

Bertling Logistics India Private Limited Standard terms and conditions - Ocean Freight

These standard terms and conditions (“**Terms**”) apply in all cases involving Ocean Freight and where services are being provided by Bertling Logistics India Private Limited or any other entity acting on behalf of Bertling Logistics India Private Limited.

1) Definitions:

For the purposes of these Terms, the following words shall have the meanings ascribed to them herein below:

- a) “Company” means Bertling Logistics India Private Limited and its successors, assigns and assigns.
- b) “Customer” means the person having rights or obligations pursuant to these Terms and to whom a commercial offer is submitted and includes its successors and assigns.
- c) “Hazardous Goods” means goods which are officially classified as hazardous as well as goods which are or may become of a dangerous, inflammable, radioactive noxious or damaging nature.

2) General Condition:

- a) The commercial offer made by the Company is for the items offered and for the period of transportation mentioned in these standard terms and condition. Any extension is valid subject to written commitments. Shortage on tendering the volume as committed for the scope of work and/or change of scope of work, shall call for revision of prices from the original offer.
- b) The cargo has to be made ready in all respect and be packed in sea worthy conditions.
- c) Unless the commercial offer covers the customs clearance activity, the goods are to be delivered at the wharf/ CFS/ port terminal prescribed by the Company, as per customs of the Port.
- d) The Customer is responsible to complete all documentation work with regard to movement of the cargo. Any additional costs incurred by Company for want of any documentation will be levied back to the Customer. The Company will not be responsible for any losses and liabilities on account of a scope of work which does not form an integral part of the scope of work as specified in these Terms.
- e) If fumigation is prescribed by the country of export or import it is responsibility of the Customer to arrange fumigation of the packages and provide all relevant certification. If the Customer so desires, the Company can undertake the same at the cost of the Customer.
- f) These Terms are for the carriage of the non-hazardous goods, unless specifically offered for Hazardous Goods.
- g) In case of Hazardous Goods it is responsibility of the Customer to ensure that the cargo is packed suitable in accordance with the International Maritime Organisation conditions and also shall provide the suitable declarations and certificates. The Company shall not be liable for Hazardous Goods in any manner unless these Terms are complied with.
- h) The cargo shall be delivered to the Wharf/ CFS/ port terminal 72 hours prior to the arrival of the ship to load the cargo, ready for carriage with all legal requirements including the Customs out of charge completed.
- i) The special handling conditions, including the marking of centre of gravity has to be made before the delivery of the cargo and also intimated to the Company in advance. Any special handling equipment needed for loading or un-loading has to be supplied by the Customer along with the cargo. Any critical cargo needs to be specifically notified by the customer.
- j) Company is responsible for safe delivery of the packages handed over for carriage and not for the damages to contents.
- k) The Customer will not in any way or manner debit and/or deduct any amount whatsoever as damage claims from ongoing/running operational invoices.

3) Volume:

- a) The Company reserves the right to measure the cargo, in case of any doubt with regard to the volume declared. In case, variations are observed, the revised volume will be the basis for calculation of the freight.
- b) Similarly, the shipping lines used by the Company, also reserves the right to measure and if there is any variation, the volume charged by the shipping line will be the basis for calculating the freight and the same shall be firm and final in all respects.
- c) The extreme measurements will be taken for calculating the volume.
- d) In case of heavy lift cargo, for which separate rates are offered, the ancillary cargo will also be treated as heavy lift cargo and the applicable rates alone will be charged, even though, the individual packaged sizes may be that of normal cargo.
- e) Ocean freight will be charged on the freight ton basis, only as per the shipping line/surveyor measurements.
- f) All detention and/or dead freight charges are payable on demand, irrespective of the overall credit terms as otherwise agreed.

4) Documents:

- a) Company will issue the following documents only unless agreed otherwise:
 - i) FCR when specifically requested for by Letter of Credit.
 - ii) MTO when more than one mode of transport is involved.
 - iii) FITAA bill of Lading when specifically required.
- b) FCR and FITAA bills of lading will be governed by their respective conditions mentioned on the reverse.
- c) MTO document will be governed by the Multi Model Act 2000.
- d) In case of break bulk shipments all bills of lading issued will be governed by CONLINE 2000 Terms also over and above the conditions mentioned on the reverse.
- e) All shipped on board documents will be issued only after the sailing of the vessel.
- f) Additional copies of bills of lading requested for shall be mentioned before the shipment by the Customer.
- g) In order to issue the shipping documents the Customer need to provide the relevant portion of the Letter of Credit.
- h) Any liability on the documents will be restricted to the limits set under the respective provisions of law under which the above documents are issued.

5) Outsourcing:

- a) As the company is a Non-Vessel Operating Common Carrier ("NVOCC") operator, Company reserves the right to subcontract all the jobs of international carriage and/or coastal movements/transportation entrusted to it, to any third party of its choice.
- b) In such cases any special conditions of carriage laid down by the vendor employed by the Company will be passed on to the Customer and will bind on the Customer.
- c) Over all responsibility of the carriage still remains with the Company.
- d) The Company retains the right to carriage the goods either under deck or on deck depending upon the dimensions and the stowage of the cargo in the vessel.
- e) The carrier shall have the right to carry the cargo in parts.
- f) The average clauses when imposed by the carrier on the Company, the same will be applicable and passed on to the Customer.

6) Payment:

- a) Unless the credit is expressly extended on ocean price, all freights are payable in advance within 3 days from the date of the sailing of the vessel and the shipping documents will be handed over only on receipt of the ocean freight payment.
- b) All payment shall be made by means of either cheque or demand draft payable in the places, where the Company has branches or at Mumbai.
- c) The exchange rate applied will be rate applied by the carrier or otherwise incurred by the Company.

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- d) In case of any freight tax or any other tax, charge, fee or other charges whatsoever, payable on the cargo the same will be passed on to the Customer over and above the freight.

7) TDS:

- a) The tax is not deductible where the carrier is able to produce tax exemption certificate.
- b) In other cases the tax can be deducted at source at the prevalent rate and the necessary certificate is to be issued within 30 days from the date of the deduction.

8) Right to lien and detention:

The Company has a right of lien and a right of detention over the goods or other securities and effects lying within its power of disposal in respect of any amount whether already due for payment or not which the Company is entitled to receive in respect of service to the Customer. In exercise of the lien under this clause, the Company shall be entitled to dispose of the goods, either by the public or private sales upon which lien is exercised, to recover the Company's dues provided that the Company gives a written notice of at least 2 days to the Customer of its intention to do so. The Company is entitled to recover the entire balance amount from the Customer after recovery of the dues by the sales of the goods under this clause and the right exercised by the Company under this clause, shall not be deemed to be a waiver of the Company's right to take further legal steps to recover the dues.

9) Force majeure and Hindrances:

- a) Force majeure clause is applicable for all movements covered by the bills of lading and the same will include:
 - i) Act of God
 - ii) Terror acts, Riot, Strike, War, Civil commotion etc.,
 - iii) Flood, rain, earthquake Tsunami and other natural calamities including fire.
 - iv) Permission/s from the relevant authorities - any delay/denial arising thereof.
- b) If at any time the Company's performance is or is likely to be affected by any hindrance or risk of any kind (including the conditions of the goods) or for Force Majeure event not arising from any fault or neglect of the Company and which cannot be avoided by the exercise of reasonable endeavors, the Company may abandon the carriage of the goods and, where reasonably possible, make the goods or any part of them available to the Customer at a place which the Company may deem safe and convenient, whereupon delivery shall be deemed to have been made, and the responsibility of the Company in respect of such goods shall cease. In any event, the Company shall be entitled to the agreed remuneration under these Terms and the Customer shall pay any additional costs resulting from the above-mentioned circumstances.

10) Liability of the Company:

- a) The Company is not liable for acts and omissions by third parties, such as, but not limited to, carriers, warehousemen, stevedores, port authorities and other freight forwarders, unless the Company has failed to exercise due diligence in selecting, instructing or supervising such third parties.
- b) The Company shall in no event be liable for:
 - i) valuables or Hazardous unless declared to the Company at the time of the conclusion of these Terms and Conditions,
 - ii) loss following from delay unless expressly agreed in writing,
 - iii) indirect or consequential loss such as, but not limited to, loss of profit and loss of market.
- c) The value of the 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 the goods of the same kind and quality.
- d) The Company shall not be or become liable for any loss of or damage to the goods in an amount exceeding the equivalent of 2 SRD per kilogram of gross weight of the goods lost or damaged unless a larger amount is recovered from a person for whom the Company is responsible. If the goods have not been delivered within 30 consecutive days after the date



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when the goods ought to have been delivered, the claimant may, in the absence of evidence to the contrary, treat the goods as lost.

