



AERTSSEN TRANSPORT NV: GENERAL TERMS & CONDITIONS (version 01/2018)

Article 1. Applicability of the General Terms and Conditions

Unless otherwise agreed in writing, all the services performed by AERTSSEN TRANSPORT shall be supplied under the following conditions, in their entirety hereinafter referred to as the AERTSSEN TRANSPORT GENERAL TERMS AND CONDITIONS. Employees, subcontractors or agents of AERTSSEN TRANSPORT may also apply the AERTSSEN TRANSPORT TERMS AND CONDITIONS to their benefit against AERTSSEN TRANSPORT's client.

Unless otherwise stipulated hereinafter, the services of AERTSSEN TRANSPORT will be performed on the basis of the [General Logistics Conditions of 9 October 2015](#), hereinafter referred to as GLC.

In accordance with Art. 2.3. of the GLC, AERTSSEN TRANSPORT forwarding operations are carried out on the basis of the [Belgian Freight Forwarders Standard Trading Conditions \(2005\)](#) as published in the Supplements to the Belgian Official Gazette (Belgisch Staatsblad - Moniteur belge) of 24 June 2005 under number 0090237.

Furthermore, all of AERTSSEN TRANSPORT's stevedoring activities are subject to the provisions of the [A.B.A.S.-K.V.B.G. conditions 2009](#), even if they are not related to transport on water.

The AERTSSEN TRANSPORT GENERAL TERMS AND CONDITIONS take precedence over the Client's conditions. Tacit acceptance of contrary terms or unilateral additional provisions by the client can never be invoked against AERTSSEN TRANSPORT.

In the event of any conflict between the general terms and conditions stated in this Article 1 or between the general terms and conditions set out in this Article 1 and the provisions of the Articles 2 and following, the most favourable conditions for AERTSSEN TRANSPORT will always prevail over the less favourable terms.

The AERTSSEN TRANSPORT GENERAL TERMS AND CONDITIONS and the general terms and conditions mentioned in this Article 1 are applicable insofar as they do not conflict with an otherwise mandatory legal rule that applies to the services supplied by AERTSSEN TRANSPORT. These general terms and conditions and the general terms and conditions set out in this Article 1 must give way to this mandatory rule of law only to the extent that they are in conflict with such a legally binding mandatory rule of law.

Should one or more provisions of the applicable conditions be declared illegal, invalid, void or unenforceable, in whole or in part, for whichever reason, this illegality, invalidity, nullity or unenforceability shall not include the other provisions. Where appropriate, the parties shall negotiate to the best of their ability and in good faith so as to replace this provision with a legal, valid, not null and void and enforceable provision with a similar economic effect.

The non-exercise by AERTSSEN TRANSPORT of any right or defence granted to it in the AERTSSEN TRANSPORT GENERAL CONDITIONS will never be interpreted as a waiver of this right or defence.

Article 2. Services concerning the forwarding or transport of goods

When a contract or service comprises a transport of goods and the quotation of AERTSSEN TRANSPORT or the contract it accepted shows that AERTSSEN TRANSPORT has entrusted this transport to a third party, AERTSSEN TRANSPORT acts as a forwarding agent (*commissionair-expediteur*), and not as a principal (*vervoercommissionair*), or as a carrier.



Article 3. Conclusion, cancellation and termination of the Contract

3.1. Offers

The offers made by AERTSSEN TRANSPORT are only binding for AERTSSEN TRANSPORT once they have been fully accepted by the Client. Offers made by AERTSSEN TRANSPORT are only valid subject to the availability of the necessary transport equipment at AERTSSEN TRANSPORT and/or its subcontractors and/or third parties to whom it would normally entrust the transport.

Acceptance of the offer automatically implies the acceptance of the AERTSSEN TRANSPORT GENERAL TERMS AND CONDITIONS.

3.2. Validity

Offers made by AERTSSEN TRANSPORT are valid for one (1) month unless otherwise stated on the offer.

3.3. Notification requirement

The Client shall immediately communicate in writing to AERTSSEN TRANSPORT any fact or circumstance as described below which is likely to entitle AERTSSEN TRANSPORT to terminate the Agreement.

3.3.1. Concurrent rights and insolvency

In the event of death, application or claim for or determination of bankruptcy, appointment of a provisional administrator or legal representative, request for suspension or judicial restructuring, judicial reorganisation, declaration of incompetence, any similar situation or procedure, liquidation, custody or enforcement, or any other form of concurrence of creditors that affects the Client or any other indication of manifest or imminent insolvency of the Client's assets, AERTSSEN TRANSPORT has the right to terminate the agreement.

This option only applies to AERTSSEN TRANSPORT. Such termination shall be notified in writing to the Client or its legal successors and does not give the Client any right to compensation.

