



STANDARD TERMS AND CONDITIONS

1. INTRODUCTION

African Transport Operations Agency (Pty) Ltd will only contract, carry on business, or operate subject to the standard terms and conditions as set out below:

2. INTERPRETATION

In these trading terms and conditions which are based on the South African Association of Freight Forwarders' trading terms and conditions;

- 2.1. the headings to the clauses are for reference purposes only and shall not aid in the interpretation of the clauses to which they relate;
- 2.2. unless the context clearly indicates a contrary intention, words importing any one gender include the other two genders, the singular includes the plural and vice versa, and natural persons include created entities (corporate or non-corporate) and vice versa;
- 2.3. the following terms shall have the meanings assigned to them hereunder and cognate expressions shall have a corresponding meaning namely –
 - 2.3.2.1. “the carrier” – shall mean African Transport Operation Agency (Pty) Ltd, and shall include any business or firm controlled by or owned by African Transport Operations Agency (Pty) Ltd, or any sub-contractor or agent appointed by it.
 - 2.3.2.2. “the contract” – shall mean any contract entered into between the carrier and the customer including these standard terms and conditions.
 - 2.3.2.3. “the customer” – shall mean the party with whom the carrier is contracting, and shall, unless the context indicates otherwise, include a reference to the owner of the goods forming the subject matter of the contract.
 - 2.3.2.4. “goods” – shall mean any movable goods accepted by the carrier from the customer, and shall include containers or other covering or receptacle not supplied by the carrier.
 - 2.3.2.5. “consignee”- shall refer to the customer who shall receive the goods on delivery, unless specifically stated otherwise in writing.

3. NO VARIATIONS OR AMENDMENTS

- 3.1. This agreement constitutes the whole agreement between the carrier and the customer relating to the subject matter hereof.
- 3.2. No amendment or consensual cancellation of this agreement or any provision or term thereof or of any agreement, bill or exchange or other document issued or executed pursuant to or in terms of this agreement and no settlement of any disputes arising under this agreement and no extension of time, waiver or relaxation or suspension of any of the provisions or terms of this agreement or of any agreement, bill of exchange or other document issued pursuant to or in terms of this agreement, shall be binding unless recorded in a written document signed by an authorised representative of the carrier. Any such extension, waiver or relaxation or suspension which is so given or made shall be strictly construed as relating strictly to the matter in respect whereof it was made or given.
- 3.3. No extension of time or waiver or relaxation of any of the provisions or terms of this agreement or any agreement, bill or exchange or other document issued or executed pursuant to or in terms of this agreement, shall operate as an estoppel against the carrier in respect of its rights under this agreement, nor shall it operate so as to preclude the carrier thereafter from exercising its rights strictly in accordance with this agreement.
- 3.4. The carrier shall not be bound by any express or implied term, representation, warranty, promise or the like not recorded herein, whether it induced the contract between the carrier and the customer or not.



- 3.5. No person other than a duly authorised representative of the carrier has any authority to delete, amend or in any respect vary any of these conditions or accept any other conditions or agree to a consensual cancellation hereof.

4. QUOTATIONS

- 4.1. Any quotation given is not an offer by the carrier to transport the goods but constitutes an invitation by the carrier to the customer to do business with the carrier.
- 4.2. A quotation may be revoked at any time by the carrier.
- 4.3. The carrier may accept or reject in whole or in part any order placed upon it by the customer pursuant to the quotation. Accordingly, a contract shall only come into force between the carrier and the customer if after receipt by the carrier of the customer's order or acceptance of the quotation, the carrier confirms to the customer that such a contract has been concluded or if the carrier supplies, or tenders to supply, the goods in question to the customer.
- 4.4. The quotation is based on rates of exchange, freight charges, insurance, railage, costs of labour and materials and other charges ruling at the date of the quotation. Any variation occurring subsequent to the date of the quotation in any of the aforesaid rates or charges, as the case may be, shall entitle the supplier to vary the amount of the quotation accordingly.

