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HOBART 22-24 NOV

Get the Picture?

Visuals in Contracts & Comic Contracts

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Contracts

- “Contracts are essential to the functioning of modern societies”
Oliver Hart and Bengt Holmström - THE NOBEL PRIZE IN ECONOMIC SCIENCES 2016 - CONTRACT THEORY
- We cannot participate in the market economy without contracts
- We are defined by our “ability” to understand contracts
- Contracts are promoted to protect vulnerable people¹



Source: 1 - International Labour Conference, 92nd Session, 2004, Report VI,
Towards a fair deal for migrant workers in the global economy

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Contracts

- Globally, 1 out of 10 people can't read this sentence¹.
- 43% of Australians score below level 3 (proficient) for literacy².

Sources: 1 - www.projectliteracy.com

2- www.abs.gov.au/ausstats/abs@.nsf/Lookup/4228.0Main+Features202011-12



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Contracts

- “A 75% literacy rate is arguably a plausible figure”¹
- The reported illiteracy rates are in excess of 40 per cent amongst farm workers²
- English, first language of 9,6%

Sources 1 - - The costs of illiteracy in South Africa - Martin Gustafsson, Servaas van Der Berg, Debra Shepherd and Cobus Burger –Department of Economics - University of Stellenbosch,".2 – Farm Workers’ Living and Working Conditions in South Africa – Margaret Visser, Stuart Ferrer, A report commissioned by the Pretoria Office of the ILO



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1. Introduction

- 1.1. This Mandate is as contemplated in the rules and the applicable legislation. Every transaction in Authorised Investments entered into by us with you or on your behalf is transacted on the specific condition that the transaction is entered into subject to the Financial Advisory and Intermediary Services (FAIS) Act 37 of 2002 (or any amendments or replacement acts), and any other applicable legislation.
- 1.2. Phoenix warrants that it is the holder of a Category I and category II FSP License and is authorised to render advisory and intermediary services of a non-discretionary nature in respect of investment products residing under the financial product subcategories approved for Phoenix by the Financial Services Board (FSB).
- 1.3. Prior to entering into this Mandate the Client provided Phoenix, which Phoenix obtained from the client, information with regards to the Client's financial circumstances, needs and objectives and such other information necessary to enable Phoenix to render suitable advisory and intermediary services to the Client in terms hereof. This information is included in Appendix A.
- 1.4. Before signing in the relevant spaces provided, carefully read all the terms and conditions of the applicable Sections as well as in the attached Schedules as they form an integral part of this Mandate. This Mandate and the Schedules hereto, shall commence on the date of signature hereof by the last signing party, and may be terminated immediately in writing by either party to the other party.
- 1.5. When the client considers its application, Phoenix may use credit reference agencies that will record enquiries made about the Client.
- 1.6. Please note that should any of the information provided by you in this Mandate or the Appendices change you must advise us of such change/s in writing. Such written advice must be accompanied by the appropriate documentation in support thereof in terms of the requirements of the Financial Intelligence Centre Act of 2001 ("FICA"), where applicable.

2. Definitions and interpretation

- 2.1. Business Day means a day other than a Saturday, Sunday or official public holiday in the Republic of South Africa;
- 2.2. Cash Management Transactions means funds accepted by Phoenix from a client and invested by Phoenix with one or more banks, including but not limited to cash, fixed deposits and money market accounts;
- 2.3. Client means in the case of a natural person with the following personal details:
 Title (e.g. Mr/Ms/Prof./Dr) _____, Initials _____
 First name(s) _____
 Surname _____
 Identity/Passport number _____
 Date of birth

D	D	M	M	Y	Y	Y	Y
---	---	---	---	---	---	---	---

 Male Female
 Physical address _____ (No. & Street)
 _____ (City)
 _____ (Province)
 _____ (Postal Code)

Postal address _____ (Incl. Postal Code)
 Tel. Work: _____ Fax _____ work: _____
 Tel. home _____ Fax _____ home: _____
 Cell phone number _____

The Client needs to provide the following documentation for FICA verification purposes:

