

# MEDITERRANEAN SHIPPING COMPANY DEPOTS (PTY) LTD T/A MEDLOG

Reg. No. 1987/006165/07

**MEDLOG**



MEDLOG COLD STORE  
121005 STREET, OFF HARRY GWALA ROAD  
CATO MANOR  
DURBAN 4091

PO BOX 10687  
MARINE PARADE 4056  
TEL: (031) 0653400  
VAT Reg no. 4150104794

## **STANDARD TERMS AND CONDITIONS**

### **INTRODUCTION**

- 1.1 MSC COLD STORE wishes to thank you for your continued support. Our insurers require that we properly record the relationship we have with all of our customers.
- 1.2 For this reason, we find it necessary to record hereunder our Standard Terms and Conditions of trading, which includes our risk liability.
- 1.3 Understandably, unless otherwise agreed in writing between ourselves, all future ongoing business with you will be conducted with the terms below.

### **2. DEFINITIONS CLAUSE**

- 2.1 "AGREEMENT" shall mean these Standard Terms and Conditions and the rates to which they are attached and, if applicable any credit application made by the Customer which is approved by MSC COLD STORE in writing.
- 2.2 "CLAIM/S" shall mean any claim made by any person, arising from any cause of action (including breach of contract, delict, strict or statutory liability) and for any amount including for loss, damages, fines, penalties, interest, shortages and delay in providing the Services or failing to provide the Services at all.
- 2.3 "CONFIDENTIAL INFORMATION" means all and any information or data in whatever form relating to the Disclosing Party and/or any of its Associates, which is disclosed in circumstances of confidence or which by its nature or content is identifiable as, or could reasonably be expected to be, confidential and/or proprietary to the Disclosing Party and includes, without limitation, any technical, security, information technology, commercial, contractual, financial, scientific, marketing, trading and merchandising methods, business information and know-how, trade secrets, inventions, software, marketing strategies, information relating to shareholders or Associates, client and/or supplier data and profiles, business plans, policies, practices and processes, machinery, designs, drawings, technical specifications and data in whatever form, which information is communicated to the Recipient by the Disclosing Party during the Parties' commercial interactions, discussions and negotiations with one another, whether such information is formally designated as confidential or not.
- 2.4 "CUSTOMS ACT" shall mean the Customs and Excise Act no 91 of 1964; and Customs means the Customs and Excise Divisions of the South African Revenue Service.

- 2.5 "CUSTOMER" or you or related terms means the person whose name is reflected as that of the Customer in the Quote and with whom MSC COLD STORE contracts to provide the Services, including all agents, employees, contractors, or subcontractors of the Customer.
- 2.6 "DAY" shall mean a calendar day being the twenty-four hour period from midnight to midnight, including Saturdays, Sundays and Public Holidays
- 2.7 "DELIVERY NOTE" shall mean the document endorsed, at the request of MSC COLD STORE, by the customer's duly authorised representative when the goods are delivered at the MSC COLD STORE.
- 2.8 "DESIGNATED DESTINATION" shall mean the place specified by the customer on the delivery order and/or the Shipper's carrying temperature instructions (Q67).
- 2.9 "FORCE MAJEURE" shall mean any exceptional event or circumstance which is beyond a party's reasonable control, which that party could not reasonably have provided against before entering into the Agreement and which, having arisen, could not reasonably have been avoided or overcome by that party; and excludes any inability to make a payment due by either party to the other because of a lack of funds.
- 2.10 "GOODS" shall mean the commodities in respect of which MSC COLD STORE provides services including perishables and containerized and/or break-bulk goods.
- 2.11 "MSC COLD STORE" shall mean the MSC COLD STORE operating at 121005 street, Cato Manor, Durban.
- 2.12 "PARTIES" shall mean MSC COLD STORE and the Customer.
- 2.13 "RATES AGREEMENT" shall mean the document with all rates and services quoted by MSC COLD STORE.
- 2.14 "SERVICES" shall mean services provided or to be provided by MSC COLD STORE to the Customer in terms of the Agreement from time to time, whether free of charge or for a fee, including receipt, handling, storing, weighing, sorting, stencilling, strapping or re-strapping Goods, packing or repacking Goods, bagging, wrapping and palletizing of Goods, (cold) storage, transport of Goods and any and all general business undertaken, advice and/or information provided regarding the handling and storage.

