

# General Terms and Conditions



## a) Basic agreements

- 1) This transport is subject to the terms and conditions of the CMR. You are always liable towards us as for own-name transactions. Any deviating counter-confirmations do not constitute a part of this Contract and are invalid.
- 2) The consumption of alcohol and/or drugs is strictly forbidden during execution of this Contract.
- 3) The vehicles used must be in good technical condition, must use modern technology and, especially, must be serviced and inspected regularly on a preventative basis. Only use vehicles, trailers, semitrailers, tanks, swap bodies/containers, cranes, technical equipment and other equipment that are in good working order and that are suitable for the job in question. The cargo area must be cleaned to ensure the cargo cannot be contaminated.
- 4) The use of sub-carriers is only permitted with our prior written authorisation.
- 5) We take for granted that you have obtained the permits and authorisations required for the transport. This also applies to the regulations of all countries in which you shall travel in relation to fulfilment of this Contract.
- 6) You guarantee and are liable for ensuring that all drivers you use are employed in accordance with the laws of the country in which the vehicle is licensed. This applies especially to foreign drivers.
- 7) If you transport hazardous substances for us, you are obligated to appoint a qualified hazardous goods officer in your company.
- 8) You must ensure that you are in compliance with all regulations to combat illegal employment in the road transport sector.
- 9) This Transport Contract is binding if no objection is made within one hour of receipt.
- 10) This Contract is subject to Italian law. The competent court of law for Milan (Italy) is agreed as the place of jurisdiction for all disputes between the parties arising from this Contract, including disputes about the effective existence of this Contract.
- 11) We are entitled to offset the claims with payable counter-claims regardless of legal basis.
- 12) Compliance with reporting obligations and payment of the minimum wage are mandatory in several EU states. In some instances, the legislation provides for strict entrepreneurial liability and criminal sanctions in the event of underpayment. As proof of compliance with all applicable regulations in terms of payment of the minimum wage and compliance with the associated reporting/documentation obligations, we shall require return of the "Agreement Guaranteeing Compliance with the Provisions of the Minimum Wage Act". The clarification therein shall also apply to future transports.
- 13) You guarantee compliance with all national and international regulations and laws.
- 14) The company policy and the code of conduct of Kukla Italia srl are available in the current valid version on [www.kukla-spedition.com](http://www.kukla-spedition.com) and are binding if it comes to acceptance of the transport order.
- 15) As a contractor, you undertake to carry personal protective equipment (PPE minimum standard: safety shoes and body-covering clothing, safety vest or warning clothing, work gloves, ear protection, safety goggles and safety helmet) in the vehicle per driver. The general instruction to your staff for the obligatory application of the PPE according safety guidelines, which are issued when loading into the company premises for loading and unloading and the compliance with signposted and issued safety instructions at the loading and unloading point.

