

PLEASE NOTE THAT work will be carried out on the basis that the terms of this agreement are accepted regardless of whether acceptance by the client is evidence by a signature, orally or by conduct of client.

Document Version Ref: 2011-01

1 Definitions

- 1.1 “Attorney/s” - Stephen Merril Mileman, or his qualified professional employees, correspondents or other attorney instructed by him or acting on his behalf or under his instructions, tacit or implied;
- 1.2 “employees” shall refer to personnel who are not qualified as attorneys;
- 1.3 “Counsel” - any advocate employed by the Attorney/s;
- 1.4 “Correspondent” – Any other attorney employed or contracted by the Attorney/s for any reason, such as, but not restricted to Attorney/s in other areas of jurisdiction;
- 1.5 “Law Society” - The Law Society of The Northern Provinces or its successors;
- 1.6 “the client” - the person who gave the instructions to the Attorney/s or the entity which he/she is duly authorised to represent, or both, being jointly and severally liable, the one paying the other to be absolved;
- 1.7 “outsourced services” all services such as advocates, correspondent Attorney/s, international Attorney/s, accountants, experts, tracing agents, delivery and filing services or any other service that the attorney may in his own discretion use and believe that he reasonably requires in order to fulfil his mandate.
- 1.8 “the rate” Fees shall be charged at the rate of R1,500 per hour plus VAT unless a different rate is agreed in writing by the parties.
- 1.9 “fees” shall where appropriate shall include the any disbursement unless otherwise specified.
- 1.10 “bill or invoice or account” shall refer to the written account furnished to the client and to the law society for the purposes of the assessment herein
- 1.11 “assessment” shall include and be read as synonymous with the terms “taxation” or concomitant terms.

2 Fees

- 2.1 The attorney charge for the time they spend on behalf of the client in carrying out his specific, tacit or implicit instructions by the hour.
- 2.2 The tariff in all Courts is waived as a basis for the charging of fees in litigious matters. The client shall pay the attorney on the basis and at the rate set out in clause 1.8 above. Any tariff that may apply to work done by the attorney is hereby specifically waived by the client, including tariffs referred to in the rules of the various courts, and

limitations referred to in rule 43 of the Uniform Rules of Court, or similar provisions in the Central Divorce Court or the Magistrates’ Court rules. If a court or arbitrator rules that a statutory provision may not, for any reason be waived, such provision shall not invalidate any other term of this agreement or any charge or fee in terms of this agreement other than the specific item in respect of which such court or arbitrator rules.

- 2.3 All fees including fees for litigious matters, arbitrations or any other fees, whether a tariff has been prescribed or not shall be assessed by the Law Society of the Northern Provinces on the basis set out in this mandate. This document shall provide the necessary consent referred to for that purpose.
- 2.4 The person who consults with the attorney warrants his authority to represent the client in all dealings.
- 2.5 Notwithstanding that the client may from time to time give instructions to the Attorney/s to render accounts to a particular entity, such instructions shall not affect the liability of the person who gave the instructions to the attorney.
- 2.6 Travelling charges when the attorney is required to attend on the client at a place other than his office shall be charged at the same rate as for consultations.
- 2.7 All telephone calls made to the client or on the client’s behalf shall be regarded as consultations and charged at the same hourly rate as for consultations. The client acknowledges that he always retains the right make an appointment for a face-to-face consultation. The convenience of the telephone, internet call or conference call remains a convenience to save the client time, but will not reduce the time spent by the attorney in conducting such service.
- 2.8 Accounts shall be paid on presentation of an invoice or statement of account unless otherwise agreed in writing. Credit is not an automatic right granted to the client.
- 2.9 Fees for receiving or acknowledging emails shall be charged at a minimum rate of 20% of the hourly rate for fees, unless the email takes longer to read or answer, in which case the higher amount shall be charged.
- 2.10 The Attorney/s shall be entitled to set-off any amounts owed to them for any reason whatsoever against any amounts of whatsoever nature being held in trust for payment to the client prior to making payment to the client or honouring any undertaking the Attorney/s may have given to the client or on behalf of the client.
- 2.11 The Attorney/s shall specifically be entitled to set off money received for the client in one matter against fees payable in another matter, all amounts collected and all amounts owed shall be regarded as being inseparable, whether retained in one or more trust or investment accounts or otherwise, unless the attorney has specifically agreed otherwise in writing.
- 2.12 Under no circumstances shall the attorney be obliged to make payment to the client of any moneys of whatsoever nature owing to the client, while amounts due to the Attorney/s remain payable to the client.
- 2.13 Should a dispute arise in regard to the payment of moneys to the client, the attorney shall be entitled to retain sufficient funds from the moneys payable to the client to secure the moneys owing to the attorney.
- 2.14 Moneys being held in trust for payment to a client for one matter maybe used to pay amounts incurred in respect of any other matter being handled by the attorney on behalf of the client.

