

SPECIFIC TERMS: SUBSCRIBER TERMS AND CONDITIONS

20200612

THANK YOU FOR SUBSCRIBING THE SERVICES.

THIS SUBSCRIBER TERMS AND CONDITIONS (“SUBSCRIBER TERMS”) IS INCORPORATED INTO AND FORMS PART OF THE TERMS OF USE.

1. DEFINITIONS AND INTERPRETATIONS

1.1 Definitions.

All the capitalised words used in this Subscriber Terms will have the same meaning ascribed to it in the Terms of Use. You can thus rely on the same definitions unless we provide you with different definitions here to cater for the use of this Subscriber Terms. In such a case, you can rely on the definitions provided in the Subscriber Terms: -

“Account”	means an account opened by you with us to access and/or use the Services.
“Certificate of Acceptance”	means the certificate issued by us certifying that the Mobile App and/or the Services is ready for use by you, as the same is more particularly described in the Certificate of Acceptance.
“Charges”	means the total fees and charges payable by you to us, including but not limited to, as may be set out in the Subscription Form, Site Activation Form or any other relevant Form.
“Claim”	means any suit, claim, action, proceeding or investigation.
“Commencement Date”	means the date the Services commence or deemed to have commenced, as set out in the Certificate of Acceptance.
“Company’s API”	means ‘application programming interface’, a software intermediary that allows us to connect to your platform for the purposes of accessing and/or using the Services.
“Company Core Technology”	means our software, materials, software development tools, supplies, proprietary information, work product, files, technology, related scripting and programming and any related Intellectual Property Rights that we owned prior to the Effective Date of this Agreement or that Company creates or acquires independently of Company’s service under this Agreement or subsequent to this Agreement.
“Confidential Information”	means all information (including all oral and visual information, and all information recorded in writing or electronically, or in any other medium or by any other method) disclosed to, or obtained by Receiving Party from, the Disclosing Party or a third Party acting on that Disclosing Party’s behalf, and without prejudice to the generality of the foregoing definition shall include but not be

	limited to, any information relating to Disclosing Party's operations, processes, plans, intentions, product information, knowhow, designs, trade secrets, software, software application, backend technology, market opportunities, financial information, Personal Data, User, and business affairs and the terms and conditions of this Agreement.
"Consequential Loss"	means expenses incurred, loss of revenue, loss of profits, loss of anticipated savings or business, pure economic loss, loss of data, loss of goodwill, loss of use of our Platform and/or Service, loss of opportunity or expectation loss, and any forms of special, indirect, punitive or exemplary loss or damages, and any penalties or fines imposed by the Appropriate Authority, (even if such loss arises directly, naturally or in the usual course of things from any breach, action or inaction in question).
"Deposit"	means a sum which you may be required to pay by way of a deposit and as security, for the due observance and performance of the provisions of the Agreement, in a sum as may be specified in the relevant forms.
"Disclosing Party"	means the party disclosing Confidential Information.
"Effective Date"	means the application date set out in the Subscription Form.
"Equipment"	means any equipment which we provide to you for use during the Term, as the same is more particularly described in the relevant Form.
"Equipment Warranty"	means the terms and conditions covering free repair services in case of a malfunction occurred under normal use that has followed instruction manuals during Warranty Period.
"Force Majeure Event"	means any of the following events or circumstances that are beyond our control to the extent that such events or circumstances delay or make impossible to perform any of our duties and obligations or cause us to breach a representation, warranty or obligation under this Agreement: <ul style="list-style-type: none"> (a) acts of God including, without limitation, volcanic activity, tornadoes, hurricanes, floods, sinkholes, landslides, earthquakes and tsunamis; (b) any acts, orders, decisions or decrees of any Appropriate Authority which materially affect our ability to perform our obligations under this Agreement; (c) enactments of, changes in or the enforcement of any Laws (including any changes in the application or interpretation thereof) that materially affect our ability to perform its obligations under this Agreement; (d) political unrest, geopolitical tensions, strikes, lockouts, riots, acts of war, war (declared or undeclared), full or partial lockdowns of cities, travel bans, acts or threatened of terrorism, global health emergency, pandemics, epidemics; or (e) anything else outside our control.

