

SOMERSET COLLEGE NON-PROFIT COMPANY  
CONTRACT OF ENROLMENT  
PREPARATORY AND SENIOR SCHOOL/SENIOR SCHOOL  
ONLY

**IMPORTANT NOTICE:**

*By signing or initialling or otherwise entering into this Contract you, the Applicant, agree to the terms and conditions contained in this document as well as any terms and conditions contained in the Policies of the College (as defined in 1.1.20), which form part of this Contract. If there is any provision in this Contract that you do not fully understand, please ask for an explanation before signing.*

*This Contract contains clauses which appear in similar text style to this notice and which:*

1. *may limit the risk or liability of the College or a third party; and/or*
2. *may create risk or liability for you; and/or*
3. *may require you to indemnify the College or a third party; and/or*
4. *serve as an acknowledgement, by you, of a fact.*

*Your attention is drawn to these clauses because they are important and should be carefully noted. The rights you have in this Contract are in addition to and do not affect the statutory rights and remedies you have under consumer protection law. In the event of conflict between this contract and consumer protection law, your statutory consumer protection rights will prevail. Nothing in this document is intended to or must be understood to unlawfully restrict, limit or avoid any rights or obligations created for you or the College in terms of the Consumer Protection Act, No. 68 of 2008.*

**CONTRACT OF ENROLMENT  
(and Declaration by Applicant)**

*The Applicant as defined in 1.1.3 (whose details appear in Annexure B), declares that he is the parent or, if not the parent, then the recognised legal guardian of the Student whose details appear in Annexure A. The rights and obligations contained in this Contract are binding on every person who signs this Contract and must be carried out in order for the Student to be successfully enrolled and retained at the College.*

**1. INTERPRETATION**

In this contract, unless it is clear from the wording or the context that something else is intended:

1.1 the following definitions will apply:

1.1.1 "Additional Fees" means fees for the Additional Goods/Services and additional

costs and levies which must be paid by the Applicant to the College from time to time, of which the Applicant will be notified in advance; the Additional Fees are intended to provide adequately for the education and related activities and services provided to the Student, including the costs of extra-curricular activities or special educational needs;

1.1.2 "Additional Goods/Services" means those goods or services, including (but not limited to) stationery, textbooks, tours, sport, outings and any other goods or services determined by the College from time to time in order to provide the Student with the educational services contemplated in this Contract;

1.1.3 "the Applicant" means the parent/s and, if not the parent/s, then the person/s identified as the Applicant/s in Annexure "B". Where there is more than one Applicant, then their obligations shall be joint and several, which means that the obligations apply to both Applicants equally, but where one of them fails in his obligation, then the other Applicant/s become/s fully and separately liable to fulfil all the obligations of all the Applicants under this Contract;

1.1.4 "the College" means Somerset College Non Profit Company, an association not for gain originally incorporated in terms of Section 21 of the Companies Act No. 61 of 1973 (as amended) and now a non-profit Company under the Companies Act. No. 71 of 2008, having Registration Number 1996/010718/08;

1.1.5 "the College grounds" means the area on which the school buildings, sports fields, recreational areas, parking areas, roads and open spaces surrounding the buildings are situated, all being located on Remainder of the Farm No. 699, Stellenbosch Division;

1.1.6 "College Rules" means the Rules of the College, a copy of which is provided to each Student on entry and is sent to the Applicant with the letter offering a place at the College, as those rules may be amended from time to time for legal, safety or other reasons or in order to assist the proper administration of the College;

1.1.7 "Consumer Protection Act" means the Consumer Protection Act, No. 68 of 2008;

1.1.8 "the Contract" means this Contract of Enrolment, read together with the Annexures, as well as the Policies referred to in this Contract, which are binding on the Student and Applicant;

