

Agreement between MyPay - Merchant

This Agreement governs the rights and obligations of Merchant signing the registration form ("Form") to which this Agreement is deemed to be attached.

1.1 Definitions

In this Agreement, the following words and expression shall have the following meanings unless the context otherwise requires:

"Business Day"

means a day (other than a Saturday, Sunday or public holiday) on which banks are open for business in Kuala Lumpur and the principal place of business of Merchant;

"Commencement Date"

means the date MyPay Sdn Bhd ("MP") accepts and register the Merchant as its authorized merchant to carry-out MP Transactions;

"Commission"

means the commission payable by MP to Merchant in accordance with the provision of this Agreement and based on the commission scale stipulated on MP documents or such other rates of commission as MP may determine from time to time or at any time during the Term;

"Customer" means customers of MP or members of the public who request Merchant to perform the MP Transactions;

"GPRS" means general packet data service technology provided by the telecommunication service providers that enables data transfers through cellular networks;

"Intellectual Property"

means all the intellectual property, know-how, trade secrets, confidential information, methodology, processes, copyright, trademark, service mark, design, patent rights and other intellectual or industrial property rights (whether registered or otherwise) which have been used or are being used or are entitled to be used by MP;

"Manual" means the MP Service Manual and such other updates, supplements, variations, amendments or modifications as MP may issue from time to time during the Term;

"Merchant" means the party whose details are more particularly set out in the Form and includes its successors-in-title and permitted assigns;

"MP" means MYPAY SDN BHD (Co.1100903-M), a company incorporated under the laws of Malaysia and having its business address at B3-2-11, Solaris Dutamas, 1 Jalan Dutamas 1, 50480 Kuala Lumpur, Malaysia;

"MP System"

means the payment system designed and developed by MP facilitating the MP Transactions;

"MP Transaction"

means any transaction involving the usage of MP System to pay bills, remittance and payment for goods and services supplied by merchant, vendors and billers registered with MP from time to time during the Term;

"MP Website"

means the website of MP, <https://scp.mypay.my> that is accessible by Merchant;

"Merchant Account"

means Merchant's account maintained with the bank or financial institution licensed under the Banking and Financial Institutions Act 1989 in Malaysia;

"Merchant Wallet"

means Merchant's account in the MP System in which Merchant's electronic money and commission are stored;

"MDR" means the merchant discount rate applicable to the Merchant for MP Transactions carried out by the Merchant via MP System, at such rate stipulated in the registration form;

"Parties" means collectively, MP and Merchant and **"Party"** shall mean any one of them;

"SMS" means the short text message sent to and from mobile telephones which text comprises words or numbers or an alphanumeric combination in accordance with the prevailing standards prescribed by the GSM Association;

"Term" means the period of two (2) years commencing on the Commencement Date unless earlier terminated in accordance with the terms of this Agreement;

"Terminals" means the equipment which Merchant is required to use in carrying-out the MP Transactions;

"Territory" means Malaysia; and

"this Agreement"

means this Agreement (and includes amendments, modifications and supplements hereto from time to time and any document which amends, modifies or supplements this Agreement as may be notified by MP to the Merchant by any of the means of communication stated in Clause 14.2).

1.2 Interpretation

In this Agreement, unless the context otherwise requires:-

(a) the Recitals and clause headings contained in this Agreement are for convenience only and do not affect the interpretation of this Agreement;

(b) words importing the singular include the plural and vice versa;

(c) words importing a gender include any gender;

(d) an expression importing a natural person includes any corporation or other body corporate, partnership, association, public authority, two or more persons having a joint or common interest, or any other legal or commercial entity or undertaking;

(e) a reference to a party to a document includes that party's successors and permitted assigns;

(f) any part of speech or grammatical form of a word or phrase defined in this Agreement has a corresponding meaning;

(g) a warranty, representation, undertaking, indemnity, covenant or agreement on the part of two or more persons binds them jointly and severally;

(h) any reference to "writing" or cognate expressions includes a reference to telex, cable, facsimile transmission or comparable means of communications and includes such notice or communication given in accordance with Clause 14 hereof;

(i) reference to clauses, schedules, paragraphs, annexures or appendices are references to the clauses or schedules in or paragraphs, annexures or appendices to this Agreement;

