



**General Terms and Conditions of Transport Cooperation in the area of inland and international road haulage between ESA s.r.o., Id. No.: 46351141 (hereinafter “ESA”) as the shipper and external carriers which transport consignments**

**either on the basis of a concluded framework agreement and/or on the basis of individual orders concluded separately (“Transport Contracts”) (hereinafter the “GTCs”)**

**I.**

**Recitals**

The provisions of these GTCs are mandatory for the performance of inland and international road haulage by the carrier with which ESA ordered the relevant transport.

These GTCs form an integral part of all

*“Contracts for Transport of Goods”*

and/or *“Framework Contracts for Transport of Goods”*

(hereinafter the “Transport Contract”) and regulate in more detail the relationships between ESA and the individual carriers arising during contractual relationships between the entities involved in transport as required by ESA. By concluding a Transport Contract (i.e. also by confirmation of an order, even if only by telephone, text message or electronically) or by providing a vehicle for loading, the Carrier grants its consent to and accepts these GTCs, i.e. the carrier shall perform the transport also under the conditions specified in these GTCs. The Carrier also grants its consent to and accepts these GTCs not later than upon acceptance of the Consignment for transport.

**II.**

**Procedure in Concluding Transport Contracts**

1. A Transport Contract is concluded in particular upon confirmation of the Order by the Carrier or other act of the Carrier specified in *Art. 1.* of these GTCs.

2. A consignment note (hereinafter the “CN”) is a proof of conclusion and contents of the Transport Contract and the details specified therein shall be binding on the Parties and, in case of a conflict, shall prevail over the details contained in the Order. CN as a transport document on the Consignment accompanies the Consignment up until its delivery to the recipient of the Consignment. A duly completed CN is usually handed over to the Carrier, together with the Consignment, by the ESA’s customer or other person during loading. The Carrier is responsible to make sure that the CN is completed in accordance with the Order. CN may be substituted by or accompanied with a standardized delivery note (hereinafter the “DN”) of the ESA’s customer where, for the purposes of transports carried out by the carrier for ESA, it has the same evidentiary properties as those described for CN and as CN has according to the CMR Convention. It is appropriate for the Carrier to keep a DN printed form in case it is required during loading.

3. CN/DN must include the following particulars:

- a) Place and date of issue of CN/DN;
- b) Business name and registered office of ESA or of the shipper of the consignment, including identification number;
- c) Business name or name and registered office of the Carrier, including identification number;
- d) Place and date of acceptance of the Consignment and its place of destination;
- e) Usual designation of the nature of the Consignment and type of packaging; in case of hazardous items its generally recognized designation;
- f) Number of items of the transported goods forming the Consignment, their special marks and

numbers;

- g) Gross weight of the Consignment or otherwise specified quantity of the goods;
- h) Dimensions of the Consignment, if available;
- i) Costs associated with the transport (carriage fees, additional charges, customs duties and other expenses arising from the conclusion of the Transport Contract until delivery of the Consignment);
- j) Instructions required for customs and other official procedures;
- k) Information that the transport, despite any clause to the contrary, is subject to the provisions of the CMR Convention, if the transport is subject to the CMR Convention;
- l) Other additional information, instructions of ESA regarding insurance of the Consignment;
- m) Stipulated deadline for performance of the transport and/or other details that the Parties consider to be necessary or useful.

4. CN is issued in at least four copies, unless otherwise agreed by the Parties in writing. These copies are counterparts that are usually signed by the person holding the Consignment prior to loading and by the Carrier. Written-through signatures are considered to be sufficient provided that a stamp is affixed onto each individual page. ESA and the shipper of the Consignment shall each obtain one counterpart of the Consignment Note, one counterpart is intended for the Carrier and one counterpart will accompany the Consignment.

5. CN signed by the Parties serves, until proven otherwise, as a proof of existence and of the contents of the Transport Contract, as well as of acceptance of the Consignment by the Carrier.

6. In case of any doubts as to the type, contents, price, weight, packaging or other details of the Consignment, the information specified in the CN or the information and instructions specified by the ESA’s customer shall apply. If there is a conflict between the contents of CN and the contents of the delivery note (usually an accompanying document printed with the detailed description of the goods from the customer), the Carrier must point out to such conflict and ask the ESA’s dispatcher about further procedure.

7. ESA shall be entitled to terminate ordering transports with the Carrier at any stage of the negotiations where any pre-contractual liability of ESA is excluded.

8. The Carrier assumes the liability for the transports ordered upon acceptance of the transport order and from that moment the Carrier shall also be liable e.g. for late provision of the vehicle for loading.

9. The transport order is sent from ESA to the Carrier always in writing, most frequently in an electronic form (e-mail etc.). The Carrier shall in each case be obliged to demonstrably acknowledge acceptance of the order (i.e. at least electronically, via text message, messenger, WhatsApp etc.). The Carrier shall also be obliged to print out, sign, stamp and return the order back to ESA, not later than with an invoice for the performed transport according to the relevant order.

10. Based on a written agreement, ESA and the Carrier may switch to the system of the so-called electronic consignment note.

**III.**

**Implementation of Transport Contract by the Carrier**

1. In implementation of the Transport Contract, the Carrier agrees to proceed according to a specific order and these GTCs and comply with its obligations to ensure that the transport takes place properly to the satisfaction of ESA and its customers.



2. The Carrier shall perform any and all tasks associated with the Transport Contract and the actual transport with due professional care and shall ensure to perform the transport carefully, with high quality, efficiently, predictably, with its own insurance contract concluded for the value of the transported goods and with provision of information to ESA and to comply with the related obligations, where the Carrier in particular agrees to:

- a) Properly accept the consignment, take good care for it and deliver it in a due and timely manner at the place designated in the order;
- b) Provide for transportation a vehicle that is technically fit and that is ready for safe and commercially and promotionally "dignified" transport of the consignment. During loading, the Carrier shall be obliged to have the necessary securing materials and aids corresponding to the nature of the consignment transported (otherwise it may be denied to proceed with the loading operation);
- c) The Carrier shall be obliged to carefully select competent and adequately qualified drivers and demonstrably instruct and train the vehicle crew about the working procedures in the international and inland road haulage and the Carrier's liability and in particular to stipulate special and preventive obligations and procedures for the vehicle crew in the event of transportation of high-risk goods which are endangered by the risk of theft, fraud, embezzlement etc.;
- d) The Carrier shall be obliged to inform ESA of any apparent incorrectness of the transport instructions or any conflict of the instructions with the legal regulations and of possible legal obstacles to the ordered transport;
- e) Prior to commencement of the transport, the Carrier shall be obliged to inform ESA of any and all public-law obligations associated with transports of particular Consignments;
- f) Throughout the term of the obligations following from the Transport Contract and/or Framework Contract and/or in carrying out transports according to the individual orders, the Carrier shall be obliged to maintain a valid insurance of liability for destruction, loss or damage to the consignment within the scope of the Carrier's liability according to its contractual obligations and according to the individual orders and according to the applicable legal regulations, however, at least in the amount of **CZK 7,000,000.00** and, simultaneously, in the amount of the value of the consignment at the time of its loading, if the value of the consignment exceeds CZK 7 million; a specific transport order may stipulate a requirement for lower insurance limit in which case the Carrier may insure the consignment in accordance with the required lower insurance limit;
- g) The Carrier shall have a notification duty to ESA, i.e. it provides reports on all circumstances arising during the transport that could affect proper performance of the Carrier's obligation, i.e. in particular on passage problems, on damage to the Consignment, on imminent damage, on impossibility to park at attended or designated car parks etc. In case of damage to the Consignment or other damage due to delay etc. resulting from circumstances under which the Carrier is not released from liability, the Carrier agrees to claim, in due time, the respective compensation for damage with its insurer. The Carrier shall be fully liable for the damage caused where the Carrier's liability and the claim for compensation of damage shall expire to the extent in which ESA was financially satisfied from indemnity provided by the Carrier's insurer;
- h) Throughout the entire transport, the Carrier agrees to comply with any and all legal regulations, including technical regulations and speed and safety limits (including mandatory rest breaks and AETR) in effect in the territory of the respective states in which the transport takes place;
- i) Prior to commencing the transport, the Carrier's driver shall be obliged check the contents of the CMR note, in particular also the "number 20" column, and if the Shipper filled the box "value of special interest in delivery" (in particular a special price in CZK or EUR) the driver shall be obliged to immediately contact the ESA's dispatcher and discuss

whether the cargo is covered by insurance in the given situation and whether such requirement for "special interest in delivery" by the Carrier or ESA is feasible. Without further instructions of the dispatcher, at least by a text message, the Carrier may not commence the transport without additional demonstrable instructions;

3. The Carrier shall also be obliged to:
  - a) Secure the cargo against spontaneous losses during the drive;
  - b) Ensure that the type of the transported cargo cannot be identified during a perfunctory examination, except for transport of cargo on platforms;
  - c) Not to disclose to third parties any information on the transported goods or the planned safety rest breaks;
  - d) Never take third persons into the vehicle (hitchhikers etc.);
  - e) Maintain regular driver-base (ESA dispatcher) contact, report all extraordinary events during the transport (e.g. being stopped by the police, technical problems with the vehicle or being contacted by another person), comply with all measures preventing access to the vehicle and cargo by unauthorized persons;
  - f) Without ESA's prior written consent, the Carrier shall not be entitled to reload the Consignment to a means of transport other than that onto which the Consignment was loaded at the place of loading or to handle the Consignment in any way outside the loading and unloading area.
  - g) Without ESA's prior written consent, the Carrier shall not be entitled to unload the cargo or parts of the Consignment, partially or fully, at a place other than that specified in the Transport Order;
  - h) If the driver is prevented from being physically present during loading, the driver shall report this fact to ESA dispatcher without delay and shall note this fact in the consignment/delivery/transport note/document;
  - i) If differences or shortcomings in the state of the Consignment or its packaging are ascertained (in particular incompleteness, defects, damage to the consignment, including its packaging etc.) at the place of loading, the Carrier/driver shall be obliged to inform ESA, i.e. the transport dispatcher, of the specific state of the consignment without delay after such ascertainment (if such ascertainment - including e.g. imminent damage etc. - takes place only during the transport, immediately after such ascertainment). Without ESA's express prior written consent (e-mail, text message), the driver may not leave the place of loading or continue driving;
  - j) The Carrier/driver shall be obliged to record their reservations, if any, in the CN or CMR CN. The Carrier/driver must write all reservations about the consignment loading into all copies of the consignment note, i.e. including the copy retained by ESA. If the Carrier/driver is not allowed to write their reservations in CN or CMR CN, the Carrier/driver shall not sign such CN and shall seek instructions from ESA about further procedure without delay;
  - k) If loss, destruction or damage to the Consignment (goods) or late delivery thereof is ascertained during unloading and such fact is recorded (or e.g. written in CN or CMR CN) or if a damage report is drawn up with the Carrier/driver, the driver shall be obliged to inform ESA thereof immediately and may not leave the place of unloading without ESA's express prior written consent (e-mail, text message);
  - l) If the Carrier/driver signs a damage report or similar record, they shall be obliged to read the same carefully. Neither the Carrier nor the driver is a commodity expert and therefore they are not qualified to express their opinion on the condition of the Consignment (goods), except for clearly visible and demonstrable defects. In the damage report, the Carrier/driver shall state any circumstances which could have affected the incurrance of damage and shall, in their own interest, take photographs of any clear damage. In case of any doubt, the Carrier/driver shall consult the contents of the report or record with ESA. The Carrier/driver must provide

