

I. DEFINITIONS

- I.1 For the purposes of these contractual terms, unless inconsistent with the context, the following words shall have the following meaning: "the/these Contractual terms" - these Standard Terms of contract
- "The Customer" - any person or persons at whose request or on whose behalf or for whom PentaFloor undertakes any business, or provides any advice, information or services, whether gratuitously or not
- "The Goods" - any goods of any nature whatsoever in respect of which PentaFloor provides goods or services, and includes without limitation, any container, flat pallet, package or any other form of covering, packaging container or equipment used in connection with or in relation to such goods
- "The Services" - Any services of any nature whatsoever that PentaFloor performs or may be required to perform for and on behalf of a customer, including without limitation, the handling, transportation, warehousing, storage and dispatch of Goods, together with any advice or information given in respect thereof, whether gratuitously or not
- 1.2 The head notes to the clauses of these contractual terms are inserted for reference purposes only and shall in no way govern or affect the interpretation of these contractual terms.
- 1.3 Unless inconsistent with the context, an expression which denotes:
- 1.3.1 any gender includes the other genders
- 1.3.2 a natural person includes an artificial person or vice versa
- 1.3.3 the singular includes the plural and vice versa
- 1.4 If any provision in a definition is a substantive provision conferring rights or imposing obligations on any party, notwithstanding that it is only in the interpretation clause, effect shall be given to it as if it were a substantive provision of this agreement
- 1.5 Where any term is defined within the context of any particular clause in these contractual terms, the terms so defined, unless it is clear from the clause in question that the term so defined has limited application to the relevant clause, shall bear the meaning ascribed to it for all purposes in these contractual terms, not withstanding that the term has not been defined in this interpretation clause.

2. APPLICABILITY

All and any business undertaken by PentaFloor including without limitation in connection with the supply of goods and the provision of services is and shall be subject to the terms contained in these contractual terms, which shall apply to the exclusion of any other terms and conditions (including without any limitation any other general or standard trading terms and conditions of the customer) unless otherwise specifically agreed to in writing by PentaFloor

3. STATUS OF PENTAFLOOR AND THE CUSTOMER

- 3.1 Every customer contracting with PentaFloor to provide goods or services shall be deemed to do so in every respect not only on its own behalf (as principal) but also as agent on behalf of every person owning or otherwise interested at any time in any goods that are the subject of the services in question
- 3.2 Every customer warrants that it has the authority to contract with PentaFloor either as owner of the goods in question, or as the authorised agent of the persons referred to in clause 3.1.
- 3.3 If the customer is an agent acting on behalf of a principal, PentaFloor may, at its sole discretion, claim performance and/or payment, from both the agent and the principal, or any one of them.

4. GENERAL ACKNOWLEDGEMENTS BY AND OBLIGATIONS OF THE CUSTOMER

The customer agrees and acknowledges that:

- 4.1 PentaFloor shall be entitled to undertake such credit reference checks on the customer and the customer's members, directors or shareholders with such persons or parties (including without limitation the customer's bankers and any credit bureau) as PentaFloor may reasonably require from time to time;
- 4.2 PentaFloor shall be entitled to have access to such information as it may reasonably require in order to assess the ability of the customer to pay any amounts due to PentaFloor and the customer should allow and procure that PentaFloor obtain such access
- 4.3 PentaFloor may at any time and for any reason whatsoever immediately withdraw all and any credit facilities extended to the customer and claim forthwith from the customer the full outstanding balance due and payable in terms of such facility;
- 4.4 In the event that it fails to effect payment of any amount whatsoever due to PentaFloor in terms of this agreement by the due date for such payment, PentaFloor shall at any time be entitled to call upon and the customer shall be obliged to immediately furnish PentaFloor with copies of the customer's business management accounts and annual financial statements over such period as PentaFloor may require.
- 4.5 It hereby subordinates all and any of its claims on loan account that it currently has, or may in future have from time to time, against any of its subsidiaries in favour of PentaFloor and shall ensure that such claims remain subordinated whilst any amounts are due, owing and payable by the customer to PentaFloor from any cause whatsoever.
- 4.6 it shall ensure, where relevant, that the goods bear all proper marks and labels to facilitate easy identification so as to enable PentaFloor to perform the services;
- 4.7 it shall ensure that the goods are fit for the safe and proper execution of the services

