

DATED THIS DAY OF

BETWEEN

**SETEL VENTURES SDN. BHD.
(Company No. 1310317-A)
("SVSB")**

AND

**The Party named in Schedule 1
("the Merchant")**

This **MERCHANT AGREEMENT** is made this ___ day of _____ 2021

BETWEEN

SETEL VENTURES SDN. BHD. (Company No. 1310317-A) a company incorporated in Malaysia having its business address at [●] (hereinafter referred to as "**SVSB**") of the first part;

AND

The Party named in Schedule 1 having the address or addresses as set out in Schedule 1 (hereinafter referred to as the "**Merchant**") of the second part.

SVSB and the Merchant shall hereinafter be collectively referred to as the "**Parties**" and singularly as "**Party**" where the context so requires.

WHEREAS:

- A. SVSB owns an e-wallet payment structure for the implementation and operation of an electronic payment system via internet banking, credit card and debit card (hereinafter referred to as "Payment Gateway").
- B. The Merchant wishes to subscribe for the sale of the Products to Users (as defined hereinafter) via the Engagement Platform (as defined hereafter).
- C. The Merchant and SVSB are desirous to engage in a commercial arrangement to allow for the purchase of the Products on the Engagement Platform by using the Payment Gateway in accordance with the terms and conditions set out herein.

NOW IT IS AGREED AS FOLLOWS:-

1. INTERPRETATIONS

1.1 Definitions

The following terms in this Agreement shall have the following meanings, which meanings shall extend to all grammatical variations and cognate expressions of the words so defined, where the context so requires:

"Business Day" means a day on which commercial banks are open for business in Wilayah Persekutuan, Kuala Lumpur and Selangor Darul Ehsan.

"BNM" means Bank Negara Malaysia.

“Confidential Information” shall mean any knowledge or information concerning the business, accounts, processes, products, finance, technical knowledge or know how or trade secrets, data, finance or contractual arrangements or other dealings, transactions or affairs whether written, graphical or oral or in any other mode which may reasonably be regarded as confidential, whether or not marked confidential or otherwise provided by or on behalf of the other Party to the extent that such knowledge and information at the time of such disclosure is not (a) already in possession of the Receiving Party or (b) part of or become part of public knowledge or (c) received by the Receiving Party from a third party having no obligation of secrecy with respect thereto.

“Disclosing Party” means the Party who disclose Confidential Information to the Receiving Party.

“Charge-Back Request” has the meaning ascribed to it under Clause 7 of this Agreement.

“Engagement Platform” means the mobile application owned by SVSB and any other third party applications with subscription to SVSB’s services and/or products..

“Equipment” means all or any items of equipment provided by SVSB to the Merchant, including but not limited to automation or technical equipment, advertising hoardings, signage, canopies, furniture, furnishings, and other items of whatever nature used or intended for use for sale of Products on the Engagement Platform using the Payment Gateway or other purposes relevant to this Agreement.

“Force Majeure” any of the following events or circumstances (provided such events or circumstances are not the result of an inability to make payment nor includes the inability or failure to make payment) that are beyond the reasonable control of the affected Party, to the extent that such events or circumstances delay or make impossible the performance by such Party of any of its duties and obligations or cause a Party to breach a representation, warranty or obligation under this Agreement: (a) any acts, orders, decisions or decrees of any government entities which materially affect such Party's ability to perform its obligations under this Agreement; (b) enactments of or changes in any laws (after the date of this Agreement) that materially affect such Party's ability to perform its obligations under this Agreement; (c) Acts of God, including, without limitation, drought, volcanic activity, tornadoes, hurricanes, floods, sinkholes, landslides, earthquakes and tsunamis; (d) major explosions and accidents; (e) acts of war, terrorism, effects of nuclear radiation, insurrections, riots, the combined action of workers, political unrest and other acts of third parties and circumstances beyond a Party's reasonable control and; (f) any action or failure to act without justifiable cause by any duly authorised authority including the denial of, or delay in, without justifiable cause the granting of any permits, waivers, exemptions, registrations, approvals, authorisations or licences upon due application therefore and diligent effort by applicant to obtain, the failure without justifiable cause of any such permits, waivers, exemptions, registrations, approvals, authorisations or licences once granted to remain in full force and effect or to be renewed on substantially similar terms; provided that a “Force Majeure” shall not include any delays or failures of a Party caused

by the following: (i) the acts of the other Party(ies); or (ii) the failure by the other Party(ies) to perform any acts required by this Agreement or any other relevant agreement between the Parties;

“Go Live Date” means successful registration and creation of the Merchant ID account in SVSB’s merchant registration system.

“MDR” means Merchant Discount Rate payable by Merchant at the rate stipulated in **Item 3 of Schedule 1** for each Transaction Value.

“Products” means the fuel, non-fuel products, retail products and services offered for sale by the Merchant as referred to in **Item 2 of Schedule 1** of the Agreement.

“Receiving Party” means the Party who receive Confidential Information from the Disclosing Party.

“Settlement Amount” means the amount paid by SVSB to the Merchant after deduction of the MDR and other applicable charges, following a successful transaction by the Users for the purchase of the Products from the Merchant.

“Settlement Statement” means the statement which consist of all transactions and each Transaction Value paid utilizing the Payment Gateway on the Engagement Platform from the preceding week.

“Terms and Conditions” means the terms and conditions applicable to the Users for the use of and access to the Payment Gateway and Engagement Platform.

“Transaction Value” means the amount paid by Users to the Merchant for purchase of Merchant’s Products through the Payment Gateway on the Engagement Platform.

“User” or **“Users”** mean a person who register and access the Engagement Platform

“Value Added Solutions” means additional solutions and/or products owned by SVSB provided to the Merchant and SVSB’s customers as described in **Item 4 of Schedule 1** of this Agreement.

