

# GENERAL TERMS AND CONDITIONS FOR COURIER AND TRANSPORT SERVICES PROVIDED BY APEX OBC

**Effective date:** 20 February 2025

Apex OBC, registered at KNSM-Laan 651, 1019 LH, Amsterdam, Netherlands, provides courier and transport services under the following terms and conditions.

## 1. Definitions

The following terms shall have the following definitions for the purposes of these General Terms and Conditions.

**“Agreement”** means the courier and any other transport services Agreement, these General Terms and Conditions, any Confirmation, any addendums, schedules and/or annexes thereof accepted by both Parties, in each case as they may be supplemented or amended from time to time.

**“Customer”** refers to the entity or individual contracting with the Company, as stated in the Confirmation.

**“Company”** refers to Apex OBC doing business under the latter name.

**“Confirmation”** shall have the meaning assigned to it in Clause 3 below.

**“Courier”** refers to independent contractor couriers or any representative or employee acting on behalf of Apex OBC.

**“Convention”** refers to the applicable of the following:

- i. The Convention for the Unification of Certain Rules Relating to International Carriage by Air, signed at Warsaw on 12 October 1929 (the “Warsaw Convention”).
- ii. The Warsaw Convention as amended at The Hague on 28 September 1955.
- iii. The Warsaw Convention as amended by Additional Protocol No. 1 of Montreal (1975).
- iv. The Warsaw Convention as amended at The Hague and by Additional Protocol No. 2 of Montreal (1975).
- v. The Warsaw Convention as amended at The Hague and by Additional Protocol No. 4 of Montreal (1975).
- vi. The Guadalajara Supplementary Convention (1961).
- vii. The Convention for the Unification of Certain Rules for International Carriage by Air, signed at Montreal on 28 May 1999 (the “Montreal Convention”).

**“Effective Date”** refers to the date on which both Parties sign the Agreement incorporating the final quotation or, as applicable, the date the Customer accepts these General Terms and Conditions via email confirmation for a specific Confirmation.

**“Force Majeure”** shall have the meaning defined in Clause 19 below.

**“Losses and Liabilities”** refers to all direct and indirect costs, including expenses related to investigating and defending claims, as well as any payments, charges, demands, liabilities, claims, losses, damages, injuries, orders, awards, fines, proceedings, and judgments of any kind or nature.

**“Consignee”** refers to the party designated by the Customer as the recipient of the Shipment, as specified in the Customer’s Confirmation and/or request for quotation.

**“Relevant Authority”** refers to any governmental or regulatory body or authority, including but not limited to border control agencies, airport authorities, customs offices, customs inspection stations, law

enforcement agencies, and any other entities with legal jurisdiction over any aspect of the transportation, flight, or Services.

**“Representatives”** refers to the officers, directors, shareholders, owners, employees, accountants, attorneys, consultants, contractors, and advisors of either Party.

**“Service”** refers to an On-Board Courier service utilizing Couriers for the national and international air transportation of specific types of express and courier parcels, along with related services upon request, including but not limited to ancillary transportation to and from the involved airport(s).

**“Shipment”** refers to any cargo requested for transportation as specified in the Customer’s Confirmation.

Each of the Company and the Customer is referred to individually as a Party and collectively as the Parties.

## **2. Applicability and Compliance with Mandatory Legislation**

If any legislation, including regulations and directives, is mandatorily applicable to any business conducted, these General Terms and Conditions shall be interpreted in conjunction with such legislation. Nothing in these General Terms and Conditions shall be deemed a waiver of the Company’s rights or immunities, nor an expansion of its responsibilities or liabilities under such legislation. If any provision of these conditions conflicts with the applicable legislation, that provision shall be superseded to the extent of the conflict and no further.

## **3. Scope**

The Company provides Services on behalf of its customers, and the Customer seeks to utilize these Services for its Shipments.

Subject to the Terms and Conditions of this Agreement, the Company agrees to provide, and the Customer agrees to pay for, the Services for each Shipment as outlined in the Confirmation. When the Customer requires a Service, the Customer will contact the Company through email, API, or any other written communication method used by the Company to request options for the intended Services and corresponding quotations.

