SOUTH AFRICAN ASSOCIATION OF FREIGHT FORWARDERS TRADING TERMS AND CONDITIONS

ADOPTED BY:

DAIGON INTERNATIONAL PTY LTD

HEREINAFTER REFERRED TO AS "THE COMPANY"

1. INTERPRETATION

In these trading terms and conditions

1.1 the headings to the clauses are for reference purposes only and shall not aid in the interpretation of the clauses to which they relate;

1.2 unless the context clearly indicates a contrary intention, words importing any one gender include the other two genders, the singular includes the plural and vice versa and natural persons include created entities (corporate or unincorporate) and vice versa:

1.3 the following terms shall have the meanings assigned to them hereunder the cognate expressions shall have a corresponding meaning, namely:

1.3.1 "the company" means the referred to above, or if it is exercises its right under clause 2, the member of the group in respect of which it exercises its right:

1.3.2 "customer" means any person on whose request or on whose behalf the company undertakes any business or provides any advise, information or services:

1.3.3 "goods" means any goods handled, transported or dealt with by or on behalf of or at the instance of the company of its agents, servants or nominees on the instruction of the customer, and includes any container, transportable tank, flat pallet, package or any other form of covering, packaging, container or equipment used in connection with or in relation to such goods;

1.3.4 "the group" means the company and any company which is a holding company or subsidiary of the company from time to time which may render services to the customer in terms of clause 2;

1.3.5 "the owner" means the owner of goods to which any business conducted under these trading terms and conditions relates and any other person who is or may have or acquire any interest, financial and otherwise, therein.

2. MEMBERS OF THE GROUP RENDERING SERVICES TO THE CUSTOMER

The company may at its election perform all and any business undertaken or provide advice, information or services, whether gratuitous or not, either itself or it may procure that any member of the group undertakes such business or provides such advise, information or services as principal upon and subject to the terms and conditions herein which shall apply mutatis mutandi's to the customer and any such member of the group.

3. APPLICATION OF TRADING TERMS AND CONDITIONS

Subject to clause 5, all and any business undertaken or advice, information or services provided by the company, whether gratuitous or not, is undertaken or provided on these trading terms and conditions.

4. OWNER'S RISK

All handling, packing, loading, unloading, warehousing and transporting of goods by or on behalf of or at the request of the company are effected at the sole risk of the customer and/or the owner, and the customer indemnifies the company accordingly.

5. APPLICABLE LEGISLATION

5.1 If the company is obliged, in the execution of any of its duties and/or responsibilities to comply with any common law or legislative enactment ("the law") of any nature whatsoever, then the company by complying therewith, shall not be deemed to waive nor abandon any of its rights in terms of these trading terms and conditions.

5.2 In addition thereto, in complying with the law, the company shall not be deemed to have assumed any onus, obligation, responsibility or liability in favour of the customer;

5.3 If any of the terms of these trading terms and conditions is repugnant to or in conflict with law, then and in such event the conflicting term embodied herein shall be deemed to be amended and/or altered to conform therewith, and such amendment and/or alteration shall not in any way affect the remaining provisions of these

trading terms and conditions.

6. RATE COMBINED TRANSPORT BILL OF LADING

The company shall be entitled to issue in respect of the whole or part of any contract for the movement of goods a FIATA combined transport bill of lading ("FBL") provided that where a FBL is issued these trading terms and conditions shall continue to apply except insofar as they conflict with the terms and conditions applicable to the FBL. The issue of a FBL by the company shall entitle it to raise an additional charge, determined by the company, to cover its additional obligations arising under the FLB.

7. EXCLUSION OF OBLIGATION OF COMMON OR PUBLIC CARRIER

The company deals with goods only on the basis that it is neither a common carrier nor a public carrier.

8. COMPANY DISCRETION IN THE ABSENCE OF INSTRUCTIONS

In the absence of specific instructions given timeously in writing by the customer to the company.

