



EA Cargo Agents (Pty) Ltd
Unit 33, Foreign Airlines Cargo Center
OR Tambo International Airport
Kempton Park, 1609
Tel: 011 571 0800
Email: admin@eacargoagents.co.za
https://www.eacargo.com

EA Cargo Agents (Pty) Ltd Representative :

Date:

CONTRACT TO CONDUCT BUSINESS

The Entity referred to in this document is abbreviated to EAC which implies EA Cargo Agents (Pty) Ltd. EAC will not consider this application unless fully completed in every respect. Please note that our Standing Trading Conditions are stipulated within this form and that business undertaken by us are exclusively on the basis that our Standing Trading Conditions shall always apply.

DETAILS OF CREDIT APPLICANT

CLOSE CORPORATION ☐ PUBLIC COMPANY ☐ PRIVATE COMPANY ☐ SOLE PROPRIETOR ☐

REGISTERED NAME OF LEGAL ENTITY:

TRADING NAME:

PREVIOUS NAME:

DATE ESTABLISHED:

REGISTRATION NUMBER:

VAT REG. NUMBER:

BUSINESS PHYSICAL ADDRESS:

TELEPHONE NUMBER:

BUSINESS POSTAL ADDRESS:

ACCOUNTS CONTACT PERSON

NAME OF ACCOUNTS
CONTACT PERSON

EMAIL ADDRESS

PHONE NUMBER

FAX NUMBER

SHAREHOLDING/MEMBERSHIP/PARTNERS

NAME OF INDIVIDUAL OR BUSINESS	I.D. NUMBER / REGISTRATION NUMBER	% EQUITY
1		
2		
3		
4		

OPERATIONAL REQUIREMENTS

THE SERVICES YOU WILL MAKE USE OF:

AIR IMPORTS ☐

SEA IMPORTS ☐

DOMESTIC FREIGHT ☐

COO'S ☐

AIR EXPORTS ☐

SEA EXPORTS ☐

ROAD FREIGHT ☐

NATURE OF YOUR BUSINESS

COMMODITY:

INDUSTRY:

INSURANCE

OWN

EAC

CUSTOMS CODE NUMBER

VAT REGISTRATION NUMBER

PREVIOUS FREIGHT FORWARDER AND/OR CHAMBER OF COMMERCE

CREDIT LIMIT AND SECURITY

AMOUNT OF CREDIT REQUIRED (ANTICIPATED TRADE PER PAYMENT PERIOD X 2.5)

ARE YOU PREPARED TO FURNISH SECURITY

YES

NO

PAYMENT TERMS			
		30 DAYS FROM DATE OF STATEMENT – PAYABLE ON THE LAST BANKING DAY OF EACH MONTH OR WHEN THE CREDIT LIMIT IS REACHED	
		14 DAYS FROM DATE OF STATEMENT OR WHEN THE CREDIT LIMIT IS REACHED, WHICHEVER COMES FIRST	
		7 DAYS FROM DATE OF INVOICE OR WHEN THE CREDIT LIMIT IS REACHED, WHICHEVER COMES FIRST	
		CASH BEFORE OUTLAY	
PAYMENT METHOD			
		BANK TRANSFER	
		DIRECT DEPOSIT INTO EAC BANK ACCOUNT	
TIME OF PAYMENT WILL BE WHEN VALUE REFLECTS IN THE BANK ACCOUNT OF EA CARGO AGENTS (PTY) LTD			
YOUR BANKING DETAILS			
BANK NAME		BRANCH NAME	
ACCOUNT NAME			
ACCOUNT NUMBER			
TRADE REFERENCES			
1)		TEL:	
2)		TEL:	
3)		TEL:	
AUTHORITY TO THE AUDITORS			
I/We hereby authorize you to furnish the official of EAC presenting this document with such information relating to the Financial Statements of this organization that EAC may require to assess the creditworthiness of this organisation.			
AUTHORISING SIGNATORIES		FULL NAMES:	
AUDITORS/ACCOUNTING OFFICER			
POSTAL ADDRESS			
PHYSICAL ADDRESS			
TEL. NUMBER			
CONDITIONS OF CREDIT 1. The applicant consents to EAC making enquiries from registered credit bureau or other credit providers in order for EAC to conduct a credit or affordability assessment in respect of the applicant and/or to trace the applicant. 2. The applicant acknowledges that EAC has the right to submit consumer credit information concerning the applicant to registered credit bureau and to other credit providers. 3. The applicant and the person signing this application on behalf of the applicant, certifies that it is not an emancipated minor nor subject to an order of a competent court holding it to be mentally unfit nor subject to an administration order and that it has the necessary legal capacity to conclude this contract. 4. EAC reserves the right to discontinue any account granted to the applicant, and to summarily cancel any agreement, should the applicant have failed to make payment on due date, whereupon any amounts owing shall immediately become due and payable on demand. 5. The applicant acknowledges that the information provided above is material and will be relied upon to determine whether or not an account will be opened. 6. Nothing in this application shall be construed so as to compel EAC to grant credit facilities to the Customer, whether in the required settlement terms or in the required credit amount, or at all. EAC shall nevertheless, in assessing the application, comply with any obligations as may be imposed upon it by law in this regard. 7. The applicant agrees that should any credit facility granted in response to this application be increased at a later stage, then any surety provided by the applicant will increase commensurately.			
I, the undersigned (print full names) _____ hereby certify that I am duly authorized to sign this application for and on behalf of the applicant, and by so doing to bind the applicant to the conditions stated above, and furthermore acknowledge and accept that all business will be concluded in terms of EAC Trading Terms and Conditions, as amended from time to time, which are attached hereto, and which have been specifically brought to my attention. Date: _____ Designation: _____ Signed _____ Company Stamp			
OFFICIAL USE			
CREDIT MANAGER: _____		(DIRECTOR): _____	
ACCOUNT NUMBER □□□□□□			

PROCESSING OF PERSONAL INFORMATION

In terms of the Protection of Personal Information Act 4 of 2013 (the "Act"), PERSONAL INFORMATION is defined and means any information relating to an identifiable, existing natural or juristic person and includes, but is not limited to: ID numbers; email addresses; physical address; telephone numbers; financial, credit, criminal and or employment history.

