

**APPLICATION FOR CREDIT FACILITY****THE CUSTOMER BUSINESS**

*A copy of the VAT/IVA Certificate and Company Registration/Certidao form must be lodged with the credit application*

Registered Name of Business: \_\_\_\_\_  
Trading Name: \_\_\_\_\_  
Company Registration Number: \_\_\_\_\_  
Type of Business: \_\_\_\_\_ Date Established: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_  
Email Address: \_\_\_\_\_  
Business Address: \_\_\_\_\_

**DETAILS OF DIRECTORS/MEMBERS/PARTNERS AND/OR PROPRIETORS**

*Please fill in the information below of Directors/Members/Partners/Proprietors and/or attach a schedule if extensive*

Name	Title	Email
_____	_____	_____
_____	_____	_____
_____	_____	_____

**LIST OF SUBSIDIARIES**

*Please provide a list of subsidiaries to which this Credit shall apply and attached a schedule if extensive:*

1. \_\_\_\_\_
2. \_\_\_\_\_

**CREDIT**

Anticipated monthly total of credit required USD\$  
Value of initial order USD\$  
Administration/reminder fee USD\$  
Interest rate may be charged at \_\_\_\_\_% per annum (compounded monthly) for all overdue amounts  
No credit for tax, VAT, duties, customs, fines/outlays, demurrage, detention, pass-through charges etc will be granted

**TRADE REFERENCES**

1. \_\_\_\_\_
2. \_\_\_\_\_

**PAYMENT**

*Payment is to be made within \_\_\_\_\_ days from date of invoice to:*

**Mozaza Logistics**

Suite 206,  
Grand Baie Business Park,  
Grand Baie, Mauritius

**Standard Bank (Mauritius) Ltd**

Beneficiary: Mozaza Logistics  
Account No: 9090000048463  
Account Type: USD  
Swift: SBICMUMU  
IBAN: MU89SBIC2201900000484630000USD

Email: [jlh@mozazalogistics.com](mailto:jlh@mozazalogistics.com)

Tel: +230 2637725

Fax: +230 2637726

**CUSTOMER'S ACCOUNTS DETAILS**

 Accounts Manager Name: \_\_\_\_\_ Telephone Number: \_\_\_\_\_  
 Email address to which statement should be sent: \_\_\_\_\_

**DECLARATION**

I/We the undersigned \_\_\_\_\_ in my/our capacity as director/member/an authorised representative of \_\_\_\_\_ ("the Customer") hereby apply for credit facilities from \_\_\_\_\_ ("the Company"). This information is submitted as a basis for the Company's consideration of this application.

1. I/We hereby certify that the foregoing details are true and correct in each and every respect and undertake to notify the Company in writing of any change of details contained herein including change of ownership, name and address, failing which the Company shall not be held liable for any inaccuracies.
2. I/We warrant that the Directors/Members/Partners/Proprietors of the Customer have never been insolvent or associated with any business failure. I/we warrant further that the undersigned is duly authorized to complete this form on behalf of the Customer and have the necessary rights and capacity to enter into this agreement.
3. I/We acknowledge that should credit facilities be granted to the Customer by the Company, on the basis of this application, the Company reserves the right to suspend the credit facility at any time that the Customer is in default with the payment terms incorporated herein. I/We further acknowledge that the Company may close the credit facility by giving written notice to the Customer ten business days before the credit facility will be closed.
4. I/we hereby accept the annexed terms and conditions of this credit agreement as set out by the Company. I/we acknowledge having read and understood, and agree that such terms and conditions will be applicable to all contracts concluded between the Customer and the Company for the transportation of goods/cargo.
5. I/we hereby agree to any dispute under this agreement being decided under the laws of \_\_\_\_\_ and that the Magistrate's court of \_\_\_\_\_ will have jurisdiction to adjudicate any dispute between parties.

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, and all of which together shall constitute one and the same agreement as at the date of signature of the Party that signs its counterpart last in time.

Signature: _____	Date: _____
Capacity: _____	ID/PassportNo: _____
	Full Name: _____
Witness 1: _____	Full Name: _____
Witness 2: _____	Full Name: _____

COMPANY STAMP:

<b>OFFICE USE</b>	
Approved/Rejected: _____	Credit Limit: _____
Terms: _____	
Date: _____	Credit Approved by: _____



TERMS AND CONDITIONS

1 WHEREAS the Customer wishes to obtain a credit facility in respect of services rendered to the Customer by the Company.

2 The Customer warrants that by entering into these terms and conditions it has the authority to do so on its own behalf and on behalf of its Subsidiaries (as defined below), if and to the extent credit granted extends to such Subsidiaries.

