

TERMS AND CONDITIONS

1. **The parties**
 - 1.1 The parties to this agreement are Onshelf Trading Forty Four (Pty) Ltd t/a DM&G (hereinafter "M&G") and the party whose details are fully set out on the first page of this agreement (hereinafter "the Advertiser" or "you").
 - 1.2 **The Advertiser hereby acknowledges and agrees that the Advertiser will be responsible to fulfil or procure fulfilment of all its obligations as set out in this agreement and that the Advertiser will ultimately be liable to M&G for fulfilment of all of its obligations under this agreement.**
 - 1.3 Annexures, addendums or schedules to this agreement form an integral part hereof. If any provision in an annexure, addendum or schedule is in conflict with a provision(s) in this agreement, effect shall be given to the provision(s) in this agreement.
 2. **Definitions**
 - 2.1 **For the sake of convenience and clarity, the following words shall bear the meanings assigned to them below :**
 - 2.1.1 "advertisement(s)" means any text, graphics, image, content or any other marketing or promotional material provided by you to M&G for placement within M&G's web properties as set out on the first page;
 - 2.1.2 "campaign(s)" means all of the advertisements that shall be placed within M&G's web properties in accordance with the details set out in this agreement collectively;
 - 2.1.3 "first page" means the document headed Online Advertising Agreement which is set out on the reverse side of these terms and conditions and stipulates the details of the Advertiser and the placement of the advertisements; and
 - 2.1.4 "this agreement" means the first page, the terms and conditions set out herein and any annexure, schedule or addendum attached hereto.
 3. **Placement of Advertisements**
 - 3.1 Material, image and/or content, required by M&G to give effect to this agreement, needs to be supplied to M&G, in such format as M&G may specify, at least 3 (three) working days prior to the campaign commencing. M&G shall not be obliged to place any advertisement that does not satisfy its technical requirements.
 - 3.2 M&G will provide you with regular reports on advertisements placed within M&G's web properties.
 - 3.3 **The placing of advertisements is subject to availability of inventory.** Whilst every effort will be made to serve all advertisements exactly as indicated on the first page, strict compliance will not always be possible and M&G cannot be held responsible for any advertisements not placed as set out on the first page and/or any changes in the placement of advertisements.
 - 3.4 M&G reserves the right to -
 - (a) serve any advertising on M&G's web properties, including (without being limited to) advertising relating to competing products and/or services;
 - (b) change the format, layout and/or look-and-feel of M&G's web properties;
 - (c) include any link in the web pages within in M&G's web properties that M&G, in its sole discretion, deems appropriate.
 - (d) reject any advertisements that are, in the sole discretion of M&G, improper, immoral or unlawful.
 4. **Duration & Cancellation**
 - 4.1 This agreement shall come into effect on the date when it is signed by M&G management ("the effective date") and shall endure until the end date set out on the first page (unless otherwise agreed in writing), subject to the right of either party to terminate the agreement by means of 1 (one) calendar month's prior written notice to such effect to the other party.
 - 4.2 In the event of termination of this agreement for any reason whatsoever, M&G shall forthwith remove all advertisements that may appear on M&G's web properties in terms of this agreement.
 - 4.3 Cancellation by the advertiser will only be effected through the submission of a written cancellation notice, which must reach M&G within a thirty (30) business day period before the effective cancellation date, with all placements booked to run beyond the cancellation date subject to fifty (50%) percent of all future / remaining rates that would have been paid by the advertisers to M&G in respect of a specific advertising campaign. The claim shall remain liable for all rates due for the period to such cancellation. Should the advertiser insist on a waiver of the cancellation notice period, i.e. immediate cancellation of the campaign, M&G will be entitled to hundred (100%) percent of the originally booked campaign value, i.e. the full Online Marketing Agreement value will be payable.
 5. **Consideration**
 - 5.1 In consideration for the advertisements served in terms of this agreement, you will pay to M&G the amounts set out in the first page.
 - 5.2 The amounts set out on the first page are exclusive of VAT, but inclusive of agency commission.
 - 5.3 M&G shall provide you with a monthly VAT invoice. The amount set out in the VAT invoice will be payable within 30 (thirty) days of date of the VAT invoice.
 - 5.4 M&G shall be entitled to give you 30 (thirty) days written notice which may include an e-mail notification of any increase in any amount set out on the first page. You may within 14 (fourteen) days of such notice by written notice to M&G, cancel the services to which such increase apply, failing which you will be deemed to have consented to such increase and be bound thereto.
 - 5.5 Should you fail to pay any amount to M&G by due date, M&G shall be entitled, in its discretion and without prejudice to any other rights which it may have in law, forthwith cancel this agreement or suspend performance of its obligations without notice to the Advertiser.
 6. **Intellectual property rights**
 - 6.1 You hereby grant to M&G a worldwide, royalty free license to use the advertisement, your name, trademark, logo, brand name and/or domain name to the extent necessary to give effect to the provisions of this agreement.
