

Guidance Note	Forms and Precedents	Checklists	Other Resources
1. FORMS OF BUSINESS ENTERPRISE			
1.1 Sole proprietor			
1.1.1 Formation and formalities of a sole proprietor			Formalities for a sole proprietorship
1.1.2 Advantages and disadvantages of a sole proprietor			
1.1.3 Tax implications for a sole proprietor	Form IT77 – Application for registration as a taxpayer		Guide for employers in respect of employees' tax for 2018
	Form EMP101e – Application for registration PAYE SDL UIF		Comprehensive Guide to Capital Gains Tax
	Form VAT 101 – Application for registration for VAT		
1.2 Partnership			
1.2.1 Types of partnerships			
1.2.2 Formation and formalities of a partnership			
1.2.3 Underlying agreements	Partnership agreement for a professional firm	Checklist for drafting a partnership agreement	
	Ordinary partnership agreement		
	Special partnership agreement		
1.2.4 Authority to represent the partnership			
1.2.5 Advantages and disadvantages of partnership			
1.2.6 Tax implications of a partnership	Form VAT101 – Application for registration for VAT		Guide for completion of VAT application
	Form EMP101e – Application for registration PAYE SDL UIF		Comprehensive guide to capital gains tax
			A step-by-step guide to the employer reconciliation process
			Guide for employers in respect of skills development levy
			Guide for employers in respect of the Unemployment Insurance Fund

Guidance Note	Forms and Precedents	Checklists	Other Resources
1.3 Close corporations			
1.3.1 Formation and formalities of a close corporation	Form CK1 – Founding statement		
	Form CK2A – Amended founding statement in respect of accounting officer and addresses		
	Form CK2 – Amended founding statement		
1.3.2 Underlying agreements - association agreement	Association agreement		
1.3.3 Authority to represent a close corporation			
1.3.4 Advantages and disadvantages of a close corporation			
1.3.5 Tax implications of a close corporation			Securities transfer tax
1.4 Companies			
1.4.1 Different types of companies	Form CoR 20.1 – Registration of external company		Practice Note 6 of 2011: Detail required for registration of external companies
	Annexure A of Form CoR 20.1 – Directors of external company		
	Form CoR 17.1 – Application to transfer registration of foreign company		
1.4.2 Formation and formalities of a company	Form CoR 9.1 – Application to reserve a name		CIPC Guidance Note 2 of 2011
	Form CoR 9.2 – Application to extend a name reservation		Practice Note 2 of 2018: Subjoining jurisdiction of incorporation for external companies
	Form CoR 14.1 – Notice of incorporation		
	Annexure A of Form CoR 14.1 – Notice of incorporation: initial directors of the company		
	Annexure B of Form CoR 14.1 – Notice of incorporation: alternative names for the company		

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	Annexure C of Form CoR 14.1 – Notice of incorporation: notice of ring fencing provisions		
	Annexure D of Form CoR 14.1 – Notice of incorporation: notice of company appointments		
	Form CoR 15.1A – MOI: short standard form for private companies		
	Form CoR 15.1B – MOI: long standard form for private companies		
	Form CoR 15.1C – MOI: short standard form for non profit companies without members		
	Form CoR 15.1D – MOI: long standard form for non profit companies without members		
	Form CoR 15.1E – MOI: long standard form for non profit companies with members		
	Form CoR 20.1 – Registration of external company		
	Annexure A of Form CoR 20.1 – Directors of external company		
	Form CoR 9.3 – Notice requiring further particulars in respect of name reservation		
	Form CoR 9.4 – Confirmation notice of name reservation		
	Form CoR 9.5 – Notice refusing name reservation or defensive registration		
1.4.3 Underlying agreements (SHA)	Shareholders' agreement		
1.4.4 Authority to represent a company			
1.4.5 Advantages and disadvantages of a company	Form CoR 14.3 – Registration certificate		

