



FREIGHT FORWARDERS TANZANIA LIMITED

TERMS AND CONDITIONS OF TRADE (STANDARD TRADING TERMS AND CONDITIONS)

Services whether gratuitous or not is transacted subject to the conditions hereinafter (referred to as "terms and conditions of trading") set out each of which shall be deemed to be incorporated

Business undertaken by the Company to provide advice, information or in and to be a condition of any agreement or business undertaken between the Company and its Customer(s).

In the event the Company renders Services and issues a document containing terms and conditions governing such Services, or if the Company executes a contract with its Customer(s), the terms and conditions set forth in such other document(s) or contract shall govern Services and these Terms and Conditions of Trading shall only be supplemental to such other terms and conditions embodied in a contract or other document issued by Company. In the event of contradiction between these terms and conditions of trading with terms and conditions of a document and/or contract issued by the Company, then such contract or document issued by the Company shall prevail over these terms and conditions of trading unless stated otherwise.

Definitions

- (a) "Company" shall in these terms and conditions of trading mean Freight Forwarders Tanzania Limited and its successors and assigns;
- (b) "Customer" shall mean the person for whom the Company is rendering service, as well as its agents and/or representatives, including, but not limited to, shippers, importers, exporters, owners of Goods, carriers, warehousemen, buyers and/or sellers, shipper's agents, insurers and underwriters and consignees. It is the responsibility of the Customer to provide notice and copy(s) of these terms and conditions of trading to all such agents or representatives of the Customer;
- (c) "Documentation" shall mean all information received directly or indirectly from Customer, whether in paper or electronic form;
- (d) "Goods" means any goods handled, transported or dealt with by or on behalf of or at the instance of the Company or which come under the control of the Company or its agents, servants or nominees on the instructions of the Customer and includes any container, transportable tank, flat pallet, package or any other form of covering, packaging, container or equipment used in connection with or in relation to such goods;
- (e) "Owner" means the owner of Goods to which any business concluded under these trading terms and conditions relate and any other person who is or may have to acquire any interest, financial or otherwise, therein.
- (f) "Services" means the rights, benefits, privileges or facilities that are or are to be provided, granted or conferred under a contract for or in relation to the performance of work by the Company for the Customer, to include, without limitation: to make any reports, entries and declarations required by any Government Authorities; to provide all necessary information and complete all necessary documentation and reports for the purposes of any Government Authorities; and to enter into contracts with sub-contractors on behalf of the Customer to enable the carriage, import, export or transportation of the Goods.
- (g) "Third parties" shall include, but not be limited to, the following: "carriers, truckmen, cartmen, lightermen, forwarders, ocean freight forwarders, non-vessel operating carriers, customs brokers, warehousemen and others to which Goods are entrusted for transportation, cartage, handling and/or delivery and/or storage or otherwise";
- (h) All references to the plural herein shall also mean the singular and to the singular shall also mean the plural unless the context otherwise requires;
- (i) The headings to the paragraphs are for reference purposes only and shall not aid in the interpretation of the paragraphs to which they relate

1. Customer as either Owner or Authorized Agent

- (a) Customers entering into transactions of any kind with the Company expressly warrant that they are either the owners or the authorized agents of the owners of Goods to which the transaction relates and further warrant that they are authorized to accept and are accepting these conditions not only for themselves but also as agents for and on behalf of all other persons who are or may thereafter become interested in Goods.
- (b) The Customer warrants that it is bound by these trading terms and conditions for itself and its agents and for any parties on whose behalf it or its agents may act, and in particular, but without prejudice to the generality of the foregoing, it accepts that the Company shall have the right to enforce against them jointly and severally any liability of the Customer under these trading terms and conditions or to recover from them any sums to be paid by the Customer which upon demand have not been paid.