- 1.1.9 **"Debentures"** means debentures issued by Vredelus Limited, Registration Number 1965/007142/06 and shall be limited to those debentures offered and ceded to entitle the application of the debenture discount to the fees payable for the Student;
- 1.1.10 ***domicilium citandi et executandi*** means the physical address chosen by the Applicant (completed in Annexure "B") as the address for the service of all summonses, legal notices, legal processes and other documents under this Contract;
- 1.1.11 **"Enrolment Fee"** means the fee paid by the Applicant to cover all the administrative costs involved in registering a Student at the College and which may include an initial contribution to the development and capital costs of the College. The Enrolment Fee shall become non-refundable six months prior to the first day of the month in which the Student enters the College;
- 1.1.12 **"enters"** with reference to a Student, means the day on which the Student has his first academic lesson at the College;
- 1.1.13 **"Fees"** means any amount owing to the College for a Student's enrolment, education and related activities at the College. Fees shall be clearly communicated to the Applicant and may include, but are not limited to, the -  
 1.1.13.1 Enrolment Fee;  
 1.1.13.2 Tuition Fees;  
 1.1.13.3 Additional Fees; and  
 1.1.13.4 Disbursements reasonably incurred by the College on behalf of the Student.
- 1.1.14 **"Head" or "Heads"** means the person/s appointed by the Board of Governors of the College to be responsible for the day-to-day management of the College, but in this Contract may also include anyone to whom such duties have been delegated by the Head or Heads;
- 1.1.15 **"Magistrate's Court Act"** means the Magistrates' Courts Act, No. 32 of 1944;
- 1.1.16 **"National Credit Act"** means the National Credit Act, No. 34 of 2005
- 1.1.17 **"the Parties"** means the Applicant and the College;
- 1.1.18 **"Policies"** means the rules and principles adopted by the College, as published by the College from time to time, which are used to regulate the day-to-day running of the College. These Policies include (but are not limited to) the College Rules, Schedule of Fees, Terms and Conditions of the College, as well as the Code of Conduct and the Parent Contract, and are available on request free of charge, and are also published on the College's website;
- 1.1.19 **"the Student"** means the Student or Students (of any age) admitted by the College to be educated, whose details appear in Annexure A1, as well as the Student/s whose details appear in all subsequent Annexures numbered A2, A3 and so on sequentially, as provided for in Annexure A1;
- 1.1.20 **"Term"** means a division of the academic year of the College, including the first and last days of the term in question, and is the time during which the College holds classes, as notified to parents from time to time;
- 1.1.21 **"Tuition Fees"** means the money payable by the Applicant to the College in connection with a Student's education, excluding any Admission Fee, Enrolment Loan, Additional Fees or Disbursements;
- 1.1.22 **"We"** and **"our"**, wherever used in this Contract shall be a reference to the College;
- 1.1.23 **"You"** and **"your"**, wherever used in this Contract, shall be a reference to the Applicant;
- 1.2 Any reference to any one gender includes the other genders (where applicable).
- 1.3 A reference to a natural person includes a reference to a juristic person – ie a non-natural person such as a Company, Close Corporation or Trust (where applicable); and any reference to a juristic person includes a reference to a natural person.
- 1.4 The reference to any word in the singular shall include a reference to the plural (where applicable); and a reference to the plural shall include a reference to the singular.
- 2. ENROLMENT**
- 2.1 The College hereby agrees to enrol the Student upon and subject to the terms and conditions set out in this Contract, including Annexure A (and any sub-Annexures) and Annexure B.
- 2.2 The College reserves the right to undertake a full credit reference check on the Applicant for the purposes of a financial means assessment. This may include contacting any school which the prospective Student has attended (as laid down in the Independent School's Association of Southern Africa's "Code of Ethical Practice").
- 2.3 The College reserves the right to undertake a full reference check on the Student. This may include contacting any school which the prospective Student has attended (as laid down in the Independent

School's Association of Southern Africa's "Code of Ethical Practice").

- 2.4 The College shall only be bound by this Contract if it has been duly signed by or on behalf of:
- 2.4.1 The Applicant; and
  - 2.4.2 The College.

2.5 The College shall, however, be entitled, in its discretion, to waive compliance with the requirement that this Contract be signed by one or more of the Applicants.

2.6 The fact that this Contract may not have been signed by all the Applicants shall not affect or limit the liability of those Applicants whose signatures appear thereon, or on whose behalf it was signed.

### 3. GENERAL OBLIGATIONS OF THE COLLEGE

**3.1 *The admission and enrolment of a Student to the College is at the discretion of the Head who may refuse a Student's admission to the College without giving reasons, and may grant temporary or provisional enrolment to the College subject to any terms and conditions which the Head may impose. The Head may, at his/her sole discretion, cancel enrolment in accordance with the College Rules and the Policies.***



**3.2** For the sake of clarity, this Agreement regulates the enrolment and admission of the Student to the College and also regulates the relationship between the College, the Student, the Applicant and/or a Third Party once the Student is admitted and enrolled with the College. ***Nothing in any Application form for enrolment at the College or in this Contract (until it has been signed by both Parties) should be interpreted as a representation or warranty made by the College that the Student will be admitted to and enrolled at the College.***

3.3 While the Student remains a learner at the College, the College, through all members of its staff, undertakes to exercise reasonable skill and care in respect of the Student's education and welfare. This obligation will apply during College hours and at other times when the Student is required or permitted to be on the College premises or is participating in activities organised by the College.

3.4 The Student's progress at the College shall be monitored through regular written reports. The Head or relevant staff members will advise the Applicant if there are any concerns about the Student's progress, but the College does not undertake to diagnose any specific medical conditions or special educational needs such as dyslexia, ADD, ADHD or other educational challenges which may hamper the Student's ability to learn. A

formal assessment can be arranged either by the Applicant or by the College at the Applicant's expense.

