

## TERMS AND CONDITIONS OF SALE

### **Article 1 - AIM AND SCOPE OF APPLICATION**

The aim of these terms and conditions is to define the methods by which the company PRIMEVER INTERNATIONAL shall perform its services, in its capacity as "Logistics and/or transport operator", hereinafter referred to as the LTO. They are applicable to any commitment or operation whatsoever related to physical movement, by any mode of transport and/or the physical or legal management of stocks and flows of all goods, packaged or otherwise, of all kinds, from all sources and for all destinations and/or in connection with the management of any materialised or dematerialised information flow, for a freely agreed price ensuring fair remuneration for services rendered, both in domestic and international regimes. Any commitment or operation of any kind with "the Transport and/or Logistics Operator" constitutes acceptance, without any reservation, by the principal of these terms and conditions of sale. These terms and conditions represent the only commitment of the parties in relation to its aim. Regardless of the transport technique used, these terms and conditions govern the relationship between the principal and the "Transport and/or Logistics Operator". They nullify and replace all previous documents with the same aim exchanged between the Parties. "The transport and/or logistics operator" shall perform the services requested under the conditions provided in particular in Article 7 below. These terms and conditions prevail over any other terms and conditions issued by the principal, unless expressly accepted by the "Transport and/or Logistics Operator". In the event of any discrepancy between these T&Cs and other documents, it is expressly agreed between the Parties that these T&Cs prevail.

If the LTO does not take action at a given time on any one of these terms and conditions and/or of a breach by the other party of any of

the obligations referred to in these terms and conditions may not be interpreted as the LTO waiving its right to take action on any of the aforementioned terms and conditions at a later date.

### **Article 2 - DEFINITIONS**

Within the meaning of these Terms and Conditions, the definitions of terms and concepts used therein, namely principal, package, shipment etc. are as defined in the various standard contracts in force.

### **Article 3 - PRICE OF SERVICES**

3.1 - Prices are calculated by the LTO based on the information provided by the customer, taking into account in particular the services to be performed, the nature, weight and volume of the goods to be transported and the routes to be taken. Quotations are drawn up based on the currency rate at the time when said quotations are issued. They also depend on the conditions and prices of the LTO's substitute agents as well as the laws, regulations and international conventions in force. Prices are calculated based on the prices in effect on the day the principal makes his request. They are always calculated EXCLUDING TAX.

In derogation from article 1195 of the French Civil Code, if one or more of these basic elements, listed in the paragraph above, are modified after the quotation has been submitted, including by the substitute agents of the LTO, in a way that may be enforceable against the latter, and on the proof provided by the latter, the prices given initially would be modified under the same conditions. The same would apply in the event of an unforeseen event, whatever it may be, leading in particular to a modification of one of the elements of the service. This may concern, among other things, fuel prices, a variation of which must be taken into account, in accordance with the provisions

of Articles L. 3222-1 and L. 3222-2 of the French Transport Code.

3.2 - The prices do not include the duties, taxes, fees and levies due in application of any regulations, particularly tax or customs regulations (such as excise duties, import duties, etc.), which the sender or recipient undertakes to pay in addition to the price of the services.

Furthermore, the following shall also be invoiced in addition to the price of the main service:

- Ancillary services;
- Additional costs for monitoring and managing contracts;
- Taxes related to transport and/or any fees relating to the transport of the goods, in particular those that might be paid by the LTO and/or its substitute agents.

3.3 - The prices initially agreed shall be renegotiated at least once a year on the anniversary date of the contract. They shall also be revised in the event of significant variations in the LTO's charges, charges which are most often due to conditions beyond the LTO's control, such as fuel prices as stated in the previous paragraph (3.1.). If the parties fail to agree on new pricing conditions, each of them may terminate the contract under the conditions defined in Article 12 below.

3.4 - The principal has the option of modifying the terms of his order, two days before the start of the performance of the services by the LTO. Any modification of the contract, either at the initiative of the principal, or due to circumstances beyond the control of the parties and their substitute agents, shall lead to an upward or downward readjustment of the price initially agreed.

During the performance of the services, any additional costs incurred by the LTO for changes requested by the principal are the

responsibility of the latter, who undertakes to pay them.

