

## **Terms and Conditions for Yellow Pages Classified for Online Bazaar**

1. This Terms and Conditions must read together with the TMIM Advertisement Agreement during sign up for Yellow Pages User Account. (Note: A copy is attached in this document for your reference.)
2. The customer must read, understand, agree and accept the TMIM Advertisement Agreement and this Terms and Conditions to list in this Online Bazaar.
3. The Classified for Online Bazaar is open to all Malaysians and existing Yellow Pages Advertisers.
4. This Online Bazaar allows the customer to promote businesses' products for free of charge starting from the 24<sup>th</sup> April 2020. TMIM may apply charges in future and will announce accordingly.
5. If customer wish to continue to promote businesses in Online Bazaar, you may subscribe. The subscription fee will be announced by TMIM in future.
6. The Online Bazaar is a platform to enable customer and buyer to communicate via messages. Payment and delivery services are performed outside of this platform between the customer and buyer.
7. Customer and buyer will be fully responsible for any possible losses and consequences arising outside of this platform. TMIM is not liable for any loss or damages which you may suffer from any acts or lack of precautions outside of this platform.
8. The customer must ensure that all images uploaded to Yellow Pages Classified must be of original or have obtained written consent from the photographer (please provide to TMIM as proof). TMIM shall not be liable for any lawsuit case against the said customer from the photographer if found any. (Please refer to TMIM Advertisement Agreement, Clause 4. INTELLECTUAL PROPOERTY.)
9. TMIM has the rights to amend any clauses that have been set without notifying the customer.
10. TMIM has the rights to halt the customer from continuing to list businesses' products in Online Bazaar if the customer fails to comply with the TMIM Advertisement Agreement and this Campaign Terms and Conditions. Also, TMIM has the full rights to remove the customer's advertising or listing altogether immediately from Yellow Pages Classified if the customer breaches any terms or clauses as stated.
11. The advertising guidelines for item no. 9 shall follow according to the rules that have been set by The Communication And Multimedia Content Forum of Malaysia "CMCF" which forbids advertising of alcoholic drinks, liquor, menacing content as well as various unacceptable products and services such as pornography, gambling and many more. The full guidelines may be obtained from the official website of CMCF.
12. Customer may contact WeCare representatives for further clarification via:
  - email to [wecare@tm.com.my](mailto:wecare@tm.com.my) or
  - call hotline at [1-300-88-9355](tel:1-300-88-9355).

----- End -----

## **TMIM Advertisement Agreement**

In consideration of TM InfoMedia Sdn Bhd ("TMIM") agreeing to publish and advertise the advertisement for the Customer in the Yellow Pages Digital, the Customer hereby covenants to undertake and agree to be bound by the following terms and conditions.

### **1. DEFINITION**

In this Advertisement Agreement where the context so admits, the following expression shall have the meanings designated unless otherwise distinguished:

"Advertisement Agreement" means the terms and conditions stipulated herein together with all the particulars and information stated in the previous and subsequent page, if any, which are attached herewith to the terms and conditions;

"Contract Date" means the time the Customer accepts the terms and conditions of this Agreement by clicking on the "I agree to Yellow Pages Digital Terms and Conditions" button on TMIM's website or by executing this Advertisement Agreement. In the event of any discrepancy or inconsistency between the Yellow Pages Digital Terms and Conditions and this Advertisement Agreement, the Yellow Pages Digital Terms and Conditions shall prevail;

"Direct Debit" means the mode of payment where the Customer's account will be debited by the bank to pay any amount payable to TMIM;

"Duration of Contract" The duration of this Advertisement Agreement shall commence from the Contract Date and shall continue for one (1) year unless otherwise terminated earlier in accordance with the provision of this Advertisement Agreement ("Initial Term"). Upon the expiry of the Initial Term, this Advertisement Agreement is automatically renewed for successive one (1) year period unless terminated in accordance with the provisions of this Advertisement Agreement ("Subsequent Term").

"Grand Total" means the fee to be paid by Customer to TMIM as indicated in subscription page;

"TM Payment Gateway" means the payment by the Customer through credit card or debit card;

"Parties" means TMIM and the Customer collectively;

"Tele-billing" means payment of Grand Total by the Customer through TM telephone bill and/or unifi bill;

"TM" means Telekom Malaysia Berhad.

### **2. LISTING OF CUSTOMER'S TELEPHONE NUMBER**

The Customer hereby consents to the listing of its registered telephone number in the Yellow Pages Digital. TMIM reserves the right at all times to use the Customer's registered telephone for the purpose of marketing and/or promoting of TMIM's commercial product.

