

## **TRADE EXCHANGE SUBSCRIPTION AGREEMENT (MEDIA OWNERS) [version 20112025]**

All references to "**Green Media**", "**we**", "**us**" and "**our**" in this trade exchange subscription agreement, are deemed to refer to **Green Media (Pty) Ltd** (registration number 2021/946681/07), a limited liability company incorporated in the Republic of South Africa and having its registered address at 73 Bowling Avenue, Morningside Manor, Johannesburg.

All references to "**you**", "**your**" and "**Media Owner**" (as further defined below) are deemed to refer to the person or entity that:

- (a) Registers via the Website to in order to receive the exchange services from Green Media and participate in trade exchange process and/or trade exchange transactions with Green Media, and has accepted the terms of this Subscription Agreement; or
- (b) Has previously registered with Green Media, a division of Grapevine Creative Media (Pty) Ltd, registration number 2019/537174/07 ("**Grapevine Media**"), has entered into a trade exchange subscription agreement with the aforementioned entity and has not objected to the cession, assignment, transfer and delegation of all rights and obligations of such entity to Green Media (Pty) Ltd.

**Any person who, on behalf of any other person or entity, has completed the online registration process and submitted "I Agree" at the end thereof, warrants to Green Media that he/she/it has the necessary authority to do so.**

**The terms and conditions of this Subscription Agreement set out below, apply to each Trade Exchange Agreement entered into between the Parties, that refers to and incorporates the terms and conditions of this Subscription Agreement.**

**Important clauses of this Subscription Agreement, which may (i) limit our risk or liability, (ii) constitute an assumption of risk or liability to you, (iii) which impose an obligations on you to indemnify us, or (iv) which constitute an acknowledgement of fact by you, are reflected in bold. You must pay special attention to these clauses.**

### **1 DEFINITIONS**

- 1.1 In this Subscription Agreement, unless the context indicates a contrary intention, the following words and expressions bear the meaning assigned to them and cognate expressions bear corresponding meanings –
  - 1.1.1 "**Agreement**" means this Subscription Agreement and all Trade Exchange Agreements entered into between the Parties pursuant to this Subscription Agreement from time to time, as well as all Flighting Schedules entered into between the Parties in terms of such Trade Exchange Agreements;
  - 1.1.2 "**Brand Owner**" means a person or entity from whom Green Media has procured and/or may in future procure, products, services and/or vouchers, and which products, services and/or vouchers Green Media may provide to media owners and other third parties in terms of trade exchange transactions;
  - 1.1.3 "**Business Day**" means any day other than a Saturday, Sunday or public holiday in South Africa;
  - 1.1.4 "**Calendar Month**" means the first day to the last day of one of the twelve months of the year, for example 1 January to 31 January;
  - 1.1.5 "**Campaign**" means the advertising campaign of a Brand Owner, in respect of which Green Media has procured the display/flighting of the related advertisement Content of the Brand Owner in the Media;

- 1.1.6 **“Confidential Information”** means any information or data, including any Personal Information, of a confidential nature and/or proprietary to the disclosing Party and/or any third party, which the disclosing Party or any person acting on its behalf may disclose or provide to the receiving Party, or which may come to the knowledge of the receiving Party by whatsoever means, including all reports, technical as well as economic and financial information, and any other information relating to the business of the disclosing Party, including without limitation, pricing arrangements, information relating to software, trade secrets, intellectual property, all technical knowledge, expertise, business processes, clients and/or suppliers information, but specifically excluding information or data which -
- 1.1.6.1 is lawfully in the public domain at the time of disclosure thereof;
- 1.1.6.2 subsequently becomes lawfully part of the public domain by publication or otherwise;
- 1.1.6.3 becomes available from a source other than one of the Parties which is lawfully entitled without any restriction on disclosure to disclose such Confidential Information; and
- 1.1.6.4 is disclosed pursuant to a requirement or request by operation of law, regulation or court order;
- 1.1.7 **“Consumer Protection Act”** means the Consumer Protection Act 68 of 2008;
- 1.1.8 **“Content”** means various forms of rich media content of a Brand Owner, including but not limited to, text, images, animations, graphics, video clips, music, ring tones, sound clips and games, which, in respect of each Trade Exchange Transaction will be as described in the applicable Trade Exchange Agreement and/or Flighting Schedules concluded thereunder;
- 1.1.9 **“Data”** means all data, information and other materials belonging to a Party;
- 1.1.10 **“Data Protection Laws”** means POPI and any other applicable laws relating to the processing of Personal Information in the Republic of South Africa;
- 1.1.11 **“ECT Act”** means the Electronic Communications and Transactions Act 25 of 2002, as may be amended from time to time;
- 1.1.12 **“Exchange Services”** means the trade exchange facilitation services provided by Green Media to the Media Owner, as set out in clause 6 below;
- 1.1.13 **“Flighting Schedule”** means a written schedule to a Trade Exchange Agreement agreed in writing by both Parties, setting out the details of the Media Space, the flighting/display times, the duration of the flighting/display, the Content of the Brand Owner to be displayed/flighted and such other details as the Parties deem necessary;
- 1.1.14 **“Force Majeure”** means an event of fire, lightning, explosion, flood, hurricane, act of God, war, terrorism, civil disorder, epidemics, plagues, strikes; boycotts, and lock-outs of all kinds and go-slows (excluding boycotts, strikes, lock-outs and go-slows by or of the affected Party's own Staff) which were outside of the control of the affected Party or any other event beyond the control of the Party affected by the event, provided in all cases that the affected Party has taken all steps and precautions which could reasonably be expected for it to have taken in order to prevent such act or event occurring and furthermore that the affected Party is not at fault;
- 1.1.15 **“Green Media Tools and Methodologies”** means any and all methodologies of Green Media and materials that are owned or acquired by Green Media, or licensed to Green Media by third parties, and that are used by Green Media to provide the Exchange Services and to conduct its Trade Exchange Process, and shall include Green Media's infrastructure and the Website;

- 1.1.16 **“Intellectual Property Rights”** includes all current and future intellectual property rights of any kind whatsoever and however embodied which may subsist or be capable of protection wheresoever in the world, including (without limitation) patents, trademarks, present and future rights of copyright, rights in and to designs, rights in and to inventions, topography rights, rights in and to trade secrets, rights in and to trade names, business names, domain names and logos, the right to keep information confidential and private, rights in and to know-how, rights in and to databases (including rights of extraction), and all rights and forms of protection of a similar nature or having equivalent effect to any of them which may subsist or be capable of protection as at the Signature Date or thereafter wheresoever in the world, whether or not any of these is registered and including applications for any such rights or registration thereof and any goodwill related to or arising from such rights;
- 1.1.17 **“Media”** means the electronic or other media platform (which may include television, radio, out of home advertising, print, billboards and online digital media), of the Media Owner to which the Media Space pertains, as described in each Trade Exchange Agreement;
- 1.1.18 **“Media Owner”, “you” and “your”** means –
- 1.1.18.1 the owner of a Media channel and Media Space, that may be used for advertising purposes; or
- 1.1.18.2 a person or entity that has acquired Media Space from the owner of the Media channel and has the right to place advertisements without the further consent of the owner of the Media channel;
- that has entered into this Subscription Agreement or a previous version hereof, either itself or through its Agent;
- 1.1.19 **“Media Space”** means the rights to flight/display Content in the Media, which rights Green Media will acquire from the Media Owner in terms of a Trade Exchange Agreement(s), and which Green Media may provide to brand owners and other third parties in terms of further trade exchange transactions;
- 1.1.20 **“Parties”** means the Media Owner and Green Media and **“Party”** shall mean either of them, as the context dictates;
- 1.1.21 **“Personal Information”** has the meaning given to it in the Protection of Personal Information Act, 4 of 2013;
- 1.1.22 **“Prime Rate”** means the publicly quoted prime rate of interest (expressed as a percentage per annum) from time to time charged by ABSA Bank Limited, as certified by any manager of such bank, whose appointment and authority it shall not be necessary to provide, calculated daily and compounded monthly in arrears;
- 1.1.23 **“Products”** means products which are acquired by Green Media from Brand Owners in terms of trade exchange transactions and that are to be supplied to the Media Owner by Green Media in exchange for Media Space in terms of a Trade Exchange Agreement entered into under this Subscription Agreement. All references to “Products” in clauses in the body of this Subscription Agreement, will for purposes of the Rewards Programme described in Annexure A hereto, be deemed to be references to “Charity Products” as defined in Annexure A hereto;
- 1.1.24 **“Product Description”** means the description of the Products, as set out in the Trade Exchange Agreement;
- 1.1.25 **“Product Specifications”** means the specifications of the Products as set out in the Trade Exchange Agreement;
- 1.1.26 **“Rewards Programme”** means Green Media’s BarterBucks Rewards Programme, as further described in Annexure A hereto, providing the Media Owner with the ability to exchange its unsold Media Space, for donations of Charity Products (as defined in Annexure A hereto) to Charity(ies) on its behalf by Green Media, and thereby becoming eligible to receive BarterBucks;

- 1.1.27 **"Services"** means the services which Green Media is authorised to distribute (whether by means of Vouchers or otherwise) to third parties (such as the Media Owner) in exchange for Media Space, as set out in the applicable Trade Exchange Agreement, and to be provided in accordance with the terms of such Trade Exchange Agreement or the terms of the Voucher (as applicable);
- 1.1.28 **"Service Description"** means the description of the Services, as set out in the Trade Exchange Agreement;
- 1.1.29 **"Service Specifications"** means the specifications of the Services set out in the Trade Exchange Agreement;
- 1.1.30 **"Standard Terms"** means any standard terms applicable to the Products (or Charity Products in respect of the Rewards Programme), Services and/or Vouchers to be exchanged in terms of a Trade Exchange Agreement and which, if applicable, will be as set out in Annexure A to the Trade Exchange Agreement;
- 1.1.31 **"Staff"** means any person who is either an employee, consultant, subcontractor and/or other representative of a Party and where the context requires, employees, consultants, subcontractors and/or other representatives of the aforementioned;
- 1.1.32 **"Subscription Agreement"** means the terms and conditions of this Trade Exchange Subscription Agreement (and its Annexure) between Green Media and the Media Owner, which governs the Exchange Services, the Trade Exchange Process and all Trade Exchange Agreements entered into hereunder, as amended from time to time;
- 1.1.33 **"Territory"** means the Republic of South Africa;
- 1.1.34 **"Trade Exchange Agreement"** means a written agreement entered into between Green Media and the Media Owner (and duly signed by their authorised representatives), in terms of this Subscription Agreement (and which incorporates the terms and conditions of this Subscription Agreement by reference) in respect of an exchange of Products, Service and/or Vouchers, for Media Space provided by Media Owners, including all annexures, and Flighting Schedules concluded pursuant thereto. All references to "Trade Exchange Agreement" in clauses in the body of this Subscription Agreement, will for purposes of the Rewards Programme described in Annexure A hereto, be deemed to be references to "Trade Exchange Agreement" as defined in Annexure A hereto;
- 1.1.35 **"Trade Exchange Process"** means the operational system and methodology operated and administered by Green Media in its own name, through which Green Media identifies, initiates, manages and enters into trade exchange transactions with participating brands owners and media owners, and includes the Green Media Tools and Methodologies;
- 1.1.36 **"Trade Exchange Transaction"** means a transaction whereby Products and/or Vouchers provided by Green Media are exchanged for Media Space provided by the Media Owner, in terms of a Trade Exchange Agreement. All references to "Trade Exchange Transaction" in clauses in the body of this Subscription Agreement, will for purposes of the Rewards Programme be deemed to be references to "Trade Exchange Transactions" as defined in Annexure A hereto;
- 1.1.37 **"VAT"** means value-added tax, chargeable under the Value Added Tax Act, 1991; and
- 1.1.38 **"Voucher"** means a written and transferable instrument issued by the Brand Owner to Green Media in terms of a trade exchange transaction, carrying the right to receive the Services for which the instrument was issued, from the applicable Brand Owner to the specified value, and which is redeemable by the holder thereof against the Brand Owner;

- 1.1.39 "**Website**" means [www.greenmedia.co.za](http://www.greenmedia.co.za) (or [www.barterbucks.co.za](http://www.barterbucks.co.za), in respect of the Rewards Programme), and all web pages found thereon, the use of which is, in addition to the provisions of the Agreement that may apply, subject to the terms and conditions of use of the Website.
- 1.2 In the Agreement -
- 1.2.1 Clause headings are for convenience only and are not to be used in its interpretation;
- 1.2.2 An expression which denotes -
- 1.2.2.1 any gender includes the other genders;
- 1.2.2.2 a natural person includes a juristic person and *vice versa*;
- 1.2.2.3 the singular includes the plural and *vice versa*;
- 1.2.3 A Party includes a reference to that Party's successors in title and assigns allowed at law; and
- 1.2.4 A reference to a consecutive series of two or more clauses is deemed to be inclusive of both the first and last-mentioned clauses.
- 1.3 Any reference in the Agreement to -
- 1.3.1 "**business hours**" shall be construed as being the hours between 08h30 and 17h00 on any Business Day. Any reference to time shall be based upon South African Standard Time;
- 1.3.2 "**days**" shall be construed as calendar days unless qualified by the word "business", in which instance a "Business Day" will be any day other than a Saturday, Sunday or public holiday as gazetted by the government of the Republic of South Africa from time to time;
- 1.3.3 "**laws**" means all constitutions; statutes; regulations; by-laws; codes; ordinances; decrees; rules; judicial, arbitral, administrative, ministerial, departmental or regulatory judgements, orders, decisions, rulings, or awards; policies; voluntary restraints; guidelines; directives; compliance notices; abatement notices; agreements with, requirements of, or instructions by any Governmental Body; and the common law, and "**law**" shall have a similar meaning; and
- 1.3.4 "**person**" means any person, company, close corporation, trust, partnership or other entity whether or not having separate legal personality.
- 1.4 The words "**include**" and "**including**" mean "include without limitation" and "including without limitation". The use of the words "**include**" and "**including**" followed by a specific example or examples shall not be construed as limiting the meaning of the general wording preceding it.
- 1.5 Any substantive provision, conferring rights or imposing obligations on a Party and appearing in any of the definitions shall be given effect to as if it were a substantive provision in the body of the Agreement.
- 1.6 Unless specifically otherwise provided, any number of days prescribed shall be determined by excluding the first and including the last day or, where the last day falls on a day that is not a Business Day, the next succeeding Business Day.
- 1.7 Where figures are referred to in numerals and in words, and there is any conflict between the two, the words shall prevail, unless the context indicates a contrary intention.

