

General Terms and Conditions for Transport Services with Carriers (Release Version: November 2020)

1. Introductory provisions and applicability

- 1.1. These General Terms and Conditions for Transport Services (these “**Conditions**”) shall apply to all services provided to Fliit Holding GmbH, Oudenarder Str. 16, 13347 Berlin, Germany, registered at the district court of Charlottenburg (Berlin, Germany) under HRB 175519 B (“**fliit**”), for the carriage of goods in domestic and international road transport (the “**Services**”) by a carrier (the “**Carrier**”).
- 1.2. These Conditions shall apply only if the Carrier is an entrepreneur (*Unternehmer*) (within the meaning of Section 14 of the *German Civil Code, BGB*), a legal person constituted under public law (*juristische Person des öffentlichen Rechts*) or a public sector funding company (*öffentlich-rechtliches Sondervermögen*).
- 1.3. If attached to, or referred to in, a transport order of fliit to Carrier (“**Transport Order**”), binding legal contractual relations shall be deemed to be created between fliit and Carrier in the event of conflicts in the order as listed below:
 - 1.3.1. the relevant Transport Order;
 - 1.3.2. these Conditions which shall form an integral part of such Transport Order;
 - 1.3.3. (i) the Convention on the Contract for the International Carriage of Goods by Road (“**CMR**”) for international transport, respectively
 - (ii) the German Freight Forwarders’ Standard Terms and Conditions 2017 as amended from time to time (*Allgemeine Deutsche Spediteurbedingungen 2017* or “**ADSp 2017**”) for domestic transport solely within the territory of the Federal Republic of Germany.
- 1.4. fliit shall be entitled to amend or supplement these Conditions. In such event, fliit shall send such amended Conditions by email to the email address provided by the Carrier at least two weeks prior to the planned coming into force and effect of such revised Conditions. The Carrier’s consent to such amended Conditions shall be deemed to have been given unless its validity is objected to in writing by the Carrier within two weeks from its receipt.
- 1.5. The application of the Carrier’s own standard terms and conditions, in particular, any local terms and conditions of freight forwarders unless in accordance with these Conditions is excluded.
- 1.6. Nothing herein shall constitute or be deemed to constitute a partnership in the legal sense between fliit and the Carrier.
- 1.7. Nothing shall constitute or be deemed to constitute an agency agreement between fliit and the Carrier. The Carrier shall have no right or authority to, and shall not do any act, enter into any contract, make any representation, give any warranty, incur any liability, assume any obligation, whether express or implied, of any kind on behalf of fliit or otherwise bind fliit in any way.
- 1.8. Unless expressly agreed in writing fliit shall be under no obligation to issue any Transport Order or number of Transport Orders to Carrier.

2. Carrier obligations

- 2.1. The Carrier shall ensure that the goods are accepted on time within the agreed time window at the loading point, carried and delivered on time within the agreed time window to the receiver at the unloading destination and free from loss and damage.
- 2.2. The Carrier shall promptly notify fliit by telephone under +49 (0) 30 568 38047 and in writing by email to logistics@fliit.de on the Transport Order upon becoming aware of any hindrances to taking over, carriage and delivery and of any delays which

