



General Terms of Trade Westland Logistiek BV

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I. Definitions

- (a) **Carrier (Contractor):** Westland Logistiek BV, Veenderveld 56B ,2371 TW Roelofarendsveen.
- (b): **Sender (Client):** The contractual other party of the Carrier.
- (c): **Legally allowed transportation:** transportation of goods within the legally allowed measurements without exceeding normal legally defined dimensions and/or weight.
- (d): **CMR:** Treaty regarding the agreement on international transportation of goods by road (Genève 1956), as supplemented by protocol of 1978.
- (e): **Services:** This concerns the contracted services taken on by the Carrier under these Terms of Trade.
- (f): **Exceptional Transportation: (oversized transport):** The transport of goods which has to take place with an exemption due to exceeding the normal legally allowed dimensions and/or weight for which an escort has been stipulated.
- (g): **Goods:** This concerns the goods contracted by the Carrier and other goods or occasions which have been issued by or on behalf of the Client.
- (h): **Instruction:** This concerns an instruction from a client to transport and/or carry out an activity by making an Agreement with the Contractor under these Conditions.
- (i): **Agreement:** The agreement made between the Client and the Contractor in relation to Services by accepting an Instruction by the Contractor upon which these Conditions apply.
- (j): **Act of God (Force Majeure):** Circumstances which could not have been avoided by a careful Carrier and thereby could not have prevented its consequences.
- (k): **Regulations:** The treaties, laws, regulations and terms as summarised under Article 3, point 1 to and including point 5.
- (l): **Conditions:** The General Terms of Trade which have been included in this document.
- (m): **Waiting hours:** The time which exceeds 2 hours incurred in addition to normal transport, including loading and unloading.

II. General Stipulations

Article 2.1

These Terms of Trade apply to any form of cooperation with Westland Logistiek BV as well as its related activities. An agreement will be considered to have been made by accepting the Instruction from the Client by the Contractor within a reasonable period or as soon as the Contractor has started to carry out the Instruction.

Article 2.2

These Terms of Trade apply to all offers, tenders, Agreements, Instructions, Services and/or Goods offered, work activities carried out, deliveries made or any other type of delivered performance by the Client (in the broadest sense of the word unless other specific terms have been agreed on in writing).

Article 2.3

The validity of all deviating general stipulations, standard provisions and conditions from the Client concerning Tenders, Agreement, Instruction, Goods and/or Services and/or all proposed additions and/or alterations, is expressly rejected by the Contractor and will form no part of the Agreement. This is unless different terms are being agreed in writing for each individual Agreement by the Contractor.

Article 2.4

When accepting an Instruction, Service and/or Agreement under these Terms the Client will be deemed to have agreed implicitly with the relevance of these Conditions towards all future Agreements, Instructions, Services, offers, tenders, relating proceedings and/or delivered performance in the broadest sense of the word.

Article 2.5

The Conditions will prevail in the case of conflict between the Regulations and the Conditions, except in those cases in which mandatory law in the Regulations has preference to the stipulated Conditions. In case of a conflict between sets of Regulations, prevalence will be determined on the basis of the following ranking order, unless and as far as no legal arrangement or treaty has legal precedence:

1. CMR, Hague-Visby Rules, COTIF/CIM;
2. AVC;
3. AVET;
4. FENEX conditions.
5. RHA – UK domestic

Article 2.6

If a stipulation in these Conditions, in the opinion of a competent body, might appear to be entirely or partly null and void and/or not feasible for whatever reason, then this only applies to that specific stipulation and this does not have any further scope.

Article 2.7

The Contractor uses these conditions in various languages. Only the Dutch text is determinative in any case of difference in interpretation.

Article 2.8

These Conditions are being sent free of charge by the Contractor at the request of the Client. These conditions are also accessible for consultation on the website of the Contractor; Westland Logistiek BV www.wlbv.eu.

