



TERMS & CONDITIONS OF BBMSL LIMITED – AGREEMENT

1. General Terms

BBMSL LIMITED (“**BBMSL**”) hereby agrees to provide Payment Services (as defined hereinafter) and lease to the Merchant the type and number of units of mobile point-of sales payment devices as set out in the Application Form enclosed hereto (hereinafter referred to as the “**Equipment**”), and the Merchant hereby agrees to take the Equipment on lease from BBMSL, all in accordance with the terms and conditions of this Agreement.

BBMSL shall deliver and make the Equipment available to the Merchant by installing the Equipment connecting with BBMSL’s payment system in the Merchant’s premises for processing/collecting payments from the Merchant’s customers (the “**Payment Services**”) in accordance with the Application Form enclosed hereto.

2. Merchant Services

2.1 Payment System

BBMSL has the rights to substitute, add, remove, upgrade or otherwise, modify part or all of the components and modules of the Payment System at any time at the discretion of BBMSL without any prior notice.

The Merchant agrees that BBMSL has the rights to perform scheduled maintenance and non-scheduled maintenance of the Payment System.

2.2 Equipment Lease

BBMSL hereby agrees to lease to the Merchant the Equipment, and the Merchant hereby agrees to take the Equipment on lease from BBMSL, all in accordance with the terms and conditions of the Agreement.

Subject to early termination as elsewhere herein provided, the term of the lease period of each unit of Equipment leased by BBMSL to the Merchant shall be twenty-four (24) consecutive calendar months, starting from the Installation Date set out in the Application Form (hereinafter referred to as the “**Lease Period**”). The Lease Period will automatically renew at the end of each term for a further term of twenty-four (24) calendar months unless terminated in accordance with Clause 9 of the terms and conditions of this Agreement.

2.3 Use of the Payment Devices

BBMSL permits the Merchant to use the Equipment only in the manner as set out in the terms and conditions of this Agreement. The Merchant shall have no property right or interest in the Equipment. The Merchant shall not allow any other parties to use the Equipment without BBMSL’s prior written consent.

The Merchant will:

- (i) ensure that the Equipment will at all times be kept, used and operated with reasonable care, in accordance with the operating instructions for



- the use of the Equipment (“**Operating Instructions**”) provided by BBMSL from time to time and all applicable laws and regulations relating to possession, maintenance or use of the Equipment, only by appropriately trained staff member(s) of the Merchant;
- (ii) not alter, adapt, modify or otherwise tamper with the Equipment (or any part or programme thereof);
 - (iii) not deface, obliterate, remove, cover up or otherwise interfere with any markings thereon;
 - (iv) not sell, assign, transfer, lease, create or allow any encumbrance to be created on the Equipment;
 - (v) not deal with or otherwise part or share with the possession of the Equipment;
 - (vi) ensure that at all times during business hours of the Merchant at least one member of the Merchant’s staff, who has received appropriate training in the Equipment’s operation and is familiar with the Operating Instructions, is responsible for overseeing and operating the Equipment in a proper manner; and
 - (vii) promptly report to BBMSL any fault or suspected fault in the Equipment’s operation.

2.4 Loss or Damage

The Merchant shall not disturb, deface, alter or remove the labels or the identification that may be found on the Equipment or any part thereof without BBMSL’s prior written consent. The Merchant shall undertake to keep the Equipment in good condition (reasonable fair wear and tear are acceptable).

The Merchant shall be responsible for the loss or damage to the Equipment caused by the willful act or negligence or default by the Merchant or its agents or employees. If the Equipment is lost, damaged or destroyed as a result of the willful act or negligence of the Merchant or its agents or employees, the Merchant shall, within thirty (30) days upon demand in writing from BBMSL, be responsible for paying BBMSL the cost of repairing or replacing the Equipment in accordance with the rates reasonably quoted by BBMSL. In any event, the total cost for either repair or replacement of the Equipment or accessories shall not exceed the amount indicated in the Appendix A.

2.5 Use of Operating Instructions

BBMSL will, from time to time, provide the Operating Instructions to the Merchant for the use of the Equipment. The Merchant shall ensure that any transaction to be made through the Equipment shall follow the Operating Instructions as may be reasonably practicable and to abide by the instructions relating to the use of the Equipment. BBMSL shall have the sole right and absolute discretion to amend the Operating Instructions, which amendments shall become effective upon a notice in writing of such amendments being given to the Merchant. In the event of conflict between the Operating Instructions and the provisions contained in this Agreement, the latter shall prevail. The Merchant is not allowed to alter or tamper with any program(s) in the Equipment without prior written consent from BBMSL.



2.6 Malfunction or Interrupted Service

In the event that the Equipment becomes malfunctional or fails to access to BBMSL payment system to enable and facilitate the Payment Services for any reason whatsoever, the Merchant shall not continue to use the Equipment further on and BBMSL shall not be responsible for any unexpected outcomes, losses or damages incurred whatsoever.

2.7 Sales Record Keeping

The Merchant shall preserve all documents and records (including, without limitation, the Merchant's sales slips) relating to each transaction paid through the Equipment and/or BBMSL payment system (the "**Card Transaction(s)**") for at least twenty four (24) calendar months from the date of the sales slip or the later date of the credit slip for the Card Transaction (if any) and produce to BBMSL such documents, records and/or the Merchant's books and other records as may be required by BBMSL from time to time for any purpose within five (5) days from the date of BBMSL's request.

3. Disclaimer of Liabilities

The Merchant acknowledges that its entry into this Agreement is not based or otherwise in reliance on any representation, statement or warranty in whatever form made by or on behalf of BBMSL (which, if made, shall all be hereby deemed as withdrawn and revoked) other than those set out in the terms and conditions of this Agreement.

BBMSL shall not be liable to the Merchant or any customer of the Merchant as to the accuracy or validity of any point of sale authorization communicated by BBMSL in connection with the use of the Equipment.

Unless caused by the willful act or gross negligence or default by BBMSL or its agents, employees or subcontractors, BBMSL shall not be liable to the Merchant (whether for loss of profit or otherwise) from any suspension or interruption of Payment Services.

BBMSL shall not be liable to the Merchant or any other person(s) claiming through or under or on trust for the Merchant under any circumstances whatsoever for the loss, damage, costs, expenses, liabilities, actions, claims, or proceedings which the Merchant or any such person(s) may suffer, sustain or incur as a result of, in connection with, or arising out of the possession or use of the Payment Device or in connection with this Agreement unless the same is caused by the willful act or gross negligence or default of BBMSL or its agents, employees and/or subcontractors.

4. Merchant Obligations and Responsibilities

4.1 Customer Due Diligence

In an effort to fight against Anti-money laundering (AML) and facilitate Combating the Financing of Terrorism (CFT), the Merchant agrees to provide accurate and



complete information, documents and proofs (referred collectively as "**Merchant KYC Data**") requested by BBMSL as part of the Know-your-customer ("**KYC**") process at account opening upon the application of the Merchant.

The Merchant warrants that all the data provided is correct and up-to-date and agrees to provide BBMSL written notice of any material changes within seven (7) days, including any change of its directors, shareholders and/or ultimate beneficial owners.

The Merchant agrees that BBMSL may conduct further checks on the identity, credit status and background of the Merchant and its directors, shareholders and/or ultimate beneficial owners by contacting and consulting various registries, government authorities or other relevant sources.

BBMSL may from time to time request the Merchant to provide additional financial and other information for identity check, regulatory compliance check and risk management purposes. BBMSL reserves the right to suspend the provision of Payment Services to the Merchant until such additional financial and/or other information is provided.

The Merchant authorizes BBMSL to submit the Merchant KYC Data to relevant payment service providers and banking partners for account opening purpose and other ongoing KYC monitoring purposes.

