

## **TERMS OF USE AND SERVICE**

User (as defined below) who access and/or use Sunway SCF Sdn Bhd's ("**Sunway**") web-hosted factoring system through the internet having the URL address currently accessed by the User or notified to the User by Sunway from time to time, including the Browser (as defined below) and Registered User Wall (as defined below), and all or any of the contents and features that aim to provide the access and/or usage of the Services (as defined below) ("**Platform**") is subject to these terms and conditions ("**Terms**").

These Terms must be read in conjunction with any other agreements entered into between Sunway and the Profile Owner (as defined below), if any, in respect of and for the Services, Account and/or the Platform. If there is any conflict, discrepancies or variance between the Terms and any such agreements, the latter shall prevail and these Terms will continue to be bound to the extent the conflict relates to the access and/or use of the Platform.

**IT IS IMPORTANT THAT YOU READ AND UNDERSTAND THESE TERMS BEFORE YOU ACCEPT THEM. BY BROWSING, ACCESSING AND/OR USING THE PLATFORM, AND REQUESTING AND/OR USING THE SERVICES, YOU AGREE AND ACCEPT TO BE BOUND BY THE FOLLOWING TERMS WITHOUT LIMITATION OR QUALIFICATION. IN ADDITION TO THE FOLLOWING TERMS, YOU HEREBY AGREE TO COMPLY WITH ANY OTHER TERMS, CONDITIONS, POLICIES, DOS AND DON'TS OF THE PLATFORM, ACCOUNT AND/OR SERVICES AS MAY BE DETERMINED BY SUNWAY FROM TIME TO TIME. IN THE EVENT USER DOES NOT AGREE TO THESE TERMS, PLEASE DO NOT USE THE PLATFORM, ACCOUNT AND/OR SERVICES OR DOWNLOAD ANY MATERIALS FROM THE PLATFORM.**

### **1. DEFINITION AND INTERPRETATION**

1.1. In these Terms, unless the context otherwise requires:

- (a) Headings contained herein are merely informative and do not affect or qualify the interpretation of the Terms.
- (b) Words denoting one gender include all other genders and words denoting the singular include the plural and vice versa.
- (c) References to "we", "us" and "our" refers to Sunway, and "you" and "your" refers to the User.
- (d) References to any party to this Agreement or any other agreement or instrument shall where the context permits, include their respective successors, personal representatives and permitted assigns.

1.2. Definitions

"**Account**" means Anchor Account or Supplier Account (as the case may be).

"**Anchor Account**" means a virtual account which Sunway has set up, maintained for and granted to the Profile Owner after registration with Sunway as an anchor via the Platform or other means notified by Sunway from time to time that is activated by such authorised person of the Profile Owner in accordance with the Instructions of Sunway and thereafter verified by Sunway, for its Maker,

Checker, Full User or Viewer User access for the purposes of accessing and/or using the Services as an anchor.

**“Browser”** means the main homepage, the unrestricted pages, tabs, tools, general informational or marketing sections (if any) of the Platform that are accessible by the User without any registration for or logging in the Account.

**“Business Day”** means a day other than a Saturday, Sunday or public holiday in Malaysia when banks are generally open for business.

**“Checker”** means a person authorised by and acts on behalf of the Profile Owner, and has access to the Account, to sign the notices of assignment and commercial documents (invoices, credit notes etc.), to verify and approve the transactions initiated by the Maker and such other acts required of a checker in a manner prescribed by Sunway from time to time for the purposes of the Services.

**“Definitive Agreements”** means: (a) in relation to the Anchor Account, the Anchor Cooperation Agreement between a Profile Owner (who registers as an anchor) and Sunway and any ancillary documents arising thereto; or (b) in relation to the Supplier Account, the Invoice Factoring Agreement between a Profile Owner (who registers as a supplier) and Sunway and any ancillary documents arising thereto.

**“Full User”** means a person authorised by and acts on behalf of the Profile Owner, and has access to the Account, to prepare and initiate transactions, to input information, to submit documents in connection with the use of Services, to sign the notices of assignment and commercial documents (invoices, credit notes etc.) and such other acts required of a full user in a manner prescribed by Sunway from time to time for the purposes of the Services.

**“Hyperlinks”** means hyperlinks or plug-ins to third party’s websites, platforms, systems, portals, gateways or networks by means of buttons, links, banners or embedded content.

