

# GENERAL CONDITIONS FOR CARGO TRANSPORTATION

For definition purposes, please refer to IATA TACT Rules.

## Article one – Definitions

**Agent / Agente:** Individual or company authorized to act for or on behalf of another individual or company.

**Airline / Aerolínea:** This item includes the airline that issues the air waybill and all airlines transporting the goods covered by said air waybill.

**Air Waybill / Guía Aérea:** Document filled out by, or on behalf of the shipper. This document sets forth the conditions of the air transportation contract signed by and between the shipper and the carrier(s) for shipping goods through the carrier routes.

**Carriage / Transporte:** Transportation of goods either free-of-charge or charged, including acceptance, transportation and delivery airport-to-airport.

**Carrier / Transportador:** For the purpose of these conditions, carriers are the parties committed to transport goods by virtue of this contract.

**Charges Collect / Cobros en Destino:** Charges included on the air waybill that must be charged to the consignee.

**Charges Prepaid / Cobros Prepagados:** Charges recorded on the air waybill that must be paid by the shipper.

**Conditions / Condiciones:** General conditions for goods transportation, as set forth in this document, its annexes and amendments.

**Consignee / Consignatario:** Individual or company whose name appears on the air waybill as the person who will receive the cargo.

**Consolidation (Freight Forwarding) / Consolidado:** Multiple piece shipment sent by more than one shipper who entered into a cargo transportation agreement with a party other than the airline (Freight Forwarder).

**Contract of Carriage / Contrato de Transporte:** Cargo transportation contract as specified on the air waybill and as set forth in these general transportation conditions.

**Domestic Carriage / Transporte Doméstico Nacional:** Transportation of goods between two airports or cities in Colombia.

**Force Majeure / Fuerza Mayor:** All circumstances beyond the will of man, and which is not in his power to control, and such force majeure is sufficient to justify the non-execution of a contract. This, war, inundation, actions of governments or governmental agencies or other political subdivisions, strikes, riots, and internal commotion shall be considered force majeure.

**Freight Charges / Flete:** Applicable weight or volume unit rate. Goods / Mercancías: Cargo transported in the aircraft.

**House Air Waybill / Guía Hija:** Air waybill that covers each individual shipment in a consolidation. This air waybill is issued by the consolidator (Freight Forwarder) and contains instructions for the de-consolidator (clearing agent).

**International Carriage / Transporte Internacional:** Transportation of goods between two places where the place of origin and the place of destination are located in two different countries.

**Master Air Waybill / Guía Master:** Air waybill that covers a consolidated shipment where the consolidator (Freight Forwarder) acts as the shipper.

**Montreal Convention / Convenio de Montreal:** Agreement among countries for the purpose of unifying the standards of International Transportation of Air Cargo. This convention was signed in Montreal in 1999 with later modifications; ratified by Colombia on March 28, 2003.

**Other Charges / Recargo:** Additional charges including, but not limited to, fuel surcharges, security surcharges, terminal fee, etc.

**Rate / Tarifa:** Weight or volume unit charge.

**Shipment / Embarque:** This means one or more pieces of goods accepted by the carrier, received from the shipper, and covered by an air waybill for a consignee.

**Shipper / Embarcador:** Individual or company listed on the air waybill as the party that enters into a contract with the carrier for cargo transportation.

### **Unaccompanied Luggage / Equipaje no**

**Acompañado:** Luggage transported as cargo. This luggage only includes the passenger's personal belongings. It must always be accompanied by a packing list in English and in the official language of the country of destination. This type of shipment will only be transported within the same points (airports) for which the passenger holds an airline ticket. The passenger must fill out all documents required for shipping and customs processing, and will be responsible for all additional charges incurred in the delivery handling and customs. The luggage must be cleared by the passenger in person, or by his / her agent. The passenger's ticket number, flight, airline and flight date must be included on the air waybill. The carrier, at its sole discretion, will decide the flight for luggage shipment.

Warsaw Convention / Convenio de Varsovia: Agreement among countries for the purpose of unifying the standards of International Transportation of Air Cargo. This convention was signed in Warsaw on October 12, 1929 with later modifications; ratified by Colombia on May 20, 1982.

Warehouse Receipt / Recibo de Bodega: Document issued by the airline at cargo acceptance. This document includes weight, volume, number of pieces, temperature (if applicable), visible shipment conditions, and the covering master air waybill number.

## **Article two - Applicability of conditions**

### **1. Overview**

These conditions will apply to all transportation of goods, including all acceptance, transportation and delivery services (airport-to-airport) provided by the airline. If said transportation is an "international transportation", it will be subject to the Warsaw and / or Montreal Convention provisions (as applicable). If said transportation is "domestic transportation", it will be subject to Colombian law.

### **2. Standards**

The transportation of goods by the Airline will be regulated by the latest edition of the IATA TACT

standards regarding cargo handling and documentation, provided that these standards are not in conflict with the air waybill provisions and with these transportation conditions.

