

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

1. Definitions:

- Carrier means a person who is engaged in the business of transporting forth goods by road, rail, inland waterways or air.
- Consignee means the person named as consignee in the Multimodal Transport Document.
- Consignor means the goods entrusted to a Multimodal Transport Operator for Multimodal Transportation.
- Consignor means the person named in the Multimodal Transport Document as consignee by whom or on whose behalf the goods covered by such contract are entrusted to a Multimodal Transport Operator for Multimodal Transportation.
- Delivery means (1) in the case of negotiable Multimodal Transport Document, delivery from the consignee or placing the consignment at the disposal of the consignee or any other person entitled to receive it, (2) in the case of a non negotiable Multimodal Transport Document, delivery of the consignment to, or placing the consignment at the disposal of, the consignee or any person authorized by the consignee to accept delivery of the consignment on his behalf.
- Employment means the signing by the consignee or his employee after sending a direction or a negotiable Multimodal Transport Document to pass the property in the goods mentioned in such document to a specified person.
- Goods includes (1) containers, pallets or similar articles of transport used to consolidate goods and (2) animals.
- Mode of Transport means carriage of goods by road, rail, inland waterways or air.
- Multimodal transport means carriage of goods by two or more modes of transport from the place of acceptance of the goods in India to the place of delivery of the goods outside India.
- Multimodal transport contract means a contract entered into by the consignee and the Multimodal Transport Operator for Multimodal Transportation.
- Multimodal Transport Operator means any person who (1) concludes a Multimodal Transport Contract on his own behalf or through another person acting on his behalf, (2) acts as a principal, and not as an agent either of the consignee or of the carrier participating in the Multimodal Transportation, and who assumes responsibility for the performance of the said contract, and (3) is registered under sub-section (2) of Section 4 of this Act.
- Negotiable Multimodal Transport Document means a Multimodal Transport Document which is (a) made out to order or to bearer or (b) made out to order and is transferable by endorsement or (c) made out to bearer and is transferable without endorsement.
- Non negotiable Multimodal Transport Document means a Multimodal Transport Document which indicates only one named consignee.

Acceptability:

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

3. Effect of issuance of Multimodal transport document:

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

By accepting the Multimodal Transport Document the consignee and his transferees agree with the Multimodal Transport Operator that, unless it is marked 'non-negotiable', it shall constitute title to the goods and the holder by endorsement of the Multimodal Transport Document, shall be entitled to receive or to transfer the goods mentioned in the Multimodal Transport Document.

3. Reservations:

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

6. Evidentiary effect of the multimodal transport document:

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

7. Guarantee by the consignee:

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

8. Dangerous goods:

- The consignee shall mark or label dangerous goods in a suitable manner as 'dangerous goods'.
- Where the consignee hands over dangerous goods to the Multimodal Transport Operator or any person acting on his behalf, the consignee shall inform him of the dangerous character of the goods, and if necessary, the precautions to be taken, if the consignee fails to do so and the Multimodal Transport Operator does not otherwise have knowledge of their dangerous character, then:
 - the consignee shall be liable to the Multimodal Transport Operator for all loss resulting from the shipment of such goods, and
 - the goods may at any time be unloaded, destroyed, or rendered innocuous, as the circumstances may require, without payment of compensation.
- The above provisions may not be invoked by any person if during the Multimodal Transport he has taken the goods in his charge with knowledge of the dangerous character.

- If in cases where the provisions, (2) (b) referred to above do not apply or may not be invoked, dangerous goods shall be deemed to be dangerous to life or property, then the consignee shall be deemed to have warranted innocently, as the circumstances may require, without payment of compensation, except where there is an obligation to contribute to general average or to indemnify the Multimodal Transport Operator's liability, in accordance with the provisions of relevant conditions.

