

# ***BARTH-ITALIANA***

## ***SERVIZI LOGISTICI EUROPEI***



## **GENERAL TERMS AND CONDITIONS**

### **NATIONAL AND INTERNATIONAL**

### **SHIPMENTS**

**UPDATED VERSION: 2023**

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## **1. PREMISES AND SCOPE OF APPLICATION**

Barth Italiana S.r.l., a company incorporated under the laws of Italy with Fiscal Code and VAT no. 00596780247 and registered office in Via Vòiron 12, 36061 Bassano del Grappa (VI), Italy, is a leading provider of national and international Logistics and Forwarding services, (hereinafter also referred to as the '**Supplier**' or the '**Forwarding Agent**' or the '**Logistics Operator**').

The General Terms and Conditions of Contract, as described herein, are an integral part of any offer, whether contained in agreed periodic price schedules or in spot requests, whether expressed in written or verbal form. They also extend to assignments entrusted to the Freight Forwarder that are not preceded by a formal offer.

The General Conditions have been approved by the Management of Barth Italiana S.r.l. and are accessible on the company website [www.barthitaliana.com](http://www.barthitaliana.com).

These Conditions regulate the obligations arising from contracts entered into by the Freight Forwarder both with respect to services offered as Freight Forwarder as well as services offered in the capacity of Logistic Operator, as well as from acts or facts performed by its representatives, employees, agents and appointees.

Contracts concluded with Barth Italiana shall be governed in accordance with the provisions of these General Terms and Conditions of Contract, as well as in accordance with the provisions of applicable law, whether national or international, unless otherwise expressly agreed upon in writing between the Parties in accordance with Special Conditions or in accordance with contracts whose content is defined by agreement between the Parties.

## **2. DEFINITIONS**

The following terms, indicated in the text of the General Terms and Conditions of Contract with a capital letter, shall have the meaning indicated below, or the meaning that shall be specified from time to time in the clauses in which they appear.

<b>Barth Italiana S.r.l.</b>	is the company, referred to as the ' <b>Supplier</b> ' or the ' <b>Forwarder</b> ' or the ' <b>Logistics Operator</b> ' or the Party providing the services or activities governed by these General Terms and Conditions of Contract;
<b>Forwarder</b>	the party receiving the shipping order for the conclusion of the contract of carriage and/or for the performance of one or more ancillary operations;
<b>Logistics Supplier</b>	is the natural or legal person in charge of providing the Logistics and/or Shipping services governed by these General Terms and Conditions of Contract;
<b>Carrier/Transporter</b>	the person who physically performs or assumes the performance of the transport;
<b>Principal</b>	the party giving the shipping mandate for the conclusion of the contract of carriage and/or the performance of one or more

	ancillary operations;
<b>Sender/Client</b>	the party who is the consignor or shipper of the goods under the contract of carriage concluded by the Freight Forwarder;
<b>Foreign Correspondent</b>	a business partner or agency located in another country with which a collaborative relationship is established to organise and manage international shipments. This can be a forwarding agent, a logistics intermediary or a local transport company in the country of destination;
<b>Local Correspondent</b>	a business partner or agency located in the same geographical area as the Sender or Recipient, with whom one works to organise local transport, collection or delivery of goods.
<b>Recipient</b>	is the party to whom the Goods are addressed at the end of the shipping process;
<b>Shipment</b>	the goods constituting the object of transport, accepted on the basis of a consignment note (from a sender to a recipient), packed and placed on or in the loading unit;
<b>Logistics Services</b>	are the services necessary for the handling and management of goods, provided in accordance with the list and scope specified in the Offer or Rates and or other services agreed between the Parties in writing, under penalty of invalidity;
<b>Logistics Warehouse</b>	refers to a physical facility used for the temporary or continuous storage of goods used for long-term storage or handling of goods during the shipping process;
<b>Goods</b>	are the object of the logistics and/or transport services, i.e. movable and stored goods in the Warehouse, the type, specifications and requirements of which are set out in the individual offers, rates or Contracts.
<b>Loading/Unloading</b>	are all the operations by which goods are placed or removed from means of transport, either manually or by mechanical means;
<b>Load Units</b>	means a packaging unit, container or pallet, in or on which there are several sales packages, possibly contained in intermediate packaging (e.g. boxes, etc.);
<b>Custody</b>	means all the operations and duties relating to the care and surveillance of the products while they are at the warehouse;
<b>Rates</b>	concern the price due for the shipment of goods from a point of origin to a point of destination. They may vary depending on the mode of transport used (road, rail, air, sea), the distance travelled, the weight of the goods and the size of the load;
<b>Road Pricing</b>	refers to the system used to manage road traffic through the regulation of toll prices or tolls charged for the use of roads. This

system may be subject to change during the execution of the shipping mandate, such as differentiated rates based on time of use, distance travelled, type of vehicle, or level of traffic congestion;

