

**GENERAL TERMS AND CONDITIONS OF EUTRACO - VERSION 1 JANUARY**

**2023**

**TITLE I: GENERAL PROVISIONS**

**1.** These terms and conditions govern all professional relations between EUTRACO (CBE 0405.562.641) and its contracting parties, regardless of whether such particular contracting party is a merchant or a private individual.

Unless expressly agreed otherwise in writing by EUTRACO, these terms and conditions shall prevail over any other terms and conditions of contracting parties if any, regardless of when they are made known.

The inapplicability of one or more provisions of these terms and conditions shall not affect the applicability of the other provisions. Both parties shall immediately take the necessary steps to replace the provision in question with a valid one that approximates to the original intention of the parties.

**2.** Depending on the specific services ordered by a customer, one or more of the titles of these general terms and conditions shall apply.

Title I shall always apply.

Title II shall apply insofar as EUTRACO acts as a freight forwarding agent in relation to its customer, within the meaning of Section 1.3 of the Belgian Act of 26 June 1967.

Title III shall apply insofar as EUTRACO acts as a carrier to its customer. EUTRACO shall be deemed to act as carrier insofar as it has undertaken to provide transportation.

Title IV shall apply insofar as EUTRACO is required to retain any goods, whether before or after a transport trip, or separately from any transport.

Insofar as several titles apply simultaneously to the order performed by EUTRACO, the clause that is most advantageous to EUTRACO shall apply in case there are several clauses governing the same matter.

**3.** EUTRACO shall be entitled to exercise a pledge and/or lien on all materials and/or goods that it dispatches, transports, stores, or holds in any way, in order to cover all sums that are due or shall become due to EUTRACO by its customer on any grounds whatsoever.

These rights shall extend to the principal sum, interest, damages and costs if any.

Insofar as these rights have been exercised and the goods have been released by EUTRACO but not collected by the contracting party, or in case no further arrangements have been made within 90 days of their release, EUTRACO shall be entitled to sell such goods in any manner whatsoever and without entitling the customer to any compensation or interest.

Insofar as the amounts due are fixed and undisputed, these rights shall cease to exist as soon as EUTRACO has been compensated in full or as soon as the contracting party has provided sufficient securities equivalent to the amount of the entirety of the amount of compensation.

Insofar as the rights are disputed or cannot be precisely estimated, these rights shall cease to exist as soon as the contracting party has provided sufficient securities for the amount claimed by EUTRACO, and the contracting party has undertaken to pay the amounts claimed within a certain period of time, once these have been established.

**4.** Notwithstanding insolvency, assignment of claims, attachment if any, and notwithstanding concurrence if any, EUTRACO may apply set-off or novation to EUTRACO's obligations to its creditors or contracting parties, or the latter's obligations to EUTRACO.

This right shall in no way be affected by the notification or service of notice concerning an insolvency, assignment of claims, any form of attachment or any concurrence.

Insofar as necessary, under application of Section 14 of the Belgian law dated 15 December 2004 on financial securities, Section 1295 of the Belgian Civil Code is declared inapplicable.

The obligations referred to in the first paragraph are to be understood to mean every obligation and liability that a party may have towards the other, whether on a contractual or extra-contractual basis, whether pecuniary or otherwise, which may include, but shall not be limited to, payment and delivery obligations, all debts, any obligation arising under a guarantee, any obligation to give or retain a security, and any other obligation or requirement.

Insofar as a contracting party of EUTRACO wishes to engage a factor, it undertakes to notify the factor of the existence of this right to set-off or debt novation. The contracting party undertakes to indemnify EUTRACO against any claims brought by the engaged factor with regard to set-off or debt novation.

**5.** If confidence in the creditworthiness of the party to the contract is shaken by acts of judicial execution against the party to the contract and/or other identifiable events, which call into question and/or render impossible the confidence in the proper performance of the commitments entered into by the party to the contract, EUTRACO reserves the right, even after partial performance of the contract, to suspend all or part of the contract, in order to obtain adequate securities from the party to the contract.

If the contracting party refuses to do so, EUTRACO shall be entitled to cancel the order in part or in full.

This shall be without prejudice to any rights to damages and interest on the part of EUTRACO.

Confidence shall always be deemed to have been shaken in case the contracting party invokes Section XX.39 of the Belgian Code of Economic Law et seq. or a similar provision in the applicable national law, or if the contracting party files for bankruptcy, or is declared bankrupt.

All amounts outstanding at the time of bankruptcy shall become immediately due and payable, and clause 4 of this title may be applied to them.

Insofar as EUTRACO has placed any fiduciary transfer of ownership with the party declared bankrupt, or with the party making use of one of the procedures provided for in Book XX of the Belgian Code of Economic Law or a similar provision under applicable national law, such transfer of ownership shall terminate at the first request of EUTRACO, and shall be payable in full, whereby clause 4 of this Title may be applied.

**6.** Unless expressly agreed otherwise in writing by the parties, invoices shall always be payable no later than by the due date specified on the invoice without discount. The contracting party shall be bound to pay the agreed price even if it requests EUTRACO to collect the price from a third party.

Losses due to exchange rate fluctuations shall be borne by EUTRACO's contracting party.

Payments not allocated by the contracting party itself to any debt may be freely deducted by EUTRACO from amounts that are owed by the contracting party to EUTRACO.

The contracting party renounces any right to invoke any circumstance that would entitle it to suspend its payment obligations in part or in full, and waives any set-off in respect of all amounts invoiced to it by EUTRACO.

In the absence of payment of the invoice on its due date and without a notice of default being required, the amount still due shall accrue interest by operation of law at a rate provided for in the Belgian law of 2 August 2002 on combating late payment in commercial transactions.

Whenever interest as mentioned in the previous paragraph is due, EUTRACO shall be entitled ipso jure and without the need to issue a notice of default, to the payment of a lump sum compensation, subject to a minimum of 10% of the amount not paid by the contracting party. The award of this reasonable compensation of 10% shall not exclude the award of any court fees or any other proven recovery costs (e.g. the costs of a summons, bailiff or lawyer's fees).

In the absence of payment on the due date, all invoices that are not yet due shall also become immediately due and payable in full by operation of law and without the need to issue a notice of default.

If, for any reason, the contracting party has comments on an invoice or any other document issued by EUTRACO, such comments shall only be admissible if sent to EUTRACO by registered post within 8 days of the date of the dispatch of the invoice or document.

7. Insofar as the planning of any activities is entrusted to EUTRACO, all possible orders shall be notified to EUTRACO at least 48 hours in advance by mail or fax..

If orders are only modified later than 48 hours prior to dispatch / transportation / storage, EUTRACO cannot be held liable in any manner for any resulting damage.

The customer shall be bound to provide adequate data regarding the activity to be planned. This shall include the full identity of recipient, contact details, relevant telephone numbers, correct delivery addresses, and all information as relevant under Title II and III.

Should this information prove to be incorrect or incomplete, EUTRACO shall in no way be liable for any resulting damage. Insofar as EUTRACO suffers damage due to such incorrect or incomplete data, the customer shall be obliged to compensate such damage in full.

8. All the contracting parties hereby expressly confirm to EUTRACO that they are aware of and fully comply with the General Data Protection Regulation 2016/679 of 27 April 2016 (GDPR) - a European Regulation - which came into force with effect from 25 May 2018, and furthermore, also comply with the provisions of the regulations on the protection of personal data, including but not limited to the Belgian law of 8 December 1992 on the protection of privacy with regard to the processing of personal data (Privacy Act), and its implementing decrees.

