



RST CONDITIONS

General Terms and Conditions of Rotterdam Short Sea Terminals B.V., hereinafter 'RST'.

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Article 1 - Definitions

Container	Means any full, partly loaded or empty Container 20', 30', 40' or 45' in length, 8' and "pallet-wide" in width and 8'6" / 9' / 9'6" in height including, but not limited to, flat-racks, standard width and "pallet-wide" platforms & Containers, reefers and tanks with ISO recommended lifting arrangements and consistent with the safety requirements of CSC (Convention for Safe Containers) plates, and which can be handled by means of a standard 20', 40' and 45' spreader;
EDI	Electronic Data Interchange: the electronic interchange of structured and standardized messages between information systems.
Means of Transport	A construction designated for the transport of goods and/or people regardless of whether such construction is self-propelled or not, including a Container.
Principal	the (contractual) counterparty of RST.
RST	The provider of the Services and user of the RST Conditions.
SDR	Special Drawing Right: a unit of account set by the International Monetary Fund.
Services	All factual and legal acts of RST connected in the broadest sense with the loading and unloading of Means of Transport, including but not limited to the acceptance, temporary storage, shifting, weighing, repackaging, checking / ordering the checking and/or delivery of goods (for the purpose of these RST Conditions also including livestock), the execution of shipping activities and the use of floating cranes or other kinds of cranes.
Terminal	All sites, buildings and waters where RST is based or where it carries out the Services, including any quays, railways, crane tracks, waterways, roads (whether adjacent or not).

Article 2 – Applicability RST Conditions

ANY OTHER GENERAL TERMS AND CONDITIONS ARE EXPRESSLY PRECLUDED AND LACK ANY EFFECT.

- 2.1 The RST Conditions are applicable to all legal relationships of RST under which the Services are carried out, regardless of whether this is effected on basis of tenders, quotations, orders, stevedoring contracts and any other agreements, or on other grounds, against payment or free of charge and apply as long as the relationship continues.
- 2.2 The Principal leaves it at the discretion of RST to engage third parties within the scope of the Services or other activities and to accept the (general) terms and conditions of such third parties. The Principal agrees to let such general terms and conditions apply towards the Principal.
- 2.3 In the event of incompatibility between the RST Conditions and the general terms and conditions stated in article 2.2 the most favourable provision for RST shall be applied.

- 2.4 RST is authorised to make changes to these RST Conditions, which will come into force at the stated time or as soon as it has been notified, and to rely on the custom of the port in addition to this.
- 2.5 In the event that any provision in these RST Conditions is declared null, this will not affect the validity of the other provisions.

Article 3 – Conclusion of the agreement

- 3.1 All offers made by RST are non-binding until an agreement has been concluded. An agreement is concluded by written confirmation of RST or by RST starting with the execution of the Services.
- 3.2 RST is entitled to adjust any already accepted rates in all fairness if after the conclusion of the agreement cost-increasing factors occur that are beyond the control of RST. (Non-exhaustive) Examples are (government) measures in the area of health & safety, quality, the environment and taxation aspects and market developments in the area of labour and energy that had not been taken into account upon entering into the legal relationship with RST.
- 3.3 If in the reasonable opinion of RST the circumstances have changed after the conclusion of the agreement such that it is unfair to expect that RST shall (continue to) carry out the Services even against the rates that have been adjusted in accordance with article 3.2, RST shall have the right to dissolve the agreement within a reasonable timeframe, if and insofar as this refers to the Services not yet carried out, without becoming liable to pay damages as a result.

Article 4 - The Services

- 4.1 RST is entitled to have the Services carried out in whole or in part by staff and equipment of third parties as well as, at the discretion of RST, via the loading & unloading equipment and/or (drive) power of the Means of Transport to be made available by the Principal free of charge.
- 4.2 If and insofar as it concerns them, RST and the Principal shall each see to obtaining and keeping all necessary permits as well as to comply with all applicable regulations, amongst which the Safety Instructions and Site Regulations that apply at the Terminal. They guarantee compliance with said obligations by their staff, assistants and subcontractors.
- 4.3 All information provided by RST, like the availability of berths and the time and duration of execution of the Services, is not binding.
- 4.4 The Principal warrants that the material made available for the execution of the Services is fit for purpose.
- 4.5 The Principal must prepare the Means of Transport and the goods to be loaded or unloaded from it at its own expense and risk such that RST is able to carry out the Services safely, in a responsible manner and without any delay.
- 4.6 In case of refusal, suspension, interruption or termination of the Services, the Principal must ensure that the Means of Transport and corresponding items shall leave the Terminal upon the first request thereto by RST, for lack of which RST shall be entitled to take appropriate measures at the expense and risk of the Principal.
- 4.7 The Services do not entail to inspection or insurance of the goods unless this has been explicitly agreed in writing, in which case the costs of inspection and insurance shall be borne by the Principal.

