



PAKISTAN INTERNATIONAL FREIGHT FORWARDERS ASSOCIATION

Registered with the Ministry of Commerce, Government of Pakistan

License No. 152

Standard Trading Conditions
for
Freight Forwarders

January 2005

Standard Trading Conditions for Freight Forwarders

DEFINITIONS AND APPLICATION

1. In these Conditions:

"Person" includes persons or any body or bodies corporate.

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

"Customer" means any Person at whose request or on whose behalf the Freight Forwarder undertakes any business or provides advice, information or services.

A "Freight Forwarder" is one who undertakes forwarding of goods on behalf of his customer, including if necessary, Customs clearance, procurement and coordination of one or more modes of transport. He may also undertake to perform one or more modes of transport. He may also undertake to perform other functions connected with the main contract such as warehousing (including storage in transit) groupage or consolidation, packing, documentation, weighing and measurement of cargo container leasing, insurance, foreign exchange transaction etc and includes any parent subsidiary or affiliated company, firm, person or entity of the Freight Forwarder.

2 (A). Subject to Sub-Paragraph (B) below, all and any activities of the Freight Forwarder 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 Freight Forwarder 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 such business be overridden to that extent and no further.

3. The Customer warrants that he is either the Owner or the authorised 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 and is authorized in this behalf by the Owner.

4. In authorizing the Customer to enter into any contract with the Freight Forwarder and/or in accepting any document issued by the Freight Forwarder in connection with such Contract, the Owner irrevocably accepts these Conditions and on behalf of any parties that the Owner or their agents may act, and in particular but without prejudice to the generality of this clause, the Owner accepts (for himself and on behalf of any parties that the Owner or their agents may act) that the Freight Forwarder shall have the right to enforce the rights herein, jointly and severally against the Owner, the Owner's agents or any parties on behalf of whom the Owner or his agents may act in connection with any liability of the Customer under these Conditions or to recover any sums to be paid to the Freight Forwarder by the Customer which when duly demanded have not been paid.

THE FREIGHT FORWARDER

5 (A). Subject to Clauses 13 and 14 below, the Freight Forwarder shall be entitled to procure any or all of its services as an Agent or to provide those services as a Principal.

(B). The offer and acceptance of an inclusive price for the accomplishment of any service or services shall not itself determine whether any such service is or services are to be arranged by the Freight Forwarder acting as agent or to be provided by the Freight Forwarder acting as a contracting principal.

(C). When acting as an agent the Freight Forwarder does 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 Freight Forwarder shall on demand by the Customer provide evidence of any Contract entered into as Agent for the Customer. Insofar as the Freight Forwarder may be in default of this obligation, it shall be deemed to have contracted with the Customer as a Principal for the performance of the Customer's instructions.

6. When and to the extent that the Freight Forwarder has contracted as principal for the performance of any of its 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 and in particular to Clauses – 26 - 29 hereof 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 Freight Forwarder is entitled to call upon the Customer or Owner to take delivery of the goods. When the Company contracts as a Principal for any services, it shall have full liberty

- a) to perform such services itself or
- b) to subcontract the whole or any part of such services to third parties (including the Company's own parent, subsidiary, or associated companies).

7. When and to the extent that the Freight Forwarder in accordance with these Conditions is acting as an agent on behalf of the Customer, it is acting in a customary manner. The Freight Forwarder shall be entitled, and the Customer hereby expressly authorizes the Freight Forwarder such entitlement, to enter into contracts on behalf of the Customer and the Owner:

- a. for the carriage of goods by any route or means or Person,
- b. for the storage, packing, transshipment, loading, unloading or handling of the goods by any Person at any place and for any length of time,
- c. for the carriage or storage of goods in or on transport units as defined in clause 18 c. and with other goods of whatever nature, and
- d. to do such acts as may in the opinion of the Freight Forwarder be reasonably necessary or desirable in the performance of its obligations to the Customer and in the interests of the Customer and the Owner.

8. The Freight Forwarder reserves to itself a reasonable liberty as to the means, route and procedure to be followed in the handling, storage and transportation of goods.

9. The Freight Forwarder is permitted to perform any of its obligations herein by itself or by a sub-contractor. Any such sub-contractor shall also hereby be deemed to have and to take all the benefits, privileges and immunities of these Conditions in relation to the Customer and Owner. For the purpose of allowing the sub-contractor to take the benefits under these Conditions, the sub-contractor shall follow these Conditions.

10 (A). Subject to Sub-Clause (B) hereof, the Freight Forwarder 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 retain, 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 Freight Forwarder and the costs of sale or disposal the Freight Forwarder 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 Freight Forwarder's right to sell or dispose of the goods shall arise immediately upon any sum becoming due to the Freight Forwarder subject only to the Freight Forwarder taking reasonable steps to bring to the Customer's attention its intention of selling or disposing of the goods before doing so.

11. The Freight Forwarder shall be entitled to retain and be paid all brokerages, commissions, allowances and other remunerations customarily retained by or paid to freight forwarders.