### **3. GENERAL**

- 3.1 The clause headings are for referencing purposes only.
- 3.2 The signatories to this AGREEMENT warrant their authority to represent the PARTIES.
- 3.3 MSC COLD STORE's business is undertaken in accordance with the terms of these Standard Terms and Conditions. The Customer's standard trading terms do not apply. If there is a conflict between this AGREEMENT, MSC's contract of carriage and/or the MSC Logistics terms and conditions, this AGREEMENT shall prevail.
- 3.4 Reference to MSC COLD STORE and the CUSTOMER shall include the parties' employees, agents, subcontractors and representatives including the booking parties, as applicable.
- 3.5 The annexures are an integral part of the AGREEMENT.

- 3.6 In any dispute between MSC COLD STORE and the Customer MSC COLD STORE shall be deemed to have performed its obligations in a proper and workmanlike manner and strictly in accordance with any agreement between it and the Customer, until such time as the Customer proves the contrary.
- 3.7 MSC COLD STORE shall be excused from performing Services in terms of any agreement between it and the Customer if any licence, permit or similar authorisation lawfully required for it to do so is revoked, terminated, not issued or not renewed for any reason whatsoever.
- 3.8 If any provision of these Conditions is unenforceable, then MSC COLD STORE shall be entitled to elect (which election may be made at any time) that such provision shall be severed from the remaining provisions of these Conditions which shall not be affected and shall remain of full force and effect.
- 3.9 MSC COLD STORE makes no warranties and representations to the Customer save as may be specifically provided herein or as notified in writing by MSC COLD STORE to the Customer.
- 3.10 The Customer may not cede, delegate or assign any or all of its rights or obligations in terms of the Agreement to any other person without MSC COLD STORE's prior written consent.
- 3.11 The Customer must notify MSC COLD STORE of any changes to its members/majority or controlling shareholders/trustees/partners (Change in Control). Within 30 days after receiving notice of a Change in Control, MSC COLD STORE may immediately terminate the Agreement or withdraw any credit granted to the Customer. If MSC COLD STORE terminates the agreement or withdraws credit granted to the Customer, the Customer must immediately pay all amounts owed to MSC COLD STORE.
- 3.12 The rule of contract interpretation that ambiguous provisions shall be interpreted against the party responsible for drafting the contract shall not apply in the interpretation of the Agreement.
- 3.13 The PARTIES undertake to comply with all laws, by-laws, regulations or requirements of any competent authority, which are relevant to the performance of their obligation in terms of these terms and conditions.
- 3.14 MSC COLD STORE may change its Standard Terms and Conditions from time to time. After amendment of the Standard Terms and Conditions, the amended Standard Terms and Conditions apply to all Services which are provided to the Customer. At any time, the Customer can obtain the current Standard Terms and Conditions on MSC's website at <https://www.msc.com/en/local-information/africa/south-africa> or on request by phone on 031 3607431.

#### **4. LIABILITY FOR LOSS OR DAMAGE AND TIME BAR**

- 4.1 Without limiting the generality of the exclusion of liability, MSC COLD STORE **is not liable** for any Claim arising from or in connection with the negligence of the MSC COLD STORE or any of its Personnel, agent, direct contractor or subcontractor, the maintenance of too high or too low a temperature, failure of machinery or plant, Force Majeure, Utility Disruption, flood, wind, sprinkler leakage, fire, leakage, defects in the storage area, dampness, sweat, decay, putrefaction or destruction by vermin, Acts of God, civil commotion, any order or action of military or government authority, insurrection, protected and unprotected strikes, lockouts, labour disputes, quarantine, war, explosion, the nature of the Goods, inherent vice, delays in providing services, electricity outage, contact with or proximity to other goods, concealed damage, variation or shrinkage in mass, defective or insufficient packaging or container or theft and armed robbery.

