

MARKETPLACE SELLER AGREEMENT

0. INTRODUCTION

You, the Seller, acknowledge and agree that by registering for or using the Seller Portal and/or the Makro Marketplace Program, you, as a Seller, expressly agree to be bound by the following terms and conditions. Makro reserves the right to update and amend the Makro Marketplace from time to time at its sole discretion ("Agreement"). Any amendments shall become effective and binding on the Seller as soon as the amendments have been published on the Seller Portal and/or the Makro Site (as applicable) and/or may be communicated by email. This Agreement contains the terms and conditions that govern the Seller's access to, and use of, the Marketplace Program and is an agreement between the Seller and Makro.

1. INTERPRETATION

- 1.1. The provisions of this Agreement shall not be construed or interpreted in a manner which would be to the disadvantage of any Party to this agreement based on the party having drafted or deemed to have drafted such provision. Rules of interpretation which allow for any such interpretation or variation thereof shall not apply to this agreement, and as such all parties to this agreement accept this provision and waive any rights associated with it.
- 1.2. Terms other than those defined within this Agreement will be given their plain English meaning, and those terms, acronyms, and phrases known in the information and communications technology industry shall be interpreted in accordance with their generally accepted meanings.
- 1.3. If any conflict exists between the provisions of this Agreement and any Annexures attached hereto, the provisions of the Annexures contained herein shall prevail.
- 1.4. Any reference in this Agreement to legislation or subordinate legislation is to such legislation or subordinate legislation at the date of signature hereof and as amended and/or re-enacted from time to time.
- 1.5. Any reference to gender contained herein shall be considered to include all genders in neutrality. Reference to person/persons shall be considered to include both natural and juristic persons.

2. DEFINITIONS

Unless the context indicates otherwise, the words and expressions set out below shall bear the following meanings and cognate expressions shall bear corresponding meanings:

- 2.1. "Affiliate" means a wholly owned subsidiary of Massmart Holdings Limited
- 2.2. "Claim" or "Claims" shall mean any and all foreseeable or unforeseeable, alleged or actual actions, causes of action (whether in relation to the law of property, both physical and

intellectual, agreement or strict liability, and whether in law, equity, statutory or otherwise), claims, demands, lawsuits, legal proceedings, administrative or other proceedings or litigation;

- 2.3. "Confidential Information" includes (i) any trade secrets of either Party; (ii) any of the following information of either Party: Information in respect of know-how, processes, systems, business methods, marketing methods, methods of operating, promotional plans, financial models, long term plans, information of a strategic nature and any other similar information; (iii) details of all internal control systems of either Party; (iv) details of the financial structure and operating results of either Party; (v) the contractual and financial arrangements between or among either Party and third parties with whom either Party has business arrangements of whatever nature; (vi) all 'Personal Information' and/or 'Records' (both terms having the meaning ascribed in Chapter 1 of POPI) in the possession of or controlled by a Party; and (vii) all other information of either Party which is not generally known and which, if known, would be advantageous to a competitor of either Party or disadvantageous to either Party, in each case (a) whether oral or recorded in writing or in any other form; (b) whether formally designated as confidential or not; and (c) howsoever known, communicated or retained, but does not include information which (i) is lawfully in the public domain at the time of disclosure; (ii) subsequently and lawfully becomes part of the public domain by publication or otherwise; (iii) subsequently becomes available to a Party from a source other than the other Party, which source is lawfully entitled without any restriction on disclosure to disclose such confidential information; or (iv) is disclosed pursuant to a requirement or request by operation of Law, regulation or court order.
- 2.4. "Content" shall mean all information, content and images, including but not limited to, product information, (i) provided or made available by the Seller or its affiliates to Makro or its Affiliates or Service Providers for use in connection with the Marketplace Program and (ii) otherwise made available by the Seller or its affiliates to customers on the Makro Site.
- 2.5. "Customer" means a Consumer purchasing products through the Makro Site.
- 2.6. "Effective Date" means the date of electronic acceptance of this Agreement by the Seller.
- 2.7. "Intellectual Property Right" means any patent, copyright, trademark, service mark, trade dress (including any proprietary "look and feel"), trade name, logo, moral right, trade secret and any other intellectual property right arising under any Law and all ancillary and related rights, including all rights of registration and renewal and causes of action for violation, misappropriation or infringement of any of the foregoing.
- 2.8. "Law" shall mean any law, ordinance, rule, regulation, order, license, permit, judgment, decision or other requirement, now or hereafter in effect, of any governmental authority of competent jurisdiction, including without limitation the Consumer Protection Act 68 of 2008, the Protection of Personal Information Act and relevant South African National Regulatory of Compulsory Specifications requirements.
- 2.9. "Losses" shall mean any and all damages (including, without limitation, direct, consequential, economic, exemplary, future, incidental, indirect, noneconomic, past, special and punitive), sanctions, settlement payments, disbursements, judgments, liability, losses (including lost income or profit), costs or expenses of any nature whatsoever, whether accrued, absolute,

contingent or otherwise, including, without limitation, attorneys' fees and costs (whether or not suit is brought).

- 2.10. "Makro" means Masstores (Pty) Ltd t/a Makro SA, registration number 1991/006805/07, a private company duly registered in accordance with the Laws of South Africa, and shall include its Affiliates.
- 2.11. "Makro Fulfilled Consignment" means any consignment (initial shipping leg or return) where a waybill is generated in Seller Portal (initial shipping leg only) with an approved Makro courier and within Makro's weight and size restrictions (subject to change) and the seller has agreed to have the consignment fulfilled by Makro/Makro's approved courier partner.
- 2.12. "Makro Peace of Mind Policy" means Makro's then current peace of mind policy which sets out Makro's standard customer satisfaction and returns policy which is available on the Makro Site, and as may be updated and amended from time to time at the sole discretion of Makro.
- 2.13. "Makro Site" means www.makro.co.za and applicable applications where Makro and Makro Marketplace products are made available for sale.
- 2.14. "Marketplace Program" means the Makro Marketplace program.
- 2.15. "Marketplace Policy" means the Marketplace policy that governs Seller's use of Customer information obtained in connection with the Marketplace Program, and as may be published on the Makro Site and/or Seller Portal from time to time.
- 2.16. "On-Time Shipping Standard" means the time specified for each order to be processed and delivered as detailed in Appendix B attached hereto.
- 2.17. "Orders" means orders placed by a customer through the Makro Site for the purchase of products.
- 2.18. "Party" means, individually, Makro or the Seller as the context requires and, together as Parties.
- 2.19. "Payment Card" shall mean a debit, credit type card or a multi-partner rewards program used for financial transactions.
- 2.20. "Payment Card Data" means any information located on a Payment Card, such as, but not limited to, debit or credit card number, expiration date, pin number, cardholder name, cardholder address or data associated with multi-partner reward programs.
- 2.21. "PII" means any information that can be used to identify an individual and/or information that constitutes personal identifiable information.
- 2.22. "Products" means the products that the Seller desires to sell on the Makro Site, and approved by Makro, and as reflected on the Seller Portal.
- 2.23. "Product Information" means the product information that Makro requires.

- 2.24. "Referral Fee" means the commission that Makro will retain from each sale of the Seller's Products made through the Marko Site.
- 2.25. "Referral Fee Percentage" means the commission, calculated as a percentage of Sales Proceeds excluding VAT; Referral Fee Percentages vary depending on the assigned product category.
- 2.26. "Sales Proceeds" means the gross sales proceeds from the sale of the Products, including VAT and excluding shipping.
- 2.27. "Seller" means third party vendors, distributors, wholesalers, retailers and any other incorporated company wanting to sell approved product through the Makro site, and who have registered on the Seller Portal and have agreed to the terms of this Agreement.
- 2.28. "Seller Customer Information" shall mean customer information in the Seller's possession that was not received from Makro as Transaction Information or in any other manner and was not obtained or received by Seller in connection with this Agreement or Seller's rights and obligations under this Agreement.
- 2.29. "Seller Fulfilled Consignment" means any consignment (initial shipping leg and return) which the seller has agreed to fulfil or any consignment which exceeds Makro's weight and size restrictions (subject to change).
- 2.30. "Seller Portal" shall mean the web based tool or other web services or interfaces, provided by Makro and/or a Service Provider that Sellers can use to manage its settings, Content and other information related to the Marketplace Program, and including all associated product listing requirements;
- 2.31. "Seller Marks" means Seller's name, trademarks, service marks and logos.
- 2.32. "Seller Share" shall mean the Sale Proceeds collected from the sale of the Sellers Products less the Referral Fee earned by Makro for such Products.
- 2.33. "Seller Site" means any website and applicable applications, other than the Makro Site, where a seller displays any information related to the Seller or its products or makes products available for sale.
- 2.34. "Service Provider" means a third party that provides management software and services for the Marketplace Program.
- 2.35. "Service Level Agreement" means the service level agreement or SLA that Sellers will be required to adhere to in order to provide the required service levels to and on behalf of Makro as set forth in Appendix B attached hereto.
- 2.36. "Transaction Information" means the Customer's Order information, including but not limited to the Customer's name, email address, contact number and shipping address.

2.37. "Work Day" shall mean Monday to Friday 8am to 5pm excluding weekends and public holidays.

3. THIRD PARTY SERVICE PROVIDERS

The Seller acknowledges and agrees that:

- 3.1. Makro may contract a Service Provider to provide management software and services for the Marketplace Program; and
- 3.2. The Seller may provide Content to Makro using the software and/or services of a Service Provider.

4. LICENSE OF SELLER'S CONTENT

4.1. License for Content

The Seller hereby grants Makro, its Affiliates, service providers and marketing partners, a nonexclusive, royalty-free, irrevocable right and license to publish, use, reproduce, distribute, transmit, display, the works of and otherwise commercially exploit all Content in connection with the sale of products through the Makro Site and for the listing, advertising, marketing and promotion of such products or the Marketplace Program, including without limitation, through the Makro Site, third party websites, e-mail, social media or any other medium. The Seller agrees that Makro may permit users of the Makro Site to share and post Content on their own social media outlets.

4.2. License for Marks

The Seller hereby grants Makro, its Affiliates, service providers and marketing partners a non-exclusive, royalty-free, non-transferable license to publish, use, reproduce, distribute, transmit and display the Seller's Marks during the term in connection with the Marketplace Program.

5. PRODUCT INFORMATION AND OTHER CONTENT

Information for Products

- 5.1. The Seller will use the Seller Portal to list all the required Content, Pricing and Available Inventory per unique product. The Seller shall adhere to the minimum requirements as set out on the Marketplace Seller Portal and this Agreement. In addition the Seller will:
 - 5.1.1. Use commercially reasonable efforts to ensure the Seller Portal always has an accurate, error-free available inventory count per product listed on the Seller Portal.
 - 5.1.2. at least daily update the Seller Portal with an error-free updated inventory feed for only those Products where inventory levels have changed since the last inventory feed provided for such Product;
 - 5.1.3. Provide Makro through the Seller Portal with a daily inventory feed for all Products;

- 5.1.4. Provide Makro with all Content requested by Makro, including, without limitation, the Product information as set forth in the Seller Portal;
 - 5.1.5. Only provide Content for Products that fit into the categories or parameters as set forth in the Seller Portal.
- 5.2. The Seller will be held solely responsible for the accuracy of its Pricing, available Inventory and all Content for Products and will be obliged to honour any order placed by a Customer through the Makro Site as a result of the Content provided. Failure by the Seller to honour the applicable order shall be considered a material breach of this Agreement.
- 5.3. Excluded Products
The Seller will be restricted from selling any products as set forth in Appendix A AND for products already listed by Makro for sale in its physical stores or still listed within Makro's own ERP system. If the Seller is restricted from selling certain Products on the Makro Site due to supplier brand restrictions, or if the Seller is not an authorized reseller for any Product, the Seller will withhold such Products from the assortment it provides Makro. Provided that if the Seller removes a Product from the Makro Site due to brand restrictions or because the Seller is not an authorized reseller it will promptly notify Makro in writing of such removal. Upon Makro's request, the Seller will provide Makro with a list of all Products withheld from the Marketplace Program (including why such Product is being withheld).
- 5.4. Changes to Content
Makro will make commercially reasonable efforts to post updated Content provided by Sellers on a daily basis through its standard transmission process; provided that the Seller acknowledges that Makro will impose freezes on Content updates from time to time in connection with releases on the Makro and Seller Site.

