

**USER AGREEMENT FOR BIZAPP**

YOU AGREE THAT THIS USER AGREEMENT WILL BE EFFECTIVE AS TO ALL USERS ON 15 January 2018 BETWEEN

**BIZAPP VENTURES SDN BHD** (Company No. 1264085-M), a company incorporated in Malaysia and having its registered and/or principal place of business located at No. 11, Jalan Tasik Selatan 3, Bandar Tasik Selatan, 57000 KUALA LUMPUR, Wilayah Persekutuan, Malaysia (hereinafter referred to as “BVSB”)

AND

USER of Bizapp.

**NOW IT IS HEREBY AGREED:**

**1. Definitions and Interpretation**

“Acts and Regulations”	means all relevant Acts and Regulations which govern and/or regulate Malaysian Communications and Multimedia Act 1998, the Malaysian Communications and Multimedia Content Code ("Content Code"), Electronic Transactions and Commerce; but not limited to Patents Act 1983, Computer Crimes Act 1997, Digital Signature Act 1997, Copyright Act 1997, Consumer Protection Act 1999, Consumer Protection (Electronic Trade Transactions) Regulations 2012, Payment Systems Act 2003, Electronic Commerce Act 2006, Personal Data Protection Act 2010, Companies Act 2016, Contract Act 1950, Income Tax Act 1967, Finance Act 2018, Guidelines on Taxation for Electronic Commerce Transactions 2019, Evidence Act 1950 and Penal Code (Act 574).
“Agreement”	means this Agreement and the Privacy Policy including all amendments and modifications mutually agreed in writing by the Parties from time to time.
“BVSB”, “Bizapp”, "we", "us" or "our”	means representative company BIZAPP VENTURES SDN BHD (BVSB). BVSB is the brand owner of “Bizapp”, an app that run on Android, IOS as well as on Web.
“Confidential Information”	means all information which prior to or upon its disclosure is designated as confidential by one Party (“Disclosing Party”) to the other Party (“Receiving Party”), or which should reasonably be considered as information of a confidential nature by the Receiving Party.
“Individual”	means to individuals who are capable of entering into a legally binding agreement under Malaysian law.
“Corporate Entity”	Means companies and/or business entities. Any person Using the apps on behalf of such corporate entities represents that he or she has the authority to bind the corporate entity to the terms and conditions set out in the Agreement.

“Agent, Drop Shipper, Stockist, HQ”	Subscriber/User of Bizapp who have registered successfully.
“Consumer / Customer”	means a person who is buying goods and/or services from a USER who are using Bizapp’s Minishop.
“Consumer Protection”	has the meaning ascribed to it in the Consumer Protection Act, 1999 and Consumer Protection (Electronic Trade Transactions) Regulations, 2012
“Effective Date”	means the date of this Agreement.
“Information”	means any Account information that USER provides to us, including but not limited to organization information, financial information, or other information related to USER or USER business.
“Parties”	means BVSBS and USER collectively.
“Party”	means either BVSBS or USER.
“Payment Method”	means the payment method used to pay a transaction. The following payment methods may be used (subject to availability): online banking, debit/credit/prepaid card, e-money, balance and redemption codes.
“Personal Data”	has the meaning ascribed to it in the Personal Data Protection Act, 2010 (PDPA) which means any information in respect of commercial transactions, which is being processed wholly or partly by means of equipment operating automatically in response to instructions given for that purpose; is recorded as part of a relevant filing system or with the intention that it should form part of a relevant filing system; is recorded with the intention that it should wholly or partly be processed by means of such equipment; or that relates directly or indirectly to a data subject, who is identified or identifiable from that information or from that and other information in the possession of a data user, including any sensitive personal data and expression of opinion about the data subject; but does not include any information that is processed for the purpose of a credit reporting business carried on by a credit reporting agency under the Credit Reporting Agencies Act, 2010.
“Subscription Fee”	means the fee payable by USER to BVSBS under this Agreement.
"Substantial Change"	means a change to the terms of this Agreement that reduces USER rights or increases USER responsibilities.
“Support Service”	means additional service as may be requested and required by USER beyond Bizapp published services.
“Trademarks”	means all trademarks and logos of BVSBS that exist now or in the future, both registered and non-registered, all as may be specified by BVSBS from time to time.
"User" or "you"	means any individual or organization using Bizapp Subscription including USER. USER who is using Bizapp to manage agents, products, ordering process and their respective records, using available modules/features available for the user’s subscribed package.
“Website” or “Software”	means <a href="http://www.Bizapp.com">www.Bizapp.com</a> .

