

IRU GENERAL CONDITIONS

FOR THE

INTERNATIONAL CARRIAGE OF GOODS BY ROAD

REVISED ON 3 NOVEMBER 2011

1. General Conditions and conclusion of the contract for the international carriage of goods ⁽¹⁾ by road

- 1.1 Every contract for the international carriage of goods by road concluded between the Sender and the Carrier shall be governed by the Convention on the Contract for the International Carriage of Goods by Road of 19 May 1956 (CMR Convention) and by the mandatory provisions of the Carrier's national legislation, even if said contract is in the framework of performing a contract for the international carriage of goods wholly or partly by sea.

Contract of carriage shall be taken to mean the agreement through which the Carrier undertakes to carry goods pursuant to Article 1 of the CMR Convention.

In order to be binding, these General Conditions must be accepted, dated and signed by the Sender; this acceptance may be done electronically.

These General Conditions take precedence over the Sender's commercial terms or others, unless clear contrary provisions are inserted in writing in the contract of carriage which take precedence on these Conditions.

- 1.2 In accordance with the CMR Convention, the contract for the international carriage of goods by road is of a consensual nature and the Parties shall refrain from contesting this nature.
- 1.3 Services ancillary to the performance of the contract of carriage (loading, unloading, warehousing, etc.) shall be listed in an estimate stipulating the offer's validity.

A sample estimate is attached to these General Conditions.

- 1.4 Every contract shall be deemed to be concluded at the time and place at which the Carrier receives notification of the Sender's acceptance of his estimate within the set deadline.

2. Agents and servants

- 2.1 It is agreed that the agent(s) and the servant(s) shall act in the name and on behalf of the Carrier requesting their services.
- 2.2 The agents and servants of the Carrier shall not accept, without the Carrier's agreement, any instruction or declaration committing the Carrier beyond the terms stipulated and accepted in the estimate, in particular in regard to:

- a) the value of goods, which shall serve as a reference in the event of their total or partial loss or damage (Articles 23 and 25 of the CMR Convention),

⁽¹⁾ For the purpose of these General Conditions, "goods" shall be deemed to include any container, pallet or similar article of transport or packaging, if supplied by the Sender (*explanation*: definition based on that of the United Nations Convention on International Multimodal Transport of Goods, Geneva, 24 May 1980, and similar to that of the United Nations Convention on the Carriage of Goods by Sea, Hamburg, 31 March 1978).

- b) the instructions concerning cash on delivery at the time of delivery of the goods (Article 21 of the CMR Convention),
 - c) the time-limit for delivery (Article 19 of the CMR Convention),
 - d) the declared value of the goods (Article 24 of the CMR Convention) or a special interest in delivery (Article 26 of the CMR Convention),
 - e) insurance of the goods,
 - f) or any other services.
- 2.3 If the Carrier is an Authorised Economic Operator (AEO) or acts on behalf of an AEO Sender or Consignor, any servant/subcontractor shall have been the subject of commercial checks as foreseen by the AEO status and shall be bound through a written commitment, regularly monitored by the Carrier, describing the safety measures and obligations required to obtain AEO status.
- 2.4 The Sender or Consignor may refuse the contract of carriage being fully or partly performed by a servant/subcontractor who does not meet his requirements.

3. Use of electronic consignment notes

- 3.1 The Parties to the contract of carriage grant the possibility to issue and use the CMR consignment note by electronic communication and authenticated by a reliable electronic signature or by any other electronic authentication method permitted by the law of the country in which it was made.
- 3.2 The electronic consignment note has the same legal and commercial value, including the evidentiary value, and has the same effects as if it were in paper form.

4. Declaration obligations of the Carrier and Sender and electronic data transmission

- 4.1 Notwithstanding the provisions of the CMR Convention, in particular Articles 6, 7 and 11 of the CMR Convention and the Additional Protocol to the CMR concerning the electronic consignment note if applicable, and whenever applicable customs legislation so requires, the Sender undertakes to provide any data pertaining to security or safety which the Carrier might be obliged to produce or transfer to any other person to whom he has entrusted this task under his responsibility, where applicable electronically, to the customs authorities concerned.

In any interchange or transmission of electronic data pertaining to the establishment of a CMR consignment note or any customs declaration, the Parties shall observe the required rules of commercial confidentiality between themselves, business partners and / or customs authorities.

