

## COURIER EXPRESS TERMS AND CONDITIONS

### 1. Interpretation

• 1.1 Unless the context otherwise requires:

o 1.1.1 “Business Day” shall mean any day other than a Saturday, Sunday or public holiday officially recognized as such in the Republic of South Africa;

o 1.1.2 “Collection Address” shall mean the address nominated in writing by the Sender at which the relevant Goods are to be collected by the Consignee (or by its agents or sub-contractors);

o 1.1.3 The “Company” shall mean Logistics Amalgamated Sky (Pty) (LA Sky) (Reg No 850107508508) and shall include any holding company, subsidiary company, affiliate or associate company of the Company and their successors in title;

o 1.1.4 The “Consignee” shall mean the person to whom the relevant Goods are to be delivered from time to time and/or any person who has any interest in the receipt of such Goods (whether contingent or otherwise) and their successors in title;

o 1.1.5 “Delivery Address” shall mean the address nominated in writing by the Sender to which the relevant Goods are to be delivered by the Company (or by its agents or sub-contractors);

o 1.1.6 “Delivery Date” shall mean the date agreed to in writing between the Parties, by which date the relevant Goods are to be delivered by the Company (or by its agents or sub-contractors);

o 1.1.7 “Duties” shall mean any and all customs, excise and similar duties, together with any interest, penalties, fines and expenses in connection therewith, which are payable in respect of the consignment or dispatch of the relevant Goods;

o 1.1.8 “Fee Limit” means the maximum aggregate amount of all Fees (which, for the avoidance of doubt, shall exclude Taxes and Duties) that may become due and owing by the Sender to the Company at any time in respect of the consignment of Goods under these Terms and any applicable Main Agreement(s);

o 1.1.9 “Fees” shall mean the fees payable by the Sender in consideration for each of the consignment services to be rendered by the Company in accordance with these Terms, to be agreed between the Parties on a case by case basis as contemplated in clause 4.1;

o 1.1.10 The “Goods” shall mean any and all goods to be dispatched or consigned from time to time and shall include any envelope, container, package, pouch or box in which such Goods are contained;

o 1.1.11 “Main Agreement” shall mean any other written agreement entered into between the Company and the Sender from time to time, but specifically excluding all and any waybills issued by the Company;

1.1.12 “Rand or R” shall mean the lawful currency of the Republic of South Africa from time to time;

1.1.13 The “Sender” shall mean the consignor or dispatcher of Goods from time to time and/or any person who has any interest in the consignment or dispatch of such Goods (whether contingent or otherwise) and their successors in title;

1.1.14 The “Parties” shall mean the Sender and the Company, and includes an individual reference to any one or both of them, as the context may require;

o 1.1.15 “Payment Concession Period” shall mean 30 (thirty) calendar days after the date of issue by the Company of its duly completed tax invoice in respect of the consignment of the relevant Goods, unless such invoice was issued in June of any year, in which case the Payment Concession Period shall be 25 (twenty-five) calendar days after the date of issue by the Company of such invoice, in each case provided that the Company has given its prior written agreement to the granting of such credit terms to the Sender in respect of the relevant consignment;

o 1.1.16 “Taxes” shall mean sales taxes, value added taxes, and similar taxes, together with any interest, penalties, fines and expenses in connection therewith, which are payable in respect of the consignment of the relevant Goods and/ or the relevant Fees; and

1.1.17 “Terms” shall mean these terms and conditions (as amended from time to time by written agreement between the Parties).

### 2. Status of these terms

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•2.1 The provisions contained in these Terms are in addition to, and accordingly supplement, the provisions contained in any Main Agreement. To the extent that there is any conflict between these Terms and the Main Agreement, then the Main Agreement shall prevail. To the extent that there is any conflict between these Terms and any waybills issued by the Company, then these Terms shall prevail.

