



Drive with Us

CARRIER MANUAL
TRANSPORT TERMS AND CONDITIONS



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RPM

1. Invoicing and payment process

Billing details

Company name: RPM Europe B.V.
Address: Keizersgracht 555
1017 DR Amsterdam
Netherlands
VAT: NL860149894B01

Correspondence address:

RPM Europe B.V.
Keizersgracht 555
1017 DR Amsterdam
Netherlands

+31 020 899 1040

Payment process and documentation flow

30 days payment



Scan CMR and prepare the Invoice after delivery is completed.



Please send CMR and Invoice scans to following email address:

ap.europe@rpmmoves.com



Please post original documents to our Amsterdam address, within 10 working days.

Payment process and documentation flow

v1.2_Feb_2021

72 hours payment - Quickpay



Scan CMR and prepare the Invoice after delivery is completed.



Please send CMR and Invoice scans to following email address:

quickpay.europe@rpmmoves.com



Please post original documents to our Amsterdam address, within 10 working days.

QuickPay conditions apply, please ask your RPM contact

2. Quality requirements

By performing transport services to RPM carriers are instructed to perform according to below defined guidelines:

ECG Quality Manual – Version 8, January 2020
Section 2 – Road Transport

[The Association of European Vehicle Logistics, Operations Quality Manual Version 8, Brussels, January 2020 \[PDF\]](#)

AIAG-ECG – Finished Vehicle Logistics Transport Damage Reporting 4th Edition 2019, November 2018

[AIAG-ECG, Finished Vehicle Logistics Transport Damage Reporting 4th Edition 2019, Southfield, Michigan, November 2018 \[PDF\]](#)



3. Contacts

Billing or payment inquiries:

status.europe@rpmmoves.com

Claim inquiries:

claims.europe@rpmmoves.com

30 days payment:

ap.europe@rpmmoves.com

Quickpay – 72 hours payment:

quickpay.europe@rpmmoves.com

Logistics and transport inquiries:

logistics.europe@rpmmoves.com

RPM Transportation Agreement

This Transportation Agreement (this “Agreement”), is made effective by and between RPM Europe B.V., located at Keizersgracht 555, 1017 DR, Amsterdam, the Netherlands (“RPM”), and the company that provides transportation and related services under contract (“Carrier”).

WHEREAS, RPM arranges for the transportation of freight and products owned or controlled by its customers (individually and collectively, “Customers”), which includes the selection of a carrier and the payment of transportation charges, whereby RPM acts as a freight forwarder (in Dutch: ‘*expediteur*’) within the meaning of Article 8:60 of the Dutch Civil Code and never as a carrier, neither contractual nor factual carrier (in Dutch: ‘*papieren of feitelijk vervoerder*’); and

WHEREAS, RPM desires that Carrier perform transportation of shipments that RPM has obtained under its arrangements with its Customers, subject to the terms and conditions of this Agreement (the “Services”), whereby Carrier acts as a contractual or factual carrier (in Dutch: ‘*papieren of feitelijk vervoerder*’) and never as a freight forwarder (in Dutch: ‘*expediteur*’).

THEREFORE, for valid consideration received, RPM and Carrier (the “Parties”) agree as follows:

GENERAL BUSINESS COVENANTS

1. **Term.** The term of this Agreement shall commence on the Effective Date and shall continue thereafter from year to year until terminated by either Party, with or without cause, on thirty (30) days prior written notice at any time. RPM can terminate the Agreement with immediate effect by registered letter, in the event i) Carrier’s company ceases or the business discontinues, ii) Carrier loses its legal personality, is dissolved or effectively liquidated, iii) a considerable part of Carrier’s assets has been attached, iv) Carrier applies for a (provisional) suspension of payment or it has been granted a (provisional) suspension of payment or v) Carrier files a petition for bankruptcy or has been put into bankruptcy.

