

GTC

2017 EDITION



GENERAL TERMS AND CONDITIONS OF BUSINESS OF RALPIN AG 2017 EDITION

Preamble

These General Terms and Conditions of Business «GTC» of RALpin AG govern relations between RALpin AG «RALpin» and its customers «Customer» for the transport of laden or empty trucks and their drivers on the Rola rolling motorway.

RALpin is a member of the UIRR and the General Terms and Conditions of Business for International Transport (UIRR Conditions) have been adapted in these GTC of RALpin to the operation of the Rola through Switzerland.

These GTC are an integral part of the transport contract signed between the Customer and RALpin. Further parts of the transport contract are (a) the transport conditions, (b) the safety data sheet of RALpin in the version applicable at the time when the transport contract is signed, and (c) the shipping order.

1. Definitions

The following definitions apply to certain terms used in these GTC:

- 1.1 Trucks with or without cargo are loaded onto the train at the terminals specified for this purpose on the rolling motorway «Rola» and transported to their destination. The drivers of the trucks «Drivers» travel in sleeping cars.
 - 1.2 «Trucks» are individual trucks, road trailers and semi-trailers.
 - 1.3 The term «cargo» denotes the load carried on the truck.
 - 1.4 The term «load unit» means the unit consisting of the truck and cargo.
 - 1.5 «Wagon» means the low-floor freight wagon on which the load unit is carried on the railway.
 - 1.6 «Transport contract» is the contract signed between the Customer and RALpin for the transport of a load unit – or several load units simultaneously – together with their drivers on the Rola.
 - 1.7 The «Shipping order» is the form which is signed to confirm the transport contract on the day of despatch when checking in at the terminal.
 - 1.8 The «Customer» is the person who gives the order for transport of the load unit himself or through an agent designated in writing beforehand and who is accordingly required to pay the price. Only the Customer – and not his agent, if any – is the contracting partner of RALpin.
 - 1.9 «Customer's agent» is the driver or the company by which he is employed, in addition to the agent referred to in Art. 1.8 GTC for the conclusion of the transport contract.
 - 1.10 The term «Driver» means the driver of the truck and any other person travelling with him who holds a driver's licence for the truck.
 - 1.11 «Combined transport» means the transport of load units by at least two modes of transport, in this case rail and road.
 - 1.12 «Transfer» is the action by which the load unit is handed over upon loading by the Customer to the railway operating company which is responsible for hauling the trains and upon arrival is handed over to the Customer by the railway operating company.
Transfer of the loading unit has taken place when:
 - › a) upon loading, the vehicle has been driven onto the wagon and the chocks placed in front of the tyres;
 - › b) upon arrival, the truck has begun to leave the wagon on which it was carried.
 - 1.13 «Railway operating company» is the company retained by RALpin to haul the trains.
 - 1.14 «Acceptance» of the load unit has taken place when it has successfully undergone the technical inspection and been checked in at the terminal counter.
2. On the basis of the transport contract signed with RALpin the Customer undertakes:
 - › to ensure compliance by his drivers with RALpin's provisions on transport and safety;
 - › on the date of despatch, not to arrive at the agreed terminal more than 90 minutes before the closure of acceptance to allow the load unit to undergo technical inspection by the railway operating company and to check in;
 - › to drive the load unit onto the wagon and transfer it to the railway operating company within the meaning of Art. 1.12 letter a GTC;
 - › to remove the load unit from the wagon on the day of arrival at the agreed terminal after completion of the transfer within the meaning of Art. 1.12 letter b GTC and to leave the terminal without delay;
 - › to pay the price stipulated in the RALpin price list.
- ## 3. Conclusion of the transport contract
- 3.1 The transport contract is concluded when RALpin confirms in writing the booking made by forwarding the booking form. Confirmation by fax or e-mail is also regarded as a written confirmation. Upon signing of the booking form by the Customer, the latter acknowledges these GTC and the conditions of carriage as binding.
 - 3.2 If the booking is made by telephone, the contract is concluded verbally. A contract which has been concluded verbally is governed by the GTC which are forwarded to the Customer every year and by the conditions of carriage of RALpin.
- ## 4. End of the transport contract
- The transport contract ends on the day of arrival when the load unit has been transferred within the meaning of Art. 1.12 letter b GTC.
- ## 5. Nature of the load unit and cargo – Customer's liability
- 5.1 Upon the signing of the shipping order by the driver acting as his agent, the Customer confirms:
 - › that his information about the truck and cargo, in particular concerning the weight and nature of the cargo is correct and complete, regardless of whether the Customer has himself entered, or arranged for RALpin to enter, this information on the order form;
 - › that he will comply with the currently valid stipulations concerning the loading and securing of goods on road vehicles;
 - › that all documents which accompany the load unit and are prescribed by the authorities for inspection purposes are correct and complete;
 - › that any existing regulations of the countries concerned by the transport of the load unit are likewise satisfied.
 - 5.2 By transferring the load unit within the meaning of Art. 1.12 letter a GTC, the Customer guarantees that it is suitable for combined transport and that the cargo which is carried satisfies the criteria for safe combined transport.
 - 5.3 The term «safe» means, in particular, that the condition of the load unit is such as to allow safe transport, more specifically that the packaging, stowing and securing of the cargo in the truck are appropriate for the special features of combined transport, in particular for the consignment of liquids or of goods which must respect certain temperature requirements.
 - 5.4 RALpin accepts no liability for the suitability and safety of the truck and cargo which have been handed over.
 - 5.5 RALpin is not required to check the truck, the cargo, its packaging, stowing and securing together with the information or documents made available by the Customer.
- ## 6. Dangerous goods/goods subject to special requirements
- RALpin undertakes to accept transport units containing dangerous goods which are approved under the European Agreements Concerning the International Carriage of Dangerous Goods by Road and by Rail (ADR/RID). Subject to the advance notification requirements and exclusions as defined in the conditions of carriage, and to the statutory provisions of the relevant countries in respect of the permits and approvals for particular groups of substances. Customers are responsible for preparing Transport Emergency Cards (tremcards), notification letters and authorisations in respect of the import, export and/or transit of goods requiring authorisation. These must be submitted to the relevant authorities of the relevant countries along with the freight documentation. Subject to change.