5. CHARGES AND PAYMENT

- 5.1 PentaFloor shall be remunerated by the customer in accordance with the rates or charges according to the listed for agreed upon in writing prices
- 5.2 Unless otherwise agreed in writing, all sums shall be paid to PentaFloor without set-off or deduction in cash on the date of invoice.
- 5.3 All payments by the customer should be made to PentaFloor at its principal place of business or into such bank or bank accounts as PentaFloor may specify and shall be made without deduction or demand and payment shall not be withheld or deferred on account of any counterclaim or set-off.
- 5.4 PentaFloor does not accept risk for any cheques sent to it by post and payment of any amount due to PentaFloor which has been forwarded to it by cheque shall be deemed to have been made only when such cheque has deposited into PentaFloor bank account and the cheque cleared.
- 5.5 An amount not paid on due date shall, at the discretion of PentaFloor bear interest from the due date until it is paid, at the maximum permissible rate allowed in terms of the South African law, in respect of the amount in question.
- 5.6 A certificate purporting to be signed by a manager of a bank which describes itself as PentaFloor principal bankers, setting out the prime bank overdraft rate and the date and extent of any changes thereto, shall be prima facie of its contents.
- 5.7 The customer must inform PentaFloor of any dispute relating to any invoice within 14 (FOURTEEN) days after the date of invoice setting out

clearly the areas and issues of dispute, failing which the invoices shall be deemed to be correct in all respects. The parties undertake to use their best endeavours to resolve any such disputes within 30 working days after the date of the invoice in question

- 5.8 Any estimate given shall be on the basis of immediate acceptance and shall be subject to withdrawal or revision by PentaFloor. Further, unless otherwise agreed in writing, PentaFloor shall notwithstanding acceptance, be at liberty to revise estimates or charges (with or without notice) in the event of changes occurring in currency exchange rates, rates of freight, surcharges, insurance premiums, equipment rental rates, labour rates and any other charges previously offered by shipping lines, Airlines, Port Authorities, Governmental Authorities or their subsidiaries, and this shall further more include any charges made to taxes, duties, VAT, or withdrawal of rebate facilities by the South African Revenue Services, including customs and excise and the department of Trade and Industry. Such changes could take place without any prior notice to PentaFloor and could therefore affect actual disbursement costs. PentaFloor is

obliged to pay such amounts to any of the afore-mentioned bodies, therefore PentaFloor shall remain indemnified against all such changes and amounts, meaning that the customer shall remain responsible for such and agrees to pay such amounts as invoiced by us to them.

- 5.9 The company is entitled to the benefit of any such discounts obtained and to retain and be paid all brokerages, commissions, allowances and other remunerations of whatsoever nature and kind and shall not be obliged to disclose or account to the Customer, or any other party for such benefit or remuneration received by it.

6. PACKING

- 6.1 If PentaFloor agrees to undertake the packing of the Goods into any container or the packaging or unitization of the Goods for any purpose, such packaging or unitization shall be undertaken at the sole risk and expense of the Customer. The Customer shall provide PentaFloor with full packing and labeling instructions in writing, including but not limited to any requirements as to the internal or other securing, mass distribution, maximum aggregate mass restrictions, labeling, temperature control or other restrictions, information as to the properties of the Goods any noxious or other possible hazards or dangerous properties they might possess.

7. TRANSPORT DOCUMENTS

PentaFloor may issue in respect of the whole or any contract for the movement of Goods, a combined transport document or bill of lading in a form that shall be within PentaFloor discretion, a consignment or delivery note.

8. DISCRETION IN THE ABSENCE OF INSTRUCTION

In the absence of specific instruction given timeously in writing by the Customer to PentaFloor.

