

# BRANCH GENERAL TERMS AND CONDITIONS

## Index

<b>Dutch Forwarding Conditions (Fenex)</b>	<b>2</b>
Arranging as forwarder/mediator of (international) transport and related matters such as customs	
<b>Dutch Warehousing Conditions (Fenex)</b>	<b>15</b>
Warehouse handling and storage for the benefit of taking into keeping as well as warehouse handling and temporary storage or transshipment before, during or after transport and/or forwarding	
<b>General Transport Conditions (AVC)</b>	<b>35</b>
Inland transport over the road	
<b>CMR convention</b>	<b>52</b>
International carriage of goods by road	

**DUTCH FORWARDING CONDITIONS**

CONTENTS

- Definitions..... 3**
  - Article 1. Definitions ..... 3
- Scope ..... 3**
  - Article 2. Scope ..... 3
  - Article 3. Third parties ..... 4
- Conclusion of the Agreement..... 4**
  - Article 4. Conclusion of the Agreement..... 4
  - Article 5. Customs work ..... 4
- Remunerations and other costs..... 4**
  - Article 6. Remunerations ..... 4
- Insurance ..... 5**
  - Article 7. Insurance ..... 5
- Execution of the Agreement..... 6**
  - Article 8. Delivery date, method of delivery and route ..... 6
  - Article 9. Commencement of the Services ..... **Fout! Bladwijzer niet gedefinieerd.**
  - Article 10. Goods handling..... 6
- Liability ..... 7**
  - Article 11. Liability..... 7
  - Article 12. Force majeure..... 8
  - Article 13. Refusal of carriers..... 8
- Imperative law ..... 8**
  - Article 14. The Agreement to organise transportation of goods..... 8
- Payment..... 9**
  - Article 15. Payment terms ..... 9
  - Article 16. Allocation of payments and judicial and extrajudicial costs ..... 10
  - Article 17. Sureties ..... 10
- Final provisions..... 11**
  - Article 18. Termination of the Agreement..... 11
  - Article 19. Proceedings against Third Parties ..... 12
  - Article 20. Prescription and limitation ..... 12
  - Article 21. Choice of law ..... 12
  - Article 22. Reference title ..... 12
- Disputes ..... 12**
  - Article 23. Arbitration ..... 13

## Definitions

### Article 1. Definitions

In these Conditions, the following terms shall have the following meanings:

1. **Third party/parties:** all of those persons, who are not employees, with whom the Freight Forwarder has an undertaking on behalf of the Client, irrespective of whether the Freight Forwarder has the undertaking in its own name or in the name of the Client;
2. **Services:** all activities and work, in any form and by whatever name, including those performed by the Freight Forwarder for or on behalf of the Client;
3. **Freight Forwarder:** the natural or legal person who performs Services on behalf of the Client and who uses these Conditions; this person is not exclusively understood to be the Freight Forwarder referred to in Book 8 of the Dutch Civil Code;
4. **Client:** every natural or legal person who provides the Freight Forwarder with an order to perform Services and concludes to that effect the Agreement, irrespective of the agreed method of payment;
5. **Agreement:** the agreement entered into by the Freight Forwarder and Client in respect of the Services to be performed by the Freight Forwarder, of which these Conditions form part;
6. **Force majeure:** all circumstances that the Freight Forwarder has reasonably been unable to avoid and in respect of which the Freight Forwarder has reasonably been unable to prevent the consequences.;
7. **Conditions:** these Dutch Forwarding Conditions.
8. **Good/Goods:** the goods to be made available or made available to the Freight Forwarder, its agent or Third Parties by or on behalf of the Client, for the purpose of executing the Agreement.

## Scope

### Article 2. Scope

1. These Conditions govern all offers, agreements, legal acts and actual acts relating to Services to be performed by the Freight Forwarder, insofar as these are not subject to imperative law. These Conditions apply to the legal relationship between the parties, including once the Agreement has ended.
2. Insofar as any provision in these Conditions is void or otherwise unenforceable, this does not affect the validity of the other provisions in these Conditions. Furthermore, considered to be applicable is such a stipulation (legally permissible) that is the closest to the purport of the void or voided stipulation.

3. In case the English translation differs from the Dutch text, the latter will prevail.

#### Article 3. Third Parties

The Client gives the Freight Forwarder free rein to engage the services of Third Parties to execute the Agreement, and to accept the (general) terms and conditions of those Third Parties at the Client's expense and risk, unless agreed otherwise with the Client. At the Client's request, the Freight Forwarder is obliged to provide (a copy of) the (general) terms and conditions under which it has entered into a contract with those Third Parties.

### **Conclusion of the Agreement**

#### Article 4. Conclusion of the Agreement

1. All offers made by the Freight Forwarder are non-binding.
2. Agreements, as well as amendments of and additions to these agreements, shall only become effective if and insofar as the Freight Forwarder has confirmed these in writing or the Freight Forwarder has started to perform the Services.

### **Customs work**

#### Article 5. Customs work

1. The provision of information to the Freight Forwarder, that is reasonably provided to enable customs formalities to be carried out, shall imply an order, unless otherwise agreed in writing.
2. This order is accepted by the Freight Forwarder by means of an explicit written confirmation or by the Freight Forwarder starting to carry out the customs formalities. The Freight Forwarder is never obliged to accept an order to carry out customs formalities.
3. If the Freight Forwarder becomes familiar with information or conditions which would indicate that the Client has not complied with article 9 paragraph 3 of these Conditions (has provided incorrect and/or incomplete information and/or documents) and on the basis of which the Freight Forwarder has not accepted the order to carry out customs formalities, the Freight Forwarder is at all times entitled to end this order and not carry this out (any further), which may or may not be set out in an additional agreement and/or authorisation, without any obligation to pay damages.

### **Remunerations and other costs**

#### Article 6. Remunerations

1. All prices quoted shall be based on the prices that apply at the time of the offer (quotation). If between the time of the offer and the time of execution of the Agreement, one or more of the cost factors (including fees, wages, the cost of social measures and/or laws, freight prices and exchange rates, etc.) increase, the Freight Forwarder is entitled to pass on this increase to the Client. The Freight Forwarder must be able to prove the changes.
2. If the Freight Forwarder charges all-in or fixed rates, these rates shall be deemed to include all costs that, in the normal process of handling the order, are for the account of the Freight Forwarder.
3. Unless provided otherwise, all-in or fixed rates shall not include at any rate: duties, taxes and levies, consular and attestation fees, costs of preparing bank guarantees and insurance premiums.
4. In the event of circumstances that are of such a nature that when concluding the Agreement it was not deemed necessary to take into account the risk that they could occur, that cannot be attributed to the Freight Forwarder and that significantly increase the costs of the Services being performed, the Freight Forwarder is entitled to an additional payment. Where possible, the Freight Forwarder shall consult in advance with the Client. In such a case, the additional payment shall consist of the additional costs that the Freight Forwarder has had to incur in order to perform the Services, plus an additional payment - deemed fair and equitable - for the services to be performed by the Freight Forwarder.
5. Expenses of an exceptional nature and higher wages arising whenever Third Parties, by virtue of any provision in the relevant agreements between the Freight Forwarder and Third Parties, load or unload goods in the evening, at night, on Saturdays or on Sundays or public holidays in the country where the Service is being carried out, shall not be included in the agreed prices, unless specifically stated. Any such costs shall therefore be remunerated by the Client to the Freight Forwarder.
6. Other than in cases of intent or deliberate recklessness on the part of the Freight Forwarder, in the event of the loading and/or unloading time being inadequate, all costs resulting therefrom, such as demurrage, waiting times, etc. shall be borne by the Client, even when the Freight Forwarder has accepted the bill of lading and/or the charter party from which the additional costs arise without protestation. The Freight Forwarder must make every effort to avoid these costs.

## **Insurance**

### **Article 7. Insurance**

1. Insurance of any kind shall only be arranged at the Client's expense and risk following acceptance by the Freight Forwarder of the Client's explicit written order, in which the Client clearly specifies the goods to be insured and the value to be insured. A mere statement of the value or the interest is not enough.
2. The Freight Forwarder will take out the insurance (or arrange for this to be taken out) through an insurer / insurance broker / insurance intermediary. The Freight Forwarder is

neither responsible nor liable for the solvency of the insurer / insurance broker / insurance intermediary.

3. When the Freight Forwarder uses equipment, such as derricks, cranes, fork-lift trucks and other machines to perform the Services that do not form part of its usual equipment, the Freight Forwarder shall be entitled to take out insurance at the Client's expense to cover the Freight Forwarder's risks arising from the use of such equipment. Where possible, the Freight Forwarder shall consult in advance with the Client about the use of such equipment. If no timely prior consultation is possible, the Freight Forwarder will take the measures that seem to it to be in the best interests of the Client and shall inform the Client of that.

## **Execution of the Agreement**

### **Article 8. Delivery date, method of delivery and route**

1. The mere statement by the Client of a time for delivery shall not legally bind the Freight Forwarder. Arrival times are not strict deadlines and are not guaranteed by the Freight Forwarder, unless agreed otherwise in writing.
2. If the Client has not given any specific instructions about this with its order, the method of delivery and route shall be at the Freight Forwarder's discretion and the Freight Forwarder may at all times accept the documents customarily used by the firms it contracts for the purpose of carrying out its orders.

### **Article 9. Commencement of the Services**

1. The Client is obliged to deliver the Goods to the Freight Forwarder or a Third Party in suitable packaging to the agreed location, at the agreed time and in the manner agreed.
2. In respect of the Goods, as well as in respect of the handling thereof, the Client is obliged to supply the Freight Forwarder in good time with any details and documents that it knows or ought to know, are of importance to the Freight Forwarder. If the Goods and/or activities are subject to governmental provisions, including customs and excise regulations and tax rules, the Client must provide all information and documents, in good time, that are required by the Freight Forwarder in order to comply with those provisions.
3. The Client guarantees that the information and documents that it provides are correct and complete and that all instructions and Goods that are made available comply with current legislation. The Freight Forwarder shall not be obliged but shall be entitled to investigate whether the information provided is correct and complete.

### **Article 10. Goods Handling**

1. All operations such as inspecting, sampling, taring, tallying, weighing, measuring, etc. and receiving goods subject to appraisal by a court-appointed expert, shall take place only on the Client's specific instructions and upon remuneration of the costs thereof.
2. Notwithstanding the provisions in paragraph 1, the Freight Forwarder shall be entitled, but not obliged, on its own authority and at the Client's expense and risk, to take all such actions

as it deems necessary in the Client's interest. Where possible, the Freight Forwarder shall consult in advance with the Client. If this is not possible, the Freight Forwarder shall take the measures that seem to it to be in the best interests of the Client and shall inform the Client of the measures taken and the associated costs, as soon as this is reasonably possible.

3. The Freight Forwarder is not an expert with respect to the Goods. The Freight Forwarder shall therefore in no way be liable for any damage that arises from or that is related to any notification by the Freight Forwarder with regard to the state, nature or quality of the Goods; nor shall the Freight Forwarder be under any obligation to ensure that the shipped Goods correspond with the samples.

## **Liability**

### Article 11. Liability

1. All Services shall be at the Client's expense and risk.
2. Without prejudice to the provisions in Article 17, the Freight Forwarder shall not be liable for any damage whatsoever, unless the Client can prove that the damage has been caused by fault of negligence on the part of the Freight Forwarder or the latter's employees.
3. The Freight Forwarder's liability shall in all cases be limited to 10,000 SDR per occurrence or series of occurrences with one and the same cause of damage. Taking into account the aforementioned limit, in the event of damage, loss of value or loss of the Goods in the Agreement, the liability shall be limited to 4 SDR per kilogram of damaged or devalued Goods or lost gross weight.
4. The loss to be indemnified by the Freight Forwarder shall never exceed the invoice value of the Goods, to be proved by the Client, in default whereof the market value, to be proved by the Client, at the time when the damage occurred, shall apply.
5. The Freight Forwarder shall never be liable for lost profit, consequential loss and immaterial damage, however that occurred.
6. If during the execution of the Agreement damage occurs for which the Freight Forwarder is not liable, taking into account the provisions in Article 19 of these Conditions, the Freight Forwarder shall make efforts to recover the Client's damage from the party that is liable for the damage. The Freight Forwarder shall be entitled to charge to the Client the costs incidental thereto. If so requested, the Freight Forwarder shall waive in the Client's favour its claims against Third Parties whose services it engaged for the purpose of executing the Agreement.
7. The Client shall be liable vis-a-vis the Freight Forwarder for any damage - including but not limited to material and immaterial damage, consequential damage, fines, interest, as well as penalties and confiscation, including damage on account of non-clearance or tardy clearance of customs documents and claims due to product liability and/or intellectual property rights – suffered directly or indirectly by the Freight Forwarder as a result of (amongst other things) the non-compliance by the Client of any obligation pursuant to the Agreement or pursuant to applicable national and/or international legislation, as a result of any incident that is within



the control of the Client, as well as a result of the fault or negligence in general of the Client and/or its employees and/or Third Parties whose services the Client engages and/or Third Parties that work on behalf of the Client.

8. The Client shall indemnify the Freight Forwarder at all times against third-party claims, including employees of both the Freight Forwarder and the Client, connected with or ensuing from the damage referred to in the previous paragraph.
9. Even where all-in or fixed rates, as the case may be, have been agreed, the Freight Forwarder that is not a carrier but always a party that arranges transportation in accordance with title 2, section 3 of Book 8 of the Dutch Civil Code, shall be liable, whereby the liability is governed by these Conditions.
10. If a claim is made against the Freight Forwarder by the Client outside of the Agreement in respect of the damage that occurs during the execution of the Services, then the Freight Forwarder's liability shall be limited to the liability under the Agreement.
11. If to defend its liability for conduct of a Third Party or employee the Freight Forwarder derives a defence from the Agreement vis-a-vis the Client, then if it is held liable by the Client under this defence, a Third Party or employee can invoke this defence as if the Third Party or employee were also party to the Agreement.
12. In the event a Freight Forwarder is held liable outside of the Agreement with regard to damage to or loss of a Good or delay in delivery by someone who is not party to the Agreement or a transport agreement entered into by or on behalf of the Freight Forwarder, then the Freight Forwarder has no further liability than it would have under the Agreement.

#### Article 12. Force majeure

1. In the event of Force Majeure, the Agreement shall remain in force; the Freight Forwarder's obligations shall, however, be suspended for the duration of the Force Majeure.
2. All additional costs caused by Force Majeure, such as transport and storage charges, warehouse or yard rental, demurrage and standing fees, insurance, removal, etc., shall be borne by the Client and shall be paid to the Freight Forwarder at the latter's first request.

#### Article 13. Refusal of carriers

If the carriers refuse to sign for quantity, weight, etc., the Freight Forwarder shall not be liable for the consequences thereof.

#### **Imperative law**

#### Article 14. The Agreement to organise transportation of goods

These Conditions shall not affect articles 8:61 paragraph 1, 8:62 paragraphs 1 and 2 and 8:63 paragraphs 1,2 and 3 of the Dutch Civil Code.

## Payment

### Article 15. Payment conditions

1. The Client shall pay to the Freight Forwarder the agreed remunerations and other costs, freights, duties, etc. ensuing from the Agreement upon commencement of the Services, unless agreed otherwise.
2. The risk of exchange rate fluctuations shall be borne by the Client.
3. The amounts referred to in paragraph 1 shall also be due if damage has occurred during the execution of the Agreement.
4. If, in contravention of paragraph 1 of this article, the Freight Forwarder allows deferred payment, the Freight Forwarder shall be entitled to make a credit limit charge.
5. In the event of termination or dissolution of the Agreement, all claims of the Freight Forwarder - including future claims - shall be due and payable forthwith and in full. All claims shall be due and payable forthwith and in full in any case, if:
  - the bankruptcy of the Client is announced, the Client applies for suspension of payment or otherwise loses the unrestricted disposition over a significant part of its assets;
  - the Client offers a settlement to his creditors, is in default of fulfilling any financial obligation owed to the Freight Forwarder, ceases to trade or - where the Client is a legal entity or corporate body - if the legal entity or the corporate body is dissolved.
6. Upon first demand by the Freight Forwarder, the Client must provide security for the amount owed or that shall be owed by the Client to the Freight Forwarder. This obligation remains if the Client also has to provide or has provided security in relation to the amount owed.
7. The Freight Forwarder shall not be obliged, from its own means, to provide security for the payment of freight, duties, levies, taxes and/or other costs should the same be demanded. All the consequences of non-compliance or of failure to comply forthwith with a demand from the Freight Forwarder to provide security shall be borne by the Client.

If the Freight Forwarder has provided security from of its own means, it may demand that the Client immediately pays the amount for which security has been provided.

Where possible, the Freight Forwarder shall consult in advance with the Client. If no timely prior consultation is possible, the Freight Forwarder will take the measures that seem to it to be in the best interests of the Client and shall inform the Client of that.