Upon receiving such a request, the Company will make reasonable efforts to provide a quotation for the requested Service, along with any applicable terms and conditions for the Shipment. If the Customer finds the final quotation acceptable, the Customer will provide written confirmation, either by accepting the quotation (which incorporates these General Terms and Conditions) via email, API, or any other written communication method used by the Company, and/or by signing the Agreement (which includes the details of the final quotation and the General Terms and Conditions, as applicable) (“Confirmation”).

Neither the Company nor the Customer will be obligated to provide or receive any Services until the Agreement is in full force and effect as of the Effective Date.

## **4. Company’s Obligations**

The Company agrees to arrange the transportation of the Shipment, as outlined in the Confirmation, contingent upon the Customer’s payment of the Company’s invoice for such transportation and compliance with the terms herein. The Shipment will be transported by air, either on a commercial or chartered air carrier, by means of dedicated Courier(s). The Company’s sole responsibility to the Customer is to arrange for the Shipment to be transported from the designated pick-up address to the specified delivery address.

The Company is not obligated to arrange or perform customs clearance for the Shipment. If the Customer requests customs clearance via self-declaration through the Courier, the Company may, at its own discretion, agree or decline to arrange such customs clearance on behalf of the Customer. If

accepted, the customs clearance will be managed by the Courier in accordance with Clause 5(b)(c) below. The Customer is responsible for providing all required information and documentation to the Company accurately, completely, and in a timely manner.

The Company and the Courier disclaim all liability or responsibility for the provided information and/or documents or the customs clearance process. The Company's agreement to arrange customs clearance does not imply acceptance of any responsibility or liability for issues arising from or related to such processes. The Customer acknowledges that customs clearance is subject to the discretion of the relevant authorities and accepts full responsibility and liability for the process.

## **5. Customer's Obligations**

The Customer:

(a) warrants and confirms that all information, including but not limited to the Shipment, provided to the Company shall be accurate, reliable, and suitable for the Company and the Courier to perform the carriage of the Shipment. Additionally, the Customer affirms that such information is materially correct in all respects.

(b) acknowledges that if the Courier is required to handle customs procedures, make declarations, or provide statements to a Relevant Authority during the carriage process that include a description of the Shipment and its value, the Courier is entitled to rely on and use the information supplied by the Customer. In managing such procedures and submitting any declarations, the Courier acts solely as the Customer's representative and agent, on the Customer's behalf and account, and not as a representative of the Company.

(c) agrees that, if requested by any Relevant Authority at any time, the Company and/or the Courier shall be authorized to disclose any information contained in the Agreement and/or the applicable Confirmation to such Relevant Authority.

(d) agrees to ensure that the Shipment is appropriately labeled and packaged for air transport, considering whether it will be carried as carry-on or checked luggage. The Company may, upon the Customer's request and for an additional fee, provide packaging guidance or re-packaging services to ensure compliance with applicable standards. Failure to comply with these requirements may result in the Company refusing the Shipment, and the Customer shall bear any associated costs. The Customer further acknowledges that the Company, the Courier, any Relevant Authority, and/or the air carrier have the right to open the Shipment at any time.

(e) agrees to comply with, and ensure that the Shipment complies with, all applicable industry customs and standards, including but not limited to the regulations of the International Air Transport Association (IATA), the International Civil Aviation Organization (ICAO), and all relevant laws and regulations of any country or state involved in the Shipment's transit, origin, or destination. This includes, without limitation, aviation regulations, customs requirements, public health, immigration, police directives, and laws governing the carriage of dangerous or hazardous goods, live animals, and security measures against acts of terrorism.

(f) agrees to fully comply at all times with all governmental and regulatory requirements of any country or state involved in the Shipment's transit, origin, or destination, including requirements for labeling the Shipment and preparing all necessary transport-related documentation, such as import, export, or customs clearance documents. The Customer shall ensure all such documentation is completed and provided prior to the commencement of the Shipment's carriage. Any failure by the Customer to meet these obligations will constitute a material breach of this Agreement, entitling the Company to terminate the Confirmation and/or the Agreement and/or suspend performance under either.

## **6. Courier**

When the Company assigns one of its own employees to act as a Courier, the employee provides and is compensated for Courier services in accordance with the terms of their employment contract with the Company. The Company retains full discretion and authority over the manner and method by which the employee performs their duties as a Courier and maintains exclusive control over how the Services are executed.

