



**SHINC SHIPPING SERVICES (PTY) LTD  
STANDARD TRADING TERMS AND CONDITIONS (“STC”)  
VERSION 3 – DATED 28 FEBRUARY 2024**

INTERPRETATION

- The clause headings used in this STC are for easy reference purposes only, do not form part of the provisions of this STC and shall not be used for interpretation of the contents thereof.
- Words are to be construed according to their ordinary use and application unless such meaning would lead to some absurdity or would be plainly repugnant to the clear intention of the Parties.
- No clause, sentence or word, other than clause headings, in this STC shall be regarded as superfluous, void or insignificant.
- The *eiusdem generis* rule shall be applicable to the interpretation of the provisions of this STC, which means that general words and expressions are to be given their larger meaning unless there is a clear indication in the STC which shows that it was intended to be read in a more restricted sense.
- The Parties acknowledge and agree that the maxim *verba fortius accipiuntur contra proferentem* will not apply to this STC.
- In this STC the masculine also indicates the feminine gender and the single the plural and *vice versa* unless the contrary appears.





- Words and phrases indicating natural persons refer to juristic persons also, and *vice versa*.
- The words “include”, including” and “in particular” shall be construed as being by way of example or emphasis only and shall not be interpreted as limiting the generality of any preceding words.
- The words “shall”, “will” and “must” used in the context of any obligation or restriction imposed on a Party shall have the same meaning.
- If any period is referred to in this STC by way of a reference to a number of days or weeks or months or other intervals, the period shall be reckoned exclusively of the first day and inclusively of the last day of the relevant interval, unless the last day falls on a day which is not a South African business day, in which case the last day shall be the next succeeding South African business day.
- If any provision in a definition is a substantive provision conferring rights or imposing obligations on any party, notwithstanding that it is only in the definition clause, effect shall be given to it as if it were a substantive provision in the body of the STC.
- Where any terms are defined within the context of any particular clause in this STC, then, unless it is clear from the clause in question that the terms so defined have limited application to the relevant clause, the terms so defined shall bear the meaning ascribed to it for all purposes in terms of this STC,

notwithstanding that those terms have not been defined in the definition clause.

- The appendices of this STC form part of this STC and have the same force and effect as if expressly set out in the body of this STC, and references to “this STC” shall include the appendices.
- If there is any conflict between any provision in the main body of the STC and a provision in an annexure to this STC, the provision appearing in the main STC shall prevail over any other conflicting provision in the annexure to the extent of any inconsistency.
- The termination of this STC shall not affect such of the provisions of this STC which are expressly provided to operate after any such expiration or termination, or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the relevant provisions themselves do not provide for this.
- No provision of this STC shall (unless otherwise stipulated) constitute a stipulation for the benefit of any person (*stipulatio alteri*) who is not a Party to this STC.

## 1. DEFINITIONS

- 1.1 **Agency Services** - means the services described in 4;
- 1.2 **Cargo** - means any cargo or goods owned by the Customer, or in which the Customer may have an interest as seller, buyer, consignee or shipper, including all cargo documents relating thereto;
- 1.3 **The Company** - means **SHINC Shipping Services (Pty) Ltd**;
- 1.4 **The Customer**" means any person, firm, Company, close corporation, partnership or any other legal entity, their successors in title and assigns, at whose request or on whose behalf the Company undertakes any business or provides any advice, information and/or services and includes the signatory of these STC's;
- 1.5 **TNPA** - means Transnet National Ports Authority or any successor thereto;
- 1.6 **TPT** - means Transnet Port Terminals or any successor thereto;
- 1.7 **SAAFF** - means the South African Freight Forwarders Association;
- 1.8 **SARS** - means the South African Revenue Services;
- 1.9 **STC's** - means these Standard Trading Terms and Conditions;
- 1.10 **Supplier** - means any person with whom the Company transacts any business on behalf of a Customer and shall include ships chandlers, vendors of all types of goods, repairers, suppliers of services of whatever nature, Maputo Port Development Corporation, TNPA, TPT, other ships agents or brokers, importers and exporters, and port and other authorities in South Africa and /or Mozambique; and
- 1.11 **Vessel** - means a ship which is owned, operated, managed or chartered by a Customer.

