



AVET

General Terms and Conditions for Exceptional Transport

Revised version of January 1st, 2019

The organisations below cooperate in Stichting Vervoeradres:

evofenedex, Shippers association representing the interests of companies in the Netherlands that export, import and transport goods

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

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Article 1

Definitions

The following definitions apply in these General Terms and Conditions:

1. **GTC-OLT:** The most recent version of the General Terms and Conditions for Oversize Load Transport, as adopted by Stichting Vervoeradres (support organisation for the logistics industry) and filed with the court registry of the District Courts of Amsterdam and Rotterdam.
2. **AVC:** The most recent version of the 'Algemene Vervoercondities 2002' [2002 General Terms and Conditions of Carriage], as adopted by Stichting Vervoeradres (support organisation for the logistics industry) and filed with the court registry of the District Courts of Amsterdam and Rotterdam.
3. **CMR:** Convention on the contract for the international carriage of goods by road (Geneva 1956) as amended by the CMR Protocol of Geneva in 1978.
4. **Consignor (client):** The contractual counterparty of the carrier.
5. **Carrier:** The party that has committed to performing the carriage for the consignor.
6. **Consignee:** The party to the contract of carriage that is entitled to delivery of the goods by the carrier.
7. **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.
8. **Oversize Load Transport:** Road transport using a vehicle or convoy of vehicles, including the load transported, which does not meet legal width, height, length, weight, or axle load requirements.
9. **Waiting time:** The time by which the time agreed on for transport and/or loading and unloading is exceeded or, in the absence of such a pre-agreed deadline, the time span by which the time that transport and/or loading and unloading can reasonably be expected to take has been exceeded, provided that the wait is caused by the carrier.
10. **Delay:** When goods are not delivered within the agreed term or, when no such term has been set, when transport, taking circumstances into account, takes longer than can reasonably be expected from a good carrier.
11. **Freight price:** The price without VAT payable for carriage, not including additional charges for exemptions, pilot cars, rental or use of equipment needed for loading and/or unloading, such as cranes and hoisting equipment, and custom making of any required tools and aids by the carrier.
12. **Acceptance:** the action by which control of the goods is transferred by the consignor with the carrier's or the carrier's agent's specific or tacit consent, enabling the latter to assume actual control of the goods.
13. **Delivery:** the action that constitutes transfer of control of the goods by the carrier, with the specific or tacit consent of the consignor, a title holder designated by the consignor, or the appropriately authorised authorities, enabling them to assume actual control of the goods.

Article 2

Scope

1. Domestic oversize load transport is governed both by these GTC-OLT and the AVC, to the extent that the former terms and conditions do not deviate from the latter.
2. Transportation of oversized loads governed by the CMR Convention is also subject to the provisions of the GTC-OLT that are not contrary to the CMR Convention.
3. Oversize load cabotage transport is governed by the GTC-OLT, unless this is impeded by mandatory law.

Article 3

Offers

1. Regardless of the format used, all offers made by the carrier under any name are entirely without obligation and valid only for the period specified in the offer. If the carrier's offer does not specify a validity period, it will be valid for a maximum of 2 months.
2. Deviations from offers shall only be binding on the carrier if accepted by the carrier in writing. Subsequent offers issued by the carrier automatically invalidate all previous offers, whereby no rights can be derived from such previous offer(s).
3. Drawings, dimension and weight specifications, and photos used in offers shall be binding only if and to the extent that these have been specified or accepted by the carrier as the basis for the price quoted.
4. If it turns out upon acceptance that the cargo size and/or weight is different or essential information has not been shared prior to transport, the carrier shall have the right to reject the order or issue a new offer. The carrier will then not be held to pay any kind of compensation. This will not release the consignor from the obligation to pay the agreed fee.
5. All offers are based on performance by the carrier under normal circumstances and during regular working hours, unless specifically stated otherwise.
6. If the carrier does not quote an all-in price, the carrier shall specify any additional charges in advance as much as possible (i.e. give an indication of such charges)

Article 4

Joint consultation

1. The consignor and the carrier will agree in joint consultation who is responsible for:
 - a. assembly and disassembly of parts of the goods for carriage;
 - b. drawing up a cargo stowage and lashing plan that includes specification of the attachment points on the cargo and on the vehicle;
 - c. marking the attachment points specified in Paragraph 1b of this article, including the hoist points and the centre of gravity;
 - d. loading and/unloading the goods for carriage;
 - e. securing the cargo as per the stowage and lashing plan;
 - f. covering the cargo;
 - g. the (required) preliminary inspection;

2. If no specific agreements are made as regards the tasks referred to under Paragraph 1 of this article:
 1. the consignor will be responsibility for:
 - a. assembly and disassembly of parts of the goods for carriage;
 - b. specifying and marking possible attachment points on the cargo as well as the hoist points and centre of gravity;
 - c. loading and/unloading the goods for carriage;
 - d. custom making any tools and aids needed for transport or providing such tools and aids;
 - e. taking out goods in transit insurance, if deemed appropriate.
 2. the carrier will be responsibility for:
 - a. drawing up a stowage and lashing plan that includes specification of the attachment points on the vehicle;
 - b. marking the attachment points on the vehicle specified in Paragraph 2.2a of this article;
 - c. securing the cargo as per the stowage and lashing plan;
 - d. covering the cargo, if requested by the consignor.

