



## **FREIGHTLINER PL**

### **General Terms & Conditions of Intermodal Transport**

**(FPL - ITGT&C)**

These General Terms & Conditions of Intermodal Transport have been effective since 1 September 2020 (as updated on 30 June 2022, effective from 18 July 2022)

## § 1. General Provisions

1. These General Terms & Conditions of Intermodal Transport (FPL - ITGT&C), hereinafter referred to as the "T&C," set out the rules applicable to the provision of services by the company Freightliner PL sp. z o.o. (hereinafter referred to as "FPL") with registered office in Warsaw, address: 00-633 Warsaw, 11 Polna Street, entered in the Register of Entrepreneurs of the National Court Register maintained by the District Court for the Capital City of Warsaw in Warsaw, 12th Commercial Division of the National Court Register, under no KRS 0000242909, NIP (Tax ID): 9512158418, REGON (Business ID): 140264294 for the Client.
2. In matters not regulated in these FPL - ITGT&C, the General Polish Forwarding Conditions (*Ogólne Polskie Warunki Spedycyjne - OPWS*) 2010 will apply, which the Parties accept as an integral part of their contract, taking into account the provisions of these FPL-ITGT&C. By accepting or agreeing on the terms of an offer, as well as by placing an order, the Client confirms that the Client knows these FPL - ITGT&C, which, from that moment on, become binding on the Client, unless other conditions are imposed in a separate agreement between the Parties.
3. No commercial terms, contract templates and terms & conditions of the Client apply to these Terms & Conditions and are binding on FPL, unless they clearly refer to intermodal transport organization services and are expressly and explicitly accepted by FPL in writing.

## § 2. Definitions

1. As used in these Term & Conditions:
  - a. **"Client"** means an entity submitting an order to FPL or otherwise entering into an agreement with FPL regarding any of the Services provided by FPL,
  - b. **"Forwarding Order"** means an order for Forwarding Services issued using the template included in Annex 1 to these Terms & Conditions, relating to a specific Offer, hereinafter referred to as the "Order,"
  - c. **"UTI"** ( Unités de Transport Intermodal) means intermodal transport units, which include containers, swap bodies and semi-trailers,
  - d. **Intermodal transport** means movement of a UTI cargo unit, ISO container, semi-trailer, swap body or any other similar units using at least two different means of transport, including rail and road, and using terminal transshipment operations required in this process,
  - e. **TEU** (*twenty-foot equivalent unit*) means a unit of capacity that is often used with respect to ports and ships. It is equivalent to the volume of a 20-foot ISO container,
  - f. **Parties** means FPL and the Client.

### § 3. Services

1. FPL sends or collects the UTI cargo unit specified in an Order and organizes all or part of its movement using intermodal transport.
2. FPL operates as an organizer of intermodal transport under Articles 794 to 804 of the Civil Code and OPWS 2010, and organizes activities based on its own services provided as a railway carrier, services provided by selected road carriers, as well as services provided by selected terminals. FPL does not enter into a transport contract with the Client based on a received Order.
3. Under a received Order, FPL carries out activities on its own behalf and for the Client.
4. The scope of services provided by FPL is specified in detail in commercial offers and Order confirmations. Any additional services will be agreed and provided only with the consent of the Client.
5. The primary services provided when an Order is accepted by FPL for execution include:
  - a. planning and organizing UTI rail transport,
  - b. organizing reloading, loading/unloading and other terminal operations as part of the transport process,
  - c. planning and organizing road transport at the final stage of the UTI transport process or organizing road transport from the initial stage of the Order,
  - d. concluding road transport contracts and making settlements with the carriers,
  - e. preparing templates of transport documents,
  - f. supervising the transport process for the shipment covered by the Order and keeping the Client informed about its status and any obstacles expected or emerging during transport,
  - g. taking actions to secure the Client's rights towards carriers or other subcontractors in the event of damage and organizing actions to prevent any further increase in such damage.
6. In addition, the scope of FPL services may include, in accordance with a submitted Order received and accepted by FPL:
  - a. transport consulting services,
  - b. organizing customs services, T-1 document or other customs documents (against an additional fee),
  - c. organizing terminal operations unrelated to the transport process,
  - d. organizing shipment security during rail transport,
  - e. organizing storage, cleaning, checking the technical condition and labelling of containers against an additional fee,
  - f. arranging cargo insurance, etc.
7. Pursuant to the conditions set out in these FPL-ITGT&C, FPL will not accept an Order for execution if any UTI transport unit includes:

- a. money, securities and other payment documents,
  - b. jewelry, precious stones and metals, works of art, antiques, numismatics and other high-value items,
  - c. products included in the lists of armament of a country where the transport is to be organized, or other products subject to transport restrictions due to their military use or strategic importance,
  - d. live animals, human and animal remains,
  - e. narcotics, psychotropic substances and other substances whose transport is prohibited in accordance with applicable laws and regulations,
  - f. medicinal products and other substances that require transport in special conditions,
  - g. goods that deteriorate quickly or lose their properties,
  - h. goods classified as materials whose transport is prohibited or restricted by applicable laws and regulations, including materials prohibited in rail transport under RID regulations - FPL may undertake to ship or collect UTIs containing some of the above cargo only under a separate contract in writing.
8. FPL reserves the right to refuse, at its own discretion, to accept an Order with the scope of services that includes transport, warehousing or storage of UTIs containing hazardous materials or waste.

### **Process of accepting an Order by FPL for execution**

1. After FPL receives a written request for quotation (electronic communication is acceptable) from the Client, FPL will analyze the feasibility of the task specified in the request for quotation as soon as possible.
2. Commercial offers prepared by FPL are submitted to the Client in writing or electronically.
3. In the event of negotiations, the Parties, i.e. FPL and the Client, will confirm the agreed terms of the offer in writing or electronically. Such offer will include the offer number, its expiration date and all the conditions agreed in the course of negotiations.
4. An offer submitted by FPL will be accepted for execution if it is accepted by the Client and when the Client confirms its acceptance by sending the relevant Order to FPL in accordance with the FPL Order template available on the website [www.freightliner.eu](http://www.freightliner.eu).
5. The Order referred to above must be signed by representatives of the Client and FPL in accordance with the company's rules of representation or by persons acting on behalf of the Client and FPL under appropriate powers of attorney.
6. FPL allows for the possibility of signing a separate cooperation agreement, which will regulate the principles of cooperation and the obligations of the Parties.

7. The rates presented by FPL in a commercial offer include the costs incurred by FPL during the uninterrupted performance of intermodal transport, except for additional costs such as demurrage fees (fee covering the period after the expiry of the free time to collect the UTI from the port), detention (fee for the period from the moment of collection of an empty UTI to be delivered to the port), THC at terminals, customs clearance costs, storage costs (fee for storage), drop-off fees (fee for delivering the UTI to a designated place), warehousing fee, loading/unloading costs at terminals and other costs - these costs will be covered by the Client.
8. As a condition for FPL to start providing the services is the receipt of a complete and correct Order, containing all the necessary data to perform the transport process.
9. A complete and correct Order must include the quantity and type of shipment, shipment (container) number, forwarder, name of the goods, gross weight of the goods, seal, terminal for collecting and depositing the shipment, date of availability and submission date along with the pickup and submission reference, detailed unloading address /loading at the recipient's place along with the date and time, place of customs clearance, T1 transfer information, agreed and accepted rate or offer number (in the case the Order is to be performed based on a commercial offer).
10. FPL is not responsible if the Client has provided incorrect data in the Order which FPL will use during the performance of the Order.
11. The Client must send the Order to FPL no later than 48 hours before the planned departure time of the FPL train. If the Order is sent later by the Client, FPL reserves the right to refuse to accept it.
12. FPL reserves the right to demand from the Client payment of the entire agreed rail freight rate for "dead freight" within the meaning of Article 118 of the Maritime Code, as well as in the event that FPL is informed too late about significant changes that make it impossible to accept the UTI, the shipment is not ready to be handed over to the carrier onto the means of transport on the scheduled date or the Order is cancelled on a working day between 8:00 a.m. and 4:00 p.m. however less than 48 hours before the planned departure date of the FPL train.
13. The train timetable provided by FPL at the request of the Client for the transport performed in accordance with the Order is not a guarantee of the date of delivery or collection of the shipment.
14. FPL reserves the right to cancel an Order accepted for execution free of charge, however no later than 48 hours before the planned pickup of the UTI.
15. Before sending the Order, the Client who is a freight forwarder must check whether the shipment is ready to be sent/collected at the place indicated in the Order and to take into account the time margin assigned to a given shipment (fee-free days). FPL does not accept costs incurred as a result of untimely return of UTIs to the port for reasons beyond FPL's control and in the absence

of information from the Client about the so-called “cut off,” i.e. the final date of delivery of the container shipment to the place of loading onto the ship.

