

General Commercial Clauses of the Road Freight Haulers

Art. 1. For the purposes of the present general commercial clauses of the road freight haulers:

1. „A profession road freight hauler” means the activity carried out by each enterprise which transports freights at someone else’s expense or for payment with motor vehicles or a composition of vehicles;
2. „An international transport “means:
 - 2.1. Travelling with a freight which is carried out by a vehicle the place of departure and the place of arrival of which are in two different member states with or without transit passing through one or more member states or third countries,
 - 2.2. travelling with a freight which is carried out by a vehicle from a member state to a third country or vice versa, with or without transit passing through one or more member states and third countries,
 - 2.3. travelling with a freight which is carried out by a vehicle between third countries with a transit passing through the territory of one or more member states; or
 - 2.4. empty courses made in connection with the transportation specified in paragraphs 2.1.; 2.2. and 2.3.
3. „A vehicle “means a motor vehicle which is registered in a member state or a composition of vehicles, as at least the motor vehicle from the composition is registered in a member state, and which are used exclusively for transportation of freights.

Art.2. Range of validity

These General Commercial Clauses apply to all contracts for international road freight transport carried out by ROELTRANSPORT, Bulgaria, which have explicitly determined them as applicable. Along with placing the order for transport the consignor confirms that they are aware of these General Commercial Clauses, explicitly acknowledge them and entirely accept them as content of the contract. The silence of the consignor means consent in all cases. Commercial clauses in the order for transport and other commercial clauses of the consignor shall not withstand the current Common Commercial Clauses and are excluded for the concrete legal deal. These Common Commercial Clauses are as well in force when the consignor has learned about their application for the first time in the confirmation by the hauler of the order for transport of the consignor. The General Commercial Clauses for haulers are in force in the internal transport in the international road freight transport and in the cabotage transport carried out by ROELTRANSPORT, Bulgaria, which have explicitly determined them as applicable. The General Commercial Clauses for haulers have a priority over all commercial customs.

The General Commercial Clauses for haulers have not priority over the imperative legal regulations of the applicable to the transport contract law.

Art.3. Obligations of the hauler

The hauler performs its services with the care of the good tradesman. Besides, he protects the consignor’s interest.

Art.4. Contracting parties

The transport contract is concluded exclusively between the hauler and the consignor. Drivers, subcontractors or other persons accompanying the transport are not authorized to make contract provisions binding in the hauler, neither exclude the application of the current General Clauses. Changes or addendum to the order (as well as additional orders) are negotiated exclusively with the hauler. Such changes of the order and other announcements which are not negotiated with the hauler but are communicated to associates of the hauler, subcontractors or other personnel of drivers or attendants do not engage the hauler.

Art. 5. Reception for transport and delivery of goods

The goods are received for transport and are passed to/delivered by the hauler in the terms and at the place negotiated in the transport contract. The parties agree that the goods are accurately delivered, unless other is explicitly negotiated, when it is left for unloading at the stipulated place for unloading and to the person in charge for the unloading. At this moment at the latest is the liability of the hauler by the transport contract concluded. Stipulations of the consignor with their contracting party by the contract for selling of goods are not in force for the hauler.

Art.6. Obligation of the consignor for notifying

The consignor is obliged to inform the hauler most accurately and fully for the content of the freight at the time of placing the order. All the special requirements for the transport of the goods must be comprehensively stated by the consignor. The information for the transported goods must be delivered to the hauler directly and not to the driver, subcontractor or other personnel of drivers or attendants

The hauler must also be informed if the content /part of the shipment/ are dangerous or spoiling goods. In any case the hauler has the right of immediate unshipping and storage of valuable goods or dangerous or spoiling goods about which they are not informed, at the expense and risk of the consignor. If the consignor violates their obligation for notifying, they are responsible before the hauler for all the expenses and damages connected with this. The consignor also bears responsibility when the damages are caused to the persons, materials or other goods which the hauler transports. The consignor covers the expenses which could be incurred from a defect of the packing of the goods unless this defect was visible at the moment of accepting the goods for transportation or the hauler was notified in writing for the defect. Changing the information about the goods by the consignor gives the hauler the right to refuse immediately further performance of the entire transport. If the transport is not performed at all or to the end, the claim for the transport remuneration of the hauler continues to exist along with eventual claims for compensation. The consignor is responsible for all the damages which come for the hauler from incorrect or wrong description of the transported goods also in the cases when the consignor was not aware of them but was able to and obliged to know about them.

