

SCHEDULE 1 - Terms and Conditions

1. DEFINITIONS AND INTERPRETATIONS

1.1 Definitions

In this Agreement, words or expressions defined in one part thereof shall bear that meaning throughout this Agreement.

1.2 Interpretation

In this Agreement, unless the context indicates to the contrary:

- a) words denoting the singular shall include the plural and vice versa, and words denoting a given gender shall include all other genders;
- b) an expression importing a natural person includes any company, partnership, joint venture, association, corporation or other body corporate and any governmental agency;
- c) Clause and Schedule headings are inserted for convenience only and are not to be taken into account in the interpretation of this Agreement;
- d) references to any documents or agreements shall be deemed to include references to such document or agreement as amended, supplemented, varied or replaced from time to time;
- e) words and phrases defined in any part of this Agreement shall bear that meaning elsewhere in this Agreement; and
- f) references to Clauses and Schedules are references to Clauses and Schedules in this Agreement, and the Schedules shall form an integral part of this Agreement.

2. DUTIES AND OBLIGATIONS OF AXONMEDIA

- 2.1 AxonMedia shall provide the Service to Customer in a timely, efficient and professional manner. Further, AxonMedia shall exercise all reasonable skill, care and diligence within the existing boundaries of technology and commerce, in providing the Service to Customer.
- 2.2 AxonMedia shall make reasonable efforts to ensure that the SMS Messages shall reach the end-user's mobile phone, but shall not be held responsible if the end-user does not activate their mobile phone or if the mobile phone is unable to receive the SMS Messages.
- 2.3 AxonMedia shall send Delivery Reports to Customer in accordance with Schedule 1.
- 2.4 AxonMedia shall in no way be held responsible for the content of any of the SMS Messages transmitted through the System.

3. DUTIES AND OBLIGATIONS OF CUSTOMER

- 3.1 Customer shall provide any information reasonably requested by AxonMedia which it requires to fulfill its duties and obligations under this Agreement.
- 3.2 Customer shall inform AxonMedia as soon as practicable by e-mail, phone or facsimile of any fault of which it is informed or becomes aware in its use of the Service.
- 3.3 Customer should not use the Service to knowingly transfer SMS Messages that are classified as SPAM under applicable law. In the event that a destination operator for an SMS Message complains to AxonMedia that its network has been used to originate SPAM, Customer agrees to work with AxonMedia to suspend the relevant Customer client account immediately, and in the event Customer fails to take such action, AxonMedia reserves the right to refuse further service delivery to Customer.

4. CONFIDENTIALITY

- 4.1 Each Party agrees to keep confidential, and not to disclose to any third party, any information relating to the technology, business affairs, finances, suppliers or customers of the other Party.
- 4.2 The obligations of confidence referred to in this Clause shall not apply to any Confidential Information, or other information which:

- a) was in the public domain at the time of disclosure;
 - b) though originally Confidential Information, subsequently falls into the public domain other than as a result of any breach of this Clause or any other duty of confidence;
 - c) is received by the relevant Party from a third party, or already known by such Party, without any breach of this Clause or any obligation of confidentiality; or
 - d) is required to be disclosed by a government body or court of competent jurisdiction or by operation of law or in order to comply with the rules of a recognized stock exchange, but only to the extent so required.
- 4.3 Each Party shall only make use of Confidential Information of the other Party to the extent required to fulfill its obligations under this Agreement and shall only disclose the Confidential Information of the other Party to its employees upon obtaining consent from such Party. Each Party shall ensure that its employees observe the confidentiality requirements under this Clause 4.

4.4 The obligations of the parties under this Clause shall survive the expiry or the termination of this Agreement for whatever reason.

