

Condiciones Generales de Compra de Transporte General Terms & Conditions of Purchase of Transport

Septiembre 2022/ September 2022

These Terms and Conditions apply to Services provided by any Sesé Group broker or carrier. These Conditions are the only terms and conditions which govern the providing of Services by any broker or carrier to Sesé Group. These Conditions and any accompanying Order comprise the entire agreement between the parties.

1. **"Conditions"** means the terms and conditions of sale set out in this document and any special terms and conditions agreed to in writing by Sesé Group. References to Conditions herein include the Order.
2. **"Order"** means any communication sent by Sesé Group to a broker or carrier setting forth the terms for any Service provided by a broker or carrier. References to Order herein include the Conditions.
3. **"Sesé Group"** means any company belonging to the Sesé business group, including without limitation companies organized and/or based in the US.
4. **"Service"** means any service referenced in an Order, including without limitation any broker, carrier or related service or obligation.
5. The broker or carrier (i) states that it has had access to these Conditions before agreeing to provide any Services, either as part of an Order or by being made available to it at www.gruposese.com/es, and (ii) states that it has read these Conditions and knows and understands the content thereof, expressly accepting their application to any Services and any Order accepted by Sesé Group.
6. Sesé Group will not accept the applicability or effect of any other terms and conditions with respect to any Services. In this regard, the acceptance of Services, including, where applicable, payment, by Sesé Group, will not constitute or imply its acceptance of terms and conditions of any broker or carrier.
7. An Order is limited to and conditional upon the broker's or carrier's acceptance of these Conditions exclusively. An Order does not constitute an acceptance of any offer or proposal made by any broker or carrier. Any additional or different terms proposed by any broker or carrier, whether in the broker's or carrier's quotation, acknowledgement, invoice or otherwise, shall be deemed a material alteration of these Conditions, and are hereby objected to and rejected by Sesé Group; provided, that any such proposal or attempted variance shall not operate as a rejection of any Order if the broker or carrier accepts Sesé Group's offer by commencement of work, performance of the Services, acceptance of the Order in writing or by other means acceptable to Sesé Group, in which case an Order shall be deemed accepted by the broker or carrier without any additional or different terms or variations. References herein to "including" shall be deemed to mean "including, but not limited to," or "including without limitation" or such similar meaning.

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8. The parties have agreed and it is their intent that the battle of the forms described in Section 2-207 of the Uniform Commercial Code shall not apply to the Order or these Conditions or to any invoice or acceptance form of a broker or carrier relating to the Order. It is the parties' intent and agreement that the Order and these Conditions shall exclusively control the relationship of the parties, and in the event of any inconsistency between any invoice or acceptance or other form or document sent by a broker or carrier to Sesé Group and the Order or these Conditions, the Order and these Conditions shall control.
9. The specific terms and conditions set forth in an Order will prevail over these Conditions whenever they differ from or conflict with each other.
10. Any amendment or modification of an Order or these Conditions will be binding on the parties only when made in writing and accepted by all parties.
11. The contractual relationship established between any broker or carrier and Sesé Group is of a commercial nature. The parties expressly declare their status as independent businesses and such status shall not be altered due to the provision of Services. For these purposes, the acceptance of any Order shall not be regarded and shall not be interpreted as a relationship between the parties other than that of independent businesses and contractors.
12. No broker or carrier shall in any event act or represent itself as a representative or agent of Sesé Group, or take any action which assumes or implies the assumption of obligations by Sesé Group with respect to third parties.
13. Any broker or carrier shall comply in all respects with all applicable federal, state and local laws, regulations, directives, standards and requirements ("**Laws**") relating to the provision of its services, including, but not limited to: transportation of Hazardous Materials (including the licensing and training of Haz Mat qualified drivers), as defined in 49 C.F.R. §172.800, §173, and §397 et seq. to the extent that any shipments hereunder include or constitute Hazardous Materials; security Laws; owner/operator and lease Laws; loading and securing of freight Laws; implementation and maintenance of Laws relating to drivers, including, but not limited to, those relating to safety, hiring, employment, independent contracting, controlled substances, alcohol testing, and hours of service; sanitation, temperature, and contamination Laws, including, but not limited to, those relating to transporting food, perishable items and other products; qualification, licensing and training of drivers; trade and competition; implementing and maintaining health, safety and work environment Laws with respect to equipment, vehicles and otherwise; maintenance and control of the means and method of transportation, including, but not limited to, operation and performance of its vehicles and drivers; environmental Laws; insurance Laws, including, but not limited to, workers' compensation; and privacy and personal data protection Laws.

