

## General Terms and Conditions of Sale and Transport

(valid as of 01/12/2019)

### A – General provisions

#### Article 1 Object and scope

1.1 The purpose of these General Terms and Conditions is to govern the relations between CFL cargo SA, registered with the Luxembourg Trade and Companies Register under no. B60314, (hereinafter referred to as “CFL cargo”) and its Customers for all agreements and services provided, including all rail transport services.

1.2 The General Terms and Conditions may be supplemented by a written contract signed by and between the parties which sets out Particular Terms and Conditions and may, where necessary, derogate from these General Terms and Conditions.

1.3 In the event of discrepancy between the General and the Particular Terms and Conditions, the latter shall take precedence.

1.4 Unless accepted in writing beforehand by CFL cargo, the Customer’s general terms and conditions may not take precedence over these General Terms and Conditions and any Particular Terms and Conditions.

1.5 CFL cargo reserves the right to amend these General Terms and Conditions at all times by informing the Customer 2 (two) months in advance at the latest. No amendment shall apply retroactively. If no notice of objection is served prior to the scheduled entry into force, such amendments shall be considered to be approved. In the event of objection by the Customer before the amendments enter into force, the contractual provisions shall remain unchanged. In the latter case, CFL cargo shall nonetheless be entitled to terminate the contract within 3 months of receipt of the objection.

#### Article 2 Prices of the services

2.1 Prices shall be quoted in euros, exclusive of VAT. They shall not comprise duties, taxes, fees and any other levies payable pursuant to any legislation and regulations, in particular of a tax or customs nature (such as excise duties, entrance fees, etc.).

2.2 Prices shall be calculated on the basis of information provided by the Customer, taking into account in particular the services to be rendered, the nature of the merchandise, and its weight and volume.

2.3 The prices mentioned in a CFL cargo quotation shall be valid for the period mentioned therein. If no validity period is stipulated in the quotation, the prices mentioned shall be valid for 30 (thirty) days maximum as of the communication of said quotation.

2.4 Prices may be revised in the event of significant changes in the charges of CFL cargo between the date on which the contract was

concluded and the end of its performance, due to conditions beyond the control of CFL cargo.

2.4 When fixed for a period exceeding one year, prices shall be indexed each year in accordance with the consumer price index in force in Luxembourg when the freight forwarding contract was concluded and shall be adapted automatically, without notice, on the 1<sup>st</sup> of each year. If this index is eliminated or frozen, CFL cargo shall resort to an equivalent replacement index based on consumer price developments.

#### Article 3 Liability of CFL cargo and insurance

3.1 For national and international transport, the liability of CFL cargo shall be limited to the cases and amounts stipulated in the Convention concerning International Carriage by Rail (hereinafter referred to by the French acronym “COTIF”), and its annexes, in particular the Uniform Rules concerning the “Contract of International Carriage of Goods by Rail” (hereinafter referred to by the French acronym “CIM”).

3.2 In the event that CFL cargo were to undertake to provide other services which do not fall under the scope of the CIM, the obligations assumed by CFL cargo shall be obligations of means. CFL cargo shall be held liable for the violation of such services only in case of gross negligence or wilful misconduct.

3.3 CFL cargo shall cover its liability by taking out appropriate insurance.

#### Article 4 Liability of the Customer and insurance

4.1 The Customer shall cover its liability by taking out appropriate insurance and shall be required to provide CFL cargo, upon request, proof that such insurance has been taken out and the relevant premium has been paid.

4.2 In the case of hazardous goods, the Customer shall inform CFL cargo in writing of the hazards and, where appropriate, the safety measures to be taken. In the case of hazardous products within the meaning of legislation on the transport or handling of hazardous goods, or in the case of goods for which the legislator has enacted particular provisions for safety, handling or the management of waste, the Customer shall be required to provide CFL cargo with all such data as useful and necessary, including the classification of the goods, so as to enable CFL cargo to provide the services requested in accordance with the proper rules.

4.3 In the case of very valuable goods or items susceptible to theft (cash, jewels, watches, precious stones, works of art, antiques, credit cards, tobacco, etc.), or items worth €50/kg and more, the Customer shall inform CFL cargo in due course in writing so that CFL cargo can take such measures as necessary for the transport and/or handling thereof. These additional costs will be charged to the Customer.

4.4 If the Customer does not comply with the provisions of Articles 4.2 and 4.3 of the General

Terms and Conditions, CFL cargo reserves the right to:

- Refuse acceptance of the goods;
- Return goods already accepted or place them at the Customer's disposal so that the latter can collect them;
- Send, transport or store the goods, taking such measures as required to perform the contract in complete safety and to protect the goods from any damage, without the prior consent of the Customer as to additional costs, which the Customer shall nonetheless agree to pay.

