



ABACUS SPACE SOLUTIONS STANDARD CONDITIONS OF ERECTION AND HIRE

**ABACUS SPACE SOLUTIONS
(A Division of WACO AFRICA (PROPRIETARY) LIMITED)**

**GENERAL TERMS OF CONTRACT OF ERECTION AND HIRE
(INCORPORATION A SURETYSHIP)**

1. INTERPRETATION AND DEFINITIONS

- 1.1 In these General Terms of Contract of Erection and Hire and all annexes hereto:
 - 1.1.1 clause headings are for the purpose of convenience and reference only and shall not be used in the interpretation thereof, nor modify or amplify any of its provisions;
 - 1.1.2 a reference to:
 - 1.1.2.1 any particular gender shall include the other two genders;
 - 1.1.2.2 the singular shall include the plural and vice versa;
 - 1.1.2.3 a natural person shall include a juristic person whether a corporate or unincorporate created entity and vice versa;
 - 1.1.3 unless otherwise expressly stated or implied, where the day upon or by which any act is required to be performed is a Saturday, Sunday or public holiday in the Republic of South Africa, the parties shall be deemed to have intended such act to be performed on or by the first day thereafter which is not a Saturday, Sunday or public holiday;
 - 1.1.4 where an expression has been defined (whether in 1.2 below or elsewhere in these General Terms of Contract of Erection and Hire) and such definition contains a provision conferring the right or imposing an obligation on any party, then notwithstanding that it is contained only in a definition, effect shall be given to that provision as if it were a substantive provision contained in the body of these General Terms of Contract of Erection and Hire;
 - 1.1.5 if figures are referred to in numerals and words, the words shall prevail in the event of any conflict between the two;
 - 1.1.6 unless specifically provided to the contrary, all amounts referred to in any of the Schedules as amplified by these General Terms of Contract of Erection and Hire are exclusive of Value Added Tax;
- 1.2 In these General Terms of Contract of Erection and Hire, unless the context indicates a contrary intention, the following words and expressions shall bear the meanings assigned to them hereunder and cognate words and expressions shall bear corresponding meanings:
 - 1.2.1 "Abacus" – means Abacus Space Solutions, a division of Waco Africa (Proprietary) Limited, (Registration Number: 2005/038286/07);
 - 1.2.2 "Contract of Erection and Hire" – a contract of erection and hire concluded between the Parties, comprising of these General Terms of Contract of Erection and Hire, the Customer Details Annex, the Special Terms of Contract and the relevant Schedule/s applicable to the Works and the Hired Goods in question;

- 1.2.3 "Customer" - means the Party detailed in the Customer Details Annex for whom the Works are to be performed and by whom the Hired Goods are to be hired in terms of the Contract of Erection and Hire;
- 1.2.4 "Customer Details Annex" – means annex "A" hereto, setting out full particulars of the Customer, including, inter alia, in terms of name, registration number, postal, physical and domicilium addresses, telephone and fax numbers and responsible person authorised to bind the Customer;
- 1.2.5 "Date of Practical Completion" – means the date of completion by Abacus of the Works in accordance with the Specifications, as determined by Abacus in its sole discretion and notified to the Customer in writing;
- 1.2.6 "Erection Price" – means the price payable by the Customer to Abacus for the performance of the Works in question, detailed in the relevant Schedule;
- 1.2.7 "the/these General Terms of Contract of Erection and Hire" – means the general terms and conditions contained in this document to which General Terms of Contract of Erection and Hire the performance of the Works and the hire of the Hired Goods are subject;
- 1.2.8 "the Hired Goods" – means the modular buildings and all appurtenances and installations contained therein together with any other movable property described in the relevant Schedule, to be erected and/or installed by Abacus at the Premises on the basis that same shall be hired by the Customer, a full description and the serial numbers of which shall be set out in the relevant Schedule/s in respect thereof;
- 1.2.9 "Hire Consideration" – means the rental payable by the Customer to Abacus per month for the hire of the Hired Goods in question, as detailed in the relevant Schedule;
- 1.2.10 "Hire Period" - means the period during which the Hired Goods are hired by the Customer from Abacus in terms of a Contract of Erection and Hire, commencing on the Date of Practical Completion in respect thereof and termination on the date upon which such Hired Goods are removed from the Premises by Abacus;
- 1.2.11 "Minimum Hire Period" – means the minimum period from which Hired Goods shall be required to be hired by the Customer, which minimum period shall be as set out in the Schedule relating to the hire of the Hired Goods in question;
- 1.2.12 "Parties" – collectively, Abacus and the Customer, and "Party" shall mean either one of them as the context requires;
- 1.2.13 "the Premises" – the premises of the Customer at which the relevant Works are to be performed, the particulars of which are set out in the relevant Schedule;
- 1.2.14 "The Prime Rate" – the prime bank overdraft rate of interest as charged and calculated by Standard Bank of South Africa to its corporate customers in respect of overdraft facilities from time to time, compounded monthly in arrears, as certified by an official of that bank whose appointment it shall not be necessary to prove;
- 1.2.15 "the Schedule/s" – the schedule/s attached and to be attached from time to time to the Contract of Erection and Hire, each Schedule of which shall set out a detailed description of the Works and the Hired Goods forming the subject matter of the relevant Contract of Erection and Hire, the serial numbers of the such Hired Goods, the Specifications of such Works and such Hired Goods; the Premises at which such Works are to be performed, the Minimum Hire Period in respect of such hired Goods, the Erection Price

