

UPwards E-marketing Program Merchant Terms & Conditions

PLEASE READ THE FOLLOWING TERMS AND CONDITIONS CAREFULLY. BY CLICKING ON THE CHECK BOX, YOU (MERCHANT) SIGNIFY YOUR AGREEMENT TO THESE TERMS AND CONDITIONS AND YOU SHALL BE BOUND BY THE SAME. THIS AGREEMENT IS MADE BETWEEN SHC PROJECTS SDN BHD AND YOU (MERCHANT).

1. UPWARDS E-MARKETING PROGRAM

1.1 SHC Projects Sdn Bhd appoints the merchant to be one of the participating merchants for the UPwards E-marketing Program. Any terms not defined herein shall have the meaning prescribed to it in the page titled Additional Terms and Conditions for UPwards E-marketing Program Merchants.

2. PAYMENT OF MONTHLY SUBSCRIPTION FEE

2.1 Merchant shall pay SHC Projects Sdn Bhd the subscription fees, the amount to be notified by SHC Projects Sdn Bhd from time to time, in a timely manner as required by SHC Projects Sdn Bhd.

2.2 The monthly subscription fee (depending on the package signed up by the merchant) shall be automatically deducted from the merchant's e-wallet at the beginning of each month during the subscription period. The Merchant's e-wallet shall be topped up and maintained by the merchant to ensure that there is sufficient amount for the relevant subscription fees to be deducted from its e-wallet.

2.3 If merchant fails to top up to a minimum balance specified by SHC Projects Sdn Bhd for the purpose of automatic deduction of subscription during the subscription period, SHC Projects Sdn Bhd shall have the right to:

- [a] immediately remove the merchant's post from the relevant e-marketplace/platform without prior notice;
- [b] freeze its ability to submit any posts in the e-marketplace/platform without notice;
- [c] suspend the merchant from the UPwards E-marketing Program; and/or
- [d] terminate this agreement and remove the merchant from the UPwards E-marketing Program.

3. PARTICIPATION BENEFITS

3.1 The merchant shall be entitled to enjoy the benefits notified by SHC Projects Sdn Bhd to the merchant from time to time. SHC Projects Sdn Bhd shall be entitled to modify and change the benefits without notice. Benefits will cease immediately upon termination, suspension, or expiry of subscription period or merchant's withdrawal from UPwards E-marketing Program or project cancellation by SHC Projects Sdn Bhd.

4. PROJECT CANCELLATION BY SHC PROJECTS SDN BHD

4.1 SHC Projects Sdn Bhd reserves the right to cancel the UPwards E-marketing Program without any liability by giving merchant one (1) month's notice.

5. TERMINATION OR SUSPENSION FROM UPWARDS E-MARKETING PROGRAM

5.1 Without prejudice to any rights and remedies SHC Projects Sdn Bhd may have under this Agreement, SHC Projects Sdn Bhd shall be entitled to remove, suspend or terminate this Agreement or the merchant's participation in the UPwards E-marketing Program without notice in the event that the merchant:

- [a] is found to be in breach of any of the terms and conditions, including without limitation fail to pay fees/subscription fees in a timely manner or fail to honour posted deals;
- [b] ceases or threatens to cease to carry on business or becomes or threatens to become or is in jeopardy of becoming subject to any form of insolvency administration;
- [c] conduct its advertising without integrity or is in violation of SHC Projects Sdn Bhd's posting rules and regulations; and/or
- [d] fail to maintain a minimum balance in its merchant e-wallet at any time as required under this Agreement.

All fees and subscription fees paid by the merchant will not be refunded upon such termination or suspension.

5.2 SHC Projects Sdn Bhd shall be entitled to suspend or terminate this Agreement or the merchant's participation in the UPwards E-marketing Program without assigning any reason or for convenience. In the event of termination without assigning any reason or convenience by SHC Projects Sdn Bhd, Joining Fee will be refunded.

6. HONOURING POSTS

6.1 Merchants shall honour the posted deals/promotions in connection with the UPwards E-marketing Program and abide by the posting rules and regulations and other relevant policies notified by SHC Projects Sdn Bhd from time to time.