- 8.1.1 It shall be in the sole discretion of PentaFloor to decide at what time to perform or to procure the performances of any or all of the acts which may be necessary for the discharge of its obligations to the Customer.
- 8.1.2 PentaFloor shall have the sole discretion to determine the means, route and procedure to be followed by it in performing all or any of the acts or Services it has agreed to perform; and
- 8.1.3 In all cases where there is a choice of tariff rates or premiums offered by any carrier, warehouseman, underwriter or any other person depending on the declared value of the relevant Goods or the extent of the liability assumed by the carrier, warehouseman, underwriter or any person, it shall be in the sole discretion of PentaFloor as to what declaration, if any, shall be imposed on the carrier, warehousemen, underwriter or any other person.

9. CESSION IN SECURITATEM DEBITI

- 9.1 As security for the due fulfilment (including without limitation, payment) by the Customer to PentaFloor of all its obligation arising from any cause whatsoever, the Customer cedes to PentaFloor in securitatem debiti all its rights title and interest in and to any money held by PentaFloor on behalf of the Customer, and any claims the Customer has against the Receiver of Revenue for a refund of Value Added Tax which have or may in the future accrue to it from time to time.
- 9.2 The cession shall terminate only on the payment in full to PentaFloor of all amounts owing from any cause whatsoever.
- 9.3 The Customer shall deliver to PentaFloor upon demand all documents necessary to perfect cession.

10. TIME NOT OF THE ESSENCE

- 10.1 Although PentaFloor will make an effort to render the Services within any time stated, such stated time is approximate only and shall not be a material term. It is also subject to the Customer timeously providing any instruction or information to enable PentaFloor to carry out its obligations.
- 10.2 Unless otherwise agreed in writing, all Services to be rendered will be executed by PentaFloor during normal working hours.
- 10.3 PentaFloor will not be liable for any delay in the delivery of goods no matter what the cause of that delay.

11 RECEIPT OF GOODS, DELIVERY AND RISK

- 11.1 Unless otherwise agreed in writing, the Customer shall delivery of the Goods to, or take delivery of the Goods from such place as may be stipulated by PentaFloor.
- 11.2 if PentaFloor agrees to accept delivery of, or to deliver the Goods to any other place then the following provisions will apply:
- 11.2.1 the Customer will be liable for all the costs of delivery and shall pay such costs to PentaFloor on invoice;
- 11.2.2 PentaFloor may, acting as the Customers agent, arrange for someone to deliver the Goods to or for the Customer ("the carrier") on such term as PentaFloor decides, and the Customer will be liable for all the carrier's charges;
- 11.2.3 PentaFloor may effect delivery and the Customer shall accept delivery of the Goods in installments;
- 11.2.4 if it is apparent to PentaFloor that on receipt of the Goods by PentaFloor, they are damaged or defective, PentaFloor shall advise the Customer in writing and shall provide reasonable assistance (at the cost of the Customer) to the Customer to enable the Customer to enable the Customer to make any claim (whether for insurance or otherwise) which the Customer consider necessary.
- 11.2.5 If the Customer does not take delivery of the Goods from PentaFloor or the carrier at the agreed time or place, PentaFloor may charge Customer for all expenses incurred by PentaFloor in attempting to make delivery.
- 11.3 Where the Customer provides the vehicle or rail truck, PentaFloor shall not be responsible for the suitability of the vehicle or rail truck to transport the Goods properly or safely, or at all.
- 11.4 Where the Customer provides any container or any other transportation units, PentaFloor shall not be responsible for the suitability of that container or other transportation units to carry or transport the Goods properly or safely, or at all.
- 11.5 Where the Goods are in bulk or in a break bulk, PentaFloor will make reasonable efforts to maximus the quantity of the Goods to be loaded onto or into vehicle. rail truck, container or other unit. Accordingly, PentaFloor shall not be liable or responsible to the Customer for any inability to fit the requested quantity of the Goods into the vehicles, rail trucks, containers or other transport units.

