



Standard Terms and Conditions

INDIA

Doc # TS13-F01

Department: Shipping

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A. Definitions:

1. **“Agency Services”** means the services which are provided by GAC Shipping (India) Private Limited to the Principal pursuant to these Standard Terms and Conditions (**“Conditions”**), whether or not for reward, and whether same be by way of charge, fee, commission or remuneration of any other kind.
2. **“Agent”** means GAC Shipping (India) Private Limited acting solely as agent for the Principal and the Vessel(s).
3. **“Applicable law”** means the laws of India.
4. **“Cargo Operations”** means activities relating to cargo and passengers and shall include, but not be limited to, coordination of stevedores and terminal operators, reporting cargo to relevant customs authorities and documentation.
5. **“Disbursements”** means expenses payable to third parties in relation to the port call.
6. **“Funding”** means the terms on which Remuneration will be paid and Disbursements settled.
7. **“Husbandry”** means activities relating to the day to day running of the vessel and shall include but not be limited to: attending to the Master and all crew matters; coordination of ship supplies and repairs; and attending to third parties such as classification society and flag state representatives and surveyors.
8. **“Inward Clearance of the Vessel”** means making arrangements to allow entry of the vessel and shall include, but not be limited to, complying with the requirements of statutory and regulatory authorities and arranging and coordinating the provision of inward port services.
9. **“Outward Clearance of the Vessel”** means making arrangements to allow departure of the vessel and shall include, but not be limited to, complying with the requirements of statutory and regulatory authorities and arranging and coordinating the provision of outward port services.
10. **“Principal”** means the company, firm, or person who has or whose representative has appointed GAC Shipping (India) Private Limited to act as Vessel agent and who is the owner, disponent owner, time charterer, voyage charterer, operator, and/or manager of the Vessel(s) represented by GAC Shipping (India) Private Limited and/or the carrier under the bill of lading in connection with which Agency Services are to be provided by GAC Shipping (India) Private Limited.
11. **“Remuneration”** means the fee, commission or other sum payable to the Agent for performing the services agreed or as may otherwise be agreed.

B. Terms and Conditions:

1. The Agent has agreed to act on behalf of the Principal in accordance with this Agreement.
2. The Agent acts at all times as agent for and on behalf of the Principal and has authority to place orders with suppliers as agent for the Principal. Nothing in this agreement or parties’ conduct shall give rise to the relationship of employer/ employee, partnership, or any other non-agency business relationship between the parties.
3. The Agent shall perform the services as agreed with due dispatch but shall not be liable for any loss or damage arising from any delay which the Agent could not reasonably prevent.
4. The Agent shall maintain regular contact with the Master and Principal and keep them fully informed about all matters relating to or affecting the services being provided.
5. The Agent shall liaise with and ensure that third parties including, but not limited to, port and terminal operators, port service providers, and shore authorities are provided with relevant information and timely notices. The Agent shall pass on information provided by the Principal promptly, but is not liable for the accuracy of the information.

In the event the Agent is required by the Principal to file data with a port facility or government official in compliance with the ISPS Code or for ENOAD or AMS purposes (or any other purpose required by local laws), the

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Agent and those for whom it is responsible will exercise reasonable skill and care to file the data correctly and within the prescribed filing deadlines. However, the Agent accepts no responsibility or liability (i) for the correctness and accuracy of the information provided by the Principal, or (ii) if the Principal fails to provide the data in a timely manner, or (iii) if there are technical problems or human errors beyond the Agent's control. GAC Shipping (India) Private Limited will provide the filing process under these Conditions as a data exchange service only. Any losses or liabilities resulting from the filing of such data, whether or not the agent was or is claimed to have been negligent or at fault in any way, rest with the principal. the indemnifying parties shall hold harmless, defend and indemnify the agent from the consequences of any and all such losses or liabilities, including, but not limited to any penalties, fines, or costs of delay, even if caused in whole or in part due to its neglect, fault or failure to exercise reasonable care.

