



## GENERAL LOGISTICS CONDITIONS

*(a free translation of the official Dutch wording)*

### 1 DEFINITIONS

Hereinafter the following conditions shall mean:

- 1.1 G.L. Conditions: General Logistics Conditions.
- 1.2 CC: Civil Code.
- 1.3 KVBG: ABAS-KVBG-conditions for the handling of goods and related activities in the Port of Antwerp.
- 1.4 CEB: General Conditions of the Belgian forwarding agents.
- 1.5 Logistics Service Agreement: the agreement whereby the logistics service provider binds himself towards the Principal to perform the logistics services.
- 1.6 Logistics Service: all agreed services of any nature whatsoever related to the handling and distribution of goods, including but not restricted to collection, purchase, storage, stock management, order handling, preparing for shipment, invoicing, regarding the goods as well as the related data exchange and its management, customs' orders, fiscal representation.
- 1.7 Additional activities: activities ordered after the original agreement for logistics services had been entered into.
- 1.8 Consignee: the party to whom the provider of logistics services must deliver goods under the conditions of this agreement.
- 1.9 Principal: the party that has entered into an agreement with the logistics provider.
- 1.10 Reception: the time at which the logistics provider has accepted the goods.
- 1.11 Delivery: the time at which the consignee has accepted the goods.

- 1.12. Force majeure: All circumstances beyond the control of the logistics provider or that he does not have to have under control and which humanly-speaking make it practically impossible to meet his obligations.

- 1.13. Working days: all calendar days, excluding Saturdays, Sundays, as well as all recognised legal holidays in Belgium.

### 2 SCOPE

- 2.1. The L.S. Conditions are applicable unless explicitly agreed otherwise in writing, to the logistics service conditions and the additional activities; in so far they are not in conflict with imperative law and public order.
- 2.2. All transports carried out within the framework of this Logistics Service Agreement are subject to the provisions of the international treaties and imperative legislation applicable to the related transport (CMR, added with the General Conditions for Carriage by Road as these are mentioned on the reverse side of the CMR-Way Bill forms and in so far they are Belgian Way Bill forms and in so far they are not in conflict with the strictly binding statutory provisions, CIM, ...).
- 2.3. All forwarding, customs, VAT assignments carried out within the framework of this Logistics Service Agreement are governed by the provisions of the CEB-Conditions and each assignment for fiscal representation is subject to the standard CEB-contract.
- 2.4. The provisions of the KVBG-conditions govern all stevedoring activities carried out within the framework of a maritime transport carried out within the framework of these Logistics Service Conditions.

### 3 OBLIGATIONS OF THE LOGISTICS PROVIDER

The logistics provider must:

- 3.1. Perform logistics services and if required additional activities agreed with the Principal.
- 3.2. Take reception of the agreed goods at the agreed place, time and in the agreed way, accompanied by a transport document and accept the other documents that may have been given by the Principal and to deliver them in the same condition as the one in which they have accepted them, or in the agreed condition.
 

If there is no agreed time of accepting delivery or delivery these agreed activities must take place within the time which a logistics provider reasonably needs, counting from the time the accepting of delivery or the delivery is requested. This time is then deemed to be the agreed time.

On reception of the goods, note any necessary reservations on the transport document and inform the Principal about this so that he can take the necessary measures.
- 3.3. Designate one or more contacts and report this to the Principal.
- 3.4. If the logistics provider fails to designate one or more contacts as referred to under Article 3 paragraph 3, the person who has signed the agreement for logistics services on behalf of the logistics provider shall be deemed to be the contact.
- 3.5. See to it that the storage and handling of the goods is done in an appropriate environment, including the necessary licences, as the case may be. Any change in agreed location shall have to be approved by the Principal.
- 3.6. Behave like a diligent administrator regarding the goods and should this be necessary for the preservation of the goods to take all measures at the expense of the Principal, including those that do not result directly from the provision of logistics services.
- 3.7. Insure its liability as it results from the L.S. Conditions with an approved insurance

company, according to the Supervisory Act of Insurances of 9 July 1975.

- 3.8. Insure the goods with waiver of recourse against the logistics provider for the benefit and at the expense of the Principal, at the explicit written request of the Principal stating the requested cover, with an approved insurance company and to deliver an insurance certificate to the Principal signed by the underwriter or his agent
- 3.9. Allow only the presence of the Principal or of the persons designated by him to the areas and premises where the goods are located but exclusively at their own risk and exclusively during normal working hours, however, provided that this:
  - Takes place in the presence of the logistics provider;
  - Was communicated and approved in advance;
  - Takes place in accordance with the logistics provider's internal rules and regulations
- 3.10. See to the proper functioning of the equipment he uses to perform the contract for the provision of logistics services.
- 3.11. Maintain confidentiality towards third parties regarding facts and data it became informed of on the basis of the logistics service agreement.

