

## **GENERAL TERMS & CONDITIONS OF SERVICES**

### **1) SCOPE OF APPLICATION:**

1.1. These General Terms & Conditions (hereinafter, "GTC") shall apply to all of the Services contracted with KUEHNE & NAGEL, S.A. (hereinafter, "KN"), whether acting in its capacity as a forwarding agent, transport operator, logistics operator, warehouse operator, shipping agent or a customs representative.

On designating KN as the provider, for the provision of any Services whatsoever, the Client accepts the application of these GTC, excluding its own GTC, if any.

In the event of the non-acceptance of these GTC, the Client must expressly state its partial or total disagreement prior to the provision of the Services; otherwise, these GTC will be considered fully valid.

1.2. These GTC are available to clients and the public at any of KN's offices in Spain and on the corporate website <http://www.kuehne-nagel.es>. Likewise, they are registered in the Registry of General Contract Terms & Conditions of Madrid under Predisposing number 20110019886. If for any reason whatsoever, access to these GTC is not possible, they can be requested by contacting KN through the e-mail address [info.madrid@kuehne-nagel.com](mailto:info.madrid@kuehne-nagel.com) and they will be sent to you as soon as possible.

### **2) DEFINITIONS:**

The terms used in these GTC have the following meanings:

- Transport: refers to the shipment of goods from an origin to a destination by any means of transport whatsoever, air, sea, road, railway or multimodal.
- Logistics Services: refer to the auxiliary and complementary activities associated with transport, such as storage, classification, assembly, packaging, added-value services, etc.
- Services: refers to transport, logistics services, shipping agency services and any other services provided by KN within the scope of its activity, including but not limited to customs clearance.
- Client: refers to the party who contracts the provision of Services with KN.

### **3) GENERAL CLAUSES:**

#### **3.1. ITINERARY AND RECEIPT OF GOODS:**

If the Client gives no specific instructions, KN shall be able to choose the resources, itineraries and modalities of the provision of Services, which, in its opinion, are the most appropriate for performing the Services in the best way possible. If specific instructions were given, KN shall take the commercially reasonable actions to follow them and the Client shall be held liable for any problem that may arise in relation to its instructions.

If in the course of a transport, the consignee fails to take charge of all or a part of the goods, these will be deposited at the risk of whoever is responsible, subject to the requirements of the Law or, as the case may be, to the business custom observed at the place of delivery. The Client shall be liable for any damages caused to KN for this reason, and KN shall be exonerated from any liability whatsoever and shall have the right to recover all of the expenses incurred due to such a situation, including cases where the goods had to be unloaded, destroyed, neutralised or rendered harmless, as required by the circumstances.

#### **3.2. DETAILS RELATING TO THE OBJECT OF THE PROVISION OF THE SERVICES:**

The Client guarantees KN the accuracy of the declaration of the goods concerned in the provision of the Services with respect to their content, characteristics, description, marks, numbers, quantity, weight and volume. The Client shall be liable for any harm, expense or material damage or personal injury caused to KN or to third parties as a consequence of the inaccuracy of these details, including possible administrative sanctions.

The Client must hold KN harmless from any loss, damage or expense derived from defects, errors or inadequacies in the declaration of the weight or volume of the goods, content, description, marks, numbers or quantity. The client also guarantees the accuracy of the verified gross mass certificate to the effects of the SOLAS Convention (Convention for the Safety of Life at Sea). If KN does not have the information at hand sufficiently in advance and in the legal terms and time limits determined in that Convention, KN shall not be responsible for the possible refusal of the loading of the goods or for the damages, expenses, losses or delays caused due to this circumstance. Likewise, the Client shall hold KN harmless from any damage or claim derived from the very nature of the goods concerned in the provision of services, including on account of possible manufacturing defects or intellectual or industrial property infringements in a broad sense.

### **3.3. PACKAGING, LOADING, STOWAGE AND LASHING:**

The Client shall be liable for all harm, expenses and material damage or personal injury caused to KN as a consequence of the inadequate or defective packaging of the goods concerned in the provision of the Services.

### **3.4. DESIGNATION OF THIRD PARTIES:**

If the Client requires KN to work directly with third parties, including but not limited to suppliers or customers, these GTC shall apply fully to such transactions. In all cases, the Client is liable towards KN for the actions of the parties with whom it requires KN to work with for the provision of the Services.

## **4) DANGEROUS GOODS:**

4.1. The handling of dangerous goods or goods subject to a special regulation shall be subject to compliance with the rules and regulations in force in this regard. The client shall be the sole party responsible for complying with the legal requirements in force with respect to packaging, documentation, marks, waybills or any other requirement necessary for the handling of such goods. The Client exonerates KN from any liability whatsoever arising from its non-compliance and meets any expense, including cases where the goods had to be destroyed, neutralised or rendered harmless.

4.2. The loading orders for dangerous goods must be notified in advance by the client at least 24 hours prior to the deadlines required for conventional goods.

## **5) INSURANCE:**

5.1. The Client may request KN to take out insurance on behalf and for the Client covering the risks associated with the Services contracted. The confirmation for contracting the insurance must be given in writing and prior to the start of the provision of the Services.

