

Standard Terms and Conditions of Trade

Addendum to current Terms and Conditions

IMPORTANT – PLEASE READ THIS ADDENDUM CAREFULLY – This addendum forms part of TERMS AND CONDITIONS.

Should your annual turnover and or asset value be below the threshold value set by the Minister in the Consumer Protection Act 68 of 2008 then the terms and conditions set out hereunder as well as the applicable terms and conditions in the preceding pages of these Terms and Conditions will apply. The terms and conditions in this addendum will take precedence over terms and conditions in the preceding pages should you qualify as a consumer pertaining to the Consumer Protection Act 68 of 2008. You are also required to sign off a copy hereof.

1. Definitions

- 1.1 In these Conditions the undermentioned words will bear the following meanings:
 - 1.1.1 **Company:** Shall mean SNK Logistics cc
 - 1.1.2 **Contractor:** Shall include sub-contractors but exclude customers contracting with the Company to render defined services, supply goods and the like to or for the Company. The word "Contractor" includes the Contractor's employees, representatives and agents and is separate from "carrier" defined hereunder.
 - 1.1.3 **Customer:** Shall refer to any person, save to the extent to which he is a Contractor, who contracts with the company, including the Customer's employees, representatives and agents, actual or ostensible.
 - 1.1.4 **Goods:** Shall relate to any merchandise, cargo, equipment or container which is transported in terms hereof.
 - 1.1.5 **Container:** Shall mean any ISO container whether empty or full, including its contents.
 - 1.1.6 **Dangerous goods:** Shall include hazardous goods and goods which in the opinion of the Company, are dangerous and includes anything likely to cause any damage whatsoever to persons or property (including the vehicle of the carriers/contractors).
 - 1.1.7 **Abnormal goods:** Shall include goods which by reason of their nature, weight (mass), dimensions or otherwise require special preparations to be made or unusual or special care, treatment or precautions to be taken for the transport or movement of same, which the Company in its sole discretion regards as abnormal or is otherwise described as such.
 - 1.1.8 **Carrier:** Shall mean any person/entity with whom the Company contracts to facilitate transportation for and on behalf of the Customer.
 - 1.1.9 **Transportation:** Shall mean, without restricting the generality of this term, loading, unloading, off-loading, conveyance, packing (where necessary), storing and the acquiring of permits, authority/ies and the like.
 - 1.1.10 **Services:** Shall mean the facilitation of services relating to the co-ordination, transportation, location and delivery of Goods within the borders of the Republic of South Africa.
- 1.2 Headings of clauses are inserted for purposes of convenience only and shall be ignored in the interpretation of these conditions.
- 1.3 Unless inconsistent with the context, words signifying any one gender shall include the other gender, words signifying the singular shall include the plural and vice versa and words signifying natural persons shall include artificial persons and vice versa.

2. *Overriding Effect*

- 2.1 Unless otherwise specifically agreed, all business conducted by and with the Company will be in accordance with the terms set out in these conditions and no other terms or conditions, whether contained in the Customer's documentation or otherwise, shall be binding on the Company, the terms of this contract being overriding.
- 2.2 No variation of any of these conditions shall be binding upon the Company unless reduced to writing and signed by an officer of the Company, duly authorized thereto.

