

## **STANDARD TRADING CONDITIONS of THE INDONESIAN FREIGHT FORWARDER'S ASSOCIATION (First Edition)**

The Customer's attention is drawn to the Clauses here of which exclude or limit the Company's liability and those which require the customer to indemnify the Company in certain circumstances

### **Definitions**

1. In these Conditions:

"Company" is the IFF member trading under these Conditions.

"Conditions" means the entire undertaking, terms, conditions and clauses embodied herein.

"Person" includes persons or any Body or Bodies Corporate.

"The Owner" means the owner of the goods (including any packaging, containers or equipment) to which any business concluded under these Conditions relates and any other person who is or may become interested in them.

"Customer" means any person at whose request or on whose behalf the Company undertakes any business, or provides advice information or services.

"Instructions" means a statement of the Customer's specific requirements.

### **Headings**

2. Heading of Clauses or groups of Clauses are for indicative purposes only.

### **Application**

3. (A) Subject to sub-paragraph (B) and (C) below, all and any activities of the Company in the Course of Business whether gratuitous or not are undertaken subject to these Conditions.

(B) If any legislation is compulsorily applicable to any business undertaken, these Conditions shall, as regards such business, be read as subject to such legislation and nothing in these Conditions shall be construed as a surrender by the Company of any of its rights or immunities or as an increase of any of its responsibilities or liabilities under such legislation and if any part of these Conditions be repugnant to such legislation to any extent such part shall as regards audit business be overridden to that extent and no further.

(C) Subject to sub-clause (B) above, the Company and the Customer may agree that in respect of all or any part or parts of any contract for the movement of goods, the Company shall issue a FIATA Combined Transport Bill of Lading (FBL) subject to the current Standard Conditions governing FIATA Combined Transport Bills of Lading, Provided that such Document is issued subject to current ICC uniform rules for a combined transport document and that this is printed on the face of the Document Where such a document is issued, the term and conditions embodied in it shall be paramount in governing the relationship between the Customer and the Company insofar as those terms and conditions are inconsistent with or repugnant to these Conditions.

### **The Company's General Response**

4. (A) The Company shall perform its duties with a reasonable degree of care, diligence, skill and judgment.

(B) Subject to Clause 18 hereof; the Company shall carry out its services within a reasonable time

(C) Subject to these Conditions and in particular to the discretion reserved to the Company below the Company shall take all reasonable steps to perform any of the Customer's instructions accepted by the Company.

(D) If at any stage in any transaction the Company should reasonably consider that there is good reason in the Customer's interests to depart from any of the Customer's instructions, the Company shall be permitted to do so and shall not incur any additional liability in consequence of so doing

(E) When using its discretion as permitted in these conditions, the company shall do so with this regard to the interests of the Customer.

5. If after a contract has been agreed events or circumstances come to the attention of the Company which in the opinion of the Company make it wholly or in part impossible for the Company to fulfill its duties it shall take reasonable steps to inform the Customer of such events or circumstances and send further instructions.

### **The Customer's Undertakings**

6. (A) The Customer shall be deemed to be competent and to have reasonable knowledge of matters affecting the conduct of his business, including sales and purchase and all other matters relating thereto.

(B) The Customer shall give sufficient and executable instructions, and the Company shall, within the limits of its duty or care and diligence, inform the Customer if it considers that the Customer's instructions are insufficient or inexecutable.

7. The Customer warrants that he is either the Owner or the authorized agent of the Owner and also that he is accepting these Conditions not only for himself but also as agent for and on behalf of the Owner.

8. In authorizing the Customer to enter into any contract with the Company and/or in accepting any document issued by the Company in connection with such contract, the Owner, sender and consignee accept these Conditions for themselves and their agents and for any parties on whose behalf they or their generalities of this clause, they accept that the Company shall have the right to enforce against them jointly and severally any liability of the Customer under these Conditions or to recover from them any sums to be paid by the Customer which upon proper demand have not been paid.