“Indemnified Party”	means, us, our directors, shareholders, Personnel and/or Affiliate.
“Intellectual Property Rights”	means patents, trademarks, service marks, trade names, registered designs, designs, copyrights and other forms of intellectual or industrial property, know-how, inventions, formulae, trade secrets, processes, and proprietary information, and any other protected rights and assets, and any licenses and permissions in connection therewith, in each case in any part of the world and whether or not registered or registrable and for the full period thereof and all extensions and renewals thereof, and all applications for registration in connection with the foregoing.
“Kiple” or “we” or “us” or “ours”	means Kiple Sdn Bhd (1208256-A) and its Affiliate.
“Losses”	means any and all costs, judgments, fees, fines, damages, disbursements, penalties, liabilities, assessments, awards, direct losses, including, out of pocket costs or expenses (including interest, penalty, investigation, legal fees on a solicitor and client basis, accounting or other professional fees, and other costs or expenses reasonably incurred in the investigation, collection, prosecution and defence of any action and amounts paid in settlement) incurred in connection therewith.
“Minimum Contract Period”	means minimum period of twelve (12) months, or any other minimum subscription period, as set out in the relevant form.
“Non-Fixed Length”	means an agreement that does not have a minimum subscription term and it is a month to month agreement, as set out in the relevant Form.
“Party”	means either you or us.
“Parties”	collectively means you and us.
“Personnel”	means our employees, partners, agents, contractors, subcontractors, and/or other representatives.
“Portal”	means a portal software provided by us to you consolidating information, such as but not limited to, customer relationship management tools, digital dashboard, User Data, transaction details, and/or any other data and information.
“Promotion”	means a special promotion made by us in connection with the Services during the promotional period.
“Receiving Party”	means the Party receiving Confidential Information.
“Services”	means the Services subscribed by you, as set out in the Site Activation Form.
“Site”	means a residential property and/or commercial property which the Services will be activated and used, as set out in the Site Activation Form.

“Site Activation Form”	means the form which sets out the Services you will subscribe, the Site to be activated, the Charges and/or any other information or terms and conditions.
“Subscription Form”	means the application form which sets out the services available for subscription, the fees, and/or any other information or terms and conditions.
“Support & Maintenance Services”	means a separate subscription by you for continuance access and/us of Services, support and maintenance of the Equipment, on terms and conditions set out separately.
“Term”	means the total term subscribed for, including the Minimum Contract Period or Non-Fixed Length (whichever applicable), and/or where the context so permits shall include the Renewal Term.
“Warranty Period”	means the period of time set out in the Subscription Form in which we will provide such Equipment Warranty.
“You” or “Your”	means you, an entity in the form of any structure which may but not limited to sole proprietor, partnership, body corporate or government body and agency who acquire the Services for use in the ordinary course of business and/or to allow its User to access and/or use the Services.
“User”	means an end user who is accessing and/or using the Platform and/or Services.
“User Data”	means any Personal Data and any other data or information collected through the Portal.

2. APPLICATION

- 2.1 When you submit the Subscription Form and Site Activation Form, you are requesting us to supply the Services to you. We have the absolute discretion to determine your eligibility and shall have the right to accept or reject the application, without liability, even if we do not provide you with any reason. We may ask you for Deposit we deem fit.
- 2.2 e-Wallet services and payment gateway services are provided by our Affiliate, Kiplepay Sdn Bhd (510377-P/200001007771). The use of e-Wallet services and payment gateway services shall be governed separately and is subject to separate terms and conditions found in www.kiplepay.com.

3. PERSONAL DATA

- 3.1 If you are a sole proprietor or an individual forming part of a partnership, we will collect and process your Personal Data in accordance with our Privacy Policy. As such, please refer to our Privacy Policy.
- 3.2 If you are required to provide us with Personal Data of the User, you represent and warrant to us that you have obtained the relevant consent from each User to disclose their Personal Data to us.

- 3.3 Both Parties acknowledge their respective duties under the PDPA, and hereby undertake to comply with their obligations and duties under the PDPA and shall give all reasonable assistance to each other where appropriate or necessary to comply with any obligations arising under the PDPA which may be applicable to the Agreement.
- 3.4 We have no obligation under this Agreement to provide you with any User Data collected except through our Portal.