EAC, as the responsible party, collects and processes personal information to enable EAC to assess its risk in respect of this agreement, for all other purposes relating to the conclusion and performance of the transaction/s.

In order for us to do this, you must provide us with the information that we request, failing which EAC may not be able to provide the intended benefits or to assist you.

The processing of the personal information will be done in accordance with the provisions of the Act and EAC's Privacy Notice.

A. The customer:

- agrees to EAC sharing the personal information provided, with our affiliates, service providers and information agencies; some of which may be outside the jurisdiction of South Africa;
- warrants that when you give EAC personal information, this information is accurate and correct for the purposes set out in the Privacy Notice.

B. The customer acknowledges and understand that EAC in processing such information is fulfilling its legitimate business interests.

STANDARD TRADING CONDITIONS

EAC means EA Cargo Agents (Pty) Ltd, Registration Number 2022/231695/07 a company duly registered and incorporated in terms of the laws and statutes of the Republic of South Africa, or any of its holding, subsidiary, associated or affiliated companies, their successor in title and assigns.

1. Domicilium and notices

- 1.1 The applicant chooses as its domicilium citandi et executandi for all purposes arising out of its dealings with EAC, any one of its physical, postal or telefax addresses as provided above, and as EAC may select.
- 1.2 Any communication addressed by EAC to the applicant's domicilium and sent by ordinary post shall be deemed to have been received and effectively communicated to the applicant on the fifth day, following the date of posting thereof, provided that:
 - 1.2.1 Nothing aforesaid shall preclude or inhibit communication between the parties otherwise than by means of post;
 - 1.2.2 a telefax message shall be deemed to be received and effectively communicated to the applicant when it is put through and received, for which sufficient proof shall be receipt by sender of the answer back code of the applicant at the end of the transmission;
 - 1.2.3 an electronic mail sent to the electronic mail address as provided will be deemed to have been received on the first business day after transmission.
- 1.3 We are entitled to make whatever enquiries we consider necessary in assessing your application for credit. If the credit is approved, we are further entitled to register details about the conduct of your account at the credit bureau/x.

2. Statements of account

- 2.1 The contents of any statement of account rendered by EAC to the applicant shall be deemed to be true and correct, unless disputed in writing and received by EAC within 30 days after the date of posting of the statement to the applicant's domicilium and in accordance with clause 1 above.
- 2.2 The applicant acknowledges that a certificate given under the hand of any director or manager of EAC showing the amount due by the debtor to EAC at any time shall be prima facie proof of the facts therein stated for the purposes of all legal proceedings against the debtor for recovery of its indebtedness. It shall not be necessary to prove the appointment of the person who signed such certificate.
- 2.3 Payments shall be made by the customer, free of exchange, to EAC at EAC address set out on the front page of this document, or at such address as EAC may from time to time so direct.

3. Conditions of payment

- 3.1 EAC reserves the right, at any time, to discontinue any account and summarily to cancel any credit facilities granted. In the event of these rights being exercised all amounts owing shall immediately become due, owing, and payable on demand.
- 3.2 The applicant agrees that should it be in default in meeting its payment terms EAC shall, notwithstanding that the amount of its claim or the nature of the relief sought by it, exceed the jurisdiction of the Magistrate's Court, be entitled to institute action out of such Court.
- 3.3 Notwithstanding the provisions of Clause 3.1 above EAC shall be entitled, in its sole discretion, to institute proceedings against the applicant out of the High Court of South Africa (Gauteng Local Division) to whose jurisdiction the applicant hereby submits.
- 3.4 In the event of EAC referring any dispute between it and the applicant, or any amount due for collection from the applicant to it, to its attorneys, the applicant shall be liable to and hereby indemnifies EAC against all costs, charges and expenses incurred as between attorney and his own client and such indemnity shall extend to and include collection commission as may be lawfully charged to EAC by its attorneys.

4. Interest

- 4.1 It is acknowledged, that should payments not conform to the terms agreed, interest may be charged on any amount overdue at the maximum rate of interest allowed in terms of the National Credit Act No 34 of 2005, calculated and debited monthly in arrears.

5. Signatories

- 5.1 "Signatory" shall mean the person or persons signing as customer or on behalf of a company, partnership, or association of any kind whatsoever.
- 5.2 The Signatory warrants that he has authority to contract with EAC in accordance herewith and the signatory hereby expressly indemnifies EAC and holds EAC harmless in respect of all or any claims which may be made against EAC by all or any persons whoever arising out of EAC fulfilling its obligations in terms of this agreement.

Please read the provisions as set out below carefully as they contain important information regarding your legal rights, remedies, and obligations. Amongst other things, these provisions include various limitations and exclusions and a clause that governs jurisdiction.

