

General Terms and Conditions

General Terms and Conditions

Version: 20251110

All services provided by the Neele-Vat Group, its group companies and affiliated entities (hereinafter individually and collectively referred to as "Neele-Vat") are, unless explicitly stated otherwise below and to the exclusion of all other terms and conditions, subject to the Neele-Vat General Terms and Conditions, and in addition:

1. Unless expressly agreed otherwise in writing, Neele-Vat acts as a freight forwarder, to which the FENEX Dutch Forwarding Conditions 2018 apply;
2. In the case of storage, the FENEX Dutch Warehousing Conditions 1995 apply;
3. For all terminal-related activities performed by Gasmeetstation Rotterdam B.V., the General Conditions of the Association of Rotterdam Terminal Operators (VRTO) apply;
4. For all transport-related activities performed by Oostvogels Logistics B.V. and Mammoet Ferry Transport B.V., the Oostvogels General Conditions and Mammoet Ferry Transport General Conditions respectively apply, supplemented, where mandatorily applicable, by:
 - For transport within the Netherlands: the General Transport Conditions (AVC);
 - For transport within Europe, but (wholly or partly) outside the Netherlands: the CMR Convention;
5. For other logistics services not covered by another specifically applicable set of conditions, the Logistics Services Conditions of TLN/FENEX (LSC) 2014 apply;
6. For specific services, separately and contractually agreed upon conditions apply.

In case of conflict, the separately agreed conditions for specific services shall prevail.

The **Neele-Vat group** shall be understood to mean:

The group consists of the following entities, both collectively and individually, including their legal successors and affiliated companies:

- Gasmeetstation Rotterdam B.V.
- Mainport Warehousing B.V.
- Neele-Vat Logistics B.V.
- Neele-Vat Ocean B.V.
- Oostvogels Logistics B.V.
- Otentic Logistics B.V.
- Rotterdam Air & Sea Freight B.V.
- Ship-Road Rotterdam B.V.
- Neele-Vat Warehousing B.V.
- Schouten Transport B.V.
- Mammoet Ferry Transport B.V.
- Neele-Vat CIS B.V.
- NVX B.V.
- Neele-Vat Investments B.V.
- Steder Group Liner Agency B.V.
- Mainport Forwarding B.V.
- Neele-Vat Air B.V.
- Neele-Vat Logistics Solutions B.V.
- Neele-Vat Transport B.V.
- Oostvogels Transport B.V.
- Redwood Fulfilment B.V.
- Rotterdam Blending & Filling B.V.
- Steder logistics B.V.
- Neele-Vat Maasvlakte B.V.
- Schouten Logistiek & Warehousing B.V.
- Neele-Vat Integrated Services BV
- Neele-Vat Trade CIS B.V.
- Oostvogels Distributie B.V.
- Mainport Forwarding B.V.
- Mammoet Ferry Transport (UK) B.V.

1. Neele-Vat does not provide services in the capacity of economic operator. The Fenex Market Surveillance Conditions, including the arbitration clause, apply to all oAers, orders and/or agreements that include goods to be placed on the market of the European Union as described by art. 4 sub 1 and 5 jo. art. 3 sub 1 and 2 of the Regulation (EU) 2019/1020.
2. Notwithstanding the arbitration clauses in the aforementioned Conditions, undisputed monetary claims shall be submitted to the competent court in Rotterdam. Dutch law applies.
3. The applicable terms and conditions have been provided to you before or upon entering the agreement and will be sent to you free of charge upon request. You can also read and download them via:
 - www.neelevat.com/conditions/
 - www.mammoetferry.com/conditions/
 - www.oostvogels.nl/en/terms-and-conditions/
 - www.otenticlogistics.nl/en/expeditie-en-opslagvoorwaarden
4. Every Neele-Vat entity is entitled to sub-contract services in whole or in part to an aAiliated Neele-Vat entity. In such a case, the activities of the aAiliated Neele-Vat entity are carried out on behalf of the original Neele-Vat entity that concluded the contract. All Neele-Vat group companies and aAiliates have accepted the Neele Vat General Terms and Conditions and Dutch Forwarding Conditions as third party beneficiary provisions in their favour ("derdenbeding").

5. The original Neele-Vat entity that concludes an agreement will remain the contract party, even if another Neele-Vat entity directly invoices the client for the work concerned. In such a case, the original Neele-Vat will be joint a creditor for these invoices for the full amount, together with the Neele-Vat entity issuing the invoice, regardless of which Neele-Vat entity has the goods in custody
6. By giving an order to Neele-Vat, the principal agrees to the applicability of the Neele-Vat General Terms and Conditions.
7. Complaint Period: Complaints regarding the performed services and/or the invoice amount must be reported in writing and with justification by the Client to Neele-Vat within seven days of discovery, but no later than fifteen days after the completion of the respective services or receipt of the invoice. Complaints do not suspend the payment obligation of the Client.
8. Advances fee: 3% on moneys to be advanced for excise and import duties, VAT, or ocean and air freight charges, unless specifically agreed otherwise in writing.
9. Waiting hours and or/ waiting time at a container terminal: waiting hours for FTL / FCL: 2 hours free for loading, 2 hours free for unloading. Groupage shipments: pro rata. Other waiting time at a container terminal is 1 hour free. Upon exceeding free time, € 65,00 per hour or part thereof will be charged, up to a maximum of 10 hours per day.
10. Dead freight: for cancelled shipments Neele-Vat reserves the right to charge 100% of the original freight costs.
11. In the event of discrepancies or ambiguity between the original Dutch version of these Terms and Conditions and this translation, the Dutch text shall prevail.



DUTCH FORWARDING CONDITIONS

May 1st 2018

as lodged by FENEX with the Clerks of the District Courts of Amsterdam under number 23/2018 and Rotterdam under number 16/2018

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Definitions

Article 1. Definitions

In these Conditions, the following terms shall have the following meanings:

1. **Third party/parties:** all of those persons, who are not employees, with whom the Freight Forwarder has an undertaking on behalf of the Client, irrespective of whether the Freight Forwarder has the undertaking in its own name or in the name of the Client;
2. **Services:** all activities and work, in any form and by whatever name, including those performed by the Freight Forwarder for or on behalf of the Client;
3. **Freight Forwarder:** the natural or legal person who performs Services on behalf of the Client and who uses these Conditions; this person is not exclusively understood to be the Freight Forwarder referred to in Book 8 of the Dutch Civil Code;
4. **Client:** every natural or legal person who provides the Freight Forwarder with an order to perform Services and concludes to that effect the Agreement, irrespective of the agreed method of payment;
5. **Agreement:** the agreement entered into by the Freight Forwarder and Client in respect of the Services to be performed by the Freight Forwarder, of which these Conditions form part;
6. **Force majeure:** all circumstances that the Freight Forwarder has reasonably been unable to avoid and in respect of which the Freight Forwarder has reasonably been unable to prevent the consequences.;
7. **Conditions:** these Dutch Forwarding Conditions.
8. **Good/Goods:** the goods to be made available or made available to the Freight Forwarder, its agent or Third Parties by or on behalf of the Client, for the purpose of executing the Agreement.



Scope

Article 2. **Scope**

1. These Conditions govern all offers, agreements, legal acts and actual acts relating to Services to be performed by the Freight Forwarder, insofar as these are not subject to imperative law. These Conditions apply to the legal relationship between the parties, including once the Agreement has ended.
2. Insofar as any provision in these Conditions is void or otherwise unenforceable, this does not affect the validity of the other provisions in these Conditions. Furthermore, considered to be applicable is such a stipulation (legally permissible) that is the closest to the purport of the void or voided stipulation.
3. In case the English translation differs from the Dutch text, the latter will prevail.

Article 3. **Third parties**

The Client gives the Freight Forwarder free rein to engage the services of Third Parties to execute the Agreement, and to accept the (general) terms and conditions of those Third Parties at the Client's expense and risk, unless agreed otherwise with the Client. At the Client's request, the Freight Forwarder is obliged to provide (a copy of) the (general) terms and conditions under which it has entered into a contract with those Third Parties.

Conclusion of the Agreement

Article 4. **Conclusion of the Agreement**

1. All offers made by the Freight Forwarder are non-binding.
2. Agreements, as well as amendments of and additions to these agreements, shall only become effective if and insofar as the Freight Forwarder has confirmed these in writing or the Freight Forwarder has started to perform the Services.



Article 5. Customs work

1. The provision of information to the Freight Forwarder, that is reasonably provided to enable customs formalities to be carried out, shall imply an order, unless otherwise agreed in writing.
2. This order is accepted by the Freight Forwarder by means of an explicit written confirmation or by the Freight Forwarder starting to carry out the customs formalities. The Freight Forwarder is never obliged to accept an order to carry out customs formalities.
3. If the Freight Forwarder becomes familiar with information or conditions which would indicate that the Client has not complied with article 9 paragraph 3 of these Conditions (has provided incorrect and/or incomplete information and/or documents) and on the basis of which the Freight Forwarder has not accepted the order to carry out customs formalities, the Freight Forwarder is at all times entitled to end this order and not carry this out (any further), which may or may not be set out in an additional agreement and/or authorisation, without any obligation to pay damages.

Remunerations and other costs

Article 6. Remunerations

1. All prices quoted shall be based on the prices that apply at the time of the offer (quotation). If between the time of the offer and the time of execution of the Agreement, one or more of the cost factors (including fees, wages, the cost of social measures and/or laws, freight prices and exchange rates, etc.) increase, the Freight Forwarder is entitled to pass on this increase to the Client. The Freight Forwarder must be able to prove the changes.
2. If the Freight Forwarder charges all-in or fixed rates, these rates shall be deemed to include all costs that, in the normal process of handling the order, are for the account of the Freight Forwarder.
3. Unless provided otherwise, all-in or fixed rates shall not include at any rate: duties, taxes and levies, consular and attestation fees, costs of preparing bank guarantees and insurance premiums.

4. In the event of circumstances that are of such a nature that when concluding the Agreement it was not deemed necessary to take into account the risk that they could occur, that cannot be attributed to the Freight Forwarder and that significantly increase the costs of the Services being performed, the Freight Forwarder is entitled to an additional payment. Where possible, the Freight Forwarder shall consult in advance with the Client. In such a case, the additional payment shall consist of the additional costs that the Freight Forwarder has had to incur in order to perform the Services, plus an additional payment - deemed fair and equitable - for the services to be performed by the Freight Forwarder.

5. Expenses of an exceptional nature and higher wages arising whenever Third Parties, by virtue of any provision in the relevant agreements between the Freight Forwarder and Third Parties, load or unload goods in the evening, at night, on Saturdays or on Sundays or public holidays in the country where the Service is being carried out, shall not be included in the agreed prices, unless specifically stated. Any such costs shall therefore be remunerated by the Client to the Freight Forwarder.

6. Other than in cases of intent or deliberate recklessness on the part of the Freight Forwarder, in the event of the loading and/or unloading time being inadequate, all costs resulting therefrom, such as demurrage, waiting times, etc. shall be borne by the Client, even when the Freight Forwarder has accepted the bill of lading and/or the charter party from which the additional costs arise without protestation. The Freight Forwarder must make every effort to avoid these costs.

Insurance

Article 7. Insurance

1. Insurance of any kind shall only be arranged at the Client's expense and risk following acceptance by the Freight Forwarder of the Client's explicit written order, in which the Client clearly specifies the goods to be insured and the value to be insured. A mere statement of the value or the interest is not enough.

2. The Freight Forwarder will take out the insurance (or arrange for this to be taken out) through an insurer / insurance broker / insurance intermediary. The Freight Forwarder is neither responsible nor liable for the solvency of the insurer / insurance broker / insurance intermediary.

3. When the Freight Forwarder uses equipment, such as derricks, cranes, fork-lift trucks and other machines to perform the Services that do not form part of its usual equipment, the Freight Forwarder shall be entitled to take out insurance at the Client's expense to cover the Freight Forwarder's risks arising from the use of such equipment. Where possible, the Freight Forwarder shall consult in advance with the Client about the use of such equipment. If no timely prior consultation is possible, the Freight Forwarder will take the measures that seem to it to be in the best interests of the Client and shall inform the Client of that.

Execution of the Agreement

Article 8. **Delivery date, method of delivery and route**

1. The mere statement by the Client of a time for delivery shall not legally bind the Freight Forwarder. Arrival times are not strict deadlines and are not guaranteed by the Freight Forwarder, unless agreed otherwise in writing.
2. If the Client has not given any specific instructions about this with its order, the method of delivery and route shall be at the Freight Forwarder's discretion and the Freight Forwarder may at all times accept the documents customarily used by the firms it contracts for the purpose of carrying out its orders.

Article 9. **Commencement of the Services**

1. The Client is obliged to deliver the Goods to the Freight Forwarder or a Third Party in suitable packaging to the agreed location, at the agreed time and in the manner agreed.
2. In respect of the Goods, as well as in respect of the handling thereof, the Client is obliged to supply the Freight Forwarder in good time with any details and documents that it knows or ought to know, are of importance to the Freight Forwarder. If the Goods and/or activities are subject to governmental provisions, including customs and excise regulations and tax rules, the Client must provide all information and documents, in good time, that are required by the Freight Forwarder in order to comply with those provisions.
3. The Client guarantees that the information and documents that it provides are correct and complete and that all instructions and Goods that are made available comply with current legislation. The Freight Forwarder shall not be obliged but shall be entitled to investigate whether the information provided is correct and complete.



Article 10. **Goods Handling**

1. All operations such as inspecting, sampling, taring, tallying, weighing, measuring, etc. and receiving goods subject to appraisal by a court-appointed expert, shall take place only on the Client's specific instructions and upon remuneration of the costs thereof.
2. Notwithstanding the provisions in paragraph 1, the Freight Forwarder shall be entitled, but not obliged, on its own authority and at the Client's expense and risk, to take all such actions as it deems necessary in the Client's interest. Where possible, the Freight Forwarder shall consult in advance with the Client. If this is not possible, the Freight Forwarder shall take the measures that seem to it to be in the best interests of the Client and shall inform the Client of the measures taken and the associated costs, as soon as this is reasonably possible.
3. The Freight Forwarder is not an expert with respect to the Goods. The Freight Forwarder shall therefore in no way be liable for any damage that arises from or that is related to any notification by the Freight Forwarder with regard to the state, nature or quality of the Goods; nor shall the Freight Forwarder be under any obligation to ensure that the shipped Goods correspond with the samples.

Liability

Article 11. **Liability**

1. All Services shall be at the Client's expense and risk.
2. Without prejudice to the provisions in Article 17, the Freight Forwarder shall not be liable for any damage whatsoever, unless the Client can prove that the damage has been caused by fault or negligence on the part of the Freight Forwarder or the latter's employees.
3. The Freight Forwarder's liability shall in all cases be limited to 10,000 SDR per occurrence or series of occurrences with one and the same cause of damage. Taking into account the aforementioned limit, in the event of damage, loss of value or loss of the Goods in the Agreement, the liability shall be limited to 4 SDR per kilogram of damaged or devalued Goods or lost gross weight.
4. The loss to be indemnified by the Freight Forwarder shall never exceed the invoice value of the Goods, to be proved by the Client, in default whereof the market value, to be proved by the Client, at the time when the damage occurred, shall apply.
5. The Freight Forwarder shall never be liable for lost profit, consequential loss and immaterial damage, however that occurred.

6. If during the execution of the Agreement damage occurs for which the Freight Forwarder is not liable, taking into account the provisions in Article 19 of these Conditions, the Freight Forwarder shall make efforts to recover the Client's damage from the party that is liable for the damage. The Freight Forwarder shall be entitled to charge to the Client the costs incidental thereto. If so requested, the Freight Forwarder shall waive in the Client's favour its claims against Third Parties whose services it engaged for the purpose of executing the Agreement.

7. The Client shall be liable vis-a-vis the Freight Forwarder for any damage - including but not limited to material and immaterial damage, consequential damage, fines, interest, as well as penalties and confiscation, including damage on account of non-clearance or tardy clearance of customs documents and claims due to product liability and/or intellectual property rights – suffered directly or indirectly by the Freight Forwarder as a result of (amongst other things) the non-compliance by the Client of any obligation pursuant to the Agreement or pursuant to applicable national and/or international legislation, as a result of any incident that is within the control of the Client, as well as a result of the fault or negligence in general of the Client and/or its employees and/or Third Parties whose services the Client engages and/or Third Parties that work on behalf of the Client.

8. The Client shall indemnify the Freight Forwarder at all times against third-party claims, including employees of both the Freight Forwarder and the Client, connected with or ensuing from the damage referred to in the previous paragraph.

9. Even where all-in or fixed rates, as the case may be, have been agreed, the Freight Forwarder that is not a carrier but always a party that arranges transportation in accordance with title 2, section 3 of Book 8 of the Dutch Civil Code, shall be liable, whereby the liability is governed by these Conditions.

10. If a claim is made against the Freight Forwarder by the Client outside of the Agreement in respect of the damage that occurs during the execution of the Services, then the Freight Forwarder's liability shall be limited to the liability under the Agreement.

11. If to defend its liability for conduct of a Third Party or employee the Freight Forwarder derives a defence from the Agreement vis-a-vis the Client, then if it is held liable by the Client under this defence, a Third Party or employee can invoke this defence as if the Third Party or employee were also party to the Agreement.

12. In the event a Freight Forwarder is held liable outside of the Agreement with regard to damage to or loss of a Good or delay in delivery by someone who is not party to the Agreement or a transport agreement entered into by or on behalf of the Freight Forwarder, then the Freight Forwarder has no further liability than it would have under the Agreement.



