

## AFAM STANDARD TRADING CONDITIONS

All transactions between each Member of AIRFREIGHT FORWARDERS ASSOCIATION OF MALAYSIA “AFAM” (“the Company”) and all the person/s or body corporate (“the Customer”) who utilise/s the services and/ or airway bills provided by the Company are subject to the trading conditions set out herein :

1.
  - i) All and any business undertaken, including any advice, information or service provided whether gratuitously or otherwise is transacted subject to the Conditions hereinafter set out and each condition shall be deemed to be incorporated in and to be a Condition of any agreement between the Company and the Customer. No person, on behalf of the Company is authorized to alter or vary these conditions other than an authorized Director of the Company.
  - ii) If any legislation is compulsorily applicable to any business undertaken, 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 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 void to that extent but no further.
  - iii) The customer is deemed to be aware that its relations with the contracting carriers are governed by the Carriage by Air Act 1974 and all other convention or legislation recognition by it or applicable thereof and the Company is not a common carrier and it only deals with the goods subject to these conditions.
2. The Customer entering into transactions of any kind with the Company expressly warrants that it is either the owner or the authorized agent of the owner of any goods to which the transaction relates and further warrants that it is authorised to accept and is accepting these Conditions not only for itself but also as agent for and on behalf of all other persons who are or may thereafter become interested in the goods.
3. Any instructions or business accepted by the Company may in the absolute discretion of the Company be fulfilled by the Company itself or by its own servants performing part or all of the relevant services or by the Company employing or instructing or entrusting the goods to others on such conditions as such others may be stipulated to perform part or all of the services, but entirely without prejudice to the rights, powers or immunities which the Company enjoy under these conditions.
4. Subject to express instructions in writing given by the Customer, the Company reserves to itself absolute discretion as to the means, route and procedures to be followed in the handling storage and transportation of goods. Further if in the opinion of the Company it is at any stage necessary or desirable in the Customer’s interests to depart from those instructions, the Company shall be at liberty to do so. The goods may be so conveyed or their conveyance so arranged for separately if and when the Company in their discretion think fit as part of a larger package or consignment.
5. Pending forwarding or delivery, goods may be warehoused or otherwise held at any place or places at the sole discretion of the Company and the cost thereof shall be for the account of the Customer.
6. Except where the Company is instructed in writing to pack the goods, the Customer warrants that all goods have been properly and sufficiently packed and/or prepared.
7. The Company is entitled to retain and be paid all brokerages, commissions, allowances, other remuneration and may at any time require repayment of or on account of its expenses.
8.
  - i) Quotations are given on the basis of immediate acceptance and are subject to withdrawals or revisions. Further, unless otherwise agreed in writing, the Company shall be, after acceptance, at liberty to revise quotations or charges with or without notice in the event of changes occurring in currency exchange rates, rates of freight, insurance premiums or any changes applicable to the goods.