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relevant to the performance of such Works, the Hire Consideration relevant to such Hired Goods and the annual rate of escalation of such Hire Consideration and such other particulars as may be relevant to the particular Contract of Erection and Hire;

- 1.2.16 "Special Terms of Contract" – means the special terms and conditions contained in annex "B" hereto, as amended from time to time by the Parties in writing, to which special terms and conditions the performance of all Works is subject;
- 1.2.17 "Specifications" – means the detailed specifications and plans relating to the Works and Hired Goods in question;
- 1.2.18 "the Works" – means the erection/installation by Abacus of the Hired Goods in question at the Premises in accordance with the Specifications.

2. SEPARATE CONTRACTS

- 2.1 A separate Contract of Erection and Hire shall be concluded between Abacus and the Customer in relation to the erection of each Modular Building comprising Hired Goods and the subsequent hire of such Modular Building.
- 2.2 Each separate Contract of Erection and Hire concluded between Abacus and the Customer shall comprise of these General Terms of Erection and Hire, the Customer's details set out in annex "A" hereto, the Special Terms of Erection attached hereto as annex "B" and a Schedule/s applicable to the Works and the Hired Goods forming the subject matter of such Contract of Erection and Hire, unless any one of these documents is specifically excluded or amended by the Parties, such exclusion or amendment to be recorded in writing and signed by the Parties.
- 2.3 Unless otherwise specifically stipulated and agreed upon in writing to the contrary by Abacus, these General Terms of Contract of Erection and Hire read with the Special Terms of Erection shall supersede and prevail over any terms and conditions contained in any documents submitted by the Customer.
- 2.4 In the event of any conflict between the provisions of these General Terms of Contract of Erection and Hire and the provisions of any of the other documents referred to herein and/or annexed hereto, the provisions of such other documents shall prevail.

3. PERFORMANCE OF THE WORKS AND HIRE OF THE HIRED GOODS

- 3.1 Abacus is hereby contracted by the Customer to:
 - 3.1.1 carry out, perform and complete the Works referred to in each Contract of Erection and Hire in accordance with the provisions thereof in exchange for payment of the Erection Price referred to therein; and
 - 3.1.2 hire to the Customer the Hired Goods referred to in each Contract of Erection and Hire in accordance with the provisions thereof in exchange for payment of the Hire Consideration referred to therein.

