

## **Terms and Conditions**

The terms and conditions ('T&C') set out herein below govern the use of Funmaii Pay App by MIG O2O BERHAD ("our", "us", "we" and "Funmaii") services offered and available ("the Services") on the website [www.Funmaii.com](http://www.Funmaii.com), all related sub-site (the "Site") and our mobile application, Funmaii Pay App (the "App").

These terms and conditions ("Agreement") shall include any other additional conditions and the privacy policy posted on the App, Site or via the Services which are incorporated into this Agreement by reference. Funmaii shall reserve the rights to amend the terms and conditions from time to time whereby the End User will be notified of any amendments via announcement on the App and/or Site and/or Social Channels (i.e. Facebook, Instagram and etc).

If the End User continue to use the App, Site and/or other services provided by Funmaii after the date on which any amendments come into effect, the End User shall be deemed to have consented to be bound by the amended terms and conditions. In the event the End User does not agree to the amendments, the End User shall discontinue to use the App, Site and/or the Services.

### **1. The End User**

- 1.1 The End User must be either an Individual or Corporate Entity as defined herein below, and includes any person using, browsing and/or viewing the App.
- 1.2 'Individual' means individuals who are capable to enter into a legally binding agreement with Funmaii under Malaysian law. 'Individual' who are below 18 years old of age are not allowed to access the App and Site and to use the Services provided by Funmaii.
- 1.3 'Corporate Entity' means any company or business entity which is capable to enter into a legally binding agreement with Funmaii or any person using the Services on behalf of such corporate entity. Such any person shall deemed to have acquired the authority to bind the corporate entity to the terms and conditions set out in the Agreement.
- 1.4 By accessing or using the App, the Site or Services, the End User is accepting this Agreement and it represents and warrants to Funmaii that it has the right, authority and capacity to enter into this Agreement.

### **2. Account**

- 2.1 In order to use certain features and functions of the App, the End User must register for and maintain an account with Funmaii ("Account") and provide certain personal information to Funmaii for such registration. The End User may delete or close its Account at any time, for any reason, by following the instruction provided in the App.
- 2.2 Funmaii may, in its sole discretion and without the requirement to provide any reason, reject an application by the End User to create an Account or terminate the End User's Account. Furthermore, Funmaii reserves its right to block the End User's access to the

App and Services if Funmai has reasonable ground to suspect that the End User has committed fraud or misconduct or has breached any provision of this Agreement.

- 2.3 The End User is responsible for maintaining the confidentiality and security of its Account login and password information and is fully responsible for all activities conducted or occurred under its Account. The End User shall immediately notify Funmai of any unauthorised use, or suspected unauthorised use of its Account or any other breach of security. Funmai shall not be held liable for any loss or damage arising from your failure to comply with the above requirements.

### **3. Duties and Obligations of the End User**

- 3.1 The End User is personally responsible for its use of the App, Site and/or Services.
- 3.2 The End User uses the App, Site and/or the Services at his/her own risk.
- 3.3 The End User shall not misuse the App by creating multiple accounts.
- 3.4 The End User shall use the Services in accordance with the terms and conditions of this Agreement and any law at the time being in force in Malaysia including, but not limited to, the Malaysian Communications and Multimedia Act 1998 and the Malaysian Communications and Multimedia Content Code ("the Act").
- 3.5 The End User shall not provide and/or cause to be provided information which:-
- (a) is false, inaccurate or misleading;
  - (b) 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;
  - (c) violates or breaches any law;
  - (d) is defamatory;
  - (e) contains pornographic or obscene materials.
  - (f) 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;
  - (g) creates liability for Funmai or causes Funmai to lose, in whole or in part, the services of its Internet Service Providers or other suppliers;
  - (h) introduces, spreads or is intended to introduce and/or spread contents or propaganda of religious, cultural or racist nature; or
  - (i) any other prohibited content as provided under the Act.
- 3.6 "Information" referred to hereinabove shall also covers any information provided by the End User to Funmai or to other End Users in any public message area (such as community forums, photo area and feedback area).
- 3.7 The End User is solely responsible for the accuracy of the said Information.