### **3. Parties**

The following will be the parties of the contract: The Airline, the shipper and the consignee.

## **Article three - Air waybill preparation**

The shipper will prepare, or will request the Airline in writing to prepare, on its behalf, an air waybill with the number of copies required by the Airline, and will submit this air waybill to the Airline along with the goods. Transportation charges and other charges must be agreed upon with the Airline. The information concerning number of pieces, dimensions, weight and visible condition of the cargo must coincide with the information stated on the warehouse receipt.

The Airline may demand the shipper to prepare or have a third party prepare, on its behalf, independent air waybills in case of more than one (1) piece, or when the complete shipment cannot be carried in a single airplane, or under a single air waybill, without any infringement of government or the Airline's regulations.

### **Visible Cargo Conditions.**

If the visible conditions of the goods / or packing are improper, the shipper must specify the actual shipment conditions on the air waybill. However, if the shipper makes no comments or if the visible shipment condition description is improper, the Airline will write down a description of the visible conditions of the goods on the warehouse receipt.

### **Preparation or Correction of an Air Waybill by the Airline.**

The Airline, after receiving the shipper's request in writing, will issue the air waybill and it will be considered that the Airline has issued said air waybill on behalf of the shipper.

If the air waybill sent with the goods lacks all details required or in case of errors therein, the Airline will not accept the air waybill.

## Responsibilities About the Details

The shipper will inform the Airline the consignee's name and address, the place of delivery, the nature, number, weight and volume of the goods; the absence, lack of accuracy or insufficient instructions described in the contract or in the transportation document, as well as packaging defects will result in liability by the shipper to the Airline, the consignee and before third parties for all damage caused resulting from the lack of required precautions and for the omission, forgery or lack of accuracy of the previously mentioned data or for the defective packaging. The Airline may, at any time, check the accuracy of the previous instructions, as well as the packaging or packing conditions, but not their contents and nature, and must take the necessary measures for such, and may reserve its right to receive or transport goods.

## Alterations

The Airline will not accept the air waybills with altered or amended contents.

## Article four - Rates, charges and payments

**a.** The rates and charges regulated by these conditions are the same as those published by the Airline, effective on the issue date of the air waybill, or the rates and charges specifically agreed upon by and between the Airline and the shipper for one or more specific shipments.

**b.** Freight charges include shipment acceptance, transportation and delivery from the airport of origin to the airport of destination.

**c.** Other charges may apply. For example, said charges may include, but are not limited to, storage costs, additional fuel charges, security or ground transportation, air waybill clearance, additional documentation handling, transfer to other means of transportation, cargo handling, etc...

**d.** The volume of each shipment shall not exceed six (6.0) cubic decimeters by kilogram (kg.); if the volume of any shipment exceeds six (6.0) cubic decimeters by kg., charges will be made according to the volume, at one kilogram per each six (6.0) cubic decimeters.

## Payment

**a.** The rates and other charges will appear in the currency stated in the air waybill and will be paid to the Airline in US Dollars or in the currency of the country of destination, at the official exchange rate valid on payment date.

**b.** All payments incurred in or to be incurred in by the Airline including, but not limited to, duties, tariffs, taxes, fees and others will be paid by the shipper or the consignee, even if the goods are damaged or lost or if the goods do not arrive to the destination specified on the air waybill.

**c.** All charges, sums and advances will be paid as soon as the Airline receives the goods, except for those payments agreed upon otherwise among the parties.

**d.** For receiving the goods or exercising any other right resulting from the transportation contract, the consignee must pay all charges, sums and payments, excluding those paid in advance. Also the shipper will be responsible for paying these amounts, regardless of whether the goods were shipped prepaid or charged on delivery (collect).

**e.** The shipper guarantees payment of all charges, advances and disbursements of Carrier, and all costs, expenditures, fines, penalties, loss of time, damages and other sums which Carrier may incur or suffer by reason of the inclusion in the consignment of articles, the carriage of which is prohibited by illegal, incorrect or insufficient marking, numbering, addressing or packing of packages or description of the goods, or the absence, delay or incorrectness of any export or import license or any required certificate or document, or any improper customs valuation, or incorrect statement of weight or volume.

The shipper, the owner of the goods, the consignee, their agents and / or representatives will accept the fact that the Airline can make a preventive attachment (lien) of the goods of any of the above if no payment is received. The Airline may also have the right to dispose of the goods according to the regulations applicable at the place where the shipment is located.

However, this provision will not release the shipper from its obligation to pay the amounts not covered, nor the carrier's right to collect any additional value.

**f.** The Airline will not be obliged, under any circumstance, to incur in any expense or to make any

advanced payment related to the shipment or reshipment of goods, except against advanced payments made by the shipper.

