



SECTION "C"- STANDARD TERMS AND CONDITIONS OF SALE

TRANSPORT PROVISIONS

1. APPOINTMENT

- 1.1 The CUSTOMER hereby appoints NAMOPS to render Services to and on behalf of the CUSTOMER for the duration of this contract and to act as the CUSTOMER'S non-exclusive agent in so rendering such services and NAMOPS hereby accepts such appointment;

2. CUSTOMERS INSTRUCTIONS

- 2.1 NAMOPS shall render the Services according to the CUSTOMERS instructions;
- 2.2 The CUSTOMER shall provide NAMOPS with timeous written instructions containing sufficient, accurate and true information, sufficiently comprehensive for NAMOPS to carry out or execute such instructions; All Landing orders MUST be handed to NAMOPS 72 hours prior to any PORT STORAGE commencing on any cargo/containers – Namops will not be held liable for any PORT STORAGE; All Shipping orders MUST be handed to NAMOPS 72 hours in advance of any DETENTION commencing on any cargo/containers - Namops will not be held liable for any DETENTION CHARGES

2.3 In the event of the CUSTOMER'S instructions being inaccurate or incomplete or not in accordance with NAMOPS'S obligations in terms of this agreement NAMOPS may at the risk and expense of the CUSTOMER act as it deems fit;

2.4 Unless expressly prohibited by the CUSTOMER'S instructions, NAMOPS may without notice to the CUSTOMER choose or substitute the means, route and procedure to be followed in the handling, stowage, storage and transportation of the Goods;

2.5 If at any time NAMOPS'S performance is or is likely to be affected by any hindrance or risk of any kind (including the condition of the Goods) not arising from any fault or neglect of NAMOPS and which cannot be avoided by the exercise of reasonable endeavour, NAMOPS may abandon the carriage of the Goods under the contract and where reasonably possible, make the goods or any part thereof available to the CUSTOMER at a place which NAMOPS may deem safe and convenient, whereupon delivery shall be deemed to have been made and the responsibility of NAMOPS in respect of such goods shall cease;

3. OBLIGATIONS OF CUSTOMER

- 3.1 The CUSTOMER shall pay NAMOPS for the services rendered at the applicable rate of NAMOPS as per the agreed tariff on presentation of invoice from NAMOPS;
- 3.2 Payment of all amounts due to the NAMOPS shall be made free of any deduction or set off on the due date of payment;
- 3.3 Any amount not paid on due date for payment shall bear interest at the maximum permissible rate allowed by law;
- 3.4 The CUSTOMER shall be liable for any duties, taxes, imposts, levies, deposits or out lays of whatsoever nature or for whatsoever cause levied by or payable to the authorities, intermediaries or other parties at any port or place for or in connection with the Goods and whether at the time of entry or any subsequent time and for any payment's fines, penalties or expenses incurred or sustained by NAMOPS in connection therewith or arising there from.
- 3.5 The CUSTOMER, be it a credit or cash customer, must ensure that all outstanding payments of amounts due are paid in full before Namops will release any final

cargo/containers/items/goods and/or completion of any services.

4. PERMITS

- 4.1 If any permit or other consent or approval is required by NAMOPS under any law for the performance of this Agreement none of its obligations under the Agreement shall take effect unless and until it obtains all such permits, consents and approvals;
- 4.2 The CUSTOMER shall provide all assistance and information required by NAMOPS for the purpose of applying for and obtaining any permit or other consent or approval referred to in Clause 4.1.

5. ACCESS TO PRIVATE PROPERTY

- 5.1 NAMOPS shall in its sole discretion decide what route it shall follow. Should there not be suitable roads over which the NAMOPS vehicles (and where applicable, its cranes and plant) can pass or would there not be a convenient place affording hard solid standing without overhead wires or other obstructions for collection and delivery and for lifting and handling in connection therewith NAMOPS shall notify the CUSTOMER thereof without delay whereupon NAMOPS may in its sole discretion refuse to load or offload the goods or may deliver them to another point chosen by NAMOPS. NAMOPS shall in either event be deemed to have performed in terms of the contract and shall be entitled to payment, therefore.

