
FINEXUS CARDS MERCHANT GENERAL TERMS AND CONDITIONS

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General Terms and Conditions of Merchant Agreement

This Agreement shall take effect on the Commencement Date until terminated by either party upon written notice and made between:

FINEXUS CARDS SDN BHD (Company No.: 706720-U), a company incorporated in Malaysia with its registered address at FINEXUS Campus #1, Jalan Pangkor, Titiwangsa Sentral, 53000 Kuala Lumpur, Malaysia ("**FINEXUS**"); and

The person or entity whose name and address described in the Merchant Application Form ("**Merchant**").

FINEXUS and the Merchant shall collectively be referred to as the "**Parties**" and individually as the "**Party**".

The Merchant acknowledges that the Merchant Agreement shall not be effective until accepted by FINEXUS signified by FINEXUS's issuance of the Letter of Acceptance, and that the signature of the Merchant's representative on the Merchant Application Form constitutes acknowledgment of the offer made by the Merchant's representative on the Merchant's behalf.

IN CONSIDERATION of the mutual obligations set out below, **IT IS AGREED** as follows: -

1. DEFINITION AND INTERPETATION

1.1. Merchant Agreement Documents

The following documents shall be deemed to form the Merchant Agreement ("Agreement") between FINEXUS and Merchant, and to be read and constructed as part of the Agreement:-

- a. Merchant Application Form;
- b. Letter of Acceptance;
- c. Merchant General Terms & Conditions;
- d. Merchant Guide;
- e. Addenda issued after execution of this Agreement;
- f. DuitNow QR Terms and Conditions;
- g. DuitNow Online Banking / Wallets; and
- h. MyDebit Standard Merchant Terms
- i. FINEXUS AREMA Online B2C E-Invoice
- j. Other documents listed in this Agreement;

1.2. Merchant Agreement

The Agreement Documents form the Merchant Agreement. The Agreement represents the entire and integrated agreement between the Parties hereto and supersedes prior negotiations, representations or agreements, either written or oral.

1.3. Definition

In the Agreement as hereafter defined, unless the contrary intention appears in writing, the following terms shall have the respective meaning assigned to them:-

"Account"	means an e-Money account offered by issuers of e-Money license and all types of banking accounts by banks, except for fixed deposit accounts. This shall include, but is not limited to, all types of conventional and/or Islamic investment accounts, Islamic deposit account, current accounts, and virtual internet accounts. Additionally, means all line of credit accounts tied to payment cards where transaction is made;
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“Account Holder”	means the individual to whom a Card is issued and whose name is embossed (if applicable) on the Card and whose signatures appear thereon as an authorised user or Wallet has been issued;
“Agreement”	means it comprise of the following documents: Merchant Application Form, Letter of Acceptance, Merchant Guide and these Merchant General Terms and Conditions including its schedules, appendices or annexures and such other documents which are expressly incorporated as part of the Agreement;
“AMLA”	means Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001;
“Approval Code”	means a reference code in alphabetical or numerical format generated upon approval of a Transaction;
“AREMA”	means the FINEXUS's LHDN compliant e-Invoice middleware solution, which enables merchants to submit e-Invoices and allow buyers to retrieve them;
“Authorisation Centre”	means the authorisation centre of FINEXUS;
“Authorisation Code”	means the authorisation in code form given by the Authorisation Centre in respect of each Card Transaction electronically via the Payment Acceptance Solution or the authorisation in such other form(s) approved and stipulated by FINEXUS and given by the Authorisation Centre of FINEXUS in respect of each Card Transaction via such method(s) or mode(s) as approved by FINEXUS;
“Authorisation Form”	means any instruction given by an Account Holder, whether contained in a form or an electronic order form or document supplied by the Merchant and/or issuing Bank or otherwise, instructing or authorising the Merchant to charge to the Account Holder's Card and the Card Account with the amount of any payments due and payable to the Merchant for Goods and/or Services provided or to be provided by the Merchant to the Account Holder or at the Account Holder's request;
“Beneficiary of Fraud”	means party who ultimately benefits from the unauthorised or fraudulent payment.
“BNM”	means Bank Negara Malaysia which was established on 26 January 1959, under the Central Bank of Malaysia Act 2009;
“Brand Guidelines”	means the brand guidelines provided by FINEXUS to the Merchant and as amended by FINEXUS from time to time;
“Business Day”	means a day (other than Saturday, Sunday and public holidays as announced by Bank Negara Malaysia), on which banks are licensed to carry on banking business under the provisions of Financial Services Act 2013, are open for business in their respective business locations in Malaysia. In States where the banks are closed for business on days other than Saturdays and Sundays and/or public holidays, 'Business Day' shall be construed and interpreted accordingly;
“Card”	means any validly issued and unexpired credit, debit or prepaid card, be it physical, digital or virtual, or any other payment instrument bearing the respective logo, symbols, programme mark and/or other relevant service marks licensed by them issued by any Payment Brands, bank, financial institution or corporation and where applicable, shall also be deemed to include the EMV Card, Contactless Card and the magnetic strip the Card Account number of the Account Holder imprinted or embossed on the Card, which Card pursuant to this Agreement may be used by the Account Holder to pay for the purchases of and charges relating to the Merchant's goods and/or services provided and/or rendered;
“Card Account”	means the Card account stipulated by the Account Holder in the Authorisation Form;
“Cardholder”	means a person who holds MasterCard, MyDebit and Visa card issued by an issuer that maintains the accounts (i.e Savings / Current) that could be accessed by such card;

“Certification Authority”	means the authority or entity authorised by Payment Brand or FINEXUS, as the case may be, to issue digital certificates;
“Chargeback”	means a claim for refund from FINEXUS or any refusal of any payment to FINEXUS by an Issuer in relation to a Transaction for whatever reason;
“Commencement Date”	means the commencement date of the Agreement as specified in the Letter of Acceptance;
“Confidential Information”	means information that: (a) is by its nature confidential; (b) is communicated by the Disclosing Party to the Receiving Party as confidential; or (c) the Receiving Party knows or ought to know is confidential; and (d) includes but is in no way limited to: (i) materials including the financial, the corporate and the commercial information of any Party; (ii) any material which relates to the affairs of a third party; (iii) information relating to the strategies, practices and procedures of any Party and any information in the Merchant’s possession relating to a Party; and (iv) Personal Data / Any information relating to an identified or identifiable natural person; but does not include anything which the confidant establishes: (I) was in the public domain at the time it was received by the Receiving Party; (II) that it entered the public domain after being received by the Receiving Party; (III) was lawfully obtained by the Receiving Party from third parties without any obligation by the Receiving Party to maintain the information proprietary or confidential; (IV) was or had at the time of use or disclosure become generally known to companies engaged in the same or similar business(es) as the Receiving Party on a non-confidential basis through no wrongful act of the party; (V) was independently developed by the Receiving Party without reference to or use of the Disclosing Party’s Confidential Information; (VI) that the Confidential Information was disclosed pursuant to the terms of the Agreement, unless it entered the public domain due to a breach of confidentiality by the Receiving Party; (VII) which the Receiving Party establishes was received by it from another person before or after it was received from FINEXUS, if the other person did not breach any law or agreement by giving it to the confidant; or (VIII) was required to disclose or divulge by any court, tribunal, governmental or authority with competent jurisdiction or by any statute, regulation or other legal requirement, takeover panel or other public or quasi-public body as required by law and where the Receiving Party is required by law to make such disclosure. The Receiving Party shall give notification as soon as practical prior to such disclosure being made;
“Contactless Payment”	means payments that are made without customers having to swipe/insert their Cards, enter personal identification (PIN) number or sign to authorize the

	Transaction by either scanning QR code or using their Cards at Payment Acceptance Solution which has contactless payment technology, such as Near Field Communication (NFC), embedded in it;
“Crediting Participant”	means FINEXUS Cards Sdn Bhd;
“Debiting Participant”	means banks and e-Money issuers participating in RPP where the Payer maintains account(s);
“Digital Certificate”	means a digital certificate issued by the Certification Authority to the Account Holder for the purpose of authenticating the Account Holder and the Merchant in electronic commerce transactions;
“DMS”	means Direct Merchant Settlement is a system which facilitate settlement process directly to the merchant;
“DuitNow Brand”	means Brand, icon, logo, trademark and service mark for the DuitNow Online Banking/Wallets;
“DuitNow ID”	Means an identifier of an account holder such as a mobile number, NRIC, passport number, army number or police number (in the case of an individual) or business registration number (in the case of a corporate customer) or any other identifiers as may be introduced by the DuitNow Operator from time to time;
“DuitNow Online Banking/Wallets Owner & Operator”	means Payments Network Malaysia Sdn. Bhd. (Company No: 200801035403 [836743-D]);
“DuitNow Operator”	means Payments Network Malaysia Sdn. Bhd. (Company No.: 200801035403 [836743-D]);
“DuitNow QR Brand”	means brand, icon, logo, trademark and service mark for the DuitNow QR;
“DuitNow QR Owner & Operator”	means Payments Network Malaysia Sdn. Bhd. (Company No.: 200801035403 [836743-D]);
“DuitNow Transfer”	means a service which allows customers to initiate and receive instant credit transfers using a Recipient’s account number or DuitNow ID;
“DuitNow Online Banking / Wallets Service”	means an online payment service offered by PayNet which facilitates industry wide payment for commercial trade transactions
“e-Invoice”	means a digital version of a transaction that occurs between a supplier and a buyer, replacing traditional invoice formats. It is formatted according to the requirements outlined by the Inland Revenue Board of Malaysia (IRBM/LHDN);
“Excessive Chargeback Programme”	means a set of programme provided by the Payment Brands for acquirers to closely monitor, on an ongoing basis: (a) its chargeback performance at the Merchant level; and (b) to promptly determine when the Merchant has exceeded or is likely to exceed monthly chargeback thresholds;
“FINEXUS Brand”	means any trade mark, logo or name owned or used by FINEXUS including but not limited to, those specified in the Card Brand Guidelines;
“FINEXUS Property”	means property referred to in Clause 21 which shall include the FINEXUS Payment Acceptance Solution and FINEXUS System provided by FINEXUS;
“FINEXUS System”	means any FINEXUS’ electronic systems (Portal / App) which FINEXUS grants access to the Merchant for the purpose of the Service or that FINEXUS uses to issue notices to the Merchant;
“Force Majeure Event”	means any act, cause, circumstance or event not reasonably or beyond the reasonable control of the Party affected and claiming relief and which, by the

exercise of reasonable diligence, such Party is unable to perform, prevent or overcome on time. A Force Majeure Event including but not limited to

- (i) act of Gods;
- (ii) civil war/civil unrest, industrial acts, labour disruptions, lockouts, military coup/disturbance, sabotages, strikes, blockades, riots;
- (iii) epidemics, pandemic, virus outbreak;
- (iv) act of government, governmental restrain;
- (v) damage to plant, equipment or facilities, power failure/outrage, transportation shortages, equipment shortages;
- (vi) natural events like drought, earthquakes, fires, floods, landslides, lightning, storms, tornadoes, washouts or other inclement weather;
- (vii) act of terrorism, explosions, insurrections, wars; and/or
- (viii) any other instances which cannot be foreseen, prevented or controlled including instances which are accepted as Force Majeure in general international commercial practice which wholly or partially hinders, prevents, interrupts or delays the performance of a Party's obligations in this Agreement;

“FSA” means Financial Services Act 2013;

“Goods and Services” or “Goods or Services” or “Goods and/or Services” means merchandise sold and/or for services rendered by the Merchant to the Account Holders;

“Government Agency” means any government or any governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity;

“Invoice Data” means a financial document that is issued by a seller to a buyer that incorporates detailed information in an invoice. Invoice Data is generated by POS system and is forwarded to FINEXUS EDC for electronic payment processing and e-Invoice submission to IRBM/LHDN;

“Issuer” means an entity that issue or provide Card or Wallet to an individual;

“Kayaaku POS Mini Menu” means an additional function that is available in the FINEXUS Kayaaku POS app as merchant can display their products in the Kayaaku POS Mini Menu by configuring the unit price, product photo and product description via FINEXUS Kayaaku BIZ Portal;

“Laws” means all laws including rules of common law, principles of equity, statutes, regulations, proclamations, ordinances, by-laws, practice directions, rules, regulatory principles and requirements, mandatory codes of conduct, writs, orders, injunctions and judgments;

“Letter of Acceptance” means the letter issued by FINEXUS on the acceptance of the Merchant's application to be FINEXUS's merchant;

“Online Marketplace Merchant” means person, firm, or corporation that acts as an intermediary by connecting buyers and Suppliers through an online marketplace platform that has been registered with and approved by FINEXUS as specified in the Letter of Acceptance;

“Mail Order Telephone Order (MOTO)” means a card transaction initiated by a Cardholder through mail order, facsimile, email, telephone, instant messaging application or other electronics means where the card details are provided to the Merchant without the physical card being

	present, and the Merchant manually inputs the transaction for authorisation and settlement to the Cardholder's Card Account;
"Marks"	means the names, logos, trade names, logotypes, trademarks, service marks, trade designations, and other designations, symbols, and marks, including but not limited to any one of the Payment Brands' brand mark and name mark, that any one of the Payment Brands or its affiliates or subsidiaries own, manage, license, or otherwise control and make available for use by FINEXUS and other authorised entities;
"Merchant"	means a person, firm, or corporation who has registered and approved by FINEXUS as specified in the Letter of Acceptance;
"Merchant Application Form"	means the form completed by the Merchant to apply to be FINEXUS's merchant;
"Merchant Discount"	means the fee that the Merchant pays to FINEXUS for the Services and is calculated in the manner and at the rate specified in the Letter of Acceptance or at such other rate as notified by FINEXUS to the Merchant from time to time;
"Merchant Guide"	means the guideline provided by FINEXUS containing the operational details relating to the Services including requirements set down under the Payment Brands rules and regulations, which shall form part of the Agreement;
"MID"	means a unique code for the Merchant's identification number assigned by FINEXUS;
"Monthly Report"	means monthly statement generated by FINEXUS at the beginning of every month which indicates the total Transaction Charges processed by FINEXUS during the previous month and Merchant Discount charged to the Merchant;
"mPOS"	means mobile Point-of-Sales which is a mobile device enabled to be used as a POS Terminal. mPOS includes the mobile payment application, payment processing services and hardware products and the application is only compatible with the smart card reader models assigned by FINEXUS;
"MyDebit Brand"	means the brand, icon, logo and marks for MyDebit;
"MyDebit Operator"	means the payment system operator for MyDebit service i.e. Payments Network Malaysia Sdn Bhd;
"MyDebit"	means a domestic debit card scheme that allows Cardholders to make payments for goods/services in-store, online store or withdraw cash at participating Merchants by debiting directly from the Cardholders' nominated savings / current account;
"MyInvois System"	means the Malaysia government e-invoicing system managed by LHDN for tax-related compliance and invoice submissions;
"Operational Procedure"	means the Operational Procedures for MyDebit which are prescribed and issued by MyDebit Operator and will include any variation, addition, amendment or modification made from time to time;
"Other Financial Institution"	means any third party credit or financial institution (including Card Issuers) which may be involved, or which in FINEXUS' sole and absolute discretion involve, in the course of our provision of any of the Services;
"PAN"	means Primary Account Number and which information shall also include but not limited to Card Number and security information;
"PAR"	means Payment Account Reference and is a unique identifier associated with a specific cardholder PAN that can be used in place of sensitive consumer identification fields and transmitted across the payments system to facilitate consumer identification;

“Participant”	means Participant as defined in the Participation Rules, acting as Issuer / Acquirer / Third Party Acquirer;
“Payer”	means individuals, companies, body corporates, businesses (including sole proprietors and partnerships), government agencies, statutory bodies, societies and other Customers who transfers funds via DuitNow Services such as DuitNow QR, DuitNow Transfer and DuitNow Online Banking/Wallets service;
“Payment Acceptance Solution”	means any device or solution that accepts payment transactions, such as Electronic Device Capturing (EDC) Terminal, Point of Sale (POS) Terminal, mobile Point of Sale (mPOS) Terminal, e-Commerce Payment Gateway, Dynamic Quick Response (QR) Code, Static QR Code, QR Code Standee, etc.;
“Payment Application”	means the software payment application developed by FINEXUS goes by the name of “Kayaaku POS” or any other name and subsequent update to the payment application;
“Payment Application Data Security Standard” or “PA-DSS”	means a set of comprehensive security requirements developed by PCI SSC to encourage and enhance Account Holder data security and facilitate the broad adoption of consistent data security measures globally;
“Payment Brands”	means payment network operators (i.e. VISA, Mastercard, Union Pay, DuitNow, etc.) linked to Card or Wallet of which any eligible entity can become a member and with whose Payment Brand rules and regulations FINEXUS is obliged to comply;
“Payment Brands Programme”	means Payment Brands' payment or merchant acquiring programme;
“Payment Card Industry Data Security Standard” or “PCI DSS”	means a set of comprehensive requirements containing security requirements developed by PCI SSC to encourage and enhance Account Holder data security and facilitate the broad adoption of consistent data security measures globally which are available at www.pcisecuritystandards.org ;
“Payment Card Industry Security Standards Council” or “PCI SSC”	means a council that is responsible for the development, management, education and awareness of the PCI security standards including PA-DSS and PCI-DSS;
“Payment Instructions”	means any instruction (whether written, verbal or electronic) given by an Account Holder to the Merchant, authorising the Merchant to charge the Account Holder's Card for a transaction;
“Payment Method”	means by which buyers make payments for good or services (include subscription and usage fees), including credit/debit cards, bank transfers, or other methods as supported by the FINEXUS;
“PDPA”	means Personal Data Protection Act 2010;
“Personal Data”	means any information that relates directly or indirectly to an individual who can be identified from that information or from other information in the Merchant's possession including but not limited to a Personnel of FINEXUS;
“Personnel”	means employees, secondees, agents, principals and contractors who are individuals;
“PIN”	means a Personal Identification Number issued to an Account Holder for a Card or Wallet, or personally selected by an Account Holder for the purpose of effecting payment for Transaction at any POS Terminal and mobile application with PIN verification capability;
“PIN Pad”	means a device used by the Cardholder to enter the PIN or other data as may be specified by FINEXUS pursuant to Card and/or EMV Card Transaction and/or MyDebit Transaction;
“Point of Sale Terminal” or “POS Terminal”	means a device electronically activated to read and record the data of each Transaction located at the Merchant's outlet, approved by FINEXUS for the

	purposes of this Agreement which FINEXUS may replace or request for its return from the Merchant as FINEXUS may deem fit and where applicable, shall also be deemed to include the Contactless terminal and QR code reader save where the contrary is expressly provided for;
“Privacy Policy”	means FINEXUS policies and principles pertaining to the collection, use and storage of personal information of existing and prospective individuals and entities dealing with FINEXUS as may be amended from time to time and made available at FINEXUS website respectively or in such manner as the FINEXUS deems appropriate from time to time;
“Prohibited Data”	means data that is not allowed to be stored by the Merchant and/or any of its associated service providers. This includes but not limited to CVV2/CVC2, PAN, PIN, PAR and magnetic strip data;
“QR Code”	means a quick response code represented as a type of 2D matrix barcode that is used to provide easy access to information through a smartphone or any compatible electronic device;
“Recipient”	means individual or government agencies, statutory bodies, companies, body corporates, businesses, (including sole proprietors and partnerships) societies, charities and other entities who receives funds via DuitNow Online Banking/Wallets service;
“Refund Form”	means a form provided by FINEXUS from time to time to the Merchant to issue credits in respect of a Transaction;
“Regulatory Authority”	means any governmental or regulatory authority, and/or any self-regulatory authority, governmental department, agency, commission, board, tribunal, statutory body, or court or other law, rule or regulation-making entity having jurisdiction over any of the Parties and/or their businesses or any part or subdivision thereof in Malaysia or in any territory in which the Services are made available, including without limitation Bank Negara Malaysia, the Securities Commission Malaysia, the Companies Commission of Malaysia, the Personal Data Protection Commissioner, the Malaysia Competition Commission, and any local authority, district or other subdivision thereof, and any body which succeeds or replaces any of the foregoing;
“RM”	means Ringgit Malaysia;
“RPP”	Means Real-Time Payments Platform, a shared payment infrastructure developed and established by PayNet, which facilitates instant and interoperable payments and collections;
“Sales Slip”	means a document in the physical or electronic form provided by FINEXUS or any Payment Brands from time to time to the Merchant for the purpose of recording, confirming and evidencing Goods purchased or for Services rendered to the Account Holder through the use of Card to be charged or debited to the Account Holder’s Card account;
“Services”	means payment processing services/channels as described in the Letter of Acceptance issued by FINEXUS to the Merchant for the processing of Transactions and for enabling acceptance of the Card and Wallet;
“Settlement Amount”	means the amount payable by FINEXUS to the Merchant under the Agreement for each successful Transaction based on the Transaction Charges less Merchant Discount;
“Settlement Function”	means the procedures required of and carried out by the Merchant via a POS Terminal/mPOS for purposes of transmitting data of Card Transactions to FINEXUS or the Vendor as the case may be enable FINEXUS to make settlement to the Merchant;

“Settlement Funds”	means an amount of funds to be deposited from transaction and to be pay to the Merchant upon execution of Settlement Function;
“Settlement Processing”	means the process carried out by the Merchant for purposes of transmitting data of Transaction Charges to FINEXUS to enable FINEXUS to remit the Settlement Amount to the Merchant;
“IoT SIM Card”	SIM cards designed specifically for IoT devices, such as sensors and other connected devices such as Soundbox. They often offer low-cost data plans with a limited amount of data usage;
“Soundbox”	Audio-assisted smart device that alerts instant notification upon receiving Electronic Payment;
“Split Sale”	means a Transaction where upon the authorisation was declined, the Merchant split the transaction into two (2) or more transactions using the same Card to obtain authorisation approvals from FINEXUS;
“Standards”	means any by-laws, directions, guidelines, rules, policies operating regulations and procedures of the Payment Brands and FINEXUS or any code of practice, guidelines or standards issued by relevant regulators or industry bodies, whether or not having the force of law, including but not limited to any manuals, guides, bulletins, standards issued by the PCI SSC and any other data security standards as may be issued or amended from time to time;
“Subsidiary”	has a meaning assigned to under Section 4 of the Companies Act 2016;
“Supplier”	means a vendor who sells goods or services using the Online Marketplace Merchant’s platform;
“Tax”	means: (a) any tax, levy, impost, duty, fee, deduction, compulsory loan or withholding; or (b) any income, stamp or transaction duty, tax or charge, which is assessed, levied, imposed or collected by any Government Agency and includes any interest, fine, penalty, charge, fee or other amount imposed on or in respect of any of the above;
“Term”	means the duration of the Agreement as specified in Clause 2;
“Terminal”	means an information processing device through which MasterCard, MyDebit and Visa transaction messages are initiated and transmitted to the Acquirer and through which reply messages are received and transactions are completed;
“Terminal Fee”	means the service fees and any related cost payable by the Merchant to FINEXUS for the POS Terminal provided by FINEXUS;
“Terminal Receipt”	means a document to evidence a Transaction produced by a Payment Acceptance Solution in form and substance approved from time to time by FINEXUS for the purpose of this Agreement;
“Transaction”	means any type of sales transaction or payment transaction effected through the use of the Card (by use of Card, authenticated card-less/contactless payment solution, card present or card not present situation) or Wallet (whether or not Account Holder and the Merchant are all physically present at the time of the transaction) and includes:- (i) electronic commerce transactions (conducted over the website or mobile application that initiate such transactions between the Account Holder and the Merchant); or (ii) any other reference to any payment transaction effected by the Merchant requesting for payment by charging to the Account Holder’s Card and the Card

Account for the payment to be made, as contemplated by the Payment Instructions;

“Transaction Charges”	means the amount charged to the Card or Wallet for Goods purchased by the Account Holder from the Merchant;
“Unrecoverable Loss”	Means the portion of funds transferred and credited to the wrong party due to erroneous, mistaken, unauthorised or fraudulent payments that cannot be retrieved after Participants have exhausted the recovery of funds process;
“Vendor”	means a licensed and/or appointed merchant acquiring institution authorised by FINEXUS to appoint and/or acquire merchants and who may supply Payment Acceptance Solution for the use of the Merchant for accepting Card and Transaction; and
“Wallet/e-Wallet”	means an internet-based electronic wallet incorporated within FINEXUS Cards that allows Account Holder to carry out electronic (cashless) fund transactions. It is an internet-based digital wallet that funded with Ringgit Malaysia currency, and can be used to purchase Goods and Services. The operation of the e-Wallet is licensed and regulated by Bank Negara Malaysia.

1.4. Interpretation

In the Agreement, unless the context requires otherwise:

- a. the headings are for convenience only and do not affect the interpretation of the Agreement;
 - b. a reference to a clause is a reference to a clause of the Agreement;
 - c. a reference to any document (including this Agreement) includes references to that document as amended, consolidated, supplemented, novated or replaced;
 - d. a reference or expression importing a person include reference to natural person, company, partnership, limited partnership, joint venture, association, corporation, organisation or other body corporate, trust entity, government agency and regulatory body;
 - e. a reference to anything (including, but not limited to, any right) includes any part of that thing, but nothing in this Clause implies that performance of part of an obligation constitutes performance of that obligation;
 - f. a reference to a right includes a power, authority, discretion, benefit, or remedy conferred on a Party by the Agreement or any applicable law;
 - g. a reference to a statute, regulation, proclamation, ordinance or by-Law includes all statutes, regulations, proclamations, ordinances or by-Laws amending, consolidating or replacing it, whether passed by the same or another Government Agency with legal power to do so, and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute;
 - h. a reference to a Party to a document includes that Party's successors and permitted assigns;
 - i. a reference to month is to a calendar month in accordance to the Gregorian Calendar;
 - j. if more than one party is referred to as the Merchant, then their obligations and liabilities under the Agreement will be joint and several;
 - k. no rule of construction applies to the disadvantage of a party solely because that Party was responsible for the preparation of the Agreement or any part of it.
- 1.5. This Merchant Agreement shall apply to Merchant participation in the Card payment acceptance services for all offices, outlets and locations of the Merchant described in the Merchant Application Form and such other offices, outlets and locations as may be agreed between FINEXUS and the Merchant from time to time.

2. STATUS OF MERCHANT

- 2.1. Except as expressly otherwise provided in the Agreement, the Merchant is not a partner or an agent of FINEXUS, and the Merchant shall not contract with any third party, make any representation, or warranty or otherwise incur liability on behalf of FINEXUS.
- 2.2. The Merchant acknowledges and agrees that the Merchant's appointment under the Agreement is **NON-EXCLUSIVE** and that FINEXUS may appoint other persons to conduct and may itself conduct activities under the Agreement.

