

## Paydee Payments Terms and Conditions (Merchant Agreement)

The Terms and Conditions govern the Merchant's use of Visa & Mastercard Payment Card Acceptance Services (Payment Services) provided by Paydee at your request, consent and authorization. The merchant is deemed to have read, understood, agreed and accepted these Terms and Conditions upon the activation of the Payment Services by the Merchant.

Given the foregoing, the Merchant should read and understand these Terms and Conditions carefully prior to the activation of the Payment Service. If the Merchant does not accept or agree to these Terms and Conditions, please contact us as soon as possible and/or cancel the Payment Service.

### 1. DEFINITIONS

1.1 In this Agreement, the following terms and expressions shall have the meaning assigned to them unless the context requires otherwise:-

"Agreement" means this Application Form, Schedule and any other documents or notices issued pursuant to this Agreement.

"Authorisation" means the process of obtaining an approval code from an Issuer by Paydee for a Payment Card Transaction.

"Business Day" means any day (except Saturdays, Sundays and Public Holidays) on which Paydee is opened for business.

"Cardholder" means any person who is the holder of a Payment Card and uses it to pay for goods and/or services from a Merchant.

"Chargeback" means any sum claimed by an Issuer of a Payment Card against Paydee or any other loss suffered by Paydee in relation to a Payment Card Transaction for whatever reason whether by way of a Merchant related fraud, third party fraud or otherwise.

"Charge Card" means a Payment Card which has a prescribed monthly spending limit granted by the Issuer to the Cardholder and any amount utilised by the Cardholder must be settled in full on or before a specified date.

"Credit Card" means a Payment Card which indicates a line of credit or financing granted by the Issuer to the Cardholder and where any amount of the credit utilised by the Cardholder has not been settled in full on or before a specified date the unsettled amount may be subject to interest or finance charges until full settlement is made.

"Debit Card" means a Payment Card where the Payment Card Transaction amount is deducted directly from the Cardholder's current or saving's bank account upon Authorisation.

"Designated Payment Instrument (DPI)" means any or all of the following payment instruments prescribed as designated payment instruments under the FSA or designated Islamic payment instruments under the Islamic Financial Services Act 2013, including but not limited to (a) Credit Card/Credit Card-i; (b) Charge Card/Charge Card-i; or (c) Debit Card/Debit Card-i; or (d) Electronic money and for the purpose of this Agreement the term "electronic money" shall also mean a "Prepaid Card".

"e-Commerce" means the buying and selling of goods and/or services that are being conducted over computers, tablets, smartphones, or other electronic devices, using the internet.

"Electronic Data Capture Terminal" or "EDC Terminal" means any and all EDC terminals, electronic data capture system or any other terminals which are provided by Paydee or Vendor or the Merchant's approved payment gateway service provider to facilitate the processing of the Payment Card Transactions and perform the Settlement Function.

"EMV" means the global standard managed by EMVCO to facilitate worldwide interoperability and acceptance of Payment Card Transactions.

"Intellectual Property Rights" means all vested contingent and future intellectual property rights including but not limited to programmes developed by a Party, copyright, patents, trademarks, service marks, trade names, registered design, get up, database rights and any applications for the protection or registration of these rights and all renewals, extensions thereof in any part of the world whether now known or in future created to which the Party may be entitled.

"Issuer" means any bank or financial institution or other organisation or institution authorised to issue a Payment Card and includes Paydee and their respective successors-in-title and assigns.

"MasterCard" means MasterCard Worldwide Inc., 2000 Purchase Street, Purchase, and NY10577 United States of America and includes its successors-in-title and assigns which is an approved operator of a payment system.

"Merchant" means the party and / or parties, who is a business entity or other person or firm or corporation, its employees, servants or agents which pursuant to this Agreement agrees to accept valid Visa and MasterCard Payment Cards and any other Payment Cards whether or not issued by Paydee, when properly presented.

"MID" means the unique identification number assigned by Paydee to the Merchant under the terms of this Agreement for each of the Payment Card Acceptance Services and/or outlets as the case may be as further mentioned in the Schedule and/or Application Form

"MDR" means the Merchant discount rate chargeable by Paydee to the Merchant at the agreed rate (as stated in the Schedule and/or Application Form), in per centum of the value shown on the Transaction Slip(s) or any other revised rate or rates as determined and notified by Paydee to the Merchant in writing from time to time.

"Party" means either Paydee or Merchant and "Parties" shall mean both Payee and Merchant.

"Payment Card" means any DPI or any other payment instrument that is associated with or bears the logo of an approved payment system operator, and any reference to "Payment Card" shall include a reference to both consumer and commercial cards which are issued by an Issuer from time to time and which are embedded with the EMV compliant Chip with or without the PIN and/or magnetic stripe feature for acceptance by the Merchant under the terms of this Agreement as further described in the Schedule.

"Payment Card Acceptance Services" means the services that may be provided by Paydee to the Merchant to process the Payment Card Transactions of the Merchant under the terms of this Agreement as further described in the Schedule and may include any of the following:-

- (a) "POS Transaction Acceptance" means a Payment Card Transaction performed through the use of EDC Terminals.
- (b) "Recurring Transactions / Auto Debit Service Acceptance" means an arrangement whereby Cardholder may pre-authorise Merchant to automatically charge Payment Card account on a recurring or auto-debit basis.
- (c) "Mail Order Telephone Order Transaction Acceptance" or "MOTO" means a Payment Card Transaction performed via mail and / or telephone upon submission of an Authorisation Payment Form or any other accepted form by a Cardholder to the Merchant.
- (d) "Pre-authorisation" means a temporary hold of a specific amount of the Payment Card until the Merchant performs a settlement which the actual amount charged shall be posted to the Cardholder.
- (e) "e-Commerce" transaction.

"Payment Card Transaction(s)" means the payment to the Merchant by a Cardholder through the use of a Payment Card for a purchase of goods and/or services.

"PIN" means in relation to a Cardholder, the Personal Identification Number of the Cardholder which is to be used by the Cardholder to validate a Payment Card Transaction.

"Point-of-Sale (POS)" means the point or location where a Payment Card Transaction is conducted or completed.

"Prepaid Card" means a Payment Card with electronic money stored in a host system or in the card which can be used to conduct card-present transactions both locally and abroad, as well as, card-not-present transactions.

"Referral Response" means a response received at the EDC Terminal during the Authorisation process which requires the Merchant to contact Paydee for further instructions before completing the transaction from the Merchant.

"Retrieval Request" also known as a copy request which is made by the Issuer to Paydee to obtain a copy of the Transaction Slip(s) needed for a particular transaction from the Merchant.

"SST" means the Malaysian Sales and Service Tax.

"Settlement Function" means the procedures required of and carried out by the Merchant via the EDC Terminal and/or online portal for the purposes of transmitting the data consisting of all the Payment Card Transactions on a daily basis to Paydee to enable Paydee to submit the payment claims to the Issuer through either the MasterCard or Visa payment system.

"Split Sale" means the process by which a Merchant uses two or more sales draft for a single transaction to avoid authorisation limits. In effect, a sales transaction is split when a Merchant divides the cost of a single transaction between two or more sales receipts, using a single cardholder account.

"Transaction Slip(s)" means any of the following:

- (a) "Authorisation Payment Form" means the relevant forms, notices or papers used in connection with MOTO transactions upon which Cardholder has in writing authorised the Merchant, Paydee and Issuer to charge the amount contained thereon to the Cardholder's account with the Issuer.
- (b) "Enrollment Form" means the relevant forms, notices or papers used in connection with Recurring Transactions / Auto Debit Service Acceptance upon which Cardholder has in writing authorised the Merchant, Paydee and the Issuer to charge the amount contained and for the duration thereon to the Cardholder's Card account with the Issuer.
- (c) "Sales Slip" means the relevant documents generated after the completion of a Payment Card Transaction arising from the use of an EDC Terminal to charge the amount contained thereon to the Cardholder's Payment Card account with the Issuer.

"Terminal Identification Number (TID)" means as an identification number assigned to each EDC Terminal by Paydee to a Merchant to identify the source of a Payment Card Transaction.

"Vendor" means the vendor who is authorised by Paydee to enter into an Agreement with the Merchant for the rental or sale of the EDC Terminal.