3.5 ***The Applicant is aware that the College's physical environment, facilities and resources may limit its ability to provide high quality education to Students with special educational needs (whether due to neurological barriers, hearing impairments, visual barriers, physical barriers, behavioural or emotional barriers or any other medically assessed special need). If in the reasonable opinion of the Head, the College cannot, or can no longer, provide adequately for the Student's special educational needs, the College may cancel this contract in terms of clause 11.3.***



### 4. APPLICANT AND PARENT'S GENERAL OBLIGATIONS

**4.1 *The Applicant must inform the College in writing, prior to admission and enrolment, of any special educational needs of the Student of the kind referred to in clause 3.5, known to the Applicant.***



**4.2 *In order for the College to fulfil its obligations, the College needs the co-operation of the Applicant. Apart from the specific obligations contained in this Contract, the Applicant is required to:***

- *fulfil all his obligations under the terms and conditions of this Contract;*
- *encourage the Student in his or her studies, and give appropriate support at home;*
- *keep the College informed of matters which affect the Student;*
- *maintain a courteous and constructive relationship with College staff; and*
- *attend meetings and otherwise keep in touch with the College where the Student's interests require the Applicant to do so.*



**4.3 *The Head may in his/her discretion require the Applicant to remove, or may suspend or expel, the Student if the Applicant's behaviour is in the reasonable opinion of the Head so unreasonable as to affect or be likely to affect the progress of the Student or another Student or other Students at the College, or the well-being of the College staff, or to bring the College into disrepute.***



**4.4 *The Head may, at his/her discretion, require the Applicant to remove the Student, or may suspend or expel the Student, from the College, if he/she reasonably considers or believes that the Student's attendance, progress or behaviour (including behaviour outside College) is seriously unsatisfactory and the Student's removal is in the best interests of the College, the Student, other***

*Students or the wider College community. In this case, the Applicant will be asked to remove the Student either immediately and without notice, or at a specified date that is shorter than a full term, with or without notice, determined by what is reasonable under the circumstances. The College will not be required to give the Applicant a full term's written notice under these circumstances. Should the Head exercise this right, any prepaid Tuition Fees for the period after the Student is removed from the College, will be refunded to the Applicant.*

**4.5** *The College Rules set out examples of offences likely to be punishable by suspension or expulsion. These examples are not a closed list and a Student may be expelled or suspended for offences which are not included in these examples. In particular, the Head may decide that suspension or expulsion for a lesser offence is justified where there has been previous misbehaviour by the Student or the circumstances of the case otherwise justify such action.*

**4.6** *The Applicant acknowledges that he is responsible for the Student, whether on the property of the College or not, after the notified finishing times of any College school day, activity, event or function.*

**4.7** The Applicant and the Student undertake to inform the Head or Business Manager immediately of any legal action pending and/or court orders or interdicts in existence which pertain to or affect:

- the Student; or
- the relationship of the Applicant to the Student or the College; or
- the relationship of the Student's parents or other legal guardian or custodian to the Student or the College (if the Applicant is not the parent or other legal guardian or the custodian of the Student).

## **5. RULES AND POLICIES OF THE COLLEGE**

**5.1** *The Applicant declares that he/she has read and understood the Policies. The Applicant agrees to abide by the Policies and any other rules, regulations, policies and procedures applicable from time to time to the College and decisions made by the College from time to time. The Applicant also undertakes to ensure that every parent, guardian and/or other person exercising rights of control or decision-making powers in respect of the Student shall similarly comply with and abide by the Policies and any other rules, regulations, policies and procedures implemented by the College from time to time and the decisions made by the College from time to time. The College undertakes to make copies of all policies available*

*on request and free of charge, or on the College's website.*

**5.2** *The Applicant acknowledges that he is responsible to and will ensure that the Student obeys the Policies (in particular the College Rules and Code of Conduct), and any other rules, regulations, policies and procedures implemented by the College, where these apply to the Student.*

**5.3** The College shall be entitled to amend and/or replace the Policies and any other rules, regulations, policies and procedures, from time to time.

## **6. ACCEPTANCE AND ENROLMENT FEE**

**6.1** *An offer of a place for a Student at the College is accepted by the Applicant signing this Contract and paying the Enrolment Fee.*

**6.2** *The Enrolment Fee shall become non-refundable six months prior to the first day of the month in which the Student enters the College.*

## **7. PLEDGE / CESSION (applies only to Debentures)**

**7.1** *Where the Applicant lodges debentures in order to qualify for the discount applicable thereto in respect of the student, the Applicant hereby agrees to pledge to the College the Debentures.*

**7.2** *In the event that the Applicant is not the registered and/or beneficial owner of the Debentures, the Applicant must ensure that the registered and beneficial owner/s of the Debentures must sign all necessary forms to pledge and cede the applicable Debentures in order to qualify for the relevant debenture discount in respect of the Student, regardless of the nature thereof, and upon the terms and conditions contained herein.*

## **8. PAYMENT OF FEES**

**8.1** *Fees shall be determined by the College. The Fees will be reviewed from time to time and may be increased by an amount which the College considers reasonable. The Fees quoted by the College on its website are not necessarily all-inclusive, and only include those fees specifically referred to in the schedule of fees and disbursements as Tuition Fees.*