### 4 LIABILITY AND INDEMNIFICATION OF THE LOGISTICS PROVIDER

- 4.1. If goods accepted by the logistics provider are delivered in their packaging, if any, in the same condition or in the agreed condition to the Principal and/or consignee, the logistics provider, except in case of *force majeure* and the further provisions in the present conditions, shall be liable for the related damage and/or loss. The Principal has the burden of proof that the damage and/or the loss occurred between the time of reception and the time of delivery as stipulated in these Conditions.
- 4.2. The logistics provider is not liable for damage to / loss of the goods, in so far that damage/loss is the result of the special risks related to storage in the open air, as per the instructions of the Principal.
- 4.3. The liability of the logistics provider for the property damage/loss referred to under paragraph 1 is limited to 8.33 special

- drawing rights (S.D.R.) per kilogram of lost or damaged goods with the absolute maximum of an amount to be further agreed between the parties at the time of entering into the logistics service agreement. If such an amount has not been agreed, a maximum amount of 25,000 € will apply per occurrence or series of occurrences having one and the same cause of damage.
- 4.4. If the logistics provider does not perform the provision of logistics services and/or additional activities at or within the agreed time, in the agreed way and at the agreed place, he shall be held, without prejudice to the provisions of paragraph 1 of the present article, to perform these activities as soon as possible without additional costs for the Principal, in the agreed way. If the Principal has furthermore incurred expenses in relation with the fact that the logistics services provider did not perform the logistics services and/or the additional activities in the agreed manner, time and place the logistics service provider liable is to pay these costs up to an amount to be agreed at the time of the entering into the logistics service agreement. If such an amount was not agreed, the liability of the logistics provider for these costs shall be 750 EUR maximum per occurrence.
- 4.5. The logistics provider is not liable for damages as a result of information and instructions provided by or to other persons than those referred to under Article 3.3.
- 4.6. If the logistics provider repeatedly fails to comply with the substantial obligations, the Principal can, without prejudice to the right to compensation for damages as described in paragraphs 1.2.3. and 4 of this article, terminate the logistics service agreement after having given formal notice to the logistics provider in writing for a period of 30 days and that the logistics provider still has not met his obligations upon expiry of this period.  
Towards the compensation of the damage resulting from this termination the logistics provider shall at the most owe a sum to be fixed at the beginning of the logistics service agreement.
- 4.7. Besides the liability laid down in this article the logistics provider is not liable for any damage except to the goods themselves, unless the damage was caused intentionally.
- 4.8. Any damage/loss and/or difference in stock shall be evaluated once per year. If there is a positive difference no compensation for damages will be claimed.  
In case of a negative difference no compensation for damages will be paid if the difference is less than 0.05% of the total annual volume that was handled.  
If there is a rate based on the number of pieces, the 0,05% shall also be applied to the number of pieces. If a rate was agreed based on weight the 0,05% shall be applied to the weight handled.  
If 0,05% is nevertheless exceeded the logistics provider shall pay a compensation for damages to the Principal equal to the actual value of the lost/damaged product beyond 0,05%.
- 4.9. The logistics provider may proceed to sell the goods without awaiting the instructions of the cargo interest if the perishable nature or condition of the goods justifies this or if the costs of preservation are out of proportion compared to the value of the goods. The value of the goods is the cost of production or failing this, the current market price or failing that, the usual value of goods of the same nature and quality.  
He can also proceed to sell if the Principal surrenders the goods.  
In the other cases he can also order to sell if he has received no other instructions from the cargo interest within a reasonable period, of which the service can reasonably be demanded.  
If the goods are sold in compliance with the present article, the proceeds of the sale shall be made available to the cargo interest deducting the costs burdening the goods. If these costs are higher than the proceeds of the sale the provider of logistics services will be entitled to the difference.  
The law and the current practice of the place where the goods are located shall fix the procedure in case of sale.  
In any case, in the event of perishable goods or goods of which the cost of preservation are out of proportion with the value of the goods a simple communication will be addressed to the cargo interests.  
If the latter fail to respond to this immediately the sale may proceed. In case of non-perishable goods, a simple communication of sale will be addressed to the cargo interests. If the latter fail to respond to this within a period of 15 days the sale may take place.

