsection 1 above, FCS is liable for any loss of life, bodily injury, or impairment of health for which it is responsible and in the event of any other damage or loss for which it or any member of its management is responsible due to intent or gross negligence. In the case of intent or gross negligence on the part of simple agents in the performance of the contractual obligations of FCS (its *Erfüllungsgehilfen*) and in the event of negligent violation of a cardinal obligation that jeopardizes the purpose of the contract, FCS is liable for compensation for the amount of damage or loss typically foreseeable in such cases. Cardinal contractual obligations are fundamental obligations that are material to the airline's entry into the contract and in whose case the airline was able to trust that they would be fulfilled.
3. If the customer is not a business entity (*Unternehmer*), but is instead a natural person (consumer) who is entering into the contract for a purpose that is not attributable to either commercial or trade-related or independent professional activities, FCS shall be liable as set forth in Subsection 2, Sentence 1, above. Furthermore, FCS shall also be liable in the event of intent or gross negligence on the part of simple agents in the performance of its contractual obligations (its *Erfüllungsgehilfen*) and in the event of negligent violation of cardinal obligations, without such liability being limited to the typically foreseeable amount of damage or losses.
4. In all other cases, the liability of FCS, its statutory representatives, or its agents in the performance of its contractual obligations (*Erfüllungsgehilfen*) is ruled out in the case of violation of an obligation through ordinary negligence.
5. The customer shall indemnify and hold harmless FCS and its statutory representatives and agents in the performance of its contractual obligations (*Erfüllungsgehilfen*) against all claims asserted by third parties in connection with services undertaken by FCS vis-à-vis the customer and for which FCS is not liable to the customer *inter partes*.

Part IV Final provisions

1. Should individual provisions hereof be invalid, such circumstance shall not invalidate the remaining provisions hereof.
2. Addenda and amendments to these General Terms and Conditions of Business must be made in written form unless they have been agreed with a representative of FCS who holds comprehensive power of representation, particularly managing directors, holders of general commercial power of representation (*Prokura*) or holders of general power of attorney (*Generalvollmacht*).
3. If the other party to the contract is a business entity (*Kaufmann*), legal entity existing under public law, or public-law special fund, the sole place of jurisdiction and place of performance is Frankfurt am Main.



Frankfurt Cargo Services

The German version of these General Terms and Conditions shall be binding. It can be downloaded at <http://fcs.wfs.aero/en/service/downloads-and-information.html> , Document: Allgemeine Geschäftsbedingungen or requested at Tel +49 (0)69 690 29554, E-Mail: info@fcs.wfs.aero
Frankfurt, 02.01.2019