



## MEMORANDUM OF AGREEMENT

Between:

### **Lephalale Mall**

Herein represented by Janette Kruger

Being duly authorised hereto

(Herein after referred to as "Lephalale Mall")

~

### **The Exhibitor**

Herein represented by (name of individual).....

Being duly authorised hereto

(Hereinafter referred to as "the Convenor")

### INTRODUCTION

The parties record that they have agreed that the Convenor will stage a promotion / exhibition (hereinafter referred to as "the event") at Lephalale Mall situated at CNR NELSON MANDELA AND CHRIS HANI AVENUES, LEPHALALE ("the MALL") upon the terms and conditions that are set out hereunder:

- 1 PARTICULARS OF THE EVENT
  - 1.1 Name of event.....
  - 1.2 Type of event (eg motor, product type).....
  - 1.3 Exhibition court (eg A, B, C, D, E).....
  - 1.4 Approximate size (in sqm).....
  - 1.5 Date of event.....to.....(day).....(month) 20....
  - 1.6 Hire charge (excluding VAT).....

## 2 HIRE CHARGE

- 2.1 All payments to be made by the Convenor in terms hereof shall be made, free of exchange and without deduction or set off, into the bank account of Lephallale Mall not less than 7 (seven) days (hereafter "due date") prior to the set up date.
- 2.2 The hire charge referred to in 1.6 payable by the Convenor shall be net of value added tax insofar as it is applicable and such VAT shall be recoverable by Lephallale Mall from the Convenor in addition.
- 2.3 The event is not confirmed until payment of the full hire fare is made and is reflected and cleared in the bank account of Lephallale Mall. Should this signed contract, together with the payment referred to in 1.6 above, not be received by Lephallale Mall by due date, then the Convenor will not be permitted to exhibit.
- 2.4 The exhibition area must be carpeted at all times, unless the exhibition takes place in the parking lot.

## 3 CANCELLATION

Cancellation of bookings **a week or less** before the exhibition will result in the Convenor paying a cancellation fee of **100%** on the amount paid for the exhibition space. Cancellation of bookings more than a week but less than one month before the exhibit will result in the Convenor paying a cancellation fee of 50% on the amount paid for the exhibition space. In these instances, the Convenor will have no claim for damages against Lephallale Mall or its marketing/managing company.

## 4 RELOCATION

Lephallale Mall reserves the right to change the location of the event, where the operation of the Centre as a whole necessitates such a move.

## 5 SUBMISSION OF PLANS

The Convenor agrees to provide Lephallale Mall plans detailing the exact location of any exhibits and the layout and overall appearance of any promotion. The plans must be submitted with the contract and approved by Lephallale Mall at least 7 (seven) days prior to the date stipulated in 1.5. No event will be permitted to take place unless such plans have been approved by Lephallale Mall. Should the Convenor not comply with the provisions of the clause then, in such event, Lephallale Mall reserves the right to cancel the event and to retain the full hire charge which the parties agree shall be the genuine pre-estimate of the damages suffered by Lephallale Mall as a result of such a cancellation.

## 6 ERECTION OF EVENT

- 6.1 The Convenor shall at the Convenor's own cost, provide all the promotional equipment and advertising material required to stage the event. It is agreed that Lephallale Mall shall not be liable for any loss or damage of whatsoever nature and howsoever caused to the said promotional equipment.

6.2 It is agreed that, unless otherwise specified in clause 1.5, all set building and erection of any exhibits and promotional material will be undertaken on the date specified in 1.5 and dismantled and removed from the Centre by 18h00 on the date specified in 1.5.

6.3 The Convenor agrees that it will not use any construction materials that are flammable, toxic, potentially injurious or in any way represent a safety or health hazard, and no electrical points, cables or fittings may be left exposed and accessible to the public. Lephallale Mall shall be entitled to call for a certificate from a qualified electrician at the cost of the Convenor certifying all electrical work required for the event to be safe.

## 7 USE OF EXHIBITION AREA

The Convenor shall use the exhibition area for the purpose stipulated in 1.2 and for no other purpose whatsoever without the prior written consent of Lephallale Mall. Lephallale Mall does not warrant that any other exhibition area in the Centre will not be let for the same or similar to purpose stipulated in 1.2 at the same time or that any other convenor or tenant in the building will not compete with the Convenor.