4. COMMENCEMENT

- 4.1 **Effective Date of Agreement**
The Agreement shall come into force on the Effective Date, and shall continue to be effective until terminated in accordance with this Agreement.
- 4.2 **Commencement of Services**
- (a) **Certificate of Acceptance.**
When we issue a Certificate of Acceptance, you must execute and return to us the Certificate of Acceptance within two (2) days of its receipt. If you fail to execute the Certificate of Acceptance within that period, it shall be deemed that you have accepted the Services and the Services shall commence on the Commencement Date.
- (b) **Where Minimum Contract Period Applies**
The Services shall commence on the Commencement Date for a Minimum Contract Period, and shall thereafter be automatically renewed or extended for successive term of twelve (12) months ("**Renewal Term**").
- (c) **Where Non-Fixed Length Applies**
The Services will commence on Commencement Date, on a month to month basis, until the Services is terminated in accordance with this Agreement.

5. EQUIPMENT

- 5.1 **Free Equipment**
If we provide you with any Equipment for free, such Equipment will be set out expressly in the relevant Form. Such Equipment belongs to you and you are responsible for the Equipment when you receive it from us.
- 5.2 **Purchased Equipment**
- (a) If you purchase any Equipment, the Equipment belongs to you and you shall be responsible for the Equipment when you receive it.
- (b) **You acknowledge, understand and agree that when you purchase the said Equipment from us, you will be allowed to have access and/or use our Services only during the Warranty Period. Upon the expiry of the Warranty Period, we will cease proving you our Services unless you subscribe to the Support & Maintenance Services. If at any time subsequent to the expiry of the Warranty Period, if you wish to subscribe to the Support & Maintenance Services, you understand and agree that we shall back charge by billing you the Charges from the day after the expiry of the Warranty Period. We, therefore, suggest you to subscribe to the Support & Maintenance Services.**

5.3 Our Equipment

Subject to Clause 5.1 and Clause 5.2, Equipment provided to you belong to us. Such Equipment is provided to you on a loan basis and it remains our property. You must ensure that: -

- (a) the Equipment must not leave the Site where the Equipment is installed;
- (b) you are responsible for the Equipment when you receive it;
- (c) you must take reasonable care of the Equipment;
- (d) you must be responsible for cost of repair or replacement if the Equipment is damage or faulty;
- (e) you must not alter or adapt the Equipment in any way not expressly authorized by us;
- (f) you must inform us immediately in the event the Equipment is malfunction, damage, lost or stolen;
- (g) you must allow us to enter the Site for the purposes of repairing the Equipment;
- (h) you must allow us to enter the Site for the purposes of uninstalling and removing the Equipment, upon request by us or upon termination; and
- (i) you must not allow any third party (not expressly authorised by us) to repair, replace and/or service the Equipment.

5.4 Agreed Liquidated Damages

In the event you breach Clause 5.2, you agree that we shall have the right to impose the fees set out in a Site Activation Form and you shall pay us such fees as agreed liquidated damages. Such fees shall immediately become a debt due and payable by you to us upon the occurrence of any of the event specified in the foregoing paragraph.

5.5 Equipment Warranty

Certain Equipment comes with Equipment Warranty during the Warranty Period set out in the Subscription Form. The terms and conditions relating to such Equipment Warranty, if any, is set out in the Website.

5.6 Third-Party Equipment.

We are not responsible for any third-party equipment Subscriber relied upon to access and/or use the Platform and/or Services. Subscriber must ensure that such third-party equipment conforms with the minimum standard requirements to enable Subscriber to use the Platform and/or Services.

6. BILLING AND PAYMENT TERM

6.1 Deposit

In the event you are required to pay a Deposit, such Deposit must be maintained during the Term. Without our prior written consent, the Deposit must not be deemed to be treated as payment of the Charges. Subscriber agrees that only we can apply such Deposit in any order to the amount owe to us and in such event, Subscriber must pay the additional sum as Deposit to us. Subject to the compliance of the Agreement and upon termination, we will refund the Deposit within thirty (30) days from the date of termination.

6.2 Payment Term

We will bill you for the Services and you shall pay the Charges in advance in accordance with the payment term set out in the Site Activation Form.