- Fuel Adjustment** refers to an adjustment of prices or Rates in the transport and shipping sector as a result of changes in fuel costs. These changes may take place during the execution of the shipping mandate and occur due to fluctuations in crude oil prices on the international market or changes in fiscal policies that affect the price of fuel;
- Spot Offers** refer to shipping proposals that are available for a limited period of time and are generally applicable to single shipments or specific occasions depending on the request of the Principal;
- Damages** refers to damages or losses that may occur during the carriage of goods from one place to another and may consist of breakage, damage, deformation or loss of part or all of the Goods due to carriage;
- Claims** transport damage claims refer to proceedings and claims filed by a Sender or a Recipient of goods providing shipping services for compensation for damage suffered during the transport of goods;
- All Risk Insurance** is a form of insurance that offers broad and comprehensive protection against a wide range of risks and is suitable to exceed the liability limitations provided for by transport laws. In this type of policy, virtually all damages and losses are covered, except for those expressly excluded by the policy clauses;
- Working Days** every day from Monday to Friday, with the exclusion of statutory rest days during this period.

### **3. FORWARDER'S SERVICES AND METHODS OF PERFORMANCE**

- 3.1.** The Freight Forwarder, by virtue of the mandate received, as a rule in writing, shall undertake the assignments and conclude the contract of carriage as well as perform the ancillary operations according to the conditions, regulations and rules applied by the land, air, sea, multimedia, Italian and foreign carriers whose services are requested by the Freight Forwarder.
- 3.2.** The Freight Forwarder shall act with the necessary discretion, being responsible for the shipment of the goods also by grouping them with others, always acting with the utmost diligence and acting exclusively as intermediary between the Principal and the Carriers and not as carrier.
- 3.3.** The Freight Forwarder shall have the right to appoint other persons for the performance of the mandate, as provided for in Article 1717 of the Italian Civil Code, and shall not be liable for the actions of Carriers, depositaries or other shippers he has involved in the performance of the mandate. The Freight Forwarder shall only be

liable in case of negligence in the selection of such parties or in the wrong transmission of instructions to them.

- 3.4. The Freight Forwarder within the scope of his mandate shall have the right, but not the obligation, to inspect the goods entrusted to him at any time. Furthermore, he shall have the right to check the weight and dimensions of individual packages and of the entire shipment.
- 3.5. Unless expressly agreed upon in writing, the Freight Forwarder shall not accept the performance of forwarding activities related to dangerous goods, which may cause harm to persons, animals, other goods or things, or are subject to deterioration, are unpacked or have insufficient/inadequate packaging, as well as valuables, coins, precious goods, works of art.

#### **4. ACCEPTANCE OF THE GENERAL TERMS AND CONDITIONS OF CONTRACT**

- 4.1 By entrusting the shipment to Barth Italiana S.r.l., the Principal accepts the terms and conditions set out in the offers, rates, contracts and these General Terms and Conditions of Contract under which the requested shipment shall be handled.
- 4.2 Only authorised and with full authority personnel of the Freight Forwarder may agree in writing to any variations to these General Terms and Conditions of Contract. Therefore, if a shipment is entrusted with oral or written instructions that conflict or are otherwise inconsistent with the terms and conditions of the Freight Forwarder and has not been expressly authorised and approved in writing, Barth Italiana S.r.l. shall not be bound by such instructions.

#### **5. FEES, RATES AND QUOTATION OF SHIPMENTS**

- 5.1 In relation to Spot Offers, the prices and conditions proposed by the Freight Forwarder shall be valid only upon acceptance by the Principal for the performance of the relevant mandate. However, prices may be subject to possible variations in the proposed Rates as a result of changes communicated by Carriers or other actors involved in the chain of shipment of the Goods and providing services necessary for the fulfilment of the mandate by the Freight Forwarder. These changes may result from changes in labour costs or exchange rates, which may have an impact on the final cost of shipping services and shall be communicated to the Principal in advance.
- 5.2 In case the application of Rates with agreed prices is established, these shall be in force from the date of their acceptance by the Principal and shall have a natural expiry date of 6 (six) months from the date of acceptance. Upon expiration, the Freight Forwarder shall have the right to adjust the Rates from time to time also taking into account the rate of inflation (ISTAT) and market conditions.
- 5.3 Any increase in *Road Pricing* and fuel costs resulting from laws or market fluctuations shall be communicated to the Principal and charged by the Freight Forwarder.
- 5.4 The Freight Forwarder's quotations and rates conditions shall apply exclusively and

only to specific services agreed upon and detailed in the offer.

