

TERMS AND CONDITIONS: ECENTIVE WEB PORTAL AND APPLICATION

By using the Portal, you agree to be bound by E-Centive's terms and conditions, which are contained and/or referred to in this document, at all material times.

1. INTERPRETATION

- 1.1 "Agreement"/"Terms" shall mean the Agreement set out in this document namely the terms and conditions of the Portal;
- 1.2 "the Administrator" means Ecentive;
- 1.3 "Communication" shall mean any communication by means of electronic transmission, including by website notice, telephone, fax, SMS, wireless computer access, email, mobile Application, USSD or similar technology or device;
- 1.4 "Ecentive" shall mean E CENTIVE (Proprietary) Limited, registration number 2015/251281/07 a company duly registered and incorporated according to the company laws of the Republic of South Africa with its principal place of business situate at First Floor 363 Rivonia Boulevard Rivonia Johannesburg.
- 1.5 "Intellectual Property Rights" shall mean copyright, trademark, patent or any other intellectual property right recognized in the Republic of South Africa, including any of the rights in and to intellectual property of any nature whatsoever owned and/or controlled directly or under license by Ecentive, now or in the future, including without limitation, E-Centive's rights, title and interest in and to all technology, source code/s, trade secrets, logos, systems, methods, trademarks, trade names, styles, insignia, designs, patents and copyright, and all similar proprietary rights which may subsist in any part of the world, whether registered or not.
- 1.6 "Manufacturer" shall mean the person or entity for whom the Administrator administers the Program.

- 1.7 "Portal" shall mean the website **mtn.ecentive.co.za** and any mobile application for the program.
- 1.8 "Program" means the Manufacturer's incentive Program managed for and on behalf of the Manufacturer by the Administrator.
- 1.9 "Selected Products" shall mean the products which are eligible for Users to earn incentives on by selling them, subject to other terms and conditions.
- 1.10 "Territory" shall mean the Republic of South Africa.
- 1.11 "User" shall mean any person who participates in the Program as a sales or marketing agent and who is or may become eligible to receive rewards set out in the Program and/or any person who enters the Portal.

2 ELECTRONIC COMMUNICATIONS

- 2.1 When a User visits the Portal or sends communications to the Administrator, he or she consents to receiving communications from the Administrator,
- 2.2 Users agree that any agreements or correspondence sent by the Administrator satisfies the legal requirements, inter alia the requirement that certain communications should be reduced to writing and/or signed.
- 2.3 Registration on the Portal is compulsory for Users.
- 2.4 Upon registration to use the Portal, Users will receive confirmation via email.

3 DURATION AND COMMENCEMENT OF THIS AGREEMENT

- 3.1 The terms and conditions of this Agreement are applicable to Users from the moment that they access the Portal.
- 3.2 The Administrator does not remove registered user accounts from its systems, however a User may request to have his/her account suspended and it will no longer be able to be used again.
- 3.3 In the event that a User's account is inactive for 60 calendar days, the account will be automatically suspended and will require re-activation. In order to access the profile again the User should contact the support centre telephonically or via email – the contact information is on the log in screen to the portal.

4 PRIVACY POLICY

- 4.1 The Administrator is committed to protecting any personal information that the User may provide to it.
- 4.2 While using the Portal, information about the User may be either collected by the Administrator or its representatives. Such information will become the property of the Administrator.
- 4.3 The Administrator or its representatives may use this personal information to provide Manufacturers or third parties with information regarding products, services, offerings, promotions or events from time to time as well as for the purposes of improving the Program.
- 4.4 The Administrator will collect, use and share the User's personal information (and/or will instruct our affiliates or third parties to do so) to facilitate the User's registration, to track and report on the User's claims, to ensure that the Incentive Card (if applicable) is delivered to the User, to ensure that the User's Incentive is paid if all terms and conditions are met, to verify the details provided by the User, to provide the User with updated information about Selected Products and to communicate incentive and portal related information such as changes/updates/business rules to the User.

