



1 General

- 1.1 TRANSWAGGON provides private freight wagons to carry out national and international transportation.
- 1.2 Completion, contents and fulfilment of contracts as well as any unagreed use are subject solely to the following General Terms and Conditions for the Use of TRANSWAGGON Private Freight Wagons. Customer terms and conditions have no validity, even if TRANSWAGGON has not expressly contradicted.
- 1.3 The customer shall use the wagon on national or international rail transport or shall commission TRANSWAGGON to carry out this transportation. He acknowledges the regulations and conditions (General Terms and Conditions) of the relevant Railway Undertaking (RU), which shall be used for the transport.

The regulations and conditions of the Railway Undertaking, which are used to carry out the contract either by the customer or on behalf of the customer, are components of the contract in this respect.

- 1.4 Any agreements deviating from these general terms and conditions are required in writing.

2 Quotation

- 2.1 Written quotations by TRANSWAGGON can only be accepted during a time period of 30 days, starting on the day the quotation is sent. TRANSWAGGON must receive the written acceptance of a quotation within this time period. Implied action is on equal terms with written acceptance.
- 2.2 Quotations and agreements, even on a flat rate basis, are based on TRANSWAGGON's current prices, conditions of carriage, operational assumptions and exchange rates of the Railway Undertaking concerned at the time the quotation is made as well as the assumption that the routes at the basis of the calculation are open to traffic. In the case of any changes to the calculation base, TRANSWAGGON is entitled to adapt quotations and agreements by explaining the new conditions to the customer. Additional costs, which arise through the use of deviating transport routes, either due to a regulation or subsequent instructions from the customer, must be paid by the customer.
- 2.3 Quotations by TRANSWAGGON only include the services stated expressly within. Additional services or services deviating from the quotation or any auxiliary costs will be charged separately.



3 Services

- 3.1 TRANSWAGGON shall use its wagons to carry out transportation for customers or, optionally, shall provide the wagons to the customer to use for a determined length of time or for a defined transport route.
- 3.2 Should TRANSWAGGON use its wagons to carry out transportation for its customers, then TRANSWAGGON shall charge an all-in rate. This all-in rate only includes the services described in the quotation.
- 3.3 If TRANSWAGGON provides the customer with a wagon for a determined length of time or for a defined transport route, they shall charge the customer a lump-sum. This lump sum is the charge for the use of the wagon from the day of handover from the Railway Undertaking (RU) to the customer until the day the wagon is returned to the Railway Undertaking (RU). All rights and obligations from freight agreements with the Railway Undertaking (RU) concerned are performed by the customer or met solely by the customer.
- 3.4 Without express agreement, neither the lump sum for the use of wagon nor the all-in rate include any other costs, such as customs, taxes, import and export expenses, duty expenses, weighing costs, demurrage, side track fees, crane charges, transshipment fees, charges for out of gauge, heavy load supplements and other unforeseen costs resulting from particular circumstances.

4 General Conditions of Use

- 4.1 The customer may use the wagon freely on the European rail network, as far as is technically possible and permitted, in the agreed relations; provided that the Railway Undertaking (RU) is a member of the General Contract of Use (GCU) and is shown in the list of contracting parties of the GCU. Any other use is only possible with the express written authorisation of TRANSWAGGON.

Sub-leasing to third parties is only allowed with the agreement of TRANSWAGGON.

Sending the wagons into crisis areas must be agreed in advance with TRANSWAGGON.

- 4.2 TRANSWAGGON shall incur no disadvantage as a result of the customer transferring the use and custody of the wagons to a RU which is not a full member of the UIC. The customer must continually ensure that TRANSWAGGON is protected in the same way as if the wagon were used in conjunction with a RU which is a full member of the UIC.
- 4.3 TRANSWAGGON shall incur no disadvantage should the customer transfer the use and custody of the wagons to a RU which has not signed the GCU. The customer must continually ensure that TRANSWAGGON is protected in the same way as if the wagon were used in conjunction with a RU which is a full signatory to the GCU.



- 4.4 As far as the wagon is used by an UIC railway, the customer shall take over the liability from TRANSWAGGON on the basis of Point 3.6.2 of the AEB (Allgemeine einheitliche Bedingungen für die Inbetriebnahme und Nutzung von P-Wagen [General standardised conditions for the commissioning and use of private wagons], UIC data sheet 433 V dated April 2001) and Point 27.1 of the GCU, if they are to blame.
- 4.5. TRANSWAGGON is entered in the GCU as the keeper (in accordance with Appendix 2 of the GCU) of the hired wagons. The GCU regulates the legal relationship between the RU using the wagon and the keeper of the used wagon.

The customer shall behave as the authorised disposer of the keeper towards the RU using it in the sense of the GCU, as far as it concerns the positioning/supply in the use of the wagon for loaded and empty runs.

The customer shall clarify to the RU that any statements regarding the GCU from the RU should be directed to TRANSWAGGON as the keeper of the wagon. Irrespective of this, the customer shall immediately forward all statements and information from the RU concerning the keeper of the wagon to TRANSWAGGON. The customer has to guarantee that TRANSWAGGON receives information about the actual performance of the wagon.