- 6.3 **Prompt Payment**
You acknowledge and agree that your obligation to pay promptly the Charges shall not be waived, absolved or diminished by virtue of: -
- (a) the non-receipt of any particular bill and it is your responsibility to request from us;
 - (b) non-usage of Services upon the Commencement Date; and/or
 - (c) any suspension of Services.
- 6.4 **kiplePay Services**
In the event you subscribe to kiplePay Services, all settlement shall be subject to the Merchant Terms.
- 6.5 **No Deduction, Set-Off or Counterclaim**
Any deduction, set-off or counterclaim is not allowed, save and except in accordance with Clause 7 where there is a dispute of amount and there is a finding by us that there is manifest error in the billing.
- 6.6 **Recovery**
We reserve the right, at any time, to send reminders or take debt collection measures including but not limited to mandating a debt collecting agency or solicitors to pursue the claim in court. If we engage such debt collecting agency, we may charge you a recovery fee including all costs and expenses incurred. If we institute legal proceedings, you shall pay us all fees, costs and disbursements (including but not limited to legal fees on a solicitor and client basis and courts fees) incurred by us in connection with such collection by such legal action.
- 6.7 **No Defence**
You agree that any dispute in relation to the quality of the Services shall not be used as a ground or basis for the delay or non-payment of the outstanding Charges payable pursuant to the Agreement.

7. DISPUTE ON INVOICE

- 7.1 If you have a dispute on a billing statement, you must give us a notice within fourteen (14) days from the date of the billing statement specifying (a) the entry/amount in dispute, (b) the reasons why such entry and/or amount is disputed, and any written records or documentary evidence supporting the dispute.
- 7.2 You irrevocably agree that in the event you fail to give us any notice in writing disputing the bill within fourteen (14) days from the date of the billing statement, then you are deemed to have accepted the entries specified in the billing statement as correct and accurate and such billing statement shall be binding and conclusive evidence against you of the correctness and accuracy of the entries specified in the billing statement and the amount due and owing by you to us in a court of law, save for any manifest error.
- 7.3 Upon receipt of the written notice, we will use our reasonable endeavour to resolve the dispute. We may, as and when we deem fit, conduct any investigation regarding the disputed amount. The result of the finding is deemed to be final and conclusive and binding on you and shall not be questioned by you on any account.

- 7.4 If we find that you are required to pay the disputed charges, you must pay the disputed charges within fourteen (14) days from the date of our findings. If our finding shows that you are not required to pay such disputed charges then such charges will be waived by us or we will provide a credit note.
- 7.5 Notwithstanding that you are not required to pay the amount in dispute pending resolution of dispute, you must still pay such portion of the bill that is not in dispute.
- 7.6 Any dispute relating to kiplePay Service shall be resolved in accordance with the Merchant Terms.

8. LATE PAYMENT CHARGES

- 8.1 We are entitled to charge and you must pay us late payment charges at the rate of 1.0% per month (before and after judgment) on all overdue Charges calculated on a daily basis, calculated from the day following the due date thereof to the date of actual payment of the full outstanding amount including accrued interest.

9. TAX

- 9.1 All sums payable under the Agreement is exclusive of service tax, value added or withholding taxes, imposts, duties or charges (the payment of which is your obligation) and if there is a requirement to deduct from any payment under the Agreement any value added or withholding taxes, service taxes or imposts, duties or charges, then you must pay to us such additional sum so as to enable us to receive in full the payment that would otherwise have been payable by you.

10. REPRESENTATIONS AND WARRANTIES

- 10.1 You represent and warrant to us as follow: -
- (a) this Agreement constitutes valid and legally binding obligations of yours and you have the full power and authority to execute the relevant Forms, documents, schedules or annexes, and has taken all requisite approvals in connection with the execution and performance under this Agreement;
 - (b) you have and shall maintain all licenses permits consents, approvals and other statutory requirements (including those required by foreign or international laws) applicable to the carrying on of your business and complied with all conditions requirements involved in the carrying of such business, and you are not aware of any breach thereof or any intended or contemplated refusal or revocation of any such license permit consent approval and/or other statutory requirement;
 - (c) the performance of the obligations and duties of the Agreement will not violate any agreement to which you are a party or by which it is otherwise bound; and
 - (d) all information required by and furnished by you to us in connection with or for the purpose of any of the Services provided hereunder are correct and accurate in every material aspect and are not false, misleading, deceptive, and/or unlawful and nothing herein shall imply any obligation on our part to verify the accuracy and authenticity of such information

10.2 You covenant and undertake to us as follow: -

- (a) not to use or permit the use of the Service for any fraudulent, unlawful, illegal, or improper purpose in breach of the Law,
- (b) not to use or permit to use of the Service to violate our rights, and/or third-party rights; and
- (c) not to infringe our Intellectual Property Rights or third-party's intellectual property.