“Website” means www.setel.my/terms

1.2 General

- (a) Words denoting the singular include the plural number and vice versa. Words importing any gender include all genders. Words denoting natural persons include companies, corporations and any other legal entity and vice versa.
- (b) The headings and each of the clauses, sub-clauses, paragraphs, sections,

schedules and appendices are inserted for convenience only and will be ignored for the purpose of interpretation. Each of the Schedules forms an integral part of this Agreement.

- (c) Unless the context otherwise requires, reference to any Clause is to a clause of this Agreement. Save where the contrary is indicated, any reference to this Agreement or any other agreement or document shall be construed as a reference to this Agreement or, as the case may be, such other agreement or document as the same may have been or may from time to time be amended, varied, novated or supplemented.
- (d) References to any statute or statutory provision are to be construed as a reference to the same as it may have been, or may from time to time be, amended, modified or re-enacted and references to any statute includes all regulations, proclamations, ordinances and by-laws issued under the statute.
- (e) No rule of construction shall apply to the disadvantage of a party merely because the said party was responsible for the preparation of this Agreement, or any part of it.
- (f) A "month" is a reference to a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month save that, where any such period would otherwise end on a day which is not a Business Day, it will end on the next Business Day. If any such period starts on the last Business Day in a calendar month or if there is no numerically corresponding day in the month in which that period ends, that period will end on the last day in that later month, save as stated above.
- (g) Clauses are divided into paragraphs; and any reference to a paragraph is, unless otherwise stated, a reference to a paragraph of the clause in which the reference appears.
- (h) In carrying out its obligations and duties under this Agreement, the Parties have an implied obligation of good faith.
- (i) References to persons include their successors and any permitted transferees and assigns.
- (j) References to the words "include" or "including" are deemed to be followed by "without limitation" or "but not limited to" whether or not they are followed by such phrases or words of like import.
- (k) References to this "Agreement" or another agreement or other instrument or document are to be construed as references to "this Agreement" or that other

agreement, instrument or document as the same may have been, or may from time to time be, amended, varied, supplemented, re-enacted or novated.

- (l) Words denoting an obligation on a party to do any act matter or thing include an obligation to procure that it be done and words placing a party under a restriction include an obligation not to permit or allow infringement of the restriction.
- (m) References to a number of days, mean calendar days unless Business Days are specified. Where the day on or by which anything is to be done is not a Business Day, that thing must be done on or by the next Business Day following that day.
- (o) Unless otherwise stated, "we", "us" or "our" will refer collectively to Setel Ventures Sdn. Bhd.
- (p) Unless otherwise specified, all references to a "Bank" in this Agreement includes any bank providing internet banking services in conjunction with the Payment Gateway.

2. CORPORATION OF SCHEDULES INTO THIS AGREEMENT

2.1 The following appendices, attachments and schedules shall constitute a binding contract between SVSB and the Merchant:

- Schedule 1 - Agreement Particulars
- Schedule 2 - Privacy Policy

3. APPLICATIONS OF TERMS AND CONDITIONS

3.1 The Merchant shall be subjected to the Terms and Conditions as set out in SVSB's Website which shall also be applicable to the Users regarding the use of and access to the Payment Gateway and Engagement Platform.

4. AVAILABILITY OF THE PAYMENT GATEWAY

4.1 The Payment Gateway will be available to the Merchant on the Go Live Date and a notification of the Go Live Date will be sent to the Merchant via the Merchant's registered email. SVSB shall have the discretion to change or vary the Go Live Date for any reason whatsoever with prior written notification to the Merchant.

5. LEGAL RELATIONSHIP

5.1 SVSB is an E-Wallet Payment Service Provider

- (a) SVSB acts as a payment service provider to the Merchant by creating, hosting, maintaining and providing the Payment Gateway to the Merchant.

5.2 Stakeholder and Trust Account

- (a) The Payment Gateway acts as a payment facilitator to help Users to make purchase of the Products and make payments through the Engagement Platform at the Merchant's premises.
- (b) Pending payment of any sums due to the Merchant, SVSB shall at all times hold the funds that are due to the Merchant from the Users' account separate from its corporate funds. SVSB shall not use the Merchant's funds for its operating expenses or any other corporate purposes, and will not voluntarily make fund available to its creditors in the event of bankruptcy or for any other purpose. The Merchant acknowledges that SVSB is not a bank and does not provide a banking service or credit facility service. SVSB is providing an electronic payment service and SVSB shall comply with the relevant laws, regulations, and guidelines from BNM in relation to its services.
- (c) The funds in the Payment Gateway system are held and maintained in a specific account for the benefit of the Users and the Merchant.
- (d) The Merchant agrees that the Merchant will not receive interest or other benefits on the funds that SVSB handles as the Merchant's stakeholder.

5.3 Independent Contractors

- (a) SVSB and the Merchant are independent parties, and nothing herein shall be construed as creating a partnership or agency relationship between the Parties.

6. PAYMENTS AND MDR

6.1 Terms of Payment and Remittance

- (a) SVSB shall make available the Settlement Statement to the Merchant through SVSB's e-Merchant portal which is available at <https://www.setel.my> which shall consist of the Transaction Value for all transactions and each Transaction Value for the preceding week.
- (b) SVSB shall remit the settlement amount which consists of the Transaction Value less the MDR, the commission payable by the Merchant for the Value Added Services, any refunds and/or other sums of money (if any) owing, to the Merchant by depositing the Settlement Amount directly to the Merchant's bank account within three (3) Business Days from the date of the transaction.

- (c) Notwithstanding the above, SVSB shall inform the Merchant of any delay or failure in depositing the Settlement Amount where such delay or failure is due to reasons beyond SVSB's reasonable control, including without limitation to failures or delays associated with electronic and/or network faults. SVSB shall endeavour to take all necessary measures to remedy such faults to enable SVSB to deposit the Settlement Amount to the Merchant's bank account within reasonable time from SVSB's notification to the Merchant of such delay or failure.
- (d) SVSB reserves the right to withhold any payment due to the Merchant for the Products sold and deduct any amount from such sum should there be any amount owing and outstanding by the Merchant to SVSB under this Agreement or any other Agreement between the Parties.
- (e) SVSB may also offer the ability for Users to top-up their Setel e-wallet or purchase prepaid codes or other similar transactions through the Merchant, where the Merchant shall be liable to pay SVSB the amount received by the Merchant for such transactions on a daily basis. SVSB may also deduct the value received by the Merchant for such transactions either from the Transaction Value payable to the Merchant in accordance with Clause 6.1(b) hereinabove or through any other means to be determined by SVSB.

