

## **GENERAL**

### Article 1

1. Unless expressly agreed otherwise in writing in advance, these general terms and conditions apply to offers and quotations by Amerongen Kamphuis B.V. (referred to below as the '**Contractor**') and/or contracts concluded by the Contractor with Clients under which the Contractor is bound to carry (or cause to be carried), order and/or distribute goods, including loading and unloading such goods, or to act as an intermediary, store goods, deliver or hire out equipment, space and/or personnel or other movable or immovable goods, or to provide any other performance of any kind whatever.
2. In these general terms and conditions the term '**Client**' means every natural or legal person who has concluded or wishes to conclude a contract with the Contractor, as well as the representative(s), agent(s), successor(s) in title and heir(s) of such person.
3. In these general terms and conditions the following definitions apply:

**contract of carriage:** an agreement for the carriage of goods under which the Contractor is bound in relation to the Client to transport goods;

**custody contract:** an agreement under which the Contractor is bound in relation to the Client to take custody of and return goods that have been or will be entrusted to its custody by the Client;

**forwarding contract:** an agreement under which the Contractor is bound in relation to the Client to conclude for the benefit of the Client one or more contracts with a third party for the carriage of goods made available by the Client or to insert a clause in one or more contracts of carriage for the benefit of the Client.

4. Unless expressly provided otherwise in writing by the Contractor, terms and conditions of the Client will not apply to the offers, quotations and contracts referred to in paragraph 1.
5. The Contractor and the Client have agreed that once a contract that is governed by these general terms and conditions has been concluded it will also apply to subsequent offers, quotations and contracts.
6. If the Contractor does not invoke the provisions of these general terms and conditions when the occasion arises, this will not be deemed to mean that the Contractor has thereby waived its right to invoke the following general terms and conditions in other cases.

### Article 2

1. Depending on the nature of the overall assignment, activity or other kind of performance, or the nature of anything which can reasonably be deemed to form an independent part thereof, it will be governed not only by these general terms and conditions but also by, among other things, the following general terms and conditions and schemes, or anything which may take their place, which are regarded as customary in the relevant industry, namely:
  - a) all transport activities within the Netherlands will be governed not only by the provisions of Book 8 of the Dutch Civil Code but also by the most recent version of the 2002 General Conditions of Transport (as deposited by the foundation known as the Stichting Vervoeradres at the registry of the District Courts in Amsterdam and Rotterdam);
  - b) all cross-border road transport activities will be governed by the most recent version of the Convention on the Contract for the International Carriage of Goods by Road (CMR),

- concluded in Geneva on 31 August 1956, as supplemented by the 2002 General Conditions of Transport (AVC), most recent version (see also paragraph (a));
- c) all forwarding activities, including air freight activities and all other activities, will be governed by the most recent version of the Dutch Forwarding Conditions, as deposited at the registry of the District Courts in Amsterdam, Arnhem, Breda and Rotterdam on 1 July 2004;
  - d) all national and international carriage of air freight will be governed by the Montreal Convention, as supplemented by the Warsaw Convention;
  - e) all hiring out and/or transport of containers/swap bodies will be governed by the most recent version of the General Conditions for the Hiring Out and/or Transport of Containers/Swap Bodies, as deposited at the registry of the District Court in The Hague on 30 October 1980;
  - f) the storage of goods in cold storage and deep-freeze units will be governed by the most recent version of the General Conditions of the Association of Dutch Cold Storage and Deep-freeze Warehouses (known as the Nekrobi Conditions), as deposited at the registry of the District Court in Rotterdam on 1 September 1987;
  - g) all activities relating to the warehousing, custody or delivery of general goods will be governed by the most recent version of the General Warehousing Conditions by the foundation known as the Stichting Vervoeradres at the registry of the District Courts in Amsterdam and Rotterdam;

A copy of all the above conditions will be immediately sent to the Client on request.

- 2. If the general terms and conditions referred to in paragraph 1 of this article are revised, the revised text will apply from the date on which these revised general terms and conditions are deposited. If one or more of the general terms and conditions referred to in paragraph 1 of this article are replaced in the manner referred to in article 6:214 of the Dutch Civil Code by any standard scheme or if a standard scheme takes their place, the relevant standard scheme will apply from the date on which the scheme is announced in the Dutch Government Gazette.
- 3. The Contractor is always entitled to declare in advance that general terms and conditions other than those referred to in paragraph 1 of this article apply to a given assignment, activity or other kind of performance.
- 4. In the event of disagreement between the Client and the Contractor and/or if doubt arises about which terms and conditions referred to in this article are or were applicable, the Contractor will be entitled to decide which terms and conditions are or, as the case may be, were applicable.