The personal data provided shall only be used for the specific purposes of the order/agreement and shall only be kept for the duration of the order/agreement, or until the legal retention obligation has expired. Personal data means the name, position/title and contact details (email addresses, postal address, phone numbers) within the enterprise. No personal data shall be processed and stored in the categories referred to in Section 9 of the GDPR. If data is processed in non-EU countries which, according to the European Commission, do not guarantee an adequate level of personal data protection, EUTRACO, as the controller, shall take appropriate protective measures through standard contractual data protection clauses in accordance with Section 46(2) of the GDPR.

9. In case of any dispute, the courts having jurisdiction in the place where the registered office of EUTRACO is located shall have jurisdiction, without prejudice to the application of mandatory law if any. Belgian law shall always apply.

**10.** The Dutch language version of the present terms and conditions shall be the original, and shall prevail over its translation in case there are any contradictions or differences in its interpretation.

## **TITLE II: FORWARDING**

**1.** The present terms and conditions shall apply, unless otherwise agreed, to any kind of service provided by EUTRACO as freight forwarder.

They may be cited as "Belgian Forwarding Conditions" and represent a business practice.

**2.** The following terms shall have the following meanings in these Terms and Conditions:

- the customer: means the freight forwarder's customer on whose instructions or on whose behalf the freight forwarder provides services, information or advice, whether free of charge or for a fee.
- the freight forwarder: EUTRACO.
- the service: any order for the shipment of goods offered, accepted for performance, or performed by the freight forwarder, including any related acts as well as any information or advice thereon.
- the goods: all goods, including their packaging, entrusted or to be entrusted to the freight forwarder by the customer. This includes all trade goods, as well as any papers or documents that represent or shall represent those goods.
- the owner: the owner of the property, to which the service provided by the freight forwarder relates.
- third parties: the non-contracting parties, in particular, the natural persons or legal entities with whom the freight forwarder acts in the performance of its instructions.

**3.** When providing services, a distinction is made between the freight forwarder who acts:

1. as a freight forwarding agent: its order consists of, among other things, forwarding goods either in its own name or in the name of its customer, but on the latter's behalf, and consequently providing all necessary services for that purpose, completing all the required formalities and concluding the agreements necessary for that purpose.
2. as a shipping agent: in the cases provided for below, and in no other cases, the freight forwarder shall be deemed to be a shipping agent.

- a) when it performs the transportation of goods in its own name with its own means,
- b) when it defers a transport document in its own name,
- c) when it can be explicitly inferred from the order that the freight forwarder accepts the same.

**4.** These conditions shall not constitute a waiver by the freight forwarder of any right, nor shall they give rise to any greater liability than that to which it would be liable under any law or regulation applicable in addition to these Conditions.

**5.** The customer confirms that the goods, which it entrusts to the freight forwarder on the basis of its order, are its property, or that it may dispose of these goods as the owner's agent, in the sense that it accepts the present conditions not only for itself but also for its customer, as well as for their owner.

**6.** Unless otherwise provided or in case of an extraneous cause independent of the freight forwarder's will, any offer made by the freight forwarder shall be valid for a period of 8 days.

Such offer is based on existing rates, wages, freight and currency rates and estimated dates, which are valid on the date the offer is sent to the customer.

If any of these factors change, the prices offered shall also be changed accordingly and with retroactive effect.

The freight forwarder shall at all times be entitled to charge the customer for all the amounts that were charged to it by third parties on account of incorrectly charged freights, costs or rates.

**7.** The customer undertakes to provide the freight forwarder, prior to or at the latest at the time of order confirmation, with all such useful information, in particular concerning the nature of the goods, the method of shipment, the place of dispatch and destination, the desired dispatch route as well as, in particular, any information or knowledge attributable to the customer as manufacturer, trader, owner or consignor of the goods, that is of such nature as to ensure their preservation, shipment, delivery at the place of destination..

**8.** The freight forwarder shall not be expected to examine the accuracy of the information or information given by the customer, or the authenticity or regularity of the documents provided by the customer, and the same shall be accepted in good faith.

**9.** In the absence of precise instructions or special agreements to the contrary, the freight forwarder shall be free to choose the means to be used to organise and perform the services to the best of its ability, in accordance with normal business practice, including groupage of the goods.

**10.** The freight forwarder shall be entitled to charge the amounts or fees due for its expenses and contributions on a lump sum basis.

**11.** In carrying out its order, the freight forwarder may engage third parties and agents, who demonstrate normal professional competence.

**12.** Unless instructed otherwise, the freight forwarder shall be entitled to take charge of or retain any goods which for any reason cannot be delivered, and to store such goods at the expense and risk of the customer or of the goods themselves.

The freight forwarder may sell the goods in accordance with the provisions of the Act of 5 May 1872 on Commercial Lien to discharge its debt claims.

The freight forwarder may, subject to provision of justification and further subject to prior written notice to the customer, destroy, remove or sell dangerous, perishable, flammable, explosive or other goods which may cause damage to persons, animals or property, at the customer's expense and risk.

**13.** The freight forwarder shall be entitled to suspend the performance of the order if the customer fails in any manner to perform its obligations, or fails to perform the same adequately.

In case of force majeure, the agreement shall remain in force; however, the freight forwarder's obligations shall be suspended for the duration of such force majeure.

An additional fee may always be charged for special services, or for unusual, particularly time-consuming or effort-consuming work. Any additional costs caused by force majeure shall also be borne by the customer

**14.** Unless otherwise agreed in advance and in writing, the freight forwarder shall not be required to guard the goods intended for shipment or to have them guarded or insured, irrespective of where the goods may be, even in open air.

**15.** The freight forwarder shall not be presumed to provide security from its own resources for payment of freight, duties, levies, taxes or any obligations whatsoever, should they be required by third parties. If the freight forwarder has provided security from its own resources, the customer shall be obliged, at the freight forwarder's first request in writing, to pay to the freight forwarder, towards security, any amount that the freight forwarder may have paid to third parties on account of the provision of security.

**16.** The customer undertakes and vouches for the following:

- that the order and description of the goods provided by it are complete, correct and accurate.
- that the goods to be entrusted by it to the freight forwarder shall be made available in a timely, complete and efficient manner, adequately and efficiently loaded, stowed, packed and marked in accordance with the nature of the goods and place of consignment or destination to which they are entrusted to the freight forwarder.
- that all documents provided by it to the freight forwarder are complete, correct, valid, authentic and not improperly deferred or used.
- that, unless the freight forwarder has been notified in advance and in writing, the goods entrusted to it are not of a dangerous, perishable, flammable or explosive nature or which may otherwise cause damage to third parties, persons or property.
- that it shall examine all documents provided to it by the freight forwarder upon receipt, and shall verify that they are in accordance with the instructions given to the freight forwarder.

**17.** The customer shall be liable to the freight forwarder and shall indemnify it on first request to do so:

- for any damage and/or loss in connection with the order placed with the freight forwarder, as a result of the nature of the goods and their packaging, or the incorrectness, inaccuracy or incompleteness of instructions and data, or the failure to make the goods available at the agreed time and place, as well as the failure to provide documents and/or instructions, or to do so in time, and the fault or negligence in general of the customer and the third parties engaged by it.
- for any damage and/or loss, costs and expenses for the amount of which the freight forwarder is sued by authorities, third parties or agents, irrespective of the cause, in respect of, *inter alia*, the goods, damages, expenses, costs, rights, claimed directly or indirectly as a result of the service provided on the customer's instructions, unless the customer proves that such claim has been directly caused by a fault for which the freight forwarder alone is liable.
- for any damage and/or loss in connection with the order placed with the freight forwarder, for costs and expenses for which the freight forwarder shall be liable in cases in which the freight



forwarder is under any personal and/or joint and several liability for the payment or discharge of customs duties and/or other fiscal debts under Community or national laws and regulations.

