

## **PASSENGER AND PERSONNEL TERMS & CONDITIONS OF CARRIAGE**

**Passengers and Personnel are to board and sail with the Vessel subject to these terms and conditions of carriage, which the Passenger/ Personnel acknowledges having read and understood and agreed to be bound by them.**

### **1. DEFINITIONS**

For the purposes of these Terms and Conditions of Carriage:

- (a) **“Carrier”** means the Government of the Republic of South Africa through its Department of Forestry, Fisheries and the Environment;
- (b) **“Carriage”** means all times of the respective voyage during which the Carrier legally owes a duty of care to the Passengers to take reasonable steps to ensure their safety whilst on board the Vessel;
- (c) **“Crew”** means the Ship’s Master, Vessel’s officers or any member of the Vessel’s crew;
- (d) **“Passengers”** means all persons carried on the Vessel with the written consent of the Carrier and excludes Personnel and Crew; and, **“Passenger”** means any one such person;
- (e) **“Baggage”** means passengers/ personnel cabin luggage, baggage, personal effects or other articles of a personal nature brought on board the Vessel by the Passenger/ Personnel excluding articles carried under a charter party agreement, bill of lading or other contract primarily concerned with the carriage of goods;
- (f) **“Personnel”** means any individual(s) or person(s) employed by the Government of the Republic of South Africa and the word “Personnel shall be inclusive of **“Crew”**”;
- (g) **“Vessel”** and/or **“Ship”** means the SA Agulhas II, IMO No 9577135; and
- (h) **“Vessel Manager”** means African Marine Solutions Group (Pty) Ltd (AMSOL).

### **2. SAFETY**

- (a) All Passengers/Personnel shall at all times follow and carry out all lawful directions of the Master and/or Crew of the Vessel particularly in relation to, but not limited to, the personal safety of themselves, the crew and that of other Passengers.
- (b) All Passengers/Personnel shall return to the accommodation, cabins or any other position, muster point or place when instructed to do so by the Master or any member of the Crew, for any reason.
- (c) All Passengers/Personnel are required at all times to take all reasonable precautions for their own safety. This includes, but is not limited to, using hand and guard rails at all times, taking particular care when ascending or descending any stairs, particularly those outside of the Vessel’s accommodation, abiding by all safety instructions issued by the Master or Crew and paying attention to the safety briefing given by the Master or any member of the Crew at the commencement of the Carriage.
- (d) The Passengers/ Personnel may not, without the Carrier and/or Vessel Manager’s prior written consent, take any articles on-board the Vessel which the DFFE reasonably believes could endanger the security of the Vessel and the security and life of Passengers/ Personnel or otherwise, including but not limited to firearms, ammunition, explosives and/or flammable, toxic or dangerous substances, any illegal goods and any article that can be used as a weapon. The Carrier, the Vessel Manager, the Ship’s Master and/or their officers shall have the right to confiscate any articles, in its sole discretion, considered dangerous or poses a risk or inconvenience to security of all aboard the Vessel.
- (e) The Passenger/Personnel hereby accepts and agrees that the Ship’s Master and/or their officers are entitled and have the authority to inspect any Passenger/Personnel on board, any cabin, luggage, baggage and belonging for safety, security or other lawful reasons and the Passenger/Personnel hereby expressly agrees to allow and co-operate with any such search.
- (f) All Passengers/Personnel are advised and required to take particular care in conditions of inclement, rough or heavy weather or as advised by the Ship’s Master or Crew.
- (g) Neither the Carrier nor the Vessel, its Master or its Crew shall be held responsible for any loss or damage, including personal injury, suffered by any Passenger as a result of breach of that Passenger’s safety obligations as per clauses (a) – (d) above or their failure to utilise all safety devices and precautions as provided for and/or advised on board the Vessel, or caused by any Passenger acting in an unreasonable, unnecessary or unsafe manner.

### **3. FITNESS TO TRAVEL**

- (a) All Passengers/Personnel warrant that they are physically and mentally fit to travel on board the Vessel for the duration of the respective voyage and that their conduct or condition will not impair the safety or

convenience of the Vessel, other Passengers / Personnel ; and that they can be carried safely in accordance with the applicable safety requirements and guidelines.

