



A MENZIES AVIATION COMPANY

Air Menzies International (India) Pvt. Ltd.

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CIN U62200KA2012FTC065852

## STANDARD TRADING CONDITIONS

The Customer's attention is drawn to these standard trading conditions, which exclude or limit the Company's liability and may require the Customer to indemnify the Company in certain circumstances.

### 1. DEFINITIONS:

In these standard terms and conditions the following words shall have the following meanings:

- 1.1. "Carrier" shall mean the actual carrier engaged to carry the Goods and includes warehousemen.
- 1.2. "Company" shall mean Air Menzies International (India) Private Limited and shall include its successors in business and assigns.
- 1.3. "Consignee" shall mean the person to whom the Goods are consigned.
- 1.4. "Container" shall mean the packing case, pallets, container, trailer, tanker or any other device used whatsoever for and in connection with the carriage of Goods.
- 1.5. "Customer" shall mean any person at whose request or on whose behalf the Company provides Services and includes the Consignee, receiver, bailor, broker, freight agent or Owner of the Goods.
- 1.6. "Dangerous Goods" shall mean Goods which are in fact or in law noxious, dangerous, hazardous, explosive, radioactive, inflammable or capable by their nature of causing damage or injury to their Container, other Goods or to any persons or animals, or property.
- 1.7. "Goods" shall mean the cargo to which any Services under these standard trading conditions relate.
- 1.8. "Owner" shall mean the owner of the Goods or Container and any other person who may become interested in them.
- 1.9. "Services" shall mean all services provided by the Company to the Customer (whether gratuitously or not) and includes but is not limited to any advice or information, carriage, storage, lifting, packing, warehousing, handling, installing, removing, assembly, consolidation and insurance.
- 1.10. "Transport Document" shall mean any house or main air waybill, bill of lading, warehouse receipt, consignment note, contract of carriage, or other document issued by the Company, Carrier or a third party providing Services in respect of the Goods.

### 2. APPLICATION:

- 2.1. All Services undertaken by the Company (whether gratuitous or not) are subject to these standard trading conditions and the terms and conditions of any Transport Document issued by the Company or a Carrier for Services supplied to the Customer. In the event of any inconsistency between these standard trading conditions and the terms and conditions of a Transport Document, these terms and conditions shall apply to the extent of the inconsistency. The use of the Customer's own forms does not affect these standard trading conditions which shall prevail, to the extent of any inconsistency. Use of the Services constitutes an acceptance of these standard trading conditions by the Customer.
- 2.2. If any legislation to include regulations and directives becomes compulsorily applicable to the Services, these standard trading conditions shall as regards such Services be read as subject to such legislation and nothing in these conditions shall be construed as a surrender by the

Company of any of its rights or immunities or as an increase of any of its responsibilities or liabilities under such legislation, and if any part of these standard trading conditions be repugnant to such legislation to any extent, such part shall as regards such Services be overridden to that extent and no further.

- 2.3. Departure and arrival dates possibly provided by the Company are indicative only. The Customer shall give, in due time, all necessary and accurate instructions to the Company for the performance of the Services.

### 3. NOT A COMMON CARRIER:

- 3.1. The Customer is deemed to be aware that its relations with Carriers are subject to recognised international conventions and legislations applicable thereof and the Company provides the Services as an air freight and forwarding agent and is not the actual Carrier.
- 3.2. The Goods are carried at the Customer's risk and the Customer authorises the Company to act as its agent to enter into terms and conditions of a Transport Document on behalf of the Customer. The Company is not a common carrier and will accept no liability as such, and may refuse at its sole and absolute discretion to provide the Services without assigning any reason.

### 4. VARIATION OF CONTRACT AND SEVERABILITY:

- 4.1. The Company shall not be bound by any agreement purporting to vary these standard trading conditions unless the agreement is in writing and signed on behalf of the Company by one of its directors or authorised signatories.
- 4.2. Each of these standard trading conditions is severable from the other and if for any reason a term or condition is invalid or unenforceable, it shall not prejudice or affect the validity or enforceability of any other term or condition.