- ESA with necessary cooperation in remedying, minimising the damage etc. and must follow the instructions of ESA dispatcher whom they must be in contact with;
- m) If, during the actual transport, ESA's customer demands tasks from the Carrier other than those defined in the written order, the Carrier may perform such tasks only after prior consultation with ESA's competent contact worker and after agreeing on the price for such task, otherwise the Carrier shall not be entitled to payment for the task performed;
- n) In case of inland transports:  
The Carrier shall ensure that its driver personally supervises and checks the course of loading and unloading and, in particular, that the driver supervises and gives instructions for or actively participates in proper loading and unloading. The driver shall supervise and be personally liable for proper loading, distribution and securing the Consignment in/on the means of transport using slings, wedges and other necessary fastening aids to prevent displacement or release of the Consignment, also with regard to the Carrier's liability for traffic safety, compliance with total weight limits, vehicle axle load etc.;
- o) In case of international transports:  
The carrier's driver must physically participate in loading and unloading of the Consignment. The requirement for physical participation of the driver in loading at the issuer of the goods and/or in unloading at the recipient of the Consignment from ESA shall not be authoritative for the Carrier/driver from persons present during loading or unloading without prior express approval thereof by ESA.  
In international transports, the driver must visually check the loaded goods and, in case of any discrepancies or impossibility to perform the inspection, make a note in the carriage note/CN.  
The Carrier/driver shall be liable for proper, timely and complete acceptance of the consignment in conformity with the Transport Order/freight order received from ESA, as well as with information in the Transport Order/freight order. The Carrier may request their subsequent written confirmation which, however, has no suspensory effect;
- p) All potential shortcomings and problems during loading, unloading and transport must also be recorded by the Carrier/driver in the transport documents (e.g. damage to packaging, missing goods, incorrect cargo placement, incompletely frozen goods upon loading etc.).
- q) In case of any driving (transport) interruption, the driver shall secure the transported Consignment appropriately to prevent its damage, deterioration, loss, destruction or misappropriation by a third party;
- r) The Carrier/driver shall be obliged to take all possible preventive measures that affect the safety of the vehicle and of the transported Consignment;
- s) The Carrier shall be obliged to provide for training of the vehicle drivers as to appropriate conduct in dangerous situations (e.g. hold-up, kidnapping, theft, false identity upon receipt, overnight parking, abandoning a loaded vehicle etc.) and to verify knowledge thereof and compliance therewith on a regular basis. ESA may request proof of such training;
- t) The vehicle crew shall be obliged to notify ESA and the Shipper of the consignment of any visible defect of the packaging or placement of the consignment for transport and of apparent incorrectness of information specified in the CMR/consignment note, as well as of clear circumstances during loading which could cause damage to the transported cargo or endanger the traffic safety. If the vehicle crew is able to recognize such defect of the packaging or placement of the Consignment on the vehicle that there is a clear danger of damage to the Consignment or traffic safety, the vehicle crew shall be obliged to request a remedy through ESA and if ESA cannot satisfy the Carrier's request the Carrier shall not be allowed to commence the transport. The Carrier shall also make a written reservation about these facts in the CMR/consignment note and shall inform ESA without delay. Unless specified otherwise in the order, the carrier (driver) shall proceed accordingly in inland transportation;
- u) ESA shall be entitled to demand that the transport be interrupted and the Consignment returned to ESA or otherwise disposed of until the Consignment is released to the recipient by the Carrier. ESA shall reimburse the Carrier for any demonstrable or reasonable or usual costs associated with such procedure;
- v) The Carrier shall be obliged to ensure that its personnel follow all ESA's internal guidelines and instructions while moving within its premises or within the premises of ESA's customers, or recipients or Shippers;
- v-a) If the expected arrival to the unloading site is outside the working hours of the recipient of the consignment, the Carrier must discuss with the recipient without delay (i.e. if possible in advance, i.e. when it is clear that the Carrier will not arrive for loading/unloading on time) either safe parking of the vehicle within the recipient's premises or presence of the unloading crew at the recipient's costs or parking of the loaded vehicle at a car park meeting the security parameters described in these GTCs (attended car park, car park for trucks which are lighted and under CCTV surveillance etc);
- v-b) The Carrier agrees to pay all its employees participating in the performance of the transport in the territory of the Federal Republic of Germany/France/Italy/Austria/Belgium and other European countries with stipulated minimum wage at least the minimum wage, according to the laws of the Federal Republic of Germany, according to Section 1 of MiLOG, and/or according to the laws of France, Loi Macron Act etc. according to the respective country and shall demonstrate the same to ESA (Client) upon request;
- v-c) The Carrier releases ESA (Client) from all possible third-party claims resulting from the failure to comply with the obligations following from the Minimum Wage Act (laws of the Federal Republic of Germany, Section 1 of MiLOG, and laws of France, Loi Macron Act. etc. and the laws of other countries which implemented so-called minimum wage for drivers) by the Carrier or its subcontractor (shipper, another Carrier);
- w) If the order requires compliance with the continuous temperature mode (constant-temperature chain) throughout the entire transport, the Carrier agrees to adhere to such agreed temperature mode throughout the entire transport.
4. The Carrier agrees to perform transport of high-risk commodities (e.g. copper, aluminium, electronics, alcohol, cigarettes, food, tires, chips, brand shoes, laptops, dry goods, washing powders, perfumes, chocolate etc.), in the total cargo value exceeding **CZK 1,000,000.00**, solely using the Carrier's own vehicles. The Carrier shall add the license plate, driver's name, driver's ID (driver's licence, ID card or passport No.) to the sent Order not later than one day before the date of loading, by 02:00 p.m. (or on the last working day preceding the date of loading, if the date of loading is the day following after Saturday, Sunday or public holiday). The transport may only be performed by drivers with no criminal records. The Carrier shall not be entitled to assign the performance of the transport to another carrier.
- 4 a) The Carrier agrees to perform the transport only using vehicles equipped with independent anti-theft device (not including door locks) and to demonstrate, in case of an insured event, that the vehicle was equipped with such devices.  
An independent device means any approved device designed to secure the vehicle against theft (engine immobilization system, satellite navigation, pedal and gear control locking, alarm etc.). If the cargo space is covered by tarpaulin, it must be secured against unauthorized entry by a steel-wire rope or customs rope and a lock and when parking the vehicle must in each case be properly locked and the security devices engaged;
- 4 b) The Carrier agrees to park all its loaded vehicles only at a secured property, attended car park or at otherwise supervised places or at places designed for such purpose (petrol stations with reserved truck parking, places usually used for truck parking such as border crossings, areas designated for customs clearance, lighted areas for truck parking under CCTV

surveillance etc.) or to man the vehicle by two authorized persons in which case it is necessary to ensure that the vehicle is under permanent surveillance by at least one of these persons; if the vehicle is manned by only single person, such person must make sure to minimize the time during which the vehicle is left unattended.

If the vehicle is left unattended, the Carrier/driver must keep the vehicle within sight and, if this is not possible, the person must visually check the security of the vehicle and of the cargo on a regular basis.

If the Carrier does not have a summary of safe parking places for the performance of a particular transport, s/he shall be obliged to request them in writing, before commencement of the transport, from ESA's dispatcher who will provide him/her with a list of permitted parking locations.

4 c) The Carrier's vehicle crew may leave the loaded vehicle only to satisfy the necessary hygienic and food needs and to perform the necessary tasks directly related to a specific transport (e.g. customs clearance, provision for unloading. etc.), and only for the essential period of time, where the vehicle must be locked and the electronic alarms and engine immobilization systems engaged. If sensitive, high-value goods are transported, the Carrier shall also be obliged to perform the preventive procedures and measure specified below.

5. The Carrier agrees not to employ, hire or otherwise engage drivers who are under permanent employment relationship with ESA, without the prior written consent of the shipper, during the term of the Transport Contract or Framework Contract or during the period of 1 (one) year of the date of termination of the Transport Contract or Framework Contract, if concluded.

6. The Carrier shall be obliged to confirm the Order in accordance with **Art. II (9)** of these GTCs. The Order confirmation must include information on license plate of the vehicle, name, surname and telephone number of the vehicle's driver.

The Carrier shall be obliged to respond to each Order, not later than within **120 (one hundred and twenty) minutes** of sending thereof by ESA, by confirming the Order or by submitting a specific proposal for a change in ESA's requirements. If the Carrier fails to do so within the set deadline and subsequently begins to implement the transport of the Consignment, the Carrier shall be deemed to agree with the contents of the Order. The Parties have agreed that Section 1740(3) first sentence of the Civil Code shall not apply, i.e. they agree that the Carrier's response to the Order with an amendment or deviation, even if not substantially changing the terms and conditions of the Order, shall not constitute acceptance of the offer but the Carrier's counterproposal for conclusion of the Transport Contract.

Unless specified otherwise in the Order, any and all transports assigned by ESA are with a time limit and the loading or unloading of the Consignment cannot be performed outside the dates specified in the Order. It is thus neither possible to load or unload the Consignment on earlier date without ESA's express consent. The Carrier shall be obliged to make every effort to comply with the transport deadlines according to the Transport Contract.