**18.** If the claim for which the freight forwarder makes a claim against its customer by way of payment or indemnification, is a customs or other tax claim arising out of a customs assignment entrusted to it by or on behalf of its customer, the customer undertakes to provide, in favour of the freight forwarder and at the freight forwarder's first request, or in favour of a third party designated by the freight forwarder, a financial guarantee for an amount equivalent to the amount of such claim, which guarantee shall be of such a nature as shall unconditionally guarantee the customer's liability to the freight forwarder.

**19.** The freight forwarder shall not be liable for damage if it is caused by an extraneous cause, including war, riot, strike, lock-out, boycott, work congestion, freight shortage or weather conditions.

**20.** The freight forwarder shall not be liable for any damage or loss caused due to the theft of goods in its possession, unless the customer proves that the theft took place as a result of circumstances which the freight forwarder, in view of its agreement with the customer, was required to prevent or foresee, and insofar as, pursuant to local regulations or business practice, the risk of theft is not for the account of the goods.

**21.** The freight forwarder shall not be liable for any indirect damage, including economic loss, consequential damage or immaterial damage.

**22.** The freight forwarder shall not be responsible for the successful outcome of the collection orders entrusted to it unless it is proved that the bad outcome is due to negligence, which can be equated with gross negligence on its part.

**23.** The freight forwarder shall discharge its order with reasonable care, diligence and understanding and guarantees the normal professional performance of the order entrusted to it.

**24.** The freight forwarder's liability shall be limited to errors or omissions committed by it in the performance of the order placed with it.

Insofar as such errors or omissions have caused direct material or financial damage to the customer or third parties, the freight forwarder shall be entitled to limit its liability to: 5 euros per damaged or missing kg gross weight, subject to a maximum of 25,000 euros per order.

**25.** The freight forwarder shall not be liable for the performance of any contract for, *inter alia*, storage, transport, customs clearance or cargo handling concluded by it, on behalf of its customer, with third parties or agents, unless it is proved by the customer that the defective performance thereof was directly caused by a fault of the freight forwarder.

**26.** Delivery times, arrival and departure dates are not guaranteed by the freight forwarder, unless otherwise agreed in advance and in writing. The mere mention by the customer of a delivery time shall not bind the freight forwarder.

**27.** The freight forwarder shall be liable as a carrier, in the cases provided for in clause 3.2.

Its liability shall be determined according to national law and the international Conventions applicable to relevant mode of transport.

**28.** The amounts charged by the freight forwarder to its customer shall be a preferential debt in accordance with the law and these conditions.

**29.** The freight forwarder's claims against its customer shall be a preferential debt pursuant to Section 14 of the Act of 5 May 1872 on Commercial Lien, Section 20.7 of the Mortgage Act and Section 136 of the General Customs and Excise Act, to the extent of all goods, documents or moneys in its possession and to be in its possession, regardless of whether the claim relates in part or in full to the reception or shipment of goods other than those in its possession.

**30.** The freight forwarder may provide insurance (AREX 21) to the customer when so requested in writing, thereby allowing the customer to obtain insurance against the freight forwarder risks in relation to any international transport order.

The cost of such insurance shall be borne by the customer.

**31.** Any claim for damages against the freight forwarder shall be notified to it in writing, with statement of reasons, within 14 days following either the delivery or the dispatch of the goods.

Any potential liability of the freight forwarder shall be automatically and definitively extinguished in case the customer takes back the documents relating to a particular operation covered within the scope of the services, after they have been carried out, without the customer making a reasoned reservation to the freight forwarder no later than the 10th day after the dispatch of the aforementioned documents.

**32.** Any liability claim against the freight forwarder shall be time-barred if it is not brought before the competent court within a period of six months.

The limitation period shall run from the day following the day on which the goods were delivered or should have been delivered, or failing that, from the day following the day on which the event giving rise to the claim occurred.

**33.** The freight forwarder shall not institute judicial and arbitration proceedings against third parties unless the freight forwarder agrees to do so at the customer's request and at the customer's account and risk.

**34.** All legal relationships to which these terms and conditions apply shall be governed exclusively by Belgian law.

### **TITLE III: TRANSPORT**

**1.** Regardless of whether the transport is national, international, ordinary, heavy or exceptional, the provisions of the CMR (*Convention on the Contract for the International Carriage of Goods by Road*), supplemented by these conditions, shall apply and shall always prevail over any divergent contractual clauses.

Other conditions and regulations of the consignor or consignee shall not apply, unless they have been expressly accepted in writing by the carrier.

Signature of the bill of lading by the shipper, dock personnel and freight forwarding agent shall bind the consignor, and signature by the stevedores, cargo handlers or dock personnel at destination shall bind the consignee.

The consignor warrants to its contracting party, the consignee, that the latter is aware of and agrees to these conditions, failing which it shall reimburse the carrier for all costs, and shall indemnify it against all possible claims.

In any event, EUTRACO shall only be liable for damage to the goods transported, in accordance with the applicable provisions of the CMR Convention. If, as a result of the transport, damage occurs to other goods that are under the care of the consignor, shipper or consignee, but that are not the goods to be transported, EUTRACO shall only be liable for damage due to its fault or negligence. In any event and except in cases of damage caused intentionally, the extent of its liability for damage to goods other than those to be transported shall be limited, per claim, to a maximum of 8.33 units of account for each gross kg of weight of the cargo transported.

**2.** Unless otherwise stated in writing, the parties expressly agree that the consignor or consignee respectively shall be responsible for the loading and unloading of the vehicle. Insofar as the driver is requested by the consignor or consignee to perform these acts, this shall be done under the express supervision, control and responsibility of the consignor or consignee, respectively. The carrier bears no liability for damage caused by, and/or during loading and unloading.

Unless otherwise stated in writing and to the extent possible and/or necessary, the stowage of the cargo in the vehicle shall be carried out by the carrier on the basis of the instructions of the consignor or shipper given in accordance with the legislation in force according to the route. If the vehicle used by the carrier or the dunnage used turns out to be unsuitable on account of incorrect or incomplete information provided by the consignor or shipper, or if the transport packaging turns out to be inadequately sturdy to enable the correct securing of the cargo, the costs and damages resulting from this shall be borne entirely by the consignor for the transport.

**3.** Insofar as it appears from all the customer's instructions that the delivery should be made before the normal work starting time at the delivery site, the customer shall ensure that a person is present on site to take delivery and to sign the necessary documents.

The customer shall provide EUTRACO with the contact details of such person, which shall at least include his/her name and telephone number, at the time of ordering the transport.

If no person is specified, or if the person is not present on site at the time of delivery, EUTRACO shall be instructed to unload the goods to be delivered on site, after which the delivery shall be notified by EUTRACO to the consignor/customer for transportation by any means, and the latter shall be deemed to have accepted such delivery without any reservations.

The movement of the vehicle within the premises of the consignor, shipper or consignee shall be done entirely under the instructions and the responsibility of the latter. However, EUTRACO may object to such instructions if, in its opinion, they violate local conditions or endanger its vehicle or cargo.

4. After delivery of the goods as stipulated in III.3, EUTRACO shall no longer bear any responsibility for these goods, which shall remain at the place of delivery at the customer's sole risk.

The customer shall indemnify EUTRACO in full against all possible claims against EUTRACO with regard to such delivered goods (such as - but not exclusively - fines imposed by public authorities, contractual or extra-contractual claims of third parties, irrespective of the nature thereof).

5. The customer guarantees EUTRACO that the place at which the delivery is to be made is equipped to withstand the physical forces that develop due to delivery and removal as well as the loading and unloading of the ordered material.