16. If there are no available space in the wagons in an FPL train, FPL may refuse to accept the Order or recommend a different date/method to transport the shipment.
17. FPL reserves the right to demand from the Client payment of the entire agreed land freight rate in the event of cancellation of an Order for export/import containers when such Order is cancelled after 2:00 p.m. on the day before loading/unloading.

## **§ 5. Execution of Orders and liability**

1. If the Order includes the organization of transport on the initial section of the UTI transport route, the Client must provide the loader with a road bill of lading for this section, completed according to the template received from FPL. FPL is not responsible for the consequences of the Client's use of transport documents other than a bill of lading completed in accordance with the template provided.
2. FPL collects the UTIs covered by the Order only at terminals. When receiving a shipment at a terminal, FPL checks whether the UTI has been delivered without external defects and damage by performing a visual inspection of the technical condition, without checking the condition of the shipment's contents, unless the UTI unit has no content, when the internal technical condition is checked.
3. FPL is not obliged to check and is not responsible for:
  - a. quantity, type, weight and condition of the goods in the UTI as declared by the Client or the loader,  
UTI,
  - b. correct loading and securing of the goods inside the UTI, including correct closing and sealing of the intermodal unit,
  - c. the condition of the roof and floor of the full intermodal unit and the condition of its hatches, closures and seals,
  - d. condition of seals other than seals meeting the High Security Seal (HSS) requirements,
  - e. other damage to the intermodal unit not visible from the outside when inspected from the ground.
4. The Client must ensure that a shipment that contains cargo and is to be handed over to FPL as the carrier is properly closed and secured with seals on all closures. The Client must provide the seal numbers no later than 48 hours before the planned departure of the train, and no later than when the UTI is handed over to FPL. The Client guarantees that UTIs are in compliance with applicable laws, orders, regulations and other requirements of the government, customs authorities, local authorities and other bodies of any kind and that they are fit for their intended

purposes and for their operation or other handling in normal course of business using equipment and operational procedures normally used at container terminals in Poland.

5. FPL has the right to refuse to accept a shipment for transport when it is found that the shipment is in a condition unsuitable for safe transportation or if the seals are broken or their numbering is different from that provided by the Client.
6. Under the delivery conditions specified by the Client in the Order, FPL, in order to execute the Order and as a carrier, accepts for transport or delivers to the recipient only an intermodal unit indicated by the Client (identified by its type and individual number) that is in appropriate technical condition, closed and bears the seal having the specified number. The carrier is not obliged or entitled to check the shipper's or consignee's data other than those indicated above, except when the Client expressly designates, with written confirmation from FPL, the person authorized to perform such an action.

The loader of the goods to the UTI is responsible for the correctness of loading the goods into the container, its protection, condition, quantity and quality of the goods and packaging at the time of loading, as well as for the truthfulness and completeness of data in the documents regarding the type, weight, number, piece numbers, seals and condition of the goods.

7. For execution of an Order, FPL needs to be entrusted with personal data received from the Client (name, surname, e-mail address, and telephone number). The controller of the personal data received from the Client is Freightliner PL Sp. z o. o. with its registered office in Warsaw (00-633) at ul. Polna 11, entered in the Register of Entrepreneurs of the National Court Register maintained by the District Court for the Capital City of Warsaw in Warsaw, 12th Commercial Division of the National Court Register, under KRS number 0000242909, with a share capital of PLN 1,000,000.00. Such personal data are processed solely for the purpose of performance of Orders. The personal data will be stored for the period applicable to the period of limitation for claims.
8. The Client has the right to request access to their data and the right to rectify, delete, transfer, object to processing of such data, and the right to be forgotten. Objections should be submitted to the e-mail address [rodo@freightliner.pl](mailto:rodo@freightliner.pl).
9. The Client consents to the processing of personal data by FPL. Giving consent is voluntary, provided that such consent is necessary for the execution of Orders by FPL.
10. Due to the fact that the execution of Orders requires the provision of personal data to the Client, including data of FPL's employees and subcontractors, upon FPL sending confirmation of acceptance of the Order for execution, FPL concludes an agreement on the entrustment of personal data with the Client.