4.2 It is recorded and agreed that:

4.2.1 MSC COLD STORE is not liable to the Customer for any consequential or indirect or special loss or damages of any nature, however caused and loss of profits, loss of contracts, interruption of business or operations are all deemed to be consequential, indirect or special loss or damages excluded by this clause.

4.2.2 The Customer waives any Claim which it may have against MSC COLD STORE arising from or in connection with the entry or presence on MSC COLD STORE's premises of any of the Customer's Personnel and the Customer indemnifies MSC COLD STORE against any Claim made against MSC COLD STORE arising from the death, injury or illness of any of the Customer's Personnel on MSC COLD STORE's premises.

4.3 MSC COLD STORE is only liable to the Customer for claims for direct damages which the Customer proves are caused solely and directly by MSC COLD STORE'S gross negligence or wilful misconduct.

4.4 Notwithstanding the abovementioned clause, MSC COLD STORE is not liable for any claim unless a written notification of the claim is received within 5 business days after the date when the Customer removed the Goods from the MSC COLD STORE premises and summons or other process initiating legal proceedings in respect of that claim is issued and served on MSC COLD STORE within 12 months after the earlier of the date on which the Customer gives notice of that claim to MSC COLD STORE or the date when the Customer removed the Goods which are the subject of that claim from the MSC COLD STORE premises.

4.5 In circumstances where MSC COLD STORE may be held liable, MSC COLD STORE and the CUSTOMER agree the potential liability of the MSC COLD STORE is limited to:

4.5.1 A maximum of R 15,000.00 per pallet.

4.5.2 the overall maximum liability of MSC COLD STORE for any one accident or occurrence regardless in the nature, number and amount of the claims arising out of such accident or occurrence shall not exceed the sum of R1 000 000.00 (One Million Rand). Market value shall mean the local market value of the Goods at the date of the loss less the value of the damaged good or any salvage whichever is the highest.

## 5. **INSURANCE**

5.1 It is the responsibility of the Customer to insure any of its goods stored at MSC COLD STORE'S premises. The Customer must procure any insurance it considers necessary including insurance of its Goods against all risks and in transit.

5.2 MSC COLD STORE carries fire insurance covering the customer's goods in terms of a commercial policy, subject to the goods not being otherwise insured and the Customer's waiver of subrogation.

## 6. **WARRANTIES**

6.1 The Customer warrants that it is authorised to contract with MSC COLD STORE and to do so on the basis of the Standard Terms and Conditions, for itself and, where it does not own the Goods, on behalf of the owner thereof and the Customer hereby indemnifies MSC COLD STORE against any claim by the

true owner of the Goods or any person having any interest in them. The signatory to this agreement representing the Customer in contracting with MSC COLD STORE warrants that he or she is duly authorised to do so.

- 6.2 In addition, the Customer warrants that the Goods are unencumbered and will not, due to incorrect packing or packaging or any other reason, cause any loss or damage to other goods stored by MSC COLD STORE and the Customer indemnifies MSC COLD STORE against any Claim made against MSC COLD STORE in consequence of any loss or damage so caused.
- 6.3 The Customer warrants that his/her/their product is free of disease and/or infestation and is fit for storage and that the product is not derived from marine or animal life which is protected or prohibited species.
- 6.4 Risk in and to the GOODS shall pass to MSC COLD STORE when the cargo is offloaded from the nominated transporter's trailer and placed onto MSC COLD STORE'S floor at the agreed premises and shall remain vested in MSC COLD STORE until the GOODS are loaded into the container or Customer's nominated method of conveyance for upliftment by the Customer.

