

HM GROUP



GENERAL
COMPANY TERMS AND CONDITIONS





General Company Terms and Conditions of the **HOOYMEIJER GROEP**, Consisting of the following companies:

- Hooymeijer Holding B.V., registered in the commercial register of the Chamber of Commerce under number 24489740;
- Hooymeijer B.V., registered in the commercial register of the Chamber of Commerce under number 24252333;
- Hooymeijer Container Transport B.V., registered in the commercial register of the Chamber of Commerce under number 53280253;
- Hooymeijer Special Transport B.V., registered in the commercial register of the Chamber of Commerce under number 24405597;
- Hooymeijer Groupage Transport B.V., registered in the commercial register of the Chamber of Commerce under number 24345763;
- Hooymeijer Stevedoring B.V., registered in the commercial register of the Chamber of Commerce under number 24252334;
- Hooymeijer Warehousing & Customs B.V., registered in the commercial register of the Chamber of Commerce under number 24221450.



INDEX

GENERAL 4

INSURANCE 8

TRANSPORT 9

LEASE..... 10

PERMITS 11

OTHER ACTIVITIES AND LIABILITY..... 13

PRICES AND OFFERS 13

PAYMENT 15

REMAINING PROVISIONS 16

APPLICABLE LAY AND DISPUTES 16





GENERAL

Article 1

1. Unless expressly agreed otherwise in advance and in writing, these terms and conditions apply to all our offers and/or agreements concluded by us with clients, whereby we (the contractor) undertake to transport, or have transported, goods (including container, exceptional, groupage/distribution transport and shuttle transport), the loading and unloading of goods, handling containers, packing/stripping of containers, dealing with and packaging of project loads, the ordering and/or distribution of goods, the provision of brokerage activities, the entry, storage, transshipment and removal, modification and/or processing of goods, stock control, assembly, dealing with orders, collation of orders, preparing for dispatch, invoicing, exchange of information and management of information, the mounting and installation of goods, the execution of crane activities, the delivery, or as the case may be leasing of movable and immovable goods (including containers), the hiring out/secondment of personnel, the completion of Customs and Excise documents, or as the case may be any other type of goods and services whatsoever.
2. The 'client' includes in these terms and conditions each legal entity/natural person who entered, or wishes to enter, into an agreement with us, and additionally their representative(s), authorised person(s), successor(s) in title and beneficiary (beneficiaries).
3. The applicability of the general terms and conditions of the client is expressly rejected by the contractor.
4. It has been established between us and the client that once a contract has been concluded under the applicability of these terms and conditions, these will also apply to future offers and agreements.
5. If in a specific case we do not rely on that which is determined in these terms and conditions, this does not mean that we have thereby waived our right to rely on the following terms and conditions in another case.
6. The client will indemnify us against claims by a third party/third parties - by whatever name and/or howsoever arisen - towards which third party/third parties we could not rely on the provisions of our General Company Terms and Conditions, insofar as these claims would have been excluded if this/these third party/third parties was/were bound by our General Company Terms and Conditions.



Article 2

- 1
 - a With the exclusion of that which is set out with regard to payment in the terms and conditions set out in subclause 2 of this article, with regard to all payments of the assignments provided to us and the work executed by us, that which is determined in article 17 of these terms and conditions will apply.
 - b In derogation from that which is set out in the terms and conditions set out in subclause 2 of this article with regard to disputes, the provisions of article 20 of these terms and conditions exclusively apply.

2. Depending on the nature of the entire assignment, work or other types of goods and services, or as the case may be a part thereof which can reasonably be deemed to be an independent part, in addition to the present general company terms and conditions as well as the following or replacement thereof, the generally accepted general standard terms and conditions and arrangements usual in the business sector concerned will also apply, insofar as these terms and conditions are not derogated from in so many words in these general company terms and conditions, namely:

Transport and exceptional transport

- a. the Convention on the Contract for the International Carriage of Goods by Road (CMR Convention) applies to all our work concerning international transport by road;
- b. in addition to the Convention on the Contract for the International Carriage of Goods by Road, the General Transport Conditions 2002, most recently amended version filed with the office of the clerk of the District Courts in Amsterdam and Rotterdam, apply to all our transport operations, both nationally or cross-border;