6. PRODUCT AUTHENTICITY AND SAFETY

- 6.1. Authenticity/Authorization
The Seller will receive all Products sold through the Marketplace Program directly from the brand owner or from an authorized supplier of the brand owner, and the Seller must be an authorized reseller of the Products. The Seller shall ensure and maintain adequate processes and procedures for conducting diligence to guarantee that Products are authentic, authorized for sale, and not stolen, counterfeit, illegal or misbranded. At all times, the Seller will have available for Makro's inspection:
- 6.1.1. Certificates of authenticity (or similar documentation) for Products; and
 - 6.1.2. Documentation (e.g. email verifications from the brand owner or supplier) showing that the Seller is permitted to sell specific brands or Products through the Makro Site and within the Republic of South Africa.
 - 6.1.3. The requisite documentation shall be uploaded onto the Seller Portal at the time of listing the item and before the item is made active for the first time in the Seller Portal. Should the requisite documentation not be loaded onto the Seller Portal at the time of listing, Makro shall be fully entitled to reject the item in Seller Portal with no further notice to the Seller.

6.2. Safety, Testing and Certification

The Seller will comply with, and ensure that all Products comply with, all product safety testing and certification requirements under the applicable Law, and all other Law. The relevant safety compliance documentation shall be uploaded onto the Seller Portal before the item is made active for the first time by the seller. The seller hereby indemnifies Makro in respect of the products listed by the seller and sold on Makro Marketplace against any loss and/or damages that may be suffered as a result of Makro selling the Products online.

7. FEES AND PAYMENTS

Referral Fees

- 7.1. Makro will earn a Referral Fee equal to a percentage of Sales Proceeds from each sale of the Seller's Products through the Makro Site. The Referral Fee Percentages for the Seller's Products are specific to each Makro category and are listed in the Seller Portal. The Referral Fee Percentages are subject to change at any time, without prior notice to the Seller, and shall be effective as soon as the changes are reflected on the Seller Portal (and the seller has been notified thereof).

Payment

- 7.2. An Order is deemed complete only once:
- 7.2.1.1. The Product has been delivered with a proof of delivery signed by the customer; and
 - 7.2.1.2. The returns and/or cancellation period stipulated in the Makro Peace of Mind Policy has expired ("Deemed Completion").
- 7.3. Makro will make payment of the Seller Share for Orders that meet the Deemed Completion criteria on two set days of each month, namely the 15th and 30th of each month. When these dates do not fall on business days, payment will be made on the next business day after such a date.
- 7.4. For the sake of clarity, Orders that meet the Deemed Completion criteria on or before the 14th of a month will be paid on the last day of that month. Orders that meet the Deemed Completion criteria after the 15th of a month (but before the last day of that month) will be paid on or before the 15th day of the following month.
- 7.5. At Makro's option, all payments to the Seller's bank account will be made by means of electronic funds transfer or similar method. If Makro concludes that the Seller's actions and/or performance in connection with this Agreement may result in customer disputes, seller suspension or delisting, chargebacks or other claims, then Makro may, in its sole discretion, delay initiating any remittances and withhold any payments to be made or that are otherwise due to the Seller under this Agreement for the shorter of:
- 7.5.1. A period of ninety (90) days following the initial date of suspension or delisting; or
 - 7.5.2. Completion of any investigation(s) regarding the Seller's actions and/or performance in connection with this Agreement.
- 7.6. The Parties agree that the Seller will be paid net of any Customer claims for delivery or refunds, delivery of returned items and re-delivery of replacement or repaired products due to seller negligence.

- 7.7. Should Makro be obliged to compensate a Customer for any damage or losses that the Customer may have suffered due to errors/omissions/negligence of the Seller, Makro shall be entitled to deduct all losses as a result of compensation offered to the customer to remedy Seller errors.
- 7.8. Makro will only be responsible for the initial outbound fulfilment and payment of courier fees for Makro Fulfilled Consignments. Where a waybill is not generated in seller portal or for Seller Fulfilled Consignments, the seller is responsible for the fulfilment of the consignment, at the seller's expense, and fulfilment must be in line with Makro's On-Time Shipping Standard as detailed in Appendix B. The delivery fee as paid by the customer to Makro, will be paid by Makro to the seller. Makro reserves the right to run delivery fee promotions including, but not limited to, free delivery for customers. In this case no delivery fee will be paid to the seller for Seller Fulfilled Consignments. The seller will be given due notice of Makro's intention to run such promotions and have the option to remove items for the period of the promotion.
- 7.9. The Parties agree that when a Customer Product return from an initial Makro Fulfilled Consignment is confirmed to have been faulty, incorrect, expired or incomplete (any return reason apart from Makro's 14-day policy or confirmed and accepted courier damage to an order), the Seller shall be liable for the actual return delivery fee to the Seller. If the Customer is refunded with the initial delivery fee as paid by the customer, the Seller will also be liable for said initial delivery fee at the actual delivery fee cost as charged by the courier. If the Customer Product return results in the delivery of a repaired or replacement product/s, then the Seller shall be liable to pay the subsequent actual outbound delivery fee. Sellers will be paid net of these delivery fee charges. Delivery fees will be charged to the seller at actual delivery fees as charged by the Makro appointed courier partner. Makro will be liable for the return and replacement delivery fee only for items returned from an initial Makro Fulfilled Consignment under the 14 day policy or confirmed and accepted courier damage to an order. The return or sending of replacements for faulty, incorrect, expired, incomplete or courier damaged items for Seller Fulfilled Consignments must be facilitated by the seller at the seller's expense and performance must be in line with Makro's On-Time Shipping Standard as detailed in Appendix B. If the customer chooses to be refunded with delivery fee, the delivery fee as paid by the customer and paid on by Makro to the Seller will be claimed back from the seller. Makro will only be liable to facilitate, at Makro's expense, the return of items from an initial Seller Fulfilled Consignment returned under the 14 day policy.

8. PURCHASE/ORDER PROCESSING, FULFILLMENT AND SHIPPING

8.1. Orders Status Update

- 8.1.1. Customers purchasing Products through the Makro Site will place Orders using the Makro Site checkout and payment gateway. Makro will collect all proceeds from such transactions. Makro will make available on the Seller Portal all the Transaction Information that Makro determines the Seller needs in order to fulfil each Order. Makro will send an email message to each Customer confirming receipt of an Order.
- 8.1.2. Sellers need to manage all Orders via the Seller Portal. The Seller Portal requires sellers to update the Order status for the duration of the Order and delivery process.
- 8.1.3. Sellers will only receive Orders that have been paid for in full and accepted by Makro.

- 8.1.4. The Seller is obligated to update the Order status to "Accepted" (which means a confirmation by the Seller that it has stock or will be receiving stock), via the Seller Portal within 4 (four) working hours of receiving an Order. If the seller does not have stock, then a note to this effect should be left on the order in seller portal within 4 working hours of receiving the order and prior to accepting the order.
- 8.1.5. The Seller is obligated to update the Order status to "Ready for Collection" (which means the Order is picked, packed and ready for collection by the courier), via the Seller Portal within 18 working hours of receiving an Order.
- 8.1.6. The Seller is welcome to make use of Makro's approved courier partners for Makro Fulfilled Consignments. All Seller Fulfilled Consignments must be fulfilled by the seller at the seller's expense and line with Makro's On-Time Shipping Standard as detailed in Appendix B. The delivery fee as recovered from the customer (should the customer make a payment for delivery) will be paid to the seller. Should the Seller wish to utilise the services of another courier for usual Makro Fulfilled consignments, the Seller shall require the written prior approval of Makro.
- 8.1.7. For Seller Fulfilled Consignments, where the Seller is making use of a courier who does not have integrations to Seller Portal for automated status updates, the Seller is obligated to update the Order status to "Ready for collection" when a waybill has been created for the consignment; to "Out with Courier" when the consignment has been handed to the courier for delivery; and "Completed" when the item has been delivered to the customer, This must be actioned via the Seller Portal within 1 (one) working hour of the above events. When updating status to "Ready for Collection", the seller must leave a note on the order in seller portal advising of the courier to be used for delivery as well as the waybill number and details as to where the waybill number can be tracked. When updating status to "Completed", the seller must leave a note on the order in MSP detailing the recipient and date/time of delivery. For Seller Fulfilled Consignments, sellers are obliged to have the items delivered to the customer within Makro's On-Time Shipping Standard (subject to change).

8.2. Risk of Fraud, Loss, and Cancellation

- 8.2.1. Makro will bear the risk of credit card fraud occurring in connection with any Order.
- 8.2.2. The Seller shall bear the full risk in and to any valid cancellation of an Order by a Customer, and expressly acknowledges that Customer's may have additional rights against the Seller as a result of the terms and conditions contained on the Makro Site (if any).
- 8.2.3. For suitably packaged and labelled Makro Fulfilled Consignments, damaged or lost in transit, Makro will compensate the seller for the selling price less the commission due to Makro. Makro will not compensate sellers where Makro and the courier believe that the damage is as a result of insufficient packaging or labelling or where the seller is using a Makro approved courier to fulfil what should be a Seller Fulfilled Consignment.
- 8.2.4. Sellers are required to inform Makro of their intention to claim for a damaged item within 2 working days of receiving the return for that damaged item by leaving a note on the order in MSP. Sellers may be required to supply images of the damaged item where requested by Makro. Makro will then review the claim and advise as to whether or not the damage is as a result of courier negligence, manufacturer error or insufficient packaging and labelling. Where approved, sellers are required to invoice Marketplace Solutions within 30 days of claim approval by Makro.
- 8.2.5. It is recommended that items are not dispatched in original packaging only. Sellers should wrap the original packaging (plastic or paper wrap) before applying the waybill to

the item as items may be returned back to the seller after dispatch or under the 14-day policy. Makro will not be held responsible should a returned item not be fit for resale where the item was dispatched in original packaging only with waybill/stickers etc placed on to the packaging by the seller.

- 8.2.6. Sellers are responsible for obtaining proof of collection for Makro fulfilled consignments. It is recommended that sellers get the courier driver to sign, name and date a copy of the relevant waybill. Alternatively, sellers can generate their own manifests which clearly show the orders/waybills collected and this can be signed by the courier driver. Should a dispute arise regarding collection, the seller will be required to supply this proof of collection to Makro. If the seller cannot supply proof of collection, no compensation will be offered to the seller and the seller will be liable to dispatch a replacement to the customer (if requested) at the seller's expense.
- 8.2.7. Should an item be lost or damaged in transit, and the customer requests a replacement, the Seller is obliged to dispatch a replacement to the customer within 9 working hours of receiving notification from Makro to dispatch the replacement, irrespective of any pending claims.