Any electronic data interchange or transmission shall be appropriately archived.

The procedure used for supplementing or amending the consignment note or customs declaration shall enable any supplement or amendment to the electronic consignment note or customs declaration to be detected and shall preserve the original particulars.

If the Sender has undertaken to transmit data direct to any customs authorities the number of the relevant customs declaration is to be provided to the Carrier.

- 4.2 If the goods require a specially equipped vehicle, it shall be the exclusive responsibility of the Sender to inform the Carrier in advance and in writing.
- 4.3 The Sender must keep the Carrier fully informed and up to date with any circumstances that change the Carrier's ability to successfully carry out the transport.
- 4.4 The Sender shall be responsible vis-à-vis the Carrier for all expenses, loss and damage (penalties, fines, delay, vehicle immobilisation, etc.) resulting from the inadequacy or inaccuracy of information required.
- 4.5 The Sender shall be liable to the Carrier for all expenses, loss and damage (penalties, fines, delay, vehicle immobilisation, etc.) resulting from the handing over of falsified or counterfeit goods to the Carrier, regardless of their nature.

5. Insurance

- 5.1 If the Sender so requires, the Carrier must provide the name of the insurance company and the number of the policy under which his contractual liability is covered.
- 5.2 If the Sender so requires, the Carrier must insure, at the Sender's expense, the goods entrusted to him for carriage. In that event it is presumed that the Sender himself has not taken out insurance on the same goods.

The insurance value shall correspond to that indicated by the Sender in the contract of carriage. However, this amount may not constitute the declared value of the goods for the purpose of Article 24 of the CMR Convention.

6. Takeover and delivery

- 6.1 Except as otherwise provided under national legislation, takeover by the Carrier and delivery shall be regarded as delivered to the door or loading bay of an agreed building if no other location has been agreed between the parties.

The route to be followed by the road vehicle in factories, shops, building sites and other places shall be indicated by the persons in charge of those locations, acting on behalf of the Sender and the Sender is responsible for that routing.

The Carrier may object to such routing if local conditions endanger his vehicle and / or its load.

- 6.2 When the places designated for the takeover and delivery are situated in a port area, the takeover and delivery shall take place in accordance with the rules or practices in force in that port.

7. Carrier's reservations or refusal to take over the goods

- 7.1 On taking over the goods, the Carrier may enter reservations regarding the apparent condition of the goods and their packaging, etc., in the CMR consignment note.

If such reservations are not agreed to by the Sender and the CMR consignment note is not signed, the Carrier may refuse the carriage assignment as indicated below.

- 7.2 If the Carrier is unable to check the condition of the goods, he may mention this on the CMR consignment note – e.g. container or swap-body received sealed, checking impossible due to the given time-limit for delivery, etc.

7.3 The Carrier may refuse to take over the goods:

- a) if the Sender does not hand over the goods when the vehicle(s) is/are made available on the day and/or at the place agreed. Such refusal may be justified by:
 - other commitments which prevent him from postponing the takeover,
 - an impossibility to meet the time-limit for delivery in the contract of carriage.
- b) where he has no reasonable means of performing the checks foreseen in Article 8 of the CMR Convention with regard to the goods,
- c) where, in the absence of prior specific instructions by the Sender, the vehicle made available by the Carrier does not make it possible to perform carriage under normal conditions of safety.

7.4 The Carrier shall refuse any instruction from the Sender that violates any legal, regulatory social or safety provisions.

8. Sender's refusal to hand over the goods

The Sender may refuse to hand over the goods to the Carrier:

- a) if the vehicle(s) made available to him by the Carrier does (do) not correspond - from the standpoint of tonnage, capacity and/or equipment - to any stipulated vehicle(s) and precludes the performance of the contract of carriage in accordance with the agreed conditions,
- b) if the vehicle(s) is (are) not made available on the agreed date if the resulting delay would prevent the Carrier from meeting agreed delivery schedules specified in the contract of carriage without violating the legally stipulated limitations on the driving time and speed of vehicles,
- c) if the Carrier's agent does not hold the required qualifications/certificates to perform carriage although the Sender has given the Carrier all relevant information,
- d) if performance of the carriage would entail one or several breaches of legal, social and/or safety regulations.