## **2. ENTIRE AGREEMENT**

- 2.1 Subject to the other provisions of this clause, these STC's, as read with any credit application which may have been completed by the Customer and any order which may have been placed, including any emailed or telefaxed instructions and/or acknowledgement thereof, but excluding the Customer's own Standard Trading Conditions or equivalent thereof, represent the entire STC ("the STC") between the Company and the Customer, and shall exclusively govern all future contractual relationships between the Company and the Customer and shall be applicable to all debts which the Customer may owe to the Company prior to the Customer's signature hereto (irrespective of whether or not credit facilities are granted).
- 2.2 As a point of second reference, alternatively a supplementary source when required, the Company has adopted the SAAFF Trading Terms and Conditions (as amended from time to time), which, even though not specifically included herein, are incorporated herein with limited capacity (as detailed in clause 2.3 below).
- 2.3 In the event of: -
- 2.3.1 These STC's being silent on a certain area, alternatively not containing a necessary provision, that the SAAFF Trading Terms and Conditions covers and/or contains, the SAAFF Trading Terms and Conditions are to be consulted and read into these STC's accordingly; and
- 2.3.2 Any inconsistency between the SAAFF Trading Terms and Conditions and these STC's, the latter will always prevail and the SAAFF Trading Terms and Conditions are to be disregarded in such circumstances.



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- 2.4 No amendments of these terms and conditions, whether consensual, unilateral or bilateral, shall be of any force and effect unless reduced to writing and signed by a director of the Company.
- 2.5 The Company has the right to amend these STC's when they deem fit, and without notice to the Customer.
- 2.6 The onus is on the Customer to keep themselves abreast of amendments or updates to these STC's by regularly requesting a copy from the Company and/or visiting the website of the Company at [www.Shincshippingservices.co.za](http://www.Shincshippingservices.co.za) to view or download the latest version of these STC's.



### **3. SCOPE OF AGENT'S AUTHORITY AND APPOINTMENT OF SUPPLIER**

- 3.1 The Company shall provide such Agency Services as are required by a Customer and, in the absence of any specific instructions from a Customer, the Company shall provide such Agency Services as the Company in its discretion deems necessary and expedient in the interests of the Customer. The Agency Services provided at the Company's discretion as aforesaid and the terms and conditions upon which they are provided shall be deemed to have been specifically authorised and approved by the Customer.
- 3.2 The Company may in its sole discretion engage the services of a Supplier to perform all or any of the Agency Services and any such Supplier shall be deemed to be an independent contractor employed by the Customer and not a servant of the Company.

### **4. AGENCY SERVICES**

- 4.1 The Company shall provide such Agency Services as may from time to time be required by a Customer in respect of a Vessel owned, operated, managed or chartered by a Customer, and / or in respect of Cargo and, in particular, but without limiting the generality of such services, to –
- 4.1.1 Arrange berths for a Vessel;
  - 4.1.2 Provide for the entry and clearance of a Vessel;
  - 4.1.3 Arrange on-hire, initial, intermediate and final draft surveys
  - 4.1.4 Provide for the payment of port charges and any dues payable in respect of a Vessel;
  - 4.1.5 Arrange for the supply of fuel, water, provisions and deck and engine-room stores;
  - 4.1.6 Arrange for any repairs required to be done to a Vessel;