Guidance Note	Forms and Precedents	Checklists	Other Resources
1.4.6 Tax implications of a company	Form VAT101 – Application for registration for VAT		A quick guide to dividends tax
	Form EMP101e – Application for registration PAYE SDL UIF		A step-by-step guide to the employer reconciliation process
	Form IT77C – Application for registration as a taxpayer or changing of registered particulars: company		Guide for employers in respect of skills development levy
			Guide for employers in respect of the Unemployment Insurance Fund
			Comprehensive guide to capital gains tax
			Securities transfer tax
1.5 Business trusts			
1.5.1 Formation and formalities of business trusts	Acceptance of trust as trustee form		
	Auditors' Undertaking		Master's directive 1 of 2012
	Undertaking and Bond of Security form		
	Form IT77TR – Application for registration as a taxpayer or changing of registered particulars: trust		
1.5.2 Underlying agreements - trust deed	Objects of the trust clause		
	Trustees' clause		
	Powers and duties of trustees' clause		
	Terms and conditions of beneficial interests' clause		
	Proceedings of trustees and quorum clause		
	Accounts clause		
	Costs clause		
	Variation clause		
	Trust deed Precedent		
	Waiver of security clause		
	Trust deed precedent		

Guidance Note	Forms and Precedents	Checklists	Other Resources
1.5.3 Authority to represent business trusts			
1.5.4 Advantages and disadvantages of business trusts			
1.5.5 Tax implications for business trusts	Form IT77TR – Application for registration as a taxpayer or changing of registered particulars for a trust		
	Form VAT101 – Application for registration for VAT		
	Form EMP101e – Application for registration PAYE SDL UIF		
1.6 Joint ventures			
1.6.1 Overview of joint ventures	Shareholders agreement		
1.6.2 Types of joint ventures		Joint venture checklist	
1.6.3 Formation and formalities of joint ventures	Joint venture agreement	Choosing a joint venture	
1.6.4 Underlying agreements for joint ventures	Shareholders agreement		
	Joint venture agreement		
1.6.5 Authority to represent a joint venture			
1.6.6 Advantages and disadvantages of joint ventures			
1.6.7 Tax implications of joint ventures			
1.7 Memorandum of understanding			
1.7.1. Formalities of a memorandum of understanding	Memorandum of understanding agreement		

2. AUTHORITY TO CONDUCT BUSINESS

2.1 Rights and registration			
2.1.1 Licences and permits			
2.1.2 Registration for tax purposes	Form IT77 – Application for registration as a taxpayer		
	Form VAT101 – Application for registration for VAT		
	Form EMP101e – Application for registration PAYE SDL UIF		

Guidance Note	Forms and Precedents	Checklists	Other Resources
	Form TT01 – Information to determine if a business qualifies for turnover tax		
	Form IT77TR – Application for registration as a taxpayer or changing of registered particulars: trust		
	Form IT77C – Application for registration as a taxpayer or changing of registered particulars: company		
2.1.3 Registration with the Department of Labour: UIF	Form UI-8 – Application for registration as an employer		
	Form UI-19 – Employers declaration form		
	Form EMP101e – Application for registration PAYE SDL UIF		
2.1.4 Registration with bargaining council			
2.1.5 Registration with professional or other industry-controlling bodies			

3. BUSINESS PREMISES

3.1 Nature of tenure: freehold and leasehold

3.1.1 Types of tenure			
3.2 Leases and sub-leases			
3.2.1 Residual common law obligations			
3.2.2 Drafting a lease agreement	Lease agreement	Checklist for drafting a lease	
	Lease extension agreement		
	Lease for business premises		
	Letter of demand		
	Letter of cancellation		
3.2.3 Head leases, sub-leases and assignment of lease	Deed of assignment of lease		
3.2.4 Suretyships for lease agreements	Suretyship for lease agreement		

Guidance Note	Forms and Precedents	Checklists	Other Resources
4. INTELLECTUAL PROPERTY RIGHTS AND THE PROTECTION THEREOF			
4.1 Trade marks			
411 Advantages of registration			
412 Registration process for trade marks	Form TM 1 – Application for the registration of a trade mark		http://www.wipo.int/classifications/nice/en/
	General power of attorney		http://www.cipc.co.za/index.php/trade-marks-patents-designs-copyright/patents/patent-journal/
413 Search			http://www.wipo.int/classifications/nice/en/ http://www.cipc.co.za/
414 Use of a trade mark	Registered user agreement		
415 Infringement			
416 Application of standard forms	Form TM 1 – Application for the registration of a trade mark		
	Form TM 2 – Application, notification or request to the registrar		
	Form TM 3 – Notice of opposition rectification		
	Form TM 4 – Notice of intention to defend		
	Form TM 5 – Payment (including additional fee) and certificate of renewal/restoration		
	Form TM 6 – Application to record a transaction affecting the rights in a trade mark assignment, transmission, hypothecation or attachment		
	Form TM 7 – Application for registration, variation, cancellation, or maintenance of a registered user		