6.2 MDR

- (a) The Merchant shall pay to SVSB the MDR as set out in **Item 3 of Schedule 1** for each the Payment Gateway transaction effective from the Go Live Date. The MDR will be deducted from the Transaction Value payable to the Merchant in accordance with Clause 6.1 hereinabove.
- (b) SVSB reserves the right to review and vary the MDR at any time from time to time and any changes thereto by giving prior written notice to the Merchant. Such changes shall be effective on the date specified by SVSB upon written notification to the Merchant.
- (c) All fees and charges pursuant to this Agreement, including the MDR, are exclusive of any applicable and payable taxes. Where any tax is applicable to any supplies made or provided by SVSB under this Agreement, SVSB is entitled to charge the applicable tax on the payment.

6.3 Value Added Solutions

- (a) The Merchant shall be liable to pay SVSB for the Value Added Solutions provided to the Merchant based on the commission as set out in **Item 4 of Schedule 1** of this Agreement which shall be deducted from the Transaction Value payable to the Merchant in Clause 6.1 hereinabove.

- (b) The Parties hereby agree that any costs incurred for the development of the Value Added Solutions on the Merchant's platform shall be borne by the Merchant unless otherwise agreed in writing by both Parties.
- (c) SVSB reserves the right to review and vary the commission for the Value Added Solutions payable at any time from time to time by giving prior written notice to the Merchant and any changes thereto shall be effective on the date specified by SVSB upon written notification to the Merchant.

7. DISCREPANCY, ERRORS, REFUND AND CHARGE-BACK

- 7.1 It is hereby agreed that the Merchant is deemed to have examined all transactions in the Settlement Statement. In the event of any error, discrepancy or inaccuracy in the aforementioned statement, the Merchant shall report to SVSB in writing within thirty (30) days from the date of the respective transaction. If the Merchant for any reason whatsoever does not notify SVSB of the error, discrepancy or inaccuracy of any transaction therein within the aforesaid thirty (30) days period, the Merchant shall be deemed to have accepted the transactions contained in the Settlement Statement as correct, final and conclusive and the Merchant shall be precluded from making any claims against SVSB and/or instruct SVSB to conduct any investigations on any error, discrepancy or inaccuracy reported to SVSB.
- 7.2 A Charge-Back Request occurs when a User who is a credit card holder request for his/her credit card issuer to remove a charge from his/her credit card statement. When a Charge-Back Request occurs, Section 7.4 shall apply.
- 7.3 SVSB reserves the right to issue a full or partial refund to the User for any and all successful transaction processed by SVSB through the Payment Gateway. If SVSB issues a full or partial refund of the Transaction Value to the User, SVSB shall retain the Merchant's MDR and deduct the refunded amount excluding MDR from the Settlement Amount payable to the Merchant.
- 7.4 Charge-Back Request by The Users

In the event a Charge-Back Request is made against the Merchant, SVSB is entitled to:

- (a) temporary withhold funds from the Merchant's account which is equivalent to the Charge-Back Request amount; and
- (b) suspend the processing in respect of the transaction in relation to the Charge-Back Request until SVSB has conducted the necessary investigation and has examined and verified any supporting documentation in relation to the Charge-Back Request. The Merchant shall be required to provide SVSB with the relevant supporting documents which shall include but is not limited to invoice, proof of delivery, etc. for SVSB to assist the Merchant to challenge the Charge-Back Request

with the credit card issuer. The Merchant's shall facilitate SVSB in conducting the investigations and shall follow the procedures specified by SVSB from time to time.

- (c) If the Charge-Back Request is successfully made against the Merchant, the Merchant is required to refund the Charge-Back Request amount to the User. The refund shall be deducted from the funds temporarily held by SVSB under Clause 7.4(a) above and in the event there are insufficient funds, the Merchant shall settle the difference within two (2) weeks from the date SVSB requests for payment of the remaining sum for the Charge-Back payment refund in writing. Where a successful Charge-Back Request is made and the Settlement Amount owing to the Merchant and a Charge-Back Request is successfully made against the Merchant has been remitted by SVSB, SVSB shall deduct the refund of the Charge-Back Request from future settlements to the Merchant.

- 7.5 SVSB shall not be made liable to the Merchant in the event a Charge-Back Request occurs unless it is proven that the Charge-Back Request occurs as a result of SVSB's breach of the terms and conditions of this Agreement or SVSB's negligence. SVSB is under no obligation or responsibility to investigate fraudulent transactions arising from the Charge-Back Request, but may assist any investigation conducted by the authorities in relation to fraudulent transactions by providing the necessary information about the transaction to the relevant authorities.

8 THE MERCHANT'S ACCOUNT PASSWORD AND SECURITY

- 8.1 The Merchant is solely responsible for maintaining the confidentiality and security of the Merchant's login name, account and password. The Merchant agrees to accept liability for all activities that occur under the Merchant's account, whether or not authorized by the Merchant.

9 ACCURACY OF DATA

- 9.1 The Merchant shall ensure that the data provided to SVSB for registration and opening of the Merchant's account are accurate and complete.

10 SVSB PRIVACY POLICY

- 10.1 The privacy policy stated in Schedule 2 of this Agreement shall be applicable to the Merchant's for the use of the Payment Gateway.

