

ADVERTISING AGREEMENT

This agreement (the "Agreement"), is made and entered into on [] (the "Effective Date"),

by and between:

- A) **LOKOMO TRADING (Pty) Ltd t/a The Baby Cart** registration number **2021/392306/07** (the "**Company**"); and
- B) _____ identity / registration number [] (the "**Client**")

1. Recordal

- 1.1 The Company is the owner and operator of the website with url **www.thebabycart.co.za** (hereinafter the "**Website**").
- 1.2 The Client is the owner and operator of **The Baby Cart** ("**Client's Business**").
- 1.3 The Client wishes to advertise the Client's Business on or through the Website and the Company wishes to permit such proposed advertisement.
- 1.4 The parties therefore agree as set out herein.

2. Right to Advertise

- 2.1 The Client, against payment in terms of clause 3, hereby acquires the right to advertise the Client's Business on and through the Website in the manner set out in Annexure A.
- 2.2 The Client acknowledges and agrees that the right acquired in terms of clause 2.1, is acquired on a non-exclusive basis and that nothing in this Agreement shall prohibit the Company from engaging any other potential client (whether a competitor of the Client or otherwise) on terms to the satisfaction of the Company.
- 2.3 The contents of and or design of all advertising material proposed by the Client shall be and always remain subject to the written approval of the Company (acting in its sole discretion).

3. Payment

- 3.1 In consideration for the right afforded to the Client envisaged in clause 2.1, the Client shall be liable to the Company for payment of an advertising fee detailed in Annexure A.

- 3.2 All amounts due by the Client to the Company in terms of this Agreement shall be paid in cash, without withholding, deduction or set-off by means of electronic funds transfer into the bank account nominated by the Company from time to time.
- 3.3 Should the Client fail to pay any amount payable under this Agreement on the due date, the Client shall be liable to pay interest on such outstanding amount with effect from such date at a rate of 2% (two percent) above the prime rate of interest charged by the Company's bank from time to time (in respect of which a certificate, issued by an accountant or manager of the aforementioned bank, whose appointment or authority need not be proved, shall be *prima facie* proof of the said interest rate and rate of amendment thereof) during the period which the default continues, capitalised monthly in arrears on the last day of each month.

4. Ownership and Use of Intellectual Property

- 4.1 The Client hereby authorizes the Company to use and exploit the Client's intellectual property rights ("**Client's IP Rights**"), whether in respect of the advertising material to be provided or otherwise, solely in respect of the transactions contemplated under this Agreement.
- 4.2 The Client shall have no right to use any of the Company's intellectual property rights without the prior written approval of the Company.
- 4.3 Notwithstanding anything herein to the contrary, each party is and shall remain the sole and exclusive owner of its own intellectual property rights (whether registered or unregistered and whether or not in existence at the Effective Date), and nothing in this Agreement shall be construed as conferring any rights on either party to the other party's intellectual property rights (save as permitted in terms of this Agreement).

5. Representations and Warranties

- 5.1 The Client represents and warrants that:
- 5.1.1 This Agreement is legal and binding on the Client.
- 5.1.2 It is duly authorized and empowered, and has the requisite capacity and authority, to enter into and perform in terms of this Agreement.
- 5.1.3 it is the owner of the Client's IP Rights, the Client's IP Rights do not infringe on the rights of third parties and the Client acting in terms of this

Agreement shall not cause the Client to be in breach of any contractual or other obligations owed to third parties.

- 5.2 The Company warrants that it is duly authorized and empowered, and has the requisite capacity and authority, to enter into and perform in terms of this Agreement. The Company provides no further warranties (whether explicit or implied) other than the warranty set out in this clause 5.2.

6. Term and Termination

- 6.1 Subject to clause 6.2, this Agreement shall become effective on Effective Date and shall remain in full force and effect for a period of _____ months, unless terminated earlier in accordance with this Agreement.
- 6.2 Notwithstanding anything herein to the contrary, this Agreement may be terminated by the Company with or without cause upon providing 15 (fifteen) days' prior written notice to the Client.
- 6.3 The termination or expiry of the Agreement in any of the circumstances aforesaid shall not in any way affect or prejudice any right accrued to the Company against the Client, prior to such termination.

7. Indemnification and Limitation of Liability

- 7.1 The Client hereby indemnifies and hold harmless the Company, its parents, divisions, subsidiaries and affiliates, and their officers, directors, employees, agents, successors and assigns (collectively, "**Company Parties**"), from and against all claims, damages, losses or liability arising from or in connection with:
- 7.1.1 Any breach of any representation or warranty contained in the Agreement by the Client; and
- 7.1.2 The Client's failure to comply with applicable law, rules and regulations.
- 7.2 Under no circumstances will any of the Company Parties be liable for any loss (including but not limited to and direct, indirect, special or consequential losses) or damage caused by the Clients use of or advertising on or thorough the Website.
- 7.3 This clause 7 is for the benefit of each party comprising the Company Parties capable of acceptance by any of them on written notice to the Client.

8. Confidential Information

- 8.1** For purposes of this clause, “**Confidential Information**” means any information or documentation pertaining to the affairs of a party which is of a confidential nature and which is not in the public domain or which is not accessible to the general public from a publicly accessible source.
- 8.2** Save insofar as it may be required to give effect to the terms of this Agreement, no party shall be entitled to disclose the Confidential Information of the other party without first obtain that party’s prior written consent.
- 8.3** This clause 8 shall endure for a period of 2 (two) years following the date of termination or expiry of this Agreement.

9. Miscellaneous

- 9.1** The Client acknowledges that failure to comply with the requirements of the Agreement will result in irreparable injury to the Company for which no adequate remedy at law or equity may be available, and the Client consent to the issuance of, and agree to pay all court costs and reasonable attorneys’ fees incurred by the Company in obtaining an order for injunctive or other legal or equitable relief.
- 9.2** This Agreement may not be ceded, delegated or assigned in whole or in part by the Client without the prior written consent of the Company.
- 9.3** The Company shall be entitled to cede, delegate or assign this Agreement (in whole or in part) without the consent of the Client.
- 9.4** In case of any failure or delay of either party in the performance of its obligations hereunder due to riot, insurrection, fire, flood, storm, explosion, act of God, government action, rule or regulation, earthquake, shortage of materials or any other event that is unforeseeable, unavoidable and beyond the reasonable control of such party, such party shall not bear any liability for such failure or delay.
- 9.5** If any provision of the Agreement is or becomes illegal, invalid or unenforceable in any jurisdiction, the illegality, invalidity or unenforceability of that provision will not in any way affect the validity of any other provision of the Agreement.
- 9.6** No failure to enforce any of its right by a party shall not constitute waiver of such right.

9.7 Any notice required or permitted to be given is to be provided in writing to the person designated by a party and at the address listed in the Agreement, or certified mail, return receipt requested.

9.8 It is understood and agreed that the Client and the Company are independent parties. Nothing contained or implied in the agreement creates a relationship of employer-employee between the Client and the Company nor does it create a joint venture, partnership, or similar relationship between the Client and the Company.

Party	Signature	Date
For and on behalf of the Company	(who warrants that he/she is duly authorised)	
For and on behalf of the Client	(who warrants that he/she is duly authorised)	

Annexure A