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THIS MERCHANT TERMS OF SERVICE IS A LEGAL AND BINDING AGREEMENT BETWEEN YOU AND TOUCHPOINT INTERNATIONAL.

By signing up, using or accessing M Squared Merchant, you acknowledge that you have fully read and understood, agree and accept to be bound by all the terms of service of this agreement. If you do NOT agree to or fall within the Terms of Use and wish to discontinue using the Service, please do not proceed with the use of M Squared Merchant.

TouchPoint International reserves the right to amend the stipulations of the terms of service at any time. Touchpoint International will be given Twenty-One (21) days to communicate the revision via platforms that Touchpoint International deems appropriate.

Definition

“Agreement” refers to this general User Terms of Service that may be included by the owning party from time to time, along with any schedule or appendices applied by subsequent parties or whichever may be applicable.

“TPI” refers TouchPoint International (company number: 1084167M), a company incorporated in Malaysia having its registered address at Suite 6.1, Work @ Clearwater, Changkat Semantan, Bukit Damansara, 50490 Kuala Lumpur.

“Customers” refers to any user who registers with TPI and utilizes M squared to make transactions to individual Merchants for good or services, to redeem vouchers using loyalty points issued by the Merchant, or to purchase and check in with their tickets among all available listed features.

“M squared” refers to the platform which enables customers to redeem deals, accumulate loyalty points, make cashless transactions (will be available on M Squared Apps Version 2), buy or validate tickets to Merchants via TPI mobile Application.

“Merchant App” refers to the Merchant online tool and their mobile application for the purpose of issuing deals, loyalty points, or to execute ticketing practice.

“QR code” translates to: Quick Response Code, which is the trademark for a type of matrix barcode for Merchants to supply deals, recognize customer’s account, accept payments, and identify tickets for ticket validation.
“Transaction fee” refers to a fee charged to Merchants for transactions made to TPI according to the formula set by the involved Parties.

Commencement and Terms

2.1. Commencement
This agreement shall take effect as soon as the Merchant receives a notification by TPI via email or any other method as determined by TPI from time to time.

2.2. Terms
This agreement shall be valid and continues to be binding until the expiry of the terms of service, and, until this agreement is terminated in accordance with the provision stipulated.

Services

3.1. Application
The Merchant agrees to download and install the Merchant App on their Mobile Device(s) in order to set up and use the service. The Application will be downloaded only from the authorized Apple App Store, Google Play Store or other application stores that are approved by TPI. The Merchant acknowledges that the access and use of Merchant App Services shall depend on the type of access and agrees that not all such services shall be available.

The Merchants acknowledges that the download and use of the Application on your Mobile Device shall be on a non-exclusive and a non-transferable basis.
3.2.1. Account and Information

The Merchant agrees that TPI is entitled to debit the Merchant’s Bank Account for service charges and/or any other related charges in relation to TPI Services. The Merchant is prohibited from using any Bank Account which does not belong to The Merchant.

TPI does not warrant the accuracy of any information pertaining to the Merchant’s Account(s), or transactions as reported through the Merchant App and/or TPI Platforms due to time delays, glitches and other similar system delays and/or errors that may occur. The Merchant is advised to regularly review any alerts, statements or notices issued or made available by the Bank, to ensure that there are no errors, irregularities, discrepancies, claims or unauthorised items or transactions, regularly and from time to time.

3.2.2. Personal and Business-Related Information

The Seller must be at least 18 years of age and must provide true, correct and accurate information to TPI in relation to their Personal and Business acumen’s which includes but not limited to information pertaining to their Name, NRIC, Mobile Number, Nationality, Address, Nature of Business, Business Name, Business Registration Number and Outlet(s) Address. In the event there are any changes to the information, The Merchant shall update the information via the Merchant App, TPI Platform and/or notify TPI immediately by means acceptable to TPI.

3.2.3. Information Revision

The Merchant acknowledges that TPI shall not be liable and shall indemnify TPI for any loss or damage that may arise due to The Merchant’s failure or delay to keep the TPI and/or Third Party Bank updated as to any changes to information including but not limited to information as specified in 3.2.1. and 3.2.2.