8.1 it shall be in the reasonable discretion of the company to decide at what time to perform or to procure the performance of any or all of the acts which may be necessary or requisite for the discharge of its obligations to the customer;

8.2 the company shall have an absolute discretion to determine the means, route and procedure to be followed by it in performing all or any of the acts or services it has agreed to perform;

8.3 in all cases where there is a choice of tariff rates or premiums offered by any carrier, warehouseman, underwriter, or other person depending upon the declared value of the relevant goods or the extent of the liability assumed by the carrier, warehouseman, underwriter or other person, it shall be in the discretion of the company as to what declaration, if any, shall be made, and what liability, if any, shall be imposed on the carrier, warehouseman, underwriter or other person.

9. COMPANY'S GENERAL DISCRETION

9.1 Notwithstanding anything to the contrary herein contained, if at any time the company should consider it to be in the customer's interest or for the public good to depart from any of the customer's instructions, the company shall be entitles to do so and shall not incur any liability in consequences of doing so.

9.2 If events or circumstances come to the attention of the company, its agents, servants or nominees which, in the opinion of the company, make it in whole or in part., Impossible or impracticable for the company to comply with a customer's instructions the company shall take reasonable steps to inform such customer and such events or circumstances and to seek further instructions. if such further instructions are not timeously received by the company in writing the company shall, at its sole discretion, be entitled to detain, return, store, sell abandon, or destroy all or part of the goods concerned at the risk and the expense of the customer.

10. INSURANCE

The company shall endeavour to effect any insurance the customer timeously and in writing instructs it to effect. Such insurance will be subject to such exceptions and conditions as may be imposed by the insurance company or underwriter taking the risk ant the company shall not be obliged to obtain separate cover to any risks so excluded. Unless otherwise agreed in writing the company shall not be under any obligation to obtain separate insurance in respect of separate consignments but may insure all or any of such consignments under open or general policy held by the company from time to time. Should any insurer dispute its liability in terms of any insurance policy in respect of any goods, the customer concerned shall have recourse against such insurer only and the company shall not have any responsibility or liability whatsoever in relation thereto notwithstanding that the premium paid on such policy may differ from the amount paid by the customer to the company in respect thereof. Insofar as the company agrees to arrange insurance the company acts solely as agent for and on behalf of the customer.

11. COMPANY'S OBLIGATIONS IN THE ABSENCE OF INSTRUCTIONS

Unless specific written instructions are timeously given to and accepted by the company, the company shall not be obliged to:

11.1 make any declaration for the purpose of any statute, convention, or contract, as to the nature or value of any goods or as to any special obligation to make any declaration or to seek any protection or cover from any carrier in respect of any goods which are, or fall within the definition ascribed thereto by that body of dangerous goods or other goods which require special conditions of handling or storage;

11.2 arrange for any particular goods to be carried, stored or handled separately from other goods.

12. CUSTOMER'S

UNDERTAKINGS

12.1 For all purposes hereunder the customer shall be deemed to have in relation to the customer's business, the goods and the services to be rendered by the company in regard thereto, reasonable knowledge of all matters directly or indirectly relating thereto or arising therefrom including, without limitation, terms of sale and purchase and all matters relating thereto and the customer undertakes to supply all pertinent information to the company.

12.2 The customer warrants that:

12.2.1 It is either the owner or the authorised agent of the owner of any goods in respect of which the customer instructs the company and that each such person is bound by these trading terms and conditions;

12.2.2 in authorising the customer to enter into any contract with the company and/or in accepting any document issued by the company in connection with such contract, the owner, sender or consignee is bound by these trading terms and conditions for itself and its agents and for any parties on whose behalf it or its agent may act, and in particular, but without prejudice to the generality of the aforegoing, it accepts that the company shall have right to enforce against them jointly and severally any liability of the customer under these terms and conditions or recover from them any sums to be paid by the customer which upon proper demand have not been paid;

