**M-PAiSA MERCHANT QR CODE PAYMENT SERVICES AGREEMENT**

**BACKGROUND**

This M-PAiSA Merchant QR Code Payment Services Agreement defines the terms and conditions under which **Digital Financial Services Pte Limited** (“**DFS**”) will provide **M-PAiSA Merchant Services**, via the delivery channels stated, to the Merchant, whose identity is defined below.

**KEY TERMS**

# The Parties

|  |  |  |
| --- | --- | --- |
|  | **DFS** | **Merchant** |
| **Name** | **Digital Financial Services Pte Limited** |  |
| **Address for Notices**  **Email** | 168 Princes Road, Tamavua, Suva, Fiji  [info.mpaisa@vodafone.com.fj](mailto:info.mpaisa@vodafone.com.fj) |  |

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| --- | --- |
| **M-PAiSA Delivery Channel(s)** | M-PAiSA Merchant QR Code Payment |
| **Effective Date** | Means the later of the date of signing of this Agreement by either party |
| **Initial Term** | 3 (Three) Years |
| **Service Fees** | $0.26 or 5% of the value of the M-PAiSA transaction, whichever is lower  Subject to clauses 3.3 and 7.7. |
| **IMPORTANT:**   * This Agreement is made up of the Key Terms, General Terms & Conditions and any schedule or annexure. All capitalised terms in this Agreement have the meaning set out next to the relevant term in the Key Terms or General Terms & Conditions. * By signing this Agreement, the Merchant acknowledges having carefully read and understood, and agrees to be bound by, the terms of this Agreement.   By signing this Agreement, the signatory(s) warrant that they have full requisite authority to sign on behalf of the relevant Merchant entity. | |

**GENERAL TERMS & CONDITIONS**

### 1. DEFINITIONS AND INTERPRETATIONS

(1) Definitions

|  |  |
| --- | --- |
| **Agreement** | means this M-PAiSA Merchant QR Code Payment Services Agreement which consists of the Key Terms, the General Terms & Conditions and any schedule(s) or annexure(s) to those documents |
| **Business day** | means a day other than Saturday or Sunday or a gazetted public holiday |
| **Confidential Information** | shall mean all information conveyed by one party (“***Disclosing Party****”*) to another party (“***Recipient****”*) which is identified by the Disclosing Party as confidential or which, because of the nature of the information or the circumstances of its disclosure, would reasonably be considered to be confidential by the Disclosing Party, including:  (a) information relating to competitive and financial information concerning the Disclosing Party and its business;    but does not include any information which:  (b) at the time of the first disclosure to or observation by the Recipient, was already in the law­ful possession of the Recipient;  (c) becomes available to the Recipient from a third person legally entitled to possess the information and provide it to the Recipient; or  (d) is in, or comes into the public domain otherwise than by disclosure in breach of this Agreement. Confidential information will not be regarded as being in the public domain by reason only of the fact that some portion of the confidential information is public |
| **DFS** | means Digital Financial Services Pte Limited |
| **DFS Intellectual Property** | means all intellectual property which is owned by DFS or which DFS is entitled to use, which relates to or is used in connection with M-PAiSA Merchant Services, including the M-PAiSA Marks and any patents, trademarks, copyright (including copyright in any material which contains information concerning subscribers), designs, business names or trade secrets wherever subsisting in the world |
| **E Value** | means the electronic value recorded in a M-PAiSA Customer’s account, such electronic value representing the customer’s entitlement to the cash amounts held by DFS on trust for the customer |
| **Effective Date** | has the meaning to that term given in the Key Terms |
| **Extension Term** | has the meaning to that term given in clause 3.2 |
| **Force Majeure Event** | means war, whether declared or not, civil rebellion, strike, fire, storm or other severe action of the elements, unavoidable accident, health pandemic, government or statutory restriction or from any other similar causes which are unavoidable or beyond the reasonable control of a party |
| **M-PAiSA App** | refers to the mobile based app for use by M-PAiSA Customers |
| **M-PAiSA Customer** | means every person being a customer of the M-PAiSA Services |
| **M-PAiSA Delivery Channel** | refers to QR Code payment via M-PAiSA App |
| **M-PAiSA Marks** | means any trade-marks, other marks or names utilised by DFS in the distribution of M-PAiSA Services |
| **M-PAiSA Payments Gateway** | refers to the M-PAiSA payment service enabled on the Merchant App, website or social media following the specifications in the Schedule |
| **M-PAiSA, M-PAiSA Merchant QR Payment Services, M-PAiSA Services, M-PAiSA Merchant Services** and **M-PAiSA transactions** | refers to the “Smart Wallet” mobile based solution - the payment services enabled by DFS and accessible via the M-PAiSA Delivery Channel by M-PAiSA Customers |
| **Merchant** | is identified in the Key Terms |
| **Merchant App** | means the Merchant’s mobile based application through which it may offer Merchant Goods and Services for purchase |
| **Merchant Customers** | refers to individuals who are customers of the Merchant and registered as M-PAiSA Customers with DFS |
| **Merchant Goods and Services** | refers to the Merchant’s goods and or services made available for purchase by the Merchant Customers using the M-PAiSA Merchant QR Services |
| **Merchant Portal** | means the web-based DFS Merchant portal made accessible by DFS to the Merchant |
| **Merchant QR Code** | refers to the unique generated QR Code created by DFS to identify the Merchant for the purpose of the M-PAiSA Merchant QR Services |
| **Merchant Website** | the Merchant’s website(s) through which the Merchant may offer Merchant Goods and Services for purchase |
| **QR Code** | means “Quick Response Code” being a unique code that enables collection of electronic payments when used with a smartphone camera |
| **SMS** | means short message service |
| **System Specifications** | included in the Schedule |
| **Term** | has the meaning given to that term in clause 3.1 |
| **VAT** | means Value Added Tax under the Value Added Tax Act 1991 |

