



SERVICES AGREEMENT

between

VROOPA (PTY) LIMITED
(Registration Number: 2018/219138/07)

and

THE CUSTOMER



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1. PARTIES

- 1.1. **Vroopa Proprietary Limited**, registration number 2018/219138/07, a company incorporated in accordance with the laws of the Republic of South Africa ("**Vroopa**");
- 1.2. Any person and/or entity that registers or subscribes to use the Services, as contemplated in this Agreement ("**Customer**").

2. DEFINITIONS AND INTERPRETATION

- 2.1. In this Agreement:
 - 2.1.1. clause and annex headings are for the purposes of convenience and reference only and do not govern or affect the interpretation of this Agreement;
 - 2.1.2. a reference to:
 - 2.1.2.1. any particular gender shall include the other genders;
 - 2.1.2.2. the singular shall include the plural and *vice versa*;
 - 2.1.2.3. a natural person shall include a juristic person, firm, government, state, agency or organ of a state, association, trust or partnership (whether or not having separate legal personality) and *vice versa*;
 - 2.1.3. any number of days prescribed in this Agreement shall exclude the first day and includes the last day;
 - 2.1.4. where the day upon or by which any act is required to be performed is not a Business Day, the Parties shall be deemed to have intended that day to be the next Business Day;



- 2.1.5. where any term is defined within the context of any particular clause in this Agreement, the term so defined, unless it is clear from the clause in question that the term so defined has limited application to the relevant clause, shall bear the same meaning as ascribed to it for all purposes in terms of this Agreement, notwithstanding that that term has not been defined in this interpretation clause;
- 2.1.6. if any provision in a definition confers rights, or imposes obligations on any Party, effect is given to it as a substantive provision of this Agreement;
- 2.1.7. if figures are referred to in numerals and words, if there is any conflict between the two, the words shall prevail;
- 2.1.8. the rule of interpretation that, in the event of ambiguity, the contract must be interpreted against the party responsible for the drafting of the contract does not apply;
- 2.1.9. any reference to legislation is to that legislation as at the Signature Date, as amended or replaced from time to time thereafter;
- 2.1.10. any reference to a document or instrument includes the document or instrument as ceded, delegated, novated, altered, supplemented or replaced from time to time;
- 2.1.11. a reference to a Party includes that Party's successors-in-title and permitted assigns;
- 2.1.12. unless specifically provided to the contrary, all amounts referred to in this Agreement are exclusive of VAT;
- 2.1.13. the termination of this Agreement does not affect those of its provisions which expressly provide that they will operate after termination, or which must continue to have effect after termination, or which must by implication continue to have effect after termination.



- 2.2. In this Agreement, unless the context indicates a contrary intention, the following words and expressions shall bear the meanings assigned to them hereunder and cognate expressions shall bear corresponding meanings:
- 2.2.1. **Affiliates** – with regard to any legal entity, any other legal entity which that entity Controls, which Controls that entity, or which is under common Control with that entity and includes an entity’s holding company and subsidiaries, subsidiaries of an entity’s holding company and other divisions within an entity;
- 2.2.2. **Agreement** – this services agreement;
- 2.2.3. **Applicable Law** – any and all statutes and subordinate legislation, common law, regulations, ordinances and by laws, directives, codes of practice, circulars, guidance notices, judgements and decisions of any competent authority, court, governmental, intra governmental or supra national body, agency, department or any regulatory, self-regulatory or other authority or organisation and other similar provisions from time to time;
- 2.2.4. **Business Day** – any day other than a Saturday, Sunday or public holiday in terms of the laws of South Africa;
- 2.2.5. **Control** – with regard to any legal entity, owning more than 50% (fifty percent) of the issued share capital or having the legal power to direct or cause the direction of the general management and policies of the entity in question;
- 2.2.6. **CPA** – the Consumer Protection Act 68 of 2008, as amended from time to time;
- 2.2.7. **Effective Date** – the date on which the Subscription Fee is cleared in the bank account of Vroopa;
- 2.2.8. **Intellectual Property** – in respect of Vroopa, its Know-How, Trade-Marks, any code, forms, algorithms, methodologies, techniques, delivery systems,



frameworks, materials, copyrights, artistic works, programs (including computer programs), literary works, patents, industrial designs, layout designs, Confidential Information, brochures, advertising material and all other intellectual property rights developed by Vroopa Party;

