

Standard Terms and Conditions for the Sale of Second Hand Goods

1. Definitions

In these Terms and Conditions, unless the context indicates otherwise –

- 1.1 “**Agent**” means Maersk South Africa (Pty) Ltd, acting herein as agent for the Seller;
- 1.2 “**Agreement**” means the agreement between the Seller and the Purchaser for the sale and purchase of the goods as set out in these Terms and Conditions and the Invoice;
- 1.3 “**day**” means any calendar day other than a Saturday, Sunday or public holiday as gazetted by the government of the Republic of South Africa;
- 1.4 “**Goods**” means the goods described in the Invoice.
- 1.5 “**Invoice**” means the Invoice for the sale of the Goods which incorporates these Terms and Conditions by reference;
- 1.6 “**Parties**” means the Purchaser and the Seller and “**Party**” shall be a reference to any one of them as the context may require;
- 1.7 “**Purchaser**” means the person identified as such in the Invoice;
- 1.8 “**Purchase Price**” means the purchase price payable by the Purchaser to the Seller for the Goods as indicated on the Invoice as “Total Due”;
- 1.9 “**Seller**” means Maersk Line A/S (Incorporated in Denmark), SA Company Reg. No. 2015/028124/10 also trading as Safmarine;
- 1.10 the / these “**Terms and Conditions**” means the terms and conditions as set out in this document and the Invoice;
- 1.11 “**under this Agreement**” means, in terms of, pursuant, under, and arising from this Agreement, including its breach or termination;
- 1.12 a stated number of days shall be determined by excluding the first and including the last day,
- 1.13 an expression which denotes a gender includes the other genders;
- 1.14 an expression which denotes a natural person includes a juristic person and the other way around;
- 1.15 an expression which denotes the singular includes the plural and the other way around; and
- 1.16 a reference to a clause is a reference to a clause in these Terms and Conditions;

2. Sale and Purchase

The Seller hereby sells to the Purchaser, who purchases, the Goods on these Terms and Conditions.

3. Conditions Precedent

- 3.1 This Agreement is subject in its entirety to the Purchaser, within 2 days from the date of receipt of the Invoice, effecting payment in full of the Purchase Price to the Agent.
- 3.2 In the event that the Condition Precedent referred to in clause 3.1 is not fulfilled, this Agreement will lapse and the Parties shall be restored to as close to the position they would have been in had the Agreement not been entered into.
- 3.3 The Condition Precedent contained in clause 3.1 is for the benefit of the Seller and the Seller may unilaterally extend the period for compliance or waive the condition in its entirety.

4. Retention of Ownership

Ownership of, and the risk of loss and profit in, the Goods shall pass to the Purchaser upon payment by the Purchaser of the Purchase Price.

5. Possession

- 5.1 The Agent shall, once payment of the Purchase Price has been effected in accordance with the provisions of these Terms and Conditions, issue the Purchaser with a release confirmation.
- 5.2 The Goods shall thereafter be made available for collection by the Purchaser, or its nominated agent.
- 5.3 In the event that the Purchaser fails to collect the Goods within 2 days of the issue of the release confirmation, the Purchaser shall be liable for storage costs in respect of the Goods, which the Purchaser shall pay directly to the storage depot prior to collection of the Goods.

6. Condition of the Goods

- 6.1 **The Goods are used and are, or may be, defective.**
- 6.2 **Neither the Seller, nor the Agent, warrants that the Goods are fit for the Purchaser’s purpose.**
- 6.3 **The Goods are sold on a “where is” basis and the Purchaser shall solely be responsible for procuring collection of the Goods.**
- 6.4 **The Purchaser shall be liable for any duties that may be payable in respect of the Goods.**

7. Payment

- 7.1 All payments due by the Purchaser to the Seller in terms of this Agreement shall be paid –
 - 7.1.1 On due date, without demand, and free of any set-off or exchange and without any deduction whatsoever;
 - 7.1.2 By way of –
 - 7.1.2.1 an electronic transfer of cleared funds, immediately available to the Agent, to the following account:

Bank: Citibank
Branch Code: 350 005
Account Name: Maersk South Africa (Pty) Ltd
Account Number: 4052943515
Reference: INVOICE NUMBER & CUSTOMER NAME

or

- 7.1.2.2 a direct deposit to the following account:
Bank: ABSA Cape Town Corporate
Branch Code: 508 005
Account Name: Maersk South Africa (Pty) Ltd
Account Number: 4052943515
Reference: 240 and Invoice Number
- 7.1.3 in such manner that –
- 7.1.3.1 the payer bank shall not in any manner whatsoever be entitled or obliged to reverse such payment; and
- 7.1.3.2 the payee bank shall have immediate, unrestricted and irrevocable access to all such funds.

8. Addresses

- 8.1 The Parties select as their *domicilia citandi et executandi* for all purposes in connection with this Agreement, the following addresses:
- 8.1.1 The Purchaser: The physical and email addresses stated on the Invoice;
- 8.1.2 The Seller: c/o Maersk South Africa (Pty) Ltd, Safmarine Quay, The Clocktower Precinct, V&A Waterfront, Cape Town, 8001, South Africa

- 8.2 Either Party shall be entitled to change its *domicilium* on 5 days' prior written notice by either Party to the other.
- 8.3 Any communication despatched by either Party to the other shall, if sent by email, be deemed to be received on the date despatched and, if despatched by prepaid registered mail, be deemed to be received on the fifth day following posting.

9. Limitation of Liability

Neither the Seller, nor the Agent, shall be liable for any loss or damage suffered by the Purchaser or any third party as a result of any cause whatsoever, including, without limitation, as a result of the Goods not being suitable for the Purchaser's purpose.

10. Miscellaneous

- 10.1 The Parties hereby consent to the non-exclusive jurisdiction of the Western Cape High Court, Cape Town in respect of all disputes, matters and causes arising in any manner whatsoever out of or in connection with these Terms and Conditions.
- 10.2 This Agreement shall be governed by South African Law.
- 10.3 Any latitude, extension of time, or other indulgence which may be given or allowed by a Party to another Party in respect of the performance of any obligation hereunder, and any delay or forbearance in the enforcement by a Party of any right hereunder, shall not in any circumstance be construed to be an implied consent or election by such Party, and shall not operate as a waiver or a novation of or otherwise adversely affect any of such Party's rights under this Agreement, or estop or preclude any such Party from enforcing at any time and without notice, strict and punctual compliance with each and every provision hereof.
- 10.4 Any addition to or variation, consensual cancellation, or novation of this Agreement shall only be valid, binding, and of any force or effect if reduced to writing and duly signed by the Parties.
- 10.5 A waiver of any right arising from this Agreement or its breach or termination shall be only be valid, binding, and of any force or effect if reduced to writing and duly signed by the Party making the waiver.
- 10.6 These Terms and Conditions, read with the Invoice, constitutes the whole agreement between the Parties as to the subject matter hereof, and no agreement, representation, or warranty between the Parties regarding the subject matter hereof other than those set out herein are binding on the Parties.