1. **Interpretation**

For the purposes of this Agreement**:**

1. All transactions to which references are made in this Agreement are M-PAiSA transactions.

(b) The singular includes the plural and vice versa.

# 2. M-PAiSA MERCHANT QR CODE PAYMENT SERVICES

## 2.1 Subject to the Merchant’s continued compliance with this Agreement, DFS will provide the M-PAiSA Merchant QR Payment Services in accordance with the terms of this Agreement via the M-PAiSA Delivery Channel.

## 2.2 The Merchant authorizes DFS to collect payments from Merchant Customers by M-PAiSA and to remit the same to Merchant on the terms of this Agreement.

2.3 DFS shall be entitled to describe itself as Merchant’s authorised agent for collection of payments by way of M-PAiSA.

2.4 The Parties shall not make any representations, warranties or guarantees with reference to the M-PAiSA Merchant QR Payment Services as made available to the Merchant except as authorized under this Agreement.

2.5 DFS may vary any provision in this Agreement, without prior consent from the Merchant, if such change is required as a direct result of new legislation, statutory instrument, M-PAiSA system changes, amendments to System Specifications, Government regulations or licenses, rates of exchange, changes within the industry, recommendations from regulator bodies or for such other reasons as it may in its sole discretion determine. DFS shall in such circumstances endeavour to give the Merchant notice of such changes as soon as reasonably practical.

2.6 The M-PAiSA Delivery Channel as available to the Merchant is at the discretion of DFS. DFS reserves the right to change or alter the M-PAiSA Delivery Channel if such a requirement arises for operational, regulatory, statutory or legal reasons, and in such instance shall notify the Merchant as soon as is reasonably practical.

2.7 The Merchant shall ensure that any relevant third party using its facilities with access to the M-PAiSA Merchant QR Services shall be bound by the terms of this Agreement.

# 3. TERM

* 1. This Agreement commences on the Effective Date and continues for the Initial Term unless terminated earlier in accordance with this Agreement or extended for an Extension Term (“**Term**”).
  2. Thereafter, this Agreement will automatically extend for subsequent periods of 12 (twelve) months (each an “**Extension Term**”) unless a party gives notice at least 2 (two) months prior to expiry of the then current term that it does not intend to further extend the Agreement at the expiry of which notice period the Term shall terminate.
  3. Each Extension Term will be subject to the same terms and conditions contained in this Agreement unless agreed to be modified except for the Service Fee applicable for each Extension Term which will be determined by Vodafone and advised to the Merchant.