11. DISCLAIMER AND EXCLUSION OF LIABILITIES

- 11.1 THE SERVICES AND EQUIPMENT ARE PROVIDED TO SUBSCRIBER ON AN 'AS IS' BASIS, WITH ALL FAULTS. WE DO NOT MAKE ANY REPRESENTATION OR WARRANTY OF ANY KIND, WHETHER ORAL OR WRITTEN, WHETHER EXPRESS OR IMPLIED, OR ARISING BY LAW, CUSTOM, COURSE OF DEALING, COURSE OF TRADE, WITH RESPECT TO THE SERVICES AND EQUIPMENT.
- 11.2 WE MAKE NO REPRESENTATION THAT THE DEFECT IN OPERATION OR FUNCTIONALITY OF THE SERVICES AND EQUIPMENT, IF ANY, WILL BE CORRECTED. WE DISCLAIM ANY AND ALL IMPLIED WARRANTIES ON CONDITIONS OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT.
- 11.3 NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY SUBSCRIBER FROM US OR FROM OUR PLATFORM, SHALL CREATE ANY WARRANTY OR OBLIGATIONS TOWARDS YOU.
- 11.4 OWING TO THE GLOBAL NATURE OF THE INTERNET INFRASTRUCTURE, WE DO NOT GUARANTEE CONTINUOUS, UNINTERRUPTED, OR SECURE ACCESS TO ANY PARTS OF THE SERVICES AND/OR PLATFORM, OR THE SERVICES (INCLUDING ANY NETWORKS AND SERVERS USED), IT MAY BE INTERFERED BY NUMEROUS FACTORS OUTSIDE OUR CONTROL.
- 11.5 WE ARE NOT LIABLE TO SUBSCRIBER AT ALL FOR MATTERS UNDER THIS CLAUSE.

12. INTELLECTUAL PROPERTY RIGHTS

- 12.1 You agree that we shall be the sole and exclusive owner of all Intellectual Property in the Company Core Technology and Company's API.
- 12.2 You acknowledge and agree that all Intellectual Property Rights with respect to the Services, work developed, or produced hereunder, including without limitation, any and all rights of identification or authorship and any and all rights of approval, restriction or limitation on use or subsequent modifications shall belong to the Company.
- 12.3 In the event that new inventions, designs or processes evolve in the performance of or as a result of this Agreement, you acknowledge and agree that all Intellectual Property Rights in the same shall belong to us.
- 12.4 With regard to any works subject to copyright ("Copyrighted Works") created under this Agreement, you agree that, to the maximum extent permitted by law, Copyrighted Works are not and will not be 'works made for hire', you hereby assigns all such rights exclusively to us in perpetuity.

- 12.5 Neither you nor your employees, agents or contractors acquire any Intellectual Property Rights under this Agreement except for the licenses expressly set forth herein. There are no implied licenses under this Agreement and any rights not expressly granted to you hereunder are reserved by us. We retain and own all right, title and interest in and to the Company Core Technology, Company's API, and all derivatives, enhancements and modifications thereof and you hereby agree to make all assignments necessary to accomplish the foregoing.
- 12.6 During the Term of the Agreement, we grant you a limited, non-exclusive, royalty-free, non-transferable licence to use the Company's API, Company Core Technology solely for the purpose of accessing and/or using the Services.
- 12.7 You agree to grant us a revocable, non-exclusive, royalty-free, and fully paid licence to use, exhibit, store, copy, reproduce, distribute, display, incorporate and/or publish your corporate and trade name, trade mark and service mark, material (such as but not limited to texts, graphics, words, photos, videos, design, logo, or any part of them) in all forms, formats and media or as developed in the future (including print, electronic and digital forms) for the purposes of marketing, promoting, exploiting, and advertising any of our Services.
- 12.8 In using the other Party's Intellectual Property Rights (or its licensor), each Party shall follow the other Party's reasonable instructions having regard to the purpose of such use under the Agreement and the jurisdiction in which the other Party's Intellectual Property Rights is used. With respect to intellectual property rights owned or licensed by third party, the other Party shall also follow instructions given by the third party. Either Party shall not use such intellectual property rights in a way that is or may be detrimental to the business or brand of the third party.
- 12.9 Either Party reserve the right at any time and in its sole discretion to require the other Party to stop displaying, distributing or otherwise making use of any Intellectual Property Rights licensed to one Party to the other Party.