5.2. The contracting of the insurance gives rise to the obligation of the payment of the relevant premium, as an indispensable condition for collecting any compensation that may be under the insurance.

5.3. The terms & conditions of the insurance shall be those stipulated in the insurance policy, the certificate of which will be handed over to the Client by KN following the issuance thereof.

5.4. The contracting of this insurance is independent of any responsibility on the part of KN and does not determine the terms & conditions thereof.

## **6) INTERNATIONAL TRADE CONTROL:**

6.1. The Client warrants that (a) the Client and its owners as well as all parties to Client's shipments and transactions, including their respective owners, and (b) Client's transactions for which KN provides the Services, are not subject to any applicable US, EU or national customs, import, export, trade control or sanctions laws and regulations that would prohibit such Services.

6.2. The Client shall supply KN, in writing, with all documents and information including, but not limited to, commodity classification numbers, customs valuations, country of origins, export control classification numbers and any required export, re-export, transit or import licenses permits, authorisations or exemptions ("Client Data") necessary for KN to provide the Services in accordance with applicable laws and regulations.

6.3. The Client warrants that the Client Data is complete and accurate. The Client shall immediately advise KN of any errors, discrepancies, incorrect statements or omissions in Client Data filed by KN on Client's behalf with Customs and other authorities or third parties.

6.4. The Client acknowledges that KN is not the Exporter of Record, Importer of Record, Fiscal Representative, Ultimate Consignee or End-User and that KN is unable to sign government forms on behalf of such parties.

6.5. The Client shall indemnify and hold harmless KN and all KN affiliates from all claims, expenses, losses, penalties and damages, including reasonable attorneys' fees, arising from or in connection with Client's failure to comply with obligations in this clause 6.

## **7) LIABILITY:**

7.1. KN shall not be liable for absent or deficient packaging, loss in weight during transit, inherent vice of the materials, strike actions, lock-outs or other labour conflicts, natural disasters, force majeure or any other cause which KN was unable to avoid or the consequences of which could not have prevented through the use of reasonable diligence.

7.2. Except in the case of express acceptance, KN shall not be responsible for complying with instructions given subsequent to the start of the provision of the Services, as well as any contingency derived from such later instructions.

7.3. If the transport is performed by two or more different means of transport, the liability of KN shall be that applicable according to the regulations of each stage or mode of transport. If the stage of the journey in which the damage occurred cannot be determined, the liability of KN shall be decided in accordance to the provisions of Act 15/2009, of 11th November on the Contract for the Overland Transport of Goods.

7.4. In no case shall KN be liable for loss of profit, financial or consequential damages, loss of business, indirect, exemplary or punitive damages and, particularly, KN shall have no liability whatsoever with respect to the interruption of production, business or sales derived from delay, loss or damage affecting the goods.

7.5. The liability of KN with respect to the loss of or damage to the goods is subject to the amounts established in the legislation in force at the time of the provision of the Services:

- In overland transport inside Spain, the limitation stipulated in Act 15/2009, of 11th November on the Contract for the Overland Transport of Goods shall apply and is equivalent to one-third of the Public Revenue Index/day per kilogram of gross weight of lost or damaged goods.
- In international overland transport, the limitation established in the Convention of 19th May 1956 on Contract for the International Carriage of Goods by Road ("CMR Convention"), shall apply and is equivalent to 8.33 Special Drawing Rights per kilogram of gross weight of lost or damaged goods.
- In domestic and international maritime transport, the limitation contained in the Brussels Convention of 1924 on the Unification of Certain Rules of Law relating to Bills of Lading ("The Hague-Visby Rules") shall apply, that is, the larger amount between applying 666.67 Special Drawing Rights per piece or unit or 2 Special Drawing Rights per kilogram of gross weight of lost or damaged goods.
- In air transport, the limitation contained in the Convention of 28th May 1999 for the Unification of Certain Rules of Law for International Carriage by Air ("Montreal Convention") shall apply and is equivalent to 19 Special Drawing Rights per kilogram of gross weight of lost or damaged goods.

7.6. In logistics services, the equivalent limitation of one third of the Indicador Público de Renta de Efectos Múltiples/day per kilogram of gross weight of lost or damaged goods shall apply.

7.7. If, as a consequence of the execution of a Transport, KN is responsible for the damage resulting from a delay in delivery, its liability shall be limited to an amount not exceeding the price of the freight or carriage or the amount established by the applicable regulations in force.

7.8. KN's liability for any expense or damage other than those mentioned in the previous paragraphs, that is, other than damage or loss of the goods, delay in delivery, loss of profit, consequential damage, etc., should not exceed 10.000 euros per incident.

7.9. KN's accrued liability shall not exceed the limit of liability for the total loss of the goods.

7.10. In the case of shipping agency service, the provisions contained in Title V, Chapter II of Act 14/2014, of 24th July on Maritime Navigation shall apply.

7.11. These limitations shall apply to all claims addressed to KN, regardless of whether the claim is based on contractual or tortious liability.

## **8) PRICE OF THE CONTRACTED SERVICES:**

8.1. The Services shall be understood as contracted in accordance to the rates in force at the time of contracting and within the established limits therein.

