

# Conditions of Carriage for Furniture Transport

## ***XVI. General***

### **Section: 1**

a) These conditions of carriage for furniture transport are valid for furniture removals using removal vans (furniture trailer, swap body box, container, Liftvan) both domestically and internationally. They apply to all of the Contractor's actions and related businesses, insofar as they are not legal requirements, particularly those opposed to consumer protection.

b) The Contractor will perform his obligations with the due care and diligence of a prudent businessman.

## ***XVII. Liability***

### **A. The Contractor**

#### **Section: 2**

a) The Contractor shall be liable for any loss or damage to the goods, where such loss or damage arises from the Contractor's negligence during the handling or transport of the goods.

b) The Contractor shall remedy the damage, to the exclusion of liability for any natural depreciation, but he is free in any case to provide monetary compensation instead. In any case, the liability of the contractor is limited to € 1,090.09 per each 4 cubic metre of furniture.

#### **Section: 3**

Liability is excluded:

- a) for the contents of containers of all kinds, where the packing and unpacking is not included in the contract;
- b) for the content of any furniture vans left for loading by the client, unless otherwise specifically agreed upon;

- c) for damages incurred as a result of the natural characteristics or defective quality of goods, such as breakage or damage to marble sheets, glass, porcelain, mirrors, gas mantles, stucco frames, lighting fixtures, lampshades, heaters and mechanical movements, unless the contractor is found at fault. A special insurance against damage of marble, glass, porcelain, etc. can be concluded.  
Liability is also excluded for damage such as excessive loads on the furniture, loosening of gluing, cracking or dulling of polished surfaces, oxidation, internal deterioration, leaks or spillage, and atmospheric influences
- d) 1. for damage to precious metals, jewels, precious stones, money, stamps, coins or securities of any kind, documents and certificates;  
2. for functional damage to electrical appliances such as washing machines, radios, televisions, computer hardware or similar sensitive equipment;  
3. for damage to plants or animals;  
4. for damages caused by explosive, flammable, radioactive, spontaneously inflammable, toxic, or corrosive substances, or via oils, fats and animals
- e) for damage of the goods occurring during loading, unloading or lifting, where the weight or dimensions of the goods are incompatible with the space available at the location of loading or unloading, as long as the Contractor had previously drawn the client's or the consignee's attention on that matter and that the client demanded the execution of the service in spite of such warning.

#### **Section: 4**

Liability is further excluded:

- a) for damage to walls, windows, floors or ramps when the dimensions or weight of the goods to be transported are incompatible with the space available at the location of loading or unloading.
- b) for delays, damages or losses resulting from unpunctual provision of the transport means (e.g. rail, ship etc.) or arising from traffic incidents (such as vehicle breakdowns, Road conditions) which are completely outside the Contractors control;
- c) for compliance with predetermined set dates resulting from late receipt of official documents, as well as for customs clearance information, export regulations or other legal requirements.

#### **Section: 5**

- a) All defects must be notified to the Contractor in writing. The liability becomes void if externally visible defects are not notified immediately upon delivery and non-externally visible defects are not notified within a period of six days after delivery.
- b) If under this contract the contractor has to replace any goods lost, then the fair market value at the time and place of delivery of goods of the same kind and quality is to be

compensated. However, any savings made on customs or freight fees etc due to the loss will be deducted from this amount.

c) In the event of damage, the compensation depends on the difference between the sale-value of the goods in their damaged condition and their undamaged fair market value at the time and place of delivery. However, any savings made on customs or freight fees etc due to the damage will be deducted from this amount.

d) For damages due to late delivery, the Contractor's liability in each case is limited to € 109.01 per day, with a maximum of € 1,090.09.

e) The Contractor shall not be liable for damages that occur as a consequence arising from the loss or damage of the goods.

### **Section: 6**

For losses and damages incurred during transport by rail, by ship or by plane, the Contractor fulfils his obligation by assignment of this claim against the respective rail, shipping or Airline Company.

### **Section: 7**

a) The Contractor is obligated to conclude an insurance policy covering any damages against the Client's goods incurred during execution of the order by the Contractor. The Contractor is free to choose the insurer and it will be made at the expense of the Client. This insurance policy must, in particular concerning its scope of coverage, at least meet the requirements of the Austrian Furniture Carrier's Insurance Certificate (Moebel-SVS). The Contractor must pay this insurance premium to the selected insurance company for each individual furniture transportation contract and back-charge it fully to the Client as expenses for the insurance of the furniture insurance. The Contractor must notify the Client on request, with whom the furniture transport insurance has been concluded.

b) The Client, and all persons on whose behalf or account he acts, shall comply with all conditions of the (Moebel-SVS) insurance certificate.

c) 1. By the conclusion of the (Moebel-SVS) insurance certificate, the Contractor is released from liability for any of the covered insurance risks. This is especially true for the case where, due to a missing or insufficient declared value by the Client, the insured sum is less than the real value or amount of damage.

