



# COURIER SOLUTIONS

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## STANDARD TERMS AND CONDITIONS OF CARRIAGE

### 1. DEFINITIONS:

For the purpose of these conditions and unless inconsistent with the context:

- 1.1 "Carrier" shall mean Courier Solutions including any agent, sub-agent, independent contractor or sub-contractors or associate of Courier Solutions.
- 1.2 "Consignor" shall mean the party contracting with the Carrier to render carriage services and includes, the Applicant as referred to in the Application for Credit Facilities lodged with the Carrier, the party requesting the carrier's service and/or the party in whom/which risk in the goods conveyed vest at all material times.
- 1.3 "Consignment" shall mean the goods in bulk or contained in one or several parcels, envelopes or packages as the case may be sent at any one time on one load by or for the Consignor from one address to another.
- 1.4 "Dangerous Goods" shall mean;
  - (i) all goods which are specified in the special classification of dangerous goods issued by the South African Transport Services from time to time or which although not specified therein, are not acceptable to that Carrier for conveyance on the grounds of their dangerous or hazardous nature; or
  - (ii) goods which, although not included in (i) above are of a kindred nature in the Carrier's opinion;
- 1.5 "The Contract" means the contract of carriage between the Consignor and the Carrier, which can be in writing or verbal and to which these terms, and conditions apply.

### 2. LIABILITY FOR LOSS OR DAMAGES:

- 2.1 In the event of the Consignor not instructing the Carrier to take out insurance in respect of the goods to be collected, transported and delivered, which instruction shall be reduced to writing, the Carrier shall not be liable to the Consignor or any other party for any loss of or damage to such goods from whatsoever cause and howsoever arising, including gross negligence on the part of the Carrier or its employees.
- 2.2 In the event of the Consignor instructing the Carrier to insure the goods to be collected, transported and delivered as provided for herein, the carrier shall only be liable to the Consignor for loss of or damage to such goods only as contemplated and specifically provided for in Clause 3 hereunder.
- 2.3 While the Carrier will endeavour to adhere to delivery times it accepts no responsibility for its failure to do so for any reason whatsoever.
- 2.4 The Carrier accepts no responsibility for consequential loss of any description howsoever caused.

### 3. LIMITATION OF LIABILITY:

- 3.1 The Carrier shall, subject to the provisions of this Clause in particular and these conditions in general, compensate the Consignor for loss of or damage to the goods consigned in terms of the contract where such loss or damage is recoverable by the carrier in terms of an Insurance Policy or Policies held by the Carrier which is/are open for inspection by the Consignor or any other interested party at the offices of the carrier upon demand Where the Consignor requests verbally or in writing that the goods be conveyed at "owner's risk" or declares the goods of "no commercial value", the Carrier shall

not under any circumstances whatsoever, be liable for loss of or damage to the consignment.

- 3.2 The Insurance Policy or Policies held by the carrier provide/s for compensation for the loss of or damage to goods conveyed by the Carrier in terms of the contract as follows:-
- (i) where the loss of or damage to the goods is sustained by fire, theft by forcible entry, collision, overturning, the process of loading or unloading the goods being conveyed, and/or other perils specified, defined and prescribed in the said insurance policy or policies; and
  - (ii) where the loss of or damage to the goods is in respect of part of or the whole consignment, liability is limited to an amount not exceeding R5000,00 unless otherwise specific cover has been expressly provided for
  - (iii) the Carrier only accepts the liability in 3.2 (ii) if the waybill so indicates and if the liability levy/premium is paid.
- 3.3 Loss or damage sustained in the following circumstances or being of the following nature is specifically excluded and the Carrier shall have no liability to the Consignor in respect thereof, notwithstanding any insurance premium which may be inadvertently or otherwise endorsed on any waybill:-
- (i) loss, damage or expense howsoever caused, arising out of any loss of or damage to goods, any late delivery or failure to deliver the goods on time or at all, even where such loss, damage or expense is caused by or is attributable to the grossly negligent act or omission of the Carrier.
  - (ii) consequential loss of any description howsoever caused, wear and tear and vermin;
  - (iii) loss of or damage to livestock, explosives, goods of a dangerous nature, jewelry, gold/silver articles, precious stones, bullion's, cash, stamps, bank notes, deeds, bonds, bills of exchange, or other documents representing money, perishables, works of art, antiques;
  - (iv) losses arising from or happening through volcanic eruption, subterranean fire, earthquake, or other convulsion of nature, war, invasion, act of foreign enemy hostilities (whether war be declared or not) civil war, mutiny, rebellion, revolution, insurrection, military or usurped power, political riot (save to the extent that such loss or damage is covered by the SASRIA Policy as held by the Carrier), confiscation or destruction by or under the order of any Government or local authority;
  - (v) Loss or destruction of or damage to any property whatsoever or any loss or expense howsoever resulting or arising therefrom or any consequential loss or any legal liability of whatsoever nature directly or indirectly caused by or contributed to by or arising from ionising radiation's or contamination by radioactivity from any nuclear waste from the combustion of nuclear fuel.
- 3.4 Notwithstanding anything to the contrary herein contain:-
- (i) the Carrier and its insurers shall be entitled to vary, extend or further limit the compensation payable in terms of the policy/ies herein before referred to and the rates and maximum amounts herein referred to may change from time to time without the Carrier being compelled to give notice of such change or changes to the Consignor;
  - (ii) the Carrier's liability to compensate the Consignor in respect of loss of or damage to the goods conveyed in terms of the contract shall apply only to the extent to which the Carrier receives payment of compensation from its Insurance Company or to the extent to which such Insurance Company accepts liability under the policy and pays or tenders payment of any amount. The Carrier shall not be bound or obliged to institute legal proceedings against its insurers or engage in any dispute relating to the quantum of compensation or any repudiation whether in whole or in part of any claim by the Carrier's insurers on any grounds whatsoever;
  - (iii) the Carrier shall not be liable in any circumstances for any direct or consequential damages or any special damages sustained by the Consignor;
  - (iv) the Carrier shall not be liable for any loss of or damage to the goods arising out of or associated with inadequate packing or protective material applied in respect of any consignment, notwithstanding the Consignor requesting any form of insurance and/or any insurance premium being levied, such goods being conveyed at "owner's risk"