If the customer has provided a specific area for the delivery or removal, or the loading or unloading of the material, the customer shall provide EUTRACO with detailed information on the same at the time of ordering the transport.

If upon EUTRACO's arrival it appears that the area scheduled for delivery does not exist, cannot be found, or is insufficient, the customer shall designate a location for unloading on the spot and at its own risk.

If the customer is not on site or has not appointed anyone to take such decisions, the customer agrees that EUTRACO may unload the goods to be delivered on site, with the delivery being communicated by EUTRACO to the customer by any means.

Insofar as damage occurs during loading or unloading as a result of these physical forces - e.g. due to the pressure of the material on the road surface - the customer expressly acknowledges that it shall indemnify EUTRACO against any claims made against it by third parties.

In addition, the customer expressly acknowledges that insofar as it suffers damage as a result of the aforementioned specific forces, it cannot and shall not recover such damage directly or indirectly from EUTRACO.

6. The customer warrants to EUTRACO that insofar as the delivery is to take place on industrial estates, or at a worksite, or any other location at which it is necessary to pass through an access (gate), such access (gate) shall be wide enough to allow the delivery to pass.

To this end, in order for EUTRACO vehicles to pass them without further manoeuvres, the access (gate) shall be at least as wide as the vehicle/load at its widest point + 1 metre, in a straight line.

To this end, in order for EUTRACO's vehicles to enter such access (gates) by making manoeuvres - for example by taking a turn - the access (gate) must be at least as wide as the vehicle/load at its widest point + 5 metres.

Insofar as these widths are not available, the customer expressly acknowledges that it has notwithstanding the above, chosen to allow the transport to take place, and that it shall bear the risk associated with the same, and that it shall indemnify EUTRACO against any third-party claims.

**7.** EUTRACO shall be entitled to compensation for the immobilisation times of the road vehicle. In the absence of any agreement to the contrary, it shall be assumed that in national road transport, the carrier shall assume 1 hour of loading and 2 hours of unloading in cases where the waiting time for the coupling of the truck and the trailer is set at one hour. For international road transport, the carrier takes 2 hours loading and 2 hours unloading in cases where the waiting time for the coupling of the truck and the trailer is set at 2 hours

After expiry of the permitted unloading or coupling time, EUTRACO shall be entitled to compensation at an hourly rate of 60 euros per hour that commences.

EUTRACO shall furthermore be entitled to compensation for the whole of the costs arising from other immobilisation times which, taking into account the circumstances of the transport, exceed the usual duration.

**8.** Each transport order shall be specified in as much detail as possible by the customer. The exact weight and dimensions of the material to be transported shall be specified.

In particular, with regard to the gross weight of the cargo, EUTRACO refers to the SOLAS Convention (The International Convention for the Safety of Life at Sea) applicable from 1 July 2016, which clearly stipulates that for every CSC (International Convention for Safe Containers) container loaded for an international sea voyage, the correct VGM (= Verified Gross Mass) should be known so that it can be reported in time to the Master, his representative and/or to the terminal. In case of incorrect or late reporting of the VGM by the customer, the container in question may not be loaded/may be refused for shipment.

The customer should therefore ensure that it can calculate this VGM correctly and in a calibrated manner, all in accordance with the Belgian Royal Decree of 25 September 2016 on the verified gross mass of packed containers.

The customer shall, no later than when EUTRACO collects the cargo, send the necessary written information regarding the VGM and the weighing method used, to the driver, against delivery receipt. Insofar as the timing of the transport requires earlier notification of the VGM to the Master, his representative and/or to the terminal, the customer should take the necessary steps to this end.

Acceptance of cargo by EUTRACO does not in any way imply any verification of such written information, nor does acceptance entail any liability on the part of EUTRACO in respect of such written information. Insofar as the customer does not provide EUTRACO with any written information, the customer acknowledges that it shall be responsible for timely delivery of the VGM to the Master, his representative and/or the terminal.

Insofar as the customer fails to provide the VGM, EUTRACO bears no responsibility whatsoever to retrieve the VGM or to deliver it in time.

All the costs and consequences relating to the VGM, the Belgian Royal Decree of 25 September 2016 on the verified gross mass of packed containers, or any sanctions related to the same shall be borne by the customer.

Special features, such as an asymmetric centre of gravity, a very fragile element of the material, specific bearing points, hazardous products, shall always be specified.

Unless the consignor has expressly requested the carrier to check the gross weight of the cargo within the meaning of Section 8.3 of the CMR, the consignor remains responsible for any transshipment, even axle overloading, observed during transport. The consignor shall reimburse all costs arising therefrom, including damage due to immobilisation of the vehicle and any fines or other legal costs that may arise therefrom.

If the vehicle used by EUTRACO proves unsuitable due to incorrect or incomplete information provided by the customer, the cost thereof shall be borne in full by the customer.

**9.** EUTRACO's appointees cannot accept any instruction or notification that commits EUTRACO beyond the limits provided with regard to:

- the value of the goods to serve as reference in case of total or partial loss, or of damage (Section 23 and 25 of the CMR)
- the delivery terms (Section 19 of the CMR)
- the COD instructions (Section 21 of the CMR)
- a special value (Section 24 of the CMR) or a special value of the consignment (Section 26 of the CMR)

- instructions or notifications relating to dangerous goods (A.D.R.) or goods subject to special regulations.

**10.** When EUTRACO needs to apply for any licence in connection with organising a transport, it shall always act in the name and on behalf of the customer. As such, EUTRACO only enters into an obligation of means.

**11.** Any cancellation of the planned transport order by the customer up to 24 hours before the presentation of the vehicle at the place of dispatch shall make the customer liable to pay liquidated damages amounting to 75% of the agreed freight price and all the costs already deferred by EUTRACO.

**12.** The customer is obliged to pay the freight charges even if it requests the carrier to collect the freight charges from the consignee.

**13.** The exchange of pallets is done only after an express written order. The administration of the pallet exchange at the loading site is done by the shipper and sent periodically to the carrier for verification.

In case of non-return of security deposits at the unloading point, these security deposits shall be deducted from the outstanding balance at the loading address.

Pallets are always charged at market price, with an administrative charge of 25 euros per invoice.

As regards the pallets handed over by the customer, the parties expressly agree that the carrier is only obliged to return a maximum share of 90% of the pallets handed over, and the customer shall therefore take a 10% share on account of the loss of pallets.

Upon receipt of the signed original pallet receipt, Eutraco shall no longer bear any liability in case of discrepancies.

**14.** The parties expressly agree that the extent of EUTRACO's contractual liability resulting from:

- the total or partial physical loss or damage occurring to the goods, including the delay in their delivery, due to involuntary errors, omissions, mistakes, forgetfulness or loss of documents intended to accompany the goods, committed by EUTRACO in connection with the organisation of the transport of goods.
- compensation for tax or administrative fines payable to the State by EUTRACO's customer in the event of the absence, incompleteness or loss of documents intended to accompany the goods



due to involuntary errors, mistakes, negligence or omissions on the part of EUTRACO in the organisation of the carriage of goods by road

shall in all cases be limited to a maximum of the agreed freight price of the transport concerned.

#### **TITLE IV: STORAGE AND HANDLING OF GOODS**

These conditions apply to all operations forming part of logistics services, as defined below, at any logistics centre of EUTRACO.