When the changes made by the LTO are found to be in the interest of the goods, the customer shall reimburse the costs incurred by the LTO, on submission of supporting documents.

In any event, the LTO is under no obligation to accept new instructions if they are such as to prevent it from honouring its services.

#### **Article 4 - GOODS INSURANCE**

No insurance shall be taken out by the LTO without a written and recurring order from the principal for each shipment, specifying the risks to be covered and the values to be guaranteed. If such an order is given, the LTO, acting on behalf of the principal, shall take out insurance with an insurance company known to be solvent at the time of coverage. In the absence of precise specifications, only ordinary risks (excluding the list of exclusions appearing on the insurance certificate) shall be insured.

Acting, in this specific case, as agent, the LTO may in no way be considered as an insurer. The conditions of the policy are deemed to be known and accepted by the senders and recipients who shall bear the full cost of the insurance order without the LTO being liable for any payment linked to this additional guarantee. A certificate of insurance shall be issued, if requested.

It is expressly agreed between the parties that the LTO shall take out, at the Customer's request, an insurance policy covering the risks to goods designated by the principal. The LTO may not be held responsible in the event of an incomplete, erroneous and/or false declaration communicated by the Customer, which would result in a refusal to pay out or to pay compensation by the insurer.

The insurance policies taken out by the principal must include a clause under the terms of which the principal's insurers may only seek remedies against the LTO and its insurers, up to the limits of liability provided for below.

## **Article 5 - PERFORMANCE OF SERVICES**

The principal undertakes to deliver all of the goods to the LTO or its substitute on the agreed date and at the agreed time.

The departure and arrival dates that may be communicated by the LTO are provided for informational purposes only. The principal is required to provide the LTO with the necessary and accurate information, documents and instructions in good time for the performance of transport services and ancillary services and/or logistics services. The LTO does not have to verify the documents (commercial invoice, packing note, etc.) provided by the principal.

The customer shall bear the consequences resulting from false, erroneous, incomplete, unsuitable declarations or documents, or from declarations or documents that are sent to the LTO late.

The LTO is not required to obtain the agreement of the principal to appoint intermediary freight forwarders and/or substitute agents that it uses for the performance of the service. The LTO is not responsible for intermediary freight forwarders and/or substitute agents who have been formally imposed on it by the principal or by the public authorities.

In the event that delivery is prevented for any reason whatsoever (apart from when attributable to the LTO), in particular refusal or default by the recipient, the LTO shall take the measures it deems most appropriate in the principal's interest in order to preserve the goods or transport them by other channels or other means. The costs thus incurred are the responsibility of the principal who undertakes to pay for them.

## **Article 6 - OBLIGATIONS OF THE PRINCIPAL**

6.1 – Nature of the goods, Packaging and labelling:

6.1.1 – Nature of the goods: The goods entrusted to the LTO by the principal must not pose any danger to the driving or handling staff, the environment, the safety of transport vehicles, other goods transported or stored, vehicles or third parties. The customer is solely responsible for the choice of packaging and its ability to withstand transport and handling. In the event that the principal entrusts the LTO with goods that contravene the aforementioned provisions, he would be held solely responsible, without any possible recourse against the LTO, for any damage of any kind that the goods may cause.

6.1.2 Packaging: The goods must be packaged individually, packaged externally, marked or countermarked, so as to withstand transport and/or storage operations carried out under normal conditions, as well as the successive handling operations which necessarily occur during the course of these operations. They must not constitute a cause of danger for driving or handling personnel, the environment, the safety of transport vehicles, other goods transported or stored, vehicles or third parties. The customer is solely responsible for the choice of packaging and its ability to withstand transport and handling. In the event that the principal entrusts the LTO with goods that contravene the aforementioned provisions, he would be held solely responsible, without any possible recourse against the LTO, for any damage of any kind that the goods may cause.

6.1.3 – Labelling: On each package, object or load carrier, clear labelling must be carried out to allow the sender, recipient, place of delivery and the nature of the goods to be immediately and unequivocally identified. The information on the labels must correspond to the information appearing on the transport document.

6.1.4 - Liability: The principal is liable for all the consequences of an absence, insufficiency or defect in the individual packaging, outer packaging, marking or labelling.

