

SERVICE CONTRACT

Between

GOCHILL

And



HANDLING & STORAGE

GOCHILL (PTY) LTD

("GoChill")

Registration: 2005/001248/07
VAT Registration: 4650227897
22 Sacks Circle
Sacks Circle Industrial
7530

THE CLIENT

Company Details ("THE CLIENT")

Trading Name:

Company Name:

Company registration nr.:

VAT Registration Number:

Telephone Number:

Fax Number:

Physical Address:

Postal Address:

Credit limit required:

Payment terms:

Details of Owner / Partners / Directors / Trustee

Name / Phone	ID Number	Address
1		
2		
3		
4		

Person Responsible for Account Payment

Name:

Position:

Phone:

Fax No.:

E-mail Address:

Details of Auditor

Auditors Name:
Address:
Phone:

Banking Details

Bank Name:
Branch:
Branch Code:
Account Name:
Account No.:

Trade Reference Name

Name	Phone	Address
1		
2		
3		
4		

By his/her signature hereto, the signator warrants that he/she:

1. has the necessary authority to bind the Customer on behalf of whom he/she is signing;
2. has read and accepted the STANDARD TRADING TERMS and CONDITIONS of GoChill and hereby binds the Customer thereto;
3. the Customer consents to any credit or verification checks required to process this document or perform any functions in terms of the Standard Terms and Conditions or any other agreement between the Parties;
4. and that the Customer is a juristic person whose asset value or annual turnover, at the Signature Date equals or exceeds the threshold value of R2 million and that the Consumer Protection Act 68 of 2008 does not apply to this Agreement.

SIGNED at this Day of

CLIENT NAME

SIGNED CAPACITY

1.
WITNESS

2.
WITNESS

OFFICE USE ONLY

Credit Insurance Reference:
Captured By: Date:
Approved Credit Limit:
Signature of Approval:
Date:

STANDARD TERMS AND CONDITIONS

By signing this agreement, the Client agrees that the following terms and conditions shall apply to all transactions between it and GoChill. A reference to GoChill's service in this document is to the services agreed with the Client and may include *inter alia* (cold) storage, handling, weighing, cooling and loading of goods or any other services which GoChill may render from time to time ('the services').

1. TERMS OF PAYMENT

- 1.1 GoChill shall render its Accounts, Tax Invoices and Statements in respect of all charges and services rendered in terms of this Agreement directly to the Client.
- 1.2 All Statement(s) or invoices generated and received, in accordance with the provisions of Clause 1.1 thereof shall be paid by the Client as per agreed payment terms after the invoice was issued. However, all outstanding fees, accounts and charges owed by the Client shall become immediately due and payable upon the date that the Client notifies GoChill that it wishes to withdraw all its goods held in store with GoChill, or transfer them to a third party.
- 1.3 Should the Client fail to pay the full amount due and owing on the due date, then interest shall accrue on the outstanding amount at 6% (six percent) above the prime rate published by the Standard Bank of South Africa Limited and reckoned from due date until the actual date of payment, both dates inclusive. If the Client disputes the rate so payable, a manager or assistant manager of any branch of The Standard Bank of South Africa Limited shall certify the rate, and such certification shall be final and binding on both parties.
- 1.4 All accounts and statements will be addressed to the legal entity, whether a natural or juristic person, which enters into this agreement with GoChill and is the entity which shall be responsible and liable for any amounts due to GoChill or claims by GoChill.
- 1.5 In the event of the Client trading stock or goods while such stock and/or goods are in storage with GoChill, the Client will be held liable and responsible for all costs incurred in respect of such stock and/or goods until such time as that stock and/or goods have left GoChill's premises.

2. NON-INSURANCE OF GOODS BY GOCHILL

GoChill shall not, under any circumstances whatsoever, be responsible for insuring any goods, of any nature, which are stored by them. The risk in these goods is entirely that of the Client's and the onus is on the Client to obtain insurance against the risks that the Client carries under this agreement, particularly in view of the exclusion or limitation of GoChill's liability under clause 3 below.