Article 2.9

If the Contractor does not demand strict adherence to these Conditions, then this does not mean that its stipulations are not applicable or that the Contractor would to any degree lose the right to demand strict compliance with the stipulations in these Conditions in other cases.

III. Applicable Standard Conditions

Article 3.1

According to the nature of the total Instruction, activities or other performance, or any part to be reasonably considered as an independent section, the latest versions of the following treaties, laws, arrangements, regulations and/or conditions also apply (as long as they do not deviate from the stipulations in these Conditions):

Article 3.2

The Treaty concerning the agreement on international transport of goods by road is applicable with regard to national or international transport by road (CMR-Treaty).

Article 3.3

The General Conditions of the Federation of Dutch Haulage Organisations (FENEX) apply to haulage activities. They are filed at the registry of the Courts of Justice in Amsterdam, Arnhem, Breda and Rotterdam.

Article 3.4

The stipulations of the Hague Visby Rules apply to transport by sea.

IV. Implementation of the Agreement

Article 4.1

The client will not yield his rights and obligations under this Agreement or otherwise transfer them to a third party without prior permission in writing from the Contractor.

Article 4.2

Unless different terms have specifically been agreed in writing, all Instructions are carried out in a sequence and manner determined by the Contractor, whereby the capacity of the enterprise, labour and production resources at his disposal (and its degree of occupation) will all determine the point of time, start and completion of the assignment.

Article 4.3

The Contractor is at all times authorised to engage subsidiaries and/or group companies and/or third parties for the implementation of Instruction(s), Service(s) and/or Agreement(s). The Contractor has the right to have third parties carry out the Instruction in part or in its entirety, unless different terms have specifically been agreed upon in writing. In this case the Conditions will also apply to the third parties referred to.

V. Liability and Indemnification

Article 5.1

All liability with regard to all proceedings will be determined by the standard conditions (as mentioned in article III), as far as they are not rejected by stipulations/arrangements in mandatory law, under the proviso that in that case only the stipulations in mandatory law apply exclusively.

Article 5.2

The Contractor stipulates, also for the benefit of personnel and/or third parties and their staff and other auxiliary persons and/or materials engaged by him, every exclusion or restriction of liability in accordance with these Conditions and the applicable standard conditions included within them.

Article 5.3

The Contractor is never liable for indirect damage (which includes loss, theft, destruction and/or damage of whatever kind and also specifically includes any lost profits, loss of use, loss of contracts and/or any other subsequent damage and/or any other consequential loss and/or indirect loss or damage and/or any different financial disadvantage) unless the Client can prove intent by the Contractor.

Article 5.4

The Contractor is not liable for damages and costs (other than those due to intent, however named on the part of the Contractor) which have arisen if the Client or any enlisted third parties including their staff or auxiliary personnel (whether paid or not):

- a) Use plant or material of the Contractor;*
- b) The Contractor has requested to carry out specific work activities (which do not form part of any Agreements already made) and the Contractor in question has acted in accordance with instructions issued by or on account of the Client and/or other third parties;*
- c) Put away Goods or other materials or park on grounds belonging to the Contractor or in a (parking) area as indicated by the Contractor.*

Article 5.5

The Client is liable for all damage (caused in whatever manner by himself, his Goods and/or Services, his personnel or third parties engaged by him and their staff and/or Goods and/or Services or material) inflicted upon the Contractor, his staff or third parties engaged by the Contractor, including their personnel and auxiliary staff.

Article 5.6

The Client is liable for all damage caused by not (timely) honouring of or not properly complying with any imposed obligation(s) as included in these Conditions or in a separately made Agreement. This is as far as arrangements have not already been included in these Conditions (and/or appropriate standard conditions) which have a bearing on this.

Article 5.7

The Client is liable against the Contractor for incorrect and/or inaccurate instructions or instructions which have not been issued timely.

Article 5.8

The Contractor is in no way liable for not or not correctly or not timely being granted an exemption licence.