AERTSSEN TRANSPORT is entitled to the lump sum compensation set out in Article 3.4 below in the event of such termination.

3.3.2. Precontractual and/or contractual shortcoming

If the Client acts erroneously in the conclusion of the contract or in the execution of the contract, and, inter alia, if the Client does not fulfil all the requirements imposed on it by the contractual documents and/or the commercial practices, whereby the slightest error qualifies, AERTSSEN TRANSPORT has the right to end immediately and without prior notice the contract or any part thereof it (e.g. a specific goods handling, storage and/or transport contract). AERTSSEN TRANSPORT will notify the Client in writing that it has chosen this option. All costs and damages resulting from this termination will be borne by the Client. Such termination does not give the Client any right to compensation.



3.4. Liquidated damages

If the contract is terminated as described above, AERTSSEN TRANSPORT is ipso jure and without notice of default entitled to liquidated damages corresponding to 30% of the price determined in the contract so terminated, subject to the right to higher compensation if AERTSSEN TRANSPORT is able to prove the existence of greater losses.

3.5. Cancellation by the Client

Cancellation of the contract by the Client will always entail full reimbursement by the Client of all costs already incurred by AERTSSEN TRANSPORT.

If the Client cancels a contract on the working day before the day on which the goods were to be loaded, on that day itself, or on any calendar day in-between the two days, AERTSSEN TRANSPORT shall be entitled to an additional fee of 25% of the total price. If the Client cancels the contract when the carrier is already on its way to the loading area, this fee will increase to 70% of the price. If the Client cancels the contract when the goods have already been loaded, the full price will be payable. These fees are due without prejudice to the right of AERTSSEN TRANSPORT to have the entire actual losses compensated by the Client.

3.6. Transfer of the contract

The Client is forbidden to transfer in whole or in part to third parties the rights and obligations which it holds as a result of the contract, without the prior written consent of AERTSSEN TRANSPORT.

Article 4. Client's obligations

4.1. Requirements concerning the loading and unloading area

The Client is responsible for allowing unrestricted access to AERTSSEN TRANSPORT, its employees and subcontractors to the loading and unloading area. The Client guarantees that the loading and unloading area is safe, suitable and always accessible in all respects for all the equipment necessary for handling and transporting the goods even where the ground is subject to high pressure.

This includes, but is not limited to, the following:

- the loading and unloading area must be level, spacious and sufficiently hardened;
- when loading for transport at night time, the driver will be assigned a safe place where he/she can wait until the transport can or may leave;
- if AERTSSEN TRANSPORT provides assistance to load or unload the goods, this assistance will be carried out under the authority and supervision of the consignor or the consignee.

AERTSSEN TRANSPORT is not obliged to carry out a prior inspection of the loading and unloading area and such prior examination, if it does take place, shall not relieve the Client of its liability with respect to the poor state of the loading or unloading area.

4.2. Requirements concerning the goods

The Client must make the goods in all respects suitable to allow AERTSSEN TRANSPORT to properly perform its contract and to avoid causing damage to persons or goods at AERTSSEN TRANSPORT or third parties.

This includes, but is not limited to, the following obligations:



- the Client must provide the goods with sufficient and sound packaging material, hoisting, lifting and lashing points that are sufficiently sturdy, durable and practical for handling, transport and storage;
- the goods must be checked in advance by the Client to ensure that they cannot cause any (environmental) damage during handling, transport or storage. The Client will do everything necessary to ensure that no (environmental) damage can occur due to leaking liquids. If a leak or damage should occur on the way, the Client will have to pay for any cleaning costs and/or fines in full;
- the goods must be clean and there must be no loose parts;
- if the goods consist of self-propelled machines, these goods must be in good condition, be easily started and driven, have a proper brake and handbrake and sufficient fuel to be loaded and unloaded. If the machine does not start or does not have sufficient fuel, this will be provided by AERTSSEN TRANSPORT if possible. The costs thereof, as well as all other thereto associated costs shall be charged to the Client at the daily price;
- static goods, i.e. not rolling stock, will always be loaded or unloaded by the Client, consignor or consignee, without any assistance from AERTSSEN TRANSPORT. During the loading or unloading of static goods, the client, the consignor or the consignee will use equipment (forklift, crane, gantry crane, etc.) that meet all safety requirements. Likewise, this equipment will be operated by people who are adequately trained for this task;

If the goods are on or in a container, AERTSSEN TRANSPORT will only secure the container on the HGV under the authority and supervision of the consignor. AERTSSEN TRANSPORT cannot be asked to perform any other operation, and AERTSSEN TRANSPORT cannot be asked, among other things: to load or unload the container, to secure or loosen the cargo, to fasten or unfasten the tarpaulin of an open top container, or to fold up or down the front and back panels of a flat-rack container.

