

Service Contract

ENTERED INTO BETWEEN

Imvelaphi Mobile (Pty) LTD
("Star120")

AND

_____ **(Pty) LTD**
("The Client")

PARTIES

The parties to this agreement are:-

Imvelaphi Mobile (Pty) Ltd, a private company duly incorporated in terms of the laws of the Republic of South Africa under registration number 2005/034061/07 and with physical address 264 Victoria Road, Woodstock, 7806, hereinafter referred to as "STAR120".

and

_____ (Pty) Ltd, a private company duly incorporated in terms of the laws of the Republic of South Africa under registration number ____/____/___ and with physical address _____, hereinafter referred to as "the client".

RECITAL

STAR120 is an Application Service Provider [ASP] that delivers integrated mobile payment solutions enhanced with an innovative delivery platform. With seven years of financial switching experience, STAR120 has develop the most advanced and versatile system using best business focus to deliver services in mobile and EFT transaction switching , customer appreciation, direct marketing and customer relationship management fields.

The client provides a magazine content platform for hosting established magazine titles for dissemination via the mobile phone to the clients customers. The client has requested STAR120 to provide a managed payment platform to integrate to the clients mobile magazine platform for the provision of accepting debit and credit

card and debit order payments for the sale of goods promoted on any of the clients specified customers.

The Client wishes to engage the service platform of STAR120 for private label debit card management and the sale and delivery of Prepaid services and other value added service that may be provided by the platform.

This agreement outlines the terms and conditions under which STAR120 will provide the services to the Client.

DEFINITIONS

In this agreement unless the context otherwise indicates, the following terms have the meanings ascribed to them below.

"BANKSERV" means the entity appointed as a payment clearing house operator by the Payments Association of South Africa (PASA) in terms of the National Payments System Act No 78 of 1998 (see www.bankserv.co.za).

"Client" means _____

"confidential information" means information which is confidential to either party and includes (without being limited to): all code, processes, interfaces and other information relating to the STAR120 transacting platform, any information in respect of know-how, formulae, statistics, processes, systems, business methods,

marketing, trading and merchandising methods, promotional and advertising plans and strategies, financial plans and models, inventions, long-term plans, research and development data, user or consumer data and profiles, ideas, software, source code, specifications, quotations, computer programmes, applications, interfaces, drawings; the contractual business and financial arrangements of the party and others with whom it has business arrangements of whatsoever nature all information peculiar to the business of the one party which is not readily available to a competitor of that party in the ordinary course of business; and any other information of a confidential nature of the party, in whatever form it may be;

“Customer” means a company who has engaged the services of the Client for the promotion of its business via the mobile platform

"Effective date" means (/ / 201);

"Entry" means a single transaction in the form of either a debit or credit to or from the Client's bank account;

“Purchaser” means a consumer who uses the Star120 platform to exact a transaction..

“Switch” means the STAR120 transactional switching platform

"Unpays" means bank-returned or declined entries;

INTERPRETATION

Words importing the singular shall include the plural and *vice versa*.

Words importing the masculine gender shall include the feminine and neuter genders and *vice versa*.

The clause headings in this agreement are for reference purposes only and shall not affect the interpretation of the subject matter of the clause or the agreement.

Where reference is made to a number of days, same shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a Saturday, Sunday or public holiday in which event the last day shall be the next day which is not a Saturday, Sunday or public holiday.

Any schedules, annexures and addenda attached to this agreement, as amended from time to time shall be deemed to form part of this agreement.

DURATION

Notwithstanding the date of signature of this agreement, this agreement shall be deemed to have come into effect on the (/ / **201**) and shall continue for a period of 6 months ("the initial period") whereafter it shall automatically be renewed for an indefinite period during which period:

contract may be terminated in writing at any time by either party on 3 (three) months written notice to the other party after the initial period has expired.

for the avoidance of doubt no notice of termination in terms of this agreement may be given prior to the expiry of the initial period.

DEBIT/CREDIT SERVICE

STAR120 undertakes to provide a debit/credit card and debit order service to the Client, which service will comprise:

the collection or payment of regular monies on behalf of the Client from debtors or creditors respectively as instructed to STAR120 via data files transmitted to STAR120 by the Client or the Switch. All monies so collected or paid will be transferred directly to or from the Client's bank account, as the case may be, the details of which will be provided to STAR120;

the sending of an email containing a confirmation that the information STAR120 submitted on behalf of the Client has been accepted for processing by the Switch or BANKSERV, and the delivery to the Client of Input Vet Reports generated and emailed by STAR120 .

the transcription of Unpays from tapes as supplied by BANKSERV to file, which file will be forwarded to the Client by STAR120 via electronic mail. Declined transactions from the Switch will not be reported to the client unless the decline is post the delivery of the product or costs are incurred by STAR120 and referred to as a 'charge back' by the card issuer.

