

# Webstorm Tier 1 & 2 Reseller Agreement

## FULL PARTICULARS OF RESELLER

<u>General</u>				
Name of company or individual:				
Physical address:				
Postal address:				
Reseller Type (Tick Appropriate):	Tier-1	Reseller will support and billing all there clients direct with the option of Branding.	Tier-2	Webstorm will support and bill all clients directly.
<u>Contact Details</u>				
Registration or ID number:		VAT number:		
<u>Administration</u>				
Admin Contact Name:		Job Title:		
e-mail address:		Work number:		
Cell number:		Fax number:		
<u>Accounts</u>				
Accounts Contact Name:		Job Title:		
e-mail address:		Work number:		
Cell / Pager number:		Fax number:		
<u>Technical</u>				
Technical Contact Name:		Job Title:		
e-mail address:		Work number:		
Cell / Pager number:		Fax number:		

### Banking Details (Commission Payments & Billing Purposes)

Bank		Branch	
Account Name		Account Type	
Account Number		Branch Code	

Webstorm is hereby authorised to arrange with my bank or building society to collect the monthly subscription rate against my bank or transmission account (wherever it may be) in terms of a debit order (Applies to Tier 1 only).

THE RESELLER HEREBY AGREES THAT IT ACCEPTS THE TERMS AND CONDITIONS ATTACHED HERETO, AND THAT THE RESELLER PROGRAMME IS SUBJECT TO THE TERMS AND CONDITIONS SET OUT IN THIS AGREEMENT.

Authorised Signature	Signatory's Name	Signatory's Designation (Director/Member/Partner)	Date

Webstorm Director-Name	Webstorm Director-Signature	Manager - Name	Manager Signature	Date

# STANDARD TERMS AND CONDITIONS

## 1. Definitions And Interpretation

- 1.1 In this Agreement, the words hereunder will have the meanings assigned to them below:-
- 1.1.1 "**Agreement**" means these Standard Terms and Conditions and any Application Form, Schedules, Annexure and attachments hereto;
  - 1.1.2 "**customers**" means any party contracting with the RESELLER for the provision of services;
  - 1.1.3 "**Reseller**" means the party specified as Reseller on the Application Form to which these Standard Terms and Conditions are attached;
  - 1.1.4 "**Effective Date**" means the date of signature of this Agreement by WEBSTORM;
  - 1.1.5 "**WEBSTORM**" means Webstorm cc, registration number ; 2000/018048/23
  - 1.1.6 "**Proprietary Information**" means any and all trade secrets and data/information of a proprietary and/or confidential nature, including data/information that the parties should reasonably have known to be proprietary or confidential. In relation to WEBSTORM;
  - 1.1.7 "**Service/s**" means all the service/s provided by WEBSTORM to the Reseller, and to be sold to the Reseller's customers in terms of the Reseller Programme;
  - 1.1.8 "**Order Form**" means the form provided to WEBSTORM by the Reseller setting out the Services required in terms of the Reseller Programme for sale to the Reseller's customers;
  - 1.1.9 "**PSTS provider**" means the public switched telecommunications services provider licensed to provide such services in terms of section 36 of the Telecommunications Act 103 of 1996 as amended;
  - 1.1.10 "**parties**" means WEBSTORM and Reseller collectively;
  - 1.1.11 "**Prices List**" means the list of prices and fees in respect of the Services, to be provided to the Reseller by WEBSTORM;
  - 1.1.12 "**VAT**" means Value-Added Tax as defined in the Value-Added Tax Act 89 of 1991.
  - 1.1.13 "**Reseller Programme**" means the WEBSTORM Reseller programme.
- 1.2 The clause headings contained in this Agreement are for reference purposes only and shall not be used in the interpretation of this Agreement. Words importing any one gender includes the other gender, the singular includes the plural and vice versa, and natural persons includes juristic entities and vice versa.

## 2 Grant of Reseller ship

- 2.1 WEBSTORM grants the Reseller the non-exclusive, non-transferable right to sell the Services on the terms and conditions set out in this Agreement.
- 2.2 Notwithstanding anything to the contrary, WEBSTORM reserves the right at any time to cancel the RESELLER Programme. In the event of such a cancellation, any discounts provided to the Reseller shall cease upon termination of the Initial Period (or any renewed period thereafter) as set out in Clause 4 below.