**“Instructions”** means any communication (including but not limited to requests, application, submission or authorisation) in any form transmitted or sent through the Platform and/or other acceptable means between Sunway, the User and the Profile Owner other than through the Platform.

**“Loss”** includes loss, damage, claim, costs, fees, charges, damages and/or expenses of whatsoever nature howsoever arising whether direct, indirect, joint, several, actual, contingent or otherwise (including legal fees on a full indemnity basis), and includes without limitation claims made by third parties howsoever arising, any loss of profits, loss of data, or any direct, indirect, special, consequential or incidental damages (whether or not Sunway has been advised of the possibility of such loss).

**“Maker”** means a person authorised by and acts on behalf of the Profile Owner, and has access to the Account, to prepare and initiate transactions, input information or submit documents through the Registered User Wall for the Services and such other acts required of a maker in a manner prescribed by Sunway from time to time for the purposes of the Services.

**“Notifications”** means any notifications or other form of messages that may be notified, transmitted or sent through the Platform and/or other acceptable means between Sunway, the User and the Profile Owner other than through the Platform.

**“Profile Owner”** means an organisation (enterprise, partnership or company), registered with Sunway as anchor or supplier (as the case may be) for an Account.

**“Registered User Wall”** means the profile page of the Profile Owner, online services, restricted pages, tools and Services which are accessible only by the Profile Owner after such Profile Owner completed the registration, activation and verification process for the Account, or logged in to the Account.

**“Services”** means those services made available, provided and managed by Sunway on the Platform including: (a) account information; (b) e-statements; (c) factoring request; (d) payment request; (e) approved receivable transfer; (f) payment voucher transfer; and (g) any other incidental or ancillary services as may be offered from time to time.

**“Supplier Account”** means a virtual account which Sunway has set up, maintained for and granted to the Profile Owner after registration with Sunway as a supplier via the Platform or other means notified by Sunway from time to time that is activated by such authorised person of the Profile Owner in accordance with the Instructions of Sunway and thereafter verified by Sunway, for its Maker, Checker, Full User or Viewer User access for the purposes of accessing and/or using the Services as a supplier.

**“User”** means any person who accesses and/or uses the Platform and/or the Services, including mere visitor who access the Browser only, the Checker, the Maker, Full User, Viewer User and such other person authorised by the Profile Owner to access its Account.

**“User ID”** means a unique name / identification (e.g. electronic mail address) provided by the Profile Owner to Sunway during the registration process which must be keyed in by the Maker, Checker, Full User, Viewer User or such other person authorised by the Profile Owner, respectively, in order to log on to such Profile Owner’s Account and access the Registered User Wall.

**“Viewer User”** a person authorised by and acts on behalf of the Profile Owner, and has access to the Account, to read and view the information relating to the Services available on the Account only.

## **2. AMENDMENTS**

- 2.1. Sunway reserves the right to supplement, vary and/or modify the Terms, or any part thereof, or to impose new terms and conditions, for accessing and/or using the Platform and/ or Services, at any time at its sole discretion by means of, including but not limited to, posting the updated version of the Terms on the Platform, by electronic mail, and/or by notification via other acceptable means the User or the Profile Owner receives or obtains notice thereof. Any access and/or use of the Platform by the User upon the posting, notification or issuance of such updated Terms shall be deemed to constitute acceptance and agreement by User to the supplemental, variation and/or modification thereof.

## **3. ONBOARDING AND REGISTRATION**

- 3.1. User must register for an Account with Sunway to access and/or use the Services.

- 3.2. User is required to provide Sunway certain information or documents relating to such User or Profile Owner, including (but not limited to), corporate bank account(s) details, shareholders' directors' and authorised signatories' details and all other information or documents as Sunway may deem necessary to process the registration, activation and verification for the Account and/or to effectively provide the Services.
- 3.3. During the registration, activation and verification process for the Account, the Profile Owner (or its authorised persons) must execute the Definitive Agreements and such other documents as may be required by Sunway from time to time (if any). User shall not be allowed to access the Account until and unless such Definitive Agreements and documents (if any) have been executed and the Account has been activated by Sunway.
- 3.4. For the avoidance of doubt, User (except mere visitor) accessing or using the Account shall be deemed to be a User authorised by such Profile Owner at all times, and shall be deemed to be acting on behalf and represent such Profile Owner before Sunway at all times.

