

ARK Logistics & Maritime

Standard Trading Conditions

Effective from February 3rd, 2025



DEFINITIONS AND APPLICATION

1. Definitions

- a) Company means ARK Logistics & Maritime and includes any parent, subsidiary, or affiliated company.
- b) Person includes natural persons and any body or bodies corporate.
- c) Owner refers to the owner of the goods (including any packaging, containers, or equipment) to which any business concluded under these Conditions relates, and includes the consignee or any other Person who is or may become interested in or entitled to possession of them.
- d) Customer means any Person at whose request or on whose behalf the Company undertakes any business or provides advice, information, or services.

2. Application

- a) All and any activities of the Company during business, whether gratuitous or not, are undertaken subject to these Conditions.
- b) If any legislation is compulsorily applicable to any business undertaken, these Conditions shall, as regards such business, be read as subject to such legislation; 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.
- c) The Customer warrants that they are either the Owner or the authorized agent of the Owner and that they have the authority to accept these Conditions not only for themselves but also as an agent for and on behalf of the Owner.
- d) In authorizing the Customer to enter any contract with the Company and/or in accepting any document issued by the Company in connection with such a contract, the Owner irrevocably accepts these Conditions for themselves, their agents, and any parties on whose behalf they or their agents may act. Without limiting the generality of this Clause, the Owner accepts that the Company shall have the right to enforce against them jointly and severally any liability of the Customer under these Conditions or to recover from them any sums owed to the Company by the Customer, which upon proper demand, have not been paid.

THE COMPANY

3. The Company

- a) Subject to Clauses 13 and 14 below, the Company shall be entitled to procure any or all of its services as an agent or to provide these services as a principal.
- b) The offer and acceptance of an inclusive price for the accomplishment of any service or services shall not itself determine whether any such service is or services are to be arranged by the Company acting as agent or to be provided by the Company acting as a contracting principal.
- c) When acting as an agent, the Company does not make or purport to make any contract with the Customer for the carriage, storage, packing, or handling of any goods nor for any other physical service in relation to them and acts solely on behalf of the Customer in securing services by establishing contracts with third parties so that direct contractual relationships are established between the Customer and such third parties.
- d) The Company shall on demand by the Customer provide evidence of any Contract entered into as an agent for the Customer. Insofar as the Company may be in default of this obligation, it shall be deemed to have contracted with the Customer as a principal for the performance of the Customer's instructions.

4. When and to the extent that the Company has contracted as principal for the performance of any of its services, it undertakes to perform and/or in its own name to procure the performance of those services, and subject always to the totality of these Conditions and in particular to Clauses 26 - 29 hereof, accepts liability for loss of or damage to goods taken into its charge occurring between the time when it takes the goods into its charge and the time when the Company is entitled to call upon the Customer or Owner to take delivery of the goods.

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

- a) for the carriage of goods by any route or means or Person,
- b) for the storage, packing, trans-shipment, loading, unloading, or handling of the goods by any Person at any place and for any length of time,
- c) for the carriage or storage of goods in or on transport units as defined in sub-clause 19 c. and with other goods of whatever nature, and
- d) to do such acts as may, in the opinion of the Company, be reasonably necessary in the performance of its obligations in the interests of the Customer and the Owner.

6. The Company reserves to itself a reasonable liberty as to the means, route, and procedure to be followed in the handling, storage, and transportation of goods. In any case where no particular route is agreed between the Company and the Customer, the Customer agrees that the agreed route is that which the Company reserves to itself a reasonable liberty to follow.

7. The Company is permitted to perform any of its obligations herein by itself or by a sub-contractor. For the purpose of allowing any such sub-contractor to take the benefit of these Conditions, the Company acts as agent and trustee for such sub-contractor in entering into a contract governed by these Conditions with the Customer and Owner.

8. 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 retain such goods and documents against payment of the freightage expenses and other such sums due to it for the transportation.

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

10. If delivery of the goods or any part thereof is not taken by the Customer or Owner, at the time and place when and where the Company is entitled to call upon such Person to take delivery thereof, 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 or that part thereof stored as aforesaid shall wholly cease and the cost of such storage if paid for or payable by the Company or any agent or sub-contractor of the Company shall forthwith upon demand be paid by the Customer to the Company.

11. The Company shall be entitled at the expense of the Customer to obtain an order by the competent UAE Court to dispose of perishable goods or non-delivered goods as defined by sub-clause 10 a. herein as the Court thinks fit.

