

## GENERAL LOGISTIC CONDITIONS

### 1 DEFINITIONS

Hereinafter the following conditions shall mean:

- 1.1. G.L.C : General Logistic Conditions.
- 1.2. CC: Civil Code.
- 1.3. ABAS-KVBG-conditions: general terms and conditions for the handling of goods and related activities in the Port of Antwerp.
- 1.4. CEB/VEA-conditions: Belgian Freight Forwarders Standard Trading Conditions.
- 1.5. Logistic Service Agreement: the agreement binding the Logistics Service Provider to perform Logistic Services for the Principal.
- 1.6. Logistic Services: all agreed services of any nature whatsoever related to the handling and distribution of goods, including but not restricted to collection, purchase, storage, stock management, order handling, preparing for shipment, invoicing, regarding the goods as well as the related data exchange and its management, customs, transport and expedition. Under no circumstances will fiscal representation be subject to this Logistic Service Agreement.
- 1.7. Logistic Service Provider: the party performing the Logistic Services as described in the Logistic Service Agreement concluded with the Principal.
- 1.8. Logistic Centre: place where the Logistic Services will be performed.
- 1.9. Additional Activities: activities ordered after the original Logistic Service Agreement had been entered into.
- 1.10. Consignee: the party to whom the Logistic Service Provider must deliver the goods in accordance with the Logistic Service Agreement.
- 1.11. Principal: the party that has entered into an agreement with the Logistic Service Provider.

- 1.12. Reception: the moment in time at which the Goods are handed over to the Logistic Service Provider, subject to his reservations as the case may be, and from whereon the Goods are under his care.
- 1.13. Delivery: the moment in time at which the Goods are handed over to the Consignee, as the case may be subject to his reservations, and after which the Goods are no longer in Logistic Service Provider's care.
- 1.14. Force majeure: All circumstances beyond the control of the Logistic Service Provider or that he does not have under his control and which humanly-speaking make it practically impossible to meet his obligations.
- 1.15. Working days: all calendar days, excluding Saturdays, Sundays, as well as all recognised public holidays in Belgium.
- 1.16. Stock Difference: the difference, between physical stock in the Logistic Centre and the stock as recorded in the warehouse management system of the Logistic Service Provider, which cannot be explained unless proven to the contrary by the Principal.
- 1.17. CMR: Convention on the Contract for the International Carriage of Goods by Road (Geneva, May 19<sup>th</sup> 1956).
- 1.18. CIM: Uniform Rules Concerning the Contract of International Carriage of Goods by Rail dd. July 1<sup>st</sup> 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 June 22nd, 2001.

## **2 SCOPE.**

2.1. The G.L.C are applicable unless explicitly agreed otherwise in writing, to the Logistic Service Agreement and the Additional Activities; in so far they are not in conflict with imperative law and public order.

The terms and conditions of Principal are explicitly excluded from the contractual relationship between the parties.

2.2. All transports carried out within the framework of this Logistic Service Agreement are subject to the provisions of the international treaties and imperative legislation applicable to the related transport (CMR, added with the General Conditions for Carriage by Road as drafted by TLV, Febetra and UPTR if it concerns Belgian Way Bill forms and they are not in conflict with the strictly binding statutory provisions, CIM, CMNI, FIATA, ...).

2.3. Unless otherwise agreed upon in writing, all forwarding, customs and VAT assignments are carried out within the framework of this Logistic Service Agreement governed by the provisions of the CEB/VEA-Conditions.

2.4. Unless otherwise agreed upon in writing, the provisions of the ABAS-KVBG-conditions will govern all stevedoring activities carried out within the framework of transport over water carried out within the framework of these G.L.C.

2.5. Each agreement is concluded on and valid from the moment the offer is accepted by the Principal, or in case of lack thereof, the moment the Logistic Service Provider has in fact started the execution of the agreement.

### **3 OBLIGATIONS OF THE LOGISTICS PROVIDER.**

The Logistic Service Provider must:

3.1. Perform Logistic Services and if required Additional Activities agreed with the Principal.

3.2. Take reception of the agreed goods at the agreed place, time and in the agreed way, accompanied by a transport document and accept the other documents that may have been given by the Principal and to deliver them in the same condition as the one in which they have received them, or in the agreed condition.

If there is no agreed time of Delivery or Reception these agreed activities must take place within the time which a Logistic Service Provider reasonably needs, counting from the time the Delivery or Reception is requested. This time is then deemed to be the agreed time.

On Reception of the goods, note any necessary reservations on the transport document regarding externally visible damage and quantity, and inform the Principal about this so that he can take the necessary measures.

