



# AVET

General Terms and Conditions for Exceptional Transport

**In Stichting vervoeradres, established in 1946, the following bodies work together:**

**evofenedex**, Shippers Association for companies in trade and manufacturing

**CBRB**, Dutch Central Office for Rhine and Inland Navigation

**Koninklijke BLN-Schuttevaer**, Dutch Association for Inland Navigation

**Transport en Logistiek Nederland**, Dutch Association for Transport and Logistics

**Goederenvervoer Nederland** (*Goods Transport, the Netherlands*)

The General Terms and Conditions for Exceptional Transport have been deposited at the Griffie (the secretariat) of the Arrondissementsrechtbank (regional court of justice) at Amsterdam and Rotterdam, The Netherlands.

**© 2017, Stichting vervoeradres**

No part of this publication may be reproduced, stored in a retrieval system or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or otherwise, without the prior written permission of the Publishers.

## Content

Article 1	<b>Definitions</b>	2
Article 2	<b>Scope of application</b>	2
Article 3	<b>Joint consultation</b>	3
Article 4	<b>Obligations of the carrier</b>	3
Article 5	<b>Liability of the carrier</b>	4
Article 6	<b>Obligations on the part of the sender (the client).</b>	5
Article 7	<b>Liability of the sender</b>	5
Article 8	<b>Payment conditions</b>	6
Article 9	<b>Security</b>	6
Article 10	<b>Arbitration</b>	7

## Article 1

### Definitions

For the purpose of these conditions, the following terms shall have the following meanings:

1. **AVET:** General Terms and Conditions for Exceptional Transport, as last adopted by the Stichting vervoeradres and filed at the court registry of the District Courts of Amsterdam and Rotterdam.
2. **AVC:** General Transport Conditions 2002, as last adopted by the Stichting vervoeradres and filed at the court registry of the District Courts of Amsterdam and Rotterdam.
3. CMR Convention on the Contract for the International Carriage of Goods by Road (CMR) (Geneva 1956), as supplemented by the 1978 Protocol.
4. **Sender (client):** the contractual other party of the carrier.
5. **Carrier:** the party who has assumed the transport obligation.
6. **Consignee:** the person who by virtue of the contract of carriage is entitled to delivery of the goods by the carrier.
7. **Force majeure:** circumstances which a diligent carrier is unable to avoid and in so far as a carrier is unable to prevent the consequences thereof.
8. **Exceptional Transport:** the carriage of goods which is to take place with an exemption due to exceedance of the normal statutorily permitted dimensions and/or weights permitted by law or for which supervision is prescribed.
9. **Waiting time:** the time required for the transport, including loading and unloading which exceeds the agreed time.
10. **Delay:** when goods are not delivered within the agreed term or, when no such term is set, when the actual time of transport, taking circumstances into account, reasonably exceeds the time required by a good carrier.

## Article 2

### Scope of application

1. The domestic carriage of goods is also governed by the AVC conditions in so far as not to deviate today from in these AVET conditions.
2. The terms and conditions referred to Paragraph 1 of this article which are not contrary to the CMR are also applicable to the carriage of goods governed by the CMR.
3. The terms and conditions apply to cabotage transport, unless determined otherwise by provisions of national and/or community law of a mandatory nature.

## Article 3

### **Joint consultation**

1. The sender and the carrier will in joint consultation determine who is responsible for:
  - a. The assembly and disassembly of parts of the goods to be transported.
  - b. The drawing up of a loading and fastening plan, which includes a specification of the attachment points of the load and vehicle.
  - c. The marking of the attachment points specified in Paragraph 1b of this article, including the hoisting eyes and the centre of gravity.
  - d. The loading and/unloading of the goods to be transported.
  - e. The securing of the load on the basis of the loading and fastening plan.
  - f. The provision of auxiliary materials required for transport, including the production of made-to-measure usch materials.
  - g. The covering of the load.
  - h. The insurance.
2. If no further agreements are made as regards the tasks referred to under Paragraph 1 of this article:
  1. The sender will assume responsibility for:
    - a. The assembly and disassembly of parts of the goods to be transported.
    - b. The indication and marking of possible attachment points on the load as well as the hoisting eyes and centre of gravity.
    - c. The loading and/unloading of the goods to be transported.
  2. The carrier will assume responsibility for:
    - a. The drawing up of a loading and fastening plan, which includes a specification of the attachment points of the vehicle.
    - b. The marking of the attachment points of the vehicle refer to under Paragraph 2.2a of this article.
    - c. The securing of the load on the basis of the loading and fastening plan.
    - d. The provision of auxiliary materials required for transport, including the production of made-to-measure usch materials.
    - e. The covering of the load at the request of the sender.

## Article 4

### **Obligations of the carrier**

The carrier is obliged:

1. To deliver the goods to be transported without delay at the place indicated by the sender in the condition in which these goods were made available for transport.
2. To perform the necessary preliminary study.
3. To ensure timely possession of the required permits and supervision, and to inform the sender immediately in case of any potential delay in this respect.
4. To perform the work assigned to the carrier in accordance with Article 3 of these terms and conditions.
5. To observe the terms and conditions of the permit.
6. To provide the vehicle and/or load with the markings required by law or prescribed by the permit authority.

