

Standard Conditions Governing Multimodal Transport Documents issued in accordance with Multimodal Transportation of Goods Act, 1993.

1. Definitions :

- "Carrier means a person who is engaged in the business of transporting for hire goods by road, rail, inland waterways or sea.
- "Consignee" means the person named as consignee in the multimodal transport contract.
- "Consignment" means the goods entrusted to a multimodal transport operator for multimodal transportation.
- "Consignor" means the person, named in the multimodal transport contract as consignor, by whom or on whose behalf the goods covered by such contract are entrusted to a multimodal transport operator for multimodal transportation.
- "Delivery" means - (i) in the case of a negotiable multimodal transport document, delivering of the consignment to or placing the consignment at the disposal of the consignee or any other person, entitled to receive it; (ii) in the case of a non-negotiable multimodal transport document, delivering of the consignment to or placing the consignment at the disposal of the consignee or any person authorised by the consignee to accept delivery of the consignment on his behalf;
- "Endorsement" means the signing by the consignee or the endorsee after adding a direction on a negotiable multimodal transport document to pass the property in the goods mentioned in such document to a specified person.
- "Goods" includes - (i) containers, pallets or similar articles of transport used to consolidate goods, and (ii) animals.
- "Mode of transport" means carriage of goods by road, rail inland waterways or sea;
- "Multimodal transportation" means carriage of goods by two or more modes of transport from the place of acceptance of the goods in India to a place of delivery of the goods outside India.
- "Multimodal transport contract" means a contract entered into by the consignor and the multimodal transport operator for multimodal transportation.
- "Multimodal transport operator" means a person who - (i) concludes a multimodal transport contract on his own behalf or through another person acting on his behalf; (ii) acts as principal and not as an agent either of the consignor or of the carrier participating in the multimodal transportation, and who assumes responsibility for the performance of the said contract; and (iii) is registered under sub section (3) of section 4 of the Act.
- "Negotiable multimodal transport document" means a multimodal transport document which is - (i) made out to bearer; or (ii) made out to order and is transferable by endorsement; and (iii) made out to bearer and is transferable without endorsement.
- "Non-negotiable multimodal transport document" means a multimodal transport document which indicates only one named consignee.

2. Applicability

The provision set out and referred to in this Multimodal Transport Document shall apply if the transport as described on the face of the document is by two or more modes of transport from the place of acceptance of the goods in India to a place of delivery of the goods outside India.

3. Effect of Issuance of Multimodal Transport Document

- The issuance of the Multimodal Transport Document confers and imposes on all parties having or acquiring hereafter an interest in the rights/obligations and defence set out in the conditions mentioned in this document.
- By the issuance of the Multimodal Transport Document, the Multimodal Transport Operator:
 - undertakes to perform and / or in his own name to procure performance of the multimodal transport including all services which are necessary to such transport from the time of taking the goods in charge to the time of delivery, and accepts responsibility for such transport and such services to the extent set out in these conditions.
 - accepts responsibility for the acts and omissions of his agents or servant, when such agents or servants are acting within their scope of their employment, as if such acts and omissions were own;
 - accepts responsibility for the acts and omissions on any other person whose services he uses for the performance of the contract evidenced by this multimodal transport document.
 - undertakes to perform or to procure performance of all acts necessary to ensure delivery.
 - assumes liability to the extent set out in these conditions of loss or damage to the goods occurring between the time of taking them into his charge and the time of delivery, and undertakes to pay compensation as set out in these conditions in respect of such loss or damage.
 - assumes liability to the extent set out in these conditions for delay in delivery of the goods and undertakes to pay compensation as set out in that conditions.

4. Negotiability and Title to the Goods

By accepting the multimodal transportation document the consignor and his transferees agree with the multi-modal transport operator that, unless it is marked "non negotiable", it shall constitute title to the goods and the holder by endorsement of this multimodal transport document shall be entitled to receive or to transfer the goods mentioned in this Multimodal Transport Document.