3.3. Designate one or more contacts and report this to the Principal.

3.4. If the Logistic Service Provider fails to designate one or more contacts as referred to under Article 3 paragraph 3, the person who has signed the Logistic Service Agreement on behalf of the Logistic Service Provider shall be deemed to be the contact.

3.5. See to it that the storage and handling of the goods is done in an appropriate environment, including the necessary licences, as the case may be. Any change in agreed Logistic Center shall have to be notified to the Principal.

3.6. Behave like a diligent administrator regarding the goods and should this be necessary for the preservation of the goods to take all reasonable measures at the expense of the Principal, including those that do not result directly from the provision of Logistic Services.

3.7. Insure its liability as it results from the G.L.C with an approved insurance company, according to the Supervisory Act of Insurances of 9 July 1975.

3.8. Only allow the presence of the Principal or of the persons designated by him to the areas and premises where the goods are located but exclusively at their own risk and exclusively during normal working hours, however, provided that this:

- Takes place in the presence of the Logistic Service Provider;
- Was communicated and approved in advance;
- Takes place in accordance with the Logistic Service Provider's internal rules and regulations;
- takes place in accordance with the current safety instructions applicable at the Logistics Center and /or on the premises used for the performance of this agreement.

3.9. See to the proper functioning of the equipment he uses to perform the contract for the provision of Logistic Services.

3.10. The obligations of the Logistic Service Provider contained in present Logistic Service Agreement are obligations of means and cannot, safe explicit prior written agreement between the parties to the contrary, be interpreted as obligations of result.

#### **4 LIABILITY OF THE LOGISTIC SERVICE PROVIDER.**

4.1. If goods handled by the Logistic Service Provider in their packaging, if any, are not delivered in the same condition or in the agreed condition to the Principal and/or consignee, the Logistic Service Provider, except in case of Force Majeure and any other provisions in the present conditions, shall be liable for the related damage and/or loss insofar this damage and/or loss is caused by a fault or negligence of the Logistics Provider, his representatives, personnel and/or subcontractors, if any. The Principal has the burden of proof that the damage and/or the loss occurred between the time of Reception and the time of Delivery as stipulated in these Conditions.

4.2. The Logistic Service Provider is not liable for damage to / loss of the goods, in so far that damage/loss is the result of the special risks related to storage in the open air, as per the instructions of the Principal.

4.3. Logistic Service Provider is exempt from liability in case of o.a. theft with burglary, violence or under threat or at gunpoint; fire, explosion, lightning, aeronautical vehicles, water damages, inherent vice of the goods and/or their packaging, hidden defects, demurrage and detention of containers, and Force Majeure.

4.4. Except when the damage or loss is caused by willful misconduct of Logistic Service Provider's management, the liability of the Logistic Service Provider under these G.L.C is limited to an amount per kilogram, per damage causing event and per contract year, to be agreed upon between parties at

the conclusion of the Logistic Service Agreement. In case such amounts have not been agreed upon, the following amounts will be applicable: 8.33 special drawing rights (S.D.R.) per kilogram of lost or damaged goods with the absolute maximum of 25,000 € per damage causing event or series of events having the same cause of damage and 100,000 EUR year.

4.5. If the Logistic Service Provider does not perform the Logistic Services and/or Additional Activities at or within the agreed time, in the agreed way and at the agreed place, he shall be held, and without prejudice to the provisions of paragraph 1 of the present article, to perform these activities as soon as possible without additional costs for the Principal, in the agreed way.

If the Principal has furthermore incurred expenses in relation with the fact that the Logistic Service Provider did not perform the Logistic Services and/or the Additional Activities in the agreed manner, time and place, the Logistic Service Provider is liable to pay these costs up to an amount to be agreed at the time of the entering into the Logistic Service Agreement. If such an amount was not agreed, the liability of the logistics provider for these costs shall be 750 EUR maximum per occurrence.

4.6. The Logistic Service Provider is not liable for damages as a result of information and instructions provided by or to other persons than those referred to under Article 3.3.

4.7. If the Logistic Service Provider repeatedly fails to comply with the substantial obligations, the Principal can, without prejudice to the right to compensation for damages as described in paragraphs 1, 2, 3 and 4 of this article, terminate the Logistic Service Agreement if 30 days after having given formal notice hereof to the Logistic Service Provider, the failure to comply is still not remedied.

Towards the compensation of the damage resulting from this termination the Logistic Service Provider shall at the most owe a sum to be fixed at the beginning of the Logistics Service Agreement.

