

## MASTER SERVICES AGREEMENT

This Master Services Agreement (*as defined below*) is executed on [\_\_\_\_\_] and effective from the Effective Date (*as defined below*) and is made by & between **Curlec** (*as defined below*) & the **Merchant** (*as defined below*).

**WHEREAS** Curlec is [a merchant acquirer registered under the FSA (*as defined below*)] and is engaged in the business of, *inter alia*, merchant acquiring, payment aggregation and developing and implementing payment related solutions. The Merchant is desirous of availing the Services (*as defined below*) from Curlec and Curlec is agreeable to provide such Services on the terms and conditions set out in this Agreement and as may be amended between the Parties from time to time.

(Curlec and the Merchant are collectively referred to as the “**Parties**”, and individually a “**Party**”)

**NOW, THEREFORE**, in consideration of the terms and conditions set forth hereinafter, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto mutually agree as follows:

### 1. DETAILS OF THE PARTIES

	Curlec	Merchant
<i>Legal Name</i>	<b>CURLEC SDN. BHD.</b> (FOR ITSELF AND ON BEHALF OF ITS AFFILIATES)	PLEASE ENTER NAME OF THE COMPANY / LLP/ PARTNERSHIP/ PROPRIETOR/ INDIVIDUAL.
<i>Type of entity</i>	Private Company	Choose an item.
<i>Identification No.</i>	201701036608 (1250779-A)	Please enter company registration number
<i>Registered office address</i>	Private Office 57, Level 8, Komune Co-Working, Vertical Corporate Tower B 3, 8, Jalan Kerinchi, Bangsar South, 59200 Kuala Lumpur, Malaysia	Please enter registered office address
<i>Contact Details</i>	Email id for communications	Email id for communications
<i>Authorised Signatory</i>	Name of Authorised Signatory Designation of Authorised Signatory	Name of Authorised Signatory Designation of Authorised Signatory
<i>Description of business of the Merchant</i>	Please enter description of business	

### 2. DEFINITIONS AND INTERPRETATION

2.1. *Definitions:* In this Agreement, the capitalised terms listed below shall have the meaning as ascribed herein.

- 2.1.1 “**Affiliate**” means, with respect to a Party, any entity that directly or indirectly controls, is controlled by, or is under common control with such Party, whereby “**control**” (including, with correlative meaning, the terms “**controlled by**” and “**under common control**”) means the possession, directly or indirectly, of the power to direct, or cause the direction of the management and policies of such person, whether through the ownership of voting securities, by contract, or otherwise.
- 2.1.2 “**Authorised Representative**” means directors, employees, auditors, lawyers, representatives or agents of the Receiving Party to whom, Confidential Information may be disclosed by the Receiving Party.
- 2.1.3 “**Agreement**” or “**Master Services Agreement**” means this agreement along with Service Order Forms issued pursuant to the terms hereof, executed between Curlec and the Merchant and as amended

from time to time. For the purpose of giving full and proper effect to this Agreement and the SOF, both shall be read together and construed harmoniously. The terms of SOF shall prevail in the event of any inconsistencies with this Agreement.

- 2.1.4. **“AMLA”** means the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act, 2001 of Malaysia, as may be amended from time to time.
- 2.1.5. **“API”** or **“Application Programming Interface”** means a set of routines, protocols and tools developed by Curlec to provide the Services to the Merchant via a secure internet connection.
- 2.1.6. **“Applicable Laws”** means any law, statute, rule, regulation, order, circular, decree, directive, judgement, decision or other similar mandate of any applicable central, national, state or local Governmental/Regulatory Authority having competent jurisdiction and force of law over, or application to the Party or subject matter in question, as may be amended from time to time. Applicable Laws shall without limitation include any notification, circular, guidelines, policy document, directive or other similar instruction issued by any Governmental/Regulatory Authority, including but not limited to BNM.
- 2.1.7. **“Beneficial Owner”** means an individual or natural person who ultimately owns or control an entity and does not include a nominee of any description, as determined in accordance with the Companies Act, 2016 of Malaysia and the Guidelines for the Reporting Framework for Beneficial Ownership of Legal Persons issued by the Companies Commission Malaysia, including any amendments, clarifications, frequently asked questions, etc. which may be issued from time to time.
- 2.1.8. **“BNM”** means Bank Negara Malaysia, the central bank of Malaysia.
- 2.1.9. **“Claims”** means any claim asserted against the Merchant, that is paid or payable to a third party pursuant to an order of a court of law, judicial and quasi-judicial authorities, and **“Claim”** shall be construed accordingly.
- 2.1.10. **“Confidential Information”** means any information, data or document shared or disclosed by the Disclosing Party to the Receiving Party. Confidential Information may or may not be specifically marked and designated as ‘*confidential*’. Confidential Information shall include, but shall not be limited to, trade secrets, Intellectual Property, formulae, processes, APIs, algorithms, codes, data, ideas, concepts, strategies, inventions, data, network configurations, system architecture, designs, flow charts, drawings, proprietary information, business and marketing plans, financial and operational information, material or data relating to the current and/or future business and operations of the Disclosing Party. Analysis, compilations, studies, summaries, extracts or other documentation prepared by the Receiving Party based on information disclosed by the Disclosing Party shall be deemed to be Confidential Information of the Disclosing Party. Confidential Information shall also include: (a) information disclosed to the Receiving Party by third parties on behalf of the Disclosing Party; and (b) Personal Data of Customers.
- 2.1.11. **“Curlec”** means collectively, Curlec Sdn. Bhd. and its Affiliates who shall from time to time provide the Services to the Merchant pursuant to this Agreement and any SOF issued pursuant hereto, and **“Curlec Entity”** shall mean any one of them.
- 2.1.12. **“Customer”** means the Merchant’s customer who will be making payments to the Merchant in consideration for goods/services availed of by the customer from the Merchant, and **“Customers”** shall be construed accordingly.
- 2.1.13. **“Dashboard”** means a Curlec owned and established electronic information management tool that tracks, displays and stores metrics and data points and online terms pertaining to the Services being provided to the Merchant and which is accessible by the Merchant to facilitate the use of the Services. Dashboard can also be used by the Merchant to provide instructions relating to the Services, which shall be binding.
- 2.1.14. **“Disclosing Party”** means the Party which discloses Confidential Information to the other Party.
- 2.1.15. **“Effective Date”** means the date of this Agreement.

- 2.1.16. **“Facility Providers”** means banks, financial institutions, and technology service providers facilitating the provision of Services or any part thereof, including but not limited to: (a) acquiring banks; (b) banks issuing credit cards, debit cards, prepaid instruments and accounts; (c) card payment networks; and (d) payment system operators, and **“Facility Provider”** shall be construed accordingly.
- 2.1.17. **“Fees”** shall bear the meaning ascribed to it in Clause 4.1.
- 2.1.18. **“FEP Notices”** means the Foreign Exchange Policy Notices issued by BNM on 1 June 2022, including any amendments, clarifications, frequently asked questions, etc. which may be issued from time to time.
- 2.1.19. **“Force Majeure Event”** means any event not within the reasonable control of the Party affected, which that Party is unable to prevent, avoid or remove by the use of reasonable diligence. Force Majeure Event shall, to the extent such events and circumstances or their consequences satisfy the requirements mentioned hereinabove, comprise the following events and circumstances, namely: war, hostilities, invasion, armed conflict, act of foreign enemy, embargoes, moratoriums, any change in regulations resulting in practical impossibility to perform obligations, outages, downtimes and system failures experienced by a Facility Provider, riots, insurrection, prolonged labour stoppages, acts of terrorism, pandemic, sabotage, nuclear explosion, earthquakes, fires, typhoons, storms and other natural catastrophes.
- 2.1.20. **“FSA”** means the Financial Services Act, 2013 of Malaysia, as may be amended from time to time.
- 2.1.21. **“Governmental/Regulatory Authority”** means any central or state government or other political subdivision thereof and any entity, including any regulatory or administrative authority or court, exercising executive, legislative, judicial, regulatory or administrative or quasi-administrative functions of or pertaining to government, and **“Governmental/Regulatory Authorities”** shall be construed accordingly.
- 2.1.22. **“Intellectual Property”** means data, information, inventions, intellectual properties (including patents, trademarks, copyrights, designs and trade secrets), “know-how”, new uses and processes, and any other intellectual property right, asset or form, including, but not limited to, analytical methods, procedures and techniques, research, procedure manuals, financial information, computer technical expertise, software and moral rights.
- 2.1.23. **“Invoice Dispute Notice”** shall bear the meaning ascribed to it in Clause 4.4.
- 2.1.24. **“KYC”** means know your customer norms as set out under the AMLA, MAS Policy Document, and other Applicable Laws, to the extent applicable to the Services and as may be determined by Curlec or the Facility Providers from time to time, including but not limited to due diligence processes to be conducted by Curlec on the Merchants in connection with onboarding of Merchants.
- 2.1.25. **“Losses”** shall mean any actual and direct loss, damage, fine, penalty, cost and expense (supported by auditable documents evidencing such costs and expenses) and specifically excluding any and all special, indirect, remote or consequential losses, damages, fines, penalties, costs and expenses including but not limited to punitive or exemplary damages, loss of profits, loss of revenues, loss of opportunities or loss of goodwill.
- 2.1.26. **“Marks”** shall bear the meaning ascribed to it in Clause 8.4.
- 2.1.27. **“MAS Policy Document”** means the Policy Document on Merchant Acquiring Services issued by BNM on 15 September 2021, including any amendments, clarifications, frequently asked questions, etc. which may be issued from time to time.
- 2.1.28. **“Merchant”** shall bear the meaning ascribed to it in Clause 1.
- 2.1.29. **“OFAC”** means the Office of Foreign Assets Control constituted under the law of the United States of America.

- 2.1.30. “**PDPA**” means the Personal Data Protection Act, 2010 of Malaysia, as may be amended from time to time.
- 2.1.31. “**Personal Data**” means ‘personal information’ and ‘sensitive personal data or information’ as defined under the PDPA, as amended from time to time, including any information in respect of commercial transactions which:
- (a) is being processed wholly or partly by means of equipment operating automatically in response to instructions given for that purpose;
  - (b) is recorded with the intention that it should wholly or partly be processed by means of such equipment; or
  - (c) is recorded as part of a relevant filing system or with the intention that it should form part of a relevant filing system,
- that relates directly or indirectly to a data subject, who is identified or identifiable from that information or from that and other information in the possession of Curlec as a data user, including any sensitive personal data and expression of opinion about the data subject.
- 2.1.32. “**Politically Exposed Person**” means an individual who is or has been entrusted with prominent public functions in a foreign country e.g., heads of States/Governments, senior politicians, senior government/judicial/military officers, senior executives of state-owned corporations, important political party officials, etc.
- 2.1.33. “**Receiving Party**” means the Party which receives, either itself or through the Authorized Representative, the confidential information from the Disclosing Party.
- 2.1.34. “**Ringgit Malaysia**”, “**RM**” or “**MYR**” mean the lawful currency of Malaysia.
- 2.1.35. “**Service Order Form**” or “**SOF**” means any service order form referencing this Agreement and executed by Curlec and the Merchant, in the form as set out in Annexure II to this Agreement. For the avoidance of doubt, Affiliates of Curlec Sdn. Bhd. may enter into SOF with the Merchant in respect of the Services (or such part thereof) which it provides.
- 2.1.36. “**Services**” means the services more specifically set out under the Service Order Forms to be provided by Curlec and shall include any updates, modifications or improvements thereto.
- 2.1.37. “**SST**” means sales and service tax.
- 2.1.38. “**Term**” means a period commencing from the Effective Date until the termination of this Agreement in accordance with the provisions herein.
- 2.1.39. “**UNSCR**” means the United Nations Security Council Resolutions.

2.2. *Interpretation:* In this Agreement, unless the context requires otherwise:

- 2.2.2. References to a person (or to a word importing a person) shall be construed so as to include that person’s successors in title and assigns or transferees permitted in accordance with the terms of this Agreement and references to a person’s representatives shall be to its officers, employees, legal or other professional advisers, consultants, sub-contractors, agents, attorneys and other duly authorised representatives.
- 2.2.3. As the context may require, the singular of any defined term includes the plural and vice versa and any word or expression defined in the singular has the corresponding meaning used in the plural and vice versa.
- 2.2.4. References to the word “**day**” or “**days**” shall mean calendar day or calendar days, respectively.
- 2.2.5. The rule of construction, if any, that a contract should be interpreted against the parties responsible for the drafting and preparation thereof, shall not apply.

- 2.2.6. Clause headings in this Agreement are inserted for convenience only and shall not be used in its interpretation.

### 3. SERVICES

- 3.1. Subject to the Merchant's compliance with this Agreement and the applicable SOF(s) and solely during the Term, Curlec agrees to provide to the Merchant, and the Merchant agrees to accept from Curlec, such Services as are set out in the applicable SOF, in accordance with the terms of this Agreement and the applicable SOF. The Merchant agrees that Curlec shall provide the Services to the Merchant for its legitimate, bona fide and legal business activities only, and that provision of Services by Curlec to the Merchant shall be governed by the terms and conditions of this Agreement (read with the applicable SOF). The Merchant agrees that Curlec reserves the right to update the Services from time to time.
- 3.2. The Merchant acknowledges and agrees that, in respect of any particular SOF, all references to "**Curlec**" in this Agreement (read with that SOF) shall mean such Curlec Entity who has entered into that SOF for provision of the Services therein. The Merchant further agrees that any claims relating to or arising from the SOF shall be brought solely against such Curlec Entity. Curlec Sdn. Bhd. (unless it is a party to such SOF) shall have no liability in respect of the same.

