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PARTNERSHIP AGREEMENT FOR ORDINARY PARTNERSHIP

1. Parties

1.1 The Parties to the agreement are:

1.1.1

("First Partner");

(insert name of First Partner)

1.1.2

("Second Partner"); and

(insert name of Second Partner)

1.1.3

("Third Partner").

(insert name of Third Partner)

2. Definitions and Interpretations

2.1 These terms have the following meanings assigned to them:

2.1.1 Days: business days which are calculated by excluding the first day, public holidays, Saturdays and Sundays.

2.1.2 Effective date: the _____ day of _____ 20____ *(insert day, month and year)* – the date the Partnership shall take effect.

2.1.3 Capital Account: an account of each Partner in the books of the Partnership recording a Partner's capital contribution (including the value of assets, skills or other incorporeal property contributed) and other capital payments to, or withdraws from, the Partnership.

2.1.4 Loan Account: an account of each Partner in the books of the Partnership reflecting a credit balance or a debit balance.

2.1.5 Participation Ratios (as in proportion to the contributions):

2.1.5.1 The First Partner: _____ *(participation ratio of First Partner in percentage)* %

2.1.5.2 The Second Partner: _____ *(participation ratio of Second Partner in percentage)* %

2.1.5.3 The Third Partner: _____ *(participation ratio of Third Partner in percentage)* %

2.1.6 Partners: First Partner, Second Partner, and Third Partner.

2.1.7 Partnership: described in clause 3.1.

2.1.8 Main place of business: _____ *(insert business address)*

2.1.9 Partnership's assets: include moveable, immovable, corporeal and incorporeal property, as controlled by the Partnership and used by the Partners to carry out the main objective of the Partnership defined in clause 3.

2.1.10 Partnership's trade secrets: refers to the confidential information of the Partnership, including but not limited to, the knowledge and influence over the Partnership's clients; computer software and accessories; details of technology and intellectual property; contractual agreements entered into; financial details (including prices, structures, remuneration and operating results); and any other matters which relate to the business of the Partnership.

2.2 When words and figures conflict, the words must prevail.

2.3 The words "shall", "must" and "will" in this agreement are mandatory obligations.

2.4 One gender includes the other gender.

2.5 The singular includes the plural and vice versa.

2.6 The headings of the clauses in this agreement are for convenience and reference only; and shall not be used in the interpretation, modification or amplification of the terms of this agreement.

2.7 The termination of this agreement will not affect the terms in this agreement which expressly state that they will operate after the termination.

2.8 Each term in this agreement has been negotiated and drafted to the benefit of the Partners, therefore, the rule stating that the agreement will be to the disadvantage of the drafter, will not apply.

3. Constitution of the Partnership

3.1 The Partners agree, with effect from the effective date, to carry on the business of

_____ (insert detailed description of business)
to make and share profit and for the joint benefit of the partners.

3.2 The Partnership will carry on business under the name of _____ (insert name of Partnership) (or any other name as the Partners may agree upon from time to time).

4. Duration and Termination

4.1 The Partnership will commence on the effective date and will continue indefinitely (or for a specified period - please indicate) subject to:

4.1.1 the right of either Partner to withdraw from the Partnership by giving 30 days' written notice to the other Partners (such notice will only be effective from the date of completion of all projects currently undertaken by the Partnership);

4.1.2 a mutual agreement of termination;

4.1.3 the change in membership of a Partner subject to clause 4.2;

4.1.4 a court order; and

4.1.5 the sequestration of a private estate of a Partner subject to clause 4.3.

4.2 The Partnership will not terminate by reason of the death of a Partner, but shall continue between the surviving Partners and the estate of the deceased Partner. In such an instance, the executor of the estate of the deceased Partner shall grant a power of attorney to the surviving Partners to complete uncompleted projects at the date of death of the deceased Partner.

4.3 Should the Partnership estate be sequestrated, the Partners' personal estates will avoid sequestration by the Partners undertaking to pay the Partnership liabilities and by giving security for such payment to the satisfaction of the Registrar of the High Court.

5. Contributions and Capital Accounts

5.1 Each Partner must contribute to the Partnership as follows (provide descriptions of contributions; if there is Partner who gets ownership of the contributed property, for example, if the partners acquire joint ownership or one Partner gets ownership and the remaining

Partners get the right to use and enjoy the property; the due date for contributions; the method of effecting delivery, if any; and who is responsible for paying expenses related to the contributions, if any. See clause 6.1 relating to the payment of expenses):

5.1.1 The First Partner will contribute: *(insert contribution by First Partner).*

5.1.2 The Second Partner will contribute: *(insert contribution by Second Partner).*

5.1.3 The Third Partner will contribute: *(insert contribution by Third Partner).*

5.2 A contribution shall be reflected in the Partners' Capital Accounts, and a Partner must not be entitled to withdraw any amount standing to the credit of the Capital Account, without the prior written consent of the other Partners.