BBMSL is responsible to perform due diligence before accepting a merchant as its customer, and to assess the customer's risk level ("**Due Diligence Obligations**"). The Merchant must assist BBMSL in fulfilling its Due Diligence Obligations in order to successfully open an account with BBMSL and register as a registered merchant of BBMSL. After the registration, the Merchant must cooperate to provide the necessary information in accordance with the request of BBMSL, in particular when large or unusual transactions occur. If the Merchant fails to cooperate as required, it will be regarded as a material breach of the terms and conditions of this Agreement.

The following Merchant KYC Data are the basic documents that BBMSL requires the Merchant to provide Due Diligence and account opening purposes:

- (i) copy of the Business Registration Certificate;
- (ii) copy of Certificate of Incorporation (for limited company);
- (iii) copy of Hong Kong Identity Card of the shareholders and ultimate beneficial owners;
- (iv) copy of Bank Statement/ Bank Book/ Card/ Cheque (within latest 3 months);
- (v) copy of Store Photos (storefront with signboard and shelf / store interior);
- (vi) copy of the Electronic Extract of Information (EI);
- (vii) copy of Annual Return (NAR1) / Incorporation Form (NNC1);



Should BBMSL requires further information, the Merchant agrees to collaborate with BBMSL and provide the specific information and/or documents as requested by BBMSL.

4.2 Merchant Representation and Warranties

The Merchant makes each of the following representations and warranties to BBMSL, and acknowledges that BBMSL is relying on these representations and warranties in providing Payment Services to the Merchant:

- (a) Authorization. The Merchant represents and warrants the following (collectively, the “**Authorization Warranties**”):
 - It is an independent business entity, which has been duly incorporated with limited liability and is validly existing and in good standing under the laws of the jurisdiction of its place of incorporation;
 - It is properly registered to do business and has all licenses, regulatory approvals, permits and powers legally required to conduct its business in each jurisdiction in which it carries on business, including the products and services. It will renew and maintain all these license(s) and permits required;
 - the products and services of the Merchant are compliant with the Trade Descriptions Ordinance (Cap. 362 of the laws of Hong Kong), without inaccurate misleading or fraudulent claims;
 - the products and services of the Merchant do not infringe any third party’s copyrights, intellectual property rights, patents or other interests of any third party;
 - the products and services of the Merchant are compliant with the Payment Scheme Rules, with any Payment Processing Partner’s Rules (if any), applicable laws under the Payment Systems and Stored Value Facilities Ordinance (Cap. 584 of the laws of Hong Kong) and the applicable laws of the Hong Kong Special Administrative Region; and
 - It has the corporate power, authority and legal right to execute and perform this Agreement and to carry out the transactions and its obligations contemplated by this Agreement.

- (b) Validity. The Merchant represents and warrants that once duly executed by the Merchant this Agreement shall constitute valid and binding obligations on the Merchant, enforceable in accordance with its terms. Except as otherwise stated in this Agreement, no approval or consent of any person or government department or agency is legally or contractually required to be obtained by the Merchant in order to enter into this Agreement and perform its obligations.

- (c) Litigation. The Merchant represents and warrants that there is no litigation, proceeding or investigation of any nature pending or, to the Merchant’s knowledge, threatened against or affecting the Merchant or any of its affiliates, which would reasonably be expected to have a



material adverse effect on its ability to perform its obligations under this Agreement.

4.3 Merchant's Facilities

The Merchant agrees that it is the sole responsibility of the Merchant to provide its own facilities necessary for utilizing any of the relevant services (the "**Merchant Services**"), including without limitation:

- (i) Electricity
- (ii) Internet connectivity
- (iii) Telecommunication and networking equipment
- (iv) Computer, mobile phones, tablets and other computing systems
- (v) Any other hardware/ software systems

4.4 Proper Use of Payment System

The Merchant agrees the following:

- (i) It shall ensure that the Equipment will at all times be kept, used and operated with reasonable care, and in accordance with the Operating Instructions from time to time prevailing and all applicable laws and regulations relating to possession, maintenance or use of the Equipment, and only by appropriately trained staff members of the Merchant;
- (ii) It shall not alter, adapt, modify or otherwise tamper with the Equipment (or any part or programme thereof) nor deface, obliterate, remove, cover up or otherwise interfere with any markings thereon;
- (iii) It shall neither sell, assign, transfer, lease, create or allow any encumbrance to be created on, nor deal with or otherwise part or share with the possession of the Equipment;
- (iv) It shall ensure that at all times during business hours of the Merchant at least one member of the Merchant's staff, who has received appropriate training in the Equipment's operation and is familiar with the Operating Instructions from time to time prevailing, is responsible for overseeing and operating the Equipment in a proper manner;
- (v) It shall promptly report to BBMSL any fault or suspected fault in the Equipment's operation;
- (vi) The confidentiality of credentials, such as username and password, used in the Payment System is properly maintained. The merchant is solely responsible for any use and action performed under a user account; and
- (vii) It will not alter, reverse-engineer, tamper any components or modules within the Payment System.

4.5 Service Fulfilment

The Merchant agrees to keep evidence that products and services are provided to the customers in a satisfactory manner to reduce the risk of successful chargebacks and fraud.



4.6 Fraud Monitoring

The Merchant is obligated to cooperate in the investigation of suspicious transactions and activities.

BBMSL is obligated to report any suspicious, illegal, fraudulent transactions and activities to relevant government authorities.

4.7 Logo

The Merchant agrees that it will use its best effect to display promotional materials, including but not limited to, tent cards, posters, stickers, leaflets, digital signages to promote the use of the Merchant Services.

5. Payments and Fees

BBMSL shall charge the Merchant a Transaction Fee based on a Merchant Discount Rate ("**MDR**") as stated in the Application Form. BBMSL shall charge the Merchant on other service fees such as setup fee, installation fee and maintenance fee based on the services provided.

The Merchant shall pay BBMSL all applicable fees set out in its Settlement Schedule (as defined hereinafter) and/or the Merchant Agreement (as defined hereinafter).

The Merchant agrees that BBMSL may deduct, in whole or in part, any transaction fee and application fee (collectively, the "**Service Fee**") that is due and payable but has not otherwise been paid by the Merchant, from the relevant Funds Available for Settlement (as defined hereinafter).

BBMSL reserves the right to adjust the Merchant Discount Rate without prior notice offered in Payment Services under BBMSL sole discretion.

BBMSL reserves the right to confiscate the Deposit HKD2,000 per unit of terminal under the following circumstances: -

- (i) if the Merchant is unable to achieve the target transaction volume set forth in Application form; or
- (ii) if the Merchant is to cancel the Payment Services without achieving Clause 5(a) above.

6. Payment Processing

The Merchant acknowledges that BBMSL utilizes third-party payment processing service providers to process payments, these include credit card and debit card ("**Card**") payment processing providers and acquirers, QR-code payment scheme providers, and store-value facilitators.

Subject to the provisions of this Agreement, the Merchant shall accept the use of a Card when properly presented by a cardholder ("**Cardholder**") in payment for all transactions.



The Merchant shall not accept the use of Card in any of the following events:

- (i) the Card and/or its account number appears in any notification issued by or on behalf of any Card organization or its affiliates concerning the Cards which any Card organization or its affiliates have cancelled or otherwise suspended from use;
- (ii) the Card is not valid;
- (iii) BBMSL has declined to authorize the use of the Card for the Card transaction after authorization checking;
- (iv) any part of the Card has been damaged, defaced, tampered with or altered in any manner;
- (v) the signature of the Cardholder on the sales slip does not appear to match the signature on the signature panel of the Card;
- (vi) the Card number and/or name displayed on the terminal does/do not match the Card number and/or name embossed on the Card face;
- (vii) the Card does not bear a genuine distinctive hologram device or in the case of a UnionPay Card, the genuine distinctive marking of the UnionPay Card Programme; or
- (viii) existence of other circumstances that reasonably cause the Merchant's suspicion or doubt on the validity and legality of the transaction or use of the Card.

