



SERVICE SUPPLY ORDER
ShopriteX Omni-channel Data Services

between

THE CONTRACTING THIRD-PARTY

(hereinafter referred to as **the "Customer"**)

and

SHOPRITE CHECKERS (PTY) LTD

Company Registration Number	1929/001817/07
Physical Address	Cnr William Dabbs Street and Old Paarl Road, Brackenfell, 7560
Postal Address	PO Box 215, Brackenfell, 7561
Telephone Number	021 983 7638

(hereinafter referred to as **the "Supplier"** and together with the Customer, the **"Parties"**)

THE PARTIES HEREBY AGREE THAT THE PRODUCTS AND SERVICES DESCRIBED HEREIN WILL BE PROVIDED TO THE CUSTOMER BY THE SUPPLIER ON THE TERMS AND CONDITIONS ATTACHED TO THIS COVER SHEET AS WELL AS THE TERMS AND CONDITIONS OF THE MASTER SUPPLY AGREEMENT CONCLUDED BETWEEN THEM.

1 STATUS

- 1.1 This Service Supply Order ("**Service Order**") is concluded pursuant to and hereby incorporates the terms of the Master Supply Agreement and, save where expressly provided to the contrary in this Service Order, shall be subject to the terms and conditions of the Master Supply Agreement, including without limitation, the definitions and rules of interpretation contained therein.
- 1.2 To the extent that the provisions of any Order Form entered into pursuant to and in terms of this Service Order, conflict with the provisions of this Service Order, the provisions of the relevant Order Form shall prevail.

2 INTRODUCTION

- 2.1 The Customer would like to use the Supplier's Services within the Customer's organisation. The Supplier has undertaken to supply the Customer with subscriptions which will permit the Customer to use such Services and for the Supplier to provide related support and Services.
- 2.2 The Supplier has agreed to make such Services available to the Customer and support the Customer's use thereof on the basis set out in this Service Order.

The Parties therefore agree as follows:

3 DEFINITIONS

In this Agreement the following words and expressions shall have the following meanings:

- 3.1. "Accounts" means reference to the Software and the Services, the unique profile of the Client relayed in terms of the Software, which identifies and describes the Client's use of the Services, its preferences, and settings;
- 3.2. "Charges" means the amounts payable by the Customer in return for the Supplier providing the Services under this Service Order. The applicable Charges are set out in the Order Form;
- 3.3. "the Customer/s" means the company name, registration number and representative person as stipulated under the Agreement;
- 3.4. "Documentation" means any User, reference or instruction manual provided for or in connection with the Services;
- 3.5. "Effective Date" means the date set out as commencement date on the Order Form, in the absence of which it will be the date on which Order Form is signed by the last party signing;
- 3.6. "Master Agreement" means the most recent primary supply agreement entered into between the Supplier and the Customer, as well as any active agreements incorporating confidentiality and privacy obligations placed on the Parties;
- 3.7. "Order Form" means the order form to be used by the Customer, as provided by the Supplier, for ordering Services from the Supplier in terms of this Service Order, typically (but not limited to) a conditional contract, trading terms, and/or other addendum to the Master Agreement describing the Services, and shall incorporate and be subject to the terms and conditions of this Service Order, as if specifically set out therein;
- 3.8. "Professional Services" means any services or work product produced other than the provision of Software Services;
- 3.9. "Services" means the professional and software services provided by the Supplier pursuant to this Service Order, referencing the Order Form which describes the Services, including the data presented as part of the Services, and those services marketed from time to time by the Supplier and purchased by the Customer;
- 3.10. "Software Service(s)" means the Rex Insights Platform;
- 3.11. "Specifications" means the functional and technical specifications presented in writing marketing material for the Services and other specifications as may be agreed by the Parties in writing;
- 3.12. "Support Hours" means business hours, which is defined as Monday to Friday, between 09.00 and 17.00;
- 3.13. "Third Party Licensor" means a person or entity who (though not a party to this Service Order) has directly granted to the Customer the relevant Software Subscriptions applicable to the Customer's use of the Service;
- 3.14. "Upgrades" and "Enhancements" means (irrespective of whether or not these give rise to new functionality in the Supplier Software) code corrections and fixes, updates, and new releases to the Services (or any component thereof), which are made available by the Supplier generally to all its clients (including the Customer);
- 3.15. "User" means a person or entity (including the Customer Personnel and representatives of the Customer's service providers) authorized by the Customer, for the Customer's internal business purposes, to use the Service on the Customer's behalf and who have been issued with a User ID and password in respect of the Service;

4. TERM AND TERMINATION

- 4.1. This Service Order shall commence on the Effective Date and shall continue according to the appropriate terms defining the term of the agreement as contained in the Order Form.

