

SEM DISTRIBUTION TERMS AND CONDITIONS

CARRIAGE UNDERTAKEN BY SEM Distribution (PTY) LTD is subject to these TERMS AND CONDITIONS posted on our website at: <https://semdistribution.co.za/terms-and-conditions/>

1. **DEFINITIONS:** In these conditions, the singular includes the plural, the masculine includes the female and neuter and vice versa, and the following definitions apply:
 - 1.1. **"Carrier"** means SEM Distribution (PTY) LTD.
 - 1.2. **"Customer"** means the party who contracts with the Carrier for the carriage of goods and/or designated as the **"Customer"** herein and in the credit application form and shall include the **"Surety"** (being the person designated as such in the account application form).
 - 1.3. **"Carriage"** means all forms of transport, including road freight, air freight, warehousing and sundry and related activities undertaken by the Carrier on behalf of the Customer from one address to another as designated in the waybill and/or delivery note, and **"Carried"** will have the same meaning.
 - 1.4. **"Consignment"** or **"Goods"** means all items of the Customer, whether single or multiple items being carried at any one time on any one mode of Carriage which form part of a shipment as designated in the waybill and/or delivery note, and includes all handling, packaging, loading, warehousing and transporting of the Customer's goods.
 - 1.5. **"Dangerous Goods"** means any goods or substances which are identified or classified as combustible materials, hazardous or dangerous in accordance with SANS 10400-1990, as amended from time to time, and including any goods deemed as dangerous in the opinion of the Carrier which are or may become (by their nature) liable to cause injury or damage to persons, goods or property.
 - 1.6. **"Load"** means all the Goods being carried at any one time on any one mode of Carriage (truck or LDV) and includes the Consignment of the Customer and the consignments of third parties;
 - 1.7. **"Order"** means any order by a Customer;
 - 1.8. **"Subcontractor"** means any subcontractor appointed by the Carrier for the Carriage of Goods, handling, warehousing and/or storage.
2. **TERMS:** These terms and conditions and those of our Subcontractor's (collectively called **"Terms"**) shall apply to the parties' business relationship and all Carriage of Goods by the Carrier. The stipulations herein are made by the parties for the benefits of the Carrier and of any person for whose acts the Carrier are in law liable and any person who may perform any of the Carrier's obligations hereunder (like our Subcontractors) who shall be entitled, at any time before judgment may be given against them, to accept the benefit of the said stipulations. This Agreement constitutes the entire agreement between the parties, and it supersedes all negotiations, preliminary agreements, and all prior and contemporaneous discussions and understandings between the parties and shall not be modified except in writing executed by the parties. No Customer will have any claim or right of action arising from any other, prior, or subsequent agreement, undertaking or representation not included in these Terms (and our Subcontractor's terms), whether oral or written.
3. **QUOTATION & CHARGES:** Unless specific written quotations are given, the Carriage of Goods

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will be performed in accordance with the Carrier's tariff of charges prevailing from time to time, which the Customer agrees to pay. Quotations shall only be valid against and binding upon the Carrier for 7 (seven) days after transmission thereof if accepted by the Customer in writing within 7 (seven) days of transmission thereof, failing which the Carrier shall be at liberty to withdraw, vary or revise any quotation or subsequent invoice. However, Carriage remain subject to change in respect of changes to the Consignment or its destination, changes in licences, permits or duties payable by or to any lawful authority, fuel costs changes, or if the Carrier is obliged to deviate from the route selected by it, or as a result of adverse weather conditions, impassable or dangerous roads or bridges, or similar unforeseen restrictions.