In all other instances, the Courier will be engaged as an independent contractor and shall not be considered or treated as an employee of the Company. When the Courier acts as an independent contractor, the Company retains sole discretion in deciding whether to engage a Courier to carry out the Shipment on behalf of the Customer. The Courier, in turn, retains full discretion and control over the manner and method of performing the Services. Subject to the provisions of Clause 4, the Company's sole obligation regarding the Courier's performance of the carriage is to select a suitable Courier for the task and provide the Courier with information based on the details supplied by the Customer.

## **7. Inspection**

The Company, the Courier, carriers (including air carriers), any applicable Relevant Authority, or any other entity authorized by law, have the right to open, inspect, and/or screen any Shipment or any parcel or part thereof, using x-ray or other methods, at any time without prior notice to the Customer. The Company shall bear no liability of any kind for performing such actions. This right includes physically checking the contents of a Shipment, taking photographs of its contents, and storing such photographs. The Customer acknowledges that the Shipment and/or its packaging container, may be damaged in the process of being opened, and the Company shall not be held liable for any such damage.

## **8. Routing**

The Company may offer multiple routing options to the Customer in the initial quotation, utilizing different air carriers. While the Customer is free to select their preferred routing, the Company retains responsibility for arranging the flight and route the Courier will follow to carry out the Shipment. The selection of any carrier, including air carriers, is at the sole discretion of the Company, which reserves the right to alter the route, carrier, or mode of transport for operational efficiency or other justifiable reasons. The Company is not obligated to route the Shipment on a specific aircraft, along a particular route, or according to any set schedule.

In the event of a delay or cancellation of the chosen flight, or if the Courier is unable to board the flight due to reasons not attributable to the Customer, a third party engaged by the Customer, or any Relevant Authority, the Company will make its best efforts to arrange carriage on the next available flight and notify the Customer of the changes. Any material changes to the transport route or schedule will be communicated to the Customer as soon as reasonably possible. To ensure delivery to the Consignee, the Company reserves the right to divert or modify the Shipment's route, substitute an alternative carrier or aircraft, or arrange for transport via motor vehicle or other modes of transportation. Such adjustments will not materially affect the agreed delivery timeline unless circumstances beyond the Company's control necessitate otherwise.

## **9. Delivery and Undeliverable Shipments**

The Company agrees to instruct the Courier to deliver the Shipment to the delivery address provided by the Customer. However, the Company does not guarantee personal delivery to the intended Consignee. The Courier may deliver the Shipment to any person or entity that reasonably appears authorized to accept the consignment on behalf of the Consignee. The delivery address, along with the Consignee's complete telephone number and email, must be indicated in the Confirmation. If this information is unavailable at the time of Confirmation, it must be provided to the Company before the Shipment is handed to the Courier.

The Customer acknowledges that under certain circumstances, delivery may be made to a third party, including but not limited to a customs agent, or an alternate location accessible to the Consignee. Shipments cannot be delivered to post office boxes or any other unattended locations including but not limited to parcel drop-off stations.

If the Shipment cannot be delivered to the specified address for any reason, including the Consignee's refusal to accept delivery or, in the case of a "cash on delivery" agreement, failure to pay, or if the delivery address or Consignee cannot be reasonably identified or located, the Company will notify the Customer to determine how to proceed. If an agreement cannot be reached within a reasonable time, the Company will make commercially reasonable efforts to return the Shipment to the Customer at the Customer's expense.

If the Customer cannot be located, refuses to accept the return of the Shipment, or fails to cover the cost of its return, the Company reserves the right to release, dispose of, or sell the Shipment without liability to the Customer or any other party. The Company may apply the proceeds from any sale of the Shipment toward outstanding charges and related costs, with any remaining balance returned to the Customer.

## **10. Payment Terms**

The Company's offers or quotations are non-binding and represent only an approximate estimate of total fees and costs associated with organizing the transport of a Shipment. Any ancillary costs, including but not limited to excess baggage charges imposed by air carriers, are not included in the total amount specified in an offer or quotation unless expressly stated otherwise.

In return for the Company's organization of the Shipment's carriage as outlined in the Agreement, the Customer agrees to pay the Company the fee specified in the Confirmation, as mutually agreed by the Parties under this Clause. Payments made directly to the Courier do not fulfill the Customer's payment obligations under the Agreement.

