

## GENERAL TERMS & CONDITIONS ICO NV

Unless agreed otherwise in writing, in a separate agreement the legal relationship between parties is governed by these General Terms and Conditions, which the customer declares to have taken note of, and which prevail over the own purchase conditions of the customer.

In these conditions :

- "ICO" means : International Car Operators NV, a stevedoring Company in the Port of Antwerp and Zeebrugge registered under Company Nr 0479.469.515, with main address at Kiwiweg 80, 8380 Zeebrugge, Belgium.

In accordance with the specific activities developed by ICO for his customer, the Conditions, sub A, additionally sub B and sub C will apply :

- Sub A : GENERAL CONDITIONS FOR CARGO HANDLING
- Sub B : ADDITIONAL CONDITIONS FOR V.P.C. & P.D.I. ACTIVITIES
- Sub C : GENERAL CONDITIONS FOR FREIGHT FORWARDING

### A. GENERAL CONDITIONS FOR CARGO HANDLING

These are the General Conditions applicable if ICO is acting in its capacity of cargo handlers, i.e.: in all circumstances iro the activities of ICO for storage, shunting, transport, discharging and loading of vehicles and material/cargo. Iro V.P.C.-activities, the conditions sub B will become applicable additionally. If ICO is acting as freight forwarder, then the (latest edition) General Condition of the Belgian Association of freight forwarders is applicable (see sub C).

**Article 1 :** Every assignment to ICO will be concluded according the following conditions that govern the commercial relations between the parties.

- The customer is the one who gives the order to ICO
- ICO is the one who accepts this order and executes it or has it executed.

These general conditions do not detract from the regulations and customs of the Port of Zeebrugge and Antwerp.

**Article 2 :** The assignment consists of all activities of manual or non-manual nature relating to loading, unloading, handling, receiving, controlling, tallying, delivery of goods, warehousing, transportation within the port area, including all related and subordinate activities.

This enumeration is not limitative.

**Article 3 :** ICO is only liable for the material damage and/or loss that is the direct consequence of his proven fault. Under no circumstances more than the actual damage will be compensated for. The liability of ICO is limited to € 2 per kg of damaged or lost gross weight. For steel products (such as coils, sheets, plates, slabs, pipes, tubes, beams, bars, blooms, billets, wire rods and cast iron pipes) a liability limitation of € 1000 per package will be taken into account.

The maximum liability regardless of the number of packages for each claim of damage, shall in no case exceed € 25.000,- per event or series of events caused by the same cause. For new cars, the liability of ICO is limited to 2 SDR per kilo and the basis for calculating a claim is the production cost of the vehicle.

For damage caused to the ship or means of transport, the maximum liability shall not exceed € 25.000,-. In cases of convergence of several claims relating to damage caused to the ship or the means of transport, loss and/or damage of goods or materials made available by the customer or by 3<sup>rd</sup> parties, the total liability shall not exceed € 50.000,- irrespective of the number of prejudiced parties.

**Article 4 :** All costs arising from government decisions and all claims which governments have or think they have towards ICO, and all costs which ICO will have to pay to protect himself from this type of claims, shall be borne by the customer.

**Article 5 :** The customer who can invoke discharge clauses and/or limitations shall stipulate these in favour of ICO. The customer confirms that the goods of the assignment are his property or that he, as the representative of the interested party of the goods, can dispose of these goods in a way that he will not only accept these conditions for himself, but also explicitly on behalf of his customer and/or any other interested party of the goods.

**Article 6 :**

- All invoices shall be paid 30 days after invoice date unless agreed differently in writing in a separate document between parties, or if another expiry date is mentioned on the invoice.
- Remarks and restrictions concerning the invoice must be transmitted by registered mail within eight (8) days after the date of the invoice.
- Delay in payment will give rise ipso jure to the payment of interest for delay equal to the official lending rate of the National Bank of Belgium + 2%.
- Formal notice of payment shall give rise to the payment of contractual damages equal to 10% of the amount invoiced, with a minimum of € 125,- for administrative charges.
- In case of non-payment at the expiry date of one invoice, the balance due of all other invoices, even if they have not expired, becomes ipso facto immediately payable.
- No compensation between our invoices and claim is allowed.