**4. THE MERCHANT’S RESPONSIBILITIES**

* 1. The Merchant undertakes to DFS:

1. to honour payments from Merchant’s Customers received by way of M-PAiSA Merchant QR Payment Services;
2. to advise all its customers that payments due to the Merchant whether for Merchant Goods or Services or other forms of legitimate payments may be done by way of M-PAiSA provided however the payers must be registered as M-PAiSA Customers and such payments are in accordance with the conditions contained in this Agreement;
3. to exercise all reasonable care and skill in the performance of its obligations under this Agreement and to comply with all relevant laws and regulations in the conduct of its business;

### (d) to use its best endeavors to maintain the reputation and prestige of DFS, and the M-PAiSA Merchant QR Payment Services;

### (e) to employ such qualified staff as is necessary in order to assist its customers with M-PAiSA payments and to properly market and promote the utilization of M-PAiSA Merchant QR Payment Services;

(f) to notify DFS immediately of any malfunction or discrepancy in Merchant’s record keeping system;

(g) to execute any directions and authorities DFS requires (and reasonably possible for Merchant to so execute) to give effect to any of Merchant’s obligations under this Agreement provided however that Merchant shall not arbitrarily refuse to execute any such directions and authorities without providing reason;

(h) to not use any advertising or promotional material at any time relating to the M-PAiSA Merchant QR Payment Services except as authorised by DFS;

(i) to protect access to M-PAiSA Customers’ information on its networks or to the M-PAiSA Merchant QR Payment Services, by password and restrict use of the password to the Merchant’s staff authorised to use the password only;

(j) to be responsible for security of the data transmitted by DFS including the payment record files;

(k) to retain in the Merchant’s possession records relating to each M-PAiSA transaction for at least 7 (seven) years after the transaction or request for transaction as required by law;

(l) to display prominently, M-PAiSA logo and other “point of sale” signs and marketing collateral provided by DFS or stipulated from time to time on or about the Merchant’s trading premises, Merchant Website/social media page(s) or the Merchant App for advertising M-PAiSA Services as available modes of payment;

(m) to not reproduce, translate, modify, vary, edit, consolidate, adapt, decompile, reverse-engineer or attempt to derive the source code of, all or any part of the M-PAiSA Payments Gateway, or any other M-PAiSA intellectual property, or any other software or systems used to provide the M-PAiSA Merchant Services (or cause or permit any person to do so).

(n) to make available except for reasons beyond its control the M-PAiSA Merchant QR Payment Services as a means of payment for Merchant Customers during the entire duration of its operating hours, as applicable;

(o) to be responsible for the content, quality and delivery of the Merchant Goods and Services; and

(p) to not deny or refuse any M-PAiSA Customer the right to make payment via M-PAiSA if such payment option is chosen.

4.2 The Merchant must on DFS’s written request disclose to DFS (or to persons authorised by DFS) records kept by the Merchant to allow inspection and verification that the Merchant is complying with its obligations under this Agreement.

4.3 The Merchant must maintain all necessary registrations and approvals by all regulatory authorities required by law in the Republic of Fiji for conduct of its business.

4.4 In the absence of fraud on the part of DFS, the Merchant undertakes to indemnify DFS for any claim which may arise as a result of improper or unauthorised use of the M-PAiSA Services by the Merchant, its employees, agents or persons within its control. Such indemnity shall include but not be limited to losses due to discrepancies in M-PAiSA Customer’s E Value.

**5. M-PAiSA CUSTOMER REGISTRATION, SYSTEM SPECIFICATIONS AND**

**MERCHANT PORTAL**

**5.1 Customer Registration**

5.1.1 The Merchant acknowledges and agrees that the M-PAiSA Merchant QR Payment Services may be available to some of its customers being those who have successfully registered for M-PAiSA Services with DFS or DFS’s agents.

5.1.2 DFS reserves the right to decline an application by an individual for registration for M-PAiSA Services if it is not satisfied with proof of identification and age provided by said individual or unless he or she has acknowledged and displayed utmost comprehensiveness and understanding of the M-PAiSA conditions of use.

* 1. **System Specifications**
     1. M-PAiSA Merchant QR Payment Services shall be supplied by DFS in accordance with the System Specifications.

