

PARTNERSHIP AGREEMENT

1 PARTIES

1.1

1.2

1.3

2 INTRODUCTION

2.1 The parties hereto have been constituted as a partnership for the purpose of

2.2 The partnership is constituted under the name of _____ and this agreement is intended to record and govern the relationship of the parties in the partnership.

3 DURATION AND COMMENCEMENT

The partnership is recorded to have commenced with effect from _____ ("the commencement date") and shall continue for an indefinite period until terminated as hereinafter provided.

4 PARTNERS' INTERESTS

4.1 The respective percentage interests of each of the partners ("the Interest") in the partnership are recorded to be as follows:

Partners	Percentage Interests
	00%
	00%
	00%
	00%
	00%

4.2 The partners shall share in the profits and losses of the partnership in the aforesaid percentages.

5 ADMINISTRATION

5.1 _____ shall be responsible for the management and administration of the partnership.

5.2 _____ shall ensure that :

5.2.1 _____ proper books of account are kept to record every transaction of the partnership;

- 5.2.2 financial statements consisting of :
 - 5.2.2.1 a profit and loss account for the financial year; and
 - 5.2.2.2 a balance sheet fairly presenting the state of affairs of the partnership at the end of the financial year, are prepared by the auditors of the partnership ("the auditors") as soon as possible after the end of each financial year.

6 DRAWINGS & DISTRIBUTION OF PROFITS

6.1 Capital Account

- 6.1.1 Each partner shall have a capital account in the books of the partnership :
 - 6.1.1.1 which shall record the value of all contributions to and withdrawals made by that partner from the capital of the partnership; and
 - 6.1.1.2 to which shall be transferred the balance of his current account at the end of each financial year of the partnership, as soon as the financial statements for that year have become final and binding on the partners.
- 6.1.2 A partner shall not be entitled to draw any amount against the sum standing to the credit of his capital account without the prior consent of partners holding a majority of the Interest having been obtained, save to the extent that a partner's capital account is in excess of his pro rata share of all the interests in the partnership.
- 6.1.3 The partnership shall pay to a partner interest on the amount by which that partner's capital account exceeds his pro rata Interest in the partnership at a rate equal to the publicly quoted basic rate of interest per annum at which it lends on overdraft from time to time, which interest shall be calculated and payable monthly in arrears.

6.2 Current Account

Each partner shall have a current account in the books of the partnership, to which shall be:

- 6.2.1 credited or debited, as the case may be, that partner's share in the profits and losses of the partnership;
- 6.2.2 credited any expenses he has disbursed personally in the course of performing partnership business;
- 6.2.3 debited that partner's drawings from the partnership;
- 6.2.4 debited or credited, as the case may be, any adjustments required to reconcile that account with the financial statements of the partnership referred to in clause 5.2.2 hereof.

6.3 Drawings

The partners shall determine the extent of drawings against profits from time to time.

7 TERMINATION

- 7.1 Should any partner ("the retiring partner") wish to terminate the partnership then the remaining partners shall be obliged to purchase the retiring partner's Interest pro rata to their respective percentage Interests, subject to the following terms and conditions :
- 7.1.1 the retiring partner shall give to the remaining partners thirty days written notice of his intention to terminate the partnership;
- 7.1.2 the purchase price of the retiring partner's Interest shall be an amount equivalent to the sum of :
- 7.1.2.1 the amount standing to the credit or debit, as the case may be, of the retiring partner's capital account;
- 7.1.2.2 the amount standing to the credit or debit, as the case may be, of the retiring partner's current account, including his share of the profit or loss for the period ending on the date of termination of the partnership;
- plus
- 7.1.2.3 an amount equal to the retiring partner's pro rata percentage Interest in the increase in value of the assets of the partnership from the commencement date to the date of termination, which increase in value shall be determined by the auditors, whose decision shall be final and binding on the partners;
- 7.1.3 the remaining partners shall be entitled to elect to pay the purchase consideration, if any, due to the retiring partner :
- 7.1.3.1 by way of a single payment on the date of determination of the amount to be paid by the auditors; or
- 7.1.3.2 in equal monthly instalments, commencing on the first day of the month following the month during which the auditors determine the value of the retiring partner's Interest, provided that interest shall be payable by the remaining partners on the balance of the purchase price outstanding from time to time at a rate equal to the publicly quoted basic rate of interest per annum at which it lends on overdraft from time to time, calculated monthly in arrears and payable together with the monthly instalments.
- 7.2 Should any partner die during the existence of the partnership, then the surviving partners shall be obliged to purchase the deceased partner's Interest on *mutatis mutandis* the same terms and conditions set out in clause 7.1 above.

