

Fortune Auction Vendor's Policy

These Terms & Conditions ("**Terms**") form part of the Vendor Agreement ("**Vendor Agreement**") entered into between the Fortune Auction Ltd, a company incorporated in Rwanda ("**Company**") and you, the Vendor ("**Vendor**"). The Terms are incorporated in the Vendor Agreement by way of reference and constitutes part of the binding Vendor Agreement executed between the Company and the Vendor.

1. Background:

The domain name www.fortuneauction360.com (hereinafter referred to as "**Platform/Website**") is owned by the Company and operates as an online raffle bid marketplace for the display, advertising and sale of products and services by various vendors to the end customers ("**Customers**") using a raffle bid process, and provides related services to the vendors and to the Customers / users of the Platform on behalf of the vendors (as the vendor's service provider). The Company shall act as Vendor's service provider for providing various services in relation to the sale of its Products & services as agreed under the Vendor Agreement ("**Products**"), and the use of the Platform for enabling sales, promotion / advertisement of the its Products ("**Services**").

2. Products:

- a. The Vendor shall offer its Products to the Company for the purpose of sale by the Vendor on the Platform. Based on market analysis conducted by the Company, the Company may make recommendations to the Vendor from time to time on the specific Products and the quantities thereof, from the entire range/collection that are to be displayed, advertised and offered for sale by the Vendor through the Platform. The Vendor shall make its final decision on the Products and their quantities to be displayed on the Platform on the basis of such recommendations. Notwithstanding the foregoing, the Company has the right to refuse to display, or withdraw from the Platform, any Product for sale on the Platform.
- b. The Vendor shall exclusively offer for display, advertising and sale certain Products, as specifically agreed in the Vendor Agreement, through the Platform only ("**Specified Product Lines**"). The Vendor shall not, in respect of the Specified Product Lines, seek, accept from or appoint any other entity to provide any services similar to the Services without first obtaining the prior written approval of the Company.
- c. The Products offered for sale by the Vendor are either manufactured by the Vendor or are sourced/ purchased by the Vendor from third party suppliers/manufacturers ("**Suppliers**"). In the event the Vendor purchases the Products from the Supplier, the Vendor has furnished a no objection certificate from the owner/manufacture of the Products in the format provided by the Company and annexed to the Vendor Agreement.

3. Services to be provided by the Company

As part and parcel of the Services, the Company shall carry out the following functions for and on behalf of the Vendor for consideration as agreed under the Vendor Agreement.

a. Facilitation of Sale of Products through the Platform:

- i. The Vendor authorizes the Company to, on behalf of the Vendor, provide to Customers / users of the Platform:

- (a). Information and assistance in relation to the listed Products and sales thereof,
 - (b). Information in relation to status of the bid order placed by Customers, and
 - (c). Operating a customer helpdesk for other inquiries in relation to Products and orders, customer complaints and grievances.
- ii. The Vendor agrees and undertakes to fully co-operate with the Company as reasonably required, in connection with any customer-service functions undertaken by the Company. Such services can be provided by the Vendor either on its own or through the Suppliers, as the case may be.
 - iii. The Vendor authorizes the Company to place;
 - (a). a description of the Vendor (including but not limited to description of Suppliers, where so directed by the Vendor) and
 - (b). description of each of its Products (including but not limited to the technical description of the Products, brand name of the Product, the price of the Product and any applicable warranty terms) on the Platform.
 - (c). Vendor rating based on vendor performance and customer reviews.
 - iv. The Vendor authorizes and acknowledges that the Company shall offer end of season sale discounts on the Platform twice a year i.e. for the period 1st July – 31st August and 1st January to 15th February, each year. Such discounts shall be borne by the Parties in the manner agreed in the Vendor Agreement.
 - v. The Vendor authorizes the Company to offer certain discounts during the year (other than EOSS) wherein the discount % and sharing ratio shall be decided mutually between the Vendor and the Company from time to time.