- I. Copy of your South African bar-coded ID OR Valid passport (if foreign national) or birth certificate (if minor);
 - II. Proof of your residential address less than three months old;
 - III. Proof of your bank details (e.g. cancelled cheque or bank statement).
- 2.4. Collective Investment Scheme ("CIS") means any scheme or arrangement in pursuance of which members of the public are invited or permitted to require an interest or undivided share (whether called a unit or by any other name) in one or more groups of assets (whether called a portfolio or by any other name) of such scheme and to participate proportionately in the income or profits derived therefrom and including a foreign collective investment scheme carried on outside the Republic and unit trust scheme as defined in the Collective Investment Schemes Control Act, 2002.
 - 2.5. FAIS Act shall mean Financial Advisory and Intermediary Services Act 37 of 2002;
 - 2.6. FSP means Phoenix Wealth Management (Pty) Ltd, in its capacity as a licensed Category I and Category II Financial Services Provider in terms of the Financial Advisory and Intermediary Services Act 37, 2002;
 - 2.7. Phoenix means Phoenix Wealth Management (Pty) Ltd (Reg No:2010/011223/07) a private company incorporated in terms of the Companies Act 71 of 2008 of South Africa, with FSP license number 41200, situated at:
 - 2.8. Physical address: Suite 3, First Floor, Block 1, Fountain Grove Office Park, No. 5 Second Road, Hyde Park
 - 2.9. Email address: support@phoenix.co.za
 - 2.10. Telephone number: +27 23 100 0070
 - 2.11. FSP License shall mean Financial Service Providers License issued in terms of the Financial Advisory and Intermediary Services Act 37 of 2002;
 - 2.12. Financial Product, or Financial Products are as defined under the Introductory Provisions of the Financial Advisory and Intermediary Services Act 37, 2002;
 - 2.13. Relevant law includes the Pension Funds Act 24 of 1956, and the Collective Investment Schemes Control Act 45 of 2002, and the Long-term Insurance Act 52 of 1998, and the Prevention of Organised Crime Act 121 of 1998, and the Financial Intelligence Centre Act 38 of 2001 and the Financial Advisory and Intermediary Services Act 37 of 2002, all as amended or substituted from time to time; and

Contracts

- Written by lawyers for lawyers¹
- A form of institutional oppression²
- “Explain or train”

Source: 1) Gerlinde Berger-Walliser, Robert C. Bird & Helena Haapio, *Promoting Business Success Through Contract Visualization* 2) “Institutional Oppression,” *Tools for Diversity*, © TACS. by Carol Cheney, Jeannie LaFrance and Terrie Quinteros, 2006



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Visualisation in Contracts

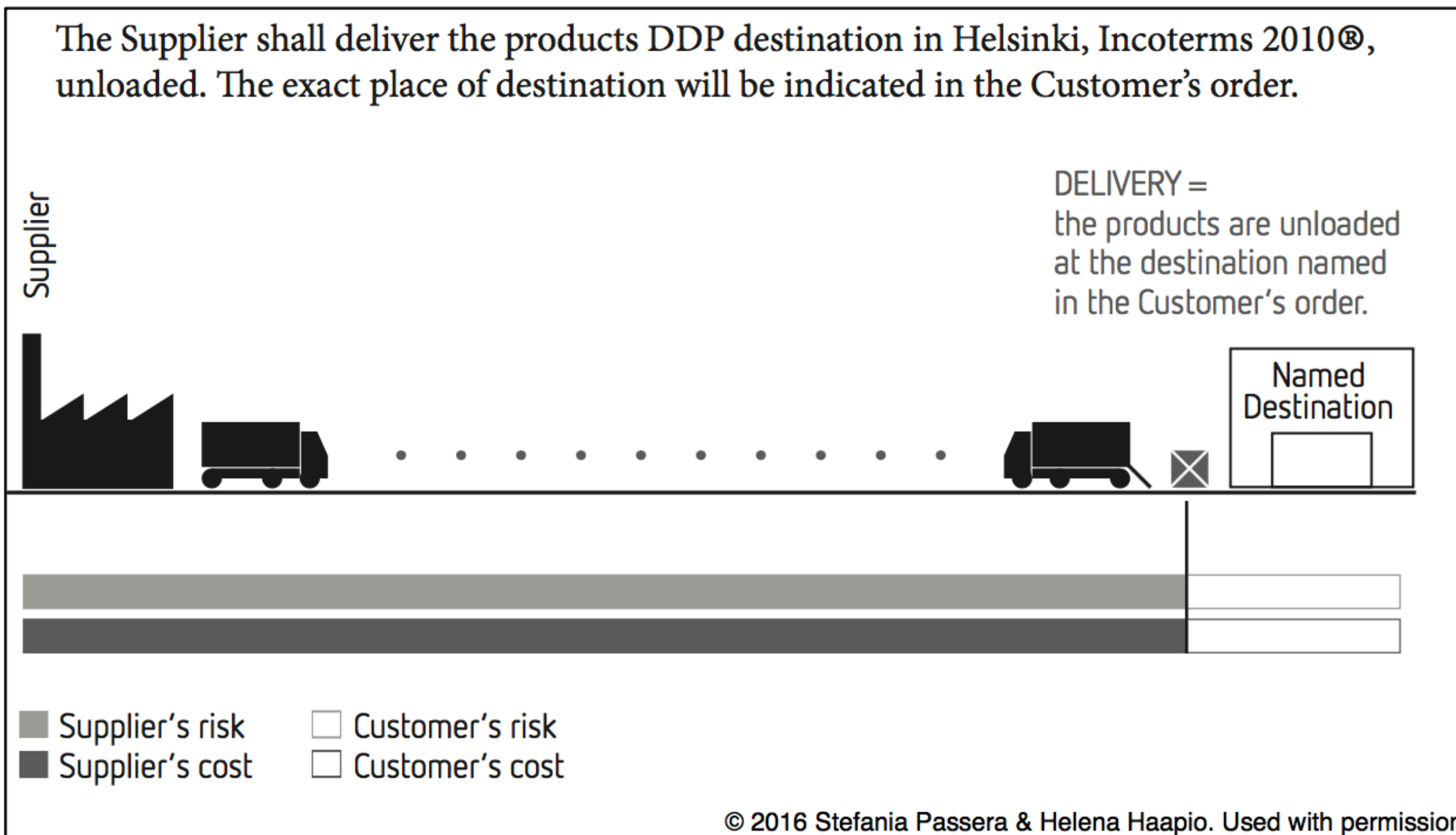
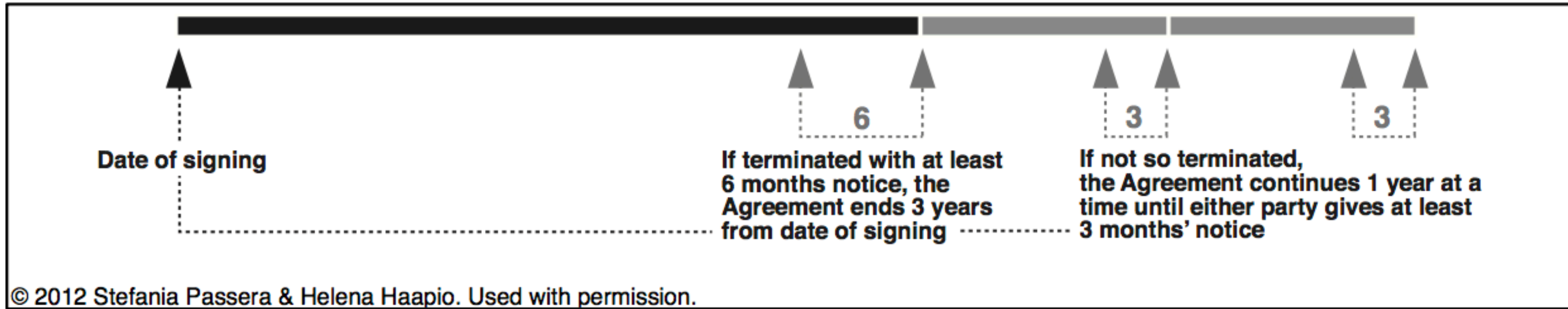
- Proactive Contracting - Visualisation
- Text remains binding element



