

## **APPLICATION DEVELOPMENT AGREEMENT**

between

**SATPACK TRAVEL. Trading as App Developer Studio**  
(Registration Number *2008/260088/23*) ("ADS") and

and

(Registration Number \_\_\_\_\_) ("Client")

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## 1. Introduction

1.1 ADS is a prominent mobile device applications developer that develops applications for use on mobile devices including tablets and mobile phones.

1.2 The Client is a

1.3 The Parties wish to enter into this Agreement in order to record the terms and conditions that shall apply in order for the Client to engage ADS as an independent contractor for the Client for the purpose of designing and developing the Client's mobile application (the "Application") on the terms and conditions set forth below.

## 2. Definitions and interpretation

### 2.1 Glossary.

2.1.1 In this Agreement, the following words shall, unless otherwise stated or inconsistent with the context in which they appear, bear the following meanings:

2.1.1.1 "**Acceptance Tests**" means the tests to be conducted for the purposes of testing the functional operation of an Application and/or its compliance with any agreed Specifications for such Application;

2.1.1.2 "**Agreement**" means this agreement including any Annexes hereto;

2.1.1.3 "**Applications**" means software applications (including any Enhancements thereto) which utilise Content provided by the Client and which have been or are developed by ADS for use on Devices with any Operating System;

2.1.1.4 "**App Stores**" means any existing and future virtual or digital stores or marketplaces (currently known as app stores), including but not limited to the Apple App Store, BlackBerry App World, Google Play, Android Market Place and Windows Phone Marketplace;

2.1.1.5 "**Business Day**" means any day other than a Saturday, Sunday or gazetted national public holiday in the Republic of South Africa;

2.1.1.6 "**Confidential Information**" means any information, data and/or documents of a confidential and/or commercially sensitive nature pertaining to one Party (whether marked confidential or not) and in whatever way obtained or received by the other Party (whether before or after the Signature Date), including, without limitation, any trade secrets, know how, drawings, artwork, samples, methodologies, systems, procedures, discoveries, ideas, concepts, conclusions, findings, inventions, results, techniques, processes, formulae, studies, marketing information, financial information, customer and supplier details and information, pricing information, business plans and/or any other information or material of whatever description or nature proprietary to a Party in which that Party has an interest in keeping confidential and which is not readily available to the public or by an actual or potential competitor of that Party;

2.1.1.7 "**Content**" means any content, data, text, documents, items, information, images, audio, and/or other materials supplied by the Client to ADS for use or inclusion in an Application;

2.1.1.8 "**Devices**" means smartphones, tablet computers, digital equipment and any other wireless, mobile or handheld computing devices on which software applications may be loaded;

2.1.1.9 "**Enhancements**" means, in relation to an Application, any periodic updates or upgrades of the Application for purposes of enhancing the Application and/or correcting Errors, any new versions of the Application (or parts thereof) with new or enhanced functionality and/or any other changes, modifications, customisations, developments, adjustments or adaptations made to the Application to maintain its capability to be used on the then current versions of Operating Systems and/or as required by an App Store;

2.1.1.10 "**End Users**" means members of the general public that download an Application on to their Device from an App Store, the internet or from elsewhere, or any other person using an Application from time to time;

2.1.1.11 "**Errors**" means defects, deficiencies, faults, bugs, technical problems and other errors;

2.1.1.12 "**Intellectual Property Rights**" means all existing and future intellectual property rights of any kind (whether registered or not) that may subsist anywhere in the world, including, without limitation, rights of copyright and trade marks;

2.1.1.13 "**Operating Systems**" means any existing and future mobile operating systems, programs and software platforms that are designed to operate and run on Devices from time to time, including but not limited to, Symbian, BlackBerry OS, Windows Mobile, Android, iPhone OS;

2.1.1.14 "**Parties**" means the parties to this Agreement, being ADS and the Client;

2.1.1.15 "**Prime**" means the rate of interest (nominal annual compounded monthly in arrears) from time to time published by ADS's bank as its prime overdraft lending rate. A certificate from any manager of the ADS's bank,

whose appointment or authority need not be proved, as to the prime rate at any time and the usual way in which it is calculated and compounded at such time shall, in the absence of manifest or clerical error, be final and binding on the Parties;

2.1.1.16 **“Signature Date”** means the latest of the dates on which this Agreement (or any counterpart) was signed by any Party;

2.1.1.17 **“Source Code”** means commands to be compiled or assembled into an executable program.