5. Reservations

If the multimodal transport document contains particulars concerning the general nature, leading marks, number of packages or pieces, weight or quantity of the goods which the multimodal transport operator or a person acting on his behalf knows, or has reasonable grounds to suspect do not accurately represent the goods actually taken in charge, or if he has no reasonable means of checking such particulars the multimodal transport operator or a person acting on his behalf shall insert in the multimodal transport document a reservation specifying these inaccuracies, grounds or suspicion or the absence of checking of the multimodal transport operator or a person acting on his behalf fails to note on the multimodal transport document the apparent condition of the goods, he is deemed to have noted on the multimodal transport document that the goods were in apparent good condition.

6. Evidentiary effect of the Multimodal Transport Document

- The Multimodal Transport Document shall be prima facie evidence of the taking in charge by the multimodal transport operator of the goods as described therein; and
- Proof to the contrary by the multimodal transport operator shall not be admissible if the multimodal transport document is issued in negotiable form and has been transferred to a third party, including a consignee, who has acted in good faith in reliance on the description of goods therein.

7. Guarantee by the consignor

- The consignor shall be deemed to have guaranteed to the multimodal transport operator the accuracy at the time the goods were taken in charge by the multimodal transport operator, of particulars relating to the general nature of the goods, their marks, number weight and quantity and if applicable to the dangerous character of the goods, as furnished by him for insertion in the multimodal transport document.
- The consignor shall indemnify the multimodal transport operator against loss resulting from inaccuracies or inadequacies of the particulars. The consignor shall remain liable even if the multimodal transport document has been transferred by him. The right of the multimodal transport operator to such indemnity shall in no way limit his liability under the multimodal transport contract to any person other than the consignor.

8. Dangerous goods

- The consignor shall mark or label dangerous goods in a suitable manner as "dangerous goods."
- Where the consignor hands over dangerous goods to the multimodal transport operator or any person acting on his behalf the consignor shall inform him of the dangerous character of the goods and if necessary, the precautions to be taken. If the consignor fails to do so and the multimodal transport operator does not otherwise have knowledge of their dangerous character then:
 - the consignor shall be liable to the multimodal transport operator for all loss resulting from the shipment of such goods, and
 - the goods may at any time be unloaded, destroyed or rendered innocuous, as the circumstances may require, without payment of compensation.
- The above provisions may not be invoked by any person if during the multimodal transport he has taken the goods in his charge with knowledge of their dangerous character.
- If, in cases where the provisions (2) (b) referred to above do not apply or may not be invoked dangerous goods become an actual danger to life or property, they may be unloaded, destroyed or rendered innocuous, as the circumstances may require without payment of compensation, except where there is an obligation to contribute in general average or where the multimodal transport operator is liable, in accordance with the provisions of relevant conditions.

9. Period of responsibility

- The responsibility of the multimodal transport operator for the goods covers the period from the time he takes the goods in his charge to the time of their delivery. For the purpose of this responsibility, the multimodal transport operator is deemed to be in charge of the goods :-
 - from the time he has taken over the goods from (i) the consignor or a person acting on his behalf, or (ii) an authority or other third party to whom, pursuant to law or regulations applicable at the place of taking charge the goods must be handed over for transport.
 - Until the time he has delivered the goods (i) by handing them over to the consignee; or (ii) by placing them at the disposal of the consignee in accordance with the multimodal transport contract or with the law or with the usage of the particular trade applicable at the place of delivery; or (iii) by handing over the goods to an authority or other third party to whom, pursuant to law or regulations, applicable at the place of delivery, the goods must be handed over.
- Reference to the multimodal transport operator in this regard shall include his servants or agents or any other person of whose services he makes use for performance of the multimodal transport contract, and reference to the consignor or consignee shall include their servants or agents.

