

NIEUWSTAD ROADFREIGHT (PTY) LTD

A REGISTERED TRANSPORT COMPANY IN THE REPUBLIC OF SOUTH AFRICA

The parties hereby enter into an agreement whereby the Customer agrees to utilise the transport services of Nieuwstad Roadfreight (Pty) Ltd in conjunction with the terms and conditions as set forth herein below.

TERMS AND CONDITIONS

1. All goods conveyed by Nieuwstad Roadfreight Pty Ltd (hereinafter referred to as "the carrier" or alternatively "the Company") on behalf of the customer, agents of the customer or suppliers of the customer (hereinafter referred to as "the customer") shall be subject to the terms and conditions stated herein which shall at all times take precedence over any terms, conditions or stipulations contained in any of the customer's documentation as may be in conflict herewith
2. The Company may, at its sole discretion waive and / or relax the terms herein contained or otherwise stated, the Customer however, may, under no circumstances, whether contained herein or not relax waive or cede any right, duty or indulgence. The Customer is strictly bound by the terms either tacit or expressly stated herein.

LOADING

3. The Customer acknowledges that it is their responsibility to ensure full consignments are loaded in the correct manner and that quantities and descriptions of the goods are disclosed to the Company prior to loading the goods and that all cargo is suitable for Road transport purposes and the customer further undertakes to provide documentation and waybills in confirmation thereof.
4. The Customer warrants that it has complied with all laws and regulations relating to the nature, packaging, labelling or cartage of the goods and that the goods are packed in a manner adequate to withstand the ordinary risks of transportation and the customer hereby indemnifies the Company for any liability whatsoever as a result of or arising out of the customer's failure to comply with each of these warranties.

LIABILITY

6. Neither the Company nor its agents or employees shall be liable for any damage which may be caused to any of the assets of the Customer which may arise from the consignment, loading, off loading, packaging storage and/or safe keeping of the goods concerned and the customer hereby indemnifies the Company and holds it harmless against any claim by its employees, customers or suppliers in respect of any such damage caused.
7. The Company shall not be held liable to the Customer for any damage which may be caused to any of the assets of the Customer which may arise from the loading or packaging of the goods carried out by a third party.
8. It shall be expressly understood by all parties, consignors, consignees, owners and shipping lines, that the Company does **not** provide insurance for containers, ISO tainers and Tank tainers. It shall be the customer's responsibility to effect Insurance on the goods to be carried and in doing so, the customer shall nominate the carrier as co-insured in the Insurance Policy. Should the Customer fail to obtain Insurance over the transported goods, the Company shall be indemnified against any and all claims for damages, which may arise directly or indirectly thereto.
9. .Save as otherwise specifically provided for herein, the Company shall not be liable to the customer or to any other person for any direct or indirect or consequential damages of any nature whatsoever or any loss of profit or special damages of any nature whatsoever and whether in the contemplation of the parties or not which the customer may suffer as a result of any breach by the Company of any of its obligations (including but not limited to any delay in delivery or delivery of incorrect goods). The customer hereby indemnifies the Company against any claim, which may be made against the Company by any other person in respect of any matter for which the liability of the Company is excluded in terms hereof.

DANGEROUS GOODS

10. The Customer shall not tender for transportation any hazardous, volatile spirits or explosive goods which are or may become dangerous, inflammable, or offensive, or which are, or may become liable to damage any property whatsoever, without presenting a full description disclosing and declaring the nature of such goods to ensure strict compliance with the various acts as referred to in the SABS code number:0233 of 1992 and SABS regulations 0231 of 1997 of the CODE OF PRACTICE, however the customer shall, in any event, be liable for all loss and damage caused thereby.
11. The Company undertakes to provide vehicles to the customer on a hired basis for the delivery of such dangerous, hazardous goods. The drivers and vehicles responsible for conveying said goods will be trained and registered for handling and transporting the aforementioned goods.
12. The Customer undertakes to hire the driver and the vehicle for purposes of delivering the dangerous and hazardous goods and to adhere to strict compliance with the aforementioned Acts pertaining to the transportation of the goods.
13. The Customer undertakes to obtain the necessary insurance as well as environmental insurance as required in the act and to provide the necessary placarding and material safety data sheets pertaining to the cargo.

LOADING / UNLOADING

- 13.1 It is the Customer's responsibility and expense to provide all loading facilities and Labour for the loading and unloading for goods and to ensure that entire consignments are loaded and that no goods are left behind or carried in error and the carrier shall be deemed to have performed the full carriage.

13.2 It is the customer's responsibility to ensure correct loading and that no legal mass is exceeded. Any contravention of the Road Act as a result of the customer's incorrect loading will be the direct responsibility of the customer.

13.3 No claims for shortages or damages will be recognized unless reported at the time of delivery.

COMPANY'S LIEN

14. The Company shall have a lien on the goods and any documents relating thereto and on any other goods of the customer, in the possession of the carrier, or any documents relating thereto for all sums payable by the customer to the carrier and for that purpose shall have the right to sell any such goods by public auction without notice to the customer.
15. If any amount due to the Company is not paid on due date the Applicant shall be liable for interest at the maximum rate permitted in terms of the National Credit Act 34 of 2005, as amended from time to time. Such interest shall be calculated and paid monthly in advance, provided that if the interest is not paid as aforesaid, the interest shall be added to the principal sum and the whole amount shall form the principal debt which shall bear interest as aforesaid.

THE CUSTOMER'S RESPONSIBILITY

16. The Customer shall be responsible for payment of all charges for the transportation of its goods together with any levies, fines, expenses, taxes or other outlays arising from such transportation.
17. The Company's charges shall be deemed fully earned as soon as the goods are loaded and dispatched from the customer's premises and shall be payable and non-refundable in any event.
18. It is the customer's responsibility to declare goods of a fragile nature such as glass, precious metals or perishable goods.
19. The Customer warrants that in the event that there is a change in ownership/directorship within the Company, they will undertake to contact Nieuwstad Roadfreight to advise them of same and will thereafter ensure that a new credit application is completed and submitted to the Company/carrier.

DELIVERY

20. The company is authorised to deliver the goods at the address nominated by the customer for the purpose and without prejudice to the foregoing it is expressly agreed that the company shall be presumed to have delivered the goods in accordance with this contract.
21. The customer shall be liable for any cost incurred by the carrier's vehicles as a result of any detention or delays thereof.

GENERAL

22. All goods are transported voetstoots and without any warranties whatsoever. In addition the Customer shall be precluded from raising any complaints or disputing liability to the Company in any way unless it shall have notified the Company of its complaints or grounds or dispute in writing within 2 days of knowledge of the damage. Notwithstanding the timeous raising of a complaint or dispute or liability by the Customer, the Customer shall, under no circumstances, be entitled to withhold payment in respect of the transportation by the Company pending the resolution of such dispute of complaint.
23. Should any payment owing in terms hereof not be made on due date, the balance owing in terms hereof shall become due and payable immediately (notwithstanding that it would otherwise not be due) and the Company may proceed for the recovery thereof without further notice or demand to the customer.

SETTLEMENT OF DISPUTES

MAGISTRATES COURT

24. The customer consents to the jurisdiction of the Magistrate's Court notwithstanding that the claim by the Company exceeds the normal jurisdiction of the Magistrate's Court as to amount. The Company shall, however, at its discretion, be entitled to proceed against the Applicant in any other Court of Competent jurisdiction.

DOMICILUM

25. The customer nominated as its *domicilium citandi et executandi* for all purposes as being _____
26. No relaxation or indulgence granted by the Company's rights in terms hereof, and such relaxation or indulgence shall not be deemed a novation of any of the terms and conditions set out herein, or create any estoppel against the Company. The customer's obligations whether expressly or tacitly contained herein or otherwise may, and under no circumstances be relaxed.
27. Any agreement purporting to vary the terms of this agreement, or any concensual cancellation hereof shall not be valid unless reduced to writing and signed by both the customer and the Company.