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1. GENERAL

- 1.1 Please read these terms and conditions ("**Agreement**"). Your acceptance of these terms and continued access, use of our products or services indicate your agreement with the terms set out below. The Agreement contains crucial information about your rights, responsibilities, duties and liability. It is imperative that you carefully read and understand these terms, as this Agreement, subject to any amendments, will govern your relationship with us
- 1.2 These conditions take effect upon you accepting the terms and/or accessing our products and services or dashboards and establishes a binding agreement between us. The most recent version of these conditions will govern our respective rights and obligations each time you access the products, services or dashboards.
- 1.3 Your use and access of the services, products and dashboards are conditional upon your acceptance, without amendments, of the terms of this agreement. If you disagree with any of the terms in this agreement, we request that you refrain from using the products, services, or dashboard.
- 1.4 We reserve the right, at our sole discretion, to amend these terms of use, including the addition of new terms and conditions, at any time and without notice. Such amendments will be effective immediately and automatically. You agree to proactively review these terms of use on a regular basis.

2. DEFINITIONS

- 2.1 In this Agreement, unless the context indicates a contrary intention, the following words and expressions bear the meanings assigned to them –
 - 2.1.1 "**Agreement**" means this supplier payment agreement contained in this document, including all annexures (if any) hereto, as amended from time to time;
 - 2.1.2 "**App**" means the mobile and web-based application known as "Shop2Shop Trading App" (or such other name as the Parties may agree on from time to time, in writing) through which the Supplier and IDC's authorised users are able to access and utilise certain payment and order processing functionalities, as more fully detailed in the Specification. The App specifically includes the Supplier Dashboard, any and all Upgrades, updates and changes made to the App from time to time;
 - 2.1.3 "**Confidential Information**" means any information or data of any nature, tangible or intangible, oral or in writing and in any format or medium, which by its nature or content is identifiable as confidential

and/or proprietary to the Party disclosing that information ("**Disclosing Party**") and/or any third party, or which is provided or disclosed in confidence; and which the Disclosing Party, or any person acting on its behalf, may disclose or provide to the Party receiving the information ("**Receiving Party**") or which may come to the knowledge of the Receiving Party by whatsoever means, including all information relating to the Disclosing Party's current and existing strategic objectives, its business activities, business relationships, commercial, financial and market information and trade secrets, all agreements to which it or its customers is/are a party; information relating to this Agreement and information relating to its respective third party service providers, customers and facilities, but specifically excluding information or data which (i) is lawfully in the public domain at the time of disclosure thereof; (ii) subsequently becomes lawfully part of the public domain by publication or otherwise; (iii) becomes available from a source other than one of the Parties which is lawfully entitled without any restriction on disclosure to disclose such Confidential Information; (iv) is disclosed pursuant to a requirement or request by operation of law, regulation or court order, provided that in these circumstances, (a) the Receiving Party shall advise the Disclosing Party in writing prior to such disclosure to enable the Disclosing Party to take whatever steps it deems necessary to protect its interest in this regard; (b) the Receiving Party will disclose only that portion of the information which it is legally required to disclose; and (c) the Receiving Party will use its reasonable endeavours to protect the confidentiality of such information to the widest extent possible in the circumstances;

- 2.1.4 "**Duration**" means the Initial Period and any Renewal Period;
- 2.1.5 "**Fee**" means the fee payable by the Supplier to S2S as consideration for the Services and calculated in accordance with the provisions of clause 6 below;
- 2.1.6 "**IDC Deposits**" means the funds held by S2S on behalf of an IDC (being cash deposited by the IDC into S2S's designated cash accepting device) and credited to that IDC's Trading Account;
- 2.1.7 "**IDC Trading Account**" means the IDC's designated account with S2S as reflected on the App;

