

# GENERAL CONDITIONS OF CARRIAGE FOR CARGO OF

## KLM N.V.

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### CONTENTS

- 1 Definitions
- 2 Applicability
- 3 Acceptability of goods for carriage
- 4 Documentation
- 5 Rates and charges
- 6 Shipments in course of carriage
- 7 Shipper's right of disposition
- 8 Delivery
- 9 Pick-up and delivery services
- 10 Successive carriers
- 11 Carrier's liability
- 12 Limitations on claims and actions
- 13 Overriding law
- 14 Personal Data
- 15 Modification and waiver

Annex 1: Special Provisions for Physical Distribution

Annex 2: Special Provisions for air mail ("AirMail")

# GENERAL CONDITIONS OF KLM CARGO

## Article 1 — Definitions

**AGENT** Except when the context otherwise requires, any person who has authority, express or implied, to act for or on behalf of Carrier in relation to the Carriage of Cargo unless that person is acting as Shipper with respect to a Shipment governed by these General Conditions of Carriage.

**KLM CARGO** The Cargo Division of KLM Royal Dutch Airlines, a corporation existing under the laws of the Netherlands. For the purposes of the exemption from and limitation of liability provided for or referred to in these Conditions or in any other provision, the term KLM Cargo includes the agents, employees or representatives or sub-contractors of KLM Cargo, unless the context otherwise requires.

**AIR WAYBILL** The document entitled “Air Waybill” made out by or on behalf of the Shipper or the electronic Air Waybill according to Article 4.2 (“e-AWB”), which evidences the contract between the Shipper and Carrier for Carriage of Cargo over routes of Carrier and which incorporates the present General Conditions of Carriage. The format of the Air Waybill shall be in accordance with the specifications for an Air Waybill set forth in IATA Resolution 600a.

**APPLICABLE CONVENTION** Unless the context requires otherwise, whichever of the following instruments is applicable to the contract of Carriage:

- the Convention for the Unification of Certain Rules Relating to International Carriage by Air, signed at Warsaw, 12 October 1929; (hereinafter referred to as “the Warsaw Convention”)
- the Warsaw Convention as amended at The Hague on 28 September 1955;
- the Warsaw Convention as amended by Additional Protocol No. 1 of Montreal 1975;
- the Warsaw Convention as amended at The Hague 1955 and by Additional Protocol No. 2 of Montreal 1975;
- the Warsaw Convention as amended at The Hague 1955 and by Protocol No. 4 of Montreal 1975;
- the Convention for the Unification of Certain Rules for International Carriage by Air, done at Montreal on 28 May 1999; (the Montreal Convention of 1999)

**CARGO** (which is equivalent to the term “Goods”). Anything carried or to be carried in an aircraft except mail or baggage carried under a passenger ticket and baggage check, but includes baggage moving under an Air Waybill or Shipment Record.

**CARRIAGE** (which is equivalent to the term “Transportation”) Carriage of Cargo by air or by another means of transport, whether gratuitously or for reward, on the basis of a Contract of Carriage by air as understood in the Applicable Convention.

**CARRIER** Includes the air carrier issuing the Air Waybill or preserving the Shipment Record and all carriers that carry or undertake to carry the Cargo or to perform any other services related to such Carriage and whose code features on the Air Waybill or Shipment Record.

**CHARGES COLLECT** The charges entered on the Air Waybill or Shipment Record for collection from the Consignee against delivery of the Shipment.

## GENERAL CONDITIONS OF KLM CARGO

**CHARGES PREPAID** The charges entered on the Air Waybill or Shipment Record for payment by the Shipper to Carrier at the time of acceptance of Shipment.

**CODE SHARE FLIGHT** Flight operated by an air Carrier that can be either the Carrier with which the Agent concluded a contract (contracting Carrier or contractual Carrier), or another Carrier (Carrier operating the flight or actual Carrier) with which the contracting Carrier has associated its Designator Code.

**CONTRACT OF CARRIAGE** means the written agreement between the Shipper and the Carrier relating to the Carriage, including the freight rates. The conclusion and content of the contract of carriage can be proved by the Air Waybill.

**CONSIGNEE** The person whose name appears on the Air Waybill or Shipment Record, as the party to whom the Shipment is to be delivered by Carrier.

**DAYS** Full calendar days, including Sundays and legal holidays; provided that for purposes of notification the balance of the day upon which notice is despatched shall not be counted.

**DELIVERY SERVICE** The surface Carriage of inbound Shipments from the airport of destination to the address of the Consignee or that of his designated agent or to the custody of the competent authorities when required.

**FORWARDING** Any service Carrier carries out in its capacity as a non-transporting entity. This may include, but is not limited to: brokerage and trading in capacity, insurance, customs, fiscal representation, logistic Services, supply chain management.

**PICK-UP SERVICE** The surface Carriage of outbound Shipments from the point of pickup at the address of the Shipper or that of his designated agent to the airport of departure, including any incidental surface Carriage between airports.

**PRINCIPAL** The party contracting Carrier for the performance of air mail services.

**SHIPMENT** (which is equivalent to the term "consignment"). Except as otherwise provided herein, one or more packages, pieces, or bundles of Cargo accepted by Carrier from one Shipper at one time and at one address, receipted for in one lot and under a single Air Waybill or a single Shipment Record, for Carriage to one Consignee at one destination address.

**SHIPMENT RECORD** Any record of the contract of Carriage preserved by Carrier, evidenced by means other than an Air Waybill.

**SHIPPER** (which is equivalent to the term "consignor"). The person whose name appears on the Air Waybill or Shipment Record, as the party contracting with Carrier for the Carriage of Cargo.

**SPECIAL DRAWING RIGHT** A Special Drawing Right as defined by the International Monetary Fund (IMF), the value of which is periodically determined by the latter, on the basis of the value of several reference currencies.

**SPECIAL DECLARATION OF VALUE** (or interest) The declaration made by the Shipper when handing over a Shipment to Carrier and specifying a value in excess of that fixed as the limit of liability enacted by the Applicable Convention, in consideration for the payment of an additional sum.

# GENERAL CONDITIONS OF KLM CARGO

## Article 2 — Applicability

### 2.1 GENERAL

These conditions shall apply to all Carriage of Cargo, including all services incidental thereto, performed by or on behalf of Carrier; provided however that if such Carriage is “International Carriage” as defined in the Applicable Convention, such Carriage shall be subject to the provisions of the Applicable Convention and to these conditions to the extent that these conditions are not inconsistent with the provisions of such Convention. In case services agreed upon only include Forwarding, the agreement is also ruled by Annex 1 and/or Annex 2.

### 2.2 CODE SHARE FLIGHT

Some flights or services of the Carrier may be subject to a Code Share agreement with other air Carriers. In such case, a Carrier which designator code does not feature on the Air Waybill or in the Shipment Record may operate the relevant air service. These general conditions shall remain applicable for this type of flight.

### 2.3 APPLICABLE LAWS AND CARRIER’S PRODUCTS AND SERVICES

To the extent not in conflict with 2.1 all Carriage and other services performed by Carrier are subject to:

**2.3.1** applicable laws (including national laws implementing a Convention or extending the rules of the Applicable Convention to Carriage which is not “International Carriage” as defined in the Applicable Convention) government regulations, orders and requirements;

**2.3.2** these conditions, other applicable rules and regulations, products and services and timetables (but not the times of departure and arrival therein specified) which may be obtained from Carrier.