- 1.8 The rule of construction that the Agreement shall be interpreted against the Party responsible for the drafting of the Agreement, shall not apply.
- 1.9 Any conflict between the provisions of the various documents referred to herein shall be dealt with as follows:
  - 1.9.1 In the event of any conflict between the provisions of the Trade Exchange Agreement and the provisions of the Standard Terms, the provisions of the Trade Exchange Agreement shall prevail;
  - 1.9.2 In the event of any conflict between:
    - 1.9.2.1 The provisions of this Subscription Agreement and the Trade Exchange Agreement, the provisions of the Trade Exchange Agreement shall prevail;
    - 1.9.2.2 The provisions set out in the body of this Subscription Agreement and those set out in Annexure A in respect of the Rewards Programme and any Trade Exchange Agreements entered into under the Rewards Programme, the terms and conditions set out in Annexure A will prevail.

## 2 INTRODUCTION

- 2.1 Green Media operates a trade exchange business whereby it:
  - 2.1.1 provides trade exchange facilitation services, that assist suppliers of products and/or services to exchange such products and/or services for media space in which to flight content;
  - 2.1.2 provides trade exchange facilitation services, that assist media owners to exchange their media space, for products and services;
  - 2.1.3 exchanges products and/or services for the rights to certain media space (which Green Media procures from various media owners and in respect of which it holds the rights to redistribute); and
  - 2.1.4 provides a Rewards Programme in terms of which media owners may exchange their unsold media space for donations of products to charities on their behalf by Green Media, allowing media owners to earn BarterBucks.
- 2.2 The Media Owner, by entering into this Subscription Agreement, has agreed to engage with Green Media for the purpose of receiving the Exchange Services and negotiating and entering into Trade Exchange Agreements with Green Media from time to time, in respect of the exchange of Media Space for Products and/or Vouchers.
- 2.3 Green Media agrees to engage with the Media Owner in order to negotiate and where the terms are agreed, enter into Trade Exchange Agreements with the Media Owner, subject to the provisions of this Subscription Agreement and the Trade Exchange Agreement/s entered into hereunder.

## 3 ACCESS TO THE TRADE EXCHANGE PROCESS AND EXCHANGE SERVICES

- 3.1 Subject to the provisions of clause 3.7, we will only provide you with access to our Trade Exchange Process and the Exchange Services, if you have completed the online registration form and have entered into this Subscription Agreement by your acceptance of the terms and conditions hereof to complete the online registration process on the Website. If you do not agree to the provisions of this Subscription Agreement (as amended from time to time), you will not have access to the Trade Exchange Process or the Exchange Services.
- 3.2 When you have completed the registration process you will be able to provide us with information regarding the Media Space that you offer and what your requirements are in respect of Products and/or Vouchers that you wish to procure in exchange.

- 3.3 By entering into this Subscription Agreement, you consent to us using your contact details provided during registration to contact you to further ascertain your requirements and/or business needs in relation to potential Trade Exchange Transactions that you wish to enter into.
- 3.4 You will be required to provide us with written confirmation that the person who entered into the Agreement (including this Subscription Agreement, and any Trade Exchange Agreement and/or Flighting Schedule entered into thereunder) on your behalf was duly authorised to do so, within 1 (one) Business Day of receipt of our request in this regard.
- 3.5 **Without in any way detracting from the provisions of clauses 6.11 and 17, Green Media shall be entitled to conduct a preliminary workshop and/or assessment of the Media Owner, including whether the Trade Exchange Process and Exchange Services have the potential to fulfil the Media Owner's business requirements or needs, within a period of 7 (seven) Business Days of the Media Owner entering into this Subscription Agreement with Green Media. Where Green Media reasonably determines that the Media Owner, or its business needs is/are not suited to the Trade Exchange Process and/or the Exchange Services, it shall be entitled to terminate this Subscription Agreement on written notice to the Media Owner. Green Media may, acting reasonably, decline or cease to provide the Exchange Services in respect of any potential Trade Exchange Transaction, at any time upon written notice to you, including where Green Media may suffer reputational harm, or where the Media Owner has breached the terms of the Agreement and such breach has not been remedied.**
- 3.6 **By entering into this Subscription Agreement, you agree to be bound by the terms and conditions set out herein, regardless of whether the Exchange Services culminate in the finalisation or execution of any Trade Exchange Agreements entered into pursuant to this Subscription Agreement. For purposes of clarity, however, neither Party will be obligated to enter into any Trade Exchange Agreement merely by virtue of this Subscription Agreement and the Parties will negotiate and agree each Trade Exchange Agreement which is entered into in terms hereof. Each Trade Exchange Agreement that is entered into hereunder, will be subject to the terms of this Subscription Agreement, unless specifically otherwise agreed in terms of the relevant Trade Exchange Agreement.**
- 3.7 Where the Media Owner has previously registered and:
- 3.7.1 Entered into a trade exchange subscription agreement with Grapevine Media and has not objected to the cession, assignment, delegation and transfer of all rights and obligations of such entity to Green Media (Pty) Ltd, the provisions of clause 3.1 will not apply and this Subscription Agreement will replace such previous trade exchange subscription agreement upon expiry of a period of 30 (thirty) days from the date that the Media Owner has received the written notification from Grapevine Creative Media (Pty) Ltd in respect of the amended terms, as well as the cession, assignment, deletion and transfer referred to above, and has not objected thereto within such period;
- 3.7.2 Entered into a trade exchange subscription agreement with Green Media which provisions have subsequently been amended in accordance with its terms, the provisions of clause 3.1 will not apply and this Subscription Agreement (as amended), will apply.
- 3.8 **Accordingly, this Subscription Agreement, supersedes and replaces any previous trade exchange subscription agreement that you have entered into with Green Media (or Grapevine Media), whether via online acceptance or physical signature thereof.**
- 3.9 You are required to provide to Green Media the names and designation of the persons who are authorised to execute Trade Exchange Agreements and conclude Flighting Schedules under the Trade Exchange Agreements,

upon written request by Green Media and shall immediately advise Green Media if these details change, however **Green Media shall be entitled to accept that the person who has entered into this Subscription Agreement on behalf of the Media Owner is so authorised, as well as any other representative of the Media Owner who contacts Green Media in relation to a prospective Trade Exchange Agreement.**

3.10 **You acknowledge and agree that Green Media acts in the capacity of a service provider in respect of the Trade Exchange Services, as well as in the capacity of party to a Trade Exchange Transaction, where a Trade Exchange Agreement is entered into.**

3.11 By entering into this Subscription Agreement, the Media Owner is eligible to participate in the Rewards Programme. Such participation will be subject to the terms and conditions of this Subscription Agreement, as well as those set out in Annexure A hereto ("Rewards Terms and Conditions", as defined in Annexure A hereto).

#### 4 **DURATION**

4.1 This Subscription Agreement shall commence upon the acceptance hereof by the Media Owner as set out in clause 3.1 above (or pursuant to clause 3.7) and shall endure until terminated in accordance with clause 23 below, provided that this Subscription Agreement shall not terminate until the termination or fulfilment of the last Trade Exchange Agreement entered into pursuant to this Subscription Agreement.

4.2 Each Trade Exchange Agreement shall commence on the effective date specified therein and shall endure until terminated in accordance with its terms, or expiry thereof once the obligations of both Parties in respect of the relevant Trade Exchange Transaction, are fulfilled.

#### 5 **RELATIONSHIP BETWEEN THE PARTIES AND AGENCY**

##### 5.1 Relationship

5.1.1 The relationship between the Parties in terms of the Agreement shall be that of independent contractors. No partnership or joint venture is hereby created between the Parties.

5.1.2 Save as specifically contemplated, the Agreement does not constitute one Party as the legal representative, employee or servant of the other Party, does not constitute the employees of one Party as being employees of the other and neither Party shall have authority to assume any obligation of any kind on behalf of the other Party, or to bind the other Party in any way.

##### 5.2 Agency

5.2.1 **The Media Owner hereby acknowledges and agrees that, where it communicates to Green Media that a certain person or entity ("Agent") may enter into any Trade Exchange Agreements (or Flighting Schedules thereunder), on its behalf, as its agent, that it will:**

- (a) **Remain fully liable for all acts and omissions of such person or entity;**
- (b) **Inform Green Media immediately upon such person or entity ceasing to be the duly appointed and authorised agent of the Media Owner;**
- (c) **Provide Green Media at any time, and from time to time, with written proof (to the reasonable satisfaction of Green Media), in the form of a letter signed by a duly authorised representative of the Media Owner, confirming that:**
  - (i) **Such person or entity is the duly appointed and authorised agent of the Media Owner;**



- (ii) Such person or entity has the necessary authority to enter into the Trade Exchange Agreements and Flighting Schedules on behalf of the Media Owner;
- (iii) Such person or entity has the necessary authority to exercise the rights and perform the obligations of the Media Owner under the Trade Exchange Agreements, on behalf of the Media Owner for the duration hereof; and
- (iv) The Media Owner will, where such person or entity is unable to fulfil its obligations under the Trade Exchange Agreement or ceases to be the duly authorised agent of the Media Owner, immediately step in and fulfil the Media Owner's obligations and exercise its rights under the Trade Exchange Agreement.

**5.2.2 Where this Subscription Agreement is entered into by an agent of the Media Owner, the Agent hereby warrants, undertakes and represents to Green Media that:**

- (a) It is the duly appointed and authorised agent of the Media Owner (whose details appear in the registration form completed during the registration process set out in clause 3.1 above);
- (b) It is duly authorised to enter into this Subscription Agreement on behalf of the Media Owner and to fulfil the obligations of the Media Owner set out herein; and
- (c) The full and correct details of the Media Owner, as well as the Agent (indicating its capacity as agent) have been provided by the Agent during the registration process set out in clause 3 above.

**5.2.3 The Agent hereby indemnifies Green Media and holds it harmless against any claims, liability, damages, costs, losses and/or expenses (collectively "Losses"), arising from a breach of the warranties set out in clause 5.2.2 above and the Agent will reimburse Green Media for any such Losses incurred by Green Media. In such instance, Green Media will furnish the Agent with an invoice stipulating such amounts, which invoice will be paid within 30 (thirty) days from the date of issue of such invoice by Green Media.**

**5.2.4 The Agent hereby acknowledges and agrees that Green Media will be entitled, at any time, and from time to time, to require the Agent, or the Media Owner (at the discretion of Green Media) to provide it with written proof (to the reasonable satisfaction of Green Media), in the form of a letter executed by the Media Owner and signed by a duly authorised representative of the Media Owner, confirming that:**

- (a) The Agent is the duly appointed and authorised agent of the Media Owner;
- (b) The Agent has the necessary authority to enter into this Subscription Agreement on behalf of the Media Owner; and
- (c) The Agent has the necessary authority to exercise the rights and perform the obligations of the Media Owner under this Subscription Agreement on behalf of the Media Owner for the duration hereof; and
- (d) The Media Owner will, where the Agent is unable to fulfil its obligations under this Subscription Agreement or ceases to be the duly authorised agent of the Media Owner, immediately step in and fulfil the obligations and exercise its rights under this Subscription Agreement.

**5.2.5 In the event that such written proof in terms of clause 5.2.4 above is requested from the Agent and the Agent does not provide such proof to Green Media within 5 (five) Business Days of request by Green Media, then Green Media will not be liable to continue to perform its obligations in terms of this**

**Subscription Agreement, until such time as the Agent as provided such proof to Green Media (to the reasonable satisfaction of Green Media) or Green Media has obtained it from the Media Owner itself.**

- 5.2.6 **Where Green Media is unable to obtain the required proof of agency from the Media Owner, either in terms of clause 5.2.1(c) or 5.2.4, then Green Media will be entitled to terminate the Agreement without incurring any further liability to the Agent and/or the Media Owner in respect of such termination.**
- 5.2.7 **The Media Owner (where this Subscription Agreement is entered into by the Media Owner) or the Agent (where this Subscription Agreement is entered into by the Agent) hereby further acknowledges and agrees that, in event of a breach of the Agreement by the Agent and/or the Media Owner, Green Media will be entitled to institute legal proceedings against the Agent and/or the Media Owner, at the discretion of Green Media and the Agent and the Media Owner will be jointly and severally liable to Green Media.**
- 5.3 **Where the Agent has entered into this Subscription Agreement and/or any Trade Exchange Agreement on behalf of the Media Owner, all references to “Media Owner” in this Subscription Agreement as well as the applicable Trade Exchange Agreement, will be deemed to include a reference to the Agent.**

## **6 TRADE EXCHANGE PROCESS AND EXCHANGE SERVICES**

- 6.1 Green Media has procured and/or will procure certain Products, Services and/or Vouchers from various Brand Owners. This enables Green Media to offer such Products, Services and/or Vouchers to you in exchange for Media Space.
- 6.2 Green Media, once it acquires the Media Space exchanged in terms a Trade Exchange Agreement, will, in accordance with clause 7 below, be entitled to redistribute such Media Space to third parties, including Brand Owners, in terms of further trade exchange transactions entered into between Green Media and such third parties, and the Media Owner will flight the Content of Green Media or such third parties, in accordance with the applicable Flighting Schedules.
- 6.3 By entering into this Subscription Agreement, you:
  - 6.3.1 appoint Green Media to present to you, various Products, Services and/or Vouchers which Green Media has available (and/or is able to procure) to exchange for your Media Space, in terms of Trade Exchange Agreements;
  - 6.3.2 authorise Green Media to liaise with the relevant third parties, including Brand Owners, in respect of the Media Space procured by Green Media from you, in order for Green Media to redistribute such Media Space to such third parties or Brand Owners, finalise Flighting Schedules and arrange for the flighting/display of Content in the relevant Media with you; and
  - 6.3.3 consent to Green Media sharing your Data and information, including Personal Information, with such third parties or Brand Owners for purposes of the Exchange Services and fulfilment by Green Media's of its obligations and the exercise of its rights under the applicable Trade Exchange Agreement(s).
- 6.4 In order to receive the Exchange Services, you will be required to provide Green Media with:
  - 6.4.1 a list of available Media Space, and applicable rates (which you will be required to update from time to time, upon request of Green Media); and
  - 6.4.2 your business needs or requirements in relation to Products, Services and/or Vouchers that you require in exchange for such Media Space.