"Visa" means Visa International Inc., P.O. Box 8999, San Francisco, CA 94128, United States of America and includes its successors-in-title and assigns which is an approved operator of a payment system.

12 Words importing the singular number include the plural number and vice versa.

13 Words importing the masculine gender include the feminine and neuter gender and vice versa.

14 Words are applicable to natural persons include anybody or persons, company, incorporation, firm or partnership corporate or unincorporated.

15 The headings to the clauses of this Agreement are for reference only and shall not affect the interpretation and/or enforcement of the provisions of this Agreement.

16 Application Form, Schedule, Welcome Letter and any other documents or notices issued by Paydee from time to time shall form and be construed as part of this Agreement.

## 2. PAYMENT CARD ACCEPTANCE PROGRAMME

21 The Merchant hereby agrees and undertakes that it shall honor without discrimination any Payment Card prescribed by Paydee when properly presented by Cardholders via the Payment Card Acceptance Services granted by Paydee to the Merchant under the terms of this Agreement as further described in the Schedule. It shall maintain a policy which shall not discriminate against Cardholders seeking to make purchases of goods and/or services from the Merchant through the use of a Payment Card.

22 In consideration of the Merchant observing and complying with the terms of this Agreement, Paydee shall during the term of this Agreement, acquire from the Merchant all Payment Card Transactions presented by the Merchant to Paydee in the manner herein provided, for the value appearing on each of the Payment Card Transactions less the MDR and other fees and charges (if any), upon the terms and conditions of this Agreement.

23 MID & TID

Under the terms of this Agreement, Paydee shall provide the Merchant with a MID and a TID for the following:-

- (a) Each of the Payment Card Acceptance Services provided to the Merchant.
- (b) Each of the Merchant's outlet including but not limited to place of business, shop, counter or temporary or permanent booth where Payment Card Acceptance Services are to be made available to the Cardholder.

24 In the event the Merchant wishes to extend or add any of the Payment Card Acceptance Services to its new outlet(s) or to request new Payment Card Acceptance Services under the terms of this Agreement, the Merchant shall obtain prior written approval from Paydee and in the event Paydee approves such request, Paydee shall provide the Merchant with a separate MID and TID for each of the Merchant's outlets and/or Payment Card Acceptance Services requested. The Merchant shall ensure that all Payment Card transactions transacted at any of the Merchant outlets and/or through any of the Payment Card Acceptance Services granted to the Merchant shall use/quote the correct MID and TID assigned by Paydee.

## 25 Schedule

The Schedule means the Payment Card Acceptance Services Letter issued by Paydee to the Merchant pursuant to this Agreement. The Schedule shall form part of this Agreement, and shall be read, taken and construed as an essential part of this Agreement. In the event of inconsistencies between the terms in the Welcome Letter and this Agreement, the terms in the latter shall prevail.

## 26 Daily Terminal Limit (DTL)

- (a) DTL is a limit assigned to an MID by Paydee. This limit dictates the total amount of Payment Card Transactions that can be approved for that Merchant each day.
- (b) Where the Merchant has been provided with an EDC Terminal during the installation by the Vendor, the DTL shall be set at RM10. After completion of the installation, Vendor shall submit the terminal setup letter to Paydee to increase the DTL as prescribed in the Schedule.
- (c) If the Merchant requires a temporary increase of DTL, the Merchant will be required to seek specific prior written approval from Paydee and provide the valid supporting documentations upon request. Any temporary DTL assigned shall be subject to Paydee's discretion.
- (d) Where no prior written approval is obtained from Paydee, the Merchant will be notified that payments for such transactions pursuant to Clause 2.6(c) will be withheld for further review by Paydee. Merchant must also provide copies of the Transaction Slip(s) and/or documents with details of the sales.
- (e) The temporary DTL shall be used until the expiry date given by Paydee. The DTL will revert to the original limit at the end of the expiry date.
- (f) If the Merchant requires a permanent increase of DTL, the Merchant will be required to seek specific written approval from Paydee and provide the valid supporting documentations upon request. Any permanent revision to the DTL shall be subject to Paydee's discretion.

## 3. PAYMENT CARD TRANSACTION ACCEPTANCE PROCEDURES

31 Paydee may at the request of the Merchant agree to and accept the following mode of Payment Card Transactions:-

- (a) Card Present Transaction;
- (b) Card Not Present Transaction; or
- (c) Any other mode as Paydee may deem fit from time to time.

32 All Payment Card Transactions shall be drawn in Ringgit Malaysia only, unless another currency is specified in the Schedule.

33 The Merchant must comply with the applicable laws, confidentiality provisions, data storage prohibition etc prescribed by law, regulations and any approved operator of a payment system and undertakes to store Cardholder's personal and account information securely in accordance with the applicable data protection laws, including but not limited to in order to prevent potential fraudulent activities.

34 The three-digit security number (3-Digit Code) imprinted on the signature panel of Visa/MasterCard Payment Card helps validate that the customer has a genuine Payment Card that is linked to a legitimate account. To prevent the 3-Digit Code from being compromised, the Merchant must NEVER keep or store a Visa/MasterCard's 3-Digit Code once a Payment Card Transaction has been completed. Such action is prohibited and could result in severe penalties.

35 The Merchant shall be liable for all acts, omission or negligence of its employees and agents.

## 36 POS Transaction Acceptance

36.1 When a Payment Card is presented to the Merchant for payment, in accepting and honoring the Payment Card, the Merchant shall ensure that the following acceptance procedures are strictly observed and complied with:

- (a) The Merchant shall ensure that the Payment Card so presented is accepted by Paydee.
- (b) The Merchant shall ensure that the Payment Card so presented have not been defaced, altered and/or mutilated.
- (c) The Merchant shall process all Payment Card Transactions irrespective of the amount through the use of the EDC Terminal at all times.
- (d) The Merchant shall ensure the Payment Card so presented for any transaction is inserted using the EDC Terminal where an Authorisation shall be granted or declined. Only an authorised Payment Card Transaction shall be accepted by the Merchant. It is mandatory that the Merchant process any Payment Card presented by a Cardholder via Payment Card acceptance procedures.

When a signature-based Payment Card is being utilised, the Merchant shall obtain the signature of the Cardholder in the appropriate place on the Transaction Slip and shall always compare to ascertain that such signature shall be identical to that appearing on the Cardholder's Payment Card. In the event the Merchant believes there to be a discrepancy, the Merchant shall contact Paydee for further instructions.

- (e) As prompted by the terminal, when a pin-based Payment Card is being utilised, the Merchant shall ensure that the Cardholder enters his/her PIN via the PIN Pad/key pad to validate the Payment Card Transaction and shall ensure that the Cardholder's PIN is not at all times compromised, captured or copied.

- (f) The Merchant shall ensure that all completed Sales Slip(s) includes:

- i. The masked Card account number on the Cardholder
- ii. The date and time of transaction(s)
- iii. Total price of the transaction(s) and the currency symbol (including any applicable taxes)
- iv. The Merchant's name, MID and TID
- v. Authorisation code
- vi. Batch number and transaction number
- vii. Name of the payment network operator
- viii. Reference number
- ix. Application identifier (AID)
- x. Terminal verification results (TVR)

- xi. Transaction cryptogram (TC)
- xii. Approval code (Appr Code)
- xiii. Terminal status indicator (TSI)
- xiv. System trace audit number (STAN)

- (g) The Cardholder's copy of the completed Transaction Slip is given to the Cardholder upon completion of each successful Payment Card Transaction and Merchant shall keep the "Merchant Copy" of the Transaction Slip in their record for at least 18 (eighteen) months after the date of the Payment Card Transaction.
- (h) For those EDC Terminals which are owned by Merchant, the Merchant shall take necessary steps to ensure that the EDC Terminal must be EMV Chip compliant, the EMV software used must be able to interface with the Paydee back-end host system to process EMV data. The installation and upgrading of the EDC Terminal to interface with Paydee host to EMV compliant standard is at the expense and cost of the Merchant.
- (i) For Payment Card Transaction using MOTO, the Merchant shall ensure that the information of the Payment Card is correct, true and accurate and the Payment Card is not forged or stolen.

