

RHB BANK BERHAD

Terms and conditions for JomPAY

The terms and conditions in this Agreement will govern the participation of a merchant for the JomPAY Scheme (as hereinafter defined) arrangement.

1. DEFINITIONS & INTERPRETATIONS

1.1 Definition

Beneficiary of Fraud	Party who ultimately benefits from an Unauthorized Payment Instruction, or Fraudulent Payment Instruction;
Bank's Customer	Any individual or corporate entity who has account(s) with RHB who has received Erroneous Payment Instruction or Fraudulent Payment Instructions and/or funds due to errors of other Biller, Payer or any client of RHB;
Biller Bank	RHB who is a Participant appointed by MERCHANT who is a Participating Biller to facilitate the MERCHANT's collection of bill payments via the Scheme.
Biller Code	An alpha numeric code uniquely identifying either: <ul style="list-style-type: none"> • a Biller; or • a Biller's product or service category for purposes of routing Payments to MERCHANT;
Business Day	Any calendar day from Monday to Friday, except a public holiday or bank holiday in Kuala Lumpur;
Biller Management Module or BMM	A web-based application to maintain MERCHANT's details that can be accessed by MERCHANT, Payer Bank, RHB and Scheme Operator;
Biller Notification System or BNS	An online notification system operated by the Scheme Operator to make available RTNs to Participating Billers that have opted to receive the notifications;
CASA	Current account and savings account;
Card Accounts	Credit card account(s), charge card account(s) and prepaid card account(s);
Customer	A term used to collectively refer to Billers, Payers and other clients of a Participant;
Erroneous Payment Instruction	A Payment Instruction that is initiated wrongly or is incorrect as follows: <ul style="list-style-type: none"> • Participants post erroneous entries to Participating Billers'/Payers' bank accounts, or generate invalid, incorrect, misdirected or duplicated Payment Instructions on behalf of Participating Billers'/Payers' due to technical errors or operational errors;

	<ul style="list-style-type: none"> • Technical or operations errors at the Scheme Operator that results in incorrect or duplicated Payment Instructions; and • Mistaken Payment Instruction which is directed to the wrong Participating Billers/Payers, contains incorrect recipient reference numbers, carries the wrong amount, or is duplicated;
Fraudulent Payment Instruction	A Payment which has been induced by dishonest or fraudulent means and which the Payer requests be refunded. It includes cases where a Payer makes a Payment as a result of a fraudulent invoice issued by a third party who purports to be a Participating Biller (and is not in fact a Participating Biller) or a third party who impersonates a Participating Biller;
Interbank GIRO or IBG	An interbank payment and funds transfer system that facilitates payments and collections via the exchange of digitized transactions between banks;
IBG Same Day Cut-Off Time	The deadline on a Business Day whereby funds from a Payment Instruction: <ul style="list-style-type: none"> • Initiated before this deadline would be credited on the same Business Day • Initiated after this deadline would be credited on the next Business Day.
JomPAY Brand	The brand, icon, logo and marks for the JomPAY Scheme;
Scheme	Is a service offered by MyClear which facilitates industry wide ubiquitous Bill payments through the use of standard Biller Codes and Recipient Reference Numbers;
MyClear	Malaysian Electronic Clearing Corporation Sdn. Bhd;
Mistaken Payment Instruction	A payment that is made, or not made, to a person or for an amount which is not in accordance with a Payer's Payment Instructions or contains an error in the Payment Instructions from the Payer resulting in payments which: <ul style="list-style-type: none"> • are directed to the wrong Customers; • contain incorrect Recipient Reference Numbers; • carry the wrong amount; or • are duplicated.
Off-us	All Payment Instructions in which the Payer Bank and Biller Bank are not the same bank;
On-us	All Payment Instructions in which the Payer Bank and the Biller Bank are the same bank;
Operational Procedure	The JomPAY operating rules which are prescribed and issued by MyClear and will include any variation, addition, amendment or modification made from time to time;

