

The Liability of the Mover

- Advice on the Liability Provisions under Section 451g German Commercial Code -

The mover, as the haulier, is liable under the Contract for Household Goods Moving and Relocation Services and the German Commercial Code (HGB). These liability principles are also applicable in the case of cross-border transport which starts or ends in Germany even if several different means of transport are used. The liability provisions apply accordingly for storage where the Customer is a consumer.

1. Liability Principles

The mover is liable for damages caused by the loss or damage to property for as long as it is located in his care.

2. Maximum Liability

The mover's liability for loss or damage is limited to the amount of EUR 620 per cubic meter stowage required to perform the Contract. The mover's liability for overrunning the delivery date is limited to three times the figure for the freight. If the mover is liable due to the breach of a contractual duty related to the execution of the move for damages which are not incurred due to the loss or damage of the property or the overrunning of a delivery date, and if these are damages other than personal injury and property damage, liability will be limited in this case to three times the amount which would have to be paid upon the loss of the goods.

3. Compensation

Where the mover must pay damages for the loss of the goods, the value at the place and time of the assumption of the transport duties will be reimbursed. In the case of damage to the goods, the difference between the value of the undamaged goods and the value of the damaged goods must be reimbursed. The governing value is the value of the goods at the place and time of the assumption of the transport duties. The value of the goods is governed by the market price. In both cases, the costs of establishing the damage must be reimbursed.

4. Exclusion of Liability

The mover will be released from liability if the loss, damage or the overrun of delivery dates is based on an inevitable event which the mover could not have avoided even with the greatest degree of care and whose consequences he could not prevent.

5. Special Liability Exclusions

- 5.1 The mover is released from his liability if the loss or damage is attributable to one of the following risks:
- 5.1.1 transport and storage of precious metals, jewels, precious stones, money, stamps, coins, securities or documents;
 - 5.1.2 insufficient packaging or labeling by the consignor;
 - 5.1.3 treatment, loading or unloading of the goods by the consignor;
 - 5.1.4 transport and storage of goods in containers not packed by the mover;
 - 5.1.5 loading or unloading of goods whose size or weight does not correspond to the space at the loading or unloading site, provided the mover had previously advised the consignor of the risk of damage and the consignor had insisted that the work be performed;
 - 5.1.6 transport and storage of live animals or plants;
 - 5.1.7 natural or defective nature of the goods causing them to suffer easily from damage, particularly breakage, malfunctions, rust, inner spoilage or seepage. If damage which could arise under the circumstances due to one of the risks defined in items 1. to 7. has occurred, it will be assumed that the damage has occurred from this risk. The mover may only invoke one of the special liability exclusions if he has taken all of the action which he was obliged to under the circumstances and has complied with special instructions.
- 5.2 The Storage Company will not be liable for damage caused by nuclear energy and to or by radioactive materials.

6. Application of the Exemptions and Limitations of Liability

- 6.1 Exemptions and limitations of liability will only apply for claims under the liability outside of contract for the loss of or damage to the goods or for overrunning the delivery date if the mover has not acted intentionally or recklessly and in the awareness that damage will occur in all probability.
- 6.2 The aforementioned exemptions and limitations of liability will also apply for the mover's personnel.

7. Performing Mover

If the mover appoints another mover to carry out the moving and relocation service, he will be liable in the same manner as the performing mover for as long as the goods are in his care. The performing mover may assert all defences under the terms of the freight contract.

8. Transport and Storage Insurance

- 8.1 It is possible to insure the goods beyond the statutory liability. At the request of the customer, the mover will take out transport and storage insurance against payment of a separate premium.

9. Term and Termination of the Storage Contract

The following **important special rules** apply for the assertion of damage compensation claims:

- 9.1 Externally **visible damage** and the loss of goods must be recorded exactly upon delivery on **the receipt of delivery form** or in a **damage report**. Such damage and loss must be reported to the mover **by no later than the next day** in detailed text form (E-mail, letter, fax).
- 9.2 Externally **non-visible damage** and loss must be reported to the mover **within 14 days** after delivery, and also in detailed text form.
- 9.3 If damages and loss are not claimed within the stated periods, the claims to compensation will lapse.
- 9.4 **Overruns of the delivery date** must be reported in text form within **21 days**. After the expiry of the deadline, the claim will otherwise lapse.
- 9.5 **The timely sending** of a **detailed notification** in text form to the **appointed or delivering mover** which indicates the **person sending it** will suffice to meet the deadlines.

