

C.STEINWEG PROCESSING (PTY) LTD
STANDARD TRADING TERMS AND CONDITIONS

1. INTERPRETATION

In these standard trading terms and conditions:

- 1.1 the headings to the clauses are for reference purposes only and shall not aid in the interpretation of the clauses to which they relate;
- 1.2 unless the context clearly indicates a contrary intention, words importing any one gender include the other two genders, the singular includes the plural and vice versa, and natural persons include created entities (corporate or unincorporate) and vice versa;
- 1.3 the following terms shall have the meanings assigned to them hereunder and cognate expressions shall have a corresponding meaning namely -
 - 1.3.1 "the Company" means C. Steinweg Processing (Pty) Limited and all of its subsidiary and associated companies, together with each of their successors in title, or assigns;
 - 1.3.2 "Client" means the same as "Customer";
 - 1.3.3 "Customer" " " means any person at whose request or on whose behalf the Company undertakes any business or provides any advice, information or;
 - 1.3.4 "Goods" means any Goods of whatsoever nature, warehoused, processed, handled, transported or dealt with by or on behalf of or at the instance of the Customer or which come under the control of the Company or its agents, servants or nominees on the instructions of the Customer;
 - 1.3.5 "Parties" means the Company or the Customer;
 - 1.3.6 "Services" means those activities and services of any kind provided by the Company including, but not restricted to, the blanching, roasting, peeling and/or processing of Goods, storage, handling, packing or distribution of Goods and any related and ancillary services and the providing of advice and information relating thereto.
 - 1.3.7 "STC's" means these standard trading terms and conditions.

2. RENDERING SERVICES TO THE CUSTOMER

- 2.1 The Company may at its election perform all or any business undertaken or provide advice, information or services, whether gratuitous or not, either itself or it may procure that any other person undertakes such business or provides such advice, information or services as principal upon and subject to the terms and conditions contained herein which shall apply mutatis mutandis to the Customer and any such person.
- 2.2 For the purposes of Clause 2.1, each person shall be deemed to have appointed the Company as its agent for procuring on behalf of any such other person, the benefit of these STC's and the Company shall further be deemed to accept such benefits at the time of accepting any instruction to perform any function in rendering any Services to the Customer.

3. APPLICATION OF STC's

- 3.1 All and any business undertaken or advice, information or services provided by the Company, whether gratuitous or not, is undertaken or provided on the terms of these STC's.
- 3.2 To the extent that any of these terms and conditions are repugnant to or are in conflict with any law, they are deemed to be amended to comply with that law, and any such amendment shall not in any way affect the remaining provisions of these STC's.
- 3.3 If any term is unenforceable, then the Company shall be entitled to elect, at any time that such term shall be severed from the remaining terms and conditions, so as to allow the remaining terms and conditions to remain of full force and effect.
- 3.4 These STC's shall prevail over those of any Customer or any party with whom the Company contracts, even if any applicable terms contain a clause similar in meaning and intention to this one.

4. OWNER'S RISK

- 4.1 All Services provided by the Company by or on behalf of or at the request of the Customer and/or the Owner, is provided at the sole risk of the Customer and/or Owner, and the Customer indemnifies the Company against any claim which might be brought against the Company, howsoever arising, whether in contract or delict or otherwise, by any Owner or any other third party.
- 4.2 The Company shall not be liable to any Customer or Owner for any loss or damage of whatsoever nature and, howsoever caused, whether by breach of contract, negligence, gross negligence or the intentional acts of the Company, its servants, agents or sub-contractors.
- 4.3 Notwithstanding any representations made by the Company regarding any times or delivery dates for performance by the Company, these times and delivery dates are estimates only, and it is agreed that insofar as the Company is concerned time shall not be of the essence and any delay in the Company performing any of its obligations will not entitle the Customer to cancel any contract or claim damages.

- 4.4 If the Company is prevented or restricted, whether directly or indirectly, from carrying out all or any of its obligations by force majeure or by any other reason beyond its control, the Company shall be relieved of performing its obligations for the period that such event continues and no liability whatsoever shall attach to the Company for any inability to perform. Force majeure includes, but is not limited to, any strike, lock-out, industrial dispute, fire, explosion, earthquake, storms, hail, flood, landslide, riot, unrest, act of God, legislation, regulation or ordinance, act or omission of any authority.
- 4.5 In the event that the Company is found liable to the Customer and/or owner, despite the operation of Clauses 4.1 to 4.4, then it is agreed that the Company's liability shall not exceed ZAR20 000.00 (Twenty Thousand South African Rands) for any one incident or occurrence, or the value of the Goods, or the reasonable cost of the repair of the damaged Goods, whichever is the lesser.
- 4.6 Any claim against the Company must be instituted within 6 (six) months after the cause of action arose, failing which the claim shall be deemed to have lapsed irrevocably.

