

# OLIVEASIA.COM PTE LTD STANDARD CONDITIONS OF SERVICE

## 1. Definitions

- 1.1. **Advertisement** means the matter to be printed, separately inserted or published digitally or by way of the media properties;
- 1.2. **Booking Order** means the Company's advertisement booking order or Media Sales Order (as the case may be) in effect for the time being and may include, among other matters, its scale of advertisement rates, technical specifications, advertising copy/cancellation deadlines, setting styles, and standard conditions
- 1.3. **Buyer** means the party placing with the Company an order for the insertion of an advertisement or for editorial services, whether such party be the advertiser of the advertisement, the advertiser of the product or service promoted thereby or making the announcement therein (the "Advertiser") or such Advertiser's advertising agency or media buyer;
- 1.4. **Copy deadline** means the deadline for the Buyer to provide its advertising materials;
- 1.5. **Media properties** mean the types/forms of publication requested by Buyer in the Booking Order by which the Buyer's Advertisement shall be published including but not limited to publication via magazines, newspapers and online media (including web apps, e-newsletters, e-books, email) and/or at sponsorship events;
- 1.6. **Media Sales Order** means the Company's booking order in respect of Advertisements to be published on online/digital media where the Company is engaged by the Buyer as an advertising agency on the Buyer's behalf;
- 1.7. **Web Application (Web app)** is an application program that is stored on a remote server and delivered over the Internet through a browser interface not limited to personal computers, tablets and/or smart phones.
- 1.8. **Company** means OLIVEASIA.COM PTE LTD;
- 1.9. **Headings:** The headings herein are inserted for ease of reference only and shall be disregarded for the purposes of construction.

## 2. Company's Rights and Discretion

- 2.1. **Refusal/Amendments due to Compliance:** The Company may, without derogation from the warranties contained in clause 6.4, refuse or require to be amended any artwork, materials and copy for or relating to an Advertisement so as:
  - 2.1.1. to comply with the legal or moral obligations placed on the Company, Buyer or Advertiser; or
  - 2.1.2. to avoid infringing a third party's rights, the Singapore Code of Advertising Practice and all other codes under the general supervision of the ASAS.
- 2.2. **Discretion to Refuse/Change Advertisement:** The Company shall have the rights at its sole discretion:
  - 2.2.1. to decline to publish, or to omit, suspend or change the position, space and/or frequency of insertion of, an Advertisement otherwise accepted for insertion without being liable to the Buyer or any other party whatsoever. However, the Company will use reasonable efforts to comply with the wishes of the Buyer although the Company does not warrant the date of insertion, the wording, or the quality of the color or mono reproduction of the Advertisement.
  - 2.2.2. to reject, cancel or refuse to proceed with any Booking Order where the media properties for which such Booking Order is entered into is not published or executed as scheduled, or where the Company decides not to proceed with same for any reason whatsoever.
  - 2.2.3. refuse to insert any Advertisement and/or proceed with any Booking Order which is considered by the Company to be objectionable, unsuitable, likely to

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give offence or for any other reason. In such event, the Company reserves the rights to reject or cancel the Booking Order in whole or in part. The Company shall not be liable to the Buyer in the event of any rejection/cancellation herein. Any remaining part of the Booking Order not so cancelled shall subsist.

- 2.3. **Discretion to Change Rates and Conditions:** Upon written notice to the Buyer, the Company shall have the rights at its sole discretion at any time to change its scale of advertisement rates, including within any subsisting Booking Order, or amend the conditions herein. Where such terms/advertisement rates are amended in any subsisting Booking Order, the Buyer shall have the rights to cancel the balance of such Booking Order without surcharge by the Company. For the avoidance of doubt, the Buyer shall in such event only be liable to the Company for the part of the Booking Order, which has been performed by the Company and for those expenses already incurred by the Company in respect of such Booking Order.
- 2.4. **Proofs of Advertising Copies:** Proof of advertising copies shall be shown to the Buyer only upon the written request of the Buyer to the Company. Where:
  - 2.4.1. such proof is not requested; or
  - 2.4.2. proof which has been supplied to the Buyer (whether by mail, email, fax, or otherwise) is not returned by the Buyer to the Company within the time set forth in the proof sheet or at all, the said proof shall be deemed to be correct,
  - 2.4.3. The Company shall have the rights to proceed with the Booking Order without further notice or reference to the Buyer subject always to the Company's discretion under clause 2.2.2.
- 2.5. **Repeating Existing Advertising Copies:** Where the Booking Order contains a term for repeating advertisements, the Company shall repeat existing advertising copies for publication unless written instruction for changes are received prior to copy deadline.
- 2.6. **Advertorials:** All Advertisements which simulate editorial must carry the word "advertorial" at the top of such Advertisement. The Company has the rights to insert the word "advertorial" in such advertising.

## 3. Cancellation of Advertisement

- 3.1. **Cancellation of ROP color Advertisements:** Subject to clause 2.2 above, in respect of Run of Press/Run of Paper ("ROP") color Advertisements, the Company shall have the rights to refuse all stop orders, cancellations or transfers from the Buyer:
  - 3.1.1. unless they are received in writing from the Buyer not less than 6 weeks before the relevant copy deadline; or,
  - 3.1.2. where such Advertisements are to be placed in special positions of the publication, such as, in the Front Cover, Inside Front Cover, Inside Back Cover and Back Cover, all stop orders, cancellations and transfers must be received in writing from the Buyer 12 weeks prior to copy deadline.
- 3.2. **Non-cancellable/Non-transferable Advertisements:** Any Advertisement in any Booking Order placed, confirmed and/or otherwise not cancelled within the periods specified in clause 3.1 shall be considered booked as non-transferable and non-cancellable. No cancellation, stop order or transfer shall be allowed unless the agreed insertion/advertising price is paid in full to the Company
- 3.3. **Cancellation Fees:** Subjecting to clause 3.1 and save that this clause shall not apply to Media Sales Orders or Booking Orders in respect of advertising campaigns under clause 7, in the event that the Buyer cancels any Booking Order or part thereof with Premium Positions (special advertising positions stipulated in the Company's media kit/rate card which shall be provided to the Buyer) the Buyer shall pay to the

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Company a cancellation fee equivalent to the amount of cancelled Booking Order or part thereof:

- 3.3.1. unless such cancellation was requested in writing and received by the Company within the periods specified in clauses 3.1.1 or 3.1.2 (as applicable);
- 3.3.2. in all other cases, unless such cancellation was requested in writing and received by the Company at least 90 days prior to the publication date.
- 3.4. **Cancellation of Media Sales Orders:** Media Sales Orders may only be cancelled at the sole discretion of the Company. In the event that the Company consents to a cancellation of such order at the request of the Buyer, the Buyer shall pay to the Company an amount up to 50% of the contract sum (which amount shall be decided at the Company's sole discretion) of such cancelled order (or cancelled part thereof) by the original date of payment stipulated in such order.
- 3.5. **Advance Payments:** Notwithstanding clauses 3.1, 3.3, and 3.4, any Booking Order in respect of which advance payment of fees have been paid by the Buyer shall be considered as non-cancellable and non-transferable, and may only be cancelled at the sole discretion of the Company. In the event the Company consents to a cancellation, the Buyer shall not be entitled to any refund of any of its advance payments save at the Company's sole discretion.

## 4. No Liability

- 4.1. **No Liability for Loss Due to Error/Late Publication:** The Company shall not be liable to the Buyer or any other party whatsoever for any loss or damage consequential or
- 4.2. otherwise occasioned by error, late publication or the failure of an Advertisement to appear from any cause whatsoever.
- 4.3. **No Liability for Loss of Materials:** The Company shall not be liable to the Buyer or any other party whatsoever for any loss of copy, artwork, photographs or other materials, which the Buyer warrants that it has retained in sufficient quality and quantity for whatever purpose.
- 4.4. **No Liability for Loss due to Omission to Insert:** The Company shall use reasonable efforts to ensure that the key words, information, advertisements and listings are during publication time correctly or printed as the case may be but shall not be liable for any loss or damage occasioned by its omission to insert the Advertisement or by any errors in its contents or failure to advertise as contracted in the media properties. In the event of the above, the Buyer's liability to pay the contract sum or part thereof for the Advertisement or listing concerned shall be at the sole discretion of the Company. The Company reserves the right to reject, vary or cancel any Booking Order at its discretion and shall not be liable to the Buyer for any loss or damage occasioned by the same.

## 5. Payment

- 5.1. **Payment Deadline:** In the absence of any other specific arrangement between the Company and the Buyer, payment in respect of the Advertisement and in respect of advertising campaigns under clause 7 shall be made within the due date stipulated in the Company's invoices to the Buyer or, in the absence of a stipulated due date on an invoice, within 7 calendar days from the date of such invoice.
- 5.2. **Payment Method:** Payment shall be made by the Buyer to the Company only by way of bank transfer. The Buyer agrees and is aware that the Company's representatives

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are expressly prohibited from accepting cash payments and in the event that the Buyer makes any payment in cash

- 5.3. **Interest:** The Buyer agrees to pay to the Company in respect of each Advertisement for which payment is not made by the due time interest on the amount paid late at the rate of 12% per annum accruing daily both before and after judgment up to the date of actual payment
- 5.4. **Suspension/Cessation on Default:** In the event of any default in payment, the Company shall be entitled without prejudice to any of its other legal and equitable rights, to suspend and/or cease insertions absolutely.
- 5.5. **Currency:** All payments shall be made by the Buyer to the Company in Singapore Dollars unless otherwise agreed in writing.
- 5.6. **Bank Charges:** All sums payable by the Buyer to the Company under the Company's invoices shall be paid by the Buyer free and clear of and without any reduction due to or on account of any bank fees and/or administrative charges, which bank fees and/or administrative charges, if any, shall be borne by the Buyer.
- 5.7. **Withholding Tax:** All sums payable by the Buyer to the Company under the Company's invoices shall be paid by the Buyer free and clear of and without any reduction or withholding for or on account of any tax (except to the extent required by law or legislation in the Buyer's country).
- 5.8. If in connection with any present or future law, regulation or practice, the Buyer is required to make any deduction or withholding on account of any tax or other amount from any sum payable by the Buyer to the Company under any Company's invoice, or the Company is required to make any deduction or withholding from, or any payment on any sum received or receivable by the Company under any Company's invoice, the Buyer shall pay to the Company such additional amounts so that the Company receives a net amount (free from any deduction, withholding or payment) equal to the full amount which it would have received had no deduction, withholding or payment been required or made.

## 6. **Buyer's Obligations and Liability**

- 6.1. **Buyer's Responsibility to Check Advertisements:** It is the responsibility of the Buyer to check the correctness of the Advertisement (and of each insertion of the Advertisement if more than one). Without prejudice to clause 6.4.7, the Company assumes no responsibility for the repetition of an error in an Advertisement ordered for more than one insertion unless notified in writing within 7 days following (as the case may be) insertion of the Advertisement or of the date on which it is claimed the Advertisement should have appeared or of the receipt by the Buyer of the invoice giving rise to it. Any other matter of complaint, claim or query (whether in relation to the Advertisement or the invoice) must be raised with the Company in writing within 7 days following (as the case may be) insertion of the Advertisement or of the date on which it is claimed the Advertisement should have appeared or of the receipt by the Buyer of the invoice giving rise to it, whichever is earlier.
- 6.2. **Buyer's Responsibility to Ensure Changes are On Time:** It is the Buyer's sole responsibility to ensure that any changes in insertion dates and/or copies of its Advertisement shall be confirmed in writing and on time for such changes to be made. The Buyer shall pay the Company any additional costs and expenses incurred in such changes.
- 6.3. **Company's Limited Liability:** In the event that the Company has caused any error in any Advertisement, without prejudice to clauses 4.1 to 4.3 and without prejudice to

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the Company's entitlement to be paid for the Advertisement as published a sum representing a reasonable proportion of the charge agreed at the time the Advertisement was booked, the Company's liability is limited to a maximum at its option of giving a credit for its charge for the Advertisement or (in an appropriate instance) of publishing the Advertisement for a second time without charge. Such complaint, claim or query shall not affect the liability of the Buyer for payment by the due time of the Company's charges for that and all other advertisements.

