

## Standard Trading Terms & Conditions

### 1. Scope

These Terms & Conditions define the contractual status for all operations between Optima Global Logistics and the Customer with liability warrant, exceptions, liability limitation, charges and time bar.

### 2. Definitions

In these Terms & Conditions, the following words and expressions have the following meanings unless otherwise specifically defined:

- 2.1. **“Company”** means **OPTIMA GLOBAL LOGISTICS S.A. DE C.V.**
- 2.2. **“Customer”** means any legal entity or natural person concluding contract with the Company, accepting the service provided by the Company and enjoying rights and undertaking obligations according to the contract, or any legal entity or natural person having an interest in the contract, including but not limited to owner, consignor, shipper, consignee of the goods or their agents.
- 2.3. **“Dangerous Goods”** means the goods classified as dangerous goods under international conventions or domestic laws and the goods that are likely to become dangerous, flammable, radioactive, noxious or damaging.
- 2.4. **“Goods”** includes goods, wares, merchandise and articles of every kind whatever; and any container, trailer, tank or pallet (including similar articles of transport used to store or consolidate goods) not supplied by or on behalf of the Company.
- 2.5. **“Hague Rules”** means the International Convention for the Unification of Certain Rules relating to Bills of Lading of 1924 only.
- 2.6. **“Hague-Visby Rules”** means the Hague Rules including the Visby amendments of 1968 and the amendments by the Protocol of 1979.
- 2.7. **“IATA”** means International Air Transport Association.
- 2.8. **“Instructions”** means statements of the Customer's specific requirements and includes the instructions specified on the front of the Shippers' Instructions and/or on the front of the Company's form of transport document (including the Company's house bill of lading).
- 2.9. **“Owner”** means the owner of the goods (including any containers or equipment other than those provided by the Company or carriers) to which any business concluded under these Terms & Conditions relates and any other person who is or may become interested in them and includes the consignee named on the front of the Shippers' Instructions and/or on the front of the Company's form of transport document (including the Company's house bill of lading).
- 2.10. **“US COGSA”** means the United States Carriage of Goods by Sea Act, 46 U.S.C. App. § 1300 et seq. as enacted 1936 and any subsequent recodification thereto.

### 3. Application of these Terms & Conditions

- 3.1. All business undertaken by the Company and Company's transactions are subject to these Terms & Conditions, including but not limited to air, sea, inland, multimodal, insurance and/or customs broker's transactions. These Terms & Conditions shall be incorporated in any agreement between the Company and the Customer to be an integral part of it. These Standard Trading Terms & Conditions may be modified by agreement in writing by the Company prior to inception of this contract. Where the clauses of the agreement between the Company and the Customer or the clauses of the transport documents issued by the Company are contrary to these Terms & Conditions, the clauses of the agreement or bills shall prevail.
- 3.2. The tariffs terms and conditions are incorporated in the quotation sent by the Company to the Customer. Attention is drawn to the terms therein relating to free storage time and to container and vehicle demurrage or detention.

- 3.3. All and any advice, information or services provided by the Company gratuitously is provided on the basis that the Company will not accept any liability whatsoever therefore.
- 3.4. No omission or delay on the part of the Company in exercising its rights shall operate as a waiver thereof, nor shall any single or partial exercise by the Company of any such right preclude the further or other exercises thereof or the exercise of any other right which it has. The rights and remedies of the Company provided in these Terms & Conditions shall be cumulative and not exclusive of any rights or remedies otherwise provided by law.
- 3.5. Each of the provisions of these Terms & Conditions is severable and distinct from the others and if at any time one or more of such provisions is or becomes invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions of these Terms & Conditions shall not in any way be affected or impaired thereby.

#### **4. Contractual Status of the Customer and the Company**

The Customer, entering into any transaction or business with the Company, hereby expressly warrants to the Company that the Customer is either the Owner or the authorized agent of the Owner and that it is accepting these Terms & Conditions. Where the Customer acts as the agent of the Owner, the Customer also accepts such liability to the Company that in respect of such transaction or business the Company is entitled to enforce its rights against the Customer and the Owner jointly and severally.

