

Should NAMIBIA LOGISTICS (PTY)LTD (hereinafter referred to as the “COMPANY”) grant a credit facility to the APPLICANT (hereinafter referred to as the “CLIENT”) in terms hereof all transport services rendered by the COMPANY to the CLIENT shall be subject to the terms and conditions contained herein and all fees for services rendered shall be levied in terms of the COMPANY’S prescribed tariffs applicable from time to time.

TERMS AND CONDITIONS

1. **INTERPRETATION:** In this agreement unless inconsistent with the context: any words importing the singular include the plural and *vice versa*; any words signifying one gender include the other genders and *vice versa*; all references to the APPLICANT (hereinafter referred to as the “CLIENT”) shall be deemed to include a reference to the CLIENT’S surety(ies), nominee(s) and/or successor(s) in title and/or assign(s). Any heading to a clause is for reference only and is not to be used to interpreting the meaning of the text. Should any terms and conditions become unenforceable or be rendered unlawful for any reason whatsoever, that term and condition are severable from and shall not affect the validity of any other term or condition herein contained. These terms and conditions are to be read in conjunction with the terms and conditions appearing on the reverse side of the waybill issued by the COMPANY and should there be any conflict between the versions the terms and conditions in this agreement will prevail over that specified on the reverse side of the waybill.
2. **WARRANTIES BY THE CLIENT:** The CLIENT and its representative(s) warrant that:
 - 2.1 all information supplied to the COMPANY concerning its details and financial affairs are true and correct in all material aspects and will remain true and correct during the existence of this agreement unless the CLIENT notifies the COMPANY in writing to the contrary within 7 (SEVEN) days after any change occurs. Upon notice of any change(s) the COMPANY shall in its sole discretion be entitled to immediately cancel this agreement in writing in which event this agreement shall be of no force and effect.
 - 2.2 on any change in the composition of the ownership and/or membership of the CLIENT, if applicable, the COMPANY will forthwith be informed thereof in writing failing which the existing representative(s) and/or member(s) of the CLIENT will remain liable to the COMPANY for all credit granted subsequent to such change.
 - 2.3 the signatory to any order, invoice, delivery note, waybill or any other document issued by the COMPANY for transport services rendered in the name of or made out to the CLIENT shall be *prima facie* proof that the transport services have been rendered to the CLIENT.
3. **DECLARATION OF REPRESENTATIVE:** The representative(s) of the CLIENT declare that he has no objection and expressly consent that the COMPANY proceed with a credit check upon receipt of a signed copy of this agreement
4. **PAYMENT:** Payment for services rendered to the CLIENT shall become due and payable as follows:
 - 4.1 Payment for transport service shall be due 30(THIRTY) days from the date appearing on the statement issued to the CLIENT
 - 4.2 Payment for taxes, levies, duties, and disbursements are due 7(SEVEN) days from invoice date
 - 4.3 Payment shall be made to the COMPANY by Electronic Fund Transfer (EFT)
 - 4.4 The COMPANY shall be entitled to apply any payment received or recovered from the CLIENT in terms hereof in such manner as the COMPANY may deem fit.
 - 4.5 The CLIENT shall under no circumstances be entitled to withhold payment in respect of any amount due and payable to the COMPANY notwithstanding a pending resolution of any dispute or complaint and the timeous raising of such complaint or dispute or liability by the CLIENT.
5. **INTEREST** on all balances not paid within the stipulated and agreed credit days period will be payable at the maximum allowable rate
6. **ADDITIONAL CHARGES:** The COMPANY will be entitled to levy additional charges including default administration fees and collection costs on each amount overdue.
7. **LIMITATION OF CREDIT FACILITY:** The COMPANY shall at all times, in its sole discretion, be entitled to immediately suspend or limit the CLIENT’S credit facility granted should the CLIENT fail to remedy its breach of its obligations in terms hereof or should the credit facility in the sole discretion of the COMPANY be reduced. Should the credit facility be suspended by the COMPANY all amounts then outstanding shall be immediately become due, owing and payable to the COMPANY.
8. **DELIVERY OF GOODS BY THE COMPANY:** Goods in transit shall be deemed to be delivered at the delivery address by the COMPANY upon signing a delivery note.