#### **4. ACCESS, USE AND ACCOUNT SECURITY**

- 4.1. Each User is solely responsible for his/her own use of the Platform. User (except mere visitor) is solely responsible for all or any use of the Account (under any User ID or password associated with the access to the Account under such User ID), for protecting the confidentiality of any User ID and password associated with the access to the Account under such User ID, and for ensuring that all or any use of Account complies fully with the provisions of these Terms. User (except mere visitor) must treat and keep the User ID, password and all other access credentials confidential at all times, and not disclose them to any third party or unauthorised persons.
- 4.2. Password of the Account under any User ID are non-transferrable and are valid until and unless the User (except mere visitor) changes his/her password using the tools available to him/her on the Platform for this purpose.
- 4.3. User shall properly log out of the Account after use of the same. User acknowledges and agrees that failure to log out from the Account may cause unauthorised access by any third party and to the extent as permitted by law, the User shall not hold Sunway or any of its officers, employees or agents responsible or liable for any such access or for any Loss suffered or incurred by the User as result of such unauthorised access.
- 4.4. Sunway may (under no obligation to) monitor and review the User's access to or use of the Services, Account and/or Platform. If Sunway suspects or have reasons to believe that there has been any unauthorised activity, misuse or violation of any laws being committed by the User in connection to the access and/or through the Services, Account and/or Platform, Sunway reserves the right to block, suspend or discontinue the User's access to the Platform and/or Account, disable any User ID relating to such Account immediately without assigning any reasons or prior notice to the User.
- 4.5. The access to and use of the Services, Account and/or Platform are subject to the availability of the IT and network systems of Sunway and/or any third party service provider relating to or in connection with the Services. Sunway does not guarantee nor warrant the full availability of Sunway IT and network systems at all times.

- 4.6. The use of the Platform requires compatible devices, internet access and certain software, and may require updates (automatic or manual download and installation or otherwise) from time to time. User's ability to access and use the Services through the Platform may be affected by the performance of the User's own devices, internet connection and software. User acknowledges that the system requirements and compatibility (which may be changed from time to time) are the User's own responsibility.

## **5. INSTRUCTIONS AND AUTHORISATIONS**

- 5.1. User agrees and accepts that any Instructions given by or on behalf of the Profile Owner through the Platform or other means accepted between Sunway, the User and the Profile Owner other than the Platform shall at all times be subject to such limits and conditions as Sunway may prescribe from time to time.
- 5.2. In cases which performance of Instructions given by or on behalf of the Profile Owner (by the Checker, the Maker, Full User, Viewer User or any other person authorised by the Profile Owner) involve or require the consent or approval of third parties, Sunway's obligations to perform such Instructions are subject to such consent and approval being obtained by the User and provided to Sunway.
- 5.3. User (except mere visitor) agrees and acknowledges that all Instructions transmitted by such User to Sunway are Instructions given by and on behalf of the Profile Owner and are valid, and such Instructions after transmitted to Sunway shall be conclusive and not be amended or withdrawn without Sunway's consent. The User (except mere visitor) agrees and accepts that Sunway is not obliged to check the authenticity of the Instructions upon its transmission to Sunway through the Platform or other means accepted between Sunway, the User and the Profile Owner.
- 5.4. Should the User (except mere visitor) have any reason to believe that an Instruction has not been accurately or completely received by Sunway, such User shall immediately and without delay notify Sunway at [contact@sunwayscf.com](mailto:contact@sunwayscf.com). The User acknowledges and accepts that any Instructions for cancellation, revocation or reversal, and amendment or clarification shall only be effected if the earlier Instruction has not been executed by Sunway. Sunway reserves the right to refuse to carry out any of the Instruction where it is inconsistent with the laws or for any other reasons.
- 5.5. The User (except mere visitor) acknowledges and agrees that electronic communication is an acceptable method of communicating information from one party to the other without having to communicate the same on paper, and that all Instructions in electronic form are equivalent to Instructions in writing. The validity or enforceability of such Instructions shall not be disputed or challenged on the grounds that it is not a written document. User agrees and acknowledges that such Instructions are original written documents, and not to challenge the admissibility of such Instructions on the grounds that it is made in electronic form.
- 5.6. The User (except mere visitor) acknowledges that any Instructions received by Sunway for transfers or payments are not immediate or final, Sunway reserves its rights to request for additional documentations or information for verification purposes prior to executing, implementing or carrying out the Instruction.

## 6. REPRESENTATIONS, WARRANTIES AND/OR UNDERTAKINGS

### 6.1. By accessing the Platform:-

- (a) The User represents and warrants that he/she possess the legal capacity (above 18 years of age), right and ability (is of sound mind) to enter into these Terms and to comply with these Terms;
- (b) The User represents, warrants and undertakes that he/she will use the Services, Account and/or the Platform for lawful purposes only and in accordance with these Terms and all applicable laws, rules, codes, directives, guidelines, policies and regulations;
- (c) The User represents, warrants and undertakes that all particulars, information and/or documents provided by User to Sunway relating to and/or for the Services, Account and/or Platform ("**Supplied Information**") at any time and/or from time to time are true, accurate, current, complete and not misleading. The User undertakes to forthwith notify Sunway of any changes or amendments to any part of the Supplied Information by providing the updated information and/or documents ("**Updated Information and/or Documents**"), in writing, the receipt of which must be acknowledged in writing by Sunway. The User agrees that, in the event of any inconsistency between the Supplied Information and the Updated Information and/or Documents provided to Sunway, the latter shall prevail. The User hereby irrevocably grants consent to Sunway to revise and amend any part of the Supplied Information at any time and/or from time to time, to be consistent with the Updated Information and/or Documents without any prior notice to the User and hereby acknowledges and agrees that such revision and amendment made by Sunway shall be deemed to have been personally made by the User and shall be final and conclusive. The User undertakes to indemnify Sunway, its employees, directors, officers, representatives, affiliates, subsidiaries and agents for any Loss caused to Sunway arising from the User providing untrue, inaccurate, out-of-date, incomplete or misleading information or particulars.;
- (d) The User represents, warrants and undertakes that he/she will treat and keep the User ID, password and all other access credentials in relation to the Account confidential at all times, and prevent unauthorised use of the same. The User undertakes to notify Sunway immediately of any unauthorised use of the Account, User ID, password and/or all other access credentials in relation to the Account. The User warrants and undertakes that he/she will be fully and absolutely liable to Sunway for all Instructions, transactions and activities happening within and relating to the Account, and Loss incurred by Sunway or any other User due to someone else using the Account as a result of User failure to keep his/her Account, User ID, password and/or all other access credentials in relation to the Account secure and confidential (and Sunway shall at all times not be liable for such User's failure);
- (e) The User represents, warrants and undertakes that he/she will be solely and absolutely liable for any liabilities arising from using the Services, the Account and/or the Platform and undertakes to indemnify Sunway against any Loss incurred by Sunway pursuant thereto;
- (f) The User (except mere visitor) warrants and undertakes that he/she shall immediately notify Sunway if he/she has reason to believe that any Instructions and/or Notifications has not been accurately or completely received by and/or provided to Sunway and he/she shall forthwith provide the updated information to Sunway;
- (g) The User (except mere visitor) represents and warrants that he/she has been granted equivocal authority by the Profile Owner to perform specific administrative and operative functions associated with the Accounts for and on behalf of the Profile Owner; and

- (h) The User (except mere visitor) warrants and undertakes that he/she shall retain all information or document relating to the activities in the Account in respect of the Services for a period of seven (7) years and shall provide the same to Sunway, upon request.

## **7. PROHIBITED CONDUCT AND RESTRICTIONS**

7.1. User agrees that when accessing and using the Platform, all applicable laws and regulations shall be complied and User shall not:

- (a) act in a deceptive or fraudulent manner by, among other things, impersonating another person or entity, including but not limited to, a Sunway official, forum leader, guide or host or falsely state or otherwise misrepresent your affiliation with a person or entity, accessing another User's Account or signing up for more than one Account;
- (b) use the Services, Account and/or the Platform in any way which will deprive the other Users of their legitimate right to use the Services, other Users' Account(s) and/or Platform;
- (c) use the Services, Account and/or Platform for any unlawful or illegal purposes in any jurisdiction or in breach of any of these Terms;
- (d) intentionally or unintentionally violate any applicable local, state, national or international law;
- (e) amend, damage or delete any content or other forms of communications that are not a User own content;
- (f) permit any person (including other Users) other than himself to use the Services through the Platform under his/her own Account, misrepresent his/her identity/affiliation with the Profile Owner or other information as may be transmitted on the Platform, or share any access, User ID and password with unauthorised person or encourages other person to do so;
- (g) allow access, re-sell or re-provide the Services, Account and/or Platform to any other person;
- (h) perform any act or use the Services, Account and/or Platform in any manner that may cause damages, interruptions, obstruction, inefficiencies or defective functioning of the Platform, the device or systems and networks used by Sunway and the third party engaged by Sunway (if any) in connection with the Platform;
- (i) post, transmit or disseminate materials that are fraudulent, harmful, vulgar, obscene, pornographic, profane, abusive, hateful, offensive, threatening, harassment, libellous, defamatory, objectionable materials or materials that are in breach of any laws and regulations, or use the Services, Account and/or Platform in any unlawful manner or in a manner which promotes or encourages criminal or illegal activity;
- (j) post, transmit or disseminate any messages that amounts to advertising materials, chain mails, spam or junk mails, unsolicited messages or messages for the touting or sale of, or offer to sell, any product or service;
- (k) post, transmit, install, publish or disseminate any viruses, worms, Trojan horses, malicious or any harmful, disruptive or destructive files, code, content or documents designated to corrupt, destruct or limit the functionality of any computer software or hardware or any telecommunication equipment or systems of any User for the access and/or usage of the Services, Account and/or Platform;

- (l) post, publish, transmit, reproduce, distribute or in any way exploit any information, software or hardware or other materials obtained from or through the Services, Account and/or Platform for any other commercial purposes;
- (m) perform any act or induce other person to take certain action that may pose a threat to Sunway's reputation or that results in any material adverse effect on Sunway's operations of the Services and/or Platform, its business, affiliates, agents, management or relationship with any third party;
- (n) use the Account and/or Platform for the collection of personal data or use material or information protected by the applicable laws of confidentiality;
- (o) hack into, attempt to gain unauthorised access to the Platform, or perform any act which will cause (or attempt to cause) breach to the security or authentication measures of the Platform or any network connected to the Platform, as well as the security or authentication measures associated to the content hosted in the Platform;
- (p) reverse engineer, disassemble or decompile the Platform (in whole or in part), mirror or frame any parts of the Platform or commit any attempts to do so, unless as may be permitted by the laws and regulations;
- (q) modify, copy, distribute, reproduce, commercially exploit, transmit, display, perform, publish, upload, post, license, create derivative works from, transfer or sell any content, information, designs, logos, trademarks, software or services of the Platform or obtained from the Services, Account and/or Platform; and/or
- (r) prevent or interfere with other Users use and enjoyment of the Platform.

## **8. NOTIFICATIONS AND E-STATEMENTS**

- 8.1. Due to time delays, glitches or other similar systems delays or errors that may occur, Sunway gives no representation or warranty on the accuracy or completeness of the information or materials or the reliability of any advice, opinion or other information display or distributed through the Platform, and the User is advised to regularly review any alerts, statements or notices made available by Sunway.
- 8.2. Where Sunway delivers on-screen Notifications, alerts, confirmation or statements in respect of the Account through the Platform, the User who has access to the Account must verify the particulars and notify Sunway immediately if there is any error or omission. If Sunway does not receive any notice within 7 Business Days, any Notifications, alerts, confirmation or statements shall be deemed as true, correct and accurate in particular in respect of the transactions and the amounts stated, and such Notifications, alerts, confirmation or statements shall be the conclusive evidence of the transactions.
- 8.3. By using and accessing the Platform for the Services, the User (except mere visitor) consents to receiving communications from Sunway relating to Sunway or Sunway related companies (including but not limited to the member companies of the Sunway Berhad group of companies), including marketing communications such as newsletters, products/services, offers, promotional announcements, or customer surveys, via the electronic mail address associated to the Account or through other means as may prescribed by Sunway from time to time.