5. **APPLICABLE LEGISLATION**

- 5.1 If the Company is obliged, in the execution of any of its duties and/or responsibilities to comply with any common law or legislative enactment ("the law") of any nature whatsoever, then the Company by so complying shall not be deemed to waive nor abandon any of its rights contained in these STC's.
- 5.2 In addition, in complying with the law, the Company shall not be deemed to have assumed any onus, obligation, responsibility or liability in favour of the Customer.

6. **COMPANY'S DISCRETION IN THE ABSENCE OF INSTRUCTIONS**

- In the absence of specific instructions given timeously in writing by the Customer to the Company -
- 6.1 it shall be in the reasonable discretion of the Company to decide at what time to perform or to procure the performance of any or all of the acts which may be necessary or requisite for the discharge of its obligations to the Customer;
- 6.2 the Company shall have an absolute discretion to determine the means and procedure to be followed by it in performing all or any of the acts or services it has agreed to perform.

7. **COMPANY'S GENERAL DISCRETION**

- 7.1 Notwithstanding anything to the contrary herein contained, if at any time the Company should consider it to be in the Customer's interests or for the public good to depart from any of the Customer's instructions, the Company shall be entitled to do so and shall not incur any liability in consequence of doing so.
- 7.2 If events or circumstances come to the attention of the Company, its agents, servants, or nominees which, in the opinion of the Company, make it in whole or in part, impossible or impracticable for the Company to comply with a Customer's instructions the Company shall take reasonable steps to inform such Customer of such events or circumstances and to seek further instructions. If such further instructions are not timeously received by the Company in writing, the Company shall, at its sole discretion, be entitled to detain, return, store, sell, abandon, or destroy all or part of the Goods concerned at the risk and expense of the Customer.

8. **INSURANCE**

- 8.1 The Company shall have no obligation whatsoever to obtain any form of insurance cover on behalf of the Customer in respect of the Goods.

9. **RECOVERY OF DEBTS DUE TO THE COMPANY**

- 9.1 The Company shall be entitled to recover any amounts due to it by the Customer in respect of instructions relating to or in terms of any contract in respect of particular Goods from the Customer, or if the Customer acts as agent for a disclosed or undisclosed principal from the Customer or the principal, as the Company in its absolute discretion deems fit.
- 9.2 The Customer agrees that in the event of the Company instituting legal proceedings against the Customer to recover amounts due in terms of any agreement or for breach of these STC's or for enforcement of any other obligations or for the recovery of damages owed by the Customer to the Company in terms of such agreement, the Customer shall be liable for all legal costs incurred by the Company, on the scale as between attorney and own client, as well as collection commission and tracing agent's fees.

10. COMPANY ENTITLED TO ACT AS AGENT OR PRINCIPAL IN CONTRACTING

- 10.1 Unless otherwise agreed in writing, the Company in procuring the Services shall be entitled to act either as an agent for and on behalf of the Customer or as a principal, as it in its absolute discretion deems fit.
- 10.2 The offer and acceptance of a fixed price for the accomplishment of any task shall not itself determine whether such task is to be arranged by the Company acting as agent for and on behalf of the Customer or as a principal.
- 10.3 The Customer acknowledges that when the Company, as agent for and on behalf of the Customer, concludes any contract with a third party, such agreement is concluded between the Customer and the third party.
- 10.4 Unless otherwise agreed in writing, the Company, when acting as agent for and on behalf of the Customer, shall be entitled to enter into any contract it reasonably deems necessary or requisite for the fulfilment of the Customer's instructions.

11. SUBCONTRACTING

- 11.1 Any business entrusted by the Customer to the Company may, in the absolute discretion of the Company, be fulfilled by the Company itself, by its own servants performing part or all of the relevant services, or by the Company employing, or entrusting the Goods or any services to third parties on such terms and conditions as may be stipulated by, or negotiated with, such third parties for the purposes of such services, or such part thereof as they may be employed to carry out.
- 11.2 Where the Company contracts with third parties to perform all or any of the functions which it has agreed to perform, the Customer agrees that the Company shall have no responsibility or liability to the Customer for any negligent, grossly negligent or intentional act or omission of such third party, even though the Company may be responsible for the payment of such third party's charges. Notwithstanding the foregoing, the Company may, at its election, cede any right of action which it may have against such third parties to the Customer upon demand, the Customer hereby indemnifying the Company against any loss, damage or expense which might arise from the Customer prosecuting such claims or right of action.

