



**ATTORNEYS**

# SJF Attorneys

INCORPORATED / INGELYF

## **MANDATE AND FEE AGREEMENT // LETTER OF ENGAGEMENT**

entered into between

**SJF ATTORNEYS INCORPORATED**

(hereinafter referred to as “**SJF Attorneys**”)

and

CLIENT NAME: \_\_\_\_\_ (the “**Client**”)

REGISTRATION / IDENTITY NO.: \_\_\_\_\_ VAT NO (if applicable): \_\_\_\_\_

PHYSICAL ADDRESS: \_\_\_\_\_

POSTAL ADDRESS: \_\_\_\_\_

EMAIL ADDRESS: \_\_\_\_\_

TELEPHONE NO: \_\_\_\_\_ CELL NO: \_\_\_\_\_

OCCUPATION: \_\_\_\_\_

PREFERRED LANGUAGE: English Afrikaans

EMERGENCY CONTACT: Name: \_\_\_\_\_ Cell: \_\_\_\_\_

*If signed on behalf of a client and/or company, the name and designation of person concluding the agreement (if applicable): Name: \_\_\_\_\_ Designation: \_\_\_\_\_*

**\*\*\*The client will instruct SJF Attorneys from time to time in respect of the Client’s requirements for legal advice and assistance and SJF Attorneys and the Client’s relationship will be governed in each such instruction by the terms and conditions set out in this Fee Agreement / Letter of Engagement, which incorporates a suretyship.\*\*\***

SINGED AT \_\_\_\_\_ BY \_\_\_\_\_ ON \_\_\_\_\_  
(Place) (Full Names) (Date)

\_\_\_\_\_  
Designation:

\_\_\_\_\_  
Signature of / on behalf of Client

**Checklist:**  Signed Fee Agreement  Copy of ID/Registration No  
 Proof of residency

Tel: (+27)13 753 2401 Director Cell: (+27) 60 522 0773  
17 Macgillivray road, Glenferness, Midrand, 2191  
E-MAIL: [stefan@attorney420.co.za](mailto:stefan@attorney420.co.za)

Directors: SJF Bezuidenhout  
Professional Assistants: C. Grant  
Office Manager: Jodi-Rae Chappen  
Reg. No: 2021/933570/21

## **INTRODUCTION:**

This law firm is a professional business offering specialised legal and mediation services. Experience has shown that a good relationship between Attorney and client is founded upon a clear understanding of the Attorney's billing and fee policy. This agreement between Attorney and client sets out the basis on which fees and disbursements are levied, and the terms of payment to which we expect our client to adhere, so that we may render effective and efficient services for a fair return.

## **1. INTERPRETATION**

1.1. In this Agreement:

- 1.1.1. clause headings are for convenience only and are not to be used in its interpretation;
- 1.1.2. an expression which denotes:
  - 1.1.2.1. any gender includes the other genders;
  - 1.1.2.2. a natural person includes a juristic person and vice versa; and
  - 1.1.2.3. the singular includes the plural and vice versa.

1.2. In this Agreement, unless the context suggests otherwise, the following words and expressions shall mean the following:

- 1.2.1. "**Agreement**" shall mean this fee agreement and/or letter of engagement as well as the attachments hereto, which form part of it, as amended, varied, novated or supplemented from time to time;
- 1.2.2. "**Effective Date**" shall mean the date on which SJF Attorneys commences the provision of the Services and shall for purposes of this Agreement mean the date on which this Agreement is signed by the client;
- 1.2.3. "**Losses**" means all losses (including, but not limited to, special, consequential and indirect damages), liabilities, costs, expenses, fines, penalties, damages and claims, and all related costs and expenses (including, but not limited to, legal fees on the scale as set out in the Schedule of Fees, tracing and collection charges, costs of investigation, interest and penalties);
- 1.2.4. "**Parties**" shall mean SJF Attorneys and the Client collectively and a reference to a "Party" shall mean either SJF Attorneys or the Client, as the case may be and will be determined from the context of this Agreement;
- 1.2.5. "**Personal Information**" shall mean information applicable to a specific natural or juristic person and includes, inter alia, age, gender, race, culture or religion, disability, identity number, marital status, physical address, contact details, correspondence and confidential documentation pertaining to a specific natural or juristic person;
- 1.2.6. "**Process**" shall mean any act involving, inter alia, collection, consultation, distribution, storage, retrieval, recording, modification,

collation or any other use of any Personal Information and;

