

## **INTEGRATED HAULAGE SDN BHD – CONDITIONS OF CARRIAGE**

**THIS CONDITIONS OF CARRIAGE IS A BINDING CONTRACT ON ALL CUSTOMERS ON WHOSE BEHALF THE CARRIAGE PROVIDES A SERVICE.**

**NOW THE PARTIES TO THIS CONDITIONS OF CARRIAGE WITNESSETH AS FOLLOWS :**

### **ARTICLE 1 DEFINITION**

**'Acknowledgment of receipt'** means the official Acknowledgment of receipt issued by the Carrier or any other form of the same be it oral, conduct, acquiescence or otherwise including any form of 'Notification of Delivery' or the enforcement or franking on the Consignment note which signify legal acceptance by the Carrier to the offer tendered by the Customer for contract purpose.

**'Added Term'** means the new request or counter-offer by the Customer to do certain tasks or jobs post RFD or the consignment Note which has been accepted by the Carrier either orally, written or by conducts as enumerated in Article VII of this Contract herein.

**'Carrier'** (whether in regard to carriage or storage or otherwise) means Haulage Sdn Bhd, its appointed subsidiaries, successors in title, permitted assigns and agents thereto.

**'Computer Data Interchange Program'** means the computerised data-interchange program with the Port Authority or any Terminal Operator or any other form of software program of like nature whereby information on the details and movements of cargo are transmitted via the computer system of the Port or Terminal Operator or any other party to the carrier for the purpose of facilitating cargo movement and other Logistics matters.

**'Conditions of Contract'** means Carriage.

**'Consignment Note'** means the Delivery Order consisting of several documents to be signed by the Customer of the Carrier during the Performance of the Contract

**'Containers'** means any container, flexitank, transportable tank or pallets, and should be constructed to International Standard Organisation (ISO) or Standards Institute of Malaysia (SIM) or Standards and Industrial Research Institute of Malaysia (SIRIM) and maintained in a state that is safe for transport by road.

**'Customer'** means any person entering into a contract with the Carrier for the carriage of a Consignment or Consignments using the 'Carrier' and includes unless the context otherwise requires, his principals, servants, agents, consignee and owner of the goods.

**'Dangerous Goods'** mean any goods that are of a dangerous, inflammable, radioactive or damaging in nature either to itself or other property or persons including firearms, ammunitions and explosive, goods so dangerously packed that may encourage the habitation of other animals, microorganism or fungi or likely to involve detention to itself or persons or any property, effect hindrance in any manner whatsoever to the Performance of the Contract or another third party contract in which the Carrier is a party , 'Dangerous goods' classified by the International Maritime Organisation (IMO) or any other laws, bye-laws or regulations enforced in Malaysia or Internationally.

**'Expected Goods'** means livestock, furs, watches, precious and stones, Treasury Notes, gold bullion or ingots, cash in any currency, bonds deeds, stamps, securities, manuscripts, painting, documents, safety razor blades, cigarettes lighters, bottled perfumery, tobacco, cigars, cigarettes, bottled wines, liquor, liqueurs, spirits and the like.

**'Force Majeure'** means an event not within the control of the Carrier and has a direct or indirect effect on the Carrier's obligations in the performance of this Contract; events which it is unable to prevent, avoid or remove and shall include war whether declared or not, hostilities, invasion, armed conflict, act

of foreign enemy, riot insurrection, strikes, resolution, act of terrorism, sabotage or criminal damage, natural disasters including earthquakes, lightning, volcanic eruptions, hurricanes, tempest, fires and floods.

**'Fragile Goods'** means any goods of fragile or brittle nature having an inherent likelihood or propensity to break or change its appearance or chemical constituent ; be reduced in its value or consumers confidence from any point of view, perception or aesthetics; glass, fine bone china, metals paintings, pictures, goods with inherent defect or vice, goods that are not favourable to packing or packaging, human or machine handling or interference or transportation purpose.

**'Free Storage Period'** means the five (5) days storage period or any prevailing storage period in the future wherein by virtue of any bye-laws of the Port Authority or Governmental regulations, Terminal operator or otherwise there shall be no charges impose for storage of container therein. Where Containers are not cleared after the expiry of the Free Storage period there shall be Storage rent charges imposed before clearance of the same is effected.

**'Goods'** means any goods or consignment within the definition of this Contract and within the Contract period and whenever appropriate it is also used to mean non-containerised Goods as opposed to Container Goods.

**'Goods'** means any goods or consignment in the general sense.

**'Goods in Transit'** means Goods or Containerised goods within the duration of the contract.

**'Government'** means the Government of Malaysia and shall include the Secretary General, Ministry of Finance, its statutory bodies, Governmental institution and its duly appointed representative.

**'Haulage'** means the transportation of containerised or non-containerised Goods whenever appropriate depending on the construction of the sentence.

