



# General Terms and Conditions for Transport Services

## 1. Scope / Component parts of the Contract

- 1.1. The following General Terms and Conditions apply to all transporters contracted by Pexmart CC (Company Reg No. 1995/055606/23) ("**Pexmart**"), for the transport /carriage of goods for domestic and international road transport.
- 1.2. The component parts of this agreement consist of:
  - 1.2.1. The Transport Invoice;
  - 1.2.2. The Goods Invoice;
  - 1.2.3. Any supplementary agreements made which has been placed in writing and signed by both parties; and
  - 1.2.4. The General Terms and Conditions for Transport Services (This document which will be the main sources regulating the relationship between Pexmart and the Transporter.

## 2. Transporter's services

- 2.1. The subject of the order is the carriage of goods by motor vehicle.
- 2.2. The Transporter will ensure that the goods are accepted and loaded on time within the agreed time window at the loading point, carried and delivered on time, and free from loss and damage to the recipient at the destination.
- 2.3. The Transporter will ensure that the goods are at all times, from loading to unloading, are properly insured on an All Risk basis with a reputable insurer. The transporter hereby indemnifies Pexmart against any and all loss or damage to the goods including any cost Pexmart incurs to recover, or assist in recovery of the goods, legal costs, and any and all costs ancillary to the loss or damage of the goods.
- 2.4. All risk and liability of the goods transfers to the transporter upon loading of the goods on its motor vehicles or any motor vehicles sub-contracted by them. No rights, benefits, ownership or any *lien* is held by or transfers to the transporter in respect of the goods.
- 2.5. The transporter will assume responsibility for the loading and unloading of the goods (in a manner which ensures the safe and secure transports of the goods and operation of the motor vehicle conducting the carriage), securing these motor vehicles, and adequate supervision. If, in the absence of such an agreement, loading is performed by the customer, in which case the transporter will be acting in the capacity of Pexmart's vicarious agent.
- 2.6. The transporter will fully and accurately record the acceptance and delivery of the goods either on the transport documents specified by the customer or using electronic systems. When the goods are accepted, and at each subsequent interface, the contractors will check the shipment for completeness and identify any externally visible damage and broken parts and will record any such damage or irregularities that occur and ensure that they are confirmed by the party from whom it has accepted the goods and by the party to whom it hands the goods over, in writing and providing the details thereof. An interface is any transfer of the goods from one legal entity to another as well as the delivery at the end of any leg of route.
- 2.7. If the transporter does not perform the carriage as agreed itself, but instructs a third party (sub-contracted

carrier, executing carrier) to perform the services, it will use appropriate agreements with this third party and existing control to ensure that this third party and its vicarious agents comply with all legal obligation in general as well as with the terms and Conditions as set out in this document. The transporter hereby indemnifies Pexmart against any and all loss, damage, and cost, including but not limited to legal cost, involved with the breach of this agreement. And the transporter agrees to pay Pexmart compensation for any damages incurred by Pexmart as a result of the violation of these terms and conditions.

- 2.8. If the transporter does not comply with the agreed obligations, Pexmart or the customer may commission a third party with the performance of this agreement and the transporter will refund these costs as well as any additional costs incurred.

## 3. Motor Vehicles ("Vehicles") used

- 3.1. The transporter will only use vehicles that are in a technically sound, clean and road worthy condition, and which is appropriate for the type of goods to be transported. The vehicle used will have a dry odourless loading space and undergo repair and maintenance at the legally required intervals and or/ the intervals as required or recommended by the manufacturer. In principle, only vehicles that comply with the current standards, regulations and laws, may be used. The vehicles must be fitted with all the required health and safety equipment, so to ensure that the goods are protected at all times against loss and damage, and against access against unauthorised persons.