### **4. Credits' Purchase and Top up**

- 4.1 The End User may purchase Goods from Funmai's stores or vending machines using the credits in the App. The purchase of goods by the End User using the credits in the App shall be subjected to the terms and conditions herein.
- 4.2 The End User may purchase and top up the credits by making payment to Funmai through the payment options provided in Section 4.4 below. The amount of credits purchased will be reflected in the End User's Account.
- 4.3 The App is using third party service provider as payment gateway. After payment has been made, a confirmation of purchase and payment will be sent to the End User's email automatically. The details of the purchase will be provided in the App.

#### 4.4 Payment options:

##### Credit Card

- (a) Funmai accepts all Visa and MasterCard, both Credit and Debit, and is 3D Secure (Verified by Visa, and MasterCard Secure) enabled. All your credit card information are protected by means of industry- leading encryption standards.
- (b) Please take note that additional charges may be incurred if you are using a non-Malaysian issues card due to Foreign Exchange.

##### Debit Card

- (c) Funmai accepts all Malaysian Visa and MasterCard debit cards where subject to bank availability. All debit card numbers shall be protected by means of industry-leading encryption standards.

##### Online Banking

- (d) Funmai accepts online bank transfers from AmBank, Bank Islam, CIMB Bank, Hong Leong, Maybank, Public Bank, RHB.

## **5. Purchase of Goods at the Point of Sale**

### 5.1 Funmai Stores

After the End User selects their desired goods at any Funmai store, the End User may proceed to make payment at the self- checkout kiosk. The End User is required to scan the bar code of the selected goods using the bar code scanner provided at the checkout kiosk. The details of the goods will be reflected on the screen of the checkout machine and after all selected goods are scanned, the End User may proceed with payment using the App. The End User may opt to scan the QR/bar code generated by the checkout machine or through "wave to pay", use the bar code scanner to scan the QR/bar code generated by the App. The End User is required to enter the correct payment passcode for payment. A successful payment notification will be shown on the App after the correct payment passcode is entered, the purchase transaction is then deemed completed.

### 5.2 Vending Machines

After selecting the desired goods from any Funmaii vending machines, the End User may then make payment with the App. The End User is required to scan the QR/bar code generated by the vending machine and then enter the payment passcode in the App for payment. A successful payment notification will be shown on the App after the correct payment passcode is entered, the purchase transaction is then deemed completed.

### 5.3 Insufficient credits

The payment will be rejected if the End User has insufficient credit in its Account. The End User may top up the credits pursuant to Section 4 hereof.

### 5.4 Receipts

A digital receipt will be generated by the App after a purchase transaction is completed. If the purchase is made at the self-checkout kiosk in any Funmaii Store, a physical receipt will be printed out from the checkout machine.

### 5.5 Order status and purchase history

The End User may check its order status using the App's feature, "view order" and check its purchase history using the App's feature, "transaction record".

## 6. Warranty and the Replacement of Faulty or Defective Goods

6.1 Subject as expressly provided in this Terms and Conditions, other terms including those implied by statute or common law, are excluded to the fullest extent permitted by law.

6.2 Subject to this Section 6, Funmaii warrants that the goods will correspond with their specification at the point of sale, and agrees to remedy any non-conformity therein for a period of 7 days or a specific warranty period expressly provided for a particular product commencing from the date on which the Goods are delivered or deemed to be delivered ("Warranty Period"). Where the End User is dealing as a consumer (within the meaning of the Sale of Goods Act and the Consumer Protection Act), Funmaii further gives to the End User such implied warranties as cannot be excluded by law.

