



STANDARD TERMS: INFLUENCER MARKETING SERVICES

These terms apply to the social media influencer marketing services (**Services**) which you, the company named in a Campaign Strategy (defined below), receive from R-Squared Agency (Pty) Ltd (**we or us**).

You will receive a copy of these terms when we conclude the first Campaign Strategy and will be asked to return a signed copy. By doing so you confirm that you have read, understand, and agree to the terms of this agreement. If you have any questions before doing so, please do not hesitate to ask us.

We may change these terms from time to time. The new terms will be provided to you when concluding the next Campaign Strategy and will apply to all subsequent Services.

1 Campaign Strategy

- 1.1 You may request Services in writing in respect of a particular campaign that you wish to run (**Campaign**). If we are able and prepared to provide Services in respect of that Campaign, we will propose a written strategy for the Campaign, which includes:
 - (1) details of the Campaign and the Services required;
 - (2) proposed Campaign dates;
 - (3) number of influencers and the criteria which they must meet;
 - (4) fees;
 - (5) analytics and reports required; and
 - (6) any other information relevant to the Campaign, (**Campaign Strategy**).
- 1.2 You must approve each Campaign Strategy in writing. We will cooperate in good faith to finalise any reasonable changes requested by you before approval. Each approved Campaign Strategy, together with these terms, forms a separate agreement between you and us for the Services for the applicable Campaign.
- 1.3 Changes to an approved Campaign Strategy proposed by you or us must be agreed in writing.

2 Cancellation

- 2.1 In case of cancellation of a campaign by you, any fees or amounts paid in advance for agreed services shall, subject to paragraph 2.3 below, be held in abeyance and be credited to you for your next campaign. We will confirm this amount with you as soon as possible after the cancellation by you is actioned.
- 2.2 Where agreed services may have already been rendered or where any expenses may have been incurred in preparation for the commencement of such cancelled campaign, you will be liable for the costs or expenses of such services.

- 2.3 The costs or expenses for services which may have already been rendered before cancellation of a campaign will be deducted from your prepaid or advance fees to cover our costs already incurred.
- 2.4 Where the cancellation is due to a direct or indirect breach by us, you will not be liable to reimburse us for any costs or expenses incurred in preparation for the Campaign. Your prepaid or advance payment will therefore be fully refunded to you in this case.
- 2.5 We may cancel our Services in respect of a Campaign on 30 (thirty) days' notice to you and any amounts paid for Services not yet received will be refunded (on a pro-rata basis if applicable).

3 Influencer selection and engagement

- 3.1 Once a Campaign Strategy is approved, we will identify social media influencers which meet your criteria. We will submit the list of proposed influencers for your approval. Note that it may not be possible for each influencer to meet all of your criteria. However, we will use our best endeavours to provide you with a list of influencers which meet your criteria as a group. If you are not satisfied with the proposed influencers on reasonable grounds, we will identify alternatives.
- 3.2 Once the list of influencers is approved, we will create for your approval:
 - (1) a specific brief for each influencer; and
 - (2) a publishing calendar for the Campaign

We will cooperate in good faith to finalise any reasonable changes requested by you before approval.

- 3.3 The list of influencers, brief for each influencer and publishing calendar form part of the agreed Campaign Strategy on approval by you.
- 3.4 We will contract with each influencer for purposes of the Campaign, based on the brief and publishing calendar approved by you.
- 3.5 There may be circumstances which require changes to the influencer list, briefs, or publishing calendar in the interests of the Campaign. We will liaise with you as and when necessary. Changes must be effected in terms of clause 1.3.

4 Campaign materials and content

- 4.1 We do not create content for Campaigns unless otherwise agreed in writing.
- 4.2 All materials and content created by our influencers for purposes of a Campaign will be validated by us before publication against the requirements of the influencers' brief as approved by you. We will contractually require influencers to ensure that:
 - (1) materials and content created or provided by them for purposes of the Campaign complies with all applicable laws and is not:
 - (a) harmful or inappropriate in respect of you, us, our influencers, and our other clients;
 - (b) infringing of any rights of third parties, including intellectual property rights and privacy rights; or