- 1.1 Words bearing the singular in this Agreement shall include the plural and vice versa.
- 1.2 Titles and headings in this Agreement are used for convenience and ease of reference only, and in no way define, limit, extend or describe the scope and intent of this Agreement.

## **2. APPOINTMENT AND RELATIONSHIP**

- 2.1 By registering a Bizapp Account via Bizapp mobile apps or via the Website, USER agree to become subscriber to services offered by Bizapp.
- 2.2 List of services are based on the type of package subscription, either the free package or the paid packages.
- 2.6 BVSB shall from time to time, reserve all its rights to adjust and amend the features/modules of Bizapp and the Website, provided such adjustment and amendment shall not adversely affect Bizapp.
- 2.7 If such adjustment or amendment leads to necessary changes in the mobile apps (Android and IOS) or website, BVSB will highlight them as Substantial Change, and BVSB will announce them to all subscribers via email and/or social media.

## **3. TERMS AND CONDITIONS**

- 3.1 We offered Bizapp features and modules available on mobile apps (Android and IOS) and web based. The User is advised to read the published terms and conditions carefully as they affect the User's rights and liabilities under the law.
- 3.2 By using the mobile apps (Android and IOS) or web, the User is deemed to have agreed to be bound by the terms and conditions set out in this agreement ('the Agreement'), as well as those terms and conditions incorporated by reference and/or implication.
- 3.3 If the User continues to use the app (either on mobile or web) provided by BVSB ('the Subscription') after the date on which any amendments come into effect, the User shall be deemed to have consented to be bound by the amended terms and conditions. In the event the User does not agree to the amendments, the User shall not continue to use the app.
- 3.4 Bizapp may update these terms and conditions from time to time, and the changes will be effective after posting at the Website or notice to you. Continued use of the Bizapp indicates your re-acceptance of the revised terms. The most recent revision date for these terms is identified above. These terms are intended to apply evenly across many places and customs to ensure fairness, uniformity and better service levels for all users of Bizapp services. In any event, Bizapp reserves the right to terminate your access to all or any portion of the services at any time.

## **4. SUBSCRIPTIONS FEE**

- 4.1 The Subscription Fee shall be in Malaysia Ringgit ("MYR") unless agreed otherwise.
- 4.2 Your Subscription Fee shall be based on the offered Package (which will be revised from time to time). Please refer to the current web for the latest schedule.
- 4.3 The subscription is defined for one full year or half year, starting from the date of upgrading/ subscribing the package. You can stop using Bizapp at any time.
- 4.4 To the extent permitted by the applicable law, the Subscription Fee is non-refundable. We may terminate USER account at our discretion. There shall be NO REFUND for termination related to conduct that we determine, in our discretion, violates this Agreement or any applicable law, involves

fraud or misuse, or is harmful to our interests or another user. Our failure to insist upon or enforce USER strict compliance with this Agreement will not constitute a waiver of any of our rights.

- 4.4 BVSBS shall be entitled to revise the Subscription Fee for all packages. We will provide USER with 10 Days' prior notice of any Substantial Change via email. For the avoidance of doubt, posting of the Substantial Change on the Website shall constitute an effective delivery of the Substantial Change to the USER.
- 4.5 Notwithstanding any provision in the Agreement to the contrary, the payment for Subscription Fee is exclusive of SST.

