



STANDARD TERMS AND CONDITIONS OF TRADE

1. INTRODUCTION

- 1.1. This document contains the terms and conditions of trade (“**the Terms**”) between yourself (“**the Customer**”) and Courierit SA Proprietary Limited (Registration Number 1998/010351/07) (“**Courierit**”), Remailit Proprietary Limited (Registration Number 2009/018279/07) (“**Remailit**”), Warehouseit Proprietary Limited (Registration Number 2005/020062/07) (“**Warehouseit**”) and Freightit Proprietary Limited (Registration Number 2000/023043/23) (“**Freightit**”), as the case may be and (together, “**the Companies**” and “**Company**” shall refer to any of them as the context may indicate).
- 1.2. To the extent applicable:
 - 1.2.1. **Part A** will be applicable between the Customer and each of the Companies, as the case may be;
 - 1.2.2. **Part B** will only be applicable between the Customer and Courierit;
 - 1.2.3. **Part C** will only be applicable between the Customer and Remailit;
 - 1.2.4. **Part D** will only be applicable between the Customer and Warehouseit; and
 - 1.2.5. **Part E** will only be applicable between the Customer and Freightit.
- 1.3. For the avoidance of doubt, these Terms are intended to govern:
 - 1.3.1. the service relationship between the Customer and any one or more of the Companies, as the case may be; and
 - 1.3.2. the deferred payment relationship between the Customer and any one or more of the Companies following the approval by a Company of the deferred payment application to which these Terms are attached. Should the deferred payment application be successful following an assessment of the creditworthiness of the Customer, the Company may, in its sole discretion, assign to the Customer the maximum deferred payment line applied for in the deferred payment application and shall have the right to increase, decrease, or terminate the Customer’s deferred payment privileges upon prior written notice to the Customer, or as otherwise provided by law. The Company may with the prior written consent of the



Customer, from time to time disclose the deferred payment information relative to the Customer to third parties for informational purposes only. The Company will require, as a condition to the extension or continuation of deferred payment privileges to the Customer, the execution of the cessions and suretyships contemplated in paragraphs 17 and 18 below (or such other instrument as the Company in its sole discretion may deem necessary), to guarantee the Customer's deferred payment obligations to the Company as governed by these Terms.

- 1.4. The Customer certifies that the information furnished in terms of the deferred payment application is true and correct and that this information is being furnished to the Company for the purpose of inducing the Company to extend credit to the Customer, and understands that the Company intends to rely upon such information as correct.
- 1.5. The Customer is obliged to disclose to the Companies simultaneously herewith if the National Credit Act 34 of 2005 applies to it, and/or shall be obliged to disclose to the Companies should the National Credit Act 34 of 2005 become applicable to it. Upon receiving notification as aforementioned from the Customer, the Companies shall be entitled (but not obliged) to terminate the deferred payment privileges of the Customer and all amounts owed by the Customer to the Companies shall be immediately due and payable, irrespective of whether such amounts may be due. The Customer agrees that failure by it to make the disclosure set out herein (timeously or at all) shall render its shareholders and directors personally liable for the debts of the Customer.

PART A: GENERAL TERMS

2. LIMITATION ON THE COMPANIES' LIABILITIES AND RESPONSIBILITIES

- 2.1. For the specific limitations on the liabilities and responsibilities for each of the Companies, please refer to Parts B to E of these Terms.
- 2.2. **THE COMPANY SHALL NOT BE LIABLE** for any loss or damage to the goods carried and/or warehoused (as the case may be) with the Company ("**Consignment(s)**"). Where Customers make a claim and the Company chooses to accept liability as limited herein, then, despite such acceptance, no claim shall vest against the Company unless the Customer makes a claim in writing within 7 (seven) days after delivery of the Consignment to the intended receiver. Further to the above:



- 2.2.1. the Company shall not be liable for any indirect or consequential loss or damage (of any nature whatsoever) to any Consignment, including (without limiting the generality of the foregoing) loss of profits, loss of sales, loss of revenue, loss of opportunity or loss of contracts howsoever caused;
 - 2.2.2. the Company shall have no responsibility or liability to the Customer for any act or omission of any other carriers, providers of warehousing facilities, sub-contractors, handlers and any other parties (each, an “**Independent Service Provider**”) utilised by the Company to conduct services on behalf of the Company in order to discharge its obligations towards the Customer, despite the fact that the Company may be responsible for the payment for such Independent Service Provider’s charges. The Company however reserves the right, at its sole discretion, to take action on behalf of the Customer should the Independent Service Provider fail to carry out its duties suitably; and
 - 2.2.3. the Company’s liability shall be limited at all times to the value of the carriage or warehoused goods.
- 2.3. Every exemption, limitation or condition contained in these Terms and every right, indemnity, exemption from liability, defense and immunity hereunder shall also be available and shall **EXTEND TO PROTECT ALL INDEPENDENT SERVICE PROVIDERS**. Without prejudice to the foregoing, the Company will, or shall be deemed to, be acting as agent or trustee on behalf of each Independent Service Provider and shall to this extent, be or be deemed to be a party to these Terms.
- 2.4. With reference to clause 7 below and subject to any applicable law, despite the fact that the Company may purport or attempt to act on any instructions, **NO LIABILITY SHALL ATTACH TO ANY OF THE COMPANIES** for failure, whether through its negligent and/or grossly negligent act, omission or otherwise, to perform such instructions.
- 2.5. If it is necessary for an examination to be conducted by the Company in respect of any discrepancy in the Consignment which has landed from any vessel, aircraft, vehicle or container, no responsibility shall attach to the Company for any failure, whether through its negligent and/or grossly negligent act, omission or otherwise, to make such examination or take any other action. The responsibility for the Consignment and responsibility to comply with any regulations, laws, security and/or any other obligations pertaining to the



Consignment remains that of the Customer, despite the contractual relationship between the Company and the Customer.