7. The Carrier agrees to perform the transport according to the instructions specified in the Order and in the Consignment Note or delivery note, respectively.

8. In case of inland transport, the Carrier shall be obliged to send ESA the recipient's confirmation of delivery of the Consignment, not later than within seven days of unloading of the Consignment, unless specified otherwise in the Order (e.g. shorter deadline etc.).

**9. Special Notification Duty of the Carrier:**

The Carrier shall be obliged to notify the ESA's dispatching of completion of each unloading.

10. If there is a risk of delay, the Carrier shall proceed, in order to protect the Consignment, even without ESA's instruction in order to protect ESA's interests and needs as much as possible; if, however, it is possible to seek prior approval from ESA in such cases, the Carrier shall proceed and perform all acts only after such approval by ESA. The Carrier shall be obliged to immediately notify ESA of all circumstances arising during the transport which could affect proper performance of the Carrier's obligation following from the Transport Contract and/or Framework Contract (e.g. traffic restrictions, weather changes, waiting times etc.).

**11. Strict Prohibition of Transport Resale:**

The Carrier may not perform its obligation following from the Transport Contract through another carrier without ESA's prior written consent. The Carrier shall be obliged to submit an application for a permit to use specific additional Carrier to ESA not later than upon commencement of the Transport.

12. The Carrier shall be liable for damage to the Consignment in accordance with the provisions of the applicable legal regulations of the Czech Republic, i.e. in particular Section 9a of the Road Traffic Act, the Civil Code and, in case of transports subject to the CMR Convention, in accordance with the provisions of the CMR Convention. If the Consignment is damaged, destroyed or lost, the Carrier shall bear, in addition to the compensation of damage, also the costs of minimization of the resulting damage and elimination of all consequences of the harmful event, if the Carrier is liable for the damage, destruction or loss of the Consignment.

13. The Carrier agrees to indemnify ESA if ESA incurs any damage or harm in connection with any act, omission or breach of any obligation of the Carrier, persons authorized by the Carrier or subcontractors. The Carrier also agrees to indemnify ESA if any act, omission or breach of any obligation of the Carrier, persons authorized by the Carrier or subcontractors results in an illegal state of affairs which gives rise to any costs, sanctions or other obligations on the part of ESA (also in the capacity of a guarantor). If, due to breach of any obligation of the Carrier, persons authorized by the Carrier or subcontractors, any person, body, institution or authority (including foreign ones) raises a claim against ESA (also in the capacity of a guarantor), the Carrier agrees, at its own expense, to provide for ESA's effective defense in order to demonstrate that the claim was raised against ESA without justification; if ESA (also in the capacity of a guarantor) is obliged to satisfy such claim, the Carrier agrees to satisfy the claim for ESA, including any and all accessions, sanctions and costs.

14. If, based on a single Transport Contract, the transport is performed consecutively by several actual (executing) carriers, then each of them assumes the liability for the performance of the entire transport and, upon acceptance of the goods and of the Consignment Note, each additional carrier becomes a Party to such a single Transport Contract.

15. The Carrier shall be liable for proper and timely loading of the Consignment onto the road freight vehicle, unloading of the Consignment and securing the Consignment against possible damage during the transport in accordance with the provisions of the applicable legal regulations. Unless specified otherwise in the Order, the Carrier shall be obliged to secure the loaded Consignment using slings, wedges and other necessary fastening aids to prevent displacement or release of the Consignment. The Carrier shall not be entitled to compensation of any damage or costs in case of delay in loading or unloading of the Consignment for reasons on the part of third parties, ESA or due to force majeure. The Carrier shall be obliged to adhere to the agreed times of loading and unloading of the Consignment.

16. The Carrier shall not be entitled to transport the



Consignment together with other Consignments or other goods without ESA's prior written consent.

17. The Carrier shall be obliged to perform safety and any other driving breaks only at attended and secured car parks (see paragraph 4.b) above).

18. In case of complete truck loads, the Carrier shall be obliged, at ESA's request, to seal the cargo space of the vehicle or, possibly, allow ESA to place such a seal.

19. The Carrier shall be obliged to ensure that the driver wears safety shoes with reinforced toe cap and a reflective safety vest during loading and unloading operations, when entering the Consignment loading and unloading area. During loading and unloading, the Carrier's driver should also wear clothing with long sleeves and trouser legs. The Carrier shall be obliged to follow all safety and other instructions applicable within the Consignment loading and unloading area.

20. The Carrier shall exercise any claim for damages against ESA or its customers and demonstrate the same to ESA not later than within **6 (six) months** of the occurrence of the damage; otherwise the Carrier's claim for damages shall expire.

21. The Carrier shall not be entitled, without ESA's prior written consent, to assign, in full or in part, any of its receivables from ESA to a third party or to suspend, in full or in part, any of its receivables from ESA for the benefit of a third party. The Carrier shall not be entitled to unilaterally set off its receivables from ESA or part thereof against ESA's receivables without ESA's prior consent. If the Carrier has concluded a factoring agreement, it shall be obliged to inform ESA thereof in writing; if the Carrier intends to conclude a factoring agreement, it must seek a prior written consent from ESA in such case.

22. The Carrier may not, without ESA's prior written consent, either itself or through a third person, contact the ESA's customer with an offer for transport or forwarding activities (if it is a contractual partner of ESA and if the offer concerns a transport service in the territory of the Czech Republic or from the Czech Republic abroad or from abroad to the Czech Republic).

Furthermore, the Carrier may not contact the Shipper and the recipient of the transported goods, the owner of the Consignment, with a business offer for transport and forwarding activities nor may the Carrier, in the period of **1 (one) year** of the date of termination of the Transport Contract or Framework Contract, if concluded with ESA (whichever occurs later), conclude a contract on performance or procurement of transport with such customer or provide transport services to such contractual partner of ESA as subcontractor or other contractual partner of another third party.

The Carrier agrees not to take part in tenders for the performance of transport with the ESA's customers, which it provides business services to in the framework of business cooperation for ESA, during the business cooperation between the Carrier and ESA (i.e. if the Carrier implements transports for a specific client or has concluded a framework agreement with ESA etc.). Such obligation shall also apply for the period of twelve months after termination of the performance of transport by the Carrier for ESA.

The Parties exclude the procedure of the Carrier against the recipient of the goods as against a guarantor for the freight charges, i.e. they disapply Section 2562 of the Civil Code.

23. The Carrier shall be obliged, at any time upon the Carrier's request, to provide ESA promptly with information on its economic situation, within the scope necessary to assess its ability to perform the Carrier's obligations following from the Transport Contracts and/or the Framework Contract.

24. The Parties shall be released from liability for damage or delay resulting from circumstances excluding liability of the

Parties. The definition of circumstances excluding liability shall be governed by the applicable legal regulation according to which the damage is assessed.

25. The Carrier's indemnity obligation may only be fulfilled with money. This shall apply unless the Parties stipulated otherwise in writing.