8.3. Fulfilment of Orders

- 8.3.1. Once Makro has transmitted an Order to Seller Portal, Seller will, at its own expense, be solely responsible for, and bear all liability for, processing and updating all relevant statuses on the Seller Portal, including the accurate picking and packing of all applicable orders, including without limitation, any ad hoc customer service requests from Makro.
- 8.3.2. If the Seller cannot fulfil the entire quantity of a purchase order line in an Order, then the Seller will prior to acceptance of the order and within 4 (four) working hours of receiving an Order, leave a note on the order in Seller Portal to advise of the pick exception or cancellation. Makro will contact the Customer and advise the Seller as to how the Customer wishes to proceed. Orders will be updated accordingly where requested by the Customer.
- 8.3.3. If the Seller cannot pick and pack an order and update status to "Ready for Collection" within 18 working hours but stock is expected, then the Seller must update status to "Accepted" within 4 (four) working hours of receiving an Order and leave a note on the order in Seller Portal to advise of the order delay. Makro will contact the Customer and advise the Seller as to how the Customer wishes to proceed. Orders will be updated accordingly where requested by the Customer.
- 8.3.4. All orders must be processed within Seller Portal using the order information as contained in Seller Portal. Makro will not conduct any additional tasks or activities related to order processing, including but not limited to, the issuing of purchase orders, invoices or credit notes to sellers.
- 8.3.5. All packaging material needs to comply with the minimum packaging standards as set out in the Seller Portal. Under no circumstances should packaged Orders contain any Seller marketing or other materials that are not included as standard with regard to the specific Product being sold.

8.4. Timing of Order transmission

- 8.4.1. The Makro Site will accept multiple different payment methods from Customers. The Seller acknowledges that not all payment methods are processed by the relevant merchant bank within the same day in which they were received, and as such the Seller will only receive notification of an Order after Makro has received notification of payment for said Order.

- 8.4.2. The Seller accepts that it shall be obliged to honour all Orders based on the price and availability available on the Seller Portal as of the date of Order, notwithstanding that the Seller may have only been notified of the Order after the actual date of Order.
- 8.4.3. Makro will use all reasonable and commercially viable means to endeavour to keep such delays to a minimum.

8.5. Preferred Shipping Method for Makro Fulfilled Consignments

- 8.5.1. Makro undertakes to complete the initial shipping leg of an Order on the Sellers behalf for Makro Fulfilled Consignments. Makro will make use of approved couriers to collect and distribute these Seller Orders.
- 8.5.2. For Makro Fulfilled Consignments, the Seller is obligated to use the “shipping” function prescribed in the Seller Portal and complete the picking, packing, and waybill creation functions in order for the “Ready for Collection” status to be achieved.
- 8.5.3. Sellers are obligated to make available all facilities as are necessary in order for Makro approved couriers to collect packaged Orders from a single Seller warehouse or collection point. The Seller accepts that it shall be liable for any delays and/or Losses that may be suffered by Makro as a result of the Seller’s failure in this regard.
- 8.5.4. All consignments collected by Makro-appointed couriers will be collected on the waybill number as per the waybill generated in Seller Portal. Makro will not engage with sellers for unique reference or collection numbers required by the seller to facilitate handover at collection.

8.6. Alternative Shipping Method for Seller Fulfilled Consignments

- 8.6.1. Sellers are obliged to facilitate their own initial shipping leg and returns (for faulty, incorrect, expired, incomplete or courier damaged items) for Seller Fulfilled Consignments.
- 8.6.2. Subject to obtaining written prior approval from Makro, the Seller may elect to handle its own shipping requirements as an alternative to 8.5 above for usual Makro Fulfilled Consignments, and should the Seller select this option, the provisions of this clause 8.6 will apply.
- 8.6.3. The Seller will be responsible for shipping all Products purchased by Customers in accordance with Makro’s standard shipping practices. The Seller will be responsible for all shipping charges and for any costs or charges related to shipping-related problems, including without limitation, damaged or lost Products, late shipments or erroneous delivery.

8.7. Shipping Terms (Applicable to both Preferred and Alternative Shipping Methods)

- 8.7.1. The Seller will ship each Product within the On-Time Shipping Standard - 18 working hours after receipt of the Transaction Information from Makro. If the Seller cannot meet the On-Time Ship Standard for any Product, it will provide Makro Marketplace with notification of such delay using the notes functionality on the order in Seller Portal within 4 working hours of receiving the order.
- 8.7.2. The Seller will be fully liable for any fines, costs or expenses incurred by or reasonable gestures of goodwill offered to customers by Makro or by a third party resulting from any failure to satisfy the On-Time Ship Standard for any Product. The Seller will indemnify and hold harmless Makro and its Affiliates and their officers, directors, employees and agents for any losses, liabilities, fines, costs or expenses (including costs on an attorney and own client basis) resulting from such failure. The Seller will be solely liable for all

costs related to any duplicate or inaccurate shipments based upon Seller's acts or omissions.

- 8.7.3. Makro will provide the Seller with information on the status of Orders through the Seller Portal. The Seller will be solely responsible for reviewing and monitoring such information. Within 4 (four) working hours of receipt of the information, the Seller shall provide Makro with written notice of any discrepancies between the information provided and the Seller's fulfilment of any Orders. The Seller is solely responsible for monitoring and responding to information provided by Makro pursuant to this Agreement.

9. CANCELLATIONS, RETURNS AND REFUNDS

9.1. Responsibilities

- 9.1.1. Makro shall process all Customer requests for cancellations, returns, refunds and/or customer service price adjustments. Seller will stop and/or cancel any Order if requested by Makro. For Makro Fulfilled Consignments, where an Order is cancelled whilst already out for delivery, Makro will notify the courier to return to Seller and will notify the seller of this return. For Makro Fulfilled Consignments which are "Ready for Collection", Makro will cancel the collection with the courier and notify the seller of the cancellation. If the seller still dispatches this cancelled order, Makro will not be liable for any loss as a result of the delivery of an item to and non-recovery of the item from the customer. For Seller Fulfilled Consignments, it will be the Seller's responsibility to ensure that the cancelled items/s are returned back to the Seller or not dispatched. Only when an order status is "Ready for Collection" or "Out with Courier" will Makro notify the seller of a cancellation related to a Seller Fulfilled Consignment. Makro will wait for confirmation from the seller that the consignment has not been dispatched or delivered before actioning the cancellation. For order statuses prior to "Ready for Collection", Makro will not notify the seller prior to cancellation as it is assumed that no waybill/collection has been booked with a courier. Makro will not be liable should the item already have been dispatched or be dispatched and the seller has not updated line order statuses in Seller Portal.
- 9.1.2. The Seller expressly acknowledges and agrees that it shall at all times be bound by, and agrees to adhere to, the terms and conditions of the Makro Peace of Mind Policy as may be updated and amended from time to time at the sole discretion of Makro.

9.2. Refunds and Returns

- 9.2.1. Makro retains the right to accept or reject all refund, return, and exchange requests by Customers. Makro will process all refunds, returns, and exchanges immediately upon confirmation from the Seller, which confirmation shall be provided by the Seller within 9 working (nine) hours from receipt of a request from Makro or 18 working hours from receipt of a returned product for assessment, failing which the Seller will be deemed to have provided its confirmation. Sellers have 18 working hours to assess a return and provide feedback via notes on the order in Seller Portal. If the seller is disputing a return, this feedback must be left as a note on the order. Makro will then review in line with the Makro Peace of Mind Policy and the Consumer Protection Act and either approve or reject the return through consultation with the seller. Where the customer has requested

a refund, Makro will approve as a refund 18 working hours after receipt of the return by the seller should no feedback be supplied by the seller. In the case of a product repair, 18 working hours after receipt of a return by the seller, the seller needs to advise regarding the date upon which the item will be repaired and ready for dispatch back to the customer. Where the customer has requested a replacement, the seller needs to make a replacement ready for collection on the third working day following the receipt of the return.

- 9.2.2. In the case where a Seller has dispatched an incorrect or incomplete product/Order and the Customer wishes to return for a refund, Makro reserves the right to approve the return as a refund in the Seller portal as soon as the return is collected by the courier provided Makro has adequate proof of the incorrect/incomplete product/Order. In the case where a Seller has dispatched an incorrect or incomplete product/Order and the Customer wishes to return for a replacement, the Seller is obliged to dispatch the correct or complete product within 9 (nine) working hours of confirmation to the Seller that the return has been collected by the courier. In the case where the Seller utilises its own courier, the Seller must inform Makro of the tracking reference within 1 (one) working hour of collection by leaving a note with all the information on the order in Seller Portal.
- 9.2.3. Where the seller is facilitating the return of a Seller Fulfilled Consignment, Makro will confirm the customer's desired collection address, date and time with the seller. The seller has 4 working hours from this notification to book the collection and confirm the courier and waybill number to be used to collect by leaving a note on the order in Seller Portal. Furthermore, the seller must leave a note on the order within 4 working hours of the item being collected from the customer and delivered back to the seller advising Makro as such. Sellers have 18 working hours to assess a return once delivered back to the seller and provide feedback via notes on the order in Seller Portal. If the seller is disputing a return, this feedback must be left as a note on the order. Makro will then review in line with the Makro Peace of Mind Policy and the Consumer Protection Act and either approve or reject the return through consultation with the seller. Where the customer has requested a refund, Makro will approve as a refund 18 working hours after receipt of the return by the seller should no feedback be supplied by the seller. In the case of a product repair, 18 working hours after receipt of a return by the seller, the seller needs to advise regarding the date upon which the item will be repaired and dispatched back to the customer. Where the customer has requested a replacement, the seller needs to dispatch a replacement on the third working day following the receipt of the return. The seller must confirm, within 4 working hours, the courier and waybill number to be used to dispatch the replacement or repaired item.
- 9.2.4. Should a seller want the opportunity to contact the customer to do troubleshooting prior to collecting the item, the seller must send an email to sellers@makro.co.za requesting once-off permission to do so. Sellers receive email notification when a return is logged. Approved sellers are afforded 2 working hours from the return email notification to contact the customer. Once the customer has been contacted, the seller is to leave feedback on the order in Seller Portal advising whether or not the order should still be collected or if the issue has been resolved with the customer. If no feedback is left as a note on the order in Seller Portal, Makro will continue to book collection from the customer and return back to the seller.
- 9.2.5. Refunds, returns, and exchanges will be determined in accordance with the Makro Peace of Mind Policy. The Seller will be responsible for all exchanges and replacements, where applicable.

