

Terms & Conditions Wifi Advertising

In consideration of TM Info-Media Sdn Bhd ("TMIM") agreeing to publish and advertise the advertisement for the Customer in the Wi-Fi advertising platform or any other directories or media published by TMIM in any format at the Customer's request, 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 expressions 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 date when TMIM accepts and approves the request for the advertisement from the Customer.

"CPM" means cost per 1,000 impressions of the advertisement on the Wi-Fi advertising platform.

"Duration of Contract" The duration of this Advertisement Agreement shall be as stated in Advertising Agreement under the column "Publication Year" and the duration shall commence from the Contract Date and shall continue according to the campaign period based on exhaustion of impressions or any other advertising model until completed unless otherwise terminated earlier in accordance with the provision of this Advertisement Agreement.

"Direct Billing" means payment of Grand Total by the Customer through mail or personal delivery to TMIM or personal collection by TMIM's personnel or any other mode of payment acceptable to TMIM.

"Grand Total" means the total fee to be paid by Customer to TMIM as indicated in the Advertisement Agreement.

"Official Running Date" means the date when TMIM announces to the Customer or public in the available media that the product is available for viewing by public or by collection.

"Parties" means TMIM and the Customer collectively;

"Seasonal Package" means the advertising that is run during festive or peak seasons such as National Day, Hari Raya Aidilfitri and other public celebrations.

"Service Charge" means the charges implied to run the advertisements on targeted segments of the Wi-Fi advertising platform.

"Wi-Fi Advertisement" means the advertisement that is showcased on the Wi-Fi advertising platform provided by TMIM.

"TM" means Telekom Malaysia Berhad.

2. DISPLAY OF CUSTOMER'S INFORMATION

The Customer hereby consents to display its information including but not limited to the name, address and telephone number of the Customer ("Customer's Information") in the Wi-Fi advertising platform or any other directories or media published by TMIM or the posting of such information at TMIM's website. TMIM reserves the right at all times to use the Customer's Information for the purpose of marketing and/or promoting TMIM's commercial product.

3. AUTHORISED SIGNATORY AND WARRANTIES

a. The Customer and/or Signatory warrant that he/she is authorized and entitled to advertise the business service or products described in this Advertisement Agreement as well as other documents furnished by TMIM. In the event this Advertisement Agreement is signed on behalf of the customer by another party ("the Signatory"), the Customer warrants that the Signatory has the authority to enter into this Advertisement Agreement on behalf of the Customer and bind the Customer accordingly.

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 aspect and undertake to immediately notify TMIM of any change in such information.

c. The Customer shall be solely responsible for ensuring that all licenses, permits, consents, approvals and intellectual property or other rights as may be required for providing the advertisement have 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 by-laws, 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 on the Wi-Fi advertising platform, 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 while taking responsibility for any form of legal communication in order to avoid continuing infringement and further update TMIM on such modification; 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 the Wi-Fi advertising platform shall comply with TM and TMIM policies and relevant law.
- b. The Customer's Information wherever appearing in the Wi-Fi advertising platform will be as provided by the Customer.
- c. TMIM will manage the overall quality of the advertising design across the Wi-Fi advertising platform and has the right to improve the quality of the design where seen needed.
- d. Images provided by client will be rejected if does not comply with the regulations, format as well as quality level.
- e. TMIM shall use photos from Shutterstock in designing the advertisement.
- f. TMIM shall provide advertisement design options for the Customer to choose from unless the Customer has provided advertisement images that are on par with TMIM's quality standard.
- g. Photo or image quality is dependent upon the complexity of colours within the image in relation to the bandwidth allocation and limitation on the Wi-Fi advertising platform.

- h. Prices of Seasonal Package varies depending on the traffic of crowd.
- i. Service Charge is charged upon any targeted advertising feature while the amount depends on the complexity of the targeting.
- j. TMIM reserves the right to remove the advertising item at any time if TMIM is of the view that such advertising item is in contravention with TM and TMIM policies and relevant law.

6. DURATION OF ADVERTISEMENT

- a. Once the advertisement item appears on the Wi-Fi advertising platform, the Official Running Date is considered has started.
- b. 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 uploading.
- c. TMIM reserves the right to remove the advertising item due to the event describe in clause 5(j) and Customer's failure to make payment of any outstanding amount to TMIM.
- d. TMIM reserves the right to remove or not to upload any or all of the advertising items requested by the Customer without giving any reason whatsoever to the Customer.

7. PAYMENT

- a. The mode of payment is as indicated or selected by the Customer in Column B. Full Payment is the only mode of payment available for Wi-Fi Advertisement.
- b. Where Customer selects Full Payment as the mode of payment, the Grand Total is payable from the Contract Date.
- c. Payment of the Grand Total as stated in Column C is to be paid within thirty (30) days from the date of invoice or from the Contract Date (whichever is applicable), excluding cases that require an amount that is seen as large and fairly impossible to be fulfilled as full payment immediately by TMIM.
- d. In the event where the Customer fails to pay the Grand Total within the specified timeline, if deemed necessary by TMIM, it may issue several notifications to the Customer to the address stated in this Advertisement Agreement.
- e. The Customer agrees that the responsibility to pay TMIM the Grand Total in full shall remain and survive the expiry or termination of this Advertisement Agreement.
- f. TMIM reserves the right at all times to use any other means permitted by law to recover any/all amounts outstanding to TMIM.

8. ADVERTISEMENT COMPLAINT

- a. Any complaint on Customer's advertisement must be made within thirty (30) days from the Contract Date through a written notice to TMIM.
- b. 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.

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. A 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, reorganization 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 TMIM

Notwithstanding the above, in the event the Customer commits a breach or potential breach of any term herein, 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 Customer of any breach or potential breach prior to such termination.

- c. 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. For the avoidance of doubt, the upfront payment and any balance thereof (if any) will not be refundable to the Customer due to the termination of this Agreement.

d. In addition to the above, any termination of a running advertisement campaign on the Wi-Fi advertising platform shall not make the remaining CPM or other form of balance refundable.

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 TMIM products 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 successors-in-title and assigns of the Parties.

19. GOODS AND SERVICE TAX

a. Where Goods and Service Tax ("GST") is applicable to any supplies and/or services provided by TMIM under this Advertisement Agreement, TMIM is entitled to charge GST on the amount payable for the supply and/or service. The consideration for such supply and/ or service will be increased by an amount calculated as: $A \times R$ Where: A is the amount of consideration payable for the supply and/or service; and R is the applicable rate of GST.

b. If TMIM is liable for GST as contemplated by sub- Clause 19(a) then TMIM shall:

- i. Provide to the Customer information that may be reasonably required to establish its liability for GST; and
- ii. Provide such information and documents as may reasonably be required by the Customer to enable the Customer to claim an input tax credit under the law applicable to GST; and
- iii. Where a taxable supply and/or service has been made and consideration charged but the applicable GST has not been charged, the increase in the consideration required by sub-Clause19(a) shall be paid by the Customer.

20. TIME

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

21. 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/terrorism;
- 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.

22. 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.

23. 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.

24. 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 period 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.