## 3 Authority of Reseller

- 3.1 The relationship established in respect of the Reseller by this Agreement is solely that of a buyer and seller of the Services. Nothing in this Agreement is intended to or shall be construed to mean that Reseller is the agent or representative of WEBSTORM for any purpose whatsoever. Reseller is not granted any right or authority to assume or create any obligation or responsibility on behalf of WEBSTORM, or in the name of WEBSTORM.

- 3.2 The Reseller acknowledges that it is granted the discounts as set out in Schedule B on the basis that the Reseller will use all reasonable commercial efforts to deal exclusively with the Services of WEBSTORM, and will use WEBSTORM as its preferred supplier of the Services. It is further acknowledged that these discounts are discretionary and are not provided to all of WEBSTORM' customers, and are only applicable to members of the RESELLER Programme.

#### **4 Commencement And Duration**

- 4.1 This Agreement shall commence upon the Effective Date and shall endure shall endure for an initial period of 12 (twelve) months from the Effective Date ("the Initial Period").
- 4.2 Subject to termination by WEBSTORM or Reseller by way of 90 days prior written notice of termination to be effective on any anniversary of the Effective Date, the duration of this Agreement shall automatically renew for successive periods of 12 (twelve) months each on the terms and conditions set out in this Schedule.

#### **5 Charges And Payment**

- 5.1 The prices for the respective Services shall be specified in each separate Order Form submitted to WEBSTORM by the Reseller.
- 5.2 Reseller shall not be entitled to sell any of the Services at a price less than the price specified in Prices List at the time that the contract between Reseller and its customer is concluded. The Prices List is to be obtained by the Reseller from WEBSTORM.
- 5.3 Invoicing will be processed and delivered monthly in advance, and all invoices for Services shall be settled by Reseller monthly within 30 days of the date of invoice.
- 5.4 All prices in the Price List are based on Rand – US dollar exchange rate at the time of signature of this Agreement, and any movement in the exchange rate may result in a variation of prices, which will be passed on to the Reseller on 30 (thirty) days notice.
- 5.5 All prices specified in the Price List exclude:
- 5.5.1 VAT and any other any taxes and duties including any regulatory surcharge, which Reseller becomes obligated to pay by virtue of this Agreement, and
  - 5.5.2 PSTS provider service fees, for which Reseller agrees to make payment directly to the PSTS provider on such terms as are agreed between the PSTS provider and Reseller, and shall at all times be the responsibility of the Reseller.
  - 5.5.3 Reseller shall not receive a discount on the once off fees such as installation fees.
- 5.6 In the event of any dispute arising as to the amount or calculation of any fee or charge to which WEBSTORM is entitled, the dispute shall be referred for determination to WEBSTORM' auditors. They shall act as experts and their decision shall be final and binding on WEBSTORM and Reseller. The cost of the determination shall be paid on demand by the party against whom the determination is made, or as determined by the said auditors.
- 5.7 Any amount falling due for payment by Reseller to WEBSTORM in terms of or pursuant to this agreement which is not paid on its due date shall bear interest calculated from the due date for payment thereof until date of payment, at a rate equal to the prime overdraft rate plus two percent (2%) charged by Nedcor Bank Limited from time to time, monthly in arrears.

#### **6 Reseller's Obligations**

- 6.1 The Reseller shall at all times provide the services to its customer in a professional and businesslike manner, in accordance with South African Internet service standards.
- 6.2 The Reseller shall enter into agreements with its customers, which shall be consistent with the terms and conditions contained in this Agreement, and in accordance with WEBSTORM' terms

and conditions in respect of the Services. It is the obligation of the Reseller to ensure that all contracts are in place with its customers ensuring compliance with this Agreement, and WEBSTORM bears no responsibility for assisting the Reseller or ensuring that the Reseller and its customers contract for provision of services.