8. The Client shall at all times be obliged to indemnify the Freight Forwarder for any amounts to be levied or additionally demanded by any authority in connection with the Agreement, as well as any related fines imposed upon the Freight Forwarder.

The Client shall also reimburse the said amounts to the Freight Forwarder if a Third Party brought in by the Freight Forwarder demands payment for the said amounts within the framework of the Agreement.

9. The Client shall at all times indemnify the Freight Forwarder for any amounts, as well as for all additional costs that may be claimed or additionally claimed from the Freight Forwarder in connection with the order, as a result of incorrectly levied freight and costs.
10. It shall not be permissible for claims receivable to be set off against payment of remunerations arising from the Agreement on any other account in respect of the Services owed by the Client or of other costs chargeable against the Goods with claims of the Client or suspension of the aforementioned claims by the Client.

Article 16. Allocation of payments and judicial and extrajudicial costs

1. Cash payments shall be deemed in the first place to have been made on account of non-preferential debts.
2. The Freight Forwarder shall be entitled to charge to the Client extrajudicial and judicial costs for collection of the claim. The extrajudicial collection costs are owed as from the time at which the Client is in default and these amount to 10% of the claim, with a minimum of € 100.00.

Article 17. Sureties

1. The Freight Forwarder has the right to refuse the delivery of Goods, documents and monies, that the Freight Forwarder has or will obtain, for whatever reason and with whatever destination, in respect of another party.
2. The Freight Forwarder has a right of retention in respect of all Goods, documents and monies that the Freight Forwarder holds or will hold for whatever reason and with whatever destination, for all claims the Freight Forwarder has or might have in future on the Client and/or the owner of the Goods, including in respect of all claims which do not relate to those Goods.
3. The Freight Forwarder has a right of lien in respect of all Goods, documents and monies that the Freight Forwarder holds or will hold for whatever reason and with whatever destination, for all claims the Freight Forwarder has or might have in future on the Client and/or the owner of the Goods.
4. The Freight Forwarder shall regard anyone who, on behalf of the Client, entrusts Goods to the Freight Forwarder for performing Services, as the Client's agent for creating a lien on those Goods.
5. If when settling the invoice a dispute arises over the amount due or if there is need for a calculation to be made for the determination of what is due that cannot be made quickly, then at the discretion of the Freight Forwarder, the Client or the party that demands delivery at the request of the Freight Forwarder is obliged to pay forthwith the part which the parties agree is due and to furnish security for the part in dispute or for the part for which the amount has not yet been established.
6. The Freight Forwarder can also exercise the rights outlined in this article (right of lien, right of retention and right to refuse delivery) for what is still owed to it by the Client in relation to previous orders and for any amounts payable by way of delivery C.O.D. in respect of the Goods.

7. The sale of any security shall take place at the account of the Client in the manner prescribed by law or - if there is consensus thereon - privately.
8. At the Freight Forwarder's first request, the Client shall furnish security for costs paid or to be paid by the Freight Forwarder to Third Parties or government authorities and other costs that the Freight Forwarder incurs or anticipates incurring, on behalf of the Client, including freight, port costs, duties, taxes, levies and premiums.
9. In the absence of documents, the Freight Forwarder is not obliged to give indemnities or furnish securities. If the Freight Forwarder has given indemnification or furnished security, the Client is obliged to indemnify the Freight Forwarder from all consequences thereof.

## **Final provisions**

### **Article 18. Termination of the Agreement**

1. The Freight Forwarder can terminate the Agreement with immediate effect in the event the Client:
  - discontinues its profession or business largely or in full;
  - loses the power to dispose of its assets or a substantial part thereof;
  - loses its legal personality, is dissolved or effectively liquidated;
  - is declared bankrupt
  - offers an agreement excluded from the bankruptcy proceedings;
  - applies for moratorium on payment;
  - loses the power to dispose of its goods or a substantial part thereof as a result of seizure.
2. If the Freight Forwarder consistently imputably fails to fulfil one or more of its obligations under the Agreement, without prejudice to its right to compensation for any damage that may have been suffered in accordance with article 11, the Client can dissolve the Agreement with immediate effect in full or in part after:
  - it has notified the Freight Forwarder by registered letter with reasons how the Freight Forwarder has failed to comply, stipulating a period of time of at least thirty days for fulfilment of the obligations, and;
  - on expiry of that deadline, the Freight Forwarder has not yet fulfilled the obligations.
3. If the Client consistently imputably fails to fulfil one or more of its obligations under the Agreement, without prejudice to its right to compensation for any damage that may have been suffered, the Freight Forwarder can dissolve the Agreement with immediate effect in full or in part after, by registered letter, it has stipulated a deadline to the Client of at least fourteen days for fulfilment of the obligations and upon expiry of that deadline, the Client has not yet fulfilled its obligations. If, by stipulating such a period, the Freight Forwarder's interests in the undisturbed conduct of its business would be impaired disproportionately, the Freight Forwarder may dissolve the Agreement without observing a time limit.
4. Neither of the Parties may dissolve the Agreement if, considering its special nature or limited significant, the failure does not justify dissolution with all implications thereof.

Article 19. Proceedings against Third Parties

Legal and arbitration proceedings against Third Parties shall not be conducted by the Freight Forwarder unless it agrees to do so at the Client's request and at the latter's expense and risk.

Article 20. Prescription and limitation

1. Notwithstanding the provisions in paragraph 5 of this article, every claim is subject to prescription by the expiry of a period of nine months.
2. Every claim vis-a-vis the Freight Forwarder shall be time-barred by the mere expiry of a period of 18 months.
3. The periods of time stated in paragraphs 1 and 2 commence on the day following the day on which the claim has become due and payable, or the day following the day on which the prejudiced party had the knowledge of the loss. Notwithstanding the foregoing provisions, the aforementioned periods of time for claims with regard to damage, value depreciation or loss of the Goods, commence on the day following the day on which the Goods are delivered by the Freight Forwarder or should have been delivered.
4. In the event that the Freight Forwarder is held liable by Third Parties, including any public authority, for damages, the periods of time stated in paragraphs 1 and 2 commence as from the first of the following days:
  - the day following the day on which the Third Parties have brought action against the Freight Forwarder;
  - the day following the day on which the Freight Forwarder has settled the claim brought against it.

If the Freight Forwarder or the Third Party whose services it has engaged objects and/or appeals, the periods of time stated in paragraphs 1 and 2 commence on the day following the day on which a final ruling has been given on the objections and/or appeal.

5. Unless the situation referred to in paragraph 4 of this article occurs, if following the term of prescription a claim is brought against one of the parties for that payable by that party to a Third Party, a new term of prescription of three months commences.

Article 21. Choice of law

1. All Agreements to which these Conditions apply are governed by Dutch law.
2. The place of payment and settlement of claims shall be the Freight Forwarder's place of business.

Article 22. Reference title

These general terms and conditions can be cited as "Dutch Forwarding Conditions".

**Disputes**

## Article 23. Arbitration

1. All disputes which may arise between the Freight Forwarder and its Other Party shall be decided by three arbitrators to the exclusion of the ordinary courts of law, in accordance with the FENEX Rules of Arbitration. The FENEX Rules of Arbitration and the current fees for the arbitration process can be read and downloaded from the FENEX website. A dispute shall exist whenever either of the parties declares that this will be so.  
Without prejudice to the provisions of the preceding paragraph, the Freight Forwarder shall be at liberty to bring before the competent Dutch court in the Freight Forwarder's place of business, claims for sums of money due and payable, the indebtedness of which has not been disputed in writing by the Other Party within four weeks after the invoice date. The Freight Forwarder is also at liberty to institute interim relief proceedings for claims of an urgent nature at the competent Dutch court in the Freight Forwarder's place of business.
2. The arbitration shall be settled by three arbitrators, unless neither of the parties has submitted a request for arbitrators to be appointed and the parties have jointly informed the FENEX secretariat in writing that they wish to have the arbitration settled by an arbitrator who they have appointed jointly, appending the written declaration of the arbitrator who they have appointed jointly containing his/her acceptance of the appointment and the force and validity of the FENEX Arbitration Rules.
3. One arbitrator shall be appointed by the Chairman or the Vice-Chairman of the FENEX; the second shall be appointed by the Dean of the Bar Association of the district in which the aforesaid Freight Forwarder has its registered office; the third shall be appointed by mutual agreement between the two arbitrators so appointed.
4. The Chairman of the FENEX shall appoint an expert on forwarding and logistics; the Dean of the Bar Association shall be asked to appoint a specialised lawyer in forwarding and logistics; the third arbitrator shall preferably be an expert on the trade and trade and industry in which the Freight Forwarder's Other Party is engaged.
5. Where applicable, arbitrators shall apply the provisions of international transport conventions, including the Convention on the Contract for the International Carriage of Goods by Road (CMR).

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# **DUTCH WAREHOUSING CONDITIONS**

*deposited by the FENEX,  
Netherlands Association for Forwarding and Logistics,  
at the Registry of the District Court at Rotterdam  
on 15 November 1995*

## **GENERAL PROVISIONS**

### **Section 1 Application of these standard conditions**

- 1.1 These conditions shall apply to all legal relations between warehousing companies and their principals, even after the termination of the agreement, as far as the provisions of Chapter I hereof are concerned, and to the legal relation between warehousing companies and holders of receipts, as far as the provisions of Chapter II hereof are concerned, if the receipt states that these conditions - referred to by the name "Dutch Warehousing Conditions" - are applicable.
- 1.2 To the agreement between the principal and the warehousing companies shall explicitly not apply any standard conditions to which the principal might refer in any manner or the principal might declare as applicable.
- 1.3 The principal nor the receipt holder may appeal to regulations or provisions if they are contrary to these conditions.
- 1.4 With regard to the activities and services as those of forwarding agents, shipping-agents/shipbrokers, stevedores, carriers, insurance brokers, control companies, etc. performed by the warehousing company, the conditions customary in the relevant branch of trade, or the conditions whose application has been agreed, shall also apply.

### **Section 2 Definitions**

In these conditions it is understood by:

- warehousing company:** the party who - apart from the possibility of wider terms of reference - accepts orders for warehousing or custody or delivery of goods (Chapter I) or the party who has goods in custody against which a receipt issued by him is in circulation (Chapter II);
- principal:** the party who instructs the warehousing company to store or deliver goods, or the person for whom the warehousing company stores goods for which no receipt is in circulation;
- receipt:** a numbered and legally signed or stamped document entitled "receipt" or a synonym, stating that the holder has the right to receive the goods mentioned therein;

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**receipt holder:** the person who identifies himself to the warehousing company as holder of a receipt by producing the receipt or in any other manner acceptable to the warehousing company;

**last receipt holder known to the warehousing company:** the person to whom a receipt has been issued and subsequently the receipt holder whose written request to the warehousing company to be considered as such bears the most recent date, provided however that the warehousing company shall have the right but not be obliged to regard someone else as such if they have reason to assume he is the last receipt holder.

### **Section 3 Applicable law**

All agreements between the warehousing company and the principal shall be subject to the laws of the Netherlands and if not otherwise specified in these conditions, the Civil Law provisions concerning the custody of goods, shall apply generally and according to circumstances.

### **Section 4 Disputes**

- 4.1 All disputes arising between the warehousing company and the principal or the receipt holder shall be decided in the last instance by three arbitrators, with the exclusion of the ordinary court of law. There shall be a dispute whenever either party declares that such is the case.  
Without prejudice to the provisions of the preceding paragraph, the warehousing company shall be free to submit claims of amounts due and payable, the indebtedness of which has not been challenged in writing by the opposite party within four weeks of the invoice date, to an ordinary court of law.
- 4.2 One of the arbitrators shall be designated by the Chairman of FENEX; the second shall be designated by the President of the Bar Council of the judicial district where the said warehousing company has its registered office; the third shall be appointed in mutual consultation by the arbitrators so designated. The Chairman of FENEX shall only designate an arbitrator if one of the parties to the dispute is a FENEX member. If the said Chairman should not designate an arbitrator, the designation of arbitrators shall be made in accordance with the provisions of subsection 4.6.
- 4.3 The Chairman of FENEX shall designate an expert on warehousing; the President of the Bar Council shall be requested to appoint a lawyer; as third arbitrator shall preferably be elected an expert in the branch of trade or industry in which the opposite party of the warehousing company operates.
- 4.4 The party desiring a decision of the dispute shall inform the FENEX Secretariat thereof by registered letter, briefly describing the dispute and his claim, simultaneously sending an amount for service charges established by FENEX in compensation of the administrative involvement of FENEX in case of arbitration.



- 4.5 On receipt of the said registered letter the FENEX Secretariat shall as soon as possible send copies to the opposite party, to the Chairman of FENEX, to the President of the Bar Council, requesting the latter two to designate an arbitrator each and to inform the FENEX Secretariat of the name and residence of the nominee.

On receipt of such information the FENEX Secretariat shall as soon as possible inform the two nominees of their appointment, sending them a copy of the application for arbitration and a copy of these standard conditions and requesting them to appoint the third arbitrator and to inform the FENEX Secretariat who has been appointed as such.

On receipt thereof the FENEX Secretariat shall as soon as possible inform the third arbitrator of his appointment, sending him a copy of the application for arbitration and a copy of these standard conditions. The FENEX Secretariat shall subsequently inform both parties who have been appointed arbitrators.

- 4.6 If within 30 days of filing the application for arbitration all three arbitrators have not been designated, all arbitrators shall be appointed by the President of the District Court within whose jurisdiction the warehousing company has its registered office, on the complainant's application by means of a simple petition.

- 4.7 Chairman of the arbitrators shall be the arbitrator appointed by the President of the Bar Council. If the appointment is made by the President of the District Court, the arbitrators shall decide among themselves which of them will act as Chairman.

Arbitrators shall deliver their award as good men in fairness and under obligation to comply with the applicable imperative legal provisions, including the provisions of international transport treaties. They shall determine how the arbitration is to be treated, provided always that the parties shall at any rate be given an opportunity to expound their views in writing and explain them orally.

- 4.8 The arbitrators' assignment shall continue until their final decision. They shall file their award with the Registrar of the Court within whose jurisdiction the place of arbitration is situated, whilst sending copies thereof to each of the parties and to the FENEX Secretariat.

Arbitrators may beforehand require a deposit from the claimant or from both parties to cover the cost of arbitration; during the proceedings they may demand an additional deposit. In their award the arbitrators shall decide which of the two parties or for what portion either party is to bear the cost of arbitration. Such costs shall include the arbitrators' fees and outlays, the amount paid to FENEX on application for service costs, as well as the costs incurred by the parties, if the arbitrators think such costs reasonably necessary. The fees due to the arbitrators shall be recovered from the deposit as far as possible.

## **Section 5 Filed conditions**

- 5.1 These conditions have been filed with the Registrar of the District Court of Rotterdam. They shall be sent on request.
- 5.2 In case of difference between the Dutch text and the text in any other language of these Dutch Warehousing Conditions, the Dutch text shall be decisive.

## CHAPTER I

### PROVISIONS RELATING TO PRESENTING, WAREHOUSING, CUSTODY AND DELIVERY

#### **Section 6 Written records**

- 6.1 All agreements, tenders, instructions regarding warehousing, custody, handling and delivery of goods, shall be recorded in writing.
- 6.2 Oral or telephone communications or arrangements shall only be binding on the warehousing company if immediately confirmed in writing, unless otherwise agreed.

#### **Section 7 Description of goods and supply of information**

- 7.1 Tender of goods and instructions on warehousing, custody and handling shall be effected or supplied giving an exact and full written description of the goods, such as inter alia their value, the number of packages, the gross weight and furthermore all particulars of such nature that the agreement would not have been made or not on the same terms and conditions if the warehousing company had been acquainted with the true state of affairs.
- 7.2 If goods are subject to customs and excise provisions or to tax regulations or other government rules, the principal shall promptly supply all information and documents required in this connection, in order to enable the warehousing company to comply with such provisions or regulations.

#### **Section 8 Rates/payments/taxes**

- 8.1 Current rates and payments for work and all oral or written agreements between the warehousing company and the principal regarding rates and payments for work shall be based on the cost of labour prevailing at the time the instructions were given or the agreement was made.  
In case of an increase in the cost of labour, the current or the agreed rates and payments shall be adjusted accordingly with immediate effect. The warehousing company shall also have the right to adjust the rates in case the authorities introduce or increase charges imposed on the services rendered by the warehousing company.
- 8.2 Current and agreed rates for warehousing shall be based on the customary method of stacking the relevant goods, unless expressly agreed otherwise. If at the principal's request or in view of the condition of the goods the customary method of stacking is departed from, an increase in the rates shall be applied proportional to the additional floor space occupied compared to normal stacking.

#### **Section 9 Duties, costs and taxes**

- 9.1 All freight, reimbursements, taxes, duties, contributions, levies, fines and/or other charges or costs by whatever name, falling on or relating to the goods and payable on arrival or charged forward, shall be for account of the principal and shall be paid or reimbursed by the principal whether or not in advance, on the warehousing company's first demand, irrespective of whether such goods are not yet on the premises or have meanwhile been removed.

