



## GENERAL CONDITIONS

### Article 1: Definitions

In these General Conditions:

"*Customer*" means the consigner, forwarding agent, principal, bearer of this Document, the consignee of the Goods, any owner or assignee of the Goods in the capacity of consignee or assignee or this Document and whoever acting on their behalf.

"*Intermodal Transport Unit (ITU)*" means any container, movable tank, swap body, platform or any assimilated equipment (including under controlled temperature, in particular refrigerated, coolant and insulated equipment) used to consolidate the Goods and any related or connected equipment.

"*Goods*" means all or part of the cargo handed over by Customer.

"*Price*" means all costs to be paid to RAIL LINK EUROPE in compliance with the rate in force and this Document.

"*Document*" means this document which represents the agreement entered into between Customer and RAIL LINK EUROPE for organising shipment of the Goods from the agreed pick-up location to the destination.

### Article 2: Acceptance of the provisions in the Document

**2.1** Through its acceptance hereof, Customer confirms its agreement that consignment, transport, custody, relay, delivery, handling, transshipment of the Goods and any other service entrusted to RAIL LINK EUROPE are subject to the terms and conditions mentioned on the front and back hereof.

**2.2** All persons designated as Customer by virtue of the definition in Article 1 above shall have unlimited joint and several liability as regards RAIL LINK EUROPE for proper fulfilment of the obligations incumbent upon the Customer in the scope of this Document.

### Article 3: Guarantee

Through its acceptance hereof, Customer attests that it is the owner or assignee of the Goods or that it is authorised to act on their behalf.

### Article 4: Obligations of the Parties

**4.1** Under this Document, RAIL LINK EUROPE agrees to:

- Organise and accomplish forwarding/ transport of ITU handed over by Customer, mainly by rail, from the agreed pick-up location to the destination;
- Organise and perform the ITU loading and unloading operations.

**4.2** Any additional service to shipment and/or transport and/or delivery is subject to RAIL LINK EUROPE's written agreement.

**4.3** Under this Document, Customer agrees to:

- Transmit all information concerning the entrusted Goods (particularly quantity and nature thereof) and concerning the useful precautions to be taken during transport, handling or storage of said goods, as well as information required for organising the requested transport. Customer shall be liable for all consequences resulting from breach of this information and declaration obligation concerning the goods, particularly its IMCO class where necessary. It shall solely bear any consequences resulting from inaccurate, incomplete, inapplicable or late documents or declarations;
- Label, package, block, secure, mark and countermark Goods so that they can withstand transport and/or storage carried out in normal conditions as well as any necessary handling during progress of these operations;
- Provide the ITU on the day stipulated at the agreed shipment location;
- Make all the declarations and draft all required documents in compliance with regulations in force;
- Pick up ITU on the day of arrival at the agreed location;
- Pay the Price to RAIL LINK EUROPE;
- Declare the value of the Goods if said value exceeds € 300,000.00 (three hundred thousand euros).

### Article 5: Price – Payment conditions

**5.1** The rate provisions in force are integrated herein. Customer is especially advised as to the provisions concerning detention and demurrage costs for ITUs and vehicles. Upon simple request, copies of the rate provisions in force may be obtained from RAIL LINK EUROPE or its agents. Should a difference subsist between the Document and the applicable rates, the Document shall prevail.

**5.2** The Price does not include the duties, taxes, fees and charges owed by virtue of any regulations, for example tax or customs and which, in any case, shall be incumbent upon Customer.

**5.3** The Price shall be payable as soon as the service is performed. **5.4** The Price shall be paid in full, without compensation or deduction, notwithstanding any counterclaim or stay of

execution. Customer shall particularly waive compensation of a debt resulting from this Document with any other debt-claim that it avails itself of, unless said debt-claim is recognized by final court decision, all means of redress exhausted, or expressly acknowledged by RAIL LINK EUROPE.

**5.5** In the event of failure to comply with the payment deadlines, a late interest equal to three times the Central European Bank interest rate (B.C.E.) at its most recent refinancing operation increased by 7 POINTS shall be owed for any Price, additional premium and charges remaining unpaid once the payment date is exceeded. Said late interest shall be immediately payable by virtue of Article L441-3 of the French Commercial Code. Any invoice unpaid after a timeframe of 8 days as from sending of a formal notice with acknowledgement or receipt shall be increased by 15 % of the principal amount as a flat-rate penalty clause.

#### **Article 6: Privilege**

Customer acknowledges that RAIL LINK EUROPE has a conventional right of pledge giving entitlement to general and permanent right of lien and priority including the right of private sale or public auction, in guarantee of the Price (including the additional price owed under Article 10), additional premiums, costs of detention, demurrage, storage, holding, destruction and other costs, charges Customer hereunder and for all the costs and expenses incurred further to exercise of this privilege and the sale as well as for any debt of whatever nature owed by Customer to RAIL LINK EUROPE, whether prior to, after or having nothing to do with the operations performed in execution of this Document.