- 6.3 The Reseller shall ensure that all its customers and their users at all times adhere to WEBSTORM'S Acceptable Use Policy ('AUP') located on the WEBSTORM website at <http://www.webstorm.co.za> , and as amended from time to time.
- 6.4 The Reseller shall not commit nor attempt to commit any act or omission which directly or indirectly:
- 6.4.1 damages in any way WEBSTORM' technical infrastructure or any part thereof;
  - 6.4.2 impairs or precludes WEBSTORM from being able to provide the Service/s in a reasonable and businesslike manner;
  - 6.4.3 constitutes an abuse or malicious misuse of the Service/s;
- or is calculated to have the abovementioned effect.
- In such an event, should WEBSTORM incur expenses to remedy the situation, WEBSTORM reserves the right to charge the Reseller the actual amount necessary to cover WEBSTORM' reasonable additional expenditure. Notwithstanding the above, WEBSTORM reserves the right to take any other appropriate action it may deem necessary to remedy the situation.
- 6.5 Reseller may not at any time use or sell the Service in contravention of any South African law. In particular, Reseller undertakes to familiarize itself and ensure that it is kept continuously apprised of all South African law in force from time to time which has any bearing on the Service and/or its use. Reseller acknowledges that WEBSTORM has no obligation to assist Reseller in this regard.
- 6.6 Any non-compliance by the Reseller with its obligations as set out in this Clause 6 and Schedule B hereto shall render the Reseller in material breach of this Agreement, and WEBSTORM shall be entitled to exercise the remedies laid out in this Agreement and in particular those specified in 13 below.

## **7 Delivery of Services**

- 7.1 All orders for the Services must be in terms of an Order Form signed by a duly authorised representative of the Reseller.
- 7.2 Reseller shall further comply with any requirements set out by WEBSTORM for the procurement of Services, including but not limited to the prescribed requirements for application for PSTS provider infrastructure lines.
- 7.3 WEBSTORM may provide technical support through its help desk to Reseller at the applicable prevailing rates, but has no obligation whatsoever to support Reseller' customers.

## **8 Warranties**

- 8.1 Save as expressly set out in this Agreement, WEBSTORM does not make any representations nor gives any warranties or guarantees of any nature whatsoever in respect of the Service/s and all warranties which are implied or residual at common law are hereby expressly excluded.
- 8.2 Without limitation to the generality of 8.1 above, WEBSTORM does not warrant or guarantee that any information transmitted by or available to Reseller or its customers by way of the Service/s:
- 8.2.1 will be preserved or sustained in its entirety;
  - 8.2.2 will be delivered to any or all of the intended recipients;
  - 8.2.3 will be suitable for any purpose;
  - 8.2.4 will be free of inaccuracies or defects or bugs or viruses of any kind; or
  - 8.2.5 will be secured against intrusion by unauthorised third parties;

and WEBSTORM assumes no liability, responsibility or obligations in regard to any of the exclusions set forth in this clause 8.