## 5 OBLIGATIONS OF THE PRINCIPAL

The Principal must:

- 5.1. Designate one or more contacts and communicate these to the logistics provider.
- 5.2. If the Principal fails to designate one or more contacts as referred to in this article of the present conditions, the party that has signed the logistics service agreement on behalf of the Principal shall be deemed to be the contact.
- 5.3. Provide in due time all information to the logistics provider concerning the goods and their handling.  
For the dangerous goods the Principal is held to provide or communicate all documents and instructions as indicated in the conventions and prescriptions in this respect such as ADR, ADN, IDMG,... to the logistics provider.  
  
The Principal is liable for all the charges and damages the logistics provider would sustain as a result of the inaccuracy or the deficiency of the above-mentioned data or documents.  
  
He is also liable for any damage to the environment, damage or any harm the logistics provider would sustain as a result of insufficient information concerning the nature of the goods.
- 5.4. Inform the logistics provider about the necessary licences to perform his activities.
- 5.5. Place the agreed goods at the agreed place, time, and manner, together with a transport document and the documents required by law, at the disposal of the logistics provider.
- 5.6. Besides the agreed price of the provision of logistics services, to pay the expenses incurred by the logistics provider with respect to the additional activities, including the costs, as referred to under Article 3 par. 6, within the fixed period of payment.
- 5.7. Hold harmless the logistics provider against any claims of third parties regarding damages caused direct or indirect by the goods, by an act or negligence of the Principal, his subordinates, as well as all other persons whose services the Principal uses.

- 5.8. Guarantee for the equipment made available by him to the logistics provider.
- 5.9. At the end of the logistic service agreement receipt the goods that are still at the premises of the logistics provider on the last working day of that agreement after payment of all that was due or will become due. For whatever may be due after the completion of the logistics service agreement it will suffice for the Principal to provide sufficient security.
- 5.10. Maintain confidentiality towards third parties with regard to the facts and data known to him on the basis of the logistics service agreement.
- 5.11. To accept every adjustment of rates regarding the incurrence of expenses and/or the payment of costs (including new taxes) that are unknown at the time this agreement was signed and which the Principal would also have to pay if the Principal were to perform the activities mentioned in this agreement for his own account.
- 5.12. Pay the costs of removal and recycling of packaging and waste that result from the provision of services at cost price.

## 6 LIABILITY OF THE PRINCIPAL

- 6.1. The Principal is liable for any damage and costs caused by persons and/or goods the logistics provider had to allow to his premises and or inside his facilities on behalf of the Principal in accordance with Article 3 par. 9 of these conditions.
- 6.2. The Principal is not liable for the damage resulting from information and instructions supplied by or to other persons than those referred to under Article 5.1.
- 6.3. If the Principal fails to communicate the information and documents as referred to under Article 5 par. 3 of these conditions in due time, or fails to make available the agreed goods at the agreed time or within the agreed period of time, manner and place, accompanied by the required documents as intended under Article 5 par. 5 of these conditions, he must perform these activities as soon as possible, free of charge and in the agreed manner for the logistics provider. If the logistics provider has in addition incurred costs in relation with the fact that the Principal has failed to meet his

obligations as referred to under Article 5 par. 3 and 5 of these conditions, the Principal is liable for these costs up to a maximum of 30,000 EUR per occurrence.

- 6.4. If the Principal repeatedly fails to meet his obligations the logistics provider can, without prejudice to compensation of damages, terminate the logistics service agreement, after he has allowed the logistics provider in writing a reasonable last deadline and the Principal still has not met his obligations at the expiry of it. Towards the compensation of the damage resulting from this cancellation the Principal shall at the most have to pay a sum to be agreed at the time of entering into the logistics service agreement.
- 6.5. Unless explicitly and in writing agreed to the contrary in compliance with Article 3 par. 7 of the present conditions the Principal shall insure the goods among others against fire, lightning, explosion, crashing of airplanes, storm damage, water damage, floods and burglary including waiver of recourse by the insurers with regard to the logistics provider and all other third parties.

In any case he will also be liable for the collection and handling of the goods damaged by fire and/or floods. The access to the areas is described in Article 3.9. Moreover he will pay all costs caused by the collection and handling of the goods damaged by fire and/or floods as well as all costs whatsoever resulting from this. Such as the costs of cleaning and sanitation of the land and of the facilities and all the above without prejudice to what is mentioned under Article 6 par. 1.

## 7 PRESCRIPTION

- 7.1. All claims to which the service agreement gives rise including those that are the result of a Cash On Delivery-clause, shall expire after a period of one year as of the day following the one on which the Principal is informed of the fact or the occurrence that gives rise to the claim.

## 8 CONDITIONS OF PAYMENT

- 8.1. All amounts due by the logistics provider and the Principal shall be paid taking into account the agreed due date or in absence of this within two weeks after the date of invoice.