- 2.1.8 **"Party"** means each of S2S and the Supplier and **"Parties"** means both of S2S and the Supplier;
- 2.1.9 **"Payment Service"** means the service provided by S2S to the Supplier under this Agreement in terms of which S2S transfers and deposits the Sale Proceeds from the IDC Deposits into the Supplier Account;
- 2.1.10 **"Personal Information"** shall have the meaning ascribed thereto in POPI;
- 2.1.11 **"POP"** means the proof of payment issued to the Supplier via the App or an email notification to the Supplier detailing, inter alia, the IDC Payment and depicting same to the credit of the Supplier Trading Account and/or as otherwise agreed to in writing by the Parties;
- 2.1.12 **"POPI"** means the Protection of Personal Information Act, 2013 and regulations thereto;
- 2.1.13 **"Sale"** is defined in clause 5.1 below;
- 2.1.14 **"Sale Proceeds"** is defined in clause 5.1 below;
- 2.1.15 **"Select Shops"** means customer stores serviced by the Supplier;
- 2.1.16 **"Services"** means any and all services provided by S2S in respect of the App and this Agreement and includes the provision and licensing of the App and performance of the Payment Services and Support Services;
- 2.1.17 **"Shop2Shop Materials"** means the App, all information, aspects and/or components of the services, software and any materials, documentation, or other items provided by or made available to the Supplier by S2S in connection with this Agreement;
- 2.1.18 **"South Africa"** means the Republic of South Africa;
- 2.1.19 **"Specification"** means the technical and functional specification for the App;
- 2.1.20 **"Supplier Account"** means the bank account designated by the Supplier as designated by the Supplier in writing;
- 2.1.21 **"Supplier Dashboard"** means the online portal accessible by the Supplier via the App;
- 2.1.22 **"Supplier Materials"** mean the intellectual property of the Supplier provided to S2S under this Agreement which, unless otherwise

agreed to in writing (including any applicable licence agreement) shall be limited to the logo's of the Supplier provided to be uploaded to the App for use with the Supplier's profile;

2.1.23 **"Supplier Trading Account"** means the Supplier's designated account or accounts with S2S, as reflected on the App; and

3. INTRODUCTION

3.1 S2S provides cash management payment and order processing solutions to Independent Distribution Centres and Select Shops (herein after referred to as IDCs).

3.2 The Supplier provides goods and/or services to S2S's IDC/s (**"IDC/s"**).

3.3 The Parties agree as set out below.

4. APPOINTMENT AS AGENT

4.1 The Supplier hereby appoints S2S for the duration of this Agreement (the **"Duration"**) as its limited agent to assist the Supplier in collecting the Sale Proceeds arising from the Sale from time to time (**"Sale"**).

4.2 This is pursuant to the Directive, 1 of 2007, within the National Payment System in Respect of Payments to Third Persons issued by the National Payment System Division of the SARB and published under General Notice 1110 in Government Gazette 30261 of 6 September 2007 or any further directive/s in respect of Payments to Third Persons (the **"Directive"**) applicable to the Payment Service.

5. PAYMENT SERVICE PROCESS

5.1 In providing the Payment Service, S2S will, for the Duration:-

5.1.1 provide the Supplier with access to an online portal (**"Shop2Shop portal"**) which portal will, inter alia, depict the amount held by S2S to the credit of the:-

5.1.1.1 IDC in the IDC Trading Account from time to time, and;

5.1.1.2 the Supplier in the Supplier account which S2S holds for the Supplier (the **"Supplier Trading Account"**).

5.1.2 charge the Supplier a fee for the rendering of the Payment Service as set out in paragraph 4 hereunder and as detailed on the Shop2Shop Supplier Dashboard for each payment made in terms of the Payment Service (**"Cash Out Rate"**);

5.1.3 pay the stipulated Sale Proceeds to the Supplier:-

5.1.3.1 from the amount recorded in the IDC Trading Account;

5.1.3.2 into the Supplier Trading Account;

5.1.3.3 in accordance with the electronic Payment Instruction given by the IDC to S2S ("**IDC Payment Instruction**");