9. **INCREASE OR DECREASE OF QUOTED SERVICE FEE:** In the event where the CLIENT changes the destination to where the goods in transit has to be delivered or collected, the COMPANY shall have the right to increase or decrease their quoted service fee in accordance with their prescribed tariffs.
10. **LIMITED LIABILITY OF THE COMPANY:**
- 10.1 Quoted delivery times and dates shall be treated as approximate times and dates and the CLIENT shall under no circumstances be entitled to withdraw from or terminate any transport services or withhold any payment or any part thereof on account of any delay in delivery or have any claim of any nature whatsoever against the COMPANY arising from late delivery or failure to adhere to the approximate times and dates of delivery due to unforeseen circumstances beyond the control of the COMPANY.
- 10.2 Save as otherwise specifically provided for herein, the COMPANY shall not be liable to the CLIENT or to any other person to whom the goods in transit are delivered/collected from for any direct and/or indirect or consequential damages of any nature whatsoever or any loss of profit or special damages of any nature whatsoever which the CLIENT or that person may suffer as a result of late delivery or damage/theft of goods in transit.
11. **INSURANCE OF GOODS IN TRANSIT:** Any goods in carrier are not automatically insured by the COMPANY unless the CLIENT notifies the COMPANY in writing before the goods are loaded for its destination to insure the goods in transit for an amount indicated by the CLIENT. The CLIENT will be liable for the insurance premium for the goods in transit quoted by the insurance company appointed by the COMPANY.
12. **CERTIFICATE OF BALANCE:** Any certificate of balance issued under the signature of one of the managers of the COMPANY, whose appointment and authority need not be proved and which purports to certify the amount owing by the CLIENT in terms of this agreement, shall constitute a liquid document and may be used as *prima facie* proof of such indebtedness to the COMPANY in any litigation.
13. **BREACH:** Should the CLIENT default in the punctual payment of any amount falling due under this agreement or be in breach of any other term and condition contained herein, and fail to remedy such default after receiving a written demand that it be remedied the COMPANY shall be entitled:
- 13.1 Without prejudice to any other right of action, to cancel this agreement with immediate effect, and all amounts then outstanding including interest thereon and all costs incurred in terms hereof shall immediately become due and payable to the COMPANY.
- 13.2 The CLIENT hereby consents and authorises the COMPANY to furnish the name, credit record and repayment history of the CLIENT to any credit bureau as a delinquent debtor.
14. **DOMICILIUM ADDRESS:** The CLIENT chooses the address reflected above including the indicated email address as its domicilium citandi et executandi for all purposes arising out of this agreement and for the service of all notices and/or processes. Every notice shall be deemed to have been received by the CLIENT 3 (THREE) days after dispatch thereof by registered post and any notice sent by email shall be deemed to have been received on the day of dispatch thereof. The CLIENT undertakes to inform the COMPANY in writing delivered per hand of any change of address.
15. **APPLICABLE LAW, JURISDICTION & LEGAL COSTS:**
- 15.1 This agreement shall in all matters be governed and construed in accordance with the laws prevailing in the Republic of South Africa from time to time and all disputes, actions or other matters in connection therewith shall be determined in accordance with such laws.
- 15.2 Notwithstanding the amount which may at any time be owing by the CLIENT to the COMPANY, the CLIENT hereby consents to the jurisdiction of the Magistrate's Court in terms of Section 45 of the Magistrates Court 32 of 1944 for the determination of any action of proceedings which may be brought by the COMPANY against the CLIENT arising out of this agreement. The COMPANY shall be entitled, but not obliged, to bring any action or proceeding in said court
- 15.3 The CLIENT consents to be liable for all legal costs, on scale as between attorney and client, including collection commission and tracing charges resulting from legal action taken by the COMPANY against the CLIENT due to the failure and/refusal of the CLIENT to comply with the terms and conditions of this agreement.
16. **ENTIRE AGREEMENT:** This agreement read in conjunction with the terms and conditions appearing on the reverse side of the waybill issued by the COMPANY constitutes the sole agreement between PARTIES hereto and no variation and/or alteration and/or no release of obligations and/or no relaxation or postponement of the effect of any of its terms shall be of any force and effect and/or binding on the COMPANY in any way unless contained in writing and signed by all the parties to this agreement.

WHO WARRANTS AND ACKNOWLEDGES THAT HE/SHE IS DULY AUTHORISED, HAS READ AND UNDERSTOOD THE TERMS AND CONDITIONS AND CONSIDERS THE CLIENT BOUND THERETO IN EACH AND EVERY RESPECT.