5. DESCRIPTION OF GOODS

- 5.1. The customer shall provide to the carrier prior to loading, a full documented description of the goods.
- 5.2. The customer shall be deemed to be bound by, and to warrant the accuracy of all descriptions, values and other particulars furnished to the carrier.
- 5.3. The customer hereby indemnifies and holds indemnified the carrier against all losses, damages, expenses, and fines which may arise and which may be claimed from the carrier as a result of any inaccuracy or omission of description, values and other particulars in respect of the goods.
- 5.4. The onus of establishing the condition of the goods at the time of acceptance and delivery thereof by the carrier shall rest on the customer and the consignee.
- 5.5. The customer shall properly and accurately furnish to the carrier the name and the address of the consignee as also all documents as must of necessity accompany the goods or such documents as the carrier may require.
- 5.6. The carrier shall not be responsible nor incur any liability for any loss or incorrect delivery of the goods due to the name and the address of the consignee being improperly stated, and the customer indemnifies the carrier against all expenses, claims or fines arising from any inaccuracy or omission of descriptions, values, or other particulars even if the inaccuracy or omission of descriptions, values or other particulars occurs without negligence on the part of the customer.
- 5.7. The carrier shall not be liable for any loss in the event of delivery being effected to some person other than the consignee in the event of the consignee, or his agent not being present to receive and accept delivery of same.

6. DANGEROUS GOODS

- 6.1. No goods, including radioactive materials, which are or may become dangerous, inflammable or noxious, or which by their nature are or may become liable to cause injury or damage to any person, goods, or property whatsoever, shall be tendered to the carrier without its express consent in writing.
- 6.2. The goods or container, package, or other covering in which the goods are to be tendered to the carrier or its agents shall be prominently marked on the outside so as to indicate the nature and character of the goods, and so as to comply with any applicable laws, regulations or requirements of any authority.



- 6.3. If any such goods are tendered to the carrier without its written consent, or without being marked as aforesaid, those goods may at anytime be destroyed, disposed of, abandoned, or rendered harmless at the sole discretion of the carrier, and at the entire risk and expense of the customer, without compensation to him or any other party, and without prejudice to the carrier's right to claim its charges or fees including the cost of destruction of disposal.
- 6.4. Whether or not the customer was aware of the nature of the goods and whether or not the carrier's written consent was obtained, the customer shall be deemed to have indemnified the carrier against all loss, damage or liability caused to or incurred by the carrier as a result of the tender to and/or handing and haulage by the carrier of such goods.
- 6.5. Goods which are likely to harbour or encourage vermin or other pests shall be deemed to be dangerous goods.

7. COLLECTION AND DELIVERY

- 7.1. The carrier will not be responsible for any loss or damage howsoever arising from or during the loading and unloading if the vehicle.
- 7.2. Without in any way limiting the generality of the foregoing, it shall be the express responsibility of the customer to ensure that:
 - 7.2.1. the carrier's vehicle is suitably clean for the purposes of receiving and conveying the goods before loading of the goods into the carrier's vehicle is commenced;
 - 7.2.2. All goods loaded shall be in such condition as to enable them to be freely off-loaded at the off-loading point; and
 - 7.2.3. Suitable access and off-loading facilities will be provided at the off-loading point.
- 7.3. The customer hereby indemnified the carrier and holds it harmless against all costs, expenses, claims, losses, damages, or injuries to any person or property howsoever arising and of whatsoever nature, and whether direct or indirect arising out of or during the course of any such loading or unloading, and including costs, expenses, claims, losses, damages or injuries arising out of the contamination of any goods whatsoever.
- 7.4. In the event of the consignee refusing to accept delivery of the goods in whole or in part, or in the event of the carrier being unable to effect delivery by reason of the address of the consignee being improperly or inaccurately stated:
 - 7.4.1. and being compelled to return the goods to the customer, then the customer shall be liable for all costs incurred in the return of such goods, whether on the same basis as originally agreed upon or on any other basis whatsoever.
 - 7.4.2. or being compelled to dispose of such goods by reason of their perishable nature or whatsoever other reason, the carrier shall not be liable for any damage to, or loss of such goods, or any loss or damage arising out of the disposal thereof, and the customer shall be liable to the carrier for all costs incurred in relation to the disposal of such goods.
- 7.5. Upon delivering the goods to the consignee, the carrier shall be released from all liability and has fulfilled its obligations and is entitled to full payment therefor.

8. LOADING AND UNLOADING

All loading and unloading shall be carried out by the customer and its servants, and the carrier shall be under no obligation to provide any plant, power or labour which may be required. Any assistance given by the carrier in loading or unloading shall be at the sole risk of the customer.

9. CUSTOMER'S RISK

All handling, packing, loading, unloading, palletising, de-palletising, warehousing, storage and transporting of goods by or on behalf of or at the request of the carrier are effected at the sole risk of the customer and the owner. The customer indemnifies the carrier accordingly and the customer waives any claim/s which it may have against the carrier in respect of or pursuant all or any of these services or any matter relating thereto.