- 9.2.6. A Customer may return or cancel any Order for a Product sold through the Makro Site at any time within, and in accordance with, the Makro Peace of Mind Policy and the Consumer Protection Act, whichever is the longer. The Seller is obligated to accept any return or cancellation that meets the return policy as stipulated in the Makro Peace of Mind Policy or relevant legislation. Makro will use all reasonable and commercially viable means to endeavour to keep such returns and cancellations to a minimum.
- 9.2.7. The Seller will be responsible for all applicable reverse logistics costs incurred (for faulty, incorrect, expired, incomplete or Seller Fulfilled courier damaged items) in ensuring that the Product is collected from the Customer and returned back to the Seller. This is irrespective of whether it is a Makro or Seller Fulfilled Consignment.
- 9.2.8. The Seller acknowledges that a return in terms of the Makro Peace of Mind Policy, manufacturer warranty policy or relevant legislation shall be deemed to have complied with the Makro Peace of Mind Policy, manufacturer warranty policy or relevant legislation if the Customer returns the Product to a Makro physical store or logs a case with Makro's National Call Centre within the stipulated period. This will apply notwithstanding the fact that the Seller may only receive notice or the actual Products at a time after expiration of the applicable period.
- 9.2.9. The ultimate decision on whether or not to refund a Customer will always lie with Makro.
- 9.2.10. Sellers are obligated to facilitate all warranty claims in accordance with the provisions of the Consumer Protection Act 68 of 2008 and its relevant regulations claimed by the Customer, or within the warranty period provided by the applicable Original Equipment Manufacturer and attached to the Product.
- 9.2.11. Barring the information given above, all refunds and returns of Products purchased through use of the Makro Marketplace shall be governed in terms of the Consumer Protection Act 68 of 2008 and its relevant regulations.

10. PARITY WITH SELLER OTHER SALES CHANNELS

- 10.1. Customer service as offered by Sellers for the Products must be at least as responsive and available and offer at least the same level of support as the most favourable customer service offered in connection with the Seller Site, other marketplaces, retail or wholesale sites.
- 10.2. The Content provided by the Seller to Makro for the Makro Site:
 - 10.2.1.1. Must be at least the same level of quality as the highest quality information displayed or used on the Seller Site, other marketplaces, retail or wholesale sites;
and
 - 10.2.1.2. Provide users of the Makro Site with at least as much product information, images and other content as the information provided on the Seller Site, other marketplaces, retail or wholesale sites.
- 10.3 Failure to comply with the provisions of this clause 10 shall be considered a material breach of this Agreement and Makro shall be entitled to summarily terminate in accordance with clause 22.5

11. RECALLS AND DEFECTS

The Seller is solely responsible for any non-conformity or defect in, or any public or private recall of Seller's Products as is governed in terms of the Consumer Protection Act. Makro will have no responsibility or liability for any recalls of Products sold through the Makro Site. If Products are

subject to a recall, the Seller is responsible for all matters, costs and expenses associated with such recall, including without limitation, notices and refunds to Customers, contact and reporting of the recall to any governmental agency having jurisdiction over the affected Products, and compliance with all applicable Law with respect to such recall. The Seller will promptly remove any recalled Products from the Makro Site by un-publishing or retiring the Product through the Seller Portal. The Seller will notify Makro by e-mail at sellers@makro.co.za of all Product recalls within 24 hours of becoming aware of the recall. The Seller will promptly provide Makro with all information reasonably requested in connection with the recall of any Product.

12. CONTACT WITH CUSTOMERS AND CUSTOMER SERVICE ESCALATION

Customer Service

- 12.1. Makro will be responsible for providing all customer support for Customers.
- 12.2. Where Makro is unable to resolve a Customer support query, Makro will escalate the support query to the Seller for additional support and resolution.
- 12.3. The Seller will always represent itself as a separate entity from Makro when providing customer service for its Products sold through the Makro Site.
- 12.4. For the sake of clarity, the Seller shall not be entitled to contact the Customer directly under any circumstances without having first obtained Makro prior written consent by sending an email request to sellers@makro.co.za.
- 12.5. Neither Party will disparage the other party or its affiliates or their products or services when performing obligations under this Agreement.

13. DISPUTES BETWEEN MAKRO AND SELLERS

- 13.1. Where the seller deals directly with the customer and Makro receives a formal complaint from the customer regarding the service offered by the seller, Makro will investigate the complaint and issue the seller with a written warning where the seller has offered poor service to the customer. Upon the issuing of a third warning, Makro will exercise its right to remove the seller and its products from Makro Marketplace.
- 13.2. Rude or disrespectful behaviour towards Makro staff will not be tolerated. Where this occurs, Makro will issue the seller with a written warning. Upon issuing of a third warning, Makro will exercise its right to remove the seller and its products from Makro Marketplace.

14. SELLER SYSTEMS AND SERVICE LEVELS

- 14.1. Seller shall be solely responsible for the adequate maintenance and up-time of all Seller systems that are necessary for the Seller to fulfil Orders and meet its obligations of this Agreement.
- 14.2. The Seller shall notify Makro within 1 (one) business hour by emailing sellers@makro.co.za, of any down-time or related system issues, that may or will have an impact on the Sellers ability to fulfil Orders or otherwise meet its obligations in terms of this Agreement.

- 14.3. The Seller will comply with any service levels prescribed by Makro or third party service providers from time to time, in connection with the Seller's systems that, directly or indirectly, impacts Marketplace systems or the Marketplace Program; and
- 14.4. The Seller shall at all times comply with the Order and Customer Service Level Agreement, attached hereto as APPENDIX B.

15. REPORTING AND AUDITS

15.1. Reporting

The Seller will, within a reasonable period of time, not exceeding thirty (30) days, following request from Makro, make commercially reasonable efforts to provide Makro with any reports, information or other documentation relating to the Seller's compliance with this Agreement and applicable Law reasonably requested by Makro; provided, however, that in the event Makro requests that the Seller provide Makro with copies of reports that the Seller was required to file with any regulatory agency, the Seller will provide such reports within seven (7) days of Makro's written request.

15.2. Audit Rights

The Seller will keep accurate and complete books, records and accounts related to Marketplace Program transactions and this Agreement, and will allow Makro, or its duly authorised representative, the right, upon not less than five (5) business days prior written notice, during the Term of this Agreement and for two (2) years after its termination or expiration, to conduct, during regular business hours, full and independent audits and investigations of all information, books, records and accounts reasonably required by Makro to confirm the Seller's compliance with the terms of this Agreement and applicable Law.

15.3. Certifications

Upon Makro request, the Seller will provide Makro with written certification from an officer of the Seller stating that the Seller has complied with any of the Seller's obligations under this Agreement, including, for example and without limitation, compliance with SLAs, consumer product safety laws, authenticity of Products, or restrictions on use of Transaction Information.

16. REPRESENTATIONS AND WARRANTIES

Each Party hereby represents and warrants to the other Party the following:

16.1. Authority

The Party is a duly organized, validly existing and in good standing under the laws of the Republic of South Africa and the Party has full power and authority to execute and deliver this Agreement and to perform its obligations hereunder without any further ratification or approval. This Agreement constitutes the legal, valid and binding obligations of the Party.

16.2. No Conflicts

Neither, the execution and delivery of this Agreement by the Party nor the consummation of the transactions contemplated hereby will violate or conflict with any obligation, contract or

license of such Party which could reasonably be expected to interfere with the consummation of the transactions contemplated hereby.

The Seller hereby represents and warrants to Makro the following:

16.3. Power and Authority

The Seller has the right, power and authority to grant the rights and licenses hereunder free and clear of any claims, liens and encumbrances and to sell the Products.

16.4. Compliance with Laws

The Seller and all of its employees, subcontractors, agents and suppliers will comply with all applicable Law, as may be amended from time to time, in performing any of its obligations or exercising any of its rights under or related to this Agreement. All Products (including all packaging) and Content will comply with applicable Law and Regulations. The production, manufacturing, offer, sale, shipping and delivery of all Products will comply with all applicable Law. Products will not be produced or manufactured by child labour or convict or forced labour.

16.5. Principal Place of Business

The Seller's principal place of business is in South Africa and the Seller will not conduct any operations relating to this Agreement from outside South Africa.

16.6. Content

All Content will be truthful and accurate. Content will not:

16.6.1. be misleading or deceptive

16.6.2. be defamatory, libellous, threatening or harassing;

16.6.3. infringe upon or violate any Intellectual Property Rights or other right of any third party;

16.6.4. promote or depict gratuitous violence, the use of alcohol, tobacco or illegal substances or adult-oriented content; or

16.6.5. reflect unfavourably on Makro, its Affiliates, or the Makro Site or be the type of content that could otherwise reasonably adversely impact or damage the reputation or public image of Makro or its Affiliates. The Seller will not use the Content to redirect Makro Customers to any other sales channels.

16.7. Products

The Seller will only offer Products for sale on the Makro Site that may be sold and shipped throughout South Africa. The Seller will not offer for sale any Products through the Makro Site that Makro indicates as prohibited, including without limitation, the Prohibited Products attached hereto as Appendix A. The list of Prohibited Products may be updated by Makro from time to time and Makro will notify the Seller of such updates by email and/or through the Seller Portal.

16.8. Personnel

All Seller personnel will be properly registered, documented, licensed and/or certified in accordance with applicable Law.

16.9. Ongoing Warranties

Except as otherwise expressly provided herein, the representations and warranties made in

this Agreement are continuous in nature and will be deemed to have been given by the Seller at the execution of this Agreement and each stage of performance of this Agreement.

17. CONTROL OF MAKRO SITE

17.1. Makro has the sole right to determine the content, appearance, design, functionality and all other aspects of the Makro Site, including, without limitation, all content provided in connection with the sale of Products sold by the Seller through the Makro Site. Makro intends to use one set of content for each item sold through the Makro Site. Makro may suspend any Product listing or display of Content or refuse to list any Products in its sole discretion and Makro may require the Seller to exclude any Products from the Makro Site. If Makro requests that the Seller remove Products from the Makro Site, the Seller will make commercially reasonable efforts to remove those Products by un-publishing or retiring such Products through the Seller Portal within twenty-four (24) hours of such request so such Products no longer appear for sale on the Makro Site and the Seller will not include such removed Products on the Makro Site at any time unless the inclusion of such Products is specifically authorised by Makro in writing. Makro will have sole control of any marketing of:

- 17.1.1. any products on the Makro Site, including without limitation, the Seller's Products; and
- 17.1.2. the Marketplace Program.

18. OWNERSHIP AND USE OF TRANSACTION INFORMATION

18.1. Makro will own all Transaction Information. The Seller may only use Transaction Information to further a transaction related to this Agreement, in accordance with the terms of the Agreement, the Marketplace Privacy Policy and applicable Law. The Seller will not:

- 18.1.1. disclose or convey any Transaction Information to any third party (except as necessary for the Seller to perform its obligations under the Agreement);
- 18.1.2. use any Transaction Information to conduct customer surveys or for any marketing or promotional purposes;
- 18.1.3. contact a Customer that has ordered a Product that has not yet been delivered with the intent to collect any amounts in connection therewith or to influence such Customer to make an alternative or additional purchase; or
- 18.1.4. target communications of any kind on the basis of the intended recipient being a Makro customer.

19. RATINGS AND REVIEWS

Makro may use mechanisms that rate or review or allow shoppers to rate or review the Seller's Products and performance as a seller and Makro may make these ratings publicly available. Makro may also make use of syndicated product reviews. Makro will have no liability to the Seller for the content or accuracy of any ratings or reviews. The Seller will have no ownership interest in or license to use any ratings or reviews posted on the Makro Site unless authorised in writing by Makro.

20. SUGGESTIONS AND FEEDBACK

If the Seller or any of the Seller's Affiliates or agents elect to provide or make available suggestions, comments, ideas, improvements, or other feedback or materials to Makro in connection with or related to any Makro Site or The Marketplace Program (including any related technology), Makro will be free to use, disclose, reproduce, modify, license, transfer and otherwise distribute, and exploit any of the foregoing information or materials in any manner. In order to protect Makro systems and customers, or to ensure the integrity and operation of Makro business and systems, Makro may access and disclose any information Makro considers necessary or appropriate, including but not limited to user contact details, I.P. addresses and traffic information, usage history, and posted content.