- 4.5 The Administrator will not release User information or data to any organization other than those that are actively involved in facilitating the Program.
- 4.6 The User may request that the Administrator or its representatives cease sending them marketing and/or new and/or promotional information or request that the User's personal information be removed from the database or mailing list at any time by clicking on the Opt-out/Unsubscribe links in the communication.
- 4.7 the Administrator and its representatives are not responsible for and give no warranties or representations in respect of the privacy policies or practices of any inter alia: third party and/or linked websites and/or linked applications.
- 4.8 The User may request access to any personal information concerning himself or herself, which the Administrator holds. The Administrator, however, will not provide third parties with any personal information unless required to do so by law or other than in accordance with these terms and conditions.
- 4.9 The time periods for which the Administrator will keep the User's information may vary according to the use or purpose attached to the information. Unless there is a specific legal requirement requiring the Administrator to keep the User's information, however, the Administrator will not keep it for longer than necessary for the purpose for which the information was collected or for which it is to be processed.
- 4.10 Cookies: when entering the Portal, information about the User, User preference and User activity may be collected stored and used by the Administrator to improve the Portal's functionality, recognize the User and their account and manage the Program. The User consents to the use of cookies for this purpose, however Cookies may be disabled by Users.

5 USE OF INFORMATION

- 5.1 This Portal is operated and controlled by the Administrator and / or its nominees. The information from this Portal is protected by copyright and other proprietary rights laws. No information from this Portal may be copied, reproduced, republished, uploaded, posted, transmitted or distributed in any way without the written consent of an authorised representative of the Administrator.
- 5.2 Any unauthorised copying, or attempt at copying, assignment or transfer of this Agreement, may result in the immediate termination of this Agreement by the Administrator and the Administrator reserves the right to seek civil damages or procure the institution criminal charges, as it sees fit, without limiting any of its rights.
- 5.3 The User is not granted a license or any other right including without limitation under any Intellectual Property Rights in or to the content of this Portal.
- 5.4 The Administrator expressly reserves the right, in its sole and absolute discretion, to remove the Portal, alter the Portal, modify the Portal, supplement the Portal and / or restrict access to the Portal or any of its content for whatever reason and without any prior notice.
- 5.5 The User hereby ratifies, guarantees and agrees to be personally liable for any and all obligations entered into or assumed by others who use the information, content or services through his / her account or with his / her registration details.
- 5.6 Should any party be of the belief that content on Portal is in violation of any Intellectual Property Rights ("violation"), such violation must be reported to the Administrator in order that the Administrator is able to assess the situation, contact all relevant parties and take the measures it deems to be appropriate in the circumstances. In order to assess the situation, the Administrator requires that the following be sent to it:
 - 5.6.1 Identification of the alleged violation,

- 5.6.2 Contact details of the reporter of the violation in the form of telephone number, email address and full name,
 - 5.6.3 Proof of Intellectual Property Rights,
 - 5.6.4 Should the reporter not be the owner of the Intellectual Property Right, the Administrator requires authorisation of the reporter's right to report the violation to us.
- 5.7 Should the information requested in terms of clause 5.6 above not be provided, the Administrator is under no obligation to take any action.
- 5.8 the Administrator will allow representations to be made in defense of allegations made regarding violations, and reserves the right to make decisions based on the information it receives from the relevant parties.
- 5.9 Any parties who repeatedly violate the Administrator's policies (as amended from time to time) and the Intellectual Property Rights may be suspended from using the Portal permanently.

6 THE USER

- 6.1 The User may not:
- 6.1.1 copy (other than for backup, archival or disaster recovery purposes), reproduce, translate, adapt, vary, modify, lease, license, sub-license, encumber or in any other way deal with any part of the Portal for any reason and in any manner, unless it is consistent with the intent and purpose of this Agreement;
 - 6.1.2 decompile, disassemble, hack, abuse or reverse engineer any portion of the Portal;
 - 6.1.3 write and/or develop any derivative of the Portal or any other software Program based on the Portal;
 - 6.1.4 provide access to any third party;
 - 6.1.5 remove any identification, trademark, copyright or other notices from the Portal;

- 6.1.6 use the Portal for any reason other than what the Administrator intended it to be used for;
 - 6.1.7 post or transmit, by means of reviews, comments, suggestions, ideas, questions or other information through the Portal, any content which is unlawful, harmful, threatening, abusive, harassing, defamatory, vulgar, obscene, sexually-explicit, profane or hateful, or racially, ethnically or otherwise objectionable content of any kind.
- 6.2 Use of the Portal may give rise to various tax implications or liability's for the User, the User is specifically responsible for any tax liability which may arise as a result in the participation in the Program.
- 6.3 It is the User's responsibility to disclose to the tax authorities (or any other applicable authority which the User may be subject to) information required by such authority (such as but not limited to participation and/or income earned). It is the User's responsibility to interact directly with tax authorities (or any other applicable authority which the User may be subject to). The Administrator will not deal with any regulatory body or submit any information on behalf of Users.
- 6.4 Save for application of the terms and conditions herein, the Administrator shall not be responsible to guide or supervise the User whatsoever, the User is a completely independent party and at no stage shall the User be regarded to be an agent or employee of the Administrator and may not represent any relationship of agency or employment.
- 6.5 The User agrees that it will not hold the Manufacturer or supplier of the Selected Products, the store, the Administrator and either of their affiliates liable and the User hereby fully indemnifies the Manufacturer or supplier of the Selected Products, the store, the Administrator and either of their affiliates, and holds the Manufacturer or supplier of the Selected Products, the store, the Administrator and either of their affiliates completely harmless, against all damages, claims and fines made against the Manufacturer or supplier of the Selected Products the User or the store, the