362 In the event that any EDC Terminal malfunctions, breaks down or is disconnected or whenever the Merchant receives a Referral Response message from the EDC Terminal, all authorisations and completion of the Payment Card Transactions shall be carried out using the Manual Posting / Manual Sale Slip Capturing and the Merchant shall not accept any payment made by the Cardholder through the use of any Payment Cards.

363 The Merchant shall carry out or perform a Settlement Function on a daily basis through the Merchant's EDC Terminal pursuant to Clause 4.

37 Manual Posting / Manual Sale Slip Capturing

371 The Merchant will authorise Paydee to perform manual postings or manual sale slip capturing when discrepancies arise between the Payment Card Transaction and the Settlement Function.

372 Merchant shall provide Paydee the evidence of transactions upon request within 2 working days, failing which Paydee is entitled at its sole and absolute discretion to refuse any request to process the manual postings / manual sale slip capturing. A MDR of 2% will be charged on every transaction posted for manual postings / manual sales slip capturing.

373 Manual posting / manual sales slip capturing shall perform by Paydee not more than two (2) working days upon receiving the full documentation from Merchant.

374 Paydee shall reject and not process any incomplete Manual Sales Draft Form.

38 Mail Order Telephone Order Transaction Acceptance / Pre-Authorisation / Recurring Transactions

381 For MOTO: Merchant shall complete the designated Sales Draft and submit together with the necessary supporting documentations or any other documents as may be required by Paydee. The Sales Draft shall be executed by the Merchant's authorised personnel and must be submitted on the same day of the Payment Card Transaction date to Paydee, failing which Paydee may reject and not process the MOTO. Upon submission of the complete information and/or document, Paydee will process the transaction within the time frame stipulated under the credit card regulations.

382 For Pre-Authorisation: Merchant shall provide information necessary for Paydee to perform Pre-Authorisation, including but not limited to TID, system trade audit number, retrieval reference number, transaction amount and replacement amount, and ensure to perform Settlement Function within the designated period as prescribed by the rules of the payment system operator.

383 For Recurring Transactions / Auto Debit Service Acceptance: Merchant shall ensure that consent is obtained from the Cardholder to perform recurring transaction and submit the designated enrollment form to Paydee.

39 e-Commerce Transactions

391 The parties acknowledge that the setting-up, maintenance, upgrading, security, and integrity of the Merchant's computer system, software, and all costs thereof, and any other matters related thereto, shall be borne by the Merchant and are the Merchant's sole responsibility.

392 The merchant who provides e-Commerce transactions must have an active online platform for business which includes the following details to be stated clearly, visible and understandable to the customers:

- (a) Merchant's policy statement (Privacy Policy, Refund Policy, Delivery Policy, Cancellation Policy, Return, and Exchange Policy);
- (b) Merchant's customer service contact information (telephone number or e-mail, or both); and
- (c) Merchant's product advertised on the webpage must be consistent with their registered nature of business in its SSM.

393 The merchant, including its agents and employees who provide e-Commerce transaction are not allowed to request, capture, record or store any of the following cardholder information for any transaction:

- (a) Payment Card number;
- (b) Payment Card expiry date;
- (c) Type of Payment Card – Visa/Mastercard, Debit/Credit; and
- (d) Card Verification Value (CVV).

394 The Merchant shall ensure that a receipt equivalent to the Sales Slip is provided to the Cardholder upon completion of a Payment Card Transaction, either via an email or a link sent to the Cardholder.

395 The Merchant should obtain prior consent from the cardholder to obtain or store personal data/information such as receiver's name, mailing address, contact number for the objective of delivery of goods and future marketing purposes. The merchant should ensure to comply with the relevant laws and regulations on data protection, including but not limited to all the personal information of cardholder shall be safeguarded, and should not share with other parties, or misused such info other than for goods delivery and future marketing activities purposes.

396 The Merchants must maintain a copy of all electronic and other records related to the e-Commerce transactions, including the ordering and delivery of the Merchant's product and services for the greater of (i) two (2) years subsequent to the transaction being processed or (ii) the applicable warranty period of the delivered Merchant's product and services. The copy of the records shall include, but not be limited to proof of shipping/delivery, invoices, and all communications/contacts with the cardholder.

397 All representations contained in the Merchant's website as well as the web pages therein, or any advertisement or printed matter relating to the products or services offered therein are in compliance with the standards set out by MasterCard and Visa, and shall be deemed to have been made by the Merchant.

3.10 Chargeback

In case of investigations by Paydee, MasterCard, and/or Visa with respect to Chargebacks, the Merchant will fully co-operate in the auditing of such records. Merchant's obligations to maintain documentation of its business according to applicable laws remain unaffected by this clause.

4. PAYMENT BY PAYDEE

4.1 Subject to the terms and conditions herein, Paydee shall perform payment settlement to the Merchant within 2 Business Days from the date of the Payment Card Transactions. Paydee shall be entitled to deduct the MDR, SST, fees, any amount to be withheld and all other relevant payments due to Paydee under this Agreement from the amount of Payment Card Transactions presented to Paydee before the Merchant is paid the balance of such Payment Card Transactions on each occasion.

4.2 Upon completion of the Payment Card Transaction Acceptance Procedures, the Merchant shall carry out or perform a Settlement Function on a daily basis through the Merchant's EDC Terminal. Merchant has to ensure the daily settlement slip amount tally with the daily Transaction Slip batch amount.

4.3 Upon receipt of payment from Paydee, the Merchant shall reconcile their sales records or via any other Merchant's reconciliation methods against the payment advice provided by Paydee (via AmBank Remittance Advice or any other similar method). The Merchant shall inform Paydee within two (2) Business Days from the date of the respective payment advice in the event of any discrepancies or non-receipt of payment on any of the transaction item is detected, failing which Paydee is entitled at its sole and absolute discretion to refuse any request from the Merchant to carry out any investigations on any discrepancies or inaccuracies referred to Paydee and/or make any adjustments. If Paydee decides to carry out any investigations on any discrepancies or inaccuracies and/or make any adjustments, the Merchant must bear and pay any charges, costs and penalty interests for late settlement and/or adjustments that may be levied on or incurred by Paydee.

4.4 On every calendar month, Paydee shall provide the Merchant with a monthly statement containing the breakdown of the total payment made by Paydee in the said calendar month.

4.5 Payment by Paydee to the Merchant does not constitute confirmation that the transactions are accepted according to the conditions and procedures stated herein and free of irregularity or any violation and shall be subject to refusal or recovery action by Paydee in accordance with Clause 5 hereof, or deduction, withholding or refusal of payment under this Agreement.

4.6 Paydee shall impose a processing fee on any reversal or cancellation of a Payment Card Transaction that it performs on behalf of the Merchant. Paydee will not refund to the Merchant the MDR or any part thereof that it had deducted from the earlier payment made to the Merchant.

4.7 All payments by Paydee to the Merchant shall be made in Ringgit Malaysia only, unless another currency is specified in the Schedule.

4.8 A statement which is also a tax invoice showing the daily settlement proceeds collected and paid to Merchant will be sent to Merchant's email address monthly. Additional copies of the statement may be requested if required at RM 10 per copy plus 6% SST.