2. **Independent Contractor; Performance of Services.** Carrier understands and agrees that Carrier is an independent contractor of RPM and that RPM has exclusive control and direction of the work Carrier performs pursuant to this Agreement and each Tender Document (defined below). Nothing in this Agreement shall be deemed to create any partnership, joint venture, employment, agency or fiduciary relationship between Parties. The terms and conditions of this Agreement shall apply to every Tender Document and to each transportation to be performed by Carrier. In the event of conflict between the applicable law, the terms and conditions of this Agreement and the documents specified in this Agreement, the order of precedence shall be as follows: i) mandatory rules provided for in laws, conventions, statutes or regulations, ii) this Agreement, iii) the Tender Document and iv) any rules provided for in non-mandatory laws, conventions, statutes or regulations. Carrier agrees to perform the Services under this Agreement in accordance with the highest standards of the industry, operating under its own authority, using its own employees and using its own means of transport, unless Carrier makes use of permitted subcontractors in accordance with Section 35 of this Agreement, in which event the subcontractor must comply with the aforementioned standards. Carrier shall be wholly responsible for performing the contemplated transportation and for all costs and expenses of such transportation, including, without limitation, costs and expenses of all Carrier’s transportation equipment, its maintenance, and those persons who operate it. In providing Services, Carrier represents and warrants that the driver(s) utilized are competent and properly licensed and are fully informed of their responsibilities for the protection and care of the involved commodities.

3. **Compliance with Applicable Laws and Regulations.** Carrier warrants that it will fulfil all obligations arising from and comply with all applicable statutes, rules and regulations and/or arising from this Agreement with respect to the performance of the Services. The obligations mentioned in this clause include – but are not limited to – the obligation to pay taxes, obligations relating to the employment of employees and obligations to obtain all required permits and licenses. Carrier warrants that Carrier and its employees, shall comply with all obligations arising from the international and national regulations of private and public law, statutes and rules applicable to the Services, including – but not limited to – privacy and data protection laws and regulations, customs regulations, immigration laws, working permit requirements and EU Regulation (EC) No 1072/2009 on common rules for access to the international road haulage market and legislation related thereto. Carrier warrants and confirms that Carrier shall comply with all requirements of all applicable social law (including – but not limited to – the Dutch “*Wet minimumloon en minimumvakantiebijslag*”, the Dutch “*Wet arbeid vreemdelingen*”, the German “*Mindestlohngesetz*” and the French “*SMIC*”) and/or other local law in and outside Europe that may apply to the performance of the Services. Carrier agrees not to accept a shipment from RPM if that shipment would require Carrier or any of its employees to exceed or violate any speed or safety law, rule or regulation. Carrier shall indemnify, defend and hold RPM and its Customers harmless from and against any and all liabilities, demands, claims, losses, costs, damages, fines, taxes, duties and expenses (including attorneys’ and other professional fees) arising from or relating to Carrier’s or its employee’s non-compliance with this Section 3.

4. Successors and Assigns. This Agreement shall be binding upon the successors and permitted assigns of the Parties. Carrier shall not assign this Agreement, or any part thereof, without the prior written consent of RPM.
5. Venue and Choice of Law. This Agreement will be governed by and construed in accordance with the laws of the Netherlands. All disputes, claims, controversies, and disagreements in relation to or arising out of this Agreement, including actions with regard to indemnity, shall be exclusively submitted to arbitration under the Arbitration Rules of the German Maritime Arbitrations Association (GMAA). The seat of the tribunal shall be in Hamburg, Germany and hearings shall be held in Hamburg, Germany, in the English language. The arbitration tribunal shall apply the the Convention on the Contract for the International Carriage of Goods by Road, signed in Geneva on 19 May 1956, as amended by the Protocol to the Convention on the Contract for the International Carriage of Products by Road, signed in Geneva on 5 July 1978 (“CMR Convention”) and/or any other applicable convention(s). Notwithstanding the foregoing, RPM may, at its exclusive option, also bring any claim or action against the Carrier before the competent Court in Rotterdam, the Netherlands.
6. Terms and Conditions. The parties acknowledge and agree that the additional terms and conditions of RPM as specified in **Annex 1** to this Agreement, are expressly incorporated into, and form a material part of, this Agreement. By its execution and/or acceptance of this Agreement, Carrier acknowledges that it has read, understands and agrees to comply with the additional terms and conditions as specified in **Annex 1**. No general terms and conditions or standard conditions used by the Carrier shall apply to the Agreement. The applicability of any conditions mentioned on a Transport Document (defined below) is explicitly excluded. In the event, the Carrier nonetheless declares general or standard terms and conditions to be applicable to the Agreement or to the Tender Document or individual transportation at hand, these are hereby explicitly rejected by RPM.
7. Modification. No waiver, alteration or modification of any of the provisions of this Agreement, or any Tender Documents, shall be binding upon either Party unless in writing and signed by the duly authorized representative of the Party against whom such waiver, alteration or modification is sought to be enforced.
8. Savings Clause. Should any (part of a) provision of this Agreement be or become partially void or non-binding, Parties will be bound by the remaining (part(s) of the) provisions. Parties will replace the void and non-binding parts by parts which will be valid, and binding and the legal consequences thereof must, in view of the contents and scope of this Agreement, correspond as much as possible with those of the void and non-binding part thereof. Carrier agrees that the termination, breach or invalidity of this Agreement or any Tender Document does not cause Carrier’s rules tariff (s), circular(s) or other publication(s) to govern the transportation and related services that Carrier provides to RPM or its Customers.
9. Waiver. No provision of this Agreement or any Tender Document shall be waived by any Party, unless such waiver is written and signed by the authorized representative of the Party against whom such waiver is sought to be enforced. Waiver by either Party of any breach or failure to comply with any provision of this Agreement or any Tender Document by the other Party shall not be construed as, or constitute, a continuing waiver of such provision, or a waiver of any other breach of or failure to comply with any other provision of this Agreement or any Tender Document.