Article 12. **Force majeure**

1. In the event of Force Majeure, the Agreement shall remain in force; the Freight Forwarder's obligations shall, however, be suspended for the duration of the Force Majeure.
2. All additional costs caused by Force Majeure, such as transport and storage charges, warehouse or yard rental, demurrage and standing fees, insurance, removal, etc., shall be borne by the Client and shall be paid to the Freight Forwarder at the latter's first request.

Article 13. **Refusal of carriers**

If the carriers refuse to sign for quantity, weight, etc., the Freight Forwarder shall not be liable for the consequences thereof.

Imperative law

Article 14. **The Agreement to organise transportation of goods**

These Conditions shall not affect articles 8:61 paragraph 1, 8:62 paragraphs 1 and 2 and 8:63 paragraphs 1,2 and 3 of the Dutch Civil Code.

Payment

Article 15. **Payment conditions**

1. The Client shall pay to the Freight Forwarder the agreed remunerations and other costs, freights, duties, etc. ensuing from the Agreement upon commencement of the Services, unless agreed otherwise.
2. The risk of exchange rate fluctuations shall be borne by the Client.
3. The amounts referred to in paragraph 1 shall also be due if damage has occurred during the execution of the Agreement.
4. If, in contravention of paragraph 1 of this article, the Freight Forwarder allows deferred payment, the Freight Forwarder shall be entitled to make a credit limit charge.
5. In the event of termination or dissolution of the Agreement, all claims of the Freight Forwarder - including future claims - shall be due and payable forthwith and in full. All claims shall be due and payable forthwith and in full in any case, if:
 - The bankruptcy of the Client is announced, the Client applies for suspension of payment or otherwise loses the unrestricted disposition over a significant part of its assets;
 - The Client offers a settlement to his creditors, is in default of fulfilling any financial obligation owed to the Freight Forwarder, ceases to trade or - where the Client is a legal entity or corporate body - if the legal entity or the corporate body is dissolved.



6. Upon first demand by the Freight Forwarder, the Client must provide security for the amount owed or that shall be owed by the Client to the Freight Forwarder. This obligation remains if the Client also has to provide or has provided security in relation to the amount owed.

7. The Freight Forwarder shall not be obliged, from its own means, to provide security for the payment of freight, duties, levies, taxes and/or other costs should the same be demanded. All the consequences of non-compliance or of failure to comply forthwith with a demand from the Freight Forwarder to provide security shall be borne by the Client.

If the Freight Forwarder has provided security from of its own means, it may demand that the Client immediately pays the amount for which security has been provided.

Where possible, the Freight Forwarder shall consult in advance with the Client. If no timely prior consultation is possible, the Freight Forwarder will take the measures that seem to it to be in the best interests of the Client and shall inform the Client of that.

8. The Client shall at all times be obliged to indemnify the Freight Forwarder for any amounts to be levied or additionally demanded by any authority in connection with the Agreement, as well as any related fines imposed upon the Freight Forwarder. The Client shall also reimburse the said amounts to the Freight Forwarder if a Third Party brought in by the Freight Forwarder demands payment for the said amounts within the framework of the Agreement.

9. The Client shall at all times indemnify the Freight Forwarder for any amounts, as well as for all additional costs that may be claimed or additionally claimed from the Freight Forwarder in connection with the order, as a result of incorrectly levied freight and costs.

10. It shall not be permissible for claims receivable to be set off against payment of remunerations arising from the Agreement on any other account in respect of the Services owed by the Client or of other costs chargeable against the Goods with claims of the Client or suspension of the aforementioned claims by the Client.

Article 16. **Allocation of payments and judicial and extrajudicial costs**

1. Cash payments shall be deemed in the first place to have been made on account of non preferential debts.
2. The Freight Forwarder shall be entitled to charge to the Client extrajudicial and judicial costs for collection of the claim. The extrajudicial collection costs are owed as from the time at which the Client is in default and these amount to 10% of the claim, with a minimum of € 100.00.

Article 17. **Sureties**

1. The Freight Forwarder has the right to refuse the delivery of Goods, documents and monies, that the Freight Forwarder has or will obtain, for whatever reason and with whatever destination, in respect of another party.
2. The Freight Forwarder has a right of retention in respect of all Goods, documents and monies that the Freight Forwarder holds or will hold for whatever reason and with whatever destination, for all claims the Freight Forwarder has or might have in future on the Client and/or the owner of the Goods, including in respect of all claims which do not relate to those Goods.
3. The Freight Forwarder has a right of lien in respect of all Goods, documents and monies that the Freight Forwarder holds or will hold for whatever reason and with whatever destination, for all claims the Freight Forwarder has or might have in future on the Client and/or the owner of the Goods.
4. The Freight Forwarder shall regard anyone who, on behalf of the Client, entrusts Goods to the Freight Forwarder for performing Services, as the Client's agent for creating a lien on those Goods.
5. If when settling the invoice a dispute arises over the amount due or if there is need for a calculation to be made for the determination of what is due that cannot be made quickly, then at the discretion of the Freight Forwarder, the Client or the party that demands delivery at the request of the Freight Forwarder is obliged to pay forthwith the part which the parties agree is due and to furnish security for the part in dispute or for the part for which the amount has not yet been established.

6. The Freight Forwarder can also exercise the rights outlined in this article (right of lien, right of retention and right to refuse delivery) for what is still owed to it by the Client in relation to previous orders and for any amounts payable by way of delivery C.O.D. in respect of the Goods.
7. The sale of any security shall take place at the account of the Client in the manner prescribed by law or - if there is consensus thereon - privately.
8. At the Freight Forwarder's first request, the Client shall furnish security for costs paid or to be paid by the Freight Forwarder to Third Parties or government authorities and other costs that the Freight Forwarder incurs or anticipates incurring, on behalf of the Client, including freight, port costs, duties, taxes, levies and premiums.
9. In the absence of documents, the Freight Forwarder is not obliged to give indemnities or furnish securities. If the Freight Forwarder has given indemnification or furnished security, the Client is obliged to indemnify the Freight Forwarder from all consequences thereof.

Article 18. **Termination of the Agreement**

1. The Freight Forwarder can terminate the Agreement with immediate effect in the event the Client:

- discontinues its profession or business largely or in full;
- loses the power to dispose of its assets or a substantial part thereof;
- loses its legal personality, is dissolved or effectively liquidated;
- is declared bankrupt offers an agreement excluded from the bankruptcy proceedings;
- applies for moratorium on payment;
- loses the power to dispose of its goods or a substantial part thereof as a result of seizure.

2. If the Freight Forwarder consistently imputably fails to fulfil one or more of its obligations under the Agreement, without prejudice to its right to compensation for any damage that may have been suffered in accordance with article 11, the Client can dissolve the Agreement with immediate effect in full or in part after:

- it has notified the Freight Forwarder by registered letter with reasons how the Freight Forwarder has failed to comply, stipulating a period of time of at least thirty days for fulfilment of the obligations, and;
- on expiry of that deadline, the Freight Forwarder has not yet fulfilled the obligations.

3. If the Client consistently imputably fails to fulfil one or more of its obligations under the Agreement, without prejudice to its right to compensation for any damage that may have been suffered, the Freight Forwarder can dissolve the Agreement with immediate effect in full or in part after, by registered letter, it has stipulated a deadline to the Client of at least fourteen days for fulfilment of the obligations and upon expiry of that deadline, the Client has not yet fulfilled its obligations. If, by stipulating such a period, the Freight Forwarder's interests in the undisturbed conduct of its business would be impaired disproportionately, the Freight Forwarder may dissolve the Agreement without observing a time limit.

4. Neither of the Parties may dissolve the Agreement if, considering its special nature or limited significant, the failure does not justify dissolution with all implications thereof.

Article 19. **Proceedings against Third Parties**

Legal and arbitration proceedings against Third Parties shall not be conducted by the Freight Forwarder unless it agrees to do so at the Client's request and at the latter's expense and risk.

Article 20. **Prescription and limitation**

1. Notwithstanding the provisions in paragraph 5 of this article, every claim is subject to prescription by the expiry of a period of nine months.
2. Every claim vis-a-vis the Freight Forwarder shall be time-barred by the mere expiry of a period of 18 months.
3. The periods of time stated in paragraphs 1 and 2 commence on the day following the day on which the claim has become due and payable, or the day following the day on which the prejudiced party had the knowledge of the loss. Notwithstanding the foregoing provisions, the aforementioned periods of time for claims with regard to damage, value depreciation or loss of the Goods, commence on the day following the day on which the Goods are delivered by the Freight Forwarder or should have been delivered.
4. In the event that the Freight Forwarder is held liable by Third Parties, including any public authority, for damages, the periods of time stated in paragraphs 1 and 2 commence as from the first of the following days:
 - the day following the day on which the Third Parties have brought action against the Freight Forwarder;
 - the day following the day on which the Freight Forwarder has settled the claim brought against it.

If the Freight Forwarder or the Third Party whose services it has engaged objects and/or appeals, the periods of time stated in paragraphs 1 and 2 commence on the day following the day on which a final ruling has been given on the objections and/or appeal.

5. Unless the situation referred to in paragraph 4 of this article occurs, if following the term of prescription a claim is brought against one of the parties for that payable by that party to a Third Party, a new term of prescription of three months commences.

Article 21. **Choice of law**

1. All Agreements to which these Conditions apply are governed by Dutch law.
2. The place of payment and settlement of claims shall be the Freight Forwarder's place of business.

Article 22. **Reference title**

These general terms and conditions can be cited as "Dutch Forwarding Conditions".



Disputes

Article 23. Arbitration

1. All disputes which may arise between the Freight Forwarder and its Other Party shall be decided by three arbitrators to the exclusion of the ordinary courts of law, in accordance with the FENEX Rules of Arbitration. The FENEX Rules of Arbitration and the current fees for the arbitration process can be read and downloaded from the FENEX website. A dispute shall exist whenever either of the parties declares that this will be so. Without prejudice to the provisions of the preceding paragraph, the Freight Forwarder shall be at liberty to bring before the competent Dutch court in the Freight Forwarder's place of business, claims for sums of money due and payable, the indebtedness of which has not been disputed in writing by the Other Party within four weeks after the invoice date. The Freight Forwarder is also at liberty to institute interim relief proceedings for claims of an urgent nature at the competent Dutch court in the Freight Forwarder's place of business.

2. The arbitration shall be settled by three arbitrators, unless neither of the parties has submitted a request for arbitrators to be appointed and the parties have jointly informed the FENEX secretariat in writing that they wish to have the arbitration settled by an arbitrator who they have appointed jointly, appending the written declaration of the arbitrator who they have appointed jointly containing his/her acceptance of the appointment and the force and validity of the FENEX Arbitration Rules.

3. One arbitrator shall be appointed by the Chairman or the Vice-Chairman of the FENEX; the second shall be appointed by the Dean of the Bar Association of the district in which the aforesaid Freight Forwarder has its registered office; the third shall be appointed by mutual agreement between the two arbitrators so appointed.

4. The Chairman of the FENEX shall appoint an expert on forwarding and logistics; the Dean of the Bar Association shall be asked to appoint a specialised lawyer in forwarding and logistics; the third arbitrator shall preferably be an expert on the trade and trade and industry in which the Freight Forwarder's Other Party is engaged.

5. Where applicable, arbitrators shall apply the provisions of international transport conventions, including the Convention on the Contract for the International Carriage of Goods by Road (CMR).

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DUTCH WAREHOUSING CONDITIONS

deposited by the FENEX,
Netherlands Association for Forwarding and Logistics,
at the Registry of the District Court at Rotterdam
on 15 November 1995

GENERAL PROVISIONS

Section 1 Application of these standard conditions

- 1.1 These conditions shall apply to all legal relations between warehousing companies and their principals, even after the termination of the agreement, as far as the provisions of Chapter I hereof are concerned, and to the legal relation between warehousing companies and holders of receipts, as far as the provisions of Chapter II hereof are concerned, if the receipt states that these conditions - referred to by the name "Dutch Warehousing Conditions" - are applicable.
- 1.2 To the agreement between the principal and the warehousing companies shall explicitly not apply any standard conditions to which the principal might refer in any manner or the principal might declare as applicable.
- 1.3 The principal nor the receipt holder may appeal to regulations or provisions if they are contrary to these conditions.
- 1.4 With regard to the activities and services as those of forwarding agents, shipping agents/shipbrokers, stevedores, carriers, insurance brokers, control companies, etc. performed by the warehousing company, the conditions customary in the relevant branch of trade, or the conditions whose application has been agreed, shall also apply.

Section 2 Definitions

In these conditions it is understood by:

warehousing company:

the party who - apart from the possibility of wider terms of reference - accepts orders for warehousing or custody or delivery of goods (Chapter I) or the party who has goods in custody against which a receipt issued by him is in circulation (Chapter II);

principal:

The party who instructs the warehousing company to store or deliver goods, or the person for whom the warehousing company stores goods for which no receipt is in circulation;

receipt:

a numbered and legally signed or stamped document entitled "receipt" or a synonym, stating that the holder has the right to receive the goods mentioned therein;

receipt holder:

the person who identifies himself to the warehousing company as holder of a receipt by producing the receipt or in any other manner acceptable to the warehousing company;

last receipt holder known to the warehousing company:

the person to whom a receipt has been issued and subsequently the receipt holder whose written request to the warehousing company to be considered as such bears the most recent date, provided however that the warehousing company shall have the right but not be obliged to regard someone else as such if they have reason to assume he is the last receipt holder.

Section 3 **Applicable law**

All agreements between the warehousing company and the principal shall be subject to the laws of the Netherlands and if not otherwise specified in these conditions, the Civil Law provisions concerning the custody of goods, shall apply generally and according to circumstances.

Section 4 **Disputes**

- 4.1 All disputes arising between the warehousing company and the principal or the receipt holder shall be decided in the last instance by three arbitrators, with the exclusion of the ordinary court of law. There shall be a dispute whenever either party declares that such is the case.
Without prejudice to the provisions of the preceding paragraph, the warehousing company shall be free to submit claims of amounts due and payable, the indebtedness of which has not been challenged in writing by the opposite party within four weeks of the invoice date, to an ordinary court of law.
- 4.2 One of the arbitrators shall be designated by the Chairman of FENEX; the second shall be designated by the President of the Bar Council of the judicial district where the said warehousing company has its registered office; the third shall be appointed in mutual consultation by the arbitrators so designated. The Chairman of FENEX shall only designate an arbitrator if one of the parties to the dispute is a FENEX member. If the said Chairman should not designate an arbitrator, the designation of arbitrators shall be made in accordance with the provisions of subsection 4.6.
- 4.3 The Chairman of FENEX shall designate an expert on warehousing; the President of the Bar Council shall be requested to appoint a lawyer; as third arbitrator shall preferably be elected an expert in the branch of trade or industry in which the opposite party of the warehousing company operates.

- 4.3 The Chairman of FENEX shall designate an expert on warehousing; the President of the Bar Council shall be requested to appoint a lawyer; as third arbitrator shall preferably be elected an expert in the branch of trade or industry in which the opposite party of the warehousing company operates.
- 4.4 The party desiring a decision of the dispute shall inform the FENEX Secretariat thereof by registered letter, briefly describing the dispute and his claim, simultaneously sending an amount for service charges established by FENEX in compensation of the administrative involvement of FENEX in case of arbitration.
- 4.5 On receipt of the said registered letter the FENEX Secretariat shall as soon as possible send copies to the opposite party, to the Chairman of FENEX, to the President of the Bar Council, requesting the latter two to designate an arbitrator each and to inform the FENEX Secretariat of the name and residence of the nominee.

On receipt of such information the FENEX Secretariat shall as soon as possible inform the two nominees of their appointment, sending them a copy of the application for arbitration and a copy of these standard conditions and requesting them to appoint the third arbitrator and to inform the FENEX Secretariat who has been appointed as such.

On receipt thereof the FENEX Secretariat shall as soon as possible inform the third arbitrator of his appointment, sending him a copy of the application for arbitration and a copy of these standard conditions. The FENEX Secretariat shall subsequently inform both parties who have been appointed arbitrators.

- 4.6 If within 30 days of filing the application for arbitration all three arbitrators have not been designated, all arbitrators shall be appointed by the President of the District Court within whose jurisdiction the warehousing company has its registered office, on the complainant's application by means of a simple petition.
- 4.7 Chairman of the arbitrators shall be the arbitrator appointed by the President of the Bar Council. If the appointment is made by the President of the District Court, the arbitrators shall decide among themselves which of them will act as Chairman.

Arbitrators shall deliver their award as good men in fairness and under obligation to comply with the applicable imperative legal provisions, including the provisions of international transport treaties. They shall determine how the arbitration is to be treated, provided always that the parties shall at any rate be given an opportunity to expound their views in writing and explain them orally.

- 4.8 The arbitrators' assignment shall continue until their final decision. They shall file their award with the Registrar of the Court within whose jurisdiction the place of arbitration is situated, whilst sending copies thereof to each of the parties and to the FENEX Secretariat.

Arbitrators may beforehand require a deposit from the claimant or from both parties to cover the cost of arbitration; during the proceedings they may demand an additional deposit. In their award the arbitrators shall decide which of the two parties or for what portion either party is to bear the cost of arbitration. Such costs shall include the arbitrators' fees and outlays, the amount paid to FENEX on application for service costs, as well as the costs incurred by the parties, if the arbitrators think such costs reasonably necessary. The fees due to the arbitrators shall be recovered from the deposit as far as possible.

