

CHANNEL PARTNER AGREEMENT

This **Channel Partner Agreement** (“Agreement”) is made on this ____ day of _____
20____ (“Effective Date”)

BY AND BETWEEN

NTT DATA ECOMMERCE SOLUTIONS SDN. BHD. (Company No.: 200001019210
(521817-M)) (formerly known as iPay88 (M) Sdn. Bhd.), a company incorporated in
Malaysia having its business at Suite 2B-20-1, 20th Floor, Block 2B, Plaza Sentral, Jalan
Stesen Sentral 5, 50470 Kuala Lumpur (“NDES”) of the one part;

AND

Weitzen Sdn. Bhd. 202201008041(1453738-M)

(Company No. _____)
a company incorporated in _____ Malaysia _____ with its business address at _____
1-13A-3A, PLAZA BUKIT JALIL (AURORA SOVO), PERSIARAN JALIL 1, BANDAR BUKIT JALIL,

KUALA LUMPUR, WILAYAH PERSEKUTUAN

(hereinafter referred to as “Channel Partner”) of the other part;

1. RECITALS

- 1.1 NDES provides NDES Payment Services (“Services”) to E-Commerce merchants and/or offline retailers;
- 1.2 The Channel Partner agrees to assist NDES to provide the Services for businesses to sell their products and/or services online and/or at retail outlets;
- 1.3 The Channel Partner and NDES wish to collaborate to grow the payment industry in Malaysia.

NOW THEREFORE, THE PARTIES HERETO AGREE as follows:

2. DEFINITIONS AND INTERPRETATION

- 2.1 For the purposes of this Agreement, the following expressions shall, unless the context otherwise require, have the meanings hereby assigned to them:

“**Agreement**” refers to this agreement, the terms and conditions herein, including its appendices and/or annexures, and any amendments made to it from time to time.

“**Fees**” means the fees payable by Merchants to NDES for using the Services.

“Intellectual Property Rights” means any intellectual property rights throughout the world attributable to any of the Parties, including but not limited to registered and unregistered patents, copyrights, design rights, trademarks, service marks, brand names, trade secrets, inventions (whether or not patentable), author’s rights and other proprietary rights, applications for any of such rights, all rights to know-hows (whenever and however arising), and all renewals and extensions of any such intellectual property rights.

“Merchant” means E-Commerce merchants and/or offline retailers, who subscribe for the Services.

- 2.2 Words bearing the singular in this Agreement shall include the plural and vice versa.
- 2.3 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 or of its provision.
- 2.4 All Recitals and Appendices hereto in this Agreement shall be read and construed as an essential part of this Agreement.
- 2.5 Both NDES and Channel Partner shall hereinafter be collectively referred to as “Parties” and individually as “Party”, “each Party”, “the other Party” as the case may be.

3. OBLIGATIONS OF THE PARTIES

- 3.1 The Channel Partner agrees to use its reasonable business effort to offer the Services at the Transaction Fee (stated in Annexure 1) and other applicable Fees (as set forth in the fee schedule of the NDES application form (“the Form”)) to the Merchant that fulfills all application requirements set by NDES. NDES reserves the rights to revise such application requirements from time to time and the Fees stated herein shall subject to yearly review.
- 3.2 The Channel Partner shall ensure all the referred Merchants submit their application by completing the Form and by enclosing all supporting documents as part of the application requirements. The Channel Partner shall forward the complete set of such application documents to NDES. The Channel Partner agrees that NDES will not accept and/or process any incomplete application documents. The Channel Partner agrees that approval of the Merchant’s application is at NDES’s sole discretion.
- 3.3 During the term of this Agreement, the Channel Partner will be eligible for Overriding Commission (as stated in Annexure 2) for each transaction (excluding refunded, cancelled, disputed and charged back transactions) of the Merchants that are referred by the Channel Partner, provided the Transaction Fee offered to Merchants exceeds the Base Rate stated in Annexure 2 and shall follow Transaction Fee stated in Annexure 1.

