

## **PERNAMA E-MARKETPLACE: TERMS & CONDITIONS OF USE**

Perwira Niaga Malaysia (PERNAMA) (“**PERNAMA**” or “**we**” or “**our**” or “**us**”) welcomes you to our E-Marketplace (“**E-Marketplace**”). The E-Marketplace provides an e-commerce platform, which is available either on the website [www.perwira.com.my](http://www.perwira.com.my) or the PERWIRA Superapp enabling registered members to access, browse, place, accept, conclude, fulfil, manage, track or otherwise deal with orders for the sale and purchase of products and/or services online via the platform.

By accessing the E-Marketplace, you confirm your understanding of the Terms and Conditions. If you do not agree to these Terms and Conditions of use, you shall not use the E-Marketplace. We reserve the right, to change, modify, add, or remove portions of these Terms and Conditions of use at any time. Changes will be effective when posted on the E-Marketplace with no other notice provided. Please check these Terms and Conditions of use regularly for updates. Your continued use of the E-Marketplace following the posting of changes to these Terms and Conditions of use constitutes your acceptance of those changes.

### **USE OF THE E-MARKETPLACE**

We grant you a non-transferable and revocable license to use the E-Marketplace, under the Terms and Conditions described, for the purpose of shopping for personal items sold on the E-Marketplace. Commercial use or use on behalf of any third party is prohibited, except as explicitly permitted by us in advance. Any breach of these Terms and Conditions shall result in the immediate revocation of the license granted in this paragraph without notice to you.

Content provided on the E-Marketplace is solely for informational purposes. Product representations expressed on the E-Marketplace are those of the Merchants and are not made by us. Submissions or opinions expressed on the E-Marketplace are those of the individual posting such content and may not reflect our opinions.

Certain services and related features that may be made available on the E-Marketplace may require registration or subscription. Should you choose to register or subscribe for any such services or related features, you agree to provide accurate and current information about yourself, and to promptly update such information if there are any changes. Every user of the E-Marketplace is solely responsible for keeping passwords and other account identifiers safe and secure. The account owner is entirely responsible for all activities that occur under such password or account. Furthermore, you must notify us of any unauthorized use of your password or account. We shall not be responsible or liable, directly or indirectly, in any way for any loss or damage of any kind incurred as a result of, or in connection with, your failure to comply with this section.

### **ORDER ACCEPTANCE AND PRICING**

Please note that there are cases when an order cannot be processed for various reasons. The E-Marketplace reserves the right to refuse or cancel any order for any reason at any given time. You may be asked to provide additional verifications or information, including but not limited to phone number and address, before we accept or process the order.

We are determined to provide the most accurate pricing information on the E-Marketplace to our users; however, errors may still occur, such as cases when the price of an item is not displayed correctly. As such,

we reserve the right to refuse or cancel any order. In the event that an item is mispriced, we may, at our own discretion, either contact you for instructions or cancel your order and notify you of such cancellation. We shall have the right to refuse or cancel any such orders whether or not the order has been confirmed and your credit card or bank account charged.

## **TAXES**

All Prices are subject to applicable taxes, unless otherwise stated. We reserve the right to amend the Prices at any time without giving any reason or prior notice.

## **TRADEMARKS AND COPYRIGHTS**

All intellectual property rights, whether registered or unregistered, in the E-Marketplace, information content on the E-Marketplace and all the website or mobile application design, including, but not limited to, text, graphics, software, photos, video, music, sound, and their selection and arrangement, and all software compilations, underlying source code and software shall remain our property. The entire contents of the E-Marketplace also are protected by copyright as a collective work under Malaysia copyright laws and international conventions. All rights are reserved.

## **APPLICABLE LAW AND JURISDICTION**

These Terms and Conditions shall be interpreted and governed by the laws in force in Malaysia. Subject to the Arbitration section below, each party hereby agrees to submit to the jurisdiction of the courts of Government of Malaysia to waive any objections based upon venue.

## **ARBITRATION**

Any controversy, claim or dispute arising out of or relating to these Terms and Conditions thereof shall be settled by arbitration in accordance with the Rules for Arbitration of the Asian International Arbitration Centre (AIAC). The arbitral tribunal shall consist of a sole arbitrator, to be appointed by the Director of the AIAC. The place of arbitration shall be Malaysia. Any award by the arbitration tribunal shall be final and binding upon the parties. Notwithstanding the foregoing, we reserve the right to pursue the protection of intellectual property rights and confidential information through injunctive or other equitable relief through the courts.