#### IV.

##### Rights and Obligations of ESA as the Shipper

1. ESA may, among other things, submit to the Carrier requests for ensuring transport in the form of individual Orders.

2. In order to provide for the transport and comply with the Carrier's obligation, the ESA agrees to provide the Carrier with any and all necessary information and underlying documents for proper and timely procurement of transport of the Consignment. The Order shall contain in particular (but not limited to) the below-specified details:

- a) Place and date of issue of the Order;
- b) Business name and registered office of ESA, including its identification number;
- c) Business name or name and registered office of the Carrier, including its identification number;
- d) Desired place and date and, possibly, also exact time of acceptance of the Consignment for transport;
- e) Place of destination of the Consignment, date and, possibly, also the desired exact time of delivery of the Consignment to the place of destination;
- f) Usual designation of the nature of the Consignment and type of packaging; in case of hazardous items its generally recognized designation;
- g) Number of transportation units;
- h) Gross weight of the Consignment;
- i) Overall (indicative) dimensions of the Consignment;
- j) Instructions required for customs and other official procedures;
- k) Requirement for ensuring transport of specific deliveries (e.g. transport of enormous or dangerous goods);
- l) Amount of freight charges;
- m) Clause that these GTCs form part of the Order.

3. When loading the Consignment, ESA agrees to ensure (usually at its customer's or other person's place where the Consignment is located prior to loading) that any and all documents pertaining to the Consignment and the transport thereof are delivered to the Carrier, unless otherwise agreed between the Carrier and the ESA's customer at the place of loading.

4. If substantial damage to the Consignment is imminent, ESA shall be obliged, upon the Carrier's request, to give to the Carrier, without undue delay, necessary instructions, as may be reasonably required.

5. ESA shall be obliged to pay the agreed freight charges to the Carrier.

6. ESA shall be entitled to cancel the Order for performance of the transport not later than one hour before the scheduled deadline for the Consignment loading without any sanctions against ESA or without any claim of the Carrier for reimbursement of any costs incurred in connection with cancellation of the Order and claim for damages or payment of any penalty. ESA shall be entitled to change the transport instructions up until the completion of loading and the Carrier shall be obliged to accept such changes.

7. Except for special written arrangement made before the commencement of the transport, ESA shall not be liable for compliance with the deadlines for the Consignment loading and unloading.

8. The Parties have agreed to limit the compensation of damage, according to which ESA is liable to the Carrier for any and all damage incurred in connection with conclusion of the Transport Contract and/or Framework Contract, only to direct, demonstrable and culpable damage, however, not exceeding the amount of **CZK 50,000.00** per one harmful event. However, ESA shall in no circumstances pay any indirect or consequential damage or lost profits to the Carrier.

9. ESA shall be entitled to set off any ESA's mature and non-mature receivable from the Carrier against any Carrier's receivable from ESA, i.e. receivable (i) mature and non-mature, (ii) arising on the basis of or in connection with the Framework Contract and/or Transport Contract or arising on the basis of or in connection with any other legal relationships of the Parties (e.g. storage etc.).

10. If the Carrier receives a written transport order with any shortcomings, inconsistencies or obscurities and/or if the ordered transport appears to be impracticable or unfeasible, the Carrier must promptly inform ESA of this fact in writing and request specifying or feasible instructions so as not to jeopardize the loading and unloading deadline.

11. By accepting these GTCs, the Carrier also accepts liability for indirect damage, i.e. in particular contractual penalties from ESA's customers for late performance of the transport where the Carrier shall be informed in writing of the amount of the individual applicable penalties from ESA's customers (e.g. in the order, via e-mail, through the dispatcher, via ESA's electronic platform etc.).

## V.

### Freight Charge Invoicing Procedure

1. ESA shall be obliged to pay the Carrier the agreed freight charges for properly and timely performed transport. The specific amount of freight charges (price of the transport) shall form part of a specific transport order or Framework Transport Contract. Unless the agreement of the Parties indicates otherwise, the freight prices are exclusive of value added tax.

2. The Parties have agreed that the Carrier shall account for the Freight Charges not later than within 7 (seven) days of the date of performance of the transport and shall deliver a tax receipt - invoice, including all required documents (these documents are listed in Art. V(3)(a) of these GTCs), to ESA within the same deadline to the following address: ESA s.r.o., Kladno, Oldřichova 158, Postal Code 272 03. Together with the Freight Charges, the Carrier shall be entitled to charge extraordinary or unexpected expenses and any other costs only if their amount is approved by ESA in advance in writing.

3. ESA shall pay the Freight Charges not later than on the next payment day after all the following conditions have been met:

- a) The Carrier delivers to ESA any and all documents related to the transport with specification of the number - Code (i.e. code of specific transport) according to the Order on each document, i.e. in particular tax receipt, original CMR note confirmed by the recipient (in case of International Transport) or consignment note (in case of Inland Transport), original confirmation of delivery of the Consignment to the recipient, confirmed record of vehicle operation, original Order confirmed by the Carrier which ESA sent to the Carrier for the performance of transport, free of any changes);
- b) If the recipient of the goods is unable to affix its stamp onto the said documents, the Carrier shall make sure that the person accepting the goods specify their name, ID card number, birth identification number or date of birth and legible signature and title of the authorized personnel and their mobile phone number, otherwise the absence of these details shall be borne by the Carrier and the transport shall be deemed not to have been performed (i.e. in particular if any

verifiable unloading document is missing or if the ESA's customer does not acknowledge receipt of the goods.

- c) A carrier that issues an invoice to ESA for the first time shall enclose a VAT payer certificate within the meaning of Act No. 235/2004 Sb. and a copy of the insurance contract for the transported goods.
- d) The deadline of 60 calendar days commencing upon fulfilment of the condition specified in **Art. V(3)(a)** of these GTCs has expired. The Carrier does not consider this payment condition to be grossly unfair against it and does not consider itself to be the weaker party because this condition has been discussed with it in relation to any and all related transport circumstances.
- e) In case Carrier prefers realisation of payment of invoices issued for its services prior to due date, Carrier can use the option of ESA logistika Invoice Financing (ELIF), which is operated by ESA in cooperation with „Platební instituce Roger“ (Roger). ELIF represents comfortable solution for temporary cash inflow requests which is ensured by early (pre-due date) payment of invoices identified by the Carrier. For more detailed information contact us via e-mail [financing@esa-logistika.eu](mailto:financing@esa-logistika.eu) or mobile number +420 739 183 224..

4. The Parties represent that the amount of the Freight Charges and the agreed due date of the Freight Charges is in accordance with trading practices in the field of International Transport and Inland Transport and is not unfair for either of the Parties.

5. In case of any reservation made in the Consignment Note or any other document, the due date of the Freight Charges shall be postponed until the disputed claim made by an entitled person is resolved; ESA shall inform the Carrier of such postponement of the due date of the Freight Charges.