4. **PAYMENT:** All amounts payable by the Customer to the Carrier are due and payable strictly within 30 (thirty) days from date of statement and shall be made without any delay, deductions or set-off, and no payment may be withheld by reason of any claim, counterclaim, dispute or alleged claim by the Customer against the Carrier, and any dispute over the Carrier's charges or invoices will not be subject to dispute resolution under Clause 17.6 below.
5. **COST & PENALTIES:** In the event that the Customer's Consignment differs from the information provided by the Customer to the Carrier in writing, whether in quantity, size and/or mass the Customer shall be liable for an increased cost of Carriage calculated on the additional goods, mass or size of such goods to be Carried, plus a penalty of 10% of the original fee charged or quoted to the Customer.
6. **CREDIT:** The Carrier may at any time, upon 5 (five) days' prior written notice to the Customer, amend the terms upon which the services or Credit Facility is provided, including, without limitation, by decreasing or terminating the Customer's deferred payment privileges, subject to applicable laws and the remaining provisions of these Terms. The Carrier shall be entitled, in its sole and absolute discretion, to increase the Customer's deferred payment limits, without prior notice to the Customer, subject to applicable laws and the remaining provisions of these Terms.
7. **AUTHORITY:** The Customer warrants that it is duly authorised to contract the services of the Carrier, and specifically, if the Customer is not the owner of the goods, that it is duly authorised by the owner to contract the services of the Carrier. **THE CUSTOMER FURTHER HEREBY INDEMNIFIES THE CARRIER AGAINST ALL AND ANY CLAIMS OF WHATSOEVER NATURE PROVEN BY THE OWNER OF THE GOODS, OR ANY THIRD PARTY, ARISING OUT OF THE CARRIER UNDERTAKING THE CARRIAGE OF THE CONSIGNMENT IN BREACH OF THE CUSTOMER'S AFORESAID WARRANTY.**
8. **MODE OF CARRIAGE:** The Carrier shall at its sole discretion select the methods of transport and handling constituting the Carriage, and also reserves the right to select the route, handling, storage, transport and the use of third party carriers in the Carrier's sole discretion for all Carriage, subject to these Terms.
9. **DANGEROUS GOODS:** The Customer warrants and undertakes that the Consignment is fit to be carried and complies with all applicable laws, including any regulations, security requirements and/or other obligations pertaining to the Consignment, and does not include any Dangerous Goods, except if specified otherwise by Customer, in writing prior to carriage of goods, and approved by the Carrier's entire board of directors. Please note that the Carrier has limited

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authority to carry Dangerous Goods (only specified Dangerous Goods may be Carried) if so designated as Consignment **with the prior explicit written consent from the Carrier's entire Board of Directors**. The Carrier and the Customer agree that should any claim for damages and/or pollution and/or environmental damages and/or clean-up costs arise consequential to the Carriage of Dangerous Goods, then all such claims will be for the Customer's account. **The Customer further indemnifies the Carrier in respect of any claims, loss, damage or injury arising out of the Carriage of Dangerous Goods, whether or not the Customer was aware of the nature of the Dangerous Goods and whether or not the written consent of the Carrier was obtained. THE CUSTOMER SHALL BE RESPONSIBLE AND LIABLE, WITHOUT LIMITATION, FOR ALL COSTS, FINES, DAMAGES, LOSS OF INCOME AND/OR LEGAL COSTS WHICH THE CARRIER MAY INCUR AS A RESULT OF THE CUSTOMER'S BREACH OF THIS CLAUSE 9, or under the indemnity mentioned above.**