## **TERMINATION**

In addition to any other legal or equitable remedies, we may, without prior notice to you, immediately terminate the Terms and Conditions or revoke any or all of your rights granted under the Terms and Conditions. Upon any termination of this Agreement, you shall immediately cease all access to and use of the E-Marketplace and we shall, in addition to any other legal or equitable remedies, immediately revoke all password(s) and account identification issued to you and deny your access to and use of the E-Marketplace in whole or in part. Any termination of this agreement shall not affect the respective rights and obligations (including without limitation, payment obligations) of the parties arising before the date of termination. You furthermore agree that we shall not be liable to you or to any other person as a result of any such suspension or termination. If you are dissatisfied with us or with any terms, conditions, rules,

policies, guidelines, or practices of us, in operating the E-Marketplace, your sole and exclusive remedy is to discontinue using the E-Marketplace.

## **Article 1 - Acceptance of Terms**

### **1.1 Scope of Terms and Conditions**

- 1.1.1 The terms and conditions set out below ("**Terms and Conditions**") are applicable to any and all access and use of the E-Marketplace. You may view the Terms and Conditions via the link set out on the main page of the E-Marketplace.
- 1.1.2 These Terms and Conditions are to be read together with the following documents:
  - (a) Merchant Agreement (in respect of a Merchant);
  - (b) Terms and Conditions of Sale;
  - (c) Cancellation, Exchange, Returns and Refunds Policy;
  - (d) Privacy Policy; and
  - (e) all other policies as published on the E-Marketplace from time to time.
- 1.1.3 The terms of the Policies are part of these Terms and Conditions by reference, and collectively represent a legally binding agreement between the Members and us. For the avoidance of doubt, in the event of any inconsistency, the terms and conditions in this Terms and Conditions shall prevail.
- 1.1.4 For the avoidance of doubt, a general reference to "Terms and Conditions" herein shall where applicable include the terms and conditions in the Policies.

### **1.2 Use of Service and the E-Marketplace**

- 1.2.1 We provide e-commerce facilities and Services via the E-Marketplace enabling the sale and purchase of Products.
- 1.2.2 By accessing, browsing and/or using the E-Marketplace, you are deemed to have irrevocably and unconditionally agreed to the Terms and Conditions.
- 1.2.3 You must not access and/or use our Services or the E-Marketplace if you are not agreeable to any of the Terms and Conditions.
- 1.2.4 You agree to use the E-Marketplace at your own risk. We do not take any responsibility or agree to indemnify you for losses you suffer arising from such use, and you irrevocably agree to hold us harmless and indemnify us from any losses that you may suffer therefrom.

### **1.3 Use of Members' Personal Data**

- 1.3.1 For a complete description of how we use and protect a Member's personal data, you may refer to the Privacy Policy.

- 1.3.2 By continuing to access the E-Marketplace and using the Services, you are deemed to accept the terms of the Privacy Policy. Please do not use our Services or the E-Marketplace if you object to your personal data being used in the ways described in the Privacy Policy.

#### **1.4 Amendment of Terms and Conditions**

- 1.4.1 We shall be entitled at any time and from time to time, to modify, amend or change the Terms and Conditions as appropriate and at our sole and absolute discretion. In such instance, we shall notify you of such amendments or changes (including the effective date for the same) via an announcement to be published on the main page of the E-Marketplace, and you shall be bound by such modified Terms and Conditions. As such, it is your responsibility to regularly visit the E-Marketplace, view the Terms and Conditions and Policies, and keep updated on any changes made to the Terms and Conditions.
- 1.4.2 Please cease to use the E-Marketplace if you are not agreeable to any amendments or modifications of the Terms and Conditions. You agree to use the E-Marketplace at your own risk, and your use of the E-Marketplace following any amendment or modification of the Terms and Conditions constitutes your agreement and acceptance to be bound by the same.
- 1.4.3 We do not take any responsibility or agree to indemnify you for losses you suffer arising from the modified Terms and Conditions or your own failure to keep yourself updated on the modifications to the Terms and Conditions, and you irrevocably agree to hold us harmless or indemnify us from any losses that you may suffer therefrom.