11 ACCESS TO THE PAYMENT GATEWAY

- 11.1 SVSB shall make reasonable efforts to ensure availability and access to the Payment Gateway, however SVSB makes no warranties or representations that the Merchant's use of the Payment Gateway will be uninterrupted, timely, secure and error-free. The Merchant acknowledges that access to the Payment Gateway may also be suspended or restricted at times to allow for repairs, maintenance, or the introduction of new facilities or services and SVSB shall give prior notification to the Merchant in the event of any such suspension or restriction to access the Payment Gateway.
- 11.2 SVSB and its affiliates, subsidiaries, employees and suppliers provide the Payment Gateway on an "as is where is" basis and without any warranty or condition, express, implied or statutory. SVSB shall make reasonable efforts to ensure that requests for electronic debits from bank accounts are processed in a timely manner, but we make no representations or warranties regarding the amount of time needed to complete processing because the Payment Gateway is largely dependent upon many factors outside our control, such as delays in the banking system and the Internet services. The Merchant reserves the right to lodge a complaint to BNM upon unjustified and/or unreasonable delay on the part of SVSB in completing the process.

12 TERMINATION

- 12.1 Either Party may terminate this Agreement for any reason whatsoever by giving the other Party thirty (30) days' prior written notice. Notwithstanding the foregoing, this Agreement will be deemed to be automatically terminated in the event:
- a) The rights of the Merchant to be engaged in the business of supplying the Products be suspended or withdrawn or terminated or such business has ceased to be the core business of the Merchant;
 - b) The Merchant commits an act of insolvency or where any execution is levied against the Merchant; or
 - c) The Merchant enters into or attempts to enter into the composition with creditors or in the case of a limited company goes into liquidation.
- 12.2 After the effective date of the termination, SVSB will remit any sums due and owing to the Merchant less the MDR and any other sums payable by the Merchant to SVSB in accordance with this Agreement within seven (7) Business Days.
- 12.3 SVSB may terminate this Agreement by giving the Merchant at least thirty (30) days prior written notice of such termination in the event that (a) the Merchant does not generate any transaction after one (1) year from date of Merchant ID registration of which SVSB will classify the Merchant as inactive and (b) the Merchant fails to pay any fees due to SVSB under this Agreement.
- 12.4 The termination of this Agreement shall be without prejudice to any accrued rights of the Parties up to the date of termination, in particular but without limitation, the right to recover damages against the other.

13 INDEMNITY

- 13.1 The Merchant agrees to indemnify and hold SVSB and its group of companies, officers, agents, suppliers, co-branders or other partners, and employees, harmless from any claim or demand, including all legal fees (on a solicitor client basis) made by any third party due to or arising out of the Products, the purchase, delivery or use of the Products and the Merchant's violation of this Agreement.
- 13.2 SVSB agrees to indemnify and hold the Merchant and its employees harmless from any claim or demand, including all legal fees (on a solicitor client basis) made by any third party due to or arising out of the Payment Gateway caused by the negligence or misconduct of SVSB's officers, directors, employees, agents, contractors or subcontractors and the SVSB's violation of this Agreement.
- 13.3 Notwithstanding any other provision of this Agreement, neither Party shall be liable to the other Party for any loss of profit, indirect, incidental, consequential, exemplary or punitive damages suffered by the other Party as a result of the performance or non-performance of the obligations imposed pursuant to this Agreement, and whether under this Agreement or by law, irrespective of the causes thereof, including fault or negligence.

14 COPYRIGHT, TRADE MARK AND OTHER INTELLECTUAL PROPERTY RIGHTS

- 14.1 All intellectual property residing in any materials, products, logos, marks and images of any nature whatsoever protected by copyright, trade mark or other intellectual property right shall belong exclusively to and shall remain the property of SVSB, its group of companies or the property of the party supplying the said intellectual property.

15 EQUIPMENT

15.1 Ownership

The Equipment shall at all times remain the property of SVSB. No alterations, attachments and adjustments shall be made to the Equipment by the Merchant without the prior written consent by SVSB.

15.2 Right to add or remove

SVSB reserves the right to add or remove any of the facilities or Equipment or install any additional facilities or Equipment at the Station at any time.

15.3 The Merchant undertakes:

- (a) to use the Equipment exclusively for the purposes as directed by SVSB or such other purposes as approved in writing by SVSB at the Station;
- (b) to keep the Equipment in good order and condition (fair, wear and tear excepted) until the determination of this Agreement;
- (c) to promptly notify SVSB of any need to replace any part and/or component of the Equipment so as to ensure its proper and efficient functioning;
- (d) not to sell, dispose, damage or destroy the Equipment or allow the Equipment to deteriorate or create or allow or suffer the creation or subsistence of any pledge, charge, mortgage, lien, distress or any security interest or encumbrance howsoever arising or subsisting over the Equipment; and
- (e) SVSB shall replace, at its discretion, all Equipment, fixtures and signs supplied by SVSB provided the replacement is not the result of the negligence or abuse of the Merchant or of his/her agents or employees, and if the replacement is the result of such negligence or abuse, the Merchant shall reimburse SVSB for all replacement costs incurred.

16 DISCLAIMER OF WARRANTIES AND REPRESENTATIONS

- 16.1 SVSB makes no representations or warranties of any kind, express or implied, as to the operation of the Payment Gateway except as expressly provided in this Agreement.
- 16.2 To the full extent permissible by applicable law SVSB disclaims all warranties, express or implied, including, but not limited to:
- 16.2.1 Warranty that the contents and operations of the Payment Gateway are free from infection and viruses or anything else, which has contaminating or destructive properties; and
 - 16.2.2 Warranty that the Payment Gateway will meet the Merchant's requirements or that the access to the Payment Gateway will be uninterrupted, timely, secure, or error-free.
- 16.3 SVSB reserves the right to refuse transaction instructions in the event the Merchant is in breach of any of the terms of this Agreement by giving prior written notice to the Merchant.