- become apparent and any loss or damage of the goods and of all other interference with and threats to transport, including when these are the result of circumstances which the Carrier could not avoid, and will seek corresponding instructions of fliit. In the event of an accident, fire or theft, the local police authorities must always also be notified.
- 2.3. Only personnel required for the performance of the Services shall be permitted to be in the vehicle at any time during the performance of the Services.
- 2.4. The Carrier shall assume responsibility for the loading and unloading of the goods, the securing of the goods on the vehicle, and adequate supervision. In the event, loading is agreed to be performed by a party other than the Carrier, then such party is deemed to act in the capacity of the Carrier’s vicarious agent under the Carrier’s supervision. The Carrier shall under no circumstances be excused from its obligation to ensure the safe operation of the vehicle.
- 2.5. To the extent possible guarded parking spaces or enclosed private property have to be used if a vehicle is parked and left unattended, particularly during rest periods taken as well as at weekends. The parked vehicle is to be locked and secured.
- 2.6. Transshipping of the goods and for booked complete loads, the taking over of any further goods is prohibited unless fliit has given its written consent in advance.
- 2.7. The Carrier shall fully and accurately record the acceptance and delivery of the goods on the CMR waybill and, as the case may be, such other transport documents specified by fliit (together the “**PoD**”). Such PoD shall for the avoidance of doubts always contain date and time of completed loading and unloading, which shall be signed by the party from which it has accepted the goods respectively by the party to which it has handed the goods over. Readable scans or photographs shall be sent within 48 hours and in any event as soon as practically possible after the delivery to pod@fliit.de or via upload to fliit’s order management application.
- 2.8. When goods are accepted, and at each subsequent interface, the Carrier will check the goods for completeness (number of packages) as well as for externally visible damage and broken seals and closures and will record any irregularities in writing. The Carrier will ensure that irregularities that occur are confirmed by the party from which it has accepted the goods and by the party to which it hands the goods over on the CMR waybill, and additionally to fliit (by way of email no later than 24 hours from the delivery to logistics@fliit.de copy to claims@fliit.de) in writing and giving the relevant details and photos (close ups and from relative distance to the irregularity). For the purpose of this provisions, an interface is any transfer of the goods from one legal entity to another as well as the delivery at the end of any leg of a route. If the Carrier accepts a sealed unit (i.e. swap bodies, interchangeable boxes, containers), then its duty to inspect will be limited to a check of the identity and external integrity of the unit and of the seal.
- 2.9. The Carrier shall comply with all applicable current legislation, regulations, health rules and hygiene standards with respect to the transport and handling of food products during the provision of the Services. The Carrier shall further prevent any contamination of the goods including but not limited to cross-contamination caused by incompatible goods transported in the same vehicle, by emissions, exhaust fumes, odors, foreign particles and impurities and packaging material.
- 2.10. Subcontracting of the Services or any part thereof shall require fliit’s prior written approval. The Carrier shall in any event refrain from placing any Transport Order or any part thereof on

any electronic marketplace including but not limited to the platform operated by Timocom GmbH. The fault by the Carrier to comply with any of the foregoing obligations shall be construed as material breach of contract and result in a contractual penalty as set out in Section 8.1.

- 2.11. In the event the Carrier subcontracts the Services or any part thereof, the Carrier shall remain liable to fliit as if the Carrier had provided the Services itself. Any agreement that the Carrier may subcontract any of the Services or part thereof shall not relieve the Carrier of any of its liabilities or obligations hereunder.
 - 2.12. The Carrier shall not under any circumstances actively solicit, nor accept solicitation by a customer of fliit or by any nominee of any fliit customer or through any nominee of the Carrier with a view or for the purpose of contracting directly or indirectly through a Carrier nominee with such fliit customer. This Carrier undertaking shall remain in full force and effect for 3 years after the acceptance of a Transport Order by the Carrier from fliit. Any actual direct contracting by a Carrier after prior acceptance by such Carrier of a fliit Transport Order with a fliit customer shall be deemed to be a willful, culpable violation of the foregoing undertaking by the Carrier to fliit and become subject to the penalty set out in Section 8.2.
 - 2.13. The Carrier warrants that it holds the necessary permits (e.g. permit to carry out commercial road haulage, third country permits, CEMT permit) in accordance with the applicable law. The Carrier will notify fliit immediately of the loss or refusal of a necessary permit. Moreover, the Carrier will present, at fliit's request, a copy of any such permit, its entry in the commercial register and/or proof of its registration as a business.
 - 2.14. The Carrier shall only use employees with the necessary knowledge and capabilities and the required reliability for carrying out the Services. It shall train its employees regularly, especially with regard to carrying the necessary documents and complying with the applicable legal requirements. It will only employ persons who hold the required driving license and the required professional driver's qualification.
- 3. Vehicles**
- 3.1. The Carrier shall only use vehicles that are in a technically sound and roadworthy condition and that undergo repair, maintenance and inspections at the legally required intervals. References to vehicles in these Conditions shall always include the truck, trailers and bodies.
 - 3.2. The loading space of the vehicles must be dry, free from any soiling, odorless and waterproof. The booked loading space must be empty.
 - 3.3. Vehicles used for the transport of goods with cooling chain requirements must be equipped with fully operational temperature sensors, air conditioning/cooling systems and temperature recording devices suitable for the prevention of any cooling chain disruption during the Services and the provision of temperature recordings within 48 hours after unloading, if such monitoring reports are requested by fliit.
 - 3.4. The vehicles must be fitted with mobile accessibility with internet connection and GPS function (e.g. smart phone or comparable appropriate electronic equipment) which must be activated during the time the Services are being provided. The Carrier will provide upon fliit's first request the relevant current telephone number(s) of personnel operating any vehicle with respect to the Services. Drivers of the Carrier must be accessible by phone at all times during the course of the provision of Services.
 - 3.5. The Carrier shall provide to fliit no later than 24 hours before the start of the loading time window of the goods:

3.5.1. by email to logistics@fliit.de relevant vehicle information such as the vehicle's license plate number and any other relevant information reasonably requested by fliit, and

3.5.2. access to the Carrier's telematic management respectively GPS live tracking system by project44 or guest access, the fault to comply with the foregoing shall result in an administrative fee as set out in Section 8.3.