## **§ 6. Loading activities**

1. The weight of goods loaded on a platform wagon or container - may not exceed the load limit specified on the wagon - platform or container, respectively.
2. The maximum axle load of a railway wagon cannot exceed 20 metric tons.
3. The permissible load capacity of a platform wagon, depending on its type, is specified in the technical documentation of such platform wagons.

## **§ 7. Weight of shipments**

1. If a wrong weight is communicated, the Client accepts full financial responsibility for the reloading of the wagon and all costs related to reloading/loading onto another means of transport or wagon. For the avoidance of any doubt, the Client will reimburse FPL for all costs related to the obligation to perform reloading, pay fines, organize substitute transport, etc. that FPL incurs in connection with such incorrect weight specified by the Client. If an incorrect weight is specified and, as a result, loading onto wagons is impossible, the Client will be charged for "dead freight".
2. If the Client provides the correct weight of containers which, however, makes loading onto a platform wagon included in the train impossible due to an unacceptable axle load for such platform wagon, FPL reserves the right to refuse to accept such a container for transport. If a wagon is overloaded and further travel is impossible, the Parties undertake to make a joint decision regarding further activities related to such platform wagon.

## **§ 8. Definition of extraordinary shipments**

1. The conditions for the transport of extraordinary shipments are specified in the Regulation of the Minister of Transport of 7 June 2006 on the types and conditions of transport of items that may cause transport difficulties when transported by rail (Journal of Laws of 2006, No 108, item 746).
2. As extraordinary shipments, FPL accepts for transport shipments whose transportation, according to FPL's assessment, causes particular difficulties due to:
  - a. shape, size, weight or other characteristics,
  - b. method of loading, arrangement and fastening on the wagon,
  - c. the need to use any special transport technology.
3. Extraordinary shipments include in particular items that:
  - a. exceed the specified loading gauge or loaded beyond this loading gauge,
  - b. require specialized rolling stock, security devices or transport organization due to the location of the center of gravity or other reasons related to transport safety.
4. FPL accepts extraordinary shipments for transport as far as technical and operational possibilities permit.



5. FPL may make acceptance of an extraordinary shipment for transport conditional on the payment of transport charges by the Client when sending such shipment.
6. FPL will inform the sender in writing of consent to accept an extraordinary shipment and the conditions of its transport, and if it is not possible to transport the extraordinary shipment, of refusal to consent, while presenting the reason for the refusal.

## **§ 9. Remuneration and payment**

1. FPL will issue a VAT invoice within 7 business days from the date of the services in question were completed unless the Offer/Agreement between the Client and FPL specifies otherwise.
2. The Client and FPL confirm that they are VAT payers.
3. Payment will be made by the Client by bank transfer to FPL's account within 14 days from the date the invoice was issued, unless the Parties agree otherwise in the Offer/Agreement and provided that the invoice will be sent on the day it was issued.
4. FPL represents and assures the Client that the bank account indicated each time in a VAT invoice is a bank account associated with FPL's business activity and reported to the competent tax office and allows payment to be made under the split payment mechanism.
5. By signing an Order, the Client represents that the Client consents to receiving invoices, duplicates of these invoices and corrections electronically as PDF files from the following address: faktury@freightliner.pl to the e-mail addresses provided in the Order.
6. The Parties agree that a payment will be deemed paid on the day the FPL account is credited.
7. The Client has no right to deduct the Client's receivables from the remuneration.  
If the Client has any reservations as to the method of calculating FPL's remuneration, the Client may submit them in writing within 14 days from the date of receipt of the VAT invoice, and FPL will examine such reservations within 3 days. If FPL does not examine such reservations within that time limit, the invoice payment term will be extended as appropriate.

## **§ 10. Complaints**

1. In addition to the documents referred to in § 24.2 of OPWS 2010, in order to effectively submit a complaint, the Client must provide the amount of the compensation claim and present reliable documents confirming the amount of the damage incurred.  
The amount of the claim should be included in a properly issued accounting document attached to the complaint.
2. If it is not possible to determine the amount of the claim within the period referred to in § 24.1 of OPWS 2010, the Client should submit to FPL a preliminary reservation of claims together with

reliable documents regarding the damage within this period, and then complete the complaint within three months. in accordance with the requirements described in § 10.1 above.