## **9 Exclusion Of Liability**

- 9.1 Except as otherwise expressly provided herein to the contrary, WEBSTORM shall not be liable to Reseller or its customers or any third party for any loss or damage of whatsoever nature and/or howsoever arising (including consequential or incidental loss or damage which shall include but shall not be limited to loss of property or of profit, business, goodwill, revenue, data or anticipated savings) or for any costs, claims or demands of any nature whether asserted against WEBSTORM or against Reseller by any party, arising directly or indirectly out of the Service/s, their use, access, withdrawal or suspension or out of any information or materials provided or not provided, as the case may be.
- 9.2 Subject to clause 9.1 above, the entire liability of WEBSTORM and Reseller's exclusive remedy for damages from any cause related to or arising out of this Agreement, regardless of the form of action, whether in contract or in delict, will not exceed the aggregate of the fees and charges paid by Reseller under this Agreement for the period of 12 (twelve) months preceding Reseller's written notice to WEBSTORM in respect of such claim.
- 9.3 Reseller hereby indemnifies WEBSTORM against and holds WEBSTORM harmless from any claim by any third party (including but not limited to Reseller's customers) arising directly or indirectly out of access to or use of the Service/s or information obtained through the use thereof or in respect of any matter for which liability of WEBSTORM is excluded in terms of clause 9.1 above.
- 9.4 Because of the need to conduct maintenance, repair and/or improvement work from time to time on the technical infrastructure by means of which the Services are provided, the provision of the Services may be suspended from time to time, and all liability on the part of WEBSTORM of any loss or damage (whether direct or consequential) thereby incurred or for any costs, claims, or demands of any nature arising there from, is excluded, and the provisions of clause 9.1 above shall apply mutatis mutandis to such exclusion.
- 9.5 Where the Service/s provided include Hosting Services, then, notwithstanding anything to the contrary contained in this Agreement, WEBSTORM reserves the right in its absolute discretion and after the receipt by WEBSTORM of any complaint from any governmental department, or any other third party (including but not limited to any Internet industry body or any other organisation) that the Reseller or Reseller's customer's web site contains information that infringes against any third party's rights in terms of the Constitution of the Republic of South Africa, the Electronic Communications and Transactions Act, any other legislative enactment or regulation in force from time to time, or is defamatory in nature, to immediately give written notice to the Reseller of WEBSTORM' intention to remove the offending information or any portion thereof from the Reseller or Reseller's customer's web site. Should such offending information not be removed from the web site by the Reseller or the Reseller's customer within 24 hours of written notice to that effect, WEBSTORM shall be entitled to immediately remove the offending information or any portion thereof from the Reseller or Reseller's customer's web site, or where it is not possible to remove such content, to terminate the Hosting Services of such Reseller. Any removal or termination by WEBSTORM shall in no way constitute a breach by WEBSTORM of this Agreement.

## **10 Joint Prospective Customers**

- 10.1 The parties agree that should it be necessary for both of them to deal with a customer jointly, then they shall negotiate the manner in which that customer shall be serviced, which negotiations shall be reduced to writing and which shall form the subject matter of a separate agreement between the parties.
- 10.2 Reseller undertakes not to contact any existing WEBSTORM customer without prior written approval from WEBSTORM. Reseller shall supply WEBSTORM on a monthly basis with a list of prospective customers for the month ahead and in the event that any customer on such list is a pre-existing WEBSTORM customer WEBSTORM shall inform Reseller thereof within 7 days of receipt of such list, and Reseller shall cease all dealings with such customer. Upon notice that Reseller has approached a WEBSTORM customer, Reseller shall allow WEBSTORM to continue on its own behalf with any negotiations commenced by Reseller, unless the customer has requested in writing otherwise.

## **11 Documentation**

Any specifications, descriptive matter, drawings, and other documents which may be furnished by WEBSTORM to Reseller from time to time:

- 11.1 do not form part of this Agreement and may not be relied upon, unless they are agreed in writing by both parties hereto to form part of this Agreement;
- 11.2 shall remain the property of WEBSTORM and shall be deemed to have been imparted by it in trust to Reseller for the sole use of Reseller. All copyright in such documents vests in WEBSTORM. Such documents shall be returned to WEBSTORM on demand.

## **12 Migration of Services**

- 12.1 Reseller shall in the event of the termination of this Agreement by WEBSTORM for any reason whatsoever, provide WEBSTORM with any reasonable assistance which may be required in order to ensure that the Services provided by Reseller in terms of this Agreement are transferred to a third party, without undue inconvenience to WEBSTORM.
- 12.2 WEBSTORM and/or its servants, agents, and employees shall where necessary be entitled to reasonable access to all information and/or resources utilised by Reseller in the provision of the Services, insofar as same is necessary to:
  - 12.2.1 give effect to the provisions of sub-clause 12.1 above, and
  - 12.2.2 ensure continuity in the provision of the Services in terms of this Agreement, as well as the accurate and efficient transfer of the Services to such third party as WEBSTORM may appoint in substitution of Reseller.