**'Integrated Haulage Sdn Bhd Tariffs for Container Haulage'** means a published list of charges by the Carrier from time relating to the transportation of Containerised Goods thereto.

**'Obnoxious Goods'** means any substance which causes discomfort or adversely effect human interference or handling, taint other goods , containers or packaging or damage them chemically or physically; any deliquescent cargo which draws in moisture from the air or its surrounding, any cargo that is moist or in a wet condition ; cargo that is liable to infection by insects, mites, weevils, grubs or the propensity to liquidate with a change in temperature and other cargo deemed obnoxious by law.

**'Party or Parties'** means any party to this Conditions of Carriage being the Carrier and the Customer or both or any other third party not bound by this Contract depending on the construction of the sentence.

**'Performance of the Contract'** or **'Performance'** means the duties and obligations of the parties to this Contract.

**'Request for Delivery'** or **'RFD'** means the legally valid offer by the Customer to the Carrier for the latter to carry out the Services; this offer made by means of a written request for Delivery or in a specified format or forms to be filled by the former, the Carrier's Consignment Note, by oral request, telex or facsimile transmission or in accordance with the customs of trade practiced by the Carrier and thereby communicated the same.

**'Service'** means the inland transportation of Goods or Containerised Goods within or outside Malaysia or otherwise and any other considerations to this Contract.

**'Unauthorised Transaction'** means the Unauthorised Transaction as defined as in article XIX of this Contract or any transaction either partially or full or in full which is similar or mirrors the kind of transaction that is not authorised by the Carrier in this contract or performance of the same; the former transaction which is done or carried out by anyone including the Carrier's own employees without

reasonable or material knowledge of the same or any other parties or persons whom fraudulently act or purpose to act on behalf of and without any authorization of the Carrier.

## **ARTICLE II CONDITIONS OF CARRIAGE**

- i These Conditions of Carriage are in force from January 1, 1999 and shall supersede all previous Conditions of Carriage.
- ii This Contract is binding on the Carrier and the Customer the moment there is acceptance by the Carrier to perform its obligation to haul, transport, store the containers or goods in transit and deliver thereto; the above tasks in whatever permutation in accordance with the request by the Customer in the RFD which is agreed thereby in the form of an Acknowledgment of Receipt or via the Consignment note which is endorsed by the franking method or in this contract; the obligation which is terminated once the performance of the Contract has been executed and carried out therein.

## **ARTICLE III TARIFFS AND CHARGES**

- i Integrated Haulage Sdn Bhd Conditions of Tariffs for Container Haulage is herein incorporated in the Contract. Copies of the same is obtainable from the Carrier upon request.
- ii The charges for the transportation of non-containerised Goods as is discretionary and not in the form of Tariffs; the former imposed by the Carrier based on the service agreement between the parties, nature of cargo and distance of journey involved and all other considerations customary in the trade of the same.

## **ARTICLE IV PAYMENT OF TARIFFS AND CHARGES**

- i The payment of the Tariff and charges which is in consideration for the service rendered by the Carrier to the Customer shall be paid immediately by the latter after acknowledgment of Receipt is produced by the former. However if the Customer has been granted a credit facility arrangement with the carrier, payment is to be made within the specified period stated in the Credit Facility.
- ii Both parties to this Contract agree that the terms and conditions of the credit facilities are an integral part of this contract and the carrier reserves its right to amend the said terms and conditions from time to time with due written notice to the customer.

## **ARTICLE V INVOICES**

By virtue of this Contract, the customer is given fourteen (14) days grace period to dispute any invoices billed to the former by the Carrier in written form failing which all invoices are deemed as final and conclusive evidence of the acceptance of the Customer of its indebtedness to the Carrier.

## **ARTICLE VI DURATION OF CONDITIONS OF CARRIAGE**

- i The carrier shall at any time alter, amend or revoke any or all provisions, articles or statements of these conditions of carriage.
- ii These conditions of carriage shall apply indefinitely and shall compensate any further amendments or revocation to the extent of any absence of any provisions, articles or statements that are not contrary and to the exchange of the purpose and spirit of the new Contract, amendments or revocation.

- iii In the event that there shall be any amendments or revocation wherein the performance of the contract is still being performed, the duties and obligations of both parties under the conditions of carriage are considered revoked and void to the extent to the inconsistency with the new contract but this provision does not apply to the charges agreed to and applied by the carrier under the former contract.

**ARTICLE VII  
ADDED TERM OF CONTRACT**

- i In the event that the customer gives instructions to the carrier to carry out certain tasks or jobs that are contrary to the contract, the RFD or the consignment note; the carrier receiving this instruction acquiesces in the same by carrying out those tasks or jobs as if it is an Added Term to the contract without prejudice to its rights as a service provider and that of the customer for the same added service. Where there is another term or article in the original contract that is inconsistent with the carrier if it produces hardship, economic loss and or damage to the former and other parties thereto.
- ii The customer shall also bear the full responsibility to compensate the carrier and other affected parties for any loss and damage that accrues either directly or indirectly from the task or job done arising from the instructions given to the carrier.