## 8 MANNING OF THE EVENT

8.1 The Convenor agrees that the event is to be fully operational and manned during the trading hours of the Centre during the period of the promotional event. However, should the event be of such a nature that a security service is required, then the Convenor shall provide, at its cost, a security arrangement to police the event.

8.2 Should the Convenor wish to dismantle the event at the end of each day, and then set up again the following morning, the Convenor agrees to remove, at its cost, all promotional equipment from the given location, including all tables, chairs and screens.

## 9 ADVERTISING

The Convenor shall provide Lephallale Mall a copy of any leaflet, poster and other advertising material to be approved by Lephallale Mall together with the signed contract.

## 10 SERVICES

The Convenor agrees that should the event, in the opinion of Lephallale Mall, consume an abnormal amount of power, water or other supplied service then, Lephallale Mall may, at its discretion, levy an additional charge to the Convenor.

## 11 STORAGE

In the event of Lephallale Mall agreeing to provide the Convenor with any form of overnight or temporary storage space, it is agreed by the parties that Lephallale Mall shall not be liable for any loss or damage of whatsoever nature and however caused to the promotion equipment. Lephallale Mall reserves the right to charge for such storage.

## 12 CONVENOR'S OBLIGATIONS

The Convenor agrees to maintain, at all times, a high standard of exhibition / promotion which is in the opinion of Lephhalale Mall, of a level commensurate with the image of the Centre. Without derogating from the generality of the above, the following rules shall be strictly observed by the Convenor:

- 12.1 no banners shall be permitted without prior written permission by Lephhalale Mall;
- 12.2 no display material shall be permitted on any pillars, walls or shop windows;
- 12.3 all signage shall be printed or professionally sign written - no hand written signs shall be permitted;
- 12.4 all tables shall be covered, in keeping with the high standard of the Centre;
- 12.5 no exhibition or material display shall obscure the visibility of, or access to, any shops sited in the proximity of the promotional area. In this regard, no display may exceed 1,5 meters in height;
- 12.6 the Convenor agrees that no money be exchanged in the exhibition / promotional area's (unless specific arrangements are made and Lephhalale Mall's approval thereto is confirmed in writing);
- 12.7 the Convenor agrees that cooking demonstrations are not permitted in the promotional area - food samples may be given if prepared under conditions stipulated by the relevant local authority and Lephhalale Mall (unless specific arrangements are made and Lephhalale Mall's approval thereto is confirmed in writing);
- 12.8 the parties agree that no alcohol may be consumed in the exhibition / promotional area (lunches, cocktail parties etc. must be discussed with and approved by the Lephhalale Mall);
- 12.9 that any audio visual devices of whatsoever nature shall be used in a manner so as not to constitute a nuisance to any tenants, patrons or the management of the Centre;
- 12.10 the Convenor agrees that in the event of any large equipment, display material or vehicles or any item of excessive weight required to be brought into the Centre, the Convenor shall advise Lephhalale Mall on signing of the contract to allow Lephhalale Mall to arrange access to the Centre or to arrange approval by a structural engineer;
- 12.11 the Convenor shall supply a list of the names and addresses of any exhibitors taking part in the event, at least 14 days prior to the scheduled date thereof, together with a copy of the standard contract between the Convenor and any such exhibitor relating to the event;
- 12.12 Such list of participants must be approved by Lephhalale Mall in writing and Lephhalale Mall reserves the right to exclude participants notwithstanding any contact entered into between the Convenor and the participant;