6.3 The warranty concerning the goods sold by Funmaii is given subject to the following conditions:

- (a) No condition is made or to be implied nor is any warranty given or to be implied as to the life or wear of the goods supplied or that they will be suitable for any particular purpose or use under any specific conditions, notwithstanding that such purpose or conditions may be known or made known to Funmaii.
- (b) Any description given of the goods is given by way of identification only and the use of such description shall not constitute a sale by description.
- (c) Funmaii binds itself only to supply goods in accordance with the general description under which they were sold, whether or not any special or particular description shall have been given or shall be implied by law. Any such special or particular description shall be taken only as the expression of Funmaii's opinion in that behalf. Funmaii does not give any warranty as to the quality state condition or fitness of the goods.

- (d) Funmaii shall be under no liability for the following measures and actions taken by the End User or third parties and the consequences thereof: improper remedy of de-fects, alteration of the goods without the prior agreement of Funmaii, addition and insertion of parts, in particular of spare parts which do not come from Funmaii.
- (e) Funmaii shall be under no liability in respect of any defect arising from unsuitable or improper use, defective installation or commissioning by the End User or third parties, fair wear and tear, wilful damage, negligence, abnormal working conditions, defective or negligent handling, improper maintenance, excessive load, unsuitable operating materials and replacement materials, poor work, unsuitable foundation, chemical, electro-technical/electronic or electric influences, failure to follow Funmaii's instructions (whether oral or in writing) misuse or alteration or repair of the Goods without Funmaii's approval.
- (f) Funmaii is not liable for any loss damage or liability of any kind suffered by any third party directly or indirectly caused by repairs or remedial work carried out without Funmaii's prior written approval and the End User shall indemnify Funmaii against each loss liability and cost arising out of such claims.
- (g) Funmaii shall be under no liability whatsoever in respect of any defect in the Goods arising after the expiry of the Warranty Period.

6.4 Any claim by the End User which is based on any defect in the quality or condition of the goods or their failure to correspond with specification shall be notified to Funmaii within the Warranty Period. During use, the goods shall be monitored constantly with regard to safety and defects. If there are even slight reservations concerning the suitability for use or the slightest reservations concerning safety, the goods must not be used. Funmaii shall be given written notification immediately, specifying the reservations or the defect. However in no event shall the Buyer be entitled to reject the goods on the basis of any defect or failure, except where the failure is such that the goods sold are of a fundamentally different nature than those which Funmaii had contracted to deliver.

6.5 If the End User does not give due notification to Funmaii in accordance with Section 6.4 above, Funmaii shall have no liability for any defect or failure or for any consequences resulting therefrom. Where any valid claim in respect of any of the goods which is based on any defect in the quality or condition of the goods or their failure to meet a specification is notified to Funmaii in accordance with Section 6.4, the non-conforming goods (or part thereof) will be replaced free of charge with the same kind of goods. Where the goods have not been replaced within seven (7) days, the End User shall be entitled to a full refund of the credits paid for such defective goods. Upon a replacement or refund as aforesaid, the End User shall have no further claim against Funmaii.

6.6 When Funmaii has provided replacement goods or given the End User a refund, the non-conforming goods or parts thereof shall become Funmaii's property.

## **7. Refund**

7.1 The End User may request for a refund of credits into its Account if

- (a) the replacement of goods pursuant to Section 6 above is unavailable (the refund will be completed within 7 days from the request made); or

- (b) the End User did not receive its goods after the payment has been made due to the faulty of the vending machines (the refund will be completed within 48 hours from the request made via App, if End User used Visa/Master cards, the process will take up to 7 days).
- 7.2 The End User may request for a refund of the credits' purchase prices into its designated bank account by submitting the refund form in the App. The refund will be completed within 14 days from the submission of the refund form provided that the particulars submitted by the End User are correct and accurate.