2. Quotations Not Binding.

Quotations are given on the basis of immediate acceptance and subject to the right of withdrawal or revision. Quotations as to fees, rates of duty, freight charges, insurance premiums or other charges given by the Company to the Customer are for informational purposes only and are subject to change without notice; no quotation shall be binding upon the Company unless:

- (a) the Company in writing agrees to undertake the handling or transportation of the shipment or consignment at a specific rate or amount set forth in the quotation; or
- (b) the Company has started to perform Customer instructions pursuant to the quotation. "Performance" shall also hereby mean taking any potential preparatory action such as the Company placing orders with third parties. If any changes occur in the rates of duty, freight charges, insurance premiums or other charges given or quoted by the Company, quotations and charges shall be subject to revision accordingly with or without notice.

Quotation rates are based on dimensions and equipment models provided by Customer to Company and any deviation from such dimensions and equipment models by Customer shall be reason for Company to revise its quotation rates and such revised quotation rates shall be binding on Customer.

3. Reliance on Information Furnished

(a) In preparing and submitting customs entries, export and import declarations, applications, documentation and/or import or export data to the customs department or authorities and/or a third party, the Company relies on the correctness of all documentation, whether in written or electronic format, and all information furnished by Customer;

- (b) Customer shall use reasonable care to ensure the correctness of all such information and shall indemnify and hold the Company harmless from any and all claims asserted and/or liability or losses suffered by reason of the Customer's failure to disclose information or by Customer giving any incorrect or false statement upon which the Company reasonably relied.

4. Instructions

(a) The Customer shall ensure that documentation required for receipt and for dispatch, and instructions are in the Company's possession in proper time and in particular documentation for custom clearance of Goods are to be surrendered by Customer to Company at least seven (7) working days prior to vessel arrival at the port of discharge or relevant customs border station. In the event of delay, any charges arising as a result of the delay including but not limited to late documentation/removal charges shall be borne by Customer.

(b) If events or circumstances come to the attention of the Company, which, in the opinion of the Company, make it in whole or in part, impossible or impracticable for the Company to comply with a Customer's instructions written or otherwise, such as but not limited to poor road and weather conditions, the Company shall take reasonable steps to inform such Customer of such events or circumstances and to seek further instructions. If such further instructions are not timely received by the Company in writing the Company shall, at its sole discretion, be entitled to detain, return, store all or part of the Goods concerned at the risk and expense of the Customer.

(c) The Customer shall be liable for all consequences arising from inaccurate, obscure and inadequate documentation and/or instructions and through the same not being furnished or not furnished in time.

(d) In the absence of documentation, the Company shall not be obliged to receive against a guarantee. Should the Company furnish a guarantee it shall be indemnified by the Customer for all consequences thereof.

(e) Oral instructions, standing or general instructions or instructions given late, even if received by the Company without comment, shall not in any way be binding upon the Company but the Company may act thereupon in the exercise of its absolute discretion.

5. Loading/Unloading

(a) In the event of loading and/or unloading time being inadequate – regardless of the cause thereof – all costs resulting therefrom, such as demurrage etc., shall be borne by the Customer, even when the Company has accepted the bill of lading and/or charter party from which the additional costs arise without protestation.

(b) All loading at loading point and offloading at point of delivery are the responsibility of the Customer. A maximum allowable time of eight (8) hours is provided at both points, failing which, vehicle detention charges at the rate of US\$350 per vehicle per day shall be applicable for semi trailers or any other vehicle other than low loaders where the rate of vehicle detention charges shall be notified by Company to Customer.

(c) Expenses of an exceptional nature and higher wages arising whenever Company by virtue of any agreement, loads or unloads Goods in the event, at night, on Saturday afternoon or on Sundays or public holidays, shall not be included in the agreed prices, unless specifically stipulated. Any such costs shall therefore be refunded by the Customer to the Company.

(d) For work of a special nature, unusual jobs or work requiring a special amount of time or effort, an additional reasonable amount may at all times be charged by Company to Customer.