12. TERMS AND CONDITIONS OF AGENTS AND SUBCONTRACTORS

- 12.1 Notwithstanding anything to the contrary contained herein the Customer agrees that all Goods shall be dealt with by any third party appointed to perform any function in terms of Clause 11, on the terms and conditions, whether or not inconsistent with these STC's, stipulated by any such third party, and all other parties (whether acting as agents or subcontractors to the Company or otherwise) into whose possession or custody the Goods may pass, or subject to whose authority they may at any time be.
- 12.2 If, notwithstanding the provisions of 11.2, it should be held that the Company in any way retains any obligations or responsibilities with regard to the performance of the obligations by a third party, then to the extent that the terms and conditions stipulated by the third party or any other such party, impose a liability, obligation or responsibility on the Company, more onerous than those imposed by these STC's, then such provision shall not apply as between the Company and the Customer or owner and the provisions of these STC's and conditions shall have precedence. In all other instances the third party's terms and conditions shall apply

13. PAYMENT BY THE CUSTOMER

- 13.1 Unless otherwise specifically agreed by the Company in writing the Customer shall pay to the Company in cash immediately upon presentation of account all sums due to the Company without deduction or set-off and payments shall not be withheld or deferred on account of any claim or counterclaim which the Customer may allege.
- 13.2 Payment of all amounts due to the Company shall be made :
- 13.2.1 Free of exchange and any other charges at such address as the Company may require.
- 13.2.2 In such currency as the Company may direct.
- 13.2.3 Without demand on the due date of payment.
- 13.3 Any amount not paid on due date for payment shall bear interest at a rate of 2% (two percent) above the overdraft rate as charged by the Company's bank on unsecured overdraft at the date payment was due and calculated on a daily basis and compounded monthly in arrears.
- 13.4 All and any moneys received by the Company from the Customer shall be appropriated by the Company in its sole and absolute discretion in respect of any undisputed indebtedness owing by the Customer to the Company, notwithstanding that the Customer might, when making payment, seek to appropriate the payment so made to any particular debt or portion of a debt.
- 13.5 The Customer agrees that a certificate signed by a director of the Company, whose appointment need not be proved, showing the amount due and owing at any given time, shall constitute prima facie proof

of the facts therein stated and the balance owing for the purpose of all legal proceedings against the Customer for the recovery of the said amount.

- 13.6 In the event of the Company having granted any credit terms or facilities to the Customer in writing, which provide the Customer a deferred period of time to effect payment of any amount due to the Company, and in the event of the Customer being in default of payment of any one or more amount due and payable, or being in default of any other term or condition on which such credit facility was granted, then notwithstanding any other term to the contrary where-so-ever contained, the Company shall be entitled to immediately revoke such credit facilities and declare all amounts immediately due and payable and proceed for recovery of all amounts which would be due and payable to the Company, were it not for the credit terms or facilities granted to the Customer.

14. **DEBITING FEES AND DISBURSEMENTS**

The Company 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.

15. **RISK OF ITEMS POSTED OR ELECTRONICALLY TRANSMITTED**

- 15.1 Subject to the provisions of clause 31, and notwithstanding any prior dealings between the Company and the Customer all documents, cash, cheques, bank drafts or other remittances, sent to the Company through the post or electronically transmitted shall be deemed not to have been received by the Company unless and until they are actually received by the Company.
- 15.2 In the event that any payment to the Company is effected electronically, then the Customer bears the risk in respect of such payment until such time as the payment is received and cleared into the Company's bank account.

