

**STANDARD TRADING CONDITIONS OF BLS PORTCO SA (PTY) LIMITED**  
**REGISTRATION NUMBER: 2001/024037/07**  
(INCLUDING ANY SUBSIDIARIES AND ASSOCIATED DIVISIONS)

1. In these conditions "Company" shall mean BLS Portco SA (Pty) Ltd and its subsidiary and associated divisions.
2. "Customer" shall mean any person or person at whose request or on whose behalf the Company undertakes or renders any business, advice, information or service.
3. "Goods" wherever used in these conditions shall mean any goods coming under the control of the Company on behalf of any customer and shall include any container, transportable tank, bolster, pallet, package, bulk, breakbulk or other covering not supplied by or on behalf of the Company.
4. All and any business undertaken, including any advice, information or service provided, whether gratuitously or not, by the Company is and shall be subject to the conditions herein after set out and each condition shall be deemed to be incorporated in and to be a condition of any agreement between the Company and its customers. These conditions shall prevail in the event of the customer itself having standard trading conditions, even if the latter conditions are apparently incorporated after these, unless the parties agree, in writing, specifically to the contrary.
5. No agent or employee of the Company, other than a director or an individual duly authorised thereto by the board of directors, has the Company's authority to alter or vary these conditions nor shall any act or omission by the Company be construed as a variation or waiver of any of these conditions.
6. The Company shall be deemed to act neither as a common carrier nor a public carrier and deals with goods only on the basis of these conditions.
7. If any legislation is compulsorily applicable to any business undertaken these conditions shall as regards such business be read as subject to such legislation and if any part of the conditions be repugnant to such legislation to any extent such part shall as regards such business be void to that extent but no further.
8. The customer warrants that it has full authority to engage the services of the Company and to contract on these terms and it hereby indemnifies the Company against any claim by the true owner of the goods or any other party with an interest therein in respect of which the Company is so contracted to deal. Furthermore, the person representing the customer in contracting with the Company warrants that he is duly authorised to do so.
9. The following shall apply in respect of goods liable to cause damage:
  - 9.1 No goods, including radio active materials, which are or may become dangerous, inflammable or noxious, or which by their nature may become liable to cause injury or damage to any person, goods or property whatsoever, shall be tendered by the Company or its agents unless they are prominently marked in the outside of the container as well as on all relevant documentation so as to indicate clearly the nature and character of the goods, and so as to comply with any applicable laws, regulations or requirements of any authority or carrier, including the markings and descriptive requirements of I.A.T.A or the I.M.D.G code.
  - 9.2 If any such goods are tendered to the Company without its written consent or without being marked as aforesaid, the same may at any time be destroyed, disposed of, abandoned or rendered harmless at the sole discretion of the Company and at the entire risk and expense of the customer, without compensation to him or to any party and without prejudice to the Company's right to its charges or fees including the cost of destruction or disposal.