2.1.1.18 **“Specifications”** means the aesthetic, functional and/or technical information, details and specifications of an Application;

2.1.1.19 **“VAT”** means value-added tax levied in terms of the Valueadded Tax Act, 89 of 1991, as amended, modified or re-enacted from time to time.

2.1.2 words importing the masculine gender include the feminine and neuter genders and vice versa; the singular includes the plural and vice versa; and natural persons include artificial persons and vice versa;

2.1.3 references to a "person" include a natural person, company, close corporation or any other juristic person or other corporate entity, a charity, trust, partnership, joint venture, syndicate, or any other association of persons;

2.1.4 references to a "subsidiary" or a "holding company" shall be references to a subsidiary or holding company as defined in the Companies Act;

2.1.5 any definition, wherever it appears in this Agreement, shall bear the same meaning and apply throughout this Agreement and any Schedules and Annexures unless otherwise stated or inconsistent with the context in which it appears;

2.1.6 if there is any conflict between any definitions in this Agreement then, for purposes of interpreting any clause of the Agreement or paragraph of any Annexe, the definition appearing in that clause or paragraph shall prevail over any other conflicting definition appearing elsewhere in the Agreement;

2.1.7 where any number of days is prescribed, those days shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a day which is not a Business Day, in which event the last day shall be the next succeeding Business Day;

2.1.8 where the day upon or by which any act is required to be performed is not a Business Day, the Parties shall be deemed to have intended such act to be performed upon or by the next succeeding Business Day;

2.1.9 any provision in this Agreement which is or may become illegal, invalid or unenforceable in any jurisdiction affected by this Agreement shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability and shall be treated as having not been written (ie *pro non scripto*) and severed from the balance of this Agreement, without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction;

2.1.10 the use of any expression covering a process available under South African law (such as but not limited to a winding-up) shall, if any of the Parties is subject to the law of any other jurisdiction, be interpreted in relation to that Party as including any equivalent or analogous proceeding under the law of such other jurisdiction;

2.1.11 references to any amount shall mean that amount exclusive of VAT, unless the amount expressly includes VAT;

2.1.12 the rule of construction that if general words or terms are used in association with specific words or terms which are a species of a particular genus or class, the meaning of the general words or terms shall be restricted to that same class (ie the *eiusdem generis* rule) shall not apply, and whenever the word *"including"* is used followed by specific examples, such examples shall not be interpreted so as to limit the meaning of any word or term to the same genus or class as the examples given.

2.2 The expiration or termination of this Agreement shall not affect such of the provisions of this Agreement which are expressly provided to operate after any such expiration or termination, or which by implication or of necessity must continue to have effect after such expiration or termination, notwithstanding that the relevant provisions themselves do not provide for this.

2.3 Each of the provisions of this Agreement has been negotiated by the Parties and drafted for the benefit of the Parties, and accordingly the rule of construction that the contract shall be interpreted against or to the disadvantage of the Party responsible for the drafting or preparation of the Agreement (ie the *contra proferentem* rule), shall not apply.

### 3. Commencement and duration

3.1 This Agreement shall commence on the Signature Date, and shall continue indefinitely unless terminated in accordance with the termination provisions in clause 11.

3.2 The Parties agree that this Agreement is entered into on a non-exclusive basis and that both Parties shall be free to enter into similar agreements with third parties.

### 4. Client obligations

The Client hereby agrees to:

4.1 co-operate with ADS as ADS may reasonably require and comply with all of ADS's reasonable requests without undue delay;

4.2 timeously supply ADS with all Content and Designs agreed between the Parties and required by ADS to develop the agreed Applications. Delayed provision of content, or revision of content at a later stage may lead to cost over-runs and delays to delivery.