**8.2** *The College will endeavour to give you at least two calendar months' notice of any increase in the Tuition Fees due for a particular Term. The*

*Applicant has a right to cancel this Contract without penalty should the Tuition Fees increase to an amount which you no longer wish to pay, provided that you give the College written notice of that intention within 7 (seven) days of the College's notification of an increase.*

*8.9 Where the Applicant chooses to make monthly payments (either upon enrolment or subsequently), the Applicant authorises the College to set up a debit order against his bank account to effect the monthly payment of fees. The details of the account to be debited are set out in Annexure B.*

**8.3** *The Applicant shall have absolute responsibility for the payment to the College of all Fees applicable to the Students named in Annexure A. The Applicant acknowledges that Fees are payable in advance in accordance with clause 8.8.*

**8.10** *Where there is more than one Applicant, the liability of the Applicants to pay the Fees shall be joint and several, the one paying the other to be absolved, as explained in 1.1.4.*

**8.11** *A late payment administration fee shall be levied in respect of all amounts not paid on due date.*

**8.4** *Should the Applicant pass on his obligation to pay the Fees to a third party, the Applicant will be responsible to ensure payment of such Fees to the College. The College shall be entitled to accept payment of Fees from a third party, but at no time will the College become responsible to collect any Fees from such third party.*

**8.12** *The Applicant acknowledges that if any amount on a fee account which is payable is not paid on the due date, the full balance of the outstanding amount as reflected in that account will immediately become due and payable by the Applicant, without further notice to the Applicant. Any indulgence or extension of time granted by the College, or any leniency given by the College on any one occasion in not enforcing its rights under this clause will not constitute a waiver of its rights or prevent the College from enforcing its rights in terms of this Contract or in law, on a subsequent occasion.*

**8.5** *In addition to the Fees, the Applicant agrees to repay the College all other expenditure incurred by the College on behalf of and/or directly in relation to the Student.*

**8.6** *The College shall not be required to give notice of any increase in Additional Fees and Disbursements, as these costs are beyond the control of the College and shall be billed in arrears, after they have been incurred.*

**8.13** *The College will be entitled to recover from the Applicant default administration costs and collection costs, as contemplated in the National Credit Act, including legal costs on the attorney and client scale and collection commission, to the extent permitted by the said National Credit Act, for any amount due by the Applicant which has not been paid on time.*

**8.7** *The Tuition Fees and any Additional Fees, Disbursements and any other amounts claimable by the College and reflected on the accounts sent to the Applicant/s prior to the start of each Term shall be paid in advance, free of exchange and without deduction or set-off by not later than the first day of each Term.*

**8.14** *The Applicant accepts the Additional Goods/Services. The College will, as far as reasonably possible, give the Applicant notice prior to providing such Additional Goods/Services. The Applicant expressly agrees to the provision or performance of the Additional Goods/Services and accepts liability for payment of the Additional Fees. The Applicant acknowledges that the Additional Goods/Services are not unsolicited, within the meaning of the Consumer Protection Act or otherwise, and that they have expressly accepted such Additional Goods/Services.*

**8.8** *Facilities exist for the Applicant to make monthly payments. The Applicant may elect (at enrolment and prior to the beginning of each academic year) whether to pay the Tuition Fees, Additional Fees, Disbursements and any other amounts claimable by the College annually, termly or monthly. The total cost of payment by any of these methods will be set out in a fee schedule and communicated to the Applicant at the time the Student is enrolled and in advance of any increase in Tuition Fees and Additional Fees. Disbursements are included in such schedule where the Disbursements can be determined in advance.*

**8.15** *The Applicant accepts that he will be liable for the payment of the Additional Fees for the Additional Goods/Services. Any Additional Fees will be added to the account sent to the Applicant/s, and will be*

*payable by the end of the Term in which it has been included in the account.*

**8.16** *If the Applicant is unclear about any of his financial obligations, the College will on request provide a written explanation.*

**8.17** *The Applicant agrees that Fees paid in advance will be deposited by the College and held in accordance with the Consumer Protection Act, but that the College will be entitled to treat the interest generated from such funds as income.*

**8.18** *The Applicant confirms that a certificate signed by the Business Manager of the College or the Head showing the amount owing by the Applicant to the College in respect of Fees, late payment administration fee or any other amount owing, shall be sufficient proof of the amount and/or due and/or payable for the purpose of obtaining summary judgment, provisional sentence and/or default judgment. In any legal proceedings the burden to prove that the certificate is incorrect (and the extent of the incorrectness) shall rest upon the party alleging it is incorrect.*

**8.19** *If any payment is not made to the College on due date and the Applicant remains in default for a period of 14 (fourteen) days after he receives written notice calling for payment, the College shall be entitled, without prejudice to any other rights it may have in terms of this Contract or in law, to terminate the Student's enrolment immediately by giving written notice to the Applicant to the email address provided in Annexure B or subsequently notified to the College in terms of Clause 12. This notice shall be regarded as having been received by the Applicant on the date on which the email is transmitted.*