17 LIMITATION OF LIABILITY

- 17.1 SVSB shall not be liable for any indirect, incidental, special, consequential or exemplary damages, including but not limited to damages for loss of profits, revenue, opportunity, business, goodwill, use, data or other intangible losses (even if SVSB has been advised or was aware of the possibility of such damages), resulting from:
- i. the use or the inability to use the Payment Gateway via the Engagement Platform;
 - ii. statements or conduct of any third party on the Payment Gateway;
 - iii. unauthorised access to or alteration of the Merchant's transmissions or data;
 - iv. the cost of remedying or procurement of substitute goods and services resulting from any goods, data, information or services purchased or obtained or messages received or transactions entered into through the Payment Gateway; or
 - v. any other matter relating to the Payment Gateway or the goods and services.
- 17.2 SVSB shall not be liable for any delay or failure in relation to the availability and access of the Payment Gateway where such failure or delay is outside SVSB's reasonable control (including without limitation, failures or delays associated with electronic communication network faults). In the event of any unplanned downtime or the inability of the Merchant to use the Payment Gateway, the Merchant shall not claim recourse against SVSB for any direct or indirect losses suffered by the Merchant.

18 SERVICE TAX

- 18.1 Where Service Tax is applicable to any services rendered by SVSB under this Agreement, the Merchant shall be responsible for and pay the Service Tax when invoiced by SVSB for any taxable service rendered, provided that SVSB shall provide the Merchant a copy of valid Service Tax registration approval letter issued by the Royal Malaysian Customs Department ("Customs Authority") confirming that SVSB is registered under the applicable Act as a taxable person providing taxable services.
- 18.2 The Service Tax amount shall be separately stated from the prices and/or rates, and shall be separately itemized in the invoice, if any.
- 18.3 For the avoidance of doubt, "Service Tax" as mentioned above refers to the tax imposed on taxable services provided by taxable person in Malaysia effective from the enactment and implementation date of the Service Tax Act 2018 in Malaysia.
- 18.4 The Merchant shall protect and indemnify SVSB and hold SVSB safe and harmless from any and all claims, demands and causes of action in respect of Service Tax and penalties made against SVSB by the Customs Authority including but not limited to awards and judgments, court and arbitration costs, legal fees and other reasonable expenses associated with such claims.

19 LEGAL DISPUTES

- 19.1 The Merchant and SVSB agree that if any dispute, controversy or claim at law or equity that arises out of this Agreement, the Parties shall endeavour to resolve such dispute, controversy or claim shall be resolved by mutual discussions in good faith. In the event such dispute, controversy or claim is not able to be resolved within ninety (90) days, the dispute, controversy or claim shall be referred to mediation by a mediator mutually agreed upon in writing by the Merchant and SVSB, failing which, the dispute, controversy or claim shall be referred to by the Parties in the Malaysian Court.

20 ELECTRONIC COMMUNICATIONS

- 20.1 For contractual purposes, the Merchant consents to receive communications from us electronically and the Merchant agrees that all notices, disclosures and other communications that we provide to the Merchant electronically satisfy any legal requirement that such communications be in writing.

21 FORCE MAJEURE

- 21.1 None of the Parties will be liable in any manner for failure to perform or delay in performing all or any part of this Agreement which is directly or indirectly due to any event of Force Majeure.
- 21.2 A Party claiming relief by reason of an event of Force Majeure shall:

- 21.2.1 as soon as practicable give notice to the other Party of the event or circumstance alleged to constitute an event of Force Majeure, which notice will include full information about the event or circumstance and provide statement of the steps and the time estimated to be necessary to remove such failure;
 - 21.2.2 take all reasonable practicable steps to rectify the event or circumstance causing the failure and to minimise the damage and loss whatsoever; and
 - 21.2.3 give notice of the resumption of the performance under this Agreement once performance is resumed (if possible).
- 21.3 A Party claiming relief from its obligations by reason of event of Force Majeure, wholly or in part will be relieved of its obligations under this Agreement to the extent only for as long as the occurrence or circumstance constituting the event of Force Majeure continues.
- 21.4 An event of Force Majeure does not relieve a Party from liability for an obligation which arose before the occurrence of that event, nor does that event affect the obligation to pay money in a timely manner which matured prior to the occurrence of that event.
- 21.5 Where the event(s) constituting the event of Force Majeure continues for a period of more than one hundred and twenty (120) days but less than two hundred and seventy (270) days, the Parties hereto will consult each other on any remedial action that may be taken to alleviate any hardship on both Parties. In the event the event of Force Majeure exceeds two hundred and seventy (270) days either Party shall be entitled to terminate this Agreement by giving thirty (30) days written notice.

22 WAIVER

- 22.1 The rights of any Party shall not be prejudiced or restricted by any indulgence or forbearance extended to the other Party and no waiver by any Party in respect of any breach shall operate as a waiver in respect of any subsequent breach.

23 GOVERNING LAW AND JURISDICTIONS

- 23.1 This Agreement shall be governed by and construed in accordance with the laws of Malaysia. Both Parties agree to submit to the exclusive jurisdiction of the Malaysian courts.

24 NOTICE

24.1 Any notice which is required or permitted to be given by one Party to the other may be given by hand delivery, registered or certified mail directed to the other Party's address or addresses as set forth in the Schedule 1 of this Agreement or to such other address as may be substituted by notice to the other Party, or by means of an electronic transmission (i.e. by telex, facsimile or electronic-mail) and if sent by telex or facsimile to be followed by a hard copy print-out within seven (7) days.

24.2 A notice shall be deemed received:

24.2.1 in the case of delivery by hand or registered mail to the address of the other Party, on the day on which it is received at the other Party's address;

24.2.2 if sent by electronic transmission to the address of the recipient, on the date of receipt of the electronic mail, telex or facsimile or the date of transmission if no delivery failure message is received;

24.2.3 in accordance with Clause 24.2.1 and 24.2.2 above on a day, which is not a business day, or after 5p.m on any business day according to local time in the place of receipt, shall be deemed to be received on the next following day.

25 CONFIDENTIALITY AND DISCLOSURE

25.1 Each Party undertakes to the other Party to:

25.1.1 not to use or divulge or communicate the Confidential Information to any person other than to its related corporations (as defined under the Companies Act 2016) and its related corporations' officers, employees, auditors, solicitors and other professional advisors of such Party on a 'need to know' basis; use the Confidential Information solely for the purpose of carrying out its functions herein and not utilize the Confidential Information for any purposes other than specified in this Agreement.