3. ACCEPTANCE OF CARDS OR WALLETS BY MERCHANT

- 3.1. Subject to the terms and conditions of the Agreement and provided that the Card or Wallet is not declared invalid by FINEXUS or is deemed invalid pursuant to this Agreement, the Merchant shall accept all Cards or Wallet presented to it for purchase of Goods and Services under such business or at such premises or outlets of the Merchant as specified in the Merchant Application Form or at such other outlet(s) or location(s) of the Merchant as shall have been agreed between FINEXUS in writing from time to time.
- 3.2. The Merchant hereby agrees and undertakes that it shall honour without discriminations to the Cards or Wallet when properly presented to it and in the case of Electronic Commerce Transactions when properly authenticated as a means of payment from Account Holder seeking to make purchase of goods and/or services at the Merchant's premises or from the Merchant through the use of the Card or Wallet.
- 3.3. The Merchant shall refer to the Merchant Guide for detailed explanation on acceptance of Cards or Wallets and refusal of acceptance.

4. ACCEPTANCE OF CARDS OR WALLETS BY MERCHANT VIA INTERNET

- 4.1. The Parties acknowledge that the setting-up, maintenance, upgrade, security and integrity of the Merchant's computer system software and all costs thereof, and any other matters related thereto, shall be borne by the Merchant and are the Merchant's sole responsibility.
- 4.2. Notwithstanding **Clause 5.1** above, the Merchant and its agents shall at all times keep all systems and media containing any information or data (whether physical or electronics) relating to Account Holders, their Card Accounts and transactions in a secure manner in no less than the standards prescribed by PCI DSS, such as without limitation encrypting transmission of Account Holders' data and sensitive information across public network, to prevent access by or disclosure to anyone other than the authorized personnel of the Merchant or FINEXUS. However, in the event that any of the aforesaid information or transaction data stored in any part of the Merchant's system is lost, damaged, stolen, tampered or otherwise compromised, the Merchant shall report and give written notice of such loss, damage, theft, tampering or compromise to FINEXUS immediately upon the Merchant having notice thereof.
- 4.3. Notwithstanding anything contained in **Clause 5.1**, if the Merchant upgrades or changes the version or type of its software and/or hardware or any other part of its system relating to Transaction, the Merchant must inform FINEXUS of such changes prior to its implementation and conduct testing with FINEXUS' system as soon as possible. FINEXUS shall not be liable for any loss or damage suffered by any party or for any incompatibility between the Merchant's system and FINEXUS systems due to such changes made by the Merchant.
- 4.4. The Merchant shall accept full responsibility, and FINEXUS shall not be liable in any way, for claims, liabilities, fees, fines, penalties, expenses, costs, losses or damages of whatever nature brought against, suffered or incurred by or caused to FINEXUS or any party whatsoever due to arising out of or in connection with this Agreement or any breach or compromise of the security or integrity (including but not limited to any breach or compromise of the standards prescribed by PCI DSS and Payment Brand), or malfunction, of any encryption and identification software, any electronic code keys, any equipment provided to any party or the Merchant's system or due to any error, negligence or fraud relating to a Transaction by the Merchant and/or the Merchant's agents, servants, employees or contractors.

- 4.5. For detailed elaboration of Website Requirements and Website Disclosure, the Merchant is required to refer to the Merchant Guide.

5. ONLINE MARKETPLACE MERCHANT (IF APPLICABLE)

- 5.1. The Online Marketplace Merchant shall be allowed to onboard their Suppliers only onto their own online marketplace platform. However, FINEXUS shall have the right to view business agreements or documents between the Online Marketplace Merchant and the Suppliers to ensure the agreements are aligned with FINEXUS' guidelines.
- 5.2. The Online Marketplace Merchant shall be solely responsible for the entire process of onboarding and supporting of new Suppliers including but not limited to: conducting due diligence, performing settlements, and providing support for their Supplier. FINEXUS shall only advise the Online Marketplace Merchant for any issues pertaining to the Payment Acceptance Solution.
- 5.3. The Online Marketplace Merchant shall be solely responsible on handling and/or resolving any dispute arising from the sales between the Suppliers and their customers and/or complaints between Online Marketplace Merchant and the Suppliers.
- 5.4. FINEXUS shall perform the settlement directly to the Online Marketplace Merchant only. FINEXUS shall not be responsible for payment between the Online Marketplace Merchant and their Suppliers.
- 5.5. FINEXUS shall not be included, liable and responsible in any business agreement/arrangement between the Online Marketplace Merchant and their Suppliers unless explicitly agreed by FINEXUS in writing.
- 5.6. The Online Marketplace Merchant acknowledge that FINEXUS reserved its absolute discretion to suspend or terminate its Service to the Online Marketplace Merchant if FINEXUS has the reason to believe the Transaction involved a potential breach of the Laws and Standards. Any suspension or termination exercise pursuant to this Clause shall not constitute a breach of Agreement by FINEXUS and neither Parties shall have claim against each other.

6. MERCHANT'S DIGITAL CERTIFICATE

- 6.1. In relation to Electronic Commerce Transactions by the Merchant, where FINEXUS has in its discretion issued the Merchant with a Digital Certificate, FINEXUS reserves the right to levy a fee payable at such times as FINEXUS in its sole and absolute discretion determines for the Merchant's use of Digital Certificate.
- 6.2. The Merchant shall be responsible for ensuring that: -
- a. all material representations made by the Merchant to FINEXUS or Certification Authority for the purpose of obtaining the Digital Certificate shall be true, accurate and complete; and
 - b. FINEXUS and Certification Authority are to be immediately be notified of any changes in the information previously provided for the purpose of obtaining the Digital Certificate or for listing in the Digital Certificate and that such information is updated forthwith.
- 6.3. FINEXUS shall be entitled to invalidate the Digital Certificate at any time without prior notice or liability to the Merchant.

7. SETTLEMENT PAYMENT FOR TRANSACTIONS

- 7.1. The obligation of FINEXUS to make any payment to the Merchant in the manner provided for in this Agreement shall be subject to the following conditions precedent: -
- a. upon the execution via the Settlement Function; and
 - b. subject to any other conditions as FINEXUS may stipulate from time to time at its sole discretion.

Provided always FINEXUS has not received any notice requiring FINEXUS to withhold payment to the Merchant or has exercised its discretion to withhold payment to the Merchant pursuant to **Clause 8.2**

and **Clause 8.3** hereof on account of such Sales Slip/Terminal Receipt and the Merchant shall have observed and performed all the obligations contained in this Agreement.

- 7.2. Where an obligation to make payment to the Merchant pursuant to this Clause is triggered and subject to the Merchant's due compliance of the terms of this Agreement, FINEXUS shall pay the Settlement Amount less any applicable Merchant Discount, Fees, Taxes to the Merchant within two (2) Business Days from the date of Settlement processing via: -
- a. by way of direct credit to the Merchant's bank account;
 - b. telegraphic transfer to a specified bank account specified by the Merchant which maintained with any bank licensed by BNM in Malaysia; or
 - c. any other payment methods as FINEXUS deems fit and appropriate.

Provided always and notwithstanding any contrary to the provision of this Agreement, FINEXUS reserves the right to withhold payment and accumulate the payment to the Merchant if the total amount of payment to the Merchant (less the Merchant Discount and less the aggregate amounts of rebates and refunds granted to the Account Holder and less all other amounts due and payable to FINEXUS under this Agreement or otherwise) is less than Ringgit Malaysia One Hundred (RM100.00).

- 7.3. All payment made by FINEXUS shall not constitute as confirmation that the Sales Slip or the execution of the Settlement Function are accepted according to the conditions and procedures stated in this Agreement or are free of discrepancies, irregularity or any breach or violation.
- 7.4. The Merchant agrees that FINEXUS shall have the right to claim back from the Merchant any erroneous payments or extra payments made to Merchant and such sum of monies shall be repaid to FINEXUS on demand by FINEXUS exercising its Right of Set-Off (in accordance to **Clause 14**) or by raising a claim on the Merchant or by any other means as FINEXUS deems fit.

Foreign Currency

- 7.5. FINEXUS will notify the Merchant which foreign currencies (if any) are approved for Transactions.
- 7.6. If a Transaction is recorded in an approved foreign currency by FINEXUS, unless FINEXUS otherwise agrees, such Transaction will process in Ringgit Malaysia (using an exchange rate determined by FINEXUS) together with any event relating to the Transaction (such as paying for the original Transaction, making a Chargeback or refund in respect of the Transaction).
- 7.7. Charges imposed onto any exchange rate is determined by FINEXUS and may be effect at any time without prior notice given to the Merchant.

Dispute of Settlement Amount

- 7.8. In respect of any dispute between the Merchant and FINEXUS arising from the aforesaid settlement procedures or in respect of money owing and due to the Merchant, it shall be the obligation of the Merchant to formally notify FINEXUS in writing within seven (7) calendar days from the date of such dispute or the discovery of such discrepancies or errors. Such failure of the Merchant to do so within the above-mentioned stipulated time, the Merchant shall be deemed to have waived its right to raise such dispute or such discrepancies or errors.
- 7.9. All figures are subject to final audit and checking by FINEXUS. Payment by FINEXUS to the Merchant does not constitute a confirmation that the Card Transactions are accepted free of irregularity or any violation and shall be subject to refusal or chargeback by FINEXUS under **Clause 13**.
- 7.10. Nothing in this Clause shall preclude FINEXUS from correcting any error or discrepancy in such amount paid by giving written notice to the Merchant or claim back from the Merchant. The Merchant further agrees that FINEXUS reserves the right to claim back from the Merchant any other payment due from the Merchant to FINEXUS and may be recovered on demand by any ways or methods stipulated in this Agreement or provided by law.
- 7.11. The Merchant shall not change or terminate its account without giving FINEXUS seven (7) Business Days prior notice and the change shall not take effect without first obtaining written consent for the change from FINEXUS. It is hereby agreed that FINEXUS shall not be liable for any losses or damages

suffered by the Merchant arising as a consequence of late presentation of such notice of change or termination.

Non-Payment & Withhold of Payment to Merchant

- 7.12. FINEXUS may in its absolute discretion, decline to pay the settlement amount to the Merchant for any Disputed Transaction completed that falls within any of the events mentioned in the Merchant Guide (Non-Payment for Disputed Transaction).
- 7.13. FINEXUS may also withhold payment for any of the following Transaction until FINEXUS has examined and verified the affected Sales slip or Refund form (if any) issued by the Merchant together with the Merchant's copy of all other documents required by FINEXUS at its sole discretion, evidencing the Transactions:-
- a. any irregularities in any Transaction;
 - b. if FINEXUS has reasons to believe that the Transaction is fraudulent or illegal; or
 - c. for any Transaction for Non-Payment as listed in Merchant Guide.
- 7.14. The Merchant agrees that FINEXUS shall not be liable or obliged to pay, refund or transfer any Card or Wallet Transaction amount to any lost, damaged or stolen POS Terminal, mPOS and Soundbox.
- 7.15. If FINEXUS is prevented by any circumstances beyond its reasonable control from paying the Merchant under this Agreement, FINEXUS shall as soon as reasonably practical, make payment to the Merchant but it shall not be liable for any losses, damages or costs suffered by the Merchant for such delay.

8. RESERVES AND FUNDING

- 8.1. FINEXUS is the only party solely responsible for providing settlement funds directly to the Merchant.
- 8.2. It is FINEXUS' responsibility to hold and control the fund reserves that derived from Merchant Transactions.
- 8.3. The Merchant allows FINEXUS to withhold or reserves any amount in the settlement funds for fraud and chargeback reserves or any other similar purpose allowed under this Agreement.

9. MERCHANT DISCOUNT

- 9.1. Unless otherwise agreed to by FINEXUS in writing, the Merchant shall pay to FINEXUS a Merchant Discount rate on the amount due from FINEXUS to the Merchant in accordance to the rate set out in the Appendix 1 of the Letter of Acceptance.
- 9.2. The relevant Merchant Discount rate and other chargeable sums of money (if any) owing by the Merchant to FINEXUS shall be deducted by FINEXUS accordingly before the Merchant is paid on each occasion in accordance with the provisions herein.
- 9.3. FINEXUS reserves the right to its absolute to review and vary the Merchant Discount rate from time to time and any changes thereto shall be effective on the date specified by FINEXUS in such notification to the Merchant.
- 9.4. The review of Merchant Discount rate, if any, would be notified to the Merchant via electronic mail and/or letter and/or fax and/or any other means or methods determined by FINEXUS and still serve as a valid mode of communication to inform the Merchant of such revision.
- 9.5. The Merchant Discount Rate for Pre-Authorization transaction from the card brand of DuitNow QR and Alipay+ QR is calculated based on the pre-authorized sales amount and not by the finalized sales amount.

10. INDEMNITY

- 10.1. The Merchant shall indemnify FINEXUS and/or Payment Brands on a full indemnity basis against any claims, damages, fines, penalties, losses, costs (including legal costs) and expenses which FINEXUS incurs including any penalties imposed by any third party, including Merchant's customers, Regulatory

Authority, including costs Payment Brand pays, suffers, incurs as a result of the occurrence of any one of the following: -

- a. Any claim or dispute (whether in contract or in tort or howsoever arising) being made against FINEXUS by or on behalf of an Account Holder (which for the purpose of this Clause includes a person who has ceased to be an Account Holder) or by any other party in respect of goods sold and/or services delivered by the Merchant to an Account Holder or arising out of any negligence, default or omission of the Merchant in the course of such supply or the negotiations leading thereto or as a result of the Merchant's breach or failure to comply with its obligations contained in this Agreement.
 - b. Any Mail Order and/or Telephone Order Transaction and/or any transaction effected through the use of the Card which is or being rendered unenforceable as a result of the Merchant's negligence, default or omission or failure to comply with the requirements and/or security measures set out by MasterCard Worldwide, VISA International, the relevant E-Wallet Issuer or any other Relevant Authority.
 - c. The Merchant's Personnel's act or omission, including but not limited to the use of the Marks and the FINEXUS Brands, any breach of contract or negligence of these Terms;
 - d. the Merchant's infringement of the intellectual property rights of any third party;
 - e. The Merchant fails to take all the necessary steps to maintain the security and confidentiality of the Payment Acceptance Solution, the Account Holder and FINEXUS;
 - f. Any event relating to a Transaction in a foreign currency;
 - g. Any breach of any provisions of this Agreement by the Merchant;
 - h. Exercise of FINEXUS' rights under this Agreement; and
 - i. Any other matters arising out of or in connection with this Agreement.
 - j. In the case of Mail Order and/or Telephone Order Transaction, if the Cardholder alleges that the Authorisation Form has been improperly drawn or not executed by the Cardholder or executed without the Cardholder's authority and/or if the Authorisation Form is illegible, incomplete or unsigned.
- 10.2. The Merchant hereby agrees to pay all costs incurred by Finexus including legal fees, on a solicitor and client basis in the enforcement of the FINEXUS' right and entitlement under the Agreement on a full indemnity basis. The Merchant further undertakes to immediately pay all costs and expenses incurred or imposed by FIUNEXUS as a result of any non-compliance by the Merchant of any terms of the Agreement.
- 10.3. In addition to the provisions herein contained, the Merchant is deemed to have notice of and hereby covenants to at all times observe the security measures, guidelines and procedures on the acceptance of the Card/E-Wallet as instructed and required by FINEXUS, MasterCard Worldwide, Visa International, and any relevant E-Wallet Issuer, PayNet or other relevant authorities from time to time.
- 10.4. Without prejudice to any provisions contained in the Agreement, the Merchant shall forthwith notify FINEXUS in writing of any potential or intended change of business ownership of its establishment and/or change of its nature of business or industry and seek FINEXUS' consent to such potential or intended change failing which the Merchant shall be subjected to chargeback and penalty imposed by MasterCard Worldwide, Visa International or other relevant authorities or termination of the Agreement.
- 10.5. The Merchant indemnifies FINEXUS against any claim or action made or brought by the Merchant's Personnel and any damage, loss, liability, cost, charge, expense, outgoing or payment which FINEXUS pays, suffers, incurs or is liable for in connection with any such claim or action.
- 10.6. If any losses or liabilities incurred by FINEXUS under the Agreement in a foreign currency amount, FINEXUS may convert that amount into RM at such rate of exchange as determined by FINEXUS at its absolute discretion.

- 10.7. The indemnity obligations set out in Clause 10 shall survive the termination or expiration of this Agreement.

11. LIMITATION OF LIABILITY

- 11.1. Subject to the provisions herein, FINEXUS's sole and entire liability to the Merchant, whether in contract, tort (including negligence or breach of statutory duty), or otherwise arising out of or in connection with this Agreement, shall not exceed the lowest of the following:
- 11.1.1. the amount of the transaction giving rise to the claim;
 - 11.1.2. the direct damages actually sustained; or
 - 11.1.3. one percent (1%) of the Merchant Discount Rate paid by the Merchant for the transaction relating to days the claim giving rise to such liability.
- 11.2. This limitation shall survive the termination or expiry of this Agreement.

12. EXCLUSION OF LIABILITY

- 12.1. FINEXUS shall not be liable in any way to the Merchant for any claims, liabilities, expenses, costs (including legal costs), losses or damages of whatever nature brought against, suffered or incurred by or caused to the Merchant due to or arising out of or in connection with this Agreement, regardless of whether a claim is based on contract, tort or otherwise or whether FINEXUS has been advised of the possibility of such claim, liability, loss or damage.
- 12.2. In addition to the provision herein, FINEXUS and/or Payment Brands shall not be responsible or held liable in any way whatsoever for any loss, damage, inconvenience, or embarrassment suffered by the Merchant by reason of any delay in the performance or non-performance of any of the obligations of FINEXUS herein due to any causes beyond the reasonable control of FINEXUS including but not limited to causes such as: -
- a. the suspension or withdrawal by Bank Negara Malaysia, the Payment Brands or any other relevant authority of the license required for carrying on any part of FINEXUS' business, alterations to conditions of such license, or the imposition of new conditions on such license, force majeure, industrial disputes, strikes, power failure, failure or malfunction contributed to the computer systems and application employed by FINEXUS or circumstances beyond the reasonable control of FINEXUS, its employees, agents or sub-contractors however caused, computer, electronic or electrical system failure, malfunction or breakdown or the interruption, non-supply of electrical or power for any length of time.
 - b. Special, direct, indirect, or consequential loss or damage including but not limited to loss of income, contracts, opportunity, market share or reputation, loss of or damage to data, business interruption, wasted expenditure and/or anticipated savings;
 - c. Any erroneous transfer of funds by the Merchant, including any transfer of funds to the wrong DuitNow ID, wrong Recipient, wrong amount, wrong date or wrong third party;
 - d. The suspension, termination, or discontinuance of the DuitNow Transfer services;
 - e. any cessation or interruption of any part of the Services which are due to any act or omission of a third party (including, but not limited to, Other Acquirers, Other Financial Institutions, Other Payments Organisations (including an Alternative Payment Provider, Card Scheme, and Third Party Product provider)) and is not caused by our breach of this Agreement;
 - f. Merchant's failure to provide complete and/or correct Data to FINEXUS, any Other Financial Institution, Card Scheme or Other Payments Organisation) and/or Merchant's negligence and/or breach of this Agreement;
 - g. any deferment and/or withholding of any Remittance otherwise due to the Merchant effected pursuant to the provision of this Agreement;

- h. For any inaccuracies, errors, and/or omissions in any information provided by FINEXUS or by any Other Financial Institutions to any third party, whether directly or indirectly in connection with this Agreement;
 - i. Economic loss including loss of profit, loss of revenue, loss of goodwill:
 - (i) arising out of or connected in any way with the Agreement;
 - (ii) arising from the supply of use of the Services or any FINEXUS property or from any act or omission (including negligence) of FINEXUS; or
 - (iii) by reason of FINEXUS' exercise of its duties under the laws including without limitation, FINEXUS' obligations and duties under AMLA.
- 12.3. FINEXUS shall have the absolute discretion subject to prior written notice being given to the Merchant to use such independent or recruitment agents, contractors or correspondents to carry out or procure any of the matters under or contemplated in this Agreement and FINEXUS shall not be liable to the Merchant for any act, omission, neglect or wilful default on the part of such independent agents, contractors and/or correspondents, unless otherwise agreed in writing or expressly covered under this Agreement.
- 12.4. All representation contained in any advertisement or printed matter relating to the goods and/or services offered by the Merchant shall be deemed to have been made by the Merchant and FINEXUS shall not in any way be liable for any claim whatsoever arising therefrom.
- 12.5. FINEXUS shall also not be responsible to the Account Holder in any way or manner for any goods and/or services supplied by the Merchant, which shall in this instance be the sole responsibility of the Merchant. The Merchant shall comply with all legal requirements imposed on it in regard to this Agreement. Any legitimate disputes between the Merchant and the Account Holder shall obligate the Merchant to resolve such disputes amicably and promptly with the Account Holder.
- 12.6. FINEXUS shall not be liable against and Merchant shall not claim for any losses provided that:
 - a. Merchant payment application is either be revoked or no longer made available in the third party application platform; or
 - b. Merchant payment application is retired due to compatibility issue, security concern issue, out of date system support, product sunset life cycle or change of business direction; and
 - c. FINEXUS has exercise reasonable effort to give prior notice in notifying the Merchant.
- 12.7. The Merchant acknowledges, represents, and agrees that, given the nature of the Services:
 - 12.7.1. Other suitable alternative payment methods are available to the Merchant;
 - 12.7.2. The Merchant was able to choose other providers of services similar to the Services before entering into this Agreement;
 - 12.7.3. The Merchant acknowledges and accept the risk of any Losses which they may suffer and be unable to claim for because of the exclusions and limitations on FINEXUS liability under this clause 12, and the importance of insuring against such Losses;
 - 12.7.4. the Fees have been calculated by FINEXUS taking into account the exclusions and limitations contained in this Agreement (which would be uneconomical but for such exclusions and limitations); and
 - 12.7.5. FINEXUS would not be in a position or willing to enter into this Agreement (or any similar agreement) with the Merchant or other merchants but for these exclusions and limitations of liability.
- 12.8. Each of the provisions under this Clause shall be construed as a separate limitation applying and surviving even if for any reason one or the other provisions is inapplicable or held unreasonable in any circumstances and shall remain in force notwithstanding the termination of this Agreement.

- 13. RIGHT TO RAISE DEBIT ON DISPUTE, FRAUD, ERRONEOUS TRANSACTION AND CHARGEBACK AGAINST THE MERCHANT**
- 13.1. Notwithstanding any provisions of this Agreement and without derogation of any of FINEXUS' rights as provided herein, the Merchant agrees that FINEXUS may without prior notice and at any time, to refuse or reject any payment to the Merchant or reject any Sales Slip, Terminal Receipt or Transaction presented by the Merchant for payment.
- 13.2. Notwithstanding anything contained in **Clause 13.1** above, if payment has been paid by FINEXUS to the Merchant via the Settlement Function, FINEXUS shall raise a debit against the Merchant: -
- a. for settlement of the full Transaction amount and of any liability incurred to FINEXUS by the Merchant; and/or
 - b. for any claim demands made against FINEXUS by the Account Holder or any other persons arising and as provided under any provision of this Agreement, rules and regulations issued by Payment Brand or by operation of written laws; and
 - c. for any other claims which arises due to events mentioned under the Merchant Guide.
- 13.3. The Merchant shall reimburse FINEXUS for any payment made in relation to any Dispute, Fraud or Chargeback Claim arising out of any breach or violation by the Merchant according to the terms and conditions of this Agreement, the Merchant Guide or the laws.
- 13.4. Under the terms of the Agreement, merchants remain liable for all chargebacks and fraud-related losses arising from transactions processed prior to termination. The FINEXUS will review and settle any outstanding dispute claims in accordance with the applicable dispute resolution process. Merchants are required to cooperate in resolving these cases, including providing necessary documentation or funds to cover validated claims.
- 13.5. The Merchant acknowledges and gives consent to FINEXUS to withhold any amounts payable to the Merchant for any Dispute, Fraud or Chargeback reserves or similar purposes allowed under the laws or this Agreement / Merchant Guide.
- 13.6. To enable FINEXUS to cause settlement by the Merchant of any liabilities or claims or monies which FINEXUS may incur according to **Clause 10 & Clause 12** (indemnity & right to raise chargeback), the Merchant hereby agrees, give consent and empower FINEXUS may without giving any prior notice to the Merchant to effect a debit on any account(s) of the Merchant which is maintained by the Merchant with FINEXUS. Alternatively, FINEXUS may also without giving any prior notice to the Merchant recover from the Merchant by way of Set-Off (under **Clause 13**) against any sum which would otherwise be due to the Merchant or raised a claim to the Merchant for the Merchant's immediate settlement thereafter.
- 13.7. A computer-generated statement or certificate (which does not require any signature) or a statement certificate signed by a Manager or Officer of FINEXUS as to the monies for the time being due and owing to FINEXUS, except for manifest errors, it shall be conclusive evidence of indebtedness.
- 13.8. It is also hereby agreed that such statement or certificate shall be deemed to have been received within five (5) Business Days for Merchant based in West Malaysia or within seven (7) Business Days for Merchant based in East Malaysia from the date of despatch of such statement/certificate.
- 13.9. Any disputes by the Merchant to the correctness of the statement / certificate shall be notified in writing by the Merchant to FINEXUS within seven (7) calendar days from the date of receipt of such statement/certificate.
- 13.10. If the Merchant for any reason whatsoever does not within the aforesaid time period raised dispute on the correctness of the statement/certificate, the Merchant shall then be deemed to have accepted the indebtedness therein as the correct, final and conclusive evidence of the indebtedness and the statement/certificate shall be considered as conclusive against and binding on the Merchant. The Merchant shall thereafter be precluded from making any claims against FINEXUS by alleging that the statement/certificate contains any error, discrepancy or inaccuracy.
- 13.11. Without prejudice to other FINEXUS' rights and remedies, if the Merchant does not settle in full for payment due to FINEXUS under this Agreement by the due date as required under this Agreement, FINEXUS shall be entitled to charge daily interest on such overdue from the due date until the date of

payment in full or until the date of judgment with an interest rate of two per centum (2%) per month. FINEXUS may by written notice given to Merchant to vary the amount and/or rate of any interest or charge payable by the Merchant under this Agreement and such variation shall take effect on the date set forth in the notice.

- 13.12. FINEXUS shall, on an ongoing basis, closely monitor the Dispute, Fraud and Chargeback performance by the Merchant according to the Standards including but not limited to the Dispute Monitoring Programme, Fraud Monitoring Programme and Excessive Chargeback Programme.
- 13.13. If either the Merchant's Disputes or Fraud ratio to the total sales Transaction count is higher than one per centum (1%) on a monthly basis or is deemed to generate an excessive level involving disputes or fraud by the Payment Brands Monitoring Program or FINEXUS, the Merchant shall be subject to termination by FINEXUS in accordance with **Clause 37 (Suspension and Termination)**.