- 6.4. **Indemnity:** The Buyer shall indemnify the Company and agrees to keep it indemnified against all claims, costs, proceedings, demands, losses, damages, expenses, agency fees, legal costs (including legal costs on a solicitor and client basis) or liability whatsoever arising directly or reasonably foreseeable as a result of any breach or non-performance of any of the representations, warranties or other terms contained in these conditions or implied by law, including but not limited to any breach of any of the following warranties warranted by the Buyer:
- 6.4.1. **Buyer contracts as Principal:** In relation to an Advertisement the Buyer contracts with the Company as a principal notwithstanding that the Buyer may be acting directly or indirectly for the Advertiser as an advertising agent or media buyer or in some other representative capacity;
  - 6.4.2. **No breach of Intellectual Properties and Rights:** The reproduction and/or publication of the Advertisement by the Company as originally submitted or as amended pursuant to clause 2.1 will not breach any contract or infringe or violate any copyright, trademark or any other personal or proprietary right of any person or render the Company liable to any proceedings whatsoever;
  - 6.4.3. **Buyer authorized to Advertise:** In respect of any Advertisement submitted for publication, the Buyer is solely responsible for and is authorized and entitled to advertise the business service or product described in the Advertisement copy and listing.
  - 6.4.4. **Authority of Persons contained in Advertisement:** In respect of any Advertisement submitted for publication which contains the name or pictorial representation (photographic or otherwise) of any person and/or any part of any person and/or any copy by which any person is or can be identified the Buyer or the Advertiser has obtained the authority of such person or his estate to make use of such name, representation and/or copy;
  - 6.4.5. **Compliance with Legislation:** The Advertisement complies with the requirements of all relevant legislation (including subordinate legislation, bylaws, and the rules of statutorily recognized regulatory authorities) for the time being in force or applicable in the Republic of Singapore;
  - 6.4.6. **Compliance with Relevant Codes:** All advertising copy submitted to the Company is legal, decent, honest and truthful and complies with the Singapore Code of Advertising Practice and all other relevant codes under the general supervision of the Advertising Standards Authority of Singapore ("ASAS").
  - 6.4.7. **Where Buyer is Advertising Agency:** Where the Buyer is the Advertiser's advertising agency, the Buyer warrants that it is authorized by the Advertiser to place the Advertisement with the Company and the Buyer will indemnify the Company against any claim made by the Advertiser against the Company arising from the publication thereof.
- 6.5. **No Waiver:** No waiver or indulgence by the Company shall be effective save in relation to the matter in respect of which it was specifically given.

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- 6.6. **Agreed Number of Advertisements:** In the event that the Buyer agrees in writing with the Company to book an agreed number of Advertisements, but cancels before such agreed number of Advertisements is met and/or does not meet such agreed number, the Company has the rights in its sole discretion to either charge the Buyer for the contracted sum for such full number of agreed advertisements or charge the Buyer for each Advertisement completed by the Company at the Company's published rates as set out in its rate card.

## 7. Advertising Campaigns

- 7.1. **Advertising Campaign:** refers to the situation where the Buyer engages the Company to promote the Buyer's web app through inter alia search engine optimization and/or the setting up, consultancy and/or administration of an advertising campaign, and/or the development/maintenance of the Advertiser's web app.
- 7.2. **Duration:** The duration, scope of work, cost/estimates of cost of the advertising campaign, and other services shall be stated in the Booking Order which shall be provided by the Company for the Buyer's execution.
- 7.3. **Media Fees and Service Fees:** In respect of the said further services, the Buyer shall pay such media fees (being the fees charged for online media and the costs of the relevant search engines) to the Company as stated in the Company's periodic reports. Apart from media fees, the Buyer shall also pay to the Company service fees chargeable for the consultancy and administration of the advertising campaign, which service fees shall be incorporated in each periodic report provided by the Company.
- 7.4. **Periodic Reports:** The Company shall keep the Buyer informed as to how much of spending has been used by the media including administration and service fees via the Company's periodic reports.
- 7.5. **Media Budget:** The Company may at its discretion allocate a media budget for the search engines of better performing countries if necessary. Any unused portions of the budget shall be carried forward to the following month.
- 7.6. **Re-scoping/Re-costing:** The Company shall be entitled to upon written notice to the Buyer re-scope and re-cost the advertising campaign if in its sole discretion it deems that the scope of work for such project has changed over the course of the project.
- 7.7. **No Cancellation of Advertising Campaign:** All Booking Orders in respect of the advertising campaign shall be non-cancellable upon the Company's commencement of the advertising campaign in accordance with the date set out in the Booking Order, or upon 7 days after the Buyer's execution of such Booking Order, whichever is earlier.

## 8. No Right of Renewal

- 8.1. **No Right of Renewal:** For the avoidance of doubt, the placing of a Booking Order shall not confer any automatic right on the Buyer to renew the same on similar terms.

## 9. Copyright and Other Rights

- 9.1. **Copyright:** The copyright for all purposes in all artwork, copy, storyboards and all other work created by the Company for the Buyer's advertising, if any, vests in the Company unless arrangements are made to the contrary. The Buyer agrees that it shall not before the termination of the relevant Booking Order make any use in or outside of Singapore of advertising material which originated from the Company except with the Company's written consent.

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- 9.2. **Assignment of Copyrights upon termination:** The Buyer agrees that upon termination of the relevant Booking Order such copyright and other rights in the Buyer's advertising material as may be vested in the Company shall continue to vest in the Company.

## **10. Force Majeure**

- 10.1. Force Majeure: The Company shall not be liable to the Buyer for any loss or damage caused to the Buyer by the Company's failure to perform its obligations herein, if such failure is consequential or otherwise occasioned by any cause whatsoever beyond its control including but not limited to an Act of God, action by any governmental or quasi governmental agency, statutory legislation, fire, flood, insurrection, riot, explosion, embargo, strikes whether legal or illegal, labor or material shortage, transportation interruption of any kind, work slowdown, or similar cause.