### **Article 2 - Application and Registration as Member**

#### **2.1 Registration as Member**

- 2.1.1 In order to access or use certain services on the E-Marketplace, you are required to register as a member ("**Member**"). Unless otherwise specified by the E-Marketplace, registration as a Member is free.
- 2.1.2 We have the right to restrict, suspend or terminate your access to or use of the E-Marketplace or the Services (or any part of the same) if in our sole and absolute opinion, you are in breach of any of the Terms and Conditions.

#### **2.2 Membership Categories**

- 2.2.1 Membership of the E-Marketplace can fall under any one or more of the following categories:
- (a) Buyer;
  - (b) Local individual Merchant;
  - (c) local business Merchant (with business / company registration); and
  - (d) Global Merchant (with business / company registration).

#### **2.3 Application Requirements**

- 2.3.1 To become a Member, you must comply with the following requirements:
- (a) if you are an individual, you must have the legal capacity to enter into contract; or

- (b) if you are a company / registered business, you must be an incorporated legal entity or have a business registration number and are authorized under your constitution documents to conduct business with us or through the E-Marketplace in accordance with the laws of Malaysia;
- (c) for Business Merchant Members or Global Merchant Members, you must also provide all such information and documents required to support the application, including but not limited to your company/business registration number, company incorporation documents and details of personnel handling the Member account.

2.3.2 You warrant that all information provided to us as part of the registration process is accurate, current and complete at all times and you will immediately let us know if there are any changes to the same. If we rely on the contents of your application and accept you as a Member, you irrevocably agree that you shall indemnify and keep us indemnified and hold us harmless for any expense, loss or damage that we may suffer arising from any inaccurate or false statement or misrepresentation of facts submitted to us by you.

2.3.3 We reserve the right to accept or reject your application to become a Member at our sole and absolute discretion in the following cases:

- (a) where we are not able to verify your identity with certainty;
- (b) where the data provided by you upon sign-up (for example, email address, telephone number, company/business registration number etc.) is identical to a membership account already registered with the E-Marketplace;
- (c) where you have provided false or inaccurate information or omitted to provide necessary information during the application process;
- (d) where you have applied for membership within less than one (1) month from the date of termination or cancellation of an earlier membership on our E-Marketplace;
- (e) where you have signed up as a Member under another account, which is either temporarily or permanently suspended at the time of application for a new Member account;
- (f) where you have breached any of the Terms and Conditions; and/or
- (g) any other reason as may be determined by the E-Marketplace.

2.3.4 For the avoidance of doubt, our decision above cannot be contested.

## **2.4 Completion of Registration**

2.4.1 You will become a Member upon the successful completion of the registration process as determined by us. Our registration process may, where necessary, include identity verification by way of submission by you of certain documentary evidence and support materials as may be requested by us.

2.4.2 In order for us to identify you as our Member, you can submit for our review, a member identification name ("**Member ID**") which can be any letters, word, numbers or combination of the same. The Member ID shall be our method of identifying you as a Member on the E-Marketplace. Please note that we reserve the right not to approve any Member ID names that we feel are unsuitable or are not in accordance with our Policies.

2.4.3 Where a Member:

- (a) is an individual, we will provide one (1) Member ID; or
  - (b) is a company / registered business, we can provide up to five (5) Member IDs;
- subject to such conditions and authentication process as we may impose.

- 2.4.4 Please note that you are not allowed to change your email address once your membership request is submitted and approved as your membership account is linked to the email address. If you would like to change your email address, you will need to terminate your membership and account, and sign up again using the new email address.

## **2.5 Protection of Account Details**

- 2.5.1 Each Member is responsible for maintaining the confidentiality of the Member's account information, including the account password, and for all activity that occurs under the Member's account. You agree to notify us immediately should there be any unauthorized use of your account or password or of any other breach of security. You may be held liable for losses incurred by us or by any other Member and/or Merchant due to someone else using your password or account.
- 2.5.2 You may not use anyone else's password or Member account at any time. We have the right to disable any Member ID or password at any time in our sole and absolute discretion for any reason, including where you have breached any provision of these Terms and Conditions.

## **2.6 Use of Services**

- 2.6.1 Use of the E-Marketplace and its services as a Buyer is free.
- 2.6.2 However, certain Services or functions on the E-Marketplace which are provided for Merchants may require the payment of fees as further described in the Merchant Agreement, Policies and/or other agreements as may be entered into between the Merchant and us from time to time.
- 2.6.3 Any fees imposed shall be charged, settled and/or otherwise dealt with in accordance with the terms of the Merchant Agreement, Policies and/or any other agreement a Merchant may enter into with us in respect of the same.