## b) Acceptance and delivery of cargo

- 1) The vehicle you supply for the commissioned transport must, unless otherwise agreed in this Transport Contract, correspond to the requirements for a vehicle covered by the CMR. Damage to tarpaulins and superstructures, condensation in the cargo area, unswept cargo areas and not odourless cargo areas may lead to refusal of the vehicle in question at the loading point and to charges for costs and compensation.
- 2) In the event of different products being loaded in one cargo unit, these must be clearly separated and care must be taken to prevent cross-contamination caused by incompatible products.
- 3) The driver must check and confirm the number of packages to be transported. The Confirmation of Receipt to be signed by the driver at the relevant loading point is the proof hereof.
- 4) If the driver does not note any well-founded reservations on the Confirmation of Receipt, then the accepted cargo is deemed to be complete, to have been packed and loaded safely, and to have been accepted in a damage-free state.
- 5) The loading and unloading dates specified above are fixed and are hereby agreed. You will be invoiced for any incurred costs in the event of non compliance with the handover or unloading date, or non-presentation of the agreed mode of transport. You must present yourself with the vehicle at the loading area on the agreed loading date. In the event of non-presentation, you will owe a contractual penalty (regardless of culpability) in the amount of 80 % of the freightage. This does not affect our right to assert a claim for higher damages. If we incur costs or expenditure because you present a vehicle that does not correspond to requirements, we shall pass these costs on to you.
- 6) Additional cargo or transshipments on full loads are absolutely forbidden without our explicit authorisation.
- 7) You are obligated to execute loading and unloading of the cargo. Unless specified, the driver must be able to load and offload the unit. You are liable for damages that result from circumstances during loading and unloading. You must take care to ensure that the cargo is properly secured and complies with the applicable legal regulations. You must instruct the driver to check and ensure the quantity, quality, and suitability for transport of the packaging, loading and stowage on acceptance and delivery, even if the cargo has been loaded by the consignor. Loading must be stopped immediately if the quantity, quality or handover temperature of the cargo deviate from the details we specified, or if the packaging or stowage is defective, and may only continue after consultation with us and on our explicit instructions. Moreover, you must check that the accompanying paperwork is complete and corresponds to the cargo in question. You must inform us immediately of any inconsistencies and record reservations on the bills of lading.

## c) Transportation and transport surveillance

- 1) You must inform us immediately in the event of any delays and/or impediments.
- 2) On acceptance of this Contract and of the cargo, you shall ensure that the loaded vehicles, trailers and/or semi-trailers are properly and continuously guarded in the event of any stops during the time between acceptance of the cargo for transport and delivery of the same. You are obligated to ensure that loaded vehicles and transport units are properly locked in the event of any (even brief) stops (locked rear doors on trailers). Curtainsiders must be equipped with cut-resistant tarpaulin. It is absolutely forbidden to park loaded trailers/semi-trailers on their own (without the towing vehicle).
- 3) If there is any confusion because of contrary information at the loading area, you must inform us before transport begins.
- 4) You must contact the relevant authorities and us as the client immediately in the event of an incident that impacts product safety and quality.

## d) CMR insurance/Event of damage or loss

- 1) You guarantee that you have procured sufficient freight forwarders liability insurance. This insurance policy must also cover liability for damages during loading and unloading procedures in accordance with Article 29 CMR. Moreover, you guarantee that you have paid the necessary premiums.
- 2) You are obligated to report every event of damage or loss to us immediately and to inform your liability insurance provider.

## e) Freight rates and payment agreement

Payment, unless otherwise agreed in the transport order attached, is due 60 days date of end-of-month invoice.

## f) Special agreement for food transports, refrigerated transports

- 1) If your company holds a valid IFS certificate, you must execute this transport in accordance with your certification.
- 2) If your company does not hold a valid IFS certificate, you must comply with the following minimum standards for the transportation of food:
  - a) The transport container and the vehicle must be clean and in working order.
  - b) Extra attention must be paid to avoid contamination due to emissions, exhaust gases, odours, foreign substances, packaging material, etc.
  - c) For temperature-controlled transports you must ensure that you comply with the temperatures we have stipulated and that you measure and record them using suitable measuring and monitoring devices. The vehicle must be fitted with a working temperature recorder. You must inform us immediately of any deviations and failures of the refrigeration. You must send us the corresponding temperature records on request as part of invoicing.
- 3) If there is any confusion because of contrary information at the loading area, you must inform us before transport begins.
- 4) You must contact the relevant authorities and us as the client immediately in the event of an incident that impacts product safety and quality.

