



**MODEL  
GENERAL CONDITIONS  
OF  
DANGEROUS GOODS MANAGEMENT**

**1. Definition of Purpose**

1. Purpose of Dangerous Goods Management (hereinafter: DGM) is, among other things, to provide consultancy on and services concerning transport by air, road and sea of dangerous goods; also to make arrangements to obtain transport permits or, as the case may be, exemptions both national and international, to provide services or, as the case may be, arrange, with respect to dangerous goods, their warehousing (have such warehousing arranged), their care, their packaging, have their packaging arranged and have their shipping arranged, as well as to inspect consignments prepared or, as the case may be, packaged for shipment.
2. Subject to DGM's explicit written confirmation, DGM shall never act as carrier.

**2. Definitions**

In the context of present general conditions the following definitions shall apply:

1. DGM: Dangerous Goods Management, with its registered office at the location in the applicable country, and/or its legal successor(s).
2. Auxiliary Persons: subordinates and non-subordinates of DGM, such to include "independent contractors", engaged by the latter in its performance of the contract with the Client and for whose acts it shall be liable pursuant to the Law or on any other account.
3. Hazardous Materials: all those objects or materials that, if transported or stored, may cause a significant hazard to the health of human beings and animals, to safety or to goods.
4. Technical Specifications: the correct technical name and/or composition of the material or, as the case may be, product presented to DGM.
5. The Client: the other party of DGM to a contract to perform services as above intended, as well as its representative(s), proxy(ies), assignee(s) and/or heir(s).

6. Force Majeure: circumstances that DGM could not reasonably avoid and the consequences of which it could not prevent. Force majeure shall consistently constitute: fire and explosion, as well as the consequences thereof.
7. Taking Delivery: the moment that custody of the goods has been physically assumed by DGM with the purpose of performing the contracted activities. Taking delivery shall be deemed to have occurred consistently upon unloading of the goods.
8. Delivery: the moment that the goods, following performance of the contracted activities and/or upon termination of the contract, are made available by DGM to the Client or, as the case may be, beneficiary, or to a carrier of the goods, be such engaged as forwarder by DGM or not. Delivery shall be deemed to have consistently occurred prior to loading of the goods.
9. SDR: Special Drawing Right.

### **3. Applicability of Conditions**

1. Present General Conditions shall apply to all quotations, confirmations of orders, orders, contracts, acts and activities of DGM. Verbal arrangements shall be binding on DGM only in so far confirmed by it in writing, such to include by telex or by fax.
2. Applicability of the Client's general conditions shall be explicitly denied, unless explicitly determined otherwise by DGM in writing.
3. It has been established between DGM and the Client that, once a contract subject to applicability of these conditions has been concluded, said conditions shall also apply to the future quotations, order confirmations, orders, contracts, acts and activities.
4. Should DGM in any given event decide not to invoke the provisions contained in these conditions, then this does not mean that in doing so DGM has waived its right to invoke these general conditions in another event.

### **4. Outsourcing**

DGM shall always be entitled to engage, without prior consultation with the Client, auxiliary persons and/or other third parties for the performance of the activities it has been commissioned to perform.

### **5. Information Provided by Client**

1. The Client explicitly declares to be aware that the basis of all acts performed by DGM shall be the technical specifications of the hazardous material presented or, as the case may be, the correct technical specifications of the good presented. The Client therefore undertakes to provide DGM with accurate technical specifications of the goods to be presented or, as the case may be, presented to DGM. The Client also undertakes to provide information concerning all other facts or circumstances he is aware of that may be relevant to the required and/or safe handling of the dangerous good.

2. If, at the time of conclusion of the contract with the Client, DGM confirms in writing the technical specifications provided by the Client, then the technical specifications as confirmed by DGM shall be binding between parties, barring protest lodged promptly by Client in writing.