DuitNow Transfer Services

- 13.14. If the Merchant has made an erroneous DuitNow Transfer transaction, the Merchant may request for recovery of the funds within ten (10) Business Days from the date of the erroneous DuitNow Transfer transaction was made and FINEXUS will work with the affected Recipient's bank/e-Money issuer to return the said funds to the Merchant within seven (7) Business Days provided the following conditions are met:
 - a. The funds were wrongly credited into the affected Recipient's account; and
 - b. If funds have been wrongly credited, whether the balances in the affected Recipient's account is sufficient to cover the funds' recovery amount;
 - (i) If the balances are sufficient to cover the recovery amount, the erroneously credited funds may be recoverable; and
 - (ii) If the balances are not sufficient to cover the recovery amount, the erroneously credited funds may not be fully recoverable and the Recipient's bank/e-Money issuer may partially remit the recoverable fund back to the Merchant.
- 13.15. Request for recovery of funds is between eleven (11) Business Days and seven (7) months from the date of the erroneous DuitNow Transfer transaction was made:
 - a. The affected Crediting Participant is fully satisfied that funds were erroneously credited to the affected Recipient;
 - b. Deliver notifications to the affected Recipients in writing regarding the funds recovery requests whereby the erroneously credited funds would be recovered through debiting the affected Recipients' accounts within ten (10) Business Days of the notifications unless the affected Recipient provides reasonable evidences that the affected Recipient is entitled to the funds in question. After fifteen (15) Business Days, if the affected Recipients fail to establish their entitlement to the funds, the affected Recipient's bank/e-Money issuer shall debit the affected Recipients' account and remit the funds back to the Merchant.
- 13.16. Request to recover funds after seven (7) months from the date of the erroneous DuitNow Transfer transaction:
 - a. The affected Recipient's bank/e-Money issuer is fully satisfied that the funds were erroneously credited to the affected Recipient;
 - b. The affected Recipient's bank/e-Money issuer shall obtain from the affected Recipient the decision on whether to grant consent within ten (10) Business Days; and
 - c. Once consent is obtained, the affected Recipient's bank/e-Money issuer shall debit the affected Recipient's account and remit the funds back to the Merchant within one (1) Business Day.
- 13.17. For DuitNow Transfer transaction which were not originated and/or authorised by the Merchant or which are fraudulent, FINEXUS will, upon receiving a report from the Merchant alleging that an unauthorised or fraudulent DuitNow Transfer transaction was made, remit the fund back to the Merchant provided the following conditions are met:

- a. FINEXUS shall conduct an investigation and determine, within fourteen (14) calendar days, if an unauthorised or fraudulent payment did occur; and
- b. If FINEXUS is satisfied that the unauthorised or fraudulent payment instruction did occur and was not caused by the Merchant, FINEXUS shall initiate a reversal process whereby all debit posted to the Merchant's account arising from the unauthorised or fraudulent payment instruction would be reversed.

14. RIGHT TO SET OFF

- 14.1. Any fees, charges or other damages, losses, and expenses which are recoverable by FINEXUS from the Merchant, may be deducted from any money which would otherwise be due to the Merchant under the Agreement either by FINEXUS earmarking or deducting the Merchant's account maintained with FINEXUS. If the money is insufficient for that purpose, the balance remaining unpaid shall be a debt due from the Merchant to FINEXUS and may be recovered from the Merchant by FINEXUS in any court of competent jurisdiction.
- 14.2. Without derogation to **Clause 13.1** above, where the Merchant has incurred any liability to FINEXUS whether under this Agreement or by operation of law and the Merchant has not settled such liability to the satisfaction of FINEXUS, FINEXUS shall be at liberty to recover from the Merchant by way of set off the amount of such liability against any sum which would otherwise be due to the Merchant.
- 14.3. The Merchant irrevocably authorise FINEXUS and any Other Financial Institutions, from time to time without notice and both before and after demand to set off by whatever means the whole or any part of the Merchant's liabilities to FINEXUS or any Other Financial Institution (as appropriate) under this Agreement or any other contract (whether such liabilities are present, future, actual or contingent or potential, liquidated or unliquidated and irrespective of the currency of their denomination) against any Remittance due to the Merchant or against any sums (whether or not related to the Transaction that gave rise to the liability) held by FINEXUS or any Other Financial Institution or owed to the Merchant under this Agreement.
- 14.4. In addition, the Merchant agrees that FINEXUS may, at its sole and absolute discretion and at any time with or without notice immediately combine and consolidate all or any account of the Merchant (whether is current deposit or any other nature whatsoever whether subject to notice or not and in whatever currency) wheresoever situate to set off or transfer any monies standing to the credit of the Merchant's account with FINEXUS for the purpose of chargeback or towards the deduction or discharge of any sum of monies due to the Merchant under this Agreement. Where such combination, consolidation, set off or transfer requires or involves the conversion of one or more currency into another such conversation shall be calculated at FINEXUS' prevailing exchange rate which shall be solely determined by FINEXUS.
- 14.5. FINEXUS will notify the Merchant as soon as reasonably practicable upon exercising its rights, and/or upon FINEXUS or any Other Financial Institution exercising their rights, under this clause.
- 14.6. The Merchant shall not be entitled to set off any liability of FINEXUS or of any Other Financial Institution under this Agreement or any other agreement (whether such liability is present, future, actual, contingent, or potential) against any amounts due from the Merchant to FINEXUS or to any Other Financial Institution.

15. NON-RESPONSIBILITY OF FINEXUS

- 15.1. FINEXUS shall not be responsible to held liable in any way whatsoever to the Merchant for any loss, damage, inconvenience, or embarrassment suffered by the Merchant by reason of any delay in the performance or non-performance of any of the obligations of FINEXUS herein to any causes beyond the reasonable control of FINEXUS including but not limited to causes such as: -
 - a. the suspension or withdrawal by Bank Negara Malaysia, the Payment Brand or any relevant authority of the licence required for carrying on any part of FINEXUS' business, alterations to conditions of such licence, or the imposition of new conditions on such licence;
 - b. Force Majeure events;

- c. failure or malfunction of any POS Payment Acceptance Solution or PIN pad error contributed to the computer systems and applications employed by FINEXUS; or
 - d. other circumstances that are beyond the reasonable control of FINEXUS, its employees, agents or sub-contractors, computer, electronic or electrical system failure, malfunction or breakdown or the interruption, non-supply of electricity or power for any length of time.
- 15.2. Notwithstanding any other provisions contained in the Agreement, FINEXUS shall not be responsible to the Account Holder in any way or manner whatsoever for any goods and/or services supplied by the Merchant, which shall in this instance be the sole responsibility of the Merchant.

16. TAX, COSTS AND EXPENSES

- 16.1. The fees and charges and/or all other monies payable by the Merchant to FINEXUS under this Agreement, including any amount representing reimbursements to be paid by the Merchant to FINEXUS, are exclusive of taxes, fees or other government levies, and shall be paid without any set-off, restriction or condition and without any deduction for or on account of any counterclaim or any deduction or withholding.
- 16.2. The Merchant agrees to bear and pay any applicable tax, duties, fees or charges payable in respect of the execution, delivery, performance, release, discharge, amendment, enforcement or attempted enforcement or otherwise of the Agreement.
- 16.3. The Merchant also agrees to bear and pay any applicable tax, duties, fees or charges imposed on Transaction amount paid or payable to Merchant under the Agreement.
- 16.4. In the event Merchant is required by law to make any deduction or withholding from the fee and charges and/or all other monies payable to FINEXUS under the Agreement in respect of any Tax or otherwise, the sum payable by Merchant in respect of which the deduction or withholding is required shall be increased so that the net fees and charges and/or the net amount of monies received by FINEXUS is equal to that which FINEXUS would otherwise have received had no deduction or withholding been required or made.
- 16.5. The Merchant must pay any fine, penalty or other cost imposed on the Merchant in respect of a failure to pay any tax payable to the government authority.
- 16.6. Failure by the Merchant to observe the provision in this Clause entitles FINEXUS to exercise the right to claim back from the Merchant any payments or extra payments made to the Merchant.

17. STATEMENT OF ACCOUNT

- 17.1. FINEXUS shall, based on the data captured in FINEXUS' computer system as and when the Merchant executes the Settlement Function, whichever the case maybe, during the preceding calendar month, or by the first week of each ensuing calendar month or such other period interval as determined by FINEXUS or as and when payments are made to the Merchant for any Card Transaction and/or Contactless Transaction, send a statement of account setting out the amounts credited or debited and specify the relevant Merchant Discount rate or other sums owing by the Merchants to FINEXUS.
- 17.2. Such statement of account issued by FINEXUS shall deemed or treated as an invoice for the Merchant Discount rate and other sums (if any) owed by the Merchant to FINEXUS.
- 17.3. Notwithstanding the existence of such Sales Slip or Terminal Receipt, such statement of account shall be binding on the Merchant and treated as final and conclusive evidence of the respective Card Transaction performed.

18. RETENTION OF RECORDS

- 18.1. The Merchant shall furnish to FINEXUS forthwith upon request from time to time, the original copy, softcopy and/or photocopies or printouts (as required by FINEXUS) of the Payment Instructions, Sales Slip, statements, bills or invoices, or other records (hereinafter referred as "**records**") of the Merchant pertaining to all Card Transaction.

- 18.2. The Merchant shall retain all such records for a period of at least twenty-four (24) months from the relevant Transaction Date or such other time frame as may be specified by FINEXUS and the Payment Brand.
- 18.3. The Merchant is required to provide the records for FINEXUS' inspection within seven (7) Business Days from the date of FINEXUS' request.
- 18.4. FINEXUS may, upon providing reasonable prior written notice, access the Merchant's premises to inspect records related to Payment Transactions and any matters related to this Agreement. This right extends to verifying whether the Merchant, its officers, employees, or agents are engaged in fraudulent, unlawful, or wrongful activities that could adversely impact FINEXUS' rights under this Agreement.

19. ADVERTISING AND PROMOTION MATERIALS

- 19.1. The Merchant shall obtain FINEXUS' prior written approval before publishing any advertising or promotional material containing the service marks, colours, or design of FINEXUS Card programme or Payment Brands Programme.
- 19.2. The Merchant shall comply and follow the directions or guidelines issued under the Merchant guide in relation to all advertising and promotion activities conduct by the Merchant.
- 19.3. Under no circumstances shall the use of FINEXUS Brand imply that FINEXUS endorses, sponsors, certifies, or in any way guarantees the Goods and/or Services.
- 19.4. The Merchant shall provide reasonable assistance to FINEXUS to participate in any promotional activities organised by any other vendors or suppliers featured on the Merchant's website (including social media).

20. INTELLECTUAL PROPERTY RIGHTS

FINEXUS' consent required

- 20.1. The Merchant shall not use any FINEXUS Brand except as expressly permitted in the Merchant Guide or unless otherwise by FINEXUS in writing.

Restrictions on use

- 20.2. The Merchant shall comply with: -
- a. The Brand Guidelines and Merchant Guide; and
 - b. Any other instructions of FINEXUS relating to the use of FINEXUS Brands.
- 20.3. The Merchant shall not use any of the FINEXUS Brands as part of any corporate, trade or business name.
- 20.4. The Merchant shall not use any trade mark or name which is deceptively similar to the FINEXUS Brands.
- 20.5. The Merchant shall not engage in the following behaviour:
- a. attempt to tamper, hack, reverse-engineer, modify or otherwise corrupt the security or functionality of FINEXUS platform;
 - b. use the Services for money laundering activities;
 - c. use the Services for any unlawful, illegal, and/or immoral activities and/or purposes, including but not limited to violation of the laws of Malaysia and/or Bank Negara Malaysia's rules; and
 - d. manipulate or exploit FINEXUS promotional campaigns/ activities or other FINEXUS Services in any way which FINEXUS may deem as improper, irregular, or dishonest.
 - e. use the Merchant touchpoint to accept payments other than for Customer's authorised transactions;
 - f. not split a single sale into more than one transaction;
 - g. not accept payment via the Services for:
 - i. in exchange of cash;

- ii. sale made by third parties or entities conducting business in establishments or industries other than the Merchant's; or
 - iii. amounts that do not represent bona fide sale or goods or services at the Merchant's business e.g.: purchases by the Merchant's owners (or its family members) or employees for cash flow purposes.
- 20.6. FINEXUS may, if required by FINEXUS, require the Merchant to immediately cease use of any FINEXUS Brand.

Ownership and protection of FINEXUS Brands and Payment Brands

- 20.7. The Merchant acknowledges and agrees that: -
- a. the Marks (including but not limited to logo, logotype, logomark) shall be the property belonging to the relevant Payment Brands and FINEXUS respectively;
 - b. nothing in the Agreement grants any interest or right in the Marks to the Merchant; and
 - c. any goodwill arising out of the use of the Marks by the Merchant vests in the relevant Payment Brands.
- 20.8. The Merchant shall not in any way: -
- a. take any steps to register any rights relating to the Marks or any trade mark or name which is deceptively similar to any of the Marks; or
 - b. do anything, which would in any way, infringe, call in question or lessen the validity of any Marks or the goodwill attaching to any Marks.

20.9. Rectification of Breach

- 20.10. If the Merchant fails to comply with this Clause, FINEXUS, Payment Brands and their representatives may take all necessary actions to rectify the breach, including but not limited to, by entering any premises occupied by the Merchant and removing or modifying signs or other materials that do not meet the requirements of this Clause and seeking injunctive relief from any court of competent jurisdiction. The Merchant shall indemnify FINEXUS against any claim, action, damage, loss, liability, cost, expense, outgoing or payment which FINEXUS or any of their representatives incur, suffer or is liable for in respect of FINEXUS' exercise of its rights under this Clause.

21. FINEXUS' PROPERTY (IF APPLICABLE)

- 21.1. Title to any FINEXUS signs, equipment, fittings, furniture or other property provided for use by the Merchant in connection with the Agreement remains with FINEXUS.
- 21.2. Without prejudice to any other rights of FINEXUS:
- a. the Merchant shall not sell or part with possession of FINEXUS Property;
 - b. the Merchant shall keep FINEXUS Property:
 - (i) free of any encumbrance;
 - (ii) separate from goods and marked so as to clearly indicate that the FINEXUS Property belongs to FINEXUS; and
 - (iii) clean and in good condition.
 - c. the Merchant possess FINEXUS Property as bailee or sub-bailee only, and must account to FINEXUS as fiduciary in relation to the FINEXUS Property.
- 21.3. FINEXUS may require the Merchant to insure FINEXUS Property at the Merchant's expense against loss or damage from the time that FINEXUS Property leaves FINEXUS's premises for delivery to the Merchant until the FINEXUS Property is returned to FINEXUS.
- 21.4. The Merchant shall bear the cost of repairs and replacement of spare parts of FINEXUS Property arising from any negligent damage, unauthorised use, abuse, or misuse of the FINEXUS Property by the Merchant.

Payment Acceptance Solution Supplied to Merchant

- 21.5. Each and every type of Payment Acceptance Solution [such as Electronic Device Capturing (EDC) Terminal supplied to the Merchant or any of the Merchant's offices and/or outlets and/or locations and/or establishments wherever situate by FINEXUS under this Agreement including the intellectual property rights to any software, hardware, system and the architecture, shall remain the property of FINEXUS or such other person as may be specified by FINEXUS at all times.
- 21.6. The Merchant agrees and undertakes to pay such Terminal Fee and shall bear all related costs, expenses, fees (including installation fees) and service tax that may be charged by FINEXUS or such vendor appointed or nominated by FINEXUS for the setting up and activation use of the Payment Acceptance Solution.
- 21.7. In addition to **Clause 21.6**, the Merchant also agrees to be responsible for all such installation fees for any telecommunication facilities and/or any other requirements (if applicable), including but limited to the costs and charges for providing the facilities, electrical power points and telephone lines and any other operating charges exclusively for the installation and operation of the Payment Acceptance Solution.
- 21.8. The Merchant agrees to take all necessary precautions to prevent and shall immediately notify FINEXUS of any theft, loss, negligent damage, unauthorised use, abuse, or misuse of the Payment Acceptance Solution.
- 21.9. The Merchant shall allow FINEXUS' authorised personnel or agents to enter their premises to install, inspect, repair, service or remove the Payment Acceptance Solution at any reasonable time. Upon completion of installation, repair or service of the Payment Acceptance Solution, the Merchant must acknowledge acceptance of the installation, repair, or service in writing. The Merchant hereby agrees to cooperate in all inspection and repairs. FINEXUS shall not be liable for any loss and/or damage or delay caused to the Merchant due to the delay in repairing the Payment Acceptance Solution.
- 21.10. The Merchant shall notify FINEXUS of the Payment Acceptance Solution failure within one (1) Business Day after becoming aware of the Payment Acceptance Solution failure. FINEXUS shall not be liable for any loss or damage suffered by the Merchant as a result of the failure.
- 21.11. The Merchant shall not move or transfer the Payment Acceptance Solution to a different office and/or outlet and/or location and/or establishment other than that stated in Merchant Application Form without first obtaining FINEXUS' prior written consent.
- 21.12. The Payment Acceptance Solution is to be for the exclusive use of the Merchant and the Merchant shall not allow any unauthorised person(s) to have access to the Payment Acceptance Solution or to benefit from the Payment Acceptance Solution at any time.
- 21.13. The Merchant is under a duty to prevent tampering of the Payment Acceptance Solution, which includes interference, manipulation, illegal modification or reverse engineering to the Payment Acceptance Solution and/or its related software programme, or remove, conceal, or alter any markings attached to the Payment Acceptance Solution, which indicate the ownership of the Payment Acceptance Solution. The Merchant agrees that it shall notify FINEXUS and/or its agent immediately and liable for any damage, loss and costs arising as a consequence of such action.
- 21.14. The Merchant must not install any unauthorised, third party software or module that could hinder the normal usage or in any way affect the performance of the Payment Acceptance Solution.
- 21.15. The Merchant must not sell, assign or sub-lease the Payment Acceptance Solution or allow third party to acquire rights in or over the Payment Acceptance Solution by way of encumbrance of otherwise without prior consent from FINEXUS. The Merchant agrees that FINEXUS shall impose an immediate penalty payable to FINEXUS and/or terminate this Agreement as a consequence of such actions.
- 21.16. The Merchant must only operate the Payment Acceptance Solution to process Transaction in accordance with this Agreement and FINEXUS' directives, guidelines and/or instructions as set out or established by FINEXUS from time to time.
- 21.17. FINEXUS shall not be liable for any negligence or wilful conduct on the part of the Merchant in operating the Payment Acceptance Solution or for non-compliance of whatever terms set out in this Agreement. In addition, FINEXUS and/or its authorised vendor, its employees, servants and agents shall have no

obligation or liability of any kind (whether direct or indirect) to or through the Merchant with respect to its access or use of the result obtained from the equipment or any part of them provided by or through FINEXUS and/or its authorised vendor and nothing in this Clause shall exclude, restrict or modify the rights of FINEXUS herein and render the conditions of this Clause void.

- 21.18. FINEXUS and/or its authorised vendor shall not be liable for any incidental or consequential damage arising from the use of the Payment Acceptance Solution. FINEXUS and/or its authorised vendor shall not be liable to the Merchant for any wrong transmission or divulging of information of the Merchant's customers. FINEXUS and/or its authorised vendor shall not be liable to the Merchant for any loss or damage to the Merchant or any person wither directly or indirectly arising out of the performance of this Agreement.
- 21.19. The Merchant hereby agrees to indemnify and keep FINEXUS and/or its authorised vendor indemnified against all losses (including but not limited to the costs of replacement of each equipment lost or stolen), claim and damages arising from a breach of the terms and conditions herein by the Merchant and/or its employees, servants, or agents.
- 21.20. Kayaaku POS Mini Menu Maintenance
- a. Kayaaku POS Mini Menu configuration is accessible and editable by the Merchant via Kayaaku BIZ Portal.
 - b. The tax information such as the tax classification and tax type, will be bind to the items added in the Mini Menu.
 - c. Merchant is required to ensure that all product and service descriptions that are configured by the Merchant does comply with the Malaysian Government's MCMC guidelines, as well as all applicable laws and regulations.
 - d. FINEXUS reserves the right to disable or remove any product or service description that is deemed offensive or non-compliant with the applicable laws, regulations, or official guidelines.
 - e. FINEXUS reserves the right to amend or reset the product photo and the product description to its default setting in the Mini Menu if the product photo provided by the Merchant does not tally with the description of the product or deemed as inappropriate.
 - f. FINEXUS is not responsible if the tax information added in the Mini Menu does not meet with the LHDN's requirement. Merchant is required to take full responsibility if there is any penalty being imposed by the relevant authorities.
 - g. For Static QR payment method, Merchant is allowed to set only one (1) product as a default item in the Mini Menu. The information that is tagged in the default menu item will be utilized for LHDN e-Invoice submission.
- 21.21. Mail Order Telephone Order Maintenance (MOTO)
- a. MOTO is only applicable to merchants who provides Mail/Telephone Order Service in their business operation.
 - b. The Merchant is required to fulfil the Mail/Telephone Order and deliver the Goods and Services to the Account Holders, and subject to the terms and conditions as stated in Paragraph 15.
 - c. The Merchant must honour all valid payment cards when being presented for the purchase of Goods and Services via the Mail/Telephone Order, provided that the transaction made is prior to the Payment Card expiration date and the Merchant has received the Approval Code from FINEXUS for the transaction.
 - d. When a transaction is a MOTO, in accepting and honouring the Card, the Merchant shall ensure that Authorisation Form by the Cardholder is legibly completed following details in order to authorise the transactions:
 - (i) the Cardholder's Card Account number, expiry date and security code;
 - (ii) the transaction amount (including applicable taxes);

- (iii) the Cardholder's name, home/office address and home/office telephone number;
 - (iv) a description of the goods sold or services rendered in detail sufficient to identify the transaction; and
 - (v) the signature of the Cardholder.
- e. The Merchant shall only accept a Card that is within the validity period expressed by the Cardholder and unexpired.
- f. The Merchant must initiate and provide a full refund of the transaction charges to the Account Holder if the Account Holder have rejected any Goods or Services ordered through the Mail/Telephone Order.
- g. If the relevant Cardholder denies liability in respect of any transaction initiated or concluded by way of MOTO, FINEXUS shall be entitled, in addition to the rights contained in the Agreement, to full reimbursement of the amount paid to the Merchant. For the purpose of this clause, it is irrelevant whether the Merchant has observed the Agreement or has obtained an authorisation/approval code from FINEXUS.
- h. In the event POS Terminal/MPOS is provided to the Merchant in connection with a Mail Order Transaction and/or Telephone Order Transaction, the Merchant shall complete the authorisation/approval and charge the Cardholder's Card account via the use of the POS Terminal/MPOS. If no POS Terminal/MPOS is provided to the Merchant in connection with the Mail Order Transaction and/or Telephone Order Transaction, the Merchant shall seek authorisation/approval from FINEXUS and shall write, type, or print legibly the authorisation/approval code evidencing any authorisation/approval so obtained on the Authorisation Form with the designated Merchant Number before completing the transaction.

21.22. Mobile Point of Sales (mPOS), Electronic Device Capturing (EDC) Terminal and Soundbox

- a. In order to use the mPOS, POS terminal or Soundbox, the Merchant must be registered with and by FINEXUS to use the Services and shall comply with the registration and activation procedures prescribed by FINEXUS.
- b. The mPOS terminal will only be available with the smart card reader model assigned by FINEXUS and is to be used for mobile devices and data connections which meet the required specifications and configurations as may be specified by FINEXUS from time to time.
- c. The Merchant agrees to procure and maintain a mobile phone and data connection which meet these requirements at the Merchant's own expenses. The mPOS service also requires a mobile device with location services (GPRS) enabled. Failure to meet the specification will result in limitation to the access, functions, and operations of the mPOS terminal.
- d. The Merchant's account permits the Merchant to accept Payment Instructions on Transactions, and to account for, settle or void those transactions on registered mobile devices with FINEXUS. Any devices modified contrary to the manufacturer's software or hardware guidelines, including but not limited to those with disabled hardware or software controls, sometimes referred to as "jailbroken" are not compatible mobile devices. The use of a modified device to use the Services is expressly prohibited, constitutes a violation of the terms of this Agreement and is a ground for termination of the Merchant's account. FINEXUS does not warrant that the Services will be compatible with the Merchant's mobile device or carrier.
- e. User guidance on the operation of the mPOS, POS terminal and Soundbox will be made available to the Merchant and the Merchant must adhere to the user guidance whenever the Merchant accesses or operates the mPOS, POS terminal and Soundbox.