Any fees, levies, taxes, charges, or costs, including but not limited to airport fees and storage costs, imposed by any Relevant Authority or engaged third party, or any additional expenses incurred as a result of the Services, shall be reimbursed by the Customer to the Company in a timely manner. The Company reserves the right, but is not obligated, to require advance payment from the Customer. Final payment terms will be detailed in the quotation confirmed by the Customer via Confirmation unless otherwise agreed in writing by the Parties.

All payments owed by the Customer must be made in full, without withholding, deductions, including but not limited to bank charges from the remitting or beneficiary bank, delays, set-offs, or counterclaims of any kind. The Company retains the discretion to apply payments received from the Customer toward any outstanding amounts.

Interest (wettelijke rente) on overdue payments shall accrue at a rate of 11,15% per annum applicable to commercial transactions under Dutch law for Customers who are legal entities, and 6% per annum applicable to non-commercial transactions under Dutch law for Customers who are consumers. Such interest shall accrue on a daily basis from the due date until full payment of the overdue amount is received. The Customer shall be liable for the payment of the accrued interest in addition to the overdue amount.

## **11. Insurance**

The Customer is solely responsible for ensuring that the Shipment is adequately insured. The Company has no obligation to provide insurance for the Customer or the Shipment and does not arrange cargo insurance for Shipments under this Agreement, unless specifically requested. If requested, the Company, at its own discretion, may arrange basic insurance coverage for the Shipment at an additional fee, subject to the Customer's acceptance of the applicable terms, conditions, and limitations.

If the Customer does not request insurance, the Customer assumes all risks of loss or damage to the Shipment, and the Company shall not be liable for any such loss or damage.

## **12. General Lien and Retention Rights**

(a) Subject to clause 12(b), the Company:

- i. Retains a general lien over all goods and related documents forming part of the Shipment, in its possession, custody, or control for any sums owed by the Customer, with storage charges continuing to accrue on goods detained under lien.
- ii. May, with at least five (5) days' written notice to the Customer, sell, dispose of, or otherwise deal with the goods or documents forming part of the Shipment, as the Customer's agent and at the Customer's expense, applying the proceeds toward any outstanding sums.
- iii. Shall be discharged of all liability concerning the goods or documents forming part of the Shipment upon accounting to the Customer for any remaining balance after deducting sums owed and associated costs of sale, disposal, or handling.

(b) If the Shipment contains perishable and/ or goods which are subject to deterioration, the Company's right to sell, dispose of, or deal with them arises immediately upon any sum becoming due, provided the Company takes reasonable steps to notify the Customer of its intention beforehand.

## **13. Cancellation Compensation**

If the transport of the Shipment is canceled by the Customer after Confirmation, the Company reserves the right to the following compensation:

- i. Before Shipment pick-up: 75% of the total amount agreed upon in the Confirmation.
- ii. After Shipment pick-up: 100% of the total amount agreed upon in the Confirmation.

## **14. Liability of the Company**

(a) While the Shipment is in the custody of the Courier or any third party, including carriers, the Company assumes no care or liability. The Company is liable for damage, destruction, loss, or delay of the Shipment only when it is under the Company's care and only if such damage arises from the Company's failure to fulfill its obligations related to determining the means and route of transport or selecting the Courier. The Company is not liable if the damage could not have been prevented through the diligence of a prudent business operator. In such cases, the Company will assign any claims against the Courier, air carrier, or other third parties to the Customer.

(b) The Company's liability for damage, destruction, loss, or delay of the Shipment is limited to the amounts specified by applicable Conventions. Any contrary provisions in these General Terms and Conditions are superseded by such Convention rules. The applicable Conventions govern and limit the liability of the Company, Courier, and air carrier for loss, damage, delay, or destruction of cargo and for passenger injuries or fatalities in international transport. These liability limitations also extend to ancillary transport to and from the departure or arrival airport. For transport not subject to a Convention, the Parties agree that the Montreal Convention shall apply.

