

PARTNERSHIP AGREEMENT

The following agreement is intended to record and govern the relationship of the parties in a partnership.

1. Parties

The Parties to this agreement are:

1.1 Name: _____

ID number: _____

1.2 Name: _____

ID number: _____

1.3 Name: _____

ID number: _____

1.4 Name: _____

ID number: _____

2. Practice

2.1 The above parties have been constituted as a partnership and will carry on a

_____ (hereinafter “the practice”) at

2.2 The name of the practice will be _____

3. Commencement and duration

The partnership will commence on the __ day of _____ 20__ (hereinafter “the commencement date”) and continue for an indefinite period until terminated as provided for in this agreement.

4. Contributions

- 4.1 Each of the partners to this agreement, must contribute to the partnership:
4.1.1 the sum of
-

4.1.2 instruments, equipment, programs and text books which were his or her private property prior to the commencement date of this agreement.

4.2 The agreed values of the parties' respective contributions and interests in the partnership are as follows:

Partners:	Contribution:	Percentage Interest
Partner 1.1		
Partner 1.2		
Partner 1.3		
Partner 1.4		

5. Sharing of Profits and Losses

The partners must share all the profits of the partnership, and bear all its losses in accordance with their interests as per *par 4.2*.

6. Capital Account

- 6.1 Each partner must have a capital account in the books of the partnership which must record the value of all his/her contributions to and withdrawals made from the capital of the partnership.
- 6.2 The amount of standing to the credit of a partner's capital account from time to time must not bear interest unless otherwise agreed to by the partners.
- 6.3 A partner will not be entitled to withdraw any amount against his capital account without the prior written consent of all the partners.

7. Current Account

Each partner must have a current account in the books of the partnership to which the following must be credited or debited, as the case may be:

- 7.1 the partner's share in the profits or losses of the partnership;
- 7.2 any amounts the partner has disbursed personally on behalf of the partnership in the course of the business of the partnership; and
- 7.3 the partner's drawings against the profits of the partnership.

8. Financial Records

8.1 The partners must keep proper books of account and records of the transactions of the partnership. A partner may inspect the books and records at any time.

8.2 At the end of each financial year, the following financial statements must be prepared:

- 8.2.1 a profit and loss account, reflecting the net profit or loss of the partnership at the end of the financial year; and
- 8.2.2 a balance sheet fairly reflecting the affairs of the partnership as at the end of the financial year.

8.3 The financial statements referred to in *par 8.2* must be prepared by independent auditors (hereinafter "the auditors") in accordance with accounting practices generally accepted at the time, and will be final and binding on the parties once signed.

8.4 The financial year of the partnership will coincide with its tax year.

9. Bank Account and Income/Expenses

9.1 The partners agree to open a **current account** in the name of the partnership at

9.2 All monies received by the partnership must immediately be paid into the bank account.

9.3 All fees paid, and presents given to a partner for professional services rendered, will constitute income of the partnership (fees and presents other than for professional services are excluded from partnership income).

9.4 All expenses, debts and losses of any nature incurred in the conduct of business of the partnership, must be paid out of the funds of the partnership. Any

deficiencies must be met by contributions by the partners in accordance with their interests.

9.5 All payments on behalf of the partnership, excluding petty cash transactions, must be made by way of Electronic Funds Transfer or cheque drawn on the bank account.

9.6 Any cheque drawn on the account must be signed by at least two partners.

10. Drawing of Profits

10.1 The Parties to this agreement are entitled to draw their respective shares of the net profit, as per the income statement prepared, as soon as they have signed the said statement as well as the balance sheet prepared with it.

10.2 In anticipation of the profit to be drawn, the parties are entitled to draw on the last day of each month, such amount as they may agree upon from time to time, in so far as the necessary funds are available.

10.3 If during the financial year, a party draws more than his share of the profit for that year, he must refund the excess to the partnership immediately after the financial statements for the financial year have been signed by all the partners.