Article 5

Obligations of the carrier

The carrier is under an obligation to:

1. deliver the goods for carriage to the address specified by the consignor without delay and in the same condition as when the goods were received for carriage.
2. apply for the required exemptions and pilot cars on time, and to notify the consignor immediately of any imminent delay - which the carrier is aware of - in the granting of an exemption or availability of pilot cars;
3. to perform the activities assigned to the carrier in Article 4 of these terms and conditions;
4. to fit signs on the vehicle and/or the cargo as required by law or the body granting the exemption;
5. guarantee the soundness of material used;
6. to notify the consignor in the event of irregularities during transport that seriously hinder transport.

Article 6

Liability of the carrier

1. The carrier is liable for any damage to property resulting from failure to comply with its obligations under Article 5 Paragraph 1 of these terms and conditions, unless such non-compliance was due to force majeure. In the event of losses due to a delay, the carrier will be liable for these losses, unless the delay is not the fault of the carrier.
2. The carrier's liability for losses resulting from delay is limited to an amount agreed between the parties. If no such maximum amount has been agreed on, the carrier's liability will be capped at 10% of the price agreed for carriage.
3. The carrier's liability for damage to property as specified in Paragraph 1 of this article is capped at € 3.40 per kilogram up to the absolute maximum of the amount specifically agreed on by the parties upon entry into the agreement. If such a maximum amount has not been agreed on, the maximum amount will be € 453,780 for each event or series of related events.

4. If the carrier does not fulfil its obligations as referred to in Paragraphs 2 to 6 of Article 5 or fails to fulfil its obligations on time, the consignor will be entitled to terminate the agreement, albeit not before the consignor has set the carrier a deadline for fulfilment in writing or verbally, and the carrier has, upon expiry of the deadline, still not fulfilled its obligations.
5. After termination, the carrier is required to compensate the consignor for losses it has verifiably incurred as a result of the termination. Such compensation, however, cannot amount to more than the agreed freight price.
6. If the relevant authorities have not granted the carrier an exemption due to reasons of force majeure, the carrier will be released from its obligation to carry towards the consignor, without being held to pay compensation.
7. If carriage includes [specific or tacit] custody and it is established during this period that the carrier is liable for damage to goods in custody, the carrier's liability will be limited to 2 SDR per kilogram of gross weight of the damaged or lost goods up to a maximum of € 100,000 per event or series of related events.

Notes

Under certain circumstances, Article 6 of these terms and conditions reduces the carrier's liability compared to its liability as specified in Section 8:1095 of the Netherlands Civil Code. Under Section 8:1102 of the Netherlands Civil Code, this reduction of liability is null and void, unless the non-standard provisions are included in, preferably, a [framework] agreement or the waybill, but not in the general terms and conditions. The following wording can serve as a basis:

"The carrier's liability for damage to property is capped at € 3.40 per kilogram up to an absolute maximum amount of €<insert amount> per event or series of related events." or, for example, use the standard provision: "The carrier's liability for damage to property is capped at € 3.40 per kilogram up to an absolute maximum amount of € 453.780 per event or series of related events."

Article 7

Obligations of the consignor (client)

1. The consignor is under an obligation to, in a timely manner, provide the carrier with:
 - a. the exact dimensions, weight and centre of gravity of the load for carriage to enable the carrier to select and/or organise appropriate lashing and stowage materials, exemptions, and pilot cars;
 - b. information on any obstacles and difficulties at the loading and unloading address.
2. The consignor is under an obligation to:
 - a. put the agreed goods at the carrier's disposal at the agreed address and time, and in the agreed manner, in such a way that the load can be transported safely, which means, among other things, that hinged or loose parts must have been secured adequately;
 - b. guarantee the soundness of material made available;
 - c. be available for consultation with the carrier in case of problems during transport;
 - d. perform the activities assigned to the consignor in Article 4 of these terms and conditions.
3. The consignor is under an obligation to pay:
 - a. the freight price and additional charges for exemptions, pilot cars, and rental or use of required auxiliary equipment, etc.;
 - b. any costs resulting from further work not agreed on in advance, unless such work ensues from circumstances that can be attributed to the carrier;
 - c. any costs incurred due to waiting time caused by the consignor and/or consignee;
 - d. any reasonable costs incurred due to work performed on the load at the loading and/or unloading address (by a third party).

