



VENDOR AGREEMENT

1.

1. Commencement, Term, Renewal

1. The date of signature by the last signing party to this agreement shall be the commencement date and the agreement shall remain valid and binding for a period of three (3) months initially ("the Initial Term").
2. The Company shall be entitled to renew this agreement, by written notice delivered to the Vendor not less than 1 (one) month prior to the expiration of the Initial Term ("the renewal period"), with effect from the day following the expiry of the Initial Term. Failing delivery of such written notice within the stated period, this agreement will terminate.
3. If the Company exercises its option to renew this agreement in terms of clause 1.2 above, all terms and conditions of this agreement shall apply mutatis mutandis to the renewal period, save that:
 1. the Company shall have no further right of renewal; and
 2. the period of the agreement will be 1 (one) month, and either party shall have the right to cancel the agreement for convenience by giving the other party 30 (thirty) days' prior written notice.
 3. the fee payable by the Vendor to the Company shall be an amount of commission payable by the Vendor during the last month.

1. Marketing Tools/Support, Products, Availability of products etc. The Vendor will always keep the Company informed about the availability of the products in its inventory along with detailed specifications like size, colour, texture etc. as may be required of the product. Order once placed on the Company by a customer shall be honoured by the Vendor, failing which the Company shall have a right to recover any damages incurred by it for failure to meet the order against the Vendor and the Vendor indemnifies the Company in this regard.
2. Fee/Commissions etc

1. The Company shall charge a fee of R0 .00 (Nil Rand) for providing hosting on the website however for all such sales that are made/generated using the website www.the-e-commerce.co.za a commission shall be paid by the Vendor to the Company. The details of commissions to be paid per product category is specified in Schedule A to this agreement. The schedule can be amended to modify any rate of commission in respect of any product. Any amendment to such schedule will be express. The said schedule is to be treated as part and parcel of the agreement.
2. It is expressly agreed by the parties hereto that the Company shall debit the amount of commission from the remittance to Vendor at the time of forwarding the order received from the end customer.
3. The parties will endeavour to perform reconciliation of accounts/orders every 14 days during the term of this agreement.
3. Order, Handling, Delivery etc.
 1. Orders for the product shall be received using the website www.the-e-commerce.co.za and shall be forwarded to the Vendor by the Company via email/Telephone/Fax/Courier.
 2. The Vendor shall upon receipt of the order from the Company immediately arrange to deliver the products to the designated address as early as possible but in any case, the dispatch shall be made within 24 hours of the receipt of the Order. In case the Vendor fails to dispatch the product within the aforesaid time, it must return any amount received in respect of the order back to the Company forthwith. No delay in returning the amount is permissible and any delay caused shall be considered as breach of the agreement. The Vendor shall provide to the Company the consignment number, details of courier/shipment agency immediately followed by proof of delivery.
 3. The Vendor shall ensure that the products dispatched are of the specifications ordered and that there is no variation whatsoever. The necessary guarantee/warranty shall be provided by the Vendor to the end customer.
 4. The Vendor agrees to replace the defective products supplied to the end customer at its own cost and shall not hold the Company responsible in any manner whatsoever. The Vendor hereby indemnifies the Company, its directors and employees against any claim which may be made against them by the end customer or any other third party in respect of any defective products supplied by the Vendor.
 5. The Company may, at its discretion, arrange to lift the defective products from the end customer, however, the Vendor will still be liable to replace the defective product. Any charges incurred by the Company for lifting and forwarding such defective goods shall

be on account of the Vendor. The Vendor shall make good such charges to the Company upon receipt of invoice/debit note. No request for any adjustment from future payables to the Vendor from the Company will be made however, the Company is at its liberty to deduct such amount from future payables of fresh Orders. Such deductions shall not be treated as practice and/or precedent. For the avoidance of doubt, it is clarified that defective would mean and include but is not limited to wrong product, damaged product, mis-sized product, and any other shortcoming which the end customer may point out. The Vendor hereby authorizes the Company to entertain all claims of return of the Product in the mutual interest of the Vendor as well as the Customer.