6. A carrier that is the value added tax payer in the Czech Republic shall be obliged to specify in invoices issued by it only bank accounts which are kept by the banks in the Czech Republic and, also, which are published by the tax administrator in a manner allowing for remote access within the meaning of Section 98 of the VAT Act. If the Carrier specifies in the invoice a bank account which is not published by the tax administrator in the above-specified manner or which is kept by a bank outside the Czech Republic, ESA reserves the right not to pay such invoice and request the Carrier to correct the bank account number in the invoice. In such cases, the maturity of the invoice shall commence from the date of delivery of an invoice with corrected bank account.

7. In case of transports involving export or import outside the European Union to which value added tax exemption applies within the meaning of Section 69 of the VAT Act, the Carrier shall be obliged to charge the Freight Charges exclusive of the value added tax; in such cases, the Carrier shall be obliged to promptly submit to ESA any and all customs documents and documents related to such transport.

8. The Carrier shall be obliged to inform ESA without delay if the tax administrator publishes the Carrier as an unreliable payer within the meaning of Section 106a of the VAT Act. If a decision is made (even if not final and conclusive) that the Carrier is an unreliable payer, ESA shall be entitled to withdraw from the Transport Contract and/or Framework Contract or any other contract concluded with the Carrier.

9. If the decision of the Carrier's tax administrator that the Carrier is an unreliable payer comes into legal force, ESA shall be entitled to fulfil its obligation to pay part of the Freight Charges or any other payments in the amount of the value added tax by paying such tax into the account of the Carrier's tax administrator using the procedure set forth in Section 109a of the VAT Act. If the decision of the Carrier's tax administrator that the Carrier is an unreliable payer comes into legal force, ESA shall be entitled to fulfil its obligation to pay part of the Freight Charges or any

other payments in the amount of the value added tax by paying such tax into the account of the Carrier's tax administrator using the procedure set forth in Section 109a of the VAT Act.

**10.** If ESA is obliged to pay the tax not paid by the Carrier on the ground of a guarantee for an unpaid value added tax within the meaning of the VAT Act, ESA may set off the amount of the thus-paid tax against any Carrier's receivables from ESA (i.e. non-mature receivables, receivables within the period of maturity, payable and non-payable receivables etc.).

**11.** The Carrier shall be obliged to compensate ESA for any and all damage resulting from non-compliance with any obligations that the Carrier has under the law, legal regulations and/or that are specified in these GTCs.

**12.** The transport operation shall also include delivery of account of the transport to the Shipper with the below-specified annexes demonstrating proper and timely performance of the transport.

## VI. Contractual Penalties

**1.** The period of limitation of the Carrier's rights to payment of the Freight Charges and any and all other claims of the Carrier to ESA arising on the basis of or in connection with the Framework Contract and/or Transport Contract shall equal 1 (one) year. For Transport Contracts subject to the CMR Convention, the commencement of the period of limitation shall be governed by the provisions of the CMR Convention.

**2.** The Carrier shall have no retention right to the Consignment, not even to secure its claims from the Transport Contract and/or Framework Contract. The Carrier acknowledges that exercise of the retention right to the Consignment is, within the meaning of Section 1396(2) of the Civil Code, incompatible with the manner in which the Consignment is to be handled and which is known to the Carrier. Given that the Carrier is obliged to deliver the Consignment to the recipient, the Carrier shall have no retention right on this ground.

**3.** In no circumstances has the Carrier any retention right to the Consignment to secure its claims to ESA.

**4.** In case of breach of any of the Carrier's obligations according to:

a) Art. III.(4) of these GTCs, the Carrier shall pay ESA a contractual penalty in the amount of **CZK 6,500,000.00** for each breach of the Carrier's obligation (i.e. breach of the obligation to perform the ordered transport using own vehicles).

b) In case of breach of any of the Carrier's obligations according to:

- Art. III.(2)(f), (the Carrier is not insured for the required amount)

- Art. III.(3)(f), (the Consignment is reloaded without ESA's prior written consent)

- Art. III.(11), (breach of prohibition to resell the transport)

- Art. III.(22) (the Carrier has contacted ESA's customer with a business offer) of these GTCs, the Carrier shall pay ESA a contractual penalty in the amount of **CZK 500,000.00** for each breach of the Carrier's obligation.

c) In case of breach of any of the Carrier's obligations according to:

- Art. III.(5), (employment of ESA's driver by the Carrier without ESA's consent)

- Art. III.(21), (the Carrier assigns a receivable from ESA without ESA's consent) of these GTCs, the Carrier shall pay ESA a contractual penalty in the amount of **CZK 250,000.00** for each breach of the Carrier's obligation.

d) In case of breach of any of the Carrier's obligations according to:

- Art. III.(4)(4.a), (using a vehicle not equipped with

adequate security features for the protection of the transported consignment)

- Art. III.(4)(4.b), (parking at "unsecured" places)

- Art. III.(4)(4.c), (crew abandoning a loaded vehicle)

- Art. III.(6) (incomplete order)

- Art. III.(3)(w) - (failure to adhere to the temperature regime during transport)

of these GTCs, the Carrier shall pay ESA a contractual penalty in the amount of **CZK 50,000.00** for each breach of the Carrier's obligation.

e) In case of breach of any of the Carrier's obligations according to:

- Art. III.(2)(a) (inadequate care for the consignment)

- Art. III.(2)(b) (unroadworthy vehicle)

- Art. III.(2)(c) (untrained or incompetent drivers)

- Art. III.(2)(d), (the Carrier's failure to advise of incorrect instructions)

- Art. III.(2)(e), (failure to advise of necessity of public-law permit)

- Art. III.(2)(g), (failure to comply with notification duty to ESA)

- Art. III.(2)(h), (the Carrier's breach of regulations)

- Art. III.(3)(a), (failure to secure the consignment in the vehicle)

- Art. III.(3)(b) (breach of confidentiality of the content/nature of the transported consignment)

- Art. III.(3)(c) (breach of confidentiality by the Carrier/driver)

- Art. III.(3)(d), (third persons in the vehicle)

- Art. III.(3)(e), (breach of mandatory contact with the dispatcher during transport)

- Art. III.(3)(g) (unloading at a different place)

- Art. III.(3)(h), (the Carrier's breach of duty to notify of impossibility to be present during loading)

- Art. III.(3)(i), (failure to inform the dispatcher of a damage to the consignment)

- Art. III.(3)(k), (leaving the loading site without notification of damage)

- Art. III.(3)(l), (failure to provide for documentation; incorrect damage report)

- Art. III.(3)(m), (unauthorized transports)

- Art. III.(3)(n), (incorrect loading)

- Art. III.(3)(o), (absence during loading/unloading)

- Art. III.(3)(p), (failure to record inconsistencies in transport documents)

- Art. III.(3)(q), (breach of transport safety)

- Art. III.(3)(r), (breach of proper transport prevention)

- Art. III.(3)(s), (failure to train drivers)

- Art. III.(3)(t), (failure to advise of packaging defects during loading/unloading)

- Art. III.(3)(u), (failure to comply with a change in transport instructions)

- Art. III.(3)(v), (breach of regulations in the loading and unloading area)