- 2.6. Subject to clause 3.2 below, **THE COMPANY SHALL NOT BE LIABLE** for any loss, damage, deterioration, mis-delivery, failure to deliver or delay in delivery of any Consignment, whether or not such loss, damage or deterioration occurred due to the carriage or warehousing of such Consignment by the Company, the Independent Service Providers or otherwise.
- 2.7. The packaging (including the placing of the Consignment into any container supplied to the Customer by the Company) of the Consignment is the sole responsibility of the Customer.
- 2.8. It is the sole responsibility of the Customer to adequately address each Consignment to enable the effective delivery or warehousing thereof by the Company. Where the Customer has provided an incorrect address, the Company shall not be liable for any loss (including pure economic loss or loss of profit) suffered by the Customer where a Consignment has been delivered to that incorrect address.
- 2.9. It is expressly agreed that should the Company be found by a competent court to be liable to the Customer for loss suffered by that **CUSTOMER THE MAXIMUM LIABILITY TO BE BORNE BY THE CUSTOMER SHALL BE THE LESSER OF TWO FIGURES**, produced by the operation of the following two paragraphs, -
 - 2.9.1. subject to the terms hereof, the Company's liability in respect of fault shall be limited in total to the total amount of fees charged by the Company to the Customer pursuant to the provisions hereof in the month during which the claim(s) arise, to cover claims of any sort whatsoever (including interest and costs) arising in such monthly period out of or in connection thereof; and
 - 2.9.2. subject to the terms hereof, the Company's liability shall be limited to that proportion of the loss or damage (including interest and costs) suffered by the Customer, which is ascribed to us by a court of competent jurisdiction or arbitrator allocating a proportionate responsibility to the Company 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, 1956 will apply to all claims between them and "fault" and "loss of



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, 1956.

- 2.10. **IN ADDITION TO THE ABOVE, THE CUSTOMER HEREBY WAIVES ANY CLAIM** of whatsoever nature (including damages, loss, interest, costs, expenses or otherwise (not limited *ejusdem generis*)), howsoever arising whether in contract or in delict or otherwise (not limited *ejusdem generis*) which the Customer may have against the Company beyond the amount actually recovered by it under any public and/or indemnity insurance policy. Whilst the Company will make every effort to ensure that public and/or professional indemnity insurance is in place, it gives no undertaking that there will be any such indemnity insurance in place to cover such claim or that if there is such indemnity insurance in place that it will be sufficient to cover the Customer’s claim/s.

3. **LOSS OR DAMAGE TO CONSIGNMENTS**

- 3.1. For the specific limitations on the loss or damage to Consignments (including insurance obligations) for each of the Companies, please refer to Parts B to E of these Terms.
- 3.2. **NO RESPONSIBILITY OR LIABILITY WHATSOEVER SHALL ATTACH TO THE COMPANY** and/or any Independent Service Providers and/or its employees for any loss or damage to a Consignment unless such loss or damage:
- 3.2.1. occurs whilst the Consignment is in actual care of the Company; and
 - 3.2.2. is due to the intentional and wilful act or omission of the Company and/or its employees.
- 3.3. **THE COMPANY SHALL UNDER NO CIRCUMSTANCES BE LIABLE** for any loss or damage whatsoever incurred or caused:
- 3.3.1. through the Consignment being tendered for carriage, or for warehousing with inadequate packaging; or
 - 3.3.2. by the perishable, fragile or brittle nature of the Consignment; or
 - 3.3.3. subject to any applicable law, due to the negligent and/or grossly negligent acts or omissions of the Company and/or its employees.



- 3.4. Despite anything to the contrary contained or implied in this clause 3 (and with specific reference to clause 14 below), **THE COMPANY SHALL NOT ACCEPT LIABILITY** for the handling or warehousing of any bullion, electronic goods and/or component parts thereof (inclusive of (without limiting the aforementioned) cellular telephones, batteries, power sources, generators, servers, hard drives, tablets and/or personal computers), coins, precious stones, jewellery, valuables, antiques, pictures or paintings, bank notes, securities and/or other valuable documents or articles unless the Company expressly agrees in writing prior to the Consignment being tendered to accept liability for the handling of the items listed in this clause 3.4.
- 3.5. If the Company is for any reason unable to effect delivery or secure warehousing of the Consignment, reasonable steps shall be taken to return the Consignment to the Customer. The Customer shall be responsible for the costs of carriage and warehousing, attempted delivery and return of the Consignment.

4. **NO PARTNERSHIP**

Save as otherwise expressly provided in these Terms, the Companies shall at all times act as independent contractors, and nothing in these Terms shall constitute a partnership, joint venture or agency agreement between the Companies themselves and/or between the Companies and the Customers in any way, shape or form.

5. **CONDITIONS OF CARRIAGE AND WAREHOUSING**

- 5.1. The Company shall not be public or common carriers or providers of warehousing facilities in relation to any Consignment forming the subject of these Terms, and any Consignment carried or warehoused by the Company is accepted subject to these Terms.
- 5.2. The Company reserves the right to refuse the carriage or warehousing of a Consignment for any Customer at its discretion, whether before or after carriage has commenced, and upon such refusal the Customer shall have no right or recourse against the Company.
- 5.3. No amendment or consensual cancellation and/or variation of any of these Terms and no extension of time or waiver or relaxation of any provisions of these Terms shall be binding unless recorded in a written document signed by a duly authorized representative of the relevant Company and a duly authorized representative of the Customer.



5.4. All business undertaken, including advice, information or services provided by the Company to the Customer shall be subject to these Terms. These Terms cannot be changed by any employee of the Company, whether by oral or written undertaking or promise, before or after receipt and acceptance of these Terms. Consignments are accepted, carried and warehoused subject to the conditions stipulated by Independent Service Providers into whose possession or custody the Consignment may pass to finalize and deliver such Consignment. In the event that there is a conflict or inconsistency, or variance (of any nature whatsoever) between the conditions stipulated by the Independent Service Providers and these Terms, the provisions of these Terms shall take precedence and prevail.

6. OPERATIONAL PROCEDURES

6.1. The Company reserves the right to carry and warehouse the Consignment received from any Customer by any means at its disposal and may use any Independent Service Provider to perform these duties.

6.2. All Consignments which require forwarding to facilitate delivery may be held at the Company's discretion and at the Customer's cost until suitable delivery arrangements can be arranged. The costs associated with taking such action shall be for the account of the Customer and are payable on demand.

7. TIMEOUS INSTRUCTIONS

7.1. The Customer shall be obliged to give timeous instructions to the Company in writing in order to afford the Company a reasonable opportunity to comply with such instructions, and the Company shall be entitled, but not obliged, to act on oral instructions alone. If there is a conflict between any oral or written instructions or between the various written instructions themselves, or in the absence of instructions, the Company shall determine the best course of action to be adopted, in its sole discretion, having regard to the Consumer's known requirements, if any.