(c) The Company shall not be liable to the Customer for the following:

- i. Special, indirect, incidental, or consequential losses or damages, whether caused by breach of contract, negligence, statutory duty, or otherwise, regardless of foreseeability.
- ii. Loss of profits, income, goodwill, contracts, revenue, or wasted management time.
- iii. Loss or damage due to delivery delays or failure to deliver, provided the delay results from circumstances beyond the control of the Company, Courier, or carrier, including but not limited to actions by Relevant Authorities.
- iv. Loss, damage, delay, or failure to deliver caused by Force Majeure events that hinder, prevent, or delay the Company, Courier, or carrier in fulfilling their obligations.

- v. Any loss or damage arising from an inherent defect, quality, or characteristic of the Shipment, the intrinsic nature of the commodity constituting the Shipment, or inadequate or improper packaging, sealing, or preparation of the Shipment for transport.

#### **15. Liability of the Customer and Indemnification**

The Customer shall be liable to the Company for any failure to fulfill its obligations under the Agreement, with no limitation of liability applicable in the Customer's favor.

The Customer shall indemnify and hold harmless the Company, the Courier, and any third parties engaged by the Company for any losses, liabilities, or expenses arising directly or indirectly from the Customer's breach of its obligations, in whole or in part, from:

- i. The Customer's failure to comply with applicable laws or regulations.
- ii. The Customer's breach of any obligations under the Agreement.

This obligation to indemnify, defend, and hold harmless shall remain in effect even after the termination or expiry of the Agreement. The total amount of indemnification payable by the Customer under this Agreement shall not exceed twice the value of the Shipment or twice the service fee, whichever is higher, except in cases of gross negligence, willful misconduct, or statutory liability.

#### **16. Claims**

The Customer must submit any claims against the Company related to a Shipment in writing within the following timeframes:

- i. In case of loss or damage: Within seven (7) days of delivery.
- ii. In case of delay: Within fifteen (15) days of the date the Shipment should have been delivered.
- iii. For all other claims: Within thirty (30) days.

Failure to submit claims within these timeframes shall constitute conclusive proof that the Customer has waived such claims.

The Customer must provide all relevant information regarding the claim to the Company within ten (10) days of notifying the claim. The Company is not obligated to act on any claim until all amounts due under the Agreement have been fully paid by the Customer.

Receipt of the Shipment by the Consignee without a written notice of damage on the delivery receipt will serve as prima facie evidence that the Shipment was delivered in good condition. To evaluate a claim, the Company reserves the right to require the Consignee to make the contents, original shipping cartons, and packaging available for inspection.

#### **17. Confidentiality & Data Protection**

The Agreement and all information related to the Shipment shall be treated as confidential by both Parties. Each Party agrees to keep all Confidential Information strictly confidential and will not disclose it to any third party without the prior written consent of the other Party, except to Representatives who require it to fulfill their obligations and/or provide related advice or assistance under the Agreement.

Disclosure of Confidential Information is permitted if legally required, such as by court order, legal process, or a request from a Relevant Authority. Compliance with such legal obligations does not constitute a breach of this Agreement.

The confidentiality obligations outlined in this Clause shall remain in effect even after the termination or expiration of the Agreement.

Apex OBC processes personal data in line with European privacy laws. Please refer to our Privacy Policy for more details.

## **18. Termination**

The Company may suspend services or terminate the Agreement immediately upon notifying the Customer, without prejudice to its other rights, including the right to claim damages, in any of the following circumstances:

- (a) The Customer breaches any obligation under the Agreement.
- (b) The Customer fails to make a payment due under the Agreement.
- (c) The Customer becomes insolvent, is subject to winding-up or liquidation proceedings, has an administrator, receiver, or similar official appointed over its assets or business, or enters into a composition or arrangement with creditors or similar action due to debt.

Termination does not affect any rights, claims, or causes of action that have accrued to the Company before termination. The rights of termination provided in this Clause are in addition to any other remedies available to the Company under the Agreement, at law, or in equity.

## **19. Force Majeure**

The Company shall not be liable to the Customer for any failure or delay in fulfilling its obligations caused by events beyond its own, the Courier's, or the carrier's reasonable control ("Force Majeure"). Such events include, but are not limited to: acts of God, war, civil unrest, insurrection, riots, strikes, labor disputes, fire, floods, adverse weather, explosions, earthquakes, mechanical breakdowns, epidemics, quarantines, terrorism, political violence, confiscation or seizure by Relevant Authorities, sanctions, government actions, nuclear or radiation hazards, or the use of chemical, biological, or biochemical weapons.