9. (A) The Customer shall indemnify the Company against all liability loss damage costs and expenses whatsoever arising out of the Company acting in accordance with the Customer's instructions or arising from any breach by the Customer of any warranty contained in these Conditions or from the negligence of the Customer.

(B) Without derogation from sub-clause (A) above, the Customer shall indemnify the Company against any liability assumed or incurred by the Company when by reason of

carrying out the Customer's instructions the Company has reasonably become liable or may become liable to any other party.

10. Except to the extent caused by any negligence on the part of the Company the Customer shall be liable for and shall indemnify the Company in respect of all duties taxes imposts levies deposits and outlays of whatsoever nature levied by any authority in relation to the goods and for all payments fines costs expenses loss or damage whatsoever incurred or sustained by the Company in connection therewith

11 (A) The Customer undertakes that no claim shall be made against any Director, servant or employee of the Company which imposes or attempts impose upon them any liability in connection with any services which are the subject of these Conditions and if any such claim should nevertheless be made, to indemnify the Company against all consequences thereof.

(B) The Customer shall save harmless and keep the Company indemnified from and against all claims, costs and demands whatsoever and by whomsoever made or preferred in excess of the liability of the Company under the terms of these Conditions and without prejudice to the generality of this Clause this indemnity shall cover all claims costs and demands arising from or in connection with the negligence or breach of duty of the Company its servants sub-contractors or agents.

(C) In this Clause "sub-contractor" includes direct and indirect sub-contractors and their respective servants and agents and "agents" includes subagents and their respective servants or agents.

12. The Customer warrants that the description and particulars of any goods furnished by or on behalf of the Customer are true and accurate.

13. (A) The Customer shall warn the Company if any goods which are the subject of any transaction to which these Conditions apply are liable to taint or affect other goods; and the Customer shall indemnify the Company against any liability, loss, damage, costs or expenses incurred by the Company as a consequence of the Customer's failure to do so or his failure to do so in good time.

(B) Except where the Company has accepted instructions in respect of the preparation packing stowage labeling or marking of the goods the Customer warrants that all goods have been properly and sufficiently prepared, packed, stowed, labeled and/or marked, and that the preparation packing stowage labeling and marking are appropriate to any operations or transactions affecting the goods and the characteristics of the goods.

(C) Where the goods are carried in or on containers, trailers, flats, tilts, railway wagons, tanks, igloos or any other unit load device specifically constructed for the carriage of goods by land, sea or air, (each hereafter individually referred to as "transport unit") then, save where the Company has accepted instructions as principal to load the transport unit, the Customer warrants.

i. that the transport unit has been properly and competently loaded;

ii. that the goods are suitable for carriage in or on the transport unit; and

iii. that the transport unit is in suitable condition to carry the goods loaded therein (save to such extent as the Company has approved the suitability of the transport unit).

14. The Customer shall indemnify the .company in respect of any claims of a general average nature which may be made on it and shall provide such security as may be requested by the Company in this connection

15. The Customer agrees to make any claim against the Company in writing and without delay in the event of delay in presentation of a claim causing prejudice to the Customer or to the Company, the Company shall be relieved of all and any liability in respect of such claim.

#### **The Company's role**

16. (A) Subject to Clauses 21 and 23 below, in the absence of specific agreement between the Customer and the Company, the Company shall be entitled to procure the carriage, storage, packing or handling of the goods as an Agent subject to these Conditions or to provide any or all of its services as a principal contractors.

(B) The offer and acceptance of a fixed price for the accomplishment of any task shall not itself determine whether such task is to be arranged by the Company acting as Agent or to be provided by the Company acting as a contracting principal

(C) When acting as an Agent, the Company do not make or purport to make any contract with the Customer for the carriage, storage, packing or handling of any goods nor for any other physical service in relation to them and acts solely on behalf of the Customer in securing services by establishing contracts with third parties so that direct contractual relationships are established between the Customer and such third parties.