4. Invoicing

4.1. Invoices issued by the Carrier shall be submitted in electronic form to ap@fliit.de containing the following:

- 4.1.1. fliit's correct company details;
- 4.1.2. fliit's VAT ID: DE305584999;
- 4.1.3. the Carrier's correct company details;
- 4.1.4. the Carrier's correct VAT ID;
- 4.1.5. the Carrier's account details;
- 4.1.6. accurately listed freight charges together with relevant loading reference numbers consistent with the terms of the Transport Order and these Conditions;

4.1.7. applicable statutory value-added tax and, where applicable, additional tax which may be offset to be stated separately and clearly;

4.1.8. invoices by Carrier's registered outside of the territory of the Federal Republic of Germany, but in a member state of the European Union to be billed based on VAT reverse charging in accordance with the European Union Council Directive 2006/112/EC of 28 November 2006 on the common system of value-added tax or corresponding national legislation.

4.2. If and to the extent that there are no objections to the Carrier invoice, fliit will transfer the amount indicated by the invoice to the Carrier account within the payment term set out in the Transport Order. For the avoidance of doubts, payment terms references of the Transport Order to a specified number of days "after receipt of the invoice" shall always be construed as such specified number of calendar days after the later of the receipt of the validly issued invoice and receipt of complete PoD by fliit.

4.3. Freight charges shall unless specifically otherwise provided for in the Transport Order always be construed as inclusive of all Carrier expenses with respect to the Services including but not limited to tolls, fuel, expenses in connection with loading and unloading, compensation of the Carrier's personnel, etc.

5. Demurrage

5.1. For the purpose of demurrage claims waiting time shall always be construed as the time period starting from the time of arrival of the Carrier at the correct loading respectively unloading point, provided such arrival time corresponds with the time or time window for loading or unloading as set out in the Transport Order, and further provided such waiting time is neither attributable to the Carrier, nor taking into account time spent for securing or unlocking the load.

5.2. No claims for demurrage shall be made by the Carrier against fliit unless:

- 5.2.1. the corresponding waiting time is confirmed in writing by the shipper or receiver of the goods, and
- 5.2.2. such claims including documentary evidence are notified by email to claims@fliit.de within latest 2 working days after the occurrence.

5.3. The Carrier's waiting time at loading or unloading shall be compensated as follows:

- 5.3.1. Waiting time of up to 3 hours per event shall be free of charge for fliit;
- 5.3.2. Thereafter 15 Euro net may be charged by the Carrier against fliit for every full hour of waiting time subject to a cap of 150 Euro per 24 hours waiting time.

6. Load carriers exchange

- 6.1. Unless otherwise specifically provided for in a Transport Order, the Carrier shall have no obligation to provide or accept load carriers from a shipper, a shipper's designated nominee or a consignee under a Transport Order.
- 6.2. In the event load carriers exchange obligations are governed in a Transport Order in accordance with these Conditions, the following designations as to definition per load carrier type, dimensions and exchange values shall apply:

Abbreviation	Type	Dimensions (mm) (LxWxH)	Exchange Value Euro
EPAL 1	Euro pallet	1200x800x144	13
EPAL 2	Euro pallet	1200x1000x162	
EPAL 3	Euro pallet	1000x1200x144	
EPAL 6	Euro pallet	600x800x144	
EPAL 7	Euro pallet	600x800x163	
EPAL BOX	EPAL box pallet	800x1200x970	
H1	H1 pallet	1200x800x160	
H2	H2 pallet	600x800x160	
RC	Roll cage	Variable	
TKT	TKT container	800x1200x2150	