**ARTICLE VIII  
AMENDMENT AND REVOCATION**

Both parties to this contract may amend any term of the contract or revoke the same upon mutual agreement in writing.

**ARTICLE IX  
APPLICATION OF LAW**

This contract and all other agreements between the carrier and the customer shall be governed by the laws of Malaysia and both parties irrevocably submit to the exclusive jurisdiction of the Courts of Malaysia.

**ARTICLE X  
SUB-CONTRACT**

The carrier reserves its right to employ the service of any other carrier, haulage operator and third parties in the performances of the contract with due written notice to and acceptance by the customer. For the purpose of this contract all rights and obligations of the other carrier, haulage operator and third parties are deemed as the 'immediate parties' to the contract with the customer. However under no circumstances shall the situations be construed that the Carrier is liable for the acts, omissions and obligations of these 'immediate parties' and the Carrier is not jointly or severally liable for the immediate parties acts, omissions or obligations under the Contract whatsoever.

**ARTICLE XI  
FORCE MAJEURE**

- i The carrier is not liable for the performance of the contract if it is unable to perform its obligation or effect termination of the contract due to an event of Force Majeure. In the event of the same, the Customer shall endeavour to help the performance of the contract of both parties.
- ii In the event of Force Majeure, any total or partial loss or damage to the goods or containers is the liability of the Customer and the carrier shall not be responsible for any claims either from the Customer or any other third party for the loss or damage therein.

**ARTICLE XII  
IMPOSSIBILITY OF PERFORMANCE**

The Carrier shall be relieved from its obligation to perform the Contract to the extent that the performance of the same is prevented by failure of the customer, events of Force Majeure, weather conditions or caused beyond the reasonable control of the Carrier.

**ARTICLE XIII  
LIABILITY FOR LOSS, MISDELIVERY OR DAMAGE**

- (1) The Customer shall be deemed to have elected to accept the terms set out in paragraph (2) of this Article unless, before the transit commences, the Customer has agreed in writing that the Carrier shall not be liable for any loss or misdelivery of or damage to the Consignment however or whenever caused and whether or not caused or contributed to directly or indirectly by any act, omission, neglect, default or other wrong doing on the part of the Carrier.
- (2) Subject to these Articles the Carrier shall be liable for:
- (a) loss or mis-delivery of or damage to livestock, bullion, money, securities, stamps, precious metals or precious stones and other Expected Goods only if:-
    - (i) the Carrier has specifically agreed in writing to carry any such items; and
    - (ii) the Customer has agreed in writing to reimburse the Carrier in respect of all additional costs which result from the carrying of the said items; And
    - (iii) the loss, mid-delivery or damage is occasioned during transit and result from negligent act or omission by the Carrier;
  - (b) any loss or mis-delivery of or damage to any other goods occasioned during transit unless the same has arisen from, and the Carrier has used reasonable care to minimise the effects of:-
    - (i) act of God
    - (ii) any consequence of war, invasion, act of foreign enemy, hostilities whether war be declared or not) civil war, rebellion, insurrection, military or usurped power or confiscation, requisition, destruction of or damage to property by or under the Order of any government or public or local authority;
    - (iii) seizure or forfeiture under legal process;
    - (iv) error, act, omission, mis-statement or mis-representation by the Customer or other owner of the goods or by servants or agents of either of them;
    - (v) inherent liability due to wastage in bulk or weight, latent defect or inherent defect, vice or natural deterioration of the goods;
    - (vi) insufficient or improper packing;
    - (vii) insufficient or improper labeling or addressing;
    - (viii) riot, civil commotion, strikes, lockouts, stoppages or restraint of trade or labour from whatsoever cause;
    - (ix) Consignee not taking or accepting delivery within a reasonable time after the Consignments have been tendered.
- (3) The Carrier shall not under any circumstances be liable for loss of or damage to goods after transit of such goods are deemed to have ended within the meaning of Condition 6(2) hereof, whether or not caused or contributed to directly or indirectly by any act, omission, neglect, default or other wrongdoing on the part of the Carrier.

**ARTICLE XIV  
LIMITS OF LIABILITY**

- i The carrier's limit of liability under this contract and any other laws, regulations, statutory enactment and bye-laws either locally or internationally pertaining to any matter relevant to the goods, obligations and duties of the carrier shall not exceed Ringgit Malaysia RM 4.00

(Four Malaysian Ringgit) per kilogram of gross weight of goods lost or damaged or RM 450 per package a sum not exceeding or its equivalent per consignment or the value of the consigned goods whichever is lesser. If the gross weight of goods declared to the carrier is lower than the actual gross weight of the same, compensation shall also correspond to the direct ratio of the gross weight of goods lost or damaged to the gross weight declared and not the actual gross weight of the same.

