

# Terms and Conditions [www.cargotrax.eu](http://www.cargotrax.eu)

## **Definitions**

[www.cargotrax.eu](http://www.cargotrax.eu) is a brand name of Benco b.v. in Stadskanaal (The Netherlands) and a provider of a Service Platform that allows a registered Subscriber to offer and/or to search for and/or to procure cargoes.

"Conditions" is to be interpreted as meaning the general terms and conditions of [www.cargotrax.eu](http://www.cargotrax.eu), as described in this document.

"Subscriber(s)"; those registered with [www.cargotrax.eu](http://www.cargotrax.eu).

"Agreement"; the agreement of the subscriber with [www.cargotrax.eu](http://www.cargotrax.eu) to make use of the services of the . [www.cargotrax.eu](http://www.cargotrax.eu)

"Website"; [www.cargotrax.eu](http://www.cargotrax.eu).

"Service Platform"; the service offered by [www.cargotrax.eu](http://www.cargotrax.eu) on the internet which allows cargo suppliers and cargo transporters to contact each other in order to offer and/or to search for and/or to procure cargoes.

## **Article 1. Procedure [www.cargotrax.eu](http://www.cargotrax.eu)**

1.1 [www.cargotrax.eu](http://www.cargotrax.eu) functions merely as an intermediary and Service Platform that brings supply and demand of cargo together. The platform enables the Subscriber to offer and/or to search for and procure cargoes at any time.

1.2 [www.cargotrax.eu](http://www.cargotrax.eu) never mediates between the Subscriber-supplier of cargo and the Subscriber-searcher/buyer of cargo.

1.3 The Subscriber is provided a login code by [www.cargotrax.eu](http://www.cargotrax.eu), which allows the Subscriber to log in to the Website.

1.4 [www.cargotrax.eu](http://www.cargotrax.eu) offers its Service Platform for free, yet may at any time determine to continue this free service in a subscription format for which a monetary compensation is requested.

1.5 Subscribers can allow multiple people to make use of the Website simultaneously, by requesting multiple login codes.

1.6 On the Website the Subscriber can place and procure cargoes. If a Subscriber is

interested in a cargo, then the Subscriber can, using the data on [www.cargotrax.eu](http://www.cargotrax.eu), contact the supplier or, if the supplier decides to take the initiative, the supplier will receive an email from [www.cargotrax.eu](http://www.cargotrax.eu) enabling them to contact the interested party.

1.7 A single offer is not binding and does not oblige the subscriber to commit to an agreement with the other Subscriber. The supplier of the offered cargo is therefore not obliged to do business with a company that expressed interested in the freight and vice versa. There is a case of a binding agreement if supplier and buyer of the cargo both unquestionably agree and there is a case of offer and acceptance.

## **Article 2. Applicability and invalidity**

- 2.1 On all agreements with [www.cargotrax.eu](http://www.cargotrax.eu) and the Service Platform that [www.cargotrax.eu](http://www.cargotrax.eu) offers on the internet, these Conditions apply, excluding any other Terms and Conditions.
- 2.2 By registering as Subscriber and accepting the content of these Conditions, the Subscriber enters into an Agreement with [www.cargotrax.eu](http://www.cargotrax.eu). These conditions are available through the Website and on request will be provided free of charge by [www.cargotrax.eu](http://www.cargotrax.eu).
- 2.3 If one or more of the provisions or portions of these Terms and Conditions or the Agreement between [www.cargotrax.eu](http://www.cargotrax.eu) and the Subscriber is considered void or voidable by a judicial authority, these will be considered to be separable from the Agreement and not to affect the validity of the remaining provisions.
- 2.4 All rights and claims, such as are stipulated in these Conditions and in any further agreements in favor of [www.cargotrax.eu](http://www.cargotrax.eu), are equally stipulated in favor of intermediaries and/or third parties engaged by and on behalf of [www.cargotrax.eu](http://www.cargotrax.eu).
- 2.5 Deviations from these Conditions can only be agreed in writing and shall apply only in respect of the specific Agreement to which the deviations relate.
- 2.6 If ambiguity exists as to the interpretation of one or more of the provisions of these Conditions, the explanation is to be 'in the spirit' of these provisions.
- 2.7 If a situation arises between parties which is not addressed in these Conditions, this situation is to be assessed 'in the spirit' of these Conditions.
- 2.8 [www.cargotrax.eu](http://www.cargotrax.eu) reserves the right to supplement or to change these Conditions. Changes also apply to existing Subscriber agreements, taking into account of a period of 30 days after publication of the change through the Website and/or email.
- 2.9 In the case these general Terms and Conditions and the Agreement contain conflicting provisions, the conditions set down in the Agreement apply.