10.4 The excess amount will bear interest at prime rate (publicly quoted overdraft rate at which the partnership's bankers lend on overdraft), which will accrue on the balance outstanding from time to time.

11. Management and Obligations

11.1 Each partner will have a say in the conduct of the practice and in all matters affecting it, in accordance with his/her interest in the partnership.

11.2 All decisions affecting the practice must be taken jointly according to a majority vote.

11.3 Each partner must:

11.3.1 devote his/her full time and attention to the partnership practice;

11.3.2 display the highest degree of good faith towards his/her partners and avoid a conflict between his/her own interests and those of the partnership;

11.3.3 forthwith deposit to the credit of the banking account of the partnership any cash or instruments received for the partnership;

11.3.4 make a full disclosure to his/her partners of all information pertaining to the affairs of the partnership;

11.3.5 carry out his duties in accordance with the ethical standards of the _____; and

11.3.6 refrain from doing anything which might reasonably lead to a judicial attachment of the partnership's assets or his/her interest in the partnership.

11.4 A partner may not, without prior consent of the other partners to this agreement:

- 11.4.1 engage or be concerned in any undertaking or activity which may interfere with the partnership practice;
- 11.4.2 accept any appointment of office;
- 11.4.3 bind himself/herself as surety; and
- 11.4.4 disclose to any person details of this agreement.

12. Limitations on Authority

It is prohibited for any partner to this agreement to commit any of the following acts, unless written consent is obtained from the other partners:

- 12.1 dispose of the assets of the partnership;
- 12.2 purchase immovable property;
- 12.3 lend money or extend credit to any person;
- 12.4 mortgage, pledge or otherwise hypothecate property of the partnership;
- 12.5 compromise any debt owing to the partnership;
- 12.6 incur a liability in an amount exceeding R1000 (One Thousand Rand); and
- 12.7 generally make any contract or engage in any enterprise falling outside the ambit of the partnership.

13. Leave

13.1 Each partner may take leave as determined by the partners from time to time. During the leave period, the partner will continue to receive his/her share of the profits.

13.2 Leave may not be accumulated without the consent of the other partners, which in turn may not unreasonably withhold consent.

14. Incapacity

14.1 If a partner for whatever reason becomes incapacitated and unable to carry out his/her duties as a result of illness or injury, the other partners may employ, at the cost of the partnership, a *locum tenens* to carry out the duties of the incapacitated party.

14.2 Should the incapacity continue for more than **3 months**, the salary of the *locum tenens* must be debited to the incapacitated partner.

14.3 The amount debited to the incapacitated partner, may not, without his/her consent, exceed one third of his/her monthly drawings at the time of incapacity.

15. Professional Liability and Malpractice Insurance

The partners must, at the cost of the partnership, take out insurance against loss arising from negligence, malpractice or unprofessional conduct by any partner. The amount of the insurance will be determined by the partners from time to time.

16. Life Insurance

16.1 Each partner must take out and pay premiums for insurance on the life of each of the other partners mentioned in this agreement, for the purpose of providing the former with funds to buy the shares of a deceased partner.

16.2 The amount of the insurance cover will be determined by the partners from time to time.

17. Termination of Agreement

17.1 Retirement-

17.1.1 Should a partner wish to terminate the partnership by retiring, the retiring partner must provide **6 months** written notice of his/her intention, to the other partners.

17.1.2 A Partner must automatically retire from the partnership at the end of the financial year in which he/she attains the age of **65 (sixty-five) years**.

17.2 Misconduct or Breach-

17.2.1 A partner may terminate the partnership by providing written notice to the other partners in the event of breach of a material terms of this agreement by any of the partners, misconduct of one of the other partners which offends against the duty of good faith required or a conviction of one of the other partners for theft, fraud, forgery or uttering.

17.3 Death/ Insolvency -

17.3.1 The partnership will automatically terminate upon the death of a partner to this agreement or by the sequestration of his/her estate

18. Purchase of Deceased Partner's Share

18.1 Should the partnership terminate due to the death of a partner to this agreement, the surviving partners must buy the deceased partner's share in the partnership.

