

PO Box 2  
6800 AA Arnhem  
The Netherlands

Tivolilaan 205  
6824 BV Arnhem  
The Netherlands

**T** +31(0)880041900  
**E** [info@caliber.global](mailto:info@caliber.global)  
**W** [www.caliber.global](http://www.caliber.global)

**CALIBER.GLOBAL GENERAL TERMS AND CONDITIONS**  
***(for the delivery of Services by Caliber to Principal)***

**1. DEFINITIONS**

In the present general terms and conditions, the following is defined as set out below:

- Principal: the natural person, legal entity and/or the party issuing the order and/or requesting for services;
- CALIBER: means Caliber.global B.V. and/or Caliber Americas LLC and/or the Caliber affiliated company who is or plans to be engaged with Principal;
- The Agreement and/or the Order: the contract for logistic and/or professional and/or consultancy services and activities between the Principal and CALIBER under which CALIBER undertakes to perform services for the Principal;
- Party: CALIBER or the Principal;
- Parties: CALIBER and the Principal jointly;
- Terms: means these STANDARD TERMS AND CONDITIONS FOR THE DELIVERY OF SERVICES contained herein.

**2. APPLICABILITY**

- 2.1** These Terms are applicable to all offers, quotations, Orders and/or Agreements between CALIBER and the Principal.
- 2.2** Personnel and third parties called in by or on behalf of CALIBER to execute the Agreement can also invoke these Terms against the Principal.
- 2.3** Derogations from these Terms will be valid only if the Parties have agreed on these explicitly and in writing.

**3. THE FORMATION OF THE AGREEMENT**

- 3.1** Unless the Parties agree otherwise, the Agreement will be formed by the Terms and the order confirmation by or on behalf of the Principal.
- 3.2** If the Order is issued orally or when CALIBER has not (yet) received the order confirmation, the Agreement will be deemed to have been concluded under the applicability of the Terms the moment CALIBER commences with the execution of the Order at the Principal's request.
- 3.3** The Agreement will be concluded for an indefinite period, unless the content, nature or purport of the

Order entails that it is for a specific project or definite period.

**4. THE EXECUTION OF THE AGREEMENT AND SPECIFIC CONDITIONS**

- 4.1.1** Any logistics services will be performed by CALIBER either as broker or as freight forwarding agent of the Principal. The LOGISTICS SERVICES CONDITIONS ("LSC") (as filed by FENEX (Netherlands Association for Forwarding and Logistics) and TLN (Transport and logistics Netherlands), with the district court of Rotterdam on 2 April 2014 under number 28/2014) apply supplementary to the Agreement and the Terms ([www.tln.nl](http://www.tln.nl)).
- 4.1.2** If and when CALIBER is instructed by the Principal to perform advisory or consultancy services, it will do so to the best of its professional knowledge. The Principal will however always remain responsible and liable for its actions or omissions and the consequences thereof, resulting from adhering or following such advice.
- 4.1.3** If and when CALIBER is instructed by the Principal to perform construction, construction management, design or assembly services, it will do so as intermediary, instructing a contractor or architect on behalf of the Principal. In case CALIBER itself is considered the contractor, the AVA 2013 (for construction/installation) and the DNR 2011 (for design and advice) conditions apply supplementary to the Agreement, without prejudice to clause 13.1 of these Terms. CALIBER will not be liable for any damage resulting from design, construction and/or installation services.
- 4.2** In case CALIBER would be considered actual carrier by law, the following regulations will apply to the Agreement and these Terms:
- 4.2.1** For international carriage by road, the CMR Convention and the terms and conditions of the waybill;
- 4.2.2** For national carriage by road, the local law applicable and the terms and conditions of the waybill;
- 4.2.3** For international carriage by sea: The Hague-Visby Rules and the terms and conditions of the seaway bill or Bill of Lading;
- 4.2.4** For national and international carriage by inland navigation: the CMNI Convention and the terms and conditions of the waybill or Bill of Lading;