16. **QUOTATIONS & ESTIMATES**

- 16.1 All quotations or estimates given by the Company shall be valid for 7 (seven) calendar days and the company shall be entitled at any time by notice to the Customer to cancel, amend or resile from any quotation or estimate in circumstances where it becomes impracticable or uneconomical for the Company to carry out the contract at the quoted or estimated rate and the Customer shall have no claim of any nature whatsoever against the Company for any loss that the Customer might incur as a result of the Company cancelling, amending or resiling from the quotation or estimate.
- 16.2 Without in any way limiting the provisions of clause 16.1 all quotations, estimates and agreements are subject to revision without notice, having regard to changes in currency exchange rates and upward movements in amounts payable by or on behalf of, or at the instance of the Company to third parties, including, without limitation, surcharges, equipment rental and labour which charges and upward movements take place after quotation. Any revision of rates as aforesaid will be commensurate with the change in the currency exchange rate or the increase in such amounts payable. Any such increase shall, failing agreement between the parties, be determined by the then auditors of the Company or any other auditors nominated by the Company, who in such determination shall act as experts and not as arbitrators and whose decision shall be final and binding on the parties.
- 16.3 All orders placed by the Customer must be an official signed order form, and forwarded to the Company on placement of order.
- 16.4 Orders shall only become binding and constitute a valid enforceable contract with the Company upon receipt of the official order referred to above as well as confirmation from the Company of receipt of the order via e-mail or fax
- 16.5 All quotations are deemed confidential between the relevant parties and may not be distributed to any other third party without the prior written consent of the Company.

17. **SPECIAL CONDITIONS**

- 17.1 The risk in, and to all Goods, shall at all relevant times remain with the Customer;
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- 17.2 The Company does not and cannot guarantee/warrant that when providing the Services to the Customer that Aflatoxin levels in the Goods will be reduced and/or that Peroxide Value (PV) and/or Free Fatty Acid (FFA) values in the Goods will not increase and the Company merely undertakes to provide the Services in accordance with the Customer's reasonable instructions without providing any guarantee relating to the quality of the Goods.
- 17.3 In order to obviate any dispute between the Company and the Customer regarding the Services provided by the Company, the Customer or its representative shall be required to inspect the Goods upon delivery / collection in order to confirm that the Goods meet the Customer's specifications. Failure by the Customer or its representative to conduct such inspection and advise the Company

within 5 days of receipt of such Goods that the Goods do not meet the Customer's specifications shall disqualify the Customer from raising any exception relating to the specifications of the Goods and the Customer shall have no further right of recourse against the Company.

17.4

18. **NO CLAIMS AGAINST COMPANY DIRECTORS AND EMPLOYEES**

The Customer undertakes that no claim shall be made against any director, servant or employee of the Company which imposes or attempts to impose upon him any liability in connection with the rendering of any services which are the subject of these STC's and the Customer hereby waives all and any such claims.

19. **CUSTOMER'S ORAL INSTRUCTIONS**

The Customer's instructions to the Company shall be precise, clear and comprehensive and in particular, but without limitation, shall cover any valuation or determination issued by the Customer in respect of any Goods to be dealt with by or on behalf of or at the request of the Company. Instructions given by the Customer shall be recognised by the Company as valid only if timeously given specifically in relation to a particular matter in question. Oral instructions, standing or general instructions or instructions given late, even if received by the Company without comment, shall not in any way be binding upon the Company, but the Company may act thereupon in the exercise of its absolute discretion.

20. **VARIATION OF THESE STC's**

No variation or addition to, or alteration or waiver of these STC's shall be binding on the Company unless expressly recorded in writing and signed by a director of the Company. Any purported variation or alteration of these STC's otherwise than as set out above shall be of no force and effect, whether such purported variation or alteration is written or oral, or takes place before or after receipt of these STC's by the Customer.

21. **NON WAIVER**

No waiver of any of these STC's shall be binding or effectual for any purpose unless expressly recorded in writing and signed by or on behalf of the party giving that waiver. Any such waiver will be effective in a specific instance and for the purpose given. No failure or delay on the part of either party hereto in exercising any right, power or privilege hereunder will constitute or be deemed to be a waiver thereof, nor will any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

22. **GOVERNING LAW**

These STC's and all agreements entered into between the Company and the Customer pursuant thereto and on the terms thereof shall be governed in all respects by and shall be interpreted in accordance with the substantive laws of the Republic of South Africa, save for any provisions of those laws relating to choice of law which, but for this provision, would result in the application of any foreign law.

23. **SUBMISSION TO JURISDICTION**

The Parties irrevocably consent and submit to the jurisdiction of the South Gauteng High Court of South Africa in respect of any claim, legal action or proceedings arising out of or in connection with these STC's, or the granting of any credit, being the jurisdiction in which the Company's registered office is situated, and the Customer irrevocably submits to the non-exclusive jurisdiction of that court. The Company shall have the option within that jurisdiction, or any other competent jurisdiction, of proceeding either in the High Court or in a Magistrate's Court, notwithstanding that the amount of the claim may exceed the jurisdiction of that Magistrate's Court, to which jurisdiction the Customer hereby consents.