4.8. The Logistic Service Provider is not liable for any damage except to the goods themselves. All indirect and/or intangible damage, such as but not limited to loss of income, loss of profit, consequential damages, etc., is excluded from Logistic Service Provider's liability.

4.9. Any damage/loss and/or difference in stock shall be evaluated once per year. If there is a positive difference no compensation for damages will be claimed. In case of negative and positive differences, the differences will be set off against each other.

In case of a negative difference no compensation for damages will be paid if the difference is less than a between parties to be agreed upon percentage of the total Annual Volume that was handled; failure whereof a percentage of 0.1 % of the total Annual Volume subject to the Logistic Service Agreement will apply. The **Annual Volume** means the sum of the inbound, outbound and handled quantities of Goods.

If the agreed upon percentage, is nevertheless exceeded the Logistic Service Provider shall pay a compensation for damages to the Principal equal to the reception-value of the respective product subject to Stock Difference beyond the agreed upon percentage. Logistic Service Provider's liability for Stock Difference will be subject to the limitations set out in section 4 paragraph 4. **Reception-value**

will mean the purchasing/manufacturing, as the case may be, cost plus the costs for transportation up till the Reception of the goods by Logistic Service Provider.

4.10. The Logistic Service Provider may proceed to sell the goods without awaiting the instructions of the cargo interest if the perishable nature or condition of the goods justifies this or if the costs of preservation are out of proportion compared to the value of the goods. The value of the goods is the cost of production or failing this, the current market price or failing that, the usual value of goods of the same nature and quality.

He can also proceed to sell if the Principal surrenders the goods.

In the other cases he can also order to sell if he has received no other instructions from the cargo interest within a reasonable period, of which the service can reasonably be demanded.

If the goods are sold in compliance with the present article, the proceeds of the sale shall be made available to the cargo interest deducting the costs burdening the goods. If these costs are higher than the proceeds of the sale Logistic Service Provider will be entitled to the difference.

The law and the current practice of the place where the goods are located shall fix the procedure in case of sale.

In any case, in the event of perishable goods or goods of which the cost of preservation are out of proportion with the value of the goods a simple communication will be addressed to the cargo interests.

If the latter fail to respond to this within two (2) Working Days , the sale may proceed.

In case of non-perishable goods, a simple communication of sale will be addressed to the cargo interests. If the latter fail to respond to this within a period of 15 days the sale may take place.

## **5 OBLIGATIONS OF THE PRINCIPAL.**

The Principal must:

5.1. Designate one or more contacts and communicate these to the Logistic Service Provider.

5.2. If the Principal fails to designate one or more contacts as referred to in this article 5.1 of the present conditions, the party that has signed the Logistic Service Agreement on behalf of the Principal shall be deemed to be the contact.

5.3. Principal will provide to the Logistic Service Provider in due time all information concerning the goods and their handling, of which he knows or is deemed to know the significance to the Logistic Service Provider.

Furthermore, the Principal provides in due time all data and information the Logistic Service Provider requests for an accurate execution of the Logistic Service Agreement, in the by the Logistic Service Provider preferred form and manner.

Regarding the dangerous goods, the Principal is held to provide or communicate all documents and instructions as indicated in the conventions and prescriptions in this respect such as ADR, ADN, IDMG, MSDS –files ... to the Logistic Service Provider.

The Principal is responsible for the accuracy, correctness, completeness and reliability of the information, data and documents provided to Logistic Service Provider by himself or by third parties on his behalf.

The Logistic Service Provider can suspend execution of this agreement till the moment Principal has complied with all of its abovementioned obligations.

Insofar late, inaccurate, incomplete and/or incorrect information, data and/or documents, delays the execution of the Logistic Services or prevents the Logistic Services to be performed as they should, all the costs and/or consequences resulting therefrom will be for the account of Principal.

The Principal is also liable for any damage to the environment and for any damage or any harm the Logistic Service Provider, his representatives, personnel or subcontractors, if any, would sustain, as a result of late, inaccurate, incomplete and/or faulty information concerning the nature of the goods.

5.4. Inform the Logistic Service Provider about the necessary licences and/or permits to perform his activities.

5.5. The Principal warrants to place the agreed goods at the agreed place, time, and manner, at least adequately and sufficiently packed in packaging apt for transport, at the disposal of the Logistic Service Provider accompanied with the relevant transport documents and other documents required by law; unless otherwise agreed upon in writing.

5.6. Besides the agreed price of the provision of Logistic Services, Principal will pay the expenses incurred by the Logistic Service Provider with respect to the Additional Activities, including the costs, as referred to under Article 3 par. 6, within the fixed period of payment.