Guidance Note	Forms and Precedents	Checklists	Other Resources
417 Rights and ownership of trade mark	Form TM 6 – Application to record a transaction affecting the rights in a trade mark assignment, transmission, hypothecation or attachment		
	Form TM 7 – Application for registration, variation, cancellation, or maintenance of a registered user		
418 Maintenance of a trade mark	Form TM 5 – Payment (including additional fee) and certificate of renewal/restoration		
4.2 Copyright			
421 Eligibility for copyright			
422 Subsistence of copyright			
423 Author and ownership of the copyright			
424 Rights and exceptions			
425 Infringement of copyright			
426 Author's moral rights			
427 Court proceedings			
428 Transmission of copyright			
429 Lifespan of copyright			
4.3 Patents			
4.3.1 Definition of a patent			
4.3.2 Formalities for a patent application	Form P1 – Application for a patent and acknowledgment of receipt		
	Form P2 – Register of patents		
	Form P3 – Declaration and power of attorney		
4.3.3 Application of patents	Form P1 – Application for a patent and acknowledgment of receipt		
	Form P2 – Register of patents		
	Form P3 – Declaration and power of attorney		

Guidance Note	Forms and Precedents	Checklists	Other Resources
	Form P8 – Publication particulars and abstract		
4.3.4 Joint ownership of applications			
4.3.5 Patentable inventions			
4.3.6 Claiming priority			
4.4 Designs			
4.4.1 Application for designs	Form D1 – Application and acknowledgement		http://www.wipo.int/treaties/en/ip/paris/trtdocs_wo020.html
	Form D2 – Register of designs		
	Form D3 – Declaration and power of attorney		
	Form D4 – Application or request to the registrar		
	Form D5 – Late lodging of documents		
	Form D6 – Definite statement and explanatory statement		
	Form D8 – Publication particulars		
4.4.2 Joint ownership			
4.4.3 Protection of designs			
4.4.4 Duration of a design			
4.4.5 Renewal and restoration of designs	Form D10 – Payment and certificate of renewal		
4.5 Passing off			
4.5.1 Protection mechanism for unregistered trade marks			
4.6 Counterfeit goods			
4.6.1 Definition and procedure			

5. AGENCY AND DISTRIBUTION

5.1 Agency agreements			
5.1.1 Introduction to agency			
5.1.2 General principles of agency	Contractual acknowledgment		
	Introduction agreement pro-supplier		

Guidance Note	Forms and Precedents	Checklists	Other Resources
	Introduction agreement pro-introducer		
5.1.3 Drafting an agency agreement	Detailed sales agency agreement exclusive	Appointing a sales and marketing agent	
	Detailed sales agency agreement non exclusive		
	Simple agency agreement		
	Termination letter principal to agent		
	Termination letter agent to principal		
5.1.4 Estoppel			
5.2. Distribution agreements			
5.2.1 Distributor agreements	Distributor agreement		
5.2.2 Agency and distribution compared			Table comparing agency and distribution

6. SPECIFIC CONTRACTS

6.1 Sale of goods			
	Offer to purchase		
6.1.1 General contractual principles			
6.1.2 Ownership			
6.1.3 Essential elements of a sale	Voetstoos clause example for movable property		
6.1.4 Voetstoos clauses	Voetstoos clause example for immovable property		
6.1.5 Remedies			
6.2 Lease of goods			
6.2.1 Essential elements of a contract of lease			
6.2.2 Responsibilities and duties of the lessee			
6.2.3 Responsibilities of the lessor			
6.2.4 Duration of lease and renewal period			
6.2.5 Termination of a contract of lease	Notice of termination of contract of sale of property		
6.3 Sale of property			
6.3.1 Formalities in respect of alienation of land			
6.3.2 Sale of a proposed sub-division	Notice of special meeting to pass special resolution		