6.2 - Sealing: Full trucks, semi-trailers, swap bodies, containers, once loading operations have been completed, must be sealed by the loader himself or by his representative.

6.3 - Reporting obligations: The principal is liable for all the consequences of a failure to comply with the obligation to report and declare the exact nature and specific features of the goods when the goods are subject to specific provisions, particularly in view of how valuable they are, how likely they are to be targeted for theft, how dangerous they are or how fragile they are. In the case of maritime transport by container, the Principal, if indicated as the shipper on the bill of lading, must declare the VGM to the maritime carrier; If the Transport Organiser is indicated as the shipper on the bill of lading, the Principal must communicate the VGM to him, in accordance with SOLAS regulations and the French Decree of 30 December 2016. In addition, the customer expressly undertakes not to hand over illicit or prohibited goods to the LTO (for example counterfeit products, drugs, etc.). The principal shall be solely liable, without any possible recourse against the LTO, for the consequences, whatever they may be, resulting from declarations or documents which are erroneous, incomplete, inapplicable, or supplied late, including the information necessary for the transmission of any summary declaration required by customs regulations, in particular for the transport of goods from third countries.

6.4 - Reservations: In the event of loss, damage or any other damage suffered by the goods, or in the event of delay, it is up to the recipient or the consignee to make regular and sufficient observations, to express justified reservations and in general to make any arrangements to preserve their rights of recourse and to confirm the aforesaid reservations in due form and within the legal deadlines, failing which no action can be brought against the LTO or its substitute agents.

6.5 - Refusal or default by the recipient: In the event of refusal of the goods by the recipient, as in the event of default by the latter for any reason whatsoever, all the initial and additional costs due and incurred with relation to the goods shall remain the responsibility of the principal. The same shall apply in the event of delivery being made impossible by the principal, the recipient or a third party to the contract (in particular: inaccessible delivery location, etc.).

6.6 - Customs formalities: Customs formalities are carried out by the customs representative registered under the mode of direct representation, in the name and on behalf of the Principal, in accordance with Article 18 of the Union Customs Code. The Principal guarantees the LTO against all consequences arising from instructions or erroneous information, from inapplicable documents and from any anomaly leading to the recovery, by the Administration, of additional duties and/or taxes and/or penalties. In the event that a preferential regime provided for under an agreement formalised by the European Union is used, the Principal guarantees that he has performed all due diligence aimed at ensuring that the conditions required to benefit from said preferential regime have been respected. The Principal shall inform the LTO of any control that the Public Administration may carry out concerning operations entrusted to the LTO and likewise, the LTO shall inform it of any control it may be subject to concerning its operations. The Principal agrees to communicate all information and all documents required by the regulations which may requested from it to the LTO within the required time. The Principal shall be responsible for all harmful consequences, such as delays, additional costs or damage, caused by any failure on his part. Since the rules of quality and/or technical standardisation of goods are the sole responsibility of the Principal, it is his responsibility to provide the LTO with all documents (test reports, certificates, etc.) required by regulations. The

LTO's liability shall not be engaged as a result of the non-compliance of the goods with said quality or technical standardisation rules.

## **Article 7 - LIABILITY**

7.1 - Liability for substitute agents: The LTO shall not be liable, under any circumstances, to intermediary freight forwarders and/or substitute agents who have been imposed or suggested to it by the principal or by the public authorities. The guarantee offered by the LTO to the principal for its substitute agents may not, under any circumstances, exceed either the limitations provided for in the following paragraph for the personal liability of the LTO or the amount of compensation limitations enjoyed by substitute agents in the context of the operation entrusted to them. When the compensation limits for intermediaries or substitute agents are not known or do not result from mandatory or legal provisions, they are deemed to be identical to those set in the following paragraph. The LTO shall not, under any circumstances, guarantee beyond these limitations, including in the event that the substitute(s) find themselves deprived, by a court decision, of their own limitations because of a serious fault that could be attributed to them.

7.2 - Personal liability of the LTO: The indemnity limitations indicated below constitute the consideration for the liability assumed by the LTO.

7.2.1 - Loss and damage: In all cases where the liability of the LTO would be engaged under legal conditions, for any reason and in any capacity whatsoever, it is limited to the remedying of proven material damage, resulting from the loss or damage to goods, to the exclusion of any other damage (intangible, etc.).

