



## **General Terms and Conditions (AGB Riedl 2018)**

### **1. General**

#### **1.1. These General Terms and Conditions are to be used by**

**Rolf Riedl GmbH,  
Riedl & Stöcker GmbH,  
RTM RIEDL & TSCHERSCHKE MONTAGE  
GMBH,  
TRANSGERMA Riedl & Kiehntopf GmbH,  
TRANSGERMA Süd-West GmbH.**

The name "Riedl Group" as used in the following refers to the relevant contract partner and the party for which these General Terms and Conditions apply.

#### **1.2. Business of the Riedl Group**

##### **1.2.1. Crane hire / personnel hire**

Crane hire refers to the supply of lifting equipment and/or operating personal to the customer for the performance of work according to the customer's instructions and disposition.

##### **1.2.2. Crane work / transportation services**

Crane work means the transportation of goods, in particular the hoisting, moving and change of location of loads by means of mobile hoisting equipment and refers to the performance of one or more agreed hoisting manoeuvres by the Riedl Group or its subcontractors according to the instructions and disposition of the customer.

Transport services in the meaning of these Terms and Conditions are the transportation and organisation of the transportation of goods by means of road vehicles, inland waterway and seagoing vessels, railway or aircraft, the movement or change of location of goods by means of special means of transport, such as caterpillar rollers, dollies, lifting jacks, air cushions, shifting tracks, etc., including the interim storage for short duration as required due to transportation considerations.

Assignments undertaken by the Riedl Group relating to the horizontal or vertical transport of goods are freight agreements within the meaning of HGB (German Commercial Code).

**1.2.3.** Any storage, packing and assembly services will be agreed separately.

#### **1.3. Areas of application**

All business operations carried out by the Riedl Gruppe are based on the following Terms and Conditions unless this would conflict with some mandatory regulations under national or international law apply (e.g. the provisions of HGB, CMR, CIM, CMNI, MÜ or Hague Visby Rules). Other terms and conditions, in particular those of the customer, do not form part of any agreement even if the Riedl Group does not expressly object to such deviating regulations. Any agreements to the contrary shall apply only if they have been agreed in writing or in text form in the individual case.

These Terms and Conditions shall not apply to the transportation agreements with consumers. A consumer within the meaning of these Terms and Conditions is a natural person that enters into the agreement for a purpose that is not part of his commercial or freelance professional activities.



### 1.3.1. Carrier services

All transportation agreements with the Riedl Gruppe in the sense of number 2.1 ADSp are subject to *Allgemeine Deutsche Spediteurbedingungen* (ADSp – German Freight Forwarders' Standard Terms and Conditions) in the relevant latest version (currently: ADSp 2017).

1.3.2. The ADSp latest version (currently: ADSp 2017) shall not apply for business relating exclusively or primarily to:

- heavy-load or over-dimensioned transport jobs requiring special permits or licenses (2.3.5. ADSp),
- crane work and related assembly services (2.3.5. ADSp),
- packing services (2.3.1. ADSp),
- transportation and storage of goods to be towed or salvaged (2.3.2. ADSp)

The provisions under section 2 below shall have precedence for such business operations deviating from the scope of application of the ADSp and for all other business carried out by the Riedl Gruppe (e.g. crane and personnel hire pursuant to number 1.2.1.).

1.3.3. If the ADSp in the latest version (currently: ADSp 2017) apply, they shall limit the liability of the carrier, the liability of the carrier as forwarding agent within the meaning of section 407 HGB, the carrier acting as principal, the fixed-cost or consolidator carrier within the meaning of sections 485, 458 to 460 HGB and the custodian carrier within the meaning of section 461 (1) HGB is in particular limited under section 23.1.1 to 8.33 special drawing rights/kg and under section 23.1.2, 1<sup>st</sup> sentence, in the case of multi-modal transportation including sea transport, when the damage location is not known, to 2 special drawing rights/kg. If the damage location is known pursuant to section 23.1.2, 2<sup>nd</sup> sentence, ADSp, latest version (currently: ADSp 2017), the liability shall be determined according to section 452a HGB taking account of the liability exemptions and liability limits in the ADSp. The other provisions under section 23 ADSp, latest version (currently: ADSp 2017), shall also apply, in particular the additional limitation of liability per damage case or event to EUR 1.25 million or 2,5 million or 2 SDR/kg, depending on which amount is hither, and the liability limitations in sections 24 to 26 ADSp, latest version (currently: ADSp 2017).