### 2.4 GRATUITOUS CARRIAGE

With respect to gratuitous Carriage, Carrier reserves the right to exclude the application of all or any part of these conditions.

### 2.5 CHARTERS

With respect to Carriage of Cargo performed pursuant to a charter agreement with Carrier, such Carriage shall be subject to Carrier’s charter tariffs applicable thereto (if any) and these conditions shall not apply except to the extent provided in said charter tariff. Where Carrier has no charter tariff applicable to such charter agreement, these conditions shall apply to such agreement except that Carrier reserves the right to exclude the application of all or any part of these conditions and, in case of divergence between the applicable provisions of these conditions and the conditions contained or referred to in the charter agreement, the latter shall prevail and the Shipper, by accepting Carriage pursuant to a charter agreement, whether or not concluded with the Shipper, agrees to be bound by the applicable terms thereof.

### 2.6 CHANGE WITHOUT NOTICE

These conditions and the published rates and charges are subject to change without notice except to the extent otherwise provided by applicable law or government regulations or order;

## GENERAL CONDITIONS OF KLM CARGO

provided however that no such change shall apply to a contract of Carriage after the date of issuance of the Air Waybill by Carrier or after the date the rate or charge for the Carriage has been entered in the Shipment Record.

### 2.7 EFFECTIVE RULES

All Carriage of Cargo governed by these conditions shall be subject to Carrier's rules, regulations and tariffs in effect on the date of the issuance of the Air Waybill by Carrier or on the date of the Shipment Record, whichever is applicable, provided that in the event of inconsistency between these conditions and Carrier's rules, regulations and tariffs, these conditions shall prevail.

### Article 3 — Acceptability of Goods for Carriage

#### 3.1 CARGO ACCEPTABLE

**3.1.1** Carrier undertakes to transport, subject to the availability of suitable equipment and space, all Shipments, unless otherwise excluded by Carrier's regulations and provided:

**3.1.1.1** the transportation, or the exportation or importation thereof is not prohibited by the laws or regulations of any country to be flown from, to or over;

**3.1.1.2** they are packed in a manner suitable for Carriage by aircraft or any other means of transportation as required by the Carrier;

**3.1.1.3** they are accompanied by the requisite shipping documents;

**3.1.1.4** they are not likely to endanger aircraft or any other means of transportation, persons or property, or cause annoyance to operating crew and/or passengers.

**3.1.2** Carrier reserves the right without assuming any liability to refuse Carriage of Cargo or, retain, cancel, defer or, at any time, return any Shipment likely to cause damage or delay to other Shipments, goods or persons, or the Carriage of which is prohibited by law or is in violation of any of these Conditions. Carrier's acceptance of a Shipment does not imply that such Shipment conforms to applicable laws and regulations or to the present conditions.

#### 3.2 VALUATION LIMIT OF SHIPMENT

Carrier may refuse Carriage of Shipments having a Special Declaration of Value for Carriage in excess of the limit of liability enacted by the Applicable Convention.

#### 3.3 PACKING AND MARKING OF CARGO

**3.3.1** Shipper is responsible for ensuring that the Cargo is packed in an appropriate way for Carriage so as to ensure that it can be carried safely with ordinary care in handling and so as not to injure or damage any persons, goods or property. Each package shall be legibly and durably marked with the name and full address of the Shipper and Consignee and the Air Waybill number.

**3.3.2** Packages containing valuables as defined in Carrier's regulations must be sealed if so requested by Carrier, by a method approved by the Carrier.

#### 3.4 CARGO ACCEPTABLE ONLY UNDER PRESCRIBED CONDITIONS

Dangerous goods, live animals, perishables, fragile goods, human remains, and other special Cargo are acceptable only under the conditions set forth in Carrier's regulations applicable to

## GENERAL CONDITIONS OF KLM CARGO

the Carriage of such Cargo.

### 3.5 RESPONSIBILITY FOR NON-OBSERVANCE OF CONDITIONS RELATING TO SPECIAL CARGO

Responsibility for non-observance of the conditions relating to the Carriage of Cargo rests upon the Shipper who shall indemnify Carrier for any loss, damage, delay, liability or penalties Carrier may incur because of Carriage of any such Cargo.

### 3.6 CARRIER'S RIGHT OF INSPECTION

Carrier reserves the right to examine the packaging and contents of all Shipments and to enquire into the correctness or sufficiency of information or documents tendered in respect of any Shipment but Carrier shall be under no obligation to do so.

### 3.7 UNIT LOAD DEVICES

When Shipper undertakes to load a unit load device (ULD) it must comply with Carrier's loading instructions and shall be liable for and indemnify Carrier against all consequences of any non-compliance with such instructions.

### 3.8 TRACKING DEVICES

Carrier provides for the possibility to use tracking devices in accordance with AFKL 'Conditions for the use of tracking devices', which can be found here: [AFKL Conditions for the use of tracking devices](#). When using tracking devices Shipper acknowledges and confirms compliance with the aforementioned conditions. Shipper shall be liable for and indemnify Carrier against all consequences of any non-compliance with the aforementioned conditions.

## Article 4 — Documentation

### 4.1 AIR WAYBILL

The Shipper shall make out or have made out on its behalf, an Air Waybill in the form, manner and number of copies prescribed by Carrier, and shall deliver such Air Waybill to Carrier simultaneously with the acceptance of the Cargo by Carrier for Carriage. However, charges for Carriage and other charges, insofar as they have been ascertained, shall be inserted in the Air Waybill by Carrier. Carrier may require the Shipper to make out, or have made out on his behalf, separate Air Waybills when there is more than one package. The Shipper must always use the latest version the Air Waybill.

### 4.2 ELECTRONIC AIR WAYBILL ("e-AWB")

Shippers who have signed the IATA Multilateral e-AWB Agreement and, upon their request, received Air France KLM Martinair Cargo e-AWB activation notices, shall be committed to make out and/or store the Air Waybill in electronic form and signed by electronic signature in accordance with the applicable regulations (e-AWB) and are committed to an e-AWB only process. Shipper shall make out or have made out on its behalf the e-AWB (FWB) before Carrier's ready for carriage check ("freight on hand"), which shall be considered to be the legal binding Air Waybill. The e-AWB information (FWB) supersedes any paper AWB presented at acceptance and, is the leading information for Carrier documentation, acceptance and invoicing.

If there are imperative legal and/or regulatory reasons that require the use of a standard paper Air Waybill, the Shipper shall be exclusively responsible for the required arrangements to allow the transport of the shipment and shall promptly inform in writing the Carrier prior to tendering the cargo for transport of any such arrangement.

## **GENERAL CONDITIONS OF KLM CARGO**

### **4.3 SHIPMENT RECORD**

Carrier, with the express or implied consent of the Shipper, may substitute for the delivery of an Air Waybill a Shipment Record to preserve a record of the Carriage to be performed. If such Shipment Record is used Carrier shall, if so requested by the Shipper, deliver to the Shipper in accordance with Carrier's regulations a receipt for the Cargo permitting identification of the Shipment and access, in accordance with Carrier's regulations, to the information contained in the Shipment Record.

### **4.4 APPARENT CONDITION / PACKING OF THE CARGO**

If the apparent order and condition of the Cargo and/or packing is in any way defective the Shipper shall, if an Air Waybill is delivered, include on the Air Waybill a statement of such apparent order and condition. If no Air Waybill is delivered, the Shipper shall advise Carrier of the apparent order and condition of the Cargo, to enable Carrier to insert an appropriate reference thereto in the Shipment Record. However, if the Shipper fails to include such statement in the Air Waybill or to advise Carrier of the apparent order and condition of the Cargo, or if such statement or advice is incorrect, Carrier may include in the Air Waybill or insert in the Shipment Record a statement of the apparent order and condition of the Cargo, or note a correction thereto but Carrier is under no obligations to do so.