- ii) If the goods are stopped in transit, refused or delivery not taken, the cost of any additional carriage, cartage, storage and / or any other consequential services will be charged to and forthwith payable by the Consignor.
  - iii) Unless a special arrangement is made as to the rate of carriage the Company shall have the option of charging by value or weight or measurement.
- 9.
  - i) The Customer shall be deemed to be bound by and to warrant the accuracy of all descriptions, values and other particulars and the adequacy of documents furnished to the Company for customs, airlines, Consular and other purposes and all declarations by the Company on any documentation is deemed to be on the instruction of and has been approved by the Customer prior to import clearance or export/transshipment departure of every shipment. The Customer undertakes to indemnify the Company against all losses, damages, expenses and fines whatsoever arising from any incurrence/inadequacy or omission, even if such inaccuracy/inadequacy or omission is not due to any negligence.
  - ii) The Company may at any time require proof of the nature, condition, quantity, weight or value of goods notwithstanding prior declaration by the Customer.
- 10. The Customer shall be liable for any duties, taxes, deposits or outlays of any kind levied by the authorities or any part or place for on in connection with the goods and for any payments, expenses, loss or damage whatsoever incurred or sustained by the Company in connection therewith.
- 11. When goods accepted or dealt with upon instructions to collect freight, duties charges or other expenses from the consignee or any other person, the Customer shall remain responsible for the same if they are not paid such by the consignee or other person immediately when due.
- 12. The Customer shall insure and keep the goods insured from the original point of pick-up to the final point of delivery. No insurance will be effected by the Company except upon express instructions given in writing by the Customer. 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 and 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. Should the insurers dispute their liability for any reason the insured shall have recourse against the insurers only and the Company shall not be under any responsibility or liability whatsoever in relation thereto notwithstanding that the premium upon the policy may not be at the same rate as that charged by the Company or paid to the Company by its Customer.
- 13. The Company shall not be liable to the Customer for any loss damage or delay due to Force Majeure including but not limited to Acts of God, hijack, strikes, lockouts, riots, civil commotion, acts of war, general chaos, inclement weather, flood landslides/slips, earthquakes or any other circumstance of whatsoever nature beyond the control of the Company.
- 14.
  - i) The Company shall only be responsible for any loss of or damage to goods or for any non-delivery or misdelivery occurred whilst the goods were in the actual custody of the Company and under its actual control and that such loss, damage, non-delivery or misdelivery was due to the willful neglect or default of the Company or its own servants. The Company's liability begins from the time of receipt of the goods in the contracted condition and state and terminates at the time of delivery to other carriers for on carriage or the consignees.
  - ii) Further and without prejudice to the generality of the preceding sub-condition (i) or otherwise, the Company shall not be under any liability whatsoever for any loss or consequential loss, delay or deviation of the carriage of goods however caused.
- 15. In no case whatsoever shall any liability of the Company howsoever arising and notwithstanding any lack of explanation exceed the value of the relevant goods or a sum at the rate of RM1,000 per tonne or 1,000 kilos on the gross weight of the goods whichever is the less.
- 16. In any event the Company shall be discharged from all liability;

- a) for damage or misdelivery (however caused) unless notice of claim be received in writing by the Company within fourteen (14) days after the end of the carriage where the carriage ends in Malaysia or at any place outside Malaysia.
  - b) for loss or non-delivery of the whole of a consignment or any part of the consignment (however caused) unless notice of claim be received in writing by the Company within twenty one (21) days from the date when the goods were delivered or should have been delivered.
  - c) in any instant stipulated under (a) or (b) unless all charges including freight, duties, taxes, shortage or other costs related to the goods have been fully paid by the Customer to the Company.
17. i) The Company shall not be obliged to make any declaration for the purpose of any statute or convention or contract as to the nature or value of any goods or as to any special interest in delivery, unless expressly instructed by the Customer in writing.
- ii) Where there is a choice of rates according to the extent or degree of the liability assumed by carriers, the goods will be forwarded at the Customer's risk and no declaration of value (where optional) will be made, unless express instructions in writing to the Company has previously been given by the Customer.
18. Perishable goods which are not taken up immediately upon arrival or which are insufficiently addressed or marked or otherwise not really identifiable, may be sold or otherwise disposed of without any notice to the Customer and payment or lender of the net proceeds of any sale after deduction of charges and expenses shall be equivalent to delivery of the goods provided always that the Company shall not be liable in the event the goods are not sold or saleable.
19. The Company shall be entitled to sell or dispose of any non-perishable goods or general cargo which in the opinion of the Company cannot be delivered either because they are not collected or accepted by the Consignee or any other reason including goods held in lien for non-payment, upon giving 21 days notice in writing to the Customer. All charges and expenses arising in connection with the storage, sale or disposal of the goods shall be paid by the Customer.
20. i) Except under special arrangement previously made in writing the Company will not accept or deal with any noxious, dangerous, hazardous or inflammable or explosive goods or any goods likely to cause damage. Should the 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 Customer shall be liable for all loss or damage whatsoever caused by or to or in connection with the goods however arising, in connection therewith and the goods may be destroyed or otherwise dealt with at the sole discretion of the Company or any other person in whose custody they may be at the relevant time. If such goods are accepted under arrangements previously made in writing, they may nevertheless be so destroyed or otherwise dealt with to avoid risk to other goods, property, life or health. The expression goods likely to cause damage include goods likely to harbour or encourage vermin or other pests.
- ii) Dangerous goods accepted by the Company must be accompanied by a full declaration of their nature and contents and property and security packed for the transit. The Company gives no guarantee that any carriage owner will accept or deliver such goods.
- iii) The Company shall not be liable for any act of abandoning unloading, destroying or otherwise dealing with the goods in the opinion of the Company if necessary or advisable for the safety or security of any person or property.
21. Except under special arrangements previously made in writing, the Company will not accept or deal with bullions, currencies, coins, precious stones, jewelry valuables, antiques, pictures, livestock or plants. Should any Customer nevertheless deliver any such goods to the Company or cause the Company to handle or deal with the goods, the Company shall be under no liability whatsoever for or in connection with the goods however damaged or lost and such goods shall be deemed to have been handled at the Customer's own risk.