## **5. RESPONSIBILITIES OF USER**

- 5.1 The User shall use the Subscription in accordance with the terms and conditions of this Agreement and any law at the time being in force in Malaysia
- 5.2 The USER shall use its best endeavours to ensure that the USER's Information and the USER's activities (including its displaying or selling of products/services) that are transacted through Bizapp **shall not**:
- (a) infringes the intellectual property rights of any third party including copyright, patent, trade mark, trade name, designs, trade secret, confidential information, know-how, goodwill, rights of privacy or publicity or other proprietary rights or rights of publicity or privacy of any third party;
  - (b) otherwise causes legally-recognized harm including but not limited to a product that contains a defamatory statement; or
  - (c) violates or is illegal under any applicable law, statute, ordinance or regulation.
- 5.3 The User shall not provide and/or cause to be provided information which:-
- (a) is false, inaccurate or misleading;
  - (b) involves the sale of counterfeit or stolen items, or any other fraudulent act;
  - (c) infringes the intellectual property rights including copyright, patent, trade mark, trade name, designs, trade secret, confidential information, know-how, goodwill, rights of privacy or publicity of other any other third party;
  - (d) violates or breaches any law;
  - (e) is defamatory;
  - (f) contains pornographic or obscene materials.
  - (g) contains any computer viruses and/or other computer programming routines that may damage, detrimentally interfere with, surreptitiously intercept or expropriate any system, data or personal information;
  - (h) creates liability for the Company or causes the Company to lose, in whole or in part, the services of its Internet Service Providers or other suppliers;

- (i) introduces, spreads or is intended to introduce and/or spread contents or propaganda of religious, cultural or racist nature; or
- (j) any other prohibited content as provided under the Content Code.

5.4 "Information" referred to hereinabove includes but is not limited to any information provided by the User to BVSB or to other Users in any public message area (such as group chatting area, photo area and feedback area) or through email.

5.5 BVSB reserves the right to remove any items that it deems in violation of the above, at its sole discretion.

5.6 The User is solely responsible for the accuracy of the said Information.

## **6. VIOLATIONS BY THE USER**

6.1 If the USER intentionally and knowingly engage in any of the following acts, BVSB shall be entitled, at its sole discretion, to limit the Subscription/Service provided to the USER or immediately terminate the Subscription/Service and this Agreement by notice in writing to the USER:

- (i) Using the app to receive payment directly or indirectly, for any sexually oriented or obscene materials or services in violation of BVSB's policy;
- (ii) Using the app to receive payments directly or indirectly, for any narcotics, other controlled or illegal substances, steroids or prescription drugs in violation of any laws;
- (iii) Using the app to receive payments directly or indirectly, for wagers, gambling debts or gambling winnings, regardless of the location or type of gambling activity;
- (iv) Using the app to receive payments directly or indirectly, for any counterfeit products;
- (v) Using the app to receive payments directly or indirectly, for any weapons including firearms, ammunition, high capacity magazines, air guns, explosives;
- (vi) Using the app to receive payments directly or indirectly, for any fireworks or pyrotechnic devices or supplies;
- (vii) Attempts to tamper, hack, modify or otherwise corrupt the security or functionality of Subscription/Service;
- (viii) Using the app for money laundering activities;
- (ix) Using the app for any illegal or immoral activities, including but not limited to such activities that violate the laws of Malaysia.

6.2 The Parties hereby agree that the damage that BVSB may sustain as a result of a breach of Clause 6.1 above; and Clause 9 below by the USER may be substantial, including but not limited to fines and other related expenses from its payment processors and service providers for which damages may not be an adequate remedy for such breach by the USER and in view thereof, the USER acknowledges that BVSB shall be entitled to seek equitable relief, including but not limited to injunctions and

specific performance, in the event of any such breach or threatened breach by the USER.

## **7. DISCLAIMER AND LIMITATION OF LIABILITY**

- 7.1 The Parties hereto agree that BVSBS shall not be held liable for any business expense, machine downtime or damages caused by any deficiency, defect or error in the Service or malfunction thereof and in no event shall BVSBS be liable to the USER for any consequential or incidental damages, including but not limited to loss of profits, loss of turnover and/or loss of data.
- 7.2 The Parties hereby agree that BVSBS shall not be held liable in any manner whatsoever in the event there is a dispute between the USER and any of the Customers, unless it can be reasonably proven by the USER that such dispute arose, directly or indirectly, from the wilful negligence, fraudulent act, default or breach and/or acts or omissions by BVSBS in the provision of the Service under this Agreement.
- 7.3 The USER shall not hold BVSBS, its holding company, subsidiaries, employees and its suppliers liable in any way for any losses or liabilities arising directly and solely from the fault of the USER or authorised third parties directly relates to the USER in connection with the use of or access to the Service.

