

CUSTOMER REFERRAL AGREEMENT

Between:

(Herein after referred to as “the Supplier”)

Represented by

And

THE SME ASSOCIATION OF ZIMBABWE

Represented by Farai C Mutambanengwe

WHEREAS _____

Is an SME registered with the SME Association of Zimbabwe, and is a provider of goods and/or services,

WHEREAS

The SME Association of Zimbabwe is a registered and accredited national association geared towards promoting the activities of SMEs in Zimbabwe, represented herein by Farai Mutambanengwe who is authorized.

AND WHEREAS

The SME Association of Zimbabwe is providing a rating and referral service to its members which the Supplier would like to be a part of,

THE PARTIES HEREBY AGREE AS FOLLOWS:

1. SME Association of Zimbabwe Obligations

1.1 The Association will list the Supplier among its recommended service providers, subject to the Supplier continuing to meet their obligations as stated below, and maintaining good standing with the Association.

- 1.2 The Association will refer potential customers that are interested in the Supplier's services to the Supplier, subject to a competitive screening process with other Suppliers offering the same service.
- 1.3 The Association will actively promote the referral program in various media, and will give the Supplier fair coverage and business, in line with the Suppliers ratings and recommendations.
- 1.4 The Association will provide the factual information it has on the Supplier to any potential client that the Supplier may source, for whom the Supplier needs a reference. In such an instance, the Association will not market other/alternative Suppliers to this client.

2. Obligations of the Supplier

The Supplier undertakes, for the duration of this agreement, to abide by the following:

- 2.1 Provide **good customer service** to all clients in general, and specifically to those referred by the Association.
- 2.2 Provide a **quality service/product** which must, as a minimum, meet the customer's requirement, but ideally should exceed their expectations.
- 2.3 Ensure **fair pricing**, and in the absence of material changes to the order specification, shall not alter service/product price unjustifiably.
- 2.4 **Adhere to a given delivery timetable**, and where this is not going to be possible, give reasonable advance warning and inform the customer of the new expected delivery time.
- 2.5 Perform duties to clients with **honesty** and **integrity**, and make good on any shortfalls in workmanship to the satisfaction of the client.
- 2.6 Ensure they have the requisite **knowledge, skill** and **experience** to carry out any jobs that may be referred, and to seek assistance or guidance where there may be deficiencies.
- 2.7 In the event of a dispute arising with a customer, to speedily involve the Association with a view to resolution of such dispute with minimum damage to our reputation and the client-supplier relationship.

3. PARTIES' JOINT OBLIGATIONS

The SME Association of Zimbabwe and the Supplier shall:

- 3.1 Put the customer first in all their dealings, ensuring that customer satisfaction remains paramount.

- 3.2 Collaborate in ensuring that each party is able to carry out their duties to the satisfaction of the customer.
- 3.3 Cooperate and act in good faith in the agreed areas of implementation so as to ensure the smooth and efficient implementation of the programme.
- 3.4 Continuously maintain high standards and keep the standing of the referral program in good repute.

4. WARRANTIES

The parties hereby warrant and represent to each other that:

- 4.1 They have the right, power and authority to enter into this Agreement and that the persons executing the Agreement on their behalf are duly authorized to do so;
- 4.2 There exist, to their knowledge, no legal or other impediments to the full performance of this Agreement by each of them;
- 4.3 That they will comply with all applicable laws and regulations with respect to the exercise of their rights herein;
- 4.4 They shall promptly and faithfully perform and discharge any obligation due by them under this Agreement and shall, at all times, endeavour to co-operate fully with each other to achieve the objectives of and fulfil this Agreement.

5. INDEMNITIES

- 5.1 Each party shall indemnify and hold the other harmless against all actions, claims, damages, costs and expenses arising from any breach of the warranties and representatives specified herein.
- 5.2 Either Party hereby indemnifies and holds the other harmless against all damages, costs and charges that may arise from any claim by any third party in connection with this Agreement, unless such claim is a result of the default or negligence on the part of the other Party or its employees.

6. TERMINATION

- 6.1 The agreement shall subsist for as long as the Supplier remains a member of the SME Association of Zimbabwe. Termination of the Supplier's membership automatically terminates this agreement.

6.2 During the subsistence of the agreement, either party can terminate the agreement for any reason whatsoever by giving the other party three (3) months notice.

7. SUPERVENING IMPOSSIBILITY (FORCE MAJEURE)

7.1 Neither Party hereto shall be deemed to be in breach of this Agreement if they are unable to perform their obligations under this Agreement owing to circumstances beyond their reasonable control, which circumstances (hereinafter referred to as "Force Majeure") include, but shall not be limited to, the following:

7.2 Storm, earthquake, flood or any such operation of the forces of nature as reasonable foresight and ability could not foresee or reasonably provide against; and

7.3 Power cut, riot, insurrection, civil commotion, government decree, order or law and labour disruptions or other industrial occurrences such as strikes, embargoes, blockades or sabotage of labour.