3.4 In order for the Channel Partner to be entitled for such Overriding Commission, Channel Partner shall complete and forward this signed Agreement to NDES together with the approved Channel Partner application. Upon completion of this process, the Overriding Commission will be calculated starting from the month of this signed Agreement.

Examples below:-

- (i) *The Channel Partner application is approved on 7 September 2018 and the Channel Partner submits the signed Agreement to NDES on 23 September 2018. The calculation of the Overriding Commission shall include transactions performed by the Merchants referred by the Channel Partner with effect from September 2018; OR*
- (ii) *The Channel Partner application is approved on 7 September 2018, but the Channel Partner is only able to submit the signed Agreement to NDES on 28 November 2018. Thus, the calculation for the Overriding Commission shall start from November 2018.*

3.5 The Channel Partner is not entitled to any Overriding Commission if the referred Merchant has already previously been referred to NDES prior to the approved Channel Partner application and/or effectiveness of the Overriding Commission entitlement stated in Clause 3.4.

3.6 NDES will calculate the Overriding Commission for the transactions performed by all Merchants referred to by the Channel Partner for the preceding month's transactions and forward the said report to the Channel Partner within seven (7) business days from the end of the preceding month.

3.7 The Channel Partner will then provide the tax invoice to NDES to claim the Overriding Commission within seven (7) business days upon receipt of the report from NDES.

3.8 NDES will process the payment of the Overriding Commission accordingly and remit the payment to the Channel Partner within ten (10) business days upon receipt of the tax invoice from the Channel Partner.

3.9 In the event any excess Overriding Commission is paid, and/or any refunded, cancelled, disputed and/or charged back transactions are received after the Overriding Commission for the previous monthly transaction has been paid to the Channel Partner, NDES shall reverse the excess Overriding Commission paid, and/or the Overriding Commission of any such refunded, cancelled, disputed and/or charged back transaction from the subsequent Overriding Commission payout.

3.10 The Channel Partner shall carry out reconciliations of all Overriding Commissions received against the report provided by NDES. Any disputes in relation to such shall be raised by the Channel Partner within ninety (90) days from the date of such report provided by NDES to the Channel Partner, failing which, the sums of the Overriding Commissions paid shall be final and binding.

4. MARKETING AND SUPPORT

- 4.1 The Channel Partner agrees to provide space at the Channel Partner's or Merchant's website and/or retail outlet for NDES to advertise its Services. The Parties will work together in good faith to undertake mutually agreeable sales and marketing initiatives related to the promotion of the Services at the Channel Partner's or Merchant's website and/or retail outlet. The Channel Partner agrees: (1) to portray the Services accurately, (2) not to make any representations inconsistent with any information provided by NDES, and (3) that all the Channel Partner's marketing activities relating in any way to the Services shall be in compliance with applicable laws.
- 4.2 The Channel Partner shall liaise with the referred Merchants and assist NDES in all matters related to the Merchant's account, which shall include, but not limited to the activation process of Merchant's account, outstanding payment due, disputes and/or charged back transactions upon NDES's request.

5. PUBLIC ANNOUNCEMENTS

- 5.1 All media releases, public announcements or public disclosures (including, but not limited to, promotional or marketing material) by either Party relating to this Agreement are prohibited without the prior written consent of both Parties.

6. EXPENSES

- 6.1 Each Party shall bear its own costs in relation to its own obligations under this Agreement.

7. CONFIDENTIAL INFORMATION

- 7.1 "Confidential Information" is limited to information which is either (a) disclosed in writing by the Party disclosing any such Confidential Information (the "Disclosing Party") to the Party receiving such Confidential Information (the "Receiving Party") and marked as "Confidential", or (b) disclosed orally and identified as confidential at the time of disclosure, provided the oral disclosure is summarized in a writing marked as "Confidential" and transmitted to the Receiving Party within ten (10) days of the oral disclosure. Notwithstanding the foregoing, Confidential Information shall include proprietary technical and business information provided by the Disclosing Party during meeting(s) between the Parties, including but not limited to: (a) patent and patent applications; (b) techniques, sketches, drawing, works of authorship, models, inventions, processes, equipment, algorithms, demonstrations, mock-ups, software programs, software source comments, and formulae related to current, future and/or proposed products and services of the Parties, including information concerning software code, research, development, design details and specifications; and (c) financial information, procurement and/or purchasing requirements, customer lists, investors, employees, business and contractual relationships, business forecasts, sales and merchandising data, and marketing plans.

