

E- PAYMENT SERVICE AGREEMENT

AN AGREEMENT made this _____ day of _____ between _____ <Company Name> a company incorporated under the Companies Act 1965 with its registered office at _____ <Company Registered Address>, thereafter referred to as "The Company" of one part and Hong Leong Bank Berhad (Co. No.) a company incorporated in Malaysia and having its registered office at **Level 3A, Wisma Hong Leong, 18 Jalan Perak, 50450 Kuala Lumpur, Malaysia** (hereinafter referred to as "the Bank") of the other part..

1.0 INTERPRETATION

1.1 In this Agreement and Schedules, unless the context otherwise requires, the following words and expressions shall have the following meanings:

"Authorised Signatory"	means the party authorised by the Company's Board Resolution to be an Authorised Signatories for the purpose of this service.
"Account"	Refers to the Customer's account to be debited for the payments
"Beneficiary"	means the recipient of the payment
"Business Day"	means any business day of the Bank at its main office in Kuala Lumpur.
"Cut Off Time"	means 4.00 p.m. one Business Day prior to the Payment Date.
"Datafile"	refers to the payment information which the Company is providing to the Bank.
"E-Payment Services"	means the payment type offered by the bank as follows: i) Payroll services whereby payments by the Company shall be effected by way of the Bank directly crediting the Beneficiary account or transmitted to MEPS for IBG transactions in accordance with the information contained in the payment Media which are electronically processed on a Payment Date. ii) EPF Contribution payment where the Bank will directly debit the Company account on the Payment Date and submit the Employee details in accordance with the information contained in the payment Media which are electronically transmitted to EPF. Or any other services offered by the bank from time to time.
"Fee Schedule"	means the schedule of service set out in First Schedule of this Agreement.
"IBG"	refers to Inter Bank Giro
"Media"	refers to the mode which the Company is providing the Datafile to the Bank whether it is in diskette, online file transfer or any other form acceptable to the Bank.
"MEPS"	refers to Malaysian Electronic Payment System (1997) Sdn Bhd, the operator of the IBG system.

“Payment Date”	means the date the Company account is debited.
“Payment Instruction”	means the written instructions issued by the Company to the Bank which has been duly signed by the Company’s Authorised Signatories, for the automatic debiting of the Company’s account to make Payments in accordance with the information contained in the datafile.
“Uploading Date”	means the date the payment file is being uploaded at the Bank for processing.

- 1.2 Reference to Clauses and Schedules are reference to Clauses and Schedules to this Agreement.
- 1.3 The headings in this Agreement are inserted for convenience only and shall be ignored in construing this Agreement.
- 1.4 Unless the context otherwise requires, words denoting the singular number shall include the plural and vice versa and words importing the masculine gender shall include the feminine and neuter genders.
- 1.5 In this Agreement, an agreement, representation or warranty in favour of two or more persons in for the benefit of them jointly and severally.

2.0 APPOINTMENT OF THE BANK

- 2.1 In consideration of the covenants undertaken and the fees payable hereunder by the Company to the Bank, the Bank hereby agrees to provide E-Payment Services (hereinafter referred to as “the Service”) to the Company upon the terms and conditions hereinafter contained

3.0 REPRESENTATIONS AND WARRANTIES

- 3.1 Each of the parties hereto represents and warrants that :
 - a) It has corporate power (including, without limitation, under its memorandum and articles of association) to enter into and perform its obligations under this Agreement; and
 - b) it has in full force and effect the authorisations necessary to enter into this Agreement , perform its obligations under it and enforce this Agreement.

4.0 THE SERVICES

- 4.1 The Company shall provide the Datafile and the Payment Instruction to the bank before the Cut-Off Time.
- 4.2 The Company shall provide a separate Datafile for each respective Beneficiary to the Bank for processing wherever is applicable
- 4.3 The Company shall ensure that there are sufficient funds in the Account prior to and on the Payment Date.
- 4.4 For avoidance of doubt, it is hereby agreed that the Bank is under no duty whatsoever to verify or check in anyway the Datafile or the Payment Instruction contained in the Media.
- 4.5 The Company shall ensure that the details of the Datafile and the Beneficiary are correct for processing.