- 2.2.9. **Know-How** – in respect of Vroopa, confidential ideas, trade secrets, concepts, methods, processes, data or other proprietary technical information of whatever nature howsoever recorded, stored, represented and maintained which forms part of the business of the relevant Party;
- 2.2.10. **Month** – a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month, except that if there is no numerically corresponding day in the calendar month in which that period is to end, that period shall end on the last day in that calendar month;
- 2.2.11. **Parties** – the parties to this Agreement and “**Party**” shall mean any one of them as the context requires;
- 2.2.12. **Personal Information** – has the meaning ascribed to it in the Protection of Personal Information Act 4 of 2013;
- 2.2.13. **Personnel** – any director, employee, agent, consultant, contractor or other representative of a Party;
- 2.2.14. **Privacy Policy** – the privacy policy to be entered into between the Parties in conjunction with this Agreement, which can be accessed by using the following link: www.vroopa.co.za;
- 2.2.15. **Renewal Period** – a period of 12 (twelve) months commencing from the first day following the end of the Subscription Period or a Renewal Period, as the case may be;
- 2.2.16. **Services** – the services offered by Vroopa, that being the screening of Personal Information against nationwide qualification databases with a view



of expediting the recruitment process for Customers through talent matching services;

- 2.2.17. **Service Information** – the information generated from the use of the Services to be distributed by Vroopa to the Customer;
- 2.2.18. **Signature Date** – the date of signing of this Agreement by the last Party signing;
- 2.2.19. **Subscription Fee** – the fee payable by the Customer for the use of the Services as indicated on the Website;
- 2.2.20. **Subscription Period** – the period commencing on the Effective Date and ending on the last day of the 12th Month following the Effective Date;
- 2.2.21. **VAT** – Value-Added Tax as defined in the Value-Added Tax Act No 89 of 1991, as amended from time to time;
- 2.2.22. **Website** – the website of Vroopa, which can be accessed using the following link: www.vroopa.co.za.

3. RECORDAL

- 3.1. Vroopa conducts the business of providing the Services and the Customer wishes to utilise such Services.
- 3.2. The Customer's use of the Services is subject to the terms and conditions of this Agreement.
- 3.3. The Parties accordingly agree as set out herein.



4. **APPLICATION OF THE CPA**

The transactions in this Agreement constitute a supply of goods and services in the ordinary course of business by Vroopa to the Customer, which Customer is a consumer for purposes of the CPA and which supply of goods and services is not exempted in accordance with the CPA. As a result, the CPA is applicable to this Agreement.

5. **IMPORTANT NOTICE**

5.1. TO THE EXTENT REQUIRED BY THE CPA, THE CUSTOMER'S ATTENTION IS HEREBY DRAWN TO CLAUSE 6 (TERM AND TERMINATION) TO CLAUSE 13 (CHANGES TO TERMS AND CONDITIONS) AND CLAUSE 15 (INTELLECTUAL PROPERTY) TO CLAUSE 21 (BREACH) WHICH HAVE THE EFFECT OF:

5.1.1. LIMITING THE RISK AND/OR LIABILITY OF VROOPA IN RELATION TO THE USE OF THE SERVICES;

5.1.2. THE CUSTOMER ASSUMING RISK IN RELATION TO THE USE OF THE SERVICES;

5.1.3. IMPOSING AN OBLIGATION ON THE CUSTOMER TO INDEMNIFY VROOPA IN CERTAIN CIRCUMSTANCES;

5.1.4. RESULTING IN AN ACKNOWLEDGEMENT OF FACT BY THE CUSTOMER.

5.2. The Customer's attention is drawn to these provisions as they are important with regards to any risk to be assumed by the Customer in respect of its use of the Services and should be carefully noted.

5.3. If there is any provision in this Agreement that the Customer does not understand, it is the Customer's responsibility to request that Vroopa explain it to the Customer before the Customer accepts this Agreement or continues using the Services.