10. **INSPECTION:** The Carrier and its Subcontractors if it has been ordered to do so by the relevant authorities or in terms of a Court Order or if it has reason to believe that the nature and manner of packing or stowage of the Consignment endangers the employees, premises or equipment of the Carrier or its Subcontractors, shall be entitled to unpack and inspect the Consignment, to which the Customer hereby consents.
11. **IDENTIFICATION OF GOODS:** The Customer warrants that the Consignment is, and will at all relevant times remain, compliant with all applicable laws, regulations, and standards, and that the Goods have been accurately and fully identified to the Carrier, lawfully and adequately marked for identification, and correctly labelled in accordance with all applicable requirements. **THE CUSTOMER HEREBY INDEMNIFIES, DEFENDS AND HOLDS HARMLESS THE CARRIER FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, ACTIONS, PROCEEDINGS, LOSSES, DAMAGES, DELAYS, PENALTIES, FINES, COSTS AND EXPENSES (INCLUDING LEGAL COSTS ON AN ATTORNEY-AND-CLIENT SCALE) ARISING DIRECTLY OR INDIRECTLY FROM ANY NON-COMPLIANCE, INACCURACY, MISDESCRIPTION, MISLABELLING OR OMISSION IN RESPECT OF THE WARRANTY GIVEN BY THE CUSTOMER IN THIS CLAUSE.** Also note clause Error! Reference source not found. (Costs & Penalties).
12. **DELIVERY OF CONSIGNMENTS**
- 12.1. The onus of establishing the condition of the Consignment at the time of delivery thereof by the Carrier, shall rest with the Customer.
- 12.2. The Carrier shall, in its sole discretion, be entitled to reasonably delay or expedite the date of dispatch of any Consignment.
- 12.3. If the Carrier is, for any reason, unable to effect delivery or secure warehousing of the Consignment in accordance with the instructions of the Customer, reasonable steps shall be taken to return the Consignment to the Customer. The Customer shall be responsible for the costs of Carriage and warehousing of the attempted delivery and return of the Consignment.
- 12.4. It is the Customer's responsibility to establish the condition of the Consignment upon Delivery, endorsing it in writing specifying any damage or shortcoming. An unendorsed Proof of Delivery of any Consignment shall constitute conclusive proof that the Consignment was delivered intact and undamaged and shall serve as conclusive proof of successful delivery of the Consignment.

13. LIMITATION OF LIABILITY

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- 13.1. The Customer acknowledges that the Carriage of Goods involves inherent risks, including possible loss, damage, injury or delay (collectively referred to as “**Losses**” hereinafter), and voluntarily accepts such risk of Losses.
- 13.2. The Carrier’s liability for any Losses shall be limited to its fee charged for the Carriage.
- 13.3. All goods are carried entirely at the Customer’s sole and exclusive risk. The Customer is solely responsible, at its own cost, for obtaining comprehensive insurance cover, including cover for goods stored in a warehouse (warehouseman’s liability). The Carrier accepts no liability in this regard, unless the Customer has timeously requested such cover in writing from the Carrier in accordance with the terms of this Agreement.
- 13.4. **All claims against the Carrier must be lodged** by the Customer with the Carrier **in writing** within 2 (two) working days of the delivery date of the Consignment (as stipulated on the waybill and/or delivery note). Such a claim notice must specify, in reasonable detail, the legal and factual basis of the claim, Losses sustained and the evidence on which the Customer relies. In the absence of compliance with these requirements, **the Customer’s claim or right to claim shall lapse**, and the Customer acknowledges that it shall have no claims against the CARRIER its staff, employees, contractors, and Subcontractors (collectively referred to as the “**Indemnified Party’s**”) of any nature whatsoever arising out of or in connection with the foregoing, except as required by applicable law and subject to the remaining provisions of this Agreement.
- 13.5. THE INDEMNIFIED PARTY’S SHALL NOT BE LIABLE FOR ANY LOSSES, INDIRECT AND/OR CONSEQUENTIAL (OF ANY NATURE WHATSOEVER) SUFFERED BY THE CUSTOMER OR ANY THIRD PARTY, INCLUDING (WITHOUT LIMITING THE GENERALITY OF THE AFOREGOING) LOSS OF PROFITS, SALES, REVENUE, OPPORTUNITY AND/OR LOSS OF CONTRACTS, EXCEPT IF DIRECTLY CAUSED BY THE CARRIER’S PROVEN GROSS NEGLIGENCE.
- 13.6. The Carrier’s liability shall be subject to a court of competent jurisdiction or arbitrator allocating a proportionate responsibility to the Indemnified Party, having regard to the contribution to the loss or damage in question by the Customer, or any other person based upon relative degrees of fault. It being an express term of the parties’ relationship that the provisions of section 1 of the Apportionment of Damages Act, No. 34 1956 (“**Apportionment of Damages Act**”) will apply to all claims between them, and “fault” and “loss” or “damage” as used herein shall respectively be deemed to fall within the definitions of “fault” and “damage” as contained in section 1 of the Apportionment of Damages Act; and
- 13.7. Any liability of the Carrier under this Clause 13 shall be reduced by any amount recovered by the Customer from its insurer, or recoverable from the Customer’s insurer under a policy of insurance kept by the Customer at the date the claim arises.
- 13.8. THE CUSTOMER HEREBY WAIVES ANY AND ALL OTHER RIGHTS OR REMEDIES WHICH IT MAY HAVE AGAINST THE INDEMNIFIED PARTIES FOR ANY CLAIM, which shall include, amongst others, any delay, damages, loss, expenses or injury sustained by the Customer and/or any third party/subcontractor, howsoever arising, to the fullest extent permitted in law.
14. **FORCE MAJEURE:** The Carrier will not be responsible for delays in deliveries due to events of force majeure or other matters, facts or circumstances beyond its reasonable control, including, but not limited to, acts of God, fire, flood, tornado, earthquake, war, riot, insurrection, strike, lockout, slowdown, epidemic, quarantine restriction, delay in transportation, labour shortage or strikes, materials or manufacturing facility shortage, accidents, boycott, embargo or any act or

