

HUNGARIAN GENERAL FORWARDING CONDITIONS

(MÁSZ)

Text adopted on 29 May 2014

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§ 1

Scope of Application

1. These forwarding conditions shall apply to all contracts concluded between the Principal, acting as an undertaking, and the Freight Forwarder, acting as an undertaking, which qualify as forwarding under Hungarian law.
2. If the Freight Forwarder issues a combined transport document (MTO/CTO/NVOCC document, or another document of similar content), the terms of such document shall take precedence over the application of the MÁSZ.
3. If the subject matter of the contract is money, securities, precious metals, precious stones, weapons, museum-value items, paintings, hallucinogenic substances, or other goods of special value that do not constitute ordinary commercial goods, these General Forwarding Conditions shall apply only upon the express written agreement of the contracting parties.

§ 2

Forwarding Contract

1. (Main obligations of the parties)

Under a forwarding contract, the Freight Forwarder undertakes, in its own name and on behalf of the Principal, to conclude contracts relating to the forwarding of a consignment and to make declarations of intent in connection therewith, while the Principal undertakes to pay the fee.

2. (The Freight Forwarder's offer; acceptance of the offer)

The Freight Forwarder's offer is valid only if accepted immediately, unless a time limit for the validity of the offer is specified therein. In that case – unless otherwise agreed – a written acceptance identical in every respect to the offer must reach the Freight Forwarder by 5:00 p.m. on the last day of the time limit. An acceptance received after that time shall not give rise to a contract. The forwarding contract likewise does not come into existence if the Freight Forwarder fails to make a written declaration of acceptance identical in every respect to the Principal's offer.

3. (Silence or abstention by the Freight Forwarder)

Silence or abstention on the part of the Freight Forwarder shall be deemed a declaration of intent only in respect of a given transaction and only on the basis of the parties' prior agreement.

4. (The Principal's general terms and conditions)

The Principal's general terms and conditions shall not apply.

5. (Form of the order)

The forwarding order (acceptance) must be given in writing. An order given by telephone or orally must be confirmed by the Principal in writing without delay. The Principal shall be liable for any consequences arising from a failure to do so.

6. (Duty of cooperation and information)

The Principal and the Freight Forwarder shall cooperate and inform each other of material circumstances affecting the contract during contract negotiations, at the conclusion of the contract, during its existence, and upon its termination.

7. (Customs in the relationship between the parties)

Trade customs and practices previously established between the parties shall become part of the contract only if the parties have expressly agreed thereto.

8. *(Content of the forwarding order)*

The order must contain, completely and accurately, all data and information necessary for performance of the forwarding contract. The Principal shall bear the consequences arising from an incomplete or inaccurate order.

9. *(Verification of data)*

The Freight Forwarder shall not be obliged to verify the veracity, correctness, accuracy, etc. of the data provided by the Principal.

§ 3

Performance of the Order

1. *(Priority of the Principal's interests)*

In performing the order, the Freight Forwarder shall represent the interests of the Principal. Representation of the Principal's interests does not include any act or omission that would cause the Freight Forwarder damage, costs, or other disadvantage to itself.

2. *(Instructions)*

The Freight Forwarder shall follow the Principal's instructions, but must draw the Principal's attention to any unprofessional aspects thereof. The Principal shall bear the consequences of instructions that are unsuitable, unprofessional, incomplete, incorrect, or given late.

3. *(The Principal maintains the instruction)*

If the Principal maintains the instruction despite the warning, the Freight Forwarder may withdraw from or terminate the contract, or may carry out the task in accordance with the Principal's instructions, at the Principal's risk, after security has been provided. The consequences of the time elapsed in providing the security shall be borne by the Principal.

4. *(Deviation from the instruction)*

The Freight Forwarder may deviate from the Principal's instruction if the Principal's interest – based on the information available to the Freight Forwarder – undoubtedly requires it and there is no longer any possibility of notifying the Principal in advance. In such a case, the Principal must be notified without delay.

5. *(Refusal to carry out an instruction)*

The Freight Forwarder must refuse to carry out an instruction if doing so would result in a breach of law or of an official decision, or would endanger the person or property of others.

6. *(Costs of the instruction)*

The Principal shall reimburse, or advance in good time at the Freight Forwarder's request, the costs incurred in connection with carrying out the instruction.

7. *(Instruction and security)*

The Freight Forwarder may make performance of an instruction conditional on the provision of adequate security. If the Principal does not provide adequate security, the Freight Forwarder may refuse to carry out the instruction. Security shall be deemed inadequate if it does not reach the amount of the costs expected to be incurred by those participating in the chain of performance, increased by 10%, or if the security is not such that the Freight Forwarder can draw on it immediately, without further enforcement proceedings against the Principal or a third party. The Freight Forwarder must account for the security without delay after drawing on it, or after payment by the Principal.