- 6.4.3 We will from time to time, for the duration of this Subscription Agreement, present to you the Products, Services and/or Vouchers which Green Media has available for a potential Trade Exchange Transaction, based on your requirements and/or business needs communicated to us. Green Media will also engage with you from time to time to determine which Media Space you have available for potential Trade Exchange Transactions.
- 6.5 Should you advise us that the Products, Services and/or Vouchers that we have to offer, are acceptable, and we wish to procure certain of your Media Space in exchange for such Products, Services and/or Vouchers, Green Media will provide you with its standard Trade Exchange Agreement for your consideration, and execution once negotiations are completed.
- 6.6 The agreed terms and conditions applicable to each Trade Exchange Transaction will be set out in a Trade Exchange Agreement(s) entered into between the Parties .
- 6.7 In the event that you enter into a Trade Exchange Agreement with Green Media in terms hereof, you will be required to provide Green Media with all information, and other assistance required, including in relation to the finalisation of Flighting Schedules, necessary for Green Media to utilise and/or distribute the Media Space and/or to effectively liaise with third parties, including Brand Owners, in relation to their consumption of the Media Space that Green Media has procured in terms of the Trade Exchange Agreement.
- 6.8 **You acknowledge and agree that the Products, Services and/or Vouchers communicated to you as being available for exchange:**
- 6.8.1 **will be communicated to various other media owners with whom Green Media has a similar arrangement and will only be reserved for you once a Trade Exchange Agreement in respect of such Products, Services and/or Vouchers is entered into; and**
- 6.8.2 **may not fulfil your requirements and you hereby assumes the risk thereof, to the fullest extent permitted by applicable law.**
- 6.9 **You further acknowledge and agree that you are bound by the Standard Terms in relation to your use of the Products, Services and/or Vouchers provided in terms of a Trade Exchange Agreement.**
- 6.10 **Green Media does not warrant that the Products, Services and/or Vouchers suggested by us will meet your requirements or be suitable for your intended use. You are responsible for ensuring that the Products, Services and/or Vouchers are correctly described in each Trade Exchange Agreement and meet your requirements.**
- 6.11 **You acknowledge and agree that:**
- 6.11.1 **the Agreement is not intended to and does not operate as an exclusive agreement between you and us and we can provide the Trade Exchange Process and the Exchange Services to third parties, enter into agreements with third parties similar to the Agreement and enter into trade exchange agreements with third parties;**
- 6.11.2 **Green Media is not under any obligation to enter into a certain number or minimum target number of Trade Exchange Transactions and/or Trade Exchange Agreements with you by virtue of this Subscription Agreement. Similarly, you will not be under any obligation to enter into any minimum number of Trade Exchange Transactions and/or Trade Exchange Agreements with Green Media by virtue of this Subscription Agreement; and**
- 6.11.3 **Green Media expressly reserves the right to decline to enter into a Trade Exchange Agreement with you.**

## 7 GRANT OF DISTRIBUTION RIGHTS

- 7.1 The Media Owner hereby grants to Green Media the right and licence to redistribute the Media Space acquired by Green Media in terms of Trade Exchange Agreements entered into hereunder (including pursuant to the Rewards Programme), to third parties including Brand Owners, in terms of further trade exchange transactions between Green Media and such third parties. Accordingly, the Parties agree that Green Media will be entitled to use the Media Space itself and/or to redistribute such Media Space to third parties for consumption and/or use by such third parties.
- 7.2 The Media Owner accordingly agrees that it will flight the Content of Green Media or the applicable third party in the Media, in accordance with the Trade Exchange Agreement and the Flighting Schedules concluded thereunder. **The Media Owner further acknowledges and agrees that Green Media is entitled to consume the Media Space acquired by it, by means of Flighting Schedules to be entered into under the relevant Trade Exchange Agreement and the Media Owner may not refuse to enter into such Flighting Schedules with Green Media such that it frustrates the purpose of the applicable Trade Exchange Transaction(s). Accordingly, the Media Owner will co-operate with Green Media and will act reasonably and promptly at all times in relation to the finalisation and conclusion of the Flighting Schedules.**

## 8 SUPPLY AND DELIVERY OF PRODUCTS AND SERVICES

- 8.1 The Products, Services and/or Vouchers will be supplied to the Media Owner in accordance with the Trade Exchange Agreement, and subject to clause 8.2 below.
- 8.2 The Media Owner acknowledges and agrees that a permissible variance of up to 10% is acceptable in both the type and quantity of the Products, Services, and/or Vouchers delivered under each Trade Exchange Agreement. This variance applies to situations where the composition of the Product, Service and/or Voucher types and/or the total quantity of Products, Service and/or Vouchers deviates from the terms of the Trade Exchange Agreement. In such instances, Green Media shall not be held liable for the discrepancy within this 10% tolerance threshold. This allowance is intended to accommodate minor variations in product / service availability and distribution, ensuring flexibility and efficiency in the fulfilment of the Agreement.
- 8.3 All risk and ownership in and to the Products and/or Vouchers supplied shall pass to the Media Owner as set out in the Trade Exchange Agreement.
- 8.4 The Media Owner's appointed Staff member, representative or logistics provider shall be required to sign the necessary proof of delivery supplied to it by Green Media's Staff member, representative or logistics provider, on delivery. The Media Owner shall notify Green Media of the identity and contact details of such Staff member, representative or logistics provider who is authorised to accept delivery on behalf of the Media Owner, not less than 2 (two) Business Days prior to delivery. If no such notification is provided by the Media Owner within the period set out above, then delivery of the Products and/or Vouchers shall be made to any person present at the delivery address specified in the Trade Exchange Agreement, who Green Media or its representative or logistics provider, acting reasonably, deems to be an appropriate representative of the Media Owner.
- 8.5 **The Media Owner acknowledges and agrees that:**
- 8.5.1 **it will use the Products, Services and/or Vouchers for its internal business purposes only, such as promotions, gifts and Staff incentives (unless a Trade Exchange Agreement is entered into in terms of Green Media's Rewards Programme, in which case the applicable Products will be donated to charity by Green Media on behalf of the Media Owner, in accordance with the terms of Annexure A hereto); and**

8.5.2 **it is prohibited from reselling and/or redistributing such Products, Services and/or Vouchers.**

## 9 **FLIGHTING SCHEDULES**

9.1 In the event that a Trade Exchange Agreement is entered into, but certain details in relation to the Products, Services (or Vouchers, the delivery thereof and/or the Media Space, including the following are not set out therein:

- 9.1.1 exact description of the Media Space and the value thereof;
- 9.1.2 a description of the Content to be flighted in the Media (subject to clause 9.2 below);
- 9.1.3 the dates and times of flighting of the Content;
- 9.1.4 the duration of the flighting of Content,

then the Parties will agree such details by means of Flighting Schedules entered into between them under the applicable Trade Exchange Agreement. The process for agreeing the Flighting Schedules will be as set out in the applicable Trade Exchange Agreement and such Flighting Schedules, once agreed, will form part of the Trade Exchange Agreement.

9.2 Where all details of the Media Space are agreed in terms of the Trade Exchange Agreement, however, the Content to be flighted has not yet been identified by Green Media, then the finalisation of a Flighting Schedule will not be required and Media Owner will flight the Content (as supplied by Green Media) in the Media Space, provided that:

- 9.2.1 such Content is supplied prior to the deadline for the supply of such Content as specified in the Trade Exchange Agreement; and
- 9.2.2 such Content complies with the Media Owner terms and conditions for content as set out in the Trade Exchange Agreement.

9.3 In the event that the Parties are unable to agree on the details of any particular Flighting Schedule after the expiry of a period of 20 (twenty) Business Days from the date on which Green Media has first requested the Media Owner to accept the details of any proposed Flighting Schedule, then Green Media will (in order to break the deadlock between the Parties) be entitled to refer the matter for determination by Derrick Kaufmann (BCom, LLB, LLM Director and Managing Partner in the Corporate, Mergers & Acquisitions Practice at Andersen in South Africa or such other senior legal professional as designated by Green Media from time to time ("**the Expert**"), acting as an expert and not as an arbitrator and in the absence of an Expert, to arbitration in terms of clause 26. The Parties further agree that the decision of the Expert in relation to the resolution of the matter which is preventing the Flighting Schedule from being agreed (which may include a determination of the appropriate content of the Flighting Schedule), will be final and binding upon them. In the event that a determination is made in respect of the appropriate content of the Flighting Schedule, the Media Owner will flight the Content in the Media in accordance with such determination.

9.4 The Media Owner will provide Green Media with proof of flighting/display of Content within 5 (five) days of the flighting of the applicable Content.

9.5 In the event that the Content is not correctly and accurately flighted/displayed in accordance with the applicable Flighting Schedule or the Trade Exchange Agreement (where no Flighting Schedule was necessary), the Media Owner shall provide Green Media with alternative Media Space of the same or similar value (to the value of the

Media Space in which the Content was incorrectly flighted or failed to be flighted) within 5 (five) Business Days, without detracting from any other rights that Green Media may have in terms of the Agreement, including the right to claim damages for such breach by the Media Owner and/or specific performance.

## 10 FINANCIAL ARRANGEMENTS IN RESPECT OF THE EXCHANGE SERVICES

- 10.1 The Exchange Services provided by Green Media leading up to the conclusion of a Trade Exchange Agreement, will be provided at no additional cost to the Media Owner, unless otherwise agreed in writing between the Parties.
- 10.2 Green Media shall be entitled to suspend access to and use of the Trade Exchange Process and the Exchange Services, in event that the Media Owner fails to:
  - 10.2.1 flight/display the Content in accordance with a Flighting Schedule to a Trade Exchange Agreement; and/or
  - 10.2.2 comply with any of its obligations in respect of the Agreement and until such obligations have been fulfilled.

## 11 FINANCIAL ARRANGEMENTS IN RESPECT OF TRADE EXCHANGE TRANSACTIONS

- 11.1 The Media Space shall be provided by the Media Owner in exchange and in consideration for the Products, Services and/or Vouchers, and the Products, Services and/or Vouchers shall be provided by Green Media in exchange and in consideration for the Media Space.
- 11.2 Both Parties shall, for the purposes of accounting, VAT and taxation, issue each other with a valid tax invoice for the supply of the Media Space and the Products, Services and/or Vouchers respectively. The Media Owner will provide Green Media (or its designated representative from time to time, currently Grapevine Media) with an invoice in respect of the Media Space in accordance with the provisions of the Trade Exchange Agreement and Green Media (or its designated representative from time to time, currently Grapevine Media) will issue an invoice to the Media Owner in accordance with provisions of the Trade Exchange Agreement.
- 11.3 The respective invoices issued in terms of clause 11.2 above, shall reflect the actual value of the Media Space, Products, Services and/or Vouchers exchanged in South African Rand, as well as the agreed discounts, as set out in the Trade Exchange Agreement.
- 11.4 The value of the Media Space exchanged for the Products, Services and/or Vouchers, and the value of the Products, Services and/or Vouchers exchanged for the Media Space, as set out in the Trade Exchange Agreement, shall in each case be deemed to be fair value for the exchange.

## 12 RESTRAINT

- 12.1 **In the event that the Media Owner obtains access to the details of the Brand Owner of the Products, Services and/or Vouchers which will be exchanged in terms of a particular Trade Exchange Transaction, including by virtue of any negotiations leading up to the execution of, or information contained in, the Trade Exchange Agreement or potential Trade Exchange Agreement (or in any other way as a result of the Trade Exchange Process and/or the Exchange Services), neither the Media Owner, nor any person, business or entity in which the Media Owner has a direct or indirect interest, financial or otherwise, shall be entitled to enter into any trade exchange or barter agreement with such Brand Owner (including for the purpose of circumventing Green Media), which is the same or similar to the Trade Exchange Transaction/s or potential Trade Exchange Transaction/s being contemplated by the Parties at the time, during the term of this Agreement, and for a period of 24 (twenty four) months after:**

- 12.1.1 the Media Owner has become aware of the identity of, or been introduced to the Brand Owner by Green Media, or
  - 12.1.2 the expiry or termination of the last Trade Exchange Agreement entered into between Green Media and the Media Owner pursuant to the Agreement,
- whichever occurs last.
- 12.2 The Media Owner agrees that it will not contact such Brand Owners directly, unless this is specifically required in terms of a Trade Exchange Agreement.
  - 12.3 For a period of 24 (twenty-four) months after entering into this Subscription Agreement, or 24 (twenty-four) months after the expiry or termination of the last Trade Exchange Agreement entered into in terms of this Subscription Agreement, whichever period expires last, the Media Owner shall not:
    - 12.3.1 engage in any business or undertaking or hold any interest (directly or indirectly) financial or otherwise in such business or undertaking which is the same or similar and/or competes with the trade exchange business of Green Media, contemplated in the Agreement, including the Trade Exchange Process and/or the Exchange Services; and
    - 12.3.2 shall not (i) promote, market, introduce or sell, services and/or an offering similar to the services and/or offering provided by Green Media as contemplated in this Subscription Agreement, including the Exchange Services and/or the Trade Exchange Process, and/or (ii) have a direct or indirect interest, receive remuneration in respect of, or be party to a profit sharing arrangement in respect of the promotion, marketing, sale or introduction of any services and/or offerings that are the same or similar and/or may compete with services and/or the offerings of Green Media as set out in this Subscription Agreement.
  - 12.4 The Parties acknowledge that they have given careful consideration to the restraints undertaken in this clause 12 and that such restraints are fair, reasonable and justified and go no further than is reasonably necessary to protect the proprietary rights and interest of Green Media regarding its trade exchange business and the Exchange Services. Furthermore, the Parties acknowledge that such restraints will not cause any hardship which each of them respectively is not willing to bear in return for the benefits (directly or indirectly) arising as a result of the Agreement.
  - 12.5 The provisions of this clause 12 shall survive the expiry or termination of the Agreement, until each restraint period has expired in accordance with the terms hereof.
- 13 OBLIGATIONS OF THE MEDIA OWNER**
- 13.1 The Media Space shall adhere to and be provided in accordance with the provisions of the Trade Exchange Agreement and Flighting Schedules at all times.
  - 13.2 The Media Owner shall not:
    - 13.2.1 display, copy, print, post, republish or redistribute any content or material that it receives in respect of or as a result of the rendering of the Exchange Services, including any content or material accessed or received pursuant to and/or in terms of the Agreement for the benefit of any other website, application or purpose;

- 13.2.2 use the Trade Exchange Process and/or the Exchange Services in any way that is unlawful, illegal, fraudulent or harmful to Green Media or any other person, or in connection with any unlawful, illegal, fraudulent or harmful purpose or activity; or
- 13.2.3 use the Trade Exchange Process and/or the Exchange Services to provide any services to third parties.
- 13.3 The Media Owner shall provide to Green Media all necessary co-operation in relation to the Agreement and all necessary access to such information, including technical specifications and pricing in respect of the Media Space, as may be required by Green Media for the purposes of performing its obligations in terms of the Agreement, including but not limited to the provision of the Exchange Services and exercising its rights.
- 13.4 In addition to its other obligations in terms of the Agreement, the Media Owner shall:
  - 13.4.1 notify Green Media immediately if it cannot provide access to the Media Space;
  - 13.4.2 ensure that the Media Space that it makes available for exchange in terms of the Agreement does not consist mainly of inferior advertising slots;
  - 13.4.3 provide Green Media with not less than 2 (two) days prior written notice of any material changes to its Media Space that would have an impact on any current or potential Trade Exchange Transactions;
  - 13.4.4 respond promptly and efficiently to any enquiries from Green Media about the Media Space;
  - 13.4.5 comply with and ensure that the Media Space complies with all applicable laws and regulations;
  - 13.4.6 obtain and maintain all necessary authorisations, consents and permissions necessary for Green Media to perform its obligations in terms of the Agreement;
  - 13.4.7 remain solely responsible for the maintenance and operation of the Media Space and the applicable Media; and
  - 13.4.8 carry out all other Media Owner responsibilities set out in the Agreement in a timely and efficient manner. In the event of any delays in the Media Owner's provision of assistance as agreed in terms hereof, Green Media may adjust any agreed timetable or delivery schedule as reasonably necessary.