### 5. CUSTOMER'S RESPONSIBILITY FOR GOODS:

- 5.1. The Customer shall comply with the requirements of any applicable law relating to the nature, condition and packaging of the Goods and the expenses and charges of the Company in complying with the provisions of any such law or with the requirement of any airport or Carrier shall be paid by the Customer and the Customer shall provide to the Company all such assistance, information and documents as may be necessary to enable the Company to comply with such laws or requirements.
- 5.2. Except where the Company has accepted instructions in respect of the preparation, packing, stowage, labelling or marking of the goods the Customer warrants that all goods have been properly and sufficiently prepared, packed, stowed, labelled and/or marked, and that the preparation, packing, stowage, labelling and marking are appropriate to any operations or transactions affecting the goods and the characteristics of the Goods.

### 6. SERVICES REQUIRING SPECIAL ARRANGEMENTS:

- 6.1. The Customer must give instructions in writing to the Company a reasonable time before the tender of Goods for storage or transport where it requests the Company to:
  - (a) arrange for the departure or arrival of goods before specific dates;
  - (b) arrange for Goods to be carried, stored or handled separately from other goods;
  - (c) arrange for the transport of Goods that may taint or affect other goods, or may harbour or encourage vermin or pests;
  - (d) make a declaration of value or special interest in delivery to any Carrier or terminal;
  - (e) direct Carriers or delivery agents to hold goods until payment of any amount or until surrender of a document;

