

**IRU GENERAL CONDITIONS**

**FOR THE**

**INTERNATIONAL CARRIAGE OF GOODS BY ROAD**

**AND LOGISTIC SERVICES**

**REVISED ON 3 NOVEMBER 2011**

## **1. General Conditions and Conclusion of the Contract for the International Carriage of Goods <sup>(1)</sup> by Road and Logistic Services**

- 1.1 A contract for the international carriage of goods by road and logistic services is a contract concluded between the Provider/Carrier and his Client/Sender.

Contracts for the international carriage of goods by road concluded between the Provider/Carrier and the Client/Sender 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 Provider/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 Provider/Carrier undertakes to carry goods pursuant to Article 1 of the CMR Convention and at which apply the IRU General Conditions for the International Carriage of Goods by Road which also covered services ancillary.

Services ancillary to the contract of carriage and subject to its regime shall mean services required for carrying goods.

Services ancillary may be:

- a) Provision of vehicle and driver for the agreed carriage;
- b) Loading by the driver;
- c) Load stowing and securing services;
- d) Unloading by the driver;
- e) Warehousing by the driver;
- f) Declaration of a special interest in delivery (if required by the Sender);
- g) Declared value, insurance premium if insurance requested;
- h) Idle time during loading and unloading (2 hours included);
- i) Customs export, import or transit formalities including security safety;
- j) Return of supports of loads and pallets;
- k) Other activities – the non-exhaustive list above is for information only.

- 1.2 Logistic services shall mean services other than the international carriage of goods by road.

Logistic services may be:

- a) Freight forwarding (organising the movement of goods with a view to delivering these to the consignee(s) designated by the Client/Sender);
- b) Preparation for transport / preparation for delivery;

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<sup>(1)</sup> 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*).

- c) Customs formalities / procedures (customs store, bonded warehouse, suspensive procedure, etc.);
- d) Warehousing, storage, stock management, sorting, supervision and control;
- e) Buffer stock management;
- f) Order assembling;
- g) Handling (preparation and movement of shipments);
- h) Assembly / packaging / repackaging of goods (packing, marking, labelling with a view to preparing an order or shipment);
- i) Supplying <sup>(2)</sup> the customers of the Client/Sender as per the latter's instructions;
- j) Distribution <sup>(3)</sup> of the goods to the customers of the Client/Sender according to the latter's instructions;
- k) Other activities – the non-exhaustive list above is for information only.

Logistic services shall be listed in an estimate stipulating the offer's validity.

A sample estimate is attached to these General Conditions.

In order to be binding, these General Conditions must be accepted, dated and signed by the Client/Sender; this acceptance may be done electronically. Acceptance of these General Conditions implies acceptance of the IRU General Conditions for the International Carriage of Goods by Road.

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

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

## **2. Agents and Servants for Logistic Services**

- 2.1 It is agreed that the agent(s) and servant(s) shall act in the name and on behalf of the Provider/Carrier requesting their services.
- 2.2 It is agreed that the Provider/Carrier shall only be liable for the choice of the servant(s).
- 2.3 The agents of the Provider/Carrier shall not accept, without the Provider/Carrier's agreement, any instruction or declaration committing the Provider/Carrier beyond the terms stipulated and accepted in the estimate.

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<sup>(2)</sup> Operation through which the Provider/Carrier now and then supplies the Client/Sender's customers with goods previously picked up from the Client/Sender and stored at the Provider/Carrier's.

<sup>(3)</sup> Operation through which the goods carried, once at destination, are distributed by the Provider/Carrier to his Client/Sender's customers

- 2.4 If the Provider/Carrier is an Authorised Economic Operator (AEO) or acts on behalf of an AEO Client/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 Provider/Carrier, describing the safety measures and obligations required to obtain AEO status.

The Client/Sender or Consignor may refuse the contract being fully or partly performed by a servant/subcontractor who does not meet his requirements.

### **3. Declaration Obligations of the Provider/Carrier and Client/Sender and Electronic Data Transmission**

- 3.1 The Client/Sender undertakes to provide any data pertaining to security or safety which the Provider/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 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 customs declaration shall enable any supplement or amendment to the customs declaration to be detected and shall preserve the original particulars.

