

# MEMORANDUM OF AGREEMENT

Made and entered into between  
**Cascade Avenue Trading 108 (PTY) LTD t/a Guides and Trackers Direct  
(THE COMPANY)**

**And**

Herein represented by (Your Name now known as “The **Individual**”)

Name: \_\_\_\_\_

Identity No: \_\_\_\_\_

Having Your Registered Home at:

\_\_\_\_\_  
\_\_\_\_\_

Home Tel No \_\_\_\_\_ Cell No \_\_\_\_\_

Fax No \_\_\_\_\_ Work Tel No \_\_\_\_\_

Email Address \_\_\_\_\_

Postal Address \_\_\_\_\_

\_\_\_\_\_  
Employer \_\_\_\_\_ Your Occupation \_\_\_\_\_

Business Address of your Current Employer:

\_\_\_\_\_  
\_\_\_\_\_

Spouse: Name \_\_\_\_\_ Cell \_\_\_\_\_

Employer \_\_\_\_\_ Work Tel. \_\_\_\_\_

Next of Kin: Name \_\_\_\_\_ Relationship \_\_\_\_\_

Tel: Home \_\_\_\_\_ Work \_\_\_\_\_ Cell \_\_\_\_\_

Next of Kin: Name \_\_\_\_\_ Relationship \_\_\_\_\_

Tel: Home \_\_\_\_\_ Work \_\_\_\_\_ Cell \_\_\_\_\_

The Effective Date of the Agreement shall mean     /    /    . **(DD/MM/YYYY)**

## **PREAMBLE**

The **COMPANY** through the experience of time, effort and money has the marketing and distribution rights for the Guides and Trackers Direct Marketing Platform and Discussion Forum. The **COMPANY** is entitled to enter into contracts with the **INDIVIDUAL** to utilize these systems. This document serves as a record of their agreement in writing.

### **1. DEFINITIONS**

In this agreement, unless the context otherwise requires, the following words and phrases shall have the meaning here into assigned to them:

“The **COMPANY**”, shall mean **Cascade Avenue Trading 108 (PTY) LTD t/a Guides and Trackers Direct, (Hereinafter called ‘G&TDIRECT’)** RSA Reg: 2007/027725/07

- 1.1 Duly registered and incorporated in terms of the Companies Act of the Republic of South Africa and carrying on business at, 111 Tugela Ave, Centurion, Pretoria. PO Box 3053, The Reeds, Centurion, 0158, Pretoria, South Africa. Tel : 083 816 1443
  - 1.2 “**the Business**” shall mean the business conducted by **the COMPANY** to distribute and market the G&TDirect Marketing Platform and Discussion Forum as per **ANNEXURE 1**
  - 1.3 “**the PRODUCTS**” shall mean the products supplied by the **COMPANY** as per **ANNEXURE 1** to the **INDIVIDUAL**,
  - 1.4 “**the PARTIES**” shall mean the **COMPANY** and **INDIVIDUAL** collectively;
2. Words importing the singular shall include the plural and vice versa, words importing the masculine gender shall include the neuter and vice versa and words importing companies shall include persons and vice versa.
  3. The head notes in the agreement are for reference purposes only and shall not govern the interpretation of any of the provisions of this agreement.

### **4. RIGHTS GRANTED**

With effect from the effective date, the **COMPANY** grants to the **INDIVIDUAL** the right to utilize the **PRODUCT**.

On the effective date the **INDIVIDUAL** shall pay to the **COMPANY** a Utilization fee (which is non refundable and which the contract may not be cancelled for whatever reason) in the sum of **one thousand one hundred and eighty eight Rand Vat Inclusive**. The **INDIVIDUAL** undertakes to do payment by way of Direct Debit Order (Annexure 3), cash payment or electronic fund transfer (EFT).

For the Utilization fee, the **INDIVIDUAL** shall receive the following: the right to add, edit and display his personal information on the website format provided and the right to add and comment on categories and threads in the discussion forum for the period of **12(TWELVE) months** from activation of membership account only.