6. LOADING OR UNLOADING

- 6.1 The CUSTOMER shall be obliged to provide any plant, power or labour that is required for loading or unloading unless services were procured where loading and unloading will be the responsibility of NAMOPS.

- 6.2 The CUSTOMER warrants that if any goods require special appliances for loading upon or unloading from NAMOPS vehicle those appliances will be available at the point of collection or place of delivery of the consignment.

7. TRANSIT

- 7.1 Transit shall commence: -
- if the consignment is handed to NAMOPS at its own premises and accepted by NAMOPS, or
 - if the consignment is collected by NAMOPS at any other point, when the consignment has been loaded onto and finally secured to NAMOPS'S vehicle at that other point.
- 7.2 Transit shall (unless otherwise previously terminated) end when the consignment is tendered at the usual place of delivery at the consignee's address within the customary cartage hours of the district provided that: -
- if no safe and adequate access or no adequate unloading facilities exist there, transit shall be deemed to end at the expiry of one clear day after notice (which may be verbal) of the arrival of the consignment at NAMOPS'S premises, has been given to the CUSTOMER; and
 - if for any other reason whatever a consignment cannot be delivered or if a consignment is held by a NAMOPS "to await order" or "to be kept until called for" or upon any similar instructions and those instructions are not given, or the consignment is not called for and removed within a reasonable time, transit shall be deemed to end.

8. ROUTE

- 8.1 It is a condition precedent to the NAMOPS'S obligation to perform the contract that the

competent authorities approve the passage of the loaded vehicle, the route on which NAMOPS'S charges have been based and that passage over such route is possible.

- 8.2 Any extra costs incurred by NAMOPS as a result of any compliance with any instructions:

- of the police or any other competent authority, shall be added to NAMOPS'S charges and such compliance shall be work done under the contract
- This will exclude fines if incurred by NAMOPS where vehicles or drivers are non-compliant to the Namibian Road Act.

9. DETENTION AND DEMURRAGE

- 9.1 The CUSTOMER shall be liable for any detention or delay for any reason whatsoever caused by the customer of NAMOPS'S vehicles, containers, sheets, etc., before commencement of or after termination of transit without prejudice to NAMOPS rights against any other person;
- 9.2 The CUSTOMER shall pay demurrage at a reasonable rate in respect of any vehicle, containers, sheets, etc., so detained or delayed. In the event of there being any dispute as to what is a reasonable rate the amount fixed by the Chairman for the time being of the Professional Hauler's Association or its successor shall be deemed to be reasonable.
- 9.3 NAMOPS will not be held liable for detention and demurrage levied by shipping lines.

10. NAMOPS'S LIABILITY

- 10.1 Notwithstanding anything to the contrary contained in any written or verbal communication or agreement or provided by law, in the

event of the goods being lost, damaged or destroyed for whatsoever reason, inclusive of but not limited to the negligence of NAMOPS, its agents, its servants or employees, NAMOPS shall not be liable for such loss or damage in any amount exceeding the lesser of:-

- 10.1.1 N\$100,000.00, or,
- 10.1.2 the value of the goods, or
- 10.1.3 the purchase price of the goods, or
- 10.1.4 the production costs of the goods,

and any loss or damage sustained in excess thereof shall be subject to the own risk of the customer and/or owner whatever the case may be, in respect of which excess the owner and /or customer shall be deemed to have indemnified NAMOPS from any liability for damages or losses sustained in such excess when contracting with NAMOPS.

- 10.2 Any loss or damage referred to above shall be notified to NAMOPS in writing within seven days of the due date for delivery of the goods, failing which NAMOPS shall have no obligation or liability of whatsoever nature to the CUSTOMER. The onus of proving any loss or damage shall vest in the CUSTOMER.

11. SUBCONTRACTING

- 11.1 The instructions of the CUSTOMER to NAMOPS may in the absolute discretion of NAMOPS be fulfilled or executed by NAMOPS itself or by NAMOPS employing or entrusting the Goods or services to third parties on such conditions as may be stipulated by or negotiated with such third parties for such services or such part thereof as they may be employed by NAMOPS to fulfil or execute.

WAREHOUSE CONDITIONS

12. RIGHTS TO GOODS

- 12.1 The CUSTOMER warrants that it is the owner and/or has lawful possession of the goods and has sole legal right to store and thereafter direct the release and/or delivery of such goods.

