

TERMS AND CONDITIONS

1. LIABILITY OF FORWARDER (such term to include unless the context otherwise requires its servants agents sub-contractors and actual carriers)

(a) The contract shall be “at limited carrier’s risk” (pursuant to the Carriage of Goods Act 1979 hereinafter referred to as “the Act”) unless:-

(i) The contracting party or his agent has signed on the face hereof or on any other document relating to the carriage of the goods a statement in the following terms:-

“These goods are to be carried at ‘owner’s risk’. This means that the carrier will pay no compensation if the goods are lost or damaged unless he intentionally loses or damages them”.

or:-

(ii) There is a contract in writing expressed to be “at owner’s risk” signed by the parties or their agents relating, but not necessarily exclusively, to the carriage of goods, in which case the contract shall be “at owner’s risk”.

(b) In either case (but subject in the case of a contract “at limited carrier’s risk” to the limitation contained in Section 15 (1) of the Act)

(i) The forwarder shall not be under any liability, howsoever caused or arising and (without limiting the generality of the foregoing) whether caused or arising as a result of the negligence of the Forwarder or otherwise for any damage to, loss, deterioration, mis-delivery, delay in delivery or non-delivery of the goods (whether the goods are or have been in the possession of the Forwarder or not) nor for any instructions, advice, information or service given or provided to any person, whether in respect of the goods or any other thing or matter, nor for any consequential or indirect loss, loss of market or consequences of delay; and

(ii) The contracting party will indemnify the Forwarder against all claims of any kind whatsoever, howsoever caused or arising and (without limiting the generality of the foregoing) whether caused or arising as a result of the negligence of the Forwarder or otherwise, brought by any person in connection with any matter or thing done or said or omitted by the Forwarder in connection with the goods.

2. NOTIFICATION OF CLAIMS AND LIMITATION OF ACTIONS

(a) The Forwarder shall be under no liability whatsoever unless:-

(i) Written notice of any claim, giving reasonable particulars of the event giving rise to the claim and any alleged damage of loss, is received by the Forwarder within seven days after delivery or, in the case of non-delivery, within fourteen days after the date of despatch.

(ii) An action shall have been commenced by the contracting party in a Court of competent jurisdiction within six months of delivery or, in the case of non-delivery, within six months and fourteen days of the date of despatch.

(b) Sections 18, 19 and 20 of the Act shall not apply to the contract.

3. **THE** Forwarder reserves the right to refuse carriage for any person or for any class of goods.
4. **ALL** terms used in this contract shall have the meanings as set out in the Act, and where the conditions contained in this contract differ from the provisions of the Act then so far as the parties are able the contract prevails over any statutory provisions and the parties are deemed to have contracted out of the provisions of the Act and the Forwarder shall not be bound by any agreement varying these conditions unless such agreement shall be in writing and signed with due authority on behalf of the Forwarder.
5. **THE** goods shall comply with the requirement of any applicable law relating to the nature, labelling and packaging and carriage of goods and the expenses and charges of the Forwarder in complying with the provisions of any such law or with any order or requirement there under or with the requirement of any harbour, dock, railway, shipping, customs, excise duty, or GST, warehouse, or other authority or company or the expenses, charges, levies, or fines arising out of the breach of any applicable law shall be paid by the Contracting Party.
6. **THE** goods shall be safely and properly packaged and labelled and fully described in writing in the space provided hereon including the name and the nature and the value of all goods subject to special rates of carriage or of a noxious, dangerous, hazardous or inflammable nature or capable of causing damage or injury to any other goods, or property or to any persons or animals and additional freight charges shall be paid on such goods if deemed necessary by the Forwarder. Failure to safely and properly package or label or to fully describe any goods as aforesaid shall render the Contracting Party liable for any loss or damage caused to or by such goods and acceptance of the goods for carriage without discovery of any such defect or lack shall not exclude or diminish any liability on the part of the Contracting Party.
7. **THE** Forwarder may charge freight by weight, measurement or value, and may at any time re-weigh or re-value or re-measure or require the goods to be re-weighed, re-valued, or re-measured and charge proportional additional freight accordingly.
8. **FREIGHT** shall be considered earned and shall fall due for payment as soon as the goods are loaded and despatched by the Forwarder. Should payment in full not be made to the Forwarder within seven days after the due date for payment, then:
 - (a) the Contracting Party shall pay interest on all amounts outstanding at a rate which is 5% above the rate charged over the relevant period by the Forwarder's bankers on primary level overdraft advances to the Forwarder, and
 - (b) the Forwarder shall be entitled to sue forthwith for the recovery of all outstanding freight and interest thereon and Section 21 of the Act shall not apply; and
 - (c) any costs incurred by the Forwarder in connection with recovery action taken in respect of outstanding freight and other charges shall be payable by the Contracting Party on demand.
9. **IF** the Contracting Party is the consignor, then every special instruction to the effect that freight shall be paid by the consignee shall be deemed to include a stipulation that if the consignee does not pay the freight within seven days of the date on which the goods are loaded and despatched, then the Contracting Party shall pay the same and all other charges incurred by the Forwarder.
10. **THE** Contracting Party will be and remain responsible to the Forwarder for all its proper charges incurred for any reasons. A charge may be made by the Forwarder in respect of any delay in excess of 30 minutes in loading or unloading occurring other than from the default of the Forwarder.