## g) Additional terms depending on the mode of transport

- 1) The preceding terms shall also apply analogously to all other transports (not just to HGV transports), regardless of the type of transport. The relevant clause shall be interpreted where applicable, so that it too shall be applied to the specific transport with the actual mode of transport used. The following regulations shall also apply depending on the type of transport:
  - 2) Rail transportation and handling: The mandatory provisions of the CIM shall apply and the subsidiary provisions of the Italian Commercial law.
  - 3) Air freight: The provisions of the Montreal Convention shall apply insofar as the scope of this Convention is fulfilled (Art. 1 MC).
  - 4) Inland waterway transport: The terms of the CMNI shall apply, insofar as the scope of this Convention is fulfilled. The Italian Law shall otherwise apply.
  - 5) Sea freight: All provisions of the United Nations Convention on the Carriage of Goods by Sea of 1978 shall apply (Hamburg Rules, HR). This Convention shall also apply even if the scope has not been fulfilled (Art. 2 HR). It is explicitly noted that Art. 23 HR shall also apply.

## h) Complaints, statements of facts

The contractor shall have sole responsibility for ensuring that a statement of facts (e.g. in rail freight) is obtained and a complaint is made (e.g. in air freight, sea freight and road freight).

## i) Offsetting, right of lien, retention

It is explicitly stipulated that Kukla Italia srl shall be entitled to set off claims made by the contractor with counterclaims (regardless of the legal basis), including compensation claims. It is explicitly stipulated that the contractor shall acquire no right of lien or retention as the result of fulfilling this contract to transport surrendered goods/containers etc.; all the contractor's rights of lien and retention in accordance with applicable legal provisions are hereby explicitly waived.

## j) Demurrage/storage fees

No demurrage or storage charges may be claimed (regardless of the nature of the claim, especially demurrage, detention costs etc.) for any modes of transport etc., unless you have promptly informed us prior to the event taking place.

Waiting hours charges are accepted only if we are notified by you in written form prior to the start of the time that is subject to them, and the same would apply with detentions and demurrages. If the start of the first weekend (Saturday/Sunday) falls within the time that is exempt from demurrage, this is not subject to it (for example, arrival of the vehicle at the loading/unloading point Friday at 3:00 p.m.). Waiting times during pick up empty container/return of full containers will generally not be paid.

As per Italian Law, in case the driver has arrived at the agreed time - we offer to all Italian based companies 90 minutes as free waiting time at both any loading or delivery point in Italy, after which a compensation of €100 per hour (or part thereof) will be accepted based on the actual waiting time on site. We instead offer 2 hours free waiting time to all non-Italian based companies.

Outside of Italy we offer 2 hours free waiting time after which a compensation of 50€ per hour will be accepted based on the actual waiting time on site

## k) Liability

The parties hereby agree that without exception the contractor cannot invoke any liability relief in the general terms and conditions. The contractor shall be liable for the culpability of all its associated staff and all other people it employs directly or indirectly in the course of executing this Contract. All mandatory liability restrictions shall apply (including those in the CIM, CMR; MC, HR; WA etc.), insofar as this is permitted by law, but not in the event of gross negligence on the part of the contractor. Kukla Italia srl shall accept no liability for damages, regardless of the legal basis, especially because of fault when the contract is concluded, delay, missing and/or false instructions, idle periods, consequential damages, because of unauthorized handling etc. Providing and insofar as Kukla Italia srl should nevertheless be liable, this liability shall be restricted to foreseeable and typically occurring damage. The preceding liability restriction in favour of Kukla Italia srl shall apply, insofar as this is permitted by law, except in the event of wilful intent or wilful negligence on the part of Kukla Italia srl.

## l) Liability for agents

The contractor shall be liable for executing transports as the carrier, even in the event that the contractor does not have its own fleet of transportation vehicles. This shall also apply if the contractor should be a declared "agent".

## m) General terms and conditions

The terms of the Transport Contract shall apply exclusively. Differing or supplementary terms and conditions of the contracting entity, which we have not expressly acknowledged in writing, are not binding, even if we do not expressly object to them. The place of performance and exclusive legal jurisdiction is Milan (Italy). In the event that the arrangement of an exclusive legal jurisdiction is invalid due to mandatory provisions, the legal jurisdiction specified in the previous sentence is additional. Unless mandatory legal provisions stipulate otherwise, Italian law applies. Even in the priority application of the CMR conditions the Italian Law applies always in addition.