- (b) Any Passenger/Personnel with a medical condition that may affect their fitness to travel (also taking into account the Vessel's itinerary) must inform the Carrier and/or Vessel Manager prior to boarding the Vessel and submit a medical practitioner or specialist's certificate certifying their fitness to travel prior to commencement of the respective Voyage.
- (c) In any case, the Carrier and/or Vessel Manager may, at any time, require the Passenger/ Personnel to provide it with a medical practitioner or specialist's certificate certifying that they are fit to travel.
- (d) The Passenger/Personnel are solely responsible for ensuring that they have received all of the necessary inoculations required for travel prior to commencement of the respective voyage.
- (e) If, in the Carrier's and/or Vessel Manager's reasonable opinion and within its sole discretion or that of the Ship's Master, the Passenger/Personnel is for any reason unfit to travel on board the Vessel for the duration of the voyage and is likely to endanger their own health or safety, or the safety of others, or likely to be refused permission to land at any port at which the Vessel is scheduled to stop, then the Carrier and/or Vessel Manager or the Master may refuse to allow the Passenger/ Personnel to board the Vessel.
- (f) The medical practitioner on duty on board the Vessel shall be allowed to administer first aid and any drug/medicine and/or therapy or other medical treatment and/or to admit and/or confine the Passenger to the ship's hospital or other similar facility, if such measure is considered necessary by the medical practitioner and is supported by the Master's authority.
- (g) Where a Passenger is assessed as unfit to travel or fails to comply with this clause 3, neither the Carrier and/or Vessel Manager shall have any liability to the Passenger or any other person, including where the Passenger is disembarked or is refused embarkation.

#### **4. LIMITATION OF LIABILITY FOR DEATH OR PERSONAL INJURY**

- a) The Carrier and/or Vessel Manager shall not be responsible or liable for personal injury, incapacitation or death of any Passenger(s) arising out of or in any connected with the performance or non-performance of the terms of the Carriage whatsoever and in any circumstances, even if such personal injury or death is caused wholly or partially by the act, neglect, breach of duty (whether statutory or otherwise) or default of the Carrier and/or Vessel's Manager.
- b) The Passenger(s) shall indemnify, protect, defend and hold harmless the Carrier and/or Vessel Manager from any and against all claims, costs, expenses, actions, proceedings, suits, demands and liabilities whatsoever arising out of or in connection with such personal injury, incapacitation or death.

#### **5. LIMITATION OF LIABILITY FOR EQUIPMENT**

- a) The Carrier and/or Vessel Manager shall not be responsible or liable for any loss of or damage to any property or equipment of any Passenger(s), which falls out of the scope of the definition of " Baggage", whether it is owned by a Passenger or third party; or is hired or leased by the Passenger(s) from a third party, arising out of or in any connected with the performance or non-performance of the terms of the Carriage whatsoever and in any circumstances, even if such loss or damage is caused wholly or partially by the act, neglect, breach of duty (whether statutory or otherwise) or default of the Carrier and/or Vessel's Manager.
- b) The Carrier and/or Vessel Manager shall not be responsible or liable for any consequential or indirect loss arising out of in connection with any loss of or damage to any property or equipment owned by a Passenger or third party; or leased or hired by the Passenger(s) from a third party.
- c) In addition to the above, the Carrier and/or Vessel Manager shall not be responsible or liable for any loss of use, the cost of use, loss of profits or anticipated profits, loss of business or loss of revenue arising from the loss of or damage to property or equipment owned by a Passenger or a third party; or leased or hired by the Passenger(s) from a third party.
- d) The Passenger(s) shall indemnify, protect, defend and hold harmless the Carrier and/or Vessel Manager from any and against all claims, costs, expenses, actions, proceedings, suits, demands and liabilities whatsoever arising out of or in connection with such loss or damage.

