

General Agreements and Loading Instructions (General Terms and Conditions) Thermotrafic GmbH (as of 02/2024)

The following points are an essential part of the transportation contracts concluded with the freight carrier. They shall apply unless mandatory national or international legal provisions take priority.

These General Terms and Conditions are available on www.thermotrafic.de (menu item: Downloads). We explicitly contradict the inclusion and validity of any General Terms and Conditions of the freight carrier. The freight contract is valid without countersignature.

1. VEHICLE / DRIVER

The freight carrier commits himself by contract to providing a safe, clean, odor-free and, in case of temperature-controlled transports, pre-cooled refrigerated truck in technically and optically flawless condition (no refrigerated tarpaulin).

The driver has to be equipped with safety shoes, safety vest, safety helmet, safety glasses and work gloves. The freight carrier commits himself to giving a phone number to Thermotrafic one day before loading under which the driver can be reached.

2. IFS / BRCGS / QA STANDARDS

By accepting the transport order, the freight carrier confirms that he is certified according to the IFS Logistics or meets all requirements of chapter 4.3.2.3 of the IFS Logistics standard in its currently valid version, in particular:

- Cleanliness and operative readiness of transportation units and truck
- Temperature monitoring of products requiring temperature control
- A clear separation of different products
- Ensuring prevention of any contamination (also cross-contamination caused by incompatible products in the same transportation unit or storage capacity)
- Contamination by emissions, exhaust fumes, odors, foreign substances, packaging material etc. has to be ruled out
- If agreed upon services cannot be rendered (e.g. punctuality of delivery), Thermotrafic has to be informed immediately. The freight carrier identifies the on-board measuring and monitoring devices required to ensure compliance with product requirements (these include, amongst others, portable measuring instruments on board). These devices have to be listed and clearly marked.
- The freight carrier ensures that the measurement equipment and devices are checked, calibrated and/or verified and/or adjusted at defined intervals according to recognized standards/methods. The results are documented.
- There is an effective procedure for the withdrawal and/or recall of all products. This procedure includes a clear assignment of responsibilities.
- The procedure ensures an effective and prompt response according to the recall and withdrawal requirements of the product owners.
- To ensure its effectiveness and possible improvement, the procedure has to be tested at least once a year. If a product recall or withdrawal took place within the last 12 months prior to the check, this recall can be used for assessment of the procedure.
- **Food Defense requirements:** The goods have to be protected from unauthorized access during transportation (e.g. by securing the loading area with a lock). It has to be ensured that third parties cannot manipulate the setting of the transport temperature. Apart from official checks and customs agents, third parties must not be given access to transport documents/accompanying documents or their content in any way (e.g. by handing them over).
- By accepting the transport order, the freight carrier confirms to meet the binding QA requirements defined in chapters 2 (2.3. Good Hygiene Practice), 3 (Transport), and 5 (Traceability and Origin) of the QA guideline in its currently valid version. The implementation of the requirements by the freight carrier has to be ensured by means of proof within the scope of random self-inspections. Corresponding evidences must be provided to Thermotrafic immediately (within 24 hours) upon first request.

3. TAKING OVER THE LOAD

The freight carrier commits himself to counting the **pieces of goods** when taking over the load. Even if the truck is possibly sealed with leads later, he must check the number of pieces belonging to the load taken over. If it is impossible to count the pieces of the load at the loading place, Thermotrafic has to be immediately informed about this. The driver needs to be instructed to pay particular attention to the condition of packaging. If the packaging is damaged, dirty, insufficient or if it has been opened, the driver has to write a corresponding note on the letter of consignment and have it countersigned by the loading place. Otherwise the complete and undamaged taking over of the goods is regarded as being proven.