NOW THEREFORE the parties agree as follows:

3 DEFINITIONS

In this agreement, unless expressly stated or when the context requires a different interpretation, the following words shall have the meanings ascribed to them as set out below:

- 3.1 "the agreement" means this agreement, including the application on the face hereof, and any annexures referred to in this agreement, annexed hereto, and duly signed by the parties;
3.2 "the application" means the schedule of details appearing on the face of this agreement;
3.3 "business day" shall mean a normal business day from 7am to 4pm excluding weekends and public holidays;
3.4 "the Customer" shall mean the entity described in the application;
3.5 "the commencement date" shall mean the date of written approval, by the Company of the application;
3.6 "the credit limit required" shall mean the credit limit required by the Customer, as stipulated in the application and approved by the Company;
3.7 "Company" shall mean Mozaza Logistics;
3.8 "the Goods" / "the Cargo" shall mean the goods or Cargo indicated on any of the Company's/Customer's forms, quotations, delivery notes, notifications and invoices;
3.9 "the payment period" shall mean the period for payment of the credit limit required, as approved by the Company and indicated in the application;
3.10 "credit" the Customer agrees and undertakes to pay to the Company all charges within the Credit Period.
3.11 "excluded charges" the Customer must note that no credit is granted for any of the excluded charges, as set out in writing hereinabove or by the Company from time to time, which are payable by separate payment and invoice terms.
3.12 "currency" all charges shall be paid in United States Dollars or at the Company's option in its equivalent in the currency/ies applied in the relevant invoice(s) to the Customer.
3.13 "full payment" of charges shall not be effective until the amount of the payment is unconditionally and irrevocably transferred to and at the effective disposal of the Company in cleared funds.
3.14 "Subsidiaries" is any entity that the Customer has authority to enter into agreements on their behalf and that the Customer controls, directly or indirectly at least 50% of the voting share capital of the Subsidiary.
3.15 "Freight Agents" are any third party that the Customer wishes to appoint to settle charges on its behalf.

4 OVERVIEW

4.1 The Company shall not be a public or common carrier in relation to the carriage forming the subject of these conditions and any goods carried are accepted subject to the conditions contained herein.

4.2 All and any business undertaken, including any advice, information or service provided whether graciously or not by the Company is and shall be subject to the conditions hereunder set out and each condition shall be deemed to be incorporated in and to be a condition of this agreement between the Company and the Customer.

5 COMMENCEMENT DATE

5.1 The application is understood to be an offer by the Customer to the Company to enter into a credit agreement.

5.2 This agreement will commence and be binding on the parties upon the Company in writing approving and signing the credit application and terms and conditions.

5.3 The Customer agrees and understands to be bound by the terms of the agreement as from the date of written approval of the credit application by the Company.

6 PRICE AND RATES

6.1 The cost to transport the goods shall be determined by the Company and will be applicable at the time of dispatch of the goods, regardless of any quotation received before.

6.2 The Customer will be liable to make payment of any additional charges and third party charges incurred on their behalf including but not limited to:

- 6.2.1 Shipping line demurrage;
6.2.2 Truck demurrage;
6.2.3 Port handling fee;
6.2.4 Port storage;
6.2.5 Kudumba scanner fee;
6.2.6 Despachante fee;
6.2.7 MCNet fee;
6.2.8 Late documentation fee;
6.2.9 Agency fee;
6.2.10 Pre-trip inspection fee for reefer containers;
6.2.11 Bond fee;
6.2.12 Shunting fee;
6.2.13 Fumigation fee;
6.2.14 Customs inspect fee;
6.2.15 Stripping/Stevedore charges;
6.2.16 Empty lift port;
6.2.17 Tally work;

6.3 Prices may, prior to delivery, be increased without prior notice. In the event of such increase a certificate signed by a Member or Manager of the Company, whose authority need not be proved, shall be prima facie proof of such increased costs.

6.4 An addendum may be annexed to this credit agreement outlining the current rates as at date of application for credit. In the event that same is annexed it is to be treated as a guideline and not as the rate/price granted to the Customer.

6.5 The rates and prices provided by the Company are confidential and apply exclusively to the Customer. Any disclosure or communication to third parties of the rates and/or prices shall render them null and void.

7 PAYMENT

7.1 Unless otherwise agreed between the parties in writing, all amounts owing to the Company by the Customer shall be paid within 30 (thirty) days from date of invoice in cash, electronic transfer or cheque (if acceptable to the Company)

7.2 Each payment under these Credit Terms shall be made in full without deduction or deferment on account of any claims, counterclaim or set-off.
7.3 The Customer shall not be entitled to claim rebates, discounts, set off and/or deduction in respect of any payment due by the Customer to the Company for goods supplied.

7.4 The Company may appropriate all payments made by the Customer to such accounts as it may in its sole and absolute discretion decide.

7.5 Should the Customer default in paying any one invoice or account or fail to make payment timeously or without payment or any portion thereof for any reason whatsoever, then the whole amount in respect of all loads delivered by the Company to the Customer shall become due, owing and payable irrespective of the dates when the goods were delivered. The Company shall be entitled but not obliged (and without prejudice to any of its other rights against the Customer) by notice in writing to rescind or suspend performance of any of its obligations under this agreement and discounts granted by the Company shall be forfeited.

7.6 Unless otherwise agreed, should any amount not be paid by the Customer on the due date, the Customer shall be liable to pay interest on all overdue amounts unpaid at the compound rate of 12% per annum from due date until date of payment, calculated and payable monthly in advance and should the said interest not be paid in full as aforesaid, the same shall be added to the principal sum, and the total shall form the principal debt which shall then bear interest in the manner as set out above.