(D) The Company shall on demand by the Customer provide evidence of any contract entered into as Agent for the Customer. Insofar as the Company maybe in default of this obligation, it shall be deemed to have contracted with the Customer as principal for the performance of the Customer's instructions.

#### **Company's General Conditions**

17. The Company shall be discharged of all liability whatsoever howsoever arising in respect of any service provided for the Customer or which the Company has undertaken to provide unless suit be brought and written notice thereof given to the Company within nine months from the date of any event or occurrence alleged to give rise to a cause of action against the Company.

18 Except under special arrangements previously made in writing the company accepts no responsibility or departure or arrival dates of goods.

19. (A) If delivery of the goods or any part thereof is not taken by the Customer, Consignee or Owner, at the time and place when and where the Company is entitled to call upon such person to take delivery thereof; the Company shall be entitled to store the goods or any part thereof at the sole risk of the Customer, whereupon the liability of the company in respect of the goods or that part thereof stored as aforesaid shall wholly cease and the cost of such storage if paid for or payable by the Company or any Agent or subcontractor of the Company shall forthwith upon demand be paid by the Customer to the Company.

(B)(i) The Company shall be entitled at the expense of the Customer to dispose of ( by sale or otherwise as maybe reasonable in all the circumstances)

(a) On 21 days notice in writing to the Customer, or where the Customer cannot be traced and reasonable efforts have been made to contact any parties who may reasonably be

supposed by the Company to have any interest in the goods, any goods which have been held by the Company for 90 days and which cannot be delivered as instructed; and

(b) without prior notice, goods which have perished, deteriorated or altered or are in immediate prospect of doing so in a manner which has caused or may reasonably be expected to cause loss or damage to third parties or to contravene any applicable laws or regulations.

(ii) The Company shall give appropriate credit to the Customer for any balance arising out of the proceeds of sale of the goods after deduction of the Company's costs of sale.

20. Except insofar as may be required to comply with the Customer's instructions as regards documentation, or except under special arrangements previously made in writing the Company shall not be obliged to arrange for the goods to be carried, stored or handled separately from other goods.

21. (A) No insurance will be effected except upon express instructions given in writing by the Customer and all insurance effected by the Company are subject to the usual exceptions and conditions of the policies of the insurance company or underwriters taking the risk Unless otherwise agreed in writing the Company shall not be under any obligation to effect a separate insurance on each consignment but may declare it on any open or general policy held by the Company

(B) Insofar as the Company agrees to arrange insurance, the Company acts solely as Agent for the Customer using its best endeavors to arrange such insurance and does so subject to the limits of liability contained in Clause 37 hereof

22. Except in accordance with express instructions in writing previously received and accepted by the Company the Company shall not be obliged to make any declaration for the purpose of any statute, convention or contract as to the nature or value of any goods or as to any special interest in delivery.

23. (A) Except under special arrangements previously made in writing or under the terms of a printed document signed by the Company, any instructions relating to the delivery or release of goods in specified circumstances only, such as (but without prejudice to the generality of this clause) against payment or against surrender of a particular document, are accepted by the Company as Agents for the Customer where third parties are engaged to effect compliance with the instructions.

(B) The Company shall not be under any liability in respect of such arrangements as are referred to under sub-clause (A) hereof save where such arrangements are made in writing.

(C) In any event, the Company's liability in respect of the performance or arranging the performance of such instructions shall not exceed that provided for in these Conditions in respect of loss of or damage to goods.

24. Advice and information, in whatever form it may be given, is provided by the Company for the Customer only and the Customer shall indemnify the Company against any liability, claims, loss, damage, costs or expenses arising out of any other person relying upon such advice or information. Except under special arrangements previously made in writing, advice and information which is not related to specific instructions accepted by the Company is provided gratuitously and without liability.