Administrator and either of their affiliates, including all legal costs, to the extent to which such damages, claims and fines arise out of or are connected to any taxation relating to the Users receipt, accumulation, transfer or spend of Incentives.

- 6.6 The User must access the Portal using their own connectivity with access to the internet. Any charges or costs incurred are the sole responsibility of the User.

7 SECURITY

- 7.1 The User undertakes that its log-in and password ('Log-in details') will not be disclosed to third parties and will be used solely for personal use, and that the User will take the necessary precaution of keeping such information safe. In the event that the User suspects that his/her Log-in details have become compromised, it is the User's duty to immediately change his/her password.
- 7.2 the Administrator shall not be liable for any security breaches occurring on the Portal whatsoever, including by virtue of the negligence of the Administrator.
- 7.3 the Administrator shall not be liable for any security breaches resulting in a lack of virus protection, malware, keylogger or spyware that any User may have inadvertently installed on their device, or which may automatically install on the User's device.
- 7.4 It is the duty of all Users to ensure that their hardware and software is secure from threats which are found on the internet and that they back up their data regularly. The Administrator shall not be liable for any failure to attend to the aforementioned.
- 7.5 Any person that delivers or attempts to deliver any damaging code to this Portal or attempts to gain unauthorised access to any page on this Portal shall be prosecuted and the Administrator reserves its rights to both procure the institution criminal proceedings against

such persona and its employer and/or claim damages for any losses or damages it incurs from such person and/or its employer.

- 7.6 the Administrator shall not be liable, in any manner whatsoever, for any damage, loss or liability that resulted from the use of the Portal's content by the User or any third party who obtained any content from the User.
- 7.7 Any User who commits any of the offences detailed in Chapter 13 of the Electronic Communications and Transactions Act 25 of 2002 ("ECTA") (specifically sections 85 to 88 (inclusive)) shall, notwithstanding criminal prosecution, be liable for all resulting liability, loss or damages suffered and/or incurred by the Administrator and its affiliates, agents and/or partners.

8 LINKED THIRD PARTY WEBSITES AND THIRD PARTY CONTENT

- 8.1 The Administrator may provide links to third party websites on the Portal. These links are provided to the user for convenience purposes only and the Administrator does not endorse, nor does the inclusion of any link imply the Administrator's endorsement of, such websites, their owners, licensees or administrators or such websites' content or security practices and operations.
- 8.2 While the Administrator tries to provide links only to reputable websites or online partners, the Administrator cannot accept responsibility or liability for the information provided on other websites. Linked websites or pages are not under, nor subject to, the control of the Administrator. The Administrator is not responsible for and gives no warranties or makes any representations in respect of the privacy policies or practices of linked or any third party or advertised websites on the Portal.
- 8.3 The User agrees that the Administrator shall not be held liable, directly or indirectly, in any way for the content, the use or inability to use or access any linked website or any link(s) contained in a linked website, nor for any loss or damage of any sort incurred as a result of any dealings with, or as the result of the presence of such third party linked websites on the Portal. Any dealings that the User

may have with any linked websites, including advertisers, found on the Portal, are solely between the User and the third party website.

9 DISCLAIMER

- 9.1 Apart from the provisions of sections 43(5) and 43(6) of the Electronic Communications and Transactions Act 25 of 2002, the use of any information contained on the Portal is at the User's own risk, and Ecentive and its affiliates accepts no liability for the use of and / or reliance upon and / or inability to use any information of this site, nor shall they be liable in any manner for any losses or damages of any nature resulting from the direct or indirect use of and/or reliance upon the information contained on the Portal or websites linked to the Portal.
- 9.2 Communications expressed on this site should not be regarded as the opinion or view of the Administrator and the Administrator will accept no liability resulting there from.
- 9.3 the Administrator, will accept no responsibility for losses or damages resulting from the reliance on information on the Portal, and Users should always seek professional advice before taking any course of action related to information, ideas or opinions expressed on the Portal.
- 9.4 The Portal is supplied in the form preferred by the Administrator and is not catered per the requirements of an individual.
- 9.5 Regarding any hyperlinks provided on the Portal, the Administrator does not accept liability incurred from the use of such hyperlinks.