- f. The mPOS, POS terminal and Soundbox are intended to be available 7 days a week, 24 hours a day with one year warranty of system malfunction and hardware defection, but it does not include damage due to negligence. FINEXUS shall be entitled to any of FINEXUS' sole discretion and without prior notice to temporarily suspend the operation of the mPOS, POS terminal and Soundbox for updating, maintenance, upgrading purposes and/or any other purpose whatsoever that FINEXUS deems fit and necessary, and in such event FINEXUS shall not be liable for any loss, liability or damage which may be incurred as a result. FINEXUS may also in its sole and absolute discretion, without notice and from time to time, add to, alter, modify, suspend, remove, or vary any part of all of the mPOS, POS terminal, Soundbox or any function or feature, without giving any reason and without incurring any liability.
- g. The Merchant agrees that all Payment Instructions transmitted by the Merchant's mobile device, SIM Card, POS terminal, Soundbox or otherwise issued by the Merchant, though in electronic form: -
 - i. are written documents and the Merchant agreed not to dispute or challenge the validity or enforceability of any Payment Instructions on the grounds that it is not a written document and the Merchant hereby waives any such right that the Merchant may have at law;
 - ii. are original documents and the Merchant agreed not to challenge the admissibility of any Payment Instructions on the grounds that it is made in electronic form; and
 - iii. The Merchant acknowledges and agrees that FINEXUS' records and any records of the Merchant's Payment Instructions made or performed, processed or effected through the mPOS or POS terminal by the Merchant or any person purporting to be the Merchant, or any record of transactions relating to the mPOS or POS terminal and any record of any transactions maintained or by any relevant person authorised by FINEXUS relating to or connected with the mPOS, POS terminal or Soundbox, whether stored in electronic or printed form, shall be binding and conclusive on the Merchant for all purposes whatsoever and shall be conclusive evidence of the Payment Instructions and Transaction and the Merchant's liability to FINEXUS. The Merchant hereby acknowledges and agrees that all such records are admissible as evidence and that the Merchant shall not challenge or dispute the admissibility, reliability, accuracy or the authenticity of the contents of such records merely on the basis that such records were incorporated and/or set out in electronic form or were produced by or are the output of a computer system, and hereby waive any of the Merchant's rights (if any) to so object.
- h. Security codes (PIN, User Login ID) will be issued by FINEXUS for access to the mPOS & POS terminal. The Merchant must secure the mPOS & EDC software and security codes installed in the mobile device or terminal with a password which must be kept strictly confidential. In the event the Merchant loses or replaces or parts with the possession or control of the card reader or POS terminal or mobile device or if the Merchant has reason to believe that someone has accessed or has compromised the Merchant's mPOS or POS account(s), the Merchant must immediately notify and instruct FINEXUS and begin the application for a replacement card reader.
- i. Until and unless the Merchant notifies FINEXUS, all Payment Instructions received by FINEXUS which are associated with the Merchant's mPOS or EDC account shall be deemed to have come from the Merchant and FINEXUS shall be entitled to reply on such Payment Instructions, regardless of whether they actually originated from the Merchant or not. The Merchant acknowledges that FINEXUS may not be able to reverse or annul any Transaction executed based on the Payment Instructions received prior to receipt of the Merchant's notice to FINEXUS.
- j. Upon completion of the prescribed registration and activation procedures of mPOS terminal, the Merchant will be permitted to download the mPOS software for installation into the Merchant's mobile device and be granted the non-exclusive, non-transferable right to use the software, but based upon and subject always to the Merchant's agreement to the following conditions:

- i. The Merchant will not use the software for any purpose other than to access the Merchant's own account(s) via the mPOS terminal on the Merchant's own mobile device;
 - ii. The Merchant will not download or install the software into a mobile device which is not owned by the Merchant or which the Merchant does not have exclusive control over the device;
 - iii. The Merchant will not permit or enable any such person to access the software, or leave the mobile device and card reader unattended in such a manner as to enable a person to access the software;
 - iv. The Merchant will not reproduce, alter, modify, remove, or reverse engineer the software or permit another person to do so;
 - v. The Merchant will not permit any person to access the Merchant's security codes or activation codes or otherwise enable him to download a copy of the software; and
 - vi. The software is made available to the Merchant strictly on an 'as is' basis and no warranty is made in relation to the software, including any warranty in relation to its merchantability, fitness for purpose, satisfactory quality or compliance with description and all warranties which may be implied by law or custom are hereby excluded.
- k. Upon completion of the prescribed registration and activation procedures of POS terminal, the Merchant will be permitted to use the software pre-installed in the POS terminal and be granted the non-exclusive, non-transferable right to use the software, but based upon and subject always to the Merchant's agreement to the following conditions:
- i. The Merchant will not use the software for any purpose other than to access the Merchant's own account(s) via the POS terminal;
 - ii. The Merchant will not download or install the software into the POS terminal which is not owned by the Merchant or which the Merchant does not have exclusive control over the device;
 - iii. The Merchant will not permit or enable any such person to access the software, or leave the POS terminal unattended in such a manner as to enable a person to access the software;
 - iv. The Merchant will not reproduce, alter, modify, remove, or reverse engineer the software or permit another person to do so;
 - v. The Merchant will not permit any person to access the Merchant's security codes or activation codes or otherwise enable him to download a copy of the software; and
 - vi. The software is made available to the Merchant strictly on an as is' basis and no warranty is made in relation to the software, including any warranty in relation to its merchantability, fitness for purpose, satisfactory quality or compliance with description and all warranties which may be implied by law or custom are hereby excluded.
- l. FINEXUS has implemented necessary measures designed to secure the Merchant's personal information and that of the Merchant's Account Holder from accidental loss and from unauthorised access, alteration, or disclosure. The Merchant agrees that FINEXUS cannot guarantee that unauthorised third parties will be able to defeat those measures or use the Merchant's personal information for improper purposes. The Merchant acknowledges that its conduct at providing the Merchant's personal information and that of its Account Holder are done as at the Merchant's own risk.

- m. The provision of an optional IoT SIM Card for the Soundbox is subject to the Merchant's acceptance and acknowledgement. However, if the Merchant chooses to use the IoT SIM Card, the following conditions shall apply;
- i. The IoT SIM Card must be inserted into the Soundbox and will be activated for a period of 12 months (1 year) from the date of the SIM Card activation;
 - ii. The Merchant shall be responsible for the activation, renewal, and top-up of the IoT SIM Card which may be provided by FINEXUS, an authorized Merchant Recruitment Agent (MRA), or any other FINEXUS authorized agent or supplier;
 - iii. The subscription for the IoT SIM Card shall automatically deactivate after 12 months (1 year) of use from the date of activation, unless renewed by the Merchant;
 - iv. The Merchant is prohibited from selling or profiting from the IoT SIM Card and Soundbox which are supplied by FINEXUS, to any third party under any circumstances.

21.23. Electronic Device Capture (EDC) Terminal Rental

FINEXUS may supply the Merchant with the rental EDC Terminal if it is requested by the Merchant in writing, an order can be made and applicable rental fees will be imposed to the Merchant on a monthly basis. FINEXUS is only responsible for any liability in respect of EDC Terminal if specified herein, otherwise FINEXUS bears no liability.

a) Orders

- (i) for EDC Terminals must be made in writing by the Merchant. Once issued, the order cannot be cancelled, modified by the Merchant without FINEXUS' consent.
- (ii) FINEXUS reserves the right to decline or cancel any order.

b) Delivery of Orders

- (i) FINEXUS shall deliver the EDC Terminals at the address provided by the Merchant.
- (ii) FINEXUS shall not be liable for delay in delivery caused by unforeseeable technical problems, third party's failure to perform, force majeure events, inaccurate or lack of information provided by the Merchant and/or delay caused by customs formalities. FINEXUS shall deliver reasonable efforts to mitigate such delays.
- (iii) The Merchant is responsible to check and ensure the good condition of the EDC Terminals at the time of delivery. All risks are transferred to the Merchant at the time of delivery, even if this is before installation of a EDC Terminal.
- (iv) In the absence of written concerns submitted by the Merchant within seven (7) calendar days following the delivery, the EDC Terminals and services provided shall be deemed accepted and confirmed by the Merchant.

c) Installation and Use

- (i) The EDC Terminal shall be installed by the Merchant or with the assistance of FINEXUS' authorised agents unless otherwise stipulated in writing by FINEXUS.
- (ii) The Merchant be responsible and at its own expense enter into any subscription contracts needed to use the EDC Terminals.
- (iii) The Merchant shall pay all applicable fee for packaging, transportation, installation and rental fee for the EDC Terminals as specified by FINEXUS from time to time. All payments made to FINEXUS shall be made in Ringgit Malaysia (RM).
- (iv) FINEXUS reserves the right, at its sole discretion, to require an advance payment or deposit prior to accepting or fulfilling an order, including in the case of newly onboarded merchants or where the Merchant has a history of late payments.

- (v) The monthly EDC Terminal rental fees is non-refundable, regardless of any scenarios as mentioned below:
- Merchant is not actively using the EDC Terminal to accept payment
 - Merchant's MID is suspended for any reason
 - The Merchant's MID is terminated due to the reasons attributable to the Merchant
 - Issues or damages to the EDC Terminal that are caused by misuse, negligence, or acts attributable by the Merchant
- (vi) FINEXUS reserve the rights to amend the rental fees from time to time at our discretion with seven (7) days prior notice to the Merchant.
- (vii) The EDC Terminal rental fees will be paid by the Merchant monthly, by auto deduction from the Merchant's daily settlement proceed, or by any other payment method that is approved by FINEXUS.
- (viii) The Merchant agrees to subscribe to the EDC Terminal rental service which is applicable for a period of twelve (12) months upon receiving email confirmation on the merchant application status.
- (ix) The Terminal rental contract term shall be renewed automatically on a yearly basis, unless a notice of non-renewal is given by the Merchant at least thirty (30) days in advance before the expiry date of the EDC Terminal rental service.
- (x) FINEXUS shall have the rights to terminate the EDC Terminal rental prior to before the expiry of the rental term, without compensation, upon written notice to the Merchant in any of the following circumstances:
- the Merchant breaches any provisions of the terms and conditions in this Agreement;
 - the Merchant fails to pay the rental fees when due; and
 - for any reason.
- (xi) All intellectual property rights in to the EDC Terminal, including any accessories and the services rendered are and shall always remain the property of FINEXUS or the relevant third party, and Merchant shall take all necessary and recommended actions to maintain the EDC Terminal in its original state and condition. The Merchant is only granted the right to use the EDC Terminal for their business and not for any other purposes.
- (xii) The EDC Terminal shall be promptly, and at the expense of the Merchant's expense, return to FINEXUS upon request or when the rental service ceases
- (xiii) The Merchant shall pay FINEXUS compensation for any damage to the EDC Terminal due to the negligence on the part of the Merchant or after the EDC Terminal has been delivered to Merchant. FINEXUS may repair and replace the EDC Terminal at the Merchant's expense.
- (xiv) In the event the Merchant loses the EDC Terminal, the Merchant shall pay FINEXUS the cost of the terminal, where such cost shall be decided by FINEXUS from time to time. This does not preclude FINEXUS' right to claim additional damages for the loss sustained.
- (xv) Any deposit paid by the Merchant in respect of an EDC Terminal shall be refundable solely upon the full payment for all outstanding rental fees and other charges owing to FINEXUS, or if Merchant has not breached any part of this merchant terms and conditions.
- (xvi) The Merchant shall take all necessary actions to prevent any entity or person from acquiring the rights of the EDC Terminal and shall indemnify FINEXUS against any damages, liabilities, losses, claims

and suits arising from the Merchant's rental of the EDC Terminal including any acquisition or assertion from any entity or individual on such EDC Terminal.

- (xvii) The Merchant is not permitted to misuse, amend, tamper, or install any software and bring damages to the EDC Terminal, as such unauthorised alterations shall result in immediate termination of this Agreement and the Merchant will be liable for the damages or losses suffered by FINEXUS.
- (xviii) Failure to make a timely payment on the rental fees may result in the suspension or termination of the EDC Terminal at an immediate effect.
- (xix) The use of EDC Terminal is strictly limited to operations within Malaysia, as any use of the device outside of Malaysia, including to accept payments, will be considered as a material breach of this Agreement which in result of immediate cessation and penalties as determined by FINEXUS.
- (xx) The Merchant shall not alter or remove any markings or labels on the EDC Terminal. The Merchant shall not register in its name or cause to be registered, any trademark or sign belonging to FINEXUS or Payment Brands, or any mark that may be confusingly similar to those of FINEXUS, as trademark, company name or trade name.
- (xxi) Merchants shall have the option to purchase the EDC Terminals, subject to FINEXUS's written approval and such terms and conditions as FINEXUS may prescribe. Any such purchase shall be governed by a separate arrangement and subject to the purchase price determined by FINEXUS or any of its representatives or agents.

22. ACCESS TO FINEXUS SYSTEM

FINEXUS may grant access

- 22.1. FINEXUS will, to the extent that is necessary for the Merchant to fulfil the Merchant's obligations under the Agreement, grant access to the applicable FINEXUS system.

Compliance with access guidelines

- 22.2. The Merchant agrees to comply and follow all guidelines issued and all directions issued by FINEXUS from time to time in relation to access and use of FINEXUS system, including interface protocols security procedures.

Required equipment, software, and services

- 22.3. The Merchant shall obtain and maintain all equipment, software, and services necessary to access and use FINEXUS system, as specified by FINEXUS from time to time.
- 22.4. If, for any reason, the Merchant is unable to access or use FINEXUS system, the Merchant shall use other means approved by FINEXUS to perform the relevant business process.

Passwords

- 22.5. If FINEXUS issues login ID(s) and password(s) for the Merchant to use gain access to FINEXUS system, the Merchant shall: -
 - a. ensure that each of the login ID and password is only accessible by the Merchant's authorised Personnel; and
 - b. notify FINEXUS immediately if the Merchant becomes aware that its login ID and/or password have become or may become known by unauthorised person.

FINEXUS may withdraw Merchant's right to access

- 22.6. FINEXUS may, at its absolute discretion, require the Merchant to cease its access to FINEXUS System immediately.

23. PCI DSS/PA DSS COMPLIANCE

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- 23.1. The Merchant shall abide by and cause any of its associated service providers to abide by the PCI DSS and/or PA DSS guidelines issued by PCI DSS council or Payment Brand Operator. The Merchant must ensure and cause any of its associated service providers to ensure that at all times, there is non-storage of Prohibited Data and to be PCI DSS and/or PA DSS compliant at all times.
 - 23.2. If the Merchant intends to appoint or employ any service provider involving in storage and handling of data, the Merchant shall prior to the appointment, must first inform and register the service provider with FINEXUS by furnishing certified reports to demonstrate to FINEXUS' satisfaction that the service provider is compliant with PCI DSS standards and/or PA DSS guidelines.
 - 23.3. The Merchant and any of its associated service providers who have access to Account Holder and Transaction data are mandatory to provide its PCI DSS compliance report to FINEXUS. The Merchant and its associated service providers also require to ensure compliance on the latest and all subsequent updates determined by PCI DSS. FINEXUS hereby reserves the right to suspend or terminate part or all of its services to the Merchant if FINEXUS is of the opinion that the Merchant and/or its associated service providers failed to comply with PCI DSS compliance requirements. Upon satisfaction of the credibility and qualification of such service provider, FINEXUS will register the Merchant's service provider with the respective Payment Brands.
 - 23.4. Any compliance exercise (including but not limited to self-assessment questionnaires, onsite reviews by qualified security assessor, or network scans by approved scanning vendor, and compliance status reports) as and when deemed necessary for the Merchant and any of its associated service providers by the PCI DSS council or Payment Brands will be undertaken accordingly and fully paid by the Merchant.
 - 23.5. The Merchant shall be fully liable and indemnify FINEXUS on demand against any and all legal action, losses, fines, disputes, costs (including legal costs), fees, penalties, damages, and expenses resulting from the non-compliance of this Clause. The Merchant shall fully bear all financial and legal charges thereto.
 - 23.6. The Merchant agrees that it is the Merchant's obligation to ensure compliance of this Clause by any of its associated service providers and the Merchant shall be responsible for any breach thereof by its associated service providers and undertake to indemnify FINEXUS for any legal action, financial and legal charges resulting thereto.
 - 23.7. The Merchant may only allow to store the following information:
 - a. Account Holder's name; and
 - b. Card expiry date
 - 23.8. If the Merchant decides to store the Card number, it is the Merchant's obligation to ensure security and protection by using encryption or other methodologies that precludes unauthorised individuals from deciphering the Card number.
 - 23.9. Under no circumstances may the Merchant and/or any of its associated service providers store the Prohibited Data as defined under **Clause 1**.
 - 23.10. The Merchant shall ensure that its' business, and any service provider who participates in the processing, transmission, or storage of card payment details on behalf of the Merchant's business, fully complies with the PCI DSS and complete the validation requirements compatible with their level. Upon request, the Merchant must disclose details of any service providers who facilitate transactions on the Merchant's behalf to FINEXUS.
 - 23.11. Upon suspected or known compromise on the Merchant system, or that any service provider who has access to, processes, transmits, or stores card payment details, the Merchant must immediately: -
 - a. identify the cause of the event and immediately notify FINEXUS;
 - b. isolate or unplug any affected systems from all networks involved in the Services;
 - c. cease installing or making any changes to software related to the Services;
 - d. tighten security controls pertaining to all networks relating to the Services;
 - e. implement and follow the data compromise response procedures;

- f. maintain a rigorous audit trail of all actions taken to isolate and rectify the event; and
 - g. commence calculating the gross potential exposure that may arise from such event and notify FINEXUS in writing of the results of such calculations as soon as possible, but within a twenty-four (24) hour period.
- 23.12. The Merchant must ensure that any software or hardware that the Merchant purchases, creates or otherwise utilises for the purpose of selling goods and/or services online or via Internet does not retain its original password before employing it for the acceptance of Cards. The Merchant must also ensure that all passwords are changed on a regular basis.
- 23.13. The Merchant will indemnify FINEXUS on demand against all losses, expenses, and damages that FINEXUS may suffer (including but not limited to):
 - a. as a result of the Merchant's failure to observe the Merchant's obligations under this Agreement including any procedures as may be notified from time to time;
 - b. as a result of the Payment Brands or other authorities imposing fees, fines, or penalties on FINEXUS as a direct or indirect result of the Merchant's failure to observe its obligations under the Agreement including and procedures as may be notified from time to time;
 - c. arising out of any dispute between the Merchant and an Account Holder;
 - d. as a result of any error, negligence or fraud relating to a transaction by the Merchant, the Merchant's servant, agents, employees, or contractors;
 - e. arising out of any damage to or loss of the terminals FINEXUS supply due to the Merchant's or the Merchant's employees' neglect or misuse;
 - f. arising out of any dispute between the Merchant and the terminal supplier;
 - g. as a result of any fees, fines, or penalties that FINEXUS is required to pay pursuant to the rules, by-laws or regulations of any Payment Brands that FINEXUS is a member of or participates in, as a direct or indirect result of the merchant's failure to observe any of the procedures, requirements or obligations required to be complied with by the Merchant under any systems used in providing the Services.
- 23.14. If the Merchant has suffered a data compromise, the Merchant will have to give FINEXUS, its agents and Personnel full access to the Merchant's systems and databases to facilitate a forensic analysis to ascertain:
 - a. what Card data has been compromised;
 - b. what are the weaknesses in the system that permitted the unauthorised access to the database; and
 - c. whether any Card data was created, deleted, altered, copies or manipulated in any manner.
- 23.15. If the Merchant uses/engages the services of an external service provider, the Merchant will have to ensure that FINEXUS, its agents, Personnel and Payment Brands are given full access to all necessary outsourced components such as databases, web hosting systems, etc.
- 23.16. All costs of the forensic analysis will be passed onto the Merchant. The Merchant and any of its associated service providers shall provide full and impartial cooperation with FINEXUS and/or Payment Brands in the forensic analysis and investigation at all time.
- 23.17. In order to continue processing Transactions, the Merchant will have to undergo a full PCI DSS validation process. All costs involved in the validation exercise shall be borne by the Merchant.
PCI DSS validation program
- 23.18. The Merchant is required to complete the PCI DSS validation program within one (1) month of being granted the Merchant facility or within one (1) month of FINEXUS' notification to the Merchant to comply with the requirement (whichever take place earlier will apply).

- 23.19. Non completion of the PCI DSS validation program will place the Merchant facility in the non-compliant status. This non-compliant status will attract non-compliance fines from the Payment Brands which will be passed on the Merchant. The Merchant shall be solely responsible to pay all of the amount imposed.
- 23.20. In the event that the Merchant's organisation suffers a Card data compromise incident and the Merchant has not complied with PCI DSS validation programme, any penalties levied by the card association will be solely borne by the Merchant.
- 23.21. All costs in relation to completion of the PCI DSS validation programme will be fully borne by the Merchant.

24. COMPLIANCE

- 24.1. The Merchant shall fully comply and cause any of its associated service providers to fully comply with any compliance to the laws, circular, directions, directives, guidelines, order, judgment, by-laws, rules and regulations required by the Payment Brands (including but not limited to the Payment Brands), Malaysian governing authorities (including but not limited to Bank Negara Malaysia and Malaysian Communications and Multimedia Commission) as well as global governing bodies (including but not limited to Payment Card Industry Security Standard Council).
- 24.2. The Merchant shall also fully comply and cause any of its associated service providers to fully comply with other applicable provision of laws including but not limited to Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001, Personal Data Protection Act 2010 and its regulations, by-law, codes of practice, practice directions or requirements including but not limited to the processing and management of the personal data of the Account Holder that may be issued from time to time by the relevant governmental or Regulatory Authority.
- 24.3. The Merchant shall comply with all FINEXUS internal policies, instructions, codes of conduct, operational procedures, guidelines, and other requirements as may be issued, updated or amended from time to time at FINEXUS' sole discretion.
- 24.4. Any compliance exercise deemed necessary by the payment card association (including but not limited to the Payment Brands), Malaysian governing authorities (including but not limited to Bank Negara Malaysia and Malaysian Communications and Multimedia Commission) as well as global governing bodies (including but not limited to payment Card Industry Security Standard Council) shall be undertaken accordingly and fully paid and borne by the Merchant.
- 24.5. The Merchant shall be fully liable for and to indemnify FINEXUS on demand against any and all legal action, losses, fines, disputes, fees, penalties, damages and expenses resulting from the non-compliance of **Clause 24.1, 24.2 and 24.3** above. The Merchant shall fully bear all financial and legal charges thereto.
- 24.6. The Merchant further agrees that it is the Merchant's obligation to ensure compliance of this Clause by any of its associated service providers and the Merchant shall be responsible for any breach thereof by its associated service providers and undertake to indemnify FINEXUS for any legal action, financial and legal charges resulting thereto.

25. CONSENT TO FINEXUS AND PAYMENT BRANDS

- 25.1. The Merchant hereby authorize FINEXUS and Payment Brands to conduct any form of research into its background including not limited to business, company and credit background, banking, and financial history, for the purpose of confirmation and verification of the validity of information provided by the Merchant under the Agreement.
- 25.2. The Merchant agrees to give consent to FINEXUS in disclosing and sharing details of a suspected and/or confirmed data compromise to law enforcement agencies, Payment Brand and other parties at FINEXUS' discretion. Such consent is irrevocable, enduring and shall survive upon termination of the Agreement.
- 25.3. FINEXUS is obliged to report any data compromise events to Payment Brands, law enforcement agencies and/or other government authorities/regulators. The Merchant acknowledges and understand that this obligation for FINEXUS and grants irrevocable and enduring consent for FINEXUS to release details of the compromised to the aforementioned bodies.

- 25.4. The Merchant shall grant FINEXUS enduring right and consent to contact all service providers that enabled the Merchant to acquire any Transactions. For avoidance of doubt, this Clause is limited to the purpose of determining the extent of a data compromise, evaluate the remedies to that data compromise and assessing the Merchant's compliance level with PCI DSS.
- 25.5. The Merchant shall be responsible in ensuring that its service providers (if any) are to be fully cooperate with FINEXUS at all time.
- 25.6. Notwithstanding anything contained in this Clause, the Merchant also authorise and give necessary consent to FINEXUS and Payment Brands to conduct any form of research into its background (including but not limited to business, company and credit background, banking, and financial history) from any valid source including government authorities for the purpose screening process and verification to the validity of information provided by the Merchant under this Agreement. All information accessed and obtained by FINEXUS based on the consent given will strictly limited for the intended purpose.

26. REPRESENTATIONS AND WARRANTIES

- 26.1. The Merchant represents and warrants, and it is an essential term of the Agreement, that:
- any information provided by the Merchant to FINEXUS is complete, updated, true and accurate and not misleading in any material respect;
 - the individual signing the Merchant Application Form is duly authorised on the Merchant's behalf to sign and bind the Merchant to the provisions of the Agreement;
 - the Merchant is entitled to enter into the Agreement and perform the Merchant's obligations under the Agreement;
 - the Agreement constitutes the Merchant's legal, valid, and binding obligation enforceable in accordance with its terms by appropriate legal remedy;
 - the Merchant is responsible and will maintain all licences, authorisations, consents, approvals and permits required by applicable Laws in order to perform the Merchant's obligations under the Agreement.

No Express Representations or Warranties by FINEXUS

- 26.2. The Merchant represents and warrants that no representations or warranties were made or given to the Merchant by FINEXUS or any other person in relation to the Agreement.

Implied Representations and Warranties

- 26.3. In relation to the services supplied by FINEXUS to the Merchant under the Agreement, no condition or warranty is implied in the Agreement other than a condition or warranty implied by statute which may not be excluded by private agreement.

Warranties Separate

- 26.4. Each of the representations and warranties contemplated by the Agreement is to be construed independently of the others and is not limited by reference to any other representation or warranty.

27. CONFIDENTIALITY

- 27.1. Except to the extent necessary to comply with any statutory requirements relating to the disclosure of Confidential Information as defined under **Clause 1** and subject to **Clause 27.4** and **Clause 27.5** below, neither Party shall make public, disclose or use any Confidential information of the other Party except in accordance with the Agreement, unless the other Party gives its prior written consent.
- 27.2. Each Party may disclose the Confidential Information of the other Party to its Personnel on a need-to-know basis where the disclosure is essential to carrying out their duties for the purpose of the Agreement.
- 27.3. Each Party shall ensure the Confidential Information of the other Party is solely use in connection with or for the purposes of fulfilling its obligations under the Agreement.
- 27.4. Despite anything to the contrary in the Agreement, FINEXUS may disclose: -

- (a) information about the Merchant's history and relevant information in the following circumstances:
 - i. to FINEXUS's contractors and to any Payment Scheme for any purpose related to the operation of those Payment Schemes;
 - ii. card fraud detection agencies (including information about termination or suspension of the Agreement and reason(s) for such termination or suspension); and
 - iii. where the Law requires or permits FINEXUS to do so; and
- (b) the Agreement to its investor or potential investor, financier or potential financier and their advisors in relation to:
 - i. an investment or potential investment in FINEXUS or its related corporation as defined in the Companies Act 2016;
 - ii. funding or potential funding for FINEXUS or its related corporation; or
 - iii. an initial public offering of FINEXUS's shares or the shares of its related corporation.

27.5. Notwithstanding anything contained under this Clause, the Merchant **SHALL NOT**: -

- a. sell, purchase, provide, disclose or exchange information regarding any particulars of the Account Holders, the Card account number(s) of the Account Holder and the Transactions whether in the form of Sales Slip, Terminal Receipt, and/or Authorisation Forms (or carbon copies of the same), mailing lists, tapes or other media obtained by reason of transactions with the Account Holders and/or FINEXUS.
- b. publish or disclose any information concerning this Agreement and the business and any affairs related of FINEXUS which was obtained as a result of the discussion leading up to or entering into the Agreement to any other person without the PRIOR written consent of FINEXUS.
- c. copy, request, or use any information regarding the Account Holder, the Card and the Transactions for any purpose that the Merchant knows or is reasonable expected to know to be fraudulent or for any purpose other than for the legitimate purpose as authorised by the Account Holder.

27.6. The Merchant shall: -

- a. be responsible to keep the confidentiality and security of the PIN and shall keep strictly confidential any information it obtains under the Agreement regardless of whether it is related to FINEXUS, the Account Holder or any other party.
- b. be accountable and indemnify FINEXUS for any damages caused in relation to the use or release of information contrary to the provisions herein.
- c. keep all system, media and material containing particulars of the Account Holders, Account numbers, Card numbers of the Account Holders and Transaction, whether physical or electronic, in a secure manner so as to prevent access by or disclosure to any unauthorised persons.

27.7. The Merchant is also prohibited from storing any data containing Account Holders' information for any other use. The Merchant shall immediately notify FINEXUS if the Account Holders information and/or Transaction data are accessed or retrieved by any authorised or unauthorised persons.

27.8. The Merchant undertakes to take all steps as shall from time to time be necessary to ensure compliance with the provisions contained under this Clause by its employees, agents and sub-contractors and shall give full co-operation to FINEXUS in order to procure its employees and agents to co-operate on any fraud investigations. The Merchant's obligations under this Clause shall survive the termination of this Agreement.