The customer is, in no way, authorised without prior authorisation from TRANSWAGGON to agree any deviations from the conditions of the GCU with the RU.

The customer assumes liability against TRANSWAGGON for compliance with the conditions of the GCU by the RU and releases TRANSWAGGON from any disadvantages arising from non-compliance. If necessary, the customer shall make supplementing contractual agreements with the RU to ensure compliance with the conditions of the GCU by the RU.

The customer is jointly and severably liable along with the RU for any claims from the keeper for compensation or other payments from the relationship of the GUC, as far as the RU has not settled these within 12 months of the date of occurrence or it has not been possible to determine within 12 months which RU is responsible for the damage to the wagon.

TRANSWAGGON can demand information from the customer at any time about which RU has used the wagon. He can refuse to hand the wagon over to certain RU, whether they are members of the GCU or not.

5 Order and Provision

- 5.1 All wagon orders must be directed to TRANSWAGGON and are only classed as accepted when they have been confirmed in writing. The order must contain all information necessary to carry out the transportation or to provide a suitable wagon.



- 5.2 Should TRANSWAGGON be unable to provide the wagon for the agreed date, the customer can cancel his order or make a new order agreed with TRANSWAGGON. Ongoing rights, particularly the right to compensation, are ruled out.
- 5.3 If a wagon order is cancelled by the customer, TRANSWAGGON can demand compensation for the arising costs as well as the demurrage days in accordance with the demurrage regulation.

6 Use of Wagon by Customer

- 6.1 If TRANSWAGGON provides the customer with a wagon, the customer is obliged, after the wagon has been taken over by the RU, to ensure that the wagon is suitable for its purposes and is not showing any visible damage. The customer must notify any damage to TRANSWAGGON within 48 hours (Saturdays, Sundays and public holidays are not included).

If the customer does not notify TRANSWAGGON of any defects within this period, then this is classed as confirmation of the proper condition of the wagon and the suitability for the transportation intended by the customer. In this case, TRANSWAGGON is entitled to charge the customer for demurrage and other costs of standstill, if these have arisen through the delay.

- 6.2 If TRANSWAGGON has provided the wagon for a determined length of time or for a defined transport route, the customer must take into account all railway and official regulations as well as any instructions from TRANSWAGGON on the treatment of the wagon.

The customer is liable for all actions by the sender and his assistants as well as for the information in the way bill, which have been based on information from the customer or made out by him.

- 6.3 If TRANSWAGGON has provided the customer with the wagon for a defined transport route, then the customer is obligated to load and deliver the wagon immediately after it has been handed over by the RU. This also applies for the unloading at the destination and the return of the empty wagon in accordance with TRANSWAGGON regulations.

After the wagon has been dispatched, the customer must immediately provide TRANSWAGGON by fax or email with all information necessary for TRANSWAGGON to be able to supply the empty wagon in a proper condition at the destination. If this information is not sent or is sent after a delay, then the customer is liable for compensation, particularly from a loss of use, demurrage in accordance with current demurrage regulations and excess freight charges. At the end of the wagon's use, the conditions of the RU's involved also apply for the return / handover of the wagon to the RU.



- 6.4 In the case that the wagon is delivered to a destination station outside of the country, where TRANSWAGGON has its headquarters, TRANSWAGGON can demand from the customer or its contracting partner that the empty wagon is delivered to a station to be named by TRANSWAGGON immediately after it has been unloaded.
- 6.5 The customer is not entitled to a right of retention of the wagon.
- 6.6 The customer must ensure the proper return of the wagon, without any residue of cargo or unit load devices in a swept-clean condition. The customer shall carry any subsequent additional costs arising for cleaning and the loss of use in accordance with the demurrage regulation.

7 Transportation by TRANSWAGGON

- 7.1 If and as far as TRANSWAGGON carries out the transportation with its wagons itself, then the customer must issue the way bill, particularly with regards to information about tariffs, contracts with RU's and route regulations, in accordance with instructions issued by TRANSWAGGON. If way bills or appropriate directives are not available, the customer is obliged to request these immediately; otherwise he shall be liable for additional costs and other damage.
- 7.2 TRANSWAGGON can request that the customer uses way bills provided by TRANSWAGGON.

8 Damage to the wagon

- 8.1 The customer is liable for any damage and loss to the wagon which has been provided and taken in accordance with the contract until its return (Point 6.3). The decisive factor is the point of time, at which the customer or his representative received the actual power of disposal over the wagon.
- 8.2 As far as is legally permitted, the customer must also represent the fault of any third parties, which are helping him and its assistants.
- 8.3 As far as a liability of the RU in use (in acc. with Article 22 of the GCU) is stated, TRANSWAGGON shall initially claim against the RU. If no compensation is obtained from the RU within a period of 12 months, or the liable RU cannot be determined during this period, then a claim shall be made against the customer.

In the case of damage, which occurs in the operation of the railway, the customer is liable to obtain and provide TRANSWAGGON in good time with all documents (damage reports), which are required to assert rights against the RU.