•2.2 These Terms shall become binding on the Parties once they have been signed by both Parties and thereafter, subject to the provisions of paragraph 2.1 and unless otherwise agreed between the Parties in writing, they shall apply to all consignments of Goods dispatched by the Sender from time to time (whether on a once off or on a continuous ad hoc basis).

### 3. The Company's consignment obligations

•3.1 The Company undertakes itself or through its agents or sub-contractors to convey the relevant Goods to the relevant Consignees by delivering the relevant Goods to the relevant Delivery Address or Collection Address (as the case may be).

•3.2 Time for the delivery of the Goods shall not be of the essence but the Company will use its reasonable endeavors to deliver the relevant Goods to the relevant Consignee at the relevant Delivery Address or Collection Address (as the case may be), in the agreed manner and on or before the relevant Delivery Date. The Sender acknowledges that any change requested by the Seller to any Delivery Address or Collection Address (as the case may be), any manner of consignment or any Delivery Date will not be effective unless agreed to in writing by the Company, and that the Company may make its agreement subject to the condition that the relevant Fees payable in accordance with paragraph 4 are increased to the extent necessary in order for the Company to accommodate the requested changes.

•3.3 If any Goods have not been collected by the Consignee within a reasonable time and in any event within 10 (ten) Business Days after the Company has notified the Consignee in writing that the Goods are available for collection at the relevant Delivery Address or Collection Address (as the case may be) then, without prejudice to any other rights or remedies in law or in terms of these Terms or the Main Agreement:

o 3.3.1 the Company shall thereafter not be obliged to notify the Sender of the whereabouts of the Goods or to take any steps for their identification, protection or preservation; and

o 3.3.2 the Sender hereby appoints the Company irrevocably and in rem suam with the power of substitution to be its lawful attorney and agent, to destroy the Goods or to sell or dispose of the Goods on the Sender's behalf and to retain from the proceeds of such sale all the Company's Fees, Taxes and Duties payable in accordance with paragraph 4 to the extent that they have not already been paid, whether then due or not, together with all reasonable costs, expenses, commissions, charges and other amounts which the Company may incur in exercising its rights in terms hereof, and otherwise to sign all such documents and do all such things as may be necessary or desirable to give effect to any steps taken by the Company in pursuance of the rights and powers which it may have in terms hereof or arising from law.

o 3.2.3 immediately delete all copies of the Content in your possession or under your control.

### 4. Payment of fees, taxes and duties

•4.1 For the avoidance of doubt, the Fees payable by the Sender in consideration for each of the consignment services to be rendered by the Company in accordance with these Terms shall be agreed between the Parties on a case by case basis and shall be:

o 4.1.1 inclusive of all fees and charges of any agents or sub-contractors appointed by the Company, which shall be for the account of the Company; and

o 4.1.2 exclusive of all Taxes payable in respect of the consignment of the relevant Goods and/ or the relevant Fees, and the Sender shall be liable to pay an amount equal to any such Taxes to the Company in addition to the Fees; and

o 4.1.3 exclusive of all Duties payable in respect of the relevant consignment or dispatch of the Goods, and the Sender shall be liable to pay an amount equal to any such Duties to the Company in addition to the Fees.