## **8. Intellectual Property**

### **Copyright**

- 8.1 All content, organization, layouts, texts, documents, databases, graphics, designs, compilations, photographs, pictures, drawings, videos, sound recordings and other materials on or related to the App and the Site ("Content") are works protected under the Malaysian Copyright Act 1987.
- 8.2 Subject to the exceptions stated in this Agreement, the End User is strictly prohibited from carrying out any of the following acts without the prior written consent of Funmail:-
- (a) modifying, copying, distributing, transmitting, displaying, performing, reproducing, publishing, licensing, transferring, downloading, posting, creating derivative works from, framing and using on any other website, the Content; and
  - (b) transferring and / or selling any information, software, End User list, database or other lists, compilations, products or services provided through or obtained from Funmail or from the App and/or the Site including but not limited to, the texts, graphics, logos, photos, audio files and visual files.
- 8.3 No part of the Content may be reproduced in any form or incorporated into any information retrieval system, electronic or mechanical, for republication, distribution, assignment, sublicense, sale, and preparation of derivative works or other use other than for the End User's personal use only. The End User further agrees that it shall not infringe Funmail's copyright by any method or manner now known or as may exist in the future.
- 8.4 Funmail takes a serious view on intellectual property right infringements and will not hesitate to take action including commencing legal proceedings against any person for such infringement. Funmail aggressively enforces its intellectual property rights to the fullest extent of the law.

### **Domain Name**

- 8.5 The domain name on which the Site is hosted on is the sole property of Funmail and you may not use or otherwise adopt a similar name for your own use.

## **Trademark**

- 8.6 The App, the Site and their logos are trademarks or registered trademarks of Funmail.
- 8.7 Names, marks and logos of all other products, services and companies mentioned on the App may be the trademarks of their respective owners.

## **Content Use Conditions**

- 8.8 All information, materials, functions and other content on the App including any sounds, music, text, graphics, data, stills, photographs, and moving images are copyrighted property of Funmail. The End User may not reproduce, modify, adapt, translate, publish, display, communicate, transmit, broadcast, podcast, webcast, distribute, sell, trade or exploit for any commercial or other purposes, any portion of, or any access to the Services or App.
- 8.9 Prejudice to the above, the End User agrees not to reproduce, display or otherwise provide access to the Services or Content on another website or server, for example through framing, mirroring, linking, spidering, scraping or any other technological means (including any technology available in the future), without the prior written permission of Funmail.
- 8.10 You may not decompile, reverse engineer or otherwise attempt to discover the source code of any Content available on the App or the Site except under the specific circumstances expressly permitted by law or Funmail in writing.

## **9. Online Conduct of the End User**

The End User undertakes:

- a) to comply with all the terms and conditions of this Agreement, and such other notices or guidelines that may be published in the App and/or on the Site by Funmail from time to time (which are hereby incorporated by reference into this Agreement);
- b) not to use the Services or any Content for any unlawful purpose, and to comply with all applicable laws and regulations, including without limitation, copyright law; and
- c) not to hack into, interfere with, disrupt, disable, over-burden or otherwise impair the proper working of the App or the Services, which shall include but is not limited to denial-of-service attacks, spoof attacks, session hacking, sniffing, tampering, reverse engineering or reprogramming.

## **10. Privacy & Confidentiality**

Password

- 10.1 Funmail collects information of the End User ('End User Information') during the registration process, where the End User is required to create a password before

creating the Account on the App. The End User will only be able to log in and access the App by keying in the designated password.

- 10.2 All the End User's activities are logged. When the End User requests pages from Funmai's servers, it automatically collects information about the End User's preferences, including the End User's Internet Protocol address.
- 10.3 Funmai uses the End User Information to help diagnose problems with its servers and to administer the App. When necessary, Funmai may provide End User Information as provided by the End User to the relevant enforcement authorities to assist in any investigation and/or in compliance with any law or regulation. Funmai uses cookies so that the End User does not have to enter his or her login information each time they visit the App or the Site. Save as aforesaid, the End User Information shall not be disclosed or released by Funmai to any third party except with the consent of the End User. If the End User is an individual, information regarding the handling of the End User's personal information by Funmai is set out in our Privacy Policy.