b. Advertising

- i. The Company shall advertise / display, on behalf of the Vendor, the Products on the Platform based on the preference opted for by the Vendor in the Vendor Agreement.
- ii. The costs of such advertisement shall be borne by the Vendor as our service charge as mutually agreed between the Company and the Vendor as per terms of the Vendor Agreement.
- iii. The Company shall inform the Vendor of the date(s) that have been assigned for the shoot of the Products in relation to display of the Products on the Platform and the advertisements. It shall be the obligation of the Vendor to provide samples of the Product selected for display on the Platform at least 10 (ten) calendar days in advance of the day for shoot.

c. Quality and Quantity Assurance:

- i. Prior to the advertising of a Product on the Website, the Company shall carry out a quality assessment of the samples provided by the Vendor for the shoot based on the relevant quality parameters prescribed by the Vendor ("**Quality Parameters**").
- ii. Where sample Products do not satisfy the Quality Parameters, the Company shall inform the Vendor as soon as possible and the Vendor shall thereafter replace, repair or improve or upgrade all the relevant Products so as to make them comply with the Quality Parameters. The Vendor shall thereafter provide fresh sample Products to the Company out of such replaced, repaired or improved or upgraded Products and the process of assessing the quality thereof shall be carried out again.

- iii. Where the Products are sourced by the Vendor from Suppliers, the Vendor shall ensure that such Supplier repairs or improves or upgrades or replaces all the relevant Products so as to make them comply with the Quality Parameters. Such repaired or improved or upgraded or replaced Products shall also be subject to assessment based on the Quality Parameters.
- iv. Prior to the Product(s) being displayed / advertised on the Platform, the Vendor shall, within 2 (two) business days, ensure the availability of the Products (the samples of which have satisfied the Quality Parameters as stated above) for servicing customer orders, and provide the stock summary to be uploaded on the site ("**Stock Statement**").
- v. Further provided that in the event that due to any reason the Product(s) in respect of which the Stock Statement has been furnished become unavailable in the stated quantities, the Vendor shall immediately, from such Product(s) or stated quantities thereof becoming unavailable, update the inventory on site.
- vi. In case, the Product is being shot by the Company and thereafter, the Vendor is unable to make the Product available for display and delivery through the Platform for at-least a period of 30 (thirty) days, the Vendor shall be liable to pay the photography cost per Product.

d. Ordering, Packaging and Delivery:

- i. The Platform will enable Customers to place a bid on the Product(s) they wish to pay on the Website.
- ii. Upon receiving the confirmation of the order by the Customer, the Company will update the details of the confirmation of the order on the internal Platform which the Company shall maintain for the Vendor.
- iii. The Vendor hereby irrevocably confirms that upon receiving the confirmation of the order by the Customer in respect of any Product, the Company shall be entitled to, and be deemed to have been authorized by the Vendor, to collect directly or through its nominees or third party service providers, the relevant Product(s) from the Vendor for the purposes of delivering to the Customer on behalf the Vendor, within 24 hours of the confirmed order being received on the Platform. The Vendor will use packing material mutually agreed with the Company to package the Product and keep it ready for collection. The materials and collaterals to be used for outermost package layer shall be provided by the Company.
- iv. The Vendor shall ensure to provide all relevant authorizations in favour of the Company to facilitate aforesaid collection of the relevant Products from the Vendor.
- v. Before arranging the delivery of the relevant Products to the Customer on behalf of the Vendor as a service provider, the Company may verify, on behalf of the Vendor as a service provider, the consignment against the confirmed order placed by the relevant Customer, and such other Quality Parameters as may be reasonably required or specifically instructed.
- vi. For the avoidance of doubt, it is hereby clarified and the Parties agree that by carrying out the quality assessment exercise on behalf of the Vendor of the Products envisaged as above, the Company is not assuming any liability or responsibility for such exercise or arising in connection therewith.
- vii. The Company shall take all commercially reasonable steps to keep the Customer informed of any delays which may take place in the delivery of any Product.

e. Invoicing and Collection and Payments:

- i. The Vendor will generate, print and issue an invoice for the purchased Product to the company from the Vendor Platform provided by the Company. At times, the Invoice may contain some additional shipping, COD or any other charges charged to the Customer based on the Company's policy from time to time. The Vendor agrees to book the same in their books against which the Company will raise the debit note to the Vendor for equivalent amount resulting in no gain/ loss to the Vendor.
- ii. The Company shall collect the payments from the Customers on behalf of the Vendor as its service provider.