7.4 The Party affected by the Force Majeure shall inform the other Party of the nature and extent thereof within seventy-two (72) hours of the occurrence of such Force Majeure.

7.5 In the event of a Force Majeure the Parties shall negotiate in good faith as to such adjustments of their respective rights and obligations as may be necessary and equitable.

7.6 If performance hereunder is rendered totally impossible due to such Force Majeure then either Party shall be entitled to terminate this Agreement after giving written notice of thirty- days (30) to the other Party.

8. APPLICABLE LAW AND DISPUTE RESOLUTION

8.1 Any dispute between the parties arising out of or in connection with this agreement , including questions regarding its validity or termination shall be referred to and finally resolved by arbitration in accordance with the Arbitration Act (Chapter 7:15). The parties hereby irrevocably agree that the decision of the arbitrator in such arbitration shall be final and binding on each of them.

8.2 The parties shall choose the arbitrator but, in the event that the parties are unable to agree on the appointment of the arbitrator within fourteen days of either of them demanding the arbitration, the Commercial Arbitration Centre in Harare shall make the appointment at the written request by either of the parties.

- 8.3 Notwithstanding that the place of arbitration shall be Harare the parties may agree, or failing such agreement the arbitrator may direct that any hearing or proceedings be held elsewhere.
- 8.4 The language to be used in the arbitral proceedings shall be in English.
- 8.5 In determining any dispute between the parties, the laws of Zimbabwe shall be applicable.
- 8.6 The Commercial Arbitration Centre in Harare shall administer any arbitration in terms of this clause and the administrative procedures and schedule of costs, as he considers appropriate in the matter.
- 8.7 The above provisions shall not preclude a party from applying to a court of competent jurisdiction for urgent interim relief pending the conclusion of the arbitral proceedings..

9. CONFIDENTIALITY

- 9.1 It is recorded that the parties, by virtue of their association will become possessed of and will have access to each other's trade secrets and confidential information including, but without limiting the generality of the a foregoing, the following matter, all of which are herein referred to as 'confidential information'.
- 9.2 Know-how, methods, organizational structures and techniques employed in the business of either.
- 9.3 Either's financial affairs including, without limitation, details of the remuneration paid to their employees; and
- 9.4 All other matters which relate to the business either party or those of its subsidiaries and in respect of which information it is not really available in the ordinary course of business to a competitor of the other party.
- 9.5 Notwithstanding anything contained herein, the information referred to herein as confidential information shall cease to be confidential information if:
- 9.6 It is publicly available or becomes publicly available other than as a result of a breach of this agreement; or
- 9.7 It comes or came into the possession of either party other than by virtue of the parties' relationship in terms hereof.
- 9.8 Having regards to the forgoing provisions, each party hereto undertakes that in order to protect the proprietary interests of the other or its subsidiaries in the confidential information:
- It will not, during the period that it is a party hereto or for a period of ten years thereafter, directly or indirectly, either use or disclose any of the confidential information, other than as

may be required by its association with the other party or as may be required to comply with any law or to enforce any of its rights in terms of this agreement;

- Any written or other instructions, notes, memoranda or records relating to the confidential information which are made by it or which come into its possession by any means whatever shall be deemed to be the property of the other party, as the case may be. Such property shall be surrendered to the other party on demand and in any event, on the date a party ceases to be privy hereto, it shall not retain copies thereof or extracts there from.

9.9 All provisions of this agreement shall remain confidential at all times and save as is specifically provided for under this agreement or is required to comply with any law or to enforce any rights in terms of this Agreement, shall not be disclosed to any person.

The parties shall use reasonable endeavours to ensure that their officers, employees, agents and representatives comply with the parties' confidentiality undertakings in this Agreement.

10. SEVERABILITY OF PROVISIONS

The determination that any provision of this Agreement is invalid, void or unenforceable shall not invalidate the whole Agreement, all of the provisions herein being inserted conditionally on the basis of being considered legally valid and this Agreement shall be construed and performed in all respects as if any such invalid, void or unenforceable provision was omitted in so far as the primary purpose of this Agreement is not impaired, provided that such provision is not the essence of this Agreement.

11. CESSION OF RIGHTS

Neither Party to this Agreement shall have the right to cede any rights or, in any way, delegate any obligations arising from this Agreement to any third party.

12. ENTIRE AGREEMENT

12.1 This Agreement and any Annexure hereto shall constitute the only and entire agreement between the Parties relating to the subject matter specified herein and supersedes any prior agreement, discussions, presentations and communication, whether oral, written, expressed or implied.

12.2 Any amendment to, or revision or variation of, this Agreement shall only be made by written agreement between the Parties and shall only come into effect after the mutual consent

of the Parties, where after such written amendment shall be attached to this Agreement as an annexure.

Signed at Harare this day of2012

AS WITNESSES:

1.
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For and on behalf of
The SME Association of Zimbabwe
2.

Signed at Harare this day of2012

AS WITNESSES:

1.
.....
For and on behalf of the Supplier
2.