Article 8

Liability of the consignor

1. If the consignor fails to fulfil its obligations as referred to in Article 7 of these terms and conditions or fails to fulfil these obligations on time, and the carrier has set the consignor a deadline for fulfilment in writing, which the consignor has failed to meet, the carrier will be entitled to terminate the agreement. If setting a deadline would unreasonably affect the carrier's business operations, the carrier may also proceed to terminate the agreement without setting such a deadline for fulfilment. Upon termination of the agreement, the carrier will be released from its obligations to carry under this agreement, without prejudice to its entitlement to compensation of any losses incurred.
2. The consignor is liable for losses incurred by the carrier due to the consignor's failure to fulfil the obligations referred to in Article 7 in full.
3. If the carriage order does not include the carrier taking care of loading or unloading the goods for carriage, loading and unloading will be the consignor's responsibility, while the consignor will also cover the costs and risks involved, even if the carrier and/or the carrier's employees provide assistance during loading and/or unloading. If the carriage order does include the carrier taking care of loading or unloading the goods for carriage and the carrier causes loss or damage during loading or unloading, the carrier will have the right to limit its liability to the applicable limit for the transport modality in question. If no such limit applies or one cannot be established unequivocally, the limit will be 2 SDR per kilogram.
4. The consignor will be liable for additional costs and/or loss/damage incurred due to the consignor's request to change or cancel the carriage order, especially the costs of any required pilot car capacity and new exemptions that will need to be requested when previously requested exemptions cease to be valid due to the changes.

Article 9

Payment terms

1. All amounts payable by the carrier and the consignor for whatever reason shall be paid within the agreed term, whereby if no term is agreed, a term of 14 days after the invoice date will apply.
2. The carrier or the consignor is entitled to charge the other party for any inevitable costs incurred in court or out of court to collect payables specified in Paragraph 1. Out-of-court collection costs are due as from the time that the consignor or the carrier is in default and the claim has been passed on to a third party for collection.
3. The freight price and other carriage-related charges, plus the costs specified in Article 7 Paragraph 3, as well as other charges relating to the goods, will also be payable if the goods are not delivered at the destination, not all delivered at the destination, delivered damaged, or delivered with a delay.
4. Claims as specified in Paragraph 3 cannot be offset against claims on any other grounds.

5. All amounts specified in Paragraph 1 of this article are in any event payable immediately and, in derogation of Paragraph 4 of this article, eligible for offsetting if:
 - a. the consignor or the carrier is in liquidation or the consignor or the carrier has been granted a debt moratorium;
 - b. the consignor or the carrier:
 1. offers a composition to its creditors;
 2. remains materially in default of compliance with its obligations;
 3. terminates the agreement pursuant to Article 6 Paragraph 4 or Article 8 Paragraph 1;
 4. ceases to operate a business or – in case of a legal entity or company – is dissolved.

Article 10

Security

1. The carrier has a right of retention on goods and documents in its possession in connection with the contract of carriage towards any person who demands delivery of same. This right does not accrue to the carrier if, at the time of receipt of the goods for carriage, it had reason to doubt the consignor's right to submit the goods for carriage.
2. The right of retention also applies to charges attached to the goods by way of COD as well as to the COD fee to which the carrier is entitled, for which the carrier is not obliged to accept security.
3. The carrier may also exercise the right of retention against the consignor for any amounts still due to the carrier under previous contracts (of carriage).
4. The carrier may exercise the right of retention against the consignee, who in this capacity was a party to previous contracts of carriage, for any amounts still due to the carrier under these contracts.
5. In the event of a dispute over the amount due on an invoice or if calculation of the amount due requires a calculation that cannot be made quickly, the party demanding delivery will be required to immediately pay the part that the parties do agree is due and to furnish security for the disputed part or for the part for which the amount has not yet been calculated.
6. All goods, documents and monies in possession of the carrier in connection with the contract of carriage serve as pledge for all of the carrier's receivables from the consignor.
7. Notwithstanding cases where the consignor is in liquidation, has been granted a debt moratorium, or has entered a debt restructuring programme for natural persons, the carrier shall never be entitled to sell the pledged goods without permission from the relevant courts as per Section 3:248, subsection 2, of the Netherlands Civil Code.

Article 11

Dispute resolution

Any disputes ensuing from or relating to the agreement(s) entered into by the parties shall be settled by the competent court in Rotterdam, except when mandatory rules of jurisdiction specify otherwise. Dutch law applies.

Any disputes ensuing from or relating to the agreement(s) entered into by the parties can also be submitted to arbitration in Rotterdam as per the Arbitration Regulations of the UNUM alternative dispute resolution institution.

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.



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