The rates agreed shall be based on normal and unaltered conditions and may be revised whenever there are objective reasons determining a reasonable change in the circumstances or the market.

If there are no rates established, the contract shall be concluded at the usual or market prices applied at the location where the contract has been formalised. Any additional expenses arising as a consequence of events or circumstances following the contract date shall be met by the Client, provided that they are duly justified and are not due to the fault or negligence of KN.

8.2. Pursuant to the relevant legislation in force, KN has the right of pledge or of retention over the goods, for all the amounts owed to it by virtue of the Services entrusted to it. If the goods are lost or destroyed, KN has the same rights mentioned previously with respect to the amounts of compensation paid by insurance companies, transport companies or others.

8.3. The payment of the Services provided by KN shall be made in cash, unless special terms are agreed on. If special terms have been covenanted, payment shall be made on the date agreed.

In the event of the Client does not comply with his payment obligation, KN reserves the right to suspend the terms agreed, observing, in any case, the payment terms of the Services accepted prior to the suspension. KN is entitled to suspend the provision of services to the Client derived from the same contract or any other one.

8.4. The Client may not offset or refuse to pay for the Services provided on the due date of the invoices without KN's prior consent. The Client shall in no case retain or offset the payments on account of any claims it may possibly lodge against KN.

8.5. The Client is under the obligation of payment not only for the Services contracted with KN, but also for any duly justified additional expense arising as a result of the provision of the Services. This applies particularly to the expenses stemming from delay in the receipt or the collection of goods at their destination.

8.6. In the case of delay in the payment of any of the Services provided by KN, the Client shall be under the obligation of paying the interest for late payment established in Act 3/2004 of 29<sup>th</sup> December on Late Payment in Trade Transactions, without the need for advance notification or grace period.

## **9. NOTIFICATION AND LIMITATION PERIOD:**

9.1. Actions on account of losses, damages or delay may not be filed if, previously, the relevant reservations have not been formalised in the terms and conditions established in the regulations in force at the time of the provision of the Services.

9.2. All legal actions relating to the Services provided by KN lapse or expire on the period stipulated in the relevant legislation in force at the time of the Provision of the Services. The limitation period begins on the date determined in the specific regulation established.

9.3. In the event that a legislative, administrative or judicial provision requires the amendment of the content of these GTC, the parties agree that they will consider themselves to have been sufficiently notified of the changes introduced, upon publication of the new content of the document on the company's WEBSITE <http://www.kuehne-nagel.es>.

## **10. JURISDICTION:**

10.1. KN clearly and categorically expresses its wish not to submit any discrepancies as may arise to the *Juntas Arbitrales de Transporte* (Transport Arbitration Boards).

10.2. The Client expressly submits itself to the Spanish Jurisdiction and, within it, to the Courts of Madrid, expressly waiving any other jurisdiction to which it may be entitled.

10.3. If any of the clauses or a part of them become invalid or ineffective, the rest of the GTC not affected shall continue in force.

## **11. DATA PROTECTION:**

11.1. In accordance with the provisions of the Data Protection regulations, we inform you that KN will process the personal data of the parties involved for administrative, accounting and tax management reasons regarding the contractual relationship (including the conclusion of the contract, the management of payments and the compliance with contractual obligations). The processing carried out is necessary for the performance of the contract relationship, with consent not being required. Likewise, the data provided may be communicated to Public Authorities or Courts in order to comply with legal obligations; to financial entities for the performance of the contractual relationship; and to third companies within the same business group, for the adequate management of the contract.

11.2. In the same way, the data of the recipient of the service will be processed by KN and by those companies to which KN could outsource all or part of the services exclusively for the performance of those services, without understanding that they hold any kind of responsibility for this data.

The data will be processed during the contractual relationship and subsequently until the limitation period of the legal actions (which will be five years from the end of the contract, unless otherwise specified in the regulations).

11.3. The data subject may exercise the rights recognized by the applicable regulations (access, rectification, opposition, erasure, data portability and restriction of processing) proving his/her identity, by writing to the contact address indicated in the heading or by sending an email to a [dpospain@kuehne-nagel.com](mailto:dpospain@kuehne-nagel.com). In any case, KN guarantees the management of the request, which will be handled in the terms established in the data protection legislation in force at the time. The data subject may at any moment contact the Spanish Data Protection Authority.

## **12. CONFIDENTIALITY**

12.1. The Client and KN assume a duty of confidentiality in relation to any and/or all confidential information related to the Services, regardless of the means through which it is provided, including verbally. KN and the Client undertake not to disclose it, in whole or in part, to third parties without the prior written authorisation of the other party, except for publicly available information. When necessary, the Client and KN may disclose such information

to any company within the same business group or any appointed consultant or independent auditor, with the same degree of confidentiality; they may also disclose such information if required to do so by an Authority. This clause shall remain valid after termination of the provision of the Services.

12.2. Notwithstanding the foregoing, the Client allows KN to use the information related to the Services for any other purpose other than the provision of Services. Any disclosure shall be anonymous and non-personally identifiable, as the case may be, as aggregated data and shall be identified as “KN data”.