- 1.2.7. "**Processing**" shall bear a corresponding meaning;
  - 1.2.8. "**Representative**" shall mean, in the event that the Client is a legal entity, the individual who is the signatory to this Agreement on behalf of the Client;
  - 1.2.9. "**Fees**" shall mean SJF Attorneys' Fees, and the client understands that **STEFAN JF BEZUIDENHOUT** will supervise the work carried out on my matter, but that he will at times be working with a team of professionals, all of whom will have their own expertise or supplemented from time to time by SJF Attorneys and accept the hourly rate of **R1,950.00 per hour** for services rendered by the professionals;
  - 1.2.10. "**SJF Attorneys**" shall mean candidate attorneys, attorneys and directors of SJF Attorneys;
  - 1.2.11. "**Services**" shall mean ongoing legal advice and legal professional and other services supplied or to be supplied by SJF Attorneys to the Client from time to time;
  - 1.2.12. "**Signature Date**" shall mean the date upon which the last Party signs this Agreement.
- 1.3. Any substantive provision conferring rights or imposing obligations on a Party and appearing in any of the definitions in this clause 1 or elsewhere in this Agreement, shall be given effect to as if it were a substantive provision in the body of the Agreement.
- 1.4. Words and expressions defined in any clause shall, unless the application of any such word or expression is specifically limited to that clause, bear the meaning assigned to such word or expression throughout this Agreement.
- 1.5. A reference to any statutory enactment shall be construed as a reference to that enactment as at the Effective Date and as amended or substituted from time to time.
- 1.6. Reference to "days" shall be construed as calendar days unless qualified by the word "business", in which instance a "business day" shall be any day other than a Saturday, Sunday or public holiday as gazetted by the government of the Republic of South Africa from time to time. Any reference to "business hours" shall be construed as being the hours between 08h30 (Eight Hours and Thirty Minutes) and 17h00 (Seventeen Hours) on any business day. Any reference to time shall be based upon South African Standard Time.
- 1.7. Unless specifically otherwise provided, any number of days prescribed shall be determined by including the first and excluding the last day.
- 1.8. In the event that the day for payment of any amount due in terms of this Agreement should fall on a day that is not a business day, the relevant day for payment shall be the preceding business day.
- 1.9. Save as specifically otherwise provided herein, no provision of this Agreement constitutes a stipulation for the benefit of any person who is not a Party to this Agreement.

- 1.10. Where figures are referred to in numerals and in words, and there is any conflict between the two, the words shall prevail, unless the context indicates a contrary intention.
- 1.11. No provision herein shall be construed against or interpreted to the disadvantage of a Party by reason of such Party having or being deemed to have structured, drafted or introduced such provision.
- 1.12. The expiration or termination of this Agreement shall not affect such of the provisions of this Agreement as expressly provide that they shall operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this.
- 1.13. This Agreement shall be binding on and enforceable by the estates, heirs, executors, administrators, trustees, permitted assigns or liquidators of the Parties as fully and effectually as if they had signed this Agreement in the first instance and reference to any Party shall be deemed to include such Party's estate, heirs, executors, administrators, trustees, permitted assigns or liquidators, as the case may be.
- 1.14. The words "**include**" and "**including**" mean "**include without limitation**" and "**including without limitation**". The use of the words "**include**" and "**including**" followed by a specific example or examples shall not be construed as limiting the meaning of the general wording preceding it. The application of the eiusdem generis rule is therefore excluded.

## **2. APPOINTMENT**

The Client hereby appoints SJF Attorneys to perform the Services, upon the terms and conditions contained herein.

## **3. COMMENCEMENT AND DURATION**

Notwithstanding the Signature Date, this Agreement shall commence on the Effective Date, and shall continue thereafter indefinitely unless terminated by either Party by notice in writing to the other Party.

## **4. CERTAIN TRANSITIONAL MATTERS**

In the event of the relationship between the Parties being in existence for some time and in consequence of the relationship, the Parties having concluded a number of written and oral agreements, some of which relate to the subject matter of this Agreement, the Parties agree that all such agreements are hereby incorporated into this Agreement. The terms and conditions of this Agreement shall supersede the terms and conditions of all such incorporated agreements.

## **5. SERVICES**

- 5.1. Subject to the terms and conditions of this Agreement, SJF Attorneys shall provide the Services to the Client with reasonable skill and care in accordance with the practices and professional standards expected of it and in a timely manner.
- 5.2. If, at the Client's request, SJF Attorneys provides its advice in an abbreviated format or timescale, the Client acknowledges that it shall not receive all the information it would have done had SJF Attorneys provided a full written report or had more time in which to carry out the work.
- 5.3. Unless otherwise directed by the Client, SJF Attorneys may correspond by means of the internet or other electronic media. Where SJF

Attorneys does so, whilst it shall take reasonable steps to safeguard the security and confidentiality of the information transmitted, the Client acknowledges that SJF Attorneys cannot guarantee its security and confidentiality. While it is SJF Attorneys' policy to check all correspondence with anti-virus software, SJF Attorneys cannot guarantee that transmissions shall be free from infection. If the communication relates to a matter of significance on which the Client wishes to rely and the Client is concerned about the possible effects of electronic transmission, the Client must request a hardcopy of such transmission from SJF Attorneys. If the Client requires that SJF Attorneys password-protect all or certain documents transmitted, SJF Attorneys shall make appropriate arrangements.

- 5.4. The Client agrees that any commercial decisions that it makes, are not within the scope of SJF Attorneys' duty of care and in taking such decisions, the Client shall take into account the restrictions on the scope of SJF Attorneys' work and other factors, commercial and otherwise, of which the Client and its other advisers are, or should be, aware from sources other than SJF Attorneys' work.