- ii In the reverse events its full discretion in making compensation only to deserving cases and actual gross weight of the same, compensation shall only correspond to the actual gross weight of the goods lost or damaged therein.
- iii There carrier reserves its full discretion in making compensation only to deserving cases and the Ringgit Malaysia RM 4.00 compensation per gross weight in kilogram of goods lost or damaged or RM 450 per package a sum not exceeding or its equivalent per consignment or the value of the consigned goods whichever is lesser. It is not the fixed value to be computed, rather it only serves as a ceiling on the maximum amount of Ringgit per kilogram to be used in a clear cut case of undeniable liability.
- iv Customers who do not declare the gross weight of goods to the carrier run the risk of non-compensation by the carrier notwithstanding that the claim on the goods lost or damaged is material for settlement purposes.
- v By virtue of this Contract it is hereby declared that in any one claim deserving of compensation shall not exceed the Ringgit Malaysia RM100,000.00 (Malaysia One Hundred Thousand Ringgit) and it is incumbent on the Customer to have an insurance placement over Goods and containers on their own account.
- vi It is expressly agreed that any one claim deserving of compensation shall not exceed the actual value of the goods lost or damaged, failing which the computation of RM4.00 shall not apply but only the actual value of the goods lost or damaged taking into account the current market value of the goods, depreciation and other relevant considerations thereto.
- vii The customer shall be entitled at any time before the commencement of transit to give seven (07) days written notice to the Carrier requiring that the aforesaid RM4.00 (Malaysia Four Ringgit) per kilogram of gross weight be increased but not so as to exceed the value of the goods and in the event of such notice being given the carrier shall within the said seven (07) days exercise its discretion to accept the same or to reach a common mutual agreement with the latter in consideration to the increased limit.

#### **ARTICLE XV COMPENSATION CLAIMS**

- i In the event of any incidence of loss or damage of goods or containers or any incidence leading to a reasonable inference of the same, the Customer shall **immediately inform** the carrier of such incidences within twenty four (24) hours from the time of the same, failing which the customer might be debarred from making a formal compensation claim under this Article.
- ii All formal compensation claims by the customer should be made within fourteen (14) days from the date of any incidence giving rise to the same or the date the performance of the contract was effected or the date where both parties to the contract have stopped carrying out their obligation to the same therein.
- iii The rights to apply for a compensation is revoked if it is made after the fourteen (14) days time limit has expired.

#### **ARTICLE XVI INDEMNITY**

Without prejudice to the other Articles of this Contract, the Customer shall indemnify the Carrier:-

- (1) against all consequences suffered by the carrier (including but not limited to claims, demands proceedings, fines, penalties, damages costs, expenses and loss of or damage to carrying the vehicle, containers and to other goods carried) of any error, omission, misstatement or misrepresentation by the customer or other owner of the goods or containers by any servant or agent of either of them; insufficient or improper packing, labeling or addressing of the goods or fraud as in **Article XIX** therein;
- (2) all claims and whatever by whoever made in excess of the liability of the carrier under these Articles;
- (3) all losses suffered by any claims made against the carrier in consequence of loss of or damage to property caused by or arising out of the carrier under this contract; and
- (4) claims made upon the carrier by the Royal Customs and Excise Department in respect of dutiable goods consigned in bond whether or not Transit has ended or been suspended.

#### **ARTICLE XVII INSURANCE**

- i It is a duty of the customer to make sure that their goods or containers are insured with an insurance policy or policies against any event of loss and or damage from the commencement of the contractual obligations of both parties and the carrier reserves its right not to have any insurance over the same. Should the customer effect an insurance policy; by virtue of this Contract, a copy of the same should be tendered to the carrier and that there shall be no subrogation to the insurer of the carrier or the carrier in that matter.
- ii For the purpose of this contract, 'consignment of contractual obligations' is effected at any time the Acknowledgment of Receipt is issued or the endorsement or franking is done on the Consignment Note by the Carrier or any other form of acceptance tendered by the Customer at Law.

#### **ARTICLE XVIII**

##### **ADHERENCE TO CONTRACT TERMS AND OTHER TERMS CUSTOMARY IN THE LOGISTICS OPERATION/ UNAUTHORISED TRANSACTION**

- i It is the responsibility of the customer to ensure that proper procedures laid out in the Contract are adhered to, in particular the making of the offer via the filling in the details required in the RFD or the consignment note and the procurement of the official Acknowledgment of Receipts for the RFD and the endorsement or franking of the consignment note. Any transaction that do not conform to this and other requirements which is customary in logistics operations of the carrier or in the general logistics industry is an **Unauthorised Transaction** and the carrier is not responsible for any loss and or damage either to the goods or containers, property of the customer or any party, personal injury or death of persons arising from this Unauthorised Transaction.
- ii In the event that there is any loss, damage, injury or death to any employees or agents of the carrier or third parties; the customer warrants and undertakes to pay and compensate the same thereof.