22.
  - i) All sums shall be paid to the Company under Account Payee (unless otherwise prescribed by the Company in writing) immediately when due without deduction and payment shall not be withheld or deferred on account of any claim, counterclaim or set-off.
  - ii) All transactions between the Company and the Customer are based on prepayment before shipment uplift or delivery unless specified otherwise in writing. Payments by cheques shall be deemed paid only after bank clearance of the same.
  - iii) In the event the Customer terminates the appointment with the Company or otherwise and uses the services of another forwarder without settling all outstanding sums in full, the Company shall be entitled to enlist the Customer on the AFAM defaulters list.
23. All goods (and documents relating to goods) shall be subject to a particular and general lien and right of detention for monies due either in respect of such goods or for any particular or general balance or other monies due from the Customer or the sender, consignee or owner to the Company. If any monies due to the Company are not paid within twenty-one (21) days after notice has been given to the person from whom the monies are due that such goods are being detained, they may be sold, disposed of or otherwise at the sole discretion of the Company and at the expense of the Customer and the net proceeds if any shall be applied in or towards satisfaction of such indebtedness.
24.
  - i) In the event of any shipment/carton subjected to direct release without customs examination and only opened at the premises of consignee after delivery, the Company shall not be liable for any damage or loss discovered therein.
  - ii) All goods received and acknowledged by the Customer are deemed to have been received in good condition unless stated otherwise with particulars of discrepancy. The Company shall not be liable for any loss or damage discovered subsequently in the instant of the Customer's failure to check the contents of goods on taking delivery.
25. In addition to and without prejudice to the foregoing Conditions, the Customer undertakes that it shall in any event indemnify the Company against all liabilities whatsoever suffered or incurred by the Company arising directly or indirectly from or in connection with the Customer's instructions and/or the implementation of the same.
26. It is hereby agreed by the Customer that any discrepancy on any invoice shall be notified in writing to the Company within seven (7) days from the date of the invoice, failing which all such invoices shall be deemed as correct and payable and no further query or report of discrepancy after the expiry of the above stated period, shall be entertained.
27. The address and contact details of the Customer as at the time of transaction is deemed to be correct unless advised in writing otherwise by the Customer.
28. Any notice required to be sent including for any legal proceedings shall be by way of Prepaid Registered Post.
29. The appointment of the Company or the agreement between the Company and Customer shall only be terminated by either party by giving to the other thirty (30) days notice in writing of its intention to terminate.
30. All agreements between the Company and the Customer shall be governed by the Laws of Malaysia and the Company may at its discretion commence any action in any court within the jurisdiction of the Malaysian Courts or in any other country, as it deems fit.