#### **6. NOTICE OF LOSS OF OR DAMAGE TO BAGGAGE**

- a) In the event of any loss or damage to Baggage, the Passenger(s)/ Personnel shall provide notice before or at the time of disembarkation of the Passenger(s)/ Personnel or the receipt of the Baggage, whichever is the latter;
- b) In the event of any loss or damage to Baggage which is not apparent, the Passenger(s)/ Personnel shall provide notice within fifteen (15) calendar days from the date of disembarkation or the receipt of the Baggage, whichever is the latter;
- c) In the event that the Passenger(s)/ Personnel fails to comply with the notice period in sub-clause (a) or (b) above, the Passenger/ Personnel shall be presumed, unless the contrary is proven, to have received the Baggage undamaged. The onus of proof shall lie with the Passenger(s)/ Personnel.
- d) Written notice, as per sub-clause (a) and (b) need not be provided if the condition of the Baggage has at the time of its receipt been the subject of a joint survey or inspection by the Passenger(s)/ Personnel and Carrier and/or Vessel Manager.

## **7. TIME BAR FOR ACTIONS**

- a) The Passengers shall notify the Carrier and/or Vessel Managers in writing within three (3) calendar months of the date of incident from which any alleged loss to Baggage arises
- b) Any action for damage arising out of the death of or personal injury to a Passenger shall be time barred after a period of two (2) years.
- c) The limitation period shall be calculated as follows:
  - i. In the case of personal injury, from the date that the injury was suffered;
  - ii. In the case of death occurring during the Carriage, from the date that the Passenger died, and in the case of personal injury occurring during Carriage and resulting in the death of the Passenger after disembarkation, from the date of the personal injury;
  - iii. In the case of loss of or damage to Passenger Baggage, from the date of disembarkation or from the date when disembarkation should have taken place; whichever is the latter.
- d) The laws of the Republic of South Africa shall govern the grounds of suspension and interruption of limitation periods, but in no way shall an action under these Terms and Conditions of Carriage be brought after the expiration of a period of two (2) years from the date of disembarkation of the Passengers or from the date when disembarkation should have taken place; whichever is the latter.
- e) Notwithstanding this clause 6, the period of limitation may be extended by a declaration of the Carrier or by agreement of the Parties in writing, after the cause of action has arisen.

## **8. GENERAL CONDUCT**

- (a) The Carrier and/or Vessel Manager may refuse to allow the Passenger/ Personnel to board the Vessel if in the Carrier and/or Vessel Manager's reasonable opinion and within its sole discretion or that of the Master, the Passenger's conduct may endanger the Passenger's safety and/or security, or the safety and security of others on board the Vessel.
- (b) For the Passenger's /Personnel's own safety and the safety of others, the Passenger/ Personnel must pay attention to and comply with all rules and regulations regarding the safety of the Vessel.
- (c) The Passenger/Personnel must not behave in any way which may endanger the safety of the Vessel and/or any Passengers or Crew on board the Vessel and the Passenger must listen to and comply with all reasonable and lawful instructions by the Master, its officers and Crew.
- (d) If the Passenger/ Personnel causes any damage to the Vessel and/or any damage to and/or loss of any furnishings, equipment and other property belonging to the Vessel, the Passenger will be liable to reimburse the Carrier and/or Vessel Manager for such damage or loss.
- (e) Passengers shall be liable for any damage suffered by the Carrier and/or Vessel Manager or any supplier of any service that forms part of the voyage as a result of the Passenger's failure to comply with their contractual obligations. In particular, the Passenger shall be liable for all damages, loss or otherwise caused to the Carrier and/or Vessel Manager, including but not limited to, the Vessel or its furnishings and equipment, for injury or loss to other Passengers and third parties, and also for all penalties, fines and expenses attributable by the Passenger that the Carrier and/or Vessel Manager or any supplier may be liable to pay.

## **JURISDICTION**

- a) If any of these Terms and Conditions of Carriage is found to be invalid or unenforceable, it shall be entirely severable from the remainder of the contract, and all other terms of this contract shall continue in full force and effect for all other purposes.

- b) These Terms and Conditions of carriage shall be construed and interpreted in accordance to the laws of the Republic of South Africa. The High Court of South Africa (Cape of Good Hope Provincial Division – Exercising its Admiralty Jurisdiction) shall have exclusive jurisdiction over any claim, dispute or other matter arising out of this contract or the carriage of the Passengers.

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