## **8. INDEMNITY**

The USER shall indemnify BVSBS and hold BVSBS, its holding company, subsidiaries, affiliates, officers, directors and employees harmless from any claim or demand made or incurred by any third party due to or arising out of the USER's breach of any of the terms of this Agreement or the violations of any provisions of law in connection with the Transactions contemplated under this Agreement.

## **9. INTELLECTUAL PROPERTY RIGHTS**

- 9.1 For the duration of this Agreement, BVSBS hereby grants USER and its affiliates and related companies a royalty-free, non-transferable and non-exclusive right during the Term of this Agreement to use the Trademarks on its websites and in any off-line promotional materials for the sole purpose to indicate that it makes use of the Service. The USER shall use such Trademarks in accordance with BVSBS's directions for the use of such Trademarks as communicated in writing to the USER. The USER do not have a right of sub-license. BVSBS may apply limitations to the right granted to the USER under this paragraph at any time and at its sole discretion.
- 9.2 For the duration of this Agreement, the USER hereby grants BVSBS and its affiliated companies an irrevocable, royalty free, non-transferable and nonexclusive right during the Term of this Agreement to use its trademark and logo on their Websites and in off-line publications for the sole purpose of indicating that the USER makes use of its Service.
- 9.3 All proprietary rights in the equipment, software (such as interfaces) and other materials used or made available by BVSBS in the performance of this Agreement, whether or not it is made available to the USER, shall remain with BVSBS. The USER shall only acquire such right of use as is explicitly granted hereunder.
- 9.4 Upon termination of this Agreement, the USER shall forthwith withdraw any reference or related forms to BVSBS and/or the Subscription from its websites and shall forthwith cease the use of the Trademarks, and BVSBS shall cease any use of the USER's trademark and logo.

## **10. CONFIDENTIALITY**

10.1 During the Term of this Agreement and after termination or expiration of this Agreement for any reason whatsoever, the Receiving Party shall:

- (i) keep the Confidential Information confidential;
- (ii) not disclose the Confidential Information to any person save and except with the prior written consent of the Disclosing Party or in accordance with Clause 13.2;
- (iii) not use the Confidential Information for any purpose other than in connection with the performance of its obligations under this Agreement; and
- (iv) Comply at all times with the PDPA.

10.2 During the Term of this Agreement and unless prohibited by the PDPA, the Receiving Party may disclose the Confidential Information to its employees and/or to the Financial Institution (hereinafter referred to as the "Recipient") to the extent reasonably necessary for the purposes of this Agreement.

10.3 The Receiving Party shall procure that each Recipient is made aware of and complies with all the Receiving Party's obligations of confidentiality under this Agreement as if the Recipient were a party to this Agreement.

10.4 The obligations contained in Clause 10.1 shall not apply to any confidential Information which:

- (i) is in the public domain at the date of this Agreement, or at any time after the date of this Agreement comes into the public domain other than through breach of this Agreement by the Receiving Party or any Recipient;
- (ii) is known by the Receiving Party prior to disclosure by the Disclosing Party to the Receiving Party;
- (iii) is subsequently becomes lawfully into the possession of the Receiving Party from a third party; or
- (iv) Is disclosed by the Receiving Party pursuant to and in accordance with a relevant statutory obligation, an order of a court of competent jurisdiction or an order of a competent regulatory body.

## **11. REPRESENTATIONS**

Each Party represents to the other that:

- (i) it has all requisite power and authority to enter into this Agreement and to carry out the Transactions contemplated hereby;
- (ii) it has the rights, licenses, permits and power to perform all obligations incurred by it under this Agreement;
- (iii) the execution, delivery and performance of this Agreement are duly authorised;
- (iv) this Agreement is a valid and binding obligation of it; and

- (v) The execution, delivery and performance of this Agreement and the consummation of the Transactions contemplated hereby do not conflict with or violate its constituent documents, any other contract or agreement to which it is a party, any applicable laws or any order or judgment of any court or governmental authority.