5.7. Principal will hold the Logistic Service Provider harmless against any claims of third parties regarding damages caused direct or indirect by the goods, inadequate or insufficient packaging, by an act or negligence of the Principal, his subordinates, as well as all other persons whose services the Principal uses.

5.8. Guarantee for the equipment made available by him to the Logistic Service Provider.

5.9. At the end of the Logistic Service Agreement, collect the goods that are still at the premises of the Logistic Service Provider on the last Working day of that agreement after payment of all amounts due or that will become due. For whatever may be due after the completion of the Logistics Service Agreement it will suffice for the Principal to provide sufficient security.

5.10. accept every adjustment of rates regarding the incurrence of expenses and/or the payment of costs (including new taxes) that are unknown at the time this agreement was concluded and which the

Principal would also have to pay if the Principal were to perform the activities mentioned in this agreement for his own account.

The prices of this agreement will be subject to automatic indexation of which the modalities will be set out and be agreed upon by the parties at the conclusion of this agreement; failure whereof, the prices will be adjusted according to the consumption price index as published on the website of the FOD Economie.

5.11. Pay the costs of removal and recycling of packaging and waste that result from the provision of services at cost price.

## **6 LIABILITY OF THE PRINCIPAL.**

6.1. The Principal is liable for any damage and costs caused by him and all persons for who he is responsible such as employees, affiliates, agents, representatives and/or subcontractors, and/or goods subject to the Logistic Service Agreement.

6.2. If the Principal fails to communicate the information, data and documents as referred to under Article 5 par. 3 of these conditions in due time, or fails to make available the agreed goods at the agreed time or within the agreed period of time, manner and place, in an adequate and sufficient packaging apt for transport, accompanied by the required documents as intended under Article 5 par. 5 of these conditions, he must perform these activities as soon as possible, free of charge and in the agreed manner for the Logistic Service Provider.

If the Logistic Service Provider has in addition incurred costs in relation with the fact that the Principal has failed to meet his obligations as referred to under Article 5 par. 3 and 5 of these conditions, the Principal is liable for these costs up to a maximum of 30,000 EUR per occurrence.

6.3. If the Principal repeatedly fails to meet his obligations the Logistic Service Provider can, without prejudice to compensation of damages, terminate the Logistic Service Agreement, after he has allowed the Logistic Service Provider in writing a reasonable last deadline and the Principal still has not met his obligations at the expiry thereof. In which case Principal is liable for all consequences, costs and damages resulting therefrom.

6.4. The Principal shall adequately insure the goods at least against fire, lightning, explosion, aeronautical vehicles, storm damage, water damage, floods and theft. In case of damage due to abovementioned circumstances, Principal and its insurer(s) will waive recourse against the Logistic Service Provider and all other third parties.

In any case he will also be liable for the collection and handling of the damaged goods. The access to the areas is described in Article 3 par.8. Moreover he will pay all costs caused by the collection and handling of the damaged goods as well as all costs whatsoever resulting from this, such as the costs of cleaning and sanitation of the land and of the facilities and all the above without prejudice to what is mentioned under Article 6 par. 1.



## **7 PRESCRIPTION.**

All claims to which the Logistic Service Agreement gives rise including those that are the result of a Cash On Delivery-clause, shall expire after a period of one year as of the day following the one on which the Principal is informed of the fact or the occurrence that gives rise to the claim or should have been informed. Logistic Service Provider will be informed in writing of each claim relating to externally visible damage immediately upon Delivery and of each claim regarding invisible damage within seven (7) days after Delivery, Sunday and public holidays not included; failure whereof, the claim will be non-admissible.

## **8 TERM AND TERMINATION OF THE AGREEMENT.**

8.1. Unless otherwise agreed upon in writing, the Logistic Service Agreement is concluded for an indefinite term but can be terminated by either party upon six (6) months notification.

8.2. If a party has repeatedly not complied with a substantial obligation under this agreement, and if the breach remained unremedied thirty (30) days after formal notification thereof to the general management of the breaching party (manager, managing Director, ...), the other party can terminate the Logistic Service Agreement at all times provided a thirty (30) days' notice is given.

8.3. Either Party can terminate the Agreement by formal notice in case the other party is subject to liquidation or dissolution proceedings, insolvency, bankruptcy and/or any other collective settlement on debt.

8.4. If, upon termination of the Agreement, the agreement and/or Logistic Service has been partially executed, the termination will only regard the future and all costs and expenses made will be invoiced in accordance with the Agreement and paid by Principal.