#### Cookies

- 10.4 The Site uses cookies. You must have cookies enabled on your computer in order for all functionality on this site to work properly. This is the default setting for both Internet Explorer and Mozilla browsers. Please refer to your browser's Help for more information about enabling cookies.
- 10.5 A cookie is a small data file that is written to your hard drive when you visit certain Web sites. Cookie files contain certain information, such as a random number End User ID that the App assigns to a visitor to track the pages visited. The only information a cookie can contain is information you supply yourself. A cookie cannot read data off your hard disk or read cookie files created by other sites.
- 10.6 Cookies allow you to use more sophisticated interactive programs. Cookies, by themselves, cannot be used to find out the identity of any End User. Only information provided voluntarily is stored, but this information is not personally identifiable.

#### Contacts of the End User

- 10.7 The End User is required to provide its valid phone number, email and mailing address to Funmai in order to use the services in the App or on the Site.
- 10.8 The End User's contacts are protected by the PDPA notice and will not be disclose to any third party except under the special circumstances expressed in the PDPA notice.

## **11. Termination and Suspension**

- 11.1 Funmai reserves its right to immediately suspend or terminate its service to the End User without warning and/or notice if the End User violates any terms and conditions in this Agreement.
- 11.2 The End User may cease to use the Services provided by Funmai and elect to close its Account pursuant to Section 2.1 hereof.

- 11.3 In the event the End User's Account is closed or terminated by any provision under this Agreement, Funmaii shall refund any credit balance that remains in the Account to the End User within 14 days from the receipt of the End User's request for refund via email. The End User shall specify its designated bank account's details in such email to allow Funmaii to transfer the balance into such bank account. .

## **12. Dispute Resolution**

The End User may contact Funmaii directly if any dispute arises. Any controversy, claim or dispute arising out of or relating to these Terms and Conditions will be settled through friendly negotiation. If such claim or dispute could not be resolved through friendly negotiation, it shall be referred to and finally settled by private and confidential binding arbitration before a single arbitrator at the Kuala Lumpur Regional Centre for Arbitration (KLRC) in English language and in accordance with the rules of KLRC. The arbitrator shall be a person who is legally trained and who has experience in the information technology field in Malaysia and is independent of either party. Notwithstanding the foregoing, Funmaii reserves the right to pursue the protection of intellectual property rights and confidential information through injunctive or other equitable relief through the courts.

## **13. Disclaimer**

- 13.1 Funmaii does not guarantee continuous, uninterrupted or secure access to the Services, and operation of the App and the Site may be disrupted due to numerous factors outside Funmaii's control and Funmaii shall not be liable for any loss, liability or damage which the End User may incur as a result.
- 13.2 The App, Site and the Services are provided on an "as is" and "as and when" basis, without any warranty of any kind whether express or implied including but not limited to warranties of merchantability, fitness for purpose, title or non-infringement. To the extent permissible by law Funmaii excludes all implied warranties, conditions or other terms, whether implied by statute or otherwise, including without limitation any terms as to skill and care or timeliness of performance.
- 13.3 The End User agrees that all statements, offers, information, opinions, materials, and contents from other End Users and third parties on the App should be used, accepted and relied upon only with care and discretion and at the End User's own risk, and Funmaii shall not be responsible for any loss, damage or liability suffered by the End User arising from such use or reliance.

## **14. Links to Third Party Websites**

- 14.1 The App may contain links and/or references to other websites ('Third Party Websites').
- 14.2 Funmaii shall not be responsible for the contents, accuracy and/or opinions expressed in Third Party Websites.
- 14.3 Third Party Websites are not investigated, monitored or checked for accuracy or completeness by Funmaii.

- 14.4 Inclusion of and/or reference to any links or internet addresses on the App does not imply approval or endorsement of those sites by Funmaii.
- 14.5 In the event the End User decides to leave the App or Site and access Third Party Websites, the End User does so at his or her own risk.