- (c) defamatory, racist, political in nature, discriminatory, obscene, pornographic, or abusive;
 - (2) they have all permissions necessary to enable them, us, and you to use all materials and content created or provided by them for purposes of the Campaign; and
 - (3) every post or publication includes a clear indication that it is an incentivized, sponsored or advertising post or publication.
- 4.3 You may request the publication of an apology in relation to any post or publication by an influencer which contravenes the requirements of clause 4.2 or the influencer's brief. We will contractually require the influencer to do so.
- 4.4 Any materials and content to be supplied by you for purposes of the Campaign must be provided to us for inclusion in the influencers' briefs created in terms of clause 3.2(1). You must ensure that these materials and content meet the same requirements as those described in clause 4.2.
- 4.5 You are responsible for compliance with any legal, regulatory, or other requirements in relation to a Campaign and must provide us with all relevant information in this regard for inclusion in the Campaign Strategy and (where applicable) influencers' briefs.
- 4.6 We are not responsible for any:
- (1) posts or publications made by influencers, unless we negligently failed to communicate the agreed brief to them;
 - (2) materials or content supplied by you; or
 - (3) non-compliance with any legal, regulatory, or other requirements, unless those requirements were communicated to us for inclusion in the brief and we failed to communicate them to the influencers.
- 4.7 We will not be liable for any loss or damage suffered by you in connection with the circumstances described in clause 4.6 and you indemnify us against any claims by third parties in this regard.

5 Campaign implementation and reporting

- 5.1 On completion of the Campaign, we will provide you with a report reflecting the influencers' results, consolidated for the Campaign.
- 5.2 Reports may take up to 40 days from the end of the Campaign to be issued to capture the entire engagement lifecycle that can be up to 30 days. All reports will be sent to you by email at the email address you provide.
- 5.3 Reports will be accurate based on the data available to us. All data is gathered from social media platforms and other third-party sources and we are not responsible for the quality or accuracy of this data. We are therefore also not responsible for any inaccuracies in reports as a result of inaccuracies in the source data and will not be liable for any loss or damage suffered by you or a third party in this regard. If you find that any data is inaccurate or incomplete, please let us know and we will endeavour to correct the data manually.

6 Payment

- 6.1 You will pay us the agreed fees in a Campaign Strategy at the agreed intervals. All fees are exclusive of value-added tax, which is payable by you.
- 6.2 You must reimburse us for our influencers' reasonable travel and accommodation expenses incurred in the provision of the Services, provided that they have been approved by you in writing in advance (including the amount of each expense).
- 6.3 All fee payments and reimbursements will be made into the following bank account or another account nominated by us in writing:

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|-----------------|----------------------------|
| Bank: | FNB |
| Branch: | 250655 |
| Account holder: | R-Squared Agency (Pty) Ltd |
| Account number: | 62651892202 |

- 6.4 We may charge interest on any amounts outstanding from the due date until the date of payment, at the prime rate quoted by FNB plus 2% or the maximum rate allowed by law (if lower).

7 Penalties

- 7.1 If our influencers fail to meet any deadlines that are material to the campaign, you may deduct the following amounts from the fees due to us in respect of those influencers in clause 5:

- (1) up to 15% of the fee for a task which is completed within 1 to 24 hours after the deadline;
- (2) up to 30% of the fee for a task which is completed within 24 to 48 hours after the deadline; and
- (3) up to 50% of the fee for a task which is not completed within 48 hours after the deadline

provided that the failure is not a result of your or your agents' acts or omissions or a breach of this agreement.

8 Intellectual property

- 8.1 You and we (and our respective licensors) retain our respective pre-existing intellectual property rights.
- 8.2 All content, and the intellectual property rights relating to it, provided to us by you for purposes of the Campaign is owned by you or your licensors. We may use this content for purposes of the Campaign in accordance with this agreement and permit our influencers to do the same.
- 8.3 Any content, and the intellectual property rights relating to it, created by our influencers in the provision of the Services is owned by our influencers but we will procure for you a limited, revocable, perpetual and non-exclusive license to use such content for your business and commercial purposes, including publishing such content in any forum for marketing purposes.

9 Non-solicitation

For two years following termination of this Agreement, you may not directly or indirectly approach our employees or influencers or request services similar to the Services, from our employees or influencers, independently of us.

10 Warranties

Each party warrants that it is authorised to conclude and to perform its obligations in terms of this Agreement. The parties acknowledge that each of them concludes this Agreement in reliance upon the warranties of the other. This warranty survives termination of the balance of this Agreement for as long as necessary to give it effect.

11 Breach and termination

11.1 Either party may terminate this agreement with immediate effect on written notice to the other party if the other party:

- (1) fails to remedy a material breach of this agreement within 7 days of written notice to do so, or commits a material breach of this agreement which cannot be remedied; or
- (2) is, other than for the purposes of reconstruction or amalgamation, placed under voluntary or compulsory sequestration, winding-up, judicial management, business rescue or the equivalent of any of these in any jurisdiction or commits an act of insolvency as defined in the Insolvency Act.

11.2 Any termination is without prejudice to any right or remedy that either party may have which accrued before the date of termination.