4. QUOTATIONS AND CONCLUSION OF CONTRACTS OF ERECTION AND HIRE

- 4.1 All new customers who have not previously concluded a Contract of Erection and Hire shall be required to complete a Customer Details Annex in writing prior to requesting that Abacus furnishes a quotation, it being recorded and agreed that such Customer Details Annex shall, unless subsequently amended in writing by the Customer and signed by Abacus, constitute annex "A" to all Contracts of Erection and Hire subsequently concluded by such Customer with Abacus.
- 4.2 All quotations furnished by Abacus to the Customer for the performance of Works and the hire of Hired Goods shall be in writing and in the form of the Schedule described above and shall be subject to the provisions of these General Terms of Contract of Erection and Hire read with the Special Terms

of Contract, and shall be valid for a period of 30 (thirty) days from the date of issue thereof. All such quotations shall remain subject to Abacus having sufficient labour, Hired Goods and transport available in order that Abacus may commence the Works referred to therein within a period of 3 (three) months from the date of receipt by it of the Customer's written order for the performance of the Works and the hire of the Hired Goods detailed therein.

- 4.3 The Customer shall be required to submit a written order for the performance of the Works and the hire of the Hired Goods detailed in a quotation, which written order shall include a signed copy of the Schedule comprising the relevant Quotation.
- 4.4 Upon receipt of the Customer's written order referred to in 4.3 above, Abacus shall notify the Customer in writing of the date upon which it estimates that it shall commence with the performance of the works. No Hired Goods or services will be supplied without an official written order for the performance of the Works and the hire of the Hired Goods detailed therein.

5. COMMENCEMENT AND DURATION

The period for which Hired Goods shall be hired by the Customer pursuant to a Contract of Erection and Hire shall commence on the Date of Practical Completion of the Works relation to such Hired Goods and shall continue for the Minimum Hire Period thereafter, whereafter either Party shall be entitled to give to the other Party not less than 2 (two) calendar months' written notice of termination of the hire of such Hired Goods. It is expressly agreed that neither the Customer nor any person on its behalf will, at any stage during the Hire Period or thereafter, acquire ownership of the Hired Goods and after termination of the Contract of Erection and Hire in question, will not retain possession, use or enjoyment of such Hired Goods, in pursuance of the provisions hereof. Ownership of all Hired Goods shall at all times continue to vest in Abacus.

6. HIRE CONSIDERATION AND PAYMENTS

- 6.1 The monthly rental payable by the Customer to Abacus for the hire of the Hired Goods during the Hire Period shall be the amount of the Hire Consideration applicable to such Hired Goods, together with Value Added Tax thereon calculated at the prevailing rate, which amounts shall be payable monthly in advance, without deduction or set off, on the first day of each calendar month falling within the Hire Period, provided that the Hire Consideration in respect of the first month or part thereof shall become due and payable by the Customer on the Date of Practical Completion, regard being had to the provisions of 6.2, 6.5 and 6.6.
- 6.2 Should the Date of Practical Completion fall on a date not being the first day of a calendar month, then the Customer shall only be liable, in respect of the portion of the month during which the Date of Practical Completion shall occur, for payment of a pro rata share of the applicable monthly Hire Consideration.
- 6.3 All payments to be made in terms of a Contract of Erection and Hire by the Customer to Abacus shall be made free of bank exchange directly into the bank account of Abacus specified by Abacus in writing from time to time.
- 6.4 Abacus shall have the right:
 - 6.4.1 at any time, whether before or after the Date of Practical Completion, to claim from the Customer the deposits of money, as set out in the Schedule, as a guarantee for the due compliance by the Customer of all the terms and conditions of the Contract of Erection and Hire to which it relates and, in the event of Abacus so exercising its right, the deposits shall be retained by Abacus until the expiration or earlier termination of such Contract of Erection and Hire, whereupon Abacus shall be entitled to deduct therefrom any amounts owing by the Customer to Abacus, arising from any cause whatsoever, and the balance of such deposits, if any, shall then be refunded to the Customer; alternatively
 - 6.4.2 to claim from the Customer an irrevocable bank guarantee in favour of Abacus for the amount of money set out in the Schedule. Such guarantee shall be in the form reasonably acceptable to Abacus and shall be subject to

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the same conditions and utilised for the same purpose as the deposits referred to in 6.4.1

- 6.5 The amount of the monthly Hire Consideration shall escalate annually at the rate of escalation set out in the Schedule, calculated and compounded annually in arrears.
- 6.6 Notwithstanding the termination of a Contract of Erection and Hire pursuant to the provisions of 5 or otherwise, the Customer shall be required to continue making payment of the Hire Consideration in respect thereof to Abacus until such time as such Hired Goods shall have been returned to Abacus.