The Merchant must not provide any cash advance or similar arrangement by the use of a Card to any Cardholder.

The Merchant must not add any surcharge or premium on any transaction under any circumstance if a Cardholder wishes to use a Card in payment therefor.

The Merchant shall accept a Card for payment of a Transaction at whatever amount and must not set any minimum amount or other precondition for accepting the Card for such payment, nor shall the Merchant allow any discount or other incentive for the use of another means of payment.

Some software or hardware products/ installations/ equipment are provided by one or more third-party service providers which are independent of BBMSL. The Merchant may be required to enter a separate agreement with the Third-Party Service Provider as requested by BBMSL. Examples include the following:-

- (i) Point-of-sales (POS) software;
- (ii) Online/mobile ordering software;
- (iii) Self-served kiosks;
- (iv) Vending machines; and
- (v) Toll-gates.

The Merchant accepts the use of a Card by a Cardholder in effecting any e-Commerce order of goods and/or services to be rendered by the Merchant, provided that before effecting any such e-Commerce order Card Transaction, the Merchant shall ensure that the Merchant obtains clear instruction for carrying out



the e-Commerce order Card transaction from the Cardholder through e-Commerce with any authentication method as from time to time prescribed or approved by BBMSL (including for present purpose only EMV 3-D Secure or SSL or SecureCode or UPOP or SafeKey) and holds a completed e-Commerce order record in respect of e-Commerce order of the Cardholder:-

- (i) recording the authorization of the Cardholder for the making of the relevant payment in respect of the e-Commerce order Card transaction;
- (ii) stating the name and the account number of the Cardholder and the expiry date of his/her/its Card;
- (iii) specify the nature of the card transaction, the currency and amount of the transaction and the date of the e-commerce order; and
- (iv) bearing the Merchant's name and account number.

The Merchant shall comply with Visa Worldwide, MasterCard Worldwide, UnionPay International, American Express International Inc., Ant Financial Group and Tenpay Payment Technology Co., Limited mandatory online payment standards and regulations.

The Merchant is required to display the country of domicile of its store location to the Cardholder immediately prior to completion of the Cardholder's payment instruction.

7. Suspension

Under reasonable grounds, BBMSL reserves the right to suspend, limit, or terminate all or part of the Merchant Services provided to a Merchant at its own discretion without prior notice.

8. Anti-Bribery

BBMSL and the Merchant shall, and shall procure that its respective agents, directors, employees, officers and sub-contractors shall, (i) not engage in any form of bribery, corruption, extortion or embezzlement, or other unlawful conduct; (ii) comply with all applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption ("**The Prevention of Bribery Ordinance**"); and (iii) have and maintain in place throughout the term of this Agreement, reasonably adequate policies and procedures to ensure compliance with the Anti-Bribery Laws.

Either Party may terminate this Agreement with immediate effect if it makes a good faith determination that the other Party or any of its personnel has breached any of the provisions of this Clause and/or otherwise has committed a violation of the Anti-Bribery Laws.

9. Term and Termination



Subject to early termination as elsewhere herein provided, the term of the lease period of each unit of the Equipment leased by BBMSL to the Merchant pursuant to this Agreement shall be twenty-four (24) consecutive calendar months, starting from Installation Date set out in this Application Form (hereinafter referred to as the "**Lease Period**"). This Agreement and the Lease Period will be deemed renewed automatically at the end of each second year for an additional two (2) years period (an "**Automatic Renewal Term**") for a further term of twenty-four (24) months unless terminated in accordance with Clause 8 of this Agreement.

Either Party may terminate this Agreement and any Lease hereunder forthwith by serving a notice in writing on the other Party by giving thirty (30) days' written notice if the other Party:-

- (i) shall have committed a material breach of this Agreement including without limitation in the case of the Merchant not paying the rent (the "**Rent**") as and when due, which breach is not remedied within thirty (30) days after the written notice thereof is given by the Party not in breach; or
- (ii) makes any assignment for the benefit of its creditors; or
- (iii) permits the appointment of a trustee or receiver of all or a substantial part of its assets, or
- (iv) admits in writing its inability to meet its obligations when due or commits any other act of bankruptcy or insolvency; or
- (v) institutes voluntary proceedings in bankruptcy or insolvency or permits involuntary institution of such proceedings against it. If the circumstances apply, the remedy provided in Clause 8 (b) below available to the non-breaching BBMSL shall be without prejudice to any recourses available to the non-breaching BBMSL including without limitation those recourses described in Clause 8 (c) below, available to the non-breaching BBMSL against the breaching Merchant, all of which recourses shall survive the termination of this Agreement.

In the event that BBMSL is the non-breaching party, in addition to any other rights, remedies and recourses available to it BBMSL shall have the right to exercise any one or more of the following remedies against the breaching Merchant:

- (i) Declare the entire amount of the Rent hereunder immediately due and payable as to any or all units of the Equipment, upon written notice to the Merchant to such effect.
- (ii) Declare any amount of the Rent pre-paid in advance by the Merchant forfeited and applied to all amounts due to BBMSL by the Merchant as a result of the breach by the Merchant.
- (iii) Sue for and recover all Rents, and other payments, then accrued or thereafter accruing, with respect to any or all units of the Equipment, or otherwise.
- (iv) Directly or via its agents or representatives, to take immediate possession of any or all units of the Equipment without demand, notice to the Merchant, or legal process, wherever the units of the Equipment



may be located. The Merchant hereby waives any and all damages occasioned by such taking of possession by BBMSL, its agents or representatives. Any said taking of possession of units of the Equipment shall not constitute a termination of this Agreement as to any or all units of the Equipment unless BBMSL expressly so notifies the Merchant in writing.

- (v) Terminate any or all Lease Periods as to any or all units of the Equipment.
- (vi) Pursue any other rights, recourses and/or remedies at law or in equity.

Notwithstanding any said repossession of units of the Equipment by the non-breaching BBMSL, or any other action which such BBMSL may take, the breaching Merchant shall be and remain liable for the full performance of all obligations on the part of the Merchant to be performed under this Agreement and any Lease pursuant to this Agreement.

All remedies available to the non-breaching BBMSL are cumulative, and may be exercised concurrently or separately.

The expiration or termination of this Agreement shall not prejudice any remedy either Party may have against the other for breach or non-performance of this Agreement.

The Merchant shall pay BBMSL all costs and expenses, including legal fees, incurred by BBMSL in exercising any of its rights or remedies hereunder or enforcing any of the terms, conditions, or provisions hereof.

10. Immediate Termination

BBMSL reserves the right to terminate the Agreement immediately upon written notice under the following circumstances:

- (i) The provision of products/ services by the Merchant is reasonably found suspicious, which is in breach of this Agreement, including but not limited to, the Applicable Law, including the Payment Systems and Stored Value Facilities Ordinance (Cap. 584 of the laws of Hong Kong), Payment Scheme Rules or Payment Processor Rules (if any).
- (ii) The Merchant has been flagged in identity checking system such as WorldCheck or listed in fraud and risk databases such as MasterCard MATCH or VISA VMSS or UnionPay Negative Files.
- (iii) The Merchant infringes or is suspected of infringing intellectual property rights, copyrights, patents, trademarks, or is suspected of selling counterfeit and/or knockoff products.
- (iv) It is discovered that the Merchant provided misleading and/or false information about the Merchant products/ services as part of the Merchant KYC Data.
- (v) The Merchant does not satisfy the initial customer due diligence checks.