3.3 Account Security

The Merchant must take all reasonable precautions and diligence to prevent any unauthorized use of their Merchant App, Merchant QR Code and mobile devices.

Should the Merchant have reason(s) to believe that any of their Merchant Account(s) have been misused and/or compromised by disclosure, discovered or howsoever, they must inform the TPI immediately and/or take the necessary steps to change and recreate a new password.

The Merchant agrees that TPI has the right to invalidate their Merchant Account for breach or potential breach of any terms herein, or of any laws and/or regulations and/or to ensure or maintain the security of TPI Platform and its users where TPI deems appropriate. They shall not hold the TPI liable for any loss or damage suffered as a result of such invalidation of their Merchant Account.
3.4. Payment Through TPI Platform

Merchant acknowledges that TPI acts as an intermediary and enables the Customers to make payment, by using payment methods which M Squared supports. Customer Charges to be charged by Merchant shall be inclusive of all taxes and miscellaneous charges and shall be uniform to all Customers. All Transactions shall be drawn in Ringgit Malaysia only.

3.5. Maintenance

TPI may undertake scheduled maintenance and/or emergency maintenance of the Merchant App and the M Squared App from time to time and TPI will use reasonable endeavours to notify all merchants. TPI shall not be liable for any losses incurred by the Merchant arising from TPI’s performance of maintenance under this Clause 3.5.

3.6. No Warranties of Merchantability and Fitness of Use

TPI disclaims all warranties, express or implied, written or oral, including but not limited to warranties: -

a. of merchantability and/or fitness for a particular purpose;
b. and that TPI Services and Merchant App will be available at all times;
c. and that it would be uninterrupted and virus/ malware/ error free.

Parties’ Obligation

4.1. TPI’s Obligations

(a) TPI shall, based on the business information provided by the Merchant, design and feature the Merchant’s listing.

(b) TPI will provide a platform to allow customers to discover Merchant’s communities, redeem vouchers, accumulate loyalty points, make cashless transactions and buy or check in tickets.
4.2. Merchant’s Obligations

(a) The Merchant – not TPI – is solely responsible for providing a; Merchant Offerings, including but not limited to, the supply or delivery of the goods and/or services, Customer service, after-sales-service and return management. The Merchant shall indemnify and holds TPI free from any possible claims from third party or Customer regarding the Merchant Offering, including, but not limited to, claims of personal injury, death or property damage. Issues arising out of or related to the supply of the Merchant Offering by the Merchant to TPI Customer do not affect TPI’s right to retain the fees charged by TPI.

(b) The Merchant shall use TPI’s platform responsibly and not use it for any unlawful activities. The Merchant must have title or ownership over the goods and/or services they offer to Customer and the goods and/or services must comply with clause 4.2. (c).

(c) Prohibited Business Products and Services

The Merchant has a duty to ensure the business products, services provided, and activities conducted through TPI’s platform (Merchant App and M Squared) shall not involve:

1. Adult goods and services. Including all types of pornography, sexually suggestive materials, escort or prostitution services;
2. Airlines of all kinds. Including but not limited to regular commercial airlines, low-cost carriers, charter and flight tour operators, private jets and helicopter taxis;
3. Alcoholic products and beverages;
4. Automotive sales. Including but not limited to new and used motor vehicles of any kind;
5. Any product or service, which is not in compliance with all applicable laws and regulations in Malaysia;
6. Body parts;
7. Computer technical support and IT help desks
8. Drugs and drug paraphernalia. Including illegal drugs, herbal drugs and drug accessories;
9. Drug test circumvention aids which includes drug cleansing shakes, urine test additives, and related item;
10. Hacking and cracking materials which includes manuals, how-to guides, information, or equipment enabling illegal access to software, servers, websites, or other protected property;
11. Healthcare, pharmaceuticals, supplements, nutritional products of any kind, medical supplies of any kind.
12. Hotel and accommodation services of any kind.
13. Illegal goods, which includes materials, products, or information promoting illegal goods or enabling illegal acts;

14. Money service businesses such as remittance, transfer, money orders, prepaid gift cards, stored value facilities, quasi-cash, foreign exchange of currencies and similar services.

