

LABOUR DISPUTES

COMPLETE ADR ACCESS CLAUSE **FOR EMPLOYMENT AGREEMENTS**

DISPUTE RESOLUTION

- (1) A dispute between the Parties relating to misconduct, poor performance, capacity, unfair dismissal, unfair labour practice and to any other matter arising out of this Agreement or its legality or its enforceability or its jurisdiction or the interpretation thereof, shall be referred for a conciliation-arbitration (“con-arb”) process, 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 con-arb proceedings shall be in writing in the English language and shall be sent electronically through the ADR ACCESS 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:

EMPLOYER

Email address: _____

Mobile Number: _____

EMPLOYEE

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 ADR ACCESS Platform 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 Labour Disputes, as set out on the “ADR” (Alternative Dispute Resolution) ACCESS website (www.adraccess.co.za), by an arbitrator appointed by the Registrar of ADR ACCESS Platform.
- (7) The arbitrator appointed for such con-arb 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 con-arb proceedings shall be held by means of an online video conferencing tool hosted, set up and managed by the ADR ACCESS Platform.
- (9) Should for whatever reason required or upon request by either Party, the Registrar of the Platform has the discretion to hold the arbitration at a venue, date and time agreed upon with the Parties.
- (10) The con-arb 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 con-arb process and the appointment of the arbitrator shall be for the account of the Employer. Costs relating to the appointment of legal representatives to assist during said arbitration shall be for each Parties own accounts.
- (12) The arbitrator shall deliver his/her Award within 7 (seven) working days after finalisation of the hearing unless the Parties otherwise agree in writing or unless the ADR ACCESS Registrar 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 ADR ACCESS Registrar.

- (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 ADR ACCESS Registrar 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) An Award may, on the application to a court of competent jurisdiction by any Party after due notice to the other Party, be made an order of court.
- (21) 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.
- (22) 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.

