

General terms & conditions of business and work for heavy lifting & moving and heavy duty transportation

(Date: April 2019)

I. General

1. Prangl performs heavy lifting & moving and heavy duty transportation under the following terms and conditions, unless otherwise expressly otherwise agreed in writing on a case-by-case basis. Contrary purchasing terms and conditions of the customer shall not become contractual items even if presented to Prangl prior to commencement of the business relationship.
2. The current version of the Prangl General Terms & Conditions of Business can be accessed online at www.prangl.at.
3. The Prangl General Terms & Conditions of Business also apply to future business transactions, even if not separately agreed once again for more recent business transactions.
4. Representatives or employees sent out by the customer are also authorised to consent to these terms & conditions of business in a legally binding manner, and to submit legally binding declarations on behalf of the customer during the course of business developments.
5. In cases where Prangl, in the course of preparing a bid for tender, incurs unusually costly preliminary work (in particular through visits to construction sites and planning) Prangl reserves the right to charge for these preliminary services in a commensurate manner in cases where its bid fails to secure the order.
6. Quotations are non-binding and, as long as nothing else has been agreed in the bid document, have a validity of 28 days from the date of the quotation.
7. Prangl shall strive to provide the agreed services to the agreed deadlines. In cases where deadlines have not been agreed as fixed due dates, deadlines are always provisional, thus excluding the possibility of asserting compensation claims due to delayed provision of the service.

II. Price

1. The basis for billing is the net price quoted and/or agreed for the device and/or transport route. The quoted prices are exclusive of VAT at the applicable rate. Services to companies are governed by the recipient location principle. If the legal prerequisites are met, the Reserve Charge System is applied.
2. For work on Saturdays, Sundays, public holidays and night work, the overtime supplements payable to the operating staff as well as the costs for any subcontracted work will be charged to the customer on a daily basis. In cases where operating staff are required to stay overnight, the customer shall pay costs relating to this.
3. Invoicing is based on the daily working time certificates of Prangl operating staff which are to be signed off by the customer or by its on-site representative.
4. Working hours at normal hourly rates (including arrival and departure times):
 - MO – TH 07:00 – 16:30
 - FR 07:00 – 11:00
5. Downtime days and/or interruptions in service are billed to the customer.
6. Prangl must be notified in good time of changes to the period of service. Wherever possible, and subject to prior notification, Prangl shall always endeavour to agree to extensions to the period of service, unless operational reasons preclude it from so doing. In the event of ordered time reductions, Prangl reserves the right to charge for the originally ordered time, except in cases where a replacement order can be generated.

III. Operating conditions for heavy lifting & moving

1. Prangl carries out the appointed heavy lifting & moving in accordance with the targets specified by the customer.
2. When an order is awarded, the customer must define the service to be provided in great detail, in particular in respect of weight, dimensions and the value of the goods to be moved.
3. The customer must ensure that the transport route for the device to the operating site and the on-site parking area for the device are suitable. The access road to the operating site and the on-site parking area are matters for which the customer is responsible and the customer must ensure that the surface properties all meet the requirements of Prangl devices (especially in terms of their weight). The customer is obliged to notify Prangl of any hazards, e.g. soft ground, buried structures, etc. Prangl will not accept any liability for damage to floor surfaces caused when driving in and setting up its equipment.
4. Prangl must be notified of any hazard areas at the operating site (e.g.: power lines, possible rockfall, etc.) before commencement of on-site operations.
5. When using devices in public traffic thoroughfares, the customer is obliged to obtain the requisite permissions and to implement and assure compliance with all corresponding road safety measures. Devices can only be used on officially authorised parking areas, and must never extend beyond the lateral boundaries of authorised areas, nor be allowed to obstruct the traffic flow. A copy of this official approval must be communicated to Prangl in advance. If official approval does not cover the full scope of the intended work, the relevant Prangl staff member on site is authorised to terminate the operation at that point. If termination of the operation is authorised, Prangl is still entitled to charge its full invoice amount. Compensation claims against Prangl are not permitted in the event of authorised termination of operations.
6. If Prangl must obtain special approvals for the use of public traffic thoroughfares, billed to the customer as a separate item, Prangl accepts no liability for these official approvals being received in time. A copy of the approval obtained by Prangl will be handed over to the customer. In such cases, i.e. if so authorised, Prangl will then undertake safety precautions at the operating site, e.g. fencing off of exclusion zones. Nonetheless, the customer, as the actual company carrying out work at that location is obliged to ensure that all officially stipulated as well as other required traffic safety precautions are applied and complied with throughout the entire period of operation. It follows from this that the Prangl operating staff is not responsible on site for assuring compliance with these traffic safety precautions. The customer also bears the risk and cost, as well as the associated ancillary costs (e.g. vehicle storage) of removing from site or towing away any third-party vehicles that may, despite the posted no-parking signs, have been parked in designated areas.
7. Prangl is authorised to employ sub-contractors to carry out an order.
8. In the event of an operation not occurring or being delayed for reasons for which Prangl is not responsible, the customer must meet the costs of downtime and/or lost time.