Section 5 **Filed conditions**

- 5.1 These conditions have been filed with the Registrar of the District Court of Rotterdam. They shall be sent on request.
- 5.2 In case of difference between the Dutch text and the text in any other language of these Dutch Warehousing Conditions, the Dutch text shall be decisive.

Section 6 **Written records**

- 6.1 All agreements, tenders, instructions regarding warehousing, custody, handling and delivery of goods, shall be recorded in writing.
- 6.2 Oral or telephone communications or arrangements shall only be binding on the warehousing company if immediately confirmed in writing, unless otherwise agreed.

Section 7 **Description of goods and supply of information**

- 7.1 Tender of goods and instructions on warehousing, custody and handling shall be effected or supplied giving an exact and full written description of the goods, such as inter alia their value, the number of packages, the gross weight and furthermore all particulars of such nature that the agreement would not have been made or not on the same terms and conditions if the warehousing company had been acquainted with the true state of affairs.
- 7.2 If goods are subject to customs and excise provisions or to tax regulations or other government rules, the principal shall promptly supply all information and documents required in this connection, in order to enable the warehousing company to comply with such provisions or regulations.



Section 8 **Rates/payments/taxes**

8.1 Current rates and payments for work and all oral or written agreements between the warehousing company and the principal regarding rates and payments for work shall be based on the cost of labour prevailing at the time the instructions were given or the agreement was made.

In case of an increase in the cost of labour, the current or the agreed rates and payments shall be adjusted accordingly with immediate effect. The warehousing company shall also have the right to adjust the rates in case the authorities introduce or increase charges imposed on the services rendered by the warehousing company.

8.2 Current and agreed rates for warehousing shall be based on the customary method of stacking the relevant goods, unless expressly agreed otherwise. If at the principal's request or in view of the condition of the goods the customary method of stacking is departed from, an increase in the rates shall be applied proportional to the additional floor space occupied compared to normal stacking.

Section 9 **Duties, costs and taxes**

9.1 All freight, reimbursements, taxes, duties, contributions, levies, fines and/or other charges or costs by whatever name, falling on or relating to the goods and payable on arrival or charged forward, shall be for account of the principal and shall be paid or reimbursed by the principal whether or not in advance, on the warehousing company's first demand, irrespective of whether such goods are not yet on the premises or have meanwhile been removed.

9.2 If the warehousing company thinks it necessary to conduct lawsuits or to take other legal steps with regard to taxes, duties, contributions, levies, fines and or other charges or costs by whatever name imposed by the authorities, or if the principal requests the warehousing company to conduct such lawsuits or take such legal steps and the warehousing company complies with such request, the resulting work and costs including the cost of legal and/or fiscal and/or other advice or assistance deemed necessary by the warehousing company, shall be for the principal's account and risk.

Before conducting lawsuits or taking legal measures in terms of this section, the warehousing company shall try to consult on the matter with, or to obtain instructions from the principal or the party directly concerned.

9.3 If the warehousing company acts or has acted as fiscal agent, all taxes, duties, contributions and other levies as well as fines, interest, costs, by whatever name, or indemnifications due and payable by the warehousing company, shall be for account of the principal, without prejudice to the provisions of subsection 1 of this section. The principal shall pay such amounts on the warehousing company's first demand.

Section 10 **The principal's liability**

- 10.1 The principal shall be liable towards the warehousing company and/or third parties for any loss or damage resulting from incorrect and/or misleading and/or incomplete descriptions or indications or information, as well as for loss or damage resulting from defects of the goods and/or the packing not reported beforehand, even if such loss or damage was caused through no fault of his. If no weight is stated or stated incorrectly, the principal shall be liable for any resulting loss or damage.
- 10.2 The principal shall be liable for any damage resulting from not, not timely or not properly meeting any of his obligations under these conditions, or under a separate agreement between the warehousing company and the principal, if no provisions are already included herein.
- 10.3 Notwithstanding the above provisions the principal shall indemnify the warehousing company against claims from third parties or compensate the warehousing company for damages paid or due by third parties or paid or due to third parties, including the employees of both the warehousing company and the principal, relating to the nature or condition of the goods stored.

Section 11 **Refusing an order**

The warehousing company shall have the right to refuse an order for warehousing and/or custody without giving reasons therefor. If the warehousing company has accepted the order, the agreement may only be broken by mutual consent of the two parties.

Section 12 **Inspection of goods**

- 12.1 The warehousing company shall not be obliged to weigh or measure the goods stored without instructions thereto.
- 12.2 It is in the warehousing company's discretion to weigh and measure the goods in order to verify the specifications received. If in such case the warehousing company ascertains that weights or measures differ from the specification, the cost of weighing and/or measuring shall be for the principal's account. However, the warehousing company shall only be responsible for ascertaining weights and/or measures, if the goods have been weighed and/or measured by the warehousing company on the principal's instructions and without prejudice to the provisions of section 19 on the warehousing company's liability.
- 12.3 Packages may only be opened for inspecting their contents at the principal's request, but the warehousing company shall at all times have the right, but not be obliged, thereto if they suspect that the contents have been described incorrectly.



- 12.4 If on inspection it appears that the contents differ from the specification, the cost of inspection shall be for the principal's account. However, the warehousing company shall never be responsible for the description and/or designation of goods taken into custody.

Section 13 **Presenting/delivery and receipt**

- 13.1 Presenting to and receipt by the warehousing company shall be made by the principal's presenting the goods and their acceptance by the warehousing company at the place of warehousing.
- 13.2 Delivery to and receipt by the principal shall be made by the warehousing company's delivery of the goods and their acceptance by the principal at the place of warehousing.

Section 14 **Condition of the goods on arrival**

- 14.1 Unless otherwise stated, goods shall be delivered to the warehousing company in good condition and if packed, properly packed.
- 14.2 If the goods sent to the warehousing company arrive in apparent damaged or defective condition, the warehousing company shall have the right, but not be obliged, to protect the principal's interests against the carrier or others for the principal's account and risk, and to provide evidence of such condition, however, without the principal being able to derive any right against the warehousing company from the manner in which the warehousing company have performed such work. The warehousing company shall notify the principal instantly, without the latter having any right of claim against the warehousing company because of failure to notify.
- 14.3 Goods received for warehousing, which a conscientious warehousing company, had it known they might be dangerous after receipt, would not have accepted for warehousing in view of this, may at any moment be removed or destroyed or rendered harmless in another manner by them.
- 14.4 With regard to the warehousing of goods of which the warehousing company knew their danger, the same shall apply, but only when such goods present an immediately imminent danger.
- 14.5 The warehousing company shall not owe any indemnification in such matter and the principal shall be liable for all costs and damages to the warehousing company resulting from the presentation for warehousing, from the warehousing itself or from the measures taken, unless such costs and damages or the need for taking such measures are exclusively due to faults on the part of the warehousing company.
- 14.6 As a result of the measures taken the agreement on the goods stated therein shall cease, but if such goods are delivered as yet, only after their delivery.

Section 15 **Commencement of execution of order for warehousing**

Unless agreed otherwise or prevented by special circumstances, the warehousing company shall as soon as possible after accepting the order and on receipt of the required documents, particulars and handling instructions, commence the execution of accepted orders for warehousing or delivery of goods.

Section 16 **Late or irregular delivery or removal**

If the principal has advised the warehousing company that goods are to be presented for warehousing in a particular quantity and/or at a specified time, or that goods to be removed are to be collected in a particular quantity and/or at a specified time, and if in such case the principal fails to present or collect in time and regularly, the principal shall be obliged to pay the costs resulting for the warehousing company, because workers and equipment ordered and/or assigned by the warehousing company for executing the relevant order are not or not fully employed.

Section 17 **Working hours**

Presenting goods to and removal of goods from the place of warehousing shall be made during the official working hours of the warehousing company's staff. If the principal desires work to be done outside the official working hours, it is in the warehousing company's discretion to comply or not. Extra costs incurred for working outside the official working hours, shall be borne by the principal.

Section 18 **Place of warehousing, transfer of goods**

- 18.1 Unless otherwise agreed, it shall be in the warehousing company's discretion where the goods are to be stored.
- 18.2 The warehousing company shall at all times have the right to transfer the goods to another place of warehousing.
- 18.3 The cost of such transfer shall be for the warehousing company's account, unless such transfer is to be made:
 - in the interest of the principal or the goods, or
 - due to circumstances for which the warehousing company is not responsible, or
 - due to circumstances that cannot reasonably be for the warehousing company's account and risk, or
 - due to government rules and regulations.

The transport related to the transfer for the warehousing company's account, shall take place on the customary transport conditions.

The transport related to the transfer for the principal's account, shall be undertaken by the warehousing company as forwarding agent and shall be made at the principal's risk.



- 18.4 If the goods are transferred to another place of warehousing, the warehousing company shall notify the principal, without the latter being able to make any claim against the warehousing company for failing to notify.

Section 19 **Damage/loss of goods**

- 19.1 Under the present warehousing conditions the principal renounces any right of recovery against third parties in case of damage and/or loss; he shall exclusively be able to hold the warehousing company liable, even if the warehousing company has employed the services of third parties in the course of their business, all of which with the following limitation.
- 19.2 All activities and work shall be performed for the principal's account and risk, unless provided otherwise herein.
- 19.3 The warehousing company shall not be liable for any damage, unless the principal proves that the damage was caused by faults or negligence of the warehousing company or its staff.
- 19.4 In case of damage and/or loss because of theft by means of burglary, the warehousing company shall be considered to have applied adequate care, if it has provided proper closure of the place of warehousing.
- 19.5 In the case of goods stored on open grounds or which can only be stored on open grounds or of which it is customary for the warehousing company to store them on open grounds, any liability of the warehousing company for damage that may be related to such warehousing, shall be excluded.
- 19.6 The warehousing company's liability in all cases shall be limited to 2 SDRs per kilogram damaged or lost gross weight with a maximum of 100,000 SDRs per event or series of events with the same cause of damage.
- 19.7 The damage to be compensated by the warehousing company shall never exceed the invoice value of the goods, to be proved by the principal, in the absence of which their market value, to be proved by the principal, at the time the damage was done, shall apply. The warehousing company shall only be liable for damage to the goods themselves and for damage in terms of subsection 19.9 and shall never be liable for lost profits, consequential damage and immaterial damage.
- 19.8 In case of damage to an independent part of the goods, or in case of damage to one or more parts of several goods belonging together, any depreciation of the remaining parts or the undamaged goods shall not be considered.
- 19.9 The warehousing company's liability for damage resulting from complying with (customs) formalities shall be limited to 7500 SDRs per event or series of events with one and the same cause of damage.

Section 20 **Admittance to the premises**

- 20.1** The warehousing company shall be obliged to admit the principal and the persons designated by him, for the principal's account and risk, to the place where his goods are stored, subject to the compliance with the customs and other formalities prescribed by the authorities.
- 20.2** To the persons to whom the warehousing company grants admittance the following conditions shall apply:
- a. all persons visiting the place of warehousing including the crew of vessels and vehicles arriving at the place of warehousing, shall observe the warehousing company's regulations;
 - b. admittance shall be granted only during regular working hours and under escort;
 - c. the cost of escorting visitors shall be paid to the warehousing company by the principal;
 - d. the principal shall be liable for any damage caused directly or indirectly by the visitors.
- 20.3** The principal shall indemnify the warehousing company against third party claims, including both the warehousing company's and the principal's employees, relating to damage resulting from the preceding subsections.

Section 21 **Performance of activities**

- 21.1** The performance of the work required by the principal, such as sampling, handling, servicing, repacking, restacking, lotting, weighing, etc., as well as delivery, shall be entrusted to the warehousing company having the goods in custody, at the appropriate fees and on the appropriate conditions.
- 21.2** Any work the warehousing company does not wish to undertake may, with the warehousing company's consent, be executed by or on behalf of the principal, subject to the conditions made by the warehousing company, under the supervision of the warehousing company and against payment of the costs involved, however without any liability of the warehousing company.

Section 22 **Special method of handling goods**

- 22.1** The warehousing company shall not be obliged to take any measures in respect of the goods received into custody or their packing, than such measures as are considered normal for the custody of the goods concerned.



- 22.2 The warehousing company shall only be obliged to take special measures if they have been agreed.
- 22.3 However, the warehousing company shall have the right to take immediate action at the principal's cost and risk, including the clearance or removal or destruction or rendering harmless in any other manner, if it is feared that failure to take such action may cause loss and/or damage to the goods themselves or to other goods, or to the warehousing or to equipment, or injury to persons, or when measures are required or indicated for some other reason, such in the warehousing company's discretion. The warehousing company shall immediately inform the principal of the measures taken, without the latter having any right of claim against the warehousing company because of failure to meet such obligation.
- 22.4 Without prejudice to the provisions of the preceding subsection, the principal shall indemnify the warehousing company against any third party claims for damage caused by the principal's goods to goods pertaining to third parties.

Section 23 **Insurance of goods**

- 23.1 Unless expressly agreed with the principal in writing the warehousing company shall not be obliged to effect any insurance for goods.

If it has been agreed between the warehousing company and the principal that the warehousing company is to effect insurance of the goods for the principal's account, the warehousing company shall have the right in their discretion to effect the agreed insurance in the principal's name, or to include such insurance in a warehouse policy.

The value to be insured shall be the amount stated by the principal. The warehousing company shall in all cases of insurance exclusively be regarded as intermediary without any liability, nor for the terms and conditions agreed with the insurer(s) or for their reliability or their solvency

- 23.2 In all cases where the goods have been insured through the intermediary of the warehousing company, the warehousing company shall have the right to collect the amounts claimed for and on behalf of the parties interested in the goods and to recover therefrom all their claims, for whatever reason, on the principal.

The balance shall be paid to the principal.

- 23.3** If in case of damage to or loss of goods by fire or by any other cause, the assistance of the warehousing company for assessing the damage or loss is desirable or necessary, such assistance shall be rendered by the warehousing company against payment of the costs involved and of a fee for their efforts. The warehousing company may make such assistance contingent on the cash payment of, or the provision of security for all amounts owing to the warehousing company by the principal for whatever reason and the costs and fee referred to in this subsection.
- 23.4** In case of partial delivery of the goods by the warehousing company, the principal shall inform the warehousing company for what amount he wishes to have the remaining goods insured.

In the absence of such information the warehousing company shall have the right to reduce the insured amount in their own discretion in the same proportion as the decrease in the number, weight, measure or contents of the goods.

Section 24 **Charging warehouse rent in case of destruction of goods**

In case the goods stored with the warehousing company are destroyed by fire or otherwise, the day of destruction shall count as the date of delivery and the warehouse rent plus - if the goods were insured through the warehousing company - insurance premium and costs calculated in full monthly periods, shall be due and payable up to and including such date.

Section 25 **Removal of goods**

- 25.1** The principal may, upon payment of all amounts due to the warehousing company (in the widest sense) and subject to the provisions hereof, at any time remove the goods placed in custody.
- 25.2** The warehouse rent - and if the goods were insured through the warehousing company, the insurance premiums and costs - shall always be charged in full months, part of a month counting as a full month.
- 25.3** If a fixed period of warehousing has been agreed, the warehousing company cannot require the principal to remove the goods prior to the expiration of the agreed period of time.
- 25.4** If no period of warehousing has been agreed or if the agreed period of warehousing has expired, the warehousing company may require the removal at one month's notice, however not within three months of the commencement of warehousing.

- 25.5 In case of force majeure the agreement shall remain in force; however, the warehousing company's obligations shall be suspended for the duration of the force majeure. All extra costs caused by force majeure shall be for the principal's account. Force majeure shall be all circumstances the warehousing company has reasonably been unable to avoid and whose consequences the warehousing company has reasonably been unable to prevent.

Section 26 **Premature removal of goods for urgent reasons**

- 26.1 However, the warehousing company shall at all times have the right to require the removal of the goods received for warehousing prior to the expiration of the warehouse period without observing any period of notice, if there is an urgent reason therefor.
- 26.2 Urgent reason shall be understood to be a circumstance of such nature that according to rules of reasonableness and fairness the principal cannot expect the warehousing to be maintained.
- 26.3 Such reason shall be deemed to exist inter alia if the principal fails to comply with one or more other provisions hereof, or if it appears that owing to the presence of the goods the hazard of loss and/or damage to other goods or the warehouse place or to equipment, or injury to persons is to be feared, and furthermore if the goods are perishable or liable to inherent changes which in the warehousing company's opinion justify the assumption of deterioration and the principal has neglected to give instructions for preventing or controlling it.
- 26.4 The principal shall remain under obligation to pay the warehouse rent up to the day of removal of the goods.

Section 27 **Payment**

- 27.1 All amounts owing to the warehousing company by the principal for whatever reason, such as: warehouse rent, insurance premiums and costs, rent, disbursements, fees for warehousing and delivery, outlays and charges for work done or to be done, cost of cleaning work and such like during or after a fire or otherwise, extraordinary expenses, extra wages, taxes, duties, levies, fines, interest etc., shall be immediately due and payable. If the warehousing company applies a term of payment, the said amounts shall be immediately due and payable on expiry of the term of payment.
- 27.2 Without prejudice to the provisions of the preceding subsection the principal shall always pay the warehouse rent due promptly within the term agreed between the parties, but at least once in 12 months.