8. *(Modification of the instruction)*

If the Principal modifies the forwarding order in such a way that the Freight Forwarder is unable to perform it, the Freight Forwarder may withdraw from or terminate performance of the contract and may claim reimbursement of costs incurred, as well as its fee.

9. *(The Principal fails to give an instruction)*

If the Freight Forwarder requested but did not receive an instruction from the Principal within the notified time, the Freight Forwarder shall be entitled to act at its own discretion. In taking action, the Freight

Forwarder must avoid or minimize its own damage and costs while taking into account mitigation of the Principal's damage and considerations of reasonableness. Damages arising for the Freight Forwarder in this manner shall be borne by the Principal.

10. *(Disposal by third persons)*

An instruction from the Principal that a consignment be held at the disposal of a third person can no longer be revoked once the third person has acquired the right of disposal over the consignment. The consequences arising from disposal by the third person, in particular damages and costs, shall be borne by the Principal.

11. *(Obstacles)*

The Freight Forwarder must inform the Principal of any circumstance that hinders performance of the order or requires any modification thereof.

12. *(The Principal withdraws the order)*

If the Principal withdraws the order and the Freight Forwarder has already taken steps to perform it, the Principal shall be liable to reimburse the resulting damages and costs, as well as the forwarding fee. In such a case the Principal shall owe the Freight Forwarder a contractual penalty equal to 20% of the agreed fee, which shall be credited against the damages.

13. *(Withdrawal by the Freight Forwarder)*

If circumstances beyond the Freight Forwarder's control arise that render performance of the Freight Forwarder's obligations wholly or partly impossible, the Freight Forwarder shall be entitled to withdraw from or terminate the contract and to claim its costs and a proportionate fee.

14. *(Consolidated transport)*

Unless expressly prohibited by the Principal, the Freight Forwarder may also forward the consignment by consolidated (groupage) transport.

15. *(Official regulations)*

The Freight Forwarder is obliged to know and comply only with official regulations directly related to forwarding. The Freight Forwarder is not liable for compliance with any other official regulations, in particular the export and import regulatory requirements of individual countries.

16. *(Performance by the Freight Forwarder itself)*

The Freight Forwarder may itself perform the order, in whole or in part. If the Freight Forwarder performs the order itself, it must inform the Principal thereof, at the latest, when settling accounts.

17. *(Deadlines)*

In the absence of an express written statement, the Freight Forwarder does not undertake that the consignment will be forwarded on a specified day or by a specified service, or that it, or any party involved, will carry out a specified act at a specified time.

18. *(Receipt of acknowledgment)*

At the Principal's request, the Freight Forwarder shall issue a receipt of acknowledgment.

19. *(Information)*

At the Principal's request, the Freight Forwarder shall provide separate information on the performance of the contract. The Freight Forwarder shall notify the Principal without delay of the last event in the transport of the goods.

§ 4

Handover of the Consignment to the Freight Forwarder

1. *(Verification of data)*

When the Principal hands over the consignment to the Freight Forwarder, the Freight Forwarder is entitled, but not obliged – with the exception of the number of packages – to verify the actual data of the consignment.

2. *(Discrepant data)*

If the verified data differ from the data of the order, the Freight Forwarder shall notify the Principal thereof without delay and state that the data of the contract concluded and the data of the consignment handed over do not correspond. All consequences arising from this circumstance, in particular delay, changes in the fee level, or increase in costs, shall be borne by the Principal.

3. *(Data requiring correction)*

If the data of the consignment – whether on a document or on the goods themselves – require correction for any reason whatsoever, the Freight Forwarder shall inform the Principal of this fact and, if necessary, request instructions. The costs arising therefrom shall be borne by the Principal. The Freight Forwarder is not obliged to carry out the corrections on the goods itself, and may request that the Principal carry them out.

4. *(Acts performed on the goods)*

The Freight Forwarder is not obliged to pack or bundle the consignment, repair the packaging, or otherwise carry out acts concerning the physical condition of the consignment. An exception applies where the consignment endangers the person or property of others. In such cases the Principal must carry out the necessary action upon request, within the notified time limit, or reimburse the Freight Forwarder for the costs connected therewith.