General Terms and Conditions for Household Goods Moving and Relocation Services and Storage

1. Services

- 1.1 The Mover will perform his duties with the greatest care and upon protection of the interests of the Consignor against payment of the agreed fee.
- 1.2 If unforeseeable expenses arise during the performance of the contractual services, they must be reimbursed by the Customer, provided the Mover may hold them to be necessary in accordance with the circumstances.
- 1.3 If the Consignor expands the scope of performance after the conclusion of contract, the incurred additional costs must be paid in a reasonable amount.
- 1.4 Provided nothing to the contrary has been agreed, the Mover's personnel is not entitled to conduct any electrical, gas, drilling and other installment work. If work which is not part of the contract of carriage has been contractually agreed, liability is limited to EUR 50,000 per event of damages. This limitation of liability will not apply if the damage was caused by the intent or negligence of the Mover or his personnel or by the breach of major contractual duties, whereby the claims to compensation are limited in the latter case to foreseeable, typical damage. In the case of work performed by additionally procured craftsmen, the Mover will only be liable for making a careful selection.

2. Additional Cargo

The moving and relocation service may also be carried out as additional cargo.

3. Third-party Contracts

The Mover may appoint another haulier to carry out the moving and relocation service.

4. Tips

Tips will not be deducted from the amount of invoice.

5. Reimbursement of Moving and Relocation Costs

If the Consignor has a claim to payment for the costs of the moving and relocation against a third party, he will instruct the latter to pay the agreed price minus any advance payments or installments directly to the Mover upon equivalent demand.

6. Transport Protection/Advice Duty of Consignor

- 6.1 The Consignor is obliged to have movable or electronic parts, parts those of sensitive devices, expertly secured for transport.
- 6.2 The Mover is not obliged to check whether the transport protection has been carried out expertly.
- 6.3 If the removal goods include hazardous goods, the Consignor is obliged to inform the Mover in due time of the nature of the hazard emanating from the goods.

7. Set-off

A set-off of the Mover's claims is only permissible against counterclaims that have fallen due which have been finally adjudicated, are ready for judgment or are undisputed.

8. Instructions and Notices

Instructions and notices by the Consignor regarding the transport must be addressed in text form exclusively to the contractor.

9. Verification by the Consignor

When collecting the removal goods, the Consignor is obliged to check that no items have been erroneously taken or left.

10. Due Date of the Agreed Fee

- 10.1 Unless otherwise agreed, the invoice amount must be paid in advance, i.e. for domestic transport before completion of delivery and for international transports prior to load. Payments can be made in cash or by prior bank transfers to the movers business account.
- 10.2 Out-of-pocket expenses in foreign currencies will be charged in accordance with the exchange rate established on the date of payment.
- 10.3 Should the Consignor fail to meet his payment obligation, the Mover will be entitled to stop the removal goods or store them after the commencement of transport at the Consignor's expense until the freight and the expenses incurred until such time have been paid. Should the Consignor still fail to meet this payment obligation, the Mover will be entitled to a realization of lien in accordance with the statutory provisions.
- 10.4 Section 419 German Commercial Code will apply accordingly.

11. Storage

The following provisions will apply in supplement for storage:

- 11.1 In the case of storage, the Customer is additionally obliged to advise the Mover of dangerous goods such as inflammable or explosive or radiating items, items with a tendency to spontaneously combust, poisonous, corrosive or malodorous items or any such items from which negative effects can be anticipated for the storage facility and/or for other stored property and/or people which are supposed to be the object of the contract;
- 11.2 The Storage Company will generally perform the following services:
 - 11.2.1 Storage will be in suitable storage facility space belonging to the Storage Company or a third party; storage in appropriate moving trucks or containers is deemed to be equivalent. Should the Storage company store the goods at a third-party Storage Company, he must disclose the latter's name and the location of the storage facility to the customer in written form or, if a warehouse warrant has been issued, to mark this on the warrant.
 - 11.2.2 Upon storage, an Inventory of the property will be signed by the Customer and the Storage Company. The property will be labelled in numerical order. The number of containers will be recorded. The Storage Company may waive the preparation of an inventory if the stored property is put into a container directly on the site of loading, the container is immediately sealed and it remains sealed during storage.
 - 11.2.3 A copy of the Storage Contract and the Inventory will be handed out or sent to the Customer upon acceptance of the goods. In the case of partial storage, equivalent deductions will be made on the warrant and the inventory.
- 11.3 The Storage Company is entitled to surrender the stored property upon presentation of the Storage Contract, including the Inventory or an equivalent note of transcription contained in the Inventory unless the Storage Company is aware or fails to be aware because of his negligence that the person presenting the Storage Contract is not authorised to accept the stored property. The Storage Company is authorised, but not obliged, to check the proof of authority of the person presenting the Storage Contract.

- 11.4 The Customer is obliged to surrender the Storage Contract, including the Inventory, upon the delivery of the stored property and to issue a written acknowledgement of receipt. In the case of the partial delivery of the stored property, the Storage Company and the Customer will make corresponding deductions in written form on the Inventory and Storage Contract.
- 11.5 During the term of storage, the Customer is entitled to inspect the stored property on the Storage Company's premises during business hours. The appointment will be agreed in advance. The Storage Contract and the Inventory list must be presented at that time.
- 11.6 The Customer is obliged to inform the Storage Company in text form or in formal written form of any changes in his address without undue delay. He may not invoke the non-receipt of notices the Storage Company has sent to his last known address.
- 11.7 The Customer is obliged to pay the monthly storage fee to the Storage Company in advance by no later than the 3rd working day of each month. The storage fee for the following months is also due for payment without the issue of a separate invoice at the beginning of each month.
- 11.8 The Storage Company is not obliged to check the authenticity of the signatures on the documents pertaining to the stored goods or the authority of the signer unless the Storage Company knows or remains unaware due to his own negligence that the signatures are forged or the signer is not authorised.
- 11.9 If a fixed term of the Contract has not been agreed, the parties may terminate the Contract upon observance of a notice period of one month in formal written form or in text form unless good cause exists which would justify a termination of the contract without observance of a notice period.
- 11.10 In the case of contracts with parties who are not consumers, the ALB (General Terms and Conditions of Storage of the German Furniture Removal Industry) are deemed to be agreed. They may be retrieved under www.amoe.de/ALB.

12. Cancellation and Termination

- 12.1 A moving and relocation service is a service within the meaning of Section 312 g (2) sentence 1 no. 9 German Civil Code. A statutory right of cancellation under Section 355 German Civil Code does not exist.
- 12.2 The Consignor may terminate the Removal Contract at any time. If the Consignor gives notice of termination, where the termination is based on grounds that cannot be attributed to the Mover's area of risk, the Mover may either
 - 12.2.1 demand the agreed carriage charges plus demurrage and the expenses to be reimbursed. To be deducted from this amount are the expenses he has saved as a result of the termination of the Contract or has earned elsewhere or has failed to earn in bad faith;
 - 12.2.2 or demand one-third of the agreed carriage charges as a flat-rate fee.

13. Venue

- 13.1 For legal disputes between merchants on the basis of this Contract and concerning claims on other legal grounds which are related to the Removal Contract, the court in whose district the branch of the Mover commissioned by the Consignor is located will have exclusive jurisdiction.
- 13.2 For legal disputes with parties other than merchants, the exclusive venue will only apply in the event that the Consignor has changed his place of residence or habitual abode to a foreign country or his place of residence or personal abode is unknown on the date of the filing of the complaint.

14. Choice of Law

German law will apply.

15. Data Protection

The Mover will apply the data provided by the customer to perform and settle the Contract. Where required for order fulfillment data will be disclosed to his servants and agents (Erfüllungsgehilfen). No disclosure will be made to other third parties. Upon the full settlement of the Contract and full payment, access to data for further use will be blocked and the data will be deleted upon the expiry of the periods under tax and commercial law regulations.