#### 14 **OBLIGATIONS OF GREEN MEDIA**

In addition to the obligations of Green Media set out elsewhere in the Agreement, Green Media undertakes to:

- 14.1 provide the Products, Services and/or Vouchers as set out in each Trade Exchange Agreement;
- 14.2 provide the Exchange Services in a workmanlike manner and with the necessary care and skill;
- 14.3 promptly notify the Media Owner upon becoming aware of any circumstances that may reasonably be expected to jeopardise the performance of the Exchange Services or any part thereof.

#### 15 **WARRANTIES AND UNDERTAKINGS**

- 15.1 Each of the Parties hereby represents, warrants and undertakes to and in favour of the other that:
  - 15.1.1 it has the legal capacity and has taken all necessary corporate action required to empower and authorise it to enter into the Agreement;
  - 15.1.2 the Agreement constitutes an agreement valid and binding on it and enforceable against it in accordance with its terms;



- 15.1.3 the execution of the Agreement and the performance of its obligations thereunder does not and shall not:
- (a) contravene any law or regulation to which that Party is subject; or
  - (b) contravene any provision of that Party's constitutional documents.
- 15.2 Green Media represents, warrants and undertakes to Green Media that:
- 15.2.1 it has the necessary rights in and to the Products, Services and/or Vouchers, in order to make such Products, Services and/or Vouchers available for exchange in terms of each Trade Exchange Agreement; and
- 15.2.2 The Products, Services and/or Vouchers provided by Green Media in terms of the Agreement will conform to the description and specifications set out in each Trade Exchange Agreement, subject to clause 8.2 above.
- 15.3 The Media Owner warrants and undertakes that:
- 15.3.1 all information provided to Green Media, will to the best of its knowledge be accurate and complete;
- 15.3.2 it is the lawful owner (or holds the necessary rights, or authorisations granted by the owner) in respect of the Media Space in order to make the Media Space available for a Trade Exchange Transaction in terms of the Agreement and that it will be such lawful owner at the time that the Trade Exchange Agreement is entered into and that any such Media Space will be free of any liens or other encumbrances at the time of exchange;
- 15.3.3 the Media Space (including any component thereof), will not infringe upon the rights, including the Intellectual Property Rights, of Green Media or any third party, and the use thereof by Green Media (or any third party to whom such Media Space is exchanged), will not infringe upon the rights (including the Intellectual Property Rights) of any third party;
- 15.3.4 the Media and Media Space will conform to the description and any specifications in respect thereof, set out or referred to in the relevant Trade Exchange Agreement, including any Flighting Schedules concluded thereunder and that the Content will be correctly and accurately flighted in accordance with such Trade Exchange Agreement and the Flighting Schedules concluded thereunder;
- 15.3.5 it shall adhere to the requirements of Green Media and/or the Brand Owner in respect of the Products, Services and/or Vouchers procured in terms of such Trade Exchange Agreement;
- 15.3.6 it shall do all things, perform all acts and take all steps and procure the doing of all things, within its power and control as may be necessary for and incidental to putting into effect the terms and conditions of the Trade Exchange Agreement/s entered into pursuant hereto;
- 15.3.7 the natural person who enters into the Agreement on behalf of the Media Owner, is validly and duly authorised to do so;
- 15.4 **The Media Owner agrees that it has not relied on, and Green Media has not made, any undertakings, representations or warranties with respect to the quality or condition of the Products, Services and/or Vouchers, other than as expressly set out in the Trade Exchange Agreement. Any implied warranty of suitability or fitness for purpose is hereby expressly excluded.**
- 15.5 Each of the warranties and undertakings set out in clause 15.1, 15.2 and 15.3 above shall be read separately from and without prejudice to and without derogation from the others.

## 16 INDEMNITIES

- 16.1 The Media Owner hereby indemnifies and holds Green Media harmless against any and all claims, liability, costs, losses, expenses and/or damages of whatsoever nature (including in relation to reputational harm), that arise out of or in connection with:
- 16.1.1 any breach of third-party rights, including Intellectual Property Rights, arising from the redistribution and/or consumption of the Media Space provide by the Media Owner in terms of a Trade Exchange Agreement;
  - 16.1.2 an actual or alleged breach of the warranties provided by the Media Owner in terms of clause 15 above, as well as any warranty implied by law; and/or
  - 16.1.3 any breach of the provisions of clauses 12 and/or 13 above and/or clauses 18, 19 and/or 20 below.
- 16.2 The Media Owner further indemnifies and defends, Green Media against any claims, liability, costs, losses, expenses and/or damages of whatsoever nature, suffered by the Media Owner:
- 16.2.1 in the event that Green Media suspends the Exchange Services in circumstances where it is entitled to do so in terms of the Agreement;
  - 16.2.2 arising from the Media Owner's use of the Products, Services and/or Vouchers contrary to the provisions of the Trade Exchange Agreement and/or the applicable Standard Terms.
- 16.3 The provisions of this clause 16 shall survive the expiry or termination of the Agreement.

## 17 LIMITATION OF LIABILITY AND DISCLAIMER

- 17.1 In the event that the Exchange Services do not conform to the obligations or undertakings of Green Media set out in this Agreement, Green Media will use all reasonable commercial endeavours to correct or substitute any such non-conformance. Such correction or substitution constitutes the Media Owner's sole and exclusive remedy for any breach of any obligation or undertaking set out herein. Notwithstanding the foregoing, the Exchange Services, Products, Services and/or Vouchers are provided "as is" without warranty of any kind. Use of the Exchange Services, Products, Services and/or Vouchers are at the Media Owners own risk. Green Media does not warrant that the Trade Exchange Process, the Exchange Services, Products, Services and/or Vouchers will meet the Media Owner's requirements or be free from errors or defects.
- 17.2 To the fullest extent permitted by law, in no event will Green Media be liable to the Media Owner and/or any other person for:
- 17.2.1 any loss of profits, revenue, loss of goodwill, loss of data or loss of business opportunities, whether direct or indirect; or
  - 17.2.2 loss of and/or damage to property and/or personal injury and/or death;
  - 17.2.3 any indirect, special, punitive, exemplary or consequential losses of any kind,
- incurred or suffered by the Media Owner and/or any other person arising from the Trade Exchange Process and/or the provision of the Exchange Services), and/or otherwise arising out of this Subscription Agreement and/or any Trade Exchange Agreement concluded hereunder, including in

respect of the supply and/or consumption of Products, Services and/or Vouchers thereunder, and/or the publication of the Content, in terms thereof.

- 17.3 **Subject to the provisions of clauses 17.1 and 17.2 above, the maximum liability of Green Media to the Media Owner and/or any other person, whether in contract or delict (including negligence) arising from and/or related to the Agreement, including this Subscription Agreement and/or any Trade Exchange Agreement(s) entered into hereunder, will be limited in total per claim to:**
- 17.3.1 **The amount recovered in respect of such claim under the applicable insurance policy(ies) held by Green Media; or**
- 17.3.2 **7.5% of the retail value of the Products, Services and/or Vouchers provided in terms of the applicable Trade Exchange Agreement in respect of which the claim arose (or where the claim did not arise in relation to a Trade Exchange Agreement, 7.5% of the retail value of the Products, Services and/or Vouchers provided in terms of the most recent Trade Exchange Agreement concluded between the Parties),**
- whichever is the higher amount.**

17.4 Nothing in the Agreement shall limit or exclude the liability of Green Media for any matter to the extent to which such liability cannot be lawfully excluded or limited in terms of the laws of South Africa.

17.5 The provisions of this clause 17 shall survive the expiry or termination of the Agreement.

## **18 INTELLECTUAL PROPERTY RIGHTS**

18.1 All Intellectual Property Rights belonging to a Party prior to the Signature Date, will remain vested in such Party (as the case may be). Green Media shall not obtain any rights of whatsoever nature in or to the Intellectual Property Rights of any Media Owner and the Media Owner shall not obtain any rights of whatsoever nature in or to the Intellectual Property Rights of Green Media or the applicable Brand Owner, developed during the term of the Agreement.

18.2 All Intellectual Property Rights in and to any Data of the Media Owner provided or accessed pursuant to the Agreement shall vest in and shall remain vested in the Media Owner. Where Green Media is provided access to the Data of the Media Owner, Green Media shall use such Data in accordance with the terms of the Agreement and only for purposes of the Agreement, which may include providing such Data to the applicable Brand Owner whose Content will be flighted/displayed in the Media Space.

18.3 All Intellectual Property Rights in and to any Data, Content and other materials of Green Media and/or the applicable Brand Owner provided or accessed by the Media Owner pursuant to the Agreement shall vest in and shall remain vested in Green Media and/or the applicable Brand Owner and the Media Owner shall use such Data, Content and/or other materials strictly in accordance with the terms of the Agreement and only for purposes of the Agreement.

18.4 During the term of this Agreement the Media Owner grants to Green Media a licence to use the designs, logos, brochures and other materials that the Media Owner provides to Green Media, for the purposes of Green Media fulfilling its obligations in terms of the Agreement. This includes the right of Green Media to make copies of such materials for the purposes of providing the Exchange Services. Green Media will be entitled to display the trademarks and/or brands of the Media Owner, subject to any guidelines specified by the Media Owner for purposes of marketing and otherwise fulfilling its obligations in terms of the Agreement.

18.5 The trademarks and/or brands of Green Media and/or the applicable Brand Owner shall not be used by the Media Owner for any purpose without obtaining prior written consent of Green Media and then only in the manner prescribed.

18.6 **The Media Owner acknowledges that Green Media and/or its licensors owns all rights, title and interest (including all Intellectual Property rights) in the Trade Exchange Process (including the Green Media Tools and Methodologies) and the Exchange Services. This Agreement does not grant the Media Owner any rights, title or interest in the Exchange Services, the Trade Exchange Process or any content accessed by the Media Owner through the Trade Exchange Process, the Exchange Services and/or pursuant to any Trade Exchange Agreement entered into hereunder.**

18.7 The provisions of this clause 18 will survive the expiry or termination of the Agreement.

## 19 **CONFIDENTIALITY**

19.1 The Parties agree to treat all Confidential Information of the other Party, in whatever form, as private and confidential and to safeguard it in the manner, and with the endeavour, of a reasonable person protecting his or her own Confidential Information, provided that this clause 19 shall not apply to Green Media, in respect of the information of the Media Owner contemplated in clause 20.2 which is provided to the Brand Owner or otherwise to a third party as allowed in terms of clause 20. In no event shall the Parties use less than reasonable efforts to protect the confidentiality of the Confidential Information of the other Party.

19.2 The Parties agree that they will not use, exploit, disclose, copy, reproduce, publish, reverse engineer and/or decompile or otherwise transfer, directly or indirectly any Confidential Information of the other Party and furthermore that they will not use such Confidential Information for any purpose other than to fulfil their obligations and exercise their rights in terms of the Agreement and then on a "need to know" basis only. The Parties further agree to take all such steps as may be reasonably necessary to prevent Confidential Information of the other Party from falling into the hands of unauthorised third parties.

19.3 Each Party undertakes that it shall under no circumstances disclose the content of the Agreement to any other person, other than as required by law, or as expressly contemplated in the Agreement, without the prior written consent of the other Party. In particular the Media Owner will not use or disclose any of the financial arrangements contained in the Agreement without Green Media's prior written consent.

19.4 The Media Owner agrees that it shall be bound by the provisions of this clause 19 in respect of all Confidential Information of the Brand Owner and the provider of the Catalogue Products and Services, provided to it by Green Media in terms of the Agreement.

19.5 Save to the extent prohibited by law, upon a request of a Party ("Disclosing Party") and, in any event, on termination of the Agreement, the Party who received Confidential Information from the Disclosing Party will promptly return to the Disclosing Party and/or, at the Disclosing Party's request, destroy all or any specified part of the Disclosing Party's Confidential Information which is in such Party's possession and/or under its control and will provide written confirmation of such destruction to the reasonable satisfaction of the Disclosing Party, within a reasonable period from such request by the Disclosing Party.