## **Article 3. Obligations [www.cargotrax.eu](http://www.cargotrax.eu)**

- 3.1 All obligations of [www.cargoflex.eu](http://www.cargoflex.eu) will be carried out with reasonable care and skill. [www.cargotrax.eu](http://www.cargotrax.eu) will take commercially reasonable measures to ensure the continuity of [www.cargotrax.eu](http://www.cargotrax.eu). However, [www.cargotrax.eu](http://www.cargotrax.eu) can not guarantee that the expectations, objectives or requirements, unless otherwise stated, shall match the specific expectations, objectives or requirements of the subscriber.
- 3.2 New versions, updates, maintenance of the Service Platform and/or Website will be made known through the Website and/or email.

## **Article 4. Obligations of the Subscriber**

In case of breach of the provisions referred to in article 4 the Subscriber owes a contractual penalty of EUR 500.00 (to wit: five hundred euro) per violation.

- 4.1 Any natural or legal person may participate in [www.cargotrax.eu](http://www.cargotrax.eu) by registering as Subscriber. This usage is open only to adult natural persons or legal entities, which are competent to perform legal acts. A Subscriber must register by filling out the registration form completely and truthfully and accepting these Conditions. At the request of [www.cargotrax.eu](http://www.cargotrax.eu) the Subscriber must be able to provide additional information and documents. If the Subscriber does not or does not completely or on

- time do so then [www.cargotrax.eu](http://www.cargotrax.eu) may determine that the Subscriber is to be refused access to the Website or to be removed from the Website.
- 4.2 The Subscriber must be registered as a company at the Chamber of Commerce and must provide a valid VAT number upon registration. The Subscriber declares thusly to be authorized to bind the company registered to the agreement and these Conditions.
  - 4.3 The Subscriber is responsible for the confidentiality of their password and user name. The Subscriber must preserve their password with the utmost secrecy. The Subscriber ensures [www.cargotrax.eu](http://www.cargotrax.eu) that the password shall not be used by unauthorized persons and is itself liable for the consequences of any unauthorized use, misuse, or improper use of the personal password.
  - 4.4 The Subscriber is fully responsible and liable for the acts by employees of the Subscriber which make use of the Subscriber's account.
  - 4.5 [www.cargotrax.eu](http://www.cargotrax.eu) is not liable for any damages arising from the granting and emailing of personal passwords, and whatever use thereof.
  - 4.6 [www.cargotrax.eu](http://www.cargotrax.eu) reserves the right to use its own discretion to refuse service to persons or entities. Particularly in the case of previous denial of service by [www.cargotrax.eu](http://www.cargotrax.eu).
  - 4.7 The Subscriber acknowledges and agrees that [www.cargotrax.eu](http://www.cargotrax.eu) maintains the right at all times to refuse access to [www.cargotrax.eu](http://www.cargotrax.eu) temporarily or permanently and to suspend the usage with immediate effect in case Subscribers prove afterwards to meet a listed grounds for refusal, are not a legal adult or legally competent, have given inaccurate information, act illegally against [www.cargotrax.eu](http://www.cargotrax.eu) or a third party in connection with [www.cargotrax.eu](http://www.cargotrax.eu) or fail to abide by one or more provisions of these Terms and Conditions and/or Agreement. This, irrespective of right of [www.cargotrax.eu](http://www.cargotrax.eu) to claim damages.
  - 4.8 The Subscriber can withdraw from the usage through the prescribed way on [www.cargotrax.eu](http://www.cargotrax.eu). Any financial obligations toward [www.cargotrax.eu](http://www.cargotrax.eu) must at all times be fulfilled.
  - 4.9 The Subscriber guarantees the accuracy and completeness of its registered data and should itself ensure this data remains current.
  - 4.10 The Subscriber ensures that the Website of [www.cargotrax.eu](http://www.cargotrax.eu) will be used in accordance with the provisions of the Agreement, all applicable national and international laws and, in general, in a responsible manner.
  - 4.11 The Subscriber will not offer imaginary cargo, or handle input fields in an incorrect way.
  - 4.12 The Subscriber shall with respect to offered cargo that has been traded or will no longer be traded, remove such from the Website.
  - 4.13 The Subscriber shall, in the case of defects in operation, inaccuracies or inaccessibility of the web site, immediately inform [www.cargotrax.eu](http://www.cargotrax.eu) through the appropriate contact form which can be found on the Website.