12. No insurance will be effected except upon express instructions given in writing by the Customer and all insurance effected by the Company are subject to the usual exceptions and conditions of the policies of the insurance company or underwriters taking the risk. Unless otherwise agreed in writing, the Company shall not be under any obligation to effect a separate insurance on each consignment but may declare it on any open or general policy held by the Company.

13. Insofar as the Company agrees with the Customer to arrange insurance, the Company acts solely as agent for the Customer using its best endeavors to arrange such insurance and does so subject to the limits of liability contained in Clause 29 hereof.

14. Except under special arrangements previously made in writing or under the form of a printed document signed by the Company, any instructions relating to the delivery or release of goods in specified circumstances only, such as (but without prejudice to the generality of this Clause) against payment or against surrender of a particular document, are accepted by the Company only as agents for the Customer where third parties are engaged to effect compliance with the instructions.

15. The Company shall not be under any liability in respect of such arrangements as are referred to under Sub-Clause 14. hereof save where such arrangements are made in writing.

16. In any event, the Company's liability in respect of the performance or arranging the performance of such instructions shall not exceed that provided for in these Conditions in respect of loss of or damage to goods.

17. Advice and information in whatever form it may be given is provided by the Company for the Customer only and the Customer shall indemnify the Company against any liability, claims, loss, damage, costs or expenses arising out of any other persons relying upon such advice or information. Except under special arrangements previously made in writing, advice and information which is not related to specific instructions accepted by the Company is provided gratuitously and without liability.

18. Except under special arrangements previously made in writing the Company will not accept or deal with bullion, coin, precious stones, jewelry, valuables, antiques, pictures, human remains, livestock or plants. Should any Customer nevertheless deliver any such goods to the Company or cause the Company to handle or deal with 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 such goods howsoever arising.

19. The Company may at any time waive its rights and exemptions from liability under Sub-Clause 18. above in respect of any one or more of the categories of goods mentioned herein or any part of any category. If such waiver is not in writing, the onus of proving such waiver shall be on the Customer.

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

21. Where there is a choice of rates according to the extent of degree of liability assumed by carriers, warehousemen, or others, no declaration of value where optional will be made except under special arrangements previously made in writing.

THE CUSTOMER

22. The Customer warrants

- a) That they are either the Owner or the authorized agent of the Owner and also that they have authority to accept these Conditions not only for themselves but also as agent for and on behalf of the Owner.
- b) That in authorizing the Customer to enter into any contract with the company and/or in accepting any document issued by the company in connection with such contract, the Owner irrevocably accepts these Conditions for themselves and their agents and for any parties on whose behalf they or their agents may act, and in particular but without prejudice to the generality of this Clause, they accept that the Company shall have the right to enforce against them jointly and severally any liability of the Customer under these Conditions or to recover from them any sums to be paid to the Company by the Customer which upon proper demand have not been paid.
- c) That the description and particulars of any goods furnished by or on behalf of the Customer are full and accurate.
- d) That all goods have been properly and sufficiently prepared, packed, stowed, labeled, and/or marked, and that the preparation, packing, stowage, labeling, and marking are appropriate to any operations or transactions affecting the goods and the characteristics of the goods.
- e) That where the Company receives the goods from the Customer already stowed in or on a container, trailer, tanker, or any other device specifically constructed for the carriage of goods by land, sea or air (each hereafter individually referred to as the "transport unit"), the transport unit is in good condition, and is suitable for the carriage to the intended destination of the goods loaded therein or thereon.

23. Should the Customer otherwise than under special arrangements previously made in writing as set out in Clause 20 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 harbor or encourage vermin or other pests, or goods liable to taint or affect other goods, they shall be liable for all loss or damage arising in connection with such goods 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 a manner as the Company or any other Person in whose custody they may be at any relevant time shall think fit.

24. The Customer undertakes that no claim shall be made against any director, servant, or employee of the Company which imposes or attempts to impose upon them any liability in connection with any services which are the subject of these Conditions and if any such claim should nevertheless be made, to indemnify the Company against all consequences thereof.

25. The Customer shall save harmless and keep the Company indemnified from and against:

- a) All liability, loss, damage, costs and expenses whatsoever (including without prejudice to the generality of the foregoing, all duties, taxes, imposts, levies, deposits and outlays of whatsoever nature levied by any authority in relation to the goods) arising out of the Company's action in accordance with the Customer's instructions or arising from any breach by the Customer of any warranty contained in these Conditions or from the negligence of the Customer, and -
- b) Without derogation from Sub-Clause 8 a. above, any liability assumed or incurred by the Company when by reason of carrying out the Customer's instructions the Company has reasonably become liable or may become liable to any other party, and -
- c) All claims, costs and demands whatsoever and by whomsoever made in excess of the liability of the Company under the terms of these Conditions regardless of whether such claims, costs and demands arise from or in connection with the negligence or breach of duty of the Company its servants, sub-contractors or agents, and -
- d) Any claims of a General Average nature which may be made on the Company.