3. *Instructions and Information*

- 3.1 In all dealings with any Customer the Company shall be entitled to rely upon the accuracy and completeness of any instruction and other information given to it by the Customer and recorded in writing.
- 3.2 The Company shall be entitled at any time to require the Customer to furnish further information relating to the subject matter of the business being undertaken and shall be entitled to postpone performance of any obligation in terms hereof until such information is received.
- 3.3 The Company reserves the right to provide any service not specified in instructions given to it by the Customer, provided that the Company believes it is in the interests of the Customer to facilitate such additional service/s and provided that the Customer has authorised such additional services where it will incur additional expense on the part of the Customer.
- 3.4 The company shall not bear liability nor in any way be responsible regarding:
 - 3.4.1 any loss or damage suffered by the Customer or any third party as a result of the Company's implementation of any instructions where the Company is not reckless or grossly negligent. The customer, whether or not the cause of payment was due to an act, instruction or omission of the sender, owner and/or consignee and their agents, if any, shall be liable for any duties, taxes, impost, levies, deposits or out-lays of whatsoever nature levied by or payable to any authority, intermediaries or other third parties at any port or place for or in connection with the goods and whether at the time of entry and/or at any subsequent time. The customer will further be liable for payment of storage charges on a container stored at a port and for any fines, penalties, loss or damage incurred by the Company as a result of overloading where the Customer misinforms the Company of the load weight;
 - 3.4.2 any failure to follow any instruction given by the Customer if in the opinion of the Company it would be unreasonable to do so (subject to the Company giving the Customer prior notification); or
 - 3.4.3 any failure to adhere to times or dates given by the Customer in writing or otherwise unless the Customer expressly records in writing that time is to be of the essence.
- 3.5 There is no obligation on the part of the Company to recover all or any charges and disbursements from any third party alluded to by the Customer. The Customer shall be responsible for payment of all such charges and disbursements to the Company.
- 3.6 The Company shall not be obliged to handle, store or transport any goods which appear to have been damaged or to be unsafe for handling, storage or transport.
- 3.7 The Customer warrants the authenticity of all goods transported, the correctness and accuracy of all descriptions, values and other information provided to the Company for inter alia; customs and excise, revenue and consular or other purposes. The Customer further warrants and indemnifies the Company against any fines, penalties, claims and legal process in which the Company may be cited regarding the above.
- 3.8 Unless it is specifically instructed in writing, the Company shall not be obliged;
 - 3.8.1 to effect any insurance or related cover of any nature, either on its behalf or that of the Customer;
 - 3.8.2 to make any declaration regarding the nature and content of any container handled by the Company.

- 3.9 If for any reason, a delay is experienced regarding the execution of the Customer's instructions, the Company shall be entitled to store the goods to which those instructions relate at such place and on such terms as the Company deems fit, and further at the Customer's sole risk and expense and without notice to the Customer.

4. Charges

- 4.1 The charges or prices quoted by the Company for any service shall be inclusive of Vat and not, unless otherwise specified, include any surcharges or other government, provincial or municipal charges or duties. If any of the above are specified in the quotation and are increased before the Company performs the obligation to which same relate, the increase shall be for the Customer's account.
- 4.2 The Company shall, if the cost to it in performing any obligation is increased for any reason, be entitled at any time before the obligation is performed to increase its charges after giving the Customer prior written notice thereof.
- 4.3 Charges quoted are valid regarding the services, sales or conversions set out in the quotation for a period of seven days only.
- 4.4 Should;
- 4.4.1 **it become necessary for additional services to be provided pending receipt of instructions from the Customer or compliance by the Customer with its obligations in terms of these conditions; alternatively**
- 4.4.2 **the Company be faced with circumstances in which it is in the best interests of the Customer to provide additional services; alternatively**
- 4.4.3 **the Company be compelled by any competent authority to provide such services;**
- the Company shall be entitled to charge its usual charge or, if it has no usual charge, then a reasonable charge for such additional services and recover any additional disbursements incurred in connection herewith.**
- 4.5 The Customer shall pay to the Company upon demand and in advance such amount as the Company may from time to time request in respect of anticipated charges and disbursement.
- 4.6 The Company shall not be obliged to disburse any monies on behalf of the Customer until it is in receipt of funds adequate to cover same and the Company shall not be liable for any loss or damages suffered by the Customer or any third party as a result of any failure to disburse such monies.
- 4.7 If there is a choice of tariff rates or premiums offered by carriers, warehousemen, underwriters or other persons, the Company shall be entitled, at its sole discretion, to decide what declaration shall be made and what liability, if any, shall be imposed on that party, unless the Customer specifically instructs the Company otherwise.
- 4.8 The Company shall be entitled to keep for its own benefit, and shall not be obliged to make known to the Customer, any discount, allowances, commission or brokerage obtained in the course of executing the Customer's instructions.
- 4.9 All charges due by the Customer to the Company shall be paid free of deduction, set-off or demand and upon presentation of the Company's invoice.
- 4.10 If any amount due to the Company is not paid on the presentation of the Company's invoice, it shall bear interest at the rate of Prime plus 2%, the then applicable prime rate of interest to be confirmed by Nedcor Bank Limited.
- 4.11 All payments shall be made to the Company.