## **6. FEES AND CHARGES**

- 6.1. SJF Attorneys shall be compensated for actual hours of work performed and such compensation shall be at the a rate of **R1,950.00** per hour and all new clients agree to a once of **R100.00** fee for the opening of their office file.
- 6.2. The Parties agree that the fees and charges applicable to performing the Services shall be as Disbursement will reasonably have to be incurred, and I accept responsibility to pay such disbursements to the Attorney on demand.
- 6.3. SJF Attorneys' Professionals charge for their time on an hourly basis, in 6 (Six) minute increments, as a minimum time unit charge. All time is recorded.
- 6.4. Unless otherwise specified, all amounts specified in the Schedule of Fees are exclusive of Value Added Tax ("VAT").
- 6.5. Amounts charged by third parties may be subject to VAT when invoiced by SJF Attorneys to the Client, even if the original supplies to SJF Attorneys are not subject to VAT.
- 6.6. SJF Attorneys relies on representations made by the Client to determine whether its Services are VAT exempt or subject to the zero rate. If Services treated as VAT exempt or subject to the zero rate are later found to be taxable, the Client agrees to pay to SJF Attorneys the amount of the VAT, as well as any penalties or interest resulting from failure to pay VAT. Similarly, SJF Attorneys shall reimburse the Client if SJF Attorneys mistakenly charges the Client VAT and subsequently recovers that VAT from the tax authority.
- 6.7. SJF Attorneys reserves the right to vary its fees from time to time, which increase shall take place automatically by an amount of 10% (Ten Percent) on 1 January each year. In the event of the fees as reflected in the Schedule of Fees being varied in excess of 10% (Ten Percent) per calendar year, SJF

- Attorneys undertakes to notify the Client thereof immediately in writing.
- 6.8. SJF Attorneys shall invoice the Client on a monthly basis in arrears for all out-of-pocket expenses actually and reasonably incurred by SJF Attorneys in performing its obligations under this Agreement, including, but not limited to, counsel's fees, sheriff's fees, correspondent's fees, tracing agent's fees, courier, shipping, telephone charges, copying charges, travel expenses and charges for any non-routine supplies ("Reimbursable Expenses"). If SJF Attorneys is required to incur costs on behalf of the Client, it may require such costs to be paid in advance of being incurred.
  - 6.9. The Client shall be liable for its Reimbursable Expenses, regardless of whether or not the Client expects to be reimbursed by a third party.
  - 6.10. Disbursements in respect of traveling costs by motor vehicle will be recovered at the rate of **R8.75 per kilometer** (VAT excluded), which amount shall escalate annually by 10% to keep up with inflation.
  - 6.11. All of its invoices are issued on the basis that SJF Attorneys shall receive the amount invoiced. If the Client is obliged to pay withholding tax or any other tax, an equivalent amount must be added to SJF Attorneys' invoice to ensure that SJF Attorneys receives the full amount of its invoice.
  - 6.12. Where work does not proceed to a conclusion or the mandate is terminated, SJF Attorneys shall charge for all work done, together with all Reimbursable Expenses incurred by SJF Attorneys in relation to the matter.
  - 6.13. The Client acknowledges that any fee estimate that SJF Attorneys may provide is not an agreement to perform the Services within a fixed time or for a fixed fee.
  - 6.14. The client further acknowledges that the Attorney is unable under any circumstances to brief Counsel in my matter unless he/she holds monies in trust to cover Council's fees.

## **7. PAYMENT**

- 7.1. Unless otherwise agreed in writing, electronic invoices shall be rendered monthly in arrears and in Rands. Payment of SJF Attorneys' invoices shall be made by the Client on presentation of the invoice by SJF Attorneys.
- 7.2. SJF Attorneys requires payment in Rands into the bank account nominated by SJF Attorneys. SJF Attorneys may elect to accept payment in another currency and, if so, SJF Attorneys shall absorb any gain or loss from fluctuations in exchange rates except for Losses arising from late payment.
- 7.3. If SJF Attorneys neglects to account to the Client regularly whether by inadvertence or deliberately (by agreement with the Client or otherwise), this shall not mean SJF Attorneys is disentitled to its fees.
- 7.4. SJF Attorneys shall maintain complete and accurate records of, and supporting documentation for, the amounts invoiced to and payments made by the Client under this Agreement. SJF Attorneys agrees to provide the Client with information with respect to each invoice as may be reasonably requested by the Client to verify accuracy.
- 7.5. With respect to any monies collected on behalf of the Client by SJF Attorneys and/or any other monies held in trust by SJF

Attorneys on behalf of the Client, it is agreed that SJF Attorneys shall be entitled to set-off against the fees and disbursements owing to it, the monies so collected and/or held in trust, regardless of whether or not the fees owing by the Client are disputed by the Client and/or taxed. It is agreed that the provisions of this clause 7.5 shall operate after any expiration or termination of this Agreement.

- 7.6. If the Client wishes to dispute any charge appearing on any invoice, it shall do so promptly but not later than 30 (Thirty) days after receipt of such invoice(s). The Client acknowledges that should it not dispute the charges appearing on an invoice within the aforesaid time period, the Client shall be deemed to have accepted the liability for payment of the Service charges for such Services rendered. If the Client disputes any invoice in good faith within the aforesaid time period, then the Client shall be entitled to withhold payment in respect of any amounts that it disputes, provided that such dispute shall be automatically referred to dispute resolution in terms of clause 27.
- 7.7. If any invoice is not paid within 30 (Thirty) days, SJF Attorneys may:
  - 7.7.1. cease work on the Client's matter (or any of the Client's other matters) upon giving the Client reasonable notice. The Client agrees that SJF Attorneys is not responsible for any Losses resulting from such inactivity. If the matter is litigious, SJF Attorneys may also remove itself from the Court or tribunal record; and
  - 7.7.2. exercise a lien over any documents in its possession until all invoices due to SJF Attorneys from the Client have been paid in full, subject to the laws and professional regulations applicable to SJF Attorneys.
- 7.8. In the event of any dispute regarding the quantum or appropriateness of SJF Attorneys' fees, which dispute in the normal course would be subject to taxation by the taxing master, the Client specifically agrees that the dispute shall be resolved by the fee assessment committee of the relevant regional office of the Legal Practice Counsel rather than by the taxing master.