- Art. III.(3)(v-a), (breach of obligations in case of late arrival)

- Art. III.(3)(v-b), (failure to pay MilOGU etc., i.e. remuneration in individual states in the minimum amount to the Carrier's drivers)

- Art. III.(3)(v-c), (requiring ESA to pay MilOG or minimum wages in foreign countries for drivers)

- Art. III.(7), (breach of instructions)

- Art. III.(8), (failure to deliver the recipient's confirmation of delivery of the consignment)

- Art. III.(9), (failure to notify after unloading)

- Art. III.(10), (breach of damage prevention and failure to cooperate with ESA)

- Art. III.(15), (no timely performance)

- Art. III.(16), (unauthorized addition of goods to the transported consignment)

- Art. III.(17), (use of unattended car park)

- Art. III.(18), (failure to seal the consignment)

- Art. III.(19), (breach of OSHP)

- Art. III.(23), (failure to provide information on the

Carrier's economic situation) of these GTCs, the Carrier shall pay ESA a contractual penalty in the amount of the freight charges for each breach of the Carrier's obligation.

5. In case of delay with loading or unloading the Consignment, the Carrier shall pay ESA a contractual penalty in the amount of **CZK 1,000.00** for 1 (one), even incomplete, hour of delay in providing a vehicle for loading the goods or unloading the Consignment, if the Parties stipulated exact time of loading or unloading of the Consignment (with accuracy of at least whole hours), and a contractual penalty in the amount of **CZK 5,000.00** for each, even incomplete, day of delay, if the Parties stipulated only the day of loading or unloading of the Consignment.

6. In case of the Carrier's delay in sending the recipient's confirmation of delivery of the consignment according to **Art. III.(8)** of these GTCs, the Carrier shall pay ESA a contractual penalty in the amount of **CZK 200.00** for each day of delay and each delivery note (i.e. CZK 200.00 per delivery not/day).

In case of the Carrier's delay in delivery of the account or in case of incompleteness of the required annexes to the invoice within the meaning of Art. V.(2) of these GTCs, the Carrier shall pay ESA a contractual penalty in the amount of **CZK 200.00** for each day of delay in sending the account.

If the Carrier fails to deliver all the required documents forming an annex to the invoice according to Art. V.(2) and Art. V.(3)(a) of these GTCs, the Carrier shall pay **CZK 200.00** for each day of delay (i.e. until the date of delivery of all required annexes to the invoice).

7. If the Carrier ceases to be a VAT payer and fails to inform the shipper thereof in writing, i.e. by a registered letter, not later than on the expiry date of the Carrier's VAT registration, the Carrier agrees to pay ESA a contractual penalty in the amount of **CZK 350,000.00**. The arrangement on contractual penalty shall in no way prejudice the shipper's right to full compensation of damage and harm caused by the Carrier as a result of breach of its obligation specified above.

8. No arrangement on contractual penalty according to these GTCs shall in any way prejudice ESA's right to compensation of damage or part thereof resulting from breach of the Carrier's obligation. The contractual penalty according to these GTCs shall be payable within **7 (seven)** business days from the date of sending a request for payment of the contractual penalty to ESA.

## VII.

### Packaging and Pallet Circulation Account

1. The Carrier shall be liable for damage or destruction of returnable packages and pallets that occurred during loading, unloading or transport of the Consignment. Upon each acceptance of the Consignment loaded onto pallets (in particular EUR pallets, hereinafter the "pallets"), the Carrier agrees to check the condition of pallets and confirm the accepted number of pallets and, upon acceptance of a packaged Consignment, the Carrier also agrees to check the condition and suitability of the Consignment's packaging. In case of acceptance of clearly destructed, damaged or unsuitable returnable packages and/or pallets, the Carrier agrees to inform ESA without delay of such destruction, damage or suitability, otherwise the returnable packages and/or pallets shall be deemed to have been delivered to the Carrier for transport of the Consignment in a proper condition, i.e. not destroyed or damaged, and suitable for transport of the Consignment

2. If the Carrier has agreed to return the packages and/or pallets to the place of loading of the Consignment, the Carrier agrees to return them in the same condition and quantity in which it accepted them during loading, otherwise the Carrier shall be liable to and agrees to compensate ESA for the resulting damage and shall also pay a contractual penalty in the amount of **CZK 250.00** for each unreturned pallet. The Carrier shall be

obliged to send the proof of returning the pallets to the designated place, which is confirmed by the pallet recipient, to the following e-mail address: [frankova.pavla@esa-logistika.eu](mailto:frankova.pavla@esa-logistika.eu)

3. If the Carrier agrees to exchange the packages and/or pallets, it shall be obliged to submit to ESA and demonstrate their exchange through credible documents according to ESA's instructions, otherwise the Carrier shall be liable to and agrees to compensate ESA for the resulting damage.

4. During unloading, the Carrier shall not be entitled to refuse acceptance of empty pallets on an exchange basis. In case of lack of empty pallets during unloading, the Carrier shall be obliged to provide for a valid voucher, written confirmation, for the quality and quantity of unaccepted pallets (returnable packages) with extended validity of the voucher of at least 1 month from the date of unloading. Together with delivery notes, the Carrier shall be obliged to send an original copy of the voucher to ESA within seven days of the date of unloading. If the number of unaccepted pallets on the voucher does not correspond to the required delivered number/quality of pallets, (i.e. if the voucher is inaccurate or ineffective - i.e. is not in conformity with the number and quality of pallets delivered by the Carrier upon unloading), the Carrier shall pay ESA a contractual penalty in the amount of **CZK 250.00** for each pallet that has not been returned or is not included in the voucher, as well as for each pallet incorrectly described in terms of quality (e.g. pallet in a good condition is described as broken or vice versa). The Carrier shall be obliged to send the said voucher to the following e-mail address: [frankova.pavla@esa-logistika.eu](mailto:frankova.pavla@esa-logistika.eu), within two days of its issue.

5. Unless a different deadline is stipulated in the transport order, the Carrier shall be obliged to return (i.e. deliver back) the pallets it accepted in exchange at the place of unloading (for pallets on which it delivered the goods) back to the place of loading within 21 days of the date of unloading (i.e. of the date of acceptance of the pallets at the unloading site).

6. If the pallets are subsequently but belatedly returned to the place of unloading (i.e. after the 21-day deadline specified in the previous paragraph) or to the pallet account circulation after the stipulated deadline, this shall in no way affect the Carrier's obligation to pay the contractual penalty for each pallet that has not been returned or is not included in the voucher, as well as for each pallet incorrectly described in terms of quality. The Carrier agrees to pay the contractual penalty on the basis of account from ESA, otherwise ESA may set off the contractual penalty against the claim for freight charges.

## VIII.

### Method of Communication

1. Any communication related to the Framework Contract, Transport Contracts, transport orders and drafts of these contracts must be made in writing and, unless stipulated otherwise, must be delivered in person, by e-mail, data box or other form of electronic communication where such forms of electronic communication constitute written form.