15. Oil and gas, petroleum and derived products

16. Offensive goods, which include literature, products or other materials that
   a. Defame or slander any person or groups of people based on race, ethnicity, national origin, religion, sex, or other factors
   b. Encourage or incite violent acts
   c. Promote intolerance or hatred

17. Products of wildlife trafficking, illegal hunting and poaching of endangered species.

18. Sale of counterfeit items;

19. Sale of animals or pets of any kind;

20. Sale of social media activity click farms including but not limited to sale of Facebook likes, Twitter followers, YouTube views.

21. Services in any way related to gambling or illegal money lending;

22. Tobacco products, cigarettes, cigars, electronic cigarettes and related products (such as cartridges and recharges)

23. Weapons. For examples: firearms, ammunition, knives, brass knuckles, gun parts, and other armaments;

24. Virtual assets. Including but not limited to cryptocurrency, bitcoin, online currency, gaming coins and online gold.

(d) The Merchant shall take all reasonable precautions and diligence to prevent any unauthorised use of TPI’s platform and its QR code.
5.1. Transaction Collection

(a) TPI shall collect from the payment of each transaction from Customer through M Squared.
(b) TPI shall deduct from the payment all services/ administrative charges in addition to any legally applicable sales and services tax in respect of Clauses 5.1(a) and (b), and thereafter to remit the balance (Settlement) to the Merchant.

5.2. Payment Terms

(a) Any Settlement made shall be remitted by TPI to the Merchant. The settlement time structure will follow the format of T + 2 or otherwise agreed by the Parties. Notwithstanding this, TPI makes no guarantee that the Settlement would be made on the actual date of receipt by the Merchant. TPI may together with each Settlement to the Merchant provide a report (“Settlement Report”) containing a breakdown of Settlement for the relevant Transactions undertaken.

For the avoidance of doubt, TPI’s service / administrative charges respect of a transaction shall become due when the transaction is confirmed and TPI is under no obligation to transfer any amounts to the Merchant where a transaction is not made.

(b) The parties agree that a transaction is deemed confirmed when:

i. The Customer completed their payment through M Squared;

   ii. The Merchant has delivered the goods and/or services in full to the Customer;

   ii. The Merchant has provided TPI evidence of (i) and (ii) including the receipt transaction number and/or other evidence. TPI may reasonably request as proof of the provision of the goods and/or services.

For the avoidance of doubt, if any of the above three described requirements are not met, the transaction is not confirmed and TPI is under no obligation to pay the Merchant any amount in respect of that transaction.

(c) Any payment made by TPI to the Merchant shall be without prejudice to any claims or rights which TPI may have against the Merchant.
5.2.1. Shortfall

If the value of the Deductions exceeds the value of all Customer Charges falling due for Settlement on the Settlement Date, the resulting shortfall may be held over by TPI for deduction against the following. However, TPI reserves the right at any time to require payment (including by directly debiting Merchant’s e-wallet) of all or part of such shortfall as TPI may determine.

5.2.2. Payment of Settlement

TPI will remit all Settlement to the Merchant’s Designated Bank in Malaysia Ringgit (RM) by wire transfer or such other method preferred by TPI. TPI may hold back from the Settlement any amounts reasonably required to cover potential or expected Refunds or Charge Back (if applicable).

5.3. SST and Invoices

(a) TPI shall account for SST for which it is liable, under the laws applicable to this Agreement. The Merchant shall account for SST for which it is liable, under the laws applicable to this Agreement.

If applicable SST laws change such that TPI becomes liable to account for SST which was previously liable to be accounted for (or was scheduled to be so liable to be accounted for by) to the Merchant, the Merchant agrees that TPI may unilaterally vary the financial provisions of this Agreement to produce the result which would have been achieved had the change in SST laws not occurred.

