



REGISTRATION NO. 2000 / 025383 / 07

VAT NO. 4890191226

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CREDIT APPLICATION AND CONTRACT FOR CARRIAGE INCLUDING SURETYSHIP

Customer Name (Legal Status): _____ (CC) PTY)

Street Address: _____

Code: _____

Office Hours: Open: _____ Close: _____ Security: Yes: No:

Rate Given: Dom: _____ Int: _____ Sales Rep Code: _____

Contact Details:

Person: Contact: _____ **Phone:** Primary: _____
Accounts: _____ **Fax Num: _____
Courier: _____ A/ Hrs: _____

E-mail: POD's: _____
Accounts 1: _____ Accounts 2: _____
Website: _____

Do you require a P.O. or Ref Number? Yes No: Please supply example: _____

Do you require Cost Centres? I.e. Different Invoices per Cost Centre, One Statement. Yes: No: If YES please state what they would be: _____

Reg. No: _____ VAT No: _____

Importer/ Exporter Code: _____ / _____

**Credit Limit: R _____ **Estimated Monthly Spend: _____

Nature of Business: _____ Industry: _____

Bank: _____ Acc. No: _____ Branch Code: _____

Names of Directors / Members:

Name:	**I.D. No:	**Cell No:
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____

Trade References:

Company Name:	Contact Name:	Telephone Number:	Account No:
1. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____



CONTRACT FOR CARRIAGE AND SURETYSHIP

All business undertaken by Nightwing S A (Pty) Ltd is subject to the following terms and conditions:

1. For the purposes of the paragraphs set out below:
 - 1.1. "The company" shall mean Nightwing S A (Pty) Ltd.
 - 1.2. "The customer" shall mean the party on whose behalf the company took possession of the goods, whether the sender, the consignee, the true owner or any other party who can be reasonably held to be the party on whose behalf the company has attended to carriage of the goods.
 - 1.3. "Carriage" shall mean all forms of transport and related activities undertaken by the company on behalf of the customer in respect of the goods.
 - 1.4. "The goods" shall mean all packages, parcels or items taken into possession by the company for carriage on behalf of the customer.
2. It is recorded and agreed that the company is not a public or common carrier.
3. The company has the right to refuse to accept for carriage, any goods without giving reason for such refusal.
4. The company will in its sole discretion select the methods of transport and handling to be used in the carriage, regardless of the service requested by the sender or the customer. The company reserves the right to select the route, the procedure, the handling, the storage, the transport and any use of third party carriers in its sole discretion, when effecting the carriage of the customer's goods.
5. All business undertaken by the company on behalf of the customer shall be subject to this contract for carriage, notwithstanding any written or verbal instructions which the company may receive at any time prior to or during carriage of the goods, from the customer or any third party.
6. The customer warrants that it is duly authorised to order the services of the company and to enter into this agreement, and in particular if the customer is not the owner of the goods, the customer warrants that it is duly authorised to enter into this agreement on behalf of the owner of the goods and hereby irrevocably indemnifies the company against all and any claims of whatsoever nature made by the owner of the goods.
7. The company's charges in respect of the carriage shall be levied in accordance with its agreed tariffs, as amended from time to time and the customer agrees that the customer is bound by such tariff and amendments.
8. The company does not accept for carriage and will not in any way be presumed to have accepted for carriage:
 - 8.1. Dangerous goods or radioactive materials.
 - 8.2. Arms and ammunition.
 - 8.3. Livestock.
 - 8.4. Valuable cargo, including but not limited to precious metals such as gold or platinum, jewellery, precious stones, watches or furs, cell phones or laptops, bank notes, traveller's cheques, securities, shares, share coupons and stamps, or any goods having a value exceeding R5 000,00 per kilogram.
9. The customer is cautioned to avoid tendering to the company, goods which are fragile, or valuable, and should they do so, they are obliged to so pack and label the goods to minimise the additional risk to which such goods may be exposed and whether or not the customer has observed the terms of this clause, the customer indemnifies the company against any loss or damage (including consequential damages) arising from the carriage of such goods.
10. The company hereby excludes or limits its liability to the customer in respect of the goods in its possession, in respect of any loss or damage relating thereto howsoever such loss or damage is caused, even if caused by the negligence of the company, or its employees, agents or sub-contractors in circumstances where vicarious liability would be applicable.
11. If the customer suffers a direct loss or damage to the goods whilst in the possession or under the control of the company, caused by the fault and/or negligence of the company, the company's liability to the customer in this regard shall be limited in all circumstances to a maximum amount of R200 per incident, notwithstanding the true extent of the direct loss or damage.
12. The company shall not be liable for any consequential losses or damages of any nature whatsoever incurred by the company arising from the services rendered by the company to the customer or the carriage of the goods in terms hereof.
13. The company does not arrange insurance in respect of the customer's goods and such goods are accordingly carried by the company at the sole risk of the customer, who is advised to procure its own insurance in respect of such goods.
14. In the event that the customer requires the company to obtain insurance for the goods subject to carriage (subject to a maximum insurance value of R10 000.00 per item), the customer shall, prior to carriage furnish the company with written notice thereof. Any insurance procured on behalf of the customer by the company, will be subject to the terms, conditions and exceptions of the relevant insurance policy and any right of recourse in regard to such policy will be for the customer and not the company, and any excess payable on such policy shall be paid by the customer and not the company, with the company having no liability to the customer or the insurer of any nature whatsoever, howsoever any loss or damage may have arisen. Any premium payable for such insurance procured on behalf of the customer, shall be payable by the customer on demand.
15. The customer indemnifies the company against any claims of whatsoever nature which may be made against the company by any other person or entity as a result of the loss, damage or delay in respect of the goods.
16. Payment by the customer to the company in respect of the services rendered will be due, (if the services were not rendered on a COD basis) within the maximum of 30 (thirty) days from date of the company's invoice to the customer in respect of the service.
17. The customer shall be entitled during this 30 (thirty) day period, to raise queries in respect of the company's invoices, which queries the company undertakes to resolve within this period. If no queries are raised within the 30 (thirty) day period by the customer, the customer will be deemed to have accepted the company's invoice is correct and undisputed and therefore that payment by the customer to the company is due.
18. In the event that any items on the customer's invoice are disputed, and queried by the customer within the time period specified, this will not absolve the customer from liability to make payment of all undisputed amounts in respect of such invoices to the company within the 30 (thirty) day period specified.
19. Under no circumstances whatsoever will the customer be entitled to withhold payment of any amount due to the company in respect of services rendered by the company, beyond the due date in respect thereof, in particular where goods have been lost or damaged while in the company's possession and under no circumstances is the customer entitled to setoff its alleged damages or loss against any amount due to the company.
20. If the company is unable for any reason to effect delivery of the goods, reasonable steps will be taken to return the goods forthwith to the customer. The customer shall be responsible for the costs of carriage, attempted delivery and return of the goods, if the company is unable to effect return of the goods as a result of any fault of the

