



GENERAL CONDITIONS FOR CONTRACTS OF TRANSPORT BY ROAD SERVICES

REV.	DATE	CONCEPT	PREPARED BY	REVISED BY	APPROVED
0	25/09/18	General Terms and Conditions Road	A.Rodríguez	J. H. Madsen	J. H. Madsen

REF. COORDINADORA: GTC – T – 00 – ENG

1. Definitions

The “Purchaser” shall mean Coordinadora Internacional de Cargas S.A. and its subsidiary, affiliates or participated companies and their respective successors and assigns.

“CMR” shall mean the Convention on the Contract for the International Carriage of Goods by Road.

The “Transport Operator” shall mean the firm or company who contracts with the Purchaser for the carriage of goods by road, rail, intermodal methods or otherwise and shall include any sub-contractors or agents employed by the Transport Operator.

“Vehicle” shall mean motor vehicles and articulate vehicles and shall include, but not limited to flats, trailers and semi-trailers adapted or intended to be drawn by motor vehicles, rail wagons, swap bodies and lift on lift off units.

The “Contract” means all things in writing (including but not by way of limitation, these conditions) whenever made which properly should be referred to in determining the rights and obligations of the Purchaser and the Transport Operator, whether within this contract, the Purchaser and/or the Transport Operator is referred with these terms or not.

These conditions (insofar as they are not varied by agreement in writing between the parties) apply whenever the Purchaser entrusts goods to the Transport Operator for carriage.

Any terms and conditions in any document of the Transport Operator which are inconsistent with these conditions shall have no effect.

Any particular term, condition or stipulation contained within the Contract for Transport Services between the Purchaser and the Transport Operator shall prevail to this General Terms and Conditions.

No relaxations, forbearance, delay or indulgence by Purchaser in enforcing any of the terms and conditions of the Contract or the granting of time by Purchaser to Transport Operator shall prejudice, affect or restrict the right to Purchaser under the Contract nor shall any waiver by Purchaser of any breach of the Contract operate as a waiver of any subsequent or continuing breach of the Contract.

Any waiver of Purchaser rights, powers, or remedies under the Contract must be in writing, dated and signed by an authorised representative of Purchaser, and must specify the right and the extent to which it is being waived.

2. Transport Operator's Obligations

2.1 The Transport Operator shall ensure that the Vehicles used for the carriage of goods entrusted to it are licensed, taxed, constructed, maintained, loaded, properly secured for loads, insured, operated and used in conformity with the law of the country of loading, and the law of the country through which the goods are transported and the law of the country of delivery.

2.2 It shall be the Transport Operator's responsibility to provide a suitable and well maintained Vehicle and sufficient load and securing equipment (including the provision of all necessary tackle and facilities for securing the load to the Vehicle) and to ensure that the drivers and loading staff (if applicable) are competent and have received sufficient instructions in the safe use of the Vehicle and securing equipment in relation to the specific loads involved.

2.3 It shall be the obligation, duty and responsibility of the Transport Operator through its drivers, servants and agents to check and ensure that the load is properly loaded, positioned and secured at all times. The Transport Operator shall also be responsible for ensuring that the driver shall check the load for security by testing the lashings for adequate tension immediately after the Vehicle has left the site of loading and thereafter at regular intervals during the journey.

2.4 The Transport Operator shall ensure that the route to be followed within the transport operation set out in the Contract is safe, suitable and practicable according to the conditions of the cargo, the Vehicle and the requirements of the Contract. In case that because of the conditions of the cargo special measure shall be undertaken in order to conduct the transport operation, the Transport Operator shall communicate the Purchaser with the means to be provided.

In the event that the Transport Operator reasonably believes that the completion of the transport operation as set out within a Contract will not be completed by the Agreed Timing, the Transport Operator shall immediately notify the Purchaser in writing.

All costs incurred when implementing any alternative plan proposed by the Transport Operator and approved by the Purchaser to comply with the agreed delivery time and/or route, shall be sole responsibility of the Transport Operator and he shall not be entitled to any extra charge, cost or fee.

2.5 The Transport Operator shall produce to the Purchaser satisfactory evidence of compliance with this Clause 2 whenever the Purchaser reasonably requests and shall inform the Purchaser of any significant movement in the loads in relation to the Vehicle in transit.

2.6 The Transport Operator shall be responsible for ensuring that all statutory licences, authorizations or permits required for performance of its obligations and execution of the transport have been obtained at its own cost and with reasonable prior time in order complete the transport operation within the agreed time.