##### **1. Definitions**

The following terms shall have the following meanings in these Terms and Conditions:

- 1.1. GLC: General Logistics Conditions.
- 1.2. CC: Belgian Civil Code.
- 1.3. ABAS-KVBG (*Professional Association of Antwerp Master, Stevedores and Port Operators - Royal Association of Trafficflow controllers*) conditions: general conditions for the handling of goods and related activities at the port of Antwerp.
- 1.4. CEB/VEA terms and conditions: General Belgian Forwarding Conditions of the Confederation of Forwarding Agents of Belgium.
- 1.5. Logistics Service Agreement: the agreement whereby the Logistics Provider undertakes to provide Logistics Services to the customer.
- 1.6. Logistics Services: all agreed contractual performance of any nature whatsoever relating to the handling and distribution of goods, including but not limited to receipt, storage, removal, stock management, order handling, preparation for shipment, invoicing, with regard to goods as well as the related information exchange and the management thereof, customs assignments, transport and forwarding. Under no circumstances shall tax representation be subject to these conditions.
- 1.7. Logistics Service Provider: EUTRACO.
- 1.8. Logistics Centre: the area(s) where the Logistic Services take place.
- 1.9. Additional Activities: agreed activities, not agreed upon at the time of concluding the original agreement for Logistic Services.
- 1.10. Consignee: the person, to whom the Logistics Service Provider shall deliver goods pursuant to the agreement.

- 1.11. Customer: the person who has concluded an agreement with the Logistics Service Provider.
- 1.12. Acceptance: the moment at which the Logistics Service Provider allows the goods to be handed over, subject to reservation if necessary, and after which they remain under the care and management of the Logistics Service Provider.
- 1.13. Delivery: the moment at which the consignee allows the goods to be handed over, subject to reservation if necessary, and after which they are no longer under the care and the management of the Logistics Service Provider.
- 1.14. Force majeure: all circumstances beyond the control of the Logistics Service Provider that practically make it humanly impossible for it to fulfil its obligations
- 1.15. Working days: all calendar days, excluding Saturdays, Sundays, as well as all legally recognised public holidays in Belgium.
- 1.16. Stock differences: an inexplicable difference between the physical stock and the stock as it should be according to the stock records of the Logistics Service Provider, subject to proof to the contrary by the customer.
- 1.17. CMR: Convention on the Contract for the International Carriage of Goods by Road dated 19 May 1956 (Geneva Convention).
- 1.18. CIM: Uniform Rules Concerning the Contract of International Carriage of Goods by Rail dated 1 July 2006.
- 1.19. FIATA: Fiata model rules for freight forwarding services.
- 1.20. CMNI: the Budapest Convention on the Contract for the Carriage of Goods by Inland Waterways (CMNI) of 22 June 2001.

## **2. Scope**

2.1. In the absence of any express and contrary written agreement between the parties, the GLC shall apply to the Logistics Service Agreement and the Additional Activities insofar as they are not contrary to mandatory law and public policy.

The general terms and conditions of the customer on the legal relationship between the parties is expressly excluded.

2.2. In the absence of an explicit and contrary written agreement between the parties, all transports carried out within the framework of this Logistics Service Agreement shall be subject to the provisions of the international treaties and imperative legislation applicable to the transport in question (CMR, supplemented by the General Conditions for Road Transport as drawn up by TLV (Transport and

Logistics Belgium), Febetra (Royal Federation of Belgian Carriers and Logistic Service Providers) and UPTR (Belgian Road Haulage Federation) if it concerns Belgian waybill forms and these are not in conflict with applicable imperative legislation, CIM (Uniform Rules Concerning the Contract of International Carriage of Goods by Rail), CMNI (Convention on the Contract for the Carriage of Goods by Inland Waterways), FIATA (International Federation of Freight Forwarders), etc.).

2.3. In the absence of contractual arrangements to the contrary, all forwarding, customs, VAT assignments carried out under this Logistics Service Agreement shall be subject to the provisions of the CEB/VEA terms and conditions

2.4. In the absence of contractual arrangements to the contrary, all stevedoring activities carried out in the context of waterborne transport under this GLC shall be subject to the provisions of the ABAS-KVVG terms and conditions

2.5. Every agreement shall first be concluded and shall commence as soon as the customer confirms the offer of the Logistics Service Provider, or if the Logistics Service Provider has actually commenced execution of the order.

### **3. Obligations of the Logistics Service Provider**

The Logistics Service Provider is obliged to:

3.1. perform the Logistics Services and, where appropriate, the Additional Activities, as agreed with the customer.

3.2. accept the agreed goods at the agreed place, at the agreed time and in the agreed manner, accompanied by a transport document and any other documents provided by the customer, and to deliver them in the same condition as it received them, or in the agreed condition.

In the absence of an agreed term for Acceptance or Delivery, these agreed activities shall take place within the time reasonably required by a Logistics Service Provider, counting from the moment of the Acceptance or of requesting the Delivery. This period shall then be deemed to be the agreed period.

Take delivery of the goods, note down reservations if any on the transport document regarding externally visible damage and quantity, and to inform the customer about the same so that the latter can take the necessary measures.

3.3. designate one or more contact persons and notify this to the customer.

3.4. If the Logistics Service Provider fails to appoint one or more contact persons as referred to in clause 3.3, the person, who has signed the agreement for Logistics Services on behalf of the Logistics Service Provider, shall be deemed to be such contact person.

3.5. Ensure that the storage and handling of goods is done in the appropriate spaces, with the necessary permits where applicable. Any change to agreed Logistics Centre shall be reported to the customer.

3.6. To behave with due care with regard to the goods and, if this should be necessary for the preservation of the goods at the customer's expense, to take all reasonable measures, including those not directly arising from the provision of logistics services.

3.7. To obtain insurance for its responsibilities as arising under the GLC, from a recognised insurance company, as per the Insurance Control Act of 9 July 1975.

3.8. To allow the presence of the customer or of the persons designated by the customer only in the rooms or premises in which the goods are located, and exclusively at the latter's own risk and only during normal working hours, provided, however, that this:

- takes place in the presence of the Logistics Service Provider;
- has been notified and approved in advance;
- takes place in accordance with the internal regulations of the Logistics Service Provider;
- To ensure compliance with the safety regulations in force in the Logistics Centre and/or on the premises of the Logistics Service Provider.

3.9. To ensure the proper functioning of the equipment it uses for the performance of the contract for the provision of logistics services.

3.10. Unless otherwise agreed between the parties, the commitments of the Logistics Service Provider under this Agreement are a best efforts obligation and can in no case be interpreted as an obligation of result.

#### **4. Liability of the Logistics Service Provider**

4.1. If goods received by the Logistics Service Provider in their packaging if any are not delivered to the customer and/or consignee in the same or in the agreed condition, the Logistics Service Provider shall, except for Force Majeure and the further stipulations in these conditions, be liable for the damage and/or loss arising therefrom insofar as this is the result of a fault or negligence on the part of the Logistics Service Provider, its appointees, personnel or subcontractors if any. The customer shall bear the burden of proof in this regard.

4.2. The Logistics Service Provider shall not be liable for damage and loss to and of goods, insofar as such damage/loss is the result of the special risks associated with storage in open air, on behalf of the customer.

4.3. The Logistics Service Provider shall not be liable in cases of, among other things, theft with burglary and/or violence, fire, explosion, lightning, impact of aircraft, water damage, inherent defect of the goods and their packaging, and hidden defects, rental and demurrage charges, and Force Majeure.

4.4. The liability of the Logistics Service Provider within the GLC shall be limited to an amount per kilogram, per event and per year to be agreed between the parties, unless the damage was caused intentionally by the management of the Logistics Service Provider. If such amounts are not agreed, a maximum amount of 8.33 Special Drawing Rights (STR) per kilogram of lost or damaged goods, subject to the absolute maximum of 25,000 euros per event or series of events with one and the same cause of damage, as well as a maximum of 100,000 euros per year, shall apply.

