

SVTH - FEDERATION OF TRADE & SERVICES

General Service Terms

(Translation of the General Service Terms of SVTH – Federation of Trade & Services. In case of inconsistency the original Icelandic text shall prevail)

“The Company”, which is a member of SVTH – Federation of Trade & Services (in Iceland), offers its customers multimodal transport and port-to-port shipment in accordance with the terms, conditions and exceptions stated in the Company’s general transportation terms, which can be found e.g. on its shipping documents. In addition, the Company also offers different services, which do not fall under the definitions of multimodal transport or port-to-port shipment and are governed by the following general service terms

1. Definitions

For the purpose of these provisions, the following terms shall be defined as follows:

“**Subsidiaries**” shall mean other companies in which the Company holds a majority ownership and/or controls a majority of the votes and/or owns in their entirety at any given time.

“**Shipping document**” shall mean a bill of lading and/or sea waybill for multimodal transport and/or port-to-port shipment.

“**The Company**” shall mean one of the member companies of the Logistical department of SVTH – Federation of Trade & Services as they stand at any given time, and their subsidiaries.

“**SDR**” (Special Drawing Rights) is the international unit of account used by the International Monetary Fund, which shall be converted into Icelandic currency according to the exchange rate on the day when a payment takes place.

“**Sub-contractors**” shall mean direct or indirect sub-contractors, their employees, agents and sub-contractors.

“Goods” shall mean cargo or commodities including packaging and containers of whatever kind in which goods are consolidated or packed; “container” shall mean all types of container, trailer, transportable tank, flat or pallet or other similar article of transport used to consolidate goods.

“Customer” can mean either a person or a legal entity and applies to a party who has ordered or requested that the Company performs a particular service and/or a party to whom the Company has provided services and/or an owner of goods or a party who has an entitlement to ownership of goods and a party who acts on behalf of the above-mentioned parties as an employee, agent, or in another way.

“Service” shall mean all work, or part thereof, which the Company undertakes for a Customer, including but not limited to, consultation and/or information of all types, transport bookings, pre- and on-carriage by sea, road or other modes of transport as appropriate, completion of shipping documents, tallying, sorting, and stowing of goods on pallets, plastic covering of goods, stowing and lashing in containers, storage, transfer of goods between containers, transfer of goods and/or containers within port areas or storage areas, inspection of goods, haulage of goods to and from customers, container rentals, transport of mail in ships' bags and other handling of documents, ships' agency, loading and unloading of ships, work aboard ships, customs clearance, unloading of fishing vessels and all other related work as well as any other work to be performed by the Company under contract. The above list consists of examples of the work that the Company can undertake to perform.

If the Company undertakes works other than those listed above they shall also fall within the ambit of this definition.

2. Applicability

The terms shall apply to all services which the Company or its Subsidiaries undertake to perform for the Customer, regardless of whether the services are paid for or not, insofar as such services are not governed by the terms of transportation of the Company, mandatory legislation or other terms of the Company that have been agreed upon in writing as governing the relationship between the parties.

In the event of inconsistency between these terms, on the one hand, and the terms of transportation of the Company, mandatory legislation and/or other written terms that have been agreed upon as governing the relationship between the parties on the other hand, the terms and legislation named above shall prevail over these terms.

These terms, including exceptions from liability, defences, rights and limitations of liability, shall apply in all actions against the Company, whether or not the claim is founded in contract or in tort and even if the liability is a result of intention or gross negligence or rejection of contract.

3. Services

The Company undertakes to perform the service, which it has undertaken for the Customer, in a normal and careful manner.

4. Liability of the Company and the Period of the Liability

4.1. Liability

The Company is liable according to the general principles of the law of tort on direct loss to the Customer, that can be attributed to either intention or gross negligence on the part of the Company or persons for whom it is responsible, with the exceptions stated in these terms. The burden of proof regarding the liability of the Company shall rest with the party claiming that the Company bears liability.

4.2 Beginning of the Period of Liability

The period of liability for handling of goods or services related to goods for the Company according to Sub-Clause 4.1 is from the time that the Company has received the goods into its custody.

In all other instances the period of liability for the Company begins at the commencement of the relevant service.

4.3 End of the Period of Liability

The period of liability for handling of goods or services related to goods for the Company according to Sub-Clause 4.1 expires upon delivery of the goods to the Customer or at the time when goods should have been delivered to the Customer.