(j) any agreement, notice, consent, approval, disclosure or communication under or pursuant to this Agreement shall be in writing;

(k) words denoting an obligation on a party to do an act, matter or thing includes an obligation to procure that it be done and words placing a party under a restriction include an obligation not to permit an infringement of the restriction;

(l) the words "hereto", "herein", "hereinafter", "hereinbefore", "hereof", "hereunder" and other words of similar import shall refer to this Agreement as a whole and not to any particular provision;

(m) reference to a document shall include references to any sort of document whether paper or paperless and expressed, described or transcribed on any substance either with alphabets, figures, symbols and/or marks;

(n) no rule for the construction or interpretation of contracts shall apply to the disadvantage of either party for the reason that that party was responsible for the preparation of this Agreement or any part of it;

(o) any reference to the provisions of any legislation made thereunder includes any statutory modification, amendment, revision, replacement or re-enactment thereof;

(p) any reference to a date or time is a reference to that date or time at Malaysia; and

(q) where the day on or by which anything is to be done is a Saturday or Sunday or a public holiday in the place in which that thing is to be done, then that thing shall be done on the next proceeding Business Day.

2. Appointment of Merchant

2.1 At the request of Merchant, MP hereby agrees and appoints Merchant, on a nonexclusive basis, as an authorized merchant to carry out the MP Transactions. The term of this Agreement shall commence on the Commencement Date and shall terminate in accordance with the terms contained herein. A written endorsement by MP on this Form as to the date of registration of Merchant

as an authorized merchant is final and conclusive.

2.2 Upon the expiry of the Term, MP shall have the absolute discretion to renew the appointment for a further duration equivalent to the Term and upon such terms and conditions as MP may at its absolute discretion determine. In the absence of a notice of termination from MP at the expiry of the Term, the Merchant irrevocably and unconditionally agrees that this Agreement shall be automatically renewed for a further duration equivalent to the Term upon the terms and conditions contained herein.

2.3 As between Merchant and MP, MP is providing a payment processing service. MP shall not in any manner whatsoever be construed, at law or otherwise, to owe a fiduciary duty to the Merchant in respect of the payments made by the Customers through the MP System.

2.4 Merchant confirms and agrees that it shall observe and comply with the rules and regulations that MP may notify the Merchant by any of the means of communication stated in Clause 14.2 in relation to and in connection with the operation of the MP Transaction and the MP System.

3. Registration Requirements

3.1 The Merchant shall comply and fulfil with all registration requirements as MP may in its absolute discretion determine.

3.2 Upon receipt of MP's notification on the successful registration of the Merchant as an authorized Merchant of MP, the Merchant may then commence to carry out the MP Transactions as from the Commencement Date.

4. Merchant's obligations

4.1 Merchant shall use the Terminal to carry out the MP Transactions according to guidelines provided by MP.

4.2 Merchant shall pay the requisite application and processing fees prescribed in this Form for the preparation of the Terminal.

4.3 Merchant shall be liable for their own telecommunication charges whilst using Terminals to perform MP Transactions.

4.4 Subject to the provisions of this Agreement, Merchant shall permit all Customers, without discrimination, to effect the MP Transactions. The Merchant shall display prominently, the brand name and logo of MP and all other marketing or publicity materials that may be provided by MP, on or about the premises or website of the Merchant.

4.5 When carrying out each MP Transaction, Merchant shall comply with and observe the applicable rules and procedures determined by MP which are in force at any time during the Term.

4.6 If the Merchant fails or refuses to observe and comply with such applicable rules and procedures pursuant to Clause 4.5, the Merchant shall not be entitled to claim against MP for payment of such purported MP Transaction.

5. Merchant's Covenants

5.1 The Merchant hereby irrevocably and unconditionally agrees, covenants and undertakes with MP that the Merchant shall:

5.1.1 not use the MP System to promote and conduct any fraudulent, immoral, illegal activities or such activities that may infringe the intellectual property rights of third parties;

5.1.2 comply with and observe the procedures in connection with and in relation to the MP Transactions, as may be notified by MP from time to time during the Term; and

5.1.3 comply with and observe its duties, obligations, covenants and undertakings in this Agreement in its transactions with the Customers.

