

General Terms and Conditions of Felbermayr Transport- und Hebetchnik GmbH & Co KG

**for transportation, warehousing, crane usage, installations and removals,
recovery work, work platforms and forklift supply**

1. General:

All services rendered by Felbermayr Transport- und Hebetchnik GmbH & Co KG (contractor) are exclusively done so in accordance with these general terms and conditions – published at www.felbermayr.cc. Apart from these terms and conditions, the »**Particular terms and conditions for work platforms and forklifts**« also apply for the provision of work platforms and forklifts; the »**Particular terms and conditions for storage and port handling**« also apply for storage/relocation/warehousing extending beyond normal recovery operations; and the contractor's »**Particular terms and conditions of ITB – Internationale Tieflader-Bahntransporte**« also apply for rail transportation.

All of the contractor's terms and conditions are published at www.felbermayr.cc.

Differing terms and conditions of the contractual partner (client) only apply with an express written agreement and in specific cases.

2. Quotation and contract conclusion:

All of the contractor's quotations are subject to change and – unless otherwise agreed – are valid for 14 days from the quote date. Upon accepting the quote, the client must send an order confirmation acknowledging the validity of these terms and conditions, and any particular terms and conditions. Partial acceptance of the quote is only permitted if this is stated in the quote or confirmed by the contractor.

Client information and sub-agreements facilitated by telephone or verbally only become part of the contract if confirmed in writing by the contractor.

3. Service scope:

The service rendered by the contractor is stated in the quote.

Unless otherwise expressly agreed, work equipment is provided by the contractor in the form of a lease agreement – involving the hiring of temporary staff to operate the machinery if necessary – under which the equipment provided must be used as per the client's instructions and at the client's risk.

If the contractor is responsible for performing hoisting work as per the client's objectives, a freight contract is concluded (§§425ff Austrian Enterprises Code). If the hoisting work is part of transportation under the CMR, the hoisting service is also governed by the CMR.

The quoted prices are based on the information provided by the client. The client must advise all details of the service (nature of the item to be hoisted/transported, suspension points, weight, dimensions, access routes, nature of the work platform, ...) bindingly and in full. Any necessary structural analyses must be arranged by the client, who is also liable for incorrect and incomplete information, as well as the consequences thereof.

Official approvals necessary for rendering the services are obtained by the contractor at the client's risk and – unless otherwise agreed – expense. The type and scope of the generally required approvals are advised at the client's request.

If the service scope is changed (including as a result of official requirements and specifications), these additional expenses must be paid separately – even if a flat rate has been agreed. The same applies for additional expenses resulting from changes to the setup location, time and duration of order execution, changes to the destination, extension of the service period due to external circumstances, etc. The contractor is entitled to apply price surcharges if the actual item weights/measurements and other properties of the parts due to be transported differ from the client's data.

The operational information and warnings must always be heeded; any ambiguities must be clarified before commencing work.

4. Service period and delays:

Upon request, the contractor must render the service within the agreed period, and if no agreement has been made, within an appropriate period. In the event of a delay, the client must set the contractor an appropriate extension period. Delay-based claims can only be raised once an appropriate extension period has expired. If the client incurs any damage as a result of the delay, contractual penalties to be paid by the client are only taken into account if the contractor was informed of such consequences in writing prior to the quote being submitted and if the contractor can be accused of gross negligence or deliberate intent.

The risk of delays caused by force majeure or circumstances beyond both contractual parties' control (transport hindrances; weather; absence of official approvals; natural disasters; threats to materials or health caused by the service, etc.) is borne by the client. The contractor's service period is thus extended by the duration for which these circumstances last. The client is obliged to pay compensation for the forced downtimes resulting from these circumstances.

If order execution is delayed for reasons caused by the client (e.g. incorrect information when placing the order, delayed provision of the item, unsuitable transport routes or locations, etc.), the contractor is entitled to charge for the resulting overheads and additional expenses (including in the event of flat-rate orders).

5. Contract termination/withdrawal:

Withdrawal/premature contract termination by the client is permitted if the contractor does not comply with its contractual obligations despite being granted an appropriate extension, or if just cause exists as agreed on in writing.