- 9.2 If the warehousing company thinks it necessary to conduct lawsuits or to take other legal steps with regard to taxes, duties, contributions, levies, fines and or other charges or costs by whatever name imposed by the authorities, or if the principal requests the warehousing company to conduct such lawsuits or take such legal steps and the warehousing company complies with such request, the resulting work and costs including the cost of legal and/or fiscal and/or other advice or assistance deemed necessary by the warehousing company, shall be for the principal's account and risk.

Before conducting lawsuits or taking legal measures in terms of this section, the warehousing company shall try to consult on the matter with, or to obtain instructions from the principal or the party directly concerned.

- 9.3 If the warehousing company acts or has acted as fiscal agent, all taxes, duties, contributions and other levies as well as fines, interest, costs, by whatever name, or indemnifications due and payable by the warehousing company, shall be for account of the principal, without prejudice to the provisions of subsection 1 of this section. The principal shall pay such amounts on the warehousing company's first demand.

### **Section 10 The principal's liability**

- 10.1 The principal shall be liable towards the warehousing company and/or third parties for any loss or damage resulting from incorrect and/or misleading and/or incomplete descriptions or indications or information, as well as for loss or damage resulting from defects of the goods and/or the packing not reported beforehand, even if such loss or damage was caused through no fault of his. If no weight is stated or stated incorrectly, the principal shall be liable for any resulting loss or damage.
- 10.2 The principal shall be liable for any damage resulting from not, not timely or not properly meeting any of his obligations under these conditions, or under a separate agreement between the warehousing company and the principal, if no provisions are already included herein.
- 10.3 Notwithstanding the above provisions the principal shall indemnify the warehousing company against claims from third parties or compensate the warehousing company for damages paid or due by third parties or paid or due to third parties, including the employees of both the warehousing company and the principal, relating to the nature or condition of the goods stored.

### **Section 11 Refusing an order**

The warehousing company shall have the right to refuse an order for warehousing and/or custody without giving reasons therefor. If the warehousing company has accepted the order, the agreement may only be broken by mutual consent of the two parties.

### **Section 12 Inspection of goods**

- 12.1 The warehousing company shall not be obliged to weigh or measure the goods stored without instructions thereto.

- 12.2 It is in the warehousing company's discretion to weigh and measure the goods in order to verify the specifications received. If in such case the warehousing company ascertains that weights or measures differ from the specification, the cost of weighing and/or measuring shall be for the principal's account. However, the warehousing company shall only be responsible for ascertaining weights and/or measures, if the goods have been weighed and/or measured by the warehousing company on the principal's instructions and without prejudice to the provisions of section 19 on the warehousing company's liability.
- 12.3 Packages may only be opened for inspecting their contents at the principal's request, but the warehousing company shall at all times have the right, but not be obliged, thereto if they suspect that the contents have been described incorrectly.
- 12.4 If on inspection it appears that the contents differ from the specification, the cost of inspection shall be for the principal's account. However, the warehousing company shall never be responsible for the description and/or designation of goods taken into custody.

### **Section 13 Presenting/delivery and receipt**

- 13.1 Presenting to and receipt by the warehousing company shall be made by the principal's presenting the goods and their acceptance by the warehousing company at the place of warehousing.
- 13.2 Delivery to and receipt by the principal shall be made by the warehousing company's delivery of the goods and their acceptance by the principal at the place of warehousing.

### **Section 14 Condition of the goods on arrival**

- 14.1 Unless otherwise stated, goods shall be delivered to the warehousing company in good condition and if packed, properly packed.
- 14.2 If the goods sent to the warehousing company arrive in apparent damaged or defective condition, the warehousing company shall have the right, but not be obliged, to protect the principal's interests against the carrier or others for the principal's account and risk, and to provide evidence of such condition, however, without the principal being able to derive any right against the warehousing company from the manner in which the warehousing company have performed such work. The warehousing company shall notify the principal instantly, without the latter having any right of claim against the warehousing company because of failure to notify.
- 14.3 Goods received for warehousing, which a conscientious warehousing company, had it known they might be dangerous after receipt, would not have accepted for warehousing in view of this, may at any moment be removed or destroyed or rendered harmless in another manner by them.
- 14.4 With regard to the warehousing of goods of which the warehousing company knew their danger, the same shall apply, but only when such goods present an immediately imminent danger.

- 14.5 The warehousing company shall not owe any indemnification in such matter and the principal shall be liable for all costs and damages to the warehousing company resulting from the presentation for warehousing, from the warehousing itself or from the measures taken, unless such costs and damages or the need for taking such measures are exclusively due to faults on the part of the warehousing company.
- 14.6 As a result of the measures taken the agreement on the goods stated therein shall cease, but if such goods are delivered as yet, only after their delivery.

### **Section 15 Commencement of execution of order for warehousing**

Unless agreed otherwise or prevented by special circumstances, the warehousing company shall as soon as possible after accepting the order and on receipt of the required documents, particulars and handling instructions, commence the execution of accepted orders for warehousing or delivery of goods.

### **Section 16 Late or irregular delivery or removal**

If the principal has advised the warehousing company that goods are to be presented for warehousing in a particular quantity and/or at a specified time, or that goods to be removed are to be collected in a particular quantity and/or at a specified time, and if in such case the principal fails to present or collect in time and regularly, the principal shall be obliged to pay the costs resulting for the warehousing company, because workers and equipment ordered and/or assigned by the warehousing company for executing the relevant order are not or not fully employed.

### **Section 17 Working hours**

Presenting goods to and removal of goods from the place of warehousing shall be made during the official working hours of the warehousing company's staff. If the principal desires work to be done outside the official working hours, it is in the warehousing company's discretion to comply or not. Extra costs incurred for working outside the official working hours, shall be borne by the principal.

### **Section 18 Place of warehousing, transfer of goods**

- 18.1 Unless otherwise agreed, it shall be in the warehousing company's discretion where the goods are to be stored.
- 18.2 The warehousing company shall at all times have the right to transfer the goods to another place of warehousing.
- 18.3 The cost of such transfer shall be for the warehousing company's account, unless such transfer is to be made:
- in the interest of the principal or the goods, or
  - due to circumstances for which the warehousing company is not responsible, or
  - due to circumstances that cannot reasonably be for the warehousing company's account and risk, or
  - due to government rules and regulations.

The transport related to the transfer for the warehousing company's account, shall take place on the customary transport conditions.

The transport related to the transfer for the principal's account, shall be undertaken by the warehousing company as forwarding agent and shall be made at the principal's risk.

- 18.4 If the goods are transferred to another place of warehousing, the warehousing company shall notify the principal, without the latter being able to make any claim against the warehousing company for failing to notify.

### **Section 19 Damage/loss of goods**

- 19.1 Under the present warehousing conditions the principal renounces any right of recovery against third parties in case of damage and/or loss; he shall exclusively be able to hold the warehousing company liable, even if the warehousing company has employed the services of third parties in the course of their business, all of which with the following limitation.
- 19.2 All activities and work shall be performed for the principal's account and risk, unless provided otherwise herein.
- 19.3 The warehousing company shall not be liable for any damage, unless the principal proves that the damage was caused by faults or negligence of the warehousing company or its staff.
- 19.4 In case of damage and/or loss because of theft by means of burglary, the warehousing company shall be considered to have applied adequate care, if it has provided proper closure of the place of warehousing.
- 19.5 In the case of goods stored on open grounds or which can only be stored on open grounds or of which it is customary for the warehousing company to store them on open grounds, any liability of the warehousing company for damage that may be related to such warehousing, shall be excluded.
- 19.6 The warehousing company's liability in all cases shall be limited to 2 SDRs per kilogram damaged or lost gross weight with a maximum of 100,000 SDRs per event or series of events with the same cause of damage.
- 19.7 The damage to be compensated by the warehousing company shall never exceed the invoice value of the goods, to be proved by the principal, in the absence of which their market value, to be proved by the principal, at the time the damage was done, shall apply. The warehousing company shall only be liable for damage to the goods themselves and for damage in terms of subsection 19.9 and shall never be liable for lost profits, consequential damage and immaterial damage.
- 19.8 In case of damage to an independent part of the goods, or in case of damage to one or more parts of several goods belonging together, any depreciation of the remaining parts or the undamaged goods shall not be considered.
- 19.9 The warehousing company's liability for damage resulting from complying with (customs) formalities shall be limited to 7500 SDRs per event or series of events with one and the same cause of damage.

## **Section 20 Admittance to the premises**

- 20.1 The warehousing company shall be obliged to admit the principal and the persons designated by him, for the principal's account and risk, to the place where his goods are stored, subject to the compliance with the customs and other formalities prescribed by the authorities.
- 20.2 To the persons to whom the warehousing company grants admittance the following conditions shall apply:
- a. all persons visiting the place of warehousing including the crew of vessels and vehicles arriving at the place of warehousing, shall observe the warehousing company's regulations;
  - b. admittance shall be granted only during regular working hours and under escort;
  - c. the cost of escorting visitors shall be paid to the warehousing company by the principal;
  - d. the principal shall be liable for any damage caused directly or indirectly by the visitors.
- 20.3 The principal shall indemnify the warehousing company against third party claims, including both the warehousing company's and the principal's employees, relating to damage resulting from the preceding subsections.

## **Section 21 Performance of activities**

- 21.1 The performance of the work required by the principal, such as sampling, handling, servicing, repacking, restacking, lotting, weighing, etc., as well as delivery, shall be entrusted to the warehousing company having the goods in custody, at the appropriate fees and on the appropriate conditions.
- 21.2 Any work the warehousing company does not wish to undertake may, with the warehousing company's consent, be executed by or on behalf of the principal, subject to the conditions made by the warehousing company, under the supervision of the warehousing company and against payment of the costs involved, however without any liability of the warehousing company.

## **Section 22 Special method of handling goods**

- 22.1 The warehousing company shall not be obliged to take any measures in respect of the goods received into custody or their packing, than such measures as are considered normal for the custody of the goods concerned.
- 22.2 The warehousing company shall only be obliged to take special measures if they have been agreed.
- 22.3 However, the warehousing company shall have the right to take immediate action at the principal's cost and risk, including the clearance or removal or destruction or rendering harmless in any other manner, if it is feared that failure to take such action may cause loss and/or damage to the goods themselves or to other goods, or to the warehousing or to equipment, or injury to persons, or when measures are required or indicated for some other reason, such in the warehousing company's discretion. The

warehousing company shall immediately inform the principal of the measures taken, without the latter having any right of claim against the warehousing company because of failure to meet such obligation.

- 22.4 Without prejudice to the provisions of the preceding subsection, the principal shall indemnify the warehousing company against any third party claims for damage caused by the principal's goods to goods pertaining to third parties.

### **Section 23 Insurance of goods**

- 23.1 Unless expressly agreed with the principal in writing the warehousing company shall not be obliged to effect any insurance for goods.

If it has been agreed between the warehousing company and the principal that the warehousing company is to effect insurance of the goods for the principal's account, the warehousing company shall have the right in their discretion to effect the agreed insurance in the principal's name, or to include such insurance in a warehouse policy.

The value to be insured shall be the amount stated by the principal. The warehousing company shall in all cases of insurance exclusively be regarded as intermediary without any liability, nor for the terms and conditions agreed with the insurer(s) or for their reliability or their solvency.

- 23.2 In all cases where the goods have been insured through the intermediary of the warehousing company, the warehousing company shall have the right to collect the amounts claimed for and on behalf of the parties interested in the goods and to recover therefrom all their claims, for whatever reason, on the principal.

The balance shall be paid to the principal.

- 23.3 If in case of damage to or loss of goods by fire or by any other cause, the assistance of the warehousing company for assessing the damage or loss is desirable or necessary, such assistance shall be rendered by the warehousing company against payment of the costs involved and of a fee for their efforts. The warehousing company may make such assistance contingent on the cash payment of, or the provision of security for all amounts owing to the warehousing company by the principal for whatever reason and the costs and fee referred to in this subsection.

- 23.4 In case of partial delivery of the goods by the warehousing company, the principal shall inform the warehousing company for what amount he wishes to have the remaining goods insured.

In the absence of such information the warehousing company shall have the right to reduce the insured amount in their own discretion in the same proportion as the decrease in the number, weight, measure or contents of the goods.

### **Section 24 Charging warehouse rent in case of destruction of goods**

In case the goods stored with the warehousing company are destroyed by fire or otherwise, the day of destruction shall count as the date of delivery and the warehouse rent plus - if the goods were insured through the warehousing company - insurance premium and costs calculated in full monthly periods, shall be due and payable up to and including such date.



## **Section 25 Removal of goods**

- 25.1 The principal may, upon payment of all amounts due to the warehousing company (in the widest sense) and subject to the provisions hereof, at any time remove the goods placed in custody.
- 25.2 The warehouse rent - and if the goods were insured through the warehousing company, the insurance premiums and costs - shall always be charged in full months, part of a month counting as a full month.
- 25.3 If a fixed period of warehousing has been agreed, the warehousing company cannot require the principal to remove the goods prior to the expiration of the agreed period of time.
- 25.4 If no period of warehousing has been agreed or if the agreed period of warehousing has expired, the warehousing company may require the removal at one month's notice, however not within three months of the commencement of warehousing.
- 25.5 In case of force majeure the agreement shall remain in force; however, the warehousing company's obligations shall be suspended for the duration of the force majeure. All extra costs caused by force majeure shall be for the principal's account. Force majeure shall be all circumstances the warehousing company has reasonably been unable to avoid and whose consequences the warehousing company has reasonably been unable to prevent.

## **Section 26 Premature removal of goods for urgent reasons**

- 26.1 However, the warehousing company shall at all times have the right to require the removal of the goods received for warehousing prior to the expiration of the warehouse period without observing any period of notice, if there is an urgent reason therefor.
- 26.2 Urgent reason shall be understood to be a circumstance of such nature that according to rules of reasonableness and fairness the principal cannot expect the warehousing to be maintained.
- 26.3 Such reason shall be deemed to exist inter alia if the principal fails to comply with one or more other provisions hereof, or if it appears that owing to the presence of the goods the hazard of loss and/or damage to other goods or the warehouse place or to equipment, or injury to persons is to be feared, and furthermore if the goods are perishable or liable to inherent changes which in the warehousing company's opinion justify the assumption of deterioration and the principal has neglected to give instructions for preventing or controlling it.
- 26.4 The principal shall remain under obligation to pay the warehouse rent up to the day of removal of the goods.

## **Section 27 Payment**

- 27.1 All amounts owing to the warehousing company by the principal for whatever reason, such as: warehouse rent, insurance premiums and costs, rent, disbursements, fees for warehousing and delivery, outlays and charges for work done or to be done, cost of cleaning work and such like during or after a fire or otherwise, extraordinary expenses, extra wages, taxes, duties, levies, fines, interest etc., shall be immediately due and payable.  
If the warehousing company applies a term of payment, the said amounts shall be immediately due and payable on expiry of the term of payment.
- 27.2 Without prejudice to the provisions of the preceding subsection the principal shall always pay the warehouse rent due promptly within the term agreed between the parties, but at least once in 12 months.
- 27.3 If the principal does not immediately pay the amounts due to the warehousing company, the warehousing company shall have the right to charge the legal interest.
- 27.4 Payments on account shall be regarded to have been made in the first place in reduction of ordinary debts, regardless of whether other instructions were given on payment.
- 27.5 If in case of overdue payment the debt is collected by judicial or other action, the amount of the debt shall be increased by 10% administrative costs, while the judicial and extrajudicial costs shall be for the principal's account, up to the amount paid or due by the warehousing company.

## **Section 28 Lien and right of retention**

- 28.1 The warehousing company shall have a lien and a right of retention towards anyone requesting delivery thereof, on all goods, documents and monies the warehousing company holds or will hold for whatever reason and for whatever purpose, for all claims it has or may have in future on the principal and/or owner.
- 28.2 The warehousing company may also exercise the rights awarded to it in subsection 28.1 for all amounts the principal still owes the warehousing company in connection with earlier orders.
- 28.3 The warehousing company shall regard anyone who, on behalf of the principal entrusts goods to him for performing work, as the principal's agent for creating a lien and a right of retention on such goods.
- 28.4 In case of non-payment of the claim, the sale of the security shall take place in the manner prescribed by law, or - if there is consensus thereon - privately.

## **Section 29 Public sale**

- 29.1 Without prejudice to the provisions of section 28 hereof, the warehousing company shall have the right to sell the goods entrusted to the warehousing company, or to have them sold, without observing any formality, in the place and in the manner and on the conditions the warehousing company may see fit, publicly or in any other manner the law may permit, at the expense of the principal and to recover from the proceeds all amounts the principal owes the warehousing company, in case the principal fails to remove the goods entrusted to the warehousing company on expiry of

the agreement or at the agreed or specified time or at any other point of time in case of one of the urgent reasons mentioned in section 26 hereof.