**Article 7 :**

- a) ICO has an obligation to use fair, reasonable endeavours, but not to guarantee a specific result.
- b) ICO is exempt from all liability in the following cases :
  - all immaterial, indirect and/or consequential damage such as but not limited to : delays, harbour dues, demurrage, loss of profits, fines and/or similar levies;
  - All damage and loss occurring before or after the actual execution of the task by ICO;
  - Force majeure;
  - Shortage of personnel;
  - Theft;
  - Defect in the goods and/or the packing;
  - Flooding, whirlwind, hail, natural disaster, explosion and fire, birdlimes, fallouts whoever or whatever may be the cause thereof;
  - Error of 3<sup>rd</sup> parties and/or the customer;
  - Failure to communicate or incorrect communication of data or instructions by the customer and/or by 3<sup>rd</sup> parties;
  - Any claim resulting from an unforeseeable defect of the equipment of ICO.

**Article 8 :**

- a) The customer is required to communicate in writing to ICO before the commencement of the task :
  - the correct and accurate description of the goods, including type, number, weight, condition and risk category.
  - All instructions and limitations connected with the protection, handling, and storage of the goods and the execution of the assignment in general.
  - all instructions regarding the protection of the appointed persons.
- b) The goods shall carry all necessary markings indicating their characteristics. The customer shall pack the goods required for the execution of the assignment, unless it is customary not to pack the goods.
- c) The available means of transport shall be supplied so that the assignment to be executed can be started immediately according to the usual method of working and the relevant statutory regulations. Unless agreed otherwise in writing, ICO will not guarantee the fastening of the load. Before the start of the transport, the transporter shall verify whether the stowage and – if applicable – the fastening of the load has been carried out pursuant to the technical requirements of the vehicle and to the relevant statutory regulations.
- d) The customer has duly examined the properties and characteristics of the terminals and/or warehouses, and he agrees and accepts that these suit his needs and expectations for vehicle or goods handling and storage purposes. The customer is satisfied with the level and quality of fencing, protection and surveillance. In the absence of such a check or any motivated reserve, they shall be deemed to have been found suitable. The customer accepts and exonerates ICO for all risks inherent to storage of vehicles or goods on the terminals and warehouses and specifically to storage of unpacked vehicles on an open-air compound in an industrial environment and will take proper cargo insurance.

The customer shall safeguard ICO against all claims and shall compensate him for his damage, losses and costs that could arise from a breach of the above obligations, even if the breach is attributable to a 3<sup>rd</sup> party.

**Article 9 :** Unless agreed explicitly with the customer, ICO shall never insure the goods. The parties and respective insurers shall mutually renounce redress for all damage resulting from fire, explosion, stroke of lightning and the impact of aircrafts. The customer himself shall be responsible for cleaning and removing the goods which have been damaged by fire.

**Article 10 :** ICO shall carry out the assignment to the best of his ability and in conformity with the customs, usages and regulations of the port.

**Article 11 :** As guarantee for the payment of all sums due by the customer for the handling and storage of these and previous goods, he is granted a possessor lien in accordance with article 1948 of the code of civil law and the stipulations of the law of 5 May 1872 even if warehouse warrants and bearer storage certifications are issued. Should the customer remain in default, ICO shall be entitled, after due notice, to have the goods sold in conformity with the procedure stipulated in the law of 5 May 1872.

**Article 12 :** All liability of ICO lapses if any claim by the customer is not lodged in writing at the conclusion of the task.

**Article 13 :** Without prejudice to the preceding stipulations, any claim against ICO expires one year after the determination of the damage and/or shortage or, in case of dispute, one year after the date of invoice, unless a shorter date is fixed by the law.

**Article 14 :** The Customer agrees to hold confidential or proprietary information or trade secrets ("confidential information") in trust and confidence and agrees that it shall be used only for the contemplated purposes, shall not be used for any other purpose, or disclosed to any third party.

No copies will be made or retained of any written information without the permission of ICO.

At the conclusion of any discussions, or upon demand by ICO, all confidential information, written notes, photographs, sketches, models, memoranda or notes taken shall be returned to ICO.