- 4.8 The Principal guarantees packing respectively packaging that is sea-proof or appropriate for the transport modality concerned (including but not limited to Containers in which the goods are stowed as well as their weight limits) and clearly readable labeling of the goods in accordance with the applicable regulations (concerning health safety and the environment), and for lack thereof, in accordance with the applicable standards under current market practices and behaviour. Whilst OOG Containers and the goods carried therein may be subject to the Services, any liability of RST for damages incurred in connection herewith, is excluded.
- 4.9 Well in time before the start of the Services, the Principal must notify RST in writing of the possibly special, damaged or dangerous nature, scale and treatment of the Container and the goods as well as, in general, provide RST well in time with all instructions and information of which the Principal is aware or ought to be aware that RST needs them in order to carry out the Services safely, in a responsible manner and without any delay. Any additional Services in connection with non-fulfilment of the aforementioned shall be at the expense and risk of the Principal.
- 4.10 The Principal guarantees that anyone who enters the Terminal from the water or from the shore within the scope of the Services for or on behalf of the Principal shall strictly adhere to the safety regulations and other site regulations applicable at the Terminal, available at the website www.rstshortsea.nl. RST is entitled to remove from the Terminal - or to order the removal of - anyone who does not adhere to - or threatens to act in breach of - such regulations or who is unwelcome otherwise in the opinion of RST.
- 4.11 In its legal relationships with third parties, the Principal shall include a third-party clause in favour of RST, such as a so-called Himalaya clause, which entitles RST to rely (also) on jurisdiction clauses and all limitations and exclusions of liability in favour of the Principal, including a “before-and-after” clause, for damage, loss and/or delay of the goods (to be) transported by the Principal, which third-party clause is accepted by RST beforehand.

Article 5 - Liability and indemnification

A. RST

- 5.1 RST is only liable for:
- a. any material damage to or loss of a Means of Transport that is directly or indirectly operated by the Principal in ownership, charter, lease or otherwise, only during the time when the Means of Transport is located on or at the Terminal (for sea-going or inland navigation vessels this means that berthing procedure is fully completed – ‘all fast’ - and the first lift has been commenced until the last lift has been completed) solely for the performance of the Services;
 - b. any damage to or loss of goods that the Services refer to, from the moment of physical receipt in the custody of RST on the Terminal until the moment of physical delivery by RST;
- both insofar it is proven that the damage or loss is caused by gross negligence or wilful misconduct of RST itself, and for
- c. personal injury or death of any person who is involved for or on behalf of the Principal during the execution of the Services, if and insofar as such damage was caused on or at the Terminal by RST itself.

- 5.2 If damage or loss stated becomes evident after the Means of Transport, the goods or the person involved has/have left the terminal, RST shall only be liable if the Principal proves that such damage or loss was caused by RST. While RST will be facilitated to the fullest extent to conduct an assessment of the same itself or via (local) surveyors, failing which RST will be discharged of any and all liability.
- 5.3 RST shall never be liable for loss of profit, production or business loss, delay or any other form of indirect or consequential damage, including but not limited to mooring, waiting or safekeeping fees, environmental pollution, dismantling and/or related fines or penalties.
- 5.4 RST shall be discharged from any and all liability unless the Principal notifies RST in writing and under submission of documentary evidence on the cause and consequences via the digital risk and compliance portal of RST for this purpose at the website www.rstshortsea.nl of the damage or loss as set forth in article 5.1, either within four weeks after the Principal has become aware of the damage, or within three months after the Means of Transport involved, the goods or the person involved has/have left the Terminal, whichever term is shorter. All and any claims against RST shall become time-barred by the mere expiry of twelve months since said damage or loss has occurred.
- 5.5 RST shall never be liable for claims below EUR 1,500 (fifteen hundred Euro) which shall be considered as own risk. Under all circumstances liability of RST shall be limited to the sum insured and which is actually compensated by insurers to RST increased by the deductible under the policy. Such insured sums are limited as follows:
- a. for damage or loss referred to in article 5.1 subsection (a) the insured liability sum of RST is limited to EUR 1,000,000 (one million Euro) per event or a series of events, which limit also applies as the annual aggregate;
 - b. for damage or loss referred to in article 5.1 subsection (b) the insured liability of RST per event is limited to 666.67 SDR (eight hundred and seventy-five special drawing rights) per package or unit, or 2 SDR (three special drawing rights) per kilo of gross weight of the goods lost or damaged, whichever amount is the higher;
 - c. for damage or loss referred to in article 5.1 subsection (c), the insured liability of RST is limited to EUR 1,000,000 (one million Euro) per event or series of events, which limit also applies as the annual aggregate.