7. MERCHANT WITHDRAWAL FROM UPWARDS E-MARKETING PROGRAM

7.1 Merchant may withdraw from UPwards E-marketing Program by giving SHC Projects Sdn Bhd seven (7) days' prior written notice. Joining Fee shall be forfeited.

8. OTHER TERMS AND CONDITIONS

8.1 Please read the additional terms and conditions contained in the page titled Additional Terms and Conditions for UPwards E-marketing Program Merchants which shall form part of this agreement. The merchant shall be bound by all the terms and conditions contained therein.

Additional Terms and Conditions for UPwards E-marketing Program Merchants

I. Definitions

The following phrases shall have the meaning prescribed to it hereunder:

“**System**” means the application, platform, site and/or system operated or managed by SHC Project Sdn Bhd and/or its affiliates which is used by the merchant for the purpose of this Agreement or used in connection with the UPwards E-marketing Program.

II. Use of the System

Use of the System and Data

The merchant shall not: (i) use the System in any unlawful manner, for any unlawful purpose, or in any manner inconsistent with or not authorised by this Agreement, or act fraudulently or maliciously. The System shall not be commercialised by the merchant in any manner whatsoever; (ii) transmit or distribute (or caused to be transmitted or distributed) through or into the System any virus or malicious codes and information which violates or infringes any law or the rights of others; (iii) send, advertise or publish any unsolicited advertising or promotional content through or on the System without SHC Project Sdn Bhd’s written approval; (iv) use the System in a way that could damage, disable, overburden, impair or compromise SHC Project Sdn Bhd’s systems, software and/or security or interfere with other users’ use and enjoyment of the System; and (v) use the System for any purpose other than for the sole purpose of this Agreement.

SHC Projects Sdn Bhd shall have the right to monitor, use, collect, harvest and gather any information, materials and/or data processed by or generated from the System at its sole and absolute discretion.

All intellectual property rights created and/or developed pursuant to this Agreement by SHC Project Sdn Bhd and/or its service provider shall belong absolutely to SHC Project Sdn Bhd for the purpose of this Agreement. The merchant shall use any material, information and/or content in which any of SHC Projects Sdn Bhd’s intellectual property rights subsist for the sole purpose of and to the extent permitted by this Agreement. Any other use shall be subject to SHC Projects Sdn Bhd’s written consent in each and every instance. The merchant shall not, without prior written consent of SHC Projects Sdn Bhd, disclose any information and materials made available by SHC Projects Sdn Bhd to the merchant in connection with the UPwards E-Marketing Program to any third party.

E-Marketplace Posts and Merchant’s material

SHC Projects Sdn Bhd shall be entitled to, at its sole and absolute discretion, reject any posting(s) (including without limitation any materials, vouchers, promotions and/or deals) submitted by the merchant to SHC Projects Sdn Bhd and/or its affiliates, whether electronically or otherwise, under this Agreement. In addition, the merchant grants SHC Projects Sdn Bhd the right to use and publish its materials and information on the relevant E-marketplace/platform in connection with the UPwards E-marketing Program on SHC Projects Sdn Bhd’s own initiative in the manner SHC Projects Sdn Bhd deems fit. The merchant shall ensure that the posting(s) and the material made available to SHC Projects Sdn Bhd by the merchant will not contain any content, information and/or material which will violate or infringe the rights (including without limitation any intellectual property rights) of others, which is unlawful, inaccurate, technologically harmful, threatening, abusive, defamatory, vulgar, obscene, profane or otherwise objectionable, which encourages conduct that would constitute a criminal offence, give rise to civil liability or otherwise violate any law. The merchant warrant and shall ensure that SHC Projects Sdn Bhd’s use of any material and/or information in connection with the merchant and/or made available by the merchant to SHC Projects Sdn Bhd under this agreement will not violate any law and infringe any intellectual property rights of any third party.

The merchant shall abide by house rules and guidelines in connection with the posting, materials, vouchers, promotions and/or deals as may be imposed by SHC Project Sdn Bhd from time to time. The merchant hereby grants SHC Projects Sdn Bhd and its affiliates a royalty free, perpetual, transferrable, irrevocable right to use, share, distribute and/or display the posting(s) (including without limitation any materials, vouchers, promotions and/or deals in connection with such posting) submitted by the merchant to SHC Projects Sdn Bhd and/or its affiliates, whether electronically or otherwise, under this agreement in any manner whatsoever.