- 5.5** If the requested Shipment has an actual, volumetric or linear weight greater than the estimated weight, an additional charge shall be made in addition to the estimated weight, which shall correspond to the actual goods being shipped.
- 5.6** In the event the entrusted Shipment also involves the completion of normal customs clearance formalities, such activity shall be quoted in advance. However, the Freight Forwarder reserves the right to charge an additional amount if the time required to complete customs clearance formalities requires excessive work in order to deliver the shipment to the Recipient. Additional amounts may therefore be charged in some countries for complex customs clearance activities and these include, but are not limited to, shipments requiring:
- formal customs entry declarations involving more than three different goods;
  - customs constraints or the need to deliver goods placed under customs supervision;
  - temporary import facilities;
  - customs clearance also involving a government department in addition to the customs authority.
- 5.7** Prices quoted in the bids are exclusive of taxes (VAT and the like).

## **6 TERMS AND CONDITIONS OF PAYMENT**

- 6.1** Unless otherwise agreed upon in writing, the Principal undertakes to pay all amounts invoiced for the shipment or for the performance of different services and any value-added tax within the agreed payment terms without any deductions, withholdings, debits or offsets.
- 6.2** The Principal waives any right to reject the invoices of the Freight Forwarder if it has not objected to them in writing within 7 days from the invoice date.
- 6.3** The invoice issued by the Freight Forwarder shall not include a copy of the Proof of Delivery (POD) and therefore the Principal agrees that such document may be validly obtained and provided in digital format or any other additional document.
- 6.4** Invoices shall be paid in the currency indicated on the invoice or otherwise in the local currency, but at the exchange rate provided by the Freight Forwarder.
- 6.5** The Freight Forwarder is granted a general right of retention on all Shipments in its possession at any time, which gives it the right to sell the contents and retain the proceeds of sale as a set-off against any sum that may be due from the Principal.
- 6.6** The Principal shall be responsible for the payment of all duties, taxes and expenses, including printing costs, if applicable on the transport or other services as well as in connection with each document.
- 6.7** The Principal undertakes to pay the amount for the services of Barth Italiana S.r.l.

governed by these terms and conditions within the agreed terms and in compliance with the legal limits in force concerning cash payments.

- 6.8** If, for any reason beyond the Freight Forwarder's control, the aforesaid payment terms are not observed, the interest rate pursuant to Art. 5 of Legislative Decree No. 231 of 9 October 2002 shall be applied to the overdue amounts.

## **7 RIGHT OF WEIGHT AND VOLUME CONTROL**

- 7.1** The Freight Forwarder reserves the right to verify the accuracy of the gross weight and volume of the goods as well as the details indicated by the Principal, using special surveying instruments. If weight or volume is found to be higher than declared, the value actually found shall be taken into account during the invoicing process.

- 7.2** In case of damages, fines or penalties resulting from an incorrect indication of the weight, volume as well as other details of the goods communicated by the Principal, the Freight Forwarder reserves the right to claim against the Principal.

## **8 DANGEROUS GOODS, SECURITY AND EXPORT CONTROL**

- 8.1** The Freight Forwarder shall not accept shipments relating to the carriage of dangerous goods or goods considered dangerous at the sole discretion of Barth Italiana S.r.l.. This shall include, but not be limited to, goods specified as dangerous in the technical instructions of the International Civil Aviation Organization (ICAO), the dangerous goods regulations of the International Air Transport Association (IATA), the International Maritime Dangerous Goods Code (IMDG), the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR), or any other national or international regulations applicable to the carriage and operation of services related to dangerous goods.

- 8.2** In case the Freight Forwarder suffers any damage and prejudice of any nature (pecuniary or non pecuniary) due to the lack of the indications and documents required by national and international regulations applicable to the carriage and management of different services concerning dangerous goods, the Principal shall be charged with all the costs incurred. These costs may include, but are not limited to, costs for repacking, disposal of dangerous goods, cleaning of premises, and other damages caused to Barth Italiana S.r.l., as well as any damages caused to third persons and/or property.

- 8.3** Shipments entrusted to the Freight Forwarder may be subject to security screening, including the use of X-ray systems, explosive trace detection systems and other security screening methods, and the Principal, by giving the assignment, accepts that consignments may be opened and their contents checked while in transit.

- 8.4** In any event, the Principal assumes all responsibility for and declares its commitment to comply with all applicable laws and regulations relating to export controls. These include, but are not limited to, laws and regulations prohibiting unauthorised trade in



military goods or goods and services considered strategic, or prohibiting financial or commercial transactions with persons and entities located in countries through which the shipment is to transit. In addition, reference is made to laws and regulations imposing specific restrictions on the transportation of certain technologies, information and products to countries through which the shipment is to transit.