- 8.2. If the invoice is not paid on the due date the outstanding amount shall produce an interest by law and without formal notice at a rate fixed by the European Central Bank, fixed by the Act of 2 August 2002 implementing the European Directive 2000/35/CE of 29 June 2000, plus seven percent and rounded upwards to half a percent.

- 8.3. If the debtor fails to comply within a period of fifteen days after having sent a registered letter by mail, the amount outstanding shall moreover be increased with 10% with a minimum of 125 EUR and a maximum of 4,000 EUR as a lump sum compensation for additional administrative costs, supervision of accounts outstanding and disturbance of commercial activities.

- 8.4. Except in the situations prescribed by Article 1289 and following of the Civil Code invoking the right of set off the payment of claims resulting from the logistics service agreement, of the amounts due on other grounds regarding the logistics service agreement or of other charges burdening the goods, with claims due on other grounds is not allowed

- 8.5. In the event of faulty service or in case the Principal or the logistics provider stops his activities, all sums as referred to under Paragraph 1 of this article 'fall immediately due and with the exception of bankruptcy, as the case may be also liable to compensation' if:

- the Principal or the logistics provider are granted suspension of payment;
- the Principal or the logistics provider:
  - submits an agreement to their creditors;
  - fundamentally fails to meet his obligations;
  - terminates the logistics service agreement
  - stops to carry on his business, or – in the event of a legal person or company – if it is wound up.

## 9 GUARANTEES

- 9.1. Against anyone who requests delivery thereof, the logistics provider holds a right of retention in respect of the goods and

- documents he holds in regard with the logistics service.  
However, he is not entitled to this right with respect to a third party if at the time he received the goods to provide the logistic service, he had reasons to doubt the capacity of the Principal with respect to that third party to place the goods at the disposal of the logistics service.
- 9.2. The logistics provider can only exercise the right of retention against the Principal or the consignee for what is or will be due to him for the logistics service. He can also exercise this right on the Cash On Delivery-fee burdening the goods.
- 9.3. The logistics provider can also exercise the right of retention granted under paragraph 2 of this article for what is due to him by the Principal in relation with the above agreements for logistics service.
- 9.4. The logistics provider can also exercise the right of retention for a commission fee he is entitled to in relation with a Cash On Delivery shipment, for which he does not need to accept a guarantee.
- 9.5. If at the time of the settlement there is a dispute about the sum due or that for its determination a calculation is necessary that does not have to be carried out urgently, the Principal who demands delivery is held to immediately pay the part on which the parties agree that they are due and to extend a guarantee for the payment of the part that is disputed by him or the part of which the amount is not yet fixed.
- 9.6. All goods, documents and monies the logistics provider holds for the logistics service agreement, shall constitute a pledge for all claims he has with respect to the Principal.
- 9.7. If the Principal fails to pay the sums he owes to the logistics provider and for which the logistics provider holds a right of retention and/or a right of pledge on the basis of the above paragraphs, the logistics provider shall have the right, after having obtained the approval of the judge, to sell the goods stored at his premises at the expense of the Principal and to pay all the sums due with regard to the goods, all the above in compliance with the Act of 5 May 1872.
- 9.8. When requested the logistics provider can also replace the pledge by an equivalent guarantee to be assessed exclusively by him.
- 10 GOVERNING LAW / JURISDICTION**
- 10.1. Belgian Law shall govern all agreements to which the General Logistics Conditions are applicable.
- 10.2. All disputes related to the validity, interpretation or service of the agreement on which the General Logistics Conditions are applicable, shall fall within the jurisdiction of the Courts that are territorially competent for the Registered Office of the logistics provider except if there is an explicit agreement between the Principal and the logistics provider which stipulates that the disputes will be referred to arbitration.
- 11 MISCELLANEOUS PROVISIONS**
- 11.1. The non-applicability of one or several provisions of these conditions shall not affect the applicability of the other provisions. Both parties will immediately take the action necessary to replace the provision concerned by a valid provision which approximates the original intention of both parties as closely as possible.
- 11.2. The fact that one of the parties would fail to react against the non-compliance of the contractual stipulations by the other party can never be considered by the other party to be a permanent waiver of the stipulation(s) under consideration.
- 12 REGISTRATION**
- 12.1. The present conditions, drawn up by BELOTRA/Logistics Cell of FEBETRA and the Royal Federation of Managers of Flows of Goods have been registered with the Clerk of the Court's Office of the Chamber of Commerce and Industry of the 27<sup>th</sup> of November 2003.
- 13 COMING INTO EFFECT**
- The present General Logistics Conditions shall come into effect as of the 27<sup>th</sup> of November 2003.