(which payment by S2S from the IDC Trading Account to the Supplier Trading Account in accordance with the IDC Trading Account is hereinafter referred to as the "**IDC Payment**";

5.1.4 include with each and every IDC Payment:-

5.1.4.1 a reference number linked to the IDC (and the IDC Trading Account), and;

5.1.4.2 POP;

5.1.5 S2S shall furnish the Supplier with the POP as soon as reasonably possible after receipt of the IDC Payment Instruction – and in this regard it is recorded that it is within the contemplation of the parties that the IDC Payment Instruction will be made by the IDC and the POP is expected to be received by the Supplier from S2S within such time periods as to adequately enable a purchase at the till/over the counter, it being further recorded that the Supplier shall not release any goods purchased in terms of the Sale unless and until it is in receipt of the POP.

5.2 S2S shall comply with its obligations in terms of the Directive by:-

5.2.1 crediting the Supplier Trading Account in the amount depicted in the Payment Instruction and the corresponding POP amount, and;

5.2.2 making payment to the Supplier's banking account, from the Supplier Trading Account, in such amounts (not exceeding the total to the credit of the said Supplier Trading Account) in accordance with the Supplier's instructions from time to time (which payments from S2S to the Supplier Banking Account are hereinafter referred to as "**Cash Withdrawals**"), and/or;

5.2.3 effecting payment, from the Supplier Trading Account to such other third party suppliers who are registered with S2S ("**Third Party Suppliers**") as suppliers, in such amounts as the supplier may direct from time to time by way of its payment instructions to S2S.

[A payment by S2S to a Third Party Supplier from the Supplier's Trading Account is hereinafter referred to as a "**Supplier Payment**" and an instruction by the Supplier to S2S to effect said payment to a Third Party Supplier is hereinafter referred to as a "**Supplier Payment Instruction**".]

5.3 The Supplier shall offer S2S every reasonable assistance and co-operation in any S2S investigation related to this agreement.

- 5.4 The Shop2Shop Supplier Dashboard reflects the balance of the Sale Proceeds which have been collected by S2S on the Supplier's behalf (i.e it will reflect, inter alia, the current credit balance in the IDC Trading Account and the Supplier Trading Account). The IDC Trading Account balance is not a store of value or a deposit/current account. The IDC Trading Account balance depicts the maximum gross amount which S2S is able and willing to pay pursuant to an IDC Payment Instruction. By way of illustration, if the IDC Payment Instruction is for an amount in excess of the balance depicted in the IDC Trading Account, S2S will not honour the IDC Payment Instruction and will therefore not send a POP pursuant to said instruction. Ditto in relation to the Supplier Trading Account, Supplier Payments and Supplier Payment Instructions.
- 5.5 Subject to the foregoing (and subject to the provisions of clause 6 below), and against receipt by S2S of a valid request for payment of the Sale Proceeds, S2S will pay to the Supplier, from the IDC Trading Account an amount equivalent to the Sale Proceeds.
- 5.6 S2S shall notify the Supplier if the IDC Payment Instruction falls to be declined due to insufficient funds in the IDC Trading Account.

6. CASH OUT RATE

- 6.1 In consideration for the services which S2S shall render pursuant hereto, S2S shall be entitled to charge and be paid certain fees, in the manner and on the terms and conditions set out hereunder.
- 6.2 S2S shall be entitled to charge and be paid an amount equivalent to _____ % (incl.) Vat, of all Cash Withdrawals on said amount at the applicable prevailing rate and as against issue of a property constitute VAT invoice in respect thereof (the "Cash Out Rate").
- 6.3 S2S shall be entitled to deduct the Cash Out Rate from the Cash Withdrawal.
- 6.4 Supplier shall be entitled to:
- 6.4.1 Pay other suppliers ☐
- 6.5 Supplier Category:
- 6.5.1 IDC ☐
- 6.5.2 Wholesaler ☐
- 6.6 In the event of S2S wishing to increase the Cash Out Rate, it shall give the Supplier at least thirty (30) days prior notice of said intention and, should the Supplier be unwilling to accept the increased charges, it may, by written notice to S2S, decline to accept the increased Cash Out Rate in which event this agreement shall be deemed to terminate after the expiry of thirty (30) days from the date of the S2S notice to increase its charges.

