

# General trading conditions

governing the operations carried out by multimodal transport operators

## **Article 1 - PURPOSE AND DEFINITIONS**

The present text has the purpose of defining the terms and conditions under which the services of the Multimodal Transport Operator (hereinafter designated as the MTO) will be provided, in whatever capacity he may be working in (authorized agent, international freight forwarder, carrier, warehousing agent, ect), for all types of goods, all countries of origin and all destinations.

In the meanings used in the present General Terms of Sale, the following terms are defined as "CONSIGNMENT:" all goods, whether packed (pallets, containers, ect) or unpacked, actually made available to the MTO and reclaimed under one shipping document for the same shipment.

"PARCEL:" means one object or several objects making up one material item, whatever the weight, size and volume may be, constituting a unit load handed over to the MTO (carton, crate, container bundle, roll, pallet strapped or stretch-wrapped by the orderer, etc), and packaged by the consignor before handling over the MTO, even if the contents are itemized in the consignment document.

## **Article 2 - PRICES FOR SERVICES**

Prices are calculated on the basis of information supplied by the customer/orderer, particularly taking into account the services to be performed, the nature, the weight and volume of the goods to be transported.

Prices are quoted according to exchange rates in effect at the moment that they are given.

They are also determined on the basis of sub-contractors' terms and rates, as well as the international laws, regulations and conventions in effect.

If one or several of these basic elements are modified after prices have been quoted- including quotations by representatives of the MTO- in a way which would be binding to the latter and for which proof can be provided by him, the quoted prices will be modified under the same conditions. This is also true in the event of any unforeseen circumstance that results, in particular, in a modification of the planned route of transport.

Prices do not include charges, duties, fees and taxes due in accordance with any legislation, particularly fiscal or customs-related (such as inward charges, stamps, ect.).

## **Article 3 - INSURANCE**

No insurance is taken out by the MTO without prior written and repeated order from the orderer for each consignment indicating the risks (ordinary and special) and the values to be covered. If no specific instructions are given, only ordinary risks will be insured.

If such an order is given, the MTO, acting on behalf of the customer, takes out a policy with an insurance company known to be solvent during the period of insurance coverage. The MTO, acting as the authorized representative, can in no case be considered as the insurer.

The terms and conditions outlined in the policy will be considered as acknowledged and approved by the consignors and the consignees who will bear the costs thereof. A certificate of insurance will be issued.

Any customers who decided to cover transport risks himself must specify to his insurance company that there will only have legal recourse against the MTO within the limits detailed in Article 7 below.

## **Article 4 - PERFORMANCE OF SERVICES**

The intermediaries and sub-contractors selected by the MTO are considered to have been approved by the customer.

The departure and arrival dates which may be communicated by the MTO are given for information only as approximation.

The customer is required to communicate the necessary and specific instructions to the MTO in due time so that the latter may perform transport and related services. The MTO is not required to verify the documents (sales invoices, packing lists, etc) supplied by the customer.

Any special instructions imposing limitations on (COD, ect) must be provided in written and repeated form to each consignment and subject to the specific approval of the MTO. In all cases, this type of order is only incidental to the main transport service being provided.

### **Article 5 - CUSTOMER/ORDERER OBLIGATIONS**

Goods must be handled over already packaged, packed, marked, and labeled in such a manner as to be able to withstand the operations to be carried out and be delivered to the consignee in accordance with the instructions given to the MTO and in normal conditions.

The MTO is not liable for any consequences resulting from any lack, insufficiency or defect in packaging, packing, marking and/or labeling, or from any insufficient information regarding the nature and particularities of the goods.

In the event of any losses, spoilage or any other damage of the goods or in the case of a delay, it is the consignee's or the recipient's responsibility to draw up a regular, sufficient factual report, make the necessary legal against the freight carrier, and overall, carry out all required procedures in due form and within the prescribed deadlines to preserve the right of legal recourse. Failing that, no legal recours against the MTO will be possible.