Star120 merchant accounts will be issued to the Client in respect of both the Client and each publication or company engaged by the Client requiring an online mobile payment service.

This service will be processed through the Switch and will be subject to the regulations imposed by the Reserve Bank from time to time.

STAR120 hereby further undertakes to perform its duties in a professional

manner, exercising all reasonable care and skill, in accordance with the terms and conditions of this agreement or as agreed upon by both parties in writing from time to time.

The Client will provide STAR120 with all such information STAR120 may require in order to perform its duties specified in this agreement.

CLIENT'S OBLIGATIONS (DEBIT ORDER related only)

The Client shall provide STAR120 with the API or integration format and any delay and/or loss incurred by the Client as a result of its failure to provide STAR120 with the data in specified format will be for the account of the Client.

The Client shall provide STAR120 with the data referred to in 7.1 above by means of electronic data transfer via modem using data transfer software.

The Client shall provide STAR120 with debit order data at least 5 (five) days prior to the period for which the service referred to in 6 above is required, and shall comply with BANKSERV's input format requirements for a 2 (two) day service facility.

The Client shall provide STAR120 with valid data for transfer to BANKSERV and will endeavour to inform the Client of any invalid data received. However, where STAR120 submits any data to BANKSERV and such data is deemed invalid data, the Client shall instruct BANKSERV to withdraw such data and be liable for any costs incurred in effecting such withdrawal.

All data submitted by the Client to STAR120 shall have due regard to the item limit and aggregate limit range as contained in the Client's agreements with its bankers and BANKSERV. In the event of the

data exceeding the aforementioned ranges, the Client undertakes to ensure that its bankers and BANKSERV will accept such data.

Money transfer will be effected to the Client as follows:

1st month – within 9 working days.

Thereafter on the 9th = 80% and 20% after 12 days (after all unpaids & charges have been deducted).

It is specifically recorded that the Client has requested that all amounts ultimately due to its customers in terms of this agreement be paid by STAR120 directly to the Client and not to its customers. The Client accordingly irrevocably accepts sole responsibility for such onward payment to its customers and undertakes that it will:

in no manner allege or otherwise intimate to its Clients or any other third party that any failure to make payment to its customer is due to an failure on the part of STAR120 without first declaring a dispute in writing to STAR120 setting out the details of such alleged failure;

indemnify and hold harmless STAR120 in respect of any claim, application, action or other proceeding which may be brought by one or more of its customers in respect of non-payment of funds due to them.

SERVICE FEE

The service fee and the conditions of payment for STAR120's service will be the default values specified below unless Client or customer has an existing higher or lower rate based on the banks risk assessment of the client or client's customers company profile:

Number of transactions p/m	Charge per Transaction
Credit Cards	5.5 % of Value
Debit Order	

10 < 1000	R 2.99 per item
1001 < 10,000	R 2.63 per item
10,000 < 100,000	R 2.19 per item

a minimum service fee of R135.00 per month excluding Value-added Tax will be levied for each merchant ID issued to the client.

The service fee as agreed to in 8.1 above will be fixed for a period of 12 months from the effective date, whereafter STAR120 will inform the Client 30 (thirty) days prior to any intended increase in the service fee.

EFT TRANSACTION FEE

All EFT transactions switched by the Star120 platform will incur a R2.50 transaction fee levied against the 'purchaser' account.

PAYMENT OF SERVICE FEE

STAR120 will render an invoice to the Client monthly in arrears for services performed.

Payment of the invoiced amount will be effected by the Client on or before the seventh day of the month following the month during which the service was performed, free of bank or other payment costs in the following manner:

via debit entry by STAR120 against the Client's bank account; or
by electronic transfer in account specified by STAR120.

Failure by the Client to effect full and timeous payment of an invoiced amount will be regarded as a material breach of the agreement,

and STAR120 hereby reserves the right to terminate this agreement or suspend or postpone the provision of any service to be performed as contemplated in the agreement.