#### **5. Obligations of the Customer**

- 5.1. The Customer warrants that it has taken all the sufficient and effective measures to have a full understanding of the contents of these Terms & Conditions and of the documents issued by the Company for the Customer at the time of concluding or accepting such agreement or documents.
- 5.2. The Customer warrants that each and every of the Instructions given to the Company is lawful, valid and performable.
- 5.3. The Customer warrants that the description of the goods given to the Company is sufficient and correct, therefore, the Company shall be under no responsibility whatsoever in respect of cargo weight, contents, measure, quantity, quality, description, condition, marks, numbers or value of the goods, or other particulars.
- 5.4. The Customer warrants that the packing and marks of the Goods met the requirement of carriage. The Customer shall comply with the special requirements demanded by the Company at the time of receiving the goods according to the nature of the goods and the special conditions of the voyage.
- 5.5. Except under special arrangements previously made in writing, the Customer warrants that the goods are not the dangerous goods as defined under binding documents such as laws, regulations, international conventions, nor are other goods likely to cause damage. Should the Customer nevertheless deliver any such goods to the Company or cause the Company to accept or handle or deal with any such goods otherwise than under special arrangements previously made in writing, the Customer shall be liable for all expenses, losses, damages whatsoever caused, fines and claims in connection with the goods howsoever arising. The Company or other persons in actual control of the goods has the right to decide whether the goods are dangerous goods without notice to the Customer and shall be entitled to destroy or otherwise dispose of the goods at the risk and expenses of the Customer.
- 5.6. The Customer also warrants that the Goods are lawful Goods and contain no contraband.
- 5.7. The Customer shall indemnify the Company against all loss, damage, fines and expenses arising or resulting from any breach of any of the warranties in this contract or from any other cause in connection with the Goods for which the Company is not responsible.
- 5.8. The Company shall comply with all regulations or requirements of customs, port and

other authorities, with the provisions of applicable anti-corruption laws, including but not limited to the United Nations Convention against Corruption (2005), the U.S Foreign Corrupt Practices Act of 1977, the UK Bribery Act of 2010, French law, as well as with the applicable economic sanctions regulations, including but not limited to the ones published by the United States, European Union and United Nations. The Customer further represents and warrants that it is not listed or owned/controlled by an entity listed by the United States, European Union, or United Nations as a "Blocked Person", "Denied Person", "Specially Designated National". The Customer shall bear and pay all duties, taxes, fines, imposts, expenses or losses (including, without prejudice to the generality of the foregoing, Freight for any additional Carriage undertaken) incurred or suffered by reason of any failure to so comply, or by reason of any illegal, incorrect or insufficient marking, numbering or addressing of the Goods, or the discovery of any drugs, narcotics or other illegal substances within Containers packed by the Customer or inside Goods supplied by the Customer or any stowaways discovered inside the Container and shall indemnify the Company in respect thereof.

- 5.9. The Customer is responsible for returning any empty Container to the carrier, with interior clean, free of any dangerous goods placards, labels or markings, at the designated place. The Company is entitled to collect a deposit from the Customer at the time of release of the Container which shall be remitted as security for payment of any sums due to the Company, in particular for payment of all Freight and may be kept by the Company fully or partially. In no case shall this deposit accrue any interest.
- 5.10. Containers released into the care of the Customer for packing, unpacking or any other purpose whatsoever are at the sole risk of the Customer until redelivered to the carrier. The Customer shall indemnify the Company of all loss, damage, injury, fines or expenses caused or incurred by to such containers whilst in the Customers control and/ or until redelivery to the carrier. Customers are deemed to be aware of the dimensions of any containers released to them.
- 5.11. The Customers shall not ask the Company to stop carriage, return the goods, change the place of destination, or deliver the goods to other consignee or dissolve the contract unless, before the Company delivers the goods to the consignee, the Customers return all bills and/or transport documents previously issued by the Company and shall compensate the Company for all the losses caused to the Company.