- 27.3 If the principal does not immediately pay the amounts due to the warehousing company, the warehousing company shall have the right to charge the legal interest.
- 27.4 Payments on account shall be regarded to have been made in the first place in reduction of ordinary debts, regardless of whether other instructions were given on payment.
- 27.5 If in case of overdue payment the debt is collected by judicial or other action, the amount of the debt shall be increased by 10% administrative costs, while the judicial and extrajudicial costs shall be for the principal's account, up to the amount paid or due by the warehousing company.

Section 28 **Lien and right of retention**

- 28.1 The warehousing company shall have a lien and a right of retention towards anyone requesting delivery thereof, on all goods, documents and monies the warehousing company holds or will hold for whatever reason and for whatever purpose, for all claims it has or may have in future on the principal and/or owner.
- 28.2 The warehousing company may also exercise the rights awarded to it in subsection 28.1 for all amounts the principal still owes the warehousing company in connection with earlier orders.
- 28.3 The warehousing company shall regard anyone who, on behalf of the principal entrusts goods to him for performing work, as the principal's agent for creating a lien and a right of retention on such goods.
- 28.4 In case of non-payment of the claim, the sale of the security shall take place in the manner prescribed by law, or - if there is consensus thereon - privately.

Section 29 **Public sale**

- 29.1 Without prejudice to the provisions of section 28 hereof, the warehousing company shall have the right to sell the goods entrusted to the warehousing company, or to have them sold, without observing any formality, in the place and in the manner and on the conditions the warehousing company may see fit, publicly or in any other manner the law may permit, at the expense of the principal and to recover from the proceeds all amounts the principal owes the warehousing company, in case the principal fails to remove the goods entrusted to the warehousing company on expiry of the agreement or at the agreed or specified time or at any other point of time in case of one of the urgent reasons mentioned in section 26 hereof.



- 29.2 If it is probable that in case of sale the cost will be higher than the benefits or if no buyer is found despite a reasonable attempt thereto, the warehousing company shall have the right to remove the goods, to have them removed or to destroy them. The principal shall then remain liable for the amounts due, increased by the cost of removal or destruction.
- 29.3 In case of sale the warehousing company shall hold the balance of the proceeds after deducting all costs and all the principal's debts, at the principal's disposal for five years, after which period the balance, if not claimed, shall accrue to the warehousing company.

Section 30 **Prescription and extinction**

- 30.1 Every claim shall become prescribed by the simple lapse of 12 months.
- 30.2 All claims against the warehousing company shall become extinct by the simple lapse of 2 years.
- 30.3 In case of total loss, damage or reduction, the periods mentioned in subsections 30.1 and 30.2 shall commence on the first of the following days:
- the day the warehousing company delivered or should have delivered the goods;
 - the day the warehousing company informed the principal of such event.
- 30.4 In case the warehousing company is held liable by third parties, including any government, the period mentioned in subsection 30.1 shall commence on the first of the following days:
- the day the warehousing is held liable by the third party, or
 - the day the warehousing company paid the claim against i
- 30.5 Notwithstanding the provisions of subsections 30.3 and 30.4, the periods mentioned in subsections 30.1 and 30.2 for all other claims shall commence on the day they become due and payable.

Section 31 **Complaints**

- 31.1 If the goods are made available by the warehousing company without the principal or someone else for him having established their condition in the presence of the warehousing company or without having informed the warehousing company of reserves, in case of visible loss or damage not later than the moment the goods were made available, or in case of invisible loss or damage within five working days of the availability, indicating the general nature of the loss or damage, he shall be considered to have received the goods in good condition, unless the contrary is proved. In case of invisible loss or damage, the said reserves shall be made in writing.



31.2 The day the goods are made available shall not be counted in the determination of the above periods.

Section 32 **Transfer or transition of goods**

32.1 Transfer or transition of ownership of stored goods, or the transfer or transition of the right to delivery thereof by a principal to a third party, shall be ineffectual against the warehousing company and without legal effect for the warehousing company, nor shall the warehousing company recognize such transfer or transition, unless all claims the warehousing company may have on the original and/or transferring principal for whatever reason, have been fully paid.

32.2 The principal shall be obliged to inform the warehousing company instantly in writing of any transfer or transition of ownership of goods, or transfer or transition of the right to delivery of goods.

32.3 Notwithstanding the provisions above the transfer or transition shall have no legal effect for the warehousing company, nor shall the warehousing company recognize them, unless the new owner(s) has(have) explicitly accepted in writing all provisions of the agreement between the warehousing company and the original and/or transferring principal as well as the present conditions.

32.4 The warehousing company shall not be required to recognize the transfer or transition of ownership or the right to delivery of the goods and shall even have the right to revoke a recognition made, and they may refuse to deliver the goods, if in the warehousing company's opinion there are flaws in the legal title regarding any transfer or transition of ownership of goods, or any transfer or transition of the right to delivery of goods, and if the new owner(s) claim(s) not to have accepted the present conditions or not to be committed thereto.

32.5 The original and/or transferring principal shall remain liable to the warehousing company for all the warehousing company's claims for or in connection with the warehousing and/or work performed in connection with such goods, even though they were performed after the transfer or transition of ownership, or after transfer or transition of the right to delivery.

After transfer or transition of ownership, or the right to delivery of the goods, the new owner shall be regarded as the principal and shall, in addition to his legal predecessor, be severally liable for all the above claims, even though they may have arisen prior to the transfer or transition.

Section 33 **Issue of receipts**

- 33.1 The warehousing company may issue to the principal at his request a receipt, describing the goods given into custody to the warehousing company by the principal.
- 33.2 The warehousing company shall have the right to refuse to issue a receipt, if the principal has not paid all claims the warehousing company may have on him for whatever reason.

The warehousing company may furthermore refuse to issue a receipt if they believe there are reasons therefor.

- 33.3 On the issue of a bearer receipt all the warehousing company's obligations towards the principal shall cease and shall be replaced by the warehousing company's obligations towards the receipt holder, which is regulated in more detail in Chapter II hereof. The principal shall, even after the issue of the receipt, remain liable towards to warehousing company for the effects of any discrepancy between the goods for which the receipt was issued and their description in the receipt.

Section 34 **Applicable provisions**

The legal relations between warehousing companies and receipt holders shall also be subject to the provisions of Chapter I, unless the provisions of Chapter II require that a provision of Chapter I may not be applied.

Section 35 **Right to delivery of goods**

- 35.1 The receipt awards a right to delivery by the warehousing company of the goods they have received for warehousing and against which the receipt has been issued. For any discrepancy between the stored goods and their description in the receipt, the warehousing company shall be liable towards the receipt holder who was unaware of the existence of the discrepancy when acquiring the receipt, unless it concerns goods whose identification requires expert knowledge and/or a thorough examination or analysis.
- 35.2 If the receipt contains the clause:

"Contents, quality, number, weight or measure unknown"

or a similar clause, the warehousing company shall not be bound by any statement in the receipt regarding the contents, the quality and the number, the weight or the measure of the goods.



35.3 The right to delivery shall not exist as long as the warehousing company can lay any claim on the goods under the present conditions and until all customs and other formalities prescribed by the authorities and required for the delivery, have been fulfilled.

Section 36 **Expiry of the receipt**

36.1 The receipt shall be valid for three years, as from the date of issue, unless a shorter period of validity is stated in the receipt.

36.2 Until its expiry the receipt may be replaced at the receipt holder's request by a new receipt, against payment of the costs involved. The warehousing company shall have the right to refuse to replace the receipt and to require the removal of the goods on the expiry date.

36.3 If on its expiry date the receipt has not been presented for replacement, or if after refusal to replace the receipt the goods have not been removed from the warehousing company on the expiry date, the holder of the expired receipt shall be considered to agree to the warehouse rent - and if the goods have been insured through the warehousing company, the insurance premium and costs - as shall be determined by the warehousing company as from such date.

36.4 If on its expiry date the receipt has not been presented for replacement, or if after refusal to replace the receipt the goods have not been removed from the warehousing company on the expiry date against payment of the amount the warehousing company is entitled to under section 36 hereof, the warehousing company shall have the right to dispose of the goods to which the expired receipt refers, subject to the relevant provisions hereof.

36.5 For a period of five years after the expiry date of the receipt the warehousing company shall be obliged to deliver the goods to which the expired receipt refers - or if the warehousing company has exercised its right to dispose of the goods, the net proceeds of the goods, without payment of interest - to the holder of the expired receipt, after deducting all amounts due to the warehousing company. On expiry of these five years the rights of the holder of the expired receipt shall cease and the warehousing company shall no longer be required to deliver the goods - or to account for their proceeds - neither to the holder of the expired receipt, nor to others.

Section 37 **Delivery of goods after payment**

37.1 The warehousing company shall, prior to effecting full or partial delivery of the goods to which the receipt gives title, have the right to demand payment of:

- a. warehouse rent for so many months as appears from the receipt to have elapsed, and have not been noted therein as having been paid prior to delivery, at the monthly rent stated in the receipt, parts of months to be counted as full months;
- b. insurance premiums and costs for so many months as appears from the receipt to have elapsed, and have not been noted therein as having been paid prior to delivery, at the monthly insurance premium stated in the receipt, parts of months to be counted as full months;
- c. the charges for delivering the goods at the current rate therefor;
- d. disbursements made by the warehousing company on behalf of the receipt holder requesting delivery, in connection with customs and/or other formalities prescribed by the authorities in respect of the goods described in the receipt;
- e. all costs incurred by the warehousing company after the date of issue mentioned in the receipt:
 - e.1 for preserving the goods mentioned in the receipt;
 - e.2 for eliminating any dangers caused by the goods mentioned in the receipt to the place of warehouse and to other goods stored therein;
 - e.3 for measures taken in respect of the goods mentioned in the receipt as a result of circumstances for which the warehousing company cannot be held responsible.
- f. all other amounts due to the warehousing company apparent from the receipt.

37.2 Notwithstanding the provisions of the preceding subsection the receipt holder shall be obliged to pay the warehouse rent due - and if the goods have been insured through the warehousing company, the insurance premium and costs - at the end of each 12 months of warehousing or so much earlier as has been agreed and stated in the receipt plus the costs incurred by the warehousing company referred to in paragraphs d. and e. above, as soon as the warehousing company has informed him of such costs.

- 37.3** If the receipt holder fails to meet his obligation to pay the rent after each 12 monthly period or so much earlier as has been agreed and stated in the receipt - and if the goods have been insured through the warehousing company, the insurance premium and costs - the amounts due to the warehousing company for this reason shall be increased, as from the day the 12 months warehousing elapsed, by a penalty of 1% of the amount due for each month in excess of the 12 month period.

Section 38 **Indemnification**

The receipt shall be valid for three years, as from the date of issue, unless a shorter period of validity is stated in the receipt.

Section 39 **Access to and information about goods**

Access to and information about goods for which receipts have been issued shall only be given on production of the relevant receipt.

Section 40 **Activities in connection with the goods**

- 40.1** The activities required by the receipt holder in relation to the goods described in the receipt, such as sampling, handling, servicing, repacking, restacking, lotting, weighing, etc., as well as delivery, shall be entrusted to the warehousing company having the goods in custody, against the appropriate fees and on the appropriate conditions.
- 40.2** The activities required by the receipt holder shall only be carried out after surrender of the receipt.
- 40.3** Activities the warehousing company does not wish to undertake may, with the warehousing company's consent and after surrender of the receipt, be performed by or on behalf of the receipt holder, subject to conditions made by the warehousing company, under the supervision of the warehousing company and against payment of the costs involved, however without any responsibility of the warehousing company.
- 40.4** Partial deliveries, sampling and handling of the goods causing a modification, decrease or change in the number of the goods shall be noted on the receipt in the proper place. If there is no space left on the receipt for further noting deliveries, modifications, decreases, etc., the receipt shall be replaced at the receipt holder's expense.
- 40.5** Payments due to the warehousing company for work performed in connection with the goods described in the receipt or for supervising such work, shall be paid immediately. The warehousing company shall have the right to refuse to return the receipt until such payments have been made.



Section 41 **Notification of special method of handling**

If the warehousing company decides to take a measure in terms of section 22, the warehousing company shall immediately notify the receipt holder last known to it, without the receipt holder having any right of claim against the warehousing company for omitting such notification.

Section 42 **The warehousing company's obligation to insure**

- 42.1 If the receipt shows that the goods therein are insured, the warehousing company shall thereby have undertaken the obligation to effect insurance for the receipt holder's account in accordance with the provisions of section 23.
- 42.2 The insured value shall be the value stated in the receipt.
- 42.3 If the receipt states that the insured value is the current market value, it shall be the warehousing company's responsibility to keep the goods adequately insured.

Section 43 **Changes in, effect and termination of insurance**

- 43.1 Any changes in the insured value and termination of insurance shall only be possible when the receipt is surrendered for being endorsed accordingly.
- 43.2 Only the insurance as stated in the receipt shall be effective.
- 43.3 The insurance shall otherwise cease on delivery of the goods.
- 43.4 On delivery of part of the goods the insured value of the goods to be delivered must be stated separately and endorsed on the receipt, if the receipt does not show the insured value per unit and if a proportionate decrease cannot be inferred from the receipt.

Section 44 **Amounts of claims**

The amounts of claims collected by the warehousing company shall be paid out by the warehousing company against surrender of the receipt, after deducting all amounts due to the warehousing company by the receipt holder.

Section 45 **Notification of destruction of goods**

In case of destruction of the goods described in the receipt by fire or otherwise, the warehousing company shall immediately notify the receipt holder last known to them, without the receipt holder having any right of claim against the warehousing company for omitting such notification.



Section 46 **Mutilation of the receipt**

- 46.1 Any erasures and mutilations shall render the receipt void; deletions shall not be valid unless initialled by the warehousing company.
- 46.2 The holder of a mutilated receipt may request the issue of a duplicate, against surrender of the original receipt and on payment of the costs involved. For determining the nature and quantity of the goods to be shown in the duplicate receipt, the warehousing company's relevant records shall exclusively be regarded as standard.

Section 47 **Loss and destruction of receipts**

- 47.1 If a receipt has been lost or destroyed, the rightful holder may apply to the warehousing company for nullification of such receipt and request delivery of the goods or the issue of a duplicate receipt; such application must, if possible, state the cause for the loss of the receipt and contain the grounds on which the applicant bases his title.
- 47.2 If investigations made by the warehousing company afford no reasons to doubt the truth of the grounds of the application, the warehousing company shall publish the application made by inserting two announcements, at intervals of at least 14 days each time, in at least two daily newspapers designated by the warehousing company, inviting those who believe they have a title to the goods described in the missing receipt, to oppose their delivery or the issue of the duplicate receipt by service of a writ.
- 47.3 If within 14 days of the last announcement no one has opposed the delivery or issue by service of a writ, the warehousing company may nullify the receipt and effect delivery of goods or issue a duplicate receipt to the applicant. For determining the nature and quantity of the goods to be delivered or to be described in the duplicate receipt, the warehousing company's relevant records shall exclusively be regarded as standard. The nullification may immediately thereafter be published in the said newspapers. As a result of such nullification the original receipt shall lose its validity and all the warehousing company's obligations under the original receipt shall cease.
- 47.4 In case of opposition by a third party the application shall not be complied with, until it has appeared from a Court Order or other final and conclusive ruling or award that the applicant is the person entitled to the goods.
- 47.5 The person obtaining delivery of the goods described in a duplicate receipt, shall indemnify the warehousing company against all claims resulting from such delivery. The warehousing company may require security for this purpose.
- 47.6 Any costs in the widest sense, incurred by the warehousing company as a result of the application, shall be borne by the applicant. The warehousing company shall have the right to require an advance of money to be made before considering the application.

Section 48 **Expiration of the validity of the receipt**

- 48.1 If on expiry of the validity of the receipt the warehousing company no longer wishes to keep the goods in warehousing, they shall summon the last known receipt holder to remove the goods.
- 48.2 If the receipt holder fails to comply with the summons within 14 days, or if he is no longer in possession of the expired receipt, and does not indicate the holder of the expired receipt within 14 days, nor does the holder of the expired receipt present himself within such period, the warehousing company shall have the right to sell the goods covered by the expired receipt.
- 48.3 Prior to taking such action, the warehousing company shall publish it's intention to sell goods for which an expired receipt is in circulation by inserting two announcements at intervals of at least 14 days in at least two daily newspapers each time, at least one of which appearing in the place where the warehousing company has it's registered office, requesting the holder of the expired receipt to meet his obligations as yet, or notifying any persons having acquired the expired receipt.
- 48.4 If 14 days after the last announcement the receipt holder has not presented himself, or if he has presented himself but no agreement has been reached on the removal of the goods, the warehousing company shall be at liberty to sell the goods immediately.

The sale shall take place in accordance with the provisions of section 29.

Section 49 **Commencement of period of extinction**

The period of prescription and extinction as referred to in section 30 shall, in case of total loss, commence at the end of the day on which the warehousing company informs the last known receipt holder of such loss or if he is no longer in possession of the receipt and no subsequent receipt holder has presented himself to the warehousing company, a week after the announcement of such loss in two daily newspapers, at least one of which appearing in the place where the warehousing company have their registered office.

Section 50 **Application of the provisions of this chapter**

- 50.1 The provisions of this Chapter II shall exclusively apply to the legal relationship between the warehousing company and the receipt holder as such.
- 50.2 The moment the receipt holder for whatever reason surrenders the receipt to the warehousing company the provisions of the present Chapter II shall cease to apply. As from such moment the provisions of Chapter I, regulating the legal relationship between the warehousing company and the principal, shall apply provided always that the warehousing company may enforce all their rights under the receipt.