3. LIABILITY FOR LOSS, DAMAGE, SHORTAGE OR DELAY

- 3.1 GoChill shall not be liable for any loss, damage, shortage or delay, regardless of its cause, except if the Client proves that such loss damage, shortage or delay was entirely due to GoChill's gross negligence or wilful misconduct. This limitation of GoChill's liability implies that it will not be liable to the Client for any loss, damage, shortage or delay arising out of the maintenance of too high or too low a temperature, especially and even in the event of following protocol, whether laid down by the client, PPECB (Perishable Produce Export Control Board), DAFF (Department of Agriculture, Forestry and Fisheries) or the fruit export industry, failure of machinery or plant, failure of electricity supply to the cold storage facility (whether by ESKOM or GoChill's generators), negligent conduct with regard to the Client's property, flood, wind, sprinkler leakage, fire, leakage, defects in the storage area, dampness, sweat, decay, putrefaction or destruction by vermin, Acts of God, civil commotion, military authority, insurrection, strikes, lockouts, labour disputes, the State President's enemies, quarantine, war, explosion, the nature of the goods, inherent vice, contact with or proximity to other goods, concealed damage, variation or shrinkage in mass, defective or insufficient packages or containers, damage to the Client's goods by transporters, damages to goods as a result of not being at shipping temperature at the time of shipping (GoChill does not guarantee any specific cooling times), theft or any other cause whatsoever (except for gross negligence or wilful misconduct on GoChill's part).
- 3.2 Despite anything stated to the contrary in this agreement, GoChill's liability to compensate the Client for loss suffered or to refund the contract price shall not be more than R1 000 (one thousand rand) per metric tonne, unless GoChill agrees in writing and on an annual basis to such higher amount that the goods are worth.
- 3.3 The Client warrants that its asset value or annual turnover, at the date of signature of this agreement, equals or exceeds the threshold value R2 000 000 (Two million Rand) as set out in the Consumer Protection Act 68/2008, and that the Consumer Protection Act does not apply to this agreement.
- 3.4 Any claim for loss, damage, shortage or delay must be made to GoChill in writing within 14 calendar days of the removal of the goods from its premises, failing which it shall have no legal effect. The Client must at the same time provide proof of the claim, with independent third party verification of statements concerning health, hygiene, safety and quality issues. If required, the Client must also grant GoChill an opportunity to inspect the goods, if this is reasonably possible in the circumstances. The onus of proving that any loss or damage was caused by wilful misconduct or gross negligence on the part of GoChill shall remain with the Client.
- 3.5 If GoChill becomes liable to pay duties or similar charges (including penalties) to any authorities in terms of any legislation (including the Customs and Excise Act 91/1964) in connection with any goods stored with GoChill on the Client's behalf, then the Client shall pay GoChill the amount for which GoChill is liable immediately upon request.
- 3.6 In the event of a discrepancy between the contents of any intake documents received by GoChill and the actual cargo received, the contents of the intake documents shall prevail, and all shipping documents will reflect that which is on the intake documents, and GoChill shall not be held liable for any loss or damages in respect of such discrepancy.
- 3.7 GoChill shall not be liable for any loss or damages arising out of a failure by PPECB to ensure that the shipping container is suitable for accepting the Client's goods, and GoChill confirms that by doing so on the Client's behalf, is explicitly excluded from GoChill's services.
- 3.8 GoChill shall not be liable for any standing costs incurred by the Client as a result of any congestion at the storage facility or the port, as the case may be.
- 3.9 In the event that GoChill is required to arrange additional services for the Client with a third party, this shall be done acting as agent for the client and the arrangement will be subject to all standard terms and conditions of the third party performing the service. In the event of any liability relating to the performance of the service, GoChill shall not be liable and all proceedings must be directed by the Client to the third party in question.

4. IDENTIFYING MARKS AND NUMBERS AND CONDITIONS OF PRODUCT STORED

All goods shall bear identifying marks and numbers. All goods are accepted on the basis that the contents, mass, quantities, quality, hygiene, safety, condition and values are unknown to GoChill, unless GoChill has written and signed a special statement to the contrary on its receipt issued to the Client.

5. NO AGENCY

Every person entering into a transaction with GoChill shall be responsible for payment of all charges payable to GoChill in connection with the transaction. Except as provided below, GoChill may in its sole discretion not recognise any person as being an agent acting on behalf of a principal in respect of any transaction concluded with it. GoChill is only obliged to recognise the person transacting with it as an agent if at the time of concluding the transaction, he or she furnishes GoChill with written notice stating the full name, address, telephone number and email address of the principal and that he or she is the duly authorised agent of the principal, and GoChill thereafter approves the principal by endorsing and signing that notice to this effect.

6. SURETY

The owners/partners controlling shareholders/members of the Client hereby bind themselves as surety and co-principal debtor for the due fulfilment by the Client of its obligations to GoChill.

7. GOCHILL'S RIGHT TO WITHHOLD OR DISPOSE OF GOODS (LIEN AND PLEDGE)

- 7.1 GoChill may retain hold of all or some of the Client's goods stored with it from time to time until the Client has paid all the amounts it owes GoChill, even if the unpaid charges do not relate to those goods.
- 7.2 If the Client fails to pay what it owes GoChill on the due date, GoChill shall have the right to sell the Client's goods in a manner that GoChill considers appropriate, after 48 hours' notice given to the Client at the Client's last stated or known email address. GoChill will then apply the net proceeds of the sale to what the Client owes GoChill and account to the Client for any balance remaining. If the Client disputes the amount of GoChill's claim in good faith, GoChill will sell the goods after obtaining a court order allowing GoChill to do so. GoChill will hold the Client liable for the cost of any such court order on the scale as between attorney and own client.

8. ACCEPTANCE OF PROMISSORY NOTES OR BILLS OF EXCHANGE

If GoChill accepts any promissory note or bill of exchange (such as a cheque) from the Client in payment of its debt, this shall not be regarded as a novation of the existing debt, which means that GoChill will have the choice to claim payment from the Client on the basis of the original debt or on the basis of the cheque or promissory note. The acceptance of a cheque or promissory note shall affect neither GoChill's right to withhold the Client's goods referred to in clause 5 above, nor GoChill's right to sell the Client's goods if the cheque or promissory note is dishonoured, until GoChill or the Client's bank has successfully collected full payment thereof.

9. UNSOUND GOODS

- 9.1 GoChill may at any time inspect any goods stored with GoChill and may also refuse to accept any goods which, in GoChill's sole discretion, appear to be damaged in any way or unacceptable for handling and/or storage by it.
- 9.2 GoChill may call for the immediate removal from its premises of any goods that it deems unsound or liable to cause damage or nuisance. If the Client fails to remove such goods within one business day, GoChill may, at the Client's expense, have such goods removed from its premises and delivered to the Client's address as specified on the Client's receipt.

10. WARRANTY OF OWNERSHIP AND INTEGRITY OF PRODUCT

- 10.1 The Client warrants that it is the owner of the goods or is duly authorised to store the goods with GoChill. The Client also warrants that the goods will not, due to incorrect packing or other reasons cause any loss or damage to any other goods stored on GoChill's premises. The Client shall compensate GoChill and hold it harmless for and against any claim made as a result of non-compliance with these warranties (and related costs).
- 10.2 The Client warrants further that the goods are not hazardous or illegal cargo, restricted plant material, derived from marine or animal life which are protected or prohibited species in terms of the laws of South Africa or the country of origin. Should GoChill deem the goods to be such as envisaged in clause 9.1 and 9.2 above, it shall treat them as unsound goods in terms of clause 9 above.

11. COMPENSATION FOR POSSIBLE CLAIMS BY CONSUMERS (INDEMNITY)

The Client shall compensate GoChill and hold it harmless for and against any claims (and related costs) that it may possibly face from consumers who rely on the Consumer Protection Act to allege that GoChill is liable for damage caused by the goods stored with it or for a refund, replacement or repair of goods as producer of the goods, by reason of performing additional services at the Client's request (although GoChill denies that it is the producer of the goods), or on the basis that it supplies defective goods in conjunction with supplying such additional services requested by it.

12. ENTIRE AGREEMENT AND NO VARIATION EXCEPT IN WRITING

The Client acknowledges that these terms and conditions constitute the entire agreement between the parties, and that no representations contrary to these terms have been made by GoChill or one of its directors, agents or employees. Any changes or variations to these terms are to be reduced to writing and signed by either parties, or their duly authorised representatives.

13. NO WAIVER

The granting of any extension of time or other indulgence by GoChill, shall not in any way affect its rights under this agreement, nor shall it in any way be regarded as a waiver of any of its rights.

14. TERMINATION OF CONTRACT

Despite what is agreed elsewhere in these terms, the contract between the Parties shall terminate automatically if the premises in which the goods are stored are destroyed or so damaged from any cause as to make them unusable.

15. CUSTOMS FORMALITIES

GoChill may refuse to transfer or release goods upon which duty has not been paid until such time as it has received written authority for such transfer or release from customs or other relevant authorities.

16. CHANGE OF OWNERSHIP IN GOODS

The Client agrees that if it sells the goods whilst in storage with GoChill, the Client will make such sale subject to the terms and conditions of this Agreement being binding on the new owner. Failure to do so will result in compensation being paid by the Client to GoChill for any loss suffered as a result of such failure on the Client's part. The Client shall remain liable for all costs in terms of this Agreement in respect of the goods sold, until such time as the goods leave GoChill's premises.

17. SPECIAL CONDITIONS RELATED TO ELECTRONIC DATA, PRIVACY, CONFIDENTIALITY AND DATA PROTECTION

- 17.1. Notwithstanding the provisions of any legislation or other law regulating electronic communications and transactions, GoChill shall only be deemed to have received electronic data and/or messages when such electronic data and/or messages have been retrieved, processed and read by the addressee.
- 17.2. Under no circumstances whatsoever and howsoever arising (including negligence on the part of GoChill or its employees) shall GoChill be liable for any loss or damage arising from or consequent upon the provision by GoChill to the Customer in whatever manner and/or form, of incorrect information, including electronically communicated information or data, where such incorrect information or data has been generated by any person with whom GoChill conducts business and/or any other third party.
- 17.3. GoChill shall furthermore under no circumstances whatsoever be liable for any loss or damage arising from or consequent upon any failure and/or malfunction for whatever reason and regardless of negligence in whatever degree on the part of GoChill/Associated Entity or flaws or security breaches in GoChill computer systems and/or software programmes, provided and/or operated by GoChill and/or by any person with whom GoChill conducts business and/or third party, and which systems shall include GoChill's electronic automated information services provided to its Customers.
- 17.4. The Parties acknowledge that for the duration of this Agreement, a Party may or will obtain access to or be provided with Personal Information as defined in the POPI Act ('the Receiving Party') of the other Party ('the Disclosing Party') and of the Disclosing Party's directors, consultants, employees, sub-contractors, clients, suppliers and other persons associated with the Disclosing Party, for the purposes of performing their obligations in terms of the agreements between them.
- 17.5. The Receiving Party undertakes to respect and maintain the privacy and security of all such Personal Information and agrees that it will comply with all applicable data protection or data privacy laws, including the POPI Act.
- 17.6. The Receiving Party undertakes that it will not do or omit to do anything which causes the Disclosing Party to be in breach of the Disclosing Party's obligations under all applicable data protection or data privacy laws, including the POPI Act.
- 17.7. The Disclosing Party consents to the collection, processing and further processing of its Personal Information and that of the Disclosing Party's directors, consultants, employees, sub-contractors, customers, suppliers and other persons associated with the Disclosing Party, by the Receiving Party in so far as this is required for the implementation of this Agreement and any other agreement concluded by the Parties provided that such collection, processing and further processing of Personal Information is carried out in terms of the POPI Act.
- 17.8. The Disclosing Party shall, at any time, be entitled to demand that the Receiving Party returns, alternatively destroys or deletes, any and all Personal Information which has been provided to the Receiving Party by the Disclosing Party. Upon receiving such a demand, the Receiving Party shall comply with this demand and shall not retain any

copies or any extracts of such Personal Information and shall not retain any copies thereof or any extracts therefrom. The Receiving Party shall thereupon confirm in writing that such Personal Information has been returned, alternatively destroyed or deleted in terms of the demand. The Personal Information will accordingly be retained until such time as the Disclosing Party demands the return, destruction or deletion thereof.

- 17.9. Each of the Parties agrees to keep secret and confidential and not to divulge to any third party whether directly or indirectly, any information relating to the provisions of this Agreement or the affairs of the other Party, including without limitation the tariffs charged by GoChill and any of the third parties contracted by GoChill and any other rates and discounts charged or afforded by GoChill, reflected in GoChill's quotations and/or cost estimates and/or otherwise communicated by GoChill to the Customer.
- 17.10. GoChill and Associated Entities further terms and conditions on use of mobile applications, websites and Platforms are available at <https://www.goglobal.group/terms-and-conditions/> and any queries in regard to these or related issues may be directed to <mailto:informationofficer@goglobal.group>.

18. APPLICABLE LAW AND CONSENT TO JURISDICTION

- 18.1 The contract incorporating these terms shall be governed by South African Law.
- 18.2 The Client consents that any legal proceedings between the Parties may be instituted at GoChill's sole discretion in either the High Court of South Africa and/or the Magistrates' Court, even if the amount in issue exceeds the jurisdiction of the Magistrates' Court.

19. COSTS

The successful party in any legal proceedings between the Parties may claim all legal costs incurred. Such costs will include all legal fees on the scale as between attorney and own client, disbursements and other expenses associated with the legal proceedings. A statement with supporting invoices from either party's attorneys of record shall constitute prima facie proof of the amount of such costs.

20. DOMICILIUM CITANDI ET EXECUTANDI (SERVICE ADDRESS)

The Client hereby chooses the address recorded above under Company Details as the address at which all legal documents in any court proceedings against it or notices provided for in this agreement, including may be validly delivered or served. The Client may give GoChill written notice of a change of address for this purpose.

21. DEFAULT

- 21.1 In the event of the Client failing to pay on due date all or any amounts payable in terms of this Agreement, or should it be in breach of any other term or condition of this Agreement, GoChill may, without prejudice to its other legal right sand remedies, including the right to claim damages, be entitled either to
- 21.1.1 cancel this Agreement by notice in writing Client and claim damages, or
 - 21.1.2 claim specific performance and/or payment of the Client's obligations in terms hereof, and/or
 - 21.1.3 claim damages which it may have suffered due to the Client's breach of contract.
- 21.2 GoChill shall, however, not be entitled to exercise the rights granted to it in terms hereof, unless the Client received notice in writing to make the payment, or to remedy such default or breach and the Client failed to make the payment or to remedy the breach within a period of 24 (Twenty-four) hours, reckoned from the time of receipt or deemed receipt of such notice.