- 29.2 If it is probable that in case of sale the cost will be higher than the benefits or if no buyer is found despite a reasonable attempt thereto, the warehousing company shall have the right to remove the goods, to have them removed or to destroy them. The principal shall then remain liable for the amounts due, increased by the cost of removal or destruction.
- 29.3 In case of sale the warehousing company shall hold the balance of the proceeds after deducting all costs and all the principal's debts, at the principal's disposal for five years, after which period the balance, if not claimed, shall accrue to the warehousing company.

### **Section 30 Prescription and extinction**

- 30.1 Every claim shall become prescribed by the simple lapse of 12 months.
- 30.2 All claims against the warehousing company shall become extinct by the simple lapse of 2 years.
- 30.3 In case of total loss, damage or reduction, the periods mentioned in subsections 30.1 and 30.2 shall commence on the first of the following days:
- the day the warehousing company delivered or should have delivered the goods;
  - the day the warehousing company informed the principal of such event.
- 30.4 In case the warehousing company is held liable by third parties, including any government, the period mentioned in subsection 30.1 shall commence on the first of the following days:
- the day the warehousing is held liable by the third party, or
  - the day the warehousing company paid the claim against it.
- 30.5 Notwithstanding the provisions of subsections 30.3 and 30.4, the periods mentioned in subsections 30.1 and 30.2 for all other claims shall commence on the day they become due and payable.

### **Section 31 Complaints**

- 31.1 If the goods are made available by the warehousing company without the principal or someone else for him having established their condition in the presence of the warehousing company or without having informed the warehousing company of reserves, in case of visible loss or damage not later than the moment the goods were made available, or in case of invisible loss or damage within five working days of the availability, indicating the general nature of the loss or damage, he shall be considered to have received the goods in good condition, unless the contrary is proved. In case of invisible loss or damage, the said reserves shall be made in writing.
- 31.2 The day the goods are made available shall not be counted in the determination of the above periods.

## **Section 32 Transfer or transition of goods**

- 32.1 Transfer or transition of ownership of stored goods, or the transfer or transition of the right to delivery thereof by a principal to a third party, shall be ineffectual against the warehousing company and without legal effect for the warehousing company, nor shall the warehousing company recognize such transfer or transition, unless all claims the warehousing company may have on the original and/or transferring principal for whatever reason, have been fully paid.
- 32.2 The principal shall be obliged to inform the warehousing company instantly in writing of any transfer or transition of ownership of goods, or transfer or transition of the right to delivery of goods.
- 32.3 Notwithstanding the provisions above the transfer or transition shall have no legal effect for the warehousing company, nor shall the warehousing company recognize them, unless the new owner(s) has(have) explicitly accepted in writing all provisions of the agreement between the warehousing company and the original and/or transferring principal as well as the present conditions.
- 32.4 The warehousing company shall not be required to recognize the transfer or transition of ownership or the right to delivery of the goods and shall even have the right to revoke a recognition made, and they may refuse to deliver the goods, if in the warehousing company's opinion there are flaws in the legal title regarding any transfer or transition of ownership of goods, or any transfer or transition of the right to delivery of goods, and if the new owner(s) claim(s) not to have accepted the present conditions or not to be committed thereto.
- 32.5 The original and/or transferring principal shall remain liable to the warehousing company for all the warehousing company's claims for or in connection with the warehousing and/or work performed in connection with such goods, even though they were performed after the transfer or transition of ownership, or after transfer or transition of the right to delivery.

After transfer or transition of ownership, or the right to delivery of the goods, the new owner shall be regarded as the principal and shall, in addition to his legal predecessor, be severally liable for all the above claims, even though they may have arisen prior to the transfer or transition.

## **Section 33 Issue of receipts**

- 33.1 The warehousing company may issue to the principal at his request a receipt, describing the goods given into custody to the warehousing company by the principal.
- 33.2 The warehousing company shall have the right to refuse to issue a receipt, if the principal has not paid all claims the warehousing company may have on him for whatever reason.
- The warehousing company may furthermore refuse to issue a receipt if they believe there are reasons therefor.
- 33.3 On the issue of a bearer receipt all the warehousing company's obligations towards the principal shall cease and shall be replaced by the warehousing company's obligations towards the receipt holder, which is regulated in more detail in Chapter II hereof. The principal shall, even after the issue of the receipt, remain liable towards the warehousing company for the effects of any discrepancy between the goods for which the receipt was issued and their description in the receipt.

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## CHAPTER II

### PROVISIONS REGARDING THE RECEIPT

#### **Section 34 Applicable provisions**

The legal relations between warehousing companies and receipt holders shall also be subject to the provisions of Chapter I, unless the provisions of Chapter II require that a provision of Chapter I may not be applied.

#### **Section 35 Right to delivery of goods**

35.1 The receipt awards a right to delivery by the warehousing company of the goods they have received for warehousing and against which the receipt has been issued. For any discrepancy between the stored goods and their description in the receipt, the warehousing company shall be liable towards the receipt holder who was unaware of the existence of the discrepancy when acquiring the receipt, unless it concerns goods whose identification requires expert knowledge and/or a thorough examination or analysis.

35.2 If the receipt contains the clause:

"Contents, quality, number, weight or measure unknown"

or a similar clause, the warehousing company shall not be bound by any statement in the receipt regarding the contents, the quality and the number, the weight or the measure of the goods.

35.3 The right to delivery shall not exist as long as the warehousing company can lay any claim on the goods under the present conditions and until all customs and other formalities prescribed by the authorities and required for the delivery, have been fulfilled.

#### **Section 36 Expiry of the receipt**

36.1 The receipt shall be valid for three years, as from the date of issue, unless a shorter period of validity is stated in the receipt.

36.2 Until its expiry the receipt may be replaced at the receipt holder's request by a new receipt, against payment of the costs involved. The warehousing company shall have the right to refuse to replace the receipt and to require the removal of the goods on the expiry date.

36.3 If on its expiry date the receipt has not been presented for replacement, or if after refusal to replace the receipt the goods have not been removed from the warehousing company on the expiry date, the holder of the expired receipt shall be considered to agree to the warehouse rent - and if the goods have been insured through the warehousing company, the insurance premium and costs - as shall be determined by the warehousing company as from such date.

- 36.4 If on its expiry date the receipt has not been presented for replacement, or if after refusal to replace the receipt the goods have not been removed from the warehousing company on the expiry date against payment of the amount the warehousing company is entitled to under section 36 hereof, the warehousing company shall have the right to dispose of the goods to which the expired receipt refers, subject to the relevant provisions hereof.
- 36.5 For a period of five years after the expiry date of the receipt the warehousing company shall be obliged to deliver the goods to which the expired receipt refers - or if the warehousing company has exercised its right to dispose of the goods, the net proceeds of the goods, without payment of interest - to the holder of the expired receipt, after deducting all amounts due to the warehousing company. On expiry of these five years the rights of the holder of the expired receipt shall cease and the warehousing company shall no longer be required to deliver the goods - or to account for their proceeds - neither to the holder of the expired receipt, nor to others.

### **Section 37 Delivery of goods after payment**

- 37.1 The warehousing company shall, prior to effecting full or partial delivery of the goods to which the receipt gives title, have the right to demand payment of:
- a. warehouse rent for so many months as appears from the receipt to have elapsed, and have not been noted therein as having been paid prior to delivery, at the monthly rent stated in the receipt, parts of months to be counted as full months;
  - b. insurance premiums and costs for so many months as appears from the receipt to have elapsed, and have not been noted therein as having been paid prior to delivery, at the monthly insurance premium stated in the receipt, parts of months to be counted as full months;
  - c. the charges for delivering the goods at the current rate therefor;
  - d. disbursements made by the warehousing company on behalf of the receipt holder requesting delivery, in connection with customs and/or other formalities prescribed by the authorities in respect of the goods described in the receipt;
  - e. all costs incurred by the warehousing company after the date of issue mentioned in the receipt:
    - e.1 for preserving the goods mentioned in the receipt;
    - e.2 for eliminating any dangers caused by the goods mentioned in the receipt to the place of warehouse and to other goods stored therein;
    - e.3 for measures taken in respect of the goods mentioned in the receipt as a result of circumstances for which the warehousing company cannot be held responsible.
  - f. all other amounts due to the warehousing company apparent from the receipt.
- 37.2 Notwithstanding the provisions of the preceding subsection the receipt holder shall be obliged to pay the warehouse rent due - and if the goods have been insured through the warehousing company, the insurance premium and costs - at the end of each 12 months of warehousing or so much earlier as has been agreed and stated in the receipt plus the costs incurred by the warehousing company referred to in paragraphs d. and e. above, as soon as the warehousing company has informed him of such costs.

- 37.3 If the receipt holder fails to meet his obligation to pay the rent after each 12 monthly period or so much earlier as has been agreed and stated in the receipt - and if the goods have been insured through the warehousing company, the insurance premium and costs - the amounts due to the warehousing company for this reason shall be increased, as from the day the 12 months warehousing elapsed, by a penalty of 1% of the amount due for each month in excess of the 12 month period.

### **Section 38 Indemnification**

Contrary to the provisions of subsection 19.7 the indemnification to be paid by the warehousing company for loss of goods shall, in the absence of the invoice value of the goods, be limited to the market value of the goods on the day of issue of the receipt, to be proved by the principal.

### **Section 39 Access to and information about goods**

Access to and information about goods for which receipts have been issued shall only be given on production of the relevant receipt.

### **Section 40 Activities in connection with the goods**

- 40.1 The activities required by the receipt holder in relation to the goods described in the receipt, such as sampling, handling, servicing, repacking, restacking, lotting, weighing, etc., as well as delivery, shall be entrusted to the warehousing company having the goods in custody, against the appropriate fees and on the appropriate conditions.
- 40.2 The activities required by the receipt holder shall only be carried out after surrender of the receipt.
- 40.3 Activities the warehousing company does not wish to undertake may, with the warehousing company's consent and after surrender of the receipt, be performed by or on behalf of the receipt holder, subject to conditions made by the warehousing company, under the supervision of the warehousing company and against payment of the costs involved, however without any responsibility of the warehousing company.
- 40.4 Partial deliveries, sampling and handling of the goods causing a modification, decrease or change in the number of the goods shall be noted on the receipt in the proper place. If there is no space left on the receipt for further noting deliveries, modifications, decreases, etc., the receipt shall be replaced at the receipt holder's expense.
- 40.5 Payments due to the warehousing company for work performed in connection with the goods described in the receipt or for supervising such work, shall be paid immediately. The warehousing company shall have the right to refuse to return the receipt until such payments have been made.

### **Section 41 Notification of special method of handling**

If the warehousing company decides to take a measure in terms of section 22, the warehousing company shall immediately notify the receipt holder last known to it, without the receipt holder having any right of claim against the warehousing company for omitting such notification.

## **Section 42 The warehousing company's obligation to insure**

- 42.1 If the receipt shows that the goods therein are insured, the warehousing company shall thereby have undertaken the obligation to effect insurance for the receipt holder's account in accordance with the provisions of section 23.
- 42.2 The insured value shall be the value stated in the receipt.
- 42.3 If the receipt states that the insured value is the current market value, it shall be the warehousing company's responsibility to keep the goods adequately insured.

## **Section 43 Changes in, effect and termination of insurance**

- 43.1 Any changes in the insured value and termination of insurance shall only be possible when the receipt is surrendered for being endorsed accordingly.
- 43.2 Only the insurance as stated in the receipt shall be effective.
- 43.3 The insurance shall otherwise cease on delivery of the goods.
- 43.4 On delivery of part of the goods the insured value of the goods to be delivered must be stated separately and endorsed on the receipt, if the receipt does not show the insured value per unit and if a proportionate decrease cannot be inferred from the receipt.

## **Section 44 Amounts of claims**

The amounts of claims collected by the warehousing company shall be paid out by the warehousing company against surrender of the receipt, after deducting all amounts due to the warehousing company by the receipt holder.

## **Section 45 Notification of destruction of goods**

In case of destruction of the goods described in the receipt by fire or otherwise, the warehousing company shall immediately notify the receipt holder last known to them, without the receipt holder having any right of claim against the warehousing company for omitting such notification.

## **Section 46 Mutilation of the receipt**

- 46.1 Any erasures and mutilations shall render the receipt void; deletions shall not be valid unless initialled by the warehousing company.
- 46.2 The holder of a mutilated receipt may request the issue of a duplicate, against surrender of the original receipt and on payment of the costs involved. For determining the nature and quantity of the goods to be shown in the duplicate receipt, the warehousing company's relevant records shall exclusively be regarded as standard.



## **Section 47 Loss and destruction of receipts**

- 47.1 If a receipt has been lost or destroyed, the rightful holder may apply to the warehousing company for nullification of such receipt and request delivery of the goods or the issue of a duplicate receipt; such application must, if possible, state the cause for the loss of the receipt and contain the grounds on which the applicant bases his title.
- 47.2 If investigations made by the warehousing company afford no reasons to doubt the truth of the grounds of the application, the warehousing company shall publish the application made by inserting two announcements, at intervals of at least 14 days each time, in at least two daily newspapers designated by the warehousing company, inviting those who believe they have a title to the goods described in the missing receipt, to oppose their delivery or the issue of the duplicate receipt by service of a writ.
- 47.3 If within 14 days of the last announcement no one has opposed the delivery or issue by service of a writ, the warehousing company may nullify the receipt and effect delivery of goods or issue a duplicate receipt to the applicant. For determining the nature and quantity of the goods to be delivered or to be described in the duplicate receipt, the warehousing company's relevant records shall exclusively be regarded as standard. The nullification may immediately thereafter be published in the said newspapers. As a result of such nullification the original receipt shall lose its validity and all the warehousing company's obligations under the original receipt shall cease.
- 47.4 In case of opposition by a third party the application shall not be complied with, until it has appeared from a Court Order or other final and conclusive ruling or award that the applicant is the person entitled to the goods.
- 47.5 The person obtaining delivery of the goods described in a duplicate receipt, shall indemnify the warehousing company against all claims resulting from such delivery. The warehousing company may require security for this purpose.
- 47.6 Any costs in the widest sense, incurred by the warehousing company as a result of the application, shall be borne by the applicant. The warehousing company shall have the right to require an advance of money to be made before considering the application.

## **Section 48 Expiration of the validity of the receipt**

- 48.1 If on expiry of the validity of the receipt the warehousing company no longer wishes to keep the goods in warehousing, they shall summon the last known receipt holder to remove the goods.
- 48.2 If the receipt holder fails to comply with the summons within 14 days, or if he is no longer in possession of the expired receipt, and does not indicate the holder of the expired receipt within 14 days, nor does the holder of the expired receipt present himself within such period, the warehousing company shall have the right to sell the goods covered by the expired receipt.
- 48.3 Prior to taking such action, the warehousing company shall publish its intention to sell goods for which an expired receipt is in circulation by inserting two announcements at intervals of at least 14 days in at least two daily newspapers each time, at least one of which appearing in the place where the warehousing company has its registered office, requesting the holder of the expired receipt to meet his obligations as yet, or notifying any persons having acquired the expired receipt.

- 48.4 If 14 days after the last announcement the receipt holder has not presented himself, or if he has presented himself but no agreement has been reached on the removal of the goods, the warehousing company shall be at liberty to sell the goods immediately.

The sale shall take place in accordance with the provisions of section 29.

#### **Section 49 Commencement of period of extinction**

The period of prescription and extinction as referred to in section 30 shall, in case of total loss, commence at the end of the day on which the warehousing company informs the last known receipt holder of such loss or if he is no longer in possession of the receipt and no subsequent receipt holder has presented himself to the warehousing company, a week after the announcement of such loss in two daily newspapers, at least one of which appearing in the place where the warehousing company have their registered office.

#### **Section 50 Application of the provisions of this chapter**

- 50.1 The provisions of this Chapter II shall exclusively apply to the legal relationship between the warehousing company and the receipt holder as such.
- 50.2 The moment the receipt holder for whatever reason surrenders the receipt to the warehousing company the provisions of the present Chapter II shall cease to apply. As from such moment the provisions of Chapter I, regulating the legal relationship between the warehousing company and the principal, shall apply provided always that the warehousing company may enforce all their rights under the receipt.

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# AVC

## General Transport Conditions 2002

Deposited at the clerk to Amsterdam court (no. 81/2014)  
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**In Stichting vervoeradres, established in 1946, the following bodies work together:**

**EVO**, the Employers' Organisation for logistics and transport

**Goederenvervoer Nederland** (*Goods Transport, the Netherlands*)

**NBB**, Nederlandsch Binnenvaartbureau (*Inland Navigation Bureau, The Netherlands*)

**Transport en Logistiek Nederland**, the employers' organisation for goods transport

Full text deposited at the clerk to Amsterdam court (no. 81/2014) and to Rotterdam court (no. 2/2015).