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General Terms and Conditions of the Rotterdam Terminal Operators' Association (VRTO)

GDPR	the General Data Protection Regulation
EDI	(Electronic Data Interchange) the electronic exchange of structured and standardised messaging between information systems
Client	the Terminal Operator's counterparty
Damage	any damage, loss, financial disadvantage, third-party claims, fines and/or costs, however this arises, of whatever nature and however this is named
SDR	Special Drawing Right, a unit of account defined by the International Monetary Fund
Terminal	all land, buildings and bodies of water on which the Terminal Operator is located or at which it carries out its Work, including adjacent or non-adjacent quays, railways, crane tracks, roads and waterways
Terminal Operator	the user of the General Terms and Conditions
Means of transport	a structure that is intended to transport items and/or persons irrespective of whether this structure can drive itself or not
General Terms and Conditions	the general terms and conditions of the Rotterdam Terminal Operators' Association (VRTO)
Work	all actual and legal acts of the Terminal Operator that, in the broadest sense, relate to the loading and unloading of Means of Transport, including logistics services such as, but not limited to, the acceptance, temporary storage, transfer, weighing, repackaging, checking and/or delivery of goods, or having goods checked and/or delivered (which goods for the purposes of these general terms and conditions also includes live animals), carrying out forwarding work and the use of crane vessels or other types of cranes

Article 2 **Applicability**

- 2.1 GENERAL TERMS AND CONDITIONS USED BY THE CLIENT ARE EXPRESSLY REJECTED.**
- 2.2 The General Terms and Conditions apply to all legal transactions of the Terminal Operator under which the Work is performed, regardless of whether this takes place under contract, on another basis, for payment or not. Where mandatory law provisions apply to (parts of) the Work, only those provisions from the relevant regulations will apply that cannot be derogated from by agreement, otherwise the General Terms and Conditions provisions will apply.
- 2.3 The Client permits the Terminal Operator to engage third parties in the context of the Work or other activities and to accept the general or other terms and conditions of those third parties. The Client agrees that these terms and conditions apply to the Client.
- 2.4 In the event of a contradiction between the General Terms and Conditions and the terms and conditions as referred to in Article 2.3, the provision most favourable by law to the Terminal Operator shall be applied.
- 2.5 The Terminal operator is also entitled to invoke standard port operations.

Article 3 **Quotations, rates, payment, suspension, security, etc.**

- 3.1 All offers made by the Terminal Operator are non-binding until an agreement has been concluded. An agreement is concluded by written confirmation from the Terminal Operator or by the Terminal Operator starting to implement the Work.
- 3.2 The Terminal Operator is entitled to make reasonable adjustments to already accepted rates if cost increasing factors that are beyond the Terminal Operator's control occur after concluding the agreement. Examples (not exhaustive) include government and other safety, quality, environment and taxation measures, and labour and energy market developments that had not yet been taken into account at the time the legal transaction with the Terminal Operator was concluded.
- 3.3 If, in the Terminal Operator's reasonable judgement, circumstances have changed after the conclusion of the agreement to such an extent that the Terminal Operator cannot reasonably be required to carry out or continue to carry out the Work even at the rates adjusted in accordance with article 3.2, the Terminal Operator is entitled to dissolve the agreement insofar as this concerns Work not yet carried out without becoming liable for compensation as a result.
- 3.4 The Client must pay all the Terminal Operator's invoices within the set payment term, and within 30 days at the latest, without any deduction or set-off. Contestation of an invoice does not suspend the obligation to pay the invoice.

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- 3.4 The Client must pay all the Terminal Operator's invoices within the set payment term, and within 30 days at the latest, without any deduction or set-off. Contestation of an invoice does not suspend the obligation to pay the invoice.
- 3.5 In the event of a dispute regarding the amount owed by the Client to the Terminal Operator based on the Work carried out, the documentation to be submitted by the Terminal Operator shall, unless there is evidence to the contrary, constitute full proof of the nature, content and extent of the Work carried out. The Terminal Operator's documentation prevails over documentation prepared by the Client or third parties.
- 3.6 In the event of non-timely payment of any claim from the Terminal Operator, the Client shall owe statutory commercial interest on this claimed amount pursuant to Article 119a of the Dutch Civil Code, starting from the due date until the date the payment is made in full.
- 3.7 The Terminal Operator is at all times entitled to demand an advance payment, prepayment, interim payment or, in its opinion, proper security from the Client for everything that the Terminal Operator may or shall be able to claim from the Client. If the Client fails to promptly comply with a request to that effect, the Terminal Operator is entitled to refuse, suspend, interrupt or terminate the Work without warning, notice of default or judicial intervention. The same applies if the Client fails to fulfil any other obligation towards the Terminal Operator. The Terminal Operator shall never be liable for any resulting Damage.
- 3.8 All the Terminal Operator's claims are due and payable immediately if and whenever the Client or its representative applies for suspension of payments or bankruptcy, is declared bankrupt, initiates WHOA proceedings, ceases all or part of its activities or transfers them to third parties, or loses control of all or part of its assets through seizure or similar measures. In such cases, the Terminal Operator is also entitled to terminate the legal transaction with the Client with immediate effect, without prejudice to the Terminal Operator's right to damages.



- 3.9 If, in the Terminal Operator's reasonable judgement, circumstances have changed after the conclusion of the agreement to such an extent that the Terminal Operator cannot reasonably be required to carry out or continue to carry out the Work even at the rates adjusted in accordance with article 3.2, the Terminal Operator is entitled to dissolve the agreement insofar as this concerns Work not yet carried out without becoming liable for compensation as a result.
- 3.10 Payment to the Terminal Operator should be made in the manner specified by the Terminal Operator. Payment to a representative of the Client does not release the Client of its obligation to pay.
- 3.11 Payment by the Client to the Terminal Operator is in the first instance used to reduce the costs, then to reduce the interest due and finally to reduce that part of the principal amount and the current interest designated by the Terminal Operator, notwithstanding the Client's indication to do otherwise.
- 3.12 If the Client fails to pay the Terminal Operator's claim(s) in time, the amount of the claim(s) shall be increased by at least 10% administrative costs to cover collection by judicial or other means, unless such costs turn out to be higher. If such costs do turn out to be higher, the Terminal Operator is also entitled to claim the extra amount.



Article 4 **General provisions relating to the Work**

- 4.1 The Terminal Operator is entitled to have all or part of the Work carried out by third parties, with the help of personnel and equipment procured from third parties for that purpose and, at the discretion of the Terminal Operator, using loading and unloading equipment and/or the Means of Transport's drive power that are made available free of charge by the Client.
- 4.2 The Terminal Operator and the Client shall each, as far as it applies to them, ensure that all necessary permits are obtained and maintained and that all applicable regulations are complied with. They guarantee that their employees, assistants and subcontractors fulfil these obligations.
- 4.3 All information provided by the Terminal Operator, such as the availability of berths and the time of performing the Work, is non-binding.
- 4.4 The Terminal Operator shall exercise all necessary care with respect to the equipment it makes available when implementing the Work. If the Client makes equipment available, it guarantees the soundness and suitability of this equipment.
- 4.5 The Client must set up the Means of Transport and the goods to be loaded onto/into this or unloaded from/out of this at its own expense and risk, so that the Terminal Operator can carry out the Work safely, responsibly and without delay.
- 4.6 In the event of refusal, suspension, interruption or termination of the Work, the Client must have the Means of Transport and equipment connected to this removed from the Terminal upon the Terminal Operator's first request, failing which the Terminal Operator is entitled to take appropriate measures to remove the above-mentioned Means of Transport and equipment at the expense and risk of the Client.
- 4.7 The Work does not include any inspection or insurance of the equipment unless expressly agreed in writing. The Terminal Operator is nevertheless entitled to inspect the equipment at any time. The costs of the inspection and insurance are for the Client's account.
- 4.8 The Client guarantees seaworthy packaging or packaging sufficient for the mode of transport concerned (which also includes containers in which the goods are stowed) and clearly legible labelling of the goods in accordance with applicable safety, environmental and other regulations and, in the absence thereof, in accordance with the standards that apply according to commonly accepted practice.



- 4.9 The Client must inform the Terminal Operator in writing in good time before the start of Work of any special or hazardous nature, size and handling of the goods as well as, in general, provide the Terminal Operator with all instructions and information in good time that the Client knows or ought to have known that the Terminal Operator needs in order to carry out the Work safely, responsibly and without delay. Additional work required in relation to the Client's failure to comply with the above shall be borne by the Client.
- 4.10 The Client guarantees that anyone who enters the Terminal from the water or shore in the context of the Work for or on behalf of the Client shall comply strictly with the safety and other regulations that apply at the Terminal. The Terminal Operator is entitled to refuse or have removed from the Terminal any person who fails or threatens to fail to comply with these regulations or is otherwise undesirable in the opinion of the Terminal Operator. The Client also guarantees that all those entering the Terminal for or on behalf of the Client in the context of the Work have accepted the provisions and liability provisions of these General Terms and Conditions. The Client indemnifies the Terminal Operator from claims by these persons and their employer or assignees in connection with their presence at the Terminal.
- 4.11 The Client shall include a third-party clause in its legal transactions with third parties in favour of the Terminal Operator, which the Terminal Operator accepts in advance. This includes clauses such as a so-called Himalaya clause, on the basis of which the Terminal Operator and its subordinates or assistants have the right (also) to invoke jurisdiction clauses and all liability limitations and exclusions available to the Client, including a before-and-after clause, for Damage, loss and/or delay of the goods transported or to be transported by the Client.

Article 5 **Electronic exchange of messages**

- 5.1 Exchange of messages between the Client and the Terminal Operator can take place via EDI if agreed in writing.
- 5.2 If message exchange via EDI is agreed, this should take place in accordance with internationally applicable messaging standards and recommendations.



Article 6 **Liability and indemnification**

A. The Terminal Operator

- 6.1 The Work takes place at the expense and risk of the Client.
- 6.2 The Terminal Operator is not liable towards the Client and/or third parties for any Damage unless the Client proves that the Damage, measured by objective standards, was caused by wilful intent, gross culpability or gross negligence of the Terminal Operator itself or of persons in charge of the management of the company.
- 6.3 The Terminal Operator's period of liability does not start earlier than the point at which the goods are in or at the Terminal Operator's unloading installation or unloading equipment and ends at the latest at the point at which the goods are loaded onto the Client's Means of Transport.
- 6.4 The Terminal Operator is never liable for any damages other than material damage to property and personal injury such as, but not limited to, lost profits, lost savings, reduced goodwill, production loss, penalties, lost time, off-hire, delay, costs or any other form of non-material, indirect and/or consequential damage.
- 6.5 The Terminal Operator is released from any liability unless the Client notifies the Terminal Operator of the Damage in writing no later than the time at which the Means of Transport, goods or persons leave the Terminal. If the Damage was not visible at that time, the Client must notify the Terminal Operator in writing, under penalty of forfeiture of claims, within four weeks after the Client has become aware of the Damage. In the event of timely reported Damage, any claim against the Terminal Operator shall lapse nine (9) months from the time the goods or persons left the Terminal, or from the occurrence of that claim, whichever is earlier, and shall expires twelve (12) months from the time the goods or persons left the Terminal, or from the occurrence of that claim, whichever is earlier. Written notice is understood to mean a registered letter or registered e-mail.
- 6.6 The Terminal Operator shall never be liable for claims of less than €500 (in words: five hundred euros). The Terminal Operator's liability in all cases is limited to 2 SDR per kilogram of damaged or lost gross weight to a maximum of 100,000 SDR per event or series of events with one and the same cause of damage.
- 6.7 The Terminal Operator shall endeavour to take the necessary measures to limit the risk of stowaways or other unwanted access of persons to the Client's Means of Transport. In the event that stowaways or other unwanted persons are nevertheless found in the Client's Means of Transport, the Terminal Operator is not liable for any resulting Damage.

- 6.8 The Client indemnifies the Terminal Operator at first request against all claims or demands from third parties in connection with the Work, except in the case of intent or gross negligence on the part of the Terminal Operator itself.
- 6.9 All limitations and exclusions of liability in the General Terms and Conditions in favour of the Terminal Operator also apply to its employees, independent assistants and subcontractors.

B. The Client

- 6.10 In addition to its liability under common law, the Client is also liable for all claims, however these are named, in respect of customs or similar duties and taxes, fines, (negative) costs and interest, including import duties, excise duties and costs of disposal and destruction relating to or connected with goods that the Terminal Operator has, has had or will have in its possession by virtue of the Work. The Client shall fully indemnify the Terminal Operator against the above-mentioned claims upon first request as well as, upon first request, provide adequate guarantees in favour of the Terminal Operator or the involved customs authority, including the reasonable costs of defence.
- 6.11 If the Client is liable towards third parties for Damage that the Client wishes to recover from the Terminal Operator, the Client shall give the Terminal Operator the opportunity to be present or to be represented at the investigation into the cause and extent of this Damage. The Client must also prove that it has availed itself of all defences to which it is entitled in its legal transaction with this third party in order to reject or limit liability unless the Terminal Operator has expressly agreed in writing to accept liability by the Client or to a settlement thereof with this third party. If the Client fails to fulfil these obligations, the Terminal Operator shall be released from any liability.
- 6.12 The Client shall take out and maintain appropriate insurance to cover its potential liabilities towards the Terminal Operator. The Client shall allow the Terminal Operator to inspect the policy or policies concerned on request.
- 6.13 The Terminal Operator's failure to exercise or delay in exercising any right under these General Terms and Conditions shall not constitute a waiver of such right. A single or partial exercise of a right under these General Terms and Conditions by the Terminal Operator does not preclude any other or further exercise of this right or of other rights.

Article 7 **Force majeure**

- 7.1 The Terminal Operator is entitled to suspend the Work in the event of force majeure. The Terminal Operator is never liable for the consequences of this.
- 7.2 For the Terminal Operator, force majeure includes:
- strikes or work stoppages, lockouts, go-slow strikes/lightning strikes and all other forms of labour unrest
 - disease, epidemics, quarantines
 - extreme weather or water conditions and natural disasters
 - burglary, fire, explosion and nuclear reaction
 - government measures
 - war, riot, insurrection, terrorism, hostage-taking, sabotage, destruction and similar unrest
 - computer malfunctions and power cuts
 - cybercrime, cyberattacks and other cyber/software related problems
 - hidden defects in the equipment used by the Terminal Operator
 - as well as all circumstances that are not attributable to the fault of the Terminal Operator and that are not for the Terminal Operator's account under the law, legal act or generally accepted practice, and the consequences of which the Terminal Operator could not reasonably have prevented.
- 7.3 In the event of force majeure, the Terminal Operator shall inform the Client in writing as soon as possible and take all reasonable measures to remedy the force majeure situation as soon as possible and limit the consequences thereof.
- 7.4 All extra costs caused by force majeure, such as transport and storage costs, warehouse or site rent, demurrage and standing charges, insurance, removal, etc. are at the expense and risk of the Client and must be paid to the Terminal Operator on first demand.

Article 8 **Applicable law and dispute resolution**

- 8.1 All legal transactions of the Terminal Operator and the interpretation of these shall be governed by Dutch law.
- 8.2 All disputes under or in connection with the above-stated legal transactions are subject to arbitration in Rotterdam in accordance with the UNUM Arbitration Rules. The arbitral tribunal will comprise three arbitrators unless the parties agree on a sole arbitrator. The proceedings will be conducted in Dutch. Each of the parties is obliged to report the request for arbitration and its outcome to the secretariat of the Rotterdam Terminal Operators' Association and to file the decision of the arbitrator there.

- 8.3 Notwithstanding the provisions of the preceding paragraph, the Terminal Operator is entitled to apply to the competent court in Rotterdam for the collection of monetary claims and claims in summary proceedings.

Article 9 **Processing of personal data**

Personal data provided by or on behalf of the Client to the Terminal Operator within the scope and for the execution of the Work shall only be processed by the Terminal Operator in the interests of and in connection with the execution of the Work and in accordance with the applicable laws and regulations, including the GDPR. The agreement between the Client and the Terminal Operator shall detail the safeguards and principles to be observed by the Terminal Operator in this respect.

Article 10 **Citation title and authentic text**

- 10.1 The General Terms and Conditions can be referred to as 'VRTO General Terms and Conditions'. They are deemed to be the most recent version of the General Terms and Conditions of the Association of Rotterdam Stevedores 1976 (Rotterdam Stevedoring Conditions).
- 10.2 In the event of differences between the Dutch text of the General Terms and Conditions and a translation thereof into a foreign language, the Dutch text shall prevail.





AVC

General Transport Conditions 2002

Deposited at the clerk to Amsterdam court (no. 81/2014)
and to Rotterdam court (no. 2/2015).



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In Stichting Vervoeradres, established in 1946, the following bodies work together:
evofenedex, Shippers Association for companies in trade and manufacturing
CBRB, Dutch Central Office for Rhine and Inland Navigation
Koninklijke BLN-Schuttevaer, Dutch Association for Inland Navigation
Transport en Logistiek Nederland, Dutch Association for Transport and Logistics
Goederenvervoer Nederland (Goods Transport, the Netherlands)

The General Transport Conditions 2002 have been deposited at the Griffie (the secretariat) of the Arrondissementsrechtbank (regional court of justice) at Amsterdam and Rotterdam, The Netherlands.