5. WITHHOLDING OR RECOVERY OF PAYMENT CARD TRANSACTION FROM MERCHANT

5.1 It is hereby expressly agreed that Paydee shall be entitled to at any time without prior notice refuse and/or withhold any payment to the Merchant and/or reject any Transaction Slip presented by the Merchant for payment, and where payment has been made by Paydee, to off-set against the relevant amount and/or claim the relevant amount in any of the following circumstances:-

- (a) if this Agreement is terminated by Paydee for any reason whatsoever;
- (b) the Merchant has failed to exercise the Payment Card Acceptance Procedures set out in Clause 3.5 herein;
- (c) the Payment Card Transaction has been performed by the Merchant using an incorrect MID or TID which differs from the MID or TID which is granted to the Merchant by Paydee under the terms of this Agreement;
- (d) the Merchant did not process the Payment Card Transaction in compliance with the terms herein;
- (e) the Payment Card Transaction was incomplete; or
- (f) Paydee has reasonable grounds to believe that the Payment Card Transaction or it was or has been discovered to be fraudulent, altered, ineligible, illegal or contain irregularities;
- (g) the value of the Transaction Slip exceeds the authorised DTL (unless otherwise authorised by Paydee) or if the Payment Card Transaction is found to be a Split Sale; or
- (h) the Payment Card Transaction is found to be a duplicate transaction;
- (i) under a Card Present Transaction, the Cardholder's signature on the Transaction Slip is missing or differs from the signature appearing on the Cardholder's Payment Card or has not been properly authenticated or tampered with;
- (j) the Payment Card Transaction is found to be one with a "Declined Authorised", that is, where the Merchant has been previously notified by Paydee in response to an Authorisation request that the particular Payment Card is not to be honored;
- (k) the Transaction Slip is not electronically generated but is handwritten and/or where the Cardholder has refused payment to Paydee or where an authorised EDC terminal printer is present, the information in respect of the Payment Card including the Cardholder's name, expiry date and Payment Card number are not electronically printed but is hand written;
- (l) the entries on the Transaction Slip are incomplete or illegible;
- (m) the Payment Card Transaction was not entered into and/or authorised by the Cardholder;
- (n) the Payment Card Transaction involved is a cash payment, cash disbursement or cash refund;
- (o) the Payment Card concerned is found to have expired or is invalid for any reason whatever;
- (p) in the event of Chargeback or the Cardholder disputed the Payment Card Transaction for whatsoever reason;
- (q) the Cardholder denies liability in respect of any Payment Card Transaction initiated or concluded by MOTO or Recurring Transactions / Auto Debit Service Acceptance irrelevant whether the Merchant has observed the terms and conditions of this Agreement or obtained an Authorisation from the Issuer through Paydee;
- (r) the credit or refund to a Cardholder by the Merchant who has issued a credit voucher or credit note to the Cardholder for the return of goods sold, service canceled, adjustment made, or otherwise; but has not provided the request to Paydee to process the reversal under Clause 6.1.1;
- (s) the Merchant has performed a late Settlement Function or late submission of Transaction Slip to Paydee as mentioned herein before;
- (t) there is an investigation of the Payment Card Transaction by any governmental or regulatory authorities or police having jurisdiction over such matters;
- (u) if the Merchant has breached any of the provisions in this Agreement;
- (v) if the Merchant has not provided complete documentation and/or information as may be requested by Paydee from time to time;
- (w) if the Payment Card Transaction or Transaction Slip is rejected by Visa or MasterCard;
- (x) the Merchant has not provided Paydee with true, accurate and correct details of its bank account for purpose of receiving payment from Paydee;
- (y) in the case of e-Commerce, the Cardholder does not have available or sufficient amount of e-money in its e-wallet; and
- (z) in the case of e-Commerce, the transaction was made using incorrect log-in details and/or password was inserted.

- 52 Paydee is entitled to refuse and/or withhold any payment until Paydee has examined and verified acceptable supporting documentation and in the event that Payment Card Transaction or the Transaction Slip or MOTO Authorisation Payment Form or Manual Posting is, in Paydee's opinion, not valid, or rejected by MasterCard or Visa, no repayment of the amount withheld shall be made by Paydee.
- 53 The Merchant shall repay on demand all payments by Paydee to the Merchant whatsoever which have been made in furtherance to this Agreement and until full repayment by the Merchant the said sum and all costs incurred in the enforcement of Paydee's rights under this Agreement (including solicitor and own client costs) shall be a debt due to Paydee and interest shall accrue thereon at the rate of 1.5% per month on monthly rests basis or such other rate or rates as Paydee shall determine at its absolute discretion from time to time from the date of demand to the date of full settlement.
- 54 In the event Paydee effects a claim pursuant to Clause 5.1 above, the Merchant is required to pay upon demand by Paydee and/or Paydee is permitted to deduct or off-set against any payment due to the Merchant, the amount at the rate imposed or to be imposed from time to time by MasterCard, Visa or the payment network operator, as the case may be upon receiving a Chargeback or Retrieval Request from an Issuer.
- 55 Notwithstanding any other rights available to Paydee under this Agreement, Paydee may at its absolute discretion, and at any time without notice or assigning reason thereof withhold and, off-set against Merchant's settlement claims or debit any or all of the Merchant settlement accounts with Paydee of whatever description and wherever located for the purpose of the amount withheld under Clause 5 or towards the reduction or discharge of any sum due to Paydee by the Merchant under any of the terms of this Agreement. Interest at the rate of 8% per annum will be charged to the Merchant (including after judgement) in the event any outstanding sum due to Paydee is unpaid after 7 days.
- 56 Paydee shall not be responsible for any losses or damages (including but not limited to payment of interest) arising from or in connection with the refusal and/or withholding of any payment to the Merchant under this Agreement, and where payment has been made by Paydee, any deduction and/or off-set against the relevant amount and/or claim of the relevant amount by Paydee.
6. SPECIAL CIRCUMSTANCES
- 61 Authority to Refund
- 61.1 Where an amount becomes owing by the Merchant to a Cardholder, whether for the return of merchandise, service canceled, adjustment made or otherwise, the Merchant shall submit an Authority to Refund to Paydee via email specifying the amount of the credit with sufficient details to identify the transaction as stated herein under Clause 6.1.2. Paydee will refund the amount to the Cardholder after receipt of the required funds from the Merchant. The operation of this clause shall not in any way prejudice Paydee rights under Clause 5.1.
- 61.2 Authority to Refund shall be completed with the following:-
- (i) The Payment Card number;
  - (ii) The date of Payment Card Transaction(s);
  - (iii) The amount of credit in Ringgit Malaysia;
  - (iv) Approval code and respond code;
  - (v) The Merchant's imprinted name, MID, official stamp, address or place of business;
  - (vi) Signature of the relevant personnel in charge; and
  - (vii) A description and reason of the merchandise so returned, service canceled, adjustment made or otherwise.
- 62 Unsigned Sales Draft
- Where a Cardholder has been undercharged for goods sold or services rendered by the Merchant, the Merchant may raise a new and unsigned Sales Draft for the additional amount and produce the same to Paydee for payment after performing the Settlement Function. Without prejudice to Paydee's right under Clause 5 herein above or otherwise, Paydee may, at its sole discretion, make payment to the Merchant for the additional amount less the MDR, SST, fees, etc as stated in Clause 4.1.
- 63 Prohibited Payment Card Transactions
- The Merchant shall not accept a Payment Card Transaction nor use its participation in the Payment Card Acceptance Service for purposes of transactions other than bona fide purchases by Cardholders of goods and services from the Merchant and the supply and/or purchase and/or performance is not in breach of any laws or regulations of Malaysia or any other country. This means, by way of example and not limitation, that the Merchant may not accept a Payment Card Transaction for any of the following:-
- (a) Gambling goods or services;
  - (b) Pornographic goods or services or prostitution;
  - (c) Goods or services for which the provision thereof is illegal (e.g. drug trafficking);
  - (d) Sales where the amounts charged do not correspond with the value of the goods or services purchased or rendered;
  - (e) Sales made under a name which is different from the name of the Merchant;
  - (f) Sales made by a third party e.g. not the Merchant;
  - (g) Sales where the Merchant know or ought to know that the goods sold or services provided are in copyright-infringing products and/or counterfeit trademark products;
  - (h) Damages, penalties, fines, charges, costs or fees of any kind which are in addition to the value of the Payment Card Transaction for the goods or services originally purchased or rendered;
  - (i) Payment Card Transactions which do not represent a bona fide sale of goods or services at the Merchant;
  - (j) Obtaining cash for anyone (including the Merchant) by seeking payment from Paydee for Payment Card Transactions where the Merchant did not supply goods or services to a Cardholder; or
  - (k) Any Payment Card Transactions made by using the Merchant's own Payment Card through the Merchant's EDC Terminal.
- 64 Suspension
- Notwithstanding any other rights available to Paydee under this Agreement, Paydee shall be entitled to suspend the Merchant from accepting any Payment Card Transaction under the terms of this Agreement with immediate effect for a period of time which shall be identified by Paydee upon the occurrence of any of the following:-
- (a) if the Merchant has breached any of the provisions in this Agreement;
  - (b) in Paydee's reasonable opinion that the Merchant is engaged in prohibited, irregular or fraudulent or illegal transactions; or
  - (c) the Merchant is identified by Visa or MasterCard or suspected by Paydee to be the source of compromised Payment Card information.