- 4.1.7 Take charge of and arrange solicitation of and booking of Cargo for a Vessel;
- 4.1.8 Issue bills of lading and other similar documents to shippers in the form prescribed by the Customer;
- 4.1.9 Arrange for stevedoring and other Cargo handling operations;
- 4.1.10 Cargo monitoring and reporting;
- 4.1.11 Arrange for surveyors to inspect cargo;
- 4.1.12 Arrange for the delivery of Cargo in accordance with the bills of lading issued by or on behalf of a Customer;
- 4.1.13 Arrange for clearing, forwarding and/or transportation of Cargo;
- 4.1.14 Arrange the embarkation and disembarkation of passengers and their baggage;
- 4.1.15 Issue passenger tickets;
- 4.1.16 Attend to all matters appertaining to the crew of a Vessel, including in particular, engaging, the signing on, signing off and repatriation of crew;
- 4.1.17 Disburse such amounts on behalf of the Customer as may be reasonable in connection with the rendering of any Agency Services;
- 4.1.18 Hold and manage Customer funds in order to give effect to 4.1.17 or any other Agency Service in respect of which Customer funds may be required;
- 4.1.19 Perform such other activities and duties in connection with the foregoing functions as may be requisite thereto.
- 4.2 If a Customer requests any services whatsoever falling outside the above-described Agency Services and the Company renders or arranges such services, same shall be deemed to be Agency Services and shall be subject to these STC's.
- 4.3 The Agency Services may be provided in one or more of the following agency formats:
  - 4.3.1 Owners' Protecting Agency;
  - 4.3.2 Charterers' Agency;
  - 4.3.3 Cargo Agency, including clearing and forwarding agent;



#### 4.3.4 Port Agency.

### **5. GUARANTEES BY THE COMPANY**

- 5.1 A Customer shall under no circumstances require the Company to furnish a guarantee or to provide security for the performance of any obligations by the Customer or the Company on behalf of the Customer.
- 5.2 In the event of the Company, by reason of legislation or the requirement of a competent authority, being obliged to guarantee the obligations of a Customer or secure the fulfilment of the Company's obligations on behalf of the Customer, the Customer shall, prior to the furnishing of such guarantee or security by the Company, indemnify the Company as is provided for in this STC and in addition pay to the Company the applicable commission or fee payable by the Company to the issuer of such guarantee (if a person or entity other than the Company) and any commission payable calculated on the maximum amount of any loss the Company may sustain were any such guarantee or security to be acted upon.

### **6. LIABILITY OF THE COMPANY TO CUSTOMER AND SUPPLIERS**

- 6.1 The Company shall not be liable for any claim of whatsoever nature (whether in contract, delict or other) and whether for damages, loss, harm or otherwise, howsoever arising, unless such liability arises as a result of damage or loss being caused directly by the Company by way of a default (wilful misconduct or gross negligence) of the Agency Services, with such default causing direct quantifiable damage or loss to the Customer.
- 6.2 In the event of the Company and/or Customer electing not to refer any claim by a Customer, which the Company disputes, to arbitration for determination and

the Customer fails to prosecute the claim as stated in this STC, such claim shall be deemed to have been extinguished by effluxion of time.

- 6.3 Notwithstanding anything to the contrary contained in these STC's, the liability of the Company to a Customer, as cited in this clause 6, shall be limited to a maximum of the lesser of the value of the Company's applicable cover as per their Professional Indemnity Insurance Policy, alternatively Freight Forwarders Liability/Ships Agency Liability Policy, (subject to amendment from time to time) or the monetary liability limit as set out in the SAAFF Trading Terms and Conditions. The Company shall under no circumstances be liable for damage to or loss of Cargo or other goods delivered to it for forwarding or clearing or for safe keeping.
- 6.4 The Company shall not be liable for the default or negligent act howsoever arising, whether wilful or otherwise, on the part of any Supplier providing goods or services to a Customer at the Company's instance and request, such Supplier being deemed to be an independent contractor employed by the Customer.
- 6.5 The Company shall not be responsible for any money paid or remitted by it on behalf of a Customer to any person pursuant to any request or instruction given to the Company by a Customer.
- 6.6 The Company conducts the business of providing Agency Services only. Accordingly, the Company shall only become liable to pay any amounts due by a Customer to a Supplier from such time as the Company has been placed in funds by the Customer. The Company itself shall not, in the absence of its having been placed in funds as aforesaid, be liable to a Supplier for the cost of any goods supplied or services rendered on behalf of a Customer, notwithstanding the fact that the Company has failed to advise the Supplier that the relevant instructions and orders were placed on behalf of a Customer or

that the Company has omitted to disclose the particulars of a Customer to a Supplier.

