

SMA LOGISTICS SERVICES (PTY) LTD

Registration Number: 2019/587236/07
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TERMS AND CONDITIONS OF TRADE

Sea Freight • Air Freight • Courier • Domestic & International Logistics

These Terms and Conditions govern all Services provided by SMA Logistics Services (Pty) Ltd. Please read them carefully before instructing the Company.

1. Definitions and Interpretation

- 1.1 "the Company" means SMA Logistics Services (Pty) Ltd (Registration Number 2019/587236/07), its successors and assigns.
- 1.2 "the Customer" means the person, company, or other legal entity at whose request or on whose behalf the Company provides any service, and includes that party's agents, employees, and successors.
- 1.3 "Goods" means the cargo, consignment, parcel, or property of any kind that is the subject of an instruction to the Company.
- 1.4 "Services" means any freight, forwarding, courier, customs clearance, warehousing, transport, or related logistics service performed by the Company, whether by sea, air, road, rail, or courier, and whether domestic or international.
- 1.5 "Subcontractor" means any carrier, agent, courier, warehouse operator, customs broker, or other third party engaged by the Company to perform any part of the Services.
- 1.6 Words importing the singular include the plural and vice versa, and words importing one gender include the other genders.

2. Application of these Terms

- 2.1 These Terms and Conditions apply to all Services quoted, booked, or performed by the Company, whether by sea, air, courier, road, or rail, and whether domestic or international, unless varied in writing and signed by a director of the Company.
- 2.2 These Terms and Conditions take precedence over any terms proposed by the Customer, including any terms contained in the Customer's purchase order or other documentation, unless expressly agreed to in writing by the Company.
- 2.3 Where the Services are governed by mandatory international conventions (including the Hague-Visby Rules, the Warsaw Convention, the Montreal Convention, or the CMR Convention, as applicable), those conventions shall apply to the extent that they are compulsorily applicable, and these Terms and Conditions shall apply in all other respects.

3. Capacity of the Company

- 3.1 Unless otherwise agreed in writing, the Company acts solely as a forwarding agent on behalf of the Customer in arranging the carriage, storage, and handling of Goods by third-party carriers and Subcontractors, and does not itself act as a carrier.
- 3.2 Where the Company issues its own transport document or otherwise expressly agrees in writing to act as principal carrier, the Company shall be liable as a carrier only in respect of that specific consignment and only to the extent set out in these Terms and Conditions.
- 3.3 The Company reserves the right to select the mode of transport, route, and Subcontractor to be used in the performance of the Services, acting reasonably and in the Customer's best interests, unless specific instructions are agreed in writing.

4. Quotations and Rates

- 4.1 Quotations are valid for the period stated therein, or if no period is stated, for 14 (fourteen) days, and are subject to the availability of space, equipment, and vessels/aircraft at the time of booking.
- 4.2 All quoted rates exclude duties, taxes, levies, storage, demurrage, detention, inspection fees, and any other third-party charges, unless expressly stated otherwise.

- 4.3 Rates are subject to change without notice to reflect fluctuations in fuel surcharges, currency exchange rates, freight rates imposed by carriers, and any government-imposed charges arising after the date of quotation.

5. Instructions and Bookings

- 5.1 The Customer warrants that all instructions given to the Company, whether written or oral, are accurate, complete, and given by a person authorised to bind the Customer.
- 5.2 The Company shall be entitled to rely on any instruction received from the Customer or a person reasonably believed to represent the Customer, and to act thereon without further verification.
- 5.3 The Customer shall provide the Company with accurate and complete information regarding the description, weight, dimensions, value, and nature of the Goods, including whether the Goods are dangerous, perishable, or of high value, prior to the Company accepting the booking.

6. Sea Freight Services

- 6.1 Sea freight bookings are subject to shipping line schedules, vessel availability, and the terms and conditions of the relevant ocean carrier's bill of lading, which shall be incorporated by reference.
- 6.2 Container weights, seal numbers, and cargo descriptions are provided by the Customer or its agents, and the Company accepts no liability for inaccuracies in information supplied by the Customer for the purpose of the bill of lading or manifest.
- 6.3 Free time for container use and demurrage/detention periods are determined by the relevant shipping line and terminal, and any charges arising from the Customer's failure to collect or return containers timeously shall be for the Customer's account.
- 6.4 Sailing dates, transit times, and vessel connections are estimates only and are not guaranteed by the Company.

7. Air Freight Services

- 7.1 Air freight bookings are subject to airline schedules, cargo space availability, and the terms and conditions of the relevant airline's air waybill, which shall be incorporated by reference.
- 7.2 Chargeable weight for air freight shall be calculated as the greater of actual gross weight or volumetric weight, calculated in accordance with standard IATA volumetric conventions, unless otherwise agreed.
- 7.3 The Company shall use reasonable endeavours to meet requested flight schedules but does not guarantee specific flights, connections, or delivery times.

8. Courier and Domestic Road Services

- 8.1 Courier and domestic road services are provided on a door-to-door or address-to-address basis as agreed, and delivery times quoted are estimates only, dependent on traffic, weather, and access to the delivery address.
- 8.2 The Customer must ensure that parcels and consignments are adequately and securely packaged to withstand normal handling in transit. The Company shall not be liable for damage resulting from inadequate packaging.
- 8.3 Proof of delivery shall be by way of a signature, scan, photograph, or other acknowledgement of receipt obtained at the delivery address, and shall constitute prima facie proof of delivery.
- 8.4 Where no authorised person is available to accept delivery, the Company or its Subcontractor may leave the consignment in a safe place, return it to a local depot for collection, or make a further delivery attempt, at the Company's discretion and at the Customer's cost.

9. International Services — Customs, Duties and Documentation

- 9.1 Where the Company is instructed to attend to customs clearance, the Customer appoints the Company as its agent for customs purposes and warrants that all information and documentation supplied for that purpose is true, complete, and accurate.
- 9.2 The Customer is responsible for obtaining any import or export permits, licences, or certificates required for the Goods, and for the payment of all customs duties, taxes, tariffs, and levies applicable to the Goods.

- 9.3** The Company shall not be liable for any delay, penalty, seizure, forfeiture, or other consequence arising from incorrect, incomplete, or false information or documentation supplied by the Customer, or from the Customer's failure to hold a required permit or licence.
- 9.4** Goods may be subject to inspection, examination, or detention by customs or other regulatory authorities, which may result in delay or additional charges for which the Company shall not be liable, and which shall be for the Customer's account.

10. Packing, Marking and Description of Goods

- 10.1** The Customer warrants that the Goods are properly and sufficiently packed, marked, and labelled to withstand the ordinary risks of handling and carriage, having regard to the nature of the Goods and the mode(s) of transport to be used.
- 10.2** The Customer warrants that the description, weight, quantity, and value of the Goods declared to the Company are true and accurate in all respects.
- 10.3** The Company shall be entitled, but is not obliged, to open and inspect any package to verify its contents where it reasonably suspects that the contents are misdeclared, dangerous, or prohibited.

11. Dangerous, Hazardous and Prohibited Goods

- 11.1** The Customer shall not tender for carriage any dangerous, hazardous, restricted, or prohibited goods (including but not limited to flammable, explosive, radioactive, corrosive, or toxic substances) without the Company's prior written consent and full written disclosure of the nature of the Goods.
- 11.2** Where dangerous or hazardous goods are accepted for carriage, the Customer shall ensure that such Goods are packed, labelled, and documented in accordance with all applicable national and international regulations, including IMDG, IATA Dangerous Goods Regulations, and ADR/local road transport regulations, as applicable.
- 11.3** The Customer indemnifies the Company against all loss, damage, fines, penalties, and claims of any nature arising from the Customer's failure to disclose the dangerous or hazardous nature of any Goods, or from non-compliance with applicable regulations.
- 11.4** The Company may, without incurring any liability, refuse, destroy, dispose of, or render harmless any Goods which are found to be dangerous, hazardous, or prohibited and which were not properly disclosed, at the Customer's risk and cost.

12. Weighing, Measuring and Verification

- 12.1** Where the Company weighs or measures Goods, such weight or measurement shall be conclusive as between the Company and the Customer, save for manifest error.
- 12.2** The Customer shall reimburse the Company for any additional freight, penalties, or charges levied by a carrier as a result of a discrepancy between the weight, dimensions, or description declared by the Customer and the actual weight, dimensions, or description of the Goods.

13. Delivery, Risk and Title

- 13.1** Risk in the Goods passes to the Customer, or such other party as the Customer directs, upon delivery of the Goods at the agreed delivery point, or upon tender of delivery where the consignee is unable or unwilling to accept delivery.
- 13.2** Delivery dates and times provided by the Company are estimates only. The Company shall not be liable for any loss, damage, or consequential loss arising from a failure to meet an estimated delivery date or time, save where caused by the Company's gross negligence or wilful misconduct.
- 13.3** Ownership in the Goods remains with the Customer (or the rightful owner) at all times, and the Company claims no title to the Goods except by way of the lien described in clause 19.

14. Storage and Warehousing

- 14.1** Where the Company stores or warehouses Goods on behalf of the Customer, such storage is at the Customer's risk, and the Customer is responsible for insuring the Goods while in storage.
- 14.2** Storage charges accrue from the date the Goods are received into storage and are payable in accordance with the Company's applicable tariff, whether or not the Customer collects the Goods timeously.

- 14.3** The Company may, on reasonable prior written notice, dispose of Goods that remain uncollected for a period exceeding 60 (sixty) days after notice of availability for collection, and apply the proceeds towards any outstanding charges, with any surplus paid to the Customer.

15. Liability and Limitation of Liability

- 15.1** Save as set out in this clause, the Company shall not be liable for any loss, damage, delay, or consequential loss of whatsoever nature arising out of or in connection with the Services, whether in contract, delict, or otherwise.
- 15.2** Where the Company is found liable for loss or damage to Goods, such liability shall be limited to the lesser of: (i) the actual value of the Goods lost or damaged; or (ii) the limitation of liability applicable under the relevant international convention or carrier's terms and conditions governing the mode of transport used; or (iii) where no such convention or limit applies, an amount not exceeding SDR 2 (two Special Drawing Rights) per kilogram of the Goods lost or damaged, or such other amount as the Company may specify in writing.
- 15.3** The Company shall in no circumstances be liable for indirect, special, or consequential loss, including but not limited to loss of profit, loss of market, loss of use, or loss of business, whether or not the Company was aware that such loss was possible.
- 15.4** The Company shall not be liable for loss or damage caused by inherent vice of the Goods, ordinary wear and tear, insufficient or improper packing, acts or omissions of the Customer, or compliance with the Customer's instructions.
- 15.5** Any claim against the Company shall be extinguished unless suit is brought within 9 (nine) months of the date of the event giving rise to the claim, or such shorter period as may be prescribed by an applicable international convention.

16. Insurance

- 16.1** The Company does not automatically insure Goods carried or stored on behalf of the Customer. It is the Customer's responsibility to arrange adequate insurance cover for the Goods for their full value.
- 16.2** Where the Customer requests the Company to arrange insurance on its behalf, the Company does so purely as an agent for the Customer, and the Company shall not be liable for the solvency of the insurer or for any dispute regarding a claim under the policy.

17. Force Majeure

The Company shall not be liable for any failure or delay in performing the Services where such failure or delay arises from circumstances beyond its reasonable control, including but not limited to acts of God, war, civil unrest, strikes, lockouts, port congestion, adverse weather, pandemic, government action, carrier failure, or mechanical breakdown. The Company shall notify the Customer of any such event as soon as reasonably practicable and shall use reasonable endeavours to mitigate its effects.

18. Claims Procedure

- 18.1** Any claim for loss, damage, or shortage must be notified to the Company in writing within 7 (seven) days of delivery of the Goods (or, in the case of non-delivery, within 30 (thirty) days of the date the Goods should have been delivered), failing which the Goods shall be deemed to have been delivered in good order and the claim shall be waived.
- 18.2** All claims must be accompanied by supporting documentation, including the original invoice, transport documentation, and evidence of the loss or damage claimed.

19. Lien and Right of Retention

The Company shall have a general lien over any Goods, documents, or property of the Customer in its possession, custody, or control, for all monies due from the Customer to the Company, whether in respect of the Goods in question or any other transaction. Should any amount remain unpaid for a period exceeding 30 (thirty) days after demand, the Company may sell or dispose of the Goods and apply the proceeds towards the amount owing, with any surplus paid to the Customer.

20. Payment Terms

- 20.1** Unless credit facilities have been approved in writing, all charges are payable prior to release of the Goods or provision of the Services.
- 20.2** Where credit facilities have been granted, invoices are payable within 30 (thirty) days from the date of invoice, unless otherwise agreed in writing.

20.3 Interest shall accrue on overdue amounts at a rate of 2% (two percent) per month, calculated from the due date until the date of payment.

20.4 The Customer shall not be entitled to withhold or set off any payment due to the Company on account of any dispute, claim, or counterclaim, without the Company's prior written consent.

21. Subcontracting

The Company may, in its discretion, subcontract the performance of the whole or any part of the Services to any Subcontractor on any terms, and the Customer agrees that such Subcontractors shall have the benefit of these Terms and Conditions and any limitation of liability applicable to the Company.

22. Indemnity

The Customer indemnifies and holds the Company harmless against all claims, losses, damages, fines, penalties, costs, and expenses (including legal costs on an attorney-and-client scale) arising out of or in connection with: (i) any breach of these Terms and Conditions by the Customer; (ii) any inaccurate, incomplete, or misleading information or instructions supplied by the Customer; or (iii) any claim brought against the Company by a third party arising from the Goods or the Services rendered on the Customer's behalf.

23. Confidentiality and Data Protection

The Company shall process any personal information provided by the Customer in accordance with the Protection of Personal Information Act 4 of 2013 (POPIA), solely for the purposes of providing the Services, complying with legal and regulatory requirements, and managing the Company's relationship with the Customer.

24. Cancellation

Either party may cancel a booking prior to commencement of the Services on reasonable written notice. The Customer shall remain liable for any costs, charges, or cancellation fees already incurred by the Company or its Subcontractors up to the date of cancellation.

25. General

25.1 No relaxation, indulgence, or extension of time granted by the Company shall constitute a waiver of any of its rights under these Terms and Conditions.

25.2 If any provision of these Terms and Conditions is found to be invalid or unenforceable, the remaining provisions shall continue in full force and effect.

25.3 These Terms and Conditions, together with any signed quotation or service agreement, constitute the entire agreement between the parties and supersede all prior representations, agreements, or understandings, whether written or oral.

25.4 The Company reserves the right to amend these Terms and Conditions from time to time. The version published on the Company's website at the time an instruction is given shall apply to that instruction.

26. Governing Law and Jurisdiction

These Terms and Conditions are governed by the laws of the Republic of South Africa. The parties consent to the non-exclusive jurisdiction of the Magistrate's Court in respect of any dispute arising from these Terms and Conditions, without prejudice to the Company's right to institute proceedings in any other court of competent jurisdiction.