8. Period of responsibility

- The responsibility of the Multimodal Transport Operator for the goods covers the period from the time he takes the goods in his charge to the time of their delivery. For the purpose of this responsibility, the Multimodal Transport Operator is deemed to be in charge of the goods:
 - from the time he has taken over the goods from (1) the consignee or a person acting on his behalf, or (2) an authority or other third party in whom, pursuant to law or regulations applicable at the place of taking charge the goods must be handed over for forwarding;
 - until the time he has delivered the goods (1) by handing them over to the consignee, or (2) by placing them at the disposal of the consignee, or (3) by placing them at the disposal of the consignee or with the place or with the consignee of the particular trade applicable at the place of delivery, or (4) by handing over the goods to an authority or other third party in whom, pursuant to law or regulations applicable at the place of delivery, the goods must be handed over;
 - reference to the Multimodal Transport Operator in this regard shall include his servants or agents or any other person of whose services he makes use for performance of the Multimodal Transport Contract, and reference to the consignee or consignees shall include their servants or agents.

10. Basis of liability

- The Multimodal Transport Operator shall be liable for loss resulting from loss of or damage to the goods, delay in delivery and any consequential loss or damage arising from such delay if the occurrence which caused such loss, loss or delay in delivery, took place while the goods were in his charge unless the Multimodal Transport Operator proves that he, his servants or agents or any other person whose services he uses for the performance of the contract evidenced by this Multimodal Transport Document, took all measures that could reasonably be required to avoid the occurrence and its consequences.
- Where the fault or neglect on the part of the Multimodal Transport Operator, his servants or agents or any other person of whose services he uses for the performance of the contract evidenced by the Multimodal Transport Document, combines with another cause to produce loss or damage to the goods in delivery, the Multimodal Transport Operator proves the part of the loss, damage or delay in delivery not attributable thereto.
- Delay in delivery occurs when the goods have not been delivered within the time expressly agreed upon in writing in such agreement, when reasonable time required by a diligent Multimodal Transport Operator, having regard to the circumstances of the case, would be delivered if the goods had not been delivered within ninety consecutive days following the date of delivery expressly agreed upon, the statement may treat the goods as lost.

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

- When the Multimodal Transport Operator is liable to pay compensation in respect of loss of or damage to the goods occurring between the time of taking them into his charge and the time of delivery and the stage of transport where the loss or damage occurred is not known:
 - Such compensation shall be calculated by reference to the value of such goods at the place and time when they are delivered to the consignee or at the place and time when, in accordance with the contract of Multimodal Transport, they should have been so delivered.
 - The value of such goods shall be determined according to the current commodity exchange price or, if there is no such price, according to the current market price, or if there is no commodity exchange price or current market price, by reference to the normal value of goods of the same kind and quality.

However, the Multimodal Transport Operator shall not, in any case, be liable to an amount greater than the actual loss to the person entitled to make the claim.

- Where the Multimodal Transport Operator becomes liable for any loss of or damage to, any consignment, the nature and value whereof, have not been declared by the consignee before such consignment, has been taken in charge by the Multimodal Transport Operator, and such loss or damage occurred, it is not known, then the liability of the Multimodal Transport Operator to pay compensation shall not exceed two Special Drawing Rights per kilogram of the gross weight of the consignment or, if the weight is not known, two Special Drawing Rights per package or unit of loss or damage, whichever is higher.
- Notwithstanding anything contained above if the multimodal transportation does not, according to the Multimodal Transport Contract, involving carriage of goods by sea or by inland waterways, the Multimodal Transport Operator shall be treated as an amount not exceeding 6 Special Drawing Rights per kilogram of the gross weight of the goods lost or damaged.

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

- When the Multimodal Transport Operator is liable to pay compensation in respect of loss or damage to the goods occurring between the time of taking them into his charge and the time of delivery and the stage of transport where the loss or damage occurred is known, the liability of the Multimodal Transport Operator in respect of such loss or damage shall be determined by the applicable law of the country where the loss or damage occurred, or by the provisions of the applicable law of the country where the loss or damage occurred, as the case may be, where the provisions of the latter law of the applicable law outside India:
 - Cannot be enforced in by private contract to the detriment of the claimant and
 - Would have applied if the claimant had made a separate and direct contract with the Multimodal Transport Operator in respect of the particular stage of transport where the loss or damage occurred.

