



1. **STANDARD TERMS AND CONDITIONS OF ENGAGEMENT**

This document sets out the terms and conditions upon which Dykes van Heerden (Gauteng) Incorporated (“DvH Upfront”), and its affiliates (“DvH”) agrees to act on your behalf. These terms may be varied or added to by mutual agreement in writing, and executed by the parties by hand, when your instructions are accepted by us or at any time thereafter. If you do not accept or understand these terms for any reason you should notify the attorney or staff member dealing with your matter immediately in writing. In the absence of any such notice, you will be deemed to have agreed to these terms.

2. **AUTHORITY AND APPOINTMENT**

- 2.1. DvH is given the usual authority of attorneys, conveyancers, notaries or other professionals to act on your behalf in relation to all matters necessary or incidental to its engagement.
- 2.2. DvH Upfront renders services integrated with and focused on the property transfer process. While providing services for DvH Upfront we will in terms of our back-end systems and protocols commence with preparing documents and our file for transfer of your property. You are not obligated to appoint DvH to attend to the transfer of your property. If DvH is not appointed to attend to the transfer of your property DvH will not be responsible to manage any delays to your transfer process howsoever arising. If DvH is required to provide your other appointed attorneys with documents it will only charge a reasonable fee for copies of such documents.

3. **LIMITED DURATION OF VALIDITY**

Certain of the information and documentation is time specific and limited in duration, for example preparing the rates account for rates clearance figures, cancellation figures etc. If the property is not sold within 3 months from when the specific item was requested or prepared we may need to take additional steps to ensure the property is ready for transfer. There will be no additional charges for requesting new cancellation figures or obtaining updated municipal

account details. If there is a change in circumstances on the information and documentation attended to by our offices due to the lapse of time, which require further action by our offices to re-correct the same an additional charge of R500.00 per hour plus VAT will be levied for time spent in resolving the additional query.

4. PROFESSIONAL DUTIES

- 4.1. In order to discharge its professional duty, DvH will throughout the handling of your matter rely on you to supply all necessary instructions promptly and immediately to advise it of any relevant change in circumstances.
- 4.2. DvH is free to act for any other client as its ethical obligations allow. DvH will consult you if it becomes aware of any new instruction which it receives and which may conflict with your current instructions. If a conflict of interest is discovered which prevents it from continuing to act for you, DvH will assist you to find alternative legal representation if required.
- 4.3. DvH will not disclose to any other client any confidential information or knowledge which it obtains as a result of acting for you. Similarly, it will not disclose to you any confidential information or knowledge which it has obtained as a result of acting for any other client.

5. FEES AND DISBURSEMENTS

- 5.1. Disbursements incurred by DvH on your behalf (e.g. council's fees, sheriff's fees, courier charges, etc) will be charged in addition to its fees, at cost.
- 5.2. Invoices will reflect fees exclusive of VAT and disbursements. VAT will be charged at the rate applicable from time to time, unless our invoice specifically states otherwise.

6. PAYMENT AND COMMENCEMENT OF SERVICES

- 6.1. DvH's invoices are due and payable against presentation. We will not commence with our services before (i) receipt of such payment in full and (ii) receipt of the required FICA documentation. As DvH is an accountable institution we require certain "know your client" documentation in order to be able to accept a mandate from you. A list of the documentation required will be presented to you on your request to appoint us.
- 6.2. In the absence of specific written instructions to the contrary, DvH shall have the right to appropriate from any amounts held by it in trust from time to time, such amounts as may be necessary to defray disbursements incurred on your behalf or to pay interim fee accounts. DvH may from time to time require you to pay reasonable amounts on

account of anticipated fees and disbursements. However, such amounts are, in the normal course, intended to be held against payment of the final account to be rendered to you and you are expected to settle interim accounts without recourse to such amounts.

7. FILE STORAGE

At the end of a matter, the file will be stored for a maximum period of 5 years or such shorter period as the law requires, after which period DvH has the right to destroy the file. A reasonable charge will be made for retrieving the file from storage at your request and for supplying copies of any documents contained therein.