10. TRANSIT AND STORAGE

- 10.1. In the absence of a written agreement to the contrary, it shall at all times be at the sole discretion of the carrier to decide at what time and in what manner to perform any and all of its obligations in terms hereof.
- 10.2. The carrier shall not be liable for any delay or detention of the goods, or for any loss, damage or deterioration therein, unless the date and time for the delivery of the goods is expressly stipulated as being of the essence of the contract. In such event, the carrier shall not be liable for any loss, damage, or deterioration unless such delay or deterioration is attributable to wilful default or gross negligence on the part of the carrier or its employees during the course and scope of their employment.
- 10.3. The carrier does not accept any responsibility for demurrage charges whatsoever.
- 10.4. Goods left on the carrier's vehicle for any reason to suit the convenience of the customer are held at the sole risk of the customer as the case may be, pending forwarding and delivery, and such goods may be warehoused or otherwise held at any place of places at the sole discretion of the carrier and at the risk and expense of the customer.
- 10.5. Demurrage will be payable at a rate to be specified by the carrier on all vehicles detained beyond a reasonable period and from whatsoever cause.
- 10.6. If the receiver of the goods refuses to accept them, or the goods remain uncollected for a period of more than 7 (seven) days, without prior arrangement, the goods may be returned to the sender who accepts responsibility for all costs incurred alternatively, be disposed of in terms of 10.7 below.
- 10.7. The carrier reserves the right to dispose of the unclaimed goods as envisaged in 10.6 after a period of 10 (ten) days in order to defray expenses. Any monies collected will be set off against amounts outstanding, but will not limit the carrier's rights to the balance outstanding.

11. PERISHABLE GOODS

- 11.1. Without limiting or affecting any other terms of these trading terms and conditions, goods (whether perishable or otherwise) in the care, custody or control of the carrier may at the customer's expense be sold or disposed of by the carrier without notice to the customer, sender, owner or consignee, if -
 - 11.1.1. such goods have begun to deteriorate or are likely to deteriorate;
 - 11.1.2. such goods are insufficiently addressed or marked as per 5.1;
 - 11.1.3. the customer cannot be identified 5.5;
- 11.2. Should any amount owing by the customer to the carrier in respect of any matter referred to in clause 11.1 become due and payable and remain unpaid, the carrier shall be entitled and the customer hereby authorises the carrier and without first obtaining an order of court, to sell all or any of the goods by public auction or on reasonable notice not exceeding 14 days by private treaty. The net proceeds of any such sale, after deducting therefrom all costs, charges and expenses incurred by the carrier, shall be applied in reduction or discharge, as the case may be, of the customer's obligations to the carrier in respect of such goods without prejudice to the carrier's rights to recover from the customer any balance which may remain owing to the carrier after the exercise of such rights. Should the total amount collected by the carrier, after deducting therefrom all costs, charges and expenses incurred by the carrier in respect thereof, exceed the full amount of the customer's obligations to the carrier in respect of such goods, the carrier shall be obliged to refund such excess to the customer.

12. INSURANCE

The carrier shall endeavour to effect any insurance the customer timeously and in writing instructs it to effect. Such insurance will be subject to such exceptions and conditions as may be imposed by the



insurance carrier or underwriter taking the risk and the carrier shall not be obliged to obtain separate cover for any risks so excluded. Unless otherwise agreed in writing the carrier shall not be under any obligation to obtain separate insurance in respect of separate consignments but may insure all or any of such consignments under any open or general policy held by the carrier from time to time. Should any insurer dispute its liability in terms of any insurance policy in respect of any goods, the customer concerned shall have recourse against such insurer only and the carrier shall not have any responsibility or liability whatsoever in relation thereto notwithstanding that the premium paid on such policy may differ from the amount paid by the customer to the carrier in respect thereof. Insofar as the carrier agrees to arrange insurance the carrier acts solely as agent for and on behalf of the customer.

