

# GENERAL CONDITIONS 20.05.2019

## Artikel 1. DEFINITIONS

1. **Carrier:** BVBA INTERNATIONAL TRANSPORT EMIEL VERACHTERT with registered office at 2260 Westerlo, Busselen 27 and registered in the crossroads bank of companies under the number 0415.805.940.
2. **Client:** This is the party charged by the Carrier with the transport of Goods in the context of the Agreement.
3. **Subcontractor:** This is the party that is charged with carrying out the Order for the Carrier.
4. **Goods:** Goods to be transported that are packaged by a third party and that are loaded and unloaded by a third party into/out of the truck.
5. **Sender:** The Sender is deemed to be the same as the Client, unless the Sender is explicitly and further specified.
6. **Consignee:** The party to whom the Carrier must deliver the Goods. The Consignee is deemed to be the same as the Client, unless the Consignee is explicitly and further specified.
7. **Loading location:** Place where the Subcontractor must collect the Goods and where they are loaded by a third party.
8. **Unloading location:** Place where the Subcontractor must deliver the Goods and/or where the Goods must be unloaded by a third party.
9. **Freight price:** The compensation for the transport given on the basis of the initial information received from the Client.
10. **Offer:** Document from the Carrier and/or Subcontractor containing its proposal and special conditions for the transport of Goods.
11. **Order Confirmation:** Document from the Carrier, in which it confirms the Offer accepted by Subcontractor or the Transport Order from Client.
12. **Agreement (s):** The agreement(s) between the Subcontractor and the Carrier in connection with the transport by road of the Goods by the Subcontractor pursuant to the Offer and/or Order Confirmation.
13. **Parties:** The Carrier and the Subcontractor.
14. **Order:** Order from the Carrier to the Subcontractor for the transport of Goods at the request of the Client.

## Artikel 2. SCOPE

The general terms and conditions are an integral part of the commitments entered into by the Sender or Consignee (hereinafter: the Client), (hereinafter: the Agreement). This Agreement applies to all Offers from the Carrier to its Client, all orders from the Client, and to all Agreements between the Carrier and the Client.

This Agreement is governed by these terms and conditions both nationally or internationally.

Other or contradictory terms and conditions of the Client are considered to be non-written, unless they have been explicitly accepted by the Carrier. The failure to respond can in no way be interpreted as an acceptance of other contractual conditions. The Agreement takes precedence over the terms and conditions that originate from the Client or from a third party.

Insofar as this Agreement was also drawn up in a language other than Dutch, the Dutch text is always decisive in the event of a difference or interpretation.

Signing the bill of lading by the shipper, quay personnel and brokerage agent only binds the Sender and signing by the stevedores, freight handlers or quay personnel at destination only binds the Consignee.

The Client vouches that his contracting party, the Consignee and/or Sender, has knowledge of and agrees with these terms and conditions, failing which he will compensate the Carrier for all costs and indemnify him against every possible claim.

All conditions other than those in this Agreement, as well as all deviations from this Agreement, even if they originate from the representatives of the Carrier, must be confirmed in advance by the Carrier in writing so that they can be enforceable on the Carrier.

## Artikel 3. OFFERS AND ORDERS

### Non-binding nature

The Offers of the Carrier, as well as the data and attachments provided by it, only apply as information and do not bind the Carrier. The Offer is valid during the current month in which it is drawn up, as well as the following month. The Offers of the representatives of the Carrier are only valid after written confirmation from the Carrier's manager.

### Indivisible

A composite quotation or an Offer with partial items does not oblige the Carrier to execute a part of it.

### Telephone orders

Orders must be given in writing. Telephone Orders are only considered to be definitive after written confirmation thereof by the Client and subject to explicit acceptance by the Carrier.

## Artikel 4. OBLIGATIONS OF THE CARRIER

### Transport order

On the instructions of the Client, the Carrier undertakes to transport the Goods from the agreed Loading Location to the agreed Unloading Location and vice versa at the time and manner stated in the Agreement or Offer.

The Carrier undertakes to use suitable vehicles for the transportation of the Goods and undertakes to deliver the Goods at destination as specified in the Agreement or Offer, within the agreed period, in the visible state in which it has received the Goods.

The Client declares that the Carrier is entitled to have the order carried out by a

subcontractor.

### Delivery time

The Carrier shall pick up the Goods at the Loading Location and deliver them to the Unloading Location within the delivery periods specified in the Agreement or Offer, in accordance with the relevant provisions of the CMR Convention.