7.2. The Company shall be entitled to recover from the Customer such charges and/or expenses incurred whilst acting in accordance with this clause 7.



8. FEES AND QUOTATIONS

- 8.1. All quotations are subject to withdrawal or revision by the Company. The Company shall be at liberty to revise fees or quotations (for example due to an increase in fuel surcharges and with or without noticing cases where the Company's costs are affected by any of its Independent Service Providers), and may do so without notice to the Customer.
- 8.2. All the prices quoted by the Company will increase annually on the anniversary date of each Customer's agreement with the Company, with such percentage as the Company may, in its entire discretion, determine. The Customer shall be notified, in writing, of such annual increase and the stated increase shall apply automatically.

9. COLLECTION OF CONSIGNMENT

- 9.1. If any Consignments have not been accepted or collected by the intended receiver (or its nominee) within 1 (one) calendar month after the Company has tendered collection thereof, the Company shall notify the Customer via email of any such non-collection. For the purposes hereof, notification to the intended receiver of the fact that the Consignments are available for collection, or that the Company is willing to deliver the Consignments, shall be deemed to be a good and sufficient tender for collection.
- 9.2. After the expiration of 10 (ten) business days from the date of emailing such written notice to its last known email address and unless the Customer has provided the Company with specific instructions to redeliver the Consignment to the intended receiver (at the Customer's expense), the Company is entitled and authorized irrevocably and at its sole discretion, to sell or dispose of the Consignment and retain from the proceeds the charges, expenses and costs incurred in the carriage thereof. The surplus balance of such proceeds shall be repaid to the Customer, without interest, within 60 (sixty) business days after such sale whereupon the **COMPANY SHALL BE RELEASED OF ANY AND ALL LIABILITY** whatsoever in respect of the Consignment carried or warehoused, as the case may be.

10. CONDITIONS OF PAYMENT

- 10.1. For the specific conditions of payment for each of the Companies, please refer to Parts B to E of these Terms.
- 10.2. If any amounts owing by the Customer to the Company remains unpaid on due date:



- 10.2.1. all other amounts owing by the Customer to the Company, whether due and payable or not, shall become due and payable immediately; and
- 10.2.2. the Company shall be entitled, but not obliged (without prejudice to any other rights it may have against the Customer) to:
 - 10.2.2.1. rescind or suspend performance of any of its obligations to deliver or further warehouse the Consignment;
 - 10.2.2.2. forfeit all discounts granted to the Customer; and
 - 10.2.2.3. to charge interest on all overdue amounts at an interest rate of 5% (five percent) above the *mora* interest rate prescribed in terms of the Prescribed Rate of Interest Act, 1975 (Act No. 55 of 1975, as amended), calculated from the date of default until such time as the final payment in relation to the outstanding amount (including interest thereon, calculated daily and compounded monthly in arrears) has been fully paid.
- 10.3. The Company shall be entitled to payment of any charges, disbursements or any amounts due to it, despite any dispute between the parties in relation to previous invoices or debit notes (whether including or partly including the amounts now sought to be charged), and whether or not any notice was given that further debits were to follow.
- 10.4. A certificate signed by a director of the creditor Company shall be deemed to be sufficient proof of any indebtedness to that Company, and if the Customer does not query an invoice sent to it by that Company in writing within 15 (fifteen) business days from the date of the invoice, such invoice will be deemed to be correct in all circumstances.

11. **INSURANCE**

- 11.1. **THE COMPANIES SHALL NOT ARRANGE INSURANCE FOR CUSTOMER'S CONSIGMENTS, UNLESS SPECIFICALLY INSTRUCTED TO DO SO BY THE CUSTOMER, AT THE EXPENSE OF THE CUSTOMER.**
- 11.2. **THE CUSTOMER ACKNOWLEDGES AND AGREES THAT, INSOFAR AS THE COMPANY AGREES TO ARRANGE INSURANCE FOR AND ON BEHALF OF THE CUSTOMER, THE COMPANY WILL ACT SOLELY AS AGENT FOR AND ON BEHALF OF THE CUSTOMER,**



AND THE CUSTOMER SHALL HAVE NO CLAIM OF WHATSOEVER NATURE AGAINST THE COMPANY, ITS EMPLOYEES, OFFICERS, AGENTS AND/OR SUB-CONTRACTORS IN RESPECT OF SUCH INSURANCE, INCLUDING BUT NOT LIMITED TO ANY CLAIM IN RELATION TO LOSS SUFFERED BY THE CUSTOMER AS A RESULT OF THE INSURER CONCERNED DISPUTING ITS LIABILITY UNDER THE RELEVANT INSURANCE POLICY.

11.3. THE CUSTOMER ACKNOWLEDGES AND AGREES THAT IT IS RESPONSIBLE FOR ACQUAINTING ITSELF WITH THE TERMS AND CONDITIONS UPON WHICH THE COMPANY UNDERTAKES THE CARRIAGE OF THE GOODS, THE TERMS AND CONDITIONS OF THE STANDARD INSURANCE COVER OFFERED BY THE COMPANY, AND ANY OTHER TERMS AND CONDITIONS STIPULATED BY THE COMPANY AND/OR ITS INSURERS IN THIS REGARD.

12. THE COMPANY'S RIGHTS IN TERMS OF CONSIGNMENTS IN ITS POSSESSION

12.1. The Company (or any of its nominees) reserve the right to open and examine any Consignment tendered for carriage or warehousing by the Company, in order to fulfil such security and/or regulatory obligations and requirements as may be applicable at any time.

12.2. Should the Customer fail to settle its payment obligations to the Company (as set out in clause 10 above, and without prejudice to any common law rights which the Company may have in respect of non-payment by the Customer), the provisions of clause 9.2 above shall apply, subject to the necessary amendments.

12.3. Any charges that may be incurred by the Company in respect of the storage, sale or disposal of the Consignment and the compilation of any documents relating thereto, shall be incurred on an attorney and own client scale.

13. DELIVERY OF CONSIGNMENTS

13.1. The onus of establishing the condition of the Consignment at the time of delivery thereof by the Company shall rest with the Customer. Without limiting the generality of the foregoing, the Company shall be entitled to delay or expedite the date of dispatch of any Consignment if, in its sole discretion, it:

13.1.1. considers it necessary for the safety of the Consignment; or

13.1.2. determines that there is a backlog of Consignments with higher priority; or



13.1.3. deems it necessary for any other reason (including but not limited to complying with health or similar regulations, or any other commercially valid reason).