- 5.4. Nothing in this Agreement is intended or must be understood to unlawfully restrict, limit or avoid any right or obligation, as the case may be, created for either the Customer or Vroopa in terms of the CPA.
- 5.5. Vroopa permits the use of the Services subject to the terms and conditions of this Agreement. By using the Services, the Customer shall be deemed to have accepted all the terms and conditions of this Agreement unconditionally. The Customer must not use the Services if the Customer does not agree to the terms and conditions of this Agreement.

6. **TERM AND TERMINATION**

- 6.1. Subject to any early termination of this Agreement in terms of clause 6.4 or clause 21 (Breach), this Agreement shall endure for the Subscription Period and subject to clause 6.2, shall automatically renew for the Renewal Period and continue to automatically renew for a Renewal Period until the notice in respect of clause 6.2 is delivered, or the Agreement is terminated in accordance with clause 6.4 or clause 21 (Breach).
- 6.2. In the event that a Party does not wish for this Agreement to automatically renew, then it must deliver a written notice to the other Party to this effect within 30 (thirty) days prior to the expiry of the Subscription Period or the Renewal Period, as the case may be.
- 6.3. Vroopa shall, within not more than 80 (eighty) and not less than 40 (forty) Business Days prior to the expiry of the Subscription Period or the Renewal Period, deliver a written notice to the Customer informing it of the impending expiry date, which notice shall further include:
- 6.3.1. information as to any amendments to the Agreement to be effected upon the renewal of the Agreement; and



6.3.2. the steps which the Customer must take should it not wish for the Agreement to automatically renew.

6.4. Notwithstanding the foregoing provisions of this clause 6, the Customer may terminate this Agreement for convenience on 20 (twenty) Business Days written notice to Vroopa. In such circumstances, Vroopa shall be under no obligation whatsoever to refund any amounts already paid by the Customer to Vroopa in accordance with clause 11.8.

7. **REGISTRATION AND SUBSCRIPTION**

7.1. The Customer may only use the Services once it has registered and subscribed via the Website and paid the relevant Subscription Fee.

7.2. To register, the Customer must provide a unique username and password and provide certain information and personal details to Vroopa, subject to the Privacy Policy. The Customer will need to use its unique username and password to access the Services.

7.3. The Customer agrees and warrants that the Customer's username and password shall:

7.3.1. be used for personal use only; and

7.3.2. not be disclosed by the Customer to any third party.

7.4. For security purposes the Customer agrees to enter the correct username and password whenever accessing the Services, failing which the Customer will be denied access.

7.5. The Customer agrees that, once the correct username and password relating to the Customer's account has been entered, irrespective of whether the use of the



username and password is unauthorised or fraudulent, the Customer will be liable for payment of any amounts necessary to use the Services, as set out in this Agreement.

- 7.6. The Customer agrees to notify Vroopa immediately upon becoming aware of or reasonably suspecting any unauthorised access to or use of the Customer's username and password and to take steps to mitigate any resultant loss or harm.
- 7.7. By using the Services, the Customer warrants that the he or she is 18 (eighteen) years of age or older and of full legal capacity. If the Customer is under the age of 18 (eighteen) or if the Customer is not legally permitted to enter into a binding agreement, then the Customer may use the Services only with the involvement and supervision of the Customer's parent or legal guardian. If the Customer's parent or legal guardian supervises the Customer and gives the Customer consent, then such parent or legal guardian agrees to be bound to this Agreement and to be liable and responsible for the Customer and all the Customer's obligations under this Agreement.

8. SERVICES

- 8.1. Vroopa shall provide the Services on and subject to the terms of this Agreement.
- 8.2. Vroopa shall use commercially reasonable endeavours to make the Services available except for:
- 8.2.1. planned Website maintenance;
 - 8.2.2. unscheduled Website maintenance; and
 - 8.2.3. complications with external databases outside of Vroopa's scope and control.
- 8.3. Vroopa shall provide standard customer support to its Customers.