#### Article 5 Invoicing and payment

5.1 CFL cargo invoices shall be payable within a period of 30 (thirty) days starting from the invoice date.

5.2 If an invoice is not paid when due, the Customer shall be liable, by operation of law and without prior notice to pay:

- Interest on late payment at the rate indicated in Article 5 of the Terms of Payment and Interest on Late Payment act of 18 April 2004;
- Reasonable compensation for all the recovery expenses incurred owing to late payment consisting of a fee equal to 10% of the amount of the sums due, with a minimum of €500 by way of derogation from Article 240 of the new Luxembourgish Code of Civil Procedure and in accordance with Article 5 of the Act of 18 April 2004.

5.3 For as long as the sums due have not been paid, CFL cargo reserves the right to suspend the fulfilment of its obligations to the Customer and consequently not to accept to transport any new goods or to provide any new services. Furthermore, in the event that relevant notice should prove to no avail, CFL cargo shall be entitled to terminate the contract by operation of law without prejudice to its right to claim damages for the loss suffered.

5.4 The Customer shall waive any offsetting of claims referred to in Articles 1289 and 1290 of the Luxembourgish Civil Code, for any reason whatsoever.

5.5 CFL cargo reserves the right to require a down payment and/or a guarantee at any time.

#### Article 6 Other miscellaneous provisions

6.1 To guarantee payment of the price, the Customer shall acknowledge CFL cargo's right of retention, the privilege of Article 2102-6 of the Luxembourgish civil code as well as a contractual possessory lien, providing a general, permanent preferential right of retention on all goods, values and documents of the Customer in possession of CFL cargo, by way of guarantee of all the latter's claims in principal and interest, ancillary expenses and compensation.

6.2 If unforeseeable economic, political or technical circumstances (such as a legislative or regulatory amendment) beyond the control of the parties should occur during the conclusion of the

contract resulting in a substantial disturbance of the economic balance of said contract, CFL cargo shall be entitled to propose new terms and conditions to the Customer in order to restore said balance. If agreement cannot be reached within 2 (two) months following the proposal of CFL cargo, either party may terminate the contract without compensation, subject to a period of notice of 30 (thirty) calendar days served by registered letter with acknowledgement of receipt to the other party.

6.3 Irrespective of whether a contract has been concluded, CFL cargo and its Customers shall respect the confidential nature of the information contained in contracts or exchanged in the course of negotiations. Such information may not be made public or be used for purposes other than those for which it was given, except if it is already in the public domain or if the parties are required to disclose it by virtue of legislation or a court decision.

6.4 CFL cargo shall protect personal data in compliance with the Luxembourgish and European legal and regulatory requirements as well as Regulation (EU) 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (for more details, please consult our GDPR notice on [www.cflcargo.eu](http://www.cflcargo.eu)). Compliance by the Customer with all the applicable laws on data protection shall be of the utmost importance. The Customer undertakes to be organized, managed and operated in a manner compliant with the requirements of the GDPR.

6.5 CFL cargo shall have the right to be replaced by one of its subsidiaries in all or part of its rights and obligations under contracts concluded with its Customers, whereby in such a case, CFL cargo shall remain jointly and severally liable for the proper performance, by the subsidiary or subsidiaries of their obligations under the terms of the contracts.

6.6 If any of the provisions of these General Terms and Conditions were to be declared null and void or deemed as not written, all the other provisions shall remain in force.

6.7 This contract shall be governed by Luxembourgish law without prejudice to international agreements mandatorily applicable on the matter. Any and all disputes shall be referred exclusively to the courts of the judicial district of the registered office of CFL cargo.

### **B – Provisions concerning transport**

#### Article 7 Applicable law

As regards national and international transport, the relations between CFL cargo and its Customers shall be governed by the provisions of the COTIF and its annexes, where necessary supplemented by these General Terms and Conditions and by any Particular Terms and Conditions concluded with the Customers.

#### Article 8 Order

8.1 Transport shall be carried out on the basis of a contract concluded by and between CFL cargo and the Customer. The transport contract concluded shall be evidenced by a consignment note by the shipper (cf. Article 9 of the General Terms and Conditions).

8.2 As part of the preparation of the quotation, the Customer shall be required to provide CFL cargo with all such information as necessary and/or useful to carry out the transport assignment.

8.3 Upon receipt of said information, CFL cargo shall submit a quotation to the Customer as promptly as possible.

8.4 If the Customer wishes to change a transport assignment in the course of execution, such change shall be set out in a written order sent to CFL cargo (cf. Article 9.4 of the General Terms and Conditions). The invoicing shall then be carried out on the basis of the Customer's new request.

8.5 Any order by the Customer shall entail adherence by the latter to these General Terms and Conditions without any reservation.

#### Article 9 Consignment note

9.1 The transport contract shall be evidenced by a consignment note drawn up in accordance with the provisions of the CIM and the "CIM Consignment Note Manual" (hereinafter referred to by the French initials GLV-CIM). Every empty wagon shall be accompanied by a wagon note drawn up in accordance with the CUV Wagon Note Manual (GLW-CUV).