- (vi) The Merchant materially changes the type of the products/ services without obtaining BBMSL's prior written permission to use the Payment Services.
- (vii) The Merchant is unable to continue to provide the Merchant products/ services.
- (viii) The ratio of chargebacks to transactions exceeds five basis point (0.50%); or the total value of Refunds/ Chargebacks becomes excessive; or the number of complaints becomes excessive.
- (ix) Inactive merchant tracking done by the Merchant for the portfolio of sales volume consecutively remaining as Zero (0) and/or the average of sales volume below HKD 10,000 for last three (3) month prior to the termination issued by BBMSL.
- (x) The Merchant is reasonably suspected to become insolvent or subject to any insolvency proceedings.
- (xi) The Merchant has undertaken activities which may be detrimental to the brand, image and reputation of BBMSL and/or its partners; or acts in a way to increase the risk or losses or liabilities to BBMSL and/or its partners.
- (xii) The Merchant breaches any of the terms of this Agreement.

11. Settlement and Charges

11.1 Settlement Account

BBMSL shall, with its banking partners, arrange to settle funds to the bank or other financial institution account designated by the Merchant (the "**Settlement Account**"). The Merchant agrees to provide BBMSL with accurate and complete information and documentary proof of beneficial owner of the Settlement Account.

Payment by BBMSL shall be without prejudice to any claim or right which BBMSL may have against the Merchant and shall not constitute any admission or waiver by BBMSL as to the performance by the Merchant of its obligations under this Agreement and the amount payable to the Merchant, nor shall otherwise prejudice BBMSL's rights interest and benefits pursuant to this Agreement or otherwise.

At any time and from time to time BBMSL shall be entitled to set off against and deduct from any account the Merchant held with BBMSL or any payment due to the Merchant and/or to be reimbursed by the Merchant with:

- (i) any overpayment made by BBMSL owing to whatever reason;
- (ii) any other sum due from or payable by the Merchant to BBMSL pursuant to this Agreement or otherwise;
- (iii) any amount which BBMSL was not obliged to pay; and
- (iv) any chargeback that is initiated by any Cardholder and/or any card issuer of the Card concerned.

In addition and without prejudice to any other remedy available to BBMSL, BBMSL shall have the absolute right at any time without notice to refuse payment of any Transaction presented to BBMSL by the Merchant or, if payment has been made,



to be reimbursed by the Merchant immediately with the amount paid on such Transaction if BBMSL notifies the Merchant of the occurrence of any of the following:

- (i) dishonesty or fraud is suspected in relation to such Transaction;
- (ii) any aspect of the relevant Card Transaction was made or conducted in breach or contravention of any of the provisions in this Agreement;
- (iii) the Cardholder denies liability (in whole or in part) for the relevant Card Transaction; or
- (iv) the sale and/or the rental of merchandise and/or the rendering of services or the payment for the relevant Transaction by the use of the Card involves a violation of law, rules, regulations, codes, directions or guidelines of any government agency, industry body or other competent authority to which BBMSL is subject.

BBMSL is not responsible for any loss due to incorrect information of the Settlement Account. The Merchant agrees to bear all the loss and risks resulting from, charges and fees incurred in unsuccessful settlement transactions; and funds loss unrecovered due to an erroneous transfer to a wrong account. The Merchant agrees not to make any claims against BBMSL related to such erroneous settlement transactions, and the Merchant shall fully reimburse BBMSL for any losses incurred by BBMSL.

11.2 Currency

The settlement of transactions is made through Hong Kong dollar (“**HKD**”).

11.3 Settlement

When funds received from payment processing result in a positive balance in the Merchant’s account, BBMSL shall initiate settlement to the Merchant’s Settlement Account according to the Settlement Schedule.

11.4 Settlement Schedule

A settlement schedule (the “**Settlement Schedule**”) refers time for BBMSL to initiate settlement to Merchant’s Settlement Account. BBMSL reserves the right to change the Settlement Schedule, reschedule, postpone or suspend the settlement to a merchant, including but not limited to the following scenarios:-

- (i) when there are pending, anticipated chargebacks, disputes, refunds, reversals;
- (ii) when there are suspicious, illegal or fraudulent transactions;
- (iii) when BBMSL is required by law or court order to do so;
- (iv) when there are delays of funds transfer caused by banking service partners and/or payment partners;
- (v) when there is a long period of bank holidays;
- (vi) when there are public emergency incidents that affect banking services.

11.5 Right of Set-off and Withholding



Under reasonable grounds as set forth below, Merchant agrees that BBMSL shall be entitled, at its sole discretion, reserves the right to charge and set-off any liabilities at any time without prior notice to the Merchant. The circumstances under BBMSL and Payment Services' Partners may exercise its rights from the following Clause, including but not limited to:-

- (i) Merchant fails to comply with its payment obligation under this Agreement;
- (ii) dishonesty or fraud is suspected in relation to such Sales Slip;
- (iii) any aspect of the relevant Card Transaction was made or conducted in breach or contravention of any of the provisions in this Agreement;
- (iv) the Cardholder denies liability (in whole or in part) for the relevant Card Transaction;
- (v) Merchant has to become subject to bankruptcy, insolvency, reorganization, winding up or similar dissolution procedures;
- (vi) BBMSL finds that any Transaction is in relation to a prohibited transaction under any applicable laws, rules and regulations (the "**Prohibited Transaction**"), in which case BBMSL may withhold the settlement of the sum of such Prohibited Transaction only; and
- (vii) BBMSL is required by government authorities or by law or court order to do so.

BBMSL may reduce the amount settled to the Merchant's Settlement Account by the amount of fees fines and amounts owed by the Merchant to BBMSL for any reasons.

The Merchant agrees to pay all amounts owed as requested by BBMSL. Failure of the Merchant to pay amounts owed to BBMSL is a breach of the Agreement. The Merchant is liable for any costs incurred by BBMSL during collection in addition to the amount owed by the Merchant. Collection costs may include, but not limited to, fees and expenses resulting from legal services, arbitration or court proceedings, collection agency, interest.

BBMSL reserves the right to withhold settlement against the Merchant's Settlement Account upon termination of the Agreement if it is reasonably determined that BBMSL may incur losses resulting from chargebacks, refunds or other risks associated with the merchant's account (the "**Merchant Account**").

11.6 Error Notification

The Merchant agrees to notify BBMSL if any errors are detected in the settlement amount. BBMSL will investigate any reported errors, and when appropriate, attempt to rectify such errors by crediting or debiting the Settlement Account. If the Merchant fails to report a settlement error to BBMSL for review without undue delay and, in any event, within sixty (60) days, the merchant shall be deemed to have waived the right of making any claims against BBMSL or its payment service providers for any amounts associated with the error.



11.7 Chargeback

Under no circumstances, shall the Merchant directly refund to its Customers, failing which, the resulting chargeback in relation to disputes and losses are indemnified by the Merchant accordingly.

Refund arising from the transactions of the Merchant will be handled in accordance with the following provisions:

- (i) When making a request to BBMSL for refund, the Merchant shall have sufficient deposit for the refund in its account. BBMSL will complete the refund by directly deducting the refund amount from the account of the Merchant.
- (ii) If the refund cannot be deducted as a result of the insufficient balance of unsettled funds, the Merchant shall make refund request to BBMSL again until the amount of unsettled funds are sufficient to be deducted.
- (iii) Refund period shall be ninety (90) calendar days maximum.
- (iv) BBMSL does not charge for transaction handling fees. However, if the intermediary bank requires BBMSL to pay for the relevant fees, such fees shall be borne solely by the Merchant, and BBMSL may pay such fees in advance for the Merchant and then deduct from the unsettled funds.