7.7 In all cases where the Customer uses a postal, banking, electronic or similar such service to effect payment, such services shall be deemed to be the agent of the Customer.

7.8 Should any amount not be paid on the due date, then, without prejudice to any other right it may have, the Company may immediately suspend the carrying out of any of its uncompleted obligations (at the sole risk and cost of the Customer and/or nominated party) until such time as payment is made.

7.9 If settlement of Charges is done via bank transfer or cheques, Customer undertakes to forward a separate remittance advice outlining which invoices that are included in each payment.

7.10 In the absence of the Customer's advice as described in clause 8.9 hereinabove, any payment shall be applied to the oldest outstanding invoices.

7.11 If the Customer disputes any invoice, in whole or in part, the Company must be notified in writing, including via email, within the first 7 (seven) days from the Customer's receipt of the relevant invoice or the Credit Period after which time the Customer shall not be entitled to dispute the invoice. Any part of an invoice not being disputed must be settled in accordance with these Credit Terms and Conditions. A disputed part of an invoice is exempted from these Terms and Conditions until the dispute is settled. On the dispute becoming settled the Customer must make payment of outstanding charges to the Company within 7 (seven) days from date of settlement.

7.12 Subsidiaries and Freight Agents



- 7.12.1 If the Customer wishes the Company to extend credit to any of the Customer's Subsidiaries then the Customer must first obtain the Company's prior written consent.
- 7.12.2 If the Customer wishes to appoint a third party (i.e. a freight agent) to settle charges on its behalf the prior written consent must be obtained from the Company.
- 7.12.3 These terms and conditions herein shall also apply to the Subsidiaries and any third party (freight agent) whom, will be held to be jointly and severally liable alongside the Customer.
- 7.12.4 The Customer guarantees performance and payment of all its Subsidiaries and/or third parties, and shall indemnify the Company for all consequences, costs and expenses in the event of any default, claim or non-payment by any Subsidiary and/or third parties.
- 7.12.5 The Customer confirms that it has the authority of any such Subsidiaries and/or third parties to accept these credit terms and conditions on their behalf.

#### 8 PROOF OF INDEBTEDNESS

Any account or certificate issued and signed by any Member or Manager of the Company (whose authority need not be approved) in respect of any indebtedness of the Customer to the Company or in respect of any other fact, including but not limiting the generality of the foregoing, the fact that such goods were transported by the Company and the goods were delivered, shall be *prima facie* evidence of the Customer's indebtedness to the Company and *prima facie* evidence of such other fact and/or *prima facie* evidence of the delivery of the Goods.

#### 9 CREDIT FACILITY

- 9.1 The Company reserves the right to reduce the credit limit under any credit facility at any time upon written notice to the Customer to take effect on delivery of the notice, at the Company's discretion.
- 9.2 The Company reserves the right to increase the credit facility at its sole discretion, and without any prior notice thereof to the Customer.
- 9.3 The credit limit shall not be deemed to be the limit of a Customer's indebtedness to the Company.

#### 10 QUOTES

- 10.1 A quotation by the Company does not constitute a binding offer by the Company and the Company reserves the right to withdraw or revise any quotation at any time.
- 10.2 Quotations where given shall be subject to immediate acceptance and shall be subject to withdrawal or revision by the Company.
- 10.3 The Company is entitled to the benefits of any discounts obtained and to retain and be paid all brokerages, commissions, allowances and any other remunerations of whatsoever nature and kind and shall not be obliged to disclose or account to the consignor for any such remuneration received by it.

#### 11 OWNERSHIP AND RISK

- 11.1 Notwithstanding that all risk in and to all cargo bought by the Customer shall be transported at the Customer's own risk, ownership in all cargo bought by the customer and delivered to the customer shall remain vested in the Company.
- 11.2 All cargo handled by the Company is moved at owner's own risk at all times.
- 11.3 The onus of establishing the condition of the goods at the time of acceptance and delivery thereof by the Company shall rest on the consignor.

#### 12 INSURANCE

- 12.1 The Company shall ensure that its subcontractors maintain insurance policies as follows, at all times: -
- (a) third party insurance of its vehicles and/or trailers used to perform its obligations under this Agreement;
  - (b) Public Liability insurance up to USD 250,000 (two hundred and fifty thousand);
  - (c) third party Liability Insurance for any damage or accident;
  - (d) workman's compensation insurance cover against injury, harm, disability and death in respect of all of its employees, agents and contractors.
- 12.1.1 The Customer shall be liable for taking out cargo insurance and any further insurances which it requires for the performance of the services and shall produce, upon request, appropriate documentation in support of such insurances to the Company.

#### 13 TRANSPORT, LOGISTICS AND HEALTH AND SAFETY

- 13.1 The Customer shall comply with the Company's Health, Safety and Environmental Policies at all times, whether on Company premises or on other premises.
- 13.2 The Customer shall provide relevant information and health and safety specifications to the Company in a timely manner to ensure that proper equipment is used.