**g.** The Airline will accept shipments with their corresponding advanced payment. COD (charge on delivery / collect) shipments may only be accepted by the Airline if prior arrangements have been made and if the consignee has confirmed that he will pay all freight charges. However, shipments containing the following items will only be accepted for transportation if charges are paid in advance:

**I.** Household goods and personal effects

**II.** Items sent to persons in prison

**III.** Shipments sent to government agencies, except when said shipments are sent by government agents submitting proper credentials.

**IV.** Consignments of which the commercial value is less than the charges there on

**V.** Any type of perishable goods

**VI.** Any kind of animals

**VII.** Human remains

**VIII.** Any type of newspaper, magazine, pamphlet, advertising material or samples with no commercial value.

**h.** No set-off or counter-claim whether arising in respect of the same or any other carriage shall entitle, or be made a reason for, the withholding of immediate payment of any charges or other sums whatever payable to the Carrier under or by reason of these Conditions or otherwise howsoever in respect of any carriage.

## **Article five – Acceptance Of goods for transportation**

### **Paragraph One. Declared Values**

Shipments with a declared value for transportation will not be accepted as such. The air waybill must be marked as “no value declared” (NVD) in the appropriate box.

## **Paragraph Two. Goods’ Packing and Labeling**

All goods must be packed so as to ensure safe carriage with ordinary care in handling and so as not to injure or damage any persons, goods or property. Each package shall be legibly and durably marked with the name and full postal address of the shipper and consignee and the marks and numbers appearing on the air waybill. Each piece (smallest external package unit) shall have a bar coded label (according to the Airline’s requirements) attached to it. If the goods submitted for transportation seem to be damaged or deteriorated, the Airline reserves the right to accept the shipment.

### **All packing will be:**

- Checked prior to use to make sure that goods are free of corrosion, contamination or any other damage.
- Free of any sign indicating that the integrity is compromised.
- Built, closed and prepared for air transportation in such a way that leaks are avoided during air transportation, caused by temperature changes, moisture, pressure or common vibration during air transportation.
- Built to hold the weight of cargo contained therein.
- Marked or labeled indicating if the cargo requires special handling (arrows, this side up, fragile, do not stack, etc.)
- Designed to prevent inside cargo movement.
- Compatible with substances contained therein.
- Designed taking into account possible stacking during air transportation.
- Fitted with a base that can be handled with a forklift if the piece weighs more than 50 Kg.

### **The shipper will be responsible for packing all goods.**

The shipper will deliver all goods in the appropriate conditions and properly packed, if so required. The Airline will not be liable for damages, partial or total losses, destructions, explosions or decreases occurred during transportation, storage or delivery of the goods, caused by improper status of cargo or improper packing, and goods will be transported only

if the shipper assumes full responsibility for damages, partial losses, destructions, explosions or decreases occurred during goods' transportation, storage or delivery.

This will be listed in the warehouse receipt (attached to this document) and will be considered accepted by the shipper or its agent by signing the warehouse receipt.

### **Paragraph Three. Booking**

For all shipments to be transported by Carrier, a reservation (booking) has to be made.

The Airline accepts no liability for any shipments, delivered to the Carrier or to the Carrier's handling agent, unless a reservation (booking) for the shipment has been made with, and confirmed by, the appropriate booking office of the Carrier.

### **Paragraph Four. Acceptable Goods**

Not all classes, types or description of goods will be accepted for air transportation.

No article shall be permitted on board the aircraft either as baggage, cargo or otherwise, which cannot be transported in accordance with applicable laws and governmental or Carrier's regulations or which in the opinion of Carrier is of a dangerous, hazardous or offensive nature or of which the exportation, importation or carriage is prohibited by any country or state from, to or over which the flight(s) will be performed or which would endanger the safety of the flight or which would not be suitable for transportation on the aircraft.

The Airline reserves the right to transport the cargo, according to the transportation, handling and storage methods in force.

The shipper will expressly certify that the Airline has not checked the cargo contents and that said contents does not differ from the contents actually declared, as the Airline has accepted to transport said cargo based on the declaration and on the information supplied by the shipper.

The shipper accepts that the Airline is entitled to check the cargo and that it could do so at any time, without limitation, in accordance with the legislation applying at the site where the goods are located. Unless as otherwise specified on the air waybill, the shipper will declare that the goods delivered to the

Airline for transportation are not dangerous goods, contaminants, fuel or explosives, cyanide, deposits, precious metals in bars or in dust, precious or semiprecious stones, including commercial coals, currency (notes or coins) of any nationality, war bonds, blank checks, traveler checks, present and personal letters, postal cards and others that are under the National Postal Administration, antiques, paintings, objects of intrinsic value; organic materials, plants, marijuana, cocaine, narcotics, hallucinating materials or any other illegal article and, consequently, will exempt the Airline from any liability before the authorities, and will indemnify it for all expenses, damages or moral or material prejudices that could be caused as a consequence of breaching this clause or of the applicable standards in the country of origin, in the country of destination, country of transit or country of overflight.