27.9. The effect contained under this Clause shall survive the termination or expiry of the Agreement.

28. DATA PRIVACY AND PERSONAL DATA PROTECTION

28.1. The Merchant shall (and shall also ensure the Merchant's Personnel) duly comply with: -

- a. any applicable privacy or data protection laws including PDPA; and

- b. any privacy procedures or policies which form part of FINEXUS' guidelines, directions, or policies.
- 28.2. The Merchant shall, upon FINEXUS' request, provide a separate written undertaking (in such form as may be required by BNM) to FINEXUS for the purpose of complying with the secrecy provision under Section 133 of FSA.
- 28.3. The Merchant: -
- a. shall take all reasonable steps to ensure that any Personal Data received is protected against misuse and loss and from unauthorised access, modification, or disclosure at its best abilities;
 - b. shall consent to the collection, use, and disclosure of the Merchant's Personal Data by FINEXUS and Payment Brands as required for the purposes of the Payment Brands' Services.
 - c. shall deploy technical and organisational measures to ensure compliance with all applicable privacy and data protection laws and immediately inform FINEXUS upon discovery any of the measures are breached or been compromised;
 - d. shall allow FINEXUS to conduct an audit of the technical and organisational measures if requested by FINEXUS or Payment Brands;
 - e. shall not and ensure the Merchant's Personnel must not, directly, or indirectly use the Personal Data except to the extent necessary to perform its obligations under the Agreement;
 - f. shall not modify, exchange, sell the Personal Data directly or indirectly to any person or third party under whatsoever circumstances;
 - g. shall not disclose the Personal Data whether directly or indirectly to any person without the prior written consent of FINEXUS;
 - h. shall ensure that the Merchant's internal operating systems only permit or allowed proper and duly authorised Personnel to have access on the Personal Data;
 - i. shall not do anything or omit to do anything that will cause FINEXUS to be in breach of any laws; and
 - j. shall not transfer Personal Data outside of Malaysia without FINEXUS' prior written consent.
- 28.4. On termination or expiry of the Agreement, the Merchant shall promptly return to FINEXUS or, if requested by FINEXUS, destroy all copies of the Personal Data, in which case any right to use, copy or disclose that Personal Data ceases.
- 28.5. By providing or furnishing Personal Data of the Merchant's Personnel, sub-contractors or any individuals, the Merchant hereby confirms and warrants that the Merchant has provided notices and obtained all necessary consents for FINEXUS to collect, record, hold, store, use and disclose that Personal Data in connection with the Agreement. The Merchant shall indemnify FINEXUS for or against any loss or damage which may arise, directly, indirectly, as a result of the Merchant's breach of this Clause.
- 28.6. The provisions under this Clause shall survive and continue in effect after the expiration or termination of the Agreement.

29. ANTI-MONEY LAUNDERING

- 29.1. The Merchant's conducts and activities shall comply and adhere to Anti-Money Laundering Act and Counter Financing Terrorism Act (AMLA) 2001 at all time.
- 29.2. The Merchant shall:
- a. ensure that all monies involved in any Transactions and in the Agreement shall come from a lawful source of activity and not derived from unlawful activities as defined under AMLA;
 - b. provide notice to FINEXUS if any Transaction was made on behalf of the Account Holder;
 - c. upon receipt of FINEXUS's request, provide documents substantiating the Merchant's verification of the identity of the Account Holder and such other information as FINEXUS may require including but not limited to certified true copies of any authorisation to act or documents that may be required for the purpose of verifying the information provided by the Merchant. Copies of any

information or document provided by the Merchant pursuant to this **Clause 30.1** may be retained by FINEXUS;

- d. declare and certify that the necessary “Know-Your-Customer” checks have been conducted including but not limited to the identity, existence, address, and nature of the business of the beneficiary and that the monies, funds or collateral are from a lawful source of activity and not unlawful activity as defined under AMLA;
- e. disclose and furnish to FINEXUS any information required or deemed necessary and to the satisfaction of FINEXUS within the period specified by FINEXUS in its request, whether or not for purposes of complying with the Merchant Guide and the Standards; and
- f. not use the payment made via Transactions for money laundering or violate any laws relating to money laundering as defined under AMLA.

30. MERCHANT'S OBLIGATIONS

30.1. The Merchant must perform and comply with the following in accordance with the terms of the Agreement: -

30.2. The Merchant shall promptly provide FINEXUS with:

- a. the Merchant's current address, phone number, and email address of each of the Merchant's outlet;
- b. all Doing Business As names/ Trading Name used by the Merchant;
- c. complete description of the Goods and/or Services;
- d. any change in the Merchant's name, style, constitution, or composition whether by retirement, expulsion, death or admission of any director, partner or parties, amalgamation, reconstruction or otherwise; or
- e. any other information as may be required by FINEXUS from time to time;
- f. at all times observe the Merchant Guide, other guidelines, and procedures on the acceptance of the Card or Wallet as provided by FINEXUS and those from the Payment Brands at all time;
- g. accept all Payment Cards or Wallet under the Services as stipulated on the Letter of Acceptance as a payment method for the Account Holder's purchase of the Goods;
- (h) not require any Account Holder to pay any part of the Merchant Discount whether through an increase in price or otherwise or to pay any other charge or to require any security from or otherwise impose any condition on an Account Holder in connection with any Transactions;
- (i) submit to FINEXUS records of all Transactions performed by the Merchant;
- (j) observe and perform all obligations under the Merchant's contract with the Account Holders including but not limit to the nature, quality and delivery of Goods sold and/or Services provided to the Account Holders;
- h. provide the full description of the Goods available to the Account Holder including the cost of the Goods and the delivery or shipping charges in RM and the equivalent in such other foreign currency or currencies acceptable by FINEXUS and description of any guarantees and warranties granted by the supplier or manufacturer for such Goods; and
- i. ensure that the Goods and/or Services comply with all Laws applicable to the Merchant, FINEXUS, the Payment Schemes, the Account Holder, the Payment Cards, the Merchant Guide and the Standards.

30.3. Merchant must not install any unauthorised third party software application into the device supplied without the written consent from FINEXUS.

30.4. Merchant are obliged to assist FINEXUS in a forensic investigation involving the merchant and/or its employees until the investigations are over.

- 30.5. Merchant are responsible for its employees' actions and any possible damages, losses, accidents, etc. that may arise, the Merchant will bear the cost and FINEXUS will not indemnify the Merchant.

DuitNow QR Service

- 30.6. The Merchant shall refer to the **Appendix I** at the end of these Terms for the DuitNow QR Merchant's Terms and Conditions ("DuitNow QR Terms") which the Merchant must abide to.
- 30.7. The DuitNow QR Terms is strictly for DuitNow QR Service only and will not replace any of the clauses in these Terms. In the event that there is a conflict between a clause in these Terms and a clause in the DuitNow QR Terms, the clause in the DuitNow QR Terms shall prevail **only** in the context of DuitNow QR Service.

DuitNow Transfer Services

- 30.8. Merchant who wishes to send funds via DuitNow Transfer must ensure that the Recipient's DuitNow ID inserted is accurate before initiating the payment in Payment Acceptance Solution. FINEXUS shall not be liable or responsible for any mistake or typo that the Merchant made during and after the DuitNow Transfer transaction,
- 30.9. FINEXUS will notify the Merchant on the status of each successful, failed or rejected DuitNow Transfer transaction via a notice as stipulated in **Clause 35 (Notices)**.
- 30.10. Merchant acknowledged and agreed that FINEXUS shall have no duty to and shall not be required to take any steps to verify or seek any other confirmation from any party as to whether such registered Recipient is the intended Recipient, and FINEXUS shall not be liable for transferring the funds to such registered Recipient even if such person is not the intended Recipient.
- 30.11. Pursuant to **Clause 30.8** above, the Merchant agree that once a DuitNow Transfer transaction has been confirmed, it will be deemed irrevocable and the Merchant will not be able to cancel, stop or perform any changes to the DuitNow transaction.
- 30.12. For multiple "Name Enquiry Requests", Merchant is advised not to submit multiple "Name Enquiry Requests" without a confirmed DuitNow Transfer transaction. FINEXUS shall not display the results of the "Name Enquiry Requests" upon five (5) consecutive "Name Enquiry Requests" that are not followed with a confirmed DuitNow Transfer transaction.
- 30.13. Without prejudice to any of FINEXUS' rights and remedies, FINEXUS reserve the right to terminate or suspend FINEXUS' access to and use of the DuitNow Transfer service where in FINEXUS' sole discretion that inappropriate, fraudulent or suspicious use is being made of the DuitNow Transfer services, such as where multiple "Name Enquiry Requests: are submitted without a confirmed DuitNow Transfer transaction. The Merchant is advised to contact FINEXUS if the Merchant encounters any issues relating to this foregoing.
- 30.14. The Merchant have rights in relation to the investigation and recovery of, erroneous payments, unauthorised and/or fraudulent DuitNow Transfer transactions made from the Merchant's account.

31. FINEXUS' OBLIGATIONS

- 31.1. FINEXUS shall comply and perform the following terms under the Agreement: -
- a. Any information obtained or Transaction data received from the Merchant shall be stored in a secure environment and only be use for the intended purpose only;
 - b. All personal and confidential information related to the Merchant and received under the Agreement will be destroy and dispose accordingly upon termination of the Agreement. FINEXUS will only retain one (1) copy of the information for archive purpose which should only be produce upon the request of BNM, Payment Brands or other authorities;
 - c. Update the Merchant with any latest information issued by BNM and Payment Brands in relation to Merchant's obligations or activities from time to time;
 - d. Perform fraud monitoring against all Transaction; and

- e. Promptly inform the Merchant if there are any changes that could adversely affect the Merchant in performing its obligations under the Agreement.

32. SOLE SATISFACTION

- 32.1. Any obligation to be performed by the Merchant under this Agreement shall be carried out to the sole and absolute satisfaction of FINEXUS. FINEXUS shall have the exclusive right to determine, in its sole discretion, whether such obligation has been satisfactorily fulfilled.

33. DISPUTES BETWEEN ACCOUNT HOLDER AND MERCHANT

- 33.1. The Merchant agrees that FINEXUS shall not in any way be responsible to the Account Holders in any way or manner whatsoever for any goods sold and/or services supplied by the Merchant.
- 33.2. The Merchant acknowledges that it shall be the obligation of the Merchant to resolve any disputes between the Merchant (or any of the Merchant's offices and/or outlets and/or locations and/or establishments wherever situate) and the Account Holder amicably and promptly.
- 33.3. The Merchant must respond to each Account Holder inquiry no later than by the end of the next Business Day following the day of the Account Holder inquiry is delivered to the Merchant and the Merchant may conduct subsequent communication with the Account Holder by telephone, mail, facsimile, in-person call or other means. The Merchant acknowledges FINEXUS has absolute discretion to either terminate or suspend the Agreement if the Merchant fails to respond to any Account Holder inquiries within the given time frame under the Agreement.
- 33.4. Where any Transaction is disputed for any reason whatsoever, the loss shall be solely borne by the Merchant (unless proven that it was FINEXUS has committed any wrongdoing or omission that cause or lead to the disputed Transaction) and FINEXUS shall be relieved from all liability to pay Merchant for such disputed Card Transaction or Contactless Payment Transaction. The Merchant shall become immediately liable to refund FINEXUS the full amount of any payment received by it or on its behalf relating to such disputed Transactions from FINEXUS. Further, where FINEXUS has paid the Merchant the amount of a disputed Card Transaction or Contactless Payment Transactions, FINEXUS may immediately set off such amount paid against any amount payable to the Merchant upon FINEXUS becoming aware of this dispute.

DuitNow Service Disputes

- 33.5. FINEXUS shall not be held responsible and liable for any DuitNow dispute between the Account Holder and the Merchant. The settlement of dispute shall be solely between the Account Holder and the Merchant.
- 33.6. If FINEXUS is fully satisfied that an incident of misdirected, duplicated, or incorrect DuitNow QR/Transfer Payment have occurred with evidences provided by Account Holder and/or Merchant, FINEXUS shall debit the disputed amount within seven (7) Business Days. The Merchant has to bear all the costs and fees incurred due to the debiting of the disputed amount into the Merchant's account.

34. DISPUTES BETWEEN FINEXUS AND MERCHANT

- 34.1. FINEXUS and the Merchant agree in good faith, attempt to settle any disputes or conflicts arising from this Agreement in an amicable manner.
- 34.2. In the event the dispute is not resolved by the Parties within fourteen (14) Business Days from the date of dispute raised upon, either party may service a notice of arbitration on the other party.
- 34.3. The Parties agree that the seat of arbitration shall take place in Kuala Lumpur, Malaysia with the appointment of one arbitrator by the Director of Asian International Arbitration Centre (AIAC).
- 34.4. The arbitration shall conduct in English language and in accordance with Arbitration Act 2005 and the Rules of Arbitration of the AIAC.
- 34.5. The arbitration proceeding may be dispensed with if the parties agree that the dispute to be referred to a court of competent jurisdiction in Malaysia for resolving the dispute.

- 34.6. For the avoidance of doubt, this Clause shall not preclude the party from making an application to any Court of competent jurisdiction for any claim for injunctive relief and specific performance.

35. NOTICES

- 35.1. Any notice or other correspondence and communication including, but not limited to, a demand, request, approval, authority, consent, acceptance, or directions, to or by a party under the Agreement shall be in legible writing and in English language.
- 35.2. All legal notices, including but not limited to notices of dispute or letters of demand, shall be sent by the Merchant to legal@finexusgroup.com. FINEXUS may serve notices on the Merchant by email to the address last notified in writing by the Merchant, or by delivery (by hand, courier, or post) to the Merchant's registered or
- 35.3. All the notice and correspondence shall be regarded as being given by sender and deemed to have been received by the addressee: -
- if delivered by hand, at the time of delivery;
 - if by ordinary post or prepaid registered mail, five (5) Business Days after posting;
 - if by facsimile transmission, on the day of transmission if a transmission report states that it was sent in full and without error, but if the delivery receipt is on a day which is not a Business Day or is after 4.00pm (addressee's time), it is regarded as received at 9.00 am on the following Business Day. A facsimile is regarded as legible unless the addressee telephones the sender within 2 hours after transmission is received and informs the sender that it is not legible;
 - if by email, on the date the email is sent provided the fact that the sender does not receive any indication of failure in delivery, it is to be regarded delivered on the same date if it was sent out before 4.00pm on a Business Day, otherwise, the email is to be regarded as received at 9.00am on the following Business Day, and such e-mail shall be followed-up with a copy of the notice via registered mail or received an email acknowledge receipt from the addressee; or
 - at the election of FINEXUS, the Merchant by signing the Merchant Application Form and enter into the Agreement have mutually agreed that all court documents to be served on the Merchant within and outside the jurisdiction of the Court of Malaysia may be effectively served on the Merchant by registered post.
- 35.4. If the notice or correspondence is sent to FINEXUS, it shall be sent to the following address or such other address or facsimile number as FINEXUS may specify in writing from time to time:-

Attention:	Head of Business Operations
Address:	FINEXUS Campus, #1 Jalan Pangkor, Titiwangsa Sentral, 53000, Kuala Lumpur Copy to: Head of Compliance FINEXUS Campus, #1 Jalan Pangkor, Titiwangsa Sentral, 53000, Kuala Lumpur
Telephone Number:	+603 4051 9921
Facsimile Number:	+603 4052 9922
E-mail Address:	merchant@finexuscards.com

- 35.5. If notice or correspondence sent to the Merchant, it shall be marked to the attention of the person nominated in the Merchant Application form unless sent via FINEXUS system.
- 35.6. All notices and correspondence of whatever nature to FINEXUS by the Merchant shall be signed by the Merchant or only by those nominated by the Merchant (the 'Nominated Signatories') for the purposes of the Agreement. Such Nominated Signatories shall upon execution of this Agreement be notified in writing to FINEXUS and upon the Nominated Signatories or any of them ceasing for any reason to be authorised by the Merchant to be Nominated Signatories, FINEXUS shall be notified in writing forthwith of the same. Any notice despatched by the Merchant to FINEXUS shall not be deemed to have been received unless it is actually received and acknowledged by FINEXUS.
- 35.7. Any failure on the part of the Merchant in notifying any change of address resulting in the delay or failure of delivery of any notice, correspondence or court documents shall not prejudice FINEXUS' rights and entitlement under this Agreement.

36. FORCE MAJEURE

- 36.1. Notwithstanding anything to the contrary contained herein, except with respect to payment obligations under the Agreement, neither Party shall be liable nor deemed defaulted or breached the Agreement for any delays or failures in its performance resulting from Force Majeure events.
- 36.2. Whenever a Party is excused from performing its obligations, the time for performance of its obligation shall be extended for a period equal to the time lost by reason of the delay.
- 36.3. A Party who is claiming or seeking relief from this Clause shall, as soon as reasonably practicable after the occurrence of Force Majeure Event to: -
- a. provide written notice to the other Party of the nature and extent of any such Force Majeure condition; and
 - b. use commercially reasonable efforts to remove any such cases and resume performance as soon as reasonably practicable.
- 36.4. If the Merchant is prevented by the Force Majeure Event from performing its obligations under the Agreement for thirty (30) days or such other period as the Parties agree in writing, FINEXUS may in its sole discretion immediately terminate the Agreement by giving fourteen (14) days' notice in writing of termination to the Merchant.
- 36.5. If the Force Majeure Event has continued uninterrupted for two (2) months and the Merchant's performance of obligations are adversely affected by such event, the Merchant may terminate the Agreement by giving fourteen (14) days' notice in writing of termination to FINEXUS.

37. SUSPENSION AND TERMINATION

Suspension Notice

- 37.1. Unless the Agreement is terminated earlier by FINEXUS pursuant to the provision herein, FINEXUS may, by way of a written notice to the Merchant ("Suspension Notice"), at its sole and absolute discretion and with or without reason or at the request of Payment Brand, at any time suspend: -
- a. partly or all the operations of the Agreement; or
 - b. the Merchant's MID where all card activities will be suspended for any period of time specified in the notice.
- 37.2. Upon notification or the Suspension Notice, the Merchant shall immediately cease to accept the payment channels specified in the Suspension Notice for any Transaction until further notice or instruction given by FINEXUS.
- 37.3. Should the Suspension Notice be not revoked by FINEXUS within fourteen (14) Business Days from the date of Suspension Notice, a termination of the Agreement shall follow upon the expiration of fourteen (14) Business Days without further notice from FINEXUS.

- 37.4. FINEXUS shall not be bound nor required to give the Merchant any reason for the service of the aforesaid Suspension Notice nor shall FINEXUS be liable to indemnify the Merchant for any losses, costs incurred or damage which may be suffered by the Merchant arising from the service of the Suspension Notice.

Suspension or Termination

- 37.5. Without prejudice to the rights contained in the Agreement, FINEXUS may, in its absolute discretion and without affecting the accrued rights and obligations of the Parties as at the date of suspension or termination (as the case may be), suspend or terminate the Agreement immediately by giving notice to the Merchant on the occurrence of any of the following events:
- a. in the event that suspension of the Agreement is necessitated by any directive or regulation from any Payment Brands or BNM or any authority having jurisdiction over the matters under the Agreement or due to any adverse findings by such authorities;
 - b. the Merchant breach any material respect any of its obligations under the Agreement;
 - c. the Merchant has been in breach of the Agreement (other than by a breach in any material respect of any of the Merchant's obligations under the Agreement) and, in FINEXUS's reasonable opinion, the breach:
 - d. cannot be rectified; or
 - e. is capable of being rectified and shall remain unrectified by the Merchant for a period of thirty (30) days after being notified to do so;
 - f. a judgment in any amount is obtained against the Merchant, or any distress, attachment, execution, or other process of a Government Agency is issued against, levied or enforced on any of the Merchant's asset;
 - g. the Merchant suspend payment of the Merchant's debts generally, or is or becomes unable to pay its debts when they are due, or is or becomes unable to pay the Merchant's debts;
 - h. the Merchant enters into, or resolves to enter into, any arrangement, composition, or compromise with, or assignment for the benefit of, the Merchant's creditors or any class of them;
 - i. the Merchant cease, or threatens to cease, to carry on business;
 - j. a receiver, receiver and manager, administrator, trustee, or similar official is appointed over any of the Merchant's assets or undertakings, an application or order is made for the Merchant's winding up or dissolution, or a resolution is passed or any steps are taken to pass a resolution for the Merchant's winding up or dissolution, except for the purpose of an amalgamation or reconstruction which has FINEXUS's prior consent;
 - k. the Merchant becomes a Subsidiary of another corporation other than with the prior written approval of FINEXUS;
 - l. the Merchant is convicted of a criminal offence;
 - m. the Merchant is fraudulent in connection with the Agreement;
 - n. there have been material misrepresentations by or concerning the Merchant or any of the information provided by the Merchant in the Merchant Application Form or otherwise to FINEXUS is or becomes incorrect, or false or misleading in a material respect;
 - o. the Merchant's details and other information disclosed in the Merchant Application Form materially changes, including, but not limited to, a change to the nature and type of business conducted by the Merchant;
 - p. the Merchant, in the reasonable opinion of FINEXUS, brought FINEXUS into disrepute;
 - q. the Merchant's monthly Disputes or Fraud ratio to the total sales Transaction count is higher than one per centum (1%) or is deemed generate an excessive level involving disputes or fraud by the Payment Brands Monitoring Program or FINEXUS;

- r. the Merchant or the Merchant's Personnel have acted fraudulently or have otherwise misused the Service offered by FINEXUS;
 - s. the Merchant is known or suspected to be involved in any fraudulent or any unlawful activity whether or not related to the Merchant's business;
 - t. upon receipt of a written request from the Payment Brand that any of the Merchant's activity is deemed to be in violation of the Standards; or
 - u. if the Merchant fails to remit the applicable fees within the timelines prescribed by FINEXUS.
- 37.6. FINEXUS is not liable to provide any reason whatsoever to the Merchant in respect of such suspension.
- 37.7. Upon receipt of notice of termination under this Clause, the Merchant must immediately submit all claims for payment for processing by FINEXUS.
- 37.8. Following termination, Merchant remains responsible for resolving all pending refund requests and disputes related to pre-termination transactions. FINEXUS will process such claims in accordance with the agreed dispute resolution procedures. Merchant must provide timely cooperation, including submitting required documentation or funds to settle validated refunds or disputes.
- 37.9. The Merchant may terminate this Agreement or any Service with immediate effect by giving written notice to FINEXUS if FINEXUS:
- 36.9.1. commits a material breach of this Agreement which, if capable of remedy, is not remedied to within thirty (30) days of service of a notice requiring such remedy;
 - 36.9.2. is insolvent, ceases to carry on business, or is the subject of any petition, order, resolution, or any step taken in connection with its winding-up.
- 37.10. FINEXUS shall not be liable for any loss or damage suffered by the Merchant due to any termination or suspension under this Clause. Any termination under this Clause shall not affect any rights and obligations incurred, or arising out of circumstance which existed, prior to termination taking effect.
- 37.11. Where FINEXUS has suspicions, or determines that the Merchant is engaged in, or has attempted to engage in, money laundering, terrorist financing, bribery, corruption, tax evasion or economic or trade sanctions, or any acts or attempts to circumvent or violate any applicable laws relating to these matters, FINEXUS, may, at its sole discretion, immediately terminate this Agreement in whole or in part.

38. TERMINATION TRANSITION PLAN

- 38.1. When the Agreement expires, or if the Agreement is terminated by either Party: -
- a. the Merchant shall immediately cease use of the Confidential Information and deliver to FINEXUS all Confidential Information in the Merchant's possession or control;
 - b. the Merchant shall immediately cease use of the FINEXUS Brands or the Marks or hold the Merchant out as connected in any way with FINEXUS or the Payment Brands, as the case may be;
 - c. the Merchant shall co-operate with FINEXUS to ensure an orderly wind down of operations; and
 - d. all items supplied to the Merchant by FINEXUS for use in connection with the Payment Schemes Programme, including but not limited to FINEXUS's Property, terminals, Sales Slips, Refund Form, QR Code standee or sticker and advertising or promotional material shall be returned to FINEXUS.

39. AUDIT

General Audit Rights

- 39.1. FINEXUS and the Payment Brands shall have the right and the Merchant hereby agrees to give FINEXUS, the Payment Brands and their respective Personnel (including FINEXUS's internal and external auditors and advisors) full and unhindered access at all reasonable times and upon prior reasonable notice to:

- a. the Merchant's Personnel for the purposes of obtaining information in relation to the Agreement; and
 - b. the Merchant's premises, systems, database, accounts, documents, and records relating to the Merchant's operating practices and procedures to the extent relevant to the Agreement including in the supply of the Goods and Services by the Merchant; and
- 39.2. In cases of audits initiated by any Government Agencies or entities having authority over FINEXUS (e.g. BNM and the Payment Brands), the Merchant must give FINEXUS and such Government Agencies and their respective Personnel (including internal and external auditors and advisors) full, unhindered and timely access to relevant accounts, documents, system logs and records in order to allow FINEXUS to meet the deadlines set by such authorities or entities.

Merchant's Assistance

- 39.3. For the purposes of complying with the terms of the Agreement, the Merchant must promptly and efficiently give FINEXUS and the Payment Scheme and their respective Personnel (including FINEXUS's internal and external auditors and advisors), any assistance which are reasonably required and shall also assist FINEXUS to meet FINEXUS's internal and external audit and compliance requirements which may be more stringent than the regulatory requirements. The internal and external auditors shall have the right to copy and retain copies of any relevant records solely for the purposes of conducting the audit.
- 39.4. FINEXUS may disclose the results of any audit and investigation (including any remedial action) undertaken under this Clause.

Cost

- 39.5. The Merchant shall be responsible for all costs incurred in relation to any audit and investigation (including any remedial action) undertaken under this Clause.
- 39.6. If the audit establishes any deficiencies, the Merchant shall:
- a. promptly take any remedial action as required by FINEXUS or the Payment Brands to rectify any particular problems or weaknesses arising out of the findings of the audit; and
 - b. provide to FINEXUS or the Payment Brands all documentation related to resolution of such deficiencies and the corrective actions implemented to prevent reoccurrence of the deficiencies.

Notification to FINEXUS

- 39.7. If any of the Payment Brands requests for an audit to be conducted against the Merchant under this Clause, the Merchant shall promptly notify FINEXUS in writing at the moment of it receiving such notification and provide FINEXUS with copies of any audit reports or findings including those relating to any remedial action undertaken by the Merchant which are furnished to the Payment Brands.

40. VARIATION / AMENDMENT

- 40.1. FINEXUS may, at any time in its sole and absolute discretion, add, delete, modify, vary or change the terms of this agreement, its policies and/or guidelines at any time in writing in such manner as it may deem fit of such changes and the effective date of such changes and the Merchant shall be bound by such changes from such date.
- 40.2. Finexus may from time to time in its sole discretion withdraw or decommission a payment channel, product, software or a Service that the Merchant is using and will, if practicable, give the Merchant reasonable prior notice of this.
- 40.3. Any hyperlinks referred to in this Agreement are deemed incorporated herein by reference and form an integral part of this Agreement. In the event of any inconsistency or conflict between the terms of this Agreement and the content accessible via such hyperlinks, the terms of this Agreement shall prevail.

41. SEVERANCE

- 41.1. Each of the provisions of the Agreement is severable and distinct from one another and if any one or more of the provisions of the Agreement or any part thereof is or becomes invalid, illegal or unenforceable, the validity, legality, or enforceability of the remaining provision of the Agreement shall not thereby be affected or impaired in any way.