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

- 3.2 If the goods require equipment, installations, handling or other devices or a specially equipped vehicle, it shall be the exclusive responsibility of the Client/Sender to inform the Provider/Carrier in advance and in writing.
- 3.3 The Client/Sender must keep the Provider/Carrier fully informed and up to date with any circumstances that change the Provider/Carrier's ability to successfully carry out the logistic services.
- 3.4 The Client/Sender shall be responsible vis-à-vis the Provider/Carrier for all expenses, loss and damage (penalties, fines, delay, vehicle immobilisation, etc.) resulting from the inadequacy or inaccuracy of information required.
- 3.5 The Client/Sender shall be liable to the Provider/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 Provider/Carrier, regardless of their nature.

### **4. Insurance**

- 4.1 If the Client/Sender so requires, the Provider/Carrier must provide the name of the insurance company and the number of the policy under which his contractual and non-contractual liability is covered.

- 4.2 If the Client/Sender so requires, the Provider/Carrier must insure, at the Client/Sender's expense, the goods entrusted to him for carriage. In that event it is presumed that the Client/Sender himself has not taken out insurance on the same goods.

The insurance value shall correspond to that indicated by the Client/Sender in the contract.

## **5. Takeover, Movement and Delivery of the Goods in the Framework of Logistic Services**

- 5.1 Except as otherwise provided under national legislation, takeover by the Provider/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 Client/Sender and the Client/Sender is responsible for that routing.

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

- 5.2 When the places designated for 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.

## **6. Provider/Carrier's Reservations or Refusal to Take Over the Goods for Purposes of Performing Logistic Services**

- 6.1 On taking over the goods, the Provider/Carrier may enter reservations regarding the apparent condition of the goods and their packaging, etc., in the CMR consignment note or any other document evidencing takeover of the goods.

If such reservations are not agreed to by the Client/Sender and the CMR consignment note or any other document evidencing takeover of the goods is not signed, the Provider/Carrier may refuse taking over the goods.

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

- 6.3 In particular, the Provider/Carrier may refuse to take over the goods:

- a) If the Client/Sender does not hand over the goods 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 set in the contract for completion of the logistic services or for delivery.
- b) where he has no reasonable means of performing checks with regard to the goods and their apparent condition, packaging or quality, as well as with regard to the number of packages and their marks and numbers.

- c) where, in the absence of prior specific instructions by the Client/Sender, the vehicle(s), handling or other device(s) or installation(s) made available by the Provider/Carrier do(es) not make it possible to perform the logistic services under normal conditions of safety.

6.4 The Provider/Carrier shall refuse any instruction from the Client/Sender that violates any legal, regulatory social or safety provisions.

## **7. Client/Sender's Refusal to Hand Over the Goods**

The Client/Sender may refuse to hand over the goods to the Provider/Carrier:

- a) if the vehicle(s), handling or other device(s) or installation(s) made available to him by the Provider/Carrier do(es) not correspond to the stipulated tonnage, capacity and/or equipment and preclude(s) performance of the contract in accordance with the agreed conditions,
- b) if the means required to perform the agreed services are not made available on the agreed date, if the resulting delay would prevent the Provider/Carrier from meeting agreed delivery schedules of the goods specified in the contract without breach of legislation,
- c) if the Provider/Carrier's agent does not hold the required qualifications/certificates to perform the logistic services although the Client/Sender has given the Provider/Carrier all relevant information,
- d) if performance of the logistic services would entail one or several breaches of legal, social and/or safety regulations.

## **8. Client/Sender's Rights Over the Goods During Performance of Logistic Services**

8.1 The Client/Sender authorises the Provider/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.

8.2 However, if the Provider/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.

8.3 The Client/Sender shall bear the resulting additional costs of carriage, unloading and warehousing, as well as any other related expenses substantiated by the Provider/Carrier.

## **9. Rules Applicable During Performance of Logistic Services**

9.1 If the Provider/Carrier finds, at any time during performance of the contract, that the weight of the goods is greater than that indicated by the Client/Sender, he shall be free to deal with the excess weight, under normal conditions of safety, at the cost and risk of the Client/Sender.

Any services performed due to excess weight shall be invoiced at double the initially agreed rate.

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

- 9.2 If the Client/Sender and/or the Provider/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.
- 9.3 In performing the Contract, the Provider/Carrier shall observe the Client/Sender's rights and interests in all respects. The Provider shall follow the timely instructions provided by the latter if compatible with the agreed logistic services. If special measures prove necessary in the interest of the goods, the Provider/Carrier shall, as much as possible, inform the Client/Sender accordingly and follow the latter's instructions. Failing such instructions, the Provider/Carrier shall act in the fashion which he deems most appropriate given the circumstances.

