

MASTER MERCHANT TERMS AND CONDITIONS

20200415

THANK YOU FOR BEING OUR PARTNER.

This Master Merchant Terms and Conditions (“Master Merchant Terms”) will be deemed an integral part hereof for all purposes, apply to the Service offered by us. Please read and understand the following Master Merchant Terms as it governs our relationship and how you access and/or use the Service.

IF AT ANY TIME YOU DO NOT ACCEPT ANY OR ALL OF THE MASTER MERCHANT TERMS IN ITS ENTIRETY, YOU MUST IMMEDIATELY DISCONTINUE BY TERMINATING THE SERVICE.

1. ABOUT THE SERVICE

- 1.1 The Service facilitates the execution of payment from customers to your Merchants on your behalf. In order for us to process such transactions, settlements and clearing activities on your behalf, you shall procure each and every of your Merchant to sign a separate merchant agreement with us. A copy of the merchant agreement can be found on kiplePay Website. We do not have any obligation to accept and provide any form of kiplePay Service to the Merchant. We have the absolute discretion to accept or reject an application, or any part thereof on the basis of its standard of conducting business, amongst other things, that certain process or procedures are not complied with. We will also not provide any kiplePay Service to any Merchant who refuses to and/or fails to sign up with us.
- 1.2 If you are our merchant too, selling goods and/or services to your customers, the terms and conditions of the Merchant Terms found on kiplePay Website shall apply. When we provide kiplePay Service to you, that part of our relationship shall be governed separately by that Merchant Terms.
- 1.3 The provision of the Service and availability of the Platform is subject to the Appropriate Authority and Law, and nothing contained in the Terms are in derogation of our rights and obligations to comply with such Appropriate Authority and Law.

2. DEFINITIONS AND INTERPRETATIONS

- 2.1 Definitions.
Unless the context otherwise requires, the following words and expressions shall have the following meaning: -

“Affiliate”

means any person or entity controlling, controlled by, or under common control of a company. "Control" means the ownership of the equity shares carrying fifty percent (50%) or more of the votes exercisable at a general meeting (or its equivalent) of a company.

“Agreement/ Master Merchant Agreement”	collectively means this Master Merchant Terms & Conditions, Master Merchant Onboarding Form, and all applicable forms, schedules, and/or annexes.
“Appropriate Authority”	means (i) the federal government of Malaysia, (ii) any state government, or local government, (iii) any agency, authority or instrumentality of any of the foregoing, including any court, tribunal, department, bureau, commission or board, or (iv) the relevant authority in a foreign country, if applicable.
“Claim”	means any demand, claim, action, proceeding or investigation.
“Confidential Information”	means: - <ul style="list-style-type: none"> (a) any information, whether in written or any other form, which has been disclosed by the Disclosing Party to the Receiving Party in confidence; and (b) any information, whether in written or any other form, which has been disclosed by the Disclosing Party to the Receiving Party and which by its nature ought to be regarded as confidential which may or may not have been disclosed to the other party under the Agreement, pursuant to the Agreement or otherwise in connection with the Agreement; or that becomes available to the Receiving Party during the term of the Agreement (regardless of whether it is marked in writing as “confidential”), such information to include Personal Data, Master Merchant Onboarding Form, Master Merchant Commission Schedule, Master Merchant Commission Change Notice, information in kiplePay Portal, trade secrets, and business sensitive information.
“Commission”	means the commission rate as set out in the Master Merchant Commission Schedule, as amended or updated from time to time.
“Credit Bureau”	means the Bank Negara’s Credit Bureau established under the repealed Central Bank of Malaysia Act 1958 and continues to operate under the Central Bank of Malaysia Act 2009.
“Credit Rating”	means information about your credit worthiness, credit standing, credit history or credit capacity.
“Credit Reporting Agency”	means a person who carries on a credit reporting business and is registered under the Credit Reporting Agencies Act 2010.

“Deduction”	means our charges & fees, Deposit, merchant discount rate cost, tax, chargeback, refund, fines or fees pass on to us by third party payment provider, online fraud, and any other charges or amount due under this Agreement.
“Deposit”	means a sum which you may be required to be paid by way of a deposit and as security, for the due observance and performance of the provisions of the Agreement, online fraud, refund, chargeback, and/or any fraudulent transaction, in a sum as may be specified in the Master Merchant Onboarding Form.
“Disclosing Party”	means the party disclosing Confidential Information.
“Early Termination Penalty”	means the agreed liquidated damages payable by you to us as a result of terminating this Agreement during the Minimum Subscription Period but before the expiry of the Minimum Subscription Period.
“Effective Date”	means the date the Agreement comes into effect, as specified in the Master Merchant Onboarding Form.
“Force Majeure”	<p>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:</p> <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.
“Kiple” or “Company” or “we” or “us” or “ours”	means Kiplepay Sdn Bhd (510377-P/ 200001007771).