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CONTRACT OF EMPLOYMENT

EMPLOYER

ID NUMBER

ADDRESS

CONTACT DETAILS

NEXT-OF-KIN

EMPLOYEE

ID NUMBER

ADDRESS

CONTACT DETAILS

NEXT-OF-KIN

HELLO

WELCOME. WE ARE VERY HAPPY THAT YOU WILL BE WORKING FOR US AS OUR DOMESTIC WORKER

THANK YOU. I HOPE YOU WILL BE A KIND EMPLOYER. HOW SHALL I ADDRESS YOU?

YOU CAN CALL ME HELEN. AND WHAT NAME WOULD YOU LIKE ME TO CALL YOU BY?

GOOD, SYLVIA - NOW LET'S TALK ABOUT WHAT WE EXPECT OF EACH OTHER.

YOU CAN CALL ME SYLVIA.

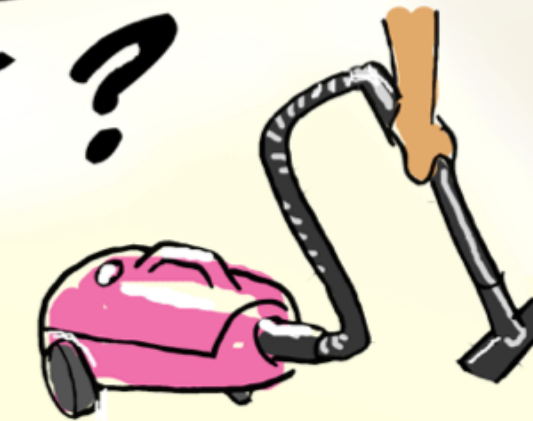


INITIAL HERE

WHAT?



CLEAN WINDOWS



VACUUM



CLEAN FLOORS



WASH DISHES



WASH CLOTHES



IRON CLOTHES

IS THAT EVERYTHING?

...AND ANY OTHER WORK THAT I MIGHT ASK YOU TO DO AROUND THE HOUSE...



WHEN?

WHEN CAN I START?