12.2.3 all information and instructions supplied and to be supplied by it to the company is and shall be accurate, true and comprehensive, and in particular, without derogating from the generality of the aforegoing, the customer shall be deemed to be bound by and warrants the accuracy of all descriptions, values and other particulars furnished to the company for customs, consular and other purposes, and the customer warrants that it will not withhold any necessary or pertinent information, and indemnifies the company against all claims, losses, penalties, damages, expenses and lines whatsoever, whatsoever and howsoever arising as a result of a breach of the aforegoing whether negligently or otherwise including, without derogating from the generality of the aforegoing, any assessment or reassessment.

12.2.4 all goods will be properly, adequately and appropriately prepared and packed, stowed, labelled and marked, having regard inter alia to the implementation by or on behalf of the company or at its instance of the contract involved, and the characteristics of the goods involved and are capable of withstanding the normal hazards inherent in the implementation of such contract;

12.2.5 where goods are carried in or on containers, trailers, flats, tilts, railway wagons, tanks, igloos or any other unit load devices specifically constructed for the carriage of goods by land, sea or air, (each such device hereinafter individually referred to as "the transport unit") then, save where the company has been given and has accepted specific written instructions to load the transport unit.

12.2.5.1 that the transport unit has been properly and completely loaded; and

12.2.5.2 that the goods involved are suitable for carriage in or on the transport unit; and

12.2.5.3 that the transport unit itself in a suitable condition to carry the goods loaded therein and complies with the requirements of all relevant transport authorities and carriers.

13. RECOVERY OF DEBTS DUE TO THE COMPANY

The company shall be entitled to recover any amounts due to it by the customer in respect of instructions relating to or in terms of any contract in respect of particular goods from the customer, or if the customer acts as agent for a disclosed or undisclosed principal from the customer or the principal, as the company in its absolute discretion deems fit.

14. COMPANY ENTITLED TO ACT AS AGENT OR PRINCIPAL IN CONTRACTING

14.1 Unless otherwise agreed in writing, the company is procuring the carriage, storage, packaging or handling of goods shall be entitled to act either as an agent for and on behalf of the customer or as a principal, as it in its absolute discretion deems fit.

14.2 The offer and acceptance of a listed price for the accomplishment of any task shall not itself determine whether such task is to be arranged by the company acting as agent for and on behalf of the customer or as principal.

14.3 The customer acknowledges that when the company as agent for and on behalf of the customer concludes any contract with a third party, such agreement is conducted between the customer and third party.

14.4 Unless otherwise agreed in writing, the company, when acting as agent for and on behalf of customer, shall be entitled to enter into any contract it reasonably deems necessary or requisite for the fulfilment of the customer's instructions, including, without limitations, contracts for the:

14.4.1 carriage of goods by any route or means or person;

14.4.2 storage, packaging, transport, shipping, loading, unloading and/or handling of goods by any person at any place whether on shore or at land and for the length of time;

14.4.3 carriage or storage of goods in break-bulk form or in or on transport units as declined in clause 12.2.5 or with or without other goods of whatsoever nature.

15. SUBCONTRACTING

15.1 Any business entrusted by the customer to the company may, in the absolute discretion of the company, be fulfilled by the company itself, by its own servants performing part or all of the relevant services, or by the company 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 the purposes of such services, or such part thereof as they may be employed to carry out.

15.2 Where the company employees third parties to perform al or any of the functions which it has agreed to perform, the customer agrees that the company shall have no responsibility or liability to its customer 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 shall, if suitably indemnified against against all costs, (including attorney and client costs) which may be incurred by or awarded against the company, take such action against the third party on the customer's behalf as the customer may direct.