Participant	A bank that is a member of the Scheme;
Participating Biller	Merchant as stated in the application form for JomPAY Scheme;
Payer	Individuals, companies, body corporate, businesses (including sole proprietors and partnerships), government agencies, statutory bodies, societies, and other Bank's Customers that make Payments to Participating Billers using the Scheme;
Payer Bank	A Participant in the Scheme who offers services that allow Payers to initiate Payment Instruction;
Payment Instruction or Payment	<p>An order from a Payer to its Payer Bank directing the Payer Bank to:</p> <ul style="list-style-type: none"> • Draw funds from the Payer's bank account; and • Transmit an IBG entry to transfer funds to RHB to pay MERCHANT for a Bill;
Real-time Notification or RTN	A form of electronic message sent to MERCHANT to provide advance notice of incoming payment from a Payer once the Payer's bank account has been successfully debited for a Payment Instruction to MERCHANT;
Recipient Reference Number or RRN	A unique identifier assigned by MERCHANT to a Payer referred as Ref-1 and Ref-2 on a Bill;
Responsible Participant	<p>A Participant who:</p> <ul style="list-style-type: none"> • caused an Erroneous Payment Instruction; • caused funds to be incorrectly debited from Customers; or • caused funds to be directed to the wrong party;
Reversal	<p>A transaction that :</p> <p>a) is initiated by MERCHANT to cancel an Erroneous Payment Instruction;</p> <p>b) may involve the making of a debit or credit adjustment to the account of the Payer to which the Erroneous Payment Instruction relates; and</p> <p>c) may involve an adjustment to the bank account(s) of the Biller named in the Erroneous Payment Instruction, if funds from the Erroneous Payment Instruction has been applied to the bank account(s);</p>
Scheme Operator or SO	The owner and the operator of the JomPAY Scheme;
Unauthorised Payment Instruction	A payment made without the authority of the Payer who is purported to have given the Payment Instruction which initiated that payment (and from whose account that Payment was debited) or a Payment made by a Payer which is void for any reason other than fraud. It includes cases where the Payment has been made by a third party who has obtained unauthorised access to a Payer's account and makes unauthorised

transactions from the Payer's account to make other payments. However, it does not include a Fraudulent Payment Instruction;

Unrecoverable Loss The portion of funds credited to the wrong party due to Erroneous Payments or Fraudulent Payments that cannot be retrieved after Participants have exhausted the recovery of funds process.

1.2 This Agreement shall be interpreted and construed as follows:-

- 1.2.1 Words importing the singular shall include the plural and vice versa.
- 1.2.2 Words importing the masculine gender shall include the feminine and neuter genders.
- 1.2.3 The headings used in this Agreement are for convenience only and shall not affect the interpretation of this Agreement.

2. FEES

2.1 MERCHANT shall pay the following fees

No	Fee Type	Amount (RM)
1	CASA (ON US & OFF US)	CASA ON US <i>RM0.50 per transaction</i> CASA OFF US <i>RM0.50 per transaction</i>
2	Card Accounts (ON US & OFF US)	CREDIT CARD ON US <i>RM0.50 + 0.25% per transaction</i> CREDIT CARD OFF US <i>RM0.50 + 0.25% per transaction</i>
3	Real-Time Notification (RTN) Service	<i>The above price is including the RTN</i>
4	Membership or Maintenance Fees	Free of Charge
5	Biller Code Fees	Free of Charge
6	RRN Fees	Free of Charge
7	Inactive Biller Fees	Free of Charge
8	Admission or Registration Fees	Free of Charge

2.2 MERCHANT shall not charge any fees to the Payer(s) who make Payment(s) via the JomPAY Scheme.

2.3 No fixed duration for the subscription of JomPAY biller arrangement under this Agreement

3. PAYMENT TYPE

3.1 MERCHANT shall accept Payments that draw funds from CASA and optionally Payment(s) that draw funds from Card Accounts.

4. OBLIGATIONS OF MERCHANT

- 4.1 MERCHANT shall ensure that it has and maintains adequate procedures and systems for receiving and processing promptly Payment Instructions it receives from RHB and promptly and correctly credits or debits as the case may be the amounts of each Payment Instruction to the applicable Payer's account with MERCHANT. MERCHANT shall not charge any fees to the Payer(s) for using the Scheme.
- 4.2 MERCHANT must not make any warranty or representation in respect of goods or services supplied which may bind RHB, Scheme Operator, Payer Bank or any other Participant in the Scheme.
- 4.3 MERCHANT must establish and maintain a fair policy for correction of errors and facilitate recovery of funds for Mistaken Payment Instructions and Unauthorized Payment Instructions.
- 4.4 MERCHANT shall consent and allow RHB to disclose its information to the Scheme Operator.
- 4.5 MERCHANT who has been granted a non-transferable license to use the JomPAY Brand shall not license or assign the said right to use to any other third party. MERCHANT shall comply with the JomPAY Brand Guidelines at all times.
- 4.6 For the purpose of Clause 4.5, MERCHANT will be liable for any claims, damages and expenses arising out of or caused to arise from misuse or unauthorised usage of the JomPAY Brand. In the event of such breach, MERCHANT sub-licensed rights of using the JomPAY Brand shall be revoked and cease immediately, and whereupon this Agreement shall be terminated accordingly. Upon termination, Clause 4.7 shall apply accordingly.
- 4.7 Upon termination of this Agreement, MERCHANT will do the following:
- a) Immediately advise its customers that they will no longer accept Payment via JomPAY from the effective date of termination of MERCHANT's access to JomPAY;
 - b) MERCHANT will continue to maintain an account with RHB to credit bill collection for a period of not less than five (5) Business Days after the effective date of termination;
 - c) Shall ensure that inflight transactions are completed;
 - d) Cease all promotional and advertising that is related, or can be perceived to be related to the JomPAY Scheme;
 - e) Remove all JomPAY Brand and Marks from MERCHANT's payment channels; and
 - f) Return to Scheme Operator all software, documents and intellectual property assets for JomPAY.
- 4.8 The whole of Clause 4 herein shall survive termination of this agreement. Termination does not affect either party's rights accrued and obligations incurred before termination.