12 GOODS INFORMATION

- 12.1 The Customer shall provide to PentaFloor such particulars of the Goods, including weights, measurements, characteristics and description as PentaFloor may reasonably require for the purpose of providing and performing the services. The Customer guarantees and PentaFloor shall at all times be entitled to rely upon all particulars and information furnished in terms of this clause. Without limiting the foregoing the Customer grantees to PentaFloor the accuracy of all marks, measurements, numbers and weights any other information given, reflected in or shown on any documentation relating to the Goods to the Goods, including but not limited to packing lists, invoice, bills of landing, way bills of lading, waybills, waybills, customs and revenue service documents.
- 12.2 Unless otherwise agreed in writing by PentaFloor the Goods shall be handled at the Customer risk and the Customer hereby indemnifies PentaFloor against any claim, loss or damage faced or suffered by it as a result of any breach of this clause 12.

13. HAZARDOUS OR DANGEROUS GOODS

- 13.1 PentaFloor will not be obliged to provide any Services in respect of Goods which are hazardous, dangerous, noxious or liable or cause injury or damage to any person, Goods or property whatsoever (including without limitation those likely to harbor or encourage vermin or other pests) (" Dangerous Goods"), unless it agrees to do so.
- 13.2 if Services are provided in respect of Dangerous Goods, whether with or without the knowledge or express consent of PentaFloor, the Customer indemnifies PentaFloor against all loss or damage suffered by PentaFloor, or any thitd party, caused by or as a result of the presence of, any Dangerous Goods.
- 13.3 PentaFloor may at its discretion remove, sell destroy or otherwise dispose of any Dangerous Goods received by it or under PentaFloor control whether with or without its knowledge or express consent. PentaFloor will not liable in any way to the Customer or any other party for compensation or the value thereof.
- 13.4 The Dangerous Goods or the container, package or other covering in which the Dangerous Goods are to be tendered to PentaFloor or its agents shall be prominently marked on the outside so as to indicate the nature and the character of the Goods. Such markings must comply with internationally and locally accepted practices as well as all applicable laws, regulation or requirements.

17. CONTRACTING AS AGENT

- 17.1 The Customer acknowledge that PentaFloor itself will not always provide, perform or carry out the Services, which may be performed by the third parties. The Customer authorizes PentaFloor to act its agent in contracting with such third parties for the provision or performance of the services. The Customer acknowledges that such contracts shall bind the Customer to the third party and be on such terms as PentaFloor considers reasonable.
- 17.2 PentaFloor shall have no liability af any nature whatsoever to the customer for the performance by the third parties of their obligations to the Customer in respect of the services.

18. CLAIMS / LIMITATION OF LIABILITY

- 18.1 PentaFloor shall not be liable to the Customer for any loss or damage of any nature whatsoever, whether actual, prospective or contingent, Other than in terms of this clause 18.
- 18.2 PentaFloor shall not be liable to the Customer for any loss or damage however caused and of any nature whatsoever, nor the death nor injury to any person, unless the Customer or the party who suffer such loss, damage, death or injury arose from the gross negligence of PentaFloor.
- 18.3 In any event, and notwithstanding clause 18.2, PentaFloor shall not be liable for any consequential loss, special damages, or loss of profits.
- 18.4 if PentaFloor is liable to the customer in terms of clause18.2, then notwithstanding anything to the contrary contained in these Contractual Terms or otherwise, PentaFloor liability, whosoever arising, within contract or in delict, in connection with the services or goods shall not be exceed the lower of:
- 18.4.1 the value of the goods evidenced by the relevent documentation.
- 18.4.2 the value of the Goods declared for insurance purposes;
- 18.4.3 the amount of the fees raised by PentaFloor for the Services in connection with the Goods, but excluding any amount payable to sub-contractors,agents and third parties.
- 18.5 The Customer must give PentaFloor immediate notice of any occurrence giving rise loss, damage, injury or death.
- 18.6 The Customer shall have no claim against PentaFloor and PentaFloor shall be discharged from all liability unless legal proceeding are commenced against it within one year of the date of the occurrence giving rise to the claim. The Customer must give PentaFloor immediate notice of any occurrence giving rise to any loss, damage, injury or death.

19. INDEMNITY

The Customer indemnifies PentaFloor and holds it harmless, against all and any claims, loss, damages or liability of whatsoever nature and howsoever arising, which may at any time be suffered or incurred or made against PentaFloor, and whether in contract or delict, in respect of loss, damage or injury, howsoever caused, including without limiting the generality hereof, the negligence of PentaFloor in relation to or directly or indirectly arising from or connected with Goods owned by the Customer or any owner or consignee of the Goods who is not the Customer and, delivered to PentaFloor, including but not limited to, any claims made by the South African Revenue Service Customer and Excise and other lawful authority.