7. INTEREST AND COSTS

- 7.1 Without prejudice to any of Abacus' rights in terms of the Contract of Erection and Hire, any amount due by the Customer to Abacus which is not paid to Abacus on the due date thereof shall bear interest at the rate of 2% (two percentage points) above the Prime Rate, calculated from the due date for payment thereof until the actual date of payment thereof, which interest shall be calculated on the daily balance and shall be compounded monthly in arrears.
- 7.2 Abacus shall be entitled to take all such steps as it may deem necessary to recover any such outstanding amounts and the Customer shall bear and pay all legal costs arising out of or in connection with any action required to be taken by Abacus in respect of such recovery on the attorney-and-own-client scale, including 10% (ten percent) collection commission.
- 7.3 All payments made by the Customer shall be appropriated firstly towards the payment of legal costs, thereafter towards payment of interest and lastly in reduction of the capital sum due to Abacus.

8. PROVISIONS RELATING TO THE PERFORMANCE OF THE WORKS

- 8.1 Abacus will exercise all reasonable care to ensure that the structure of the Hired Goods is sound and adequate for the purpose required by the Customer and that when constructed they will comply with all applicable statutory regulations. Abacus undertakes to remedy at its own expense any defects drawn to its attention in writing which have arisen from faulty workmanship by Abacus or the use of defective materials by Abacus, it being recorded and agreed that the liability of Abacus shall at all times be limited to the repair or replacement of the Hired Goods or in the case of the Works, the re-supply of the services in question. Any other defects drawn to the attention of Abacus in writing will be remedied by Abacus at the Customer's expense. The Hired Goods shall be deemed to be in good condition unless the Customer gives written notice to the contrary to Abacus within a period of 14 (fourteen) days from the date of the handover certificate referred to in 8.2
- 8.2 On completion of the Works, Abacus will inspect the structure and will ensure it is in sound condition and complies with the statutory regulations. Abacus will then issue a handover certificate.
- 8.3 Should the Customer discover any defects, then the Customer shall forthwith:
 - 8.3.1 notify Abacus thereof in writing;
 - 8.3.2 take steps to ensure that the Hired Goods do not constitute a danger to any person or property by reason of such defect;
 - 8.3.3 Isolate the defective portion from the rest of the Hired Goods. Should the defect be caused by a misuse of the Hired Goods by the Customer or any of its employees or agents, then the cost of remedying the defect shall be for the Customer's account.

Any additions, alterations, adaptations or variations required to the Hired Goods by the Customer will be carried out by Abacus on receipt of written instruction from the Customer and at the Customer's expense.

- 8.4 Separate quotations will be submitted by Abacus for all such work and such quotations will be deemed to be accepted by the Customer unless rejected in writing within fourteen days from the date of the quotation. The Customer undertakes not to carry out or cause to permit to be carried out any alterations, adaptations, variations or additions to the Hired Goods or to interfere with the Hired Goods in any way.
- 8.5 Where the Customer enters into a contract with Abacus for Abacus to erect, move, modify or dismantle Hire Goods, Abacus will perform this work during normal working hours as laid down by the various statutory bodies. Any work carried out outside of these hours will be charged for at overtime rates, these to be subject to negotiation and confirmation in writing.
- 8.6 Where the Customer wishes to employ Abacus's employees on a day work basis, then such work will be carried out upon receipt of the Customer's written instruction and will be charged at rates to be agreed upon in writing.
- 8.7 Unless otherwise stated, the Erection Price is based upon the rates of wages and other emoluments and expenses payable by Abacus to or in respect of workmen engaged in the performance of the Works applicable and current at the date of the quotation in question. Increases and decreases in Abacus's costs which are consequent upon changes in the said rates or upon any change in or imposition of new government taxes, levies or contributions payable by Abacus in respect of employees engaged upon or in connection with the Works shall be a net addition to or deduction from the agreed Erection Price.
- 8.8 If progress on or completion of the Works is delayed for any reason beyond the control of Abacus, a fair and reasonable extension of time for executing or completing the Works shall be granted to Abacus.
- 8.9 The Customer shall at its cost assume all responsibility for all site conditions above and below the surface of the Premises, including all environmental matters as may be applicable to the site.
- 8.10 The Customer shall at all times ensure that Abacus has sufficient access to the site to do all things required to be done in connection with the Works and the Contract of Erection and Hire. The Customer shall provide adequate site facilities and vehicular offloading and adequate secure storage for Abacus equipment.