4.3. Guarantees

If a guarantee has to be issued in favour of AERTSSEN TRANSPORT or any third party in connection with the execution of the contract, this will be done by the Client, at its risk and costs. The execution of the contract may be suspended until the requested guarantees have been received.

Article 5. Prices and payments

5.1. Prices

The prices in the offers and agreements of AERTSSEN TRANSPORT are calculated on the basis of normal implementation options and for the service described in the offer. Additional services or services due to abnormal circumstances or difficulties, whether or not foreseeable, entitle AERTSSEN TRANSPORT to charge an additional fee for this, which AERTSSEN TRANSPORT will freely determine. Unless expressly stated otherwise, the prices exclude all costs, charges, taxes or duties that are claimed by the government or other authorities for the execution of the agreement, regardless of whether they were already known at the time of the conclusion of the agreement.

5.2. Acceptance of the invoice

If the Client has not lodged any comments, complaints or objection within seven (7) calendar days of receiving the invoice from AERTSSEN TRANSPORT, the invoice shall be deemed to be irrevocably and without reservation



accepted by the Client. Complaints voiced seven (7) calendar days or later after receipt of the invoice by the Client are no longer admissible. If a part of the invoice is challenged, the objection must clearly indicate which part of the invoice is challenged and to what amount this query relates. Since the invoice remains fully due and payable, regardless of the objection, the Client undertakes to pay at once, in the case of a partial objection, at least the uncontested amount or the amount corresponding to the uncontested part, in accordance with the AERTSSEN TRANSPORT GENERAL TERMS AND CONDITIONS, without this provision undermining in any way the chargeability and the collectability of the other parts and amounts and the applicability of the General Terms and Conditions in this matter.

5.3. Payment terms and conditions

The invoices of AERTSSEN TRANSPORT are payable in cash within 30 days of the invoice date at the registered office of AERTSSEN TRANSPORT.

Failure to pay on the invoice due date:

- all amounts due to AERTSSEN TRANSPORT, also the amounts that have not yet matured, are automatically due and payable without any notice of default;
- any delay in payment shall automatically and without notice give rise to the application of an interest rate of 1% per month from the due date, to be capitalised automatically and immediately, without notice;
- any delay in payment shall automatically and without notice also incur fixed damages of 10% on the outstanding balance, with a minimum of EUR 125.

The interest and penalty clause in no way shall prejudice or restrict AERTSSEN TRANSPORT's right to full compensation by the Client of the damage that AERTSSEN TRANSPORT has directly or indirectly suffered or may suffer due to the payment delay.

The Client expressly waives its right to claim set-off in respect of the AERTSSEN TRANSPORT, whereby the Parties expressly deviate from Articles 1291 et seq. of the Dutch Civil Code.

The Client is therefore never allowed to set off AERTSSEN TRANSPORT's invoices with claims that it may have on AERTSSEN TRANSPORT, even if they are related to the contract and even if they are certain, fixed and due.

Collection and discounting costs of cheques or bills of exchange shall be borne by the Client.

Acceptance of bills of exchange does not imply novation of the debt; these debts are also payable at the registered office of AERTSSEN TRANSPORT, even if another location is stated on the bills of exchange.

Article 6. Securities

The Client confirms that the goods entrusted to AERTSSEN TRANSPORT are its property, and that it may at least dispose of the goods.

The various claims of AERTSSEN TRANSPORT against the client, even if they relate to different consignments and to goods which are no longer in its possession, constitute a single and indivisible claim of which AERTSSEN TRANSPORT may exercise all its rights and privileges.

The lien provided for in Art. 10 of the GLC, Art. 11 of the A.B.AS.-K.V.B.G. conditions and Art. 33 of the Belgian Freight Forwarders Standard Trading Conditions is valid up to a guarantee of EUR 2,500,000.00 (two million five hundred thousand Euros).



AERTSSEN TRANSPORT is at all times entitled to request payment guarantees or advances and to suspend the execution of the agreement until such guarantees or advances have been received.

Article 7. Client's liability

The Client remains responsible/liable for the proper, timely and complete execution of its obligations under the contract, the contractual documents and the applicable laws and regulations, both with respect to AERTSSEN TRANSPORT and with respect to third parties.

The client shall fully compensate the full damage, loss of profits and any other adverse consequences, foreseeable or unforeseeable, that AERTSSEN TRANSPORT or third parties are experiencing or have experienced and that are directly or indirectly based on errors, delays and other contractual breaches attributable to the Client. The Client must indemnify AERTSSEN TRANSPORT for all direct and indirect consequences if the goods, handling or transport of the goods cause damage to third parties or to AERTSSEN TRANSPORT or its employees.