YOU START ON WEDNESDAY THE 1ST OF SEPTEMBER 2014

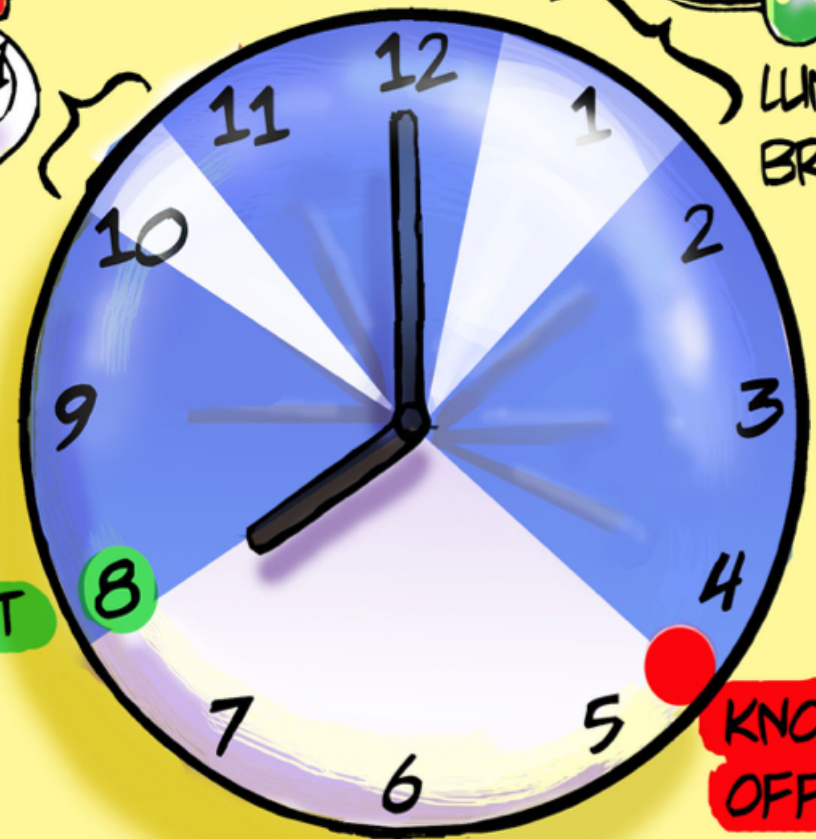
IS THIS A PERMANENT JOB?

YES IT'S PERMANENT, UNTIL YOU RETIRE- WHICH IS WHEN YOU TURN 65.



TEA BREAK

START



LUNCH BREAK

KNOCK OFF



MATERNITY LEAVE

WHAT HAPPENS IF I FALL PREGNANT?

YOU ARE ENTITLED TO 4 CONSECUTIVE MONTHS OF LEAVE.

DO I STILL GET PAID?

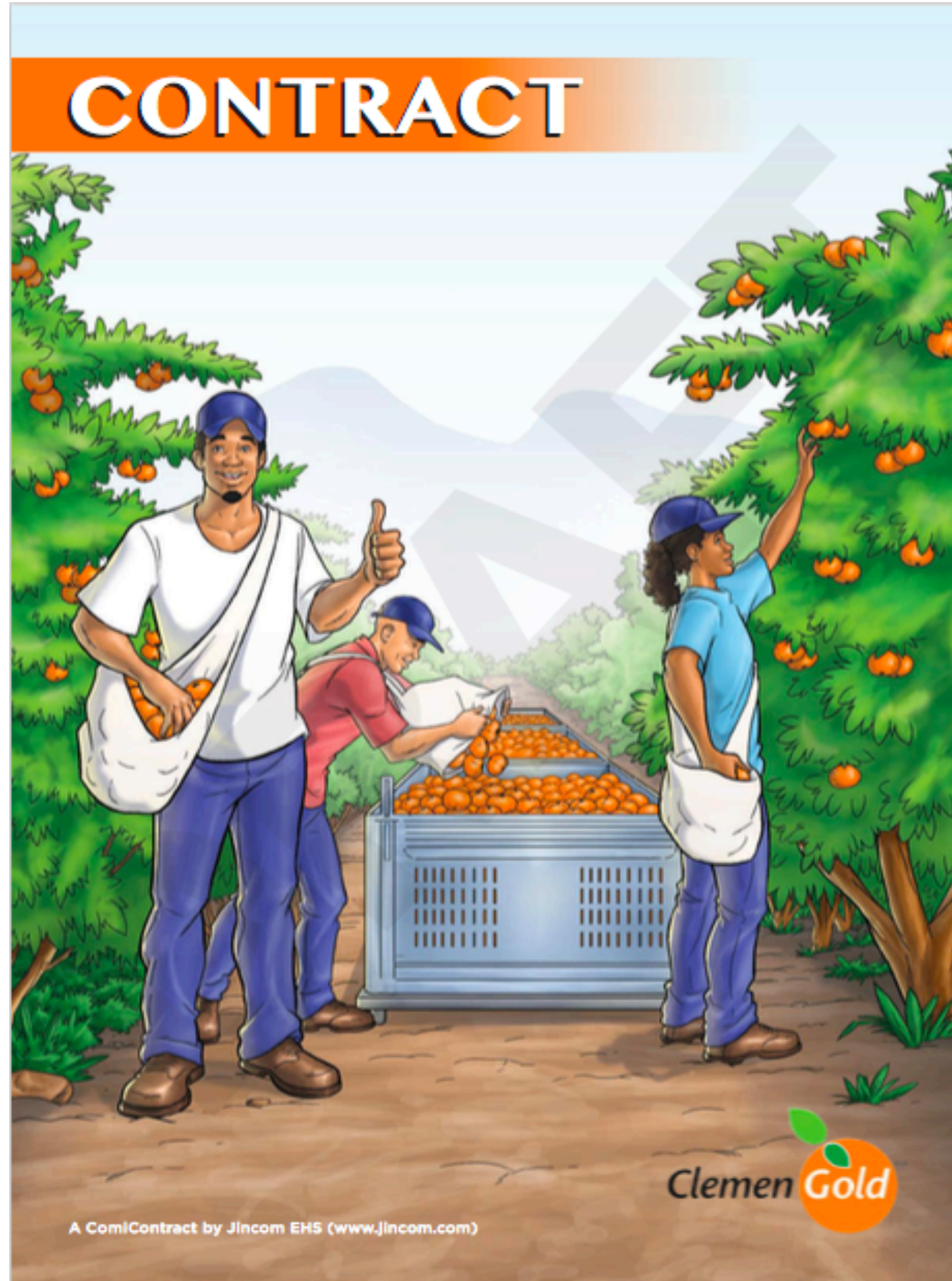
I DON'T HAVE TO, BUT I'M WILLING TO TO AGREE THAT I WILL PAY YOU HALF YOUR SALARY DURING MATERNITY LEAVE.