**8.20** *If the Student or the Applicant (or either of them) breaches any other term or condition of this Contract or the Policies, or other rules, regulations, policies and procedures instituted by the College from time to time and remains in default for a period of 14 (fourteen) days after having received written notice requiring the breach to be remedied, the College shall be entitled, without prejudice to any other rights it may have in terms of this Contract or in law:*

*(i) where the breach is dealt with in the Policies, to implement any procedures or proceedings outlined in the Policies in order to ensure that the breach is remedied; or*

*(ii) where the breach is regarded by either party as forming the subject-matter of a*

*dispute as contemplated in Clause 13, the provisions of Clause 13 shall be implemented; or*

*(iii) where the breach and its remedies are not dealt with in the Policies, or do not form the subject-matter of a dispute falling under Clause 13, to terminate the Student's enrolment immediately by giving written notice to the Applicant to the email address provided in Annexure B or subsequently notified to the College in terms of Clause 12. This notice shall be regarded as having been received by the Applicant on the date on which the email is transmitted.*

## **9. PROTECTION OF PERSONAL INFORMATION**

**9.1** *The College may not distribute or otherwise publish any of the Applicant's personal information in its possession, unless the Applicant gives his consent, in writing, to the College that it may do so. The Applicant therefore specifically gives his consent to the supplying of information in respect of the matters set out in Clause 9.2. Where the Applicant gives his consent, under Clause 9.2 or otherwise, the College may only distribute or otherwise publish the information specified in the consent to the people and for the purpose stated in the written consent.*

**9.2** *By entering into this Contract, and unless the Applicant at any time instructs the College expressly and in writing to the contrary, the Applicant specifically consents to:*

**9.2.1** *the College collecting, storing and processing credit information about the Applicant and any parent of the Student who is not the Applicant but who may be involved in the payment of any or all amounts comprised in the Fees;*

**9.2.2** *the College collecting, storing and processing names, contact details and information relating to the Applicant, any other parent of the Student, and the Student, and making such information available to other parents, legal guardians, staff or responsible persons engaged or authorised by the College for College-related purposes, to the extent required and for the purpose of managing relationships between the College, parents, legal guardians and current Students, as well as for providing references and communicating with the body of former Students;*

**9.2.3** *the College including photographs, with or without the name, of the Student in College publications, newsletters,*

- newspapers and Internet sites and other such publicity media or in press releases to celebrate the College's or the Student's activities, achievements or successes;*
- 9.2.4** *the College supplying information and a reference in respect of the Student to any educational institution which the Applicant proposes the Student may attend. The College will take care to ensure that all information that is supplied relating to the Student is accurate and any opinion given on his/her ability, aptitude and character is fair. However, the College cannot be liable for any loss the Applicant or the Student is alleged to have suffered resulting from opinions reasonably given, or statements of fact contained, in any reference or report given by the College;*
- 9.2.5** *the College informing any other School or educational institution to which the Applicant proposes to send the Student of any outstanding fees; and*
- 9.2.6** *the Head informing any other School or educational institution to which the Applicant proposes to send the Student of any issues relating to the Student's education or behaviour, where the College has been asked to provide such information.*

*The Applicant agrees that he will not hold the College, its staff and their agents liable for any possible actions resulting from any privacy or copyright issues which may arise as a result of the College's actions taken under this clause 9.2.*

## 10. DISCLAIMERS

**10.1** *The Applicant acknowledges that the College does not take any responsibility for any theft or loss of, or damage or destruction to any property of whatever nature (including College clothing, sporting equipment, books, or any other personal possessions) brought on to the College premises by the Student, unless the College or its staff are in physical possession of that property and damage occurs to that property either because:*

- 10.1.1** *the College or its staff treated the property as its own; or*
- 10.1.2** *the College or its staff did not exercise the degree of care, diligence and skill that can reasonably be expected of a person responsible for managing property belonging to another person, when handling, safeguarding or using the property.*

**10.2** *Unless the Applicant expressly notifies the College in writing to the contrary, the Applicant consents to the Student participating, under proper supervision, both in and outside the College grounds, in sports (including contact sports) and other activities which may entail some risk of physical injury, as well to the Student travelling to and participating in College activities and programmes outside the College grounds. The College shall take reasonable care to avoid harm to the Student. However, except for any gross negligence on the part of the College, its employees or agents, the College is not responsible for injury, loss or damage to the Student or his possessions resulting from such sports, activities or programmes and the Applicant indemnifies the College against any claims in that regard.*

**10.3** None of the persons listed in (i) below shall have any claim for damages against any of the persons or entities listed in (ii) below:

- (i) the Applicant, the Student, the parent/s who are not Applicants, the custodians or legal guardian of the Student;
- (ii) the College, its Board of Governors, the Heads, the staff of the College, the authorized agents and representatives of the College, Vredelus Ltd or its Directors, the Trustees for the time being of the Somerset College Educational Trust (hereinafter collectively referred to as 'the Somerset College body')

and the Applicant or any of the persons listed in (i) above may not withhold or delay any payment due to the College by reason directly or indirectly of:

**10.3.1** An alleged breach by the College of any of its obligations;

**10.3.2** Any act or omission of any of the persons mentioned in 10.3(ii) or any employee, agent, servant or contractor of any such person, whether or not such act or omission was negligent or otherwise actionable at law, regardless of the reason thereof.