9. VROOPA'S OBLIGATIONS

9.1. Vroopa:

- 9.1.1. shall ensure the information obtained from a Customer may only be used for Vroopa's business purposes, and not private benefit or economic gain contemplated outside of the scope of this Agreement;
- 9.1.2. shall ensure that Customer consent is granted before verification checks by individuals, agents, and third parties are executed.
- 9.1.3. shall protect Customer's Personal Information in line with the POPI Act and Vroopa's Privacy Policy.
- 9.1.4. may, at its sole discretion, forward any false record to South African fraud databases without the Customer's consent unless the Customer disputes the record;
- 9.1.5. reserves the right to charge a penalty fee should the information provided by a Customer be illegitimate or provided with the intention to misrepresent.

10. CUSTOMER'S OBLIGATIONS

10.1. The Customer must:

- 10.1.1. provide Vroopa with all necessary co-operation in relation to this Agreement and all necessary information as may be required by Vroopa, from time to time.
- 10.1.2. comply with the Applicable Laws with respect to its activities under this Agreement;
- 10.1.3. provide information that is accurate, updated, complete, and not misleading;
- 10.1.4. refrain from unlawful activities in connection with the use of the Services.



- 10.2. The Customer must not:
- 10.2.1. create a false identity, misrepresent its identity, create a profile for anyone other than the Customer, or use or attempt to use another's account;
 - 10.2.2. disclose information that the Customer does not have the consent to disclose;
 - 10.2.3. violate the Intellectual Property rights of others;
 - 10.2.4. violate the Intellectual Property rights of Vroopa;
 - 10.2.5. post anything that contains software viruses, worms, or any other harmful code;
 - 10.2.6. imply or state that he/she/it is affiliated with or endorsed by Vroopa without the prior written consent of Vroopa;
 - 10.2.7. monitor the Services' availability, performance or functionality for any competitive purpose;
 - 10.2.8. interfere with the operation of, or place an unreasonable load on, the Services (e.g., spam, denial of service attack, viruses, gaming algorithms).

11. **PAYMENT AND REFUND**

- 11.1. The Services are made available subject to the payment of the Subscription Fee by the Customer.
- 11.2. An online payment gateway is provided on the Website for secure internet deposits. Vroopa is committed to providing secure online payment facilities. All transactions are encrypted using appropriate encryption technology.
- 11.3. The Subscription Fee may differ in accordance with the Services to which the Customer subscribes, the details of which are accessible on the Website.



- 11.4. In respect of the “Professional Membership” service, the Customer may elect to pay the Subscription Fee thereof annually or monthly. If the Customer elects to pay such Subscription Fee monthly, then it may: (i) pay the Subscription Fee on each Monthly Payment Date by way of electronic funds transfer; or (ii) by way of debit order in terms of which the Customer authorises Vroopa to debit the bank account of the Customer on each Monthly Payment Date, the bank details of which shall be provided in terms of the payment process on the Website. If the Customer elects to pay the Subscription Fee annually, then such Subscription Fee shall be paid on the Subscription Date and annually thereafter by way of electronic funds transfer should the Customer fail to give the requisite notice in clause 6.2.
- 11.5. In respect of the “Enterprise Membership” service, the Customer must pay a once off annual Subscription Fee on the Subscription Date and annually thereafter by way of electronic funds transfer should the Customer fail to give the requisite notice in clause 6.2.
- 11.6. Should a Customer fails to pay a Subscription Fee, then Vroopa may suspend the provision of the Services until such payment is received, without any prejudice whatsoever to Vroopa.
- 11.7. Vroopa may adjust the Subscription Fees from time to time at its sole discretion. Any such adjustments will be communicated to the Customer in advance in accordance with the notice to be delivered in clause 6.3. Such adjustments will take effect from the commencement of a Renewal Period. If the Customer does not agree to the adjustments, then it must provide the notice contemplated in clause 6.2.
- 11.8. No refunds or payment adjustments will be accepted.



12. **PRIVACY POLICY**

- 12.1. In order for a Customer to utilise the Services it must, in conjunction with accepting the terms and conditions of this Agreement, further accept the terms and conditions of the Privacy Policy, which can be found at www.vroopa.co.za.
- 12.2. By using the Services, the Customer agrees to be bound by our Privacy Policy, which is incorporated into this Agreement.