8.5. If a situation of Force Majeure continues for more than thirty (30) days, the Logistic Service Agreement can be terminated by the Principal, without possibility to claim compensation for any damages resulting therefrom.

## **9 CONDITIONS OF PAYMENT.**

9.1. All amounts due by the Logistic Service Provider and the Principal, shall be paid taking into account the agreed due date or in absence of this within two weeks after the date of invoice.

9.2. If the invoice is not paid on the due date the outstanding amount shall produce an interest by law and without formal notice at a rate fixed by the European Central Bank, fixed by the Act of 2 August 2002 implementing the European Directive 2011/7/CE, plus seven percent and rounded upwards to half a percent.

9.3. If the debtor fails to comply within a period of fifteen days after having sent a registered letter by mail, the amount outstanding shall moreover be increased with 10% with a minimum of 125 EUR and a maximum of 4.000 EUR as a lump sum compensation for additional administrative costs, supervision of accounts outstanding and disturbance of commercial activities.

9.4. In so far as permitted by applicable law, compensation or set-off of any amount will never be allowed.

9.5. No complaint or discussion regarding an invoice, will interfere with the payment of the unchallenged part of the invoice under consideration in accordance with the payment terms of this Clause.

9.6. In the event the Logistic Service Agreement is terminated for whatever reason, all sums as referred to under this clause 9 will become immediately due and payable.

## **10 GUARANTEES.**

10.1. The Logistic Service Provider holds a right of retention in respect of the goods and documents he holds in regard with the Logistic Service Agreement.

10.2. The Logistic Service Provider can only exercise the right of retention for what is or will be due to him relating to the Logistic Service. He can also exercise this right on the Cash On Delivery-fee burdening the goods.

10.3. The Logistic Service Provider can also exercise the right of retention for what is due to him by the Principal in relation with any previous Logistic Service Agreements.

10.4. The Logistic Service Provider can also exercise the right of retention for a commission fee he is entitled to in relation with a Cash On Delivery shipment, for which he does not need to accept a guarantee.

10.5. All goods, documents and monies the Logistic Service Provider holds for the Logistic Service Agreement, shall constitute a pledge for all claims he has with respect to the Principal.

10.6. If the Principal fails to pay the sums he owes to the Logistic Service Provider and for which the Logistic Service Provider holds a right of retention and/or a right of pledge on the basis of this Agreement, the Logistic Service Provider shall have the right, after having obtained the approval of the judge, to sell the goods stored at his premises at the expense of the Principal for his own benefit in compliance with the Act of 5 May 1872.

10.7. When requested, the Logistic Service Provider can also replace the pledge by an equivalent guarantee to be assessed exclusively by him.

## **11 GOVERNING LAW / JURISDICTION.**

11.1. Belgian Law shall govern all agreements to which the G.L.C are applicable.

11.2. All disputes related to the validity, interpretation or service of the agreement on which the G.L.C are applicable, shall fall within the jurisdiction of the Courts that are territorially competent for the Registered Office of the Logistic Service Provider except if there is an explicit agreement between the Principal and the Logistic Service Provider which stipulates that the disputes will be referred to arbitration.

## **12 MISCELLANEOUS PROVISIONS.**

12.1. The non-applicability of one or several provisions of these conditions shall not affect the applicability of the other provisions. Both parties will immediately take the action necessary to replace the provision concerned by a valid provision which approximates the original intention of both parties as closely as possible.

12.2. The fact that one of the parties would fail to react against the non-compliance of the contractual stipulations by the other party can never be considered by the other party to be a permanent waiver of the stipulation(s) under consideration.

12.3. Each party warrants the strict confidentiality of the contents of the Logistic Service Agreement and all information exchanged between the Principal and the Logistic Service Provider relating thereto. Parties are allowed to disclose information subject to confidentiality to a governmental agency to comply with any legal obligation and to disclose this information to third parties in accordance with customary business practices.

12.4. All notifications will be sent by registered letter, addressed to the general management of the other party (manager, managing Director, ...).

12.5. This G.L.C are a mere translation of the authentic “Logistieke Dienstverleningsvoorwaarden” in Dutch, in case of contradiction the latter shall prevail.

## **13 REGISTRATION**

The present conditions are the revised version of the conditions drawn up by BELOTRA/Logistics Cell of FEBETRA and the Royal Federation of Managers of Flows of Goods, registered with the Clerk of the Court's Office of the Chamber of Commerce and Industry of the 27th of November 2003, and registered with the same Clerk's Office on 9th of October 2015.