9. Sender's rights (over the goods) during carriage

- 9.1 The Sender authorises the Carrier - subject to the application of Article 12.1 of the CMR Convention - to return the goods to the place of loading if they are refused by the Consignee. This authorisation is considered to be an instruction as defined in Article 15.1 of the CMR Convention.
- 9.2 However, if the Carrier's other commitments prevent him from returning the goods to the place of loading, he may act in accordance with the provisions of Articles 16.2 and 16.3 of the CMR Convention.
- 9.3 The Sender shall bear the resulting additional costs of carriage, unloading and warehousing, as well as any other related expenses substantiated by the Carrier.

10. Packing, handling, loading, stowage, unloading

Unless otherwise stipulated in the contract of carriage, it is agreed that:

- the packing, handling, loading and stowage shall be performed by, or on behalf of, the Sender who shall bear sole responsibility;
the Sender shall be responsible for the choice of appropriate means of stowage, particularly if part of the journey takes place, without transloading, by a mode other than road transport;
- the unloading shall be carried out by, or on behalf of, the Consignee who shall bear sole responsibility.

If these operations are to be performed by the Carrier, they must be foreseen in the estimate or explicitly agreed to subsequently and appropriately paid for, in accordance with Section 14.2.

11. Pallets ⁽²⁾

11.1 Unless otherwise stipulated, the Carrier shall have no obligation, after having carried and delivered goods on pallets, to take the latter back from the Consignee with a view to their transport and return to the place of loading or any other place specified by the Sender.

11.2 If it has been agreed with the Carrier that the pallets shall be taken back from the Consignee with a view to their transport and return to the place of loading or any other place specified by the Sender, the following rules shall apply:

- a) the recovery, transport and return of the pallets shall be paid for by the Sender,
- b) the Carrier shall only take back those pallets returned to him by the Consignee,
- c) if the nature, quality and/or number of pallets returned by the Consignee differs from that of the pallets which should have been handed to the Carrier, the latter's liability shall not be involved. In case the Carrier's remuneration has been set as a function of the quantity of returned pallets, it shall be due for the quantity actually returned,
- d) if no date for the pallet return by the Carrier to the Sender has been stipulated in the contract of carriage, their return shall take place within a reasonable time-limit, if possible within 4 weeks,

⁽²⁾ For the purpose of these General Conditions, the term "pallet" shall mean "a device on the deck of which a quantity of goods can be assembled to form a unit load for the purpose of transporting it, or of handling or stacking it with the assistance of mechanical appliances. This device is made up of two decks separated by bearers, or of a single deck supported by feet; its overall height is reduced to the minimum compatible with handling by fork lift trucks and pallet trucks; it may or may not have a superstructure" (*explanation: this definition is based on that of the European Convention on Customs Treatment of Pallets used in International Transport, Geneva, 9 December 1960*).

- e) the Carrier's liability shall not be involved if, for reasons occurring after the conclusion of the contract, he is unable to fulfil his obligation to return or to meet the time-limit for return.

11.3 If the Carrier puts his own pallets or those of third parties at the Sender's disposal, the following rules shall apply:

- a) both the provision of pallets to the Sender and their transport to the place of loading of the goods onto the pallets shall be paid for by the Sender,
- b) the Sender shall ensure that the Consignee returns pallets of the same nature, quality and number, either immediately upon the Carrier's vehicle return further to delivery of the goods, or to the Carriers' base within a 14-day time-limit,
- c) the terms specified in Section 11.2 above shall apply mutatis mutandis.

12. Rules applicable to carriage in transit

12.1 The Sender authorises the Carrier, if the latter deems it necessary, to deposit the goods in warehouses of his choice without the need to request special consent from the Sender.

The Sender likewise authorises the Carrier to entrust - for purposes of transport - the goods or the containers loaded on the vehicle to piggyback transport or Ro/Ro companies, or to change the initially planned route, without the need to request specific consent from the Sender so long as the original terms of the contract are met.

12.2 Warehousing, handling in transit and any operation within the framework of carriage shall also be subject to these Conditions and, in particular, to the system of liability as defined in the CMR Convention.