7. COVENANT BY MERCHANT

The Merchant hereby covenants with Paydee as follows:-

- (a) It shall at all times observe the guidelines and procedures on the Payment Card Acceptance Programme as instructed and required by Paydee as set out herein before including but not limited to the provisions in Clause 3 hereof;
- (b) Unless otherwise provided by any written law for the time being in force, it shall not impose or require Cardholder to pay any surcharge, commission, discount whether through any increase in price or otherwise, or any other term or condition whatsoever on any Cardholder desirous of using a Payment Card;
- (c) It shall not require a minimum transaction amount below which the Merchant shall refuse to honor the Payment Card Transactions;
- (d) It shall include in the value of the Transaction Slip any tax or carrier charges required to be collected and shall not collect it separately in cash;
- (e) It shall at all times ensure its business are legally and validly established and observe all prevailing laws and regulations;
- (f) It shall observe and perform all obligations under its contracts with the Cardholder including but not limited to the nature, quality and delivery of goods and service contracted to be sold and supplied to the Cardholders;
- (g) It shall not reveal, sell, purchase, provide or exchange Payment Card account number, security code or PIN (where applicable) and any other information in any form obtained by reason of Payment Card transactions to any third party;
- (h) It shall obtain approval from Paydee in writing prior to any publication or advertisement of promotional materials relating to the New Payment Card;
- (i) It shall adequately display the Visa Card Program Marks or MasterCard Marks and any distinctive features of the Payment Card and/or product names on promotional materials provided by Paydee to inform the public that the Payment Card will be honored at the Merchant's premises, place or business or its outlets and the Merchant must not indicate or imply that Paydee, Visa International and/or MasterCard Worldwide endorses any goods or services offered by the Merchant;
- (j) It shall, at all times maintain in good order and keep in safe custody all Transaction Slips, credit vouchers, and/or EDC Terminals and/or PIN Pads supplied by Paydee or Vendor which shall remain Paydee or Vendor property, and to return all such Transaction Slips, credit vouchers, and/or EDC Terminals and/or PIN Pads forthwith to Paydee upon demand and/ or upon termination of this Agreement under Clause 11;
- (k) Where there is uncertainty or ambiguity in the terms of this Agreement or any guidelines or requirements pertaining to the use of the Visa Card Programme Marks or MasterCard Marks or any security or distinctive features of the new Payment Card, the Merchant shall counter check with Paydee for its construction and meaning and the same when given by Paydee shall be final and binding;
- (l) It shall use its best endeavor to promote the use of Payment Cards and to render its cooperation to Paydee and Cardholders in connection with the use of the Payment Card;
- (m) It shall and maintain and take all necessary steps to maintain the security and confidentiality of the Merchant's Website, Merchant's POS, the e-Commerce Payment Card Transactions, the Cardholders and Paydee;
- (n) It shall operate the EDC Terminal for its MOTO business in the manner specified by Paydee.
- (o) Merchant's Records
  - i. The Merchant shall at its own costs and capacity keep proper account and correct copies of all documents relating to the Payment Card Transaction and/or contracts between the Merchant and the Cardholder including any Transaction Slip which are marked as the "Merchant Copy" resulting from the use of the Payment Card, and shall allow Paydee at any reasonable time to inspect and/or take copies of all such documents, accounts and Transaction Slip or any Payment Card Transaction forms and shall preserve such documents and records for a period of at least eighteen (18) months from date of each transaction.
  - ii. The Merchant shall also provide a legible copy of the relevant Transaction Slip or any related documents upon request made by Paydee in writing to the Merchant and shall be within any specific time required by Paydee.
  - iii. The Merchant is obliged to provide full cooperation toward any investigations or inquiries made by Paydee relating to any of the Payment Card Transactions which is within the period of eighteen (18) months from the transaction date including furnishing and delivering of the sale transaction documents to Paydee.
- (p) it shall prohibit or refrain from doing any act that would contravene with the rules prescribed by any payment system operator and shall at all times comply with the same;
- (q) it shall ensure that it operates under the rules and regulations established by the relevant payment system operator and/or as may be prescribed by Paydee.

8. WARRANTIES BY MERCHANTS AS TO TRANSACTION SLIP

The presentation of each Transaction Slip by the Merchant to Paydee shall be a representation and warranty by the Merchant:

- (a) That the Payment Card Transactions entered into by the Merchant with the Cardholder shall fulfill all statutory and/or other requirements for its validity and enforceability when payment is made by a Payment Card;
- (b) That at the time of the presentation of Transaction Slip to Paydee:-
  - (i) The Transaction Slip is authorised by the Cardholders and/or not obtained by any fraudulent or illegal means;
  - (ii) The value of the Transaction Slip evidences bona fide sums due and owing by the Cardholder;
  - (iii) The value of the Transaction Slip shall not have been assigned or charged to any third party;
  - (iv) The Cardholder concerned shall not have sought to repudiate or rescind the contract;
  - (v) The Cardholder concerned shall not have acquired any right of off-set or counterclaim available against the Merchant in respect of the value of the Transaction Slip;
  - (vi) The Merchant shall not have agreed with the Cardholder for any extension of the contractual time for payment of the goods purchased and/or service rendered or for any waiver or modification of the terms of the contract;
  - (vii) That the particulars included in the Transaction Slip submitted to Paydee shall be correct;
  - (viii) That the Transaction Slip has been completed with the Payment Card produced by the Cardholder in person, completed after properly authenticating the Cardholder and the Payment Card.
  - (ix) The Transaction Slip has been imprinted with the details of the Payment Card produced by the Cardholder.

9. FEES, DEPOSITS, RENTAL AND CHARGES

9.1 If there is no separate Agreement signed with the authorised Vendor for the rental of the EDC Terminal, the Merchant shall pay to Paydee upon the execution of this Agreement the following fees as set out in Schedule 1 (if applicable):

- (a) The EDC Terminal Rental Deposit;
- (b) The EDC Terminal Rental;
- (c) The EDC Terminal Maintenance Fees (including paper rolls and SIM Cards); and
- (d) The applicable Sales and Service Tax (SST).

9.2 Paydee reserves the right to revise the MDR, the EDC Terminal Rental Deposit, the EDC Terminal Rental, the EDC Terminal Maintenance Fees or any other charges payable at any time and from time to time by giving written notice to the Merchant. Such change shall take effect from the date stated in the notice and if no date

is stated from the date of the notice and payment of the MDR, EDC Terminal Rental Deposit and EDC Terminal Rental, the EDC Terminal Maintenance Fees or any other charges shall be made within the time period stated in the notice.

If there is a separate Agreement signed with the authorised Vendor for the rental of the EDC Terminal, the provisions of Clause 9 shall apply with the necessary modification relating to the EDC Terminal Rental Deposit and EDC Terminal Rental and the payment of the EDC Terminal Rental Deposit and EDC Terminal Rental shall be a matter to be agreed upon between the Merchant and the authorised Vendor.

Paydee may at any time at its absolute discretion impose a service fee or processing fee or such other charges as Paydee may impose as provided herein under this Agreement.

#### Tax

Tax is defined as any present or future, Malaysian or forex tax, levy, import, duty, charge, fee, deduction or withholding of any future, and any interest or penalties in respect thereof includes any tax payable on the supply of goods, services or other things in accordance with the SST, subsidiary legislation, statutory orders and regulations governing the application of SST, as amended from time to time.

All monies, fees and charges payable by the Merchant to Paydee under this Agreement shall be made in full exclusive of any Tax, and without any set-off, restriction or condition and without any deduction for or on account of any counterclaim or any deduction or withholding of or in respect of any Tax.

In the event the Merchant is required by law to make any additional payments, deduction or withholding from such monies, fees and charges payable to Paydee under this Agreement in respect of any Tax or otherwise, the sum payable by the Merchant in respect of which the deduction or withholding is required shall be increased so that the net monies, fees and charges received by Paydee is equal to that which Paydee would otherwise have received had no deduction or withholding been required or made.

In the event Paydee is required by law to calculate and collect from the Merchant any amount paid or payable under this Agreement on account of any Tax, such amounts as calculated by Paydee and shall be paid by the Merchant as additional to and without any deduction or off-set from monies, fees and charges payable under this Agreement to Paydee.