The merchant also grants the users of any websites, sites and/or platforms owned or operated by SHC Projects Sdn Bhd or its affiliates the right to use and share the posting(s) (including without limitation any materials, vouchers, promotions and/or deals in connection with such posting) submitted by the merchant to SHC Projects Sdn Bhd and/or its affiliates, whether electronically or otherwise, under this agreement in any manner whatsoever. For the avoidance of doubt, such users shall be allowed to share any of the merchant’s postings on or through email, whatsapp, social media and/or any other platforms.

Number of Postings

The Merchant shall be entitled to such number of postings as may be determined by SHC Projects Sdn Bhd from time to time at its sole and absolute discretion.

Honouring Deals/Posts

All terms and conditions attached to any deal/promotion posted shall be clearly stated by the merchant. Preconditions for enjoying the deal must be clearly stated in the deal posting itself. Pre-conditions which are not stated in the deal posting shall not be imposed by the merchant (when customer is using the deal). The merchant shall provide its customers all offers, benefits, or promotions the customers are entitled to receive under the voucher/deal/promotion. The merchant shall honour all valid vouchers/deals/promotions without imposing additional terms or conditions not originally stipulated by the merchant.

In addition, without prejudice to any rights and remedies SHC Projects Sdn Bhd may have under this Agreement or at law, SHC Project Sdn Bhd shall be entitled to remove any postings (including without limitation any materials, vouchers, promotions and/or deals) uploaded by the merchant to any platform and to ban the merchant from uploading any posting to any of the platform due to any of the following reasons:

- (i) the merchant’s failure to fully disclose and/or accurately describe the terms and conditions in connection with the deal/promotion in the posting (for example only informing customer of the additional terms at the premise);
- (ii) the merchant’s failure to honour any deal/promotion posted on the platform;
- (iii) the merchant’s failure to honour any deal/promotion where the terms and conditions were not properly stated;
- (iv) the merchant causes disagreements with customers or dissatisfaction among loyalty program users; and/or
- (v) any other reasons, in SHC Projects Sdn Bhd’s sole discretion, in order to protect SHC Projects Sdn Bhd’s goodwill and reputation.

III. Merchant E-Money Wallet

The merchant e-wallet shall be maintained by the service provider appointed by SHC Projects Sdn Bhd and the merchant's use of the e-wallet shall be subject to the standard terms of use stipulated by the service provider, which shall be informed to the merchant from time to time by notice in writing. The e-wallet service provider has been authorized by SHC Projects Sdn Bhd to liaise, deal and transact with the merchant on behalf of SHC Projects Sdn Bhd with regards to all aspects of the merchant e-wallet, and the merchant is required to provide all reasonable assistance, feedback and co-operation to/with the e-wallet service provider.

IV. SHC's additional rights and cooperation

SHC Projects Sdn Bhd shall have the right to:

- (i) introduce and include new features, benefits, functions, and/or things to the UPwards E-marketing Program at its sole and absolute discretion;
- (ii) remove/amend and/or vary any features, benefits and/or functions to the UPwards E-marketing Program at its sole and absolute discretion;
- (iii) assign, transfer, novate and sub-contract any of its rights and obligations under this agreement to any third party; and
- (iv) be tied up with other loyalty vendors, partners, players and payment system providers.

The merchant shall use its best endeavours to participate in all relevant activities or campaigns organised by SHC Projects Sdn Bhd in connection with the UPwards E-marketing Program and comply with all applicable laws and all reasonable instructions, directions and policies of SHC Projects Sdn Bhd in connection with the UPwards E-marketing Program. The merchant shall co-operate fully with SHC Projects Sdn Bhd. Notwithstanding anything contained in this Agreement, in the event that SHC Projects Sdn Bhd is of the opinion that any dispute, issue, conflict and/or action/omission of the merchant may adversely affect the interest of SHC Projects Sdn Bhd, SHC Projects Sdn Bhd shall be entitled to intervene and the Merchant shall comply with all reasonable instructions of SHC Projects Sdn Bhd in order to protect SHC Projects Sdn Bhd's interest.