12 (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 Freight Forwarder is entitled to call upon such person to take delivery thereof, the Freight Forwarder shall be entitled to store the goods or any part thereof at the sole risk of the Customer, whereupon the liability of the Freight Forwarder 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 Freight Forwarder or any Agent or Sub-Contractor of the Freight Forwarder shall forthwith upon demand be paid by the Customer to the Freight Forwarder.

(B). The Freight Forwarder shall be entitled at the expense of the Customer to dispose of (by sale or otherwise as may be reasonable in all the circumstances):-

(i) 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 Freight Forwarder to have any interest in the goods) without notice, any goods which have been held by the Freight Forwarder for 30 days and which cannot be delivered as instructed; and

(ii) 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 the or Third Parties or to contravene any applicable laws or regulations.

13 (A). No insurance will be effected except upon express instructions given in writing by the Customer and all insurances effected by the Freight Forwarder are subject to the usual exceptions and conditions of the policies of the insurance Freight Forwarder or underwriters taking the risk. Unless otherwise agreed in writing the Freight Forwarder 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 Freight Forwarder.

(B). Insofar as the Freight Forwarder agrees with the Customer to arrange insurance, the Freight Forwarder acts solely as agent for the Customer, at his costs, using its best endeavors to arrange such insurance and does so subject to the limits of liability contained in Clause 29 hereof.

14 (A). Except under special arrangements previously made in writing or under the form of a printed document signed by the Freight Forwarder, 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 Freight Forwarder only as agents for the Customer where third parties are engaged to effect compliance with the instructions.

(B). The Freight Forwarder shall not be under any liability in respect of such arrangements as are referred to under Clause a. hereof save where such arrangements are made in writing.

(C). In any event, the Freight Forwarder'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,

15. Advice and information, in whatever form it may be given, is provided by the Freight Forwarder for the Customer only and the Customer shall not pass such advice or information to any Third Party without the Freight Forwarder's written agreement. The Customer shall indemnify the Freight Forwarder against all loss and damage suffered as a consequence of any breach of this Condition by the Customer.

16 (A). Except under special arrangement previously made in writing, as allowed by the law for the time being in force, the Freight Forwarder will not accept or deal with bullion, coin, precious stones, jewellery, valuables, antiques, pictures, human remains, livestock, pets, plants or any other special items not covered under any other clause of this Conditions. Should any Customer nevertheless deliver any such goods to the Freight Forwarder or cause the Freight Forwarder to handle or deal with any such goods otherwise than under special arrangements previously made in writing the Freight Forwarder shall be under no liability whatsoever for or in connection with such goods howsoever arising.

(B). The Freight Forwarder may at any time waive its rights and exemptions from liability under Sub-Clause (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.

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

18. 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

THE CUSTOMER

19. The Customer warrants:

- a. that the description and particulars of any goods furnished by or on behalf of the Customer are full and accurate and he will be liable for consequences of any penalties levied by Port, Customs or other authorities arising from any incorrect information supplied.
- b. 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. that where the Freight Forwarder receives the goods from the Customer already stowed in or on a container, trailer, tanker, or any other device specifically constructed for the carriage of goods by land, sea or air (each hereafter individually referred to as the "transport unit"), the transport unit is in good condition, and is suitable for the carriage to the intended destination of the goods loaded therein or thereon.

20. Should the Customer otherwise than under special arrangements previously made in writing deliver to the Freight Forwarder or cause the Freight Forwarder to deal with or handle goods of a dangerous or damaging nature, or goods likely to harbor or encourage vermin or other pests, or goods liable to taint or affect other goods, he shall be liable for all loss or damage arising in connection with such goods and shall indemnify the Freight Forwarder against all penalties, claims, damages, costs and expenses whatsoever arising in connection therewith, and the goods may be dealt with in such a manner as the Freight Forwarder or any other Person in whose custody they may be at any relevant time shall think fit.

21. The Customer undertakes that no claim shall be made against any director, servant, or employee of the Freight Forwarder, which imposes, or attempts to 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 Freight Forwarder against all consequences thereof.

22. The Customer shall save harmless and keep the Freight Forwarder indemnified from and against:

- a. all liability, loss, damage, costs and expenses whatsoever (including without prejudice to the generality of the foregoing, all duties, taxes, imposts, levies, deposits and outlays of whatsoever nature levied by any authority in relation to the goods) arising out of the Freight Forwarder 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, and -
- b. without derogation from Clause a. above, any liability assumed or incurred by the Freight Forwarder when by reason of carrying out the Customer's instructions the Freight Forwarder has reasonably become liable or may become liable to any other party, and -
- c. all claims, costs and demands whatsoever and by whomsoever made or preferred in excess of the liability of the Freight Forwarder under the terms of these Conditions regardless of whether such claims, costs and demands arise from or in connection with the negligence or breach of duty of the Freight Forwarder its servants, sub-contractors or agents, and -
- d. any claims of a General Average nature which may be made on the Freight Forwarder.

