

# General Conditions for the Provision of Services by Freight Forwarding Companies

GENERAL CONDITIONS FOR THE PROVISION OF SERVICES BY FREIGHT FORWARDING COMPANIES  
Approved by APAT - Freight Forwarders Association of Portugal

## Article 1 Definitions

The following terms have the meanings defined below for the purposes of these "General Conditions":

- a) Client/Contractor: Any person with rights or obligations in respect of the goods under a freight forwarder service agreement entered into with a freight forwarder or as a result of the freight forwarder's activity in connection with such freight services.
- b) Goods: any goods including live animals, as well as containers, pallets or transport equipment, or packaging, not provided by the freight forwarder.
- c) Dangerous Goods: Goods officially classified as such, as well as goods which are or may become or take on a hazardous, inflammable, radioactive, toxic or harmful nature.
- d) Written: any visually expressed means of permanently representing or reproducing words, namely letters, facsimile, telex, telegram, e-mail or any other record of electronic means.
- e) Freight forwarding services: services of any kind relating to the transportation, consolidation, deconsolidation, storage, handling, packaging, logistics and/or distribution of goods, as well as ancillary and advisory services relating to the shipping of goods, including contracting insurance and collecting payment on delivery.
- f) Freight Forwarder: A person who enters into a freight forwarding services contract with a Customer.
- g) Transport Operator: a person who carries out the transport of the goods using his own means of transport (effective transport operator) or any person subject to the responsibility of transport operator by expressly or tacitly taking on such responsibility (contracting transport operator).

## Article 2 Scope

Any and all services rendered by the Freight Forwarder, which may occur under the scope of the activity and the scheme defined in the respective legal statutes approved by Decree Law No. 255/99 of 7 July, shall be governed by these general contractual clauses unless otherwise agreed.

### **Article 3 Applicability**

The Freight Forwarder shall provide its services in accordance with the customer's instructions, as agreed. In the absence of different contractual conditions established in writing, the customer, whether intervening or acting in the capacity of holder of the goods or merchandise, whether in the capacity of agent or representative of another party, or not, shall be accountable to the freight forwarder for the rights and obligations that these general conditions establish.

### **Article 4 Price Presentation**

- 1) Unless otherwise expressly established, the prices proposed by the freight forwarder do not include duties, fees, taxes or charges that the Tax, Customs or other Authorities of an official nature may charge, and they only apply to cargo of nature and with a weight and dimensions considered normal for transport, in accordance with the relevant regulations in force.
- 2) The prices referred to in the previous paragraph do not include the costs and charges of stoppages, storage, repair or other incidental expenses, unless they are expressly stated in the terms of the bid and have not been formally excluded by the customer in good time.

### **Article 5 Price Changes**

The established prices may be modified provided that circumstances arise changing the conditions on which the bids were based, in particular:

- a) Inaccuracy or subsequent alteration of the customer's indications regarding the content, weights, volumes and values of the items object of the service, or as to the conditions of purchase and sale;
- b) Forwarding by a transport means other than that proposed by the freight forwarder or traffic interruptions on the planned routes, forcing the use of more expensive transport means or routes;
- c) Delays or slowness in the performance of services resulting from natural, political or other phenomena not attributable to the forwarder;
- d) Modification of rules, conventions, rates, schedules or tariffs;
- e) Exchange rate changes.

### **Article 6 Pricing and Conditions Review**

The unforeseen expenses that the freight forwarder may incur due to force majeure or unforeseeable circumstances in compliance with and in the performance of its duties, as well as to ensure the conservation or preservation of the goods or merchandise that are the object of the contract, make the appropriate review of the established conditions legitimate and enforceable.

**Article 7**  
**Validity of Bids**

The bids will be valid for the period of time that the freight forwarder has indicated, for the purposes of application and performance of the contractual clauses. It is expressly understood that, in the absence of such indication, they will expire fifteen days after the date of respective presentation to the customer.

**Article 8**  
**Written Instructions**

- 1) The customer shall state in writing, in a clear, precise and complete manner, the instructions and specifications of the goods relating to the subject matter of each contract.
- 2) The freight forwarder shall, at the time of receipt of the instructions, examine them in order to verify their conformity with the services it has undertaken to provide.

**Article 9**  
**Instructions Checking**

On receipt of the documents issued by the freight forwarder, the customer must examine them carefully and immediately highlight any errors or differences, so that the forwarder can make the necessary corrections in time.

**Article 10**  
**Inadequate or Insufficient Instructions**

- 1) In the event the documents contain errors, inaccuracies, insufficiencies or lack of information necessary for the good performance of the contract, particularly concerning the nature, value, weight, measurements or content of the items that are the object of the contract, the customer shall be wholly responsible for the consequences of such anomalies.
- 2) If the freight forwarder becomes aware of any of the anomalies or irregularities referred to in the preceding paragraph, which may result in liability and/or loss for any of the contractors or third parties, it must immediately inform the customer so that such anomalies or irregularities may be remedied at the earliest opportunity.
- 3) If the anomalies or irregularities provided for in the preceding paragraphs are not remedied in time to enable the freight forwarder to carry out the services within its remit, it is entitled to terminate the contract or to perform it according to the contents of the documents and declarations of the customer. In such a case, all damages and liabilities that directly or indirectly arise from said anomalies or irregularities are borne by the customer.
- 4) In the case of goods subject to a contract of purchase, the non-compliance of the customer's instructions with the conditions inherent to that contract will be the responsibility of the customer.

**Article 11**  
**Insufficient or Inappropriate Packaging**

- 1) The customer is responsible for the damages resulting from insufficient or inappropriate packaging.
- 2) If the packages are found to be damaged at any time during the performance of the service, the freight forwarder can make the necessary repairs on behalf of the customer, informing the customer in advance, unless the urgency of the repair does not allow that.
- 3) This urgency must be justified.

**Article 12**  
**Hazardous Goods**

- 1) Unless expressly agreed in writing, in each case the freight forwarder shall not treat or carry hazardous goods or items considered as such, or any others that may cause damage to third parties.
- 2) If any customer delivers goods of this nature without the express approval of the freight forwarder, it shall be liable for all losses or damages caused to the freight forwarder and/or third parties and shall be liable for all damages, expenses, fines or claims that such goods may originate, and the goods may be destroyed or negotiated under the control of the competent authority where this is deemed appropriate.

**Article 13**  
**Special Delivery Conditions**

The freight forwarder is only obliged to comply with special conditions of delivery of the goods, and/or collection of payments if it agrees to such, on having received express instructions for that purpose from the customer, in writing.

**Article 14**  
**Instructions in the Handling of Goods or Merchandise**

- 1) The freight forwarder may also undertake other operations on behalf of the contractor, in particular the collection or storage of the goods or merchandise, either in accordance with instructions received or for the period in which it is awaiting instructions, or also as a consequence of transport interruptions or postponements. In any of the cases it must inform said contractor immediately.
- 2) In the absence of special instructions from the contractor, the freight forwarder shall use the forms and means it deems convenient or possible for the forwarding of the goods or merchandise object of the service entrusted to it.

**Article 15**  
**Other obligations of the Freight Forwarder**

The freight forwarder only undertakes to initiate procedures or formalities with the competent authorities that are expressly requested by the customer. In any case, the freight forwarder will not be liable for any damages that may result from the rejection or delays of those entities or from deficiencies in the information provided to them for this purpose by the customer.

**Article 16**  
**Groupage of Goods**

Unless expressly stated otherwise, the freight forwarder may transport the goods in the groupage system, albeit in conjunction with goods from different customers, and may use routes and means that best fit the interests of the cargo and the customer.

**Article 17**  
**Insurance of the Merchandise**

It is not the responsibility of the freight forwarder to enter into any contract of insurance designed to cover the risk of any loss or damage suffered by the goods or merchandise during the transport for which the organisation and management has been contractually entrusted to it, unless it has been expressly, timely and duly commanded to contract insurance, in particular as regards the nature of the risks and amounts to be insured.

**Article 18**  
**Refusal or lack of reception**

If, for any reason, the recipient refuses to receive the items that are the object of the service or has ceased business activity, the contractor or the person replacing it in the relationship with the freight forwarder shall remain the owner and responsible for the transported items, and shall continue to be liable to the freight forwarder for all the charges of the service and eventual return of the merchandise.

**Article 19**  
**Payment of Invoices**

- 1) Failure to pay the invoice issued by the freight forwarder within a maximum period of 15 days from the date of its presentation, unless otherwise agreed, means the payment is overdue and the defaulting debtor is obliged to pay interest at the statutory rate.
- 2) In the event that no provision has been made and the invoices involve disbursements in foreign currency, these are subject to the corrections resulting from exchange rate changes that may occur up to the date of payment, as well as bank charges arising from the respective operation.

**Article 20**  
**Complaints regarding Invoices**

Notwithstanding the obligation to pay in accordance with the aforementioned terms, the customer shall be entitled to file complaints against invoices or debit notes of the freight forwarder, provided that it does so within a period of 15 days from the date of presentation.

**Article 21**  
**Provision**

The freight forwarder may request that the customer pay a provision whenever freight charges, customs duties and other duly justified disbursements have to be paid on behalf of the customer.

**Article 22**  
**Limitation of Liability**

- 1) The freight forwarder is answerable to its customer for breach of its obligations, as well as for the obligations contracted by third parties with whom it has entered into a contract.
- 2) The liability of the freight forwarder resulting from the contracts concluded is limited to the amounts established by law or agreement for the transport operator entrusted with the physical performance of the carriage, unless otherwise agreed by the parties.
- 3) In any case, the liability of the freight forwarder shall not exceed the actual value of the loss or the value of the goods or merchandise, whichever is lower.

**Article 23**  
**Non-collection or removal of the Goods**

- 1) Without prejudice to the right to an adequate storage fee or fair compensation for the losses caused, if the goods entrusted to the freight forwarder are not picked up or removed within a reasonable time then this is sufficient reason to terminate the contract.
- 2) For the purposes of the preceding paragraph, the freight forwarder shall notify the interested party of the goods, informing it of all the conditions and the deadline for their collection.

**Article 24**  
**Right of Retention**

Unless expressly stipulated otherwise, freight forwarders may exercise the right of retention on goods entrusted to them as a result of the respective contracts, due to claims resulting from the same.

**Article 25**  
**Validity of the Right to Compensation**

The right to compensation arising from the liability of the freight forwarder shall lapse 10 months from the date of completion of the contracted service.

**Article 26**  
**Jurisdiction**

- 1) In the case of recourse to the courts, the chosen jurisdiction shall be that of the registered office of the freight forwarder, expressly waiving any other.
- 2) However, when the issue or provision of services occurs in a branch office or subsidiary of the undertaking, the courts of the corresponding establishment shall have jurisdiction.

Approved by APAT - Freight Forwarders Association of Portugal, on 22 October 2000. Applicable under Decree Law 255/99 of 7 July. (Communication pursuant to and for the purposes of article 5 of Decree Law 446/85 of 25 October).