6.7 The Supplier is not liable in respect of any Cash Out Rate in respect of Supplier Payments (as S2S shall, in turn, collect these from the Third Party Supplier).

6.8 Any payment due under this Agreement that is not made by the due date shall accrue interest at the prime rate per annum on the outstanding balance, calculated on a daily basis, until the full amount is paid in full. This interest charge shall be in addition to any other fees or penalties associated with late payments.

7. DURATION

Save as expressly provided hereinabove, either party to this agreement may terminate this agreement on no less than 30 days written notice to the other party at the address provided above.

8. OBLIGATIONS OF SUPPLIER

8.1 S2S does not make any warranties or guarantees regarding the accuracy of any information uploaded to the App by either the Supplier or the IDC, including any Payment Instruction.

8.2 It is the obligation of the Supplier to verify that the value reflected in the POP accords with the associated Sale Proceeds amount.

8.3 It is the responsibility of the Supplier to ensure that it provides S2S with the correct banking details for the Supplier Account.

9. WARRANTIES AND LIMITATION OF RIGHTS

9.1 S2S does not make any warranties or guarantees regarding the accuracy of any IDC Payment Instruction, and/or any other aspect of the Sale, including whether information uploaded to the Shop2Shop portal by the Supplier is correct.

9.2 It is the obligation of the Supplier to verify, from the POP, that the amount in question is the correct amount and accords with the required Sale Proceeds amount.

9.3 S2S does warrant, by issuing the POP, that the amount stipulated in the POP shall reach the Supplier's banking account.

10. LIMITATION OF LIABILITY

10.1 S2S, its affiliates or employees shall in no way be liable for any direct, indirect, incidental, special, consequential or exemplary damages, including but not limited to, damages for loss of profits, goodwill, data or any other intangible losses arising out of or in connection with the access to or usage of the Payment Services.

10.2 S2S assumes no liability whatsoever for any monetary or other damage suffered by the Supplier on account of any delay, failure, interruption, or corruption of any data or other

information transmitted or any interruption or errors in connection with the use and operation of the Payment Services.

- 10.3 The Supplier shall indemnify and hold harmless S2S and their respective officers, directors and employees, from any claim or demand, or actions. S2S will not be liable for any failures in the external link or for any fraud perpetrated either on or related to the App and/or at the bank end that could take place during or after the time of Cash Withdrawal and/or receiving payment through the S2S App.
- 10.4 The Supplier agrees, understands and confirms that any personal data including details related to debit card/credit card or bank accounts submitted by the Supplier during the time of Cash Withdrawals over the internet and is susceptible to misuse, theft and/or fraud and that S2S has no control over such matters.
- 10.5 Although all reasonable care has been taken towards guarding against unauthorized use of any information transmitted by the Supplier, S2S does not in any way guarantee that the use of the App will not result in theft and/or unauthorized use of data over the internet.

11. PRIVACY

11.1 Each Party agrees and warrants as follows:

- 11.1.1 not to process Personal Information, as defined in POPI, other than as permitted or required by any agreement concluded between the Parties, this Agreement or as required by any applicable law or public policy;
- 11.1.2 to comply with POPI and to reasonably prevent any damage to, loss of, or unauthorised access or disclosure of the Personal Information, other than as provided for by any agreement concluded between the Parties, this Agreement or as required by any applicable law or public policy;
- 11.1.3 to immediately or as soon as reasonably possible, report to the other Party's data protection officer any use or disclosure of Personal Information which is not specifically provided for in this Agreement, of which such Party becomes aware, including any data breaches or security incidents of which such Party becomes aware;
- 11.1.4 to immediately notify the other Party's data protection officer of any accidental or unauthorised access to Personal Information pertaining to the other Party or access, where it should reasonably have not been granted such, given the particular circumstances;
- 11.1.5 to submit to the other Party's data protection officer, within 10 (ten) business days' of receipt of prior written notice by such Party, its operations in relation to Processing of Personal Information for audit (including its internal information

processing policies and governance practices), which shall be carried out by it, or an inspection body composed of independent members and in possession of the required professional qualifications, bound by a duty of confidentiality, as selected by such Party, in order to determine its level of compliance with POPI. Failure by the relevant Party to submit to such an independent audit shall result in a breach of this Agreement; and