- 8.5** The Principal further warrants that it will not entrust any shipment if it or any party involved in the shipment is subject to any United Nations sanctioned programme, regional or national programme adopting and/or supplementing such programme, as well as if it is part of autonomous regulatory measures.
- 8.6** The Principal agrees to identify shipments subject to pre-export licensing checks and undertakes to provide all information and documentation necessary to ensure compliance with applicable regulations.
- 8.7** The Freight Forwarder shall not be liable to the Principal or any other person for acts by the Principal that are not in compliance with export control laws, sanctions, restrictive measures and embargoes.

## **9 DEADLINES FOR COLLECTION OF GOODS**

- 9.1** Unless otherwise specified, the Goods shall be picked up or delivered at the Principal's premises or another place expressly indicated by the Principal.
- 9.2** In order to ensure proper performance of the carriage, the Principal shall give precise instructions to the Freight Forwarder for the collection and delivery of the Goods, containing at least the following information
- Place of delivery of Goods;
  - Quantity to be transported;
  - Type of packaging;
  - Special terms of delivery and/or documents required;
  - Date of preparation of material and any required delivery deadlines;
  - Maximum loading and unloading times;
  - Product data sheets (MSDS);
  - Shipper declaration.

## **10 DELIVERY TERMS**

- 10.1** The Principal may require that a specific delivery be made by a specific date. The Freight Forwarder, after having quoted and charged the higher costs due for mandatory deliveries, may accept the order and, in such case, except in case of force majeure, undertakes to ensure delivery by the agreed date.

- 10.2** If there are requests for mandatory deliveries, the Principal shall specify in advance and in a clear manner the financial consequences that the Freight Forwarder would have to face if, after accepting the mandatory request, he fails to comply with it. In the absence of such specification, the Freight Forwarder shall not be subject to any charge for any delay of urgent deliveries.
- 10.3** Without prejudice to the provisions of articles 8.1 and 8.2 above, in accordance with the relevant regulations, the Freight Forwarder shall not be bound to guarantee transit and delivery times, which shall be understood as indicative and subject to variation depending on the decisions of the carriers and their availability. Accordingly, the Freight Forwarder shall not be liable for any delay in the collection, transportation or delivery of any shipment, regardless of the cause of such delay.
- 10.4** Delivery times shall be consistent with the provisions of the Traffic Laws and the provisions of the employment agreements of the category. Furthermore, they shall not include Saturdays and Sundays, midweek holidays and summer and winter holidays provided by the category, nor days on which traffic is prohibited due to force majeure.
- 10.5** Delivery times are calculated from the time the Goods are entrusted, excluding the day of entrustment. Collection orders received by the morning are generally processed on the same day, while those received in the afternoon are scheduled for the next business day.
- 10.6** The delivery and collection service, except for destinations considered inconvenient, is handled according to the established rates or according to the Spot Quotation. If the Recipient cannot be contacted, the Sender is contacted. Any redeliveries (or 'empty' pick-ups) are subject to additional costs to be borne by the Principal.
- 10.7** Pick-ups and deliveries of goods shall take place at the house number of the Sender or the Recipient, or at a different place indicated in the transport documents. For special pick-ups and deliveries (such as inconvenient destinations or out of hours), a surcharge may be applied as communicated from time to time.

## **11 REPRESENTATIONS AND WARRANTIES OF THE PRINCIPAL**

- 11.1** The Principal is obligated to provide the Freight Forwarder, in a timely manner, with clear and detailed instructions regarding the Goods to be transported, as well as to indicate the documents necessary for their collection and shipment. In the absence of instructions or where instructions are unclear or impractical, the Freight Forwarder shall act according to its own discernment in the best interest of the Principal.
- 11.2** The Principal warrants and represents the following:
- that the shipment will be accurately and correctly described in all shipping documents;
  - that if the Freight Forwarder declares that any part of the Goods is unsuitable for transportation, he will inspect and confirm that such goods will not be

included in the shipment;

- that the nature of the Goods, number, quantity, quality, contents of packages, gross weight (including the weight of packages and pallets and the bulk of the same), dimensions and any other information provided will be true and correct;
- that the packaging and labeling used, in relation to the Goods contained and the mode of transportation, will be deemed suitable.

**11.3** The Principal expressly declares to relieve and hold harmless the Freight Forwarder from all damages, claims or expenses of any nature whatsoever that may arise from the breach of the guarantees indicated above, as well as from any lack, insufficiency or inadequacy of packaging or failure to indicate on the goods and packages the precautions necessary for their proper handling and lifting.

**11.4** The transport documents must clearly and legibly state all essential data necessary for the execution of the transport, in accordance with the legal regulations in force. By way of example and not exhaustively, the following essential data are listed below:

- Recipient's address with the ZIP code and abbreviation of the destination province, VAT number or tax code of the recipient;
- Recipient's telephone number, e-mail address if applicable;
- Sender's address, complete with ZIP code and province;
- Number of packages, type of packaging and nature of goods;
- Exact volume of the goods expressed in cubic meters and/or linear meters;
- Gross weight expressed in kilograms;
- Amount declared for "all risk" insurance purposes, expressed in euros;
- Any particularities of the recipient.