25.2 The restrictions on disclosure of Confidential Information shall not apply to information:

25.2.1 which was or becomes public knowledge without the breach of the Receiving Parties' obligations hereunder; or

25.2.2 which was known to the Party prior to receipt from the other Party; or

25.2.3 which was rightfully acquired by the Receiving Party from a third party without restriction on disclosure or use; or

25.2.4 which was required to be disclosed by an order from a competent court of law by law, by any regulatory authority having jurisdiction over the Receiving Party; or

25.2.5 the disclosure of which has been approved in writing by the Disclosing Party.

25.3 Return of Confidential Information

25.3.1 Upon termination of this Agreement, the Receiving Party shall return to the Disclosing Party, as soon as practicable but in no event later than fourteen (14) days after termination all Confidential Information obtained by it in relation to this Agreement from the Disclosing Party together with all copies or reproductions thereof OR if the Disclosing Party opts to have the Confidential Information destroyed by the Receiving Party, the Receiving Party shall promptly destroy all such Confidential Information together with all copies and reproductions thereof and upon request the Receiving Party shall issue a letter signed by the duly authorized representatives certifying that all such Confidential Information were destroyed.

26 ASSIGNMENT

26.1 The Merchant shall not assign this Agreement or any of its rights and obligations hereunder, without the prior written consent of SVSB; any such attempted assignment shall be null and void. However, SVSB shall have the right to assign, novate or transfer all or any part of its interest in this Agreement to its affiliate with prior written notice to the Merchant provided that the said SVSB affiliate is able to fulfil all the obligations assumed by SVSB under this Agreement.

26.2 This Agreement shall be binding upon and shall inure to the benefit of the Parties and their successors and permitted assigns.

27 COMPLIANCE WITH CRITICAL LAWS

27.1 For the purpose of this Clause 27, each of the following words and expressions shall have the following meaning:

27.1.1 **"Affiliates"** shall mean as to any person, any other person that, directly or indirectly controls, or is controlled by, or is under common control with, such person. For the avoidance of doubt, control or controlled shall mean in relation to a company or an entity, the power of a person to secure the affairs of the company or entity are conducted with the wishes of that person:

- (a) by means of the holding of shares, or the possession of voting power, in or in relation to that or any other body including any subsidiaries, joint venture entities, variable interest entities or any other legal entity in which the Person is the legal or beneficial owner, directly or indirectly; or
- (b) as a result of any powers conferred by the articles of association, constitution or any other document regulating that or any other body.

27.1.2 **"Applicable Laws"** means with respect to any person, any foreign, national, federal, state, local, municipal or other law, statute, constitution, resolution, ordinance, code, permit, rule, regulation, ruling or requirement issued, enacted, adopted, promulgated, implemented or otherwise put into effect by or under the authority of any Governmental Authority and any orders, writs,

- injunctions, awards, judgments and decrees applicable to such person or its Subsidiaries, their business or any of their respective assets or properties;
- 27.1.3 **“Authorised Persons”** means each Party, its authorized employees, contractors and/or agents who have a need to know or otherwise access to the Personal Data to enable such Party to perform its obligations under this Agreement;
- 27.1.4 **“Competition Authority”** means any Governmental Authority having jurisdiction in competition or antitrust matters under any competition or antitrust legislation in any country in which the Company carries on or intends to carry on business or where its activities may have an effect;
- 27.1.5 **“Data Protection Law”** means the Applicable Laws relating to regulation of the processing of Personal Data and matters connected therewith and incidental thereto (including the PDPA);
- 27.1.6 **“Governmental Authority”** means any supranational, national, federal, state, provincial, municipal or local court, administrative body or other governmental or quasigovernmental entity or authority with competent jurisdiction exercising legislative, judicial, regulatory or administrative functions of or pertaining to supranational, national, federal, state, municipal or local government, including any department, commission, board, agency, bureau, subdivision, instrumentality or other regulatory, administrative, judicial or arbitral authority or arbitral tribunal, whether domestic or foreign;

- 27.1.7 **“third parties”** include but not limited to each Party’s holding or parent company, subsidiaries, related and/or associated companies, sub-contractors, vendors, suppliers, licensors, business partners, professional advisers, agents, third party service providers, insurance companies, banks and financial institutions;
- 27.1.8 **“PDPA”** means the Malaysian Personal Data Protection Act 2010, the applicable regulations, subsidiary legislation, guidelines, orders related thereto and any statutory amendments or re-enactments made of the PDPA from time to time;
- 27.1.9 **“Personal Data”** and **“Sensitive Personal Data”** is given the meaning and scope described under the Malaysian Personal Data Protection Act 2010 (“PDPA”);
- 27.1.10 **“process”** or **“processes”** or **“processing”** shall means collecting, recording, holding or storing Personal Data or carrying out any operation or set of operations on the Personal Data, including (a) the organization, adaptation or alteration of Personal Data; (b) the retrieval, consultation or use of Personal Data; (c) the disclosure of Personal Data by transmission, transfer, dissemination or otherwise making it available; or (d) the alignment, combination, correction, erasure or destruction of Personal Data;
- 27.1.11 **“Sanctions”** means all Applicable Laws concerning economic sanctions (including embargoes, export controls, restrictions on the ability to make or receive international payments, freezing or blocking of assets of targeted Persons, or the ability to engage in transactions with or involving specified Persons or countries, or any Applicable Law that threatens to impose economic sanctions on any Person for engaging in targeted behaviour) of any jurisdictions including –
- (a) the United Nations;
 - (b) Malaysia;
 - (c) the European Union;
 - (d) the United Kingdom (including those administered by HM Treasury);
 - (e) the United States (including those administered by the Office of Foreign Assets Control of the Department of the Treasury, the Bureau of Industry and Security of the Department of Commerce, or the Department of State);
- 27.1.12 Subsidiary(ies) means with respect to a person, (i) any corporation of which a majority of the securities entitled to vote generally in the election of directors or commissioners thereof, at the time as of which any determination is being made, are owned by such person, either directly or indirectly, (ii) any joint venture, general or limited partnership, limited liability company or other legal entity in which such person is the record or beneficial owner, directly or indirectly, of a majority of the voting interests or the general partner, or (iii) any variable interest entity controlled by such person or its Subsidiary.