13. CONFIDENTIAL INFORMATION

- 13.1 Receiving Party acknowledges that it will have access to certain Confidential Information of the Disclosing Party. Receiving Party agrees that it shall not use in any way, for its own account or the account of third-party, except as expressly permitted by the Agreement, nor disclose to any third-party (except as required by Law or Receiving Party's solicitors, accountant and other advisors as reasonably necessary), any of the Disclosing Party's Confidential Information and will take reasonable precautions to protect and safeguard the confidentiality of such information from disclosure to others, using the same degree of care used to protect its own Confidential Information.
- 13.2 Exception. Information will not be deemed Confidential Information hereunder if such information: -
- (a) is already in the public domain or becomes so through no fault of the Receiving Party;
 - (b) is independently developed by Receiving Party or any of its employees, agents or representatives who had no access to the Confidential Information provided by the Disclosing Party;
 - (c) is or was lawfully received by Receiving Party from a third-party, other than one who obtained the information either directly or indirectly as a result of a breach of any duty of confidence owed to the Disclosing Party; or
 - (d) is disclosed pursuant to Law provided that the Receiving Party promptly notifies the Disclosing Party of such requirement and reasonable opportunity is allowed by the Receiving

Party to the Disclosing Party to file for or obtain a protective order or otherwise proceed to protect, under any applicable Law, the interest of the Disclosing Party.

- 13.3 Remedies. Notwithstanding anything to the contrary in the Agreement, in the event any intentional breach of this Clause, the non-breaching party will be entitled to any remedies available at law and/or in equity.
- 13.4 This Clause shall survive the termination or expiration of the term of the Agreement.

14. ANTI-BRIBERY AND ANTI-CORRUPTION

- 14.1 Each Party shall: -
- (a) comply with all applicable laws, regulations, codes, sanctions relating to anti-bribery and anti-corruption;
 - (b) have and shall maintain in place throughout the Term of this Agreement adequate anti-bribery policies and procedures and will enforce them where appropriate; and
 - (c) promptly report to the other Party any request or demand for any undue financial or other advantage of any kind received in connection with the performance of this Agreement.

15. SUSPENSION OF SERVICES

- 15.1 We are entitled to suspend, revoke, refuse and/or block the use of the Service (or any part thereof), at any time, without liability, with or without notice: -
- (a) if there is any sum due and payable by you to us;
 - (b) if you breach any terms and conditions of the Agreement;
 - (c) if we reasonably suspect fraud, illegal and/or any other activity we deem improper;
 - (d) if you fail to cooperate with any investigation and/or enquiry conducted and/or carried by the Appropriate Authority, in respect of any suspected violation or violation of any Law;
 - (e) if we receive an order, instruction, notice and/or directive from any Appropriate Authority to do so;
 - (f) to protect Company's legitimate interest;
 - (g) if you commit an act of bankruptcy or suffer the presentation of a petition for liquidation or winding-up as the case may be, and we reasonably believe that we are unlikely to receive payment for amounts due from you;
 - (h) a Force Majeure Event; and/or
 - (i) any other reason as we deem fit.
- 15.2 In the event your Account and/or the Services has been suspended and you request for reactivation of the same, we may at its absolute discretion reactivate the Account and/or Services, subject to any additional requirements as may be determined by us.
- 15.3 The suspension exercised above shall not prevent us from exercising our rights to terminate the Agreement with respect of the same reason relied above.