5.2.2 DFS may amend and replace the System Specifications from time to time and will inform the Merchant of such amendment prior to making any such amendments.

* 1. **Merchant Portal**
     1. DFS will grant the Merchant secure login to access the Merchant Portal, through which the Merchant will be able to view all M-PAiSA transactions, Service Fees deducted and remittances to the Merchant on real time basis.

**5.4 Transactions**

5.4.1 Currently there is no transaction limit on customer to business payments via M-PAiSA. However, there is a limit of $10,000 (Ten Thousand Dollars) on E-Value which may be stored in Customer’s M-PAiSA account. These limits may be revised at DFS’s discretion or the regulatory authority from time to time.

5.4.2 The Merchant shall not charge the Merchant Customers additional fees for M-PAiSA Services. In this regard, the amount transferred by the Merchant Customer shall be exactly equivalent to the price(s) of Merchant Goods and Services being sold to the Merchant Customer and for which payment is due by the Merchant Customer to the Merchant.

5.4.3 DFS shall generate and send a SMS to the Merchant Customer on the successful completion of a M-PAiSA transaction which shall be deemed to be confirmation of payment by the Merchant Customer from his or her E Value entitlement to the Merchant.

5.4.4 The Merchant must not impose a minimum transaction amount, in relation to the Merchant Customer’s use of the M-PAiSA Merchant QR Payment Services.

**5.5 Prevention of Money Laundering and the Financing of Terrorism**

5.5.1 The transfer of funds through the M-PAiSA Merchant QR Payment Services which is or which forms part of the proceeds of any crime or which is intended to facilitate, aid or finance the commission of any crime is expressly prohibited.

5.5.2 The Merchant must take all reasonable precautions to prevent unauthorized transactions and fraudulent activity in its utilization of the M-PAiSA Merchant QR Payment Services including but not limited to restricting the conduct of such transactions.

5.5.3 The Merchant must promptly report any suspicious activity relating to the use of the M-PAiSA Merchant QR Payment Services to DFS and the relevant regulatory authority.

5.5.4 The Merchant acknowledges that DFS may be obliged to monitor and report any suspicious activity by the Merchant and or the Merchant Customers to the relevant regulatory authority.

5.5.5 Notwithstanding anything to the contrary contained in this Agreement, DFS shall be entitled to forthwith terminate this Agreement in the event that DFS reasonably and in good faith determines that the Merchant has breached any of its obligations contained in this clause.

**6. M-PAiSA DELIVERY CHANNEL**

**6.1 QR Code Payments**

6.1.1 The Merchant shall display prominently, and securely, the Merchant QR Code at its check-out counters for convenient access by Merchant Customers.

6.1.2 The Merchant acknowledges that payment by QR Code and via M-PAiSA App will be available to those M-PAiSA Customers who have downloaded the M-PAiSA App, are utilising a smart phone with the M-PAiSA App and have internet access at the point of payment in order to process payment.

**6.2 General**

6.2.1 The Merchant must not interfere with the operation of the Merchant QR Code in any way including by altering or interfering or tampering with the Merchant QR Code or with any data or storage, processing or transmission of data.

6.2.2 The Merchant must ensure that it has suitable supplies of electricity, internet and other services required for it to use the M-PAiSA Merchant QR Payment Services.

**7. SERVICE FEES**

7.1 The service fee for supply of the M-PAiSA Merchant QR Payment Services will be as specified in the Key Terms or as otherwise varied and set by DFS under clauses 3.3 and/or 7.7 (“**Service Fees**”).

7.2 DFS shall remit to the Merchant the full amount of all Transactions net of the corresponding Services Fees which it is entitled to receive at 3.00pm on every Tuesday and Friday or the following Monday should Friday happen to be a public holiday into the bank account as notified by the Merchant in writing.

* 1. DFS may deduct and set-off from any moneys otherwise due to the Merchant (including MPAiSA transaction proceeds) from DFS any Service Fees due from the Merchant to DFS. This right of set-off is without prejudice to or in limitation of any other remedies of DFS.
  2. Reconciliation statement with details of Service Fees charged to the Merchant and deducted from transaction fees on a monthly basis will be relayed to the Merchant at the end of each calendar month.
  3. DFS may deduct and set-off from any moneys otherwise due to the Merchant from DFS any Service Fees due from the Merchant to DFS. This right of set-off is without prejudice to or in limitation of any other remedies of DFS.
  4. The Merchant acknowledges that M-PAiSA Services are exempt supplies under the Value Added Tax Act. Accordingly, the Merchant cannot claim any VAT incurred for payment of Service Fees under this Agreement as VAT input.