### **4.5 PREPARATION, COMPLETION OR CORRECTION BY CARRIER**

Carrier may at the request of the Shipper expressed or implied, make out the Air Waybill in which event, subject to proof to the contrary, Carrier shall be deemed to have done so on behalf of the Shipper. If the Air Waybill handed over with the Cargo or if the particulars and statements relating to the Cargo furnished by or on behalf of the Shipper to Carrier for insertion in the Shipment Record do not contain all the required particulars, or if the Air Waybill or such particulars or statements contain any error, Carrier is authorised to complete or correct the Air Waybill or particulars or statements to the best of Carrier's ability without being under any obligation to do so.

### **4.6 RESPONSIBILITY FOR PARTICULARS**

The Shipper is responsible for the correctness of the particulars and statements relating to the Cargo inserted by him or on his behalf in the Air Waybill or furnished by him or on his behalf to Carrier for insertion in the Shipment Record. Where such information is provided by means of Electronic Data Interchange (EDI), it is the responsibility of the Shipper or the Shipper's agent to verify contents, accuracy and completeness of the EDI messages and subsequent messages according to the agreed standards and specifications. The Shipper shall indemnify Carrier against all damage suffered by him, or by any other person to whom Carrier is liable, by reason of the irregularity, incorrectness or incompleteness of the particulars and statements furnished by the Shipper or on his behalf.

### **4.7 ALTERATIONS**

The Carrier shall be entitled to refuse Air Waybills for which the writing has been altered or erased.

## **Article 5 — Rates and Charges**

### **5.1 APPLICABLE RATES AND CHARGES**

**5.1.1** Rates and charges (including terminal charges) for Carriage governed by these conditions are those duly published by Carrier from time to time and available on request, or as individually communicated to the Shipper or the Shipper's agent, or determined by Carrier in compliance with the applicable laws and regulations, and in effect on the date of the issuance of the Air Waybill by Carrier or on the date the rate or charge for the Carriage has been entered in the Shipment Record.

## **GENERAL CONDITIONS OF KLM CARGO**

**5.1.2** Consignments will be accepted by Carrier with charges either prepaid or to be collected at the agreed destination, at its own discretion. Upon acceptance of those consignments by Carrier, the rates as (individually) communicated to the Shipper or the Shipper's agent, as per article 4.1 of the General Conditions, will be applied for invoicing. In the event that the Shipper or the Shipper's agent has delivered consignments for transportation that do not match with earlier (individually) confirmed and valid rates, Carrier reserves the right to charge the rates published to the general public.

### **5.2 BASIS OF RATES AND CHARGES**

Rates and charges will be based on the units of measurement and subject to the rules and conditions published in Carrier's regulations and rates.

### **5.3 SERVICES NOT INCLUDED IN PUBLISHED RATES AND CHARGES**

Except as otherwise provided in Carrier's rules and regulations for products and services, rates and charges apply only in respect to Carriage from airport to airport and do not include any ancillary service given by Carrier in connection with the Carriage, in particular surface transportation services between airports or between airports and designated pick-up or delivery addresses.

### **5.4 PAYMENT OF CHARGES**

**5.4.1** Rates and charges published may be paid in any currency acceptable to Carrier. When payment is made in a currency other than in the currency in which the rate or charge is published, such payment will be made at the rate of exchange established for such purpose by Carrier, the current statement of which is available for inspection at Carrier's office where payment is made.

**5.4.2** Full applicable charges, whether prepaid or collect, fees, duties, taxes, charges, advances and payments, made or incurred or to be incurred by Carrier and any other sums payable to Carrier, will be deemed fully earned, whether or not the Cargo is lost or damaged, or fails to arrive at the destination specified in the contract of Carriage. All such charges, sums and advances will be due and payable upon receipt of the Cargo by Carrier, except that they may be collected by Carrier at any stage of the service performed under the contract of Carriage.

**5.4.3** The Shipper guarantees payment of all unpaid charges, unpaid Charges Collect, advances and disbursements of Carrier. The Shipper also guarantees payment of all costs, expenditures, fines, penalties, loss of time, damage and other sums which Carrier may incur or suffer by reason of the inclusion in the Shipment of articles the Carriage of which is prohibited by law, or the illegal, incorrect or insufficient marking, numbering, addressing or packing of packages or descriptions of the Cargo, or the absence, delay or incorrectness of any export or import license or any required certificate or document, or any improper customs valuation, or incorrect statement of weight or volume. Carrier shall have a lien on the Cargo for each of the foregoing and, in the event of non-payment thereof, shall have the right to dispose of the Cargo at public or private sale (provided that prior to such sale Carrier shall have mailed notice thereof to the Shipper or to the Consignee at the address stated in the Air Waybill or in the Shipment Record) and to pay itself out of the proceeds of such sale any and all such amounts. No such sale shall, however, discharge any liability to pay any deficiencies, for which the Shipper and the Consignee shall remain jointly and severally liable. By taking delivery or exercising any other right arising from the contract of Carriage, the Consignee agrees to pay such charges, sums and advances, except prepaid charges.

**5.4.4** If the gross weight, measurement, quantity or declared value of the Cargo exceeds the gross weight, measurement, quantity or declared value on which charges for Carriage have been previously computed, Carrier shall be entitled to require payment of the charge on such excess. If the gross weight, measurement, quantity or declared value of the Cargo falls short of the gross



## **GENERAL CONDITIONS OF KLM CARGO**

weight, measurement, quantity or declared value on which charges for Carriage have been previously computed and for which capacity was reserved, Carrier reserves the right to charge the previously and originally computed charges.

**5.4.5** Charges Collect Shipments will be accepted only to countries listed in Carrier's regulations and subject to the conditions contained therein. In any event, Carrier reserves the right to refuse Shipments on a Charges Collect basis to any country where regulations prevent the conversion of funds into other currencies or the transfer of funds to other countries. Information on countries to which Charges Collect service is available may be obtained from offices and representatives of Carrier.

**5.4.6** All charges applicable to a Shipment are payable at the time of acceptance thereof by the Carrier in the case of a prepaid Shipment, i.e. a Shipment on which the charges are to be paid by the Shipper, or at the time of delivery thereof by the Carrier in the case of a collect Shipment, i.e. a Shipment on which the charges are to be paid by the Consignee.

**5.4.7** Carrier may cancel the Carriage of the Shipment upon refusal by the Shipper, after demand by Carrier, to pay the charges or portion thereof so demanded, without Carrier being subject to any liability therefore.

### **Article 6 — Shipments in Course of Carriage**

#### **6.1 COMPLIANCE WITH GOVERNMENT REQUIREMENTS**

**6.1.1** The Shipper shall comply with all applicable laws, customs and other government regulations of any country to, from, through or over which the Cargo may be carried, including those relating to the packing, Carriage or delivery of the Cargo, and shall, together with the Shipment, furnish such information and deliver such documents as may be necessary to comply with such laws and regulations. Carrier shall not be obliged to inquire into the correctness or sufficiency of such information or documents. Carrier shall not be liable to the Shipper or any other person for loss or expense due to Shipper's failure to comply with this provision. The Shipper shall be liable to Carrier for any damage occasioned by the failure of the Shipper to comply with this provision.