- 12.2 The CUSTOMER agrees to indemnify and hold harmless (including legal fees and costs) NAMOPS of and from any claim by others relating to ownership, storage and release of the goods, and/or any other services provided by NAMOPS under this Warehouse Receipt.

13. SERVICES PROVIDED

- 13.1 NAMOPS shall receive, store and release the goods in its Facility as indicated on the Warehouse Receipt.
- 13.2 NAMOPS may provide other services as requested by the CUSTOMER, at the rates set forth in the Schedule of Rates from time to time promulgated by NAMOPS with respect to such services.

14. CORRECTIONS

- 14.1 Unless written notice is given to NAMOPS within ten (10) days after receipt hereof by the CUSTOMER, this Warehouse Receipt shall be deemed complete and correct.

15. TRANSFER, REMOVAL OF GOODS, TERMINATION

- 15.1 NAMOPS reserves the right to move, at its own expense of transfer, any goods in storage from the Facility in which they may be stored to any other warehouse owned or leased by NAMOPS or any of its affiliates; in which case such new warehouse shall be deemed the Facility for all purposes hereunder. NAMOPS can move goods within the Facility with 7 days prior notice to the CUSTOMER or any other party.
- 15.2 Upon not less than thirty (30) days' prior written notice to the CUSTOMER and to any other party known by

NAMOPS to claim an interest in the goods, NAMOPS may require the removal of the goods, or any portion thereof, and the immediate payment of all amounts owing hereunder, for any reason, with or without cause, and whether or not there has been any default by the CUSTOMER. Such notice shall be given by delivery in person or sent by registered mail addressed to the last known place of business of the person to be notified.

BONDED STORAGE

16. USAGE

- 16.1 NAMOPS is the occupier of a certain warehouse(s) approved in terms of the provisions of the laws of the Republic of Namibia relating to Customs, for the storage of bonded goods; the condition of this obligation is such that if all the goods which are now and/or hereafter may be from time to time deposited in such warehouse(s), shall be either duly exported or the full duties and taxes due and payable on the importation of such goods, or of such part thereof as shall not have been exported as aforesaid, be paid to the Controller of Customs at the Port of Walvis Bay according to the first account taken of such goods upon the landing of the same, and it terms of the provisions of the Customs laws of the Republic of Namibia then this obligation to be void; otherwise to be and remain in full force and virtue.
- 16.2 The CUSTOMER is desirous of utilizing the warehouse to store goods as well as NAMOPS'S bond as security for the full duties and taxes due and payable on the importation of such goods.
- 16.3 NAMOPS has agreed to the utilisation of the warehouse to store goods as well as NAMOPS'S bond as security for the full duties and taxes

due and payable on the importation of such goods.

17. BONDED FACILITY

17.1 The CUSTOMER must at all times whilst using NAMOPS'S bond, use its own Customs Licence when passing entries with customs.

17.2 All entries must be acquitted within 7 (seven) days after removing the cargo from the warehouse.

17.3 Failure to acquit within the specified period will result in NAMOPS invoicing the CUSTOMER for the amount equal to the duties, as declared against the bond, which amount will be due and payable immediately to NAMOPS and will only be refunded once to acquittal has been passed.

17.4 The customer will provide necessary detail concerning bond amounts in a format provided by NAMOPS prior any entries being passed on the NAMOPS Bond. If the shipments handled by the customer exceeds this agreed amount, then there is no recourse against NAMOPS for any penalties of whatever nature that maybe incurred by the customer utilising NAMOPS'S Bond.

17.5 The CUSTOMER shall at all times be responsible for the Customs Declaration and hereby indemnifies NAMOPS against any miss-declarations and/or penalties that may result from the CUSTOMER utilising NAMOPS's Bond.

17.6 NAMOPS hereby undertakes to comply with all customs regulations relating structural and security aspects of bonded warehousing.

17.7 The CUSTOMER undertakes and acknowledges that it will comply with all procedural and operational customs regulations relating to bonded warehouses.

