



## **FTL Freight and Transit (South Africa) (Pty) Ltd** **Standard Trading Terms and Conditions**

1

The following terms and conditions apply to all contracts for the sale and supply of goods or products, or the provision of services by FTL Freight and Transit (South Africa) (Pty) Ltd, whether such sales are pursuant to orders by telephone, fax, email, written orders or otherwise.

Interpretation and Preliminaries  
Pricing  
Payment  
Assignment  
Services  
Product  
Cancellation  
Liability  
Copyright and Intellectual Property  
Legal proceedings

### **Interpretation and Preliminaries**

1. The following definitions shall apply to these terms and conditions :
  - 1.1. "Customer" means the person, either natural or legal, which purchases product(s), is granted a license to use product(s), and/or receives services from FTL Freight and Transit (South Africa) (Pty) Ltd;
  - 1.2. "products" means goods, hardware, software or intellectual property;
  - 1.3. "services" means any services or activities provided to the Customer by FTL Freight and Transit (South Africa) (Pty) Ltd.
2. These terms and conditions supersede any terms and conditions laid down by the Customer.
3. Any and all alterations or amendments to these terms and conditions must be in writing and signed by both parties.
4. No relaxation or indulgence which either party may show to the other party shall in any way prejudice or be deemed to be a waiver of its rights. No waiver or abandonment by either party of any of its rights shall be binding unless such waiver or abandonment is in writing and signed by the waiving party.
5. The headings in these terms and conditions are inserted for convenience only, and shall not constitute a part of or be referred to in the interpretation of these terms and conditions.
6. If any provision of these terms and conditions is found to be invalid or legally unenforceable, such provision shall not invalidate the remaining provisions of these terms and conditions

### **Pricing**

7. Prices are subject to change and correction without further notice.
8. All prices exclude South African VAT (Value-Added Tax), currently 14% (fourteen percent).
9. Where exchange-rate based prices apply, the rate of exchange applicable will be the exchange rate prevailing at the time of invoicing - the fixed one-month forward cover exchange rate quoted by Nedbank at the close of business on the date immediately prior to the date of invoicing.
10. All out-of-pocket expenses, such as travel and accommodation, are for the Customer's account unless otherwise arranged.
11. All quotations are valid for a period of 30 (thirty) days, unless otherwise specified in writing.

### **Payment**

12. The Customer shall effect payment of invoices in full to FTL Freight and Transit (South Africa) (Pty) Ltd within 14 (fourteen) days of the invoice date.
13. If payment is not made to FTL Freight and Transit (South Africa) (Pty) Ltd by the due date, any discounts granted will be forfeited.
14. Interest shall be charged and paid on all outstanding amounts at the rate of 2% (two percent) above the publicly quoted prime overdraft rate charged by Nedbank from time to time.
15. In the event of the Customer failing to effect payment of the invoiced amount 7 (seven) days from date of demand for such payment, FTL Freight and Transit (South Africa) (Pty) Ltd shall be entitled at its option, and notwithstanding any indulgence or relaxation granted to the Customer, to cancel the agreement of sale or license or services. The exercise of FTL Freight and Transit (South Africa) (Pty) Ltd's rights under this provision shall be without prejudice to any of its rights and remedies at law.
16. FTL Freight and Transit (South Africa) (Pty) Ltd shall not be required to deliver any products or render any services to the Customer for so long as the Customer is in arrears with any payment owing to FTL Freight and Transit (South Africa) (Pty) Ltd from any cause.
17. Payment may not be withheld pending the settlement of any claims or disputes. In the event of any amount due to FTL Freight and Transit (South Africa) (Pty) Ltd being handed to a legal office for collection, the Customer shall be liable for all fees including collection fees, tracing fees and all other legal charges thereby incurred by FTL Freight and Transit (South Africa) (Pty) Ltd.

### **Assignment**

18. FTL Freight and Transit (South Africa) (Pty) Ltd shall be entitled to employ agents or subcontractors to provide all products and/or services, or parts thereof.

### **Services**

19. Where services are to be provided, and/or products are to be installed at the Customer's location, the following the following shall apply :
  - 19.1. The Customer must at own expense ensure that the premises are suitably equipped and comply with all relevant specifications and requirements, including the acquisition of any necessary consents or licenses from owners or competent authorities (governmental, municipal or other). FTL Freight and Transit (South Africa) (Pty) Ltd does not warrant or represent that any such consent or FTL Freight and Transit (South Africa) (Pty) Ltd will be granted, and such failure shall not invalidate any order accepted by FTL Freight and Transit (South Africa) (Pty) Ltd;
  - 19.2. FTL Freight and Transit (South Africa) (Pty) Ltd requires from the Customer unrestricted access to the premises, during reasonable hours;
  - 19.3. FTL Freight and Transit (South Africa) (Pty) Ltd cannot accept any responsibility or liability for damage to the Customer's premises.
20. FTL Freight and Transit (South Africa) (Pty) Ltd will endeavor to complete all services by the quoted dates. Any such dates are estimates only, and are not binding. Time is not of the essence for the provision or completion of services.