5. LIMITATION OF LIABILITY

- 5.1 Under no circumstances shall AxonMedia be liable to Customer on account of Customer's use or misuse of and/or reliance on the Service to commit an offence, be it civil or criminal, or as an accomplice, aider or abettor to such an offence.
- 5.2 AxonMedia shall not be liable for faults in delivery, transmission, re-transmission or reception of the SMS Messages attributable to the Local Carrier or third parties. In such event, the Parties shall upon agreement, work on a solution to address any such problems with or without the assistance of the third party at fault.
- 5.3 Neither party shall be liable to the other or any other person or entity, whether in contract, tort (including negligence, breach of statutory duty, or other tort) or otherwise:
- a) for any loss of revenue, business, anticipated savings or profits, or
 - b) for any indirect, special or consequential loss, damage, costs, or other claims, howsoever caused or arising.

6. PAYMENT

- 6.1 The Service shall be provided at the pricing as determined hereinabove.
- 6.2 All charges shall be calculated by reference to data properly recorded by AxonMedia. In the event of any conflict between the data held by Customer (or its customer(s)) and AxonMedia's data, Customer shall be entitled to submit bona fide data relating to its use of the Service and both AxonMedia and Customer agree, acting reasonably, to consider both sets of data, and to reach a resolution.
- 6.3 Customer shall make any and all undisputed payments by way of bank transfer to AxonMedia in such currency as is specified in this Agreement (or as otherwise may be agreed in writing between the Parties), such payments to be made upon submission by AxonMedia of (a) an invoice therefore, accompanied by (b) a full statement, detailing each of the SMS Messages and providing such information in respect of those SMS Messages as Customer may reasonably require.
- 6.4 In the event that any payment due under Clause 6.3 is not paid by the due date for payment then AxonMedia shall be entitled to charge interest thereon at the rate of eight percent per annum from the date payment becomes due until payment in full. Such interest shall accrue daily.

7. TERMINATION

- 7.1 Either party may terminate this Agreement forthwith by notice in writing to the other Party, if the other Party:
- a) commits a material breach of this Agreement and such breach or failure is not remedied within thirty (30) days of receipt of written notice specifying the details of such breach or failure and requiring the same to be remedied; or

b) (being a company) presents a petition or has a petition presented by a creditor for its winding up, convenes a meeting to pass a resolution for voluntary winding up or enters into liquidation (other than for the purposes of a bona fide reconstruction or amalgamation), enters into a voluntary arrangement with its creditors, has a receiver, administrative receiver or administrator of all or any of its undertakings or assets appointed, or is deemed by the relevant statutory provisions under the applicable law to be unable to pay its debts or (if an individual) presents or has presented against him a bankruptcy petition or (if a non Singaporean national or corporation) shall suffer anything analogous to these matters to occur to him or it.

7.2 Either Party may terminate this Agreement by giving one (1) months notice in writing to the other Party.

7.3 Any termination of this Agreement shall be without prejudice to any other rights or remedies that a Party may be entitled to hereunder or at law and shall not affect any accrued rights or liabilities of either Party.

8. SMS CONTENT

8.1 In the event that the SMS Messages comprise content which is subsequently found or adjudged by any competent court or other authority to be defamatory, libelous, an endangerment to national or international security or against public interest, the Customer shall cooperate by way of expertise and costs to defend any and all such allegations, suits, prosecutions or claims made against AxonMedia by any third party.

9. INTELLECTUAL PROPERTY RIGHTS

9.1 Intellectual property belonging to the Parties shall remain the property of its respective owner.

9.2 The obligation and liabilities of the parties under this Clause shall survive the expiry or the termination of this Agreement for whatsoever reason.

10. FORCE MAJEURE

10.1 Under no circumstances shall either Party be held liable for any delay or failure in performance resulting causes beyond its reasonable control, including, without limitation, strikes, labour disputes, riots, insurrections, civil disturbances, fires, flood, storms, explosions, acts of god, war and governmental actions.