(b) The Merchant shall provide Customer with an invoice in compliance with applicable law.
Disputed Transactions

The Products and Services shall only be provided for by the Merchant only upon confirmation of the Transaction by TPI.

TPI shall only be responsible for any Transactions that have been confirmed by TPI.

All disputed Transactions shall be the sole liability of the Merchant.

6.1 Handling Disputes

6.1.1. TPI shall not be under any obligation or responsibility to investigate any disputed Transaction.

6.1.2. Where TPI is notified of any invalid or disputed Transactions, TPI will notify the Merchant of the same by email or phone and where possible followed by an explanation of the reason for it. Such Transactions will be classified as disputed by TPI and it shall be debited back to the Merchant.

6.1.3. The Merchant hereby agree that it shall be their responsibility to carry out the investigation in respect of any disputed Transactions and shall take all reasonable steps to resolve such disputes with its Customer within fourteen (14) days from the date of notification. The Merchant shall also agree to follow and abide with the procedures for handling disputed Transactions as given and/or determined by TPI from time to time. While the completion of the investigation is still pending, TPI shall have the right to suspend the processing of such Transaction or withhold the Settlement to the Merchant of the amount of such Transaction until the investigation has been successfully negotiated.

6.2. Invalid Transactions

A Transaction shall be regarded as invalid by TPI in the event of the following:

(a) It was declined for a given reason but was still processed by the Merchant;
(b) It was incomplete, unlawful and unenforceable;
(c) There was a duplicate transaction; or
(d) It did not comply to the Merchant App’s operating guide stipulated in the Appendix.
6.3. Exclusion of TPI

TPI shall not be held liable in any manner whatsoever in the event there is a dispute between the Merchant and the Customer(s) in relation to the Transaction including but not limited to the quality of the Product and/or Services, overcharging or late delivery unless it can be reasonably shown by the Merchant that such dispute arose, directly or indirectly, from the gross negligence, fraudulent act, material default or breach, material errors and/or omissions by TPI in the provision of Merchant App Services under this Agreement.

Refund Policy

7.1. Procedures for Refund

If a refund from any form of transaction is instructed, Merchants will have address the request:

- on the same day when the relevant Transaction took place (the “Transaction Day”), the Merchant shall take necessary steps to void/cancel the Transaction through the relevant feature(s) available on the Merchant App and make sure that such cancellation is relayed to TPI on the same day. The Merchant shall then be responsible for the refund to such Customer;

7.2. Exclusion of TPI

TPI shall not be responsible for any losses, claims, damages, costs and expenses incurred by the Customer and/or the Merchant arising from the Refund.

TPI shall not be responsible for any abuse or misuse of the “void/cancel” function made available to the Merchant on Merchant App. The Merchant shall keep TPI fully indemnified from all liability, losses, damages, cost and expense incurred by TPI arising out of or in connection with the misuse of the same.

7.4. Refund under discretion of TPI

TPI has the right to refund any Customer of M Squared who, in TPI’s reasonable opinion, has a valid complaint about the Merchant Offering, including, but not limited to, its supply or delivery. If TPI has already paid the Merchant in respect of such refunded payment, TPI may recover the refunded amount from the Merchant.
TPI reserve the right to block access to and/or to edit or remove any material which in our reasonable opinion may give rise to a breach of any of these Terms and Conditions.

**Parties, warranties, Covenants, and, Representations**

Merchant hereby warrants, covenants, and represents that:

(a) It has the full authority and power to enter into, deliver and execute this Agreement, and this Agreement has been accepted by an authorized representative of the Merchant;

(b) All information provided by the Merchant in Merchant App is accurate, complete and correct.

(c) The bank account used for the receipt of Merchant’s Settlement as set out in Merchant App belongs to the Merchant.