21. CONFIDENTIAL INFORMATION AND INFORMATION SECURITY

Obligations

- 21.1. Both Parties acknowledge that either Party may receive (the "Receiving Party") Confidential Information from the other Party (the "Disclosing Party") during the term of this Agreement, and such Confidential Information will be deemed to have been received in confidence and will be used only for the purposes of this Agreement. The Receiving Party will:
- 21.1.1. use the Disclosing Party's Confidential Information only to perform its obligations and exercise rights under this Agreement; and
 - 21.1.2. disclose the Disclosing Party's Confidential Information only to the Receiving Party's personnel, contractors and affiliates that:
 - 21.1.2.1. have a need to know the information to assist the Receiving Party with fulfilling obligations under this Agreement; and
 - 21.1.2.2. have agreed to keep the information confidential in accordance with the terms set forth herein.
- 21.2. The Receiving Party will treat the Confidential Information as it does its own valuable and sensitive information of a similar nature and, in any event, with not less than a reasonable degree of care. The obligation of confidentiality will continue for three (3) years from the expiration or termination of this Agreement; provided, however, the Receiving Party will continue to keep confidential:
- 21.2.1. any PII at all times and as required by this Agreement and any applicable Law;
 - 21.2.2. any trade secrets of the Disclosing Party; and
 - 21.2.3. the terms of this Agreement.
- 21.3. The Seller agrees that Makro may share the Seller's Confidential Information with its Affiliates for internal use only.

Exceptions

- 21.4. The obligations of either Party under this Section will not apply to information that the Receiving Party can demonstrate:
- 21.4.1. was in its possession at the time of disclosure and without restriction as to confidentiality;
 - 21.4.2. at the time of disclosure is generally available to the public or after disclosure becomes generally available to the public through no breach of agreement or other wrongful act or failure to act by the Receiving Party; provided, however, PII remains subject to

- confidentiality obligations regardless of its availability to the public or availability through unauthorized disclosure;
- 21.4.3. has been received from a third party without restriction on disclosure and without breach of agreement or other wrongful act by such third party or the Receiving Party; or
 - 21.4.4. is independently developed by the Receiving Party without access to or use of the Confidential Information of the Disclosing Party.
- 21.5. In the event the Receiving Party is required by Law, stock exchange requirement or legal process to disclose any of the Confidential Information, the Receiving Party agrees to:
- 21.5.1. give the Disclosing Party, to the extent possible, advance notice prior to disclosure; and
 - 21.5.2. limit the disclosure to minimum amount that is legally required to be disclosed.

22. TERM, TERMINATION AND SUSPENSION

22.1. Term

- 22.1.1. This Agreement will apply to the Seller from the moment of registration on or use of the Seller Portal and/or the Makro Marketplace Program, and shall continue to apply for so long as the Seller remains part of the Marketplace Program;
- 22.1.2. The Seller acknowledges and agrees that Makro may amend and/or replace this Agreement at any time in its sole discretion, and by logging onto the Seller Portal, the Seller shall automatically be bound by the latest Agreement. The Seller shall however be made aware of any such amendments, alteration, substitutions or retractions within the agreement upon logging in to the portal or by email.

22.2. Termination for Convenience

Either Party may terminate this Agreement for any reason by giving 48 (forty eight) hours prior written notice to the other Party.

22.3. Post-Termination Obligations

The Seller will continue to have obligations under this Agreement after termination of the Agreement, including without limitation, the obligation to:

- 22.3.1. Fulfil all Orders that have been accepted but not yet delivered;
- 22.3.2. provide customer service to Customers who purchased Products on the Makro Site;
- 22.3.3. pay any invoices delivered by Makro in connection with the Agreement;
- 22.3.4. notify Makro and Customers of any recalls of its Products;
- 22.3.5. remit any taxes collected to the proper jurisdiction(s);
- 22.3.6. immediately notify Makro of any security breach that allows a third party to view or access or otherwise compromises any Transaction Information;
- 22.3.7. assessment of returns, refunds, replacements and repairs of its Products sold; and
- 22.3.8. Facilitate all returns, repairs and replacements that are at that point in time still covered by the Consumer Protection Act 68 of 2008 and its relevant regulations, Makro's Peace of Mind Policy or the manufacturer's warranty.
- 22.3.9. Makro will pay the Seller a Seller Share attributable to Orders placed by Customers prior to the termination of the Agreement in accordance with the payment terms set forth in this Agreement.

22.4. Survival

The provisions of this Agreement which by their nature are intended to survive termination of the Agreement will survive its termination.

22.5 Termination for Breach

The Parties acknowledge and agree that Makro shall be entitled to summarily terminate this Agreement should there be a material breach of the terms and conditions as detailed in this Agreement.

23. INDEMNIFICATION

23.1. Indemnification Obligations

The Seller will defend, indemnify and hold harmless Makro and its Affiliates and each of their respective stockholders, successors, assigns, officers, directors, employees, agents, representatives (each an "Indemnatee") from and against any and all Losses arising out of or related to any third party Claims asserted against, imposed upon or incurred by an Indemnatee due to, arising out of or relating to:

- 23.1.1. an actual or alleged breach by the Seller of this Agreement;
- 23.1.2. the Seller Site and other sales channels, the Content or the Products (including, without limitation, the offer, sale, refund, or return of Products) or any violation of Law with respect to the foregoing (including but not limited to the Consumer Protection Act, 2008), or any actual or alleged infringement of any Intellectual Property Right by any of the foregoing, or personal injury, death or property damage related thereto or arising therefrom; and
- 23.1.3. any and all income, sales, use, ad valorem, and other taxes, surcharges, fees, assessments or charges of any kind whatsoever, together with any interest, penalties and other additions with respect thereto, imposed by local or foreign government in any way related to the sale of the Products on the Makro Site, specifically excluding, however, any such taxes related to Makro's net income from the Marketplace Programme.

23.2. Procedure for Indemnification

Upon receipt of notice, from whatever source, of Claims against Makro for which the Seller is obligated to indemnify Makro, the Seller immediately will take necessary and appropriate action to protect Makro's interests with regard to the Claims. Makro will notify the Seller of the assertion, filing or service of any Claims of which Makro has knowledge, as soon as is reasonably practicable. The Seller will use counsel reasonably satisfactory to Makro to defend each Claim.

23.3. Conflict

Notwithstanding the foregoing, however, if Makro reasonably determines that there may be a conflict between its position and that of the Seller in connection with the defence of a Claim or that there may be legal defence available to Makro different from or in addition to those available to the Seller, then, at the Seller's expense, counsel for Makro will be entitled to conduct a defence to the extent Makro reasonably determines necessary to protect the interest of Makro. If Makro, in its sole discretion, determines that the counsel provided by the Seller to defend Makro is unacceptable or that a conflict of interest exists between Makro and counsel, Makro may request that the Seller replace the counsel. If the Seller fails to timeously replace counsel, Makro may replace the counsel and, as part of the Seller's indemnification obligation

to Makro, the Seller will pay to the new counsel, or reimburse Makro, any and all fees and expenses as to the new counsel, including any and all expenses or costs to change counsel.

23.4. Settlement

The Seller, in the defence of any Claim, will not, except with the prior written consent of Makro, consent to entry of any judgment or enter into any settlement with respect to such Claim.

24. WARRANTY DISCLAIMER

24.1. NEITHER MAKRO, NOR ITS AFFILIATES, OFFICERS, DIRECTORS, LICENSORS, SUPPLIERS, EMPLOYEES OR AGENTS MAKE ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, THAT THE MAKRO SITE, THE MARKETPLACE PROGRAM, ANY SELLER PORTAL, SERVICES PROVIDED BY MAKRO OR ANY SERVICE PROVIDER, OR SOFTWARE USED TO PROVIDE THE SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE, VIRUS-FREE OR ERROR-FREE, AND THE SELLER AGREES THAT MAKRO WILL NOT BE LIABLE FOR THE CONSEQUENCES OF ANY INTERRUPTIONS OR ERRORS, INCLUDING WITHOUT LIMITATION, SYSTEM OR SOFTWARE FAILURES OR OTHER INTERRUPTIONS THAT MAY AFFECT THE RECEIPT, PROCESSING, ACCEPTANCE, COMPLETION OR SETTLEMENT OF ANY TRANSACTIONS. NEITHER MAKRO, NOR ITS AFFILIATES, OFFICERS, DIRECTORS, LICENSORS, SUPPLIERS, EMPLOYEES OR AGENTS MAKE ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, TO THE SELLER WITH RESPECT TO THE SALE OF THE SELLER'S PRODUCTS THROUGH THE MAKRO SITE PURSUANT TO THIS AGREEMENT, AND ALL SUCH SERVICES PROVIDED BY MAKRO ARE PROVIDED ON AN "AS-IS" AND "AS AVAILABLE" BASIS.

24.2. MAKRO AND ITS AFFILIATES, EMPLOYEES, DIRECTORS, OFFICERS, AGENTS, LICENSORS AND SUPPLIERS EXPRESSLY DISCLAIM ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT OF PROPRIETARY RIGHTS AND THOSE IMPLIED WARRANTIES ARISING OUT OF COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE.

25. LIMITATION OF LIABILITY

25.1. No Consequential Damages

25.1.1. IN NO EVENT SHALL MAKRO BE LIABLE TO THE SELLER OR ANY THIRD PARTY UNDER DELICT, CONTRACT, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY FOR:

25.1.1.1. LOST PROFITS, LOST REVENUE, LOSS OF BUSINESS OR LOSS OF DATA;

25.1.1.2. EXEMPLARY, PUNITIVE, SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES OR THE LIKE; OR

25.1.1.3. FOR COST OF COVER, RECOVERY OR RECOUPMENT OF ANY INVESTMENT, EACH OF WHICH IS HEREBY EXCLUDED BY AGREEMENT OF THE PARTIES REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE OR WHETHER MAKRO HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

25.2. Monetary Cap

IN NO EVENT SHALL MAKRO'S AGGREGATE LIABILITY TO THE SELLER OR ANY THIRD PARTY FOR ANY CLAIMS, LOSSES, INJURIES, SUITS, DEMANDS, JUDGMENTS, LIABILITIES, COSTS, EXPENSES OR DAMAGES FOR ANY CAUSE WHATSOEVER, AND REGARDLESS OF THE FORM OF ACTION OR LEGAL THEORY, EXCEED THE TOTAL REFERRAL FEES PAID BY THE SELLER TO MAKRO PURSUANT TO THIS AGREEMENT DURING THE SIX MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO SUCH LIABILITY. THE LIMITATIONS OF LIABILITY REFLECT THE ALLOCATION OF RISK BETWEEN THE PARTIES. THE LIMITATIONS SPECIFIED IN THIS SECTION WILL SURVIVE AND APPLY EVEN IF ANY LIMITED REMEDY SPECIFIED IN THIS AGREEMENT IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

26. INSURANCE, RISK, AND OWNERSHIP

26.1. The Seller will maintain, at the Seller's expense, public liability, commercial general, umbrella and/or excess liability in the aggregate covering liabilities caused by or occurring in connection with this Agreement or the Seller's business (including without limitation, product, completed operations, hijacking, overturning and bodily injury), or as otherwise required by Makro from time to time. All such policies will be occurrence based, will include Makro as an additional insured, and will contain a waiver of subrogation.