2. If the Contractor has no furniture shipping insurance coverage in accordance with Para. a), then the Client may not appeal against the conditions of carriage for furniture transport.

## **B. The Client**

## **Section: 8**

The Client is liable:

- a) for the authenticity, accuracy and completeness of the given receipts.
- b) for loss and damage to the means of transportation, accessories and packing materials, in so far as he or assistants hired by him were responsible.
- c) for the furniture van, including material belonging to the contractor in case of self-loading or self-discharge of the cargo.
- d) for the consequences of providing incorrect information concerning weight, content and nature of the cargo; the contractor is not committed to check these points. In the absence of an expressly written statement to the contrary, at the Client's risk the Contractor assumes the transport to be of household goods within the meaning of the furniture transportation tariff of the Association of Freight Forwarders (Möbeltransporttarifes des Fachverbandes der Spediteure).
- e) for any damage resulting from the transport of goods listed in Section 3, Para. d) 4.
- f) for all expenses that arise as a result of transport delays or troubles, for which the Contractor is not responsible, such as Acts of God, war, governmental action, strikes, obstruction of waterways and railways, etc.).

## ***XVIII. Transport Insurance***

### **Section: 9**

- a) The contractor is required to insure the cargo, provided that a written order has been received giving the insurance value and the risks to be covered.
- b) The transport insurance only covers transport accidents, fire, theft, accidents caused by Acts of God and breaking of furniture.
- c) A separate insurance can be concluded to cover the risks of breakage of glass, porcelain, etc., and against war, looting and riots.
- d) In the event of a claim, the Contractor fulfils his obligation by assignment of his claim against the insurance company. In the case where the Client has concluded his own insurance, then any claim for compensation for hazards covered by this insurance against the Contractor are ruled-out and thus are not transferred to the insurer.

## ***XIX. Price Calculation\*)***

## **Section: 10**

- a) The price calculation is based on the applicable tariff rates, freight rates and exchange rates at the time of execution of the move.
- b) If the tariff rates, freight rates or exchange rates increase or decrease, between the date that the offer was presented (Appendices 1 and 2) and the date of execution of the move, then the agreed transport price will change accordingly.

## **Section: 11**

The following will incur additional costs:

- a) transport of pianos, safes and other heavy goods.
- b) additional expenditure or services deemed necessary in the interests of the removal, even if not specifically commissioned by the Client. The Contractor is free to choose the method of execution.
- c) installation, decorating, carpentry and cleaning work;
- d) additional costs due to weather conditions or where blocked or damaged roads mean that the removal vehicle cannot be driven directly to the house, likewise for the waiting of the removal vehicle and personnel for which the Contractor is not at fault. Also appropriate supplements for the carrying of goods on long or unusual routes, as long as these circumstances have not been taken into account in the price calculation, as well as additional costs due to detours, if the direct ways were barred or impassable;
- e) official fees and customs charges, and any public charges.

\*) These provisions apply only insofar as they do not oppose any antitrust regulations (Comment from the Austrian Association of Freight Forwarders).

## ***XX. Obligations of the Client***

### **Section: 12**

- a) the Client is responsible for the provision of all necessary documents and permits required to enable the transport to be implemented.
- b) if the unloading of the removal vehicle cannot be made immediately after arrival at destination, the Contractor may request reimbursement of extra expenses and losses

resulting from the delayed reception and at the expense of the client and unload the cargo and store it.

c) Upon collection of the goods the Client is obliged to verify that no object is taken in error or that no object is mistakenly left behind.

### **Section: 13**

For shipments that have been agreed to or from a station or airport, the Client must accept or deliver the respective loaded or empty swap body boxes, containers or Liftvans including the relevant inventory list. In this case, concerning all other liabilities, he is responsible for safeguarding the rights with respect to the mode of transport, in particular by arranging a joint damage protocol.

### **Section: 14**

a) The invoice amount is to be paid:

1. for domestic shipments prior to unloading;
2. for international shipments prior to loading.

The Contractor shall be entitled to request an advance payment if required.

b) A set-off or retention of payment is only allowed against the claims of the Contractor where valid Client counter-claims have been determined and the amount of which and the reason are undisputed.