- 7.9. The attorney-client relationship is one of mutual trust and confidence, and the Client is free to terminate the relationship at any time. SJF Attorneys shall also be free to terminate the relationship at any time and, should SJF Attorneys do so, it shall do so in a manner which complies with applicable law, court rules and the rules of professional conduct. SJF Attorneys may also withdraw if, among other reasons, any conduct renders it unreasonably difficult for SJF Attorneys to carry out the representation effectively or the Client fails to pay SJF Attorneys' legal fees and expenses in accordance with this Agreement or fails to pay the fees or costs of third parties engaged with respect to a matter.

## **8. DISCOUNTS / FEES NOT CHARGED**

- 8.1. SJF Attorneys may, in its sole and absolute discretion, grant discounts to the Client on fees charged to the Client. All discounts granted by SJF Attorneys are subject to the following conditions:

- 8.1.1. in the event of a dispute arising in respect of fees charged, any discounts given by SJF Attorneys shall no longer apply and those amounts written-off in respect of such discounts, shall immediately become due and payable; and
- 8.1.2. the fees in respect of which the discount relates are paid upon presentation of the relevant invoice.
- 8.2. All discounts are only valid if approved by the managing director in writing.
- 8.3. Should the Client refer an account for assessment or request that an account be taxed, SJF Attorneys reserves the right to include in its bill of costs items that have not been charged for.

**9. EXTERNAL ADVISERS AND OTHER THIRD PARTY PROFESSIONALS**

- 9.1. SJF Attorneys shall use all reasonable care in its selection of external advisers and other professionals including, but not limited to, counsel, correspondent lawyers, experts or others instructed by SJF Attorneys on the Client's behalf. It shall not, however, be responsible for the advice given or services provided by, or negligence or misconduct on the part of, such persons.
- 9.2. If SJF Attorneys instructs professional or other external advisers on the Client's behalf, SJF Attorneys may provide to them copies of documents or other information in its possession, which they require for their compliance with anti-money laundering legislation.

**10. EMPLOYMENT OF COUNSEL**

- 10.1. If a matter is, or becomes, litigious or subject to arbitration, SJF Attorneys may engage the services of counsel to prepare documents for and appear in court or arbitration proceedings.
- 10.2. If SJF Attorneys provides counsel with a brief on behalf of the Client, SJF Attorneys is responsible to pay the agreed or proper fees of that counsel. Accordingly, the Client shall, in order to enable SJF Attorneys to brief counsel on the Client's behalf, unless otherwise agreed, place SJF Attorneys in funds in advance of instructing counsel.
- 10.3. EXPERT TESTIMONY

The legal responsibility for payment of experts' fees is that of the Client and not of SJF Attorneys. However, the Client agrees that in the event that SJF Attorneys engages experts on the Client's instructions, the Client shall, unless otherwise agreed, place SJF Attorneys in funds in advance of instructing the expert.

**11. INSTRUCTION TO SJF ATTORNEYS TO INVEST TRUST MONIES**

- 11.1. All transfers of the Client's funds are made at the Client's risk and expense and SJF Attorneys does not accept liability for any Loss, damage or delays.
- 11.2. The Client hereby agrees to all trust monies paid by the Client to SJF Attorneys being invested by SJF Attorneys with Nedbank Limited or Investec Bank Limited (at the discretion of SJF Attorneys and as approved by the Legal Practitioners Fidelity Fund) on the basis that:
  - 11.2.1. the money so paid is invested in a trust savings account or other interest-bearing account;

- 11.2.2. funds so invested shall not be subject to the protection of the Legal Practitioners Fidelity Fund;
- 11.2.3. the account makes reference to section 86(4) of the Legal Practice Act 28 of 2014 ;
- 11.2.4. the interest on such investment accrues to the Client's benefit and is to be paid to the Client, after deducting SJF Attorneys' fees and costs for administering the investment; and
- 11.2.5. 5 % (five per cent) interest earned from this account will automatically be paid to the Legal Practitioners Fidelity Fund from Nedbank Limited or Investec Bank Limited on a monthly basis effective from 1 March 2019.

- 11.3. The Client confirms that the Client is aware of the fact that while the funds are so invested with Nedbank Limited or Investec Bank Limited, SJF Attorneys shall not be liable in the event that such bank is placed under curatorship, or liquidated, or for some other reason is unwilling or unable to release such funds.
- 11.4. All funds deposited with SJF Attorneys and (if applicable) interest thereon may be applied by SJF Attorneys to settle accounts rendered by SJF Attorneys from time to time.

**12. ANTI-MONEY LAUNDERING PROCEDURES**

SJF Attorneys has a legal duty to verify the identity of all of its clients and, in the case of corporate clients, to establish their beneficial owners and to verify the identity of the beneficial owners, by obtaining satisfactory evidence of their identity. The precise nature of the evidence required shall vary according to circumstances, including the nature of the Client's organisation or trading vehicle (where the Client is not instructing SJF Attorneys as an individual). SJF Attorneys shall set out these know-your-client requirements and request copies of the required documentation. In addition to the legislative requirements, SJF Attorneys requires corporate clients to provide evidence of their ultimate beneficial ownership.

**13. INTERNET AND ELECTRONIC FRAUD**

SJF Attorneys shall never advise of a change of banking details via electronic mail. Should the Client receive such a notification, the Client undertakes not to rely thereon. In the event that the Client effects payment of any monies to the incorrect account by virtue of their failure to abide by the terms of this clause [13](#), SJF Attorneys shall not be liable for any damages occasioned as a result thereof and the full amount paid to the incorrect account shall remain due and payable to SJF Attorneys by the Client.