26.2. The Seller acknowledges that it shall retain all risk in and to the Products until the Products have been delivered with a proof of delivery signed by the Customer. Ownership in and to the Products shall pass from the Seller to the Customer when the Products have been delivered with a proof of delivery signed by the Customer.

27. CHOICE OF LAW, JURISDICTION AND VENUE

The Parties mutually acknowledge and agree that this Agreement will be construed and enforced in accordance with the Laws of the Republic of South Africa and without regard to any conflict of law provisions. The Parties agree that any dispute arising from or related to this Agreement, shall be subject to the exclusive jurisdiction of the South Gauteng High Court, Johannesburg. The Parties mutually acknowledge and agree that they will not raise in connection therewith, and hereby waive, any defences based upon venue, inconvenience of forum or lack of personal jurisdiction in any action or suit brought in accordance with the foregoing. The Parties acknowledge that they have read and understand this Section and agree voluntarily to its terms.

28. GENERAL

28.1. Assignment

The Seller may not assign (including, without limitation, by way of merger, consolidation or sale of all or substantially all of the Seller's stock or assets) this Agreement, or any of its respective rights or obligations hereunder, without the prior written consent of Makro. Subject to the foregoing, this Agreement will be binding upon, and will inure to the benefit of, the Parties and their respective successors and permitted assigns. Any assignment or assumption without Makro's prior written consent will be null and void.

28.2. Integrated Agreement

This Agreement, including all Annexures and policies referenced herein, constitutes the complete integrated agreement between the Parties concerning the Makro Marketplace. All prior and contemporaneous agreements, understandings, negotiations or representations, whether oral or in writing, relating to the subject matter of this Agreement or any other agreement with Makro or its affiliates are superseded in their entirety.

28.3. Amendments

Makro may amend the terms of this Agreement (including without limitation, any Annexures hereto) from time to time and will either post such amendments to the Seller Portal ("Amendment Notice") and/or email these amendments to the seller. If the Seller objects to any amendment to the terms of this Agreement (including any Annexure hereto), the Seller should terminate this Agreement. IF THE SELLER CONTINUES TO PARTICIPATE IN THE MARKETPLACE PROGRAM AFTER THE EFFECTIVE DATE OF ANY AMENDMENT, THE SELLER WILL BE DEEMED TO HAVE AGREED TO AND ACCEPTED ANY MODIFICATIONS SET FORTH IN THE AMENDMENT.

28.4. Waiver

No waiver of any of the provisions of this Agreement will constitute a continuing waiver unless otherwise expressly so provided in writing. The failure of either Party to enforce at any time any of the provisions of this Agreement, will in no way be construed to be a present or future waiver of such provisions.

28.5. Severability

If any provision of this Agreement is found by a court to be invalid, void or unenforceable, the Parties agree that the remaining provisions of this Agreement will not be affected thereby, and that this Agreement will in any event otherwise remain valid and enforceable.

28.6. Where any provision of this Agreement constitutes a provision in favour of Makro, such provision shall constitute a stipulatio alteri capable of acceptance by Makro at any time.

28.7. Independent Contractors

Makro and the Seller are acting hereunder as independent contractors. The Seller will not be considered or deemed to be an agent, employee, joint venture or partner of Makro. The Seller's personnel will not be considered employees of Makro, will not be entitled to any benefits that Makro grants its employees and will have no authority to act or purport to act on Makro's behalf. If any federal, state or local government agency, any court or any other applicable entity determines that any such personnel of the Seller is an employee of Makro for any purpose, the Seller will indemnify, defend and hold harmless Makro, its Affiliates, officers, directors, employees and agents from all liabilities, costs and expenses (including, but not limited to, reasonable attorneys' fees) associated with such determination. The Seller will remain primarily liable for the Seller's obligations performed by any third party and for any act or omission of any such third party.

28.8. Publicity

Except as specifically provided herein, neither Party will use the name, logo, trademarks or trade names of the other Party or otherwise, directly or indirectly, refer to the other party in publicity releases, promotional material, customer lists, advertising, marketing or business generating efforts, whether written or oral, without obtaining such Party's prior written consent.

Notwithstanding the foregoing, Makro will have the right to refer to the Seller as a participant in the Marketplace Program in marketing and promoting the Marketplace Program.

28.9. Non-exclusive

Each Party acknowledges and agrees that the rights granted to the other Party in this Agreement are nonexclusive and that without limiting the generality of the foregoing, nothing in this Agreement will be deemed or construed to prohibit either Party from participating in similar business arrangements as those described herein.

28.10. Force Majeure

Notwithstanding the other provisions of this Agreement, if either Party is in good faith prevented from performing its obligations under this Agreement because of an unexpected extraordinary event beyond the control of the Party concerned, including without limitation, war (declared or undeclared), acts of god, terrorism, earthquake, accident, explosion, fire or flood, such Party will promptly notify the other Party, and while so affected, the affected Party will be relieved from performing its obligations provided that, the Party affected will take all reasonable steps to promptly remedy the cause of such delay or failure if it is in its power to do so.

28.11. Seller Portal

The Seller is solely responsible for maintaining the security of its password for the Seller Portal and for all action taken in connection with its account. If the Seller has knowledge or suspects that its password has been compromised, the Seller will immediately notify Makro by emailing sellers@makro.co.za and fully cooperate with Makro in investigating and preventing any further breach to Makro's systems. Makro shall not be liable to the Seller for any Losses it may suffer as a result of the Seller Portal being unavailable for any reason.

29. PROTECTION OF PERSONAL INFORMATION

- 29.1. The Parties to the Agreement shall fully comply with the statutory obligations contained in POPI, with which the Parties warrant that they are fully conversant with at Signature Date, when Processing Personal Information obtained by the Responsible Party and such Personal Information is entered into a Record. Without limiting the generality of the aforesaid the Responsible Party shall ensure that the Privacy and Data Protection Conditions are strictly adhered to when Processing the Data Subject's Personal Information as set forth in Appendix E attached hereto.
- 29.2. The Parties shall comply with the security and information protection obligations equivalent to those imposed on them in terms of POPI and other applicable data protection legislation, and failing such legislation, they shall take, implement and maintain all such technical and organisational security procedures and measures necessary or appropriate to preserve the security and confidentiality of the Personal Information in its possession and to protect such Personal Information against unauthorised or unlawful disclosure, access or processing, accidental loss, destruction or damage.
- 29.3. The Seller hereby indemnifies and holds Makro harmless from any liability whatsoever arising from the Seller's failure to comply with its statutory obligations contained in POPI.

30. ANTI-CORRUPTION

30.1. Compliance with Law and Policy

The Seller is aware that Makro belongs to a multinational retail group based in the United States of America, and is familiar with Makro's Global Anti-Corruption Policy (the "Policy"), available at <https://walmartethics.com>. The Seller agrees that its performance under this Agreement will be in full compliance with the Policy and all applicable anti-corruption laws and regulations, including but not limited to the U.S. Foreign Corrupt Practices Act and the UK Bribery Act. Accordingly, the Seller agrees that in connection with its activities under this Agreement, neither the Seller nor any agent, affiliate, employee, or other person acting on its behalf will offer, promise, give, or authorize the giving of anything of value, or offer, promise, make, or authorize the making of any bribe, rebate, payoff, influence payment, facilitation payment, kickback, or other unlawful payment, to any government official, political party, or candidate for public office in order to obtain or retain business, gain any unfair advantage, or influence any act or decision of a government official.

30.2. Annual Certification

The Seller agrees to certify annually (if applicable) its compliance with the Policy and the applicable anti-corruption laws and regulations by executing a form supplied by Makro for this purpose.

30.3. Audit Rights

The Seller shall keep books, records, and accounts with sufficient detail and precision as to clearly reflect its transactions and the use or disposition of its resources or assets. The Seller agrees that Makro has the right to audit the transactions related to the Seller's execution of its obligations under this Agreement at any time and upon reasonable notice.

30.4. Training

The Seller agrees that its employees, workers, contractors, agents, shareholders, affiliates, advisors, or other persons acting on its behalf who will interact with government officials on Makro's behalf will participate in anti-corruption training, if requested by Makro.

30.5. Subcontractors

Makro must provide the Seller with prior written authorization before the Seller hires any subcontractor to provide services in connection with this Agreement that would require interaction with any government entity or government official on Makro's behalf. In the event that Makro approves the Seller's use of the proposed subcontractor, the subcontractor must agree, in writing, that in connection with its activities related to this Agreement, neither the subcontractor nor any agent, affiliate, employee, or other person acting on its behalf will offer, promise, give, or authorize the giving of anything of value, or offer, promise, make, or authorize the making of any bribe, rebate, payoff, influence payment, facilitation payment, kickback, or other unlawful payment, to any government official, political party, or candidate for public office in order to obtain or retain business, gain any unfair advantage, or influence any act or decision of a government official.

30.6. Right to Terminate

In the event that Makro determines, in its sole discretion, that the Seller has engaged in conduct that violates the Policy or the applicable anti-corruption laws and regulations, Makro immediately shall have the right to suspend payment and to suspend or terminate the Agreement. Makro shall also have the right to suspend payment and to suspend or terminate the Agreement if the Seller does not comply with the ongoing anti-corruption compliance obligations set forth in this Agreement or if the Seller does not successfully complete periodic due diligence re-screening.

30.7. Government Affiliations

The Seller represents and warrants that neither the Seller nor any of its directors, officers, partners, shareholders, employees, agents, or representatives is a government official. The Seller represents that it has informed Makro of any close family relationships between any of its directors, officers, partners, shareholders, employees, agents, or representatives and any government officials. The Seller agrees to notify Makro if (a) any such close family relationships arise during the term of this Agreement or (b) any director, officer, partner, shareholder, employee, agent, or representative becomes a government official during the term of this Agreement. Close family relationship means parents, siblings, spouses, spousal equivalents, and children.

30.8. Material Change of Ownership or Management

If for any reason, the Seller proposes to materially change ownership or management or its current shareholders or partners transfer control of the Seller to a third party or a third party assumes control of the Seller, the Seller must notify Makro in writing of the change at least thirty (30) days after such change. In such case, the Seller may be resubmitted through the due diligence and approval procedure for third-party intermediaries in accordance with Makro's Anti-Corruption Policy, of which the Seller declares it is aware.

30.9. Form of Payment

The Parties agree that all payments made by Makro to the Seller pursuant to this Agreement shall be made based only on Makro's remittance detailing the products or services for which the Seller is seeking payment. All payments under this Agreement shall: (i) be made solely by check or wire transfer for the benefit of, and to the account of, the Seller and not to any individual employee or representative of the Seller; (ii) be denominated in South African Rand; and (iii) not be in cash or bearer instruments.

30.10. Obligation to Provide Information

The Seller agrees to provide timely information to Makro regarding any changes to the representations made in this Agreement. The Seller also agrees that it will submit to periodic due diligence re-screening.

30.11. Cooperation with Investigations

The Seller agrees to provide assistance and cooperation in any investigations related to potential violations of the Policy or the applicable anti-corruption laws and regulations, including the U.S. Foreign Corrupt Practices Act.