42. AMALGAMATION AND RECONSTRUCTION

- 42.1. The liabilities and/or obligations created by this Agreement shall continue to be valid and binding on the personal representatives, heirs, successors-in-title of the Merchant and the successors-in-title and assigns of FINEXUS.
- 42.2. The Merchant undertakes to immediately notify FINEXUS by notice in writing within fourteen (14) Business Days of any changes in the ownership, name, style, constitution or composition of the Merchant whether by retirement, expulsion, death or admission of any partner or parties, amalgamation, reconstruction or otherwise and the Merchant hereby agrees that this Agreement shall ensure for all intents and purposes as if the resulting form, company or concern had been named in this Agreement.

43. ASSIGNMENT AND NOVATION

- 43.1. The merchant shall not transfer, assign, mortgage, charge or pledge this Agreement or its rights there under or any part thereof without first obtaining the consent of FINEXUS in writing and complying with such conditions as may be imposed by FINEXUS. Any assignment or transfer of such rights by the Merchant without the prior written approval of FINEXUS shall be null and of no effect.
- 43.2. FINEXUS shall be at liberty at any time, without the concurrence of the Merchant, to assign or transfer all or any of its rights entitlements and benefits of this Agreement to such person or corporation at its own costs and expense and upon such assignment or transfer, the assignee or transferee shall assume and be entitled to all the rights entitlements and benefits comprised in this Agreement as if the assignee or transferee had been a party to this Agreement in place of FINEXUS.

44. NO SUB-CONTRACT

- 44.1. The Merchant is prohibited/not allowed to sub-contract or delegate any conducts of its activities or any other obligations under the Agreement to any person, except as expressly permitted under the Agreement or with FINEXUS' prior written consent.

45. NO PARTNERSHIP OR AGENCY

- 45.1. Nothing in the Agreement shall create or be deemed to create a partnership or a relationship of employer and employee between FINEXUS and the Merchant.

46. CONFLICT IN INTERPRETATION

- 46.1. In the event of any conflict in the interpretation of this Agreement and any translation of it in any language, the English version of this Agreement shall prevail.

47. PRECEDENCE

- 47.1. Unless expressly stated otherwise, the order of precedence between the documents comprising, or referred to in, the Agreement is as follows:
- a. these Merchant General Terms and Conditions;
 - b. any Schedules to these Merchant General Terms and Conditions;
 - c. the Merchant Guide;
 - d. Letter of Acceptance; and

e. Merchant Application Form.

47.2. If there is any inconsistency between the terms and conditions or provisions of any of the documents referred to in this Clause, the terms and conditions set out in the document listed in **Clause 47.1** shall prevail.

48. TIME

48.1. Time whenever mentioned shall be of the essence of the Agreement.

49. GOVERNING LAW AND JURISDICTION

49.1. This Agreement shall be governed by and construed in accordance with the laws of Malaysia no matter where the transaction takes place and the Merchant hereby irrevocably submits to the jurisdiction of the Malaysian courts and waives any objection to proceeding instituted in any other courts by FINEXUS on the ground of venue or that such proceedings have been in an inconvenient forum.

50. WAIVER

50.1. Waiver of any right under the Agreement must be in writing and executed by the Party granting the waiver.

50.2. A failure to exercise or delay in exercising, or partial exercise of a right under the Agreement does not result in or deemed as a waiver of that right.

51. RIGHTS TO MAKE CHANGES

51.1. The Merchant acknowledges and agree that the form and nature of FINEXUS's Services under the Agreement may change and/or evolve from time to time. As part of this progressive process, FINEXUS and/or Payment Brands may (permanently or temporarily) discontinue, change, restrict, vary, suspend, terminate, or modify any of the Services (either partly or the whole process) at any time to the Merchant. Any changes to FINEXUS' Services provided will be duly notify to the Merchant with a thirty (30) days' notice in writing prior to such changes taking place. For clarity, under the circumstances where such changes involve costs are optional and/or not mandatory changes from the Payment Brands, BNM or under the applicable laws, these changes will be effective upon consent in writing by the Merchant.

52. SUCCESSORS IN TITLE

52.1. The Agreement shall be binding upon the heirs, personal representatives, permitted assigns and successors-in-title of the Merchant and on the successors-in-title and assigns of FINEXUS.

53. CUMULATIVE RIGHTS

53.1. FINEXUS' rights arising under the Agreement are cumulative and do not exclude any of FINEXUS' other rights exist under the applicable laws.

54. FURTHER ASSURANCES

54.1. Each Party must do all things and execute all further documents necessary to give full effect to the Agreement.

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Appendix I**DuitNow QR Merchant's Terms and Conditions****1. Introduction**

- 1.1. FINEXUS is the Crediting Participant and the Merchant listed in the Offer Letter is a registered Merchant under the DuitNow QR Services.
- 1.2. In consideration of the fees paid to the Crediting Participant, the Crediting participant agrees to facilitate the participation of the Merchant in DuitNow QR Services in accordance with these Terms & Conditions ("Terms").
- 1.3. By registering for DuitNow QR Services, the Merchant agrees to observe all DuitNow QR operating procedures issued by the DuitNow QR & Operator which is applicable to the Merchant, as reflected in these Terms including any future revisions communicated by the Crediting Participant to the Merchant.

2. Obligation of Merchant

- 2.1. If the Merchant wishes to receive funds via DuitNow QR, the Merchant:
 - 2.1.1. Shall not impose any fees for POS Payments made by Payers using DuitNow QR Service; and
 - 2.1.2. Shall not deduct any RPP fees from the Cash Out withdrawal and ensure the Payer is paid in full amount.
- 2.2. The Merchant shall accept Payments or Cash Out that draw funds from e-Money account offered by issuers of e-Money and all types of deposit accounts offered by banks, except for fixed deposit accounts. This shall include, but is not limited to, all types of conventional and/or Islamic investment account Islamic deposit accounts, current accounts, virtual internet accounts and/or line of credit accounts tied to payment cards.
- 2.3. The Merchant must not make any warranty or representation in respect of goods or services supplied which may bind the Crediting Participant, DuitNow QR Owner & Operator, Debiting Participant or any other Participants in the service.
- 2.4. The Merchant must establish and maintain a fair policy for correction of errors and facilitate recovery of funds for erroneous or mistaken payments and/or unauthorised or fraudulent payments.
- 2.5. The Merchant shall consent and allow the Crediting Participant to disclose its information pertaining to the payment processes as the DuitNow QR Owner & Operator may reasonably require for DuitNow QR Services.
- 2.6. The Merchant who has been granted a non-transferable license to use the DuitNow QR Brand shall not license or assign the said right to use to any other third party. The Merchant shall comply with the DuitNow QR Brand Guidelines at all times.
- 2.7. For the purpose of **Clause 2.6**, the Merchant will be liable for any claims, damages and expenses arising out of or caused to arise from misuse or unauthorised usage of the DuitNow QR Brand. In the event of such breach, the Merchant sub-licensed rights of using the DuitNow QR Brand shall automatically be revoked and ceases immediately, whereupon this Agreement shall be terminated henceforth, without affecting accrued rights of parties. Upon termination, **Clause 2.8** shall apply accordingly.
- 2.8. This **Clause 2** shall survive termination of these Terms. Termination does not affect either party's rights accrued, and obligations incurred before termination.

3. Obligations of Crediting Participant

- 3.1. The Crediting Participant shall immediately credit and make funds available in the Merchant's account, except for situations where the Merchant has specifically agreed for delayed or batched posting.
- 3.2. Any refunds by Crediting Participants must be made together with transaction fees to the Merchant if fees were incurred due to Payer's disputes that are not caused by the Merchant. However, if the Merchant opts to partially refund overpayments to Payers, the Merchant shall bear the transaction fees for executing such refund.

- 3.3. Crediting participant shall implement reasonable measures to detect, mitigate, resolve and prevent actual and suspected fraudulent or unauthorised acts.

4. Recovery of Funds

- 4.1. The Merchant shall:
- 4.1.1. Assist the Crediting Participant in any investigation of erroneous or mistaken payments as stated in **Clause 5**;
 - 4.1.2. Assist the Crediting Participant in any investigation on unauthorised or fraudulent payments as stated **Clause 6**; and
 - 4.1.3. Effect refund(s) to the Payers, Debiting Participants, as the case may be, if it is found that the Merchant is responsible for such erroneous, mistaken, unauthorised or fraudulent payment, as the case may be.
- 4.2. In the event erroneous or mistaken payment is caused by the Merchant, after verification and confirmation from the Merchant with respect to such erroneous or mistaken payment, the Crediting Participant shall immediately reverse out all credits erroneously posted to the Merchant's account regardless of whether funds have been recovered from other affected parties.

5. Erroneous or Mistaken DuitNow QR Transaction

- 5.1. The Crediting Participant shall inform the Merchant once the Crediting Participant receives a request to recover funds that is wrongly credited to the Merchant due to an erroneous or mistaken payment. The Merchant must facilitate the recovery of funds process stated in **Clause 5.2**.
- 5.2. Upon receiving a recovery of funds request for erroneous or mistaken payment, the Crediting Participant has the right to debit the Merchant's account to recover funds within five (5) Business Days provided the following conditions are met:
- 5.2.1. If the recovery of funds request is received within ten (10) Business Days from date of the erroneous/mistaken payment:
 - 5.2.1.1. The Crediting Participant is fully satisfied that funds were erroneously or mistakenly credited to the Merchant's account;
 - 5.2.1.2. The Crediting Participant has notified the Merchant regarding the proposed debiting of Merchant's account and the reason for the debiting; and
 - 5.2.1.3. There is sufficient balance in the Merchant's account to cover the recovery amount.
 - 5.2.2. If the recovery of funds request is received between eleven (11) Business Days and seven (7) months from date of erroneous/mistaken payment;
 - 5.2.2.1. The Crediting Participant is fully satisfied that funds were erroneously or mistakenly credited to the Merchant's account;
 - 5.2.2.2. Participant has provided written notification to the Merchant where the erroneous/mistaken payment will be recovered through debiting the Merchant's accounts within ten (10) Business Days of the notifications unless the Merchant provides reasonable evidence to substantiate ownership of the funds in question; and
 - 5.2.2.3. There is sufficient balance in the Merchant's account.
 - 5.2.3. If recovery of funds request is received after seven (7) months from the date of erroneous or mistaken payment:
 - 5.2.3.1. The Crediting Participant must seek the Merchant's prior written consent to debit the Merchant's account to recover funds, and the Merchant must give its consent to debit its account within ten (10) Business Days of recovering the request to debit from the Credit Participant.

- 5.3. When the Merchant receives a request for consent from Crediting Participant as described in **Clause 5.2.3.1**, Merchant shall not unreasonably withhold consent to debit its account when there is a legitimate recovery of funds request.

6. Unauthorised or Fraudulent DuitNow QR Transaction

- 6.1. The Crediting Participant shall inform the Merchant once the Crediting Participant receives a request to recover funds that was credited to the Merchant due to an unauthorised or fraudulent payment. The Merchant must facilitate the recovery of funds process stated in **Clause 6.2**.

- 6.2. If the Merchant receives unauthorised or fraudulent payment, the Merchant shall:

6.2.1. Immediately take all practicable measures to prevent or block further misuse, unauthorised or fraudulently transferred funds for the benefit of the Beneficiary of Fraud;

6.2.2. Furnish to the Crediting Participant with information, including but not limited to the name, address, contact information and/or national identity card number/passport number to conclusively identify the Beneficiary of Fraud within seven (7) Business Days of detecting the unauthorised or fraudulent payment;

6.2.3. Take all practicable measures to the extent permitted by law to recover funds from the unintended recipient of funds including but not limited to reversing out credits, drawing on deposits or other financial guarantees that the Beneficiary of Fraud placed/places with the Merchant, stopping delivery of goods, suspending services that the Beneficiary of Fraud has paid for, repossessing goods delivered to the Beneficiary of Fraud and/or taking legal action against the Beneficiary of Fraud; and

6.2.4. Immediately provide such information required in **Clause 6.6.2** to the Crediting Participant to facilitate the Debiting Participant's investigation.

- 6.3. In the event that a Crediting Participant receives a payment request from a Merchant which the Crediting Participant believes to be an unauthorised or fraudulent payment, the Crediting Participant shall do the following (upon becoming aware of the suspected unauthorised payment/fraud):

- 6.3.1. The Crediting Participant shall conduct investigation to determine:

- a. Whether the Merchant is implicated in the unauthorised payment/fraud; or
- b. Whether there is sufficient grounds to conclude that the Merchant is involved, or has benefitted, directly or indirectly from the unauthorised payment/fraud; and

The Crediting Participant shall prevent or block withdrawal or and further use of the remaining funds in the Merchant's account with the Crediting Participant until there is satisfactory resolution of Unrecoverable Loss.

- 6.3.2. The Merchant shall facilitate and cooperate with the Crediting Participant to complete the investigation

- 6.4. In the event the Merchant is responsible for unauthorised or fraudulent payment, **Clause 10** shall apply accordingly.

7. Dispute Resolution

- 7.1. Merchant shall, in good faith, attempt to settle all disputes or conflicts with Crediting Participant arising in connection with the DuitNow QR Service amicably and by mutual agreement.

- 7.2. However, Merchant shall have the right to lodge a complaint with the DuitNow QR Owner & Operator if there are allegations of Crediting Participant's non-compliance to the DuitNow QR rules as reflected in these Terms.

- 7.3. The DuitNow QR Owner & Operator shall review of such complaints and allegations in accordance with **Clause 7.4**.

- 7.4. Merchant shall have the right to refer their disputes to the DuitNow QR Owner & Operator if there is an allegation of Participant's non-compliance to the DuitNow QR rules. The DuitNow QR Owner & Operator will review such complaints and allegations, but such review will be confined to:
- 7.4.1. Determination whether there has been non-compliance;
 - 7.4.2. Stipulating remedies for Participant to correct or address the non-compliance; and
 - 7.4.3. Determination if penalties are applicable for the non-compliance.
- 7.5. All decisions rendered by the DuitNow QR Owner & Operator in response to complaints from Merchant shall be prima facie binding on the Crediting Participant.

8. Indemnity

- 8.1. Subject to the other party's compliance with **Clause 8.2**, each party ("Indemnifying Party") agrees to indemnify and hold the other party and its employees and agents harmless against any and all losses, expenses, claims, suits, demands, actions, and proceedings including all reasonable legal and other related fees or charges ("Liability") which the other party may suffer or incur or for which the other party may become liable as a result of:
- 8.1.1. 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;
 - 8.1.2. Any claim by a Payer, Crediting Participant, Debiting Participant, DuitNow QR Owner & Operator or any other person for any breach by the Indemnifying Party of any applicable laws;
 - 8.1.3. The failure of the Indemnifying Party to observe any of its obligations under this agreement; or
 - 8.1.4. Any use of the DuitNow QR Brand by the Indemnifying Party other than as permitted by this agreement.
 - 8.1.5. 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 **Clause 8.1.1** to **Clause 8.1.4**.
- 8.2. In the event a claim is made against a party in respect of which it is entitled to be indemnified pursuant to **Clause 8.1**, that party must:
- 8.2.1. Give notice of any such claim to the other party;
 - 8.2.2. Consult with the other party in relation to any such claim; and
 - 8.2.3. Not settle any claim without obtaining prior written consent of the other, such consent not to be reasonably withheld.
- 8.3. The Crediting Participant is not liable to the Merchant for any loss or damage suffered by the Merchant as result of:
- 8.3.1. A missing or erroneous payment; and
 - 8.3.2. The delay or disruption caused by any system failure beyond the Crediting Participant's reasonable control.

9. Suspension

- 9.1. The DuitNow QR Owner & Operator or the Crediting Participants, as the case may be, reserve the right to suspend the Merchant's access to the DuitNow QR service under the following circumstances, which includes, but not limited to:
- 9.1.1. The Merchant breached this agreement, applicable rules, guidelines, regulations, circular or laws related to DuitNow QR that was communicated to the Merchant by the Crediting Participant;
 - 9.1.2. The Merchant has inadequate operational controls or insufficient risk management processes, resulting in potential threats to the stability, integrity, safety and efficiency of DuitNow QR and/or RPP; or

- 9.1.3. The Merchant is suspected on reasonable grounds that it has committed or will commit fraudulent act in connection with the DuitNow QR.
- 9.2. Upon suspension of the Merchant:
 - 9.2.1. The services provided to the Merchant under the DuitNow QR Services will be suspended immediately;
 - 9.2.2. The Merchant must cease all promotional and advertising that is related or can be perceived to be related to DuitNow QR;
 - 9.2.3. The Merchant shall remove all DuitNow QR Brand from the Merchant's marketing collaterals, channels and website; and
 - 9.2.4. The Merchant must take all reasonable steps to comply with any directions of the Crediting Participants to minimise the impact on Payers of the suspension or termination.

10. Termination

- 10.1. The DuitNow QR Owner & Operator or the Crediting Participant, as the case may be, reserve the right to terminate the services provided under this agreement or DuitNow QR Service under the following circumstances, which includes, but not limited to:
 - 10.1.1. This agreement between the Merchant and the Crediting Participant is terminated or expired;
 - 10.1.2. The Merchant breached this agreement, applicable rules, guidelines, regulations, circulars or laws related to DuitNow QR that was communicated to the Merchant by the Crediting Participant;
 - 10.1.3. The Merchant fails to remedy or take adequate steps to remedy its default under this agreement to the satisfaction of the Crediting Participant or the DuitNow QR Owner & Operator, as the case maybe, within the timeframe specified by the Crediting Participant;
 - 10.1.4. The Merchant has inadequate operational controls or insufficient risk management processes resulting in potential threats to the stability, integrity, safety and efficiency of the DuitNow QR and/or RPP;
 - 10.1.5. Court order(s) affecting the Merchant or the Crediting Participant(s) membership and/or legal status;
 - 10.1.6. Directive(s) issued by regulatory or government authority affecting the Merchant or the Crediting Participant(s) membership and/or legal status;
 - 10.1.7. The Merchant's insolvency;
 - 10.1.8. The Crediting Participant's membership in DuitNow QR, RPP or RENTAS is terminated or suspended and the Merchant has not appointed a replacement Crediting Participant; or
 - 10.1.9. Such other detrimental circumstances or reasons that PayNet considers necessary to suspend or terminate such Merchant's access to DuitNow QR.
- 10.2. Upon termination of this agreement, the participation of Merchant in DuitNow QR is automatically terminated and the Merchant will no longer have access to DuitNow QR and the services provided under DuitNow QR.

11. Crediting to Merchant

- 11.1. Crediting Participants are required to credit Merchant's bank account with funds from incoming Payment Instructions and make the incoming funds available for the Merchant's unencumbered use immediately except for situations where the Merchant has specifically agreed for delayed or batched posting.
- 11.2. Crediting Participants must make payment in full to the Merchant and shall not deduct any fees from the payment proceeds due to a Merchant, except for situations where the Merchant has specifically agreed on writing that the fees can be deducted from Payments Instructions.

12. Voluntary Exit from DuitNow QR

- 12.1. Merchant has the option to terminate their access to the DuitNow QR by giving prior written notification to the Crediting Participant.

13. Provisions of Reconciliation Information

- 13.1. Crediting Participant shall make available to the Merchant the following minimum information, for the purpose of facilitating the Merchant's reconciliation processes and accounting for payment of receipts and fees:
- 13.1.1. Reference No. or Business Message Identifier;
 - 13.1.2. Payer's name;
 - 13.1.3. Recipient Reference;
 - 13.1.4. Other Payment Details, where applicable;
 - 13.1.5. Transaction amount;
 - 13.1.6. Transaction date and time;
 - 13.1.7. Debiting Participant's name;
 - 13.1.8. Account type;
 - 13.1.9. Gross total transaction value;
 - 13.1.10. Total transaction volume; and
 - 13.1.11. Total fees/ commissions charged.
- 13.2. Crediting Participant shall deliver to the Merchant, the information described in **Clause 13.1**, at the minimum in the following manner:
- 13.2.1. Mobile application;
 - 13.2.2. Internet banking;
 - 13.2.3. Data files or electronic files;
 - 13.2.4. Statements and/or e-statements; or
 - 13.2.5. Reports, either electronic or in hardcopies.

14. Liability for Unrecoverable Loss

- 14.1. For erroneous, mistaken, unauthorised and/or fraudulent payment that cannot be fully or partially recovered, the amount that cannot be recovered will be deemed as Unrecoverable Loss and the party causing or who could have reasonably prevented the Unrecoverable Loss will be liable to bear that loss.
- 14.2. If, after completing its investigations, the Crediting Participant has reasonable grounds to believe that the Merchant could have reasonably prevented the Unrecoverable Loss, the Crediting Participant shall notify the Merchant and shall have the right to freeze funds in the Merchant's account until there is satisfactory resolution of Unrecoverable Loss. The amount frozen shall be no more than the amount of the Unrecoverable Loss.
- 14.3. The Merchant agrees to take all measures to recover the Unrecoverable Loss if the Unrecoverable Loss is due to its fault or negligence. Notwithstanding the aforesaid, the Crediting Participant shall not be prevented from taking legal action against the Merchant to make good the Unrecoverable Loss to the extent permitted by law.
- 14.4. The Crediting Participant shall fully refund DuitNow QR fees incurred for erroneous, mistaken, unauthorised and/or fraudulent payment, if the error was not due to the Merchant except in situation where the Merchant decides to partially refund an overpayment. If the Merchant opts to partially refund overpayments to the customer, the Merchant shall bear the transactions fees for executing the refund.

15. Representation and Warranty

- 15.1. The Merchant acknowledges and agrees that the obligation of confidentiality extends but limited to those specified in **Clause 17**, the disclosure of fees and charges contained in this Agreement and any technology or know-how related to the service or the performance of this agreement.
- 15.2. The Merchant agrees to comply with PDPA of which it is bound and shall not do any act that will cause the Crediting Participant, Debiting Participant and the DuitNow QR Owner & Operator to breach any personal data protection laws.

16. Disclaimer

- 16.1. The DuitNow QR Owner & Operator and Crediting Participant 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 Merchants arising out of or caused by the Crediting Participant in connection with the operations and services provided by the Crediting Participant in the service. The Merchant agrees that the Merchant will communicate and resolve any dispute in relation to the aforesaid matters with the Crediting Participant.

17. Confidentiality

- 17.1. The Merchant shall treat any information it receives or possess as result of this agreement, as confidential and will not use such information other than for the purposes which it was given.
- 17.2. Clause 17.1 shall not apply to information which:
 - 17.2.1. Is or has at the time of use or disclosure become public knowledge without any breach of this agreement by the parties;
 - 17.2.2. 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;
 - 17.2.3. Is lawfully obtained by a party from third parties without any obligation by the party to maintain the information proprietary or confidential;
 - 17.2.4. 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;
 - 17.2.5. Is independently developed by a party without reference to or use of the other party's Confidential Information; or
 - 17.2.6. 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.

18. Variation and Waiver

- 18.1. The Crediting Participant 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.
- 18.2. Any provisions herein cannot be waived except in writing signed by the party granting the waiver.

19. Severability

- 19.1. 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.

20. Force Majeure

- 20.1. The Crediting Participant shall not be liable to the Merchant for any loss or damage (including direct or consequential), for failure to observe or perform its obligations under this agreement for reasons which could

not be reasonable diligence be controlled or prevented by the Crediting Participant, including but not limited to, strikes, acts of God, acts of nature, acts of government not limited to movement control order fire, flood, storm, riots, power shortages or power failure, power disruption by war, sabotage or inability to obtain sufficient labour, fuel or utilities.

Appendix II**DuitNow Online Banking / Wallets Merchant's Terms****1. DuitNow Online Banking/Wallets Service**

- 1.1. FINEXUS is a Participant of the DuitNow Online Banking/Wallets service (hereinafter referred to as "the Crediting Participant") and Merchant listed in the Offer Letter is a registered Merchant under the DuitNow Online Banking/Wallets service.
- 1.2. In consideration of the fees paid to the Crediting Participant, the Crediting Participant agrees to facilitate the participation of the Merchant in the DuitNow Online Banking/Wallets service in accordance with this Agreement.
- 1.3. The Merchant hereby agrees to observe all the Overlay Service Procedures for DuitNow Online Banking/Wallets issued by the DuitNow Online Banking/Wallets Owner and Operator which is applicable to the Merchant as reflected in this Agreement including any future revisions which will be communicated by the Crediting Participant to the Merchant.

2. Payment Type

- 2.1. The Merchant shall accept payments that draw funds from CASA, e-money and/or Line of Credit Accounts.

3. Obligations of Merchant

- 3.1. The Merchant shall, at all times comply with the Consumer Protection Act 1999, as the Merchant is prohibited to use misleading and deceptive conduct, false misrepresentation and unfair claims in selling their products or services.
- 3.2. The Merchant shall not be involved or engaged in business activities that contravene the Laws of Malaysia.
- 3.3. The Merchant is prohibited from re-selling or acquiring any other sub-merchant(s) into the DuitNow Online Banking/Wallets service or acting as merchant aggregators for other merchant(s), without the prior written consent of the DuitNow Online Banking/Wallets Owner and Operator and Crediting Participant.
- 3.4. The Merchant must ensure that it has and maintains adequate procedures and systems for receiving and processing prompt payment confirmation received from RPP Host and promptly and correctly updates the payment status as well as to ensure that its obligations are fulfilled to the Payer's satisfaction.
- 3.5. The Merchant shall ensure that display of Participating Banks at the Merchant's web portal and/or mobile application must be in accordance with the DuitNow Online Banking/Wallets integration guideline.
- 3.6. The Merchant shall take all possible measures to ensure that Payer's Internet and/or Mobile Banking security credentials used in course of a transaction at the Merchant's website and/or mobile application are always safeguarded and is never exposed to any other party except the relevant Debiting Participants:
 - i. The Merchant shall not intercept, capture or store Payer's Internet and/or Mobile Banking security credentials;
 - ii. The Merchant shall not facilitate or allow the interception, capturing or storage of Payers' Internet and/or Banking security credentials; and
 - iii. The Merchant shall not through its action or omission, risk the exposure of the Payers' Internet and/or Mobile Banking security credentials to any party.
- 3.7. The Merchant shall ensure the confidentiality, integrity and security of Payers' information entered at the Merchant's website and/or mobile application.
- 3.8. The Merchant must not make any warranties or representations in respect of goods or services supplied which may bind the Crediting Participant, DuitNow Online Banking/Wallets Owner and Operator, Debiting Participant or any other Participants in the DuitNow Online Banking/Wallets service.
- 3.9. The Merchant must establish and maintain a fair policy for resolving Payers' disputes and/or claims.