#### ***Article 5. Relationship between Subscriber and [www.cargotrax.eu](http://www.cargotrax.eu)***

- 5.1 [www.cargotrax.eu](http://www.cargotrax.eu) is in no way involved in the provision and procurement of cargoes that are listed on the Website. The Subscriber acknowledges and agrees that [www.cargotrax.eu](http://www.cargotrax.eu) merely organises the convergence of supply and demand and makes this available to the Subscriber in the form of a Website. [www.cargotrax.eu](http://www.cargotrax.eu) is thusly not responsible for the implementation and quality of the services offered, guarantees and the settlement, such as payment and implementation. [www.cargotrax.eu](http://www.cargotrax.eu) is in no way involved with the final transaction between Subscribers.
- 5.2 [www.cargotrax.eu](http://www.cargotrax.eu) is not responsible for compliance with legal provisions by a Subscriber.

- 5.3 The Subscriber accepts that [www.cargotrax.eu](http://www.cargotrax.eu) is not in a position to establish with certainty the identity of a Subscriber and that the Subscriber is therefore itself to determine the identity and reliability of another Subscriber.
- 5.4 The Subscriber is responsible for the determination of the reliability and integrity of the suppliers and buyers and of the companies or people who make such offers.
- 5.5 The Subscriber acknowledges and agrees that [www.cargotrax.eu](http://www.cargotrax.eu) has the right without providing justification to refuse or remove after placement cargoes offered or requested from [www.cargotrax.eu](http://www.cargotrax.eu) such as cargoes prohibited under the law or any other services that, at the sole discretion of [www.cargotrax.eu](http://www.cargotrax.eu) is not considered in accordance with the objective of [www.cargotrax.eu](http://www.cargotrax.eu) or which may harm the reputation of [www.cargotrax.eu](http://www.cargotrax.eu).
- 5.6 The Subscriber acknowledges and agrees that [www.cargotrax.eu](http://www.cargotrax.eu) has the right to end and/or to declare void an offer if Subscribers or third parties exploit [www.cargotrax.eu](http://www.cargotrax.eu) and/or there are other irregularities and/or technical faults, whatever the cause.
- 5.7 If a Subscriber has a dispute with one or more other Subscribers, the Subscriber is to resolve this itself. [www.cargotrax.eu](http://www.cargotrax.eu) is not a party to this. Subscriber exempts [www.cargotrax.eu](http://www.cargotrax.eu) of any claims, claims for damages etc., related to such disputes.

#### **Article 6. Term and compensation**

- 6.1 Prices are in euros and exclude VAT and any other taxes and all offers by [www.cargotrax.eu](http://www.cargotrax.eu) are offered to the Subscriber no-strings-attached.
- 6.2 In case of breach of the provisions of the Agreement or these Conditions by the Subscriber, [www.cargotrax.eu](http://www.cargotrax.eu) may immediately suspend access to the platform fully or partially, without prior notice and without the Subscriber's right to compensation. The Subscriber will be notified of this suspension through email/writing.
- 6.3 The Subscriber and [www.cargotrax.eu](http://www.cargotrax.eu) also agree that complaints of 1 or multiple Subscribers against a Subscriber will also be considered as a breach of contract which provides [www.cargotrax.eu](http://www.cargotrax.eu) the right to suspend and/or end the access, according to the Terms of this Agreement without giving reasons.
- 6.4 The Subscriber and [www.cargotrax.eu](http://www.cargotrax.eu) are at all times authorized to immediately terminate the agreement if: the Subscriber or [www.cargotrax.eu](http://www.cargotrax.eu) enters into a state of bankruptcy, or a request for such is submitted; suspension of payment is granted or an application is lodged; company operations cease.
- 6.5 [www.cargotrax.eu](http://www.cargotrax.eu) is authorized to suspend the fulfilment of the obligations or to disband the agreement, if: Subscriber does not, does not completely or does not in a timely manner fulfill its obligations under the agreement; after the conclusion of the agreement conditions known to [www.cargotrax.eu](http://www.cargotrax.eu) give good grounds to fear that the Subscriber will not respect its obligations.