10 INTELLECTUAL PROPERTY RIGHTS

- 10.1 All copyright and other intellectual property rights in all content, trademarks, software, data, material, including logos, databases, text, graphics, icons, hyperlinks, confidential information, designs, agreements, and multimedia works, published on or via the Portal ("proprietary material"), are the property of, or are licensed to, the Administrator and as such are protected from infringement by local and international legislation and treaties.
- 10.2 the Administrator may reproduce, repost, quote, distribute or make use of any comments or communication or media posted onto the Portal by any User.
- 10.3 Except with the Administrator's express written permission, no proprietary material from the Portal may be copied or retransmitted.
- 10.4 Irrespective of the existence of copyright, the User acknowledges that the Administrator is the proprietor of all material on the Portal (except where a third party is indicated as the proprietor), whether it constitutes confidential information or not, and that the User has no right, title or interest in any such material.

11 CONFIDENTIALITY

- 11.1 By subscribing as a User, the User agrees that he/she shall hold in the strictest confidence and not disclose to any third party information acquired in connection with any aspect of the services offered by Ecentive. The User shall notify the Administrator should the User discover any loss or unauthorised disclosure of information.
- 11.2 Any information or material sent to the Administrator will be deemed not to be confidential, unless otherwise agreed in writing by the User and Administrator.

12 BREACH / CANCELLATION OF SERVICES

- 12.1 the Administrator is entitled without notice, in addition to any other remedy available to it at law or under this Agreement, including obtaining an interdict, to cancel the Agreement, limit or deny the use of the Portal, or to claim specific performance of any obligation

whether or not the due date for performance has arrived, in either event without prejudice to the Administrators right to claim damages, should the User:

- 12.1.1 breach any of these terms and conditions;
- 12.1.2 in the sole discretion of the Administrator, use the Portal in an unauthorised manner; or
- 12.1.3 be found to infringe any statute, regulation, ordinance or law.

13 RISK, LIMITATION OF LIABILITY AND INDEMNITY

- 13.1 the Administrator shall not be liable, and the User hereby waives any claim, for any direct or indirect loss or damage (including consequential or incidental harm) caused due to the Portal (or any content thereon) not being operational, accessible or fully functional for any period of time for any reason whatsoever.
- 13.2 Use of the Portal and the information contained thereon is at the sole risk of the User or prospective user.
- 13.3 Transmission of information via the Portal or the internet at large is subject to various risks, both in and out of the Administrators control. Each User expressly accepts the risks associated with transacting or accessing the Portal and/or internet.
- 13.4 The User irrevocably and unconditionally indemnifies the Administrator and holds the Administrator free from any loss, damages or claims suffered of any nature which may result as a result of the use of the Portal or any interruption of the Portal.
- 13.5 The Administrator makes no warranty or representation as to the availability, accuracy or completeness of the content of the Portal. The User expressly waives and renounces all rights of whatever nature that it may have against the Administrator for any loss or damages as a result of incorrect, incomplete or inaccurate information provided on the Portal.

- 13.6 Users agree to indemnify and hold harmless the Administrator, its officers, directors, employees, partners, suppliers and affiliates, from and against any losses, damages, fines and expenses (including attorney's fees and costs) arising out of or relating to any claims that the User has used the Portal in violation of another party's rights, in violation of any law, in violation of any provisions of the terms, or any other claim related to the User's use of the Portal.
- 13.7 The Administrator does not warrant that the Portal or information or downloads shall be error-free or that they shall meet any particular criteria of performance or quality. The Administrator expressly disclaims all implied warranties, including without limitation, warranties of merchantability, fitness for a particular purpose, non-infringement, compatibility, security and accuracy;
- 13.8 Whilst the Administrator has taken reasonable measures to ensure the integrity of the Portal and its contents, no warranty, whether express or implied, is given that any files, downloads or applications available via the Portal are free of viruses, or any other data or code which has the ability to corrupt, damage or affect the operation of the User's system;
- 13.9 The Administrator may use the services of third parties to provide information on the Portal. The Administrator has no control over this information and makes no representations or warranties of any nature as to its accuracy, appropriateness or correctness. The User agrees that such information is provided "as is" and that The Administrator and its online partners shall not be liable for any losses or damages that may arise from the user's reliance on it, howsoever these may arise.
- 13.10 The User hereby unconditionally and irrevocably indemnifies the Administrator and agrees to hold the Administrator free from all loss, damages, claims and/or costs, of whatsoever nature suffered or incurred by the Administrator or instituted against the Administrator as a direct or indirect result of:
- 13.10.1 software, programs and support services supplied by, obtained by or modified by the User or any third party

without the consent or knowledge of the Administrator;

