

Milemans Incorporated

Attorneys – South Africa

Term and Conditions of Service

These terms and conditions comprise the agreement between the attorneys defined hereunder and the client and are the terms and conditions referred to in the statements of accounts sent to clients by Mileman & Associates.

1 Definitions:

- 1.1 "Attorneys" - Milemans Incorporated, trading as Mileman 7 Associates, or their professional employees, their correspondents or other duly authorised agents.
- 1.2 "Counsel" - any advocate employed by the attorneys.
- 1.3 "Correspondent" – Any other attorney employed or contracted by the attorneys for any reason, such as, byut not restricted to attorneys in other areas of jurisdiction.
- 1.4 "Law Society" - The Law Society of The Northern Provinces or its successors.
- 1.5 "the client" - the person who gave the instructions to the attorneys or the entity which he/she clearly is authorised to represent.

2 Mandate

- 2.1 The attorneys shall represent the client in all matters in which they receive instructions.
- 2.2 The client warrants his authority to represent the entities or person/s he indicates he represents, and undertakes to be jointly and severally liable for any moneys incurred on his or on behalf of his employers or representatives.
- 2.3 The client hereby grants the attorneys full power of attorney, with the power of substitution to institute action, in any court, whether that action is by way of summons or application.

3 Counsel

- 3.1 The client authorises the attorneys to consult counsel where necessary and to charge the client the fees charged by counsel as they arise.
- 3.2 The client undertakes to pay any fee the attorney negotiates with counsel. If the client disputes that the fee claimed by counsel is due and payable by the client, he shall pay the amount in question to the attorneys to be held in trust until the dispute is resolved in terms of this agreement.

4 Interest on Credit Balances

- 4.1 Neither the attorney nor the client is entitled to retain the interest on

moneys in the attorneys normal current trust account. The client acknowledges that interest accruing on any money paid into the attorneys trust account must be paid to the Law Society in terms of the byelaws.

- 4.2 Money which the client indicates 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.
- 4.3 Unless otherwise instructed, the investment shall be placed on daily call with Nedbank Limited at the best rate the attorney can arrange and 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.
- 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 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 Liability of Client and Fee Structure

- 5.1 The person who consults with the attorney shall be the person liable for payment of the attorney account.
- 5.2 Notwithstanding that the client may from time to time give instructions to the attorneys to render accounts to a particular entity, such instructions shall not affect the liability of the person who gave the instructions to the attorney.
- 5.3 The attorney's fees shall be the following until further notice appears on the attorneys Statements of account or invoices:
 - 5.3.1 Professional fees shall be charged at the rate set out in the invoice or at the rate R600.00 per half hour plus V.A.T. which may be due thereon for all professional work in which the attorneys is involved which shall include all charges for professional services, consultations, telephone calls made and received, the drafting of letters, faxes or other memoranda, the drafting of other documents including pleadings, or any other instructions of whatsoever nature; unless another amount appears on the statement of account or invoice to the client. No variation of the fee shall be of any force or effect unless agreed in writing by both parties;
 - 5.3.2 Photocopies and faxes shall be charged at the rate of R5,00 per page that shall include the fee for the labour of sorting and arranging the originals and copies, collating, making the copy as well as the cost of the copy;

- 5.3.3 Deliveries shall be charged at the rate of R1,00 per kilometre;
- 5.3.4 Work that does not involve the intervention or supervision of an attorney shall be charged at R250, 00 per hour.
- 5.3.5 Travelling charges when the attorney is required is required to attend on the client at a place other than his office, shall be charged at the same hourly rate as for consultations;
- 5.3.6 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;
- 5.3.7 The above rates shall escalate automatically by 10% as from the 1 January in each and every year unless otherwise agreed in writing.
- 5.4 Accounts shall be paid on presentation of an invoice or statement of account unless otherwise agreed in writing.
- 5.5 The attorneys 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 attorneys may have given to the client or on behalf of the client.
- 5.6 Under no circumstances shall the attorneys be obliged to make payment to the client of any moneys of whatsoever nature owing to the client, while amounts due to the attorneys remain payable to the client.
- 5.7 Should a dispute arise in regard to the payment of moneys to the client, the attorneys shall be entitled to retain sufficient funds from the moneys payable to the client to secure the moneys owing to them.
- 5.8 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.
- 5.9 If the client is a legal entity, the attorneys 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 attorneys.
- 5.10 If the client is a legal entity represented by shareholder, trustee or member of that entitled, the attorneys are authorised to make payment out of moneys being held personally for that entities representative in respect of moneys owed to the attorneys by that entity.
- 5.11 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.

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.

- 6.2 If it is necessary to draw a detailed bill of costs, the attorneys reserve the right to reassess the amount of work done on behalf the client and to claim the full reassessed amount thereof.
- 6.3 The client agrees to as assessment of the fees by the Law Society whether the nature of the work done is litigious or not. If the assessment committee assess the fees at an amount that is more or less than 5% of the fees invoiced to the client prior to the assessment, the client shall be liable for the cost of the assessment at the same rate per hour as is either set out herein or agreed between attorney and client.

7 General

- 7.1 The client waives any right to request the attorneys or the practice, if a company to put up security for costs for any reason whatsoever or in terms of any law whatsoever.
- 7.2 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.
- 7.3 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 estop that party from exercising its rights in terms of this agreement in respect of any further breach.

8 Disputes

- 8.1 Any dispute arising out of the relationship between the attorneys and the client shall be resolved in terms of the Standard Dispute Resolution Procedure for Fees number 98 which document contains all the terms and conditions relevant to the resolution of disputes and which is permanently kept at the attorneys business premises. A copy shall be made available upon request.
- 8.2 Notwithstanding anything to contrary set out in this agreement, the attorney shall have the right to sue for fees 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.

9 Domicilia and Notices

- 9.1 The parties choose as their *domicilium citandi et executandi*, for all purposes under this Agreement, whether in respect of Court processes, notices or other documents or communications of whatsoever nature, the addresses set opposite the party's name above in this agreement.
- 9.2 Any notice or communication required or permitted to be given in terms of this agreement shall be in writing.
- 9.3 Either party may by notice to the other party, change its *domicilium citandi et executandi* to any other physical address in the province of Gauteng, provided that the change will become effective on the 7th day after the receipt of the notice.

- 9.4 A notice to a party may be delivered
- 9.5 by prepaid registered post to it at its *domicilium citandi et executandi* which shall be deemed to have been received on the 3rd business day after posting (unless the contrary is proved);
- 9.6 by hand to a responsible person during ordinary business hours at its *domicilium citandi et executandi* which shall be deemed to have been delivered on the date it was handed over to the apparently responsible person at that address notwithstanding that it was not received by the party to whom it was addressed on that date;
- 9.7 Notwithstanding anything to the contrary herein contained, a written notice or communication actually received by a party shall be adequate written notice of communication to it, notwithstanding that it was not sent to or delivered at its/his chosen *domicilium citandi et executandi*.

10 Certificate

- 10.1 Without in any way limiting or affecting any of the attorney' s rights in terms hereof, and in addition thereto:
- 10.2 The amount owed to the attorney from time to time, the fact that it is due and payable, the rate of interest payable thereon and the date from which interest is due, may be proved by a certificate under the signature of the attorneys' auditor, accountant or bookkeeper as an expert.
- 10.3 It shall not be necessary to prove the appointment of the person signing any such certificate.
- 10.4 The certificate shall be binding upon the client.
- 10.5 The certificate shall be prima facie evidence of its contents.

11 General

- 11.1 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 estop that party from exercising its rights in terms of this agreement in respect of any further breach.