OK, AGREED.

FAMILY RESPONSIBILITY LEAVE

YOU ARE ALSO ENTITLED TO 2 DAYS OF LEAVE PER YEAR, WHICH YOU CAN USE IF SOMEONE CLOSE TO YOU DIES, IS BORN, OR IS VERY SICK AND YOU MUST BE THERE.

OK, AGREED.



PARTIES TO THE AGREEMENT

GUIDE

Hello! This is your contract.

THIS IS YOU, THE PICKER

NAME: _____
 ID: _____
 ADDRESS (PHYSICAL): _____
 CO NO: _____

EMPLOYER/MANAGEMENT

COMPANY: Indigo Fruit Farming, 2002/0043989/07
 Portion 21, Farm "Junction" Letsitele, South Africa 0885
 REPRESENTED BY: Faan Kruger
 CELL NO: _____

Put your initials here

SEC 13

Setorial Determination 13, Farm Worker Sector, is the law which applies to this contract and your employment.

INDUCTION

To get a contract here you must be 18 or older, have a valid ID or work permit and be fit and healthy to work.

18+

ID

Fit and healthy

SEC 13

Probation start date: / /

PASS

3 WEEK PROBATION

Amount picked

Amount picked

PASS

YOUR JOB

This is what we expect from you.

PICKING

SELECT

46+ per day

OR

STRIP

57+ per day

Other tasks...

LETSHITILE

Maradadi, Sityen, Brug, Du Roi

PAY

SELECT OR **STRIP**

R2.34 per bag

R1.88 per bag

Payment per bag over 50

Select: R2.34, Strip: R1.88

MONTH

The minimum picking amount would be the same as an hourly rate of R13.37

SEC 13

DISCIPLINE

46+ or 57+

1. 39

2. 25

3. 32

WARNING

WARNING

DEDUCTIONS

	YES	NO	AMOUNT
Uif	<input type="checkbox"/>	<input type="checkbox"/>	R: _____
Department of Labour	<input type="checkbox"/>	<input type="checkbox"/>	R: _____
Transport	<input type="checkbox"/>	<input type="checkbox"/>	R: _____
Food	<input type="checkbox"/>	<input type="checkbox"/>	R: _____
Accommodation	<input type="checkbox"/>	<input type="checkbox"/>	R: _____
Third Party Payments	To: _____	<input type="checkbox"/>	R: _____
Responsibility Employee	<input type="checkbox"/>	<input type="checkbox"/>	R: _____
Loans	<input type="checkbox"/>	<input type="checkbox"/>	R: _____
Any Other	To: _____	<input type="checkbox"/>	R: _____
SEC 13	<input type="checkbox"/>	<input type="checkbox"/>	R: _____

SEC 13

HOURS OF WORK

40 hours

Mon Tues Wed Thur Fri Sat Sun

Normal Hours Optional Overtime

NORMAL TIME:

Start: 7h45

End: 16h45

Shift times can sometimes change.

Work Lunch

OVERTIME

Normal Hours Optional Overtime

+Shrs

Sat x 1.5

Sun x 2

x 1.5 x 2

If you on a Public holiday = R x 2

SICK LEAVE

If you have worked for 26 days...

...and you get sick...

...and provide a valid doctor's certificate...

...you're allowed 1 day's paid sick leave.

ABSENTEEISM

If you can't come to work, you must tell your manager at least one day before.

1. 1

2. 2

3. 3

WARNING

WARNING

If you're often away from work, your contract will be ended.

DURATION OF EMPLOYMENT

START DATE: / /

END DATE: / /

Duration of employment: 1 WEEK

CODE OF CONDUCT

Make sure you know the company's code of conduct.

UPDATED

SIGNATURE PAGE

This is the contract, together with Sectoral Determination 13. Please sign below and initial every page.