- 6.7 The Company shall not be liable for any loss or damage of whatsoever nature sustained by a Customer or Supplier directly or indirectly attributable to war, danger of war, riots, labour strikes, slowdown strikes, lock outs, boycotts, sabotage, overburdening of any port and the like, which may affect or interrupt the regular and normal conduct of trade. In the event of the Company being precluded from providing Agency Services due to any such circumstances beyond its control or to any other circumstances constituting *vis maior* or *force majeure* the Company shall nevertheless be entitled to be reimbursed by the Customer for costs and expenses incurred by it in taking all such steps as may be necessary to protect the interests of the Customer, in particular but not limited to shed hire and/or storage charges paid by the Company at the applicable tariff rates.

## **7. INDEMNITIES BY CUSTOMER**

- 7.1 The Customer indemnifies and holds the Company harmless against any loss or damage whatsoever the Company may sustain by reason of: -
- 7.1.1 claims by Suppliers for the cost and expenses of goods or services provided to the Customer at the Company's special instance and request;
  - 7.1.2 payment of any taxation which may be levied on passenger earnings or freight earned on cargo loaded in the absence of reciprocal Intergovernmental taxation agreements;
  - 7.1.3 any claim arising out of guarantees furnished by the Company pursuant to the provisions of this STC or any other agreement;
  - 7.1.4 any other amount payable by or claim against the Company arising out of the *bona fide* rendering of Agency or other Services to or on behalf of the Customer;

- 7.1.5 Any loss, damage and/or harm suffered by the Customer, whether caused by the negligence of the Company or not, that provision is not made for in terms of clause 6 or any other clause in this STC.
- 7.2 The Customer undertakes to place the Company in sufficient funds or to furnish the Company with security to the satisfaction of the Company to ensure the due fulfilment by the Customer of its obligations under the aforesaid indemnity, either prior to the commencement of, during or after the performance of the aforesaid Agency Services, as may be required by the Company.

## **8. CUSTOMER AND OWNER'S RISK**

All handling, packing, loading, unloading, warehousing, and transporting of goods by or on behalf or at the request of the Company are affected at the sole risk of the customer and/or the owner. The Company is not responsible for any loss and/or damage including consequential loss or damage, which the customer and/or the owner may suffer as a result of the performance of services by the Company and the customer and/or the owner indemnifies the Company against any loss or damage which the customer and/or owner might suffer, even if such damages are caused as a result of negligence on the part of the Company. Any party which the Company utilises in any way for the performance of services at the owner's risk shall be deemed to be the agent of the party on whose behalf such service is performed.

## **9. TIME BAR AND NO CLAIMS AGAINST COMPANY DIRECTORS AND EMPLOYEES**

- 9.1 The Company shall be discharged from all liability whatsoever in respect of any claim of whatsoever nature (whether in contract, delict or otherwise) and whether for damages or otherwise, unless summons or other proper process

originating action is served on the Company by not later than 30 (thirty) days after the first anniversary of the date on which the incident giving rise to such cause of action occurred, provided further that the Company may, on written request, extend such period in writing.

- 9.2 The onus shall be on the Customer to prove compliance with the provisions of this clause.
- 9.3 The customer undertakes that no claims shall be made against any director, servant or employee of the Company which imposes or attempts to impose upon him any liability in connection with the rendering of any services which are the subject of these trading terms and conditions and hereby waives all and any such claims.

## **10. CUSTOMER'S UNDERTAKINGS AND COMPANY WARRANTIES**

### CUSTOMER UNDERTAKINGS

- 10.1 For all purposes hereunder the customer shall be deemed to have in relation to the customer's business, the goods and the services to be rendered by the Company in respect thereto, reasonable knowledge of all matters directly or indirectly relating thereto or arising therefrom including, without limitation, terms of sale and purchase and all matter relating thereto and the customer undertakes to supply all pertinent information to the Company.
- 10.2 The Customer warrants that: -
- 10.2.1 It is either the owner or the authorised agent of the owner of any goods in respect of which the customer instructs the Company and that each such person is bound by these trading terms and conditions; and
- 10.2.2 All information and instructions supplied or to be supplied by it to the Company is and shall be accurate, true and comprehensive, and in particular, without



derogating from the generality of the foregoing, the customer shall be deemed to be bound by and warrants the accuracy of all descriptions, values and other particulars furnished to the Company for Customs, consular and other purposes, and the customer warrants that it will not withhold any necessary or pertinent information, and indemnifies the Company against all claims, losses penalties, damages, expenses and fines whatsoever, whensoever and howsoever arising as a result of a breach of the foregoing whether negligently or otherwise, without derogating from the generality of the foregoing, any assessment or reassessment.