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regulation of government or governmental authority and other contingencies beyond the Carrier's control resulting in impossibility or delay of performance of the Carrier.

15. **INTEREST:** Outstanding amounts not paid by the Customer on due date shall bear interest at the rate of 2% above the prime overdraft rate of ABSA Bank, calculated daily on the outstanding balance from the due date to the date of payment.

16. PROTECTION OF PERSONAL INFORMATION

- 16.1. The parties acknowledge that in providing and receiving the services, the parties may process personal information, as defined in the Protection of Personal Information Act 4 of 2013 ("POPI").
- 16.2. The parties specifically record that all personal information received by a party, or to which a party may be exposed, shall constitute Confidential Information, and as such, the parties shall comply with all the provisions of clause 17 below with regard to such personal information.
- 16.3. The parties hereby warrant in favour of each other that they will at all times strictly comply with all applicable data privacy legislation and with all the provisions and requirements of the Carrier's data protection policies and procedures (including encryption standards) in force, from time to time, and any further requirements of which the Carrier may, from time to time, advise the Customer in writing, or which may be required by legislation, regulation or any relevant industry body, whether within the Republic of South Africa or elsewhere in the world.
- 16.4. The parties shall take, implement and maintain all such technical and organisational security procedures and measures necessary or appropriate to preserve the security and confidentiality of personal information processed by it and protect such information against unauthorised or unlawful disclosure, access or processing, accidental loss, destruction or damage.
- 16.5. The Customer shall promptly return or destroy any personal information in the possession or control of the Customer, at the request of and on instruction from the Carrier in accordance with any specific retention, destruction and purging requirements as may be prescribed by the Carrier.
- 16.6. The Customer shall ensure and warrant that it has obtained the necessary written consent for personal information to be processed by the Carrier and also to be transferred or processed outside of the borders of the Republic of South Africa. The Customer shall keep a record of all consents required in terms of this clause.
- 16.7. The parties shall notify each other as soon as possible after a party becomes aware of or suspects any loss, unauthorised access or unlawful use of any personal information and shall, at its own cost, take all necessary remedial steps to mitigate the extent of the loss or compromise of personal information. The parties shall cooperate in any investigation relating to the security of personal information which is carried out by or on behalf of another party.
- 16.8. The Customer warrants that:
- 16.8.1. it has obtained all necessary consents contemplated in this clause 16 as may be required in terms of POPI;
- 16.8.2. **THE CUSTOMER INDEMNIFIES AND HOLDS THE CARRIER HARMLESS AGAINST ANY DAMAGES OR LOSSES OF WHATSOEVER NATURE (INCLUDING PENALTIES AND/OR FINES AND LEGAL COSTS ON THE SCALE OF ATTORNEY AND OWN CLIENT) SUFFERED BY THE CARRIER AS A RESULT OF A BREACH OF ITS/CUSTOMER'S OBLIGATIONS SET OUT IN THESE TERMS.**