If users under financial institution including VISA, MasterCard, UnionPay, Octopus, Alipay, WeChat Pay, American Express and other financial institutions claim reimbursement from the Merchant for unauthorized payment or other fraudulent transactions submitted and conducted via the platforms of VISA, MasterCard, UnionPay, Octopus, Alipay, WeChat Pay, American Express and other financial institutions, the Merchant shall implement the following rules:-

- (i) For any inquiry notices and requests for orders from BBMSL, the Merchant shall reply and provide the original receipts and relevant transaction record and evidence to BBMSL via e-mail within five (5) working days after receiving such notice from BBMSL, failing which, the Merchant shall indemnify BBMSL for its losses of Chargeback.
- (ii) If VISA, MasterCard, UnionPay, Octopus, Alipay, WeChat Pay, American Express and other financial institutions do not receive the transaction evidence, or they decide the Transaction Evidence to be inadequate, the Merchant shall pay BBMSL the same amount of the disputed transaction settled by BBMSL in the Merchant's Bank Account.
- (iii) After the Merchant provides the transaction evidence, BBMSL shall seek for the resolution with VISA, MasterCard, UnionPay, Octopus, Alipay, WeChat Pay, American Express and other financial institutions and assist them to determine the result of the reimbursement. The Merchant must expressly agree to indemnify BBMSL for the agreed sum of transaction between



- the Merchant and BBMSL to reimburse to the users (the “**Users**”) of VISA, MasterCard, UnionPay, Octopus, Alipay, WeChat Pay, American Express and other financial institutions.
- (iv) The Merchant shall assist BBMSL in handling properly in relation to the Users’ complaints on payment service, and coordinate to implement reasonable suggestions put forward by BBMSL.

11.8 Penalty

The Merchant shall forthwith indemnify and hold harmless BBMSL against all penalties imposed by card schemes and all expenses of whatever nature and in whichever jurisdiction, which BBMSL may suffer or incur arising out of or in connection with:

- (i) any misconduct of the Merchant; or
- (ii) any breach by the Merchant of any of its obligations, duties or any representations or warranties given under this Agreement; or
- (iii) any negligent, unauthorized or fraudulent act or omission of the Merchant;

BBMSL may immediately suspend the payment service and reserve the right to pursue a claim for any penalty and/or expense against the Merchant upon occurrence of any of the aforementioned events.

12. Confidentiality

12.1 Confidential Information

Either Party (the “**Disclosing Party**”) may, from time to time during the term of this Agreement, deliver to the other Party (the “**Receiving Party**”) certain non-public information regarding the transactions contemplated by this Agreement whether or not in writing or labelled as "Confidential", including but not limited to discoveries, ideas, inventions, concepts, know-how (whether patentable or not), research, development, designs, specifications, drawings, models, samples, flow charts, materials, data, computer programs, disks, diskettes, tapes, algorithms, software programs, marketing information, customer names, customer information, technical, financial or business information, intellectual property rights, patent applications, product information, and trade secrets (collectively, the “**Confidential Information**”). Each Party shall be responsible to the other for any breach of this Clause by any party to whom it is permitted to disclose the other Party’s Confidential Information. The foregoing use and confidentiality restrictions shall not apply to (i) information that is or becomes publicly available through no fault of the Receiving Party; (ii) information that is obtained lawfully from a third party not bound to obligations of secrecy to the Disclosing Party; (iii) information which is lawfully obtained by the Receiving Party from sources independent of the Disclosing Party and who are under no obligation to maintain the confidentiality of such information; (iv) information which is independently developed by the Receiving Party without use of the Confidential Information; or



(v) the Confidential Information that is required to be disclosed by law or governmental order, provided that the Party seeking to retain the confidentiality of such information shall be given a reasonable opportunity to contest any such disclosure. Information shall not be deemed to be publicly available merely because more general information, or any combination thereof, may be publicly available. Each Party shall not use and shall return all the Confidential Information of the other Party (along with all copies thereof), after the termination or expiration of this Agreement. This Clause shall survive the termination of this Agreement. During the term of this Agreement and for a period ending three (3) years after expiration or termination of this Agreement, BBMSL and the Merchant each shall keep in confidence and not disclose to any third party or use for any purpose except as provided herein, any and all confidential and proprietary information of the other Party disclosed before or during the term of this Agreement (herein referred to as "**Confidential Information**").

12.2 Data Protection and Privacy

The Receiving Party shall maintain in confidence all the Confidential Information disclosed by the Disclosing Party. The Receiving Party shall not use, disclose or grant use of such Confidential Information except for purposes of this Agreement or as expressly authorised by the Disclosing Party in writing. The Receiving Party will use at least the same standard of care as it uses to protect its own confidential information of a similar nature but in no event less than reasonable standard of care. The Receiving Party shall, upon request, promptly notify the Disclosing Party upon discovery of any unauthorised use or disclosure of the Disclosing Party's Confidential Information. Upon the expiration or termination of this Agreement, the Receiving Party shall promptly return to the Disclosing Party all Confidential Information in tangible form or destroy it and shall promptly confirm in writing that it has done so. Each Party shall ensure its employees to whom the Confidential Information shall be made available, will keep the Confidential Information confidential.

The following shall apply to the Merchant who utilizes or intends to utilize any software (the "**Software**"), if any, provided by or for BBMSL (if any) in connection with e-commerce orders:

The Merchant shall indemnify and hold BBMSL and its directors, officers, employees and agents fully harmless from and against any and all loss, liability, cost, damage and expense (including reasonable legal and accounting fees and expenses) to which BBMSL and its directors, officers, employees and agents may be subjected or which it or they may incur in connection with:-

- (i) any claims which arise from or out of or as the result of the breach, default, wilful or negligent acts or omissions of the Merchant, its directors, officers, employees, contractors, agents and affiliates, in the performance of their duties and obligations under this Agreement and/or the relevant license agreement. The Merchant shall bear all risks of loss of items, records, data and materials during transit from



- the Merchant to BBMSL's or its designated location (or that of BBMSL's or its designated person's agents or sub-contractors); and
- (ii) any claims by the Merchant's customers that are in any way related to the Software or the related processing services provided by or for BBMSL.

BBMSL may permit the Merchant to use the Software, if any, only in the manner as provided in this Agreement or otherwise in writing as BBMSL may prescribe from time to time at its sole discretion. Nothing under this Agreement shall confer or convey any right or interest to the Merchant with respect thereto, and the Merchant agrees and undertakes to keep the Software free from any distress, execution, encumbrance or other legal process. The Merchant is not entitled to duplicate, remove, amend, relocate or tamper the Software or any part thereof without BBMSL's prior approval.

BBMSL does not make any representation with respect to any functionality or fitness for any particular purpose of the Software for the purpose or the error-free operation thereof without any interruption or deficiency. BBMSL does not warrant any Software provided under or pursuant to this Agreement is free of error or deficiency. Without restricting the generality of the foregoing, BBMSL does not make, and has not made, any representations or warranties, whether written or oral, statutory, express or implied with respect to the Software or feasibility with regard to the purpose, including without limitation, any warranty of fitness for any particular purpose. BBMSL shall not be liable for any special, incidental or consequential, damages of any nature whatsoever resulting from receipt or use of the Software by the Merchant or any other person. BBMSL shall not be liable for the consequences of any unavailability of the Software, service or any facility provided pursuant to this Agreement, or any inability to access it, or any failure, error, delay or interruption or of any unauthorized interception or corruption of any messages or any unauthorized access to the e-commerce facility or system, or of any computer virus or similar problem, or of any event beyond BBMSL's reasonable control, or for third party software, equipment or technology.