### **Section: 15**

If storage of the goods is necessary in conjunction with a removal, then these are governed by the Association of Freight Forwarders published storage conditions. If the removal of the stored goods is not performed by the Contractor, then he has the right to claim compensation calculated on the basis of the furniture transportation tariff of the Professional Association of Freight Forwarders.

### **Section: 16**

If the Client requires the Contractor to collect any of the surrendered packing materials, then the Client must request this to be done.

## ***XXI. Verbal Agreements***

### **Section: 17**

The Client bears the risk for the execution of any orders issued verbally, which are not confirmed in writing by either party.

## ***XXII. Statute of Limitations***

### **Section: 18**

All claims asserted against the Contractor, irrespective of their legal basis and the degree of fault, are subject to the Statute of Limitations following the expiration of a period of six months. The limitation period begins upon the beneficiary's awareness of his claim, however, no later than upon delivery of the goods.

## ***XXIII. Jurisdiction***

### **Section: 19**

The venue for all parties involved is the location of the Contractor's commercial establishment where the transaction was completed. However, if the Client is considered to be a consumer under the Austrian Consumer Protection Act, BGBl. No. 140/1979 in its current version, and has domestic domicile or habitual residence or is employed in this country, then it is possible to bring an action against him under §§ 88, 89, 93 paragraph 2 and 104 Section 1 of the Law of Jurisdiction (JN), but only through a court in whose jurisdiction the domicile, habitual residence or place of employment is located.

## **Storage Conditions for Furniture Transport**

### ***XXIV. Scope***

#### **Section: 1**

- a) These "Storage conditions for furniture transport" are valid for the storage of removal furniture. They apply to all of the Contractor's furniture storage activities, insofar as they are not legal requirements, particularly those opposed to consumer protection.
- b) The Warehouse Keeper will perform his obligations with the due care and diligence of a prudent businessman.

### ***XXV. Liability***

#### **A. The Warehouse Keeper**

## **Section: 2**

- a) The Warehouse Keeper shall be liable for any loss or damage to the goods, where such loss or damage arises from the Contractor's negligence during the handling or transport of the goods.
- b) The Warehouse Keeper shall remedy the damage to the exclusion of liability for any natural depreciation, but he is free in any case to provide monetary compensation instead. In any case, the liability of the Warehouse Keeper is limited to the value of the Storage Fee, with a maximum of the value of the Storage Fee for a period of 12 months.

## **Section: 3**

Liability is excluded:

- a) for the contents of containers of all kinds, where the packing and unpacking is not included in the contract;
- b) for damages incurred as a result of the natural characteristics or defective quality of goods, such as breakage or damage to marble sheets, glass, porcelain, mirrors, gas mantles, stucco frames, lighting fixtures, lampshades, heaters and mechanical movements, unless the Warehouse Keeper is found at fault.
- c) for damages such as excessive loads on the furniture, loosening of gluing, cracking or dulling of polished surfaces, oxidation, internal deterioration, leaks or spillage, and atmospheric influences;
- d) 1. for damage to precious metals, jewels, precious stones, money, stamps, coins or securities of any kind, documents and certificates;  
2. for functional damage to electrical appliances such as washing machines, radios, televisions, computer hardware or similar sensitive equipment;  
3. for damages caused by explosive, flammable, radioactive, spontaneously inflammable, toxic, or corrosive substances, or via oils and fats;  
4. for damages caused by burglary, robbery or extortion;
- e) for the quantity, type and external characteristics of the stored goods except as described in the respective warehouse receipt list . Where the Warehouse Keeper can show that an item to be delivered has the same external characteristics as it originally had on receipt, then any claim for damages against it is precluded.

## **Section: 4**

- a) All defects must be notified to the Warehouse Keeper in writing. The liability becomes void if externally visible defects are not notified immediately upon retrieval and non-externally visible defects are not notified within a period of six days after retrieval.

- b) If under this contract the Warehouse Keeper has to replace any goods lost, then without prejudice to Section 2 above, the fair market value at the time and place of retrieval of the goods of the same kind and quality is to be compensated.
- c) In the event of damage, without prejudice to Section 2 above, the compensation depends on the difference between the sale-value of the goods in their damaged condition and their undamaged fair market value at the time and place of retrieval.
- d) The Warehouse Keeper shall not be liable for damages that occur as a consequence arising from the loss or damage of the goods.