Stevedoring work

- c. the Rotterdam Stevedores Conditions, most recently amended version, drawn up by the General Terms & Conditions of the Rotterdam Terminal Operators, filed with the office of the clerk of the District Courts in Rotterdam, apply to all our stevedoring work;

Logistical activities

- d. the Logistical Services Condition 2014, most recently amended version, drawn up by the Dutch Transport Operators Association ('TLN')/the Netherlands Association for Forwarding and Logistics ('FENEX') and filed with the office of the clerk of the District Courts in Rotterdam, apply to all our logistical activities, including inter alia unloading, entry, storage, removal, loading, stock control, handling, assembly, dealing with orders, collation of orders, preparing for dispa

Forwarding and customs

- e. the Dutch Forwarding Conditions (of the Netherlands Association for Forwarding and Logistics 'FENEX'), filed with the office of the clerk of the District Courts in Amsterdam, Arnhem, Breda and Rotterdam apply to all our forwarding and custo
- 



Lease of immovable property

- f. in the event of the leasing of immovable property a lease generally accepted in the Netherlands (such as a contract of ROZ, the Real Estate Council of the Netherlands, a contract of NVM, the Netherlands Association of Real Estate Agents, or a comparable contract) will be concluded between

Other

- g. if in specific cases alternative terms and conditions might apply, such as for example the Bills of Lading Conditions of FIATA FBL, or terms and conditions specifically declared to be applicable by third parties, these will also apply to our relationship with the client.
3. If the general terms and conditions referred to in subclause 2 of this article are revised, the revised text will apply in that case, with effect from the date of the filing of these revised general terms and conditions. If one or more general terms and conditions referred to in subclause 2 of this article are replaced, in the manner set out in Book 6 Section 214 of the Dutch Civil Code, by standard terms, or standard terms take the place thereof, the standard terms concerned will apply from the date of notification of these standard terms in the Dutch Government Gazette.
4. We are at all times entitled to declare, in advance, general terms and conditions other than those set out in subclause 2 of this article to be applicable to a specific assignment, work or other goods and services.
5. In the event of any disagreement arising between the client and us on the question of which of the terms and conditions referred to in this article are applicable, or have been applicable, the right to decide which terms and conditions are applicable or have been applicable will accrue to us.

Article 3 Legally valid text

In the event of differences between the filed text of these terms and conditions and texts, which are otherwise printed, translated and/or disseminated, the filed text will exclusively prevail.

Article 4 Sequence of the execution of the work


Unless expressly agreed otherwise in writing, all assignments will be executed in a sequence to be determined by us, in the course of which the capacity of the equipment available to us and the capacity utilisation thereof will also be determining factors for the time of commencement and completion of the assignments. We are free in the manner of execution of the assignments, unless something else has been specifically agreed further as to that.



Article 5 Irregularities

1. In the event of irregularities the client must inform us in such a manner that we can take measures towards damage limitation, inter alia but not limited to the provision of correct and complete instructions, as well as by means of immediately informing us upon noticing irregularities or (pending) damage.
2. We are obliged to request instructions from the client if irregularities occur during the work which hinder the execution thereof, or as the case may be as a result of which the work can no longer be executed in conformity with the assignment provided.
3. The costs related to asking for instructions and the costs of the execution of the instructions will be reimbursed to us by the client.

Article 6 Liability general

1. We will not be liable for damage and costs - by whatever name and/or howsoever arisen - other than that resulting from intention or gross negligence on our part, if the client or as the case may be any third party, whether or not for payment:
 - a makes use of our equipment and/or personnel;
 - b stores or parks goods on one of our sites;
 - c has requested us to execute specific work, which work does not form part of any agreements already concluded, and we have acted in this matter in accordance with instructions provided by or on account of the client and/or this other third party.
 2. We will not be liable for damage and/or costs - by whatever name and/or howsoever arisen - if this damage and/or these costs ensue from services, work and/or deliveries, which have taken place without financial consideration, unless the client demonstrates that the damage is and/or the costs have arisen resulting from intention, or as the case may be intention to be deemed equal to gross errors on our part.
 3. We will not be liable for damage by whatever name or howsoever arisen if a client or any third party temporarily parks a (loaded) lorry, or pulled vehicle, on one of our sites.
 4. We reserve and stipulate all statutory and contractual defences, which we can rely on for the fending off of our own liability towards the client, or as the case may be any third party, also for the benefit of our employees and the persons not employed by us, but for whose conduct we could be liable pursuant to the law.
 5. The provisions of this article will not affect our statutory liability pursuant to mandatory statutory provisions.
 6. The client indemnifies us regarding this against claims - by whatever name and/or howsoever arisen - by third parties.
- 