13. **CHANGES TO TERMS AND CONDITIONS**

- 13.1. Vroopa may, subject to clause 11.7, in its sole discretion, change any of the terms and conditions of this Agreement at any time. It is the Customer's responsibility to regularly check this Agreement and make sure that the Customer is satisfied with the changes. Should the Customer not be satisfied, the Customer must terminate this Agreement in accordance with clause 6.4.
- 13.2. Any such change will only apply to the Customer's use of the Services after the change is displayed on the Website. If the Customer uses the Services after such amendments have been displayed on the Website, it will be deemed that that the Customer has accepted such amendments.

14. **ELECTRONIC COMMUNICATION**

When the Customer uses the Services, visits the Website or send emails to Vroopa, the Customer consents to receiving communications from Vroopa or any of Vroopa's divisions, affiliates or partners electronically in accordance with the privacy policy as set out in clause 12 above.



15. **INTELLECTUAL PROPERTY**

- 15.1. All right, title and ownership in the Intellectual Property shall vest in Vroopa and may not be utilised by the Customer without the prior written consent of Vroopa.
- 15.2. The Customer shall not have any claims in respect of the Intellectual Property rights of Vroopa.
- 15.3. The Customer undertakes to advise Vroopa of any infringement of Vroopa's Intellectual Property rights and shall co-operate and render all necessary assistance in connection with the protection of such Intellectual Property rights.

16. **WARRANTIES**

- 16.1. The Customer warrants that it:
 - 16.1.1. has the legal right and full power and authority to execute and deliver, and to exercise its rights and perform its obligations under, this Agreement;
 - 16.1.2. has not been induced to enter into this Agreement by any prior representations, warranties or guarantees (whether oral or in writing), except as expressly contained in this Agreement; and
 - 16.1.3. shall perform its obligations under this Agreement in accordance with all Applicable Laws, enactments and regulations.

17. **INDEMNITIES**

The Customer hereby indemnifies and holds Vroopa harmless from and against any loss or liability (including any claim for damages by any third party) resulting from any breach of this Agreement.



18. **DISCLAIMER**

- 18.1. The use of the Services is entirely at the Customer's own risk and the Customer assumes full responsibility for any risk or loss resulting from the use of the Services or reliance on any information on the Website or the Services Information.
- 18.2. Vroopa makes no representations or warranties, whether express or implied, as to the accuracy, completeness or reliability of any Services Information.
- 18.3. Vroopa disclaims liability for any damage, loss or expenses, whether direct, indirect or consequential in nature, arising out of or in connection with the Customer's use of the Services, including the Website and the Services Information.
- 18.4. All information provided on the Website or in the Services Information is provided "as is" without warranty of any kind, either express or implied.
- 18.5. In addition to the disclaimers contained elsewhere in this Agreement, Vroopa also makes no warranty or representation, whether express or implied, that the information or files available on the Website or in the Services Information are free of viruses, spyware, malware, trojans, destructive materials or any other data or code which is able to corrupt, destroy, compromise, disrupt, disable, harm, jeopardise or otherwise impede in any manner the operation, stability, security functionality or content of the Customer's computer system, computer network, hardware or software in any way. The Customer accepts all risk associated with the existence of such viruses, destructive materials or any other data or code which is able to corrupt, compromise, jeopardise, disrupt, disable, harm or otherwise impede in any manner the operation or content of a computer system, computer network, any handset or mobile device, or the Customer's hardware or software, save where such risks arise due to the gross negligence or wilful misconduct of Vroopa, its Affiliates and/or Personnel. Vroopa thus disclaims all liability for any damage, loss or liability of any nature whatsoever arising out of or in in connection with the Customer's access to or use of the Website or the Services Information.