**10.4** The persons referred to in Clause 10.3(i) hereby jointly and severally indemnify the persons referred to in Clause 10.3(ii) or any of them, or any employee, agent, servant or contractor of such person against all liability for any act or omission causing damage, injury, harm (including death) or loss to the person or property of any of the persons referred to in Clause 10.3(i), where actionable at law, regardless of the cause thereof, unless such act or omission was carried out intentionally or with gross negligence.

**11 TERMINATION AND NOTICE REQUIREMENTS**

**11.1 This Contract will terminate when the Student completes the College's curriculum and any exit examination the College offers at the end of the Student's schooling in Grade 12, unless otherwise terminated as set out below or otherwise in terms of this Contract. This Contract therefore has an indefinite term.**



**11.2 The Applicant has the right to cancel this Contract at any time, for any reason, provided that the Applicant gives the College a full Term's notice, in writing, of this intention before the Student is withdrawn from the College. If a full Term's notice is not given, then a full Term's fees (including Additional Fees pro-rated where appropriate for the Term) is payable to the College in lieu of notice, and as a reasonable cancellation fee, taking into account the nature of the educational services, capacity, planning and reasonable potential to fill the vacancy. Such amount is due and payable:**

- (iv) on the first day of the Term which would have been the Student's final term if the appropriate notice had been given, or**
  - (v) on the date on which the Student leaves the College,**
- whichever is the earlier.**

**Should the Applicant have paid annual Tuition Fees (including any advance payment to cover Additional Fees and Disbursements), those fees will be credited in proportion to the Terms remaining and paid for in advance, less any amount payable in lieu of appropriate notice.**



**11.3 Apart from its right to require the Applicant to withdraw the Student from the College set out in specific provisions where elsewhere in this Contract, the College also has the right to cancel this Contract at any time, for any reason, provided that it gives the Applicant a full Term's notice, in writing, of its decision to terminate this Contract. At the end of the Term specified in the notice, the Applicant will be required to withdraw the Student from the College.**



**11.4 The College's right to cancel as set out in clause 11.3 is without prejudice to the College's other remedies, as outlined in this subclause or elsewhere in this Contract, or any other legal remedies available to the College:**

**The College may cancel this Contract immediately and has no obligation to return any pre-paid Fees to the Applicant if:**

**11.4.1 the Applicant is in material breach of any of his obligations under this Contract; and**

**11.4.2 in the case of a breach which is capable of remedy, he has not remedied the material breach within twenty (20) business days of the date of delivery of a notice from the College requiring him to remedy the breach.**

**In addition to such cancellation the College may claim payment of all moneys then owing by the Applicant, as well as damages equal to one Term's fees, as calculated at the time of cancellation, the damages having been assessed by taking into account the nature of the educational services, capacity planning and reasonable potential to fill the vacancy.**



**11.5 For purposes of this Contract, a material breach is considered to exist where the Applicant or the Student (as the case may be):**

**11.5.1 fails to uphold the Policies (particularly the College Rules);**

**11.5.2 fails to pay any Fees when due;**

**11.5.3 fails to fulfil all legal requirements necessary for the Student to attend College in South Africa, if any of these legal requirements apply to the Student, for example, failure to obtain a valid study permit for the Student if he/she is a foreign citizen; or**

**11.5.4 acts in such a way that the Applicant or the Student become seriously and unreasonably uncooperative with the College and in the opinion of the Head, the Applicant's or the Student's behaviour negatively affects the Student's or other Students' progress at the College, the well-being of College staff, or brings the College into disrepute.**



**12 DOMICILIA AND NOTICE**

**12.1 The requirement for a Term's notice as set out in Clauses 11.2 and 11.3 shall be deemed not to have been satisfied unless the other party receives the applicable notice on or before 16h30 on the last day of the Term (prior to the applicable holiday) preceding the Term at the end of which the notice is to take effect.**

**12.2 If there is more than one Applicant, notice to any one of the Applicants shall be deemed to be notice to all the Applicants.**



12.3 The Applicant chooses the physical residential address set out in Annexure B as his chosen *domicilium citandi et executandi* and the postal and email addresses for all other communications by the College to him. The Applicant may change his *domicilium citandi et executandi* at any time to another physical address within the Republic of South Africa by giving written notice to the College in which it is specifically stated that the new address shall be the chosen *domicilium* of the Applicant.