- 3.10. Merchant shall ensure its usage of PayNet's Developer Portal which includes its conduct in accessing the Application Programming Interfaces ('APIs'), a sandbox environment, tools, content and intellectual property rights is consistent and in accordance with the Terms of Use for the PayNet's Developer Portal.
- 3.11. The Merchant who has been granted a non-transferable license to use the DuitNow Brand shall not license or assign the said right to use to any other third party. The Merchant shall comply with the DuitNow Brand Guidelines at all times.
- 3.12. For the purpose of Clause 3.11, the Merchant will be liable for any claims, damages and expenses arising out of or caused to arise from misuse or unauthorised usage of the DuitNow Brand. In the event of such breach, the Merchant sub- licensed rights of using the DuitNow Brand shall be revoked and ceased immediately, whereupon this Agreement shall be terminated accordingly. Upon termination, Clause 10.4 shall apply accordingly.
- 3.13. The Merchant shall consent and allow the Crediting Participant to disclose its information to the DuitNow Online Banking/Wallets Owner and Operator, as may be reasonably required for the purpose of and in connection with providing the DuitNow Online Banking/Wallets service.
- 3.14. The Merchant shall notify the Crediting Participant immediately if it becomes aware of any non-compliance or potential non-compliance of to this Agreement or the Overlay Service Procedures for DuitNow Online Banking/Wallets which is applicable to the Merchant as reflected in this Agreement.
- 3.15. The Merchant shall ensure each transaction that is sent to DuitNow Online Banking/Wallets for processing has a unique payment reference number.
- 3.16. The Merchant shall ensure that their customers are aware that payments can be made via DuitNow Online Banking/Wallets.
- 3.17. Merchants shall raise awareness and promote the use of DuitNow Online Banking/Wallets through the Merchant's websites, mobile application, and other means of communications.
- 3.18. Clause 3.7, Clause 3.9 and Clause 3.12 herein shall survive termination of this Agreement. Termination does not affect either party's rights accrued and obligations incurred before termination.

4. Obligations of Crediting Participant

- 4.1. Upon receiving successful debit confirmation, Crediting Participant shall immediately credit and make funds available to the Merchant's account, or in a manner as agreed upon by the Crediting Participant and Merchant.
- 4.2. Crediting Participant must make payment in full to the Merchant and shall not deduct any fees from the payment proceeds due to a Merchant, except for situations where the Merchant has specifically agreed in writing that DuitNow Online Banking/Wallets fees shall be deducted from payment amount.
- 4.3. Crediting Participant shall refund transaction fees to the Merchant if fees are incurred due to Payer's disputes that are not caused by the Merchant. However, if the Merchant opts to partially refund overpayments to Payers, the Merchant shall bear the transaction fees for executing the refund.
- 4.4. Crediting Participant 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 RPP Host, the Merchant shall immediately update the Payer's payment and proceed to arrange for the delivery of the goods or services purchased by the Payer. Merchant is responsible to ensure that the goods or services purchased are rendered to the Payer within the duration as stated in the Merchant's website and or mobile application.

6. Fraud and Security

- 6.1. Merchants 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. Merchants shall also comply with all applicable laws of Malaysia in relation to fraud.
- 6.3. In the interest of safeguarding the integrity of the DuitNow Online Banking/Wallets service, Merchants grant the DuitNow Online Banking/Wallets Owner and Operator and/or the Crediting Participant the absolute authority to direct Merchants to take any measure that the DuitNow Online Banking/Wallets Owner and Operator and/or the Crediting Participant deems necessary to detect, mitigate, resolve and prevent fraudulent acts, actual and suspected. Merchants receiving such a directive shall promptly comply with the directive.

7. Payer's Disputes/Claims

- 7.1. The Merchant shall assist the Crediting Participant with investigation related to Payer'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 Merchant within sixty (60) days of the Payer's payments, the Merchant shall address the Payer's disputes / claims to the Payer's satisfaction.
- 7.2.1 Payers may submit requests for refunds to their Merchants for the following reasons after the payments have been made:
- i. Goods or services purchased were not provided or rendered due to the Merchant's non-performance or insolvency;
 - ii. Goods purchased were damaged or defective;
 - iii. Goods purchased not as described or as advertised by the Merchants;
 - iv. Goods purchased were not genuine, counterfeit or fake; or
 - v. Payers' bank accounts were erroneously debited multiple times for a single purchase or charged an incorrect amount by Merchants.
- 7.2.2 Upon receiving a request for refund, the Merchant shall respond to all requests for refunds within seven (7) Business Days of receipt. The Merchant shall ensure that the refund claims are addressed within the seven (7) Business Days timeframe.
- 7.3 The Merchant 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 Merchant's performance of its obligations. If the Merchant is unable to furnish evidence within the timeframe specified in Clause 7.2.2 or the evidence does not conclusively¹ refute the Payer's refund claim, the Merchant is required to refund the purchase proceeds to the Payer within three (3) Business Days.
- ¹Evidence furnished by a Merchant to refute a refund claim is deemed to be sufficient if both the Debiting Participant and the Counterparty are fully satisfied that the Merchant has adequately demonstrated that the Merchant has performed its obligations.
- 7.4. If the Merchant is not able to adequately refute a refund claim in accordance with Clause 7.3, the Crediting Participant shall have the right to debit any of the Merchant's account(s) maintained with the Crediting Participant for the recovery of the disputed sum either entirely or partially.

8. Dispute Resolution

- 8.1. Merchants shall have the right to refer their disputes to the DuitNow Online Banking/Wallets Owner and Operator if there is an allegation of the Crediting Participant's non-compliance to the obligations set out in this Agreement and the Overlay Service Procedures. The DuitNow Online Banking/Wallets Owner and Operator will review such complaints and allegations, but such review will be confined to:
- 8.1.1 Determination whether there has been non-compliance by the Crediting Participant;
 - 8.1.2 Stipulating remedies for the Crediting Participant to correct or address the non-compliance; and
 - 8.1.3 Determination if penalties are applicable for the Crediting Participant's non-compliance.
- 8.2. All decisions rendered by DuitNow Online Banking/Wallets Owner and Operator in response to complaints from Merchants shall be binding on the Crediting Participant.

- 8.3. Referring allegations of non-compliance to DuitNow Online Banking/Wallets Owner and Operator does not preclude the right of Merchants to take the dispute to the respective industry arbitration or mediation bodies.

9. Indemnity

- 9.1. Subject to the Crediting Participant and Merchant'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 Payer, Crediting Participant, Debiting Participant, DuitNow Online Banking/Wallets Owner and 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 DuitNow 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 **Clause 9.1.1 to 9.1.4**.

- 9.2. 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, that party must:

- a) Give notice of any such claim to the other party;
- b) Consult with the other party in relation to any such claim; and
- c) Not to settle any claim without obtaining the prior written consent of the other, such consent not to be unreasonably withheld.

- 9.3. The Crediting Participant is not liable to the Merchant for any loss or damage suffered by the Merchant as result of the delay or disruption caused by any system failure beyond the Crediting Participant's reasonable control.

10. Suspension and Termination

Suspension

- 10.1. The DuitNow Online Banking/Wallets Owner and Operator or the Crediting Participant, as the case maybe, reserves the right to suspend the participation of the Merchant in the DuitNow Online Banking/Wallets service by giving notice in writing specifying the suspension date and any conditions applicable to the suspension, under the following circumstances:

10.1.1 DuitNow Online Banking/Wallets Owner and Operator or the Crediting Participant has determined that the Merchant breached this Agreement or any applicable rules, guidelines, regulations, circular or laws;

10.1.2 The Merchant fails to remedy the breach described in **Clause 10.1.1** to the Crediting Participant's satisfaction;

- 10.1.3 DuitNow Online Banking/Wallets Owner and Operator or the Crediting Participant has determined that the Merchant 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 DuitNow Online Banking/Wallets service;
 - 10.1.4 Court order(s) affecting the Merchant's membership in the DuitNow Online Banking/Wallets service and/or the legal status of the Merchant;
 - 10.1.5 Directive(s) issued by regulatory or government authority affecting the Merchant's membership in the DuitNow Online Banking/Wallets 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 Merchant be wound up;
 - 10.1.7 The Merchant is deemed unable to pay its debt and should be wound up under statutory laws;
 - 10.1.8 The Merchant is suspected on reasonable grounds that it is facilitating, involved in, has committed or will commit fraudulent act(s) in connection with the DuitNow Online Banking/Wallets service;
 - 10.1.9 The Crediting Participant has received complaints from other Merchant(s), other Crediting Participant(s), Debiting Participant or Payer that the Merchant is engaging in fraudulent activity in connection with the DuitNow Online Banking/Wallets service; or
 - 10.1.10 The Merchant has been suspended from the DuitNow Online Banking/Wallets service by other Crediting Participant(s) due to breach of provisions of this Agreement or any applicable rules, guidelines, regulations, circular or law.
- 10.2. Upon suspension of the Merchant in the DuitNow Online Banking/Wallets services:
- 10.2.1 The services provided will be suspended immediately;
 - 10.2.2 The Merchant must take all reasonable steps to assist the Crediting Participant to notify each Payer affected by the action that the Merchant is no longer participating in the DuitNow Online Banking/Wallets service, in the form directed by the Crediting Participant;
 - 10.2.3 The Merchant must cease all promotional and advertising that is related or can be perceived to be related to DuitNow Online Banking/Wallets service;
 - 10.2.4 The Merchant must remove all DuitNow Brand from the Merchant's marketing collaterals, channels and website; and
 - 10.2.5 The Merchant must take all reasonable steps to comply with any directions of the Crediting Participant to minimise the impact on Payer of the suspension.

Termination

- 10.3. DuitNow Online Banking/Wallets Owner and Operator or the Crediting Participant, as the case maybe, reserves the right to terminate the services provided under this Agreement or the DuitNow Online Banking/Wallets service under the following circumstances, which includes, but not limited to:
- 10.3.1 This Agreement between the Merchant and the Crediting Participant is terminated or expired;
 - 10.3.2 The Crediting Participant or the DuitNow Online Banking/Wallets Owner and Operator has determined that the Merchant has breached this Agreement or any applicable rules, guidelines, regulations, circulars or laws;

- 10.3.3 The Merchant fails to remedy or take adequate steps to remedy its default under this Agreement to the satisfaction of the Crediting Participant or the DuitNow Online Banking/Wallets Owner and Operator, as the case maybe, within a time period as specified in the notice of the default given by the Crediting Participant;
 - 10.3.4 The DuitNow Online Banking/Wallets Owner and Operator or the Crediting Participant has determined that the Merchant has inadequate operational controls or insufficient risk management process, resulting in potential threats or risks to the stability, integrity, safety, security and efficiency of the DuitNow Online Banking/Wallets service;
 - 10.3.5 Court order(s) affecting the Merchant or the Crediting Participant(s) membership and/or legal status;
 - 10.3.6 Directive(s) issued by regulatory or government authority affecting the Merchant or the Crediting Participant(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 Merchant be wound up;
 - 10.3.8 The Merchant is deemed unable to pay its debt and should be wound up under statutory laws;
 - 10.3.9 The Crediting Participant's membership in the DuitNow Online Banking/Wallets service or RENTAS is terminated or suspended and the Merchant has not appointed a replacement Crediting Participant; or
 - 10.3.10 The DuitNow Online Banking/Wallets Owner and Operator has determined the Merchant is inactive or the Merchant is deemed inactive when there are no transactions for a period of twelve (12) consecutive months.
- 10.4. Upon termination of this Agreement, the Merchant must undertake the following:
- a) Immediately advise its customers that they will no longer accept payment via DuitNow Online Banking/Wallets from the effective date of termination of the Merchant's access to DuitNow Online Banking/Wallets service;
 - b) Shall ensure that inflight transactions post-termination are completed i.e. goods are delivered to the Payer's satisfaction;
 - c) Cease all promotional and advertising that is related, or can be perceived to be related to the DuitNow Online Banking/Wallets service; and
 - d) Remove all DuitNow Brand and Marks from the Merchant's payment channels and websites.
- 10.5. Upon termination of this Agreement, the participation of the Merchant in DuitNow Online Banking/Wallets service is automatically terminated.
- 10.6. Termination of the Merchant in the DuitNow Online Banking/Wallets service shall not extinguish any outstanding right or liability arising under this Agreement or the terms in the Overlay Service Procedures for DuitNow Online Banking/Wallets which is applicable to the Merchant as reflected in this Agreement.
- 11. ADVERTISEMENT AND USE OF LOGO**
- 11.1. The DuitNow Online Banking/Wallets Owner and Operator owns all rights, titles and interest in the DuitNow Brand and the DuitNow Online Banking/Wallets Owner and Operator and/or the Crediting Participant may specify and may at any time amend the requirements relating to the use and/or display of the DuitNow Brand.

- 11.2. The Merchant shall comply with the requirements, process and/or guidelines prescribed by the DuitNow Online Banking/Wallets Owner and Operator in using the DuitNow Brand.
- 11.3. The Merchant must use the appropriate denotation or legend of trademark registration or ownership in connection with DuitNow Brand, as required or consented to by the DuitNow Online Banking/Wallets Owner and Operator and/or the Crediting Participant.
- 11.4. The Merchant shall only use the DuitNow Brand for the sole purpose of publicising, indicating and advertising that the Merchant accepts payments through the DuitNow Online Banking/Wallets service.
- 11.5. The DuitNow Online Banking/Wallets Owner and Operator and/or the Crediting Participant have the right to direct the Merchant to make changes to their use of the DuitNow Brand to rectify any non-compliance or potential non-compliance.
- 11.6. The DuitNow Online Banking/Wallets Owner and Operator, may at any time, in its absolute discretion, direct a Merchant to cease using the DuitNow Brand where such use is in breach of this Agreement or the terms in the Overlay Service Procedures for DuitNow Online Banking/Wallets which is applicable to the Merchant as stipulated in this Agreement.
- 11.7. The Merchant must not use the DuitNow Online Brand in such a way to create an impression that the goods or services offered by the Merchant are sponsored, produced, offered or sold by the owner of the DuitNow Brand. The Merchant must not adopt "DuitNow Online Banking/Wallets" or any other DuitNow 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 Merchant's access in DuitNow Online Banking/Wallets service, the Merchant's sub-licensed use of the DuitNow Brand shall be automatically revoked on the day that the cessation of the Merchant's access takes effect.
- 11.9. The Merchant must immediately on becoming aware of any infringement or potential infringement of the DuitNow Brand, notify the Crediting Participant.

12. Disclaimer

- 12.1. The DuitNow Online Banking/Wallets Owner and Operator and Crediting Participant 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 Merchant arising out of or caused by the Crediting Participant in connection with the operations and services provided by the Crediting Participant in the Overlay Service Procedures for DuitNow Online Banking/Wallets service. The Merchant agrees that it will communicate and resolve any dispute in relation to the aforesaid matters with the Crediting Participant.

13. Confidentiality

- 13.1. The Merchant shall treat any information it receives or possess as result of this Agreement, as confidential and will not use such information other than for the purposes which it was given.
- 13.2. The Merchant shall ensure that their employees, representatives and suppliers comply with the confidentiality requirements at all times.
- 13.3. The Merchant's obligations as to confidentiality shall survive the expiration or termination of their access in the DuitNow Online Banking/Wallets service or this Agreement.
- 13.4. **Clause 13.1** shall not apply to information which:
 - a) Is or has at the time of use or disclosure become public knowledge without any breach of this Agreement by the parties;

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

14. Personal Data Protection

- 14.1. The Merchant consents to the provision and use of information supplied to the DuitNow Online Banking/Wallets Owner and Operator and/or the Crediting Participant in connection with the DuitNow Online Banking/Wallets service. The Merchant further agrees to notify the DuitNow Online Banking/Wallets Owner and Operator and/or the Crediting Participant in writing of any update to any such information as soon as it is aware that the information supplied in connection with the DuitNow Online Banking/Wallets service has become out-dated.
- 14.2. The Merchant 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 Crediting Participant, Debiting Participant and DuitNow Online Banking/Wallets Owner and Operator to breach any personal data protection laws.

15. Variation and Waiver

- 15.1. The Crediting Participant 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.
- 15.2. Any provisions herein cannot be waived except in writing signed by the party granting the waiver.

16. Severability

- 16.1. 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.

17. Force Majeure

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

Appendix III**MyDebit Standard Merchant Terms****1. MyDebit Service**

- 1.1. FINEXUS is a Participant of the MyDebit service (hereinafter referred to as “the Acquirer”) and Merchant listed in the Offer Letter is a registered Merchant under the MyDebit service.
- 1.2. This appendix is applicable to merchant who offers MyDebit as the payment method to the MyDebit cardholders.
- 1.3. In consideration of the fees paid to FINEXUS, FINEXUS agrees to facilitate the participation of the Merchant in the MyDebit service in accordance with this Agreement.
- 1.4. The Merchant hereby agrees to observe all the minimum requirements in this Agreement as specified by the MyDebit Operator including any future revisions which will be communicated by FINEXUS to the Merchant.

2. Payment Type

- 2.1. The Merchant shall support MyDebit transaction that enables MyDebit cardholders to use their ATM cards to pay directly from their bank account via POS Terminal and a dual-interface which supports both contact and contactless as well as online transactions.

3. Obligations of Merchant

- 3.1. The Merchant shall, at all times, comply with the Consumer Protection Act 1999 as the Merchant is prohibited to engage in misleading and deceptive conduct, false misrepresentation, and unfair claims in selling their products or services.
- 3.2. The Merchant shall not be involved or engaged in business activities that contravene the Laws of Malaysia.
- 3.3. The Merchant is prohibited from re-selling or acquiring any other sub-Merchant(s) into the MyDebit service or act as merchant aggregators for other Merchant(s), without the prior written consent of the MyDebit Operator and FINEXUS.
- 3.4. The Merchants are not allowed to set a purchase limit.
- 3.5. The Merchant shall ensure that does not impose any surcharge on a transaction made using MyDebit.
- 3.6. To open a Merchant account for the purpose of the transfer of funds to the Merchant.
- 3.7. Merchants are prohibited from retaining any MyDebit cards belonging to Cardholders.
- 3.8. The Merchant shall not capture any of the MyDebit cards at their POS Terminals or kiosks at any point in time. In the event that the MyDebit cards are captured due to technical reasons or any other reasons, the Merchants shall undertake to return the cards to FINEXUS for onward submission to the Issuer bank within 24 hours.
- 3.9. The Merchant shall take all reasonable actions necessary to ensure that all Terminals and PIN Pads operated at their premises are available for use by Cardholders during MyDebit switch operating hours and that the POS Terminals and PIN Pads are utilized and have complied with the requirements set in the Operational Procedures for MyDebit.
- 3.10. The Merchant shall comply with the MyDebit Brand Guidelines at all times.
- 3.11. The Merchant shall prominently display MyDebit Logo and MyDebit service marks and to inform the public that MyDebit service is available at the Merchant’s premises and/or on all documentation issued and/or used in connection with the provision of the services in order to identify and promote MyDebit service.
- 3.12. To assist the Issuer and/or FINEXUS with any inquiry undertaken in respect of misuse of the MyDebit service.

- 3.13. To accept and honour all MyDebit Cards when presented to Cardholders at any POS Terminal displaying the MyDebit logo and provide the goods and services on the same terms and conditions as those under which it supplies goods and services to persons purchasing goods or services by means other than by the MyDebit cards.
- 3.14. To ensure the confidentiality and security of Personal Identification Number ("PIN") entered at the POS Terminal.
- 3.15. To ensure that each sales and purchase transaction is confirmed by the Cardholder in a manner applicable to the POS Terminal.
- 3.16. To operate the POS Terminal in accordance with FINEXUS's direction and/or instruction.
- 3.17. Not misuse or tamper with the POS Terminal in any way.
- 3.18. To notify the FINEXUS of the POS Terminal failure within two (2) Business Days after becoming aware of the failure of the POS Terminal.
- 3.19. The Merchant must not make any warranties nor representations in respect of goods or services supplied which may bind the FINEXUS, MyDebit Operator, Issuer or any other Participants in the MyDebit service.
- 3.20. For the purpose of **Clause 3.17**, the Merchant will be liable for any claims, damages, and expenses arising out of or caused to arise from misuse or unauthorised usage of the MyDebit Brand. In the event of such breach this Agreement shall be terminated accordingly. Upon termination, **Clause 6.4** shall apply accordingly.
- 3.21. The Merchant shall consent and allow FINEXUS to disclose its information to MyDebit Operator, as may be reasonably required for the purpose of and in connection with providing the MyDebit service.
- 3.22. The Merchant shall ensure that their customers are aware that card payments can be made via MyDebit.
- 3.23. **Clause 3.19** herein shall survive termination of this Agreement. Termination does not affect either party's rights accrued and obligations incurred before termination.

4. Indemnity

- 4.1. Subject to FINEXUS and Merchant's (hereinafter referred to as "party" or "party's") compliance, each party ("Indemnifying Party") agrees to indemnify and hold the other party and its employees and agents harmless against any and all losses, expenses, claims, suits, demands, actions, and proceedings including all reasonable legal and other related fees or charges ("Liability") which the other party may suffer or incur or for which the other party may become liable as a result of:
 - (a) Any negligence, misrepresentation or fraud on the part of the indemnifying party, its employees, and agents with respect to the performance of its obligations or the exercise of any of its rights under this Agreement;
 - (b) Any claim by a Cardholder, FINEXUS, Issuer, MyDebit Operator or any other person for any breach by the Indemnifying Party of any applicable laws;
 - (c) The failure of the Indemnifying Party to observe any of its obligations under this Agreement; or
 - (d) Any use of the MyDebit Brand by the Indemnifying Party other than as permitted by the MyDebit Brand Guideline
 - (e) Except to the extent that such liability arises or is incurred by the other party by reason of any act or omission on its part.
- 4.2. In the event the Acquirer becomes insolvent, the Merchant hereby agrees to indemnify the MyDebit Operator from all claims, losses, damages, penalties, suits, costs, and expenses (including reasonable legal fees) at all times.
- 4.3. In the event a claim is made against a party in respect of which it is entitled to be indemnified, that party must:
 - (a) Give notice of any such claim to the other party;
 - (b) Consult with the other party in relation to any such claim;

- (c) Not to settle any claim without obtaining the prior written consent of the other, such consent not to be unreasonably withheld.
- 4.4. FINEXUS is not liable to the Merchant for any loss or damage suffered by the Merchant as result of the delay or disruption caused by any system failure beyond the FINEXUS's reasonable control.
- 4.5. For the purpose of this clause, loss or damage includes any consequential or economic loss or damage.

5. Suspension and Termination

Suspension

- 5.1. FINEXUS, as the case may be, reserves the right to suspend the participation of the Merchant in the MyDebit service by giving notice in writing specifying the suspension date and any conditions applicable to the suspension, under the following circumstances:
 - (a) FINEXUS has determined that the Merchant breached this Agreement, or any applicable rules, guidelines, regulations, circular or laws;
 - (b) The Merchant fails to remedy the breach described in **Clause (a)** to the Acquirer's satisfaction;
 - (c) FINEXUS have determined that the merchant 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 MyDebit service;
 - (d) Court order affecting the legal status of the Merchant;
 - (e) An application is made to the court either voluntarily or involuntarily for an order that the Merchant be wound up;
 - (f) The Merchant is deemed unable to pay its debt and should be wound up under statutory laws; or
 - (g) The Merchant is suspected on reasonable grounds that it is facilitating, involved in, has committed or will commit fraudulent act(s) in connection with the MyDebit service;
 - (h) FINEXUS has received complaints from other Merchant(s), other Acquirer(s), Issuer or Cardholder that the Merchant is engaging in fraudulent activity in connection with the MyDebit service; or
 - (i) The Merchant has been suspended from the MyDebit service by other Acquirer(s) due to breach of provisions of this Agreement or the terms and conditions stipulated in the, or any applicable rules, guidelines, regulations, circular or law
- 5.2. Upon suspension of the Merchant in the MyDebit service:
 - (a) The services provided under MyDebit service will be suspended immediately;
 - (b) The Merchant will no longer be able to offer MyDebit service;
 - (c) The Merchant will stop accepting payments from Acquirer Bank(s)/MyDebit Operator
 - (d) The Merchant must cease all promotional and advertising that is related or can be perceived to be related to MyDebit service;
 - (e) The Merchant must remove all MyDebit Brand from the Merchant's marketing collaterals, channels and websites; and
 - (f) The Merchant must take all reasonable steps to comply with any directions of FINEXUS to minimise the impact on Cardholder of the suspension.

Termination

- 5.3. FINEXUS, as the case may be, reserves the right to terminate the services provided under this Agreement or the MyDebit service under the following circumstances, which includes, but not limited to:
 - (a) This Agreement between the Merchant and the FINEXUS is terminated or expired;

- (b) FINEXUS has determined that the Merchant has breached this Agreement, or the terms and conditions stipulated in the MyDebit Merchant Registration Form, or any applicable rules, guidelines, regulations, circulars or laws;
 - (c) The Merchant fails to remedy or take adequate steps to remedy its default under this Agreement to the satisfaction of FINEXUS within a time period as specified in the notice of the default given by FINEXUS;
 - (d) FINEXUS has determined that the Merchant has inadequate operational controls or insufficient risk management processes resulting in potential threats to the stability, integrity, safety and efficiency of the MyDebit service;
 - (e) Court order affecting the legal status of the Merchant;
 - (f) An application is made to the court either voluntarily or involuntarily for an order that the Merchant be wound up;
 - (g) The Merchant is deemed unable to pay its debt and should be wound up under statutory laws; or
 - (h) FINEXUS's membership in the MyDebit service is terminated or suspended and the Merchant has not appointed a replacement Acquirer;
- 5.4. Upon termination of this Agreement, the Merchant must cease all promotional and advertising that is related or can be perceived to be related to the MyDebit service.
- 5.5. Termination of the Merchant in the MyDebit service shall not extinguish any outstanding right or liability arising under this Agreement or the terms in the Operational Procedures for MyDebit which is applicable to the Merchant as reflected in this Agreement.

6. Advertisement and Use of Logo

- 6.1. The MyDebit Operator owns all rights, titles and interest in the MyDebit Brand and the MyDebit Operator and/or FINEXUS may specify and may at any times amend the requirements relating to the use and/or display of the MyDebit Brand.
- 6.2. The Merchant shall comply with the requirements, process and/or guidelines prescribed by the MyDebit Operator based on the MyDebit Brand Guidelines.
- 6.3. The Merchant must use the appropriate denotation or legend of trademark registration or ownership in connection with MyDebit Brand, as required or consented to by the MyDebit Operator and/or FINEXUS.
- 6.4. The Merchant shall only use the MyDebit Brand for the sole purpose of publishing, indicating and advertising that the Merchant accepts payment requests through the MyDebit service.
- 6.5. The MyDebit Operator and/or FINEXUS have the right to direct the Merchant to make changes to their use of the MyDebit Brand to rectify any non-compliance or potential non-compliance.
- 6.6. The MyDebit Operator through FINEXUS, may at any time, in its absolute discretion, direct a Merchant to cease using the MyDebit Brand where such use is in breach of this Agreement or the terms in the Operational Procedures for MyDebit which is applicable to the Merchant as stipulated in this Agreement.
- 6.7. The Merchant must not use the MyDebit Brand in such a way to create an impression that the goods or services offered by the Merchant are sponsored, produced, offered or sold by the owner of the MyDebit Brand. The Merchant must not adopt "MyDebit" or any other MyDebit Brand as any part of the name of its business or apply it to any goods or services offered by sale.
- 6.8. The Merchant must immediately on becoming aware of any infringement or potential infringement of the MyDebit Brand, notify FINEXUS.