RPM CARRIER Transportation AGREEMENT - 2

10. **Notices.** All notices required by or related to this Agreement shall be in writing and sent to the Parties at the addresses set forth below and shall be deemed given when personally delivered, by confirmed facsimile, or three (3) days after having been mailed by certified mail, return receipt requested, to the following addresses:

Notice Addresses:

RPM

RPM Europe B.V.

Mr. S. Gurtierrez

Keizersgracht 555, 1017 DR. Amsterdam, NL

Either Party may change the address to which future notices are to be addressed by giving written notice of such change to the other Party.

11. **Non-Exclusive Dealing.** This Agreement does not grant Carrier an exclusive right to perform the Services for RPM or its Customer(s). RPM does not guarantee any specific amount of shipments, tonnage, or revenue to Carrier. RPM is not restricted against tendering its freight to other carriers; Carrier is not restricted against performing transportation for other shippers.
12. **Assignment of Rights to Payment by Carrier.** Any factoring, assignment, pledge, hypothecation or granting of a security interest in Carrier's right to payment hereunder shall in no event modify, limit or terminate (i) the unlimited and unilateral rights of set-off or recourse provided to RPM hereunder or by law; or (ii) claims of RPM for set-off, recourse, loss or damage to any cargo or other property, including personal injury, or any other claim which RPM may have against Carrier for any reason. All of RPM's claims and rights are specifically preserved and shall be superior to any rights or claims to payment of any assignee, factor or creditor, regardless of any notice to RPM to the contrary. Carrier shall notify any such assignee, factor or creditor of RPM's rights in this regard.
13. **Miscellaneous.** This Agreement may be executed by facsimile and in one or more counterparts and each of such counterparts shall, for all purposes, be deemed to be an original, but all such counterparts shall together constitute one and the same instrument. In the event either Party incurs attorney's fees, costs or expenses in enforcing any of the provision of this Agreement, or in exercising any right or remedy arising out of any breach of this Agreement by the other Party or their agents, subcontractors or representatives, the prevailing Party shall be entitled to an award of attorney's fees, costs and expenses against the defaulting Party.

INSURANCE & LIABILITY

14. **Insurance.** Carrier, at Carrier's expense, shall maintain during the term of this Agreement an adequate liability insurance against all risks which can reasonably be expected in the performance of the Services, such as loss or damage to the goods during transport (cargo damage), liability for damage caused to property of RPM, its Customer(s) or third parties (property damage), third party motor vehicle liability as well as liability for bodily injury damage and damage upon the death of employees and agents engaged in the performance of the Services (personal injury). Unless otherwise agreed, the insurance policies that must be taken out and maintained by the Carrier are: i) an employer's liability insurance with minimum limits of not less than EUR 1,000,000 per claim arising from any event or series of events, covering all employees and agents engaged in the performance of the Services and containing an indemnity to principals clause in order to protect RPM against claims for damages that are for Carrier's liability and responsibility, ii) a liability insurance with combined bodily injury and property damage minimum limits of not less than EUR 2,000,000 per occurrence or series of occurrences arising from one event, containing an indemnity to principles clause in order to protect RPM against claims for damages that are for Carrier's liability and responsibility, iii) a third party motor vehicle liability insurance which shall comply with applicable laws and regulations, iv) a Carrier's liability insurance for the transport modes performed under this Agreement, up to EUR 3,000,000 per container or equivalent transport unit used for the carriage, and v) such other policies as may from time to time be required by any applicable laws and regulations and/or by current good practice of prudent contractors providing the same or similar services. Carrier shall furnish written evidence of its insurance coverage to RPM upon request and shall advise RPM of any change in its insurance coverage thirty (30) days prior to the effective date of such change. Carrier's insurance will be deemed primary in the event of loss or damage. Carrier's indemnification obligations described in this Agreement will not be reduced or limited by the actual insurance policy limits that Carrier chooses to purchase.