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## Contents

Article 1	<b>Definitions</b>	2
Article 2	<b>Electronic messages</b>	2
Article 3	<b>Scope of application</b>	3
Article 4	<b>Obligations of the sender;</b>	3
Article 5	<b>The consignment note</b>	4
Article 6	<b>Evidential value of the consignment note</b>	4
Article 7	<b>Freight payment</b>	5
Article 8	<b>Instructions of the sender</b>	5
Article 9	<b>Obligations of the carrier</b>	6
Article 10	<b>Liability of the carrier</b>	6
Article 11	<b>Special risks</b>	7
Article 12	<b>Presumption of exonerating circumstances</b>	7
Article 13	<b>Compensation</b>	8
Article 14	<b>Intention to cause damage and wilful recklessness</b>	8
Article 15	<b>Notice of damage</b>	8
Article 16	<b>Right to claim</b>	9
Article 17	<b>Cash on delivery (COD)</b>	9
Article 18	<b>Reservations of the carrier</b>	10
Article 19	<b>Prevention after receipt</b>	10
Article 20	<b>Stack-on transport, through transport</b>	10
Article 21	<b>Storage in the event that the consignee does not show up</b>	10
Article 22	<b>Storage before, during and after carriage</b>	11
Article 23	<b>Right of lien</b>	11
Article 24	<b>Right of pledge</b>	12
Article 25	<b>Lost goods</b>	12
Article 26	<b>Indemnification; Himalaya clause</b>	12
Article 27	<b>Default interest</b>	12
Article 28	<b>Limitation period</b>	13
Article 29	<b>Choice of court; choice of law</b>	13

## Article 1

### Definitions

In these conditions the following will mean:

1. **Contract of carriage:** the contract by which the carrier undertakes towards the sender to carry goods by road.
2. **Sender:** the contractual other party of the carrier. If a sender is referred to in the consignment note this does not automatically mean that the sender referred to is the contractual other party of the carrier.
3. **Consignee:** the person who by virtue of the contract of carriage is entitled to delivery of the goods by the carrier.
4. **The consignment note:** the document drawn up in three original copies, one of which (evidence of receipt) is destined for the sender, the second (evidence of delivery) being destined for the carrier, and the third being destined for the consignee.
5. **Servants and agents:** employees of the carrier as well as persons whose services the carrier uses for the completion of the contract of carriage.
6. **Force majeure:** circumstances which a diligent carrier is unable to avoid and in so far as a carrier is unable to prevent the consequences thereof.
7. **Loss due to delay:** financial loss arising from delay in delivering goods.
8. **Written or 'in writing':** in writing or electronically.
9. **BW:** Burgerlijk Wetboek (Netherlands Civil Code).
10. **CMR:** Convention on the Contract for the International Carriage of Goods by Road (CMR) (Geneva 1956), as supplemented by the 1978 Protocol.
11. **'Algemene Veerboot- en Beurtvaartcondities'** the Dutch General Ferry Boot and Regular Barge Terms and Conditions), most recent version, as deposited by Stichting vervoeradres at the registry of the District Courts of Amsterdam and Rotterdam.
12. **General Storage Terms and Conditions:** the General Storage Terms and Conditions, most recent version, as deposited by Stichting vervoeradres at the registry of the District Courts of Amsterdam and Rotterdam.

## Article 2

### Electronic messages

1. If data, including those relating to the consignment note, are exchanged electronically, parties shall not dispute the admissibility of electronic messages as evidence in the event of a mutual conflict.
2. Electronic messages have the same evidential value as written documents, unless these messages were not sent, saved and registered in the format as agreed on between the parties and in accordance with the security level and manner agreed on by parties.

3. A consignment note drawn up and signed electronically via the TransFollow platform has the same evidential value as the consignment note referred to in section 1. The electronic signature placed via the TransFollow platform is recognised as sufficiently reliable.

### Article 3

#### **Scope of application**

The General Transport Terms and Conditions apply to the contract of carriage of goods by road; if the CMR applies, then the General Transport Terms and Conditions also apply.

### Article 4

#### **Obligations of the sender;**

notice of termination of the contract of carriage

1. The sender is required:
  - a) concerning the goods and the treatment of same, to timely supply the carrier with all data and information as he is able to or ought to be able to, and of which he knows or ought to know that such data and information are important to the carrier, unless he may assume that the carrier is already aware of this data;
  - b) to make the agreed goods available to the carrier at the agreed location and time and in the agreed manner, accompanied by the consignment note as required by article 5 and by any further documents as required by law from the sender;
  - c) to clearly and appropriately address each package to be carried and, in so far as reasonably practicable, to affix or append the required information and address to the packages or their packaging in such a manner that under normal circumstances it remains legible until the end of the carriage. The sender may agree in writing with the carrier that addresses on the packages can be substituted by a statement of numbers, letters or other symbols;
  - d) to report the total weight of the goods to be carried on the consignment note;
  - e) to load and to stow the goods as agreed in or on the vehicle, and to have them unloaded, unless parties agree otherwise, or unless other obligations arise from the nature of the intended carriage, considering the goods to be carried and the vehicle made available.
2. The sender is not allowed to back out of his obligations mentioned in section 1 a, b, c, and d irrespective of the circumstances he may invoke and the sender is required to compensate the carrier for the damage arising from non-compliance with the obligations mentioned.
3. Without prejudice to the provisions of section 2, the carrier may terminate the contract without any notification if the sender does not fulfil his obligations referred to in section 1a and b; however the carrier may only do so after he has set a final deadline for the sender in writing and the sender fails to meet its obligation by the expiry of that deadline. If setting such a deadline would mean that the business operations of the carrier would be unreasonably affected, then the carrier may terminate the contract without granting a deadline as mentioned. The sender may likewise terminate the contract, if he does not fulfil his obligation as mentioned in section 1b.

Termination is effected by written notice and the agreement is terminated when this notice is received. After termination the sender owes the carrier 75 percent of the agreed freight rate but cannot be held liable for further compensation. If no freight rate was agreed, the applicable freight rate will be as per the law, respectively as per custom, respectively in fairness.

4. The carrier may also give notice of termination of the contract, in case of defective loading or stowing or in case of overloading, but not until the sender has been given the opportunity to rectify the defect or the overloading. If the sender refuses to rectify the defective loading and/or stowing or the overloading, the carrier may either give notice of termination of the contract, or rectify the defects and/or the overloading himself; in both cases the sender is required to pay the carrier an amount of € 500, unless the carrier proves that the damages suffered are in excess of that amount; section 3 does not apply.
5. The sender must repay to the carrier any fine imposed on him as a result of overloading, unless the carrier has fallen short in fulfilling his obligations pursuant to article 9 sections 1 and 5 or the carrier has not given notice of termination of the contract of carriage on the ground of the previous section, without prejudice to his right to invoke bad faith on the part of the sender. In case the sender can show proof of any fine resulting from violation of article 2.6 section 2 of the Wet Wegvervoer Goederen (Law roadtransport of goods), this stipulation is deleted.
6. Notwithstanding the other sections of this article the sender must compensate to the carrier the damages suffered in so far as caused by the circumstance that the carriage of the goods is or will be fully or partially prohibited or restricted by public authority; however this liability will not exist if the sender proves that the carrier was or could have reasonably been aware of the prohibition or restriction at the time of the contract of carriage being concluded.

#### Article 5

##### **The consignment note**

1. When making the goods available the sender is obliged to submit a consignment note to the carrier which states that these General Terms and Conditions apply to the contract of carriage concluded.
2. The sender is required to complete the consignment note truthfully and in full according to the instructions, and when making the goods available to the carrier he warrants the correctness and completeness of the data supplied by him.
3. The carrier is required to clearly identify himself as the carrier in the consignment note presented by the sender and to sign it and return it to the sender. If the carrier so requires, the sender is required to sign the consignment note. The signature may be printed or substituted by a stamp or any other mark of origin.
4. The consignment note may also be drawn up in the form of an electronic message in accordance with the format and security level as agreed between the parties and in accordance with the manner of sending, saving and registering as agreed between the parties.

#### Article 6

##### **Evidential value of the consignment note**

1. When accepting the goods the carrier is obliged to check the correctness of the statement of the quantity of goods in the consignment note as well as the outward good condition of the goods and their packaging, and in case of deviation to make a note of that on the consignment note. This obligation does not exist if in the opinion of the carrier this would considerably delay the carriage.
2. The consignment note is prima facie evidence, subject to evidence to the contrary, of the conditions of the contract of carriage and the parties to the contract of carriage, and of the receipt of the goods and their packaging in outwardly good condition, and of the weight and quantity of the goods. If the carrier has no



reasonable means to check the correctness of the entries referred to in section 1, then the consignment note will not be evidential of these entries.

## Article 7

### Freight payment

1. The sender is obliged to pay the freight and further expenses attached to the goods at the time that the consignment note is handed over or the goods are received by the carrier.
2. If freight payable at destination has been agreed, the consignee is obliged to pay the freight, the costs due owing to other reasons relating to the carriage and further charges attached to the goods on delivery of the goods by the carrier; if the consignee does not pay these upon the first reminder, he and the sender are jointly and severally obliged to pay. If, in the case of freight payable at destination, the sender has mentioned in the consignment note that no delivery may be performed without payment of the freight costs, the costs due owing to other reasons relating to the carriage and further expenses attached to the goods, the carrier, if no payment is made, must ask the sender for further instructions which he is obliged to follow up, in so far as reasonably possible, against compensation of costs and damage and possibly payment of a reasonable fee, unless these costs were incurred by his own fault.
3. The carrier has the right to charge all extrajudicial and judicial costs incurred to collect the freight and other amounts, as mentioned in sections 1 and 2, to the parties required to pay the freight and other costs. The extrajudicial collection costs are due as from the time that the debtor is in default. The extrajudicial collection costs are calculated on the basis of the Extrajudicial costs compensation decree (*Besluit voor buitengerechtelijke incassokosten*, Bulletin of Acts, Orders and Decrees 2012/141) or the most recent version of that decree.
4. The freight, the costs due owing to other reasons relating to the carriage and further expenses attached to the goods are due also if the goods are not delivered at their destination or only partly, damaged or delayed.
5. An appeal to set off claims to pay freight, costs due owing to other reasons relating to the carriage and further expenses attached the goods against claims for any other reason is not permitted.
6. If the sender does not fulfil his obligations referred to in this article, then the carrier is entitled to suspend departure of the vehicle, and in this event the damage arising will be considered as expenses attached to the goods.

## Article 8

### Instructions of the sender

1. The sender is entitled to change the location where the goods are made available, to designate himself or somebody else as consignee, to change a designation given of the consignee as well as to give orders concerning delivery or to change the place of delivery, provided these instructions do not impede the normal business operations of the carrier. Instructions concerning non-delivery which reach the person having to carry them out on time, must still be carried out however.
2. Instructions may also be given after receipt of the goods by the carrier.
3. The sender is required to compensate the carrier for any damage and costs caused by following the instructions. If as a result of the instructions given the vehicle has been driven to a location which was

not previously agreed on, then the sender is required to pay a reasonable fee in this respect as well as compensating the damage suffered and expenses incurred.

4. The right to give instructions lapses as soon as the consignee accepts the goods at the place of delivery or the consignee claims compensation from the carrier because the latter did not deliver the goods.

## Article 9

### **Obligations of the carrier**

1. The carrier is required to accept the goods agreed on at the place and time and in the manner agreed as well as to communicate the loading capacity of the vehicle to the sender, unless it can be presumed that the sender is aware of this.
2. The carrier is obliged to deliver the goods received for carriage at the destination in the condition in which he has received them.
3. The carrier is obliged to deliver the goods received for carriage within a reasonable time period; if a period of delivery has been agreed in writing delivery must be carried out within this period.
4. If the carrier does not fulfil the obligation referred to in section 1, either party may give notice of termination of the contract in respect of the goods not yet accepted by the carrier. However, the sender may do so only after having set a deadline in writing for the carrier and the carrier does not fulfil his obligation at the expiry of it.

Notice of termination is given by a written communication to the other party and the contract terminates when this notice is received.

After termination the carrier is required to compensate the sender for the damage which he has suffered as a result of the termination. This compensation, however, cannot amount to more than twice the freight and the sender owes no freight.

5. The carrier is obliged to check the loading, stowing and any overloading by or on behalf of the sender if and in so far as circumstances permit this. If the carrier considers that the loading and stowing is defective, he is obliged, notwithstanding the stipulation in article 4 section 4, to make a note of this on the consignment note. If he is not able or in a position to fulfil his control obligation, he may make a note of this on the consignment note.
6. If delivery domicile has been agreed, the carrier must deliver the goods to the door of the address mentioned in the consignment note or to the door of an address which the sender has provided in good time instead of the one in the consignment note pursuant to article 8. If the address is not reachable via a surfaced road or any other reasonable manner, it must be delivered to a location, which is as close as possible to the address originally indicated.

## Article 10

### **Liability of the carrier**

1. Except in the case of force majeure the carrier is liable for damage to or loss of the goods and for damage due to delayed delivery in so far as the carrier has not fulfilled the obligations referred to in article 9, sections 2 and 3.

2. The carrier is also liable for acts and omissions of his agents and servants in the same way as for his own acts and omissions..
3. The carrier cannot relieve himself of his liability by invoking the defective condition of the vehicle or of the equipment which he uses unless this was made available to him by the sender, the consignee or the receiver. Material will not mean a ship or a railway carriage containing the vehicle.

## Article 11

### **Special risks**

Notwithstanding article 10, the carrier, who does not fulfil his obligations pursuant to article 9 sections 2 and 3, will nevertheless not be liable for the damage arising from this, in so far as the non-observance is the result of the special risks related to one or more of the following circumstances:

- a) the carriage of the goods in an open uncovered vehicle, if this was explicitly agreed and specified in the consignment note;
- b) absence of or defective condition of packing of the goods which considering their nature or the manner of carriage should have been sufficiently packed;
- c) handling, loading, stowing or unloading of the goods by the sender, the consignee or persons acting on account of the sender or the consignee;
- d) the nature of certain commodities which owing to causes related to this nature are exposed to total or partial loss or to damage, particularly through combustion, explosion, melting, breakage, corrosion, decay, desiccation, leakage, normal reduction of quality or presence of vermin or rodents;
- e) heat, cold, temperature variations or air humidity, but only if it has not been agreed that the carriage would be performed by means of a vehicle especially equipped to protect the goods from the effects of such conditions;
- f) incompleteness or inadequacy of the address, numbers, letters or signs on the packages;
- g) the fact that it concerns carriage of a live animal.

## Article 12

### **Presumption of exonerating circumstances**

1. If the carrier proves that, considering the circumstances of the case, the non-compliance with his obligations pursuant to article 9 sections 2 and 3 may have been a consequence of one or more of the special risks specified in article 11, it will be presumed that the non-compliance was indeed such a consequence. However, the person who is entitled to receive the goods from the carrier may prove that this non-compliance was not wholly or partly caused by one of these special risks.
2. The presumption referred to here above does not apply in the event mentioned in article 11a, if there is an abnormal shortage or an abnormally large loss of packages.
3. If, in accordance with what the parties had agreed, the carriage is performed by means of a vehicle especially equipped to protect the goods from the effects of heat, cold, temperature variations or air humidity, the carrier for the purpose of exoneration of his liability as a result of these effects may only invoke article 11d if he proves that all measures had been taken, which he was obliged to take considering the circumstances, with respect to the choice, the maintenance, and the use of such equipment and that he acted in accordance with the special instructions referred to in section five.

4. The carrier may only invoke article 11g, if he proves that all measures had been taken which he was normally obliged to take, considering the circumstances and that he acted in accordance with the special instructions referred to in section five.
5. The special instructions referred to in sections three and four of this article must have been given to the carrier before the start of the carriage and must have been explicitly accepted by him and must be specified in the consignment note if one has been issued for the carriage concerned. Merely the specification of them in the consignment note constitutes no evidence in this event.

#### Article 13

##### **Compensation**

1. The compensation owed by the carrier on the ground of non-compliance with his obligation pursuant to article 9 section 2 is limited to an amount of € 3.40 per kilogram; the carrier is not liable on the grounds of the contract of carriage for other damage than that arising from loss of or damage to the goods, such as consequential damage, business stagnation or immaterial damage.
2. The number of kilograms as basis for the calculation of the amount specified in section 1 is the weight of the damaged or not delivered object as specified in the consignment note.
3. If the carrier is liable because he did not deliver within the reasonable period specified in article 9 section 3, the compensation for delay in delivery is limited to once the freight; if the period specified in article 9 section 3 has been agreed in writing, the compensation is limited to twice the freight.
4. The costs of expertise research, salvage and other costs which are incurred to establish and realise the value of the damaged or lost goods and of those delivered with delay are considered as depreciation of the object.
5. If the carrier is liable because of non-compliance with his obligation stemming from Sections 8:1115 para 2 and 8:1118 para 3 BW, or the articles 6 section 1, 19 sections 4, 21 or 25 of these terms and conditions, compensation due by the carrier in this respect shall not exceed the compensation which he would owe in the event of total loss of the goods concerned.

#### Article 14

##### **Intention to cause damage and wilful recklessness**

An act or an omission by whomever, except the carrier himself, carried out either with the intention to cause damage, or recklessly and in the knowledge that this damage would ensue, does not deprive the carrier of his right of appealing to any exoneration or limitation of his liability.