### **5. RIGHTS AND DUTIES OF THE COMPANY**

The rights, duties and obligations of the **COMPANY** are as follows:

G&TDirect Marketing Platform as per **ANNEXURE 1**. If any particular service shall cease to be supplied / marketed by the Company or its Supplier or Partner, such other service or system as the Company may substitute for that no longer supplied or marketed, such service / system will be cancelled in this agreement. Notification will be placed on the company web site!

The **COMPANY** reserves the right to renew this Memorandum of Agreement without the verbal consent of the **INDIVIDUAL** without at least 1 (ONE) months written notice by the **INDIVIDUAL** stating that the **INDIVIDUAL** wishes to cancel their Guides and Trackers Membership Account.

The **COMPANY** agrees to provide Representation and Discussion Forum services on the website for **12 (TWELVE)** months after the activation of the membership account on the following conditions:

#### **USE OF SERVICES**

- You may only use the Services for lawful purposes and you warrant that you shall not: use the Services to receive or transmit material which is in violation of any law or regulation, which is obscene, threatening, racist, menacing, offensive, defamatory, in breach of confidence, in breach of any intellectual property rights, or otherwise objectionable or unlawful;
- use the Services for the transmission of "junkmail", "spam", "chain letters", or unsolicited mass distribution of SMS;
- other than for your personal and non-commercial use, store on your computer, or print copies of extracts from this website, and you may not, other than for your personal and non-commercial use, "mirror" or cache information provided via this website on your own server, or copy, adapt, modify or re-use the text or graphics from this website without prior written permission from G&TDirect.

In the event of the **INDIVIDUAL** failing to honour the debit order; the representation service will be cancelled and will not be reinstated. The **COMPANY** reserves the right to edit /delete the **INDIVIDUAL** categories and thread entries / comments in the Discussion Forum for any reason at anytime.

## **6. OBLIGATION OF THE INDIVIDUAL**

The **INDIVIDUAL** undertakes as follows: To add, edit and maintain their resume information on the G&TDirect Marketing Platform System. Continuously and diligently represent the business which may be amended by the **COMPANY** from time to time. Not take any action or make any representation, which might establish any apparent relationship of joint venture, partnership or employment with the **COMPANY**. The **COMPANY** shall not be bound in any manner whatsoever by any agreement, warranty or representation made by the **INDIVIDUAL** to any third party;

## **7. MEMBERSHIP ACCOUNT ACTIVATION**

- 7.1 The **INDIVIDUALS** shall place REGISTRATION in writing with the **COMPANY**.
- 7.2 All registrations are to be conducted on the standard registration forms as provided by the **COMPANY**.
- 7.3 The time period for registration shall commence at 08h00 on any working day that month the registration documentation is fully received until 16h00 on the same working day and every working day until the registration process is complete. Any written forms given to the **COMPANY** after 16h00 on any working day of the month shall fall into the following working day. In the event that the next working day is a public holiday, then the registration process will commence at 08h00 on the next working day.
- 7.4 The **INDIVIDUAL** shall be responsible for supplying the **COMPANY** with the full and complete registration documentation before activation of the membership account.
- 7.5 The **INDIVIDUAL** shall be responsible for the payment to the **COMPANY** and provide the **COMPANY** with written and authentic proof of payment to the **COMPANY** before membership account activation.
- 7.6 The membership account will become active and be deemed active for **12 (TWELVE) months** on the month the registration documentation is fully and correctly supplied to the **COMPANY**, payment has been made to the **COMPANY** and sufficient proof of payment has been supplied to the **COMPANY** by the **INDIVIDUAL**.

## **8. DOMINIUM CITANDI ET EXECUTANDI – Your Registered Address**

The parties hereto choose domicilium citandi et executandi for all purposes in the agreement as follows: The **COMPANY** at: CYBERCON House, C/O Lenchen South & Embankment Blvd, Centurion. The **INDIVIDUAL** at: page 1 of this agreement at the registered address. Either party shall be entitled to change the domicilium citandi et executandi chosen by it by giving to the other party 10 (TEN) days written notice of such change of address to the other party. The **INDIVIDUAL** agrees that important documents can be deemed as received by the **INDIVIDUAL** to the address, email address or fax number as identified on page one.