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14. Any broker or carrier has in effect policies and procedures regarding legal compliance and crime prevention that are complied with and known by all of its employees, contractors, directors, officers, managers and legal representatives.
15. Any broker or carrier shall defend, indemnify and hold harmless Sesé Group and its customers from any claims, actions or damages (including fines and penalties, costs of defense and reasonable attorneys' fees), arising out of its breach of these Conditions or out of its acts and omissions or Services, including transportation services, and those of its employees, drivers and others performing Services under these Conditions, including loss and damage to cargo and property and personal injury or death.
16. Each broker and carrier shall provide and maintain insurance which includes automobile/vehicle liability (including for personal injury), general liability, products liability, worker's compensation, cargo loss and risk, transport of property (including loading and unloading if provided by carrier), and such other insurance, in such amounts, on such terms and with such insurance providers as may be reasonably determined and/or approved by Sesé Group; provided, that the automobile liability coverage shall be in a minimum amount of \$1 million and cargo insurance shall not be less than \$200,000, unless otherwise agreed by the parties. Carrier shall provide to Sesé Group a certificate or other written evidence of its insurance.
17. Carrier or broker shall invoice Sesé Group for its charges, as mutually agreed in writing, by fax, or by electronic means. Additional rates for truckload or LTL shipments, or modifications or amendments of the above rates, or additional rates, must be agreed upon in writing by the parties. Additionally, rates shall be deemed confirmed in writing when Broker has billed the agreed rate and Sesé Group has paid it. Rates or charges, including but not limited to stop-offs, detention, loading or unloading, fuel surcharges, or other accessorial charges, tariff rates, released rates or values, or tariff rules or circulars, shall be valid when their terms are specifically agreed to in writing by the parties.
18. Sesé Group agrees to pay carrier's or broker's invoice within thirty (30) days following receipt of the bill of lading or proof of delivery based on terms and conditions agreed to by Sesé Group and carrier or broker, provided carrier or broker is not in default under these Conditions. Sesé Group has the right to set off any amounts owed by carrier or broker against amounts owed to carrier by Sesé Group.
19. Carrier or broker shall sign a bill of lading, produced by shipper, carrier or broker in compliance with 49 C.F.R. §373.101 (and any amendments), for the Goods it receives for transportation or brokerage. Unless otherwise agreed in writing, carrier or broker shall become fully responsible/liable for the freight when carrier takes/receives possession thereof, and the trailer(s) is loaded, regardless of whether a bill of lading has been issued, and/or signed, and/or delivered to carrier or broker, and which responsibility/liability shall continue until delivery of

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the shipment to the consignee and the consignee signs the bill of lading or delivery receipt. Any terms of the bill of lading (including but not limited to payment and credit terms, released rates or released value) inconsistent with these Conditions shall be ineffective. Failure to issue a bill of lading, or sign a bill of lading acknowledging receipt of the cargo, by carrier or broker, shall not affect the liability of carrier or broker.

20. Carrier and broker shall comply with 49 C.F.R. §370.1 et seq. and any amendments and/or any other applicable regulations adopted by the Federal Motor Carrier Safety Administration, U.S. Department of Transportation, or any applicable state regulatory agency, for processing all loss and damage claims and salvage.
21. Carrier's and broker's liability for any cargo damage, loss, delay or theft shall be determined under the Carmack Amendment, 49 U.S.C. §14706. Exclusions or limits in carrier's or broker's insurance coverage shall not exonerate or limit carrier or broker from this liability. Further, no exclusion from or limitation of carrier's or broker's liability shall apply unless carrier or broker first obtains shipper's written consent.
22. Notwithstanding the terms of 49 CFR 370.9, carrier or broker shall pay, decline or make settlement offer in writing on all cargo loss or damage claims within sixty (60) days of receipt of the claim. Failure of carrier or broker to pay, decline or offer settlement within a six (6) month period shall be deemed admission by carrier or broker of full liability for the amount claimed and a material breach of these Conditions.
23. Carrier and broker automatically assign to Sesé Group all its rights to collect freight or brokerage charges from shipper or any responsible third party on receipt of payment of its freight or brokerage charges from Sesé Group.
24. Carrier and broker assume full responsibility and liability for payment of the following items: All applicable federal, state, and local payroll taxes, taxes for unemployment insurance, pensions, workers' compensation, social security, with respect to persons engaged in the performance of its transportation services hereunder. Sesé Group shall not be liable for any of the payroll-related tax or other obligations specified above and carrier and broker shall indemnify, defend, and hold harmless Sesé Group from any claim or liability imposed or asserted against Sesé Group for any such obligations.
25. C-TPAT: (Customs Trade Partnership Against Terrorism): Carrier and broker will at all times be C-TPAT certified if international cross border freight involved, and will enforce all security protocols. In the event of loss of certification, carrier or broker will notify Sesé Group within twenty-four (24) hours. If only US freight involved, carrier or broker will enforce the same security protocols.
26. These Conditions are for specified services pursuant to 49 U.S.C. §14101 (b). To the extent that terms and conditions herein are inconsistent with Part (b),