### 4. PAYMENT

- 4.1. Charges associated with the provision of the Services to the Merchant ("**Fees**") shall be set forth in the applicable SOF for such Services. The Parties agree that such Fees shall be charged according to the manner, rates and frequency specified in the applicable SOF. Unless otherwise specified in the SOF, all Fees will be deducted from the monies required to be settled to the Merchant.
- 4.2. Monthly invoices shall be raised by Curlec in respect of the Fees charged for the Services provided during such month. Invoices are available on the Dashboard on a monthly basis. Any reasonable dispute in respect of an invoice must be communicated by the Merchant via a notice ("**Invoice Dispute Notice**") to Curlec within a reasonable period, but no later than ten (10) days from the date of the invoice. Curlec shall use good faith and efforts to reconcile any reasonably disputed amounts, in accordance with Applicable Laws.
- 4.3. The Parties agree that the Fees are exclusive of applicable taxes, duties or other levies attributable to the Services provided and Curlec shall charge such applicable taxes, duties or levies on the Fees from time to time. It is agreed that any statutory variations in applicable taxes, duties or levies during the subsistence of this Agreement shall be borne by the Merchant.
- 4.4. The Merchant shall be solely responsible for updating their SST registration number on the Dashboard before Curlec generates the invoice on the Dashboard and shall also submit the SST certificate as part of KYC. Curlec shall raise a SST tax invoice and report the transactions in the SST returns based on the information provided by the Merchant. The SST returns will be filed as per the statutory timelines, to enable the Merchant to avail appropriate input tax credit. Curlec shall not be responsible for any mistake and or misrepresentation by the Merchant in updating the SST number and other relevant particulars as per the Merchant's SST certificate. Further, any liability raised on Curlec by the relevant Governmental/Regulatory Authority due to incorrect information provided by the Merchant or deliberate withholding of any statutory information by the Merchant, shall be recovered from the Merchant.

### 5. REPRESENTATIONS AND WARRANTIES

- 5.1. Each Party represents to the other Party that:
- 5.1.2. It is duly incorporated or established under the laws of its jurisdiction and has all requisite power and authority to own and operate its business.
- 5.1.3. It has the full legal capacity and power to enter into, exercise its rights under, and perform its obligations under this Agreement.
- 5.1.4. The execution, delivery and performance of this Agreement has been authorized by all necessary corporate and organizational actions including but not limited to board resolution and/or power of attorney and/or letter of authority to bind the Merchant's business and company/firm/organization.



- 5.1.5. It has duly executed this Agreement, which forms a legal, valid and binding obligation, enforceable in accordance with its terms.
- 5.2. Curlec hereby warrants that:
  - 5.2.1. Curlec is and shall remain Payment Card Industry Data Security Standard (“**PCI DSS**”) certified during the performance of this Agreement.
  - 5.2.2. The Services to be rendered do not infringe any third party’s intellectual property rights.
- 5.3. The Merchant hereby represents, warrants and covenants that:
  - 5.3.1. It shall implement, observe and comply with applicable requirements prescribed under Applicable Laws, including but not limited to the provisions of the FSA, AMLA, PDPA and the corresponding rules, regulations, guidelines, etc. made thereunder required for its business and, including without limitation for: (i) procuring or obtaining relevant registrations, licences, approvals, permits, certificates, etc.; and (ii) paying and remitting taxes, levies, fees, contributions, etc. The Merchant hereby indemnifies Curlec from all liabilities arising out of the Merchant’s non-compliance with Applicable Laws.
  - 5.3.2. It does not, and shall not, engage in any activity related to virtual currency, cryptocurrency and other crypto products (like non-fungible tokens or NFTs), prohibited investments for commercial gain or credits that can be monetized, re-sold or converted to physical or digital goods or services or otherwise exit the virtual world. Any breach of this provision shall be subject to immediate suspension or termination of any or all Services, at Curlec’s sole discretion, and the Merchant shall be liable to indemnify Curlec from any Losses arising from such breach.
  - 5.3.3. Its use of the Services and sale of its products/services are solely for its own bona fide business activities, which are in compliance with Applicable Laws and guidelines and notices issued from time to time by the Facility Providers. It is further clarified that the Services shall not be used for any other purpose and/or for illegitimate or illegal purposes.
  - 5.3.4. It will only use the Services for those activities which the Merchant registered for when entering into this Agreement as reflected and as set out in the onboarding form filled on Dashboard, or as otherwise approved in writing by Curlec from time to time.
  - 5.3.5. It shall not resell or assign the Services, in whole or in part, or otherwise allow the use of the Services by any third parties or its Affiliates.
  - 5.3.6. Its use of the Services does not facilitate any activity which is unlawful, illegal, unauthorised, or which is carried on with an intent to defraud, or is likely to result in unjust enrichment and/or unlawful gain of the Merchant or any third parties, including its Affiliates.
  - 5.3.7. Its use of the Services does not facilitate the offer, sale or purchase of prohibited products and/or services enumerated in Annexure I of this Agreement, as may be updated from time to time.

## **6. RESPONSIBILITIES/ OBLIGATIONS OF MERCHANT**

- 6.1. The Merchant agrees and covenants that before the commencement of any Service under this Agreement, it shall provide the necessary documents (as determined at Curlec’s sole discretion) to enable Curlec to conduct the due diligence in respect of, *inter alia*, the Merchant and its business/activities. Curlec shall have the right to share the KYC documents (or the information therein) and other related documents with the Facility Providers or Governmental/Regulatory Authorities or legal enforcement agencies, as required under Applicable Laws. The Merchant expressly grants consent to Curlec to rely on the KYC documents provided by the Merchant in providing the Services. The Merchant further acknowledges and agrees that Curlec reserves the right at all times to monitor, review, retain and/or disclose any information in relation to the Services as necessary for the purpose of satisfying any Applicable Laws, legal process or governmental request.
- 6.2. During the Term, Curlec shall have the right to demand that the Merchant provides: (i) any additional KYC related documents; and/or (ii) any KYC related or other documents of the Customers or invoices, at its sole discretion and/or as per Applicable Laws or pursuant to requests from Governmental/Regulatory Authorities or the Facility Providers. The Merchant’s failure to submit the KYC documents when requisitioned shall entitle Curlec to suspend the Services and/or stop settlement of monies (as applicable) until the Merchant submits such KYC documents to the sole satisfaction of Curlec.

- 6.3. As of the date of this Agreement and throughout the Term, the Merchant declares that the Merchant, its Affiliates and/or its Beneficial Owner are not a Politically Exposed Person. The Merchant shall forthwith inform Curlec in writing if this declaration becomes untrue during any period of the Term.
- 6.4. The Merchant represents and warrants that it holds an informed consent of its Customers to share such Customer's confidential information (including personal data) with Curlec and its Affiliates in connection with the Services and for further sharing with the Governmental/Regulatory Authorities as and when demanded under Applicable Laws, for the purposes of transaction tracking and fraud prevention. Further, the Merchant confirms that it has a valid consent from its Customers under its privacy policy or otherwise to enable Curlec and its Affiliates to share the Customer's confidential information with Governmental/Regulatory Authorities for enquiries related to fraud, money laundering etc., and for compliance with Applicable Laws.
- 6.5. The Merchant acknowledges that the Services are of complex nature and require the intervention and assistance of a number of parties including the Facility Providers. The Merchant acknowledges and agrees that Curlec shall only be liable for acts or omissions which are solely and directly attributable to Curlec.
- 6.6. The Parties agree that Curlec shall not be responsible for any delivery, after-sales service, payment, invoicing or collection, Customer enquiries (not limited to sales enquiries), technical support maintenance services and/or any other obligations or services relating to or in respect of the Merchant's products or services. Such obligations shall be the sole responsibility of the Merchant. The Merchant shall indemnify Curlec against any claim arising from such services or obligations and shall bear any and all expenses and/or costs relating thereto.
- 6.7. The Merchant shall not (whether online or otherwise): (i) describe itself as an agent or representative of Curlec or the Facility Provider; (ii) represent that it has any rights to offer any products or services offered by Curlec or the Facility Provider; and (iii) make any representations to Customer or any third party or give any warranties which may require Curlec or the Facility Provider to undertake or be liable for, whether directly or indirectly, any obligation and/or responsibility to the Customer or any third party.
- 6.8. The Merchant shall be responsible to do reconciliation on a daily basis for all the transactions processed. In case of discrepancies, the Merchant shall report to Curlec regarding such discrepancy within three (3) working days from the transaction date. Curlec shall not be liable for any reconciliation issue if the same is highlighted by the Merchant to Curlec after three (3) working days from the transaction date.
- 6.9. In order to be provided the Services by Curlec, the Merchant shall take all necessary steps to facilitate the integration of Curlec's solutions with the Merchant's platform. It is hereby clarified that any Server to Server (S2S) integration, if done, shall be solely for the purpose of being provided the Services and intended to be used or accessed only by the Merchant.
- 6.10. Notwithstanding anything to the contrary, Curlec shall have the right to immediately suspend the Services and settlement of any monies or payments, at Curlec's sole discretion and without any liability to the Merchant, to the extent applicable, in the event of the following:
  - 6.10.1. The Merchant breaches any clause of this Agreement or any other agreement it may have with Curlec.
  - 6.10.2. The Merchant facilitates any transaction which is unlawful or in contravention with Clauses 5.3.3, 5.3.4, 5.3.7 or Annexure I.
  - 6.10.3. Curlec receives instructions from the Facility Providers or Governmental/Regulatory Authorities or law enforcement agencies to either suspend the Services or part thereof, or directs to suspend the Services or part thereof, regardless of whether there is pending investigation/enquiry into the alleged illegal/unlawful activities of the Merchant.
  - 6.10.4. The Merchant's products/services infringe, or are suspected of infringing, intellectual property rights, copyrightable works, patented inventions, trademarks and trade secrets, or the Merchant is suspected of selling counterfeit and/or knock-off goods.
  - 6.10.5. The Merchant uses the Services for any transactions which have a high-risk score as per Curlec's internal fraud assessment tools and other policies.
  - 6.10.6. Curlec is of the opinion that there are suspicious circumstances surrounding the Merchant's activities.
  - 6.10.7. Curlec is of the opinion that there are pending, anticipated, or excessive disputes, refunds, or reversals relating to the Merchant's use of the Services.

- 6.10.8. The Merchant materially changes the type of products/services provided to the Customers as declared on the onboarding form, without obtaining Curlec's prior written permission to use the Services for the new or changed types of services/products, or it is discovered by Curlec that the Merchant provided substantially misleading and/or false information about its products/services as part of the onboarding activities.
- 6.10.9. Curlec, in its sole discretion, determines that the Merchant's activities expose Curlec to risks which are unacceptable to Curlec.
- 6.10.10. Curlec, in its sole discretion, is required to do so due to regulatory changes impacting the Services.
- 6.11. The Merchant shall be solely responsible for sorting or handling of any complaints received against the Merchant.

## 7. AUDIT AND INSPECTION

The Merchant shall assist Curlec in furnishing to its auditors, the Facility Providers, Governmental/Regulatory Authorities, or law enforcement agencies, forthwith upon request from time to time, relevant books, the original or copies of proof of transactions, invoices, or other records of the Merchant, including pertaining to any order placed by the Customers. The Merchant shall retain records relating to transactions for a period of seven (7) years or as per the requirements under Applicable Laws, whichever is higher, from the relevant date of the order placed on the Merchant's site. Curlec, the Facility Providers, Governmental/Regulatory Authorities or law enforcement agencies shall be entitled to audit and inspect the records and other data, including but not limited to, the Customer's orders at any time whatsoever and without any prior notice.

## 8. INTELLECTUAL PROPERTY

- 8.1. Each Party shall own all rights, title, and interests in its Intellectual Property.
- 8.2. All Intellectual Property (a) related to the Services contemplated under this Agreement, (b) pertaining to the Dashboard or API that are: (i) pre-existing; and/or (ii) conceived, generated, derived, produced or reduced to practice by Curlec or any of its Affiliates as a result of the Services performed by Curlec or such Affiliate, shall be and shall remain the exclusive property of Curlec or such Affiliate. For the avoidance of any doubt, Intellectual Property created by Curlec or its Affiliate in the course of undertaking its duties and obligations under or during the Term of this Agreement shall be owned by Curlec (or the Affiliate) unless otherwise stated in writing.
- 8.3. Curlec hereby only grants to the Merchant a limited license for the duration of the Term, for a non-exclusive, non-transferable, non-assignable and revocable right to use Curlec's API, secret keys, Dashboard and other software which relates to integration with the Services. The Merchant shall in no event provide access to any third party to the foregoing and shall remain responsible for any unauthorised access or use of the same by any third party.
- 8.4. Each Party owns all rights, title, and interest in its product and service names, logos, and registered or unregistered trademarks (collectively, "**Marks**"). The Merchant hereby grants Curlec a limited license to use, reproduce, publish, and use the Merchant's Marks to identify the Merchant as a user of the Service. By way of example, use includes, without limitation, response to request for proposals/bids, testimonials, websites, marketing materials, and press releases/earnings announcements.
- 8.5. The Merchant shall not, and shall not permit a third party to reverse engineer, decompile, disassemble or otherwise attempt to learn, access or use the source code composed in the Services.

## 9. CONFIDENTIALITY

- 9.1. The Receiving Party shall, itself and through its Authorised Representatives, keep the Confidential Information confidential at all times, notwithstanding the termination or expiration of this Agreement.
- 9.2. **Disclosure to the Authorised Representative:** The Receiving Party shall have the right to disclose the Confidential Information to its the Authorised Representative, strictly on need-to-know basis.
  - 9.2.1. In the event the Confidential Information is disclosed to the Authorised Representative, the Receiving



Party shall ensure that the Authorised Representative is under confidentiality obligations equivalent to or stricter than the terms of this Agreement.

- 9.2.2. The Receiving Party shall ensure that all obligations on such Authorised Representative are strictly enforced and the Receiving Party shall remain responsible for the conduct of such Authorised Representative in terms of the Confidential Information.
- 9.2.3. The Receiving Party shall ensure that the Authorised Representative does not disclose the Confidential Information to any third party, except as provided in Clause 9.3.
- 9.2.4. The Receiving Party shall be solely liable for any breach of confidentiality of Confidential Information by the Authorised Representative.
- 9.2.5. The Receiving Party shall immediately notify the Disclosing Party of any actual or potential breach of this Clause. Each Party shall, reasonably co-operate with the other Party in any investigation, prosecution, litigation or other action related to the Confidential Information.