Guidance Note	Forms and Precedents	Checklists	Other Resources
6.3.3 Sale of sectional title unit	Notice of special meeting to pass unanimous resolution		
	Special resolution		
	Unanimous resolution		
6.4 Franchise agreements			
6.4.1 The franchise relationship			
6.4.2 Disclosure document			
6.4.3 Operations manual			
6.4.4 Specific clauses			
6.4.5 The franchise agreement			
6.4.6 Duties and obligations			
6.4.7 Transfer and termination			
6.5 Confidentiality agreements			
6.5.1 Trade secrets and confidentiality	Intellectual property assignment agreement pro assignor	Confidentiality agreement checklist	
	Confidentiality agreement pro discloser		
	Confidentiality agreement pro recipient		
	Confidentiality agreement mutual		
	Confidentiality letter mutual		
	Confidentiality agreement joint venture		
	Confidentiality agreement sale of shares		
6.5.2 Managing a breach of confidentiality			
6.6. Variation agreements			
6.6.1 Variation of a contract	Variation agreement for two parties		
	Variation agreement with guarantor		
	Variation letter for two parties		
	Variation letter with guarantor		
6.7. Standard terms and conditions			
6.7.1. Key provisions	Dispute resolution		Jurisdictional guide for execution of contracts

Guidance Note	Forms and Precedents	Checklists	Other Resources
6.7.2. Dealing with terms and conditions		Advice on using terms and conditions	

7. CONTRACT CLAUSE BANK

7.1. Boiler plate clauses

7.1.1. Announcements and publicity	Announcements clause		
7.1.2. Conditions precedent	Conditions precedent clause		
7.1.3. Email disclaimers	Disclaimer clause		
7.1.4. Joint and several liability	Joint and several liability clauses		
7.1.5. Reasonable and best endeavours	Good industry practice clause		
7.1.6. Templates agreements	Boiler plate clauses long form		
	Boiler plate clauses short form		
	Template agreement long form		
	Introduction clause		
	Parties		
	Duration		
	Price		
	Payment		
	Warranties		
	Exclusion and limitation of liability		
	Confidential information		
	Termination		
	Insurance		
	Anti bribery		
	Dispute resolution		
	Entire agreement		
	Announcements clause		
	Force majeure		
	Drafting definitions		
	Definitions and interpretation clause		
	Signature		
7.1.7. Force Majeure	Force majeure		Guide for drafting force majeure clauses
7.2. Definitions and interpretations			
7.2.1. Definitions and interpretations clause	Drafting definitions		

Guidance Note	Forms and Precedents	Checklists	Other Resources
	Definitions and interpretation clause		

8. SECURITY FOR DEBTS

8.1 Personal security			
8.1.1 Suretyship and guarantee	Deed of Suretyship		
8.1.2 Types of suretyships	Deed of Suretyship -		
8.1.3 Surety's rights against creditor			
8.1.4 Termination of suretyships			
8.2 Real security			
8.2.1 Mortgage over immovable property	Covering Mortgage Bond		
8.2.2 Pledge of movable property	Deed of Pledge		
8.2.3 Notarial bonds	General Notarial Covering Bond		
8.2.4 Cession in securitatem debiti	Cession of book debts		
8.2.5 Liens			
8.2.6 Hypothecs			
8.3 Ranking of securities			
8.3.1 Order of preference			

9. COMPETITION

9.1 Prohibited practices			
9.1.1 Horizontal practices			
9.1.2 Vertical practices			
9.1.3 Abuse of dominance			
9.1.4 Complaint procedures			
9.1.5 Administrative penalties			
9.2 Corporate leniency			
9.2.1 Effect of corporate leniency policy			
9.3 Merger control			
9.3.1 Transactions which constitute a merger			
9.3.2 Thresholds and categories of mergers			
9.3.3 Merger notification and investigation			
9.3.4 Merger proceedings			

Guidance Note	Forms and Precedents	Checklists	Other Resources
9.3.5 Approval of prohibition and appeals			
9.4 Exemptions			
9.4.1 Elements of exemption			

10. COMPLIANCE IN TERMS OF LEGISLATION

10.1 Consumer Protection Act			
10.1.1 Application and scope of the Consumer Protection Act			Does the CPA apply to the transaction?
10.1.2 Contract			
10.1.3 Regulation of certain marketing practices			
10.1.4 The supply of goods and services	General Notarial Covering Bond		
10.2 National Credit Act			
	Small credit agreements		
10.2.1 Application of the National Credit Act in business	Examples of terms and conditions		
10.2.2 Credit agreements	Pre-agreement statement		
10.2.3 Rights and obligations	Quotation for intermediate and large agreements		
10.2.4 Termination of a credit agreement	Section 129 notice		
	Warrant of execution	Checklist for inclusions on a pre-agreement	
10.2.5 Enforcement of a credit agreement	Writ of Execution		
10.2.6 Debt counselling, debt review and over-indebtedness			
10.2.7 Interest fees and charges			
10.3 Labour legislation			
10.3.1 Basic Conditions of Employment Act			
10.3.2 The Labour Relations Act			
10.4 Protection of Personal Information Act			
10.4.1 Purpose of the Protection of Personal Information Act		Types of personal information and processing	
10.4.2 Obligations in terms of the Protection of Personal Information Act			How to process information lawfully