- Without the prejudice to the provisions contained in para 3 (2) (b) and (c) mentioned in the document, where, under the provisions of condition (1) mentioned above, the liability of the Multimodal Transport Operator shall be determined by the provisions of the law mentioned in condition (1) above the liability shall be determined as though the Multimodal Transport Operator was a carrier entitled to such law. However, the Multimodal Transport Operator shall not be exonerated from liability where the loss or damage is caused or contributed to by the acts or omissions of the Multimodal Transport Operator in his capacity as such, or agents when acting in such capacity, and not in the performance of the contract.

13. Defence and limits for the Multimodal Transport Operator and his servants:

- The defence and the limits of liability provided for in this Multimodal Transport Document shall apply in action against the Multimodal Transport Operator in respect of loss resulting from loss or damage to goods, delay in delivery and any consequential loss or damage arising from such delay.
- If any action in respect of loss resulting from loss of or damage to, the goods or from delay in delivery is brought against the servant or agent of the Multimodal Transport Operator, if such servant or agent proves that he acted within the scope of his employment, or agent any other person of whose services he makes use for the performance of the Multimodal Transport Contract, if such other person proves that he acted within the performance of the contract, the servant or agent or such other person shall be entitled to such relief as the court or arbitrator may award, which the Multimodal Transport Operator is entitled to invoke under this Multimodal Transport Document.
- Except as provided for liability for delay, as mentioned below, the aggregate of the amounts recoverable by the Multimodal Transport Operator and his servants or agents or any other person of whose services he makes use for the performance of the Multimodal Transport Contract, shall not exceed the limits of liability provided for in this Multimodal Transport Document.

14. Liability for delay:

The liability of the Multimodal Transport Operator for loss resulting from delay in delivery as per condition 10 above shall be limited to amount approved by the court or arbitrator in India or elsewhere, but not exceeding the total freight payable under the Multimodal Transport Contract.

15. Loss of right to limit liability:

- The limits of liability established in conditions 11, 12 and 14 above shall not apply if it is proved that the loss, damage or delay in delivery, resulted from (a) an act or omission of the Multimodal Transport Operator or his servants or agents or any other person of whose services he makes use for the performance of Multimodal Transport Contract, done with the intent to cause loss, loss or damage or delay in delivery or recklessly and with knowledge that such loss, damage or delay would probably result.

- Notwithstanding the provisions 13(2) above, if it is proved that the loss, damage or delay in delivery resulted from an act or omission of the Multimodal Transport Operator or his servants or agents or any other person of whose services he makes use for the performance of Multimodal Transport Contract, done with the intent to cause loss, damage or delay, or recklessly and with knowledge that such loss, damage or delay would probably result, the servant or agent shall be entitled to the benefit of limitation of liability provided for in these conditions.

16. Delivery loss-delivery

- If the goods are not taken delivery of the goods, by the consignee within a reasonable time after the Multimodal Transport Operator has called upon him to take delivery, Multimodal Transport Operator shall be at liberty to put the goods in safe custody on behalf of the consignee at the consignee's risk and expense or to place the goods at the disposal of the consignee in accordance with the Multimodal Transport Contract or with the law, or with the usage of the particular trade applicable at the place of delivery.
- The Multimodal Transport Operator shall be discharged from his obligation to deliver the goods, if, when an negotiable Multimodal Transport Document has been issued in a set of more than one original, he, or a person acting on his behalf, has in good faith delivered the goods against a duplicate of any of such originals.

17. Notice of loss, damage or delay:

- Unless notice of loss or damage is given in writing by the consignee to the Multimodal Transport Operator at the time of taking over the goods such forwarding receipt is prima facie evidence of the delivery of the Multimodal Transport Operator of the goods as described in the Multimodal Transport Document.
- Where the loss of or damage is not apparent, the provisions of condition 11 referred to above apply correspondingly if notice in writing is not given within six consecutive days after the day when the goods were handed over to the consignee.
- If the state of the goods at the time they were handed over to the consignee has been the subject of a joint survey or inspection by the parties or their representatives at the place of delivery, written notice need not be given of loss or damage ascertained during such survey or inspection.
- In the case of any actual or apprehended loss or damage the Multimodal Transport Operator and the consignee shall give all reasonable facilities to each other for inspecting and taking the goods.
- If any of the notice periods provided for in condition (2) and (4) referred to above terminates on a public holiday at the place of delivery such periods shall be extended upto the next working day.
- Notice given in a person acting on behalf of the Multimodal Transport Operator including any person of whose services he makes use at the place of delivery, shall be deemed to have been given to the Multimodal Transport Operator.

