

BELGIAN FREIGHT FORWARDERS **STANDARD TRADING CONDITIONS**

(Free translation)

Definition and Scope of the Contract

Article 1

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

Article 6

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.

A.B.A.S.

Professional Association of Antwerp Master
Stevedores and Port Operators
Incorporated Professional Association

K.V.B.G.

Royal
Association of Trafficflow controllers
c.v.b.a.

GENERAL CONDITIONS FOR THE HANDLING OF GOODS AND RELATED ACTIVITIES IN THE PORT OF ANTWERP

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

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

Article 2 : The task consists of all activities of a manual or non-manual nature relating to loading, unloading, handling, receiving, controlling, tallying, delivery of goods, warehousing, transportation within the port area (K.B. 12.8.1974 art. 2 § 4), including all related and subordinate activities.

- This enumeration is not limitative.
- The assignor is the one who gives the order to the assignee.
- The assignee is the one who accepts this order and executes it or has it executed.

Article 3 : The assignee is only liable for the damage and/or loss that is the direct consequence of his proven fault. The liability of the assignee is limited to EUR 875,- per package and EUR 125,- per ton for bulk cargo. The maximum liability regardless of the number of packages for each claim of damage, shall in no case exceed EUR 2.500,-.

For damage caused to the ship or means of transport, the maximum liability shall not exceed EUR 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 assignor or by third parties, the total liability shall not exceed EUR 37.500,- irrespective of the number of prejudiced parties.

Article 4 : All costs arising from government decisions shall be borne by the assignor.

Article 5 : The assignor who can invoke discharge clauses and/or limitations shall stipulate these in favour of the assignee.

Article 6:

- a) Money advanced shall be repaid in cash on presentation of the supporting documents.
- b) All invoices shall be paid in cash.
- c) 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 %.
- d) Formal notice of payment shall give rise to the payment of contractual damages equal to 10 % of the amount invoiced, with a minimum of EUR 125,- for administrative charges.

Article 7 : The assignee is exempt from all liability in the following cases :

- all indirect damage such as 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 the assignee;
- force majeure;
- shortage of personnel;
- theft;
- defect in the goods and/or the packing;
- flooding, natural disaster, explosion and fire, whoever or whatever may be the cause thereof;
- error of third parties and/or of the assignor;
- failure to communicate or incorrect communication of data or instructions by the assignor and/or by third parties;
- any claim resulting from an unforeseeable defect of the equipment of the assignee.

Article 8 :

- a) The assignor is required to communicate in writing to the assignee 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.
- b) The goods shall carry all necessary markings indicating their characteristics. The assignor shall pack the goods required for the execution of the assignment, unless it is customary not to pack the goods.
- c) The means of transport to be made available shall be supplied so that the assignment to be executed can be started immediately according to the usual method of working.
- d) The installations, warehouses and equipment shall be checked by the assignor before being put to use, as to their suitability.

In the absence of such a check or any motivated reserve, they shall be deemed to have been found suitable.

The assignor shall safeguard the assignee against all claims that could arise from a breach of the above obligations, even if the breach is attributable to a third party.

Article 9 : Subject to written obligation to insure, the assignor undertakes in respect of the assignee to bear all risks himself, and waives recourse against himself and/or his insurers. The assignee waives all recourse against the assignor in the case of fire damage to the installations.

Article 10 : The assignee 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 assignor to the assignee for the handling and storage of these and previous goods, he is granted a possessory 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 assignor remain in default, the assignee 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 the assignee lapses if any claim by the assignor is not lodged in writing at the conclusion of the task.

Article 13 : Without prejudice to the preceding stipulations, any claim against the assignee 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 law.

Article 14 : 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 15 : All legal disputes between assignor and assignee shall be settled according to these general conditions and Belgian law. The tribunal of Antwerp is the sole legal venue.
The authentic text is deemed to be the Dutch text.

Article 16 : These conditions were lodged on the 31st December 1991 with the Clerk of the Antwerp Chamber of Commerce and Industry.

Article 17 : On 31 December 1999 these General Conditions have been adapted to the introduction of the euro. They are effective as such from the 1st of January 2000 onwards.