

THE INSTITUTE OF CHARTERED SHIPBROKERS STANDARD TRADING CONDITIONS

FOR LINER & PORT AGENCY



N.B. These conditions are copyright for the use of Institute Company Members only.

All transactions entered into by (the I.C.S. member) (hereinafter "the Company") in connection with or arising out of the Company's business as a port agent or liner agent or booking agent shall be subject to the following terms and conditions unless otherwise agreed or stated by the Company in writing.

1. In these conditions the following expressions have the following meanings respectively
 - (1) "Supplier" means the company firm or person who contracts through the Company to supply services or goods to the Principal or Merchant
 - (2) "Merchant" means the company firm or person who ships, receives, owns or forwards goods in respect of which the Company, whether as agent or principal, has agreed to provide or procure services
 - (3) "Principal" means the company firm or person who has or whose representatives have instructed the Company and who is the owner or charterer or manager of the vessel represented by the Company and/or the carrier under the bill of lading in connection with which services are provided by the Company and
 - (4) "Forwarding Services" means those services usually provided or arranged by a freight forwarder including the carriage of goods to the port of loading and from the port of discharge, the storage, packing or consolidation of goods and the stuffing and stripping of containers.

Transactions with the Supplier

The following terms and conditions shall apply to transactions with the Supplier:

2. Unless otherwise stated in writing, when the Company is acting as a port agent or liner agent or booking agent it acts at all times as agent for and on behalf of the Principal and has authority to enter into contracts with the Supplier as agent for the Principal. The Company shall not be personally liable to pay any debt due to the Supplier from the Principal.
3. Where the Company is acting as a forwarding agent, unless it is acting as agent for the Principal in accordance with clause 2 hereof or otherwise agrees in writing, it acts at all times as agent for and on behalf of the Merchant and has authority to enter into contracts with the Supplier as agent for the Merchant. The Company shall not be personally liable to pay any debt due from the Merchant.

Transactions with the Merchant

The following terms and conditions shall apply to transactions with the Merchant:

4. When acting as port agent or liner agent or booking agent, the Company acts at all times as agent for and on behalf of the Principal and has authority to enter into contracts with the Merchant as agent for the Principal. The Company shall not be personally liable to pay any debt due from the Principal.
5. Unless otherwise agreed in writing, where the Company is instructed by the Merchant to arrange Forwarding Services, the Company shall act as agent for the Merchant in procuring the requested services from a Supplier.
6. Where the Company arranges services for the Merchant's goods which are or will be carried in accordance with a contract with the Principal contained in or evidenced by a bill of lading, charterparty or other contract of affreightment, all services including Forwarding Services are arranged by the Company as agent for and on behalf of the Principal. The provision of such services shall be subject to the terms and conditions of the Principal's bill of lading and tariff rules (if any), which may be inspected on request, or other contract between the Principal and the Merchant.
7. If the Company agrees in writing that it will be personally responsible for the provision of Forwarding Services, unless otherwise agreed in writing, the Company shall be relieved of any liability for loss or damage if it can establish that such loss or damage resulted from:
 - a) the act or omission of the Merchant or his representative or any other party from whom the Company took charge of the goods;
 - b) inherent vice of the goods, including improper packing, labelling or addressing (except to the extent that the Company undertook to be responsible therefor);
 - c) handling, loading, stowage or unloading of the goods by the Merchant or any person acting on his behalf other than the Company;
 - d) seizure or forfeiture under legal process;
 - e) riot, civil commotion, strike, lock-out, general or partial stoppage or restraint of labour from whatever cause;
 - f) any consequence of war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power of confiscation or nationalisation or requisition or destruction of or damage to any property or goods by or under the order of any Government or public or local authority;
 - g) any cause or event which the Company was unable to avoid and the consequences whereof the Company was unable to prevent by the exercise of due diligence.
8. Where so requested in writing by the Merchant or his representative, the Company shall enter and/or clear goods through Customs and/or arrange insurance for the goods as agent for the Merchant. The Company shall have authority to appoint agents to perform such services on behalf of the Merchant, and the agents so appointed shall act as the Merchant's agents and not the Company's agents.
9. Where the Company agrees to provide or arrange services for the Merchant's goods, the Merchant shall be deemed to have authorised the Company to conclude all and any contracts necessary to provide those services. The Merchant shall reimburse on demand the Company with all taxes, charges or fines whatsoever incurred by the Company as a result of providing or arranging the services, or undertaking any liability in connection with the services, particularly in respect of any bond issued to H.M. Customs and Excise by the Company.
10. The Merchant shall declare to the Company full details of goods which are of a dangerous or damaging nature, including those goods which are more particularly described in the IMO Code. Should the Merchant fail to provide such details at the time of contract the Merchant shall be responsible for all costs and damages arising as a result thereof and the Company shall have the right exercisable on behalf of itself or its Principal to rescind the contract.