## **2.7 User Submissions**

- 2.7.1 Anything that you submit to the E-Marketplace and/or provide to us, including but not limited to, questions, reviews, comments, and suggestions (collectively, "**Submissions**") will become our sole and exclusive property and shall not be returned to you.
- 2.7.2 In addition to the rights applicable to any Submission, when you post comments or reviews to the E-Marketplace, you also grant us the right to use the name that you submit, in connection with such review, comment, or other content. You shall not use a false e-mail address, pretend to be someone other than yourself or otherwise mislead us or third parties as to the origin of any Submissions. We may, but shall not be obligated to, remove or edit any Submissions.
- 2.7.3 You consent to and authorise the use by us of any information provided by you (including Personal Data) for the purposes of sending informational and promotional e-mails to you. Your agreement

to the provisions of this Clause 2.7 shall constitute your consent for the purpose of the provisions of any spam control laws (whether in Malaysia or elsewhere). You may subsequently opt out of receiving promotional e-mails by clicking on the appropriate hyperlink in any promotional e-mail.

- 2.7.4 You acknowledge that you have read and agree to the Privacy Policy as set out on the E-Marketplace and consent to our collection, use and disclosure of your Personal Data for the purposes as set out in the Privacy Policy.

## **2.8 Suspension and Termination of Membership**

- 2.8.1 Limitation of Access, Suspension or Termination by us. Subject to **Article 2.9**, we shall be entitled to restrict your access to the Services and/or temporarily or permanently suspend the Services and/or your account, terminate your account and and/or take any such measures or actions that we deem necessary without prior notice to you if:

- (a) you commit any prohibited conduct in violation of **Article 4.1**;
- (b) where you have committed or are suspected to commit any wrongdoing/unlawful act or where you have committed or are suspected of breaching or are anticipated to breach any of these Terms and Conditions; and/or
- (c) there are any other reasonable grounds as may be determined by us at our sole and absolute discretion.

- 2.8.2 Termination by Member. Subject to **Article 2.9**, you may terminate your membership at any time by writing to us at [enquiries@perwira.com.my](mailto:enquiries@perwira.com.my) provided that all sale and purchase transactions of any Product that are currently in progress must be either be completed or cancelled.

- 2.8.3 Consequences of Termination of Membership. Termination of your membership, either in accordance with **Article 2.9.1** or **Article 2.9.2**, will result in you losing:

- (a) all Credits (as defined herein) and Points (as defined herein) accumulated;
- (b) your shopping history; and
- (c) Buyer Grade (as defined herein).

For the avoidance of doubt, the Members agree that any and all consequences arising from such termination shall be borne by you.

## **2.9 Our Rights upon Suspension/Termination of Membership**

- 2.9.1 Where your membership is suspended or terminated by us for any reason whatsoever or where you voluntarily terminate your membership (as the case may be), we reserve the right to:

- (a) cancel and/or reverse any and all Transactions under your account, including cancelling the delivery of any Product purchased and refunding all payments made for the same (where applicable);
- (b) cancel, forfeit or deduct Credits, Points and/or Coupons as may be available under your account on the date of termination;
- (c) cancel, forfeit or deduct other benefits which may be provided to you as a Member;
- (d) disallow or restrict the use of all or part of the Services and/or the E-Marketplace;
- (e) deny or decline any new application for membership submitted by you within one (1) month from the date of termination;
- (f) disallow the use of your previous Member ID for any new Member account applied for by you, at our sole and absolute discretion; and/or

(g) claim for compensation or damages pursuant to **Article 2.10**.

2.9.2 We shall provide you prior notice of the steps to be taken under **Article 2.9.1** above by telephone or e-mail. Where you are not contactable or in the case of emergency circumstances, the steps set out above may be taken without prior notice, and we shall notify you as soon as practicable thereafter.

## **2.10 Compensation for Losses**

Where, in using the Services and/or accessing the E-Marketplace, any of your actions cause any losses to us, you shall be liable for and shall compensate us for all costs and expenses incurred or suffered. In the event of any inquiries, complaints or claims raised by third parties due to the said actions by you, you shall be solely responsible and liable to the said third parties to resolve such inquiries, complaints or claims at your own cost and shall indemnify and keep indemnified and hold us harmless at all times in respect thereof.