In case of several claims and/or claimants per event together exceeding the maximum amounts stated, such maximum shall be allocated pro rata to the value of such claims mutually agreed or determined in court.

- 5.6 RST shall make an effort to take the necessary measures in order to limit the risk of stowaways or access of other unwanted people to the Means of Transport of the Principal. If nevertheless stowaways or other unwanted people are discovered in the Means of Transport of the Principal, RST shall not be liable for any possibly resulting damage, expenses and fines.
- 5.7 Upon RST's first request thereto the Principal shall indemnify RST against all and any claims by third parties in connection with the Services where exceeding liability of RST under the RST Conditions and the agreement to which they apply.
- 5.8 All limitations and exclusions of liability in the RST Conditions in favour of RST shall also apply to its directors, officers, staff, independent assistants and subcontractors.

B. The Principal

- 5.9 The Principal guarantees that all ancillary information (such as EDI, stowage plans and loading/discharging lists etc.), circumstances and resources will be present, correct and timely available to facilitate the Services to be performed undisturbed, without interruption or restriction and at the agreed time. Apart from its liability under ordinary law, the Principal is also fully liable for all claims by whatever nature or cause from its suppliers, contractors, servants, agents etc. and/or concerning customs duties or similar duties and charges, fines, (negative) expenses and interest, including import duties, excise duties and expenses for removal and destruction referring to or in connection with goods that RST possesses, has possessed or shall possess by virtue of the Services. Upon first request thereto the Principal shall fully indemnify RST against said claims and shall also furnish adequate security upon first request thereto in favour of RST or the customs authority involved, including the reasonable costs of defence.
- 5.10 If the Principal is liable towards third parties for damage for which the Principal wishes to have recourse against RST, the Principal shall enable RST to be present or represented during the investigation into the cause and scale of such damage. The Principal must also prove that it has conducted all entitled defences in its legal relationship towards such third party in order to turn down or limit liability, unless RST has agreed explicitly and in writing to the acceptance of liability by the Principal or has come to a settlement in this respect with such third party. If the Principal fails to fulfil said obligations, RST shall be discharged from all liability.
- 5.11 The Principal shall take out and maintain an appropriate insurance policy to cover its possible liabilities towards RST. Upon request thereto the Principal shall give RST access to the insurance policy sheet(s) concerned.

Article 6 - Force majeure

- 6.1 RST is entitled to suspend the Services in the event of force majeure. RST shall never be liable for the consequences of force majeure and/or of such suspension of the Services.
- 6.2 Force majeure is understood to mean a failure to perform on the part of RST which cannot be attributed to it and which means that (further) realisation of the Services has become burdensome or impossible and cannot be reasonably expected, and includes but is not limited to:
- strikes or work or services stoppage, lockouts, go-slow actions and all other forms of (industrial or social) unrest
 - severe weather conditions (like wind, snow, fog) or water circumstances and natural disasters, lightning strikes and Acts of God
 - burglary, fire, explosion and nuclear reaction
 - government measures or impact, amongst other related to sanctions, health & safety, epidemic, or pandemic
 - war, uproar, uprising, terrorism, hijacking, sabotage, vandalism and similar unrest
 - computer breakdown, hacking, cyber-attack or other form of digital sabotage and power outage
 - (latent) defects or breakdown of the equipment used by RST
 - all other circumstances that cannot be attributed to RST and that are not the responsibility of RST pursuant to the law, legal act or current market practices and behavior and all measures taken by RST in respect of the foregoing.

- 6.3 In the event of force majeure RST shall notify the Principal in writing as soon as possible and take all reasonable measures in order to terminate the force majeure situation as soon as possible and to limit the consequences thereof.
- 6.4 Any and all extra expenses caused by force majeure shall be at the expense and risk of the Principal.