ADDITIONAL SERVICE CHARGES

Charges for services not covered by this agreement will be invoiced separately at STAR120's standard service rates. In the case of car travel Automobile Association rates applicable at the time will be charged. The Client may request inspection of expense vouchers at any reasonable time.

NOTICE OF TERMINATION

Subject to clauses 5 and 10.3 above, the rights, duties and responsibilities of the parties shall continue in full force during the period of notice, including but not limited to the transcription of data to tapes as requested by the Client, prior to the receipt of the notice by STAR120, which fall within such period.

After the expiry of the 3 (three) month period following notice as stipulated in 5 above, no rights or liabilities shall arise out of this relationship, regardless of any plans which may have been made for future advertising, with the following exceptions that:

any uncancellable contract made on the Client's authorisation, and still existing at the expiry of the interval following notice of termination will be carried to completion by STAR120 and paid for by the Client unless mutually agreed in writing to the contrary, in accordance with the

provisions herein;

any materials and services STAR120 committed itself to purchase for the Client's account, or with the Client's approval (or any uncompleted work previously approved by the Client either specifically or as part of a plan) will be paid for by the Client in accordance with the provisions of this agreement.

termination will not prejudice any claim which STAR120 may have against the Client arising out of this agreement.

TERMINATION

This agreement shall terminate automatically if at any time either of the parties shall:

become the subject of winding up or dissolution proceedings; or effect or offer a general compromise or deed of arrangement with creditors or with any class of creditors, or make any assignment for the benefit of creditors; or

suffer a judgment to be granted or entered against it in or by any Court of Law which is unappealable, and unreasonably fails to cause such judgment to be satisfied within a period of 7 (seven) days from the date of such judgment; or

have any license to conduct business suspended, removed or impaired by any order or decree of any regulatory or judicial authority.

In the event of one party being in breach of any material provision of this agreement, and remaining in breach notwithstanding 7 (seven)

days written notice to remedy such breach, then the other party may:

cancel this agreement on 7 (seven) days written notice to the party in breach, and recover from that party such damages as may have been sustained in consequence of the breach; or

claim specific performance from the party in breach with or without a claim for damages arising from the breach.

Both parties warrant that as at the Effective date of this agreement none of the circumstances envisaged in 13.1 above is in existence or pending against it.

EFFECT OF TERMINATION/CANCELLATION

Termination of this agreement shall not affect STAR120's right to remuneration in respect of services rendered during the currency of this agreement.

On termination of this agreement all amounts due to STAR120 by the Client will become immediately due and payable.

Should this agreement be terminated at the instance of either party pursuant to the provisions of 13.1 and 13.2 above, STAR120 shall not commence work on any new project in terms hereof, but it shall complete all services previously approved by the Client and be entitled to all rights and be responsible for all obligations in respect of such service(s) as contemplated herein.

Upon termination of this agreement no rights or obligations will arise,

regardless of any plans that have been made for the provision of future services, except in respect of incomplete work previously specifically approved by the Client.

Upon termination of this agreement, STAR120 shall transfer, deliver, assign and make available to the Client all property and materials in STAR120's possession or control belonging to and/or paid for by the Client.

CONFIDENTIALITY

STAR120 and the Client, to the extent of their contractual and lawful right to do so, will exchange proprietary or confidential information as reasonably necessary for each to perform its obligations under this Agreement and for the Client to avail itself of the service rendered by STAR120 under this agreement. All information relating to this Agreement provided by either party to the other, whether oral or written is hereby deemed to be confidential and proprietary information ("Proprietary Information").

Except as set forth in clauses 15.3 below, a Party receiving Proprietary Information pursuant hereto (the "Receiving Party") will not, without the prior written consent of the Party disclosing such information (the "Disclosing Party")

use any portion of the Proprietary Information for any purpose other than the purpose of the transaction and services which arise pursuant to this Agreement; or

disclose any portion of the Proprietary Information to any persons or entities other than the employees and consultant of the Receiving Party who reasonably need to

have access to the Proprietary Information in connection with the purposes of this Agreement and who have agreed to protect Proprietary Information as though they were a Party to this Agreement.

A Receiving Party will not be liable for disclosure of Proprietary Information, or part thereof, if the Receiving Party can demonstrate that such Proprietary Information:

was in the public domain at the time it was received or subsequently entered the public domain through no fault of the Receiving Party;

was known to or is in the possession of the Receiving Party at the time of receipt;

became known to the Receiving Party from a source other than the Disclosing Party without breach of an obligation of confidentiality.