19.6 This clause 19 shall survive the expiry or termination of the Agreement.

## 20 **PRIVACY AND DATA PROTECTION**

20.1 We recognize the importance of protecting your privacy in respect of Personal Information collected by us during the Trade Exchange Process and/or the provision of the Exchange Service(s). **You hereby agree to the terms**

**and conditions set out in this clause and you consent to us collecting and using your Personal Information and other data for the purposes set out herein.**

- 20.2 The types of Personal Information and other data that we may collect from you, includes information necessary for our legitimate business interests, including as necessary to conduct the Trade Exchange Process and provide the Exchange Services, and/or to perform activities leading up to the conclusion (or potential conclusion) of a Trade Exchange Agreement, and for the duration of a Trade Exchange Agreement once entered into. This may also include (amongst other things) all information provided to us on the registration page (completed by you prior to your acceptance of this Subscription Agreement (or any previous version thereof entered into with Green Media, a division of Grapevine Creative Media (Pty) Ltd), as well as all information provided to us in respect of your Media Space and/or Products, Services, Vouchers and/or Catalogue Products and/or Services (in terms of the Rewards Programme) that you require, in order for the Parties to consider a potential Trade Exchange Transactions and/or enter into a Trade Exchange Agreement and/or to otherwise perform their obligations in terms of the Agreement. You hereby specifically consent to our disclosure of the following information to Brand Owners for purposes of your utilisation of the Products, Services and/or Vouchers procured from us pursuant to a Trade Exchange Agreement:
- 20.2.1 your details provided to us (or to Green Media, a division of Grapevine Creative Media (Pty) Ltd) when you registered and entered into this Subscription Agreement (or a previous version thereof), and or any updates to such details;
- 20.2.2 details shared by you with Green Media regarding your business (including business needs and requirements);
- 20.2.3 details of the Media and Media Space; and
- 20.2.4 any other information required, to enable Green Media to provide the Exchange Services, enable Brand Owners to procure the flying/display of its Content in the Media Space, and generally enable the implementation of this Agreement and any Trade Exchange Agreement.
- 20.3 **You hereby specifically consent to our disclosure of your Personal Information to providers of the Catalogue Products and/or Services and other third parties involved in provision of the Rewards Programme, where you are participating in such Rewards Programme.**
- 20.4 **You hereby acknowledge and agree that you must not share any information with Green Media that you do not wish Green Media to share with third parties involved in the provision of the Exchange Services and/or Brand Owners, unless you specifically inform Green Media in writing that such information is not be shared with Brand Owners.**
- 20.5 You may edit any of your Personal Information referred to in this clause 20 by logging into your profile on the Website at any time.
- 20.6 The supply of your Personal Information and other data is voluntary. However, you acknowledge that we cannot provide the Exchange Services to you or enter into Trade Exchange Agreements with you if you do not wish to supply such Personal Information or other data. You agree to provide accurate, truthful and current information, and not to impersonate or misrepresent any person or entity, or falsely state or otherwise misrepresent your affiliation with anyone or anything. Failure to adhere to this requirement will entitle Green Media, *inter alia*, to terminate the provision of the Exchange Services and/or the Trade Exchange Process.
- 20.7 The purpose for which we will use your Personal Information and other data provided by you, is to:
- 20.7.1 provide you with the Exchange Services and conduct the Trade Exchange Process;

- 20.7.2 exercise our rights and/or perform our obligations in terms of Trade Exchange Agreements;
- 20.7.3 inform you of new features and special offers (provided you have consented to receiving such marketing material), for helping us in any future dealings with you and generally to improve your experience in respect of the Trade Exchange Process and/or the Exchange Services; and
- 20.7.4 contact you to advise you that we have changed or are about to change certain terms and conditions set out herein, or the content of the Exchange Services.
- 20.8 Should you no longer wish to receive marketing communications from us, you may send us an email at **info@greenmedia.co.za**.
- 20.9 Each Party will comply with applicable Data Protection Laws in respect of the Agreement.
- 20.10 Neither Party will use the Personal Information of the other Party for any purpose (other than as contemplated in the Agreement) without the express consent of the other Party. A Party will not use or disclose the other Party's Personal Information to third parties without such Party's consent, unless the use or disclosure is –
  - 20.10.1 required in order to comply with applicable law, order of court or legal process served on the disclosing Party; and/or
  - 20.10.2 disclosure is necessary to protect and defend the rights or property of the disclosing Party.
- 20.11 Each Party will:
  - 20.11.1 take appropriate technical and organisational measures to ensure that the Personal Information of the other Party is kept secure and is protected against unauthorised or unlawful processing, accidental loss, destruction or damage, alteration, disclosure or access;
  - 20.11.2 promptly notify the other Party if it becomes aware of any unauthorised use, disclosure or processing of the Personal Information of such other Party; and
  - 20.11.3 provide the other Party with reasonable evidence of its compliance with its obligations under the Agreement on reasonable notice and request and upon the other Party's request, promptly return or destroy any and all of such other Party's Personal Information in its possession or control.
- 20.12 Neither Party will retain the Personal Information of the other Party for longer than the period for which it was originally needed, unless it is required by law to do so, or the other Party consents to the retention of such information for a longer period.
- 20.13 You may request access to the Personal Information which we collect from you, including to rectify the information, or object to its processing by sending an email to us at **info@greenmedia.co.za** or any other address indicated from time to time on the Website).
- 20.14 **You acknowledge and specifically agree that we may, from time to time, transfer, store or host your Personal Information on servers outside of South Africa. In particular, you consent to the cross-border transfer of your Personal Information outside South Africa for purpose of Green Media fulfilling its obligations under the Agreement.**
- 20.15 If this clause or any provision in this clause is regulated by or subject to the Protection of Personal Information Act ("POPI") or other data protection legislation, it is not intended that any provision of this clause contravenes any provision of POPI or other data protection legislation. Therefore, all provisions of this clause must be treated

as being qualified, to the extent necessary, to ensure that the provisions of POPI or other data protection legislation are complied with.

- 20.16 **You warrant that all information (including Personal Information) that you provide to us will be correct. You acknowledge that we may verify your identity and your Personal Information through an automated email verification process and/or with third party service providers.**

## 21 **AMENDMENTS TO THE SUBSCRIPTION AGREEMENT**

- 21.1 We may change the terms and conditions set out herein at any time by sending you an email notifying you of the change, or by notifying you of a change the next time you access the Website. The new or amended terms will take effect upon expiry of a period of 30 (thirty) days after we have notified you as contemplated in this clause 21.1, subject to the provisions of clause 21.2 to 21.4 below.
- 21.2 You may be required to read and accept the amended terms and conditions of this Subscription Agreement to continue receiving the Exchange Services, engaging in the Trade Exchange Process (including the conclusion of Trade Exchange Agreements with us), in which case such amended terms and conditions will apply immediately upon your acceptance thereof.
- 21.3 In the event that you do not agree with any changes to this Subscription Agreement communicated in terms of clause 21.1 above, you will be required to notify us in writing of your objection at [info@greenmedia.co.za](mailto:info@greenmedia.co.za) within 15 (fifteen) days of our notification of the change and will be entitled to exercise your right to terminate this Subscription Agreement, as set out in clause 23.3.
- 21.4 **Should you fail to notify us of your objection in accordance with clause 21.3 above and/or continue to engage in the Trade Exchange Process and/or use the Exchange Services and/or enter into any Trade Exchange Agreement(s) with us after such new or amended terms take effect, you will be deemed to have accepted such new or amended terms, provided that if you enter into any Trade Exchange Agreement with us which refers to the amended version of this Subscription Agreement, prior to the expiry of the period referred to in clause 21.1, the amended version of the Subscription Agreement will apply to such Trade Exchange Agreements notwithstanding that such period has not yet expired.**
- 21.5 **For purposes of clarity, the terms and conditions of this Subscription Agreement will apply to all existing Trade Exchange Agreements entered into between the Parties (and still in force) under any previous version hereof, as from the expiry of the period referred to in clause 21.1 above.**

## 22 **FORCE MAJEURE**

- 22.1 A Party (the "**Affected Party**") will not be liable for any default or delay in the performance of its obligations under the Agreement if and to the extent that such default or delay is caused by Force Majeure provided however, that the Affected Party is without fault in causing such default or delay.
- 22.2 Following any circumstance of Force Majeure, the Affected Party shall notify the other Party as soon as reasonably possible in writing and shall take all commercially reasonable action within its power to comply with its obligations to the extent possible but shall be excused from further performance or observance of its obligation(s) so affected for so long as such circumstances prevail.
- 22.3 If the circumstance of Force Majeure continues for more than 60 (sixty) consecutive days, a Party may terminate the Agreement either in whole or in part on written notice to the Affected Party.

## 23 BREACH AND TERMINATION

- 23.1 In the event of a Party ("**Defaulting Party**") committing a breach of any of the terms of the terms and conditions of the Agreement and failing to remedy such breach within a period of 10 (ten) Business Days after receipt of a written notice from another Party ("**Aggrieved Party**") calling upon the Defaulting Party so to remedy, then the Aggrieved Party shall be entitled, at its sole discretion and without prejudice to any of its other rights and/or remedies under the Agreement or at law, either to claim specific performance of the terms of the Agreement or to cancel the Agreement forthwith and without further notice, and in either case to claim and recover damages from the Defaulting Party.
- 23.2 On termination of the Agreement for any reason, the accrued rights of the Parties as at termination, or the continuation after termination of any provision expressly stated to survive or implicitly surviving termination, shall not be affected or prejudiced and the Media Owner shall immediately pay all amounts due to Green Media under the Agreement.
- 23.3 Either Party may terminate this Subscription Agreement at any time without incurring any liability in respect of such termination, upon providing 15 (fifteen) days' prior written notice to the other Party, provided that any such termination shall only take effect upon the termination or expiry of the last Trade Exchange Agreement still in force, and provided further that upon expiry of the 15 (fifteen) day notice period, Green Media shall no longer be obliged to provide any further Exchange Services (other than Exchange Services pertaining to any previously existing Trade Exchange Agreement/s still in force).

## 24 NOTICES

- 24.1 The Parties select as their respective *domicilia citandi et executandi* the following physical addresses, and for the purposes of giving or sending any notice provided for or required under the Agreement, the said physical addresses –

<u>Name</u>	<u>Physical Address</u>	<u>Email</u>
Green Media	73 Bowling Avenue, Morningside Manor, Johannesburg	info@greenmedia.co.za
<u>Name</u>	<u>Physical Address</u>	<u>Email</u>
Media Owner	The registered office (or principal place of business, in the event that the Media Owner is not regulated by the Companies Act, 71 of 2008) of the Media Owner.	<b>As provided to Green Media (Pty) Ltd on registration (or to Green Media, a division of Grapevine Creative Media (Pty) Ltd on previous registration with the aforementioned entity)</b>

provided that a Party may change its *domicilium* or its address for the purposes of notices to any other physical address by written notice to the other Party to that effect. Such change of address will be effective 5 (five) Business Days after receipt of the notice of the change.

- 24.2 All notices to be given in terms of the Agreement will be given in writing and will –
- 24.2.1 be delivered by hand courier service or email; and
- 24.2.2 if delivered during business hours, be presumed to have been received on the date of delivery. Any notice delivered after business hours or on a day which is not a Business Day will be presumed to have been received on the following Business Day.



- 24.3 Notwithstanding the above, any notice given in writing, and in fact received by the Party to whom the notice is addressed, will be deemed to have been properly given and received, notwithstanding that such notice has not been given in accordance with clause 24.2.

## 25 **GOVERNING LAW**

The Agreement shall be governed and interpreted in accordance with the laws of the Republic of South Africa. Subject to clause 26, the Parties hereby submit to the non-exclusive jurisdiction of the North Gauteng High Court regarding any and all disputes arising in connection with the Agreement.

## 26 **DISPUTE RESOLUTION**

- 26.1 In the event of any dispute between the Parties in respect of the Agreement, the following provisions will apply:
- 26.1.1 Authorised representatives appointed by each Party will meet as soon as reasonably practicable, but within no less than 10 (ten) days of such a meeting being requested in writing by either Party, to try to resolve the dispute;
- 26.1.2 Should the Parties be unable to resolve the dispute at the meeting contemplated in clause 26.1.1, the dispute will be referred to an urgent meeting of the CEO of each of the Parties or such representatives as may be appointed by them. This meeting will take place within 3 (three) days of the matter being referred to them or such other period as may be agreed by the Parties in writing; and
- 26.1.3 Should the Parties be unable to resolve the dispute at the meeting contemplated by clause 26.1.2, either Party may refer the dispute for arbitration in accordance with the terms of clause 26.2.
- 26.2 In the event of there being a dispute between the Parties which cannot be resolved in accordance with clauses 26.1.1 and 26.1.2 above, the following provisions will apply:
- 26.2.1 The dispute will, on written demand by either Party, be submitted for arbitration as follows:
- 26.2.2 The arbitration will be held in camera in Johannesburg and be conducted in the English language in accordance with the rules of AFSA;
- 26.2.3 The Parties will treat the arbitration as confidential and not disclose to any third parties any details of the dispute, the conduct of the arbitration proceedings and/or the outcome of the proceedings, without the written approval of the other Party.
- 26.2.4 The arbitrator, if the matter in dispute is principally –
- (a) A technical matter, will be an independent technical expert of not less than 10 (ten) years' experience in the relevant technical area;
  - (b) An accounting matter, will be an impartial chartered accountant of not less than 10 (ten) years standing;
  - (c) A legal matter, will be an impartial practising advocate of not less than 10 (ten) years standing.
- 26.2.5 Should the Parties fail to agree whether the matter in dispute is of a legal, accounting or technical nature within 7 (seven) days after the arbitration has been demanded, it will be considered to be a legal matter.
- 26.2.6 Should the Parties fail to agree, in writing, on an arbitrator within 10 (ten) days after arbitration has been demanded, the arbitrator will be nominated, at the request of either Party, by AFSA.