EA CARGO AGENTS (PTY) LTD TRADING TERMS AND CONDITIONS

1. INTERPRETATION AND APPLICATION

Interpretation

- 1.1 In these trading terms and conditions:
 - 1.1.1 the headings to the clauses are for convenience and reference purposes only and shall not aid in the interpretation of the clauses to which they relate;
 - 1.1.2 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;

Definitions

- 1.2 the following terms shall have the meanings assigned to them hereunder and cognate expressions shall have a corresponding meaning, namely:
 - 1.2.1 "Agreement" means this written agreement comprising the Credit Application Form, the above provisions and the provisions contained in this section, however, any reference herein to "Agreement" is not to be construed as including a reference to the separate Deed of Suretyship/s;
 - 1.2.2 "Consignee" means the Person to whom the Goods are consigned;
 - 1.2.3 "Customer" means any Person at whose request or on whose behalf EAC undertakes any business or provides any advice, information or Service, whether gratuitously or for reward, and specifically the party as specified in the Credit Application.
 - 1.2.4 "Delivery" in respect of Goods means its plain English meaning, and without derogating from the generality of the foregoing, includes, but is not limited to, the delivery of Goods to the Customer (or other party stipulated by the Customer for such Delivery);
 - 1.2.5 "Director" is deemed to include a member of a close corporation;
 - 1.2.6 "Force Majeure" means events beyond the control of EAC, the occurrence of which could not have been reasonably foreseen at the Signature Date and during the currency of this Agreement and which despite the exercise of diligent efforts, EAC was unable to prevent, limit or minimize, including but not limited to declarations by Government such as a state of disaster, war, whether declared or not, revolution, riots, insurrection, civil commotion, invasion, armed conflict, hostile act of foreign enemy, acts of terrorism, sabotage, radiation or chemical contamination, acts of God, plague or other serious epidemic, pandemic, communicable diseases, electricity supply interruptions and/or power failures and which prevents EAC from performing any obligation in terms of this Agreement. If the performance by EAC of any of its obligations under this Agreement is prevented or delayed by a Force Majeure Event for a continuous period in excess of 90 (ninety) days, the applicant shall be entitled to terminate this Agreement immediately by giving written notice to EAC so affected. This provision shall be reciprocal in nature;
 - 1.2.7 "Goods" means any cargo handled, transported, or dealt with by or on behalf of or at the instance of EAC or which come under the control of EAC or its agents, servants, or sub-contractor on the instructions 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 cargo;
 - 1.2.8 "Owner" means the Owner of the Goods to which any business concluded under these trading terms and conditions relates and any other Person who is or may have or acquire any interest, financial or otherwise, therein;
 - 1.2.9 "Parties" means the parties to this Agreement and "Party" means a party to this Agreement;
 - 1.2.10 "Person" includes any natural person(s) or anybody or bodies corporate or unincorporated;
 - 1.2.11 "Services" includes, without limitation, all handling, packaging, loading, unloading, warehousing, transporting, entry, forwarding and clearing of Goods.
- 1.3 Subject to Clause 1.4, all and any business undertaken, or advice, information or Services provided by EAC, whether gratuitous or not, is undertaken or provided subject to these trading terms and conditions.
- 1.4 If any legislation, including regulations and directives, is compulsorily applicable to any business undertaken, these conditions shall, as regards such business, be read as subject to such legislation, and nothing in these conditions shall, save to the extent repugnant to such legislation; be construed as surrender by EAC of any of its rights or immunities or as an increase of any of its responsibilities or liabilities under such legislation, and if any part of these conditions be repugnant to such legislation to any extent, such part shall, as regards such business be overridden to that extent but no further.
- 1.5 This Agreement will govern all future contractual relationships between the Parties in respect of the tender, sale and/or supply and delivery of Goods.
- 1.6 This Agreement supersedes all previous terms, conditions and/or agreements relating to the tender, sale and/or supply of Goods by EAC to the Customer, provided that all securities and/or guarantees already held by EAC will remain of full force and effect, unless otherwise terminated in writing by EAC.

2. THE COMPANY ("EAC")

- 2.1 EAC makes no warranties and representations to the Customer, save as may be specifically provided herein or as notified in writing by EAC to the Customer from time to time. The Customer acknowledges that EAC is not in any way 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 or on behalf of EAC, whether negligently or otherwise unless such statements, representations, guarantees, promises, undertakings, warranties, or inducements are supplied or made in writing by an employee duly authorized by written resolution of the board of Directors of EAC in response to a written enquiry specifying accurately and in complete detail what information is required.