### **3. WARRANTY**

a. The Customer warrants that he/she is authorised and entitled to advertise the business service or products described in this Advertisement Agreement..

b. The Customer is solely responsible for the information and content of the advertisement and warrants that all particulars and information provided in this Advertisement Agreement are accurate and true in every respect and undertake to immediately notify TMIM of any change in such information.

c. The Customer shall be solely responsible for ensuring that all licences, permits, consents, approvals and intellectual property or other rights as may be required for providing the advertisement has been obtained.

d. The Customer shall ensure that the information and content provided for the advertisement are in compliance with and not in contravention of all applicable laws of Malaysia including but not limited to the Communications and

Multimedia Act 1998 or any bylaws, rules, regulations or other subsidiary

legislation under such Act, or any directions, order, requirement or instruction whatsoever given by any authority competent to do so under any written law.

e. The Customer shall ensure that the information and content for the advertisement will not infringe any intellectual property rights of any person.

f. The Customer represents and warrants that the use, reproduction, distribution or transmission of the advertisement will not violate any applicable laws, regulations or any rights of any person or third parties, including but not limited to, such violations as infringement or misappropriation of any copyright, patent, trademark, trade secret, music, image, or other proprietary or property right, false advertising, unfair competition, defamation, invasion of privacy or rights of any person, celebrity, or any other rights of any person or entity.

#### 4. INTELLECTUAL PROPERTY

a. All copyright in the advertisement requested herein will vest in TMIM and the Customer and/or Signatory is not permitted to reproduce all or any part of the advertisement without TMIM's prior written approval.

b. By advertising with Yellow Pages Digital, the Customer allows TMIM the usage of its copyright including brand name, visuals and content of advertisement for the purpose of promotions in relations to TMIM products.

c. The Customer shall defend any claim, suit or proceedings brought against TMIM so far as it is based on a claim that the advertising item or the content within the advertising item infringes the Intellectual Property Rights of any third party. The Customer shall indemnify TMIM against all damages and costs in any judgements entered in such a suit by a court of competent jurisdiction or proceedings and against settlements and costs arising out of such claim, suit or proceedings.

d. If any allegation or determination of infringement of Intellectual Property Rights is made in relation to the advertising item or the content within the advertising item, the Customer shall at its own expense:

i. Edit or modify the advertising item or the content within the advertising item in order to avoid continuing infringement;  
or

ii. Procure the right to use the advertising item or the content within the advertising item in accordance with this Advertisement Agreement.

#### 5. ADVERTISING ITEM

a. The advertising item uploaded in Yellow Pages Digital shall comply with TM and TMIM policies and relevant law.

b. No specific position or paging is guaranteed for any advertisements.

c. The name, address and telephone number of the Customer wherever appearing in Yellow Pages Digital will be as provided by the Customer.

d. The classified headings will conform to the standard terms used by TM and TMIM. TMIM shall have the absolute discretion to change all advertising items to conform to TM and TMIM's practices.

e. Photo or image is dependent upon the quality of the original supplied photo or image. Small or fine text especially used as reverses or colour text may not always be legible when the same has been uploaded in Yellow Pages Digital.

f. TMIM reserve the right to remove the advertising item at any time if TMIM is of the view of such advertising item contravene with TM and TMIM policies and relevant law.

## 6. DELETION AND OMISSION

In the event of any deletion, error or omission howsoever arising in any or all of the advertising items in Yellow Pages Digital, the Customer's sole remedy is a prorated amount of the Total Price in subscription page subject to the following:

a. Such deletion, error or omission affects the entire advertisement or listing and not minor deletion, error or omission that does not affect the presentation of the advertisement. However, TMIM has the final decision as to the gravity of the deletion, error or omission and whether such deletion, error or omission would warrant a prorated amount of the Total Price in subscription page; and

b. TMIM has the final and sole discretion as to the final amount to be prorated.

c. If full payment of the Grand Total has been received by TMIM but any of the advertising items is not published during the Duration of Contract, TMIM shall refund the payment for the said advertising item within ninety (90) days after the end of the Duration of Contract.

## 7. PUBLICATION AND DURATION OF ADVERTISEMENT

a. The Customer shall be responsible for the publication of the advertising item if the Customer opt for selfservice package in the Yellow Pages Digital.

b. Once published, the advertising item shall appear in Yellow Pages Digital throughout the Duration of Contract.

c. TMIM shall not be liable for any error or omission due to any technical or system fault and will not be liable for any claims from the Customer for any late publishing.

d. TMIM reserves the right to remove the advertising item due to the event describe in clause 5(f) and failure of non-payment of amounts outstanding to TMIM.

e. TMIM reserves the right to remove or not to publish any or all of the advertising items requested by the Customer without giving any reason whatsoever to the Customer.