18.2 The purchase price of the deceased partner's share will be the greater of the following amounts:

18.2.1 the total amount of the proceeds received by the surviving partners, in terms of the life insurance policies held;

18.2.2 the total of the capital account of the deceased partner, at the date of termination of the partnership;

18.3 the surviving partners must within **7 days** of receiving the proceeds of the policies, pay the proceeds to the deceased partner's estate; or

18.4 If the proceeds of the policies are insufficient to pay the purchase price, the surviving partners must pay the balance in **3 (three) equal annual instalments** on each succeeding anniversary of the death of the deceased partner.

19. Purchase of Retiring/ Insolvent/ Expelled Partner's Share

19.1 Should the partnership be terminated due to retirement or insolvency of a partner, the remaining partners must buy the retiring or insolvent partner's share.

19.1.1 The purchase price of retiring/insolvent partner's share will be the sum total of the capital account of the said partner at the date of termination of the partnership and the goodwill of the partnership as determined by the auditors.

19.1.2 The remaining partners must pay the purchase price in **3 equal annual instalments** on each succeeding anniversary of the date of termination of the partnership.

19.2 Should the partnership be terminated due to breach or misconduct of a partner, the remaining partners must buy the expelled partner's share.

19.2.1 The purchase price will be the amount of the expelled partner's capital account as at the date of termination of the partnership and no goodwill will be payable.

19.2.2 The remaining partners must pay the purchase price in **5 equal annual instalments** on each succeeding anniversary of the date of termination of the partnership.

20. Arbitration

20.1 Should any dispute arise from this agreement, such dispute must be submitted for and decided by means of arbitration.

20.2 The arbitrator to be appointed, must be a person agreed to by the partners, failing which a practicing advocate who has been in active practice for at least 10 (ten) years, appointed by the Secretary of the Chairman of the Bar of which Advocates in the area are normally members.

20.3 The arbitration must be held at the place and in accordance with whatever procedures the arbitrator considers appropriate. The arbitrator may conduct the arbitration in an informal manner and without requiring pleadings or discovery of documents and without observing the rules of evidence.

20.4 Subject to the other provisions of this clause each arbitration must be held in accordance with the *Arbitration Act of 1965 as amended*.

20.5 The decision of the arbitrator will be final and binding upon all the partners to this agreement and will be carried into effect by them and made an order of any competent Court.

21. Domicilium citandi et executandi

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

Partner 1.1 address:

Partner 1.2 address:

Partner 1.3 address:

Partner 1.4 address:

21.2 Any partner is entitled to notice in writing to the other parties to change its *domicilium* as set out above.

21.3 Any notice to be given to a partner in terms of this agreement must be sent to such partner's address as set out above, or duly altered from time to time, and must be delivered by registered post, and be deemed to have been delivered and received on the 5th business day after posting, including the day of posting.

21.4 A written notice actually received by a partner will be regarded as adequate written notice, notwithstanding that it was not sent to or delivered at its chosen *domicilium citandi et executandi*.

22. No Variation

No variation of the terms and conditions or cancellation of this agreement will be valid unless reduced in writing and signed by all the partners.

23. No Indulgence

No indulgence, extension of time, relaxation or latitude which any partner (hereinafter "the grantor") may grant to any of the other partners (hereinafter "the grantee") shall constitute a waiver by the grantor of any of his/her rights and the grantor will not thereby be prejudiced or stopped from exercising any of his/her rights against the grantee

**THUS DONE AND SIGNED BY THE RESPECTIVE PARTNERS TO THE AGREEMENT
AS FOLLOWS:**

_____ (Signature)

Name: Partner 1.1

Place:

Date:

_____ (Signature)

Name: Partner 1.2

Place:

Date:

_____ (Signature)

Name: Partner 1.3

Place:

Date:

_____ (Signature)

Name: Partner 1.4

Place:

Date:

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