## **15. Third Party's Terms**

The End User acknowledges and agrees that in addition to the Agreement, its use of the App and the Services is subject to the usage rules set forth in Apple's App Store terms of service or the Google Play's terms of service depending on which platform the App is downloaded from. If the App is downloaded from any other third party platform, the End User should be bound by the relevant developer or distributor end- user license agreement and/or terms and conditions respectively.

## **16. Exclusion of Liabilities**

- 16.1 To the full extent allowed by applicable law, in no event shall Funmaii, its parent company, subsidiaries, associated companies, directors, officers, employees, servants, suppliers, agents or assigns, be liable under any circumstances for:
- (a) any punitive, incidental, indirect or consequential damages and/or losses related to this agreement including economic losses (including, without limitation, loss of revenues, profits, contracts, business or anticipated savings);
  - (b) any loss of goodwill or reputation;
  - (c) any special, indirect or consequential damage arising out of or in connection with this Agreement, including but not limited to actions for breach of contract, actions under the tort of negligence, defamation, copyright infringement, trade mark infringement, passing-off, infringement of registered industrial designs , patent infringement, breach of confidence;
  - (d) any liability at common law; or
  - (e) in any other way.
- 16.2 Subject to the limitation stated above, nothing in this Agreement shall be deemed to limit or exclude Funmaii's liability for fraudulent misrepresentation, or for death or personal injury resulting from Funmaii's negligence or the negligence of FUNMAII's servants, agents or employees. For avoidance of doubt, Funmaii is not liable and shall not be liable for the acts or omissions of other providers of telecommunications services or for faults in or failure of their networks and equipment.

## **17. Indemnity**

The End User agree to indemnify, defend, hold harmless Funmaii, its directors, officers, employees, consultants, agents, and affiliates, including costs and attorneys' fees (on a solicitor- client basis), from and against any and all claims, liabilities, actions, lawsuits, damages, obligations, complaints, demands, allegations, losses, costs or debt and expenses (including, but not limited to, legal fees on a solicitor- client basis) made by any third party due to or arising out of or in connection with, actual or alleged, the End User's use of the App.

## **18. Release**

In the event that one End User has a dispute, claim and/or action against one or more other End Users, the End User hereby agrees to release Funmaii, its parent company, subsidiaries, associated companies, directors, officers, employees, servants, suppliers, agents or assigns to the full extent allowed by the applicable law from all claims, demands, expenses, costs and damages (actual and consequential) of every kind and nature, known and unknown, suspected and unsuspected, disclosed and undisclosed (including legal fees) arising out of or in any way connected with such disputes.

## **19. Governing Laws**

This Agreement shall be governed by and construed in accordance with the laws of Malaysia, and shall be subject to the exclusive jurisdiction of Malaysian courts.

## **20. General Provisions**

- 20.1 Any person who is not a party to this Agreement does not have any right to enforce any of the terms and conditions contained herein.
- 20.2 If any provision of this Agreement is held to be invalid or unenforceable, such provision shall be struck out and the remaining provisions shall be enforced.
- 20.3 The End User agrees that this Agreement and all incorporated agreements may be automatically assigned by Funmaii, in its sole discretion, to a third party in the event of a merger or acquisition.
- 20.4 The End User and Funmaii are independent contractors, and no agency, partnership, joint venture, employee-employer or franchisor-franchisee relationship is intended or created by this Agreement.
- 20.5 Failure of Funmaii to act with respect to a breach by the End User or others shall not constitute a waiver of its right to act with respect to subsequent or similar breaches.
- 20.6 Headings and captions of this Agreement are included for ease of reference only and in no way define, limit, construe or describe the scope or extent of any provisions in this Agreement.
- 20.7 Words importing one gender shall include any other gender unless stated otherwise.
- 20.8 Words in the singular number shall include the plural and words in the plural number include the singular unless otherwise stated.