“kiplePay Portal”	means an administration and reporting tools made available to you via online as part of the Program.
“kiplePay Service	means digital wallet service, payment gateway service, and/or any other services made available by us and subscribed by Merchant and/or you.
“kiple Website”	means the website owned and/or managed by us (as amended from time to time) currently accessible at www.kiplepay.com , excluding any external website to which the website points by way of hyperlink or otherwise.
“Law”	any law (whether domestic or international), statute, code, rule, guidelines, notices, ordinance, regulation, directive, order, judgment, writ, injunction or decree, and includes any changes in the application or interpretation thereof.
“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.
“Master Merchant” or “you” or “yours”	means an entity in the form of any structures which may include but not limited to sole proprietor, partnership, or body corporate, incorporated under the laws of Malaysia, who provides a platform to its Merchant to sell goods and/or services to its customers.
“Master Merchant Bank Account”	means bank account nominated by you and approved by us which we may debit or credit with payments in respect of Commission.
“Master Merchant Change Form”	means the form provided by us for you to change and amend your details, and any other information.
“Master Merchant Dispute Process Schedule”	means the process for resolving any discrepancy or disputes in relation to the Commission made available on kiple Website, as amended or updated from time to time.
“Master Merchant Commission Change Notice”	means the notice in such form and format provided by us informing you of the changes relating to the Master Merchant Commission Schedule.
“Master Merchant Commission Schedule”	means the schedule forming part of the Master Merchant Onboarding Form setting out the Commission, as amended or updated from time to time.

“Master Merchant Settlement Process Schedule”	means the process of settlement/payment of Commission made available on kiple Website, as amended or updated from time to time.
“Merchant”	means any merchant, vendor, retailer, operator, or any other person, firm and/or corporation, who is in the business of selling goods and/or services through your platform.
“Minimum Subscription Period”	means minimum period in which Master Merchant must subscribe as specified in the Master Merchant Onboarding Form.
“Personal Data”	shall have the same meaning as in the Personal Data Protection Act 2010.
“Platform”	collectively means kiple Website, kiple mobile application, kiple Portal, our social media, and/or any platforms (whether known now or in the future) made available by us from time to time.
“Promotion”	means a special promotion made by us in connection with the Program during the promotional period.
“Promotional Sign”	means banners, pamphlets, names or designs approved by us and provided to you from time to time.
“Receiving Party”	means the party receiving Confidential Information.
“Service”	means processing any Transaction, settlement and clearing activities for the Merchant on your behalf, and/or any other product or services made available, or removed by us from time to time.
“Term”	means the total term which you subscribed for, including Initial Term and/or where the context so permits, shall include the Renewal Term
“Transaction” or “Transact” or “Transacted”	means any transaction made between Merchant and customer.
“Transaction Report”	means Transaction history between Merchant and customer, Commission payable after Deduction, and/or any other information, made available in kiplePay Portal.

2.2 Interpretations.

Unless there is something in the subject or context, the following words are given the following interpretations: -

- (a) the singular includes the plural and vice versa and references to any gender includes a reference to all other genders;

- (b) a reference to any law includes references to such laws and regulations as they may be amended from time to time, supplemented or re-enacted;
- (c) this Agreement shall be construed as a reference to it or them as varied, supplemented or novated from time to time;
- (d) titles and headings of the Agreement is merely inserted for convenience for reference only and cannot have any effect on the interpretation or construction of the Agreement; and
- (e) just because we are responsible for the preparation of the Agreement, or any part of it, the rule of construction shall not apply to our disadvantage.