5. OBLIGATIONS OF RHB

- 5.1 RHB is required to credit MERCHANT's bank accounts with funds from incoming JomPAY Payments and make the incoming funds available for MERCHANT's unencumbered use within two (2) hours of IBG clearing.
- 5.2 RHB must make payment in full to MERCHANT and shall not deduct any fees from the payment proceeds due to MERCHANT.
- 5.3 If MERCHANT receives a RTN, RHB shall provide an irrevocable guarantee to MERCHANT that the MERCHANT will receive the funds indicated in the RTN. With this irrevocable guarantee that funds will be credited, MERCHANT may ship goods or deliver services based on the receipt of a RTN.
- 5.4 RHB shall refund transactions fees to MERCHANT if fees are incurred due to Erroneous Payment Instructions that are not caused by MERCHANT. However, if MERCHANT opts to partially refund overpayments to Payer, MERCHANT shall bear the transactions fees for executing the refund.
- 5.5 RHB shall implement reasonable measures that deems necessary to detect, mitigate, resolve and prevent fraudulent acts, actual and suspected.
- 5.6 RHB shall make available to MERCHANT the following information, for the purpose of facilitating the MERCHANT's reconciliation processes and accounting for payment of receipts and fees:
- a) RRN (Ref-1);
 - b) RRN (Ref-2);
 - c) JomPAY Reference Number;
 - d) Transaction Value;
 - e) Debit date and time;
 - f) Payer name;
 - g) Account type;
 - h) Payment channel;
 - i) Gross total transaction value;
 - j) Total transaction volume; and
 - k) Total fees/commissions charged.
- 5.7 RHB shall deliver to MERCHANT, the information described in Clause 5.6, at the minimum in the following manner :
- a) Data files or electronic files;
 - b) Statements or e-statements.

6. RECOVERY OF FUNDS

- 6.1 MERCHANT shall assist RHB with investigation of Mistaken Payment Instruction, Unauthorised Payment Instruction, Fraudulent Payment Instruction, and shall make the necessary refund(s) to the Payer, Payer Bank or RHB (as the case

maybe), in the event that it is found MERCHANT is responsible for such Mistaken Payment, Unauthorised Payment or Fraudulent Payment (as the case maybe).

6.2 In the event Erroneous Payment is caused by MERCHANT, RHB shall immediately reverse out all debits erroneously posted to the Bank's Customer's account regardless whether funds have been recovered from other affected parties.

6.3 If MERCHANT receives an Unauthorised Payment Instruction, MERCHANT shall:

- a) furnish to RHB within seven (7) Business Days, information, including but not limited to the name, address, contact information, national identity card number/passport number to conclusively identify the Beneficiary of Fraud;
- b) take all practicable measures permissible under the law to recover funds from the unintended recipient of funds including but not limited to reversing out credits, drawing on deposits or other financial guarantees that the Beneficiary of Fraud place with MERCHANT, stopping delivery of goods, suspending services that the Beneficiary of Fraud has paid for, repossessing goods delivered to the Beneficiary of Fraud and taking legal action against the Beneficiary of Fraud; and
- c) Immediately provide information required in Clause 6.3 (a) to the Payer Bank to facilitate the Payer Bank's investigation.

6.4 If MERCHANT is the recipient of Fraudulent Payment Instruction, it shall do the following:

- a) Immediately takes all practicable measures to prevent the use or application of fraudulently transferred funds for the benefit Beneficiary of Fraud;
- b) furnish to RHB within seven (7) Business Days, information, including but not limited to the name, address, contact information, national identity card number/passport number to conclusively identify the Beneficiary of Fraud;
- c) take all practicable measures permissible under the law to recover funds from the Beneficiary of Fraud including but not limited to reversing out credits, drawing on deposits or other financial guarantees that the Beneficiary of Fraud place with MERCHANT, stopping delivery of goods, suspending services that the Beneficiary of Fraud has paid for, repossessing goods delivered to the Beneficiary of Fraud and taking legal action against the Beneficiary of Fraud;
- d) Immediately provide information required in Clause 6.3 (a) to the Payer Bank to facilitate the Payer Bank's investigation;

6.5 If RHB receives request to recover funds that are wrongly credited due to Mistaken Payment Instructions, Unauthorised Payment Instructions, or Fraudulent Payment Instructions, RHB shall inform MERCHANT. MERCHANT must facilitate the recovery of funds process stated in Clause 6.6.