## **11. Web Applications (Web App)**

- 11.1. This section denotes the standard terms and conditions for Website Design and Development and apply to all web development work undertaken by The Company for the Buyer.
- 11.2. **Fees and Deposits:** Deposit of 50% (Or amount agreed) of the total contract value payable is due immediately upon endorsement. The balance 50% (Or amount agreed) shall become due when the work is completed to the Buyer satisfaction but subject to the terms of the "approval of work" and "rejected work" clauses. The Company reserves the right not to commence any work until the deposit has been paid in full.
- 11.3. The balance deposit is only refundable if The Company has not fulfilled its obligations to deliver the work required under the agreement. The deposit is not refundable if the development work has been started and the Buyer terminates the contract through no fault of The Company.
- 11.4. **Supply of Materials:** The Buyer must supply all materials and information required by the Company to complete the work in accordance with any agreed specification. Such materials may include, but are not limited to, photographs, written copy, logos and other printed material. Where there is any delay in supplying these materials to us which leads to a delay in the completion of work, the Company have the right to extend any previously agreed deadlines by a reasonable amount.
- 11.5. Where the Buyer fails to supply materials, and that prevents the progress of the work, The Company have the rights to invoice the Buyer for any part or parts of the work already completed.
- 11.6. **Amendments:** The Company has the rights to limit the number of design revision to a reasonable amount and may charge for additional designs if the Buyer make a change to the original design specification.
- 11.7. Our website development phase is flexible and allows certain variations to the original specification. However any major deviation from the specification will be charged at the rate of USD250 every 3 hours.
- 11.8. **Approval:** On completion of the work the Buyer will be notified and have the opportunity to review it. The Buyer must notify The Company in writing of any unsatisfactory points within 7 days of such notification. Any of the work, which has not been reported in writing to us as unsatisfactory within the 7-day review period will be deemed to have been approved. Once approved, or deemed approved, work cannot subsequently be rejected and the contract will be deemed to have been completed and the balance payment of the contract will become due.

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- 11.9. **Rejected Work:** If the Buyer rejects any work within the 7-day review period, or not approve subsequent work performed by us to remedy any points recorded as being unsatisfactory, and The Company, acting reasonably, considers that the Buyer have been unreasonable in any rejection of the work, The Company can elect to treat this contract as at an end and take measures to recover payment for the completed work.
- 11.10. **Balance Payment:** Upon completion of the 7-day review period, The Company will invoice the Buyer for the 50% balance (or Remaining Balance) of the project. Balance payment must be cleared by The Company Bank before putting up the approved Web App.
- 11.11. **Ownership of Intellectual Property Rights:** It is the Buyer's responsibility to obtain all necessary permissions and authorities in respect of the use of all copy, graphic images, registered company logos, names and trade marks, or any other material that you supply to us to include in your website or web applications.
- 11.12. The Buyer indemnify The Company and The Company is not liable for any claim or legal actions related to the content of the Buyer's website.
- 11.13. **Licensing:** Once full payment is completed, The Company reserves the right to grant to the Buyer a license to use the website and its related software and contents for the life of the website.
- 11.14. **Search Engine Optimization:** The Company does not guarantee any specific position in search engine results for your website. The Company performs basic search engine optimization for an additional fee.
- 11.15. **Brand Footer:** All Web Apps made by The Company will carry a discreet stylized brand footer of The Company, linked back to oliveasia.com. The Buyer can opt out of the footer for 10% of the Web App contract value or SGD500 which ever is lower.
- 11.16. **Consequential Loss:** The Company cannot be liable for any loss or damage which the Buyer may suffer which is in any way attributable to any delay in performance or completion of our contract, however that delay arises.
- 11.17. **Disclaimer:** To the full extent permitted by law, all terms, conditions, warranties, undertakings, inducements or representations whether express, implied, statutory or otherwise (other than the express provisions of these terms and conditions) relating in any way to the services we provide to you are excluded. Without limiting the above, to the extent permitted by law, any liability of The Company under any term, condition, warranty or representation that by law cannot be excluded is, where permitted by law, limited at our option to the replacement, re-repair or re-supply of the services or the payment of the cost of the services that we were contracted to perform.
- 11.18. **Subcontracting:** The Company reserves the rights to subcontract any services that The Company have agreed to perform for the Buyer as we deem fit.
- 11.19. **Non Disclosure:** The Company (and any subcontractors engaged) will not at anytime disclose any of the Buyer's confidential information to any third party within reasonable effort but is not liable should disclosure occurs. A Non-disclosure agreement should be undertaken for private and confidential projects.
- 11.20. **Additional Expenses** The Buyer agrees to reimburse The Company for any requested expense, which does not form part of original proposal or contract including but not limited to the purchase of templates, third party software, stock photographs, fonts, transport, or comparable expenses.
- 11.21. **Backups:** The Buyer is responsible for maintaining own backups with respect to the website and the Company will not be liable for restoring any client data or client



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websites except to the extent that such data loss arises out of a negligent act or omission.

- 11.22. **Ownership** The Company supplies to the Buyer account credentials for domain name registration and/or web hosting via hosting.oliveasia.com. Refer to hosting.oliveasia.com for terms & conditions.

## 12. Hosting

- 12.1. **Appropriate Usage:** Our hosting is designed to serve the web hosting needs of small, independently owned and operated businesses in a single country. It is not appropriate to use our services to support large enterprises or internationally based businesses with a sustained demand that places undue burden on our systems or negatively impacts use by small, independently owned and operated businesses. Our hosting is a shared web hosting service, which means that a number of customers' web sites and other email or storage services are hosted from the same server. Our hosting uses abuse controls to help ensure that use of our services does not adversely affect the performance of our system or other customers' sites. It is not appropriate to use an account primarily as an online storage space or for archiving electronic files.
- 12.2. **Free Disk Space:** if you adhere to the Terms of Service consistently, your site can grow as large as necessary to meet your small business needs, but to ensure a great experience for all, we will place some constraints on how fast you can grow. The vast majority of our customers' sites grow at rates well within our rules, but our abuse controls may cause a brief delay while we evaluate if expansion is appropriate
- 12.3. **Data Transfer:** In most cases, if you adhere to the Terms of Service consistently visitors to your web site will be able to download and view as much content from your site as they like. However, in certain circumstances, our server processing power, server memory, or abuse controls could limit downloads from your site. You can also upload as much as content as you like each month, subjecting only to the Terms of Service and the rules that control how fast your site can grow (see above).
- 12.4. **Email Storage:** You do not have to worry about hitting a storage limit if you adhere to the Terms of Service consistently. Our hosting will increase your space along with your appropriate small business needs, but our abuse controls may impact the rate of growth or your folder size, and there may be a short delay while we assess your usage. In some cases, creating additional folders or subfolders will help ensure that the system works well for everyone.