3. YOUR APPLICATION AND CREDIT RATING

- 3.1 We have the absolute discretion to determine your eligibility and shall have the right to reject your application without liability, even if we do not provide you with reason. Our decision is conclusive and binding on you and you have no right to question our decision. We may ask you for Deposit we deem fit.
- 3.2 This clause is applicable only if you are a sole proprietor or a partnership. When you provide us with your Personal Data, we will collect and process it in accordance with our Privacy Policy. To learn about how we collect and protect your Personal Data, please refer to our Privacy Policy. Any non-personal information or material sent to us by you will generally NOT be treated as confidential.
- 3.3 You agree that as part of the application process to satisfy Know Your Customer (KYC) requirements, we can check your Credit Rating through a Credit Reporting Agency and/or Credit Bureau. We can conduct further credit checks on you while you remain as a referrer. You understand that a credit inquiry could adversely affect your Credit Rating. Subject to any legal requirements under the Personal Data Protection Act 2010 to disclose Personal Data to you, we do not have to disclose our credit criteria or the reasons for our decision to you (regardless whether or not it relates to declining your application, providing a restricted Service to you, or otherwise). If you are not satisfied with the information provided by the Credit Reporting Agency and/or Credit Bureau, you will need to contact them directly. You are aware and agree that we may report your payment record to any Credit-Reporting Agency and/or Credit Bureau at any time.

4. TERM OF AGREEMENT

- 4.1 This Agreement shall come into force on the Effective Date and shall continue to have effect until terminated in accordance with this Master Merchant Terms.
- 4.2 Unless expressly stated otherwise in this Agreement, this Agreement shall continue to be in force for a minimum period of twelve (12) months ("Initial Term") from the Effective Date, unless terminated in accordance with the provision of this Master Merchant Terms. Thereafter, it shall be automatically renewed on a monthly basis ("Renewal Term"), unless terminated by either Party in accordance with the provisions of this Master Merchant Terms.

5. YOUR OBLIGATIONS

- 5.1 **Integration**
Depending on the Services you subscribed, you shall integrate the Service into your website or system and operate the same in accordance with the relevant process or policy we provide to you.
- 5.2 **Merchant**
You must onboard each Merchant with us. In doing so, you will need to assist by gathering certain information required by us from each Merchant in order to create their merchant account. This will allow transactions to be processed through their account and funds to be disbursed to them directly.
- 5.3 **Provision of kiplePay Service**
Notwithstanding the foregoing clause 5.1, we have no obligation to accept and provide any form of kiplePay Service to the Merchant. We have the absolute discretion to accept or reject an application, or any part thereof on the basis of its standard of conducting business, amongst other things, that certain process or procedures are not complied with.
- 5.4 **Relationship of the Parties**
You and us are independent contractors and this Agreement will not establish any relationship of partnership, joint venture, employment, franchise or agency between you and us. Neither you nor us have the power to bind the other or incur obligations on the other's behalf without the other party's prior written consent, except as otherwise expressly provided herein.
- 5.5 **Conduct of Business**
You shall: -
- (a) not disparage us, the Service, kiplePay Service, and/or our Platform;
 - (b) in all matters to act loyally and faithfully towards us;
 - (c) not use any and all of our trademarks, trade names, service marks, logos or corporate names nor any of its affiliates ("Marks") without our express prior written consent. Such Marks are and shall remain the exclusive property of ours and you have no rights therein. If you are unable or unwilling to comply with the provisions of this paragraph, you shall cease all use of the Marks. We reserve the right to review any and all of your use of the Marks to determine if such use is in compliance with this paragraph;
 - (d) conduct business in a manner that reflects favourably at all times on us, our Service, kiplePay Service and the good name, goodwill and reputation of ours;
 - (e) avoid deceptive, misleading, or unethical practices that are or might be detrimental to us and/or our business;
 - (f) make no representations with respect to the Service and kiplePay Service that is inconsistent with our practices including but not limited to warranties and disclaimers.
- 5.6 **Taxes and Fees**
If you receive a Commission under the Agreement, you are responsible for all taxes and fees resulting from it.
- 5.7 **Information**
You are responsible for providing the full and accurate information requested by us in connection with the Agreement. Such information includes, but is not limited to, contact details about the Sub- Merchant.