Article 7

We will not be liable for damage by whatever name/howsoever arisen in the event:

- a. that a specific space has been made available to the client in one of the buildings operated by us and/or
- b. that the client has free access to this specific space and/or
- c. that the client executes under its management specific actions in this specific space.

The client will indemnify us in this matter against claims by third parties, howsoever arisen and/or by whatever name.

Article 8

The client will be obliged in any event to report to us in writing any damage, irregularities, or claims within 5 days after the arising thereof.

INSURANCE

Article 9

1. Insurance of whatever nature will only be arranged at the expense and risk of the client, and exclusively after instructions in writing and acceptance in writing thereof.
The instructions to insure must precisely contain the risks that must be insured against, as otherwise the instructions will be deemed not to have been provided, or as not accepted. We are always entitled to refuse instructions to insure.
2. Acceptance or refusal of the offered risks takes place by the underwriter or insurer. We have no control over this.



TRANSPORT

Article 10


1.
 - a. If loading and unloading work has not been agreed we will not be liable concerning these matters. The client indemnifies us in that case against claims, by whatever name and/or howsoever arisen, by third parties.
 - b. If the loading and unloading work is included in the transport, our liability with regard to this work will be equal to our carrier's liability as referred to in Section article 2 subclause 2 under a, b and c of these terms and conditions.
2.
 - a. If the client offers container(s) or trailers with contents for transport and these container(s) or trailers are not loaded by us, we will not be liable for damage arisen as a result of the manner of loading.
 - b. If the client offers goods for transport, which goods have been loaded in a container or trailer and/or placed on pallets and/or packaged in such a manner that inspection of the number of items and/or the contents is not possible, we will not be bound to the quantities and/or contents, as these have been stated by the client and/or set out in the consignment note.
 - c. If inspection by us during the loading is not possible and/or if inspection will considerably delay the transport - all this at our assessment - we will not be bound by the number of items and/or the condition of the cargo and/or contents, as stated by the client and/or as set out in the consignment note.
3. The client, and also any third parties deployed by the client, will at all times load (have loaded) no more than the statutory permissible maximum load weight of the vehicle concerned. The client indemnifies us with regard to the consequences and/or damage arisen due to overloading, if this fact is caused by or due to the conduct of the client and/or by or due to the conduct of any third parties deployed by the client.



LEASE

Article 11

1. This article applies to the leasing of containers. In the event that a container chassis and/or crane truck is deployed this article will also apply to the lease thereof. In that case "container" in this article must also be read as container chassis and/or crane truck.
2. Containers at all times remain our property. The client is prohibited from selling or leasing containers, or as the case may be from otherwise encumbering these or from making these available to third parties.
3. The risk with regard to loss or damage of the containers transfers to the client from the time when the containers come under the control of the client. All containers will be deemed to be in a good state of repair at the time when they come under the control of the client, except for in the event of evidence to the contrary put forward by the client. The client will be obliged to report to us in writing any complaints with regard to containers or defects of containers and this no later than 5 working days after the containers have been put under the control of the client.
4. The client will be obliged to immediately report to us in writing any loss and/or damage of the containers. Damage is inter alia taken to mean damage due to fire, theft and smearing. The damaged equipment will be repaired or replaced by us, all this at our discretion. We will separately charge the costs of the repair or replacement to the client.
5. The client must ensure at the risk and expense of the client proper security of the containers. The client will be obliged to use, treat, load and keep clean the containers in a careful manner and in accordance with the designated use thereof.
6. Damage suffered by the client and/or third parties, caused by the container after the container has come under the control of the client will be at the expense and risk of the client. The client indemnifies us and the third parties engaged by us against all claims related to this.
7. Costs due to the usual wear and tear of the containers, or as the case may be damage caused to the containers through our actions, will be at our expense. Repair and/or replacement of the containers by us or by third parties engaged by us must be tolerated by the client. Under no circumstances will the client have any right to compensation due to suffering inconvenience, loss of time, replacement, or otherwise.