Before stopping at the loading place, the **TEMPERATURE RECORDER** has to be switched on and its functioning needs to be checked. The driver has to randomly check the **LOADING TEMPERATURE** of the goods before loading starts, during and after loading. If the measured loading temperature does not correspond to the loading temperature stated in Thermotrafic's instructions, the driver has to reject taking over the load and inform Thermotrafic about this immediately. Loading without Thermotrafic's approval is forbidden. Otherwise, it is regarded as being proven that the goods were taken over at sufficient pre-cooling. The loader has to confirm the loading temperature measured by the driver in writing on the CMR letter of consignment. In general, the core temperature of deep frozen goods must be at least **minus 18.0 degrees Celsius** (ice-cream at **minus 25.0 degrees Celsius**). When fresh goods, whether hanging or in plastic boxes (E-2 boxes, bins, etc.) or pharmaceuticals are being loaded, no wood (e.g. empty wooden pallets) is allowed on the freight space.

If the loading temperature for the fresh goods was not specifically indicated in the order, it has to be between **plus 2.0** and **plus 4.0 degrees Celsius**. For fresh meat, the **minimum** loading temperature is **0.0 degrees Celsius**, the **maximum** loading temperature is **plus 2.0 degrees Celsius**. Cargo units (trailers, swap bodies etc.) handed over to the carrier for the purpose of transport are considered to be freight. The temperature records for the respective transport must be kept for a period of three years from the time of delivery and made available to Thermotrafic on request within 24 hours.

4. LOADING

The freight carrier is obliged to load and unload the goods.

Loading and unloading has to be done quickly. Goods have to be loaded in a way that there is sufficient space for air circulation (top, bottom and sides). The air inlet and outlet of the vaporizer, air ducts and flaps must not be blocked. When fresh fruits and vegetables are transported, the top layer always has to be covered. Fresh meat has to be loaded hanging and with a sufficient distance. If the floor is not profiled, it has to be covered with pallets or grating. There must be a minimum distance of 20 cm between the rear doors and the goods. The goods have to be protected from slipping by the use of transport locking bars or other load securing means (e.g. by upending pallets etc.). When loading pallets, they have to be sufficiently protected from slipping or falling down.

Before departure, the driver has to make sure that the vehicle is not overloaded and that the maximum permissible axle loads are not exceeded. If the vehicle is overloaded, the driver is not allowed to leave. If the loaded quantity does not correspond to the loading quantity referred to in the transport order, Thermotrafic has to be contacted for advice.

After loading, the driver has to have the loader (consignor) **SEAL** the vehicle **WITH LEADS**. After customs clearance/veterinary inspection, the vehicle has to immediately be sealed again with leads by customs officials, the vector customs brokers. The new lead seal has to be confirmed in writing on the letter of consignment ".....(amount of former lead seals & numbers)" and ".....(amount of new lead seals & numbers)". **TRANSSHIPPING AND ADDITIONAL LOADS ARE FORBIDDEN** for all shipments carried out on behalf of Thermotrafic. In general, **TRANSSHIPPING AND ADDITIONAL LOADS ARE FORBIDDEN** for all transports carried out on behalf of Thermotrafic.

5. LIABILITY

In the context of national transportation, the freight carrier is liable to Thermotrafic in case of loss/damage by 40 special drawing rights of the International Monetary Fund (SDR) per kg gross weight of goods.

In the context of international transportation, the mandatory provisions shall apply, in particular those of the CMR convention.

PLEASE NOTE!

The freight carrier will only be entrusted with valuable goods and goods that are at high risk of theft, which have a tenfold value of the statutory liability according to § 431 I HGB (German Commercial Code)/Article 23 III of the CMR convention.

6. LICENCES ETC.

The freight carrier assures that he has all transport licenses required according to § 3 and § 6 of the German Road Haulage Act (GÜKG) (i.e., permission, EU license, third-country approval, ECMT permit, Swiss license, valid ATP certificate, ADR certificate/ADR card and ACKNOWLEDGEMENT OF BONDED GOODS). Furthermore, if legally required, he assures to carry them with him during transportation. Moreover, he has to check, if all documents necessary for the transport to be carried out are present. If not, he has to ask Thermotrafic for the missing documents and obtain the missing permits. The freight carrier commits himself to observing all social provisions of road transportation, in particular driving times and rest periods. Third-country freight carriers which carry out transports within the EU or the EAA commit themselves to only employing drivers that have the required work permit and driver's certificate. Furthermore, they are obliged to ensure that each driver has an official certificate including a certified German translation of this certificate according to § 7b, sec. 2, phrase 2 of the German Road Haulage Act (GÜKG) and that he carries those documents with him during transportation. The freight carrier is obliged to hand over all documents to be carried on the truck to Thermotrafic or the consignor for checking purposes upon request. The freight carrier is obliged to instruct his drivers accordingly. The employment of foreign freight carriers for national transportation (cabotage) is only allowed after Thermotrafic's explicit written approval. If the freight carrier cannot submit the requested proof in case of checks by Thermotrafic or by persons authorized by Thermotrafic, the vehicle will be considered as not provided and the freight carrier will be liable for all damages which may result thereof.