#### **Article 7: Description of the Goods – Customs formalities**

**7.1** This Document represents proof of acceptance by RAIL LINK EUROPE of the Goods, the total number of ITUs or other packages or load units mentioned on the front hereof.

**7.2** Customer attests, upon signature hereof that (i) information provided on the ITU and the Goods especially as regards weight, quantity and the nature thereof are exact and complete irrespective of whether said information marked thereon by itself or RAIL LINK EUROPE or whether they had said information recorded thereon, and (ii) all documents and forms accompanying ITU and which are stipulated by the authorities for the various checks, have been duly and correctly filled out.

**7.3** Any reference concerning a documentary credit, import licence, sale agreement, invoice, order number and in general, any item of any agreement to which RAIL LINK EUROPE is not a party mentioned on the front of this Document is only included upon Customer's request and for its convenience. Customer acknowledges that such notations are not a declaration of value nor a declaration of interest to the delivery and

under no circumstances affects RAIL LINK EUROPE's liability. Furthermore, Customer agrees to compensate RAIL LINK EUROPE for all consequences stemming from integrating these notations to the Document.

**7.4** Customer shall comply with all the regulations or requirements of customs, port or other authorities and shall bear and compensate RAIL LINK EUROPE for all duties, taxes, levies, expenses and losses (including the price of additional services) incurred due to breach of the regulations and requirements stipulated above, particularly stemming from transport of illegal Goods or from illegal, inaccurate or insufficient marking, numbering or destination of the Goods.

**7.5** RAIL LINK EUROPE shall not be obliged to check accuracy or adequacy of documents and information provided by Customer for customs formalities.

#### **Article 8: Supply and stuffing of ITUs**

**8.1** Customer shall be solely liable for packaging, packing, sheeting, securing and stuffing the Goods as well as closing ITUs, and affixing seals. Through handover of the ITU, Customer guarantees that condition of the Goods and ITU closing and sealing shall allow safe transport, especially that Goods were packed, packaged, secured, marked or countermarked so as to withstand transport and/or storage, as well as successive handlings which may be required during performance of the operations.

**8.2** Customer shall be solely liable for stuffing the Goods in a refrigerated ITU, faulty indexing of the required temperature or malfunction of the refrigerated ITU.

**8.4** RAIL LINK EUROPE shall not be obliged to check condition, quantity, weight, nature, packaging, securing or packing of the Goods nor information provided or documents submitted in this respect by Customer.

**8.5** Customer guarantees that ITUs supplied are suitable for transport, storage and handling operations planned and fulfil all the safety and capacity criteria stipulated by national and international laws, regulations and conventions.

#### **Article 9: Hazardous Goods**

**9.1** No hazardous, flammable or harmful Goods or likely to become so, which may damage any property whatsoever shall be accepted by RAIL LINK EUROPE without its prior written consent. ITUs or packages containing said Goods as well as the Goods themselves must be distinctly marked on the outside so as to specify their hazardous nature and thus comply with any applicable law, regulations or instructions. Should these Goods be handed over to RAIL LINK EUROPE without its written consent and/or without marking or should RAIL LINK EUROPE

consider that Goods are or may be hazardous, flammable or harmful, RAIL LINK EUROPE shall take all the useful measures to make them harmless.

**9.2** All things considered, Customer shall be bound to make all the necessary declarations and comply with all the conditions stipulated by national or international regulations in force for acceptance and transport of this type of Goods.

**9.3** Customer shall be bound to immediately remove hazardous Goods upon arrival at the destination. Failing this, RAIL LINK EUROPE may take all relevant measures, at Customer's costs and risks, such as detention in another location, return, unloading, etc.

**9.4** Customer shall be fully liable for any breach of Articles 9.1, 9.2 and 9.3 and all things considered any loss or damage, delays or cost resulting from acceptance of these Goods, transport or any other related service.

#### **Article 10: Insurance**

**10.1** RAIL LINK EUROPE shall not subscribe to any insurance on behalf of the Customer without written and repeated instruction from the latter for each shipment specifying the risks to be covered and the values to be insured.

**10.2** Should such an instruction be given by Customer and accepted by RAIL LINK EUROPE, RAIL LINK EUROPE, acting on behalf of the Customer, shall subscribe to an insurance policy with a reputedly solvent insurance company at the time of coverage. Failing special specification, only ordinary risks (excluding risks of war and strike) shall be insured. RAIL LINK EUROPE acting in this specific case as agent can in no way be considered as insurer. The policy conditions are deemed known and authorised by the Customer which shall bear the costs thereof.