27.2 Personal Data Protection

- 27.2.1 During the ordinary course of dealings between the Parties and in connection with the performance of this Agreement, the Parties acknowledge that they may need to process Personal Data (including Sensitive Personal Data) belonging to or supplied by each Party or from authorized third parties or any other Associated Persons from time to time by electronic or paper-based means.
- 27.2.2 By entering into this Agreement, the Parties expressly and explicitly acknowledge and consent to:
- (a) the processing of such Personal Data by each Party for the purpose of performance of this Agreement and for all other purposes that are necessary, incidental or related to the performance of this Agreement;
 - (b) the processing of such Personal Data within and, where necessary, outside Malaysia;
 - (c) the transfer and disclosure of such Personal Data to third parties authorised by each Party within and, where necessary, outside Malaysia, provided that these third parties undertake to keep such Personal Data confidential, or to any persons, authorities or regulators to whom the Parties are compelled, permitted or required under the Applicable Law to disclose to.
- 27.2.3 The Parties expressly and explicitly agree to process such Personal Data in accordance with the requirements of the Applicable Law (including the PDPA) or such other applicable data protection laws and regulations.

27.3 Anti-Money Laundering

The operations of the Merchant and its Affiliates are, have been conducted, and will at all times hereinafter be conducted in compliance with applicable financial recordkeeping and reporting statutory requirements, money laundering statutes (and the rules, guidelines and regulations thereunder) and any related or similar rules, regulations or guidelines, issued, administered or enforced by any governmental agency in or outside of Malaysia having jurisdiction over the Merchant and/or any of its Affiliates (collectively, "**Money Laundering Laws**") and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator and no regulatory investigation involving the Merchant and/or any of its Affiliates with respect to the Money Laundering Laws is pending or threatened or will hereinafter be instituted or commenced by any governmental agency in or outside of Malaysia against the Merchant or any of its Affiliates.

27.4 Ethics and Anti-Bribery

None of the Merchant or any of its Affiliates, nor, any director, officer, agent, employee or other person acting on behalf of the Merchant or any of its Affiliates is aware of or has taken any action, directly or indirectly that would result in, or is at any time prior

to or after the date hereof being subject to any internal and/or regulatory investigation in relation to, a violation by such persons of PETRONAS Code of Business Ethics ("**COBE**"), PETRONAS Anti-Bribery Policy as well as any applicable anti-bribery law, including but not limited to, the Malaysian Anti-Corruption Commission Act 2009 ("**MACC Act**"), the United Kingdom Bribery Act 2010 ("**UK Bribery Act**") and U.S. Foreign Corrupt Practices Act of 1977 ("**FCPA**"). Furthermore, the Merchant and its Affiliates have at all times conducted their businesses in compliance with the MACC Act, the UK Bribery Act, the FCPA and similar laws, rules or regulations (as amended from time to time) (collectively, "**Anti-Bribery Laws**") and have instituted, maintained and at all times complied with their policies and procedures designed to ensure continued compliance with such Anti-Bribery Laws.

27.5 Sanctions & Export Controls

27.5.1 Each Party shall perform this Agreement in compliance with any applicable Sanctions laws. No Party shall be obliged to perform any obligation under this Agreement if this would not be compliant with, would be in violation of, inconsistent with, or would expose either Party to punitive measures under any laws, regulations applicable to either Parties relating to Sanctions.

27.5.2 Warranties

- (a) The Merchant warrants and declares that the Merchant, its Affiliates and to the best of its knowledge, information and belief, each of their respective directors, officers, employees, agents and representatives –
- (i) are not the target or subjects of any Sanctions;
 - (ii) are not owned or controlled by any person who is the target or subject of any Sanctions;
 - (iii) are not acting for the benefit of or on behalf of any person that is the target or subject of any Sanctions; and
 - (iv) have not been engaging and will not engage in any conduct/activity that would result in the Merchant being in breach of any Sanctions or becoming a target or subject of Sanctions.
- (b) The Merchant warrants that it is not prevented by any Sanctions from fulfilling its obligations under the Agreement and the Merchant further warrants that by entering into this Agreement with SVSB, it will not result in SVSB violating any of SVSB's obligations under any Sanctions.
- (c) The Merchant warrants that, where necessary, it has obtained all the relevant permits and/or licences that are required under any Applicable Laws for the sale, supply and delivery of any products/services to SVSB under this Agreement.

- (d) The Merchant undertakes to promptly notify SVSB in the event it is no longer able to comply with the warranties above. The Merchant fully indemnifies SVSB, its directors, shareholders and employees for any losses arising from a breach of these warranties.

27.5.3 Suspension and Termination

- (a) Where any performance by a Party of any obligation in this Agreement would be in violation of, inconsistent with, or expose such party, or a parent company of such party, to punitive measures under any Sanctions, the Party shall, suspend the affected obligation and immediately give written notice to the other party of the affected obligation. Once such notice has been given the Parties shall be entitled to –
 - (i) suspend the affected obligation (whether payment or performance) until such time as the obligation is no longer affected; and/or
 - (ii) where the obligation continues to be affected (or is reasonably expected to continue to be affected) until the end of the contractual time, for discharge thereof, to a full release from the affected obligation,in each case, subject as provided above, without any liability whatsoever (including but not limited to any damages for breach of contract, penalties, costs, fees or expenses).
- (b) Where the affected obligation materially affects the performance of the Agreement, the Parties shall enter into consultation in good faith with a view to mutually agree on appropriate measures/actions to continue with this Agreement in manner which strictly complies with the Applicable Laws. Where the Parties could not agree on such measures/actions within fourteen (14) days from the start of the consultation, either Party shall have the right, to immediately terminate this Agreement.
- (c) Notwithstanding any of the above, where the relevant obligation relates to payment for goods which have already been delivered, the affected payment obligation shall remain suspended (without prejudice to the accrual of any interest on an outstanding payment amount) until such time as the payment obligation is no longer affected.