The shipper declares that the Airline may abstain from transporting any cargo as soon as it is aware that it will breach the above mentioned conditions, or may hand over said cargo to the authorities if applicable.

### **Paragraph Five. Goods Accepted Under Prescribed Conditions**

Certain goods are acceptable only under the Conditions indicated in the Airline's Regulations. In case of transport of dangerous or hazardous or offensive cargo such cargo can only be accepted for carriage provided such cargo is packed in accordance with the valid IATA dangerous goods regulations, and accompanied by the required certificates and documents. Such cargo has to be booked by the client 24 hours in advance. The Carrier will have the right to refuse such cargo.

The Airline does not accept any liability for perishable cargo accepted at temperatures below the temperature advised on the air waybill or exceeding the limits as presented below. If the required temperatures are not exactly defined on the master air waybill the Airline will not accept any liability for high-low temperature upon delivery.

**Roses** 7 °C (44.6 °F)

**Carnations** 9 °C (48.2 °F)

**Gypsophila** 5 °C (41 °F)

**Asparagus** 5 °C (41 °F)

**Aromatic Herbs** 5 °C (41 °F)

In case the perishables have been delivered at temperatures exceeding these limits, the shipment will be transported at the shipper's own risk.

We underline that perishables will unavoidably be confronted with a temperature controlled and air pressured environment for many hours during the flights. Although all shipments are transported in one of our modern aircraft, the condition of the perishable cargo in all cases will deteriorate compared to the moment of packing the perishables in the facilities in the countries of origin. The Airline is unable to prevent the first signs of depreciation, as these must be attributed to the delicate and inherently sensitive nature of the product.

#### **Paragraph Six. Responsibility for Non-Observance of Conditions.**

Responsibility for the non-observance of the conditions relating to goods which are not acceptable for carriage or are acceptable only under certain conditions rests upon the shipper and the owner of the goods, who jointly and severally agree to indemnify Carrier for any loss, damage, delay, liability or penalties it may incur because of carriage of any such goods.

#### **Paragraph Seven. Operational**

Control and Discretion of Commander. The aircraft remains at all times under the exclusive operational control of the Airline, which control may be exercised at such times and in such manner as Carrier in its sole discretion may determine.

The commander of the aircraft has complete discretion concerning the cargo, baggage and live stock and its distribution, as to whether or not a flight shall be undertaken and as to where landings should be made and the Shipper shall accept all decisions as final.

The shipper shall strictly comply with all orders of the commander of the aircraft.

### **Article six – During transportation**

#### **Paragraph One. Compliance with Requirements of Authorities.**

The shipper shall Comply with all applicable laws, customs, airport and other regulations, governmental and/or other, of any country to, from, through or over

which the goods may be carried, including those relating to the packing, carriage, delivery or acceptance of the goods, and shall furnish such information and attach such documents to the air waybill as may be necessary to comply with such laws and regulations. The Carrier shall not be obligated to inquire into the correctness, validity or sufficiency of such information or documents. The shipper shall accept all liability with respect to, arising out of or in connection with shipper's failure to comply with this provision and the shipper shall indemnify and hold the Carrier, its personnel and agents free and harmless from all damages, claims and/or costs possibly arising there from or in connection therewith.

The shipper will be bound to supply all reports, instructions and attach the documents required to comply with formalities demanded by the police, the customs division, health division and any other formality required by the authorities of the countries of origin, destination, transit and overflight regarding shipment status as well as transportation, handling and security conditions, when delivering the goods object of this contract. In any case, the Airline will not be bound to verify the validity, accuracy or sufficiency of said reports, instructions and documents. The absence, inaccuracy or insufficiency of the above will result in shipper liability before the Airline, the consignee, the authorities and third parties for the prejudices caused by not taking the necessary precaution measures and for the omission, forgery or deficiency of the previously mentioned data.

#### **Paragraph Two. Customs Formalities**

The Airline is authorized (but shall be under no obligation) to advance any duties, taxes or charges and to make any disbursements with respect to the goods, and the shipper, owner and consignee shall be jointly and severally liable for the reimbursement thereof.

No Carrier shall be under obligation to incur any expense or to make any advance in connection with the forwarding or reforwarding of the goods except against repayment by the shipper.

#### **Paragraph Three. Schedules, Routes and Cancellations.**

a. Times mentioned in time schedules or elsewhere are approximate and not guaranteed and form no part of the contract of carriage. No time is fixed for the commencement or completion of carriage.