26. The Customer shall pay to the Company in cash or as otherwise agreed all sums immediately when due without reduction or deferment on account of any claim, counterclaim or set-off.

27. In respect of all sums which are overdue the Customer shall be liable to pay to the Company interest calculated at 2% above the Base Rate for the time being of the UAE Central bank.

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

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

LIABILITY AND LIMITATION

30. Company Liability

- a) The Company shall perform its duties with a reasonable degree of care, diligence, skill, and judgment.
- b) The Company shall not be liable for any loss or damage to goods, whether arising directly or indirectly, except in cases of willful misconduct or gross negligence.
- c) The Company shall be relieved of liability for any loss or damage if and to the extent that such loss or damage is caused by:
- d) Force majeure events, including but not limited to natural disasters, war, terrorist acts, strikes, lockouts, or other industrial actions, civil commotion, or acts of government.
- e) Any cause or event which the Company is unable to avoid by the exercise of reasonable diligence.
- f) Any loss or damage arising from the inherent nature or characteristics of the goods.
- g) Any loss or damage caused by insufficiency or inadequacy of packing, documentation, or markings on the goods.

31. Subject to these Conditions, the Company's liability in respect of loss of or damage to goods shall not exceed:

- a) The value of the goods lost or damaged, or
- b) A sum at the rate of AED 30 per kilo of gross weight of any goods lost or damaged, subject to a limit of AED 20,000 per package or unit, whichever shall be the least.
- c) The value of the goods shall be their value when they were or should have been shipped.
- d) The Company's liability for loss or damage as a result of failure to deliver or arrange delivery of goods in a reasonable time or (where there is a special arrangement under Clause 28) to adhere to agreed departure or arrival dates shall not in any circumstances whatsoever exceed a sum equal to twice the amount of the Company's charges in respect of the relevant transaction.

32. The Company shall not be liable for any indirect, incidental, or consequential loss or damage, including but not limited to loss of profit, loss of market, or delay, however caused.

33. The Customer shall indemnify and hold harmless the Company against all claims, liabilities, costs, and expenses arising from or in connection with the services provided, except in cases of willful misconduct or gross negligence by the Company.

34. Receipt by the Customer or Owner of visibly damaged goods without complaint within 10 days or receipt shall invalidate any claim against the Company. Any claim against the Company arising from loss of or damage to the goods not visible at the time of receipt by the Customer or Owner must be made in accordance with the provisions of Art. 317 UAE Code of Commercial Practice, Federal Law No. 18 of 1993.

PAYMENT TERMS

35. Payment Obligations

- a) The Customer shall pay to the Company in cash or as otherwise agreed all sums immediately when due without reduction or deferment on account of any claim, counterclaim, or set-off.
- b) In respect of all sums which are overdue, the Customer shall be liable to pay to the Company interest calculated at 2% above the Base Rate for the time being of the UAE Central Bank.

CONFIDENTIALITY

36. Both the Company and the Customer agree to treat all information received during the performance of services as confidential and not to disclose it to any third party without the prior written consent of the other party, except where required by law.

DISPUTE RESOLUTION

37. Jurisdiction and Conciliation

- a) These Conditions and any act or contract to which they apply shall be governed by UAE law, and any dispute arising out of any act or contract to which these Conditions apply shall be subject to the exclusive jurisdiction of the UAE courts.
- b) The parties may instead agree to apply to the Dubai Chamber of Commerce for the dispute to be referred to conciliation in accordance with the Rules of Commercial Conciliation and Arbitration of the Dubai Chamber of Commerce & Industry.

COMPLIANCE WITH LOCAL REGULATIONS

38. Regulatory Compliance

- a) The Customer warrants that all goods have been properly and sufficiently prepared, packed, stowed, labeled, and/or marked in compliance with all applicable local regulations.

- b) The Company reserves the right to refuse to handle goods that do not meet regulatory compliance standards.

TERMINATION CLAUSE

39. Termination of Services

- Either party may terminate the services by giving written notice to the other party in accordance with the agreed terms.
- Upon termination, the Customer shall pay the Company all sums due for services rendered up to the date of termination.