

FRET SNCF

General conditions of sale

The Commercial Terms of Fret SNCF may be viewed on its website at this link:
<http://www.fret.sncf.com> (hereinafter, the “Website”)

1. Scope of application

1.1 These General Conditions govern relations between Fret SNCF and its customers and apply to all contracted services. They are supplemented by the Tariffs and, if applicable, special terms and conditions (especially by type of offer) (the “Special Conditions”) and by specific agreements entered into with customers and entitled, depending on the case, agreement, contract, convention, accord, etc. Ordering a service implies acceptance of the General Conditions, Special Conditions and Tariffs.

1.2 Should the customer enter into a contract of carriage or any other contract concerning the provision of a given service, this will constitute acceptance of all the commercial terms of Fret SNCF including the General Conditions, Special Conditions and Tariffs.

1.3 If it does not fulfil these roles, the customer shall be responsible for compliance with these General Conditions by the sender and recipient indicated on the consignment note.

1.4 In any case, the General and Special Conditions shall take precedence over the general terms and conditions of the customers, unless otherwise stipulated in a specific agreement.

1.5 Fret SNCF shall periodically review these General Conditions to ensure they are still valid and relevant and shall notify the customers of its findings.

2. Applicable documents

2.1 Relations between Fret SNCF and its customers are governed by the documents listed below and in the following order:

- The agreements specific to each customer,
- The Special Conditions applicable to relations between Fret SNCF and its customers in force during the provision of the service and available on the Website,
- The General Conditions in force during the provision of the service and available on the Website,
- If applicable, any other commercial terms in force during the provision of the service and available on the Website,
- for transport services, in addition to the documents listed above:
 - the provisions of the COTIF and its appendices (including the Uniform Rules concerning the Contract of International Carriage of Goods by Rail (CIM) and the Regulation concerning the International Carriage of Dangerous Goods by Rail (RID)),
 - The CIM General Transport Conditions (CGT-CIM),
 - The Uniform Use of Wagons Contract (CUU)

2.2 In the event of any ambiguity or contradiction between these documents or for interpretation purposes, the priority of these documents will be set in the following descending order, except where there are imperative contrary provisions.

3. Transport contract

3.1 A contract of carriage is established by an electronic consignment note drawn up by the sender. The data in the consignment note must be sent in an electronic format compatible with the IT system and management system of Fret SNCF. By common accord, a consignment letter may apply to several wagons. The consignment letter must be sent to Fret SNCF before delivery under the conditions laid down in the special agreements. The transportation conditions of empty wagons as means of transport are laid down in the ‘Use of wagons’ specific conditions.

3.2 Cash on delivery shipments, disbursements, declarations of value and declarations of interest upon delivery are not permitted.

4. Transport performance

4.1 Carriage shall be carried out on wagons provided by Fret SNCF or by the customer. The conditions for the provision and use of wagons by Fret SNCF are set in the 'Provision of wagons' and 'Use of wagons'. The wagons provided by the customer must adhere to the applicable regulations along the entire route taken (especially rules relating to brake shoes) and must remain in a state enabling circulation without jeopardising the safety and smooth execution of the plan of carriage. The customer shall guarantee Fret SNCF against any damage, surcharge, penalty or cost of any kind resulting from breach of this commitment. Non-compliant wagons may be rejected on departure or removed during transport if rejected by a foreign RU and/or returned to their starting point, at the customer's expense.

4.2 Shipments are accepted and delivered, depending on the case, in a station, private siding, combined transport terminal or port facility. The following situations may be handled in specific conditions.

4.3 Fret SNCF may freely entrust the execution of all or part of the work to one or more couriers.

4.4 The contract of carriage begins when a carriage order has been sent by the customer, said order or, if applicable, a reduction has been accepted, the shipping documents have been drafted and the delivery sent to the agreed point and accepted by Fret SNCF. The contract of carriage concludes on delivery to the recipient. Delivery will be considered to have been made once the wagons are set up at the agreed delivery point.

5. Loading and unloading

5.1 Loading operations (actual loading, stowage, sheeting, custody of the goods until the conclusion of the contract of carriage or, possibly, a storage agreement, etc.) shall be carried out, in the absence of any special agreement to the contrary, under the responsibility of the sender, in accordance with the applicable regulations.

The sender shall guarantee and the customer vouch that, under normal transport conditions, the safety of rail operations is ensured, the loading shall not cause prejudice to either Fret SNCF or third parties and the shipment may support without damage the duration and demands of carriage. Provision of the apparatus needed for stowage and sheeting is the responsibility of the sender.