7.7 DFS reserves the right to adjust any fees, including the service fee, under this Agreement. Any such variation will be communicated to the Merchant in writing at least 30 (thirty) days before the effective date of the revised fee.

**8. TRAINING**

8.1 DFS will provide the Merchant with such training, samples, catalogues, brochures and information concerning the M-PAiSA Merchant QR Payment Services as DFS considers reasonably appropriate in order to assist Merchant in utilising the M-PAiSA Merchant QR Payment Services.

8.2 The Merchant must make its employees available to attend any training provided by DFS and remain responsible for all salaries and other employment costs of, and all travelling, accommodation and other expenses incurred by such employees in attending any training.

# 9. WARRANTIES & INDEMNITY

## 9.1 Warranties

## Both parties represent and warrant that the execution and performance of this Agreement and each transaction contemplated under this Agreement does not and will not violate in any respect a provision of any other document or agreement (including if relevant, its articles of association) which is binding on it or its assets.

1. Both parties warrant that each has all required licences and rights to perform and fulfil its obligations under this Agreement.

## 9.2 Indemnity

Both parties will indemnify the other including their respective affiliates, officers, employees, and agents (each an “**Indemnified Party**”) against any claim which may be made or brought against an Indemnified Party, or which an Indemnified Party may sustain or incur, arising from or in connection with:

(a) any matter or thing being other than as represented or warranted by a party under clause 9.1;

(b) any breach by a party of the terms of this Agreement;

(c) any breach of an existing law by a party; or

(d) any negligence by a party (or its employees or agents) in the performance of a party’s obligations under this Agreement.

**9.3** **Merchant’s Indemnity**

The Merchant will indemnify DFS including its respective affiliates, officers, employees, and agents from and against any claim, proceeding, damages, loss, liability, cost and expenses (including reasonable legal costs) suffered or incurred in connection with any transaction, chargebacks and unauthorised access or disclosure of information or any Merchant Customer claim or dispute.

### 10. LIMITATION OF LIABILITY, EXCLUSION OF WARRANTIES

### 10.1 Exclusion of warranties and liability

### (a) To the full extent permitted by law and other than as expressly set out in this Agreement, DFS excludes all implied and express terms, conditions and warranties.

### (b) The Merchant acknowledges that DFS makes no warranties and representations, including warranties and representations concerning the M-PAiSA Merchant Services, other than as set out in this Agreement. The Merchant has not relied on any warranties or representations, other than those expressly contained in this Agreement, in making its decision to enter into this Agreement.

(c) Notwithstanding any other provision to the contrary, but to the full extent permitted by law, DFS will not be liable to the Merchant and excludes all liability arising on the part of DFS or its directors, related bodies corporate, officers, employees or agents in connection with the provision of the M-PAiSA Merchant Services under this Agreement or, for any loss, damage, liability or expense whether direct, indirect, special or consequential, (including without limitation loss of profits or goodwill) caused by or arising out of or in any way from the failure of the M-PAiSA service from operating at any time or in connection with the M-PAiSA Merchant Services generally.

(d) The Merchant is liable for all issues arising in connection with any Merchant Customer including any liability arising as a result of the Merchant’s breach of any term of the Agreement or any relevant law, regulation or policy; or from any Merchant Customer complaints or returns of Goods or Services.

**10.2 Binding Obligations**

The liabilities and obligations created by this Agreement shall continue to be valid and binding for all purposes whatsoever notwithstanding any change by amalgamation, reconstruction or otherwise which may be made in the constitution of DFS and the Merchant and it is hereby expressly declared that no change of any sort whatsoever in relation to or affecting DFS and the Merchant shall in any way affect the liabilities and obligations created hereunder in relation to any transaction whatsoever whether past, present or future.

# 11. INTELLECTUAL PROPERTY

## 11.1 Right to use

### DFS may grant to the Merchant the non‑exclusive right, during the Term, to promote the M-PAiSA Merchant Services using the M-PAiSA Marks, subject to prior approval obtained from DFS and the Merchant complying with the conditions set by DFS from time to time.