4. Undertakings of Vendor

1. The Vendor hereby undertakes as follows:

1. To deliver the product ordered by the end customer in accordance with the specifications/description specified by the end customer including quantity and quality prescribed in the Order and there should be no instance of wrong item being delivered and/or quality issue and/or issue of Non delivery. Further, the Vendor shall always maintain adequate stock/inventory of the items . In case the Vendor is running out of supplies or is likely not to fulfil an Order received by the Company, it shall notify to the Company at least 48 hours (2 days) in advance so that notice of OUT OF STOCK for the product can be placed on the website.
 2. Not to send any kind of promotional material or any material, which is, derogatory to and/or adverse to the interests financial or otherwise of the Company, to the end customer either along with the products supplied or in any manner whatsoever.
 3. Not to do any act/deal in a thing / products/goods/services which are either banned/prohibited by law or violates any of the intellectual property right of any party in respect of such product.
2. The Vendor declares that it has all rights and authorisations in respect of intellectual property rights of third parties and is authorised to sell/provide/licence such products to the customer. The copy of such authorization shall be provided on demand without failure and/or protest.
 3. The Vendor agrees to indemnify and keep indemnified the Company from all claims/losses (including attorney's fee for defending/prosecuting any case) that may arise against the Company due to acts/omission on the part of the Vendor
 4. To provide to the Company, for the purpose of the creation/display on website of Company, the product description,

images, disclaimer, delivery time, price and such other details for the products to be displayed and offered for sale.

5. To ensure and not to provide any description/image/text/graphic which is unlawful, illegal, intimidating, obnoxious, objectionable, obscene, vulgar, opposed to public policy, prohibited by law or morality or is in violation of intellectual property rights including but not limited to Trademark and copyright of any third party or of inaccurate, false, incorrect, misleading description or is derogatory in nature. Further it will forward the product description and image only for the product which is offered for sale through the website of the Company. The Vendor agrees that in case there is violation of this covenant, it shall do and cause to be done all such acts as are necessary to prevent disrepute being caused to the Company.
6. To provide full, correct, accurate and true description of the product to enable the end customers to make an informed decision. The Vendor agrees not to provide any such description/information regarding the product which amounts to misrepresentation to the end customer.
7. To be solely responsible for the quality, quantity, merchantability, guarantee, warranties in respect of the products offered for sale through portal of the Company.
8. At all times have access to the Internet and its email account to check the status of approved orders and will ensure prompt deliveries within the time frame mentioned herein before in the agreement.
9. Provide information about the Order Status including Airway Bill Number daily.
10. To raise an invoice as well as receipt of payment in the name of end customer for an amount equivalent to the amount displayed as the retail price on the online store to the end customer and paid by/charged to the end customer.
11. Not to offer any Products for Sale on the Online Store, which are prohibited for sale, dangerous, against the public policy, banned, unlawful, illegal, or prohibited under the Indian laws.
12. To provide satisfactory proof about the ownership/licences of all the legal rights in the Products that are offered for sale on the Online Store as and when demanded by the Company.
13. To pass on the legal title, rights and ownership in the Products sold to the end customer.
14. To be solely responsible for, and indemnify the Company against, any dispute that may be raised by the end customer relating to the goods, merchandise and services provided by the Vendor. No claim of whatsoever nature will be raised on the Company.
15. The Vendor shall at all time during the term of this agreement endeavour to protect and promote the interests of the Company

and ensure that third parties rights including intellectual property rights are not infringed.

16. The Vendor shall always be responsible for compliance of all applicable laws and regulations including but not limited to Intellectual Property Rights, applicable tax laws (including, Value added tax), applicable South African National Standards, etc.
 17. To provide to the Company copies of any document required by the Company for the purposes of performance of its obligations under this agreement within 48 hours of getting a written notice from the Company.
 18. To seek advance written approval from the Company, prior to release of any promotion/advertisement material, in so far as the same relates to services offered pursuant to the terms of this Agreement.
5. Warranties, Representations and Undertakings of the Vendor the Vendor warrants and represents that:
1. It has the right and authority to enter into this Agreement with the Company and the agreement so executed is binding in nature.
 2. All obligations under this Agreement are legal, valid, binding, and enforceable in law against the Vendor.
 3. There are no proceedings pending against the Vendor, which may have a material adverse effect on its ability to perform and meet the obligations under this Agreement.
 4. That it holds all the requisite permissions, authorities, approvals, and sanctions to conduct its business and to enter into present agreement with the Company.
 5. It shall, at all times ensure compliance with all the requirements applicable to its business and for the purposes of this agreement including but not limited to Intellectual Property Rights, applicable tax laws (including, Value added tax), applicable South African National Standards, etc. It further declares and confirms that it has paid and shall continue to discharge all its obligations towards statutory authorities.
 6. That it has adequate rights under relevant laws including but not limited to various Intellectual Property Legislation(s) to enter into this Agreement with the Company and perform the obligations contained herein and that it has not violated/ infringed any intellectual property rights of any third party.
 7. It shall maintain details of all transaction and mark as complete / incomplete and shall provide the same to the Company upon demand.
6. Rights of Company
1. Vendor agrees and acknowledges that the Company, at all times during the term of this Agreement, shall have the right to remove/block/delete any text, graphic, image(s) uploaded on the online store by the Vendor without any prior notice to the Vendor

in the event the said text, image, graphic is found to be in violation of law, breach of any of the terms of this Agreement, terms and conditions of www.the-e-commerce-mall.co.za Website. In such an event, the Company reserves the right to forthwith remove/close the online store of the Vendor without any prior notice or liability to the Vendor.