## **6. Liability of the Client**

1. The Client is aware that any incorrect technical specifications stated by him may have very serious consequences, also when he cannot be declared at fault in respect of the incorrectness of the specifications. The Client therefore explicitly declares to accept liability for any and all financial loss attributable directly or indirectly to any incorrect technical specifications of the good given by or on behalf of the Client, regardless whether the Client can be declared at fault for such or not.
2. When DGM demonstrates that, in view of the circumstances of the event, the financial loss may have been the consequence of such incorrect specifications, then it is presumed that this financial loss can be attributed to said incorrect specifications. The Client, however, is free to present proof that the financial loss cannot be attributed in whole or in part to the specifications.
3. The Client shall be liable for financial loss caused by persons known to be associated with the Client that have been permitted by DGM to enter its grounds.
4. The Client shall also be liable for all costs, damage events, interest payments, penalties, punishments and foreclosures, including financial loss for non or untimely clearing of Customs documents either the result, directly or indirectly, of the circumstance that the goods, at the time of being presented to DGM, were not accompanied by the requisite or, as the case may be, the correct documents, or the result of or related in any manner or form to a circumstance for which DGM cannot be held liable.

## **7. Holding Harmless and Liability of Auxiliary Persons**

1. In the event of DGM or its auxiliary persons being held accountable by third parties on whatever grounds, such beyond contractual obligations or not, in the context of the activities performed by DGM for the benefit of the Client, then the Client shall be bound at first request to hold fully harmless DGM or the latter's auxiliary persons, if and in so far DGM would not itself have been liable towards the Client should the Client have held DGM accountable.
2. DGM reserves the right to bring all statutory and contractual remedies it can invoke in its defence against any own liability towards the Client or, as the case may be, any third party, such also for the benefit of its auxiliary persons.

## **8. Liability of DGM**

1. Without prejudice to the provisions above and under observance of the provisions below, DGM shall be liable for damage to and/or loss of goods presented to it in so far the Client shall demonstrate that such damage and/or loss originated in the period from taking delivery of the goods up to and including their delivery. Loading and unloading

shall be explicitly excluded from the period in which DGM shall be liable for any financial loss.

2. DGM and its auxiliary persons shall not be liable if the financial loss can be attributed, in accordance with the above, to incorrect technical specifications by or on behalf of the Client or, as the case may be, otherwise attributable to the latter's fault. Moreover, DGM shall not be liable if it proves that a force majeure situation applies.
3. In all events the liability of DGM and its auxiliary persons shall be limited to 7,500 SDR per damage event or a series of damage events with one and the same cause, as well as in the event of damage to and/or loss of goods, up to a maximum of 2 SDR per Kg of damaged or lost gross weight.
4. In the event of damage to and/or loss of goods, any compensation to be paid by DGM will be calculated on the basis of the goods' invoice value, to be demonstrated by the client, at the time of the start of the liability period of DGM. When such invoice value cannot be determined, then the goods' market value, to be demonstrated by the client, shall be used as substitute basis, to be determined at the time the liability period starts.
5. DGM will only be in a position not to invoke any limit to its liability, if the Client proves the financial loss to be the result of an act or omission on the part of Management of DGM itself, which occurred either with intent to cause financial loss or recklessly and with awareness that financial loss was likely to be the consequence.
6. Instituting any legal claim regarding liability, on any grounds whatsoever, shall be open to the Client or a third party only within the limits of the concluded contract.
7. The Client shall have a duty, on penalty of lapsing of any right to compensation of damage to or loss of goods, to report to DGM in writing, within 10 days upon relevant delivery, any damage the goods may have suffered as a result of deficiencies in the activities performed by DGM.

## **9. Insurance**

Insurance of any nature shall be arranged for account and risk of the Client only, and exclusively after written order and written acceptance thereof. The order to effect insurance is to accurately describe the risks to be covered by the insurance. DGM shall always be entitled to refuse an order to effect insurance. DGM has no influence on acceptance or refusal by underwriter or insurer of the risk presented for coverage.