12.3 The same shall apply if the carriage has to be interrupted for reasons of imperative necessity.

12.4 If the Carrier finds, at any time during the journey, that the weight of the goods is greater than that indicated by the Sender or greater than the permitted vehicle carrying limits, he shall have authority to unload the excess weight immediately at the cost and risk of the Sender.

Any excess freight weight not exceeding maximum permissible vehicle loads shall, after discovery of the excess be invoiced at double the initially agreed rate.

The Sender shall reimburse the Carrier for the fines and dues levied for any incorrect description of the goods (i.e. weight).

12.5 If the Sender and/or the Carrier and/or the Consignee act in the framework of AEO status, the above provisions shall be the subject of specific treatment in accordance with applicable safety manuals aiming at maintaining shipment integrity in all circumstances.

13. Specific rules for the carriage of dangerous goods

If the Carrier observes the presence in the vehicle or container of dangerous goods or hazardous wastes (as defined in the United Nations Orange Book, the ADR Convention or the Basel Convention) of which he was not correctly informed by the Sender before taking over the goods, he may unload them immediately and have them warehoused, stockpiled or if so imposed destroyed at the expense of the Sender, who shall bear the cost of all damages caused by the lack of information.

The same shall apply if:

- the Sender has not supplied the Carrier with all the documentation needed for the carriage of dangerous goods including - when a vehicle or container is carried partly by sea - the packing certificate (cf. 5.4.2 – « *Container/vehicle packing certificate* » ADR) required by the shipping companies;
- the classification, packing and/or labelling of dangerous goods is found to be incompatible with the legal provisions governing their carriage.

14. Remuneration of the Carrier and payment methods

14.1 The agreed price in the estimate is payable as soon as the goods are taken over. Interest at the rate of ...% *per annum* shall be due, without the need for formal notice, on the agreed price from the time-limit allowed in the invoice until the date of payment, the latter date being included in the calculation of the interest.

The debt corresponding to the agreed price is payable at the Carrier's registered office.

The agreed price is due notwithstanding any claim against the Carrier, for any reason whatsoever, and cannot be offset against damages.

The agreed price is due even if, due to circumstances beyond the Carrier's control, the goods have not been delivered to the Consignee.

14.2 The carriage charges include the time during which the vehicle and driver are at the Sender's disposal, from the vehicle's arrival at the place of loading until its departure from the place of unloading. They also cover the time and expenses required for customs clearance and border crossings.

If the actual time required to perform the contract and/or services exceeds the time and/or services agreed in the estimate, the Carrier shall be entitled to additional payment proportionate to such additional time/services.

14.3 Any change of route necessitated by circumstances beyond the Carrier's control shall entail an adjustment of the carriage charges.

14.4 The Carrier shall pass on to the debtor of the agreed price the financial consequences of fuel price alterations from the date of conclusion of the contract of carriage to the date when the transport operation is performed.

14.5 The Carrier shall pass on to the debtor of the agreed price the amount of road taxes and charges which he is bound to pay to perform the agreed carriage.

14.6 The agreed price must be paid in accordance with the following terms of payment:

- the carriage charges must be paid in the currency in which they are expressed;
- within 30 days from the invoice date, except as otherwise provided (cash payment, on receipt of the invoice, cash on delivery, etc.);
- according to the payment instruments indicated in the contract of carriage and/or the invoice.

14.7 In the event of the Sender failing to hand over all or part of the goods, compensation to the Carrier shall amount to the initially agreed price.

14.8 Unilateral compensation shall be prohibited.

15. Carrier's security rights

15.1 The Sender shall stand surety for payment of the agreed price to the Carrier, even in the case of "carriage forward".

15.2 The Carrier is entitled to withhold the goods if he has not been paid within the time-limit foreseen for previous carriages entrusted by the same Sender.

16. Cancellation of the contract of carriage and financial consequences

16.1 In the event of a unilateral cancellation of the contract of carriage by one of the Parties in a manner not provided for in these General Conditions or in the law governing the said contract, damages shall be payable by the cancelling Party. The amount of such damages shall be fixed at a flat rate of% of the agreed price.

16.2 The Carrier who terminates a contract of carriage under the circumstances mentioned in Section 7 is entitled to compensation at the rate of% of the agreed carriage charges if the Sender's default is not due to circumstances beyond his control.