- 
8. The client will be liable for costs and financial penalties ensuing from placing containers on the site of the client, a public road or otherwise, in accordance with the designation from the client. The client indemnifies us and third parties engaged by us against all claims related to this.
 9. We will not be liable towards the client for hindrances in the use of the containers, which are caused by third parties to the client.
 10. After the termination of the agreement, or at least after the use of the containers, the client will be obliged to return the containers to us in a good state of repair, empty, clean and odourless, and at the expense and risk of the client.

PERMITS

Article 12

The provisions of this article are, in addition to that set out elsewhere in these general company terms and conditions, applicable to all transports for which special permission or exemption from one or more authorities is required.

- a Permits, or as the case may be exemptions, necessary to be able to execute special transport, will be applied for by us - upon request from the client. The costs related to such an application or permit, or as the case may be exemption, will be at the expense of the client.
- b With regard to special transports we will adhere to all statutory rules and regulations as well as the instructions provided by authorities or public servants; additional costs ensuing from this will be at the expense of the client.



Article 13 Placing items

1. The client will inform us in writing of the weight of heavy items and the maximum permissible floor load of the building in which such an item will be placed and/or moved, as well as the maximum permissible floor load of the route over which the item must be moved within a building.
2. The client will ensure that the loading and the unloading location of the item, as well as the route over which the item must be transported, will be cleared and will offer sufficient space so that the item concerned can be transported internally without any hindrance.
3. The client will be liable for the acts and omissions of the persons that the client deploys related to the placing of the machine.
4. The client will be liable for the presence and the condition of connection points for the connection of hoisting equipment. We will not be liable for damage arisen due to the defectiveness thereof.
5. We will be liable for the acts and omissions of the persons we deploy in the context of the work. We will not be liable for acts and omissions of other persons who, at the time of the internal transport are present at the loading or unloading location, or in the business premises, if damage is caused through this to the item, or if delay in the execution arises through this.
6. The compensation that we will owe related to damage arisen during the internal transport at the loading or unloading location will be limited to the liability limits of the General Conditions of Transport ('AVC') 2002 in the event of national transport, or of the Convention on the Contract for the International Carriage of Goods by Road ('CMR') in the event of cross-border transport.
7. The client (or third parties engaged by the client) is always personally liable with regard to (traffic) fines, including financial penalties for overloading, excessive axle loads and suchlike if and insofar as the financial penalty can be attributed to a cause that falls under the control of the client.



OTHER ACTIVITIES AND LIABILITY

Article 14

If we execute activities other than those which are described in the articles above, and on the basis of article 2 subclause 2 other general terms and conditions have not been declared applicable to this work, the following will at all times apply with regard to our liability:

We will not be liable for damage by whatever name or howsoever arisen resulting from the work executed by us, except for if the client demonstrates that there is fault or negligence on our part. In the event that the client proves fault or negligence we:

- a. will never be liable for indirect and/or consequential loss;
- b. will only be liable for direct damage or loss up to an amount equal to € 100,000 per incident or series of incidents with the same cause.

PRICES AND OFFERS

Article 15

1. All offers issued by us are without obligation.
2. Our prices are based on the rates, wages, prices and suchlike that apply on the date of the offer or of the entering into of the agreement or of the actual goods and services.
In the event of a change in one or more of these factors, the prices will be automatically changed accordingly and will be binding - also with regard to ongoing agreements - always provided that - if the prices change within three months after concluding the agreement - the right to terminate the agreement will accrue to the client, all this unless expressly agreed otherwise. In the event of termination the client will be obliged to pay for the goods and services already provided.



