

ANNEXURE "B"

STANDARD CONDITIONS OF CARRIAGE OF GOODS BY ROAD

In these Standard Conditions of Carriage of Goods by Road the following words shall bear the meanings assigned to them below: -

- 1.1 "the Agreement" – means, for the purpose of the carriage services to be provided to the Customer at its request, the agreement between the parties as contained in this document and the quotation.
- 1.2 Carrier will mean either JFM and/or the Carrier appointed by JFM to perform the carriage services.
- 1.3 carriage services will mean the carrying and delivery of a consignment by vehicle delivery service and will be deemed to include the collection of the consignment from the collection point, the carriage of the consignment via the route and the delivery of the consignment to the consignee by the Carrier;
- 1.4 Consignment will mean the goods belonging to the Customers and in respect of which the Carrier agrees to perform a carriage service.
- 1.5 Consignee will mean the person identified, by the Customer, at the address at which the consignment is to be delivered by the Carrier.
- 1.6 Consignor will mean the person identified by the Customer at the address at which the consignment is to be collected by the Carrier.
- 1.7 Customer will mean.....with its address situated at
- 1.8 date of signature will mean the last date on which this agreement is signed by both parties;
- 1.9 day (s) for the purpose of this agreement will mean business days and excludes Saturdays, Sundays and public holidays and any calculation of days for the purpose of this agreement will exclude the date on which the notice is delivered;
- 1.10 delivery date will mean the date on which the consignment is to be delivered by the Carrier on the Consignee;
- 1.11 Goods in transit insurance policy will mean the goods in transit insurance policy which covers loss or damage to the consignment in or on the Carrier's vehicle in certain defined circumstances to a maximum limit of R2 000 000.00 (two million Rand) per load.
- 1.12 notice for the purpose of this agreement will mean a written notice addressed from one party to the other and either delivered by hand at the chosen *domicillium* address of the addressee or sent by email to the email address of the addressee;
- 1.13 route will mean the route which has been identified by JFM as the route which the Carrier is required to make use of when performing the carriage services;
- 1.14 quotation will mean the quotation provided by the JFM to the Customer for the carriage services and accepted by the Customer

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1.15 JFM will mean JFM Logistics (PTY) Ltd , registration nu “the Consignor” – means the person from whom or in the event that no name being given by the Customer, the address, from which the Goods are to be collected;

2. CARRIAGE SERVICES SUBJECT TO CONDITIONS OF CARRIAGE

2.1 JFM undertakes to transport the consignment on behalf of the Customer in terms of the provisions of this agreement and at the rates stipulated in the quotation.

2.2 The terms and conditions contained herein shall, in addition to the specific terms included in any quotation or contract, determine the basis of the contractual relationship between the parties. In so far as any condition contained herein is inconsistent with an express term of any quotation and/or contract the latter shall prevail.

2.3 JFM hereby agrees to accept the consignment and to provide the Customer with a carriage service subject to the terms and conditions of this agreement and the parties agree that no variation of the terms and conditions will be of any force or effect unless reduced to writing and signed by all the parties to the agreement.

3 LIMITATION OF LIABILITY

3.1 The carriage services are performed by the Carrier at the exclusive risk of the owner of such goods.

3.2 JFM is not responsible for any loss and/or damages, including consequential damages, which the owner may suffer as a result of the performance of the carriage service by the Carrier in terms of this agreement.

3.3 It is recorded that JFM has access to a goods in transit insurance policy and, that the cover provided by this policy does not make provision for any and all loss which may occur subsequent to the unloading of the consignment at which time the risk will pass to the consignee and/or to the owner and/or to the Customer as the case maybe.

3.4 Subject to the terms and conditions contained in this agreement, the liability of the Carrier in respect of any loss or damage to the consignment, notwithstanding, the manner and/or circumstances in which such loss may have arisen, will be deemed to include the access amount payable by the Carrier and will under no circumstances exceed the actual amount paid by the insurers in terms of the aforesaid goods in transit policy in the event of loss or damage to the consignment and will include the amount .

3.5 Under no circumstances will the Carrier be liable for any consequential, indirect, special, punitive or incidental damages, whether foreseeable or unforeseeable; even if the loss or damage arises out of negligence on the part of the Carrier, its employees, agents or sub-contractors (which are in a vicarious relationship with such Party), regardless of form or cause of action; whether in contract or delict or for restitution; whether based on this agreement, any commitment performed or undertaken under or in connection with this agreement, or otherwise.

3.6 The Customer hereby agrees and acknowledges that it is required to obtain any additional insurance coverage for all damages, which it may suffer at its own cost.