16. TERMS AND CONDITIONS OF AGENTS AND SUBCONTRACTORS

Notwithstanding anything to the contrary contained herein the customer agrees that all goods shall be dealt with by the company on the terms and conditions, whether or not inconsistent with these trading terms and conditions, stipulated by the carriers, warehouseman, government departments, and all other parties (whether acting as agents or subcontractors to the company or not) into whose possession or custody the goods may pass, or subject to whose authority they may at any time be.

17. GOODS REQUIRING SPECIAL ARRANGEMENTS

Except under special arrangements previously made in writing the company will not accept or deal with bullion, coin, precious stones, jewellery, valuables, antiques, pictures, human remains, livestock or plants. Should the customer nevertheless deliver such goods to the company or cause the company to handle or deal with any such goods otherwise than under special arrangements previously made in writing the company shall incur no liability whatsoever in respect of such goods, and in particular, shall incur no liability in respect of its negligent acts or omissions in respect of such goods. A claim, if any, against the company in respect of the goods referred to in this clause 17 shall be governed by the provisions of clauses 40 and 41.

18. GOODS REQUIRING PRIOR CONSENT OF COMPANY

18.1 The customer shall obtain in advance the company's specific written consent to accept into the possession or control or into the possession or control or into the possession or control of any of its servants, agent or employees any goods, including radio-active materials, which may be dangerous, Inflammable or noxious, or which by their nature may injure, damage, taint or contaminate, or in any way adversely affect any person, goods or property, including goods likely to harbour or attract vermin on other pests. The customer warrants that such goods, or the case, crate, box, drum canister, tank, flat, pallet, package or other holder or covering of such goods will comply with the applicable laws, regulations or requirements of any authority or carrier and that the nature and characteristics of such goods and all other data required by such laws, regulations or requirements will be prominently and clearly marked on the outside cover of such goods.

18.2 If any such goods are delivered to the company, whether or not in breach of the provisions of clause18.1, such goods may for good reason as the company in its discretion deems fit including, without limitation, the risk to other goods, property, life or health be destroyed, disposed of, abandoned or rendered harmless or otherwise dealt with at the risk and expense of the customer and without the company being liable for any compensation to the customer or any other party, and without prejudice to the company's rights to recover its charges and/or fees including the costs of such destruction, disposal, abandonment or rendering harmless or other dealing with the goods. The customer indemnifies the company against all loss, liability or damage caused to the company as a result of the tender of goods to the company and/or out of aforegoing.

19. PERISHABLE GOODS

19.1 Without limiting or affecting any other terms and conditions, goods (whether perishable or otherwise) in the care, custody or control of the company may at the customer's expense be sold or disposed of by the company without notice to the customer, sender, owner or consignee, if:

19.1.1 such goods have begun to deteriorate or are likely to deteriorate;

19.1.2 such goods are insufficientely addressed or marked;

19.1.3 the customer cannot be identified;

19.1.4 the goods have not been collected or accepted by the customer or any other person after the expiration of 21 days from the company notifying the customer in writing to collect or accept the goods, provided that if the company has no address for the customer such notice period shall not be necessary, and payment or tem of the net proceeds, if any, of the sale thereof after deduction of those charges and expenses incurred by the company in respect thereof shall be equivalent to delivery of such goods.

19.2 Should any amount owing by the customer to the company in respect of any referred to in clause 19.1 become due and payable and remain unpaid, the company shall be entitled and the customer hereby authorises the company and without first obtaining an order of court, to sell all or any of the goods by public auction or on reasonable notice not exceeding 14 days by private treaty. The net proceeds of any such sale, after deducting therefrom all costs, charges and expenses incurred by the company, shall n\be applied in reduction or discharge, as the case may be, of the customer's obligations to the company in respect of such goods without prejudice to the company's rights to recover from the customer any balance which may remain owing to the company after the exercise of such rights. Should the total amount collected by the company, after deducting therefrom all costs, charges and expenses incurred by the company in respect thereof, exceed the full amount of the customer's obligations to the company in respect of such goods, the company shall be obliged to return such excess to the customer.