### **Product**

21. Ownership in and to the products sold shall only pass to the Customer upon payment of the full purchase price.



*move with confidence*

## **FTL Freight and Transit (South Africa) (Pty) Ltd** **Standard Trading Terms and Conditions**

3

22. FTL Freight and Transit (South Africa) (Pty) Ltd reserves the right to deliver products ordered subject to availability, as and when the products are made available to FTL Freight and Transit (South Africa) (Pty) Ltd. Time is not of the essence for the delivery of the product.
23. No claim in respect of shortages, defects or damage to products sold to FTL Freight and Transit (South Africa) (Pty) Ltd shall be entertained unless made in writing and received by FTL Freight and Transit (South Africa) (Pty) Ltd within 7 (seven) days from date of delivery of product. A copy of the original invoice must accompany any such claim.
24. The Customer shall not be entitled to return any product to FTL Freight and Transit (South Africa) (Pty) Ltd without the express consent of FTL Freight and Transit (South Africa) (Pty) Ltd. FTL Freight and Transit (South Africa) (Pty) Ltd shall at its discretion be entitled not to accept any products returned if they are not in original condition and complete (with all packaging, documentation, manuals and accessories).
25. With respect to proven shortages, material defects or damaged product(s), FTL Freight and Transit (South Africa) (Pty) Ltd's sole responsibility shall be, at its option, the exchange of the product for a similar product, or the refund of the purchase price and/or FTL Freight and Transit (South Africa) (Pty) Ltd fees in return for the product(s). The Customer shall be responsible for all inward bound costs of returning such product(s).

### **Cancellation**

26. Orders may not be cancelled in whole or in part, or varied in any manner whatsoever, unless agreed to in writing by FTL Freight and Transit (South Africa) (Pty) Ltd. Where cancellation is agreed, the Customer shall be liable to pay FTL Freight and Transit (South Africa) (Pty) Ltd a cancellation fee amounting to 20% (twenty percent) of the total order.
27. Where training courses are cancelled by the Customer, at least seven days written notice is required. No cancellations are accepted within 7 days of the course start date; in such case, payment is forfeited and the Customer shall be liable for the full course cost.
28. Should the Customer commit a breach of any obligation under these terms and conditions (save for a breach of Payment), then FTL Freight and Transit (South Africa) (Pty) Ltd, at its sole discretion, may give written notice of such breach to the Customer and suspend or terminate services. In such event, FTL Freight and Transit (South Africa) (Pty) Ltd shall request the Customer to remedy said breach within 21 (twenty-one) days of receipt of such notice. Should the Customer omit or fail to remedy said breach to the reasonable satisfaction of FTL Freight and Transit (South Africa) (Pty) Ltd, then FTL Freight and Transit (South Africa) (Pty) Ltd shall be entitled to cancel the agreement on written notice to the Customer. Exercise of rights under this clause shall be without prejudice to either party's rights and remedies at law.
29. In the event of the Customer committing an act of insolvency, or being placed under provisional or final judicial management, liquidation or sequestration, FTL Freight and Transit (South Africa) (Pty) Ltd reserves the right to cancel any sale contract or order and to stop further performance of services or delivery of products.
30. Should the Customer breach any material terms or conditions, then FTL Freight and Transit (South Africa) (Pty) Ltd shall be entitled to summarily cancel the agreement on written notice to the Customer, in addition to any rights which it may have to claim damages from the Customer.

### **Liability**

31. All risk in and to the products shall pass to the Customer upon delivery thereof.
32. FTL Freight and Transit (South Africa) (Pty) Ltd shall not be liable under any circumstances for any loss or any damage whatsoever, whether direct, indirect, punitive, incidental or consequential, caused by negligence or otherwise, which may be sustained by the Customer resulting directly or indirectly from the non-delivery or non-performance of products or services or late delivery or late performance of the products or services or due to any other cause whatsoever.
33. With respect to proven shortages, material defects or damaged product(s), FTL Freight and Transit (South Africa) (Pty) Ltd's sole responsibility shall be, at its option, the exchange of the product for a similar product,



4

**FTL Freight and Transit (South Africa) (Pty) Ltd**  
**Standard Trading Terms and Conditions**

- or the refund of the purchase price and/or license fees in return for the product(s). Such returns are subject to FTL Freight and Transit (South Africa) (Pty) Ltd's standard product return policies.
34. No further claims of whatsoever nature shall be entertained.
  35. FTL Freight and Transit (South Africa) (Pty) Ltd gives no warranties or undertakings to the Customer whatsoever with regard to product or services, and all implied or residual warranties are hereby disclaimed and excluded.

**Copyright and Intellectual Property**

36. All material and information copyright is owned by FTL Freight and Transit (South Africa) (Pty) Ltd, unless otherwise stated.
37. Unauthorized use or reproduction of any intellectual property, information or content, or parts thereof, is strictly prohibited.
38. FTL Freight and Transit (South Africa) (Pty) Ltd shall not be prevented from using for any purpose, any know-how or experience including skills and techniques gained or arising from the provision of services.
39. Unless agreed by the parties to the contrary, the copyright and all other intellectual property rights whatsoever in all materials developed in providing services, including all documentation and other materials, are and shall remain vested in FTL Freight and Transit (South Africa) (Pty) Ltd or its Licensors. The Customer and FTL Freight and Transit (South Africa) (Pty) Ltd shall do all such acts as may be reasonably required for the purpose of preserving such vesting.

**Legal Proceedings**

40. You agree that any legal proceedings that may be brought in terms of this Agreement may be heard in a Magistrates Court.