- 7.2 The Receiving Party hereby undertakes to the Disclosing Party to:
- (a) keep confidential all information (written or oral) concerning the affairs of the Disclosing Party that it has obtained or received as a result of discussions leading to or the entering into or performance of the terms and conditions of this Agreement; and
 - (b) save as otherwise provided, not without the Disclosing Party's written consent, to disclose any information referred to above in whole or in part to any person excluding those of its employees on a need-to-know basis.
- 7.3 For the avoidance of doubt, in the event of termination or expiry of this Agreement, the Receiving Party shall be permitted to retain a copy of any such Confidential Information solely for the purposes of complying with, and to the maximum extent permitted by, applicable laws. Any such Confidential Information retained by the Receiving Party shall be subject to the obligations found herein this Agreement.
- 7.4 The confidentiality obligations within this Clause 7 constitutes the entire agreement and understanding between the Parties with respect to the Parties' obligations towards Confidential Information and supersedes all previous agreements, understandings and undertakings in such respect and all obligations implied by law to the extent that they conflict with the express provisions of this Agreement.

8. INTELLECTUAL PROPERTY RIGHTS

- 8.1 Each Party shall retain all rights, title and interest in and to its own Confidential Information and Intellectual Property Rights.
- 8.2 Each Party acknowledges that the Intellectual Property Rights comprised in the information, text, graphics, scripts, software, technology, music, sound, photograph or any other materials or works used on, comprised or contained in the other Party's system, software, and marks (collectively "the Materials") are the sole and exclusive property of the other Party and/or its licensors.
- 8.3 Each Party further agrees and undertakes that save as expressly permitted in this Agreement it shall not without the other Party's prior written consent:
- (a) reproduce, copy, reverse compile, adapt, modify, distribute, commercially exploit, display, broadcast, hyperlink or transmit in any manner or by any means or store in an information retrieval system any part of the other Party's Materials; or
 - (b) create or use derivative works from the Materials or create any hyperlink of any sort or manner to or from the other Party's website from or to any other website or use any part of the Materials contained at the other Party's website or any other server.

8.4 Each Party hereby agrees to indemnify and keep indemnified the other Party against any losses, costs, expenses, demands, liabilities or damages for any infringement of the other Party's Intellectual Property Rights arising out of or incidental to the performance or its breach of any provisions of this Agreement.

9. REPRESENTATION AND WARRANTIES

9.1 Each Party represents and warrants to the other Party that:

- (a) it is duly incorporated, registered and validly existing under the laws of Malaysia, or, as the case may be, its respective jurisdictions;
- (b) it has the capacity and authority to enter into, deliver, exercise its rights and perform its obligations under this Agreement;
- (c) it has taken all necessary actions to authorize the execution, delivery and performance of its obligations under this Agreement;
- (d) neither the execution, delivery nor the performance of this Agreement by it will contravene any provision of:
 - (i) any applicable laws;
 - (ii) its constitution; and
 - (iii) any obligation (contractual or otherwise) which is binding upon it or its assets;
- (e) all consents, licenses, approvals or authorizations of, exemptions by or registrations with, any governmental or other authority required by it as at the Effective Date with respect to this Agreement and the performance thereof have been duly obtained or made, are valid and are in existence and will not be contravened by the execution or performance of this Agreement;
- (f) it is not insolvent or unable to pay its debts within the meaning of the applicable laws and has not stopped paying its debts as they fall due;
- (g) it has not proposed and nor does it intend to propose any arrangement with creditors;
- (h) it has not, and its creditor(s) have not, presented any petition for any administration order or creditors' voluntary arrangement, and no order or no application for such order has been made, petitioned or presented, and no meeting convened or no resolution passed for the purpose of its winding-up;
- (i) no receiver (including an administrative receiver), liquidator, trustee or administrator has been appointed in respect of the whole or any part of its business or assets;