- 5.8 **Personal Data of Merchant**
The Merchant must be notified and have consented to their details, personal data and information being passed to us under this Agreement before you provide the details to us.
- 5.9 **Promotional Sign**
You shall ensure that the Promotional Sign is displayed conspicuously at your site and/or on your website payment pages.
- 5.10 **Prohibited Activities**
We will not work with Merchant who violates the Law. It is your responsibility to know whether the goods or services the Merchant is providing complies with the Law. The sale of illegal, unsafe, or other restricted goods or services, is strictly prohibited. You must inform us immediately if it comes to your attention of such sale of goods or services in breach of the Law. If required, you shall co-operate with us to investigate any suspected illegal, fraudulent or improper activity of such Merchant.
- 5.11 **Insurance**
You shall take out and maintain at your own expense appropriate insurances with reputable insurance company in respect of your obligations under the Agreement and under your agreement with your Merchant.
- 5.12 **Security**
You should, amongst other things, take the following steps to protect your Merchant and/or yourself from any fraudulent transaction: -
- (a) strong know your customer (“KYC”) recommendation to have Consumer’s details matched his/her National Registration Identity Card (“NRIC”) or passport;
 - (b) scan a copy of Consumer’s NRIC/passport for user profile verification (highly recommended);
 - (c) Malaysia credit cards or debit cards: 3D authentication for any Transaction, setting-up any recurring or auto top-up function;
 - (d) Foreign credit cards or debit cards: biometric finger print verification to complete a payment (since 3D authentication not applicable);
 - (e) biometric finger print verification for setting up recurring/auto top up;
 - (f) for 2D authentication (only for payment via merchant terminal) educate Consumer not to set a single digit password;
 - (g) use the address verification system (AVS); and
 - (h) use Card verification value (CVV).
- 5.13 **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 & Fees. You agree that only we can apply such Deposit in any order to the amount owe to us and in such event, you 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. THE COMMISSION

- 6.1 **Currency**
We will remit you the Commission to the Master Merchant Bank Account in Malaysian Ringgit (or such other currency as we may agree from time to time) by wire transfer or other method determined by us.
- 6.2 **Right to receive Commission**
The rights to receive the first Commission and our obligation to pay such Commission to you shall only arise when: -
- (a) your details are referred to as the 'Master Merchant' in the Master Merchant Onboarding Form;
 - (b) Merchant has entered into a legally binding agreement with us; and
 - (c) a Merchant has made its first transaction with a customer through the use of our Services.
- 8.3 **Payment of Commission**
Upon fulfilment of the pre-conditions set forth above, you will receive a Commission at the rate specified in the Master Merchant Commission Schedule. You understand and agree that the Commission payable by us to you is subject to the merchant agreement between us and the said Merchant. Any changes to, modifications to, amendments to, and/or termination of the merchant agreement would have an adverse effect on the Commission received by you. If there is no Transaction at all, you will not be receiving any Commission.
- 8.4 **Transaction Report**
The Transaction Report will be made available to you online on kiplePay Portal. You shall generate an invoice based on the Transaction Report on the 7th of each month and must include relevant information required by us. Upon receipt of a valid and original invoice, we will remit the Commission to you in accordance with the Master Merchant Settlement Process Schedule. The Transaction Report shall be deemed final and conclusive for the purposes of payment of any amount due under this Agreement, unless there is a manifest error.
- 8.5 **Invoice**
You acknowledge and agree that your failure to comply with the provisions of this Clause 8.4 may have inadvertent result of payments being made at a period beyond the Master Merchant Settlement Process Schedule and as such you acknowledge and agree that we shall not be held liable under any terms and conditions of this Agreement for late payment of invoices.
- 8.6 **Dispute on Transaction Report**
If you discover any discrepancy in, or have any dispute relating to the Transaction Report, you must give us a notice within thirty (30) days from the date of the Transaction Report 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. You irrevocably agree that in the event you fail to give us any notice in writing disputing the Transaction Report within thirty (30) days from the date of Transaction Report, then you are deemed to have accepted the Transaction Report and Commission payable as correct and accurate and shall be binding and conclusive evidence against you of the correctness and accuracy of the Transaction Report and Commission payable.
- 8.7 **Deduction**
In the event the value of Deduction exceeds the value of Commission payable, we shall be entitled to deduct from, set-off and/or hold back, any Commission payable against such shortfall. If we are unable to fully recover the shortfall, such shortfall shall become due immediately without notice.

8.8 Master Merchant Bank Account

- (a) You shall, at all times during the term of this Agreement, maintain a Referrer Bank Account acceptable to us for the purpose of enabling us to credit payments to you, and to debit any sums payable by you to us, by direct debit or otherwise as required by us. If you require more than one such account, you must obtain our prior written consent.
- (b) If you intend to change the Master Merchant Bank Account, you must give us at least thirty (30) days' notice prior written notice, accompanied by relevant documentations we required. We shall have no liability to you whatsoever for any loss caused by any delay in the payment of settlement funds to you due to and/or during such change in the Master Merchant Bank Account.

8.9 Change of Commission

The rates and basis of the Commission and Commission payable by us to you are, amongst other things, based on our charges and fees to the Merchant, and is therefore, subject to the merchant agreement between us and the said Merchant. We may change the rates or basis of our Commission at any time. We will notify you of the change of Commission by issuing a Master Merchant Commission Change Notice in accordance with Clause 19.1 (Notices).