#### **Article 7. Tariffs, invoicing, payment, collection**

- 7.1 Payment of additional services offered by [www.cargotrax.eu](http://www.cargotrax.eu) should always be made in advance through payment options listed on the website. Objections to the amount of the invoice do not suspend the payment obligations.
- 7.2 If the Subscriber or third parties reverse an automatic payment by the Subscriber, [www.cargotrax.eu](http://www.cargotrax.eu) is authorized to temporarily or completely remove the Subscriber from the Website.
- 7.3 If the Subscriber fails to make timely payment of an invoice, then it is legally in default.
- 7.4 The Subscriber is never entitled to deductions of the claims owed by it to [www.cargotrax.eu](http://www.cargotrax.eu).

- 7.5 If the subscriber is failing or in default in the meeting or the prompt meeting of its obligations, all reasonable costs incurred in obtaining satisfaction extrajudicially are to be paid by the Subscriber. The Subscriber is also liable for the interest on costs of collection.

### **Article 8. Communication**

- 8.1 www.cargotrax.eu communicates with a Subscriber primarily by email through the email address specified by the subscriber.
- 8.2 www.cargotrax.eu is made accessible via the internet. www.cargotrax.eu can never be held responsible for the availability of this medium.
- 8.2 www.cargotrax.eu can not be held liable for security risks caused by the computer, the operating system, the internet connection, the antivirus software, the firewall, the network, etc. of the subscriber. Although www.cargotrax.eu will make every reasonable effort to ensure that the connection between the Service Platform of www.cargotrax.eu and the infrastructure of the subscriber is safe, [www.cargotrax.eu](http://www.cargotrax.eu) can not guarantee the proper functioning of the website.
- 8.3 For garbled, delayed or improperly transmitted communications as a result of the use of the internet or any other means of communication in the traffic between Subscriber and www.cargotrax.eu, insofar as it relates to the relationship between the Subscriber and www.cargotrax.eu, www.cargotrax.eu is not liable, unless and to the extent that there should be intent or gross negligence on the part of www.cargotrax.eu.

### **Article 9. Liability**

- 9.1 www.cargotrax.eu will, irrespective of the provisions of article 5 of these Terms and Conditions, only be liable for damages to the side of the Subscriber or third parties if damages are the direct and immediate result of a attributable shortcoming in the implementation of the agreement by www.cargotrax.eu.
- 9.2 The Subscriber accepts that www.cargotrax.eu is not liable for any damages to it resulting from acts of www.cargotrax.eu in accordance with articles 1 and 5 of these Conditions and will to www.cargotrax.eu reimburse all costs and damages arising out of any claim by a third party of operations by the subscriber listed in these conditions as not permitted.
- 9.3 The Subscriber accepts that www.cargotrax.eu can not be held liable for any damages that the Subscriber may suffer as a result of: not being able to access www.cargotrax.eu; faults; errors in software; due to the incomplete or incorrect transfer of information; or by any shortcoming of www.cargotrax.eu in the implementation of this agreement, unless there is intent or gross negligence on the part of www.cargotrax.eu.
- 9.4 The Subscriber shall exempt www.cargotrax.eu for all claims with respect to cargoes purchased or offered by the Subscriber, with respect to any offer on www.cargotrax.eu and with respect to the by the Subscriber or a third party undelivered or not fully paid for, procured or offered cargo through www.cargotrax.eu.
- 9.5 www.cargotrax.eu is never liable for any indirect or consequential damages, lost turnover or profit, missed savings, loss of data, or damages as a result of company stagnation or immaterial damages.
- 9.6 By way of deviation from the statutory limitation periods, the period of limitation on all claims and defenses against www.cargotrax.eu and the third parties involved by www.cargotrax.eu at the implementation of the agreement shall consist of one year.