The Airline assumes no obligation to carry the goods by any specified aircraft or over any particular route or routes, or to make connections at any point according to any particular schedules, and Carrier is hereby authorized to select or deviate without notice from the route or routes of consignment, notwithstanding that the same

may be stated on the face of the air waybill. The Airline is not responsible for errors or omissions either in time schedules or other representations of the dates or times of departure or arrival, or of the operation of any flight.

b. All shipments will be accepted, subject to the availability of proper aircraft and to space availability.

c. The Airline may without notice substitute alternate carriers or aircraft and if it concludes that because of any fact beyond its control (including but not limited to meteorological conditions, acts of God, force majeure, strikes, riots, civil commotion's, embargoes, wars, hostilities, disturbances, unsettled international conditions or any other factor whether or not of a similar nature) actual, threatened or reported, or because of any delay, demand, condition, circumstance or requirement due, directly or indirectly, to any of the foregoing or not reasonably to be foreseen, anticipated or predicted, or because of any government regulation, order, demand or requirement, or because of shortage of labor, fuel or facilities, or labor difficulties of the Carrier or others, it would be advisable to do so, the Carrier may without notice, cancel, terminate, divert, postpone or delay any flight or the further right of carriage without any liability.

The Airline may cancel the carriage of a consignment upon the refusal of the shipper, after demand by the Carrier to pay the charges or the portion thereof, so demanded, without being subject to any liability therefore.

Whenever a flight is cancelled, postponed or dispatched earlier, or when a flight ends in a place other than the destination, or when canceling, postponing, or ending the transportation of any shipment due to the previously mentioned circumstances, the Airline will bear no responsibility whatsoever. In the event the carriage of the consignment or any part thereof is so terminated, delivery thereof by the Carrier to any transfer agent for transfer or delivery or the placing of such consignment in storage shall be deemed complete delivery under the air waybill, and the Carrier shall be

without any further liability with respect thereto, except to give notice of the disposition of the consignment to the shipper or to the consignee, at the address stated in the air waybill.

The Airline may, but shall not be obligated to, forward the consignment for carriage by any other route or forward the consignment as agent for the shipper or the consignee, for onward carriage by any transportation service on behalf of the shipper or the consignee.

d. Subject to applicable government laws, regulations and orders, the Airline is authorized to determine the priority of carriage as between consignment and as between consignments and other goods and to decide which goods shall be carried and which goods shall not be carried or shall be removed at any time or place whatsoever and to proceed with any flight without all or any part of the goods in one consignment.

e. The Airline is authorized to carry the consignment without notice wholly or partly by any means of surface transportation or to arrange such carriage; such carriage shall be upon the same terms as to liability as set forth in Article 10 hereof.

f. The Airline reserves the right to charge the shipper a cancellation fee for certain shipments, which shipper shall be bound to pay to Carrier if a shipment for which a reservation (booking) has been made, is subsequently cancelled by the shipper or if shipper fails, for whatever reason, to deliver all or part of the shipment, ready for carriage, at the premises, designated by the Carrier in due time for preparation and loading onto the aircraft, operating the flight for which the shipment is booked. The Airline will inform the shipper whether a cancellation fee will be applicable to a certain shipment, as well as the amount of the applicable cancellation fee, simultaneously with the confirmation of the reservation (booking) of the shipment.

Without prejudice to the provisions of this paragraph 3 subparagraph f, the shipper shall hold the Carrier free and harmless from all claims by other persons having contracts with the shipper, should claims arise from cancellation by the shipper, from late delivery of the consignment or any other act or omission by shipper, resulting in the consignment not being carried as booked.

The shipper cannot cancel the carriage of a consignment in order to obtain better conditions or to have the carriage executed by another carrier.

#### **Paragraph Four. Certain Rights of the Airline over Consignment during Carriage**

If in the opinion of the Carrier it is necessary to hold the consignment at any place for any purpose, either before, during or after transit, the Carrier may upon giving notice thereof to the shipper or consignee at the address stated in the air waybill, store the consignment at the account and at the risk and expense of the shipper, consignee and owner of the consignment, or any one of them, in any warehouse or other available place, or with the customs authorities; or the Carrier may deliver the consignment to another transportation service for onward carriage to the consignee. The shipper, consignee and owner of the consignment shall be jointly and severally liable for and indemnify the Carrier against any expense or risk so incurred.

### **Article seven - Delivery and failure to deliver**

#### **Paragraph One. Delivery to Consignee**

a. Unless as otherwise specifically provided in the contract of carriage, delivery of the consignment will be made only to the consignee named on the face of the air waybill unless such consignee is one of the carriers participating in the carriage, in which event delivery shall be made to the person indicated on the face of the air waybill as the person to be notified.

b. The Airline will deliver the shipment only after receiving written confirmation from the consignee, which will be considered formalized when the air waybill or the delivery receipt is signed by the consignee, its agent or representative, and after following all of the air waybill applicable terms and conditions as well as the conditions herein.

c. When the consignee receives the goods transported with no consignee observations, the contract will be considered fulfilled.

#### **Paragraph Two. Notice of Arrival**

If the destination of the consignment is the destination named on the air waybill, notice of arrival of the consignment will, in the absence of other instructions,

be sent to the consignee, or the person to be notified, by ordinary methods (including, but not limited to, telex, telegram, e-mail, fax) ; the Carrier is not liable for non-receipt or delay in receipt of such notice.