- 2.2 Any advice and/or information, in whatever form it may be given, is provided by EAC for the Customer only. The Customer shall indemnify EAC against all loss and damage suffered as a consequence of passing such advice or information to any third party.
- 2.3 EAC deals with Goods only on the basis that it is neither a common carrier nor a public carrier.
- 2.4 Subject to Clauses 2.5 and 2.6 below, EAC shall be entitled to procure any or all of the Services as an agent, or, to provide those Services as a principal.
- 2.5 When EAC contracts as a principal for any Services, it shall have full liberty to perform such Services itself, or, to subcontract on any terms whatsoever, the whole or any part of such Services.
- 2.6 When EAC acts as an agent on behalf of the Customer, EAC shall be entitled, and the Customer hereby expressly authorizes EAC, to enter into all and any contracts on behalf of the Customer as may be necessary or desirable to fulfill the Customer's instructions, and whether such contracts are subject to the trading conditions of the parties with whom such contracts are made, or otherwise. The Customer agrees that EAC shall have no responsibility or liability to its Customer for any act or omission of such third party, even though EAC may be responsible for the payment of such third party's charges; but EAC shall, if suitably indemnified against all costs (including attorney and own client costs) which may be incurred by or awarded against EAC, take such action against the third party on the Customer's behalf as the Customer may direct.
- 2.7 EAC shall, on demand by the Customer, provide evidence of any contract entered into as the agent for the Customer. Insofar as EAC may be in default of the obligation to provide such evidence, it shall be deemed to have contracted with the Customer as a principal for the performance of the Customer's instructions.
- 2.8 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 EAC 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.
- 2.9 EAC shall be entitled to issue in respect of the whole or part of any contract for the movement of Goods a transport document, including but not limited to a bill of lading (a combined transport, groupage, received for shipment or dispatch bill of lading), a warehouse and/or forwarding receipt, an air or sea waybill, a consignment or delivery note, a container movement or transport order, in a form that shall be within EAC discretion, provided that where a transport document is issued these trading terms and conditions shall continue to apply except insofar as they conflict with the terms and conditions applicable to the transport document. The issuance of a transport document by EAC shall entitle it to raise an additional charge determined by EAC, to cover its additional obligations arising under the transport document.
- 2.10 Pending forwarding and/or delivery by or on behalf of EAC, goods may be warehoused or otherwise held at any place as determined by EAC in its absolute discretion, and at the Customer's expense.
- 2.11 Pending forwarding and/or delivery by or on behalf of EAC, EAC shall, whenever deemed necessary in order to comply with the terms of any Act or Regulation, be entitled to open and examine the contents of any cargo.
- 2.12 EAC shall have an absolute discretion to determine the means, route, time periods and procedure to be followed in the performance of all or any Service provided in the course of business undertaken subject to these conditions.
- 2.13 Unless specific written instructions are timeously given to and accepted by EAC, EAC shall not be obliged to:
- 2.13.1 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 interest in delivery. In particular, EAC shall be under no obligation to make any declaration or to seek any special 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; and
- 2.13.2 arrange for any particular Goods to be carried, stored, or handled separately from other Goods.
- 2.14 EAC shall have no obligation to take any action in respect of any Goods which may be recognizable as belonging to the Customer unless and until it receives suitable instructions relating to those Goods together with all necessary documents.
- 2.15 If events or circumstances come to the attention of EAC, its agents, servants, or subcontractors which, in the opinion of EAC, make it in whole or in part, impossible or impracticable for EAC to comply with a Customer's instructions EAC shall take reasonable steps to inform such Customer of such events or circumstances and to seek further instructions. If such further instructions are not timeously received by EAC in writing, EAC 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 expense of the Customer.
- 2.16 Except under special arrangements previously made in writing, EAC will not accept or deal with, including but not limited to the following; bullion, coin, precious stones, jewelry, valuables, antiques, pictures, human remains, livestock or plants. Should the Customer nevertheless deliver such Goods to EAC or cause EAC to handle or deal with any such Goods otherwise than under special arrangements previously made in writing EAC 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.
- 2.17 Except under special arrangements previously made in writing, any instructions relating to the delivery or release of the Goods in specified circumstances, such as, but not limited to, against payment or surrender of a particular document, are accepted by EAC, where EAC has to engage third parties to effect compliance with the instructions, only as agents for the Customer. Despite the acceptance by EAC of instructions from the Customer to collect freight, duties, charges, dues, or other expenses from the Consignee, or any other Person, on receipt of evidence of proper demand by EAC, and in the absence of evidence of payment, for whatever reason, by such Consignee, or other Person, the Customer shall remain responsible for such freight, duties, charges, dues, or other expenses.
- 2.18 EAC will not effect any insurance in respect of the Goods except upon the timeous express written instructions of the Customer in which event EAC shall endeavor to procure such insurance acting always as agent only for and on behalf of the Customer. All insurances procured by EAC are subject to the usual exceptions and conditions of the policies of the insurers or underwriters taking the risk. Unless otherwise agreed in writing, EAC shall not be under any obligation to affect a separate insurance on the Goods but may declare it on any open or general policy held by EAC from time to time.
- 2.19 Insofar as EAC agrees to procure insurance, EAC acts solely as agent for the Customer. Should any insurer dispute its liability in respect of any Goods, the Customer concerned shall have recourse against such insurer only and EAC shall have no 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 EAC in respect thereof. Notwithstanding any term to the contrary contained in these terms and conditions, EAC liability for the consequences of any failure by EAC to effect insurance on behalf of the Customer shall be determined in accordance with the provisions of Clauses 8.3 and 8.7 of these terms and conditions.
- 2.20 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:
- 2.20.1 EAC shall be entitled to store the Goods or any part thereof at no risk to EAC and at the expense of the Customer.
- 2.21 Without limiting or affecting any other terms of these trading terms and conditions, Goods, whether perishable or otherwise, in the care, custody or control of EAC may at the Customer's expense be sold or disposed of by EAC without notice to the Customer, sender, Owner or Consignee, if:
- 2.21.1 such Goods have begun to deteriorate or are likely to deteriorate;
- 2.21.2 such Goods are insufficiently addressed or marked;
- 2.21.3 the Customer cannot be identified; and
- 2.21.4 the Goods have not been collected or accepted by the Customer or any other Person after the expiration of 21 days from EAC notifying the Customer in writing to collect or accept such Goods, provided that if EAC has no address for the Customer such notice period shall not be necessary, and payment or tender of the net proceeds, if any, of the sale thereof after deduction of those charges and expenses incurred by EAC in respect thereof shall be equivalent to delivery of such Goods.
- 2.22 Notwithstanding the provisions of Clauses 2.20 and 2.21 above, when the Goods are liable to perish or deteriorate, EAC's rights to sell or dispose of or deal with the Goods shall arise immediately upon any sum becoming due to EAC, subject only to EAC taking reasonable steps to bring to the Customer's attention its intention to sell or dispose of the Goods before doing so.