- 4.2. Should the Customer have entered into a Master Agreement prior to signature of this Service Order, the Effective Date will be backdated to be the date of signature of such other contract.
- 4.3. In the case that either party is in breach of any material terms contained in this Service Order, they must inform the other party in writing, after which the party in breach will have 14 (fourteen) days to remedy the breach. Should the breach not be resolved, either party may terminate this Service Order (or any part of the Services regulated hereby, or any Order Form or any part thereof) with immediate effect.
- 4.4. This Service Order will automatically be terminated if the Master Agreement or Order Form is terminated according to the terms of such agreements, on the condition that all outstanding monies had been settled by the Customer or at the Supplier's discretion.
- 4.5. Save to the extent to which the Parties may otherwise agree in writing, termination of this Service Order will (as of the date of termination indicated) terminate the Customer's right to use the Services.
- 4.6. Upon termination by either party as result of unremedied breach;
 - 4.6.1. Where the Customer's fees are charged in arrears, the Customer will remain liable for all outstanding and the pro rata fees calculated and owed up until the date that the Customer reported a material breach to the Supplier which ultimately resulted in the termination of this agreement;
 - 4.6.2. Where the Customer's fees are prepaid, the Supplier will refund the Customer's fees on a pro rata basis calculated up until the date that the Customer reported a material breach to the Supplier which ultimately resulted in the termination of this agreement.
- 4.7. On termination of this Service Order, the Supplier shall de-activate the Customer Account and revoke other rights in relation to the Service.
- 4.8. In the event of a user misusing or abusing the Software and/or services the Customer acknowledges that the Supplier has the right, on written notice, and in its sole and unilateral discretion, to disable the access of any User that the Supplier determines has abused the Software in any way.
5. **SOFTWARE SUBSCRIPTION**
 - 5.1. Should the Customer purchase Software Services, the Supplier hereby, in return for payment by the Customer of the Charges;
 - 5.1.1. Grants to the Customer a non-transferable, non-exclusive, limited term right (without the right to sub-license) to access, display and use the Software Services remotely via the Internet solely for the Customer's internal business purposes on the basis described herein;
 - 5.2. the Customer's use of the Software Services (as aforementioned) will include –
 - 5.2.1. The setup, configuration, and use of the Services, and
 - 5.2.2. Use of (including the right to reproduce) the Documentation internally only so as to enable the Customer's effective use of the Services.
 - 5.3. Promptly after the conclusion of this Service Order and, where the Customer at any time hereafter procures Services under any Order Form and/or Statement of Work or in any other manner, in compliance with the terms of such procurement, the Supplier shall –
 - 5.3.1. Enable secure access to and the operational use by the Customer's authorised Users of the Services, and
 - 5.3.2. Provide all relevant Documentation as the Customer may require to fully use the Services.
 - 5.4. The Supplier reserves the exclusive right to make changes and enhancements to the Software Services.
 - 5.5. Should the Supplier make any material changes to the Software Services that substantially impairs the Customer's ability to utilise the Software Services, the Customer will be permitted to tender its termination request for the affected the Services with 30 (thirty) days' written notice to the Supplier subject to the Supplier's agreement and subsequent approval if accepted.
 - 5.6. The Supplier may release additional subscription packages from time to time, which it will present to the Customer and which the Customer can purchase by means of the conclusion of an Order Form.
 - 5.7. The Customer shall be entitled to use all applicable modules pertaining to the Services purchased.
6. **PROFESSIONAL SERVICES**
 - 6.1. As part of the available Services, the Customer may request Professional Services.
 - 6.2. It remains the Supplier's exclusive right to determine whether or not to accept any Professional Service requests.
 - 6.3. Professional Services will be subject to a comprehensive briefing, which may include – amongst other things – verbal and written communication, resulting in a scope of work document. The Customer is responsible for the production of this scope of work document. The Supplier may contribute at its sole discretion.

- 6.4. The Supplier retains the right to charge fees for time and materials or according to a cost estimate for any briefing sessions, which fact will be communicated to the Customer prior to commencement and which briefing session will not continue until acceptance of such cost estimate or charges.
- 6.5. No work will be commenced without the Customer's acceptance of both the scope of work and estimated charges.
- 6.6. The Customer acknowledges that it has the responsibility to participate in such briefing sessions and scheduled engagements with the Supplier in general to ensure the best potential project outcome.
- 6.7. The Customer acknowledges that Professional Services are subjective and that, whilst the Supplier will apply reasonable efforts to ensure that the outputs meet the expectations of the Customer, outputs may not be exactly what the Customer had envisioned, may not provide any specific outcome, and may not in all cases be correct.
- 6.8. Outputs provided as result of the engagement of Professional Services will in no way be considered advice per this clause 8.6.