**11.5** If the Freight Forwarder is engaged to handle customs operations, the Principal warrants that the documentation relating to the Goods is authentic, complete and free of irregularities. In addition, it warrants that the Goods strictly correspond to the description provided, comply with applicable regulations, are free to export/import, and comply with marking provisions.

**11.6** The Principal also undertakes to promptly provide all information, data, customs codes, heading and customs classification of the Goods, as well as all documents necessary to carry out customs operations.

**11.7** In addition, the Principal authorizes the Freight Forwarder to handle all data related to the shipment, including data of a sensitive nature, in order to enable the processing of all necessary administrative and operational paperwork through telematic means to ensure the best support for the shipment.

**11.8** The Principal is responsible for the quality, correctness and completeness of the data related to the shipments or operations entrusted to the Forwarder, whether they are transmitted electronically or provided in paper form. Any errors, damages or other

consequences resulting from the incorrect, incomplete or inaccurate transmission or provision of such data shall be borne entirely by the Principal.

## **12 CUSTOMS ACTIVITIES AND CUSTOMS CLEARANCE OF GOODS**

- 12.1** In the event that the Freight Forwarder is entrusted with customs activities, the Principal agrees to constitute Barth Italiana S.r.l. as agent only to perform the activities necessary in order to proceed with customs clearance for the transit of goods through customs. If any customs authority requires additional documentation in order to confirm the import/export declaration or customs clearance status, it shall be the responsibility of the Principal to provide the required documentation at its own expense.
- 12.2** The Principal shall ensure that all declarations and information provided in connection with the export and import of goods are true and accurate. If false or fraudulent statements are provided regarding the shipment or any of its contents, the Principal assumes the risk of civil and/or criminal action, including penalties such as confiscation and sale of the shipment. All assistance that will be provided in the completion of customs and other formalities will be rendered at the sole risk of the Principal. The Principal agrees to hold the Freight Forwarder harmless and agrees to indemnify the Freight Forwarder for any damages arising from any claims regarding the information provided and any expenses incurred in connection therewith, including any penalties, fines, or amounts determined by administrative action.
- 12.3** Any customs fees, taxes (including but not limited to VAT when applicable), penalties, storage amounts or other expenses arising from actions by customs or other governmental authorities, or due to failures of the Principal and/or consignee to provide proper documentation and/or obtain necessary licenses or permits, shall be charged to the Principal itself or, if applicable, to the consignee of the shipment. If the recipient refuses to pay the amount charged, the Principal agrees to pay the amount along with any amount due to the administration involved, as well as any extra costs incurred by the Forwarder. At the request of the Freight Forwarder, the Principal agrees to provide adequate security for all fees, taxes, penalties, warehouse amounts, and other expenses provided for in this Article.
- 12.4** The Freight Forwarder agrees to handle all customs formalities in relation to the entrusted shipment, but any liability for delays, loss or damage caused by the intervention of customs personnel or other governmental authorities is hereby disclaimed.

## **13 RIGHT OF RETENTION**

- 13.1** Pursuant to Article 2761 of the Civil Code, the Forwarder shall have against the Principal and any other party with whom it contracts, a lien and right of retention on the Goods and other property in its possession in connection with past due or overdue claims. This right may also be claimed against the Recipient and/or the

owner of the goods.

## **14 LIMITATION OF LIABILITY OF THE FREIGHT FORWARDER**

**14.1** The assignment given to the Freight Forwarder shall be limited to the performance of the mandate received and ancillary obligations related thereto, excluding any liability for the performance of the transportation itself

**14.2** Liability in the transportation of the Goods shall be subject to the limitations set forth in the laws applicable to each shipment or individual carriage, including national and international law. In no event shall claims for compensation exceed the limit provided by law in favor of the carrier actually performing the carriage.

**14.3** In any event, depending on the manner in which the Goods travel, transportation shall be governed as follows:

➤ **National overland shipment**

In the event that the shipment takes place nationally by land, the Forwarder's liability for the risks of loss of or damage to the goods during transportation shall be governed by Article 1696 of the Civil Code. Accordingly, such liability shall be limited to 1 euro (one euro) per kilogram of goods lost or damaged, unless otherwise agreed in writing between the parties. In matters not explicitly regulated, reference will be made to the Civil Code regulations concerning the contract of carriage. The limit of liability established in Article 1696 of the Civil Code will also be applied in the event of delay in the delivery of goods to their destination, provided that the damage is duly proven and is a direct and foreseeable consequence of the delay.

➤ **International overland shipment**

If the shipment is being transported overland, within, to or from a country that has ratified the 1956 Convention on the Contract for the International Carriage of Goods by Road (CMR), the Forwarder's liability for loss or damage to the shipment will be governed by the CMR, currently limited to 8.33 Special Drawing Rights per kilogram.

