DB Cargo Iberia

General terms and conditions ***for road transport***

1. PURPOSE

1.1. The Carrier undertakes to provide the Services required by the Contracting Party at all times and is responsible for the activities of loading, stowing, unstowing and unloading.

1.2. If the Carrier and the Contracting Party expressly or tacitly agree to commence the Services, then the Offer, as well as these conditions and any Attachments thereto, shall be valid and binding on the parties.

1.3. The Contracting Party is not obliged to request any specific volume of Services.

1.4. The Carrier undertakes to perform its duties and obligations under this Agreement in accordance with the law, rules and regulations in force, including anti-corruption laws. In addition, the Carrier undertakes to notify immediately of: (i) any actual or alleged non-performance on its part or by a third party that may perform the obligations of the Carrier arising from this Agreement, and (ii) any bribery request or corruption practices by any individual.

1.5. The non-compliance with criminal laws by the Carrier or a third party performing its obligations shall entitle the Contracting Party to the immediate termination of this Agreement.

1.6. Should the Contracting Party have any reasons to believe that the non-performance of any obligation has occurred, the Carrier shall co-operate fully and in good faith with the Contracting Party in order to establish whether any such non-performance has occurred.

1.7. The Carrier undertakes to perform its duties and obligations arising from the documents signed during the approval process carried out by the DB Cargo Iberia Group, including: (i) Supplier Code of Conduct, (ii) Confidentiality Agreement and (iii) Criminal Prevention Policy.

2. PRICE AND METHOD OF PAYMENT

2.1. The price includes all expenses, taxes, tariffs, surcharges, supplies and other items, excluding VAT, incurred by the Carrier or caused by the provision of the Service. The price is not subject to review, updating or modification.

2.2. Where fuel prices vary between the date of the Agreement (or the date on which rates are fixed) and the date on which the transport service is performed, the Carrier and the Contracting Party shall increase or reduce, as applicable, the agreed price in accordance with the provisions of Act 15/2009 of 11 November on Contracts for the Carriage of Goods by Land.

2.3. Invoices shall be accompanied by documents showing that the goods have been received by the Contracting Party.

2.4. Payment of the price shall not imply any waiver of rights by the Contracting Party or acceptance of the Service provided by the Carrier. Furthermore, the period for payment of the invoices shall be suspended should there be any cause for non-performance by the Carrier of its formal or substantial obligations.

2.5. Non-payment or delay in payment by the Contracting Party does not authorise the Carrier to suspend the performance of its obligations or to retain the ownership of the Contracting Party's goods.

2.6. The Contracting Party may set off any amounts it may owe the Carrier against any amounts owed by the Carrier to the Contracting Party or any other company in the DB Cargo Iberia Group, even if such amounts may have not accrued under this Agreement.

3. OBLIGATIONS OF THE CARRIER

3.1. Each of the Services shall be documented in a consignment note to be issued by the Carrier, which shall deliver an original copy of such consignment note to the Contracting Party.

3.2. The Carrier shall provide the Contracting Party with all information legally required for the completion of the Electronic Administrative Control Document (DeCA) and shall immediately communicate any modification affecting the transport operation or the contracting or subcontracting chain.

The Contracting Party shall generate the corresponding DeCA and/or QR code using the information provided by the Carrier, under the Carrier's responsibility, unless the Carrier expressly notifies in writing that it will assume such generation directly.

The Carrier shall be responsible for any breach arising from incorrect, incomplete or outdated information, failure to retain or make available the DeCA and/or QR code once provided by the Contracting Party, as well as any uncommunicated modifications or subcontracting arrangements, and shall indemnify and hold harmless the Contracting Party against any claim, penalty or liability arising therefrom.

3.3. The agreed deadlines for the Service and the departure and arrival dates provided by the Contracting Party imply a commitment to deliver within the established time, which is essential for the Contracting Party.

3.4. Upon receipt of the goods, the Carrier shall verify their suitability and compliance with the conditions required for their carriage by road and/or rail, under the terms of the current cargo regulations. Without limitation, it shall check that they do not exceed the maximum authorised weight (with uniform distribution of weights) or the permitted dimensions, either because of the different ways in which they have to be transported or because of the countries through which they have to pass to its final destination. If the Carrier detects that the goods are not properly stowed, it must refuse carriage. If it cannot verify the way in which the goods are stowed because it cannot be present at the procedure or for any other reason, then it must make a reservation in the consignment note.

3.5. It shall be the Carrier's obligation to inform the Contracting Party immediately of any incident or accident which may occur during the Service and to seek instructions from the Contractor in the event of any circumstance that may prevent the continuation of the Service or the delivery of the transported goods to their destination.
3.6. The Carrier shall only use vehicles that are suitable and adequate in view of the nature and characteristics of the goods and the Service. Such vehicles must be in perfect technical condition, comply with all the legal requirements for their use and driving, and be aware of any compulsory insurance.
3.7. The Carrier may not hold the goods, refuse their delivery to the Contracting Party or require their deposit or sale. The Carrier shall not acquire ownership of the Contracting Party's goods even if it has compensated for a total loss.
3.8. The Carrier undertakes to deliver the documentation contained in Annexes I et seq. to the Contracting Party and to maintain it in force during the term of this Agreement and at the indicated intervals. Should any of the documents cease to be in force, the Carrier shall immediately inform the Contracting Party and shall immediately suspend provision of the Service, and if applicable, shall compensate the Contracting Party for any damages that may have been caused. In addition, the Contracting Party shall be obliged to suspend payment of the corresponding invoices until due compliance with this Clause.