#### Article 15

##### **Notice of damage**

1. If the goods are delivered by the carrier showing obvious damage or loss and the consignee does not, on receipt of the goods or immediately thereafter, communicate to the carrier a reservation in writing, specifying the general nature of the damage or the loss, then the carrier is presumed to have delivered the goods in the same condition as in which he received them.

2. If the damage or the loss are not externally visible and the consignee has not, within one week of acceptance of the goods, communicated to the carrier a reservation in writing, specifying the general nature of the damage or the loss, then the carrier is likewise presumed to have delivered the goods in the same condition as in which he has received them.
3. If the goods are not delivered within a reasonable or an agreed period and the consignee has not, within one week of acceptance of the goods, communicated to the carrier a reservation in writing, specifying that the goods were not delivered within this period, then the carrier is presumed to have delivered the goods within this period.

#### Article 16

##### **Right to claim**

Both the sender and the consignee are entitled to demand delivery of the goods in accordance with the obligations of the carrier from the carrier.

#### Article 17

##### **Cash on delivery (COD)**

1. Parties may agree that the goods will be charged with a COD amount which, however, shall not exceed the invoice value of the goods. In that case the carrier may deliver the goods only after advance payment of the COD amount in cash, unless the sender has authorised the carrier to accept some other form of payment.
2. If after notice of arrival the consignee does not pay the COD amount in accordance with the form of payment as prescribed by the sender to the carrier, then the carrier must ask the sender for further instructions. The costs related to asking for instructions are for account of the sender. The carrier must follow up the instructions given to him, in so far as this is reasonably possible, in return for reimbursement of costs and possibly a reasonable fee, unless these costs were incurred by his own fault. If the sender gives instructions to the effect that delivery must be carried out in deviation to instructions previously given relating to payment, then these instructions must be given in writing to the carrier. In the absence of instructions the stipulations of article 21 apply mutatis mutandis.
3. The carrier is obliged after delivery of a COD consignment and transfer of the amount to him to remit the COD amount without delay but in any event within two weeks to the sender or to transfer it to his bank or giro account.
4. The period of two weeks specified in section 3 starts on the day that the goods are delivered.
5. The consignee who at the time of delivery knows that the goods are burdened by a COD amount is obliged to pay to the carrier the amount which the latter owes to the sender.
6. If the goods have been delivered without the COD amount having been collected in advance, the carrier is obliged to compensate the sender for the damage to the maximum of the COD amount, unless he proves that there was no fault on his part or on the part of his employees. This obligation does not affect his right of recourse against the consignee.
7. The COD fee due accrues to the sender.

8. All claims against the carrier stemming from a COD condition are limited to one year, counting from the commencement of the day following the day when the goods were delivered or ought to have been delivered.

#### Article 18

##### **Reservations of the carrier**

In application of the present conditions the carrier reserves the right:

- a) to carry the goods by means of the vehicles which are appropriate in his opinion and to keep them if necessary in such vehicles, storage rooms or warehouses as he thinks fit, irrespective of whether these vehicles, storage rooms or warehouses belong to the carrier or third parties;
- b) to have the free choice of the route for carriage, and likewise to deviate from the customary route. He is also entitled to call on places as he thinks fit for the operation of his enterprise.

#### Article 19

##### **Prevention after receipt**

1. If upon receipt of the goods by the carrier the carriage cannot reasonably be effected, continued or completed or within a reasonable time period, the carrier is obliged to communicate this to the sender. Both carrier and sender are then entitled to give notice of termination of the contract.
2. Notice of termination shall be given by notifying the other party in writing and the contract will terminate when this written notification is received.
3. The carrier is not obliged to effect further carriage to the place of destination and is entitled to unload the goods and store these at a place fit for the purpose; the sender is entitled to take possession of the goods. The costs incurred with respect to the goods in connection with the termination are for account of the sender, under reservation of section 4.
4. Without prejudice to force majeure the carrier is obliged to compensate the sender for the damage which he suffers as a result of the termination of the contract.

#### Article 20

##### **Stack-on transport, through transport**

1. If part of the carriage, whether or not after transshipment of the goods, takes place on inland waterways, the liability of the carrier for this part is defined by articles 9 and 13 of the Algemene Veerboot- en Beurtvaartcondities.
2. If, after delivery of the goods which he has carried, the carrier undertakes to have the goods carried onwards, he does so in the capacity of a forwarding agent and his liability in this capacity is then limited to € 3.40 per kilogram for lost or damaged goods; no further compensation for any kind of damage shall be owed.

#### Article 21

##### **Storage in the event that the consignee does not show up**

1. If the consignee does not show up after notice of arrival of the goods, , if he does not begin taking delivery of the goods, if he does not continue to accept delivery of the goods regularly and with appropriate haste, if he

refuses to accept the goods or to sign for receipt, the carrier may store the goods for account and risk of the sender, observing due care, in a manner and location of his determination, if necessary also in the vehicle in which the goods were carried; the carrier is obliged to inform the sender.

2. The carrier, taking section 1 into consideration may also proceed to storage or garaging, if furnishment of security as specified in article 23 section 5 is refused, or if a dispute arises over the amount or the nature of the security to be furnished.
3. Except in the event of seizure, the goods may be sold publicly or privately for account of the sender without any legal authorisation being required, but only after expiry of one week after a notice in writing by registered mail to the sender of the intention to sell.
4. The sale may be effected without observing any term and without prior notice if the goods are perishable or storage may be detrimental or give rise to damage or danger for the vicinity. If prior notice was not given, the carrier is obliged to inform the sender of the sale afterwards.
5. With regard to livestock the term specified in section 3 is three days, subject to the right of the carrier to proceed to the sale without respecting any term and without prior notice if the condition of the livestock so warrants. If prior notice was not given, the carrier is obliged to inform the sender of the sale afterwards.
6. The carrier will retain the proceeds from the goods sold, after deduction of the amount of any COD and a fee due to the carrier in connection therewith and of everything due to the carrier in connection with the goods sold, both for freight as well as the costs or storage and parking and other costs and damages, for the sender for six months following the acceptance of the goods for carriage, at the expiry of which term he shall put the amount retained in judicial custody.

## Article 22

### **Storage before, during and after carriage**

If sender and carrier agree that the carrier will store the goods before or during the carriage as agreed, or will do so on completion of the carriage, such storage is effected under application of the General Storage Terms and Conditions, pursuant to which sender and carrier are respectively considered as the depositor and the custodian.

## Article 23

### **Right of lien**

1. The carrier has a right of lien on goods and documents in his possession in connection with the contract of carriage towards any person who demands delivery of same. This right does not accrue to him if, at the time of receipt of the goods for carriage, he had reason to doubt the right of the sender to make the goods available for carriage to him.
2. The right of lien applies likewise to charges attached to the goods by way of COD as well as to the COD fee to which he is entitled, for which he is not obliged to accept security.
3. The carrier may also exercise the right of lien against the sender for reason of what is still owed to him with respect to previous contracts of carriage.
4. Likewise, the carrier may exercise the right of lien against the consignee who in this capacity became a party to previous contracts of carriage for reason of what is still owed to him with respect to these contracts.

5. If when settling the invoice a dispute arises over the amount due or if there is a need for a calculation to be made for the determination of what is due that cannot be made quickly, then the party demanding delivery is obliged to pay forthwith the part which the parties agree is due and to furnish security for the part in dispute or for the part for which the amount has not yet been established.

#### Article 24

##### **Right of pledge**

1. All the goods, documents and monies in possession of the carrier in connection with the contract of carriage serve as pledge for all claims which he has against the sender.
2. Except for the cases where the sender has been declared bankrupt, has been granted moratorium of payments or in has been declared subject to a debt reorganisation scheme for natural persons, the carrier shall never be entitled to sell the pledged objects without permission from the Court in accordance with Section 3:248 para 2 BW.

#### Article 25

##### **Lost goods**

If the goods have not been delivered within thirty days from the day when they were accepted for carriage and if their whereabouts is unknown, the goods will be considered as lost.

If within one year after the carrier has paid compensation for non-delivery of the goods to the person who was entitled to delivery of same, these goods or some of them appear to be (again) in possession of the carrier, the latter is obliged to communicate this circumstance to the sender or the consignee in writing, whichever has expressed the wish to this effect in writing, and then the sender respectively the consignee has the right for thirty days from receipt of such communication to demand as yet delivery of these goods against reimbursement of the compensation he has received. The same applies if the carrier has paid no compensation for non-delivery, subject however to the period of one year to start from the day after the day when the goods ought to have been delivered. If the sender or the consignee respectively does not avail himself of this right, article 21 applies.

#### Article 26

##### **Indemnification; Himalaya clause**

1. The sender who fails to meet any obligation which the law or these conditions impose on him is obliged to indemnify the carrier against all damages which he might suffer as a result of this non-compliance when he is held liable by a third party on account of the carriage of the goods.
2. When servants and agents of the carrier are held liable on account of the carriage of the goods, these persons may invoke each liability limitation and/or exoneration which the carrier can invoke pursuant to these conditions or any other legal or contractual provision.

#### Article 27

##### **Default interest**

Pursuant to Section 6:119 BW, parties owe statutory default interest on any amounts owed.



## Article 28

### Limitation period

1. All judicial claims based on or related to the contract of carriage are limited to one year.
2. In so far as a carrier seeks recourse against a person whose services the carrier has used in completing the contract of carriage to recoup what the carrier is due to the sender or the consignee a new limitation period of three months begins from the time as stipulated in Section 8:1720 para 1 BW.

## Article 29

### Choice of court; choice of law

1. All disputes arising from or relating to domestic carriage by road between parties residing in the Netherlands can exclusively be adjudicated by the competent court in Rotterdam, unless the parties agree otherwise in writing.
2. All legal relationships ensuing from or relating to the contract of carriage are governed by Dutch law.

### **Explanatory note**

*Instead of a judicial decision, parties can also opt to submit their dispute to arbitration. TAMARA specialises in arbitration in the areas of transport, storage, logistics, international trade, and the shipping and shipbuilding industries. Stichting vervoeradres sits on the board of TAMARA to represent the interests of road transport and logistics services. Since September 2011 it is no longer possible to submit cases for arbitration to the Stichting Arbitrage voor Logistiek.*

*If you wish to make use of the arbitration services of TAMARA, then include the arbitration clause below in your contract of carriage.*

*'All disputes ensuing from or connected to this contract will be subject to Arbitration in Rotterdam in accordance with the TAMARA Arbitration Regulations. Article 29 Paragraph 1 AVC 2002 does not apply to this contract.'*

*The parties can also decide after the conflict has arisen to submit the case for arbitration. This requires a written agreement between the parties.*

### **Stichting vervoeradres**

Stichting Vervoeradres facilitates the logistics chain with widely accepted bilateral general terms and conditions (such as the General Conditions of Transport, AVC). Key to this is the principle of a well-balanced distribution of risks, sectoral acceptance and transparency regarding the legal status both of the sender (shipper), the logistics service provider and the consignee. The Foundation maintains contacts on an international level for purposes of enhancing the legal status of the various parties in the logistics chain (as formulated in the CMR Convention).

### **Beurtvaartadres**

Beurtvaartadres facilitates the logistics chain in the mutual exchange and storage of data on logistics transactions, for purposes of reducing the overall transaction costs. Its expertise, solutions and products are made available to this end. Beurtvaartadres expressly strives to provide services which apply corporate social responsibility and aims to raise awareness of its CSR policy among its colleagues, customers and suppliers. Beurtvaartadres is independent and acts on behalf of the employers' organisations EVO, Goederenvervoer Nederland, Nederlandsch Binnenvaartbureau and Transport en Logistiek Nederland.

**Stichting**  **vervoeradres**

Beurtvaartadres provides its logistics services through the following entities:

**Beurtvaartadres document**

Beurtvaartadres document ensures that businesses can send their goods with the correct legal documents, via road, water or by air.

**TransFollow**

TransFollow supports the logistics chain with common, user-friendly ICT systems for data exchange and to improve data quality. The emphasis is placed on data integrity and the reduction of overall transaction costs with the use of new technologies.

**Beurtvaartadres douane (Beurtvaartadres customs)**

Beurtvaartadres douane facilitates importers and exporters by enabling the (digital) processing of customs declarations and other customs obligations as efficiently as possible.

*If you have any queries regarding the General Transport Conditions 2002 please contact one of our specialists on +31 (0)88 552 21 00 or email us at [sva@beurtvaartadres.nl](mailto:sva@beurtvaartadres.nl). If after office hours, you may find the answer to your query on our website: [www.sva.nl](http://www.sva.nl)*

**Stichting**  **vervoeradres**



Stichting  vervoeradres



Item number: 6012  
January 2015



# CMR

Convention on the contract for the  
international carriage of goods by road

**In Stichting vervoeradres, established in 1946, the following bodies work together:**

**evofenedex**, Shippers Association for companies in trade and manufacturing

**CBRB**, Dutch Central Office for Rhine and Inland Navigation

**Koninklijke BLN-Schuttevaer**, Dutch Association for Inland Navigation

**Transport en Logistiek Nederland**, Dutch Association for Transport and Logistics

**Goederenvervoer Nederland** (*Goods Transport, the Netherlands*)

The Convention on the contract for the international carriage of goods by road have been deposited at the Griffie (the secretariat) of the Arrondissementsrechtbank (regional court of justice) at Amsterdam and Rotterdam, The Netherlands.

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## Table of contents

<b>Chapter I</b>	
Scope of application, art. 1 and 2	3
<b>Chapter II</b>	
Persons for whom the carrier is responsible, art. 3	4
<b>Chapter III</b>	
Conclusion and performance of the contract of carriage, art. 4-16	5
<b>Chapter IV</b>	
Liability of the carrier, art. 17-29	10
<b>Chapter V</b>	
Claims and actions, art. 30-33	14
<b>Chapter VI</b>	
Provisions relating to carriage performed by successive carriers, art. 34-40	16
<b>Chapter VII</b>	
Nullity of stipulations contrary to the convention, art. 41	18
<b>Chapter VIII</b>	
Final provisions, art. 42-51	19

## **Convention on the contract for the international carriage of goods by road (CMR)**

### **Preamble**

The contracting parties, having recognized the desirability of standardizing the conditions governing the contract for the international carriage of goods by road, particularly with respect to the documents used for such carriage and to the carrier's liability, have agreed as follows:

**Article 1**

1. This Convention shall apply to every contract for the carriage of goods by road in vehicles for reward, when the place of taking over of the goods and the place designated for delivery, as specified in the contract, are situated in two different countries, of which at least one is a Contracting country, irrespective of the place of residence and the nationality of the parties.
2. For the purposes of this Convention, "vehicles" means motor vehicles, articulated vehicles, trailers and semi-trailers as defined in article 4 of the Conventions on Road Traffic dated 19th September 1949.
3. This Convention shall apply also where carriage coming within its scope is carried out by States or by governmental institutions or organizations.
4. This Convention shall not apply:
  - a) to carriage performed under the terms of any international postal convention;
  - b) to funeral consignments;
  - c) to furniture removal.
5. The Contracting Parties agree not to vary any of the provisions of this Convention by special agreements between two or more of them, except to make it inapplicable to their frontier traffic or to authorise the use in transport operations entirely confined to their territory of consignment notes representing a title to the goods.

**Article 2**

1. Where the vehicle containing the goods is carried over part of the journey by sea, rail, inland waterways or air, and, except where the provisions of article 14 are applicable, the goods are not unloaded from the vehicle, this Convention shall nevertheless apply to the whole of the carriage.

Provided that to the extent that it is proved that any loss, damage or delay in delivery of the goods which occurs during the carriage by the other means of transport was not caused by an act or omission of the carrier by road, but by some event which could only have occurred in the course of and by reason of the carriage by that other means of transport, the liability of the carrier by road shall be determined not by this Convention but in the manner in which the liability of the carrier by the other means of transport would have been determined if a contract for the carriage of the goods alone had been made by the sender with the carrier by the other means of transport in accordance with the conditions prescribed by law for the carriage of goods by that means of transport. If, however, there are no such prescribed conditions, the liability of the carrier by road shall be determined by this Convention.
2. If the carrier by road is also himself the carrier by the other means of transport, his liability shall also be determined in accordance with the provisions of paragraph 1 of this article, but as if, in his capacities as carrier by road and as carrier by the other means of transport, he were two separate persons.



#### Article 3

For the purposes of this Convention the carrier shall be responsible for the acts and omissions of his agents and servants and of any other persons of whose services he makes use for the performance of the carriage, when such agents, servants or other persons are acting within the scope of their employment, as if such acts or omissions were his own.

#### Article 4

The contract of carriage shall be confirmed by the making out of a consignment note. The absence, irregularity or loss of the consignment note shall not affect the existence or the validity of the contract of carriage which shall remain subject to the provisions of this Convention.