## 8. PAYMENT

a. The mode of payment shall be as selected by the Customer in the subscription page.

b. For TM Payment Gateway, the following shall apply;

i. Payment of the Grand Total and any other charges for the advertising item in Yellow Pages Digital shown in the subscription page shall be paid upon Customer's confirmation on the mode of payment.

ii. Invoice shall be issued upon successful transaction of payment.

c. For Tele-billing, the following shall apply;

i. The monthly subscription fee will be included in the Customer's TM Telephone bill and/or unifi bill. Billing and notifications (if deemed necessary by TMIM) may be issued and forwarded to the address stated in this Advertisement Agreement.

ii. Invoice shall be issued by TMIM upon Customer's request.

iii. All information provided for Tele-billing shall belong to the Customer and TMIM is not responsible or liable for any loss, damages or cost suffered or incurred due to the fraud activities done by the Customer.

d. For Direct Debit, the following shall apply;

i. The Customer shall complete and execute the Direct Debit authorization form and agree to the terms and conditions for Direct Debit service.

ii. The Customer shall be imposed with an upfront payment of fifteen percent (15%) from the Grant Total payable through TM Payment Gateway/cash/cheque.

iii. TMIM shall not be responsible or liable for any loss, damages or cost suffered or incurred by the Customer or any third party arising out of or resulting from any mistake, act or omission of the authorized bank or any authorized third party in processing the Direct Debit transaction.

In the event of payment through Direct Debit could not be affected, the Customer shall pay any outstanding amount directly to TMIM through other mode of payment available.

e. Any complaint on Customer's payment must be made within thirty (30) days from the Contract Date of advertising item on Yellow Pages Digital.

f. Complaints received after the stipulated timeline will not be entertained and TMIM is not responsible or liable to the Customer for any loss, damages or cost suffered or incurred due to the publication of the advertising items.

g. TMIM reserves the right at all times to use any other means permitted by law to recover any/all amounts outstanding to TMIM.

## 9. TERMINATION

a. This Agreement may be terminated by giving thirty (30) days prior written notice by either Party if:

(i) any of the warranties and representations under Clause 3 are untrue; or

(ii) it is required by law; or

(iii) winding up petition has been served to the other party; or

(iv) if the other party becomes insolvent or bankrupt, assigns all or a substantial part of its business or assets for the benefit of its creditor(s), permits the appointment of a receiver or a receiver and manager for its business or assets, or becomes subject to any legal proceedings relating to insolvency, reorganisation or the protection of creditors' rights or otherwise ceases to conduct business in the normal course; or

(v) upon occurrence of a Force Majeure event, which continues for a period of thirty (30) days; or

(vi) either party commits a material breach of this Advertisement Agreement which is not capable of remedy; or

(vii) the other party breaches this Advertisement Agreement and the defaulting party has been given a written notice specifying the act of default and required to rectify the default within fourteen (14) days of the notice; and the defaulting party failed to so rectify or remedy the breach.

b. Termination by Customer

(i) Termination of this Advertisement Agreement shall only be made by the Customer with prior written notice duly acknowledged by TMIM within fourteen (14) days from the Contract Date ("Cancellation Window Period").

(ii) For the avoidance of doubt, the upfront payment and any balance thereof (if any) will be not refundable to the Customer if termination is made after the expiry of the Cancellation Window Period.

c. Termination by TMIM

(i) Notwithstanding the above, in the event the Customer commits a breach or potential breach of any term herein including but not limited to failure to pay outstanding amount for two (2) consecutive months, TMIM reserves the right to take necessary action including but not limited to termination of this Advertisement Agreement without refunding the upfront payment and any balance thereof (if any) and compensation of any kind to the Customer. TMIM shall take all

reasonable effort to notify the Subscriber of any breach or potential breach prior to such termination.

d. The termination of this Agreement shall not prejudice the rights of TMIM to sue for damages or to obtain any other relief in respect of any antecedent breach of the terms of this Advertisement Agreement prior to such termination.

#### 10. WAIVER

Failure or neglect by TMIM to enforce any of the provisions in this Advertisement Agreement shall not be construed nor shall it be deemed to be a waiver of its rights hereunder nor shall such failure or neglect in any way affect the validity of the whole or any part of this Advertisement Agreement or prejudice TMIM's rights to take subsequent action.

#### 11. HEADINGS

The headings of the terms and conditions herein contained are inserted for convenience of reference only and are not intended to affect the meaning or interpretation of any of the terms and conditions of this Advertisement Agreement.