6. Packing & Carriage

Except where the Company is instructed in writing to pack Goods and the Company agrees in writing thereto, the Customer warrants that all Goods have been properly and sufficiently packed and/or prepared and that Goods will be properly, adequately and appropriately prepared and packed, stored, labeled and marked, having regard inter alia to the characteristics of Goods involved which are capable of withstanding the normal hazards inherent in the implementation of any agreement between Company and Customer;

The Customer warrants, that where Goods are carried in or on containers, trailers, flats, tilts, railway wagons, tanks or any other unit load devices specifically constructed for the carriage of Goods by land, sea or air, (each such device hereinafter individually referred to as "the transport unit") then, save where the Company has been given and has accepted specific written instructions to load the transport unit – a) that the transport unit has been properly and competently loaded, and b) that Goods involved are suitable for carriage in or on the transport unit; and c) that the transport unit is itself in good condition to carry Goods loaded therein and complies with the requirements of all relevant transport authorities and carriers.

7. Selection or Services of Third Parties and/or Routes.

(a) The Company reserves complete freedom to decide the manner or procedure to be adopted for any all of the various acts that will be necessary for the completion of the Services. That discretion will be varied only by instruction delivered by the Customer to the Company in writing and acknowledged by the Company in writing in sufficient time before the performance of any service to reasonably allow the Company to adopt the manner of performing the Services required by the special instructions.

(b) Unless Services are performed by persons or firms engaged pursuant to express written instructions from the Customer, Company shall use reasonable care in its selection of third parties, or in selecting the means, route and procedure to be followed in the handling, warehousing, transportation, clearance and delivery of Goods and/or shipment; advice by the Company that a particular person or firm has been selected to render Services with respect to Goods, shall not be construed to mean that the Company warrants or represents that such person or firm will render such Services nor does Company assume responsibility or liability for any action(s) and/or inaction(s) of such third parties and/or its agents, and shall not be liable for any delay or loss of any kind, which occurs while Goods or a shipment or consignment is in the custody or control of a third party or the agent of a third party; all claims in connection with the act of a third party shall be brought solely against such party and/or agents; in connection with any such claim, the Company shall reasonably cooperate with the Customer, which shall be liable for any charges or costs incurred by the Company thereof.

8. Terms and Conditions of Agents and Third Parties or Subcontractors

Notwithstanding anything to the contrary contained herein the Customer agrees that Goods shall be dealt with by the Company on terms and conditions, whether or not inconsistent with these trading terms and conditions, stipulated by the carriers, warehousemen, government departments, and all other parties (whether acting as agents or subcontractors to the Company or not) into whose possession or custody Goods may pass, or subject to whose authority they may at any time be.

9. Auxiliary Operations

(a) All operations such as superintending, sampling, tallying, weighing and measuring shall take place only on the Customer's specific written instructions and upon reimbursement of the costs thereof.

(b) Nevertheless the Company shall be entitled, but not obliged, on its own authority and at the Customer's expense and risk to take all action which it considers necessary to the Customer's interest.

(c) Where it is necessary for an examination to be held or other action to be taken by the Company in respect of any discrepancy in the Goods which are landed or discharged from any vessel, aircraft, vehicle, or transport unit, no responsibility shall attach to the Company for any failure to hold such examination or to take any other action unless the Company has been timely advised by the landing or discharging agent that such goods have been landed and that such discrepancy exists.

(d) The Company will not be responsible for examining or counting Goods received by it where Goods are bundled, palletized or packed in any other manner such that their number cannot be quickly and easily counted. Should the Company undertake to count Goods so received, it shall incur no liability in respect of any error or inaccuracy in such counting, whether such error or inaccuracy is the result of negligence on the part of the Company or otherwise. The Company shall be entitled to levy a charge on the Customer for counting of Goods in such circumstances.

(e) The Company shall not act as an expert. Company shall in no way be liable for any notification of the state, nature or quality of Goods; nor shall the Company be under any obligation to see that samples are identical with the lot.