12.4 ***The Applicant confirms that all the particulars that he has furnished or may furnish to the College on this Contract or otherwise from time to time are or will be, to the best of his/her knowledge and belief, full, true and accurate.***

12.5 ***It shall be the responsibility of the Applicant and the Applicant undertakes to advise the College in writing of any changes to the details included in this Contract.***

12.6 Wherever in this Contract delivery of written notice is required to be given by the College, it may be given by email, telefax or registered mail, to the last address which the College has received from the Applicant in terms of this Clause. Unless a particular clause in this Contract requires delivery of a notice to be by registered mail, or unless the notice being given is a legal notice, summons or other legal process, any notice given by email or telefax shall be regarded as valid notice in terms of this Contract.

### 13 ALTERNATIVE DISPUTE RESOLUTION

13.1 In the event of any dispute or difference arising between some or all of the parties to this Contract, relating to or arising out of:

13.1.1 this Contract, including (but not limited to):

13.1.1.1 any of its conditions, including the implementation, execution, interpretation, rectification, validity, enforceability, termination or cancellation of this Contract;

13.1.1.2 the Policies, and any other regulations, policies and procedures applicable from time to time to the College and/or the enforcement thereof;

and/or

13.1.2 any other agreement concluded between the parties; and/or

13.1.3 the enrolment of the Student at the College;

the parties will meet immediately to attempt to settle the dispute or difference. The party wishing to rely on this clause must give notice of the dispute and his intention to rely on this clause within 30

(thirty) days of the dispute or difference arising. If a settlement between the parties cannot be reached within a period of 7 (seven) days after the notice has been given, the dispute or difference shall, if demanded by any party on written notice to the other party/ies, be submitted for resolution to a referee in accordance with the provisions set out below.

13.2 The hearing referred to in sub-clause 13.1 will be held:

13.2.1 at Somerset West;

13.2.2 informally but in accordance with the provisions of the Arbitration Act No. 42 of 1965, as amended;

13.2.3 with a view of it being completed within 30 (thirty) business days after it is demanded, having particular regard to any urgency regarding the matter in issue.

13.3 The referee will be, if the question in issue is:

13.3.1 primarily a legal matter, a practising senior advocate or attorney of not less than 15 years standing and failing agreement between the parties to the dispute within 48 (forty-eight) hours after a hearing of the dispute has been demanded in terms of sub-clause 13.1, such person shall be nominated by the President for the time being of the Cape Law Society or such entity or body as may replace it from time to time;

13.3.2 any other matter, an independent person agreed to by the parties and failing agreement between the parties to the dispute within 48 (forty-eight) hours after a hearing of the dispute has been demanded in terms of sub-clause 13.1, such person shall be nominated by the president for the time being of ISASA or such entity or body as may replace it from time to time.

13.4 If agreement cannot be reached between the parties within 48 (forty-eight) hours after a hearing has been demanded in terms of sub-clause 13.1, as to whether the question in issue falls under sub-clause 13.3.1 or sub-clause 13.3.2, then a practising senior advocate of not less than 15 years standing (to be determined in accordance with sub-clause 13.3 above) will determine the nature of such issue.

13.5 The referee:

13.5.1 will have regard to the desire of the parties to dispose of such dispute expeditiously, economically and confidentially;

13.5.2 need not observe or take into account the strict rules of law in arriving at his decision, which will be made as an expert and not as an arbitrator;

- 13.5.3 will determine the party liable for his costs and the costs of any experts he consults and the costs of the parties, and such party will pay his costs;
- 13.5.4 will be entitled to consult with attorneys, counsel and/or any other expert with regard to any matter or issue as he may deem fit.

***liquidated debt or debts to the College in any Magistrate's Court having jurisdiction, in terms of sections 45 and 28 of the Magistrates' Courts Act, 1944 even if the amount of the claim exceeds the jurisdiction of that Court. The Applicant hereby consents to the Magistrates' Court having such jurisdiction***



- 13.6 The parties irrevocably agree that the decision in any proceedings hereunder:
- 13.6.1 will be final and binding on all of them;
- 13.6.2 will forthwith be carried in effect;
- 13.6.3 may be made an order of any court of competent jurisdiction.

## 15 JURISDICTION AND GOVERNING LAW

The Contract between the Applicant and the College is governed by South African law.

- 13.7 This clause will not preclude any party from access to an appropriate court of law for interim relief in respect of urgent matters by way of an interdict or *mandamus* (an order compelling a party to act or carry out its obligations) pending finalisation of the dispute resolution process referred to in sub-clauses 13.1 – 13.6.

## 16 COSTS

In the event that the College briefs legal representatives to enforce any of its rights in terms hereof, and/or to defend any proceedings brought by or on behalf of the Applicant and/or the Student, it shall be entitled to recover costs on the scale as between attorney and own client, including collection commission and tracing charges.