  - 9.3 Notwithstanding the acceptance of the goods with its express consent, the Company may nevertheless for good reason, such as the risk to other goods, property, life or health, destroy or otherwise deal with the goods at the entire risk and expense of the customer, without compensation to him or any other party, and without prejudice to the Company's right to its charges or fees including the cost of destruction or disposal.
  - 9.4 Whether or not the customer was aware of the nature of the goods and whether or not the Company's written acceptance thereof was obtained, the customer shall be deemed to have indemnified the Company against all loss or liability caused to the Company as a result of the tender of the goods to the Company.
  - 9.5 The expression 'goods liable to cause damage' shall include goods likely to harbour or encourage vermin or other pests.
  - 9.6 The customer shall be responsible for compliance with all regulations relating to such goods aforesaid in force in any country or its territorial waters.
10. The Company shall not accept liability for the handling of any bullion, coins, precious stones, jewellery, valuables, antiques, bank notes, securities and other valuable documents or articles, livestock or plants unless special arrangements have previously been made in writing. Should any customer nevertheless deliver such goods to the Company or cause the Company to handle such goods, shall bear no liability whatsoever, for or in connection with any loss or damage to the goods.
11. The customer shall be bound by and to warrant the accuracy of all descriptions, values and other particulars furnished to the Company for customs, consular and other purposes, shall be deemed to have been indemnified the Company against all claims, losses, penalties, damages, expenses and fines whatsoever arising from any inaccuracy or omission, even if such inaccuracy or omission is not due to any negligence.
12. Except where the Company is instructed in writing to pack the goods, the customer warrants that all goods have been properly and sufficiently packed and/or prepared.
  - 13.1 Any instructions or business accepted by the Company may in the absolute discretion of the Company be carried out by the Company itself, by its employees performing part or all of the relevant services, or by the Company employing or instructing or entrusting the goods to the parties on such conditions as may be stipulated or negotiated with such third parties for the purpose of such services, or part thereof as they may be employed to carry out.
  - 13.2 Where the Company employs independent third parties subject to perform all or any of the functions required of the Company, the Company shall have no responsibility or liability to its customers for any act or omission of such third party, even though the Company may be responsible for the payment of such third party's charges; but the Company may, if suitably indemnified against all costs, including attorney or client costs, take such action against the third party on its customer's behalf as the its customer may direct.
  - 13.3 All goods are accepted and dealt with by the Company subject to the conditions stipulated by the carriers, warehouseman, government Departments, and all other parties (whether acting as agents or subcontractors to