## 13. Abuse

- 13.1. **Server abuse:** Any attempt to undermine or cause harm to a server or customer of our hosting is strictly prohibited. Our hosting will strongly react to any use or attempted use of an Internet account or computer without the owner's authorization. Such attempts include "Internet scamming" (tricking other people into releasing their passwords), password theft, security hole scanning, etc. Any unauthorized use of accounts or computers by YOU, whether or not the attacked account or computer belongs to our hosting, will result in action against YOU. Possible actions include warnings, account suspension or cancelation, as well as civil or criminal legal action, depending on the seriousness of the attack. IMPORTANT NOTE – Our hosting has the right to discontinue service, or deny access to anyone who violates our policies or the terms and conditions shown below WITHOUT WARNING or PRIOR NOTICE. No refunds of fees paid will be made if account termination is due to violation of the terms outlined below. YOU may not run IRC, bots or clients on shared

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servers. Unacceptable uses also include, but are NOT limited to: Bulk emailing, unsolicited emailing, newsgroup spamming, pornographic content, illegal content, copyright infringement, trademark infringement, wares sites (including links to/from), cracks, software serial numbers, proxy-relaying, link farming (the act of or by use of scripts), link grinding, link-only sites, spamdexing, FFA (Free-For-All) and/or anything else determined by our hosting to be unacceptable use of our services including abuse of server resources. WEB APPLICATIONS and WEB ACCESSIBLE SCRIPTS - All web applications that are out-of-date and actively being exploited will be shut down immediately without prior notice. YOU are responsible for and should evaluate YOUR web-based applications and scripts on a regular basis to ensure their security and orderliness.

Shared hosting accounts may also be terminated if it includes the following content or have links to the following content: Providing material that is grossly offensive to the Web community including blatant expressions of bigotry, racism, hatred, or profanity; promoting or providing instructional information about illegal activities; promoting physical harm or injury against any group or individual; displaying material containing obscene nudity or pornographic material (not applicable to managed dedicated servers); displaying material that exploits children under 18-years of age; acts of copyright infringement including offering pirated computer programs or links to such programs; information used to circumvent manufacturer-installed copy - protect devices, including serial or registration numbers for software programs, or any type of cracker utilities

13.2. **Storage space:** Our hosting will not tolerate any form of storage space abuse. At least 90% of YOUR web pages ("HTML") must be 'linked' with files (GIF, JPEG, etc.) stored on our hosting servers. Website that are found to contain either/or no HTML documents, a large number of unlinked files are subject to files deletion or account cancelation at the discretion of Olive Asia Management ("MANAGEMENT"), with or without prior notice. Thereafter, normal website data storage costs \$0.20/1MB/month will be billed to YOUR account. If you want to pre-pay for disk space overages, you will be billed \$0.10/1MB/month. YOU will have 3 days to pay for your overages. Failure to do so will result in YOUR website being disabled within 3 days of YOUR first notice. This does not apply to co-location clients. Co-location clients will be billed for the overages based on switch reports. Co-location clients must pay for the overages IMMEDIATELY once billing or our hosting has the sole decision to deactivate any and all servers. our hosting will be the sole arbiter as to what constitutes a violation of this provision.

13.3. **Bandwidth abuse:** The intention of our hosting is to provide a large bandwidth to transfer web documents, and not an offsite storage area for electronic files. If YOU violate this condition, YOU will be notified and given 48 hours to remedy the problem. Failure to do so will result in YOU being billed for the overages. Thereafter, normal data transfer cost of \$10.00/1GB/month will be billed to YOUR account. If YOU want to pre-pay for bandwidth overages, YOU will be billed \$5.00/1GB/month.

YOU will have 3 days to pay for your overages. Failure to do so will result in YOUR website being disabled within 3 days of YOUR first notice. This does not apply to co-location clients. Co-location clients will be billed for the overages based on switch reports. Co-location clients must pay for the overages IMMEDIATELY once billing or our hosting has the sole decision to deactivate any and all servers

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13.4. **SMTP Mail Server:** We do not allow YOU to send outbound mail to more than 20 recipients at any one given time and/or more than 1,000 pieces of e-mail per day from a shared hosting account with a maximum file size of 20MB per email message. If YOU violate our hosting policies persistently in email activities, YOUR account will be suspended and deleted.

13.4.1. **Unsolicited email & spamming:** Unsolicited commercial advertisements ("SPAM") are not allowed in e-mail, and will likely result in account cancelation.

Our hosting takes a zero-tolerance approach to SPAM originating from its servers or for spam advertising of domains hosted within our network. If found, we will charge YOU up to \$25 per unsolicited email message sent and delete YOUR account with any prior notice.

The following activities are not allowed: SPAM, which includes, but is not limited to, bulk mailing of commercial advertising, informational announcements, charity requests, petitions for signatures, and political or religious tracts (such messages may only be sent to those who have explicitly requested it from your domain); Forging, altering or removing electronic mail headers -any domain sending stealth spam will be terminated without warning and without refund. Sending numerous copies of the same or substantially similar message with the intent to disrupt a server or account ("mail bombing"); Spamming Newsgroups: Commercial advertisements are unwelcome in most Usenet discussion groups and on most e-mail mailing lists. Inappropriate posting may result in account cancelation. See the newsgroup or mailing list's charter for whether advertising is allowed or not. Sending a message to many different off-topic newsgroups, is particularly unethical and will be treated as such; Mail may not be used to harass or intimidate others. Harassment, whether through language, frequency of messages, or size of messages, is prohibited. Sending a single unwelcome message may be considered harassment. If a recipient asks to stop receiving e-mail, YOU must not send that person any further messages.

NOTE -If YOU use the services of another provider to promote a website hosted by or through our hosting ("spamvertising"), then the provisions of the above policy shall apply as if the SPAM were sent through our servers.

