



## General Terms and Conditions for Customs Services at ALS Customs Services GmbH

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### § 1 Scope

These General Terms and Conditions of Business shall apply to all the activities performed by ALS Customs Services GmbH, hereinafter referred to as “**ALS**”, in the areas of customs services, fiscal representation, Intrastat, services related to excise duty and advisory work related to the core activities of ALS.

ALS operates on the basis of the latest version of the German Freight Forwarders’ Standard Terms and Conditions, provided that the General Terms and Conditions for Customs Services do not differ from these. The customer is aware of the content of the General Freight Forwarders’ Standard Terms and Conditions and they form an integral part of any job order.

The customer’s general terms and conditions of business or those of third parties (with the exception of the German Freight Forwarders’ Standard Terms and Conditions or ADSp) shall not apply, even if ALS has not specially objected to their validity in an individual case.

Please note, only the German version of the General Terms and Conditions for Customs Services is legally binding. The English text is a translation of the original.

### § 2 Services

ALS offers customs services as a direct or indirect representative for various customs procedures – e.g. individual and joint customs declarations for the free movement of goods, transit clearance, exports or bonded warehouses. ALS can, in principle, also provide advice



and support for all customs matters – and handle issues like the non-binding classification of goods in the customs tariff, questions on permits, applications for simplified customs procedures, applications for permits and licences, ATLAS, NCTS, Intrastat registration, fiscal services or services in the area of excise duty.

### **§ 3 Orders/Signing Agreements**

#### **a) Basic Issues**

Any agreements covering the aforementioned activities (§ 1) shall be exclusively concluded as a result of the customer's written enquiries – e.g. via the ALS home page – and the corresponding confirmation of the enquiry by ALS or by the customer sending a signed power of attorney. ALS shall have the right to reject any orders, which have not yet been confirmed, even without needing to provide any reasons for this. Any orders from customers placed verbally or any verbal changes to orders, which have already been confirmed, shall only be valid if they have been confirmed by the customer in writing.

An agreement may only be signed if the customer is an entrepreneur in the sense of Section 14 of the German Civil Code – i.e. it is issuing its request by way of exercising its commercial or professional freelance activities and the customer is not named on any anti-terror list or affected by any other embargo regulation. If the customer is named on one of the anti-terror lists or is affected by any other embargo regulation during the ongoing course of the contractual relationship, ALS shall have the right to halt all its services immediately. Any enquiries from consumers in the sense of Section 13 of the German Civil Code shall not lead to the signing of an agreement, unless these kinds of enquiries are processed despite the company knowing that a consumer is involved. The General Terms and Conditions for Customs Services shall apply to consumers too, provided that no mandatory, legal regulations exclude this.

#### **b) Placing Orders for Transit Documents**

If the work commissioned involves transit documents like the T1, T2, T, carnet TIR and/or carnet ATA documents to accompany shipments, the customer shall promise to fulfil the following:

1. If the order involves community goods, which are being exported, ALS shall receive a copy of the export procedure that has been initiated from the customer in good time before it prepares the transit paperwork. (We hereby refer to No. 4.9.1.3.4 Paragraph 3 of the ATLAS procedural instructions.)
2. ALS shall receive from the customer all the documents and information required for clearance in each individual case (originals, if necessary).
3. The customer shall inform ALS of the customs tariff number for the individual order. If the customs tariff number is not available at the time of the transit declaration, ALS shall be entitled to determine this on its own on the basis of the information available to ALS at this time. ALS shall not assume any liability for ensuring that the customs tariff number, which has been communicated in the customer's details, is correct.
4. ALS must be informed about the circumstances related to any "dual use" items prior to any clearance work and shall receive the necessary original copies of the permits in good time.



5. The customer shall be responsible for any obligations in line with foreign trade law and complying with any existing embargo stipulations, bans and restrictions, particularly those arising from customs law and international and/or political measures related to international trade.
6. The customer shall assume sole responsibility for ensuring that all the documents and details, which are required to complete the instructions, are complete, correct and true. There is no need for ALS to check or complete these.
7. The customer promises to properly present to the customs authorities transit documents prepared for it within the set deadline. If they are not presented to the customs authorities properly, the customer shall be responsible for any costs arising from this.

#### **§ 4 Grounds for Refusal**

ALS shall retain the right to reject any enquiries, which are illegal or transgress standards of public decency, without the need to provide any explanation.

These may include enquiries from the following sectors:

- pornography in any shape or form
- any material that is offensive or racist or discriminates against individual religions or groups or glorifies violence
- live animals, even if the species is not specially protected by the Washington Convention on International Trade in Endangered Species or parts of protected animals (e.g. ivory, tortoise shells etc.)
- any kinds of drugs, which may also include medicines
- any kinds of weapons, but particularly weapons of war, ammunition and parts of them
- any stolen goods
- any items that could infringe the rights of third parties, e.g. copyright, patents or trademark laws.