#### 14 DANGEROUS GOODS

- 14.1 No goods, including radio-active materials, which are or may become dangerous, inflammable or noxious, or which by their nature are or may become liable to cause injury or damage to any person, goods or property whatsoever, shall be tendered to the company without its express consent in writing. The goods or the container package or other covering in which the goods are to be tendered to the Company or its agents shall be prominently marked on the outside so as to indicate the nature and character of the goods, and so as to comply with any applicable laws, regulations or requirements of any authority or carrier. If any such goods are tendered to the Company without its written consent or without being marked as aforesaid, the same may at any time be destroyed, disposed of, abandoned or rendered harmless at the sole discretion of the Company and at the entire risk and expense of the consignor, without compensation to him or any other party and without prejudice to the Company's right to its charges or fees including the cost of destruction or disposal.
- 14.2 Notwithstanding the acceptance of the goods with its express consent, the Company may nevertheless for good reason, such as the risk to other goods or property, life or health, destroy or otherwise deal with the goods at the entire risk and expense of the consignor, and without compensation to him or to any other party and without prejudice to the Company's right to its charges or fees including the cost of destruction or disposal. Whether or not the consignor was aware of the nature of the goods and whether or not the Company's written consent thereof was obtained, the consignor shall be deemed to have indemnified the Company against all loss, damage or liability caused to the Company as a result of the tender of the goods to the Company.

#### 15 ROUTES AND PROCEDURES

- 15.1 Subject to express instructions given by the consignor and accepted by the Company in writing, the Company reserves to itself complete freedom in respect of means, route and procedure to be followed in the handling and transport of the goods.
- 15.2 The Company shall be entitled, in the absence of express instructions to the contrary, to employ independent third parties to perform all or any of the functions required by the Company.
- 15.3 The Company is expressly authorized to arrange for the consignor's goods, in its discretion, to be transhipped from any vehicle upon which such goods may have been loaded to any other vehicle or vehicles.
- 15.4 The Company shall have no responsibility or liability to the consignor for any act or omission of such third party, even though the Company may be responsible for the payment of such third party's charges, but the Company shall, if suitably indemnified against all costs, take such action against the third party on the consignor's behalf as its consignor may reasonably direct.

#### 16 DISCLAIMER AND TIME OF DELIVERY

- 16.1 The Company shall not be liable for any delay or detention of the goods, for any loss, damage or deterioration therein, unless the date and time for delivery of the goods is expressly stipulated as being of the essence of the contract and the terms accepted by the Company. In any event, the Company shall not be liable for any such loss, damage or deterioration unless such delay or deterioration is attributable to wilful default or gross negligence on the part of the Company.
- 16.2 The contents of any of our publications, websites, reports and/or any other form of communication and data are presented for informational purposes only, and whilst every effort is made to ensure their accuracy, they are non-binding and not to be construed as warranties or guarantees, express or implied, regarding the services to be provided.

#### 17 LIMITATION OF LIABILITY

- 17.1 The Company shall not be responsible for the manner in which any goods are packed by or on behalf of the consignor, whether such packing occurs or consequent upon a subsequent transshipment. Furthermore the Company reserves the right to decline the carriage of any goods, which in its opinion have not been properly packed.
- 17.2 The consignor shall properly and accurately furnish to the Company the name and address of the consignee as well as all documents of necessity required to accompany the goods or such documents as the Company may require, and the Company shall not be responsible nor incur any liability for any loss or incorrect delivery of goods due to the name and address of the consignee being improperly stated and in the absence of gross negligence, the Company shall not be liable for any loss in the event of delivery being effected to some person other than the consignee, in the event of the consignee, or his agent, not being present to receive and accept delivery of same.
- 17.3 In the event of the consignee refusing to accept delivery of the goods in whole or in part, or in the event of the Company being unable to effect delivery by reason of the address of the consignee being improperly or inaccurately stated, and being compelled to return the goods to the consignor, then the consignor shall be liable for all costs incurred in the return of such goods whether on the same basis as originally agreed upon or any other basis whatsoever, or being compelled to dispose of such goods by reason of their perishable nature or for whatsoever other reason, the Company shall not be liable for any damage to or loss of such goods