- 4.6 For IBG transactions the Bank will process the Datafile and transmit the information to MEPS for onward transmission to the IBG Member Bank. The Company will not hold the Bank liable for any loss or event occurring upon the Bank effecting the transmission to the IBG Member Bank.
- 4.7 Subject to availability of funds in the Account, the bank will on Payment Date debit the Account for the amount stipulated in the Payment Instruction and Datafile for the credit of the Beneficiary's account.

5.0 DATAFILE

- 5.1 The Company shall ensure that it has taken reasonable steps to ensure that proper security and procedures are maintained at their end as to the generation and transmission of the Datafile to the Bank and the information is not tampered with.
- 5.2 The Bank shall not be liable for any unauthorised changes or tampering of the Datafile or Payment Instruction.
- 5.3 The Company shall take all proper and reasonable steps to ensure that the Media supplied to the Bank for the the Service is not damaged, defective and/or will not malfunction;
- 5.4 The Bank shall reserve the right to reject any transaction, which does not conform to the standard format as agreed upon by the parties to this Agreement.

6.0 PAYMENT INSTRUCTIONS CANCELLATION

- 6.1 No cancellation instructions is allowed for EPF Contribution payment and the bank shall not be held liable to any claim arises.
- 6.2 Where the Company requires to make cancellation on a payment instructions for payments other than EPF payments and the transactions have not been initiated, the Company shall produce the Bank an authorization letter to cancel the payment instructions, prior to the cut off time.
- 6.3 If the Company wishes to amend or vary any information in the Datafile or Payment Instructions, a new Datafile with such amendments or variations duly incorporated is to be forwarded to the Bank before the Cut-Off Time together with the corresponding Payment Instructions and Payment Listing, upon which the unprocessed Media shall be returned to the Company by the Bank.
- 6.4 The Bank reserves the right to impose a instruction – amendment fee (which sum shall be decided by the Bank in its absolute discretion) in the event of the Company amending cancelling or varying the Instructions in the manner contemplated in this Clause 6 herein and the Company hereby agrees to pay the Bank the same and further authorises the Bank to debit such fee from the Account.
- 6.5 Notwithstanding anything in this agreement and for the avoidance of doubt, the Bank shall act on the cancellation or amendment of payment instruction on a best effort basis.

7.0 FORCE MAJEURE

- 7.1 As between the Bank and the Company, neither party shall be considered in default of the performance of its obligations under this Agreement if the performance of its obligations under this Agreement is prevented or delayed because of any acts of God, acts of civil or military authority, strikes, fires, lockouts or labour disputed, governmental restriction, wars, riots, earthquakes, storms, typhoons or floor or any failure or breakdown in the computer system and/or communication line used to effect the payments in accordance to the payment instruction PROVIDED ALWAYS, the party invoking such event or events must take all necessary and reasonable steps in the circumstances to remove or

mitigate the cause or causes of such restriction or delay and proceed to perform its obligations hereunder.

- 7.2.1 Notice of any event of force majeure and any abatement thereof must be given to the other party by the party claiming the benefit of the provisions of Clause 7.1 as soon as such event becomes known to such party.

8.0 SERVICE CHARGES

- 8.1 In consideration of the Bank providing the Service, the Bank shall be entitled to charge and the company agrees to pay directly to the Bank the service charges as set out in the First Schedule on per transaction basis. Charges will be debited to the Account on the Payment Date and will not be refunded.
- 8.2 The Bank shall be entitled to review, on an annual basis, the service charges chargeable to the company hereunder provided that any increase in the service chargeable must be reasonable, the Bank shall give thirty (30) days prior written notice to the company before such increase can take effect.