#### **Paragraph Three. Place of Delivery**

The consignee will accept the shipment and will pick it up at the destination airport or at the place determined by the legislations in the country of destination, unless the shipper or consignee and the carrier had arranged a delivery service at the consignee's address.

#### **Paragraph Four. The Consignee Rejects the Delivery**

a. If the consignee refuses or fails to take delivery of the consignment after its arrival at the destination named in the air waybill, the Carrier will endeavor to comply with any instructions of the shipper set forth on the face of the air waybill. If no such instructions are so set forth, or if such instructions reasonably cannot be complied with, the Carrier, after forwarding to the shipper notice of the failure of the consignee to take delivery, may:

I. Return the shipment to the departure airport using its own transportation services or using a different transportation service unless as otherwise specified by the shipper; or

II. Dispose of the shipment as set forth in the regulations that apply at the place where the shipment is located.

b. The shipper and the shipment owner will agree to pay for all charges and expenses resulting from or related to the rejection of the shipment, including, but not limited to, the transportation charges incurred in returning the shipment. If the shipment is returned to the departure airport and if the shipper or owner refuse or forget to make the payments within the next 15 calendar days after the return, the Airline may dispose of the shipment according to the regulations that apply to the place where the shipment is located.

c. However, the shipment disposal will not exempt the shipper and / or owner from any liability established in the contract or from paying any outstanding sum to the Airline.

#### **Paragraph Five. Disposal of Perishables**

When a shipment that contains perishable items is not claimed or is not accepted at the place of destination

or may become deteriorated, the Airline may immediately take the necessary measures it deems convenient to protect itself and the other parties, including, but not limited to the destruction or abandonment of all or part of the shipment, making collect calls to obtain instructions, storage of the complete shipment or of part of it at the shipper's own cost and expense, or the disposal of the shipment or of part of it as established in the regulations in force where the shipment is located.

However, the shipment disposal will not release the shipper and / or owner from any liability established in the contract or from paying any outstanding sum to the Airline.

## **Article eight – Forwarding and reforwarding.**

Shipments will be considered received for air transportation from the time they are received at the terminal or the Airline airport office in the place of origin.

Shipments will be considered as accepted for air transportation from the moment of the complete reception of the shipment at the terminal or the Airline airport office in the place of origin, with all documentation required for the transportation, until it is delivered to the destination airport or to the place determined by the legislation in the country of destination.

If this is agreed or if the legislation in the origin or destination countries should so require, the shipments may be accepted for delivery to the departure airport and / or to be dispatched beyond the destination airport.

If said shipment or reshipment is made by the Airline or by the Airline's personnel, said transportation will be made under the same liability terms set forth in article 10 herein. In any other case, The Airline will act as shipper, owner or consignee's agent when shipping or reshipping goods and the Airline will not be liable for any damage resulting from said additional transportation, unless it is proven that said damage was caused by its own negligence or premeditated fault and that it does not exceed the limits established in Article 9 herein.

The shipper, owner or consignee authorize the Airline to follow the measures it deems convenient for said

shipment and reshipment including but not limited to, the selection of shipment or reshipment means and their routes (unless they have been specified by the Airline on the air waybill), the execution and acceptance of transportation documents (which must contain provisions that exempt or limit liability) and the shipment of goods.

## **Article nine - Liabilities of the airline**

### **Paragraph One. Applicable Laws and Provisions**

**a)** The international transportation provided herein will be subject to the rules and limitations related to the liability set forth in the Warsaw Convention and / or Montreal Convention, whichever is applicable. (Please refer to Article One, Definitions "Convention").

**b)** The domestic transportation provided herein is ruled by the Colombian law that applies to cargo transportation, and the provisions in the Commerce Code regarding goods' transportation.

**c)** In case of conflicts with the provisions set forth in previous subparagraphs, all transportation and other services rendered by each carrier will be subject to:

**1.** The applicable laws, including the national laws implemented by the Conventions or extended by the Convention rules to transportation that is not international in the Conventions, regulations, mandates and government requirements.

**2.** The carrier conditions, rules, regulations and applicable schedules (except for the departure and arrival times specified therein).

**d)** For the Convention purposes, the stopping places other than the place of departure and the place of destination will be those established by the carrier, and may be changed by the carrier when deemed convenient.

### **Paragraph Two. Liability Limitation**

Except as otherwise provided in the Conventions or in other applicable laws:

**a)** The Airline is not liable to the shipper or to any other person for any damage, delay or loss of whatsoever nature (hereinafter collectively referred as "damage") arising out of or in connection with the carriage of the goods or other services performed by

Carrier incidental thereto, unless such damage is proved to have been caused by the negligence or willful fault of the Carrier against whom the claim is made, and there has been no contributory negligence of the shipper, consignee or other claimant.

**b)** The Airline will not be liable for any damage caused directly or indirectly by complying with applicable laws, regulations, mandates or government requirements or for any cause beyond the Airline's control.

