

TOMSA LEVY CONTRIBUTOR AGREEMENT RELATING TO THE MARKETING OF DESTINATION SOUTH AFRICA

1. PARTIES

This Agreement is concluded between:

1.1 TOURISM MARKETING SOUTH AFRICA NPC
(Registration on number: 1999/009965/08)
(hereinafter referred to as "TOMSA")

of

3 Amethyst Avenue
Lyttleton Manor
Centurion

AND

1.2 COMPANY NAME

1.3 REGISTRATION NUMBER (Hereinafter referred to as "The Participant")

1.4 VAT REGISTRATION NUMBER

1.5 COMPANY ADDRESS

_____ *initial*

TOMSA LEVY CONTRIBUTOR AGREEMENT RELATING TO THE MARKETING OF DESTINATION SOUTH AFRICA

2. INTRODUCTION

2.1 TOMSA is:

- 2.1.1 A company incorporated under Section 21 of the Old Companies Act which continues to exist as a company in terms of the Companies Act;
- 2.1.2 A private sector initiative established to raise additional funds for the marketing of Destination South Africa. The funds are collected on a voluntary basis through the Tourism Marketing Levy (“the Tourism Levy”) collected through TOMSA.

2.2 Tourism Business Council of South Africa NPC (Association incorporated under Section 21) (Registration number: 2008/011486/08) (“TBCSA”) is the custodian of TOMSA.

2.3 TBCSA delegated the authority to collect the Tourism Levy to TOMSA. TOMSA collects the Tourism Levy from TOMSA Levy Contributors (as defined in clause 3.8) in South Africa, who in turn collect the Tourism Levies voluntarily paid by Customers (As defined in clause 3.4). The purpose of the Tourism Levy is to grow the number of tourists coming to South Africa through marketing activities.

2.4 The Participant:

- 2.4.1 Agreed to participate in TOMSA’s endeavours and to collect the Tourism levy from its customers; and
- 2.4.2 Acknowledges that the Participant shall directly and/or indirectly enjoy the benefits of participation by virtue thereof that the participant operates in the industry.

2.5 The parties wish to record the terms and conditions of their agreement in writing.

2.6 In the event of the Participant failing to pay over the prescribed levies as collected, TOMSA reserves the right to take legal action as and when required.

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3. DEFINITIONS AND INTERPRETATIONS

In addition to the words, terms and phrases defined in the other clauses of this Agreement, the following words, terms and phrases in this Agreement shall have the meanings assigned to them hereunder and cognate expressions shall have corresponding meanings:

- 3.1 “AGREEMENT” means the agreement contained in this document;
- 3.2 “B-BBEE” means Broad-Based Black Economic Empowerment as contemplated in the Broad-Based Black Economic Empowerment Act, No. 53 of 2003;
- 3.3 “CODE OF CONDUCT” means TOMSA’s Code of Conduct and TOMSA shall advise the Participant of amendments or revisions from time to time
- 3.4 “CUSTOMER” means a customer, guest or client of the Participant;
- 3.5 “EFFECTIVE DATE” means the date referred to in clause 4.1;
- 3.6 “PARTIES” refer to TOMSA and the Participant, and “Party” shall be a reference to any one of them;
- 3.7 “SIGNATURE DATE” means the date on which this Agreement is signed by the party last in me to sign;
- 3.8 “TOMSA LEVY CONTRIBUTORS” means all tourism – related establishments that are registered TOMSA levy contributors.
- 3.9 “VAT” means Value-added Tax payable in terms of the VAT Act or any similar or replacement tax;
- 3.10 “VAT ACT” means the Value-added Tax Act, No. 89 of 1991 as amended from me to me.

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4. PERIOD

- 4.1 Notwithstanding the Signature Date, this Agreement will come into effect on the first day of the month following the Signature Date and will, unless terminated under the provisions of clauses 4.2 or 4.3 or otherwise, endure until terminated by either party on 3 months' written notice to the other party.
- 4.2 The Participant shall only be entitled to terminate this Agreement if the Participant, concurrently with such termination, furnishes TOMSA with written confirmation from the Participants' sworn affidavit that the Participant is no longer collecting the Tourism Levies.
- 4.3 TOMSA shall, notwithstanding the provisions of clause 4.1, be entitled to terminate this Agreement with immediate effect on the occurrence of any of the following events:
- 4.3.1 A Statutory National Tourism Levy or a Statutory Provincial Tourism Levy coming into force; and/or
 - 4.3.2 The Management Board of TBCSA resolved that the Tourism Levies are no longer required and/or to be collected.
- 4.4 This Agreement will, as from the Effective Date, supersede all previous agreements and arrangements between the parties pertaining to the Tourism Levy.

5. TOURISM LEVIES

The Participant agrees and undertakes to:

- 5.1 Charge and collect from its customers the Tourism Levies in an amount equivalent to 1% (One per centum) of the charges and fees raised by the Participant against the customer. The 1% Tourism Levy is exclusive of VAT which shall be charged in Addition thereto.
- 5.2 Pay the collected Tourism Levies over to TOMSA within 15 days from the end of each accounting month of the Participant for which Tourism Levies were collected.

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6. PROCEDURES AND SCHEMES

- 6.1 TOMSA shall be entitled to require from time to time from the Participant to submit a certificate by the Participant's auditors:
- 6.1.1 Reflecting the Tourism Levies collected during the period concerned (as determined by TOMSA); and
 - 6.1.2 Setting out the basis upon which such collections were made.
- 6.2 TOMSA will, after the Participant has made payment in full of all Tourism Levies collected by the Participant during a consecutive 6-month period, provide the Participant with a Letter of Good Standing for inter alia B-BBEE purposes certifying the Participant as a TOMSA Levy Collector "in good standing"
- 6.3 TOMSA will, after the Participant has made payment in full for 12 consecutive months (January to December), a Certificate of Good Standing will be issued in February each year.
- 6.4 The recommended wording to appear against the itemised entry on the Customer's account or the invoice issued by the Participant to the Customer is "Tourism Levy".
- 6.5 All payments made by Customers (including without limitation payments in cash, by credit card, cheque or electronic funds transfer) shall, for purposes of this Agreement, be deemed to have been collected and received on the date the Customer settles his account.