9.3. **Exclusions:** Obligations under this Agreement will not apply to Confidential Information which:

- 9.3.1. is disclosed to the Receiving Party by a third party without any confidentiality obligation;
- 9.3.2. is expressly authorized in writing by the Disclosing Party;
- 9.3.3. is in the public domain or becomes part of the public domain through no omission by the Receiving Party or the Authorised Representative;
- 9.3.4. is required by Applicable Laws, court order or legally binding instructions of the Facility Provider, Governmental/Regulatory Authority or law enforcement agencies;
- 9.3.5. is, at any time, developed independently by the Receiving Party, as maybe evidenced by written records; and/or
- 9.3.6. was known to the Receiving Party prior to disclosure, and as may be evidenced by written records.

9.4. **Injunctive relief:** Parties understand that monetary damages may be an inadequate compensation to the Disclosing Party in the event the Receiving Party breaches any provision of this Clause. Therefore, the Parties agree that in the event of a breach or threatened breach of confidentiality, the Disclosing Party shall be entitled to seek specific performance and injunctive or other equitable relief as a remedy for any such breach or anticipated breach provided however that aforesaid remedy shall not limit the rights of the Disclosing Party under Applicable Laws.

9.5. Subject to its obligations under Applicable Laws, upon termination or expiration of this Agreement, the Receiving Party shall promptly return all the Confidential Information to the Disclosing Party. The Receiving Party may retain a copy of the Disclosing Party's Confidential Information for compliance of its obligations pursuant to Applicable Laws.

## 10. PERSONAL DATA PROTECTION

10.1. Each Party agrees to comply with all Applicable Laws pertaining to data protection, including the PDPA and all applicable policy document(s) issued by BNM at all times.

10.2. The Merchant further represents and warrants to Curlec that:

- 10.2.1. any Personal Data obtained from Curlec will not be used for any purpose other than for the purposes of this Agreement, save and unless prior consent has been obtained from Curlec;
- 10.2.2. it will not disclose personal data to any third party unless prior written consent from Curlec and the data subjects have been obtained;
- 10.2.3. it will treat all Personal Data as confidential in nature and it will ensure that access to the Personal Data is only limited to relevant personnel who require access to the Personal Data to fulfil his/her functions;
- 10.2.4. it will ensure its employees, agents and subcontractors are aware of their obligations under the PDPA in relation to the protection, handling and security of the Personal Data which he/she has access to;
- 10.2.5. it has sufficient technical and organisational security measures which meet the standards of the PDPA, the Personal Data Protection Standard 2015 and any other standard which may be set by Curlec or the Personal Data Protection Commissioner of Malaysia in place for the purposes of protecting the Personal Data from any loss, misuse, modification, unauthorised or accidental access or disclosure, alteration or destruction;
- 10.2.6. without prejudice to Clause 10.2.5, it has adequate recovery and resumption capability which meet the

- standards of Curlec or which are prescribed by any Applicable Law to ensure that all Personal Data is secured and protected from any loss;
- 10.2.7. it will ensure any requests received by it to give access to and/or correct the Personal Data and/or complaint in respect of the Personal Data will be forwarded to Curlec immediately, and it will provide full co-operation and assistance to Curlec in complying with or otherwise responding to such requests received;
- 10.2.8. it will, to the best of its knowledge, ensure that the Personal Data is accurate, complete, not misleading and kept up-to-date;
- 10.2.9. it will, upon termination or expiration of this Agreement, return to Curlec or otherwise destroy and permanently delete in a secure manner, to the extent that the information is irretrievable or undecipherable, all information relating to data subjects;
- 10.2.10. it will not transfer any of the Personal Data outside of Malaysia without prior consent from Curlec or the data subjects;
- 10.2.11. it will not do anything in relation to the Personal Data which could cause Curlec to be in breach of any of its requirements under any applicable data protection laws in force at any point in time;
- 10.2.12. it will immediately notify Curlec in writing if:
- (i) any Personal Data is lost, misused, modified or subject to unauthorised or accidental access or disclosure, alteration or destruction; and/or
  - (ii) there is any reason to believe that any of the Merchant's employees, agents or subcontractors has obtained unauthorised access to the Personal Data which compromises the security, integrity and confidentiality of the Personal Data, or if it would result in a breach of any personal data protection law; and
- 10.2.13. it will not hold Curlec liable for any data security breach through no fault of Curlec, including but not limited to, any unauthorised or unlawful processing or disclosure, accidental loss of, damage to, alteration of, destruction of any Personal Data ("**Data Security Breach**").
- 10.3. The Merchant undertakes that it will grant access to Curlec, any external auditors engaged by Curlec and/or BNM as and when requested to inspect and to conduct audits on the Merchant, and any of the Merchant's agent's or subcontractor's premises, activities, data processing facilities, procedures and documentation to ensure that the Merchant is in full compliance with the PDPA and any policy by Curlec.
- 10.4. The Merchant undertakes to indemnify and keep Curlec indemnified against any breach of any applicable data protection laws arising from or in connection with the processing of Personal Data by the Merchant (including its employees, agents and sub-contractors) through no fault of Curlec, which renders Curlec liable for any costs, fines, damages, claims or expenses.
- 10.5. In the event of a Data Security Breach, the Merchant will:
- 10.5.1. immediately investigate, correct, mitigate, remediate and otherwise handle the Data Security Breach, including identifying Personal Data affected by the Data Security Breach and taking sufficient steps to prevent the continuation and recurrence of the Data Security Breach; and
  - 10.5.2. provide information and assistance needed to enable Curlec to evaluate the Data Security Breach.

## 11. ANTI BRIBERY

Each Party agrees to comply with all Applicable Laws pertaining to anti-bribery and anti-corruption, including those which prohibit their officials, representatives, agents or any other person associated with or acting on behalf of such Party from giving, offering, promising to offer, receiving/accepting or acting in any other manner so as to induce a payment, gift, hospitality or anything else of value (either directly or indirectly) whether from within the country or from abroad to government officials, public servants, regulatory bodies, judicial authorities, persons in positions of authority, elected or contesting electoral candidates, political parties or office bearers thereof or any other third party or person in order to obtain an improper commercial/business advantage of any kind. Government officials include any government employee, candidate for public office, an employee of government-owned, government-controlled or government-linked companies, public international organisations and political parties. Each Party also agrees not to give, offer, pay, promise or authorise to give or pay, directly, indirectly or through any other person, anything of value to anybody for the purpose of inducing or rewarding any favourable action or influencing any decision in favour of such Party.

## 12. SANCTIONS

The Merchant undertakes that it shall all times during the Term, comply with the mandates of OFAC, UNSCR, and any other relevant Government/Regulatory Authorities and agrees that neither the Merchant nor any of its Affiliates has directly or indirectly lent, contributed or otherwise made available funds to any third parties, Affiliates, joint venture partners or any other person or entity for the purpose of financing the activities of any person currently subject to the OFAC, UNSCR, or any other relevant Government/Regulatory Authorities' sanction lists.

## 13. INDEMNITY

13.1. Curlec shall indemnify and hold the Merchant, harmless from and against all Claims directly arising out of or resulting from:

- 13.1.1. fraud, and willful misconduct by Curlec in the performance of this Agreement;
- 13.1.2. violation of Applicable Laws by Curlec in the performance of this Agreement;
- 13.1.3. any claim that the Services infringe intellectual property rights of a third party provided that such infringement has resulted in a disruption in the Merchant's access to or use of the Services; or
- 13.1.4. breach of Curlec's confidentiality obligations under Clause 9 (*Confidentiality*).

13.2. Curlec shall, at its expense and discretion, defend such claims mentioned in Clause 13.1 above, provided that the Merchant: (a) promptly notifies Curlec of the threat or notice of such Claim; (b) gives Curlec sole control of the defense and settlement of the Claim; and (c) fully cooperates with Curlec in connection therewith. Curlec's indemnification obligation shall be offset to the extent its ability to defend or settle a claim is jeopardized by the Merchant's failure to comply with this Clause 13.2.

13.3. The Merchant shall indemnify and hold Curlec, its directors, managers, officers, employees and agents harmless from and against all Losses arising from claims, demands, actions or other proceedings as a result of:

- 13.3.1. fraud, negligence and wilful misconduct by the Merchant in the performance of this Agreement;
- 13.3.2. violation of Applicable Laws by the Merchant in the performance of this Agreement;
- 13.3.3. breach of the Merchant's obligations under Clause 8 (*Intellectual Property*) and Clause 9 (*Confidentiality*);
- 13.3.4. disputes raised by the Customers; or
- 13.3.5. third party claims against Curlec arising out of the Merchant's use of the Services.

## 14. LIMITATION OF LIABILITY

14.1. SUBJECT TO APPLICABLE LAWS AND NOTWITHSTANDING ANYTHING ELSE IN THIS AGREEMENT: (A) IN NO EVENT WILL EITHER PARTY BE LIABLE FOR SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES (INCLUDING WITHOUT LIMITATION DOWNTIME COSTS, LOSS OF DATA, LOST PROFITS OR ANY LOSSES DUE TO ACTIONS OF THE FACILITY PROVIDERS) REGARDLESS OF WHETHER SUCH CLAIMS ARE BASED ON CONTRACT, TORT, WARRANTY OR ANY OTHER LEGAL THEORY; (B) CURLEC'S AGGREGATE LIABILITY AND THAT OF ITS AFFILIATES, OFFICERS, EMPLOYEES AND AGENTS RELATING TO THE SERVICE(S), WILL NOT EXCEED AN AMOUNT EQUAL TO ONE MONTH'S FEES PAID BY THE MERCHANT FOR THE SPECIFIC SERVICE(S) GIVING RISE TO THE LIABILITY. CURLEC'S LIABILITY UNDER OR IN CONNECTION WITH THIS AGREEMENT WILL BE PROPORTIONATELY REDUCED TO THE EXTENT ANY LOSS OR DAMAGE IS CONTRIBUTED TO BY THE MERCHANT, ITS AFFILIATES OR ITS THIRD PARTY PROVIDERS.

14.2. **DISCLAIMER OF WARRANTY:** CURLEC WARRANTS THAT THE SERVICES SHALL BE PROVIDED MATERIALLY IN ACCORDANCE WITH THE SERVICES DOCUMENTATION AVAILABLE AT [WWW.CURLEC.COM](http://WWW.CURLEC.COM). TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAWS AND EXCEPT AS STATED IN THIS AGREEMENT, THE SERVICES ARE PROVIDED ON "AS IS" BASIS. THE MERCHANT ACKNOWLEDGES THAT CURLEC DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE OR FIT FOR

## SPECIFIC BUSINESS PURPOSES OF THE MERCHANT.

### 15. TERM & TERMINATION

- 15.1. This Agreement shall be deemed effective as of the Effective Date and shall continue through the Term. The Services shall commence on the start date specified in each SOF or the date of the Merchant's use of the Services, whichever is earlier, and shall continue until this Agreement or the applicable SOF is expired or earlier terminated by either Party in accordance with the terms of this Agreement.
- 15.2. Either Party may terminate this Agreement or a specific SOF by written notice to the other party upon occurrence of any of the following events:
- 15.2.1. If a Party breaches this Agreement and does not cure such breach within fifteen (15) days of notice of such breach from the non-defaulting Party; or
- 15.2.2. If a Party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.
- 15.3. Curlec may terminate this Agreement or a specific SOF:
- 15.3.1. by thirty (30) days' written notice to the Merchant;
- 15.3.2. immediately if Curlec, in its sole discretion, determines that the Merchant's activities reflect negatively on the brand or reputation of Curlec or the Facility Providers; or
- 15.3.3. upon Curlec's receipt of a direction or order from BNM pursuant to the FSA to terminate this Agreement.
- 15.4.** This Agreement (including all SOFs) shall be immediately terminated in the event that the Merchant has been charged or convicted of a criminal offence relating to fraudulent or illegal activity.
- 15.5. In the event this Agreement or a particular SOF is terminated, the following shall be the consequences:
- 15.5.1. In the event this Agreement is terminated, all subsisting SOFs shall also be automatically terminated with effect from the date on which this Agreement is terminated, and all or any sums and charges payable under this Agreement and/or all SOFs which are unpaid at the effective date of termination shall forthwith become due and payable by the Merchant.
- 15.5.2. In the event of the termination of a particular SOF (but not the termination of this Agreement), all or any sums and charges payable under that SOF which are unpaid at the effective date of termination shall forthwith become due and payable by the Merchant.
- 15.5.3. The termination of one or more SOFs shall not impact the other subsisting SOFs or this Agreement.
- 15.5.4. Unless otherwise agreed between the parties, all subsisting SOFs shall be automatically terminated if this Agreement is terminated.
- 15.5.5. The Merchant agrees that it shall be and remain liable after termination for any obligations and/or liabilities which occur post termination in relation to the Services provided by Curlec prior to such termination.
- 15.6. Termination of this Agreement shall not affect any accrued rights or liabilities of either Party under, nor shall it affect the coming into force or the continuance in force of any provision of this Agreement which is expressly or by implication intended to come into or continue in force on or after such termination.
- 15.7. Unless specified otherwise the provisions of Clause 2 (*Definitions*) to the extent such definitions are used in Clauses which survive termination, Clause 6 (*Responsibilities/Obligations of Merchant*), Clause 14 (*Limitation of Liability*), Clause 15.5 and Clause 15.6 (*Effect of Termination*), Clause 17 (*Governing Law and Jurisdiction*), Clause 18 (*Miscellaneous*) shall survive termination/expiration of this Agreement. Clause 13 (*Indemnity*) shall survive termination of this Agreement for a period of one year from the date of termination.

### 16. FORCE MAJEURE

- 16.1. Neither Party shall be in breach of its obligation hereunder if it is delayed in the performance of, or is unable to

perform (whether partially or fully), such obligations as a result of the occurrence of a Force Majeure Event; provided that the Party affected by the Force Majeure Event shall give notice to the other Party of the occurrence of the Force Majeure Event as soon as reasonably practicable and in any case within seven (7) days from the date on which the affected Party knew of the occurrence of a Force Majeure Event.