25. The defenses and limits of liability provided for in these Conditions shall apply in any action against the Company whatsoever, howsoever arising, whether the action be founded in contract tort or otherwise.

**Company's Special Conditions relating to Particular Goods.**

26. Except following instructions previously received in writing and accepted by the Company, the Company will not accept or deal with goods of a dangerous or damaging nature, nor with goods likely to harbor or encourage vermin or other pests. If such goods are accepted pursuant to special arrangement and then in the opinion of the Company they constitute a risk to other goods, property, life or health. the Company shall where reasonably practicable contact the Customer but reserves the Tight at the expense of the Customer to remove or otherwise deal with the goods.

27. Should any Customer otherwise than under special arrangements previously made in suiting as set out in Clause 26 above, deliver to the Company or cause the Company to deal with or handle goods of a dangerous or damaging nature, or goods likely to harbor or encourage vermin or other pests, he shall be liable for all loss or damage arising in connection with such goods and shall indemnify the Company against all penalties, claims, damages, costs and expenses whatsoever arising in connection therewith, and the goods may be dealt with in such manner as the Company or any other person Us whose custody they may beat any relevant time shall think fit.

28. (A) Except under special arrangement previously made in writing the Company will not accept or deal with bullion, coin, precious stones, jewelry, valuables, antiques, pictures, human remains, livestock or plants. Should any Customer nevertheless deliver any such goods to the Company or cause the Company to handle or deal with any such goods otherwise than under special arrangements previously made in suiting the Company shall be under no liability whatsoever for or in connection with such goods howsoever arising.

(B) The Company may at any time waive its rights and exemptions from liability under subclause (A) above in respect of any one or more of the categories of goods mentioned herein or of any part of any category. If such waiver is not in writing, the onus of proving such waiver shall be on the Customer.

**Company as a Forwarding Agent**

29 Clauses 30 to 32 below inclusive apply where and to the extent that the Company in accordance with these Conditions is acting as agent on behalf of the Customer.

30 The company shall be entitled and the Customer hereby expressly authorizes the Company, except in so far as has been otherwise specifically agreed between the Company and the Customer, to enter into contracts on behalf of the Customer:

- (a) for the carriage of goods by any route or means or person;
- (b) for the storage, packing; trans-shipment, loading, unloading or handling of the goods by any person at any place whether on shore or afloat and for any length of time;
- (c) for the carriage or storage of goods in or on transport units as defined in Clause 13 (C) or with other goods of whatever nature; and
- (d) to do such acts as may in the opinion of the Company be reasonably necessary in the performance of its obligations in the interests of the Customer.

31. The Company shall be entitled to perform any of its obligations herein by itself or by its parent, subsidiary or associated Companies or by any other person from or Company. In the absence of agreement to the contrary any contract to which these Conditions apply is made by the Company on its own behalf and also as agent for and on behalf of any such parent, subsidiary or associated Company, and any such company shall be entitled to the benefit of these conditions.

32. Where there is a choice of rates according to the extent or degree of the liability assumed by carriers, warehousemen or others, no declaration of value where optional will be made except under special arrangements previously made in writing; nor shall the Company be under any liability to the Customer by reason of having entered into any contract on behalf of the Customer whereby the extent or degree of the liability assumed by a carrier, warehouseman or other party is in any respect excluded or limited save where such contract is entered into contrary to specific instructions given by the Customer and accepted by the Company.

### **Conspiracy Contracting as Principal**

33. Clauses 34 to 35 inclusive apply where and to the extent that the Company in accordance with these Conditions is contracting as principal.

34. The Company is not a common carrier and deals on the basis of these Conditions alone. The Company reserves to itself a reasonable liberty as to the means, route and procedure to be followed in the handling, storage and transportation of goods.