- 4.2.5 For national and international carriage by air: the Montreal Convention 1999 and the (IATA) terms and conditions of the airway bill;
- 4.2.6 For national and international carriage by train: the COTIF/CIM Convention and the terms and conditions of the waybill.
- 4.3** For storage and warehousing services performed by CALIBER, the LSC apply supplementary to this Agreement and the Terms ([www.tln.nl](http://www.tln.nl)).
- 4.4** With respect to the Agreement, these Terms and any specific conditions or regulations as mentioned above, the following order of precedence has to be taken into account:
- The Agreement;
  - The Terms;
  - The specific conditions or regulations for the specific service or mode of transport mentioned in this clause 4;
  - The terms and conditions of the waybill for the specific mode of transport mentioned in this clause 4;
  - The law applicable to the specific service or mode of transport.
- 4.5** All dates, times and schedules agreed by CALIBER in connection with the execution of the Agreement will be estimates only, and will not be binding on CALIBER. Any liability of CALIBER for damage or loss due to delay, demurrage and/or detention is excluded.
- 4.6** If a certain or specific service has been agreed, CALIBER can only invoice the Principal for extra services if the Principal had given its prior permission for such extra services. If CALIBER is however required to undertake extra services on the basis of its duty of due care it is authorized to invoice the Principal for these services, even if the Principal had not given its prior permission for such extra services.

**5. THE PRINCIPAL'S OBLIGATIONS**

- 5.1** The Principal warrants that all data and records which are necessary for the prompt and proper execution of the Order are correct and are made available to CALIBER in time.
- 5.2** The Principal must ensure that CALIBER is informed without delay of any facts and circumstances which could be relevant to the execution of the Order.
- 5.3** The Principal ensures that the data and records made available to CALIBER are accurate, comprehensive and reliable, even if these are obtained from or via third parties. CALIBER is not

liable for loss or damage of any kind whatsoever as a result of CALIBER's use of any incorrect or incomplete data provided by or on behalf of the Principal.

- 5.4** The Principal is fully responsible and liable for all the materials and resources and all its personnel, auxiliary and otherwise, which it makes available to CALIBER in connection with the execution of the Agreement. The Principal is fully responsible and liable for any acts or omissions by such personnel, irrespective of whether these are employed by the Principal.

**6. CONFIDENTIALITY**

- 6.1** Subject to the Parties' statutory obligation to disclose information, and subject to the Parties' permission to disclose information, CALIBER and the Principal will observe confidentiality in connection with the existence and contents of the Order, the information provided by the Parties and the results of the services or the work.

- 6.2** This clause is not applicable to information which was already in the public domain before the Agreement was concluded or (to the extent necessary) to subcontractors called in by the Parties in connection with the execution of the Agreement.

**7. DATA PRIVACY PROTECTION**

- 7.1** CALIBER processes personal data in accordance with applicable national and/or international data protections laws, both within as outside the EU.
- 7.2** In case CALIBER processes personal data for the Principal under the Agreement, CALIBER will be qualified as data processor and the Agreement will also qualify as data processing agreement. CALIBER will solely process received personal data further to documented instructions from the Principal and will not in any way use such personal data other than necessary for its performance under the Agreement.
- 7.3** CALIBER will implement appropriate technical and organizational security measures to ensure confidentiality and protection against loss or unlawful processing. CALIBER will at the choice of the Principal, delete or return all personal data after the end of the provision of services relating to processing, unless storage is required by law.
- 7.4** At its first request CALIBER will assist the Principal and provide all information available which enables the Principal to comply with its own statutory obligations and to demonstrate this. The Principal acknowledges and agrees that under the Agreement, CALIBER makes use of other

processors. CALIBER will impose upon such further processors the same data protection obligations as stipulated in this article.