### Article 3

- 1. Unless expressly agreed otherwise in writing, all assignments will be performed in such order as may be determined by the Contractor; in this connection the capacity of the machinery available to the Contractor and its degree of utilisation will be a factor in determining the time when the assignments are started and completed. The Contractor is free to determine how the assignments will be performed, unless any specific agreements have been made about this.
- 2. When performing activities for the Client, the Contractor is entitled to use third parties (auxiliary staff). The Contractor will still be entitled to invoke the present general terms and conditions even if it uses auxiliary staff.

### Article 4

- 1. The Contractor is obliged to request the Client for instructions if, during the activities, irregularities occur which hinder the performance of such activities or as a result of which

the activities can no longer be performed in accordance with the terms of the relevant assignment.

2. The costs incurred in connection with requesting and carrying out such instructions will be reimbursed by the Client to the Contractor.

#### Article 5

1. The Contractor is not liable for damage and costs, no matter they may be named or have occurred, if a Client or any third party, whether or not in return for payment:
  - a) uses the equipment of the Contractor;
  - b) has requested the Contractor to carry out certain activities which do not form part of any contracts already concluded and the Contractor has acted in accordance with instructions given by or on behalf of the Client and/or that other third party.
2. The Contractor will not be liable for damage and/or costs, no matter how they may be called, if they result from services or activities performed and/or deliveries made free of charge, unless the Client shows that such damage and/or costs are a consequence of intent (or gross errors equivalent to intent) on the part of managerial staff of the Contractor.

#### Article 6

1. In the event of a difference between the deposited text of these general terms and conditions and texts which are otherwise printed, translated and/or distributed, only the deposited text will apply.
2. In so far as not provided otherwise in these general terms and conditions, all disputes that may arise in relation to a performance agreed under these general terms and conditions, including claims in respect of a cash-on-delivery clause, will be referred only to the competent Dutch court in the Court District of Arnhem. Any such dispute will also be governed by Dutch law.

#### Article 7

1. The Contractor is not liable for damage of any kind, no matter it may be named or have occurred, if a Client or any third party temporarily parks a loaded truck or trailer temporarily on one of the Contractor's sites without the Contractor having been instructed to make collection/delivery.
2. The liability of the Contractor will be regulated by the provisions of articles 8:1105 to 8:1109 of the Dutch Civil Code insofar as national transport is concerned (including custody, processing, warehousing, transshipment and/or dumping), and by the provisions of articles 23 to 27 of the Convention on the Contract for the International Carriage of Goods by Road (CMR) insofar as international transport is concerned.
3. The Contractor is not liable for damage, no matter it may be named or have occurred, if a Client or any third party is unable to provide space temporarily for a loaded truck or trailer on its locked or otherwise guarded loading and unloading site and the Contractor's driver is thus obliged to park the vehicle temporarily on the public highway.

## Article 8

1. The Contractor is obliged to observe secrecy with regard to everything which becomes known to it about the Client in the course of performing the contract, unless such secrecy would be contrary to any statutory provision.
2. The Contractor will give the Client the opportunity to monitor the correct performance of the Contract by the Contractor. The Contractor undertakes to keep a record of complaints received in writing, which are classified by the nature and way in which they are processed.

## Article 9

1. Loading and unloading
  - a) Loading and unloading activities are not included under the term carriage in the context of cross-border transport activities.
  - b) If the loading and unloading activities do not come under the term carriage in the context of transport activities in the Netherlands, the Contractor will not be liable for them. The Client will indemnify the Contractor against claims by third parties, no matter how the claims are called or have arisen.
  - c) If the loading and unloading activities do come under the carriage, the liability of the Contractor in respect of such activities will be the same as the liability of the carrier's liability of the Contractor under the 2002 General Conditions of Transport, as referred to in article 2, paragraph 1. A of these conditions.
2. The Contractor will in any event not be liable in the following cases:
  - a) if the Client presents refrigerated containers for transport and these refrigerated containers have not been loaded by the Contractor, the Contractor will not be liable for damage occurring as a consequence of the manner of loading;
  - b) if the Client presents goods for transport which have been palletised and/or packaged in such a way that it is no longer possible to check the number of items and/or the content, the Contractor will not be liable for the number of items and/or the content;
  - c) if no check is possible when the goods are loaded by the Contractor and/or the transport would be greatly delayed by such a check (this being a matter to be decided at the discretion of the Contractor), the Contractor will not be liable for the number of items and/or the condition of the load and/or the content, or for damage occurring as a consequence of the manner of loading.
4. The Client will never load the relevant vehicle (or cause it to be loaded) with more than the maximum statutory laden weight of the relevant vehicle. The Client will indemnify the Contractor against the consequences of and/or damage caused by overloading if this has been caused by or as a result of the actions of the Client.