- (j) this Agreement constitutes the legal, valid and binding obligations of each Party in accordance with its respective terms;
- (k) it is not in default under any agreement to which it is a party or by which it is bound and no litigation, arbitration or administrative proceedings are presently current or pending or threatened which default, litigation, arbitration or administrative proceedings, as the case may be, might materially affect its ability to enter into and/or to perform its obligations under this Agreement; and
- (l) all information furnished by one Party to the other Party in connection with this Agreement, does not contain any untrue statement or omit to state any fact the omission of which makes any statements made in the light of the circumstances under which they are made, misleading, and are made on reasonable grounds after due and careful inquiry and it is not aware of any material facts or circumstances that have not been disclosed to the other party which might, if disclosed, adversely affect the decision of a person considering whether or not to enter into this Agreement.

10. NON-EXCLUSIVITY

- 10.1 Relations between the Parties herein shall be non-exclusive, with each Party retaining the right to enter into similar relationship with other partners. However, to avoid any undertaking which might involve a conflict of interest, the Channel Partner agrees to keep NDES informed of any situation or similar relationship involving any other such partners. Nevertheless, NDES wants to be considered as preferred payment service provider to the Channel Partner.

11. WAIVER

- 11.1 Any waiver of any rights under this Agreement shall not be valid unless in writing and signed by a duly authorized representative of each Party.
- 11.2 Waiver by either Party of any breach of the terms and conditions of this Agreement to be performed by the other Party shall not be construed as waiver of any other breach of the same or any other terms or conditions.

12. VARIATION

- 12.1 The Channel Partner agrees that NDES reserves the right, at its sole discretion, to vary any and/or all of the terms of this Agreement which includes but not limited to Transaction Fees, Base Rates and service charge at any time by providing fourteen (14) days prior written notice.

13. TERM

13.1 This Agreement shall be effective as of the Effective Date and shall remain in force for a period of one (1) year (the “Initial Term”). The Initial Term shall automatically renew and extend for successive twelve (12) month terms (each a “Renewal Term” and, all such Renewal Terms together with the Initial Term, the “Term”), commencing at the conclusion of the Initial Term or any Renewal Term, unless either Party gives the other written notice at least thirty (30) days prior to the conclusion of the Initial Term or the then current Renewal Term, as the case may be, that this Agreement shall not so renew.

14. TERMINATION

14.1 Except as otherwise provided hereunder, this Agreement may be terminated by either Party at any time in the event of a material breach by the other Party that remains uncured after fourteen (14) calendar days prior written notice thereof.

14.2 This Agreement may be terminated by either Party effective immediately and without any requirement of notice, in the event that:

- (i) the other Party files a petition in bankruptcy, a petition seeking any reorganization, arrangement, composition, or similar relief under any law regarding insolvency or relief for debtors, or makes an assignment for the benefit of creditors;
- (ii) a receiver, trustee, or similar officer is appointed for the business or property of such Party;
- (iii) any involuntary petition or proceeding under bankruptcy or insolvency laws is instituted against such Party and not stayed, enjoined, or discharged within sixty (60) days;
- (iv) the other Party adopts a resolution for discontinuance of its business or for dissolution; or
- (v) the other Party damages or potentially damages in a material way the Party’s reputation.

14.3 Either Party may terminate this Agreement without cause by giving the other party ninety (90) days written notice.

14.4 Upon any termination or expiration of this Agreement, with or without cause:

- (i) each Party shall immediately discontinue any use of the name, logotype, trademarks, trade names, service marks, service names or slogans and other marks of the other Party and/or its products and services;
- (ii) both Parties shall immediately discontinue all representations or statements from which it might be inferred that any relationship exists between the two Parties under the terms of this Agreement;

- (iii) each Party shall cease to promote, solicit, or procure orders for the other Party's products or services; and
- (iv) the Channel Partner shall cease to accrue and receive Overriding Commission after the termination date.

15. RELATIONSHIP OF THE PARTIES

- 15.1 The Parties are independent contractors and will have no power of authority to assume or create any obligation or responsibility on behalf of each other. This Agreement will not be construed to create or imply any partnership, agency or joint venture.