### (b) At all times the Merchant must obtain DFS’s written consent prior to use of the M-PAiSA Marks.

## 11.2 Acknowledgement concerning Goodwill

(a) The Merchant has no rights in any M-PAiSA Mark or the M-PAiSA Merchant Services, or in any goodwill which is associated with the M-PAiSA Marks or the M-PAiSA Merchant Services. The Merchant acknowledges that it has no rights to any goodwill which may result from the Merchant’s use of the M-PAiSA Marks or the M-PAiSA Merchant Services.

(b) The Merchant acknowledges that DFS owns or is entitled to all of the DFS Intellectual Property and that the Merchant obtains no rights in the DFS Intellectual Property other than as expressly provided for in this Agreement.

## 11.3 No infringement

The Merchant must not do or omit to do (or authorise any third party to do or omit to do) any act which, if done or omitted to be done by the Merchant, would or might invalidate or be inconsistent with any of DFS’s rights in and to the DFS Intellectual Property.

# 12. CONFIDENTIAL INFORMATION

## 12.1 Each party will, subject to clause 12.3:

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### keep all Confidential Information secret and confidential, using reasonable skill and care, and in any event at least the same degree of care that they would normally use in protecting their own proprietary and confidential information of a similar nature;

### not disclose or divulge any such information to any third party, except solely as necessary for the purposes of this Agreement, and then only provided that any such third parties are subject to a duty of confidence at least as strict as that contained at this clause;

### not use or allow any such Confidential Information to be used, for any other purpose, in whole or in part, except solely in relation to the purpose, and for the duration of, this Agreement unless and only to the extent to which such further use has previously been specifically authorised in writing by the party to whom it relates;

### (d) not copy or have copies made of such Confidential Information, in whole or in part, other than as required solely for the purposes of this Agreement; and

### (e) at the other party's written request, either return to that party such of their Confidential Information as is in tangible form (together with all copies within their possession or control) or else destroy all copies of such Confidential Information.

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## 12.2 If a party becomes aware of any disclosure concerning Confidential Information not permitted by this Agreement, it shall immediately inform the other party and they shall jointly seek to remedy the situation, without prejudice to any other rights the parties may have under this Agreement.

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## 12.3 A party may disclose Confidential Information relating to the other party if necessary to comply with a law, provided that the disclosing party must first, to the extent it is able to do so, inform the other party and comply with their reasonable lawful instructions in relation to that disclosure.

# 13. TERMINATION

## 13.1 Events of termination

A party may terminate this Agreementby giving notice with immediate effect upon receipt of the notice by the other party, if any of the following events occur:

(a) Except for the purposes of a solvent reconstruction or amalgamation, an application is made, proceedings commenced, or a resolution is passed or proposed in a notice of meeting for the winding up, dissolution, official management or administration of the other party;

### (b) The other party breaches a provision of this Agreement and fails to remedy that breach within 30 (thirty) days from the date on which notice is received of that breach;

### (c) Any warranty given by the other party in clause 9.1 is or at any time during the Term proves to be incorrect; or

### (d) The other party engages in any conduct, which, in the opinion of the party giving notice may have a prejudicial effect on its business.

## 13.2 Termination on notice

Prior to the expiry of the Term, either party may terminate this Agreement at any time on 60 (sixty) days' notice in writing in advance to the other party of its intention to do so.

## 13.3 Termination

If a party suffers a Force Majeure Event and, fails to resume performance of all or a substantial part of that party's obligations under this Agreement within 30 (thirty) days of the date of giving notice to the other party the other party may, by notice in writing to the first party, terminate this Agreement immediately.

## 13.4 Rights and obligations on expiry or termination of Agreement

On termination or expiry of Agreement:

(a) The Merchant will have a period of 30 (thirty) days, or such longer or shorter period as DFS advises *(“****wind down period****”)*, before all rights granted by this Agreement, including any right to use the M-PAiSA Marks cease;

### (b) The obligations of the Merchant and DFS which have accrued but have not been discharged at the date of expiry or termination will not be affected;

### (c) All moneys owing by any party to the other party under this Agreement as at the date of termination will become immediately payable; and

### (d) Each party must within the wind down period return to the other party all documents in its possession, custody or power containing Confidential Information together with all copies of any Confidential Information. Each party must certify in writing to the other party that it has complied with this clause.