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17. CONFIDENTIALITY

- 17.1. The Parties acknowledge and agree that the nature of the relationship between the Parties may require the exchange of confidential information, requiring the exercise of caution, discretion and good faith in the use and dissemination of such confidential information. It is envisaged that the Carrier, on the one hand, and/or the Customer, on the other, shall from time to time disclose and make available to each other certain confidential information (Discloser of information hereinafter referred to as the "Discloser") (Recipient of information hereinafter referred to as the "Recipient"). The Discloser wishes to protect the confidentiality of such confidential information, in order to protect and maintain its property, goodwill, business and proprietary interests. Accordingly, the Parties hereby agree to the protection of the Discloser's confidential information on the terms recorded herein below.
- 17.2. The Recipient hereby warrants, agrees and undertakes to and in favour of the Discloser that as at the date of signature hereof and at all times hereafter:
- 17.2.1. it shall maintain the Confidential Information as confidential and shall not (whether directly or indirectly) disclose or divulge the Confidential Information in any form whatsoever to any person or entity other than as provided for in clause 17.2.4 hereunder or with the express written permission of the Chief Executive Officer of the Discloser;
- 17.2.2. it shall not (directly or indirectly) use, exploit, permit the use of or in any other manner whatsoever apply the Confidential Information disclosed to it pursuant to the provisions of this Agreement for any purpose whatsoever other than for the purpose for which it was disclosed and then in accordance with the provisions of this Agreement and shall process same strictly in accordance with the Protection of Personal Information Act 4 of 2013;
- 17.2.3. it shall not (directly or indirectly) sell, licence, manufacture or otherwise deal in or use, whether for its own account or that of any other party's account, any of the Confidential Information without the express written consent of the Chief Executive Officer of the Discloser;
- 17.2.4. it shall not disclose any of the Confidential Information to any of its agents and/or employees unless the disclosure is strictly necessary and/or required to comply with any business transaction between the Parties. The Recipient warrants and undertakes to and in favour of the Discloser that it will inform its agents and/or employees of the terms and effect of this Agreement.
- 17.2.5. it will take all such steps as may reasonably be necessary and/or required by the Discloser to protect against unauthorised reproduction of the Confidential Information;
- 17.2.6. it acknowledges and agrees that the Confidential Information is the exclusive property of the Discloser and its unauthorised use or disclosure can irreparably harm the Discloser. The Recipient consents never to challenge the validity of the Discloser's ownership in the Confidential Information or in any of its intellectual property rights in relation thereto.
- 17.3. The Recipient acknowledges that the Discloser will suffer financial harm and loss if the Recipient breaches any provisions of this Agreement.
- 17.4. Should it be decided not to enter into any business transaction and/or should negotiations be terminated and/or within 14 (fourteen) days after receipt of a written request from the Discloser, the Recipient shall:
- 17.4.1. return to the Discloser all Confidential Information disclosed and all copies and extracts

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thereof, including all Confidential Information held in any form of information storage system (including, but not limited to, any computer based system), and if and to the extent that the information is incapable of being returned, irretrievably destroy all such Confidential Information and all copies and extracts thereof;

17.4.2. destroy all reports, analysis, studies, notes or other documents of any nature, whether written, electronic or otherwise, that incorporates all or part of any Confidential Information; and

17.4.3. provide the Discloser, after receipt of a written request to this effect, with a certificate from one of the Recipient's authorised officers confirming that all Confidential Information held by the Recipient (and its agents and employees) has been returned to the Discloser or destroyed as contemplated above.