EMPLOYER

Name: _____

Signature: _____ Today's date: / /

EMPLOYEE

Name: _____

Signature: _____ Today's date: / /

CHANGES

No changes can be made to this contract without it being authorized and signed by the manager or a company representative.

EMPLOYER

Name: _____

Signature: _____ Today's date: / /

EMPLOYEE

Name: _____

Signature: _____ Today's date: / /



Comic Contracts

- An agreement written in pictures.
- Legally binding contract, where:
 - Parties are represented as characters
 - Agreement is captured in pictures
 - Parties sign the comic *as* the contract



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Implementation

- > 3000 workers signed
 - Male and Female versions
 - Local language translations
- Other Types – for example
 - School enrolment
 - Non-disclosure



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Feedback



Feedback

- More equitable terms
- Reduced induction time
- Better start to the relationship
- Supervisors empowered



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Scope in Financial Planning?

- 2017 FPA Congress
 - “Consumer is at the centre” & “Simple to follow”
- FPA Code of Practice
 - PS1 - *“A written document ensures mutual understanding and agreement”*



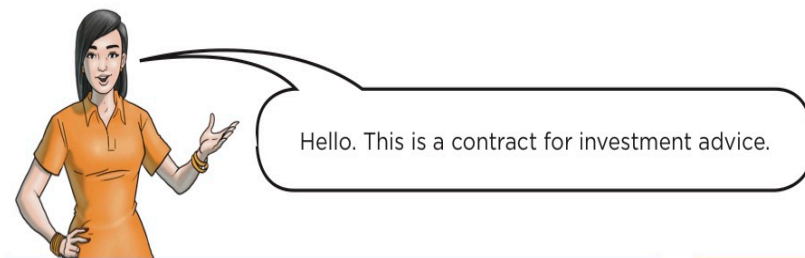
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Client Service Agreement

PARTIES TO THE CONTRACT



This contract is between:

Phoenix, the adviser

Company: Phoenix Wealth Management (Pty) Ltd
Reg no.: 2010/011223/07
Physical address: Suite 3, First Floor, Block 1 Fountain Grove Office Park No.5 Second Road Hyde Park
Email: support@phoenix.co.za
Contact no.: +27 23 100 0070

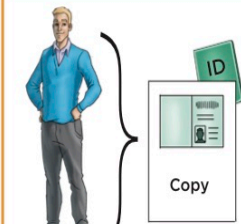
The Authorised Financial Services Provider FSP 41200

AND

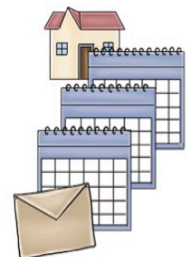
You, the potential investor

Title:
Initials:
First name/s:
Surname:
Identity/passport number:
Date of birth: DD / MM / YYYY
Gender: M / F
Physical address:
Postal address (if not same as physical address):
Contact no.: C -
 H -
 W -
Email:.....

What paperwork do I need to give?



- ID copy/passport copy (if foreign)/birth certificate (if minor)



- Proof of address (any invoice sent to your address within last 3 months)