13.2. The Company will only deliver Consignments which are the property of the Customer. **THE CUSTOMER WARRANTS AND UNDERTAKES THAT :**

13.2.1. it is authorized to accept (and accepts) these Terms on behalf of itself and as agent for and on behalf of all other persons who are (or may become) interested in the Consignment; and

13.2.2. **IT INDEMNIFIES THE COMPANY AGAINST ANY DAMAGES, COSTS AND EXPENSES RESULTING FROM ANY BREACH OF THE WARRANTY STIPULATED IN CLAUSE 13.2.1 ABOVE.**

14. **DANGEROUS AND PROHIBITED CONSIGNMENTS**

14.1. For purposes of this clause 14, and only to the extent applicable to the business practices of the Company, "**Prohibited Consignments**" means any dangerous, hazardous or combustible materials which are or may become (by their nature) liable to cause injury or damage to persons, goods or property, including but not limited to fluids, paints, acids, chemicals, explosives or radioactive material, fire-arms or parts thereof, drugs, live or dead plants or animals, perishable foods, cosmetics and liquor, fine arts and antiques, literature or materials that may be pornographic, offensive, or politically sensitive, precious stones or jewellery including commercial carbons or industrial diamonds, precious metals, gold or silver in the form of bullion, coin, dust, cyanides, precipitates or any other form, currency (paper or coin) of any nationality, negotiable securities, stock, bonds, certificates, coupons or stamps, negotiable cashier's cheques, money orders or traveler's cheques and any other carriage of goods which is prohibited by any applicable laws, rules and/or regulations.

14.2. No Prohibited Consignments will be received or accepted by the Company without the prior written consent from a duly authorised director of the Company. Should the Company consent to the carriage or warehousing of any Prohibited Consignments, the containers or packaging in which the Prohibited Consignments are stored must be marked in accordance with any applicable legislation, regulations or other requirements of any relevant authorities.

14.3. Should the necessary consent from the Company not be timeously obtained, the Company:



14.3.1. may notify the Customer in writing to collect the Prohibited Consignment; and/or

14.3.2. may notify the relevant public authorities; and/or

14.3.3. reserve the right to destroy any Prohibited Consignments.

14.4. Whether or not the Customer was aware of the nature of the Prohibited Consignments and whether or not the written consent was obtained, **THE CUSTOMER SHALL BE DEEMED TO HAVE INDEMNIFIED THE COMPANY AGAINST ALL LOSS, DAMAGE OR LIABILITY ARISING AS A DIRECT OR INDIRECT RESULT OF THE TENDER OF THE PROHIBITED CONSIGNMENTS TO THE COMPANY.**

14.5. In the event that the Customer sends to the Company for carriage or warehousing any Prohibited Consignments, the Company shall have the right to deal with Prohibited Consignments as it sees fit, including the right to abandon the carriage and/or warehousing of the Prohibited Consignments immediately after obtaining knowledge that the Prohibited Consignments infringe on these Terms. **THE CUSTOMER SHALL BE RESPONSIBLE AND LIABLE, WITHOUT LIMITATION, FOR ALL COSTS, FINES, DAMAGES, LOSS OF INCOME AND/OR LEGAL COSTS WHICH THE COMPANY MAY INCUR AS A RESULT OF THE CUSTOMER'S BREACH OF THIS CLAUSE 14.5.**

15. **WARSAW CONVENTION**

When carriage is tendered for international destinations, the provisions of and law relating to the Warsaw Convention may apply.

16. **ADDRESS FOR NOTICES**

The Customer chooses the address set out in the deferred payment application to which these Terms are attached as its address for purposes of receiving any notices from the Company.

17. **CESSION**

17.1. **THE CUSTOMER HEREBY IRREVOCABLY CEDES AND ASSIGNS AND TRANSFERS, MAKES OVER UNTO AND IN FAVOUR OF EACH OF THE COMPANY(IES), ALL THE CUSTOMER'S RIGHTS, TITLES AND INTEREST IN AND ITS CLAIMS AGAINST ITS DEBTORS, BOTH PRESENT AND FUTURE AND FROM WHATSOEVER CAUSE**



ARISING, AS SECURITY FOR ALL OR ANY OF THE AMOUNTS WHICH THE CUSTOMER MAY NOW OR AT ANY TIME IN THE FUTURE OWE TO ANY OF THE COMPANIES.

- 17.2. To the extent that the Customer has already ceded in security its said claims to a third party whether prior to or subsequent to the date hereof, the Customer hereby cedes, transfers and makes over to the Company(ies) all its reversionary rights in and/or to such claims.
- 17.3. The Customer hereby irrevocably authorizes the Company, in its sole and absolute discretion, to:
- 17.3.1. claim from all or any of the Customer's debtors, the whole or any portion of the indebtedness of any one or more of them;
 - 17.3.2. give a valid receipt or discharge for such indebtedness;
 - 17.3.3. take any action in the Customer's name in any court of competent jurisdiction and to proceed in execution thereunder against all or any of the said debtors to cede, transfer, negotiate, pledge or otherwise deal with all or any of the said debtors; and
 - 17.3.4. exchange promissory notes, cheques, agreements, documents or title or any other security held by the Customer.
- 17.4. This security created by the cession shall be a continuing one, despite any fluctuation in the amount of indebtedness of the Customer to any of the Company. The Customer undertakes to:
- 17.4.1. furnish the Company, on demand, with such information concerning its debtors as may be reasonably required to enable the Company to give effect to the provisions of this clause 17; and
 - 17.4.2. pay the cost of the cession contained herein and agrees that such costs can be debited to its account.

18. SURETYSHIP

- 18.1. Each of the members or shareholders of the Customer, as the case may be, undertakes to sign personal suretyship as security for all or any of the amounts which the Customer may



now or at any time in the future owe to the Company, in the form of the draft suretyship annexed hereto as **Annexure A**.