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- (f) arrange for the transport of Goods of unusual high value, luxury goods, currency, negotiable instruments or securities of any kind, bullion, jewellery, coins, precious metals, stones, antiques, painting, works of art, human remains, livestock or plants, or any other comparable cargo.
- 6.2. Where for any reason it does not accept such instructions, the Company must promptly so advise the Customer by any means of communication used in the ordinary course of business. If it continues to use the Company's Services for the contemplated transport after receiving such advice, the Customer assumes all risks connected with the non performance of such instructions, whether caused or contributed to by the Company's negligence or not.
- 7. DANGEROUS GOODS:**
- 7.1. The Customer shall not tender any Dangerous Goods for carriage or storage without presenting to the Company a full description thereof and giving such notice of intention to ship or bail Dangerous Goods and comply with any applicable laws, regulations or requirements. If any Goods are, in the opinion of the Company, liable to become of a dangerous, inflammable or damaging in nature, they may at any time be destroyed, disposed of, abandoned or rendered harmless without compensation to the Customer and without prejudice to the Company's right to freight and charges.
- 7.2. Whether or not the Customer was aware of the nature of the Goods, the Customer shall indemnify the Company against all claims, losses, damages or expenses arising in consequence of any breach of the provisions of this clause.
- 8. DELIVERY:**
- 8.1. If events or circumstances, including the Customer's failure to take delivery occur at the time and place when and where the Company is entitled to call upon the Customer to take delivery thereof, that affects performance of the Customer's mandate, the Company shall take reasonable steps to obtain the Customer's further instructions.
- 8.2. If further instructions are not received or the Customer cannot be contacted within 24 hours of the Company attempting to obtain the Customer's instructions, the Company shall be entitled without notice to unstow the Goods if stowed in Containers or to store the Goods at the sole risk of the Customer. Such storage shall constitute delivery, and the liability of the Company in respect of the Goods shall wholly cease and the cost of such storage shall be payable by the Customer.
- 8.3. If the Customer fails to take delivery of the Goods within 30 days of its becoming due under sub-clause 8.1 or if in the opinion of the Company they are likely to deteriorate, decay, become worthless or incur any charges in excess of their value or if the Goods are insufficiently addressed marked or not identifiable, the Company may without prejudice to any rights which it may have against the Customer, without notice and without any responsibility, sell or dispose of the Goods and hold any net proceeds for the account of the Customer after deduction of its charges and expenses.
- 8.4. Notwithstanding any of the foregoing Clauses, if any of the Goods are perishable in nature and are not claimed immediately upon arrival or which are insufficiently addressed or marked or otherwise not readily identifiable, may be sold or disposed of forthwith without any notice to the Customer and the Company shall hold the net proceeds for the account of the Customer after deduction of its charges and expenses.
- 9. INSURANCE:**
- 9.1. The Customer shall insure / maintain a valid insurance cover for the Goods from the original point of pick up to the final point of delivery at its cost and shall waive / cause to waive the right of subrogation against the Company. No insurance will be effected except upon express conditions given in writing by the Customer. All insurances effected by the Company are subject to the usual exceptions and conditions of the policies of the insurance company or underwriter taking the risk and the Company shall not be under any obligation to effect a separate insurance on each consignment of Goods but may declare it on any open or general policy.
- 9.2. Should the insurers dispute their liability for any reason, the Customer shall have recourse against the insurers only and the Company shall not be under any responsibility or liability whatsoever in relation thereto.
- 10. LIMITATION OF LIABILITY:**
- 10.1. The Company shall carry out the Services with a reasonable degree of care, diligence, skill and judgment.
- 10.2. Subject to Clause 10.1 above, the Company shall under no circumstances whatsoever or howsoever arising, be liable for any direct, indirect or consequential loss or damage to the Goods or for any delay, non delivery or misdelivery, except the Goods were in the actual custody of the Company and under its actual control and that such damage or loss or delay or non delivery or misdelivery was due to the wilful neglect or default of the Company. Without limiting the generality of the foregoing, this exclusion extends to any claim against the Company in respect of loss or damage or delay, injury or death, or payment of any charge, fine, penalty, sales tax or duty whether the claim be founded in contract, bailment, statute or tort.
- 10.3. The Company shall not be liable for any act of abandoning, unloading, destroying or otherwise dealing with the Goods which in the opinion of the Company is necessary or advisable for the safety or security of any person or property.
- 10.4. Notwithstanding anything contained in Clause 10.2 above, the Company's liability shall at all times be restricted to:
- (a) Replacement of the Goods or the supply of equivalent goods; or
  - (b) Repair of the Goods; or
  - (c) Payment of the costs of replacing or repairing the Goods; or
  - (d) Supplying the Services again
- Provided However that the Company's liability for any of the above shall be restricted to a maximum of Rs. 2,00,000/-.
- 10.5. Upon the Customer's written request, the Company may accept additional liability, provided the Customer pays the Company's additional charges for such liability. The Customer can obtain details of these charges from the Company.
- 11. FORCE MAJEURE:**
- 11.1. 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, hijacking, strikes, lockouts, riots, civil commotion, acts of war, general chaos, inclement weather, landslides, earthquakes or any other circumstances beyond the control of the Company, which may include delay or misconnection of flights arising due to the Carrier's fault.
- 12. INDEMNITY:**



The Customer shall indemnify the Company and keep it defended, saved, protected and harmless from and against:

- (a) All liabilities, loss, damage, costs and expenses (including but not limited to all duties, taxes, levies, imposts, deposits, payments and fines expenses of whatsoever nature levied by any authority in relation to the Goods) arising out of or the Company acting in accordance with the Customer's instructions or arising from any breach by the Customer of any warrant contained in these standard trading conditions or from the Customer's negligence;
- (b) Any liability incurred by the Company when by reason of carrying out the Services under the Customer's instructions, the Company has become liable to any third party;
- (c) Any claims of a general nature which may be made against the Company.