24. **LIEN**

24.1 All Goods and documents relating to any Goods, as well as all refunds, repayments, claims and other recoveries, shall be subject to a special and general lien or pledge either for moneys due in respect of such Goods or for any other moneys due to the Company by the Customer, if any.

24.2 In delivering the Goods into the custody of the Company 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 the Company at that time or which become payable in the future. In the event of the Company 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 the Company for purposes of exercising the Company's right to retention under lien and/or pledge.

- 24.3 If any moneys due to the Company are not paid within 14 days after notice has been given to the person from whom the moneys are due that such Goods are being detained, they may be sold by public auction or by private treaty or in some other way disposed of for value at the sole discretion of the Company and at the expense of such person, and the net proceeds (if any) applied in or towards satisfaction of such indebtedness.

25. **INDEMNITY BY THE CUSTOMER**

Without prejudice to any of the Company's rights and securities under these STC's, the Customer indemnifies and holds harmless the Company against all liabilities, damages, costs and expenses whatsoever incurred or suffered by the Company arising directly or indirectly from or in connection with the Customer's express or implied instructions or their implementation by or on behalf of or at the instance of the Company in relation to any Goods

26. **BREACH**

- 26.1 If the Company breaches any of these STC's or any agreement between it and the Customer and fails to remedy such breach within 30 days of the date of receipt of written notice requiring it to do so then the Customer shall be entitled to compel performance by the Company of the obligations it has defaulted in, but shall not be entitled to cancel these STC's or any agreement between the Customer and the Company.

26.2 No provision in these STC's shall derogate from the Company's common law rights in the event that the Customer breaches any term or condition of the agreement.

26.3 The Company shall be entitled to cancel any agreement between it and the Customer by written notice if –

26.3.1 The Customer commits any breach of its obligations under the agreement and fails to remedy that breach within 7 (seven) days of its being given written notice to do so;

26.3.2 The Customer commits any act of insolvency in terms of any applicable Insolvency Legislation;

26.3.3 The Customer is deemed to be unable to pay its debts in terms of any deeming provision of any applicable legislation relating to Companies or Insolvency;

26.3.4 The Customer compromises or attempts to compromise with its creditors ;

26.3.5 Any provisional or final order is granted for the sequestration, winding up, bankruptcy or judicial management, of the customer, or any equivalent order is made in terms of any applicable law with regard to the status of the Customer;

26.3.6 The Customer fails to satisfy any default or other judgement granted against it, within 10 (ten) days.

27. **WARRANTIES AND REPRESENTATIONS BY THE COMPANY**

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

28. **TIME FOR PERFORMANCE BY THE CUSTOMER**

Time is of the essence for the performance by the Customer of all obligations owed to the Company in terms of any agreement with it governed by these STC's.

29. **SEVERABILITY**

If any provision of these STC's is unenforceable, then the Company 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 STC's which shall not be affected and shall remain of full force and effect.

30. **NOTICES**

All notices in terms of these STC's shall be given in writing and delivered by hand or sent by telefax. The Customer appoints as his/her/its domicilium citandi et executandi for all purposes under these STC's its physical address and telefax number provided by the Customer to the Company on any letterhead, order or other document generated or completed by the Customer.

31. **SPECIAL CONDITIONS RELATED TO ELECTRONIC DATA**

- 31.1 Notwithstanding the provisions of any legislation or other law regulating electronic communications and transactions, the Company shall only be deemed to have received electronic data and/or messages when such electronic data and/or messages have been retrieved, processed and read by the addressee.
- 31.2 Under no circumstances whatsoever and howsoever arising (including negligence on the part of the Company or its employees) shall the Company be liable for any loss or damage arising from or consequent upon the provision by the Company to the Customer in whatever manner and/or form, of incorrect information, including electronically communicated information or data, where such incorrect information or data has been generated by and provided to the Company by any person with whom the Company conducts business, and/or any other third party.
- 31.3 The Company shall furthermore under no circumstances whatsoever be liable for any loss or damage arising from or consequent upon any failure and/or malfunction, for whatever reason, and regardless of negligence in whatever degree on the part of the Company, of the Company's computer systems and/or software programmes, provided and/or operated by the Company and/or by any person with whom the Company conducts business, and/or any third party, and which systems shall include the Company's electronic automated information service provided to its Customers.