ALS shall also reserve the right to refuse the customs clearance work if one of the following points is relevant:

- any delays in payment by the customer
- documents are missing and so prevent a proper customs declaration
- an inadequate description of the goods

The responsibility shall lie with the customer to ensure that the enquiry that it makes and the data/documents that it provides (in physical and/or electronic form) are correct and complete. If any data, documents etc. are withheld or are described in a wrong or incomplete manner, we reject any liability for this.

#### **§ 5 Prices for Services**

ALS completes job orders in line with individually agreed prices for services. The legal rate of value added tax must be added to all prices.



## **§ 6 Invoices/Payment**

The statement of accounts for any advisory services provided shall be prepared for each job order as a matter of principle.

The customer shall promise to pay the remuneration in line with Section 5 and all duties and any other expenditure, which ALS has paid in advance in conjunction with the completion of the job order. ALS shall have a claim to the reimbursement of the expenditure, which ALS believed was necessary according to the circumstances.

This expenditure may particularly involve the following:

- the necessary legal costs to avert any unauthorised claims against ALS, which are connected to its work for the customer;
- any customs penalties and late payment fines when paying sums to the customs collection office in advance.

Payment of the net sum shall exclusively be made without any deduction to an account named by ALS within 10 days of the date on the invoice or by agreement.

If the customer so wishes, ALS may agree to issue a joint invoice or credit (e.g. weekly or monthly).

If the customer falls into arrears with its payment commitments, ALS shall be entitled to halt the services arising from any job orders, which are current at that point in time, without triggering any claims for compensation. Further claims for compensation shall not be affected by this.

## **§ 7 Guarantees Provided by the Customer**

If the clearance work involves the NCTS process, ALS shall be authorised at any time to demand the submission of a bank guarantee, waiving the defence of failure to pursue remedies (Section 771 of the German Civil Code).

The guarantee must be returned after the expiry of three years after the accrual of the last customs debt, which occurred on the basis of the agreement signed by the parties. This deadline shall be extended by the time from which any legal remedy against any assessments of customs duty is submitted until the case has been concluded in a legally binding manner.

## **§ 8 Agreement Covering a Right of Lien in Favour of ALS**

The customer and ALS shall agree that ALS shall acquire a right of lien to the consignments that are subject to customs duties; this refers to consignments, of which ALS has gained possession during the course of business or will do so.

The right of lien shall serve as security for all the existing, future and contingent claims, to which ALS shall be entitled as a result of the relevant business connections with the customer.

## **§ 9 Subcontractors**

ALS shall be entitled to use performing agents. The customer shall confirm that ALS may use these chosen performing agents, such as customs and logistics companies, outside solicitors specialising in customs issues, external customs advisors or accountants on its behalf to



handle the customs procedures or provide individual services that form part of the relevant advisory job order.

### **§ 10 Traded Goods/Exported and Imported Goods**

The customer shall promise that any descriptions, declarations and other product specifications on the goods, which are the subject of the agreement, shall be made available in the correct and complete form; it shall respond to any enquiries to the best of its knowledge and point out any special features related to the goods.

### **§ 11 Duty to Cooperate**

The customer shall promise ALS and the customs and tax authorities that it will cooperate with any repayment applications if the duties paid are too high, speedily make available all the documents that are requested at any time and/or grant the authorities access to the requested documents/data.

The customer shall exclusively bear responsibility for any damage, which arises from not heeding its duty to cooperate, and it shall therefore indemnify ALS from any claims from those involved or from other third parties, regardless of the legal basis for the claims.

### **§ 12 Liability/Statute of Limitations**

ALS shall only be liable for deliberate intent and gross negligence on the part of its legal representatives and senior employees or subcontractors when providing its services. Provided that ALS has not been accused of infringing the contract deliberately and no evidence has been provided of this, the liability for compensation shall be restricted to the predictable damage/loss that would typically be incurred.

Any liability on account of the culpable loss of life, bodily injury or damage to health shall not be affected by this.

Furthermore, ALS shall be liable for slight negligence, if a duty is infringed as a result, and this duty is of particular importance in achieving the purpose of the agreement and damage/loss is incurred as a result. In this case, the liability for compensation shall be restricted to the predictable damage/loss that would be typically incurred.

The total liability in paragraph 3 is restricted to three times the price for the services for the ALS obligation, which forms the basis for the damage event, but no more than EUR 1,000 per case of damage and EUR 5,000 per damage event.

The liability for damage caused by any delay/default according to Sections 280 Paragraph 2, 286 of the German Civil Code on account of issuing information late shall be excluded – unless it involves a transaction with a fixed date in the sense of Section 376 of the German Commercial Code. The liability for damage caused by any default/delay according to Sections 286, 280 Paragraph 2 of the German Civil Code shall be restricted to EUR 1,000 per damage event.

When holding training sessions, we exclude our liability for slightly negligent infringements of duties, provided that they do not concern damage based on injury to life, limb or health. The liability for any infringement of duties, the completion of which enables the agreement to be fulfilled properly and regarding which the customer may routinely be confident that they will



be performed, shall not be affected by this. The same shall apply to any infringements of duties by our performance agents.