8. TERMINATION OF MANDATE

Without prejudice to its other rights and remedies, DvH will have the right to cease work and/or terminate any mandate by giving you written notice at your last known address, amongst others, in the event that:

- 8.1. you fail promptly to supply any information or instructions needed by DvH to act on your behalf or to advise DvH immediately of any relevant change in circumstances;
- 8.2. any account remains unpaid for more than 30 days after presentation;
- 8.3. the property to which the mandate pertains is not currently on the market for sale or is not placed on the market for sale within 14 days of acceptance of DvH' mandate.
- 8.4. DvH determines, in its sole discretion, that there exists a conflict of interest between DvH and a client or between any two or more of its clients;
- 8.5. DvH determines, in its sole discretion, that it is not in a position properly to perform the mandate given by you to it.
- 8.6. DvH considers, in its sole discretion, that any part of the conduct required to be undertaken by DvH to which DvH might be thought to be a party, is inappropriate.

9. CLIENT CARE

- 9.1. At DvH we commit ourselves to offering our clients the highest standards in client care. Our concept of Client Care is directed toward adding value to the development of a positive and productive relationship.
- 9.2. It is the policy of DvH to investigate complaints and expressions of dissatisfaction fully and promptly. If you have a complaint relating to the work being carried out for you, you

should raise this in the first instance with the attorney/professional dealing with the matter. If you are still dissatisfied, you should lodge a formal complaint (preferably in writing) to one of our senior directors giving full details of your complaint. The relevant senior director will investigate the matter and will respond to you.

10. **SERVICES, ASSUMPTIONS AND SCOPE OF PACKAGES**

You have had the option to choose from three (3) service packages with the additional choice to add to the service package. The services offered under each package are restricted by certain assumptions and criteria noted on the service package list including but not limited to location, municipal council, time allocation, exclusion of disbursements and exclusion of VAT. These assumptions and restrictions form part of the services and are accepted to form part of these terms and conditions if any additional services or services outside of the scope are required in your matter these will be additionally charged for.

11. **LIMITATION OF LIABILITY AND WAIVER AND INDEMNITY**

- 11.1. You waive any claim of whatsoever nature (including damages, loss, interest, costs, expenses or otherwise (not limited *ejusdem generis*)), howsoever arising whether in contract or in delict or otherwise (not limited *ejusdem generis*) which you may have against DvH (and its successors in practice) beyond the amount actually recovered by it under its professional indemnity insurance policy in respect of your claim. Whilst DvH will make every effort to ensure that professional indemnity insurance is in place, it gives no undertaking that there will be professional indemnity insurance in place to cover such claim or that if there is such professional indemnity insurance in place, that it will be sufficient to cover your claim/s.
- 11.2. You waive any claim of whatsoever nature (including but not limited to damages, loss, interest, costs, expenses or otherwise (not limited *ejusdem generis*)), howsoever arising whether in contract or in delict or under section 19(3) of the Companies Act, 2008 (as amended or substituted) or otherwise, which you may have against any of the directors, past directors or employees of DvH (and its successors in practice) (in whose favour, this constitutes a *stipulatio alteri* capable of acceptance at any time) by reason of any negligent (including grossly negligent) act or omission on the part of any director, past director or employee.
- 11.3. You indemnify DvH (and its successors in practice), its directors, past directors and employees (in whose favour, where applicable, this constitutes a *stipulatio alteri* capable of acceptance at any time) against any claim of whatsoever nature (including

but not limited to damages, loss, interest, costs, expenses or otherwise (not limited *ejusdem generis*)), howsoever arising whether in contract or in delict or under section 19(3) of the Companies Act, 2008 (as amended or substituted) or otherwise, that may be made against it/them by any third party as a result of any work done, or omitted to be done, whether negligently (including gross negligence) or in breach of obligations to you or otherwise, by DvH (or its successors in practice), any director, past director or employee for you or on your behalf.

11.4. You will not be entitled for any reason whatever to withhold payment of any fees, disbursements or soft costs incurred by or owing to DvH whether it incurred any such disbursements or soft costs in your name or in the name of DvH.

12. **GOVERNING LAW**

Our relationship shall be governed by South African law and if the prescription laws of South Africa are not considered to be substantive laws thereof, by its prescription laws as well but excluding its conflict of law principles.

13. **SUBMISSION TO JURISDICTION**

Insofar as, you the client, may be a foreign resident or foreign entity, by accepting these terms and conditions you irrevocably submit and consent to the jurisdiction of the Magistrates Court of South Africa in any proceedings which might be instituted against you arising out of your mandate to us. You furthermore waive any objection you may now or hereafter have that such action or proceeding has been brought in an inconvenient forum.