In the event of any legal action or proceeding or asserted legal requirement for disclosure of Proprietary Information furnished hereunder, the Receiving Party will promptly notify the Disclosing Party and, upon the request and at the expense of the Disclosing Party, will co-operate with the disclosing Party in lawfully contesting such disclosure. Except in connection with any failure to discharge its responsibilities under the preceding sentence, the Receiving Party will not be liable for any disclosure pursuant to court order.

Proprietary Information will remain the property of the Disclosing Party and will, at the Disclosing Party's request and after it is no longer needed for the purposes of this Agreement, promptly be returned thereto or be destroyed, together with all copies made by the

Receiving Party and by anyone to whom such Proprietary Information has been made available by the Receiving Party in accordance with the provisions of this clause.

The terms and conditions of this clause will survive the termination or cancellation of this agreement, for whatever reason and on whatever grounds, and endure for a period of two (2) years after the date of such cancellation.

INTELLECTUAL PROPERTY RIGHTS

Nothing contained in this Agreement shall be construed to confer or be deemed to confer on either Party any rights or licences in the intellectual property of the other Party.

The Client is specifically prohibited from reverse engineering or attempting to reverse engineer any intellectual property or software to which it may have access in terms of this Agreement.

For the purposes of this clause 16 “intellectual property” means whatever trademarks (whether registered or not) inventions, patents (both registered and unregistered), copyrights, registered and unregistered designs, know-how and other intellectual property vesting in a Party by the operation of law.

AUTHORISED PERSONS

The persons who are authorised to make any written communication or legally bind either party in terms of the provisions of this agreement are to be listed in the Authorised Persons Schedule annexed hereto, and amended from time to time.

Either party may amend the Authorised Persons Schedule, in writing, provided that the party wishing to effect the amendment provides the other party with reasonable notice of such amendment.

WARRANTIES

There are no warranties express or implied, oral or written, by operation of law, or otherwise, except as expressly in terms of this agreement. Without limiting the generality of the foregoing it is agreed that any warranties relating to merchantability or fitness of purpose are specifically excluded.

Notwithstanding the above the Client warrants that it will at all times comply with applicable South African law and that it will take all available reasonable steps to ensure that its customers and any other parties accessing the STAR120 services provided in terms of this Agreement so comply.

INDEMNITY & LIMITATION FOF LIABILITY

STAR120 shall not be liable in respect of and the Client hereby indemnifies and holds harmless STAR120 against:

any and all actions, claims, loss, damage, (including consequential damages such as, but not limited to loss of anticipated profits or other economical loss); or

any other liability which the Client or any third party may sustain, either directly or indirectly arising out of or in connection with any act or omission by STAR120, its members, employees or agents in the performance of any obligation in terms of this agreement or the provision of services by STAR120 or the failure by the Client to provide STAR120

with valid information, including but not limited to Unpaid, or otherwise to meet its obligations in terms of this Agreement.

Without limiting the generality of the foregoing the Client specifically indemnifies and holds harmless STAR120 in respect of any liability relating to a failure by the Client or its customers to comply with Chapter 7 of the Electronic Communications and Transactions Act No 25 of 2002.

JURISDICTION

Any legal proceedings which one party may wish to institute against the other may, at the election of STAR120, be instituted in the Magistrates' Courts, even where the amount in dispute may exceed the amount which would otherwise fall within the jurisdiction of that court, and the Client hereby consents to such jurisdiction.

APPLICABLE LAW

The substantive law of South Africa shall apply to this agreement, its interpretation and any dispute arising out of or through the operation of this Agreement.

PERSONAL INFORMATION

The parties undertake to take reasonable measures to protect personal information relating to customers and consumers and to comply with any legislation or regulation applicable to the protection and management of

such information.

WHOLE AGREEMENT

This agreement together with all schedules and annexures contains the whole agreement between the parties and supersedes any prior agreement.

VARIATION TO AGREEMENT

No alteration or variation of this agreement will be of any force or effect unless it is recorded in writing and signed by both parties.

No relaxation or latitude shown by one party to the other shall constitute a waiver of that party's right in terms of this agreement or prevent that party from enforcing strict and punctual compliance with the terms of this agreement.

CESSION AND ASSIGNMENT

The Client shall not cede, delegate or assign its rights and obligations under this agreement without the prior written consent of STAR120.