In the event of a Force Majeure as defined in this Clause, the Company will take reasonable steps to mitigate the impact on the Services and, where feasible, resume operations promptly once the Force Majeure event has ended. The Company will inform the Customer of the expected impact and any alternative arrangements implemented to minimize disruptions. However, if the Force Majeure event continues for more than seventy-two (72) hours, the Company reserves the right to terminate the Confirmation and/or Agreement.

## **20. Compliance**

- (a) The Customer represents, warrants, and undertakes the following:
  - i. Neither the Customer nor any associated person or entity (including directors, officers, employees, agents, subcontractors, suppliers, or affiliates) is subject to sanctions, embargoes, or restrictive measures imposed by relevant authorities such as the United States, United Nations, European Union, or United Kingdom. Additionally, neither the Customer nor its associated persons or entities are located in, or connected to, countries or territories under sanctions, including but not limited to Crimea, Cuba, Iran, North Korea, Sudan, or Syria.
  - ii. The Customer has not engaged in and will not engage in dealings with any sanctioned individual or entity ("Sanctioned Person").
  - iii. Benefits derived from this Agreement, including services or goods, will not be used to facilitate activities with Sanctioned Persons and/or in violation of applicable sanctions.
  - iv. The Customer and associated persons comply with all anti-bribery, anti-corruption, anti-money laundering, and counter-terrorism laws ("ABC/AML Laws").
  - v. The Customer has not been subject to penalties related to ABC/AML laws, modern slavery, or sanctions violations.
  - vi. The Customer has not engaged in, nor will engage in, activities related to modern slavery or human trafficking, in compliance with applicable laws.



- vii. The Customer shall promptly notify the Company of any potential violations of ABC/AML laws, sanctions, or related regulations.
- viii. The Customer maintains adequate systems and controls to ensure compliance with ABC/AML Laws and sanctions.
- ix. The Customer complies with applicable laws and regulations, including those related to health, safety, fair trade, consumer protection, and environmental standards.
- x. Upon request, the Customer will provide information and documentation required for the Company's Know Your Customer (KYC) procedures.
- xi. The Customer warrants that all information provided during KYC procedures is accurate, complete, and up-to-date and will notify the Company of any changes.

(b) These representations and warranties are ongoing and apply throughout the duration of the Agreement. If compliance is disputed, the Customer must, at its own expense, provide a legal opinion from a reputable law firm satisfactory to the Company.

(c) The Customer shall indemnify the Company against any losses, liabilities, or penalties arising from breaches of its representations, warranties, or obligations under this Clause.

(d) In the event of Compliance Breach, the Company may:

- i. Suspend its obligations under the Agreement and/or Confirmation until the breach is remedied.
- ii. Declare all amounts due under the Agreement and/or Confirmation immediately payable.
- iii. Require reimbursement of losses incurred due to the breach.
- iv. Terminate the Agreement immediately.

(e) The rights and remedies provided in Clause 19 of these General Terms and Conditions are cumulative and may be exercised concurrently or separately, without liability to the Company.

(f) The Company may terminate the Agreement immediately if it becomes aware of any undue risk associated with the Customer's relationship with a Sanctioned Person or potential violations of ABC/AML laws or modern slavery regulations.

(g) For a Compliance Breach, the Customer has 60 calendar days from notice of the breach to remedy it. Failure to do so entitles the Company to terminate the Agreement.

## **21. Governing Law and Jurisdiction**

(a) These General Terms and Conditions and/or the Agreement, including all non-contractual obligations arising from or connected to it, shall be governed by and interpreted in accordance with Dutch law.

(b) Any disputes arising out of or related to these General Terms and Conditions and/or the Agreement shall first be referred to the respective Directors of the Parties for resolution. If the dispute is not resolved within thirty (30) days of written notification, either Party may escalate the matter as follows:

- i. By mutual agreement, the dispute may be referred to arbitration under the Netherlands Arbitration Institute (NAI) Rules, with proceedings conducted in Amsterdam and in the English language.
- ii. In the absence of mutual agreement, disputes shall be subject to the exclusive jurisdiction of the Dutch courts.

*Last updated 20 February 2025*

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