- or any loss or damage arising out of the disposal thereof and the consignor shall be liable to the Company for all costs incurred in connection with the disposal of such goods. The consignor shall be deemed to be bound by and to warrant the accuracy of all descriptions, values and other particulars furnished to the Company for customs, consular and other purposes, and shall be deemed to have indemnified the Company against all claims, losses, penalties, damages, expenses and fines whatsoever arising from any inaccuracy or omission, even if such inaccuracy or omission is not due to any negligence.
- 18 LEGAL PROCEEDINGS**
- 18.1 In the event of any dispute or difference arising between the parties hereto relating to or arising out of this Agreement or the implementation, execution, interpretation, rectification, termination or cancellation thereof, the Senior Management of the parties shall communicate attempt to settle such dispute or difference within seven (7) days, failing which either party may elect to take legal action against the Customer.
- 18.2 Should the Company elect to take legal action against the Customer arising from its breach of any terms or conditions of the Agreement, the application hereto wherein the Company has to hire the services of an attorney and/or advocate and/or tracing agent, then the Customer will be liable in respect of all legal costs and/or expenses incurred, on the highest scale to allow for recovery of costs i.e. on an attorney and own client scale plus disbursements, tracing charges and collection commission.
- 19 ANTI-CORRUPTION POLICY**
- 19.1 The Company has a moral and ethical responsibility to act with integrity in the conduct of its business. The Customer acknowledges and accepts to act in conformity with said ethical standards and respect principles of good corporate governance.
- 19.2 The Customer undertakes to comply with the Company's Anti-Corruption Policy, all applicable anti-bribery laws, including those in all countries in which the Company operates and to ensure that its employees are, directors, management and subcontractors, agents or any authorized third party, which are duly approved by the Company have not and will not be involved in the giving or receiving of bribes or other corrupt conduct in connection with this Agreement. The Company prohibits all improper payments of any nature. In any event, the Customer shall always be responsible for any such consequences, loss or damage resulting from such matters.
- 20 JURISDICTION**
- The Customer consents to the jurisdiction of any Magistrate's Court having jurisdiction regarding any legal action taken by the Company against it arising from this agreement and as set out in the application. The Company will however not be precluded from instituting action in any other court with competent jurisdiction.
- 21 BREACH**
- 21.1 Notwithstanding any other provision of this Agreement, should the Customer:
- 21.1.1 fail to pay any amount due by the Customer to the Company in terms of this Agreement on the due date thereof; or
- 21.1.2 commit a breach of any term or condition of the Agreement or permit a breach of any such term or condition,
- 21.1.3 the Company shall have the right, notwithstanding any rights available to it, to suspend the credit facility at any time and to forthwith and upon 10 (ten) business days written notice to the Customer, cancel the Agreement.
- 21.2 In the event of any breach by the Customer of any term or condition of this Agreement, the Customer consents and authorizes the Company to furnish the Customer's name, credit record and repayment history to any credit bureau as a delinquent debtor.
- 21.3 Company Lien over Goods:
- 21.3.1 The Company shall have a lien over all goods for monies due to the Company in respect of services rendered by the Company whether or not payment in respect of such goods is then due and the Customer hereby waives any right it may have for a spoliation order against the Company in the event that the Company takes possession of any goods.
- 21.3.2 Without prejudice to any of the Company's rights against the consignor, in the event of the Customer failing to pay to the Company any monies due by it, the Company shall have the right without notice to the Customer:- To open and examine any part of such goods; and as its option, to sell, either by public auction or private treaty, and at its entire discretion, the whole or any part of the goods; and to apply the proceeds of any such sale, after deducting all expenses attendant thereupon, in payment of/ or towards any sum due by the Customer to the Company and to pay the Customer any surplus without interest, within 60 days after such sale whereupon the Company shall be released from all liability whatsoever in respect of the goods carried.
- 21.3.3 The Consignor/Customer hereby expressly appoints the Company as its agent and hereby grants it full authority to act as aforesaid in regard to the sale of its goods and the appropriation of the proceeds thereof. The exercise by the Company of any of the rights accorded to it by this clause shall be without prejudice to any other rights it may have under this agreement or at common law in respect of the non-payment the Company's remuneration.
- 21.3.4 Customer does hereby irrevocably and in *Rem Suam* cede, pledge, assign, transfer and make over unto and in favour of the Company, all of its right, title, interest, claim and demand in and to all claims/debts/book debts of whatsoever nature and description and howsoever arising which the Customer may now or at any time hereafter have against all and any persons, companies, Company's, firms, partnerships, associations, syndicates and other legal personae whomsoever ("the Customer's debtors") without exception as a continuing covering security for the due payment of every sum of money which may now or at any time hereafter be or become owing by the Customer to the Company from whatsoever cause or obligation howsoever arising which the Customer may be or become bound to perform in favour of the Company.
- 21.3.5 If the Customer at any time entered into prior deeds of cession or otherwise disposed of any of the right, title and interest in and to any of the debts which will from time to time be subject to this cession, then this cession shall operate as a cession of all the Customer's revisionary rights. Notwithstanding the terms of the cession, the Customer shall be entitled to institute action against any of its debtors provided that all sums of money which the Customer collects from its debtors shall be collected on the Company's behalf and provided that the Company shall at any time be entitled to terminate the Customer's right to collect such monies/debts. The Customer agrees that the Company shall be entitled at any time or times hereafter to give notice of this cession to all or any of the Customer's debtor.
- 22 SURETY**
- 22.1 In the event that the Customer is a Company, or other legal person, the individual signing this Agreement shall by virtue of signature hereof and Annexure "A" hereto, bind himself/herself as surety and co-principal debtor *in solidum* with the Customer for the due performance of any obligation of the Customer, including payment of all or any amounts which become due and payable by the Customer to the Company in terms of this Agreement or from any cause whatsoever.
- 23 TERMINATION**
- 23.1 The Company reserves the right (notwithstanding any other provision in the agreement) to terminate the agreement on 10 (ten) days written notice to the Customer.
- 23.2 Should the Customer commit an act of insolvency and is deemed unable to pay its debts the Customer shall be in default.
- 23.3 If the Customer is in default, the Company shall be entitled, in addition to all other remedies to which it may be entitled at law or in terms of the agreement, to terminate the agreement in writing upon 10 (ten) days written notice to the Customer.
- 23.4 In addition, the agreement may be terminated with one month's written notice by mutual written agreement by the parties.
- 23.5 The termination of the agreement will not prejudice the rights of the Company to claim damages or to obtain any other relief in respect of any antecedent breach of the terms and conditions of the agreement prior to such termination.
- 23.6 Upon termination, all outstanding credits, penalties and all other amounts, whether due or not, in whole or in part, will become immediately payable.
- 24 INSTRUMENTS**
- 24.1 Acceptance of a negotiable instrument by the Company shall not be deemed to be a waiver of the Company's rights under this agreement. In relation to cheques furnished by the Customer to the Company, the Customer waives his right to insist on notice of dishonor or protest to it in the event that the cheque is dishonoured.
- 25 FORCE MAJEURE**
- 25.1 Notwithstanding anything to the contrary in these terms and conditions, the Company shall not be liable to the Customer for any loss or damage which may be suffered by the Customer as a direct or indirect result of the supply of goods by the Company being prevented, hindered, delayed or rendered uneconomic by reason of circumstances, or events beyond the Company's reasonable control including (but not limited to) Act of God, war, riot, strike, lock-out, trade dispute or labour disturbance, accident, break-down of plant or machinery, fire, flood, storm, difficulty or increased expense in obtaining workmen, materials or transport or other circumstances affecting the transportation of the goods by the Company's normal means or the delivery of goods by the Company's normal route or means of delivery.
- 25.2 If any event of *force majeure* occurs, the date(s) for performance of the obligation(s) affected shall be postponed for so long as is made necessary by the event of *force majeure* provided that if any event of *force majeure* continues for a period of or exceeding 1 (one) month, the Company has the right to terminate the Contract forthwith on written notice to the Customer.
- 25.3 Each party shall use its reasonable endeavours to minimize the effects of any event of *force majeure*.
- 26 CONFIDENTIALITY**



