

# General Terms and Conditions

## **Article 1 Introduction**

These General Terms and Conditions shall apply to all activities, quotations and agreements to be carried out, offered or concluded by any of the following individual companies, hereinafter to be referred to as "Marinetrans":

Marinetrans Benelux B.V.  
Marinetrans AS  
Marinetrans USA LLC  
Marinetrans Singapore Pte Ltd  
Marinetrans Japan Co., Ltd  
Marinetrans Korea Co., Ltd JV  
Marinetrans China Co., Ltd  
Marinetrans Greece MONOPROSPI I.K.E.  
Marinetrans Group B.V.  
Shipspare Forwarder Marinetrans Pvt. Ltd

## **Article 2 Core Activity & Additional Services**

Marinetrans is a logistic service provider whose core activity consists of the managing, for its Customer, of the logistics chain – in whole or in part – related to the forwarding of spare parts and related products for – seagoing or inland navigation – ships, vessels, boats or barges, from the supplier or manufacturer of such parts or products until the delivery thereof on board of the ship, vessel, boat or barge at any location globally, or vice versa. Marinetrans does neither own nor operate any means of transport, and any transportation of goods shall be executed by Third Parties upon instructions given by Marinetrans as freight forwarder on behalf of its Customer.

Any service rendered by Marinetrans will have the nature of an obligation executed to the best of one's ability; achieving the intended result, such as, *inter alia*, meeting advised delivery dates, shall not be guaranteed.

Additional services include all activities and work, other than aforementioned core activity, in any form and by whatever name, performed by Marinetrans for or on behalf of the Customer, including but not limited to treatment or country or customer-specific adaptation of goods, assembly, repair, quality control, price labelling, shelf service, installation or implementation of goods and commodities, or activities in connection with the planning, implementation, control or monitoring of the management of orders, processes, sales, returns, disposals, recycling and information technology.

## **Article 3 Applicability**

These General Terms and Conditions govern all offers, agreements, legal and actual acts relating to any service to be executed by Marinetrans for its Customer. Derogations from these General Terms and Conditions shall only be bound if and insofar these have been priorly confirmed by Marinetrans. Unless expressly agreed otherwise, the applicability of the Terms and Conditions of or in use by the Customer is excluded.

## **Article 4 Precedence**

The provisions of the present General Terms and Conditions are valid insofar these do not conflict with mandatory law. Rules of permissive law – including customary law – will only be applicable insofar these do not conflict with or deviate from the stipulated in the General Terms and Conditions.

## **Article 5 Freight Forwarding**

Marinetrans and Customer expressly deem all activities in relation with carriage to be freight forwarding activities as defined in article 8:60 of the Dutch Civil Code. These activities will be executed by Marinetrans as freight forwarder, not as carrier, under applicability of the Terms and Conditions as mentioned herein, irrespective of the nature of any document issued by, on behalf of or on account of Marinetrans, and irrespective of any references whatsoever to the contrary in that document, or otherwise.

## **Article 6 Quotations**

Irrespective of the form they have been created, all quotations made by Marinetrans are non-binding. Deviations from quotations will only be binding if these have been confirmed by Marinetrans in writing.

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**Article 7 Provision of Information**

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Unless otherwise in writing, the provision of information to Marinetrans, necessary and required for customs formalities, constitutes an assignment in this regard to Marinetrans to instruct a Third Party to execute such custom formalities on behalf of the Customer for the latter's risk and expenses.

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**Article 8 Confidentiality**

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Marinetrans and the Customer are obliged to treat any (electronic) data and information not publicly accessible as confidential and use such exclusively for the purpose intended. Data and information needed by Third Parties, such as but not limited to insurers and sub-contractors, for the execution of their duties, may be passed on to them. The same rules of confidentiality apply to these Third Parties. Rules of confidentiality do not apply to (electronic) data and information that must be handed to Third Parties due to legal obligations. Marinetrans or the Customer shall inform the other party of such obligation without delay.