20. THE ACCEPTANCE OF DELIVERY

If delivery of any goods is not accepted by the customer, consignee or party nominated by the customer at the appropriate time and place, then:

20.1 the company shall be entitled to store the goods or any part thereof at no risk to the company and at the expense of the customer;

20.2 the provisions of clause 19.2 shall apply murtatis mutandis.

21. WAREHOUSING

Pending forwarding and/or delivery by or on behalf of the company, goods may be warehoused or otherwise held at any place as determined by the company in its absolute discretion, at the customer's expense.

22. COLLECTION OF EXPENSES AND C.O.D.

22.1.1 When goods are accepted or dealt with by the company upon instructions to collect freight, duties, charges or other expenses from the consignee or any other person, the customer shall remain responsible therefore if they are not paid by such consignee or any other person immediately when due.

22.2 If accepted by the company, instructions to collect payment on delivery shall be subject to the condition that the company will be entitled to assume that the recipient will affect payment and in the matter of such collection will not be liable for any negotiable instrument which is not met on the due date for payment.

23. SUNDRY GOODS RECOGNISABLE AS THE CUSTOMER'S

The company shall have no obligation to take any action in respect of any goods which may be recognisable as belonging to the customer unless and until it receives suitable instructions relating to those goods together with all necessary documents.

24. EXAMINATION OF LANDED GOODS

24.1 Where it is necessary for an examination to be held or other action to be taken by the company in respect of any vessel, aircraft, vehicle, or transport unit, no responsibility shall attach to the company for any failure to hold such examination or take any other

action unless the company has been timeously advised by the landing or discharging agent that such goods have been landed and that such discrepancy exists.

24.2 The company will not be responsible for examining or counting any goods received by it where such goods are bundled, palletised or packed in any other manner such that their number cannot be quickly and easily counted. Should the company undertake to count goods so received, it shall incur no liability in respect of any error or inaccuracy in such counting, whether such error or inaccuracy is the result of negligence on the part of the company or otherwise. The company shall be entitled to levy a charge on the customer for the counting of goods in such circumstances.

25. DUTIES, TAXES, IMPOSTS, LEVIES, AND DEPOSITS

25.1 The customer, whether or not the cause of payment was due to an act, instruction or omissions of the sender, owner and/or consignee and their agents, if any, shall be liable for any duties, taxes, imposts, levies, deposits or out-lays of whatsoever nature 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 and/or at any subsequent time, and for any payments, fines, penalties, expenses, loss or damage or whatsoever incurred or sustained by the company in connection therewith or arising thereof.

25.2 The company shall bear no liability in consequence of the fact that there may be a charge in the rate of duty, wharlage, freight, railage or cartage, or any other tariff, before or after the performance by the company of any act involving a less favourable rate or tariff or virtue of the fact that a saving might have been effected in some other way had any act been performed at a different time.

26. RECOVERY OF DUTIES INCORRECTLY PAID

Where as a result of any act or omission by or on behalf or at the instance of the company and whether or not such act or omission was negligent, any duty, tax, levy, railage, wharlage, freight, cartage or any other impost or charge has been paid or levied in an incorrect amount, then any responsibility or liability to the customer which the company may otherwise have will cease and fall away if the customer does not:

26.1 within a reasonable time having regard to all the circumstances, and in particular to the time allowed for the recovery from the payee of the amount overpaid, advise the company that an incorrect amount has been paid or levied, and

26.2 do all acts as are necessary to enable the company to effect recovery of the amount incorrectly paid. The fact that the customer may not be aware that any such incorrect payment has been made shall not constitute a circumstance to be taken into account in calculating what is reasonable time for the purposes of clause26.1. Should any act or omission by the customer, whether or not such act or omission was due to ignorance on the part of the customer and whether or not such ignorance was reasonable or justified in the circumstances, prejudice the company's right of recovery, the customer shall be deemed not to have complied with the provisions of clauses 26.1 and 26.2.