In case of a culpable violation of one of the aforementioned duties, the freight carrier is obliged to pay a contractual penalty amounting to 5 % of the order amount. If the freight carrier violates the aforementioned duties, he also has to make good the resulting damage to Thermotrafic or to commissioned individuals by Thermotrafic (such as customs agents), especially the imposed fines. The contractual penalty will be credited against claims for damages. Thermotrafic has the right to offset it with the claims of the freight carrier.

7. DEMURRAGE

Demurrage according to § 412 para. 3 of the HGB will only be paid by Thermotrafic, if the freight carrier presents himself at the loading and unloading place as stipulated in the contract. Furthermore, a payment will only take place, if Thermotrafic was informed immediately once the delay occurred at the loading and unloading place and if the delay was confirmed in writing on a separate sheet containing the date, time, stamp and signature of the loading and unloading place where the delay occurred. If it can be proven that such a demurrage confirmation was denied, the freight carrier can replace it by presenting the tachograph chart or a print-out of the digital tachograph as well as by presenting a signed witness statement by the driver. Provided that the legal requirements are met, 35.00 € are paid for each full hour within Europe and the EAA, a maximum of 250.00 €/day for refrigerated trucks. Demurrage is not paid for Saturdays, Sunday, and all public holidays. Please also refer to the individual provisions of the transport order.

Other delays occurring between the loading and unloading place will be refunded according to § 420 para. 4 of the HGB, if they fall into the area of responsibility of Thermotrafic. Regarding the information of Thermotrafic and the verification, the demurrage rules apply provided that the delay is confirmed by the customs agent or customs agency or other place where the delay occurred. In case of delays of more than 4 hours, the freight carrier is granted an appropriate compensation.

8. CIRCUMSTANCES PREVENTING/HINDERING TRANSPORTATION/ SAFETY

If the freight carrier receives instructions from the consignor, customs agents, consignees etc. contradictory to those of Thermotrafic, Thermotrafic has to be informed of this BEFORE THESE INSTRUCTIONS ARE CARRIED OUT. The same applies in case of problems such as deviating loading temperatures, problems regarding loading, delays, waiting times, weight differences, shortfall and pallet exchange problems.

Only vehicles equipped with GPS, immobilizer, the interruption of fuel supply, alarm system and lead sealing facility must be used. The driver has to be instructed to switch on the immobilizer, the interruption of fuel supply and the alarm system and to lock the vehicle when leaving it. These instructions have to be observed even during short absences. The driver is not allowed to leave vehicle and freight documents in the parked vehicle. The freight carrier has to inform Thermotrafic immediately of any unscheduled stop (e.g. breakdown, strike, accident, blocking etc.) by phone, email or text message. The driver has to be instructed to control all locks, label locks and lead seals of the vehicle before and after every break. Both towing vehicles and isolated semitrailers, containers, swap bodies and trailers must only be parked in guarded parking areas. The parking areas have to be fenced in. Entrance and exit control and a 24-hour security service must be provided. The freight carrier's yard is considered a guarded parking area if the above mentioned requirements are fulfilled. It is not allowed to give non-company related passengers a ride without explicit approval by Thermotrafic.