6. The Agent shall use best endeavours to encourage shore authorities, port and terminal operators, and port service providers to render their invoices in a timely manner and take prompt action to obtain any invoices that are not provided. The Agent shall check the invoices and make timely payments to the relevant parties, provided the Agent has been put in funds or, alternatively, there is an agreement in writing for the Agent to make payment without being put in funds. It is hereby expressly agreed that the Agent shall not, under any circumstances, be liable to the Indemnifying Parties or any third parties for any (a) loss or damage to persons or property, (b) delay of whatsoever kind including, but not limited to vessel demurrage or berth hire charges or similar charges and the Indemnifying Parties shall hold harmless and indemnify the Agent against all debts, claims, demands, actions, proceedings and costs of defending the proceedings arising in relation to the same.
7. The Agent shall be remunerated as per PDA in respect of the services carried out in PDA. Remuneration for other services will be agreed between the parties. The Principal is not obliged to use the Agent to perform such other services.
8. Where the Agent has spent time and incurred costs due to unexpected occurrences creating additional work or delay to the Vessel, the Agent shall be reimbursed the actual expenses and paid an appropriate fee for the additional work.
9. Where the Agent has spent time and incurred costs in anticipation of the Vessel's call which is subsequently cancelled, the Agent shall be reimbursed the actual expenses and paid an appropriate fee for the work.
10. Any proforma Disbursements account is a non-binding estimate. The final Disbursements account may vary from the proforma and the Principal is liable to pay the actual Disbursements.
11. Payment to the Agent shall be in accordance with the funding T & Cs. Where applicable, the Principal shall pay by electronic transfer to the Agent's bank account. If the Principal should fail to comply, the Agent may:
 - a) at any time give immediate notice of the termination of the agency;
 - b) inform any suppliers, service providers or authorities that the Agent has not been put in funds;
 - c) take any necessary measures to detain the Vessel in port until such funds are received; and
 - d) retain such documents as the Agent has in its possession pending payment.
12. If the Principal fails to make payment in full of any sums due to the Agent on demand or within any period agreed in writing, the Agent shall be entitled to recover interest on any sums outstanding at the rate of 18% p.a above LIBOR applicable during the period when the sums are outstanding.
13. The Agent shall be entitled to deduct from the sums held for the Principal's account any amount due from the Principal.
14. Liability to Principal

The Agent shall not be liable to the Principal for any loss, damage, delay or expense of whatsoever nature, whether direct or indirect, (including but not limited to loss of profit arising out of or in connection with detention of or delay to the Vessel) and howsoever arising in the course of performance of this Agreement, unless same is proved to have resulted solely from the negligence or wilful default of the Agent.

Where loss, damage, delay or expense has resulted from the Agent's negligence or wilful default, the Agent's liability for each incident or series of incidents giving rise to a claim or claims shall never exceed a total of five (5) times the Remuneration which shall be deemed earned in any event.

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15. Himalaya:

It is hereby expressly agreed that no employee of the Agent (including every sub-contractor from time to time employed by the Agent) shall in any circumstances whatsoever be under any liability whatsoever to the Principal for any expense, loss, damage or delay of whatsoever kind arising or resulting directly or indirectly from any act, neglect, or default on its part while acting in the course of or in connection with its employment and, without prejudice to the generality of the foregoing provisions in this Clause 14, every exemption, limitation, condition and liberty herein contained and every right, exemption from liability, defence and immunity of whatsoever nature applicable to the Agent or to which the Agent is entitled hereunder shall also be available and shall extend to protect every such employee or sub-contractor acting as aforesaid and for the purpose of all the foregoing provisions of this Clause 14 the Agent is or shall be deemed to be acting as agent or trustee on behalf of and for the benefit of all persons who are or might be its servants or agents from time to time (including sub-contractors as aforesaid) and all such persons shall to this extent be or be deemed to be parties to this Agreement.