## **7. IDENTIFYING MARKS AND NUMBERS**

- 7.1 The Customer must ensure that all Goods bear clear identifying marks and numbers. Unless the Customer records in writing a special endorsement to the contrary on MSC COLD STORE's receipt, all Goods are accepted on the basis that the contents, mass, quantities, condition and values of the Goods are unknown to MSC COLD STORE.
- 7.2 If the Customer does not provide MSC COLD STORE with details in respect of the Goods including weights, quantities, numbering and identifying marks, contents, values and descriptive materials, failure by MSC COLD STORE to ascertain those details shall not prejudice any of MSC COLD STORE's rights. There is no obligation on MSC COLD STORE to accept goods in the absence of clear instructions regarding the storage and handling of such goods.

## **8. STORAGE METHODS**

- 8.1 MSC COLD STORE in its sole and absolute discretion shall determine the storage methods to be employed in respect of the Services, unless clear and explicit written instructions to the contrary are given by the Customer and accepted in writing by MSC COLD STORE.
- 8.2 Except where the Customer has specifically and in writing requested that the Goods be stored by MSC COLD STORE in its bonded store and MSC has agreed, in writing, to such storage, MSC COLD STORE may store the Goods anywhere on MSC COLD STORE'S premises. In any event, MSC COLD STORE is not obliged to store the Goods in its bonded store unless the Customer has requested such storage, in writing at least 5 business days before Goods are presented for receipt at MSC COLD STORE'S premises and the Customer has agreed, in writing, to pay MSC COLD STORE'S prices for storing the Goods in its bonded store.
- 8.3 MSC COLD STORE shall not be liable for any Claim incurred as a result of its compliance with the Customer's instructions.

**9. CUSTOMS FORMALITIES AND NO LIABILITY FOR CUSTOMS STOP**

- 9.1 MSC COLD STORE may refuse to release or transfer Goods in respect of which Duty has not been paid until MSC COLD STORE has received written authorization from Customs to do so. The Customer indemnifies MSC COLD STORE against all Claims sustained or incurred by MSC COLD STORE in consequence of non-payment by the Customer of any Duty, tax or levy whatsoever imposed by any competent authority on the Goods.
- 9.2 At least one day before a Container which has been stopped by Customs and is a Customs stopped container is delivered to MSC COLD STORE'S premises, the Customer must notify MSC COLD STORE that the Container is a Customs stopped Container as follows:
- 9.2.1 The Customer must ensure that the words "CUSTOMS STOPPED-DO NOT OPEN" are clearly handwritten on the top of the SAD500 documents accompanying every Customs stopped Container delivered to MSC COLD STORE'S premises; and
- 9.2.2 The Customer must notify MSC COLD STORE'S manager in writing of the date of arrival of every Customs stopped container at least one day before that Customs stopped Container is delivered to MSC COLD STORE'S premises. the Customer must ensure that the telephonic notice of the arrival of a Customs stopped Container at MSC COLD STORE'S premises is confirmed by email to MSC COLD STORE'S manager.
- 9.3 MSC COLD STORE is not liable for any duty and/or any other amount which becomes payable if the customer does not comply with its obligations in terms of the agreement in respect of customs stopped containers.
- 9.4 The Customer consents to the disclosure of Export Documents to any competent authority and waives any confidentiality restriction to the extent required for lawful compliance, audit or enforcement actions by such authority.
- 9.5 For SOS Cargo, the Customer shall, if requested by the relevant authorities directly or by/through the MSC COLD STORE, provide an approved route plan and a list of authorised stops (if any). Any deviation from the approved route or any additional stop requires prior written approval by MSC COLD STORE. The Customer shall keep contemporaneous, auditable records for all route events and stops (tracking logs / gate records / time-stamped proof) and shall make such records available without delay upon request by any competent authority, including procuring supporting confirmations from subcontractors and consignees where reasonably required.

**10. QUOTATIONS, CHARGES, INVOICING AND PAYMENTS**

- 10.1 MSC COLD STORE shall be entitled at any time by notice to the Customer to cancel or resile from any quotation or agreement in circumstances where it becomes impracticable or uneconomical for MSC COLD STORE to carry out the contract at the quoted rate and the Customer shall have no claim whatsoever against MSC COLD STORE for any Loss that the Customer might incur as a result of MSC COLD STORE cancelling or reselling from the quotation or executory agreement.

- 10.2 MSC COLD STORE shall invoice weekly, for the services provided and shall provide a statement to the Customer on or before the last day of each month, evidencing the invoice numbers and the amounts due.
- 10.3 Unless otherwise agreed, all amounts are due and payable within thirty (30) calendar days from date of the invoice. In the event of non-payment, MSC COLD STORE is entitled to retain all or some of Customer's goods as security and will, given the perishable nature of the goods, be entitled to sell the retained goods to a local party in a manner considerate appropriate to redeem the Customer's liability. In the event that the proceeds realized from the sale of the Goods are insufficient to settle the Customer's liability, MSC COLD STORE will be entitled to claim from the Customer any sum still outstanding to settle the Customer's debt.
- 10.4 MSC COLD STORE shall nevertheless be entitled to a reasonable remuneration at the comparable market rate where a Service is provided which does not appear in the Service Charge Schedule and/or a rate has not been agreed to by the parties.
- 10.5 MSC COLD STORE may appropriate any payment made by the Customer to any outstanding undisputed indebtedness by the Customer to MSC COLD STORE, in its sole discretion and even if the Customer, when making payment, seeks to appropriate such payment to any particular debt or part of a debt.
- 10.6 The Customer shall pay to MSC COLD STORE all sums immediately when due without set-off, deduction or deferment on account of any claim, counterclaim or set-off.
- 10.7 Notwithstanding that MSC COLD STORE may seek recovery of any amount due to it, from any person other than the Customer; the Customer shall remain liable to make payment of the said amount to MSC COLD STORE upon demand, at any stage.
- 10.8 MSC COLD STORE shall under no circumstances be precluded from raising a debit and obtaining payment in respect of any fee or disbursements due to it notwithstanding the fact that a previous debit or debits, whether excluding or partly excluding the items subsequently requiring to be charged or recovered, had been raised and whether or not any notice had been given that further debits were to follow.

## **11. BREACH AND TERMINATION**

- 11.1 If the Customer commits a material breach of the Agreement (and without limiting the generality of this clause, failing to pay any amount when due is deemed to be in a material breach) and fails to remedy that breach within 5 days after receiving written notice calling upon it to do so, then without prejudice to any of MSC COLD STORE's remedies in terms of the Agreement or in law, MSC COLD STORE may cancel the Agreement with immediate effect by giving written notice to the Customer or MSC COLD STORE may claim specific performance and in both cases, claim damages.
- 11.2 Subject to one month's written notice, either party may terminate the AGREEMENT if either party:
  - 11.2.1 Is placed in provisional or final liquidation, whether compulsorily or voluntarily.
  - 11.2.2 Is placed under business rescue.
  - 11.2.3 Allows any judgment granted against it to remain unsatisfied for a period of ten (10) days.
  - 11.2.4 Commits an act of insolvency in terms of the Insolvency Act No. 24 of 1936.
  - 11.2.5 Commits any act or omission which would render it liable to winding up.

11.3 No provision in these Conditions shall derogate from MSC COLD STORE 's common law rights in the event that the Customer breaches any term or condition of the agreement.

## **12. DEFAULT AND DEBT COLLECTION**

12.1 In the event of the Customer being in default of payment of any one or more amount, MSC COLD STORE shall be entitled forthwith to declare all amounts immediately due and payable.

12.2 On all amounts overdue to MSC COLD STORE, MSC COLD STORE shall be entitled to charge interest, calculated at 3 per cent above base rate of the prime overdraft lending rate of Nedbank from the date on which payment was due and payable until the full amount outstanding is paid.

12.3 The Customer agrees that in the event of MSC COLD STORE instituting legal proceedings against the Customer to recover amounts due in terms of any agreement or for breach of these Conditions or for enforcement of any other obligations or for the recovery of damages owed by the Customer to MSC COLD STORE in terms of such agreement, the Customer shall be liable for all legal costs incurred by MSC COLD STORE, as the case may be, on the scale as between attorney and own client, as well as collection commission and tracing agents' fees.