**7.5** CALIBER is not liable for damage of any kind resulting from its processing of personal data under the Agreement. The Principal indemnifies CALIBER (in its role of data processor or otherwise) against any damage or loss of the Principal or a third party, resulting directly or indirectly from CALIBER its processing of personal data.

## **8. INTELLECTUAL PROPERTY RIGHTS**

**8.1** CALIBER reserves and maintains to keep in any circumstances all rights in connection with the intellectual property which it owns, uses or has used and/or develops and/or has developed in connection with the execution of the Order, including but not limited to the applications "MYCALIBER" and "TRACT".

**8.2** Unless the Parties explicitly agree otherwise, the Principal warrants that CALIBER can freely use documents, data and information which it provides to CALIBER in connection with the Agreement without infringing on any intellectual property rights. CALIBER is not liable for damage of any kind whatsoever as a result of the aforementioned use.

## **9. RATES AND PAYMENT**

**9.1** The Principal accepts that CALIBER will periodically review its rates, *inter alia* on the basis of developments in prices, wages and salaries. Unless agreed otherwise, all rates are exclusive of VAT and other taxes, levies and charges imposed by government agencies.

**9.2** The Principal must make full payment without any form of discount or setting-off within 14 days of the invoice date. Payment must be made in the currency and into the bank account as designated by CALIBER. Objections to CALIBER's invoices will not suspend the Principal's payment obligations.

**9.3** If it fails to arrange payment within the period referred to in clause 9.2, the Principal will be in default by the operation of law. In that event, the Principal will be required to pay statutory commercial interest over the outstanding sum as from the due date. In addition, all the collection costs incurred after the Principal's default, both judicial and extra-judicial, will be for the Principal's account. The extra-judicial costs will be fixed at 15% of the principal sum plus interest, without prejudice to CALIBER's right to claim the actual costs. The judicial costs include all the costs incurred by CALIBER, even if these exceed any fixed tariff.

**9.4** CALIBER may require the Principal to pay an advance and/or to provide additional security in a manner to be decided by CALIBER. If the Principal fails to provide such security, CALIBER is authorized to immediately suspend its performance of the Order, without prejudice to its other rights, and CALIBER will be authorized to demand the immediate performance of any obligations which the Principal may have towards CALIBER on any grounds whatsoever.

**9.5** In the event of a joint Order, the Principals (whether acting as consortium or as joint venture) will be jointly and severally bound to pay CALIBER all sums payable pursuant to the Agreement.

## **10. SUSPENSION, RETENTION AND TERMINATION**

**10.1** CALIBER may suspend the execution of the Agreement, at any time if the Principal is in default in its execution of its obligation(s) under the Agreement or under other agreements between the Parties. No prior notice of default or announcement will be necessary.

**10.2** Any costs, loss and/or damage resulting from a suspension described in clause 10.1, will be for the Principal's risk and account. CALIBER will remain fully entitled to the agreed fees or freight.

**10.3** With respect to any debt, outstanding amount or default of the Principal under the Agreement or other agreements between the Parties, CALIBER has a right of retention and/or a possessory lien on all assets of the Principal within the custody of CALIBER.

**10.4** The Agreement cannot be terminated in the interim by Principal. If the Agreement is however terminated or considered to be terminated in the interim, CALIBER will be entitled to- and the Principal will be liable for compensation of the loss and/or damage which CALIBER incurs, as a result of the loss of potentially-productive capacity and any additional costs which it is reasonably required to incur as a result of the interim termination of the Agreement, unless the facts and circumstances which gave rise to the termination can be attributed to CALIBER in full.

## **11. COMPLAINTS**

**11.1** At all times the Principal is required to notify CALIBER in writing of any complaints concerning the services performed and/or sums invoiced by CALIBER within 14 days of discovering the matter of which it wishes to complain or, in the absence thereof, within 14 days of the execution of the Order.

**11.2** If the Principal fails to lodge a complaint within the period referred to in clause 11.1, all its rights and its

claims towards CALIBER, on any grounds whatsoever, in connection with the matter on which it is lodging the complaint or the period within which it could have lodged the complaint, will lapse, be cancelled and will be null and void.