Confidential information shall not be disclosed to any employee, consultant or third party unless they agree to execute and be bound by those General Terms & Conditions, and have been approved by ICO.

**Article 15 :** Should any article of these general conditions be in conflict with compelling legal stipulations that article shall be regarded as not written, so that the validity of the remaining articles shall be unaffected.

**Article 16 :** All legal disputes between customer and ICO shall be settled according to these general conditions and Belgian law. The tribunal of Bruges is the sole legal venue.

## **B. ADDITIONAL CONDITIONS FOR V.P.C. & P.D.I. ACTIVITIES**

These are the particular conditions for V.P.C. and P.D.I. activities, i.e.: additionally applicable, if ICO is acting as a V.P.C. (= Vehicle Processing Centre), or as a P.D.I. (= Pre Delivery Inspection). Activities such as vehicle inspection, cleaning, modification, repair, painting, accessories, upgrading.

### 1. Delivery

1.1. Delivery is conditional upon the correct, timely arrival of goods purchased by us or to be provided to us.

1.2. Unless agreed differently, all deliveries are "ex-works". ICO will not take out cargo insurance.

1.3. Exceeding the delivery period will not grant the customer any right to indemnification of whatever nature, or non-respect by the customer of his obligations towards ICO.

1.4. In case of Act of God, we are entitled to postpone deliveries during the Force Majeure-period. Act of God/Force Majeure will include: strikes, excessive absenteeism due to illness, insufficient trough put of parts, fire, actions of authorities, disturbance of production at supplier's, bad performance from suppliers.

1.5. In case of Act of God, ICO cannot be held liable for any indemnification.

1.6. For off spec or colour, which does not exceed minor differences in colour detail, we cannot accept responsibility. Such minor discrepancy will not entitle the customer to refuse delivery.

### 2. Acceptance

The customer has a duty to inspect the vehicles delivered by ICO immediately. The customer declares having received the vehicles in good, complete condition, unless within two (2) days delivery ICO has been informed that damage or discrepancies have been formed upon delivery.

If a third party (haulier) is involved between ICO and the customer, the customer has to make reservations on the waybill in conformity with the CMR Convention. The absence of such reservations will constitute proof in favour of ICO that vehicles were delivered in good, complete, condition.

If the customer has not formulated protest within two (2) days after delivery towards ICO, this silence will imply acceptance of the goods in good condition. This does not affect the following clause 4 (Guarantee).

In case of dispute iro the date of delivery: the sign off date for taking receipt of the vehicle at ICO is applicable. If the customer formulates a claim, he has to leave the vehicle untouched, until ICO had the opportunity to inspect the vehicle or the goods and verify the claim, ICO has to be granted the possibility of a joint survey. If this right to a joint survey was not observed, the principal's claim is forfeited.

### 3. Transport & handling costs

3.1. Unless otherwise agreed in writing, the transport of vehicles in connection with a specific order, takes place at the risk and expense of the customer.

3.2. Return of vehicles can only take place after agreement of ICO.

### 4. Guarantee

V.P.C.-works are carried out as per technical specification and instructions of the customer., this iro of choice of work method and materials. As a rule, modifications will be performed as per strict instructions and procedures dictated by the customer and materials will be used as per customer's choices. The customer has the exclusive liability therefore, ICO is only a performer, accordingly ICO's responsibility is limited to the actual performance. The guarantee clauses have to be read and construed in this context.