20. FRUSTRATION OF PERFORMANCES BY MATTERS BEYOND PENTAFLOOR CONTROL

20.1 if any performance by PentaFloor is prevented or delayed by the closure of a port, strikes, lock-outs, shortened working hours, shortage of labour or materials, delays in transport, accidents of any kind, any default or delay by any sub-contractor of PentaFloor, war, political or civil disturbances, the elements or any other cause whatsoever beyond PentaFloor control, then shall have the election either:

20.1.1 to cancel the contract relating to the performance in question: or

20.1.2 subject to clause 20.1, to extend the time for performance until the cause preventing or delaying performance ceases to apply.

20.2 if PentaFloor elects to extend the time for performance in terms of clause 20.1.2, the Customer shall be entitled to cancel the contract if PentaFloor does not commence or recommence performance within a period of 30 days following the original date of prevention or delay of performance, by giving written notice to the effect to PentaFloor.

21. LIEN

21.1 PentaFloor will have a lien on all Goods, Freight money and documents, including but not limited bills of Lading, sea waybills and import permits, in its possession or under its control for any amount owing to it by the Customer (whether or not such amounts relate to such Goods, freight, money or documents). If the Customer is in breach of these Contractual Terms or any other agreement with PentaFloor, PentaFloor shall have the right to sell, without notice to the Customer, the whole or any part of the Goods, either by public auction or by private treaty and to apply the proceeds of such sale, after deducting all expenses thereof, in payment towards any sum due to PentaFloor by the Customer.

21.2 Any surplus will be paid over to the Customer, within 90 days after such sale or, in the event of PentaFloor being unaware of the whereabouts or address of the Customer, on application of the Customer.

21.3 Where PentaFloor has, in accordance with the provision of clause 21.1, sold only a part of the Goods stored and the proceeds of such sale are sufficient to pay to PentaFloor all monies due to it by the Customer up to date thereof, the Customer will be entitled to take delivery of the remainder. PentaFloor will have the right to charge for the storage of any of the Goods forming part of such remainder of which delivery is not taken by the customer, in accordance with the other provisions of these Contractual Terms and, without notice to the Customer, to recover any such remuneration in accordance with the provisions of the clause

21.1 which will apply mutatis.

21.4 The exercise by PentaFloor of any of the rights accorded to it by this clause 21 will be without prejudice to any other rights it may have under this agreement or at common law in respect of the non-payment by the Customer of PentaFloor remuneration.

22. SHRINKAGE

The Customer acknowledges that in the nature of performing the services there may inevitably be a loss of or to the Goods. Subject always to the provision of clause 18, PentaFloor shall in any event not be liable for any loss of the Goods, which is less than 5% of the value of the Goods in respect of which Services are rendered by PentaFloor.

23. CANCELLATION

23.1 In addition to any other rights it may have, PentaFloor may cancel any or all of its contracts with Customer if the Customer:

23.1.1 is, other than for the purpose of reconstruction or amalgamation, placed under voluntary or compulsory liquidation or under judicial management or under receivership or under any of the equivalent of any of the foregoing;

23.1.2 has a final unappealable judgment made against it and allows it to remain unsatisfied for of 21 (TWENTY-ONE) days or

23.1.3 make any arrangement or composition with its creditors generally or ceases or ceases or threatens to cease to carry on business;

23.1.4 commits a breach of any of terms hereof and remains in default for a period of 10 (Ten) days after receipt by it of written notice from PentaFloor calling for such breach to be remedied.

23.2 As soon as a contract between PentaFloor and the Customer is cancelled pursuant to clause 23.1, all amounts owing in terms of that contract will immediately become due and payable.

23.3 Any termination pursuant to the preceding provisions of this clause 23 shall be without prejudice to any other rights of any nature whatsoever that PentaFloor may have in terms of these Contractual Terms.