5.1.4 At all times to work diligently to protect and promote the interests of MP. In this respect, Merchant shall display prominently, the brand name and logo of MP and all other marketing or publicity materials that may be provided by MP, on or about the premises or website of Merchant;

5.1.5 In respect of the MP Transactions performed by Merchant for the Customers, Merchant must expressly notify and inform the Customers that:

(a) MP is excluded from any liability for:

(i) any delay caused by Merchant in notifying MP of the relevant MP Transactions;

(ii) any moneys paid to Merchant by the Customers for the performance of the MP Transactions if such moneys are not remitted by Merchant to MP;

(iii) any transaction or administrative charges imposed by Merchant on the Customers for the performance of the MP Transactions;

5.1.6 To ensure that the Intellectual Property is protected, including, without limitation:

(a) not to cause or permit anything which may damage or endanger the Intellectual Property or other intellectual property of MP or MP's title to it or assist or allow others to do so;

(b) to notify MP of any suspected infringement of the Intellectual Property or other intellectual property of MP and to take such reasonable action as MP may direct at the expense of MP in relation to such infringement;

(c) not to use the Intellectual Property otherwise than permitted by this Agreement;

(d) not to use any name or mark similar to or capable of being confused with the Intellectual Property;

(e) not to use the Intellectual Property except directly in the course of performing MP Transactions;

(f) not to use any of the Intellectual Property or any derivation thereof in its trading or corporate name;

(g) to compensate MP for any use by Merchant of the Intellectual Property

otherwise than in accordance with this Agreement;

(h) to indemnify MP for any liability incurred to third parties for any use of the Intellectual Property otherwise than in accordance with this Agreement; and

(i) on the expiry or termination of this Agreement, forthwith to cease to use the Intellectual Property;

5.1.7 At all times, to maintain such amount as MP shall in its absolute discretion determine, in Merchant Wallet;

5.1.8 To obey and discharge all instructions, orders, directives and statements of MP as may be issued from time to time in relation to the carrying out of Merchant's obligations and responsibilities as set out in this Agreement and in the absence of any such instructions, orders, directives or statements in relation to any particular matter, to act in such manner as Merchant ought reasonably to have considered to be most beneficial to MP;

5.1.9 To prepare and submit all supporting documents (including, without limitation, transaction slips) as MP may require in respect of the MP Transactions;

5.1.10 To maintain accurate and separate records and accounts for all work carried out for MP pursuant to this Agreement, which shall be inspected by MP from time to time;

5.1.11 To permit MP to inspect and make copies of all things material to the performance of all work done for MP and for this purpose to enter any premises used in connection with the discharge of Merchant's responsibilities and obligations under this Agreement;

5.1.12 To comply and ensure compliance with all applicable laws, legislation, regulations, rules, guidelines and directives (including, without limitation, the receipt of any relevant licences, consents, approvals and permits) in respect of the carrying out and completion of all work done for MP;

5.1.13 To diligently assist the Customers to register and to instruct and demonstrate to the Customers on the proper performance of the MP Transactions;

5.1.14 To access to the MP Website regularly to obtain the latest update and development of the MP System;

5.1.15 Not to describe itself as the agent or representative of MP except as expressly authorized by this Agreement;

5.1.16 Not to pledge the credit of MP nor to subject MP to any other financial liability without the express consent of MP;

5.1.17 Not to assign, charge or otherwise deal with this Agreement in any way without the express prior written consent of MP;

5.1.18 Not to make disparaging or defamatory remarks or comments,

whether in writing or verbal, in respect of MP, MP System or the MP Transactions;

5.1.19 Not to make any representations to the Customers or any other parties or to give any warranties other than those contained in any standard terms and conditions laid down by MP from time to time;

5.1.20 Not to use or disclose any information derived pursuant to this Agreement, including, without limitation, the personal information of the Customers (or any of them) for any purposes other than as permitted under this Agreement;

5.1.21 Not to use the MP System for any purpose other than to carry out MP Transactions; and

5.2 Merchant irrevocably and unconditionally acknowledges and confirms that the vendors and billers registered with MP for which MP Transactions are carried out may vary from time to time during the Term. In this respect, Merchant shall not be entitled to terminate its appointment herein based on the changes of such billers and vendors.

6. Payment

6.1 Subject to Clauses 6.3 and 9, MP shall credit the Merchant Wallet (after deducting the MDR) the value of each completed MP Transaction immediately, where payment is due from MP to the Merchant.