17.5. The Recipient shall be entitled to disclose Confidential Information which:

17.5.1. is at the time of disclosure to the Recipient lawfully and without breach of any confidentiality obligations within the public domain or already within the possession of the receiving party or it has been independently developed by the Recipient; or

17.5.2. it is legally obliged to produce pursuant to a court order or statute, provided that the onus shall at all times rest on the Recipient to establish that such information falls within the exceptions above and provided further that the Recipient will provide the Discloser with prompt notice of its intention to disclose the information (and the content of the information that it seeks to disclose) in order that the Discloser may either seek appropriate protective relief or waive the Recipient's compliance with the provisions of this Agreement with respect to all or part of such information.

17.6. **DISPUTES:** Any dispute, apart from payment of the Carrier's charges or fees, must be dealt with in accordance with this clause. In the event of a dispute between the parties hereto, each party will first use their reasonable efforts to attempt to resolve the dispute in good faith through negotiations conducted between the respective management teams within 5 (five) working days from either party calling for such dispute resolution in terms of this clause. If no such meeting is held within 5 (five) working days from it being called, or the parties management teams are unable to resolve the dispute within 7 (seven) working days from when it was called, either party may then resort to alternate dispute resolution by first attempting mediation, by the appointment of an independent mediation expert, and if unsuccessful within 7 (seven) working days from when it was called, then the parties or one of them may call for an arbitration. The arbitrator shall be, if the matter in dispute is principally:

17.6.1. a legal matter, a practising advocate or attorney of South Africa of at least 10 (ten) years' standing;

17.6.2. an accounting matter, a practicing chartered accountant of South Africa of at least 10 (ten) years' standing;

17.6.3. any other matter, any independent and suitably qualified person, agreed upon between the Parties to the dispute. If the Parties are not able to agree upon the arbitrator within 2 (two) days of the dispute being submitted to arbitration, the arbitrator shall be appointed by the Arbitration Foundation of Southern Africa NPC, or its successor in title. The decision of the arbitrator shall be binding on the Parties. Any Party shall be entitled to appeal to a court of competent jurisdiction to have the decision of the arbitrator set aside

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within 10 (ten) working days from his award. Unless otherwise agreed in writing by all the Parties, any such negotiation or arbitration shall be held in Cape Town, South Africa. Nothing herein will prevent the Carrier from approaching the Courts for any relief.

18. **PUBLIC CARRIER:** It is recorded that the Carrier is not a common or public carrier.
19. **MONTREAL CONVENTION:** When Carriage is tendered for international destinations, the provisions of and law relating to the Montreal Convention apply.
20. **LIEN:**
- 20.1. The Carrier shall have a general and special lien (i.e. a security right of retention) over the Consignment and goods (regardless of whether the Customer is the owner thereof), documentation (including bills of lading and import permits), and monies recovered on behalf of the Customer (collectively, "**the Lien Items**"), for the due and proper fulfilment of the Customer's obligations in terms of these Terms, whether present or future. The subcontracting by the Carrier of any portion of an Order shall not affect the validity of the lien over the Lien Items. The Carrier shall, in any instance, have the right without liability to the Customer to, without notice to the Customer:
- 20.1.1. to open and examine any part of such goods; and
- 20.1.2. at its option, to sell, either by public auction or private treaty, and at its entire discretion, the whole or any part of the goods; and
- 20.1.3. to apply the proceeds of any such sale, after deducting all expenses attendant thereupon, in payment of or towards any sum due by the Customer to the Carrier; and
- 20.2. The exercise by the Carrier of any of the rights accorded to it by this clause shall be without prejudice to any other rights it may have under this Agreement or at common law in respect of the non-payment by the Customer of the Carrier's fees and charges.
21. **DOMICILIUM:** The Customer chooses its/his/their domicilium citandi et executandi at the business address as set out on page 1 of the credit application form.
22. **RELAXATION:**
- 22.1. No relaxation or indulgence of these Terms shall in any way prejudice the Carrier's rights, nor shall they be deemed to be a waiver of any of the Carrier's rights in terms of these Terms and no variation, waiver, indulgence and/or relaxation of these Terms shall be binding upon the Carrier.
- 22.2. These Terms do not alter the Customer's statutory rights, in respect of the Consumer Protection Act, 68 of 2008 (as amended) and the National Credit Act, 34 of 2005 (as amended), each to the extent applicable, and insofar as any provision of these Terms is found by a court to contravene the provisions of any applicable law, the offending provision shall be deemed to be amended and/or altered and/or severed to conform with the applicable law, and such amendment and/or alteration shall not in any way affect the remaining provisions of these Terms.
23. **AMENDMENTS:** No addition to or variation, consensual cancellation or novation of these conditions and no waiver of any right arising from these conditions or its breach or termination will be of any force or effect unless reduced to writing and signed by both Parties by hand (not digitally). For purposes of this clause 23 "writing" will exclude any written document that is in the form, either wholly or partially, of a data message as defined in the Electronic Communications and Transactions Act. 25 of 2002, as amended and/or replaced from time to time and "signed"