GENERAL

18. ACCESS AND CONTROL

18.1 The CUSTOMER acknowledges and accepts that the warehouse is situated on the premises (leased or otherwise) of NAMOPS and therefore accepts that the access and control to the warehouses will be regulated by NAMOPS with its own policies and procedures.

18.2 The CUSTOMER will comply with said policies and procedures and acknowledges that such are fair and reasonable.

19. THIRD PARTY OPERATORS

19.1 This includes but is not limited to Forklifts, trucks, and other vehicles.

19.2 The CUSTOMER accepts that unless specifically agreed in writing and included in a separate agreement 3rd party operators will not be allowed on site or in the warehouse of NAMOPS.

19.3 NAMOPS undertakes to provide such services to the CUSTOMER at an agreed market related rate.

19.4 CUSTOMER acknowledges that same is necessary for reasons of safety and security.

19.5 In the event of NAMOPS allowing access to such 3rd party operators, the operator will be obliged to comply with NAMOPS'S policies and procedures, failure of which they will be asked to vacate the premises with immediate effect until such time that the matter has been addressed and resolved (NAMOPS retains right of admission at all times).

20. DANGEROUS GOODS

20.1 Unless otherwise agreed to in writing, the CUSTOMER warrants that the goods are fit for carriage in the ordinary way and are not dangerous or fragile and do not require

special purpose vehicles for their conveyance;

20.2 Should NAMOPS accept any dangerous goods or goods unfit to be carried in the ordinary way;

20.2.1 the CUSTOMER shall furnish with the goods a written declaration of their nature and contents;

20.2.2 The goods shall be properly and safely packed by the CUSTOMER, ready for carriage and in accordance with any law applicable.

20.3 If in the opinion of NAMOPS any consignment or portion thereof (whether declared unfit for ordinary carriage or dangerous or not) becomes a danger to any person or property or otherwise unfit for carriage NAMOPS shall be entitled immediately and without notice to the CUSTOMER to dispose of the goods in question or to take such other steps as in its sole discretion it deems prudent to avert the danger or to avoid the consequences of such unfitness and

20.3.1 any such disposal steps shall be deemed to be work done under this contract; and

20.3.2 NAMOPS shall be deemed to have performed in terms of the contract and shall be entitled to payment of its full charges and costs including any costs incurred by it in disposing of such goods or taking other steps.

21. INFORMATION TO BE SUPPLIED BY THE CUSTOMER

The CUSTOMER shall at the time of entering into the contract provide: -

21.1.1 Exact relevant details and dimensions and weights of the goods (the CUSTOMER acknowledges that this information will be used by NAMOPS in planning operational execution and assigning appropriate equipment, obtaining all necessary permits, consents

and approvals and furthermore accepts full liability for the correctness thereof);

- 21.1.2 The correct and adequate addresses of the point of collection and the point of delivery.

22. CUSTOMER WARRANTIES

- 22.1 The CUSTOMER warrants that the information as to count, weight, description and condition of the goods set forth on any delivery document is accurate and complete and may be relied upon by NAMOPS.

- 22.2 If the CUSTOMER is not the owner of some or all the goods in any consignment, he warrants that it he authorized to enter into this contract on behalf of the owner(s).

23. LIEN

- 23.1 NAMOPS shall have a lien over all goods as a security for all monies owing for the carriage/storage of the goods.

- 23.2 In addition, NAMOPS shall be entitled to hold all goods as a security for any other monies which may be due and payable to it by the CUSTOMER from any cause whatsoever.

- 23.3 If any monies owing is not paid within 30 (thirty) days after they become due NAMOPS shall be entitled with further notice to the CUSTOMER

- 23.3.1 to open and examine any part of the consignment;

- 23.3.2 to sell the whole or any part of the consignment in such manner and on such terms and conditions as it deems fit; and

- 23.3.3 to apply the proceeds of any sale, after deducting all expenses thereof, in payment or reduction of any amount due by the CUSTOMER to NAMOPS, provided that any surplus

shall be paid over to the CUSTOMER without interest as soon as possible after the sale if the CUSTOMER'S address is known, or if not, upon demand by the CUSTOMER.

- 23.4 Upon payment or tender of the proceeds of any such sale NAMOPS shall be released from all liability to the CUSTOMER in respect of the goods.