To remedy proven material damage, the liability of the LTO is limited to €17.25 per kilogram of gross weight of missing or damaged goods but may not exceed, regardless of the weight, volume, dimensions, the nature or

value of the goods concerned, a sum greater than the product of the gross weight of the goods expressed in tonnes multiplied by €2.850 with a maximum of €60,000 per event.

With regard to maritime transport, liability is as provided for by the 1968 Brussels Convention supplemented by the 1979 protocol, limited to 2 SDRs per Kilo of Gross Weight or 666.67 SDR per unit, whichever is higher. (Except declaration of value, fraud or inexcusable conduct).

In respect of air transport, liability is as provided for by the Montreal Convention of 1999, limited to 19 SDR per kilogram. (Unless there is a declaration of interest in delivery, fraud or inexcusable conduct) In the event that the personal liability of the LTO is engaged, it is strictly limited to the value of the goods per package or unit, whichever is higher within the limit of up to €60,000 (sixty thousand) per claim.

7.2.2 - Other damage: For all other damage, including in the event of a duly noted delay in delivery, in the event that personal liability is incurred, the compensation due by the Transport and/or Logistics Operator is strictly limited to the price for transporting the goods (duties, taxes and miscellaneous costs excluded) or the price of the service causing the damage, the subject-matter of the contract. This compensation may not exceed that due in the event of loss or damage to the goods. For all damage resulting from a failure to perform the logistics service, aim of the contract, the compensation due by the Logistics Operator, in the event that its personal liability is incurred, is strictly limited to the price of the service causing the damage without being able to exceed a maximum of €60,000 per event and per year of performance of the service.

Under no circumstances may the liability of the LTO exceed the amounts set above.

7.3 - Quotations: All quotations given, all ad hoc price offers provided, as well as general prices are established and/or published taking

into account the liability limitations set out above (7.1. And 7.2.)

7.4 - Declaration of value or insurance: The principal always has the option of signing a declaration of value which, fixed by him and accepted by the LTO, has the effect of substituting the amount of this declaration for the compensation limits indicated above (Articles 7.1. and 7.2.1.). This declaration of value shall result in an additional price. The principal may also instruct the LTO, in accordance with Article 4 (Goods insurance), to take out insurance on its behalf, upon payment of the corresponding premium, specifying the risks to be covered and the values to be guaranteed. The instructions (declaration of value or insurance) must be renewed for each transaction.

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

For special transport (transport in tanks, transport of indivisible items, transport of perishable goods under controlled temperature, transport of live animals, transport of vehicles, transport of goods subject to special regulations, in particular the transport of dangerous goods, etc.) the LTO shall make suitable equipment available to the shipper under the conditions which will have been defined beforehand by the principal.

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

9.1 - The services are payable, in euros, in cash on receipt of the invoice, without a discount, rather than when the invoice is received. The principal is always responsible for paying invoices.

9.2 - Unilateral compensation for the amount of alleged damage against the price of services due is prohibited

9.3 - If payment terms are agreed, these may not, under any circumstances, exceed thirty days from the date of issue of the invoice for all services performed by freight forwarders and

road freight carriers, as well as for all those carried out by shipping and/or air freight agents, by customs agents, by freight brokers and by freight forwarders in accordance with the provisions of article L.441-6 paragraph 11 of the French Commercial Code.

9.4 - Any delay in payment automatically engages, on the day following the payment date appearing on the invoice, the liability for late payment interest of an amount equivalent to the interest rate applied by the European Central Bank (ECB) to its most recent refinancing operation increased by ten percentage points and set in accordance with the terms defined in Article L.441-6 paragraph 12 of the French Commercial Code, as well as a lump sum indemnity for recovery costs in the amount of €40 in accordance with article D.441-5 of the French Commercial Code, without prejudice to the possible compensation, under the conditions of common law, of any other damage resulting directly from this delay.

9.5 - Any partial payment, on the agreed due date, shall initially be charged against the non-preferential part of the amount owing. Non-payment of a single instalment shall result in expiry of the term without formalities, the balance becoming immediately payable even in the event that the effects thereof are accepted.