RPM CARRIER Transportation AGREEMENT - 3

15. Period of Liability. The period of liability of Carrier for transportation to be performed under this Agreement commences at the time when Carrier or its employee becomes in effective control of the first goods that are subject to the Services (“Goods”) in order to have the Goods loaded onto a means of transport in order to perform the Services. The period of liability ends at the time of delivery by Carrier or its employee to the consignee or receiver whose name is mentioned on the Transport Document. Delivery has taken place at the time all Goods have been discharged from the means of transport and are accepted by or on behalf of the consignee or receiver at the delivery point that is specified in the Transport Document. The period of liability of Carrier or its employee under this Agreement does not end by the refusal by the consignee or receiver at the delivery point to take delivery of the Goods. In case of refusal to take delivery of the Goods, Carrier must immediately contact RPM to discuss this and to ask further instructions.

16. Combined transport. If the transportation of the Goods takes place by means of multiple transport modes (combined transport), each part of the carriage (transport mode) shall only be governed by the rules of law applicable to that part of the carriage (transport mode) as set out in this Agreement. The applicability of Section 2 of Title 2 of Book 8 of the Dutch Civil Code (Articles 8:40 up to and including 8:52 of the Dutch Civil Code) is explicitly excluded. In case Carrier fails to prove during which transport mode damage, loss or delay occurred, the liability of Carrier is governed by the CMR Convention and the rules applicable to carriage by road as set out in this Agreement. If the Carriage is actually performed by means of a transport mode that is not mentioned in this Agreement, the liability of Carrier shall be governed by the CMR Convention and the rules applicable to carriage by road as set out in this Agreement.

17. Carrier’s Liability. Unless exclusively governed by a law, regulation or convention which mandatorily applies to the Services, the liability of Carrier for any loss, damage and/or delay occurring during or in relation to the performance of the Services is solely governed by this Section 17 up to and including Section 31 of this Agreement, containing specific stipulations for the various transport modes, as well as stipulations applying to all transport modes.

18. Force Majeure. Any act of God, earthquake, flood, terrorist attack, war or other circumstance that the Party relying on Force Majeure could not have avoided and the consequences of which it could not have prevented, shall characterize as Force Majeure. It is explicitly agreed that any delay due to strikes or similar labor actions, border blockades, closures or blockades (temporary or permanently) of ports, inland waterways, railway lines, shunting areas, yards or terminals or people trying to gain access to means of transport does not fall within the scope of Force Majeure. Parties will not be liable if the other Party proves that the damage, loss or delay or other breach of any obligation under this Agreement results from a circumstance characterizing as Force Majeure. Carrier must always make all reasonably required efforts to end the Force Majeure event.

19. Declared value. If the value of the Goods exceeds the amount of the limitation amount set forth in the CMR Convention, or any other laws or convention applicable to the relevant Services, RPM shall be entitled to instruct Carrier to include the value of the goods on the Transport Document, by adding the following wording: “A declared value of the goods of EUR [•] was agreed upon.” The amount of the declared value shall substitute the limitation set forth in the relevant laws or convention.

20. Special interest. If RPM or its Customer has a special interest in the delivery of the Goods, RPM will be entitled to instruct Carrier to specify the amount of the special interest in delivery on the Transport Document, by adding the following wording: “A special interest of EUR [•] was agreed upon.” If a declaration of special interest in delivery has been made, Carrier shall be liable for all losses and damages resulting from the non-delivery or late delivery, up to the amount of the agreed special interest.

