

CONTRACT FOR CARRIAGE

All business undertaken by the Courier is subject to the following terms and conditions:

1. For purposes of the contract for carriage:
 - 1.1. “**the Courier**” shall mean Gear Up Couriers (Pty) Ltd;
 - 1.2. “**carriage**” shall mean any form of transportation undertaken by the Courier on behalf of Clients in respect of the goods from a pre-determined collection point to a pre-determined final destination;
 - 1.3. “**the Client**” shall mean the party instructing the Courier to take possession of the goods in good faith and instructing the Courier to perform carriage and which party assumes responsibility for the fee, regardless of the ownership;
 - 1.4. “**collection point**” means the geographical point where the Courier takes possession of the goods;
 - 1.5. “**final distribution**” means the geographical point where the Courier offloads or delivers the goods;
 - 1.6. “**the goods**” shall mean all packages, parcels, or items taken into possession by the Courier for carriage on behalf of the Client.
2. The Courier is **not a public or common carrier**.
3. The Courier has the right to refuse to accept any goods for carriage.
4. Pending forwarding and delivery, goods may be warehoused or otherwise held at any place at the sole discretion of the Courier at the Client’s risk and expense. The Courier shall be entitled, in the absence of express instructions to the contrary to employ independent third parties to perform all or any of the functions required of the Courier. The Courier shall have no responsibility or liability to the Client to any act of omission

of such third party even though the Courier may be responsible for the payment for such third party's charges.

5. The Courier will be entitled to select the appropriate methods of transport and handling to be used in the carriage, having regard to the collection point, the final destination and service level requested by the Client and the nature of the goods.
6. The Courier will not act on any instructions not made on the Courier's official contract for carriage / dispatch document fully and accurately completed at the collection point. The person signing the contract for carriage / dispatch document, if someone other than the Client, confirms that it is duly authorised to order the carriage by the Courier and to conclude this agreement on behalf of the Client. In the event that the Client is not the owner of the goods, the Client hereby confirms that it is duly authorised to enter into this agreement on behalf of the true owner of the goods.
7. The Courier publishes its tariff of charges in respect of carriage, and amends same, from time to time and it is agreed that the Courier is entitled to charge the Client in accordance with such published tariff. If the Courier and the Client conclude a separate agreement on specific charges in regard to the carriage, then such separate agreement will only be binding on the parties when reduced to writing and signed by both parties. If the Courier is obliged to pay any disbursements in respect of the carriage, it is agreed that the Courier may recover such disbursements from the Client, in addition to the tariff or agreed charges.
8. Quotations given shall be on the basis of immediate acceptance and shall be subject to withdrawal or revision by the Courier. The Courier shall notwithstanding acceptance be at liberty to revise quotations or charges with or without notices in the event of changes occurring in currency exchange rates, rates of freight, surcharges, insurance premiums, equipment rental rates, labour rates or any other charges applicable, and/or the volumetric charge calculated in accordance with the Courier's volumetric tariff from time to time exceeding any quotation based in weight in which the volumetric charge may, at the instance of the Courier be substituted to the charge based on weight.

9. The Client shall pay the Courier in respect of the carriage on presentation of confirmation of delivery. If the Client fails to do so, the Courier may charge the Client interest on overdue amounts at the then prevailing legal mora interest rate.
10. The Courier shall be entitled to charge the Client storage charges in respect of any period during which the goods are stored after tender of deliver up to and including the time of payment of all monies owing to the Courier by the Client. The amount of such charges shall be presumed to be reasonable. If any amount owing by the Client is unpaid on due date then all other amounts owing by the Client to the Courier whether due and payable or not shall become due and payable forthwith and discounts granted by the Courier shall be forfeited. Interest on overdue amounts shall be charged at 3% above the prime bank overdraft interest rate. A certificate by any member of the Courier whose appointment or authority need not be proved, shall be due and sufficient proof of the amount of the Client's indebtedness for the purposes of summary judgement or provisional sentence.
11. The Courier holds a lien over all goods for monies due to it in respect of services rendered by it. Without prejudice to any of the Courier's rights against the Client in the event of the Client failing to pay the Courier any monies due within 3 days after tender of delivery of any goods carried, the Courier shall have the right without notice to the Client to open and examine any part of such goods and to sell same and to apply the proceeds of any such sale, after deducting all expenses attendant thereupon, in payment of or towards any sum due by the Client to the Courier.
12. **Exclusions and Limitations of Liability**
 - 12.1. The Courier will be liable to the Client for physical, direct losses and damages in respect of the goods, if such physical direct losses or damages are caused directly by the negligence or fault based conduct or omissions of the Courier, from the collection point to final destination.