9. HAZARDOUS GOODS

When accepting orders to transport **HAZARDOUS GOODS**, the freight carrier commits himself to ensuring that the vehicle is completely equipped according to the ADR provisions and that the driver has and carries with him the required training certificate. Furthermore, the freight carrier has to make sure that the driver strictly adheres to the ADR provisions, in particular to speed, driving hours and the use of special routes. The driver has to make sure that he is given all required accompanying documents and accident procedure sheets by the loading place. If this is not the case, Thermotrafic must be informed immediately, i.e., before departure.

10. COMPLIANCE WITH THE GERMAN MINIMUM WAGE ACT (MiLoG)

By rendering services according to this contract, the freight carrier commits himself to complying with the regulations on the payment of a minimum wage according to the German Minimum Wage Act (MiLoG) or according to the relevant regulation in the respective country, especially to paying the legally required minimum wage, and to fulfilling the required documentation obligation.

The freight carrier commits himself to also impose the above-mentioned obligations regarding the compliance with the minimum wage legislation on any subcontractor and/or on any personnel leasing company engaged, if Thermotrafic explicitly approved of passing on the order (cf. clause 11).

In case of a violation of one of the aforementioned duties, the freight carrier is obliged to pay a contractual penalty to Thermotrafic for every culpable violation amounting to 5 % of the order amount. Furthermore, the freight carrier has to release Thermotrafic from all claims by third parties in connection to the violation at first request. This comprises especially the claims of employees regarding the payment of a minimum wage, the imposition of fines as well as the right of recourse by social insurance agencies. The contractual penalty will be credited against the right of recourse. Furthermore, in case of violations of the minimum wage regulations by the freight carrier, Thermotrafic has the right to terminate the respective order without notice. Due to aforementioned claims against the freight carrier, Thermotrafic has the right of retention regarding debts due of the freight carrier. Thermotrafic is allowed to offset it with the debts due of the freight carriers.

11. PASSING ON AN ORDER

Passing on an order to subcontractors is only allowed after prior written permission by Thermotrafic. In case of a violation of the aforementioned obligation, the freight carrier is obliged to pay a contractual penalty to be determined by Thermotrafic at its reasonable discretion and to be reviewed by the responsible court in case of dispute.

Assigned subcontractors have to be fully informed in writing about these general agreements and have to commit themselves to adhering to them. The freight carrier has to document this right away for Thermotrafic.

12. CUSTOMER PROTECTION AGREEMENT

For the duration of the business relationship, during which the freight carrier executes orders for Thermotrafic as well as for a duration of 12 months upon termination of this business relationship, the freight carrier has to guarantee Thermotrafic customer protection according to the following regulations:

Freight carriers are not allowed to initiate, facilitate, make or execute forwarding, freight or warehousing business for customers of Thermotrafic (consignor), nor for consignees or their trading agents (commercial broker / trading intermediaries) with whom they will have contact in the context of their activities – neither indirectly, nor directly.

This prohibition shall apply if the freight carrier actively violates the above-mentioned prohibition or violates it by alienating a customer.

As soon as the freight carrier gets to know of such a violation of this prohibition, he must immediately inform Thermotrafic about the violation and the respective circumstances.

The freight carrier is liable for damages towards Thermotrafic for each intentional violation of the customer protection agreement. The amount of damage shall be fixed at a lump sum of 1,000 €; however, at least 10 % of the freight of the respective transport concerned.

Thermotrafic and the freight carrier are entitled to prove a higher or lower damage.

In addition to that, Thermotrafic will be paid a lump sum compensation amounting to 5,150 € for each customer Thermotrafic has lost due to the intentional violation of the customer protection agreement. This amount is supposed to compensate the damage caused to Thermotrafic having to newly establish the business relationship with its customer. In this case as well, the freight carrier has the right to prove that the damage caused to Thermotrafic was lower. Thermotrafic, on the other hand, also has the right to prove that the damage was higher.

13. EXCHANGE OF CARGO-HANDLING DEVICES

Cargo-handling devices have to be exchanged by and by according to the specifications of the transport contract.

The freight carrier has to make sure that he hands over the number of exchangeable cargo-handling devices agreed upon at the loading place and that he receives a receipt concerning both the number and the type of cargo-handling devices handed over.