- 26.3 Subject to either Party's right to appeal, each Party hereby irrevocably agrees that the decision of the arbitrator in the arbitration proceedings –
- 26.3.1 Will be final and binding on each of them;
- 26.3.2 Will be carried into effect; and
- 26.3.3 Can be made an order of any competent Court to whose jurisdiction the Parties are subject.
- 26.4 It is the Parties' intention that the arbitration will, where possible, be held and concluded within 21 (twenty-one) days after it has been demanded.
- 26.5 The Parties irrevocably agree that the submission of any dispute to arbitration in terms of clause 26.2 is subject to the Parties' rights of appeal. Either Party may appeal the arbitration ruling on written notice to the other Party which notice must be submitted within 20 (twenty) calendar days of the ruling being handed down. The appeal will proceed in accordance with the rules of AFSA by a panel of 3 (three) arbitrators appointed for this purpose by agreement between the Parties. Should the Parties be unable to agree on the membership of the panel within 15 (fifteen) days of the initiation of the appeal, such panel will be appointed by AFSA.
- 26.6 Clause 26.2 constitutes each Party's irrevocable consent to the arbitration proceedings described therein. Neither Party will be entitled to withdraw from arbitration proceedings in terms hereof and/or claim, at such proceedings, that it is not bound by the clause.
- 26.7 Nothing herein contained will be deemed to prevent or prohibit a Party from applying to the appropriate Court for an interdict or urgent relief in respect of a matter under dispute between them.
- 27 **GENERAL**
- 27.1 If the Agreement or any Exchange Services made available via the Website is regulated by or subject to the Consumer Protection Act, the ECT Act or other laws, it is not intended that any provision of the Agreement contravenes any provision of the Consumer Protection Act, the ECT Act or other laws. Therefore, all provisions of the Agreement must be treated as being qualified, to the extent necessary, to ensure that the provisions of the Consumer Protection Act, the ECT Act or other laws are complied with.
- 27.2 To the extent that any provision of the Agreement is considered to be a penalty stipulation in terms of the Conventional Penalties Act, 15 of 1962: (i) the terms of the Agreement shall not be construed or interpreted in such a way as entitling Green Media to recover both damages and the penalty; (ii) Green Media shall be entitled to recover damages in lieu of the relevant penalty; **and (iii) the Media Owner acknowledges and agrees, having taken account of the prejudice that will be suffered by Green Media, that the penalty stipulation is equitable in the circumstances.**
- 27.3 Green Media will not be bound by any terms and conditions, whether printed on or referred to on any instructions, correspondence or other documents submitted by the Media Owner or the Brand Owner.
- 27.4 Green Media may use consultants or other service providers or representatives appointed by it to perform its duties in terms of the Agreement, however, it shall remain responsible for any portion of the Exchange Services provided by such consultants, service providers or representatives.
- 27.5 All references to "executed", "signed" or "entered into", in respect of any Trade Exchange Agreement shall, notwithstanding anything to the contrary in the Agreement, be read and construed as including any form of electronic signature, (but excluding email signature as a form of electronic signature, and provided that the

aforementioned exclusion will not apply to Flighting Schedules concluded under a Trade Exchange Agreement, which will be concluded in accordance with the provisions of clause **Error! Reference source not found.** and the applicable Trade Exchange Agreement).

- 27.6 You may not cede, assign, delegate or otherwise transfer any of your rights or obligations in terms of the Agreement to any third party, without the prior written consent of Green Media. Green Media will be entitled to cede, assign, delegate and transfer all or any of its rights and/or obligations under the Agreement to any third party, upon written notice to the Media Owner.
- 27.7 Any failure on the part of you or Green Media to enforce any right in terms hereof shall not constitute a waiver of that right.
- 27.8 All provisions and various clauses of the Agreement are, notwithstanding the manner in which they are grouped together or linked, severable from each other. If any term or condition contained herein is declared invalid, or is or becomes unenforceable for whatever reason, the remaining terms and conditions will remain in full force and effect.
- 27.9 Notwithstanding anything to the contrary in the Agreement, the expiration or termination of this Agreement shall not affect such of the provisions of the Agreement as expressly provide that they will operate after such expiration or termination, or which of necessity must continue to have effect after such expiration or termination and notwithstanding that the clauses themselves do not expressly provide for this.
- 27.10 No indulgence, extension of time, relaxation or latitude which any party ("**the grantor**") may show, grant or allow to the other ("**the grantee**") shall constitute a waiver by the grantor of any of the grantor's rights and the grantor shall not thereby be prejudiced or stopped from exercising any of its rights against the grantee which may have arisen in the past or which might arise in the future.
- 27.11 The Agreement contains the whole agreement between you and Green Media relating to the subject matter thereof and subject to the provisions of clause 21, no addition to, variation or deletion of any of the provisions thereof will be of any force or effect unless in writing and signed by the Parties, and no other warranty or undertaking is valid, unless contained in the Agreement.

## 28 **NON-SOLICITATION**

Each Party undertakes in respect of the other that it will not, without the other Party's prior written approval, either during the term of supply of or within a period of 24 (twenty four) months after termination or expiry of the last Trade Exchange Agreement entered into hereunder, solicit for employment whether directly or indirectly, any natural person involved in the provision or receipt of the Exchange Services, and/or involved in the execution or performance of obligations under any Trade Exchange Agreement and/or involved in the provision or receipt of the Media Space, Products, Services and/or Vouchers who, during the relevant period, was a member of the other Party's Staff.

## 29 **ADDITIONAL INFORMATION**

For the purposes of the ECT Act, Green Media's information is as follows (which must be read in conjunction with the rest of the provisions of this Agreement) –

- 29.1 Description of main business: **the exchange/barter of products, services and media space, provision of related services and participation in exchange transactions.**
- 29.2 Office bearers: **Angus Murray-Smith**

29.3 Official website: **[www.greenmedia.co.za](http://www.greenmedia.co.za)**

29.4 Email address: **[info@greenmedia.co.za](mailto:info@greenmedia.co.za)**

## ANNEXURE A: BARTERBUCKS REWARDS PROGRAMME TERMS AND CONDITIONS

### 1 INTRODUCTION

- 1.1 Green Media, by means of its BarterBucks Rewards Programme, enables media owners (who wish to participate in such rewards programme) to enter into trade exchange transactions with Green Media to exchange unsold media space, for products, which products are then donated to charities by Green Media on behalf of the media owners. Such trade exchange transactions enable media owners to earn BarterBucks (rewards), which may be exchanged for Catalogue Products available at the BarterBucks Store.
- 1.2 In event of a conflict between the terms of any Trade Exchange Agreement entered into under the Rewards Programme and the Rewards Terms and Conditions, the terms of the Trade Exchange Agreement will prevail.

### 2 DEFINITIONS

- 2.1 Capitalised terms used in this Annexure A, but that are not specifically defined herein shall have the meanings given to them in the body of the Subscription Agreement (and cognate terms shall bear corresponding meanings), unless otherwise defined in this Annexure A.
- 2.2 In this Annexure A, unless the context indicates a contrary intention, the following words and expressions bear the meaning assigned to them and cognate expressions bear corresponding meanings –
- 2.3 “**Available BarterBucks**” means the proportionate number of BarterBucks for each Flighting Schedule, in respect of which the Release Period has expired, and that are therefore immediately available to be redeemed at the BarterBucks Store;
- 2.4 “**BarterBucks**” means rewards that may be earned by the Media Owner through its participation in the Rewards Programme (and by entering into and complying with all its obligations in terms of Trade Exchange Agreement(s) concluded pursuant to the Rewards Programme). BarterBucks are comprised of Pending BarterBucks and Available BarterBucks;
- 2.5 “**BarterBucks Store**” means Green Media’s online store at [www.BarterBucks.co.za](http://www.BarterBucks.co.za), at which the Media Owner may redeem the required number of its Available BarterBucks for Catalogue Products and/or Services which are available from time to time on such online store;
- 2.6 “**Catalogue Products and/or Service**” means a product and/or service which is available on the BarterBucks Store to be redeemed by the Media Owner using the required number of Available BarterBucks, which have been earned by the Media Owner in terms of the Rewards Programme and indicated for such product and/or service on the BarterBucks Store;
- 2.7 “**Charity**” means any duly registered Public Benefit Organisation, under the laws of the Republic of South Africa, selected by Green Media (or the Media Owner where agreed by Green Media), to which Green Media will be required to donate the Charity Products (or a portion thereof) as indicated in paragraph 5 of this Annexure A, and subject to the provisions of paragraph 9 and 10 below;
- 2.8 “**Charity Products**” means personal care, food stuffs (FMCG), and such other products as described in the applicable Trade Exchange Agreement and/or Flighting Schedules entered into pursuant to the Rewards Programme, which products are acquired by Green Media from various Brand Owners in terms of trade exchange transactions, and that are to be supplied by Green Media to the applicable Charity on behalf of the Media Owner, in exchange for Media Space provided by the Brand Owner to Green Media;

- 2.9 **“Rewards Terms and Conditions”** means the terms and conditions applicable to the Media Owner’s participation in the Rewards Programme and to all Trade Exchange Agreements entered into pursuant to the Rewards Programme, as set out in this Annexure A (as read with the Subscription Agreement);
- 2.10 **“Pending BarterBucks”** means BarterBucks which have been allocated pursuant to a Trade Exchange Agreement which is entered into, but which are not yet available for redemption because the Release Period(s) has not yet expired;
- 2.11 **“Release Period”** means a period of 30 (thirty) days from the date on which all Content in relation to a particular Flighting Schedule has been correctly flighted thereunder, and the Media Owner has provided Green Media with written proof of such flighting to the reasonable satisfaction of Green Media;
- 2.12 **“Trade Exchange Agreement”** means a written agreement entered into between the Media Owner and Green Media pursuant to the Rewards Programme (and which specifically references the Rewards Programme), which regulates Trade Exchange Transactions for the exchange of Charity Products (as defined in paragraph 2.8 of this Annexure A) supplied by Green Media to Charity(ies) on behalf of the Media Owner, for Media Space provided by the Media Owner to Green Media, and which will include all Flighting Schedules concluded between the Parties pursuant to such agreement; and
- 2.13 **“Trade Exchange Transaction”** means a transaction whereby Charity Products (as defined in paragraph 2.8 above) are donated to Charity(ies) by Green Media on behalf of the Media Owner, in exchange for Media Space provided by the Media Owner to Green Media and which Media Space Green Media is entitled to distribute or on-provide in terms of clause 7 of the Subscription Agreement.

### 3 THE REWARDS PROGRAMME

- 3.1 The Media Owner is eligible to participate in the Rewards Programme by entering into the Subscription Agreement and is required to create an account on the BarterBucks Store in order to initiate such participation. Green Media reserves the right to approve such account after it has been created and may in its sole discretion decline such account and the Media Owner’s participation in the Rewards Programme, on written notice to the Media Owner. In certain instances and in the sole discretion of Green Media, Green Media may create an account for the Media Owner on the BarterBucks store, where the Media Owner has indicated that it wishes to participate in a particular Trade Exchange Transaction, but has not yet created its account, and Green Media will provide the Media Owner with the necessary password (and other credentials, where applicable) to access such account.
- 3.2 After you have completed the account creation process and subject to the provisions of paragraph 3.1 above, a BarterBucks account will be opened in your name, and you will be required to use the password and any other login credentials that you selected and/or were provided to you during the account creation process (collectively **“Credentials”**) to access your BarterBucks account. **You are responsible for the safety of your Credentials, and you must ensure that only your duly authorised employees, who are allowed access to your BarterBucks account and have the authority to redeem BarterBucks, have access to the Credentials of your BarterBucks account. You may not grant any other person, entity or third-party access to or authority to use your BarterBucks account. In the event that your Credentials have been lost, stolen or compromised in any way, you are required to notify us via email at [info@greenmedia.co.za](mailto:info@greenmedia.co.za). Green Media will attend to such notifications received between the hours of 08:00 and 17:00 on Business Days and you remain responsible for all redemptions of BarterBucks until your account has been blocked by us. Green Media will be not liable for any losses, claims, liability, costs or expenses that you may suffer as a result of activity on your account where you have compromised, lost, or shared your Credentials with unauthorised persons, or have otherwise failed to secure your Credentials.**

3.3 **By entering into the Subscription Agreement, you agree to be bound by the Rewards Terms and Conditions in respect of your participation in the Rewards Programme, regardless of whether the activities contemplated herein culminate in the finalisation or execution of any Trade Exchange Agreements entered into pursuant to the Rewards Programme. For purposes of clarity, however, neither Party will be obligated to enter into any Trade Exchange Transactions and the Parties will negotiate and agree each Trade Exchange Agreement which is entered into pursuant to the Rewards Programme. Each Trade Exchange Transaction that is entered into hereunder, will be governed by a Trade Exchange Agreement.**

3.4 **Green Media may, acting reasonably, decline or cease to provide the Rewards Programme, at any time upon written notice to you, including where Green Media may suffer reputational harm, or where the Media Owner has breached the Rewards Terms and Conditions and/or the terms of any Trade Exchange Agreement concluded pursuant to the Rewards Programme, and such breach has not been remedied in accordance herewith.**

#### 4 **DURATION**

4.1 The Media Owner will be entitled to participate in the Rewards Programme until the Media Owner's membership is terminated in accordance with the terms of this paragraph 4 or paragraph 14 below.

4.2 During the term of the Rewards Programme, the Parties may enter into Trade Exchange Agreements under the Rewards Programme, which enable the Media Owner to earn BarterBucks as set out herein.

4.3 BarterBucks earned in terms of Rewards Programme will not expire, however, Green Media will be entitled to terminate the Rewards Programme (including the Media Owner's membership in respect thereof) on providing not less than 90 (ninety) days' prior written notice thereof to the Media Owner. In event of termination of the Rewards Programme by Green Media, the Media Owner will be entitled to redeem all Available BarterBucks during such notice period for Catalogue Products and/or Services as displayed on the BarterBucks Store at the time (subject to the Media Owner having the required number of Available BarterBucks for the selected Catalogue Product and/or Service). Any BarterBucks not redeemed by the Media Owner prior to termination (including all Pending BarterBucks and unredeemed Available BarterBucks) will be forfeited by the Media Owner and Green Media will have no further liability to the Media Owner in respect such BarterBucks or the redemption thereof.

4.4 Each Trade Exchange Agreement entered into between the Parties pursuant to the Rewards Programme shall be effective from the date set out therein and shall endure until all obligations of the Parties under the Trade Exchange Agreement have been fulfilled, unless otherwise provided in the applicable Trade Exchange Agreement, or the Trade Exchange Agreement is terminated earlier in accordance with its terms.

4.5 **Where no Trade Exchange Agreement has been entered into between the Parties at any time for a period of 6 (six) months or longer, Green Media will be entitled to issue you with a notice of inactivity and if no Trade Exchange Agreements have been concluded within a further 30 (thirty) day period, then Green Media will be entitled to terminate your membership of the Rewards Programme immediately upon written notice to you.**

#### 5 **TERMS APPLICABLE TO TRADE EXCHANGE AGREEMENTS UNDER THE REWARDS PROGRAMME**

5.1 Where you have entered into Trade Exchange Agreements with us pursuant to the Rewards Programme, for the supply of Media Space to us, in exchange, we will donate the proportionate number of Charity Products to Charity(ies) on your behalf.

5.2 For every R25 of Media Space provided to us in terms of a Trade Exchange Transaction, as specified in the applicable Trade Exchange Agreement, R10 in Charity Products will be donated to a Charity on your behalf.

**5.3 Selection of Charities**

5.3.1 Green Media will select any duly registered Charity in the Republic of South Africa, as the Charity to which Green Media will deliver the Charity Products on your behalf, and such Charity will be notified to the Media Owner by Green Media once Green Media has made the selection.