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Article 1 Definitions

In these conditions the following will mean:

1. **Contract of carriage:** the contract by which the carrier undertakes towards the sender to carry goods by road.
2. **Sender:** the contractual other party of the carrier. If a sender is referred to in the consignment note this does not automatically mean that the sender referred to is the contractual other party of the carrier.
3. **Consignee:** the person who by virtue of the contract of carriage is entitled to delivery of the goods by the carrier.
4. **The consignment note:** the document drawn up in three original copies, one of which (evidence of receipt) is destined for the sender, the second (evidence of delivery) being destined for the carrier, and the third being destined for the consignee.
5. **Servants and agents:** employees of the carrier as well as persons whose services the carrier uses for the completion of the contract of carriage.
6. **Force majeure:** circumstances which a diligent carrier is unable to avoid and in so far as a carrier is unable to prevent the consequences thereof.
7. **Loss due to delay:** financial loss arising from delay in delivering goods.
8. **Written or 'in writing':** in writing or electronically.
9. **BW:** Burgerlijk Wetboek (Netherlands Civil Code).
10. **CMR:** Convention on the Contract for the International Carriage of Goods by Road (CMR) (Geneva 1956), as supplemented by the 1978 Protocol.
11. **'Algemene Veerboot- en Beurtvaartcondities'** the Dutch General Ferry Boot and Regular Barge Terms and Conditions), most recent version, as deposited by Stichting Vervoeradres at the registry of the District Courts of Amsterdam and Rotterdam.
12. **General Storage Terms and Conditions:** the General Storage Terms and Conditions, most recent version, as deposited by Stichting Vervoeradres at the registry of the District Courts of Amsterdam and Rotterdam.

Article 2 **Electronic messages**

1. If data, including those relating to the consignment note, are exchanged electronically, parties shall not dispute the admissibility of electronic messages as evidence in the event of a mutual conflict.
2. Electronic messages have the same evidential value as written documents, unless these messages were not sent, saved and registered in the format as agreed on between the parties and in accordance with the security level and manner agreed on by parties.
3. A consignment note drawn up and signed electronically via the TransFollow platform has the same evidential value as the consignment note referred to in section 1. The electronic signature placed via the TransFollow platform is recognised as sufficiently reliable.

Article 3 **Scope of application**

The General Transport Terms and Conditions apply to the contract of carriage of goods by road; if the CMR applies, then the General Transport Terms and Conditions also apply

Article 4 **Obligations of the sender;**

notice of termination of the contract of carriage

1. The sender is required:

- a) concerning the goods and the treatment of same, to timely supply the carrier with all data and information as he is able to or ought to be able to, and of which he knows or ought to know that such data and information are important to the carrier, unless he may assume that the carrier is already aware of this data;
- b) to make the agreed goods available to the carrier at the agreed location and time and in the agreed manner, accompanied by the consignment note as required by article 5 and by any further documents as required by law from the sender;
- c) to clearly and appropriately address each package to be carried and, in so far as reasonably practicable, to affix or append the required information and address to the packages or their packaging in such a manner that under normal circumstances it remains legible until the end of the carriage. The sender may agree in writing with the carrier that addresses on the packages can be substituted by a statement of numbers, letters or other symbols;
- d) to report the total weight of the goods to be carried on the consignment note;
- e) to load and to stow the goods as agreed in or on the vehicle, and to have them unloaded, unless parties agree otherwise, or unless other obligations arise from the nature of the intended carriage, considering the goods to be carried and the vehicle made available.



2. The sender is not allowed to back out of his obligations mentioned in section 1 a, b, c, and d irrespective of the circumstances he may invoke and the sender is required to compensate the carrier for the damage arising from non-compliance with the obligations mentioned.
3. Without prejudice to the provisions of section 2, the carrier may terminate the contract without any notification if the sender does not fulfil his obligations referred to in section 1a and b; however the carrier may only do so after he has set a final deadline for the sender in writing and the sender fails to meet its obligation by the expiry of that deadline. If setting such a deadline would mean that the business operations of the carrier would be unreasonably affected, then the carrier may terminate the contract without granting a deadline as mentioned. The sender may likewise terminate the contract, if he does not fulfil his obligation as mentioned in section 1b. Termination is effected by written notice and the agreement is terminated when this notice is received. After termination the sender owes the carrier 75 percent of the agreed freight rate but cannot be held liable for further compensation. If no freight rate was agreed, the applicable freight rate will be as per the law, respectively as per custom, respectively in fairness.
4. The carrier may also give notice of termination of the contract, in case of defective loading or stowing or in case of overloading, but not until the sender has been given the opportunity to rectify the defect or the overloading. If the sender refuses to rectify the defective loading and/or stowing or the overloading, the carrier may either give notice of termination of the contract, or rectify the defects and/or the overloading himself; in both cases the sender is required to pay the carrier an amount of € 500, unless the carrier proves that the damages suffered are in excess of that amount; section 3 does not apply.
5. The sender must repay to the carrier any fine imposed on him as a result of overloading, unless the carrier has fallen short in fulfilling his obligations pursuant to article 9 sections 1 and 5 or the carrier has not given notice of termination of the contract of carriage on the ground of the previous section, without prejudice to his right to invoke bad faith on the part of the sender. In case the sender can show proof of any fine resulting from violation of article 2.6 section 2 of the Wet Wegvervoer Goederen (Law roadtransport of goods), this stipulation is deleted.
6. Notwithstanding the other sections of this article the sender must compensate to the carrier the damages suffered in so far as caused by the circumstance that the carriage of the goods is or will be fully or partially prohibited or restricted by public authority; however this liability will not exist if the sender proves that the carrier was or could have reasonably been aware of the prohibition or restriction at the time of the contract of carriage being concluded.

Article 5 **The consignment note**

1. When making the goods available the sender is obliged to submit a consignment note to the carrier which states that these General Terms and Conditions apply to the contract of carriage concluded.
2. The sender is required to complete the consignment note truthfully and in full according to the instructions, and when making the goods available to the carrier he warrants the correctness and completeness of the data supplied by him.
3. The carrier is required to clearly identify himself as the carrier in the consignment note presented by the sender and to sign it and return it to the sender. If the carrier so requires, the sender is required to sign the consignment note. The signature may be printed or substituted by a stamp or any other mark of origin.
4. The consignment note may also be drawn up in the form of an electronic message in accordance with the format and security level as agreed between the parties and in accordance with the manner of sending, saving and registering as agreed between the parties.

Article 6 **Evidential value of the consignment note**

1. When accepting the goods the carrier is obliged to check the correctness of the statement of the quantity of goods in the consignment note as well as the outward good condition of the goods and their packaging, and in case of deviation to make a note of that on the consignment note. This obligation does not exist if in the opinion of the carrier this would considerably delay the carriage.
2. The consignment note is prima facie evidence, subject to evidence to the contrary, of the conditions of the contract of carriage and the parties to the contract of carriage, and of the receipt of the goods and their packaging in outwardly good condition, and of the weight and quantity of the goods. If the carrier has no reasonable means to check the correctness of the entries referred to in section 1, then the consignment note will not be evidential of these entries.



Article 7 **Freight payment**

1. The sender is obliged to pay the freight and further expenses attached to the goods at the time that the consignment note is handed over or the goods are received by the carrier.
2. If freight payable at destination has been agreed, the consignee is obliged to pay the freight, the costs due owing to other reasons relating to the carriage and further charges attached to the goods on delivery of the goods by the carrier; if the consignee does not pay these upon the first reminder, he and the sender are jointly and severally obliged to pay. If, in the case of freight payable at destination, the sender has mentioned in the consignment note that no delivery may be performed without payment of the freight costs, the costs due owing to other reasons relating to the carriage and further expenses attached to the goods, the carrier, if no payment is made, must ask the sender for further instructions which he is obliged to follow up, in so far as reasonably possible, against compensation of costs and damage and possibly payment of a reasonable fee, unless these costs were incurred by his own fault.
3. The carrier has the right to charge all extrajudicial and judicial costs incurred to collect the freight and other amounts, as mentioned in sections 1 and 2, to the parties required to pay the freight and other costs. The extrajudicial collection costs are due as from the time that the debtor is in default. The extrajudicial collection costs are calculated on the basis of the Extrajudicial costs compensation decree (Besluit voor buitengerechtelijke incassokosten, Bulletin of Acts, Orders and Decrees 2012/141) or the most recent version of that decree.
4. The freight, the costs due owing to other reasons relating to the carriage and further expenses attached to the goods are due also if the goods are not delivered at their destination or only partly, damaged or delayed.
5. An appeal to set off claims to pay freight, costs due owing to other reasons relating to the carriage and further expenses attached the goods against claims for any other reason is not permitted.
6. If the sender does not fulfil his obligations referred to in this article, then the carrier is entitled to suspend departure of the vehicle, and in this event the damage arising will be considered as expenses attached to the goods.

Article 8 **Instructions of the sender**

1. The sender is entitled to change the location where the goods are made available, to designate himself or somebody else as consignee, to change a designation given of the consignee as well as to give orders concerning delivery or to change the place of delivery, provided these instructions do not impede the normal business operations of the carrier. Instructions concerning non-delivery which reach the person having to carry them out on time, must still be carried out however.
2. Instructions may also be given after receipt of the goods by the carrier.
3. The sender is required to compensate the carrier for any damage and costs caused by following the instructions. If as a result of the instructions given the vehicle has been driven to a location which was not previously agreed on, then the sender is required to pay a reasonable fee in this respect as well as compensating the damage suffered and expenses incurred.
4. The right to give instructions lapses as soon as the consignee accepts the goods at the place of delivery or the consignee claims compensation from the carrier because the latter did not deliver the goods.

Article 9 **Obligations of the carrier**

1. The carrier is required to accept the goods agreed on at the place and time and in the manner agreed as well as to communicate the loading capacity of the vehicle to the sender, unless it can be presumed that the sender is aware of this.
2. The carrier is obliged to deliver the goods received for carriage at the destination in the condition in which he has received them.
3. The carrier is obliged to deliver the goods received for carriage within a reasonable time period; if a period of delivery has been agreed in writing delivery must be carried out within this period.
4. If the carrier does not fulfil the obligation referred to in section 1, either party may give notice of termination of the contract in respect of the goods not yet accepted by the carrier. However, the sender may do so only after having set a deadline in writing for the carrier and the carrier does not fulfil his obligation at the expiry of it. Notice of termination is given by a written communication to the other party and the contract terminates when this notice is received. After termination the carrier is required to compensate the sender for the damage which he has suffered as a result of the termination. This compensation, however, cannot amount to more than twice the freight and the sender owes no freight.

5. The carrier is obliged to check the loading, stowing and any overloading by or on behalf of the sender if and in so far as circumstances permit this. If the carrier considers that the loading and stowing is defective, he is obliged, notwithstanding the stipulation in article 4 section 4, to make a note of this on the consignment note. If he is not able or in a position to fulfil his control obligation, he may make a note of this on the consignment note.

6. If delivery domicile has been agreed, the carrier must deliver the goods to the door of the address mentioned in the consignment note or to the door of an address which the sender has provided in good time instead of the one in the consignment note pursuant to article 8. If the address is not reachable via a surfaced road or any other reasonable manner, it must be delivered to a location, which is as close as possible to the address originally indicated.

Article 10 **Liability of the carrier**

1. Except in the case of force majeure the carrier is liable for damage to or loss of the goods and for damage due to delayed delivery in so far as the carrier has not fulfilled the obligations referred to in article 9, sections 2 and 3.

2. The carrier is also liable for acts and omissions of his agents and servants in the same way as for his own acts and omissions..

3. The carrier cannot relieve himself of his liability by invoking the defective condition of the vehicle or of the equipment which he uses unless this was made available to him by the sender, the consignee or the receiver. Material will not mean a ship or a railway carriage containing the vehicle.



Article 11 **Special risks**

Notwithstanding article 10, the carrier, who does not fulfil his obligations pursuant to article 9 sections 2 and 3, will nevertheless not be liable for the damage arising from this, in so far as the non-observance is the result of the special risks related to one or more of the following circumstances:

- a) the carriage of the goods in an open uncovered vehicle, if this was explicitly agreed and specified in the consignment note;
- b) absence of or defective condition of packing of the goods which considering their nature or the manner of carriage should have been sufficiently packed;
- c) handling, loading, stowing or unloading of the goods by the sender, the consignee or persons acting on account of the sender or the consignee;
- d) the nature of certain commodities which owing to causes related to this nature are exposed to total or partial loss or to damage, particularly through combustion, explosion, melting, breakage, corrosion, decay, desiccation, leakage, normal reduction of quality or presence of vermin or rodents;
- e) heat, cold, temperature variations or air humidity, but only if it has not been agreed that the carriage would be performed by means of a vehicle especially equipped to protect the goods from the effects of such conditions;
- f) incompleteness or inadequacy of the address, numbers, letters or signs on the packages;
- g) the fact that it concerns carriage of a live animal.

Article 12 **Presumption of exonerating circumstances**

1. If the carrier proves that, considering the circumstances of the case, the non-compliance with his obligations pursuant to article 9 sections 2 and 3 may have been a consequence of one or more of the special risks specified in article 11, it will be presumed that the non-compliance was indeed such a consequence. However, the person who is entitled to receive the goods from the carrier may prove that this non-compliance was not wholly or partly caused by one of these special risks.

2. The presumption referred to here above does not apply in the event mentioned in article 11a, if there is an abnormal shortage or an abnormally large loss of packages.

3. If, in accordance with what the parties had agreed, the carriage is performed by means of a vehicle especially equipped to protect the goods from the effects of heat, cold, temperature variations or air humidity, the carrier for the purpose of exoneration of his liability as a result of these effects may only invoke article 11d if he proves that all measures had been taken, which he was obliged to take considering the circumstances, with respect to the choice, the maintenance, and the use of such equipment and that he acted in accordance with the special instructions referred to in section five.

4. The carrier may only invoke article 11g, if he proves that all measures had been taken which he was normally obliged to take, considering the circumstances and that he acted in accordance with the special instructions referred to in section five.

5. The special instructions referred to in sections three and four of this article must have been given to the carrier before the start of the carriage and must have been explicitly accepted by him and must be specified in the consignment note if one has been issued for the carriage concerned. Merely the specification of them in the consignment note constitutes no evidence in this event.

Article 13 **Compensation**

1. The compensation owed by the carrier on the ground of non-compliance with his obligation pursuant to article 9 section 2 is limited to an amount of € 3.40 per kilogram; the carrier is not liable on the grounds of the contract of carriage for other damage than that arising from loss of or damage to the goods, such as consequential damage, business stagnation or immaterial damage.

2. The number of kilograms as basis for the calculation of the amount specified in section 1 is the weight of the damaged or not delivered object as specified in the consignment note.

3. If the carrier is liable because he did not deliver within the reasonable period specified in article 9 section 3, the compensation for delay in delivery is limited to once the freight; if the period specified in article 9 section 3 has been agreed in writing, the compensation is limited to twice the freight.

4. The costs of expertise research, salvage and other costs which are incurred to establish and realise the value of the damaged or lost goods and of those delivered with delay are considered as depreciation of the object.

5. If the carrier is liable because of non-compliance with his obligation stemming from Sections 8:1115 para 2 and 8:1118 para 3 BW, or the articles 6 section 1, 19 sections 4, 21 or 25 of these terms and conditions, compensation due by the carrier in this respect shall not exceed the compensation which he would owe in the event of total loss of the goods concerned.

Article 14 **Intention to cause damage and wilful recklessness**

An act or an omission by whomever, except the carrier himself, carried out either with the intention to cause damage, or recklessly and in the knowledge that this damage would ensue, does not deprive the carrier of his right of appealing to any exoneration or limitation of his liability.

Article 15 **Notice of damage**

1. If the goods are delivered by the carrier showing obvious damage or loss and the consignee does not, on receipt of the goods or immediately thereafter, communicate to the carrier a reservation in writing, specifying the general nature of the damage or the loss, then the carrier is presumed to have delivered the goods in the same condition as in which he received them.
2. If the damage or the loss are not externally visible and the consignee has not, within one week of acceptance of the goods, communicated to the carrier a reservation in writing, specifying the general nature of the damage or the loss, then the carrier is likewise presumed to have delivered the goods in the same condition as in which he has received them.
3. If the goods are not delivered within a reasonable or an agreed period and the consignee has not, within one week of acceptance of the goods, communicated to the carrier a reservation in writing, specifying that the goods were not delivered within this period, then the carrier is presumed to have delivered the goods within this period.

Article 16 **Right to claim**

Both the sender and the consignee are entitled to demand delivery of the goods in accordance with the obligations of the carrier from the carrier.

Article 17 **Cash on delivery (COD)**

1. Parties may agree that the goods will be charged with a COD amount which, however, shall not exceed the invoice value of the goods. In that case the carrier may deliver the goods only after advance payment of the COD amount in cash, unless the sender has authorised the carrier to accept some other form of payment.
2. If after notice of arrival the consignee does not pay the COD amount in accordance with the form of payment as prescribed by the sender to the carrier, then the carrier must ask the sender for further instructions. The costs related to asking for instructions are for account of the sender. The carrier must follow up the instructions given to him, in so far as this is reasonably possible, in return for reimbursement of costs and possibly a reasonable fee, unless these costs were incurred by his own fault. If the sender gives instructions to the effect that delivery must be carried out in deviation to instructions previously given relating to payment, then these instructions must be given in writing to the carrier. In the absence of instructions the stipulations of article 21 apply mutatis mutandis.