PART 2

7. Fees

- 7.1. The Merchant shall also be liable to pay the applicable Merchant Discount for MyDebit payment services, as stipulated in the Merchant Discount section of the main body of this Agreement.

8. Disclaimer

MyDebit Operator and FINEXUS 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 Merchant arising out of or caused by FINEXUS in connection with the operations and services provided by FINEXUS in the MyDebit service. The Merchant agrees that it will communicate and resolve any dispute in relation to the aforesaid matters with FINEXUS.

9. Cardholder's Disputes / Claims

9.1. If any dispute between the Cardholders and Merchants arises, the process used to resolve the disagreements among Cardholders and Merchants shall be based on the Debit Card policy document by Bank Negara Malaysia.

9.2. The Merchant shall furnish information and assist FINEXUS to facilitate investigations related to Cardholder's disputed transactions, fraudulent transactions and requests for refunds in accordance with the following process and timelines.

9.3. If a valid request to recover funds was received by the Merchant within sixty (60) Calendar Days of the Cardholder's MyDebit payment, the Merchant shall address the Cardholder's disputes / claims to the Cardholder's satisfaction.

9.3.1 The Cardholder may submit requests for refund to the Merchant after MyDebit payment has been made, for the following reasons:

- a. Goods or services purchased were not provided or rendered due to the Merchant's non-performance or insolvency;
- b. Cardholder's bank account was erroneously debited multiple times for a single purchase or charged with an incorrect amount by the Merchant.

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

9.4. The Merchant may provide concrete evidence to contest the claim. Evidence may include proof of delivery, certification from suppliers on the authenticity of goods, or other documentation to demonstrate the Merchant's performance of its obligations. If the Merchant is unable to furnish evidence within the timeframe specified in **Clause 9.3.2** or the evidence does not conclusively refute the Cardholder's refund claim, the Merchant is required to refund the purchase proceeds to the Cardholder within three (3) Business Days.

Evidence furnished by a Merchant to refute a refund claim is deemed to be sufficient if both the Issuer Bank and FINEXUS is fully satisfied that the Merchant has adequately demonstrated that the Merchant has performed its obligations.

9.5. If the Merchant is not able to adequately refute a refund claim in accordance with **Clause 9.4**, FINEXUS shall have the right to debit any of the Merchant's account(s) maintained with FINEXUS for the recovery of the disputed sum, either entirely or partially.

10. Dispute Resolution

10.1. FINEXUS and Merchant to establish a mechanism for resolution of dispute transactions.

10.2. All decisions rendered by MyDebit Operator in response to complaints from the Merchant shall be binding on FINEXUS.

10.3. Referring allegations of non-compliance to MyDebit Operator does not preclude the right of the Merchant to take the dispute to the respective industry arbitration or mediation bodies.

11. Confidentiality

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

- 11.2. The Merchant shall ensure that their employees, representatives and suppliers comply with the confidentiality requirements at all times.
- 11.3. The Merchant's obligations as to confidentiality shall survive the expiration or termination of their access in the MyDebit service or this Agreement.
- 11.4. Clause 11.4 shall not apply to information which:
- a. Is lawfully obtained by a party from third parties without any obligation by the party to maintain the information proprietary or confidential;
 - b. Is independently developed by a party without reference to or use of the other party's confidential information;
 - c. 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.

12. Personal Data Protection

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

13. Force Majeure

- 13.1. FINEXUS shall not liable to the Merchant for any loss or damage (including direct or consequential), for failure to observe or perform its obligations under its Agreement for reasons which could not be reasonable or diligently controlled or prevented by FINEXUS, 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.

14. Fraud and Security

- 14.1. The Merchant shall also comply with all applicable Laws of Malaysia in relation to fraud.
- 14.2. In the interest of safeguarding the integrity of the MyDebit service, the Merchant shall grant MyDebit Operator and/or FINEXUS the absolute authority to direct Merchants to take any measure that MyDebit Operator and/or FINEXUS deemed as necessary to detect, mitigate, resolve, and prevent fraudulent acts, actual and suspected. The Merchants receiving such a directive shall promptly comply with the directive.

15. Variation and Waiver

- 15.1. FINEXUS 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.
- 15.2. Any provisions herein cannot be waived except in writing signed by the party granting the waiver.

16. Severability

- 16.1. 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

17. Definitions and Interpretation

- 17.1. Definitions of frequently used terms in this Agreement are as mentioned in Clause 1.3 of the General Terms and Condition of Merchant Agreement.

APPENDIX IV: FINEXUS AREMA ONLINE B2C E-INVOICE**1. Introduction**

- 1.1. AREMA e-Invoice Solution is FINEXUS's LHDN compliant e-Invoice middleware solution, which enables merchants to submit e-Invoices and allow buyers to retrieve the e-Invoice.
- 1.2. e-Invoice is a digital representation of a transaction between a supplier and a buyer, replacing traditional invoice formats with specifications that has been outlined by the Inland Revenue Board of Malaysia (IRBM/LHDN) and can be validated at the IRBM's MyInvois Portal.
- 1.3. This section (*Appendix IV*) is applicable to the merchant that has subscribed for the AREMA e-Invoice Services.

2. Obligation of Merchant

- 2.1. The Merchant must provide the essential information required, as outlined by IRBM if the Merchant would like to opt in for e-invoice service from FINEXUS
- 2.2. The Merchant must provide the required information for B2C e-Invoice implementation as per follows:
 - 2.2.1. Tax identification Number (TIN)
 - 2.2.2. Business Registration Number (New BRN)
 - 2.2.3. SST Registration Number (Mandatory for SST Registrant)
 - 2.2.4. Tourism Tax Registration Number (Mandatory for Tourism tax registrant)
 - 2.2.5. Email address for e-Invoice
 - 2.2.6. Malaysian Standard Industrial Classification (MSIC) Code
 - 2.2.7. Business Activity Description
- 2.3. The Merchant must fulfil the on-boarding requirement as a FINEXUS payment merchant and utilize FINEXUS POS Terminal to issue an e-Invoice receipt to the Customer upon completion of sales transaction.
- 2.4. The Merchant must provide the Internet connection (WiFi network or 2G/4G for the POS Terminal to allow the payment authorization and issuance of e-Invoice
- 2.5. The Merchant must not be in a part of any commercial activities that may lead to the breach of laws in Malaysia.
- 2.6. The Merchant, at all times, is prohibited to impose any forms of surcharge on the e-Invoice receipt or transaction to the Customer / buyer.
- 2.7. The Merchant, at all times, is required to obey and protect the integrity, confidentiality, data of the Customer and the transaction information performed by the Customer in accordance to the laws and regulations applied.
- 2.8. The Merchant, at all times, is required to provide accurate, truthful, and up-to-date information for the online B2C e-Invoice implementation.
- 2.9. Any failure to maintain the accuracy of account information may result in suspension or termination of access to online B2C e-Invoice service.
- 2.10. Merchant is required to comply with all applicable laws, regulations, and guidelines relevant to their use of the online B2C e-Invoice service, including but not limited to tax submission policies, data privacy laws, and intellectual property regulations.
- 2.11. Any misuse or illegal activity involving the online B2C e-Invoice service may result in immediate suspension and legal action, if necessary.
- 2.12. Merchant is responsible to resubmit invoices that are rejected due to non-compliance or late payments.

3. Timeliness Disclaimer

- 3.1. FINEXUS is not responsible for the delays in invoice submission or validation by the LHDN.
- 3.2. A validated invoice may be received later after the submission if the bill was generated prior to AREMA's ability to process it.
- 3.3. In such cases, the validated invoice will be included in the next billing cycle.

4. Validated invoice obtained by AREMA

- 4.1. A validated invoice is defined as an invoice successfully processed and confirmed by AREMA.
- 4.2. A validated invoice can be obtained from the merchant via several circumstance, specifically:
 - 4.2.1. POS System, which is catered for POS System Provider (PSP) merchants
 - 4.2.2. Mini Menu, by configuring the Mini Menu at merchant's Kayaaku BIZ Portal and enables the Mini Menu setting at the Kayaaku POS
 - 4.2.3. Static QR Code, which is catered for merchant who do not have POS System and does not enable the Mini Menu in the Kayaaku POS. Merchant will select one (1) menu item as a default item at the Kayaaku BIZ Portal and will only be applicable for 1 type of product with the same tax classification.

5. Online e-Invoice Service (OIF) Fee

- 5.1. Merchant shall be liable to pay the applicable OIF at the rate stipulated in the Merchant Application Form
- 5.2. The OIF and other charges may be revised periodically and notified by FINEXUS from time to time. The Merchant will be given at least of 30 days' in advance for the notice of any changes incurred. Any other promotions and/or campaigns are subject to prevailing terms.

6. OIF Payment methods

- 6.1. The Online e-Invoice Fee (OIF) will be automatically deducted from the Merchant's sales proceed when there is a sufficient sales proceed to cover the OIF.
- 6.2. Alternatively, if the sales proceeds are insufficient to recover the OIF, the Merchant can make payments by the following methods:
 - 6.2.1. Merchant can make payment at FINEXUS EDC Terminal by using own payment cards and DuitNow QR, or use FINEXUS Online Payment Gateway
 - 6.2.2. DuitNow Transfer from Banks or e-Wallet account to merchant business account at FINEXUS (Select FINEXUS Cards Sdn Bhd as Beneficiary Bank, use 4332128812881289 as Account Number and specify the account type as Saving/Current)
 - 6.2.3. Merchant can make payment for the Online e-Invoice Fee (OIF) using a combined source of payment method as stated in the Clause 4.1. and Clause 4.2.2.
- 6.3. Merchant is required to pay the Online e-Invoice Fee (OIF) in full amount. FINEXUS will not accept any forms of partial payment for the OIF, regardless if the merchant make payment via a combined sources of payment method as stated in the Clause 4.2.3.
- 6.4. For the OIF payment method by the POS System, merchant is required to pay in full amount as FINEXUS will not accept any forms of partial payment for the OIF.

7. Overdue OIF Payment and suspension of online B2C e-Invoice service

- 7.1. The Online e-Invoice Service will be temporarily suspended on the 7th day of the following month if the payment remains overdue and will remain suspended until the outstanding payment is cleared by the Merchant.
- 7.2. During the suspension period, the Merchant may continue to submit invoice data to the FINEXUS system for an additional month. However, the consolidated e-Invoices and all other functionalities, including the validated e-Invoice requests by the customers, will not be available.

- 7.3. Online e-Invoice Service will be suspended for up to 180 days if the payments remain overdue.
- 7.4. A RM50.00 re-activation fee is applicable if the Merchant wish to resume the online e-Invoice service. The reactivation fee will be automatically deducted from the merchant's sales proceeds, or payable via the same channels provided for the OIF Payments.
- 7.5. Merchants are encouraged to settle the OIF Payment promptly to avoid service disruptions or account termination.

8. Request of validated e-Invoice and Storage Period

- 8.1. The request by the Customer for LHDN validated e-Invoice is free of charge and unlimited requests. However, the grace period for the Customer to obtain the validated e-Invoice is latest by the 3rd day of the month following.
- 8.2. The request of Debit/Credit/Refund Notes to LHDN is free of charge and unlimited requests. However, the grace period is similar to the LHDN validated e-Invoice.
- 8.3. The consolidated e-Invoice generation and submission to LHDN is free of charge and unlimited requests. It will be automatically consolidated and submitted to LHDN based on the Merchant's preference (before 4th day of the following month).
- 8.4. The invoice data and the validated e-Invoice storage period is valid for 7 years, which comprise of 3 years of online storage and 4 years of offline storage.

9. Scheduled Maintenance

- 9.1. Scheduled Maintenance typically occurs during off-peak hours to minimize disruption.
- 9.2. Merchant will be notified in advance with details of the maintenance window, expected duration, and services affected.
- 9.3. Maintenance updates will not affect stored data or previously validated invoices.

10. Cancellation and Refund Policy

10.1. Cancellation of Online e-Invoice Service

- 10.1.1. Merchant may submit their cancellation request of the Online e-Invoice Service to FINEXUS Merchant Support Team at merchant@finexuscards.com
- 10.1.2. Cancellation requests will be processed within 14 business days from the date of the submission.
- 10.1.3. Merchant is advised to settle any outstanding OIF fees before the cancellation to avoid any disruptions or account-related issues during the processing period.

10.2. Refund policy

- 10.2.1. All payments made to FINEXUS are non-refundable
- 10.2.2. Refunds may be considered only in exceptional circumstances, such as overpayment or billing errors, and are subject to FINEXUS's sole direction and approval.
- 10.2.3. FINEXUS reserves the right to evaluate the refund requests on a case-by-case basis and make decisions in accordance with the company policies.

11. Company Rights

11.1. Termination

FINEXUS reserves the right to suspend or terminate a merchant's access to the Online e-Invoice Service under the following circumstances:

- 11.1.1. Violations of Terms: If a merchant violates any provisions outlined in these Terms, FINEXUS may restrict access to safeguard the integrity of the online B2C e-Invoice service.

11.1.2. Non-Payment of Fees: Failure to settle outstanding OIF within the designated Grace Period may result in suspension or termination of services.

11.1.3. Compliance with Authorities: FINEXUS may suspend or terminate access to comply with requests, orders, or legal requirements issued by local authorities or regulators.

11.2. Modifications to Terms or Services

11.2.1. Updating Terms: FINEXUS may update or amend these Terms at any time. Merchant will be notified of changes, and continued use of the online B2C e-Invoice service after such updates will constitute acceptance of the revised Terms.

11.2.2. Service Modifications: FINEXUS reserves the right to modify, enhance, or discontinue any part of its services. Where feasible, merchant will be provided with prior notice of such changes to minimize disruption.

11.2.3. User Responsibility: It is the merchant's responsibility to stay informed about updates to these Terms or changes to services, which will be communicated through appropriate channels.

12. Limitation of Liability

FINEXUS is not liable for any damages, losses, or liabilities beyond those explicitly stated in these Terms. Specifically:

12.1. FINEXUS is not responsible for losses resulting from technical issues such as system downtimes, service disruptions, bugs, or errors in the online B2C e-Invoice service.

12.2. While reasonable efforts are made to ensure service reliability, unforeseen technical failures may occur and are considered beyond FINEXUS's control.

12.3. FINEXUS takes security seriously but cannot be held liable for losses resulting from unauthorized access, hacking, cyberattacks, or other breaches of security affecting the online B2C e-Invoice service, unless caused by FINEXUS's gross negligence or intentional misconduct.

12.4. FINEXUS is not liable for damages or losses caused by the actions or omissions of third parties, including but not limited to payment processors, internet service providers, cloud hosting services, or government agencies.

12.5. Any disruptions or delays caused by these third parties are considered outside of FINEXUS's control.

13. Indemnification

By using the online B2C e-Invoice service, merchant shall agree to indemnify, defend, and hold FINEXUS harmless from and against any and all claims, damages, losses, liabilities, costs, and expenses (including reasonable legal fees) arising from:

13.1. Any misuse, unauthorized access, or violation of the terms of use by the merchant

13.2. Non-compliance with laws, regulations, or third-party requirements, including but not limited to tax submission policies, data privacy regulations, and intellectual property laws.

13.3. Any claims made by third parties due to actions performed by the merchant on the online B2C e-Invoice service, including but not limited to invoice errors, fraudulent activities, or disputes arising from submissions or transactions

13.4. Any liabilities arising from content, data, or information provided by the merchant on the online B2C e-Invoice service, including inaccuracies, fraudulent information, or submission of non-compliant documents.

13.5. Any damages or losses caused due to non-payment or delayed payments that result in service disruptions or legal actions.

This indemnification applies to any and all actions directly or indirectly connected to the merchant's use of the online B2C e-Invoice service, except in cases where FINEXUS is found to be directly at fault due to gross negligence or intentional misconduct.

14. Governing Law

- 14.1. These Terms are governed by and construed in accordance with the laws of Malaysia, and any disputes arising from their interpretation or the use of the online B2C e-Invoice service will fall under the exclusive jurisdiction of Malaysian courts. Merchant is responsible for ensuring compliance with Malaysian laws and regulations, as well as any applicable local laws if accessing the online B2C e-Invoice service from outside Malaysia. FINEXUS reserves the right to seek legal remedies for any breaches of these Terms as permitted under Malaysian law.

APPENDIX V: INSTANT SETTLEMENT TERMS & CONDITIONS

1. Definitions

"Instant Settlement": an optional settlement acceleration service that enables earlier payment of the Settlement Amount.

"Merchant Agreement" means this entire Merchant General Terms & Conditions.

"Settlement Account": the Merchant's designated bank account maintained with a financial institution or bank, into which the Settlement Amount is credited.

"Settlement Payment": a payment made under the standard settlement cycle defined in the Merchant Agreement i.e. T+2 or any other the applicable interval. "T" is the date of the relevant Transaction and "2" are business days in Kuala Lumpur.

"Payment Advice": the settlement statement/notice issued by FINEXUS.

"Root MID": the HQ/master merchant identifier under which one or more sub-merchant ID (MIDs) operate.

2. Relationship to the Merchant Agreement

- 2.1. This Instant Settlement Terms & Conditions governs FINEXUS' Instant Settlement and is read in addition and supplemental to the Merchant Agreement
- 2.2. All capitalized terms in Appendix V that is not in the Clause 1 – Definitions above shall have the same meaning as the Merchant General T&C.
- 2.3. In the event of any conflict between this Appendix V and any other provision in this Merchant Agreement, the stricter provision shall apply or FINEXUS has the sole discretion in deciding which conflicting provision shall prevail.
- 2.4. For the avoidance of doubt, the following clauses from the body of the Merchant Agreement shall apply *mutatis mutandis* to the Instant Settlement Terms & Conditions:
 - a) Settlement timing, netting and eligibility, see Merchant Agreement Clauses 7.1 – 7.7 (Settlement Payment for Transactions).
 - b) FINEXUS may hold fund reserves/withhold settlement funds, see Merchant Agreement Clause 8 (Reserves and Funding).
 - c) FINEXUS may decline, withhold or debit back irregular/disputed items, see Merchant Agreement Clauses 7.12 – 7.15 (Non-Payment & Withhold of Payment to Merchant) and Clause 13 (Right to Raise Debit on Dispute/Fraud/Chargeback).
 - d) Set-off/deduction rights, see Merchant Agreement Clause 14 (Right to Set Off).
 - e) MDR, fees and later adjustments, see Merchant Agreement Clause 9 (Merchant Discount) and any letter, document or notice issued by FINEXUS to the Merchant incorporating the Merchant Agreement, and FINEXUS' fees, charges, obligations and/or merchant discount rates.
 - f) Statements and conclusive evidence, Merchant Agreement Clause 17 (Statement of Account).
 - g) Taxes, see Merchant Agreement Clause 16 (Tax, Costs and Expenses).
 - h) Compliance, PDPA and related obligations, see Merchant Agreement Clauses 23 (PCI DSS/PA DSS Compliance), 24 (Compliance), 27 (Confidentiality), 28 (Data Privacy and Personal Data Protection).
 - i) Suspension/termination, see Merchant Agreement Clause 37 (Suspension and Termination);
 - j) Variation, notices, precedence, and governing law, see Merchant Agreement Clauses 40 (Variation/Amendment), 35 (Notices), 47 (Precedence) and 49 (Governing Law & Jurisdiction).

3. Service Description

- 3.1. For the avoidance of doubt, Merchant acknowledges that the Instant Settlement is not a loan, credit or the provision of financing by FINEXUS.
- 3.2. Merchant acknowledges that Instant Settlement is a service that accelerates the Merchant's access to the Settlement Amount still in float, which would otherwise be received T+2 business days or any other the applicable interval.
- 3.3. The Instant Settlement service is provided as a near real-time payout, at the time of request, and the amount allowed for accelerated payout is the Settlement Amount still in float, at the time of request.
- 3.4. FINEXUS may suspend, limit, or terminate access to Instant Settlement at any time for risk, operational, compliance, or any reason, without affecting any rights or remedies available under the Merchant Agreement.

4. **Operational Mechanics (Force Settlement)**

- 4.1. Before Merchant can even elect to request to receive the Instant Settlement service, Merchant must satisfy Appendix V – Clause 5 (Eligibility & Limits) and any other conditions as may be determined by FINEXUS from time to time, whether communicated to Merchant or not.
- 4.2. The amount allowed for Instant Settlement will be provided or displayed to Merchant by or before the time Merchant confirms its election to receive the Instant Settlement service, and at the same time, all relevant fees, charges or associated amounts will be provided or displayed to Merchant as well.
- 4.3. Such confirmation shall be carried out on the FINEXUS Kayaaku BIZ Portal or any other mode of communication.
- 4.4. Upon such confirmation, all of Merchant's transactions or any specific terminals excluded or selected by FINEXUS, for Merchant's online or offline transactions will be forced to enter into settlement processing ("**Force Settlement**"). During any and all Force Settlements, no further Transactions are permitted and/or will be processed until the completion of the Force Settlement.
- 4.5. Further, all pending settlement Transactions shall proceed for Settlement Processing and shall not be voided or cancelled.
- 4.6. If the total transaction amount at any individual terminal does not match the corresponding total transaction amount at the FINEXUS system, the total transaction amount at the said terminal shall be excluded for the purposes of Instant Settlement, for further analysis and investigation. For the avoidance of doubt, all other terminals with reconciled transaction amounts with the FINEXUS host shall remain eligible for Instant Settlement.

5. **Eligibility & Limits**

- 5.1. The Merchant's eligibility for Instant Settlement, as well as any applicable limits, shall be at all times be subject to the sole and absolute discretion of FINEXUS, which may be determined, reviewed, varied, or withdrawn at any time without prior notice.
- 5.2. In determining eligibility and applicable limits, FINEXUS may take into account a range of factors, including but not limited to the Merchant's operational profile, transaction activity, performance, risk indicators, and internal assessments, all as solely determined by FINEXUS.
- 5.3. Notwithstanding the terms of the Merchant Agreement, FINEXUS may at any time, at its sole discretion and without any prior notice to the Merchant apply any other type of risk-based eligibility criteria, daily payout caps, velocity limits (where such limit means including but not limited to how often or regular can Merchant receive this Instant Settlement service) and security deposits or potential liability reserves, and may:
 - (i) determine which Merchants are eligible to access the Instant Settlement;

- (ii) refuse, suspend, or limit Merchant's access to the Instant Settlement;
- (iii) impose additional eligibility criteria or conditions on Merchant before allowing access to or use of the Instant Settlement;
- (iv) impose restrictions or limits on certain features or functionalities of the Instant Settlement;
- (v) impose any monetary ceiling or cap on the payout amount of Instant Settlement; and
- (vi) the right to stop payouts if they suspect "Restricted Activity".

For the avoidance of doubt, Restricted Activity means any act or omission by the Merchant and/or its employees, directors, officers or Affiliates, which:

- (i) results in, or is reasonably likely to result in FINEXUS to be in violation of any Malaysian anti-bribery and corruption laws or Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 and any requirements issued by Bank Negara Malaysia; or
- (ii) directly or indirectly, offer, pay, promise to pay or authorise any bribe, other undue financial or other advantage or make any facilitation payment to, or receive any of the same from, a public official or a private party in connection with this Merchant Agreement or any transactions undertaken for or on behalf of FINEXUS; or
- (iii) engage in any activity, practice or conduct which would constitute a breach and/or violation of any laws.

5.4. FINEXUS may adjust any ratios, limits, or caps for Instant Settlement at any time in its sole discretion. Such adjustments shall apply prospectively only.

5.5. FINEXUS may set or impose any daily cumulative cap to the total aggregate amount of all Instant Settlement requests made by a Merchant within any time frame, including but not limited to a calendar day, week, month or particular period.

6. Fees & Net Payout

6.1. Each payout pursuant to the Instant Settlement is subject to a fee, solely determined by FINEXUS, and applicable taxes (including but not limited to withholding, sales or service tax) or other associated passthrough charges, but such fee is provided or displayed to Merchant at the time when Merchant chooses to select the Instant Settlement service, similar to Appendix V – Clause 4.1.

6.2. Instant Settlement's fee, applicable taxes and associated passthrough charges, or any other amounts payable to FINEXUS shall be paid by way of set-off, withholding and/or deduction from the Instant Settlement payout

6.3. FINEXUS may from time to time revise the fee or impose any other charges.

6.4. A minimum fixed fee applies to each Instant Settlement payout. In the event FINEXUS charges a percentage-based (*ad valorem*) fee and not a fixed fee, but such *ad valorem* fee is less than the minimum fixed fee, the minimum fixed fee shall be charged instead.

7. Instant Settlement Payout Timing & Method

7.1. Instant Settlement payouts are initiated on a near real-time basis upon request. However, slight delays may occur due to Finexus' system processing, settlement bank system processing times, or other payment, telecommunications, network and operational factors.

7.2. Instant Settlement payouts will be credited into the Settlement Account and may be subject to applicable banking and compliance checks, beyond FINEXUS control and liaising with any person in respect of such checks is not FINEXUS responsibility.

8. Recovery, Set-Off & Net-Off

8.1. In the event of refunds, chargebacks, disputes, or any other adjustments FINEXUS is entitled to make under the Merchant Agreement, FINEXUS may recover any shortfall through, including or not limited to the following:

- (i) deduction from an Instant Settlement payout;
- (ii) set-off against future Settlement Payments; or
- (iii) debiting the Merchant's account
- (iv) invoicing the Merchant.

8.2. For the avoidance of doubt, nothing in this Instant Settlement Terms & Conditions shall in any way limit or waive FINEXUS rights in relation to Right to raise debit on dispute, fraud, erroneous transaction and chargeback against the merchant (clause 13), right to set off (clause 14), suspension and termination (clause 37). Unless expressly stated otherwise, these clauses shall continue to apply to the Merchant in full force and effect.

9. Merchant Responsibilities & Warranties

- 9.1. The Merchant represents and warrants that all Transactions submitted for Instant Settlement are valid, genuine, and not fraudulent.
- 9.2. Where the Merchant operates as or under a Root MID, master merchant ID/ HQ, the HQ / master merchant remains jointly and severally responsible for all transactions and obligations of its sub-merchant IDs (MIDs) for any matter howsoever arising in connection with this Merchant Agreement.
- 9.3. The Merchant must ensure that future Settlement Payments are sufficient to cover the Instant Settlement payout, FINEXUS fees, merchant discount rates, fees, taxes, refunds, and Chargebacks.

10. Merchant Unconditional Acceptance

- 10.1. By submitting an Instant Settlement request and selecting whichever option, the Merchant unequivocally and irrevocably agrees to the applicable fees, taxes, and other associated amounts and authorizes FINEXUS to carry out the Force Settlement, as well as any other necessary or relevant deductions and set-offs.

*****END OF TERMS & CONDITIONS OF THE AGREEMENT*****