5.2 Concerning shipments containing hazardous goods:

5.2.1 Such goods are accepted for carriage subject to reservations and in accordance with the conditions set and the laws and regulations in force, especially the decree on the inland transport of hazardous goods and the Regulation concerning the International Carriage of Dangerous Goods by Rail (RID). Indications to ensure satisfaction of the provisions of these documents shall be provided by the sender in support of the contract of carriage. Fret SNCF is not responsible for ensuring that such information is accurate or sufficient.

5.2.2 The fill rate set by the RID applies to wagons and ITUs loaded with liquids subject to said regulation. Fret SNCF may refuse to transport rail tankers or ITUs containing liquids that are not full to capacity, understood as 'dome excluded'.

5.3 The mass shall be declared by the sender. The customer shall be liable for any inaccuracies or incorrect declarations.

The customer undertakes not to exceed the loading mass indicated on the wagon and to send the exact load mass and ensure the loader and/or sender respect these obligations. Fret SNCF must also receive exact data on the load mass of each wagon that makes up the train in consideration, in particular, of the European Rail Traffic Management System (ERTMS). In cases where the data provided are inaccurate, the customer shall be liable for all consequences arising from such inaccuracy.

5.4 Loaded wagons, whether 'closed' or 'sheeted', as well as intermodal transport units, must be sealed by the sender prior to remission for carriage. The labels and numbers of the seals must be stated by the sender on the contract of carriage.

5.5 Fret SNCF shall recognise the shipments as presented by the sender when remitted for carriage. During this recognition process, Fret SNCF shall look for clear anomalies relating to the sender's application of the UIC loading rules. This recognition will be carried out outdoors, from the ground, on each side of the wagon where possible, and under conditions where a person standing close to the wagon may perform the relevant operations.

5.6 Costs incurred and damage suffered by Fret SNCF as a result of improper loading, inappropriate packaging or a hazardous goods event will be billed to the customer. The customer is also liable for the consequences of any inaccuracy, vagueness or lack of data concerning maintenance or on the transport order as well as, in general, the incorrect application or breach of customs provisions of other administrative provisions.

5.7 In the absence of a special agreement, unloading (actual unloading, unstowing, sheet removal, replacement of mobile parts and detachable accessories, removal of any goods residue and stowage elements, etc.) is the responsibility of the recipient, who shall return the wagon fit for circulation, in compliance with the binding provisions of the UIC Loading Directives.

5.8. Where loading or unloading takes place on team tracks, it shall be carried out directly from road vehicle to wagon or vice versa. The sender (on loading) or recipient (on unloading) shall be responsible for the consequences of temporary storage of goods on the ground, as well as dirt left on loading or unloading areas and lead tracks.

6. Delivery times

6.1 The applicable deadline is that agreed with the customer. The deadline stipulated in a special agreement is considered agreed upon; otherwise, that indicated on acceptance of an order of carriage or shipment shall apply.

6.2 If no such indication is provided, delivery times shall be those stated in the CIM. The delivery time will start from acceptance of the shipment, at 12:00 p.m. at the latest. Shipments are sent at the latest on the first possible service following the expiry of the deadline.

6.3 In the event of restrictions of traffic, cancellation of train paths or other anomalies that prevent all or part of the originally scheduled carriage, Fret SNCF shall act in accordance with the provisions of article 20 of the CIM.

7. Further order and instructions

7.1 Any change to a contract of carriage currently being performed must be made in the form of a written amendment sent to the Fret SNCF customer team responsible for the carriage.

7.2 Invoicing shall be on the basis of the new customer order accepted by SNCF.

7.3 Where the change concerns the destination, the modification fees indicated in the Tariffs will apply. Resending a shipment that has arrived at its destination will be considered, in all circumstances, a new shipment.

7.4 Where the change concerns a new delivery date, the custody conditions for empty or loaded wagons and goods will be determined in the Tariffs and Use of Wagons special conditions.

7.5 In the event of refusal of goods by the addressee, or in the event of default by the latter for whatever reason, all initial and additional costs incurred for the goods shall be met by the customer.

8. Customs

It is the responsibility of the customer to adhere to the provisions under applicable customs law.

The customer shall therefore satisfy all customs formalities and guarantee Fret SNCF against any consequences (legal, financial, etc.) that may arise from the absence, insufficiency or irregularity of any information provided to the administration concerned.

9. Subcontracting

Fret SNCF is free to subcontract all or part of the services entrusted to it by its customers.

10. Prices, invoicing and invoice payment terms

10.1 The prices mentioned in a Fret SNCF offer shall remain valid for the period stipulated therein. If no validity period is specific in the offer, the prices mentioned will be valid for a maximum of thirty (30) days after communication of the offer.