## **14. Uptime Guarantee**

14.1. **Coverage:** This 99.9% uptime guarantee applies to any Customer in good financial standing with our hosting at the time of a service outage

14.2. **Service Level Agreement:** SERVICE LEVEL AGREEMENT ("SLA") & SPECIFICATIONS - our hosting endeavours to have the content of YOUR website available for http access by any party in the world 99.9% of the time. Network downtime ("unavailability") is defined as 100% packet loss from our hosting to its backbone providers. Downtime is measured past 10 minutes after notification of network failure via our hosting's online ticketing system.

14.3. **Shared Hosting Credits:** In the event that YOUR website is unavailable for less than 99.9%, our hosting will credit the following month's service fee as follows. YOUR credit shall be returned and measured in 24 hours a day of a calendar month, with the

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maximum credit not exceeding 50% of the monthly service charge for the affected month

14.3.1. 95% to 99.8% - YOUR account will be credited 5% of your monthly hosting fee

14.3.2. 90% to 94.9% - YOUR account will be credited 10% of your monthly hosting fee.

14.3.3. 89.9% or below - YOUR account will be credited 20% of your monthly hosting fee.

- 14.4. **Manage Dedicated servers:** For managed dedicated server Customers, if the uptime is between 98.9% and 99.9% for any particular month, credit shall be returned and equivalent to the difference between the guaranteed level of availability of the Customer's services during the month and the calculated actual level of availability of the Customer's services, multiplied by the actual charges incurred by YOU for the services during that monthly period. In addition, for managed dedicated servers, YOU may be entitled to additional credits as calculated below measured 24-hours a day in a calendar month, with the maximum credit not to exceeding 25% of the monthly service charge for the affected month.

In order for YOU to receive a credit on YOUR account, YOU must request such credit within seven (7) days after YOU experienced the downtime. You must request credit by sending an e-mail message to oliveasia@gmail.com. For security, the body of this message must contain YOUR account number, the dates and times of the unavailability of YOUR website, and such other customer identification requested by our hosting. Credits will usually be applied within sixty (60) days of YOUR credit request. Credit to YOUR account shall be YOUR sole and exclusive remedy in the event of an outage.

- 14.5. **Restrictions:**

14.5.1. Scheduled maintenance as posted from time to time at our hosting,

14.5.2. Your behaviour or the performance or failure of your equipment, facilities or applications,

14.5.3. Circumstances beyond our hosting 's reasonable control, including, without limitation, acts of any governmental body, war, insurrection, sabotage, embargo, fire, flood, strike or other labour disturbance, interruption of or delay in transportation, unavailability of interruption or delay in telecommunications or third party services, including DNS propagation, domain name registration/transfer, failure of third party software or hardware or inability to obtain raw materials, supplies, or power used in or equipment needed for provision of your web site,

14.5.4. YOU breaking any agreement policy in our hosting's "Terms & Conditions and AUP" causing a machine to fail as a result.

- 14.6. **Technical support boundaries:** our hosting provides technical support for YOU that encompasses within our area of expertise only. Such expertise includes assistance, troubleshooting, and debugging of our cPanel control panel interface, servers within our immediate responsibility and any other hosting related issues. However, under no circumstances is our hosting neither obligated to help YOU in the installations of new application module, templates and/or programming languages, nor in providing assistance for any errors produced by any applications that have been modified by YOU previously. We will only provide assistance in making sure any applications that are installed through the cPanel control panel interface are installed as directed. Additional Maintenance fees may be incurred for the above services.

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## 15. Softwares Used

- 15.1. **CGI scripts:** Each shared web hosting account comes with its own CGI-BIN. YOU are free to use any CGI scripts YOU wish, however we reserve the rights to disable any CGI script that effects normal shared server operation without prior notice. (this section does not apply to managed dedicated servers)
- 15.2. **Chat Rooms:** We do not allow YOU to install YOUR own chat rooms within a shared hosting account, without our hosting's approval. This includes, but not limited to, chat applications written in PHP, Perl, CGI, Python, Ruby, etc. Any web application that provides 'real-time' chat is also not permitted. Most chat rooms tend to be large system hogs and we cannot allow it as an account option. However, web based forums such as vBulletin, phpBB or similar forum scripts are acceptable.
- 15.3. **File server:** Our hosting installs and provides special file-servers in our network infrastructure for YOUR benefit as a means of storage for electronic files and applications that are not dynamically generated and is downloadable in nature. Files such as MP3, AVI, MID, MIDI, MPG, MPEG, MOV, ZIP, RAR, EXE and anything else we deemed as downloadable and not dynamically generated scripting languages are to be stored within these file-servers, away from the web-servers. This Policy does not apply for image files formats such as JPG, JPEG, GIF, PNG, and BMP. In addition, all electronic files stored within our hosting 's file-servers must be legally-owned and be accompanied with a valid license and/or copyright. This include and is not limiting to MP3, AVI, MID, MIDI, MPG, MPEG, MOV, EXE, ISO.

Should we discover any unlicensed and/or illegal files within YOUR account, the files will be subjected to deletion without any further notifications. File-servers will not be backed up. YOU are advised to have YOUR own backup locally or elsewhere other than within the our hosting's servers. If You are found to not adhere to this Policy, the offending material(s) will be deleted from YOUR hosting account without any prior notice.

This service is only available for our hosting's SHARED-HOSTING customers.

- 15.4. **IRC:** We currently do not allow IRC or IRC bots to be operated on our servers. IRC servers are not permitted on our network. YOU can however, install IRC clients on managed dedicated servers. The installation and/or execution of a script and/or binary that runs in the background or listens to any given port are also strictly prohibited.
- 15.5. **Background Running Programs:** We may allow programs to run continually in the background. These are considered on a one-to-one basis and an extra charge will be incurred based on system resources used and operational maintenance needed. (This section does not apply to managed dedicated servers)

16. **Payment Policies:** All accounts are set up on a pre-pay basis. Setup fees are charged for all new accounts as well as major account changes and are non-refundable. All pricing is guaranteed for the term of pre-payment. Our hosting reserves the right to change prices at any time, unless other terms have been agreed upon. Any account not brought current within a week (7 days) of e-mail notice or exceeding this time frame in any way is subject to suspension. YOU are responsible for all fees owed on the account from the time it was established to the time that YOU notify our hosting to request for termination of services. All

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payment is in U.S. currency.