16. YOUR LIABILITY

- 16.1 Your liability to the Indemnified Party is to indemnify the Indemnified Party from and against any and all Claims and Losses, as a result of: -
- (a) any transaction entered into between you and User;
 - (b) any breach of, or non-performance of, your representations, warranties, undertakings, covenants, or obligations under the Agreement;
 - (c) infringement of our Intellectual Property Rights, or third-party intellectual property rights;
 - (d) the access, use, and/or transmission of any Content, and/or User Generated Content;
 - (e) any unauthorized access to any of our Platform, Company's API, Company Core Technology, Personal Data, the Services, our network, and/or our supplier's network, through hacking, password mining and/or through any other means;
 - (f) personal injury to and/or death of any person, howsoever arising, due to any acts, omissions, and/or negligence caused by you, or otherwise caused by your employees, personnel, contractors, and/or agents;
 - (g) any loss, injury and/or damage to any movable and/or immovable property, howsoever arising, due to any acts, omissions, and/or negligence or otherwise cause by you, or otherwise caused by your employees, personnel, contractors, and/or agents; and/or
 - (h) breach of the Law.

17. OUR LIABILITY TOWARDS YOU

- 17.1 We undertake to indemnify you and keep Subscriber, at all times, fully indemnified from and against all Claims and Losses, as a result of: -
- (a) breach of, or non-performance of our representations, warranties, and/or obligations under the Agreement;
 - (b) breach of Confidential Information; and/or
 - (c) breach of the Law.
- 17.2 The Indemnified Party shall not be liable to you for any Claims and Losses, including Consequential Loss, for: -
- (a) any transaction you entered into between you and User and/or with any third party;
 - (b) any cessation (permanently or temporarily) in providing any of the Platform and/or Services (or any features within the Services);
 - (c) any inability to access the Platform, your Account, the Services, or any part thereof;
 - (d) the deletion of, corruption of, or failure to store, any data and other communication data maintained or transmitted by or through the Platform and/or Services;
 - (e) any unauthorised access to your Account, and/or Personal Data, even if such unauthorised access is caused by any act, omission and/or negligence on our part and/or that of our Personnel;
 - (f) compliance with Law, Appropriate Authority, or non-compliance which may affect the supply of Platform, Services, or any part thereof;
 - (g) any claim for libel, slander, infringement of third-party intellectual property rights;
 - (h) any Content, User Generated Content, and/or conduct of other User or other third party;
 - (i) personal injury to and/or death of any person, howsoever arising, due to any acts, omissions, and/or negligence or otherwise caused by us, our Personnel, any User and/or third party;

- (j) any loss, injury and/or damage to any movable and/or immovable property, howsoever arising, due to any acts, omissions, and/or negligence or otherwise cause by us, our Personnel, any User and/or third party; and/or
- (k) a Force Majeure Event.

17.3 Notwithstanding anything to the contrary, in the event the Indemnified Party is found liable, whether wholly or partially, by the Appropriate Authority or in a court with competent jurisdiction, you agree that our entire liability, if any, and your exclusive remedy, arising out of this Agreement and/or a particular Site shall not exceed an amount equal to the total amount paid by you to us in the last one (1) month preceding the date giving rise to the claim occurred, or Ringgit Malaysia Five Thousand (RM5,000.00) only, whichever is lower. This limitation shall apply regardless of the cause of action or legal theory pled or asserted.

18. EXCLUSION CLAUSE

18.1 Neither Party shall be liable to the other Party for any loss of revenue, contracts, customers, goodwill or anticipated savings or profits, wasted expenditure, or any indirect consequential, incidental, special, punitive or exemplary losses and/or damages whatsoever suffered incurred and/or sustained by either Party due to the breach of the Agreement, any expiration or termination of the Agreement (even if such loss arises directly, naturally or in the usual course of things from any breach, action or inaction in question), whether such liability is asserted on the basis of contract, tort (including negligence or strict liability) or otherwise, even if it has been advised of the possibility of such damages.

19. CONCLUSIVE EVIDENCE

- 19.1 Any admission or acknowledgement in writing by you or any person authorised by you of the amount of indebtedness to us and any judgment recovered by us against you of such indebtedness shall be binding and conclusive in all courts of law in Malaysia and elsewhere.
- 19.2 You expressly and irrevocably agree that a certificate of indebtedness issued by our officer shall be conclusive and binding evidence as to the amount for the time being due and owing by you to us and it shall be conclusive evidence against you in any legal proceedings.