10.2 The financial conditions shall apply for the duration indicated in the specific agreements concluded with the customers. After that period, in the absence of a duly formalised agreement to the contrary between the parties, services provided by Fret SNCF will be invoiced based on the Tariffs applicable on the date of the services concerned. These Tariffs may be viewed on the Fret SNCF website: <https://medias.sncf.com/sncfcom/pdf/fret/Tarifs-version-fr.pdf>.

10.3 The amounts invoiced are calculated through the application, depending on the case, of the prices exclusive of tax contained in the Tariffs or set by common accord, plus the VAT in force at the time of invoicing. These amounts will be rounded up to the nearest cent, if applicable.

10.4 Payments will become due, depending on the case, on acceptance for carriage, handover on arrival or execution of the services subject to a separate schedule of transport costs. Regular customers may be offered a maximum payment term of 15 days from 15th or 31st of each month depending on the date of execution of the service. In all cases, the invoice shall be considered a call for funds.

10.5 Fret SNCF shall not grant any discount for early settlement.

10.6 Any sum owed but outstanding on the contractual due date will give rise to late-payment penalties pursuant to article L 441- 10 of the French Commercial Code and the lump-sum penalty provided for in article D 441-5 of said code.

For as long as any sums owed are still outstanding, Fret SNCF reserves the right to suspend and/or terminate its contract with the customer and, consequently, not to accept the remission for carriage of new goods and/or refuse new services.

In any case, Fret SNCF reserves the right to condition the performance of any new service to a prior cash payment.

10.7 Any error regarding the amount invoiced by Fret SNCF shall give rise, on request from the Customer, to redress, against supporting documents, if said error exceeds the error amount indicated in the Tariffs.

10.8 Any penalties provided for in specific agreements concluded with customers and that must be paid by Fret SNCF with respect to quality of service, especially rates of execution, timeliness/reliability, etc. shall constitute discharge payments (in the absence of an express provision to the contrary).

10.9 Unilateral offsetting by the customer between the prices of services invoiced by Fret SNCF and alleged penalties or the value of alleged damage is strictly forbidden.

10.10 Payments made by Fret SNCF to its customers are credited to a customer account.

10.11 Amendments or cancellations of orders shall give rise to the penalties provided for in the Special Terms and Conditions or in a specific agreement.

11. Liability

11.1 In the absence of a provision to the contrary, specific agreements may be terminated by the injured party, in the event of repeated breach, by the other party, of its essential obligations, subject to a minimum notice period of sixty days after formal notice by registered letter with acknowledgement of receipt if the situation has not been rectified.

11.2 For domestic transport within France, the provisions of French law will remain applicable as regards the courier's liability for loss or damage, the determination of damage and the period of limitation of actions (articles L 133-1, L133-2, L 133-3, L 133-4 and L 133-6 of the French Commercial Code).

11.3 In the absence of a provision to the contrary, the conditions for making a claim and the compensation limits are those laid down in the CIM, especially:

-loss and damage: ex-works value of the goods, excluding any other damages or interest, within the limit of 17 DTS per kilogramme in gross weight missing or damaged,

-exceedance of delivery deadline: four times the transport price, inclusive of any consequential damage.

11.4 The indemnity will be reduced by a third where the customer destroys the goods or prevents Fret SNCF from taking any action to safeguard and/or reclaim them.

Fret SNCF shall only accept liability for the international and national carriage of goods up to the limits of the CIM and CUU.

11.5 Fret SNCF shall not be held liable for any non-material damage (including non-material damage resulting from material damage, loss of turnover or profit) or indirect damage.

11.6 Customers shall be responsible for their own errors, failings and/or negligence, as well as those of their employees, agents, proxies and/or subcontractors.

11.7 In the event of loss, damage or any other prejudice suffered by the goods, or in the event of delay, it shall be the responsibility of the customer, addressee or recipient to make the proper and sufficient observations, express justified reservations or issue formal notice to deliver and carry out all acts useful for upholding the right of recourse and immediately confirm such reservations in the required forms.

11.8 All requests, claims and actions brought against Fret SNCF shall be proscribed after a period of one year from the provision of the service in dispute or the day when it should have been carried out.

12. Freight insurance

Fret SNCF shall not take out any insurance with respect to the goods transported. It is the responsibility of the customer to insure the goods it entrusts to Fret SNCF.