## **9. WHOLE AGREEMENT**

This agreement constitutes the entire agreement between the parties and no other conditions, stipulations, warranties, statements of fact or option or representations whatsoever have been made or relied upon either party other than as specifically included herein.

## **10. NON-VARIATION**

No variation or cancellation of the provisions hereof shall be of any force or effect unless reduced to writing and signed by or on behalf of the parties.

## **11. NON-WAIVER**

No party to this agreement shall be regarded as having waived, or be precluded from exercising any right under this agreement by reason merely that such party has shown any indulgence to another party or parties hereto or fail to exercise or delayed in exercising any right under this agreement whether the same right or any other right.

## **12. BREACH**

- 12.1 If a dispute arises between the parties concerning any matter relating to this agreement, then both parties shall enter into negotiations, in good faith, in order to resolve the matter.
- 12.2 If the parties are unable to resolve the matter between them, they may but are not obligated to refer the matter to arbitration. The arbitrator may in turn appoint an independent expert in the field in which the dispute has arisen, provided that both parties accept and agree on the arbitrator and his choice of independent expert and the terms and conditions of his appointment. The arbitrator shall decide the matter, and both parties shall agree to be bound by his decision.
- 12.3 In the event that the parties are unable to resolve the matter, or fail to agree on either an arbitrator or an expert, or the terms and conditions of his appointment, or if either party is in repeated breach of this agreement, then the party who had been aggrieved shall give written notice the other party calling on it to remedy a breach of the agreement. If the other party fails to remedy the breach within 7 (Seven) days of the receipt of the notice, then the aggrieved party may elect to cancel the agreement, or to demand specific performance, without prejudice to its rights to claim damages and without prejudice to any other rights it may have in law.
- 12.4 Arbitration will be held in Pretoria with an arbiter identified by the company. Arbitration and related costs will be paid by each party.

## **13. LEGAL COSTS**

All legal costs, as between attorney and own client, incurred by any party in respect of any legal steps taken by them against the other party where such a party is in default or to enforce any rights it may have in terms of this agreement.

**ANNEXURE 1**  
**Products and Services**

SYSTEM	TIMEFRAME	COST TO INDIVIDUAL
G&TDirect Marketing Platform	12months	R1188
G&TDirect Discussion Forum	12months	included

All Values Include Vat

**ANNEXURE 2**

UNDERTAKING BY: 1. THE **INDIVIDUAL** and 2. RECITALS WHEREAS: The Company intends to enter into a service agreement with the **INDIVIDUAL** in respect of the products and services in Annexure 1 (hereinafter referred to as the “confidential information”), and The **COMPANY** will disclose certain confidential information and concepts to the **INDIVIDUAL** to enable the **INDIVIDUAL** to participate in the service agreement; and Conditions of secrecy and confidentiality must be retained in respect of all information and discussion agreements which is not public domain; and all discussion, ideas, concepts, agreements and understandings are of highly sensitive nature in so far as divulgence thereof to any party or person other than the **INDIVIDUAL** may seriously impair or be detrimental to the **COMPANY** or its associated companies; and The said information shall only be released to the **INDIVIDUAL** upon signature of this undertaking by the **INDIVIDUAL**; and the parties hereby acknowledge and they understand and are in agreement with the statements stipulated above.

**3. UNDERTAKING**

The **INDIVIDUAL** hereby: Irrevocably agrees and undertakes to specifically treat information relating to the said project in the strictest confidence and secrecy, irrespective of whether such information is communicated verbally or in writing; and to treat all information, ideas, concepts, discussions and agreements relating to the said project, in the strictest confidence and secrecy and to not directly or indirectly discuss with or disclose to any person such information without the prior written authorization of The Company; and keep all information relating to the said service agreement in a safe place for the period during which it is being held by the **INDIVIDUAL** and not to allow any person to have insight therein or access thereto; and abide by the wording, spirit and import of this undertaking.

**4. NON-CIRCUMVENTION**

The **INDIVIDUAL** hereby agrees that it shall not at any time use any information, irrespective of whether such information is communicated verbally or in writing, relating to the said confidential information or any idea or structure for its own profit or gain, nor shall it circumvent the Company by introducing information of the said matter or any idea communicated to them, to anyone else, an associate, corporate entity, family member, friend or the like, nor shall he endeavour to negotiate or conclude a transaction with anyone else.