10.2 The Party affected by the force majeure event ("the Affected Party") under Clause 10.1 shall forthwith notify the other Party in writing and thereafter the relevant obligations of the Affected Party shall be suspended until such time as the force majeure event ceases to adversely affect its performance of this Agreement, provided always that in the event that the Affected Party is unable to perform its obligations under this Agreement for a period of one (1) month, the other Party may then terminate this Agreement forthwith by giving notice of its intention to do so. The Affected Party shall notify the other in writing as soon as practicable after the cessation of the force majeure event's adverse effect upon its performance of this Agreement.

11. SUCCESSORS IN TITLE AND ASSIGNS

11.1 Each party ("non-assignor") acknowledges that the other party ("assignor") shall be entitled, by notice in writing to the non-assignor, to assign any or all of its rights and obligations under this Agreement to another entity:

a) which is a subsidiary or affiliate of such party; or

b) which acquires all or substantially all of the assignor's assets or shares, for which assignments, non-assignor hereby provides its irrevocable consent. Any other assignment of assignor's rights and obligations under this Agreement shall be conducted only with the consent of the non-assignor, such consent not to be unreasonably withheld or delayed. For the avoidance of doubt, any assignment of obligations under this Clause shall be without prejudice to the continuation of the assignor's obligations subsisting prior to the effective date of such assignment.

11.2 The parties to this Agreement do not intend that any terms of this Agreement should be enforceable by any person or entity who or which is not a party to this Agreement.

11.3 This Agreement shall be binding upon the successors and assigns of the parties and the name of a party appearing herein shall be deemed to include the names of its successors and assigns provided always that nothing shall permit any assignment by either party except as expressly provided.

12. DISPUTE RESOLUTION AND GOVERNING LAW

- 12.1 Subject to Clause 12.2 below, any dispute, controversy or claim arising out of or relating to this Agreement or the breach, termination or invalidity thereof shall first be resolved by mutual consultation.
- 12.2 This Agreement shall be governed by the laws of Singapore, and the parties hereby submit to the non-exclusive jurisdiction of the Singapore Courts for the resolution of any dispute which may arise in connection herewith.

13 VARIATION

- 13.1 Any variation, amendment or modification to this Agreement shall be effective only if agreed to in writing and signed by both AxonMedia and Customer. Such variation, amendment or modification shall then form part of this Agreement.
- 13.2 In the event that there are any discrepancies between the term(s) of this Agreement and the term(s) posted on any other platform, the term(s) of this Agreement shall prevail.

14 WAIVER

- 14.1 Any failure to enforce any right or provision in this Agreement by either Party does not constitute a waiver of such right or provision or of any other right or provision in this Agreement.

15 ENTIRE AGREEMENT AND SEVERABILITY

- 15.1 This Agreement constitutes the entire agreement between the parties relating to the subject matter thereof, and supersedes any prior discussions, representations (other than fraud or fraudulent representations), understandings and agreements between the Parties in relation thereto.
- 15.2 If any term or provision of this Agreement or part thereof is rendered void, illegal or unenforceable by any legislation to which it is subject, it shall be rendered void, illegal or unenforceable to that extent only and be severed from this Agreement, provided that if the commercial basis of this Agreement is thereby substantially affected or altered, the Parties shall negotiate in good faith to amend and modify the terms and provisions of this Agreement as may be necessary or desirable in the circumstances. In any event, the invalidity or unenforceability of any term or provisions of this Agreement shall not impair the enforceability or the remainder of this Agreement, which shall remain in full force and effect and shall be construed as if the invalid or unenforceable term or provision was omitted.

16 NOTICES

- 16.1 All notices and communications under this Agreement shall be delivered by personal delivery or courier service, by registered mail, by e-mail or by facsimile message
- 16.2 All notices or other documents shall be in the English language and shall be deemed to be given:
- a) in the case of personal or courier service at the time of service;
 - b) in the case of registered mail, notice shall be deemed to be given upon forty eight (48) hours after the time of posting, and evidence of such notice being properly addressed and stamped shall be sufficient proof of the giving of such notice; and
 - c) in the case of facsimile message, e-mail or by other electronic media upon completion of transmission and receipt of a transmission report showing successful transmission.