10. Delay Consequential Loss

- The Multimodal Transport Operator does not undertake that the Goods or any documents relating thereto shall arrive or be available at any point or place at any stage during the Carriage or at the Port of Discharge or the Place of Delivery at any particular time or to meet any particular requirement of any license, permission, sale contract, or credit of the Consignor/Consignee or any market or use of the Goods and the Multimodal Transport Operator shall under no circumstances whatsoever and howsoever arising be liable for any direct, indirect or consequential loss or damage caused by delay.
- If the Multimodal Transport Operator should nevertheless be held legally liable for any such direct or consequential loss or damage caused by such alleged delay, such liability shall in no event exceed the Freight paid for the Carriage.

11. Liability for loss or damage when the stage of transport where the loss or damage occurred is not known :

- When the multimodal transport operator is liable to pay compensation in respect of loss or of damage to, the goods occurring between the time of taking them into his charge and the time of delivery and the stage of transport where the loss or damage occurred is not known:
 - Such compensation shall be calculated by reference to the value of such goods at the place and time they are delivered to the consignee or at the place and time when in accordance with the contract of multimodal transport they should have been so delivered.
 - The value of the goods shall be determined according to the current commodity exchange price or, there is not such price, according to the current market price, or if there is no commodity exchange price or current market price, by reference to the normal value of goods of the same kind and quality. However, the multimodal transport operator shall not, in any case be liable for an amount greater than the actual loss to the person entitled to make the claim.
- Where a multimodal transport operator becomes liable for any loss of, or damage to, any consignment, the nature and value where of have not been declared by the consignor before such consignment has been taken in charge by the multimodal transport operator and the stage of transport at which such loss or damage occurred is not known, then the liability of the multimodal transport operator to pay compensation shall not exceed two Special Drawing Rights per kilogram of the gross weight of the consignment lost or damaged or 666.67 Special Drawing Rights per package or unit lost or damaged, whichever is higher.
- Notwithstanding anything contained above if the multimodal transport operator does not according to the multimodal transport contract, include carriage of goods by sea or inland waterways, the liability of the multimodal transport operator shall be limited to an amount not exceeding 8.33 Special Drawing Rights per kilogram of the gross weight of the goods lost or damaged.

12. Liability for loss or damage when the stage of transport where the loss or damage occurred is known :

- When the multimodal transport operator is liable to pay Compensation in respect of loss or of damage to the goods occurring between the time of taking them into his charge and the time of delivery and the stage of transport at which such loss or damage occurred is known, the liability of the multimodal transport operator in respect of such loss or damage shall be determined by the applicable Indian law if the loss or damage occurs in India, or by the provisions of the applicable law of the country where the loss or damage occurred as the case may be where provisions of the Indian Law or the applicable law outside India;
 - cannot be departed from by private contract to the detriment of the claimant and
 - have been applied if the claimant had made a separate and direct contract with the multimodal transport operator in respect of the particular stage of transport when the loss or damage occurred.
- Without prejudice to the provisions contained in para 3(2) (b) and (c) mentioned in this document when under the provision of Condition (1) mentioned above, the liability of the multimodal transport operator shall be determined by the provisions of the Law referred to Condition (1) above the liability shall be determined as though the multimodal transport operator was a carrier referred to in such law. However, the multimodal transport operator shall not be exonerated from liability where the loss or damage is caused or contributed to by the acts or omissions of the multimodal transport operator in his capacity as such, or his servants or agents when acting in such capacity and not in the performance of the carriage.

13. Defence and limits for the multimodal transport operator and his servants:

- The defence and limits of liability provided for in this multimodal transport document shall apply in action against the multimodal transport operator in respect of loss resulting from loss or damage to goods; delay in delivery and any consequential loss or damage arising from such delay.
- If any action in respect of loss resulting from loss of or damage to the goods or from delay in delivery is brought against the servant or agent of the multimodal transport operator, if such servant or agent proves that he acted within the scope of his employment, or against any other person of whose services he makes use for the performance of the multimodal transport contract, if such other person proves that he acted within the performance of the contract, the servant or agent or such other persons shall be entitled to avail himself of the defences and limits of liability which the multimodal transport operator is entitled to invoke under this multimodal transport document.
- Except as provided for liability for delay, as mentioned above, the aggregate of the amounts recoverable from the multimodal transport operator and from a servant or agent or any other person of whose services he makes use for the performance of the multimodal transport contract shall not exceed the limits of liability provided for in this multimodal transport document.