 - 6.2 You hereby warrant that you are, and at all relevant times will be, the lawful owner of the copyright of the advertisement and all the material and content provided by you to Web for the purposes hereof and hereby irrevocably and unconditionally indemnify M&G and agree to hold M&G harmless against any claim made by any person, howsoever arising from any infringement of copyright and/or infringement of any other intellectual property rights or other third party rights by the advertisements and/or any other material provided by you to M&G.
 - 6.3 The parties agree that, except where specifically provided otherwise in this agreement, no party shall obtain any rights of whatsoever nature in or to the intellectual property rights of the other party and that any intellectual property rights developed during the term of this agreement by M&G or by the parties acting jointly, shall vest exclusively in M&G.
 - 6.4 You will not be entitled to use any of M&G's trademarks, logos, brand names, domain names or other marks without M&G's prior written approval.
 7. **Limitation of Liability**
 - 7.1 You acknowledge that M&G has no knowledge of, nor in any way contributes to, nor approves the advertisement and/or any other content provided to M&G in terms of this agreement and that certain kinds of advertisements, content and conduct may be offensive, unlawful, in breach of codes of conduct binding on M&G, violations of legislation, violations of the common law generally or violations of the requirements or rules of any regulatory authority and that certain kinds of advertisements, content and conduct may cause harm to the name, goodwill and reputation of M&G. You therefore agree that M&G may, without derogating from any other rights that it may have, terminate this agreement with immediate effect and without notice to you, should M&G, in its sole discretion, be of the opinion that your advertisement and/or any of the content accessible via link from the advertisement or any conduct within the website accessible via a link from the advertisement is offensive, unlawful or harmful.
 - 7.2 You agree that nothing that M&G does in the exercising of its rights or the performance of its obligations in terms of this agreement or in the carrying on of its business generally shall be construed as an assumption of responsibility or liability by M&G for the advertisement and/or the content accessible via a link from the advertisement and/or the conduct carried on the website accessible via a link from the advertisement.
 - 7.3 You hereby warrant to and in favour of M&G that the performance by M&G of its obligations under this agreement will not result in the breach of any applicable law or any third party rights and you hereby irrevocably and unconditionally indemnify M&G and agree to hold M&G harmless from and against any loss, costs, damages and/or claims suffered or incurred by or instituted against M&G as a result of a breach of this warranty.
 - 7.4 Nothing herein or that M&G does in performance of its obligations in terms hereof, shall be interpreted so as to give you any form of entitlement in respect of M&G's web properties, other than as provided for herein.
 - 7.5 Notwithstanding any other provision under this agreement, neither party shall be liable to the other party for any indirect and/or consequential damages directly or indirectly resulting from (relating to) this agreement in any manner whatsoever.
 8. **Confidentiality**
 - 8.1 **Notwithstanding termination of this agreement, the parties agree to treat all information, in whatever form and howsoever recorded, that may reasonably be argued to have commercial value and that a party receives from the other party as a result of this agreement ("confidential information"), as private and confidential and safeguard it accordingly.** The parties furthermore agree not to use or disclose or divulge or copy or reproduce or publish or circulate or reverse engineer and/or decompile or otherwise transfer, whether directly or indirectly, any confidential information to any other person and shall take all such steps as may be reasonably required to prevent confidential information falling into the hands of unauthorised persons.
 9. **General**
 - 9.1 This document contains the entire agreement between the parties in respect of the subject matter hereof and no party shall be bound by any undertakings, representations, warranties, promises or the like not recorded herein and no alteration, cancellation, variation of, or addition hereto shall be of any force or effect unless reduced to writing and signed by both parties.
 - 9.2 No indulgence, leniency or extension of time that M&G may grant or show to you, shall in any way prejudice or preclude M&G from exercising any of its rights in the future.
 - 9.3 You may not, in any manner whatsoever, cede or assign any of your rights or obligations under this agreement without M&G's prior written consent.
 - 9.4 Either party may (without prejudice to any of its other rights which it may have in law), terminate this agreement at any time on notice to the other of the other party has committed a material breach of any of its obligations under this agreement and has failed to remedy such breach within fifteen (15) days of receiving notice requiring it to do so.
 - 9.5 This agreement shall be subject to the laws of the Republic of South Africa and the parties submit to the jurisdiction of the South African courts and each party chooses the address set out on the first page of this agreement as its *domicilium citandi et executandi* ("domicilium") for the purposes of this agreement
 - 9.7 This agreement may be executed in one or more counterparts all of which shall be considered to be one and the same agreement.
- AND TO WITNESS THEIR AGREEMENT AS ABOVE, THE PARTIES HAVE SIGNED THIS AS PER THE DATES STIPULATED IN THE FIRST PAGE OF THIS AGREEMENT.
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| <hr/> M&G | <hr/> Advertiser |
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