- 6.3. Load carrier exchange with respect to EPAL 1 shall always be subject to Class B or higher in accordance with the Euro pallet classification features issued by the European Pallet Association e.V.
- 6.4. Unless otherwise specifically provided for in a Transport Order, all load carrier exchange shall follow the Cologne load carrier exchange process having the meaning that the Carrier is obligated to deliver to the shipper or its relevant nominee at the point of loading or accept from the consignee at the point of unloading, in each case against written delivery respectively receipt confirmation, the equivalent number of load carriers at the relevant quality grading as per relevant Transport Order, failing which for reasons to the fault by either the Carrier on the one hand, or the shipper or the shipper's nominee or the consignee on the other hand, shall be documented in writing in reasonable detail (in particular with regards to the rejection of contracted load carriers as per Transport Order by a relevant party) and submitted by the Carrier to pod@fliit.de within 2 calendar days after PoD.
- 6.5. fliit shall record such load carrier balances of the Carrier and provide month-end load carrier balance records in writing (in each case on the third working day of each month with respect to the month-end balance of the preceding month ("**Monthly Load Carrier Balance**")
- 6.6. The Carrier shall notify fliit no later than 5 working days after receipt of the Monthly Load Carrier Balance of any dispute failing which such Monthly Load Carrier Balance shall be deemed accepted by the Carrier.
- 6.7. fliit and the Carrier shall agree from time to time maximum threshold values of any Monthly Load Carrier Balance. In the event any actual Monthly Load Carrier Balance owed by the Carrier to fliit exceeds such aforementioned agreed maximum threshold value, then the Carrier shall reduce such balance until the immediately succeeding Monthly Load Carrier Balance to the agreed maximum threshold value. If the Carrier fails to compensate such excess load carrier balance above the agreed maximum threshold owed to fliit until latest 10 days after such succeeding Monthly Load Carrier Balance, then fliit

shall be entitled to invoice the entire balance owed by the Carrier to fliit as per relevant load carrier type and corresponding value set out in the table of Section 6.2. or the relevant Transport Order.

- 6.8. fliit shall at any time be entitled to reduce the load carrier threshold referenced in Section 6.7.6.7 in its sole discretion. Notwithstanding any of the foregoing, all load carrier balances shall be settled between Carrier and fliit on each last calendar day of each calendar year.

7. Cancellation by Carrier

- 7.1. In the event of a Transport Order cancellation by a Carrier, the below listed penalties shall apply. References to the relevant time period prior to scheduled loading time shall always refer to the time starting when such cancellation was notified in accordance with Section 2.2 of these Conditions by the Carrier to fliit until either the agreed fixed loading time or the start of the loading time window, whichever is applicable, in accordance with the Transport Order.
- 7.2. No penalty shall be charged by fliit in the event a Transport Order is cancelled by the Carrier in excess of 48 hours prior to scheduled loading time.
- 7.3. A penalty of up to 250 Euro shall be applied by fliit against the Carrier in the event the Carrier acts faulty by cancelling a Transport Order up to 48 hours before the scheduled loading time. Such penalty is to be reasonably determined by fliit and subject to judicial review initiated by Carrier. Any penalty may be credited against a corresponding damage claim of fliit against Carrier, in particular damage claims pursuant to Sections 7.4 and 7.5.
- 7.4. Additionally, the Carrier shall be liable to fliit for any costs, surcharges and expedition fees incurred by fliit in excess of the price of the cancelled Transport Order in order to substitute such cancelled transport.
- 7.5. In the event of a fault of a Transport Order cancellation by Carries less than up to 24 hours before the scheduled loading time or in the event the Transport Order is not executed by the Carrier without prior notice, then the Carrier shall fully indemnify fliit against all claims, demands and losses arising out of such faults.

8. Other penalties

- 8.1. Any fault of the Carrier to comply with the obligations set forth in Section 2.10 shall give rise to a penalty of 500 Euro for each individual occurrence.
- 8.2. Any fault of the Carrier to comply with the obligations set forth in Section 2.12 shall give rise to a penalty of 500 Euro for each individual occurrence.
- 8.3. Any fault of the Carrier to comply with the obligation pursuant to Section 3.5.2 shall give rise to a penalty of 25 Euro per case and affected Transport Order.

9. Cancellation by fliit

- 9.1. fliit shall be entitled to cancel a Transport Order free of charge and liabilities against the Carrier, provided such cancellation is received in writing by the Carrier at least 24 hours before the start of the loading time window as per relevant Transport Order.
- 9.2. The Carrier may charge fliit a cancellation fee of 200 Euro for cancellations less than 24 hours before start of loading as per relevant Transport Order. Without prejudice to Section 11.5, the payment of such aforementioned cancellation fees shall be the sole remedy of the Carrier.