- 12.13 the contract between the Convenor and participant must include the requirement that the participant is aware of and accepts all the conditions of the agreement between Lephale Mall and the Convenor;
- 12.14 the promotion displays are to conform to the plans / proposals approved by Lephale Mall and no variation will be permitted without prior written approval of Lephale Mall.
- 12.15 The Convenor shall:-
- 12.15.1 not store or leave or permit the storage or leaving of any goods outside the exhibition / promotional area in the passages, lifts or on the landing of the building, nor in the pathways, stairs, parking areas, gardens or any other part of the common area of the Centre;
  - 12.15.2. not bring any unreasonably heavy article into the building without Lephale Mall's prior written consent;
  - 12.15.4. not contravene or permit the contravention of any laws or regulations relating to owners, tenants or occupiers of business premises or affecting the conduct of the business;
  - 12.15.5. not contravene nor permit any contravention of the conditions of title where under the property is held by the Lephale Mall;
  - 12.15.6. not commit or permit the commission of any nuisance on the property or cause annoyance or discomfort to any of the tenants of the centre, centre management or shoppers ;
  - 12.15.7. not display, sell merchandise, allow carts, tables, trestles, chairs, signs, devices or any other objects to be stored, or to remain outside the exhibition / promotional area;
  - 12.15.8. not permit the accumulation of refuse in, or outside the exhibition / promotional area, save in refuse bins provided for that purpose. All refuse shall be kept in the kind of container specified by Lephale Mall in those positions indicated by Lephale Mall and shall be prepared for collection in the manner and at the times and places specified by Lephale Mall;
  - 12.15.9. not overload the floors, walls or structure of the exhibition / promotional area and the Centre;
  - 12.15.10. not interfere with electrical installations in the exhibition / promotional area and the Centre or the air conditioning installation or equipment and not affix any electrical fittings other than those approved by Lephale Mall;

- 12.15.11. not solicit, or canvass for business in any area (including the parking areas) besides the exhibition / promotional area and not distribute any pamphlets, handbills or other advertising matter on motor cars parked in the parking area or in any other part of the common area;
- 12.15.12. not hold or permit the holding of sales by public auction in or upon the (including the parking areas without Lephale Mall's prior written consent.
- 12.15.13 not bring onto the premises any fittings, fixtures or equipment not part of the Convenor's approved layout as per clause 4.

### 13 BREACH

Should the Convenor fail to pay any amount due in terms of this agreement to Lephale Mall or commit or permit the commission of a breach of any of the conditions contained herein, whether or not such breach goes to the root of this contract, Lephale Mall shall be entitled, but not obliged, (notwithstanding any waiver or conduct on the part of Lephale Mall that would otherwise stop it or anything contrary herein contained) to immediately cancel this agreement. If this agreement is cancelled due to a breach by the Convenor, Lephale Mall shall be entitled:-

- 13.1 to retain all moneys paid by the Convenor to Lephale Mall in the respect of the event as a genuine pre-estimate of the damages suffered by Lephale Mall in the terms of clause 2 of this agreement;
- 13.2 to institute action for the recovery of any amounts due in terms of this agreement and any other remedies available to Lephale Mall in law;
- 13.3 the Convenor shall remove all its equipment from the promotional area within 2 hours of such notification on cancellation, failing which Lephale Mall shall be entitled to remove such equipment at the cost of the Convenor and the Convenor shall have no claim whatsoever, either for damages or otherwise, against Lephale Mall;
- 13.4 to elect that any other agreement between the Convenor and Lephale Mall for any future event to be held in the Centre shall be regarded as having duly cancelled and be no further force or effect.

### 14 INSURANCE

The Convenor hereby warrants that -

14.1 it has and will maintain, at its cost, insurance cover in respect of:-

14.1.1 public liability, and

14.1.2 loss or damage caused by all risk of whatsoever nature

and will, if called upon by Lephale Mall to do so, furnish written proof of such insurance cover.

14.2 the Convenor will have no claim or right of action against Lephallale Mall, the owners of the Centre, the directors, servants or agents for the damage, loss or otherwise arising out of or by reason of any permission, stipulation or direction given, being varied or revoked by Lephallale Mall or through any other cause whatsoever, nor shall Lephallale Mall be responsible for any personal injury which may be sustained in or about the Centre to the Convenor, its directors, servants, agents, customers or any other person to whom such injury may be caused.

## 15 INDEMNITY

15.1 The Convenor hereby indemnifies and holds Lephallale Mall harmless against any action against Lephallale Mall for any loss or damages.

15.2 Lephallale Mall shall not be responsible for any damage of whatsoever nature, howsoever and when so ever arising, including, but not limited to, loss of profits, consequential damage or any damage to stock-in-trade, equipment, machines, raw materials, papers or other articles kept in the Centres (whether the property of the Convenor or that of anyone else), by rain, hail, lightening or fire or by reason of riots, strikes, or states enemies or as a result of theft or burglary, with or without forcible entry or through any cause whatsoever, nor shall Lephallale Mall be responsible for any personal injury which may be sustained in or about the premises or by the complex by the Convenor or any of the directors, employees, servants, agents, customers or invitees of the Convenor or by any other person to whom such injury may be caused, and the Convenor hereby indemnifies Lephallale Mall against any claim of whatsoever nature that may be made against Lephallale Mall by any of the directors, employees, servants, agents, customers or invitees of the Convenor in respect of personal injuries so sustained or in respect of the loss of or any damage to anything contained in or brought into the premises.