Art.7. Refusal of the order for transport

In the cases of refusal of the order for transport by the consignor, which is made less than 24 hours before the planned beginning of the transport, the hauler has the right of the entire negotiated remuneration if the refusal is made by the consignor without the hauler's fault. Furthermore, the consignor must compensate the hauler for all expenses and – in cases of consignor's fault – for all the damages which have emerged from the reversal of provisions of the transport order from the consignor.

Art. 8. Transport documents

The consignor is obliged to hand in to the hauler at the time of loading the goods at the latest, all the accompanying documents which are necessary for the hauler for carrying out the transport of the respective goods and for the fulfilment of the custom and other administrative prescripts to the moment of the delivery to the recipient.

The consignor is responsible for the correctness and the completeness of these documents and there is not an obligation for the hauler to check the authenticity of the documents as well as whether the information is full and accurate.

The consignor is obliged to compensate the hauler for all damages and expenses connected with the handing in of incorrect and incomplete documents.

Art. 9. Checking the content of the shipment, determination of number and weight

The hauler has in any time the right but is not obliged to check whether the freight corresponds to the record of the consignor and whether the goods are handed in on the basis of the eventually valid special directions. If the hauler establishes that the freight does not correspond to the information submitted by the consignor, the hauler has the right to terminate the transportation. The consignor has to be informed of that.

If the consignor does not undertake measures for the further appropriate transportation immediately, the hauler has the right of an immediate unloading and storage at the expense and at the risk of the consignor. The consignor is responsible before the hauler for all the expenses and damages which have emerged from this.

In this case, the hauler may, of his own choice, eventually order as well the selling of the goods according to the applicable to the contract for transportation law.

Art. 10. Obligations of the consignor

The consignor is exclusively responsible for the regular and secure packing of the transported goods, otherwise they are responsible before the hauler for each damage which has emerged from this, irrespective of the form of the consignor's fault.

The consignor is responsible before the hauler for the damages caused to the persons, materials or to other goods as well as for the expenses which could emerge from a defect of the packing of the goods unless this defect was visible or the hauler was aware of it at the moment of accepting the goods for transportation and they have not risen objections about this.

The visible defect may be determined by an usual inspection without need of special knowledge of the goods, its inherent qualities and the type of the packing. It is considered that the hauler is aware of the defect if it has been written in the consignment note for transportation.

Art.11. Loading and unloading of goods

The goods must be loaded, resp. unloaded by the consignor, the forwarder or the recipient. In case of co-operation of drivers, subsidiary personnel or subcontractors or their drivers or subsidiary personnel when there is loading or unloading, these persons are responsible as assistants of the consignor or the forwarder.

However, if there is an explicit and written provision with the hauler before the beginning of the loading or the unloading at the latest that the hauler has to be responsible for the loading, resp. for the unloading, then the hauler is responsible for the regular loading and may count a separate remuneration for this.

Provisions for obligation for loading or unloading made with the driver, subcontractor or other personnel of drivers or companions do not engage the hauler.

Art.12. Overloading

If the hauler performs the loading, they have the right to refuse the continuing of the loading in case of a threat of overloading. If yet the consignor insists that the loading continues, the hauler may refuse the carrying out of the entire transport and unload the goods at the risk and at the expense of the consignor again. In case of establishment of overloading of loaded by the hauler goods, the hauler may request from the consignor the unloading of the overweight at the expense of the consignor. If this does not happen immediately, or if the overloading is established during the travelling, the hauler may unload the overweight at the expense and at the risk of the consignor. The unloaded part is placed at the consignor's disposal. If the consignor does not give instructions in reasonable terms, the hauler may store the goods at the expense and at the risk of the consignor and of their own choice to eventually order the selling of the goods according to the law applicable to the contract for transportation. At all events, the consignor is responsible, in case of established overloading – also in case of failure to execute the transport – for the entire transport charge. The hauler may calculate to the consignor's account additionally all the expenses emerged specially for the overloading, taking and fulfillment of the instructions and the unloading. Furthermore, the consignor is responsible before the hauler for each damage connected with the overloading.