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will mean a signature executed by hand with a pen without any electronic process or intervention.

24. **CONSUMER PROTECTION ACT:** If the Customer is classified as a Consumer under the Consumer Protection Act, 68 of 2008 ("**the Act**")—that is, any person or legal entity not explicitly excluded from the Act's scope—and the transaction takes place or goods and services are supplied within South Africa, then the Act will apply. In such cases (if the Act applies), these Terms will be overridden by the Act, and all Terms will be subject to the Act. If any provision in these Terms conflicts with the Act, such provision will be deemed to have never been included in the agreement.
25. **ENFORCEABILITY:** If any provision of these conditions is declared by a competent Court to be unenforceable, illegal, void or contrary to public policy, such declaration will have no effect on the binding force or validity of the remaining provisions. It is the intention and declaration of the parties that, had they known of such unenforceability, illegality, invalidity, or that the provision was contrary to public policy, they would still have entered into these conditions, including all other remaining provisions.
26. **WHOLE AGREEMENT:** These conditions, the credit application, the waybill and the delivery note constitute the whole agreement between the parties as to the subject matter hereof and no agreements, representations or warranties between the parties regarding the subject matter, other than those set out herein, will be binding on them. These conditions, the credit application, the waybill and the delivery note may be executed in several counterparts, each of which shall together constitute one and the same instrument. In the event of a conflict between the credit application, the waybill and the delivery note and these conditions, the provisions of these Terms will prevail.
27. **SEVERABILITY:** Each of the undertakings set out in these Terms shall be deemed to be a separate and independent undertaking severable from each of the other undertakings and shall be separately enforceable, notwithstanding that it may appear with any other undertaking or is expressed conjunctively with or disjunctively from or alternatively to any other undertaking.
28. **COSTS: THE CUSTOMER SHALL BE LIABLE** for all costs incurred by the Carrier in the recovery of any amount or the enforcements of any rights which it has hereunder, including collection charges and costs on an attorney and own client scale and costs of counsels as on brief (whether incurred prior to or during the institution of legal proceedings), or if judgement has been granted in connection with the satisfaction or enforcement of such judgements.
29. **LAW AND JURISDICTION:** These Terms shall be governed by and construed in accordance with the laws of the Republic of South Africa. The Parties agree to the non-exclusive jurisdiction of the Western Cape High Court. The Parties further agree that the conclusion of these Terms occurs in Brackenfell, Cape Town, Western Cape, South Africa, by virtue of the Carrier's acceptance of the Customer's offer to do business contained in its signed credit application, incorporating these Terms.

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