The customer/orderer alone will bear the consequences, whatever they may be, resulting from erroneous, incomplete, inapplicable or late reports and documents.

In the event that customs formalities are handled by the MTO on behalf of the customer, the latter guarantees the customs agent any financial consequences resulting from erroneous instructions, inapplicable documents, etc which may, in a general manner, entail payment of additional duties and/or taxes, fines, etc, to the Administration concerned.

In the event that goods are refused by the consignee or in the event of any failure whatsoever on his part, any initial and supplementary expenses incurred by and owed to the MTO will remain the responsibility of the orderer.

### **Article 6 - SHIPPING DEADLINE**

No indemnity for late delivery is to be paid if no mandatory delivery date was specifically requested by the orderer and accepted by the MTO. In this case, an indemnity will be paid only if a formal notice to deliver has been sent by the customer to the MTO by registered mail with acknowledgement of receipt.

### **Article 7 - LIABILITY**

The MTO's liability is limited strictly to that of his sub contractors (freight carriers, authorized agents, contractors, and their representatives) for the operation that has been assigned to him.

In the event that the MTO's own liability is involved, on any grounds or in any capacity whatsoever, it is strictly limited:

For the damage of goods resulting from losses or spoilage, and any consequences resulting thereof, to FF 150 per kilo, with a maximum of FF 4,500 per parcel, whatever the weight, nature and volume may be, and FF50,000 per consignment. For bulk consignments, the indemnity cannot exceed FF 5 per kilo of missing damaged goods, with a maximum of FF 50,000 per consignment.

For any other direct or indirect damage (including that caused by late delivery), the MTO's liability is limited to the cost of transport of the goods covered by the contract. the indemnity in all cases cannot exceed a maximum of FF 50,000 per consignment.

Any one-time offered or quoted prices and general rates are determined and/or published by taking the above-mentioned limits into account.

When the value of goods covered by the contacts exceeds the above-mentioned limits of liability, the orderer may :

either bear the cost, in the event of losses or damage, of the difference between the ceiling of the MTO's liability and the value of the goods;  
or subscribe to a declaration of value, determined by him and approved by the MTO, which will raise the limits of liability for losses and damage to the declared value amount and will require a supplementary fee to be paid.  
or in accordance with Article 3, give instructions to the MTO to take out an insurance policy on his behalf and specify to him the risks and values to be insured; these instructions must be repeated for each separate consignment.

### **Article 8 - SPECIAL TRANSPORT**

For special transport (temperature-controlled, hazardous goods, ect) the MTO will provide the consignor with the appropriately adapted material under conditions which have been previously defined by the orderer who has the responsibility for selecting this material.

### **Article 9 - PAYMENT TERMS**

Services are payable CASH UPON RECEIPT OF INVOICE AND WITHOUT DISCOUNT at the location where the invoice is issued.

In exceptional cases, when a payment time has been granted, any partial payment will be credited in the first place to the non-secured part of the debt.

Non-payment of even one installment will lead to event of default without formality and the remaining balance will be due immediately, even in the case of payment by acceptance bills.

Penalties will be charged in the event that the amount payable is paid after the payment date indicated on the invoice. These penalties will be equal to 1.5 times the legal interest rate (law no. 92-1442 of December 31,1992).

### **Article 10 - CONTRACTUAL POSSESSARY LIEN**

Whatever the capacity the MTO may be acting in, the orderer expressly acknowledges a contractual possessary lien providing a general and permanent right of retention and preferential right on all goods, values and titles held by the MTO, as a guarantee for the total amount of debt (invoices, interest, incurred expenses, etc) owed to the MTO, even that prior to or outside of the operations being carried out with regard to the said goods, values and documents.

### **Article 11 - JURISDICTIONAL CLAUSE**

In case of litigation or dispute, only the Commercial Court of Le Havre (Tribunal de Commerce du Havre) has competence, even in the event of several defendants or several actions against debt guarantors.

The present General Terms if Sales take effect on July 1, 1994.  
They may supplemented or modified by special terms or conditions.