

Special conditions for transport and logistics services (06/2018)

1. Scope of application, components, and contrary conditions

These conditions apply to transport and logistics services provided by MAN Energy Solutions SE (hereinafter referred to as the "Customer") to the contractor named in the transport order (hereinafter referred to as the "Contractor").

In addition to these conditions, the General Purchasing Conditions for Goods and Services shall apply in the respective applicable version.

See <http://dieselturbo.man.eu/company/purchasing/general-purchasing-conditions>.

The Contractor's general terms and conditions, and in particular, the ADSp [German Freight Forwarders' Standard Terms and Conditions], BSK [General Terms of Business of the German Professional Association for the Shipment of Heavy Goods] and the IVTB [International Loading and Transport Conditions for Inland Waterway Transport], or any third party conditions or local provisions shall only apply if explicitly agreed upon in writing by the Customer.

2. Transportation guidelines, load securing and safety equipment

As far as is economically justifiable and feasible for the Contractor, the latter should prioritise use of vehicles from the MAN product range to implement the transport service. The vehicles used should be operated in an environmentally friendly manner with low energy consumption and low emissions.

For shipments on steel seagoing vessels with mechanical self-propulsion, these ships must not be more than 15 years old. Said ships must be registered with the following classification societies, without limitation:

GL - Germanischer Lloyd
LR - Lloyd's Register of Shipping
ABS - American Bureau of Shipping
BV - Bureau Veritas
CCS - China Classification Society
NK - Nippon Kaiji Kyokai
KR - Korean Register of Shipping
DNV - Det Norske Veritas
RINA - Registro Italiano Navale
RS - Russian Maritime Register of Shipping

The use of ships that do not meet the above criteria shall only be permitted following prior consent from the Customer.

Inland waterway vessels used to deliver shipments must carry a valid class certificate.

The Contractor undertakes to provide equipment for securing cargo (lashing straps, non-slip mats, edge protectors, etc.) themselves. These must be state of the art and in particular comply with the 2700ff. standard issued by the VDI [The Association of German Engineers]. Sufficient, suitable load securing materials must also be provided during transportation. The Contractor shall ensure effective protection against weather, and in particular, against moisture, for goods which are transported on open vehicles.

The costs for measures to avert danger as part of obligations to ensure traffic safety on or for the means of transportation and aids used shall be borne by the Contractor.

The Contractor and any subcontractors he employs shall be required to wear suitable safety equipment (safety helmet, high-visibility vest, safety shoes and safety goggles) before entering the premises of MAN, the supplier, or construction sites, and shall comply with all applicable provisions of German employers' liability insurance associations (BG regulations), as well as instructions issued by the Customer.

3. Surveys

The Customer reserves the right to conduct surveys or have surveys conducted. The scope of service of the surveyor employed by the Customer or his respective customers includes, but is not limited to, supervision/monitoring during the loading and/or

unloading process and checking and assessing the stowage and securing processes for all packages to be transported.

The Customer shall provide the Contractor with sufficient prior notice of the date on which the survey will be carried out.

The Contractor shall ensure that the representatives or employees of the Customer or his respective customers have unrestricted access to the areas required in order to carry out the survey at the time the survey is set to be carried out, if and insofar as the Contractor has right of access and/or entry to the respective area as part of his activities and services under this contract.

The surveys shall be carried out without any legal effect. A survey is not a substitute for acceptance, nor does it restrict the sole responsibility of the Contractor with regard to his contractual obligations in any way; in particular, it cannot be used to derive any claim for contributory negligence on the part of the Customer.

4. Compliance with customs legislation and secure supply chain

The Contractor shall ensure that the operating sites and transshipment sites at which the goods are stored, loaded and transported for or by the Customer are protected against unauthorised access by third parties as part of a secure supply chain and manned by reliable personnel.

The Contractor undertakes to duly process the export procedure for all goods shipments which he transports out of the customs territory of the Community to a third country on behalf of the Customer. This shall be carried out in compliance with the respective applicable versions of the Union Customs Code (Regulation (EU) No. 952/2013 of the European Parliament and of the Council from 9th October 2013), Delegated Regulation (UZK-DA)(Regulation (EU) No. 2446/2015 of the European Commission from 28th July 2015), the German Foreign Trade Act (Außenwirtschaftsgesetz), the German Foreign Trade Regulations (Außenwirtschaftsverordnung) and the procedural instructions for the ATLAS export IT procedure. This includes, in particular, compliance with the two-stage export procedure including provision of goods at the export (where necessary) and exit customs offices to ensure proper processing and completion of documents accompanying export.