7. CUSTOMER OBLIGATIONS

The Customer;

- 7.1. specifically undertakes to ensure that its usernames and passwords are disclosed only to authorised users and kept strictly confidential;
- 7.2. is exclusively responsible for the addition, removal, and management of its users by means of the Shoprite B2B system;
- 7.3. shall implement appropriate measures to ensure that any printed or copied materials derived from the Services are kept confidential;
- 7.4. will apply best efforts to ensure that access by unauthorised users to computers logged into the Services will be prohibited and prevented;
- 7.5. understands and accepts that it shall be held responsible and/or liable for all activities conducted by it in relation to its Account;
- 7.6. will review user access frequently and update appropriately if required;
- 7.7. will remove unauthorised users from the Services by removing the appropriate profile on the Shoprite B2B system;
- 7.8. acknowledges that the Supplier's data, as presented in the Services, to which the Customer has access to whilst using the Services, is strictly confidential, that the Customer has a duty of care to preserve this confidentiality, and that the publication to an unauthorised third party could result in material damages to the Supplier;
- 7.9. acknowledges that any data consumed as part of the Software Services remains the property of the Supplier;
- 7.10. will not publish any of the data consumed through the Services to a third-party;
- 7.11. will ensure that all its staff and any other persons who have access to the Services be informed of the confidentiality obligations placed on the Customer in this agreement, as well as the agreements it references, and it will ensure that such staff and persons are bound to these obligations;
- 7.12. accepts and agrees that the following use (without limitation) shall constitute unauthorised use of the Software and/or Services:
 - 7.12.1. Any use which is unlawful and/or infringes the rights of third parties;
 - 7.12.2. Distribute by any means the data presented by the Services to a third party without the explicit prior written consent of a duly authorised executive of the Supplier;
 - 7.12.3. Seeking to monetise the Services directly in any way other than informing strategic, operational, and tactical improvements of its own business;
 - 7.12.4. Any attempts to reverse engineering, gaining unauthorised access to the system, or attempting to discover the underlying source code or structure of the code;
 - 7.12.5. Transmission of any data which contains viruses, Trojan horse, worms, and/or other malicious programs;
 - 7.12.6. Reproduce, display, download, modify, create derivative works of or distribute the Supplier System, or attempt to reverse engineer, decompile, disassemble, or access the source code for the Supplier System or any component thereof;
 - 7.12.7. Transmit the Supplier System, in whole or in part, electronically by any means;
 - 7.12.8. Use the Supplier System, or any component thereof, in the operation of a service bureau to support or process the data received as result of accessing the Services of any party other than the Customer;
 - 7.12.9. Permit any party, other than Users to use the Services and thus access the Supplier System;
 - 7.12.10. Access the Services via any means other than in accordance with the Documentation which the Supplier makes available to the Customer concerning use of the Services and/or the Supplier System;

7.12.11. Subject to the provisions of clause 5.2 and use by Affiliates of the Customer, sub-license or sub-contract the Services or the use thereof.

8. WARRANTIES

- 8.1. The Supplier warrants and represents that the Services (and all components thereof) will substantially conform to the Documentation and Specifications pertaining thereto, failing which the Customer may notify the Supplier and the Supplier will, at its own expense, remedy such failure to ensure compliance with the applicable Documentation and/or Specifications.
- 8.2. Should the Supplier be unable to remediate the discrepancy between the Services and Documentation and/or Specifications as afore mentioned within 30 (thirty) days of being notified by the Customer in writing of such failure, the Customer may report a material breach to the Supplier in writing and request a refund subject to clause 4.6.
- 8.3. The Supplier warrants that the Supplier has the right to use and to extend use to the Customer for any third-party technology used in the provision of the Services.
- 8.4. The Supplier does not warrant the compatibility of the Software and Services with the Customer's systems and the Customer agrees that it is solely liable for ensuring compatibility, as well as the required Internet Service Provider (ISP) and/or telecommunications costs, needed to access and/or utilise the Services.
- 8.5. The Supplier specifically disclaims all implied warranties of merchantability, fitness for a particular purpose, non-infringement, and accuracy. The Supplier does not warrant that the Services will be error free and operate without disruption and does not make representations or warranties with respect to any Third-Party applications.
- 8.6. The Customer acknowledges that nothing provided by the Supplier to the Customer in the course of rendering the Services (including, but not limited to, Software Services and Professional Services), whether communicated verbally, in writing, via software, or any other format, shall be interpreted or considered to be advice, regardless of the context in which such communication took place or what the language used was. It is the Customer's exclusive responsibility to decide what actions it implements.
- 8.7. All Services are provided on a reasonable effort basis.