9. PROVISIONS RELATING TO THE HIRE OF THE HIRED GOODS

- 9.1 The Customer shall keep the Hired Goods insured both against third party claims and against all risk, loss and damage for the entire Hire Period with a registered insurer for such amount as may be determined by Abacus from time to time. The Customer shall further ensure that Abacus's interest is endorsed on the insurance policy and the Customer shall pay all insurance premiums punctually and shall at all times comply with all the conditions of the insurance policy. The Customer shall forthwith on request exhibit and/or deliver to Abacus proof of compliance with the obligations undertaken in terms of this clause and in addition exhibit and/or deliver to Abacus such insurance policies as may be required to be effected in terms hereof.
- 9.2 The Customer agrees to keep the Hired Goods in good order and condition and at all times allow Abacus and/or its agents and/or its servants to inspect the same. The Customer shall not remove the Hired Goods from the Premises nor place any other person in possession of the Hired Goods.
- 9.3 The Customer shall not use the Hired Goods for any other purpose other than that for which they were not intended or which may result in their being damaged and any directions which Abacus might give to the effect that the Hired Goods shall not be used for any particular purpose shall be observed by the Customer.
- 9.4 Failing compliance by the Customer with its obligations 9.2 hereof, Abacus shall be entitled to effect any maintenance and/or repair to put the Hired Goods in good order and condition and to recover the reasonable costs thereof from the Customer, without prejudice to Abacus's other rights.