Paydee and the Merchant shall be respectively liable for any SST payable in connection with or arising out of this Agreement or any services in connection therewith.

#### NEWPAYMENT CARD

Paydee may at its sole and absolute discretion issue Payment Card ("New Payment Card") and/or to enter into Agreement with other and various organisations or institutions issuing the New Payment Card other than Visa International and MasterCard Worldwide.

The Merchant hereby agrees and confirms that upon written notification and/or request in any manner or means as Paydee deem fit, the Merchant shall honor without discrimination the New Payment Card when properly presented to it as a means of the payment from the Cardholder.

The terms and conditions in this Agreement and the variations stipulated by Paydee from time to time shall apply to the New Payment Card issued or to be issued by Paydee and shall be binding upon the Merchant on the date specified in the notice by Paydee advising the Merchant on the issue of the New Payment Card issued by Paydee or where the Merchant has honored the New Payment Card presented by the Cardholder from the date such New Payment Card are accepted by the Merchant, whichever is earlier.

#### TERMAND TERMINATION

This Agreement shall become effective upon the date of this Agreement and shall remain in full force and effect until terminated in accordance with the terms of the Agreement.

Notwithstanding any other provision in this Agreement, either Party may give not less than one (1) month notice in writing in advance to the other Party to terminate this Paydee For Business account. Paydee may forthwith terminate this Agreement if:

- (a) the Merchant become insolvent or enter bankruptcy, receivership or administration or make an assignment for the benefit of its creditors generally; and/or
- (b) any step is taken for the winding-up, dissolution, liquidation or restructuring or a petition for winding-up (whether voluntary or otherwise) or bankruptcy proceedings, as the case maybe, is presented against the Merchant; and/or
- (c) a receiver and/or manager have been appointed over the Merchant for any reason whatsoever; and/o
- (d) the Merchant suffers an execution, attachment, repossession of or foreclosure on all or substantially all of its assets; and/or
- (e) the Merchant ceases all or a substantial portion of its business or operations; and/or
- (f) the Merchant undergoes a merger or substantial change in ownership or control; and/or
- (g) the Merchant serves any custodial sentence, becomes insane or dies; and/or
- (h) the Merchant defaults on any account or accounts or facilities it has with Paydee; and/or
- (i) the Merchant enters into any composition or arrangement with or for the benefit of the creditors of the Merchant or allows any judgment against the Merchant to remain unsatisfied for a period of fourteen (14) days has distress or execution or other process of court or competent jurisdiction levied upon or issued against any property or asset of the Merchant and such distress or execution or other process, as the case may be, is not satisfied by the Merchant within (7) days thereof; and/or
- (j) the Merchant or any of its employees is known or suspected to be involves in any fraudulent or any unlawful activity whether or not relative to the Merchant's business; and/or
- (k) in Paydee' opinion that there has been a material change in the Merchant's business; and/or
- (l) in Paydee' opinion that there has been an unacceptable level of incident of fraudulent or counterfeit transaction or suspicious transaction through the Merchant; and/or
- (m) any event occurs, or series of events occur, whether related or not, which in Paydee opinion may affect the Merchant's ability or willingness to comply with any of the Merchant's obligations under this Agreement or to the Cardholder(s) in question; and/or
- (n) any breach or default on the part of the Merchant under the terms of this Agreement and/or if Paydee has reason to believe or at its absolute discretion is of the view that the Merchant has presented a fraudulent or counterfeit transaction for payment and/or where the Cardholder denies/disputes such transaction and/or the Merchant has been identified by Visa or MasterCard as engaging in the compromising of the Cardholder's accounts activity; and/or
- (o) If the Merchant fails to notify Paydee of any changes of business ownership, shareholding or change of business/company name; and/or
- (p) the Merchant fails to comply with any of its material obligations under this Agreement and such failure is not remedied within fourteen (14) days after a written notice is delivered to the Merchant by Paydee; and/or
- (q) the Merchant fails on three (3) or more separate occasions to comply with any provision of this Agreement, whether or not such failures are corrected after notice of the failure is given; and/or



- (r) the Merchant has breached any applicable laws, regulations or guidelines whether issued by the governmental or regulatory authority, Visa and/or Mastercard
- (s) if the Payment Card Transaction of the Merchant remains inactive for a period of six (6) consecutive months.

113 Then in any such event(s), this Agreement shall terminate immediately upon a written notice provided by Paydee and all debts and obligations owed to Paydee shall be deemed immediately due and payable. Paydee shall be entitled to maintain a reserve from payments due to the Merchant and/or take such other actions as Paydee may be entitled to under this Agreement or under applicable law or equity.

114 Upon termination of Paydee For Business account,

- (a) the Merchant shall cease to accept Payment Card(s) for payments;
- (b) Paydee shall not be obliged to make payment to the Merchant under Clause 4 for Payment Card Transaction made on the effective date of any of such termination and thereafter;
- (c) the Merchant shall, at its own expenses return to Paydee, all Paydee's properties including but not limited to Transaction Slip and Electronic Terminals in its possessions.

115 Notwithstanding the aforesaid, Paydee's rights and entitlement under this Agreement (including its rights and entitlement of Chargeback under Clause 3 against the Merchant shall survive the termination of this Agreement for or relating to any Payment Card transaction or Transaction Slip presented by the Merchant prior to the date of termination.

116 The termination of this Agreement shall not release the Merchant in respect of any antecedent breach that occurred prior to such termination.

117 If this Agreement is terminated under any of the provisions of this Agreement, Paydee shall have the absolute rights (which shall not be questioned or challenged by the Merchant) to immediately withhold a sufficient sum of money to be determined by Paydee for a period of six (6) months from the date of the termination of this Agreement by a notice to the Merchant.

## 12. DISCLOSURE OF INFORMATION

121 The Merchant hereby authorises Paydee and/or its officers to make use of, disclose, divulge or reveal any information relating to the Merchant and its accounts (including the Payment Card Transaction through any Payment Card system) in such manner and to such extent as Paydee shall from time to time consider necessary to any consultant, agent or subcontractor or to any person for any purpose in connection with any Payment Card products or for any purpose in connection with the enforcement of any terms of this Agreement or to any authority or body established by BNM or any other competent authority or bodies having jurisdiction over Paydee or to any Issuer or Visa/MasterCard or any other payment network operator.

122 The Merchant hereby authorises Paydee and/or its officers to make use of, disclose, divulge or reveal any information relating to its accounts for purposes of in connection with any action or proceeding taken for the purpose of Chargeback under Clause 3 or towards the recovery of monies due and payable by the Merchant to Paydee.

123 The Merchant declares that all information given to Paydee are true and complete and the Merchant authorises and consent Paydee to verify the information given herein from whatever sources including without limitation any credit bureau established by authorities pursuant to any applicable law, regulations or directive (whether having the force of law or otherwise) or any party as Paydee deem fit may be required and to use, release or exchange such information as may be obtained without further permission or consent from the Merchant.

124 If requested by Paydee, the Merchant agrees to provide information on previous Merchant Agreement(s), including the name(s) of the entity(ies) where the Merchant had the Agreement(s) and the reason(s) for terminating the Agreement(s), if applicable.

125 Paydee shall reserve the right to approve or reject any additional application for EDC Terminals from the Merchant as it deems fit without providing any reasons thereof.

126 For Merchant intending to use service providers, such as a gateway or point-of-sale system integration for accessing, storing, transmitting and processing cardholder data, Merchant must ensure that the service providers are certified as compliant with the PCI DSS and provide Paydee with information on any service providers the merchant uses or intends to use.

## 13. CONFIDENTIALITY

131 Notwithstanding Clause 12, this Agreement and all matters pertaining hereto including but not limited to, all information relating to Cardholder and any information it receives from Paydee (including without limitation, the MDR) shall be considered as confidential in nature ("Confidential Information") and shall not be disclosed by the Merchant to any third party unless the said disclosure is mandatory by law. Prior to such disclosure required by law, Merchant shall notify and consult with Paydee as to the proposed form, nature, and purpose of disclosure. If the notification and consultation is not permitted under the law, the Merchant undertakes to forthwith provide a written notification to Paydee upon such disclosure.