3.7 The stipulations are made by the parties for the benefits of the Carrier and of any person for whose acts the Carrier is/are in law liable and any person who may perform any of the Carrier’s obligations hereunder who shall be entitled, at any time

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before judgment may be given against them, to accept the benefit of the said stipulations.

3.8 Notwithstanding anything to the contrary herein contained;

3.8.1 The Customer shall immediately advise the JFM of any loss or damage of the goods or part thereof and then confirm it in writing by filing a claim within 7 (seven) days after delivery of the goods. Claims not finalized within one year shall become null and void;

3.8.2 The Carrier will not be responsible for shortages, damage of inner contents of packages or within bundles or damage to seals;

3.8.3 The quantum (value) of a claim shall be determined and limited to the cost price thereof;

3.8.4 The Carrier shall not be responsible for shortages of items, unless otherwise agreed in writing.

3.9 The Customer hereby agrees and acknowledges that in the event of any claim for damages and/or pollution and/or environmental damages and/or clean-up costs arising from the carriage of a hazardous and/or dangerous consignment, then and in such an event, the Customer will be liable for such claim which will be for the Customer's account.

4 TARIFFS AND QUOTATIONS

4.1 The Customer hereby agrees and undertakes to pay to JFM the amount provided for in the Quotation by JFM as consideration for the carriage services performed by the Carrier in respect of the consignment.

4.2 Unless the Customer when, accepting the quotation from JFM, makes its acceptance of the quotation subject to specific written terms and conditions, the carriage services will be performed in accordance with the terms and conditions of this agreement and JFM's tariff of charges prevailing from time to time.

4.3 Quotations shall only be valid against and binding upon JFM if accepted by the Customer in writing within 7 days of the date thereof, failing which JFM will be at liberty to withdraw, vary or revise any quotation.

4.4 JFM hereby reserves the right to revise any quotation after acceptance by the Customer, where such quotation includes charges applicable to the consignment and a change occurs in the rates of such charges.

4.5 JFM will, in addition to the right to revise its quotation as provided for in clause 4.4 above, be entitled to vary or revise any quotation in the following circumstances:

4.5.1 In the event of the Carrier being obliged and/or required by any law and/or regulation and/or municipal by-law and/or policy of procedure of any local/provincial/national authority to obtain any licenses or permits, or to comply with the requirements of any lawful authority; and/or,

4.5.2 In the event of the Customer and/or any third party increasing the consignment or changing the consignment;

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4.5.3 In the event of the Carrier being obliged to deviate from the route selected by JFM, or to carry the consignment over another route, as a result of adverse weather conditions, impassable or dangerous roads and bridges.

5 ROUTES AND PROCEDURE

JFM will be entitled in its sole discretion, to determine the means, procedures and routes to be followed in performing the carriage of any consignment

6 PAYMENT OF COMPANY'S REMUNERATION

6.1 Unless otherwise agreed between the parties in writing all amounts payable by the Customer to JFM shall be paid within 30 (thirty) days of date of the JFM's invoice

6.2 The Customer hereby agrees and undertakes to pay any and all amounts payable to JFM in terms of this agreement without deduction or set-off, by way of electronic transfer to the following bank account:

BANK
ACCOUNT HOLDER
ACCOUNT NUMBER
BRANCH CODE

6.3 In the event that any amount owing by the Customer is unpaid on due date then all other amounts owing by the Customer to JFM whether due and payable or not, shall immediately become due and payable by the Customer as aforesaid.

6.4 A certificate by any director of JFM, whose appointment or authority need not be proved, shall be due and sufficient proof of the amount of the Customer's indebtedness to JFM for the purposes of obtaining summary judgment or provisional sentence.

6.5 The Customer shall not be entitled to withhold payment of any amount due in terms hereof by virtue of any claim the Customer may have for compensation for loss or damage to Goods, animals or other property, or for any reason whatsoever.

7 JFM'S LIEN OVER THE CONSIGNMENT

7.1 The Customer hereby agrees and acknowledges that JFM will have a lien over all consignments and documentation for monies due to JFM in respect of the carriage services rendered by the Carrier relating to the carriage of the consignment.

7.2 The Customer furthermore agrees and acknowledges that in the event of it failing to pay any or all of the monies due by it to JFM as agreed between the parties, JFM will have the right without notices to the Customer:

7.2.1 to open and examine any part of the consignment; and

7.2.2 at its option, to sell, either by public auction or private treaty, and in its sole discretion, the whole or any part of the consignment; and

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- 7.2.3 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 JFM.
- 7.3 The exercise by the Company 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 remuneration due by it to JFM in terms of the parties' agreement.