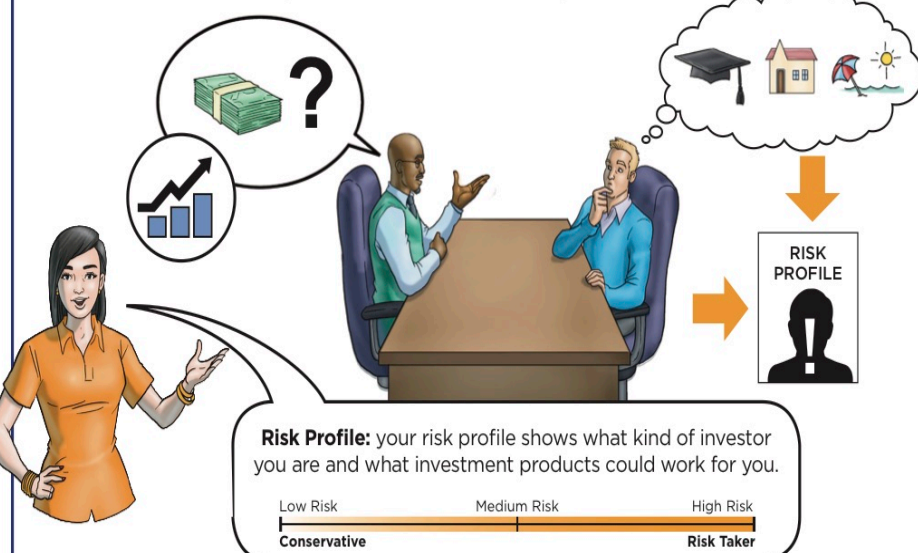
- Bank statement



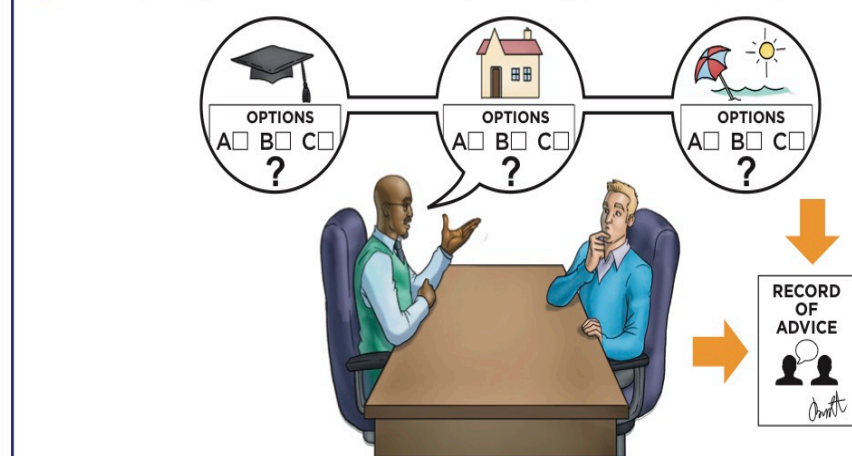
The laws that apply to this contract includes the Pension Funds Act 24 of 1956; the Collective Investment Schemes Control Act 45 of 2002; the Long-term Insurance Act 52 of 1998; the Prevention of Organised Crime Act 121 of 1998; the Financial Intelligence Centre Act 38 of 2001; and the Financial Advisory and Intermediary Services Act 37 of 2002.

What am I agreeing to?

- 1 Answering questions from Phoenix about your money and what you want to do with it so they can create a **Risk Profile** for you.



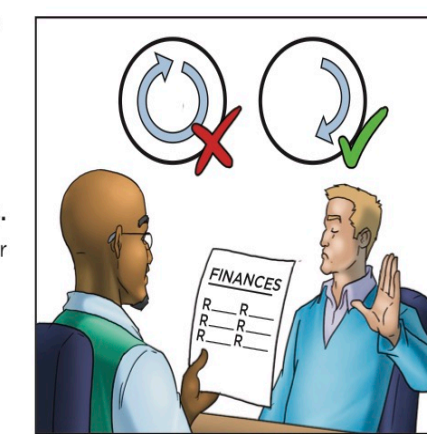
- 2 Phoenix giving you **advice** on how to invest your money (based on risk profile).



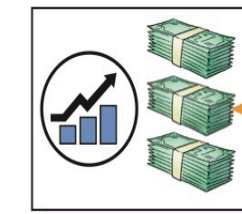
- 3 Phoenix helping you invest your money AND giving Phoenix **permission to act on your behalf**.



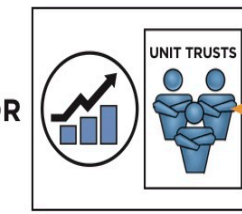
- 4 Phoenix **NOT** performing a **full analysis** on your financial situation (record of advice is limited in terms of Section 8(4)(a) of the general code), and will be advising you to...



- 5 ...invest in either a **Cash/Money Market** OR **Unit Trusts** OR a combination of the two options. Phoenix could not perform a full analysis of your financial situation because:
 - (a) You, the client, didn't wish to give all the necessary information; or
 - (b) There wasn't enough time because of reasons outside of the advisor's control.

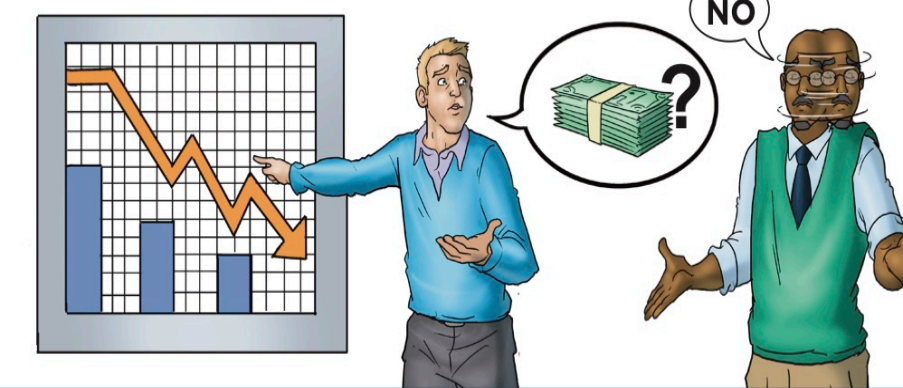
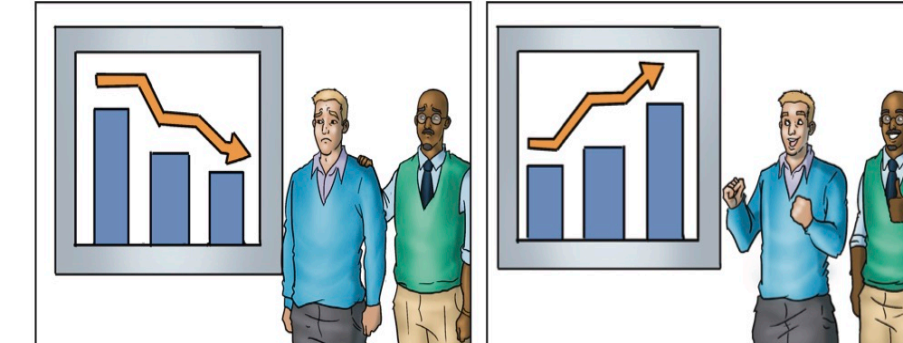


Cash/Money Market: A bank account that offers a higher interest rate than normal, but limited access to the funds. Access can be granted, but may take up to a month.