21. Carrier’s Liability; Road. In case of domestic or international carriage by road, Carrier shall be liable towards RPM and its Customer, in the event of damage to and whole or partial loss of the Goods, as well as delay in delivery of the Goods, in accordance with the provisions of the CMR Convention. Carrier shall take all reasonable measures necessary to avoid theft of and/or damage to the Goods. These measures will include the use of tracking devices, exclusive use of parking facilities under surveillance and performance of the Services by two drivers when requested. RPM is entitled to give any reasonable further instructions and Carrier agrees to follow such instructions. The driver of Carrier shall always have a ‘clean tachograph disk’ at the start of each carriage, meaning that the driver should have taken its obligatory rest periods before commencement of the carriage. Carrier must always do the utmost to prevent unauthorized persons from gaining access to vehicles. Carrier shall comply with international and national regulations of public law related to the maximum allowed gross weight during the performance of the Services. Overloading is not allowed. Carrier indemnifies and holds RPM harmless against all damage or loss arising from the liability of RPM by virtue of Article 22 CMR Convention.

RPM CARRIER Transportation AGREEMENT - 4

22. Carrier's liability: Sea. In case of carriage by sea, Carrier shall be liable towards RPM in the event of damage to and whole or partial loss of the Goods, as well as delay in delivery of the Goods, in accordance with the provisions of the Hague-Visby Rules. Carrier shall deliver the Goods at the agreed port of discharge at the agreed time. All departure, arrival and voyage times by or on behalf of Carrier are guaranteed. Carrier may not without prior approval from RPM change sailing schedules and timetables. General average shall be adjusted at Rotterdam, the Netherlands according to the York-Antwerp Rules, 2004. Carrier shall be under no obligation to exercise any lien and/or to collect any security in respect of general average sacrifice of the Goods. If Carrier delivers the Goods to the consignee without claiming any security for contribution to general average, Carrier is deemed to have waived its right to claim general average costs from RPM. Carrier indemnifies and holds RPM harmless against all damage or loss arising from the liability of RPM by virtue of Article IV (6) Hague-Visby Rules.

23. Carrier's liability: Rail. In case of domestic or international carriage by rail, Carrier shall be liable towards RPM in the event of damage to and whole or partial loss of the Goods, as well as delay in delivery of the Goods, in accordance with the provisions of the COTIF-CIM Convention.

24. Carrier's liability: Inland waterways. In case of domestic or international carriage by inland waterways, Carrier shall be liable towards RPM in the event of damage to and whole or partial loss of the Goods, as well as delay in delivery of the Goods, in accordance with the provisions of the CMNI Convention. General average shall be adjusted at Rotterdam, the Netherlands, according to the General Average Rules IVR, 2006. Carrier shall be under no obligation to exercise any lien and/or to collect any security in respect of general average sacrifice of the Goods. If Carrier delivers the Goods to the consignee without claiming any security for contribution for general average, Carrier is deemed to have waived its right to claim general average costs from RPM.

25. Carrier's liability: Air. In case of carriage by air, Carrier shall be liable towards RPM in the event of damage to and whole or partial loss of the Goods, as well as delay in delivery of the Goods, in accordance with the provisions of the Montreal Convention.

26. Carrier's liability: Handling, loading, stowage, discharge. Carrier takes care of the correct handling, loading, stowage and discharge of the Goods in accordance with the best practices of prudent carriers. Carrier warrants that its employees comply with all applicable statutes, rules and regulations during loading and discharge. Carrier shall always sufficiently check whether the loading and/or stowing is in accordance with all applicable statutes, rules and regulations. Carrier is liable for all damages to the Goods resulting from a breach of any aforementioned obligations. Carrier warrants that there will be no arms, stowaways, contraband, illegal drugs, cigarettes, alcohol or other unlawful merchandise stowed in or on board of the means of transport. Carrier shall indemnify, defend and hold RPM harmless for any and all costs, liabilities, fines, penalties or whatsoever RPM may suffer or incur as a result of Carrier's breach of the warranty hereunder and irrespective whether it acted in good faith or not.

27. Carrier's Liability: General. In the event that in any relation to the performance of the Services damage is caused to: i) property of RPM or its Customer, not being the Goods, ii) an employee of RPM or its Customer, iii) an agent of RPM or its Customer or its property, iv) property of a third party or the third party itself, or v) any other damage or loss, not being damage to, loss of or delay in delivery of the Goods itself, Carrier shall be fully liable for this damage or loss towards RPM or its Customer or the third party.