5. *Warranties, Markings and Contents of Containers*

- 5.1 The Customer warrants to Company that the contents of any containers dealt with by the Company in terms of these conditions are:
- 5.1.1 the Customer's sole and exclusive property and/or that the Customer has the full and absolute authority of the persons owning or interested in the goods to deal with same;
 - 5.1.2 sufficiently described in all documentation supplied by the Customer to the Company;
 - 5.1.3 such that there is no risk that they will contaminate or cause damage to any other property or pose a threat of injury or death to any person;
 - 5.1.4 packed properly and adequately, in compliance with all relevant laws and practices;
 - 5.1.5 so packed as to ensure that, in the ordinary course of the container being handled, stored and transported, they will not be damaged or cause damage to any other property or injury or death to any person;
 - 5.1.6 are authentic and not in contravention of any law, trade mark, patent or otherwise from time to time in force in any country to which the container is to be or through which it is to be transported and pursuant to an agreement concluded between the Company and the Customer.
- 5.2 The Customer expressly indemnifies the Company regarding any claims that may arise regarding inter alia the above and concerning which the Company may be sued and cited, it being expressly confirmed that the Company's function in facilitating services as defined in the definition is peripheral only vis-à-vis the original purchase, importation, loading, conveyance and delivery of the goods by the supplier to the consignee or other relevant third party.
- 5.3 The Customer warrants that the container and its markings comply with requisite standards, status, laws, conventions and practices applicable on an international basis and that the markings are adequate to enable the container to be readily identified.

5.4 *Harmful Goods*

- 5.4.1 If the Company in its sole discretion considers that the contents of any container dealt with by it may cause harm of any nature, including but not limited to the proliferation of vermin, the Company shall be entitled to deal with both the container and its contents in such a manner as it deems fit (which shall, inter alia include destruction or abandonment) without notice and compensation being given to any person, and further in circumstances where the Company will be entitled to charge its full fee including any costs incurred in dealing with the container as above
- 5.4.2 The Customer shall be liable for the Company's costs and shall indemnify the Company against any claim by any person arising out of or in connection with the exercise by the Company of its right in terms of this clause.
- 5.4.3 The Customer indemnifies the Company against any harm and any related damage claims arising regarding containers containing potentially harmful/dangerous contents and further regardless of whether the Company had knowledge of such contents or not.
- 5.4.4 The Customer shall be responsible for complying with any regulations or laws relating to any container or to the contents of any such container dealt with by the Company.

5.5 *Valuable Goods*

- 5.5.1 In the event of a container containing valuables including without limitation; any bullion, coins, precious stones, jewellery, antiques, pictures, bank notes, securities, documents or otherwise, livestock or plants, the Company shall not in any way be liable for any loss or damage to such goods unless the Company is reckless or grossly negligent.

5.6 *Perishable Goods*

- 5.6.1 Where a container contains perishable goods and same have begun or are likely to perish, the Company may deal with those contents in such manner as it deems fit and without notice to any person. In these circumstances, the Customer shall be liable for the Company's costs of, and shall indemnify the Company against any claim by any person arising out of the Company's handling of the goods.

5.7 *Abnormal Goods*

- 5.7.1 Where the Contractor is required to transport or move Abnormal Goods it shall have the right to vary these conditions or add such further terms thereto as it in its sole discretion may deem fit.