## **10. Prices and Payments**

1. All prices stated by DGM shall be exclusive of VAT and specific to the situation as it applies at the time of said statement. In the event of any subsequent increase coming into force of one or several cost price factors – purchase prices, cost of wages, taxes, social security premiums, freight costs, insurance costs, changes in exchange rates, and the like – DGM shall be entitled to increase the original price accordingly.
2. The Client shall be bound to settle in advance in favour of DGM the price contracted with the latter. If, in deviation of this, DGM agrees to payment in arrear, then such

payment is to be made no later than on the due date stated on the invoice and, lacking such, within 8 days upon invoice date.

3. The Client shall waive all rights to offset claims for payment of fees arising from the contract with DGM, for any amounts owed to DGM on any other account or for other costs bearing on the goods, against claims on any other account, and the Client shall waive all rights to suspension of any payment owed by him.
4. If the Client fails to settle, or fails to settle within the contracted period, the amount owed to DGM, then DGM shall be entitled, without any further notice of default, to charge the legal interest. Moreover, in such an eventuality DGM shall be entitled to charge administration costs amounting to 10% of the outstanding amount.
5. Finally, DGM shall be entitled to charge judicial and extra-judicial collection costs associated with all that is due by the Client to DGM.

## **11. Surety**

DGM shall be entitled, before starting the performance of the order awarded to it as well as at any juncture of the work associated with said order, to demand from the Client satisfactory surety to ensure compliance by the latter with his obligations. As long as the Client has not pledged such requested surety, DGM shall be entitled (supplementary to article 13) to suspend its performance.

## **12. Right of Lien and Right of Retention**

1. DGM shall be entitled to hold, for Client's account and risk, possession of funds, money values, goods and documents of, or intended for, the Client in response to anyone demanding their release until such time that the Client shall have settled in favour of DGM all that the latter claims on any account from the Client.
2. All funds, money values, goods and documents of which DGM holds and/or will hold possession for the Client, on any account whatsoever, shall be held in pledge by DGM against all it can claim and/or procure from the Client on any account. Statutory provisions concerning right of lien shall apply.
3. DGM shall be in a position to substitute the lien, upon relevant request, by an equivalent surety, such solely at its discretion.

## **13. Suspension and Dissolution**

1. If the Client fails, or if DGM can reasonably expect the Client to fail, to comply with any contract concluded between the Client and DGM, then DGM shall be entitled:
  - a) to suspend its obligations arising from the contracts concluded with the Client;
  - b) to dissolve, without judicial intervention, relevant contract in whole or in part without judicial intervention, effective immediately;
  - c) to dissolve, without judicial intervention, all contracts concluded and current in respect of which the Client is not in default, in whole or in part, effective immediately.

2. In the event of failure to comply with the contract on the part of the Client, DGM shall moreover be in a position to claim damages, such to include minimally lost profit, costs and interest.
3. Dissolution of the contract by DGM shall also be possible in the event that the Client:
  - ceases his occupation or business in whole or for a substantial part;
  - loses unfettered control of his assets or a part thereof;
  - when not a not a natural person, loses his legal entity status, is dissolved, or is effectively liquidated;
  - is declared bankrupt;
  - offers composition with creditors, or if seizure of the Client's goods is ordered;
  - dies.

#### **14. Delivery of Goods**

The Client shall be under obligation, at first request of DGM, to take delivery of the goods upon conclusion of the contracted activities to be performed by DGM and/or upon dissolution, termination or nullification of the contract on any grounds, such subject to an immediately claimable penalty not amenable to mitigation amounting to 250 SDR per day or half-day that the Client refuses to satisfy said request and without prejudice to the right of DGM to legally claim its right to take delivery of the goods.

#### **15. Applicable Law**

All contracts subject to present conditions shall be subject to the laws of the Netherlands. The competent court in Amsterdam will try all disputes that may arise between DGM and its other party.

#### **16. Statute-barred Clause**

Any entitlement to bring claim against DGM shall become statute-barred simply upon expiration of a nine-month period after relevant order was awarded by the Client to DGM and shall lapse simply upon expiration of a twelve-month period after aforementioned award of order.

~~~~~