

GENERAL TERMS AND CONDITIONS
OF
CLINDOM (PTY) LTD T/A GENESIS FLOORING
(including CPA and non-CPA Client/Consumers)

1. DEFINITIONS

1. **Client** means a legal person (including agency, business establishment, firm, trust, partnership, association, close corporation, company or the like) with an annual turnover equal to or above a turnover of R2 million purchasing Services and/or Products from the Company;
2. **Company** means Clindom (Pty) Ltd t/a The Company, a private company with registration number 2020582046/07 situated at Unit 30, City Deep Micro Park, 6 Houer Road, City Deep;
3. **Consumer** means:
 - (i) a natural person, i.e. a human being, or
 - (ii) a legal person (including agency, business establishment, firm, trust, partnership, association, close corporation, company or the like) with an annual turnover of less than R2 million;
4. **Conditions** mean these General Terms and Conditions as may be amended from time to time;
5. **Day** means a business day, being any day on which the banks are generally open for normal banking business in the Republic of South Africa;
6. **Direct Marketing** means approaching Consumers and/or Clients either in person or by mail or electronic communication for the direct or indirect purpose of offering to supply the services by using the information and facts directly from the Manufacturer and Company;
7. **Products** mean all Products necessary to render the Services to the Consumer and/or Client;
8. **Party (Parties)** means/mean Company and Consumer and/or Client;
9. **Products** means the products purchased from the Company;
10. **Services** mean the services rendered by the Company to the Consumer and/or Client; and
11. **Turnover** means the Consumer/Client's overall turnover during its previous financial year.

2. GOVERNING CONDITIONS

1. The Conditions set forth herein shall apply to all transactions for the delivery of products and/or rendering of Services entered into, or to be entered into between the Company and the Consumer/ Client.
2. All orders, however made, are accepted only upon these Conditions which shall override any and all other terms or conditions incorporated or referred to by the Consumer/Client in writing, orally or otherwise.

3. Any changes made by the Company to these Conditions shall be applicable between the parties 30 days after the Company has notified the Consumer/Client of such changes in writing. In the event that the Consumer/Client objects in writing to the changed Conditions within the above-mentioned 30-day period, the Consumer/Client may terminate the agreement according to the provisions set forth in Clause 10.
4. These Conditions may not be amended by the Consumer/Client whether in writing, orally or otherwise.
5. The Consumer/Client acknowledges that these Conditions, together with the express terms of the Quotation and/or the Invoice entered into by the Parties, if any, constitute and form the entire terms of the agreement between the Parties, and override any antecedent terms and conditions, statements or representations whether oral, written or implied.
6. In the event that there are any conflicting terms between these Conditions and the Quotation or Invoice or any other agreement entered into by the Parties, if any, the terms of these Conditions shall prevail.

3. PLACING ORDERS

1. Quotation

The Company's Quotation, based upon a request made by the Consumer/Client, is valid for 7 days from the date thereof (unless previously withdrawn or revised) after which time it shall automatically expire and become null and void. These Conditions shall integrally form part of the Quotation and invoice, except where the Company deviates from these Conditions in the Quotation or invoice.

All quotations are prepared after a visual inspection of the building has been completed, however, should any additional work be required due to damp or badly weathered timber or substrate damage, this will carry cost implications, and the cost will be confirmed once the underlying problems have been detected.

Pricing is only valid for 7 days and quotes may change as polyurethane and epoxy product pricing is changing on a continuous basis due to cost and currency fluctuations. When a quote is accepted, the Company will need to confirm pricing with the manufacturers and these are subject to changes.

On completion of a project final measurements will be taken on site and amendments made to the final invoice, if applicable. (This is especially relevant in cases where m² has been supplied by the client, either verbally or on drawings and where additional areas have been added to the scope during the project).

Successful application of polyurethanes and epoxies are temperature dependent, if facilities need to be heated, this will be for the clients account and charged on final invoice.

For out of town projects daily, delay penalties as well as additional relocations costs i.e. accommodation, labor, transport and related costs, will be applicable where the site is not ready on arrival. If the Company has to return to site at a later stage to complete areas, the necessary costs i.e. accommodation, labor, travelling, transport and related costs will be charged to the client.