#### **ARTICLE XIX LIABILITY ARISING FROM FRAUD AND UNAUTHORISED TRANSACTION**

The carrier shall not in any circumstance be liable in respect of goods or containers where there has been **fraud** or an **Unauthorised Transaction** on part of or committed by the Customer or owner of the goods or the servants or agents of either in respect of the same unless the fraud or Unauthorised Transaction has been contributed by the complicity the Carrier or any servant of the Carrier acting in the course of his employment.

**ARTICLE XX  
WARRANTY AND UNDERTAKING**

- i The customer warrants that the description of the Goods in the RFD or the Consignment Note, its value, quantity, weight, measurement and all other particulars are true and correspond to the kind of information written on the packing list, invoice of Goods, Certificate of Origin, Bill of Lading, Air Way Bill and other documents tendered to the Port, Airport and Railway Authority or any Terminal Operators for marine, air, rail and land transportation in which the Carrier rely by means of these documents or via the Computer Data Interchange Program for information purposes.
- ii In the event that the above is not adhered to the Carrier reserves its full right to either terminate the Contract, temporarily suspend the Performances of the Contract, make deviation of the route formally agreed, appoint third parties to effect any part of the Contract, execute lien over the Goods or in extreme cases to sell the same or any part thereof in addition to payment and compensation in full by the customer for whatever loss, damage or hardship caused to the Carrier, its personnel and third parties.
- iii It is a duty of the Customer to be continuously vigilant on the nature of information that they have supplied to the Carrier in the RFD, the Consignment Note and other logistical documents from third parties pertaining to the Goods and upon receiving information that the same is wrong, erroneous or fraudulent; the Customer shall make notification to the Carrier **as soon as possible**, failing which the Carrier may invoke any or a combination of the rights enumerated in paragraph two (02) of this article.

**ARTICLE XXI  
REQUEST FOR DELIVERY (RFD)/ CONSIGNMENT NOTE**

- i The carrier reserves its rights and full discretion to refuse any RFD or consignment note in particular goods that belong to the category of 'Dangerous Goods', 'Expected Goods', 'Fragile Goods' and 'Obnoxious Goods'. Notwithstanding the same the Carrier may also refuse any RFD or Consignment Note not related to these categories without any reasons whatsoever given to the Customer.
- ii The Carrier may accept the RFD or consignment note of 'Dangerous Goods' and/or 'Fragile Goods' upon a full and material disclosure of the nature of goods by the Customer in a form of a written declaration and on a special arrangement basis made either between the Carrier and the Customer or with third parties.
- iii For the purpose of this Article and Goods belonging to 'Dangerous Goods', 'Expected Goods', 'Fragile Goods' and 'Obnoxious Goods'; the Customer undertakes to compensate the Carrier or any other third parties for any loss and or damage resulting either directly or indirectly from the Performance of the Contract of the same notwithstanding that the direct causal effects are due to the Carrier or third parties the latter whom are either authorised or unauthorised, under employment with the Carrier or the Customer.

**ARTICLE XXII  
SECURITY AND INSURANCE FOR EXPECTED, FRAGILE, DANGEROUS AND OBNOXIOUS GOODS**

- i The carrier is not responsible for the security or insurance of the above mentioned Goods and the Customer may have insurance policies and arrange for security during the Performance of the Contract therein at no cost to the former.
- ii Notwithstanding the above however, the Carrier may provide or employ the security services of a Security Firm upon an agreed rate with the Customer.

**ARTICLE XXIII  
TRANSPORTATION OF DANGEROUS GOODS**

It is a duty of the Customer to label the Container carrying 'Dangerous Goods', the carrying vehicle and the packaging of the same by means of symbols and affixed with a certification mark incorporating the United Nations logo, and the party that is to effect packing and packaging of the same shall do so in accordance with any statutory regulations for road transport either locally or internationally.

**ARTICLE XXIV  
PACKING OF GOODS FOR CONTAINERISED CARGO**

- i The Carrier does not provide the service for the proper packing of Goods before it could be transported in Containers. It is the responsibility of the Customer to effect the same either by themselves or via third parties so that the Goods are safe for storage and transportation purposes. The Carrier is not liable for the loss or damage of Goods if it is found that the same is caused by the insufficiency of packing materials or quality unsuitable for transportation purpose in a Container or storage for the same in transit or for the route that is used to effect the performance of the Contract.
- ii It is the liability of the Customer to compensate the Carrier in full should there be any loss or damage which is caused directly or indirectly from the packing and packaging of the Goods or Goods to the property of the Carrier or other third party property including transportation gear and vehicles, personnel and third parties and the Carrier shall not be liable to any third party claims or suits in the matter.
- iii The Carrier shall only effect the packing or supply packaging of the goods for containerised cargo upon a mutual agreement with the Customer in writing at an agreed rate.