18. Freight and charges:

- Freight shall be deemed earned on receipt of goods by Multimodal Transport Operator notwithstanding in any event.
- For the purpose of verifying the freight base, the Multimodal Transport Operator reserves the right to have the contents of the containers, trailers or similar articles of transport inspected in order to ascertain the weight, measurement, volume or nature of the goods.
- If it is found that the charges levied on the goods and other expenses in connection therewith will be paid by the consignee or the consignee of the holder of B/L or the owner of the goods.

19. Containers etc:

- Goods may be stored by the Multimodal Transport Operator by means of containers, trailers, transportable tanks, flat-cab or similar articles of transport used to consolidate goods and these articles of transport may be stored under cover.
- If a container has not been filled, packed or stowed by the Multimodal Transport Operator, the Multimodal Transport Operator shall not be liable for any loss of or damage to its contents, and the consignee shall cover any loss of expense incurred by the Multimodal Transport Operator, if such loss, damage or expense has been caused by:
 - Negligent filling, packing, or stowing of the containers;
 - The container being unsuitable for the goods to be stored;
 - The unsuitability or defective condition of the container unless the container has been supplied by the Multimodal Transport Operator and the unsuitability or defective condition would not have been apparent upon reasonable inspection at or prior to the time when the container was filled, packed and stowed.
- The provisions of this condition shall apply with respect to inland transportation, tanks, boxes and pallets which have not been filled, packed or stowed by Multimodal Transport Operator.
- The multimodal transport operator does not incur liability for the lashing or the securing of cargo in containers or in the cargo.
- If, by order of the authorities of any place, the goods have to be processed from their containers to be inspected, the Multimodal Transport Operator shall not be liable for the loss or damage incurred during the unloading inspection or re-lashing. The Multimodal Transport Operator shall be entitled to recover the cost of unloading inspection and re-lashing from the consignee/consignees.

20. Hindrance etc. affecting performance:

- The Multimodal Transport Operator shall use reasonable endeavours to complete the transport and to deliver the goods at the place designated for delivery.

21. Lien:

- The Multimodal Transport Operator shall have a lien on the goods for any amount due under this Multimodal Contract and for the costs of recovering the same and may realize such lien in any reasonable manner.

22. Limitation of action:

- Any action relating to Multimodal Transport under these conditions shall be time barred if judicial proceedings have not been instituted within a period fixed by law or otherwise.
- The date of delivery of the goods or
- The date when the goods should have been delivered or
- The date on and from which the party entitled to recover has the right to treat the goods as lost.

23. Jurisdiction:

- In judicial proceedings relating to the contract for Multimodal Transport Document under these conditions the plaintiff, at his option, may institute an action in a court which, according to the law of country where the court is situated, is competent and within the jurisdiction of which is situated one of the following places:
 - The principal place of business or in the absence thereof, the local residence of the defendant or
 - The place where the Multimodal Transport Contract was made provided that the defendant has therein a place of business, branch or agency at such place, or
 - The place of taking charge of the goods for Multimodal Transportation or
 - Any other place specified for that purpose in the Multimodal Transport Contract and evidenced in the Multimodal Transport Document.

24. General Average:

- The consignee or consignee, the holder of the Multimodal Transport Document by acceptance and the owner of the goods shall indemnify Multimodal Transport Operator in respect of any claims of the goods, which by the Multimodal Transport Contract shall not exceed the limits of security as may be required by the Multimodal Transport Operator in this condition.

25. Arbitration:

This contract evidenced hereby or contained herein shall be governed by law of India and shall be subject to the jurisdiction of the courts of India, disputes there under can be settled by arbitrator in India or place mutually agreed with each party appointing an arbitrator.