The above quotation is only for the items as stated and does not make provision for Staff medicals, induction, safety files and related costs. If these are required, they will be for the clients account.

This quotation is for the project being done as a whole, additional labor and travel costs will be applicable on projects where areas/items are split out as separate projects, or where areas are not ready for flooring application when arriving on site.

2. Order

The receipt by the Company of the Consumer/Client's signed Quotation and these signed Conditions in response to the Quotation shall constitute an Order by the Consumer/Client. The Order by the Consumer/Client shall be subject to these Conditions. Placing an Order presumes knowledge and acceptance of these Conditions. An Order cannot be used under any circumstances to effect any amendment to these Conditions. Any Order deviating from the Quotation, and its included terms and conditions, shall therefore constitute a new request for a Quotation.

3. Acceptance of Order

Upon placing an Order the Consumer/Client shall receive a Quotation. Once the Consumer/Client signs the Quotation and makes payment of the deposit, as set out in Clause 4, a binding agreement shall only come into existence.

4. Change/Extension of Order

Any request by a Consumer/Client to change or to extend an Accepted Order shall be treated as a separate request for a Quotation. Orders may be subject to some variation by the Company due to factors beyond its control including, but not limited to an inability to source Products, supplies, power outages, strikes, riots, black outs, labour disputes, civil disturbances, war or acts of God.

Any work not outlined in the quote has not been provided for.

5. Cancellation of Quotations

Clients – may not cancel an accepted Quotation, unless prior written approval by the Company to cancel has been received. If such cancellation is approved by the Company, the Client shall be obliged to pay the Company a 30% cancellation fee, calculated at 30% of the total invoice value and to ensure goods are returned as received, in its original packaging.

Consumers – may cancel an Accepted Order, in whole or in part, subject to the Consumer paying the Company a 30% cancellation fee, calculated at 30% of the total invoice value. If the Consumer is a natural person and if the Consumer's Order results from Direct Marketing, the Consumer may, notwithstanding anything to the contrary in these Conditions, cancel that Order on written notice to the Company, within a period of 6 days from the date of delivery of the Products.

Cancellations are subject to suppliers terms and conditions.

2. PRICE AND PAYMENT

- 2.1.** The Consumer/Client shall pay the Company a deposit of 90% of the quoted amount upon acceptance of the quotation.
- 2.2.** The Company will invoice the Consumer/Client for amount due on practical completion of installation.
- 2.3.** The Consumer/Client will notify the Company, in writing, within seven [7] days of date of practical completion of any "snags". The Company will attend thereto as soon and effectively as practically possible.
- 2.4.** The Consumer/Client will settle the balance of the final account on practical completion.
- 2.5.** **Unless stated otherwise by the Company, the price indicated in the Quotation [Quotation Price] is based on, without being limited thereto, the price list and other expenses applicable to the**

Company at the date of issuance of the Quotation (Quotation Date). Unless stated otherwise by the Company in writing, prices are quoted for services to be rendered during normal working hours. The quoted price includes transport, Products and labour for projects within the borders of South Africa. All Quotations are subject to availability of the Products and/or Services and are subject to any increases in the cost price, including currency fluctuations.

- 2.6. The price to be paid by the Consumer/Client is the Quotation Price. The total price will be indicated in the invoice and is subject to rates, duties, surcharges, freight and transport costs and clearing agent's charges ruling at the time. Any subsequent charges will be for the client's account, unless quoted as "fixed".
- 2.7. Should overseas supplier's increase their prices, the company shall be entitled to pass on these increases to the client, unless quoted as "fixed".
- 2.8. Prices tendered, quoted and/or accepted are exclusive of Value Added Tax.
- 2.9. All invoices shall be paid in RAND through electronic fund transfer, bank guaranteed cheque or debit payment and shall be free of deduction, set-off or counterclaim.
- 2.10. If payment is not received by the company on the specified date, the full invoice and/or statement amount is due immediately.
- 2.11. All overdue amounts shall attract interest at 2% [two percent] per month.
- 2.12. Should the client elect to make payment by Cash Deposit, a Cash Deposit fee will be payable.