11. Unless otherwise agreed in writing, the liability of the Company to the Merchant shall in all circumstances be limited to the lesser of sums calculated in the following manner: -
- a) where goods are lost or damaged:
 - (i) the value of goods so lost and damaged; or
 - (ii) a sum calculated at the rate of £800.00 per tonne of the gross weight of any goods lost or damaged;
 - b) in all other circumstances:
 - (i) the value of the goods the subject of the relevant transaction between the Company and the Merchant; or
 - (ii) a sum calculated at the rate of £800.00 per tonne of the gross weight of the goods the subject of the transaction; or
 - (iii) £50,000
12. The company shall not be liable for loss or damage to goods unless it is advised thereof in writing within three days after the termination of transit and the claim is made in writing within 7 days, alternatively advice is given within 28 days of the commencement of transit and the claim is made in writing within 42 days, provided always that these limits shall not apply if the Merchant can establish that it was not reasonably possible for him to make a claim in writing within the time limit and notice was given within a reasonable time.

Transactions with the Principal

The following terms and conditions shall apply to transactions with the Principal:

13. The Company shall be the Principal's agent and shall exercise due care and diligence in performing services for and on behalf of the Principal.
14. The Principal shall indemnify the Company in respect of all liabilities incurred by the Company when acting as a port agent or liner agent or booking agent on the Principal's behalf.
15. The Principal shall pay forthwith by telegraphic transfer to the Company's bank account such sum as the Company may request as an advance on port disbursements which the Company estimate will be incurred whilst the Principal's vessel is in the Company's agency. If the Principal should fail to comply with the Company's request, the Company may at any time give notice of the termination of its agency.
16. The Company shall be entitled to deduct from sums held by the Company for the Principal's account any amounts due to the Company from the Principal.
17. The liability of the Company to its Principal in respect of any negligent act error or omission committed by the Company its directors or employees shall not exceed the amount of the fees or commission payable by the Principal to the Company in respect of the vessel or shipment involved (whichever is less) which fees or commission shall be deemed earned in any event.
18. The Company shall not be liable to indemnify the Principal in respect of any contractual fine, penalty or forfeit incurred by the Principal.
19. Subject to any written instructions to the contrary the Company shall have authority to appoint agents to perform services on behalf of the Principal, including such services as may be the subject of these conditions, and the agents so appointed shall act as the Principal's agents and not the Company's agents.
20. Where the Company acts as liner agent and/or booking agent for the Principal, the Principal shall give six months' written notice of termination of the agency.

General

21. If the Merchant or the Principal, as the case may be, fails to make payment in full of any sums due to the Company on demand or within any period agreed in writing, the Company shall be entitled to recover interest on any sums outstanding at the rate of 2% above the average of the daily base lending rates of National Westminster Bank Plc applicable during the period when the sums are outstanding.
22. 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 Principal or the Merchant and/or their representatives and shall be entitled to sell or dispose of such goods or documents as agent for and at the expense of the Principal or the Merchant and apply the proceeds towards the monies due and the expenses of the retention, insurance and sale of the goods. The Company shall, upon accounting to the Principal or the Merchant for any balance remaining, be discharged from all liability whatsoever in respect of the goods.
23. The company shall be entitled to retain and be paid all brokerages, commission, allowances and other remunerations, usually retained by or paid to freight forwarders.
24. The Merchant, the Supplier and the Principal each undertake with the Company that no claim or allegation of any kind shall be made against any of the Company's directors officers or employees (herein collectively called "the Beneficiaries") for any loss damage or delay of whatsoever kind arising or resulting directly or indirectly from any negligent act error or omission of the Beneficiaries in the performance of the services the subject of these conditions. The Beneficiaries shall have the benefit of this undertaking and in entering into this contract the Company, to the extent of this provision, does so not only on its own behalf but also as agent or trustee for the Beneficiaries, who shall to the extent of this clause only be or be deemed to be parties to this contract.
25. The Company shall perform the services it undertakes to provide with due dispatch but shall not be liable for any loss or damage arising from any delay which it could not reasonably prevent.
26. The Company shall be discharged from all liability whatsoever to the Principal the Supplier or the Merchant unless suit is brought within one year of delivery of the goods or the date when they should have been delivered or of the act or default complained of, whichever is the earlier.
27. These conditions shall be subject to English law. Any dispute arising in connection with the Company's business shall be determined by arbitration in London pursuant to the L.M.A.A. Terms (1987) by a person appointed for that purpose by the parties by agreement in writing. Failing such agreement each party shall appoint its own arbitrator, and the two thus chosen, if they cannot agree, shall nominate an umpire, whose decision shall be final.
28. If there is any conflict between the terms set out herein and any other terms and conditions agreed between the parties these Conditions shall prevail unless the Company specifically agrees otherwise in writing.

© THE INSTITUTE OF CHARTERED SHIPBROKERS. APRIL 1991

THE INSTITUTE OF CHARTERED SHIPBROKERS

3 ST HELEN'S PLACE, LONDON, EC3A 6EJ

TELEPHONE
FAX

0171 628 5559
0171 628 5445

15