## **Section: 5**

a) The Warehouse Keeper is obligated to conclude an insurance policy covering any damages against the Client's goods incurred during execution of the order by the Warehouse Keeper. The Warehouse Keeper is free to choose the insurer and it will be made at the expense of the Client. This insurance policy must, in particular concerning its scope of coverage, at least meet the requirements of the Austrian Furniture Carrier's Insurance Certificate (Moebel-SVS). The Warehouse Keeper must pay this insurance premium to the selected insurance company for each individual furniture storage contract and back-charge it fully to the Client as expenses for the insurance of the furniture insurance. The Warehouse Keeper must notify the Client on request, with whom the furniture transport insurance has been concluded.

b) The Client, and all persons on whose behalf or account he acts, shall comply with all conditions of the (Moebel-SVS) insurance certificate.

c) 1. By the conclusion of the (Moebel-SVS) insurance certificate, the Warehouse Keeper is released from liability for any of the covered insurance risks. This is especially true for the case where, due to a missing or insufficient declared value by the Client, the insured sum is less than the real value or amount of damage.

2. If the Warehouse Keeper has no furniture storage insurance coverage in accordance with Para. a), then the Client may not appeal against the conditions of warehousing of furniture transport.

## **B. The Client**

### **Section: 6**

a) Inflammable, explosive, radioactive, self-ignition prone, toxic, corrosive, foul-smelling, and any other such goods that are potentially disadvantageous to the warehouse or to the storage of other goods, shall, except by a separate written agreement, be excluded from storage. The same is true of any goods that are subject to rapid deterioration or decay.

b) In the event that any such goods were nevertheless stored, the depositor shall be liable for all damage that may result there from. This liability does not apply if the

Warehouse Keeper was made aware of the disadvantageous characteristics of the goods at the time of delivery and he has not rejected the acceptance of the goods for storage.

## ***XXVI. Warehouse Insurance***

### **Section: 7**

a) The Warehouse Keeper is obligated to insure the goods if a written order has been received giving the insurance value and the scope of risks to be covered. A simple declaration of value or an unfeasible or inaccurate insurance instruction is not sufficient to justify an obligation for the Warehouse Keeper to insure the goods.

b) The warehouse insurance covers only fire, theft and water leakage damage.

c) In the case of an insurance claim by the Client against the Warehouse Keeper of the facility covered by the insurance risks, then this is limited to that amount which he receives from the insurance company itself. The Warehouse Keeper is also entitled to deduct any claims which he has against the Client. In the event of a claim, the Warehouse Keeper fulfils his obligation by assignment of his claim against the insurance company.

d) In the case where the Client has concluded his own insurance, then any claim for compensation for hazards covered by this insurance against the Warehouse Keeper are ruled-out and thus are not transferred to the insurer.

## ***XXVII. Verbal Agreements***

### **Section: 8**

The Warehouse Keeper takes no responsibility for compliance with verbal instructions, which have not been confirmed in writing by either party.

## ***XXVIII. General***

### **Section: 9**

a) The Client receives a warehouse receipt (see Appendix 1) for the stored goods, which must be returned in order to enable return of the goods. The warehouse receipt is however only a proof of receipt and the Warehouse Keeper is therefore not obligated to hand over these goods only against presentation of this warehouse storage receipt. The Warehouse Keeper is entitled, but not obliged, to verify the legitimacy of the party presenting the warehouse receipt. He is also entitled without further notice to return the goods to the bearer of the warehouse storage receipt.

b) An assignment or pledge of rights under the storage contract is only binding for the Warehouse Keeper if he has been informed in writing by the Client. In such cases, the Warehouse Keeper is authorised to give the person or body, to whom the rights have been assigned, access to the stored goods.

c) The Warehouse Keeper is under no obligation to verify signatures on any documents regarding the goods or to verify the authority of the signatory.

## **Section: 10**

a) The storage of the goods may take place in either in-house or third party warehouses. In case of a third party warehouse the Warehouse Keeper must notify the Client in writing of the warehouse company and its address. If the storage must be done in a public storage warehouse, then the applicable terms and conditions of this warehouse will primarily apply.

b) The Warehouse Keeper is only liable for the security and surveillance of the warehouse to the extent that it is deemed reasonable and usual under consideration of all circumstances concerning the warehouse location. The Warehouse Keeper is deemed to have fulfilled his surveillance duty, provided that he has applied due and proper diligence upon recruiting and hiring security personnel.

c) The Client is entitled to inspect the warehouse or have it inspected. Objections or complaints about the storage of the goods or the choice of warehouse must be made without delay. If he does not exercise the right of inspection, then he waves all rights to objections against the storage and warehousing, as long as the choice and type of storage complies with the due and proper diligence of a prudent Warehouse Keeper.