9.0 LIABILITY OF THE BANK

- 9.1 The Company agree that the Bank will not be held liable to/or any third party for any delay, error or omission, howsoever caused (whether by the Bank staff, system or otherwise), in carrying out such instructions (including instructions given and/or payment(s) made to other financial institutions for those employee(s)' account(s) maintained there) nor any loss (whether direct or indirect) or damage whatsoever, arising from the provision of this E-Payment service even if the Bank has been advised of the possibility of such loss or damage or claim by any third party arising out of, or in any way connected with this Agreement or for failure to provide any service herein if such failure is due to any cause or condition beyond the Bank's reasonable control, provided always that the Bank shall not be liable for any indirect or consequential loss.
- 9.2 Subject to the provisions herein, the Bank sole and entire liability to the Company in contract, tort (including negligence or breach of statutory duty) or otherwise arising by reason of or in connection with these Terms and Conditions or howsoever shall not exceed the amount of fees incurred in 6 months or the direct damages sustained, whichever is the lower.
- 9.3 The Company agree that instructions for payment will remain effective for the protection of the Bank in respect of payments made in good faith notwithstanding the insolvency or revocation of such payment instruction unless actual notice of revocation are received and acknowledged in writing by the Bank.

10.0 TERMINATION

- 10.1 Either party may terminate this Agreement without assigning any reason whatsoever by giving the other party 30 days prior written notice of such termination.
- 10.2 If:
- a) any party is in breach of or fails to observe or performs any of its covenants and/ or obligations hereunder and has failed to remedy such breach or failure within a reasonable time not exceeding thirty (30) days after receipt of a notice from any other party to that effect, or
 - b) a petition is presented (unless otherwise disputed in good faith), an order is made, an effective resolution passed or legislation enacted for the winding up (other than a voluntary winding up for the purpose of reconstruction or amalgamation) of any party or a receiver and/or manager is appointed over the undertaking or part thereof any party

then the other party may by written notice to the other party forthwith terminate this Agreement and thereupon this Agreement shall, subject to the provision of Clause 10.3 and any pre-existing liability of any part hereto, determine.

- 10.3 In the event of termination of this Agreement whether under Clause 10.1 or Clause 10.2 or by mutual agreement of all the parties hereto, nothing herein contained shall be construed to relieve any party hereto from its liabilities at law arising from the termination of this Agreement or the rights conferred by law or equity on any party as a result of such termination.

11.0 CONFIDENTIALITY

All information exchanged between the parties under this Agreement or during negotiations preceding this Agreement and all information disclosed by each party to any of the other parties during the course of this Agreement whether in relation to the payments or any other matters is confidential to them and may not be disclosed to any person except:

- a) to employees service providers, legal advisers and solicitors, auditors and / or other consultants of either party hereto, all of which are bound by a continuing obligation to confidentiality;
- b) to any relevant regulatory authorities and / or by operation of law;
- c) with the consent of the party who supplied the information;
- d) if the information is at the date of this Agreement , lawfully in the possession of the recipient of the information through sources other than the party who supplied the information; or
- e) if the information is generally and publicly available other than as a result of breach of confidence by the person receiving the information.

12.0 INDEMNITY

- 12.1 The Company undertake to be fully responsible for any error, inaccuracy, corruption of info contained in the Datafile delivered to the Bank and shall indemnify and keep the Bank fully indemnified at all times against any claims proceedings, loss, expense or damages incurred by the Bank arising thereof or in connection therewith, including but not limited to the cancellation or change in duly Payment Instruction or incurred as a result of a delay attributable to the Company in transmitting the info to the Beneficiary.
- 12.2 Each indemnity in this Agreement is a continuing, separate and independent from the other obligations of the indemnifier and survives termination of this Agreement.

13.0 SUCCESSORS BOUND

- 13.1 This Agreement shall be binding on the liquidators, receiver and/or managers, and successors-in-title of the Company and the successors-in-title of the Bank.

13.2 The Company shall not assign the Company's rights, title, interest and obligations under this Agreement without the prior written consent of the Bank. The Bank shall be at liberty at any time with or without notice to the Company to assign and/or transfer all its rights, title, interest and obligations under this Agreement to any person or financial institution upon such terms and the Bank deems fit and a statement therein of the amount due to the Bank shall be conclusive and binding for all purposes against the Company.