### 13. PRICE OF THE SERVICES:

- 13.1. Prices are calculated on the basis of the information provided by the instructing party, considering, inter alia, the Services to be provided, the nature, the weight, and the volume of the goods to be carried and routes to be used.
- 13.2. Quotations are prepared based on currency rates at the time when the said quotations are given, freight charges, applicable laws, regulations and international conventions in effect. Should one or more of the above base items be modified after the quotation is provided, prices given initially shall be changed on the same terms. The same shall apply in the event of an unforeseen event, whatever it may be, leading to a change in any part of the Service. This applies, inter alia to fuel charges, whose variation should be taken into account.
- 13.3. Prices do not include duties, taxes, fees and taxation owed in pursuance of any tax or customs or other regulations (such as excise, entry duties, etc.) and shall also be revised in the event of significant changes in the Company's expenses.
- 13.4. Where a Customer gives special instructions that the Company's charges are to be paid by a third party it shall be liable to pay those charges if the third party does not pay the Company within 7 days of delivery, tendered delivery or when the Goods should have been delivered.
- 13.5. The Customer shall pay the Company for Services in accordance with the Company's tariff and charges in force from time to time or as agreed. If any moneys due to the Company for services are unpaid after 30 days from the date of invoice, the Company may, at its discretion, charge the Customer interest at the rate of 18% per annum.
- 13.6. Charges for the Services may, at the absolute discretion of the Company, be quoted in the currency of origin based on the higher of mass, volume or value.

### 14. RIGHT OF DETENTION AND LIEN:

- 14.1. All Goods (and Transport Documents) shall be subject to a particular lien and right of detention for monies owing in respect of such Goods.
- 14.2. If these monies remain unpaid for 30 days after the Company sends notice of the exercise of its rights to the Customer by any means of communication reasonable in the circumstances, the Goods may be sold by private contract or otherwise at the sole discretion of the Company, and the net proceeds applied on account of the monies owing. The Company will not be liable for any deficiencies or reduction in value received on the sale of

the Goods, nor will the Customer be relieved from the liability merely because the Goods have been sold.

### 15. CUSTOMER'S WARRANTIES:

- The Customer represents and warrants to the Company that:
- 15.1. The description and particulars of any Goods or information furnished or Services required by or on behalf of the Customer are full and accurate.
  - 15.2. The Container, if supplied by the Customer in relation to the performance of any requested Service is fit for the purpose.
  - 15.3. All Goods have been properly and sufficiently prepared, packed, stowed, labeled and / or marked and that the preparation, packing stowing, labeling and marking are appropriate to any operations or transactions affecting the Goods and the characteristics of the Goods.
  - 15.4. Where the Customer delivers to the Company or causes the Company to handle Goods requiring special arrangements as per Clause 6 above whether declared to the Company or not, the Customer shall be liable for all loss or damage arising therefrom and shall indemnify the Company against all penalties, claims, damages, costs and expenses whatsoever and howsoever arising in connection therewith and the Goods shall be dealt with in such manner as the Company or any other person in whose custody they may be at the relevant time, shall think fit.
  - 15.5. No claim shall be made against any director, employee or servant of the Company which imposes or attempts to impose upon them any liability in connection with any Services which are the subject of these standard trading conditions, and if any such claim is nevertheless made, to indemnify the Company against all consequences thereof.
  - 15.6. The Customer accepts these standard trading conditions for itself as the Owner and where the Customer is the authorised agent of the Owner, the Customer's acceptance of these standard trading conditions shall be binding on the Owner.
- ### 16. GOVERNING LAW, ARBITRATION AND JURISDICTION:
- 16.1. These standard trading conditions and any act or contract arising therefrom shall be governed by and construed for all purposes in accordance with the laws of India.
  - 16.2. In the event of a dispute arising out of these standard trading conditions, the Company and the Customer shall first attempt to settle the dispute through good faith discussions and negotiations within a period of 60 days from the date on which either party notifies the other of a dispute. If dispute is not resolved within 30 days from the commencement of discussions then parties shall refer the matter to arbitration.
  - 16.3. Subject to the Clause 16.2, the Courts in Mumbai shall have sole and exclusive jurisdiction.