5.8 *Dangerous / Harmful Goods*

- 5.8.1 Dangerous/Harmful Goods shall not be tendered to the Company nor accepted by same without the Company, being in receipt of written advices regarding the dangerous/harmful qualities and description of the goods, such written advices to be received by the Company at least three days before the tender of such goods to the Company. Upon receipt of such written advices, the Company reserves its rights to impose further conditions associated with the conveyance of such goods alternatively, to refuse to deal with same.
- 5.8.2 Dangerous/Harmful Goods or the container package or other covering in which such Goods are tendered to the Company or its Agent shall be prominently marked on the outside so as to indicate the nature and character of the Goods and so as to comply with any applicable laws, regulations or requirements imposed by any authority or carrier.
- 5.8.3 If any goods are tendered to the Company without a disclosure as necessitated above of same being of a dangerous/harmful nature or without being marked as aforesaid, same may at anytime be disposed of, abandoned or rendered harmless at the sole discretion of the Company and at the entire risk and expense of the Customer. Further, the Customer will not be entitled under such circumstances, to claim any compensation or otherwise from the Company and all costs incurred by the Company in disposing, abandoning, rendering harmless or otherwise dealing with the goods under such circumstances will be for the account of the Customer.
- 5.8.4 Notwithstanding the acceptance of Dangerous/Harmful Goods, the Company may nevertheless for good reason, alternatively where compelled, destroy or otherwise deal with such Goods. Under such circumstances, the goods will be dealt with at the entire risk of the Customer, without compensation being due to same or any other party and without prejudice to the Company's right to inter alia debit charges and fees including that relating to the cost of destruction or disposal.
- 5.8.5 The Customer shall be responsible for compliance with all regulations relating to Dangerous/Harmful Goods in force in any country including such country's territorial waters.

6. *Appointment of Third Parties*

- 6.1 The Company may in its discretion at any time unilaterally appoint any third party to fulfil all or any of the Company's obligations arising in terms of these conditions and without further notice to the customer.
- 6.2 In appointing such third parties the Company shall be construed as being the agent of the Customer and shall under no circumstances become liable regarding any default by such third party in the performance of its obligations pursuant to such appointment or for any loss or damage caused to the Customer or any third party as a result thereof.
- 6.3 The Company shall be entitled to contract with such third parties on such terms and conditions as it deems appropriate.

7. Sale of Containers/Conversions

- 7.1 If the Company sells any used containers to the Customer, then:
- 7.1.1 The Customer hereby acknowledges that it has thoroughly inspected the container, that the container was sold second hand and that it accepts the container in the condition that it is, with the defects listed in the quotation and/or other sales record documentation;
 - 7.1.2 The Customer further acknowledges that it will not hold the Company responsible for any direct, indirect or consequential damage and or injuries that result due to these disclosed defects and or shortcomings.
 - 7.1.3 The Customer acknowledges that where it has been notified of any markings and lettering pertaining to prior ownership of the container (including customs certificate endorsements, design approval plate and container safety convention plate), that it will carry out the necessary removal or obliteration upon delivery of same and ensure compliance thereafter with all laws and conventions applicable to containers.
- 7.2 Containers, whether new or used, will be sold on a strictly cash on delivery basis.
- 7.3 Notwithstanding anything to the contrary herein contained, ownership of a container shall pass to the Customer only upon payment of the full purchase price or delivery, whichever is later. For the purposes of this clause, delivery shall include the handing over by the Company to the Customer or its representative or the person in whose custody the container is, of written authority to release the container to the Customer or its nominee.
- 7.4 Delivery shall be effected at the place as agreed upon between the Company and the Customer. Where no agreement can be reached the delivery will take place at the Company's place of business in terms of Section 19 of the Act.
- 7.5 The customer shall be liable for all costs and expenses relating to the container from the date upon which delivery is due to be taken or upon actual delivery, whichever is the earlier.
- 7.6 Should the sale of any container be cancelled for any reason, any markings and lettering applied by the Customer to the container in the interim, shall be removed or obliterated and the original markings and lettering reflected on the container before its sale to the Customer reinstated, and at the Customer's expense.
- 7.7 Risk of loss of or damage to the container shall pass to the Customer on the date upon which delivery is due to be taken or actual delivery has occurred, whichever is the earlier.
- 7.8 Should the Customer breach any sale of a new or used container and remain in breach for a period of seven days after receipt of written notice from the Company calling upon it to remedy the breach, the Company shall be entitled to either:
- 7.8.1 Cancel the sale to the Customer, or
 - 7.8.2 Claim specific performance on the part of the Customer, including immediate payment of all monies due by the Customer, and where appropriate on an accelerated basis.

8. Carriage

The Company does not constitute a public or common carrier and transports goods be they containerized or otherwise (including containers) subject to these conditions only.