16. TAXES

- 16.1 Save as otherwise set out herein, each Party shall be liable for all taxes, duties, levies or tariffs or charges of any kind imposed by any federal, state or local governmental entity with respect to the net income recognized by such Party in connection with this Agreement, except as otherwise specified in this Agreement.
- 16.2 The Channel Partner agrees to be liable for any withholding tax ("WHT") which may be imposed by any federal, state or local governmental entity and shall permit NDES to withhold the necessary sums for WHT compliance should the need arise.

17. GOVERNING LAW

- 17.1 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 non-exclusive jurisdiction of the Court of Malaysia.

18. ASSIGNMENT

- 18.1 This Agreement binds and is for the benefit of the successors and permitted assigns of each Party. Neither Party may assign this Agreement or any rights under it, in whole or in part, without the other Party's prior written consent for which any such consent shall not be unreasonably withheld and/or delayed. Any attempt to assign this Agreement other than as permitted above will be null and void.

19. FORCE MAJEURE

- 19.1 Neither Party hereto shall be responsible for any failure to perform its obligations under this Agreement if such failure is caused by acts of God, war, strikes, revolutions, lack or failure of transportation facilities, laws or governmental regulations or other causes that are beyond the reasonable control of such Party. Obligations hereunder, however, shall in no event be excused but shall be suspended only until the cessation of any cause of such failure.

20. ENTIRE AGREEMENT

20.1 This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes any prior oral or written agreements. Each Party acknowledges and agrees that the other has not made any representations, warranties or agreements of any kind, except as expressly set forth herein.

21. SEVERABILITY

21.1 If any provision of this Agreement shall be held illegal or unenforceable, that provision shall be limited or eliminated to the minimum extent necessary so that this Agreement shall otherwise remain in full force and effect and enforceable.

22. ANTI-MONEY LAUNDERING

22.1 The operations of each Party and its affiliates are, have been conducted in accordance with applicable AML Laws and no action, suit or proceeding by or before any court or Authority and no regulatory investigation involving each Party and/or any of its affiliates with respect to the AML actions is pending or threatened or will hereinafter be instituted or commenced by any Authorities in or outside of Malaysia against each Party or any of its affiliates.

23. ETHICS AND ANTI-BRIBERY

23.1 Neither Party, nor any of its affiliates, directors, officers, agents, employees or other persons acting on behalf of it, is aware of, or has taken any action, directly or indirectly, that would result in, or is at any time prior to or after the date hereof, being subject to any internal and/or regulatory investigation in relation to any anti-bribery Laws. Each Party and its affiliates warrant that it has, at all times, conducted their businesses in compliance with the relevant anti-bribery Laws and have instituted, maintained and at all times complied with their policies and procedures designed to ensure continued compliance with such anti-bribery Laws.

23.2 The Channel Partner further acknowledges that they have read and agrees to comply with NDES's Anti-Corruption Policy.

24. SURVIVAL

24.1 The provisions of this Agreement relating to Confidential Information, Governing Law and any other provisions that expressly provide for survival, shall survive any termination or expiration of this Agreement.

25. NOTICES

- 25.1 Any legal notices required hereunder shall be given in writing at the addresses set forth below and shall be deemed to have been delivered and given for all purposes: (i) on the delivery date, if delivered personally to the Party to whom the same is directed; (ii) one (1) business day after deposit with a commercial overnight carrier, with written verification of receipt

To NDES:

NTT DATA eCommerce Solutions
(formerly known as iPay88 (M) Sdn Bhd)
Suite 2B-20-1, 20th Floor
Block 2B, Plaza Sentral
Jalan Stesen Sentral 5
50470 Kuala Lumpur.

To Channel Partner:

Weitzen Sdn. Bhd.
1-13A-3A, PLAZA BUKIT JALIL (AURORA SOVO),
PERSIARAN JALIL 1,
BANDAR BUKIT JALIL,
KUALA LUMPUR
WILAYAH PERSEKUTUAN

Attn:

Attn:

- 25.2 Any notice or communication or demand or service of legal process given under this Agreement shall be deemed to have been received:
- (a) if by personal delivery, at the time of delivery;
 - (b) if by ordinary post, three (3) business days after posting; and
 - (c) if by facsimile transmission, on the day of transmission if a transmission report states that it was sent in full and without error.