## 4. Other obligations on the Transporter

- 4.1. The transporter will ensure that it holds all the required and necessary permits and authorisations to perform its duties and responsibilities.
- 4.2. The transporter guarantees that its or its third-party contractors' services will be executed in the context of the legal rules and regulations applicable to it.
- 4.3. The transporter or its third party contractor will grant the Pexmart or its representatives the right to check and any time its compliance will all the applicable statutory provisions. The transporter or its third party contractor will assist in these checks and work closely with Pexmart or its chosen representative. The transporter or its third party contractor will provide any and all documentary proof of compliance as may be requested from it.
- 4.4. The transporter will only use third party contractors with the necessary knowledge and capabilities and the required reliability for carrying out the transport. It will train these third parties regularly with regard to carrying the necessary documents and complying with the applicable statutory provisions as well as the standard to which it expects it to conduct the services it renders on behalf of the transporter.
- 4.5. The transporter or its third party contractor will strictly adhere to the patent rights, trade mark protection and all other rights of Pexmart and if affiliates to protect the authorship, in particular in terms of dealing with logo's, brands etc. And will avoid impairment or improper use.

## 5. Charges/Fees



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- 5.1. Pexmart will pay the transporter its charges/fees prior to the commencement of the carriage per the invoice issued by it. This payment will be in full and final settlement of the charges and fees of the transporter.
- 5.2. Should there be any additional charges/fees which the transporter has to incur in order to execute its services in terms of this agreement due to:
  - 5.2.1. The transporter being obliged to deviate from the route selected and agreed on, to take a detour due to adverse weather conditions, impassable or dangerous roads, bridges, pontoons, ferries, civil unrest or riots etc. The transporter must immediately inform Pexmart of the deviation and the additional charges or fees involved and may only carry on once it has received approval.
  - 5.2.2. In the event the transporter is prevented from performing its services and responsibilities, by an event which is beyond its control due to a *Force Majeure* "Act of God". The transporter must within 24h of the event occurring provide Pexmart with Written notice thereof explaining, the event, the reason for not being able to execute its duties and the time period of the delay.
6. **Liability and Indemnification**
  - 6.1. The transporter will be liable for all damage caused by it, the vehicles it uses and the drivers, including those of third party contractors.
  - 6.2. The transporter indemnifies Pexmart against any claims, fines, penalties or other costs as a result of the transporter's non-compliance with any statutory laws, rules or regulation applicable to it.
  - 6.3. Any cost incurred by Pexmart in legal defence, as a result of the transporter or its third party contractors.
7. **Confidentiality and Protection of Personal information**
  - 7.1. For the purpose of this clause, "Confidential Information" means all information, data of any nature whatsoever, whether tangible, intangible, oral or in writing and in any format or medium, that is obtained or learned by, disclosed to or comes to the knowledge of a party ("Receiving Party") by or from the other Party ("Disclosing Party") during the course or arising out of the relationship between the Parties, including carrying out the purpose and objective of this agreement, which information or data by its nature or content is, or ought reasonably to be, identifiable as confidential or proprietary to the disclosing party or which is provided or disclosed in confidence. Without limitation, confidential information of the disclosing party shall include the following even if it is not marked as being 'confidential', 'restricted' or 'proprietary'(or similar designation).
    - 7.2. Both Parties undertake to treat the Confidential Information as strictly confidential, not to divulge to any third party or sell, trade, publish, reproduce or reverse engineer any of the Confidential Information and not to put in use for any purpose unrelated to the collaboration, in any manner, any Confidential Information without the Disclosing Party's prior written consent.
    - 7.3. The Parties hereto shall take due precautions to ensure that any 3rd party, their staff and contractors, including those of associated companies who have a need to know the Confidential Information, sign Confidentiality Agreements and keep proof thereof.
  - 7.4. In respect of all the above mentioned the parties agree that any third party's personal information will be treated and processed in accordance with the Protection of Personal Information Act (POPI)
8. **Other provisions**
  - 8.1. The transporter waives any right of *lien* or retention to the goods.
  - 8.2. If any term, condition, provision or performance or any part of a term, condition, provision or performance of this agreement is determined to be invalid, illegal, unlawful or unenforceable to any extent, that term, condition, provision or performance or the relevant part thereof shall be severed from the remaining terms and conditions, provisions and performance of this agreement.
  - 8.3. This document contains all of the term and conditions of this agreement and no alterations or variation thereof shall be of any effect unless reduced into writing and signed by the parties.