13.10.2 The User's failure to comply with any of the terms or any other requirements which the Administrator may impose from time to time;

14 NOTICES

14.1 Except as explicitly stated otherwise, any notices shall be given by the User by email to the email address stated on the portal log-in page or by Ecentive to the e-mail address the User provided to Ecentive, or such other address that has been specified. Notice shall be deemed given 48 (forty-eight) hours after an email is sent, unless the sending party is notified that the email address is invalid. Alternatively, Ecentive may give you notice by registered mail, postage prepaid and return receipt requested, to the address which you have provided to Ecentive. In such case, notice shall be deemed given 7 (seven) days after the date of mailing. The User acknowledges that all agreements, notices or other communication required to be given in terms of the law or these terms and conditions may be given via electronic means and that such communications shall be "in writing". Notwithstanding anything to the contrary, a written notice or communication actually received by a party shall be an adequate written notice or communication to it, notwithstanding that it was not sent to or delivered at its chosen address(es) for that purpose.

15 JURISDICTION AND GOVERNING LAW

15.1 This Agreement shall be governed by and construed in accordance with the laws of the Republic of South Africa, notwithstanding the location that the User accesses or uses the Portal may be outside the Republic of South Africa.

16 COMPLIANCE WITH LAWS

- 16.1 The User is responsible to comply with all laws, statues, ordinances and regulations pertaining to use of and access to the Portal.
- 16.2 This Portal is controlled, operated and administered by the Administrator from its offices within the Republic of South Africa. The Administrator makes no representation that the content of the Portal is appropriate or available for use outside of South Africa. Access to the Portal from territories or countries where the content of the Portal is illegal is prohibited. Users may not use this Portal in violation of South African export laws and regulations. If the user accesses this Portal from locations outside of South Africa, that user is responsible for compliance with all local laws.

17 WHOLE AGREEMENT

- 17.1 This Agreement (together with the policies of the Administrator and terms and conditions of the Program) constitutes the entire Agreement between the Administrator and the User with regard to the use of the content and this Portal.
- 17.2 Any failure to act by the Administrator or any relaxation of the terms of this Agreement shall not be construed as a waiver or novation of the Administrator rights.

18 SEVERABILITY

If any provision of this Agreement is held to be invalid or unenforceable or contrary to any law for any reason, that provision is fully severable from the remaining provisions of this Agreement. Such invalid or unenforceable parts shall be considered *pro non scripto*.

19 GENERAL

- 19.1 The Administrator reserves the right to amend the Portal and/or this Agreement or any part(s) thereof at any time. This includes addition and removal of any of the terms and conditions of this Agreement and the features of the Portal.

- 19.2 The Administrator may modify its terms and conditions at any time. Modifications will be provided by notice via email to Users or by publishing the changes on the Portal. Nevertheless, it is the User's duty to acquaint itself with the contents of the Portal's terms and conditions and be aware that same may change from time to time at the discretion of the Administrator. Such amendments shall supersede and replace any previous terms and conditions of the Portal.
- 19.3 The User may not cede or assign its rights in terms of this Agreement without the prior written consent of the Administrator, which may be withheld.
- 19.4 The Administrator may record any correspondence with Users (whether telephonic, electronic or otherwise) but has full discretion whether to store such recordings.
- 19.5 The Administrator does not guarantee continuous, uninterrupted or secure access to the Portal, as operation of the Portal may be interfered with as a result of a number of factors which are outside of the Administrators control.
- 19.6 Words importing the singular shall include the plural and vice versa, and words importing the masculine gender shall include females and words importing persons shall include partnerships and corporate and unincorporated entities.
- 19.7 **If you do not understand any of the terms and conditions of the Administrator, you are encouraged to contact us and we will gladly be of assistance.**
- 19.8 **Should any User disagree with any of the terms and conditions of the Administrator, that User must refrain from accessing and using the Portal immediately.**