27.6 Export Controls

- (a) Each Party warrants to the other Party that all goods supplied under this Agreement shall not be used for any activities that will or may facilitate the design, development, production and delivery of or in connection with the weapons of mass destruction or any terrorism activities or any restricted activity under the Malaysian Strategic Trade Act 2010 (“**STA**”) or any other applicable export controls laws. Each Party fully indemnifies the other Party for any losses arising from the breach of the STA and/or any other applicable export controls laws.
- (b) Notwithstanding anything to the contrary contained herein, all obligations of the Parties are subject to prior compliance with export regulations applicable to each Party

and such other related laws and regulations as may be applicable to each Party, and to obtaining all necessary approvals required by the applicable government entity. Each Party shall each use its reasonable efforts to obtain such approvals for its own activities. Each Party shall cooperate with the other Parties and shall provide assistance to the other Parties as reasonably necessary to obtain any required approvals.

27.7 Competition Laws

27.7.1 The Merchant has not:

- (a) been party to or engaged in or the subject of any agreements, decisions, concerted practices, or activities which in whole or part are prohibited or void or in breach of Competition Laws in any jurisdiction in which it carries on or intends to carry on business or where its activities may have an effect;
- (b) committed any abuse, either alone or jointly with any other enterprises, of a dominant position in Malaysia and/or in any jurisdiction;
- (c) made any submission or application or given any undertaking (whether or not legally binding) to Competition Authority in any jurisdiction in respect of any agreements, decisions, or concerted practices pursuant to or in connection with Competition Laws in any jurisdiction;
- (d) been the subject of any investigation or enquiry by Competition Authority in any jurisdiction; or
- (e) received any process, notice, request for information or other communication (formal or informal) from Competition Authority in any country in which the Merchant carries on or intends to carry on business or where its activities may have an effect.

27.7.2 In respect of this Agreement, the Merchant undertakes:

- (a) to comply, and will procure its Affiliates and Subsidiaries to comply, with all applicable Competition Laws;
- (b) to promptly notify SVSB in writing of any suspected or occurrence of infringement of any Competition Laws; and
- (c) to promptly notify SVSB in the event it is no longer able to comply with the warranties in paragraph 27.7.1 above.

27.7.3 The Merchant fully indemnifies SVSB, its directors, shareholders and employees for any losses arising from a breach of the warranties in paragraph 27.7.1 above.

[END OF CLAUSES]

SCHEDULE 1

MERCHANT DETAILS

Company Name	As per registration form
Company Registration No.	As per registration form
Registered Address	As per registration form
Business Address	As per registration form
E-mail Address	As per registration form
Telephone No.	As per registration form
Contact Person	As per registration form
Bank Account Number	As per registration form
Bank Name	As per registration form
Payee Name	As per registration form

THE PRODUCTS

The Products are described under the "Nature of Business" column in the attached Know Your Client form which is made available at <https://www.setel.my>.

MDR

The MDR rate payable by Merchant to SVSB as referred to in Clause 6.2 is 2%.

VALUE ADDED SOLUTIONS

- (a) Type of Value Added Solution: N/A
- (b) Commission rate per transaction: N/A
- (c) Development cost to be borne by merchant (if applicable): N/A
- (d) Solution proposal (if applicable) : N/A

REFUND POLICY (IF APPLICABLE)

SVSB acts as an electronic payment service provider by creating, hosting, maintaining and providing services to the Merchant via the Payment Gateway. In the absence of an arrangement to the contrary, any issues in relation to refund or enquiry shall be referred to the Merchant by the Users.

SCHEDULE 2

PRIVACY POLICY

- a) SVSB appreciates that the Merchant may be concerned about how information about the Merchant is used and shared. This notice describes our privacy policy.
- b) By using the Payment Gateway, the Merchant is deemed to have read and accepted the practices described in this Privacy Policy.
- c) Security on information:
 - i. We protect the security of the Merchant's information during transmission by using a high level of encryption technique.
 - ii. When dealing with the Payment Gateway, it is also very important for the Merchant to protect against unauthorised access to the Merchant's password and to the Merchant's computer. Be sure to sign off when finished using a shared computer.

- d) How SVSB may share the information it receives:

SVSB shares customer information only as described below and with related companies of SVSB, that either are subject to this Privacy Policy or follow similar practices those described in this Privacy Policy.

- i. Transfer of business:

As we continue to develop our business, we might sell our business or sell or buy stores, subsidiaries, or business units. In such transactions, customer information may be one of the transferred business assets.

- ii. Protection and enforcement:

We release information relating an account and other personal information when we believe such release is appropriate to comply with the existing laws; enforce or apply the Terms and Conditions and other agreements; or protect the rights, property, or security of the Payment Gateway, the Users and others. This includes exchanging information with other companies and organizations for fraud-protection and credit risk reduction.

- iii. With the Merchant consent:

In all other instances where the Merchant has elected to share the information.

- e) Information the Merchant can access:

SVSB e-Merchant portal gives the Merchant access to a range of information about the Merchant's account and the Merchant's interactions with the Payment Gateway for the limited purpose of viewing and, in certain cases, updating that information.

f) Conditions of Use, Notices, and Revisions:

- i. If the Merchant chooses to visit the Payment Gateway, the Merchant's visit and any dispute over privacy is subject to this Privacy Policy and the Terms and Conditions, this Agreement including limitations on liability, arbitration of disputes, and application of the laws of Malaysia. If the Merchant has any concern about privacy at the Payment Gateway, please write to us at lisa@setel.my and we will be obliged to resolve it.

- ii. Our business being based on technology may change on a regular basis and therefore our Privacy Policy and the Terms and Conditions may also need to be updated regularly. Unless stated otherwise, our current Privacy Policy applies to all information that we have about the Merchant and the Merchant's account.