Article 5.9

The Client is liable for all damage which is caused by unsafe and/or unsuitable unloading and loading areas or areas where the Contractor and/or engaged third parties and/or auxiliary staff) carry out work activities.

Article 5.10

Loading and unloading activities are not included in transport. The Client safeguards the Contractor in that case against claims from third parties, irrespective of how they have been filed and of how they have arisen.

Article 5.11

Loading and unloading work activities are not included in transport unless specifically agreed otherwise in writing. The liability of the Contractor regarding these work activities is equal to the liability of the carrier on the basis of the CMR conditions as far as this is not contrary to the relevant articles.

Article 5.12

The Client will at no time exceed the legally permitted maximum loading weight, the legal maximum axle load of the relevant vehicle and also the maximum payload of the transport vehicle (or allow others to do so). The Client safeguards the Contractor to the point of the consequences and/or damage respectively of and arising from overloading and exceeding the axle load.

Article 5.13

If the Client offers container(s), trailers, tanks or further transport resources with contents for transportation (and these units have not been loaded by the Contractor) then the Contractor is not liable for damage arisen as a consequence of the method of loading.

Article 5.14

The Client will safeguard the Contractor (and its personnel, subsidiaries and/or group companies and/or third parties) against claims from third parties and international and Dutch (semi) public authorities, where the Contractor (and its personnel, subsidiaries and/or group companies and/or third parties) cannot rely on these Conditions and its applicable standard conditions.

Article 5.15

The Client safeguards the Contractor at all times against claims of third parties if and as far as the Contractor has acted as a representative or intermediary of the Client during the implementation of the Instruction and/or Service, unless the Client can prove premeditation.

VI. Tenders and Charges

Article 6.1

All offers and tenders from the Contractor are non-committal and have a maximum validity of 2 months. The prices are based on cost components which are valid on the date of the tender or when entering into the Agreement or at the start of the actual execution of activities under the assumption that the facts and information supplied by the Client are correct and complete. The Contractor reserves the right at all times to change prices when one or more of the cost components change. When changing one or more factors or assumptions then prices will change accordingly, for example changing currency values and/or bunker/diesel surcharges. These changes are binding, also with respect to Agreements which are currently still running.

Article 6.2

All agreed prices are expressed and apply in either Euros or Pounds Sterling.

Article 6.3

All agreed prices are exclusive of Value Added Tax (VAT – BTW) and/or other taxes. They are based on the situation which applies at the time of the offer or the Agreement respectively. The prices do not include levies from authorities, customs or other bodies (such as but not limited to duties, fines, etc. nor guaranties or securities issued to whatever party, nor costs for escorts, technical inspections or other obligations or costs – these are being charged separately).

Article 6.4

The Contractor cannot abide by his offer and/or tenders if the Client can reasonably understand that the offers and/or tenders (or any of its components) contain an obvious mistake or miswriting.

Article 6.5

A composite pricing tariff does not oblige the Contractor to carry out part of the Instruction/Service, in whatever shape or form, against a corresponding part of the price. Offers and tenders only apply to that specific case and not automatically to any future Instructions/Services.

Article 6.6

Every Instruction/Service provided to the Contractor needs to be accepted by him each time. The Contractor is free at all times to refuse acceptance of an Instruction/Service without providing a reason. Instructions/Services will be accepted exclusively while applying these Conditions to them.

Article 6.7

If the Contractor (at the request of the Client) charges the Addressee or a third party for the freight (and associated costs in relation to the goods and its related transport), then the Client is obligated to payment of these costs if the Addressee or the third party did not pay them after a first reminder.

Article 6.8

The tariffs for transport are furthermore based on normal performance, carried out within normal working hours and within a normal length of time. These prices solely include the wage for the work activities carried out by the Contractor inclusive of the normally associated costs for this. These prices are based on legally allowed transportation and take account of a maximum load and unload time of 2 hours each. The Contractor reserves the right to charge additional costs for extra Waiting hours.