5. RETURN OF GOODS FOR CREDIT (ONLINE SALES/SUPPLIED ONLY GOODS)

1. Goods may only be returned for credit subject to suppliers terms & conditions, if prior authorization has been received from the Company.
2. The Company will only consider accepting back goods for credit, if notified by the client in writing within 7 days after date of collection and the Products are returned in the same condition as dispatched.
3. The Company shall be entitled at its discretion to charge a 20% handling charge on goods returned for credit.
4. Goods returned after 7 days from date of collection will be at the discretion of the Company as well as charges relating to the return.

6. GUARANTEES:

1. The Company offers a 1-year guarantee on the installation, subject to an applied supplier specified maintenance program.
2. The Company cannot be held responsible for floors damaged by water through leaking geysers, roofs, sliding doors and bathrooms or similar. In addition we cannot be held responsible for floors that are scratched, stained, or damaged by similar products / circumstances that are outside of our control. This does not form part of the guarantee.
3. The Consumer/Client needs to adhere strictly to the maintenance program supplied by the manufacturer, should you for some reason not receive this information, please email us or contact us for this information. Floors that are not correctly maintained will not fall under the guarantee.
4. All guarantees fall away if The Company is not paid in full 14 days after the completion of work for any reason.
5. The Company uses a twin pack polyurethane sealer which is hard wearing, but is not impervious to mechanical damage. We do not guarantee or warranty against mechanical damage or cracking.
6. Deco Flooring are guaranteed against delaminating from the surface for a period of 1 year.
7. As the processing and use of the screeds and deco floors are beyond our control, no warranty can be given as to the quality of the screed. The purchaser shall have no claim against the Company in

respect of any loss or damage of consequential nature, suffered as a result of any defect/change in the product.

7. OWNERSHIP – RESERVATION OF TITLE

1. Ownership of the Products shall, at all times, remain vested in the Company until the Company has received full payment of the price of all of the Products purchased and/or Services concerned. The Consumer/Client shall keep the Products in its possession in an unaltered state and free of pledge or other charge or security until such full payment of the price. In the event the Consumer/Client defaults on full payment of the price, the Company shall, without prejudice to any other rights it may have, be entitled to repossess the products wherever they may be found.
2. In the event of any such breach by the client, the Company shall be entitled to take possession of the goods. For the purpose of this contract, all materials shall be considered moveable property.
3. The provisions of Clause 7.1 shall survive the termination, for whatever reason, of any agreement.

8. LIABILITY

1. The Consumer/Client shall be responsible for ensuring that the Products and/or Services are sufficient and suitable for the Consumer/Client's purposes and the Company shall have no liability to the Consumer/Client in the event that the Products and/or Services are not sufficient and suitable for the Consumer/Client's purposes.

Client Only

The Company, its members, employees and co-workers shall not be liable for any direct or indirect damages, loss of profit, consequential damages, loss or injury to any person or property by reason of the Services and/or Products or any defects in them or by reason of any advice given. The Company's aggregate liability to the Client shall in no circumstances exceed the price paid by the Client to the Company in respect of the Products and/or Services that caused the damages and shall never include indirect, consequential or economic loss (howsoever arising) including, but not limited to, loss of profit, loss of production or loss of business.

Consumer Only

The Company shall, in accordance with Section 61 of the Consumer Protection Act, be liable for:

- (i) the death of or injury to any natural person;
- (ii) illness of any natural person;
- (iii) any loss of or physical damage to any property; and
- (iv) economic loss resulting from harm resulting from (i), (ii) and (iii) above, caused as a consequence of:
 - (a) supplying unsafe Products;
 - (b) a product failure, defect or hazard in any Products; or
 - (c) providing inadequate instructions or warnings to the Consumer concerning any hazard arising from or associated with the use of the Products, and the cause concerned existed at the time when the Products were supplied to that natural person.

Claims regarding the above-mentioned shall be valid if issued within 3 years after:

- (i) the death or injury;

- (ii) the earliest moment when the natural person had knowledge of the illness;
 - (iii) the earliest moment when the natural person had knowledge about the loss or physical damage to that property; or
 - (iv) the latest date on which the natural person suffered any economic loss.
2. The Consumer/Client shall not be entitled to withhold any payment due under the agreement because of any disputed claim in respect of the Products and/or Services, or with respect to any other alleged breach of the agreement, or to set-off any amount payable to the Company against any amount payable by the Company unless authorised in writing by the Company.