3. THE CUSTOMER

- 3.1 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 EAC 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 matter relating thereto, and the Customer undertakes to supply all pertinent information to EAC.
- 3.2 The Customer warrants that:
- 3.2.1 He / she / it / is either the Owner or the authorized agent of the Owner of any Goods in respect of which the Customer instructs EAC and that he is accepting these conditions not only for himself, but also as agent for and on behalf of the Owner;
- 3.2.2 in authorizing the Customer to enter into any contract with EAC and/or in accepting any document issued by EAC in connection with such contract, the Owner, sender or Consignee is bound by these trading terms and conditions for himself and its agents and for any parties on whose behalf it or its agents may act, and in particular, but without prejudice to the generality of the foregoing, it accepts that EAC shall have the right to enforce against them jointly and severally any liability of the Customer under these trading terms and conditions or to recover from them any sums to be paid by the Customer which upon proper demand have not been paid;
- 3.2.3 all information and instructions supplied or to be supplied by it to EAC is and shall be accurate, true and comprehensive, and in particular, without derogating from the generality of the foregoing, the Customer shall be deemed to be bound by and warrants the accuracy of all descriptions, values and other particulars furnished to EAC for customs, consular and other purposes, and the Customer warrants that it will not withhold any necessary or pertinent information, and indemnifies EAC against all claims, losses penalties, damages, expenses and fines whatsoever, whensoever and howsoever arising as a result of a breach of the foregoing whether negligently or otherwise including, without derogating from the generality of the foregoing, any assessment or reassessment;

- 3.2.4 all Goods will be properly, adequately, and appropriately prepared and packed, stowed, labeled, and marked, having regard *inter alia* to the implementation by or on behalf of EAC 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;
- 3.2.5 notice of any special requirements of any Goods shall be given to EAC in writing prior to the delivery of the Goods into the custody of EAC or its agents, provided that EAC shall not be obliged to take delivery of any such goods in the event of it being of the view that such Goods or the handling or storage thereof are for any reason undesirable;
- 3.2.6 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 EAC has been given and has accepted specific written instructions to load the transport unit:
- 3.2.6.1 that the transport unit has been properly and competently loaded; and
- 3.2.6.2 that the Goods involved are suitable for carriage in or on the transport unit; and
- 3.2.6.3 the transport unit is itself in a suitable condition to carry the Goods loaded therein and complies with the requirements of all relevant transport authorities and carriers.
- 3.3 The Customer shall obtain in advance EAC specific written consent to accept into its possession or control or into the possession or control of any of its servants, agents, employees or subcontractors, any Goods, including radio- active materials, which may be or become dangerous, inflammable, or noxious, or which by their nature may injure, damage, taint or contaminate, or in any way whatsoever adversely affect any Person, Goods or property, including Goods likely to harbor or attract vermin or 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 any applicable laws, regulations or requirement 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.
- 3.4 If any such Goods, as referred to in clause 3.3, are delivered to EAC, its servants, agents, employees, or subcontractors, whether or not in breach of the provisions of this clause, such Goods may for good reason as EAC 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 EAC being liable for any compensation to the Customer or any other party, and without prejudice to EAC 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 EAC against all loss, liability or damage caused to EAC as a result of the tender of Goods to EAC and/or out of foregoing.
- 3.5 The Customer shall save harmless and keep EAC indemnified from and against:
- 3.5.1 all liability, loss, damage costs and expenses whatsoever, including without prejudice to the generality of the foregoing, all duties, taxes, imposts, levies, deposits, and outlays of whatsoever nature levied by any authority in relation to the Goods, arising out of EAC acting in accordance with the Customer's instructions, or arising from any breach by the Customer of any warranty contained in these conditions, or from the negligence of the Customer; and
- 3.5.2 all claims, costs and demands whatsoever and by whomsoever made or preferred, in excess of the liability of EAC under the terms of these conditions, regardless of whether such claims, costs, and/or demands arise from, or in connection with, the breach of contract, negligence or breach of duty of EAC, its servants, subcontractors or agents; and
- 3.5.3 any claims of a general average nature which may be made on EAC.
- 3.6 The Customer undertakes that no claim shall be made against any Director, servant, or employee of EAC 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.
- 3.7 Whereas a result of any act or omission by or on behalf of or at the instance of EAC and whether or not such act or omission was negligent, any duty, tax, levy, railage, port dues, freight, cartage or any other impost or charge has been paid or levied in an incorrect amount, then the responsibility or liability to the Customer which EAC may otherwise have will cease and fall away if the Customer does not:
- 3.7.1 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 EAC that an incorrect amount has been paid or levied; and
- 3.7.2 do all such acts as are necessary to enable EAC to effect recovery of the amount incorrectly paid.
- 3.8 The fact that the Customer may not be aware that any such incorrect payment has been made shall not constitute a circumstance to be considered in calculating what is a reasonable time for the purpose of Clause 3.7. 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 EAC right of recovery, the Customer shall be deemed not to have complied with the provisions of Clauses [3.7.1](#) and [3.7.2](#).
- 4. SPECIAL CONDITIONS RELATING TO ELECTRONIC DATA**
- 4.1 Notwithstanding the provisions of any legislation or other law regulating electronic communications and transactions, EAC shall only be deemed to have received electronic data and/or messages, when such electronic data and/or messages have been retrieved, processed and read by the addressee.
- 4.2 Under no circumstances whatsoever and howsoever arising (including negligence on the part of EAC or its employees) shall EAC be liable for any loss or damage arising from or consequent upon the provision by EAC to the Customer in whatever manner and/or form, of incorrect information, including electronically communicated information or data, where such incorrect information or data has been generated by and provided to EAC by any Person with whom EAC conducts business, and/or any other third party.
- 4.3 EAC shall furthermore under no circumstances whatsoever be liable for any loss or damage arising from or consequent upon any failure and/or malfunction, for whatever reason, and regardless of negligence in whatever degree on the part of EAC, of EAC computer systems and/or software programs, provided and/or operated by EAC and/or by any Person with whom EAC conducts business, and/or any third party, and which systems shall include EAC electronic automated information Service provided to its Customers.
- 5. THE PROTECTION OF PERSONAL INFORMATION ACT**
- 5.1 The Customer is hereby notified that its personal information and, if applicable, that of its representative(s) and other parties provided to EAC herein or otherwise, will be collected and processed by EAC and envisaged in the POPI Act, primarily for the purposes of enabling EAC to consider the Customer's application for credit facilities with it and to conclude agreements with EAC in respect of the supply of Goods or Services to it.
- 5.2 EAC is the Responsible Party in respect of such personal information as envisaged by POPIA, and its address and contact details appear at the top of the credit application.
- 5.3 The Customer, and if applicable, it's said representatives, and other parties acknowledge that:
- 5.3.1 The furnishing by him, her, them, or it (as the case may be) of such personal information is voluntary and not mandatory; and
- 5.3.2 The consequence of failure to provide such personal information could lead to the inability of EAC to consider the Customer's application for credit facilities with it and/or the inability of EAC to conclude agreements with the Customer in respect of Goods and Services.
- 5.4 The Customer and, if applicable, it's said representative and other parties acknowledge and confirm that EAC may process his, her, their, its information, including information regarding identity and/or registration numbers, email addresses, physical and postal addresses, telephone numbers and full names.
- 5.5 The processing of information by EAC includes the collection, storage, updating, use, making available and/or destruction thereof so as (amongst others) to enable EAC to:
- 5.5.1 Consider the Customer's application for credit facilities with it;
- 5.5.2 Conclude agreements with the Customer in respect of Goods and Services;
- 5.5.3 Enforce and/or collect on any agreement, when the Customer is in default or breach of this Agreement's provisions and/or to trace the whereabouts of the Customer for purposes of such enforcement of collection;
- 5.5.4 Do affordability assessments, credit assessments and/or credit scoring in respect of the Customer.
- 5.6 The Customer acknowledge and confirms that he, she, they, it (as the case may be) may:
- 5.6.1 Access the information that EAC has about him, her, them, it and may request EAC to correct and/or delete the information if it is inaccurate, irrelevant, excessive, incomplete, mislead, obtained unlawfully and/or no longer authorized to be kept and may file a complaint with the Information regulator established in terms of the POPI Act about an alleged contravention of the protection of information; and
- 5.6.2 Withdraw his, her, their and/or its consent which allows EAC to process the information, except if otherwise allowed, and/or required by law.
- 6. RECOVERY OF DEBTS DUE TO THE COMPANY ("EAC")**
- 6.1 EAC 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 EAC in its absolute discretion deems fit.
- 6.2 Unless otherwise specifically agreed by EAC in writing the Customer shall pay to EAC in cash immediately upon presentation of account all sums due to EAC without deduction or set-off and payments shall not be withheld or deferred on account of any claim or counterclaim which the Customer may allege.
- 6.3 Payment of all amounts shall be made free of exchange and bank or other charges at such address EAC may require and in such currency as EAC may direct.
- 6.4 All and any moneys received by EAC from the Customer shall be appropriated by EAC in its sole and absolute discretion in respect of any undisputed indebtedness owing by the Customer to EAC, notwithstanding that the Customer might, when making payment, seek to appropriate the payment so made to any particular debt or portion of a debt.