28. Cargo Claims. Carrier shall pay to RPM, or RPM may offset from the amounts RPM owes Carrier, for any losses arising from goods so lost, delayed, damaged or destroyed. Carrier shall not allow any of the Goods to be sold or made available for sale or otherwise disposed of in any salvage markets, employee stores or any other secondary outlets without RPM's prior written consent. Carrier agrees to either pay or settle all cargo claims within 60 days of the receipt of a claim. Carrier agrees to notify RPM's Claims Department in writing, immediately whenever an accident or potential claim occurs and provide RPM with any written reports, affidavits or other assistance necessary to assess the claim. Carrier shall use its best efforts to remedy the situation immediately. If Carrier for any reason fails or refuses to implement a remedy measure promptly, RPM shall be entitled to perform such measure itself, or by means of others and Carrier shall pay the costs thereof.

29. RPM's Liability. RPM shall not be liable for any damage, loss, costs or whatsoever, unless Carrier proves that the damage has been caused by the willful intent or gross negligence of RPM or its management. In any event, RPM's liability shall in all cases be limited to EUR 50,000 per occurrence or series of occurrences with one and the same cause of damage, with a maximum annual aggregate liability of EUR 100,000.

RPM CARRIER Transportation AGREEMENT - 5

30. Hazardous goods. Carrier warrants that all applicable statutes, rules and regulations will be complied with during the performance of the Services in respect of Goods that characterize as hazardous goods, including – but not limited to – the European Agreement concerning the International Carriage of Dangerous Products by Road (ADR). Carrier warrants that hazardous goods will only be loaded into or discharged from means of transport at places designated for that purpose. Pursuant to Article 8:1213 and/or Article 6:175 (2) of the Dutch Civil Code, in case of transportation of hazardous goods, Carrier is liable for all damages sustained by RPM, its Customer or any other party when any danger materializes.

31. Indemnification. Carrier agrees to indemnify, defend and hold RPM and its Customers, and their respective officers, directors, managers, members, shareholders, employees, agents and assigns, harmless from and against any and all fines, penalties, costs, demands, damages, (including bodily injury and property damage) losses, obligations, claims, liabilities and expenses (including reasonable attorney's fees) of whatever type or nature arising out of or related to: (i) the maintenance, use or operation (including loading and unloading by Carrier) of any motor vehicle or equipment in performance of Services under this Agreement; (ii) any and all acts or omissions of Carrier or its employees in providing the Services, (iii) an alleged violation by Carrier, as well as its employees, of any applicable laws, regulations or conventions, and (iv) any use, operation, maintenance or possession of any owned or leased equipment by Carrier. The obligations of Carrier under this Section shall survive termination of this Agreement.

SERVICES

32. Performance of Services. Carrier agrees to meet RPM's distinct transit and pricing requirements agreed to by the Parties from time to time as confirmed by the RPM's issuance of a Tender Sheet, Pre-note, Rate Confirmation, Transport Document, Proof of Delivery or other load tender document that RPM may use from time to time (in each case, a "Tender Document"). Additional service requirements of Carrier are as follows:

- Carrier shall undertake to timely deliver the Goods in conformity with the Tender Document or other notifications of RPM. Carrier shall immediately notify RPM of any likelihood of delay. Carrier shall transport all freight tendered by RPM only on equipment operated under Carrier's authority.
- Carrier shall comply with all of RPM's reasonable shipping instructions communicated to Carrier.
- Carrier shall obtain from the consignee a complete, signed delivery receipt and inspection form for each shipment, and it shall notify RPM immediately of any exception on any document. Carrier shall send RPM scans of delivery receipts and Transport Documents within forty-eight (48) hours of delivery.
- Carrier is responsible for ensuring that all Goods are properly blocked and braced or nylon strap tie downs for transportation to allow for the safe and damage-free delivery of the goods and to avoid damage to other property.
- Carrier is responsible to determine that the Goods being shipped are in apparent good order and condition, to the extent that such is ascertainable through a visual examination of the exterior of the Goods shipped, before loading and, in the event that they are not, Carrier will contact RPM for further instructions.
- Carrier warrants that all means of transport and equipment used for the Services are clean and ready for inspection. Before Goods are loaded, Carrier shall always check whether the means of transport is suitable for the carriage.
- Carrier warrants that it has available and shall provide experienced, capable, licensed, competent and adequate personnel for the performance of the Services.
- Carrier warrants that all employees involved in the performance of the Services can always immediately be reached by phone during the performance of the Services.