The Client guarantees the correctness, the accuracy and the completeness of the information that it provides. It will thus have unlimited liability for damages caused to the goods, to AERTSSEN TRANSPORT or to third parties, including possible fines, due to the incorrectness, inaccuracy or incompleteness of the information it provided. The Client shall indemnify AERTSSEN TRANSPORT for all consequential damage caused by the incorrectness, inaccuracy or incompleteness of the information it provided.

The Client shall indemnify AERTSSEN TRANSPORT against all third-party compensation claims for damages caused to third parties by the goods or by the transport of the goods. The Client shall also warrant AERTSSEN TRANSPORT, its affiliated companies as defined in Article 11 of the Belgian Company Code, and their respective directors, representatives, employees, servants or agents, against all third-party claims arising from damage caused by a contractual breach on the Client's part, because of its employees, the goods or the transport of the goods.

If AERTSSEN TRANSPORT is approached by third parties for matters that may relate to the goods, the handling or the transport of the goods, the Client will, at the first request of AERTSSEN TRANSPORT intervene voluntarily as a party, regardless of whether this dispute is pending before a court or (an) arbitrator(s), and this even if there is already a procedure between AERTSSEN TRANSPORT and the Client.

Article 8. Liability of AERTSSEN TRANSPORT

AERTSSEN TRANSPORT is only liable for damage resulting from its proven fault or that of its employees.

AERTSSEN TRANSPORT and its subcontractors are released from any liability in case of force majeure, and in case of hindrance or damage directly or indirectly caused by storm, fog, lightning strike, flood, high or low water, frost, freezing, ice, (danger of) (civil) war, government measures, riots, sabotage, strike, lock-out, traffic disruptions, workforce shortage, quarantine, illness of operating personnel, fire, explosion, subsidence, collapse, flooding, closure of or stop at border posts, delays in stations or toll services, unforeseen defects affecting means of transport, theft, vandalism and acts perpetrated by third parties.

When it has been shown that the damage may have been the result of one or more of the above conditions, it shall be presumed that this is or these are the cause thereof.

The liability of AERTSSEN TRANSPORT, its employees and its subcontractors, in terms of both its nature and scope, is in any case limited at all times to (1) the limits stipulated in Art. 4 of the GLC, (2) the limits of the coverage of the liability insurance of AERTSSEN TRANSPORT and that of its subcontractors, (3) the limits provided for in the applicable legislation, whichever of these limits is the lowest.

Any complaint or claim of any kind must be notified in writing to AERTSSEN TRANSPORT within seven (7) calendar days, and this without prejudice to the more favourable legal and conventional rules for AERTSSEN TRANSPORT regarding limitation and forfeiture of the claim and the deadline for lodging the complaint.



AERTSSEN TRANSPORT and its subcontractors are not liable for any damage other than to the goods themselves. The liability of AERTSSEN TRANSPORT and its subcontractors is thus excluded for all indirect or intangible loss, such as, but not limited to, loss of income, loss of profit and consequential damage.

Article 9. Insurance

The Client will endorse an all-risk goods insurance policy including a clause of waiver of recourse against AERTSSEN TRANSPORT and the companies associated with AERTSSEN TRANSPORT as stipulated in Article 11 of the Belgian Company Code, as well as their respective directors, their representatives, employees, servants or agents, as well as against their subcontractors. The Client will, spontaneously and without having to be requested to do so, submit a certificate of insurance in accordance with this article. AERTSSEN TRANSPORT shall at all times be entitled to require, prior to commencing a contract or in the course of an ongoing contract, that the client should submit a certificate of insurance in accordance with this article. Commencing the contract while the Client has not yet submitted the aforementioned certificate can never be construed as a waiver of that right.

Notwithstanding Art. 35 of the Belgian Freight Forwarders Standard Trading Conditions (2005), AERTSSEN TRANSPORT, should this Art. 35 be applied, reserves the right to make insurance policies other than the AREX 21 available to the Client.

Article 10. Applicable law and competent court

The agreements concluded by AERTSSEN TRANSPORT and all other undertakings by AERTSSEN TRANSPORT are exclusively governed by Belgian law.

The Antwerp courts and tribunals, where appropriate the Antwerp section, will be authorised to take cognizance of any claim arising from the agreements and undertakings entered into by AERTSSEN TRANSPORT, without prejudice to the right of AERTSSEN TRANSPORT to turn to another competent court. This jurisdiction is exclusive, except for claims that would fall under the CMR Convention.

Article 11.

In case there is any divergence of interpretation with a translated version, it is the Dutch version which will prevail.

Nederlandse versie op aanvraag – Version française sur demande – Deutsche Version auf Anfrage