- 16.2. Each Party shall make all reasonable endeavours to mitigate any delay or interruption to any part of the performance of this Agreement as a result of the occurrence of a Force Majeure Event.
- 16.3. If a Force Majeure Event which substantially impairs the performance by a Party of its material obligations under this Agreement occurs and such Force Majeure Event continues for a continuous period of more than ninety (90) days, then either Party may terminate this Agreement at any time thereafter by giving seven (7) days' prior written notice to the other Party.

## 17. GOVERNING LAW AND JURISDICTION

- 17.1. This Agreement shall be governed by and construed in accordance with the laws of Malaysia. The courts of Malaysia shall have exclusive jurisdiction in respect of any such disputes or claims.

## 18. MISCELLANEOUS

- 18.1. **Notices-** Any notice to be given by a Party under this Agreement shall be in writing. Such notice shall be delivered by hand, email, airmail, postage (prepaid), reputed overnight courier service, to the Party to which it is addressed at such Party's address as specified below or at such other address as each Party shall from time to time have designated by providing fifteen (15) days prior written notice and shall be deemed to have been duly given or made when delivered as aforesaid.

### In the case of Curlec:

**Attention To:** [●]

**Address:** Private Office 57, Level 8, Komune Co-Working, Vertical Corporate Tower B, The Vertical, Bangsar South City, No. 8 Jalan Kerinchi, 59200 Kuala Lumpur, Malaysia.

**Tel:** [●]

**Email:** [●]

### In the case of the Merchant:

**Attention To:** [●]

**Address:** [●]

**Tel:** [●]

**Email:** [●]

- 18.2. **Assignment-** The Merchant shall not assign its rights or obligations under this Agreement without written consent of Curlec. Curlec may assign its rights or obligations under this Agreement (including under any of the SOFs) at any time to any of its Affiliates.
- 18.3. **Amendment-** Subject to the changes in Annexure I or such changes as are required to comply with Applicable Laws, this Agreement can be modified only upon written consent of each Party.
- 18.4. **Severability-** If any provisions of this Agreement are held to be invalid or unenforceable, they are to that extent



to be deemed omitted and the remaining provisions of this Agreement shall remain in full force and effect.

- 18.5. **Set-off-** Without prejudice to any other rights or remedies Curlec may have, the Merchant agrees and confirms that Curlec shall have the right to set-off by whatever means the whole or any part of the Merchant's liability to Curlec under this Agreement (or any other agreement between the Merchant and Curlec or its Affiliates) against any funds, sums or other amounts credited to, or owing to, the Merchant under this Agreement (or any other agreement between the Merchant and Curlec or its Affiliates). The Merchant agrees that Curlec may exercise the right of set-off at any time, without prior notice to the Merchant. In the event such set-off does not fully reimburse Curlec for the liability owed, the Merchant shall pay Curlec a sum equal to any shortfall thereof.
- 18.6. **Entire Agreement-** This Agreement expresses the understanding of the Parties with respect to the subject matter hereof. Save for the online terms and conditions of Curlec, provisions or terms of any invoice or purchase order or any online terms and conditions (including terms and conditions of the Merchant), whether executed or published before or after the Effective Date, shall not apply in any manner whatsoever, to the relationship between the Parties unless such terms are specifically incorporated in this Agreement.
- 18.7. **Execution and Counterparts-** This Agreement can be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, but all of which shall together constitute one and the same agreement. This Agreement may be executed by electronic signature, which shall be considered as an original signature for all purposes and shall have the same force and effect as an original signature. The delivery of signed counterparts by facsimile transmission or electronic mail in "portable document format" ("PDF") shall be as effective as signing and delivering the counterpart in person.
- 18.8. **Waiver-** All rights available to either Party under this Agreement or any other document delivered hereunder or in connection herewith, or allowed it by law or equity, are and shall be cumulative and may be exercised separately or concurrently and from time to time without waiver of any other remedies. Neither Party shall be deemed to have waived any right, power or privilege under this Agreement unless such waiver shall have been expressed in a written instrument signed by the waiving Party. The failure of either Party to enforce any provision of this Agreement shall in no way be construed as a waiver of such provision or a right of such Party to thereafter enforce such provision or any other provision of this Agreement.

**IN WITNESS THEREOF BOTH PARTIES DULY REPRESENTED HAVE SIGNED THE PRESENT AGREEMENT.**

**CURLEC**

**MERCHANT**

---

Authorized Signatory

---

Authorized Signatory

## ANNEXURE I

### Prohibited Products and Services

1. Adult goods and services which includes pornography and other sexually suggestive materials (including literature, imagery and other media); escort or prostitution services; website access and/or website memberships of pornography or illegal sites;
2. Body parts which include organs or other body parts;
3. Bulk marketing tools which include email lists, software, or other products enabling unsolicited email messages (spam);
4. Cable descramblers and black boxes which includes devices intended to obtain cable and satellite signals for free;
5. Child pornography which includes pornographic materials involving minors;
6. Copyright unlocking devices which include mod chips or other devices designed to circumvent copyright protection;
7. Copyrighted media which includes unauthorized copies of books, music, movies, and other licensed or protected materials;
8. Copyrighted software which includes unauthorized copies of software, video games and other licensed or protected materials, including OEM or bundled software;
9. Counterfeit and unauthorized goods which includes replicas or imitations of designer goods; items without a celebrity endorsement that would normally require such an association; fake autographs, counterfeit stamps, and other potentially unauthorized goods;
10. Drugs and drug paraphernalia which includes illegal drugs and drug accessories, including herbal drugs like salvia and magic mushrooms;
11. Drug test circumvention aids which include drug cleansing shakes, urine test additives, and related items;
12. Endangered species which includes plants, animals, or other organisms (including product derivatives) in danger of extinction;
13. Gaming/gambling which includes lottery tickets, sports bets, memberships/ enrolment in online gambling sites, and related content;
14. Government IDs or documents which includes fake IDs, passports, diplomas, and noble titles;
15. Hacking and cracking materials which includes manuals, how-to guides, information, or equipment enabling illegal access to software, servers, website, or other protected property;
16. Illegal goods which include materials, products, or information promoting illegal goods or enabling illegal acts;
17. Miracle cures which include unsubstantiated cures, remedies or other items marketed as quick health fixes;
18. 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; or
  - (c) Promote intolerance or hatred.
19. Offensive goods, crime which includes crime scene photos or items, such as personal belongings, associated with criminals;
20. Pyrotechnic devices, combustibles, corrosives, and hazardous materials which includes explosives and related goods; toxic, flammable, and radioactive materials and substances;
21. Regulated goods which include air bags; batteries containing mercury; Freon or similar substances/refrigerants; chemical/industrial solvents; government uniforms; car titles; license plates; police badges and law enforcement equipment; lock-picking devices; pesticides; postage meters; recalled items; slot machines; surveillance equipment and strategic items governed by the Strategic Trade Act 2010; goods regulated by government or other agency specifications;
22. Securities which include government bonds or related financial products;
23. Tobacco and cigarettes which includes cigarettes, cigars, chewing tobacco, and related products;
24. Traffic devices which include radar detectors/jammers, license plate covers, traffic signal changers, and related products;
25. Weapons which include firearms, ammunition, knives, brass knuckles, gun parts, and other armaments;

26. Wholesale currency which includes discounted currencies or currency exchanges;
27. Live animals or hides/skins/teeth, nails, and other parts etc. of animals;
28. Multi-Level Marketing collection fees;
29. Matrix sites or sites using a matrix scheme approach;
30. Offering work-at-home approach and/or work-at-home information; with an intention to deceive;
31. Any product or service which is not in compliance with all applicable laws and regulations whether federal, state, local or international, including the laws of Malaysia;
32. Merchant providing services that have the potential of casting the payment gateway facilitators in a poor light and/or that may be prone to buy & deny attitude of the cardholders when billed (e.g., adult material/ mature content/escort services/ friend finders) and thus leading to chargeback and fraud losses;
33. Businesses or websites that operate within the scope of laws which are not absolutely clear or are ambiguous in nature (e.g., web-based telephony, website supplying medicines or controlled substances, website that promise online match-making);
34. Businesses out rightly banned by law (e.g., betting & gambling/ publications or content that is likely to be interpreted by the authorities as leading to moral turpitude or decadence or incite caste/communal tensions, lotteries/sweepstakes & games of chance;
35. Merchants who deal in intangible goods/ services (e.g., software download/ health/ beauty products), and businesses involved in pyramid marketing schemes or get-rich-quick schemes and any other product or service, which in the sole opinion of either the partner bank or the acquiring bank, is detrimental to the image and interests of either of them / both of them, as communicated by either of them/ both of them to the Merchant from time to time. This shall be without prejudice to any other terms & conditions mentioned in this Agreement;
36. Mailing lists;
37. Virtual currency, cryptocurrency, and other crypto products (like non-fungible tokens or NFTs), prohibited investments for commercial gain or credits that can be monetized, re-sold or converted to physical or digital goods or services or otherwise exit the virtual world;
38. Money laundering services;
39. Corruption or bribery-related services;
40. Database providers (for tele-callers);
41. Bidding/Auction houses;
42. Activities prohibited by the Malaysian Communications and Multimedia Commission or any other regulatory authority in Malaysia;
43. Entities operating as kootu funds / chit funds/ nidhi companies;
44. Unregulated/ unlicensed money service business (MSB) or money and value transfer services (MVTs) like exchange houses, remittance agents or individuals running such businesses in jurisdictions that require license for such businesses; and
45. Any other activities prohibited by Applicable Laws, including any regulated activities in respect of which valid licences, approvals, permits, registrations consents are not held by the Merchant for the conduct of such activities, any activities which the Merchant is prohibited from conducting (including pursuant to any judgment, arbitral award or injunction) obtained against the Merchant) and any activities which facilitate any non-compliance with Applicable Laws by any person.

The above list is subject to additions / changes by Curlec, based on instructions received from Facility Providers, without any prior intimation to you.

## ANNEXURE II

## Form of Service Order Form

## Part A - Services

This Service Order Form (“SOF”) forms an integral part of, and is issued and entered into pursuant to the Agreement.

SCOPE OF SERVICES																									
<b>Services being availed:</b>	1. Payment Gateway 2. Subscription 3. Payment Links 4. Payment Pages 5. Invoices 6. Route 7. Payment Buttons 8. Instant Refund 9. Value Added Services																								
<b>Gaming Merchant (please select checkbox):</b>	Yes <input type="checkbox"/> (Specific terms mentioned in Clause 11 below will apply) No <input type="checkbox"/>																								
<b>Fees and charges:</b>	<table border="1"> <thead> <tr> <th>Payment Methods</th> <th>Platform Fees* per Transaction (exclusive of applicable taxes)</th> </tr> </thead> <tbody> <tr> <td>Debit Cards more than [RM●]</td> <td>[●]</td> </tr> <tr> <td>Debit Cards less or equal to [RM●]</td> <td>[●]</td> </tr> <tr> <td>Credit Cards (Visa/ Master)</td> <td>[●]</td> </tr> <tr> <td>AMEX/Diners</td> <td>[●]</td> </tr> <tr> <td>Internet banking</td> <td>[●]</td> </tr> <tr> <td>Mobile Wallets</td> <td>[●]</td> </tr> <tr> <td>Corporate Cards/International</td> <td>[●]</td> </tr> <tr> <td>Easy Payment Plans (EPP)</td> <td>[●]</td> </tr> <tr> <td>Buy Now Pay Later (BNPL)</td> <td>[●]</td> </tr> <tr> <td>Setup cost</td> <td></td> </tr> <tr> <td>Annual maintenance cost (AMC)</td> <td></td> </tr> </tbody> </table> <p>*Platform Fee: Curlec levies a platform fee for the payment acceptance infrastructure and related services provided by it. Specifically, the platform fee comprises the following:</p> <p>(a) Merchant Discount Rate (MDR): the fee charged in relation to settlement of transactions, and includes interchange fee, switching fee and any other fees that may be levied by acquiring banks, card networks, issuing bank or any other participant entity involved in the payment chain for completion of the transaction. Where the limits on MDR are not specified under applicable law, MDR is charged in accordance with market practice and per the charges specified by our banking partners and other participants in the payment processing flow.</p> <p>(b) Technology Fee: the charge levied by Curlec on the Merchant towards providing a unique, seamless and best in class payment experience for the Customers.</p> <p>*Taxes as per applicable laws.</p>	Payment Methods	Platform Fees* per Transaction (exclusive of applicable taxes)	Debit Cards more than [RM●]	[●]	Debit Cards less or equal to [RM●]	[●]	Credit Cards (Visa/ Master)	[●]	AMEX/Diners	[●]	Internet banking	[●]	Mobile Wallets	[●]	Corporate Cards/International	[●]	Easy Payment Plans (EPP)	[●]	Buy Now Pay Later (BNPL)	[●]	Setup cost		Annual maintenance cost (AMC)	
Payment Methods	Platform Fees* per Transaction (exclusive of applicable taxes)																								
Debit Cards more than [RM●]	[●]																								
Debit Cards less or equal to [RM●]	[●]																								
Credit Cards (Visa/ Master)	[●]																								
AMEX/Diners	[●]																								
Internet banking	[●]																								
Mobile Wallets	[●]																								
Corporate Cards/International	[●]																								
Easy Payment Plans (EPP)	[●]																								
Buy Now Pay Later (BNPL)	[●]																								
Setup cost																									
Annual maintenance cost (AMC)																									

	*Setup & AMC (if paid) is non-refundable unless Curlec is unable to provide a product fit for the Merchant.
<b>Settlement Cycle:</b>	T + 2 Escrow Bank Working Days *T = date of Transaction
<b>SOF Term:</b>	Start date: Validity: Valid until terminated in accordance with the Agreement

The Merchant agrees that the Fees shall be charged according to the manner, rates and frequency determined by Curlec. Curlec reserves the right to update the amount of the Fees including for Services for which no charge has been levied previously in accordance with this SOF. The Merchant agrees that it shall be liable to pay any additional Fees as determined by Curlec in the event:

- (a) The Merchant avails certain value-added services available on the Dashboard irrespective of whether they have been available free of charge previously.
- (b) The Merchant avails any new Services not mentioned in this SOF.