35. (A) When and to the extent that the Company has contracted as principal for the performance of any services, it undertakes to perform and/or in its own name to procure the performance of those services, and subject always to the totality of these Conditions accepts liability for loss of or damage to goods taken into its charge occurring between the time when it takes the goods into its charge and the time when the Company is entitled to call upon the Customer, Consignee or Owner to take delivery of the goods.

(B) The Company shall be deemed to have taken the goods into its charge when they have been received by the Company or have been released or handed over by the Customer or any person acting on behalf of the Customer to any person acting on behalf of the Company in accordance with any directions of the Company for the performance of the Customer's instructions.

### **Limitations of Liabilities**

36. Subject always to Clauses 3 above and 37 below the Company shall be relieved of liability for any loss or damage if and to the extent that such loss or damage was caused by:

(a) the act or omission of the Customer, or person other than the Company acting on behalf of the Customer, or of the person from whom the Company took the goods in charge;

(b) insufficiency of the packing and/or marks and/or labels and/or numbers save where the Company had undertaken to carry out the packing, application of marks or labeling or numbering of the goods;

(c) handling, loading, stowage or unloading of the goods by the Customer or any person acting on behalf of the customer.

(d) inherent vice of the goods;

(e) Strike, lock out, stoppage or restraint of labor, the consequences of which the Company was unable to avoid by the exercise of reasonable diligence.

(f) any cause or event which the Company was unable to avoid and the consequences whereof the Company was unable to prevail by the exercise of reasonable diligence.

The burden of proving that the loss or damage was due to one or more of the above causes or events shall rest upon the Company.

37. (A) Subject to Clause 3 above and sub-clauses (D) and (F) below the Company's liability howsoever arising and notwithstanding that the cause of loss or damage be unexplained shall not exceed.

(i) in the case of claims for loss or damage to goods

(a) the value of any goods lost or damaged, or

(b) a sum at the rate of two Special Drawing Rights as defined by the International Monetary Fund. (hereinafter referred to as SDR's), per kilo of gross weight of any goods lost or damaged. Whichever shall be the least

(ii) in the case of all other claims

(a) the value of the goods the subject of the relevant transaction between the Company and its Customer, or

(b) a sum at the rate of two SDR's per kilo of the gross weight of the goods the subject of the said transaction, or

(c) 75.000 SDR's in respect of any one transaction whichever shall be least  
For the purpose of paras (i) and (ii) above the value of the goods shall be their value at the place and time are delivered to the Consignee in accordance with the relevant transaction between the Company and the Customer or should have been so delivered. SDR's shall be calculated as at the date when the claim was first notified to the Company in writing.

(B) Subject to Clause 3 above, and sub-clauses (D) and (F) below, the Company's liability for loss or damages a result of failure to deliver or arrange delivery of goods ins reasonable time or (where there is a special arrangement tinder Clause 18) to adhere to agreed departure or arrival dates shall riot in any circumstances whatever exceed a sum equal to twice the amount of the Company's charges in respect of the relevant transaction.

(C) Save in respect of such loss or damage as is referred to at sub-clause (13) and subject to Clause 3 above and sub-clauses (D) and (F) below, the Company shall not in any circumstances whatsoever be liable for indirect or consequential loss such as (but not limited to) loss of profits, loss of market or the consequences of delay or deviation however caused.

(D) By special arrangement agreed in writing, the .Company may accept liability in excess of the limits set out in sub clauses (A) to (C) above upon the Customer agreeing to pay the Company's additional charges for accepting such increased liability. Details of the Co mpany's additional charges will be provided upon request.



(E) If expressly instructed so to do in writing by the Customer, the Company will use its best endeavors in accordance with Clause 21 hereof to procure insurance (where available) to indemnify the Customer in respect of any loss which he may suffer in excess of the amounts recoverable in accordance with these Conditions,

(F) In any case where, in accordance with these Conditions, the Company is liable to pay compensation in respect of loss or damage to goods, and it is known where such loss or damage occurred, the extent and the amount of the liability in respect of such loss or damage shall be determined by the provisions contained in any applicable conventions or law, which provisions.