24. CONFIDENTIALITY

Both PentaFloor and customer will keep confidential and not disclose to any other party the contents of this agreement or any information arising in connection with this agreement at any time during or after the terms of this agreement, unless it has the other parties' written consent to do so.

25. THIRD PARTIES TO BENEFIT

The immunities, indemnities, rights and limitations of liability both as to cause and amount enjoyed by PentaFloor in terms of these contractual Terms, shall extend and apply to PentaFloor servants, agents and sub-contractors acting within the course and scope of their employment as such, and this regard these Contractual Terms will operate as a contract for their benefit and shall be capable of acceptance by them at any time and whether before or after any cause of action may have arisen.

26. NOTICE ADDRESS AND DOMICILIUM

26.1 The customer chooses as the addresses at which all notices and legal process for all purposes of and in connection with the supply of Goods and provision of Services may be sent (i.e. its domicilium citandi et executandi) the addresses set out in any credit Application signed for or on its behalf.

26.2 The Customer may change its notice address or domicilium from time to time, provided that any new domicilium selected by it shall be an address other than a box number in the republic of South Africa, and any such changes shall only be effective upon receipt of notice in writing by PentaFloor of such change.

26.3 All notices, demands, communications or payments intended for the Customer may be made or given at such party's notice address or domicilium for the time being.

26.4 A notice sent by PentaFloor to the customer shall be deemed to be received:

26.4.1 on the same day, if delivered by hand;

26.4.2 on the same day after posting, if sent by prepaid registered mail.

26.5 Notwithstanding anything to the contrary herein contained a written notice or communication actually received by the Customer shall be an adequate written notice or communication to it notwithstanding that it was not sent to or delivered at its chosen domicilium citandi et executandi.

27. GENERAL

- 27.1 This agreement constitutes the sole record of the agreement between the parties in regards to the subject at matter thereof.
- 27.2 No party shall be bound by any express or implied term, representation, warranty, promise or the like, not recorded herein.
- 27.3 No addition to, variation or consensual cancellation of this agreement shall be of any force or effect unless in writing and signed by or on behalf of all the parties.
- 27.4 No indulgence which any of the parties("the grantor") may grant to any other of them(" the grantees(s)") shall constitute a waiver of any of the rights of grantor, who shall not thereby be precluded from exercising any rights against the grantee(s) which might arise in the past or which might arise in the future.
The parties undertake at all time to do all such things to perform all such acts and to take all such steps and to procure the doing of all such things. the performance of all such action and the taking of all such steps as may be open to them and necessary for or incidental to the putting into effect of maintenance of the terms, conditions and import of this agreement.
- 27.5 PentaFloor shall be entitled, but not obliged, to institute any legal proceedings of any nature whatsoever under the Republic of SA, Johannesburg High Court. Any costs, including attorney and own clients costs, incurred by PentaFloor arising out of the failure by the Customer to fulfil its obligations under these Contractual Terms shall be borne by the Customer.
- 27.6 Save as provided for in these Contractual Terms, no party shall be entitled to cede, assign or otherwise transfer all or any of its rights, interest or obligations under and in terms of this agreement except with the prior written consent of the other parties.
- 27.7 Notwithstanding the provisions of any legislation or other law regulating electronic communications and translations, PentaFloor shall only be deemed to have received electronic data and/or message have been retrieved, processed and read by the addressee. Under no circumstances whatsoever and howsoever arising (including negligence on the part of PentaFloor or it's employees) shall PentaFloor be liable for ant loss or damage arising from or consequent upon the provision by PentaFloor to the Customer in whatever manner and/or form, of incorrect information, including electronically communicated information or data, where such incorrect or data has been generated by a provided to PentaFloor by any person with whom PentaFloor conducts business, an/or any other party. PentaFloor 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 or part of PentaFloor, of PentaFloor's Computer systems and/or software programers, provided and/or operate by PentaFloor and/or by any person with whom PentaFloor conducts business, and/or any 3rd party, and which systems shall include, but not be limited to, PentaFloor's suite of packages electronic automated information services to it's Customers.
- 27.8 This agreement shall be interpreted and implemented in accordance with the law of Republic of South Africa.