Subtitle IV, of Title 49 U.S.C. (ICC Termination Act of 1995), the parties expressly waive any or all rights and remedies they may have under the Act.

27. Carrier:
- A. Is a Registered Motor Carrier authorized to provide transportation of goods, materials and others ("**Goods**") under arrangements with shippers, brokers and customers with shippers and receivers and/or brokers of general commodities.
 - B. Shall transport the Goods, under its own operating authority as a motor carrier and subject to the terms of these Conditions;
 - C. Will not re-broker, co-broker, subcontract, assign, interline, or transfer the transportation of shipments hereunder to any other persons or entity conducting business under a different operating authority or otherwise, without prior written consent of Sesé Group. If carrier breaches this provision, Sesé Group shall have the right of paying the monies it owes carrier directly to the delivering carrier, instead of payment to carrier. Upon Sesé Group's payment to delivering carrier, carrier shall not be released from any liability, including consequential damages, to Sesé Group under these Conditions.
 - D. Does not have an "Unsatisfactory" safety rating issued by the Federal Motor Carrier Safety Administration (FMCSA), U.S. Department of Transportation, and will notify Sesé Group in writing immediately if its safety rating is changed to "Unsatisfactory" or "Conditional". Authorizes Sesé Group to invoice carrier's freight charges to shipper, consignee, or third parties responsible for payment.
28. Broker:
- A. Is a Registered Freight Broker of Property authorized to arrange for the transportation of Goods under contracts with shippers and receivers of Goods.
 - B. Shall arrange for the transport of, at its cost and expense, the Goods under its own operating authority as a freight broker and subject to these Conditions and with contracted carriers which have the licenses, permits, operating authority and certificates to transport Goods.
 - C. Will not re-broker, co-broker, subcontract, assign, interline, or transfer the transportation of shipments hereunder to any other person or entity without the prior written consent of Sesé Group.
 - D. Will notify Sesé Group immediately if its federal operating authority is revoked, suspended or rendered inactive for any reason, if it is sold or there is a change in control of ownership, and/or if any insurance

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required hereunder is threatened to be or is terminated, cancelled, suspended, or revoked for any reason. Broker will not utilize any carrier which has its federal operating authority revoked, suspended or rendered inactive for any reason.

- E. Will not utilize any contracted carrier with an "Unsatisfactory" safety rating issued by the Federal Motor Carrier Safety Administration (FMCSA), U.S. Department of Transportation (DOT); Broker authorizes Sesé Group to invoice Broker's freight charges to any consignee or third party responsible for payment.
 - F. Holds all requisite operating authority, certificates, permits and licenses under applicable laws.
 - G. Is charging rates and charges that are in compliance with applicable laws.
 - H. Has the equipment and personnel necessary to perform all brokerage and transportation services under this Agreement.
 - I. That, with respect to any shipments subject to these Conditions that are transported into, out of, through or within the State of California, Broker is in compliance with all California Air Resources Board regulations and shall be liable for any noncompliance with such regulations or any other Applicable Laws.
 - J. In furtherance of and subject to these Conditions, Broker shall act and perform the brokerage services and shall act and perform, or contract with carriers to act and perform, the transportation services, at its sole cost and expense, in a commercially reasonable manner. Broker shall arrange for carriers which contractually agree to provide the necessary equipment, maintained in good repair, and qualified personnel to perform and complete the transportation services safely and as required for Sesé Group. Broker will contractually require carrier to agree that it will not supply or use equipment or materials that have been used to transport hazardous wastes, solid or liquid, regardless of whether they meet the definition in 40 C.F.R. §261.1 et. seq. Broker agrees that it will contractually require that all shipments will be transported and delivered within the agreed timeframes. Sesé Group may suspend some or all transportation services if Sesé Group reasonably determines that Broker's carrier's equipment poses a safety hazard.
29. It is understood and agreed that the relationship between any broker or carrier and Sesé Group is that of independent contractor. None of these Conditions, or any act or omission of any party shall be construed for any purpose to express or imply a joint venture, partnership, principal/agent, fiduciary, employer/employee relationship between the parties. Carrier and broker shall provide the sole supervision and shall have exclusive control over their