10. Insurance and claims handling

- 10.1. The Carrier undertakes and agrees:
 - 10.1.1. to obtain and keep in full force and effect at all times the following policies of insurance:

- i. Employers' liability as required by prevailing laws in the jurisdiction in which the Carrier is registered;
 - ii. Vehicle liability as required by prevailing laws in the jurisdictions in which the Carrier is registered and in which the Services are to be provided;
 - iii. Comprehensive general liability to cover the Carrier's legal liability for personal injury and/or death to third parties and or damage to third party property;
 - iv. Transport goods liability sufficient to cover the liabilities assumed by the Carrier under the terms of these Conditions or otherwise assumed in the provision of the Services.
- 10.1.2. to deliver to fliit upon fliit's request copies of all insurance policies referenced in Section 10.1.1.;
- 10.1.3. to notify fliit immediately of any material change to or cancellation of any of the insurance policies detailed in Section 10.1.1.;
- 10.2. The Carrier must ensure that all claims for damages asserted by fliit will be processed without delay and will be reported to the Carrier's insurer. The Carrier will notify fliit of the insurer's reference number.
- 11. Liability and indemnification**
- 11.1. Subject to the provisions of this Section 11, the Carrier agrees to fully indemnify fliit against all claims, demands and losses whatsoever and by whomsoever made, arising from or in connection with the Services, whether such losses are incurred by fliit under the terms of any agreements with its customers (in which case the Carrier shall be liable to the extent set out in such agreements), or are otherwise incurred by fliit including for the avoidance of doubts from alleged violations of any prevailing laws and regulations.
- 11.2. If and to the extent CMR or any similar legislation is mandatory with regards to the applicability under any fliit contract with its customer to which the Services relates, then the Carrier shall indemnify fliit for fliit's liability pursuant to CMR or such other similar mandatory legislation.
- 11.3. fliit's liability to the Carrier in contract, tort, bailment, breach of statutory duty or otherwise for any loss, damage, costs or expenses of any nature whatsoever incurred or suffered shall not exceed the sum of 10.000 Euro (in the cases of Section 414, 455, 468 and 488 *German Commercial Code, HGB*, such damage shall not exceed the sum of 200.000 Euro) per damage event.
- 11.4. The aforementioned liability limitation under Section 11.3 does not apply in case of personal injuries, such as injury of life, body and health, if such damage was caused by gross negligence or willful misconduct of fliit or its vicarious agents, or by slightly negligent violation of material contractual obligations (*Kardinalpflichten*), whereas the latter shall be limited to foreseeable and typical damages.
- 11.5. Without prejudice to Sections 11.3 and 11.4, fliit shall not be liable to the Carrier for any loss, claim, costs, damage, indemnity or expenses of any indirect or consequential nature suffered by the Carrier including, but not limited to, any indirect or direct economic loss or loss of business, goodwill, market share or profits howsoever arising, including due to fliit's negligence.
- 12. Other provisions**
- 12.1. The failure or delay by fliit in exercising any right, power or remedy provided by law or by these Conditions or under a Transport Order shall not, in any circumstances, impair such right, power or remedy nor operate as a waiver of it. No waiver of any right, power or remedy by fliit shall take effect unless it is in writing.

- 12.2. Carrier shall have a right to offset against claims (*Aufrechnung*) only if its counterclaim has been established by a final and binding decision or is undisputed. The same shall apply to the right of retention, the valid exercise of which shall further require that the counterclaim of fliit must arise under the same contractual relationship.
- 12.3. The Carrier hereby expressly acknowledges that goods delivered for carriage under a Transport Order are not legally owned by fliit. The Carrier may only exercise a right of retention or a lien over goods accepted by the Carrier in performance of a Transport Order if and to the extent legally established or undisputed claims are concerned. In the event of an exercised lien by the Carrier in respect of goods held in such Carrier's possession for claims relating to these goods, fliit shall be entitled to replace the lien by providing a payment guarantee from a bank in the amount of such claim's value.
- 12.4. Unless expressly agreed otherwise, the legal relationship between fliit and the Carrier under these Conditions shall be governed by and construed in accordance with German law. For the avoidance of doubts, the United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply.
- 12.5. The sole court of jurisdiction for all disputes arising out of or in connection with these Conditions shall be Berlin (Germany), insofar legally permissible.
- 12.6. If any provision of these Conditions or part thereof is invalid or becomes invalid at a later time, the validity of the remaining provisions shall remain unaffected. The relevant provision shall be replaced by a provision that as closely as possible reflects the economic purpose of the invalid provision. The foregoing shall apply analogously, if any provision has inadvertently been omitted.

[Convenience explanation for use of this document: Please fill the below information by hand, date and sign.]

Acknowledgement by fliit:

_____ , _____

Place, Date

Signature

_____ , _____

Full Name, Title

Acknowledgement by Carrier:

_____ , _____

Place, Date

Signature

_____ , _____

Full Name, Title