## **6. Rights and Obligations of the Company**

### **(I) General provisions**

- 6.1. Unless otherwise previously agreed in writing, the Company is authorized to enter into contract on its own behalf or on behalf of the Customer for the following matters, without notice to the Customer:
  - (1) selecting the carrier, mode and route of transport for the goods;
  - (2) selecting whether to containerize the goods or not and whether to carry the goods on deck or not;
  - (3) for the storage, packing, unpacking, transshipping or otherwise handling of the goods;
  - (4) other arrangements in pursuance to the Instructions of the Customer or as deemed necessary by the Company.
- 6.2. The Company is authorized (but is not obliged) to depart or deviate from the Customer's Instructions in any respect if in the opinion of the Company such departure or deviation is necessary or desirable in the Customer's interests. The Company shall in any time comply with the instruction or orders of the governmental departments and the Company's responsibility for the Goods shall cease at the time of delivery or otherwise handling of the goods as per the above instructions and orders.
- 6.3. The Company is authorized by the Customer to act and the Company is not required, unless specifically requested by the Customer in writing, to inform the Customer of details of acts taken by the Company.
- 6.4. At any time when the Company deems that impediment, risks, delay or disadvantage is or likely to be affecting its performance of the obligations and the Company does not have reasonable methods to avoid the same, the Company may terminate the

performance of obligations by giving a written notice to the Customer. The Company may hand over all or part of the goods to the Customer for control at any place the Company deems convenient and the Company's responsibility for the Goods shall cease till then. The Customer shall, upon request, pay the expenses additionally incurred by the Company for carrying, delivering and storing the goods at the above place and other relevant expenses.

- 6.5. If delivery of the goods or any part thereof is not taken by the Customer at the time and place notified by the Company, the Company shall be entitled to store the goods or any part thereof at the sole risk of the Customer, whereupon any liability which the Company may have in respect of the goods or that part thereof stored as aforesaid shall wholly cease and the costs of such storage (if paid or payable by the Company) shall forthwith upon demand be paid by the Customer to the Company.
- 6.6. The Company is entitled (but not obliged) to sell or dispose of all or part of the Goods at the sole risk and expense of the Customer under any of the following circumstances:
  - (1) The Company has given a written 21-day notice to the Customer when the Company at its sole discretion deems that all the Goods cannot be delivered as instructed;
  - (2) The Goods have perished or deteriorated or are in immediate prospect of doing so in a manner which has caused or may reasonably be expected to cause loss or damage to other persons or properties.

## **(II) Where the Company contracts on behalf of the Customer**

- 6.7. Where the Company acts as agent, the Company is entitled to enter into a contract on behalf of the Customer in the name of the Customer or in its own name with any third party. The contract thus concluded shall have direct binding effect on the Customer and the third party.
- 6.8. Where the Company acts as agent, the Company shall not be liable for the loss of the Customer unless and except to the extent that the loss is caused by the negligence of the Company.
- 6.9. Where the Company acts as agent, the Company shall not be liable for the loss caused by the acts or omissions of the third party including but not limited to the carriers, warehousemen, stevedores, railway bureau and truckmen, unless the Company has not acted diligently in selecting, instructing and supervising the third party.

## **7. Special provisions concerning containerized transport**

- 7.1. Where containers are not stuffed or sealed by the Company, the Company shall not be liable for the loss of and damage to the content in the containers resulting from one or more of the following circumstances:
  1. Mode of stuffing or sealing;
  2. Unfitness of the goods for containerized transport, unless the Company expressly requires the goods to be carried in containers;
  3. Un-cargo-worthiness of the containers unless the containers are supplied by the Company or on its behalf. Even if the containers are supplied by the Company, if the un-cargo-worthiness of the containers is the result of the failure of the Customer to make presentation of the special nature of the goods, the Company shall not be liable.
- 7.2. The Customer shall hold the Company harmless from any circumstance under 7.1 and shall indemnify the Company for any loss caused.
- 7.3. Where the Customer asks the Company to supply containers, the Company is not obliged to supply containers of special type or quality that fit the Goods, except express requirement to the contrary has been given to the Company.

## **8. Warranties**

- 8.1. The Customer shall save harmless and indemnify the Company from and against all claims, liabilities, losses, damages, costs and expenses (including without limitation all

duties, taxes, imposts, levies, deposits, fines and outlays of whatsoever nature levied by any authority) arising out of the Company acting in accordance with the Customer's instructions, or arising from a breach of warranty or obligation by the Customer, or arising from the Customer's inaccurate or incomplete or ambiguous information or instructions, or arising from the negligence of the Customer or Owner.