Guidance Note	Forms and Precedents	Checklists	Other Resources
11. SUPPLY CHAIN MANAGEMENT			
11.1 Ethics and procurement			
11.1.1 Compliance with ethical standards			
11.1.2 Categories of procurement	SBD 6.2 – Local content certificate		
	MBD 6.2 – Local content certificate		
	Model supply chain management policy		
11.2 Supply chain management systems for local government			
11.2.1 Formalities			
11.2.2 Bid committees			
11.2.3 Ethical standards	Notice in terms of regulation 49		

12. SALE OF ENTERPRISE			
12.1 Sale of business and sale of shares			
12.1.1 Sale of a business and sale of shares agreement	Sale of a business agreement		
	Secrecy agreement		
	Sale of shares agreement		
12.1.2 Sale of a business			
12.1.3 Sale of shares			

13. INSOLVENCY/TERMINATION OF BUSINESS			
13.1 Sequestration			
13.1.1 Voluntary surrender of an insolvent estate	Form B – Statement of debtor's affairs		
13.1.2 Compulsory sequestration of an insolvent estate	High Court notice of motion		
13.1.3 Effects of sequestration on the insolvent			
13.1.4 The concursus creditorum			
13.1.5 The appointment of the trustee			
13.1.6 The powers of the trustee			
13.1.7 The vesting of the insolvent's assets			
13.1.8 The effect of sequestration on marriages in community of property			

Guidance Note	Forms and Precedents	Checklists	Other Resources
13.1.9 The effect of sequestration on marriages out of community of property			
13.1.10 Uncompleted contracts concluded with an insolvent			
13.1.11 Impeachable dispositions and the selling of assets below market value			
13.1.12 Interrogation of insolvent and witnesses			
13.1.13 The liquidation and distribution account			
13.1.14 The rehabilitation period and the requirements			
13.2 Winding up of companies			
13.2.1 Voluntary liquidation			
13.2.2 Members' voluntary winding-up	Form CoR 40.1 – Notice of special resolution to wind-up solvent company		
13.2.3 Creditors' voluntary winding up	Form CM 25 – Consent to waive period of notice of meeting to pass a special resolution		
	Form CM 25A – Consent to propose and pass special resolution at meeting of which notice has not been given		
	Form CM 26 – Special resolution		
	Form CM 100 – Statement of affairs		
13.2.4 Compulsory liquidation			
13.2.5 A company's inability to pay its debts			
13.2.6 The application for compulsory liquidation			
13.2.7 Provisional and final liquidation orders			

Guidance Note	Forms and Precedents	Checklists	Other Resources
13.2.8 The impact of winding up order on the directors			
13.2.9 Liquidator's duties			
13.2.10 Creditors' meetings			
13.2.11 Ranking of creditors and security			
13.2.12 The effect of winding-up on the existing contractual obligations of the company			
13.3 Business rescue			
13.3.1 The basics of business rescue			Basic characteristics of the business rescue process
13.3.2 Business rescue versus liquidation			
13.3.3 The business rescue process (voluntary)	Form CoR 123.1 – Notice of beginning of business rescue proceedings		Voluntary business rescue flowchart
	Form CoR 123.2 – Notice of appointment of business rescue practitioner		
13.3.4 The business rescue process (compulsory)			Compulsory business rescue flowchart

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13.3.5 The practitioner, appointment, duties and remuneration	Form CoR 126.1 – Application for practitioner's licence		Notice 30 of 2017
	Form CoR 126.2– Registration certificate		Accreditation application for professional bodies
			Practice Note 1 of 2018 Qualifications of Practitioners in terms of section 138(1)
13.3.6 The moratorium on legal proceedings			
13.3.7 Meeting of the creditors and employees' representatives			
13.3.8 Business rescue plan and approval			Business rescue plan flowchart
13.3.9 The impact on shareholders and directors			
13.3.10 The impact on employees			
13.3.11 Contractual obligations of the company			
13.3.12 Failure to adopt the business rescue plan			
13.3.13 Business rescue timeline			