**14. CONFLICTS**

The Client agrees that while SJF Attorneys is representing the Client in active, pending matters, SJF Attorneys may represent other clients in any matters affecting the Client (or any of the Client's affiliates), whether in transactions, litigations, arbitrations or otherwise, provided that the matters (a) are not substantially related to active matters SJF Attorneys is working on for the Client, and (b) do not involve situations where SJF Attorneys has obtained confidential information from the



Client that is material to the new matters. Additionally, if SJF Attorneys' representation of the Client is terminated, SJF Attorneys may thereafter represent other clients with interests adverse to the Client (even in litigation) provided that the representation does not involve confidential information SJF Attorneys has obtained from the Client that is material to those matters. By executing this Agreement, the Client agrees to waive any conflict of interest that arises in such situations.

#### **15. FILES**

In the interest of storage space, SJF Attorneys may destroy any file (except documents in safe custody) at any time 5 (Five) years after the date of its final invoice to the Client in the matter to which the documents relate. The Client must let SJF Attorneys know if the Client would like to make other arrangements.

#### **16. DOCUMENTATION**

The Client is free to use and copy all documentation created by SJF Attorneys in the course of any matter, but it must be kept confidential by the Client unless SJF Attorneys agrees otherwise. Notwithstanding any such agreement, SJF Attorneys retains all copyright and other rights in the documentation, and all original ideas created by SJF Attorneys in the course of the matter shall remain its property.

#### **17. CHANGES BY OTHERS TO OUR WORK PRODUCT**

If SJF Attorneys transmits or provides any document to the Client or to another party, and changes are made to the document by someone else, SJF Attorneys is not responsible for any Loss caused by the changes unless SJF Attorneys has specifically approved the changes.

#### **18. OFFICIAL INQUIRIES**

It is possible that because SJF Attorneys has been appointed in a matter, or because SJF Attorneys has received funds, documents or information in the course of, or in connection with, a matter, SJF Attorneys may be required in future to participate in an inquiry, commission or proceedings arising out of, or in connection with, the matter. This may, for example, involve SJF Attorneys producing documents, seeking to claim or defend the Client's privilege to resist inspection or disclosure of certain documents or information, or giving evidence at an inquiry. SJF Attorneys shall endeavour to seek the Client's instructions if these circumstances arise to the extent it is lawful for SJF Attorneys to do so, but in any event the Client agrees to reimburse SJF Attorneys for out-of-pocket expenses and for the time SJF Attorneys spend at our hourly rates then current.

#### **19. BLACKLISTING OF BAD DEBTORS**

19.1. Subject to the provisions of the National Credit Act No. 34 of 2005 (the "NCA"), as read with the National Credit Regulations, the Client hereby consents to the following:

19.1.1. SJF Attorneys transmitting details (including, but not limited to, Personal Information) to any credit bureau of how the Client has performed in meeting the Client's obligations to SJF Attorneys in terms of this Agreement, and any such credit bureau sharing such information with other registered credit providers, credit bureaux, and credit bureau's customers for the purposes prescribed in section 18(4)

of the National Credit Regulations; and

19.1.2. that any information conveyed by SJF Attorneys to any credit bureau may be used by such credit bureau in the normal course of its business as a registered credit bureau and accessed by other credit providers and customers of the credit bureau for the purposes prescribed in section 18(4) of the National Credit Regulations.

19.2. It is recorded that in terms of section 66 of the NCA, a consumer cannot be discriminated against or penalised on the basis that that consumer exercised, asserted or sought to uphold any right set out in the NCA. Therefore, a consumer cannot be declined credit, penalised or discriminated against, on the basis that the consumer has lodged a dispute with a credit bureau or challenged information held by a credit bureau.

#### **20. SECURITY**

20.1. The Client hereby cedes in securitatem debiti, pledges, assigns, transfers and makes over to SJF Attorneys all its right, title and interest in and to, any amounts and claims from whatever source arising and which are now, or which may hereafter become, owing to the Client from any source and from any cause of indebtedness howsoever arising (the "Claims"), as security for the due performance by the Client of its obligations to SJF Attorneys in terms of this Agreement and for the payment of all amounts which the Client may now and from time to time in the future owe to SJF Attorneys, including any reasonable legal costs incurred by SJF Attorneys in connection therewith, on the scale as set out in the Schedule of Fees, notwithstanding:

20.1.1. any fluctuation in the amount of the Client's indebtedness to SJF Attorneys;

20.1.2. any variation or amendment to any agreement or other undertaking for the time being in existence between SJF Attorneys, the Client and/or any other person; and

20.1.3. any indulgence shown or given by SJF Attorneys to the Client.

20.2. SJF Attorneys shall, as more fully contemplated in clause 7.3 above, be entitled to set-off against the fees and disbursements owing to it, any monies collected and/or held in trust, in order to give effect to this clause 20.

20.3. The aforementioned security shall immediately terminate upon the full discharge by the Client of all of its obligations to SJF Attorneys and SJF Attorneys undertakes, on discharge of the Client's obligations, to do all things that are reasonably necessary to ensure the termination of the aforementioned security referred to.

20.4. In the event that the Client wishes to transfer ownership of the Claims, the prior written consent of SJF Attorneys shall be required, which consent shall not be unreasonably withheld or delayed.