7. ADDITIONAL RIGHTS AND OBLIGATIONS OF TOMSA

TOMSA agrees and undertakes, in addition to its other rights, obligations and undertakings stipulated in this Agreement:

- 7.1 That all Tourism Levies less reasonable operating expenses and administrative charges will be held in trust until such amounts are paid over to South African Tourism as per the agreement in force at the relevant time;
- 7.2 That the reasonable operating expenses and administrative charges shall not exceed 7% (Seven per centum) of the Tourism Levies collected;
- 7.3 To make its Annual Financial Statements available at its Annual General Meeting and to forward a copy thereof to the participant on request
- 7.4 TOMSA agrees and undertakes to adhere to-, and punctually comply with the TOMSA code of conduct

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TOMSA LEVY CONTRIBUTOR AGREEMENT RELATING TO THE MARKETING OF DESTINATION SOUTH AFRICA

8. ADDITIONAL RIGHTS, OBLIGATIONS AND UNDERTAKINGS OF THE PARTICIPANT

The Participant, in addition to its other rights, obligations and undertakings stipulated in this Agreement:

- 8.1 Agrees and undertakes to adhere to and punctually comply with the TOMSA Code of Conduct;
- 8.2 Acknowledges that, in collecting the Tourism Levies, it will act as a collection agent for TOMSA and that it will not have any right or entitlement to the Tourism Levies.

9. PROTECTION

- 9.1 TOMSA acknowledges that in concluding this agreement with the Participant, TOMSA may be exposed to Personal Data as defined in the Protection of Personal Information Act, supplied to TOMSA by the Participant or stored, collected, collated, accessed or processed on behalf of the Participant.
- 9.2 The Parties specifically record that all Personal Data provided by the Participant to the TOMSA, or to which TOMSA may be exposed, shall constitute confidential information and where applicable, intellectual property belonging to Participant.
- 9.3 TOMSA hereby warrants in favour of the Participant that it shall at all times strictly comply with all applicable data privacy legislation and with all the provisions and requirements of any Participant data protection policies and procedures which may be in force from time to time.
- 9.4 TOMSA hereby warrants and undertakes that it shall not, at any time, copy, compile, collect, collate, process, mine, store, transfer, alter, delete, interfere with or in any other manner use the Personal Data for any purpose other than with the express prior written consent of the Participant, and to the extent necessary for purposes of executing this Agreement.

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- 9.5 TOMSA further warrants that it shall ensure that all its systems and operations which it uses to provide the services, including all systems on which Personal Data is copied, compiled, collated, processed, transmitted, stored, collected, mined, altered or deleted or otherwise used as part of providing the services, shall at all times be of a minimum standard required by law and be of a standard no less than the standards which are in compliance with the international best practice for the protection, control and use of Personal Data.

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TOURISM MARKETING SOUTH AFRICA NPC

Signed at on this day of 20

Signature by TOMSA Representative

WITNESSES

1.
2.

ON behalf of NEW TOMSA Levy Contributor

Signed at on this day of 20

Signature

WITNESSES

1.
2.

COMPANY NAME

PROVINCE

initial

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POSTAL ADDRESS

<input type="text"/>	
<input type="text"/>	CODE <input type="text"/>

PHYSICAL ADDRESS

<input type="text"/>	
<input type="text"/>	
<input type="text"/>	CODE <input type="text"/>

WEB ADDRESS

<input type="text"/>

MARKETING MANAGER

Title (Mr, Mrs, etc) <input type="text"/>	Name & Surname <input type="text"/>
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EMAIL ADDRESS

<input type="text"/>

TELEPHONE NUMBER

<input type="text"/>

FINANCIAL MANAGER

Title (Mr, Mrs, etc) <input type="text"/>	Name & Surname <input type="text"/>
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EMAIL ADDRESS

<input type="text"/>

TELEPHONE NUMBER

<input type="text"/>

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TOMSA LEVY CONTRIBUTOR AGREEMENT RELATING TO THE MARKETING OF DESTINATION SOUTH AFRICA

GENERAL MANAGER

Title (Mr, Mrs, etc)

Name & Surname

EMAIL ADDRESS

TELEPHONE NUMBER

WHICH PROVINCE ARE YOU IN?

WHAT TYPE OF BUSINESS ARE YOU OPERATING?

- | | | | | | | | | | |
|--------------------------|------------------|--------------------------|---------------|--------------------------|-------------|--------------------------|------------|--------------------------|------------------|
| <input type="checkbox"/> | Car Rental | <input type="checkbox"/> | Travel Agency | <input type="checkbox"/> | B&B | <input type="checkbox"/> | Game Lodge | <input type="checkbox"/> | Self Catering |
| <input type="checkbox"/> | Tour Operator | <input type="checkbox"/> | Resort | <input type="checkbox"/> | Guest House | <input type="checkbox"/> | Hotel | <input type="checkbox"/> | Conference Venue |
| <input type="checkbox"/> | Catering Company | | | | | | | | |

REFERRAL DETAILS

Please specify how you know about the TOMSA levy contributors:

- TOMSA or TBCSA website/marketing collateral/social media
- South African Tourism
- Tourism Grading Council of South Africa
- National Sector Association
- BEE verification agency
- If other, please specify:

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