#### COMPANY WARRANTIES

10.3 The Company makes no warranties and representations to the customer save as may be specifically provided herein or as notified in writing by the Company to the customer from time to time. The customer acknowledges that the Company is not in any way bound by any oral statement, representation, guarantee, promise, undertaking, inducement or otherwise which may have been made at any time by any salesman, employee, representative or any person acting or purporting to act for or on behalf of the Company, whether negligently or otherwise unless such statements, representations, guarantees, promises, undertakings, warranties or inducements are supplied or made in writing by an employee duly authorised by written resolution of the board of directors of the Company in response to a written enquiry specifying accurately and in complete detail what information is required.



## **11. TERMINATION OF AGENCY**

11.1 Without prejudice to any other remedies a Customer or the Company may have against each other, either party shall have the right at any time by giving notice in writing or by means of a telex message or telegram to the other to terminate the contract of agency between the Customer and the Company forthwith in any of the following events: -

11.1.1 if either party commits a breach of any of the terms of these conditions or of the appointment by a Customer of the Company;

11.1.2 if for any material reason the Company is precluded from performing the Agency Services;

11.1.3 should a Customer or the Company enter into liquidation whether compulsory or voluntary (otherwise than for the purpose of amalgamation or reconstruction) or compound with its creditors or take or suffer any similar action in consequence of debt.

11.2 Notwithstanding the provisions of this clause 11, the termination of agency envisaged thereby shall not extinguish any obligation which lawfully arose between the parties prior to such termination.

## **12. REMUNERATION OF THE COMPANY**

12.1 A Customer shall be liable for and shall pay to the Company all costs and expenses incurred by the Company, including the charges referred to in 3.2, in providing Agency Services at the request or on the instructions of the Customer itself, the master of the Vessel, the office of the Customer or its nominees, representatives or agents, howsoever communicated to the Company and notwithstanding the fact that any such persons may have exceeded their

authority in requesting or instructing the provision of the particular Agency Services.

- 12.2 A Customer shall pay to the Company for the Agency Services rendered by the Company the charges published by the Company from time to time and which are available on request. In the event of a particular service not being provided for in the scale of charges, the Customer shall pay the Company a reasonable charge for such service.
- 12.3 The Customer shall reimburse the Company for all costs and expenses incurred by the Company arising out of the receipt of currency from the Customer or the remittance of currency to or on behalf of the Customer.
- 12.4 The Company shall not be obliged to make any disbursement whatsoever on behalf of a Customer until such time as the Company shall have been paid all amounts due by the Customer to the Company for Agency Services provided by the Company and have received sufficient funds for the purpose of making the particular disbursement. The Company may either before, during or after providing the relevant Agency Services require a Customer to furnish security for the payment of such amounts as are or will become due to the Company by the Customer for providing the Agency Services and for the due reimbursement of disbursements made or to be made by the Company.
- 12.5 Information furnished to a Customer by the Company as to the costs and expenses of providing Agency Services, or any other services whatsoever in South Africa, or any matter relating thereto, whether in the form of an estimate, offer, quotation or tender, shall be deemed to be information furnished for the guidance of the Customer only and shall not be binding on the Company unless the contrary has been expressly stated in such estimate, offer, quotation or tender.
- 12.6 All quotations by the Company shall, subject to 12.7, be valid and binding on the Company for a period of 30 days after issue. Should any business based



upon a quotation be confirmed by the Customer more than 30 days after issue of the quotation, the Company reserves the right to adjust the quotation.