**c)** The goods to be transported will be deemed accepted for transportation with no declared value, even if this value is included on the air waybill.

**d)** The Airline will not be liable for any loss or damage resulting from inherent defects, quality or vice of the goods transported and/or the packing used. Shipments with contents that can deteriorate or perish due to temperature changes, climate, altitude or other regular exposure, or due to the time in transit, will be accepted under no responsibility by the Airline.

The Airline will not be liable for the loss of, or injuries caused to live animals due to natural causes, or resulting from the behavior or actions of the animals or assisted by the condition, nature or proneness of the animals.

**e)** In no event will the Airline be liable for the death or injuries caused to an animal attendant caused or contributed to by the condition, behavior or actions of one or more animals or of the animal attendant. No such attendant shall be permitted on an aircraft of the Airline unless such attendant has a valid passenger ticket issued by the Airline.

**f)** In no case will the Airline be liable for the damage or destruction of a shipment caused by or resulting from the goods contained therein, and the shipper, owner or consignee whose property causes damages or destruction to another shipment or to the Airline property will indemnify the Airline for all consequential losses and expenses it incurs. The goods that may cause damage to the airplane, individuals or property may be abandoned without prior announcement and without implying any liability to the Airline, as set forth in the laws of the places of origin, over flight, transit and destination.

**g)** The transportation contract will not imply any warranty concerning a specific airplane for carrying cargo or concerning the fitness of this airplane for transporting the goods referred to in the contract.

**h)** The Airline shall not be liable in any event for any consequential or special damages arising from carriage subject to these conditions, whether or not Carrier had knowledge that such damages might be incurred.

**i)** The Airline will not be liable for any damage or loss resulting from or associated with the assistance, aid or information supplied by an Airline agent or employee to shippers, owners or consignees or to their agents or employees.

**j)** Whenever Carrier's liability towards shipper and consignees is limited or excluded under these Conditions or under applicable laws (including the Convention), the shipper and consignee, jointly and severally, shall hold Carrier free and harmless from any third party claims concerning goods carried (whether based on tort or on a contract between Carrier and such third party) instituted in excess of such limitations or notwithstanding such provisions excluding Carrier's liability.

**k)** The Airline will only be bound to deliver the goods transported with the same weight, number and measure if the transportation document specifies it in its receipt in any of these manners, as set forth by the laws in the places of origin, over flight, transit and destination.

**l)** When due to actions of authorities like customs, police, army, health division and others the cargo is seized due to causes attributable to the Airline, it will be compared to the loss concept set forth in the Warsaw or Montreal Convention, whichever applies to the purpose of the claim.

**The Airline will be exempt from any liability in the following cases:**

**a)** Loss, damages, prejudices, decrease, etc. caused by inappropriate packing,

**b)** Delays when collecting, transporting, delivering or delivering wrong items and if it is caused by the shipper or by third parties.

**c)** Due to an Acts of God or force majeure. All events or acts that are beyond the Airline's control is considered an Act of God or force majeure.

**d)** Acts, omissions or faults committed by persons who are not employed by the Airline, its representatives or dependants; by authority officials including, without limitation, customs, Ministry of

Foreign Affairs in Colombia, or any other agency that exerts legal authority.

- e) Vices that are hidden or inherent to the cargo nature.
- f) Third party events such as strikes, accidents, robbery, riot, civil commotion, public order disruption, explosion, terrorism, fire or firefighting.
- g) Acts performed by any authority when performing their duties, including but not limited to, port authorities, customs, administration authorities or police.
- h) Delivery to supplantations or homonymous individuals when the shipper abstains from supplying complete consignee identification, including ID number.
- i) Electrical damage, magnetic damage, deletion or any other cause beyond the Airline's reasonable control.

## **Article ten - Time limitation for actions and claim notification**

### **Paragraph One. Time Limitation for Actions.**

Damage rights against the Airline will prescribe unless an action is filed within the next two (2) years after the arrival at the airport of destination or at the place indicated by the destination authority.

### **Paragraph Two . Claim Notification**

There will be no grounds for action in case of damages, delays or total or partial goods loss, unless the consignee submits a written notification describing the goods affected, the approximate date of the damage and the details of the claim to an office of the Airline within the following terms:

- In case of damages, fourteen (14) calendar days after the shipment arrives to its destination, the date on which the airplane was to arrive, or the transportation suspension.
- In case of delay, twenty-one (21) calendar days after the shipment arrives to its destination, the date on which the airplane was to arrive, or the transportation suspension; and in case of loss (including non-

delivery) within the next one hundred and twenty (120) days after the air waybill issue date.

## **Paragraph Three. Indemnities**

The liability limit for paying claims derived from damages, partial or total losses and delays is limited by the provisions of the Warsaw or Montreal Conventions, whichever applies.