## **9. PAYMENTS, FEES AND CHARGES**



- 9.1. Sunway is entitled to charge or adjust any charges, fees, levies and taxes (or any penalties payable under such levies and taxes) in respect of the Services. The rates of such charges, fees, levies or taxes shall be displayed on the Platform and shall be subject to adjustment, revision or variation by Sunway (with absolute and sole discretion) from time to time, and such variation shall take effect in such manner and at such time as stipulated on the Platform (if any). The continued access and usage of the Services and/or the Platform shall constitute the acceptance and agreement by the User (except mere visitor) and the Profile Owner (whom such User are acting on behalf) to such charges, fees, levies or taxes, and any adjustment, revision or variation thereof.

## **10. HYPERLINKS**

- 10.1. In the event the Platform displays any Hyperlinks, these Hyperlinks are managed, owned and under the control of third party(ies). Sunway does not have control, ownership or the means (whether technical or otherwise), and is not responsible, over the information, products, content, data or services obtained through such Hyperlinks or the actions of such third party(ies). Any Hyperlinks are provided to User for convenience only and shall not construe or indicate in any way whatsoever as an endorsement, association, authorisation, sponsorship or verification by Sunway, and shall be accessed and/or relied on at the User own risk.
- 10.2. Sunway does not guarantee that these Hyperlinks and/or any information, products, content, data or services thereof will be available, error-free or uninterrupted at all times, and it is the User's responsibility to take all protective measures to guard against viruses or other destructive elements in connection with such Hyperlinks. Under no circumstances will Sunway be liable for any Loss suffered by or caused to the User due to his/her access of the Hyperlinks, reliance or use of any information, products, content, data or services obtained through such Hyperlinks and/or in any aspect of the Hyperlinks.

## **11. CONTENTS & INTELLECTUAL PROPERTY**

- 11.1. All contents and features available on the Platform are provided on an "as is" and "as available" basis and without warranties of any kind either expressed or implied to the fullest extent permissible pursuant to applicable law. Sunway may update, change, remove, disable or withdraw the contents and/or features of the Platform (in whole or in parts) at any time as Sunway deems fit without any notice to the User and Sunway is under no obligation to provide reasons to the updates, changes, removal or withdrawal thereof.
- 11.2. The contents and features on the Browser are strictly meant for User's reference and information only, and shall not at any time, be construed as an offer of the Services or the facilities or services by any of Sunway's affiliates, related companies (including but not limited to the member companies of the Sunway Berhad group of companies), or business partners.

- 11.3. Some contents and features are transmitted through other systems or networks of third party engaged by Sunway which may cause delays, glitches or other similar system delays or errors out of Sunway's control. As such, Sunway does not provide any representation or warranty that all contents and features displayed on the Platform including information, materials or the reliability of any advice, opinion or other information display or distributed on the Platform, data, images, icons, audio, videos or Hyperlinks are error-free, up-to-date, accurate or complete at any given time. User acknowledges that any reliance on any such information, data, advise, opinion or information on the Platform shall be at his/her own risk.
- 11.4. The Platform contains materials that are subject to the protection of copyright, trademarks and other proprietary information including, but not limited to, graphics, text, images or photographs, sounds, music, audio or video and other multimedia work, and the entire contents of the Platform are subject to the Malaysian copyright and trademarks laws, or such other intellectual property laws. Any unauthorised use of any part of this website is strictly prohibited.
- 11.5. **Copyright.** Any contents (graphics, text, images or photographs, sounds, music, audio or video and other multimedia work, or any combination thereof) made available on the Platform are protected by copyright and any applicable intellectual property rights owned exclusively by or licensed to Sunway or owned by the relevant third party.
- 11.6. **Trademarks.** Any trademarks, service marks and logos used on the Platform are the property of Sunway or the respective third party as displayed on the Platform (if any).
- 11.7. Users shall not reproduce, copy, transmit, publish, distribute, display, license, modify, participate in the transfer or sale, create derivative works, or in any way use, exploit or reproduce any of the copyrighted or trademarked materials or other materials on the Platform with intellectual property rights attached (whether in whole or parts), for any purposes (other than own use), without the prior written consent of the owner of the copyright, trademark or such other intellectual property right, and the burden of determining that any material is not protected by copyright, trademark or intellectual property rights rest with the User. In the event of any permitted or consented copying, redistribution, use or publication of materials subject to copyright, trademark or such other intellectual property rights, no changes in or deletion of author attribution, trademark legend or copyright notice shall be made. User may retrieve database contents, notices, statements and records in electronic form downloadable from the Platform for own use provided it is not for the purpose of the User's commercial gain, and that the User keep intact the printed copies of such contents, records and notices.
- 11.8. The right to access and/or use the Platform should not be construed as granting (or by implication, estoppel or otherwise) any license or right to use or disseminate the trademarks, copyright and any intellectual property right attached, unless where expressly otherwise.

