

## **COMMERCIAL DISPUTES**

### **COMPLETE ADR ACCESS REFERRAL CLAUSE** **FOR AGREEMENTS**

#### **DISPUTES**

- (1) A dispute between the Parties relating to non-payment or performance or any other matter arising out of this Agreement or its legality or its enforceability or its jurisdiction or the interpretation thereof, shall be referred to the ADR ACCESS platform ("Platform") for arbitration, by either of the Parties, by way of notice to the other Party, in which notice particulars of the dispute are set out.
- (2) All notices given between the Parties in respect of arbitration proceedings shall be in writing in the English language and shall be sent electronically through the Platform for the attention of the receiving Party to the email address and/or via SMS to the mobile number provided in this Agreement.
- (3) The electronic notices as set out in Clause 2 must be sent to the following contact details of the Parties, namely:

#### **PARTY "A"**

Email address: \_\_\_\_\_

Mobile Number: \_\_\_\_\_

#### **PARTY "B"**

Email address: \_\_\_\_\_

Mobile Number: \_\_\_\_\_

- (4) The contact details as provided by the Parties in Clause 3 will be accepted as their current contact and service details in terms of this Agreement and the Parties are obligated to inform one another in writing immediately should said contact details for whatever reason change.

- (5) An electronic notice shall be deemed to be received at the time of transmission and to prove service it is sufficient for the forwarding Party to prove that the electronic notice was transmitted to either the email address and/or the mobile number of the receiving Party provided in this Agreement.
- (6) The dispute as set out in Clause 1 shall be resolved, in accordance with the Accelerated Rules for Commercial Disputes, as set out on the “ADR” (Alternative Dispute Resolution) ACCESS website ([www.adraccess.co.za](http://www.adraccess.co.za)), by an Arbitrator appointed by the Registrar of said Platform.
- (7) The Arbitrator appointed for such arbitration proceedings shall be a legal practitioner, an attorney or advocate, admitted as such in accordance with the legislation of the law governing this Agreement.
- (8) Such arbitration proceedings shall be held by means of an online video conferencing tool hosted, set up and managed by the ADR Access Platform (“Platform”).
- (9) Should for whatever reason required or upon request the Registrar of the Platform has the discretion to hold the arbitration at a venue, date and time agreed with the Parties.
- (10) The arbitration proceedings shall be confidential. Neither the Parties nor the arbitrator shall disclose to third parties any information regarding the proceedings, the award, or settlement terms unless the Parties otherwise agree in writing.
- (11) All costs pertaining to the arbitration shall be shared in equal proportions by the Parties unless the Parties agree in writing otherwise or the Arbitrator makes a different order as to costs in his/her Award.
- (12) The Arbitrator shall deliver his/her award within 14 (fourteen) working days after finalisation of the proceedings unless the Parties otherwise agree in writing or Registrar of the Platform permits an extension of that time after considering a request received from the arbitrator.
- (13) The Award made by the Arbitrator shall be deemed to have been published to the Parties on the date it is electronically delivered by the Registrar of the Platform.

- (14) An award in terms of Clause 12 shall be deemed to be received at the time of transmission and to prove service it is sufficient for the Registrar of the Platform to prove that the electronic Award was transmitted to either the email addresses and/or the mobile numbers of the receiving Parties provided in this Agreement.
- (15) The decision of the Arbitrator is subject to an automatic right of appeal by either Party. If an appeal is not filed, the decision of the Arbitrator shall be final and binding on the Parties and each Party shall abide by and comply with the Award in accordance with its terms.
- (16) An electronic notice of appeal shall be delivered by the Appellant, within 7 (seven) calendar days after the Award has been published, failing which the Award shall not be appealable.
- (17) The Registrar of the Platform shall appoint an Appeals Tribunal consisting of the 3 (three) arbitrators to hear the appeal.
- (18) The Appellant shall be responsible to pay all costs relating to the Appeal and should the Appellant fail to do so within 7 (seven) calendar days after receiving the cost breakdown for the appeal from the Registrar of the Platform, the right of appeal shall lapse.
- (19) The Appeal Tribunal shall make a ruling, as soon as practicable, but in any event within 14 (fourteen) calendar days after the closure of hearing the appeal. The decision of the Appeal Tribunal is final and binding on the Parties and each Party shall abide by and comply with the Award in accordance with its terms.
- (20) No clause in this Agreement, shall mean or be deemed to mean or interpreted to mean that either of the Parties shall be precluded from obtaining interim relief on an urgent basis from a court of competent jurisdiction pending the decision of the arbitrator.
- (21) This clause is a separate, divisible agreement from the rest of this Agreement and must remain in effect even if the Agreement terminates, is nullified, or cancelled for any reason or cause.