- 4.1. If vehicles show defects within twelve (12) months after delivery (defects resulting from a wrongful workmanship, assembly, mounting, or modification), these vehicles/goods will be repaired or replaced by ICO. ICO is not liable to pay for whatever additional costs of the customer of whatever nature. All claims against ICO will be time barred twelve (12) months after delivery.
- 4.2. In case of dispute iro the date of delivery; the sign-off date for taking receipt of the vehicle at ICO is applicable.
- 4.3. ICO is not liable to provide any guarantee, if the customer (or his end user) has made himself any modifications or repairs, or has used the vehicle or goods in an abnormal way or for an abnormal purpose.
- 4.4. If the customer intends to invoke these guarantee clauses, it is his duty to report (in writing- the nature of the discovered deficiencies within eight (8) days after he noted these deficiencies, or reasonably should have noted it. The vehicle(s) is (are) to be left in an unchanged condition until ICO had the possibility to investigate the complaint. If not, any claim will become null and void.
- 4.5. The cost for returning the vehicles to ICO is always for account of the customer.
- 4.6. The travelling expenses and labour cost are always for the account of the customer.
- 4.7. The application to the guarantee will not trigger a new guarantee period, unless if otherwise agreed in writing.
- 4.8. We reserve the right to make the fulfilment of our obligations under the guarantee conditional upon the complete payment of our invoices, and the fulfilment by the customer of his obligations.
- 4.9. Vehicles, for which the guarantee is invoked, will have to be presented and collected afterwards at our premises as per agreed practical arrangements. If the customer does not respect these arrangements then ICO is entitled to consider his claim under the guarantee as being forfeited.
- 4.10. If ICO act as an intermediary only, the guaranty on the products delivered by ICO, is identical and limited to the one the supplier or manufacturer granted ICO.
- 4.11. At any time the customer will remain full liable and hold ICO harmless for any applicable regulation concerning the Conformity of Production(COP) and the Certificate of Conformity (COC).
- 4.12. The liability limit of ICO for V.P.C.-activities is:  
 - as a maximum: the actual repair cost, for a repair at/by ICO at their premises;
- 4.13. Recall by the customer is a commercial decision by the customer, and as such cannot be opposed to ICO. A recourse action against ICO is only open in case of proven gross negligence, and in that case is limited to maximum:
- a) per vehicle/unit: the cost that was initially invoiced by ICO to the customer for the V.P.C.-works carried out on that unit; this is the absolute maximum per vehicle;
  - b) in the aggregate: for a series of vehicles/units subject to a recall for the same cause: the amount is as defined sub 1 x number of vehicles, and limited to a maximum of 100.000,00 €

## C. GENERAL CONDITIONS FOR FREIGHT FORWARDING

These are the General Conditions applicable if ICO is acting in its capacity of freight forwarder. The (latest edition) General Condition of the Belgian Association of freight forwarders is applicable.

Quote

(Free translation)

### Definition and Scope of the Contract

Unless otherwise agreed these Conditions shall be applicable to any form of service provided by the Freight Forwarder.

They may be quoted as “Belgian Forwarding Conditions”. They represent a recognized custom of the trade.

#### Article 2

In these Conditions:

- Customer: is the Freight Forwarder’s Principal at the instructions of whom and on behalf of whom the Freight Forwarder provides services, information or advice, whether gratuitous or for reward.
- Freight Forwarder: is a CEB member or each Freight Forwarder conducting business under these Conditions.
- service: is any instruction to forward goods offered, accepted for performance, or performed by the Freight Forwarder, and any related act, any information or advice in respect thereof.
- goods: are all and any goods including their packaging, entrusted to the Freight Forwarder by the Customer. Such goods include all and any merchandise as well as all and any titles or documents that represent or may represent such goods.
- owner: is the owner of the goods to which the service provided by the Freight Forwarder pertains.
- third parties: are any non-contracting parties, in particular any natural or legal persons whom the Freight Forwarder deals with in the performance of his duties.

#### Article 3

Where the performance of services is concerned, a distinction is made between the Freight Forwarder who acts:

1) as a forwarding agent under Belgian law (*commissionnaire — expéditeur*): his duties consist of, *inter alia*, forwarding goods either in his own name or in his Principal’s name, but always on the latter’s behalf, and pursuant thereto in providing all and any such services as may be necessary in respect thereof, performing all and any required formalities and concluding any such agreements as are necessary for such purpose

2) as a principal under Belgian law (*commissionnaire de transport*): in the following cases only, and in no other cases, the Freight Forwarder shall be regarded as a principal:

- a) when he performs the carriage of goods in his own name and by his own means of transport,

- b) when he issues a transport document in his own name,
- c) when the instructions explicitly show that the Freight Forwarder assumes such obligation.

**Article 4**

These Conditions do not imply any waiver of any right by the Freight Forwarder and they cannot give rise to a more extensive liability than that to which he would be subject pursuant to any legislation or regulation applicable in addition to these Conditions.