### State of the goods

The Goods are received in as-is condition. The Carrier bears no responsibility whatsoever with regard to the internal state and with regard to hidden non-conformity of the Goods to be transported, even if the contrary is stated in the Transport Order of the Client.

In the event that the Goods are packed in bales, crates or other opaque packages, they will be accepted without examination of the content and condition of the Goods.

If the Goods are on or in a container, the Carrier will only attach the container to the trailer under the authority and supervision of the Client.

The Goods must be checked in advance by the Client so that they cannot cause any (environmental) damage during loading, transport and unloading. If a leak or damage should arise during the Order due to the defective condition of the goods, the Client will indemnify the Carrier for all costs arising therefrom.

The Client confirms that the Goods are either his property or that he may have access to the Goods.

## Artikel 5. OBLIGATIONS OF THE CLIENT

### Information obligation

The Client undertakes to provide all useful and necessary information in its Order prior to the conclusion of the Agreement and to provide any cooperation necessary for the execution of the Agreement. The Client must provide at least the following information:

- Description of the nature of the Goods (incl. weight, number of packages, brands and (seal) numbers etc.)
- Customs status;
- Loading location;
- Unloading location,
- Method of stowage;
- The date on which the Goods must be returned.
- Instructions or information regarding dangerous goods (ADR Convention) or goods that are the subject of special regulations.

All copies of the CMR waybill must be made available to the person designated by the Carrier so that the latter can indicate the final reservations and/or comments.

### Customs

The Client is responsible for applying and clearing the customs documents for both import and export. The Carrier is not responsible for the handling and clearance of these documents.

### Packing of the Goods

The Client and/or Sender is solely responsible for providing the Goods with proper lifting, loading, jacking and packaging material and lashing points that are sufficiently sturdy, durable and practical for transport.

### Loading and unloading

Unless otherwise agreed in writing, the Parties expressly agree that the loading and unloading will be carried out by the Sender or the Consignee. To the extent that the person appointed by the Carrier is requested by the Sender or the Consignee to perform these acts, this will be done under the explicit supervision, control and responsibility of the Sender, or respectively, the Consignee.

The Carrier does not bear any liability for damage caused by, and/or during loading and unloading.

Unless otherwise agreed in writing, the delivery of the Goods takes place at the threshold or at the dock of the buildings of the Consignee.

The Client is fully responsible for the unimpeded and safe access of the Carrier to the Loading and Unloading Location, regardless of whether the Client is also the Sender or the Consignee. The Carrier is not obliged to conduct a preliminary investigation into the state of the Loading and Unloading Location.

### Stowage

Unless otherwise agreed in writing and to the extent that this is possible and/or necessary, the stowage will be carried out by the Carrier on the basis of the instructions of the Sender or Shipper that are given depending on the route in accordance with the applicable legislation. The Sender and/or Client will in that case provide very precise and correct information and instructions. Specific stowage materials must be provided by the Client.

If the vehicle used by the Carrier or the stowage used proves to be unsuitable because incorrect or incomplete information has been communicated by the Client, Shipper or Sender or if the transport packaging is not strong enough to enable correct cargo securing, the full costs and damage caused by this will be at the expense of the Sender and/or the Client for the transport.

### Relocations on the site

The relocation of the tractor of the Carrier on the site of the Sender, Shipper or Consignee must be done entirely on the instructions and under the responsibility of the latter. However, the Carrier may object to these instructions if, in his opinion, the local circumstances endanger his vehicle or the load.

If there is no authorised person on site at the agreed time of delivery, the Carrier is instructed to unload the goods to be delivered on site, after which the delivery is communicated by the Carrier to the Sender/Client for the transport in any way, and the latter is deemed to have accepted this delivery without reservation.

#### *Indemnification*

The Client expressly undertakes to indemnify the carrier against all claims from third parties, including consequential damage, which could result from all fines, administrative fines, consignments, immediate collections or any other charges imposed by the government, in whatever nature, which follow from violations of the aforementioned provisions in the context of customs, packaging, stowage, loading and unloading

#### *Transhipment*

Except in the event that the Sender has explicitly asked the Carrier to check the gross weight of the load within the meaning of art. 8 paragraph 3 of the CMR, the Client remains responsible for every transfer, even transfer per axis, which is determined during transport. The Client will reimburse all costs arising from this, including damage due to immobilisation of the vehicle and all possible fines or other legal costs that could result from this.