V. Upwards Collaterals

The merchant agrees to display upwards collaterals, such as leaflet holder with leaflets at the shops' payment counter and stickers at its entry glass vicinity or in the manner instructed by SHC Projects Sdn Bhd.

VI. Suspension of UPwards E-marketing Program

SHC Projects Sdn Bhd shall be entitled to suspend the UPwards E-marketing Program at any time with or without notice. In such event, obligations of both parties will be suspended during the suspension until recommencement of program.

VII. Variation/Severability/others

SHC Projects Sdn Bhd shall be entitled to amend and modify any terms at any time in writing at its sole discretion by notifying the merchant. No variation, modification and amendment to any terms and conditions contained in this Agreement made by merchant shall be valid unless it is mutually agreed upon by the parties in writing. If any provision of this Agreement is to any extent illegal, otherwise invalid, or incapable of being enforced, such provision shall be excluded to the extent of such invalidity or unenforceability. All other provisions hereof shall remain in full force and effect. The merchant shall not transfer, assign, novate and/or sub-contract any of its rights and/or obligations hereunder to a third party without SHC Projects Sdn Bhd's prior written consent. SHC Projects Sdn Bhd shall be entitled to transfer, assign, novate and/or sub-contract any of its rights and/or obligations hereunder to its affiliates. This Agreement shall be binding upon the parties and their permitted legal assigns and successors in title. A provision of right or remedy under this Agreement may not be waived except in writing signed by the waiving party. This Agreement (together with any documents referred to herein) constitutes the whole agreement between the Parties relating to the subject matter hereof and supersedes any prior agreements, understandings or arrangements.

VIII. Indemnity

The merchant shall indemnify, hold harmless and if so requested by SHC Projects Sdn Bhd, defend SHC Projects Sdn Bhd, its affiliates (including companies within See Hoy Chan Sdn Berhad Group) and each of their respective members, directors, officers, employees and agents harmless from and against any and all actions, claims, costs, damages, demands, expenses, losses, payments, fines, penalties and liabilities ("Losses") made against, suffered, or incurred by SHC Projects Sdn Bhd and its affiliates arising howsoever from or in connection with this Agreement, whether in tort, contract or otherwise including without limitation any Losses arising from the breach, omission, negligence, misrepresentation, non-observance or non-performance of this Agreement by or on the part of the merchant or any other person for whose acts or omissions the merchant is vicariously liable.

IX. Liability and Force Majeure

SHC Projects Sdn Bhd shall not be liable to the merchant or be deemed to be in breach of this Agreement by reason of any delay in performing, or any failure to perform, any of its obligations under this Agreement, if the delay or failure was due to any cause beyond its reasonable control. SHC Projects Sdn Bhd and See Hoy Chan Sdn Berhad Group shall not be liable in any manner whatsoever for any and all indirect, special, punitive, incidental and/or consequential loss or damage and/or loss of profit, business, goodwill, production and/or revenue which may be suffered by the merchant or any third party in any manner whatsoever. In no event shall SHC Projects Sdn Bhd's and/or See Hoy Chan Sdn Berhad Group's maximum and cumulative total liability in respect of any and all claims for defective performance, breach, compensation, indemnity, tort, misrepresentation, negligence at law or equity and any other damages or losses however arising under this Agreement exceed RM 2,000.

X. Disclaimer

To the maximum extent permitted by all applicable law, the System and all information, services, materials, properties and document made available to the merchant pursuant to this Agreement are provided on an "as is" and "as available" basis, with all faults and without warranty of any kind, and SHC Projects Sdn Bhd and See Hoy Chan Sdn Berhad Group hereby disclaims all warranties and conditions, either express, implied or statutory, with respect to such System, information, service, materials, properties and document. In relation to the use of the System, SHC Projects Sdn Bhd does not warrant that (i) the functions contained in the System will meet the merchant's requirements; (ii) the operation of the System will be uninterrupted or error-free; (iii) any information (or messages) transmitted via the System will be transmitted accurately, reliably, or in a timely manner; and (iv) any defects in the System will be corrected. Without limiting the generality of the foregoing, SHC Projects Sdn Bhd shall not be made responsible or liable in any manner whatsoever for any issue in connection with or arising from Upwards System issues, Upwards System malfunction, bugs and arising from network or System down time or connection errors or bandwidth issues.