

**STANDARD TRADING CONDITIONS OF
THE GHANA INSTITUTE OF FREIGHT FORWARDERS**
As adopted by ELWA GHANA LTD.



The Customer's attention is drawn to the clauses of these Standard Trading Conditions which exclude or limit the Company's liability and those which require the Customer to indemnify the Company in certain circumstances.

DEFINITIONS AND APPLICATIONS

1. In these Conditions:

"Company" means the GIFF member trading under these conditions.

"Person" includes persons or anybody or bodies corporate.

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

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

2. Subject to clause 3 below, all or any activities of the Company in the course of business, whether gratuitous or not, shall be deemed to be undertaken subject to these Conditions.

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

THE COMPANY

4. The Company, before concluding any service contract with the Customer be it oral or in writing, shall draw the attention of the customer to the provisions of these Conditions to enable the Customer to understand that he will be bound by the provisions of these conditions under the service contract.

5. Except as provided otherwise in these conditions, the company shall be entitled to procure any or all of its services as an Agent or to provide those services as a Principal.

6. When the Company contracts as a Principal for any services, it shall have full liberty to perform such services itself or 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 the Company contracts as an Agent on behalf of the Customer, the Company shall be entitled, and the Customer hereby expressly authorizes the Company, to enter into all such contracts on behalf of the Customer's instructions and subject to the trading conditions of the parties with whom such contracts are made.

8. The Company reserves to itself a reasonable liberty as to the means, route and procedure to be followed in the Clearing out of Customs, forwarding handling, storage, warehousing and transportation of goods.

9. Subject to clause 11 below, the company shall have a general lien on all goods and documents relating to goods in its possession, custody or control for all sums due at any time from the Customer or owner, and shall be entitled to sell or dispose of such goods or documents by public auction as Agent for the Customer or owner in order to redeem such sums upon giving 28 days notice in writing. The Company shall pay to the Customer any balance remaining after paying the sums due to the Company plus the cost of sale and other expenses incurred in respect of the goods or documents.

10. In case where the goods are perishable or are liable to deteriorate, the company's right to sell or dispose of the goods shall arise after the company has given the customer a reasonable opportunity to effect the payment due and after the company taking reasonable steps to bring to the customer's attention its intention to sell or dispose of the goods before doing so.

11. When the goods are perishable or are liable to deteriorate, the company's right to sell or dispose of the goods shall arise immediately upon any such sums becoming due to the Company subject only to the company taking reasonable steps to bring to the Customer's attention its intention of selling or disposing of the goods before doing so.

12. The company shall be entitled to retain and be paid all brokages, fees, charges and other remunerations customarily retained or paid to Freight Forwarders.

13. If the Customer, consignee or owner fails to take delivery of the goods or any part thereof at the time and place agreed upon, the Company is entitled to call upon such person to take delivery of the goods, the Company shall be entitled to store the goods or any part thereof at the sole risk of the Customer, whereupon the liability of the Company in respect of the goods stored aforesaid or part thereof shall wholly cease and the cost of such storage if paid for or payable by the company or any Agent of the Company, shall forthwith be paid by the Customer to the Company on demand.

14. The Company shall be entitled, at the expense of the Customer, to dispose of by public auction, any goods which have been held by the Company for 90 days and which cannot be delivered as instructed: -

- a) Upon giving 28 days' notice in writing to the Customer; or
- b) Without notice, where the customer cannot be traced and reasonable efforts have been made to contact any parties who may reasonably be supposed by the Company to have any interest in the goods, including publication in a national daily.

15. The Company shall be entitled at the expense of the Customer to dispose of by public auction or otherwise as may be reasonable in all the circumstances, with prior notices, goods held by the Company 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 Company or third parties or to contravene any applicable laws or regulations.

16. Except upon express instructions given in writing by the Customer, the Company is under no obligation to insure the goods, but the Company may declare it on the general policy insurance held by it. In so far as the Company takes the Customer's instructions to effect insurance, it acts solely as Agent for the Customer in which case the Customer shall bear the premiums and other related expenses in effecting the insurance.

17. The Company shall hold general policy insurance covering the following risks for the benefit of the Customer:-

1. Liability, Damage, Loss theft or burglary of the goods under the control of the Company or during removal after taking delivery by the Company and before the goods are delivered to the Customer or its Agent, provided that the company provides the means of transport.
2. Negligence, wrongful omission or commission on part of the Company in discharging the Clearing or forwarding of the goods.
3. Misappropriating by the Company or its employee of any money advanced by the Customer for Clearing or Forwarding of the goods.