## **Section: 11**

a) Access to the warehouse by the Client or his authorized representative is possible during business hours only. The Client must give at least three days prior notification of this visit and submit the respective warehouse storage receipt and he will be accompanied by the storekeeper or other appointed employee during this visit. A visit is not possible in the first and last three days of every month.

b) If the client performs any action on the stored goods, then following this he shall be required to newly pass possession of the goods back to the Warehouse Keeper and if necessary, together with the Warehouse Keeper determine the number, type and condition of the goods. Otherwise, all liability of the Warehouse Keeper for damage discovered later, which due to the circumstances may have been caused by the Client's actions is excluded. The Warehouse Keeper reserves the right of handling the stored goods by his own employees in the manner requested by the Client. The costs incurred by the Warehouse Keeper or his staff in performing the tasks associated with the picking out and inspection of the Client's goods will be calculated charged according to the

storage company's current business tariff or, failing that, according to local commercial prices and are to be paid by the Client on completion of the inspection tasks.

### **Section: 13**

Following completion of the storage period, the Warehouse Keeper will arrange the transport of the stored goods to the Client's future home or to any other defined destination.

### **Section: 14**

The Warehouse Keeper is not obligated to perform any work related to the conservation, preservation, or packaging of the goods, unless expressly requested to do so in writing by the Client.

### **Section: 15**

a) The Warehouse Keeper is entitled at any time to terminate the warehouse storage contract by giving one month's advance notice to the Client by means of registered letter to the address last known to him.

b) The client may cancel the contract at any time without a notice period, notwithstanding the claim of the Warehouse Keeper for storage charges pursuant to Section 16 below.

c) Retrieval of the stored goods by the Client is not possible in the first and last three days of every month. The Client will not incur any additional storage charges as a result of this.

## ***XXIX. Price Calculation***

### **Section: 16**

a) The storage fee is calculated monthly. Every newly started calendar month is considered as a full month. If the local industry tariff rates change following agreeing the price for this storage, then the agreed transport price will change accordingly.

b) The cost of storage, stacking and subsequent retrieval will be charged separately in accordance with local commercial or industry collectively agreed rates. Any applicable public charges shall be borne by the Client.

c) The storage costs are, as far as expenses are incurred to be paid at once, otherwise monthly on the first weekday of each month.

d) A set-off or retention of payment is only allowed against the claims of the Contractor where valid Client counter-claims have been determined and the amount of which and the reason are undisputed.

### **Section: 17**

a) As a result of any outstanding claims by the Warehouse Keeper against the Client concerning a current invoice or otherwise, the Warehouse Keeper maintains a lien on the stored goods.

b) For the lien or self-help sale, the Warehouse Keeper is entitled to levy a sales commission of 10% of the gross proceeds.

## ***XXII. Statute of Limitations***

### **Section: 18**

All claims asserted against the Warehouse Keeper, irrespective of their legal basis and the degree of fault, are subject to the Statute of Limitations following the expiration of a period of six months. The limitation period begins upon the beneficiary's awareness of his claim, however, no later than upon retrieval of the goods.

## ***XXIII. Jurisdiction***

### **Section: 19**

The venue for all parties involved is the location of the Contractor's commercial establishment where the transaction was completed. However, if the Client is considered to be a consumer under the Austrian Consumer Protection Act, BGBl. No. 140/1979 in its current version, and has domestic domicile or habitual residence or is employed in this country, then it is possible to bring an action against him under §§ 88, 89, 93, Paragraph 2 and 104, Section 1 of the Law of Jurisdiction (JN), but only through a court in whose jurisdiction the domicile, habitual residence or place of employment is located.

# **Austrian Furniture Carrier's Insurance Certificate (Moebel-SVS)**

**Federal Chamber of Commerce**

## **Association of Freight Forwarders**

### **Announcement**

According to the "Conditions of carriage for the transport of furniture" and the "Warehousing conditions for transport of furniture," promulgated by the Federal Chamber of Commerce, Department of Transport, Association of Freight Forwarders, in the "Wiener Zeitung" of 9 August 1947, the liability for freight forwarders involved with the carriage or storage of furniture is limited.

In order to give Clients of the Freight Forwarders the opportunity to claim for damages occurring during the execution of orders, the Austrian Association of Freight Forwarders chose to incorporate in the said conditions, a compulsory insurance in favour of the Freight Forwarder's Clients that takes the interests of both parties into account. During their meeting on 13th September 1951, the Association of Freight Forwarders decided to make a corresponding addition to the "Conditions of carriage for the transport of furniture" and the "Warehousing conditions for the transport of furniture," namely the "Furniture carrier's insurance certificate (Moebel-SVS)". It was further decided to make this addition effective as of 1. October 1951 and to complete the official notification requirements, it was published three times in the official part of the "Wiener Zeitung". The full text of the addition was included in the third publication and was therefore officially made public.