6.6 Upon receiving a recovery of funds request, RHB has the right to debit the MERCHANT's account to recover funds within one (1) Business Day after the following conditions are met:

6.6.1 Subject to Clause 6.8, if the recovery of funds request is received within twenty one (21) Business Days from date of Erroneous Payment Instruction/Mistaken Payment Instruction/Fraudulent Payment Instruction and that the following conditions are met:

- a) RHB is fully satisfied that funds were erroneously credited to MERCHANT's account;
- b) The funds have been credited to MERCHANT's account;

- c) MERCHANT has not acted on RTN;
- d) The RTN has not been delivered to MERCHANT;
- e) There is sufficient balance in MERCHANT's account to cover the recovery amount; and
- f) RHB has provided notification to MERCHANT regarding the debit.

6.6.2 If the recovery of funds request is received after twenty one (21) Business Days but before seven (7) months from date of Erroneous Payment Instruction/Mistaken Payment Instruction/Fraudulent Payment Instruction and that the following conditions are met:

- a) RHB is fully satisfied that funds were erroneously credited to the MERCHANT's account; and
- b) There is sufficient balance in MERCHANT's account;
- c) RHB has notified MERCHANT about the recovery of funds request, furnishing details of the allegedly Erroneous Payment Instruction/Mistaken Payment Instruction/Fraudulent Payment Instruction but MERCHANT has not provided to RHB, within ten (10) Business Days of the written notification, reasonable evidence that MERCHANT is entitled to the funds,

6.6.3 If the recovery of funds request is received after seven (7) months from date of Erroneous Payment Instruction/Mistaken Payment Instruction, and the following conditions are met:

- a) RHB is fully satisfied that funds were erroneously credited to MERCHANT's account;
- b) RHB has sought MERCHANT's consent in writing to debit the MERCHANT's account to recover funds, and MERCHANT has given its gives consent to debit its account.

6.7 When MERCHANT receives a written request for consent from RHB as described in Clause 6.6.3 (b), MERCHANT shall not unreasonably withhold consent to debit its account when there is a legitimate recovery of funds request and shall inform RHB in writing whether consent is granted within three (3) Business Days of the written request for consent.

6.8 If the funds have not been credited to the MERCHANT's account and that MERCHANT has acted on RTN (has delivered goods or has provided services), RHB may partially debit the funds that has not been applied to deliver goods and services.

6.9 Notwithstanding Clause 6.6, if the funds for Erroneous Payment Instruction or Mistaken Payment Instruction cannot be recovered or fully recovered, the amount that cannot be recovered will be deemed an Unrecoverable Loss.

6.10 If RHB has reasonable grounds to conclude that MERCHANT caused the Unrecoverable Loss, RHB has the right to freeze funds in MERCHANT's account until there is satisfactory resolution of Unrecoverable Loss. The amount frozen shall amount to no more than the amount of the Unrecoverable Loss.

6.11 MERCHANT agrees to take all measures to recover the Unrecoverable Loss if the Unrecoverable Loss is due to its fault or negligence. Notwithstanding the aforesaid, this will not prohibit RHB to take legal action against MERCHANT, to the extent permissible by law, to make good the Unrecoverable Loss incurred.

6.12 RHB shall refund JomPAY fees and IBG fees (if applicable) incurred for Mistaken Payments if the error was not caused by MERCHANT except in situations where MERCHANT decides to partially refund an overpayment.

- 6.13 In the event of Fraudulent Payment Instruction is received by MERCHANT, RHB shall do the following:
- a) Notify MERCHANT the RTNs associated with the Fraudulent Payment Instruction and of the Fraudulent Payment Instruction;
 - b) Investigate MERCHANT to determine that MERCHANT is implicated in the fraud. If RHB has sufficient grounds to suspect MERCHANT is involved in the fraud or is benefiting from the fraud, RHB shall prevent withdrawal or use of the remaining funds in MERCHANT's account with RHB until there is satisfactory resolution of Unrecoverable Loss. MERCHANT shall facilitate RHB's investigation.