Article 6.9

The tariffs for Exceptional Transportation or Oversized Transport are furthermore based on a pre-calculation of the anticipated amount of labour hours, equipment and plant to be deployed, licenses, and/or escort costs and park and waiting costs, which arise from the information issued by the Client. The Contractor retains the right to impose additional charges for any significant deviations which emerge from a post event costing.

Article 6.10

The Contractor obtains the right to charge compensation in all reasonableness and fairness for exceptional and unusual performance, which is particular and time-consuming, or work activities which require extra effort, as well as circumstances which interfere with the work activity, its duration or its point of time. This compensation may cover park and waiting costs etc. The extra costs caused by this such as crane costs etc. are to be met by the Client.

Article 6.11

Licenses or exemptions which are necessary in order to carry out Exceptional Transportation will be applied for by the Contractor at the request of the Client. Costs which are associated with such applications for a license or an exemption will be met by the Client and the Client is liable for them.

Article 6.12

If a licence or exemption (necessary for transport) is not granted for whatever reason then transport will not take place. In this case the Client will compensate the Contractor for any costs he has already incurred.

Article 6.13

The Contractor will abide by any legal rules and Regulations with regard to Exceptional Transport as well as comply with instructions from authorities or public servants. Any extra costs which result from this will be borne by the Client.

VII. Payments, Default, Indebtedness, Lien, Right of Distraint

Article 7.1

The chargeability of the Instruction/Service carried out starts at the moment on which the assignment has been accepted.

Article 7.2

The invoices from the Contractor must be paid within 30 days after the date of invoice in a manner as instructed by the Contractor and in the currency in which it has been invoiced (unless indicated differently in writing by the Contractor). The Contractor is also entitled to issue interim invoices or invoice periodically.

Article 7.3

The invoice amount must be paid without any rebate, settlement or deduction of any kind via a method of payment as indicated by the Client. The client will never settle its obligations towards the Contractor with any claim it might have against the Contractor under its Instruction, Agreement, Services or otherwise. The rights under this Article are entirely without prejudice with regard to any other right or statutory remedy which the Contractor might have.

Article 7.4

If the Client defaults on the timely payment of an invoice then he will be legally in neglect and will automatically default without the necessity of further notice. The Client then owes the amount due from the relevant maturity date onwards which consists of (in addition to the principal sum) a contractual default interest of 1.5% per month unless the statutory interest is higher (in which case the statutory interest is due). The statutory interest will be calculated from the moment on which the Client defaults until the moment on which the full amount due has been paid.

Article 7.5

When the Contractor proceeds to collect due to late payment by the Client (via court, non-judicial means and/or any other form of legal assistance) all costs already incurred or still to be incurred by the Contractor (as well as associated costs, being 750 Euros) will be increased by the statutory interest from the moment that the Client is in default and will be borne by the Client. This is without prejudice to the other provisions of these Conditions.

Article 7.6

The Contractor has the right to deduct the received payments from costs, interest due and the principal sum. Firstly payments are deducted from costs, subsequently from previously accrued interest and finally from the principal sum and the currently accruing interest. The Contractor can, without danger of default, refuse an offer of payment if the Client indicates a different sequence of repayment. The Contractor can refuse full repayment of the principal sum if past and currently accruing interest and collection costs are not paid simultaneously.

Article 7.7

The Contractor is entitled at all times to suspend its obligations (which emerge from any aspect of the Conditions against which the Client fails to deliver) in case of default on payments by the Client.

Article 7.8

The Client cannot refuse or suspend payment due to allegedly inadequate or imperfect compliance with the obligation to perform by the Contractor.

Article 7.9

The Contractor is entitled at all times to request the Client for (full or part) prepayment or to provide him with sufficient guarantees for its existing and future payment obligations towards the Contractor. If the Client (thus requested by the Contractor) does not comply with prepayment or providing sufficient guarantees, then the Contractor will be entitled to suspend the Agreement entirely or in part with immediate effect.