## 12. CONFIDENTIALITY AND DATA PROTECTION

- 12.1. User acknowledges that he/she has read through the Privacy Statement and Anti-Bribery and Corruption Policy published on the Platform, and the continued access of the Platform or engagement with Sunway for the Services signifies and constitute the User's agreement to such Privacy Statement and Anti-Bribery and Corruption Policy. For the avoidance of doubt, User's acceptance of these Terms shall constitute acceptance towards the Privacy Statement and Anti-Bribery and Corruption Policy.
- 12.2. User authorises Sunway to collect and/or verify information on him/her from whatever sources as may be required (including the User) and to release such information and documents as may be obtained to any third party for the purpose of or relating to Sunway performing the Service, without any further reference to the User.
- 12.3. Sunway may release and disclose such information on or relating to the User as is permitted under or by these Terms or law to the relevant authorities and/or third parties, including without limitation to those authorised by the User in clause 12.2 above.
- 12.4. This Clause shall survive the termination or expiry of these Terms and continue to be in force at all times.

### **13. COOKIES POLICY**

- 13.1. Cookies are files downloaded and stored on the User's computer or devices as the User visit or view the Platform, which contains identification code that allows the User's computer or devices to be identified including, amongst others, the User's location or IP address. The cookies would allow the Platform operated by Sunway or the third party service providers to know the User's activity on the same site or sites connected to it.
- 13.2. User has the option to disable the web browser from accepting cookies or to remove cookies from the User's browsing history or cache. Although cookies are not required to be enabled for accessing the Platform, some of the contents may not be available or some of the features may not function optimally if they are disabled.
- 13.3. By using or accessing or continued use or access of the Platform, User accepts and consents to the use of cookies to retrieve User's session information to perform security validation unless the User browser settings have been amended to prevent the same from being retrieved or used.

### **14. VIRUSES, MALWARE AND SECURITY**

- 14.1. Sunway does not guarantee that the Platform is secure or free from viruses, malware or other internet security risk. accepts no liability for any Loss resulting from a virus, malware, cybersecurity attack, a distributed denial-of-service attack, or other destructive material that may adversely affect User hardware, software, data or other material that occurs as a result of User's use of the Services, the Account and/or the Platform (including the downloading of any content from it) or any other website or service that Sunway may provide a Hyperlinks to.
- 14.2. User is responsible for protecting his own hardware, software, data and other material from viruses, malware and other internet security risks.

- 14.3. User must not gain or attempt to gain unauthorised access to the Platform, the server on which the Platform is stored or any server, computer or database connected to the Platform. User must not attack the Platform via a denial-of-service attack or a distributed denial-of service attack.

## **15. INDEMNITY AND NO LIABILITY**

- 15.1. By using the Services, Account and/or the Platform, the User agrees to indemnify, defend and hold harmless, Sunway, its affiliates and related companies (including but not limited to the member companies of the Sunway Berhad group of companies), its directors, officers, suppliers, employees and associates harmless against any and all Loss suffered by Sunway, its affiliates and related companies (including but not limited to the member companies of the Sunway Berhad group of companies), their directors, officers, suppliers, employees and associates (including, but not limited to, claims for defamation, trade disparagement, privacy and intellectual property infringement) as a result of any breach of these Terms, any violations committed or attempted to be committed by the User in the use or purported use of the Platform or any fraudulent acts, illegal activities or negligence.
- 15.2. To the extent permitted by the laws, neither Sunway, its affiliates and related companies (including but not limited to the member companies of the Sunway Berhad group of companies), its directors, officers, suppliers, employees and associates or its third-party service providers shall be liable for:
- (a) any Loss incurred by the User resulting from the use or unavailability of information or content on the Platform;
  - (b) any Loss sustained by the User due to telecommunication errors affecting the Platform (apart from negligence or omission caused by Sunway), unauthorised access or use of User's information through theft or any other means or illegal conduct of other User, or damage to equipment or property of the User.
- 15.3. Sunway shall not, in the absence of fraud, gross negligence or wilful default, be liable to the User for any Loss sustained by the User as a result of any action taken by or omission on Sunway's part in good faith in connection with or in the course of discharging Sunway's obligations under these Terms.
- 15.4. The indemnity herein shall survive the termination or expiry of these Terms.