11.1.6 to immediately forward to the other Party's data protection officer all Personal Information access requests received from Data Subjects in relation to the Personal Information received from such Party.

11.2 For purposes of clause 11.1 all capitalised terms shall, unless otherwise defined in this Agreement, bear the meaning ascribed thereto in POPI.

12. CONFIDENTIALITY

12.1 In connection with this Agreement, each of the Parties has disclosed and may continue to disclose to the other Party Confidential Information.

12.2 The Parties acknowledge that the Confidential Information is a valuable, important and unique asset of the Disclosing Party and that the Disclosing Party may suffer irreparable harm or substantial economic and other loss in the event of such Confidential Information being disclosed or used otherwise than in accordance with this Agreement.

12.3 All Confidential Information disclosed by the Disclosing Party to the Receiving Party or which otherwise comes to the knowledge of the Receiving Party, is acknowledged by the Receiving Party to be proprietary to the Disclosing Party; and not to confer any rights of whatsoever nature in such Confidential Information on the Receiving Party and no Confidential Information (including the existence and content of this Agreement) can be disclosed to any Person without the prior written consent of the other Party.

12.4 Each of the Parties will use at least the same degree of care to safeguard and to prevent disclosing the Confidential Information of the other as it employs to avoid unauthorised disclosure or publication of its own information (or information of its customers) of a similar nature, and in any event, no less than reasonable care. Each Party shall take all such steps as may be reasonably necessary to protect Confidential Information against theft, damage, loss, unauthorised access (including access by electronic means) and to prevent unauthorised access to Confidential Information by third parties.

12.5 Each Party may disclose relevant aspects of the other Party's Confidential Information to its staff, affiliates, and agents to the extent such disclosure is reasonably necessary for the performance of its obligations, or the enforcement of its rights, under this Agreement; provided, however, that such disclosure will be on a "need-to-know" basis and such Party will, both before and after such disclosure of any Confidential

Information, take all practical steps to impress upon the staff, affiliates, or agents, confidential nature of the Confidential Information and the Receiving Party's obligations under this Agreement and ensure that such staff, affiliates, or agents comply with these confidentiality provisions and agree to be bound by the confidentiality undertakings given to the Disclosing Party by the Receiving Party in this Agreement.

- 12.6 Each Party will be responsible for any breach of the terms of this Agreement and/or improper disclosure of Confidential Information by such Party's staff, affiliates, or agents.
- 12.7 Upon expiration or termination of this Agreement, each Party will (other than in respect of Confidential Information which such Party is required to by law or to satisfy the rules and regulations of a regulatory body to which the Receiving Party is subject provided that the confidentiality obligations under this Agreement will continue to apply to such information) on written demand of the other Party, (i) return or destroy, as the other Party may direct, all documentation in any medium that contains or refers to the other Party's Confidential Information, and retain no copies unless otherwise agreed; (ii) destroy, and procure the destruction of all analyses, compilations, notes, studies, memoranda or other documents which contain or otherwise reflect or are generated from the Confidential Information, in part or in whole; and (iii) delete or procure the deletion of all Confidential Information from any computer, word processor or other device in the possession or control of the Receiving Party or any affiliate. The Party who so returns, destroys or deletes shall certify in writing to the other Party that it retains no copies of that other Party's Confidential Information.
- 12.8 Nothing contained in this clause 12 will be construed as obligating a Party to disclose its Confidential Information to the other Party, or as granting to or conferring on a Party, expressly or impliedly, any rights or licence to the Confidential Information of the other Party.
- 12.9 This clause will survive the term of this Agreement and shall apply indefinitely.