## **13 Breach**

- 13.1 Subject to the provisions of clause 13.2 to the contrary, if the Reseller:
  - 13.1.1 breaches any of the terms or conditions of this Agreement and fails to remedy such breach or pay such amount, as the case may be, within 7 (seven) days after the receipt of written notice from WEBSTORM;
  - 13.1.2 sells services to its customers in contravention of Clause 3.2 above;
  - 13.1.3 commits any act of insolvency in accordance with the provisions of the Insolvency Act 1936 as amended;
  - 13.1.4 endeavours to compromise generally with its creditors or does or causes anything to be done which may prejudice WEBSTORM' rights hereunder or at all;
  - 13.1.5 allows any judgement against it to remain unsettled for more than 10 (ten) days without taking immediate steps to have it rescinded and successfully prosecuting the application for rescission to its final end; or
  - 13.1.6 is placed in liquidation or under judicial management (in either case, whether provisionally or finally) or, being an individual, his estate is sequestrated or voluntarily surrendered;

WEBSTORM shall have the right, without prejudice to any other right which it may have against the Reseller, to:

- a) suspend or terminate the Services;
- b) treat as immediately due and payable all outstanding amounts which would otherwise become due and payable over the unexpired period of the Agreement, and to claim such amounts as well as any other amounts in arrears including interest and to cease performance of its obligations hereunder as well as under any other contract with the Reseller until Reseller has remedied the breach; and/or
- c) cancel this Agreement; in any event without prejudice to WEBSTORM' right to claim damages.

- 13.2 Reseller shall be liable for all costs incurred by WEBSTORM in the recovery of any amounts or the enforcement of any rights which it has hereunder, including collection charges and costs on an attorney and own client scale whether incurred prior to or during the institution of legal proceedings or if judgement has been granted, in connection with the satisfaction or enforcement of such judgement.
- 13.3 Subject to what is set out in Clause 13.1.1 above, WEBSTORM shall be entitled to suspend the provision of the Services where Reseller breaches any provision of this Agreement or where any payment to WEBSTORM is overdue by more than 30 (thirty) days.

## **14 Intellectual Property**

- 14.1 Notwithstanding anything set out in Clause 15 below, all intellectual property (including, without limitation, copyright, trade marks, designs and patents) relating to or used in connection with the Service/s provided under this Agreement shall belong to WEBSTORM. Reseller undertakes that it shall at no time, have any right, title or interest in the intellectual property and agrees that it shall not (or permit any third party to) reverse engineer, decompile, modify or tamper with the equipment or software owned by WEBSTORM, or any of its third party suppliers.
- 14.2 Reseller warrants that it shall not use or sell the Service/s to produce, host or present any content in contravention of any person's intellectual property rights, and in particular warrants that it shall recognize, acknowledge and use any content in accordance with any third party's intellectual property rights. Reseller furthermore warrants that it has received all necessary permissions to make use of any intellectual property relating to 3<sup>rd</sup> parties.

## **15 Protection Of Proprietary Information**

- 15.1 Each party will keep in confidence and protect Proprietary Information from disclosure to third parties and restrict its use to that which is provided for in this Agreement. Either party acknowledges that unauthorised disclosure or use of Proprietary Information may cause substantial economic loss.
- 15.2 All printed materials, containing Proprietary Information will be marked with "Proprietary" or "Confidential", or in a manner which gives notice of its proprietary nature. Proprietary Information shall not be copied, in whole or in part, except when essential for correcting, generating or modifying Proprietary Information for either party's authorized use. Each such copy, including its storage media, will be marked with all notices, which appear on the original.
- 15.3 Each party shall ensure that its employees comply with its obligations under this section 15.
- 15.4 This section 15 shall survive termination or cancellation of this Agreement.
- 15.5 This Agreement does not transfer to either party title to any intellectual property contained in any Proprietary Information of the other party.

## **16 Cession**

Reseller shall not be entitled to cede or assign any rights and/or obligations which it may have in terms of this Agreement to any third party unless consented to in writing by WEBSTORM.

## **17 Force Majeure**

- 17.1 WEBSTORM shall not be liable for non-performance under this Agreement to the extent to which the non-performance is caused by events or conditions beyond the control of WEBSTORM, provided that WEBSTORM makes all reasonable efforts to perform.
- 17.2 It is expressly recorded that for purposes of this clause the following shall be considered circumstances beyond the control of WEBSTORM and the force majeure provisions shall apply:-
- 17.2.1 a PSTS provider fault that affects the Service/s; and/or
- 17.2.2 the non-performance, inability to perform or delay in performance by the PSTS provider relating to the provisioning of equipment, services and/or facilities to WEBSTORM that affects the Service/s; and/or

- 17.2.3 acts or omissions of any government, government agency, provincial or local authority or similar authority, any laws or regulations having the force of law, civil strife, riots, insurrection, sabotage, acts or war or public enemy, illegal strikes, interruption of transport, lockouts, flood, storm or fire.