5.3 A Partner will not be compensated for his/her contribution, unless all the Partners agree otherwise in writing and sign same by hand and in ink.

5.4 A contribution and/or compensation shall not bear interest, unless the Partners agree otherwise in writing and sign same by hand and in ink.

6. Loan Accounts

6.1 Each Partner will have a loan account in the books of the Partnership and the books will show any loans made to the Partners.

6.2 If a Partner pays expenses regarding his/her contribution or the fulfilment of his/her partnership duties, the expenses must be credited to the Partner's Loan Account proportionately (accordingly, the Partner who incurs the expenses shall be entitled to recover a pro rata share of the expenses from the other Partners).

6.3 A credit balance in a Partner's Loan Account (representing the amount of indebtedness the Partnership has to a Partner) is subject to the following:

6.3.1 The credit balance shall reflect interest at _____ *(insert interest rate regarding credit balance).*

6.3.2 The credit balance will be paid as the Partners agree.

6.3.3 The credit balance will be paid to the Partners upon the liquidation of the Partnership subject to clause 11.

6.4 A debit balance (representing the amount of indebtedness a Partner has to the Partnership) is subject to the following:

6.4.1 Interest shall be debited on the debit balance monthly in arrears at _____ *(insert interest rate regarding debit balance).*

6.4.2 A Partner must pay the debit balance, inclusive of interest, as demanded by the other Partners, and prior to the Partner receiving his/her profit per clause 11.2.

7. Financial Year End

7.1 The financial year end of the Partnership shall end on the last day of _____ *(insert month financial year will end) in each year.*

8. Banking Account

8.1 The banking account of the Partnership shall be in the name of the Partnership at _____ (insert name of bank and branch) and monies received shall be banked daily, if possible.

8.2 All Partners will have equal signatory powers over the Partnership banking account.

8.3 Payments made by the Partnership to its creditors must be agreed upon by the Partners, which must be made through the easiest and most convenient form of payment - either in the form of a cheque, cash, or through an electronic fund transfer.

9. Accounts, Financial Statements and the Auditor

9.1 The Partners agree that the _____ (select First, Second or Third Partner) Partner will keep proper monthly accounting records of all transactions concerning the Partnership.

9.2 The accounts shall be prepared in the following intervals _____ (insert intervals, for example quarterly).

9.3 Accounting records of the Partnership must be audited annually by the Partnership's auditor.

9.4 The accounting records of the Partnership must be kept at the main place of business of the Partnership, and be open for inspection by each Partner and the auditor.

9.5 After the end of each financial year of the Partnership, financial statements must be audited by the auditor of the Partnership, and a copy of the financial statements given to each Partner. A challenge or dispute must be referred to the auditor of the Partnership who shall act as the expert and whose decision shall be final and binding.

9.6 The Partners agree that the auditor is a qualified auditor being:

_____ (insert auditor's details).

10. Duties of Partners, Management of the Partnership and Meetings

10.1 A Partner shall:

10.1.1 owe the other Partners a duty of utmost good faith;

10.1.2 further the interests of the Partnership unselfishly

;

10.1.3 be obliged to devote him/herself to the progress and welfare of the Partnership;

10.1.4 act with the necessary care and skill;

10.1.5 comply with contractual obligations and legal duties; and

10.1.6 disclose information concerning the Partnership to the other Partners.

10.2 Partnership assets will be held jointly, in an undivided share, in the names of the Partners.

10.3 All Partners shall be responsible for the protection of the Partnership's assets, without alienating or mortgaging them, unless there is written consent from all the Partners.

10.4 Partnership assets must be used to further the Partnership's objective, and may not be used for a Partner's private and personal use, unless all the Partners agree otherwise in writing and sign same by hand and in ink.

10.5 No partner shall without prior written consent:

10.5.1 withdraw money or take property of the Partnership or make any debt with regard to same,

except during the normal course of business and for the benefit of the Partnership;

10.5.2 take any action that will lead to the Partnership's property being attached, sold on auction or seized;

10.5.3 release or waive any debt due to the Partnership; or

10.5.4 cede, assign or mortgage his/her interest in the Partnership.

10.6 Each partner must settle his/her present or future debt and indemnify the other Partners against any liability towards same.

10.7 Each Partner has a right to participate in the management of the Partnership, including the power to represent the Partnership in transactions which fall within the scope of the Partnership's business. Written consent is, however, required for the following transactions:

(insert transactions that requires written consent).