32. Transport documents and Delivery Receipts. Carrier, RPM, or Customer shall issue the right (CMR) consignment notes, Bills of Lading and/or waybills ("Transport Documents") for each carriage and/or transport mode. For carriage by road, a CMR consignment note shall be issued. The consignment note shall mention Carrier's name in the box designated for Carrier (box 16 of the CMR note). In case of permitted subcontracting, the consignment note carries the name of the subcontractor in the box designated for the subcontractor or successive carrier, if any (box 17 of the CMR note). Carrier shall sign all consignment notes on behalf of RPM as consignor on the place of loading and on behalf of the consignee at the place of delivery. All terms or conditions written or printed on the receipts or Transport Documents which have not been specifically agreed to by RPM, either in this Agreement or on any signed addenda hereto, shall have no binding effect against RPM. The receipt of a Transport Document issued or executed by Carrier shall be prima-facie evidence of receipt of Goods in good order and condition by Carrier unless otherwise noted on the face of said document. Carrier shall submit to RPM the original signed Transport Document evidencing good delivery of the Goods, unless otherwise specifically agreed by RPM; and in that case, Carrier shall maintain custody of the original signed Transport Documents and will provide them to RPM upon request and in any event within 120 days of delivery. If Carrier fails to maintain and provide the Transport Documents as agreed, Carrier assumes all risk of loss resulting from the failure to prove good delivery. In the event that Carrier's personnel are not allowed or afforded an opportunity to view and/or examine the Goods in order to ascertain the condition of those Goods prior to loading on to Carrier's vehicle, Carrier's personnel shall immediately notify RPM and await instructions prior to transporting the shipment, and shall note on the Transport Document that they were not allowed or afforded an opportunity to view and/or examine the Goods shipped.