6.14 In the event MERCHANT is responsible for Fraudulent Payment Instruction, Clause 6.11 shall apply accordingly.

7. FUNDS AVAILABILITY

7.1 MERCHANT shall give credit to the Payer's accounts with MERCHANT on the Business Day that the Payers initiated the Payment Instruction to MERCHANT, provided that the Payment Instruction was initiated before the IBG Same-Day Cut-off Time for that Business Day.

7.2 RHB shall ensure their Billers acknowledge that Payment Instruction made by the Payer on a Business Day is deemed received by the Billers on the same day, provided that the Payment Instruction was initiated before the IBG Same Day Cut Off for that Business Day.

8. DELAY IN PAYMENTS

8.1 Subject to clause 8.2, MERCHANT acknowledges that delay may occur in processing of Payment Instructions in the following events :

- a) The Payment Instruction(s) are made on a public holiday;
- b) On the day after a Payer gives a Payer Instruction is a public holiday; and
- c) A Payment Instruction is received either on a non-Business Day or after the IBG Same Day Cut-Off Time on a Business Day.

8.2 Although it is expected the delay in RHB's performance of this agreement due to reasons specified in Clause 8.1, the delay will not be more than one (1) Business Day.

9. DISPUTE RESOLUTION

9.1 Any dispute in the JomPAY including but not limited to Adjustments shall be resolved through a dispute resolution process as set out in the Operational Procedures.

9.2 Dispute between Participant and Payer and/ or MERCHANT:

- 9.2.1 Participant shall, in good faith, attempt to settle all disputes or conflicts with Payer and/or MERCHANT arising in connection with the JomPAY Scheme amicably and by mutual agreement;

- 9.2.2 Scheme Operator will not arbitrate nor mediate disputes between:
- 9.2.2.1 MERCHANT and RHB; and
 - 9.2.2.2 Payer and MERCHANT.
- However MERCHANT may lodge a complaint with the Scheme Operator if there are allegations of RHB's non-compliance to the JomPAY Scheme Rules. The Scheme Operator shall review of such complaints and allegations in accordance with Clause 9.3.
- 9.3 MERCHANT shall have the right to refer their disputes to the Scheme Operator if there is an allegation of Participant's non-compliance to the JomPAY Scheme Rules. The Scheme Operator will review such complaints and allegations, but such review will be confined to:
- 9.3.1 Determination whether there has been non-compliance;
 - 9.3.2 Stipulating remedies for Participant to correct or address the non-compliance; and
 - 9.3.3 Determination if penalties are applicable for the non-compliance.
- 9.4 All decisions rendered by the Scheme Operator in response to complaints from MERCHANT shall be binding on RHB.

10. INDEMNITY

- 10.1 Subject to the other party's compliance with Clause 10.2, each party ("Indemnifying Party") agrees to indemnify and hold the other party and its employees and agents harmless against any and all losses, expenses, claims, suits, demands, actions, and proceedings including all reasonable legal and other related fees or charges ("Liability") which the other party may suffer or incur or for which the other party may become liable as a result of:
- a) Any negligence, misrepresentation or fraud on the part of the indemnifying party, its employees, and agents with respect to the performance of its obligations or the exercise of any of its rights under this Agreement;
 - b) Any claim by a Payer, RHB, Payer Bank, Scheme Operator or any other person for any breach by the Indemnifying Party of any applicable laws;
 - c) The failure of the Indemnifying Party to observe any of its obligations under this Agreement; or
 - d) Any use of the JomPAY Brand by the Indemnifying Party other than as permitted by this Agreement.
 - e) Except to the extent that such liability arises or is incurred by the other party by reason of any act or omission on its part mentioned in Clause 10.1 (a) to (d).
- 10.2 In the event a claim is made against a party in respect of which it is entitled to be indemnified pursuant to Clause 10.1 that party must:
- a) give notice of any such claim to the other party;
 - b) consult with the other party in relation to any such claim;
 - c) not to settle any claim without obtaining the prior written consent of the other, such consent not to be unreasonably withheld.
- 10.3 RHB is not liable to MERCHANT for any loss or damage suffered by MERCHANT as result of:
- a) a missing or erroneous payment; and
 - b) the delay or disruption caused by any system failure beyond RHB's reasonable control.
- 10.4 For the purposes of this clause, loss or damage includes any consequential or economic loss or damage.