19. LIMITATION OF LIABILITY

- 19.1. To the extent permitted by Applicable Law, regardless of the form (whether in contract, delict or any other legal theory) in which any legal action may be brought, unless otherwise agreed in this Agreement, each Parties maximum liability for direct damages for anything giving rise to any legal action shall be an amount equal to the total amount of the Subscription Fee already paid by the Customer.
- 19.2. To the extent permitted by Applicable Law, in no event shall either Party be liable for any indirect, incidental, special or consequential damages or losses (whether foreseeable or unforeseeable) of any kind (including loss of business, profits, revenue or anticipated savings, loss of goodwill, damages relating to lost or damaged data or software, loss of use, damages relating to downtime or costs of substitute products) arising from this Agreement.
- 19.3. Any claim by an aggrieved Party against a defaulting Party based on a breach of this Agreement shall be reduced by:
- 19.3.1. any amount recovered from any third party or insurer in respect thereof;
 - 19.3.2. any amount by which the subject matter of the claim has been made or is made good or otherwise compensated for without cost to the aggrieved Party;
 - 19.3.3. if any potential claim arises by reason of liability which is contingent only, then the aggrieved Party shall be under no obligation to make any payment pursuant to such claim until such time as the contingent liability ceases to be contingent and becomes actual.
- 19.4. The limitations contained in this clause 19 shall not apply to:
- 19.4.1. any breach by the Customer in respect of the Intellectual Property rights of Vroopa; or
 - 19.4.2. any claim arising from the gross negligence, wilful misconduct or criminal act of the defaulting Party.



20. **FORCE MAJEURE**

Vroopa shall have no liability to the Customer under this Agreement if it is prevented from or delayed in performing its obligations under this Agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of Vroopa or any other party), pandemics, epidemics, failure of a utility service or transport or telecommunications network, acts of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, fire, flood, storm or default of Vroopa or sub-contractors, provided that the Customer is notified of such an event and its expected duration.

21. **BREACH**

Should the Customer commit a breach of any of the provisions hereof, then Vroopa shall, if it wishes to enforce its rights hereunder, be entitled to give the Customer 20 (twenty) Business Days written notice to remedy the breach. If the Customer fails to comply with such notice, Vroopa shall be entitled to cancel this Agreement or claim immediate payment and/or performance by the Customer of all of the Customer's obligations whether or not the due date for payment and/or performance shall have arrived, in either event without prejudice to Vroopa's rights to claim damages.

22. **GOVERNING LAW AND JURISDICTION**

22.1. This Agreement is governed by South African law.

22.2. The Parties unconditionally consent and submit to the non-exclusive jurisdiction of the High Court of South Africa, Gauteng Division, Johannesburg, in regard to all matters arising from this Agreement.



23. **GENERAL**

- 23.1. This Agreement is the whole agreement between the Parties in regard to its subject matter.
- 23.2. No *pactum de non petendo*, addition to or variation or consensual cancellation of this Agreement, including this clause 23, has effect unless in writing and signed by the Parties in manuscript.
- 23.3. No indulgence by a Party to another Party, or failure strictly to enforce the terms of this Agreement, is to be construed as a waiver or be capable of founding an estoppel.
- 23.4. The Parties undertake to do everything reasonable in their power necessary for or incidental to the effectiveness and performance of this Agreement.
- 23.5. Save as is specifically provided in this Agreement, no Party is entitled to cede any of its rights or delegate any of its obligations under this Agreement without the prior written consent of the other Party affected by the transfer of rights or obligations.
- 23.6. Any illegal or unenforceable provision of this Agreement may be severed and the remaining provisions of this Agreement continue in force.
- 23.7. This Agreement may be executed in counterparts, each of which will be an original and which together constitute the same agreement.
- 23.8. The Parties acknowledge that they have had the opportunity to obtain independent legal advice before entering into this Agreement and in the absence of having done so, have waived their right to do so.

24. **IF THE CPA IS NOT APPLICABLE TO THIS AGREEMENT**

- 24.1. The following clauses will be deleted and/or amended in so far as the CPA is not applicable:



- 24.1.1. Clause 2.2.6 -deleted;
- 24.1.2. Clause 4 and 5 - deleted in its entirety;
- 24.1.3. Clause 6.3 deleted - in its entirety;
- 24.1.4. Reference to 20 (twenty) Business Days in clause 6.4 is amended to 30 (thirty) Calendar Days; and
- 24.1.5. Reference to 20 (twenty) Business Days in clause 21 is amended to 7 (seven) Calendar Days.