**6.1.2** Carrier shall not be liable for refusing to carry any Shipment if Carrier reasonably determines in good faith that such refusal is required by any applicable law, government regulation, demand, order or requirement.

#### **6.2 DISBURSEMENTS AND CUSTOMS FORMALITIES**

Carrier is authorised (but shall be under no obligation) to advance any duties, taxes or charges and to make any disbursement with respect to the Cargo and the Shipper and Consignee shall be jointly and severally liable for the reimbursement thereof. No Carrier shall be under obligation to incur any expense or make any advance in connection with the forwarding or reforwarding of the Cargo except against prepayment by the Shipper. If it is necessary to make customs entry of the Cargo at any stopping place, and no customs clearance agent has been named on the face of the Air Waybill or in the Shipment Record, the Cargo shall be deemed to be consigned to the Carrier carrying the Cargo to such place. For any such purpose a copy of the Air Waybill, or of the Shipment Record, certified by the Carrier, shall be deemed original.

#### **6.3 SCHEDULES, ROUTINGS AND CANCELLATIONS**

**6.3.1** Times shown in Carrier's timetables or elsewhere are approximate and not guaranteed and form no part of the contract of Carriage. No time is fixed for commencement or completion of Carriage or delivery of Cargo. Unless specifically agreed otherwise and so indicated in the Air Waybill or Shipment Record, Carrier undertakes to carry the Cargo with reasonable dispatch but assumes no obligation to carry the Cargo by any specified aircraft or over any particular route or routes, or to make connections at any point according to any particular schedule. Carrier

## GENERAL CONDITIONS OF KLM CARGO

is hereby authorised to select or deviate from the route or routes of the Shipment, notwithstanding that the same may be stated on the face of the Air Waybill or in the Shipment Record. Carrier is not responsible for errors or omissions either in timetables or other representations of schedules. No employee, Agent or representative of Carrier is authorised to bind Carrier by any statements or representations of the dates or times of departure or arrival, or of operation of any flight.

**6.3.2** Carrier is authorised to carry the consignment without notice wholly or partly by any other means of surface transportation or to arrange such Carriage.

**6.3.3** Carrier reserves the right without notice, to cancel, terminate, divert, postpone, delay or advance any flight, or the further Carriage of any Cargo, or to proceed with any flight without all or any part of the Cargo, if it considers that it would be advisable to do so because of any fact beyond its control or not reasonably to be foreseen, anticipated, or predicted at the same time the Cargo was accepted; or if it considers that any other circumstances so require.

**6.3.4** In the event any flight is cancelled, diverted, postponed, delayed or advanced or is terminated at a place other than the place of destination or in the event the Carriage of any Shipment is so cancelled, diverted, postponed, delayed, advanced or terminated, Carrier shall not be under any liability with respect thereto. In the event the Carriage of the Shipment or any part thereof is so terminated, delivery thereof by Carrier to any transfer Agent for transfer or delivery or the placing of such Shipment in storage shall be deemed complete delivery under the contract of Carriage, and Carrier shall be without any further liability with respect thereto, except to give notice of the disposition of the Shipment to the Shipper or to the Consignee, at the address stated in the Air Waybill or Shipment Record. Carrier may, but shall not be obligated to, forward the Shipment for Carriage by any other route or forward the Shipment as agent for the Shipper or the Consignee for onward Carriage by any transportation service on behalf of the Shipper or the Consignee. The cost of doing so attaches to the Cargo.

**6.3.5** Subject to applicable laws, regulations and orders, Carrier is authorised to determine the priority of Carriage as between Shipments, and as between Cargo and mail or passengers. Carrier may likewise decide to remove any articles from a Shipment, at any time or place whatsoever, and to proceed with the flight without them. If as a result of determining such priority, Cargo is not carried or Carriage thereof is postponed or delayed or if any articles are removed from a Shipment, Carrier will not be liable to Shipper or Consignee or to any other party for any consequences of any nature whatsoever arising therefrom.

### **6.4 CERTAIN RIGHTS OF CARRIER OVER SHIPMENT IN COURSE OF CARRIAGE**

If in the opinion of Carrier it is necessary to hold the Shipment at any place for any reasonable purpose, either before, during or after Carriage, Carrier may, upon giving notice thereof to the Shipper, store the Shipment for the account and at the risk and expense of the Shipper, in any warehouse or other available place, or with the customs authorities; or Carrier may deliver the Shipment to another transportation service for onward Carriage to the Consignee. The Shipper shall indemnify Carrier against any expense or risk so incurred.

## **Article 7 — Shipper's Right of Disposition**

### **7.1 EXERCISE OF RIGHT OF DISPOSITION**

Every exercise of the right of disposition must be made by the Shipper or his designated agent, if any, and must be applicable to the whole Shipment under a single Air Waybill, or under a single

Shipment Record. The right of disposition over the Cargo may only be exercised if the Shipper or such agent produces the part of the Air Waybill which was delivered to him, or communicates such other form of authority as may be prescribed by Carrier's regulations. Instructions as to disposition must be given (in writing) in the form prescribed by Carrier. In the event that the

## **GENERAL CONDITIONS OF KLM CARGO**

exercise of the right of disposition results in a change of Consignee, such new Consignee shall be deemed to be the Consignee appearing on the Air Waybill or in the Shipment Record.

### **7.2 SHIPPER'S OPTION**

**7.2.1** Subject to his liability to carry out all his obligations under the Contract of Carriage and provided that this right of disposition is not exercised in such way as to prejudice Carrier or other Shippers, or the Consignee's right to delivery, the Shipper may at his own expense dispose of the Cargo either:

**7.2.1.1** by withdrawing it at the airport of departure; or of destination; or

**7.2.1.2** by stopping it in the course of the journey on any landing; or

**7.2.1.3** by calling for it to be delivered at the place of destination or in course of the journey to a person other than the Consignee named in the Air Waybill or Shipment Record; or

**7.2.1.4** by requiring it to be returned to the airport of departure;

**7.2.2** Provided that if, in the opinion of Carrier, it is not reasonably practicable to carry out the order of the Shipper, Carrier shall so inform him promptly and Carrier shall thenceforth be under no obligation to carry out any such order.

### **7.3 PAYMENT OF EXPENSES**

The Shipper shall be liable for and shall indemnify Carrier for all loss or damage suffered or incurred by Carrier as a result of the exercise of his right of disposition. The Shipper shall reimburse Carrier for any expenses occasioned by the exercise of his right of disposition.

### **7.4 EXTENT OF SHIPPER'S RIGHT**

The Shipper's right of disposition shall cease at the moment when, after arrival of the Cargo at the destination, the Consignee takes possession or requests delivery of the Cargo or Air Waybill, or otherwise shows his acceptance of the Cargo. Nevertheless, if the Consignee declines to accept the Air Waybill or the Cargo, or if he cannot be communicated with, such right of disposition shall continue to vest in the Shipper.

## **Article 8 — Delivery**

### **8.1 NOTICE OF ARRIVAL**

Notice of arrival of the Shipment will, in the absence of other instructions, be sent to the Consignee and any other person whom Carrier has agreed to notify as evidenced in the Air Waybill or Shipment Record; such written notice will be sent by any means. Carrier is not liable for non-receipt or delay in receipt of such notice.

### **8.2 DELIVERY OF SHIPMENT**

Except as otherwise specifically provided in the Air Waybill or in the Shipment Record, delivery of the Shipment will be made only to the Consignee named therein, or to his agent. Delivery to the Consignee shall be deemed to have been effected:

**8.2.1** when Carrier has delivered to the Consignee or his agent any authorisation from Carrier required to enable the Consignee to obtain release of the Shipment; and

**8.2.2** when the Shipment has been delivered to customs or other government authorities as required by applicable law or customs regulation.

## GENERAL CONDITIONS OF KLM CARGO

### 8.3 PLACE OF DELIVERY

Except as provided in 9.3, the Consignee must accept delivery of and collect the Shipment at the airport of destination or the respective facility as designated by the Carrier.

### 8.4 FAILURE OF CONSIGNEE TO TAKE DELIVERY

**8.4.1** Subject to the provisions of 8.5 hereof, if the Consignee refuses or fails to take delivery of the Shipment after its arrival at the airport of destination, Carrier will endeavour to comply with any instructions of the Shipper set forth on the face of the Air Waybill, or in the Shipment Record. If such instructions are not so set forth or cannot reasonably be complied with, Carrier shall notify the Shipper of the Consignee's failure to take delivery and request his instructions. If no such instructions are received within thirty (30) Days, Carrier may sell the Shipment in one or more lots at public or private sale, or destroy or abandon such Shipment, without engaging the liability of Carrier.

**8.4.2** The Shipper is liable for all charges and expenses resulting from or in connection with the failure to take delivery of the Shipment, including, but not limited to, cost of destruction, carriage charges incurred in returning the Shipment if so required by the Shipper's instructions. If the Shipment is returned to the airport of departure and the Shipper refuses or neglects to make such payments within fifteen (15) Days after such return, Carrier may dispose of the Shipment or any part thereof at public or private sale, abandon or destroy the Shipment after giving the Shipper ten (10) Days notice of its intention to do so, without engaging the liability of Carrier.

### 8.5 DISPOSAL OF PERISHABLES

**8.5.1** When a Shipment containing perishable articles as defined in Carrier's regulations is delayed in the possession of Carrier, is unclaimed or refused at place of delivery, or for other reasons is threatened with deterioration, Carrier may immediately take such steps as it sees fit for the protection of itself and other parties in interest, including but not limited to the destruction or abandonment of all or any part of the Shipment, the sending of communications for instructions at the cost of the Shipper, the storage of the Shipment or any part thereof at the risk and cost of the Shipper, or the disposition of the Shipment or any part thereof at public or private sale without notice or engaging liability of Carrier.

**8.5.2** In the event of the sale of the Shipment as provided for above, either at the place of destination or at the place to which the Shipment has been returned, Carrier is authorised to pay to itself and other transportation services out of the proceeds of such sale all charges, advances, and expenses of Carrier and other transportation services plus costs of sale, holding any surplus subject to the order of the Shipper. A sale of any Shipment shall, however, not discharge the Shipper and/or owner of any liability hereunder to pay any deficiencies.

### 8.6 COST AND CHARGES

**8.6** By accepting delivery of the Air Waybill and/or the Shipment, the Consignee shall become liable for payment of all costs and charges in connection with the Carriage. Unless otherwise agreed the Shipper shall not be released from his own liability for these costs and charges and will remain jointly and severally liable with the Consignee. Carrier may make delivery of the Shipment or the Air Waybill conditional upon payment of these costs and charges.

## Article 9 — Pick-up and Delivery Services

### 9.1 AVAILABILITY OF SERVICE

Pick-up Service and Delivery Service will be available at the relevant locations, to the extent and subject to the conditions, rates and charges established for such services in accordance with the applicable regulations of Carrier.

## GENERAL CONDITIONS OF KLM CARGO

### 9.2 REQUEST FOR SERVICE

Pick-up or Delivery Service, if available, will be provided when requested by the Shipper or Consignee.

### 9.3 SHIPMENT FOR WHICH SERVICE IS UNAVAILABLE

Pick-up Service and Delivery Service will not be provided by Carrier without special arrangement for any Shipment which, in the opinion of Carrier, because of its volume, nature, value or weight is impractical for Carrier to handle in normal course.

### 9.4 LIABILITY

If Pick-up Service or Delivery Service is performed by or on behalf of Carrier, such surface transportation shall be upon the same terms as to liability as set forth in article 11 hereof.

#### Article 10 — Successive Carriers

Carriage to be performed under one Contract of Carriage by several successive Carriers is regarded as a single operation, unless explicitly agreed otherwise by the parties.

#### Article 11 — Carrier's Liability

**11.1** Carrier is liable to the Shipper, Consignee or any other person for damage sustained in the event of destruction or loss of, or damage to, or delay in the Carriage of Cargo only if the occurrence which caused the damage so sustained took place during the Carriage. The liability of Carrier shall in no case exceed the amount of the proven damages.

**11.2** Except as may be otherwise provided in any Applicable Convention, Carrier is not liable to the Shipper, Consignee or any other person for any damage, delay or loss of whatsoever nature arising out of or in connection with the Carriage of Cargo or other services performed by Carrier, unless such damage, delay or loss is proved to have been caused by the negligence or willful default of Carrier and there has been no contributory negligence on the part of the Shipper, Consignee or other claimant.

**11.3** Carrier is not liable if the destruction, loss of or damage to Cargo is proved to have resulted solely from the inherent defect, quality, nature or vice of that Cargo.

**11.4** Carrier will not be liable for any loss, damage or expense arising from death due to natural causes or death or injury of any animal caused by the conduct or acts of the animal itself or of other animals such as biting, kicking, goring or smothering, nor for that caused or contributed to by the condition, nature or propensities of the animal, or by defective packing of the animal, or by the inability of the animal to withstand unavoidable changes in its physical environment inherent to carriage by air or other means of transportation.

**11.5** Carrier shall not be liable in any event for any consequential loss or damage arising from Carriage subject to these conditions, whether or not Carrier had knowledge that such loss or damage might be incurred.

**11.6** If the damage was caused or contributed to by the negligence or other wrongful act or omission of the person claiming compensation, or the person from whom he derives his rights, Carrier shall be wholly or partly exonerated from liability to the claimant to the extent that such negligence or wrongful act or omission caused or contributed to the damage.

**11.7** Unless the Shipper has made a Special Declaration of Value for Carriage and has paid the supplementary sum applicable, liability of Carrier shall not exceed the Applicable Convention limit or, in case the Applicable Convention do not apply, twenty two (22) Special Drawing Rights per kilogram of Cargo destroyed, lost, damaged or delayed, converted into

## GENERAL CONDITIONS OF KLM CARGO

national currency under applicable law.

If the Shipper has made a Special Declaration of Value for Carriage, it is agreed that any liability shall in no event exceed such declared value for Carriage stated on the face of the Air Waybill or included in the Shipment Record. All claims shall be subject to proof of value.

**11.8** In the case of loss, damage or delay of part of the Shipment, or of any object contained therein, the weight to be taken into consideration in determining the amount to which Carrier's liability is limited shall be only the weight of the package or packages concerned. Nevertheless, when the loss, damage or delay of part of the Shipment, or of an object contained therein, affects the value of other packages covered by the same Air Waybill or Shipment Record, the total weight of such package or packages shall also be taken into consideration in determining the limit of liability. In the absence of proof to the contrary, the value of any such part of the Shipment lost, damaged or delayed as the case may be, shall be determined by reducing the total value of the Shipment in the proportion that the weight of that part of the Shipment lost, damaged or delayed has to the total weight of the Shipment.