§ 5

Consignments Requiring Dangerous or Special Handling

1. *(The Principal's duty to disclose)*

Consignments that are dangerous to other consignments, other property, or persons, or that are subject to rapid deterioration, or are otherwise sensitive or special, may be handed over to the Freight Forwarder or its agent only on the basis of a prior, express, written agreement with the Freight Forwarder. The dangerous, perishable, sensitive, or otherwise special nature of such consignments must be disclosed at the time of first contact, and this property must be indicated on the documents and on the consignment.

2. *(Written declaration)*

The Principal must, in advance and in good time, provide the Freight Forwarder with a signed declaration concerning the dangerous/special properties of the consignment, indicating the classification of the goods as set out in the rules applicable to the carriage of dangerous goods for the respective modes of transport. The Principal shall be liable for all damage arising from a failure to do so, or from the inadequacy or delay of such declaration.

3. *(Default by the Principal)*

If the Principal fails, or fails properly, to comply with its duty to provide information on the dangerous or special nature of the consignment, the Freight Forwarder shall, where necessary, be entitled to take all measures necessary to avert the possible consequences and dangers arising from the nature of the consignment. The Principal accepts such measures taken by the Freight Forwarder. The Principal shall reimburse the Freight Forwarder for the costs thereof.

§ 6

Storage

1. *(Cases of storage)*

Depending on the content of the order and as necessary, the Freight Forwarder shall arrange for storage of the consignment prior to dispatch, prior to delivery, and in transit. (Storage connected with carriage.)

2. *(Place of storage)*

Storage may take place in a warehouse owned by the Freight Forwarder, operated by it, or in a warehouse owned by a third party and used by it.

3. *(The Principal inspects the goods)*

The Principal may, upon prior notice, during normal business hours, without disturbing the operations of the Freight Forwarder, at its own expense and accompanied by the Freight Forwarder, inspect the consignment. The Principal may, as necessary, take samples or carry out other acts on the goods if it has agreed this in advance with the Freight Forwarder. The course of the procedure shall be recorded in writing. Costs connected with sampling and other acts shall be borne by the Principal.

4. *(The Principal's liability for damage caused in the warehouse)*

The Principal shall be liable for damage caused to the Freight Forwarder or to third parties in connection with the inspection of the goods, sampling, or other acts.

5. *(Procedure in case of irregularities)*

If the Principal claims that the inspected consignment is missing, incomplete, or damaged, it may request that a report be drawn up, which the Freight Forwarder may not refuse. If the Principal wishes to engage an expert due to the absence, incompleteness, or damage of the consignment, the Freight Forwarder shall consent thereto, but the costs connected therewith shall be borne by the Principal. The Principal shall be liable for damage and costs caused by persons acting on its behalf.

§ 7

Cargo Insurance

The Freight Forwarder shall insure the consignment only upon the Principal's express written instruction and at the Principal's expense, in accordance with the insurance terms specified by the Principal, based on the order or on other data communicated in writing and expressly. The Freight Forwarder is not obliged to interpret the data or to explore any correlations. Mere disclosure of the value of the consignment shall not in itself be deemed an instruction to insure.

§ 8

Fee and Costs

1. *(Form and content of the fee)*

The Principal shall pay the Freight Forwarder, in the case of a lump-sum fee arrangement, the all-inclusive forwarding fee, or, in the case of a commission-based settlement, the costs incurred and the forwarding fee. The Freight Forwarder's fees relate to the usual handling of the matter.

2. *(Advance)*

The Freight Forwarder is not obliged to advance any costs whatsoever.

3. *(Due date)*

The fee and the costs agreed in connection with the performance of the order shall – in the absence of an agreement to the contrary – become due when the Freight Forwarder has concluded the contract of carriage, or, if this was not concluded for a reason within the Principal's sphere of interest, when that reason arose.

4. *(Settlement of accounts)*

At the latest upon termination of the contract, the Principal shall release the Freight Forwarder from obligations undertaken toward third parties on the basis of the order, and shall reimburse its necessary, useful, and justified costs.

§ 9

Payment

1. *(Due date of invoices)*

The Freight Forwarder's invoices are – in the absence of other agreement – due immediately upon receipt; default in payment occurs immediately, without any separate notice or other condition. Default interest shall – in the absence of other stipulation – be calculated in accordance with the Hungarian legislation in force at the given time.

2. (Payment by a third person)

The Principal's payment obligation is not affected by the Principal's promise that a third person will pay. The Freight Forwarder – in the absence of other agreement – shall decide for itself how to carry out invoicing. In the event of non-payment by such third person, the Principal shall be obliged to settle the Freight Forwarder's claims, together with interest calculated from the due date of the invoice sent to the third person.