4. Payment Terms

- a. The Customers shall be given the choice to make payments for the purchase of the Product by way of online payments, or any other legal methods of payment as may be available on the Platform from time to time.
- b. The Company shall generate and provide to the Vendor fortnightly reports of the Products that are being delivered which reports shall contain details of the orders placed, the sale amounts invoiced, sales not delivered and hence RTO (return to origin) and any returns by the Customer as per the R&R Policy (as defined below) ("**Reports**").
- c. It is hereby clarified that Company shall not be required to provide any other information (including any confidential information or any information about the Customers) to the Vendor vide such Reports or otherwise and any such information shall be the proprietary information of the Company.
- d. The payment of sale proceeds of the Products by the Company to the Vendor shall be on a fortnightly basis. At the expiry of every two (2) calendar days from a fortnight (each a "**relevant fortnight**"), the Company shall remit to the Vendor the sale proceeds of the Products which have been duly delivered to the Customers during a relevant fortnight after deducting there from (i) the Company's Margin on the Products sold and delivered to the Customers as agreed in the Vendor Agreement ("**Margin**"); (ii) any other costs incurred by the Company in relation to provision of other Services, as agreed under the Vendor Agreement (including without limitation the shipping charges, COD charges, advertisement costs etc.); (iii) any adjustments for any RTO and returns received from the Customers within three (3) months from the date of delivery of Products to a Customer; and (iv) all other amounts due and payable by the Vendor to the Company on accordance with these Terms & Conditions and/or the Vendor Agreement.
- e. The Margin retained by the Company shall be subject to applicable withholding taxes (wherever applicable). Accordingly, the Company shall reimburse the amount so deductible on the Margin to the Vendor (if and as agreed in the Vendor Agreement). The Vendor shall issue The aforesaid amounts shall be adjusted in the ensuring fortnightly payment by the Company to the Vendor. Also, the company charges 10% on every product or transaction made on the platform.

5. Return & Refund

- a. The Company has a Return and Refund Policy ("**R&R Policy**") which is applicable to the sale of Products through the Platform.
- b. The Vendor has been provided a copy of the R&R Policy or has been given access to the R&R Policy and the Vendor hereby confirms that the terms of the R&R Policy are acceptable to the Vendor.
- c. The Company shall prominently display the R&R Policy on the Platform so that the Customers are aware of the R&R Policy.
- d. If a Customer is entitled to a return or refund for any Product in accordance with the R&R Policy, the Company shall make such return or refund solely on behalf of the Vendor as per the R&R Policy and adjust the amount so paid to such Customer from any amounts payable by the Company to the Vendor. The Vendor hereby agrees that such adjustments can be made from the amounts payable by the Company to the Vendor up to a period of 3 (three) months from the date of delivery of Products to the Customer.

6. License to Make Use of Intellectual Property

- a. The Vendor hereby grants to the Company for the Term a royalty free irrevocable license to use its Intellectual Property for the purposes of providing the Services by the Company as contemplated hereunder.
- b. In the event, the Vendor sources the Products from any Supplier, the Vendor shall obtain all applicable licenses and consents for the use of such Supplier's Intellectual Property in connection with the Product being sourced from such Supplier for the purposes of providing the Services by the Company, prior to the display / advertising of such Products on the Platform. A 'no objection certificate' in this regard shall also be procured by the Vendor from the Supplier in the format annexed to the Vendor Agreement and the same shall be submitted with the Company prior to display of such Products on the Platform. In the event the Company receives a claim and/or notice from an owner/manufacture of products regarding infringement of its intellectual property rights, the Company shall forward such claim to the Vendor and the Vendor shall be liable to defend such claims and keep the Company harmless and indemnified against the same. The Company may also provide all necessary information regarding the Vendor to any such party from whom a genuine claim has been received by the Company and the Vendor shall have no objection to the same. The Company may further take any other appropriate legal action against the Vendor, as it may deem fit, in this regard.
- c. It is hereby clarified that no rights in the Intellectual Property of the Vendor or the Suppliers are granted in favor of the Company except the limited license to use the Intellectual Property for the purposes of providing the Services by the Company.
- d. The term "Intellectual Property" shall mean and include logos, trade names, brand names, trademarks, copyrights and other relevant intellectual property rights relevant to the advertisement and sale of the Products.