## **Artikel 6. INSTRUCTIONS**

The appointees of the Carrier may not accept any instructions or declarations that bind the Carrier outside the foreseen limits with regard to:

- The value of the goods that must serve as a reference in the event of total or partial loss or damage (Articles 23 and 25 of the CMR);
- The delivery times (art. 19 CMR);
- The COD instructions (art. 21 CMR);
- A special value (art. 24 CMR) or a special interest in the delivery (art. 26 CMR);
- Instructions or statements regarding dangerous goods (A.D.R.) or goods that are the subject of special regulations.

## **Artikel 7. STORAGE**

If the Carrier places the Goods in storage, it is not liable in the event of theft, fire, explosion, lightning, aircraft impact, water damage, own defect of the goods and their packaging, hidden defects and force majeure.

The liability will in any case be a maximum amount of 8.33 special drawing rights (S.D.R.) per kilogram of lost or damaged goods with the absolute maximum of 25,000 euros per event or series of events with one and the same cause of damage. Indirect damage and consequential damage are not reimbursed. With the exception of provisions of mandatory law and/or public order and with the exception of intentional error, the Carrier will in no case be liable for damage that was not directly and immediately caused by a fault of the Carrier. The Carrier will never be liable for indirect damage, such as, but not limited to, loss of income, claims from third parties, loss of customers or any other damage or defects.

The liability of the Carrier will in any case be limited to the amounts that the Customer has paid to the Carrier with regard to the specific item that caused the damage.

## **Artikel 8. THE FREIGHT PRICE**

#### *Calculation of the Freight Price*

All prices are expressed in euros and are exclusive of VAT unless stated otherwise.

#### *Waiting fee*

The freight price includes 1 hour of loading and 1 hour of unloading in the case of national transport or 2 hours of loading and 2 hours of unloading in the case of international transport. If loading or unloading exceeds these hours, the Client will owe a Waiting Fee for these additional hours to the Carrier.

Waiting hours are calculated at 45 euros (excl. VAT) per started 15-minute or 0.25-hour segment. Waiting hours can be proven by all legal means, including time registration systems for on-board computer data from the tractor, GPS or tachograph.

#### *Cancellation*

In the event of a cancellation of a drive within 24 hours before the start of the drive, the full Freight Price remains due by law, without prior notice, to the Carrier. In the event of cancellation of a drive up to 24 hours before the start of the drive, a Freight Price of 75% remains due.

#### *Refusal of Goods*

In the event of the Sender's refusal of the Goods, the Freight Price remains due. The costs of temporary storage will be recovered from the Client.

## **Artikel 9. PAYMENT TERMS –NON-PAYMENT–COLLATERAL–RETENTION**

#### *Payment terms*

Unless otherwise agreed in writing, invoices are payable on the stated due date.

The Client is obliged to pay the Freight Price, even if he requests the Carrier to collect the Freight Price from the Consignee.

The Carrier is entitled to demand a commission from the Client before carrying out any Transport Order.

#### *Non-payment*

In the event of non-payment on the due date, the invoice amount will be increased lawfully and without notice of default from the invoice date, with a late-payment interest which will be calculated in accordance with the law of 2 August 2002 on payment arrears, with a minimum of 8%.

In the event of non-payment on the due date, the invoice amount will also be increased lawfully and without notice of default by 10% as compensation, with a minimum of 150.00 euros without prejudice to the compensation of legal fees due in the event of judicial recovery and all other rights which the Carrier can assert.

Failure to pay a single invoice on the due date renders the balance owed for all others, even for invoices not yet due, immediately due, and without notice of default.

The payment of one invoice does not imply the settlement of the previous unpaid invoices. Every payment by the Customer will be settled based on the oldest outstanding invoice.

#### *Right of lien and right of retention*

The different claims of the Carrier against the Client, even if they relate to different shipments and to goods that are no longer in his possession, form a single and indivisible claim in the amount of which the Carrier may exercise all his rights and privileges.

The Client grants the Carrier a conventional right of lien and/or right of retention on all goods that it would offer to the Carrier as a result of Transport Orders, whereby the Client indicates that he has the right to have access to these goods, and this applies until payment of all overdue amounts that the Client would still have to pay to the Carrier, even if these amounts have a different cause than the disputed Order.

#### *Conventional compensation*

At any time and even after the Client's bankruptcy - or other form of concursus, insolvency proceedings or seizure of the Client's assets - a conventional debt comparison will take place between the Carrier and the Client between all claims of the Carrier against the Client.

This debt comparison is, however, excluded between the Freight Price of the Carrier and any claims of the Client.