SUSPENSION & TERMINATION

Suspension

- 11.1 The Scheme Operator or RHB as the case maybe, reserve the right to suspend or terminate MERCHANT access to the Scheme under the following circumstances, which includes, but not limited to :
- 11.1.1 The Scheme Operator or RHB has determined that MERCHANT breached the Operational Procedures, this Agreement, applicable rules, guidelines, regulations, circular or laws;
 - 11.1.2 MERCHANT fails to remedy the breach described in Clause 11.1.1 to RHB's satisfaction;
 - 11.1.3 The Scheme Operator or RHB have determined that MERCHANT has inadequate operational controls or insufficient risk management processes, resulting in potential threats to the stability, integrity, safety and efficiency of the Scheme and/or IBG;
 - 11.1.4 Court order affecting MERCHANT's membership in the Scheme and/or the legal status of MERCHANT;
 - 11.1.5 Directive(s) issued by regulatory or government authority affecting MERCHANT's membership in the Scheme and/or its legal status;
 - 11.1.6 An application is made to the court either voluntarily or involuntarily for an order that MERCHANT be wound up;
 - 11.1.7 MERCHANT is deemed unable to pay its debt and should be wound up under statutory laws; or
 - 11.1.8 MERCHANT is suspected on reasonable grounds that it has committed or will commit fraudulent act in connection with the Scheme;
 - 11.1.9 Scheme operator has determined that MERCHANT is inactive in the Scheme, after a period of twelve (12) months in which MERCHANT does not receive any Payment Instructions.
- 11.2 RHB may at any time suspend or terminate the participation of MERCHANT in the Scheme by giving notice in writing specifying a date for that suspension, and any conditions applicable to it, under the following circumstances including but not limited to :
- 11.2.1 RHB forms a reasonable view that MERCHANT is not meeting its obligations under this Agreement;
 - 11.2.2 MERCHANT is suspected on reasonable grounds to be engaging in fraudulent activity in connection with the Scheme; and
 - 11.2.3 RHB has received complaints from other Participating Biller(s), other Biller Bank(s), Payer Bank or Payer that MERCHANT is engaging in fraudulent activity in connection with the Scheme; or
 - 11.2.4 MERCHANT has been suspended from the Scheme by other Biller Bank(s) due to breach of provisions of this Agreement or the Operational Procedures.
- 11.3 Upon suspension of MERCHANT in the Scheme :
- 11.3.1 The services provided under the Scheme will be suspended immediately;
 - 11.3.2 MERCHANT will no longer have access to BMM ;
 - 11.3.3 MERCHANT will stop issuing any Bills to Payer or accept Payments from Payer Bank(s);

- 11.3.4 MERCHANT will no longer have access to the Biller Bank(s) that MERCHANT is connected to via its Biller Code(s);
- 11.3.5 MERCHANT is responsible for finding alternative method to issue Bills during the suspension period;
- 11.3.6 MERCHANT must take all reasonable steps to assist RHB to notify each Payer affected by the action that MERCHANT is no longer participating in the Scheme, in the form directed by RHB;
- 11.3.7 MERCHANT must cease all promotional and advertising that is related or can be perceived to be related to JomPAY Scheme;
- 11.3.8 MERCHANT remove all JomPAY Brand from the MERCHANT's marketing collaterals, channels and website; and
- 11.3.9 MERCHANT must take all reasonable steps to comply with any directions of RHB to minimise the impact on Payer of the suspension or termination.

Termination

- 11.4 The Scheme Operator or RHB, as the case maybe, reserve the right to immediately terminate the services provided under this Agreement or JomPAY Scheme under the following circumstances, which includes, but not limited to :
 - 11.4.1 this Agreement between MERCHANT and RHB is terminated or expired;
 - 11.4.2 it is determined by RHB that MERCHANT has breached the Operational Procedure, this Agreement, applicable rules, guidelines, regulations, circulars or laws;
 - 11.4.3 MERCHANT fails to remedy or take adequate steps to remedy its default under this Agreement to the satisfaction of RHB or the Scheme Operator, as the case maybe, within thirty (30) days after notice of the default is given by Scheme Operator;
 - 11.4.4 the Scheme Operator or RHB has determined that MERCHANT has inadequate operational controls or insufficient risk management processes resulting in potential threats to the stability, integrity, safety and efficiency of the Scheme and/or IBG;
 - 11.4.5 court order(s) affecting MERCHANT or the Biller Bank(s) membership and/or legal status;
 - 11.4.6 directive(s) issued by regulatory or government authority affecting MERCHANT or the Biller Bank(s) membership and/or legal status;
 - 11.4.7 MERCHANT's insolvency;
 - 11.4.8 RHB's membership in the Scheme, IBG or RENTAS is terminated or suspended and MERCHANT has not appointed a replacement Biller Bank;
 - 11.4.9 the Scheme Operator has determined MERCHANT is inactive or MERCHANT is deemed inactive when there are no JomPAY transactions for a period of twelve (12) consecutive months.
- 11.5 Notwithstanding any provisions in this Agreement, either party may terminate this Agreement due to any reason whatsoever by providing sixty (60) days prior written notice to the other party.
- 11.6 Upon termination of this agreement, the participation of MERCHANT in JomPAY Scheme is automatically terminated.
- 11.7 Upon termination of this agreement, MERCHANT no longer has access to JomPAY Scheme and the services provided under the JomPAY Scheme.