7. Obligations of the Vendor

The Vendor shall (either itself or through its Suppliers) be responsible for all warranty and after-sales services relating to the Products as per its standard product warranty and maintenance contracts and shall keep the Company fully indemnified in this regard.

Also, the vendor is not allowed to bid on a product it auctioned on the platform as it goes against the raffle bid policy of the company.

8. Obligation of the Company

- a. Company shall take reasonable steps to specify for Customer awareness on the Platform, the warranty period and terms of such warranty as communicated to it by the Vendor in relation to the Products displayed on the Platform.
- b. The Company shall maintain the proper and valid registration of its domain name in relation to the Website during the Term at its own costs.

9. Title and Risk in relation to the Products

- a. No risk or title to the Products shall pass to the Company at any point of time for any reason whatsoever. The title and risks to the Products shall be deemed to pass directly from the Vendor to the Customer upon delivery of the Products to the Customer and payment of the consideration for the Products by the Customer.
- b. Notwithstanding anything to the contrary contained herein, it is clarified and agreed that any and all liabilities arising in connection with any defect, fault or shortcoming in the Product(s) shall be of the Vendor or its Supplier alone and this provision shall survive the termination of the Vendor Agreement together with these Terms & Conditions.

10. Confidentiality

The Parties shall keep all negotiations confidential and maintain the contents of these Terms & Conditions together with Vendor Agreement in strict confidence and shall make no announcement or disclosure without the prior written approval of the other Party save in respect of (i) disclosures necessary to be made to each Party's consultants, advisors, employees / directors on a need-to-know basis and provided that such third parties are bound by obligations of confidentiality; and (ii) disclosures required by law.

11. Termination

- a. These Terms & Conditions shall become effective on the Effective Date as mentioned in the Vendor Agreement and shall remain in force unless Vendor Agreement is terminated between the Parties in accordance with the terms hereof ("**Term**").
- b. The Vendor Agreement may be terminated by either Party in accordance with the following:
 - i. Upon material breach of these Terms & Conditions or Vendor Agreement by either Party which is not cured within thirty (30) days of receipt of notification from the non-breaching Party, the non-breaching Party shall be free to terminate the Vendor Agreement forthwith;
 - ii. Where any Party commits a material breach of the Terms & Conditions and in the reasonable opinion of the non-breaching Party, such breach is not capable of cure, the non-breaching Party shall not be obliged to provide a chance to cure the breach but shall be entitled to terminate the Vendor Agreement forthwith.
 - iii. Either Party may terminate the Vendor Agreement upon one month's prior notice in writing if (a) the other Party is adjudged bankrupt, or makes a general assignment for the benefit of its creditors, or (b) if a receiver is appointed for all or a substantial portion of its assets and is not discharged within sixty (60) days after his appointment; or (c) such Party commences any proceeding for relief from its creditors in any court under any insolvency statutes.
 - iv. The Company may (a) forthwith terminate the Vendor Agreement where the Company reasonably believes that the Vendor's actions or omissions have prejudicially affected the reputation of the Company and / or the Website; or (b) terminate the Vendor Agreement by giving a 1 (one) month's notice in writing to the Vendor.

c. Consequences of Expiry/Termination: Upon termination of the Vendor Agreement:

- i. The Company shall be entitled to remove the Products of the Vendor displayed on the Platform and/or advertised on the Platform.
- ii. All orders in relation to the Products of the Vendor that have been received prior to the termination of the Vendor Agreement and all obligations to return the Product and/or refund the amount paid by the Customer which may arise in the period after the date of termination hereof, shall be honoured and completed, notwithstanding any termination hereof, in accordance with the terms of these Terms & Conditions and the R&R Policy; and the Vendor agrees and undertakes to co-operate with the Company for the same.
- iii. The Vendor shall forthwith without delay or demur make payment of all outstanding amounts that are due to the Company under the Vendor Agreement, including any amount refunded by the Company to the Customer after the termination, which shall be paid by the Vendor to the Company immediately upon receipt of any demand from the Company in this regard.
- iv. The Company shall within 30 (thirty) days of the date of termination, make payment of all outstanding amounts that are due to the Vendor in accordance with the terms of this Agreement.
- v. The rights and obligations of the Parties which have arisen hereunder up to the time of termination shall not be affected.
- vi. Within forty five (45) days from the termination of the Vendor Agreement the Vendor shall submit to the Company a "no due certificate", to the satisfaction of the Company.

12. Intellectual Property Rights

- a. The Company shall own all rights in any intellectual property created by the Company under these Terms & Conditions, including material, designs, graphics created and / or developed by the Company.
- b. Subject to the provision of contained herein, the Company owns and shall exclusively own all rights (including all intellectual property rights), title and interest in respect of the Platform / Website.

13. Representation and Warranties of the Vendor

- a. The Vendor has all rights (including all Intellectual Property rights), approvals and consents from any third parties (including Suppliers) required to enter into and perform the Vendor Agreement together with Terms & Conditions and to supply and sell the Products as contemplated hereunder.
- b. The Vendor has procured all necessary registrations/permits as required under applicable laws for sale of Products through the Platform (including without limitation registration under applicable laws pertaining to sales tax and VAT of the relevant states). The Vendor further represents that the Vendor shall be solely responsible for collection and payment of applicable taxes with respect to the sale of the Products to the relevant government authorities in a timely manner and the Company shall not be responsible nor held liable for any non-compliance/contravention of applicable tax laws by the Vendor. The Vendor hereby agrees to keep the Company harmless and indemnified in this regard. The indemnity obligations of the Vendor contained herein shall survive the termination of the Vendor Agreement together with these Terms & Conditions.
- c. The Vendor has a valid, clear and marketable title to all the Products being displayed, advertised and sold through the Platform under the terms of the Vendor Agreement.

- d. All the Products are genuine, merchantable, marketable and of the quality and nature as described by the Vendor to the Company and displayed on the Platform. The Products are genuine, new and are not counterfeit products.
- e. The Vendor has valid, clear and full rights / entitlement to use the trademarks, designs, copyrights of or related to the Products or its packaging used in connection with display and advertising of the Products by the Company.
- f. Further, as per Information Technology (Intermediaries Guidelines) the Vendor agrees and undertakes that it shall not provide photographs/images of Products for display, upload, modify, publish, transmit, update or share any information or share/list(s) any information relating to the Product that:
 - i. is grossly harmful, harassing, blasphemous defamatory, obscene, pornographic, paedophilic, libellous, invasive of another's privacy, hateful, or racially, ethnically objectionable, disparaging, or otherwise unlawful in any manner whatever;
 - ii. harm minors in any way;
 - iii. infringes any patent, trademark, copyright or other proprietary rights;
 - iv. violates any law for the time being in force;
 - v. deceives or misleads the addressee about the origin of such messages;
 - vi. communicates any information which is grossly offensive or menacing in nature;
 - vii. impersonate another person;
 - viii. contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of the Company's Website or Platform; or
 - ix. threatens the unity, integrity, defence, security or sovereignty of Rwanda, friendly relations with foreign states, or public order or causes incitement to the commission of any cognisable offence or prevents investigation of any offence or is insulting any other nation