FOR CLIENT:

SIGNED AT _____ ON _____ 20 ____

SIGNATURE: _____

FULL NAMES OF
AUTHORISED SIGNATORY: _____

CAPACITY: _____

AS WITNESS: _____

FOR COMPANY:

SIGNED AT _____ ON _____ 20 ____

SIGNATURE: _____

FULL NAMES OF
AUTHORISED SIGNATORY: _____

CAPACITY: _____

AS WITNESS: _____

DEED OF SURETYSHIP

I, _____

Identity number _____ of

residential address _____

bind myself together with _____

(hereinafter referred to as "*the Client/Principal Debtor*") to NAMIBIA LOGISTICS (PROPRIETARY) LIMITED (hereinafter referred to as "*the Company/Creditor*") on behalf of the Principal Debtor as Surety and Co-Principal Debtor *in Solidum* for the due payment by the Principal Debtor of all and sums in perpetuity that may be presently due and/or may become due in the future in respect of any contract(s) of sale; (whether credit or cash); and/or any contract(s) of service and/or any contract(s) of hire that may be entered into between the Principal Debtor and the Creditor.

1. I acknowledge, warrant, compact, promise and agree that I am fully aware of the Credit Application Form pursuant to which this Deed of Suretyship is being entered into by myself, which Credit Application Form I have read and whose terms and conditions I fully understand.
2. I acknowledge, warrant, compact, promise and agree that I am fully aware of the fact that this Deed of Suretyship binds myself in my personal capacity for the debts and obligations of the Principal Debtor and that in the event that the Principal Debtor ever fails to meet its obligations to the Creditor, I by my signature hereof have agreed to become personally liable for its debts.
3. I acknowledge, warrant, compact, promise and agree that I am fully aware of the fact that this Deed of Suretyship is a separate agreement to the Credit Application Form pursuant to which it is being prepared.
4. I acknowledge, warrant, compact, promise and declare hereby that I have signed this Deed of Suretyship freely and voluntarily and that no duress and/or other unlawful means have been applied on me to procure my signature hereof.
5. I renounce the benefits arising from all legal exceptions or benefits, including excussion, non numeratae pecuniae, non-causa debiti, de duobus vel pluribus reis debendi, errore calculae, and revision of accounts. I understand that this means that if I want to defend any proceedings or to challenge in any way my obligation to immediately pay the Creditor, I will bear the burden of proving that I am not obliged to pay.
6. The amount recoverable by the Creditor from me under this Deed of Surety shall be unlimited and will include all legally recoverable sums that may be due to the Creditor by the Principal Debtor at any time, arising from the events that I state in this Deed of Suretyship.
7. The Creditor may recover from me all legal costs including value added tax, collection commission at the rate of at least 11%, tracing charges and legal fees on the legal practitioner/client scale incurred in any legal proceedings against myself as well as any such fees/charges expended in any legal proceedings against the Principal Debtor whether or not the Principal Debtor is liable to pay such costs.
8. This Deed of Surety is in addition to and without prejudice to any other suretyship or security which I or any other person has given or hereafter gives to the Creditor in respect of all or part of the Principal Debtor's indebtedness.
9. I choose as my domicillium citandi et executandi for the purposes of any legal proceedings by the Creditor against me and as my address to which anything may be delivered or sent my residential address stated in this Deed of Suretyship.
10. This document contains the entire agreement between myself and the Creditor as to this suretyship and I shall not be bound by any undertakings, representations or warranties not expressly recorded herein or by any variation hereof which is not signed for by myself.



SMSA ZAF Terms and Conditions

Owner/ Department: ZAF – Finance

11. If any part of this suretyship is found to be unenforceable, the validity of the rest of it will not be affected thereby.
12. This suretyship shall be governed by the laws of the Republic of South Africa.
13. The South African Courts shall have the exclusive jurisdiction to adjudicate over any dispute that may arise from this Deed of Suretyship and/or to preside over any enforcement claim that the Creditor may bring against me.
14. I consent to the jurisdiction of any Magistrates Court in South Africa notwithstanding that the amount that may be claimed against me by the Creditor may exceed the territorial and/or monetary jurisdiction of such Magistrates Court. The decision whether to proceed in the Magistrates Court rather than in the High Court shall be at the sole discretion of the Creditor.

FOR CLIENT:

SIGNED AT _____ ON _____ 20 ____

SIGNATURE: _____

FULL NAMES OF
AUTHORISED SIGNATORY: _____

CAPACITY: _____

AS WITNESS: _____

FOR COMPANY:

SIGNED AT _____ ON _____ 20 ____

SIGNATURE: _____

FULL NAMES OF
AUTHORISED SIGNATORY: _____

CAPACITY: _____

AS WITNESS: _____