#### **21. INDEMNITY**

Without in any way detracting from the rights of SJF Attorneys in terms of this Agreement, the Client hereby indemnifies and holds SJF Attorneys harmless from any and all Losses, which may be suffered as a result of any breach

of the provisions of this Agreement by the Client.

## **22. LIMITATION OF LIABILITY**

- 22.1. To the extent permitted by law, SJF Attorneys' aggregate liability for all claims resulting, directly or indirectly, from the performance or non-performance of its obligations under this Agreement and for all other matters relating to or arising in connection with this Agreement, shall be subject to the limitation and exclusion that in no event shall the measure of damages include, nor shall SJF Attorneys be liable for, any indirect or consequential damages, amounts for loss of income, profits, or savings or any punitive or exemplary loss or damage.
- 22.2. Subject to clause [22.1](#) above, SJF Attorneys' liability for the aggregate of all claims arising, directly or indirectly, out of or in connection with this Agreement shall be limited to the indemnity provided by its professional indemnity insurers in respect of such claims.
- 22.3. Notwithstanding anything to the contrary contained in this Agreement, the Client shall not be entitled to make any claim against SJF Attorneys after the 1st (First) anniversary of the date on which the relevant Services to which the Claim relates were rendered by SJF Attorneys, and any such claim after that date shall be time barred.
- 22.4. Attorneys and employees of SJF Attorneys are qualified to provide Services only on the basis of the law of South Africa. SJF Attorneys may provide views on issues or draft documents related to the law of other jurisdictions based on their general experience however the employees and attorneys of SJF Attorneys are not qualified in terms of the laws of any other jurisdictions. In light of this the views and/or advices in terms of the law of other jurisdictions should not be construed as advices of SJF Attorneys and SJF Attorneys does not assume any liability for the correctness of such views or advice. The Client is advised to take independent advice from local counsel in all circumstances where foreign law is applicable.

## **23. PERSONAL INFORMATION AND CONFIDENTIALITY**

- 23.1. The Client expressly consents to SJF Attorneys Processing Personal Information for purposes of providing Services to the Client.
- 23.2. In the event that the Client is providing certain Personal Information on behalf of a third party, the Client warrants that the relevant authority and/or permission to do so has been obtained.
- 23.3. The Client consents to SJF Attorneys Processing Personal Information in order for SJF Attorneys to:
  - 23.3.1. procure the most appropriate third party services as and where deemed necessary by SJF Attorneys and in its professional opinion, which procurement shall not be without the Client's knowledge;
  - 23.3.2. request further particulars, on the Client's behalf, as may be necessary from time to time throughout the tenure of the Client's matter on which SJF Attorneys are providing certain Services;
  - 23.3.3. collate all relevant legal documentation including, but not limited to, court documentation,

transfer and/or bond registration documents, contracts and affidavits as the case may be and as deemed necessary; and

- 23.3.4. carry out any other legal services on the Client's behalf as may be deemed necessary from time to time in consultation with the Client.
- 23.4. SJF Attorneys shall, at all times, ensure that the Client's Personal Information remains strictly confidential and that the Client's right to Personal Information being privileged shall, at no time during tenure of the Client's matter with SJF Attorneys, be prejudiced.

## **24. CONFIDENTIALITY**

- 24.1. SJF Attorneys shall keep all information obtained from the Client, which is not in the public domain, confidential, and shall only otherwise disclose it with the Client's authority or if required to do so by the laws and professional regulations applicable to SJF Attorneys or if otherwise permitted under this Agreement. Nevertheless, the Client agrees that SJF Attorneys may disclose any relevant information in order to protect and/or defend itself in any actual or threatened legal, civil or regulatory proceeding and may also disclose any relevant information in confidence to its insurers, insurance brokers, auditors and other advisers if and to the extent such disclosure may occur without waiving or losing any applicable legal privilege.
- 24.2. The Client agrees that SJF Attorneys may disclose its role as legal advisers in any matter on which SJF Attorneys is instructed following its completion, for the purposes of publicity, unless the Client instructs SJF Attorneys otherwise. The Client also agrees that, unless the Client instructs SJF Attorneys otherwise, SJF Attorneys may publicise the fact that SJF Attorneys has a relationship with the Client.
- 24.3. If SJF Attorneys is required by any governmental or regulatory body, or by a service provider appointed by the Client, to submit one of its invoices to audit, to produce documents or provide information on any individual matter on which the Client has instructed SJF Attorneys, SJF Attorneys shall be entitled to invoice the Client for the work involved (and any disbursements incurred) at the rates agreed for the relevant matter. If legal privilege attaches to any such documents, the Client shall either waive privilege or instruct SJF Attorneys to review them in the Client's interests.
- 24.4. Notwithstanding the provisions of clause [23.4](#) above, SJF Attorneys shall not be held responsible should the Client's Personal Information, or any part thereof, be disclosed by a third party who received the Client's Personal Information from SJF Attorneys. The Client therefore accepts and understands that any claim that the Client may have in such event shall lie with the said third party and not SJF Attorneys.
- 24.5. SJF Attorneys agrees that it shall protect the Personal Information disclosed to it pursuant to the provisions of this Agreement using the same standard of care that a reasonable person applies to safeguard his own proprietary, secret or Personal Information and that the Personal Information shall be stored and handled in such a way as to prevent any unauthorised disclosure thereof.

Save where there is specific agreement to the contrary, SJF Attorneys' client relationship with the Client shall not be treated as Personal Information and SJF Attorneys may disclose this fact to clients, potential clients, or other third parties.