7. Conditions of carriage and safety information sheet

- 7.1 The technical requirements placed on the truck and its safety shall be governed by the conditions of carriage and the safety information sheet of RALpin. Compliance with them and also with the instructions given by the railway and terminal personnel is imperative. Failure to comply may result in exclusion of the driver, refusal of the consignment and an obligation of the Customer to provide compensation for any damage.
- 7.2 Confirmed bookings apply on condition that the load unit complies with the criteria stipulated in *Art. 5* and *Art. 6 GTC* and with the conditions of carriage. Special cases must be notified when making the booking, e.g. dangerous goods, special goods within the meaning of *Art. 6 GTC*, empty load units, load units > 4.2t, second driver etc. If attention is not called to such special circumstances when the booking is made, the booking confirmation is not binding on RALpin. Empty trucks will be carried only if capacity is available. Confirmation of any booking is always subject to that proviso.
- 7.3 The technical inspection and corresponding acceptance of the load units will be performed by the railway operating company which is responsible for hauling the trains. RALpin cannot be held liable if load units are not accepted for transport by the railway operating company because of failure to comply with the transport conditions. The technical inspection is performed solely in the interest of the railway operating company. The Customer has no entitlement to an inspection and consequently cannot make any claims based on the fact that inspection may have been inadequate. Before moving off, the driver must personally ascertain the safety of the load unit, i.e. in particular comply with verbal and written instructions given by the railway personnel, more specifically also with any instructions given in writing on site.
- 7.4 When checking in on the date of despatch, the shipping order must be signed by the driver. The driver must also sign RALpin's safety information sheet.

8. Departure times

RALpin reserves the right to alter the train departure times or not to run certain trains, in particular on public holidays, if there is low demand for transport or because of technical or operational problems.

9. Prices

Prices, charges and discounts together with the relevant time limits are based upon the applicable prices of RALpin as published at the time when the transport contract is concluded. Amendments may be made at any time.

10. Terms of payment

- 10.1 Payment must be made for each individual journey by credit card unless the Parties have reached a different agreement in writing.
- 10.2 In respect of the amounts for which the Customer is liable, all retention and offsetting against counterclaims asserted by the Customer are excluded, save in the case of Customer claims which have been found to be enforceable by the courts and can no longer be contested or have been specifically acknowledged by RALpin.
- 10.3 The Customer may ask to see a quarterly statement of his discount credit balance. Any charges are automatically deducted from the discount credit balance. The enquiry must be sent to RALpin in writing, stating the bank details, within three months of the end of the quarter.

11. Customs documents

- 11.1 Customs documents are not required on the route between Freiburg i.Br. and Novara. Transfer within the meaning of *Art. 1.12 GTC* takes place on EU territory, Switzerland being crossed by rail transport. This enables a simplified procedure to be adopted which makes provision for sample verifications to be made at the border crossings.
- 11.2 The drivers must complete a form showing their personal details at the departure terminal; they must be able to identify themselves at any time upon check-in and during the journey (personal identity document, passport).