13. DUTIES, TAXES, IMPOSTS, LEVIES AND DEPOSITS

- 13.1. The customer, whether or not the cause of payment was due to an act, instruction or omission of the sender, owner and/or consignee and their agents, if any, shall be liable for any duties, taxes, imposts, levies, deposits or out-lays of whatsoever nature levied by or payable to the authorities, intermediaries or other parties at any port or place or in connection with the goods and whether at the time of entry and/or at any subsequent time and for any payments, fines, penalties, expenses, loss or damage or whatsoever incurred or sustained by the carrier in connection therewith or arising there out.
- 13.2. The carrier shall bear no liability in consequence of the fact that there may be a change in the rate of duty, wharfage, freight, railage or cartage or any other tariff, before or after the performance by the carrier of any act involving a less favourable rate or tariff or by virtue of the fact that a saving might have been effected in some other way had any act been performed at a different time.

14. CARRIER'S OBLIGATIONS IN THE ABSENCE OF INSTRUCTIONS

Unless specific written instructions are timeously given to and accepted by the carrier, the carrier shall not be obliged to -

- 14.1. make any declaration for the purpose of any statute, convention, or contract, as to the nature or value of any goods or as to any special interest in delivery. In particular, the carrier shall be under no obligation to make any declaration or to seek any special protection or cover from any carrier in respect of any goods which are, or fall within the definition ascribed thereto by that body of dangerous goods or other goods which require special conditions of handling or storage;
- 14.2. arrange for any particular goods to be carried, stored or handled separately from other goods.

15. FORCE MAJEURE

Notwithstanding anything to the contrary herein, the carrier shall not be liable in any way whatsoever in the event of it being prevented from fulfilling its obligations in terms of the contract by any act of God, an inherent defect, vice or weakness, or some action of the goods themselves, war, civil disturbances, riot, state of emergency, strike, lockout, or other labour disputes, fire, flood, drought or legislation, or any other cause beyond the control of the carrier.

16. LIMITATION OF LIABILITY

- 16.1. All goods handled shall at all times be at the risk of the customer or owner of the goods.
- 16.2. The carrier shall not in any circumstances be liable for the loss of or damage to goods as well as for any consequential loss or damage arising out of the carriage of the goods or custody of the goods in terms of this contract, from whatsoever cause, howsoever arising, including the negligence of the carrier's employees, unless such loss or damage or consequential loss or damage occurs whilst the goods are in actual custody of the carrier and under its actual control and unless such loss or damage is due to the wilful acts or default of the carrier or its employees in the course and scope of their employment.
- 16.3. In circumstances where the carrier is adjudged by an authority having competent jurisdiction to be liable for the loss of or damage to goods, the liability of the carrier shall at all times be limited to the actual loss of or damage to goods as set out below.



- 16.4. The carrier accepts liability of direct loss or damage to the customer's goods subject to the following conditions:
- 16.4.1. the liability of the carrier shall be limited to a maximum total of no more than R100.00 (one hundred rand) per consignment.
 - 16.4.2. The carrier shall not be liable for any loss or damage until the customer has established or proven that such loss or damage was caused by the wilful acts of default of the carrier or any of its employees during the course and scope of their employment.
- 16.5. The carrier shall not in any circumstances be liable for:
- 16.5.1. any loss or damage whatsoever caused by the hazardous, perishable, fragile or brittle nature of the goods, nor for the mechanical derangement of the goods; and/or
 - 16.5.2. the scratching, cracking, denting, chipping, bruising or breakage or other loss or damage to inadequately packed goods handed to the carrier for consignment; and/or
 - 16.5.3. any loss, damage, or expense arising from or in any way connected with marks, weight, numbers, brands, contents, quality or description of any goods; and/or
 - 16.5.4. any duty, tax, imports or outlays of whatsoever nature levied by the authorities at any port or place for in connection with the goods, and for any payments fines expenses, loss or damage incurred or sustained by the carrier in connection therewith.
- 16.6. The carrier shall not accept liability for the transport of any bullion, coins, precious stones, valuables, jewellery, antiques, pictures, bank notes, securities and other valuable documents or articles, livestock, perishable goods, plants, glass, earthenware, china, asbestos cast cement, marble or plaster products unless special arrangements have been made in writing prior to the commencement of the transport.
- 16.7. The carrier shall not be liable for any delay occasioned by the compliance with any instructions issued by the police or any competent authority, but any extra costs incurred by the carrier as a result of such compliance shall be added to its charges.
- 16.8. None of the servants or agents or the carrier or sub-contractors shall be under any liability whatsoever to the customer, and the provisions of this clause are stipulated for the benefit of those persons.
- 16.9. Any loss or damage to the goods transported must be recorded on the carrier's delivery documentation at the time of delivery as proof of the loss or damage. In the absence of this record, no claim whatsoever shall be enforceable against the carrier.
- 16.10. The carrier will not accept any unqualified or unchecked endorsement on the carrier's delivery documentation as proof of any loss or damage.
- 16.11. Any loss or damage to the goods transported must be reported to the carrier in writing within 7 (seven) days from the date of delivery. Such writing must contain precise details of the nature and extent of the loss or damage suffered by the customer. Endorsements or notes on the carrier's delivery documentation will not amount to compliance with the requirements of this clause. In the absence of such notification, no claim of whatsoever nature howsoever arising shall lie or be enforceable against the carrier.