## **2.11 Reactivation of Account**

In order for you to commence using the Services again, you will need to authenticate and verify your identity in accordance with such procedures as determined by us.

## **Article 3 - Relationship of Parties**

### **3.1 Our Role**

3.1.1 We primarily operate, manage and provide the E-Marketplace for the purpose of enabling safe and reliable Transactions between Members, in their capacity as buyers ("**Buyer**") and Merchants ("**Merchant**").

3.1.2 For the avoidance of doubt, if you make a purchase on the E-Marketplace, you are purchasing the Product from an independent Merchant and not from us, unless we are specifically named as the Merchant on record.

3.1.3 Save as otherwise provided herein, the sale and purchase in the ordinary use of the E-Marketplace between Buyer and Merchant shall be subject to the Terms and Conditions of Sale as provided on the E-Marketplace, and such other terms and conditions applicable to that particular transaction.

## **Article 4 - Use of E-Marketplace and Services**

### **4.1 Compliance**

4.1.1 As a condition of your use of the Services and/or access to the E-Marketplace, you agree that:

- (a) Compliance with law. You shall comply with all applicable laws and regulations, and shall not conduct or take part in any illegal activities including but not limited to:
  - (i) committing fraud, for example by making purchases on the E-Marketplace using another person's identity, credit card or bank account;



- (ii) distributing, sending or facilitating the sending of any unsolicited electronic commercial messages, or engage in any form of spamming activities; or
  - (iii) using the Services to promote and facilitate pyramid schemes;
- (b) Compliance with Terms and Conditions. You shall comply with these Terms and Conditions and our Policies.
- (c) Uploading and Use of Contents. You shall not upload, post, reproduce, encourage, promote or facilitate the use of any information, text, images, graphics, video clips, sound, directories, files, databases or listings made available via the E-Marketplace and the Services (**"Contents"**):
  - (i) which are false, inaccurate, misleading, unlawful, defamatory, libellous, discriminatory, obscene, offensive, invasive of privacy, harassing, threatening or abusive; and/or
  - (ii) which infringe or misappropriate the Intellectual Property Rights of ours or other third parties.
- (d) Resale of Services and Contents. You shall not copy, reproduce, compile, modify, distribute or resell any Services or Contents, or otherwise exploit the same for commercial purposes.
- (e) Use of Personal Data. You shall not collect or post personal information about other Members or other third parties, including email addresses, without their consent.
- (f) Abusive Behaviour. You shall not use the Services, access the E-Marketplace or manipulate the E-Marketplace's system and/or processes in a manner that is fraudulent or deceptive, dishonest, not authorised and/or not in conformance with the Terms and Conditions, which shall include but is not limited to:
  - (i) transferring your Member account and Member ID to another party and/or allowing access by a third party to your Member account and Member ID without our express written consent;
  - (ii) directly entering into and completing any Transaction with another Member outside of the E-Marketplace and/or without using the Payment Protection Services (as described in Terms and Conditions of Sale) provided by us on the E-Marketplace (**"direct dealing Transactions"**);
  - (iii) exploiting or attempting to exploit any benefits provided by us, (including but not limited to discounts and/or Coupons) by signing up for multiple accounts and/or purchasing a Product with no intention to complete the same;
  - (iv) manipulating the price of any item or interfering with other Members' listings; or
  - (v) taking any action that may undermine the feedback or ratings systems (such as displaying, importing or exporting feedback information from the E-Marketplace or using it for purposes unrelated to the E-Marketplace);
- (g) Disruption of E-Marketplace and Services. You shall not engage or attempt to engage in any activities to interrupt, or that are likely to interrupt, the smooth processing of the Services or the E-Marketplace or our operations and/or business, including but not limited to:

- (i) distributing viruses or any other technologies that may harm the E-Marketplace, or the interests or property of other Members;
  - (ii) undertaking any action to undermine the integrity of, or gain access to, the E-Marketplace system, which includes the computer or communication systems, network, software application, or networks and computing devices used in connection with the Services ("**System**");
  - (iii) monitoring data or traffic on the System or conducting crawling of the System without our permission;
  - (iv) engaging in any denial of service (DoS) attacks, distributed denial of service (DDoS) attacks, or any other forms of network attacks; or
  - (v) engaging in any behaviour that may interfere with the proper functioning of the System; including mail/news-bombing, broadcast attacks, flooding, and any other relevant network interference techniques;
- (h) Acting in Good Faith. You shall conduct yourself in accordance with good public order and morals, and shall refrain from:
  - (i) persistently raising complaints without any reasonable grounds or justification;
  - (ii) repeatedly cancelling or returning Products that are not particularly defective or unsatisfactory without reasonable grounds or justification; or
  - (iii) engaging in behaviour which violates public order or is destructive to generally accepted customs or norms.