13. BREACH AND TERMINATION

- 13.1 In the event of either of the Parties ("Defaulting Party") committing a breach of any of the terms of this Agreement and failing to remedy such breach within a period of 14 (fourteen) days after receipt of a written notice from another Party ("Aggrieved Party") calling upon the Defaulting Party to remedy, then the Aggrieved Party shall be entitled, at its sole discretion and without prejudice to any of its other rights in law, either to claim specific performance of the terms of this Agreement or to cancel this Agreement forthwith and without further notice, and in either case to claim and recover damages from the Defaulting Party.

- 13.2 The Parties agree that any costs awarded will be recoverable on an attorney-and-own-client scale unless the Court or arbitrator specifically determines that such scale shall not apply, in which event the costs will be recoverable in accordance with the High Court tariff, determined on an attorney-and-client scale.
- 13.3 Notwithstanding anything to the contrary contained herein, either Party will be entitled to terminate this Agreement immediately if the other Party –
- 13.3.1 enters into a compromise, scheme of arrangement or composition with any or all of its creditors; or is liquidated or placed under judicial management, whether provisionally or finally; or is placed under business rescue proceedings or any similar administration, whether voluntarily or upon application by a third party; or
 - 13.3.2 commits any act or any omission which if it had been done or omitted to be done by a natural person would be an act of insolvency in terms of the South African Insolvency Act, 1936; or
 - 13.3.3 is in contravention of any law; or
 - 13.3.4 ceases to carry on business or disposes of its business or changes the fundamental nature of its business and/or disposes of the major portion of its assets other than for value.
- 13.4 Notwithstanding anything to the contrary contained herein, should a change in law take place such that any obligation and/or right under this Agreement becomes unlawful, such provision shall, to the extent possible, be severed from the rest of this Agreement and the Parties shall negotiate in good faith within a period of 1 month as from the date on which the provision so becomes unlawful (or such other time period as agreed to between the Parties) a possible alternative provision that is compliant with applicable laws and which provides the same or similar commercial effect as the offending clause, provided that the Parties reach written agreement in relation to such alternative provision. Should the Parties fail to reach agreement in writing within the required time frames on the said alternative provision either Party shall be entitled to terminate this Agreement immediately. Should any obligation be unlawful, the said obligation shall be immediately suspended pending the application of this clause. For example, should the Services to the same standard and effect be rendered unlawful the obligation to provide same shall be suspended (save for S2S releasing any funds then due and payable to the Supplier) and so too shall the obligation to make payment of the Fees (no interest shall be claimable in this situation).
- 13.5 Termination of this Agreement will not relieve a Party of obligations imposed upon such Party by statute or regulation or by this Agreement prior to its termination.

- 13.6 Notwithstanding anything to the contrary contained herein, the Parties may, without liability to the other Party (save for rights which have already accrued), terminate this Agreement for convenience at any time on 2 months written notice to the other Party.

14. GENERAL

- 14.1 This agreement correctly reflects the intention of the Parties and embodies the entire agreement between the Parties with respect to the subject matter hereof and no variation, alteration, consensual cancellation, rectification or novation of or addition to or waiver of any rights under this agreement including this and any other clause hereof shall be of any force or effect unless reduced to writing and signed by the Parties.
- 14.2 No Party has relied on or been induced by any representation made by any other Party or its agent in entering into this agreement other than the representations reduced to writing and contained herein.
- 14.3 No extension of time or waiver or relaxation of any of the provisions or terms of this agreement including this and any other clause hereof or any agreement or other document issued or executed pursuant to or in terms of this agreement, shall operate as an estoppel against any Party in respect of its rights under this agreement, nor shall it operate so as to preclude such Party thereafter from the exercising its rights strictly in accordance with this agreement.