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- 4.2 The Company may, but shall not be obliged, from time to time to notify the Sender in writing of the Fee Limit that the Company proposes to apply to the consignment services to be rendered by the Company in accordance with these Terms, and such Fee Limit shall thereafter apply in respect of all subsequent consignments of Goods in accordance with these Terms.
- 4.3 At the Sender's request, the Company will use its reasonable endeavors to recover the relevant Duties from the relevant Consignee, provided that, if an amount equal to the relevant Duties is not paid in full by the relevant Consignee to the Company within 10 Business Days after the Company has requested such payment in writing, then the Sender shall remain liable for such Duties, which shall be payable by the Sender in addition to the Fees and Taxes in accordance with paragraph 4.4
- 4.4 Subject to paragraph 4.3, the Fees, Taxes and Duties shall be paid by the Sender to the Company in full, by cheque or by way of direct electronic funds transfer in immediately available funds to a bank account nominated by the Company, in each case without set-off or deduction in respect of any amounts due and owing by the Company to the Sender or in respect of bank charges and/or tax:
  - o 4.4.1 within the relevant Payment Concession Period, in each case provided that the Company has given its prior written agreement to the granting of such credit terms to the Sender in respect of the relevant consignment; and
  - o 4.4.2 in all other cases, on demand.
- 4.5 For the avoidance of doubt, the Company shall not accept payment of any amounts due to it in cash, and only payments made by cheque or direct electronic funds transfer, as contemplated by paragraph 4.4, will be accepted by the Company
- 4.6 In the case of paragraph 4.4.1:
  - o 4.6.1 at the request of the Sender the Company may, but shall not be obliged, consider to extend the due date for payment of any Fees, Taxes and Duties beyond the Payment Concession Period on written notice to the Sender; and
  - o 4.6.2 without prejudice to paragraph 4.7, the Company may, on 14 (fourteen) calendar days' written notice to the Sender, terminate any:
    - ☐ 4.6.2.1 Payment Concession Period granted in terms of paragraph 4.4.1 in respect of all future conveyances of Goods under these Terms, where after the Sender shall be obliged to pay all future Fees, Taxes and Duties in respect of such future conveyances on demand; and
    - ☐ 4.6.2.1 further concession granted in terms of paragraph 4.6.1, whereupon the Sender will be obliged: (i) to immediately pay all outstanding Fees, Taxes and Duties; and (ii) to pay all future Fees, Taxes and Duties in respect of all future conveyances of Goods under these Terms on demand.
- 4.7 Without prejudice to paragraph 4.6.2, any amount falling due for payment by the Sender to the Company in terms of Fees, Taxes and Duties in accordance with these Terms and not paid on the due date, shall bear interest at a rate equal to 2% plus the prevailing prime overdraft rate quoted by Standard Bank Ltd to its corporate customers in the ordinary course on an unsecured basis, calculated on the basis of a 365 (three hundred and sixty five) day year and compounded monthly in arrear, provided and to the extent that an act or omission of the Company is not the direct cause of such late payment.
- 4.8 If the Company fails to deliver any Goods to the relevant Consignee at the relevant Delivery Address or Collection Address (as the case may be) on or before [the day which is two Business Days after] the relevant Delivery Date then, provided that the Sender can demonstrate that it has suffered losses, liabilities, damages, costs or expenses as a result thereof, the Company and the Sender will negotiate in good faith with a view to agreeing a reduction in the relevant Fee payable. Such reduction shall reflect, and be in proportion to, the degree to which the Company's failure to deliver the relevant Goods to the relevant Consignee at the relevant Delivery Address or Collection Address (as the case may be) on or before [the day which is two Business Days after] the relevant Delivery Date directly contributed to the losses, liabilities, damages, costs or expenses suffered by the Sender as a



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result thereof. For the avoidance of doubt, the relevant Taxes and Duties payable by the Sender shall not be reduced in accordance with this paragraph 4.8 but shall remain payable in full.

### •5. The Sender's warranties

#### •5.1 The Sender hereby warrants and represents in favor of the Company that:

o 5.1.1 Unless specifically arranged with and duly authorized in writing by the Board of Directors of the Company, whether or not expressly otherwise stated on the face of the Company's waybill, none of the Goods (nor any part thereof) are or may become dangerous, inflammable, radio-active, perishable, noxious or fall within any category of goods listed in the Dangerous Goods Regulations manual issued from time to time by the International Air Transport Association, nor are any such Goods (or any part thereof) by their nature likely or liable to harbor vermin or pests or cause injury or damage to any person, goods or property whatsoever, nor will any of the Goods (or any parts thereof) comprise livestock, Persian carpets, perishable and/or frozen food stuffs (or fall within any category of goods listed in the Perishable Cargo Regulations manual issued from time to time by the International Air Transport Association), household goods, or personal effects, explosives, arms and ammunition, precious metals and stones, bullion, specie, money and jewelry, antiques and works of art, motor vehicles, liquor, wine or cigarettes, nor will any of the Goods (or any part thereof) fall within any category of goods which the Company has advised the Sender in writing that it is prohibited by law or regulation from consigning or dispatching.