- 12.7 Without in any way limiting the generality of 12.5, if the Company provides or makes an estimate, offer, quotation or tender to a Customer, whether or not same is stated or implied to be a binding and fixed offer to the Customer, the final invoice(s) from the Company may be increased or decreased, as the case may be, should there be any fluctuation of more than 5% (five *per centum*) in the underlying costs of Suppliers arising from matters beyond the control of the Company and/or Suppliers, such as costs which were not reasonably foreseeable, fluctuations in fuel and transport costs, currency fluctuations, Customs, taxes and other duties, levies of TNPA, TPT, governmental agencies and the like.
- 12.8 In the event of the Company providing Agency Services at the request of both an owner and the charterers of a Vessel, the owner and charterer shall respectively be obliged to remunerate the Company in accordance with the aforesaid scale of minimum agency charges for the respective Agency Services provided by the Company.
- 12.9 In the case of any charter party providing that the Company appointed by the charterer shall be the Vessel's agent, the charterer and owner of the Vessel shall be jointly and severally liable to the Company for the payment of the Company's charges and any costs and expenses incurred by the Company on their behalf, as if each of them were a Customer under these conditions.

### **13. PAYMENT, INTEREST AND COSTS**

- 13.1 The Customer acknowledges that, unless otherwise agreed in writing, any sum which becomes due by it to the Company shall be due and payable immediately on presentation of invoice, the actual date of the invoice being deemed to be

the presentation date unless the Customer can prove a different presentation date.

- 13.2 Should any amount not be paid by the Customer on due date referred to in 13.1 then the whole amount in respect of all services rendered by the Company to the Customer and monies disbursed by the Company on behalf of the Customer (whether or not related to the transaction in relation to which the Customer has defaulted), shall become immediately due, owing and payable and the Customer shall be liable to pay interest, calculated daily and compounded monthly, in respect of all such amounts at a rate of 5 percentage points above the prime overdraft lending rate from time to time quoted by the Company's Bankers from due date until date of payment.
- 13.3 In the event of the Customer breaching any of its obligations and/or failing to timeously make payment of any amount to the Company, the Customer agrees to pay, and shall be liable to pay, all legal costs whatsoever on an attorney/own client basis, including collection charges and tracing agent's fee incurred by the Company in recovering any such amount from the Customer.
- 13.4 The Customer shall not be entitled to claim set-off or deduction in respect of any amounts whatsoever that become due by the Customer to the Company.
- 13.5 The Company may in its sole discretion appropriate any payments made by the Customer to any principal debt owed by the Customer to the Company, irrespective of when it arose, or to interest only, or to legal or other costs, or to any such combination of principal, interest and costs as it may in its sole discretion determine, irrespective of any purported allocation or appropriation being made by the Customer at the time of payment or at any other time.
- 13.6 A certificate signed by any Auditor of the Company stating the indebtedness of the Customer to the Company or certifying that specific services were rendered and/or monies disbursed and/or goods delivered, shall be *prima facie* evidence



of the Customer's indebtedness to the Company or of the rendering of such services, disbursement of such monies or delivery of such goods.

- 13.7 The Company reserves the right to withdraw any credit facilities accorded to the Customer, at any time without prior notice and the nature and extent of such facilities shall at all times be at the Company's sole discretion. In particular, but without derogating from the generality of the foregoing, if the Customer applies for Business Rescue, judicial management, liquidation or any equivalent thereof in terms of the law of any country, the Company may forthwith revoke any credit facilities previously accorded to the Customer and thereafter, should the Company remain willing to act on behalf of the Customer, or should the Company at that time have custody of any of the Customer's goods or in any way be in the process of effecting any transaction on behalf of the Customer, it may thereupon refuse to continue with such transaction, or any future transaction or mandate, or to release any such goods unless and until the Company has been placed in funds by way of cash or confirmed banking transaction.

#### **14. AUTHORITY TO CONTRACT / PERFORMANCE**

- 14.1 The Customer and/or any person representing or purporting to represent the Customer in contracting with the Company warrant that they have full authority to engage the services of the Company and to contract on these terms and conditions and both the Customer and the said representative personally hereby jointly and severally indemnify the Company against any claim by the true owner of any goods or any party with an interest therein in respect of which the Company is so contracted to deal.
- 14.2 If the Customer is a close corporation, limited liability Company or partnership, then its directors and/or members and/or partners personally guarantee, jointly



and severally, the due performance of all obligations of the Customer to the Company and the representative of the Customer warrants that he is duly authorised to bind such members and/or directors and acts as the Customer's and their agent in all its dealings with the Company.