## **18 Governing Law And Jurisdiction**

This Agreement will be governed by and construed in accordance with the laws of the Republic of South Africa and all disputes, actions and other matters relating thereto will be determined in accordance with South African law by a South African court having jurisdiction.

## **19 Disclosure Of Personal Information**

- 19.1 The Reseller acknowledges that the personal information supplied by the Reseller in the application form hereto may be used by WEBSTORM for the purposes of assessing the Reseller's credit worthiness.
- 19.2 The Reseller consents to WEBSTORM being entitled at all times to contact and request information from any persons, credit bureau or businesses to obtain any information relevant to the Reseller's credit assessment, including but not limited to, information regarding the amounts purchased from Reseller's suppliers per month, length of time Reseller has dealt with such supplier, type of goods or services purchased and manner and time of payment.
- 19.3 The Reseller warrants that any information that may be significant to govern this agreement has been fully revealed to Webstorm and in the event that such information is withheld purposefully or not, Webstorm may declare this agreement null and void without proof of such omission.

## **20 Suretyship**

The signatory to this Agreement, as the authorized representative of the Customer, hereby binds himself/herself to WEBSTORM as personal surety and as co-principle debtor in solidum with Customer for the due, punctual and proper fulfilment and performance by Customer of all its obligations in terms of this Agreement. The aforementioned signatory hereby renounces all benefits arising from the legal exceptions of non numeratae pecuniae, non causa debiti, errore calculi and beneficio excussionis et divisionis, with the force and effect of which he/she hereby declares himself/herself to be fully acquainted

## **21 Domicilium Citandi Et Executandi**

For all purposes, including but not by way of limitation, the giving of any notice, the making of any communication and the serving of any process, Reseller chooses its domicilium citandi et executandi ("domicilium") at the physical address appearing on the application form to which these Standard Terms and Conditions are attached. WEBSTORM chooses its domicilium citandi et executandi ("domicilium") at 75 Crompton st, Pinetown, South Africa. Either party shall be entitled from time to time to vary its domicilium and shall be obliged to give notice to the other within ten (10) days of the said change. Any notice which either party may give to the other shall be posted by prepaid registered post or hand delivered to the other party's domicilium and shall be presumed, unless the contrary is proved by the party to whom it is addressed, to have been received by that party on the tenth (10<sup>th</sup>) day after the date of posting or on the day of delivery as the case may be.

## **22 General**

- 22.1 No variation, amendment or consensual cancellation of this Agreement or any provision or term thereof or of any agreement, bill of exchange or other document issued or executed pursuant to or in terms of this Agreement shall be binding unless recorded in a written document signed by a duly authorized representative from both WEBSTORM and Reseller.
- 22.2 The parties acknowledge having read and understood this Agreement and are not entering into this Agreement on the basis of any representations not expressly set forth in it.