Signature of customer: \_\_\_\_\_

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- the Company or not) into whose possession or custody the goods may pass, or subject to whose authority they may at any time be. If there is any conflict between any such conditions and these conditions, the latter shall prevail. Where any service or obligation is delegated to any one of BLS Portco SA (Pty) Limited to any other division, the standard trading conditions are the same and shall be deemed to apply in respect of the services undertaken by that division as if expressly agreed by the customer.
- 14.1 Wherever it is necessary, for the purpose of these conditions or any other purposes whatever, for instructions to be given to the Company, such instructions shall be recognised by the Company as valid only if given timeously and specifically in relation to the matter in question. Standard or general instructions or instructions given late, even if received by the Company without comment, shall not be binding upon the Company.
- 14.2 If at any stage in any transaction the Company should consider that there is good reason in the customer's interest to depart from any of the customer's instructions, the Company shall be permitted to do so, and it shall not thereby incur any additional liability.
- 15.1 Unless otherwise agreed as a term of contract, the Company shall have a free choice as to the appointment of any sub-contractor or carrier and the customer shall be bound by the trading conditions of such sub-contractor and carrier.
- 15.2 In the absence of special instructions, it shall be in the entire discretion of the Company to decide at what time to perform any or all of the various acts which may be necessary for the completion of its services in relation to any particular matter. The Company shall have no liability or responsibility by virtue of the fact that there may be change in the rate of duty, wharfage, freight, railage or cartage, or any other tariff, before or after the performance by the Company of any act involving a less favourable rate of tariff, by virtue of the fact that a saving might have been effected in some other way had the act been performed at a different time.
- 15.3 In the absence of written instructions the Company reserves to itself the absolute discretion as to the means, route and procedure to be followed in performing all or any of the acts or services required.
16. It shall not be obligatory upon the Company to effect insurance except upon detailed instructions given in writing by the customer and all insurance effected by the Company pursuant to such instructions shall be subject to such terms, exceptions and conditions as may be imposed by the insurance company or the underwriter taking the risk and the Company shall not be obliged to obtain separate cover for any risks excluded. The Company shall not be under any obligation to effect a separate insurance on each consignment but may declare it on any open or general policy. Should the insurers dispute their liability for any reason, the customer shall have recourse against the insurer only and the Company shall not be under any responsibility whatsoever in relation thereto notwithstanding that the premium upon the policy may not be at the same rate as that charged by the Company or paid to the Company by the customer.
17. The Company shall not be obliged to make any declaration for the purpose of any statute or convention or contract as to the nature of any goods or as to any special interest in delivery or otherwise unless expressly instructed by the customer in writing. In particular, the Republic of South Africa, the Company shall be under no obligation – unless written instructions to that effect are given to the Company – to make any declaration or to seek any special protection or cover from Transnet and its operating divisions, or from any other carrier, in respect of any goods which are, or fall within the definition by that body of, dangerous or very dangerous goods, or goods liable to be stored in the open.
18. In all cases where there is a choice in tariff rates or premiums offered by carriers, warehouseman, underwriters, or others, depending on the value declared or the extent of the liability assumed by the carrier, warehouseman, underwriter or other person, it shall be in the entire discretion of the Company as to what declaration, if any, shall be made and what liability, of any, shall be imposed on the carrier, warehouseman, underwriter or other persons, unless express instructions in writing are timeously given by the customer.
19. Pending forwarding and delivery, goods may be warehoused or otherwise held at any place at the sole discretion of the Company at the customer's risk and expense.
20. The Company shall have no obligation to take any action in respect of any goods which may be recognisable as belonging to its customer unless it has received suitable instructions relating to such goods together with all necessary documents. In particular the Company shall not be obliged to notify the customer of the existence or whereabouts of the goods or to examine them or take any other steps for their identification, protection or preservation of any claim by its customers or any other party against the carrier, insurer or any third party.
21. Where it is necessary for an examination to be held or other action to be taken by the Company in respect of any alleged discrepancy in the goods which are landed from any vessel, aircraft, vehicle or container, no responsibility shall attach to the Company for any failure to hold such examination or to take any other action unless the Company has been timeously advised by the landing agent that all such goods have been landed.
22. Perishable goods in the care, custody or control of the Company which have begun or are likely to deteriorate or which are insufficiently addressed or marked or otherwise not readily identifiable, may be sold or otherwise disposed of without any notice to the customer, sender, owner or consignee and the payment or tender of the nett proceeds of any sale after the deduction of charges and expenses shall be equivalent to delivery. All charges and expenses arising in connection with the sale or disposal of the goods shall be for the account of the customer and may be deducted.
23. The company shall be entitled to sell or dispose of non-perishable goods in any circumstances-
- 23.1 where a customer cannot be identified;
- 23.2 where the goods cannot be delivered because they are insufficiently addressed; or
- 23.3 where the goods have not been collected or accepted by the customer or any other person. Where the Company has an address for the customer then such sale shall be effected only after the expiration of 21 days from the posting to that address of written notice calling upon the customer to collect. All charges and expenses arising in