30.12. Permits and Licences

- 30.12.1. The Parties acknowledge that their rights and obligations under this agreement shall be subject to certain applicable laws in force from time to time at a national, provisional and local government level regulating applications for licenses and permits and the Parties' rights therein relevant to the subject matter of this agreement and matters ancillary thereto.
- 30.12.2. In order to give effect to this Anti-corruption clause, the Seller irrevocably and unconditionally authorises Makro and/or its duly appointed or authorised representatives to gain access (as and when required from time to time during the currency of this agreement) to and/or obtain copies of the licenses or permit application documentation, including any relevant technical information, plans and drawings, payment of any fees, receipts confirming amounts paid to authorities as and when payments are made and other relevant financial information, filings and submissions made to any applicable regulatory or government authority relevant to the subject matter of this agreement. Any request for information or documentation shall be specifically limited to the purpose and scope of and subject matter of this agreement.
- 30.12.3. The Seller undertakes to ensure that all requests by Makro in terms hereof are attended and responded to in writing within 5 (five) business days from the date of receipt by the Seller or its authorised representative of each request.
- 30.12.4. The Seller shall procure that any agreement it enters into with any of its agents, contractors, management agents, sub-contractors and any professional body or professional consultants in connection with the subject matter of this agreement shall incorporate provisions or undertakings to give effect to provision of this clause 30.12 and its sub-clauses.
- 30.12.5. Makro shall be entitled at its sole cost and expense to audit any aspect of this agreement and the Seller agrees and hereby undertakes to provide such reasonable assistance and access as may be required by Makro for purposes of conducting the audit in terms hereof.
- 30.12.6. Makro may, at its sole discretion elect to participate in the actual application process, including attending any meetings or lodging of forms and related follow up engagements with the relevant authorities as and when such activities are undertaken by the Seller or relevant designates or appointed consultants.

APPENDIX A

LIST OF PROHIBITED PRODUCTS

“Prohibited Products” means:

1. cigars, cigarettes, or other tobacco products;
2. guns intended to provide lethal force (and related gun parts, kits and ammunition); mace, black powder and other explosives; disguised, undetectable or switchblade knives; martial arts weapons; or BB guns, stun guns, paintball guns, or airsoft guns;
3. any drug, vitamin, herbal product or similar substance which requires a doctor’s or other health care provider’s prescription as a prerequisite for purchase;
4. used, remanufactured, reconditioned or refurbished products;
5. stolen, counterfeit, misbranded or illegal products;
6. products that have been recalled;
7. products that violate applicable Law;
8. products that violate or infringe upon any Intellectual Property Right or other third party right;
9. products that contain material that is obscene, pornographic or offensive;
10. products containing viruses, Trojan horse, spyware or malicious code;
11. ‘sex and sensuality’ products;
12. loose gemstone products;
13. any product for which Seller is not an “authorized reseller” (as designated by the product’s manufacturer or distributor), or does not provide to Customers the manufacturer’s standard warranty therefor;
14. products containing human growth hormone;
15. any age restricted products;
16. baby bottles that are not BPA-free;
17. prepaid access products (whether issued in the form of a card, electronic PIN or other device) that provide access to funds (or the value of funds) that have been paid in advance and can be retrieved in the future, including without limitation, gift cards, prepaid phones, or prepaid minutes;
18. caskets or funeral urns;

19. specific products or brand/product names that may not be sold on the Makro Site as indicated by Makro to the Seller separately in writing (which in this case may include email or through Seller Portal); and

20. any other types of products that in Makro's discretion are not appropriate for sale on the Makro Site as indicated by Makro to the Seller separately in writing; provided that a Prohibited Product will cease to be a Prohibited Product when Makro informs the Seller of such change.

21. Asbestos;

22. Animals;

23. Illegal Art;

24. Lasers (Class3B and higher);

25. Alien Plants; and

26. Non-essential goods (applicable during state of emergency or national lockdown)

APPENDIX B

ORDER AND CUSTOMER SERVICE LEVEL AGREEMENT

Makro is committed to customer service. Sellers participating in the Marketplace Program will endeavour to meet the following service levels:

1. Seller will maintain an On-Time Ship Standard of at least 95%. For avoidance of doubt, On-Time Ship Standard is that the Seller must accept a line item/items or notify of their intention or need to cancel a line item/items within 4(four) working hours of the order being transmitted to the Seller Portal. The Acceptance SLA is calculated as a percentage of in SLA accepted line items versus total line items ordered in the period. Orders must be picked and packed within 18(eighteen) working hours from the Order being transmitted to Seller Portal. The Pick/Pack SLA is calculated as a percentage of in SLA picked/packed orders versus total orders in that period. Seller must have an SLA of at least 95% on both of these fulfilment SLA's. Failure to comply with any one of these SLA's for any 3 or more months in a rolling 12 month period, can result in suspension and/or delisting of the seller.
2. Seller will ensure that the correct Product is delivered to the correct Customer at a rate of 95% of all Products shipped. This SLA is calculated as a percentage of the number of correct units supplied versus the total number of units supplied in that period. Failure to comply with this SLA for any 3 or more months in a rolling 12 month period, can result in suspension and/or delisting of the seller.
3. Seller will maintain inventory to fulfil Customer Orders that result in a cancel rate (excluding Customer requested cancellations) of 1.5% or less. This SLA is calculated as a percentage of the number of units cancelled versus units order in that period. Failure to comply with this SLA for any 3 or more months in a rolling 12 month period, can result in suspension and/or delisting of the seller.
4. Returns due to damages (where the seller is fulfilling their own orders) or defective Products shall not exceed 3% of Total Product units supplied on the Makro Site. This SLA is calculated as a percentage of the number of damaged/defective units returned versus the number of units supplied in that period. Failure to comply with this SLA's for any 3 or more months in a rolling 12 month period, can result in suspension and/or delisting of the seller.
5. Seller shall limit emergency updates related to product information through any Seller Portal to a rate no greater than .03% of its entire SKU count in Makro's catalogue per month; provided however, that Makro makes no guarantee that all requests will be granted. Makro will assess each emergency request on a case by case basis and make updates in situations Makro deems critical.
6. Seller will within four (4) working hours of receipt, accept every Order line item received by Makro Marketplace on the Seller Portal. If a line item or order has a pick exception or needs to be cancelled, the seller needs to advise Makro within 4 working hours of receipt of the order via notes on the order in Seller Portal. If there is an anticipated delay which will affect the seller's fulfilment SLA's, this needs to be raised with Makro within 4 working hours of the receipt of the order.
7. For Seller Fulfilled Consignments, Seller will maintain an On-Time Shipping Standard of at least 99%. This means that where sellers are delivering to the customer using their own courier, at least 99% of orders must be delivered within Makro's then On-Time Shipping Standard. This SLA is calculated as the number of orders supplied in SLA versus the total number of supplied orders in that period. Failure to comply with this SLA for any 3 or more months in a rolling 12 month period, can result in suspension

and/or delisting of the seller. Sellers must also update order status to ready for collection within 1 working hour of collection being booked and must provide Makro, via order notes on the Seller Portal, the corresponding shipment tracking information (courier to be used and waybill number). Sellers must update status to out with courier within one working hour of an item being dispatched and to completed within one working hour of the order being delivered. Sellers are also to leave a note on the order detailing the delivery date/time and the recipient's name.

8. Where an item is returned for assessment by the Seller, the Seller must assess the item and provide feedback via notes on the order in Seller Portal within 18 (eighteen) working hours of receipt of the returned item. If no feedback is received from the seller, Makro reserves the right to approve the return as a refund. Where a return results in a repair, the Seller must within 18 working hours of receipt of the returned item confirm with Makro when the repaired product will be dispatched to the Customer so that the Customer can be updated. Replacement products (stock delays aside) must be ready for dispatch on the 3rd working day following the receipt of the returned item. For Seller Fulfilled Consignments, the Seller must dispatch the item to the Customer and within 1 (one) working hours of dispatch, the Seller must confirm the tracking reference with Makro which can be communicated to the Customer.

9. Ninety percent (90%) of emails received from Makro shall be answered by Seller within nine (9) working hours of receipt.

10. Makro may, at its discretion, work with a Seller to remedy any failure of a service level or performance issue under this APPENDIX B; provided, however, that no waiver by Makro of any provision of this APPENDIX B may be deemed or constitute a waiver of any provision of this Agreement, whether or not similar, nor may the waiver constitute a continuing waiver by Makro unless otherwise expressly so provided in writing. The failure of Makro to require at any time performance by Seller of any of the provisions herein, may in no way be construed to be a present or future waiver of provisions or in any way affect the ability of Makro to enforce each and every provision after such event.

APPENDIX C

EXPORT CONTROLS, SANCTIONS AND EMBARGO COMPLIANCE

With respect solely to transactions carried out pursuant to this Agreement, the Seller represents to Makro that the Seller and its subsidiaries do not intend to, and will not, engage in any activity in or with Iran, Syria, Cuba, North Korea or Crimea, or with any Iranian, Syrian, Cuban, North Korean or Crimean entity as long as such activity is prohibited under any applicable export control or sanctions law or regulation with which Walmart Stores Inc., Massmart or the Seller must comply.

The terms and conditions with respect solely to transactions carried out pursuant to this Agreement will be subject to all applicable export control and sanctions laws and regulations, including but not limited to sanctions against Iran, Syria, Cuba, North Korea or Crimea, of the United States of America, of member States of the European Union, Brazil, and any other relevant country, that govern any products, commodities, technology, technical data, services or activities under this Agreement ("Export Control Laws"). Compliance includes, but is not limited to, obtaining required export authorizations and abiding by such authorizations. With respect solely to transactions carried out pursuant to this Agreement, the Seller agrees that it will not, directly or indirectly, source, purchase, or otherwise acquire, or export, re-export, transmit or otherwise transfer, any products, commodities, technology, technical data, or services, or otherwise conduct activities, contrary to any applicable Export Control Law/s with which Walmart Stores Inc., Massmart or the Seller must comply.

The Seller further agrees that, solely for purposes of carrying out the transactions of this Agreement:

Neither the Seller nor any purchasing entity operating on the Seller's behalf may be owned or controlled, in whole or in part, by any country, individual or entity subject to sanctions or embargo under any applicable Export Control Law/s with which Walmart Stores, Inc., Massmart or the Seller must comply; and

No Confidential Information will be used by any party, directly or indirectly, to source, purchase, or otherwise acquire products, commodities, technology, technical data, or services from or for any country, including but not limited to Iran, Syria, Cuba, North Korea or Crimea, individual or entity contrary to any applicable Export Control Law/s with

Violation of the Sellers' obligation assumed hereunder may cause, at the option of Makro, immediate termination of this Agreement, injunctive relief, and/or payment of damages.

APPENDIX D

SYSTEM SERVICE LEVEL AGREEMENT

Seller shall maintain compliance with the following System Service Level Agreement in connection with Sellers' systems that impact the Makro systems (including without limitation, the Makro Site) or the Marketplace Program (including without limitation, systems related to the delivery of Content or fulfilment of orders (including without limitation, through a Service Provider) to Makro.co.za.

Uptime. Seller systems shall ensure uptime and availability of 99.0% year round and 99.9% from November 1st – January 10th (the "Holiday Freeze Period") Seller systems (defined as one or more connected or unconnected computers, peripheral devices, website(s) software, data, program communications, facilities, and computer networks) 24 hours a day, 7 days a week 365 days a year.

Holiday Freeze Restrictions. In order to minimize any risk of an unscheduled outage that disrupts customers and sales during the busiest time of year, Makro imposes a 'freeze' period on system changes. Sellers are NOT to make any changes to their systems that could affect Makro systems (including without limitation, the Makro Site) or the Marketplace Program without prior written approval from Makro.