12. ADVERTISEMENT AND USE OF LOGO

- 12.1 MERCHANT must use the appropriate denotation or legend of trademark registration or ownership in connection with JomPAY Brand, as required or consented to by RHB.
- 12.2 MERCHANT is granted the consent to use the denotation or legend of the trade mark of JomPAY Brand, for the sole purpose of publicising, indicating and advertising that MERCHANT accepts Payment Instruction through the Scheme.
- 12.3 In the event of non-compliance or infringement or potential infringement or misuse of the JomPAY Brand, the Scheme Operator or RHB have the absolute right to revoke the consent granted and the MERCHANT shall cease all use of the denotation and trade mark of the JomPAY Brand by the MERCHANT with or without giving reason whatsoever.
- 12.4 If MERCHANT desires to use a denotation or legend of trade mark registration or ownership in connection with any mark other than the JomPAY Brand, but used in association with the JomPAY Brand, MERCHANT may do so provided that such use will not adversely affect the rights of the Scheme Operator in the JomPAY Brand; and the specification for such use is notified in writing to RHB, and RHB gives its written approval to that specification prior to such use.
- 12.5 MERCHANT must not use the JomPAY Brand in such a way to create an impression that the goods or services offered by MERCHANT are sponsored, produced, offered or sold by the owner of the JomPAY Brand. MERCHANT must not adopt “JomPAY” or any other JomPAY Brand as any part of the name of its business or apply it to any goods or services offered for sale.
- 12.6 MERCHANT must immediately on becoming aware of any infringement or potential infringement of the JomPAY Brand, notify RHB.

13 REPRESENTATION AND WARRANTY

- 13.1 MERCHANT warrants and represents to RHB that:-
- (a) its execution and performance of this Agreement and any enforcement thereof is not precluded, invalidated, prohibited or restricted in any manner whatsoever by any law, rule and/or regulation from time in force in Malaysia or by the lack of the necessary approval(s) of any relevant governmental body or regulatory authority or by any article in its Memorandum and/or Articles of Association or other article of constitution or by the operation of any agreement with any third party;
 - (b) it has the appropriate approvals, licenses and other necessary consents from the relevant authorities, and the financial, operational and other required capability, to continue to provide the services to the Payers;
 - (c) all information and materials provided by it as required hereunder are complete, accurate and suitable to be used by RHB for the intended purposes and do not infringe or violate any third party’s intellectual property, moral or privacy rights;
 - (d) has acquired and/or is maintaining the appropriate hardware, software, communication equipment, access to the Internet, the appropriate licenses, and such other equipment and/or things necessary for the due performance of its obligations hereunder.
 - (e) it acknowledges and agrees that the obligation of confidentiality extends but not limited to those specified in Clause 15, the disclosure of fees and charges contained in this Agreement; and any technology or know-how related to the Scheme or the performance of this Agreement.

- (f) it agrees to comply with the Personal Data Protection Act 2010 of which it is bound and shall not do any act that will cause RHB, Payer Bank and the Scheme Operator to breach any personal data protection laws.

13.2 Except as otherwise specifically provided herein, RHB makes neither representations nor warranties in respect of:-

- (a) the currency, security, accuracy, availability and/or the uninterrupted feed of or access to the Scheme, RHB's banking services, products and/or systems, including but not limited to any implied warranty of merchantability or fitness for purpose;
- (b) the Payers' acts, errors, omissions, negligence or willful default in relation to, the Payment Instruction and/or any other related matter hereunder (including but not limited to the Payers' default of applicable terms and conditions); and/or
- (c) the accuracy, completeness or security of the Payment Instruction

14 **DISCLAIMER**

14.1 The Scheme Operator and RHB shall not be liable for any claims, actions, demands, costs, expenses, losses, and damages (actual and consequential) including legal costs that are incurred or suffered by MERCHANT arising out of or caused by RHB in connection with the operations and services provided by RHB in the Scheme. MERCHANT agrees that it will communicate and resolve any dispute in relation to the aforesaid matters with RHB.

15 **CONFIDENTIALITY**

15.1 MERCHANT shall treat any information it receives or possess as result of this Agreement, as confidential and will not use such information other than for the purposes which it was given.