**11.9** The Shipper, owner and Consignee, whose property causes damage to or destruction of another Shipment or of the property of Carrier, shall indemnify Carrier for all losses and expenses incurred by Carrier as a result thereof. Cargo which, because of inherent defect, quality or vice or because of defective packing, is likely to endanger aircraft, persons or property may be abandoned or destroyed by Carrier at any time without notice and without liability therefor attaching to Carrier.

**11.10** A Carrier issuing an Air Waybill for Carriage over the lines of another Carrier does so only as Agent for such other Carrier and shall not incur in any liability for the loss of or damages caused to the Shipments during Carriage. Any reference in a Shipment Record to Carriage to be performed by another Carrier shall be deemed to refer to Carriage to be provided as Shipper by such other Carrier. No Carrier shall be liable for the loss, damage or delay of Cargo not occurring on its own line except that the Shipper shall have a right of action for such loss, damage or delay on the terms herein provided against the first Carrier and the Consignee or other person entitled to delivery shall have such a right of action against the last Carrier under the contract of Carriage.

**11.11** The Carrier is liable for damage occasioned by delay in the carriage of Cargo unless it proves that it and its servants or agents took all measures that could reasonably be required to avoid such damage or if it was impossible for it or them to take such measures

**11.12** Whenever the liability of Carrier is excluded or limited under these conditions, such exclusion or limitation shall apply to Agents, servants or representatives of Carrier and also to any Carrier whose aircraft or other means of transportation is used for Carriage.

**11.13** When Carrier is required by customs or other government authorities to make Shipment available for inspection during clearance or otherwise and, including, but not limited to, unpacking and repacking such Shipment, Carrier does so only as agent of the person who has the right of disposition of the Shipment at the time, and Carrier accepts no liability for loss or damage sustained in so complying with such customs or other governmental requirements.

### Article 12 — Limitations on Claims and Actions

**12.1** Receipt by the person entitled to delivery of the Cargo without complaint is *prima facie* evidence that the same has been delivered in good condition and in accordance with the Contract of Carriage.

In the absence of notification submitted within the given timeframe, any action against the Carrier is unacceptable except in case of fraud of Carrier.

**12.2** No action shall be maintained in the case of loss or damage to goods unless a complaint

## GENERAL CONDITIONS OF KLM CARGO

is made to Carrier in writing by the person entitled to delivery. Such complaint shall be made:

**12.2.1** in the case of visible damage to the goods, immediately after its discovery and at the latest within fourteen (14) Days from the date of receipt of the goods;

**12.2.2** in the case of other damage to the goods, within fourteen (14) Days from the date of receipt of the goods;

**12.2.3** in the case of delay, within twenty-one (21) Days from the date on which the goods were placed at the disposal of the person entitled to delivery;

**12.2.4** in the case of non-delivery or mis delivery of the goods, within one hundred and twenty (120) Days of the date of issue of the Air Waybill or the date of the Shipment Record, whichever is applicable.

**12.3** Any right to damages against Carrier shall be extinguished unless an action is brought within two years after arrival at destination, or the day of scheduled arrival of the aircraft at destination, or of the break of transport.

The calculation method will be determined by the law of the court to which the case is referred to. Any claim or action mentioned in above paragraph must be notified in writing in the given timeframe.

**12.4.1** An abstract from Carrier's records (including any electronic records) serves as prima facie evidence vis-à-vis the Shipper or Shipper's agent, subject to rebuttal evidence produced by the Shipper or Shipper's agent. Carrier is not required to keep its records for a period longer than the statutory record keeping period.

**12.4.2** The Shipper or Shipper's agent must check all documentation, including but not limited to confirmations, invoices, notices and other specifications, that Carrier sends, makes available (including electronically) to Shipper or Shipper's agent as soon as possible and within a reasonable period after receiving said documentation. If the Shipper or Shipper's agent notices a mistake or an omission, he must inform Carrier as soon as possible.

**12.4.3** If Carrier detects that it has made a mistake or an error in its documentation, including but not limited to confirmations, invoices, notices and other specifications, Carrier is authorized to remedy such mistake or error and/or to reverse an incorrect entry in its documentation without the Shipper or Shipper's agent's consent. Carrier shall inform Shipper or Shipper's agent as soon as possible and within reasonable period after detection.

**12.4.4** The date of receipt by Shipper or Shipper's agent is considered to be, either the date of dispatch or the date of making the documentation available.

**12.4.5** If Shipper or Shipper's agent does not receive the expected documentation and/or notification from Carrier, whereas the Shipper or Shipper's agent knows or reasonably should know that documentation or notification from Carrier is to be expected, Shipper or Shipper's agent must inform Carrier of this as soon as possible in writing.

**12.4.6** If the Shipper or Shipper's agent requests a copy of the documentation that has already been provided to him by Carrier, Carrier shall provide this to the Shipper or Shipper's agent within a reasonable period, unless the Carrier no longer has this documentation or the request is unreasonable.

**12.5** If the Shipper or its agent has not contested the contents of the documentation (including but not limited to confirmations, invoices, notices and other specifications) sent or made available to the Shipper or its agent by Carrier in writing within six months from the Day such documents have been sent or made available to the Shipper or its agent by or on behalf of Carrier, the contents of such documents shall be deemed to have been approved by the Shipper.

## GENERAL CONDITIONS OF KLM CARGO

### Article 13 — Overriding Law

**13.1** Insofar as any provision contained or referred to in the Air Waybill or Shipment Record or these conditions may be contrary to mandatory law, government regulations, orders or requirements, such provision shall remain applicable to the extent that it is not overridden thereby. The invalidity of any such provision shall not affect any other part.

**13.2** Any provision in these conditions which is or may be void or unenforceable shall to the extent of such invalidity or unenforceability be deemed severable and shall not affect any other provisions herein.

### Article 14 — Personal Data

All personal data are collected and processed by Carrier with due observance of the [AFKL Cargo Privacy Policy](#).

### Article 15 — Modification and Waiver

No Agent, servant or representative of Carrier has authority to alter, modify or waive any provision of the contract of Carriage or of these conditions. These conditions, rates and charges as published by Carrier from time to time are subject to change without notice, except to the extent otherwise provided by applicable laws or government regulations or orders.



# GENERAL CONDITIONS OF KLM CARGO

## Annex 1: Special Forwarding Conditions

### ARTICLE 1 APPLICABILITY

These Special Forwarding Conditions shall apply to any form of service which Carrier shall carry out as a forwarder. Any other Services like for example transportation are subject to the provisions of the General Conditions.

### ARTICLE 2 CONTRACTS

#### 2.1 Quotations

All quotations made by Carrier shall be without any obligation on his part. All prices quoted and agreed shall be based on the rates, wages, social insurance and/or other provisions, freight and exchange rates applying at the time of quotation or contract. Upon any change in any or more of these factors the quoted or agreed prices shall likewise be altered in accordance therewith and retroactively to the time such change occurred. Carrier shall endeavor to account for the change.

#### 2.2 Extra Expenses

In the event of loading and/or unloading time being inadequate - regardless of the cause thereof - all costs resulting therefrom, such as demurrage, etc., shall be borne by the Shipper.

#### 2.3 Implied Order

The supplying to Carrier of data required for customs formalities shall imply an order to perform these formalities, unless agreed otherwise in writing.