Such permissible delay period shall commence upon the Forwarder reporting for loading or unloading. Labour to load or unload the vehicle shall be the responsibility and expense of the Contracting Party or consignee and should the consignee described hereon not be in attendance at the address given during normal trading hours when delivery is attempted an additional charge may be made at ruling rates for each call until delivery is accomplished.

11. **THE** Forwarder may carry or on-forward all goods or have them carried by any method or any person which the Forwarder deems fit and notwithstanding any instructions that the goods are to be carried or on-forwarded by another method.
12. **THE** Contracting Party authorises the Forwarder to contract either as Principal or an Agent for the carriage of goods and any such contract will be made upon the terms and subject to the conditions of any bill of lading or other forms or terms of contract for carriage, whether by sea, rail, road or air.
13. **FROM** the date on which the responsibility of the Forwarder ceases as provided by Section 9 (3) of the Act the Forwarder may hold the goods if undelivered as bailee and shall be entitled to storage fees at normal rates charged by the Forwarder AND as bailee shall not be under any liability for any loss of or damage to the goods however caused, OR in its discretion return the goods to the Contracting Party at the risk and expense of the Contracting Party. (The provisions set out above for recovery of interest and costs on outstanding freight shall apply also to storage fees which remain unpaid seven days after demand for payment has been made.)
14. **THE** consignor expressly warrants that he is either the owner or the authorised agent of the owner of any goods or property the subject matter of this contract, that the person signing this contract has authority so to do, and by entering into this contract he accepts these conditions of contract as or for the Contracting Party as well as for all other persons on whose behalf the Contracting Party is acting.
15. **THE** goods are accepted subject to a general lien for all charges now due or which may hereafter become due to the Forwarder on any account. If the lien is not satisfied within 7 days of such payment being due the Forwarder having given notice of the lien may at its option either:
 - (a) remove such goods or part thereof and store them in such place and manner as the Forwarder shall think proper and at the risk and expense of the Contracting Party or as the case may be or;
 - (b) open any package and sell such goods or part thereof upon such terms as it shall think fit and apply the proceeds in or towards discharge of the lien and costs of sale without being liable to any person for damage thereby caused.
16. **IN** the event that this contract specifies a requirement for insurance the Forwarder as the consignor's agent will at the cost of the consignor arrange with a lawful insurer insurance of goods. The limit of the cover provided by such insurance as arranged by the Forwarder for the consignor shall be the amount specified on the face hereof and following exclusions will apply:
 - (a) All claims resultant from wear, tear, moths, vermin, damp, mildew or loss of market loss damage or expense proximately caused by delay or inherent vice or nature of the subject matter insured.
 - (b) Gradual deterioration rust and/or oxidation unless due to or consequent upon fire collision overturning or other accident to the conveyance.

AND such insurance shall be otherwise on the terms and conditions normally offered for such class of business by the underwriter with whom such insurance is affected PROVIDED HOWEVER that the said limit shall not be construed as an agreed value.

The agreed value shall be the amount representing the value of the goods as invoiced by the consignor with a

limit in any event of the amount specified on the face hereof, PROVIDED FURTHER that any amount received by the Contracting Party under such contract of insurance shall be applied in extinguishing the liability of the Forwarder hereunder.

17. **HAZARDOUS GOODS** The Company will not, except in terms of special arrangements previously made in writing accept or deal with any noxious, dangerous or inflammable goods or any goods likely to cause damage or which it is unlawful to carry. If the Customer delivers such goods to or causes such goods to be handled or dealt with by the Company or any subcontractor or agent the Customer shall be liable for all loss or damage whatsoever caused by or to or in connection with the goods howsoever caused or arising and shall indemnify the Company, the subcontractors and the agents against all penalties, claims, damages, costs and expenses whatsoever arising in connection therewith and the goods may be destroyed or otherwise dealt with at the sole discretion of the Company,

the subcontractors or any other person in whose custody they may be at the expense of the Customer without the Company, the subcontractors or such other person being responsible or accountable for the value thereof.