Article 7.10

The Contractor is entitled to withhold goods, monies and documents (the latter in the broadest sense of the word towards anyone who demands their release) on behalf of and at the risk of the Client and/or owner until all claims (due in whatever currency) made by the Contractor are settled or by receiving the amount due COD by sending on the goods.

Article 7.11

All Goods, documents and monies which the Contractor has received or will receive for whatever reason or for whichever destination, constitute pawn for all legal claims which the Contractor has obtained or will obtain at the expense of the Client. If the claim is not settled then the pawn will be sold in a manner determined by law or, if an agreement has been reached about this, privately.

Article 7.12

The Contractor can replace the pawn by a different and equal security (as determined exclusively by the Contractor). The Client will never be able to appeal against the Contractor with regard to previous Instructions/Services whether or not deferred payment was granted.

VIII. Customs

The Dutch Haulage Conditions are applicable to the dispatch activities. Its latest version has been published and filed by FENEX. It includes a clause regarding arbitration which we can waive.

IX. Force Majeure

Article 9.1

The Contractor will be exempt from honouring their obligations with regard to any Instruction, Service and/or Agreement (and compliance with these obligations will be extended with a period which is reasonable under the circumstances) if non-compliance is not caused by fault, nor law, a legal act or views held in commerce and therefore is prevented or delayed by an Act of God (Force Majeure).

Article 9.2

An Act of God in these Conditions is understood to be (in addition to anything which has already been stipulated in law and jurisprudence) any extraneous causes, expected or unexpected, which the Contractor cannot control but which render him unable to meet his obligations. They include strikes within the organisation of the Contractor or third parties. The Contractor is also entitled to invoke Force Majeure if the circumstance which prevents him from meeting the Conditions (in part or in full) occurs at the point of time after he should have fulfilled his obligation. Examples of Acts of God are (but are not limited to):

- (a) Any defect, decay, natural properties of the Goods, changes in quality over time, isomerisation, the forming of sediment, deposit, shrinkage, mould, fermentation, rust, spread, congelation, freezing, melting, clotting, vaporisation, wastage, weight loss, decomposition etc.;*
- (b) War, threat of war, government measures, quarantine, insurgency, sabotage, war risk, strikes, exclusion, delay because of; traffic disturbance, traffic congestion, traffic jams, traffic nuisance, lack of manpower, staff illness and/or staff accidents, ferry accident;*
- (c) Storm, fog, lightning, flooding, high and low tide, frost, ice drift;*
- (d) Fire, smoke, explosion, extinguishing water, subsidence, collapse, entry of water;*

(e) *Problems connected to applications for licenses, exemptions etc, police escorts and other ways of necessary collaboration with various authorities.*

(f)

Article 9.3

The Contractor can suspend the obligations which arise from the Agreement for as long as the state of Force Majeure persists.

Article 9.4

The Contractor is entitled to separately invoice the obligations which he has already met and those he still needs to meet, as far as the Contractor at the time of the Force Majeure has already partly met these obligations under the agreement or will be able to comply with them in so far that these parts can be valued individually.

X Applicable Law

Article 10.1

All Agreements and legal relationships which the Contractor is party to, are solely governed by Dutch law, also when a contract is implemented abroad (in part or in its entirety) and also if any of the parties who form this legal relationship have their residence there. Nothing in this article will prevent the Contractor from evoking another legal system, if this is deemed necessary in order to maintain a right of distraint as specified under article 7.

Article 10.2

The judge in the business location of the Contractor is exclusively entitled to take note of disputes unless mandatory law stipulates differently. The Contractor has nevertheless the right (of his own choice) to submit a dispute, claim or demand to a competent judge in the location where the Client has its registered office or a branch or where it has tangible assets.

Article 10.3

Parties will only resort to invoking a judge after they have done their utmost to solve a dispute by mutual agreement.