### ARTICLE 3 LIABILITY

#### 3.1 General

All operations and activities shall be at the Shipper's expense and risk. Carrier shall be liable under the present conditions.

#### 3.2 Exclusion and Limitation of Liability

**3.2.1** To the extent not in conflict with applicable laws, conventions, government regulations, orders and requirements; Carrier shall not be liable for any damage whatsoever, unless the Shipper shall prove that the damage has been caused by Carrier's or the latter's employees' fault or negligence.

**3.2.2** Carrier's liability shall in all cases be limited to 7,500 SDR per occurrence or series of occurrences with one and the same cause of damage, on the understanding that in the event of damaging, loss of value or loss of the goods comprised in the order, the liability shall be limited to 2 SDR per kilogram damaged or lost gross weight, the maximum being 1,000 SDR per shipment.

**3.2.3** The damages to be paid by Carrier shall never exceed the invoice value of the goods, to be proven by the Shipper, in default whereof the market value - to be proven by the Shipper - at the time the damage has occurred shall apply. Carrier shall not be liable for lost profit, consequential loss and immaterial injury.

**3.2.4** If while the order is being carried out, damage occurs for which Carrier is not liable, Carrier shall make efforts to recover the Shipper's damage from the party that is liable for the damage. Carrier shall be entitled to charge to the Shipper the costs incurred thereby. If requested, Carrier shall waive in its Shipper's favor its claims against third parties engaged by it for the purpose of carrying out the order.

#### 3.3 Third Party Claims

The Shipper shall indemnify Carrier against third-party claims connected with the damage referred to in the foregoing section, the third parties including employees or both Carrier and the Shipper.

## **GENERAL CONDITIONS OF KLM CARGO**

### **3.4 Claims Outside the Scope of Agreement**

The Shipper shall indemnify Carrier upon its first request against claims instituted by third parties which do not fall within the scope of the agreement for damages or financial disadvantages, related in any way with the implementation of the forwarding contract by Carrier itself, its employees or independent sub-contractors.

### **3.4 Times**

The mere statement by the Shipper of a time for delivery shall not be binding upon Carrier. Arrival times are not guaranteed by Carrier, unless agreed otherwise in writing.

## **ARTICLE 4 PAYMENT AND SECURITIES**

The Shipper shall not be entitled to apply any setoff in respect of sums charged by Carrier to the Shipper under any contract existing between them.

## **ARTICLE 5 CONFIDENTIALITY**

The Shipper and Carrier shall observe confidentiality towards third parties with regard to facts and data known to parties due to the Forwarding agreement.

## **ARTICLE 6 TIME LIMITATIONS ON CLAIMS**

### **6.1 Time**

All claims shall be barred solely by the lapse of a period of nine months. All claims shall be extinguished solely by the lapse of a period of 18 months.

### **6.2 New Term of Prescription**

If after the term of prescription one of the parties is being called upon for that which he is owing to a third party, a new term of prescription sets in, which runs to three months.

# GENERAL CONDITIONS OF KLM CARGO

## Annex 2: Special Provisions for air mail ("AirMail")

### ARTICLE 1 APPLICABILITY

#### 1.1 General

These General Conditions shall apply to any form of service which Carrier shall carry out as an Air Mail service provider. Any other services like transportation are subject to the provisions of the General Conditions (e.g. delivery, ready for carriage requirements, etc.)

### ARTICLE 2 CONTRACTS

#### 2.1 Quotations

All quotations made by Carrier shall be without any obligation on its part. All prices quoted and agreed shall be based on cost, freight and exchange rates valid at the time of quotation or contract and are based upon origin and destination (airport to airport). Upon any change in any or more of these factors the quoted or agreed prices shall likewise be adjusted accordingly and retroactively until the time of occurrence of the change. Carrier shall endeavor to account for the change.

#### 2.2 Additional Expenses

In the event of loading and/or unloading time being inadequate - regardless of the cause thereof - all costs resulting therefrom, such as demurrage, etc., shall be borne by the Shipper.

#### 2.3 Implied Order

Delivering mail dispatches to Carrier shall imply an order to transport those dispatches to the destination. The Principal shall ensure that all dispatches are accompanied by the required transportation documents

Supplying to Carrier data required for customs formalities shall imply an order to perform these formalities, unless agreed otherwise in writing.

#### 2.4 Flight Numbers

Carrier may operate partner flight numbers for partner airlines flights for marketing purposes. The Principal should use those flight numbers on the CN38/41 (substitute) documents or its equivalents, in order to maintain a high quality in the dispatch and accounting of the customer's conveyances.

### ARTICLE 3. TRANSPORTATION OF DISPATCHES

#### 3.1 Express mail, Priority dispatches

Express mail services and priority mail dispatches, if timely delivered prior flight departure to Carrier and subject to the local handling procedure at the airport involved will be transported within the agreed space allocations on assigned flights as per the agreed timetables.

#### 3.2 SAL Mail

SAL-Mail (surface airlifted mail) will always be treated as "Standby" mail. Standby mail will be carried only if space is available on the flight involved. Carrier strives to dispatch this mail within three days after the Principal delivering the dispatches.

#### 3.3 Ownership of dispatches / empty bags

Dispatches tendered to Carrier on any point of their network are to be invoiced to the owner of the dispatch according to the bureau of origin. SAV (Empty) bags will be invoiced to the office of destination, unless otherwise agreed.

#### 3.4 Ready for Carriage

The Principal shall deliver the mail to be carried by Carrier ready for carriage at the relevant premises, subject to local regulations at the airport of departure. It is the responsibility of the Principal to ensure that mail dispatches delivered to Carrier indeed are intended to be transported

## GENERAL CONDITIONS OF KLM CARGO

by Carrier's AirMail services.

### 3.5 Dangerous Goods

All items classified as dangerous prohibited goods, according to UPU Article RL144 and IATAAHM 356, are prohibited from mail to be carried by Carrier. It is the responsibility of the Principal to ensure that UPU Article RL144 and IATA AHM 356 are enforced, since Carrier is unable to inspect the contents of mailbags.

## ARTICLE 4 LIABILITY OF CARRIER

### 4.1 General

All operations and activities shall be at the Shipper's expense and risk. Carrier shall be liable under the following conditions.

### 4.2 Exclusion and Limitation of Liability

**4.2.1** To the extent not contravening with applicable laws, conventions, government regulations, orders and requirements; Carrier shall not be liable for any damage whatsoever, unless the Principal shall prove that the damage has been caused by Carrier's or the latter's employees' fault or negligence.

**4.2.2** Carrier's liability shall in all cases be limited per occurrence or series of occurrences with one and the same cause of damage, on the understanding that in the event of damaging, loss of value or loss of the goods comprised in the order, the liability, as per UPU guidelines (except Insured Items), shall be limited in case of:

- Letter Mail: the transportation costs.
- Parcel Mail: the transportation costs and additionally a maximum of 40 SDR per item plus
- 4.50 SDR per kilogram or the actual value of the item, whichever is lower.
- EMS, Registered Mail, insured items: the transportation costs and additionally a maximum of 30 SDR per item or the actual value of the item, whichever is lower. For EMS merchandise 130 SDR per item, or the actual value of the item, whichever is lower.
- M Bags: the transportation cost and additionally a maximum of SDR 150 per bag.