- 16.1. **Cancellation of services:** Our hosting reserves the right to cancel a service at any time. All fees paid in advance of cancellation will be pro-rated and paid by our hosting if we institute our right of cancellation. Any violation of policies which results in extra costs billed to YOU (i.e. transfer, space etc.). If YOU are not completely satisfied with our services or support within the first 30 days of YOUR contract, YOU will be given a full refund of the contract amount excluding setup fees, domain registration fees, add-on/upgrade fees and overages. Setup fees are refundable only if the account order is cancelled prior to account activation. If YOU cancel, the full contract amount less any setup fees and overages will be refunded if our hosting is notified within the first 30 days following activation. This policy does not apply to any additional services such as overages, referrer logs, real audio/video, additional disk space, additional pop accounts, domain registration fees, etc. For credit card payment, refunds will be made to a PayPal account made available by the Customer after the 120th day. Refund policy will not be made available to Customers using cheque payments. All account cancellations must be done via email at YOUR hosting account control panel or requested to mail@oliveasia.com. Phone or email requests will not constitute acceptance of any cancellation.
- 16.2. **Promotional Rates & Special Offers:** our hosting may offer subsequent promotional rates or special offers, the terms of which may or may not be more favourable than the terms and conditions for YOUR Services. Any such promotions or modifications shall not affect YOUR obligations under this Agreement. Promotional fees may be subject to additional terms and conditions which, to the extent they conflict with the terms of this Agreement, shall govern. Different promotional fees and special offers may not be combined together.

**17. Intellectual Property Rights:** Material accessible to you through our hosting's services may be subject to protection under Singapore or other copyright laws, or laws protecting trademarks, trade secrets and proprietary information within your country. Except when expressly permitted by the owner of such rights, YOU must not use our hosting or its servers and network in a manner that would infringe, violate, dilute or misappropriate any such rights, with respect to any material that you access or receive through the our hosting network. If YOU use a domain name in connection with our hosting or similar service, YOU must not use that domain name in violation of any trademark, service mark, or similar rights of any third party.

**18. Network Security:** Customers may not use the our hosting network with an attempt to circumvent user authentication or security of any host, network, or account this includes, but is not limited to, accessing data not intended for YOU, logging into a server or account YOU are not expressly authorised to access, password cracking probing the security of other networks in search of weakness, or violation of any user, host, or network. This includes, but is not limited to, flooding, mail bombing, or other deliberate attempts to overload or crash a

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host or network. Our hosting will cooperate fully with investigations for violations of systems or network security at other sites, including cooperating with law enforcement authorities in the investigation of suspected criminal violations. Users who violate system or network security may incur criminal or civil liability.

**19. Electronic Commerce:** YOU will be solely responsible for the development, operation and maintenance of YOUR online store and products along with all content and materials appearing online or on YOUR products, including without limitation: (a.) the accuracy and appropriateness of content and materials appearing within the store or related to YOUR products, (b.) ensuring that the content and materials appearing within the store or related to YOUR products do not violate or infringe upon the rights of any third party, and (c.) ensuring that the content and materials appearing within the store or related to YOUR products are not libellous or otherwise illegal. YOU will be solely responsible for the final calculation and application of shipping and sales tax. YOU will also be solely responsible for accepting, processing, and filling any customer orders, and for handling any customer inquiries or complaints arising there from. YOU are also responsible for the security of any customer credit card numbers and related customer information YOU may access as a result of conducting electronic commerce transactions through YOUR website. YOU will keep all such information confidential and will use the same degree of care and security as YOU use with your confidential information.

**20. Static & Dynamic Content Caching:** YOU expressly

- 20.1. grant to our hosting a license to cache the entirety of YOUR website, including content supplied by third parties, hosted by our hosting under this Agreement and
- 20.2. agree that such caching is not an infringement of any of YOUR intellectual property rights or any third party's intellectual property rights

**21. IP Address Ownership:** Our hosting shall maintain and control ownership of all IP numbers and addresses that may be assigned to YOU by our hosting. Our hosting reserves, in its sole discretion, the right to change or remove any and all such IP numbers and addresses.

**22. Domain Registration:** YOU agree to pay our hosting prior to the effectiveness of the desired domain name registration, the then-current amount set forth in our hosting price schedule for the initial registration of the domain name and, should YOU choose to renew the registration, subsequent renewals of the registration. All fees are non-refundable, in whole or in part, even if YOUR domain name registration is suspended, cancelled or transferred prior to the end of YOUR then current registration term. Our hosting reserves the right to change fees, surcharges, renewal fees or to institute new fees at any time, for any reason, at its sole discretion. YOUR requested domain name will not be registered unless and until we receive actual payment of the registration fee, and have confirmed YOUR registration in an email from our hosting to the email address indicated in YOUR registration application. In the event of a chargeback by a credit card company (or similar action by another payment provider allowed by our hosting) in connection with the payments of the registration fee for YOUR domain name registration, YOU agrees and acknowledges that the domain name registration shall be transferred to our hosting as the paying entity for that registration to the registry and that we reserve all rights regarding such domain name including, without limitation, the right to make the domain name available to other parties for purchase. Our hosting will reinstate YOUR domain name registration solely at our hosting discretion, and subject to our receipt of the initial registration or renewal fee and our then-current

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reinstatement fee. Transferring the domain registrar to our hosting YOU agrees to pay our hosting prior to the effectiveness of the desired domain name transfer request, the then-current amount set forth in our hosting price schedule for the initial transfer request of the domain name. YOU agree and acknowledge that the domain name transfer will fail, and all fees are non-refundable, for the following reasons, but not limited to:

- 22.1.1. No response from the Registered Name Holder or Administrative Contact Domain Name in Registrar Lock Status
- 22.1.2. Domain Domain name in Registrar Lock Status
- 22.1.3. Domain name registration period time expires or other constraints, other than during the first 60 days of initial registration or during the first 60 days after a registrar transfer

Our hosting reserves the right to change fees, surcharges, renewal fees or to institute new fees at any time, for any reason, its sole discretion. YOUR requested domain name will not be registered unless and until we receive actual payment of the registration fee, and have confirmed YOUR registration in an email from our hosting to the email address indicated in YOUR registration application. In the event of a chargeback by a credit card company (or similar action by another payment provider allowed by our hosting) in connection with the payments of the registration fee for YOUR domain name registration, YOU agrees and acknowledges that the registration to the registry and that we reserve all rights regarding such domain name including without limitation, the right to make the domain name available to other parties for purchase. our hosting will reinstate YOUR domain name registration solely at our hosting discretion, and subject to our receipt of the initial registration or renewal fee and our then-current reinstatement fee.