## Article 10

1. For the purposes of the carriage the Contractor may put transport equipment (other than the actual means of transport) at the disposal of the Client, which is then used by the Client for its own transport operations.

2. The Client will ensure that during the time that the transport equipment is made available to it the equipment contains only the products which are to be transported by the Contractor under the contract.
3. The Client undertakes to make the equipment available to the Contractor for carrying out (or causing to be carried out) necessary repair and/or maintenance work during the period customarily required for such repair and/or maintenance work. The only period in which no fee will be payable is during repair and/or maintenance work which is a consequence of circumstances that are not at the expense and risk of the Client under these general terms and conditions, unless the Contractor arranges for the provision of replacement equipment.
4. The Client will take the requisite measures in the context of traffic safety. These include arranging for any necessary markings on and/or lighting of the equipment.

#### Article 11

1. The Client is obliged to load the equipment in such a way that the Contractor is able to start the transport at the agreed place and time and in the agreed manner and then carry out the transport in accordance with the statutory requirements. If the Client has not complied with this obligation, the Contractor is entitled to refuse the transport and/or to make the laden equipment ready for transport. The costs incurred by the Contractor as a result of the refusal and/or making the equipment ready for transport, including damage suffered as a result of the delay, will be borne by the Client.
2. The Client will inform the carrier in good time of the times when it wishes the transport and/or the moving of the equipment to be carried out.

#### Article 12

1. The Client is liable to the Contractor for all vehicle damage, including fire damage, suffered by the Contractor in respect of the equipment that has been made available, where such damage occurs between the time when the equipment was made available to the Client and the time when the equipment is returned by the Client to the Contractor, unless the Client proves that the damage occurred as a result of the intent of gross negligence on the part of managerial staff of the Contractor.
2. In the event of damage as referred to in paragraph 1 of this provision and in the case of all other damage, the Client will be obliged to give immediate notice of this to the Contractor both orally and in writing. In these cases the Client is obliged to follow the instructions given by the Contractor.

### ***REFRIGERATED TRANSPORT***

#### Article 13

1. The provisions of this article, in addition to the other provisions of these general terms and conditions, are applicable to all goods which are transported in chilled or frozen condition or should otherwise be kept in a virtually constant temperature:
  - a) The temperature at which goods may be transported is:
    - frozen goods at -18 degrees Celsius or colder;
    - chilled goods at between +1 degree Celsius and +7 degrees Celsius;

- conditioned transport at between +10 degrees Celsius and +20 degrees Celsius.

- b) Before the start of the transport the Client, or a driver of the Contractor, should be given the opportunity to inspect the temperature and quality of the consignment at various points, as it sees fit.
- c) If the quality and/or temperature is/are different from the specifications in the consignment note and/or other documents relating to the consignment, this should be noted on the consignment note, together with reasons.
- d) In the cases referred to at (b) of this article and if the Contractor, or one of the drivers of the Contractor, does not have or is not given the opportunity to inspect the consignment and/or check the temperature, the Contractor will not be liable for the loss of quality and/or quantity or for any difference in the temperature between the time of delivery of the consignment and the time of loading.
- e) Unless agreed otherwise, the normal waiting times and loading and/or on unloading times are as follows:

full load (33 euro pallets/26 block pallets)	: maximum of 2 hours
part load (10 euro pallets/8 block pallets or more)	: maximum of 1.5 hours
groupage 2 (6-9 euro pallets / 5-7 block pallets)	: maximum of 1 hour
groupage 1 (1-5 euro pallets / 1-4 block pallets)	: maximum of 0.5 hour.