The Merchant shall not permit or allow any other person, whether for consideration or otherwise, to have possession, use or enjoyment of the Software or any part thereof. The Merchant shall keep strictly confidential all information received from BBMSL in connection with the Software and will disclose the same on need-to-know basis only to those of its staff who require the information for the purposes of operating the Software. The Merchant shall take all necessary steps to ensure its staff members are aware of and be bound by such confidentiality, obligations and, in particular but without limitation, will maintain and comply with strictly the security measures with respect to the procedures affecting the use of the Software.

Upon termination of this Agreement for any reason, the Merchant shall forthwith return to BBMSL, inter alia, the Software and (if any) all accessories, documentation, operating instructions, manuals and other related material in good



conditions at the Merchant's sole costs and expenses/and destroy any copies thereof which may remain at the system or control of the Merchant/its servicer.

[BBMSL shall not be held responsible for and shall have no obligation to repair any errors, events, issues or deficiencies or inaccessibility of the Payment Service or the Software caused by hacking. If the Merchant has been exposed to hacking, BBMSL will nevertheless do its utmost to assist the Merchant in the work that follows from such hacking. Such assistance shall be invoiced as consulting services in line with current hourly rates. If BBMSL discloses security holes in the Software or any servers for which BBMSL is responsible, the Merchant is obliged to allow BBMSL to upgrade the Software or the server so that appropriate security holes are repaired to reduce the risk of hacking. Such an upgrade shall be invoiced as consulting services in accordance with current hourly rates. BBMSL warns that the Merchant may be held financially liable if the Merchant has failed to provide BBMSL with information that their solution requires additional security.]

12.3 Intellectual Property Rights

BBMSL reserves the intellectual property rights of the following:-

- (i) Software and/or hardware in the Merchant Services and the Payment System
- (ii) User manual, documentation, data, design, graphic elements incorporated into or associated with the Merchant Services and the Payment System
- (iii) Trademark, logos, brand name associated with the Merchant Services and the Payment System
- (iv) Promotional material including stickers, posters, signage, tent cards.

The Merchant shall not copy, publish, host, display, distribute, modify, reproduce or otherwise use BBMSL's intellectual properties without prior written approval from BBMSL.

Each Party retains its intellectual property rights which existed at the date of this Agreement, or which are developed independently of this Agreement.

Except as expressly stated in this Agreement, no intellectual property rights of any kind are conveyed by this Agreement and neither Party shall have any right, title or interest in or to the other Party's intellectual property rights for any purpose whatsoever without such other Party's prior written consent.

13. Third Party Rights

No one other than a party to this Agreement, its successors and permitted assignees, shall have any right under any applicable laws and regulations, including but not limited to the Contracts (Rights of Third Parties) Ordinance (Cap. 623 of the laws of Hong Kong) to enforce or enjoy the benefit of any of the provisions of this Agreement.

14. Assignment



This Agreement shall be binding on the Parties and their respective permitted successors and assigns. This Agreement shall not be assignable by either Party without the prior written consent of the other Party, except to the successor or assignee of all or substantially all of the assignor's business to which this Agreement relates. Notwithstanding anything else herein contained to the contrary, BBMSL shall be entitled to engage subcontractors to perform any of its obligations under this Agreement.

15. Indemnity

The Merchant agrees that all information, data and records (whether processed or not) whatsoever submitted, provided, supplied or presented by the Merchant to BBMSL are true and accurate and shall fully indemnify BBMSL from or against all actions, proceedings, claims, demands, costs (including legal costs on a full indemnity basis), fee, expenses or whatsoever nature which may be threatened or brought against BBMSL directly or indirectly arising from or in connection with BBMSL reliance on any such information, data or records.

16. Limitation of Liability

ALL CUSTOMIZED MARKING(S) ON THE EQUIPMENT AND/OR ON ITS PACKAGING (INCLUDING, WITHOUT LIMITATION, TEXT, DESIGNS, LOGOS, ETC.) PROVIDED BY THE MERCHANT SHALL BE AT THE MERCHANT'S ENTIRE RESPONSIBILITY AND RISK. BBMSL SHALL NOT BE LIABLE FOR ANY CUSTOMIZED MARKING(S) ON THE PRODUCT AND/OR ON ITS PACKAGING PROVIDED BY THE MERCHANT AND THE MERCHANT WILL INDEMNIFY AND HOLD BBMSL HARMLESS WITH REGARD TO CLAIMS MADE BY THIRD-PARTIES RESULTING FROM THE CUSTOMIZED MARKING(S) ON THE EQUIPMENT AND/OR ON ITS PACKAGING.

- (i) BBMSL would not be responsible and liable for the accuracy and completeness for the data sent to it by the Merchant's User's interface.
- (ii) BBMSL would not be responsible and liable for the security and the connection for the transmission of data between the User's interface used by the Merchant with the Equipment which are beyond BBMSL's responsibilities.
- (iii) BBMSL would not be responsible for the transmission of data in third-party telecommunications networks. BBMSL is not responsible for the availability or reliability of third-party telecommunication networks, transmission errors, changes or corruption to the transmitted data occurring in third parties' telecommunications networks or systems.
- (iv) The Merchant acknowledges and accepts that BBMSL may be required under any law, regulation, statute, card associations, merchant acquiring bank to provide unlimited access to any party on a need-to-know basis for any and all information, data and records (whenever processed or not) whatsoever submitted, provided supplied or presented by the Merchant to



BBMSL in this Agreement and shall not hold BBMSL liable for such access.

In relation to the Merchant's subscription to the use of the e-commerce facility:

- (i) the use of the facility is at the Merchant's own risk. Neither BBMSL nor other service provider has made or will make any representation or warranty, express, implied or otherwise in respect of quality, continuity of service, connectivity, merchantability, fitness for any purpose, non-infringement or otherwise in respect of the services or facility provided pursuant to this Agreement;
- (ii) unless caused by its wilful default or fraud, neither BBMSL nor other service provider is liable for the consequences of any unavailability of the facility or any inability to access it, or of any failure, error, delay or interruption, or of any unauthorized interception or corruption of any messages or any unauthorized access to the facility or its systems, or of any computer virus or similar problems, or of any event beyond BBMSL's or other service provider's reasonable control, or for third-party software, equipment or technology;
- (iii) neither BBMSL nor other service provider is responsible if any information provided by the facility is inaccurate, incomplete or not timely;
- (iv) in no event is BBMSL or other service provider liable for any indirect, incidental, special or consequential losses, including lost profits or savings, loss of data, goodwill or the cost of substitute services (even if BBMSL has notice of the possibility of such losses);
- (v) the limits on liability in this Clause 16 are held by BBMSL for its own account, and apply whether claims are based on contract, tort (including negligence) or otherwise. However, the limits do not apply to claims for personal injury or death due to negligence;
- (vi) BBMSL does not warrant or represent on the genuineness, accuracy, completeness or timeliness of any information or data available through third party, or for any decision made therewith;
- (vii) BBMSL's obligations and liabilities are limited to those expressly provided in this Agreement;
- (viii) provided that nothing of this Agreement shall purport to limit or exclude BBMSL's liabilities in respect of claims for personal injury or death caused by negligence or otherwise prohibited by law.

17. Force Majeure



No Party, its Affiliates or agents will be held liable for any default, delay or failure in performing its obligations under this Agreement resulting directly or indirectly from acts of nature, forces or causes beyond such Party's, its Affiliates' or agents' reasonable control, including without limitation, (i) fire, flood, element of nature, pandemic or other act of God, (ii) outbreak or escalation of hostilities, war, riot or civil disorder, or act of terrorism; (iii) internet failure, computer, telecommunications, electrical power failure or any other equipment failure; (iv) labor dispute (whether or not employees' demands are reasonable or within the Party's power to satisfy), (v) act or omission of a government authority prohibiting or impeding the affected Party (or its Affiliates or agents) from performing its obligations under this Agreement, including order of a domestic or foreign court or tribunal, governmental restriction, sanctions, restriction on foreign exchange controls, etc. or (vi) the nonperformance by a third party for any similar cause beyond the reasonable control of the Party (collectively, a "**Force Majeure Event**"). If a Force Majeure Event occurs, the non-performing Party will be excused from any further performance of the obligations affected by the event only for as long as the Force Majeure Event continues and only to the extent of such Force Majeure Event and the Party continues to use commercially reasonable efforts to resume performance.