- e) If the Company is liable in respect of loss following from delay, such liability shall be limited to an amount not exceeding the remuneration relating to the service giving rise to the delay.
- f) For other type of loss, the Company's liability shall not exceed the total amount of USD 500.000,- for each incident unless a larger amount is received from a person for whom the Company is responsible.

11) Exclusions, Assessment and Monetary Limits of Liability

To the maximum extent permitted by underlying laws, Bertling's liability for damages, losses and other claims arising out of or related to the incorrect Verified Gross Mass (VGM) information declaration or transmission, as may be applicable, shall be limited to the maximum amount of a freight rate for transportation of the container in question.

12) Notice

- a) Unless notice of loss of or damage to the goods, specifying the general nature of such loss or damage, is given in writing to the Company by the person entitled to receive the goods when they are handed over to him, such handing over is prima facie evidence of the delivery of the goods in good order and condition. Where such loss or damage is not apparent, the same prima facie effect shall apply if notice in writing is not given within 6 consecutive days after the day when the goods were handed over to the person entitled to receive them.
- b) With respect to all other loss or damage, any claim by the Customer against the Company arising in respect of any service provided for the Customer or which the Company has undertaken to provide shall be made in writing and notified to the Company within 6 days of the date upon which the Customer became or should have become aware of any event or occurrence alleged to give rise to such claim. Any claim not made and notified as aforesaid shall be deemed to be waived and absolutely barred.
- c) Any or all notice to be given by the Parties hereto to each other under this Agreement shall be in writing and shall be transmitted (a) by registered mail, postage prepaid or by courier service or by personal delivery as elected by the party giving such notice.

13) Unforeseen circumstances

In the event that the Company, in case of unforeseen circumstances, acts in the best interest of the Customer, extra costs and charges have to be borne by the Customer.

14) No set-off

All monies due shall be paid without any reduction or deferment on account of any claim, counter-claim or set-off.

15) Information

The Customer shall be deemed to have guaranteed to the Company the accuracy, at the time the goods were taken in charge by the Company, of all particulars relating to the general nature of the goods, their marks, number, weight, volume and quantity and, if applicable, to the dangerous character of the goods, as furnished by him or on his behalf.

16) Indemnification

- a) Except to the extent that the Company is liable according to the provisions of these Terms, the Customer shall indemnify the Company for all liability incurred in the performance of the freight forwarding services by the Company.
- b) The Customer shall indemnify the Company in respect of any claims of a general nature which may be made on him and shall provide such security as may be required by the Company in this connection.

17) Liability of the Customer

The Customer shall be liable to the Company for all loss or damage, costs, expenses and official charges resulting from the Customer's inaccurate or incomplete information or instructions or the handing over by the Customer or any person acting on his behalf to the Company, or to any other person to whom the Company may become liable, of goods having caused death or personal injury, damage to property, environmental damage or any other type of loss.

18) Governing Laws and Jurisdiction:

These Terms shall be governed by and construed in accordance with the laws of India and the Courts at Mumbai alone shall have the exclusive jurisdiction to adjudicate upon and settle any and all disputes that may arise out of or in connection with these terms between the parties.

19) Extra Charges:

- a) Any extra charges introduced by the carrier like war risk surcharge, peak season surcharge, fuel surcharge or any levied by the port at the origin or destination after the contract was entered and before delivery of the goods will be passed on to the customer on the basis of the supporting received from the carrier.
- b) Such charges will be over and above the ocean freight and will be recovered as the part of the freight.

20) Miscellaneous

- a) The relationship between the parties hereto shall be on a principal to principal basis. Nothing shall imply a contractual relationship of employment, agency, association of persons, partnership or joint venture between the Company and the Customer.
- b) The failure of either party at any time to enforce any provision of these standard terms and conditions shall in no way affect its right thereafter to require complete performance by the other party. Further, waiver of any breach of any provision shall not be held to be a waiver for any subsequent breaches. Any waiver shall be valid only if it is recorded in writing and signed by the authorized officials of both the parties.
- c) The invalidity or unenforceability of any particular provision of these Terms shall not affect the other provisions of these Terms and these Terms shall be construed as if such invalid or unenforceable provisions were omitted.
- d) These Terms constitutes and represents the entire agreement amongst the parties hereto and cancels and supersedes all prior arrangements, agreements or understandings, if any, whether oral or in writing, between the parties hereto on the subject matter hereof or in respect of matters dealt with herein.