26.1 Any client information, pricing, rates, specifications, plans, drawings, process information, patterns or designs, hereinafter referred to as confidential information, supplied by either Party in connection with this Agreement, shall remain the property of the Party supplying the confidential information. Any information derived there from or otherwise communicated to the other Party in connection with it, shall be kept secret and shall not, without the written consent of the Party who supplied the confidential information, be published or disclosed to any third party, or made use of by the other party except for the exclusive purpose of implementing this Conditions. Any confidential information supplied by either Party shall be returned to that Party on fulfillment of this agreement. This clause shall survive the terms of this agreement or any other termination or cancellation of this agreement.

**27 INDEMNITIES AND LIMITATION OF LIABILITY**

27.1 The Customer hereby indemnifies and holds the Company harmless from and against any loss, claim, action, damage or expense suffered or sustained by the Company, its clients, or any third party:

27.1.1 pursuant to or arising out of negligence and/or breach by the Customer of its obligations, representations or warranties contained in the agreement;

27.1.2 pursuant to or arising out of the compounding, confiscating and/or seizing of the goods for any reason whatsoever;

27.1.3 which may be made against the Company by the owners of the goods or customers of the goods or any third party whatsoever in relation to the goods hereby carried.

27.2 The Company will not be liable to the Customer for any liability, loss(es) and/or damage(s) and/or cost(s) or expense(s) whether direct, indirect and/or of a consequential nature including any loss of income and/or loss of profit(s) and/or loss of anticipated savings suffered by the Customer due to or in connection to:

27.2.1 any act or omission by the Company, our employees, our agents or any person or persons for whom they are responsible; or

27.2.2 Any negligent or innocent misrepresentations made to the Customer, nor shall the Customer be entitled to resile from any terms of the Agreement on those grounds;

27.2.3 to the Company's performance nor for delictual, special, indirect or consequential damages.

27.3 Any liability of the Company for breach of contract will not exceed in the aggregate of damages, costs, fees and expenses capable of being awarded to the Customer, the total price paid or due to be paid by the Customer for the goods transported. Notification and claim submission do not imply acceptance.

**28 DUPLICATE DOCUMENTS**

28.1 The Company is under no obligation whatsoever to provide customers with duplicates of any documents issued by it. Nevertheless the Company without being legally obliged to so do will in its discretion endeavor wherever possible to provide customers with duplicate documents but reserves the right to charge for such copies.

**29 WARRANTIES**

29.1 No warranty shall be effective unless such warranty is expressly provided by the Company and shall be limited to the extent thereof. All other warranties are expressly excluded.

29.2 The Customer and its representative/s, signing this agreement, warrant that they have the necessary rights and capacity to enter into this agreement.