- 12.2. The Courier is **not liable** for any physical direct losses and damages in respect of the goods, or for delays in delivery or failure to perform services, which are caused by Acts of God, and/or including but not limited to floods, fires, earthquakes, abnormal weather conditions, strikes, labour unrest, embargoes, civil commotion, war, riots, acts of terrorism, hijackings, armed robbery and any other acts beyond the reasonable control of the Courier.
- 12.3. If the Client's goods are lost or damaged whilst in the possession of the Courier, the Courier will be liable to pay to the Client the proved cost of repair, or the purchase/replacement cost of the goods, whichever is the lesser amount. The **maximum liability** of the Courier to the Client for loss or damage will be the assumed value of the goods, being **R 1 000.00**.
- 12.4. If the Courier is liable to pay any amount to the Client for loss or damage in terms of the preceding clauses, then the Courier shall have the **right of salvage** in respect of those goods, and the Client shall be obliged to reasonably assist the Courier to exercise such salvage right.
- 12.5. The Client is also able to **declare** in writing on the face of the contract for carriage / dispatch note, the value of any **incidental cost** which may be incurred by the Client if caused as a direct result of the Courier's delay, of more than 6 (six) hours in the case of express shipments, and a delay of more than 24 (twenty four) hours in the case of economy shipments. Again, if such declared incidental cost is declared by the Client, the Courier will accept liability for the declared incidental cost.
- 12.6. If the Client does **not declare** an **incidental cost value** prior to the carriage, the Courier **will not be liable** for any incidental costs incurred by the Client, including but not limited to fines, penalties, loss of profit and the like.
- 12.7. Any **claim** by the Client in respect of direct loss or damage to the goods or in respect of incidental cost, must be submitted in writing within **7 (seven) days**

of date of dispatch, failing which the claim will be deemed waived by the Client and rejected by the Courier who will bear no liability to the Client whatsoever.

12.8. The Courier is unable to provide insurance cover, as the Courier is not a financial services provider. The Client is encouraged to source their own cover.

12.9. The Courier does **not carry dangerous goods**. If the Client nevertheless hands over dangerous goods to the Courier for carriage (regardless of whether the Courier has been advised of the nature of the goods), the **Client** agrees that it is **fully responsible** for ensuring that all requirements in relation to their carriage are complied with and that all relevant information is conveyed to the Courier by written notice, including but not limited to classification of the goods, proper packaging and presentation of the goods, preparation of the legally required declarations and labels. The Client furthermore agrees that any liability of any nature caused by, or arising from the carriage of dangerous goods in any circumstances will be for the Client's account.

12.10. The Courier does not wish to carry **fragile or valuable goods**, but if the Client nevertheless chooses to hand over such goods to the Courier (regardless of whether the Courier has been advised of the nature of the goods), then the **Client** shall pack and label such goods to minimise the additional risk associated with the carriage of such goods, and the Client agrees that the Courier will bear **no liability** whatsoever in regard to these goods howsoever caused.

12.11. The Courier does **not accept for carriage** any of the following classes of goods, and the Client therefore agrees that the Courier will bear **no liability** whatsoever in regard to carriage of:

- 12.11.1. **Precious stones** and metals, jewellery and negotiable instruments;
 - 12.11.2. **Works of art**, heirlooms and other irreplaceable, sentimental or priceless items, including unique articles such as samples whose cost of creation is materially different to the normal cost of such goods;
 - 12.11.3. Any goods **exceeding R 3 000.00 of value per kilogram** of gross mass;
 - 12.11.4. **Perishable goods** or goods likely to contaminate other goods or attract pests, radioactive materials, explosives and livestock;
 - 12.11.5. Any carriage which may be regulated in terms of the Warsaw convention to which the Courier subscribes.
- 12.12. It is agreed that the Courier is **not liable** at all for any **consequential losses or damages** of any nature relating to the carriage or the goods.
- 12.13. The **Client indemnifies the Courier** against any claim of any nature whatsoever made against the Courier by any person or entity as a result of the loss, damage or delay in respect of the goods, which exceeds the agreed exclusions and limits of liability set out above.
13. If the Courier is **unable to effect delivery of the goods**, for reasons outside the control of the Courier, the Courier will take reasonable steps to **return the goods** to the Client at the cost of the Client.
14. The parties hereby **consent** to the **jurisdiction of the Magistrate's Court** in terms of Section 45 of the Magistrate's Court Act No. 32 of 1944 as amended, in respect of any legal action which may arise out of this contract for carriage.

15. Should either party institute legal action against the other arising out of this contract for carriage, it is agreed that the successful party shall be entitled to claim the **legal costs** incurred by it from the unsuccessful party on an **attorney and Client basis**.
16. The parties choose as their **domicilium** citandi et executandi for the delivery of all notices in terms of this contract for carriage, the address appearing on the written credit application or underlying contract signed by the parties.
17. It is agreed that **this contract** for carriage is **the only** binding and enforceable **agreement** between the parties, and that there are no verbal or written terms and conditions, whether express or implied, which are binding and enforceable between the parties if they are not contained in this written contract for carriage.
18. This written contract for carriage **may not be varied**, amended or cancelled unless such variation, amendment or cancellation is contained in a **written** document signed by both parties.
19. **No relaxation or indulgence** which either party may grant to the other is a waiver of the rights of that party, and that party shall not be precluded from exercising any rights which may have arisen in the past or which may arise in future.
20. This agreement and interpretation is subject to the **laws of the Republic of South Africa**.