4. CARRIER'S LIABILITY

4.1. During and after the provision of the Service and with express waiver of any limit of liability, the Carrier shall be liable without limit (this liability being at least equal to that which the Contractor assumes vis-à-vis its end customer) to the Contracting Party for all damages that may be caused as a result of damage to or loss of the goods or delays, as well as any other defective performance or failure to perform that may be attributable to it.
4.2. The Carrier shall indemnify and hold harmless the Contracting Party against any liability as a result of the Carrier and which may be caused by any breach or default by the Carrier, its agents, representatives, authorised subcontractors or persons acting on its behalf, of the provisions in force in this Agreement as well as in the field of transport, traffic, road safety and use, the Carrier being obliged, where appropriate, to reimburse the Contracting Party for any penalties, fines or other amounts paid by the Contracting Party as a consequence of the referred infringement or breach, as well as any expenses and damages that may have been incurred or caused.

5. INSURANCE

5.1. The Carrier undertakes to take out and maintain in force for the duration of this Agreement, insurance policies with insurance companies of acknowledged solvency, which sufficiently cover all liabilities arising from the obligations of this Agreement and the value of the goods transported in each Service.
5.2. Any quantitative or qualitative change to the policy shall be notified to and accepted by the Contracting Party at the time it is made. Taking out any of the abovementioned policies or the partial or total lack of coverage by the insurance company do not exempt or limit the responsibilities of this Agreement.

6. ASSIGNMENT AND OUTSOURCING

6.1. The outsourcing of Services, as well as the assignment of this Agreement, by the Carrier is forbidden unless the Contracting Party gives prior express and precise written authorisation.

7. LABOUR RELATIONS AND OCCUPATIONAL RISK PREVENTIONS

7.1. The Carrier undertakes to act vis-à-vis the Contracting Party as the employer of the Carrier's drivers who may take part in the provision of the Service and who shall remain at all times and under all circumstances under the control, direction and disciplinary power of the Carrier, which shall employ for the execution of this Agreement its own staff, authorised subcontractors and their employees, assuming vis-à-vis the Contracting Party and with full immunity from the latter, the obligations laid down in the legislation in force for the principal employer regarding labour, tax and social security matters.
7.2. Both parties undertake to perform the obligations laid down in Act 31/1995 of 11 November on the Prevention of Occupational Risks. More specifically, the provisions in Section 24 of said Act on the Coordination of Business Activities shall be complied with, as well as the provisions that develop and supplement it in order to guarantee the highest safety and protection standards against occupational risks.
7.3. Each parties shall make available to the other party the information and adequate instructions in relation to existing risks, as well as the relevant prevention and emergency measures and in general, they shall strictly comply with occupational risk prevention regulations.

8. TERMINATION

8.1. The Contracting Party may terminate this Agreement earlier by giving the Carrier a sixty (60) days notice and no compensation should be due.
8.2. Should the Carrier terminate the Agreement without complying with the above notice period, it shall incur a penalty equivalent to the amount invoiced during the previous sixty (60) days.

9. DATA PROTECTION

9.1. The Contracting Party informs the Carrier that any personal data provided shall be processed for the purposes of managing the contractual relationship, on the basis of the performance of this Agreement. Such data may also be processed for supplier management, fraud prevention and compliance purposes. Personal data may be shared with companies belonging to the DB Cargo Iberia Group and with third parties where required by law. Data shall be retained during the term of the Agreement and for the legally required retention period. Data subjects may exercise their applicable rights by contacting RGPD@dbcargoiberia.com and may file a complaint with the relevant supervisory authority.

9.2. The Carrier guarantees that it has duly informed the data subjects of the transfer of their personal data for the purposes described above and further guarantees the accuracy and truthfulness of such information. The Carrier undertakes to notify the Contracting Party of any modification thereto and shall hold the Contracting Party harmless from any liability arising from a breach of this obligation.

9.3. Should the Carrier or its personnel have access to personal data for which the Contracting Party and/or its customers are responsible, they shall keep such information strictly confidential. Where the Carrier processes personal data on behalf of the Contracting Party, the parties shall enter into the corresponding Data Processing Agreement. In the event of a personal data breach, the Carrier shall notify the Contracting Party without undue delay and, in any case, within twenty-four (24) hours of becoming aware of it.

10. JURISDICTION AND APPLICABLE LAW

10.1. The parties expressly renounce the jurisdiction of the Transport Arbitration Boards and expressly subject themselves to the Madrid Courts and Tribunals, renouncing any other general or special jurisdiction that may apply to them.

10.2. The “Contracts of Carriage of Goods by Land Act 15/2009 of 11 November”, and, where applicable, the “Convention of 29 May 1956 on the Contract for the International Carriage of Goods by Road” shall apply for any matters not expressly covered by this Agreement. This agreement shall governed by Spanish law.