If no pallets are exchanged at the loading place, the non-exchange has to be recorded in writing. It is only allowed to take over cargo-handling devices in serviceable condition (medium type and quality according to § 243 of the German Civil Code). The number and type of loaded cargo-handling devices taken over as well as all reservations about their quality must be recorded in writing.

With respect to flat euro pallets, this corresponds at least to quality level B (quality categorization according to EPAL / GS 1 Germany, as of 2015).

At the unloading place, the offered cargo-handling devices have to be checked for their visible exchangeability. The number and type of cargo-handling devices taken over must be confirmed in writing. Reservations on their quality as well as non-exchange at the unloading place must be recorded in written form.

All declarations must be stamped and signed by the issuer (consignor/consignee).

If no cargo-handling devices are handed over at the loading or the unloading place, Thermotrafic must be informed about it accordingly.

Original proof of cargo-handling devices exchange on the consignment notes and pallet notes (also PVC/CHEP pallet note) have to be immediately returned to Thermotrafic – no later than 10 days after delivery – including the confirmed consignment and delivery notes.

If there is a balance in favor of Thermotrafic, the freight carrier is obliged to settle it within 14 days upon request by delivery of the required cargo-handling devices. If no payment is received by the end of the deadline, Thermotrafic is entitled to demand compensation for damages instead of performance. The amount of compensation shall be per: Euro pallet 12.80 € / H pallet 56.00 € / Düsseldorf pallet 8.50 € / E-2 crate 5.00 € net per unit and 30.00 € net for CHEP pallets or pallets provided by other rental companies. The right to proof a higher or lower damage is reserved. The reimbursement for the cargo-handling devices exchange is part of the freight.

14. FREIGHT/DUE DATE

Payment has to take place within 30 days after reception of the invoice including all documents listed in the order, notably the consignment note signed by both the consignor and the consignee as well as the pallet exchange confirmation etc., in its original. The original temperature record for the entire transport period must be attached to the documents listed above if this is specified in the transport instructions.

Toll fees are part of the agreed freight price.

For intra-community transports which are carried out by freight carriers from another EU country, all invoices for Thermotrafic have to contain the VAT identification number of the respective freight carrier as well as Thermotrafic's VAT identification number. Otherwise, the VAT proportion will be deducted by Thermotrafic and will be paid to the relevant tax authority.

The freight carrier agrees that invoices issued by Thermotrafic may be set off against his transportation invoices. This applies particularly to claims regarding damages arising from the execution of orders and subsequent damages resulting thereof as well as to claims in accordance with MiLoG and to claims due to non-exchanged cargo-handling devices.

In such cases, Thermotrafic is also entitled to assert a right of retention.

Any transfer of claims existing towards Thermotrafic from this order to a third party is only allowed after prior written consent.

15. INSURANCE COVERAGE

The freight carrier is obliged to cover his transportation-related liability under this contract at least within the statutory or agreed liability limits. This agreement also applies with regard to its contractual liability for damage to cargo units provided for transport.

16. NONDISCLOSURE AGREEMENT / DATAPROTECTION

The contracting parties mutually commit themselves to not passing on any confidential information or giving access to third parties to any information obtained during the execution of the contract. Confidential information within the meaning of this agreement is considered to be all mutually exchanged information as well as documents and material directly or indirectly provided in the context of the order execution. This obligation remains in force without restriction even after termination of the contractual relationship.

The freight carrier ensures compliance with all data protection regulations (in particular DSGVO, BDSG 2018). He is prohibited from processing personal data without authorization. This obligation remains in force without restriction even after termination of the contractual relationship. In case of violations, the freight carrier has to indemnify Thermotrafic against third party claims.

17. SPECIFIC PROVISIONS REGARDING TRANSPORTS TO GREAT BRITAIN

When carrying out transports to Great Britain and Ireland and on transit routes through the North of France and Belgium, the freight carrier is obliged to observe the following specific safety precautions.

These are considered to be an essential contractual obligations.