## **25. INTELLECTUAL PROPERTY RIGHTS**

SJF Attorneys shall retain all copyright and other intellectual property rights in everything developed by it including, inter alia, all reports, written advice or other materials provided by SJF Attorneys to the Client.

## **26. FORCE MAJEURE**

No Party shall be liable to the other for any Losses which are a result of any default or delay in the performance of its obligations under this Agreement if and to the extent such default or delay is caused, directly or indirectly, by fire, flood, earthquake, elements of nature or acts of God, riots, civil disorders, rebellions or revolutions in any country or any other cause beyond the reasonable control of such Party.

## **27. DISPUTE RESOLUTION**

27.1. Any dispute arising from a breach of SJF Attorneys' mandate and/or duty to the Client shall be subject to the following dispute resolution procedures:

27.1.1. prior to the initiation of formal dispute resolution procedures, the Parties shall first attempt to resolve their dispute informally within 14 (Fourteen) days of the dispute arising. During the course of discussion, all reasonable requests made by one Party to another for information, reasonably related to this Agreement, shall be honoured in order to ensure that each of the Parties may be fully advised of the other's position. The specific format for the discussions shall be left to the discretion of the Parties;

27.1.2. formal proceedings for the resolution of a dispute may not be commenced until the expiry of a period of 14 (Fourteen) days referred to in clause [27.1](#) above;

27.1.3. proceedings in terms of this clause [27.1](#) shall not be construed to prevent a Party from instituting formal proceedings earlier to avoid the expiration of any applicable limitations period, or to preserve a superior position with respect to other creditors;

27.1.4. if the Parties are unable to resolve a dispute in the manner contemplated by clause [27.1.1](#), then such dispute shall, on written demand by either Party to the dispute, be submitted to arbitration by an arbitrator agreed on by the Parties or should the Parties fail to agree an arbitrator within 10 (Ten) days after arbitration has been demanded, the arbitrator shall be nominated at the request of any Party to the dispute by the chairman of the Johannesburg Bar Council;

27.1.5. any Party may appeal the decision of the arbitrator within a period of 20 (Twenty) days after the arbitrator's ruling has been handed down by giving written notice to that effect to the other Party to the arbitration. The appeal shall be dealt with by a panel

of 3 (Three) arbitrators appointed by the chairman of the Johannesburg Bar Council;

27.1.6. the decision of the arbitrator shall be binding on the Parties to the arbitration after the expiry of the period of 20 (Twenty) days from the date of the arbitrator's ruling if no appeal has been lodged by any Party. A decision, which becomes final and binding in terms of this clause [27.1.6](#), may be made an order of court at the instance of any Party to the arbitration;

27.1.7. to the extent that any dispute referred to determination in terms of this clause [27.1](#) involves the withholding of payment of any amount otherwise due in terms of this Agreement by either Party, the withholding Party shall deposit the amount of the withheld payment into escrow and, if any part of the withheld amount is found properly due to the other Party, any capital award plus interest accruing in escrow in the same ratio as the capital award, shall be paid to that Party; and

27.1.8. this clause [27.1](#) shall not preclude either Party from seeking urgent relief from the High Court of South Africa.

27.2. Notwithstanding anything to the contrary contained herein, the Parties agree that SJF Attorneys may pursue Claims against the Client and/or the Surety in a court of competent jurisdiction.

## **28. NOTICES AND DOMICILIA**

28.1. The Client and the Surety/ies (if applicable) hereby choose as their domicilium citandi et executandi for all purposes under this Agreement, whether in respect of court processes or documents, giving any notice or making any other communication of whatsoever nature and for any other purpose arising from this Agreement, the Client's physical address referred to above, provided that the Client and the Surety/ies (if applicable) may change their domicilium to any other physical address or telefax number within the Republic of South Africa by written notice to SJF Attorneys.

28.2. All notices to be given in terms of this Agreement shall be in writing and shall:

28.3. if delivered by hand during business hours, be presumed to have been received on the date of delivery. Any notice delivered after business hours or on a day which is not a business day shall be presumed to have been received on the following business day;

28.4. if sent by telefax during business hours, be presumed to have been received on the date of successful delivery. Any notice delivered after business hours or on a day which is not a business day shall be presumed to have been received on the following business day; transmission of the telefax.

28.4.1. Any telefax sent after business hours or on a day which is not a business day shall be presumed to have been received on the

28.5. Notwithstanding the above, any notice given in writing, either by hand delivery, telefax or email, and actually received by the Party to whom the notice is addressed, shall be



deemed to have been properly given and received, notwithstanding that such notice has not been given in accordance with the provisions of this clause [28](#).