The Merchant agrees that its use of any Service or a value-added service shall be construed as a consent to any additional Fees which may be levied by Curlec on such additional Service or value-added service.

## TERMS

1. **DEFINITIONS:** In this SOF, the following definitions shall also apply:
  - 1.1. **“Chargeback”** means the reversal (such reversal being requested by a Facility Provider pursuant to a request from the Facility Provider’s customer) of the debit of the Transaction Amount that was charged by the Merchant, where the reversal is approved by the Facility Provider following examination of the Transaction related documents and information furnished by the Merchant, consequently resulting in Curlec being charged the Transaction Amount and charges, penalties or fines associated with processing the Chargeback.
  - 1.2. **“Chargeback Amount”** means the aggregate amount that the Facility Provider charges Curlec pursuant to a Chargeback.
  - 1.3. **“Chargeback Documents”** has the meaning ascribed to the term in Clause 3.1 of this SOF.
  - 1.4. **“Chargeback Request”** means a claim for Chargeback by Facility Provider’s customer.
  - 1.5. **“Escrow Account”** or **“Nodal Account”** means an account held by Curlec with an escrow/nodal bank, as applicable, for the purpose of receiving the Transaction Amount and effecting settlements to the Merchant.
  - 1.6. **“Escrow Bank”** means a bank that is permitted to operate an Escrow Account under the Applicable Laws.
  - 1.7. **“Escrow Bank Working Days”** means days on which the Escrow Bank is operational to undertake settlements.
  - 1.8. **“Fee Credit”** has the meaning ascribed to the term in Clause 2.5 of this SOF.
  - 1.9. **“Non-Resident”** shall bear the meaning ascribed to it under the FEP Notices.
  - 1.10. **“Payment System”** has the meaning ascribed to it in the FSA.
  - 1.11. **“Payment Instrument”** includes credit card, debit card, bank account, prepaid payment instrument or any other instrument issued under Applicable Law, used by a Customer to pay the Transaction Amount.
  - 1.12. **“Permissible Deductions”** means: (a) Fees mentioned in this SOF; (b) Chargeback Amount including fines and penalties; (c) deductions under Clause 2.5 of this SOF; and (d) any other sum due and payable by the Merchant to Curlec.
  - 1.13. **“Refund”** means processing of the Merchant’s request to Curlec, for returning the Transaction Amount (or part thereof) to the Payment Instrument which was used for effecting the payment of the Transaction Amount.
  - 1.14. **“T”** means the date of confirmation by the Merchant to Curlec about delivery of goods to the Merchant’s Customer.
  - 1.15. **“Transaction”** means an order or request placed by the Customer with the Merchant (or a third party vendor availing of the Merchant’s services) for purchasing goods/services from the Merchant, which results in a debit to the Customer’s Payment Instrument.
  - 1.16. **“Transaction Amount”** means the amount paid by the Customer in connection with Transaction.



## 2. PAYMENT PROCESSING

- 2.1. Subject to the terms of the Agreement and this SOF, Curlec shall facilitate collection of online payments for products/services sold by the Merchant.
- 2.2. Subject to Clauses 3 and 4 of this SOF, Curlec shall settle the Transaction Amount (net of Permissible Deductions) into the Merchant's account within two (2) Escrow Bank Working Days following the date of the Transaction.
- 2.3. If Curlec settles the Transaction Amount under this Agreement or any SOF thereunder, at an earlier time than agreed above, Curlec shall have an absolute right to recover the Transaction Amount forthwith if the same is not received in the Escrow Account within three (3) Escrow Bank Working Days following the date of the Transaction for any reason whatsoever.
- 2.4. Curlec shall have an absolute right to place limits on the Transaction value.
- 2.5. Curlec is providing the Services merely on "AS IS WHERE IS" basis.

## 3. CHARGEBACKS

- 3.1. If a Facility Provider communicates to Curlec the receipt of a Chargeback Request, then the Merchant will be notified of the Chargeback. The Merchant agrees that liability for Chargeback, whether domestic or international, under the Agreement or any SOF thereunder rests with the Merchant. The Merchant further agrees that it is the sole discretion of the Merchant whether to avail non-3D secure services or not. Subject to availability of funds, Curlec, upon receipt of a Chargeback Request shall forthwith deduct the Chargeback Amount from the Transaction Amounts which may be used, based on the decision of the Facility Provider, either to: (a) process Chargeback in favour of the Customer; or (b) credit to the Merchant. For the avoidance of doubt, Curlec shall be entitled to deduct the Chargeback Amount upon receiving a Chargeback claim. The Merchant shall furnish to Curlec documents and information ("**Chargeback Documents**") pertaining to the Transaction associated with the Chargeback Request in order to substantiate: (i) the completion of the aforesaid Transaction; and/or (ii) delivery of goods/services sought by the Customer pursuant to the said Transaction. The Merchant shall furnish the Chargeback Documents within three (3) calendar days (or such other period specified by the Facility Provider) of receiving notification of the Chargeback Request.
- 3.2. The Merchant agrees that (i) if the Merchant is unable to furnish Chargeback Documents; and/or (ii) the Facility Provider is not satisfied with the Chargeback Documents furnished by the Merchant, then the Facility Provider shall be entitled to order Curlec to effect a reversal of the debit of the Chargeback Amount associated with the Chargeback such that the said Chargeback Amount is credited to the Customer's Payment Instrument.
- 3.3. Notwithstanding anything in this Agreement, if the Facility Provider charges the Chargeback Amount from Curlec, the Merchant agrees and acknowledges that Curlec is entitled to recover such Chargeback Amount from the Merchant by way of deduction from: (i) the Transaction Amount to be settled to the Merchant; and (ii) any other funds of the Merchant held by Curlec in the course of providing the Services. Provided however, if the available Transaction Amounts or other funds are insufficient for deduction of the Chargeback Amount, then Curlec is entitled to issue a debit note seeking reimbursement of the Chargeback Amount. The Merchant shall reimburse the Chargeback Amount within seven (7) days of receipt of the debit note.
- 3.4. On the issuance of notice of termination of this SOF or the Agreement, Curlec reserves the right to withhold from each settlement made after the date of such notice, a sum computed based on a Stipulated Percentage (*defined hereinbelow*) for a period of one hundred and twenty (120) days ("**Withholding Term**") from the date of termination of this SOF or this Agreement (as the case may be). The sums so withheld shall be maintained in a separate dedicated account and shall only be utilised towards settlement of Chargebacks. After processing such Chargebacks, Curlec shall transfer the unutilized amounts, if any, to the Merchant forthwith upon expiry of the Withholding Term. The "**Stipulated Percentage**" is the proportion of the Chargeback Amounts out of the total Transaction Amounts settled during the subsistence of this Agreement until the termination of this SOF or this Agreement (as the case may be).
- 3.5. Notwithstanding anything in this SOF, if the amount withheld pursuant to Clause 3.4 above is insufficient to settle Chargebacks Amounts received during the Withholding Term, then Curlec is entitled to issue a debit note

seeking reimbursement of the Chargeback Amount. The Merchant shall reimburse the Chargeback Amount within seven (7) days of receipt of the debit note.

- 3.6. The following applies for Chargebacks associated with Easy Payment Plans (EPP) products which are supported by the Facility Providers. For any loan cancellation requests, the Merchant needs to respond to Curlec within seven (7) working days with a suitable response. If a loan is to be cancelled, then the same needs to be informed to Curlec and if cancellation request is to be declined, then the Merchant needs to provide proof of delivery and justification. For loans which would get cancelled pursuant to the Merchant's confirmation, the Chargeback Amount would be recovered from the daily settlement.

#### **4. REFUNDS**

- 4.1. The Merchant agrees and acknowledges that subject to availability of funds received in the Escrow Account, the Merchant is entitled to effect Refunds at its sole discretion.
- 4.2. The Merchant further agrees and acknowledges that initiation of Refunds is at the discretion of the Merchant and Curlec shall process a Refund only upon initiation of the same on the Dashboard.
- 4.3. All Refunds initiated by the Merchant shall be routed to the same payment method through which the Transaction was processed.
- 4.4. The Merchant agrees that Curlec Fees shall always be applicable and payable by the Merchant on each Transaction irrespective of whether the Merchant has refunded the same to its Customer either through normal channels of refunds or through the instant refund service of Curlec (if availed).

#### **5. FRAUDULENT TRANSACTIONS**

- 5.1. Subject to Clauses 3.1 and 3.2 of this SOF, if Curlec is intimated, by a Facility Provider, that a Customer has reported an unauthorised debit of the Customer's Payment Instrument ("**Fraudulent Transaction**"), then in addition to its rights under Clause 6.10 of the Agreement, Curlec shall be entitled to suspend settlements to the Merchant during the pendency of inquiries, investigations and resolution thereof by the Facility Providers.
- 5.2. If the amount in respect of the Fraudulent Transaction has already been settled to the Merchant pursuant to the terms of this Agreement, any dispute arising in relation to the said Fraudulent Transaction, following settlement, shall be resolved in accordance with Applicable Laws and notifications, circulars and guidelines issued by BNM in this regard from time to time.
- 5.3. Subject to Clause 5.2 above, if the Fraudulent Transaction results in a Chargeback, then such Chargeback shall be resolved in accordance with the provisions set out in Clause 3 of this SOF.
- 5.4. The Merchant acknowledges that Curlec shall not be responsible for any liability arising in respect of Fraudulent Transactions whether it is an international or a domestic transaction.

#### **6. GENERAL**

- 6.1. In the event of any conflict between the Agreement and this SOF, this SOF shall prevail over the Agreement. To the maximum extent feasible, they shall be construed harmoniously.
- 6.2. Capitalised Terms used herein but not defined in this SOF shall have the meaning ascribed to such terms in the Agreement.
- 6.3. Clauses 3 and 5 of this SOF shall survive the termination of the SOF and the Agreement.

#### **7. COMPLIANCE WITH APPLICABLE LAWS**

- 7.1. The Merchant represents and warrants that:
- 7.1.1. It shall, during the term of this SOF, implement, observe and comply with applicable requirements prescribed under Applicable Law including but not limited to the provisions of the MAS Policy

Document. The Merchant shall further ensure that its operations are in compliance with the MAS Policy Document and that it shall not undertake any action in breach of the same.

- 7.1.2. It shall on its website/web app/mobile site/mobile app clearly indicate/display: (i) the return and refund policy of its products/services to its Customers, including the timelines for processing such returns, refunds or cancellations; and (ii) the general terms and conditions of use by its Customers. The Merchant shall ensure that it delivers products and services in accordance with instructions of the Customers.
- 7.1.3. It shall at no time hold, store, copy or keep any Customer data relating to a Customer's Payment Instrument and shall notify in writing to Curlec without any delay if it suspects or has become aware of a possible security breach related to any Customer data.
- 7.1.4. It shall not store any data pertaining to the Payment Instrument/Customer Payment Instrument credentials. On demand, the Merchant shall provide a written confirmation, in a form and manner acceptable to Curlec and the Facility Providers, certifying compliance to this aspect.
- 7.2. The Merchant shall set up a comprehensive Customer grievance redressal mechanism which provides the procedure for addressing complaints received from the Customers and shall include the details of the person designated by the Merchant for handling such Customer complaints. It is clarified that such Customer grievance redressal mechanism shall provide the facility to the Customers for registering their complaints over phone, email, or any other electronic means. The Merchant shall respond to such grievances or complaints received from their Customers within a period of five (5) business days from the date of receiving such grievance or complaint.
- 7.3. The Merchant shall comply with, and shall ensure that the third party service providers that the Merchant engages or enter into an agreement with for payment processing services comply with, the PCI DSS, as may be amended from time to time and the Payment Application-Data Security Standard ("PA-DSS"), or such other applicable requirements, regulations or standards as is required by Applicable Law or Curlec, to, among others, protect customer data and information. The Merchant shall also submit an annual report in writing to Curlec, signifying proof of compliance with the above.
- 7.4. If the Merchant becomes aware that it will not be or is likely not to be, in compliance with PCI DSS or PA-DSS, or such other applicable requirements, regulations or standards as described in Clause 7.3 above, for any reason, it will promptly report in writing to Curlec such non-compliance or likely non-compliance.
- 7.5. The Merchant shall provide Curlec with evidence of compliances listed in this Clause 7 at Curlec's request and provide, or make available, to Curlec copies of any audit, scanning results or related documents relating to such compliance. Notwithstanding the above, Curlec shall have the right to conduct a security audit of the Merchant, to check Merchant's compliance with this Clause 7 and in such cases, the Merchant shall extend full co-operation to Curlec and its representatives so as to enable them to conduct the audit to their sole satisfaction.
- 7.6. The Merchant agrees to adopt and enforce any information security requirement that Curlec may deem advisable in order to facilitate reasonable security processes and procedures.

## **8. TERM**

This SOF shall continue to be valid until it has been terminated in accordance with the provisions of the Agreement.

## **9. SERVICE DESCRIPTIONS**

### **9.1. Value-Added Services**

- 9.1.1. The Merchant may opt for certain value-added services available on the Dashboard which will be subject to an additional charge to be agreed upon by the Parties. Such charges are to be paid on a monthly/quarterly/annual basis or other frequency as may be agreed between the Parties. The Merchant hereby consents that payments towards such value-added services shall be deducted from the settlement amount payable from the Escrow Account under this SOF and the Agreement.