10. Limitation of Liability

(a) Except as specifically set forth herein, Company makes no express or implied warranties in connection with its Services;

(b) Customer agrees that in connection with any and all Services performed by the Company, the Company shall only be liable for its negligent acts, which are the direct and proximate cause of any injury to Customer, including loss or damage to Goods, and the Company shall in no event be liable for the acts of third parties;

(c) Even in the event of taking over transport, the Company shall be liable only under the present conditions and not as carrier.

(d) In those cases where the Company is liable to the Customer in terms of sub-paragraph (b) of this paragraph, in no such case whatsoever shall any liability of the Company, howsoever arising, exceed whichever is the lesser of the following respective amounts –

(i) The value of the goods evidenced by the relevant documentation or declared by the Customer for customs purposes or any purpose connected with their transportation; or

(ii) The value of the goods declared for insurance purposes; and

(iii) Where loss or damage howsoever sustained is in respect of part of Goods to the proportion of the sum ascertained in accordance with (d)(i) or (d)(ii) of this paragraph, the liability of the Company shall be limited to the actual value of that part of the Goods which it bears to the actual value of the whole of the Goods.

(e) In no event shall Company be liable or responsible for consequential, indirect, incidental, statutory or punitive damages even if it has been put on notice of the possibility of such damages.

(f) Company shall not be liable to Customer in the event that Goods are auctioned by Tanzanian Ports Authority, Tanzanian Revenue Authority or any governmental or statutory authority on account of unpaid monies, statutory duties, penalties, rates or charges.



11. Limitation of Actions

All suits against the Company must be filed and properly served on Company as follows:
(i) For claims arising out of ocean transportation, within three (3) months from the date of the loss or damage;
(ii) For claims arising out of air transportation, within three (3) months from the date of the loss or damage;
(iii) For claims arising out of the preparation and/or submission of an import entry(s), within thirty (30) calendar days from the date of the final computation or ascertainment of the duties of the entry(s);
(iv) For any and all other claims of any other type, within three (3) months from the date of the loss or damage;
Any suit not brought within the prescribed time period shall be barred, without regard to any other limitations period set forth by statute.

12. Discharge of Liability

In any event the Company shall be discharged from all liability –
(a) for loss from a package or an unpacked consignment or for damage, deviation or mis-delivery (however caused), unless notice of claim be received from the Customer in writing within seven (7) calendar days after the end of the transit where the transit ends anywhere within Tanzania or within fourteen (14) calendar days after the end of the transit where the transit ends at any place outside Tanzania.
(b) for loss or non-delivery of the whole of a consignment or any separate package forming part of the consignment (however caused), unless notice of claim be received from the Customer in writing within twenty-one (21) calendar days of the date when Goods should have been delivered.
Failure to give Company timely notice shall be a complete defense to any suit or action commenced by Customer.

13. Insurance

(a) Customer shall, procure and maintain at their own expense with respect to and during the duration of provision of Services by Company, insurance for both Goods and containers carrying the Goods. The insurance cover obtained by the Customer shall cover all risks which may affect Goods or containers carrying Goods during provision of Services by Company to Customer.
(b) Unless requested to do so in writing and confirmed to Customer in writing, Company is under no obligation to procure insurance on Customer's behalf; in all cases, Customer shall pay all premiums and costs in connection with procuring requested insurance.
(c) All insurances effected by the Company and any of its Sub Contractors including but not limited to Goods in Transit insurance are subject to the usual exceptions and conditions of the policies of the insurance company or underwriters taking the risk and the Company shall not be obliged to obtain separate cover for any risks so excluded or limited by such exceptions and conditions.

14. Indemnification/Hold Harmless

The Customer agrees to indemnify, defend, and hold the Company harmless from any claims and/or liability arising from the importation or exportation of Customer merchandise and/or any conduct of the Customer, which violates any laws, and further agrees to indemnify and hold the Company harmless against any and all liability, loss, damages, costs, claims and/or expenses, including but not limited to reasonable lawyer's fees, which the Company may hereafter incur, suffer or be required to pay by reason of such claims; in the event that any claim, suit or proceeding is brought against the Company, it shall give notice in writing to the Customer by mail at its address on file with the Company. Further, the Customer shall save harmless and keep the Company indemnified and reimburse the Company on demand for all costs and expenses whatsoever whether envisaged and/or unforeseen and/or contingent (including without prejudice to the generality of the foregoing) all duties, taxes, imposts, levies, deposits and outlays of whatsoever nature levied by any government authority or private entity upon the Company in relation to Services provided by the Company to the Customer.