10.6 The Partners agree to hold meetings _____ *(insert when meetings are to be held)*

10.7 Minutes of meetings of the Partners must be kept and signed by the Partners.

10.8 Each partner shall be entitled to the number of votes based on his/her participation ratio.

10.9 Resolutions, in order to be of force and effect, must be approved by Partners holding a majority of the votes.

10.10 Should a deadlock arise, a mediator or arbitrator will be appointed to resolve the dispute. The mediator or arbitrator appointed must be mutually agreed upon by the Partners.

11. Profits, Losses and Liquidation

11.1 All profits and losses of the Partnership must be carried by the Partners according to their participation ratios.

11.2 Profits of the Partnership must, except to the extent necessary to enable the Partnership to meet its liabilities, be distributed to the Partners at _____ *(insert number of monthly intervals)* monthly intervals according to the participation ratios.

11.3 Upon termination (dissolution) of the Partnership, the Partnership and assets of the Partnership must be liquidated.

11.4 Upon dissolution of the Partnership:

11.4.1 the Partners owe each other a fiduciary duty (see clause 10.1);

11.4.2 this agreement, and the mutual mandate of each Partner, are terminated; and

11.4.3 the rights and duties towards third parties remain valid and binding.

11.5 The liquidator shall be _____ *(insert liquidator's details)*, who shall receive the necessary power of attorney to perform his/her duties.

11.6 The liquidator must:

11.6.1 compile an account reflecting the Partnership's assets and liabilities;

- 11.6.2 realise the Partnership assets to discharge of the Partnership liabilities;
- 11.6.3 request the Partners to contribute to the Partnership liabilities, according to the participation ratios, if the Partnership assets are insufficient to meet the Partnership liabilities (the liquidator shall be entitled in his sole discretion to allow one Partner to assume sole responsibility for a liability of the Partnership);
- 11.6.4 distribute the remaining proceeds (or assets as the case may be) between the Partners according to their participation ratios after settling the Partnership liabilities that are due by the Partners to the Partnership on their Loan Accounts, Capital Accounts, or otherwise;
- 11.6.5 be entitled to a reasonable remuneration for which the Partners will be liable in terms of their participation ratios; and
- 11.6.6 compile and settle an account reflecting the procedures followed.

12. Confidentiality

- 12.1 The Partners agree to protect the Partnership's trade secrets by not divulging or disclosing these trade secrets to third parties.

13. Breach and disputes

- 13.1 If a Partner breaches a material provision of this agreement, and fails to remedy such breach within 10 days of the date of receipt of a written notice from the aggrieved Partners requiring him/her to do so, the aggrieved Partners will be entitled to any remedy available in law (such as an interdict, cancellation, specific performance or claiming damages), without further notice.
- 13.2 Repudiation, as a form of breach, does not dissolve the Partnership.
- 13.3 Any disputes between the parties must be resolved by way of mediation or arbitration (see clause 10.10) and the related costs must be carried by the Partners in terms of their participation ratios, unless otherwise agreed *(please remove this clause if Partners do not wish to make use of these methods)*.

14. General

- 14.1 This agreement constitutes the whole agreement between the Partners.
- 14.2 This agreement may only be amended if the Partners agree to the amendment in writing, and sign the written document by hand in ink – which must be attached to this agreement as an Annexure.
- 14.3 No Partner shall be bound by any express or implied term, representation, warranty, promise, or the like not recorded in this agreement.
- 14.4 Each of the Partners confirms that s/he is acting in his/her own right and not as an agent.
- 14.5 If any of the provisions in this agreement are found to be illegal, invalid or unenforceable, the rest of the agreement survives and continues to be valid, if necessary.
- 14.6 The costs for the drafting and preparation of this agreement shall be carried by all the Partners in accordance with their participation ratios.
- 14.7 All legal documents, notices or other communications must be delivered to the following address of the First Partner, which will act as his *domicilium citandi et executandi*:

14.8 All legal documents, notices or other communication must be delivered to the following address of the Second Partner, which will act as his *domicilium citandi et executandi*:

14.9 All legal documents, notices or other communication must be delivered to the following address of the Third Partner, which will act as his *domicilium citandi et executandi*:

14.10 Non-legal documents, notices or other communication between the Partners may be sent by electronic communication; where a "read receipt" must be attached to each and every electronic communication sent, so it can be determined that the electronic communication was received and read by the recipient.

14. Signatories

Signed at _____ on _____ 20____

As witnesses for the First Partner:

1. _____
Signature _____ Full name _____

2. _____
Signature _____ Full name _____

The First Partner:

Signature _____ Full name _____

Signed at _____ on _____ 20____

As witnesses for the Second Partner:

1. _____
Signature _____ Full name _____

2. _____
Signature _____ Full name _____

The Second Partner:

Signature _____ Full name _____

Signed at _____ on _____ 20____

As witnesses for the Third Partner:

1. _____
Signature _____ Full name _____

2. _____
Signature _____ Full name _____

The Third Partner:

Signature _____ Full name _____