4.3 to meet the milestones and milestone dates or deadlines as agreed between the Parties in writing;

4.4 to perform all of its obligations in terms of this Agreement with reasonable care and skill and in accordance with good industry practice;

4.5 to promptly notify ADS in writing of any factor, occurrence, non-occurrence, or event that is likely to cause a material delay in the delivery of any deliverable on or before its due date;

## 5. ADS's obligations

5.1 ADS hereby agrees and undertakes:

5.1.1 to develop each Application in compliance with agreed Specifications as laid out in Exhibit A; and extend its best efforts to ensure that the design and functionality of the Application meets the Client's specifications.

5.1.2 to be responsible for the hosting of Applications as well as the distribution, licensing and/or sale of each Application to End-Users via the App Stores (subject to clause 5.2);

5.1.3 to meet the milestones and milestone dates or deadlines as agreed between the Parties;

5.1.4 to perform all of its obligations in terms of this Agreement with reasonable care and skill and in accordance with good industry practice;

5.1.5 to develop each Application with the objective of creating a good End-User experience and at all times ensure the competitiveness of each Application with other applications in the market of a similar in nature;

5.1.6 to comply with all applicable laws;

5.1.7 to comply with the record-keeping and reporting obligations in clause 7;

5.1.8 to promptly notify the Client in writing of any factor, occurrence, non-occurrence, or event that is likely to cause a material delay in the delivery of any deliverable on or before its due date;

5.1.9 promptly inform the Client of any non-conformance or any shortcomings that ADS may detect in any of the Applications;

5.1.10 deliver the Applications to the Client for evaluation and Acceptance Testing immediately upon the completion of the development of an Application and in any event by no later than the agreed delivery date; and

5.1.11 rectify any Errors in any Applications it becomes aware of without delay.

5.1.12 communicate with the Client regarding progress it has made with respect to the milestones listed in Exhibit A.

5.1.13 ADS hereby warrants and represents that the Application, when delivered or accessed by the Client, will be free from material defects, and from viruses, logic locks, and other disabling devices or codes, and in particular will not contain any virus, Trojan horse, worm, drop-dead devices, trap doors, time bombs, or other software routines or other hardware component that could permit unauthorized access, disable, erase, or otherwise harm the Application or any software, hardware, or data, cause the Application or any software or hardware to perform any functions other than those specified in this Agreement, halt, disrupt, or degrade the operation of the Application or any software or hardware, or perform any other such actions. ADS can not guarantee approval for publication of the Application by the App Stores in first, or any subsequent, review.

5.2. ADS may not, directly or indirectly, market, distribute, license and/or sell any Applications incorporating or using Client Content that have not been approved by Client in writing.

## 6. Acceptance Testing

6.1 Within seven (7) Business Days of ADS delivering an Application to the Client, the Client shall provide structured and thorough feedback using the ADS bug list template provided.

6.2 Delayed or incomplete bug lists may lead to cost over-runs and delays.

## 7. Consideration and Payment

7.1 Unless otherwise agreed in writing, all amounts payable to ADS shall be paid by way of electronic funds transfer into the bank account nominated by ADS and detailed on the invoice.

7.2 All amounts shall be paid within seven (7) working days of presentation of invoice without deduction or set off of any kind and net of banking costs or charges.

7.3 ADS shall be entitled to charge interest at Prime in respect of any amounts which the Client has not paid on due date. ADS' right to charge interest on outstanding amounts shall be without prejudice to any other rights it may have in terms of this Agreement or law.

7.4 The total compensation for the development of the Application shall be as set forth in Exhibit A hereto. These payments shall be made in installments according to the schedule set forth in Exhibit A hereto.

## 8. Intellectual Property Rights

8.1 ADS expressly acknowledges and agrees that all Intellectual Property Rights in and to any Content are owned by or licensed to the Client. Nothing in this Agreement shall be construed as being an assignment of such Intellectual Property Rights to ADS.

8.2 The Client expressly acknowledges and agrees that all Intellectual Property Rights in and to any software developed and application designs by or for ADS used in or in respect of any Applications are owned by or licensed to ADS. Nothing in this Agreement shall be construed as being an assignment of such Intellectual Property Rights to the Client.

8.3 ADS reserves the right to reuse and re-license portions of the created product as desired, as long as the portions are general solutions to common problems and not specific to the Client's product.