14. Methods and Routes of Carriage

The Multimodal Transport Operator may at any time and without notice to the Consignor/Consignee:

- use any means of transport or storage whatsoever;
- transfer the Goods from one conveyance to another including transshipping or by any other means of transport whatsoever and even though transshipment or forwarding of the Goods may not have been contemplated or provided for herein;
- unpack and remove the Goods which have been packed into a Container and forward them via Container or otherwise;
- load and unload the Goods at any place or port (whether or not any such port is named on the reverse hereof as the Port of Loading or Port of Discharge) and store the Goods at any such port or place;
- comply with any orders or recommendations given by any government or authority or any Person or body or purporting to act as or on behalf of such government or authority or having under the terms of the insurance on any conveyance employed by the Multimodal Transport Operator the right to give orders or directions.

15. Loss of the right to limit liability :

- The limits of liability established in conditions 11, 12 and 14 above shall not apply if it is proved that the loss, damage or delay in delivery resulted from an act or omission of the multimodal transport operator (or his servants or agent or any other person of whose services he makes use for the performance of the multimodal transport contract) done with the intent to cause loss, damage or delay in delivery or recklessly and with knowledge that such loss, damage or delay would probably result.
- Notwithstanding the provisions 13 (2) above, if it is proved that the loss, damage or delay in delivery resulted from an act or omission of a servant or agent (or any person of whose services the multimodal transport operator makes use for the performance of the multimodal transport contract) done with the intent to cause loss, damage or delay in delivery or recklessly and with knowledge that such loss, damage or delay in delivery would probably result, the servant or agent shall not be entitled to the benefit of limitation of liability provided for in these conditions.

16. Delivery / non-delivery :

- If the goods are not taken delivery of by the consignee within a reasonable time after the multimodal transport operator has called upon him to take delivery, the multimodal transport shall be at liberty to put the goods in safe custody on behalf of the consignee at the consignee's risk and expense or to place the goods at the disposal of the consignee in accordance with the multimodal transport contract or with the law, or with the usage of the particular trade applicable at the place of delivery.
- The multimodal transport operator shall be discharged from his obligation to deliver goods if, where a negotiable multimodal transport document has been issued in a set of more than one original, he or a person acting on his behalf has in good faith delivered the goods and surrendered one of such originals.
- Refusal by the Consignor/Consignee to take delivery of the Goods in accordance with the terms of this clause and/or to mitigate any loss or damage thereto shall constitute a waiver by the Consignor/Consignee to the Multimodal Transport Document of any claim whatsoever relating to the Goods or the Carriage thereof.

17. Notice of loss, damage or delay :

- Unless notice of loss or damage, specifying the general nature of such loss or damage is given in writing by the consignee to the multimodal transport operator at the time of taking over the goods such handling over is prima facie evidence of the delivery by multimodal transport operator of the goods as described in the multimodal transport document.
- Where the loss or damage is not apparent, the provisions of condition (1) referred to above apply correspondingly if notice in writing is not given within six consecutive days after the days when the goods were handed over to the consignee.
- If the state of the goods at the time they were handed over to the consignee has been the subject of a joint survey or inspection by the parties or their representative at the place of delivery, notice in writing need not be given of loss or damage ascertained during such survey or inspection.
- In the case of any actual or apprehended loss or damage the multimodal transport operator and the consignee shall give all reasonable facilities to each other for inspecting and tallying the goods.
- If any of the notice periods provided for in condition (2) and (4) referred to above terminates on a public holiday at the place of delivery, such periods shall be extended up to the next working day.

- Notice given to a person acting on behalf of the multimodal transport operator including any person of whose services he makes use at the place of delivery, shall be deemed to have been given to the multimodal transport operator.

