

Porath GmbH – customs agents

Terms of contract

1. Our terms of contract apply exclusively. Conditions of the client which are inconsistent with our terms of contract or which deviate from our terms of contract shall be void and of no effect. Our terms of contract apply to all future business relationships with the client, even if they are not expressly stipulated again. Modifications and additions to these terms of contract must be made in writing in order to be valid.
2. The client and respectively the importer, in whose order he is dealing, is informed that he will be the customs declarant in terms of the Community Customs Code (hereafter: CC). The contractual basis in this respect is Article 4 No. 18 CC.
3. The client shall reimburse instantly all duties and further expenses which the customs agent advances on loan for him in connection with the performance of the contract.
4. The client assures that he is the purchaser of the applied goods or acts with a mandate of the buyer. The client or the importer respectively is entitled to full tax deduction. Otherwise, the client shall inform the customs agent about this matter separately.
5. The customs agent's right to refuse orders of customs declaration for important reasons, for example, on default of payment, missing documents, or insufficient description of goods, remains explicitly reserved.
6. Early enough before the customs declaration, the client informs the customs agent about:
 - a) the CN-Code of the dispatched goods; should there be no CN-Code at the time of the customs clearance, the customs agent is entitled to a separate identification;
 - b) all necessary details for the customs declaration, especially all details of content, quantity, no. of pieces, weight as well as the minimum entry price provisions;
 - c) the use of temporary or quantitative limited import quotas.

7. The client provides the customs agent with:
- a) import and export authorizations, import and export licences, end-use documents, International Import Certificates, export licenses of third countries, control documents and goods certificates;
 - b) valid proof of preferential origin, provided that the client wants to make use of preferential tariff treatment;
 - c) the original delivery verification within 14 days after customs clearance, provided that the customs agent acts as fiscal representative according to the German Value Added Tax Act (Umsatzsteuergesetz - UStG)

8. The client shall bear all costs and tax disadvantages, incurred by false, partial or late information and respectively by not presenting the requisite documents.

Provided that the client is not itself the importer of the goods, the client and the importer are liable to the customs agent as co-debtors for all costs and tax disadvantages which arise in connection with the performance of the contract.

The client assigns to the customs agent all claims against the importer, resulting of the importer's failure to communicate the necessary facts and documents correctly, completely or timely.

9. The customs agent does not assume any liability for an incorrect identification of the CN-Code, provided that he has not acted intentionally or in a grossly negligent manner.

Tariff information by the customs agent is not binding. The client is informed that a binding tariff ruling may be applied for at the competent customs authorities.

10. The customs agent is not obligated to check the possibility and requirements of the customs clearance at a reduced rate of duty, or to inform the client of this. The client is solely responsible to catch up on any customs exemption and the requisite documents in this regard, unless a separate is agreed in writing.
11. The customs agent is not obligated to check whether the goods infringe industrial property rights of third parties.
12. Transit procedures

- a) The client is responsible for the duly and timely presentation to customs of the goods in transit, the transit documents and respectively the NCTS-

consignment notes. In the same way, he shall provide all documents which are necessary for the subsequent execution of the transit procedures. Only alternative proof authenticated by customs officials or, in exceptional circumstances, the original records of customs clearance, with the named office of destination in NCTS procedures, will be accepted as officially recognised proof of presentation to customs. The client shall send the alternative proof to the customs agent without further request no later than 14 days after the opening of the transit procedures.

- b) In the case of an incorrect presentation to customs in the NCTS transit procedure the client bears all further costs for the handling of enquiry and reminder procedure. The client shall pay a minimum handling lump sum (NCTS-repair fee) for incorrectly supplied goods of €200,- net for every NCTS-procedure plus the statutory sales tax. Additional expenses will be calculated according to the expenditure of time.
 - c) Should the transit document guarantee be used in excess of the time-limit for presentation to customs, the client pays 0.08 % of the guaranteed duties per day to the customs agent. The customs agent does not guarantee permanent availability of a transit certificate guarantee for the implementation of NCTS-transit procedure and may request securities customary in banking from the client.
 - d) The client bears the costs and tax disadvantages which originate from non-presentation to customs and respectively non-payment of duty, through loss, theft, or deception in transit procedure.
13. The customs agent works on the legal basis of the German General Forwarding Conditions (Allgemeine Deutsche Speditionsbedingungen - ADSp) in the appropriate current version, provided that these terms of contract do not allow a differing provision. The content of the ADSp is known to the client and is a fixed element of this contract.

The customs agent has signed liability insurance (SLVS-Plus) over Oskar Schunck, Hannover. The maximum liability according to the customs insurance policy averages €50.000- per case of loss, the insured total is a maximum of €1.000.000- per calendar year.

The customs agent is liable for all losses which arise in connection with the customs declaration, but only to the extent of the sum insured, provided that he has not acted intentionally or with gross negligence. Higher indemnity limits are covered on separate request for reimbursement of expenses.

14. Should one or more of the provisions in these terms of contract be completely or partially ineffective, the validity of the other provisions will not be affected. A provision will take the place of the ineffective provision with a similar content, which serves the intended propose of the provision which has ceased to apply.
15. The place of performance for all contractual obligations is Hamburg.

The place of jurisdiction for all legal disputes arising out of or in connection with the contract is Hamburg. For claims against the customs agent, Hamburg is the exclusive place of jurisdiction. German Law applies.