11.3 Clauses 4.4, 8, 9, 12, 13 and 15 survive termination of this agreement.

12 Liability

12.1 Neither you nor us will be liable for any indirect or consequential loss or damage in connection with this agreement, save for loss or damage arising from fraud or willful misconduct.

12.2 The total liability of you and us respectively for any direct loss or damage arising out of or in connection with this agreement is limited to the total amount paid by you under this agreement.

13 Confidentiality

13.1 All confidential information disclosed by one party to the other party in connection with this agreement may not be disclosed by the receiving party to any third party unless stated in this agreement, required by law or permitted in writing by the disclosing party, or used for any purpose other than in connection with this agreement. For purposes of this agreement **confidential information** means all information confidential to the disclosing party including, to the extent that it is not freely and publicly available, commercial, financial, legal, technical, scientific and research information, trade secrets, passwords, or other secret codes, information disclosed with the permission of third parties in which the third parties have confidentiality rights, information legally protected from disclosure, any information the unauthorised disclosure of which could reasonably be expected to cause harm or risk to the disclosing party and any other information designated by the disclosing party as confidential or which is manifestly confidential.

- 13.2 The receiving party must use the disclosing party's confidential information in a way that prevents any unauthorised access to it. Where information has been disclosed contrary to this agreement, the receiving party must immediately inform the disclosing party, cooperate with the disclosing party, and take any steps required of the disclosing party to retrieve the confidential information and prevent further unauthorised disclosure.
- 13.3 On the disclosing party's request, the receiving party must return or destroy all confidential information other than documents prepared by the receiving party, provided that where required by law, the receiving party may retain one copy of the confidential information for the required period.

14 Personal information

- 14.1 **Personal information** and **processing** have the meanings given to them in the *Protection of Personal Information Act, 2013*.
- 14.2 If we process any personal information in your behalf for purposes of this agreement, we will:
- (1) do so only with your knowledge or authorisation and not disclose the personal information, unless required by law or in the performance of our duties under this agreement;
 - (2) take reasonable and appropriate technical and organisational security measures to protect the personal information against loss, damage, unauthorised destruction and unlawful access or processing; and
 - (3) immediately notify you if there are reasonable grounds to suspect that the personal information has been accessed or acquired by any unauthorised person.
- 14.3 You must ensure that you are legally permitted to disclose any personal information you provide to us. You will indemnify us and our agents and influencers against, and we, our agents and influencers will not be liable for, any loss or damage suffered as a result of you not being legally permitted to disclose personal information to us.

15 General

- 15.1 In this Agreement, the words "including" and "in particular" are without limitation and if there is any inconsistency between the body of this agreement and an annexure, the body of this agreement takes precedence.
- 15.2 This agreement does not constitute a partnership, joint venture, employment, or agency relationship between the parties or entitle or authorise either party to incur liability on behalf of the other.
- 15.3 This agreement is the whole agreement between the parties in regard to its subject matter and supersedes any prior agreements, written or verbal. No agreement varying, adding to, deleting from, or cancelling this agreement will be effective unless in writing and signed by both parties.
- 15.4 Any illegal or unenforceable provision of this agreement may be severed, and the remaining provisions continue in force.
- 15.5 No indulgence by either party to the other party, or failure strictly to enforce the terms of this agreement, will be interpreted as a waiver or be capable of founding an estoppel.
- 15.6 R-Squared may subcontract any of its obligations under this Agreement, including to its influencers.

- 15.7 The Client may not assign this Agreement (in whole or in part) without R-Squared's prior written consent. R-Squared may assign this Agreement (in whole or in part) without the Client's consent. The Client will be notified of such an assignment.
- 15.8 This Agreement is governed by South African law. In the event of any dispute between the parties in connection with this Agreement, each must appoint a representative with settlement authority to meet within ten days of declaration of the dispute. Only if the parties' representatives are unable to resolve the dispute, either party may institute action in a court having jurisdiction. The parties unconditionally consent and submit to the non-exclusive jurisdiction of the High Court of South Africa, Western Cape Division, Cape Town in regard to all matters arising from this Agreement. Nothing in this paragraph 15.8 prevents either party from seeking an order of urgent relief from a court of competent jurisdiction.
- 15.9 This agreement may be executed in counterparts, each of which will be an original and which together constitute the same agreement.
- 15.10 We will deliver notices or documents in connection with legal proceedings to you at the physical or email addresses at the top of this agreement unless you notify us otherwise in writing. You should deliver notices or documents in connection with legal proceedings to us at the following addresses unless we notify you otherwise:

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| Physical address: | R-Squared Agency (Pty) Ltd Suite 416 (4 th Floor) 6 Beach Road 7915 Cape Town |
| Email address: | partners@r-squared.agency |
| Marked for attention of: | Stephane Rogovsky |