4.1.2 We may, without notice, delete postings or restrict or prohibit you from posting or using specific Services on the E-Marketplace, terminate your access to the E-Marketplace and the Services or take any other measures it deems fit on the occurrence of a breach of any of the conditions specified under **Article 4.1.1** above.

4.1.3 Please report to us should you be asked to enter into any direct dealing Transactions, as described in **Article 4.1.1(f)(ii)** above. We shall not be responsible for any problems or issues suffered by any Member arising in relation to such direct dealing Transaction.

## 4.2 Liability for Third Party E-Marketplace

We shall have no liability whatsoever in the event we post any information provided by its partners, or provides reference information or contents provided by a third party at the E-Marketplace or links on the E-Marketplace for your convenience, and you visit such third party sites at your own risk.

## 4.3 Suspension of Services

- 4.3.1 We may restrict or temporarily suspend the provision of all or part of the Services to you in the event such Services are unable to be provided due to:
- (a) maintenance work on the E-Marketplace;
  - (b) the occurrence of power or communications outage;
  - (c) technical problems on the part of our third-party suppliers or partners;
  - (d) the occurrence of a natural disaster, act of terrorism or other force majeure events; and/or
  - (e) any other reason(s) that we may deem necessary for such suspension.

Upon the suspension of the Services, we shall post a notification on the E-Marketplace on the suspension of the Services as soon as reasonably practicable.

- 4.3.2 We shall not be liable for any damages or losses that you or any third party may suffer or sustain as a result of any restriction or temporary suspension of any Services in accordance with the terms of these Terms and Conditions.

## **Article 5 – Sale and Purchase of Products**

### **5.1 General**

- 5.1.1 All Listing Prices are subject to taxes, unless otherwise stated. We reserve the right to amend the Listing Prices at any time without giving any reason or prior notice.
- 5.1.2 You acknowledge that parties other than us (i.e. Third-Party Vendors) list and sell Products on the E-Marketplace. Whether a particular Product is listed for sale on the E-Marketplace by us or a Third-Party Vendor may be stated on the webpage listing that Product. For the avoidance of doubt, each agreement entered into for the sale of a Third-Party Vendor's Products to a Buyer shall be an agreement entered into directly and only between the Third-Party Vendor and the Buyer. You further acknowledge that Third-Party Vendors may utilize paid services offered by us to promote their Product listings within your search results on the E-Marketplace. Such Product listing may be accompanied by a specific logo.

### **5.2 No Representation**

- 5.2.1 We are not an agent for, and do not represent either a Buyer or a Merchant, and has no authority to act on behalf of either party.
- 5.2.2 Whether in your capacity as a Member (Buyer or a Merchant, as the case may be), you shall be solely and directly responsible for all liabilities related to transactions entered into between you and other Members and in relation to any information provided by you to other Members and vice versa.
- 5.2.3 While we endeavour to provide an accurate description of the Products, we do not warrant that such description is accurate, current, or free from error.

### **5.3 No Guarantee**

- 5.3.1 We do not control the behavior of Members or the information provided by Members that is made available on the E-Marketplace. Consequently, we do not provide any guarantees with regard to the Transactions undertaken by Buyers and Merchants, and do not warrant:
- (a) the existence, quality, completeness, appropriateness, safety or legality of any Product;
  - (b) the veracity of any intent to sell or purchase Product by a Buyer or Merchant;
  - (c) whether a Product infringes the rights of any other third party;
  - (d) the truthfulness, accuracy or legality of any information posted by a Merchant or a Buyer in respect of a Product; or
  - (e) that all Transactions will be completed.