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**Article 9 Insurance**

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All goods included in an assignment or shipment are subject to a cargo-insurance, to be taken care of and for account of the Customer. The insurance policy shall stipulate that the right of recourse regarding Marinetrans is relinquished. Unless explicitly requested by the Customer in prior, in which case any insurance premiums will be passed on to the Customer, Marinetrans shall not take out a (cargo) insurance in favour of the Customer, of whatever nature regarding the goods in an assignment or shipment agreed between Marinetrans and the Customer. In case Marinetrans has taken out an insurance in its own name, then it will only be obliged – upon written request – to transfer its claims against the insurer to the Customer. Marinetrans is neither responsible for the choice of insurer nor for the insurer's solvency.

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**Article 10 Security Measures**

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Marinetrans shall not arrange for the security of the goods to which it is entrusted, unless requested for explicitly in writing in prior by the Customer. If Marinetrans engages, in its own name, the services for Third Parties to execute security services, it will only be obliged – upon request – to transfer its claims against these Third Parties to the Customer. The cost for security services will be passed on to the Customer. Marinetrans is not responsible for the security services' performance or the result of such services.

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**Article 11 Pricing & Rates**

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All prices and rates quoted by Marinetrans are exclusive of VAT or equivalents of such, security or other charges levied by governments or local or national (air)port authorities, and focused on the situation at the time of the quotation. In case of a change in the criteria or basis on which the quotation has been based, or due to a later occurring increase in one or more price factors, such as but not limited to purchasing cost, wage cost, taxes, social security premiums, freight cost, insurance cost, exchange rate fluctuations, Marinetrans is entitled to correspondingly and retroactively adjust or increase the originally quoted or agreed prices or rates.

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**Article 12 Fixed Rates**

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In case of all-in or fixed rates calculated by Marinetrans, these should be deemed to include all cost which generally are for the account of Marinetrans whilst executing normal completion of the assignment. Unless otherwise stipulated, all-in or fixed rates shall in any case never include rights, taxes and levies, consulate and legalising cost, cost related to bank guarantees, insurance premiums and cost for special and / or unexpected services such as but not limited to unusual or extremely time-consuming activities or activities requiring additional effort.

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**Article 13 Payment**

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Unless agreed otherwise, the Customer is bound to pay the invoices sent to him within 14 days after invoice date. In the event the entire invoice amount has not been received by Marinetrans within this period, the Customer is automatically in default by operation of law. A statutory interest rate will be due on the main invoice sum, from the payment expiry date up to the and including the date of settlement -in full - of the invoice. The Customer is neither entitled to offset against charges to be paid to him by Marinetrans nor suspend the payment.

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**Article 14 Governmental Levies**

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The customer is bound, at all times, to compensate Marinetrans for any amounts levied or additionally levied by any local, national or international authority, including but not limited to customs authorities, related to the assignment, as well as penalties imposed in this relation. The Customer shall also compensate Marinetrans if such amounts or penalties are claimed by any Third Party engaged by Marinetrans.

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**Article 15      Collection**

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In the event Marinetrans is forced to collect a debt, either in or out of court, all cost connected hereto, including but not limited to out-of-court cost, will be for the account of and passed on to the Customer.

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**Article 16      Dissolution and Notice of Termination**

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In the event of dissolution or providing a Notice of Termination, all amounts due by the Customer to Marinetrans, of whatever nature, shall be immediately payable. Marinetrans shall have the option to dissolve, or give notice of termination to Customer regarding an agreement entered into with the Customer with immediate effect, if an application for Customer's bankruptcy has been made, if the Customer applies for a moratorium on payments or loses the free disposal of his assets in any other way, or offers an arrangement to its creditors, or remains in default regarding any financial obligations towards Marinetrans, or ceases or intends to cease his business operations, or – in the event of a legal entity or company – this is dissolved.

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**Article 17      Right of Retention and Pledge**

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The Customer explicitly grants to Marinetrans the right of retention and pledge, as defined in Article 3:236 of the Dutch Civil Code, on all goods, documents and moneys, which Marinetrans for whichever reason has or shall have in possession, for all claims it has or may acquire on the Customer and / or the Customer's Client (the Shipowner). Marinetrans is also entitled to exercise the aforementioned right of retention and pledge for any moneys the Customer still owes to Marinetrans in relation to preceding assignments. The right of retention and pledge may be invoked against any party demanding delivery of the goods, documents or moneys subject to retention and / or pledge. Any consequence following the exercise of right of retention and pledge shall entirely be for the risk and account of the Customer.