7. To use suitable materials and professional staff.
8. To inform the sender of any irregularities during the transport that could seriously hinder performance.
9. Besides the agreed carriage fee, to provide a specification of the additional costs for:
  - a. acquiring the specific permits prescribed by law;
  - b. the [police] supervision required by law;
  - c. the necessary preliminary study in order to determine the transport route;
  - d. the renting or deployment of equipment, such as cranes, required for loading and/or unloading;
  - e. the auxiliary materials specially produced or made available;
  - f. the return freight of auxiliary materials of the carrier;
  - g. the performance of further instructions by the sender, not earlier agreed upon;
  - h. the arrangement of insurance for the individual transport.

## Article 5

### **Liability of the carrier**

1. The carrier is liable for any loss resulting from the failure to fulfil the obligations resting on it pursuant to Article 4 Paragraph 1 of these terms and conditions, except in case of force majeure
2. The liability of the carrier for loss resulting from delay is limited to an amount agreed between the parties. If no maximum amount has been agreed, the liability of the carrier is limited to 10% of the agreed carriage charges.
3. The liability of the carrier for the property damage referred to in Paragraph 1 of that article is limited to €40 per kilogramme, subject to an absolute maximum amount agreed between the parties on conclusion of the agreement. If no maximum amount has been agreed, liability is limited to a maximum amount of €53,780 per incident or series of incidents based on the same loss event.
4. If the carrier does not fulfil its obligations as referred to in Paragraphs 2 thru 9 of Article 4, the sender is entitled to terminate the agreement after having provided the carrier with a deadline, either in writing or verbally, which deadline is subsequently not met.
5. After termination, the carrier is required to compensate the sender for the damage which it has suffered as a result of the termination. This compensation, however, cannot amount to more than the agreed carriage fee.
6. If due to force majeure the carrier has not been provided by the competent authorities with a permit, or if the supervision prescribed by law is not provided, the carrier is released from its carriage obligation to the sender, without being liable for any compensation.
7. The carrier indemnifies the sender against all third-party claims for loss caused by the transport of persons, goods, including road infrastructure and/or the environment, if said loss results from a failure on the part of the carrier to fulfil its obligations referred to in Article 4 of these terms and conditions.

### **Clarification**

Article 5 of these terms and conditions stipulates circumstances under which the liability of the carrier is mitigated in relation to its liability as laid down in Article 8:1095 of the Dutch Civil Code.

According to Article 8:1102 of the Dutch Civil Code, this mitigation of liability is void unless Article 5 of these terms and conditions is laid down in a separate document, which includes the contract of carriage.

The consignment note is ideal for this purpose.

It is advised to include the verbatim text of Article 5, together with a reference clause, on the consignment note.

## Article 6

### **Obligations on the part of the sender (the client).**

1. The sender is obliged to promptly provide the carrier with:
  - a. the exact dimensions, weight and centre of gravity of the load, to enable the carrier to determine and realise the necessary auxiliary materials, permits and supervision;
  - b. information on any obstacles at the unloading address.
2. The sender is required:
  - a. to provide the carrier with the agreed load at the agreed place and time, as well as in the agreed manner;
  - b. guarantee the soundness of the equipment made available;
  - c. to be accessible to the carrier for consultation in case of problems during carriage;
  - d. to perform the work assigned to the carrier in accordance with Article 3 of these terms and conditions.
3. The sender is obliged to pay:
  - a. the agreed carriage fee;
  - b. the additional costs referred to in Article 4 Paragraph 9 of these terms and conditions;
  - c. the costs resulting from further instructions not agreed in advance, unless such instructions ensue from circumstances that can be attributed to the carrier;
  - d. the cost of waiting hours caused by the sender and/or consignee.

## Article 7

### **Liability of the sender**

1. If the sender does not fulfil its obligations as referred to in Article 6 of these terms and conditions, the carrier is entitled to terminate the agreement after having provided the sender with a deadline, either in writing or verbally, which deadline is subsequently not met. If setting such a deadline would mean that the business operations of the carrier would be unreasonably affected, then the carrier may terminate the contract without granting a deadline as mentioned.  
After termination, the carrier is released from its carriage obligation under this agreement, without prejudice to its right to compensation of the loss as described in Article 6 of these terms and conditions.
2. The sender is liable for the loss incurred by the carrier due to a failure by the sender to fulfil the obligations referred to in Article 6.
3. The sender indemnifies the carrier against all third-party claims for loss caused by the transport of persons, goods, including road infrastructure and/or the environment, if said loss results from a failure on the part of the sender to fulfil its obligations referred to in Article 6 of these terms and conditions.
4. If the carrier is not provided with an instruction for the loading or unloading of the goods to be transported, loading and unloading will be carried out under the responsibility and for the risk and account of the sender, also if assistance is provided by the carrier and/or its subordinates.
5. The sender is liable for the extra costs/loss resulting from any change or cancellation of the carriage instruction at the request of the sender, in particular with regard to the costs of applying for new permits if, as a result, permits applied for earlier have expired.