2.7 Delay in delivery by the Transport Operation exists when the goods are not delivered to the destination by the deadline agreed, or failing that, within a reasonable term that may be demanded according to the circumstances of the fact.

3. Loading

3.1 Without prejudice to the generality of Clause 2 it is the absolute responsibility of the Transport Operator and its drivers, servants and agents specifically to ensure that any Vehicle and all necessary tackle and facilities for securing loads to the Vehicle presented for loading are suitable for carriage of the load; that the Vehicle is not overloaded and is not subsequently overloaded and that the load is properly and safely positioned and secured.

3.2 Where the transport operation includes carriage by air, by sea or inland waterway in a Vehicle owned or provided by the Transport Operator such Vehicle shall have a loading restraint system and sufficient anchorage points that are accessible and of adequate strength to withstand forces likely to be encountered. The Transport Operator, his drivers, servants and agents shall comply with any advice, direction or requirement of the ferry or shipping operator, their servants or agents.

In case the transport operation includes carriage of goods by sea in a Vehicle owned or provided by the Transport Operator, the latter shall provide the Purchaser with the Bill of Lading issued by the sea carrier.

3.3 Where the Purchaser loads or provides any tackle for securing the load or any labour for either purpose it shall be provided and carried out under the direction, control and to the satisfaction of the drivers, servants and agents of the Transport Operator and without acceptance of any responsibility or liability by the Purchaser, its servants and agents.

3.4 Goods shall be deemed to be entrusted to the Transport Operator from the time the goods are loaded onto its Vehicle at the point of loading until such time as unloading of the goods is completed at the point of final delivery. For the avoidance of doubt the Transport Operator shall be responsible for all goods that have been loaded onto its Vehicle and the Vehicle itself while such Vehicle and those goods remain on the Purchaser's premises.

3.5 Once executed the loading operation at place of origin, the Transport Operator shall issue and submit the Purchaser a CMR document or equivalent with the following:

- Full details of the Shipper
- Full details of the Consignee
- Description and value of the cargo
- Place and date of Loading
- Place of Discharge

4. Proof of Delivery

4.1 The Transport Operator shall be responsible for providing proof of delivery of the goods to the Purchaser signed by or on behalf of the consignee in acknowledgement of receipt.

4.2 The Purchaser shall be entitled to treat the failure by the Transport Operator to obtain retain or supply the delivery document as aforesaid as evidence of misdelivery and/or loss of the goods by the Transport Operator.

5. Indemnity and Insurance

5.1 The Transport Operator shall indemnify the Purchaser against all actions, losses, liabilities, damages, delays, claims, costs, charges, demands and expenses that arise out of, relate to or are in connection with the loss of, delay, or damage to, any property (including but not limited to property of the Purchaser) or injury to, or death of, any person (including but not limited to any employee of the Purchaser) and the execution of the Contract save to the proportionate extent that the same shall have arisen directly from the Purchaser's negligence or willful default.

5.2 The Transport Operator shall arrange and maintain, at its own cost, all necessary insurance on terms satisfactory to the Purchaser. In particular the Transport Operator shall arrange and maintain a General Civil Liability Insurances covering Transport Operator's liabilities in relation to the services to be provided within the Contract, with an insured amount of at least 1.000.000 euros, unless otherwise agreed within the PO.

The Transport Operator shall maintain that insurance in full force and effect for so long as the Transport Operator is contracted to supply services to the Purchaser.

Whenever the Purchaser requests the Transport Operator shall show the Purchaser evidence of the insurance together with satisfactory evidence of payment of premium. If any insurance is not effected or premium not paid the Purchaser may effect or pay the same and may deduct the cost of so doing from the haulage account.

6. Liabilities

6.1 The Transport Operator shall be liable for and shall save, indemnify, defend and hold the Purchaser harmless from and against all claims, suits, costs (including legal costs), liabilities, judgments, fines, penalties or demands, whether in tort or not, in respect of:

(a) loss of or damage to property of the Purchaser, its clients and/or cargo receivers, whether owned, hired, leased or otherwise provided by the Transport Operator, arising from, relating to or in connection with the performance of the transport operation or the services arranged within the Contract;

(b) personal injury, including death or illness, to any person employed by the Transport Operator arising from, relating to or in connection with the performance of the services arranged within the Contract;

(c) loss of or damage to the goods whilst the same are under the care and custody of Transport Operator, ie from the time of collecting goods until delivery at the location nominated by the Purchaser, even if caused by the negligence/fault of the Purchaser or any other person.