- f) The stated times are for each loading or unloading address. If a waiting period and/or loading and unloading time is/are exceeded, the Contractor is entitled to charge the resulting costs to the Client in accordance with the applicable rates.
- h) The cargo rates are based on the assumption that there is one loading and one unloading address for each consignment, unless agreed otherwise. The following opening hours are observed in this connection:
- at the loading address: open at least between 08.00 hrs and 17.00 hrs;
  - at the unloading address a time window of at least 4 hours for the groupage and part loads.

If a shorter time window is agreed, different, higher rates apply.

- i) The charge is calculated on the basis of the number of pallets carried, unless agreed otherwise.

A euro pallet (dimensions 80 x 120 cm) may not weigh more than 750 kg.

A 20% surcharge is made for any excess weight, unless agreed otherwise.

A 20% surcharge is also made for overhanging euro pallets.

A block pallet (dimensions 100 x 120 cm) may not weigh more than 1,000 kg.

A 20% surcharge is made for any excess weight, unless agreed otherwise.

A surcharge is also made for overhanging block pallets. The amount of the surcharge is dependent on the ultimate dimensions of the pallet.

The maximum gross weight of a full load is 30 tonnes for inland transport and 22.5 tonnes for transport to other EU countries. The maximum gross weight for Switzerland is 21 tonnes.

The maximum pallet height is in all cases 2.20 metres.

- i)** Consignments that can be carried in combination with each other cannot be assigned special loading and unloading times, unless agreed otherwise with the Client.

- j. Transport assignments should be confirmed in writing or by fax, email or EDI. The notice of confirmation should in any event contain:
- the loading date;
  - the loading address + statement of the opening hours;
  - the unloading date;
  - the unloading address + statement of the opening hours;
  - the number of pallets, specified by format (euro pallet / block pallet / overhanging);
  - the temperature at which the goods should be transported;
  - the type of packaging.
- k. To enable assignments to be delivered in time, orders should be placed early. Please refer to the Groupage Transport Service Schedule for the last notification time.
- l. If the Client cancels the entire assignment on the date of loading or changes it to a different time a penalty charge amounting to 70% of the agreed cargo rate will be charged by the Contractor.
- m. Each consignment should be accompanied by a CMR or AVC form containing at least the following data:
- number and type of the consignment to be loaded;
  - correct loading and unloading addresses;
  - correct number of pallets;
  - correct description of the packaging;
  - other important, agreed information such as the unloading times.
- n. All rates include transshipment costs, unless stated otherwise. If a consignment has to be warehoused for more than 48 hours, warehousing and transshipment costs are charged.

## ***CUSTOMS***

### Article 14

1. The customs formalities will be carried out by the Client, unless agreed otherwise. If these customs formalities are carried out by the Contractor, this will be done at the expense and risk of the Client. If the customs formalities are carried out incorrectly, the Contractor will be liable for the ensuing costs and damage only if the Client shows that there has been gross fault or gross negligence on the part of the Contractor.
2. The Client will indemnify the Contractor at all times against claims by government authorities in respect of customs duties, taxes, excise duties and so forth on goods in respect of which the customs formalities have been carried out by the Contractor on behalf of the Client, unless the Client shows that there has been gross fault or gross negligence on the part of the Contractor.
3. The Dutch Forwarding Conditions as referred to in article 2, paragraph 1 (c), of these general terms and conditions will always be applicable.

## **PRICES, OFFERS/QUOTATIONS AND PAYMENTS**

### Article 15

1. All offers made and quotations supplied by the Contractor are valid for a period of four weeks from the date of the relevant offer and/or quotation.
2. The prices are based on the rates, wages and prices and any costs imposed by government authorities or others such as (but not limited to) diesel fuel surcharges, taxes/levies, changes to collective agreements, currency surcharges, changes to the rates that apply on the date of the offer, the date on which the contract is entered into or the date of the actual performance. If one or more of these factors change, the prices too will change automatically and will also be binding in respect of current contracts, subject to the proviso that if the prices change within three months after the conclusion of the contract the Client will have the right to terminate the contract. The above applies unless expressly agreed otherwise.

### Article 16

1. The prices cover only the costs of transporting the cargo from the loading place(s) to the unloading place(s), unless agreed otherwise.
2. The prices in any event do not include:
  - inward/outward customs clearance;
  - VAT;
  - levies;
  - import duties;
  - arrangement fee;
  - ferry charges;
  - costs incurred in drawing up customs of other documents;
  - diesel fuel surcharges;
  - surcharge for unloading with tailboard;
  - currency surcharges;
  - surcharges for extra kilometres and/or loading/unloading addresses;
  - insurances;
  - return of goods that are not accepted;
  - return of packaging;
  - swapping of pallets.
3. The prices have been calculated on the assumption that the places are easily reachable and the route easily driveable. If it transpires during the performance of the assignment that accessibility is not good, the Contractor has the right to increase the prices to take account of all costs incurred as a result.
4. The amount to be invoiced for each consignment is based either on the quantities the assignment or on the quantities actually transported, whichever is the higher.
5. The invoices are deemed to have been accepted and approved by the Client if no written objection has reached the Contractor within eight days after the invoice date.