Transfer domain registrar away from our hosting.

Our hosting reserves all rights, without limitation, to reject the domain name transfer request for the following reasons, but not limited to:

- 22.1.4. No response from the Registered Name Holder or Administrative Contact
- 22.1.5. Domain name in Registrar Lock Status and there is no request from Registered Name Holder or Administrative Contact for the status change
- 22.1.6. Domain name registration period time will be expiring in less than 60 days or other constraints, other than during the first 60 days of initial registration or during the first 60 days after a registrar transfer.

**23. Lawful Purpose:** Our hosting reserves the right to refuse service to anyone. YOU may only use our hosting server for lawful purposes and our services may not be used for illegal purposes or in support of illegal activities. We reserve the right to cooperate with legal authorities and/or injured third parties in the investigation of any suspected crime or civil wrongdoing. If anything is not legal in Singapore, it is not permitted to reside on our servers. Transmission, distribution or storage of any material in violation of any applicable law or regulation is prohibited. This includes but not limiting material protected by copyright, trademark, trade secret or other intellectual property right used without proper authorization, and material that is obscene, defamatory, constitutes an illegal threat, or violates export control laws. Examples of non-acceptable content or links: "Pirated Wares", OGG, AVI, MPEG, ISO, "Hacker programs or archives", "Copyrighted Digital Movie Copies



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(DIVX)" and "Unlicensed MP3". The designation of any materials as such described above is left entirely to the discretion of our hosting management.

If illegal content or usage is found, the account will be suspended and/or terminated. YOU agree that our hosting may disclose any and all YOUR information including assigned IP numbers, account history, account use, etc. to any law enforcement agent who makes a written request without further consent or notification. Regardless of the place of signing this agreement, YOU agree that for purposes of venue this contract is entered in Singapore, and any dispute will be litigated or arbitrated in Singapore. Defendants further waive all objections to venue and acknowledge that venue in any such litigation will be held in Singapore courts. IN NO EVENT SHALL OUR HOSTING'S MAXIMUM LIABILITY EXCEED FIVE HUNDRED (\$500.00) DOLLARS.

**24. Indemnification:** YOU AGREE THAT IT SHALL DEFEND, INDEMNIFY, SAVE AND HOLD ON THE COMPANY HARMLESS FROM ANY AND ALL DEMANDS, LIABILITIES, LOSSES, COSTS AND CLAIMS, INCLUDING REASONABLE ATTORNEY'S FEES ASSERTED AGAINST OUR HOSTING, ITS AGENTS, ITS CUSTOMERS, OFFICERS AND EMPLOYEES, THAT MAY ARISE OR RESULT FROM ANY SERVICE PROVIDED OR PERFORMED OR AGREED TO BE PERFORMED OR ANY PRODUCT SOLD BY YOU, YOUR AGENTS, EMPLOYEES OR ASSIGNS. YOU AGREE TO DEFEND, INDEMNIFY AND HOLD HARMLESS OUR HOSTING AGAINST LIABILITIES ARISING OUT OF:

24.1. ANY INJURY TO PERSON OR PROPERTY CAUSED BY ANY PRODUCTS SOLD OR OTHERWISE DISTRIBUTED IN CONNECTION WITH OUR HOSTING 'S SERVER.

24.2. ANY MATERIAL SUPPLIED BY THE CUSTOMER INFRINGING OR ALLEGEDLY INFRINGING ON THE PROPRIETARY RIGHTS OF A THIRD PARTY

24.3. COPYRIGHT INFRINGEMENT AND

24.4. ANY DEFECTIVE PRODUCTS SOLD TO CUSTOMER FROM OUR HOSTING 'S SERVER

**25. Disclaimer:** THE COMPANY WILL NOT BE RESPONSIBLE FOR ANY DAMAGES YOUR BUSINESS MAY SUFFER. OUR HOSTING MAKES NO WARRANTIES OF ANY KIND, EXPRESSED OR IMPLIED FOR SERVICES WE PROVIDE. OUR HOSTING DISCLAIMS ANY WARRANTY OR MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THIS INCLUDES LOSS OF DATA RESULTING FROM DELAYS, NON-DELIVERIES, WRONG DELIVERY, AND ANY AND ALL SERVICE INTERRUPTIONS CAUSED BY OUR HOSTING AND ITS EMPLOYEES. OUR HOSTING RESERVES THE RIGHT TO REVISE ITS POLICIES AT ANY TIME. ALL SUB-NETWORKS, RESELLERS AND DEDICATED SERVERS OF OUR HOSTING MUST ADHERE TO THE ABOVE POLICIES. FAILURE TO FOLLOW ANY TERM OR CONDITION WILL BE GROUNDS FOR IMMEDIATE ACCOUNT CANCELTION.

**26. Privacy Statement:** Our hosting follows the strict guidelines of our customer privacy statement. Please make sure you understand this statement fully.

**27. Bind Contract and Precedence**

27.1. **Binding Contract:** It is mutually understood and agreed between the Buyer and the Company that the execution of a Booking Order shall constitute a contract which shall be binding on both parties, and shall amount to an acceptance of these conditions and any conditions stipulated on the Booking Order. Any other terms and conditions stipulated elsewhere by the Buyer shall be void insofar as they are inconsistent with these conditions.

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- 27.2. **Additional Conditions in Booking Order to Prevail:** In the event of any variations or inconsistency between these conditions and the conditions set out in the Booking Order, the latter shall prevail.
- 27.3. **Company Not Bound by Buyer's Standard Terms and Conditions:** The Buyer agrees that in respect of the subject matter of the Booking Order, the Company shall not be bound by any terms and conditions, whether printed or written, which form part of any standard contract of the Buyer, whether such standard contract was signed before or after the execution of the Booking Order.

### **28. Governing Law and Jurisdiction**

- 28.1. **Governing Law and Jurisdiction:** The COMPANY, which incorporates these conditions, shall be construed under and governed by the laws of Singapore and the parties submit to the exclusive jurisdiction of the Singapore Courts.