Association Head: *Minkus*

Association Secretary : *Winkler*

### **Appendix A to Section 7, Para. a) and Section 5, Para. a) of the Furniture Transport Conditions of Carriage and Warehousing.**

#### **Austrian Furniture Carrier's Insurance Certificate (Moebel-SVS)**

##### **Section 1: Subject Matter of the Insurance and Scope of Application**

1. The insurance covers the transport of furniture and is valid for furniture removals using removal vans (furniture trailer, swap body box, container, Liftvan) both domestically and internationally, and hereafter referred to as "Furniture Transport".
2. It is to be understood that this includes all services covered under the Association of Freight Forwarders Furniture Transport published tariff, including all the usual fringe benefits.
3. The term "furniture removal goods" does not refer to trade with new furniture.

##### **Section 2: Policy Holder and Insured Persons**

1. The insurance is concluded on account of a third party. The Client is insured or the party, who has an insured interest at the time when the circumstances led to the damage (e.g. the Contractor).
2. The policyholder is the Contractor, who performs the furniture transport and storage (hereinafter called removal company) and operates in accordance with the provisions of the stated "Conditions of carriage for furniture transport" and the "Storage conditions for furniture transport".

### **Section 3: Scope of the Insurance in General**

The insurance indemnifies:

1. for such damages that the removal company is liable to the Client for under the stated "Conditions of carriage for furniture transport" or the "Storage conditions for furniture transport". Losses caused by deliberate acts of damage, and particularly misappropriation and embezzlement by the company owner, its agents, officers or independent branch managers shall be deemed excluded.
2. for such damages, additional to those covered under Para. 1 , for which the removal company can be made liable for due to negligence etc under the statutory provisions of the Austrian General Civil Code and Commercial Code (ABGB and HGB), under the conditions of Section below. The insurer waives the objections that could be raised by the removal company based on the provisions given in the "Conditions of carriage for furniture transport" and "Storage conditions for furniture transport", which exclude or reduce the statutory liability.
3. Should the removal company use subordinate affiliates or other freight forwarders during the performance of the contract, then their faults are also covered

### **Section 4: Scope of the Insurance in Relation to Statutory Liability**

Subject to the statutory liability provisions of the Austrian General Civil Code and Commercial Code (ABGB and HGB), the following points are valid concerning the liability of the insurer:

#### **A. Included Risks**

1. For furniture removals, damages or losses resulting from planning errors made by the removal company in arranging the transport. In relation to these insurance policy conditions, "planning errors" are understood to specifically cover:
  - a) selection of an inappropriate means of transport;
  - b) missed notifications;
  - c) misdirection or lack of addressing;
  - d) incorrect delivery;

e) incorrect placement or complete omission of transport insurance contracts;  
f) an unplanned storage period of up to 15 days (not counting Sundays and holidays), which is directly related to the furniture transport contract, is included in the insurance.

2. By storage of the furniture, the following are in particular compensated for:

a) Incorrect retrieval of stored goods, loss or damage, if not excluded by the provisions of Part B. Section 5.;

b) incorrect placement or complete omission of storage insurance contracts (fire, burglary and water leakage damage).

3. For valuable items, such as genuine carpets and objects of art, both the transport and storage insurance basically only covers them under the terms of the "Conditions of Carriage for furniture transport" or the "Storage conditions for furniture transport", if the removal company or Warehouse Keeper has been expressly notified in writing of this fact together with the respective values. Money and securities are, in any case, excluded from this insurance.

4. The insurer also compensates for claims caused by negligent failure to maintain a recourse, provided that it can be shown that no harm to the Client has developed.

5. The insurance also covers client claims where the grounds for the claim do not refer to the contract of carriage or storage, but are based on the property, tort or unjust enrichment, provided that these claims are directly related to an already concluded transport or storage contract with the removal company.

6. Should loading errors occur relating to an already insured furniture transport or an insured furniture storage contract, then the insurer will reimburse to the removal company for the additional transport costs incurred, including any telegram, telephone and postage costs, which have been spent to mitigate the damage or had to be spent.

## **B. Ausgeschlossene Gefahren**

The following are excluded from the insurance cover:

1. Damage or loss caused by the Client or his agent or by force majeure. Furthermore, damage or loss arising from war or warlike events, acts decreed by governments, gang warfare, civil unrest, looting, strikes or lockouts; unless the policyholder can prove that the damage was neither directly nor indirectly related to the previously stated events.