8.4 ADS retains ownership of all Intangible Properties gained by ADS (that are not previously owned by the Client) while providing Services. Where a third party platform is used to build the Application, that party may retain the right to not release the source code to either ADS or the Client. ADS and the Client shall be subject to the terms, conditions and platform limitations of such a third party platform and ADS is neither responsible liable nor responsible for the performance of such platforms.

8.5 If, while this Agreement is in force, a Party becomes aware of any infringement or illegal use by a third party of any of the Intellectual Property Rights of the other Party, it shall promptly notify the other Party of such infringement or illegal use.

8.6 It shall be within the discretion of a Party to determine what steps, if any, shall be taken against a third party infringer and the other Party shall co-operate fully with that Party in whatever measures, including legal action, are taken by that Party to bring any infringement or illegal use to an end.

8.7 Neither Party may, without the written consent of the other Party, bring any proceedings of whatever nature or settle any claims arising from the infringement or illegal use by a third party of the other Party's Intellectual Property Rights.

## 9. Confidentiality

9.1 The Parties acknowledge that as a result of their prior relationship and/or during the course of this Agreement, they have or are likely to become privy to certain Confidential Information belonging or pertaining to the other Party. The Parties further acknowledge that they have a legitimate business interest in keeping their respective Confidential Information confidential.

9.2 Each Party undertakes to:

9.2.1 use the other Party's Confidential Information for the duration and purposes of entering into and implementing this Agreement only;

9.2.2 use at least the same degree of care, diligence and discretion to limit disclosure of the other Party's Confidential Information as it uses to protect its own Confidential Information, but in no case with any less degree than reasonable care and diligence.

9.3 The Parties furthermore undertake to keep the Confidential Information of the other Party confidential at all times whether during this Agreement or after its after termination or cancellation. Neither Party may disclose the other Party's Confidential Information to any third party except to its affiliates, consultants, agents, contractors, directors, officers and employees, provided that such disclosure is limited to only such persons to whom disclosure is necessary for purposes of giving effect to this Agreement (but then only to the extent that each.3 The Parties furthermore undertake to keep the Confidential Information of the other Party confidential at all times whether during this Agreement or after its after termination or cancellation. Neither Party may disclose the other Party's Confidential Information to any third party except to its affiliates, consultants, agents, contractors, directors, officers and employees, provided that such disclosure is limited to only such persons to whom disclosure is necessary for purposes of giving effect to this Agreement (but then only to the extent that each such person has a need to know) and such persons are first bound by confidentiality and restricted user obligations no less onerous than those set out in this Agreement.

9.4 The obligations set out in this clause 9 shall not apply to any information which:

9.4.1 the Party receiving the information ("the Receiving Party") can show by written records was in its possession prior to receiving the information from the other Party ("the Disclosing Party");

9.4.2 was generally available to the public prior to disclosure by the Disclosing Party or becomes generally available to the public after disclosure (other than through a breach by the Receiving Party of its obligations hereunder);

9.4.3 the Receiving Party can prove it received from a third party legally entitled to possess such information;

9.4.4 was subsequently developed independently by the Receiving Party without any reference to or use by it of the Disclosing Party's Confidential Information;

9.4.5 is approved for release upon the written consent of the Disclosing Party; and/or

9.4.6 is required by the provisions of any law, statute or regulation, or during any court proceedings, or by the rules or regulations of any recognised stock exchange to be disclosed provided that the extent of such disclosure is, as far as reasonably possible, limited and the Disclosing Party has been consulted prior to such disclosure.

9.5 Regardless of anything contained in this clause 9, a Party shall be liable for any breach of this clause caused by any of its directors, officers, employees, consultants. agents and/or professional advisers.

9.6 Save as otherwise provided in this Agreement, all documentation furnished by the Disclosing Party to the Receiving Party pursuant to this Agreement will remain the property of the Disclosing Party and upon termination of this Agreement shall be returned to the Disclosing Party. The Receiving Party shall not make or retain copies of any such documentation without the prior written consent of the Disclosing Party.