## 13.5 No right to compensation

The Merchant will have no right to compensation from DFS for moneys expended by the Merchant for advertising or any other activities with respect to the M-PAiSA Merchant services, nor any goodwill the Merchant may have established for the M-PAiSA Services or M-PAiSA Merchant Services. DFS will not be liable for any costs expended by the Merchant in establishing the M-PAiSA Merchant QR Payment Services as a mode of payment for Merchant Goods and Services or any other costs. This clause will survive expiry or termination of this Agreement.

# 14. NO AGENCY OR PARTNERSHIP

This Agreementdoes not constitute any party an agent of another or imply that the parties intend constituting a partnership or other form of association in which any party may be liable for the acts or omissions of the other. The parties are independent contractors, and no party has authority to pledge the credit of the other. The Merchant has no power to bind DFS other than as expressly authorised under this Agreement.

# 15. FORCE MAJEURE

### 15.1 Subject to this clause 15, a party will not be liable for any failure to perform an obligation under this Agreement while a Force Majeure Event subsists, if such failure is due to the occurrence of any Force Majeure Event provided that:

* + - 1. it promptly notifies the other party in writing of the nature and extent of the Force Majeure Event causing its failure or delay in performance;
      2. it could not have avoided the effect of the Force Majeure Event by taking precautions which, having regard to all the matters known to it before the Force Majeure Event, it ought reasonably to have taken, but did not; and
      3. it has used all reasonable endeavours to mitigate the effect of the Force Majeure Event, to carry out its obligations under the Agreement in any way that is reasonably practicable and to resume the performance of its obligations as soon as reasonably possible.

15.2 If the Force Majeure Event prevails for a continuous period of more than 3 (three) months, the Parties may at any time agree to terminate the Agreement on terms to be agreed by the Parties. Such termination shall be without prejudice to the rights of the Parties in respect of any breach of the Agreement occurring prior

### 15.3 No occurrence of a Force Majeure Event will excuse a party of its obligations to pay any amounts to the other party as and when they fall due.

# 16. ASSIGNMENT

## 16.1 General restriction

Subject to clause 16.2, the rights and obligations of each party under this Agreement are personal. They cannot be assigned, charged or otherwise dealt with, and no party shall attempt or purport to do so, without the prior written consent of the other party.

## 16.2 DFS's rights

DFS may assign its rights and obligations under this Agreement with notice to the Merchant.

# 17. MISCELLANEOUS

17.1 **Time for performance**: If a provision of this Agreement requires that something be done on a day which is not a business day, that thing must be done on the next business day. If a provision of this Agreement specifies a time period by reference to a number of days, days which are not business days are included in calculating that time period.

17.2 **Further assurance**: Each party shall take all steps, execute all documents and do everything reasonably required by any other party to give effect to any of the transactions contemplated by this Agreement.

17.3 **Entire Agreement**: This Agreement including the schedules contains the entire agreement of the parties with respect to its subject matter. It sets out the only conduct relied on by the parties and supersedes all earlier conduct by the parties with respect to its subject matter.

17.4 **Amendment**: Unless otherwise specified, no amendment or variation to this Agreement is effective unless it is in writing and signed by all parties.

# 17.5 Costs: Each party will bear its own costs arising out of the preparation of this Agreement.

17.6 **Counterparts and electronic signing**: This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute an original of this Agreement, but all the counterparts shall together constitute the same Agreement. The counterparts of this Agreement may be executed and delivered by electronic means by any of the Parties to any other Party and the receiving party may rely on the receipt of such document so executed and delivered by electronic means as if the original had been received.

17.7 **No waiver**: No waiver of any breach, or failure to enforce any provision, of this Agreement at any time by a party in any way affects, limits or waives the right of such party thereafter to enforce and compel strict compliance with the provisions of this Agreement.

17.8 **Severability**: If any part of this Agreement is held (or deemed) to be invalid or unenforceable for any reason whatsoever, then that part is deemed deleted from this Agreement and the Agreement will otherwise remain in full force and effect.