2. E-mail communication without a guaranteed signature shall be deemed sufficient except for:

- Communication relating to amendments to or termination of the Framework Contract and/or Transport Contract;
- Waiver of right or abandonment of requirement.

3. Subject to below-specified reservations, any communication or document in connection with the Framework Contract (or draft thereof) or the Transport Contract (or draft thereof) shall be deemed delivered:

- If delivered in person or by a courier service with the recipient's acknowledgement of receipt, upon delivery to the recipient;
- If sent by mail, upon delivery to the respective address or on the 5th (fifth) Business Day after the day on which they were submitted for postal transportation in a correctly addressed

envelope, postage prepaid (unless the provider of postal services notifies the sender that the notice has actually been neither delivered to the recipient's address nor deposited for the recipient at the post office in accordance with the relevant rules of postal transportation of consignments or if such fact has been ascertained otherwise without any doubts);

- c) If sent by e-mail, data box or other means of electronic communication, upon delivery in legible form.

## IX. Miscellaneous

1. The Carrier shall express consent to the current wording of these terms and conditions by acknowledging the transport order, as well as by providing a vehicle for loading. The terms and conditions form integral part of each implemented transport and apply to each transport order featuring a unique code - "Code".

2. ESA may amend these terms and conditions and shall be obliged to publish such amendments at [www.esa-logistics.eu](http://www.esa-logistics.eu).

3. The Parties expressly represent that the provisions of these terms and conditions which deviate from the provisions of the New Civil Code have intentionally been agreed differently and they also represent that according to their good faith and consciousness such provisions are not at variance with good morals, do not violate public order or laws relating to personal status, including right to protection of personal rights, and have been agreed honestly. The Parties further represent that neither of them considers itself to be the weaker party in relationships governed by these terms and conditions.

4. The Parties expressly exclude application of any business terms and conditions of the Carrier to any legal relationships arising between them, even if the Carrier made or will make any references to them and despite being known to ESA. Within the sense of Section 558(2) of the Civil Code, the Parties wish to disregard commercial practice recognized generally and in the field of International Transport and Inland Transport in legal relations.

5. The relationships between the Parties that are not explicitly governed by the Transport Contract and/or Framework Contract or any other contract concluded between the Parties shall be governed by the applicable provisions of the international and Czech legal regulations.

6. The Parties shall attempt to resolve all disputes following from the Transport Contract and/or Framework Contract out of the courts on the basis of mutual negotiation with a view to maintaining good business relationships. If the dispute is not resolved in this manner, either Party shall be entitled to refer the dispute for resolution to the District Court in Kladno, if the dispute falls within the jurisdiction of a district court, and to the Regional Court in Prague, if the dispute falls within the jurisdiction of a regional court.

7. These GTCs are intended to regulate the relationships between entrepreneurs and the provisions of Section 1798 to Section 1800 of the Civil Code shall not apply to their interpretation because the GTCs are published at publicly and freely accessible ESA's website and any person may at any time get acquainted with them. The Carrier represents that prior to conclusion of the Transport Contract and/or Framework Contract it was able to become sufficiently acquainted with the GTCs and to influence the contents of these GTCs by disapplying any portions, articles or paragraphs through an arrangement contained in the Transport Contract and/or Framework Contract.

8. The Carrier waives the right to claim cancellation of the Transport Contract and/or Framework Contract and restoration to the original position (*restitutio in integrum*) on the ground of possible abnormal harm within the meaning of Section

1794(2) of the Civil Code and the Carrier further represents it provides the performance on the basis of the Transport Contract and/or Framework Contract for the agreed Freight Charges, while it does not consider the amount of the Freight Charges to be grossly disproportionate to the performance provided.

9. The Carrier assumes, within the meaning of Section 1765(2) of the Civil Code, the risk of a change in circumstances if, after the conclusion of the Framework Contract and/or Transport Contract, the circumstances change to such an extent that the performance under the Framework Contract and/or Transport Contract becomes more difficult for the Carrier.

10. ESA processes the personal data of all its business partners in accordance with the Regulation (EU) 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data (GDPR) - more detailed information is available at [www.esa-logistics.eu](http://www.esa-logistics.eu) - section: About the Company/Company Policy/Personal Data Protection.

The Carrier shall in particular have the right of access to personal data, right to have inaccurate or incomplete data rectified, right to object to the processing of personal data, right to restrict the processing of personal data, right to have personal data erased, right to revoke at any time the granted consent to the processing and right to lodge complaint with the supervisory authority.

11. The provisions of the general transport terms and conditions of ČESMAD Bohemia or other industry terms and conditions shall not apply to the relationship between ESA and the carrier.

12. If any provision of these GTCs is at variance with the mandatory provisions of the legal regulations in force and effect in the Czech Republic or directly or indirectly at variance with the CMR Convention (in case of transports subject to the CMR Convention), then the provisions of such regulations shall apply which, however, in no way affects the validity of other provisions of these GTCs or the validity of these GTCs as a whole. The Parties expressly represent that the provisions of these GTCs which deviate from the provisions of the Civil Code have intentionally been agreed differently and the Parties further represent that according to their good faith and consciousness such deviating provisions are not at variance with good morals, do not violate public order or laws relating to personal status, including right to protection of personal rights, and have been agreed honestly.

13. Conflict of interests – In case Carrier is confronted within realisation of the transport service under the coverage of these General Terms and Conditions of Transport cooperation, with non-standard request of dispatcher or other ESA employee (hypothetically it can concern the interest to reach any private benefits or private influence or any direct or indirect payment realised from the Carrier in favour of any ESA employee), Carrier is entitled to report the fact immediately to ESA e-mail address: [generalni.reditel@esa-logistics.eu](mailto:generalni.reditel@esa-logistics.eu).

14. ESA shall be entitled to make changes in the GTCs and shall inform the Carrier of such changes by publishing new GTCs at its website [www.esa-logistics.eu](http://www.esa-logistics.eu) not later than within 30 (thirty) days before such changes become effective. The Carrier shall be entitled to reject changes in the GTCs. Upon such rejection, the Transport Contract shall be terminated within 1 (one) month of the date of effect of the new GTCs where the period of notice equals 1 (one) month and commences on the 1st (first) day of the calendar month following the calendar month in which the period of notice (rejection) was delivered to ESA. If the Carrier does not reject (terminate) the GTCs within the above-specified deadline, the amended GTCs shall be effective from the date of effect of the change therein determined by ESA. If the Carrier rejects (terminates) the GTCs within the above-specified deadline, the GTCs shall remain in effect until expiry of the period of notice.

The Carrier agrees to check the ESA's website and get acquainted with their current contents, including the wording of the GTCs, continuously, however, at least once a month.

**15.** These GTCs shall be signed by the Carrier, e.g. also electronically, before commencement of the initial transport and they shall continue to apply to all transports performed by the Carrier for ESA.

**16.** These GTCs come into effect on **March, 1st 2022.**