## 10. Warranties and indemnity

10.1 Each Party warrants and represents to the other that:

10.1.1 it has full capacity and authority to enter into and perform its obligations under this Agreement;

10.1.2 this Agreement is executed by a duly authorised representative of that Party;

10.1.3 there are no actions, suits proceedings or regulatory investigations pending or, to that Party's knowledge, threatened against or affecting that Party before any court or administrative body that might affect the ability of that Party to meet and carry out its obligations under this Agreement.

10.2 ADS furthermore warrants and represents that:

10.2.1 it has the necessary expertise and skill required to develop, market, distribute, sell/licence the Applications;

10.2.2 the Applications will be of good quality, fit for purpose and meet generally accepted standards;

10.2.3 each of the Applications will be capable of being used on the iOS and Android Operating Systems and will be capable of download to a Device;

10.2.4 in performing its obligations under this Agreement it will comply with all applicable laws; and

10.2.5 the Applications will comply with all applicable laws.

10.3 The provisions of clause 10.2 will apply:

10.3.1 despite the fact that the Client may have accepted all or part of an Application; and

10.3.2 in addition to any other warranties implied or imposed on ADS by law.

10.4 The Client hereby fully defends and indemnifies ADS (and any of its officers, directors, employees, agents, authors, contractors and/or its associated companies) against any and all liabilities, claims, suits, loss and/or damage (including, without limitation, reasonable attorneys' fees and expenses) which ADS (and any of its officers, directors, employees, agents, authors, contractors and/or its associated companies) may suffer or incur in connection with, or incidental to, the breach by the Client of any warranties and representations provided by the Client in this Agreement.

10.5 This clause 10 shall survive the termination or cancellation of this Agreement.

## 11. Termination

11.1 The term of this Agreement is from the Signature Date until the Application have been satisfactorily completed and the Developer has been paid in full.

11.2 Either Party may terminate this Agreement with immediate effect upon written notice if the other Party hereto is dissolved, declared insolvent or bankrupt, is placed in liquidation or sequestration (whether provisionally or finally and whether voluntary or compulsory) is unable to pay its debts as they become due or is subject to a scheme of arrangement or compromise or is wound up.

11.3 Where a Party constitutes a material breach of this Agreement and fails to remedy such breach within 10 Business Days of the other Party's written notice to do so then, in such event, the other Party may, with immediate effect, terminate this Agreement and/or only the Annex to which the breach relates by written notice.

11.4 Any termination as contemplated in this clause shall be without prejudice to any other rights which the terminating Party may have against the other Party whether for damages or otherwise.

11.5 The expiration or termination of this Agreement shall not affect any provisions in this Agreement expressed to survive the termination or cancellation of this Agreement or which by their nature or necessity continue to operate after the termination or cancellation of this Agreement.

11.6 In no event shall a Party be liable to the other for any indirect, extrinsic, special or consequential loss or damage of any kind whatsoever and howsoever caused (whether arising under contract, delict or otherwise) and whether the loss or damage was actually foreseen or reasonably foreseeable.

11.7 Upon termination of this Agreement:

11.7.1 All Annexes shall terminate notwithstanding anything to the contrary contained in this Agreement or the Annexes;

11.7.2 ADS shall cease all further use of any Content;

11.7.3 The Client shall cease all further use of the software developed and application designs.

11.7.4 Following the termination of this Agreement for any reason, the Client shall promptly pay ADS according to the terms of Exhibit A for services rendered before the effective date of the termination (the "Termination Date"). ADS



acknowledges and agrees that no other compensation, of any nature or type, shall be payable hereunder following the termination of this Agreement.

## 12. Dispute resolution

### 12.1 Separate, divisible agreement.

This clause is a separate, divisible agreement from the rest of this Agreement and shall:

12.1.1 not be or become void, voidable or unenforceable by reason only of any alleged misrepresentation, mistake, duress, undue influence, impossibility (initial or supervening), illegality, immorality, absence of consensus, lack of authority or other cause relating in substance to the rest of the Agreement and not to this clause. The Parties intend that any such issue shall at all times be and remain subject to arbitration in terms of this clause;

12.1.2 remain in effect even if the Agreement terminates or is cancelled.