- 2.15 If the client is a legal entity, the Attorney/s are authorised to make payment out of moneys being held for payment to that entity in respect of amounts owing by any director or a shareholder, member or trustee of that entity who has represented the entity in giving instructions to the Attorney/s.
- 2.16 Interest shall be charged at the rate of 2 % per month 30 days from the date of the end of the month in which the work was invoiced, alternatively, at the maximum rate allowed by law from time to time from due date to date of payment of the account which ever is the lower.
- 3 Outsourced Services**
- 3.1 The client authorises the Attorney/s to make use of outsourced services where they, at their discretion deem it necessary and to charge the client for the fees they are charged for such services.
- 3.2 The client shall bear any costs incurred in resolving any dispute regarding counsel's fees on the same basis as he would have, had for all other work.
- 4 Interest on Credit Balances and Investments**
- 4.1 Money which the client indicates in writing in the form required in terms of the Bye Laws, that he wishes the attorney to invest ("the investment") shall, unless otherwise agreed between the parties in writing, be invested on the basis set out below.
- 4.2 Unless otherwise instructed, the investment shall be placed on daily call with Nedbank Limited at whatever rate the bank is prepared to offer for such investment.
- 4.3 The client shall bear all banking charges in regard to the investment, which amount shall be deducted from the investment.
- 4.4 An investment made on the above basis shall not enjoy the protection of the Fidelity Fund.
- 4.5 The attorney shall be entitled to charge a fee of, 0,1% (comma one percent) per month to invest the investment unless otherwise agreed.
- 4.6 The attorney is not an expert in the investment of money and does not undertake to obtain the best investment on moneys paid to him and he will not be liable for any damages whatsoever for advice given in regard to investments.
- 4.7 It not being the Attorney/s' core business, the attorney shall not be liable for any damages whatsoever for failing to carry out the client's instructions regarding the investment promptly unless specific instructions are given in writing and accepted in writing by the attorney.
- 5 FICA and other Laws**
- 5.1 The client shall be liable for the compliance of the attorney with any laws required pursuant to the dealing with the client or any client transaction, but in particular to the laws relating to money laundering and any disbursement in the event of outsourcing.
- 6 Assessment of Fees**
- 6.1 Should the client require the fees to be assessed at any stage, he shall advise the attorney in writing and he/she shall set out specifically which fees in which matter/s are being queried and state the legal basis and the reason therefore.
- 6.2 The attorney shall prepare for the hearing with reference to the written issues referred to above in clause 6.1
- 6.3 Prior to preparing an account for submission to the law society for taxation the client shall make payment of the full amount of the fee into the Attorney/s trust account to be held pending determination of the taxation.
- 6.4 In addition to the fee charged the client shall pay a preparation fee of R5000,00 to the attorney for the cost of preparing an account for taxation by the law society involved, or should the Taxing Master of a Court having jurisdiction if for some reason the account requires taxation by that entity.
- 6.5 The above preparation fee shall be taken into account in settlement of any moneys owing by the client, having regard to any costs for which the client shall be liable in terms of the agreement.
- 6.6 In preparing invoices, the client acknowledges that the attorney may not have include all the time charged in respect of the work carried out by him, either in error or oversight. He does not, however, waive his right to raise a charge for the work not charged for, should the account not be paid on due date.
- 6.7 If it is necessary to draw a detailed bill of costs for any reason, the attorney reserves the right to re-assess the amount of work done on behalf of the client and to claim the full reassessed amount thereof.
- 6.8 The cost of preparation of a detailed bill of costs required for any purpose may involve the printing of documentation such as emails and draft pleadings agreements letters or other documents or papers that have not been printed out, either to save paper or for some other reason. If it is necessary to print out these documents the cost of the printing shall be the cost of the Attorney/s time as set out above for identifying the documents for printing, the cost of having a professional outsource printer print the documents and the time taken by the attorney to collate the documents once they are printed.
- 6.9 The client agrees to an assessment of the fees by the Law Society whether the nature of the work done is litigious or not.
- 6.10 The client shall pay all the fees and disbursements for all work done in preparation for the assessment, the time spent travelling to the assessment and attending the hearing at the same rate per hour as is either set out above in clause 1.8 herein or was agreed between attorney in client in regard to the work in general and all other costs, which fees shall be assessed by the Law Society in terms of this agreement at an adjournment of the same assessment hearing or at a future date, at a second meeting.
- 7 Disputes of Law or the collection of the fees.**
- 7.1 Unless otherwise set out, if no objection to the items charged is raise within one month after the invoice is sent to the client, the client waives any right to query the fees charged in respect of specific items.
- 7.2 The client specifically waives the right to withhold payment for fees in one matter for the reason that there is a dispute over fees charged in another matter.
- 7.3 If the client disputes the fees charged he shall nevertheless pay those fees into the Attorney/s trust account to be retained by the attorney pending resolution of the dispute. Upon resolution of the dispute, the attorney may immediately appropriate such moneys towards interest, costs and disbursements in that order or any other the attorney chooses.
- 7.4 Any dispute arising of whatsoever nature between attorney and client