o 5.1.2 He/she/it has duly supplied the Company with full particulars requested by the Company concerning the nature, composition and purpose of the Goods, that such particulars are and shall at all times remain true and correct in all material respects and that the Sender has not failed to disclose any material facts or circumstances relating thereto.

o 5.1.3 On delivery to the Company, the Goods shall be properly and sufficiently packed and/or prepared by the Sender for carriage and shall be adequately protected against exposure to water and against human and/or mechanical handling in the ordinary course.

o 5.1.4 On delivery to the Company, the Goods shall not be damaged in any way.

o 5.1.5. No third party (other than the Consignee) has any right, title or interest in or to the Goods and consignment and dispatch of the Goods in accordance with these Terms and the Main Agreement does not constitute an infringement of the rights of any third party.

•5.2 The Company reserves the right to inspect the Goods at any time and for this purpose shall be entitled to unwrap or open the Goods.

•5.3 Without prejudice to any other rights or remedies in law or in terms of these Terms or the Main Agreement or its right to recover its Fees and the Taxes and Duties payable in accordance with paragraph 4 from the Sender:

o 5.3.1 if the Sender breaches any of the warranties and representations referred to in paragraphs 5.1.1 or 5.1.2 above in respect of any Goods then the Company may deal with the relevant Goods as it deems fit (which may include the detainment or the destruction thereof) and the Company shall have no liability whatsoever to the Sender in respect of any losses, liabilities, damages, costs or expenses of any nature whatsoever which may arise as a result thereof; and

o 5.3.2 notwithstanding the provisions of paragraph 6.1.2, if the Sender breaches any of the warranties and representations referred to in paragraphs 5.1.3 or 5.1.4 above in respect of any Goods then the Company shall have no liability whatsoever to the Sender in respect of any losses, liabilities, damages, costs or expenses of any nature whatsoever which may arise as a result of any damage to the relevant Goods; and

o 5.3.3 if the Sender breaches any of the warranties and representations referred to in paragraph 5.1.5 above in respect of any Goods then the Company shall have no liability whatsoever to the Sender in respect of any losses, liabilities, damages, costs or expenses of any nature whatsoever which may arise as a result thereof.

### 6. Further limitation of the Company's liability

•6.1 The Company shall have no liability to the Sender in respect of any losses, liabilities, damages, costs or expenses of any nature whatsoever which may arise as a result of:

o 6.1.1 deterioration of any perishable Goods; or

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- o 6.1.2 any loss of, non-delivery of or damage to any Goods unless the Consignee or the Sender has notified the Company in writing thereof within 5 (five) Business Days after the Delivery Date; or
- o 6.1.3 any exercise by the Company of its rights under paragraph 3.3; or
- o 6.1.4 delay or failure to comply with or breach of any of the terms and conditions of these Terms or the Main Agreement by the Company if occasioned by or resulting from a force majeure event, including an act of God or public enemy, fire, explosion, earthquake, volcanic eruption, perils of the sea, flood, war (declared or undeclared), terrorist action, revolution, mutiny, rebellion, civil commotion or other civil strife, riot, strike, blockade, embargo, confiscation, destruction by or under the order of any government or official, seizure, expropriation, requisition, sanction, epidemic, act of any government or other authority, compliance with government orders, demands or regulations, or any circumstances of a similar nature beyond the reasonable control of the Company.
- 6.2 The Company shall have no liability to the Sender for (i) any indirect, special or consequential loss or damage, and/or (ii) economic or financial loss or damage, and/or (iii) loss of profits (direct or indirect), business, contracts, revenue, goodwill, reputation or anticipated savings, and/or (iv) any sentimental damages.
- 6.3 In the event that the Company is found by a court of competent jurisdiction to be liable to the Sender for any losses, liabilities, damages, costs or expenses of any nature whatsoever in respect of any of the Goods despatched or consigned by the Company or any of its agents or sub-contractors, the Company's aggregate liability in respect of each of the Goods shall in no circumstances exceed an amount equal to:
  - o 6.3.1 the amount actually received by the Company from its insurer(s) in respect of the consignment of the relevant Goods or R1000 (one thousand Rand), whichever is higher, in the case of all Goods: (i) which have been insured by the Company in accordance with paragraph 8.2; and (ii) in respect of which the Company has actually received payment from its insurers; or
  - o 6.3.2 the amount of the Fees paid or payable in respect of the consignment of the relevant Goods or R1000 (one thousand Rand), whichever is higher, in the case of:
    - ☐ 6.3.2.1 all Goods which have been insured by the Company in accordance with paragraph 8.2 but in respect of which: (i) the relevant insurance policy has been repudiated by the insurer(s); or (ii) the Company has not actually received any payment from its insurer(s) for any reason whatsoever; and
    - ☐ 6.3.2.2 all Goods which have not been insured by the Company in accordance with paragraph 8.2 (whether or not the Sender has insured such Goods as contemplated by clause 8.1).
- 6.4 Notwithstanding anything herein contained to the contrary, under no circumstances shall any strict liability attach to the Company.

### 7. Indemnity

- 7.1 The Sender hereby indemnifies the Company and agrees to hold the Company harmless against any losses, liabilities, damages, costs or expenses of any nature whatsoever together with all reasonable costs, expenses, commissions, charges and other amounts which the Company may incur in exercising its rights in terms hereof (including in respect of the storage, sale or destruction of the Goods) which may arise as a result of:
  - o 7.1.1 any breach by the Sender of any of its warranties and representations contained in paragraphs 5.1.1, 5.1.2 or 5.1.5 above; and
  - o 7.1.2 the exercise by the Company of any of its rights under paragraph 3.3.
- due and payable by you for any Courier Services provided to you through the LA Sky (Pty) Service.
- The clause above is important. It requires you to agree to allow us to access your credit card and deduct amounts from your credit card. You will not be able to deny that you gave us permission to access and deduct amounts from, your credit card.

### 8. Insurance

- 8.1 The Sender shall be responsible for insuring the Goods, including against all risk of loss and damage in an amount not less than the full replacement cost of such Goods.

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•8.2 At the Sender's prior written request, the Company will insure the Goods in respect of such risks and liabilities in such manner and in such amounts as may be stipulated by the Sender in writing, provided that the Fees payable in accordance with paragraph 4 are increased to the extent stipulated in writing by the Company to be necessary in order for the Company to obtain and maintain the requested insurance.

•8.3 Notwithstanding anything herein contained to the contrary, the Sender shall be liable for and shall, within 15 (fifteen) Business Days after receipt of written notice from the Company requesting him/her/it to do so, reimburse the Company for all amounts due and owing by the Company to its insurer(s) in respect of insurance deductibles or excess in respect of all Goods which have been insured by the Company in accordance with paragraph 8.2.

### 9. General Provisions

•9.1 Nothing contained herein or in the Main Agreement shall be construed as a waiver by the Company of any of its rights or remedies in law

•9.2 These Terms and the Main Agreement constitute the whole agreement between the Parties relating to the subject matter thereof and supersede any other discussions, agreements and/or understandings regarding the subject matter thereof.

•9.3 No amendment or consensual cancellation of these Terms or any provision or term hereof or of any agreement, bill of exchange or other document issued or executed pursuant to or in terms of these Terms and no settlement of any disputes arising under these Terms shall be binding unless recorded in a written document signed by both Parties.