- 5.3.2 Any liabilities and risks relating to Transactions undertaken between a Buyer and a Merchant shall be borne by the relevant parties. As such, before proceeding with any transaction on the E-Marketplace, you must make your own independent assessment and determination regarding the statements, Product descriptions, the representations of the other party and the party's ability to pay for or deliver the Products offered and specific terms and conditions imposed by Merchants regarding refunds, exchanges and returns (if any).
- 5.3.3 A minor, being a person below the age of 18, cannot purchase any Products without the consent of his parents or legal guardian. Any transaction entered into without such consent may be cancelled by us or the parents or legal guardian, as the case may be.

## **Article 6 – Notices**

Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed, if to us, to its registered office or principal place of business and if to the Buyer, to the address stipulated in the relevant offer to purchase.

## **Article 7 – General**

- 7.1 Cumulative Rights and Remedies: Unless otherwise provided under these Terms and Conditions of Use, the provisions hereof and our rights and remedies hereunder are cumulative and are without prejudice and in addition to any rights or remedies we may have in law or in equity, and no exercise by us of any one right or remedy under these Terms and Conditions of Use, or at law or in equity, shall (save to the extent, if any, provided expressly in these Terms and Conditions of Use or at law or in equity) operate so as to hinder or prevent our exercise of any other such right or remedy as at law or in equity.
- 7.2 No Waiver: Our failure to enforce these Terms and Conditions of Use shall not constitute a waiver of these terms, and such failure shall not affect the right later to enforce these Terms and Conditions of Use. We would still be entitled to use our rights and remedies in any other situation where you breach these Terms and Conditions of Use.
- 7.3 Severability: If at any time any provision of these Terms and Conditions of Use shall be or shall become illegal, invalid, or unenforceable in any respect, the legality, validity, and enforceability of the remaining provisions of this Agreement shall not be affected or impaired thereby, and shall continue in force as if such illegal, invalid, or unenforceable provision was severed from these Terms and Conditions of Use.
- 7.4 Rights of Third Parties: A person or entity who is not a party to these Terms and Conditions of Use shall have no right under the Contracts Act 1950 of Malaysia or any similar legislation in any jurisdiction to enforce any term of these Terms and Conditions of Use, regardless of whether such person or entity has been identified by name, as a member of a class or as answering a particular description. For the avoidance of doubt, nothing in this Article shall affect the rights of any permitted assignee or transferee of these Terms and Conditions of Use.
- 7.5 Injunctive relief: We may seek immediate injunctive relief if we make a good faith determination that a breach or non-performance is such that a temporary restraining order or other immediate injunctive relief is the only appropriate or adequate remedy.

- 7.6 Correction of Errors: Any typographical, clerical, or other error or omission in any acceptance, invoice or other document on our part shall be subject to correction without any liability on our part.
- 7.7 Currency: Money references under these Terms and Conditions of Use shall be in Malaysian Ringgit.
- 7.8 Language: In the event that these Terms of Use is executed or translated in any language other than English (**"Foreign Language Version"**), the English language version of these Terms and Conditions of Use shall govern and shall take precedence over the Foreign Language Version.
- 7.9 Entire Agreement: These Terms and Conditions of Use shall constitute the entire agreement between you and us relating to the subject matter hereof and supersedes and replaces in full all prior understandings, communications and agreements with respect to the subject matter hereof.
- 7.10 Binding and Conclusive: You acknowledge and agree that any records (including records of any telephone conversations relating to the Services, if any) maintained by us or our service providers relating to or in connection with the E-Marketplace and Services shall be binding and conclusive on you for all purposes whatsoever and shall be conclusive evidence of any information and/or data transmitted between us and you. You hereby agree that all such records are admissible in evidence and that you shall not challenge or dispute the admissibility, reliability, accuracy or the authenticity of such records merely on the basis that such records are in electronic form or are the output of a computer system, and you hereby waive any of your rights, if any, to so object.
- 7.11 Sub-contracting and Delegation: We reserve the right to delegate or sub-contract the performance of any of our functions in connection with the Platform and/or Services and reserve the right to use any service providers, subcontractors and/or agents on such terms as we deem appropriate.
- 7.12 Assignment: You may not assign your rights under these Terms and Conditions of Use without our prior written consent. We may assign our rights under these Terms and Conditions of Use to any third party.
- 7.13 Force Majeure: We shall not be liable for non-performance, error, interruption or delay in the performance of its obligations under these Terms and Conditions of Use (or any part thereof) or for any inaccuracy, unreliability or unsuitability.