IV. Operating conditions for heavy duty transportation

1. The transport orders are subject to the CMR – except for orders on account of third parties, for which Prangl provides the customer a vehicle including driver for any load and instruction of the customer.
2. The customer must provide the goods to be moved in a transportable condition. The customer is, unless explicitly agreed otherwise, responsible for packing and covering the load as well as loading, stowing, lashing and unloading.
3. Any special permits needed by the authorities for the transport must be provided by the customer and they must implement any necessary safety and closing-off measures. Any necessary approvals, which have been obtained by the customer, must be submitted to Prangl in copies prior to commencement of operations and given to the driver in the original version.
4. If Prangl must furnish special approvals, safety measures and closing-off work to be billed separately, Prangl accepts no liability for these official approvals being received in time.

5. If Prangl must obtain special approvals for the use of public traffic thoroughfares, billed to the customer as a separate item, Prangl accepts no liability for these official approvals being received in time. A copy of the approval obtained by Prangl will be handed over to the customer. In such cases, i.e. if so authorised, Prangl will then undertake safety precautions at the operating site, e.g. fencing off of exclusion zones. Nonetheless, the customer, as the actual company carrying out work at that location is obliged to ensure that all officially stipulated as well as other required traffic safety precautions are applied and complied with throughout the entire period of operation. It follows from this that the Prangl operating staff is not responsible on site for assuring compliance with these traffic safety precautions. The customer also bears the risk and cost, as well as the associated ancillary costs (e.g. vehicle storage) of removing from site or towing away any third-party vehicles that may, despite the posted no-parking signs, have been parked in designated areas.
6. Prangl is authorised to employ sub-contractors to carry out the transport. In this case, Prangl is only liable for the careful selection of the sub-contractor.

V. Liability in the event of damage

1. If during the delivery of an order, damage is caused for which Prangl is responsible, Prangl is liable to the extent provided for under legislation, but if only caused by minor negligence, the level is limited to the insurance cover ceiling in place.
2. Upon request for lifting work, Prangl will take out a transport insurance policy for the goods to be moved. When the customer places a lifting operation order with Prangl, they must also specify the concrete value of the goods to be moved for this purpose. The transport insurance is then taken out with an insurance sum for the specified value of the goods to be moved. If it is subsequently determined that the value of the goods to be moved was higher than that specified by the customer and the transport insurance reduces its payment for this reason due to the underinsurance objection, Prangl's liability also reduces by the same amount.
3. For damage the value of which exceeds the scope of insurance cover as defined above, and which is not covered by the existing insurance policy, Prangl cannot be held liable at all. To cover all damage of this kind, the customer can take out an insurance policy prior to the commencement of work for each order, in which event the customer is obliged to pay all additional costs associated with this action.
4. If damage to Prangl equipment arises or additional costs are incurred by Prangl for which the customer is at fault (e.g. by providing incorrect details of weights and dimensions), the customer is then obliged to reimburse Prangl for all the resulting costs (incl. any subsequent and related costs that may be incurred). For the duration of the device downtime caused by any such failure, the customer must compensate Prangl at the rate of 60% of the agreed level of remuneration as a lump-sum form of compensation.
5. If the customer is responsible (e.g. through failing to provide correct details of weights and dimensions) for damage to a third party, the customer is obliged to compensate that third party for the damage caused. The customer must indemnify and hold harmless Prangl and its employees for any such damage.
6. In the event of delayed deployment of the equipment which is not the fault of Prangl, the customer is not entitled to claim for compensation. The same applies if the device, having been checked for functionality, fails during the period of deployment.
7. Prangl is in no way liable for financial losses, which are not directly related to damage occurring to the goods to be transported as well as any follow-on damage to the transferred goods. This also applies especially for contractual penalties or the like, which third parties are promised in case of default.
8. The customer must fully indemnify and hold harmless Prangl and its employees from all compensation claims of third parties and redress claims from assembly and transport insurance companies even though the work may have been carried out by Prangl, but where Prangl is not culpable in any respect.
9. In case of damage caused to third parties by the customer with respect to their material assets, health and risk to life, the customer is fully responsible and liable. Austrian legislation § 1304 ABGB does not apply in such cases. Compensation claims, regardless of their legal foundation, cannot be made against Prangl and its employees. The customer must indemnify and hold harmless Prangl and its employees for any such damage.
10. Prangl's liability for damage of any kind which results from non-compliance with deadlines, non-issue of route permits as well as breakdowns of vehicles and equipment or machinery of any type is excluded.
11. If insurance coverage exists for a case of damage, Prangl employees are indemnified against all personal liability.
12. Where use of equipment leads to damages being incurred by the customer or by a third party, these must also be noted on the service verification document and are also covered by the above exemption.