27. PAYMENT BY THE CUSTOMER

27.1 Unless otherwise specifically agreed by the company in writing the customer shall pay to the company in cash immediately upon presentation accounts all sums due to the company without deduction or set-off and payments shall not be withheld or deferred on account of any claim or counterclaim which in the customer may allege.

27.2 All and any moneys received by the company from the customer shall be appropriated by the company in its sole and absolute discretion in respect of any undisputed indebtedness owing by the customer to the company, notwithstanding that the customer might, when making payment, seek appropriate the payment so made to any particular debt or portion of a debt.

28. DEBITING FEES AND DISBURSEMENTS

The company shall under no circumstances be precluded from raising a debit and obtaining payment in respect of any fee or disbursements due to it, notwithstanding the fact that a previous debit or debits, whether excluding or partly excluding the items subsequently requiring to be charged or recovered, had been raised and whether or not any notice had been given that further debits were to follow.

29. RISK OF POSTED ITEMS

Notwithstanding any prior dealings between the company and the customer, all documents, cash. cheques, bank drafts or 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 received by the company.

30. QUOTATIONS

30.1 The company shall be entitled at any time by notice to the customer to cancel or raise from any quotation or executory agreement in circumstances where it becomes impracticable or uneconomical for the company to carry out the contract at the quoted rate and the customer shall have no claim whatsoever against the company for any loss that the customer might incur as a result of the company cancelling or resiling from the quotation or executory agreement.

30.2 Without in any way limiting the provisions of clause 30.1 all quotations and agreements are subject to revision without notice having regard to changes in currency exchange rates and upward movements in amounts payable by or on behalf of or at the instance of the company to third including, without limitation, freight, surcharges, insurance premiums, equipment rental and labour which charges and upward movements take place after quotation. Any revision of rates as aforesaid will be commensurate with the charge in the currency exchange rate or the increase in such amounts payable. Any such increase shall, failing agreement between the parties, be determined by the then auditors of the company or any other auditors nominated by the company, who is such determination shall act as experts and not as arbitrators and whose decision shall be final and binding on the parties.

31. NO CLAIMS AGAINST COMPANY DIRECTORS AND EMPLOYEES

The customer undertakes that no claim shall be made against any director, servant or employee of the company which imposes or attempts to impose upon him any liability in connection with the rendering of any services which are the subject of these trading terms and conditions and hereby waives all and any such claims.

32. CUSTOMER'S ORAL INSTRUCTIONS

The customer's instructions to the company shall be precise, clear and comprehensive and in particular, but without limitation, shall cover valuation or determination is issued by the customers in respect of any goods to be dealt with by or on behalf of at the request of the company. Instructions given by the customer shall be recognised by the company as valid only if timeously given specifically in relation to a

particular matter in question. Oral instructions, standing or general instructions or instructions given late, even if received by the company without comment, shall not in any way be binding upon the company, but the company may act thereupon in the exercise of its absolute discretion.

32. VARIATION OF THESE TRADING TERMS AND CONSITIONS

No variation or alternation of these trading terms and conditions shall be binding on the company unless embodied in a written document signed by a duly authorised director of the company. Any purported variation or alternation of these trading terms and conditions otherwise than set out above shall be of no less or effect, whether such purported variation or alteration is written or oral, or takes place before or after the receipt of these trading terms and conditions by the customer.

34. NON WAIVER

No extension of time or waiver or relaxation of any of the trading terms and conditions shall operate as an estoppel against any party in respect of its rights under these trading terms and conditions, nor shall it operate so as to prelude such party thereafter from exercising its rights strictly in accordance with these trading terms and conditions.

35. SUBMISSION TO JURISDICTION

The parties agree that any legal action or proceedings arising out of or in connection with less trading terms and conditions shall be brought in the division of the Supreme Court of South Africa where the company's head office is situated the commencement of the proceedings, and the customer irrevocably submits to the non-exclusive jurisdiction of such court.