**4.2.3** The damages to be paid by Carrier shall never exceed the invoice value of the goods, to be proven by the Shipper, in default whereof the market value - to be proven by the Principal - at the time the damage has occurred shall apply. Carrier shall not be liable for lost profit, consequential loss and immaterial injury. The liability of Carrier to the Principal shall not exceed the limits of the Shipper's liability towards his customer

**4.2.4** If while the dispatch is being carried out, damage occurs for which Carrier is not liable, Carrier shall make efforts to recover the Shipper's damage from the party that is liable for the damage. Carrier shall be entitled to charge to the Principal the costs incurred thereby. If requested, Carrier shall waive in its Shipper's favor its claims against third parties engaged by it for the purpose of carrying out the order.

### 4.3 Third Party Claims

The Principal shall indemnify Carrier against third-party claims connected with the damage referred to in the foregoing section, the third parties including employees or both Carrier and the Shipper.

### 4.4 Claims Outside the Scope of Agreement

The Principal shall indemnify Carrier upon its first request against claims instituted by third parties who do not fall within the scope of the agreement for damages or financial disadvantages, related in any way with the implementation of the forwarding contract by Carrier itself, its employees or independent sub-contractors.

### 4.5 Times

The mere statement by the Principal of a time for delivery shall not be binding upon Carrier. Arrival times are not guaranteed by Carrier, unless otherwise agreed in writing.

# GENERAL CONDITIONS OF KLM CARGO

## ARTICLE 5 PAYMENT AND SECURITIES

### 5.1 Setoff

The Principal shall not be entitled to apply any setoff in respect of sums charged by Carrier to the Principal under any contract existing between them, unless otherwise agreed in writing.

### 5.2 Rates

Rates are expressed and paid in the currency, being EUR, USD or local, agreed between the Principal and Carrier. Rates are exclusive of any cost of fuel surcharges, security screening, customs clearance or VAT (value-added tax) if applicable, unless specifically stated.

In the event that the Principal is using a flight segment for which Carrier has not given prior agreed rates and or confirmation of acceptance or routes that have not been included in a Customer Agreement, Carrier has no obligation to carry this mail. In case of transporting this mail, Carrier reserves the right to charge at its' own discretion the applicable rate in force at that time, or the applicable basic airmail conveyance rate as determined by UPU, calculated on the applicable airmail distance.

The same principle shall apply in absence of a rate agreement between the Principal and Carrier, and if in such event, mail is being boarded without Carrier's prior written consent.

### 5.3. Security and fuel surcharges

Carrier reserves the right to impose security and/or fuel surcharges per transported kilo. Such charges will be communicated in writing, including e-mail, to the Shipper, once they occur.

### 5.4 Empty mailbags

The transportation of empty mailbags will be carried out at a rate of 30% of the applicable UPU rate per kg, unless otherwise agreed.

### 5.5. Invoicing, conversion and payment

**5.5.1** On a monthly basis, Carrier will invoice the Shipper. The invoice includes details of the mail carried using the invoice CN51 and the invoice specification CN66.

Carrier shall have the option, at its own discretion, to invoice either:

- the physically captured documents accompanying the mail consignments, or,
- in case of missing documents Carrier's own (substitute) documents, either obtained manually, or the information of the mail barcode label or receptacle label, or
- from positive data capturing of the mail receptacle identifiers used in relevant EDI messages.

Carrier will collect the full transportation charge and settle the interline accounting for combined routings within the published airmail connections involving our partners stated and proposed in our timetable.

**5.5.2** Upon invoicing, a rate used expressed in SDR will be converted by Carrier from SDR into the contractually agreed currency, being EUR, USD or local currency. For conversion the average IATA rate of exchange of working days 15 till 20 is used, unless otherwise agreed.

### 5.6 Terms of Payment

Invoices are due within 45 days after the date of the invoice.

If payment has not been made within a maximum of 3 months and 6 weeks (145 days) after the date of reception of the invoice, the Principal shall pay 6% interest due over the undisputed amount according to UPU letter Post Convention Art 35 RL 244.1.

## GENERAL CONDITIONS OF KLM CARGO

If payment has not been made within the terms as stated above, Carrier reserves the right to refuse and suspend all transportation of mail, without being in breach of these general terms and conditions or the Customer Agreement made with or confirmed to the Shipper, until all overdue debts are paid.

All payments to Carrier shall state a reference to the Carrier's invoice concerned. If a payment does not include such a reference, Carrier reserves the right to charge the Principal an administration fee per unspecified payment.

### **5.7 Disputed invoiced amounts**

In the event of invoice discrepancies, the Principal may hold payment of the disputed amount only; the non-disputed amount shall be paid by the Principal in accordance with clause 5.6 above. By e-mail, the Principal shall immediately, but at the latest within 30 days after the invoice date, with reference to the invoice number and including a copy of the disputed invoice and supporting documents, specify to Carrier which items are being disputed, the amounts involved and the justification.

In any case, Carrier will endeavor to notify the Principal regarding the status of the disputed amount within 1 month (30 days) after receipt of the disputed invoice.

In case Carrier does not accept the discrepancy, Carrier will return in writing, including e-mail, supplementary evidence like proof of carriage or service by means of:

- a copy of the mail CN-document or,
- a substitute delivery bill or,
- an extract of barcode label scan or
- confirmation of rates or,
- any data derived from Carrier's own systems.

All evidence, when presented together, will unconditionally overrule any third party claim for the same mail consignment on the basis of the original document only. On basis of such proof the Principal shall pay the amount in question in accordance with clause 5.7 above.

## **ARTICLE 6 CONFIDENTIALITY**

The Principal and Carrier shall observe confidentiality towards third parties with regard to facts and data known to parties due to a Customer Agreement.

## **ARTICLE 7 TIME LIMITATIONS ON CLAIMS**

### **7.1 Time**

All claims shall be barred solely by the lapse of a period of six months after the transportation date. All claims shall be extinguished solely by the lapse of a period of 18 months as per UPU.

### **7.2 New Term of Prescription**

If after the term of prescription one of the parties is being called upon for that which he is owing to a third party, a new term of prescription sets in, which runs to three months.

### **7.3 Proof and validity**

All claims are subject to proof of validity and value.

### **7.4 Scope of the claim**

**7.4.1** Claims may refer to any damage, partial loss or non-delivery of mail. The Postal Authority shall state in the claim what compensation is claimed. If no compensation is mentioned it will be considered as a complaint. If the Postal Authority at destination does not provide Proof of delivery as laid down in UPU articles RL 190 and RL 192, Carrier can

## GENERAL CONDITIONS OF KLM CARGO

not accept any claims from origin related to this matter.

**7.4.2** In line with the Carrier General Conditions and Letter Post and Parcel – Conv Art 25, articles RL163, including commentary:

- Conditions for the recovery of indemnities from air carriers shall be established through contract between administrations and air carriers or by legislation.
- Where contracts are not instituted, or do not include specific tender/recovery procedures, administrations shall develop a mutually acceptable method of verification at the point of tender and recovery.
- In order to define liability, failure to comply with the practical methods of application to the relevant Convention arts for mails tendered or recovered will result in the transfer of liability to the offending party.

### **7.5 Notification**

Claims made to Carrier have to be made in writing, accompanied by legible copies of the applicable mail documents and attachments such as proof of damage or misrouting by the Shipper. Such complaint shall be made to Carrier's mail claims department (Customer Care).

### **7.6 Payment of the claim**

Settlement of claims will be made by Carrier once the investigation of the claim has been finalized and the liability of Carrier is established.

Setting off the claim by the Principal is not allowed as per article 5.1 above, until a duly signed Final Release has been made.