## Article 17

1. Subject to the exclusion of the provisions concerning payment as set out in article 2 of these general terms and conditions, the provisions of paragraphs 2-7 of this article apply to the payment for the work which the Contractor is instructed to perform and the goods or services provided by the Contractor.
2. The Client is obliged to pay the amount owed by him within 14 days of the invoice date. If payment is not made within this period, the Client will be deemed to be in default by operation of law and will owe not only the principal but also contractual interest at a rate of 2% a month on the outstanding amount from the date of default.
3. Every payment by the Client will be deemed to have been made first of all to pay the interest owed by the Client as well as the collection costs and/or administration costs incurred by the Contractor and will be deducted from the oldest outstanding claims, even if the Client states that the payment relates to a later invoice. The Client is not entitled to apply set-off in respect of amounts which Contractor can charge to the Client under any contract concluded with him.
4. If the Client fails to make payment in time and the Contractor takes steps to recover the debt by judicial or other means, all costs incurred or yet to be incurred by the Contractor and costs connected with this, including non-liquidated trial costs and extrajudicial collection costs (being at least 15% of the principal and subject to a minimum of € 500, exclusive of VAT), will be borne by the Client, without prejudice to the provisions of paragraph 2 of this article.
5. The Contractor may retain in its possession goods, moneys and documents (the latter being interpreted in the widest sense of the word), as against anyone requiring their handing over, for the account and risk of the Client and/or the owner until all recoverable claims of the Contractor have been paid or, in the event of forwarding of the goods, the amount of cash to be collected on delivery has been received and settled up.
6. Pledge
  - a) All goods, documents and moneys which the Contractor has or will have in its possession on any account and for any purpose whatever will be deemed to have been pledged to the Contractor by way of possessory pledge for all claims which the Contractor has or may obtain against Client or the owner.
  - b) If the claim is not paid, the pledged items in the possession of the Contractor may be sold in the manner provided for by law or, if there is agreement about this, by private treaty.
  - c) The Contractor may, on request, arrange for the pledged item in its possession to be replaced by equivalent security, this being exclusively at the discretion of the Contractor.
  - d) The Client may never invoke against the Contractor the fact that he was previously granted, expressly or otherwise, a deferment of payment in relation to previous assignments.
7. The carrier has a lien on goods and documents which are in his possession in connection with the contract and may exercise this against anyone requesting that they be handed over. He is not entitled to this lien if, at the time he received the goods or documents, he had reason to doubt the capacity of the sender to make them available.
8. The lien relates in part to any amount to be collected on delivery of the goods and to the fee owed to the carrier in connection with the COD delivery, for which he is not obliged to accept security.

9. The carrier may also exercise the lien against the sender in respect of any amount still owed to him in connection with previous contracts.
10. The carrier may also exercise the lien against a consignee who became a party in that capacity to previous contracts for anything which is still owed to him in connection with such contracts.
11. If, at the moment of settlement, a dispute arises about the amount owed or it is necessary to make a calculation of the amount owed but this cannot be carried out quickly, the person claiming delivery will be obliged immediately to pay such part of the amount as the parties acknowledge to be owed, and to provide security for the payment of the part disputed by him or the part about which the amount is still not yet determined.

## ***INSURANCE***

### **Article 18**

1. Insurance of any kind whatever will be arranged only at the expense and risk of the Client and exclusively after written instructions and written acceptance thereof. The insurance instructions should accurately specify the risks to be insured against, since otherwise the assignment cannot be deemed to have been given or, as the case may be, to have been accepted. The Contractor is always entitled to refuse an insurance instruction for good reasons.
2. Acceptance of the presented risk is a matter for the underwriter or insurer. The Contractor has no say in this respect.

These general terms and conditions of the Contractor (Amerongen Kamphuis B.V., which has its registered office in Barneveld, the Netherlands) have been deposited at the registry of the District Court in xxxxx under deposit number: xxxxx