Article 7 - Payment, suspension, security

- 7.1 All invoices of RST must be paid by the Principal by the payment deadline set in this respect, but at the latest within 30 days, without any deduction or set-off. Challenging an invoice shall not suspend the payment obligation.
- 7.2 In the event of a dispute about what the Principal owes RST by virtue of the Services carried out, the documentation to be submitted by RST shall provide full evidence of the nature, contents and scale of the Services carried out, except for any proof of the contrary. The documentation of RST has precedence over any documentation drawn up by the Principal or by third parties.
- 7.3 In the event of late payment of any claim of RST payable on demand, the Principal owes statutory commercial interest in this respect pursuant to Section 119a Dutch Civil Code from the due date until the date of full payment.
- 7.4 RST is at all times entitled to demand an advance payment from the Principal, a prepayment, an interim payment or a security that is adequate in its opinion for all claims by RST against the Principal now or in the future. If the Principal fails to fulfil such a request immediately, RST shall be entitled to refuse, suspend, interrupt or terminate the Services without requiring any written warning, notice of default or judicial interposition. The same applies if the Principal fails to perform any other obligation towards RST. RST shall never be liable for any resulting damage whatsoever.
- 7.5 All claims of RST shall become immediately payable if and as soon as the Principal or its representative applies for an administration order, files a bankruptcy petition, is declared bankrupt, ceases its activities in whole or in part or transfers them to third parties, or loses control of its assets in whole or in part due to attachment or similar measures. In such cases RST shall also be entitled to terminate the legal relationship with the Principal with immediate effect, without prejudice to the right of RST to claim damages and without any liability on the part of RST.
- 7.6 RST has a pledge and a lien (*right of retention* within the meaning of art. 3:290 et seq. DCC) over all goods, documents and funds of the Principal in the possession of RST now or in the future regardless of the grounds and regardless of its designated use, for all and any claims against the Principal now or in the future. RST is also entitled to exercise such rights concerning what the Principal still owes RST in connection with previous legal relationships or previous assignments. In the event of non-payment of the claim(s) for which such rights are exercised RST shall be entitled to sell the pledged collateral in the manner prescribed by law.
- 7.7 Payment to RST must be effected in the manner specified by RST. Payment to a representative of the Principal shall not release the Principal from its obligation.
- 7.8 Payment by the Principal to RST shall serve first of all for the payment of the costs, subsequently for the payment of the outstanding interest and finally for the payment of the portion of the principal amount and the accrued interest specified by RST, despite any direction to the contrary by the Principal.

- 7.9 If the Principal fails to pay the claim(s) of RST in time, the amount of the claim(s) shall be increased by at least 10% handling fees to cover collection via legal proceedings or otherwise, unless the expenses turn out higher, in which case RST shall also be entitled to the extra amount.

Article 8 - EDI and data protection

- 8.1 The interchange of messages between the Principal and RST may take place via EDI if agreed in writing. If data interchange via EDI has been agreed this must be effected in accordance with the internationally applicable messaging standards and recommendations.
- 8.2 All capitalized terms used in this article have the same meaning given to them in the General Data Protection Regulation (EU 2016/679). Unless agreed otherwise, each party acts as a Processor with regard to Personal Data that it processes in the context of the relationship indicated in these RST Conditions and both parties will meet their obligations under the relevant applicable data protection laws. Information about how RST processes Personal Data of the Principal, which may include Personal Data of (external) personnel, servants or agents of the Principal, can be consulted via the privacy statement of RST at the website www.rstshortsea.nl or will be made available on request. The Principal acknowledges that certain Personal Data may be used, released, sent or stored by RST or third parties instructed by RST if this is reasonably necessary or desirable in connection with the relationship and/or Services performed thereunder.

Article 9 - Sanctions, anti-corruption, anti-bribery

- 9.1 The Principal shall at all times comply with the applicable sanctions, anti-corruption and anti-bribery regulations and acknowledges that RST has a zero-tolerance policy when it comes to those regulations. The Principal shall be liable for all direct and indirect damage, costs, fines and expenses that are in any way incurred by RST related to the Principal's failure to fulfil its obligations under this article and such regulations.

Article 10 - Applicable law and settlement of disputes

- 10.1 All legal relationships of RST whether in contract or in tort and the interpretation thereof are governed by Dutch law.
- 10.2 All disputes under or in connection with the legal relationships aforementioned shall be subject to arbitration in Rotterdam in accordance with the Unum Arbitration rules current at the time the arbitration is instituted. The arbitration tribunal shall consist of three arbitrators unless parties agree to one single arbitrator after all. The proceedings shall be conducted in the Dutch language.
- 10.3 RST is entitled to waive arbitration for the collection of monetary claims, in which case the court of competent jurisdiction in Rotterdam shall have exclusive jurisdiction.

Article 11 - Title and authentic text

- 11.1 These conditions may be quoted as the "RST Conditions".

11.2 In the event of any differences between the English text of the RST Conditions and a translation thereof into another language, the English text shall prevail.