4.5. If the Logistics Service Provider does not perform the Logistics Services and/or Additional Activities at or within the agreed time, in the agreed manner and at the agreed place, it shall subsequently request instructions from the customer and, without prejudice to the provisions of clause 4.1, it shall be obliged to still perform these activities in the agreed manner as soon as possible and without additional costs for the customer.

If the customer has incurred additional costs in connection with the fact that the Logistics Service Provider has not performed the Logistics Services and/or Additional Activities at the agreed time, the Logistics Service Provider shall be liable for these costs up to a maximum of an amount to be agreed upon at the time of concluding the Logistics Services Agreement. If such an amount has not been agreed, the liability of the Logistics Service Provider for these costs shall not exceed 750 euros per event.

4.6. The Logistics Service Provider shall not be liable for damages resulting from information and orders given by or to persons other than those referred to in Clause 3.3.

4.7. If the Logistics Service Provider repeatedly fails to meet its substantial obligations, the customer may, without prejudice to its right to compensation for damages as described in paragraphs 1, 2, 3 and 4 of this Clause, terminate the Logistics Services agreement after it has given the Logistics Service Provider a period of at least 30 days, in writing, and the Logistics Service Provider has not yet fulfilled its obligations at the end of this period.

As compensation for the damage resulting from such termination, the Logistics Service Provider shall be liable to pay a maximum amount to be determined at the conclusion of the Logistics Service Agreement.

4.8. The Logistics Service Provider shall not be liable for any damage other than damage to the goods themselves. Thus the liability of the Logistics Service Provider is excluded for all indirect or immaterial damages, such as but not limited to lost income, lost profit and consequential damages.

4.9. Any damages, losses and/or Stock differences shall be evaluated once a year. In case of a positive difference, no compensation shall be requested. Negative and positive differences if any shall thereby be set-off against each other.

In case of a negative difference, no damage compensation shall be paid if this difference is less than a percentage of the total Annual Volume to be agreed between the parties. Failing this, a percentage of 0.1% of the total Annual Volume that is the subject of the Logistics Service Agreement shall apply. Annual volume for these purposes shall mean the total of incoming, outgoing and handled quantities of goods.

In case the agreed percentage is nevertheless exceeded, the Logistics Service Provider shall pay to the customer compensation equal to the arrival value, to be proved by the customer, of the relevant Stock differences that exceed the agreed percentage. Liability for Stock Differences shall be limited as provided in Clause 4.4. Arrival value means the cost of production or purchase value plus the transport cost until Acceptance by the Logistics Service Provider.

4.10. The Logistics Service Provider may sell the goods without awaiting the instructions of the party with an interest in the cargo if the perishable nature or condition of the goods justifies it or if the storage costs are disproportionate to the value of the goods. The value of the goods is the cost of production or, failing this, the prevailing market price, or failing this, the usual value of goods of the same nature and quality.

It may also sell the goods in case of the surrender of the goods by the customer.

In the other cases, it may also sell the goods if it has not, within a reasonable time, received alternative instructions from the party with an interest in the cargo, the execution of which can reasonably be demanded.

If the goods were sold under application of the present Clause, the proceeds of the sale shall have to be paid to the party with an interest in the cargo, after deduction of the costs taxing the goods. If these costs exceed the proceeds of the sale, the Logistics Service Provider shall have a right to claim the difference.

The procedure to be followed in case of sale is laid down under the law and customs of the place in which the goods are located.

In any case, in the case of perishable goods or goods whose storage costs are disproportionate to the value of the goods, a simple notice of sale shall be sent to the party with an interest in the cargo.

If the latter does not respond to the same within 2 Working Days, the sale thereof may proceed.

In case of non-perishable goods, a simple notice of sale shall also be sent to the party with an interest in the cargo.

If the latter does not respond to it within a period of 15 calendar days, it may be sold.

## **5. Obligations of the customer**

The customer shall be bound to:

- 5.1. appoint one or more contact persons and notify the Logistics Service Provider of the same.
- 5.2. if the customer fails to designate one or more contact persons as referred to in Clause 5.1 of these conditions, the person who signed the Logistics Service Agreement on behalf of the customer shall be deemed to be the contact person.
- 5.3. the customer shall be bound to provide, in due time, all information concerning the goods as well as the handling thereof, which it knows or ought to know that these are important for the Logistics Service Provider.

In addition, the customer shall provide the Logistics Service Provider with the information claimed by the latter to be required in order to ensure the proper performance of the agreement within the required time, in the desired form and in the desired manner.

In the case of dangerous goods, the customer is obliged to provide or communicate to the Logistics Service Provider all documents and instructions as mentioned in the conventions and regulations in this regard such as ADR (European Agreement concerning the International Carriage of Dangerous Goods by Road), ADNR (Regulation on the Transport of Dangerous Goods on the Rhine), IMDG (International Maritime Code for Dangerous Goods), MSDS (material safety data sheets), etc.

The customer guarantees the accuracy, completeness and reliability of the information and documents provided to the Logistics Service Provider that originate from it or from third parties.

The Logistics Service Provider has the right to suspend the performance of the agreement until the customer has fulfilled the abovementioned obligations.

Insofar as the performance of the work is delayed or cannot be performed properly due to the late or improper provision of the agreed goods, data and/or documents, the resulting additional costs arising therefrom shall be borne by the customer.

The customer shall also be responsible for any damage to the environment, damage or for personal injury that the Logistics Service Provider, its appointees, personnel or any subcontractors may suffer as a result of incomplete, incorrect, unreliable information regarding the nature of the goods.

- 5.4. inform the Logistics Service Provider regarding the permits required for the performance of its activities.

- 5.5. make the agreed goods available to the Logistics Service Provider at the agreed place, time and in the agreed manner, at least packed in suitable, adequate and transport-proof packaging, together with

an accompanying document as well as the other documents as required by law to be provided by the customer, unless the parties have agreed otherwise in writing.

5.6. in addition to the agreed price for the Logistics Services, to reimburse the costs incurred by the Logistics Service Provider with respect to the Additional Activities, as well as the costs referred to in Clause 3.6, within the stipulated payment term.

5.7. indemnify the Logistics Service Provider against claims by third parties for damage caused directly or indirectly by the Goods, insufficient or unsuitable packaging of the Goods, an act or omission by the customer, its subordinates, as well as all other persons whose services the customer uses.

5.8. vouch for the material provided by it to the Logistics Service Provider.

5.9. on the Logistics Service Agreement coming to an end, to take delivery of the goods still in the possession of the Logistics Service Provider, no later than on the last working day of such agreement, after payment of all such amounts as are or shall become due. For amounts that shall be due after the Logistics Service Agreement comes to an end, it shall suffice for the customer to provide sufficient security.

5.10. accept any adjustment of rates with regard to the increments in expenses and/or the bearing of costs (including new taxes) that were unknown at the time of signing the present agreement, which the customer would also have had to suffer if the customer had been carrying out the activities specified in this agreement for its own account.

The parties shall determine the modalities of automatic indexation of tariffs at the start of the agreement. Failing this, tariffs shall be adjusted according to the consumer price index, as published on the FPS Economy website.

5.11. pay the cost of disposal and recycling of packaging and waste resulting from the provision of services, at cost price.

## **6. Liability of the customer**

6.1. The customer shall be liable for all damages and costs caused by it and by persons working on its instructions and/or appointed by it, and/or caused due to the goods subject to the Logistics Service Agreement.

6.2. If the customer does not communicate the information and documents referred to in clause 5.3 of these conditions in time, or does not make the agreed goods available at the agreed time or within the agreed term, in the agreed manner and at the agreed place, in a suitable, sufficient and transport-secure packaging, and accompanied by the required documents referred to in Clause 5.5 of these conditions, it



shall be bound to still perform these activities as soon as possible, free of charge and in the agreed manner for the Logistics Service Provider.