18.2. **BY ADDING ITS SIGNATURE TO THESE TERMS AND TO THE SURETYSHIP ATTACHED HERETO, THE CUSTOMER ACKNOWLEDGES THAT IT IS AWARE OF AND UNDERSTANDS THE CONTENTS OF THE SURETYSHIP.**

18.3. The obligations of the surety under this clause 18 will not be affected by an act, omission, matter or thing which, but for this clause 18.3, would reduce, release or prejudice any of its obligations under this clause 18.3 or **Annexure A** (without limitation and whether or not known to it or the Company) including:

- 18.3.1. any time, waiver or consent granted to, or composition with its other creditors;
- 18.3.2. the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, execute, take up or enforce, any rights against the Customer or any non-presentation or non-observance of any formality or other requirement in respect of any instrument;
- 18.3.3. any insolvency, business rescue process, liquidation, winding-up or similar proceedings (including, but not limited to, receipt of any distribution made under or in connection with those proceedings);
- 18.3.4. any other fact or circumstance arising on which the Customer might otherwise be able to rely, including any defence based on prejudice, waiver or estoppel;
- 18.3.5. the release of the Customer or any other person under the terms of any composition or arrangement with the Company or any other creditor of the Customer;
- 18.3.6. any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Customer or any other person;
- 18.3.7. any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of the Terms; or
- 18.3.8. any unenforceability, illegality or invalidity of any obligation of any person under the Transaction Documents or any other document or security.



19. LIEN

- 19.1. In addition to the cession and security granted in terms of paragraphs 17 and 18 above, **THE CUSTOMER ACKNOWLEDGES** and agrees that the Company shall have both a special and a general lien (i.e. a security right of retention) over the Consignment or any other item or sum consigned to it by, or collected by it on behalf of, the Customer, including but not limited to all goods, 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.
- 19.2. The sub-contracting by the Company of any portion of the services, as contemplated in paragraph 2.2.2 above, shall not affect the validity of the lien over the Lien Items, as contemplated in clause 19.1 above.
- 19.3. The Customer shall not, once any goods have been consigned to the Company, effect or permit to be affected any security or encumbrance of whatsoever nature over, or in respect of, the Lien Items, without the prior written consent of the Company, which consent the Company shall be entitled to withhold in its sole discretion.
- 19.4. The Customer agrees and undertakes that, insofar as may be legally possible, the lien in favour of the Company shall operate as a first-ranking claim in respect of the Lien Items, and no other security shall rank prior to the Company’s lien.
- 19.5. In the event that any amounts due to the Company remain outstanding 14 (fourteen) business days after demand, the Company shall be entitled, but not obliged, to exercise its lien in terms of this clause 19 and arrange for the sale of any goods forming part of the Lien Items, at the expense of the Customer, and the net proceeds of the sale shall be applied firstly toward defraying the costs of such sale, and thereafter towards satisfaction of such indebtedness.
- 19.6. The Customer agrees to execute, deliver to the Company, and permit the Company to file any financing statements necessary in the Company’s sole determination to perfect the Company’s lien.

20. FORCE MAJEURE

The Company shall 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 G-d, 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 regulation of government or governmental authority and other contingencies beyond the Company's control resulting in impossibility or delay of performance of the Company.

21. SEVERABILITY

21.1. 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.

21.2. If the whole or any part of an undertaking in this Agreement is invalid or unenforceable for any reason, the validity of the rest of the undertakings shall not be affected.

22. GENERAL

22.1. No relaxation or indulgence of these Terms shall in any way prejudice the Company's rights, nor shall they be deemed to be a waiver of any of the Company's rights in terms of these Terms and no variation, waiver, indulgence and/or relaxation of these Terms shall be binding upon the Company.

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.

23. DISPUTE RESOLUTION: NEGOTIATION, MEDIATION AND THEN ARBITRATION

23.1. Should any dispute, disagreement or claim arise between the parties ("**the dispute**") concerning these Terms, the parties shall endeavour to resolve the dispute by negotiation.

23.2. This entails one of the parties inviting the other in writing to meet and to attempt to resolve the dispute within 14 (fourteen) business days from date of written invitation.

23.3. If the dispute has not been resolved by such negotiation within 14 (fourteen) business days of the commencement thereof by agreement between the parties, then the parties shall:



23.3.1. submit the dispute to mediation to be administered by the Arbitration Foundation of Southern Africa NPC (“AFSA”), upon such terms as agreed between the parties and the secretariat of AFSA; and

23.3.2. failing agreement as aforesaid within 14 (fourteen) business days of the dispute being submitted to mediation, the parties shall refer the dispute to arbitration as provided in clause 23.5 below.

23.4. The decision of the mediator shall become final and binding within 14 (fourteen) business days of delivery thereof to the parties, unless one or either of the parties disputes the mediator’s decision by written notice to the other party within the aforesaid 14 (fourteen) day period, in which event the dispute shall be referred to arbitration in accordance with the provisions of clause 23.5 below.

23.5. Failing agreement as referred to in clause 23.3.1 above or in the event of either of the parties furnishing its notice of dispute within 14 (fourteen) business days of the mediator’s decision as envisaged in terms of clause 23.4 above, the dispute shall be submitted to arbitration for final resolution in accordance with the rules of AFSA by an arbitrator or arbitrators appointed by it.

23.6. Unless otherwise agreed in writing by the parties, any such negotiation, mediation or arbitration shall be held in Cape Town.

24. **LAW AND JURISDICTION**

24.1. These Terms shall be governed by and construed in accordance with the laws of the Republic of South Africa and the parties submit to the non-exclusive jurisdiction of the Western Cape High Court (seated in Cape Town).

24.2. Despite the provisions contained in clause 23 above, the Company shall be entitled, in their sole discretion, to institute any proceedings against the Customer (who consents to this entire clause 24) in any Magistrates’ Court with relevant jurisdiction, even though the cause of action arose, or the amount claimed, is beyond the jurisdiction of such court.

24.3. This clause does not preclude the Company, in its sole discretion, from instituting action in the High Court with relevant jurisdiction and, by its signature of these Terms, the Customer consents to the jurisdiction of the High Court in the jurisdiction elected by the Company.



25. **COSTS**

- 25.1. **THE CUSTOMER SHALL BE LIABLE** for all costs incurred by the Company 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 cost 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.
- 25.2. **THE CUSTOMER UNDERTAKES TO PAY THE COST OF THE SURETYSHIP AND CESSION CONTAINED HEREIN AND AGREES THAT SUCH COSTS CAN BE DEBITED TO ITS ACCOUNT.**

PART B: SPECIFIC TERMS – COURIERIT

26. **CONDITIONS OF PAYMENT**

- 26.1. The provisions of clauses 10.2 to 10.4 above shall be applicable, together with the necessary amendments thereto, to this clause 26.
- 26.2. Courierit's terms of payment are 30 (thirty) days from date of the invoice and may be tendered either by cash, electronic funds transfer or by cheque, made payable to Courierit.
- 26.3. Should a Customer default on any of its payment obligations and should the Consignment still be in Courierit's possession, Courierit shall be entitled to charge the Customer warehousing charges in respect of any period during which the Consignment is stored after tender of delivery, up to and including the time of payment of all monies owing to Courierit by the Customer.
- 26.4. For the avoidance of doubt, payment received by Courierit more than 30 (thirty) days after the date of the invoice shall bear interest as determined in accordance with paragraph 10.2.2.3 above.