## 2. Heavy-load or over-dimensioned transport assignments, crane work and related assembly services, packing services, transportation and storage of goods to be towed.

Business indicated under section 1.3.2 above shall be subject to the following provisions 2.1 to 2.9 of the General Terms and Conditions of the Riedl Group.

### 2.1. Official permits

2.1.1. Any contracts that can be executed only with a permit or a license issued by the relevant public authority, in particular those pursuant to sections 18 (1), 2<sup>nd</sup> sentence, 22 (2), (4), 29 (3), 46 StVO and 70 StVZO, are concluded only subject to the condition precedent that the required permit or license is issued. If the authority in question has made execution of the contract dependent on traffic diversion measures or other stipulations, these contracts shall then additionally be concluded only subject to the condition precedent that the stipulations can be fulfilled in good time.

2.1.2. Fees and costs arising in relation to public stipulations, police accompaniment or other safety measures ordered by the public authority shall be borne by the customer unless otherwise expressly agreed in writing.



## 2.2. Substitution

**2.2.1.** The Riedl Group is entitled to employ other companies in carrying out its contractual obligations, unless otherwise agreed at the time the order was assigned.

### 2.2.2. Fixed deadlines

The Riedl Group does not in principle accept any responsibility for compliance with collection, completion and delivery deadlines. It is a characteristic feature of the project transportation and plant assembly sector that certain delays can occur for material or legal reasons. Collection and delivery dates are therefore to be understood only as intended dates, without the Riedl Group undertaking any liability in relation to its customers for meeting such dates.

## 2.3. Cancellation

**2.3.1.** The customer of the Riedl Group is entitled to withdraw from the contract if an important reason obtains. The customer shall in such a case either pay one third of the agreed freight (*Fahrtfracht*) plus any applicable demurrage charge, approval costs and refundable expenses

or

reimburse the agreed freight costs, any applicable demurrage charges and refundable expenses after setting off whatever the Riedl Group has saved or has otherwise obtained, or maliciously failed to obtain, due to the contract being cancelled.

**2.3.2.** If the Riedl Group exercised the due caution of a prudent merchant, it shall be entitled, while excluding all damage compensation or restitution claims, to cancel the contract if, after careful examination prior to and during the use of vehicles, devices and operational equipment of all kinds, there is justified concern regarding significant damage to third-party and/or own property. In such a case, the agreed payment shall be calculated on a pro rata basis. This calculation shall be subject to number 2.3.1. Weather-related interruptions do not reduce the claim to full payment.

## 2.4. Customer's obligations

### 2.4.1. The customer

**2.4.1.1.** is obliged to make the goods to be handled and transported available in a state ready and suitable for execution of the order and to indicate the correct dimensions, weights, at-

tachment and fixing points and centres of gravity, as well as any special characteristics of the goods when placing the order. Any information provided by a third party employed by the customer in fulfilling its obligations shall be considered also provided by the customer.

**2.4.1.2.** must obtain in good time, and at its own risk and cost, all permits necessary for crossing third-party property and using non-public roads and areas in the course of execution of the order. This shall not apply if the Riedl Group has agreed to obtain the permits in question.

**2.4.1.3.** guarantees that the ground and other condition of the access roads and ways to the place of operations and the place of operations itself, with the exception of public roads and areas, enable proper and safe execution of the order. The customer is obliged to obtain information regarding the presence and the location of underground cable shafts and ducts, supply lines, other ground connections and hollow spaces that could impair the bearing capacity of the ground at the place of operations or the access roads and to notify the Riedl Group thereof at its own initiative.

**2.4.1.4.** accepts the warranty and the risk relating to the equipment he supplies (such as special suspension traverses, special shackles, cable loops, man lifts, on-site lifting gear, such as indoor cranes, forklifts, lifting work platforms, dollies, etc.) that it is suitable for execution of the work and is in compliance with statutory regulations (TÜV, BG test etc.).

**2.4.1.5.** may not, after the order has been placed, without the consent of the Riedl Group, issue instructions to the personnel employed by the Riedl Group that deviate in nature or scope from the contractual agreements.

**2.4.2.** If the customer fails to fulfil the aforementioned obligations (sections 2.4.1.1 to 2.4.1.5), he shall bear the risk for damage to the goods in question and any costs arising from delays, downtimes and waiting times. The customer is liable towards the Riedl Group for any damages arising as a result and indemnifies the Riedl Group in full from all third-party compensation claims arising from failure to fulfil one of the aforementioned obligations.

**2.4.3.** The responsibility for delays, downtimes and waiting times for the personnel, cranes, vehicles and equipment of the Riedl Group caused by the customer shall be borne by the customer and shall be invoiced separately, un-



less otherwise agreed in writing. The Riedl Group reserves the right to assert additional claims for damages.

## **2.5. Obligations and liability of the Riedl Group**

### **2.5.1. Crane and personnel hire, storage, assembly and packing services**

**2.5.1.1.** If the services to be provided by the Riedl Group comprise the hire of cranes and personnel in accordance with section 1.2.1, the Riedl Group shall be responsible for careful selection of the personnel and for supplying mobile hoisting equipment that is suitable generally and specifically for the intended purpose and that is ready for use according to the relevant statutory provisions and the applicable rules of engineering and tested according to TÜV and UVV. There shall be no liability for failure to provide such supplies punctually in the case of force majeure, strikes, roadblocks and for other unavoidable reasons, unless the Riedl Group could have avoided the consequences of such obstacles if it had exercised the due care necessary in such business. The Riedl Group accepts liability for the personnel supplied only within the framework of the applicable principles of selection fault.

**2.5.1.2.** The Riedl Group shall be responsible for providing storage, assembly and packing services according to number 1.2.3 only if this has been expressly agreed. Packing services comprise in particular the packing, covering, loading, lashing, unloading, etc. of the cargo. Heavy goods are as a rule transported without packaging and covering. In the case of transportation by sea or inland-waterways vessel, the customer consents to open deck shipment.

If the main assignment of the Riedl Group consists of the storage or packing or assembly services in accordance with number 1.2.3, it undertakes to carry out all ordered assignments properly and professionally with all means at its disposal and technical possibilities in compliance with the relevant rules of technology subject to the terms under number 2.

**2.5.1.3** Damage claims in cases pursuant to sections 2.5.1.1 and 2.5.1.2 shall arise only in the case of malice aforethought or gross negligence to the full legal extent, as well in the case of damage to life, limb and health and for liability according to *Produkthaftungsgesetz* (German Product Liability Law).

The liability of the Riedl Group is in the damage caused by less than gross negligence limited to

damage that is typical for such work and predictable, unless the damage was caused by breach of an obligation that would need to be fulfilled if the contract were to be executed properly and which the contract partner can reasonably expect to rely on (cardinal obligation).

If legally admissible, the liability for cargo damage and other damage arising in the course of execution of the order shall be limited to a maximum amount of EUR 500,000.-; for consequential damage arising from damage to cargo, the liability of the Riedl Group is limited to EUR 130,000.- per damage case.

The aforesaid liability limitations shall also apply to non-contractual claims and liability actions asserted against executive bodies and actuarial agents of the carrier.

If requested by the customer, an increase in the liability limits can be agreed separately and the necessary cover provided.

#### **2.5.1.4. Warranty**

The warranty is limited first of all to an obligation to provide rectification of the relevant performance. Only if this subsequent attempt at performance has failed, will the customer be entitled to demand reduction of the due fee or rescission of the assembly order. There shall be no warranty for faults based on wear or unprofessional use of the supplied item.

## **2.5.2. Crane work**

### **2.5.2.1. Obligations of the Riedl Group**

If the main performance due consists of providing crane work in accordance with number 1.2.2, the Riedl Group undertakes generally and specifically to employ transport and hoisting equipment that is ready and safe for use and that has been tested according to the applicable provisions of TÜV and UVV, and to ensure generally and specifically that only suitable operating personnel (crane drivers and vehicle operators) familiar with operation of the means of transport or hoisting equipment are employed.

The Riedl Group shall furthermore also provide any necessary auxiliary personnel, instructors and other personnel, and any necessary crane slingers by agreement and at the cost of the customer. With regard to point 2.4.1.1 "Obligations of the customer", the Riedl Group undertakes to check the detailed information on the goods provided by the customer and its subcontractors before accepting same, compare it with the order data and to establish any deviations in



writing immediately and notify the customer accordingly without delay.

**2.5.2.2.** The liability for crane work pursuant to number 2.5.2.1 is also limited in accordance with number 2.5.1.3.

### **2.5.3. Liability of the Riedl Group**

There is a limitation on the amount of liability borne by the Riedl Group in relation to business pursuant to number 2.5.1 and 2.5.2 and all other business pursuant to number 2.

**2.5.3.1.** The amount of liability of the Riedl Group for freight and other material damage shall be based on the relevant applicable statutory provisions.

In deviation from statutory regulations, the compensation to be provided according to sections 431 (1) and 461 (1) HGB is limited to an amount equivalent to 2 special drawing rights (SDR) of the International Monetary Fund for each kg of gross weight of the damaged or lost goods. If the transportation assignment involved various means of transport including carriage by sea, liability shall also be restricted to 2 SDRs per kg of gross weight. When requested by the customer, a higher liability amount can be agreed before the order is placed. The Riedl Group is entitled to provide suitable insurance to cover a higher liability and charge the customer accordingly.

**2.5.3.2.** The liability of the Riedl Group is excluded in the case of sea carriage when the damage was caused due to the conduct of its workers, the ship's crew or other persons working for the ship when steering or otherwise operating the vessel or by fire or explosion on board the vessel.

The liability of the Riedl Group for nautical fault, fire on board or defects in the ship is furthermore excluded under the conditions indicated in Article 25 (2) CMNI.

**2.5.3.3** The liability is additionally limited in accordance with the provisions of number 2.5.1.2 and 2.5.1.3 for all freight and material damage arising in the course of execution of the order.

## **2.6. Insurance**

**2.6.1.** The Riedl Group has taken out liability insurance at normal market terms with *Aktiv Assekuranz Makler GmbH, Niederlassung Düsseldorf*.

**2.6.2.** To cover any need for further insurance (e.g. transport or assembly insurance), an express written order of the customer with indication of the insurance value and the risks to be covered shall be required. The insurance cover shall be provided at normal market insurance conditions and premiums.

## **2.7. Scope of the Terms and Conditions**

These Terms and Conditions relate to all claims, irrespective of the legal basis. They can also be invoked by the subsidiary company working on the contract and all personnel employed in its execution.

## **2.8. Payment and set-offs**

**2.8.1.** The claims of the Riedl Group are due for payment immediately when the order has been executed and are to be paid net cash.

**2.8.2.** A right to set off or retention can be asserted against claims from the contract and related non-contractual claims only with due counterclaims against which no objection has been made.

**2.8.3.** Freight payment claims from contractors of the Riedl Group are payable when billed before the 15<sup>th</sup> day of a month up to the 15<sup>th</sup> day of the following month, otherwise payable by the 30<sup>th</sup> day of the following month. In both cases, payment shall be net without deduction and after all presentation of all documents relating to the scope of delivery, in particular the bills of lading acknowledged by the receiver.

## **2.9. Right of lien and right of retention**

**2.9.1.** The Riedl Group has a right of lien and a retention right to the goods or other assets in its possession or under its control in relation to all due and not yet due claims against the customer arising from the activities indicated in section 1.2. The right of lien and retention right does, however, not exceed the statutory carrier's or lessor's lien and the general right of retention.

**2.9.2.** A right of lien and retention right due to claims from other contracts concluded with the customer shall be regulated by section 366 (3) HGB.

The Riedl Group may also exercise a right of lien and retention right due to claims from other contracts concluded with the customer only insofar as these are undisputed between the parties or have been established in law or if the debtor's financial situation puts the claims of the Riedl Group at risk.





**2.9.3.** Instead of the period of one month specified under section 1234 BGB for threat of sale of a pledge specified, the parties agree a period of two weeks in all cases. If the customer is in default, the Riedl Group is entitled, after warning of its intention to sell, to sell privately a quantity of the goods and assets in its possession that is required according to its equitable judgement to satisfy its claims.

For pledge or self-help sale, the Riedl Group can in all cases charge a sales commission on the net proceeds usual at the location.

### **3. Concluding provisions**

**3.1.** All legal relations between the parties are subject to the law of the Federal Republic of Germany; the laws on international purchase of moveable goods shall not apply.

**3.2.** Legal venue – including for actions on cheques or a bill – is the domicile of the user of the General Terms and Conditions indicated in number 1.1. Further possible legal venues, to be chosen at the discretion of the claimant in the individual case, are Hamburg and Düsseldorf (elective jurisdictions).

This also applies to foreign customers and contractors.

**3.3.** If any parts of these Terms and Conditions are or become void or ineffective in law in some individual case, this shall not prejudice the validity of the other provisions.