With the signing of the respective individual contract, the customer transfers all his claims against the RU involved and/or any third parties to TRANSWAGGON, when and as far as they have arisen through the damage and/or loss of the wagon. TRANSWAGGON agrees to this transfer.

- 8.4 Sender and consignees and their representatives shall be considered as the assistants of the customer. The customer is liable for his assistants.
- 8.5 The customer is liable for any damage arising within a private siding.
- 8.6 The customer must notify TRANSWAGGON within 24 hours of discovering the occurrence of any damage.
- 8.7 In the event of damage occurring, the customer is obliged to take all measures possible to ensure that the claim for compensation by TRANSWAGGON can be made against the RU and other third parties. The customer is obliged to do everything to minimise the damage.
- 8.8 In the case of any damage, which must be accepted by the customer in accordance with these conditions, he must reimburse TRANSWAGGON the costs for the complete repair of the wagon, the empty running costs due to the repairs and the loss of earnings arising during the repair time, which shall be calculated on the basis of the current demurrage regulation. If the wagon is completely written off, then the customer must reimburse TRANSWAGGON the full current value of the wagon in accordance with Appendix 5 of the GCU.
- 8.9 In cases of damage, the customer assumes liability for the protection of rights to the RU for its representatives as well.

9 Liability of TRANSWAGGON

- 9.1 If TRANSWAGGON provides the customer with wagons for a journey (Point 3.3), then the liability of TRANSWAGGON, as far as is legally possible, is limited to intentional and gross negligence.

Depending on the amount, TRANSWAGGON shall limit the liability from this contractual relationship to a double all-in rate or a double lump sum for the use of wagen and positioning.

- 9.2 If TRANSWAGGON carries out transportation for customers upon payment of an all-in rate (Point 3.2), then TRANSWAGGON is liable, subject to particular conditions in inland transportation, to its customers in accordance with the legal regulations, which apply to the companies in the international transport chain to fulfil the contract.

These include, in particular, the CIM, SMGS, Hague Regulations and the CMR. For all other cases, TRANSWAGGON is liable in accordance with the regulations of the CIM.



TRANSWAGGON shall transfer its identical claims against the person responsible for the damage to the customer. The customer must then make a claim against the actual person responsible for the damage as a matter of priority.

TRANSWAGGON is liable for inland transportation in accordance with the valid liability regulations of the RU..

- 9.3 TRANSWAGGON is not liable for exceeding normal delivery times, even if this is caused by the wagons. Any liability for consequential damage is ruled out.
- 9.4 For third party services, which TRANSWAGGON provided or arranged on the instructions of the customer, TRANSWAGGON is not liable. At the request of the customer, TRANSWAGGON shall transfer these claims against third parties to the customer.
- 9.5 If and as far as claims for compensation against TRANSWAGGON arise in accordance with the aforementioned regulations, the customer must notify TRANSWAGGON of this in writing within five days of finding the damage, but not later than four weeks after the damage occurred.

If TRANSWAGGON is not sent the claim for compensation in good time, then the claim for compensation by the customer becomes invalid. If TRANSWAGGON receives the damage notification at a time when it is no longer possible to keep their rights against a third party then the claim for compensation against TRANSWAGGON is limited.

- 9.6 TRANSWAGGON is not liable for any loss or depreciation of the transported goods.

10 Invoicing and Payment

- 10.1 If TRANSWAGGON carries out the transportation for the customer for an all-in rate (Point 3.2), the customer is obligated to immediately send the documents required for billing to TRANSWAGGON, in particular the original way bills or duplicates of the way bill.
- 10.2 TRANSWAGGON invoices must be paid without delay within ten days of the date of invoice. The invoiced amount must be paid to one of the bank accounts stated on the invoice. Offsetting is only possible with callable and undisputed counterclaims. Delayed payment occurs after the time period has elapsed even without notification.
- 10.3 TRANSWAGGON is entitled to charge interest on arrears at three percentage points above the current base interest rate of the European Central Bank.



11 VAT

If the services of TRANSWAGGON are subject to value added tax (VAT), the VAT shall be calculated in addition to the agreed fee and stated separately in the invoice for the payer.

12 Security

To secure all outstanding bills, which are owed to TRANSWAGGON by the customer, they have a lien to all goods, transport documentation and funds, which have been voluntarily handed over in connection with a service in the sense of point 3.1, as far as these are the property of the customer.

13 Statute of Limitations

All claims against TRANSWAGGON, regardless of which legal grounds, are limited to six months, as long as legal regulations do not oblige a different time period. The limitation period begins with the knowledge of the beneficiary, but no later than the day the wagon has been returned by the user.

14 Partial Invalidity / Void in Part

Should one or more of the existing conditions or part of the contract be or become invalid or unfeasible or should a point in need of regulation have been overlooked in these conditions of this contract, the validity of the remaining conditions remains unaffected.

In such a case, it is taken as agreed what the contracting parties would have agreed when aware of the invalid/unfeasible conditions or the filling in of the gap in the sense and spirit of this contract.

15 Place of Jurisdiction and Fulfilment

15.1 The place of jurisdiction and fulfilment is TRANSWAGGON headquarters.

15.2 The law of the country where TRANSWAGGON has its headquarters applies.