9. FORCE MAJEURE

Delays in or failure of performance by the company shall not constitute default herein or give rise to claims for damages if and to the extent that such delay or failure is caused by force majeure which is defined herein as occurrences beyond the reasonable, practical, economic or business control of the company, and which, by the exercise of reasonable diligence the company would not normally have been able to prevent, including therein, but not by way of limitation, decrees of Government, Act of God, strikes or other concerted act of workmen, fires, floods, explosions, riots, civil commotion, war, rebellion, sabotage, disruption of manufacture or commerce for political or other reasons.

10. EARLY TERMINATION

Each Party shall be entitled, without prejudice to any other right or remedy available to the other Party, to forthwith cancel any agreement made pursuant to these Conditions or suspend any further deliveries of the Products and/or Services in the event that:

- 1. either Party makes any voluntary arrangement with its creditors or becomes subject to an administration order or becomes bankrupt or is sequestrated or goes into liquidation (otherwise than bona fide for the purposes of amalgamation or reconstruction);
- 2. an encumbrancer takes possession, or a receiver is appointed of any of the property or assets of one of the Parties;
- 3. either Party ceases, or threatens to cease to carry on business;
- 4. any event analogous to any of the foregoing occurs in any jurisdiction in relation to the other Party;
- 5. either Party breaches applicable laws and regulations and cannot remedy the breach within 20 Days following the non-breaching Party's notice of default in respect of such breach; or
- 6. either Party commits any default or breach of the terms of this agreement or of any of its obligations to the other Party and the breaching Party fails to remedy the breach within 20 Days following the non-breaching Party's notice of default without prejudicing the non-breaching Party's rights to claim damages. In such event the breaching Party shall be liable for any legal costs, collection costs, the tracing agent fees, the attorney's costs on an attorney and own client scale and/or Collection Commission in the amount of 10% on each instalment paid to the attorney or paid directly to the non-breaching Party following hand-over of the matter to the attorney, provided that the collection commission charged shall not exceed the statutorily prescribed maximum amount.

11. CLIENT DATA PROTECTION

- 1. The Company will be exposed to the Client/Consumer's Personal Data in rendering the services to the Client/Consumer in accordance with this Agreement.
- 2. The parties agree that all Client/Consumer Data and information whereby the Company is permitted access to in connection with this Agreement or supplied with or otherwise provided with Personal Information by the Client/Consumer or on its behalf for any purpose, or are supplied with or otherwise provided with Personal Information by the Client/Consumer, shall remain the sole property of the

Client/Consumer and shall be deemed Confidential Information and all Client/Consumer data and information shall be subject to the Data Protection Laws.

3. The Company agrees it shall comply with all relevant statutory obligations contained in the Data Protection Laws, policies and procedures (as may be amended from time to time).
4. The Company shall only use and/or keep Client/Consumer Data for purposes of performing its obligations under this Agreement and only in a manner directed by the Client/Consumer and shall not otherwise modify, amend or alter the contents of the Client/Consumer Data or disclose or permit the disclosure of such Client/Consumer Data to any third party, unless specifically authorised to do so by the Client or as required by law or any regulatory body and shall take all such steps as may be necessary to safeguard the Client/Consumer Data;
5. The Company shall ensure that appropriate technical and organisational measures are in place at all times in order to prevent any unauthorised or unlawful Processing of such Client/Consumer Data and prevent against the accidental loss or destruction of, or damage to, such Client/Consumer Data;
6. The Company shall not without the prior written consent of the Client/Consumer process or transfer any Client/Consumer Data outside the Republic of South Africa;
7. The Company shall provide the Client/Consumer with proof and/or copies of all compliance, security, audit and control reports created by the Company, as may be requested by the Client/Consumer from time to time to ensure adherence to the Data Protection Laws by the Company and the Client/Consumer;
8. The Company shall immediately notify the Client/Consumer in writing when it becomes aware of, or has reasonable grounds to suspect, any unauthorised, unlawful or dishonest conduct or activities, or any breach of the terms of this Agreement relating to the Client/Consumer Data;
9. The Company shall co-operate with any request for access or query from an individual who is the subject of Personal Information and/or responding to any enquiry made, or investigation or assessment of any Processing initiated by a relevant regulatory authority in respect of such Personal Information; and
10. The Company shall, at the Client/Consumer's written request and in accordance with the Client/Consumer's written instructions, securely retain, delete, destroy or return all copies of the Personal Information. Any Personal Information shall be returned by secure file transfer or in such format as the Responsible Party reasonably requests.
11. The Company hereby indemnifies and holds the Client/Consumer harmless against any losses, liabilities, costs, expenses, fines, penalties, damages or claims, and all related costs and expenses arising from or incurred by reason of any wrongful Processing of any Client/Consumer Data by the Company or breach by the Company of its obligations or warranties under this clause or other liability of whatever nature suffered by the Client/Consumer pursuant to a breach by the Company of the provisions of the Agreement.
12. This clause 11 shall survive the termination of this Agreement.