shall be resolved by arbitration by a single arbitrator who shall be an advocate chosen by the Johannesburg Bar Council or, the attorney's discretion, by the Law Society.

- 7.5 The arbitrator shall have plenary powers and absolute discretion to determine the rules to apply to the arbitration procedure, including whether to determine some or all issues on the basis of written submissions.
- 7.6 The arbitrator shall be entitled to summon the parties in writing to appear before him at a time and place most convenient to the arbitrator. Should a party who has been duly summoned fail to appear, the arbitrator shall be entitled to proceed or adjourn the proceedings or and make such award or determination as he deems fit.
- 7.7 The arbitrator shall proceed as quickly and expeditiously as possible with a view to resolving the issues and he shall be entitled to evaluate the truth or relevance of any evidence based on probabilities that are in his discretion appropriate having regard to the seriousness of the matter, without the need to strictly apply the laws of evidence.
- 7.8 Notwithstanding anything contrary set out in this agreement, the attorney shall have the right to sue or to approach a Court having jurisdiction for such relief as may be appropriate, including the winding up of a company or close corporation or the sequestration of a person or a trust.
- 7.9 The arbitrator's fees and any disbursements in respect of venue, recording, or translation services and the copying of documents, the preparation of the arbitrator's brief and file, inspections of documents not included in the arbitrator's file, the costs of expert witnesses requested by the arbitrator, inspections in loco and any other fees or disbursements that are necessary for the purpose of the arbitration, shall be paid equally by the client and the attorney in advance, each paying half of the amounts as demanded by the arbitrator or the service providers referred to above.
- 7.10 If an item in a bill/invoice/account rendered to the client is disputed and the hearing of evidence is required, the Law Society may adjourned the hearing being held in terms of its rules, to enable an arbitration over that item or issue.

8 Domicilia and Notices

- 8.1 **The client choose as his *domicilium citandi et executandi*,** for all purposes, whether in respect of Court processes, notices or other documents or communications of whatsoever nature, the addresses on the last invoice sent to the client as evidenced on that invoice, unless the client has specifically given notice of an different address.

9 General

- 9.1 This agreement shall apply to the fees and disbursements referred to herein respectively to the date on which the client engaged the attorney's services.
- 9.2 The interpretation of this document shall be governed by the laws of interpretation.
- 9.3 The client waives any right to request the Attorney/s or the practice, if a company to put up security for costs for any reason whatsoever or in terms of any law whatsoever.
- 9.4 No amendment of this agreement or consensual cancellation thereof or any part thereof shall be binding on the parties unless it is recorded in writing.

- 9.5 No relaxation or indulgence which any one party may show to the other shall in any way prejudice affect or be deemed to be a waiver of that party's rights in terms of this agreement, nor shall such relaxation or indulgence preclude or estopp that party from exercising its rights in terms of this agreement in respect of any further breach.

Signature of client dated: _____

PLEASE NOTE THAT a signature is not required for the validation of this agreement. Only evidence to prove that it was accepted by the client is required in any such form as may be sufficient.