(d) It has obtained all necessary licenses, consents and permissions relevant to this Agreement and to the Merchant Offering;

(e) All data and information provided by the Merchant to TPI and the execution by Merchant at all times shall be in compliance with all applicable laws and regulations and in accordance with any guidelines, standards and relevant codes of practice. It shall comply with all applicable consumer, personal data protection and other laws and regulations with respect to:

   (i) the usage of Merchant App Service;
   (ii) the dealings with the Customer; and
   (iii) the processing, use and disclosure of the Customers’ data;

(f) Execution and performance of this Agreement shall not violate any provision of:

   (i) constitutional documents,
   (ii) any document binding upon it,
   (iii) any law, regulation or decree binding on it; and
   (iv) intellectual property rights of any third party;

(g) No litigation, arbitration or any dispute, current or pending or, to its knowledge, threatened, which is likely to have a material adverse effect upon its ability to perform its obligations hereunder.

(h) It shall observe the guidelines, procedure or such other updates as provided by TPI from time to time during the term of this Agreement;
(i) It shall install any updates, fixes and patches whenever they are made available or notified of its availability by TPI;

(j) It has the full right and/or authority to offer the applicable Products and/or Services and shall at its own cost obtain and maintain the necessary licenses and approvals from the government or any regulatory body for the provision of such Products and/or Services and performance of its obligations under this Agreement;

(k) Its login name and password shall be kept safely and confidential. In the event of the failure of the Merchant in doing so, TPI shall be kept fully indemnified from all liability, losses, damages, cost and expense incurred by TPI arising out of or in connection with the misuse of the same. TPI shall be notified immediately notify by the Merchant upon learning of any unauthorized use of its login name and/or password;

(l) It shall at all times, display the logo and other such trademarks of TPI that may be mutually agreed at the retail outlet or trading platform of the Merchant;

(m) it shall provide TPI the information as required by TPI at the time it desires to become the Merchant of TPI;

(n) the products and services as detailed as Prohibited items in Clause 4.2(c) and such other prohibited items which TPI may notify from time to time shall not be sold by the Merchant;

(o) It shall be solely responsible for all Customer service issues relating to the Transaction, Products and Services sold by the Merchant, including but not limited to Customer Charge, order fulfilment, order returns, refunds, exchanges and adjustments, rebates, functionality and warranty, technical support, customer complaints and feedback concerning experiences with its personnel, policies or processes and the Merchant shall bear any and all expenses and/or costs relating thereto;

(p) it shall not conduct any unlawful or illegal transactions using Merchant App Services;

(q) it shall immediately report to TPI upon the discovery of any fraud, theft, loss, unauthorized usage or any other occurrence of unlawful or illegal acts in relation TPI Service, Merchant App and/or their respective use. The Merchant agrees to lodge a police report whenever instructed by TPI and to give TPI a certified copy of such report;

(r) It shall cooperate with TPI and provide all Transaction related details required by any government or regulatory body;

(s) other than the equipment and terminals provided by TPI, it shall be responsible for all other equipment (including upgrades and modifications required) necessary to use the TPI Service and Merchant App and to carry out the Transactions, and also for the security and integrity of all information and data transmitted, disclosed and/or obtained through the use of the TPI Service and/or Merchant App; it shall not:

   (i) discriminate the Merchant App against other modes of payment;
(ii) discriminate Customers seeking to make payment using the M Squared App against Customers using other modes of payment; and

(iii) impose any restrictions and/or conditions on the use of M Squared/Merchant App as a mode of payment other than that approved or prescribed by TPI;

(t) it shall not charge the Customer any additional fee or charges in addition to the Customer Charges other than goods and service tax imposed by law;

(r) it shall keep proper account and correct copies of all documents/records relating to the Transactions and TPI shall be allowed at any reasonable time to inspect or take copies of all such documents and shall preserve such documents and records for a period of at least two years from the transaction date;

(s) It shall not use the Merchant App in any manner and/or engage in any activities which is prejudicial to TPI and/or in any manner which would bring disrepute to TPI, all of which shall be determined based on TPI’s opinion;

(t) It shall ensure that the account registered by the Merchant on Merchant App remains personal to itself and it shall not register an account on behalf of any third party or in any way transfer/assign the account to any third party without TPI’s prior written consent;

(u) It shall be solely responsible for the outlets and staffs’ Merchant App account management and TPI shall not be responsible for any consequences arising from the abuse or misuse of the QR codes; and

(v) It shall not use the Merchant App in any manner dishonestly or in bad faith or with malicious intent, in TPI’s opinion.