18. Severability

In the event that any provision of this Agreement becomes invalid or unenforceable due to inconsistency with applicable laws, then such provisions shall only be invalid or unenforceable to the extent of the inconsistency with such applicable laws, and shall not affect the legal validity of the remaining provisions of this Agreement.

19. Entire Agreement

This Agreement constitutes the entire agreement between the Parties concerning the matters covered herein and supersedes all prior and contemporaneous, oral or written agreements, contracts, representations or understanding between the Parties.

No interpretation, change termination or waiver of any provision of this Agreement shall be binding upon the Parties unless it is made in writing.

20. Survival

The duty of confidentiality and data protection obligation of each party shall survive the term or termination of this Agreement. The parties shall adequately protect their respective systems to the latest technical standards against unauthorized or accidental destruction, accidental loss, forgery, theft, illegal use, unauthorized alteration or copying the data, unauthorized access to the data and other unauthorized processing and other technical faults.

21. Amendment

BBMSL reserves the right to change the terms and conditions of this Agreement from time to time and its Schedules, Appendices or Supplements without any prior



notice to the Merchant. Any such change will become effective and bound by any amendment of this Agreement thereof on the part of the Merchant. Any purported oral modification hereof shall be voided.

Any amendments and supplements to this Agreement shall be in writing and be automatically effective once it is publicly announced. The amendment agreements and supplementary agreements that have been prepared by BBMSL and that relate to this Agreement shall be an integral part of this Agreement and shall have the same legal validity as this Agreement. Such amendments and supplements shall prevail.

22. Notices

Any notice, claim, demand, request and other communication under this Agreement shall be made in writing. For the purposes of this Agreement, a notice may be served by the following means and shall be deemed to have been received by the Party to whom it was addressed: -

- (i) If delivered by hand, upon receipt by any person then upon the premises at the relevant address who reasonably appears to be authorised to receive post or other messages on behalf of the relevant Party; or
- (ii) If sent by fax or e-mail, upon transmission of the communication to the relevant fax number or e-mail address and the receipt by the transmitting fax machine or computer of an answer-back code showing that the fax or e-mail message has been received properly to where it was transmitted; or
- (iii) If sent by registered post, three (3) days after the date of posting.

23. Independent Contractors

In the performance of this Agreement, the Parties are engaged in independent business, and this Agreement shall not be deemed to (a) make either Party a partner, joint venturer, agent or other representative of the other Party; or (b) grant either Party any right of authority to assume or create any obligation in the name or on behalf of the other Party or to accept legal summons or legal process for the other Party.

24. DISCLOSURE, ETC.

The Merchant hereby authorizes BBMSL to obtain from and/or disclose to Visa Worldwide, MasterCard Worldwide, China UnionPay, American Express International Inc., any other bank, financial institution or credit agency or any agent, contractor or third party service provider of BBMSL any information whatsoever relating to the relationship between the Merchant and BBMSL. Without prejudice to the generality of the foregoing, BBMSL may include references to the Merchant (including its names, addresses, e-mail addresses, domain name, telephone numbers, logos and any other information of whatever description) and the Merchant's participation in SSL/EMV 3-D Secure/SecureCode/UPOP/SafeKey and BBMSL's payment gateway services for



effecting Visa/MasterCard/UnionPay/American Express credit and/or debit card on-line payment authorizations and settlement and other credit and/or debit card services in such manner as BBMSL may see fit in BBMSL's mass media advertisement or promotional materials.

25. Governing Law and Dispute Resolutions

This Agreement shall be construed in accordance with and governed by the laws of the Hong Kong Special Administrative.

Both Parties agree that any controversy or claim relating to this Agreement, any performance or dealings between the parties or otherwise shall be settled exclusively by arbitration in Hong Kong by a single arbitrator pursuant to the Arbitration Ordinance (Cap. 609 of the laws of Hong Kong), including the interim measure of protection then in effect and judgment upon the award shall be entered in any court having jurisdiction thereof. The arbitrator shall be chosen from the Hong Kong International Arbitration Centre's panel of arbitrators familiar with the subject matter of this Agreement. The prevailing party shall be awarded reasonable legal fees, costs and disbursements in addition to any other relief granted.

26. Language

This Agreement is written in both English and Chinese languages, and the English version shall prevail in the event and to the extent of conflict between them.



Appendix A
Price of lost or damaged Payment Device and Accessories

| Model/Parts Item | Price (HKD) |
|-------------------------------------|--------------------|
| WisePOS 4 | 2,500.00 |
| WisePOS e+ | 2,500.00 |
| External SimplyPrint | 600.00 |
| WisePOS 4 Cradle | 300.00 |
| WisePOS e+ Cradle | 300.00 |
| WisePOS e+ DC Charging Cable | 50.00 |
| WisePOS e+ AC Adaptor | 50.00 |



PAYMENT APPLICATION – TT-PAY USAGE AGREEMENT

1. The Merchant hereby agrees to install the Payment App – TT-PAY from BBMSL Limited (hereinafter referred to as “**the Developer**”) the version and number of units of mobile point of sales payment applications at the price set out in this Application Form.
2. The Merchant warrants to the Developer that the Payment App – TT-PAY will only be used for its intended purpose within the conditions that such Payment App – TT-PAY is designed to operate.
3. The Merchant acknowledges that the Payment App – TT-PAY contains proprietary software and technical information belonging to the Developer and/or its licensors and that ownership of all patents, copyrights, mask work rights, trademarks, trade names, and all other intellectual property rights relating to or residing in the Payment App – TT-PAY shall remain with the Developer and/or its licensors.
 - 3.1 Without limiting the generality of Clause 3 above, with regard to any software provided by the Developer at any time (whether contained in the software, provided on a diskette or other media, downloaded remotely, or otherwise transferred) and/or any documentation, the term “purchase” and similar terms, as used herein shall mean the grant to the Merchant of a royalty-free, fully-paid, non-exclusive, non-transferable limited license (i) to use such software (in object code form only) and/or documentation together with the Payment App sold by the Developer to the Merchant pursuant this Agreement for the sole purpose of using the Payment App in HKSAR, subject to the provisions in any separate license agreement or other document (relating to such software and/or documentation) supplied by the Developer to the Merchant.
 - 3.2 The Merchant agrees that nor it shall attempt to root, jailbreak, reverse engineer, decompile, disassemble, translate, copy, modify, alter or otherwise change any or part or component thereof, including without limitation to the generality of the foregoing any software provided by the Developer or otherwise obtain the source code for any software provided by the Developer by any means, without the prior written consent of the Developer.
 - 3.3 It is agreed by the Merchant that the Merchant may not modify or remove (or their packaging or documentation), or alter, any of the Seller’s trademarks, trade names, or other markings or notices, or add any other markings or notices to the Payment App without the Developer’s prior written consent.
 - 3.4 It is agreed by the Merchant that from time to time and at any time during the term of the warranty, the Developer shall have the right to push to the Payment App updates and/or changes to the software including latest version of the technical specifications and other technical terms as the Developer may require



from time to time, security requirement, functionality or other patches or changes, and/or those related to requirements and/or compliance by card associations, regulator, merchant acquiring bank.