9. SUPPORT

- 9.1. The Supplier will provide support services during Support Hours.
- 9.2. The Supplier will provide the Customer with clear instructions with regards to logging service support requests, which must be adhered to in order to ensure speedy remediation. Upon reporting the problem Customer shall provide Supplier with –
- 9.2.1. A clear and full description of the problem experienced, and
- 9.2.2. Copies of any relevant supporting documentation in Customer's possession, including (where possible) screen shots of fault codes, page faults, or other evidence of the problem.
- 9.3. Depending on the details of the Services ordered, the Customer may be allocated a relationship manager, who will serve as primary contact point for matters related to the Services.
- 9.4. Regardless of whether the Customer is assigned a relationship manager, the Customer must still follow the service support logging procedure.
- 9.5. The Customer may escalate unresolved service support requests to the head of department, whose details will be made available to the Customer, under the following conditions:
- 9.5.1. After logging an issue, 24 (twenty-four) hours had passed without the successful resolution of a problem which prevents the Customer from accessing and/or utilising the Software Service or the critical functionality thereof and which therefore renders the Software Service practically unusable to the User.
- 9.5.2. A problem which materially impairs or degrades the functioning or performance of the Software Service or critical functionality thereof had not been resolved within 7 (seven) days of logging the issue.
- 9.6. The Supplier will conduct maintenance.
- 9.6.1. Where the Supplier is required to perform general maintenance activities in respect of the Services, such activities shall be duly scheduled and communicated to the Customer in writing at least 7 (seven) days before such activities are to take place.
- 9.6.2. If necessary, the Supplier may perform emergency maintenance in respect of the Services. In such instance the Supplier will apply reasonable efforts to provide the Customer with at least 30 (thirty) minutes advance notice of such activity.
- 9.6.3. Notifications in respect of scheduled and emergency maintenance shall be communicated to the Customer in writing).
- 9.7. The Supplier will offer training.
- 9.7.1. The Supplier will identify training requirements for the Customer. This shall include training aimed at ensuring appropriate transfer of knowledge to the Customer's Personnel concerning utilisation of the Services.
- 9.7.2. All training will take place remotely, via Microsoft Teams during Business Hours and be provided at a level enabling

such trained staff to train replacement staff. On-site training may be provided at the sole discretion of the Supplier.

9.7.3. For the avoidance of any doubt, it is intended that a "train the trainer" programme will be applied so that the Customer will have trained staff capable of training other staff.

9.8. The Supplier reserves the exclusive right to determine, at its sole discretion, whether any support, service, or software issue justifies the issuing of service or monetary credits.

10. INDEMNITY

10.1. The Supplier agrees to indemnify, hold harmless, and to cooperate as fully as reasonably required in the defence of any claim against the Customer, against any and all direct liabilities, damages, costs and expenses arising from or relating to:

10.1.1. Claims by third parties regarding the intellectual property contained in the software or the client's rights of use of the software; and

10.1.2. Unlawful or grossly negligent actions of the Supplier in relation to this agreement or the software.

10.2. The Customer agrees to indemnify, hold harmless and to co-operate fully, as is reasonably required, in the defence of any claim against the Supplier, against any direct liabilities, damages, costs and expenses arising from or relating to:

10.3. The client's non-compliance with:

10.3.1. this Service Order; and

10.3.2. any relevant data protection legislation, regardless of whether any such loss or damage occurred as a result of a force majeure event; and

10.3.3. Actions taken by the Customer based on its use of the Services.

11. LIMITATION OF LIABILITY

11.1. Neither Party, nor its parents, subsidiaries, or affiliates will be liable to the other for any indirect, direct, punitive, special, incidental, or consequential damage in connection with, or arising out of, this agreement (including loss of business, revenue, profits, use, data, or other economic advantage), however so arising and even if that Party has been advised of the possibility of such damage, save as expressly provided to the contrary in this Agreement.

11.2. The Supplier's entire liability under this Agreement will be limited to the amount actually paid by the Client during the 12 (twelve) months prior to the liability arising.

12. CONSIDERATION

12.1. As consideration for the granting of a Services in respect of the Services by the Supplier to the Customer, the Customer shall be liable to pay the Supplier the Charges set out in any Service Order Form and/or Master Agreement concluded, on the basis described therein.

12.2. Payment terms will be provided in the Order Form and/or Master Agreement.

12.3. The Supplier will provide a cost estimate for any Professional Services based on the scope of work. No work will be done until such cost estimate is approved in writing by the Customer.

12.4. The Supplier reserves the right, at its sole discretion, to change its prices from time to time. In the event that the Supplier increases pricing, the Customer shall have the right to terminate the Service Order with 30 (thirty) days' written notice.

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