NAMOPS'S rights under this clause 23 are not exhaustive and are in addition to any other rights which NAMOPS may have against the CUSTOMER.

24. NOTICES

- 24.1 A notice, approval, consent or other communication in connection with this contract must be:

- (a) in writing;
- (b) marked to the attention of the person nominated by the respective parties for the receipt of notices; and
- (c) delivered personally or sent by facsimile, post or email to the address specified in this contract or to the last known address of the addressee.

25. CLAIMS

- 25.1 The CUSTOMER shall notify NAMOPS in writing of any loss, damage, shortage, failure to deliver and/or miss-delivery of goods within seven (7) business days after the discovery by the CUSTOMER of such loss, damage, shortage, failure to deliver and/or miss-delivery.

- 25.2 The CUSTOMER must retain and permit NAMOPS to inspect the goods relating to such claim.

- 25.3 Any lawsuit or arbitration proceeding must be commenced within nine (9) months following the date such claim arose. Failure to comply with any of the foregoing shall preclude the CUSTOMER from maintaining any claim or suit against NAMOPS.

- 25.4 Any dispute or claim arising out of or for the breach of this Agreement or in connection with any goods stored hereunder, whether founded in tort or contract, shall be settled by arbitration under the arbitration laws of Namibia, provided however, that upon any such arbitration, the arbitrator may not vary, modify or disregard the provisions contained herein, including those respecting the declared or agreed valuation of the goods and the limitation of liability of NAMOPS.

- 25.5 The award may be entered as a judgment of a court of record in the area of jurisdiction where the award is made. The CUSTOMER and NAMOPS shall share equally the cost of arbitration. Court costs shall be borne by the losing party.

26. SEVERABILITY

- 26.1 NAMOPS's failure to insist upon the strict compliance with any provision hereof shall not constitute a waiver or estoppel of its right to demand strict compliance. If any provision hereof is found to be invalid, illegal and/or unenforceable for any reason whatsoever, the validity, legality and enforceability of the remaining provisions hereof shall remain intact.

27. MISCELLANEOUS

- 27.1 This agreement shall be governed and interpreted in accordance with the laws of the Republic of Namibia;

- 27.2 NAMOPS shall have the option of proceeding either in the High Court or the Magistrate's Court with any claim against the Customer notwithstanding that the claim may exceed the jurisdiction of such Magistrate's Court, to which jurisdiction the Customer hereby consents.

- 27.3 No variation or amendment or consensual cancellation, or other modification of this

Agreement shall be valid or binding on a party hereto unless reduced to writing and executed by both Parties hereto.

27.4 None of the provisions of this Agreement shall be considered waived by any of the parties except when such waiver is given in writing. No such waiver shall be or be construed to be a waiver of any past or future default, breach or modification of any of the terms, provisions, conditions or covenants of this Agreement except where expressly stipulated therein.

28. LIABILITY OF NAMOPS

28.1 NAMOPS shall be responsible for exercising reasonable care under the circumstances, and shall not be liable for any loss, damage or injury to the goods that could not have been avoided by the exercise of such reasonable care.

28.2 In particular, and not in limitation hereof, NAMOPS shall not be responsible for loss or damage resulting from sprinkler leakage, fire, insect or rodent infestation, or any other cause, unless such damage results from NAMOPS's failure to exercise the degree of care required hereby or under the law.

28.3 Goods are stored at the CUSTOMER'S risk of loss or damage by acts of God, seizure or other acts of civil or military authority, insurrection, riot, strike, or enemies of the government, for loss or damage resulting from inadequate packaging or wear and tear, or from any cause beyond NAMOPS's control.

28.4 In the event of loss, damage, shortage, failure to deliver and/or miss-delivery involving the goods for any cause or reason for which NAMOPS is legally liable, NAMOPS shall be responsible only to the extent of the lesser of the actual cost to repair, restore and/or replace such goods or the amount

specified on the first page of this Warehouse Receipt.

28.5 If the CUSTOMER has declared a higher value on the first page of this Warehouse Receipt, an excess valuation charge shall be assessed in accordance with the applicable Schedule of Rates.

28.6 The CUSTOMER agrees that the foregoing shall be its exclusive remedy against NAMOPS for any claim or cause of action whatsoever relating to the goods or services hereunder. In no event shall the customer be entitled to any special, incidental or consequential damages of any type or nature.