## **12. NOTICES**

12.1 All notices, statements, demands, requirements or other communications and documents required or permitted to be given, served or delivered to any Party under this Agreement (hereinafter referred to as a "Communication") shall be in writing in the English or Bahasa Malaysia language and shall be either delivered by hand or sent by pre-paid certified or registered mail (airmail in the case of all international Communication), with return receipt requested, to that Party at its address stated in the Website or sent by email to its email address stated at the Website or to such other address or email address as that Party may from time to time have notified the other Party as being its address or email address for purposes of this Agreement to the exclusion of all previously applicable addresses and facsimile numbers.

12.2 A communication shall be deemed to have been given, served or delivered:

- (i) if delivered by hand, upon delivery;
- (ii) if sent by mail, after three (3) Business Days of postage;
- (iii) if sent by facsimile machine, one hour after its transmission if such time is during business hours in the place of its receipt or, if it is not, on the opening of business on the next Business Day, subject to its having in fact been received in legible form and with a copy thereof being sent by post; and
- (iv) If sent by electronic mail, twenty-four (24) hours after e-mail is sent.

## **13. FORCE MAJEURE**

If the performance of this Agreement or any obligation hereunder is prevented, restricted or interfered with by any act or condition whatsoever beyond the reasonable control of the affected Party, the Party so affected, upon giving prompt notice to the other Party, shall be excused from such performance, except for the making of payments hereunder, to the extent of such prevention, restriction, or interference, for so long as the non-performing Party uses reasonable efforts to resume performance.

## **14. GENERAL**

14.1 Entirety

This Agreement and/or its' amendments from time to time sets forth and shall constitute the entire agreement between the Parties hereto with respect to the subject matter hereof and shall supersede any and all promises, representations, warranties or other statements whether written or oral made by or on behalf of one Party to the other of any nature whatsoever or contained in any leaflet, brochure or other document given by one Party to the other concerning such subject matter. As from the Effective Date, all previous arrangements, agreements, compromise, commitments, negotiation and moratorium executed hereto shall be superseded by this Agreement and/or its' amendments from time to time.

14.2 Waiver

The failure to exercise or any delay in exercising a right or remedy under this Agreement shall not constitute a waiver of the right or remedy or a waiver of any other rights or remedies, and no single or



partial exercise of any right or remedy under this Agreement shall prevent any further exercise of the right or remedy or the exercise of any other right or remedy.

**14.3 Assignability**

The Parties may not transfer any rights or obligations it may have under this Agreement without the prior written consent of the other Party. This Agreement shall be binding upon and inure to the benefit of the parties, their legal representatives, successors, and permitted assignees.

**14.4 Severability**

Any of the terms conditions, stipulations, provisions, covenants or undertakings contained herein which are illegal void prohibited or unenforceable in any respect under the law governing this Agreement or its performance, such illegality, invalidity or unenforceability shall be ineffective to the extent of such illegality, void, prohibitions or unenforceability without invalidating the remaining provisions hereof and any such illegality, void, prohibition or unenforceability shall not invalidate or render illegal, void or unenforceable any other terms conditions stipulations provisions covenants or undertakings contained herein.

**14.5 Governing Law and Jurisdiction**

This Agreement is governed by and shall be construed in accordance with the laws of Malaysia, and the Parties hereby agree to submit to the exclusive jurisdiction of the Court of Malaysia.

**14.6 Time**

Time is of the essence of this Agreement.

**15. PERSONAL DATA PROTECTION ACT 2010**

15.1 The Parties are aware of the requirements of the PDPA in relation to Personal Data.

15.2 In the event BVS B is provided or allowed access by the USER to any Personal Data, BVS B shall ensure that it fully complies with the provisions of the PDPA and only deals with such Personal Data for the purpose of complying with its obligations under this Agreement and for no other purpose.

15.3 BVS B shall fully cooperate and assist the USER in relation to:

- (i) any complaint or request made in connection with Personal Data, including by providing the USER with full details of the complaint or request;
- (ii) any request made under the PDPA including a data access request, whereby it shall ensure that it meets the prescribed time periods set out in the PDPA and acts in accordance with the USER's reasonable instructions; and
- (iii) Any other reasonable request of the USER including a request for any Personal Data held by BVS B.