In case the Logistics Service Provider incurs additional costs due to the fact that the customer has failed to comply with its obligations as referred to in Clause 5.3 and 5.5 of these conditions, the customer shall be responsible for such costs, subject to a maximum of 30,000 euros per event.

6.3. If the customer repeatedly fails to meet its obligations, the Logistics Service Provider may, without prejudice to its right to compensation for damages, terminate the Logistics Services agreement, after it has given the customer a reasonable deadline in writing, and the customer has still failed to meet its obligations at the expiry of such deadline. In such case, the customer shall be liable for any resulting damage.

6.4. The customer shall adequately insure the goods, but at least against fire, lightning, explosion, impact of aircraft, storm damage, water damage, flooding and theft. In such cases, the customer and its insurer shall waive recourse against the Logistics Service Provider and all third parties.

Moreover, it shall be responsible for collecting and handling the damaged goods. Access to the areas is governed by Section 3(8). Moreover, it shall pay all the costs arising due to the collection and handling of goods damaged by fire and/or flood, as well as all costs howsoever arising therefrom, such as the costs of cleaning or decontamination of the site or installations, without prejudice to what is mentioned in Clause 6.1.

## **7. Limitations**

All claims to which the Logistics Service Agreement gives rise, including those arising from a cash on delivery clause, shall lapse one year from the day following the day on which the customer has or should have had knowledge of the fact or occurrence that gave rise to the claim. Claims relating to visible damage immediately after Delivery, and claims if any for invisible damage within a period of 7 Working Days after Delivery,

## **8. Duration and termination of contract**

8.1 Unless otherwise agreed between the parties, the Logistics Service Agreement is entered into for an indefinite period of time, with a termination notice period of at least 6 months.

8.2. If one of the parties repeatedly fails to comply with its substantial obligations, the other party may terminate the Logistics Service Agreement after giving the general management (business manager, managing director, etc.) a period of at least 30 days in writing by registered letter, at the expiry of which the other party has still not complied with its obligations.

8.3 In case of liquidation, insolvency and/or bankruptcy and/or another form of collective debt settlement of one of the parties, the other party is entitled to dissolve the agreement without further notice of default.

8.4 If there is already partial performance by the Logistics Service Provider, the dissolution of the Logistics Service Agreement can only relate to the future, and the customer shall be liable to pay a price proportional to the part of the Agreement that has been performed.

8.5 In case of Force Majeure that continues for more than 30 days, the customer shall be entitled to terminate the Agreement with immediate effect, without the customer being entitled to claim compensation for any damage in connection with such termination.

## **9. Final provisions**

9.1 All notifications should be made in writing by registered letter to the address of the general management (business manager, managing director, etc.).

9.2 The Dutch language version of this GLC shall be the only authentic version. In case of contradiction between the Dutch version and a translation if any, this Dutch version and its interpretation shall prevail.

**GENERAL TERMS AND CONDITIONS OF EUTRACO CUSTOMS – VERSION 1**  
**JANUARY 2023**

1. The present terms and conditions shall apply, unless otherwise agreed, to any kind of service provided by EUTRACO CUSTOMS as freight forwarder.

They may be cited as "Belgian Forwarding Conditions" and represent a business practice.

2. The following terms shall have the following meanings in these Terms and Conditions:

- the customer: means the freight forwarder's customer on whose instructions or on whose behalf the freight forwarder provides services, information or advice, whether free of charge or for a fee.
- the freight forwarder: EUTRACO CUSTOMS.
- the service: any order for the shipment of goods offered, accepted for performance, or performed by the freight forwarder, including any related acts as well as any information or advice thereon.
- the goods: all goods, including their packaging, entrusted or to be entrusted to the freight forwarder by the customer. This includes all trade goods, as well as any papers or documents that represent or shall represent those goods.
- the owner: the owner of the property, to which the service provided by the freight forwarder relates.
- third parties: the non-contracting parties, in particular, the natural persons or legal entities with whom the freight forwarder acts in the performance of its instructions.

3. When providing services, a distinction is made between the freight forwarder who acts:

3. as a freight forwarding agent: its order consists of, among other things, forwarding goods either in its own name or in the name of its customer, but on the latter's behalf, and consequently providing all necessary services for that purpose, completing all the required formalities and concluding the agreements necessary for that purpose.
4. as a shipping agent: in the cases provided for below, and in no other cases, the freight forwarder shall be deemed to be a shipping agent.
  - d) when it performs the transportation of goods in its own name with its own means,
  - e) when it defers a transport document in its own name,
  - f) when it can be explicitly inferred from the order that the freight forwarder accepts the same.

**4.** These conditions shall not constitute a waiver by the freight forwarder of any right, nor shall they give rise to any greater liability than that to which it would be liable under any law or regulation applicable in addition to these Conditions.

**5.** The customer confirms that the goods, which it entrusts to the freight forwarder on the basis of its order, are its property, or that it may dispose of these goods as the owner's agent, in the sense that it accepts the present conditions not only for itself but also for its customer, as well as for their owner.

**6.** Unless otherwise provided or in case of an extraneous cause independent of the freight forwarder's will, any offer made by the freight forwarder shall be valid for a period of 8 days.

Such offer is based on existing rates, wages, freight and currency rates and estimated dates, which are valid on the date the offer is sent to the customer.

If any of these factors change, the prices offered shall also be changed accordingly and with retroactive effect.

The freight forwarder shall at all times be entitled to charge the customer for all the amounts that were charged to it by third parties on account of incorrectly charged freights, costs or rates.

**7.** The customer undertakes to provide the freight forwarder, prior to or at the latest at the time of order confirmation, with all such useful information, in particular concerning the nature of the goods, the method of shipment, the place of dispatch and destination, the desired dispatch route as well as, in particular, any information or knowledge attributable to the customer as manufacturer, trader, owner or consignor of the goods, that is of such nature as to ensure their preservation, shipment, delivery at the place of destination.

**8.** The freight forwarder shall not be expected to examine the accuracy of the information or information given by the customer, or the authenticity or regularity of the documents provided by the customer, and the same shall be accepted in good faith.

**9.** In the absence of precise instructions or special agreements to the contrary, the freight forwarder shall be free to choose the means to be used to organise and perform the services to the best of its ability, in accordance with normal business practice, including groupage of the goods.

**10.** The freight forwarder shall be entitled to charge the amounts or fees due for its expenses and contributions on a lump sum basis.

**11.** In carrying out its order, the freight forwarder may engage third parties and agents, who demonstrate normal professional competence.

**12.** Unless instructed otherwise, the freight forwarder shall be entitled to take charge of or retain any goods which for any reason cannot be delivered, and to store such goods at the expense and risk of the customer or of the goods themselves.

The freight forwarder may sell the goods in accordance with the provisions of the Act of 5 May 1872 on Commercial Lien to discharge its debt claims.

The freight forwarder may, subject to provision of justification and further subject to prior written notice to the customer, destroy, remove or sell dangerous, perishable, flammable, explosive or other goods which may cause damage to persons, animals or property, at the customer's expense and risk.

**13.** The freight forwarder shall be entitled to suspend the performance of the order if the customer fails in any manner to perform its obligations, or fails to perform the same adequately.

In case of force majeure, the agreement shall remain in force; however, the freight forwarder's obligations shall be suspended for the duration of such force majeure.

An additional fee may always be charged for special services, or for unusual, particularly time-consuming or effort-consuming work. Any additional costs caused by force majeure shall also be borne by the customer

**14.** Unless otherwise agreed in advance and in writing, the freight forwarder shall not be required to guard the goods intended for shipment or to have them guarded or insured, irrespective of where the goods may be, even in open air.