**Article 5**

The Customer warrants that the goods entrusted by him to the Freight Forwarder under his instructions are his property or that as an authorized agent of the owner he has the right of control of such goods, and that consequently he accepts these Conditions not only for himself but also for and on behalf of his Principal and for and on behalf of the owner.

**Formation and Performance of the Contract**

Unless otherwise agreed, or unless an event constituting force majeure arises beyond the Freight Forwarder's control, an offer made by the Freight Forwarder shall be valid for 8 days.

Such an offer shall be based upon existing rates, remunerations, freight charges, currency rates and estimated dates, which are in force at the time when the offer is communicated to the Customer.

Should one or more of these elements be varied, the prices offered shall be adapted accordingly and retroactively.

The Freight Forwarder shall at all times be entitled to charge to the customer all and any amounts charged to him by third parties as a result of improperly calculated freights, costs and rates.

**Article 7**

The Customer shall undertake to supply to the Freight Forwarder, in advance and not later than at the time of confirmation of the order, any useful information including, but not limited to, the nature of the goods, the method of shipment, the place of taking over and delivery, and the required route and procedure, and in particular any information which the Principal may be presumed to have at his disposal as manufacturer, merchant, owner or consignor of the goods, and which may ensure their preservation, shipment, taking over at the place of departure and delivery at the place of destination.

**Article 8**

The Freight Forwarder shall not be presumed to examine the correctness of the particulars or the information given by the Customer or the authenticity or regularity of the documents furnished by the Customer. Such information shall be accepted in good faith.

**Article 9**

In the absence of precise instructions to the contrary or special agreements, the Freight Forwarder shall be at liberty in his choice of means to be used to organise and perform the services to the best of his abilities according to normal business practice, including the groupage of goods.

**Article 10**

The Freight Forwarder shall be entitled to charge any amounts or fees for his expenses and interventions on a fixed basis, i.e. as a lump sum or an inclusive price.

**Article 11**

In the performance of his duties, the Freight Forwarder may employ third parties, servants and agents who show normal professional qualifications.

**Article 12**

Unless instructed to the contrary, the Freight Forwarder shall be entitled to keep possession, control or custody of any goods that for some reason could not be delivered, or to take custody of them, and to store the goods at the Principal's cost and risk or at the expense and risk of the goods themselves.

In accordance with the provisions of the Act of 5 May 1872, the Freight Forwarder may sell the goods and apply the proceeds in or towards the payment of his claims.

In the case of dangerous, perishable, flammable, explosive goods or goods that may otherwise cause damage to persons, animals or property, subject to prior notification in writing to the Customer and subject to accountability the Freight Forwarder may destroy, remove or sell the goods on the Customer's behalf and at the Customer's risk.

**Article 13**

The Freight Forwarder shall be entitled to suspend the performance of his duties if the Customer fails to fulfil or insufficiently fulfils his obligations in any way.

In the event of force majeure, the Contract shall remain in force. The Freight Forwarder's duties shall, however, be suspended for the duration of the event constituting force majeure.

In case of specific duties, or activities that are uncommon, particularly time-consuming or that require specific effort, additional fees may be charged at any time. All additional costs caused by force majeure shall also be borne by the Principal.

**Article 14**

Unless otherwise and previously agreed in writing, the Freight Forwarder shall not be under a duty to guard the goods to be forwarded, nor to have them guarded, nor to have them insured, wherever they are, even out in the open.

## **Payment**

**Article 15**

The amounts or fees charged shall be payable in cash at the Freight Forwarder's registered office, within eight days from the date of the invoice.

Any loss resulting from exchange rate fluctuations is for the Customer's account. Payments not allocated by the Customer himself to the payment of a specific debt, may be applied at the Freight Forwarder's choice to the payment of any amount owed by the Customer.

**Article 16**

Any protest against the invoicing or any services and amounts charged must have been received by the Freight Forwarder in writing within 14 days from the date of invoice.

#### **Article 17**

The Customer waives any right to rely on any circumstance which might entitle him to suspend payment in whole or in part and waives

any right to set-off or counterclaim with regard to all amounts charged to him by the Freight Forwarder.