17. TERMS OF PAYMENTS

- 17.1. Unless prior arrangement has been made in writing, full payment of the order as reflected in the respective quote will be effected to the carrier prior to shipping/ delivery taking place.
- 17.2. In the event of any account being handed over to their attorneys for collection, the costs of such attorney shall be payable by the customer as between attorney and own client, including collection commission, which the carrier is obliged by agreement to pay to its attorneys.



- 17.3. Payment shall not be withheld by the customer pending the settlement of any dispute.
- 17.5. The carrier shall be entitled to charge the customer storage charges in respect of any period during which the goods are stored after tender of delivery up to any including the time of payment of all monies owing to the carrier by the consigner.

18. CARRIER'S LIEN OVER GOODS

- 18.1. The carrier shall have lien over all goods as security for all monies owing for the handling of the goods.
- 18.2. In addition, the carrier shall be entitled to hold all goods as security for any other monies which may be owing to it by the customer from any cause whatsoever or which may become owing to it by the customer.
- 18.3. The carrier's rights under this clause are not exhaustive, and are in addition to any other rights which it may have against the customer.

19. DETENTION OF CARRIER'S VEHICLE

The customer shall be liable for any unreasonable detention of the carrier's vehicles, containers, equipment or the like caused by the customer (or owner) or such customer or owner's goods as the case may be, but the carrier's rights as against any other person shall remain unaffected.

20. APPLICABLE LEGISLATION

- 20.1. These trading terms and conditions and all agreements entered into between the carrier and the customer pursuant thereto and on the terms thereof shall be governed by and construed in accordance with the laws of the Republic of South Africa.
- 20.2. If the carrier is obliged, in the execution of any of its duties and/or responsibilities to comply with any common law or legislative enactment ("the law") of any nature whatsoever, then the carrier by complying therewith, shall not be deemed to waive nor abandon any of its rights in terms of these trading terms and conditions.
- 20.3. In addition thereto, in complying with the law, the carrier shall not be deemed to have assumed any onus, obligation, responsibility or liability in favour of the customer.
- 20.4. If any of the terms of these trading terms and conditions is repugnant to or in conflict with the law, then and in such event the conflicting term embodied herein shall be deemed to be amended and/or altered to conform therewith, and such amendment and/or alteration shall not in any way affect the remaining provisions of these trading terms and conditions.

21. BREACH

If the carrier breaches any of these trading terms and conditions or any agreement between it and the customer and fails to remedy such breach within 30 days of the date of receipt of written notice requiring it to do so then the customer shall be entitled to compel performance by the carrier of the obligations it has defaulted in, but shall not be entitled to cancel these trading terms and conditions and any agreement between the customer and the carrier.

22. WARRANTIES AND REPRESENTATIONS BY THE CARRIER

The carrier makes no warranties and representations to the customer save as may be specifically provided herein or as notified in writing by the carrier to the customer from time to time. The customer acknowledges that the carrier is not in any way bound by any oral statement, representation, guarantee, promise, undertaking, inducement or otherwise which may have been made at any time by any salesman, employee, representative or any person acting or purporting to act for or on behalf of the carrier, whether negligently or otherwise unless such statements, representations, guarantees, promises, undertakings, warranties or inducements are supplied or made in writing by an employee duly authorised by written resolution of the board of directors of the carrier in response to a written enquiry specifying accurately and in complete detail what information is required.



23. GENERAL

- 23.1. The conditions set out herein shall govern all contracts concluded between the carrier and the customer, including prior and future contracts, and no alteration, cancellation, variation of, or addition hereto shall be of any force and effect unless reduced to writing.
- 23.2. No indulgence, leniency, or extension of time which the carrier may grant or show to the customer, shall in any way prejudice the carrier or prejudice the carrier from exercising any of its rights in the future.