In all other instances the period of liability for the Company shall end when the relevant service was completed.

5. Amount of Compensation and Exemption from Liability

5.1 Determination of the Amount of Compensation

When the Company is liable for compensation in respect of loss of, or damage to, the goods, such compensation shall be calculated with reference to the value of such goods as stated in an invoice. If the value of goods is not stated in an invoice, the compensation shall be calculated with reference to the value of goods of the same kind and same quality at the time when the loss or damage occurred. The burden of proof regarding the value of the goods as mentioned above, shall rest with the Customer.

Compensation for a partial loss shall be calculated on a proportional basis; however, compensation for a partial loss can never exceed the amount of compensation for a total loss of goods.

5.2 Delay and/or Delay in Delivery

Under no circumstances whatever shall the Company have liability for any direct, indirect or consequential loss or damages caused by delay or delay in delivery. Furthermore, the Company does not warrant that the goods, documents or other items will reach their destination at a particular time, or meet any particular market or use, or be available for a particular purpose, unless such provisions have been agreed upon in writing in advance.

5.3 Indirect or Consequential Damages

Under no circumstances whatever shall the Company be liable for consequential damages or loss of profit. Nor, shall the Company be liable for antiquity value, sentimental value or other special values.

5.4 Relief from Liability

Under no circumstances whatsoever shall the Company be liable for any loss or damage that may be attributed to the following:

1. Fire, explosion or water unless caused by intention or gross negligence by the Company or employees for whom it has responsibility.
2. Gross negligence or intention by the Customer or a party acting on his behalf.
3. Handling, loading, unloading or stowage of goods, e.g. in a container or on a pallet, which the Customer or someone acting on his behalf has carried out.
4. Breakdowns, derangement, electrical power failures or other reasons which result in malfunctions of reefer stores, reefer containers, cranes or other equipment of the Company or failure of such equipment to function in the normal way, unless this can be attributed to gross negligence or intention on the part of the Company or employees for whom it is responsible.
5. Wrong or insufficient information from the Customer or persons acting on his behalf.
6. Insufficient or defective packing or marking of goods.
7. Stoppages or restraints of labour, strikes or lockouts, regardless of whether the Company is involved and regardless of whether they are legal or illegal.
8. *Force majeure*, such as natural catastrophes, wars, radioactivity, civil unrest or other external circumstances which are outside the Company's control

5.5 Customer's Own Fault

Compensation to the customer shall be reduced, dismissed or cancelled if it is proved that the Customer or someone acting on his behalf has contributed to the loss by gross negligence or intention. Furthermore, the Customer shall in all circumstances be obliged to take measures to limit his loss according to general principles of law of tort.

5.6 Interest

No interest shall be paid on claims made against the Company until judgement has been passed by a court.

6. Limitation of Liability

The amount of damages that the Company might be responsible for under Clauses 4 and 5 of these terms shall under no circumstances be higher than following:

6.1 Particular Limitation

In cases involving the handling of goods, or services in relation to goods, compensation for damage or loss to the goods is limited to 2 SDR for each kilo of gross weight of goods lost or damaged, or 667 SDR for each package or other unit of goods, whichever is the higher. The compensation can however never exceed the value of the goods as per Article 5.1 of these terms.

When deciding what constitutes a package or unit, reference shall be made to a receipt for reception of the goods, or, if no such receipt has been issued, the shipping document issued for the carriage of the goods.

In all other cases and when neither the weight nor the number of units of the goods can be ascertained, compensation is limited to 7.500 SDR for each loss, or for several losses suffered by a Customer, provided they are from the same cause.

6.2 Global Limitation

The Company's liability towards all its Customers is limited to 100.000 SDR for all claims arising from one and the same event. The right to apply the limitation stated in this Clause shall exist regardless of the grounds for liability. Any claims amount subjected to the limitation of liability under this Clause shall be divided among the claimants in proportion to their claims.

This provision shall not prevent the application of Sub-Clause 6.1 of these terms for the purpose of limitation of liability of the Company against the relevant Customer.

7. Notice of Loss

The Customer shall notify the Company of loss or damage in writing as soon as it has been detected and at any rate within 10 days from the time he became aware of or could have known about the loss.

The aforementioned notice shall state clearly the goods or services involved, the amount of the claim, if possible, and the reason why the Company is held responsible for the incident in question, if applicable. Additionally the Customer must give the Company an opportunity to inspect the goods.