18. (1) Except under special arrangements previously made in writing or under the terms of printed document signed by the Company, any instructions by the Customer regarding the delivery or release of goods in specified circumstances only, in which case it becomes necessary for the Company to engage the services of third parties to effect the compliance with the instructions, the Company shall be deemed to be acting only as the agent for the Customer.
- (2) Without prejudice to the generality of this clause, specified circumstance shall include instructions to deliver or release goods against payment or against surrender of a particular document.
- (3) The Company shall not be under any liability in respect of such arrangements referred to in sub-clause 1 of this Clause unless such arrangements are made in writing.
- (4) In any event, the Company's liability in respect of the performance or arranging the performance of such instructions shall not exceed the limits set out in these Conditions.
19. Advice and information, in whatever form it may be given, is provided by the company for the customer's benefit only and the customer shall not pass such advice or information to any third party without the Company's written consent.
20. (1) Except under special arrangement previously made in writing the Company will not accept or handle or deal with bullion, coin, precious stones, jewellery, valuables, antiques, pictures, human remains, livestock, pets or plants.
- (2) Should any Customer nevertheless deliver any such goods referred to in sub-Clause (1) of this Clause to the Company or cause the Company to deal or handle any such goods otherwise than under special arrangements previously made in writing the Company shall be under no liability whatsoever for or in connection with the goods however arising; and the Customer shall indemnify the Company for any loss or damage suffered as a result of handling or dealing with the said goods.
- (3) The Company may at any time waive its rights and exemptions from liability under sub-clause (2) of this Clause in respect of any such goods referred to in sub-clause (1) of this Clause. If such waiver is not in writing, the onus of proving such waiver shall be on the Customer.
21. Except following instructions previously received in writing and accepted by the Company, the Company will not accept or deal with goods of a dangerous nature, or deal with goods likely to harbour or encourage vermin or other pets nor with goods liable to taint or affect other goods. If such goods are accepted pursuant to a special arrangement and subsequently deteriorate to an extent that they constitute a risk to other goods, property, life or health, the Company shall, where reasonably practicable, contact the customer in order to remedy the situation. The company reserves the right to take reasonable steps to mitigate loss or damage to the goods, the premises and/ or third parties and their goods at the expense of the Customer.
22. (1) The Company may, acting on prior written instructions by the Customer, pre-finance the forwarding of the goods.
- (2) The Company shall exercise lien on any goods which are subject to pre-financing until, and unless the full amount involved in the pre-financing plus the interest thereon are paid to the company.

(3) The total amount spent by the Company in the pre-financing shall attract an interest at a rate to be agreed on by the party per month or part thereof with effect from the date that the amount was expended, subject to 14 days grace.

(4) The Company shall be entitled, at expense of the Customer, to dispose of by public auction, any goods which were covered by pre-financing arrangements and held by the company for 90days upon giving 14 days' notice to the Customer.

(5) Where the Customer cannot be traced, the Company shall give the said notice in at least one of the national newspapers.

(6) The Company shall defray the proceeds of the sale made under sub Clause (4) of this Clause the amount for pre-financing and the interest thereon plus rent, if any and other incidental expenses before paying the remainder of the proceeds to the Customer.

23. The Company hereby warrants and undertakes as follows:-

(1) To always act diligently and in good faith when delivering services to the customer.

(2) To perform its duties with care, skill and good judgment.

(3) Not to forge, falsify, deface or in any manner mischievously alter any document submitted to it by the Customer.

(4) Not to defraud, deceive or in any fraudulent manner mislead or tell lies to the Customer while rendering services to the Customer.

(5) Not to embezzle, misappropriate or misapply any fund advanced by the Customer in furtherance of the services required by the Customer.

(6) To refund to the Customer on demand any fund embezzled, misappropriated or misapplied by it or by any of its servants; and to indemnify the Customer for any loss or damage suffered as a result of such embezzlement, misappropriation or misapplication of the Customer's fund.

THE CUSTOMER

24. The Customer warrants:

(1) that the description, quantity, value and other particulars of any goods furnished by or on behalf of the customer are full, correct and accurate.

(2) that the bill of lading, Invoicing and all other documents covering any goods furnished by or on behalf of the customer are genuine, correct, and proper.

(3) Except where the company has accepted instructions in respect of the preparation, packing, stowage, labelling or marking of the goods, the customer warrants that all good have been properly and sufficiently prepared, packed, stowed, labelled, and/or marked and that the preparation, packing, stowage, labelling and marking are appropriate to any operations or transaction affecting the goods and the characteristics of the goods.

(4) Where the goods are carried in or on any transport unit, then, save where the company has accepted instruction as principal to load the transport unit, the customer warrants:

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

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

iii. that the transport unit is in a suitable condition to carry the goods loaded therein to its destination.

25. Should any document furnished by or on behalf of the Customer in relation to any goods be found to be wrong, forged, falsified or in any way not genuine, the Customer shall be liable for all loss or damage arising in connection with such wrongful document and shall indemnify the Company against all penalties, Claims, damages, loss, cost and expenses resulting therefrom suffered by the Company.