**30 NO CESSION (GIVING-UP) OR DELEGATION (HANDING-OVER) OF RIGHTS**

30.1 The Customer is not allowed to cede (give-up) or delegate (hand-over) any of its rights or obligations in terms of this agreement to any other person(s) or organization(s) without the Company's written consent. However it is understood that the Company may at any time cede or delegate any of its rights or obligations in terms of this agreement to another person(s) or organization(s) without prior notice to the Customer or the Customer's consent.

**31 INDULGENCES**

31.1 No leeway, extension of time or other indulgence which the Company may offer to the Customer will in any way prevent it from enforcing any of its rights in the future, without notice, by requiring the Customer's strict and timely compliance with each term and condition of this agreement.

31.2 No act, omission, course of dealing, forbearance, delay or indulgence by the Company in enforcing any of these conditions or any of its rights in terms thereof or any granting of time by the Company shall prejudice or affect the rights and remedies of the Company under these conditions and no such matter shall be treated as any evidence of waiver of the Company's rights thereunder nor shall any waiver of a breach by a Customer of any one or more of these conditions operate as a waiver of any subsequent breach thereof. The Company shall at all times and without notice be entitled to insist on strict application of these conditions and on their strict enforcement on its Customer.

**32 UNENFORCEABLE PROVISIONS**

32.1 If any of the terms of this agreement are unenforceable, illegal, void, or contrary to public policy then they will be considered to be legally separated from the remainder of this agreement. The rest of this agreement will however remain binding and enforceable and in full force and effect.

**33 WHOLE AGREEMENT**

33.1 This agreement must be read in conjunction with any other document mutually agreed to in writing. Together, these documents constitute the whole agreement between the parties and no variation, amendment, deletion or addition will be valid unless it is stipulated in writing and signed by the Company. No warranties, responsibility or guarantees made by the Company on its behalf, will be of any force or effect unless specifically stated in an agreement and/or in writing and signed by the parties.

**34 AMENDMENTS**

34.1 The Company is entitled on fair and reasonable written notice to the Customer, to amend and/or vary the terms and conditions of this agreement as a consequence of any new and/or amended law(s), tax(es), and/or regulation(s).

**35 DISCLOSURE OF PERSONAL INFORMATION**

35.1 The Customer understands that the personal information given in this credit application form is to be used by the Company for the purposes of assessing its credit worthiness.

35.2 The Company has the Customer's consent at all times to contact and request information from any persons, credit bureaus or businesses, including but not limited to, information regarding the amounts purchased from suppliers per month, length of time the Customer has dealt with such supplier, type of goods purchased and the matter and time of payment.

35.3 The Customer agrees and understands that information given in confidence to the Company by a third party will not be disclosed to the Customer.

35.4 The Customer hereby consents to and authorizes the Company at all times to furnish credit information concerning the Customer's dealings with the Company to a credit bureau and to any third party seeking a trade reference regarding the Customer in his dealings with the Company.

**36 ACKNOWLEDGEMENTS**

36.1 The Customer confirms that the cargo delivered on the Tax invoice issued by the Company, duly represents the cargo transported by the Customer, at the rates agreed to by the Customer and, where delivery has already taken place, acknowledges that the goods were inspected and that the Customer is satisfied that the goods conform to the quality and quantity ordered in all respects and are free from any defects

**37 HEADINGS**

37.1 The headings to the paragraphs are purely for guidance only, and are not to be used to construe the meaning of the text.

**38 VARIATION**

38.1 The Customer acknowledges that no terms at variance with the terms and conditions of this application for credit and which have been sought to be introduced by the Customer at any time shall be of any force or effect unless the Company has, in writing, expressly and unambiguously agreed that the terms so sought to be introduced by the Customer shall apply. Without derogating from the generality of the foregoing, the Company shall not be regarded as having so expressly agreed by virtue merely of the Company having agreed to execute an order in which inconsistent terms have been introduced by the Customer and notwithstanding that the Company has not rejected such inconsistent terms.

**39 NOTICES**

39.1 All notices given in terms of this agreement will be in writing and both parties choose the address(es) for all purposes being the address(es) specified on the application. Any change in the Customer's address will only be effective if and when the Company have received written notification of the change of the Customer's address.

39.2 Any notices to be delivered by the Customer to the Company or by the Company to the Customer will be considered as received by either the Company or the Customer as follows:

39.2.1 if delivery is by hand, then on the date of delivery;

39.2.2 if delivery is by fax, then within 48 (forty-eight) hours of transmission of said fax;

39.2.3 if delivery is by pre-paid registered post from an address within, then within seven calendar days of the date of posting;

39.2.4 if delivery is by email, then when the message is capable of being retrieved and processed by the addressee from the information system, or server used by the addressee for the purposes of receiving email messages;

39.3 The Company undertakes to notify the Customer of any change in its address within 7 (seven) days and vice versa.

**40 COUNTERPART**

40.1 This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, and all of which together shall constitute one and the same agreement as at the date of signature of the Party that signs its counterpart last in time.