132 Unless prior written consent has been obtained from Paydee, the Merchant shall keep confidential the Confidential Information. The Merchant shall take all steps necessary to prevent the transfer or disclosure of Cardholder information to any third party and will not circulate, supply, disseminate, sell, copy, reproduce or store in any form the names and addresses of Cardholder for any purpose whatsoever. For the avoidance of doubt, the obligations of this Clause 13 shall survive the termination or expiration of this Agreement.

133 The Merchant shall ensure that its employees and/or agents who have access to such confidential information comply with this confidentiality clause, and use its best endeavors to ensure and procure that none of its employees and/or agents or any persons to whom the Confidential Information have been disclosed upon the written consent of Paydee will do any act, matter or thing which, if done by the Merchant, would constitute a breach of the obligations of the Merchant under the terms of this Agreement.

134 The Merchant shall immediately notify Paydee if it becomes aware of any breach of this Agreement and shall give Paydee all necessary and reasonable assistance in connection with any proceedings which Paydee may institute against such person.

## 14. INTELLECTUAL PROPERTY RIGHTS

141 Nothing contained in this Agreement shall affect or shall be interpreted or construed as affecting any Intellectual Property Rights belonging to either Party. Each Party undertakes to promptly notify the other Party any knowledge of any alleged or actual infringement of the other Party's Intellectual Property Rights.

142 Save and except as expressly permitted by Paydee in writing, the Merchant shall not to at any time, whether directly or indirectly, use and/or deal with the name and/or trademark and/or logo of Paydee in any sale or marketing or advertisement or make any public statement, announcement, or communication for matters relating to this Agreement.

- 143 The Merchant grants Paydee, for the duration of this Agreement, a non-exclusive, royalty free, non-transferable worldwide licence to use and display any logo, trademark and/or other Intellectual Property Rights strictly for purpose of this Agreement.
- 144 Notwithstanding any provision to the contrary (if any) contained in this Agreement, each Party undertakes to fully indemnify the other Party against any claim of infringement of Intellectual Property Rights and against all costs, expenses, charges, demands, proceedings, actions, losses and damages which the other Party may incur in any action for such infringement or for which the other Party may become liable in any action being brought against the other Party arising out of the matters referred to in this Clause provided that there is no breach on the part of the other Party, that the Party is given immediate and complete control of such action or claim, that the other Party does not prejudice the Party's defense of such action or claim, and that the other Party gives the Party all reasonable assistance with such action or claim.
- 145 This clause shall survive the termination or expiration of this Agreement.
15. ANTI-BRIBERY AND ANTI-CORRUPTION
- 15.1 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;
  - (c) represent, warrant, and agree that neither it nor any person or entity acting on behalf or under its control or direction will make any payment, offer to pay, promise to pay, or authorise, or act on furtherance of, any payment or exchange of money or anything of value, directly or indirectly, to any government official and/or third party and/or any person in order to obtain or to seek any approvals, licenses, advantages and/or any benefits for the Merchant and/or Paydee;
  - (d) promptly report to Paydee any request or demand for any undue financial or other advantage of any kind received in connection with the performance of this Agreement; and
  - (e) ensure that itself and its employees, staff, agents, representatives and its operations personnel shall comply with the duties and obligations under this Clause.
- 152 Notwithstanding any other provisions to the contrary, Paydee may withhold payments under this Agreement and/or suspend and/or terminate this Agreement (without any one or more of such actions constituting a waiver of any right or remedy available to it under this Agreement or otherwise), without liability, at any time upon learning information giving it a conclusive belief that the Merchant may have violated or may have violated on behalf of Paydee, or may have caused the Paydee to violate, any applicable anti-bribery laws not restricted to Malaysian Anti-Corruption Act 2009. Paydee shall be absolved from all responsibility pertaining to this matter. Please be advised to view Paydee's website for Paydee's Anti-Bribery and Anti-Corruption Policy Statement.
16. AUDIT
- 16.1 The Merchant shall, upon twenty-four (24) hours' written notice, allow Bank Negara Malaysia and/or Visa and/or MasterCard, its officials, management, auditors, regulators, and all other persons authorised in writing by any Court in Malaysia to supervise, inspect, examine, audit and take copies of the Merchant's books, information, statements and records which are directly or indirectly relevant to or connected with this Agreement.
- 162 The Merchant will co-operate with such persons to ensure a prompt and accurate verification and audit. Such audits or reviews will be at the expense of Paydee if the audit is at the request of Paydee. However, if the audit discovers discrepancies or overcharges, then upon completion of such audit or review, the Merchant will reimburse Paydee for discrepancies or overcharges and for such additional cost of the audit. The Merchant will use its best endeavours to make such rectification as required by the auditor or Paydee.
17. MISCELLANEOUS
- 17.1 Compliance with Laws
- (a) This Agreement shall be governed by the laws and directives of regulatory authorities of Malaysia no matter where the Payment Card Transaction takes place and the Merchant hereby irrevocably submits to the non-exclusive jurisdiction of the courts of Malaysia and waives any objection to proceeding instituted in any other courts by Paydee on the ground of venue or that such proceedings have been brought in an inconvenient forum.
  - (b) The Merchant agrees to be bound by the terms and conditions of this Agreement and will not contravene the rules, guidelines and regulations issued by BNM and/or Visa/MasterCard such as but not limited to the prohibition of illegal transactions and double swiping (means the capturing of Payment Card data encoded on the magnetic stripes of Cardholders Payment Card at the POS reader or Electronic Cash Register (ECR). The data is captured when a payment card is swiped on retail Merchant's POS reader / ECR. Double-swiping is not a required step in a Payment Card Transaction).
  - (c) Paydee have the right to mandate and Merchant shall comply collateral, Chargeback reserves, or a depository requirement as additional protection against financial exposure in the event it deems necessary.
  - (d) The Merchant has the legal obligation under applicable Malaysian Laws to implement and identify money laundering and terrorism financing activities at all times and to keep Paydee informed of such procedures upon request.
  - (e) The Merchant must not cause or permit to be done anything that may damage or endanger any "VISA" and/or "MasterCard" and/or "Paydee" trademarks, service marks, logos, names and designs or trademark or any other intellectual property rights owned by or licensed to Visa and/or MasterCard and/or Paydee.
- 172 Service of Legal Process
- The Parties hereby agree that the service of any Writ of Summons or any legal process in respect of any claim arising out of or connected with this Agreement may be effected by forwarding a copy of the same by hand or by prepaid registered or ordinary post to the respective addresses of the Parties herein before mentioned and such service shall be deemed to be duly served after the expiration of five (5) days from the date it is posted and, if delivered by hand, on the day it is delivered.
- 173 Costs
- The Merchant agrees to pay legal fees (on a Solicitor and Client basis) and other costs and expenses incurred and/or suffered by Paydee in connection with enforcement or incidental to this Agreement including the fees and stamp duty (if any) in connection with the preparation and execution of this Agreement.
- 174 Certificate of Indebtedness
- A certificate signed by an officer of Paydee as to the monies for the time being due and owing to Paydee from the Merchant for Chargeback or otherwise shall be conclusive evidence or proof that the amount appearing therein is due and owing and payable by the Merchant to Paydee.

17.5 Indemnity

Notwithstanding any other provisions of this Agreement, the Merchant agrees that it shall fully indemnify and hold harmless Paydee from and against any liabilities, claims, loss or damage, penalties, costs and expenses including legal fees stated in Clause 17.2 which Paydee may suffer or incur by reason or arising out of:

- (a) any breach of this Agreement, its representations, warranties, or undertakings;
- (b) in enforcing or seeking to enforce the payment of the value on the Transaction Slip from a Cardholder through Visa or MasterCard;
- (c) in enforcing the terms of this Agreement against the Merchant;
- (d) in the event of dispute between the Merchant and the Cardholder arising or in connection with any Payment Card Transaction and/or the goods sold or services provided by the Merchant;
- (e) arising out of or in any way connected to the Merchant's negligent act or omission in the operation of the Payment Card Acceptance Programme;
- (f) in the event the Merchant fails to comply or adhere with the applicable law, regulations, guidelines, or standard industry practice, including but not limited to the security measures and requirements prescribed by Visa or MasterCard or under Payment Card Industry Data Security Standard (PCI DSS).

This clause shall survive the termination or expiration of this Agreement.