8.10 Set-Off and/or Counterclaim

In addition to Clause 8.7, we shall be entitled to deduct from, set-off and/or counterclaim against any amount due to you: -

- (a) any amount which you are liable to pay us under this Agreement; and/or
- (b) any sum due and payable by you to satisfy any obligations or liabilities pursuant to any other agreement which we are parties.

9. PROMOTION

- 9.1 We may offer you a Promotion from time to time. The terms of each Promotion will either be set out separately in any of our Platform. If you participate the Promotion, the terms of the Promotion will prevail to the extent that the terms of the Promotion are inconsistent with the terms of this Master Merchant Terms, otherwise, the terms and conditions of this Master Merchant Terms shall continue to apply. After the Promotion expires, the Promotion will end and the full terms and conditions of the Master Merchant Terms will apply again.

10. REPRESENTATIONS AND WARRANTIES

- 10.1 Each party represents and warrants to the other party that: -

- (a) **Power and Authority.** The Agreement constitutes valid and legally binding obligations of each party and each party has the full power and authority to execute the Master Merchant Onboarding Form, any other documents, applicable schedules or annexes, and has taken all requisite approvals in connection with the execution and performance under this Agreement.
- (b) **Compliance with Law.** It has 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 each party's business and complied with all conditions requirements involved in the carrying of such business, and each party is 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.

10.2 You further represent and warrant to us that: -

- (a) 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
- (b) all information required by and furnished by you to us in connection with or for the purpose of the Program 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.

10.3 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;
- (c) not to infringe our intellectual property or third party's intellectual property; and
- (d) not to onboard any Merchant who operates an illegal business, engage in fraudulent, deceptive or manipulative act or practice.

11. **DISCLAIMER OF WARRANTIES AND LIMITATION OF LIABILITIES**

11.1 THE SERVICE IS PROVIDED TO YOU 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 SERVICE.

11.2 WE MAKE NO REPRESENTATION THAT THE DEFECT IN OPERATION OR FUNCTIONALITY OF THE SERVICE, 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 YOU FROM US OR FROM OUR WEBSITE SHALL NOT CREATE ANY WARRANTY STATED IN THE TERMS.

11.4 ANY MATERIAL, KIPLE MOBILE APPLICATION DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICE IS DONE AT YOUR OWN DISCRETION AND RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM, MOBILE DEVICE, OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL OR KIPLE MOBILE APPLICATION.

11.5 OWING TO THE GLOBAL NATURE OF THE INTERNET INFRASTRUCTURE, WE DO NOT GUARANTEE CONTINUOUS, UNINTERRUPTED OR SECURE ACCESS TO ANY PART OF THE PLATFORM, OR SERVICE (INCLUDING ANY NETWORKS AND SERVERS USED), IT MAY BE INTERFERED BY NUMEROUS FACTORS OUTSIDE OUR CONTROL. THERE ARE RISKS OF ONLINE FRAUD, IDENTITY THEFT, CREDIT CARD FRAUD, REFUND FRAUD, CHARGEBACK FRAUD, OR

ANY OTHER TYPES OF FRAUDULENT TRANSACTION, WE WOULD LIKE TO REMIND YOU TO TAKE EXTREME PRECAUTION.

11.6 WE ARE NOT LIABLE TO YOU AT ALL FOR MATTERS UNDER THIS CLAUSE 11.

12. INTELLECTUAL PROPERTY RIGHTS

- 12.1 For the duration and strictly for the purpose of the Agreement, the parties grant each other a non-exclusive, worldwide, royalty-free, non-transferable licence to copy, use and display any logo, trademark, trade name or other intellectual property owned by, or licensed to the other party, to the extent that each parties are entitled to grant a sublicense.
- 12.2 Except as expressly stated, nothing in the Agreement shall grant or be deemed to grant to any party any right, title or interest in any logos, trademarks, trade names or other intellectual property licensed to that party by the other party.
- 12.3 In using the other party's intellectual property (or intellectual property licensed to that other party by a third party), 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 is used. With respect to intellectual property owned or licensed by third party, you shall also follow instructions given by the third party. You shall not use such intellectual property in a way that is or may be detrimental to the business or brand of the third party.
- 12.4 Each party warrants and represents that it owns or has the right to use and sub-licence any intellectual property which it uses or licenses for use to the other party.
- 12.5 Without prejudice to our right to give instructions under Clause 12.3, we reserve the right at any time and in its sole discretion to require you to stop displaying, distributing or otherwise making use of the Promotional Sign, and/or intellectual property licensed to you by us.