## Article 8

### **Payment conditions**

1. All amounts owed by the carrier and the sender, under any heading whatsoever, will be paid within the agreed term, whereby if no term is agreed, a term of 14 days after the invoice date will apply.
2. If the sender or the carrier fails to pay any amount you within the agreed term or, if no term is set, within 14 days of the invoice date, the party in default will pay statutory interest pursuant to Article 6:119 of the Dutch Civil Code, calculated from the due date until the date of actual payment.
3. The carrier and the sender have the right to recover all necessary extrajudicial and judicial costs incurred to collect the amounts as stated in Paragraph 1. The extrajudicial collection expenses are due as from the time that the sender or the carrier is in default and the claim has been referred to a third party for collection.
4. The freight, the costs due owing to other reasons relating to the carriage and further expenses attached to the goods are due also if the goods are not delivered at its destination or only partly, damaged or delayed.
5. An appeal to set off claims to pay freight, costs due owing to other reasons relating to the carriage and further expenses attached to the goods against claims for any other reason is not permitted.
6. All amounts referred to in Paragraph 1 of this article are, in deviation of Paragraph 5 of this article, in any event immediately payable if:
  - a. the sender or the carrier is bankrupt or if a moratorium of payments has been granted to the sender or the carrier;
  - b. the sender or the carrier:
    1. seeks composition with its creditors;
    2. significantly defaults on the fulfilment of its obligations;
    3. terminates the agreement pursuant to Article 5 Paragraph 4 or Article 7 Paragraph 1;
    4. ceases to carry out its business or – in case of a legal entity – is dissolved.

## Article 9

### **Security**

1. The carrier has a right of lien on goods and documents in his possession in connection with the contract of carriage towards any person who demands delivery of same. This right does not accrue to the carrier if, at the time of receipt of the goods for carriage, it had reason to doubt the right of the sender to make the goods available for carriage.
2. The right of lien applies likewise to charges attached to the goods by way of COD as well as to the COD fee to which he is entitled, for which he is not obliged to accept security.
3. The carrier may also exercise the right of lien against the sender for reason of what is still owed to it with respect to previous contracts of carriage.
4. Likewise, the carrier may exercise the right of lien against the consignee who in this capacity became a party to previous contracts of carriage for reason of what is still owed to it with respect to these contracts.
5. If when settling the invoice, a dispute arises over the amount due or if there is a need for a calculation to be made for the determination of what is due that cannot be made quickly, then the party demanding delivery is



obliged to pay forthwith the part which the parties agree is due and to furnish security for the part in dispute or for the part for which the amount has not yet been established.

6. All the goods, documents and monies in possession of the carrier in connection with the contract of carriage serve as pledge for all claims which it has against the sender.
7. Except for the cases where the sender has been declared bankrupt, has been granted a moratorium of payments or in has been declared subject to a debt reorganisation scheme for natural persons, the carrier shall never be entitled to sell the pledged objects without permission from the Court in accordance with Section 3:248 Paragraph 2 of the Dutch Civil Code.

## Article 10

### **Arbitration**

All disputes arising between the parties in relation to the contract at hand may be resolved in accordance with the Regulations of the Stichting Arbitrage voor Logistiek (Foundation for Logistics Arbitration).

#### ***Explanatory note***

*As from 1 September 2011, cases submitted for arbitration to the Arbitration Institute for Logistics will be referred to the arbitration body, TAMARA.*

*TAMARA specialises in arbitration in the areas of transport, storage, logistics, international trade, and in the shipping and shipbuilding industry. In order to ensure that the interests of road transport and logistics services are safeguarded, Stichting Vervoeradres sits on the Board of TAMARA.*

*Do you wish to avail of the services of TAMARA? If yes, you will need to include the following arbitration clause in your contract of carriage:*

*'Any dispute arising in connection with this Agreement between the Parties established in the Netherlands shall be settled in compliance with the CMR Convention and in accordance with the regulations of the TAMARA foundation based in Rotterdam.'*

Stichting Vervoeradres facilitates the logistics chain with widely accepted bilateral general terms and conditions (such as the General Conditions of Transport, AVC). Key to this is the principle of a well-balanced distribution of risks, sectoral acceptance and transparency regarding the legal status both of the sender (shipper), the logistics service provider and the consignee. The Foundation maintains contacts on an international level for purposes of enhancing the legal status of the various parties in the logistics chain (as formulated in the CMR Convention).

**Beurtvaartadres** 

Beurtvaartadres facilitates the logistics chain in the mutual exchange and storage of data on logistics transactions, for purposes of reducing the overall transaction costs. Its expertise, solutions and products are made available to this end. Beurtvaartadres expressly strives to provide services which apply corporate social responsibility and aims to raise awareness of its CSR policy among its colleagues, customers and suppliers. Beurtvaartadres is independent and acts on behalf of the employers' organisations EVO, Goederenvervoer Nederland, Nederlandsch Binnenvaartbureau and Transport en Logistiek Nederland.



Stichting  Vervoeradres



Centraal Bureau voor de  
Rijn- & Binnenvaart

e:ofenedex