only;

- (v) the Carrier shall not be liable in any circumstances if the Consignor or any other interested party has effected a policy of insurance in respect of the conveyance by the carrier of the goods conveyed in terms of the contract.

### 3.5

- (i) Notwithstanding the limitations in 3 the Carrier shall if requested to do so by the Consignor and provided that the Carrier's own insurers are prepared to accept the risk involved endeavour to effect insurance to the full value of the goods.
- (ii) If any insurance is effected by the Carrier in terms of 3.5 (i) the cost thereof shall be payable by the Consignor in addition to the carrier's charges.

## 4. TIME LIMIT FOR CLAIMS;

Notwithstanding anything to the contrary herein contained the carrier and/or its insurers shall not be liable (to the extent, if any, to which liability would otherwise be attracted) to meet any claim otherwise competent unless:

- 4.1 in respect of loss, damage or non-delivery of goods forming part of a consignment, unless the relevant waybill is endorsed detailing the nature of the actual loss and written notice thereof is received by the carrier within Thirty (30) working days after delivery.
- 4.2 in respect of loss, damage or non-delivery of the whole of a consignment, unless written notice thereof is received by the Carrier within Ninety (90) days after the date upon which the Carrier received and took into its possession the consignment for the purposes of the contract
- 4.3 in respect of damage to goods where a Courier Solutions' representative and/or Insurance Assessor have not had access to inspect such damage within 48 hours of delivery being effected.

## 5. VARIATIONS:

No variations of these conditions shall be binding on the Carrier unless recorded in writing and signed by the Carrier or its agent expressly authorised in writing to do so

## 6. WARRANTY OF AUTHORITY:

The representative who contracts on behalf of the Consignor warrants that he is authorised to enter into the contract on behalf of the Consignor, who may be the Consignee.

## 7. INFORMATION TO BE SUPPLIED BY THE CONSIGNOR:

7.1 The Consignor shall at the time of entering into the contract deliver/hand to the carrier a written document containing:

- (i) while not detracting from clause 8.7, exact relevant details and dimensions and weights of the goods;
- (ii) the correct and adequate addresses of the point of collection and delivery;
- (iii) the exact details of all matters at the point of collection and point of delivery which might affect access thereto by vehicle or their loading or unloading as the case may be;
- (iv) in the case of jewelry, precious stones or metals give the exact monetary value of consignment, and indemnify the carrier against loss through whatever cause;
- (v) in the event that the Consignor requires payment for the carriage services to be effected by the Consignee an instruction to that effect utilising inter alia the term "carriage forward" together with details of the person responsible for payment. In the event of the said person not having an account with the Carrier the Consignor accepts that a COD charge will be raised and that in the event of non-payment by the Consignee he shall be responsible for payment, on demand or immediately when due, of all charges in this regard

7.2 Any damage payable by the Consignor for a breach of 7.1 shall include the costs, damages and other expenses of any legal proceedings in which the Carrier may in consequence be involved.

7.3 The Consignor warrants the accuracy of all descriptions, values, masses and other particulars furnished to the Carrier in respect of goods forming the subject matter of a contract and indemnifies the carrier against all losses, damages, expenses, fines or other costs which may be suffered by it

arising directly or indirectly from any breach of such warranty.