6.2 The transport Operator shall be liable for and shall save, indemnify, defend and hold Purchaser harmless from and against all claims, suits, costs (including legal costs), liabilities, judgments, fines, penalties or demands, whether in tort or not in respect of:

(a) personal injury, including death or illness, to personnel of a third party; and

(b) loss of or damage to the property of a third party,

6.3 The Transport Operator agrees to assume responsibility for and to indemnify the Purchaser from and against any fines or penalties resulting from the negligence/fault of the Transport Operator in its performance of the services arranged within the Contract.

7. Lien

7.1 The Transport Operator, its subcontractors, servants, employees, agents or affiliates shall not be entitled, for any cause whatsoever, to exercise any lien over the goods entrusted.

8. Force Majeure

8.1 Force Majeure is defined as any event beyond the control of the party concerned which that party could not have prevented, overcome, or remedied in whole or in part through the exercise of due diligence and which stands as an obstacle to the execution of all or part of the Contract.

8.2 In any case, the following shall not be regarded as cases of Force Majeure :

- i. particularly difficult or onerous implementation of the Contract,
- ii. The lack of authorizations, licenses, access permits or residence permits which may be necessary for the compliance of the Contract, and which may have to be issued by an authority
- iii. any event which merely makes it more expensive for the Transport Operator to perform its obligations but does not entirely prevent such performance,
- iv. strikes, except legal, recognized strikes,
- v. causes attributable to suppliers, to subcontractors and generally to any person dependent on and/or of the Contract,
- vi. any defect of the services arranged within the Contract attributable to defective materials and/or means used for the implementation of the Contract.

8.3 The party whose obligations are affected by a case of Force Majeure shall notify the other party within forty eight (48) hours by any means (telex, fax, e-mail etc.), from the occurrence of the event and shall confirm it as soon as possible by registered letter, submitting evidence of its unforeseeable, irresistible, uncontrollable and insurmountable nature, which, in its view, makes it impossible to undertake or continue performance of all or part of its obligations. The prevented party shall, in the case of a government agency involvement, enclose the Certificate issued by competent government authorities for examination and confirmation by the other party. This notification shall further include an indication of its expected duration as well as informing the other party of the measures taken or to be taken.

- i. In all cases, the Transport Operator shall do whatever is in its power to protect and keep the resources and means necessary for the implementation of the Contract, as well as the services arranged still to be delivered, in perfect working condition.

- ii. The Transport Operator shall also endeavor to make good the non-performance of its obligations and to mitigate the effect thereof on the satisfactory completion of the Contract.

9. Liquidated damages

9.1 If the Transport Operator fails to complete the services arranged within the Contract, for reasons attributable to the Transport Operator, within the stipulated time specified by Purchaser for freight deliveries, and fails to deliver the goods or part thereof in accordance with the relevant time period or any time extension thereto as may be granted by Purchaser in accordance with the provisions of the Contract, then without prejudice to BUYER's other rights and remedies under the Contract or at law, Transport Operator shall become liable to pay to Purchaser as liquidated damages, not as penalty, the following amounts:

(a) for combined transport operations, the liquidated damages for any delay shall be calculated at a rate of two and a half percent (2 1/2%) of the Contract value for every week of delay or part thereof beyond the date specified by Purchaser, subject to a maximum limit of twenty percent (20%) of Transport Operator invoice for such freight transport; and

(b) for land/air mode freight transport, the liquidated damages for any delay shall be calculated at a rate of two percent (2%) of the freight value for every day of delay or part thereof beyond the date specified by Purchaser, subject to a maximum limit of twenty percent (20%) of Transport Operator's invoice for such freight transport.

9.2 The Transport Operator reserves the right to set off liquidated damages from any monies due or to become due to the Transport Operator. Where the liability of the Transport Operator to pay the liquidated damages exceeds the maximum limit as specified in Article 9.1, the Purchaser has the right to terminate the Contract.

9.3 All amounts of such liquidated damages for which Transport Operator may become liable under the Contract are agreed by the parties to be a genuine pre-estimate of the losses which shall be sustained by Purchaser in the event Transport Operator fails to comply with the specific requirements in the Contract.

9.4 Subject always to the rights of Purchaser to terminate the Contract and other remedies in the Contract, the payment of liquidated damages shall not relieve Transport Operator from its obligations to diligently perform the services or from any other of its obligations and liabilities under the Contract. The above provisions are

without prejudice to any other rights Purchaser may have in accordance with any other provisions of the Contract or at law.

experience

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