## **16. GOVERNING LAW AND JURISDICTION**

- 16.1. These Terms are governed by, and construed in accordance with, the laws of Malaysia.
- 16.2. These Terms between Sunway and the User shall be deemed to have been made and executed at Sunway office in Selangor and any breach of the terms stated herein shall be deemed to have arisen in Selangor irrespective of where the User may reside or the breach has taken place.

## **17. FORCE MAJEURE**

- 17.1. Sunway, its affiliates and related companies (including but not limited to the member companies of the Sunway Berhad group of companies), their directors, officers, suppliers, employees and associates shall not be responsible or liable to the User for any Loss or inconvenience due to any delay in performance or non-performance of the Services, the Account and/or the Platform or any of Sunway's obligations under these Terms due to force majeure event beyond the reasonable control of Sunway including, but not limited to:
- (a) any act of God, storm, earthquake, typhoon, tsunami, flood;
  - (b) war, insurrection, act of terrorism, riot or strike;
  - (c) pandemic or epidemic outbreak or other public health restrictions; or
  - (d) mass disruption of power supply, government intervention and restrictions (such as lockdown and quarantine) or change of laws or regulations.

## **18. WAIVER**

- 18.1. Any waiver or indulgence granted shall not prevent Sunway from enforcing its rights under the Terms which are unaffected by such waiver or indulgence. The rights and remedies provided by operation of the laws are not excluded by these Terms. In the event of delay to exercise or enforce any right under these Terms will not operate as a waiver of such right by Sunway.

## **19. ENTIRE AGREEMENT AND SEVERABILITY**

- 19.1. These Terms, together with all matters incorporated into these Terms by reference, embody the entire agreement and understanding between Sunway and the User and supersede and terminate all prior agreements or understandings the User may have with Sunway (whether written or oral) in connection with the subject matter hereof. In the event any one more of the provisions of these Terms shall for any reason be held to be invalid, illegal or unenforceable, the remaining provisions shall remain valid and enforceable. Nothing in this Clause 19 will exclude any liability which the User would otherwise have to Sunway in respect of any statements made fraudulently.

## **20. SURVIVAL**

- 20.1. The termination of this Agreement howsoever arising shall not affect such of the provisions hereof as are expressed to survive, operate or have effect thereafter, and the representations, warranties, undertakings, obligations and responsibilities of the User under these Terms that, by their nature, should survive the termination of these Terms shall so survive.

## **21. GENERAL**

- 21.1. Sunway reserves the right to suspend, discontinue and/or terminate the operation of the Account, Platform and/or the Terms, without assigning any reason or prior notice to the Users in the event (but not limited to):
- (a) it becomes unlawful for Sunway to continue to provide the User with the Services or Sunway is required to do so by law or regulations, by any court of competent jurisdiction or by any governmental or regulatory body which authorises Sunway to perform the Services;

- (b) there is a breach by the User of any of these Terms or in the event that Sunway discovers or have reasonable cause to suspect of any crime, fraud, fraudulent activity or money laundering by the User;
  - (c) the User die, become of unsound mind, become unable to pay his/her debts as and when they fall due, a petition in bankruptcy is presented against the User, the User is declared bankrupt; or the Profile Owner becomes insolvent, the Profile Owner enters into a voluntary arrangement or go into liquidation or is subjected to any similar event;
  - (d) a force majeure event happens; and/or
  - (e) of a lawful termination in accordance to the provisions under the Definitive Agreements.
- 21.2. User acknowledges that the termination of these Terms shall not affect the User's liability and/or obligations arising under the Definitive Agreements or in respect of the Instructions provided to or processed by Sunway through the Account.
- 21.3. Sunway may assign, delegate, subcontract or transfer the Services or any of its rights and obligations in whole or in part to any third party at its sole discretion.

## **22. ENQUIRIES**

- 22.1. For enquiries, concerns, or complaints, or if the User requires any assistance, please contact us at [contact@sunwayscf.com](mailto:contact@sunwayscf.com).

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