- 9.1.2. In addition to the above, the Merchant acknowledges that Curlec provides, as a value-added service, certain customisable templates for terms and conditions, return and refund and shipping policy, privacy policy, etc. (together, “**Customisable Templates**”) which the Merchant may choose to use to display on its website/web app/mobile site/mobile app/other digital app. The Merchant acknowledges and agrees that: (a) the Customisable Templates are available during the Merchant onboarding process to be used at the Merchant’s sole discretion; (b) Curlec provides the Customisable Templates on an “as is” basis; and (c) the Merchant represents and warrants that: (i) it is the Merchant’s sole responsibility to verify the suitability of the Customisable Templates for the Merchant’s products/services; (ii) the Merchant has sought independent legal advice prior to using the Customisable Templates; (iii) the Merchant absolves Curlec of any liability arising from the use of the Customisable Templates; and (iv) the Merchant has read and modified the Customisable Templates as necessary before publishing on its website/web app/mobile site/mobile app. Notwithstanding anything to the contrary in this SOF and the Agreement, Curlec expressly disclaims all liability in respect of any actions taken or not taken based on any or all of the Customisable Templates. Curlec does not necessarily endorse and is not responsible for any third party content that may be accessed through Customisable Templates.

## 10. SPECIFIC TERMS FOR NON-RESIDENT MERCHANTS

- 10.1. This Clause 10 shall only apply to Non-Resident Merchants as defined under this SOF and the Agreement.
- 10.2. Any Non-Resident Merchants carrying on a business in Malaysia shall comply with the Applicable Laws, including and not limited to the Companies Act 2016, of Malaysia and the FEP Notices.

## 11. SPECIFIC TERMS FOR GAMING MERCHANTS

These terms shall only apply to Gaming Merchants identified specifically in this SOF.

- 11.1. Merchant represents and warrants to Curlec that:
- 11.1.1. It does not engage in any activity that violates any Applicable Law pertaining to gaming, gambling, betting or wagering.
  - 11.1.2. No services provided by it to any Customer (“**Merchant Services**”) are of a nature that may be construed as a competition/contest/game/sport/event (online or offline) whose outcome is based merely or preponderantly or predominantly on chance.
  - 11.1.3. The Merchant Services are at all times in compliance with all Applicable Laws including pertaining to restriction or prohibition on gambling, betting, wagering and gaming activities.
  - 11.1.4. The provision of the Merchant Services to the Customers in the states of Malaysia are in accordance with the Applicable Laws of these states and the Merchant has obtained and holds all necessary and valid licenses and registrations to provide the Merchant Services in such states.
  - 11.1.5. No Merchant Services including facilitation, hosting or providing a platform for any competition/contest/game/sport/event (online or offline) for monies are rendered by it to any Customers in Malaysia.
- 11.2. The representations and warranties set out in Clause 11.1 above shall be repeated on each day during the term of this SOF.
- 11.3. The Merchant hereby agrees and undertakes to provide a written confirmation, in a form set out below certifying that the representations and warranties set out in Clause 11.1 above are true and correct. Such certification shall be given by the Merchant to Curlec on the first day of every quarter from the date of entering into this SOF until its expiry or termination, whichever is later.
- 11.4. Notwithstanding any other provision of the Agreement or this SOF, the Merchant shall indemnify and hold Curlec, its Affiliates, and each of their directors, managers, officers, employees and agents harmless from and against all Losses (including any Losses that are special, incidental, indirect, consequential, exemplary or punitive in nature) arising from claims, demands, actions or other proceedings as a result of or on account of: (a) any of the representations or warranties of the Merchant as set out in Clause 11.1 above being breached or becoming untrue or incorrect; or (b) the Merchant engaging in any activity that violates any Applicable Law pertaining to gaming, gambling, betting or wagering.

## 11.5. Form of Undertaking for Gaming Merchants

### LETTER OF UNDERTAKING (On the Merchant's letter head)

Date:

To:

Curlec Sdn. Bhd.,  
Private Office 57, Level 8, Komune Co-Working  
Vertical Corporate Tower B, The Vertical  
Bangsar South City, No. 8 Jalan Kerinchi  
59200 Kuala Lumpur, Malaysia

Subject: Undertaking to comply, stay fully compliant from time to time, with applicable laws, including but not limited to, gaming laws, rules, regulations, among others.

Sir/Madam,

M/s. \_\_\_\_\_ <please add merchant's name> ("Merchant", "We") represent and warrant to Curlec Sdn. Bhd. and its affiliates ("Curlec") that:

1. We shall comply with all applicable Know Your Customer (KYC) norms and/or rules and/or regulations and Anti-Money Laundering (AML) standards under the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act, 2001 of Malaysia. In this regard, any notice received or subsisting from any governmental/regulatory authorities shall immediately be forwarded to Curlec.
2. No services provided by us and/or to any of our customers ("Merchant Services") are of a nature that may be construed as a competition/contest/game/sport/event (online or offline) whose outcome is based merely or preponderantly or predominantly on chance or a game of mixed chance and skill.
3. The Merchant Services are at all times in compliance with all applicable laws, rules and regulations, including pertaining to restriction and/or prohibition on gambling, betting, wagering and gaming activities. The Merchant undertakes to stay compliant, from time to time, in its due course of engagement with Curlec.
4. The provision of the Merchant Services to our customers in certain specific states of Malaysia are in accordance with the applicable laws, rules and regulations of those states and the Merchant has obtained and holds all necessary and valid licenses and/or permissions and/or registrations to that effect.
5. No Merchant Services including facilitation, hosting or providing a platform for any competition/contest/game/sport/event (online or offline) for monies are rendered by us to: (i) any customers in those states where it is not permitted by any applicable laws or governmental action ("Restricted States"); or (ii) any customers who are residents of the Restricted States.
6. The Merchant shall indemnify and hold Curlec, its Affiliates, and each of their directors, managers, officers, employees and agents harmless from and against all losses arising from claims, demands, actions or other proceedings as a result of or on account of any of the representations or warranties of the Merchant as set out above being breached or becoming untrue or incorrect.
7. This letter of undertaking shall be read harmoniously with other agreements, if any, between the Merchant and Curlec.

Yours sincerely,

For (Merchant's name)

[Name of the Authorised Signatory]

[Designation of the Authorised Signatory]



## **12. SPECIFIC TERMS FOR MERCHANTS USING FPX**

- 12.1. The Standard Seller Terms provided in Appendix A-1 shall be applicable to the Merchants availing the FPX Service. “FPX Service” shall refer to the real time internet-based online payment system which enables Customers to make secure online payments using their internet banking account to Merchant, as made available by Curlec on the Merchant’s website or mobile application. The Standard Seller Terms shall be read together with this Agreement. In the event of conflict between this Agreement and the Standard Seller Terms, the Standard Seller Terms shall prevail.
- 12.2. The Merchant shall not re-sell FPX services, act as aggregator or sub-acquirer for other merchants or individuals.
- 12.3. Merchant’s use of the Services pertaining to FPX shall be subject to the Service Level Agreement provided in Appendix A-2.

### **Appendix A-1 Standard Seller Terms**

*(Only applicable for Merchants using FPX Service)*

The Merchant hereby acknowledges and agrees that by entering into an Agreement with Curlec, the Merchant has undertaken the necessary risk assessment to mitigate any potential risks that may emerge in relation to this Agreement.

#### **Part 1**

### **1. FPX SYSTEM ACCESS**

- 1.1 Curlec is a Participant of the FPX service (hereinafter referred to as “the Acquirer”) and Merchant is a registered seller under the FPX service (hereinafter referred to as “the Acquirer”).
- 1.2 In consideration of the fees paid to the Acquirer, the Acquirer agrees to facilitate the participation of the Seller in the FPX service in accordance with this Agreement.

### **2. PAYMENT TYPE**

- 2.1 The Seller shall accept payments that draw funds from CASA and optionally payment(s) that draw funds from Card Accounts.

### **3. OBLIGATIONS OF SELLER**

- 3.1 The Seller shall always comply with the Consumer Protection Act 1999, as the Seller is prohibited to use misleading and deceptive conduct, false misrepresentation and unfair claims in selling their products or services.
- 3.2 The Seller shall not be involved or engaged in business activities that contravene the Laws of Malaysia.
- 3.3 The Seller is prohibited from re-selling or acquiring any other sub-seller(s) into the FPX service or acting as merchant aggregators for other seller(s), without the prior written consent of the FPX Operator and Acquirer.
- 3.4 The Seller must ensure that it has and maintains adequate procedures and systems for receiving and processing prompt payment confirmation received from FPX system and promptly and correctly updates the payment status as well as to ensure that its obligations are fulfilled to the Buyer’s satisfaction.
- 3.5 The Seller shall ensure that all requirements stipulated in the FPX integration guideline provided in [<https://exchange.fpx.prod.inet.paynet.my>] that are imposed by the FPX Operator (including but not limited to the following) are fully complied with at all times:

- 3.5.1 Display of FPX Participating Banks at the Seller's web portal must be in accordance with the FPX integration guideline.
- 3.5.2 Notification to Buyers that FPX service is available 24 hours daily, subject to Participating Banks' Internet Banking services availability.
- 3.5.3 The Seller shall take all possible measures to ensure that Buyers' Internet Banking security credentials used in the course of a transaction at the Seller's website, mobile app, exchange and/or other systems, are always safeguarded and is never exposed to any other party except the relevant Buyer Banks:
  - i. The Seller shall not intercept, capture or store Buyers' Internet Banking security credentials;
  - ii. The Seller shall not facilitate or allow the interception, capturing or storage of Buyers' Internet Banking security credentials;
  - iii. The Seller shall not through its action or omission, risk the exposure of the Buyers' Internet Banking security credentials to any party.
- 3.5.4 The Seller shall ensure the confidentiality, integrity and security of Buyers' information entered at the Seller's website.
- 3.6 The Seller must not make any warranties or representations in respect of goods or services supplied which may bind the Acquirer, FPX Operator, Buyer Bank or any other Participants in the FPX service.
- 3.7 The Seller must establish and maintain a fair policy for resolving Buyers' disputes and/or claims.
- 3.8 The Seller who has been granted a non-transferable license to use the FPX Brand shall not license or assign the said right to use to any other third party. The Seller shall always comply with the FPX Brand Guidelines.
- 3.9 For the purpose of **Clause 3.8**, the Seller will be liable for any claims, damages and expenses arising out of or caused to arise from misuse or unauthorised usage of the FPX Brand. In the event of such breach, the Seller sub- licensed rights of using the FPX Brand shall be revoked and ceased immediately, whereupon this Agreement shall be terminated accordingly. Upon termination, **Clause 10.4** shall apply accordingly.
- 3.10 The Seller shall consent and allow the Acquirer to disclose its information to the FPX Operator, as may be reasonably required for the purpose of and in connection with providing the FPX service.
- 3.11 The Seller shall notify the Acquirer immediately if it becomes aware of any non-compliance to this Agreement.
- 3.12 The Seller's configuration shall be performed by the Seller with assistance from the Acquirer.
- 3.13 The Seller that is acquired by Acquiring Banks shall get their security key generated and certified before generating and sending any message to FPX.
- 3.14 The Seller that is acquired by Acquiring Banks is to determine the type of transactions (i.e. whether it is meant for B2C and/or B2B models) and the specific account to be credited by indicating it in the message token and bank code, respectively.
- 3.15 The Seller shall ensure each transaction that is sent to FPX for processing has a unique payment reference number known as Seller Order Number.
- 3.16 The Seller shall advise the Buyer to authorise their pending B2B transactions before escalating to the FPX Operator in the event of any discrepancy.

3.17 The Seller shall ensure that their customers are aware that payments can be made via FPX. Sellers shall raise awareness and promote the use of FPX through the Seller's websites, mobile apps, and other means of communications.

3.18 **Clauses 3.5.4, 3.7 and 3.9** herein shall survive termination of this Agreement. Termination does not affect either party's rights accrued and obligations incurred before termination.

#### **4. OBLIGATIONS OF ACQUIRER**

4.1 Acquirer shall ensure that any provisions in the Operational Procedures for FPX issued by the FPX Operator which is applicable to the Seller is reflected in this Agreement including any future revisions which will be communicated by the Acquirer to the Seller.

4.2 Upon receiving successful debit confirmation, Acquirer shall either immediately credit and make funds available to the Seller's account, or in a manner as agreed upon by the Acquirer and Seller.

4.3 Acquirer must make payment in full to the Seller and shall not deduct any fees from the payment proceeds due to a Seller, except for situations where the Seller has specifically agreed in writing that FPX fees shall be deducted from payment amount.

4.4 Acquirer shall refund transaction fees to the Seller if fees are incurred due to Buyer's disputes that are not caused by the Seller. However, if the Seller opts to partially refund overpayments to Buyers, the Seller shall bear the transaction fees for executing the refund.

4.5 Acquirer shall implement reasonable measures to detect, mitigate, resolve and prevent fraudulent acts, actual and suspected.

#### **5 GOODS AND/OR SERVICES DELIVERY**

5.1 Upon receiving final payment confirmation from FPX system, the Seller shall immediately update the Buyer's payment and proceed to arrange for the delivery of the goods or services purchased by the Buyer. Seller is responsible to ensure that the goods or services purchased are rendered to the Buyer within the duration as stated in the Seller's website.

#### **6 FRAUD AND SECURITY**

6.1 Sellers shall implement all prudent safeguards and controls necessary to prevent, detect and mitigate fraud, as well as to protect their customers, services and transactions from fraud.

6.2 Sellers shall also comply with all applicable laws of Malaysia in relation to fraud.

6.3 In the interest of safeguarding the integrity of the FPX service, Sellers grant the FPX Operator and/or the Acquirer the absolute authority to direct Sellers to take any measure that the FPX Operator and/or the Acquirer deems necessary to detect, mitigate, resolve and prevent fraudulent acts, actual and suspected. Sellers receiving such a directive shall promptly comply with the directive.

#### **7 BUYER'S DISPUTES/CLAIMS**

7.1 The Seller shall assist the Acquirer with investigation related to Buyer's disputes and requests for refunds in accordance with the following process and timelines:

7.2 If a valid request to recover funds was received by the Seller within sixty (60) days of the Buyer's FPX payments, the Seller shall address the Buyer's disputes / claims to the Buyer's satisfaction.