8 TIME OF DELIVERY

The Carrier will not be liable for any delay or detention of the consignment and/or for any loss, damage or deterioration therein, unless the Customer has, at the time of accepting the quotation, advised JFM in writing that the date and time for delivery of the consignment is of the essence of the agreement.

9 LIMITATION OF LIABILITY

- 9.1 The Customer hereby agrees and acknowledges that it is required to, in writing, properly and accurately furnish JFM with the name and addresses of the consignor and the consignee and all documents which are legally required to accompany the consignment or such documents as JFM may require in order to perform the carriage service.
- 9.2 The Customer hereby acknowledges and accepts that JFM will not be responsible nor incur any liability for any loss or incorrect delivery of the consignment due to the name and address of the consignor and/or the consignee being improperly stated and in the absence of wilful default of the Carrier will 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 the representative appointed by it and as advised by the Customer to JFM in writing, not being present to receive and accept delivery of the consignment. .
- 9.3 The Customer further acknowledges and accepts that in the event of the Carrier being compelled to return the consignment to the consignor as a result of,
- 9.3.1 the consignee refusing to accept delivery of the consignment in whole or in part;
or,
- 9.3.2 in the event of the Carrier being unable to effect delivery by reason of the address of the consignee (as provided by the Customer to JFM) being improperly or inaccurately stated
- it, the Customer, will be liable for all costs incurred in the return of the consignment whether on the same basis as originally agreed upon or any other basis whatsoever.
- 9.4 The Company hereby agrees and acknowledges that in the event that the Carrier is not able to deliver the consignment to the consignee for the reason referred to in clause 9.3.1 and 9.3.2 above, and is compelled to dispose of the consignment due to its perishable nature or for whatsoever other reason, the Carrier shall not be liable for any damage to or loss of such consignment 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 connection with the disposal of such consignment.

10 GENERAL INDEMNITY

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The Customer hereby indemnifies the Carrier against all claims made by third parties against the Carrier and against all liability incurred by the Carrier to any third party in respect of any loss or damage to the consignment from whatsoever cause, and includes without limiting the generality of the foregoing, all direct, indirect and/or consequential damages suffered by such third parties.

11. CUSTOMER TO ESTABLISH QUANTITY AND CONDITION OF CONSIGNMENT

- 11.1 The Customer hereby agrees and acknowledges that the Carrier is under no obligation and has no legal duty placed on it in terms of this agreement to establish the quantity or condition of the consignment at any time whatsoever.
- 11.2 The Customer acknowledges that the obligation and legal duty of establishing the quantity and condition of the consignment at the time of loading is that of the consignor and that of the consignee at the time of delivery by the Carrier unless otherwise agreed to in writing between the Customer and JFM.
- 11.3 The Customer hereby agrees and acknowledges that the Carrier has the right to weigh the load after it has been loaded to ascertain the mass of the load and, in the event of the mass being more than indicated by the Customer or consignor, JFM will be entitled to increase it's quotation accordingly in order to make provision for the additional mass.

12. ADEQUACY OF MEANS OF ACCESS AND LOADING FACILITIES

- 12.1 The Customer hereby undertakes to ensure that the Carrier be granted access to the loading site of the consignor prior to the loading of the consignment and to the site of the consignee for the delivery of the consignment
- 12.2 It is hereby agreed between the parties that in the event of the Customer failing to ensure the Carrier access as undertaken in clause 12.1 above, JFM will at its discretion and election, be entitled to either cancel this agreement without further notice to the customer alternatively, to continue with the agreement notwithstanding, the breach by the Customer.
- 12.3 In the event that JFM elects to cancel the agreement without further notice to the Customer then, and in such an event, the Carrier will not be liable to the Customer, consignor and/or consignee for any loss or damage suffered as a result of such cancellation and JFM will be entitled to claim such damages as it may have suffered as a result of the Customer's breach.
- 12.4 In the event that JFM electing to continue with the agreement notwithstanding, the breach by the Customer, the Carrier will have the right to use such additional tackle, plant, power equipment or labour as the Carrier may in its sole and absolute discretion deem fit in order to load or unload the consignment in which event the Customer will be liable for any and all reasonable expenses incurred by the Carrier which expenses may include but not be limited to cost of hiring equipment.
- 12.5 The Customer hereby agrees and acknowledges that in the event of the Carrier being required to make use of additional tackle, plant, power equipment or labour in order to load or unload the consignment, the Carrier will not be liable to the Customer, consignee and/or consignor for any damage to the consignment arising due to the

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use of any such additional tackle, plant, power equipment or labour and the Customer hereby indemnifies the Carrier against any loss or damage caused due to injury of the employees or property of the Carrier or any third person by reason of any defect in such tackle, plant, power equipment or the negligence of such labour.