17.6 Limitation of Liability

- (a) Paydee shall not be liable for any goods sold or services provided by the Merchant and makes no representations or warranties with respect to the quality, safety, or legality of the goods sold or services provided by the Merchant. Paydee shall not in any way be liable for any claim whatsoever arising from a breach of the Merchant's representations, warranties, and undertakings made to its customers, including but not limited to any penalty imposed by MasterCard and/or Visa on Paydee for a breach by the Merchant of the representations, warranties, and undertakings contained herein.
- (b) Without prejudice to any other provisions herein, Paydee shall not be liable to the Merchant or any third parties for damages, loss of profits or earnings, goodwill or any type of special/ exemplary, incidental, direct or consequential loss or damage howsoever arising even if Paydee has been advised of the possibility of such loss or damage or claim by any third party.
- (c) Subject to the provisions herein, Paydee's sole and entire liability to the Merchant in contract, tort (including negligence or breach of statutory duty) or otherwise arising by reason of or in connection with this Agreement or howsoever shall not exceed the MDR on the amount or value of the transaction which gave rise to the claim or the direct damages sustained, whichever is the lower.
- (d) Notwithstanding anything to the contrary in this Agreement, in the event Paydee refuses and/or withholds payment and/or does not make a payment for Payment Card Transactions and/or where payment has been made by Paydee, any deduction and/or off-set against the relevant amount and/or claim of the relevant amount by Paydee under this Agreement, Paydee shall not be liable to the Merchant for any losses, claims, demands, proceedings, damages, late payment charges penalties or expenses whatsoever (including but not limited to payment of interest) suffered or incurred by the Merchant.

17.7 Agreement

(a) Variation

The Merchant agrees that Paydee may from time to time by giving prior written notice to the Merchant vary add to or amend the terms and conditions herein set out. Any variation, addition and/or amendment shall become effective upon notification to the Merchant by any means Paydee deems fit.

(b) Other Terms and Conditions

The terms and conditions herein stated shall be in addition to and not in derogation of any specific Agreement or arrangement now hereafter from time to time subsisted between Paydee and the Merchant or any terms and conditions that may be specified in any document given by Paydee to the Merchant from time to time.

(c) Superseding Agreement

All previous Agreements or arrangements, if any, made between Paydee and the Merchant, whether written or oral, are hereby canceled and superseded by this Agreement.

(d) Relationship

Paydee and the Merchant are independent contractors. This Agreement does not create a joint venture or partnership between Paydee and the Merchant.

17.8 Notice

Save as it is otherwise expressly provided herein any notice or demand to be given under this Agreement shall be in any of the following ways:-

- (a) by ordinary mail to the other party and such notice or demand shall be deemed to have been served on the recipient three (3) Business Days after posting notwithstanding that it may be undelivered and in proving such service it shall be sufficient that the notice or demand was properly addressed and posted; or
- (b) by dispatch or courier to the other party and such notice or demand shall be deemed to be given upon acknowledgment; or
- (c) by e-mail to the Merchant's business e-mail address provided to Paydee for payment and other notification purposes.

17.9 Waiver

Time shall be the essence of this Agreement but no failure to exercise or any delay in exercising on the part of Paydee of any right power privilege or remedy shall operate as a waiver thereof, nor shall any single or partial exercise of any right power privilege or remedy preclude any other or further exercise thereof or the exercise of any other right power privilege or remedy. The rights and remedies herein provided are cumulative and not exclusive of any right or remedy provided by law. Acceptance of payments by Paydee under this Agreement and/or any other indulgence given by Paydee shall not be deemed to operate as a waiver by Paydee of any right of action against the Merchant.

17.10 Severability

The invalidity or unenforceability of any of the provision herein shall not nullify the underlying intent of this Agreement and the invalid or unenforceable provision or portion thereof shall be severable and the invalidity or unenforceability of any term or provision of this Agreement shall not affect the validity or enforceability of other terms or provisions herein contained which shall remain in full force and effect.

17.11 Assignment

The Merchant shall not assign, subcontract or transfer this Agreement in whole or in part to any person or entity without Paydee's prior written consent. Paydee shall be entitled to assign or subcontract this Agreement in whole or in part to any of Paydee's holding, subsidiaries or affiliate companies upon written notice to Merchant.

#### 17.12 Binding Effect

This Agreement shall be binding on the Merchant's personal representatives, heirs, successor's in-title and legal assigns and on the successor's in-title and assigns of Paydee.

#### 18. FORCE MAJEURE

18.1 The term "Force Majeure" refers to such circumstances beyond the reasonable control of the Merchant or Paydee and not due to the Merchant's or Paydee's fault or negligence, including but not limited to fire, flood, explosion, communicable disease outbreaks, discontinuity or breakdown in the supply of power, court order or governmental interference, civil commotion, riot, war, strikes, act of terrorism (including but not limited to any act of violence, hostility, national emergency, rebellion, revolution, insurrection, usurpation or occurrence of any epidemic/pandemic of whatsoever) and labour disturbance and any other unpreventable act of God or unforeseen cause (excluding lack of available funds, financial insolvency, financial distress, or events caused by fluctuating economic conditions in local, national or global markets) which affect the due performance of the Merchant's or the Paydee's obligations hereunder (excluding payment obligations).

18.2 If either Party shall at any time during the term of this Agreement be affected by Force Majeure, it shall forthwith notify the other Party of the extent and effect thereof and where time has been stipulated for the performance of any obligations, such stipulated time shall be extended in accordance with any subsequent mutual agreement between the Parties. If the Force Majeure in question shall prevail for a continuous period for one (1) month, the Parties shall enter into bona fide discussions with a view to alleviating its effects, or to agreeing upon such alternative arrangements as may be fair and reasonable.

#### 19. MERCHANT'S PARTICIPATION

This Agreement covers the Merchant's participation in Paydee's Payment Card Acceptance Services for all the offices, outlets and locations of the Merchant in Malaysia at the date of this Agreement and such other offices, outlets and locations as may be agreed upon by Paydee from time to time subject to the right of MasterCard or Visa to limit or terminate Paydee's Payment Acceptance Services with the Merchant. Paydee only solicits and contracts with merchants, and payment facilitators, within its licensed acquiring jurisdiction.

#### 20. COMMUNICATION

All communication between the Parties pertaining to this Agreement shall be in the Malay or the English Language.

#### 21. REPRESENTATIONS AND WARRANTIES

The Merchant represents and warrants that, at all times:

- (a) it has the full capacity, power, and authority to enter into this Agreement and will continue to have such full capacity, power and authority during the term of the Agreement;
- (b) the person signing the Agreement is duly authorised on behalf of the Merchant to sign and bind the Merchant to the provisions thereof and hereof;
- (c) the delivery or performance of this Agreement does not contravene its memorandum and articles of association;
- (d) this Agreement constitutes a legal, valid and binding obligations of the Merchants;
- (e) all the information submitted to Paydee is true, correct, and accurate;
- (f) it is not in any way involved or dealing with any illegal or unlawful business whether directly or indirectly which may adversely affect the interest or reputation of Paydee including but not limited to strict compliance with Section 4 of the Anti-Money Laundering, Anti-Terrorism Financing And Proceeds of Unlawful Activities Act 2001 of Malaysia and any other laws applicable to the Merchant;
- (g) it has the necessary licence, approval, and authority to carry out its business lawfully and legally;
- (h) it is in compliant and will continue to comply with the applicable law, regulations, rules and guidelines (if any); and
- (i) the products and services offered by the Merchant and/or contained in the Merchant's website as well as the web pages therein are not illegal, do not damage MasterCard, Visa and Paydee's brand, and do not contravene any regulatory and statutory prohibition or restriction (including but not limited to such prohibition against gaming, sale of pirated products and pornography) and all laws, rules, and regulations which govern such products and services or regulate and/or restrict how such products and services are to be marketed and sold by the Merchant have been complied with.

#### 22. CHANGE IN DETAILS

The Merchant undertakes to immediately inform Paydee of any change in the name, style, constitution, nature of business or composition (including but not limited shareholders or directors) of the Merchant whether by retirement, expulsion, death or admission of any partner or parties, amalgamation, reconstruction or otherwise and the Merchant hereby agrees that this Agreement shall endure and be available for all intents and purposes as if the resulting firm, company or concern had been named in this Agreement.