12. JBCC CONTRACTS:

The Client/Consumer / Main Contractor expressly agree that the provisions of the JBCC Contract [if any] between the Client/Consumer and the Main Client/Consumer / Main Contractor will not be applicable to The Company as a selected subcontractor and that The Company will accept it's appointment only on the terms and conditions contained herein.

13. GENERAL

1. **The Client/Consumer's attention is drawn to the following:**
 1. All furniture and removal thereof are the responsibility of the Client/Consumer.
 2. All areas of the floor must be ready and available with adequate power supply.
 3. All other trades should be completed prior to installation of floor, should this not be the case, the Company reserves the right to postpone installation until completion of other trade.

4. If the Client/Consumer requires carpets to be removed, this will be done at an additional cost by the Company.
 5. All products and material used will remain the property of the Company until paid for in full.
 6. Should the quality of screed, upon lifting of vinyl flooring, be inferior and in need of repair, this will be at an additional cost to the Client/Consumer.
 7. Any alterations or additions to the job originally quoted for will be subject to the terms hereof and must be stated in writing and signed as an addendum to this agreement. Prices will be recalculated and full payment will be done as stipulated herein or otherwise agreed.
 8. Upon completion of installation of flooring, it is the Client/Consumer / building contractors responsibility to take measures to protect the floors against direct sun and/or damage done by other sub-contractors, etc. The Company accepts no responsibility should this occur.
 9. Any removal of rubble, vegetation etc. which is required to be undertaken by "The Company" to clean up the job site will be charged for per load unless provision has been made for this in the initial quotation.
 10. "The Company" reserve the right to charge for the removal of any fixtures, fittings, furniture, appliances, curtains, toiletry fittings, doors or any other items that need to be removed by "The Company" in order for work to be completed and will in no way be held responsible for any damage or loss caused by removal of such items. It is the client/contractor's responsibility to reinstall these items.
 11. The Company employees and applicators are employed/contracted to the company and under no circumstances are any instructions to be given to the company's workmen without prior consent of the management of the Company.
 12. The Client/Consumer states that he/she is the owner of the property where work is to be done and if not, the Client/Consumer is to have written consent from the owner.
 13. Skirting is not included in the quote unless specified.
 14. Construction work, as well as the delivery of material can be dangerous for all persons; therefore, all children, domestic workers, guests and invitees are requested to stay away from vehicles and construction/site areas. the Company accepts no responsibility for injury to any person or damage caused.
 15. The Company always orders extra material to avoid short supply on a job, all extra material belongs to the Company and not to the client.
 16. Damage to floors caused by the client, pets, children or other sub-contractors will be charged to the client. Costs will be dependent on extent of damage and repairs required.
 17. Sealers take 7 days to reach their full cure, there is to be no activity on the floors during this period.
 18. Please ensure all valuable or fragile items are safely stored as we will not be held liable for loss or damage.
 19. Exterior work is weather dependent and the Company will not be held liable for any delays caused by bad weather.
 20. Any plug points, light switches/fittings or related items are to be remedied by the building contractor or electrician prior to commencement of flooring work by the Company or client is to stipulate requirements for these items.
 21. Any entry fees or gate fees charged by Estates/Security complexes for the duration of the project will be calculated and added to the client's final invoice.
 22. All products are subject to availability from suppliers, as raw materials and some products are imported.
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2. If during the application of these Conditions, a competent tribunal is requested to make a finding with regard to the validity, fairness and/or enforceability of any term in these Conditions, and if any of the

Parties would likely suffer severe hardship as a result of a finding that a term is invalid, then in such instances the Parties must submit to the relevant tribunal for its consideration alternative clauses with a view to making such adjustments as would appear to be necessary, and such revisions as would be justified, in order to enable an alternative clause to be inserted in these Conditions which is valid in law and relieves fully (or if that is not possible, partially) the hardship in question. To the extent that any provision in these Conditions is found by a competent tribunal to be unfair, invalid or unenforceable, but the remainder of these Conditions remains unaffected, then such alternative clause which the tribunal finds to be most equitable and just will replace that provision.