29. TARIFFS AND QUOTATIONS

Unless specific quotations are given, the carriage of goods will be performed in accordance with NAMOPS's tariff of charges prevailing from time to time. Quotations shall only be valid against and binding upon NAMOPS if accepted by the customer in writing 7 days of the date thereof, failing which NAMOPS shall be at liberty to withdraw, vary or revise any quotation. NAMOPS shall also be at liberty to revise any quotation after acceptance or where such quotation includes charges applicable to the goods and a change occurs in threats of such charges.

Furthermore, NAMOPS shall be entitled to vary or revise any quotation in the following circumstances:

29.1 In the event of NAMOPS being obliged to take out or obtain any licences or permits, or to comply with the requirements of any lawful authority.

29.2 In the event of the customer increasing the consignment or changing the consignment

29.3 In the event of NAMOPS being obliged to deviate from the route selected by it, or to carry the goods over

another route, as a result of adverse weather conditions, impassable of dangerous roads and bridges

30. INSURANCE

30.1 Notwithstanding the aforesaid exclusion of liability, NAMOPS has a goods in transit insurance policy covering:

30.1.1 Fire, explosion, malicious damages, earthquake, lightning, overturning or collision of the conveying vehicle including theft following any of these events, falling from conveying vehicle loading and/or unloading and/or

30.1.2 Estimates/quotes for transport, handling, storage and any/all related services quoted by Namops, exclude INSURANCE and should be arranged by the importer/exporter directly

30.1.3 Theft following violent and forcible entry into the conveying vehicle and/or theft following assault or violence or the threat of violence to NAMOPS or any employee of NAMOPS.

Whilst in the Republic of South Africa, Namibia (including any newly independent State formerly within the Republic of South Africa or Namibia) Botswana, Lesotho, and Swaziland.

Load Limit: N\$ 1 000 000.00 per truck load.

NAMOPS will, but without any obligation to do so and without giving any undertakings of whatsoever nature, endeavour to recover for the owner loss or damage sustained by the owner in respect of the goods being conveyed, but subject to the policy conditions and limitations.

30.2 NAMOPS also has a warehousing and depot insurance policy covering losses or damage to goods in our care custody and control as a result of:

Fire, explosion, malicious damages, earthquake, lightning and or damage caused due to storm, wind, water or hail (referred to as special perils), but subject to a maximum value of N\$6,000,000.00 per event. The policy will however not respond if the goods are more specifically insured by the owner.

30.2.1 Theft following violent and forcible entry into warehouses and/or depot and/or theft following assault or violence or the threat of violence to NAMOPS or any employee of NAMOPS, but limited to a first loss amount of N\$250,000.00 per incident

30.3 Notwithstanding anything to the contrary herein contained:

30.3.1 The customer shall immediately advise NAMOPS of any loss or damage and confirm in writing within 7 days after delivery;

30.3.2 NAMOPS will not be responsible for shortages, damages of inner contents of

packages or within bundles or damage to seals;

30.4 NAMOPS shall not be responsible for the shortage of items if the cc's driver has signed as quantity not checked.

30.5 Neither NAMOPS nor any of its servants or agents will be liable for any loss or damage to the customer, however caused, arising out of this agreement.

30.6 NAMOPS does not accept any liability in respect of any consequential losses, loss or market, fines, penalties or any financial loss, whether arising from an insured event or not.

General Cargo Exclusions:

- Computers and the like, hi-fi sets, video machines, TV's, cell phones, radios and the like
- Any live animals, jewellery, furs, watches, precious metal and

stones, artworks and antiques

- Treasure notes, specie, bullion, cash, bonds, deeds, stamps, pre-paid telephone cards and securities
- Manuscripts, documents, plans and computer system records
- Non-ferrous metals, copper, brass, scrap and the like, explosives, ammunition, tobacco, cigars, cigarettes
- Dangerous drugs which are the subject of various International Conventions
- Exotic Foodstuffs such as prawns, crayfish, calamari, caviar and the like
- Used Household Goods and Personal Effects
- Third party liability claims and/or consequential losses howsoever occurred/arisen