23 (A). The Customer shall pay to the Freight Forwarder in cash or as otherwise agreed all sums immediately when due without reduction or deferment on account of any claim, counterclaim or set-off.

(B). In respect of all sums, which are overdue, the Customer shall be liable to pay to the Freight Forwarder financial charges calculated at 2% above the KIBOR (Karachi inter-bank official rate) for the time being.

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

25. Where liability for General Average arises in connection with the goods, the Customer shall promptly provide security to the Freight Forwarder or to any other party designated by the Freight Forwarder in a form acceptable to the Freight Forwarder.

LIABILITY AND LIMITATION

26. The Freight Forwarder shall perform its duties with a reasonable degree of care, diligence, skill and judgment.

27. The Freight Forwarder shall be relieved of liability for any loss or damage if and to the extent that such loss or damage is caused by:

- a. Strike, lockout, stoppage or restraint of labor, the consequences of which the Freight Forwarder is unable to avoid by the exercise of reasonable diligence.
- b. any cause or event which the Freight Forwarder is unable to avoid and the consequences whereof the Freight Forwarder is unable to prevent by the exercise of reasonable diligence.

28. Except under special arrangements previously made in writing the Freight Forwarder accepts no responsibility for departure or arrival dates of goods.

29 (A). Subject to clause 2(B) and 13(b). above and Clause 30D below the Freight Forwarder '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 PKR 50 (fifty) per kilo of gross weight of any goods lost or damaged, subject to a limit of PKR 5,000 (five thousand) per package or unit, whichever shall be the least

(ii) In case of all other claims:

- a) the value of the goods the subject of the relevant transaction between the Freight Forwarder and its Customer, or
- b) a sum at the rate of PKR 50 (fifty) per kilo of the gross weight of the goods the subject of the said transaction, subject to a limit of PKR 5,000 (five thousand) per package or unit, whichever shall be the least.

For the purposes of clause 29 A. the value of the goods shall be their value when they were or should have been shipped.

(B). Subject to clause 2(b) above, and sub clause (d). below, the Freight Forwarder's liability for loss or damage as a result of failure to deliver or arrange delivery of goods in a reasonable time or (where there is a special arrangement under clause 28 to adhere to agreed departure or arrival dates shall not in any circumstances whatever exceed a sum equal to twice the amount of the Freight Forwarder's charges in respect of the relevant transaction.

(C). Save in respect of such loss or damage as is referred to at sub clause 30b and subject to clause 2(b) above and sub clause 29D. below, the Freight Forwarder 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 Freight Forwarder may accept liability in excess of the limits set out in clauses 29 A. to 29 C. above upon the Customer agreeing to pay the Freight Forwarder 's additional charges for accepting such increased liability. Details of the Freight Forwarder's additional charges will be provided upon request.

30. If the Freight Forwarder acts as a principal in making an agreement for the carriage of goods by air, the following notice is hereby given:

If the carriage involves an ultimate destination to or stopping place in a country other than the country of departure and limits the liability of carriers in respect of loss of or damage to cargo, the limit of liability shall not exceed as prescribed by/under law.

Agreed stopping places are those places (other than the places of departure and destination) shown under requested routing and/or those places shown in the carriers' timetables as scheduled stopping places for the route. The address of the first carrier is the airport of departure.

31. Receipt by the Customer or Owner of visibly damaged goods without complaint shall invalidate any claim against the Freight Forwarder. Any claim against the Freight Forwarder arising from loss of or damage to the goods not visible at the time of receipt by the Customer or Owner must be made in accordance with the provisions of the applicable law.

LAW, JURISDICTION AND CONCILIATION

32. These Conditions and any act or contract to which they apply shall be governed by Pakistani Law.

Time Limit

33. Claims against the Freight Forwarder shall be time barred within a period of one year commencing from the day of delivery of the goods to the consignee named in the contract or, if no delivery has taken place, from the date of the conclusion, which is the date of shipment of the Forwarding contracts

Arbitration

34. This Agreement is governed by the law of Pakistan. Any differences or disputes arising out of this Agreement shall be referred to arbitration in accordance with the prevailing law and under the provisions of the Arbitration Act, 1940 or any amendments thereof. The Forwarder and each party shall nominate one arbitrator each, and in case of difference of opinion between the arbitrators, the two nominated arbitrators shall mutually appoint an umpire whose decision shall be final and binding on the Parties. The Arbitrators and Umpires to be appointed under this clause shall only be from the panel of arbitrators duly approved by the Pakistan International Freight Forwarders Association (PIFFA). The arbitration shall be held at the Forwarders principal place of business, in the English language.

35. Any provision of this Agreement which is determined to be invalid / unenforceable will be ineffective to the extent of such determination without invalidating the remaining provisions of this Agreement/affecting the validity/enforceability of such remaining provisions. In the event of a conflict between any provision of this Agreement and any law regulation or decree affecting this Agreement, the provision of this Agreement so affected shall be regarded as null and void or shall, where practicable, be limited to the extent necessary to bring it within the requirements of such law regulation or decree but otherwise it shall not effect or render null and void other provisions of this Agreement.