5.3.2 In certain instances, where requested by the Media Owner, Green Media may allow the Media Owner to select any duly registered Charity in the Republic of South Africa, as the Charity to which Green Media is required to provide the Charity Products, subject to the provisions of paragraph 5.3.3 below and upon approval by Green Media, such Charity will be specified in the applicable Trade Exchange Agreement, and/or the Flighting Schedule(s) and/or will be as otherwise approved by Green Media in writing to the Media Owner (which written approval will serve to amend the applicable Trade Exchange Agreement where necessary).

5.3.3 Green Media will be entitled to assess the Charity requested by the Media Owner, to ensure that it meets the standards of the Rewards Programme, including that it is duly registered and qualifies as a Public Benefit Organisation, under South African law. Where Green Media is not satisfied pursuant to its assessment that the Charity selected by the Media Owner meets the standards of the Rewards Programme and/or the requirements of applicable law, then Green Media will be entitled to select an alternative Charity (to which the Products will be donated on behalf of the Media Owner), and Green Media will notify the Media Owner that its selected Charity was not approved.

**5.4 Donation of Charity Products to Charity**

5.4.1 All Charity Products provided by Green Media to Charities on behalf of the Media Owner, shall be supplied in accordance with and subject to the terms and conditions applicable to the Charity Products' (Standard Terms) as referred to in the Trade Exchange Agreement, which terms and conditions will be provided to the applicable Charity.

5.4.2 The Media Owner acknowledges and agrees that it will not be entitled to specify or demand that any particular type or quantity of Charity Products be donated to the applicable Charity by Green Media, however the Charity Products donated will conform to the general description and will be of the value specified in the Trade Exchange Agreement.

5.4.3 Where a Charity rejects the Charity Products donated (or to be donated) to it by Green Media on behalf of the Media Owner, then Green Media will be entitled to propose alternative Charity Products for such Charity of the same value, or Green Media will be entitled to select an alternative Charity to receive the donation, and upon delivery of the alternative Charity Products or the donation of the Charity Products to such alternative Charity, Green Media will be deemed to have fulfilled its obligations under the applicable Trade Exchange Agreement and/or Flighting Schedule.

5.4.4 Where a Media Owner wishes to deliver the Charity Products to the Charity itself, as contemplated in paragraph 5.5.2 below, then the Media Owner will bear full responsibility for ensuring that such Charity Products are indeed donated to the Charity in question and Green Media will have fulfilled its obligations to the Media Owner in respect of the donation of such Charity Products on behalf of the Media Owner, upon delivery to the Media Owner in terms of clause 5 below. In such cases, the Media Owner will provide Green Media with written proof, to the



reasonable satisfaction of Green Media, that such Charity Products were duly donated to the applicable Charity, upon request by Green Media.

## 5.5 **Delivery of Charity Products to Charities**

- 5.5.1 Green Media will deliver or will procure the delivery of the Charity Products to the Charity selected by Green Media (or the Media Owner, where agreed by Green Media) on behalf of the Media Owner, subject to the provisions of paragraph 5.5.2 below.
- 5.5.2 The Media Owner will be entitled to request that Green Media deliver the Charity products to the Media Owner instead of the Charity, in order for the Media Owner to deliver the Charity Products to the Charity itself. In such cases this will be agreed in terms of the Trade Exchange Agreement and/or the applicable Flighting Schedules thereunder and the address of the Media Owner will accordingly be the delivery address specified in the Trade Exchange Agreement and/or the applicable Flighting Schedule.
- 5.5.3 Subject to clause 9, Green Media will be responsible for all costs of transport, packaging and insurance (in-transit) in respect of the delivery of the Charity Products to the premises of the Charity selected by Green Media, or the premises of the Media Owner (where this has been agreed) as specified in the Trade Exchange Agreement (or applicable Flighting Schedule), provided that such premises is in Gauteng Province and within 80km from the address of Green Media or the entity whom Green Media has procured to deliver the Charity Products. Where the premises is further than a 80 km from Green Media's premises (or the entity appointed by Green Media to deliver the Products) then the Media Owner will be responsible for the costs of delivery and insurance of the Charity Products to the Media Owner (where applicable), or the Charity where the Charity has been selected by the Media Owner.
- 5.5.4 The Media Owner will adhere to the delivery terms as set out in paragraph 5.5.7 below where the Charity Products are to be delivered to the Media Owner and not directly to the Charity.
- 5.5.5 The time and date of delivery of the Charity Products will be as arranged with the Charity (or the Media Owner where Green Media has agreed in writing to deliver to the Media Owner), and Green Media will use its reasonable endeavours to ensure that such delivery takes place:
- (a) For Trade Exchange Agreements where Charity Products are specified to be delivered incrementally as set out in each Flighting Schedule, not later than within 130 (one hundred and thirty) Business Days from the final flighting of the Content in terms of the applicable Flighting Schedule; or
  - (b) For Trade Exchange Agreements where delivery of Charity Products is not dependent on the flighting of Content in terms of Flighting Schedules, not later than within 130 (one hundred and thirty) Business Days from the conclusion of the applicable Trade Exchange Agreement.
- 5.5.6 Where a Charity does not co-operate with Green Media in respect of the delivery of the Charity Products and Green Media has a failed delivery on more than one occasion, then Green Media will be entitled to select another Charity to deliver the Charity Products to and by such delivery will be deemed to have fulfilled its obligations to the Media Owner in respect of the applicable Trade Exchange Agreement and/or applicable Flighting Schedule.
- 5.5.7 The Media Owner will be required to comply with the following terms in respect of the delivery and receipt of the Charity Products, where the Media Owner has elected that the Charity Products be delivered to the Media Owner by Green Media, such that the Media Owner may deliver the Charity Products to the Charity itself:

- (a) Upon receiving the delivery date from Green Media, the Media Owner will notify Green Media in writing of any changes in address or contact person, if such details have changed and will provide any reasonable delivery instructions.
- (b) When receiving the Charity Products, the Media Owner will check, count, and sign the Green Media delivery note. The signature of the Media Owner representative on the Green Media delivery note indicates that the Media Owner has checked and verified that all listed Charity Products are correct and undamaged.
- (c) Charity Products received and accepted but not yet counted should be signed off as "RECEIVED BUT NOT COUNTED." If Charity Products are received but not counted, the Media Owner is required to perform a count within 72 (seventy-two) hours of receiving them.
- (d) Any shortages in Charity Product stock must be reported to Louise Brand at: brand@grapevine.co.za (or such other person as notified by Green Media), within the required 72-hour period. Green Media will deliver any short stock in respect of the Charity Products delivered, subject to the provisions of the Subscription Agreement. If no short stock is reported in respect of the Charity Products within the specified time frame, Green Media will consider the delivery as verified and correct as per the Green Media delivery note.

5.5.8 Where Charity Products are delivered directly to the Charity, the provisions of clauses 5.5.7 (b) to (d) of this Annexure A will apply *mutatis mutandis* and Green Media will communicate such requirements to the Charity and the Media Owner will carry the risk of no-adherence by the Charity.

## 5.6 Exchange Process

In order to complete Trade Exchange Transactions pursuant to the Rewards Programme the Parties will adhere to the process set out clause 6 of the Subscription Agreement and the following will apply.:

- 5.6.1 Green Media will from time to time advise the Media Owner of the Charity Products that it has available for donation in terms of a Trade Exchange Transaction/s. Similarly, the Media Owner will advise Green Media from time to time of the Media Space that it has available for such Trade Exchange Transaction/s;
- 5.6.2 Trade Exchange Transactions of Media Space for donated Charity Products may occur incrementally throughout the Rewards Programme. Trade Exchange Transactions will occur in the same proportion of Media Space to Charity Products, as set out in paragraph 5.2 of this Annexure A above.
- 5.6.3 The Parties will co-operate to reach agreement in respect of the details of each Trade Exchange Transaction(s) and once an agreement has been reached, this will be recorded by means of the Parties entering into a Trade Exchange Agreement;
- 5.6.4 After the conclusion of each Trade Exchange Agreement, Green Media will attend to the delivery of the required volume and type of Charity Products to the applicable Charity/ies in accordance with paragraph 5.5 of this Annexure A above.
- 5.6.5 The Media Owner will be obligated to co-operate with Green Media to finalise details of Flighting Schedules and to enter into such Flighting Schedules with Green Media, in respect of its consumption of the Media Space referred to in the Trade Exchange Agreement, in accordance the provisions of paragraph 5.7 below.

## 5.7 Flighting Schedules

5.7.1 Subsequent to the Parties having entered into a Trade Exchange Agreement, Green Media will be entitled to consume the Media Space procured from the Media Owner, by means of entering into one or more Flighting Schedules with the Media Owner, in accordance with the process set out in clause 9 of the Subscription Agreement.

5.7.2 Where indicated in the Trade Exchange Agreement, Charity Products will be delivered to the Charity (or the Media Owner, where agreed in writing by Green Media), incrementally as set out in each Flighting Schedule, not later than within 130 (one hundred and thirty) Business Days of the final flighting of the Content in terms of the applicable Flighting Schedule.

## 5.8 Additional Terms

5.8.1 For purposes of clarity, neither Green Media nor the Media Owner will be required to complete a specific number of Trade Exchange Transactions of Media Space for donations of Products by Green Media to Charities in terms of the Rewards Terms and Conditions, however the Media Owner will only be eligible to receive BarterBucks proportionately to the Media Space exchanged in terms of Trade Exchange Transactions as contemplated herein.

5.8.2 Green Media will, once per quarter, provide the Media Owner with a statement indicating the donation of Charity Products and supply of Media Space that has occurred pursuant to Trade Exchange Agreement(s), as at the statement date, as well as BarterBucks earned.

## 6 TERMS APPLICABLE TO BARTERBUCKS

### 6.1 Earning BarterBucks

6.1.1 The Media Owner will earn 1 BarterBuck for every R25 of Media Space provided to Green Media in terms of Trade Exchange Transactions pursuant to the Rewards Programme. Green Media will be entitled to change the amount of BarterBucks earned for Media Space provided, at any time on notice to you and may set caps on the amount of BarterBucks that you may earn during any particular period.

6.1.2 BarterBucks will be allocated as Pending BarterBucks within 24 (twenty-four) hours of the applicable Trade Exchange Agreement being concluded between the Parties as contemplated in paragraph 5.6.3 of this Annexure A. Pending BarterBucks will be updated to Available BarterBucks as set out in paragraph 6.3.5 below.

6.1.3 No interest is payable on BarterBucks earned by the Media Owner under the Rewards Programme.

6.1.4 You will only be eligible to earn BarterBucks if you have paid all amounts owing to Green Media in terms of any Trade Exchange Agreement, or other transactions entered into with Green Media, and provided that you have not engaged in any fraudulent activity. We will determine your eligibility to earn BarterBucks at fixed intervals.

### 6.2 Your BarterBucks Account

6.2.1 You are able to access your BarterBucks account for purposes of viewing your BarterBucks balance and redeeming Available BarterBucks, by entering your username and password on the BarterBucks Store.

6.2.2 When you login to your BarterBucks account for the first time you must complete the required verification process.

### 6.3 Redeeming BarterBucks at the BarterBucks Store

6.3.1 The Media Owner will be entitled to redeem Available BarterBucks earned for Catalogue Products and Catalogue Services available at the BarterBucks Store, subject to the terms and conditions displayed on the BarterBucks Store, or as indicated on the Website from time to time, as well as those set out in paragraph 7 below.

- 6.3.2 The Media Owner will only be entitled to redeem Catalogue Products and/or Services where it holds the minimum amount of Available BarterBucks required for such Catalogue Products and/or Services and will not be entitled to use Available BarterBucks for any other purpose or to procure any other products or services, or to exchange BarterBucks for cash.
- 6.3.3 You hereby authorise Green Media to deduct the number of Available BarterBucks from your BarterBucks balance reflected for your account when you select and complete the checkout of a Catalogue Product and/or Service on the BarterBucks Store.
- 6.3.4 Pending BarterBucks, Available BarterBucks and your total balance of BarterBucks will be reflected on your account balance, available by accessing your BarterBucks account on the Website. **Should you notice that the total BarterBucks balance, Pending BarterBucks, or Available BarterBucks on your account is incorrect you are required to notify us at [info@greenmedia.co.za](mailto:info@greenmedia.co.za) within 24 (twenty-four) hours days and should you fail to do so, we will be entitled (but not obligated) to accept that the balance is final.**
- 6.3.5 Your account balance will be updated to reflect Pending BarterBucks within 24 (twenty-four) hours after each Trade Exchange Agreement under the Rewards Programme is entered into. Your account balance will be updated to reflect Available BarterBucks within 24 (twenty-four) hours of expiry of the Release Period.
- 6.3.6 **Green Media will be entitled to reverse any BarterBucks which have been incorrectly allocated to your account and in the event that you have redeemed such incorrectly allocated BarterBucks, Green Media will be entitled to demand that you supply to Green Media, Media Space of an equivalent proportionate value to the incorrectly allocated and redeemed BarterBucks.**
- 6.3.7 **All redemption transactions are subject to review and approval by Green Media to prevent fraud and/or misuse. Green Media reserves the right to investigate and revoke BarterBucks or suspend the Media Owner's BarterBucks account in cases of actual or suspected fraud (including in respect of fraudulently earned and/or acquired BarterBucks), any breach of the Rewards Terms and Conditions and/or breach the terms and conditions of any Trade Exchange Agreement.**

## 7 TERMS APPLICABLE TO THE BARTERBUCKS STORE AND REDEMPTION OF BARTERBUCKS

### 7.1 General

- 7.1.1 Catalogue Products and/or Services available on the BarterBucks Store are at the sole discretion of Green Media and may be changed from time to time, without notice to the Media Owner. The Media Owner will only be entitled to redeem BarterBucks for Catalogue Products and/or Services indicated as available at the date of redemption.
- 7.1.2 Each Catalogue Product and/or Service will indicate the specified number of Available BarterBucks required to be redeemed, to allow the Media Owner to be eligible to place an order for the applicable Catalogue Product and/or Service.
- 7.1.3 Once you have exercised your selection of a Catalogue Product and/or Service during the redemption process, an order for a Catalogue Product and/or Service is confirmed, and you will not be entitled to cancel the order or demand a refund unless the Catalogue Product and/or Service is defective or unavailable. Once you have exercised your selection and the order is confirmed your Available BarterBucks will considered to be redeemed, subject to the delivery of the selected Catalogue Products and/or Services.
- 7.1.4 **All redemptions are subject to availability of the Catalogue Products and/or Services. Where a Catalogue Product and/or Service is unavailable after an order is placed, then Green Media will be entitled to replace it with an alternative Products and/or Service of a similar type and value, in its discretion and Green Media**

will not be liable to the Media Owner in respect of the unavailability of the initially selected Catalogue Product and/or Service.