8. CARRIER'S CHARGES:

- 8.1 The Carrier's charges for carriage shall be payable by the Consignor provided that if the goods are consigned "carriage forward" the Consignor shall not be required to pay those charges unless the Consignee fails to pay them within three (3) days after being called upon to do so by the Carrier. If the Carrier calls upon the Consignee to pay it shall do so without prejudice to its rights against the Consignor who shall at all times remain liable to the Carrier for payment of its charges which in the absence of agreement to the contrary will be the carrier's customary or usual charge.
- 8.2 Except where the quotation states otherwise, all quotations based on a kilogram rate shall apply to the gross chargeable mass, unless the goods exceed one cubic metre in measurement per 200 kilogram of mass, in which case the kilogram rate shall be computed upon, and apply to each measurement of one cubic metre or any part thereof.
- 8.3 All payments to be made to the Carrier shall be made without deduction or set off and no amount may be deferred or withheld by reason of any claim or counter claim.
- 8.4 Unless credit terms are agreed, the Carrier's charges, disbursements, duties, taxes, including VAT, are payable by the Consignor on acceptance by the Carrier of the goods.
- 8.5 In the event of the Carrier being obliged or electing to institute legal proceedings against the Consignor for recovery of any amounts due and payable in terms of the contract the Carrier will be entitled to recover from the Consignor all costs incurred pursuant to such proceedings including collection, commission and interest at the maximum rate allowed by the Law, on the scale as between Attorney and Client.
- 8.6 In the event of the goods not being accepted by the Consignee through no fault of the Carrier, a re-delivery charge will be levied upon the Consignor to cover such costs.
- 8.7 The Consignor irrevocably accepts the chargeable mass and dimensions of the goods as determined by the Carrier and waives any rights he may have had to dispute such details.
- 8.8 Nothing contained herein shall be deemed to constitute the Carrier a bailee or depositary. Under no circumstances shall any strict liability attach to the Consignor.
- 8.9 No quotation will be binding unless given in writing, which may be subject to change without prior notice.

9. SUB-CONTRACTORS:

- 9.1 The Carrier may employ the services of any other carrier and/or third party on such terms and conditions as the Carrier deems fit for the purposes of fulfilling the whole or any part of the contract and any such other carrier shall have the same rights and protection, mutatis mutandi, as are contained herein.
- 9.2 None of the Carrier's servants, agents and sub-contractors or the Carrier's sub-contractor's servants, agents and sub-contractors shall be under any liability whatever to the Consignor or anyone claiming through him in respect of the goods in addition to or separately from that of the Carrier under the contract and the provisions of this clause are stipulated for the benefit of those persons.
- 9.3 The Carrier shall be entitled to retain the benefits of any discounts obtained and to be paid and retain all brokerage, commission, allowance and other remuneration of whatsoever nature, and shall not be obliged to disclose or account to the Consignor for any such remuneration received by it, nor shall the Carrier be obliged to pass on to the Consignor the benefit of any reduced tariffs.
- 9.4 The Consignor agrees to be bound by any terms and conditions as may be stipulated by such sub-contractor and/or third party.

10. DANGEROUS GOODS:

- 10.1 Unless otherwise agreed in writing, the Consignor warrants that the goods are fit to be carried in the ordinary way and are not dangerous
- 10.2 Should the Carrier agree to accept any dangerous goods for carriage then;-
  - (i) the Consignor shall furnish with the goods a written declaration of their nature and contents;

- (ii) the goods shall be properly and safely packed by the Consignor, ready for consignment and in accordance with any applicable Laws (including any statutory regulations) for the time being in force.

10.3 If in the opinion of the Carrier any of the goods whether they have been declared as dangerous or not become a danger to any person or property the Carrier shall be entitled immediately and without notice to the Consignor to dispose of the goods in question or to take such steps as it deems prudent to avert the danger, and shall:-

- (i) not be liable under any circumstances for any loss or damage sustained by the Consignor as a result of any such disposal or other steps; and
- (ii) still be entitled to recover from the Consignor its remuneration for the carriage of those goods together with any costs incurred by it in disposing of them or taking other steps.

10.4 The Consignor hereby indemnifies and holds harmless the Carrier against all loss, damage and injury, howsoever caused, arising out of the carriage of any dangerous goods whether declared as such or not.

11. ONUS:

11.1 The onus of proving the condition of any goods in the consignment at the time the consignment is delivered to the Carrier shall at all times rest with the Consignor.

11.2 No document acknowledging the receipt of any consignment given by the Carrier to the Consignor shall be evidence of the condition or of the correctness of the declared nature of the consignment at the time the Carrier receives it.

12. TRANSIT:

12.1 Transit shall commence:- Once the consignment has been handed to and signed for by an authorised representative, employee, agent, sub-contractor of the Carrier at (a) its own premises or (b) collected by the Carrier at any other premises

12.2 Transit shall cease (unless otherwise previously terminated) when the consignment is tendered at the address furnished for delivery by the Consignee, provided:-

- (i) that, if no safe and adequate access or no adequate access or no adequate unloading facilities exist there then transit shall be deemed to end at the expiry of one clear day after notice (which may be verbal) of the arrival of the consignment at the Carrier's premises, has been given to the Consignee; and
- (ii) that if for any other reason whatever a consignment cannot be delivered or if a consignment is held by the Carrier: "To await order" or "To be held for collection" or upon any other similar instructions and those instructions are not given or the consignment is not called for and removed within three (3) days then transit shall be deemed to end.

12.3 For the purposes of 12.2 the consignment shall be regarded as tendered upon the arrival of the vehicle at the delivery address at street level.

12.4 In the event of the Carrier not being able to effect delivery of the goods/consignment for whatever reason, neither the Consignor nor any other person shall have any claim against the Carrier for any loss suffered of whatsoever nature.

12.5 Pending forwarding and delivery, the goods may be warehoused or otherwise held at any place or places at the sole discretion of the Carrier at the Consignor's sole risk and expense

13. ROUTE AND PROCEDURE:

The Carrier shall in its sole and absolute discretion, determine the means, route and procedure to be followed in the handling and transportation of the goods.

14. LIEN:

14.1 The Carrier shall have a lien over all the goods as security for all monies owing for the carriage and storage of goods.

14.2 In addition the carrier shall be entitled to hold as pledge and the Consignor hereby pledges the goods to the Carrier as security for any monies which may be due and payable to the Carrier by

the Consignor from any cause whatsoever and whether already incurred or in respect of the goods held as pledged.

14.3 If any monies owing are not paid within three (3) days after they become due the Carrier shall be entitled without further notice to the Consignor:-

- (i) to open and examine any part of the consignment;
- (ii) to sell the whole or any part of the consignment in such manner and on such terms and conditions as it deems fit; and
- (iii) to apply the proceeds of any sale after deducting all expenses thereof, in payment or reduction of any amount due by the Consignor to the carrier provided that any surplus shall be paid over to the Consignor without interest immediately after the sale if its address is known or if not, upon demand by the Consignor.

14.4 Upon payment or tender of the proceeds of any such sale the Carrier shall be released from all liability to the Consignor in respect of the goods.

14.5 The Carrier's rights under this clause 14 are not exhaustive and are in addition to any other rights that the Carrier may have against the Consignor.

15. UNREASONABLE DETENTION:

The Consignor shall be responsible for the loss suffered by the Carrier as a result of unreasonable delay in the loading or unloading of Carrier's vehicles or containers provided that the Carrier's rights against any other person remain unaffected.

16. GENERAL INDEMNITY:

The Consignor indemnifies and holds harmless the Carrier against all claims and demands made by any third party against the Carrier and against all liability incurred by the Carrier to any third party in respect of any loss of or damage to any other goods from any cause whatever. The Consignor furthermore, indemnifies and holds harmless the Carrier against any claim which the Consignor may otherwise have acquired against the Carrier for failure, for whatever reason, on the part of the Carrier to lodge timeous or proper claims against the insurance company/ies contemplated in these terms and conditions.

17. PAYMENT:

The Consignor shall pay to the Carrier all amounts due to the Carrier on presentation of an invoice by the Carrier within thirty (30) days after the date of invoice, failing which interest shall be charged on any overdue amount at the rate of 2% per month.

18. PROPER LAW:

The proper law of the contract shall be South African Law.

19. JURISDICTION:

The Carrier and the Consignor hereby consent in terms of Section 45 of the Magistrate's Court Act No. 32 of 1944 as amended to the jurisdiction of any Magistrate's Court having jurisdiction in respect of their persons notwithstanding the fact that the subject matter in dispute or quantum of any claim is otherwise beyond such jurisdiction provided that the Carrier shall be entitled to institute any proceedings against the Consignor in any competent division of the Supreme Court of South Africa.

20. TERMS AND CONDITIONS

20.1 The terms and conditions recorded herein shall apply to all contracts as defined in clause 1.5.

20.2 All services of the Carrier whether gratuitous or not, are subject to these terms and conditions.

21. HEADINGS:

The headings to each clause are for convenience only and are not to be taken into account for the purpose of interpreting the contract.

**RECEIVED AND READ BY:**

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**Name and Designation**

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**Date**