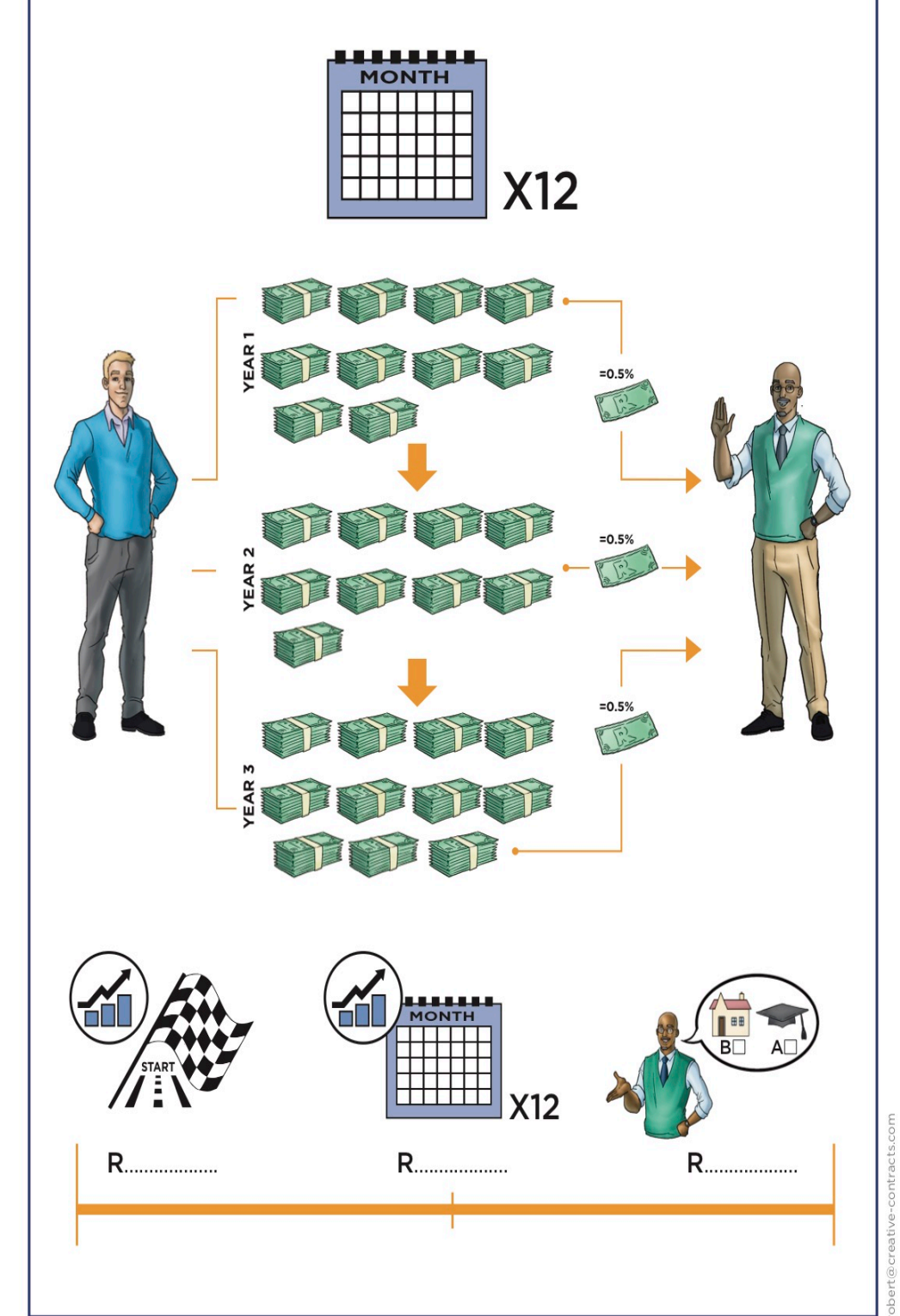


Unit Trusts: These are investments where lots of different investors' money is put into one investment portfolio and when it makes a profit or loss, it's shared among all the investors.

- 6 Phoenix providing you with the best possible advice available at the time, but not taking responsibility for poor investment performance.



- 7 **Paying** an annual fee for the **advice** and help received. Please note that you, the client, **don't pay an invoice or transfer money** to Phoenix; the **payment is deducted** by the investment product provider from your investment and paid directly to Phoenix.



Conclusion

- Contracts with vulnerable people should support
 - Social inclusion
 - Respect
 - Dignity



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“The more you see, the more you know.”

Aldous Huxley, author of ‘A Brave New World’



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