37. BENEFIT OF DISCOUNTS

The company is entitled to the benefit of any discounts obtained and to retain and be paid all brokerages, commissions, allowances and other remuneration of whatsoever nature and kind and shall not be obliged to disclose or account to the customer, or principal for any such amounts received or receivable by it.

38. LIEN

All goods and documents relating to goods 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 either for monies due in respect of such goods or other monies due to the company from the customer, sender, owner, consignee, importer or the holder of the bill of lading or their agents, if any. If any monies due to the company are not paid within 14 days after 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.

39. INDEMNITY BY THE CUSTOMER

Without prejudice to any of the company's rights and securities under these trading terms and conditions, the customer indemnifies and holds harmless the company against all liabilities, damages, costs and expenses whatsoever incurred or suffered by the company arising directly or indirectly from or in connection with the customers express or implied instructions or their implementation by or on behalf of or at the instance of the company in relation to any goods and in particular, but without limitation of the aforegoing, in respect of any liability whatsoever which may incurred.

39.1 to any haulier, carrier, warehouseman or other person whatsoever at any time involved with such goods arising out of any claim made directly or indirectly against any such person by the customer or by any consignor, consignee or owner of such goods or by any person having an interest in such goods or by any other person whatsoever, and/or

39.2 to any owner or consignee of such goods who is not the customer of the company where the company performs the service of a deconsolidation agent, or any other service; and/or

39.3 to any carrier of the goods if the company is the consignor or consignee of the goods; and/or

39.4 in respect of any goods referred to in clause 18.

40. LIMITATION OF COMPANY'S LIABILITY

40.1 Subject to the provisions of clause 40.2 and clause 41 the company shall not be liable for any claim of whatsoever nature (whether in contract or in delict) and whether for damages or otherwise, howsoever arising including but without limiting the generality of the aforesaid:

40.1.1 any negligent act or omission or statement by the company or its servants, agents and nominee; and/or

40.1.2 any act of omission of the customer or agent of the customer with whom the company deals; and/or

40.1.3 any loss, damage or expense arising from or in any way connected with marking, labelling, numbering, non-delivery or mis-delivery of any goods; and/or

40.1.4 any loss, damage or expense arising from or in any way connected with the weight, measurements, contents, quality, inherent vice, defect or description of any goods; and/or

40.1.5 any loss, damage or expense arising from or in any way connected with any circumstance, cause or event beyond the reasonable control of the company, including but without limiting the generality of the aforesaid, strike, lock-out, stoppage or restraint of labour; and/or

40.1.6 damages arising from loss of market or attributable to delay in forwarding or in transit or failure to carry out any instructions given to the company; and/or

40.1.7 loss or non-delivery of any separate package forming part of a consignment or for loss from a package or an unpacked consignment or for damage or misdelivery; and/or

40.1.8 damage or injury suffered by the customer or any person whatsoever arising out of any cause whatsoever as a result of the company's execution or attempt execution of its obligations to the customer and/or the customer's requirements or mandate;

unless:

a) such claim arises from a grossly negligent act or omission on the part of the company or its servants; and

b) such claim arises at a time when the goods in question are in the actual custody of the company and under its actual control; and

c) in the instance provided in clause 40.1.7. above, the company receives a written notice within 5 days after the end of the transit where the transit ends in the Republic of South Africa or within 14 days after the end of transit where the transit ends at any place outside the Republic of South Africa.

40.2 Notwithstanding anything to the contrary contained in these trading terms and conditions, the company shall not be liable for any indirect and consequential loss arising from any act or omission or statement by the company, it's agents, servants or nominess, whether negligent or otherwise.