14. Indemnity

Each Party (the "**Indemnifying Party**") shall promptly on demand indemnify and hold harmless the other Party and the other Party's officers, directors, employees and agents (collectively, the "**Indemnified Party**") for and against all liabilities, costs and expenses (including reasonable attorney's fees) incurred or suffered, or to be incurred or suffered, by the Indemnified Party that arise out of or in any way relate to, or result from any breach by the Indemnifying Party of any of the provisions of the Vendor Agreement together with the Terms & Conditions (including, without limitation, any of the representations or warranties of the Indemnifying Party set forth herein), or negligence, fraud or willful misconduct of Indemnifying Party, or any claim, demand, suit, action or proceeding brought by a third party that involves, relates to or concerns a violation or other breach by the Indemnifying Party of any of the provisions of the Vendor Agreement together with Terms & Conditions (including, without limitation, any of the representations or warranties of the Indemnifying Party set forth herein) or the negligence, fraud or willful misconduct of the Indemnifying Party. The Indemnified Party shall give prompt notice to the Indemnifying Party of the existence and specifics of any such claims.

15. Limitation of Liability

In no event shall either Party be liable to the other Party for any incidental, indirect, remote special, consequential or punitive damages, loss of goodwill or business profits, regardless of the nature of the claim, even if such Party knew or should have known of the possibility of such damages or claims. Company's total liability (including for its indemnity obligations), whether in contract, tort, or otherwise, arising out of or in connection with the Vendor Agreement or Terms & Conditions shall not exceed the total Margin received by the Company in the preceding 6 months under the Vendor Agreement.

16. General Clauses

- a. The Parties hereby agree that for the purposes of providing the Services and carrying out related functions in accordance with the provisions of Terms & Conditions, the Company is hereby authorized as the agent of the Vendor to act in accordance with the terms herein and other instructions of the Vendor.
- b. These Terms & Conditions together with Vendor Agreement is the complete and binding agreement of the Parties with respect to the subject matter hereof.
- c. These Terms & Conditions are applicable for all Vendors and may be modified by the Company from time to time with prior intimation to the Vendors. Vendors hereby agree to be bound by such amended Terms & Conditions, as may be notified by the Company.
- d. The Vendor shall not assign or sub-contract any of its rights, obligations, or responsibilities under the Vendor Agreement or Terms & Conditions without the prior written consent of the Company.
- e. The Parties agree that, having regard to all the circumstances, the covenants contained herein are reasonable and necessary for the protection of the Parties. If any such covenant is held to be void as going beyond what is reasonable in all the circumstances, but would be valid if amended as to scope or duration or both, the covenant shall apply with such minimum modifications regarding its scope and duration as may be necessary to make it valid and effective.
- f. If any provision of these Terms & Conditions is held to be invalid or unenforceable in any respect, such provision shall be modified to the extent necessary to render it, as modified, valid and enforceable under applicable laws and such invalidity or unenforceability shall not affect the other provisions contained herein.

- g. Except as expressly provided in this Terms & Conditions, no waiver of any provision shall be effective unless set forth in a written instrument signed by the Party waiving such provision. No failure or delay by a Party in exercising any right, power or remedy under this Terms & Conditions shall operate as a waiver thereof.
- h. Each Party shall co-operate with the other Party and execute and deliver to the other Party such instruments and documents and take such other actions as may be reasonably requested from time to time in order to carry out, evidence and confirm their rights hereunder and the intended purpose of these Terms & Conditions and to ensure the complete and prompt fulfillment, observance and performance of the provisions contained herein and generally that full effect is given to the provisions of the Vendor Agreement together with the Terms & Conditions.

17. Electronic Execution

These Terms & Conditions are being executed electronically and each Party recognizes that the same is validly executed under the Information Technology Act and shall form a binding agreement between the Parties and no Party shall claim invalidity of these Terms and Conditions merely on the grounds that these Terms and Conditions are being executed electronically.

18. Governing Law and Jurisdiction

These Terms and Conditions together with the Vendor Agreement shall be read and construed in accordance with the laws of Rwanda. All disputes arising out of or in relation to these Terms and Conditions and/or the Vendor Agreement shall be subject to the exclusive jurisdiction of courts at Kigali, Rwanda.