In the case of any damage to property and assets caused by negligence, ALS and its performance agents shall only be liable if they infringe a major contractual obligation, but the amount shall be restricted to the typical damage that could be expected when the agreement was signed.

In the case of any loss of data and/or programmes, ALS shall only be liable for the amount of expenditure, which occurs if the customer uses normal business data backup systems and has therefore guaranteed that any data that is lost can be restored with reasonable expense. The total liability for any such damage shall be restricted to no more than EUR 1,000 per damage event.

ALS shall not be liable for the fact that the website cannot be accessed at all times.

The statute of limitations for any claims directed against ALS, which are not based on attributable deliberate behaviour, shall be one year. The legal stipulations shall govern the start of the limitation period.

The aforementioned rules shall also apply to the benefit of bodies, employees and performance agents at the ALS.

### **§ 13 Indemnification**

If the customs authorities issue a claim against ALS as a body involved in the customs procedures in conjunction with the commitments arising from the contractual relationship with the customer, the customer shall indemnify ALS immediately and completely from these commitments and any legal prosecution costs as part of the internal relationship.

The customer in particular shall bear all the costs and tax disadvantages, which are caused by incorrect and/or late information or by the non-presentation of necessary documents, and shall indemnify ALS from these once we have issued an invoice to the customer.

The customer shall indemnify ALS from any claims (particularly arising from product liability, manufacturer liability, an infringement of industrial property rights), which are asserted either by a different customer or a different third party arising from or in connection with the advisory job order that exists between the customer and ALS.

The customer shall promise to pay back any claims from its customers and claims from third parties against ALS to ALS immediately once we have issued an invoice to the customer.

### **§ 14 Data Protection**

All the customer data shall be exclusively stored and used to handle the orders. The customer shall explicitly declare that it agrees to this usage and storage in the aforementioned sense.

ALS shall guarantee to a reasonable extent that the data shall not be made accessible to unauthorised third parties. ALS shall adopt the measures required to maintain secrecy and uphold the data protection laws within a reasonable manner. This shall also include the authorisation to check the data transmitted by the customers in order to counter any possible actions in breach of the contract or the law. This shall particularly apply if there is any suspicion that manipulation has taken place within the framework of customs declarations or the complete customs procedure.



ALS shall not guarantee any absolute data security against attacks by third parties.

### **§ 15 Links**

ALS rejects any liability for links to and from the ALS home page.

ALS does not have any influence on the design and content on outside websites. ALS therefore distances itself from any outside content, even if a link has been created to these external sites from the company's website. This shall apply to all the links indicated on the home page and all the content on the sites, to which the banners and links lead, and any outside input in guest books, discussion forums and mailing lists established by the company.

### **§ 16 Force Majeure**

In any cases of force majeure, ALS shall be entitled to immediately halt the services owed according to the agreement, without triggering any claims for compensation.

ALS shall promise to inform the customer immediately about any case of force majeure and the suspension of services.

### **§ 17 Amendments**

ALS may amend these General Terms and Conditions of Business at any time. ALS shall separately refer to this in its news items or on its home page in each case. The customers shall be obliged to check whether there have been any new amendments to the General Terms and Conditions of Business on the home page at regular intervals, but at the latest before placing a specific order.

Each time that the General Terms and Conditions of Business are amended, the customer may terminate the agreement immediately and without any period of notice.

If the customer does not object to any amendment within one week of being informed about it or if it confirms it by placing an order without making any special reference to the amendments, the amended conditions shall apply.

### **§ 18 Assignment**

Any assignment of claims arising from the contractual relationship shall require prior approval from ALS.

### **§ 19 Choice of Law**

The laws of the Federal Republic of Germany shall exclusively apply to the contractual relationship between customers and ALS to the exclusion of the rules governing any conflict of laws within international private law and the UN Convention on Contracts for the International Sale of Goods.



## **§ 20 Place of Jurisdiction**

Any lawsuit should be initiated at the court, which is responsible for the headquarters of ALS Customs Services GmbH in the case of any disputes arising from the contractual relationship, if the applicant is a legal entity in public law or a special fund governed by public law. This is currently Lörrach/Germany. The same shall apply if the petitioner is a businessperson and the business involves a commercial transaction for this person. ALS shall also be entitled to initiate a lawsuit at the place of the businessperson's branch, the headquarters of the legal entity or the location of a public body.

## **§ 21 Written Form/Severability Clause**

Any amendment or supplement to these terms and conditions, including any waiver of this clause, must be made in writing. The same shall apply to any waiver of the requirement to put matters in writing.

If one or several of the clauses of this agreement are invalid, the contract partners shall agree on a substitute ruling, which most closely matches the economic purpose of the invalid ruling. Apart from this, the invalidity shall not affect the validity of the other stipulations. The same shall apply to any gaps in the rules in these terms and conditions.