## **Article eleven - Applicable law and administrative requirements.**

### **Paragraph One. Applicable Law and Competent Court**

All rights and liabilities of Carrier arising out of the contract of carriage or in connection with its performance or nonperformance shall be subject to the Law of Colombia. Any action by or against Carrier arising out of an agreement for the carriage of goods or the execution or performance thereof shall only be brought before the competent court of law in Colombia, unless Carrier elects or approves otherwise.

Notwithstanding this provision should an action against Carrier be instituted in an other country where this provision would not be held legally valid, the dispute shall be finally settled under the Rules of Conciliation and Arbitration of Colombian Arbitration Institute by one or more arbitrators appointed in accordance with the said rules.

### **Paragraph Two. Mandatory Law.**

In so far as any provision contained or referred to in the airway bill or in these Conditions may be contrary to mandatory law, government regulations, orders or requirements, such provision shall remain applicable to the extent that it is not overridden thereby. The invalidity of any provision only affect this provision and shall not affect any other part of the contract whenever it does not prevent its execution.

Any provision contained or referred to in the airway bill or in these conditions, contrary to mandatory law, government regulations, orders or requirements, will not be applicable

## **Article twelve – Modification and waiver.**

No agent, servant or representative of Carrier has authority to alter, modify or waive any provisions of the contract of carriage or of these Conditions.

These Conditions and the agreed rates and charges are subject to change without notice, except to the extent otherwise provided by applicable law or government regulation or order, provided, however, that no such change shall be applicable with respect to a contract of carriage after the carriage has commenced.

## **Article Thirteen – Additional conditions for domestic transportation**

Without prejudice to the previous provisions, the following conditions apply to the national cargo transportation in Colombia (domestic).

The shipper declares that the cargo delivered to the Airline for transportation within the Colombian territory is domestic or is duly nationalized, and that it complies with all customs and foreign trade standards, as well as with other applicable standards. Should the Airline or any government authority prove that the goods received for transportation do not meet the provisions herein the carrier will transfer it to the closest pertinent authorities.

The transportation document (Air waybill) contains the conditions of the air cargo transportation contract signed by and between the Airline and the shipper, and it will be ruled by the following clauses: Acceptance and Price. The content of the agreements formalized in the air waybill with all of its instruments will be accepted by the Airline once the sender has paid the total transportation fees or freight charges, as well as the expenses incurred due to manipulation or transportation of the goods, which will be for the account of the shipper and addressee, who are jointly responsible for said charges. However, the shipper will be fully liable and will accept all costs generated by the service, even if the addressee rejects the service. The shipper will accept these conditions by stamping his / her signature or that of his / her agent on the air waybill. If no signature is affixed, the shipper and addressee observance of the conditions in this contract will be deemed as formalized by the sole fact of sending the goods.

The shipper will accept that the shipper name and domicile are those included on the air waybill, that the goods are the same as those described and specified on the air waybill and that the charges are included in this document and must be paid at the date of execution.

By signing the air waybill, the parties make sure that they have read, understood and accepted these transportation conditions. If the shipper signature is

typed, his / her liability will be considered legal and will cause the same effects as the original signature.

**Perishable Goods.** The shipper will authorize the Airline, by signing the transportation document, to proceed according to articles number 1014, 1016, 1017 described in the Code of Commerce, regarding the transportation of corruptible, perishable goods, or goods deemed dangerous for air transportation, for volume or weight decreases during transportation and the divergences regarding the status of the goods, weight, volume, packing, nature, movement, transportation or other events.

**Liens.** The Airline may lien the goods transported, pursuant to the provisions set forth in the Code of Commerce, until being paid all freight charges and expenses incurred in. Should the goods, subject matter hereunder be retained in the warehouse, the Airline will charge the common market daily storage fee. Furthermore, the Airline will charge a daily storage fee for those goods that exceed more than five days of permanence in the warehouse, as of the announced delivery date.

**Airline Liability.** The liability limit will be fifty pesos (COP 50) per kilogram.

**Applicable Law.** The national transportation contract in Colombia (domestic) is ruled by the Colombian cargo transportation law, and the provisions in the Code of Commerce regarding goods transportation.

**Disposition.** The air waybill is not a negotiable instrument; any act to alienate the rights incorporated therein shall suffer no effect whatsoever.

**Commitment.** Disagreements arising among the contracting parties that cannot be directly solved will be submitted to the decision of three (3) arbitrators appointed by the parties, by common agreement, as set forth in 1989 decree 2279. The appointment of the arbitrators will be made within the next ten (10) working days after receiving the arbitration request in

writing by any of the parties. The sentence will be final and decisive and the court will be appointed by the Medellín Chamber of Commerce.

**Claim Expiration.** The transportation contract will be deemed as formalized at shipper's satisfaction if the goods are received without any observations at the destination site. Once the cargo is delivered to the addressee, after fifteen (15) calendar days, The Airline will not solve any claims for rights derived from the transportation contract, provided that the corresponding observation is made at cargo delivery; otherwise, it will be understood that the cargo delivery conditions were met.