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. INDEMNITIES AND EXCLUSION OF LIABILITIES

14.1 You undertake to indemnify us, our directors, officers, shareholders, employees and/or Affiliate and keeps us, our directors, officers, shareholders, employees, contractors, representatives, and/or Affiliate at all times fully indemnified from and against all Claims and Losses, however arising, as a result of: -

- (a) any breach of or non-performance of your undertakings, representations and warranties or obligations under the Agreement;
- (b) your failure to obtain consent from the Merchant before any personal data or information about the Merchant is passed to us;
- (c) infringement of our intellectual property or third party intellectual property;
- (d) misconduct, fraud, dishonesty, and/or negligence on your part in respect of the use of Service;
- (e) Clause 11.5;
- (f) breach of Confidential Information; and/or
- (g) breach of the Law.

14.2 We shall not be liable to you for Claims and/or Losses arising out of or from the following: -

- (a) any loss or damage which may arise as a result of any failure by you to protect your password or account;
- (b) any inability to access your account, or any part thereof;
- (c) the deletion of, corruption of, or failure to store, any Transaction, and other communication data maintained or transmitted by or through kiplePay Portal;
- (d) any prohibition, interruption, suspension, and/or discontinuance of use of any Service or Platform (whether in whole or in parts);
- (e) any Transaction between Merchant and its customers;
- (f) inaccuracy of information provided to us by your and/or Merchant resulting in wrong settlement with Merchant;
- (g) any suspension or refusal to accept payments which we reasonably believe to be made fraudulently or without proper authorization;

- (h) compliance with Law, Appropriate Authority, or non-compliance which may affect the Service, or any part thereof;
 - (i) any unauthorized access to your account, data, network or system, howsoever arising, even if such unauthorized access is caused by any act, omission and/or negligence on our part and/or that of our directors, officers, shareholders, employees, contractors, representative and/or Affiliate;
 - (j) any claim for libel, slander, infringement of third party intellectual property;
 - (k) a hardware, software or internet connection is not functioning properly;
 - (l) loss of data;
 - (m) any issue and/or dispute you may have with your sub merchant;
 - (n) any suspension of Services to your sub merchant; and/or
 - (o) an event of Force Majeure.
- 14.3 Notwithstanding anything to the contrary, in the event we, our directors, officers, shareholders, employees, contractors, representatives, and/or Affiliate are found liable, whether wholly or partially, by the Appropriate Authority or in a court with competent jurisdiction, you agree that we, our directors, officers, shareholders, employees, contractors, representatives and/or Affiliate total aggregate liability to you shall not exceed Ringgit Malaysia Ten Thousand (RM10, 000.00) only. This limitation shall apply regardless of the cause of action or legal theory pled or asserted.
- 14.4 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.
- 14.5 Either party (“Indemnifying Party”) will have the obligation and right to defend any claim, action, suit or proceeding brought against the other party (“Indemnified Party”) in so far as it is based on a claim that its goods, product, services and/or material infringes third party intellectual property right (“IPR Claim”). The Indemnifying Party shall indemnify Indemnified Party, against any final judgement entered in respect of such IPR Claim by a tribunal, and/or a court of competent jurisdiction and against any settlement arising out of such IPR Claim. In the event of such IPR Claim: -
- (a) Indemnified Party will notify the Indemnifying Party as soon as reasonably practicable of the IPR Claim;
 - (b) Indemnified Party will give Indemnifying Party authority for the conduct of the defence and settlement of the IPR Claim and any subsequent appeal, provided always that, Indemnified Party is allowed to engage its own solicitors to act on its behalf at the cost of the Indemnifying Party (on a solicitor and client basis); and
 - (c) Indemnified Party will provide all information and assistance reasonably requested by Indemnifying Party in connection with the conduct of the defence and settlement of the IPR Claim and any subsequent appeal.

15. OUR RIGHTS TO MAKE CHANGES

- 15.1 We can change any terms and conditions of this Master Merchant Terms, and any other terms and conditions which are made available on kiple Website, at any time with notice. When changes are made, it will be effective immediately upon posting on kiple Website. You understand and agree that if you continue to maintain an account with us after the date or continue to access and/or use the Service, on which such terms have changed, we shall treat you have accepted those changes.
- 15.2 Any term or condition in your communication or other documentation supplied by you which is different from, in addition to, or inconsistent with any term or condition specified herein is hereby objected to and rejected, and unless hereafter specifically accepted in writing by a duly authorized our representative with power to bind us, such term or condition will not be binding on or effective against us.
- 15.3 We are also constantly evolving in order to provide the best possible experience and information to you and Consumer. As such, you acknowledge and agree that the form and nature of our Service may change from time to time. As part of this continuing process, we may stop (permanently or temporarily) providing any of the Service (or any features within the Service) to you. We will provide you with advance notice. We shall not be liable for such change or discontinuance.