## **15. CONFIDENTIALITY, INTELLECTUAL PROPERTY AND ACCURACY OF/ ACCESS TO INFORMATION**

- 15.1 The Parties acknowledge that nothing contained in this STC shall be interpreted in such a manner as to entitle them to claim or maintain that either of them have acquired or are entitled to any rights whatsoever in respect of each other's intellectual property (whether registered or not).
- 15.2 The Parties acknowledge that any information, including but not limited to, all information and documentation provided to each other in connection with this STC (collectively referred to as "confidential information") will be kept confidential and will not be divulged to any third-party, alternatively will be kept out of reach of any third-party.
- 15.3 The Customer and its representatives personally acknowledge that the information given in its credit application is to be used by the Company for the purposes of assessing the Customer's creditworthiness. The Customer confirms that the information furnished in the credit application is accurate and complete. The Customer further agrees to update, from time to time, the information supplied in order to ensure its accuracy at all times and indemnifies the Company for all and any consequences of the Company relying or acting on inaccurate or outdated information.
- 15.4 The Company has the Customer's authority and consent at all times to seek and obtain information from any persons, credit bureaus or businesses, including those mentioned in the credit application form in which these terms



and conditions are contained, and to obtain any information relevant to the Customer's credit assessment including but not limited to, information regarding the value of purchases from suppliers from month to month, length of time the Customer has dealt with the person concerned, the type of goods or services purchased and the manner and time of payment.

- 15.5 The Customer hereby consents to the furnishing of and authorises the Company at all times without prior reference to the Customer to furnish personal and credit information concerning the Customer's dealings with the Company to any credit bureau or to any third party seeking a trade reference regarding the Customer and the Customer hereby indemnifies and holds the Company harmless from any consequences of it so doing.

## **16. TARIFF HEADINGS AND STATUTORY INCREASES**

Where any tariff headings or other statutory increases are amended on demand by the TNPA, TPT, SARS or any other governmental authority or agency, the Customer shall be deemed to have expressly consented to and agreed the tariff headings as amended and shall not dispute liability towards the Company for payment under such tariff headings.

## **17. ADDRESS AND NOTICES**

- 17.1 The Customer's physical address as set out in the credit application form or, failing which, on the Company's most recently reviewed letterhead, which incorporates these terms and conditions shall constitute the Customer's chosen address for all purposes in connection with any agreement entered into by the Customer and the Company, unless the Customer provides an alternative chosen address by written notice to the Company.



17.2 Notices given to the above chosen address or by facsimile or electronic mail to the Customer's current fax number or electronic mail address shall be deemed to have been duly given:

17.2.1 14 days after posting, if sent by registered post;

17.2.2 on the date of delivery, if delivered by hand; and/or

17.2.3 on the date of dispatch, if sent by facsimile or electronic mail.

## **18. ARBITRATION**

18.1 As an alternative to any court proceedings pursuant to clause 17.2 hereof, the Company may in its sole discretion refer any dispute arising from or in connection with this STC to arbitration, whether instituted by the Company or the Customer, which arbitration shall bind both the Company and the Customer.

18.2 For the purpose of arbitration, the parties shall jointly nominate and agree upon an arbitrator who shall be an advocate of the South African High Court, or an admitted attorney of South Africa, each of whom shall be of no less than ten years standing. Should the parties fail to agree on the arbitrator to be appointed, he shall be nominated by the President for the time being of the Arbitration Foundation of South Africa ("AFSA"), whose decision in this regard shall be final and binding on the parties.

18.3 Notwithstanding clause 18.2, if the matter is purely of a commercial or shipping nature, the parties may agree on an appropriate arbitrator who is not legally qualified, but failing such agreement the provisions of clause 18.2 shall apply.

18.4 The arbitration shall be subject to and conducted in accordance with the Arbitration Act 42 of 1965, and the arbitration process on the basis of and subject to the Rules for the Conduct of Arbitrations ("the Rules") as published from time to time by AFSA and then in force.

18.5 Subject to any rights of appeal contained in the Rules or any other South African law, all arbitration awards shall be final and binding upon the parties and capable of being made an order of any competent court of law.