27. **LIMITATION ON THE COMPANY'S LIABILITIES AND RESPONSIBILITIES**

- 27.1. Under **NO CIRCUMSTANCES** shall any strict liability attach to Courierit.
- 27.2. Courierit's **LIABILITY SHALL NOT EXCEED** R50.00 (fifty rand) per order received from a Customer.



28. **INSURANCE**

- 28.1. Courierit shall not arrange insurance for any Consignments unless it is specifically requested to do so by the Customer, at the Customer's expense.
- 28.2. Courierit shall insure the Consignment for an amount not exceeding R1,000.00 (one thousand rand), where insurance is requested by the Customer, but no value is declared on the Consignment which would give rise to a minimum premium. Courierit is not obliged to insure Consignments exceeding R20,000.00 (twenty thousand rand), unless the Customer specifically notifies Courierit in writing to do so.
- 28.3. Where insurance is requested by the Customer and the value declared exceeds R1,000.00 (one thousand rand), a premium representing a percentage of the declared value will be levied. Please refer to Appendix A for the applicable rate as well as the terms and conditions of the insurance.
- 28.4. In the event of:
- 28.4.1. a standard claim, a minimum of 2% (two percent) excess of the declared value applies; and
 - 28.4.2. a claim following a hi-jacking, a minimum of 20% (twenty percent) excess of the declared value applies.
- 28.5. Should a dispute arise in relation to the insurance arranged by Courierit at the request of the Customer, the Customer shall have recourse against the insurer only and Courierit **SHALL NOT INCUR ANY LIABILITY** in relation to such dispute.
- 28.6. All charges owing to Courierit (including the premium) in respect of the services rendered will be payable to Courierit as per the conditions of payment laid out in these Terms. The Customer shall lodge all claims in terms of insurance to Courierit in writing (via registered post or email), within 7 (seven) business days of the Consignment being delivered to:
- The Claims Supervisor
No 4 Falcon Crescent
Airport City
Cape Town
7525



claims@courierit.co.za.

PART C: SPECIFIC TERMS – REMALIT

29. CONDITIONS OF PAYMENT

- 29.1. The provisions of clauses 10.2 to 10.4 above shall be applicable, together with the necessary amendments thereto, to this clause 29.
- 29.2. Invoices are payable within 7 (seven) business days of the invoice date and may be tendered either by cash, electronic transfer or by cheque, made payable to Remailit. The Customer agrees that it will not defer or withhold payment pursuant to any invoice or deduct any amount from the account of Remailit by reason of any claim it may allege against Remailit.
- 29.3. For the avoidance of doubt, payment received by Remailit more than 30 (thirty) business days after the date of the invoice shall bear interest as determined in accordance with paragraph 10.2.2.3 above.

30. CHARGES

- 30.1. Remailit shall use all reasonable endeavours to effect customs clearance but shall **NOT BE LIABLE** for any penalties imposed or loss incurred due to delay by customs authorities or due to the Consignment being impounded by customs or other authorities the **CUSTOMER SHALL INDEMNIFY REMALIT ON DEMAND IN REQUEST OF ANY SUCH PENALTY OR LOSS**.
- 30.2. Remailit's charges for each Consignment shall be its published rates ruling at the date of carriage ("**the Charges**"). The Charges, which are exclusive of VAT and any duties, levies, taxes, imports, deposits, or outlays of any kind whatsoever ("**the Duties**") where applicable, are subject to change up to the date upon which the carriage commences, without prior notice to the Customer.
- 30.3. The Charges shall be deemed to be fully earned as soon as carriage commences and shall be payable and non-refundable in any event.
- 30.4. The **CUSTOMER SHALL BE LIABLE** for all Duties levied by any authority (wherever located) for or in connection with the carriage of the Consignment and for any payment, fine, expenses, loss or damage whatsoever suffered or incurred by Remailit in connection therewith.



31. **INSURANCE**

31.1. No claim in respect of any damage or delay to any Consignment or any part thereof may be made unless notice of the claim is lodged in writing at any office of Remailit in the country where carriage commenced within 7 (seven) business days after delivery was effected (or would in the ordinary course of business have been effected). If no claim is made within the aforementioned period, no action shall lie against Remailit.

32. **WARRANTIES AND INDEMNITIES FROM CUSTOMER**

32.1. **THE CUSTOMER EXPRESSLY WARRANTS** to and in favour of Remailit that:

32.1.1. the particulars relating to the Consignment as shown on the Consignment note (including the declared value for customs) are correct and that the Consignment is adequately labelled and addressed to enable effective delivery to be made without delay;

32.1.2. the Consignment does not contain any Prohibited Consignments. If in the opinion of Remailit, any item is, or is liable to become, dangerous, inflammable, explosive, volatile, offensive or of a damaging nature, such item may at any time be destroyed, disposed of, abandoned or rendered harmless by Remailit or its agents without compensation to the Customer and without prejudice to the right of Remailit to recover any charges or expenses hereunder. In each and any such event the **CUSTOMER SHALL BE LIABLE** for all loss and damage caused;

32.1.3. it has complied with all the laws and regulations relating to the nature, contents, packaging, labelling, place of origin or howsoever otherwise relating to the Consignment and that it is packed in a manner adequate to withstand the ordinary risk of carriage having regard to its nature; and

32.1.4. if the Consignment comprises in whole or part any documents tendered for the Remailit service, such documents have neither commercial value nor customs value in the country of destination.