15.4 Pursuant to the PDPA, the USER hereby acknowledges that it is required to and hereby undertakes to inform and obtain consent of its Customers with regards to the disclosure of any form of the Customer's personal data to BVS B for the purposes of BVS B carrying out its Service for the USER.

15.5 The USER hereby agrees that it shall indemnify the BVS B against any costs, loss, or damage which are incurred (whether direct or indirect) by BVS B by reason of the contravention of this Clause 19.

## **16. CONSUMER PROTECTION ACT 1999 AND CONSUMER PROTECTION (ELECTRONIC TRADE TRANSACTIONS) REGULATIONS 2012**

- 16.1 The Parties hereto are aware of the requirements of the abovementioned Acts and Regulations stated in Clause 19, in relation but not limited to Electronic Commerce Transactions and services provided herein.
- 16.2 Pursuant to the Acts and Regulations, the USER hereby acknowledges that it is required to and hereby undertakes to inform and provide to its Customers all relevant information as warranted by the law.
- 16.3 The USER hereby agrees that it shall indemnify the BVSb against any costs, loss, or damage which are incurred (whether direct or indirect) by BVSb by reason of the contravention of this Clause 15 and 16.

## **17. TAX**

Both Parties shall hereby adhere to the Income Tax Act 1967 and Guidelines on Taxation for Electronic Transactions 2019. The Parties hereby acknowledge the followings:

- 17.1 Generally, income tax is imposed on the income of any person accruing in or derived from Malaysia.
- 17.2 Any income in relation to Electronic Transactions (hereinafter referred to as “e- CT”) is deemed to be derived from Malaysia if it is associated to any activities in Malaysia regardless of whether that income is received in Malaysia or otherwise.
- 17.3 A non-resident person and/or an entity who and/or which derives income from e-CT may also be deemed to derive that income from Malaysia in relation to:
- a. Special classes of income; and
  - b. Royalty.

And therefore are subjected to income tax law of Malaysia.

## **18. ILLEGAL GOODS AND SERVICES**

### **18.1 List of Illegal Goods**

- Controlled chemical substances (eg. mercury)
- Drugs
- Fireworks and explosives
- Human parts
- Pornography
- Prescription medications
- Weapons

- Adult Sex Toy
- Alcohol / Liquor
- Brand new DC comic books and merchandise
- E-book
- Email Address
- Foreign Registered Vehicle
- Hacking Device or Software
- Health Supplement for Infants
- Mobile Phone Number and SIM Card
- Offensive Propaganda (including items related to Politics, Religion or other sensitive issues)
- Paintball Marker, Gun and Firearm (Real, Replica, Toy or Fake)
- Pre-ordered Item
- Products that go against the sales policy of any brand or company, i.e. products from Herbalife, Shaklee, Amway, TongYang Inc., STIHL, Elken & Phyto Science
- Satellite Dish
- Speed Trap Device
- Spy Gadget
- Tobacco / E-cigarette
- Uncertified Herbal Medication
- Unsafe slimming products (not approved by the Ministry of Health), for example Collagen Slim, Beautiful Slim Body and Figure-Up
- Used Undergarment
- Vehicle Registration Number and Document
- Vehicle with 'Continue Payment', or 'Continue Loan'

## 18.2 List of Illegal Services

- Black Magic Services
- Car Pool Services
- Counselling Services

- Day Care or Babysitting Services
- Domestic Help
- Insurance or Medical Plans
- Jobs from Overseas (except Singapore)
- Loan and Refinancing Services
- Looking for Agents, Dealers, Distributors, Suppliers, Joint Ventures, Business Partners, Franchises, and other similar ads
- Matchmaking or Dating Services
- Modelling Services
- Personal Messages/Greetings/Announcements
- Provision of Bank Loans
- Get-Rich-Quick Schemes
- Rental of Private Individuals' Vehicles
- Reunion Events or Get-Together Gatherings
- Single or Multi-Level Marketing (MLM, SLM, Direct Sales)
- SMS Services
- Tattoo Services
- Unlock or Jailbreak Services for Gadgets
- Wifi and Broadband Services

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