#### **Article 18**

The Freight Forwarder shall not be required to provide security for the payment of freight, duties, levies and taxes or any liabilities whatsoever, should this be required by third parties. Where the Freight Forwarder has provided security, the Customer is under a duty, at the Freight Forwarder's first request in writing, to pay to the Freight Forwarder, by way of security, any amount for which the Freight Forwarder has provided security to third parties.

#### **Article 19**

Any debt not paid on its due date shall, without any prior notice, be increased with compensatory interests calculated at the statutory interest rate and increased by liquidated damages equal to 10 % of the debt, so as to cover any economic and administrative loss, without prejudice to the Freight Forwarder's right to prove the existence of more extensive damage.

### **Customer's Duties and Liability**

#### **Article 20**

The Customer shall undertake and accept liability for the following:

- that his instructions and his description of the goods are complete, correct and accurate;
- that the goods to be entrusted by him to the Freight Forwarder shall be made available in time, completely and in a useful way, that they are loaded, stowed, packed and marked in accordance with the nature of the goods, the place of receipt or destination, and for the purposes for which they are entrusted to the Freight Forwarder;
- that all documents submitted to the Freight Forwarder by the Customer are complete, correct, valid, authentic and not improperly prepared or used;
- that, unless the Freight Forwarder has been informed thereof previously and in writing, the goods entrusted to him are not of a dangerous, perishable, flammable or explosive nature or liable to otherwise cause damage to third parties, persons or property;
- that he will examine all documents submitted by the Freight Forwarder upon receipt and that he will verify whether they are in accordance to the instructions given to the Freight Forwarder.

#### **Article 21**

The Customer shall be liable to the Freight Forwarder and he shall indemnify him at his first request:

- against any damage and/or loss resulting from the nature and the packaging of the goods, the incorrectness, inaccuracy or incompleteness of instructions and information, the non-delivery or untimely delivery of the goods to the Freight Forwarder at the agreed time and place of receipt, the failure to provide, or timely provide, documents and/or instructions, and the fault or negligence in general of the Customer and of the third parties employed by him;
- against any damage and/or loss, costs and expenditure which is claimed from the Freight Forwarder by authorities, third parties or servants and agents, for whatever reason, with regard to the goods, any damage, expenditure, costs, duties, claimed directly or indirectly as a result of the service provided on the instructions of the Customer, unless the Customer shows that such claim was directly caused by a fault or negligent act or omission for which only the Freight Forwarder is liable;
- against any damage and/or loss, costs and expenditure which is claimed from the Freight Forwarder in cases where, under Community or national laws and regulations, he is under any personal and/or joint and several liability for the payment or settlement of customs duties and/or other taxes.

#### **Article 22**

If the claim for which the Freight Forwarder requires compensation or indemnity from the Customer pertains to a customs or other tax claim, and if it is based on instructions with regard to customs received from the Customer or on his behalf, the Customer shall undertake, at the Freight Forwarder's request, to provide a financial guarantee to unconditionally warrant the Customer's liability towards the Freight Forwarder, to the benefit of the Freight Forwarder or to the benefit of a third party designated by the Freight Forwarder.

### **Freight Forwarder's Duties and Liability** **1) Provisions common to Agents and Principals**

#### **Article 23**

The Freight Forwarder shall not be liable for damage caused by an event constituting force majeure, including, but not limited to, war, riots, strikes, lockouts, boycotts, work congestion, scarcity of cargo or weather conditions.

#### **Article 24**

The Freight Forwarder shall not be liable for damage or loss as a result of theft of goods in his possession, custody or control, unless the Customer shows that the theft took place as a result of circumstances which the Freight Forwarder, in view of the Contract with the Customer, should have avoided or which he should have foreseen, provided that the risk of theft is not for the account of the goods under local regulations or business practice.

#### **Article 25**

The Freight Forwarder shall not be liable for any indirect loss or damage, including economic loss or damage, consequential loss or damage and immaterial loss or damage.

#### **Article 26**

The Freight Forwarder shall not be responsible for the lack of or bad result of any instructions to collect money, unless this is proved to have been caused by gross negligence.