12. Liability of the Customer

- 12.1 RALpin excludes all liability for damage caused by failure to comply with these GTC, the conditions of carriage, the provisions of the safety information sheet or the instructions given by the railway and terminal personnel.
- 12.2 If the Customer/his agent causes damage through failure to comply with these conditions or to respect the instructions given by the railway and terminal personnel, or through any other form of negligence, to equipment made available by RALpin (railway wagons, interior of the sleeping cars etc.) he will be required to make good the damage caused in full. Such damage also includes the cost of legal proceedings.
- 12.3 In the event of any breach of the obligations set out in *Art. 5.1, 5.2* and *6 GTC*, the Customer is liable for all damage caused, regardless of whether he is himself at fault.
- 12.4 RALpin may make the conclusion of the transport contract conditional upon production by the Customer of an insurance policy which covers all cases of liability arising from *Art. 12.3 GTC*.

13. Liability of RALpin

- 13.1 The liability of RALpin for carrying the driver and his hand baggage is determined by the uniform legal provisions governing the contract for the international carriage of persons by rail (CIV, COTIF 1999). Liability of RALpin for the carriage of the load unit is determined solely by the following provisions of this article.
- 13.2 The liability of RALpin begins on the date of despatch when the load unit is handed over for carriage and ends when the load unit is transferred upon arrival (pursuant to *Art. 1.12 letter a* or *letter b GTC*).
- 13.3 RALpin is liable to the Customer for loss of, or damage to, the load unit and for prejudice caused by failure to respect the specified delivery time or by loss of documents; RALpin shall not be held liable in cases where the prejudice is caused by:
- > fault on the part of the Customer;
 - > instructions given by the Customer;
 - > a defect in the load unit (i.e. the truck or cargo carried) or
 - > circumstances which could not be avoided and whose consequences could not be averted.
- 13.4 If the occurrence of a loss, damage or other prejudice was attributable in part to malicious conduct on the part of the Customer or to a defect inherent in the load unit, the obligation of RALpin to provide compensation will be reduced in the proportion to which these circumstances contributed to the prejudice.
- 13.5 If it is found that the loss or damage occurred between transfer on loading the vehicle within the meaning of *Art. 1.12 letter a GTC* and transfer on arrival within the meaning *Art. 1.12 letter b GTC*, the liability of RALpin and its limitations shall be governed by the terms of the Uniform legal provisions for the contract for the international carriage of goods by rail (CIM) [according to record 1999] which form part of Annex B to the Convention on the International Carriage of Goods by Rail (COTIF). Here RALpin is deemed to be the «carrier» and the Customer simultaneously the «consignor» and the «consignee» within the meaning of CIM. The term «goods» within the meaning of CIM means essentially the load unit as defined herein pursuant to *Art. 1.4 GTC*. Where the special features of the rolling motorway so require, a distinction may, however, be made between the truck and the cargo carried (in particular in respect of the exemption from liability pursuant to *Art. 23 §3 letter a CIM* and the amount of compensation for damage pursuant to *Art. 32 §3 CIM*).
- 13.6 In the event of failure to respect the delivery date, loss of documents or breach of any other contractual obligations through fault of RALpin except for loss or damage, an obligation to provide compensation exists only for direct material damage suffered by the Customer which can be accurately determined. In such cases the obligation of RALpin to provide compensation is limited to four times the price of transport of the load unit concerned. The delivery times pursuant to *Art. 16 CIM* shall apply. In the event of loss of documents, RALpin will only be required to provide compensation if it is responsible for the loss of documents which are prescribed for the various official inspections, e.g. customs, veterinary, plant health or dangerous goods documents and which were handed over for this purpose by the Customer and were carried with the load unit.
- 13.7 If RALpin has an obligation to provide compensation for partial or total loss of the goods or for damage suffered by them, the amount of such compensation will be determined by the value of the goods or on the basis of the reduction in its value in relation to the value which existed at the time and place of transfer by the Customer. If RALpin has an obligation to provide compensation for damage to the truck, such compensation shall be confined to the cost of repair. Further damage will not be made good.
- 13.8 Liability for indirect or secondary damage is excluded; this includes, in particular, the cost of down times and loss of use of the load unit, costs of alternative transport, prejudice caused through loss of profit, use of the transported goods later than scheduled or not at all, delay or standstill of production, loss of prestige or market shares.
- 13.9 Only the Customer and not his agent is entitled to claim compensation against RALpin.
- 13.10 If the loss, damage or prejudice which occurred between transfer pursuant to *Art. 1.12 letter a GTC* and the completion of the transport contract pursuant to *Art. 4 GTC* result in non-contractual claims against RALpin, to that extent the exclusions of liability and limitations of compensation pursuant to this *Art. 13 GTC* shall likewise apply.