2. Claims by the Client against the removal company, which derive from contracts that are non-customary for the furniture transport industry or from an agreement between the Client and the removal company that does not fall within the businesses mentioned in Section 1 or are not covered by the removal company's legal liabilities.

3. Damages and losses resulting from wilful acts on behalf of the company owner, its agents, officers or branch managers. Such wilful acts are understood to particularly

include damage and losses caused by misappropriation and embezzlement of funds by the previously mentioned persons.

4. Damage caused by unrestrained loads, loads that are without any packing or inadequately packed goods, also for goods that are not possible to be insured for transport.

5. For storage contracts, damage to the goods that are already covered by a fire, burglary, theft and water leakage damage insurance, or that could have been so covered.

6. Scarring damage, cracking or dulling of polished surfaces, loosening of gluing, or abrasive damage, unless caused by intent by employees who are not executive officers as referred to in paragraph 3 above.

7. So-called minor damages having a value less than € 36.34 will not be reimbursed.

8. Any transport of computers and computer equipment. When the move is part of an office relocation, then the office computer equipment will be insured to 10% of the total sum insured, up to a maximum of € 7,267.28.

### **Section 5: Compensation for Damages or Losses**

1. In the event of damage or loss of a property compensation will be paid based on the market value of the subject goods at the time of the occurrence. In case of loss, damage or breakage of any component of a property unit, then compensation will only be paid for the damage of the affected part.

2. If a number of causes of damage occur together, namely damage to property and pecuniary losses, then the insurer pays compensation for the total damage up to the extent of the sum insured, which in all cases represents the maximum amount of liability. In the case of under-insurance, the insurers are liable only on a pro rata basis.

### **Section 6: Maximum Amount of Liability**

1. The insurers are liable to the extent of their participation in any one registered claim under this insurance policy up to an amount of € 145,345.67, even if several insured persons are affected by this incident. If the total value of the claims from several Clients exceeds the maximum available amount, then the insurers are liable to the individual Clients only to an amount based on the proportionality of the individual values to the total value. In the case of household goods, where the actual value exceeds the maximum liability of € 145,345.67, then the insurer will waive the objection of under-insurance.

2. For any loss due to incorrect placement or total failure by the removal company to conclude a transport or storage insurance policy, then the maximum liability is limited to € 36,336.42.

## **Section 7: Insurance Contract and Insured Sum**

1. Premiums are levied for each individual carriage and storage contract.
2. Every contract, which is subject to payment of an insurance premium, is to be insured for the value of the goods at the premium corresponding to the insured sum as stated in Section 8 "Insurance premiums":
  - a) The present day value of the household effects and furniture shall be used as the basis for establishing the insured amount. The removal company has to ensure as far as possible that the Client provides the correct sum to be insured. If the Client fails to provide an insurance sum, then the removal company is required to estimate the insurance sum. Estimation errors are not covered by this insurance policy and as such may not develop into a liability for either the removal company or the Insurer.
  - b) The insurer shall only lodge an objection to the under insured value of the goods based on the removal company's estimate if the real value exceeds the estimated value by more than 20%.

## **Section 8: Premium**

The premium rates for all furniture transport and furniture storage contracts, including the applicable insurance tax are laid down in the Premiums Table.

## **Section 9: Registration**

1. The removal company has to register all insured transport and storage contracts with the insurance company at the end of each calendar month and not later than the 10th of the following month. The registration and payment of the applicable premiums are to be made simultaneously via the insurance company's appointed processing office using the forms supplied by them. Transport and storage contracts having an individual value exceeding € 3,633.64 are to be individually registered with the respective higher insured sum and together with details of the Client and the removal company's respective order number entered on the insurers supplied Specification Form.
2. Transport and storage contracts having an individual value of over € 14,534.57 shall be separately and immediately registered on issue of the order.
3. Transport and storage contracts having an individual value of over € 14,534.57 and involving valuable items such as genuine carpets and objects of art shall be separately and immediately registered on acceptance of the order.

## **Section 10: Insurer's Right to Audit**

The insurer is entitled to verify the registrations made by the removal company through inspection of the company's books and other documents relating to these insurance policies.

## **Section 11: Assertion of Damages, Obligations of the Insurer and the Removal Company**

1. The removal company, being the policyholder, shall promptly register any damages that become known to him with the insurance company in writing via the insurance company's appointed processing office. This registration must be made at the latest within six weeks of becoming aware of the damages. The deadline can be met by timely mailing of the notifications. In the case of culpable neglect of the period of grace, then the insurer is freed from his obligations concerning this job.