**ARTICLE XXV  
PACKING OF GOODS FOR NON-CONTAINERISED CARGO**

- i The Carrier may provide thereof packing and packaging of Goods upon the specification or request of the Customer at an agreed rate. Unless otherwise instructed by the Customer, the Carrier shall only provide the crates, cases, lift, vans, pallets or any other design of like nature with the customary build and quality requirements used by the Carrier. The Carrier shall not be liable for any defects or questions on fitness for purpose that is over and above what is normally and customarily provided for by the Carrier and any loss or damage which is attributed to the packaging material or the way packing is done if there is no express declaration by the Customer on the nature of the goods or any other information which is important for the Carrier to observe relating to packing and transportation purposes.
- ii Failure by the customer to observe the requirement of paragraph one (1) of this Article shall render the Customer liable to any loss or damage which is caused directly or indirectly from the packing or packaging of goods or goods to the property of the Carrier and other third party. Good include, transportation gears and vehicle, personnel and third parties, that have been consoled together on the same vehicle or in Containers for export purposes and all other third party claims and suits therein.

**ARTICLE XXVI**

**DISCREPANCY ON THE NUMBER OF ITEMS OR GOODS IN CARTONS, BOXES, CASES, LIFTVANS, CONTAINERS**

The Carrier is not responsible for discrepancies on the number of items or goods purported to be in cartons, boxes, cases, liftvans, Containers, 'palletized Goods', or any other type of packaging save for the information that is printed or written on the same or the information given by the Customer or its agents for the tallying of goods or the issuance of the 'Unpacking Lists For Surveyors' or any other documents of like nature.

**ARTICLE XXVII**

## **LOADING AND UNLOADING**

- i Where there are goods to be collected from the Customer's premises or Container to be delivered to the same, it is the duty and responsibility of the Customer to effect loading or unloading respectively in a safe manner by providing any man-power, labourers, equipments and machineries to effect the same at no cost to the Carrier. Any assistance given by the Carrier or its personnel or third parties under the direction of the former shall be at the sole risk of the customer and any loss or damage arising therefrom shall not be on the account of the Carrier therein.
- ii It is responsibility of the Customer to make sure that proper adequate steps machineries and precautions are taken to effect loading or unloading for 'Expected Goods', 'Dangerous Goods', 'Fragile Goods' and 'Obnoxious Goods' and any assistance given by the Carrier or its personnel at the request of the Customer are at the sole risk of the same with no liability on the Carrier regarding any loss or damage of Goods therein. The customer shall however indemnify the Carrier against any loss or damage legal or otherwise which the Carrier might suffer as a consequence of the above.
- iii The Carrier may at the request of the Customer provide labourers, special equipment and machineries for loading and unloading purposes at an agreed rate.
- iv The Carrier shall not be required to provide service beyond the usual place of collection or delivery or at such a place stated in the RFD or the consignment note but if any such service is given by the Carrier it shall be at the sole risk of the Customer against all claims and demands whatever could not have been made if such service had not been given.

## **ARTICLE XXVIII CONSIGNMENT NOTE**

The Carrier shall, if so required sign the Consignment Note or a document prepared by the Customer acknowledging the receipt of the Goods or Containers or nature of goods, its quantity or weight but no such document shall be evidence of the condition or correctness of the declared nature, quantity or weight and other particular given to the Carrier, the RFD or the Carrier's Consignment Note at the time it is received by the Carrier.

## **ARTICLE XXIX CONTAINERS**

- i It is the duty of the Customer to make sure that the Container is fit for the purpose it is required for and the carrier is not liable for the unsuitability or defective condition of the Container which could not be reasonably foreseen by any reasonable haulage operator in the logistic industry.
- ii In the event that the Customers find any defect or unsuitability of the Container in question or upon information from the shipping line or any party thereof, it is a duty of the Customer to alert the Carrier within twenty four (24) hours of delivery of the Container, failing which the Carrier may treat the Contract as terminated.
- iii. The Carrier is equally not liable for the unsuitability or defective condition of the same which condition is apparent upon reasonable inspection by the Customer at any time during the loading of Goods therein.
- iv. The Customer undertake to have no recourse in Law or otherwise against any loss of economic or pecuniary nature, or effect insurance subrogation or otherwise resulting from any case of defective or unsuitable Containers thereof.

**ARTICLE XXX  
STUFFING OF CONTAINERS**

The Customer shall stuff the Container within the maximum weight limits pursuant to the Malaysian Government Regulations in force and the same shall be liable for all fines, detention or loss of revenue to the Carrier if this provision is breached thereof.

**ARTICLE XXXI  
INSPECTION**

The Carrier reserves the right at any time during the duration of the Contract to inspect Goods in Containers of Goods therein without due notification to the Customer.