- 6.5 Unless otherwise agreed in writing, any amount not paid on due date shall bear interest at the maximum rate allowable by law which interest shall be calculated on the daily balance outstanding, compounded monthly in arrears.
- 6.6 EAC 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.
- 6.7 Notwithstanding any prior dealings between EAC and the Customer all documents, cash, cheques, bank drafts or other remittances, sent to EAC through the post shall be deemed not to have been received by EAC unless and until they are actually received by EAC.
- 6.8 In the event that payment to EAC is made directly into EAC account or is affected electronically, the Customer bears the risk in respect of such payment until such time as the funds are received and cleared into EAC bank account.
- 6.9 A certificate under the hand of any director or financial or credit manager of EAC, whose authority need not be proved, as to any indebtedness of the Customer to EAC or in respect of any other fact, matter, or thing, shall be prima facie evidence of such indebtedness, fact, matter, or thing. All Goods and documents relating to Goods including 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 moneys due in respect of such Goods or for other moneys due to EAC from the Customer, sender, Owner, Consignee, importer or the holder of the bill of lading or their agents, if any. If any moneys due to EAC are not paid within 14 days after notice has been given to the Person from whom the moneys 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 value at the sole discretion of EAC and at the expense of such Person, and the net proceeds applied in or towards satisfaction of such indebtedness.
- 6.10 In the event of EAC taking legal action against the Customer because of a breach by the Customer of its obligations to EAC including, without limitation, its failure to pay any account, the Customer shall pay for all legal costs incurred by EAC on the scale as between attorney and client including, without limitation, collection fees, tracing fees and fees of counsel as on brief.