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- 9.5 No Alteration of or modification of the Hired Goods of any nature whatsoever shall be made by the Customer.
- 9.6 In the event of the Hired Goods being lost or damaged or should the Customer fail to return the Hired Goods to Abacus on termination of the Hire Period for whatever reason, the Customer shall be liable to pay to Abacus, Abacus's then current full catalogue price of such lost or damaged Hired Goods as agreed liquidated damages, together with all other loss or damages sustained by Abacus whatsoever nature, including depreciation of and/or the cost of repairs required to be made to the Hired Goods as well as all expenses incurred by Abacus in obtaining possession of the Hired Goods.
- 9.7 Any retention imposed by the Customer's principal shall not be withheld when payment is made, as the Hired Goods do not form part of any permanent structure.
- 9.8 The Customer shall be obliged to make good any damage to the Hired Goods whilst on the Premises unless such damage is caused by the negligence or wilful act or default of Abacus or its employees.
- 9.9 Abacus shall deliver and collect the Hired Goods at the Premises and delivery at the agreed place of delivery shall constitute good delivery whether or not anyone acknowledges delivery on behalf of the Customer.
- 9.10 On delivery the Customer shall sign Abacus's delivery note and a delivery note signed by the Customer or by someone purporting to sign on behalf of the Customer or by anyone else at the agreed place of delivery shall be proof, until the contrary is proved, of the delivery of the Hired Goods listed thereon, in good condition.
- 9.11 The Customer shall, both on delivery and regularly thereafter, inspect the Hired Goods for defects.
- 9.12 The Customer shall in terms of 9.6 be liable for all losses of Hired Goods. Abacus's delivery and return notes will be deemed to be a true and accurate record of the Hired Goods taken to and from the sight. In the event however that any lost and charged for Hired Goods are subsequently found in the Customer's possession, Abacus shall be notified in writing and Abacus will repurchase the Hired Goods at a reasonable value, taking into account the condition and usefulness of the Hired Goods.
- 9.13 Any advice given by Abacus on the use of the Hired Goods (including drawings, design and specifications) shall not confer any right of action on the Customer, unless the advice is given negligently and is in writing and signed by the registered professional engineer.
- 9.14 Notwithstanding the passing of risk in the Hired Goods, ownership in and to the Hired Goods shall at all times continue to vest in Abacus.
- 9.15 Should any deliveries be delayed, hindered or interfered with by any circumstances whatsoever outside Abacus's control, the time or times for such deliveries shall be extended until the lapse of a reasonable period after the cessation of the said circumstances, and Abacus shall not be liable for any claim, loss or damage caused by such delay.
- 9.16 The Customer shall not without the written consent of Abacus first having been obtained do or omit to do anything which renders the Hired Goods liable to attachment, encumbrance, hypothec or any lien. The Customer shall forthwith upon the signature of the Contract of Erection and Hire notify Abacus of the name any addresses of any landlord of the Premises.
- 9.17 The risk in the Hired Goods shall pass to the Customer upon delivery, who shall bear every risk of loss, damage or destruction to the Hired Goods of whatsoever kind and howsoever caused until such time as the Customer has placed Abacus in possession of the Hired Goods upon termination of the Contract of Erection and Hire.
- 9.18 Abacus shall not be responsible at any time for any loss or damage of whatsoever nature whether general or special and no matter how caused, in any way arising or flowing from or connected with or related to any defect in the Hired Goods or to the inability of the Customer to make use of the Hired Goods, whether such inability is complete or partial.
- 9.19 The Hired Goods shall at all times remain the property of Abacus and the Customer undertakes that it will protect and defend at its own cost and expense, the title of Abacus, from and against all claims, liens and legal processes of creditors of the Customer and shall keep the Hired Goods free and clear from all such claims, liens and processes. The Hired Goods shall, despite the manner of its attachment to any building or land at any time, not accede to such building or land. Upon the termination of this contract, whether by effluxion of time or otherwise, the Hired Goods shall be returned unencumbered by the Customer at its sole expense to Abacus.

10. GENERAL PROVISIONS

- 10.1 The Customer shall provide all facilities required by the Regulations of the Occupational Health and safety Act 1993, as amended, for its own and Abacus's employees without charge to Abacus.
- 10.2 The Customer shall comply with and use its best endeavours to cause its employees and other sub-contractors and their employees to comply with all statutory regulations applicable. The Customer indemnifies and holds harmless Abacus against all claims and proceedings and costs and expenses in connection therewith in respect of any injury of death of any person or damage to any property or any loss or damage caused by or arising out of the use or misuse of the Hired Goods by any person other than Abacus or its employees.
- 10.3 Should Abacus contend that the Customer has failed to comply with any of its obligations in terms of the Contract of Erection and Hire, the onus shall be and remain on the Customer to prove the contrary.
- 10.4 All permits required to carry out the Works will be supplied timeously by the Customer free of charge and Abacus will not be held responsible for any delays caused through no fault of Abacus with particular reference to the issuing of work permits. Abacus reserves the right to claim for time spent awaiting permits at the appropriate day works rates.
- 10.5 Any rights which the Customer and/or any third party may have over temporary buildings, plant, tools, Hired Goods, goods and materials on the site shall not extend to any of the items provided by Abacus in connection with the works, which remain the property of Abacus at all times. The customer shall assist Abacus to regain possession of Abacus's property.
- 10.6 Unless abacus decides otherwise, Customers are to complete and submit a CPF (Customer Particular Form) before commencement of supply of Hired Goods or services. A period of approximately 3 (three) days shall be allowed for the credit check to be performed. Abacus shall be entitled to check the Customer's credit worthiness before supplying equipment to the customer and the Customer hereby acknowledges and agrees that Abacus shall be entitled to obtain information concerning the Customer from any registered credo bureau and/or any other suppliers. The Customer hereby acknowledges and agrees that information concerning the creditworthiness of the Customer may be disclosed by Abacus to any registered credit bureau and/or any other suppliers.
- 10.7 Under no circumstances whatsoever shall Abacus at any time be liable for any damages or loss or for any claims for consequential loss or damage which may be sustained by the customer or for any claims made by any other persons whatsoever, in connection with the Contract of Erection and Hire and/or the use of the Hired Goods, and the Customer hereby further indemnifies Abacus against all such claims. It is specifically recorded and agreed that Abacus shall not under any circumstances whatsoever be liable for any damage to any property of the customer.
- 10.8 The customer agrees that Abacus may cede or transfer its rights under the Contract of Erection and Hire and its ownership in the Hired Goods and insofar as may be necessary, agrees that it shall upon such cession or transfer hold the Hired Goods on the basis that ownership therein has

