

Liability of the Storage Company

The storage company is liable for damage and loss in accordance with the contract and the statutory provisions of sections 475 et seq. German Commercial Code (HGB). Its liability is limited as follows:

1. Liability Principles

The storage company is liable for damages caused by the loss or damage of the goods in the period from the assumption of the goods until their delivery unless the damages could not have been prevented even upon application of the care of a prudent businessman. This also applies if the storage company has stored the goods at a third party in accordance with section 472 (2) HGB.

2. Maximum Liability

- (1) The storage company's liability for loss or damage is limited to the amount of EUR 620 per cubic meter stowage.
- (2) The storage company is liable for a maximum of EUR 250,000.00 per loss event.
- (3) Liability per loss event is limited to EUR 1 MM, irrespective of the number of claims which are filed per loss event. In the case of several claimants, the storage company will be liable on a pro-rated basis in accordance with the relationship of the claims to one another.

3. Compensation

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

4. Special Liability Exclusions

- (1) The storage company is released from its liability if the loss or damage is attributable to one of the following risks:
 - a. storage of precious metals, jewels, precious stones, money, stamps, coins, securities or documents;
 - b. insufficient packaging or labeling by the customer;
 - c. treatment, loading or unloading of the goods by the customer;
 - d. storage of goods in containers not packed by the storage company;
 - e. loading or unloading of goods whose size or weight does not correspond to the space at the loading or unloading site, provided the storage company had previously advised the customer of the risk or damage and the customer had insisted that the work be performed;
 - f. storage of live animals or plants;
 - g. nature or defectiveness of the goods causing them to be susceptible to damage, particularly breakage, malfunctions, rust, inner spoilage or seepage.
 - h. damage caused by nuclear energy and damage to or by radioactive materials.
- (2) If damage occurs which could occur under the circumstance of one of the risks described in (1) a – f hereof, it will be assumed that the damage has occurred because of the risk. The storage company may only invoke one of the special liability exclusions if it has taken all of the action which it was obliged to take under the circumstances and has complied with special instructions.

5. Application of the Exemptions and Limitations of Liability

- (1) Exemptions and limitations of liability also apply for claims under the liability outside of contract for the loss of or damage to the goods.
- (2) They do not apply to the extent of the storage company has acted intentionally or recklessly and in the awareness that damages will probably be incurred.
- (3) The aforementioned exemptions and limitations of liability will also apply for the storage company's personnel.
- (4) The aforementioned exemptions and limitations of liability do not apply if the customer has stated a higher value of the goods to be stored in writing prior to the grant of contract. The indicated value of the goods for which the customer has taken out insurance shall be deemed to have been agreed as the liability ceiling. In this case, the storage company will arrange for insurance cover for the customer. The customer will bear the incurred costs, including those required for special security measures.
- (5) The storage company is liable to the beneficiary of the warehouse receipt for the damage incurred because it delivered the goods without having the warehouse receipt returned to it or without preparing a storage release note.

6. Storage Insurance

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

7. Notification of Damage

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

- (1) Externally visible damage and the full or partial loss of or damage to the goods must be reported by the customer in text form by no later than upon collecting the goods, where he collects them himself, and by no later than on the day after delivery in all other cases.
- (2) Externally non-visible damage and loss must be reported to the storage company in text form within 7 days after delivery. Where the customer packed the goods himself, he must prove that the damage occurred during the storage or the handling of the stored goods.
- (3) If loss or damage is not reported during the stated periods, it is assumed that all of the goods have arrived at the recipient free of damage.
- (4) The timely sending of a detailed notification in text form to the storage company will suffice to meet the deadlines.

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