### 12.2 Disputes subject to negotiation, mediation and arbitration

Save as may be expressly provided for elsewhere in this Agreement for the resolution of particular disputes, any other dispute arising out of or in connection with this Agreement or the subject matter of this Agreement, including without limitation, any dispute concerning:

12.2.1 the existence of the Agreement apart from this clause;

12.2.2 the interpretation and effect of the Agreement;

12.2.3 the Parties' respective rights or obligations under the Agreement;

12.2.4 the rectification of the Agreement;

12.2.5 the breach, termination or cancellation of the Agreement or any matter arising out of the breach, termination or cancellation;

12.2.6 damages arising in delict, compensation for unjust enrichment or any other Applicable Law, whether or not the rest of the Agreement apart from this clause is valid and enforceable,

shall be resolved by negotiations between the Parties in good faith, falling which within 10 Business Days of any Party in writing requesting that the dispute be resolved by mediation, then the dispute shall be referred to mediation as set out in clause 12.3.

12.3 Mediation. If the Parties are unable to agree on a mediator or to resolve any dispute by way of mediation within 10 Business Days of any Party requesting in writing that the dispute be resolved by mediation, then the dispute shall be submitted to and decided by arbitration as set out in this clause 12.

### 12.4 Appointment of arbitrator.

12.4.1 The Parties shall agree on the arbitrator who shall be an attorney or advocate on the panel of arbitrators of the Arbitration Foundation of Southern Africa (AFSAW). If agreement is not reached within 10 Business Days after any Party calls in writing for such agreement, the arbitrator shall be an attorney or advocate nominated by the Registrar of AFSA for the time being.

12.4.2 The request to nominate an arbitrator shall be in writing outlining the claim and any counterclaim of which the Party concerned is aware and, if desired, suggesting suitable nominees for appointment as arbitrator, and a copy shall be furnished to the other Parties who may, within 5 Business Days, submit written comments on the request to the addressee of the request with a copy to the first Party.

12.5 Venue and period for completion of arbitration. The arbitration shall be held in Johannesburg and the Parties shall endeavour to ensure that it is completed within 90 days after notice requiring the claim to be referred to arbitration is given.

12.6 Arbitration Act – rules. The arbitration shall be governed by the Arbitration Act, 1965, or any replacement Act and shall take place in accordance with the Commercial Arbitration Rules of AFSA.

12.7 Arbitrator may apply equity. The arbitrator need not strictly observe the principles of law and may decide the matters submitted to him according to what he considers equitable in the circumstances.

12.8 Application to court for urgent interim relief. Nothing contained in this clause 12 shall prohibit a Party from approaching any court of competent jurisdiction for urgent interim relief pending determination of the dispute by arbitration.

## 13. Miscellaneous matters

### 13.1 Postal address

13.1.1 Any written notice in connection with this Agreement may be addressed:

13.1.2 in the case of ADS to:

Address: App Developer Studio  
10 5th Avenue  
Parktown North  
Johannesburg 2193



South Africa

Email: rob@appdeveloperstudio.co.za

and marked for the attention of Rob Maclean.

13.1.3 in the case of the Client to:

Address:

Email:

and marked for the attention of :

13.1.4 The notice shall be deemed to have been duly given:

13.1.4.1 5 Business Days after posting, if posted by registered post (airmail, if available) to the Party's address in terms of sub-clause 13.1.1 ;

13.1.4.2 on delivery, if delivered to the Party's physical address in terms of sub-clause 13.1.1 before 1700 on a Business Day, or if delivered on a Business Day but after 1700 on that Business Day or on any day other than a Business Day, it will be deemed to have been given at 08h30 on the first Business Day after it was delivered;

13.1.4.3 on despatch, if sent to the Party's e-mail address before 1700 on a Business Day or if sent on a Business Day but after 1700 on that Business Day, or on any day other than a Business Day, it will be deemed to have been given at 08h30 on the first Business Day after it was sent;

unless the addressor is aware, at the time the notice would otherwise be deemed to have been given, that the notice is unlikely to have been received by the addressee through no act or omission of the addressee.

13.1.5 A Party may change its address or e-mail address for this purpose by notice in writing to the other Party, such change to be effective only on and with effect from the 7<sup>th</sup> Business Day after the giving of such notice.