Exclusion of Liability

9.1. TPI does not exclude or limit any liability that cannot be excluded or limited by applicable law.

9.2. Subject to Clause 9.1, TPI shall not be liable for any indirect loss. Further, TPI shall not be liable, whether directly or indirectly for:

(i) loss of actual or anticipated profits;

(ii) loss of goodwill; or
(iii) loss of data and/or the costs of restoration of data.

9.3. Subject to Clauses 9.1 and 9.2, TPI’s total liability under this Agreement, howsoever arising, shall in no circumstances exceed the greater of Ringgit Malaysia Two Thousand Five Hundred (RM 2500.00). Only or the cumulative total amount of the TPI Fee that PTI has received under this Agreement, whichever lower.

9.4. All conditions or warranties that may be implied or incorporated into the Terms and Conditions by law, or otherwise are hereby expressly excluded to the extent permitted by law.

9.5. TPI shall not be liable to the Merchant in contract, tort or otherwise howsoever arising out of or in connection with this Agreement save and except for the Settlement which is due and payable to the Merchant in accordance with this Agreement.

9.6. No terms or condition of this Agreement shall benefit or create any right or cause of action in or on behalf of any person or entity other than TPI and the Merchant. The provisions of this paragraph shall apply regardless of the form of action, damage, claim, liability, cost, expense or losses whether in contract, statute, tort (including, without limitation, negligence), or otherwise.

**Intellectual Property Rights**

10.1. Merchants acknowledges that the IPRs are capable of being protected and/or enforced in Malaysia and/or any relevant country of the world, any brand names, trademarks, services, products, hardware and software shall remain vested in the party originating or which has acquired the same. For clarity purposes, all IPRs used on the App and/or the Services are the property of TPI and its licensors and/or unless specified otherwise.

10.2. Merchants may utilise the TPI’s IPR strictly in accordance with the instruction and guidelines of TPI issued and/or communicated by TPI from time to time and solely for the activities contemplated in this Agreement only.

10.3. The Merchant further agrees and undertakes that save as expressly permitted in this Agreement it shall not without TPI’s prior written consent:
(a) reproduce, copy, reverse compile, adapt, modify, distribute, commercially exploit, display, broadcast, hyperlink or transmit in any manner or by any means or store in an information retrieval system any part of TPI’s IPR; and

(b) create or use derivative works from TPI’s IPR.

Confidentiality and Privacy

11.1. This Agreement

The Merchant agrees to keep strictly confidential the terms of this Agreement, all its contents and all information that it obtained about TPI’s business, including, but not limited to, the finances, technology and affairs of TPI.

11.2. Customer Data

TPI or an affiliated entity owns all personal data on customers. Where TPI (or an affiliated entity or other third party) makes personal data about Customer available to the Merchant, the Merchant shall use the personal data of Customer only to fulfil its obligations in connection with the Merchant Offering, and for no other purpose. The Merchant shall always ensure that it implements and complies with reasonable security measures, including, but not limited to, such security measures as prescribed by applicable law, in the handling of any personal data of Customer. If the Merchant engages any third party to facilitate any of its obligations hereunder, the Merchant shall ensure that such third party complies in the same way with everything under the Merchant's obligations through this Agreement.

11.3. International Transfer of Data

TPI uses affiliated and unaffiliated service providers to process data received from the Merchant, including, without limitation, the ultimate TPI parent company. Such service providers process personal data only on behalf of and subject to instructions from TPI under data processing agreements that require adequate data protection measures. The Merchant hereby grants its consent to the transmission of its data to these service providers.