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passed to the cessionary or transferee subject otherwise to the terms of this contract of Erection and Hire, and to the extent to which this clause may be construed as a stipulation alteri in favour of such cessionary or transferee, the customer agrees that the acceptance of cession of this Contract of Erection of Hire by the cessionary or transferee shall constitute an acceptance by the cessionary or transferee of the benefits arising out of this clause. Abacus may in its sole and absolute subcontract all or part of its obligation in terms of the Contract of Erection and Hire.

- 10.9 The customer consents in terms of Section 45(1) of the Magistrates Court Act No. 32 of 1944 as amended in respect of any proceeding which may be instituted against it by Abacus arising out of or in connection with this contract, to the jurisdiction of any Magistrate's Court which at the time of such proceedings has jurisdiction over it in terms of Section 28(1) of the said Magistrate's Court Act. Notwithstanding the foregoing, the Customer specifically agrees the Abacus may in its discretion disregard the foregoing consent to jurisdiction and institute any proceedings arising out of or in connection with this contract in the High Court of South Africa having jurisdiction.
- 10.10 The customer hereby appoints in its address in the Customer Details Annex as its domicilium citandi et executandi for all purposes incidental to or arising out of the Contract of Erection and Hire.
- 10.11 All specifications, illustrations, drawings, diagrams, price lists, dimensions, delivery dates and performance figures furnished by Abacus, and representations in regard thereto, are approximate and are furnished for information purposes only, and unless specifically guaranteed by Abacus in writing shall not form part of the Contract of Erection and Hire nor bind Abacus in any way whatsoever.
- 10.12 Should the customer default in the punctual payment on due date of any amount payable in the respect of the Hired Goods or default in the punctual observance or performance of any of its other obligations or undertakings hereunder or commit an act of insolvency as defined in the Insolvency Act, then Abacus shall have the right and without notice to immediately cancel the Contract of Erection and Hire in respect of the hire of the Hired Goods and to demand that the Customer forthwith return, at its own expense, and Hired Goods already delivered to the customer, failing which Abacus shall have the right to take whatever action it deems necessary to enforce its rights in terms hereof. The foregoing rights of Abacus shall be without prejudice to and in addition to, or an alternative to, any other rights or claims of Abacus in law.
- 10.13 Where the Hired Goods are collected by Abacus or are returned by the Customer and the Customer fails to provide for the checking with Abacus of the Hired Goods then the returns note subsequently issued by Abacus to the Customer setting out the Hired Goods received by Abacus shall be final and conclusive as to the Hired Goods so received by Abacus.
- 10.14 A certificate under the hand of any director, any manager or secretary of Abacus stating that any particular sum or sums is/are due and payable by the Customer to Abacus in terms of this Contract of Erection and Hire or stating the amount of any costs, charges or expenses taken into account in determining the amount of any claim in favour of Abacus against the Customer in terms of the Contract of Erection and Hire shall be admissible in any court of Law and prima facie proof of the contents thereof and shall constitute a liquid document for purposes of summary judgment or provisional sentence.
- 10.15 No relaxation or indulgence granted by Abacus to the Customer shall be deemed to be a waiver of any of Abacus's rights in terms of the Contract of Erection and Hire nor shall any such relaxation or indulgence be deemed to be a novation of any of the terms and conditions of the Contract of Erection and Hire.
- 10.16 It is expressly agreed that neither the Customer nor any person on its behalf will, at any stage during the subsistence of the Contract of Erection and Hire or thereafter, acquire ownership of the Hired Goods and after termination of

the Contract of Erection and Hire, will not retain possession, use or enjoyment of the Hired Goods, in pursuance of the provision hereof.