### § 11. Final provisions

1. The terms and conditions to which these FPL-ITGT&C apply are governed by Polish law.
2. Any disputes arising from legal relationships to which these FPL-ITGT&C apply will be resolved by a court of law competent for the registered office of FPL.
3. If any of the provisions of these FPL-ITGT&C or a contract are deemed ineffective, this does not exclude the effectiveness of the remaining provisions and conditions of the contract between FPL and the Client.


#### LIST OF ANNEXES

Annex 1 - Forwarding Order Template

 Signed by /  
Podpisano przez:  
Wojciech  
Jurkiewicz  
Date / Data:  
2022-07-01 14:31  
a Genesee & Wyoming Company

.....

Wojciech Jurkiewicz  
Managing Director  
Member of the Management Board

 Signed by /  
Podpisano przez:  
Krzysztof Wróbel  
Date / Data:  
2022-07-01  
15:46  
a Genesee & Wyoming Company

.....

Krzysztof Wróbel  
Chief Financial Officer  
Member of the Management Board



# SHIPMENT ORDER

**Customer:**

**Contractor:** Freightliner PL Sp. z o.o.

**Order in accordance with the Agreement/Trade Offer No.:**

Container number	Type of container	Gestor	Product	Gross weight od product	Seal number	Pickup terminal – full/empty	Date of pickup	PIN for pickup	Delivery terminal – full/empty	Date of delivery	PIN for delivery

Delivery				Customs			
Container number	Address		Date and time	Customs clearance place		Customs transfer T1 YES/NO	

**Other information regarding Order:**

**\*\*Client's Declaration:\*\***  
 I hereby declare that I have read and accept the Terms and Conditions of the General Terms of Intermodal Transport (FPL-ROWTI), published on the Contractor's website at (www.freightliner.pl - <https://pl.freightliner.eu/en/conditions-of-intermodal-carriage-2/>), which form an integral part of this order. In particular, I acknowledge that the Contractor's liability under the concluded contract is limited to the ordinary value of the shipment, as specified in the invoice or other document. In no event, however, shall the compensation paid by the Contractor exceed 8.33 SDR per 1 kg of gross weight of the missing, damaged, lost, destroyed, disposed of, rejected, or abandoned shipment, regardless of the cause.  
 Furthermore, I declare that:

- The goods covered by this Order are not goods referred to in §3, section 8 of FPL-ROWTI.
- The service specified in this Order is being ordered on behalf of an entity that possesses the necessary licenses and permits for the handling of the goods.
- The goods covered by this Order are insured (here specify the type of insurance and the name of the insurer).

**\*\*FPL Declarations:\*\***

- FPL shall not be liable for any lost profits or damages that are not in a strict and direct causal relationship with the event causing them. In particular, FPL shall not be responsible for any incidental, indirect, consequential, or secondary losses, costs, or damages, such as the loss of the ability to use containers and/or vehicles, payment for their rental or downtime, additional labor costs, regardless of how they were incurred and for what reason, loss of a specific market, whether the participation in it is daily or periodic, loss of profit, increased losses, or business losses.
- Force Majeure, as understood under this Agreement, are events that prevent the performance of the obligations set forth in this Agreement, which occurred or became known to the Parties after its conclusion, which could not have been foreseen at the time of the Agreement, cannot be overcome, and are external to the activities of the Parties. In particular, these events include: war, internal conflicts, strikes, especially strikes of employees of the railway infrastructure managers, epidemics, droughts, floods, earthquakes, fires, sudden weather phenomena affecting the execution of the Agreement, the inability to enter Wagons from a siding not managed by PKP PLK S.A. due to damage to railway infrastructure elements caused by reasons beyond the Carrier's control.
- In the event of the occurrence of Force Majeure, each Party shall promptly notify the other Party of the Force Majeure event and shall keep the other Party informed of the developments regarding the Force Majeure event.
- The Party affected by the Force Majeure event shall take all reasonable steps to mitigate the effects of the Force Majeure on the non-performance or improper performance of this Agreement.
- Neither Party shall be liable to the other Party for non-performance or improper performance of this Agreement is the result of Force Majeure.

**Customer's e-mail address for sending electronic invoices:**

.....  
*Signature of person representing the Customer – authorized person*

.....  
*Signature or person representing Freightliner PL Sp. z o.o. – authorized person*