(i) cannot be departed from by private contract to the detriment of the Claimant; and

(ii) would have applied if the Claimant had made a separate and direct contract with the actual provider of the particular service in respect of the service or that part of any operation where the loss or damage covered and had received as evidence thereof any particular document which must be issued in order to make such convention or law applicable.

The relevant provisions of the Hague Visby rules contained in the protocol of Brussels dated February 23rd 1968 shall be applied to all carriage of goods by sea and where no mandatory international or national law applies to the carriage of goods by inland waterways also and such provisions shall be applied to all goods whether carried on deck or under deck.

#### **Warsaw Convention**

38 If the company acts as principal in respect of a carriage of goods by air, the following notice is hereby given. If the carriage involves an ultimate destination or stop in a country other than the country of departure, the Warsaw Convention may be applicable and the Convention governs and in most cases limits the liability of carriers in respect of loss of or damage to cargo. Agreed stopping places are those places (other than the place of departure and destination) shown under requested routing and/or those places shown on the carrier's timetables as agreed stopping places for the route. The address of the first carrier at the airport of departure.

#### **Miscellaneous**

39 The Customer shall pay to the Company cash or as otherwise agreed all sums immediately when due without reduction or deferment on account of any claim, counter claim or set off

40. Despite the acceptance by the Company of instructions to collect freight duties, charges or other expenses from the Consignee or any other person, the Customer shall remain responsible for such freight, duties, charges and expenses on receipt of evidence of proper demand and in the absence of evidence of payment (for whatever reason) by such Consignee or other person when due.

41. (A) Subject to sub-clause (B) hereof the Company shall have a general lien on all goods and documents relating to goods in its possession, custody or control for all sums due at any time from the Customer or Owner and shall be entitled to sell or dispose of such goods or documents as agent for and at the expense of the customer and apply the proceeds in or towards the payment of such sums on 21 days notice in writing to the Customer. Upon accounting to the Customer for any balance remaining after payment of any sum due to the

Company and the costs of sale or disposal the Company shall be discharged of any liability whatsoever in respect of the goods or documents

(B) When the goods are liable to perish or deteriorate, the Company's right to sell or dispose of the goods shall arise immediately upon any sum becoming due to the Company subject only to the Company taking reasonable steps to bring to the Customer's attention its intention of selling or disposing of the goods before doing so.

42. The Company shall be entitled to retain and be paid all brokerages commissions allowances and other remunerations customarily retained by or paid to freight forwarders.

#### **Jurisdictions and Law**

43. "In case of dispute, the disputing parties shall in the first instance endeavor to arrive at an amicable settlement by way of consultations; however, should such effort fail to achieve its objectives, then the parties hereto agree to submit their differences to a board of arbitration to be appointed upon mutual consent of the parties and finally by failure of such board to solve the matter the same shall be settled through court proceeding in Jakarta."

44 Subject to Clause 3(B) hereof these Conditions and any act or contract to with they apply shall be governed by Indonesian Law.

#### **DANGEROUS GOODS (AIR)**

45 The inherent characteristics of certain commodities make it impossible for them to be carried by air without endangering the safety of aircraft, passengers or crew. However, some goods of dangerous nature can be accepted for carriage providing the quantity is restricted to within given limits and packing conforms to specifications laid down in the current edition of the IATA Dangerous Goods Regulations/ICAO Technical Instructions. The Airline's agreement to accept dangerous cargo must be obtained before the consignment is delivered. A shipper's declaration for dangerous goods, in duplicate on the form appropriate to the danger involved, as required by the current IATA Dangerous Goods Regulations, must accompany every consignment of dangerous cargo, worded as follows:

"I hereby declare that the contents of this consignment are fully and accurately described above by proper shipping name classified, packed, marked and labeled, and are in all respects in the proper condition for transport by air according to the applicable International and National Government Regulations."