2. Appropriate disclaimers and terms of use www.the-e-commerce-mall.co.za shall be placed by the Company.
3. At any time if the Company believes that the services are being utilized by the Vendor or its end customer in contravention of the terms and provisions of this Agreement, Terms and conditions of use of www.the-e-commerce-mall.co.za, the Company shall have the right either at its sole discretion or upon the receipt of a request from the legal / statutory authorities or a court order to discontinue/terminate the said service(s) to the end customer or any end user as the case may be, forthwith remove/block/close the online store of the Vendor and furnish such details about the Vendor and/or its customers upon a request received from the Legal/ Statutory Authorities or under a Court order.

7. Indemnity

1. The Vendor indemnifies and shall hold indemnified the Company, its partners, officers, employees, representatives, agents from and against all losses, damages, claims, suits, legal proceedings and otherwise howsoever arising from or in connection with any claim including, but not limited to, claim for any infringement of any intellectual property rights or any other rights of any third party or of law, concerning quality, quantity and any claim in relation to the Vendor's product, the breach of any of the Vendor's warranties, representations or undertakings or in relation to the non-fulfilment of any of its obligations under this Agreement or arising out of the Vendor infringing any applicable laws, regulations including but not limited to Intellectual Property Rights, applicable laws and standards. For the purpose of this clause reference to the Company shall also include the Mobile Operators and such other agencies through whom the Company shall make the Online Store available to the end customers.
2. This article shall survive the termination or expiration of this Agreement.

8. Limitation of Liability

1. The Company based on representation by the Vendor is marketing the products of the Vendor on the www.the-e-commerce-mall.co.za to enable Vendor to offer its products for sale through the said online shopping portal. This representation is the essence of the agreement between the parties. It is expressly agreed by the Vendor that the Company shall under no circumstances be liable or responsible for any loss, injury or

damage to the Vendor, customer or any other party whomsoever, arising on account of any transaction under this Agreement or as a result of the products being in any way damaged, defective, in unfit condition, infringing/ violating any laws/ regulations/ intellectual property rights of any third party. The Vendor agrees and acknowledges that it shall be solely liable for any claims, damages, allegation arising out of the products offered for sale through online shopping portal www.the-e-commerce.co.za (including but not limited to quality, quantity, price, merchantability, use for a particular purpose, or any other related claim) and shall hold the Company harmless and indemnified against all such claims and damages. Further the Company shall not be liable for, and the Vendor indemnifies the Company against, any claims, damages arising out of any negligence, misconduct, or misrepresentation by the Vendor or any of its representatives.

2. The Company under no circumstances will be liable to the Vendor for loss and/or anticipated loss of profits, or for any direct or indirect, incidental, consequential, special or exemplary damages arising from the subject matter of this Agreement, regardless of the type of claim and even if the Vendor has been advised of the possibility of such damages, such as, but not limited to loss of revenue or anticipated profits or loss business, unless such loss or damages is proven by the Vendor to have been deliberately caused by the Company.
3. In any event, notwithstanding anything to the contrary contained in this Agreement, the liability of the Company for any loss suffered by the Vendor under this Agreement shall be limited to total aggregate liability of R100.

9. Termination and effects of Termination

1. This Agreement may be terminated by the Company forthwith if:
 1. The Vendor fails to make payment of the sum demanded after it has been served a 48 (forty-eight) hours written notice from the Company.
 2. The Vendor commits a material breach of any representation, obligations, covenant, warranty, or term of this Agreement and the same is not cured within 30 (thirty) days after prior written notice given by the Company.
 3. If the Vendor is liquidated or commits any act of insolvency is filed against the Vendor.
 4. If the Vendor is in infringement of the third-party rights including intellectual property rights.
2. This Agreement may be terminated without reason by either party after serving upon the other, a written notice of 30 (thirty) days. The agreement shall stand terminated after expiry of such period.
3. Effect of Termination:

1. In the event of termination/expiry of this Agreement, the Company shall remove the Links and shall discontinue display of the Products on online shopping portal RSA Made with immediate effect.
 2. Company shall not be liable for any loss or damages (direct, indirect, or inconsequential) incurred by the Vendor by virtue of termination of this Agreement.
 3. During the period under notice both the parties shall be bound to perform its obligations incurred under this Agreement and this sub-clause shall survive the termination of this Agreement.
10. Jurisdiction, governing law and ex-parte Orders
 1. The Parties hereto consent in terms of Section 45 of the Magistrate's Court Act 32 of 1944, as amended, to the taking of any legal proceedings arising from this Agreement in the Magistrate's Court of any district otherwise having jurisdiction by virtue of Section 28(1) of the aforesaid Act, notwithstanding that such proceedings would otherwise be beyond that court's jurisdiction. The party instituting such proceedings shall nevertheless still have the right to institute such proceedings in any division of the Supreme Court of South Africa having jurisdiction, should she so wish.
 2. The laws of Republic of South Africa, as are in force, shall be applicable to this Agreement.
 3. The Company is entitled to obtain ex-parte interim interdict orders restraining the Vendor to prevent any loss/anticipated loss either in material terms or in terms of intellectual property or causing damage/loss/harm to reputation/goodwill of the Company by the Vendor, its representatives, associates or assigns.
11. Notices
 1. All notices and other communication under this Agreement shall be in writing, in English language and shall be caused to be delivered by hand or sent by telex, fax, email or courier in each case to the addresses as set out at the beginning of this Agreement.
12. Intellectual Property Rights
 1. The Vendor expressly authorises the Company to use its trade marks/copy rights/ designs /logos and other intellectual property owned and/or licenced by it for the purpose of reproduction on the website and at such other places as the Company may deem necessary. It is expressly agreed and clarified that, except as specified agreed in this Agreement, each Party shall retain all right, title and interest in their respective trademarks and logos and that nothing contained in this Agreement, nor the use of the trademark / logos on the publicity, advertising, promotional or other material in relation to the services shall be construed as

giving to any Party any right, title or interest of any nature whatsoever to any of the other Party's trademarks and / or logos.

13. Entire Agreement

1. This Agreement embodies the entire agreement and understanding of the Parties and supersedes all other prior and contemporaneous agreements, correspondence, arrangements, and understandings (whether written or oral) between the Parties with respect to its subject matter.

14. Assignment

1. Neither this Agreement nor any part of it is assignable, transferable, sub-licensable, sub-contractable or conveyable by Vendor, either by operation of law or otherwise, without the express, prior, written consent of the Company signed by an authorized representative of such Party. The Company is at liberty to refuse such consent.

15. Confidentiality:

1. The contents of the Agreement and any information passed on by the Company to the Vendor is highly confidential in nature and the Vendor agrees and undertakes to maintain the confidentiality of the information and user/customer data disclosed, generated or made available to Vendor under this Agreement. The said information shall not be used by the Vendor or its agents, servants, representatives, or any person acting through or claiming through the Vendor for any purpose other than for the performance of its obligations under this Agreement. The Vendor agrees that the unauthorized disclosure or use of such information would cause irreparable harm and significant injury, the degree of which may be difficult to ascertain. Accordingly, the Vendor agrees that the Company shall have the right to obtain an immediate injunction from any court of law ensuing breach of this Agreement and/or disclosure of the Confidential Information. The Company shall also have the right to pursue any other rights or remedies available at law or equity for such a breach.

16. Relationship of Parties

1. Nothing in this Agreement will be construed as creating a relationship of partnership, joint venture, agency, or employment between the Parties. The Company shall not be responsible for the acts or omissions of the Vendor and the Vendor shall not represent the Company, neither has, any power or authority to speak for, represent, bind or assume any obligation on behalf of the Company.

17. Waiver and Amendment

1. No waiver of any breach of any provision of this Agreement constitutes a waiver of any prior, concurrent or subsequent breach of the same or any other provisions, and will not be

effective unless made in writing and signed by an authorised representative of the waiving Party.

2. Except as expressly set out in this Agreement, no amendment is binding on the Parties unless it is in writing and signed by a duly authorized representative of each of the Parties.

18. Force Majeure

1. Neither Party shall be responsible or liable for any delay or failure to perform its obligations (other than an obligation to make payment) under this Agreement due to unforeseen circumstances or any event which is beyond that Party's reasonable control and without its fault or negligence, but not limited to, acts of God, war, riots, embargoes, strikes, lockouts, acts of any Government authority, delays in obtaining licenses or rejection of applications under the Statutes, failure of telephone connections or power failure, fire or floods.

19. Two Originals

1. This Agreement may be executed in two (2) counterparts, one to remain with each Party and each of which shall be deemed an original and which shall together constitute one Agreement.

In witness whereof the parties have hereto caused their respective Signatures and Company seal to be affixed the day and year first hereinabove mentioned.

Signed on this day the _____ of _____ 20____

For Valueserv PTY LTD

For: _____

Signature

Name: Sean Botha

Signature

Name: _____

Witness Name

Witness Signature

Witness Name
Signature

Witness

Schedule A herein before referred

Details of product category commission

All Products 15% of displayed value