#### **Article 11: Transport means and route**

**11.1** At any time and without advising Customer beforehand, RAIL LINK EUROPE may use any means of transportation required for performing the requested transport or take any route it desires within the limit of the instructions initially given by Customer and with the only restriction being effective arrival of ITUs at the agreed destination.

**11.2** Should it appear at any time and for whatever reason that the Goods cannot be suitably and safely transported or that the shipment cannot be continued without additional expenses being incurred and without specific measures being taken, RAIL LINK EUROPE shall inform Customer of the situation and both parties shall come to the best solution.

#### **Article 12: Performance of services - Delivery**

**12.1** The departure and arrival dates transmitted by RAIL LINK EUROPE are given purely for reference and shall under no circumstances be interpreted as RAIL LINK EUROPE's commitment to carry out shipment and delivery of the Goods at the indicated

dates and RAIL LINK EUROPE shall not be held liable thereof.

**12.2** Should transport be hindered and if modifications are required, RAIL LINK EUROPE shall take all the necessary measures and shall inform its Customer thereof.

**12.3** The consignee shall receive ITUs at the agreed place and date of arrival.

#### **Article 13: RAIL LINK EUROPE liability**

**13.1** RAIL LINK EUROPE shall not be held liable if Goods are accepted by the Customer without written, specific and duly motivated reservations sent to RAIL LINK EUROPE at the latest at the time of delivery, unless it involves hidden damage or losses are noted, in which case, notification may be validly sent within three days of delivery, excluding public holidays, subject to Article 12.1 above.

**13.2** RAIL LINK EUROPE shall not be held liable if losses or damage to the ITU or Goods are caused by Customer's fault, by an order that it gave, by an inherent defect of the ITU or Goods or by circumstances beyond the control of RAIL LINK EUROPE which could not have been prevented or whose consequences could not be remedied.

**13.3** Under no circumstances shall RAIL LINK EUROPE be held liable for any loss or damage resulting from insufficient packaging, securing or blocking or the Goods or inaccurate, deleted or absent marks, numbers, addressees or description of the Goods.

**13.4** ITUs handed over to RAIL LINK EUROPE by the Customer must be in good condition. RAIL LINK EUROPE may at any time issue reservations as to the condition of ITUs which were handed over at the departure terminal.

RAIL LINK EUROPE shall not be liable for loss and/or damage of ITU accessories during transport. Therefore, Customer shall take all the necessary measures so that accessories (such as plates, hoses, seals, etc.) are not lost or stolen.

**13.5** Should an ITU be opened to inspect Goods by order of local authorities, RAIL LINK EUROPE shall not be held liable for loss or damage resulting from opening, unpacking, inspection or stuffing. RAIL LINK EUROPE may be claim the cost of said operations from Customer.

**13.6** Findings for loss or damage shall only be enforceable to RAIL LINK EUROPE insofar as it would have been duly called to participate therein.

**13.7** Whenever RAIL LINK EUROPE is liable for acts committed by agents that it appointed, its liability shall be limited to that incurred by the latter in the scope of the operation with which they are entrusted, by virtue of legal texts applicable to the transport in question.

**13.8** Whenever RAIL LINK EUROPE is liable for its own actions, further to loss or damage, said liability is restricted to:

- 17 SDI per kilogramme of gross missing or damaged weight, if damage occurred during the rail phase of the transport.

- 8.33 SDI per kilogramme of gross missing or damaged weight, if damage occurred during the pre/post road transport.

By virtue of Article 12-1, RAIL LINK EUROPE shall not be held liable in the event of delay.

**13.9** Customer may under no circumstances claim compensation from RAIL LINK EUROPE for indirect or successive damage such as costs of waiting and detention time, demurrage upon departure and arrival, the cost of replacement transport, damage connected with loss of profit, loss of use or late use of the Goods, shutdown or delay in production, loss of image or market shares.

**13.10** The liability limitations and exclusions stated in this article apply whenever loss, damage or any other injury which occur between pick-up of the Goods and delivery to the Customer may give rise to non-contractual claims against RAIL LINK EUROPE.

**13.11** Any legal action against RAIL LINK EUROPE under this Document shall be limited to three months as from its entry into force.

#### **Article 14: Law and Jurisdiction**

##### **14.1** Applicable law

Subject to any contradictory provisions stipulated by this Document, any dispute stemming from construction or execution of this Document shall be settled in compliance with French law.

##### **14.2** Attribution of jurisdiction

Any legal action resulting herefrom shall be solely brought before the Court of Commerce of Marseilles.

#### **ARTICLE 15- Cancellation – Invalidity**

All other provisions shall remain applicable, should any of the provisions hereof be declared null or deemed unwritten.