**ARTICLE XXXII  
GOODS IN TRANSIT**

- i Goods in transit means goods or Containerised Goods. The duration of Transit differs in each circumstance and does not run at the time the Contract is formed. Transit shall commence when the Carrier takes physical possession of the Goods or Containerised Goods at the point of collection or delivery as stated in the RFD or the Consignment Note or upon agreement or instruction of the customer therein. Depending on the nature of the Contract and as per this Article the Carrier may store Containerised Goods on trailers or transit yard at the Carrier's premises or any other locality; the same applies to Goods which may be stored at the warehouse or any other building deemed safe for storage purposes. Transit shall be at the place of delivery or collection in the RFD or the Consignment Note or upon instruction of the Customer.
- ii Where it is not safe and there is no adequate access or unloading facilities at the designated place of delivery, transit shall be deemed to end at the expiry of one (01) clear day after notice in writing of the arrival of the Consignment at the Carrier's premises has been sent to the Customer.
- iii Where for any reasons a Consignment cannot be delivered or the same is held by the Carrier 'to await order' or 'to be kept till called for' or upon any like instruction and such instructions are not given or the Consignment is not called and removed within a reasonable time; then Transit shall be deemed to end.

**ARTICLE XXXIII  
DELIVERY OF CONTAINERS AND GOODS IN TRANSIT**

- i The Carrier shall deliver the Containers or Goods in transit to the address specified in the RFD or the Consignment Note or via any other instructions given post RFD or the Consignment Note in writing. However it is the duty of the Customer to make sure that there is an adequate area at the location given to unload the containers or goods and should the Carrier be given the instruction to leave the Container or Goods outside the location given (for example outside the gate or compound of the address given in the RFD or the Consignment Note), it is therefore no longer a responsibility of the Carrier over both the Container and the Goods and the Customer has to make good the loss and or damage of the same to the carrier and third parties should the loss and damage arise from such an instruction.
- ii In the event that the Carrier is unable to deliver the Container or Goods due to the Customer's refusal to accept the same or the Customer not being present at the stated location to receive them, the Carrier may then have the Container or the Goods hauled back to the premises of the Carrier or any other transit point and the Customer has to submit a new RFD or Consignment Note for delivery and bear the costs of the futile trip made earlier.
- iii The Carrier may due to some unforeseeable circumstances effect delivery of the Container or goods earlier or later than the agreed time in the RFD or the Consignment Note or the instruction given post RFD or the consignment note and the Customer shall accept this delivery if it is done during the customer's working hours therein.

**ARTICLE XXXIV  
CLEARANCE OF CONTAINERS FROM THE PORTS**

The Carrier undertakes and warrants that it shall endeavor to clear the Containers from the Ports within forty eight (48) hours of submission of all relevant papers and documentation from the freight forwarder or any third parties whom have undertaken to procure the same. These forty eight (48) hours do not apply if the relevant papers and documentation are given less than forty eight (48) hours before the commencement of the Store Rent or other charges thereto.

**ARTICLE XXXV  
STORE RENT AND OTHER CHARGES**

- i The Customer warrants and undertakes to settle and pay the amount of Store rent and other harges if the relevant papers and documentation by any party are not forwarded to the Carrier at least forty eight (48) hours before the commencement of the same. It is therefore a duty and responsibility of the customer to ensure that the relevant documentation are in order and relayed to the Carrier on time; this duty and responsibility is executed by the Customer professionally either on their own or through their appointed freight forwarder or agent or suppliers locally or internationally or any other third parties in the 'logistics paper-document' transactions. The Carrier shall not be responsible for the Store Rent or any other charges or costs.
- ii The Customer equally warrants and undertakes to settle and pay the amount of Store Rent or other charges where the Containers are detained by the order of the Government of Malaysia through its institutions and machineries thereof.
- iii Where Store Rent and other charges are incurred, the Customer must immediately pay the amount charged to the relevant Authority, Operator or Company before the Carrier can continue with the Performance of the Contract. In the event of non-payment the Carrier shall execute its right to detain Goods or goods not under this Contract under a general lien indefinitely as owner of the Goods at law and in equity.

**ARTICLE XXXVI  
STORE RENT AND OTHER CHARGES THROUGH FAULT OF CARRIER**

The Carrier is only liable for the Store Rent and other charges if the relevant documentation in proper order are forwarded and received by the Carrier at least forty eight (48) hours before the commencement of the same and that there are no situation or incidences which might lead the Carrier to find difficulty, and / or hardship or terminate the Contract as per Articles XI, XII, XXIII, XXXV and XXXXIII of this Conditions of Carriage or any other Articles wherein the right of termination applies. In the event of this happening the Carrier undertakes to pay the amount of the charges at no costs to the Customer.