9. Contractor's Liability

- 9.1 Each transport instruction given to the Contractor by the Company shall be accepted by the Contractor as a contract in accordance with these standard-trading conditions.
- 9.2 The Contractor shall bear liability for any consequential the loss of or damage to goods conveyed (be they containerized or otherwise) and for any loss or damage suffered by the Company as a result of any delay by the Contractor in performing its obligations in terms of that contract.

- 9.3 The Contractor further bears liability regarding any and all damage caused to trailers used by the contractor in the course of conveyance of Goods, (be they containerized or otherwise), fair wear and tear excepted. No liability arising in this regard can be attributed to the Company.
- 9.4 The Contractor also bears responsibility for the maintenance of trailers employed in the conveyance of goods.
- 9.5. The Customer bears the responsibility of ensuring that its Consignee or Consignor's premises are suitable for the handling of containers and that semi- trailers are parked on flat, hard surfaces. The Company will accept no liability for any incidents that might occur due to unsuitable premises or on or off loading facilities.

10. "All In" Rate

- 10.1 If the Company, in its dealings with Customers or Contractors, quotes or is quoted a charge or rate which is described as being "all in" that charge or rate shall be deemed to cover all charges and disbursements from the commencement to the final completion of the service or supply of goods, as the case may be.

11. Company's Liabilities

- 11.1 Notwithstanding anything in the contrary contained herein, the Customer indemnifies the Company regarding any and all liabilities for any costs and/or claims arising out of any incident whatsoever.

11.1.1. The Company, its employees and/or agents will exercise the utmost care in dealing with its customer's goods. The Company, its employees and/or agents are further not responsible for any loss or damage where the Company, its employees and/or agents exercise a degree of care, diligence and skill that can reasonably be expected of them or where the Company, its employees and/or agents are not reckless or grossly negligent in handling the customer's goods. Furthermore under no circumstances will the Company, its employees and/or agents be liable for any consequential, special, punitive or exemplary damages in respect of any goods supplied where such damage arises from any misuse or abuse of the goods, negligence by the customer and /or failure by the customer to provide any relevant instructions unknown to the Company, its employees and/or agents with regards to the handling of the goods (e.g. where goods are fragile) and/or failure by the customer to adhere to any instructions provided in respect of the goods. The Company, its employees and/or agents will further not be liable for damages where any failure, defect, or unsafe product characteristic did not exist at the time of supply and / or where the Company, its employees and/or agents could not reasonably have been expected to be aware of the unsafe characteristic, defect, failure or hazard at the time of supply.

- 11.2 In the event of the customer being a natural person or a business regarded as a "consumer" in terms of the Consumer Protection Act, any losses due to gross negligence of the Company will be determined in accordance with Section 61 of the Consumer Protection Act

12. Claims Against the Company

- 12.1 Any claim emanating from a Customer arising out of any act or omission on the part of the Company must be delivered to the Company in writing within thirty days of the act or omission complained of or of the date upon which the act or omission ought to have occurred as the case may be failing which it shall be deemed to have been extinguished for all purposes.
- 12.2 If any payment is made to any person or statutory authority pursuant to the execution of the Customer's instructions, and it transpires that such payment should not have made, the Company shall not be liable to the Customer in respect of such payment.
- 12.3 Notwithstanding any of the conditions contained herein, the Customer agrees that in circumstances where the Company is held liable for loss, damage, expense or penalty raised against it as a result of actions, omissions or negligence on the part of a Contractor, then the Company shall act as the Customer's agent in obtaining settlement from the Contractor and shall be liable to settle such claim only upon receipt of the Contractor's settlement and in the amount of such settlement only.

13. Lien

- 13.1 The Company shall maintain a lien over all corporeal and incorporeal property in its possession, and associated with the indebtedness for any reason whatsoever by the Customer in favour of the Company.
- 13.2 The Company reserves the right to enforce the above lien until all monies due to it by the Customer are paid up together with interest accumulating thereon.
- 13.3 If any debt by the Customer in favour of the Company remains unpaid after the lapse of thirty days from the date upon which it became due, the Company may sell/dispose of the property forming the subject matter of the lien on any basis that it deems fit, and without in such circumstances, becoming liable for any loss consequent upon or incidental to the exercise of such right of sale.
- 13.4 Any expenses and charges incurred or levied by the Company in enforcing the lien, including; storing, handling and selling the said property shall be borne by the Customer. The proceeds of the sale shall be applied towards offsetting the entire indebtedness of the Customer to the Company and any surplus accumulating hereafter will be refunded to the Customer.
- 13.5 If property in question is not owned by the Customer, the Customer hereby confirms being empowered on behalf of the owner, to deal with same and authorizes the Company to exercise its rights in terms hereof.