3. The Consumer/Client shall not be entitled, without the prior consent in writing of the Company, to assign or cede its rights under the agreement to any third parties.
4. Any notice required or permitted to be given under these Conditions shall be in writing and shall be sent by recorded delivery addressed to that other Party at its registered office, or principal place of business, or such other address as may at the relevant time have been notified pursuant to this provision to the Party giving notice. In proving service it shall be sufficient to prove that the notice was properly addressed and posted. Notwithstanding the aforementioned, any notice actually received by the other Party will be sufficient service in terms of this clause despite the notice being sent by another method than by post.
5. No waiver by the Company of any of the terms of these Conditions shall release the Consumer/Client from full performance of the remaining terms, and no waiver by the Company of any breach of the terms of these Conditions shall be a waiver of any subsequent breach of the same or any other term of these Conditions. No failure to exercise, nor delay or omission by the Company in exercising any right, power or remedy conferred on it under these Conditions or provided by law shall, except with the express written consent of that party, affect that right, power or remedy; or operate as a waiver of it.
6. These Conditions shall be governed by and construed in accordance with the laws of the Republic of South Africa and any dispute shall be referred to the exclusive jurisdiction of the South African Courts. Any disputes arising between the Parties in respect of the agreement shall, at the option of the Company, be justifiable in the Magistrate's Court and the Consumer/Client consents to such jurisdiction.

THUS DONE AND SIGNED AT ON THIS DAY OF..... 202__
ON BEHALF OF

(1) _____
(for the Company)

(2) _____
(Witness)

THUS DONE AND SIGNED AT ON THIS DAY OF..... 202__
ON BEHALF OF

(1) _____
(Client/ Consumer)

(2) _____
(Witness)

Annexure A – Additional terms applicable to Screed

Requirements for Application Surface (Deco Floor):

Builders Screed

- i. A clean, dust and oil free wood floated 25 MPA (minimum) screed is required as a base for successful application of our product.
- ii. As our product has a high tensile strength at full cure, if the underlying screed is weak this can result in lifting of the underlying screed.
- iii. We recommend a 3:1 River sand to Cement Mix. It is advisable to use ordinary Portland cement 42,5 Cem 1 or Cem 2 for screed purposes.
- iv. The screed needs to be sound and crack free, and good adhesion to the concrete underlying slab needs to be ensured when installed.
- v. "The Company" always recommends waiting 28 days for screeds to cure according to the S.A.B.S. standard of good practice.
- vi. "The Company" cannot be held responsible for problems caused as a result of weak screeds. It is the client's responsibility to ensure that these conditions are adhered to.
- vii. In the case of glue downs, the screed needs to be level and at the correct height to accommodate the floor. Height variations in the floor to tiles, height of the sliders etc. will not be the responsibility of the Company. Remedial work as a result of this will be at the Client/Consumer's expense.
- viii. The products applied are hand troweled and not made in a factory therefore a variation in texture and colour is deemed acceptable over the entire job, and no guarantee against cracking or pitting is applicable.
- ix. The client acknowledges that they have been informed and are aware that due to the product being a cementitious product (stucco), hairline cracks in the flooring can occur.
- x. All floors to have correct level, have the correct fall i.e. for water drainage in place and made good by the builder/contractor as the Company flooring products are decorative and cannot remedy poorly screeded floors.
- xi. As the processing and use of the screeds and deco floors are beyond our control, no warranty can be given as to the quality of the screed. The purchaser shall have no claim against the Company in respect of any loss or damage of consequential nature, suffered as a result of any defect/change in the product.

Tiled Surfaces

- i. We are only able to work over porcelain or ceramic tiles that are sound and not hollow.
- ii. Due to the nature of the product, we are unable to work over a natural tile such as Terracotta or Slate etc.