7.2.1 Buyers may submit requests for refunds to their Sellers for the following reasons after FPX payments have been made:

- i. Goods or services purchased were not provided or rendered due to the Seller's non-performance or insolvency;
- ii. Goods purchased were damaged or defective;
- iii. Goods purchased not as described or as advertised by the Sellers;
- iv. Goods purchased were not genuine, counterfeit or fake;
- v. Buyers' bank accounts were erroneously debited multiple times for a single purchase or charged an incorrect amount by Sellers.

7.2.2 Upon receiving a request for refund, the Seller shall respond to all requests for refunds within seven (7) Business Days of receipt. The Seller shall ensure that the refund claims are addressed within the seven (7) Business Days timeframe.

7.3 The Seller may provide concrete evidence to contest the refund claim. Evidence may include proof of delivery, certification from suppliers on the authenticity of goods, or other documentation to demonstrate the Seller's performance of its obligations. If the Seller is unable to furnish evidence within the timeframe specified in **Clause 7.2.2** or the evidence does not conclusively refute the Buyer's refund claim, the Seller is required to refund the purchase proceeds to the Buyer within three (3) Business Days.

*<sup>1</sup>Evidence furnished by a Seller to refute a refund claim is deemed to be sufficient if both the Buyer Bank and the Counterparty are fully satisfied that the Seller has adequately demonstrated that the Seller has performed its obligations.*

7.4 If the Seller is not able to adequately refute a refund claim in accordance with **Clause 7.3**, the Acquirer shall have the right to debit any of the Seller's account(s) maintained with the Acquirer for the recovery of the disputed sum either entirely or partially.

## 8 DISPUTE RESOLUTION

8.1 Sellers shall have the right to refer their disputes to the FPX Operator if there is an allegation of the Acquirer's non-compliance to the obligations set out in this Agreement. FPX Operator will review such complaints and allegations, but such review will be confined to:

- 8.1.1 Determination whether there has been non-compliance;
- 8.1.2 Stipulating remedies for the Acquirer to correct or address the non-compliance; and
- 8.1.3 Determination if penalties are applicable for the Acquirer's non-compliance.

8.2 All decisions rendered by FPX Operator in response to complaints from Sellers shall be binding on the Acquirer.

8.3 Referring allegations of non-compliance to FPX Operator does not preclude the right of Sellers to take the dispute to the respective industry arbitration or mediation bodies.

## 9 INDEMNITY

9.1 Subject to the Acquirer and Seller's (hereinafter referred to as "party" or "party's") compliance with **Clause 9.3**, each party ("Indemnifying Party") agrees to indemnify and hold the other party and its employees and agents harmless against any and all losses, expenses, claims, suits, demands, actions, and proceedings including all reasonable legal and other related fees or charges ("Liability") which the other party may suffer or incur or for which the other party may become liable as a result of:

- 9.1.1 Any negligence, misrepresentation or fraud on the part of the indemnifying party, its employees, and agents with respect to the performance of its obligations or the exercise of any of its rights under this Agreement;
- 9.1.2 Any claim by a Buyer, Acquirer, Buyer Bank, FPX Operator or any other person for any breach by the Indemnifying Party of any applicable laws;
- 9.1.3 The failure of the Indemnifying Party to observe any of its obligations under this Agreement; or
- 9.1.4 Any use of the FPX Brand by the Indemnifying Party other than as permitted by this Agreement.
- 9.1.5** Except to the extent that such liability arises or is incurred by the other party by reason of any act or omission on its part mentioned in **Clauses 9.1.1 to 9.1.4**.

*(Clause 9.2 below is only applicable for PayNet's appointed Third Party Acquirer).*

- 9.2 Notwithstanding **Clause 9.1** above, in the event the Acquirer becomes insolvent, the Seller hereby agrees to always indemnify the FPX Operator from all claims, losses, damages, penalties, suits, costs, and expenses (including reasonable legal fees).
- 9.3 In the event a claim is made against a party in respect of which it is entitled to be indemnified pursuant to **Clause 9.1** or **9.2**, that party must:
  - i. Give notice of any such claim to the other party;
  - ii. Consult with the other party in relation to any such claim;
  - iii. Not to settle any claim without obtaining the prior written consent of the other, such consent not to be unreasonably withheld.
- 9.4 The Acquirer is not liable to the Seller for any loss or damage suffered by the Seller as result of the delay or disruption caused by any system failure beyond the Acquirer's reasonable control.
- 9.5 For the purposes of this clause, loss or damage includes any consequential or economic loss or damage.

## **10 SUSPENSION & TERMINATION**

### **Suspension**

- 10.1 The FPX Operator or the Acquirer, as the case maybe, reserves the right to suspend the participation of the Seller in the FPX service by giving notice in writing specifying the suspension date and any conditions applicable to the suspension, under the following circumstances:
  - 10.1.1 FPX Operator or the Acquirer has determined that the Seller breached this Agreement, or the terms and conditions stipulated in the FPX Merchant Registration Form, or any applicable rules, guidelines, regulations, circular or laws;
  - 10.1.2 The Seller fails to remedy the breach described in **Clause 10.1.1** to the Acquirer's satisfaction;
  - 10.1.3 FPX Operator or the Acquirer has determined that the Seller has inadequate operational controls or insufficient risk management processes, resulting in potential threats or risks to the stability, integrity, safety, security and efficiency of the FPX service;
  - 10.1.4 Court order(s) affecting the Seller's membership in the FPX service and/or the legal status of the Seller;



- 10.1.5 Directive(s) issued by regulatory or government authority affecting the Seller's membership in the FPX services and/or its legal status;
  - 10.1.6 An application is made to the court either voluntarily or involuntarily for an order that the Seller be wound up;
  - 10.1.7 The Seller is deemed unable to pay its debt and should be wound up under statutory laws; or
  - 10.1.8 The Seller is suspected on reasonable grounds that it is facilitating, involved in, has committed or will commit fraudulent act(s) in connection with the FPX service;
  - 10.1.9 The Acquirer has received complaints from other Seller(s), other Acquirer(s), Buyer Bank or Buyer that the Seller is engaging in fraudulent activity in connection with the FPX service; or
  - 10.1.10 The Seller has been suspended from the FPX service by other Acquirer(s) due to breach of provisions of this Agreement or the terms and conditions stipulated in the FPX Merchant Registration Form, or any applicable rules, guidelines, regulations, circular or law.
- 10.2 Upon suspension of the Seller in the FPX services:
- 10.2.1 The services provided under FPX system will be suspended immediately;
  - 10.2.2 The Seller will no longer have access to FPX Webview;
  - 10.2.3 The Seller will stop sending debit request to FPX system or accept payments from Buyer Bank(s);
  - 10.2.4 The Seller will no longer have access to the Acquirer(s) that the Seller is connected to via its Exchange ID / Seller ID(s);
  - 10.2.5 The Seller must take all reasonable steps to assist the Acquirer to notify each Buyer affected by the action that the Seller is no longer participating in the FPX service, in the form directed by the Acquirer;
  - 10.2.6 The Seller must cease all promotional and advertising that is related or can be perceived to be related to FPX service;
  - 10.2.7 The Seller must remove all FPX Brand from the Seller's marketing collaterals, channels and website; and
  - 10.2.8 The Seller must take all reasonable steps to comply with any directions of the Acquirer to minimise the impact on the Buyer of the suspension.

## **Termination**

- 10.3 FPX Operator or the Acquirer, as the case maybe, reserves the right to terminate the services provided under this Agreement or the FPX service under the following circumstances, which includes, but not limited to:
- 10.3.1 This Agreement between the Seller and the Acquirer is terminated or expired;
  - 10.3.2 The Acquirer or the FPX Operator has determined that the Seller has breached this Agreement, or the terms and conditions stipulated in the FPX Merchant Registration Form, or any applicable rules, guidelines, regulations, circulars or laws;
  - 10.3.3 The Seller fails to remedy or take adequate steps to remedy its default under this Agreement to the satisfaction of the Acquirer or the FPX Operator, as the case maybe, within a period as specified in the notice of the default given by the Acquirer;
  - 10.3.4 The FPX Operator or the Acquirer has determined that the Seller has inadequate operational controls or insufficient risk management processes resulting in potential threats to the stability, integrity, safety and efficiency of the FPX service;
  - 10.3.5 Court order(s) affecting the Seller or the Acquirer(s) membership and/or legal status;
  - 10.3.6 Directive(s) issued by regulatory or government authority affecting the Seller or the Acquirer(s) membership and/or legal status;
  - 10.3.7 An application is made to the court either voluntarily or involuntarily for an order that the Seller be wound up;
  - 10.3.8 The Seller is deemed unable to pay its debt and should be wound up under statutory laws; or
  - 10.3.9 The Acquirer's membership in the FPX service or RENTAS is terminated or suspended and the Seller has not appointed a replacement Acquirer;
  - 10.3.10 The FPX Operator has determined the Seller is inactive or the Seller is deemed inactive when there are no FPX transactions for a period of twelve (12) consecutive months.
- 10.4 Upon termination of this Agreement, the Seller must undertake the following:
- a) Immediately advise its customers that they will no longer accept payment via FPX from the effective date of termination of the Seller's access to FPX service;
  - b) Shall ensure that inflight transactions post-termination are completed i.e. goods are delivered to the Buyer's satisfaction;
  - c) Cease all promotional and advertising that is related, or can be perceived to be related to the FPX service; and
  - d) Remove all FPX Brand and Marks from the Seller's payment channels and websites.
- 10.5 Upon termination of this Agreement, the participation of the Seller in FPX service is automatically terminated and the Seller will no longer have access to the FPX system and services provided under the FPX system.
- 10.6 Termination of the Seller in the FPX service shall not extinguish any outstanding right or liability arising under this Agreement.

## 11 ADVERTISEMENT AND USE OF LOGO

- 11.1 The FPX Operator owns all rights, titles and interest in the FPX Brand and the FPX Operator and/or the Acquirer may specify and may at any time amend the requirements relating to the use and/or display of the FPX Brand.
- 11.2 The Seller shall comply with the requirements, process and/or guidelines prescribed by the FPX Operator in using the FPX Brand.
- 11.3 The Seller must use the appropriate denotation or legend of trademark registration or ownership in connection with FPX Brand, as required or consented to by the FPX Operator and/or the Acquirer.
- 11.4 The Seller shall only use the FPX Brand for the sole purpose of publicising, indicating and advertising that the Seller accepts payment requests through the FPX service.
- 11.5 The FPX Operator and/or the Acquirer have the right to direct the Seller to make changes to their use of the FPX Brand to rectify any non-compliance or potential non-compliance.
- 11.6 The FPX Operator, may at any time, in its absolute discretion, direct a Seller to cease using the FPX Brand where such use is in breach of this Agreement.
- 11.7 The Seller must not use the FPX Brand in such a way to create an impression that the goods or services offered by the Seller are sponsored, produced, offered or sold by the owner of the FPX Brand. The Seller must not adopt “FPX” or any other FPX Brand as any part of the name of its business or apply it to any goods or services offered for sale.
- 11.8 In the event of termination of the Seller’s access in FPX service, the Seller’s sub-licensed use of the FPX Brand shall be automatically revoked on the day that the cessation of the Seller’s access takes effect.
- 11.9 The Seller must immediately, on becoming aware of any infringement or potential infringement of the FPX Brand, notify the Acquirer.

## Part 2

## 12. FEES

- 12.1 The Seller shall pay the following fees or as outlined in the fee structure:

No	Fee Type	Amount (RM)
1	CASA Fee	<i>(please insert RMxxx.xx per transaction)</i>
2	CCA Fee	X% of transaction amount plus CASA Fee
3	Membership or Maintenance Fees	Free of Charge
4	Inactive Seller Fees	Free of Charge
5	Admission or Registration Fees	Free of Charge
6	FPX Certificate Renewal Fees	Waived

*\*Note: Acquirer to insert any other fees which are applicable to Sellers.*

### **13. DISCLAIMER**

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

### **14. CONFIDENTIALITY**

- 14.1 The Seller shall treat any information it receives or possess as result of this Agreement, as confidential and will not use such information other than for the purposes which it was given.
- 14.2 The Seller shall ensure that their employees, representatives and suppliers always comply with the confidentiality requirements.
- 14.3 The Seller's obligations as to confidentiality shall survive the expiration or termination of their access in the FPX service or this Agreement.
- 14.4 **Clause 14.1** shall not apply to information which:
- i. Is or has at the time of use or disclosure become public knowledge without any breach of this Agreement by the parties;
  - ii. Is or has at the time of use or disclosure become generally known to companies engaged in the same or similar business(es) as the party on a non-confidential basis through no wrongful act of the party;
  - iii. Is lawfully obtained by a party from third parties without any obligation by the party to maintain the information proprietary or confidential;
  - iv. Is known by a party prior to disclosure hereunder without any obligation to keep it confidential and such information was not disclosed by the other party under this Agreement;
  - v. Is independently developed by a party without reference to or use of the other party's Confidential Information;
  - vi. Is required to disclose or divulge by any court, tribunal, governmental or authority with competent jurisdiction or by any statute, regulation or other legal requirement, take-over panel or other public or quasi-public body as required by law and where the Party is required by law to make such disclosure. The Party shall give notification as soon as practical prior to such disclosure being made.

### **15. PERSONAL DATA PROTECTION**

- 15.1 The Seller consents to the provision and use of information supplied to the FPX Operator and/or the Acquirer in connection with the FPX service. The Seller further agrees to notify the FPX Operator and/or the Acquirer in writing of any update to any such information as soon as it is aware that the information so supplied in connection with the FPX service has become out- dated.
- 15.2 The Seller agrees to comply with the Personal Data Protection Act 2010 of which it is bound and shall not do any act that will cause the Acquirer, Buyer Bank and FPX Operator to breach any personal data protection laws.