9.2 Except by way of specific derogation, the consignment note shall be drawn up by the Customer. The latter shall ensure that the consignment note reflects accurately the agreed transport assignment. CFL cargo shall guarantee only the declared content and/or mass or, where necessary, evidenced by itself if it has the appropriate means and resources to do so. But the responsibility of CFL cargo shall be excluded if a difference in content and/or mass were to be noted due to an error, an inaccurate declaration by the shipper or inherent defect of the item.

9.3 If the indications of the consignment note are completed by CFL cargo itself, the latter shall always act on behalf of the Customer.

9.4 Any change of a transport service shall be presented to CFL cargo in accordance with Article 19 of the CIM and shall entail supplementary costs charged to the Customer.

9.5 Declarations of value (provided under Article 34 of the CIM) and of interest in delivery (provided under Article 35 of the CIM) shall not be admissible.

#### Article 10 Performance of the transport

10.1 For the performance of the transport, CFL cargo shall be entitled to entrust all or part of the assignment to substitute carriers in accordance with the provisions of Article 27 of the CIM.

10.2 CFL cargo shall agree on the delivery time with the Customer. This period shall be defined in a particular agreement or when the order is accepted. If no delivery period is agreed, the transport shall be carried out within the period provided under Article 16, paragraph 1 of the CIM.

10.3 All delivery periods shall be extended by periods of delay attributable to the Customer and shall be suspended on Sundays and statutory public holidays.

10.4 In the event of traffic restrictions, elimination of lanes or other irregularities as a result of which the itinerary has to be changed, CFL cargo shall proceed in accordance with Article 20 of the CIM.

#### Article 11 Use of wagons

11.1 When the Customer requires wagons to be made available by CFL Cargo, it shall: (i) provide all information concerning the number, type, destination as well as all other information necessary or useful for the performance of the transport; (ii) check before loading operations get under way that the wagon is appropriate for the transport and shall report any visible defect of the wagon or the goods during said inspection; (iii) use the wagon only for the purpose of the transport agreed; (iv) ensure that the wagon can be used immediately after it is unloaded; (v) be held accountable for any loss and damage caused by the Customer or its agents to equipment placed at its disposal.

11.2 CFL cargo shall provide wagons depending on availability. If one or more wagons are not available, CFL cargo reserves the right to provide wagons of a type similar to that requested which are appropriate for the performance of the transport assignment agreed.

11.3 If the transport is carried out with wagons of other holders other than CFL cargo, including if the wagons are provided by the Customer, the relations between CFL cargo and the wagon holders shall be governed by the Uniform Rules concerning the Contract for international Carriage of Goods by Rail (hereinafter referred to by the French acronym "CUV"), by the General Contract of Use for Wagons (hereinafter referred to as the "GCU") and its annexes, as well as by these General Terms and Conditions.

11.4 CFL cargo shall accept for carriage only wagons whose keeper has adhered to the GCU or has concluded a similar contract with CFL cargo. Pursuant to Article 15 of Annex G of the COTIF, such wagons shall be assigned to an entity in charge of maintenance (hereinafter referred to as "ECM"). The ECM shall guarantee that the vehicles entrusted to it for maintenance can be operated in complete safety. Otherwise, CFL cargo shall be entitled to refuse the non-compliant wagons for the transport assignment agreed. The expenses incurred by such non-compliance shall be charged to the keeper concerned. In any event, the Customer and/or the keeper shall be liable for any damage caused by the non-compliant wagon(s).

11.5 These General Terms and Conditions shall apply also to the transport order of the wagons used as a means of transport. CFL cargo shall send empty wagons only if they are the subject of a wagon note drawn up by the keeper in accordance with the “CUV Wagon Note Manual (GLW-CUV).”

#### Article 12 Loading and unloading

12.1 Unless particular provisions were agreed otherwise with CFL cargo, the loading and unloading shall be carried out under the responsibility and expense of the Customer, in accordance with the mandatory provisions of the Loading Directives of the International Union of Railways (hereinafter referred by the French acronym “UIC”).

12.2 Before loading, the Customer shall be required to verify that the wagons provided are suitable for the transport assignment agreed and free of any damage or defects. Any irregularity shall be reported to CFL cargo within 24 hours following receipt of the wagon. In the absence of such notification, the Customer shall be held liable for any damage or defect.

12.3 The Customer shall guarantee that the loading is not likely to result in prejudice to CFL cargo or third parties and that the shipment can support the duration and requirements of the transport.

12.4 When the nature or state of the goods so requires, it shall be incumbent upon the Customer to ensure that they are packaged in such a way as to be sufficiently protected against any loss or damage and that they do not risk causing harm to persons, or damage to equipment or to other goods.

12.5 If the loading and unloading deadlines are exceeded or when the transport is prevented and/or interrupted for a reason attributable to the shipper, the recipient or to any person authorized to receive the wagon, the demurrage costs shall be invoiced to the customer according to the table of daily demurrage rates posted on [www.cflcargo.eu](http://www.cflcargo.eu).