**DEED OF SURETYSHIP**

I/We, the undersigned,

 \_\_\_\_\_ (Name)  
 (Identity Number: \_\_\_\_\_)

AND

 \_\_\_\_\_ (Name)  
 (Identity Number: \_\_\_\_\_)

("the surety")

do hereby bind myself/ourselves to \_\_\_\_\_ ("the Customer") and its successors-in-title and assign as surety for and co-principal debtor *in solidum* the Customer set out in the application to which this Suretyship is annexed, for the due and punctual payment of all amounts and for the due performance of all other obligations by the Customer to and in favour of Mozaza Logistics ("the Company") in terms of and arising from the application concluded between the Customer and the Company, the terms of which I/we declare myself/ourselves to be fully acquainted.

I/We agree and acknowledge that:

1. All admissions and acknowledgements of indebtedness by the Customer shall be binding upon me/us.
2. The Company shall be entitled from time to time, and in its absolute sole discretion, and where it deems fit, without prejudice to its rights hereunder, and on 10 (ten) business days written notice to me/us (and my/our liability under this Suretyship shall in no way be affected thereby), to:
  - 2.1. renew, change or withdraw any facility granted by the Company to the Customer under the application;
  - 2.2. to vary the variation of the terms and conditions of the application.
3. The Company is hereby irrevocably authorized to apply any moneys received by it from the Company and/or me/us in terms of the application and/or in terms of this Suretyship against the indebtedness to it by the Customer in such manner as the Company in its sole discretion deems fit.
4. A certificate signed by a Member or Manager of the Company (whose appointment, qualification and/or authority need not be proved) as to the amount of the Customer's indebtedness to the Company under this Suretyship shall –
  - 4.1. be *prima facie* proof of the amount of indebtedness shown in the certificate; and
  - 4.2. in the absence of manifest error, be binding on me/us in any proceedings instituted by the Company in any competent court for the purpose of obtaining provisional sentence.
5. Should the Company cede the whole or part of its right of action against the Customer to any third party, then the Company's rights under this Suretyship shall be deemed to have been simultaneously ceded and transferred to the cessionary in question.
6. If the Customer is placed in liquidation or under judicial management, whether provisional or final, or if it enters into any scheme of arrangement or compromise with its creditors, then;
  - 6.1. the Company shall be entitled to accept any dividend on account and in reduction of the Customer's indebtedness, without prejudice to its rights against me/us, which rights shall further not be prejudiced by the acceptance by the Company of any other securities, guarantees or Suretyships arising out of any such event;
  - 6.2. I undertake not to prove any claims against the Customer until all amounts guaranteed by this Suretyship and which are due by the Customer to the Company have been paid in full, unless otherwise agreed in writing by the Company.
7. I/We renounce the benefits of legal exceptions of "excussion", "division" and "cession of actions", the full meaning, force and effect of all of which exceptions I/we declare myself/ourselves to be fully acquainted.
8. The Company may, at its option, institute action against me/is for any claim arising out of this Suretyship and the Customer's breach of any terms or conditions to which this Surety is annexed, I/We hereby consent to any Magistrate's Court having jurisdiction, notwithstanding that the amount of the claim may exceed the jurisdiction of that Court. The Company is nevertheless, at its option, entitled to institute action in the division of the High Court which has jurisdiction.

9. I/We agree to pay the Company's legal costs in connection with any claim against me/us arising out of this Suretyship on the scale as between Attorney and own client, including the prescribed collection commission and Value Added Tax thereon, plus costs, together with all tracing agent's fees.
10. For the purposes of this Suretyship and any process which may be instituted by virtue hereof, I/We hereby choose *domicilium citandi et executandi* at:
  - 10.1. The Company: \_\_\_\_\_
  - 10.2. The Surety: the business address of the Customer recorded in the application for credit facility to which this surety is annexed for all purpose.
11. A notice or other communication which is sent to me/us/the Customer shall be deemed to have been received on the 7<sup>th</sup> (seventh) day after the date of posting by prepaid registered post, or on the date of delivery, in the case of delivery by hand, or if delivery is by fax, then within 48 (forty-eight) hours of transmission of said fax, or if delivery is by email, then when the message is capable of being retrieved and processed by the addressee from the information system, or server used by the addressee for the purposes of receiving email messages.
12. I/We may by written notice to the Company change mine/our or the Company's address or telefax number for the purposes of this clause to any other address (other than a post office box number) or telefax number provided that the change shall become effective within 7 (seven) days after the receipt of the notice.
13. No waiver, amendment or variation of this Suretyship shall be valid unless reduced to writing and signed by the Company, the Customer and myself.

THUS DONE AND SIGNED at \_\_\_\_\_ on this the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_ in the presence of the undersigned witnesses.

**SURETY ONE**

SURETY SIGNATURE \_\_\_\_\_

NAME \_\_\_\_\_

ID NUMBER \_\_\_\_\_

PHYSICAL ADDRESS \_\_\_\_\_

**SURETY TWO**

SURETY SIGNATURE \_\_\_\_\_

NAME \_\_\_\_\_

ID NUMBER \_\_\_\_\_

PHYSICAL ADDRESS \_\_\_\_\_

IN THE PRESENCE OF THE UNDERSIGNED WITNESSES:

WITNESSES

1. \_\_\_\_\_

2. \_\_\_\_\_