#### 12. INDEMNITY

The Customer hereby irrevocably undertakes to indemnify in full and hold TM and TMIM harmless from any and all costs, expenses, losses, damages, liabilities, proceedings, claims and demands (including agency and solicitors fees, costs and court fees) whatsoever arising out of or in any way caused by the advertising copy or uploading or posting or listing of the same in Yellow Pages Digital or TMIM's website in the event that it becomes necessary for TM and/or TMIM to institute or defend any legal proceedings of any nature in order to enforce or protect its rights in respect of or arising from this Advertisement Agreement.

#### 13. AMENDMENT AND MODIFICATION

TMIM reserves the right to add, delete, alter or amend any of these terms and conditions at any time by giving notice to the Customer through any mode that TMIM deems fit which shall include but not limited to keep it posted in the TMIM's website. For the avoidance of doubt, the amendment and modification shall become effective and binding on the date as notified by TMIM.

#### 14. NOTICE

The Customer hereby irrevocably consents to the service of any notice under this Advertisement Agreement by email or post to the address stated in this Advertisement Agreement and such service shall be deemed effective three (3) days after posting.

#### 15. SEVERABILITY

If any of the provision of this Agreement becomes invalid, illegal and unenforceable in any respect under the law, the validity, legality and enforceability of the remaining provisions shall not be affected or impaired.

#### 16. STAMP DUTY

The Customer shall bear all costs and expenses incurred by TMIM in enforcing this Advertisement Agreement or in bringing any action or proceeding to recover any money, costs and expenses due and payable by the Customer to TMIM. The stamp duty shall be payable by the Customer.

#### 17. GOVERNING LAW AND JURISDICTION

This Advertisement Agreement is governed by in all respects and shall be construed according to the Laws of Malaysia and the Court of Malaysia shall have exclusive jurisdiction.

#### 18. SUCCESSORS-IN-TITLE

This Advertisement Agreement shall be binding upon the heirs, assigns, personal representative and successorsintitle and assigns of the Parties.

#### 19. TIME

Time wherever mentioned herein shall be of the essence of this Advertisement Agreement.

## 20. FORCE MAJEURE

TMIM shall not be in breach of its obligations under this Advertisement Agreement if it is unable to perform or fulfil any of its obligations under this Advertisement Agreement (or any part of it) as a result of Force Majeure event. "Force Majeure" shall mean:

- a. War (whether declared or not), hostilities, invasion, act of foreign enemies;
- b. Insurrection, revolution, rebellion, military or usurped power civil war or act of terrorism;
- c. Natural catastrophes including but not limited to earthquakes, flood, tsunami or any operation of the force of nature against which TMIM could not reasonably have been expected to take precautions;
- d. Nuclear explosion, radioactive or chemical contamination or radiation; and
- e. Pressure wave caused by aircraft or other aerial devices travelling at sonic or supersonic speed.

## 21. ASSIGNMENT

The Customer may only assign its rights under this Advertisement Agreement to a third party with prior written consent of TMIM. TMIM may assign or novate this Advertisement Agreement or any part thereof to any entity within TM group of companies and consent for the aforementioned is hereby given by the Customer.

## 22. ENTIRE AGREEMENT

This Advertisement Agreement shall constitute the entire agreement between the Parties hereto and shall supersede all other agreements, correspondence, discussions or understandings with respect to or in connection with any of the matter to which this Advertisement Agreement refers to.

## 23. PERSONAL DATA PROTECTION

### a. Definitions

"Personal Data" means personal identifiable information of a Customer who is an individual.

### b. Data Sharing

The Customer hereby acknowledges that TMIM shall have the right to share the Customer's data with TMIM's related companies for the purpose of marketing activities in respect of products and services of TMIM and/or its related companies from time to time as TMIM deems fit provided always that TMIM and its related companies shall observe the applicable confidentiality obligations as imposed by law or by contract and shall abide by the same strictly.

### c. Data Protection

Customer agrees that it will comply and will procure warranties from any employees, agents and/or subcontractors that may process the Personal Data to:

- (i) comply with all applicable data protection laws of Malaysia which shall include Personal Data Protection Act 2010;
- (ii) On the request from TMIM, provide an up to date copy of the Personal Data in the format supplied by TMIM and within any reasonable time periods required by TMIM.

### d. Integrity and Access to Customer's Own Personal Information

The Customer will ensure that personal information and preferences provided to TMIM are accurate, complete and up to date. Any modification to the said information can only be done by the Customer. For any of personal information which cannot be directly rectified, the Customer may request TMIM to correct such information if it is incorrect/inaccurate or to delete it if it is no longer applicable or not required to be retained. However, TMIM reserves the right to decline to process requests which jeopardize the security and privacy of the personal information of others as well as requests which are impractical or not made in good faith. Where Customer elects to limit TMIM's right to process personal information, Customer may directly contact TMIM.