15.2 Clause 15.1 shall not apply to information which :

- a) is or has at the time of use or disclosure become public knowledge without any breach of this Agreement by the parties;
- b) is or has at the time of use or disclosure become generally known to companies engaged in the same or similar business(es) as the party on a non-confidential basis through no wrongful act of the party;
- c) is lawfully obtained by a party from third parties without any obligation by the party to maintain the information proprietary or confidential;
- d) is known by a party prior to disclosure hereunder without any obligation to keep it confidential and such information was not disclosed by the other party under this Agreement;
- e) is independently developed by a party without reference to or use of the other party's Confidential Information;
- f) is required to disclose or divulge by any court, tribunal, governmental or authority with competent jurisdiction or by any statute, regulation or other legal requirement, takeover panel or other public or quasi-public body as

required by law and where the Party is required by law to make such disclosure. The Party shall give notification as soon as practical prior to such disclosure being made.

16 VARIATION AND WAIVER

- 16.1 RHB may change the terms of this Agreement at any time in writing and such change shall take effect from the date specified in the notice.
- 16.2 Any provisions herein cannot be waived except in writing signed by the party granting the waiver.

17 SEVERABILITY

- 17.1 If the whole or any part of a provision of this Agreement is void, unenforceable or illegal in one jurisdiction, the remainder of this agreement shall be enforceable and valid in other jurisdictions.

18 FORCE MAJEURE

- 18.1 RHB shall not be liable to MERCHANT for any loss or damage (including direct or consequential), for failure to observe or perform its obligations under this Agreement for reasons which could not be reasonable diligence be controlled or prevented by RHB, including but not limited to, strikes, acts of God, acts of nature, fire, flood, storm, riots, power shortages or power failure, power disruption by war, sabotage or inability to obtain sufficient labour, fuel or utilities.

19 STAMP DUTY

- 19.1 All costs and expenses incurred by the parties under this Agreement shall be borne by the respective parties.

20 NOTICES

- 20.1 Notices required or permitted to be given hereunder shall be in writing and shall be deemed to have been validly given to MERCHANT or to RHB if delivered personally or sent by facsimile or registered post to the respective party at the address specified in their application form or such other address as the recipient may have notified to the other party hereto in writing, from time to time, and if so given shall, be deemed to have been received:-

- (a) in the case of a letter delivered by hand, upon receipt thereof;
- (b) in the case of a letter sent by registered post, on the third (3rd) Business Day after posting;
- (c) in the case of a facsimile on the Business Day upon complete transmission provided that, a facsimile transmission report is generated by the sender's facsimile machine recording a message from the recipient facsimile's machine, confirming that the facsimile was sent to the number indicated above and confirming that all pages were successfully transmitted.

21. MISCELLANEOUS

- 21.1 The Service Provider hereby agrees and authorizes RHB to be its collection agent for the Bill Payments only to the extent provided hereunder.

- 21.2 Amendments hereto shall be effected mutually in writing.
- 21.3 Neither party shall assign any of its rights, benefits, obligations or liabilities under this Agreement to any other party without the prior written consent of the other party first had and obtained.
- 21.4 Each of the terms in this Agreement is severable and distinct from the others and if at any time one or more of such terms is or becomes invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not be affected or impaired in any way thereby.
- 21.5 RHB reserves the right to amend (with seven days' written notice) any of the terms of this Agreement wholly or in part if the same is made pursuant to the amendment or introduction of guidelines by The Association of Banks in Malaysia and/or Bank Negara Malaysia and/or other governmental authority under which jurisdiction RHB falls, or by the amendment or introduction of any statute, legislation, regulation or by-laws.
- 21.6 Wherever mentioned in this Agreement, time shall be of the essence.
- 21.7 Failure to exercise, or delay in exercising any right by either party shall not operate as a waiver thereof, and shall not prejudice the subsequent exercise, of the same.
- 21.8 In no event shall either party be liable in any event for any special, consequential and/or indirect damages whatsoever, even if advised of such possibility by the other party.
- 21.9 Nothing herein shall be affected by any change by amalgamation, reconstruction or otherwise in the constitution of the Service Provider or of RHB, and this Agreement shall be binding on the successors-in-title and permitted assigns of the Service Provider and RHB.
- 21.10 The parties hereto agree that this Agreement shall be governed by the laws of Malaysia and the parties hereby submit to the exclusive jurisdiction of the Courts in Malaysia.
- 21.11 If any supply of services made under this Agreement is chargeable with the relevant service taxes or any other taxes as imposed by the relevant authority from time to time ("Taxes"), then RHB reserves the right to levy such Taxes at the prescribed rate imposed by the relevant authority and the Service Provider agrees to pay the amount of such Taxes.

22. GOVERNING LAW

- 22.1 The parties hereto agree that this Agreement shall be governed by the laws of Malaysia and the parties hereby submit to the exclusive jurisdiction of the Courts in Malaysia.

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