For the purposes of this Clause 6.1:

(a) "Customer Transaction Day" means the period from 12.01 a.m. to 12.00 a.m. of the following day; and

(b) "T" means 12.00 a.m. at the end of the Customer Transaction Day.

6.2 The Merchant may instruct MP (through such mode of communication as MP shall in its absolute discretion determine at any time during the Term) to remit the moneys (or part thereof) standing to the credit in the Merchant Wallet to the Merchant Account. MP shall remit the payment within one (1) Business Day after MP's receipt of the notification, in such form as MP may require, from the Merchant.

6.3 Notwithstanding Clause 6.1, MP reserves the right to withhold payment if MP is of the opinion that there is dispute, fraud, irregularity or, suspicious circumstances surrounding any MP Transaction. MP shall have the right to withhold payment until MP has examined and verified acceptable supporting documentation. The Merchant shall have no claim against MP for any interest, loss or damages, directly or indirectly arising out of or in connection with such payment withheld by MP.

6.4 In addition to and not in derogation of Clause 6.3, the Merchant agrees that MP shall not be held liable in any manner whatsoever for any delay in remitting the payment of the completed MP Transaction if such delay is due to circumstances beyond the control of MP,

including, without limitation, technical breakdown of the MP System.

6.5 In respect of MP Transactions performed by the Merchant, where money is due and payable to MP, arising from such MP Transactions, the Merchant hereby irrevocably authorizes and instructs MP to debit the relevant sums from the Merchant Wallet as and when such MP Transactions are duly completed.

6.6 For the avoidance of doubt, the commission and fee stipulated on MP documents are applicable to the MP Transactions only. MP shall determine, at its absolute discretion, the quantum, type and nature of commission payable to or fee chargeable on the Merchant in respect of such other applications or value-added services that may be developed and introduced by MP to Merchant to be promoted, marketed and sold at any time during the Term.

6.7 The Merchant irrevocably and unconditionally agrees and confirms that in consideration of MP facilitating the MP Transaction under the MP System, MP shall be entitled to impose the MDR on each MP Transaction pertaining to the sale of goods or provisions of services from the MP System and deduct the same from such payment to be made by MP to the Merchant in respect of such MP Transaction.

7. Procedure in carrying out MP Transactions

7.1 Merchant shall comply with and observe all procedures (including, without limitation, security procedures) as may be determined and notified by MP to the Merchant in relation to the carrying out of MP Transactions. If the Merchant fails or refuses to comply with and observe the procedures imposed by MP, MP shall not be liable or responsible for such attempted MP Transactions carried out by the Merchant.

7.2 For each MP Transaction in which the Customers have paid money to Merchant to perform, Merchant must immediately notify MP of such MP Transaction to enable MP to complete such MP Transaction. In this respect, MP shall only complete the MP Transaction if there is a credit value in Merchant Wallet. Otherwise, MP shall only complete the Merchant Transaction after Merchant top-up its Merchant Wallet to the requisite prepaid monetary value.

8. Non-Competition, Non-Disclosure

8.1 Merchant shall not either directly or indirectly, be involved in a business similar to or competing with the business of MP, in particular, the MP System during the Term and a period of one (1) year after the termination of this Agreement.

8.2 Merchant shall not:

8.2.1 at any time during or after the Term divulge or allow to be divulged to any person any confidential information relating to MP, the MP System, the MP

Transactions or the Customers other than to persons who have signed a confidentiality undertaking in the form approved by MP.

8.2.2 permit any person to act or assist in the performance of this Agreement until such person has signed such undertaking.

8.3 MP shall be entitled and the Merchant irrevocably and unconditionally consents and authorizes MP to the extent permitted by law, to disclose or release any information pertaining to the Merchant or the MP Transactions to such extent that MP may at its absolute discretion deem fit to:

8.3.1 such persons as MP may be required to disclose under the applicable law;

8.3.2 such other persons or entity pursuant to any governmental directive or order of the court; or

8.3.3 any other party whomsoever as MP may at its absolute discretion deems fit.

9. Disputed MP Transactions

9.1 MP shall not be responsible and liable to:

9.1.1 the Customers in any manner whatsoever for any goods, products or services purchased from the Merchant unless it is from the MP System; and

9.1.2 the Merchant in the event a Customer disputes an invalid MP Transaction.

9.2 Save for fraudulent MP Transactions alleged by a Customer, MP shall not be under any obligation or responsibility to investigate any disputes on the MP Transactions between the Merchant and a Customer.

9.3 All disputes on a MP Transaction shall be resolved between the Merchant and the Customer.

9.4 If MP receives a notification from the Customer in respect of an alleged fraudulent MP Transaction before 10.00p.m. on the same day of that alleged fraudulent MP Transaction, MP shall withhold the payment in respect of that MP Transaction pending investigation of the alleged fraudulent MP Transaction by MP. Any notification from the Customer received by MP after 10.00p.m. shall be dealt with in accordance with this Clause 9 on the next Business Day. For the avoidance of doubt, the Customer must notify MP of an alleged fraudulent MP Transaction within twenty-four (24) hours of its occurrence.

9.5 Within seven (7) days (or such other duration as MP may determine from time to time or at any time during the Term) from the Customer's notification of an alleged fraudulent MP Transaction to MP, the Customer shall furnish MP with all requisite supporting documents and information in relation to and in connection with the alleged fraudulent MP Transaction and complete such other forms and documents as MP may require.

9.6 If the Customer fails or refuses to comply with Clause 9.5, MP shall proceed to release to the Merchant the payment withheld in respect of that alleged fraudulent MP Transaction at the expiry of the seven (7) day period stated in Clause 9.5 or such other duration as MP may determine from time to time or at any time during the Term.

9.7 MP shall investigate the alleged fraudulent MP Transaction, including obtaining the written representation from the Merchant.

9.8 MP shall notify the Customer and the Merchant of the outcome of such investigation within thirty (30) days (or such other duration as MP may determine from time to time or at any time during the Term) from MP's receipt of all the documents and information stated in Clause 9.5.

9.9 The decision made by MP pursuant to the investigation shall be final, binding and conclusive, save for manifest errors.

9.10 Where the outcome of the investigation by MP:

9.10.1 shows that such MP Transaction is fraudulent, MP shall refund to the Customer the amount of the MP Transaction by crediting such amount into that Customer's account; or

9.10.2 shows that such MP Transaction is not fraudulent, the Customer shall be notified accordingly.

9.11 If, pursuant to the outcome of the investigation by MP, MP is required to make a refund to the Customer, MP shall utilize such monies of the Merchant standing to a credit balance with MP to make good such refund, failing which, MP shall advance the refund on behalf of the Merchant and such advances shall be a debt due and owing by the Merchant to MP.

9.12 In the event of any dispute with the Customers, the Merchant shall release MP, its agents, employees or licensees from any and all claims, demands and damages (actual or consequential) for every kind or nature arising out of or in any way connected with such disputes.

10. Suspension

10.1 If at any time MP determines that by reason of the introduction, imposition or variation of any law or any directive of any authority or any agency of any state or any change in the interpretation or application thereof, it is or will become unlawful, or contrary to any such directive, or impractical without breaching such law or directive, for MP, to provide or continue with the Services or the Activities under or pursuant to or in connection with this Agreement, or otherwise to give effect to its obligations under this Agreement, MP shall notify Merchant of the nature of the circumstances and:-

(a) MP shall cancel that/those affected MP Transactions; and

(b) Merchant shall within seven (7) Business Days or within such shorter

period which the relevant introduction, variation or change may allow (as certified by MP) comply with Clause 14 under or pursuant to or in connection with that/those cancelled MP Transactions.

10.2 If at any time, MP determines that, as a result of (a) the introduction of or any change in, or in the interpretation or application of, any law (which shall for this purpose include any removal or modification of any exemption currently in force in favour of MP) or (b) compliance by MP, with any directive of any authority or agency of any state or (c) the introduction of or any change in the costs in maintaining and providing the MP Transactions:-

10.2.1 the cost to MP, of maintaining or providing the MP Transactions (or any part thereof) and/or otherwise giving effect to its obligations under this Agreement is increased; and/or

10.2.2 any sum received or receivable by MP under this Agreement or the effective return to it under this Agreement is reduced (except on account of tax on its overall net income); and/or

10.2.3 MP is obliged to make any payment (except on account of tax on its overall net income) or forgo any return on or calculated by reference to the amount of any sum received or receivable by it under this Agreement;

MP shall notify Merchant of such increased cost, reduction, payment or forgone return. MP shall be entitled to, from time to time:

(a) increase, vary or modify the Commission, by issuing written notification to Merchant notifying Merchant of such increase, variation or modification; or

(b) cancel that/those affected MP Transactions, whereupon Merchant shall within seven (7) Business Days comply with Clause 14 under or pursuant to or in connection with that/those cancelled MP Transactions.