If notice of loss or damage is not made in accordance with the foregoing provision, the rights of the Customer to claim compensation from the Company shall expire due to laches.

8. Fees

The Customer shall pay the Company a fee for the work and service that the Company performs for the customer. The fee, and its payment, shall be based on the terms of the applicable tariff of the Company unless otherwise agreed.

If the fee has not been paid by the due date, the Company shall be entitled to charge the Customer arrears interest on overdue debts from the due date until payment has been made as well as the cost of recovering the fee.

9. Liens and Security for Contract

The Company shall have lien and security for a contract, as appropriate, in all goods in its custody against all claims against the Customer related to the goods and for any other claims of the Company against the Customer, which are in no way related to the goods.

If the Company intends to apply the aforementioned lien or security for a contract it shall notify the Customer of this in writing. This notification shall include a general explanation of the reason for the action in question and state the amount of the claim or the total amount of claims, in the event that more than one claim is involved.

Should the Customer not settle the claim following the above notification the Company shall be entitled to sell the goods in the manner it deems most advantageous in each individual case, at the Customer's risk and cost without any further notification to the Customer.

In the event that the amount realised from the sale of the goods does not cover the claim, the Company shall be entitled to have any difference paid by the Customer together with interests and costs of the claim. If, on the other hand, a surplus remains from the sale, after settlement of the claim and costs and interest, it shall be paid to the Customer.

10. The Responsibility of the Customer

The Customer shall have responsibility towards the Company in accordance with general principles of the law of torts.

The Customer warrants that he is the owner of, or has the entitlement to the goods that are delivered to the Company, or that Customer has full and unlimited power from the owner of the goods to seek a particular service and agree to these terms on behalf of the owner of the goods.

The Customer shall be responsible for ensuring that all the requirements of domestic and foreign law, regulations and official instructions applicable to the goods and services requested that the Company provides, are met as appropriate.

In addition to the aforesaid, the Customer shall compensate and indemnify the Company for all consequences of the following:

1. Incorrect, unclear or unsatisfactory information on goods and /or other particulars submitted to the Company.

2. Inadequate and/or insufficient packaging and marks of goods.
3. The loading or stowage of goods, e.g. on a pallet or in container by or on behalf of the Customer, proves to be unsatisfactory.
4. Damaging or hazardous properties of the goods, which were not specifically stated.
5. Someone other than the Customer bases its rights or entitlement on and/or follows information or advice that the Company has granted the Customer.
6. The Company has been obliged, without otherwise having incurred liability, to pay taxes, customs duty or other official dues of any kinds.
7. The Customer or persons acting on his behalf default and/or violate any provisions of these terms.

11. Sub-Contractors

The Company shall have the right to hire Sub-Contractors upon any terms in order to perform work and services, which the Company has undertaken vis-à-vis for the Customer. All employees and Sub-Contractors of the Company shall be entitled to invoke the provisions of these terms, when applicable, since the Company enters into this contract with the Customer both on its own behalf and as the agent or trustee for employees and Sub-Contractors.

12. Delivery of Notices

When it is provided in these terms that one of the parties shall send the other a notification, regardless of what it is called, then it shall be sent in a verifiable manner to the addresses supplied by the parties, or to their lawful domicile as this was registered when the notice was dispatched. Provided that this is respected, then the notification shall have the significance and the legal effect that it is intended to have, even if it arrives garbled, or late or even if it does not reach the intended recipient.

13. Time Bar

The liability of the Company shall cease in all circumstances unless legal proceedings are instituted within one year of the following times:

1. In the case of claims for loss of or damage to goods: the date of delivery of the goods, or the date when the goods should have been delivered.
2. In all other cases: the date the Customer knew, or should have known, about the events on which his claim is based.

14. Jurisdiction

Any disputes regarding these terms which can not be resolved with negotiation, shall be brought before the District Court of Reykjavik.

15. Insurance

The Company does not insure those goods that are kept in its custody or that of its Subsidiaries or Sub-Contractors. As a result, the Customer is recommended to insure all goods against any possible loss and/or damage for which it is possible to insure.

16. Entry into Force

These general service terms of SVTH – Federation of Trade & Services shall enter into force from 1 April 2006. SVTH – Federation of Trade & Services reserves the right to amend these terms at any time and will notify of such changes before they enter into force.