11.4. Background Checks
(a) TPI reserves the right to make general and specific credit and financial checks and credit-related enquiries about the Merchant and certain individuals and/or legal entities working with and/or for the Merchant. The Merchant consents to these checks and agrees to cooperate with TPI’s reasonable requests in respect of conducting these checks.

(b) The Merchant acknowledges that TPI may record phone calls with the Merchant for quality assurance and compliance purposes.

Suspension and Termination

This Agreement shall be valid and effective until this Agreement is terminated in accordance with the provisions of this Agreement.

Notwithstanding anything herein to the contrary, TPI may at any time, suspend or terminate the Merchant’s right of access to TPI Platform and/or Merchant App or any part thereof or of any medium it is made available under, for the breach or potential breach of any terms herein, laws and/or regulations and/or to ensure or maintain the security of TPI Platform and/or Merchant App and its users where TPI deems appropriate.

12.1. Suspension

Suspension of Account is given when the Merchant has violated a material breach of any warranty, terms and conditions of this Agreement, and such breach is capable of being remedied. Duration of suspension is 14/30 days of receipt of notice upon breach by the aggrieved party specifying the nature of breach;

12.2. Termination

Without prejudice to any other rights or remedies that TPI may have, TPI reserves the right to terminate the agreement immediately without any liability owing to the Merchant, by providing a written notice to the Merchant, by giving seven(7) days’ written notice to the other party, in the event of following:

(a) the Merchant has violated a material breach of any warranty, terms and condition of this Agreement, and such breach is incapable of being remedied or where it is capable of being remedied, such remedy is failed to be fix or incapable of being remedied within 14/30 days of receipt of notice upon breach by the aggrieved party specifying the nature of breach;

(b) any of the representation or warranties found to be inaccurate, false or untrue;
(c) the Merchant is adjudged bankrupt;

(d) the Merchant become insolvent or insolvent or compound with or makes agreement with its creditors;

(e) the Merchant have a winding up order made against it;

(f) the Merchant has ceased its business;

(g) the Merchant is in breach of any acts, laws, by-laws, statutes, rules or regulations that is imposed by any party, government agency or regulatory body.

(h) a receiver, manager, official manager, provisional liquidator, liquidator, or like official is appointed over the whole or a substantial part of the undertaking and property of the Merchant and such appointment is not withdrawn, revoked or annulled within a period of ninety (90) days from the date of such appointment;

(i) a holder of an encumbrance takes possession of the whole or any substantial part of the undertaking and property of the Merchant and such action is not withdrawn, invalidated or reversed within a period of ninety (90) days from the date of such appointment;

**Consequences of Termination**

13.1. The termination or expiry of this Agreement, in whole or in part, does not operate as a waiver of any breach by a Party of any of its provisions and is without prejudice to any rights, liabilities or obligations of any Party which have accrued up to the date of termination or expiry including the right of indemnity.

13.2. On termination or expiry of this Agreement by either Party for any reason:

(a) All amounts accrued and payable shall become immediately due and payable. TPI shall remit all monies in the Merchant’s wallet less any monies, damages, cost and expenses due tPI to Merchant’s Designated Bank Account.

(b) The Merchant shall forthwith return to the TPI such equipment, originals and any copy of any software, books, documents, records, papers and materials of TPI in its possession.

(c) The Merchant shall immediately cease holding itself out as a Merchant to TPI and shall immediately cease using the TPI Services, TPI’s IPR and remove all signs, names, insignia,
advertisements and/or any other material which identifies it as part of the network of TPI and shall return to TPI all literature and other material relating to TPI in its possession.