3. (Set-off and retention)

Neither the Principal nor a third person designated by the Principal may set off or withhold payment against the Freight Forwarder's claims.

4. (Default in payment)

If the Principal fails to pay due fees even on a single occasion, the Freight Forwarder may request security in respect of further new transactions as well as transactions already in progress. If the Principal fails to provide the requested and reasonable security for matters in progress within the time limit set by the Freight Forwarder, the Freight Forwarder may terminate or withdraw from the affected forwarding contracts already in progress. The Freight Forwarder shall in particular be entitled to request security if the Principal has also been in default of payment toward it in other cases, or if the value of the consignment does not cover the expected costs. As regards the value of the goods, the Freight Forwarder shall proceed on the basis of the value communicated by the Principal, if the value of the goods has been communicated; nevertheless the Freight Forwarder is entitled to have the market value of the goods examined and determined by an expert. If the market value of the goods thus determined is lower than the value of the goods communicated by the Principal, the Freight Forwarder shall be entitled to proceed, as regards security, on the basis of that lower value, or may request that the security be supplemented. Security shall be deemed adequate if it is provided in cash or by bank guarantee and, including the usual costs of enforcement, reaches an amount equal to all due and undisputed claims increased by 10%.

§ 10

Lien

The Freight Forwarder shall have a lien, to secure its fees and costs, over items that have come into its possession in connection with forwarding, or over which it has control by means of documents. The lien shall also secure the Freight Forwarder's due and undisputed claim against the Principal arising from any other forwarding contract. The Freight Forwarder may enforce its lien without judicial proceedings.

§ 11

Right of Retention

If the Principal fails to meet its payment obligations – regardless of which transaction between the two parties gave rise to that obligation – the Freight Forwarder may withhold its own due performance until the Principal's due payment obligation is fulfilled or adequate security is provided. The Freight Forwarder shall be entitled to terminate the contract if it has set a time limit of 8 days and, within that time, the Principal has not paid or has not provided adequate security for performance. As regards the adequacy of the security, the provisions of § 3(7) shall apply.

§ 12

Liability of the Freight Forwarder

1. (Extent of the Freight Forwarder's liability)

If the Freight Forwarder's liability is established, its obligation to pay damages shall be limited to the damage arising in the consignment and the costs of ascertaining the damage. The damage arising in the consignment shall be determined according to the exchange price, in the absence thereof the market price, and in the absence thereof the usual value of the same goods.

2. (Monetary limitation of liability)

The Freight Forwarder's liability – except in cases of intentional or grossly negligent damage – is limited.

In the absence of other provisions of this §, the limit shall be determined as follows: a) in the case of multimodal transport, according to the content of the multimodal document; b) in all other cases, 8.33 SDR per gross kilogram, but not more than 500,000 (five hundred thousand) SDR per event of damage. This limitation shall also apply to damage caused outside the contract. The Freight Forwarder shall pay further compensation only in accordance with the provisions of this §.

3. (Liability for persons involved in the transport of the consignment)

The Freight Forwarder shall not be liable for damage caused by carriers, warehouse keepers, loaders, sub-forwarders, or other persons providing services engaged by it, unless the Freight Forwarder failed to exercise the care expected of it in selecting them.

4. (The Freight Forwarder's liability as carrier)

The Freight Forwarder shall be liable as a carrier for damage occurring in the consignment if

- a) it carried the consignment itself,
- b) it forwarded the consignment by consolidated transport and the damage arose for this reason,
- c) a consignment in its possession is lost or damaged.

5. (Rules governing the carrier's liability)

Where the Freight Forwarder is liable as a carrier, its liability shall be governed by the general and liability-limiting rules of the international conventions applicable to the mode of transport actually used, or by the relevant domestic sectoral legislation on carriage. If such legislation does not provide for limitation of liability, the Freight Forwarder's liability shall be governed by paragraphs 1–2 of this §.

6. (Place where the damage occurred is unknown)

If it cannot be established during which mode of transport the damage occurred, the extent of liability shall be determined according to whichever of the rules governing the modes of transport used in the combined carriage is most favourable to the Principal.

7. (Further damages)

The Freight Forwarder may, by express written agreement, also undertake to compensate other damages. In such a case, the Principal must disclose in advance the nature of the damage and its expected amount, and must provide the Freight Forwarder with the documents proving it. Even in such a case, however, the Freight Forwarder shall not compensate damage attributable to force majeure, natural disaster, strike, official measures, or other similar circumstances outside the usual course of business. The Freight Forwarder's obligation under this paragraph shall not be deemed an acknowledgment of actual liability, but a business service. Depending on the circumstances, the Freight Forwarder may make compensation of the damage conditional upon the Principal assigning to the Freight Forwarder all rights that the Principal may have against other persons, and providing the documents necessary to substantiate the claim in fact and in law, insofar as these have not already been handed over to the Freight Forwarder. The damage claimed by the Principal must be proven.