#### Article 5

1. The consignment note shall be made out in three original copies signed by the sender and by the carrier. These signatures may be printed or replaced by the stamps of the sender and the carrier if the law of the country in which the consignment note has been made out so permits. The first copy shall be handed to the sender, the second shall accompany the goods and the third shall be retained by the carrier.
2. When the goods which are to be carried have to be loaded in different vehicles, or are of different kinds or are divided into different lots, the sender or the carrier shall have the right to require a separate consignment note to be made out for each vehicle used, or for each kind or lot of goods.

#### Article 6

1. The consignment note shall contain the following particulars:
  - a) the date of the consignment note and the place at which it is made out;
  - b) the name and address of the sender;
  - c) the name and address of the carrier;
  - d) the place and the date of taking over of the goods and the place designated for delivery;
  - e) the name and address of the consignee;
  - f) the description in common use of the nature of the goods and the method of packing, and, in the case of dangerous goods, their generally recognised description;
  - g) the number of packages and their special marks and numbers;
  - h) the gross weight of the goods or their quantity otherwise expressed;
  - i) charges relating to the carriage (carriage charges, supplementary charges, customs duties and other charges incurred from the making of the contract to the time of delivery);
  - j) the requisite instructions for Customs and other formalities;
  - k) a statement that the carriage is subject, notwithstanding any clause to the contrary, to the provisions of this Convention.
2. Where applicable, the consignment note shall also contain the following particulars:
  - a) a statement that transshipment is not allowed;
  - b) the charges which the sender undertakes to pay;
  - c) the amount of "cash on delivery" charges;
  - d) a declaration of the value of the goods and the amount representing special interest in delivery;
  - e) the sender's instructions to the carrier regarding insurance of the goods;
  - f) the agreed time-limit within which the carriage is to be carried out;
  - g) a list of the documents handed to the carrier.
3. The parties may enter in the consignment note any other particulars which they may deem useful.

## **Article 7**

1. The sender shall be responsible for all expenses, loss and damage sustained by the carrier by reason of the inaccuracy or inadequacy of:
  - a) the particulars specified in article 6, paragraph 1, (b), (d), (e), (f), (g), (h) and (j);
  - b) the particulars specified in article 6, paragraph 2;
  - c) any other particulars or instructions given by him to enable the consignment note to be made out or for the purpose of their being entered therein.
2. If, at the request of the sender, the carrier enters in the consignment note the particulars referred to in paragraph 1 of this article, he shall be deemed, unless the contrary is proved, to have done so on behalf of the sender.
3. If the consignment note does not contain the statement specified in article 6, paragraph 1 (k), the carrier shall be liable for all expenses, loss and damage sustained through such omission by the person entitled to dispose of the goods.

## **Article 8**

1. On taking over the goods, the carrier shall check:
  - a) the accuracy of the statements in the consignment note as to the number of packages and their marks and numbers, and
  - b) the apparent condition of the goods and their packaging.
2. Where the carrier has no reasonable means of checking the accuracy of the statements referred to in paragraph 1 (a) of this article, he shall enter his reservations in the consignment note together with the grounds on which they are based. He shall likewise specify the grounds for any reservations which he makes with regard to the apparent condition of the goods and their packaging. Such reservations shall not bind the sender unless he has expressly agreed to be bound by them in the consignment note.
3. The sender shall be entitled to require the carrier to check the gross weight of the goods or their quantity otherwise expressed. He may also require the contents of the packages to be checked. The carrier shall be entitled to claim the cost of such checking. The result of the checks shall be entered in the consignment note.

## **Article 9**

1. The consignment note shall be prima facie evidence of the making of the contract of carriage, the conditions of the contract and the receipt of the goods by the carrier.
2. If the consignment note contains no specific reservations by the carrier, it shall be presumed, unless the contrary is proved, that the goods and their packaging appeared to be in good condition when the carrier took them over and that the number of packages, their marks and numbers corresponded with the statements in the consignment note.

## **Article 10**

The sender shall be liable to the carrier for damage to persons, equipment or other goods, and for any expenses due to defective packing of the goods, unless the defect was apparent or known to the carrier at the time when he took over the goods and he made no reservations concerning it.

## **Article 11**

1. For the purposes of the Customs or other formalities which have to be completed before delivery of the goods, the sender shall attach the necessary documents to the consignment note or place them at the disposal of the carrier and shall furnish him with all the information which he requires.
2. The carrier shall not be under any duty to enquire into either the accuracy or the adequacy of such documents and information. The sender shall be liable to the carrier for any damage caused by the absence, inadequacy or irregularity of such documents and information, except in the case of some wrongful act or neglect on the part of the carrier.
3. The liability of the carrier for the consequences arising from the loss or incorrect use of the documents specified in and accompanying the consignment note or deposited with the carrier shall be that of an agent, provided that the compensation payable by the carrier shall not exceed that payable in the event of loss of the goods.

## **Article 12**

1. The sender has the right to dispose of the goods, in particular by asking the carrier to stop the goods in transit, to change the place at which delivery is to take place or to deliver the goods to a consignee other than the consignee indicated in the consignment note.
2. This right shall cease to exist when the second copy of the consignment note is handed to the consignee or when the consignee exercises his right under article 13, paragraph 1; from that time onwards the carrier shall obey the orders of the consignee.
3. The consignee shall, however, have the right of disposal from the time when the consignment note is drawn up, if the sender makes an entry to that effect in the consignment note.
4. If in exercising his right of disposal the consignee has ordered the delivery of the goods to another person, that other person shall not be entitled to name other consignees.
5. The exercise of the right of disposal shall be subject to the following conditions:
  - a) that the sender or, in the case referred to in paragraph 3 of this article, the consignee who wishes to exercise the right produces the first copy of the consignment note on which the new instructions to the carrier have been entered and indemnifies the carrier against all expenses, loss and damage involved in carrying out such instructions;
  - b) that the carrying out of such instructions is possible at the time when the instructions reach the person who is to carry them out and does not either interfere with the normal working of the carrier's undertaking or prejudice the senders or consignees of other consignments;
  - c) that the instructions do not result in a division of the consignment.
6. When, by reason of the provisions of paragraph 5(b) of this article, the carrier cannot carry out the instructions which he receives, he shall immediately notify the person who gave him such instructions.
7. A carrier who has not carried out the instructions given under the conditions provided for in this article, or who has carried them out without requiring the first copy of the consignment note to be produced, shall be liable to the person entitled to make a claim for any loss or damage caused thereby.

## **Article 13**

1. After arrival of the goods at the place designated for delivery, the consignee shall be entitled to require the carrier to deliver to him, against a receipt, the second copy of the consignment note and the goods.

If the loss of the goods is established or if the goods have not arrived after the expiry of the period provided for in article 19, the consignee shall be entitled to enforce in his own name against the carrier any rights arising from the contract of carriage.

2. The consignee who avails himself of the rights granted to him under paragraph 1 of this article shall pay the charges shown to be due on the consignment note, but in the event of dispute on this matter the carrier shall not be required to deliver the goods unless security has been furnished by the consignee.

#### **Article 14**

1. If for any reason it is or becomes impossible to carry out the contract in accordance with the terms laid down in the consignment note before the goods reach the place designated for delivery, the carrier shall ask for instructions from the person entitled to dispose of the goods in accordance with the provisions of article 12.
2. Nevertheless, if circumstances are such as to allow the carriage to be carried out under conditions differing from those laid down in the consignment note and if the carrier has been unable to obtain instructions in reasonable time from the person entitled to dispose of the goods in accordance with the provisions of article 12, he shall take such steps as seem to him to be in the best interests of the person entitled to dispose of the goods.

#### **Article 15**

1. Where circumstances prevent delivery of the goods after their arrival at the place designated for delivery, the carrier shall ask the sender for his instructions. If the consignee refuses the goods the sender shall be entitled to dispose of them without being obliged to produce the first copy of the consignment note.
2. Even if he has refused the goods, the consignee may nevertheless require delivery so long as the carrier has not received instructions to the contrary from the sender.
3. When circumstances preventing delivery of the goods arise after the consignee, in exercise of his rights under article 12, paragraph 3, has given an order for the goods to be delivered to another person, paragraphs 1 and 2 of this article shall apply as if the consignee were the sender and that other person were the consignee.

#### **Article 16**

1. The carrier shall be entitled to recover the cost of his request for instructions and any expenses entailed in carrying out such instructions, unless such expenses were caused by the wrongful act or neglect of the carrier.
2. In the cases referred to in article 14, paragraph 1, and in article 15, the carrier may immediately unload the goods for account of the person entitled to dispose of them and thereupon the carriage shall be deemed to be at an end. The carrier shall then hold the goods on behalf of the person so entitled. He may however entrust them to a third party, and in that case he shall not be under any liability except for the exercise of reasonable care in the choice of such third party. The charges due under the consignment note and all other expenses shall remain chargeable against the goods.
3. The carrier may sell the goods, without awaiting instructions from the person entitled to dispose of them, if the goods are perishable or their condition warrants such a course, or when the storage expenses would be out of proportion to the value of the goods. He may also proceed to the sale of the goods in other cases if after the expiry of a reasonable period he has not received from the person entitled to dispose of the goods instructions to the contrary which he may reasonably be required to carry out.

4. If the goods have been sold pursuant to this article, the proceeds of sale, after deduction of the expenses chargeable against the goods, shall be placed at the disposal of the person entitled to dispose of the goods. If these charges exceed the proceeds of sale, the carrier shall be entitled to the difference.
5. The procedure in the case of sale shall be determined by the law or custom of the place where the goods are situated.

**Article 17**

1. The carrier shall be liable for the total or partial loss of the goods and for damage thereto occurring between the time when he takes over the goods and the time of delivery, as well as for any delay in delivery.
2. The carrier shall however be relieved of liability if the loss, damage or delay was caused by the wrongful act or neglect of the claimant, by the instructions of the claimant given otherwise than as the result of a wrongful act or neglect on the part of the carrier, by inherent vice of the goods or through circumstances which the carrier could not avoid and the consequences of which he was unable to prevent.
3. The carrier shall not be relieved of liability by reason of the defective condition of the vehicle used by him in order to perform the carriage, or by reason of the wrongful act or neglect of the person from whom he may have hired the vehicle or of the agents or servants of the latter.
4. Subject to article 18, paragraphs 2 to 5, the carrier shall be relieved of liability when the loss or damage arises from the special risks inherent in one or more of the following circumstances:
  - a) Use of open unsheeted vehicles, when their use has been expressly agreed and specified in the consignment note;
  - b) the lack of, or defective condition of packing in the case of goods which, by their nature, are liable to wastage or to be damaged when not packed or when not properly packed;
  - c) handling, loading, stowage or unloading of the goods by the sender, the consignee or persons acting on behalf of the sender or the consignee;
  - d) the nature of certain kinds of goods which particularly exposes them to total or partial loss or to damage, especially through breakage, rust, decay, desiccation, leakage, normal wastage, or the action of moth or vermin;
  - e) insufficiency or inadequacy of marks or numbers on the packages;
  - f) the carriage of livestock.
5. Where under this article the carrier is not under any liability in respect of some of the factors causing the loss, damage or delay, he shall only be liable to the extent that those factors for which he is liable under this article have contributed to the loss, damage or delay.

**Article 18**

1. The burden of proving that loss, damage or delay was due to one of the causes specified in article 17, paragraph 2, shall rest upon the carrier.
2. When the carrier establishes that in the circumstances of the case, the loss or damage could be attributed to one or more of the special risks referred to in article 17, paragraph 4, it shall be presumed that it was so caused. The claimant shall however be entitled to prove that the loss or damage was not, in fact, attributable either wholly or partly to one of these risks.
3. This presumption shall not apply in the circumstances set out in article 17, paragraph 4(a), if there has been an abnormal shortage, or a loss of any package.
4. If the carriage is performed in vehicles specially equipped to protect the goods from the effects of heat, cold, variations in temperature or the humidity of the air, the carrier shall not be entitled to claim the benefit of article 17, paragraph 4(d), unless he proves that all steps incumbent on him in the circumstances with

respect to the choice, maintenance and use of such of such equipment were taken and that he complied with any special instructions issued to him.

5. The carrier shall not be entitled to claim the benefit of article 17, paragraph 4(f), unless he proves that all steps normally incumbent on him in the circumstances were taken and that he complied with any special instructions issued to him.

#### **Article 19**

Delay in delivery shall be said to occur when the goods have not been delivered within the agreed time-limit or when, failing an agreed time-limit, the actual duration of the carriage having regard to the circumstances of the case, and in particular, in the case of partial loads, the time required for making up a complete load in the normal way, exceeds the time it would be reasonable to allow a diligent carrier.

#### **Article 20**

1. The fact that goods have not been delivered within thirty days following the expiry of the agreed time-limit, or, if there is no agreed time-limit, within sixty days from the time when the carrier took over the goods, shall be conclusive evidence of the loss of the goods, and the person entitled to make a claim may thereupon treat them as lost.
2. The person so entitled may, on receipt of compensation for the missing goods, request in writing that he shall be notified immediately should the goods be recovered in the course of the year following the payment of compensation. He shall be given a written acknowledgement of such request.
3. Within the thirty days following receipt of such notification, the person entitled as aforesaid may require the goods to be delivered to him against payment of the charges shown to be due on the consignment note and also against refund of the compensation he received less any charges included therein but without prejudice to any claims to compensation for delay in delivery under article 23 and, where applicable, article 26.
4. In the absence of the request mentioned in paragraph 2 or of any instructions given within the period of thirty days specified in paragraph 3, or if the goods are not recovered until more than one year after the payment of compensation, the carrier shall be entitled to deal with them in accordance with the law of the place where the goods are situated.

#### **Article 21**

Should the goods have been delivered to the consignee without collection of the "cash on delivery" charge which should have been collected by the carrier under the terms of the contract of carriage, the carrier shall be liable to the sender for compensation not exceeding the amount of such charge without prejudice to his right of action against the consignee.

#### **Article 22**

1. When the sender hands goods of a dangerous nature to the carrier, he shall inform the carrier of the exact nature of the danger and indicate, if necessary, the precautions to be taken. If this information has not been entered in the consignment note, the burden of proving, by some other means, that the carrier knew the exact nature of the danger constituted by the carriage of the said goods shall rest upon the sender or the consignee.
2. Goods of a dangerous nature which, in the circumstances referred to in paragraph 1 of this article, the carrier did not know were dangerous, may, at any time or place, be unloaded, destroyed or rendered harmless by the carrier without compensation; further, the sender shall be liable for all expenses, loss or damage out of their handing over for carriage or of their carriage.



### **Article 23**

1. When, under the provisions of this Convention, a carrier is liable for compensation in respect of total or partial loss of goods, such compensation shall be calculated by reference to the value of the goods at the place and time at which they were accepted for carriage.
2. The value of the goods shall be fixed according to the commodity exchange price or, if there is no such price, according to the current market price or, if there is no commodity exchange price or current market price, by reference to the normal value of goods of the same kind and quality.
3. Compensation shall not, however, exceed 8.33 units of account per kilogram of gross weight short.
4. In addition, the carriage charges, Customs duties and other charges incurred in respect of the carriage of the goods shall be refunded in full in case of total loss and in proportion to the loss sustained in case of partial loss, but no further damages shall be payable.
5. In the case of delay, if the claimant proves that damage has resulted therefrom the carrier shall pay compensation for such damage not exceeding the carriage charges.
6. Higher compensation may only be claimed where the value of the goods or a special interest in delivery has been declared in accordance with articles 24 and 26.
7. The unit of account mentioned in this Convention is the Special Drawing Right as defined by the International Monetary Fund. The amount mentioned in paragraph 3 of this article shall be converted into the national currency of the State of the Court seized of the case on the basis of the value of that currency on the date of the judgement or the date agreed upon by the Parties. The value of the national currency, in terms of the Special Drawing Right, of a State which is a member of the International Monetary Fund, shall be calculated in accordance with the method of valuation applied by the International Monetary Fund in effect at the date in question of its operations and transactions. The value of the national currency, in terms of the Special Drawing Right, of a State which is not a member of the International Monetary Fund, shall be calculated in a manner determined by that State.
8. Nevertheless, a State which is not a member of the International Monetary Fund and whose law does not permit the application of the provisions of paragraph 7 of this article may, at the time of ratification of or accession to the Protocol to the CMR or at any time thereafter, declare that the limit of liability provided for in paragraph 3 of this article to be applied in this territory shall be 25 monetary units. The monetary unit referred to in this paragraph corresponds to 10/31 gram of gold of millesimal fineness nine hundred. The conversion of the amount specified in this paragraph into the national currency shall be made according to the law of the State concerned.
9. The calculation mentioned in the last sentence of paragraph 7 of this article and the conversion mentioned in paragraph 8 of this article shall be made in such a manner as to express in the national currency of the State as far as possible the same real value for the amount in paragraph 3 of this article as is expressed there in units of account. States shall communicate to the Secretary-General of the United Nations the manner of calculation pursuant of paragraph 7 of this article or the result of the conversion in paragraph 8 of this article as the case may be, when depositing an instrument referred to in article 3 of the Protocol to the CMR and whenever there is a change in either.