3. The carrier is obliged after delivery of a COD consignment and transfer of the amount to him to remit the COD amount without delay but in any event within two weeks to the sender or to transfer it to his bank or giro account.
4. The period of two weeks specified in section 3 starts on the day that the goods are delivered.
5. The consignee who at the time of delivery knows that the goods are burdened by a COD amount is obliged to pay to the carrier the amount which the latter owes to the sender.
6. If the goods have been delivered without the COD amount having been collected in advance, the carrier is obliged to compensate the sender for the damage to the maximum of the COD amount, unless he proves that there was no fault on his part or on the part of his employees. This obligation does not affect his right of recourse against the consignee.
7. The COD fee due accrues to the sender.
8. All claims against the carrier stemming from a COD condition are limited to one year, counting from the commencement of the day following the day when the goods were delivered or ought to have been delivered.

Article 18 **Reservations of the carrier**

In application of the present conditions the carrier reserves the right:

- a) to carry the goods by means of the vehicles which are appropriate in his opinion and to keep them if necessary in such vehicles, storage rooms or warehouses as he thinks fit, irrespective of whether these vehicles, storage rooms or warehouses belong to the carrier or third parties;
- b) to have the free choice of the route for carriage, and likewise to deviate from the customary route. He is also entitled to call on places as he thinks fit for the operation of his enterprise.

Article 19 **Prevention after receipt**

1. If upon receipt of the goods by the carrier the carriage cannot reasonably be effected, continued or completed or within a reasonable time period , the carrier is obliged to communicate this to the sender. Both carrier and sender are then entitled to give notice of termination of the contract.
2. Notice of termination shall be given by notifying the other party in writing and the contract will terminate when this written notification is received.
3. The carrier is not obliged to effect further carriage to the place of destination and is entitled to unload the goods and store these at a place fit for the purpose; the sender is entitled to take possession of the goods. The costs incurred with respect to the goods in connection with the termination are for account of the sender, under reservation of section 4.
4. Without prejudice to force majeure the carrier is obliged to compensate the sender for the damage which he suffers as a result of the termination of the contract.

Article 20 **Stack-on transport, through transport**

1. If part of the carriage, whether or not after transshipment of the goods, takes place on inland waterways, the liability of the carrier for this part is defined by articles 9 and 13 of the Algemene Veerboot- en Beurtvaartcondities.
2. If, after delivery of the goods which he has carried, the carrier undertakes to have the goods carried onwards, he does so in the capacity of a forwarding agent and his liability in this capacity is then limited to € 3.40 per kilogram for lost or damaged goods; no further compensation for any kind of damage shall be owed.

Article 21 **Storage in the event that the consignee does not show up**

1. If the consignee does not show up after notice of arrival of the goods, , if he does not begin taking delivery of the goods, if he does not continue to accept delivery of the goods regularly and with appropriate haste, if he refuses to accept the goods or to sign for receipt, the carrier may store the goods for account and risk of the sender, observing due care, in a manner and location of his determination, if necessary also in the vehicle in which the goods were carried; the carrier is obliged to inform the sender.
2. The carrier, taking section 1 into consideration may also proceed to storage or garaging, if furnishment of security as specified in article 23 section 5 is refused, or if a dispute arises over the amount or the nature of the security to be furnished.
3. Except in the event of seizure, the goods may be sold publicly or privately for account of the sender without any legal authorisation being required, but only after expiry of one week after a notice in writing by registered mail to the sender of the intention to sell.
4. The sale may be effected without observing any term and without prior notice if the goods are perishable or storage may be detrimental or give rise to damage or danger for the vicinity. If prior notice was not given, the carrier is obliged to inform the sender of the sale afterwards.
5. With regard to livestock the term specified in section 3 is three days, subject to the right of the carrier to proceed to the sale without respecting any term and without prior notice if the condition of the livestock so warrants. If prior notice was not given, the carrier is obliged to inform the sender of the sale afterwards.



6. The carrier will retain the proceeds from the goods sold, after deduction of the amount of any COD and a fee due to the carrier in connection therewith and of everything due to the carrier in connection with the goods sold, both for freight as well as the costs or storage and parking and other costs and damages, for the sender for six months following the acceptance of the goods for carriage, at the expiry of which term he shall put the amount retained in judicial custody.

Article 22 **Storage before, during and after carriage**

If sender and carrier agree that the carrier will store the goods before or during the carriage as agreed, or will do so on completion of the carriage, such storage is effected under application of the General Storage Terms and Conditions, pursuant to which sender and carrier are respectively considered as the depositor and the custodian.

Article 23 **Right of lien**

1. The carrier has a right of lien on goods and documents in his possession in connection with the contract of carriage towards any person who demands delivery of same. This right does not accrue to him if, at the time of receipt of the goods for carriage, he had reason to doubt the right of the sender to make the goods available for carriage to him.
2. The right of lien applies likewise to charges attached to the goods by way of COD as well as to the COD fee to which he is entitled, for which he is not obliged to accept security.
3. The carrier may also exercise the right of lien against the sender for reason of what is still owed to him with respect to previous contracts of carriage.
4. Likewise, the carrier may exercise the right of lien against the consignee who in this capacity became a party to previous contracts of carriage for reason of what is still owed to him with respect to these contracts.
5. If when settling the invoice a dispute arises over the amount due or if there is a need for a calculation to be made for the determination of what is due that cannot be made quickly, then the party demanding delivery is obliged to pay forthwith the part which the parties agree is due and to furnish security for the part in dispute or for the part for which the amount has not yet been established.

Article 24 **Right of pledge**

1. All the goods, documents and monies in possession of the carrier in connection with the contract of carriage serve as pledge for all claims which he has against the sender.
2. Except for the cases where the sender has been declared bankrupt, has been granted moratorium of payments or in has been declared subject to a debt reorganisation scheme for natural persons, the carrier shall never be entitled to sell the pledged objects without permission from the Court in accordance with Section 3:248 para 2 BW.

Article 25 **Lost goods**

If the goods have not been delivered within thirty days from the day when they were accepted for carriage and if their whereabouts is unknown, the goods will be considered as lost. If within one year after the carrier has paid compensation for non-delivery of the goods to the person who was entitled to delivery of same, these goods or some of them appear to be (again) in possession of the carrier, the latter is obliged to communicate this circumstance to the sender or the consignee in writing, whichever has expressed the wish to this effect in writing, and then the sender respectively the consignee has the right for thirty days from receipt of such communication to demand as yet delivery of these goods against reimbursement of the compensation he has received. The same applies if the carrier has paid no compensation for non-delivery, subject however to the period of one year to start from the day after the day when the goods ought to have been delivered. If the sender or the consignee respectively does not avail himself of this right, article 21 applies.

Article 26 **Indemnification; Himalaya clause**

1. The sender who fails to meet any obligation which the law or these conditions impose on him is obliged to indemnify the carrier against all damages which he might suffer as a result of this non-compliance when he is held liable by a third party on account of the carriage of the goods.
2. When servants and agents of the carrier are held liable on account of the carriage of the goods, these persons may invoke each liability limitation and/or exoneration which the carrier can invoke pursuant to these conditions or any other legal or contractual provision.

Article 27 **Default interest**

Pursuant to Section 6:119 BW, parties owe statutory default interest on any amounts owed.

Article 28 **Limitation period**

1. All judicial claims based on or related to the contract of carriage are limited to one year.
2. In so far as a carrier seeks recourse against a person whose services the carrier has used in completing the contract of carriage to recoup what the carrier is due to the sender or the consignee a new limitation period of three months begins from the time as stipulated in Section 8:1720 para 1 BW.

Article 29 **Choice of court; choice of law**

1. All disputes arising from or relating to domestic carriage by road between parties residing in the Netherlands can exclusively be adjudicated by the competent court in Rotterdam, unless the parties agree otherwise in writing.
2. All legal relationships ensuing from or relating to the contract of carriage are governed by Dutch law.

Explanatory note

Instead of a court ruling, parties may submit their dispute to arbitration. UNUM is specialised in arbitration and mediation in the areas of transport, storage, logistics, international trade, and the shipping and shipbuilding industries. Stichting Vervoeradres is member of the board of UNUM to represent the interests of road transport and logistics services. Since September 2011 it is no longer possible to submit cases for arbitration to the Stichting Arbitrage voor Logistiek.

If you wish to make use of the arbitration services of UNUM, then include the arbitration clause below in your contract of carriage.

'All disputes ensuing from or connected to this contract will be subject to Arbitration in Rotterdam in accordance with the UNUM Arbitration Rules. Article 29 paragraph 1 AVC 2002 does not apply to this contract.'

Even after the conflict has arisen, the parties can decide to submit the case for arbitration. This requires an agreement in writing between the parties.

Stichting Vervoeradres represents shippers' and carriers' joint interests under public and/or private law, in an independent and impartial manner. It assists carriers and shippers in concluding transport contracts in a legally binding and balanced fashion, by providing standards for legal documents (consignment notes) and texts (General Terms and Conditions and examples of clauses / contracts). The application of these standards helps reduce the incidence of conflicts regarding the actual execution of logistics contracts. Furthermore, the standards contribute to the prevention of breaches of the law.

Beurtvaartadres



Beurtvaartadres has been serving the Dutch transport sector for more than 90 years. We facilitate the logistics chain in exchanging and storing data on logistic transactions in order to reduce the administrative burden in the sector. We optimise logistics processes with innovative, user-friendly products and services. With us you are at the right place for: the digital consignment note, import and export matters and a complete range of transport documents.



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LOGISTICS SERVICES CONDITIONS (LSC)

Zoetermeer, 1 February 2014

as filed by Fenex (Netherlands Association for Forwarding and Logistics) and TLN (Transport and logistics Netherlands), with the district court of Rotterdam on 2 April 2014 under number 28/2014.

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Article 1 Definitions

Wherever used in these conditions, the following terms are understood to have the meaning given thereto below.

1. **Logistics activities:** all work, including unloading, receipt, storage, discharge, loading, stock management, assembly, order handling, order picking, preparation for shipping, invoicing, information exchange and management, transport whether or not by third parties, and the completion of customs declarations with regard to Goods.
2. **Logistics centre:** the space(s) where the Logistics activities take place.
3. **Logistics service provider:** the party concluding the agreement with the Client and the party under whose title the Logistics activities are performed.
4. **Auxiliary persons:** all persons - not being the subordinates of the Logistics service provider - used by the Logistics service provider in the performance of the Logistics activities.
5. **Client:** the party granting an instruction for the performance of the Logistics activities to the Logistics service provider and the party with whom the latter concludes the agreement.
6. **Agreement:** the agreement concluded between the Logistics service provider and Client with regard to the Logistics activities to be carried out by the Logistics service provider, of which these Conditions form part.
7. **Conditions:** the conditions applicable to the Agreement, including these conditions as stipulated below.
8. **Force majeure:** all circumstances that a diligent Logistics service provider could not have avoided and the consequences of which he could not have prevented. Force majeure includes fire, explosion and flooding as a result of natural disasters, as well as the consequences thereof.
9. **Working days:** all days, with the exception of Saturdays, Sundays and official public holidays as recognised in the country or region where the Logistics activities are to be performed.

10. Goods: the goods made available by or on behalf of the Client to the Logistics service provider or its Auxiliary persons with a view to the performance of the Agreement.

11. Receipt: the action whereby the Client, with the explicit or tacit approval of the Logistics service provider or its Auxiliary persons, relinquishes control of the Goods to the latter.

12. Delivery: the action as a result of which the Logistics service provider, with the explicit or tacit approval of the Client or its representative or a competent authority, surrenders control of the Goods and allows them to exercise control over the Goods, or if the Logistics service provider has assumed a transport obligation, the action as a result of which the Logistics service provider, with the explicit or tacit approval of the carrier, relinquishes control of the Goods to the latter.

13. Freight forwarding: the transport of the Goods on behalf of the Client by one or more carriers subject to one or more appropriate transport agreements.

14. Stock discrepancy: an inexplicable difference between the physical stock and the stock administration of the Logistics service provider, subject to evidence to the contrary by the Client.

Article 2 **Scope of application**

1. General: These Conditions govern all offers, agreements, legal and de facto acts regarding the Logistics activities to be performed, insofar as these are not subject to mandatory law. Any contrary conditions or regulations of the Client are not applicable, unless accepted explicitly and in writing by the Logistics service provider. These Conditions apply to the relationship between the parties, also after the Agreement is no longer in force.

2. Subordinates / Auxiliary persons: The Logistics service provider is entitled to engage Auxiliary persons in the performance of the Logistics activities, unless agreed otherwise with the Client. Subordinates or Auxiliary persons who are held liable in relation to the performance of activities on behalf of the Logistics service provider can invoke all clauses regarding the exclusion or limitation of liability as stipulated in these Conditions.

3. Transport: If the Logistics service provider has assumed a transport obligation, the relationship between the parties will, in accordance with the provisions of these Conditions, be subject to (mandatory) treaties, statutes and regulations, the provisions of the transport documents and, in case of domestic road transport in the Netherlands and insofar as not deviated therefrom in these Conditions or the Agreement, the provisions of the General Transport Conditions (AVC), in the version as filed with the court registry of the district courts in Amsterdam and Rotterdam at the time of conclusion of the Agreement, unless a different version has been agreed upon.

In case of the absence of a bill of lading in maritime transport, the relationship between the parties is governed by the Hague Visby Rules, as amended by the Protocol of 22 December 1979, or the Rotterdam Rules if these have come into effect, unless agreed otherwise. Transport does not include the loading into and unloading from vehicles at the Logistics centre.

The transport documents as referred to in this article are understood as the transport document issued by the Logistics service provider or its Auxiliary persons or signed by these as consigner.

If and insofar as the aforementioned treaties, laws, statutes and conditions do not regulate a liability, the version of these Conditions as applicable at the time of conclusion of the Agreement will apply.

4. Freight forwarding If the Logistics service provider explicitly assumes the obligation with regard to the transport of Goods, whether or not on specific route sections or with the use of specific transport modalities, the relationship between the parties is subject to the Dutch Forwarding Conditions (general conditions of FENEX) in the version as filed with the court registry of the district courts in Amsterdam, Arnhem, Breda and Rotterdam at the time of the conclusion of the Agreement ('the Dutch Forwarding Conditions'), unless a different version has been agreed upon.

5. Customs and tax services If the Logistics service provider assumes the obligation to perform customs formalities (including formalities with regard to storage in a customs warehouse) and/or with regard to tax representation, the relationship between the parties is governed by the Dutch Forwarding Conditions in the version as filed with the court registry of the district courts in Amsterdam, Arnhem, Breda and Rotterdam at the time of the conclusion of the Agreement ('the Dutch Forwarding Conditions'), unless a different version has been agreed upon.

Article 3 **Obligations of the Logistics service provider**

The Logistics service provider is obliged:

1. to directly or indirectly take Receipt of the agreed Goods at the agreed place, time and in the agreed manner, on condition that these are properly packaged, accompanied by the required documents and that the Goods have been made available to the Logistics service provider or its Auxiliary persons;
2. to assume responsibility for the loading, stowage and unloading at the Logistics centre, and the receipt and release of Goods, unless these, in the opinion of the Logistics service provider or its Auxiliary persons, constitute such a hazard or nuisance that such activities cannot be demanded of the Logistics service provider or its Auxiliary persons;
3. to have the Logistics activities relating to the Goods take place in the Logistics centre agreed with the Client;
 - a. if no specific Logistics centre is agreed upon, the Logistics service provider is free to choose a suitable space and to move Goods between suitable spaces;
 - b. if a specific Logistics centre has been agreed upon, the Logistics service provider is entitled to move the Goods in consultation with the Client if such is desirable in view of good business operations and/or proper performance of the Logistics activities. The Client may not refuse its permission for the movement of Goods if the new spaces are comparable or better;
4. the movement of Goods as referred to in Paragraph 3 of this article will be for the account of the Logistics service provider, unless such a move is required:
 - a. in the interest of the Client, or on its instructions, and/or;
 - b. is the consequence of circumstances for which the Logistics service provider is not liable, and/or;
 - c. is the consequence of circumstances that in all reasonableness are not for the risk and/or account of the Logistics service provider, and/or;
 - d. is the consequence of regulations and/or instructions of the competent authorities;

the transport related to the movement of Goods takes place subject to the regulations referred to in Article 2 Paragraph 3 of these Conditions;

5. will take all measures, including those not ensuing directly from the Agreement, to protect the interests of the Client and its Goods. The Logistics service provider will if possible consult with the Client in advance. If no timely prior consultation is possible, the Logistics service provider will take those measures that it deems appropriate in the interest of the Client and will inform the Client thereof.

6. The Logistics service provider will insure its liability under the agreement subject to common insurance conditions and will provide the Client, at its request, with a copy of the insurance certificate.

7. The Logistics service provider will, unless agreed otherwise, grant the Client and, for the risk of the latter, its designated persons access to those places where the Goods are located during office hours on Working days, on condition that:

- a.** the request for access is made in due time to the Logistics service provider;
- b.** the Client agrees to supervision by the Logistics service provider;
- c.** the inspection takes place according to the company rules of the Logistics service provider;
- d.** the information acquired by the Client during the inspection regarding other Goods present in the space(s) is not shared with third parties.

Any costs related to the inspection are for the Client's account;

8. to perform additional work in consultation with and on instructions of the Client, if such work can in all reasonableness be expected of the Logistics service provider;

9. to report damage and missing items regarding received Goods as promptly as possible in writing to the Client and to request its instructions for further action;

10. to guarantee the soundness and suitability of the materials used in its operations;

11. to deliver the Goods in the same condition as in which they were received or alternatively in the agreed condition;

12. to observe confidentiality towards third parties with regard to all facts and information acquired exclusively in the performance of the Agreement, with the exception of information that must be provided by law to competent authorities and information exchange with third parties as a part of normal business operations.