- 10.17 The Customer hereby acknowledges that Abacus has not given to the Customer any warranties or guarantees of any kind whatsoever, whether express or implied, nor has it made any representations, whether as to the quality, state, condition, or fitness for any purpose of the Hired Goods or any part thereof or as to any other matter or thing whatsoever. The Customer further acknowledges that no agent, servant, representative, director, or other person who may act for Abacus has the authority to make any verbal representation, statement, warranty or guarantee which has any binding effect on Abacus.
- 10.18 The Contract of Erection and Hire sets out and constitutes the entire agreement between Customer and Abacus as to the subject matter thereof and the Customer acknowledges that there are no collateral oral agreements or conditions in any way varying The Contract of Erection and Hire. It is further agreed that no agreement in any way varying the Contract of Erection and Hire, and no consensual cancellation thereof shall be of any force or effect unless contained in writing and signed by the Parties. The Parties further confirm that the Contract of Erection and Hire correctly reflects the nature of the agreement between them, and the intention of the Parties.
- 10.19 The Contract of Erection and Hire is personal to the Customer and its rights or obligation herein may not be ceded, transferred, assigned or delegated without prior written consent of Abacus having been obtained thereto.
- 10.20 These general Terms of Contract of Erection and Hire shall apply to and govern any future agreements of hire between Abacus and the Customer.

INDEMNITY AND RELEASE

- 10.21 The Customer shall use the Hired Goods at the risk of the Customer. The Customer releases, indemnifies and forever holds harmless Abacus from all actions, claims and liabilities in respect of damage to property or death of or injury to any person resulting directly from the Hired Goods or their use or form the services provided by Abacus to the Customer.

11. SURETYSHIP

- 11.1 The signatories to this Contract of Erection and Hire, by their signatures thereto, hereby bind themselves jointly and severally, the one paying the other to be absolved, in favour of Abacus as sureties for and co-principal debtors in solidum with the Customer, for the due and punctual payment by the Customer of all amounts payable by the Customer to Abacus in terms of this Contract of Erection and Hire and for the due performance by the Customer of all the Customer's obligations to Abacus in terms of this Contract of Erection and Hire.
- 11.2 The suretyship in terms of 12.1 shall remain of full force and effect notwithstanding:
 - 11.2.1 any amendment/s to this Contract of Erection and Hire and/or any other contract for the time being subsisting between the Parties;
 - 11.2.2 any indulgences, concession, leniency or extension of time which may be shown or given by Abacus to the Customer
- 11.3 signatories to this Contract of Sale hereby renounce the benefits of the legal exceptions "non causa debiti", "errore calculi", "excussion", "division", "de duobus vel pluribus reis debendi", "no value received" and "revision of accounts", with the meaning and effect of all of which they declare themselves to be fully acquainted

INITIALS	
Abacus	Customer

THE APPLICANT AND THE SIGNATORY/IES HERETO HEREBY ACKNOWLEDGE:

1. Acknowledge/s that they have read and understood the contents of the Standard Conditions of Sale and contents of the Standard Conditions of Hire and Erection attached hereto and initialled by us.
2. Agree to be bound by the terms set out in the Standard Conditions of Sale and Standard Conditions of Hire and Erection attached hereto and initialled by us.
3. Acknowledge that they are aware that a Suretyship is incorporated in the Standard Conditions of Sale and Standard Conditions of Hire and Erection attached hereto and initialled by us.

CONFIRMATION

NAME (print) _____ CUSTOMER SIGNATURE _____
(WARRANTING MY AUTHORITY TO EXECUTE THIS DOCUMENT)

CAPACITY _____ DATE _____

WITNESS NAME (print) _____ WITNESS SIGNATURE _____

DATE _____

SIGNED _____
ABACUS SPACE SOLUTIONS REPRESENTATIVE

INITIALS	
Abacus	Customer