32.2. **THE CUSTOMER HEREBY INDEMNIFIES REMALIT AGAINST ANY LIABILITY WHATSOEVER RESULTING FROM OR ARISING OUT OF THE BREACH OF ANY WARRANTY SET OUT IN PARAGRAPH 32.1 ABOVE.**



33. GENERAL

- 33.1. Remailit is authorised to deliver the Consignment or any part thereof at such post office in such country as it may in its sole discretion decide. **NO OTHER OBLIGATION OR LIABILITY SHALL BE IMPOSED OR ACCEPTED BY REMALIT** in respect of delivery of the Consignment or any part thereof. In particular, **REMALIT SHALL NOT BE LIABLE, NOR SHALL IT BE REQUIRED TO INDEMNIFY**, compensate or refund the Customer for any moneys paid by the Customer to Remailit.
- 33.2. Remailit shall take reasonable steps to return to the Customer any Consignment returned to Remailit by any post office. The Customer expressly authorises Remailit to open any such Consignment to determine the Customer's return address. If Remailit is unable after reasonable enquiry to ascertain to whom any Consignment should be returned, it may be dispose of or deal with such Consignment at its discretion.

PART D: SPECIFIC TERMS – WAREHOUSEIT

34. CONDITIONS OF PAYMENT

- 34.1. The provisions of clauses 10.2 to 10.4 above shall be applicable, together with the necessary amendments thereto, to this clause 34.
- 34.2. Payment shall be received by Warehouseit, within 30 (thirty) business days of the date of the invoice by the Customer and the Customer agrees that it will not defer or withhold payment pursuant to any invoice or deduct any amount from the account of Warehouseit by reason of any claim it may allege against Warehouseit.
- 34.3. For the avoidance of doubt, payment received by Warehouseit more than 30 (thirty) business days after the date of the invoice shall bear interest as determined in accordance with paragraph 10.2.2.3 above.

35. INSURANCE

- 35.1. Warehouseit shall insure its premises against fire to a maximum value of [R8,000,000.00 (eight million rand) and theft to a maximum value of R500,000.00 (five hundred thousand rand)], which is the maximum value of the goods intended to be held by at Warehouseit's premises.



35.2. Warehouseit shall escalate these values, from time to time, as it deems appropriate to ensure its premises are not underinsured but will not increase its amount of cover in order to insure unusually large volumes of a Customer's goods, unless the parties specifically agree otherwise. The Customer's goods will therefore be covered on a pro-rata basis with that of Warehouseit's other clients.

35.3. Any additional insurance cover required by Customer shall be agreed to in writing by the parties and paid for by Customer. **WAREHOUSEIT SHALL NOT UNDER ANY CIRCUMSTANCES BE LIABLE** to the Customer for any loss or damage to Customer's goods, in excess of the value of any sum paid by Warehouseit's insurer in terms of the policies of insurance referred to in this paragraph 35.

36. **TITLE, RISK AND LOSS**

36.1. The Customer retains all right, title and interest in the warehoused goods at all times.

36.2. Warehouseit shall hold goods owned by Customer that Warehouseit receives pursuant to these Terms as consignment stock of the Customer and Warehouseit shall bear the risk of loss of such goods until such time as Warehouseit hands-over the warehoused goods the Customer, whereupon risk of loss of the goods shall automatically transfer to Customer.

37. **WARRANTIES FROM CUSTOMER**

THE CUSTOMER WARRANTS to and in favour of Warehouseit that:

37.1. all goods consigned to Warehouseit for warehousing shall, if pre-packed, be properly packed and labelled, in accordance with their particular packing and labelling and other requirements (including, but not limited to, the nature of the goods);

37.2. it shall notify Warehouseit in writing of any special storage requirements in respect of the goods concerned, at least 5 (five) business days prior to consigning the goods to Warehouseit, failing which the provisions of paragraph 7 above shall apply, together with the necessary amendments thereto.



PART E: SPECIFIC TERMS – FREIGHTIT

38. CONDITIONS OF PAYMENT

- 38.1. The provisions of clauses 10.2 to 10.4 above shall be applicable, together with the necessary amendments thereto, to this clause 38.
- 38.2. As consideration for the provision of the freight services rendered by Freightit, the Customer shall pay to Freightit the service rates as stipulated in the price list for the freight services applicable from time to time.
- 38.3. Freightit shall, from time to time, issue written invoices to the Customer in respect of services provided.
- 38.4. Unless otherwise agreed in writing between the parties in advance, all amounts payable by the Customer to Freightit in terms of these Terms shall be paid not later than 30 (thirty) business days from the date of invoice, by way of electronic funds transfer, in such currency as Freightit may direct, free of exchange, without deduction or set-off, into a bank account nominated by Freightit for such purpose.
- 38.5. Freightit shall not be deemed to have received any payment made to it by the Customer until such time as the payment concerned is received and cleared into Freightit's bank account.
- 38.6. For the avoidance of doubt, any amount not paid on due date shall, at Freightit's election, shall bear interest as determined in accordance with paragraph 10.2.2.3 above.

39. INSURANCE

- 39.1. Freightit shall have no obligation whatsoever to obtain any form of insurance cover on behalf of the Customer in respect of any goods.
- 39.2. Without detracting from the provisions of clause 39.1 above, and subject to the provisions of clauses 39.3 and 39.4 below, in the event that:
 - 39.2.1. the Customer furnishes Freightit with a written instruction to procure insurance on the Customer's behalf ("**the Insurance Instruction**"); and
 - 39.2.2. Freightit notifies the Customer in writing of its acceptance of the Insurance Instruction concerned,



Freightit shall use its reasonable endeavours to procure the insurance cover requested by the Customer, in accordance with the Insurance Instruction.

39.3. Any insurance procured by Freightit on behalf of the Customer will be subject to such exceptions and conditions as may be imposed by the insurance company or underwriter concerned, and Freightit shall not be obliged to obtain separate cover for any risks excluded in terms of the relevant insurance policy.

39.4. Unless otherwise specified in the Insurance Instruction, Freightit shall not be obliged to obtain separate insurance in respect of separate Consignments, but may, in Freightit's sole discretion, insure all or any of such Consignments under any open or general policy held by Freightit from time to time.

39.5. Where Freightit has accepted an Insurance Instruction, as contemplated in clause 39.2 above, the Customer shall, not later than 3 (three) business days prior to receipt of the goods into the custody and/or control of either Freightit or the carrier utilised by Freightit ("**the Carrier**") (whichever is the earlier date), instruct Freightit in writing as to whether Freightit is to:

39.5.1. accept the Carrier's standard insurance or any offer of insurance of the goods, on behalf of the Customer; or

39.5.2. endeavour to procure insurance cover in respect of the goods for and on behalf of the Customer with such other underwriter as the Customer may direct, failing which Freightit shall accept, on behalf of the Customer, the Carrier's standard insurance or any offer of insurance, and the Customer shall have no claim of whatsoever nature against Freightit, its employees, officers, agents and/or sub-contractors in this regard.