7. BREACH

- 7.1 If the Customer breaches any provisions of this Agreement or ceases to carry on its business or a substantial part thereof or if execution is levied on any of the Customer's property or if the Customer makes or offers to make any arrangements or composition with its creditors or commits any act of insolvency, or if the Customer is sequestrated liquidated or placed under business rescue supervision (whether provisional or final, and/or whether voluntary or compulsory), then EAC will without prejudice to any other rights that it has in terms of this Agreement or in law, be entitled forthwith to:-
 - 7.1.1 Suspend or cease performance of its obligations in terms of this Agreement until the Customer's breach has been remedied; and/or
 - 7.1.2 Summarily cancel the provision of Services and Goods to the Customer; and/or
 - 7.1.3 Repossess any Goods, which have not been paid for; and/or
 - 7.1.4 Claim payment of all amounts that are owed by the Customer to it, whether or not the due date for payment of such amounts has arrived; and/or
 - 7.1.5 Summarily cancel this Agreement or claim specific performance of all the Customer's obligations in terms of this Agreement, whether or not such obligations have fallen due for performance; and
 - 7.1.6 Claim from the Customer all damages suffered by it as a direct and/or indirect result of the breach.

8. LIABILITY AND LIMITATION

- 8.1 EAC shall perform its duties with a reasonable degree of care, diligence, skill, and judgment.
- 8.2 EAC shall be relieved of liability for any loss or damage if, and to the extent that, such loss or damage is caused by:
 - 8.2.1 strikes, lock-outs, stoppage, restraint of labor, robbery, or theft, the consequences of which EAC is unable to avoid by the exercise of reasonable diligence; and
 - 8.2.2 a Force Majeure event as described in clause 1.2.6 above.
- 8.3 Except under special arrangements previously made and agreed to in writing, EAC accepts no responsibility with regard to any failure to adhere to agreed departure or arrival or delivery dates of Goods.
- 8.4 Subject to the provisions of Clause 8.2 and Clause 8.3, EAC shall not be liable for any claim of whatsoever nature, whether in contract or in delict, and howsoever arising, whether for damages or otherwise, including but without limiting the generality of the aforesaid:
 - 8.4.1 any claim arising directly or indirectly from any negligent act or omission or statement by EAC or its servants, agents, nominees, or sub-contractors; and/or
 - 8.4.2 any claim arising directly or indirectly from any act or omission of the Customer or agent of the Customer with whom EAC deals; and/or
 - 8.4.3 any loss, damage or expense arising from or in any way connected with the marking, labelling, numbering, non-delivery, or mis-delivery of any Goods; and/or
 - 8.4.4 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
 - 8.4.5 any loss, damage or expense arising from or in any way connected with any circumstance, cause, or event beyond the reasonable control of EAC, including but without limiting the generality of the aforesaid, act of God, act of government or other authority; and/or
 - 8.4.6 damages arising from loss of market or attributable to delay in forwarding or in transit or failure to carry out any instructions given to EAC; and/or
 - 8.4.7 loss or non-delivery of any separate package forming part of a consignment or loss from a package or an unpacked consignment or for damage or mis-delivery; and/or
 - 8.4.8 damages or injury suffered by the Customer or any Person whatsoever arising out of any cause whatsoever as a result of EAC execution or attempted execution of its obligations to the Customer and/or the Customer's requirements or mandate; unless:
 - 8.4.8.1 such claim arises from a grossly negligent act or omission on the part of EAC or its servants (gross negligence shall be deemed to exclude recklessness, for which conduct EAC is not liable); and
 - 8.4.8.2 such claim arises at a time when the Goods in question are in the actual custody of EAC and under its actual control.
- 8.5 Notwithstanding anything to the contrary contained in these trading terms and conditions, EAC shall not be liable for any indirect and consequential loss or damages howsoever arising and of whatsoever nature, regardless of the sole or concurrent negligence, gross negligence, reckless or intentional act or omission, of EAC, its servants, agents, or subcontractors.
- 8.6 Notwithstanding anything to the contrary contained in these trading terms and conditions, EAC shall not be liable for any loss or damages of whatsoever nature arising whether directly or indirectly, from the intentional or wilful conduct of EAC servants, agents, or subcontractors.
- 8.7 Where any compulsorily applicable law or convention regulates the Services rendered by EAC and/or the loss of or damage to any Goods, and the provisions of such law or convention precludes EAC from contracting out of the provisions thereof, then the liability of EAC to the Customer, if any, shall be determined in accordance with such law or convention.
- 8.8 In the event that EAC is liable to the Customer in terms of Clause 8.7 or otherwise, in no case whatsoever shall any liability of EAC, howsoever arising, exceed whichever is the least of the following respective amounts:
 - 8.8.1 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;
 - 8.8.2 the value of the Goods declared for insurance purposes;
 - 8.8.3 double the amount of the fees raised by EAC for its Services in connection with the Goods, but excluding any amount payable to sub-contractors, agents and third parties.
- 8.9 If it is desired that the liability of EAC in those cases where it is liable to the Customer in terms of Clause 8.4 or otherwise should not be governed by the limits referred to in Clause 8.8, written notice thereof must be received by EAC before any Goods or documents are entrusted to or delivered to or into the control of EAC (or its agents or subcontractors), together with a statement of the value of the Goods. Upon receipt of such notice EAC may in the exercise of its absolute discretion agree in writing to its liability being increased to a maximum amount equivalent to the amount stated in the notice, in which case it will be entitled to effect special insurance to cover its maximum liability and the party giving the notice shall be deemed, by so doing, to have agreed and undertaken to pay EAC the amount of the premium payable by EAC for such insurance. If EAC does not so agree the limits referred to in Clause 8.8 shall apply.
- 8.10 Any claim by the Customer against EAC arising in respect of any Service provided for the Customer, or which EAC has undertaken to provide, shall be made in writing and notified to EAC within 14 days of the date upon which the Customer became or ought reasonably to have become, aware of the event or occurrence alleged to give rise to such claim, and any claim not made and notified as aforesaid shall be deemed to be waived and absolutely barred, except where the Customer can show that it was impossible for him to comply with this time limit, and that he has made the claim as soon as it was reasonably possible for him to do so.
- 8.11 Notwithstanding the provisions of Clause 8.9 above, EAC shall, in any event, be discharged from all liability whatsoever and howsoever arising in respect of any Service provided for the Customer, or which EAC has undertaken to provide, unless it be brought, and written notice thereof given to EAC within nine months from the date of the event or occurrence alleged to give rise to a cause of action against EAC.