41. MONETARY LIMITATION OF LIABILITY OF THE COMPANY

41.1 In those cases where the company is liable to the customer in terms of clause 40.1, in no such case whatsoever shall any liability of the company, howsoever arising, exceed whichever is the least of the following respective amounts;

41.1.1 the value of the goods evidenced by the relevant documentation or declared by the customer for customs purposes or for any purpose connected with their transportation;

41.1.2 the value of the goods declared for insurance purposes;

41.1.3 double the amount of the fees raised by the company for its services in connection with the goods, but excluding any amounts payable to sub-contractors, agents and third parties.

41.2 If its is desired that the liability of the company in those cases where it is liable to the customer in terms of clause 40.1 should not be governed by the limits referred to in clause 41.1 written notice thereof must be received by the company before any goods or documents are entrusted to or delivered to or into the control of the company (or its agent or subcontractor), together with a statement of the value of the goods. Upon receipt of such notice the company may in the exercise of its absolute discretion agree in writing to its liability being increased to a maximum liability and the party giving the notice shall be deemed, by so doing, to have agreed and undertaken to pay the company the amount of the premium payable by the company for such insurance. If the company does not so agree the limits referred to in clause 41.1 shall apply.

42. GENERAL AVERAGE

The customer indemnifies and holds harmless the company in respect of any claims of a General Average nature which may be made against the company and the customer shall provide such security as may be required by the company in this connection.

43. BREACH

If the company breaches any of these trading terms and conditions or any agreement between it and the customer and fails to remedy such breach within 30 days of the date of receipt of written notice requiring it to do so then the customer shall be entitled to compel performance by the company of the obligations it has defaulted in, but shall not be entitled to cancel these trading terms and conditions and any agreement between the customer and the company.

44. WARRANTIES AND REPRESENTATIONS BY THE COMPANY

The company makes no warranties and representations to the customer save as may be specifically provided herein or as notified in writing by the company to the customer from time to time. The customer acknowledges that the company is not in anyway bound by any oral statement, representation, guarantee, promise, undertaking, inducement or otherwise which may have been made at any time by any salesman, employee, representative or any person acting or purporting to act for and on behalf of the company, whether negligently or otherwise, unless such statements, representations, guarantees, promises, undertakings, warranties or inducements are supplied or made in written by an employee duly authorised by written resolution of the board of directors of the company in response to a written enquiry specifying accurately and in complete detail information is required.

45. DISPUTE

45.1 Should there be any dispute of any nature whatsoever between the parties in regard to any aspect, matter of thing relating to these trading terms and conditions and whether or not the company has executed is obligations in terms of any agreement it has with the customer, then and in such event the customer shall nevertheless be obliged to perform its obligations in terms of such agreement as though the company had performed properly and to the customer's satisfaction.

45.2 The customer's remedy, having performed its obligations as provided in clause 45.1 shall be limited to an action against the company for repayment of either the whole or portion of the amount which the customer alleges, constitutes an overpayment.

45.3 Without affecting the generality of clauses 45.1 and 45.2, the customer shall not be entitled to withhold payments of any amounts, by reason of any disputes with the company, whether in relation to the company's performance in terms of any agreement, or lack of performance or otherwise, after which payment the customer's rights of action against the company in terms of this clause can be enforced. Until such payment is made, any rights that the customer may have, shall be deemed not yet to have arisen, and it is only the payment to the payment to the company which releases such rights and makes them available to the customer in respect of any claim that he may have against the company.

45.4 In any dispute between the company and the customer the company shall be deemed to have performed its obligations in a proper and workmanlike manner and strictly in accordance with any agreement between it and the customer, until such time as the customer proves the contrary.

46. TIME FOR PERFORMANCE BY THE CUSTOMER

Time is of the essence for the performance by the customer of all obligations owed to the company in terms of any agreement with it governed by these terms and conditions.

47. SEVERABILITY

If any provision of these terms and conditions is unenforceable, then the company shall be entitled to elect (which election may be made at any time) that such provision shall be served from the remaining provisions of these terms and conditions which shall not be effected and shall remain of full force and effect.