13.1.6 Notwithstanding anything to the contrary herein contained, a written notice or communication actually received by a Party shall be an adequate written notice or communication to that Party notwithstanding that it was not sent to or delivered at that Party's chosen address in 13.1.

13.2 Address for service of legal documents

13.2.1 The Parties choose the following physical addresses at which documents in legal proceedings in connection with this Agreement may be served (ie their *domicilia citandi et executandi*):

13.2.2 in the case of ADS to:

Address:

App Developer Studio

10 5th Avenue

Parktown North

Johannesburg 2193

Email: rob@appdeveloperstudio.co.za

and marked for the attention of Rob Maclean.

13.2.3 in the case of the Client to:

Address:

Email:

and marked for the attention of:

13.2.4 A Party may change that Party's address for this purpose to another physical address in the Republic of South Africa by notice in writing to the other Party such change to be effective only on and with effect from the 7<sup>th</sup> Business Day after the giving of such notice.

13.2.5 Notwithstanding anything to the contrary herein contained, a written notice or communication actually received by a Party shall be an adequate service of such written notice or communication to that Party notwithstanding that it was not sent to or delivered or served at that Party's chosen *domicilium citandi et executandi*.

### 13.3 Entire contract

This Agreement contains all the provisions agreed on by the Parties with regard to the subject matter of the Agreement and supersedes and novates in its entirety any previous understandings or agreements between the Parties in respect thereof, and the Parties waive the right to rely on any alleged provision not expressly contained in this Agreement.

### 13.4 No stipulation for the benefit of a third person

Save as is expressly provided for in this Agreement, no provision of this Agreement constitutes a stipulation for the benefit of a third person {ie a *stipulatio alten*} which, if accepted by the person, would bind any Party in favour of that person.

### 13.5 Variation, cancellation and waiver

No contract varying, adding to, deleting from or cancelling this Agreement, and no waiver of any right under this Agreement, shall be effective unless reduced to writing and signed by or on behalf of the Parties.

### 13.6 Indulgences

The grant of any indulgence, extension of time or relaxation of any provision by a Party under this Agreement shall not constitute a waiver of any right by the grantor or prevent or adversely affect the exercise by the grantor of any existing or future right of the grantor.

### 13.7 Assignment, cession and delegation

A Party may not assign this Agreement or cede any or all of its rights or delegate any or all of its obligations under this Agreement without the prior written consent of the other Party.

### 13.8 Applicable law

This Agreement is to be governed, interpreted and implemented in accordance with the laws of the Republic of South Africa.

### 13.9 Jurisdiction of South African courts

The Parties consent to the non-exclusive jurisdiction of the North Gauteng High Court of South Africa for any proceedings arising out of or in connection with this agreement.

### 13.10 Costs

Each Party shall bear that its own legal costs and disbursements of and incidental to the negotiation, preparation, settling, signing and implementation of this Agreement.

### 13.11 Signature in counterparts

This Agreement may be executed *in* counterparts, each of which shall be deemed to be an original and which together shall constitute one and the same agreement.

### 13.12 Independent advice

Each of the Parties hereby respectively agrees and acknowledges that:

13.12.1 it has been free to secure independent legal advice as to the nature and effect of each provision of this Agreement and that it has either taken such independent legal advice or has dispensed with the necessity of doing so; and

13.12.2 each provision of this Agreement (and each provision of the Annexes) is fair and reasonable in all the circumstances and is part of the overall intention of the Parties in connection with this Agreement.

### 13.13 Good faith

The Parties shall at all times act in good faith towards each other and shall not bring any of the other Parties into disrepute.

### 13.14 Co-operation

Each of the Parties undertakes at all times to do all such things, perform all such acts and take all such steps, and to procure the doing of all such things, within its power and control, as may be open to it and necessary for and incidental to the putting into effect or maintenance of the terms, conditions and import of this Agreement.

Signed at (place) ..... On (date) .....

Witness

for App Developer Studio

.....

.....

duly authorised and warranted such authority

Position: Managing Director

Signed at (place) ..... On (date) .....

Witness

for

.....

Signature: .....

duly authorised and warranted such authority

Position: .....