## **10. Specific Rules Applicable to Dangerous Goods**

If the Provider/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 Client/Sender before taking over the goods, he may refuse them, unload them immediately and have them warehoused, stockpiled or, if so imposed, destroyed at the expense of the Client/Sender, who shall bear the cost of all damages caused by the lack of information.

The same shall apply if:

- the Client/Sender has not supplied the Provider/Carrier with all the documentation needed for the carriage, storage, warehousing or handling of dangerous goods including - when a vehicle or container is carried partly by sea - the packing certificate (cf. ADR 5.4.2 – “*Container/vehicle packing certificate*”) or any other documents 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, storage, warehousing or handling.

## **11. Remuneration of the Provider/Carrier and Payment Methods**

- 11.1 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 calculation of the interest.

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

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

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

11.2 The agreed price includes provision of the logistic services and the time during which the goods are taken over by the Provider/Carrier.

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

11.3 Any change necessitated by circumstances beyond the Provider/Carrier's control shall entail an adjustment of the agreed price.

11.4 The Provider/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 to the date when the logistic services are performed.

11.5 The Provider/Carrier shall pass on to the debtor of the agreed price the amount of taxes and charges which he is bound to pay to perform the logistic services.

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

- in the currency in which it is 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 and/or the invoice.

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

11.8 Unilateral compensation between the amount invoiced and any other debt shall be prohibited.

## **12. Provider/Carrier's Payment Security Rights**

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

12.2 The Provider/Carrier is entitled to withhold the goods if he has not been paid within the time-limit foreseen for previous logistic services entrusted by the same Client/Sender.

## **13. Cancellation of the Contract and Financial Consequences**

13.1 In the event of a unilateral cancellation of the contract 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.

13.2 The Provider/Carrier who terminates a contract under the circumstances mentioned in Section 6 is entitled to compensation at the rate of ....% of the agreed price if the Client/Sender's default is not due to circumstances beyond his control.

13.3 The Client/Sender who terminates a contract under the circumstances mentioned in Section 7 is entitled to compensation for the detriment suffered if the default on the part of the Provider/Carrier is not due to circumstances beyond his control. However, the total amount of compensation should not exceed the agreed price.



## **14. Provider's liability**

- 14.1 According to and within the limits foreseen by the governing law mentioned in the Section 15 the Provider shall be bound to a best efforts obligation to provide the agreed logistic services, from takeover to delivery of the goods. So he shall only be liable for his proved wrongful act or neglect.
- 14.2 The Provider's liability is limited to 8, 33 SDRs (Special Drawing Rights) per kilo, regardless of the nature of logistics services, and to direct damages to properties to the exclusion of other.

## **15. Governing Law**

- 15.1 These General Conditions shall take precedence over the optional provisions of national legislation governing the cases covered in these General Conditions.
- 15.2 For all other cases not covered by these General Conditions, the Provider/Carrier's national legislation shall apply.
- 15.3 Performance of carriage and its ancillary services shall be governed by applicable transport legislation and the IRU General Conditions for the International Carriage of Goods by Road.

## **16. Period of Limitation**

The period of limitation for an action resulting of the performance of logistics services shall be one year from the observation of the non performance of the service agreed.

## **17. Jurisdiction <sup>(4)</sup>**

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

1\*) to the ordinary jurisdiction of the Provider/Carrier's place of residence,

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 15 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 15 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.

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<sup>(4)</sup> 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 Logistic Services

For the attention of the Client/Sender

**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** *subject to the contract of carriage and to the IRU General Conditions for the International Carriage of Goods by Road.*

**Price of logistic services:** *description of services (c.f. Section 1.2 of these General Conditions - the non-exhaustive list below is for information only – the carrier may draw from it when establishing his estimate).*

- Freight forwarding (organising the movement of goods);
- Preparation for transport / preparation for delivery;
- Customs formalities / procedures (customs store, bonded warehouse, suspensive procedure, etc.);
- Warehousing, storage, stock management, sorting, supervision and control;
- Buffer stock management;
- Order assembling;
- Handling (preparation and movement of shipments);
- Assembly / packaging / repackaging of goods;
- Supplying customers;
- Distribution of the goods;
- Etc.

**Price excluding tax  
If applicable, VAT @ ...%**

**currency unit xx  
currency unit xx**

**Price including tax                      currency unit xx**

- Plus taxes and charges paid in performing the agreed logistic services

Terms of payment (date and means of payment)

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

Date	Date
Provider/Carrier's Signature	Client/Sender's acceptance: signature + mention "agreed"