13. Claim settlement

13.1 In the event of claims or disputes, the parties shall attempt to reach an amicable solution.

13.2 In the event of legal action, the Commercial Court of Paris shall have jurisdiction.

14. Other provisions

14.1 Confidentiality

Fret SNCF and the customer undertake to respect the confidential nature of the information exchanged during the negotiation of contracts, agreements and during their execution and not to disclose to third parties information concerning the other party with which it becomes familiar. This confidentiality obligation applies to Fret SNCF staff and customers, as well as any third party it may call on for the performance of the contracts.

However, it should be noted that Fret SNCF and the customers shall not object to any disclosure limited to information concerning the existence of a specific agreement, its term and the volumes and flows concerned.

This obligation will apply for a period of two (2) years after the end of contractual relations between Fret SNCF and its customer.

14.2 Safeguard clause

If a change to the economic, political, regulatory and financial conditions in force at the time of signature of specific agreements should significantly destabilise the economics of said agreements for Fret SNCF, the customer and Fret SNCF will make every effort to reach an agreement on new conditions that satisfy both parties.

It should be noted that any notification issued by Fret SNCF activating this clause must specify the circumstances justifying the implementation of the safeguard clause.

If no agreement can be reached in the two (2) months following the notification by Fret SNCF to the customer activating this clause, Fret SNCF may terminate the specific agreement immediately, without this termination giving rise to any compensation.

This clause applies in particular:

- should any train paths allocated to Fret SNCF be modified or removed due to works decided by the infrastructure manager, and these modifications or removals of train paths have a lasting impact on the transport services, and Fret SNCF cannot find an equivalent alternative both from an operational and economic point of view.
- should Fret SNCF suffer a substantial rise in the costs of elements that make up the price (especially in the case of a rise in one or more charge(s) applied by the infrastructure manager(s) or a rise in tariffs applied by its subcontractor(s) of more than 5%),
- Should the aids granted by the State under the rail freight stimulus package be removed or significantly reduced,

The customer and Fret SNCF expressly agree to waive the application of the provisions under Article 1195 of the French Civil Code.

14.3 Force majeure

In the event of a delay or failing in any of the obligations incumbent upon the customer or Fret SNCF (the party/parties) and arising from the specific contract that links them, they may not be held liable for delay(s) or failing(s) if such a situation arises from an event of force majeure.

Acts, events and de facto or de jure situations that are unforeseeable, irresistible, outside the control of the debtor, as defined by the regulations and French jurisprudence and which prevents the execution by the debtor of all or part of its obligations under the contract will be considered cases of force majeure.

In this regard, it is agreed between the parties that the following will be considered cases of force majeure:

- social movements and strikes whenever the reason is outside the effective control of the Party concerned,
- governmental or legal restrictions preventing the fulfilment by the debtor of all or part of the obligations stipulated in the Contract.

The party invoking a case of force majeure shall undertake to notify the other party, using any written means, of the occurrence of such a case within a reasonable time, indicating the circumstances of the event in question and the obligations affected by said event. It must also announce, in the same way, the end of the event constituting the force majeure.

The parties may only invoke a case of force majeure during the period when such a case produces an effect on them, with each party undertaking to make every effort to limit the consequences thereof for the other party.

The parties also undertake to resume the fulfilment of their obligations as soon as the force majeure event ceases to produce its effects.

If the force majeure event lasts for more than 60 consecutive calendar days, the contract may be terminated by either party, subject to 30 days' notice, and no compensation will be due from either party.

14.4 Transfer

Fret SNCF shall be entitled to transfer, by any means whatsoever (transfer, contribution, merger, etc.) All or part of its rights and obligations under this contract to a company which controls it or is subject to the same control or which it controls itself.

For the application of these clauses, the concept of control referred to above shall be understood as exclusive control or joint control.

14.5 Personal data

Fret SNCF and the customer are each responsible for the collection of personal data and the use thereof under the contract to which they are party, in compliance with the applicable laws on the subject, particularly Regulation (EU) 2016/679 of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and the French 'Data Processing and Freedoms' law no. 78-17 of 6 January 1978 as amended by law no. 2018-493 of 20 June 2018 on personal data protection and its implementing order no. 2018-687 of 1 August 2018. The storage period for personal data must not exceed what is strictly necessary for the requirements of the business relation between the parties, in compliance with legal, accounting and tax requirements.

Fret SNCF and the customer have a right to access, rectification, modification, opposition and erasure of any information collected during their contractual relationship.

14.6 Electronic signature

In accordance with article 1367 of the French Code Civil, as well as decree no. 2017-1416 of 28 September 2017 on electronic signature, Fret SNCF and the customer expressly agree to use the electronic signature procedure. Fret SNCF and the customer undertake not to dispute the admissibility, enforceability or probative value of any specific agreement on the basis of the electronic nature of its signature.