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- connection with the storage and sale or disposal of the goods shall be for the account of the customer. A communication from any agent or correspondent of the Company or any third party referred to in Clause 13 to the effect that the goods cannot be delivered for any reason shall be conclusive of that fact.
24. Quotations, where given shall be on the basis of immediate acceptance and shall be subject to the withdrawal or revision the Company. Further, unless otherwise agreed in writing, the Company shall, notwithstanding acceptance, be at liability to revise any quotation or charges with or without notice, in the event of changes occurring in currency exchange rates, rates of freight, customs duty, surcharges, insurance premiums, equipment rental rates, labour rates or any other charges applicable to the handling of the goods.
25. The Company is entitled to the benefit of any discounts obtained and to be paid all brokerages, commissions, allowances and other remunerations of whatsoever nature and kind and shall not be obliged to disclose or account to its customers or principles for any such remunerations received by it.
- 26.1 When goods are accepted or dealt with upon instructions to collect freight, duties, charges or other expenses from the consignee or any other person, the customer shall remain responsible for the same if they are not paid by such consignee or other person immediately when due.
- 26.2 If accepted by the Company, instructions to collect payment on delivery (COD) in cash or otherwise shall be subject to the condition that the Company in the matter of such collection will be liable for the exercise of reasonable diligence and care only.
27. The Customer shall indemnify the Company and hold it harmless against liability for any duties, taxes, levies, deposits or outlays of whatsoever nature levied by the authorities or other parties in respect of the goods, and for any payments, fines, expenses, loss or damage whatsoever incurred or sustained by the Company in connection therewith.
28. Unless otherwise specifically agreed by the Company all sums shall be paid to the Company in cash immediately upon presentation of account. Payments shall not be withheld or deferred in account of any counterclaim or set-off.
29. Notwithstanding any prior dealings between the Company and its customer, all documents and other matter including cash, cheques, bank drafts and other remittances, sent to the Company through the post shall be deemed not to have been received by the Company unless and until they are actually delivered to the Company by the Postal Authorities.
30. The Company shall under no circumstances be precluded from raising a debit and obtaining payment in respect of any fee or disbursement lawfully due to it, notwithstanding the fact that a previous debit or debits, whether excluding or partly including the items now sort to be charged, had been raised and whether or not any notice was given that further debits were to follow.
31. All goods and documents and relating to goods including bills of lading and import permits, as well as all refunds, repayments, claims and other recoveries, shall be subject to a special and general lien and pledge in favour of the company either for monies due in respect of such goods or for other monies due to company from the customer, sender, owner, consignee, importer or the holder of the bill of lading or their agents, if any. If monies due to the company are not paid within 14 days after the notice has been given to the person from whom the monies are due that such goods or documents are being detained, they may be sold by auction or otherwise or in some other way disposed of for the value at the sole discretion of the company and at the expense of such person, and the nett proceeds applied in or towards satisfaction of such indebtedness.
32. The Company shall not in any circumstances be liable for any loss or damage to goods or for non-delivery whether on grounds of breach of contract or negligence, unless it is proved that the loss, damage, non-delivery occurred whilst the goods were in the actual custody of the Company and under its actual control.
33. Subject to the terms of Clause 32 above the Company shall be under no liability whatsoever, whether on grounds of breach of contract or negligence, in respect of any type of loss or damage, howsoever arising in respect of or in connection with any goods or any instructions, business advise, information or services or otherwise, unless it is proved that the loss or damage was caused by the gross negligence of the Company.
34. Notwithstanding anything hereinbefore contained the Company shall not, in any circumstances, be liable for damages arising from loss of market, or attributable to delay in forwarding or in transit, or failure to carry out the instructions given to it or for any consequential loss howsoever caused.
35. Notwithstanding anything hereinbefore contained the Company shall be discharged from all liability –
- 35.1 for loss non-delivery if any separate package forming part of a consignment or for loss from a package or an unpacked consignment or for damage or mis-delivery, however caused, unless notice be received in writing within 5 (FIVE) days of the end of the transit where the transit ends in the Republic of South Africa, or within 14 (FOURTEEN) days after the end of the transit where the transit ends at any place outside the Republic of South Africa;
- 35.2 for loss or non-delivery of the whole of the consignment, however caused, unless notice be received in writing within 28 (TWENTY EIGHT) days of the date upon which the goods should have been delivered.
36. In no case whatsoever, shall any liability of the Company, howsoever arising, exceed the value of the goods or the value declared by the customer for insurance, customs or carriage purposes, or an amount determined as set out below, whichever is the lowest;
- 36.1 Inward and outward consignments received or to be forwarded by airfreight – R25 per consignment;
- 36.2 Inward and outward consignments received or to be forwarded by seafreight or other surface carriage, excluding parcel post – R50 per 1000 kilograms or part thereof;
- 36.3 Inward and outward parcel post consignments – R15 per consignment. If it is desired that the liability of the Company should not be governed by these limits, written notice thereof must be given to the Company before any goods or documents are entrusted to the Company, together with a statement of the value of the goods.