## **13. FORCE MAJEURE**

13.1 Notwithstanding anything to the contrary which may have been agreed by the parties, the Agreement shall terminate automatically and with immediate effect if the premises in which the Goods are stored are destroyed or so damaged to make them unusable from any cause whatsoever.

13.2 The Customer shall not have any Claim against MSC COLD STORE arising from or in connection with the termination of the Agreement in terms of this clause.

13.3 MSC COLD STORE is not liable for any failure to meet any of its obligations in terms of the Agreement, or any delay in meeting them, to the extent to which the failure or delay is caused by Force Majeure.

13.4 The following events or circumstances are examples of Force Majeure events provided that they also meet the requirements for a Force Majeure event set out in the definition of Force Majeure as circumstances beyond the control of MSC COLD STORE:

13.4.1 war, invasion, hostilities, civil war, acts of terrorism, theft and armed robbery.

13.4.2 any riot, civil commotion, disorder, labour dispute, strike or lock-out by persons other than the employees of a party to this agreement.

13.4.3 natural catastrophes such as earthquakes, hurricanes, floods or droughts and inclement weather.

13.4.4 shortages of components or ingredients due to natural catastrophes such as earthquakes, hurricanes, floods or droughts and inclement weather or contamination.

13.4.5 any disease which causes an epidemic or pandemic.

13.4.6 changes to any applicable laws.

13.5 MSC COLD STORE will give notice to the Customer as soon as possible after the Force Majeure occurs and will resume performing its obligations as soon as possible after the cause preventing performance has ceased.

- 13.6 Each party must take all reasonable and necessary steps at its own expense to mitigate the consequences of any Force Majeure which affect the performance of that party's obligations.
- 13.7 Should a Force Majeure event prevent MSC COLD STORE from performing any of its obligations for a continuous period of 180 days, MSC COLD STORE may terminate this agreement with immediate effect and by giving notice of termination to the Customer and in that event, the Customer must remove its Goods from MSC COLD STORE'S premises within the period specified in MSC COLD STORE'S termination notice.

#### **14. LIEN**

- 14.1 All Goods as well as documents relating to Goods, shall be subject to a special and general lien or pledge and may be held by MSC COLD STORE in any place by MSC COLD STORE or any other authorized agent of MSC COLD STORE as security either for monies due in respect of such Goods or for other monies due to MSC COLD STORE by the Customer
- 14.2 In delivering the Goods into the custody of MSC COLD STORE or its agents for any purpose whatsoever, such delivery shall for the purposes hereof be deemed to be delivery of the same in pledge and as security for all amounts owed to MSC COLD STORE at that time or which become payable in the future.
- 14.3 In the event of MSC COLD STORE utilising the Services or premises of any third party for any purposes including the transportation or storage of any Goods, such third party shall be the agent of MSC COLD STORE for purposes of exercising MSC COLD STORE'S right to retention under lien and/or pledge.
- 14.4 The Customer shall not be entitled to effect or allow to be effected any security in respect of the Goods or the documents relating to the Goods, including without limitation, any general or special notarial bond, hypothec, right of retention, or lien and pledge, without the prior written consent of MSC COLD STORE.
- 14.5 The lien and pledge and right of retention in favour of MSC COLD STORE, shall operate as a first and prior charge against the Goods and the documents relating to the Goods and no other security shall rank prior to MSC COLD STORE'S lien, pledge or right of retention.

#### **15. APPLICABLE LAWS INCLUDED IN THE AGREEMENT AND REJECTED GOODS**

- 15.1 The Customer must comply with all applicable laws relating to the storage and handling of Goods and for the purpose of the Customer's compliance, those laws are deemed to form part of these Standard Terms and Conditions.
- 15.2 If Goods are rejected by any Government or other competent authority, the Customer must where necessary obtain a removal permit as soon as possible after the Goods are rejected and provide MSC COLD STORE with that removal permit. The Customer is liable to MSC COLD STORE for all Claims incurred or suffered by MSC COLD STORE because the Goods are rejected and must pay such amounts to MSC COLD STORE on demand.