5. Compliance with statutory provisions

The Contractor shall ensure that he, the vehicles he uses and his driving personnel or subcontractors comply with all statutory provisions required for the execution of individual orders issued by the Customer. In particular, the Contractor shall comply with provisions on driving and rest times, ensure he is familiar with the contents of accident information sheets and carry these in the specified location in the vehicles used.

The Contractor shall comply with country-specific laws and provisions during transportation and obtain the necessary exemptions and special permits at his own expense. This shall also apply if the Contractor brings in a subcontractor to carry out the services required.

The Contractor shall, in particular, ensure that

a) he, his driving personnel and any subcontractors he may employ, have obtained the permission or authorisation required for the respective individual order in accordance with Sections 3, 6 GüKG [German Road Haulage Act] (permit, community licence and/or ECMT permit) and that such permission is not used inappropriately; in the event of revocation and/or expiry of the validity of the required permit or authorisation, the Contractor shall inform the Customer immediately and shall not accept any further orders or carry out any orders that have already been accepted. This shall also apply in the event of revocation or expiry of permission or authorisation from a subcontractor employed by the Contractor.

b) he, his driving personnel, and any subcontractors he may employ carry all legally required documents in the necessary form (in particular, in accordance with Section 7 GüKG) when driving;

c) his driving personnel carry a record book in accordance with Item 5 of the ECMT directive when driving;

d) foreign driving personnel from third countries (non-EU/EEA countries) and subcontractors from an EU/EEA country are in possession of a residence permit in accordance with Section 4(3)

Aufenthaltsgesetz [German Residence Act], a temporary residence permit, an acquiescence that enables the holder to work, or a valid driver's licence issued by a German authority in accordance with Item 5 of Regulation (EU) No. 1072/2009, as well as any other required work permits, and that the driver carries the required documents (passport, substitute passport, identity card, residence permit, temporary residence permit or acquiescence, required work permit or negative clearance) in their original copies, and, where necessary, an officially certified translation in German or a certificate within the meaning of Item 3 para. 5 of Regulation (EU) No. 1072/2009 while driving the vehicle;

e) only drivers with a valid driving licence in the required format are employed and that the drivers carry this document with them;

f) consignment notes and loading documents have been obtained prior to departure and are carried during transportation;

g) the vehicle documents for the respective means of transportation are available and carried during transportation;

h) only vehicles with a valid registration in the country of origin of the Contractor are used;

i) the documents to be carried in accordance with a) to e) are presented at the request of the Customer or his contractual partners or agents in their original copies. The Customer or any third parties appointed and employed by the Customer are entitled to document the relevant checks and, in particular, to produce and keep copies of the documents presented for the purposes of fulfilling their responsibility, in particular, in accordance with Section 7c GüKG.

The Contractor shall inform the driving personnel and any subcontractors he employs of the above requirements and shall issue corresponding instructions for compliance.

If the Contractor employs a subcontractor, the Contractor shall enter into a contractual agreement with the subcontractor with regard to these provisions and ensure that the latter complies therewith. The Contractor shall also check that the subcontractor complies with the obligations listed in the preceding paragraphs and document these checks for the benefit of the Customer. Copies of the relevant documents and reports on the checks carried out shall be provided to the Customer upon the latter's request.

The Contractor shall inform the Customer immediately if he becomes aware of any circumstances that may prevent the provision of the services as a result of violations of the aforementioned requirements, shall refuse any further orders and shall not carry out or have carried out by a third party orders that have already been accepted. Any damages or expenses resulting from refusal or non-fulfilment of orders (due to violations of the above-mentioned requirements) shall be borne by the Contractor. The Customer is exempt from the payment of any remuneration.

6. German Minimum Wage Act

The Contractor shall comply with all of his obligations under the German Minimum Wage Act [Mindestlohngesetz, MiLoG] when carrying out orders for the Customer. These include the payment of the minimum wage applicable at the time of payment to all persons employed in Germany or working for the Contractor in Germany, the recording of working hours, etc. The Contractor shall ensure that he only uses subcontractors who pay their employees the minimum wage on time and have provided the Contractor with written confirmation of their compliance with the provisions of MiLoG.

Upon request from the Customer, the Contractor shall submit relevant evidence (e.g. customs declarations, etc.) of fulfilment of his own and his subcontractors' obligations under the Germany Minimum Wage Act.

Should the Contractor refuse or be unable to submit the relevant documents, or should there be reasonable suspicion for violation of the Contractor's obligations under MiLoG, the Customer shall be entitled to terminate the corresponding orders, contracts and other contractual agreements without notice. The Customer shall be entitled to withhold payment until proof of compliance of these obligations under MiLoG is provided.

