

# **GENERAL CONDITIONS FOR THE HANDLING OF GOODS AND RELATED ACTIVITIES IN PORTS OF THE USA**

*Article 1:* Every assignment to the assignee will be concluded according to the following conditions that govern the commercial relations between the parties.

- The assignor is the one who gives the order to the assignee.
- The assignee is the one who accepts this order and executes it or has it executed.

These general conditions do not detract from the regulations and customs of the port of Loading/unloading.

*Article 2:* The assignment consists of all activities of a manual or non-manual nature relating to the loading, unloading, handling, receiving, controlling, tallying, delivery of goods, warehousing, transportation within the port area , including all related and additional activities.

This enumeration is not limitative.

*Article 3:* The assignee is only liable for the material damage and/or loss which is the direct consequence of his proven fault. Under no circumstances more than the actual damage will be compensated for. The liability of the assignee is limited to USD 2 per kg of damaged or lost gross weight. For steel products (such as coils, sheets, plates, slabs, pipes, tubes, beams, bars, blooms, billets, wire rods and cast iron pipes) a liability limitation of USD 1000 per package will be taken into account.

The maximum liability regardless of the number of packages for each claim of damage, shall in no case exceed USD 25,000 per event or series of events caused by one and the same cause.

For damage caused to the ship or means of transport, the maximum liability shall not exceed USD 25,000,-. In case of convergence of several claims relating to damage caused to the ship or the means of transport, loss and/or damage of goods or materials made available by the assignor or by third parties, the total liability shall not exceed USD 50,000,- irrespective of the number of prejudiced parties.

*Article 4:* All costs arising from government decisions and all claims which governments have or think they have towards the assignee, and all costs which the assignee will have to pay to protect himself from this type of claims, shall be borne by the assignor.

*Article 5:* The assignor who can invoke discharge clauses and/or limitations shall stipulate these in favor of the assignee. The assignor confirms that the goods of the assignment are his property or that he, as the representative of the interested party of the goods, can dispose of these goods in a way that he will not only accept these conditions for himself, but also explicitly on behalf of his assignor and/or any other interested party of the goods.

*Article 6:*

- a) Money advanced shall be repaid in cash on presentation of the supporting documents.
- b) All amounts which have been charged by the assignee shall be paid in cash, unless another term of payment has been agreed between the assignee and the assignor.
- c) Every protest against an invoice shall be received in writing by the assignee within 14 days following the invoice date. Partial protest shall not suspend the payment of the not-protested parts of the invoice.
- d) Delay in payment will give rise ipso jure to the payment of interest for delay equal to the interest rate of 10% on a yearly basis.
- e) Formal notice of payment shall give rise to the payment of contractual damages equal to 10 % of the amount invoiced, with a minimum of USD 125,- for administrative charges.

*Article 7 :* The assignee is exempt from all liability in the following cases:

- all immaterial, indirect and/or consequential damage such as but not limited to: delays, harbor dues, demurrage, loss of profits, fines and/or similar levies;
- all damage and loss occurring before or after the actual execution of the task by the assignee;
- force majeure;
- shortage of personnel;
- theft;
- defect in the goods and/or the packing;
- flooding, whirlwind, natural disaster, explosion and fire, whoever or whatever may be the cause thereof;
- error of third parties and/or of the assignor;
- failure to communicate or incorrect communication of data or instructions, or communicating incorrect or incomplete data or instructions by the assignor and/or by third parties;
- any claim resulting from an unforeseeable defect of the equipment of the assignee.

*Article 8:*

- a) The assignor is required to communicate in writing to the assignee in time before the commencement of the task:
  - the correct and accurate description of the goods, including type, number, weight, condition and risk category.
  - all instructions and limitations connected with the protection, handling, and storage of the goods and the execution of

the assignment in general.

- all instructions regarding the protection of the appointed persons.
- b) The goods shall carry all necessary markings indicating their characteristics. The assignor shall pack the goods required for the execution of the assignment, unless it is customary not to pack the goods.
- c) The available means of transport shall be supplied so that the assignment to be executed can be started immediately according to the usual method of working and the relevant statutory regulations. Unless agreed otherwise in writing, the assignee will not guarantee the fastening of the load. Before the start of the transport, the transporter shall verify whether the stowage and – if applicable – the fastening of the load has been carried out pursuant to the technical requirements of the vehicle and to the relevant statutory regulations.
- d) The installations, warehouses and equipment shall be checked by the assignor before being put to use, as to their suitability. In the absence of such a check or any motivated reserve, they shall be deemed to have been found suitable.

The assignor shall safeguard the assignee against all claims and shall compensate him for his damage, losses and costs that could arise from a breach of the above obligations, even if the breach is attributable to a third party.

*Article 9:* Unless agreed explicitly with the assignor, the assignee shall never insure the goods. The parties and respective insurers shall mutually renounce redress for all damage resulting from fire, explosion, stroke of lightning and the impact of aircrafts. The assignor himself shall be responsible for cleaning and removing the goods which have been damaged by fire.

*Article 10:* The assignee shall carry out the assignment to the best of his ability and pursuant to the customs, usages and regulations of the port.

*Article 11:* As guarantee for the payment of all sums due by the assignor to the assignee for the handling, storage and additional activities of these and previous goods, he is granted a possessory lien even if warehouse warrants and bearer storage certifications are issued.

Should the assignor remain in default, the assignee shall be entitled, after due notice, to have the goods sold.

*Article 12:* All liability of the assignee lapses if the assignor has not protested in writing and at the latest upon conclusion of the task.

*Article 13:* Without prejudice to the preceding stipulations, any claim against the assignee expires one year after the determination of the damage and/or shortage or, in case of dispute, one year after the date of invoice, unless a shorter date is fixed by law.

*Article 14:* Should any article of these general conditions be in conflict with compelling legal stipulations that article shall be regarded as not written, so that the validity of the remaining articles shall be unaffected.

*Article 15:* All legal disputes between assignor and assignee shall be settled according to these general conditions and local law, unless both parties have agreed otherwise.

Only the local courts are competent in case of disputes.