4. The Developer's obligation to perform is limited to enabling technically the Payment App for the transmission of the data required for the QR code transaction. The Developer passes the transaction data to the acquirer. The Merchant has to enter into merchant agreements with the acquirer solely for the purposes of performing the Agreement. The transaction data is transmitted in a manner and in the form defined in the Payment App. The acquirer approves or rejects the transaction with the result communicated back to the Payment Gateway and back to the Payment App – TT-PAY.
5. The Developer's User's interface should be used to call the Payment App solely for the purpose of performing the Agreement.
6. The Developer would not be responsible and liable for the accuracy and completeness for the data sent by the Merchant's User's interface.
 - 6.1 The Developer would not be responsible and liable for the security and the connection for the transmission of data between the User's interface used by the Merchant with the Payment App which are beyond the Developer's responsibilities.
 - 6.2 The Developer would not be responsible for the transmission of data in third-party telecommunications networks. The Developer is not responsible for the availability or reliability of third party telecommunication networks, transmission errors, changes or corruption to the transmitted data occurring in third parties' telecommunications networks or systems.
 - 6.3 The Merchant acknowledges and accepts that the Developer may be required under any law, regulation, statute, acquirer to provide unlimited access to any party for any and/or all information, data and records (whenever processed or not) whatsoever submitted, provided supplied or presented by the Merchant to the Developer in the Agreement and shall not hold the Developer liable for such access.
7. The Merchant agrees that all information, data and records (whether processed or not) whatsoever submitted, provided, supplied or presented by the Merchant to the Developer are true and accurate and shall fully indemnify the Developer from or against all actions, proceedings, claims, demands, costs (including legal costs on a full indemnity basis), fee, expenses or whatsoever nature which may be threatened or brought against the Developer directly or indirectly arising from or in connection with the Developer reliance on any such information, data or records.



8. The Merchant undertakes that neither it nor its agents, representatives, and employees will export or re-export, lease, sub-lease, re-lease sell, re-sell, divert or otherwise transfer the Payment App without the express prior written consent of the Developer; and
 - 8.1 The Merchant warrants that it has the appropriate policies and procedures in place to ensure compliance with the foregoing, including, without limitation, the prohibition of any re-export of any Equipment / software to any country subject to the Cap. 528 Copyright Ordinance of HKSAR. Such measures shall include, at a minimum, accurate record keeping of any export or re-export, lease, sublease, re-lease sell, re-sell, divert or otherwise transfer any Equipment / software and such records shall be available for audit by the Developer for compliance confirmation purposes, which audits may take place from time to time at the Developer's discretion.
9. During the term of the warranty and for a period ending two (2) years after expiration or termination of this Agreement, the Developer and the Merchant each shall keep in confidence and not disclose to any third party or use for any purpose except as provided herein, any and all confidential and proprietary information of the other Party disclosed before or during the term of the warranty (herein referred to as "Confidential Information"). Each recipient of the Confidential Information shall be responsible to the Party disclosing such Confidential Information for any breach of this Clause 9 by the receiving party and by any party to whom it is permitted to disclose the other Party's Confidential Information. The foregoing use and confidentiality restrictions shall not apply to (i) information that is or becomes publicly available through no fault of the receiving Party; (ii) information that is obtained lawfully from a third party not bound to obligations of secrecy to the disclosing Party; (iii) information which is lawfully obtained by the receiving Party from sources independent of the disclosing Party and who are under no obligation to maintain the confidentiality of such information; (iv) information which is independently developed by the receiving Party without use of the Confidential Information; or (v) Confidential Information that is required to be disclosed by law or governmental order, provided that the Party seeking to retain the confidentiality of such information shall be given a reasonable opportunity to contest any such disclosure. Information shall not be deemed to be publicly available because more general information, or any combination thereof, may be publicly available. Each Party shall not use and shall return all Confidential Information of the other Party (along with all copies thereof), after the expiration of the warranty period. This Clause 9 shall survive the termination and completion of this Agreement.
10. Notwithstanding anything else herein contained, no liability shall result to a Party from any delay in performance or from non-performance of its obligations hereunder caused by circumstances beyond the reasonable control of the Party affected, including but not limited to, acts or omission of government or military authority, acts of God, shortages of materials and/or labor, transportation delays,



fire, flood, explosion, war, riot, accident, labor disturbances, or any other circumstances of a similar or different nature beyond the reasonable control of the Party affected (hereinafter referred to as "Force Majeure"). The Party affected by the Force Majeure shall promptly notify the other Party of the existence of such Force Majeure and its probable duration. The Parties will consult and work with each other so as to accommodate each other to the greatest extent possible as a result of the existence of a Force Majeure. As soon as a Force Majeure situation ceases to exist the Parties respective obligations shall resume and the Parties shall perform their respective obligations as soon as reasonably practicable.

11. All legal notices, claims, requests, demands and other communications hereunder shall be in writing in the English language and shall be deemed to have been duly given if personally delivered or on the date of receipt or refusal indicated on the return if delivered or mailed (registered or certified mail postage prepaid, return receipt requested) as follows:

If to the Developer:
BBMSL Limited
Unit 1703-04, 17/F, Tower 2, Nina Tower,
8 Yeung Uk Road, Tsuen Wan,
New Territories, Hong Kong
Attention: Chief of Technology Officer

12. This Agreement supersedes all previous and contemporaneous communications and understandings, whether oral or written, and constitutes the sole and entire agreement between the Parties pertaining to the subject matter hereof. No modification, deletion of, or addition to the terms of this Agreement shall be binding on either Party unless made in writing and signed by a duly authorized representative of each Party.
13. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of Hong Kong. The courts of Hong Kong shall have exclusive jurisdiction to any dispute arising out of or in connection with this Agreement, including without limitation, any question regarding its existence, validity or termination.
14. This Agreement shall be binding on the Parties and their respective permitted successors and assigns. This Agreement shall not be assignable by either Party without the express prior written consent of the other Party, except to the successor or assignee of all or substantially all of the assignor's business to which this Agreement relates. Notwithstanding anything else herein contained to the contrary, the Seller shall be entitled to engage subcontractors to perform any of its obligations under this Agreement.



15. This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement, and shall become a binding agreement when one or more counterparts have been signed by each Party and delivered to the other Party. A signature provided by facsimile or other electronic transmission shall be deemed as an original signature.
16. Headings, if any, as to the contents of particular clauses or sections are provided for convenience of reference only and are in no way to be construed as part of this Agreement or as a limitation of the scope of the particular Clauses to which they refer. This Agreement shall be construed without regard to any presumption or other rule requiring construction hereof against the Party causing this Agreement to be drafted.
17. In this Agreement words importing the singular shall include the plural and vice versa; and words importing the masculine gender shall include the feminine and neuter genders and vice versa.
18. Failure of either Party to exercise any of its rights under this Agreement upon one occasion shall not waive such Party's right to exercise the same on another occasion.
19. If any provision of this Agreement or the application thereof to any person or circumstances is held invalid or unenforceable in any jurisdiction, the remainder of this Agreement, and the application of such provision to such person or circumstance in any other jurisdiction or to other persons or circumstances in any jurisdiction, shall not be affected thereby, and to this end the provisions of this Agreement shall be severable.
20. In the performance of this Agreement, the Parties are engaged in independent business, and this Agreement shall not be deemed to (a) make either Party a partner, joint venturer, agent or other representative of the other Party; or (b) grant either Party any right of authority to assume or create any obligation in the name or on behalf of the other Party or to accept legal summons or legal process for the other Party.
21. The appendices referred to in this Agreement are incorporated in this Agreement by this reference.
22. The Developer acknowledges that it will be responsible to the Merchant for (i) the security of the cardholder data (encrypted or unencrypted) that the Developer possesses or otherwise stores, processes or transmits on behalf of the Merchant, and (ii) the extent to which the Developer could impact the security of the Merchant's cardholder data environments.