**Indemnity**

The Merchant agrees to defend, indemnify and hold TPI, its affiliated and related entities, and any of its respective officers, directors, agents and employees, harmless from and against any claims, lawsuits, investigations, penalties, damages, losses or expenses (including, but not limited to, reasonable attorneys’ fees and costs) arising out of or relating to any of the following:

(a). any claim by the relevant tax authorities for the tax obligations of the Merchant arising from the issuance, sale or transaction of TPI’s Platform;

(b) any claim by a M Squared App user or anyone else arising out of or in connection with the Merchant Offering (or any goods and/or services actually or purportedly offered in respect of or in connection to TPI’s Platforms) or any other goods and/or services offered by the Merchant, including, but not limited to, claims for personal injury, death, or property damages; and

(c) any breach (or alleged breach) of Clauses 10 and 11.
15.1. Without limiting the generality of any provision in these Terms and Conditions, TPI shall not be held liable for any non-performance and/or delay in performance of its obligations herein (including but not limited to the non-availability and/or interruption in the Services) due to any acts of God, force majeure, riots and civil commotions, strikes, lockouts, or other labour disturbances, fire, war and other causes or perils beyond the party's control.

15.2. Force Majeure shall mean any factors or impediment that are beyond the Party’s reasonable control and that it could not reasonably be expected to have taken the impediment into account at the time of the conclusion of this Agreement or to have avoided its consequences including but not limited to war, revolution, insurrection, riots, blockage or embargo, emergency, accident, fire, earthquake, flood, storm, industrial strikes, lockouts or other labour disputes not instigated or caused by the affected Party for the purposes of avoiding its obligations herein, pandemics and viral outbreak. Provided that an event of Force Majeure shall not include economic downturn, non-availability or insufficient funds, or lack of financing on the part of the affected Party to carry out its obligations under this Agreement.

15.3. If either Party is prevented or delayed in the performance of any obligation under this Agreement by events of Force Majeure, the affected Party shall give written notice thereof to the other Party within seven (7) days of the happening of such event, specifying the details constituting Force Majeure and the anticipated period during which such prevention, interruption or delay may continue.

15.4. Where possible the Parties shall diligently mitigate or remove the effects of Force Majeure. Either Party upon receipt of the notice of Force Majeure shall confer promptly with the other and agree upon a course of action to remove or alleviate such effect and shall seek reasonable methods of resuming full performance of its obligations and achieving the objectives under this Agreement.
16.1. This Merchant Agreement including any annexures thereof and the Merchant Application Form shall constitute a binding contract between the Parties hereto. In the event that there are any inconsistencies between the Merchant Agreement and the Merchant Application Form, the Merchant Application Form shall prevail.

16.2. Nothing in this Agreement shall be construed as to create the relationship of employer-employee, partners, collaborators, joint-venture or principal-agent between the Parties hereto. The Parties shall be independent contractors and neither Party shall bind the other by its acts, deeds or omissions.

16.3. This Agreement supersedes all previous negotiations, writings, commitments or agreements, either oral or written, between the Parties hereto.

16.4. This Agreement shall be binding on and shall ensure for the benefit of each of the Parties' successors. The Merchant shall not assign nor transfer any of its rights, benefits or obligations under this Agreement save with the prior written consent of TPI.

16.5. The illegality, invalidity or unenforceability of any provision of this Agreement under the laws of any jurisdiction shall not affect its legality, validity or enforceability under the laws of any other jurisdiction nor the legality, validity or enforceability of any other provision of this Agreement.

16.6. Failure or delay on part of either Party to enforce any provision(s) of this Agreement at any point of time shall not be construed to be a waiver by such Party of such rights thereafter to enforce each and every provision of this Agreement.

16.7. This Agreement shall be governed by and construed in all respects in accordance with the laws of Malaysia.
OPERATING GUIDE

1. The Merchant is strictly not allowed to perform or allow its customer to perform any dishonest transactions via TPI Platforms.

2. The Merchant shall not process a transaction after receiving decline response except for the following: System failure for that transaction, Transaction time-out, Customer Request to reprocess.

3. The Merchant shall stop processing the Transaction as soon as TPI has informed the Merchant to do so.

4. The transactions done through TPI Platforms shall not be a payment for goods or services that violates any relevant governing law or for goods and services which is outside the description of the Merchant’s business.

5. The Merchant shall not attempt to levy any service charge for use of TPI’s Platforms and shall not attempt to or set any minimum transaction limit for any Transaction it’s customer wish to make via M Squared App.