Thus done and signed at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 200\_\_\_\_\_.

**SIGNATURE:** \_\_\_\_\_  
(AS USED FOR SIGNING BANK DOCUMENTS)

**AS WITNESS:**

1. \_\_\_\_\_ (For and on behalf of the **INDIVIDUAL**)

2. \_\_\_\_\_ (For and on behalf of the **COMPANY**)

**ANNEXURE 3**

**(Only applicable if paying by Debit Order)**

Name: \_\_\_\_\_

Id No \_\_\_\_\_

The details of the **INDIVIDUALS** bank account are as follows:

Bank: \_\_\_\_\_ Branch: \_\_\_\_\_

Branch Code: \_\_\_\_\_ Account Type (Current, Savings, Cheque): \_\_\_\_\_

Account Holder's Name: \_\_\_\_\_ Account Number: \_\_\_\_\_

Monthly Debit Order Date: **1<sup>st</sup> Day of Every Month.** (Except if this day falls onto a public holiday in which case the amount will be debited on the next working day)

- **Acknowledgement of debt.** The **INDIVIDUAL** hereby acknowledges himself/herself to be truly and lawfully indebted to **Cascade Avenue Trading 108 (PTY) LTD t/a Guides and Trackers Direct**, in the sum of one thousand one hundred and eighty eight Rand Including VAT. The distributor hereby requests the Debit Order Deduction Company to deduct the monthly amount. Hereinafter referred to as “the Capital” which amount the **INDIVIDUAL** hereby undertakes and promises to pay in the manner and on the conditions set out hereafter.
- The **INDIVIDUAL** shall pay **Cascade Avenue Trading 108 (PTY) LTD t/a Guides and Trackers Direct**, in 12 equal monthly instalments of R99.00 including VAT. The Individual shall pay in equal monthly instalments, on the monthly debit order date and the remaining instalments on the same day of each month and every subsequent month. Should one debit order not be honoured, then the **COMPANY** is authorised by the **INDIVIDUAL** to deduct the money, or outstanding amounts, at any given time during the month. Should the payment be stopped or returned to the drawer (for any reason whatsoever) the full outstanding balance plus interest shall immediately become due.
- The interest rate applicable shall be equal to the bank repo rate as at the date of signing and will be fixed. The **COMPANY** will pay the interest on behalf of the **INDIVIDUAL**. This is conditional to the **INDIVIDUAL** keeping up regular monthly payments on time every month. Should the **INDIVIDUAL** fall into arrears of two months and fail to rectify this payment in form of payments made or written correspondence to the **COMPANY**, the interest rate of prime + 2% will apply on the full outstanding balance from date it becomes due to date of full and final payment and will remain in force for the remainder of the terms of agreement. The balance of the monthly repayments will then be adjusted accordingly.
- A certificate by a manager of the **COMPANY** (whose appointment need not be proven) shall be prima facie proof of the amount payable by the **INDIVIDUAL**. Should a dispute arise whether such amount is payable and/or concerning the quantum thereof, such dispute shall be referred in writing to the external auditors of the **COMPANY** for their final decision. Such auditors shall act as experts and their decision shall be final and binding on both parties. Should the auditors decide in favour of the **COMPANY**, the **INDIVIDUAL** shall be liable for all costs incurred in respect of such decision. Should the auditors, however, decide in favour of the **INDIVIDUAL**, the **COMPANY** shall be liable for all costs incurred in respect of such decision.
- The **INDIVIDUAL** will pay the costs of any action arising from the enforcement of this acknowledgement of debt on an attorney and client scale, including but not limited to collection commission. For the purpose of any action arising out of this acknowledgement of debt, the **INDIVIDUAL** chooses domicilium citandi et executandi, as per the Distributor's chosen office as on page one of the agreement. The Distributor renounces the benefits of any legal exception which might be raised against **Cascade Avenue Trading 108 (PTY) LTD t/a Guides and Trackers Direct** claim, particularly those known as *de errors calculi* and *non causa debiti*, and declare himself duly acquainted with the meaning and effect of such exceptions and of the renunciation thereof. The Magistrates Court shall be in Pretoria.