**15.** The amounts or fees charged by the freight forwarder shall be payable in cash at the freight forwarder's registered office, upon expiry of a period of 8 days from the date of the invoice.

Losses due to exchange rate fluctuations shall be borne by the customer. If the customer does not specify the debt against which the payments are made, the freight forwarder may freely deduct the amounts that are owed by the customer to the freight forwarder from such payments.

**16.** The freight forwarder must receive any protest against the invoicing or against the services and amounts charged in writing within 14 days following the invoice date.

**17.** The customer waives any right to invoke any circumstance under which it would be entitled to suspend some or all of its payment obligations, and waives any set-off in respect of all amounts charged to it by the freight forwarder.

**18.** The freight forwarder shall not be presumed to provide security from its own resources for payment of freight, duties, levies, taxes or any obligations whatsoever, should they be required by third parties. If the freight forwarder has provided security from its own resources, the customer shall be obliged, at the freight forwarder's first request in writing, to pay to the freight forwarder, towards security, any amount that the freight forwarder may have paid to third parties on account of the provision of security.

**19.** Compensatory interest equal to the legal interest rate and increased by a lump-sum compensation equal to 10% of the debt, to cover economic and administrative damage, without prejudice to the freight forwarder's right to prove the existence of greater damage, shall be added without prior notice to any debt that is not paid on the due date.

**20.** The customer undertakes and vouches for the following:

- that the order and description of the goods provided by it are complete, correct and accurate.
- that the goods to be entrusted by it to the freight forwarder shall be made available in a timely, complete and efficient manner, adequately and efficiently loaded, stowed, packed and marked in accordance with the nature of the goods and place of consignment or destination to which they are entrusted to the freight forwarder.
- that all documents provided by it to the freight forwarder are complete, correct, valid, authentic and not improperly deferred or used.
- that, unless the freight forwarder has been notified in advance and in writing, the goods entrusted to it are not of a dangerous, perishable, flammable or explosive nature or which may otherwise cause damage to third parties, persons or property.
- that it shall examine all documents provided to it by the freight forwarder upon receipt, and shall verify that they are in accordance with the instructions given to the freight forwarder.

**21.** The customer shall be liable to the freight forwarder and shall indemnify it on first request to do so:

- for any damage and/or loss in connection with the order placed with the freight forwarder, as a result of the nature of the goods and their packaging, or the incorrectness, inaccuracy or incompleteness of instructions and data, or the failure to make the goods available at the agreed time and place, as well as the failure to provide documents and/or instructions, or to do so in time, and the fault or negligence in general of the customer and the third parties engaged by it.
- for any damage and/or loss, costs and expenses for the amount of which the freight forwarder is sued by authorities, third parties or agents, irrespective of the cause, in respect of, *inter alia*, the goods, damages, expenses, costs, rights, claimed directly or indirectly as a result of the service provided on the customer's instructions, unless the customer proves that such claim has been directly caused by a fault for which the freight forwarder alone is liable.
- for any damage and/or loss in connection with the order placed with the freight forwarder, for costs and expenses for which the freight forwarder shall be liable in cases in which the freight forwarder is under any personal and/or joint and several liability for the payment or discharge of customs duties and/or other fiscal debts under Community or national laws and regulations.

**22.** If the claim for which the freight forwarder makes a claim against its customer by way of payment or indemnification, is a customs or other tax claim arising out of a customs assignment entrusted to it by or on behalf of its customer, the customer undertakes to provide, in favour of the freight forwarder and at the freight forwarder's first request, or in favour of a third party designated by the freight forwarder, a financial guarantee for an amount equivalent to the amount of such claim, which

guarantee shall be of such a nature as shall unconditionally guarantee the customer's liability to the freight forwarder.

**23.** The freight forwarder shall not be liable for damage if it is caused by an extraneous cause, including war, riot, strike, lock-out, boycott, work congestion, freight shortage or weather conditions.

**24.** The freight forwarder shall not be liable for any damage or loss caused due to the theft of goods in its possession, unless the customer proves that the theft took place as a result of circumstances which the freight forwarder, in view of its agreement with the customer, was required to prevent or foresee, and insofar as, pursuant to local regulations or business practice, the risk of theft is not for the account of the goods.

**25.** The freight forwarder shall not be liable for any indirect damage, including economic loss, consequential damage or immaterial damage.

**26.** The freight forwarder shall not be responsible for the successful outcome of the collection orders entrusted to it unless it is proved that the bad outcome is due to negligence, which can be equated with gross negligence on its part.

**27.** The freight forwarder shall discharge its order with reasonable care, diligence and understanding and guarantees the normal professional performance of the order entrusted to it.

**28.** The freight forwarder's liability shall be limited to errors or omissions committed by it in the performance of the order placed with it.

Insofar as such errors or omissions have caused direct material or financial damage to the customer or third parties, the freight forwarder shall be entitled to limit its liability to: 5 euros per damaged or missing kg gross weight, subject to a maximum of 25,000 euros per order.



**29.** The freight forwarder shall not be liable for the performance of any contract for, *inter alia*, storage, transport, customs clearance or cargo handling concluded by it, on behalf of its customer, with third parties or agents, unless it is proved by the customer that the defective performance thereof was directly caused by a fault of the freight forwarder.

**30.** Delivery times, arrival and departure dates are not guaranteed by the freight forwarder, unless otherwise agreed in advance and in writing. The mere mention by the customer of a delivery time shall not bind the freight forwarder.

**31.** The freight forwarder shall be liable as a carrier, in the cases provided for in clause 3.2.

Its liability shall be determined according to national law and the international Conventions applicable to relevant mode of transport.

**32.** The amounts charged by the freight forwarder to its customer shall be a preferential debt in accordance with the law and these conditions.

**33.** The freight forwarder's claims against its customer shall be a preferential debt pursuant to Section 14 of the Act of 5 May 1872 on Commercial Lien, Section 20.7 of the Mortgage Act and Section 136 of the General Customs and Excise Act, to the extent of all goods, documents or moneys in its possession and to be in its possession, regardless of whether the claim relates in part or in full to the reception or shipment of goods other than those in its possession.

**34.** The freight forwarder shall have a lien on the goods and shall be entitled to sell such goods in order to discharge its claim in full; it may also use the said goods as security, irrespective of whether or not the customer is the owner thereof.

**35.** The freight forwarder may provide insurance (AREX 21) to the customer when so requested in writing, thereby allowing the customer to obtain insurance against the freight forwarder risks in relation to any international transport order.

The cost of such insurance shall be borne by the customer.

**36.** Any claim for damages against the freight forwarder shall be notified to it in writing, with statement of reasons, within 14 days following either the delivery or the dispatch of the goods.

Any potential liability of the freight forwarder shall be automatically and definitively extinguished in case the customer takes back the documents relating to a particular operation covered within the scope of the services, after they have been carried out, without the customer making a reasoned reservation to the freight forwarder no later than the 10th day after the dispatch of the aforementioned documents.

**37.** Any liability claim against the freight forwarder shall be time-barred if it is not brought before the competent court within a period of six months.

The limitation period shall run from the day following the day on which the goods were delivered or should have been delivered, or failing that, from the day following the day on which the event giving rise to the claim occurred.

**38.** Jurisdiction is assigned exclusively to the courts having jurisdiction over the area in which the freight forwarder's registered office is located, as the place of conclusion and performance of the agreement, without prejudice to the Freight Forwarder's right to bring proceedings before another court

**39.** The freight forwarder shall not institute judicial and arbitration proceedings against third parties unless the freight forwarder agrees to do so at the customer's request and at the customer's account and risk.

**40.** All legal relationships to which these terms and conditions apply shall be governed exclusively by Belgian law.