2. The removal company is obligated to establish any damages in an impartial and timely manner and in as far as he can influence the events, he shall in compliance with any instructions of the insurer do everything possible to stop or minimize the damages. He must also give the insurer any information requested and to provide any documents which may serve to clarify the damage. If these obligations are grossly neglected by the removal company then the insurance companies are freed from their obligations.

3. As soon as the insured Client is aware of the damage event, then he is equally committed to determine, in compliance with any instructions of the insurer, the objective extent of the damage. He is also obligated, as far as possible, to stop or minimize the damages. Should the insurers be disadvantaged as a result of the insured Client breaching his duty to mitigate damages, then the insurance companies are freed from their obligations.

4. The disbursements concerning the amount of loss are made to the insured as the injured party. However, the removal company is authorized to receive the payments for this amount of loss when he has handled the claim notification and can submit the insured's settlement acceptance declaration.

5. Due to the statute of limitations on the insurance claims and that insurance claims rejected by the insurer will expire, the provisions of Section 12 of the Austrian Insurance Contracts Law are applicable.

## **Section 12: Right of Recourse**

1. The Insurers waive any recourse against the removal company and its employees. As far as the removal company, in its execution of the contract, also used subordinate affiliates or other freight forwarders and they have also signed the certificate of

insurance, then the insurers also waive their Right of Recourse against these removal companies.

2. However, recourse in full is permitted against anyone who caused the damage intentionally.

### **Section 13: Removal Company Disbursement Contributions**

1. The removal company must reimburse the insurance companies with a contribution towards the cost of the damage disbursement. This contribution will be equal to 10% of the loss amount paid out, with a minimum of € 36.33 and a maximum of € 254.35 and shall be paid without delay via the insurance company's appointed processing office.

2. If the damage has been caused through gross negligence by a legal representative, Director or a Branch Manager of the removal company, then the disbursement contribution is increased to 20% of the loss amount paid out, with a minimum of € 36.33 and a maximum of € 254.35. This does not affect the provisions of Section 12, Para. 2 above.

### **Section 14: Period of Insurance**

1. This Agreement is concluded initially for the period from 1<sup>st</sup> January 1989 to 31<sup>st</sup> December 1989. Thereafter, it shall be automatically renewed for a further year unless it is terminated by either party observing the notice period of three months to the end of the respective contractual term. Termination must be made in writing and sent by registered mail.

2. If changes to this contract are agreed between the involved insurance companies and the Austrian Association of Freight Forwarders, then these will replace the previous respective provisions.

### **Section 15: Extraordinary Right of Termination**

1. The Insurers have the right to require the Austrian Association of Freight Forwarders to enter into immediate negotiations concerning readjusting the premiums, if the total paid-out damages reach 80% of the registered paid premiums. If no agreement is reached with the Austrian Association of Freight Forwarders within 14 days, then the Insurers shall be entitled to terminate all of the furniture-SVS insurance certificates with a four-week notice period. In this case, the insurer is obligated to give notice to both the Austrian Association of Freight Forwarders, as well as to each individual Furniture-SVS Insurance signatory by registered letter.

2. The Insurers are in agreement with the Association of Freight Forwarders that they are entitled to terminate individual contracts with a notice period of three weeks at each end of each month:

a) when they can demonstrate significant deficiencies in the operation of the removal company which could reasonably be expected to be rectified, which despite giving the removal company a reasonable period of notice to rectify these, they have failed to be rectified.

b) if the removal company has intentionally violated the premium registration deadline;

c) if the removal company is more than two weeks in default in payment of a due premium after receiving a payment reminder. The payment reminder must be sent by registered mail and specifying the legal consequences associated with the expiration of the notice period.

### **Section 16: Jurisdiction**

1. The ordinary courts of law are responsible to deal with any disputes arising under this agreement.

2. The lead insurance company is authorized by the co-insurer companies, to handle all associated lawsuits on their behalf, also in terms of their shares as plaintiff or defendant. The participating companies recognize that a judgment against the lead company is also binding on their companies.

3. The Processing Offices appointed by the insurance companies for this work are entitled to assert the rights of the insurer under this contract in their own names.

### **Section 17: Leadership and List of Participants**

In this insurance policy and under exclusion of joint liability, the insurers listed below participate according to the given percentages. The management of this policy is performed by the company: der Wiener Allianz Versicherungs-Aktiengesellschaft, Wien.