The Contractor shall indemnify the Customer against all claims, including third party claims, upon first written request, provided that the asserted claims result from an alleged violation of obligations

under MiLoG on the part of the Contractor or a subcontractor employed by the Contractor. This shall include claims made by the Contractor's own employees, claims by employees of any subcontractors, official claims, such as fines, regulatory orders, and any related costs for legal proceedings and legal defence.

The Contractor shall inform the Customer immediately if claims are asserted against the Contractor by the Contractor's own employees or subcontractors, if and insofar as these claims are made in relation to the German Minimum Wage Act or if a non-compliance procedure is initiated against the Contractor and the non-compliance procedure is connected to the German Minimum Wage Act. In such cases, the Customer shall be entitled to end the contractual relationship, either in whole or in part.

7. Remuneration and freight payment

The Contractor shall be remunerated as specified in the transport order. The amount specified is subject to VAT in addition. Should the cost of the services actually performed fall below the cost of the total order value, the Contractor shall not be entitled to payment of the total order value. For invoicing purposes, only the actual services rendered and the costs associated with these shall be taken into account.

The Contractor is fully responsible for providing the Customer with an invoice for the services rendered. The Customer shall not accept any invoices from subcontractors and hereby explicitly expresses his desire for full payment to be made exclusively by the Contractor. The payment period shall be 30 days from the date of the invoice. For transportation of exceptional loads or heavy goods, all costs incurred for traffic control measures and any necessary police escorts shall be calculated according to expenses and shall not include the Customer's or Contractor's commission/processing fee.

8. Accounting

All invoices shall be addressed as specified by the Customer in the transport order, without exception.

Payments shall be made exclusively in accordance with the following conditions:

- Order and transport order number must be specified
- Consignment notes of the respective modes of transport must be included and signed by the consignor, carrier and consignee.
- The Contractor shall promptly deliver or send documents of title to goods to the Customer or a body appointed by the Customer via a reliable dispatch route.

9. Termination clause

If the contract between the Customer and his end customer should be terminated, the Customer is entitled to terminate the contract with the Contractor without notice.

In this case, the Contractor shall be reimbursed for any costs incurred for shipments that have already been processed and/or delivered up until the date of notification. Any further claims shall be excluded.

10. Delivery deadlines and hold-ups

Agreed deadlines and periods are binding. However, the Contractor must comply with the applicable regulations on driving hours and rest periods.

As soon as the Contractor identifies any difficulties pertaining to transport or delivery, he must inform the Customer without delay. If these obstacles are attributable to the Contractor, the Customer is entitled to procure an alternative means of transport at the Contractor's cost.

If a delivery control system is implemented at the loading or unloading site by means of time slots, demurrage cannot be claimed in the event of non-compliance.

If the Contractor is commissioned with carrying out intermodal transport, any claims to demurrage (quayage) are also excluded if there are delays in the transport chain that the Contractor could have been aware of (e.g. delays in ship departures).

11. Liability

The Contractor shall be liable for all transport or transport-related services as carrier in accordance with the provisions of the HGB [German Commercial Code], and in particular, Sections 407 et seq. HGB, unless otherwise stipulated by mandatory regulations or international conventions.

A written notification of claim (fax or e-mail is sufficient) from the Customer shall suspend the limitation period of any claims for damages.

The Contractor shall indemnify the Customer against any claims for damages asserted by third parties in connection with the provision of services covered under the Contractor's insurance (third party liability, environmental liability, packaging liability and transportation liability insurance). This shall also apply to any damages the Customer may accrue as a result of the actions or omissions of a subcontractor.

If the exact location of damage is unknown in the case of multimodal transport, the applicable law for the transport leg shall be that which is most favourable for the Customer.

If the Montreal Convention of 1999 applies, the Contractor shall be held fully liable for any damages, and the limitations on maximum liability shall be waived, provided the damage has been caused by an act or omission on the part of the Contractor, done with intent to cause damage or recklessly with knowledge that damage would probably result.

The Contractor shall be liable, in accordance with statutory provisions, for packaging or packaging-related services, as well as for storage and storage-related services.

Furthermore, the Contractor shall be liable for all damages incurred by the Customer as a result of non-compliance with statutory provisions or generally recognised state of the art as part of the performance of the contract. This liability shall extend to any fines and/or penalties (including defence costs) imposed on the Customer and/or individual employees and/or executive bodies as a result of improper processing on the part of the Contractor.