To check the actual damage quote in Euro or other currency, you can convert the Special Drawing Rights at the following link <https://www.xe.com/it/currencyconverter/convert/?Amount=833&From=XDR&To=EUR> or, if not available, at other official sites.

In the event of a delay in bindingly agreed delivery, if the Principal proves to have suffered a loss, the liability of the shipper shall be limited to the reimbursement of the cost paid by the Principal for transportation related to the shipment or the part of the shipment delivered late.

If the shipment is transported overland within a country that is not a party to the CMR or between two countries, neither of which is a signatory to the CMR, the shipper's liability for loss or damage to the shipped goods will still be governed

by the CMR, subject to a limit of 8.33 Special Drawing Rights per kilogram. Again, in the event of a delay in bindingly agreed delivery, if the principal proves loss, the shipper's liability shall be limited to the reimbursement of the cost paid by the principal for transportation related to the shipment or the part of the shipment delivered late.

➤ **Air shipment**

If the shipment is transported in whole or in part by air and involves a final destination or transit stop in a country other than the country of departure, such transportation shall be fully subject to either the Warsaw Convention (1929), or the Warsaw Convention as amended by the Hague Protocol (1955) and/or Montreal Protocol No.4 (1975) or the Montreal Convention (1999), whichever is mandatorily applicable. These international treaties govern and limit our liability for damage, loss or delay occurring to your shipment in transit to 22 Special Drawing Rights per kilogram

➤ **Sea shipment**

In the event that the shipment is transported by sea, the liability of the Freight Forwarder for loss of or damage to the goods shall be governed by the international and national regulations applicable to sea transportation, as well as the terms and conditions of the shipping convention and/or contract of carriage by sea entered into between the parties.

In particular, the international and national rules and conventions applicable to maritime transportation are the United Nations Convention on the Contract for the International Carriage of Goods by Sea (UNCITRAL), the Rotterdam Convention of 2009, the Athens Convention of 1974 and amendments thereto, as well as all national laws and regulations of the country of departure and destination of the shipment, will be fully observed and enforced during the transportation by sea.

Therefore, in the event of loss of or damage to the cargo, the Freight Forwarder shall be exempt from liability where certain contingencies such as accidental fire, perils of the sea, acts of God, or acts of war occur. The Freight Forwarder is also not liable if the occurrence of the problem is due to the negligence of the ship's captain or his crew, who may incur what is known as "nautical negligence, that is, the negligence, recklessness and inexperience of the ship's master and crew in the conduct and maintenance of the ship.

More specifically, Barth Italiana S.r.l. will not be responsible for:

- any delays and unforeseen transit times of ships;
- prolonged transit times of ships both in case of import and export;
- any customs delays due to customs audits and inspections both in case of import and export;
- any delays in delivery handled by carriers contracted by shipping and consolidating companies;

- any missed boardings due to failure to disembark the ship at the port; of any delays in ship departure from the Italian port;
- and cannot advance duties and vat in the place of the Client, unless there are pre-arranged arrangements, justified by prolonged cooperation and trust.

In any case, the Freight Forwarder's liability for sea shipments is limited, in case of damaged goods to 2 d.s.p. per kilogram or 666.67 d.s.p. per unit or parcel.

➤ **Multimodal or Mixed Transportation.**

In the event that the Shipment is executed using different means of transportation, the liability of the Freight Forwarder shall be governed by the terms of FIATA, Multimodal Transport Bill of Lading.

In the event that a container, pallet, or similar means of transportation has been loaded with more than one package or more than one unit of cargo, the packages or other units of cargo expressly declared in the bill of lading shall be deemed to be individually loaded in such means of transportation.

In the event that loss of or damage to the goods has occurred in a section of the multimodal transportation for which a contract of carriage has been entered into that provides for the application of national Conventions or laws with different limits of liability, the liability of Barth Italiana S.r.l. shall be governed by the terms of such national Conventions or laws.

Technical stops may be required as part of this type of transportation.

A technical stop is defined as a stop of the goods in a storage area, or in a warehouse or terminal or other shelter area, at the Freight Forwarder's free choice, for needs related to the execution or continuation of the transportation, or otherwise related to the need to guard the goods during the course of the transportation or pending delivery to the carrier or recipient.

## **15 EXCLUSIONS OF LIABILITY**

**15.1** The Forwarder shall not be held liable for any loss of goodwill, earnings, profits, market, reputation, clientele, use, opportunity, even if it knew of the risk of such damage or loss. Further, it shall not be liable for indirect, incidental, special, or consequential damages or losses resulting from contractual termination, negligence, willful misconduct, or default.