customer, the company shall be entitled to sell the goods at a market related price to defray costs incurred by it after giving ten days written notice of such sale by registered post to the customer.

- 21. The company shall have a special and general lien over all goods of the customer, which goods are also pledged to the company, as security for all monies owing by the customer to the company now or in future and reserves the right to retain possession of all goods until the customer's indebtedness to the company has been settled in full, notwithstanding the fact that credit may originally have been granted by the company to the customer. Such lien and pledge will even apply to the goods of the customer, held by the company, in respect of which no monies are due.
- 22. The customer shall be responsible to the company for all charges until they are paid. In this regard all documents, including inter alia, cash, cheques or remittances, sent to the company by post shall be deemed not to have been received by the company until the company actually receives physical possession of same, and in the event of a dispute arising, the onus shall rest on the customer to prove delivery thereof and the mere posting shall not suffice to discharge such onus.
- 23. Should any legal action by the company be taken against the customer as a consequence of a breach by the customer of any of the obligations of the customer in terms of this agreement, then in that event the customer shall be obliged to effect payment on demand to the company of all attorney and client costs incurred in taking such legal action, including collection commission, irrespective of whether proceedings in a Court of law have actually been instituted or not.
- 24. This agreement constitutes the sole record of the parties, and no parties shall be bound by any express or implied term, representation, warranty, promise or the like not recorded herein.
- 25. No addition to, variation of, or agreed cancellation of this agreement shall be of any force or effect, unless reduced to writing and signed on behalf of both parties.
- 26. No relaxation or indulgence which any party may grant to any other shall constitute a waiver of the rights of that party and shall not preclude that party from exercising any rights which may have arisen in past or which may arise in future.
- 27. The customer hereby consents 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, for all claims that the company may have against the customer. This clause does not preclude the right of the company to institute action in the High Court of South Africa.
- 28. The customer chooses as its domicilium citandi et executandi for the delivery of all Court processes and other notices hereunder, the street address reflected on the credit application signed by the customer.

SURETYSHIP

I, the undersigned,

being the signatory to this contract for carriage and suretyship agreement, on behalf of the customer, do hereby warrant that all information provided to the company is true and correct and that I have the necessary authority to bind the customer to this contract for carriage.

I also hereby bind myself personally, jointly and severally as surety for, and co-principal debtor in solidum with, the customer for due payment on demand to the company of all amounts which may be owing to the company by the customer from time to time hereafter, renouncing the benefits of excussion and division, errors in calculation and cause of indebtedness.

DATED at _____ on this _____ day of _____ 2011

AS WITNESSES:

For and on behalf of Company

DATED at _____ on this _____ day of _____ 2011

AS WITNESSES:

For and on behalf of the Customer

Surety Signature

Surety Print Full Name (*print*)

Surety Identity Number