- 7.1.5 **Green Media is entitled to determine the third-party provider of the Catalogue Products and/or Services in its sole discretion.**
- 7.1.6 **Each Catalogue Product and/or Service which is procured in terms of a redemption of BarterBucks, may be subject to further terms and conditions of Green Media, or the terms and conditions of the third-party provider of such Catalogue Product and/or Service, as indicated on the BarterBucks Store at the time of redemption. In certain instances, it may be necessary for the Media Owner to conclude an agreement directly with the applicable third-party provider of the Catalogue Product and/or Service in respect of the access to, use, delivery and other matters pertaining to the Catalogue Product and/or Service. The Media Owner acknowledges that Green Media will not be liable for the purchase, accessing and/or use of such Catalogue Products and/or Services, which is undertaken at the sole risk of the Media Owner. Green Media will not be liable for any act or omission of the applicable third party provider and/or any other person, and/or any claims, damages, injury, costs, losses, expenses or liability incurred by the Media Owner and/or any other person in relation to the purchase, access to and/or use of such Catalogue Products and/or Services, including any person/s to whom the Media Owner makes such Catalogue Products and/or Services available.**
- 7.1.7 **Green Media will be deemed to have fulfilled all its obligations in terms of the Rewards Terms and Conditions in relation to any Catalogue Products and/or Service, in circumstances where the Media Owner has failed to reach agreement with the applicable third party provider and/or has failed to enter into the necessary documentation and/or agreements with such third party provider within a period of 90 (ninety) business days after the Media Owner has ordered the applicable Catalogue Product and/or Service on the BarterBucks Store.**
- 7.1.8 **Different or additional terms and conditions in relation to the BarterBucks Store and redemptions of BarterBucks may apply, as indicated on the Website from time to time, and in event of a conflict between the provisions of the Rewards Terms and Conditions and those on the Website, the terms and conditions on the Website will prevail.**

## **7.2 Shipping and Delivery**

- 7.2.1 **Green Media will contact the Media Owner within 24 hours of the redemption at the BarterBucks Store to arrange for delivery of the Catalogue Product and/or Service. The method of delivery as well as delivery dates and timeline will be as agreed between the Parties during such engagement.**
- 7.2.2 **Risk in and to the Catalogue Products will pass to the Media Owner on delivery thereof to the Media Owner.**

## **8 FINANCIAL CONSIDERATIONS**

The Media Owner is required to consider the tax effects of its Rewards Programme membership and is responsible to obtain its own tax advice and comply with its obligations in this regard.

## **9 PASSING OF RISK AND OWNERSHIP IN CHARITY PRODUCTS**

- 9.1 **Subject to paragraph 9.3 below, Ownership and risk in and to the Charity Products supplied to Charities in terms of each Trade Exchange Agreement pursuant to the Rewards Programme will transfer to the Media Owner on delivery to the Charity by Green Media and thereafter will pass to the Charity upon the Charity signing the delivery note for the Charity Products indicating the Charities acceptance thereof.**

- 9.2 Subject to paragraph 9.3 below, Green Media will have in place adequate insurance to cover the risk of loss and/or damage to the Charity Products until the Charity Products are delivered to the delivery address agreed in terms of the Trade Exchange Agreement.
- 9.3 Where the Media Owner delivers the Charity Products to the Charity itself, ownership and risk in and to the Charity Products will transfer to the Media Owner on delivery thereof by Green Media to the Media Owner, in accordance with the delivery method set out in the Trade Exchange Agreement and/or the Flighting Schedule and the Media Owner will be responsible to arrange the necessary insurance and will be liable for all costs of transport and insurance in respect of the delivery of the Charity Products to the Charity in question. Where delivery by Green Media is taking place outside of the radius specified in paragraph 5.5.3 of this Annexure A, the Media Owner will be responsible for all insurance and delivery costs to the Charity.

## 10 DEFECTIVE CHARITY PRODUCTS

The following will apply in respect of defective Products delivered by Green Media:

Return of Defective Products	Replacement of Defective Products	Arrangements and Costs of Return of Defective Products	Arrangements and Costs of Replacement of Defective Products
<p>The Charity (or Media Owner where delivered to the Media Owner, or where the Charity notifies the Media Owner) will be entitled to:</p> <p>(a) Reject the Charity Products immediately on delivery where it is apparent that such products do not comply with the terms of the applicable Trade Exchange Agreement; or</p> <p>(b) Return the Charity Products which fail to confirm to the Charity Product specifications referred to in the Trade Exchange Agreement (<b>"Defective Charity Products"</b>) to Green Media and will be</p>	<p>Green Media will rectify any Charity Product non-compliance and replace any Defective Charity Products with Charity Products which comply with the Charity Product specifications referred to in the Trade Exchange Agreement, at no cost to the Charity and/or Media Owner, provided that the Charity (or the Media Owner where delivered to the Media Owner, or notified to the Media Owner by the Charity) has notified Green Media within 72 hours of initial delivery of the Charity Products and provided further that the defects in or damages to the Charity Products were not caused by an act or omission of the Charity, the Media Owner or their staff.</p>	<p>Green Media will attend to the arrangements for the return of the Defective Charity Products to Green Media, and the costs of the return of such Defective Charity Products, including transport costs, will be for the account of Green Media, provided that the defects in, or damages to, the Charity Products were not caused by an act or omission of the Charity, the Media Owner or their staff.</p>	<p>Green Media will attend to provide replacement Charity Products to the Charity (or the Media Owner where delivered initially to the Media Owner) and such Charity Products will be delivered to the designated address set out in the Trade Exchange Agreement (or the Flighting Schedule) at the cost and expense of Green Media, within 15 Business Days of the initial notification provided by the Charity (or the Media Owner) to Green Media in respect of the Defective Charity Products, provided that the defects in or damages to the Charity Products were not caused by an act or omission of the Charity,</p>

required to notify Green Media within 72 hours of initial delivery of the Charity Products.			the Media Owner or their staff.
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## 11 WARRANTY

- 11.1 In addition to the warranties provided in the body of the Subscription Agreement, Green Media warrants and undertakes that it has the necessary rights in and to the Charity Products (as defined in paragraph 2.8 of this Annexure A), in order to make available such Charity Products for donation to the Charity(ies) in terms of Trade Exchange Agreements under the Rewards Programme.
- 11.2 **The Media Owner acknowledges and agrees that it has not relied on, and Green Media has not made, any undertakings, representations or warranties in respect of the quality or condition of the Charity Products (as defined in paragraph of this Annexure A), other than as set out in this paragraph 11. Any implied warranty of suitability or fitness for purpose is hereby expressly excluded.**

## 12 INDEMNITIES

- 12.1 **Without detracting from the indemnities provided by the Media Owner in terms of the Subscription Agreement, the Media Owner further indemnifies, defends and holds harmless, Green Media against any claims, liability, costs, losses, expenses and/or damages of whatsoever nature, suffered by the Media Owner, arising from:**
- 12.2 **The donation of the Charity Products (as defined in paragraph of this Annexure A) to the Charity/ies in terms of Trade Exchange Agreement(s) entered into pursuant to the Rewards Programme, and the use and/or consumption of such Charity Products by any third parties, including contrary to the provisions of any such Trade Exchange Agreement and/or the applicable Charity Product specifications contained or referred to therein;**
- 12.3 **The selection, purchase, consumption and/or use of the Catalogue Products and/or Services in terms hereof;**
- 12.4 **The Media Owner's breach of the Rewards Terms and Conditions and/or any Trade Exchange Agreement entered into between the Parties pursuant to the Rewards Programme.**
- 12.5 The provisions of this paragraph 12 shall survive the expiry or termination of the Rewards Terms and Conditions as well as each Trade Exchange Agreement entered into pursuant to the Rewards Programme.

## 13 LIMITATION OF LIABILITY AND DISCLAIMERS

- 13.1 **The provisions of this paragraph 13 of Annexure A will apply in respect of the Rewards Programme (and all trade Exchange Agreements entered into pursuant to the Rewards Programme), and the provisions of clause 17 of the Subscription agreement will not apply.**
- 13.2 **The Media Owner acknowledges and agrees that Green Media does not provide any advice or recommendations (including in relation to tax), professional or otherwise in relation to the BarterBucks provided to the Media Owner pursuant to the Rewards Programme.**

- 13.3 **Green Media does not provide advice in relation to, or recommend the use of, any particular Catalogue Products and/or Services, or represent any third-party provider of such Catalogue Products and/or Services as experts. The advice and recommendations provided by the aforementioned entities is obtained and utilised at the sole risk of the Media Owner.**
- 13.4 **The Charity Products donated by Green Media to Charities pursuant to the Rewards Programme and Trade Exchange Agreements thereunder are provided “as is”, and without warranty of any kind. The Media Owner acknowledges and agrees that the use of such Charity Products by the Charity is at the sole risk of the Media Owner and the Charity. Green Media does not warrant that the Charity Products will meet the requirements of the Charity, the Media Owner, or that they will be free from errors or defects.**
- 13.5 **Without detracting from the provisions of the Subscription Agreement and to the fullest extent permitted by law, in no event will Green Media be liable to the Media Owner and/or any other person (including the Charity(ies) to which the Charity Products are provided in terms of Trade Exchange Agreements) for:**
- 13.5.1 **Any loss of profits, revenue, loss of goodwill, loss of data or loss of business opportunities, whether direct or indirect; or**
- 13.5.2 **Any loss of or damage to damage to property, death or personal injury; or**
- 13.5.3 **Any indirect, special, punitive, exemplary or consequential losses of any kind,**
- incurred or suffered by the Media Owner, the Charity and/or any other person arising from (i) the donation of the Charity Products in terms of Trade Exchange Agreements, (ii) the Catalogue Products and/or Services and/or Charity Products, and/or the consumption and/or use of such Catalogue Products and/or Services and/or Charity Products, (iii) the flighting of Content in terms of the applicable Trade Exchange Agreement(s), and/or (iv) otherwise arising from any Trade Exchange Agreement, and/or from the Rewards Terms and Conditions, including the selection of Catalogue Products and/or Services by the Media Owner.**
- 13.6 **Subject to the provisions of paragraph 7.1.6 of this Annexure A (in respect of which Green Media will not be liable under any circumstances), as well as paragraphs 13.1 to 13.5 of this Annexure A, the maximum liability of Green Media to the Media Owner and/or any other person, whether in contract or delict in respect of all events, acts, omissions, claims, losses, expenses, liability and/or causes of action, arising directly or indirectly from and/or related to the Rewards Programme, the Trade Exchange Agreement(s) entered into pursuant thereto and/or the Rewards Terms and Conditions, will be limited in total per claim to:**
- 13.6.1 **The maximum amount recovered in respect of such claim under the insurance policy held by Green Media; or**
- 13.6.2 **7.5% of the retail value of the Charity Products already provided to the Charity(ies) in terms of the applicable Trade Exchange Agreement, in respect of which the claim arose (or where the claim did not arise in relation to a Trade Exchange Agreement, 7.5% of the retail value of the Charity Products provided to Charity(ies) in terms of the most recent Trade Exchange Agreement concluded between the Parties),**
- whichever is the higher amount.**
- 13.7 **The provisions of this paragraph 13 shall survive the expiry or termination of the Rewards Terms and Conditions, as well as each Trade Exchange Agreement entered into pursuant to the Rewards Programme.**



## 14 TERMINATION AND BREACH

- 14.1 You may terminate your membership of the Rewards Programme and delete your BarterBucks account, at any time, by following the process available on the BarterBucks Store. All Pending BarterBucks, as well as all unredeemed Available BarterBucks at the time of termination of your membership and deletion of your account, will be forfeited by you and we will have no liability to you in this regard. In such event, any Trade Exchange Agreement(s) concluded pursuant to the Rewards Programme will terminate, provided that such termination will only take effect, once all Flighting Schedules existing as at the termination of your membership have been fulfilled..
- 14.2 We may terminate your membership of the Rewards Programme, as well as any Trade Exchange Agreement entered into thereunder, at any time on notice to you, in the event that:
- 14.2.1 You have engaged in any actual or suspected fraudulent activity;
- 14.2.2 You are liquidated or sequestered.
- 14.3 Subject to the provisions of paragraph 14.2 above, in the event that you commit a breach of any of the Rewards Terms and Conditions and/or any Trade Exchange Agreement concluded pursuant to the Rewards Programme and fail to remedy such breach within a period of 10 (ten) Business Days after receipt of a written notice from us calling upon you to remedy, then we will be entitled, at our sole discretion and without prejudice to any of our other rights under the Rewards Terms and Conditions, any Trade Exchange Agreement or at law, either to claim specific performance of the terms of the aforementioned or to cancel your membership of the Rewards Programme and/or the relevant Trade Exchange Agreement forthwith and without further notice, and in either case to claim and recover damages from you.
- 14.4 Where your membership of the Rewards Programme and/or any Trade Exchange Agreement entered into thereunder, is terminated whether by Green Media in accordance with paragraphs 14.2, 14.3, 14.6 or 14.7 of this Annexure A, or by you in terms of paragraph 14.1, any BarterBucks not redeemed by you prior to the date of termination will be forfeited by you.
- 14.5 On termination of a Trade Exchange Agreement for any reason, the accrued rights of Green Media as at termination, or the continuation after termination of any provision expressly stated to survive or implicitly surviving termination, shall not be affected or prejudiced and the Media Owner shall continue to flight Content in accordance with the agreed Flighting Schedules timeously.
- 14.6 **Green Media may terminate the Media Owner's participation in the Rewards Programme without incurring any liability in respect of such termination by providing written notice to the Media Owner within 7 (seven) Business Days of the Media Owner creating an account on the BarterBucks Store.**
- 14.7 Subject to the remaining provisions of this paragraph 14 above, Green Media may terminate the Media Owner's subscription to the Rewards Programme at any time without incurring any liability in respect of such termination, upon providing 15 (fifteen) days' prior written notice to the Media Owner, provided that any such termination shall only take effect once all Flighting Schedules existing as at the termination of your membership have been fulfilled.