9. DISPUTE RESOLUTION

- 9.12 Should any dispute, disagreement or claim arise between the Parties (called hereafter 'the dispute'), the Parties shall try to resolve the dispute by negotiation. This entails that one Party invites the other in writing to a meeting and to attempt to resolve the dispute within 7 (seven) days from date of the written invitation.

- 8.13 If this dispute has not been resolved by such negotiation within seven days of the written invitation, the dispute shall be submitted to mediation, which shall be administered by the Arbitration Foundation of South Africa ("AFSA") in terms of the AFSA Mediation Rules. Any Party to this agreement may refer the dispute to mediation.
- 8.14 If the Parties are unable to resolve the dispute through mediation, the dispute, if arbitral by law, shall be finally resolved in accordance with the AFSA Commercial Rules.
- 8.15 At the option of EAC, all disputes arising out of or in connection with these trading terms and conditions or with any contractual relationship or other business dealings between the parties shall be referred for arbitration in the city or town in which EAC's head office is located at the time of the referral under the Rules of the Arbitration Foundation of South Africa or under the Rules of Arbitration of the international Chamber of Commerce, as EAC may elect, by one or more arbitrators appointed in accordance with the said rules, whose award shall be binding upon the parties.
- 8.16 This clause will not prohibit either Party from seeking urgent relief in a court of competent jurisdiction.

10. VARIATION OF THE SET TRADING TERMS AND CONDITIONS

- 10.1 This Agreement comprises the entire agreement between the Parties in respect of the subject matter hereof. No variation of this clause or the remainder of these trading terms and conditions shall be binding on EAC, unless embodied in a written document signed by a duly authorized Director of EAC. Any purported variation or alteration of this clause or the remainder of these trading terms and condition otherwise, then as set out above, shall be of no force and effect, whether such purported variation or alteration is written or oral or takes place before or after receipt of these trading terms and conditions by the Customer.

11. GENERAL PROVISIONS AND JURISDICTION

- 11.1 These trading terms and conditions and all agreements entered into between EAC and the Customer pursuant thereto and on the terms thereof shall be governed by and construed in accordance with the laws of the Republic of South Africa.
- 11.2 The Customer agrees that any legal proceedings arising out of or in connection with these trading terms and conditions may be brought in the division of the High Court of South Africa where EAC head office is situated at the commencement of the proceedings and the Customer irrevocably submits to the non-exclusive jurisdiction of that Court.
- 11.3 If EAC's ability to perform in terms of this Agreement is limited, delayed, and/or prevented in whole or in part by any cause not reasonably within its control (including but not limited to fire, flood, war, hostilities, riots, civil disputes, lockouts, strikes, pandemic, epidemic, government or parliamentary restrictions, transportation delays, any law, rule, and/or other action of any public authority, transportation delays and/or refusal and/or delay in granting any necessary export and/or import license) EAC will be excluded, discharged and released without penalty and/or liability from performance of any such obligations to the extent that such performance is so limited, delayed and/or prevented. In such an event and if some of the Goods (or part thereof) have been delivered, the Customer will pay to EAC a proportion of the stated or quoted price of the Goods (or any part thereof) which have been Delivered. If no such Goods (or any part thereof) have been delivered and the Services become impossible to perform as described above for reasons not reasonably within EAC's control, EAC's liability will be limited to repayment to the Customer of any purchase price paid by it to EAC in advance for any Goods not yet Delivered, if EAC is reasonably able to do so.
- 11.4 No indulgence, leniency, or extension of time which EAC may grant or show to the Customer shall in any way prejudice or preclude EAC from exercising any of its rights in terms of this agreement.
- 11.5 If any term of this Agreement is or becomes unenforceable for any reason whatsoever, that term and condition is severable from and shall not affect the validity of any other term or condition of the Agreement.
- 11.6 The signatory to this Agreement on behalf of the Customer warrants that he/she is a duly authorized representative of the Customer and that he/she is duly authorized and has full capacity to enter into this Agreement with CPA on behalf of the Customer, with such signatory hereby further warranting that he/she has read and understand the provisions contained herein and by his/her signature hereto binds the Customer to the provisions of this Agreement.

Please complete in Block Letters:

I (FULL NAME)
in my capacity as

..... (POSITION IN COMPANY)

of the Applicant and duly authorized thereto to apply for credit from EAC under the auspices of the trading terms and conditions as stated above, certify that the information given above is true and correct in all respects and that no material facts have been omitted which may adversely affect this application. Should any material change to the above information take place subsequent to the signing of this application, I undertake to notify you in writing forthwith of the full details of such change. I acknowledge having read the above terms and conditions, and without limiting the generality thereof, and agree to be bound by all such terms and conditions.

Signature:

I.D. Number:

Domestic Physical Address:

.....

.....

Signed at on this day of in the year

AS WITNESSES

.....
Witness 1: Full names and Surname

.....
Witness 2: Full names and Surname

.....
Signature

.....
Signature