**15.2** The Forwarder shall also be exempt from liability in the following circumstances:

- Events beyond its control, including natural occurrences such as earthquakes, cyclones, storms, floods, fires, disease, fog, snow, or frost, as well as force majeure events such as wars, accidents, terrorist acts, strikes, embargoes, dangers in the airspace, local disputes or popular uprisings, national or local disruptions in air or ground transportation networks, mechanical problems with transportation equipment or machinery, and latent or inherent defects in the contents of the shipment.

- Acts or omissions attributable to the Principal, including disruptions of obligations assumed under these Terms and Conditions, as well as acts or omissions attributable to customs, security, airlines, airports, or public officials.
- Contents of the shipment consisting of items prohibited by law or under this contract, even if the Freight Forwarder had accepted the shipment by mistake.
- The Forwarder's refusal to make any illegal payments on behalf of the Principal.

**15.3** The only responsibilities attributable to the Forwarder for services rendered shall be those governed by these General Terms and Conditions of Contract.

## **16 WITHDRAWAL AND TERMINATION**

**16.1** The Forwarder has the right to withdraw from the contract already concluded in the event that:

- The Goods delivered are not properly packaged;
- The Goods do not have the correct labeling on the packaging;
- The accompanying documents do not comply with applicable laws;
- The nature of the Goods hinders the normal performance of the assignment;
- The Goods may cause damage to people, animals, or property;
- The Goods are subject to rapid deterioration;
- Changes in market conditions make the transportation/shipping contract no longer profitable for the Freight Forwarder.

**16.2** In the above cases, the customer shall not be entitled to claim refunds, expenses, penalties or compensation of any kind.

**16.3** The Forwarder shall also have the right to return the Goods to the Principal or, in case of imminent danger, proceed to their destruction.

**16.4** The Principal shall be responsible for the harmful consequences and any expenses necessary to ensure the safety to persons and/or property that may have come into contact with the shipment and/or that, due to missing or non-specific instructions, may cause serious danger.

**16.5** The Freight Forwarder shall have the right to unilaterally terminate the contract of carriage in accordance with the regulatory provisions of Article 1456 of the Civil Code in the event of non-payment of carriage on the agreed due dates, submission of the Principal to any bankruptcy or liquidation proceedings, or non-compliance of the entrusted goods with applicable laws.

## **17 INDIRECT DAMAGE**

**17.1** Excluded, in any event and as an exception to Articles 1223 et seq. of the Civil Code, is any compensation by the Freight Forwarder for consequential damages, such as,



but not limited to, lost profits, loss of interest or damages resulting from delays in the performance of the carriage.

- 17.2** In particular, for shipments of samples and of goods or merchandise expressly indicated by Principal or Shipper as being intended for fairs, exhibitions, events and the like, compensation, if due, shall be limited to the amount of the agreed freight.

## **18 COMPLAINTS AND CLAIMS PROCEDURE**

- 18.1** Any claim for loss, misdelivery, damage or damage must be made in writing and sent to the Freight Forwarder strictly within the applicable time limits due to applicable national and international regulations and the following procedure should be followed.

- 18.2** Specifically, to file a claim, a notice in writing must be made by:

- Within **8 calendar days** of receipt of the shipment if the carriage is national, only if damage or missing goods are not apparent at the time of delivery.
- Within **7 calendar days** of receipt of shipment if transportation is by land, within, to or from a country that is a signatory to the 1956 Convention on the Contract for the International Carriage of Goods by Road (CMR).
- Within **21 calendar days** of receipt of the shipment if the carriage is by air, within, to or from a country that is a signatory to the Warsaw Convention of 1929 (as amended from time to time, if applicable), or the Montreal Convention of 1999 (as amended from time to time, if applicable), whichever is mandatory.
- For services other than transportation, within **21 days** from the date on which the principal reasonably should have become aware of the loss, damage, or delay.

- 18.3** After the first report and within the statute of limitations provided by law or applicable conventions, the Principal has the burden of documenting the claim by submitting all relevant information regarding the shipment and the damage or delay suffered.

- 18.4** The Freight Forwarder shall not be obligated to take charge of any claim until the cost of the shipment or services has been paid, and the Principal shall not have the right to deduct the amount of the claim from the consideration due.

- 18.5** The shipment shall be deemed to have been delivered in good condition unless the consignee has placed a specific reservation of damage or shortage on the delivery note when collecting the shipment. For a damage claim to be considered, the contents of the shipment and the original packaging must be made available to the shipper for inspection.

- 18.6** Unless otherwise provided by applicable conventions or laws, the Principal's right to bring claims for damages against the shipper shall be extinguished if no action is taken within 1 year from the date the shipment was delivered, or the date the shipment should have been delivered, or the date the transportation was completed, or if the claim relates to other services, within 1 year from the date the Principal

reasonably could have become aware of the loss, damage, or delay.