Article 16

1. Our prices with regard to transport exclusively consist of the freight costs from loading to unloading location(s), unless agreed otherwise.
2. Our prices in any event do not consist of:
 - clearance charges;
 - VAT;
 - duties;
 - toll charges;
 - import duties;
 - advance commission;
 - ferry charges;
 - costs related to the drawing up of Customs and Excise or other documents;
 - diesel oil surcharges;
 - surcharges for additional loading and unloading addresses;
 - insurances;unless agreed otherwise in writing.

If these costs are incurred separately they will be charged to the client.
3. Our prices are calculated based on locations that are easily accessible or drivable and on delivery at street level. If it appears during the execution of the assignment that the accessibility or level is not acceptable we will have the right to increase the prices with all the additional costs arisen therefrom.
4. Invoices are deemed to be accepted and approved by the client if no objection in writing has reached us within eight days after the invoice date.



PAYMENT

Article 17

1. With the exception of the provisions concerning payment in the terms and conditions referred to in article 2 subclause 2, the provisions of subclauses 2 up to and including 7 of this article apply to the payment for the work assigned to us and to the goods delivered by us or services provided by us.
2. The client is obliged to settle the amount payable by the client within 30 days after the invoice date. If payment does not take place within this period, the client will be obliged to pay, in addition to the principal sum, the statutory commercial interest under Section 119a Book 6 of the Dutch Civil Code.
3. The client will not be entitled to apply setoff with regard to amounts which we charge to the client pursuant to any agreement concluded with the client.
4. If we, in the event of payment by the client not taking place in a timely manner, have to resort to collection along the judicial route or another route, all costs already incurred or still to be incurred by us, as well as the costs related thereto, including the extrajudicial collection costs, consisting of 15% over the principal sum, will be charged to the client, without prejudice to the provisions of subclause 2 of this article, unless a higher amount will be owed by the client on the basis of the Voorwerk II report.
5. We will be entitled to retain goods, funds and documents, the latter in the broadest sense of the word, with regard to anyone who requires the return thereof, at the expense and risk of the client and/or the owner until all our due and payable claims are settled, or by means of forwarding of the goods, to receive and setoff the amount due on cash on delivery.
6.
 - a. All goods, documents and funds, which we on whatsoever basis and for whatsoever purpose, have or will acquire in our possession, will serve for us as a possessory pledge for all claims, which we have or might acquire against the client or the owner.
 - b. In the event that the claim is not settled, the sale of the possessory pledge will take place in the manner specified by Law or, if agreement as to that exists, privately.
7.
 - a. We can, if requested, have the possessory pledge replaced by an alternative equivalent security, this exclusively in our assessment.
 - b. The client can never rely, as against us, on any deferment of payment whether or not granted expressly to the client with regard to previous assignments.



REMAINING PROVISIONS

Article 18

If one of the provisions included in these general company terms and conditions were to be regarded as void or unenforceable the remaining provisions will be interpreted as if this void or unenforceable provision has not been included in these general company terms and conditions; and such a void and unenforceable provision will in that case be regarded as being replaced by a provision that approaches the intention of parties as closely as possible at the time of including the original provision.

Article 19

The present general terms and conditions will be published in various languages. In the event of differences over interpretation the Dutch version will always prevail over other versions.

APPLICABLE LAW AND DISPUTES

Article 20

1. All disputes under or related to (the) agreement(s), to which these terms and conditions apply, will be exclusively governed by arbitration in Rotterdam in accordance with the TAMARA Arbitration Regulations, with the exception of claims up to € 25,000, as well as undisputed claims, in which case the dispute resolution will take place by the court with competent jurisdiction in Rotterdam.
2. No reliance can be made on the exceptions referred to under subclause 1 if the client is established in a non-EU member state.
3. If applicable the arbitrators will apply the provisions of the international transport conventions, inter alia including the Convention on the Contract for the International Carriage of Goods by Road ('CMR'). The client guarantees towards us that the unloader, the addressee and the other parties interested in the cargo will be bound by the provisions of this clause in the event of damage of goods and/or delay in the delivery note thereof.
4. The agreement(s) and all terms and conditions applicable thereto are governed by Dutch law.