8. (The Principal is domestic)

If the Freight Forwarder's liability is established and the Principal is domestic, the Freight Forwarder's liability shall – in the absence of a mandatory statutory provision or a different provision of this § – be governed by paragraphs 1–2 of this §.

9. (The Principal is foreign)

If the Freight Forwarder's liability is established and the Principal is foreign, its liability shall – in the absence of a mandatory statutory provision or a different provision of this § – not be higher than it would be in the Principal's country, under the rules applicable to the Freight Forwarder there.

10. (Notification of damage to the Freight Forwarder)

The event of damage and the expected damage must be notified to the Freight Forwarder in writing within 48 hours of becoming aware thereof, and the documents evidencing the damage must be sent within 48 hours of their receipt.

§ 13

Liability of the Principal, Security

1. *(Deficiencies, inaccuracies)*

The Principal shall be liable for the absence, deficiency, or inaccuracy of the instruction, the packaging, the marking, circumstances connected therewith, the documents, the data, the export and import regulatory requirements of individual countries, and the information.

2. *(Security)*

The Freight Forwarder may demand adequate security from the Principal in the event of a risk of claims by third persons. The Freight Forwarder may terminate the contract in the absence of adequate security. As regards the adequacy of the security, the provisions of § 3(7) shall apply.

§ 14

Enforcement of Claims

1. *(Cases of enforcement of claims)*

At the Principal's written instruction, the Freight Forwarder shall, at the Principal's expense and risk, be obliged to enforce the Principal's judicial and extrajudicial claims against the carrier and other parties engaged by the Freight Forwarder.

2. *(Acts of the Freight Forwarder without instruction)*

The Freight Forwarder shall be obliged, even without instruction, to make the declarations necessary to safeguard the Principal's rights. (E.g., declarations to be made against the carrier at the time of delivery.)

3. *(Fees and costs)*

The Freight Forwarder's fees do not include the costs of enforcing claims. The Freight Forwarder is not obliged to advance the costs of enforcing claims. The advancing of any particular cost shall not give rise to any inference regarding the advancing of further costs. The Freight Forwarder shall be entitled – irrespective of the success of the proceedings – to the fee agreed between the parties for enforcing the claim, as well as the costs incurred in connection with such enforcement.

§ 15

Termination of the Contract

In the case of a framework agreement, its provisions shall apply to withdrawal and termination.

§ 16

Limitation

Claims arising from the forwarding contract – with the exception of damage caused intentionally or by gross negligence – shall become time-barred after one year. The limitation period shall begin when the claim becomes due. The parties may agree in writing to change the limitation period. If the Freight Forwarder receives notice of costs to be settled with the Principal later than the 120th day preceding the expiry of the 1-year limitation period, the 1-year limitation period shall be extended by 180 days.

§ 17

Applicable Law, Jurisdiction

1. Hungarian substantive law shall apply to the Freight Forwarder's contracts.

2. The parties shall attempt to settle their disputes amicably.

3. In the absence of a mandatory statutory provision, and unless the parties have concluded a separate agreement, the court having jurisdiction at the registered seat of the Freight Forwarder shall have exclusive jurisdiction over any legal dispute between the parties.

§ 18

Miscellaneous

1. The Freight Forwarder may deviate from the provisions of these HUNGARIAN GENERAL FORWARDING CONDITIONS (MÁSZ).
2. The titles of the individual sections serve only as guidance as to the subject matter of the given section; no obligation shall arise for the Freight Forwarder from such section titles.
3. THESE GENERAL TERMS AND CONDITIONS ARE AVAILABLE ON THE ASSOCIATION'S WEBSITE, AND/OR ARE PUBLISHED BY THE FREIGHT FORWARDER ON ITS OWN WEBSITE, OR REFERENCE IS MADE TO THE ASSOCIATION'S WEBSITE. AT THE PRINCIPAL'S REQUEST, THEY SHALL ALSO BE SENT SEPARATELY, AND INFORMATION SHALL BE PROVIDED AND DISCUSSED AS NECESSARY OR UPON REQUEST.
4. THE LIABILITY OF THE FREIGHT FORWARDER IS LIMITED IN ACCORDANCE WITH THESE CONDITIONS.
5. THE LIMITATION PERIOD IS EXTENDED AS SET OUT IN § 16.