18. Freight and charges :

- Freight shall be deemed earned on receipt of goods by the multimodal transport operator and shall be paid for and non-returnable in any event.
- For the purpose of verifying the freight basis, the multimodal transport operator reserves the right to have the contents of the containers, trailers or similar articles of transport inspected in order to ascertain the weight, measurement, value or nature of the goods.
- All dues, taxes and charges levied on the good and other expenses in connection therewith, shall be paid by the consignor or the consignee or the holder of MTD or the owner of the goods.

19. Containers etc. :

- Goods may be stowed by the multimodal transport operator by means of containers, trailers, transportable tanks, flats pallets or similar articles of transport used to consolidate goods and these articles of transport may be stowed under or on deck.
- If a container has not been filled packed or stowed by the multimodal transport operator, the multimodal transport operator shall not be liable for any loss of or damage to, its contents and the consignor shall cover any loss of expense incurred by the multimodal transport operator, if such loss, damage or expense has been caused by :-
 - negligent filling, packing or stowing of the container;
 - the contents being unavailable for carriage in containers; or
 - the unsuitability or defective condition of the container unless the containers has been supplied by the multimodal transport operator and the unsuitable or defective condition would not have been apparent upon reasonable inspection at or prior to the time when the container was filled, packed and stowed.

The provisions of this condition also apply with respect to trailers, transportable tanks flats and pallets, which have not been filled, packed or stowed by the multimodal transport operator.

- The multimodal transport operator does not accept liability for the functioning to reefer equipment or trailer supplied by the consignor.

- If, by order of the authorities of any place, the goods have to be unpacked from their containers to be inspected, the multimodal transport operator shall not be liable for the loss or damage incurred during the unpacking inspection or repacking. The multimodal transport operator shall be entitled to recover the cost of unpacking inspection and repacking from the consignor/consignee.

- If a Container is not then packed by the Multimodal Transport Operator:

The Multimodal Transport Operator shall not be liable for loss of or damage to the contents and the Consignor/Consignee shall indemnify the Multimodal Transport Operator against any injury, loss, damage, liability or expense whatsoever incurred by the Multimodal Transport Operator if such loss of or damage to the contents and/or such injury, loss, damage, liability or expense has been caused by all matters beyond his control including, inter alia, without prejudice to the generality of this exclusion:

- the manner in which the Container has been packed; or
 - the unsuitability of the Goods for carriage in Containers; or
- The Consignor is responsible for the packing and sealing of all Shipper-packed Containers and, if a Shipper-packed Container is delivered by the Multimodal Transport Operator with its original seal as affixed by the Consignor intact, the Multimodal Transport Operator shall not be liable for any shortage of Goods ascertained at delivery.

The Consignor shall inspect Containers before packing them and the use of Containers shall be prima facie evidence of their being sound and suitable for use. The Consignor warrants to the Multimodal Transport Operator that the particulars relating to the Goods as set out on the bill of lading have been checked by the Consignor on receipt of this Multimodal Transport Document and that such particulars and any other particulars furnished by or on behalf of the Consignor are correct.

The Consignor shall indemnify the Multimodal Transport Operator against all loss, damage, liability and expenses arising or resulting from inaccuracies in or inadequacy of such particulars.

The Consignor shall comply with all regulations or requirements of customs, port and other authorities, and shall bear and pay all duties, taxes, fines, expenses or loss (including, without prejudice to the generality of the foregoing, the full return Freight for the Goods if returned or if non-carried, the full Freight from the Port of Discharge or the Place of Delivery nominated herein to the amended Port of Discharge or the amended Port of Delivery) incurred or suffered by reason of any failure to so comply or by reason of any illegal, incorrect or insufficient marking, numbering or addressing of the Goods, and shall indemnify the Multimodal Transport Operator in respect of any such failure to comply or by reasons of any such marking, numbering or addressing of the Goods.

20. Hindrance etc. affecting performance :

- The multimodal transport operator shall use reasonable endeavours to complete this transport and to deliver the goods at the place designated for delivery.