- 18.7** If the freight forwarder accepts all or part of the principal's claim, the principal warrants that its insurance company or third parties involved in the shipment will waive any right, remedy, or claim of subrogation or otherwise.

## **18 CLAIMS FILED BY THIRD PARTIES**

- 19.1** The Principal agrees not to permit any other person having an interest in the shipment to make a claim or bring an action against the Freight Forwarder.
- 19.2** Notwithstanding the foregoing, if a claim or action is brought, the Principal shall indemnify the Freight Forwarder for the consequences of the claim or action and the costs and expenses it incurs to protect itself.
- 19.3** Therefore, it is understood that the claim shall be filed only by the Principal who agrees to wait for the technical time to process the claim which, if upheld, will result in intervention by the insurance company before payment of any compensation due.

## **19 INSURANCE**

- 20.1** If the Principal intends to insure the risk of damage or loss to the Goods, the Principal may instruct the Forwarder in writing to arrange for insurance coverage (All Risk policy) on behalf of the beneficiary. The charges for such coverage will be specified in the quotation provided by the Forwarder.
- 20.2** In the absence of explicit instructions from the Principal, if required, any insurance coverage shall be taken out only for ordinary risks, following the common procedures of insurance for own account or for third parties, or according to standard insurance formulas. Under no circumstances may the Freight Forwarder be considered as an insurer or co-insurer, as provided for in the relevant regulations.
- 20.3** Alternatively, the Principal may arrange to insure the shipment and/or transport directly. In this case, it is understood that the relevant policy must include an express waiver of the insurer's right of recourse against the Freight Forwarder.
- 20.4** The Freight Forwarder shall not be obligated to act to obtain insurance indemnity, interrupt the statute of limitations, or administer expert activities unless specifically instructed to do so by the Principal, subject to agreement on additional compensation.

## **21 FORCE MAJEURE**

- 21.1** The Forwarder assumes no liability for loss, damage, delay or misdelivery caused by chance events and generally by factors beyond its control. These include, but are not limited to:
- a. natural disasters;

- b. force majeure situations such as wars, accidents or breakdowns of means of transportation, embargoes, riots or civil uprisings;
- c. defects, inherent characteristics or flaws in the Goods;
- d. actions, omissions or defaults of the Principal, Recipient or other parties involved in the shipment, as well as state, customs, postal or other competent authorities;
- e. strikes, lockouts or labor conflicts.

**21.2** In any case, the Parties agree to apply and incorporate to the Contract the ICC Force Majeure clause, long form, 2020 ([ICC Force Majeure clause, long form, 2020](#)) .

## **22 GENERAL DATA PROTECTION REGULATION**

**22.1** The Parties take note that the provisions of the privacy legislation - Regulation (EU) 2016/679 of the European Parliament and of the Council of April 27, 2016 on the protection of individuals with regard to the processing of personal data, hereinafter "GDPR" - concern the processing of personal data, i.e. relating only to natural persons, acquired and processed for the conclusion and execution of the Contract and are not applicable to data referring to companies, entities and associations.

**22.2** The Parties declare that they are aware, in accordance with Article 13 of the GDPR, that the personal data communicated by each for the conclusion and execution of the Contract are collected and processed by the other, as Data Controller, exclusively for such purposes and for the related regulatory, administrative and accounting fulfilments, by means of appropriate methods and procedures (including computerized), through specially authorized internal staff and through external collaborators designated as data processors or authorized to carry out individual operations of the same. The Parties acknowledge that, with respect to personal data processed for the conclusion and execution of this Contract, the natural person to whom the data refer ("data subject") enjoys the right of access, rectification, restriction, erasure, portability and opposition (Articles 15-22 of the GDPR), as well as the right to complain to the Privacy Guarantor.

**22.3** It is the responsibility of each Party to ensure the lawful usability of personal data concerning, by way of example but not limited to, any of its representatives, exponents, employees and collaborators, which are communicated to the other Party for the purposes of the conclusion and execution of the Contract and, in particular, the proper fulfillment of the obligations to inform the interested parties as well as, where necessary, to collect their consent, with regard to the processing of their personal data for the aforementioned purposes in the terms highlighted above.

## **20 APPLICABLE LAW AND EXCLUSIVE JURISDICTION**

**23.1** Without prejudice to the cross-references to these General Terms and Conditions of Contract and to applicable Law and International Conventions, disputes arising out of or in connection with the performance of the Shipping Services shall be subject to

the laws and Courts of the country in which the auxiliary or affiliate or branch of Barth Italiana accepting the shipment or performing the miscellaneous services is located.

- 23.2** For all matters not expressly agreed herein, reference is made to the Civil Code regulations governing transportation.
- 23.3** All disputes, contractual or non-contractual in nature, which are inherent in, arise from and/or in any way related to the Contract, are devolved by the will of the Parties to the exclusive jurisdiction of the Court of Vicenza.