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**Article 18      Securities**

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Marinetrans is entitled, before commencement of the execution of the assignment as well as during any stage of it, to demand adequate security from the Customer for the fulfilment of his obligations. As long as the Customer has not furnished the requested security, Marinetrans is entitled to suspend the execution of the assignment, irrespective of any other rights emanating from law or agreement.

Marinetrans is not bound to furnish security from its own resources for the payment of freight, duties, rights, levies, taxes and / or other cost, should these be demanded. Any consequence of not complying or not complying in time, with the duty to furnish security are for the account of the Customer.

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**Article 19      Customer Obligations**

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The Customer is bound, inter alia, to ensure goods are tendered at the agreed time and location. The Customer is also bound to guarantee that documents required for both receipt and dispatch of the goods as well as applicable instructions are timely in possession of Marinetrans. Goods tendered as well as their nature must be in conformity with the description provided by the Customer. Marinetrans is not obliged, yet is entitled to investigate the correctness and / or completeness of information provided by the Customer.

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**Article 20      Customer Liability**

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The Customer is liable for damage of any nature caused by the goods entrusted to Marinetrans, as well as their nature and the packing of such goods, in particular for damage caused by dangers related to dangerous goods. The Customer is furthermore liable towards Marinetrans for incorrect, incomplete or late instructions, for not timely tendering the goods at the agreed time and location and for damage resulting from the Customers, or servants and / or Third Parties engaged by him, fault or negligence in general.

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**Article 21      Indemnity**

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All actions and work executed by Marinetrans shall be for the account and risk of the Customer. The Customer can only institute any cause of action regarding liability, based on whichever ground, within the limits of the agreement concluded by Marinetrans. If, in connection with the agreement, Marinetrans is held liable by Third Parties, the Customer is bound to indemnify Marinetrans in this regard upon first request, if and insofar Marinetrans would not be liable if and when the Customer would have instituted any cause of action pursuant to the agreement concluded by Marinetrans.

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**Article 22      Complaints**

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The Customer is bound to notify Marinetrans in writing and supported by pictures, of any damage or loss suffered by the goods in connection with the performance of the agreement, within five (5) working days from the arrival of the goods at the destination location. The customer shall save any packaging material used for the shipment of the goods and had this over to Marinetrans upon first request. Failure to timely notify damage will result in the damage or loss being deemed to have occurred outside the period of liability as referred to in Article 24 of these General Terms and Conditions.

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**Article 23      Marinetrans Liability**

Marinetrans shall only be liable for damage or loss if and insofar this is the result of a fault or negligence of Marinetrans, its servants and / or subcontractors, to be proven by the Customer and with due observance of the restrictions and limits stated hereunder.

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**Article 24      Period of Liability**

Marinetrans accepts liability for damage or loss occurring to the goods entrusted to it, from the moment of receipt till the moment of delivery to the Customer or party designated in this regard by the Customer. In the event Marinetrans executes work without physically receiving the goods, the period of liability commences at the time Marinetrans physically executes work related to these goods and terminates when the work is finished, or each time the work is interrupted.

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**Article 25      Consequential Damage**

Marinetrans shall never be liable for any damage other than physical damage to or loss of the goods entrusted to or having been processed by it. Liability for any other damage, such as but not limited to immaterial damage, lost profits or any other financial loss arising from or connected to the execution of the agreement entered into by Marinetrans with the customer, is explicitly excluded.

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**Article 26      Limitation of Liability**

Save intentional or gross negligent act or omission by itself, Marinetrans shall under no circumstance be liable for an amount greater than ten thousand (10,000) Euro per event or series of events with same cause of damage, on the understanding that in the event of such damage, reduction in value, or loss of the goods included in the contractual services is limited to four (4) Euro per kilogram of damaged or lost weight, with a maximum of seven thousand five hundred (7500) Euro per shipment.

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**Article 27      Time Limits / Lapsing of Rights**

Without prejudice to any stipulation applicable by mandatory law, every right of action against Marinetrans is prescribed by the mere laps of nine (9) months, and the right of action against Marinetrans shall end by the mere laps of twelve (12) months. The terms of prescription and limitation respectively commences on the day following on the day the goods were or should have been delivered, or upon failure to deliver, on the day following the day on which the claim arose. The prescription or limitation commences, in any case, on the day following the day on which the agreement between Marinetrans and the Customer terminated.