14.0 SEVERABILITY, WAIVER AND INDULGENCES

14.1 If any provision, term, condition, stipulation, covenant or undertaking in this Agreement is or becomes illegal, void, invalid, prohibited or unenforceable in any respect the same shall be ineffective to the extent of such illegality, voidness, invalidity, prohibition or unenforceability without invalidating in any manner whatsoever the remaining provisions of this Agreement.

14.2 No failure or delay on the part of either party in exercising or any omission to exercise any right, power, privilege or remedy accruing to the other party under this Agreement shall impair any such right, power, privilege or remedy or be construed as a waiver thereof or acquiescence in such default nor shall any action by either party in respect of any default or any acquiescence in any such default affect or impair any right, power, privilege or remedy of that party in respect of any other or subsequent default.

15.0 NOTICES

15.1 Unless provided otherwise in this Agreement, notices under this Agreement shall be in writing may be given by despatch, by registered or ordinary post or by facsimile to the respective addresses and contact numbers of the parties set out below :-

(a) For the Bank – the address set out in Item 2 of the First Schedule;

(b) For the Company – the address set out in Item 3 of the First Schedule,

or any other addresses and contact numbers which a party may notify the other of from time to time.

15.2 Notices will be deemed given by one party to the other :-

(a) in the case of hand delivery, upon written acknowledgement of the notice by the receiving party;

(b) in the case of registered or ordinary post, within five (5) Business Days from the date of posting;

(c) in the case of facsimile, upon receipt of the confirmation of the transmission from the transmitting machine on a Business Day and on the next Business Day following the transmission if the day of transmission is not a Business Day.

16.0 GOVERNING LAW

The Agreement shall be governed by and construed in accordance with the laws of Malaysia and the Company agrees to submit to the non-exclusive jurisdiction of the courts of Malaysia.

17.0 COSTS

The parties shall bear their respective costs in connection with the negotiation and execution of this Agreement.

18.0 NO PARTNERSHIP

This Agreement shall not create any form of partnership whatsoever between the parties hereto.

19.0 REMEDIES CUMULATIVE

The rights, powers and remedies provided in this Agreement are cumulative with and not exclusive of the rights, powers or remedies provided by law independently of this Agreement.

20.0 TIME

Time whenever mentioned in this Agreement shall be of the essence.

21.0 STAMP DUTIES

The Company shall bear the stamp duties of this Agreement.

22.0 MATTERS NOT PROVIDED FOR IN THE AGREEMENT

22.1 If during the currency of this Agreement there shall arise any matter which is not provided for in this Agreement and on which an agreement has to be reached between the parties, the matter shall be discussed in good faith and within the spirit of this Agreement with a view to arriving at an agreement thereto. If and when such an agreement is reached and recorded in writing on any such matter the details of the same shall thereupon deemed to have been incorporated into and to constitute a part of this Agreement.

23.0 AMENDMENTS

23.1 This Agreement may not be amended, modified or supplemented except by a written instrument executed by persons duly authorised on behalf of each party hereto.

IN WITNESS HEREOF the parties hereto have caused this Agreement to be executed by their duly authorised representatives on the day and year first above written.

THE BANK

Signed by)
for and on behalf of)
HONG LEONG BANK BERHAD)
in the presence of :-)

.....

...
Name :
Designation :
Date :

.....

Witness
Name :
NRIC NO. (Old/ New):
Designation :

THE COMPANY

Signed by)
for and on behalf of the Company)
in the presence of :-)

.....

Name :
Designation :
Date :

.....

Witness
Name :
NRIC NO. (Old/ New):
Designation :

FIRST SCHEDULE

ITEM	MATTER	PARTICULARS
1.	Date of This Agreement	
2.	The Bank Address For Service of Notices : Telephone Number : Facsimile Number : Contact Person & Designation :	
3.	The Company (Name & Company Number) Registered Address : Business Address (if any): Telephone Number : Facsimile Number : Contact Person & Designation :	
4.	The Fees (Ringgit Malaysia)	