26. Should the Customer otherwise than under special arrangement previously made in writing as set out in Clause 21 above deliver to the Company or cause the Company to deal with or handle goods of a dangerous or damaging nature, or goods likely to be of a dangerous or damaging nature, or goods liable to taint or affect other goods, he shall be liable for all loss or damage arising in connection with such goods, except damage arising out of the fault and/or negligence of the company, and shall indemnify the company against all penalties, claims, damages, costs and expenses whatsoever arising in connection therewith, and the goods may be dealt with in such manner as the Company or any other authority shall think fit and lawful.

27. The Customer shall keep the company indemnified from and against all liability, loss, damage, costs and expenses whatsoever (including without 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 Company acting in accordance with the Customer's instructions or arising from any breach by the Customer of any law, regulations, warranty contained in these Conditions or from the negligence of the Customer.

28. The Customer shall pay to the Company in cash or as otherwise agreed, all sums immediately when due.

29. Despite the acceptance by the Company of instructions to collect freight, duties, charges or other expenses from the Consignee or any other person the Customer shall remain responsible for such freight, duties, charges and other expenses.

LIABILITY AND LIMITATION

30. The Company shall be relieved for any loss or damage if and to the extent that such loss or damage is caused by:-

- (1) Strike, lock-out, stoppage or restraint of labour, other than by staff employees, agents or workers in the control of the company, the consequence of which the Company is unable to avoid by the exercise of reasonable diligence.
- (2) No liability shall attach to the company so long as it shall be prevented from performing a portion or this entire contract due to statutory restriction, or matters beyond its control except that if such breach shall occur as aforesaid the company shall remedy such breach immediately, conditions permitting.
- (3) Any cause or event which the Company is unable to avoid and the consequences whereof the Company is unable to prevent by the exercise of reasonable diligence.

31. Subject to clause 3 and 6 above and clause 35 below the Company's liability, howsoever arising and notwithstanding the cause of loss or damage, shall be the least:

- (a) In the case of claims for loss or damage to goods; EITHER the value of any goods lost or damaged OR a sum at the rate of two and a half special drawings rights as defined by the International Monetary Fund (hereinafter referred to as SDRs) per kilo of the gross weight of any goods lost or damaged; whichever shall be the least.
- (b) In the case of all other claims; EITHER the value of the goods the subject of the relevant transaction between the company and its Customer; OR a sum at the rates of the SDRs kilo of the gross weight of the goods the subject of the said transaction; OR 75,000 SDRs in respect of any one transaction, whichever of the three shall be the least.

32. For the purpose of Clause 31 above the value of the goods shall be their value when they were or should have been shipped. The value of SDRs shall be calculated as at the date when the claim is received by the Company in writing.

33. Subject to Clause 3 above and Clause 35 below, the company's liability for loss or damage as a result of a failure to deliver or arrange delivery of goods in a reasonable time or (where agreed) on the departure or arrival dates, shall not in any circumstances whatever exceed a sum equal to twice the amount of the Company's charges in respect of the relevant transaction.

34. Save in respect of such loss or damage as referred to in clause 33 and subject to clause 3 above and clause 35 below, the company shall not in any circumstance whatsoever be liable for indirect or consequential loss such as (but not limited to) loss of profit, loss of market or the consequences of delay or deviation however.

35. By special arrangement agreed in writing, the Company may accept liability in excess of the limits set out in Clause 30, 31, 33 and 34 above. The Customer agreeing to pay the Company's additional charges for accepting such increased liability. Details of the Company's additional charges will be provided upon request.

NOTICE OF CLAIM

36. Any claim by the Customer against the Company arising in respect of any service provided for the Customer or which the Company has undertaken to provide shall be made in writing and notified to the Company within 14 days of:

- a. In the case of damage to goods, the date of delivery of the goods;
- b. in the case of loss or non-delivery or mis-delivery or delay in delivery of goods, the date that the goods should have been delivered; and
- c. in any other case, the date of the event giving rise to the claim. The date of occurrence alleged to give rise to such claim, and any other claim not made and notified as aforesaid shall be deemed to be waived; however where it is proved that it was impossible for the Customer to comply with the time limit, he shall make the claim as soon as it was reasonably possible for him/her to do so.

37. Notwithstanding the provisions of clause 36 above, the Company shall in any event be discharged of all liability whatsoever however arising in respect of any service provided for the customer or which the company has undertaken to provide within one year from the date or expected date of delivery.

JURISDICTION AND LAW

38. These Conditions and any act or contract to which they apply shall be governed by Ghanaian law and any dispute arising out of any act of contract to which these Conditions apply shall be subject to the exclusive jurisdiction of the Ghanaian Courts.

39. Disputes between the parties hereto and all claims for compensation or otherwise not mutually settled and agreed between the parties shall in the first instance be referred to the Ghana Shippers' Council for mediation and conciliation.

40. These Conditions may be amended by Ordinary Resolution passed by the members of Ghana Institute of Freight Forwarders (GIFF) at their General Meeting.

These conditions were made in consultation with the Ghana Shippers' Council