16. DATA PROTECTION, SECRECY AND ANTI-BRIBERY

- 16.1 **Your Personal Data**
 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.
- 16.2 **Personal Data of Customer**
 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.
- 16.3 **Secrecy**
 You acknowledge the strict requirement of secrecy obligation imposed upon the us pursuant to section 133 of the Financial Services Act 2013 and/or any other regulation and hereby undertake not to do or cause to be done any act or omission which may cause us to breach its strict duty of confidentiality and obligation aforesaid.
- 16.4 **Anti-Bribery**
 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.

17. SUSPENSION AND TERMINATION

- 17.1 We reserve the right to suspend the Service, and/or any Commission payment to you, at any time, without liability: -
- (a) if you breach the terms and conditions of the Agreement;
 - (b) to protect our legitimate interest;
 - (c) if we form a reasonable belief that your account possesses unacceptable high risk to us or to other users;
 - (d) if there is any sum due and payable to us by you;
 - (e) there is reasonable suspicion of fraudulent, and/or any illegal activity;
 - (f) 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;
 - (g) if we receive an order, instruction, notice and/or directive from any Appropriate Authority to do so;
 - (h) a Force Majeure event; and/or
 - (i) any other reasons as we deem fit.
- 17.2 The suspension exercised above shall not prevent us from exercising our rights to terminate the Agreement with you with respect of the same breach. Upon suspension, we will suspend all kiplePay Service to the Merchant.
- 17.3 Unless otherwise agreed in the Master Merchant Onboarding Form, in the event you shall unilaterally terminate this Agreement prior to expiry of the Minimum Subscription Period, you agree that you shall be liable to pay us the Early Termination Penalty at the rate specified in the Master Merchant Onboarding Form.
- 17.4 You may terminate this Agreement at any time after the Minimum Subscription Period, by giving us sixty (60) days notice in advance. If the Minimum Subscription Period is not applicable, you may terminate this Agreement at any time by giving us sixty (60) days notice in advance.
- 17.5 We may terminate this Agreement at any time by giving you sixty (60) days notice in advance.
- 17.6 Either party shall have the right to forthwith terminate the Agreement if: -
- (a) the other party shall breach any term or condition 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) the other party commits an act of bankruptcy or suffer the presentation of a petition for liquidation or winding-up as the case may be; or
 - (c) the other party makes any arrangement for the benefit of or enter into any arrangement or composition agreement with its creditors; the other party permits or suffer any execution proceedings levied on any of its properties, premises, goods, fixtures, fittings, equipment, chattels and effects.
- 17.7 This Agreement will automatically terminate and cease to have any effect if all the Merchants terminate the agreement with us;
- 17.8 Upon termination: -

- (a) you will stop all use of any Promotional Signs and material provided by us;
- (b) we will cancel any scheduled or incomplete Transaction between Merchant and its customers. We shall have no liability towards such Merchant as a result of such termination; and
- (c) you will cease to receive any Commission,

17.9 Upon termination, neither party shall have any claims against the other in respect of such termination save for any antecedent breach.

18. DISPUTE RESOLUTION

18.1 In the event of any dispute between the parties hereto arising from or relating to the Agreement then, upon written request by either party, each of the party will appoint a designated representative to use its best effort to resolve such dispute. The designated representative shall be executives with sufficient authority to engage in good faith and capable of binding the party he represents.

18.2 In the event that such dispute or claim cannot be resolved by the designated representative within thirty (30) days from the referral of such dispute to the designated representative, the same shall be resolved in the manner specified in Clause 19.8.

19. GENERAL PROVISIONS

19.1 Notice.

If you wish to lodge a complaint, dispute relating to the Program, or serve us a demand letter, legal process, or other communication relating to that (collectively known as "Formal Notice"), you should address a copy of the Formal Notice to our legal department. The Formal Notice can be delivered by hand, courier and/or prepaid registered post to the following address: -

Head of Legal
Kiplepay Sdn Bhd
The Ascent, Paradigm
B-23A-3, No 1 Jalan SS7/26A
47301 Petaling Jaya, Malaysia

We can serve a Formal Notice or other communication to you by electronic email, delivered by hand, courier and/or prepaid ordinary post or registered post (not being AR Registered), facsimile to the address you provided to us. We can also serve you a Formal Notice, or other communication to your last known address in our record.