### **Article 24**

The sender may, against payment of a surcharge to be agreed upon, declare in the consignment note a value for the goods exceeding the limit laid down in article 23, paragraph 3, and in that case the amount of the declared value shall be substituted for that limit.

### **Article 25**

1. In case of damage, the carrier shall be liable for the amount by which the goods have diminished in value, calculated by reference to the value of the goods fixed in accordance with article 23, paragraphs 1, 2 and 4.
2. The compensation may not, however, exceed:
  - a) if the whole consignment has been damaged the amount payable in the case of total loss;
  - b) if part only of the consignment has been damaged, the amount payable in the case of loss of the part affected.

### **Article 26**

1. The sender may, against payment of a surcharge to be agreed upon, fix the amount of a special interest in delivery in the case of loss or damage or of the agreed time-limit being exceeded, by entering such amount in the consignment note.
2. If a declaration of a special interest in delivery has been made, compensation for the additional loss or damage proved may be claimed, up to the total amount of the interest declared, independently of the compensation provided for in articles 23, 24 and 25.

### **Article 27**

1. The claimant shall be entitled to claim interest on compensation payable. Such interest, calculated at five per centum per annum, shall accrue from the date on which the claim was sent in writing to the carrier or, if no such claim has been made, from the date on which legal proceedings were instituted.
2. When the amounts on which the calculation of the compensation is based are not expressed in the currency of the country in which payment is claimed, conversion shall be at the rate of exchange applicable on the day and at the place of payment of compensation.

### **Article 28**

1. In cases where, under the law applicable, loss, damage or delay arising out of carriage under this Convention gives rise to an extra-contractual claim, the carrier may avail himself of the provisions of this Convention which exclude his liability or which fix or limit the compensation due.
2. In cases where the extra-contractual liability for loss, damage or delay of one of the persons for whom the carrier is responsible under the terms of article 3 is in issue, such person may also avail himself of the provisions of this Convention which exclude the liability of the carrier or which fix or limit the compensation due.

### **Article 29**

1. The carrier shall not be entitled to avail himself of the provisions of this Chapter which exclude or limit his liability or which shift the burden of proof if the damage was caused by his wilful misconduct or by such default on his part as, in accordance with the law of the court or tribunal seised of the case, is considered as equivalent to wilful misconduct.
2. The same provision shall apply if the wilful misconduct or default is committed by the agents or servants of the carrier or by any other persons of whose services he makes use for the performance of the carriage, when such agents, servants or other persons are acting within the scope of their employment. Furthermore, in such a case such agents, servants or other persons shall not be entitled to avail themselves, with regard to their personal liability, of the provisions of this Chapter referred to in paragraph 1.

**Article 30**

1. If the consignee takes delivery of the goods without duly checking their condition with the carrier or without sending him reservations giving a general indication of the loss or damage, not later than the time of delivery in the case of apparent loss or damage and within seven days of delivery, Sundays and public holidays excepted, in the case of loss or damage which is not apparent, the fact of his taking delivery shall be prima facie evidence that he has received the goods in the condition described in the consignment note. In the case of loss or damage which is not apparent the reservations referred to shall be made in writing.
2. When the condition of the goods had been duly checked by the consignee and the carrier, evidence contradicting the result of this checking shall only be admissible in the case of loss or damage which is not apparent and provided that the consignee has duly sent reservations in writing to the carrier within seven days, Sundays and public holidays excepted, from the date of checking.
3. No compensation shall be payable for delay in delivery unless a reservation has been sent in writing to the carrier, within twenty-one days from the time that the goods were placed at the disposal of the consignee.
4. In calculating the time-limits provided for in this Article the date of delivery or the date of checking, or the date when the goods were placed at the disposal of the consignee, as the case may be, shall not be included.
5. The carrier and the consignee shall give each other every reasonable facility for making the requisite investigations and checks.

**Article 31**

1. In legal proceedings arising out of carriage under this Convention, the plaintiff may bring an action in any court or tribunal of a contracting country designated by agreement between the parties and, in addition, in the courts or tribunals of a country within whose territory:
  - a) the defendant is ordinarily resident, or has his principal place of business, or the branch or agency through which the contract of carriage was made, or
  - b) the place where the goods were taken over by the carrier or the place designated for delivery is situated, and in no other courts or tribunals.
2. Where in respect of a claim referred to in paragraph 1 of this article an action is pending before a court or tribunal competent under that paragraph, or where in respect of such a claim a judgment has been entered by such a court or tribunal no new action shall be started between the same parties on the same grounds unless the judgment of the court or tribunal before which the first action was brought is not enforceable in the country in which the fresh proceedings are brought.
3. When a judgment entered by a court or tribunal of a contracting country in any such action as is referred to in paragraph 1 of this article has become enforceable in that country, it shall also become enforceable in each of the other contracting States, as soon as the formalities required in the country concerned have been complied with. The formalities shall not permit the merits of the case to be re-opened.
4. The provisions of paragraph 3 of this article shall apply to judgments after trial, judgments by default and settlements confirmed by an order of the court, but shall not apply to interim judgments or to awards of damages, in addition to costs against a plaintiff who wholly or partly fails in his action.

5. Security for costs shall not be required in proceedings arising out of carriage under this Convention from nationals of contracting countries resident or having their place of business in one of those countries.

### **Article 32**

1. The period of limitation for an action arising out of carriage under this Convention shall be one year. Nevertheless, in the case of wilful misconduct, or such default as in accordance with the law of the court or tribunal seised of the case, is considered as equivalent to wilful misconduct, the period of limitation shall be three years. The period of limitation shall begin to run:
  - a) in the case of partial loss, damage or delay in delivery, from the date of delivery;
  - b) in the case of total loss, from the thirtieth day after the expiry of the agreed time-limit or where there is no agreed time-limit from the sixtieth day from the date on which the goods were taken over by the carrier;
  - c) in all other cases, on the expiry of a period of three months after the making of the contract of carriage.The day on which the period of limitation begins to run shall not be included in the period.
2. A written claim shall suspend the period of limitation until such date as the carrier rejects the claim by notification in writing and returns the documents attached thereto. If a part of the claim is admitted the period of limitation shall start to run again only in respect of that part of the claim still in dispute. The burden of proof of the receipt of the claim, or of the reply and of the return of the documents, shall rest with the party relying upon these facts. The running of the period of limitation shall not be suspended by further claims having the same object.
3. Subject to the provisions of paragraph 2 above, the extension of the period of limitation shall be governed by the law of the court or tribunal seised of the case. That law shall also govern the fresh accrual of rights of action.
4. A right of action which has become barred by lapse of time may not be exercised by way of counter-claim or set-off.

### **Article 33**

The contract of carriage may contain a clause conferring competence on an arbitration tribunal if the clause conferring competence on the tribunal provides that the tribunal shall apply this Convention.

### ***Explanatory note***

*As from 1 September 2011, cases submitted for arbitration to the Arbitration Institute for Logistics will be referred to the arbitration body, TAMARA.*

*TAMARA specialises in arbitration in the areas of transport, storage, logistics, international trade, and in the shipping and shipbuilding industry. In order to ensure that the interests of road transport and logistics services are safeguarded, Stichting Vervoeradres sits on the Board of TAMARA.*

*Do you wish to avail of the services of TAMARA? If yes, you will need to include the following arbitration clause in your contract of carriage:*

*'Any dispute arising in connection with this Agreement between the Parties established in the Netherlands shall be settled in compliance with the CMR Convention and in accordance with the regulations of the TAMARA foundation based in Rotterdam.'*

#### Article 34

If carriage governed by a single contract is performed by successive road carriers, each of them shall be responsible for the performance of the whole operation, the second carrier and each succeeding carrier becoming a party to the contract of carriage, under the terms of the consignment note, by reason of his acceptance of the goods and the consignment note.

#### Article 35

1. A carrier accepting the goods from a previous carrier shall give the latter a dated and signed receipt. He shall enter his name and address on the second copy of the consignment note. Where applicable, he shall enter on the second copy of the consignment note and on the receipt reservations of the kind provided for in article 8, paragraph 2.
2. The provisions of article 9 shall apply to the relations between successive carriers.

#### Article 36

Except in the case of a counter-claim or a set-off raised in an action concerning a claim based on the same contract of carriage, legal proceedings in respect of liability for loss, damage or delay may only be brought against the first carrier, the last carrier or the carrier who was performing that portion of the carriage during which the event causing the loss, damage or delay occurred; an action may be brought at the same time against several of these carriers.

#### Article 37

A carrier who has paid compensation in compliance with the provisions of this Convention, shall be entitled to recover such compensation, together with interest thereon and all costs and expenses incurred by reason of the claim, from the other carriers who have taken part in the carriage, subject to the following provisions:

- a) the carrier responsible for the loss or damage shall be solely liable for the compensation whether paid by himself or by another carrier;
- b) when the loss or damage has been caused by the action of two or more carriers, each of them shall pay an amount proportionate to his share of liability; should it be impossible to apportion the liability, each carrier shall be liable in proportion to the share of the payment for the carriage which is due to him;
- c) if it cannot be ascertained to which carriers liability is attributable for the loss or damage, the amount of the compensation shall be apportioned all the carriers as laid down in (b) above.

#### Article 38

If one of the carriers is insolvent, the share of the compensation due from him and unpaid by him shall be divided among the other carriers in proportion to the share of the payment for the carriage due to them.

#### Article 39

1. No carrier against whom a claim is made under articles 37 and 38 shall be entitled to dispute the validity of the payment made by the carrier making the claim if the amount of the compensation was determined by judicial authority after the first mentioned carrier had been given due notice of the proceedings and afforded an opportunity of entering an appearance.
2. A carrier wishing to take proceedings to enforce his right of recovery may make his claim before the competent court or tribunal of the country in which one of the carriers concerned is ordinarily resident, or has his principal place of business or the branch or agency through which the contract of carriage was made. All the carriers concerned may be made defendants in the same action.

3. The provisions of article 31, paragraphs 3 and 4, shall apply to judgments entered in the proceedings referred to in articles 37 and 38.
4. The provisions of article 32 shall apply to claims between carriers. The period of limitation shall, however, begin to run either on the date of the final judicial decision fixing the amount of compensation payable under the provisions of this Convention, or, if there is no such judicial decision, from the actual date of payment.

**Article 40**

Carriers shall be free to agree among themselves on provisions other than those laid down in articles 37 and 38.

#### Article 41

1. Subject to the provisions of article 40, any stipulation which would directly or indirectly derogate from the provisions of this Convention shall be null and void. The nullity of such a stipulation shall not involve the nullity of the other provisions of the contract.
2. In particular, a benefit of insurance in favour of the carrier or any other similar clause, or any clause shifting the burden of proof shall be null and void.

**Article 42**

1. This Convention is open for signature or accession by countries members of the Economic Commission for Europe and countries admitted to the Commission in a consultative capacity under paragraph 8 of the Commission's terms of reference.
2. Such countries as may participate in certain activities of the Economic Commission for Europe in accordance with paragraph 11 of the Commission's terms of reference may become Contracting Parties to this Convention by acceding thereto after its entry into force.
3. The Convention shall be open for signature until 31 August 1956 inclusive. Thereafter, it shall be open for accession.
4. This Convention shall be ratified.
5. Ratification or accession shall be effected by the deposit of an instrument with the Secretary-General of the United Nations.

**Article 43**

1. This Convention shall come into force on the ninetieth day after five of the countries referred to in article 42, paragraph 1, have deposited their instruments of ratification or accession.
2. For any country ratifying or acceding to it after five countries have deposited their instruments of ratification or accession, this Convention shall enter into force on the ninetieth day after the said country has deposited its instrument of ratification or accession.

**Article 44**

1. Any Contracting Party may denounce this Convention by so notifying the Secretary-General of the United Nations.
2. Denunciation shall take effect twelve months after the date of receipt by the Secretary-General of the notification of denunciation.

**Article 45**

If, after the entry into force of this Convention, the number of Contracting Parties is reduced, as a result of denunciations, to less than five, the Convention shall cease to be in force from the date on which the last of such denunciations takes effect.

**Article 46**

1. Any country may, at the time of depositing its instrument of ratification or accession or any time thereafter, declare, by notification addressed to the Secretary-General of the United Nations that this Convention shall extend to all or any of the territories for the international relations of which it is responsible. The Convention shall extend to the territory or territories named in the notification as from the ninetieth day after its receipt by the Secretary-General or, if on that day the Convention has not yet entered into force, at the time of its entry into force.



2. Any country which has made a declaration under the preceding paragraph extending this Convention to any territory for whose international relations it is responsible, may denounce the Convention separately in respect of that territory in accordance with the provisions of article 44.

#### **Article 47**

Any dispute between two or more Contracting Parties relating to the interpretation or application of this Convention, which the parties are unable to settle by negotiation or other means may, at the request of any one of the Contracting Parties concerned, be referred for settlement to the International Court of Justice.

#### **Article 48**

1. Each Contracting Party may, at the time of signing, ratifying or acceding to this Convention, declare that it does not consider itself as bound by article 47 of the Convention. Other Contracting Parties shall not be bound by article 47 in respect of any Contracting Party which has entered such a reservation.
2. Any Contracting Party having entered a reservation as provided for in paragraph 1 may at any time withdraw such reservation by notifying the Secretary-General of the United Nations.
3. No other reservation to this Convention shall be permitted.

#### **Article 49**

1. After this Convention has been in force for three years, any Contracting Party may, by notification to the Secretary-General of the United Nations, request that a conference be convened for the purpose of reviewing the Convention. The Secretary-General shall notify all Contracting Parties of the request and a review conference shall be convened by the Secretary-General if, within a period of four months following the date of notification by the Secretary-General, not less than one-fourth of the Contracting Parties notify him of their concurrence with the request.
2. If a conference is convened in accordance with the preceding paragraph, the Secretary-General shall notify all the Contracting Parties and invite them to submit within a period of three months such proposals as they may wish the Conference to consider.  
The Secretary-General shall circulate to all Contracting Parties the provisional agenda for the conference together with the texts of such proposals at least three months before the date on which the conference is to meet.
3. The Secretary-General shall invite to any conference convened in accordance with this article all countries referred to in article 42, paragraph 1, and countries which have become Contracting Parties under article 42, paragraph 2.

#### **Article 50**

In addition to the notifications provided for in article 49, the Secretary-General of the United Nations shall notify the countries referred to in article 42, paragraph 1, and the countries which have become Contracting Parties under article 42, paragraph 2 of:

- a) ratifications and accessions under article 42;
- b) the dates of entry into force of this Convention in accordance with article 43;
- c) denunciations under article 44;
- d) the termination of this Convention in accordance with article 45;
- e) notifications received in accordance with article 46;
- f) declarations and notifications received in accordance with article 48, paragraphs 1 and 2.

**Article 51**

After 31 August 1956, the original of this Convention shall be deposited with the Secretary-General of the United Nations, who shall transmit certified true copies to each of the countries mentioned in article 42, paragraphs 1 and 2.

**In witness whereof**, the undersigned, being duly authorized thereto, have signed this Convention.

**Done** at Geneva, this nineteenth day of May, one thousand nine hundred and fifty-six, in a single copy in the English and French languages, each text being equally authentic.

## Protocol of signature

**On proceeding to sign** the Convention on the Contract for the International Carriage of Goods by Road, the undersigned, being duly authorized, have agreed on the following statement and explanation:

1. This Convention shall not apply to traffic between the United Kingdom of Great Britain and Northern Ireland and the Republic of Ireland.
2. Ad article 1, paragraph 4.

The undersigned undertake to negotiate conventions governing contracts for furniture removals and combined transport.

**In witness whereof**, the undersigned, being duly authorized thereto, have signed this Protocol.

**Done** at Geneva, this nineteenth day of May, one thousand nine hundred and fifty-six, in a single copy in the English and French languages, each text being equally authentic.

Stichting Vervoeradres facilitates the logistics chain with widely accepted bilateral general terms and conditions (such as the General Conditions of Transport, AVC). Key to this is the principle of a well-balanced distribution of risks, sectoral acceptance and transparency regarding the legal status both of the sender (shipper), the logistics service provider and the consignee. The Foundation maintains contacts on an international level for purposes of enhancing the legal status of the various parties in the logistics chain (as formulated in the CMR Convention).

**Beurtvaartadres** 

Beurtvaartadres facilitates the logistics chain in the mutual exchange and storage of data on logistics transactions, for purposes of reducing the overall transaction costs. Its expertise, solutions and products are made available to this end. Beurtvaartadres expressly strives to provide services which apply corporate social responsibility and aims to raise awareness of its CSR policy among its colleagues, customers and suppliers. Beurtvaartadres is independent and acts on behalf of the employers' organisations EVO, Goederenvervoer Nederland, Nederlandsch Binnenvaartbureau and Transport en Logistiek Nederland.



Stichting  Vervoeradres



Centraal Bureau voor de  
Rijn- & Binnenvaart

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