•9.4 To the extent permissible by law no Party shall be bound by any express or implied term, representation, warranty, promise or the like not recorded herein, whether it induced the contract and/or whether or not it was negligent.

•9.5 The Parties choose as their address for service and execution (domicilia citandi et executandi) for all purposes under these Terms, whether in respect of court process, notices or other documents or communications of whatsoever nature, the following physical addresses:

o 9.5.1 the Company: Logistics Amalgamated Sky (Pty) (LA Sky) Head Office, 89 Van Riebeeck Avenue, Edenvale, 1610, South Africa.

o 9.5.2 The Sender: \_\_\_\_\_

o or such other physical addresses notified to each other in writing from time to time. Any notice or communication required or permitted to be given in terms of these Terms shall be valid and effective only if in writing and delivered by hand or by courier. For the avoidance of doubt, notices delivered by post, fax or e-mail shall not be valid or effective.

•9.6 No part of these Terms shall constitute a stipulatio alteri in favor of any person who is not a party to these Terms unless the provision in question expressly provides that it does constitute a stipulatio alteri.

•9.7 These Terms shall be governed by and interpreted in accordance with the laws of the Republic of South Africa. The binding language of this Agreement is English. The Parties hereby consent and submit to the non-exclusive jurisdiction of the Southern Gauteng High Court of the Republic of South Africa in any dispute arising from or in connection with this Agreement.

•9.8 These Terms may be executed in several counterparts, which together shall constitute one and the same instrument.

\_\_\_\_\_  
Name(s) (print full name and surname): \_\_\_\_\_

Date: \_\_\_\_\_ Who warrants that he/she/ they is/are duly authorized for and on behalf of  
The Company, being Logistics Amalgamated Sky (Pty) (LA Sky)

\_\_\_\_\_  
Name(s) (print full name and surname): \_\_\_\_\_

Date: \_\_\_\_\_  
Who warrants that he/she/ they is/are duly authorized for and on behalf of

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The Sender, being \_\_\_\_\_

### 10. Privacy Policy

#### •10.1 Introduction

o 10.1.1 Thank you for visiting our website and reviewing our privacy policy. The purpose of this policy is to explain how we handle information we collect from you during your visit to our website. It is important to keep in mind that we do not collect personally-identifiable information (name, address, e-mail address or other unique identifiers).

#### •10.2 Privacy Policy for All Visitors

o 10.2.1 Information Collected and Stored Automatically:

o When you visit our website to read pages or download information, we automatically collect and store the following non-identifying information:

☐ 10.2.1.1 The Internet protocol (IP) address from which you access our website. An IP address is a unique number that is automatically assigned to the computer you are using whenever you are surfing the web.

☐ 10.2.1.2 The type of browser, such as Netscape or Internet Explorer, and operating system, such as Windows 98 or Linux, used to access our site.

☐ The date and time our site is accessed, for the purpose of monitoring demand.

☐ The pages visited, for the purpose of improving the usefulness of our website by providing helpful links and removing pages that are not read.

o 10.2.2 Information Collected from E-mail:

☐ 10.2.2.1 When you send us personally-identifying information in an e-mail, we use the information you provide only to help us gather the information you might request. In an effort to respond to your request, information you submit may be viewed by various people within LA Sky (Pty). Once received, the information to your e-mail is protected in accordance with law, (e.g. the Privacy Act and the Freedom of Information Act).

o 10.2.3 Security, Intrusion, and Detection:

☐ 10.2.3.1 For site security purposes and to ensure that this service remains available to all users, our computer system employs software programs to monitor network traffic to identify unauthorized attempts to upload or change information, or otherwise cause damage.

o 10.2.4 Privacy Policy for Subscribers:

☐ The following additional policies apply to subscribers of our services:

☐ 10.2.4.1 To register for our services you will have to provide us with personally-identifiable information to enable us to provide you with our services. The information you provide will be entered into our database.

☐ 10.2.4.2 If you register as a subscriber, we do not make your personally-identifiable information available to anyone unless required by law to do so.