All planned maintenance, security patches, system upgrades, IP address changes, etc. must be completed prior to November 1st. No changes will be made on the Makro systems (including without limitation, the Makro Site) during the Holiday Freeze Period.

4. Scheduled Maintenance and Unscheduled Outages. Scheduled maintenance requires at least five (5) days prior written notice. Notice to be emailed to sellers@makro.co.za. Please include the exact nature and reason for the maintenance and any specific instructions. Scheduled maintenance should be performed during low traffic hours. Makro prefers to schedule maintenance for late evening weekdays (South African Time), or at a minimum after 6:00 p.m., or on weekends. Unscheduled outages need to comply with Uptime requirements (set forth in Section 1 above) and be reported immediately by email to sellers@makro.co.za. Please describe the details of the outage as available, the portion of the system affected, and an estimate of when you expect to be back in operation.

Redundancy. Using economically viable practices, provide system redundancy for any key single point of failure such as main server, database, and networking.

System Management. Seller shall employ basic system monitoring and control procedures to ensure uptime compliance.

Backup. Seller is responsible for making a complete backup of the system weekly, with incremental backups daily.

Continuity Management. Seller shall have an adequately tested continuity plan in place which identifies critical IT resources in case of a disaster within or around the geographic location of the Seller's main IT source, allowing a return to functionality within twenty-four (24) hours.

APPENDIX E

PROTECTION OF PERSONAL INFORMATION UNDERTAKING

1. DEFINITIONS

- 1.1 **"Agreement"** means the Services Agreement concluded or to be concluded between the Parties to which this document is annexed together with annexures thereto and replacements to the annexures as may be provided for in the Agreement;
- 1.2 **"Data Subject"** shall have the meaning ascribed thereto in Chapter 1 of POPI;
- 1.3 **"Information Officer"** means Makro's Information Officer, as referred to in the Makro PAIA Manual, compiled in terms of section 51 of the Promotion of Access to Information Act 2 of 2002 (or his or her authorised representative);
- 1.4 **"Monitoring Device"** means any electronic, mechanical or other instrument, device, equipment or apparatus which is used or can be used, whether by itself or in combination with any other instrument, device, equipment or apparatus, to listen to or record any communication;
- 1.5 **"Personal Information"** shall have the meaning ascribed thereto in Chapter 1 of POPI;
- 1.6 **"Personnel"** means the Seller's employees, agents, independent contractors, sub-contractors and other representatives;
- 1.7 **"Processing"** shall have the meaning ascribed to it in Chapter 1 of POPI;
- 1.8 **"POPI"** means the Protection of Personal Information Act 4 of 2013;
- 1.9 **"Regulator"** means the appropriate Information Regulator as defined under POPI;
- 1.10 **"Security Standards"** means the security standards defined in Makro's Security Policy, as may be updated from time to time by Makro on notice to the Seller, including but not limited to as a result of requirements of the Regulator,

changes to generally accepted information security practices, or specific threats identified by Makro; and

1.11 "Services" shall bear the meaning assigned thereto under the Agreement.

2. **BACKGROUND AND INTRODUCTION**

The Seller acknowledges that it has entered into the Agreement or intends to enter into an Agreement with Makro and that Makro requires the Seller to provide it with the undertakings detailed in this document ("**Undertaking**") in order to supplement its obligations under the Agreement. Unless stated otherwise in this Undertaking, all provisions of the Agreement will continue to apply and will be incorporated in this Undertaking by reference. Any terms appearing in title case and not defined in this Undertaking will bear the meanings assigned thereto under the Agreement. This Undertaking will be deemed to be an attachment to the Agreement.

3. **OBLIGATIONS OF THE SELLER WITH RESPECT TO PERSONAL INFORMATION**

The Seller acknowledges that in providing the Services, it may have access to Personal Information relating to Makro's Data Subjects. Accordingly, the Seller warrants and undertakes to and in favour of Makro that it shall only Process Personal Information in accordance with applicable laws (including, but not limited to POPI and any other data protection laws which may be relevant to the Services) in terms of this Agreement and in accordance with any instructions, requirements or specific directions of Makro. Without limiting the generality of the above, the Seller undertakes to:

3.1 treat the Personal Information as strictly confidential in accordance with the provisions contained in the Agreement;

3.2 not disclose or otherwise make available the Personal Information to any third party (including sub-contractors (subject to clause 2.6 below) and Personnel) other than authorised Personnel who require access to such Personal

Information strictly in order for the Seller to carry out its obligations under the Agreement, and only if Makro has provided its prior written permission to do so to the Seller, and the Seller has submitted a copy of a written contract to Makro, to the satisfaction of Makro, that the Seller has entered into with such third party for the protection of Personal Information of the Data Subjects;

3.3 ensure that all Personnel and any other persons having access to the Personal Information are bound by appropriate and legally binding confidentiality and non-use obligations in relation to the Personal Information on substantially the same terms and conditions as set forth in the Agreement as read with this Undertaking;

3.4 take appropriate, reasonable technical and organisational measures to ensure that the integrity of the Personal Information in its possession or under its control is secure and that such Personal Information is protected against unauthorised or unlawful processing, accidental loss, destruction or damage, alteration, disclosure or access by:

3.4.1 having regard to:

3.4.1.1 any requirement set forth in law; stipulated in industry rules or in codes of conduct or by a professional body; and/or

3.4.1.2 generally accepted information security practices and procedures which apply to (i) the Seller's business; and (ii) to Makro, as may be appropriate to discharge its obligations in terms of the Agreement;

3.4.1.3 take appropriate, reasonable, technical and organisational measures to ensure that the Personal Information in its possession or under its control remains available to Makro as and when it may be required;

- 3.4.2 comply with the specific requirements as may be dictated by Makro relating to the Services or any other specific directions or requirements of Makro;
- 3.4.3 identify all reasonably foreseeable internal and external risks and, at least once in every 12 (twelve) month period and, subject to the provisions of the Agreement, take all necessary steps to:
 - 3.4.3.1 identify all reasonably foreseeable internal and external risks to Personal Information in its possession or under its control and provide Makro with a detailed written report using generally accepted auditing methodologies, within 30 (thirty) days of having completed its investigations, regardless as to whether the frequency of such investigations is 6 (six) or more frequently;
 - 3.4.3.2 with Makro's prior written approval, implement and maintain appropriate safeguards against the risks identified by the Seller;
 - 3.4.3.3 regularly verify that the safeguards which the Seller has in place have been effectively implemented and provide Makro with a written report within 30 (thirty) days of having completed each such verification exercise; and
 - 3.4.3.4 ensure that the safeguards are continually updated in response to new risks or deficiencies in previously implemented safeguards, with all upgrades to be approved in writing by Makro (other than in respect of minor updates or upgrades);
- 3.4.4 comply with the auditing requirements in respect of the Agreement;

and

3.4.5 agree to reasonable amendments to this clause from time to time, to the extent that data protection legislation or the law generally requires such amendments for compliance by Makro and the Seller and/or for the benefit of Data Subjects.

3.5 The appointment of any subcontractor by the Seller shall be subject to Makro's prior written approval. Following approval by Makro of the use of any subcontractors, the Seller agrees that the provisions of the Agreement shall mutatis mutandis apply to all subcontractors who Process Personal Information of Data Subjects. As contemplated above, the Seller shall submit a copy of a written contract to Makro, to the satisfaction of Makro, that the Seller has entered into with its' subcontractors for the protection of Personal Information of the Data Subjects. The Seller indemnifies Makro fully from and against any and all claims, losses, penalties and fines resulting from a breach by the Seller and/or any subcontractor of the requirements set out in this clause 2.

4. **NOTIFICATION OF A PERSONAL INFORMATION SECURITY BREACH**

4.1 The Seller undertakes to:

4.1.1 notify Makro in writing immediately of the Seller becoming aware of or having reasonable grounds to believe that the Personal Information of a Data Subject has been accessed or acquired by an unauthorised person and take all appropriate steps to limit the compromise of Personal Information and to restore the integrity of the affected information systems as quickly as possible;

4.1.2 as soon as reasonably possible thereafter, engage with Makro to discuss the security breach, to report all relevant facts relating to the compromise and to accept directions from Makro on steps to be taken to mitigate the extent of the compromise and loss occasioned

by the compromise; and

- 4.1.3 provide Makro with details of the Personal Information affected by the compromise, including but not limited to, the identity of Data Subjects, the nature and extent of the compromise, and, where possible, details of the identity of the unauthorized person/s who are known to or who may reasonably be suspected of, having accessed or acquired the Personal Information.

5. **LAWFUL PROCESSING OF PERSONAL INFORMATION**

5.1 The Seller undertakes that it:

- 5.1.1 shall only Process the Personal Information of Data Subjects provided to it by Makro for a specific, lawful purpose strictly in accordance with Makro's express written instructions;
- 5.1.2 shall not carry out any related or further Processing activities for any other reason whatsoever (including any related Processing functions or Processing which would otherwise be a normal extension of the Processing which the Seller is entitled to undertake in accordance with Makro's instructions) without the express written consent of Makro;
- 5.1.3 if required to collect information from Data Subjects in terms of the Agreement, shall do so in a manner that does not infringe the privacy of the Data Subject, in accordance with any legislation governing the collection of Personal Information from the Data Subject, including, but not limited to, POPI;
- 5.1.4 shall, on the written instruction of Makro or as may be stipulated in an Instruction, assist Makro in updating Personal Information

provided to it by Makro to ensure that the Personal Information remains complete, accurate and up to date;

5.1.5 shall at all times comply with the Security Standards and any written instruction provided to the Seller by Makro; and

5.1.6 subject to clauses 3.1.4.4 and 6 and to the provisions of the Promotion of Access to Information Act 2 of 2000, shall not be permitted to disclose to any Data Subject that it is Processing, has Processed or intends to Process the Personal Information of such Data Subject unless it has obtained the prior written consent of Makro in this regard.

6. AUDIT RIGHTS OF MAKRO

6.1 Further to and without limiting any provisions of the Agreement, Makro or any third party appointed by Makro shall have the right to audit the Seller and its subcontractors at any time in order to determine whether the Seller (and any of its subcontractors) complies with the terms and conditions of this Undertaking, including but not limited to with regard to the protection of Personal Information and the security exercised by the Seller relating thereto. Such audit rights shall include the right of access to systems, procedures and software, and inspection of the physical security of the Seller's premises. Without limiting any other provision under this Undertaking, the Seller undertakes to ensure that its subcontractors agree to Makro's rights under this clause 9.

6.2 To the extent that the Seller engages an independent auditor to carry out an audit of its operations in relation to any of its obligations under the Agreement, the Seller agrees to provide Makro with copies of the audit reports of all such

audit exercises.

- 6.3 Should any audit exercise reveal any non-compliance with the terms of the Agreement, or any other Makro policies or written instructions from Makro, then, in addition to the provisions of the main agreement, the Seller shall be required to take all necessary steps to rectify such non-compliance within the timelines designated by Makro or any applicable laws, but in any event within the shortest time period possible.

7. **INDEMNITY**

The Seller warrants that it shall comply with all of its obligations and undertakings under this Schedule, in addition to and without limiting any other indemnity under this Undertaking or the Agreement, the Seller hereby indemnifies and holds harmless Makro from any and all losses, damages, penalties, fines, claims and/or or actions arising directly or indirectly from or due to the Seller's (or any of its subcontractors) breach of its obligations set out in this Undertaking.