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Upon receipt of such notice the Company may agree to its liability being increased to a maximum amount stated in the notice, in which case it shall be entitled to effect special insurance to cover its maximum liability and the party giving the notice shall be deemed by doing so to have agreed and undertaken to pay the Company the amount of the premium payable by the Company for such insurance.

37. Where, as a result of any act or omission by the Company, duty, railage, wharfage, freight, cartage or any other impost or charge has been paid or levied, which should not have been paid or levied, or has been paid and levied in an incorrect amount, then any responsibility or liability to the customer which the Company might otherwise bear will cease and fall away if the customer does not:-
- 37.1 within a reasonable time, having regard to all the circumstances, and in particular to the time allowed for the recovery from the payee the amount overpaid, advise the Company that an incorrect amount has been paid or levied, and
- 37.2 do all such acts as are necessary to enable the Company to effect recovery of the amount overpaid having regard to the conditions required for such recovery. Provided that the customer is aware of the actual amount paid or levied, the fact that he may not be aware that such an amount is incorrect shall not constitute a circumstance to be taken into account in calculating what is a reasonable time, nor shall such ignorance excuse any act or omission which may prejudice the Company's right of recovery.
38. The Company shall not be liable under any circumstance for any loss, damage or expense arising from or in any way connected with marks, weights, measurements, numbers, brands, contents quality or description of any goods.
39. In addition to and without prejudice to the foregoing conditions, the customer shall be deemed to have indemnified the Company against all liabilities whatsoever suffered or incurred by the Company arising directly or indirectly from or in connection with the customer's instructions or their implementation in relation to the goods and in particular, but without limiting, in respect of any liability whatsoever to:-
- 39.1 any employee, agent or sub-contractor or any haulier, carrier, warehouseman, or other person whatsoever at any time involved with the goods arising out of any claim made directly or indirectly against any party by the customer or by any consignor, consignee or owner of the goods or by the person interested in the goods or by any other person whatsoever, or
- 39.2 any owner or consignee of the goods who is not the customer of the Company performs the service of a deconsolidation agent, or any other service, or
- 39.3 any carrier of the goods if the Company is the consignor or consignee of the goods.
40. No act, omissions, course of dealing, forbearance, delay or indulgence by the Company in enforcing any of these conditions or any of its rights in terms of thereof or any granting of time by the Company shall prejudice or affect the rights and remedies of the Company under these conditions and no such matter shall be treated as any evidence of waiver of the Company's rights there under nor shall any waiver of a breach by a customer of any one or more of these conditions operate as a waiver of any subsequent breach thereof. The Company shall at all times and without notice be entitled to insist on strict applications and enforcement of these conditions.
41. Overdue amounts owing by the customer to the Company shall bear interest at a rate equivalent to 4% per annum above the prime overdraft rate charged by the Company's banker from time to time, as from the due date until the date of payment.
42. If the Company incurs any legal cost pursuant to a breach by the customer of any of its obligations, all such costs, on the attorney and own client scale, shall be refundable to the Company, on demand, by the customer.
43. These conditions and all agreements made by the Company with its customers wherever made shall be governed and construed according to the laws of the Republic of South Africa and shall be subject to the exclusive jurisdiction of the Courts of the Republic of South Africa.
44. The Customer, by the signature of its representative hereto, hereby consents to the jurisdiction of the Magistrate's Court having jurisdiction over its person in respect of any proceedings arising from the contact to which these standard trading conditions apply even if the amount in issue would otherwise exceed the jurisdiction of such court. This consent shall not, however, prejudice the Company in respect of its right to proceed through any other court of competent jurisdiction.

**Suretyship**

The signatory hereto binds himself as surety and co-principal debtor *in solidum* with the Applicant in favour of the Creditor for the due payment of all amounts which may at any time be payable by the Applicant to the Creditor from any cause of action whatsoever.

The signatory hereto further waives the benefits of excussion and division and of the legal exceptions *non numeratae pecuniae* and *non causa debitoris* and acknowledges himself to be fully acquainted with the meanings of these terms. These Terms And Conditions Of Trade shall apply *mutatis mutandis* to this suretyship. Any admission made by the Applicant as to the fact that it is indebted to the Creditor or as to the amount of any such indebtedness to the Creditor shall be binding upon the Surety.

This suretyship is a continuing suretyship and shall remain in full force and effect notwithstanding any fluctuation in, or temporary extinction of the Applicant's indebtedness to the Creditor. It may not be withdrawn, revoked or cancelled by the Surety without the Creditor's prior written consent. Any consensual cancellation or withdrawal of this suretyship by the Surety and the Creditor shall only be valid and effective if reduced in writing and signed by both parties thereto.

**Signature of customer:** \_\_\_\_\_