**ARTICLE XXXVII  
ELECTRICITY SHUTDOWN, COMPUTER MALFUNCTION, EVENTS OF FORCE MAJEURE**

Where there are unexpected events outside the control of the Carrier such as electricity or computer shutdown or events constituting 'Force Majeure', notwithstanding that the Customer has tendered the relevant documents on time to the Carrier for clearance purposes; the Carrier shall not be liable for any Store Rent or other charges and the customer by virtue of this Contract undertakes to be fully responsible for the same and pay the relevant amount to the Port, Airport or Railway Authority, bonded warehouse, Terminal Authority or any other Company thereof.

**ARTICLE XXXVIII  
METHODS AND ROUTES OF TRANSPORTATION**

The Carrier may at any one time and without notice to the Customer, employ and undertake to do the tasks enumerated below contrary to the Contract which in the Carrier's discretion is for the mutual

interests of both parties by using any means of transport, deviate as to any route which may not be the nearest or most direct route to the destination in the Contract, load, unload or store the Goods at any such place and finally to comply with any and all regulations given by the Government of Malaysia.

**ARTICLE XXXIX  
SHUT-OUT AND OVER CARRIED CONTAINERISED GOODS OR GOODS**

The Carrier is not responsible for delay or late arrival of Containerised Goods or Goods for export due to any reasons resulting in a subsequent 'shut-out' by vessel or discharge of the same for imports due to any reason resulting in the Containerised Goods or Goods being 'over-carried' or remaining on board the vessel to another destination or shipping port.

**ARTICLE XXXX  
LOSS OR DAMAGE TO THE CARRIER OR THIRD PARTY EQUIPMENTS AND MACHINERIES IN CUSTODY OF CUSTOMER**

Where at any point of the Contract; the equipments or machineries are left in the custody of the customer or any third parties representing the same; any loss or damage to the equipments and machineries are therefore a liability of the Customer and the same has to make good any claims made by any party arising from the matter in question.

**ARTICLE XXXXI  
WARRANTY AND UNDERTAKING BY CUSTOMER TO COMPLY WITH ALL REGULATION AND REQUIREMENTS**

The Customer warrants and undertakes to comply with all regulations and requirements of the Royal Customs and Excise Department, Port Authorities and any other Authority, Terminal Operators, organisations or companies and shall bear and pay all duties, taxes, fines, imports, expenses or losses suffered by the Carrier, its agents or any other third party due to the insufficiency of marking, numbering and defining the Goods or Containers therein.

**ARTICLE XXXXII  
GENERAL LIEN**

The Carrier shall have a general lien over the Container and the Goods at any time during the Performance of the Contract against the Customer for any monies due from the latter either from any earlier Contract or the present Contract or any Added Term to the same or any breach of this Contract by the Customer or the Customer's Agents or persons under authorization of the same. If the lien is not satisfied by the Customer within a reasonable time specified by the Carrier, the latter shall have the absolute discretion to sell the Goods as agents for the Customer and the proceeds from the sale shall for the purpose of this Contract deemed part of monies due to the Carrier if that amount is less than the total monies due;

if the proceeds less the deduction on the costs of sale is over the amount owed to the Carrier; the balance of the same shall in due course be paid to the Customer once the Carrier is fully satisfied that there are no more monies due to the Carrier from the same or is agents therefrom.

**ARTICLE XXXXIII  
TERMINATION OF CONTRACT**

- i The Carrier may at its full discretion and in a written form to the Customer refuse to perform the Contract at any stage of the same (herein referred to as 'Termination of Contract') if it is found that any details of the Goods in the Containers do not correspond to the RFD or the Consignment Note, any material inconsistency as shown in the Computer Data Interchange Program, any events of Force Majeure, any other incidence or material information from third parties that would be reasonable for any haulage operator in the industry to infer or foresee that in all probable likelihood to continue with the performance of the Contract would injure the Carrier in its reputation, itself or others, produce undesirable incidents that might harm the safety or lives of persons or given rise to legal or economic hardship to the Carrier.

- ii The rights propounded under this Article apply to Containers and Goods in Transit and upon receiving the notification of Termination of Contract, the Customer is given a period of one (01) month to clear the Containers or Goods themselves or through any third party from any transit point at no cost to the Carrier. If the above operation involves any loss or damage to the Carrier's property or third parties or cause injury, the Customer has to bear whatever consequence legal or otherwise and make good the loss and damage present.
  
- iii The Carrier reserves its full right to charge the Customer for whatever costs it has incurred plus a service charge if Performance has been effected at any point during the Contract duration prior to termination of the same and this charge shall include the economic costs incurred operationally in the case of Goods situated at the Port, Airport, Railway, bonded or non-bonded warehouses, costs incurred due to deviation and other acts to mitigate the situation, damage or loss resulting from the breach of this Contract; and where goods are stored at the port or Bonded warehouses, the charges shall run from the duration of the free storage period up to the moment clearance has been effected by the Customer or third parties plus all other costs should there be loss and or damage resulting from the operation done by the Customer and or third parties therefrom.