ANNEX 1
COMPULSORY DOCUMENTATION TO BE SUBMITTED BY THE CARRIER

DOCUMENTATION	CARRIER TYPE		
	General Self-Employed WITH concurrence at the workplace	General Self-Employed WITHOUT concurrence at the workplace	Self-Employed Entrepreneur employing staff WITH concurrence at the workplace
ADMINISTRATIVE			
Certificate of being up to date with payments to the Tax Office (AEAT) (renewed annually)	X	X	X
Certificate of being up to date with payments to the Social Security Office (renewed monthly)	X	X	X
TC1 - Payment Statement (renewed monthly)			X
Transport Card	X	X	X
TC2 - Payroll List (renewed monthly)			X
Responsible Declaration stating that no more than 75% of the Carrier's income is obtained from DB Cargo Iberia Group companies (annual renewal)	X	X	
PREVENTIVE			
Coordination of Business Activities letter (CAE)	X		X
Declaration of labour and preventive obligations compliance, according to the form in Annex VI		X	
Certificate of preventive modality (renewed annually)	X		X
Certificate of mutual insurance policy (renewed annually)	X		X
Risk evaluation of works to be carried out (renewed tri-annually)	X		X
Preventive action planning (renewed annually)	X		X
DRIVER'S PERSONAL DOCUMENTATION			
Driving licence (carriers / drivers) (upon renewal)	X	X	X
Certificate of Good Health (renewed annually)	X		X
National / Foreign ID (upon renewal)	X		X
Register of personal protection equipment (EPIS) (renewed annually)	X		X
Certificate of the risk prevention training in relation to the business activity (renewed every five years)	X		X
Entry record for preventive information (renewed every three years)	X		X
Entry record for access and emergency rules on the premises (to be submitted by the client)	X		X
VEHICLE			
Driving licence (upon renewal)	X	X	X
Technical Specifications (renewed annually)	X	X	X
MOT (renewed annually)	X	X	X
Compulsory driving insurance (renewed annually)	X	X	X
Road tax (renewed annually)	X	X	X
INSURANCE			
Certificate of civil liability insurance and payment receipt of last bill (renewed annually or upon substantial modification)	X	X	X
Certificate of transport insurance and payment receipt of last bill (renewed annually or upon substantial modification)	X	X	X

ANNEX 2
AUTHORISED VEHICLES AND DRIVERS OF THE CARRIER

VEHICLES	
Number plate (tractor y trailer, if applicable)	Make and model
Number plate (tractor y trailer, if applicable)	Make and model
Number plate (tractor y trailer, if applicable)	Make and model
Number plate (tractor y trailer, if applicable)	Make and model
Number plate (tractor y trailer, if applicable)	Make and model

DRIVERS	
Full name	ID
Full name	ID
Full name	ID
Full name	ID
Full name	ID

ANNEX 3
SAFETY INSTRUCTIONS OF THE UNIT

ANNEX 4
RATE

ANNEX 5
DECLARATION FORM OF LABOUR AND PREVENTIVE OBLIGATIONS COMPLIANCE

At ……, on …… de 202_

Dear Sirs,
In accordance with the provisions of Article 24.3 of Law 31/95 of 8 November (Spanish Official Gazette of 10/11/95) on the Prevention of Occupational Risks, the Company and the companies in its group shall coordinate with the contractors and subcontractors that provide their services at the same unit the compliance with the Regulations on the Prevention of Occupational Risks and establish the necessary guidelines to guarantee the employees' health and safety.
In order to comply with the above, the company ……
with Spanish Tax ID ……

DECLARES THAT

1º. It will provide its workers with the documents attached to this letter regarding the prevention of occupational hazards required by Article 24.3 of Act 31/95 of 8 November (BOE 10/11/95).
2º. It is up to date with its tax and social security obligations.
3º. It has covered the preventive specialties contemplated in Act 31/1995 on the Prevention of Occupational Risks, with some of the preventive modalities provided for therein.
4º. It has a document certifying that it has a mutual insurance policy for assistance in the event of an accidents.
5º. It is covered by civil responsibility insurance (for businesses, for damage caused by the transported goods and compulsory road insurance)
6º. It has the minimum technical and human resources necessary to carry out its activities under safe conditions, as specified in the relevant specific regulations according to the field.
7º. It has carried out a risk assessment in relation to the employees' health and safety, taking into account, in general, the nature of the activity, the characteristics of the employees and the jobs that they have to perform.
8º. It has informed and trained its employees on occupational risks in relation to its activity and the preventive measures adopted to eliminate or minimize such risks.
9º. It will provide its employees with the necessary personal protection equipment for the activity that they carry out according to its risk assessment.

Kind regards.

Beatriz Berrocal Parada

Head of Occupational Risk Prevention

Telf: 91 387 99 59

Mov. 609 00 36 58

E-mail: soporte.prevencion@dbcargoiberia.com

COMPANY:

Tax ID:

SIGNED BY

POSITION:

TO BE RETURNED WITH YOUR SEAL AND SIGNATURE