20. TERMINATION BY YOU

20.1 Termination of the Agreement after the Effective Date but before execution of a Site Acquisition Form. In the event you shall unilaterally terminate the Agreement after the Effective Date but prior to execution of a Site Acquisition Form, you shall be liable to pay to us all cost and expenses incurred for work carried out.

- 20.2 Termination upon execution of a Site Activation Form but prior to Commencement Date.
In the event you shall unilaterally terminate the Agreement after the Effective Date but prior to execution of a Site Acquisition Form, you shall be liable to pay to us all cost and expenses incurred for work carried out.
- 20.3 Where Minimum Contract Period Applies
- (a) Termination after the Commencement Date but prior to the expiry of the Minimum Contract Period. In the event you shall unilaterally terminate any Site and/or the Agreement after the Commencement Date but prior to the expiry of the Minimum Contract Period, you shall be liable to pay us the Charges for the remainder of the Minimum Contract Period within twenty-one (21) days from the date of termination, as agreed liquidated damages.
- (b) Upon Expiry of Minimum Contract Period.
You may terminate a Site and/or the Agreement, at any time, after the expiry of the Minimum Contract Period by giving us sixty (60) days prior written notice in advance.
- 20.4 Where Non-Fixed Length Agreement Applies.
You may terminate a Site and/or the Agreement, at any time, after the expiry of the Minimum Contract Period by giving us sixty (60) days prior written notice in advance
- 20.5 Automatic Termination
In the event the Agreement is terminated in accordance with the foregoing provisions, all Sites shall automatically terminate and we shall cease to provide all Services to you.
- 20.6 Termination with Cause
You have the right to forthwith terminate this Agreement if: -
- (a) we breach any material terms or conditions of this Agreement and fail to rectify and remedy such breach within sixty (60) days from the date of its receipt of a written notice requiring it so to do;
- (b) we commit an act of bankruptcy or suffer the presentation of a petition for liquidation or winding-up as the case may be;
- (c) we make any arrangement for the benefit of or enter into any arrangement or composition agreement with its creditors; or
- (d) we permit or suffer any execution proceedings levied on any of its properties, premises, goods, fixtures, fittings, equipment, chattels and effects.

21. TERMINATION BY US

- 21.1 Our Rights to Terminate without Cause
Notwithstanding anything to the contrary, we may terminate this Agreement, at any time, with or without reason and without liability, by giving you sixty (60) days prior written notice in advance.
- 21.2 Our Rights to Termination with Cause
We have the right to forthwith terminate this Agreement if: -
- (a) you breach any terms or conditions of this Agreement and fail to rectify and remedy such breach within fourteen (14) days from the date of its receipt of a written notice requiring it so to do;
- (b) you commit an act of bankruptcy or suffer the presentation of a petition for liquidation or winding-up as the case may be;

- (c) you make any arrangement for the benefit of or enter into any arrangement or composition agreement with its creditors; Subscriber permits or suffer any execution proceedings levied on any of its properties, premises, goods, fixtures, fittings, equipment, chattels and effects;
- (e) if delay in performance or non-performance continues for more than twenty-one (21) days from a Force Majeure event.

21.3 Survival. Clauses 3, 9, 10, 11, 12, 13, 14 and those clauses which by their nature would survive the termination or expiration of the Consumer Terms shall so survive.

24. FORCE MAJEURE

- 24.1 Neither one of us shall be considered in breach of the Agreement to the extent that performance of their respective obligations is prevented by a Force Majeure Event. Payment obligation by you to us shall not be deemed to be affected by any Force Majeure Event. You shall continue to pay us any and all sum due and payable to us under the Agreement.
- 24.2 The Party affected (the "Affected Party") prevented from carrying out its obligations hereunder shall give notice to the other party of a Force Majeure Event upon it being foreseen by, or becoming known to, the Affected Party.
- 24.3 The Parties, shall in good faith, use their reasonable endeavour to overcome the effect of the Force Majeure Event, mitigate the effect of any of the Force Majeure Event, including by recourse to alternative solution mutually acceptable by both parties (which acceptance shall not be unreasonably withheld by either Party). If Minimum Contract Period applies, you shall continue to be liable for the payment of the remainder unexpired term.
- 24.4 If delay in performance or non-performance continues for more than six (6) months from such event then either Party will have the right to terminate the Agreement with immediate effect and neither Party shall have any claims against the other in respect of such termination save for antecedent breach.

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