- 15.3 If the Customer fails to obtain a removal permit for rejected Goods and remove them from the cold store premises within 90 days after the Goods are rejected, then after expiry of that 90 day period, MSC COLD STORE'S Prices for storage will escalate in accordance with the applicable tariff.

## **16. COLD STORE PREMISES' RULES**

- 16.1 The Customer must at all times comply with MSC COLD STORE'S Site Rules and the Customer must ensure such compliance by its Personnel. The Customer is liable for any non-compliance by it or its Personnel with MSC COLD STORE'S Site Rules and any Claim arising from that non-compliance.
- 16.2 The Customer confirms that he/she has obtained from each of the Customer's Personnel written consent to:
- 16.2.1 submission to breathalyser testing and searches of their persons, possessions and vehicles by MSC COLD STORE upon entering and/or leaving the cold store's premises.
  - 16.2.2 to the processing by MSC COLD STORE of their personal information including their names, identity numbers, vehicle registration numbers and driver's licence numbers for the purposes of enabling MSC COLD STORE to control access to its premises, protect, monitor and secure its premises and dealing with any Claims arising from or in connection with the provision of the Services.
  - 16.2.3 The Customer agrees that MSC COLD STORE may refuse to permit any of the Customer's Personnel to enter MSC COLD STORE'S premises if that person has previously failed to comply with MSC COLD STORE'S Premises Rules or if that person refuses to submit to any of the testing, searches or processing provided for in clause 14.2.

## **17. JURISDICTION / GOVERNING LAW**

- 17.1 Any dispute between the PARTIES relating to or arising from these standard terms and conditions shall be governed by and construed in accordance with South African law.
- 17.2 For the purposes of any legal proceedings which may arise between MSC COLD STORE and the Customer, the Customer hereby consents to the jurisdiction of:
- 17.3 the High Court of South Africa; and/or
- 17.4 the Magistrate's Court having jurisdiction, notwithstanding that the amount in issue exceeds the jurisdiction of the Magistrates Court.
- 17.5 MSC COLD STORE may in its sole and absolute discretion elect to institute any legal proceedings in either the High Court of South Africa or the Magistrate's Court.

## **18. CONFIDENTIAL INFORMATION**

- 18.1 Each Party agrees to treat as strictly confidential the operations, business and affairs of the other Party and not to divulge any information relating thereto to any third party, agent or employee, save as required by law, in respect of the execution of these Conditions or agreement between them, whether prior to, during or after the currency of these Conditions or the said agreement. All documentation furnished by one Party to the other Party pursuant to these Conditions or any agreement between them will remain the property of that Party and upon the request of that Party will be returned to it. Each Party acknowledges that all right, title and interest in and to any information which the other Party has an interest in being kept confidential vests in that Party and that neither Party has any claim of any nature in and to the confidential information of the other Party

## **19. DOMICILIUM CITANDI ET EXECUTANDI**

- 19.1 All notices in terms of these Conditions shall be given in writing and delivered by hand or e-mail. The Customer appoints as his/her/its *domicilium citandi et executandi* for all purposes under these Conditions the physical address and e-mail address stipulated on the signed rate agreement, failing which any other physical address or e-mail address provided by the Customer to MSC COLD STORE on any letterhead, order or other document generated or completed by the Customer. All notices required to be given in terms of these Standard Terms and Conditions by any party to the MSC COLD STORE shall be given in writing as follows:

19.1.1 MSC COLD STORE Manager

by e-mail to [andre.mouton@msc.com](mailto:andre.mouton@msc.com) ;

for claims only by email to [ZA031-dbcargoclaims@msc.com](mailto:ZA031-dbcargoclaims@msc.com);

- 19.2 Notices given in compliance with the provisions of these terms shall be deemed to have been received on the date of DELIVERY, unless the contrary is proved. No provision of these terms shall be deemed as permitting the service of legal process by e-mail.