- The Individual consents in terms of Section 45 of the Magistrate’s Court Act, Act 32 of 1944, as amended to the jurisdiction of the Magistrates Court notwithstanding the amount which may at any time be owing. The Individual consents to judgment in terms of the provisions of Section 58 of the Magistrate’s Court Act, Act 32 of 1944, as amended. In the event of proceedings being instituted against the **INDIVIDUAL** by any third party or in the event of the **INDIVIDUAL** failing to pay on the due date or in the event of his estate being sequestered or surrendered, or in the event of his committing any act of insolvency, the total capital amount due in terms thereof, with costs and interest, shall immediately become due, owing and payable forthwith without further notice to the **INDIVIDUAL**. No relaxation or indulgence granted by **Cascade Avenue Trading 108 (PTY) LTD t/a Guides and Trackers Direct**, shall be a waiver of any of its rights under its acknowledgement of debt.
- No variation of any of the terms of this agreement shall be of any force or effect, unless reduced in writing and signed by **Cascade Avenue Trading 108 (PTY) LTD t/a Guides and Trackers Direct** and the **INDIVIDUAL**.
- If two or more persons/entities have signed this acknowledgement of debit, then we hereby agree that we shall be liable jointly and severally in solidum and that we renounce the benefits of the legal exceptions known as excussion, division and revision of accounts and declare ourselves to be fully aware of the extent of such exceptions and the renunciation thereof. Notwithstanding the fact that all references made herein, or in singular, such references shall include all of us where applicable.
- The **INDIVIDUAL** hereby request, “Instruct” and authorize the **COMPANY** to draw against the **INDIVIDUAL’S** account with the abovementioned bank (or any other bank or branch to which the Individual may transfer my/our account) as set out in point 2.5 of this addendum. All such withdrawals from the **INDIVIDUAL’S** bank account by you shall be treated as though the **INDIVIDUAL** had signed them personally.
- The **INDIVIDUAL** understand that the withdrawals hereby authorised will be processed by computer through a system known as the ACB Magnetic Tape Service, and the **INDIVIDUAL** also understand that details of each withdrawal will be printed on the Individual’s bank statement or on an accompanying voucher. Receipt of this instruction by the **INDIVIDUAL** shall be regarded as receipt thereof by the Individual’s bank (whichever it is or will be).
- The **INDIVIDUAL** agrees that in the event that he defaults on any payment he consents to a garnishee order in the amount equal to the payment due in this annexure to be issued and do undertake to pay any commission payable to **Cascade Avenue Trading 108 (PTY) LTD t/a Guides and Trackers Direct**. The **INDIVIDUAL** accepts the liability for an administrative cost of R25.00 (inclusive of VAT), for each telephonic / sms / fax / email demand by the company to the **INDIVIDUAL** for payment of arrears. A further administrative cost of R 75.00 will be charged if any payment is returned due to insufficient funds or marked payment stopped. The **INDIVIDUAL** acknowledges that it is against the law and the agreement to issue any Stop Payments Instructions OR Debit Order Reversals OR Transaction Disputes with his/her Bank. The issuing and submittance of such documents to his/her bank constitutes a FALSE DECLARATION and can be used against him/her in a Court of Law.

ASSIGNMENT:

The **INDIVIDUAL** acknowledges that the party hereby authorised to effect the drawing(s) against the **INDIVIDUAL’S** account may not cede or assign any of its rights to any third party without the **INDIVIDUAL’S** written consent and that the **INDIVIDUAL** may not delegate any of the **INDIVIDUAL’S** obligations in terms of this contract/authority to any third party without prior written consent of the authorised party.

Thus done and signed at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 200\_\_.

**SIGNATURE:** \_\_\_\_\_  
(AS USED FOR SIGNING BANK DOCUMENTS)

**AS WITNESS:**

3. \_\_\_\_\_ (For and on behalf of the **INDIVIDUAL**)

4. \_\_\_\_\_ (For and on behalf of the **COMPANY**)