The Contractor's liability to the Customer for damage to goods and damages arising therefrom shall be limited to EUR 2,500,000.00 per incident. The Contractor's liability to the Customer for purely economic losses shall be limited to EUR 250,000.00 per incident.

The Contractor shall also be liable to the Customer for damages caused if the Contractor acts on behalf of the Customer as part of the import/export customs procedure and makes incorrect declarations to customs officers and/or other authorities.

Irrespective of the previous regulations, the parties hereby agree that the Contractor shall be fully liable, regardless of his insurance cover, for all damages, in particular purely economic losses, caused intentionally or as a result of recklessness with knowledge that damage would probably result.

Furthermore, the limitations of liability shall not apply to claims for damages arising from injury to life, limb or health, as well as any damages under the German Product Liability Act [Produkthaftungsgesetz].

If a subcontractor's liability extends beyond the Contractor's liability, the Contractor shall assign his claims against the aforementioned subcontractor to the Customer or the latter's transport insurer at the Customer's request. The liability of the Contractor under this contract, however, shall remain unaffected. Irrespective of his own liability under this contract, the Contractor shall take recourse against all subcontractors and record damages at all interfaces in writing. The Contractor must hand over the corresponding documents to the Customer upon request.

The Contractor shall be liable for the actions and omissions of his employees and any subcontractors employed in order to carry out his contractual obligations, as for his own actions and omissions.

The Customer shall only be liable to the Contractor if he, his legal representatives or vicarious agents breach their contractual obligations intentionally or as a result of negligence. In the case of negligence, the liability of the Customer shall be limited to coverage of the existing public liability insurance and limited to EUR 2.5 million per incident and EUR 5 million for all incidents per year in the aggregate. Any further liability must be agreed in writing before the commencement of the risk.

Limitations of liability under this item shall also apply to any concurring claims arising from tort, but shall not apply to claims for damages arising from injury to life, limb or health or those under the German Product Liability Act [Produkthaftungsgesetz].

12. Insurance

Unless otherwise agreed, the Customer shall take out transport insurance. The Contractor's liability under this contract shall remain unaffected.

The Contractor shall take out insurance to cover his liability under this contract for the contract term at his own expense with an insurance policy acceptable to the Customer, in particular to cover third party liability, forwarding and transport liability and shall provide proof of the coverage and maintenance of this insurance at any time at the Customer's request. The insurance cover shall be taken out on the basis of insurance terms which are applicable under German law and which establish a place of jurisdiction in Germany against the insurer. If the Contractor plans to make adaptations to the relevant insurance policies during the term of this contract, he must notify the Customer immediately.

The Contractor shall take out hook load insurance for damages that occur during the handling/lifting process caused by load-bearing equipment for EUR 2,000,000.00 per incident. The Contractor shall provide proof of this insurance at the Customer's request.

The Contractor shall also ensure that the subcontractor has taken out comprehensive insurance to fully cover the risks associated with the fulfilment of his obligations under the contract, with the exception of transport insurance.

The Customer shall be informed immediately about any disruption or termination of this insurance cover. The above shall not apply to the insurance cover of any subcontractor if such is subcontracted by the Contractor. The subcontractor shall undertake to inform the Contractor accordingly in this regard.

In order to limit the areas of liability, the Contractor must check the goods to be accepted thoroughly and report any noticeable damage and irregularities on the exterior to the Customer. The Contractor must document checks at interfaces during transport in detail and send them to the Customer on request.

13. Transport accidents

The Contractor must inform the Customer of any damage incurred during transport and other irregularities immediately, both on the phone and in writing. The report shall be submitted to the Customer's responsible shipping department.

The Contractor shall inform the police of any damage to or theft of goods occurring during a period of interim storage and shall also notify the Customer without delay.

The Customer, his associated insurance partner and recourse bodies shall manage the processing of transport damage and the resulting recourse claims. The Contractor shall support the Customer in processing the transport damage and, in the event of a claim, secure rights of recourse against the subcontractor.

The Contractor shall inform the Customer immediately of all transport damage incurred by sending copies of the documents to be filled out (e.g. consignment notes, bills of lading, delivery notes, damage reports, etc.).

The Customer and his insurance partner reserve the right to have damage examined by an authorised expert. The Contractor must assist this expert in any way possible during the damage investigation.

Claims files created by the Contractor shall be available for 10 years after processing is completed.

14. Storage of documents and business records

The Contractor shall securely store all business records he receives from the Customer and any documents procured or created by the Customer during the retention periods prescribed by law or specified in the Customer's instructions.