**12. WAIVER OF RIGHTS**

CALIBER's failure to immediately enforce a right or exercise a power will not prejudice or restrict its rights and powers under the applicable law, Agreement or the Terms. A waiver of rights under the Agreement or the Terms will only be effective if these are agreed in writing.

**13. LIABILITY AND INDEMNITY**

**13.1** Notwithstanding anything to the contrary and save for willful misconduct, any liability of CALIBER under the terms of the Agreement or on whatever other ground (whether under contract or in tort) towards the Principal, is at all times restricted to the sum paid out by its insurers in that case. If and to the extent no payment is made under the aforementioned insurance for any reason whatsoever or if no such insurance was taken out, CALIBER's aggregate liability is limited to the total fees or freight for which CALIBER has invoiced the Principal in the preceding six (6) months, with a maximum of USD 50,000.

**13.2** Any liability of CALIBER for consequential or indirect damages (such as but not limited to lost profit) of the Principal is excluded.

**13.3** Any liability of CALIBER for loss, damages, fines, penalties or levies resulting from customs services and/or from the import or export of goods is excluded.

**13.4** The Principal will indemnify CALIBER for any loss or damage exceeding the limitations or exclusions of liability mentioned in the Terms. The Principal specifically indemnifies CALIBER against and in connection with any damage, loss, claims or proceedings lodged against CALIBER in connection with any events, damage, loss, costs and/or fines or penalties in connection with that which is provided for (but not limited to) in clauses 4.1.2, 4.1.3, 4.5, 5.3, 5.4, 7.5, 8.2, 13.2 and 13.3.

**13.5** The Principal shall take out proper insurance and coverage to insure itself against the aforementioned liabilities and indemnities. Upon CALIBER's request, the Principal will have CALIBER mentioned as co-insured under its relevant policies in this regard and it will provide CALIBER with copies of these policies. The insured under the policies mentioned will be third parties towards each other and the insurers will waive any rights of recovery against CALIBER.

**14. EXPIRY OF CLAIMS**

Without prejudice to the provisions of clause 11, any claims and/or rights of claim the Principal may have against CALIBER on any grounds whatsoever in connection with the Agreement, the Terms or on any other grounds, will lapse and be cancelled if such claim has not been lodged within one (1) year of the event which gave rise to that claim before the court or arbitral tribunal having jurisdiction.

**15. ASSIGNMENT OF THE AGREEMENT**

The Principal is not permitted to transfer or assign the Agreement or parts thereof to third parties, unless CALIBER consents thereto explicitly. If CALIBER consents to such a transfer, the Principal will remain liable for the obligations under the Agreement and the Terms towards CALIBER in addition to the assignee.

**16. APPLICABLE LAW AND JURISDICTION**

This Agreement and the Terms are subject to the laws of the country and state where the contracting entity of CALIBER is located. The courts/arbitrators having jurisdiction over any disputes under this Agreement are: for CALIBER US/Canada contracting entities, the competent state and federal courts lying in Columbus OH (US), for CALIBER Asia contracting entities, arbitration in Hong Kong (PRC) according to the HKIAC rules, and for CALIBER European contracting entities, the civil court of Amsterdam (The Netherlands).

**17. FINAL PROVISIONS**

**17.1** If it appears to be impossible to invoke any provision of the Agreement and/or the Terms, the content and purport of that provision must at any rate be interpreted in such a way that it can be invoked as closely as possible, without prejudice to the validity of the remaining provisions of the Agreement and the Terms.

**17.2** CALIBER hereby explicitly rejects- and the Principal hereby waives applicability of any of the Principal's general terms and conditions. The present Terms will be deemed always to be the first set of terms and conditions invoked.

**17.3** These Terms have been filed with the clerk of the District Court of Arnhem (Gelderland), The Netherlands under number 34/2024.