Art. 13. Loading and transference date, delivery dates

Loading and transference dates as well as delivery dates are always not obligatory for the hauler. If the loading, unloading or the delivery has to be carried out in fixed terms, this must be negotiated provably in writing with the hauler with the explicit instruction that delayed loading, unloading or transference is not accepted. The announcement of fixed loading, unloading or delivery dates solely is not sufficient. If a negotiated loading and transference date is exceeded or the beginning of the transportation is delayed due to circumstances which are in the sphere of the consignor (in this cases a sender and a recipient are equalized to a consignor) the consignor must pay hourly wage which is calculated on the negotiated remuneration for the transport, and besides, fully compensate the damages emerged for the hauler from the delay (for example, empty courses, stops, etc.). Changes of the negotiated loading and unloading dates or delivery dates constitute a change of the initial order. Once determined, loading and unloading dates may be changed with a written consent of the hauler only.

If the recipient refuses to accept the goods, the hauler has the right of a decent remuneration from their consignor for the reverse transport to the extent of the negotiated transport price.

Art. 14. Loading means

The hauler is not responsible for the additional equipment for loading of the goods handed in to them such as pallets, for example. At all events the hauler is not obliged to take care for the return of the loading equipment transferred to them. If the hauler undertakes the return of the loading equipment, they have the right for expenses which have to be negotiated between them and the consignor.

Art. 15. Payment of the transport remuneration (haulage)

The haulage (the remuneration of the hauler) is subject to payment plus eventual additional expenses which, however, must be announced in detail before the conclusion of the contract. In case of an overdue payment the lawful moratory interest must be paid according to the applicable law, namely the annual interest rate% of the servicing bank of ROELTRANSPORT OOD (DSK Bank EAD) + 10%. In addition, the consignor is obliged to entirely undertake the additional expenses for the invitation for voluntary execution as well as the expenses connected with the execution of the unredeemed claim.

Art. 16. Prohibition for deduction of consensual obligations

The consignor has not the right to deduct claims towards the hauler with the claims of the hauler according to the contract for transportation unless these cross claims are explicitly acknowledged in writing by the hauler or are determined with an entered into force judgment.

Art.17. Responsibility of the hauler outside the scope of application of CMR

The consignor is obliged, in those cases which are outside the scope of the compulsory regulations of CMR, to claim in writing and reasoned before the hauler for an eventual material damage within 21 days from the day in which the transport had to begin according to the stipulation or had begun. The hauler is not responsible for damages which are a result of circumstances that are outside of their control,

which follow the nature or the package of the transported goods, or the circumstance that the loading or unloading is carried out entirely by the consignor / recipient of the goods.

Art.18. Jurisdiction and applicable law

All disputes emerged from a contract for road transportation towards which the current general clauses are applied, or concerning such contract for transportation, including the disputes emerged from or concerning its interpretation, invalidity, implementation or termination as well as the disputes for replenishment of deficiencies in the contract or its adjustment to newly emerged circumstances, will be settled by the court by residence of ROELTRANSPORT in the town of Sofia. The current clause does not hinder the parties in the transport contract to bring the case to state courts for settling of their disputes. In this case both the court by residence of the hauler and the court by residence of the consignor of the transportation have international competence. It is left to the choice of the claimant to which of these courts they will refer the dispute. It is the Bulgarian law which is applicable to the transport contracts to which the current general clause is applicable.

Art.19. Protection of the data

The hauler has the right to gather, keep and process personal data which is given by the forwarder or the recipient in connection with the services completed by the hauler and / or are necessary for the hauler for the completed services. The hauler has the right by a request of the authorities (especially the customs authorities) and the state institutions to announce it to them within the range determined by the law.

Art. 20. Other

The general commercial clauses of the consignor or the clauses of the consignor's order are not applied to the concrete order and do not have priority over the current general commercial clauses even when other is stated in the order, the commercial clauses or other blanks or documents of the consignor. If separate regulations become invalid due to contradiction with imperative normative regulations (for example, the CMR regulations), this does not affect the whole contract.