16.3 The Sender who terminates a contract of carriage under the circumstances mentioned in Section 8 is entitled to compensation for the detriment suffered if the default on the part of the Carrier is not due to circumstances beyond his control. However, the total amount of compensation should not exceed the agreed carriage charge.

17. Consignee's reservations

17.1 Any reservations by the Consignee for apparent damage shall be entered in writing, in good faith, by both Parties, in the transport document such as the consignment note or in a separate report.

17.2 Initial reservations may be general but must be accurate. Reservations merely entered with a seal mentioning in particular "pending checking" or "pending unpacking" shall not be enforceable.

17.3 In case of damage which is not apparent, reservations shall be made in the forms and within the time-limits foreseen in Article 30.1 of the CMR Convention.

18. Exemption from Carrier's liability

The Carrier may be relieved of liability in accordance with Article 17.2 of the CMR Convention. Strikes and demonstrations may be considered as grounds for exemption. The special risks foreseen in Article 17.4 of the CMR Convention shall apply in addition to such general causes for exemption.

19. Governing law

- 19.1 These General Conditions shall apply in so far as they are compatible with the CMR Convention and shall take precedence over the optional provisions of national legislation governing the cases covered in these General Conditions.
- 19.2 For all other cases not covered by these General Conditions and the CMR Convention, the Carrier's national legislation shall apply.
- 19.3 The contract of carriage shall remain subject to the governing law referred to in Section 19.2. even if, for any reason, the CMR consignment note has not been drawn up.

20. Jurisdiction ⁽³⁾

All disputes arising from the contract of carriage and which cannot be settled out of court shall be submitted, to the exclusion of all other courts:

1*) to the courts of the country on whose territory:

- the defendant is ordinarily resident or has his principal place of business or the branch or agency through which the contract of carriage was concluded, or
- the place where the goods were taken over by the Carrier or the place designated for delivery is situated.

2*) to an ad hoc court of arbitration:

The law to be applied by the ad hoc arbitration tribunal shall be that specified in Section 19 above.

The award made by the ad hoc arbitration tribunal shall conclude the arbitration proceedings and the Parties undertake to put it into effect in good faith.

3*) to institutional arbitration bodies where available:

The law to be applied by the institutional arbitration bodies shall be that specified in Section 19 above.

The award made by the institutional arbitration bodies shall conclude the arbitration proceedings and the Parties undertake to put it into effect in good faith.

⁽³⁾ By deleting subparagraph (1*) or (2*) or (3*), the Contracting Parties may opt either for the ordinary courts or for arbitration. If the Contracting Parties omit to delete one or other of these subparagraphs, the ordinary courts shall have sole jurisdiction.

Sample Estimate

For the attention of the Customer

Company name
Contact person
Address

City, xx/xx/xx [date]

Request/file reference

Date, place (address/city/country) and time of pick-up

Destination: address/city/country

Foreseen delivery date: xx/xx/xx

Cargo:

Type of goods:

Quantity to be carried (number and unit):

Net and gross weight of the goods (number and unit):

Declared value if requested:

Insurance value if requested:

Charges for carriage and ancillary services

Ordinary carriage charges are calculated taking into account in particular the weight, volume, number, value and nature of the consignment, the distance to be covered, the connections to be made, specific security and traffic requirements as well as the agreed ancillary services.

Description of services included subject to the contract of carriage regime (the non-exhaustive list below is for information only – the carrier may draw from it when establishing his estimate)

- Provision of vehicle and driver for the agreed carriage;
- Loading by the driver;
- Load stowing and securing services;
- Unloading by the driver;
- Warehousing by the driver;
- Declaration of a special interest in delivery (if required by the Sender);
- Declared value, insurance premium if insurance requested;
- Idle time during loading and unloading (2 hours included);
- Customs export, import or transit formalities including security safety;
- Etc.

Price excluding tax

currency unit xx

If applicable, VAT @ ...%

currency unit xx

Price including tax

currency unit xx

- Plus road taxes and tolls

Terms of payment (date and means of payment)

This estimate is valid for [days/months] from its date of issue. Any additional services performed and any fuel price increase not foreseen in the estimate shall entitle the Carrier to additional invoicing and payment.

| | |
|---------------------|---|
| Date | Date |
| Carrier's signature | Customer's acceptance: signature + mention "agreed" |