In addition, the Carrier is authorised at any time and even after the customer's bankruptcy - or any other form of concursus, insolvency proceedings or seizure of the Client's assets - to claim, in the event that the mutual claims between the Carrier and the Client are not liquid, claimable or replaceable, to liquidate these claims, to make them claimable or to convert the non-cash claims into monetary claims with a view to the settlement of the claims.

In this context, but not limited to it, the Carrier has the right to dissolve the mutual legal relationship between the Client and Carrier in the following cases or to make the mutual claims claimable in advance in any other way:

- In the event of proof or suspicion of fraud by the Client
- In the event of proof or presumption of insolvency of the Client (e.g. negative equity);
- In the event of non-compliance by the Client with this Agreement, with any other obligations towards the Carrier, or in violation of the applicable legal and/or regulatory provisions;
- In the event of non-payment, opening of insolvency proceedings or other form of concursus on the Client's assets, including seizure of the Client's assets, or termination of the activities by the Client.

The payment will be made in euros, if necessary, after conversion of claims expressed in a different currency based on the legal rate or the market rate on the bank business day before the day of execution.

#### *Joint and several liability*

If an Agreement is entered into in the name of more than one person, they are jointly and severally liable with regard to the Carrier.

#### *Short term for protest in trade matters*

All complaints and comments regarding an invoice must be communicated to the Carrier by registered letter within fifteen (15) days. The period starts from the receipt of the invoice, which is deemed to have taken place on the third (3) day after the invoice date.

In the absence of protest within the aforementioned period, invoices are deemed to be tacitly accepted.

## **Artikel 10. LIABILITY**

The liability, both in terms of its nature and scope, of the Carrier for the entire transport is strictly limited to the contractual or mandatory provisions of the CMR Convention, even if part of the multimodal transport took place in a different way than by road.

If, as a result of the transport, damage occurs to other goods that are in the care of the Sender, loader or Consignee, but that are not the goods to be transported, the Carrier is only liable for damage due to its fault or negligence. In any case and except in cases of intentional error, the extent of its liability for damage to goods other than the goods to be transported is limited per claim to a maximum of 8.33 SDR for each gross kg weight of the transported load.

## **Artikel 11. RIGHT OF SUSPENSION - CREDITWORTHINESS**

The Carrier has the right to unilaterally and lawfully, without prior notice of default and without the right to compensation for the Client, to suspend the Transport Order in whole or in part, temporarily or definitively:

- In the event of suspicion of fraud by the Client
- In the event of proof or presumption of insolvency of the Client (e.g. negative equity);
- In the event of non-compliance by the Client with this Agreement, with any other obligations with regard to the Carrier, or in violation of the applicable legal and/or regulatory provisions;
- In the event of non-payment, opening of insolvency proceedings or other

form of concursus on the assets of the Client, including seizure of the assets of the client, or cessation of activities by the Client.

If between the conclusion of the Agreement and the commencement of its execution, or during the execution thereof, the Carrier has the aforementioned suspicions, the Carrier has the right to request additional security from the Client for the fulfilment of its financial obligations with regard to the Carrier.

#### **Artikel 12. FORCE MAJEURE**

Any event that constitutes an insurmountable obstacle to the normal execution of the obligations of the Carrier, or which forces the Carrier to temporarily or definitively shut down operations, is considered as force majeure. Force majeure legally suspends the execution period and does not oblige the Carrier to pay any compensation to the Client. Such circumstances are mobilisation, acts of war, legal and governmental measures that impede or limit execution or delivery, strike, sabotage, company occupation and other business disruption, lack of energy, raw materials or labour, transport difficulties, bad weather, freezing cold that makes execution impossible, delayed delivery by suppliers as well as any other circumstance that the Carrier could not foresee.

#### **Artikel 13. APPLICABLE LAW – JURISDICTION AND/OR COMPETENT COURTS**

The Agreement (s) between the Parties are exclusively governed by Belgian law.

In the event of any dispute, the Parties accept that the dispute, without prejudice to the application of art. 31 paragraph 1 CMR, will be subject to the jurisdiction and/or competence of the Belgian courts of the location of the registered office of the Carrier, namely the courts of Antwerp, Turnhout department.

#### **Artikel 14. MISCELLANEOUS**

Should any provision of this Agreement or of an agreement concluded with the Client prove to be wholly or partially void, the remaining provisions will remain fully applicable. In that case, the parties undertake to replace the invalid provision with a new valid arrangement which approximates the purpose of the invalid provision as closely as possible.