## **Article 10. Privacy, information and intellectual property**

- 10.1 www.cargotrax.eu uses the information obtained from Subscribers only for the operation of the Website. By registration on the Website Subscriber gives www.cargotrax.eu permission for the storage and the use of this data.
- 10.2 The Subscriber gives permission to www.cargotrax.eu for this information also to be used for the combating of abuse and deception and/or prevention of abuse and deception.
- 10.3 Subscribers will use the information they obtain from and about each other through the use of www.cargotrax.eu only to settle the agreement concluded on www.cargotrax.eu. They will never make this information available to third parties.
- 10.4 The Subscriber acknowledges and agrees that www.cargotrax.eu merely and only acts as an online intermediate of information. www.cargotrax.eu reserves the right to remove information from the Web Site which under only its discretion could entail liability on the part of www.cargotrax.eu .
- 10.5 All (intellectual) property rights on the content of the Website are held by www.cargotrax.eu.
- 10.6 Nothing of or from the Website may be partly or completely copied or used by those other than www.cargotrax.eu without the consent of [www.cargotrax.eu](http://www.cargotrax.eu) . This on pain of € 2,500 per violation per day.
- 10.7 www.cargotrax.eu reserves all rights with respect to products arising from the spirit which it uses or has used and/or developed in the context of the implementation of the Agreement with the Subscriber, in so far as these rights derive from the law.

## **Article 11. Business ethics**

- 11.1 The Subscriber ensures that the information provided by it during registration or in respect of an offered/requested service: is correct, complete and accurate; not contrary to legislation or international rules in the field of consumer protection, unfair competition, misleading or comparative advertising or equal treatment; does not contain or regard threatening, profane or offensive messages; does not contain or regard obscene expressions or child pornography; does not contain computer viruses or other programmed routines which are intended to damage a computer system, computer programs or Web Sites, to influence these in an adverse way, to disturb in the normal operation or give control thereof; does not contain discriminatory and/or hateful texts.

## **Article 12. Force Majeure**

- 12.1 If www.cargotrax.eu does not fail culpably in the fulfilment of its obligations (force majeure) it would not be liable. Insofar as the compliance is not permanently impossible, its obligations are suspended. If the period in which by force majeure compliance is not possible lasts longer or will take longer than thirty days (30), both parties are entitled to terminate the agreement, without in that case there being an obligation to pay compensation.
- 12.2 If www.cargotrax.eu at the onset of the force majeure has already partially fulfilled its

obligations, or can only partially comply with its obligations, [www.cargotrax.eu](http://www.cargotrax.eu) is authorized to bill the already delivered or the deliverable part of its service separately and Subscriber is accountable to comply with this invoice as if it were a separate agreement.

- 12.3 Force majeure of [www.cargotrax.eu](http://www.cargotrax.eu) for the purposes of this article, means any circumstance independent of the wishes of [www.cargotrax.eu](http://www.cargotrax.eu), where the fulfilment of its obligations toward the subscriber are partly or completely prevented or where the fulfilment of such obligations may not reasonably be required of [www.cargotrax.eu](http://www.cargotrax.eu), irrespective of whether that circumstance could have been foreseen at the time of the conclusion of the Agreement. These circumstances include but are not limited to: State-imposed obligations which carry implications for the provision of services through the Web Site, faults in systems which form part of the Internet, faults in the telecommunications infrastructure, loss of electricity at [www.cargotrax.eu](http://www.cargotrax.eu).

#### **Article 14. Freight auction**

- 14.1 The provider of a load on the auction has the obligation to allow the cargo offered being transported by the lowest bidder. If the provider refuses this, Cargotrax can delete the account of the provider, if in the opinion of Cargotrax the provider has no valid reasons. Cargotrax can also deduct 5 credits from the providers account if the provider does not let load transport by the lowest bidder. These 5 credits will be added to the account of the lowest bidder for compensation.
- 14.2 The lowest bidder on an offered load at the auction is obliged to transport the cargo offered by the provider. If the bidder refuses this, Cargotrax can delete the account of the bidder if, in the opinion of Cargotrax, the bidder has no valid reasons. Cargotrax can also deduct 5 credits from the bidders account if the bidder refuses to transport the load of the provider. These 5 credits will be added to the account of the provider for compensation.
- 14.3 Both the provider and the bidder can never hold Cargotrax responsible for any financial or material damage at the auction.

#### **Article 15. Dutch Law**

- 13.1 To each agreement signed by [www.cargotrax.eu](http://www.cargotrax.eu), only Dutch law applies, where all disputes arising from or relating to obligations resulting from the agreement reached between the parties, will be submitted to the competent court in Groningen.
- 13.2 The above provision shall also apply if the services are carried out wholly or partly abroad or if the party involved in the legal relations is domiciled there. Any applicability of the Vienna Convention is excluded.
- 13.3 The applicable version is always the last registered version or the version of the conditions that applied at the time of the reaching of the agreement with [www.cargotrax.eu](http://www.cargotrax.eu). The Dutch text of the Conditions is always determinative for the explanation of them.