16. Except to the extent and solely for the amount therein set out that the Agent would be liable under Clause 14, the Principal and its underwriters at interest therewith (collectively "the Indemnifying Parties") hereby undertakes to keep the Agent and its employees, agents and sub-contractors indemnified and to hold them harmless against all actions, proceedings, claims, demands or liabilities whatsoever or howsoever arising which may be brought against them or incurred or suffered by them arising out of or in connection with the performance of this Agreement, and against and in respect of all costs, loss, damage and expenses (including legal costs and expenses on a full indemnity basis) which the Agent may suffer or incur (either directly or indirectly) in the course of the performance of this Agreement.

17. The Agent, with the consent of the Principal, shall have authority to appoint sub-agents to perform services on behalf of the Principal, including such services as may be subject to these conditions, remaining at all times responsible for the actions of the sub-agent.

18. Parties agree that unless the Principal raises a notice of demand within 3 days of the act being complained of, it will be deemed that the Agent rendered services satisfactorily.

19. Unless there is an agreement to the contrary, these Conditions and any claim or dispute arising out of or in connection with the services of the Company shall be governed by and construed in accordance with Indian law and all disputes arising under, out of or in connection with it shall be referred to arbitration before a sole arbitrator with seat Mumbai in accordance with the Indian Arbitration Act 1996 or any statutory modification or re-enactment thereof.

20. Notwithstanding anything in this Agreement, the Agent or the Principal shall not be required to do anything which constitutes a violation of the laws and regulations of any State to which either of them is subject.

21. In the course of providing Services to the Principal pursuant to this agreement, the Agent may process Personal Data on behalf of the Principal or other parties whom the Principal may be representing. Personal Data submitted to the Agent by or for the Principal in connection with the Services shall be processed by the Agent to the extent necessary to perform the Services specified in the Agreement. The Principal agrees and acknowledges that in respect of the Services under this agreement, the Agent will have to submit such personal data to the relevant authorities and gives consent for the same. It also represents that it has obtained consent from the other parties, such as crew members, whose Personal Data are also required to be processed by the Agent in order for services to be provided under this agreement.

22. Termination

a) The Contract may be terminated by either party for convenience upon giving not less than three (3) months' advance written notice to the other party, therein setting forth the date of termination.

b) The Agent may terminate the Contract for cause with immediate effect upon written notice to Principal, if any one of the following occurs (each an "Event of Default"):

i. The Principal fails to satisfy any payment obligation to the Agent under the Contract, or fails to maintain the disbursement account in accordance with the Contract, and where such breach is not remedied within three (3) Business Days of written notice by the Agent of such breach;

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- ii. A voluntary or involuntary bankruptcy petition, insolvency, receivership or similar filing is made by the Principal, the Vessel owners, operators, charterers, or managers, or their creditors or otherwise; or in the event of the maritime arrest, seizure or other legal action against the Vessel or the Owners under Applicable Law; or
 - iii. The Principal, or the Vessel owner, operator, charterer, or manager assigns, novates, transfers or otherwise disposes of or purports to assign, transfer, novate or otherwise dispose of any or all of its rights and/or its obligations under this Contract without advance written notice and the express written consent of the Agent.
 - c) Either party may terminate the Contract for cause by giving written notice to the other in the event that the other commits a material breach of any other terms and conditions of the Contract and fails to remedy such breach within ten (10) days after such written notice to do so.
23. The Customer or Owner confirm they have read, understood, and shall comply with Company's policies related to Health, Safety, Security & Environment (HSSE), Sanctions, Anti-Bribery and Corruption, General Data Protection Regulation (GDPR) at all times. Copies of the said policies will be provided upon requests by the Customer.
24. General Data Protection Regulation (GDPR): In the course of providing Services to the Customer pursuant to this agreement, the Company may process Personal Data on behalf of the Customer or other parties whom the Customer may be representing. Personal Data submitted to the Company by or for the Customer in connection with the Services shall be processed by the Company to the extent necessary to perform the Services specified in the Agreement. The Customer agrees and acknowledges that in respect of the Services under this agreement, the Company will have to submit such personal data to the relevant authorities and gives consent for the same. It also represents that it has obtained consent from the other parties, whose Personal Data are also required to be processed by the Company in order for services to be provided under this agreement.

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