FORCE MAJEURE

The term "force majeure" will mean an act of God, strike other than a strike of the party's own employees, lockout, act of a public enemy, war declared or undeclared, riot, insurrection, civil commotion, lightning, fire, storm, flood, explosion, governmental acts or

restraints, embargoes and or any other cause, whether of the kind specifically enumerated above or otherwise, which is not reasonably within the control of the party claiming force majeure and whether of a temporary or permanent nature.

If either party is rendered unable, wholly or in part, by force majeure to carry out any obligation in terms of this agreement, such party shall give immediate notice to the other party of such force majeure with reasonable full particulars thereof and insofar as known, the probable extent to which it will be unable to perform or be delayed in performing such obligation arising out of the terms and conditions of this agreement, whereupon such obligation of the party giving the notice shall be suspended so far as it is affected by such force majeure during but not longer than the continuance thereof.

The party giving the notice shall use all possible diligence to remove such force majeure as soon as is reasonably practicable.

The requirements that any force majeure will be remedied with all possible diligence will not require the settlement of strikes, lockouts or other labour difficulties by the party concerned on terms contrary to its reasonable requirements. The handling of all such labour difficulties will be entirely within the discretion of the party concerned.

COMMUNICATIONS AND DOMICILIA

The parties hereto choose as their respective *domicilium citandi et executandi* and their address for all notices for all purposes arising from or incidental to this agreement, the following addresses:

STAR120:

Address	264 Victoria Road, Woodstock 7806
Fax	021 – 4475502
E-mail:	
HYPERLINK "mailto:tim@star120.co.za" tim@star120.co.za	
Contact telephone number	0861 207827

CLIENT:

Address	
Fax	
E-mail:	
Contact telephone number	

Any notice or communication despatched by prepaid registered post to any party's address above shall be deemed to have been received by such party on the fifth day after despatch.

Any notice (other than legal notices or processes) transmitted by facsimile or electronic mail during the business hours of the receiving party shall be rebuttably presumed to have been received on the day of delivery. The foregoing shall have the effect of varying the presumptions regarding the receipt and delivery of electronic mail and other data communications as set out in Chapter 2 of the Electronic Communications and Transactions Act No 25 of 2002.

Any written notice, process or other communication actually served upon or

received by any party, shall be deemed to have been properly served or received, notwithstanding that it was not served or received at that party's aforesaid address.

SEVERABILITY

If any provision of this agreement is unenforceable, such provision shall be severed from the remaining provisions of this agreement, which shall not be affected thereby and shall remain of full force and effect.

WAIVER

Any indulgence or extension of time granted by one party to the other, shall not in any way constitute a waiver of that party's right in terms of this agreement and shall not be valid unless in writing.

ARBITRATION

If any dispute arises as to the validity, interpretation, effect or rights and obligations of either party under this agreement, either party shall have the right to require that such dispute be referred to arbitration before a single arbitrator in accordance with the provisions of the Arbitration Act No. 42 of 1965, as amended.

The arbitration shall be held in an informal manner in Cape Town.

The identity of the arbitrator shall be mutually agreed upon between the parties within 5 (five) days from the date that the arbitration is called for or, so failing such mutual agreement within five days, as nominated by the President of the Cape of Good Hope Law

Society.

The decision of the arbitrator shall be final and binding upon the parties and not subject to appeal and shall include an order as to costs of such arbitration and who shall pay them.

The inclusion of this arbitration clause shall not:

prevent a party from seeking urgent relief from a competent court in the appropriate circumstances;

prevent STAR120 from proceeding against the Client in a court of competent jurisdiction for the recovery of any monies due to it by the Client in terms of this Agreement, in which case the Client will be liable to pay the costs of such proceedings on the scale as between attorney and own client as also associated costs, including but not limited to tracing fees and collection commission.

THUS DONE AND SIGNED AT _____ fillin "Enter place at which SMA representative is signing" ON THE DAY OF _____ 201_

AS WITNESSES:

1. _____

2 _____

for and on behalf of STAR120
(who warrants he/she is duly authorised)

THUS DONE AND SIGNED AT _____ fillin "Enter place at which SMA representative is signing" ON THE DAY OF _____ 201_ fillin "Enter year i.e. 89, 92 etc..."

AS WITNESSES:

1 _____

2. _____

_____ for and on behalf of the Client
(who warrants he/she is duly authorised)

PAGE 9

PAGE 9