- 13.8 It is specifically recorded that any failure on the part of the Applicant to pay any portion of the Fees will not constitute a dispute within the meaning of this Clause, but will be regarded as a breach of a material term of the Contract and accordingly dealt with in terms of Clause 11.

## 17 VARIATIONS

***17.1 The College reserves the right to change or add to these terms and conditions from time to time for legal, safety or other substantive reasons or in order to assist the proper delivery of education at the College. The College will endeavour to give the Applicant reasonable (a Term's notice) of any such modifications.***



- 13.9 This clause 13 is a separate, divisible agreement from the rest of this Contract and will remain in effect even if the Contract terminates, is nullified, or cancelled for any reason.

## 14 MATTERS TO WHICH CLAUSE 13 WILL NOT APPLY

Despite what is contained in sub-clauses 13.1 to 13.6:

- 14.1 If -
- (i) no dispute is declared within the time period specified in sub-clause 13.1; or
- (ii) the issue is covered by Clause 13.8; or
- (iii) it is specifically indicated elsewhere in the Contract that Clause 13 does not apply to a particular provision;

then the parties agree that the College shall be entitled to institute legal proceedings against the Applicant and/or the Student out of any court of competent jurisdiction. The Applicant and the Student consent and submit to the jurisdiction of the Western Cape Provincial Division of the High Court of South Africa in any dispute arising from or in connection with this Contract and/or the Student.

- 14.2 The Applicant also agrees that the College, at its option but without being so obliged, will be entitled to institute any legal proceedings for the recovery of any monies owing by the Applicant as a***

- 17.2 No variation of these conditions, which has the effect of releasing the Applicant and/or the Student from any of these obligations in terms hereof shall be binding on the College unless contained in a written document duly signed on behalf of the College.

## 18 PARTIAL INVALIDITY

Each term and condition contained in this agreement is separate from the other terms and conditions in the sense that if any one is determined to be illegal and unenforceable, it will simply be disregarded and of no force and effect, but the Contract will otherwise remain valid.

## 19 WARRANTY OF AUTHORITY

Any person signing the Enrolment Application and this Contract warrants that he has the authority to sign it on behalf of any person/s he purports to represent.

20. **NON-WAIVER**

or delayed the enforcement of any right against the Applicant and/or the Student.

The College shall not be regarded as having waived or be precluded in any way from exercising any right by reason of the fact that it has at any time granted an extension of time or shown any indulgence of the Applicant and/or the Student or has failed to enforce

It is a condition of attendance at the College that the Applicant sign in the space provided. Each person who is an Applicant must sign. The College Management and Board of Governors will consider this declaration and Contract to be null and void if this document is altered in any way.

***Declaration: I/we, the undersigned, do hereby declare that I/we have read and understood this Contract, including the Policies of the College.***

SIGNED at \_\_\_\_\_ On \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
APPLICANT [\*PARENT / LEGAL GUARDIAN/  
OTHER (please specify\_\_\_\_\_)]

**\*delete whichever is  
not applicable**

SIGNED at \_\_\_\_\_ On \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
APPLICANT [\* PARENT / LEGAL GUARDIAN/  
OTHER (please specify\_\_\_\_\_)]

**\*delete whichever is  
not applicable**

ACCEPTED by the College  
at \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
BUSINESS MANAGER

**ANNEXURE A: DETAILS OF THE STUDENT****A1**

Surname	
Names	
Preferred name	
Current grade	
Grade entering Somerset College	
Year entering Somerset College	
Date of Birth	
ID Number	
Gender	
Place of birth	
Home language	
Nationality	
Passport number (if not SA)	
Religious denomination	
Ethnicity	
Doctor's name, phone number and address	
Name and address of previous school	
Has student ever repeated a grade? Please give details	
Name and (age) of siblings	
Other family members who have attended Somerset College	

It is agreed that for each sibling enrolled and admitted to the College after the Student/s referred to in this Annexure A1, a new annexure will be completed and signed by the Parties, with the same information for each such sibling. These will be Annexures A1, A2 and so on sequentially, and will be deemed to be annexures to the Contract, with all the provisions of the Contract applying to the sibling as a Student in terms of the Contract.

**ANNEXURE B: DETAILS OF APPLICANT/S**

	<b>First Applicant (first person responsible for payment of Fees)</b>	<b>Second Applicant (second person responsible for payment of Fees)</b>
Title and Surname		
Names		
Preferred name		
ID number		
Email address		
Cellular number		
Home number		
Business number		
Facsimile number		
Relationship to Student (Parent /Legal Guardian / Other – state relationship)		
Permanently resident in SA?		
Marital status		
Home Address (this will be the Applicant/s <i>domicilium citandi et executandi</i> unless a different one is chosen below)		
Alternative physical address to be used as <i>domicilium citandi et executandi</i> (if not the Home Address)		
Postal Address		
Email Address		
Business/profession		
Business address		

Where parents are divorced or separated, or if other special circumstances prevail, please provide further relevant details/instructions		
Signature		
Date		