**16. VARIATION AND WAIVER**

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

**17. SEVERABILITY**

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

**18. FORCE MAJEURE**

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

**19. DEFINITIONS AND INTERPRETATION**

- 19.1 Definitions of frequently used terms in this Agreement are as follows:-

Term	Description
Acquirer	A participating Financial Institution or non-Financial Institution that acquires an Exchange and/or Seller to provide or subscribe to FPX services.
Bank	A Financial Institution that is licensed under Financial Services Act 2013, Islamic Financial Services Act 2013 and/or Development Financial Institutions Act 2002.
Business Day	Any calendar day from Monday to Friday, except a public holiday or bank holiday in Kuala Lumpur.
Buyer	Individuals, companies, body corporate, businesses (including sole proprietors and partnerships), government agencies, statutory bodies, societies, and other Bank customers that make payments to Sellers using the FPX service.
Buyer Bank	A Participant in the FPX service who offers services that allow Buyers to initiate payment Instruction.
CASA	Current Account and Savings Account.
Card Accounts	Credit Card Account(s), charge card account(s) and prepaid card account(s).
Counterparty	In a relationship between Participants who are engaged in an FPX Payment, the Participant on the other end / opposite side of the payment instruction is called the Counterparty.
Exchange ID	An ID that is provided to the Exchange to identify a Seller that will trade under the Exchange.
FPX Brand	The brand, icon, logo and marks for the FPX service.

FPX Operator	Payments Network Malaysia Sdn Bhd.
FPX services	<p>A real time internet-based online payment system which enables Buyers (either individual or corporate) to make secure online payments using their</p> <p>Internet Banking account to Sellers.</p>
FPX Webview	An online system provided by PayNet to Participants and registered Exchanges / Sellers to check their own profile and view FPX transaction status and reports.
Internet Security Credentials	A verification of identity or tools for authentication. It is a part of a certificate or other authentication process that helps confirms a user's identity in relation to a network address or other system ID.
Operational Procedures	The Operational Procedures for FPX which are prescribed and issued by FPX Operator and will include any variation, addition, amendment or modification made from time to time.
Participant	Participant as defined in the Participation Rules, acting as Buyer Bank / Acquiring Bank / Exchange Bank / Third Party Acquirer.
Payment	<p>An order from a Buyer to its Buyer Bank directing the Buyer Bank to:</p> <p>Draw funds from the Buyer's bank account via Internet Banking; and</p> <p>Transmit payment confirmation message to FPX system to perform crediting of funds to the Acquirer to pay a Seller for a successful FPX transaction.</p>
Refund	A Refund occurs when a Seller rebates all, or a portion, of an original transaction amount to the Buyer using FPX Webview. Refunds can only be initiated for successful FPX transactions. Refunds can only be made to the same bank account that was used for the original FPX transaction.
Seller	A business, government agency or organisation that offers goods and/or services via a website and accepts FPX as one of the mode of payments on the website. Also termed as Merchant.
Seller ID	<p>A unique alphanumeric code assigned by FPX Operator to identify either of the following:</p> <ul style="list-style-type: none"><li>• A Seller; or A Seller's product or service category for purposes of routing payments to the Seller.</li></ul>



## Appendix A-2 Service Level Agreement

*(Only applicable for Merchants using FPX Service)*

### A. Availability of FPX Service

1. Curlec guarantees an Up-Time of 99% for the FPX Service and shall endeavor to ensure that the FPX Service shall be available 24 hours a day through the web hosted solution. For the purpose of this Agreement, the “Up-Time” shall mean (i) the total number of minutes during a calendar month in which the FPX Services are completely available and usable, excluding time spent on Scheduled Downtime, (ii) divided by the total number of minutes during the calendar month, the “Scheduled Downtime” shall mean the number of minutes during a month in which access to any FPX Services is scheduled to be unavailable for use by Merchant due to planned system maintenance. Curlec shall provide notice (via email or otherwise) at least seven (7) days in advance of commencement of the Scheduled Downtime and the “Unscheduled Downtime” shall mean the number of minutes during a month, in which access to dashboard is unavailable for use by Merchant due to reasons other than Scheduled Downtime or the Exceptions, as defined below (e.g., due to a need for unplanned maintenance or repair).

Exceptions to clause 1 above shall include Force Majeure Events, Merchant Induced Issues, or Emergency Work (defined below) -

- a. **“Merchant-Induced Issue”** means issues arising out of (a) specifications, instructions or input provided by Merchant; (b) Merchant’s use of FPX Services, hardware, software, integrations, extensions or interfaces not forming part of the FPX Services (c) issues caused by Merchant’s systems or delays or failures in Merchant’s network or on-line connectivity; (d) issues caused by incorrect or unpermitted use by Merchant of the FPX Services or a manner otherwise not permitted under the Agreement; or (e) breach by Merchant of the Agreement or otherwise caused by Merchant (and, for the avoidance of doubt, each applicable whether induced by Merchant or any third party acting on its behalf).
- b. **Emergency Work.** In the event that, emergencies, dangerous conditions or other exceptional circumstances arise or continue during Up-time, the Curlec shall be entitled to take any actions that Curlec, in good faith, determines is necessary or advisable to prevent, remedy, mitigate, or otherwise address actual or potential harm, interruption, loss, threat, security or like concern to any of the Application(s). Such Emergency Work may include, but is not limited to: analysis, testing, repair, maintenance, re-setting and other servicing of the hardware, cabling, networks, software and other devices, materials and systems through which access to and/or use of the API is made available to the Merchant. Curlec shall provide advance notice of such Emergency Work to Merchant when practicable and possible.

For the purpose of understanding, the Response Time and Fix Time shall apply to the maintenance, for the severity level assigned during the duration of the downtime of the FPX Services. “Response Time” shall mean the time from the receipt of complaint/notice, within which Curlec shall contact the Merchant in order to discuss the complaint/issue and analyse methods to fix the same. “Fix Time” is the total elapsed time from the point where the problem is reported by the Merchant to Curlec by e-mail or otherwise to the point where the (reported problem gets fixed). The Target Response Times and Fix Times are as captured below.

**A. Support Services**

Curlec shall provide 24/7 support and within working days for remedy/resolve any anomaly in the FPX Services in accordance with the Service Levels specified below:

<b>Anomaly Rating</b>	<b>Description</b>	<b>Response Time</b>	<b>Fix Time</b>
Critical	An Anomaly rendering the use of the FPX Service impossible, in whole or in part, or the use of an essential function of the product or service; or giving rise to limitations or restrictions in the use of the product or service rendering an essential function of the product or service unusable in production.	Within 3 hours	4 working hours
Major	An Anomaly giving rise to limitations or restrictions in the use of the product or service without these limitations or restrictions being sufficient for the Anomaly to be qualified as a Critical Anomaly.	Within 3 hours	24 working hours
Minor	Any Anomaly which is not considered as a Blocking or a Serious Anomaly and which are user specific and do not have a direct impact on production.	Within 3 hours	Within 3 working days

**PART B - SUBSCRIPTION SERVICES**

This Service Order Form (“**SOF**”) forms an integral part of, and is issued and entered into pursuant to the Agreement.

SCOPE OF SERVICES	
<b>Services being availed:</b>	Subscription Services
<b>Fees:</b>	
<b>SOF Term:</b>	Start date: Validity: Valid until terminated in accordance with the Agreement

The Merchant agrees that the Fees shall be charged according to the manner, rates and frequency determined by Curlec. Curlec reserves the right to update the amount of the Fees including for Services for which no charge has been levied previously in accordance with this Clause. The Merchant agrees that it shall be liable to pay any additional Fees as determined by Curlec in the event:

- (a) The Merchant avails certain value-added services available on the Dashboard irrespective of whether they have been available free of charge previously.
- (b) The Merchant avails any new Services not mentioned in the SOF.

The Merchant agrees that its use of any Service or a value-added service shall be construed as a consent to any additional Fees which may be levied by Curlec on such additional Service or value-added service.

**TERMS****1. SERVICE DESCRIPTION**

- 1.1. Subscription services provide the Merchant the platform to create and manage subscription plans for the Customers with automated recurring transactions. With this product, the Merchant can: (i) create multiple subscription plans for the Customers; (ii) automatically charge the Customers based on a billing cycle that they control; and (iii) get instant alerts on payment activity as well as the status of subscriptions.
- 1.2. The Merchant acknowledges and agrees that this SOF: (i) shall apply for debit, credit and prepaid instruments or other methods as notified from time to time (each, a “**Card**”) of the Customers; and (ii) does not apply to once-only/one-time payments.
- 1.3. The Merchant acknowledges and agrees that:
  - 1.3.1. The Customer desirous of opting for e-mandate facility on a Card is required to undertake a one-time registration process, with an Additional Factor Authentication (“**AFA**”) validation by the issuer bank and that an e-mandate on Card of the Customers for recurring transactions shall be registered only after successful AFA validation.
  - 1.3.2. Where the first transaction is being performed along with the registration of e-mandate, the AFA validations for the first transaction and the registration of e-mandate may be combined. Subsequent recurring transactions shall be performed only for those Card which have been successfully registered and for which the first transaction was successfully authenticated and authorised.
  - 1.3.3. On successful registration and approval of the e-mandate request, Curlec shall, on a periodic basis (as per the e-mandate), initiate subsequent recurring payments unless such e-mandate is modified or de-registered by the Customer.
  - 1.3.4. Curlec expressly disclaims all liability for any outages or failures attributable to the Facility Providers.

- 1.4. The Merchant further acknowledges and agrees that in order to process recurring transactions, the Customer's card details will need to be saved/secured/tokenized in accordance with Applicable Laws. Accordingly, for custom checkout and server-to-server integration, the Merchant shall:
  - 1.4.1. solely be responsible for obtaining informed consent from the Customers for the purpose of processing of e-mandates, including saving/securing/tokenizing the Customer's card details, in accordance with the Applicable Laws. Such consent shall be explicit and not by way of a forced/default/automatic selection of check box, radio button, etc;
  - 1.4.2. share the Customer consent with Curlec for Curlec to trigger the AFA with the issuing bank which is required to both save the card and process the e-mandate registration. The Merchant acknowledges and agrees that if such Customer consent is not shared during the payment flow, then Curlec will not tokenise the card or process the e-mandate/ recurring transaction.
- 1.5. The Merchant agrees that payments effected, or funds debited from a Customer's bank account on the following grounds shall not be the responsibility of Curlec and no liability shall arise for Curlec in respect of such Customer claims:
  - 1.5.1. the Customer disputing a transaction as not done or authorized by him/her;
  - 1.5.2. the charge/debit on the Customer's bank account has occurred because of hacking, phishing, breach of security/encryption of the Customer's personal data through the Merchant's platform or any other third-party platform other than that of Curlec; or
  - 1.5.3. the Customer claiming refund of the amounts deducted from his/her bank account on any ground whatsoever, including the Customer's dissatisfaction with the Merchant's sale of the goods and/or services to the Customer.
- 1.6. The Parties agree that there are instances where Curlec is only acting as a technical service provider and the Merchant is the token requestor for the purposes of saving/securing/tokenising the card and the Merchant shall accordingly be liable to pass the Customer's informed consent for saving the card and registering the e-mandate to Curlec. The Merchant agrees that Curlec shall have no liability towards the Merchant or any third party for the Merchant's acts or omissions or its failure to comply with Applicable Laws.
- 1.7. The Merchant agrees to keep Curlec fully indemnified at all times from and against all losses, damages, penalties, etc., incurred by or imposed on Curlec to the extent it arises from any act or omission on the part of the Merchant (including a breach by the Merchant of Clauses 1.2 to 1.6 of this SOF).
- 1.8. The Merchant shall maintain records of its activities under this SOF, including where applicable keeping log of all instances of obtaining Customer consent, and shall provide the same to Curlec on a real time basis or as requested from time to time. In addition to any right under the Agreement, Curlec and the Facility Providers have the right to audit the Merchant's compliance with the terms of this SOF at any time upon notice to the Merchant.
- 1.9. The Merchant agrees it shall be solely responsible for any hashed string storage undertaken by it.

## **2. GENERAL**

- 2.1. The parties agree that the terms of this SOF are in addition to the terms of the Agreement. In the event of any conflict between the Agreement and SOF, the SOF shall prevail over the Agreement. To the maximum extent feasible, they shall be construed harmoniously.
- 2.2. Capitalised terms used herein but not defined in this SOF shall have the meaning ascribed to such terms in the Agreement.

**3. COMPLIANCE WITH APPLICABLE LAWS**

- 3.1. The Merchant represents and warrants that it shall, during the term of this SOF, implement, observe and comply with applicable requirements prescribed under Applicable Law including but not limited to the provisions of the MAS Policy Document. The Merchant shall further ensure that its operations are in compliance with Applicable Law, including the MAS Policy and that it shall not undertake any action in breach of the same.
- 3.2. The Merchant shall comply with, and shall ensure that the third party service providers that the Merchant engages or enter into an agreement with for payment processing services comply with, the PCI DSS, as may be amended from time to time and the Payment Application-Data Security Standard ("PA-DSS"), or such other applicable requirements, regulations or standards as is required by Applicable Law or Curlec, to, among others, protect customer data and information. The Merchant shall also submit an annual report in writing to Curlec, signifying proof of compliance with the above.
- 3.3. If the Merchant becomes aware that it will not be or is likely not to be, in compliance with PCI DSS or PA-DSS, or such other applicable requirements, regulations or standards as described in Clause 3.2 above, for any reason, it will promptly report in writing to Curlec such non-compliance or likely non-compliance.
- 3.4. The Merchant shall provide Curlec with evidence of compliances listed in this Clause 3 at Curlec's request and provide, or make available, to Curlec copies of any audit, scanning results or related documents relating to such compliance. Notwithstanding the above, Curlec shall have the right to conduct a security audit of the Merchant, to check Merchant's compliance with this Clause 3 and in such cases, the Merchant shall extend full co-operation to Curlec and its representatives so as to enable them to conduct the audit to their sole satisfaction.
- 3.5. The Merchant agrees to adopt and enforce any information security requirement that Curlec may deem advisable in order to facilitate reasonable security processes and procedures.

**4. TERM**

This SOF shall continue to be valid until it has been terminated in accordance with the provisions of this Agreement.