40. **SHIPPING INSTRUCTIONS**

40.1. The Customer may, from time to time and in writing, place a written shipping instruction on Freightit, requesting Freightit to perform the services in accordance with these Terms, in relation to specific goods ("**Shipping Instruction**").

40.2. Freightit may, in its sole discretion, accept any Shipping Instruction placed by notifying the Customer in writing of such acceptance. Where Freightit does not notify the Customer in



writing of its acceptance of the Shipping Instruction, Freightit shall be deemed not to have accepted the Shipping Instruction, and **NEITHER FREIGHTIT** nor its employees, officers, agents and/or sub-contractors **SHALL BE LIABLE** to the Customer to provide any services requested therein.

40.3. No goods shall be consigned to Freightit by the Customer until such time as Freightit has accepted the relevant Shipping Instruction in writing, as contemplated in clause 40.2 above.

40.4. Where Freightit accepts a Shipping Instruction placed by the Customer and the Customer thereafter, by written notice to Freightit (once the goods have been consigned to Freightit), cancels the Shipping Instruction concerned, Freightit shall be entitled, in its sole discretion and without prejudice to any other remedy it may have, in terms of these Terms or in law, to levy a cancellation fee in the amount of 5% (five percent) of the preliminary quotation amount as determined in accordance with paragraph 38.1 above, which amount the Customer shall pay to Freightit not later than 7 (seven) business days after demand therefor.

41. **INSTRUCTIONS**

41.1. The Customer shall, for every Shipping Instruction placed, provide Freightit with adequate and sufficiently detailed instructions as to the services required in relation to the Shipping Instruction concerned.

41.2. **THE CUSTOMER WARRANTS** to and in favour of Freightit that all information and instructions supplied by it to Freightit are accurate, true and comprehensive, including, without limitation, all descriptions, values and other particulars in relation to any goods, furnished by it to Freightit for customs and related purposes.

41.3. The Customer agrees that, where Freightit, in its sole discretion, has not received adequate instructions from the Customer as contemplated in clause 41.1 above:

41.3.1. Freightit shall be entitled, but not obliged, to make written request to the Customer for adequate instructions; and

41.3.2. where no adequate response is received within 3 (three) business days of such request, Freightit shall be entitled to take all such steps as may, in its sole discretion, be reasonably necessary and commercially expedient in order to transport the goods in question, in accordance with the instructions contained in



the Shipping Instruction concerned, including but not limited to making such declarations as to the value of the goods as may be required by carriers or any other parties from time to time.

41.4. In the event that Freightit:

41.4.1. elects to exercise its discretion to proceed with the Shipping Instruction, as contemplated in clause 41.3.2 above, Freightit shall notify the Customer accordingly; or

41.4.2. elects not to proceed with the Shipping Instruction, Freightit shall be entitled, but not obliged, to:

41.4.2.1. arrange for storage of the goods in question, at the Customer's expense; and

41.4.2.2. call upon the Customer to collect the goods in question by a certain date, provided that where the Customer fails to collect the goods by the date in question, Freightit shall be entitled to dispose of the goods in any way it deems fit, including but not limited to by destroying or selling the Goods.

41.5. In the event that Freightit sells the goods, as contemplated in clause 41.4.2 above, it shall be entitled to set off the proceeds of such sale against any storage or other costs of whatsoever nature, incurred by it as a result of the Customer's failure to provide Freightit with any instructions, or with timeous, adequate instructions, as the case may be. The surplus balance of such proceeds shall be repaid to the Customer, without interest, within 60 (sixty) business days after such sale whereupon **FREIGHTIT SHALL BE RELEASED OF ANY AND ALL LIABILITY** whatsoever in respect of the goods carried or warehoused, as the case may be.

42. **DUTIES, TAXES, IMPORTS, LEVIES AND DEPOSITS**

42.1. **THE CUSTOMER SHALL BE LIABLE** to Freightit for:

42.1.1. any and all duties, taxes, imposts, levies, deposits or out-lays of whatsoever nature levied by or payable to any authorities, intermediaries or other parties at any port or place, for or in connection with, the goods; and



- 42.1.2. any payments, fines, penalties, expenses, loss or damage incurred or sustained by Freightit in connection therewith or arising therefrom, irrespective of its cause, and the Customer shall pay such amounts to Freightit on written demand by Freightit.
- 42.2. The provisions of paragraph 2 above shall apply, together with the necessary amendments thereto, in respect of any loss or damage suffered by the Customer, whether directly or indirectly, as a result of any change in the rate of duty, wharfage, cargo dues, freight, railage or cartage or any other tariff or charge of a similar nature, whatsoever.
- 42.3. In the event that any duty, tax, levy, railage, wharfage, cargo dues, freight, cartage or any other amount has been incorrectly charged to the Customer by Freightit, then:
- 42.3.1. the party becoming aware thereof shall immediately notify the other in writing;
- 42.3.2. in the event that the Customer has overpaid Freightit, the amount of such overpayment shall be set off against any amounts owing by the Customer to Freightit, and the Customer shall take all such steps and do all such things as may be reasonably requested by Freightit, to enable it to recover any corresponding overpayment it may have made to any third party; and
- 42.3.3. in the event that the Customer has underpaid Freightit, the Customer shall pay the difference owed to Freightit within 7 (seven) business days of demand, or such later date as the parties may agree in writing.
- 42.4. Should any negligent or wilful act or omission by the Customer prejudice Freightit's right of recovery from a third party, as contemplated in clause 42.3.2 above, then Freightit shall only be obliged to set off against amounts owed to it by the Customer, the amount that Freightit is able to recover from the third party, and the unrecovered balance shall be borne by the Customer.
- 42.5. In the event that Freightit, in discharging an instruction issued by the Customer, has incurred any disbursements on behalf of the Customer, the Customer shall re-imburse any such amounts to Freightit together with the payment of any invoices raised by Freightit for its services.



43. **INCOTERMS**

The parties record and agree that these Terms shall not be subject to, or interpreted in accordance with, any Incoterm (i.e. a set of rules which define the responsibilities of sellers and buyers for the delivery of goods under sales contracts, as published by the International Chamber of Commerce), unless the parties have agreed otherwise in writing in advance of Freightit accepting any Shipping Instruction.