RPM CARRIER Transportation AGREEMENT - 6

BUSINESS CONDUCT

34. Rates and Charges. The rates and charges that shall be in effect for all movements tendered to Carrier by RPM shall be as set forth on the Tender Document issued by the RPM and given to Carrier (the "Charges"). Carrier represents, warrants and agrees that there are no other applicable rates or charges except those set forth on the Tender Document issued by RPM from time to time. Carrier agrees that it shall not bill the Customer, shipper/consignee or any third party directly nor shall it communicate in any manner, directly or indirectly, with RPM's Customers, consignors, consignees or any party other than RPM, concerning the collection of any of the Charges relating to the Services accruing in connection with or as a consequence of this Agreement; and waives any right it may otherwise have to proceed or commence any action against any such party for the collection of any freight bills or other costs or claims arising out of the Services performed by Carrier under this Agreement. Carrier will not accept payment from a Customer, any shipper/consignee or any third party for providing Services under this Agreement. Carrier's performance of the work contained in the Tender Document, or commencement to perform, is confirmation of acceptance of the Charges contained in that document. No other rates, terms, conditions, charges, fees, expenses or any other amounts shall be payable by RPM to Carrier unless such items are included in the written Tender Document. Nothing in any Transport Document or other Carrier issued document shall be binding upon RPM. Unless specifically included in the Tender Document, RPM shall not be required to make payment for any accessorial charges, equipment or escort rentals for the tendered movement, or any other special permitting or operating expenses.
35. No subcontracting. Except as provided in this Section, Carrier shall not, in any manner, sub-contract, broker or tender to any third party for transportation, any freight tendered to Carrier by RPM for transportation pursuant to this Agreement. Carrier may subcontract the Services that Carrier has agreed to perform for RPM under this Agreement to a subcontractor, only if: (i) Carrier provides RPM prior written notice of such subcontracting, (ii) RPM acknowledges in writing, that the subcontracting may occur, (iii) Carrier remains liable for the full and faithful performance of all obligations contained in this Agreement, including the obligation to indemnify RPM and Customer in accordance with Section 33, as if no such subcontracting has taken place and (iv) Carrier shall make sure that subcontractors and their employees comply with all obligations of Carrier and/or its employees contained in this Agreement. Nothing in this Agreement shall permit or allow Carrier to assign or delegate any of its other duties or obligations under this Agreement, without the prior consent of RPM. Carrier shall not make use of any freight exchange platform such as TeleRoute, and Fracht.
36. Payment. On a monthly basis, Carrier will issue RPM an invoice for any amounts due and owing by RPM pursuant to this Agreement. Unless otherwise agreed in writing, if the Parties have agreed on a declaration of value or special interest in delivery as described in Sections 19 and 20 of this Agreement, these additional fees will be separately invoiced by Carrier. Payment of all undisputed invoiced amounts shall be made by RPM within thirty (30) days of receiving the complete and legible paperwork and invoice. No payment by RPM shall limit RPM's right to later dispute any of the charges invoices and payment shall not be construed as RPM's approval of work or acknowledgment that any part of the work has been satisfactorily completed.
37. Waiver of Carrier's Lien. RPM, its Customer or the third party entitled shall retain the ownership of the Goods during the performance of the Services and Carrier shall never acquire the ownership of the Goods. Carrier, for itself and on behalf of all of its agents or subcontractors, does not hold a right of retention or lien, nor a right of pledge, nor any other restricted right with respect to the Goods, nor any other object, document or asset belonging to RPM or its Customer or the third party entitled for any and all sums, including – but not limited to – freight, dead freight, demurrage, detention, costs, dues, taxes, tolls, fines, penalties or claims for damages or indemnity payable to Carrier or related to the Services under this Agreement or any previous shipments by RPM and for general average and/or salvage contributions to whom due, and for the cost of recovering the same, and for that purpose Carrier shall not have the right to sell the Goods by public auction or privately and recover all his costs therefrom. Carrier shall not withhold delivery of any freight due to any dispute with RPM or Customer and Carrier is not entitled to set off any (possible) right to compensation of RPM against an obligation to pay RPM.
38. Insolvency. In the event of insolvency proceedings being instituted by or against Carrier, then RPM, any agent of RPM, or RPM's Customer may immediately enter upon any owned or leased property of Carrier where any cargo, goods or Customer owned or leased equipment may be found and take possession of such goods or owned or leased equipment without notice or liability to Carrier.
39. Set-Off and Recoupment. RPM may set off, withhold, suspend, recover or recoup any amounts payable to Carrier hereunder or under any other agreement or arrangement between Carrier and RPM, or any of its affiliates, subsidiaries against. In addition, in the event RPM makes payment to Carrier as provided herein and Carrier fails to make payment to any subcontractor, then RPM may, at its option and sole discretion, pay such subcontractor and offset the amount paid against any amounts owed or to be owing to Carrier by RPM. Failure to comply with any law or regulation, or any breach of any element of this Agreement, howsoever minor, may result in non-payment for freight charges and/or set off and recoupment claims.

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40. Hostage Loads. For purposes of this Agreement “hostage loads” is defined as the refusal by Carrier to immediately release the Goods upon demand or otherwise exerting unauthorized control over freight, refusal to deliver a load at the scheduled time and place of delivery, refusing to provide RPM with information on the location of shipper’s freight or refusing to deliver, or failure to release or produce such freight. In the event that Carrier does hold freight hostage, Carrier agrees to pay RPM EUR 5,000.00 for each day that freight is held. Carrier agrees that such amount constitutes a reasonable penalty. RPM shall be entitled to all other available or alternative remedies at law in the case of hostage loads and shall be entitled to – besides a penalty – recover any compensation for actual damage, loss or costs RPM suffered or suffers from Carrier
41. Confidentiality. Carrier shall not utilize RPM’s name or identity in any advertising or promotional communications without written confirmation of RPM’s consent and the Parties shall not publish, use or disclose the contents or existence of this Agreement except as necessary to conduct their operations pursuant to this Agreement.
42. Entire Agreement. This Agreement, together with the Tender Documents issued by RPM constitutes the entire agreement between the Parties and supersedes all other oral and written communications, agreements and contracts between Carrier and RPM with respect to the subject matter of this Agreement. Any provisions on any Carrier-provided form whether before or after the execution of this Agreement, shall be deemed null and void and of no effect and shall not modify the terms and conditions of this Agreement.

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