11. Force Majeure, Reliability of Third Party Service Providers

11.1 MP shall not be liable to Merchant:

11.1.1 for any loss by Merchant caused by the failure of MP to observe the terms and conditions of this Agreement and on its part to be observed and performed where such failure is occasioned by any cause beyond its reasonable control including, but without limiting, the generality by its failure to supply or delay in supplying any of the products or for any other cause whatsoever, including war, insurrection, fire, flood, earthquake, strikes, lock-outs, the unavailability of raw materials, delays in transport, break-downs in machinery, refurbishment of the location, restriction or prohibitions or other action by any government or semi-government authorities or embargoes; and

11.1.2 for any delay in Merchant's receipt of the notification from MP and

vice versa due to factors affecting the relevant service providers and other relevant parties. Merchant accepts that MP cannot guarantee the prompt delivery of such notification or confirmation.

12. Right and Effect Of Termination

12.1 Upon the happening of any of the events set out below MP may, at its absolute discretion, forthwith or at any time thereafter by fourteen (14) days prior notice in writing given to Merchant, terminate this Agreement and to revoke the appointment herein created without prejudice to any other remedy MP may have against Merchant:

12.1.1 if and whenever there shall be a breach of or non-observance or non-performance of any of the representations, warranties, covenants or conditions contained herein and on the part of Merchant and/or its employees to be observed and performed including failure to pay any of the fees and payment herein stipulated and such breach continues for fourteen (14) days after service by MP of a notice on Merchant requiring him to remedy same and informing him that if he does not remedy the same this Agreement may be terminated;

12.1.2 Any judgement obtained against Merchant remains unsatisfied for more than fourteen (14) days or Merchant shall have its property seized under any distress or execution process, makes any arrangements with or assignment for the benefit of its creditors or becomes a bankrupt or is the subject of any winding up proceedings or makes any arrangements or composition with its creditors;

12.1.3 Merchant has a receiver or a receiver and manager appointed over the whole or in part of its property or undertake or has an official manager appointed pursuant to the provisions of the Companies Act 1965 or any other legislation in substitution therefor;

12.1.4 Merchant defaults in performing or observing any terms, covenants or conditions to be observed or performed by it under any mortgage or other encumbrance over the assets of Merchant and such default materially affects the ability of Merchant to perform its obligations under this Agreement;

12.1.5 Merchant being a partnership changes its membership without the prior written approval of MP or is terminated or dissolved except in the event of death of a partner;

12.1.6 Where Merchant is a corporation, the control of Merchant by the shareholders who are shareholders as at the date of this Agreement is passed by them to other persons or corporation without the prior written approval of MP first being had and obtained;

12.1.7 Merchant being a natural person becomes of unsound mind or infirm or becomes a drug addict or an

alcoholic, meaning that he habitually uses drugs or intoxicating liquor to such an extent that he has lost the power of self-control with respect to drugs or intoxicating liquor;

12.1.8 After service by MP upon Merchant of two or more notices for a breach of the same covenants or conditions which on its part Merchant is to observe and perform by the terms of this Agreement; or

12.1.9 Merchant is engaged in or suspected of engaging in fraudulent, illegal or immoral activities or Merchant is conducting or suspected of conducting fraudulent, illegal, immoral or infringing third parties' intellectual property, transactions through MP System.

12.2 On the expiry or termination of this Agreement for whatever reason Merchant undertakes as follows:

12.2.1 to return to MP all stationery used in connection with the promotion of MP Transactions;

12.2.2 to return to MP all samples and promotional and advertising material used in connection with the MP Transactions;

12.2.3 forthwith to cease to use the Intellectual Property and to execute such confirmation of cessation of use of the Intellectual Property as is required by MP;

12.2.4 to return to MP all originals and copies of all documents and information in any form containing or covering in any way any part of the Intellectual Property;

12.2.5 to return to MP all equipment and things that are used by Merchant in connection with and in relation to the carrying out of the MP Transactions, including, without limitation, the Terminals, in accordance with the applicable policy of MP; and

12.2.6 forthwith to cease to carry out any MP Transactions.

12.3 Subject to due performance and compliance of Clause 12.2, upon termination of this Agreement in accordance with the terms contained herein, Merchant may request MP to remit the moneys (or part thereof) standing to the credit in Merchant Wallet to Merchant Account PROVIDED ALWAYS that there are no other sums due and outstanding from Merchant to MP.

13. Merchant's Undertakings

13.1 Merchant represents and warrants to MP that at the time of execution of this Agreement and at any time during the Term:

13.1.1 if Merchant is a company or corporation, it is a company or corporation duly incorporated and validly existing under the laws of Malaysia and has full power and authority to enter into this Agreement and the execution, delivery and performance of this Agreement are within its corporate power, have been duly authorized by all necessary corporate action, do not

contravene its memorandum and articles of association and do not violate any law or regulation or any judgement, order or decree of any governmental authority, or any contract or undertaking binding on or affecting it.;

13.1.2 if Merchant is a natural person, he has full power and authority to enter into this Agreement;

13.1.3 this Agreement constitutes the legal, valid and binding obligations of Merchant in accordance with their respective terms;

13.1.4 if Merchant is a company or corporation, it is solvent and able to pay its debts as and when they fall due and no event has occurred and no circumstance exists which might result in it being deemed unable to pay its debts within the meaning of Section 218(2) of the Companies Act 1965 of Malaysia and no winding-up proceedings have been instituted and are subsisting or are threatened, pending or current against it nor has it commenced any action for its voluntary winding-up;

13.1.5 if Merchant is a natural person, he is solvent and able to pay his/their debts as and when they fall due and has not committed any act of bankruptcy and no bankruptcy petition has been presented against or is subsisting, threatened or pending against him nor has any bankruptcy notice been served on him.

13.1.6 all acts, conditions, things, approvals, consents, authorizations and licences required to be done, fulfilled, performed or obtained in order for:

(a) Merchant to lawfully enter into, exercise its rights under and the obligations expressed to be assumed by it in this Agreement; and

(b) the obligations expressed to be assumed by Merchant in this Agreement are legal, valid, binding and enforceable, have been done, fulfilled, performed or obtained;

13.1.7 Merchant is not in default under any agreement to which it is a party or by which it is bound and no litigation, arbitration or administrative proceedings are presently current or pending or threatened which default, litigation, arbitration or administrative proceedings, as the case may be, might materially affect the ability of Merchant to enter into and/or to perform its obligations under this Agreement;

13.1.8 all information furnished by Merchant in connection with this Agreement, does not contain any untrue statement or omit to state any fact the omission of which makes any statements made therein in the light of the circumstances under which they are made, misleading, and are made on reasonable grounds after due and careful inquiry and Merchant is not aware of any material facts or circumstances that have not been disclosed to MP which might, if disclosed, adversely affect the decision of

a person considering whether or not to enter into this Agreement; and

13.1.9 there is no violation or contravention of any laws, directives, court orders, judgments, arbitration awards and the like have been committed by Merchant.

13.2 Merchant shall indemnify MP and hold it harmless from any claims, demands, liabilities, suits, proceedings, penalties, costs or expenses of any kind (including, attorney's fees and expenses on a full indemnity basis) howsoever arising, including, without limitation, those arising out of or in connection with, Merchant's business activities, performance or purported performance of this Agreement, breach of any provision, representation, warranty or covenant in this Agreement or any such provision, representation, warranty or covenant being untrue in any respect, and MP's enforcement of any provision of this Agreement. This provision shall survive the expiration or termination of this Agreement for any reason whatsoever.

14. Notices

14.1 All notices and documents required to be given by Merchant under this Agreement to MP shall be sent to MP by way of ordinary post or registered post to the following address (or such other address as MP may notify at any time or from time to time):

B3-2-11, Solaris Dutamas, 1 Jalan Dutamas 1, 50480 Kuala Lumpur, Malaysia.

Any notice or document sent by Merchant to MP shall be deemed served when such notice or document is received by MP.

14.2 All notices and documents required to be given by MP under this Agreement to Merchant shall be sent to Merchant by any one of the following methods:

14.2.1 ordinary or registered post to Merchant's last known address according to MP's records;

14.2.2 by facsimile to Merchant's last known facsimile number according to MP's records;

14.2.3 electronic mail to Merchant's last known electronic mail address according to MP's records;

14.2.4 posting the notice or communication on MP Website;

14.2.5 notices placed with or in any of MP's written communications to Merchant;

14.2.6 telephone call to Merchant's last known telephone number according to MP's records;

14.2.7 notices placed through any media; or

14.2.8 any manner of notification as MP may at its absolute discretion determine.

14.3 Any notice or document or communication given by MP to Merchant shall be deemed to be served and received by Merchant:

14.3.1 if sent by ordinary or registered post, within three (3) days of posting; or

14.3.2 if sent by other methods stated in Clauses 14.2.2 to 14.2.8, the Business Day following the sending of such notice or document.

15. Waiver And Severance

15.1 Any failure by MP to enforce at any time or for any period any one or more of the terms or conditions of this Agreement shall not be a waiver of them or of the right at any time subsequently to enforce all terms and conditions of this Agreement.

15.2 In the event that any provisions of this Agreement is declared by any judicial or other competent authority to be void, voidable, illegal or otherwise unenforceable the parties shall amend that provision in such reasonable manner as would achieve the intention of the Party or at the discretion of MP it may be severed from this Agreement and the remaining provisions remain in full force and effect unless MP decides that the effect of such severance is to defeat the original intention of the parties in which event MP shall be entitled to terminate this Agreement.

16. Acknowledgement Of Merchant

16.1 Merchant acknowledges that prior to having executed this Agreement it has carefully read the provisions of this Agreement and has understood them and has not relied upon any statement, representation or waiver made by MP or its servants, agents other than as set out herein. Merchant further acknowledges that the provisions of the MP System Manual forms an integral part of this Agreement.

17. Entire Agreement

17.1 This Agreement supersedes any prior agreement between the Parties whether written or oral and any such prior agreement is cancelled as at the Commencement Date but without prejudice to any rights which have been accrued to any of the Parties.

18. Governing Law And Jurisdiction

18.1 This Agreement shall be governed by Malaysian law in every particular including formation and interpretation. Any proceedings arising out of or in connection with this Agreement may only be brought in a court of competent jurisdiction in Malaysia.

19. Time Of The Essence

19.1 Time shall be of the essence wherever mentioned in this Agreement.

20. Variation

20.1 Merchant acknowledges and agrees that:

20.1.1 this Agreement may be modified, added to, deleted or varied by MP by way of posting on MP Website or in any such other manner as MP may in its absolute discretion determine;

20.1.2 Merchant shall access MP Website at regular intervals of time to view this Agreement and to ensure that

Merchant is kept up-to-date with any changes or variations to this Agreement; and

20.1.3 Merchant agrees that continued performance of the MP Transactions shall constitute Merchant's acceptance of this Agreement (as modified and varied from time to time).

21. Cost and Expenses

21.1 Merchant shall bear the stamp duty payable in respect of this Agreement. Each Party shall bear its own solicitors' costs and expenses in respect of the preparation and execution of this Agreement and all ancillary documents.

22. Further Assurances

22.1 Each party must do all things necessary (including, but not limited to, executing all documents) to give effect to this Agreement.

23. Assignment

23.1 Merchant may not assign its rights under this Agreement without the prior written consent of MP. MP shall be entitled to assign its rights under this Agreement to any of its related corporation without the prior written consent of Merchant. For the purposes of this Agreement, "related corporation" shall have the meaning ascribed thereto in the Companies Act, 1965 of Malaysia

24. Binding Effect

24.1 This Agreement shall be binding on the heirs, personal and legal representatives, estate, successors-in-title and permitted assigns (where applicable) of the Parties.

25. No Partnership

25.1 Nothing contained in this Agreement shall constitute or to be deemed to constitute a partnership between the Parties and none of the Parties shall have any authority to bind or commit the other save as authorized by this Agreement.

(the remaining space on this page has been left blank intentionally)

Agreed by

Signature :

Name:

IC Number:

Date:



MYPAY SDN BHD (Co.1100903-M)

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