14. Legal Charges

In the event of the Company resorting to instructing its attorneys to recover money or goods from the Customer or Contractor, same shall be liable for and pay all legal costs incurred by the Company on an attorney and own client scale and inclusive of collection commission, related disbursements (including sheriff's fees, legal counsel expenses and the like).

15. Force Majeure

- 15.1 Subject to the following provisions, neither party shall be responsible to the other for its failure to perform any obligation or for any delay in performance in the event and to the extent that such failure or delay is caused by force majeure.
- 15.2 Force majeure shall entail any circumstances which:
 - 16.2.1 Are beyond the reasonable control of the party giving notice of same (hereinafter referred to as "the affected party ") and for which it is not responsible; and
 - 16.2.2 Further not constitute a circumstance which the affected party could, by the exercise of a reasonable care and skill, have avoided.
- 15.3 Subject to the above, force majeure includes but is not limited to war (whether declared or not) revolution, invasion, insurrection, riot, civil commotion, mob violence, sabotage, blockade, hi-jacking, embargo, boycott, the exercise of military or usurped power, fire, explosion, theft, storm, flood, wind, lightning or other adverse weather conditions, epidemic, quarantine, accident, breakdown of machinery or facilities, strikes, lockout or labour related disputes, acts or restraints of government impositions of or embargo on imports or exports.
- 15.4 Notwithstanding the provisions of clause 16.2. a labour dispute, strike or lockout which could be resolved by the affected party acceding to the demands made upon it shall be deemed to be an event of force majeure.
- 15.5 The affected party shall give notice thereof to the other immediately upon the occurrence of an event of force majeure.
- 15.6 If the event of force majeure is of such a nature that it will result in an impossibility of performance of the obligation in question, the party not so affected (hereinafter in this Clause 16 referred to as "the other party") shall be entitled on receipt of notice of the force majeure event, to terminate the contract upon written notice to the affected party but shall not be entitled to recover any damage which it may suffer as a result of such premature termination.

- 15.7 If the event of force majeure is of such a nature that it will not result in an impossibility of performance of the obligation in question, but will delay the performance thereof, the affected party shall be entitled to such extensions of time in which to perform that obligation as may be reasonable in the circumstances, taking into account the interest of both parties: provided that if the force majeure situation persists for a period in excess of seven days the other party shall be entitled upon notice to the affected party to terminate this agreement but shall not be entitled to recover any damages which it may suffer as a result of such premature termination.

16. Relaxation

- 16.1 No relaxation by a party of any of its rights in terms of this agreement at any time shall prejudice or constitute a waiver of such rights and same shall be entitled to exercise its rights thereafter as if the said relaxation had not taken place.
- 16.2 No act or omission by or on behalf of the Company shall be construed as an acceptance of liability or a waiver of rights or an acceptance of the correctness of an interpretation or viewpoint expressed by a Customer or Contractor unless it does so expressly.

17. Notices

- 17.1 All written notices given by one party to the other shall be deemed to have been validly served if delivered by hand or sent by telefax or prepaid registered post to the physical address, as the case may be, reflected on their current official letterhead of each party. Such physical addresses will further constitute the parties' chosen domicilium citandi et executandi addresses at which same will accept service of all documentation and legal process.
- 17.2 Such notices shall, if delivered by hand, be deemed to have been received on the date of delivery, if sent by telefax be deemed to have been received on the business day (in the country to which the telefax was sent) following despatch and if sent by prepaid registered post, be deemed to have been received seven days after posting.

18. Applicable Law

These conditions and any contracts concluded in terms hereof shall be governed by and interpreted according to the laws of the Republic of South Africa.