Withdrawal/premature contract termination by the contractor is permitted if the client does not comply with its obligations despite being set an extension, or if circumstances beyond the contractor's control arise and cause significant hindrances or threaten to damage items and/or injure persons without the client being able to rectify these within an appropriate time frame.

In the event that the official approvals necessary to render the contractual services are not issued, both parties are entitled to withdraw from the contract, whereby the client must pay for the services already rendered by the contractor.

6. Contractual parties' liability:

The CMR applies exclusively for contractor **services governed by the CMR**. The client is responsible for adhering to the regulations on load security.

In the event of equipment rentals involving the supplying of temporary staff, the contractor is only liable for ensuring that appropriate equipment and – if applicable – qualified operating staff are provided.

The regulations on the freight contract apply for **hoisting work**. The contractor offers hook load insurance with an insured total of EUR 75,000.00 **for damages to the hoisted item**. If the client wishes to have a higher insured sum, it must advise the contractor of this and the value of the hoisted item in writing. If the client takes out this insurance itself, it must co-insure the contractor or ensure the insurance company waives all recourse against the contractor and its assistants. **The contractor's liability for all damages resulting from the damage caused to the hoisted item is always limited to the insurance benefit.**

No liability is assumed **for damages caused to the item during recovery operations**.

The contractor and the assistants it employs are only ever liable for material damages and financial losses caused to the client while rendering the service in the event of grossly negligent or deliberate actions by the contractor or its assistants (temporary workers hired as part of equipment rentals are not considered the contractor's assistants). Liability for slight negligence is excluded – except for cases of physical injury. Furthermore, the contractor and its assistants are similarly not liable for accidents or force majeure, or for secondary damage, compensation of lost profit or interest, or for damages resulting from third-party claims. The liability of the contractor and the assistants it employs is limited to the insured amount stated in the business liability insurance contract.

The client is exclusively liable for staff not appointed by the contractor, as well as any associated damages; this particularly applies for persons briefing the contractor's staff. It is a similar case for damages resulting from the delivery and hauling crew, crane operator or truck driver receiving instructions or directives and causing damage while following these (e.g. crane activities using a guide when visibility is poor, actions by the signalmen or site co-ordinators, directives given to truck or crane drivers etc.). If the contractor is liable to third parties through the fault of these persons, the client is obliged to provide full indemnity against claims and actions.

The client is obliged to give notice of the damages caused by the contractor's service in writing immediately, but at the latest within three working days.

7. Order execution:

The client must keep the transportation or items to be hoisted/recovered in appropriate condition ready for order execution, and must meet and comply with all technical requirements at its own expense and risk when carrying out the order.

The client is bound by a duty of information and disclosure, which stipulates that it will report all circumstances and properties necessary for rendering the service/setting up cranes, particularly soil conditions and load-bearing capacity of the crane site, plus access routes, all fixtures such as canals, shafts, piping, supply lines and all other aspects necessary to conduct a structural analysis of the service.

We assume no liability for damages to the access road (thrust load) and pressure damage in the crane setup area (support pressure). The client is responsible for hook-ups and hoisting.

8. Offsetting and withholding rights:

The client is not entitled to offset its own – alleged or actual – claims against those of the contractor, except if the client's claim has been acknowledged in writing by the contractor or has been legally established. The client is not entitled to withhold any due payments.

9. Payment:

Contractor invoices are payable in full upon receipt. In the event of delays, corporate interest and the costs associated with debt execution must be borne. The contractor is entitled to submit monthly partial invoices for services already rendered. If bankruptcy proceedings are initiated on the client's assets, the contractor is entitled to submit weekly partial invoices – regardless of any other rights to which it is entitled.

10. Transportation conditions:

The transportation contracts executed by the contractor – except for commercial transport contracts for which the contractor must provide the client with a manned vehicle for any load and at the client's instruction – are subject to the CMR.

11. Final provisions; Choice of law; Jurisdiction:

Should individual provisions of these general terms and conditions be or become invalid, this shall not affect the validity of the remaining provisions. The invalid provisions will be replaced by an appropriate, valid provision pursuing the same objective as the original.

The place of payment and fulfilment for both parties is the headquarters of the relevant contractor branch office.

The court competent for Wels, Upper Austria is agreed as being the place of jurisdiction.

Austrian law applies exclusively, under exclusion of the conflict of laws rules.