15. Payment by the Customer

(a) Unless otherwise specifically agreed to between Company and Customer, the Customer shall pay to the Company at Company's nominated bank account all sums due within thirty (30) days of the invoice date without deduction or setoff and payments shall not be withheld or deferred on account of any claim or counterclaim which the Customer may allege.
(b) The mode and the currency of payment of monies due by Customer to Company shall be such as stipulated by Company to Customer or agreed to by Company. Unless otherwise stipulated by the Company to Customer or agreed to by Company, Customer shall effect Payments to Company in full by telegraphic transfer to the Company's nominated account(s).
(c) All and any monies received by the Company from the Customer shall be appropriated by the Company in its sole and absolute discretion in respect of any undisputed indebtedness owing by the Customer to the Company, notwithstanding that the Customer might, when making payment, seek or appropriate the payment so made to any particular debt or portion of a debt; the Company has liberty to exercise the right of set off on any Customer account(s).
(d) The Customer shall not be entitled to withhold payments of any amounts by reason of any disputes with the Company, whether in relation to the Company's performance in terms of any agreement, or lack of performance or otherwise. Until such payment is made, any rights that the Customer may have shall be deemed not yet to have arisen.
(e) The Customer shall be liable to pay any wharfage, freight, railage, cartage, duties, taxes, imposts, levies, deposits or outlays of any kind levied by the authorities at any port or place for or in connection with the Goods and for any payments, fines and expenses incurred or sustained by the Company in connection therewith.
(f) The Customer shall pay to Company all sums due to Company plus the applicable Value Added Tax.
(g) Company reserves the right to withhold its Services upon failure by the Customer to make payments on a timely basis.

16. Charges and Rates

The Company reserves the right to factor into its costs: additional duties, taxes, imposts, levies, outlays, Government Tariffs at the Port(s) and Airport(s), and increases in the price of fuel now regulated by the Government of Tanzania; the Company reserves the right to impose any such surcharges on the Customer.

17. General Lien

Goods (and documents relating to Goods) shall be subject to a particular and general lien and right of detention for monies owing either in respect of Goods or Services rendered by Company, or for any particular or general balance or other monies owed, whether then due, by the Customer to the Company. If these monies remain unpaid for thirty (30) calendar days after the Company sends notice of the exercise of its rights to Customer by any means of communication reasonable in the circumstances, Goods may be sold by either public auction or private contract or otherwise at the sole discretion of the Company and in any event without the need to obtain a court order, and the net proceeds applied on account of the monies owing. The Company will not be liable for any deficiencies or reduction in value received on the sale of the Goods nor, will the Customer be relieved from the liability merely because Goods have been sold.

18. Severability

In the event any Paragraph(s) and/or portions(s) hereof is found to be invalid and/or unenforceable, then in such event the remainder hereof shall remain in full force and effect.

19. Right of Termination

(a) The Company may pre-terminate an agreement it has entered into with the Customer based on these terms and conditions for violation of any of these terms and conditions upon written notice to the Customer provided that the Customer is given fourteen (14) calendar days from receipt of written notice to remedy the breach.
(b) If either party is adjudged bankrupt; if it is established that performance of any agreement between the Company and Customer will lead to a conflict of interest; or if a general assignment of either party's assets is made for the benefit of its creditors; or if a receiver or trustee is appointed to either party or any of its property, then either party may forthwith terminate an agreement premised on these terms and conditions by notice to the other party; such termination shall not preclude either party from exercising its right to

demand payment from the other party of actual damages and costs resulting from such termination or any accrued rights up to the date of termination.

(c) Any pre-termination of this Agreement shall not prejudice the rights or claims of either party which it may have accrued prior to such termination.