#### **Article 10 - CONTRACTUAL RIGHT OF PLEDGE**

Regardless of the capacity in which the LTO intervenes, the principal expressly recognises a contractual right of pledge carrying a lien of retention, a preferential lien and general and permanent preferential lien on all the goods, values and documents in the possession of the transport operator, as a guarantee for all debts (invoices, interest, costs incurred, etc.) that the LTO holds against him, even if prior or unrelated to the operations carried out with regard to the goods, values and documents that are actually found in its possession.

#### **Article 11 - LIMITATION PERIOD**

Any actions which the contract entered into by the parties may give rise to are time-barred to one year from the performance of the disputed service of said contract and in matters of duties and taxes recovered retroactively from the notification of recovery.

#### **Article 12 - DURATION OF THE CONTRACT AND TERMINATION**

12.1 - In the event that an open-ended contract is entered into between the principal and the LTO, this contract may be terminated at any time by either party by sending a registered letter with acknowledgement of receipt subject to compliance with a reasonable notice period defined in accordance with article L 442-6 5 of the French Commercial Code.

12.2 - During the notice period, the parties undertake to maintain the economic balance of the contract

12.3 - In the event of serious or repeated, proven breaches by one of the parties of its commitments and obligations, the other party is required to send it, by registered letter with acknowledgement of receipt, a reasoned formal notice. If this remains ineffective within a period of one month, a period during which the parties may attempt to come to an agreement, the contract may be terminated definitively, without notice or compensation, by registered letter with acknowledgement of receipt noting the failure of the negotiation attempt.

12.4 - In the event of serious non-performance caused by a Party and by way of derogation from the provisions of Article 1222 of the Civil Code, each Party waives the right to call on a third party for the performance of the obligations incumbent on the defaulting Party. The Party that is the victim of the default may not request compulsory enforcement.

In addition, each Party also waives the application of the provisions of article 1223 of the Civil Code, relating to the proportional reduction of the price in the event of imperfect

performance of any of the obligations arising herefrom.

12.5 - All actions relating to the above provisions are time-barred to one year as referred to in Article 11 mentioned above (LIMITATION PERIOD).

12.6 Force majeure: The obligations of each Party shall be automatically suspended and without formality and its liability released in the event of force majeure events defined as unforeseeable and external events making the performance of the Services impossible. Employment disputes, strikes, insurmountable constraints and any other circumstances such as requisitions, embargoes, lack of transport means, general lack of supplies, epidemics, pandemics, employment and energy restrictions, etc. are considered as such. If the case of force majeure continues for more than thirty (30) working days, the Parties shall meet to decide on the conditions for the continuation or termination of the Services. A delay due to the event of force majeure shall extend the period of performance of the obligations of the Party falling victim to the event.

#### **Article 13 - PRIOR CONCILIATION**

In the event of a dispute between the parties, before any legal action, and to the exclusion of actions by the LTO for payment of its invoices, the parties shall endeavour to come to an amicable agreement within 30 days from the date of notification by one of them of the need for such an amicable agreement, by registered letter with acknowledgement of receipt. By joint intention of the parties, this prior conciliation procedure constitutes a bar to other actions, within the meaning of article 122 of the Code of Civil Procedure, rendering the legal action brought against the LTO, in non-compliance with this procedure, inadmissible.

#### **Article 14 - CANCELLATION - INVALIDITY**

In the event that any of the provisions of these Terms and Conditions of Sale are declared null or deemed unwritten, all the other provisions

shall remain applicable. The LTO shall replace said provision with a valid and enforceable provision, in accordance with legal and regulatory provisions.

**Article 15 - ELECTION OF JURISDICTION CLAUSE**

French law applies to these terms and conditions. In the event of a disagreement or dispute, the Commercial Court of AGEN shall have sole jurisdiction, even in the event of multiple defendants or introductions of third parties.

**Article 16 - GDPR**

The customer is informed that, within the framework of the management of his commercial relationship with his Customers, personal data is processed by the LTO, as data controller, in accordance with law no. 78-17 of 6 January 1978 amended and that, in accordance with such law, he enjoys a right of opposition for legitimate reasons, rights of access, rectification and deletion that he can exercise by writing to PRIMEVER- contact RGPD-Min Agen-47550 BOE or by emailing [rgpd@primever.com](mailto:rgpd@primever.com)