## **29. GENERAL**

- 29.1. This Agreement constitutes the whole of the agreement between the Parties relating to the matters dealt with herein and, save to the extent otherwise provided herein, no undertaking, representation, term or condition relating to the subject matter of this Agreement not incorporated in this Agreement shall be binding on any of the Parties.
- 29.2. No variation, addition, deletion, or agreed cancellation shall be of any force or effect unless in writing and signed by or on behalf of the Parties. Failure or delay on the part of any of the Parties in exercising any right, power or privilege hereunder shall not constitute or be deemed to be a waiver thereof, nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The provisions of the Electronic Communications and Transactions Act No. 25 of 2002 are expressly excluded from this clause [29.2](#).
- 29.3. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same agreement as at the date of signature of the Party last signing one of the counterparts.
- 29.4. Should any of the terms and conditions of this Agreement be held to be invalid, unlawful or unenforceable, such terms and conditions shall be severable from the remaining terms and conditions which shall continue to be valid and enforceable. If any term or condition held to be invalid is capable of amendment to render it valid, the Parties agree to negotiate an amendment to remove the invalidity.
- 29.5. SJF Attorneys' policy is to act at all times in accordance with the highest professional, ethical and business standards, and SJF Attorneys expects the Client to act in like manner in all the Client's dealings with SJF Attorneys and the Client's business counterparts. SJF Attorneys does not countenance bribery or corruption in any form and the Client agrees (i) not to expect or request any conduct from SJF Attorneys that might bring its name into disrepute or compromise its integrity, (ii) that the Client and the Client's employees and agents shall refrain from any practices involving bribery or any other corrupt activities and (iii) that the Client has taken or shall take internal steps or procedures designed to ensure that the risk of corruption and bribery during the course of the Parties' relationship is eliminated.
- 29.6. Any obligation of the Client and/or the amount of the indebtedness of the Client to SJF Attorneys at any time (including, but not limited to, interest, the rate of interest and the method of calculation thereof) shall be determined and shall be prima facie proved by a certificate under the signature of the managing director and in this event, such certificate shall be:
- 29.6.1. prima facie proof of the obligation or amount of the indebtedness of the Client including prima facie proof of

an amount which would otherwise be illiquid;

- 29.6.2. valid against the Client in any competent court for the purpose of obtaining summary judgment or provisional sentence thereon; and
- 29.6.3. deemed to be sufficient particularity for the purposes of pleading or trial in any action instituted by SJF Attorneys against the Client under this Agreement.

## **30. APPLICABLE LAW AND JURISDICTION**

- 30.1. This Agreement shall in all respects be governed by and construed under the laws of the Republic of South Africa and all disputes, actions and other matters relating thereto shall be determined in accordance with such law.
- 30.2. The Parties hereby consent and submit to the jurisdiction of the High Court of South Africa in any dispute arising from or in connection with this Agreement. The Parties agree that any costs awarded shall be recoverable on the scale as set out in the Schedule of Fees.

## **31. TACIT ACCEPTANCE**

If this Agreement is not signed by the Client or on behalf of the Client within a period of 7 (Seven) days of receipt of this Agreement by hand, via electronic mail or otherwise, all the terms and conditions of this Agreement shall be deemed to have been tacitly accepted by the Client, notwithstanding the Client's failure to sign this Agreement.

## **32. SURETYSHIP**

- 32.1. Notwithstanding anything to the contrary herein contained, if the Client is a legal entity, the Representative (the "Surety") hereby binds himself/herself as surety and co-principal debtor in solidum with the Client, in favour of SJF Attorneys, for the due and proper performance of all the obligations of the Client in terms of this Agreement.
- 32.2. To the extent allowed by law, the Surety hereby renounces the following benefits, the respective meanings and consequences of which are set out hereunder and the effect of which the Surety acknowledges that he/she is acquainted with and understands:
- 32.2.1. cession of actions: the Surety is not entitled to demand cession of SJF Attorneys' rights against the Client and/or any co-surety before payment by him/her of the full debt owing by the Client to SJF Attorneys;
- 32.2.2. no value: the Surety is not entitled to allege that the Client received no benefit;
- 32.2.3. error in calculation: the Surety is not entitled to allege that there has been a wrong calculation of the debt;
- 32.2.4. revision of accounts: the Surety is not entitled to allege that the accounts were not examined by the Client; and
- 32.2.5. no cause of debt: if, in any legal proceedings which are instituted by SJF Attorneys in terms of this suretyship, the Surety disputes the existence of the amount owing by the Client, the onus of proving this shall rest on the Surety.
- 32.3. In the event of there being 2 (Two) or more principal debtors, SJF Attorneys is entitled to recover the full debt from the Surety, without first requiring payment from the other debtor.

- 32.4. The Representative warrants that all authorisations required by the Representative in connection with the entry into, performance, validity and enforceability of this Agreement have been obtained or effected (as appropriate) and are in full force and effect.
- 32.5. The Representative may not under any circumstances revoke this suretyship without the prior written consent of SJF Attorneys.

**33. SIGNATURE**

Signed on behalf of the Client as set out above, each signatory hereto warranting that he/she has due authority to do so.

**34. EXPLANATION OF CLIENT'S RIGHT TO NEGOTIATE THE FEES (S 35(7)(B))**

SJF Attorneys' hourly fee rates are reflected in this Agreement and is a flat rate of **R1,950.00** per hour. In terms of section 35(3) of the Legal Practice Act 28 of 2014, the Client records that it is aware that it is entitled, on its own initiative, to agree with SJF Attorneys in writing to pay fees for the Services in question in excess of or below any tariffs determined by the Rules Board for Courts of Law established by section 2 of the Rules Board for Courts of Law Act 107 of 1985. Such agreement may determine a fixed fee or a contingency fee as provided for in the Contingency Fees Act 66 of 1997 either in addition to, or instead of, an hourly fee rate, as agreed to herein.

35. We therefore hereby nominate and appoint the directors and their nominees of **SJF ATTORNEYS INCORPORATED, 17 MACGILLIVRAY ROAD, GLENFERNESS, MIDRAND, 2191 ("the Attorney")** with power and substitution to render professional legal services to me, which shall include the right to prosecute or defend proceedings in any competent Court and on my behalf to take all necessary steps on my behalf.

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ATTORNEYS

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