- 22.3 Neither party shall be bound by any express or implied term, representation, warranty, promise or the like not recorded herein, whether it induced the Agreement between Reseller and WEBSTORM or not.
- 22.4 No extension of time or waiver or relaxation of any of the provisions or terms of this Agreement, bill of exchange or other document issued or executed pursuant to or in terms of this Agreement, shall operate as an estoppel against either party hereto in respect of its right under this Agreement, nor shall it operate so as to preclude either of the parties thereafter from exercising its rights strictly in accordance with this Agreement.
- 22.5 In the event that any provision of this Agreement conflicts with any statute, ruling or order of any governmental or regulatory body from time to time, then such provision of this Agreement shall be controlled by the statute, ruling or order.
- 22.6 Should any of the terms and conditions of this Agreement be held to be invalid, unlawful or unenforceable, such terms and conditions will be severable from the remaining terms and conditions which will continue to be valid and enforceable.
- 22.7 In the event of any expiration, termination or cancellation of this Agreement, provisions hereof which are intended to continue and survive shall so continue and survive. In particular, termination or cancellation of this Agreement shall not affect any rights or duties arising under it with respect to Clauses 15 and 16 above.
- 22.8 The terms and conditions appearing in the Schedule(s) hereto, are hereby incorporated into the Agreement. In the event of any conflict between the Standard Terms and Conditions of this Agreement and those appearing in any Schedule/s hereto, these Standard Terms and Conditions shall prevail. In respect of any conflict in respect of pricing in the Agreement or the Schedules hereto, the costs set out in the Cost Schedule shall prevail.
- 22.9 These terms and conditions, together with the Schedule(s), Annexures and attachments hereto, constitute the whole of the agreement between WEBSTORM and Reseller relating to the subject matter hereof, notwithstanding anything in Reseller's inquiry, specification, acceptance, order or other documentation or discussion to the contrary.

## **SCHEDULE A**

### **23 ADDITIONAL OBLIGATIONS OF RESELLER**

In addition to any obligations that Reseller has in terms of the Standard Terms and Conditions, the Reseller shall comply with the following obligations in selling the Services, all of which are material terms of this Agreement.

Reseller shall:-

1. conduct all business diligently and devote reasonable time and effort to the promotion and marketing of the Services. This shall include the pro-active demonstration and marketing of the Services;
2. co-operate with WEBSTORM to meet any other reasonable standards of sales and support performance established by WEBSTORM, and shall at all times adhere to WEBSTORM requirements and standards;
3. maintain an adequate number of skilled and trained sales and support personnel to be able to properly provide support to all its customers in respect of the Services (WEBSTORM shall in no circumstances be liable to provide such support to Reseller's customers);
4. attend training with WEBSTORM, when required to do so;
5. be responsible for providing adequate technical support, billing and administration for Reseller's customers, which will be measured by WEBSTORM, from time to time, by way of customer satisfaction surveys in conjunction with Reseller;

6. complete and submit timeously all forms required by WEBSTORM for installation of new services;
7. ensure that all its customers are in possession of valid licenses for the relevant software at all times while using the Services, and shall certify accordingly upon request by WEBSTORM; and
8. meet the monthly sales target as set out in Schedule B hereto.

## **SCHEDULE B**

### **24 SALES TARGETS AND RESELLER DISCOUNTS**

The following associated discounts shall be applicable to the Services provided to the Reseller:

Monthly Retail/R	Monthly Discount %
R 0 – R100 000,00	10%
R 100 000 +	15%

The following applies in respect of the above sales numbers and discounts:-

- All discounts will be calculated on a monthly basis
- The discount tier in which the Reseller falls will be based on the Reseller's billing level at each previous month end. Any change in the discount afforded to the Reseller shall only accrue in the month following the month that the respective revenue is reached.
- Where the retail value of the services sold equals or exceeds the amount above, the associated discounts apply.
- The discounts are expressly understood by both parties to be performance related, and the Reseller shall not be entitled to move to a higher tier solely on the basis that WEBSTORM has increased its pricing.
- Discounts will cease to apply where the Reseller does not conclude a minimum of five new deals in every consecutive five calendar month period of this agreement. WEBSTORM may revoke such discounts in accordance with Clause 5.2 of the Standard Terms and Conditions of this Agreement.
- The discount for Reseller will NOT apply to Services purchased for Reseller's own use until such time as at least one customer has been contracted by the Reseller for the Services agreed upon in this agreement, and in this case the standard WEBSTORM price will apply.

WEBSTORM reserves the right to amend and replace these discounts at any time, upon providing the Reseller with written notice of its intention to do so. The Reseller shall be entitled to a revised copy of such amended discounts upon request from WEBSTORM.

### **TARGETS**

(Only Applies to Tier 2 Resellers) – Should targets not be met, the % commission will be reduced by 20% per month of the initially awarded commission amount. Re-instatement of the initially awarded commission occurs when the 3 monthly average is in line with the stated targets.

**Agreement End..**