## **2) Liability of the Freight Forwarder acting as Agent (art. 3.1)**

### **Article 27**

The Freight Forwarder shall perform his duties with reasonable care, dedication and perception, and he shall be under a duty of normal professional performance of the instructions given to him.

### **Article 28**

The Freight Forwarder's liability shall be limited to that for fault, negligence or omission in the performance of the instructions given to him.

To the extent that such fault, negligence or omission has caused any direct material damage or financial loss to the Customer or third parties, the Freight Forwarder shall be entitled to limit his liability to € 5 per kilogramme gross weight of the goods lost or damaged, with a maximum of € 25,000 per contract.

### **Article 29**

The Freight Forwarder shall not be liable for the performance of any contract entered into by him for and on behalf of his Customer with third parties, servants or agents, pertaining to storage, transport, customs clearance or the handling of goods, unless it is shown by the Customer that the defective performance thereof was directly caused by the Freight Forwarder's fault.

### **Article 30**

The Freight Forwarder does not guarantee any fixed time or date for delivery, dates of arrival and departure, unless otherwise previously agreed in writing. The indication of a time or date for delivery by the Principal is not binding upon the Freight Forwarder.

## **3) Liability of the Freight Forwarder acting as Principal (art. 3.2)**

### **Article 31**

The Freight Forwarder shall be liable as a carrier in the cases provided for in article 3.2.

His liability shall be determined according to national law and the international conventions applicable to the mode of transport concerned.

### **Privilege and Lien**

### **Article 32**

Any amounts charged by the Freight Forwarder shall be privileged in accordance with Belgian law and with these Conditions.

### **Article 33**

Any claims of the Freight Forwarder as against his Principal shall be privileged under Article 14 of the Act of 5 May 1872, Article 20,7° of the Mortgage Act, and Article 136 of the General Customs and Excise Act with regard to all goods, documents or monies currently

or in the future in his possession, custody or control, regardless of the fact whether the claim pertains in whole or in part to the taking in charge or forwarding of other goods than those in his possession, custody or control.

### **Article 34**

The Freight Forwarder shall have the right to retain the goods and he shall be entitled to sell or dispose of the goods and to apply the proceeds to his claim in full; they shall also serve as security, regardless of the fact whether the Principal is the owner of the goods.

### **Insurance**

### **Article 35**

The Freight Forwarder may make insurance (AREX 21) available to the Principal upon his request in writing, for any business related to international carriage at the Freight Forwarder's risk.

The costs of such insurance shall be borne by the Principal.

### **Prescription and Extinction of Right**

### **Article 36**

The Freight Forwarder must be given notice in writing of any claim for damages as against him, with reasoned grounds, within 14 days from either the delivery of the goods or the sending of the goods.

Any potential liability of the Freight Forwarder shall be extinguished automatically and definitively when the Customer has retaken delivery of the documents pertaining to a specific operation within the framework of services after the performance thereof without having formulated a reasoned reservation not later than on the 10th day after the sending of these documents by the Freight Forwarder.

### **Article 37**

Any liability action against the Freight Forwarder shall be time-barred as a result of prescription if it is not brought in the Court having jurisdiction within a period of six months.

Prescription shall run from the day following the day on which the goods were delivered or should have been delivered, or, in the absence of delivery, from the day following the day the event giving rise to the action took place.

### **Jurisdiction and Administration of Justice**

### **Article 38**

Exclusive jurisdiction is deferred to the Courts of the Freight Forwarder's registered office, which is presumed to be the place of formation and performance of the Contract, without prejudice to the Freight Forwarder's right to bring the action before another Court.

**Article 39**

Legal and arbitration proceedings against third parties shall not be conducted by the Freight Forwarder unless he agrees to do so at the Principal's request and for and on the Principal's behalf.

**Article 40**

All legal relations governed by these Conditions shall exclusively be governed by the laws of Belgium.

**Entry into force**

These Conditions were published in the Supplements to the Belgian Official Gazette (*Belgisch Staatsblad – Moniteur belge*) of June 24, 2005 under number 0090237 and replace all other General Terms and Conditions of the Belgian Freight Forwarders from the date of entry into force.

Unquote