14. Criteria for compensation

- 14.1 Compensation can only be provided if the damage is reported within the time limit and in the manner stipulated below and if a request for compensation has been made. Failing this, all claims against RALpin shall lapse.
- 14.2 The report which must identify the damage with sufficient accuracy is to be presented to the local agent of RALpin who is responsible for the terminal or to the railway operating company which is responsible for hauling the trains. Compensation must be claimed from RALpin.
- 14.3 In the event of loss or damage which can be detected by external inspection, including damage to customs and other seals affixed to the load unit, the Customer or his agent must notify his reservations immediately when the load unit is handed over to him.

- 14.4 In the event of loss or damage which cannot be detected by external inspection and only comes to light after transfer within the meaning of *Art. 1.12 letter b GTC*, the Customer or his agent must:
- › a) immediately after discovery of the loss or damage and in every case no later than five days after transfer of the load unit within the meaning of *Art. 1.12 letter b GTC*, notify reservations in writing (by e-mail, fax, letter);
 - › b) permit the immediate inspection of the loss or damage;
 - › c) confirm the report made in a timely manner by e-mail or fax pursuant to letter a above immediately afterwards by letter;
 - › d) secure all evidence showing that the loss or damage occurred between the transfer within the meaning of *Art. 1.12 letter a GTC* and the end of the contract within the meaning of *Art. 4 GTC*.
- 14.5 If the load unit has not arrived at the stipulated time, the Customer must report this delay immediately and then apply in writing for subsequent investigations to be conducted.
- 14.6 Damage caused by failure to respect the delivery times, loss of documents or other breach of contract, save for loss or damage, must be notified by the Customer within not more than five days after transfer of the load unit within the meaning of *Art. 1.12 letter b GTC*.
- 14.7 If a damage report has been made as stipulated in this article, the local agent of RALpin or the railway operating company which is responsible for hauling the train must make observations or arrange for such observations to be made on the contract form or in a separate written document stating the nature and scope and the likely cause of the damage, said form to be signed likewise by the Customer and a copy handed to him. In the event of disagreement, either party may at his own expense arrange for the above findings to be made by securing evidence in or out of court by a certified expert acting under oath.
- 14.8 All compensation must be applied for by the Customer by registered letter; the supporting documents must be attached. The request must be made within eight months, but in the cases referred to in *Article 14.6 GTC* within 40 days of the date on which the transport contract was signed. The agents referred to in *Art. 1.9* have no entitlement of their own to compensation.

15. Video surveillance

- 15.1 RALpin reserves the right to monitor the terminals and sleeping cars for the purpose of protection against vandalism and to secure evidence if damage does nevertheless occur. To inform the persons who are subject to such surveillance, RALpin will cause clearly visible notices to be posted within the field of vision of the cameras.
- 15.2 The data recorded by a camera will be deleted within 72 hours if no significant events come to light within that period.
- 15.3 By signing the safety information sheet, the driver signifies his consent to such surveillance.

16. Final provisions

- 16.1 All claims arising out of the transport contract are time-barred within one year of its conclusion, unless otherwise specified in binding form by applicable domestic law or international conventions.
- 16.2 All disputes arising between the Customer and RALpin in connection with the consignment of the load units and the transport of persons in the sleeping car shall fall within the sole jurisdiction of the ordinary courts at the place where RALpin has its registered office. However, legal action may also be taken against the Customer at his registered office.
- 16.3 The transport contract shall be governed by Swiss law including the uniform legal stipulations on the contract for the international carriage of goods by rail (CIM; 1 January 2009 Edition). The transport of persons shall be governed by Swiss law including the unified legal provisions on the international carriage of persons by rail (CIV; 8 August 2006 Edition).
- 16.4 RALpin may lay down special supplementary conditions or agree them with the Customer. These special conditions must not conflict with the present GTC. RALpin is authorised to assign to a Customer any claims for compensation which it may have against a third party who is liable for the damage.
- 16.5 The waiver by RALpin of the enforcement of its rights in a particular case in or out of court shall not in any way prejudice other similar cases.
- 16.6 If an article, a subarticle or a part thereof proves to be invalid or null and void, all other provisions of these GTC shall remain in force.
- 16.7 In the event of any differences between the German, Italian and English versions, the German wording shall prevail.