12.6 The Customer hereby agrees and acknowledges that the Carrier shall not be liable for any damage to consignment when it is compelled to unload the consignment by order of a court and/or local/provincial/national authority.

13 OBLIGATIONS OF CUSTOMER

13.1 The Customer hereby agrees and undertakes to ensure that all applicable legislation and regulations of all countries and jurisdictions relating to the possession, transfer and transportation of the consignment have been complied with, which shall include, without limiting the generality of the afore going, the payment of all taxes (including customs and excise and value added tax) and the obtaining all necessary and required permits relating to the nature, type and mass of the consignment.

13.2 The Customer hereby indemnifies the Carrier against any and all damages, losses, charges, liabilities, costs (including legal costs) or proceedings of any cause whatsoever which the Carrier may suffer or incur as a result, whether directly or indirectly, of the Customer's failure to comply with it's obligations in terms of clause 12.1 above.

13.3 The Customer hereby specifically undertakes to pay a standing fee as stipulated by the Road Freight Association per day and per hour, or any part thereof, in the event that a vehicle of the Carrier is delayed or attached due to the Customer's failure to comply with it's obligations in terms of this clause.

14. JURISDICTION

This parties hereby agree that this agreement shall in all respects be governed by and interpreted in accordance with the laws of the Republic of South Africa. The parties consent to the jurisdiction of South African courts in respect of any dispute or action that may arise from this agreement

15 ATTORNEY AND OWN CLIENT COSTS AND COLLECTION COMMISSION

The Customer hereby agrees that in the event of JFM instructing its attorney to recover monies from the Customer, the Customer shall be liable for and shall pay all legal costs incurred by JFM on an attorney and own client scale, inclusive of collection commission.

16. DOMICILIUM CITANDI ET EXECUTANDI:

16.1 The Parties each choose as their domicilium citandi et executandi for purposes of delivery of any notice, the service of any process and for any other purposes in terms of this Agreement, the following address:

- 16.1.1 JFM :
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Email address:

16.1.2 Customer :
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.....
.....

Email address:

16.2 The Parties hereby agree that any notice, document or process hand delivered or posted by way of registered post to the other party at the above address, shall, subject to the provisions of clause 16.3, 16.4 and 16.5 herein below, be considered as proper delivery and/or service.

16.3 Any notice provided in terms of this agreement, delivered by hand will be deemed to have been duly delivered and received by the addressee on the date of delivery by hand provided that such hand delivery takes place between 08:00 and 16:30 on a Monday to Friday which is not a public holiday.

16.4 A notice provided in terms of this agreement sent by way of registered post will be deemed to have been duly delivered and received by the addressee on the 7th (seventh) Day after posting unless, the contrary is proved.

16.5 A notice provided in terms of this agreement sent by way of email to the addressee will be deemed to have been duly received by the addressee provided, that the notice is emailed to the addressee between 08:00 and 16:30 on a Monday to Friday which is not a public holiday unless, the contrary is proved.

16.6 The Parties acknowledge that either of them may change their domicilium citandi et executandi as set out in 13.1 above provided, that such change shall only be recognized by the other Party in the event that the notice of the change of address is given in writing by the Party concerned and delivered by hand or sent by registered mail to the Party in terms of the provisions of this clause and the address appearing from such notice is a physical address in the Republic of South Africa and not a post box.

17. FORCE MAJEURE

The parties hereby agree that the performance by the Carrier of the carriage services in terms of this agreement will be held in abeyance for as long, as and to the extent that, it the Carrier unable to perform the carriage services due to any cause beyond its control, which shall include, without limitation, an act of God, State of war (whether declared or not) sabotage, fire, explosion, drought, flood, road conditions, epidemic, civil commotion, riot, strike, lock-out, government interference or control.

18. GENERAL

18.1 The parties hereby acknowledge that the agreement concluded between them constitutes the entire agreement between them and that no other conditions,

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stipulations, warranties nor representations whatsoever, have been made by any party or that party's agent, other than as specifically included herein.

- 18.2 No latitude, extension of time or other indulgence which may be given or allowed by either party to the other in respect of any payment provided for in this agreement or the performance of any other obligation shall under any circumstances be construed to be an implied consent by such party or operate as a waiver or a novation of or otherwise affect any of that party's rights in terms of or arising from this Agreement, or prevent such party from importing, at any time and without notice, strict and punctual compliance with each and every provision or term hereof.
- 18.3 The parties agree that no variation of, addition to, consensual cancellation or novation of this agreement in its entirety or of any term or condition thereof shall be of any force or effect, unless such amendment or cancellation is reduced to writing and signed by all the parties or their authorized representatives hereto.