15.3 The provisions of 15.1 and 15.2 shall apply notwithstanding that any loss, damage or injury therein referred to may occur or be sustained in consequence of anything done or omitted by Lephallale Mall or any of its directors, servants or agents, unless as a consequence of gross negligence

## 16 LICENSE

The Convenor warrants that in any instance where the type of promotion activity requires either the permission of, or the granting of a license from any licensing or local authority, such action is the responsibility of the Convenor and written proof of such approval must be presented to Lephallale Mall on demand.

## 17 WHOLE AGREEMENT

This document constitutes the sole record of the agreement between the parties, and neither party shall be bound by any express or implied term, representation, warranty, promise or the like not recorded herein. No addition to variation or agreed cancellation of this agreement shall be of any force or effect unless in writing and signed by or on the behalf of the parties.

18 NON-WAIVER

No indulgence which Lephale Mall may grant to the Convenor shall constitute a waiver of any of the rights of Lephale Mall who shall not thereby be precluded from exercising any rights against the Convenor which may have arisen in the past or which arises in the future.

19 DOMICILIUM

The parties choose *domicilium citandi et executandi* for service of any notice, payment of any amounts due, the serving of any process and for any other purpose arising from this agreement as follows:

Convenor :  
Janette Kruger  
Management Offices, Lephale Mall  
Cnr. Nelson Mandela & Chris Hanani Avenues  
Onverwacht, Lephale

20 WARRANTY OF AUTHORITY

The person signing agreement on behalf of the Convenor expressly warrants his authority to do so.

21 LEGAL COSTS

The Convenor shall be liable for all legal costs and disbursements (including attorney and own client costs and collection commission) incurred by Lephale Mall in enforcing its rights hereunder whether or not legal proceedings are commenced.

22 OFFER BY CONVENOR

Signature of this document by the Convenor shall be an offer by the Convenor to Lephale Mall to enter into this agreement which offer shall be irrevocable for a period of thirty days from the date of signature by the Convenor. This Agreement shall be concluded and binding on Lephale Mall only when signed by it, until which time no obligation of any kind whatsoever shall exist on the part of Lephale Mall in respect of any matter herein provided for or referred to.

23 JURISDICTION

23.1. At the option of Lephale Mall any action or application arising out of this contract, its enforcement or any cancellation thereof may be brought either :-

23.1.1. in the magistrate's court having jurisdiction in respect of the Convenor notwithstanding that the amount in issue may exceed the jurisdiction of such court; and

23.1.2. in the High Court of South Africa, and the Convenor hereby consents to the jurisdiction thereof in respect of any appeal or action brought against it by Lephale Mall arising out of this agreement, its enforcement or cancellation.

23.2 It shall be within the absolute discretion of Lephalale Mall whether to proceed against the Convenor in the magistrate's court referred to in clause 22.1.1, the High Court referred to in clause 22.1.2, or any other court having jurisdiction.

This done and signed at Lephalale Mall on the .....day of.....20....

WITNESS

1. \_\_\_\_\_

2. \_\_\_\_\_

\_\_\_\_\_  
**J. Kruger**  
*For and on behalf of the Convenor*  
*Being duly authorised*

This done and signed at ..... on the .....day of.....20....

WITNESS

1. \_\_\_\_\_

2. \_\_\_\_\_

\_\_\_\_\_  
The Exhibitor

**INVOICING DETAILS**

**(KINDY ENSURE DETAILS ARE COMPLETE AND CORRECT)**

Company: \_\_\_\_\_

VAT Number: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Telephone: (\_\_\_\_\_) \_\_\_\_\_ Fax: (\_\_\_\_\_) \_\_\_\_\_

Mobile nr: \_\_\_\_\_ Email: \_\_\_\_\_

Physical Address: \_\_\_\_\_

Postal Address: \_\_\_\_\_