## **19. LAW AND JURISDICTION**

19.1 Regardless of the place of execution hereof or performance pursuant hereto or domicile of the Customer, this STC and all modifications and amendments hereof, shall be governed by and construed in accordance with the laws of the Republic of South Africa, which are in force at the time when any dispute arising out of or in any way related to this STC arises.

19.2 Subject to clause 18 hereof, the Customer hereby irrevocably submits to the non-exclusive jurisdiction of KwaZulu – Natal Local Division High Court, Durban and further the jurisdiction of the Magistrates' Court of South Africa.

19.3 Notwithstanding clause 19 hereof, the Company shall be entitled to bring any claim against the Customer in any High Court or Magistrates Court having jurisdiction over the Customer notwithstanding that the amount of its claim or the nature of the relief sought by the Company may exceed the jurisdiction of the Magistrates' Court, the Company shall be entitled in its sole discretion to institute action or other proceedings out of the Magistrates' Court having jurisdiction over the Customer, and the Customer hereby irrevocably submits to the jurisdiction of the court out of which proceedings are thus instituted. In the event that the Company invokes the jurisdiction of the Magistrates' Court, and notwithstanding the fact that the Company's claim against the Customer might be a maritime claim in terms of Act 105 of 1983, as amended, the Customer waives the right to challenge the jurisdiction of the Magistrates' Court on this ground alone.

- 19.4 If the Company is obliged, in the execution of any of its duties and/or responsibilities, to comply with any common law or legislative enactment ("the law"), of any nature whatsoever, then the Company, by complying therewith, shall not be deemed to waive or abandon any of its rights in terms of these trading terms and conditions;
- 19.5 If any of the terms of these trading terms and conditions is repugnant to or in conflict with the law, then and in such event the conflicting term embodied herein shall be deemed to be amended and/or altered to conform therewith, and such amendment and/or alteration shall not in any way affect the remaining provisions of these trading terms and conditions.
- 19.6 The Customer shall only bring any dispute against the Company in terms of clause 18. hereof and, should the Customer bring proceedings against the Company in any court of law in any country whatsoever without the Company's prior agreement in writing, the Customer agrees not to oppose any application by the Company to stay such proceedings in favour of arbitration pursuant to clause 18.

## **20. HEADINGS**

The above headings are for the ease of reference only and have no bearing on the interpretation or meaning of the clauses themselves.

## **21. VARIATION OF THESE TERMS AND CONDITIONS**

- 21.1 No variation of these terms and conditions shall be binding on the Company unless embodied in a written document signed by a duly authorised director of the Company. Any purported variation or alteration of these trading terms and conditions otherwise than as set out above shall be of no force and effect,



whether such purported variation or alteration is written or oral, or takes place before or after receipt of these standard trading terms and conditions by the customer.

- 21.2 If any of the provisions of this STC becomes invalid, illegal or unenforceable for any reason, the validity, legality and enforceability of the remaining provisions of this STC shall not be impaired or affected in any way by such invalidity, illegality or unenforceability.

## **22. NON-WAIVER**

No extension of time or waiver or relaxation of any of the trading terms and conditions shall operate as an estoppel against any party in respect of its rights under these trading terms and conditions, nor shall it operate so as to preclude such party thereafter from exercising its rights strictly in accordance with these trading terms and conditions.

## **23. CESSION**

Neither Party shall be entitled to cede or assign or subcontract all or any of its rights and/or obligations in terms of this STC to any third party whomsoever without the prior written consent of the other Party.

## **24. RELATIONSHIP**

This STC shall not be construed as the creating of an employment relationship, partnership or any other fiduciary relationship between the Parties and accordingly, no Party has any authority to represent, act on behalf of or bind the other Party unless otherwise stipulated herein.



**SHINC Shipping Services (Pty) Ltd**  
Reg No. 2020/839188/07

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dbnops@shincshippingservices.co.za  
Telephone +27 87 500 9480

Dated and signed at Durban on this the 28<sup>th</sup> day of February 2024

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**PIERRE JAMES THERON**

Managing Director

**SHINC SHIPPING SERVICES (PTY) LTD**