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**Article 28      Servants and Subcontractors**

For the performance of the agreement, Marinetrans is entitled to make use of servants and other subcontractors. In case such servants and subcontractors are held liable outside of a contract in respect of the work for which they were engaged by Marinetrans, it is hereby stipulated on their behalf, they can invoke all provisions in these General Terms and Conditions in respect of exclusion or limitation of liability. For the avoidance of any doubt, any Third Party instructed by Marinetrans in its capacity of freight forwarder, including but not limited to sea, air, road, inland waterway operators or combinations of such, are not a subcontractor to Marinetrans.

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**Article 29      Hardware & Software**

For executing its services, Marinetrans engages dedicated software, enabling the Customer to verify which goods are in stock in Marinetrans' stock locations globally, and enabling the Customer to verify present or historic status of a shipment. Although Marinetrans takes and continues to take all reasonable and economic viable measures to prevent from computer crashes through virus attacks or otherwise, or substantial slowdown of hardware and / or software through Distributed Denial of Service Attack (DDOS) or otherwise, Marinetrans cannot prevent such crashes, slowdowns or other hardware and / or software inoperability, which are considered to be tantamount to Force Majeure in accordance with the provisions of Dutch Law.

Marinetrans and the Customer have the right to create, transmit and exchange statements and notices electronically (electronic data exchange), for as long as the transmitting party can be identified. The transmitting party is responsible for the correctness as well as timely arrival of the transmitted data.

If the communication between two data processing systems requires the provision of an IT-interface by Marinetrans, the cost incurred for the necessary work shall be borne by the Customer, unless otherwise agreed. Each party is obliged to take the usual security and monitoring measurements, to protect the electronic data exchange against unauthorised access by Third Parties, and to prevent the manipulation, loss or destruction of electronically transmitted data.

Electronic or digitally created documents shall be considered equal to written documents.

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**Article 30 Force Majeure**

Marinetrans shall not be liable for any damage, financial disadvantages, delays or non-performance directly or indirectly resulting from circumstances or causes beyond its control, including but not limited to fire, flood, hurricane, earthquake or other elements of nature, disease of an unusual scale including but not limited to Covid-19, war, national emergency, terrorism, riots, rebellion, revolutions or other civil disorders, actions of military authorities or embargoes, contraband or stowaways.

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**Article 31 International Sanctioning**

Customer warrants that no part of any amount payable to Marinetrans pursuant to an agreement was derived from sources or obtained in a manner sanctioned by any national, supranational or international anti-money laundering laws, including but not limited to those of the United States, European Union, United Kingdom or the Netherlands. Such laws shall mean state, federal, criminal and civil laws, regulations and sanctions that (a) limit the use and / or seek the forfeiture of proceeds from illegal transactions, (b) limit commercial transactions with designated countries or individuals believed to be terrorists, narcotic dealers or otherwise engaged in activities contrary to the interest of the United States, (c) require identification and documentation of the parties with whom a financial institution conducts business, or (d) are designed to disrupt the flow of funds to terrorist organisations. Such laws, regulations and sanctions shall be deemed to include but not limited to the Patriot Act, the Bank Secrecy Act, the Trading with the Enemy Act, 50 U.S.C. Section 1701 et. seq. and the sanction regulations promulgated pursuant thereto by the OFAC, as well as laws relating to prevention and detection of money laundering in 18 U.S.C. Sections 1956 and 1957.

Nether the Customer, nor any of its employees is listed by the United States Department of Treasury in the Specifically Designed Nationals and Blocked Persons List or by the United States Department of Commerce on the Denied Persons List. There exists no United States prohibition on the transactions contemplated by an agreement between Marinetrans and the Customer, related to the identity, citizenship, location or business of the Customer.

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**Article 32 Applicable Law and Choice of Forum**

Marinetrans and the Customer explicitly agree that any agreement entered into shall be governed by and interpreted in accordance with Dutch Law.

Any dispute arising out of or connected to the any agreement between Marinetrans and the Customer shall be decided upon by the competent Court of Rotterdam, the Netherlands.