- 8.2. Advice and information, in whatever form as may be given by the Company, are provided by the Company for the Customer only and the Customer shall save harmless and indemnify the Company from and against all claims, liabilities, losses, damages, costs and expenses arising out of any other person relying on such advice or information.
- 8.3. The Customer undertakes that any officer, servant, agent or sub-contractor of the Company shall have the benefit of all exceptions and liability limitations herein benefiting the Company.
- 8.4. The Customer shall defend, indemnify and hold harmless the Company from and against all claims, costs and demands whatsoever and by whomsoever made or preferred in excess of the liability of the Company under these Terms & Conditions.
- 8.5. The Customer shall defend, indemnify and hold harmless the Company in respect of any general average or any claims of a general average nature that may be made on the Company and the Customer shall provide such security as may be required by the Company in this connection.
- 8.6. After the Company agrees to accept dangerous goods for carriage, if the goods in the opinion of the Company constitute a risk to other goods, property, life or health, or by the restriction of some laws, the carriage or discharge of such goods may cause the arrest of the goods, other property or persons, the Company may destroy or otherwise deal with the goods without notice, at the risk and expenses of the Customer or the Owner and without any liability to the Company.
- 8.7. The Customer shall be liable for any loss, pollution, contamination, delay, demurrage, or loss of and damage to the property (including but not limited to containers) of the Company or others and the ship or vehicle and equipment directly or indirectly caused by the Customer, Owner and/or their servants, agents and/or representative before, in the course or after the carriage.

## **9. Charges**

- 9.1. The Customer shall pay to the Company all sums immediately when due without deduction or deferment on account of any claim, counterclaim or set-off.
- 9.2. Additional charges may include but are not limited to: demurrage, container demurrage and storage charges, detention charges, salvage, general average contributions, etc.
- 9.3. When the Company is instructed to collect freight, duties, fees, charges or other expenses from any person other than the Customer and encounters difficulty in collecting, the Customer shall unconditionally forthwith pay the same.
- 9.4. On all amounts overdue to the Company, the Company shall be entitled to interest calculated on a daily basis from the date such accounts are overdue until payment thereof at 0.4% per day during the period that such amounts are overdue.
- 9.5. Quotations are given on the basis of immediate acceptance by the Customer. Notwithstanding acceptance of the quotations by the Customer, the Company shall be at liberty to revise quotations or charges in the event of changes of state policies and market in currency exchange, rates of freight, insurance premiums or any charges applicable to the goods.
- 9.6. The Company or its agents are entitled to have a lien on all the goods and documents received for monies due from the Customer to the Company. If any such monies due to the Company are not paid within 28 days after notice has been given to the Customer that such goods or documents are being detained, or if such monies are not paid within a reasonable time when the goods detained are perishable goods, the Company is entitled to dispose of the goods and/or the documents to satisfy such indebtedness and disposal expenses.

## **10. Exceptions of the Company**

Except under special arrangements previously made, the Company shall be relieved of liability for any loss or damage if and to the extent that such loss or damage is caused by:

- 10.1. Acts of omissions of the Customer or its agents;
- 10.2. In pursuance of the Customer's Instructions;
- 10.3. Improper packing or marking;
- 10.4. Handling, loading, discharging and stowing of the Goods by the Customer or its representatives;
- 10.5. Inherent defect of the Goods;
- 10.6. any loss, damage, expense or claim arising from flood, storm, typhoon, strike, commotion, embargo, war, piracy, ionizing radiation or contamination by radioactivity from nuclear fuel or nuclear waste and radioactive, toxic, explosive or other hazardous properties;
- 10.7. Any other cause or event which the Company is unable to avoid by the exercise of due diligence.

## 11. Liability Limitation

11.1. Except insofar as otherwise provided by law and regulation or other clauses of these Terms & Conditions, the Company's liability, whether arising from negligence, fault or other causes, shall not exceed the following:

a) For maritime and Multimodal Transportation (ocean-freight and inland with maritime carrier):

- i. For shipments from countries where the Hague-Visby Rules are compulsorily applicable, Company's liability shall not exceed 2 SDRs per kilo of the gross weight or 666,67 SDR per package of the Goods lost or damaged, whichever is least. (SDR refers to a Special Drawing Right. The SDR shall be as defined by International Monetary Fund and the value of a SDR shall be calculated as at the date when settlement is agreed or judgment.)
- ii. For shipments from countries in which the Hague Rules apply, Company's liability shall not exceed GBP 100 per package or unit.
- iii. Notwithstanding the above, for shipment to or from the US, the US COGSA shall apply. The provisions of US COGSA shall also govern during all times before the Goods are loaded on and after they are discharged from the Vessel. Company's maximum liability in respect to the Goods shall not exceed USD 500 per package or, where the Goods are not shipped in packages, USD 500 per customary freight unit.