Formal Notice or other communication shall be deemed effective: -

- (a) If by electronic email or hand deliver, on the day of delivery;
- (b) If by prepaid registered post, three (3) days after it was duly posted;
- (c) If by courier, 1 day after dispatch; or
- (d) If by facsimile, on the day of transmission provided that the transmission report from the sender's facsimile machine confirms that transmission is in full and without error.

You agree that in the event that any action is begun in the courts in Malaysia, the legal process and other documents may be served by posting the documents to you by registered post (not being AR Registered Post) at the address you provided to us or to your last known address in our records and such service shall on the fifth (5) day after posting, be deemed to be good and sufficient services of such legal process or documents.

19.2 What happens if there is an event of Force Majeure?

- (a) Neither one of us shall be considered in breach of the Agreement to the extent that performance of their respective obligations is prevented by an event of Force Majeure that arises after the Effective Date.
- (b) The party affected (the "Affected Party") prevented from carrying out its obligations hereunder shall give notice to the other party of an event of Force Majeure upon it being foreseen by, or becoming known to, the Affected Party.
- (c) As soon as reasonably practicable following the date of commencement of an event of Force Majeure, the Affected Party shall submit to the other party reasonable proof of the nature of the event of Force Majeure and its effect upon the performance of the Affected Party's obligations under this Agreement.
- (d) If and to the extent that we are prevented from providing the Services by the event of Force Majeure, while we are so prevented, we shall be relieved of our obligations to provide the Services.
- (e) The parties, shall in good faith, use their reasonable endeavour to overcome the effect of the event of Force Majeure, mitigate the effect of any event of Force Majeure, including by recourse to alternative mutually acceptable by both parties (which acceptance shall not be unreasonably withheld by either party) sources of collaboration contemplated by this Agreement.
- (f) 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.

19.3 No Partnership.

You and we are independent contractors and the participation of the Program will not establish any relationship of partnership, joint venture, employment, franchise or agency between you and us. You do not have the power to bind us or incur obligations on our behalf without our prior written consent, except we expressly said so.

19.4 When do we waive a right under the Master Merchant Terms?

If you breach the terms and conditions of the Agreement and we do not exercise a right that we have because of your breach, we do not necessarily waive our entitlement to exercise that right because of your breach at any later time. Any waiver given must be given by us in writing signed by our then Chief Executive Officer.

19.5 When can you and we transfer, assign or novate the Master Merchant Terms?

You are not allowed to transfer, assign or novate your agreement with us (or any part thereof) to any third -party unless we give you written consent to do so. We may, however, transfer, assign

or novate the Program, and/or the Agreement (or any part thereof) to our Affiliate or any third party by giving you written notice. The Agreement shall inure to the benefit of your permitted assigns and successors and our permitted assigns and successors.

19.6 Severability.

In the event any provision of the Agreement is held by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not, in any way, be affected or impaired.

19.7 Limitation Period

You agree that any cause of action arising out of or related to the Program must commence within twelve (12) months after the cause of action arose; otherwise, such cause of action is permanently barred.

19.8 Language.

If the Agreement is translated into any other languages and there is a conflict between this English version and any foreign language version of the Agreement, the English version shall prevail.

19.9 Governing Law

The Agreement is governed by the laws of Malaysia without regard to principles of conflicts of law. You and we submit to the exclusive jurisdiction of the courts of Malaysia, and you waive any objections on the ground of venue or forum non-conveniens or any similar grounds.

19.10 Entire Agreement

The Agreement sets out the entire agreement between you and us and supersedes any prior arrangements or agreements that we may have with each other, whether it is oral or in writing.

19.11 Transmission of Original Signatures and Executing Multiple Counterparts

If there is any document requiring your signature, such original signature transmitted and received via facsimile or other electronic transmission of a scanned document, (e.g., pdf or similar format) is true and valid signature for all purposes hereunder and shall bind the two of us to the same extent as that of an original signature.

If you are required to place your signature electronically on any digital device or equipment, such signature is true and valid signature for all purposes hereunder and shall bind the two of us to the same extent as that of an original signature. The same principle will apply if this electronic signature is then printed out.

Should you have any questions concerning the Master Merchant Terms, please contact our Customer Service Support.

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