1. The freight carrier commits himself to visually checking, immediately after loading and before locking the loading space, that there are no people on the freight space of the truck.
2. After loading, the freight carrier secures the loading space against unauthorized entry by means of a fully functional padlock/"Spanish lock" or by means of a higher-value locking mechanism and seal it with lead. In general, it is mandatory to attach a label lock/a lead seal on each door. The number of label locks/lead seals must be written down on the consignment note. Furthermore, the freight carrier is obliged to have the legitimized consignee confirm the identity of the label lock as well as the integrity of label locks/lead seals in the consignment note.
3. With respect to transports to Great Britain, the freight carrier has to comply with the provisions of the "Code of Practice" as protection against the carriage of illegal immigrants according to § 33 of the British immigration law. To comply with the provisions, the driver has to completely carry out all controls mentioned above and below and document these controls continuously during transit. Relevant checklists are available to the freight carrier or will be provided by Thermotrafic upon request.
4. Before each departure and after every stop, the freight carrier has to make sure that no person hides under the vehicle, for example, on the axles or in the pallet boxes. Furthermore, the freight carrier assures that the integrity of the locking measures mentioned under 17.2 are checked after each stop. In case of suspected manipulation, the freight carrier is obliged to inform Thermotrafic about it immediately and ask for instructions.
5. The freight carrier commits himself to only stopping when it is mandatory and unavoidable (e.g., driving times and rest periods, refueling). If a stop is necessary, the vehicle must not be parked unattended. The freight carrier has to stop in a safe and guarded parking area. If such an area cannot be accessed due to emergency reasons, the freight carrier must only stop in parking areas with a filling and service station and which are brightly illuminated. Trucks must be parked in such a way that the doors giving access to the loading space cannot be opened. (For example, by parking the truck next to a wall or, upon agreement with other freight carriers, "door-to-door" with their trucks).
6. As a matter of principle, no stop is allowed within a 155 km radius around Calais/France. If a stop is absolutely essential, only secured and guarded parking areas must be used.
7. When departing from France to Great Britain, it is mandatory to have carried out a so-called "heartbeat control" on trucks with fixed superstructures (refrigerated trailer etc.) and an x-ray and CO₂ check on tilt trucks. The controls must be documented.
8. In case of suspected persons on the loading space, the freight carrier is obliged to have a further inspections immediately carried out by the authorities. The execution of measures must be confirmed in writing by the local authorities. After completion of all measures, the above-mentioned safety precautions have to be repeated.
9. The freight carrier commits himself to attaching no signs on the vehicle (e.g., advertising labels of ferry companies or English service stations) that imply transports to Great Britain.
10. The freight carrier is not allowed to make any statements about the loading, route and destination etc. towards any third person (e.g. at service stations).
11. The freight carrier is obliged to inform his drivers of the above-mentioned safety precautions and to ensure strict compliance with them. This also includes random inspections which are to be documented and submitted to Thermotrafic upon first request.
12. The freight carrier indemnifies Thermotrafic from all third-party claims upon first request which are raised against Thermotrafic due to a violation of these provisions by the freight carrier or his vicarious agents. The indemnity shall also apply to all sanctions, fines or other measures asserted against Thermotrafic by courts, authorities or other organizations including the costs for legal defense.

18. SAFE AIR FREIGHT

If the transport order is about safe air freight, the freight carrier guarantees fulfillment of the requirements according to § 9a Aviation Security Act. The freight carrier has to carry all data, documents and other proof with him during transportation which are necessary to keep up the safe air freight chain. Upon request by Thermotrafic, the loading party or consignee, these documents have to be provided. If the freight carrier takes on the shipment without fulfilling the requirements of § 9a Aviation Security Act or without carrying with him the necessary data, documents and other proof necessary to keep up the safe air freight chain, he is liable to pay damages to Thermotrafic for the resulting damage.

19. PLACE OF JURISDICTION / APPLICABLE LAW

The transport order is subject to German legislation. The place of jurisdiction for all legal disputes arising from this transport order, its initiation or anything related to it, shall be the location of Thermotrafic's registered office, 33775 Versmold / Germany, for all parties involved, insofar as they are business people. If the CMR applies, an additional place of jurisdiction applies.