17.9 **Governing Law**: This Agreement is to be interpreted in accordance with the laws of the Republic of Fiji.

**18**. **DISPUTE RESOLUTION**

The following procedure will apply if a dispute under this Agreement arises:

(a) If a dispute arises the party claiming that a dispute has arisen will give notice to the other party indicating the nature of the dispute. Upon receipt of the notice, the parties must appoint at least one senior representative, who must, within 7 (seven) days from the date the receiving party received notice of the dispute, meet with each other, and attempt to resolve the dispute.

(b) If the parties fail to resolve the dispute within 14 (fourteen) days from the date of meeting, the dispute will be referred to each of the parties’ respective Chief Executive Officer or General Manager, or their respective nominee, who must then meet and attempt to resolve the dispute within 7 (seven) days.

(c) If the parties fail to resolve the dispute within the further 7 (seven) day period, the parties must appoint an Independent Arbitrator to determine the dispute, or if the parties are unable to agree on an Arbitrator within 3 (three) Business Days, either party may request the President for the time being of the Fiji Law Society to nominate an Arbitrator to determine the dispute.

(d) In determining the dispute, the parties must instruct the Arbitrator:

1. to decide the dispute within the shortest practicable time and as informally and inexpensive as possible;
2. to consult with each of the parties and give each a reasonable opportunity to make submissions and to put any material before the Arbitrator which the party considers relevant; and
3. to deliver an Award stating its opinion with respect to the matters in dispute and the reasons for its decision.
   * 1. The decision of the Arbitrator, in the absence of manifest error, will be conclusive and binding. Such reference shall be deemed to be an arbitration pursuant to the Arbitration Act of Fiji or any statutory modification of that Act.
     2. The costs of the Arbitrator will be borne equally between the parties.

**19. NOTICES**

(a) Any notices required to be given in this Agreement shall be in writing, and given by hand delivery to the other party at the address set out in the Key Terms.

* 1. A party may, at any time, substitute a new address for the one specified in the Key Terms by providing notice to the other parties.

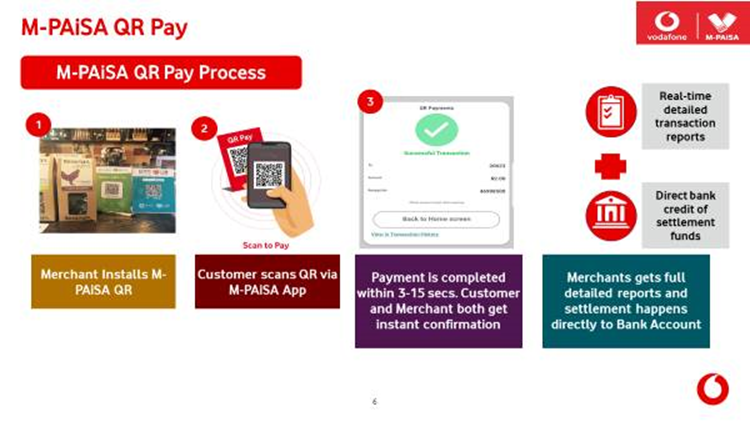
*Execution page follows*

**EXECUTED AND AGREED**

|  |  |
| --- | --- |
| Executed for and on behalf of **DIGITAL FINANCIAL SERVICES PTE LIMITED** by its duly authorised officers:  ……………………………………….……  Authorised Officer  ……………………………………….……  Authorised Officer  Date: | Executed for and on behalf of [**MERCHANT**] by its duly authorised officers:  ……………………………………….……  Authorised Officer  ……………………………………….……  Authorised Officer  Date: |

**SCHEDULE**

**SYSTEM SPECIFICATIONS**



**Transaction Limits**

Existing M-PAiSA rules regarding transaction limits remain in effect: While there is no transaction limit for Customer-to-Business payments via M-PAiSA, an account balance limit of $10,000 applies to M-PAiSA customers.

**M-PAiSA Merchant Portal**

The Merchant will have secure access to the M-PAiSA Merchant Portal, enabling real-time viewing of bill payment transactions. Users will be assigned different access levels based on their specific requirements. Additionally, the Merchant's customer service team will have access to assist Merchant Customers with payments made through M-PAiSA