Article 4 **Consequences of non-fulfilment of obligations by the Logistics service provider**

If the Logistics service provider persistently fails imputably in the fulfilment of one or more of its obligations as referred to in Article 3, the Client, without prejudice to its right to compensation of damage in accordance with Article 5, can terminate the Agreement with immediate effect, in full or part, after:

- furnishing the Logistics service provider with a registered letter setting out the reasons why the Logistics service provider has defaulted, giving a minimum term of 30 days for fulfilment and;
- the Logistics service provider has on expiry of that term not yet fulfilled its obligations.

The Client does not have this right if the default, in view of its special nature or minor importance, does not justify the dissolution of the Agreement and its consequences.

Article 5 **Liability of the Logistics service provider**

1. The Logistics service provider is, save for Force majeure and without prejudice to the other provisions of these Conditions, liable for damage to and/or loss of the Goods that has occurred during the period from Receipt to Delivery. The Logistics service provider is not liable for damage resulting from non-fulfilment by the Client of any obligation resting on the latter by virtue of the Agreement(s) and the conditions applicable thereto.

2. Liability of the Logistics service provider in case of transport is maximised at the liability limit set for to the relevant transport modality, unless agreed otherwise. The Logistics service provider is not liable for any damage to the extent the Logistics service provider demonstrates that the damage may have resulted from the absence or defectiveness of the packaging of the Goods that in view of their nature and manner of transport should have been properly packaged. If in case of road transport by the Logistics service provider the Goods are not taken in Receipt at/in the agreed place, time and manner, the liability for any resulting damage is limited to twice the freight charges as agreed for the road transport part, with a maximum of 10,000 SDR; liability is conditional on the Client providing the Logistics service provider with a final term which is not fulfilled by the Logistics service provider.

3. As regards other Logistics activities, liability of the Logistics service provider for damage to or loss of the Goods is limited to 4 SDR per kilogram gross weight of the damaged or lost Goods, with a maximum of 100,000 SDR per event or series of events with one and the same cause of damage.



4. The compensation to be paid by the Logistics service provider for damage to or loss of the Goods will never exceed the value of the Goods as substantiated by the Client. If no substantiation is provided, the value is based on the customary market price for Goods of the same nature and quality, applicable at the time and place of Receipt.

5. Subject to the provisions of Article 5 Paragraph 7, the liability of the Logistics service provider for any damage other than damage to and/or loss of the Goods, is limited to 10,000 SDR per event or series of events with one and the same cause of damage, on the understanding – and subject to this limitation of liability to 10,000 SDR – that if the Logistics service provider performs customs formalities or acts as tax representative, the Logistics service provider is not liable for any losses, unless the Client proves that such losses are the result of fault or negligence on the part of the Logistics service provider.

6. Any Stock discrepancies must be reflected by a registration of the physical stock, which must be carried out for the account of the Client at least once a year and at the time that the Agreement ends.

Any shortfalls and surpluses will be set off against one another. The Logistics service provider is only liable for Stock discrepancies if and insofar as, taking into account the calculation used in the registration of the stock, the shortfall (missing items) surpass any surpluses by at least 1% of the number of Goods handled under the Agreement each year. The Logistics service provider will notify the Client as soon as possible of any change to its stock administration that does not result from the Receipt and release of Goods. It is explicitly agreed that these Conditions also govern the liability of the Logistics service provider for stock discrepancies, including the liability limits as described in Article 5 Paragraph 3.

7. The Logistics service provider accepts no liability for loss of profit, consequential loss and immaterial loss, irrespective of the cause.

8. The Logistics service provider cannot rely on the liability limits stipulated in this article in the event of either intent or recklessness, with knowledge that damage would probably result of the Logistics service provider himself.

9. If the Logistics service provider is held liable by the Client outside contract for the losses resulting from performance of the Logistics activities, the liability of the Logistics service provider shall not exceed that stipulated in the Agreement.

10. If the Logistics service provider can derive any defence from the Agreement in respect of its liability to the Client for an act of Auxiliary persons or subordinates, these Auxiliary persons or subordinates can, if held liable by the Client for such act, also invoke this defence, as if the Auxiliary persons or subordinates were also a party to the Agreement.

11. If the Logistics service provider is held liable outside contract for damage or loss of Goods or delay in delivery by a party who is not a party to the agreement, including a transport agreement concluded by or on behalf of the Logistics service provider, the liability of the latter will not exceed that stipulated by the agreement.

Article 6 **Obligations of the Client**

The Client is obliged:

1. to promptly furnish the Logistics service provider with the information and documents relating to the Goods and the handling thereof, of which it knows or should know that such are of importance to the Logistics service provider, unless the Client can prove that the Logistics service provider has or should have such information in its possession. The Client guarantees the correctness of the provided information and that the provided instructions and Goods are in accordance with current laws and regulations;

2. if Goods and/or activities are subject to government regulations, including customs, excise and tax regulations, the Client will promptly provide the Logistics service provider with all information and documents required by the latter to comply with said regulations.

The provision of information and/or documents to the Logistics service provider, as required for the performance of formalities as stipulated by the aforementioned government regulations, entails an instruction to that effect. The Logistics service provider all times reserves the right whether or not to fulfil such instruction;

3. to make the agreed Goods, in proper packaging, available to the Logistics service provider or its Auxiliary persons at the agreed place, time and manner, accompanied by a waybill for road transport (if necessary) and any other documents agreed and/or required by law;

4. to assume responsibility for the loading, stowage and unloading of Goods, unless:
 - Article 3 Paragraph 2 is applicable, or;
 - the parties have agreed otherwise, or;
 - otherwise ensues from the nature of the intended transport, taking the applicable Goods and vehicle into account.

5. to indemnify the Logistics service provider and its subordinates and/or Auxiliary persons at its first request against third-party claims outside contract for any damage or financial loss, related in any manner to the performance of this or separate A(a)greement(s) and the C(c)onditions applicable thereto, including claims based on product liability and/or intellectual property rights. This duty of indemnification applies if the Client fails to fulfil any obligation imposed on it by law, these Conditions or the Agreement, or in case the damage or financial loss is caused by circumstances that fall under the risk of the Client;

6. to vouch for the Goods and equipment that it makes available to the Logistics service provider or its Auxiliary persons;

7. to promptly compensate, besides the agreed fee, any other costs ensuing from this or separate A(a)greement(s) and the C(c)onditions applicable thereto;

8. to promptly compensate the costs of inspections, follow-up work, clearing work and the discharge of waste ensuing from the performance of this or separate A(a)greement(s) and the C(c)onditions applicable thereto;

9. on termination of the Agreement, to take receipt of Goods located at the Logistics service provider or its Auxiliary persons by no later than the last working day before the final date of the Agreement and to remove these, after payment of all monies owed to the Logistics service provider and of any monies of which it is known at that time that such will be owed. The Client can suffice with providing security as deemed appropriate by the Logistics service provider for all that the Client may owe after the termination of the Agreement, insofar as known and/or can be estimated in all reasonableness by the Logistics service provider;

10. to observe confidentiality towards third parties with regard to all facts and information acquired exclusively in the performance of the Agreement, with the exception of information that must be provided by law to the competent authorities and information exchange with third parties as a part of normal business operations.

11. to take immediate receipt of the Goods and/or to remove these, if in the opinion of the Logistics service provider these constitute such a hazard or nuisance that it cannot be demanded of the Logistics service provider that it keep these in storage any longer; In deviation of the provisions of Article 3 Paragraph 2, the release and loading of Goods will take place by or on behalf of the Client and for its risk and account.

Article 7 **Consequences of non-fulfilment of the obligations by the Client**

1. If the Client persistently fails imputably in the fulfilment of one or more of its obligations as referred to in Article 6 Paragraphs 1 thru 10, the Logistics service provider can, without prejudice to its right to compensation, terminate the Agreement, in full or part, with immediate effect, after giving the Client, by means of a registered letter, a final term of at least 14 days for fulfilment, on expiry of which term the Client has not fulfilled its obligations. The Logistics service provider can, if the giving of such a final term would disproportionately harm its operational interests, also terminate the Agreement without providing any such final term.

2. The Logistics service provider is entitled to suspend the performance of its obligations if the Client fails to fulfil one or more of its obligations as referred to in Article 6 Paragraphs 1 thru 8. This right of suspension can also be invoked against creditors of the Client.

3. If the Client fails to fulfil its obligations as referred to in Article 6 Paragraphs 9 and 11, the Logistics service provider is entitled to:

- a. move the Goods to other spaces for the risk and account of the Client, and/or;
- b. effect the private or public sale of the Goods for the account of the Client after expiry of 14 days after the sending of a registered letter to the Client providing notification of the intended sale, without any further formalities being required;
- c. the abandonment or destruction of the Goods if it is likely that costs of sale of the Goods will be higher than the proceeds thereof, or if, despite a reasonable attempt thereto by the Logistics service provider, no buyer can be found, whereby the costs of abandonment or destruction will be for the account of the Client.

Article 8 **Liability of the Client**

1. The Client is liable for all damage to the Logistics centre and/or the property of the Logistics service provider, of its Auxiliary persons, of its subordinates and of its other Clients, as well as for personal injury caused by the Client, its Goods, including the packaging of its Goods, its Auxiliary persons, subordinates and any other persons acting on its instructions.

2. The Client is liable to the Logistics service provider for any losses, including fines, interest charges, penalties and forfeitures, including the consequences of the failure to (timely) clear customs documents, ensuing from inter alia the inaccuracy, carelessness or incompleteness of the instructions and the information and/or documents provided by the Client, the failure to (timely) make the Goods available at the agreed time, place and manner, as well as the failure to (timely) provide documents and/or instructions.

3. The Client is liable to the Logistics service provider for any losses ensuing from the failure to fulfil its obligations under this or separate agreement(s) and the C(s)onditions applicable thereto.

4. The Client will compensate the Logistics service provider for any fine imposed as a result of overloading in case of road transport. The preceding provision will, except in case of bad faith, not apply if the Client can furnish proof of a fine due to infringement of Article 2.6 Paragraph 2 of the Road Transport Act.

Article 9 Other

1. The Logistics service provider can terminate the Agreement with immediate effect if the Client:

- ceases in full or significantly to practise its profession or business;
- loses the power of disposal over its capital or a significant part thereof;
- loses its status as a legal entity, is wound up or is factually liquidated;
- is declared bankrupt;
- offers a settlement in lieu of bankruptcy;
- applies for suspension of payment;
- loses the power of disposal of its Goods or a significant part thereof as a result of attachment by third parties;
- does not fulfil its obligations as referred to in Article 6 Paragraph 11.

2. The Logistics service provider will inform the Client if after receipt of the Goods by the Logistics service provider, the transport cannot in all reasonableness commence, be continued or completed within a reasonable period of time. The parties will in that case be entitled by means of a written notification to terminate the underlying transport agreement, with termination coming into effect on receipt of the notification. The Logistics service provider is not obliged to effect further transport to the place of destination and is entitled to unload the Goods and store these at a place fit for the purpose; the Client is entitled to take possession of the Goods. The costs incurred with respect to the Goods in connection with the termination are for account of the Client. Except in case of force majeure (Article 6:75 of the Dutch Civil Code), the Logistics service provider will compensate the Client for any losses incurred as a result of the termination of the agreement, whereby its liability is limited to twice the freight charges as agreed for the relevant transport modality, with a maximum of 10,000 SDR.

Article 10 **Complaints**

1. If the Goods are delivered by the Logistics service provider without the consignee having determined the condition thereof in the presence of the Logistics service provider, the Goods are deemed to have been delivered in a good condition, subject to evidence to the contrary.
2. If the Goods are delivered by the Logistics service provider without the consignee having provided the Logistics service provider with any written reservations specifying the general nature of loss of or damage to the Goods, the Goods are, - in case of loss or visible damage, by no later than the time of Delivery; - in case of damage that is not externally visible, within the period prescribed by law for the transport modality chosen for the Delivery or, in the absence of a (statutory) arrangement, within five Working days after Delivery; deemed to have been delivered in a good condition, subject to evidence to the contrary.
3. The day of Delivery is not included when determining the aforementioned time periods.
4. In case of domestic transport, the Goods are regarded as lost if they are not delivered within 30 days of the day on which they were accepted for transport and it is unknown where they are located.

Article 11 **Prescription and lapse**

1. All claims relating to the agreement will become prescribed after 12 months and will lapse after 18 months.
2. The time periods referred to in Paragraph 1 will in case of general or partial loss, damage, delay or Stock discrepancy commence on the first of the following days:
 - a. the day on which the Goods have or should have been delivered by the Logistics service provider;
 - b. the day on which the Logistics service provider has reported the loss, damage or existence of the Stock discrepancy to the Client.
3. If the Logistics service provider is held liable by third parties, including a government authority, the time periods referred to in Paragraph 1 will commence on the first of the following days:
 - a. the day on which the Logistics service provider is held liable by the third party;
 - b. the day on which the Logistics service provider has fulfilled the claim brought against it.

4. If the Logistics service provider or a third party engaged by the Logistics service provider has objected or appealed against the claim, the time periods referred to in Paragraphs 1 and 2 will commence on the day after the day on which decision on the objection and/or appeal has become irrevocable.
5. For all other claims, the time periods referred to in Paragraph 1 will commence on the day on which they fall due.
6. The time periods referred to in Paragraph 1 will for all claims relating to the Agreement in any event commence on the day following the day on which the agreement between the parties has ended

Article 12 **Payment conditions**

1. All amounts owed by the Client to the Logistics service provider will be paid in accordance with the agreed term, whereby if no term is agreed, a term of 14 days after the invoice date will apply. Failure to observe this term is regarded as default.
2. If the Client fails to pay any amount due within the term as referred to in Paragraph 1 of this article, it will owe statutory (commercial) interest in accordance with Article 6:119a or Article 6:119 of the Dutch Civil Code, calculated from the due date until the date of payment in full.
3. The Logistics service provider is entitled to charge the Client any resulting judicial and extrajudicial collection costs. The extrajudicial collection costs are due from the moment that the Client is in default and are set at 15% of the claim with a minimum of € 150.
4. The Client will at all times compensate the Logistics service provider for any amounts levied or to be levied by government authorities in relation to this or separate A(a)greement(s) and the C(c)onditions applicable thereto.
5. The Client will at the first request of the Logistics service provider furnish security for all that the Client owes or will owe the Logistics service provider. This obligation also exists if the Client itself has already furnished security for payment.
6. The Client has no right to suspend payment, nor to set off any claims or costs against any amounts due to the Logistics Service provider relating to this or separate A(a)greement(s) and the C(c)onditions applicable thereto or against other costs chargeable to the Goods.

7. All amounts referred to in Paragraph 1 of this article are immediately payable and eligible for set off by the Logistics service provider in case of the circumstances referred to in Article 7 Paragraphs 1 and 2 of these Conditions.

Article 13 **Security**

1. The Logistics service provider is entitled to refuse anyone the release of Goods, documents and monies, held or to be acquired by the Logistics service provider in connection with the Agreement.

2. The Logistics service provider can exercise a right of retention in respect of all Goods, documents and monies that it holds or will acquire as security for all claims that the Logistics service provider has or will have on the Client and/or the owner of the Goods, also with respect to claims that are not related to those Goods.

3. A right of pledge is established on all Goods, documents and monies that the Logistics service provider holds or will hold in relation to the Agreement as security for all claims that the Logistics service provider has or will have on the Client and/or the owner of the Goods.

4. The Logistics service provider may regard any party who, on behalf of the Client, entrusts Goods to the Logistics service provider for the performance of Logistics activities, as a party authorised by the Client to establish a right of pledge on those Goods.

5. If a dispute arises on settlement regarding the amount due or if said amount cannot be calculated promptly, the Client or the party demanding Delivery will at the request and election of the Logistics service provider immediately pay that part of the amount due on which agreement exists and provide security for payment of the disputed remainder, the amount of which has not yet been determined.

6. The sale of any collateral will take place at the risk and account of the Client in the manner determined by law or will take place by private sale if the parties agree thereto.

7. The Client will at the first request of the Logistics service provider furnish security for costs paid or to be paid by the Logistics service provider to third parties or government bodies and for any other costs that the Logistics service provider has incurred or expects to make on behalf of the Client, including freight charges, port levies, duties, taxes and premiums.

Article 14 **Dispute resolution / arbitration**

1. Any disputes arising from or related to the A(a)greement(s) to which these C(c)onditions apply will be submitted exclusively for arbitration in Rotterdam in accordance with the TAMARA arbitration regulations, with the exception of claims up to € 25,000 and undisputed claims, which will be submitted to the competent court in Rotterdam.
2. No appeal can be made to the exceptions referred to in Paragraph 1 if the Client has its registered office or principal place of business in a country outside the EU.
3. The arbitrators will, where applicable, apply the provisions of international transport treaties, including the convention on the international carriage of Goods by road (CMR). The Client guarantees the Logistics service provider that the unloader, the addressee and the other parties with an interest in the cargo will in case of damage to the Goods and/or delay in the delivery thereof be bound to the provisions of this Article.

Article 15 **Final provisions**

1. All A(a)greements to which these C(c)onditions apply are governed by Dutch law.
2. The place of business of the Logistics service provider will be the place of settlement and adjustment of damage.

Article 16 **Recommended reference title**

These Conditions can be referred to as "LSC 2014".

In case of any conflict with translated conditions, the Dutch version of these conditions will prevail.