21. Lien :

"The Carrier shall have a lien on the Goods and any documents relating thereto for all sums payable to the Carrier under this contract and for general average contributions to whatsoever due. The Carrier shall also have a lien against the Consignee/Consignor on the Goods and any document relating thereto for all sums due from him to the Carrier under any other contract. The Carrier may exercise his lien at any time and any place in his sole discretion, whether the Carriage is completed or not. If any event any lien shall extend to cover the cost of recovering any sums due and for that purpose the Carrier shall have the right to sell the Goods by public auction or private treaty, without notice to the Consignee/Consignor. The Carrier's lien shall survive delivery of the Goods."

22. Limitation of action :

Any action relating to multimodal transport under these conditions shall be time barred if judicial proceedings have not been instituted within a period of nine months after

- the date of delivery of the goods; or
- the date when the goods should have been delivered; or
- the date on and from which the party entitled to receive has the right to treat the goods as lost

23. Law and Jurisdiction

Insofar as anything has not been dealt with by the terms and conditions of this Bill of Lading, Indian law shall apply. All disputes relating to this Bill of Lading shall be determined by the Courts of India.

24. General average

The consignor or consignee, the holder of the Multimodal Transport Document the receiver and the owner of the goods shall indemnify Multimodal Transport Operator in respect of any claims of the general average nature which may be made on him and shall provide such security as may be required by the Multimodal Transport Operator in this connection.

25. Arbitration

The contract evidenced hereby or contained herein shall be governed by and construed according to the laws of India. Any difference of opinion or dispute thereunder can be settled by arbitration in India or a place mutually agreed with each party appointing an arbitrator.

26. Clause on Matters Affecting Performance:

If at any time Carriage is or is likely to be affected by any hindrance, risk, danger, delay, difficulty or disadvantage of whatsoever kind and howsoever arising which cannot be avoided by the exercise of reasonable endeavours, (even though the circumstances giving rise to such hindrance, risk, danger, delay, difficulty or disadvantage existed at the time this contract was entered into or the Goods were received for Carriage) the Multimodal Transport Operator may at his sole discretion and without notice to the Consignor/Consignee and whether or not the Carriage is commenced either:

- Carry the Goods to the contracted Port of Discharge or Place of Delivery, whichever is applicable, by an alternative route to that indicated in this Multimodal Transport Document or that which is usual for Goods assigned to the Port of Discharge or Place of Delivery; If the Multimodal Transport Operator elects to invoke the terms of this clause 26 then, he shall be entitled to charge such additional Freight as the Multimodal Transport Operator may determine; or
- Suspend the Carriage of the Goods and store them ashore or afloat upon the Terms and Conditions of this Multimodal Transport Document and endeavour to forward them as soon as possible, but the Multimodal Transport Operator makes no representations as to the maximum period of suspension. If the suspension of the Transport Operator elects to invoke the terms of this clause 26 (b) then, notwithstanding the provisions of clause 26 hereof, he shall be entitled to charge such additional Freight and Costs as the Multimodal Transport Operator may determine; or
- Abandon the Carriage of the Goods and place them at the Consignor/Consignee's disposal at any place or port which the Multimodal Transport Operator may deem safe and convenient, whereupon the responsibility of the Multimodal Transport Operator in respect of such Goods shall cease. The Multimodal Transport Operator shall nevertheless be entitled to full Freight on the Goods received for the Carriage, and the Merchant shall pay any additional costs incurred by reason of the abandonment of the Goods. If the Multimodal Transport Operator elects to use an alternative route under clause 26 (a) or to suspend the Carriage under clause 26 (b) this shall not prejudice his right subsequently to abandon the Carriage.
- The Multimodal Transport Operator shall not be liable to the Consignor/Consignee for any loss, damages and/or consequential losses if its performance is prevented by reason of any incident of Force Majeure, including without limitation to war, civil commotion, port congestion, fire, flood, storm, inclement weather, earthquake, natural disaster or any act of God, governmental act or decree or any other matter or circumstances beyond the reasonable control of the Multimodal Transport Operator.