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IN WITNESS WHEREOF the Parties hereto have caused this Agreement to be signed in their respective names as of the day and year first above written.

For and on behalf of
**NTT DATA ECOMMERCE
SOLUTIONS SDN. BHD.**
(formerly known as iPay88 (M) Sdn Bhd)

For and on behalf of

Name: Yuichiro Sato
Designation: CEO
Date:

Name: DEA YIK HWA
Designation: Managing Director
Date:

In the presence of

In the presence of

Name: Vendy Lee
Designation: Head of Sales

Name:
Designation:

Annexure 1

Transaction Fee

i. Online Payment Method

Payment Methods (Online)	Type of Subscription Plan			
	SOHO Plan	SME Plan	Enterprise Plan	Corporate Plan
	Transaction Fee (per transaction)			
1. Credit Card (Visa/MasterCard)	NIL	2.4%	2.0%	1.6%-1.7%
2. Debit Card (Visa/MasterCard)	NIL	2.4%	2.0%	1.6%-1.7%
3. UnionPay (Credit/ Debit Card)	NIL	2.4%	2.0%	1.6%-1.7%
4. Online Banking – FPX	2.4%. or 60 sen whichever higher	2.4%. or 60 sen whichever higher	2.0% or 60 sen whichever higher	1.60%-1.7% or 60 sen whichever higher
5. Online Banking – FPX – Fixed rate	NIL	NIL	NIL	RM 1.30-RM 1.50
6. eWallets (Boost, Grabpay, Touch N Go, ShopeePay, Mcash,duitnowQR)	1.5%	1.5%	1.4%-1.5%	1.4%-1.5%
7. eWallet (MAE)	1.0%	1.0%	1.0%	1.0%

Diagram 1.1

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Note:

- 1. NDES fees are exclusive of all taxes.*
- 2. The fee structure attached to the NDES application form shall be prepared by NDES.*

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Annexure 2

Overriding Commission

Diagram 2.1

i. Online Payment Methods

Payment Methods (Online)	Type of Subscription Plan			
	SOHO Plan	SME Plan	Enterprise Plan	Corporate Plan
	Base Rate (per transaction)			
Credit Card (Visa/MasterCard)	NIL	2.2%	1.8%	1.5%
Debit Card (Visa/MasterCard)	NIL	2.2%	1.8%	1.5%
UnionPay (Credit/ Debit Card)	NIL	2.2%	1.8%	1.5%
Online Banking – FPX	NIL	2.2% or 60 sen whichever higher	1.8% or 60 sen whichever higher	1.5% or 60 sen whichever higher
Online Banking – FPX – Fixed rate	NIL	NIL	NIL	RM 1.20
eWallet	1.3%	1.3%	1.3%	1.3%
eWallet (MAE)	1.0%	1.0%	1.0%	1.0%

Note:

1. *The Channel Partner is allowed to offer the Transaction Fee for each referred Merchant according to rates in Diagram 1.1, Diagram 1.2 & Diagram 1.3 and earn the Overriding Commission based on the rates in Diagram 2.2, Diagram 2.3 and Diagram 2.4 respectively.*
2. *The Overriding Commission entitled by the Channel Partner is the differential sum of the Transaction Fee charged to the referred Merchant minus the Base Rate. For example, if the Transaction Fee is executed at 1.50% and the Base Rate is at 0.80%, the Channel Partner will be entitled to 0.70% Overriding Commission (as computed by 1.50% - 0.80%).*

3. *Where the Overriding Commission is fixed, the same entitled by the Channel Partner shall be as stated in the respective diagrams.*
4. *For the avoidance of doubt, the commissions for One Time Setup Costs, Yearly Maintenance Fee depicted within Diagram 2.1 & 2.4 are only applicable upon payment clearance by the Merchant.*

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