VI. Termination of resission of the contract

1. Prior to commencement of work, in the event of the customer only partially cancelling the order issued, a cancellation fee amounting to 10% of the order value shall apply, plus any costs already incurred in relation to that order, subject to the cancellation being made no later than 28 days before the start of work. The company reserves the right to make claims above and beyond the scope of this.
2. In all other cases, in the event of rescission or of a deadline being cancelled by the customer, 60% of the order total plus costs incurred in respect of the order shall be billed to the customer.
3. In cases where special devices have to be manufactured to carry out an order, these costs shall be invoiced in full to the customer in the event of that order being cancelled or rescinded.
4. In the event of any of the official approvals required for the agreed services not being granted, both parties to contract have the right to rescind the contract and the customer is then obliged to reimburse Prangl for the cost of any services delivered up to that point.

5. Prangl is entitled to rescission and/or premature termination of contract, if the customer fails to honour its obligations despite a later deadline being set or if circumstances arise for which Prangl is not in any way responsible and where this leads to severe difficulties or damage to material assets and/or prompts concerns about injury to people, and if the customer is not able to remedy these circumstances within a reasonable period of time. In such cases, Prangl is not liable in any way whatsoever for any resultant damage.

VII. Force majeure

1. In the event that an act of force majeure causes the device to interrupt its work, the parties are released from their obligations under this contract for the duration of that interruption to work. In the event of an act of force majeure entirely preventing delivery of a service for an extended period, the parties are entitled to terminate the contract. No compensation claims are permitted on either side. Force majeure covers the following events in particular: War, orders from higher authorities, sabotage, strikes and lockouts, natural disasters, geological changes and the impact of these.
2. Each party to the contract is obliged to notify the other party immediately after the occurrence of an act of force majeure, providing full details. Furthermore, the parties to the contract must consult on appropriate measures to adopt.

VIII. Conditions of payment

1. The customer undertakes, unless otherwise agreed in writing, to settle the invoice issued by Prangl immediately upon receipt. There is no scope for the customer billing counter-claims unless such counter-claims are backed by a court verdict, or expressly recognised by Prangl.
2. Orders for money transfers must be issued in sufficient time for the cash amount already to have been credited to the Prangl account by the due date.
3. In the event of a delay in payment, Prangl is entitled to levy a lump-sum charge of €40.00 as a reminder fee, as well as penalty interest charges amounting to 9.2 percentage points above the prevailing base rate.
4. In the event of 'qualified' delay in payment, i.e. after a reminder has been sent without action by the customer, Prangl is entitled to withdraw the device(s) from service without prior announcement and to bring forward the payment due on all other receivables, i.e. to make them due for immediate settlement.
5. If, between the tender and the execution, changes in the ability to pay of the customer occur or circumstances become known which would place the ability of the customer to pay into question, Prangl is entitled to require payment by instalment or to cancel the order.
6. In the event of insolvency proceedings being opened against the customer, a payment deadline agreed before the opening of the insolvency proceedings is no longer valid. After insolvency proceedings have been opened, Prangl will only supply services against payment in advance.
7. In the event of non-payment, Prangl shall appoint a debt collection agency with the task of collecting unpaid receivables and shall pass on the required details of the customer to enable this action to be taken. In the case of default, the customer undertakes to reimburse for the operating costs of collection agencies in accordance with the regulations of the Federal Ministry of Economic Affairs concerning the fees of collection agencies (BGBl no. 141/1996).
8. Services are billed by the company named in each order confirmation document. Retroactive re-invoicing does not mean that the date of payment and the original due date are deferred. Prangl is entitled to demand compensation for costs incurred through retrospective invoicing.

IX. Data protection, place of jurisdiction, other provisions

1. Order related customer data will be stored electronically, statistically processed and transmitted internally to employees and, if required, to companies in the Prangl group, whereby the customer will provide consent by signing the contract. The confidential processing of the data in accordance with the GDPR is of course guaranteed. The customer hereby expressly agrees to the collection, processing and use of the personal data he has provided to Prangl for its own marketing purposes towards the customer (e.g. the establishment of a customer file, sending of newsletters and information, etc.). The customer has the right to withdraw this consent at any time with future effect.
2. Austrian law applies. All disputes must be referred to the court in Vienna responsible for resolution of trade-related issues. Prangl is however also entitled to bring charges against the customer at its head office location. If the order is from abroad, Austrian law always applies.
3. If any provisions of the General Terms & Conditions of Business become invalid for any reason, the remaining provisions shall not be affected. Any ineffective provision must be replaced by a provision that is effective and that can be implemented, the effect of which is as close as possible to the commercial spirit and intention of the ineffective or non-enactable provision. These provisions apply even if loopholes are found to exist in the General Terms & Conditions of Business.