20. Force Majeure

Regardless in which capacity the Company may act or which kind of services may be performed under these Terms and Conditions of Trading, the Company shall not be liable for whatsoever reason and shall be relieved of any liability if the loss or damage, property or financial damage has been caused by the following liability exemption cases:

- a) an act or omission of the Customer, a Contractor or any person acting on behalf of the Customer
- b) failure, incompleteness and/or lack of compliance by the Customer with legal requirements, non-observance of provisions and necessary instructions in respect of security, safety and environmental provisions or Codes;
- c) handling, loading, stowage or unloading of the Goods by the Customer or a person acting on his behalf;
- d) inherent vice of the Goods;
- e) lack, insufficiency or defective condition of the packing of Goods, containers or transport units; insufficiency or inadequacy of marks and/or numbers on the Goods or unit loads;
- f) war, threat of war, official action, quarantine, civil disturbance, sabotage, strike, lock-out, interference with communications, lack of transport, labour and/or storage accommodation;
- g) storm, fog, lightning, poor road conditions, heavy traffic, flood;
- h) fire, explosions, water used against fires, smoke, burglary, theft, loss, subsidence, collapse, water, seepage, damp odour, stench, worms and rodents, damage through rats, mice, insects and other creatures;
- i) the natural properties of Goods, changes in quality, spontaneous deterioration, self generated heat, combustion, explosion, drying, mould, yeasts, leaks, rot, mildew and rust;
- j) any incident or circumstance the Company could not avoid by reasonable care and the consequences of which it was unable to foresee and prevent by the exercise of due diligence.

21. Consequences of Force Majeure

(a) In the event of force majeure, the contract(s) between the Company and Customer shall remain in force; the Company's obligations shall, however, be suspended for so long as the *force majeure* lasts.
(b) All costs and expenses incurred by the Company until the occurrence of an event of *force majeure* such as carriage and storage charges, warehouse or yard rentals, demurrage for vessels or trucks, insurance, delivery from warehouses, bonded or otherwise, etc., shall be borne by the Customer.

22. Notices

Any notice or other communication between Company and Customer is to be in writing in the English language and signed by or on behalf of the party giving it. And unless otherwise provided for in this Agreement the notice may be served by being delivered personally, through courier or sending it by facsimile or e-mail transmission, or by registered post to the intended recipient due to receive the notice or communication at the address provided by the said recipient. In the absence of evidence of earlier receipt any notice or communication so served is deemed to have been received:

- (a) in the case of personal service, on delivery;
- (b) in the case of facsimile or e-mail transmission, on completion of such transmission except where the time of transmission is not during the addressee's normal business hours in which case it shall be 11.30 a.m on the next Business day; and
- (c) in the case of registered post, seven (7) calendar days from the date of posting.
- (d) In the case of courier, on the date and time of delivery acknowledged by the courier service.

23. Governing Law;

These terms and conditions of trading and the relationship of the parties shall be construed according to the laws of Tanzania without giving consideration to principles of conflict of laws. If any of the terms of these trading terms and conditions of trading is repugnant to or in conflict with the law, then and in such even the conflicting term embodied herein shall be deemed to be amended and/or altered to conform therewith, and such amendment and/or alteration shall not in anyway affect the remaining provisions of these terms and conditions.

24. Consent to Jurisdiction and Venue.

Customer and Company:
(a) irrevocably consent to the jurisdiction of the courts of Tanzania;
(b) agree that any action relating to the Services performed by Company, shall only be brought in the courts of Tanzania and unless otherwise consented to in writing by the Company, no legal proceeding against the Company may be instituted by the Customer, its assigns or subrogee except in the city of Dar es Salaam;
(c) further agree that any action to enforce a judgment may be instituted in any jurisdiction.

The customer acknowledges having read, understood and accepted these terms and conditions of trading.

Stamp of Customer.....

Customer Signature.....Date.....

FREIGHT FORWARDERS TANZANIA LIMITED
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