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respective operations and its employees, contractors, subcontractors, agents, as well as all vehicles and equipment used to perform any transportation services hereunder. Broker has no right to discipline or direct the performance of any driver and/or employees, contractors, subcontractors, or agents of Carrier. Carrier and broker represent and agree that at no time and for no purpose shall either of them represent to any party that they are anything other than independent contractors in their relationships to Sesé Group.

30. These Conditions do not bind the respective parties to exclusive services to each other. Any party may enter into similar agreements with other carriers, brokers, or freight forwarders.
31. Failure of any party to enforce a breach or waiver of any provision of these Conditions shall not be deemed to constitute a waiver of any subsequent failure or breach, and shall not affect or limit the right of a party to thereafter enforce such provision.
32. In the event of a dispute arising out of these Conditions, including but not limited to federal or state statutory claims, a party's sole recourse (except as provided below) shall be to arbitration. Proceedings shall be conducted under the rules of the American Arbitration Association (AAA). Arbitration proceedings shall be started promptly if the parties are not able to mediate a dispute. Upon agreement of the parties, arbitration proceedings may be conducted outside of the administrative control of the AAA. The decision of the arbitrators shall be binding and final and the award of the arbitrator may be entered as judgment in any court of competent jurisdiction. The rationale and reasoning of the decision of arbitrator(s) shall be fully explained in a written opinion. The prevailing party shall be entitled to recovery of costs, expenses and reasonable attorney fees as well as those incurred in any action for injunctive relief, or in the event further legal action is taken to enforce the award of arbitrators. Arbitration proceedings shall be conducted at the office of the AAA nearest to Chattanooga, Tennessee, or such other place as mutually agreed upon in writing, or by conference call or video conferencing upon agreement of the parties, or as directed by the AAA. Either party may apply to a court of competent jurisdiction for injunctive relief. Unless preempted or controlled by federal law and regulations, the laws of the State of Tennessee shall be controlling notwithstanding applicable conflicts of laws rules. These arbitration provisions shall not apply to enforcement of the award of arbitration.
33. In addition to confidential information protected by law, statutory or otherwise, the parties agree that all of their financial and business information and that of their customers, including but not limited to freight and brokerage rates, amounts received for brokerage services, amounts of freight charges collected, freight volume requirements, as well as personal customer information, customer shipping or other logistics requirements shared or learned between the parties and/or their customers, shall be treated as confidential, and shall not be disclosed or used for any reason without prior written consent.

In the event of violation of these confidentiality provisions, the parties agree that the remedies at law, including monetary damages, may be inadequate and that the parties shall be entitled, in addition to any other remedy they may have, to an injunction restraining the violating party from further violation of these Conditions in which case the prevailing party shall be liable for all costs and expenses incurred, including but not limited to reasonable attorney's fees.

34. These Conditions may not be amended, except by written agreement of the parties.
35. All notices provided or required by these Conditions, shall be made in writing and delivered, return receipt requested, to the addresses shown herein with postage prepaid; or by confirmed (electronically acknowledged on paper) fax, or by email with electronic receipt. The parties shall promptly notify each other of any claim that is asserted against either of them by anyone arising out of the parties performance of these Conditions.
36. In the event any of these Conditions are determined to be invalid or unenforceable, no other Conditions shall be affected and the unaffected Conditions shall remain valid and enforceable as written. The representations, rights and obligations of the parties hereunder shall survive termination of these Conditions for any reason.
37. In the event that a party is prevented from performing its obligations under these Conditions because of an occurrence beyond its control and arising without its fault or negligence, including without limitation war, riots, rebellion, acts of God, acts of lawful authorities, fire, strikes, lockouts or other labor disputes, such failures to perform (except for any payments due hereunder) shall be excused for the duration of such occurrence. Economic hardships, including, but not limited to, recession, depression, epidemics and pandemics shall not constitute Force Majeure events.