b) For inland:

The liability for rail or road carriage within a Country shall be determined in accordance with the internal law of such Country and/or any International Convention which is compulsorily applicable by the laws of such Country. In the absence of such compulsory laws or convention, the Company shall be under no liability whatsoever for loss of or damage in connection with the Goods, howsoever occurring.

c) Air freight: In accordance with IATA Rules, Company's liability shall not exceed 17 SDR per kilo.

11.2. Further and without prejudice to the generality of the preceding provisions of this Clause, if the Customer declare the value of the Goods at the time the Company takes over the Goods or by mutual arrangement agreed in writing, the Customer may claim in excess of the limits set out above, but the Company's liability shall in no event exceed the declared value or agreed value. The Customer agrees and acknowledges that The Company has no knowledge of the value of the Goods and that compensation higher than that provided for

herein may not be claimed unless the nature and value of such Goods have been declared by Customer, agreed to by the Company, before shipment. In addition, the applicable ad valorem Freight rate must be paid. Any partial loss or damage shall be adjusted pro rata on the basis of such declared value. If the declared value is higher than the actual value, the Company shall in no event be liable to pay compensation higher than the net invoice value of the Goods plus Freight and insurance if paid. In the case of claims for delay in respect of the transportation or delivery, the Company's liability shall not exceed the amount of the Company's freight for the Goods the delivery of which has been delayed.

- 11.3. Without prejudice to any applicable limitation of liability in accordance with the provision set forth in this Clause, the basis of compensation shall be limited to the value of the Goods so damaged or lost (excluding insurance, custom fees, taxes, Freight and retail value). The value of the Goods shall be determined by reference to the commercial invoice or the custom declaration. In no circumstance whatsoever, the Company shall be responsible for indirect damage, loss of profit or consequential damage.
- 11.4. In any event, the Company shall always be relieved of liability for loss or damage occurring during the carriage if such loss or damage was caused by any cause or event which the Company could not have avoided and the consequences of which could not have been reasonably prevented and Company's liability shall never exceed one Euro per kilo of the goods lost or damaged.

## **12. Notice**

- 12.1. Unless notice of loss or damage specifying or describing the exact nature of such loss or damage is given in writing by the consignee to the Company at the time of delivery of the Goods to the consignee, such delivery shall be deemed to be prima facie evidence of the goods carried and delivered in apparent good order and condition. Where the loss of or damage to the Goods is not apparent, the notice in writing shall be given within 2 (two) days after delivery of the Goods. In the absence of such written notice, the delivery shall also be deemed to be prima facie evidence of the goods carried and delivered in apparent good order and condition.

## **13. Insurance**

No insurance will be arranged except upon express instructions given in writing by the Customer and accepted by the Company. All insurance arranged by the Company is subject to the usual exceptions and conditions of the policies of the insurance company or underwriters taking the risk. The Company shall not be under any obligation to arrange a separate insurance on each consignment. Should the insurers dispute their liability for any reason, the insured shall have recourse against the insurers only and the Company shall not be under any responsibility or liability whatsoever in relation thereto notwithstanding that the premium upon the policy may not be at the same rate as that charged by the Company or paid to the Company by its Customer. In so far as the Company agrees to arrange insurance, the Company acts solely as the agent of the Customer using reasonable effects to arrange such insurance. The Company does not warrant or undertake any such insurance will be accepted by the insurance company or underwriters.

## **14. Time Bar**

Unless agreed differently by the Company in writing or suit is brought in the proper forum as specified in these Terms & Conditions, all the Company's liabilities shall be relieved within 9 months from the date the goods were delivered or should have been delivered by the Company or from the date the consignee was entitled to deem the Goods to have been lost due to failure of delivery.

## **15. Jurisdiction and Law**



These Terms & Conditions and any claim or dispute arising out of or in connection with the services of the Company shall be subject to MEXICO law and regulation and exclusive jurisdiction of MEXICAN courts.