8 NO PLEDGE OR ENCUMBRANCE

No partner shall be entitled to pledge or encumber in any manner the assets of the partnership or his Interest in the partnership

9 ARBITRATION

- 9.1 Save where otherwise provided for in this agreement, any dispute between the parties hereto in regard to :
- 9.1.1 the interpretation of; or
- 9.1.2 the effect of; or

- 9.1.3 the carrying out of; or
- 9.1.4 any other matter arising directly or indirectly out of, this agreement, shall be submitted to and decided by arbitration.
- 9.2 The arbitration shall be held informally but otherwise under the provisions of the Arbitration Laws, being Act No 43 of 1965, as amended from time to time, or any Act passed in substitution for it; it being the intention as far as possible that the arbitration shall be held and concluded within 21 days after it has been demanded. All parties shall be entitled to be represented at the arbitration.
- 9.3 The arbitrator shall be, if the matter in issue is
- 9.3.1 primarily an accounting matter an independent chartered accountant of not less than 15 years' standing, practising as a registered auditor, agreed upon between all the parties;
- 9.3.2 primarily a legal matter a practising attorney of not less than 15 years' standing, agreed upon between all the parties;
- 9.3.3 any other matter an independent person agreed upon between all the parties.
- 9.4 If the parties cannot agree whether any matter in dispute falls under 9.3.1, 9.3.2 or 9.3.3 within 7 days, then that dispute shall be submitted for decision in terms of 9.3.2 above within 7 days after the parties have so failed to agree, so that the arbitration can be held and concluded as far as possible within a period of 21 days referred to above
- 9.5 If the parties are agreed as to whether any matter in dispute falls under 9.3.1, 9.3.2 or 9.3.3 above, or should a determination be made in terms of 9.4 above, but fail to agree on the appointment of an arbitrator, such failure to agree shall be referred to the most senior executive officer of the association representing the particular profession concerned, and in the case of 9.3.3 above, to the President for the time being of the Executive Director of the South African Society of Chartered Accountants, for the appointment of an arbitrator.
- 9.6 The decision of the arbitrator shall be final and binding upon all the parties and shall be carried into effect by them and made an order of any competent Court, including any decision regarding the costs of the arbitration which the arbitrator shall be empowered to make.

10 DOMICILIUM

- 10.1 For all the purposes of this agreement or with regard to any matter arising hereout or in connection herewith, the parties hereby choose the following addresses as their respective *domicilia citandi et executandi* :
- 10.1.1 at :

10.1.2 at :

10.1.3 at :

10.2 Any party shall be entitled by notice in writing to the other parties to change its domicile as set out above.

10.3 Any notice which may be required to be given to a party to this agreement shall be sent to such party's address as set out above, or duly altered from time to time, and shall

10.3.1 be delivered by hand, in which event it shall be deemed to have been received on the date of delivery; or

10.3.2 sent by prepaid registered post, in which event it shall be deemed to have been delivered and received on the 5th business day after posting, including the day of posting.

10.4 Notwithstanding anything to the contrary herein contained, a written notice or communication actually received by a party shall be adequate written notice or communication to it, notwithstanding that it was not sent to or delivered at its chosen domicile *citandi et executandi*.

11 GENERAL

11.1 The partners shall have access at all reasonable times to all books, records and other documents relating to the affairs and activities of the partnership, and each of the partners undertakes to make a full disclosure to the others of all matters relating to such affairs and activities.

11.2 The parties undertake to do all such things, perform all such acts and take all such steps and procure the doing of all such things, performance of all such acts and the taking of all such steps as may be necessary, incidental or conducive to the implementation of the terms and conditions of this agreement.

11.3 No variation of the terms and conditions or consensual cancellation of this agreement shall be of any force or effect unless reduced to writing and signed by the parties or their duly authorised agents.

11.4 This agreement constitutes the sole and exclusive agreement between the parties relating to the transactions and matters recorded herein, and no warranties, representations or other terms and conditions of whatsoever nature not expressly recorded herein, shall be of any force or effect.

11.5 No indulgence, extension of time, relaxation or latitude which any party ("the grantor") may show, grant or allow to any other party ("the grantee") shall constitute a waiver by the grantor of any of its rights and the grantor shall not thereby be prejudiced or stopped from exercising any of its rights against the grantee which may have then already arisen or which may thereafter arise.

THUS DONE AND SIGNED BY THE RESPECTIVE PARTIES AS FOLLOWS:

NAME

Place:
Date:

NAME

Place:
Date:

NAME

Place:
Date: