

**GENERAL TERMS AND CONDITIONS**

**1. DEFINITIONS**

In this Agreement, the following words shall have the following meanings:

“Agreement ”	means Parts 1 to 3 of the merchant agreement, these general terms and conditions, comprising together with schedules, annexes and any attachments, and any documents expressly incorporated by reference;
“Annual Fee”	has the meaning given in clause 3.1.1 below;
“Commencement Date”	means the date set out at the head of the Agreement;
“Commission”	has the meaning given in Part 2 and clause 6.1;
“Customer Order”	means a contract for sale and purchase of the Products made between Party B and a buyer through HKTVmall;
“Fulfilled Order”	means in respect of a Customer Order, where the ordered Products have been delivered to buyer and full payment of the invoice has been settled by buyer;
“HKTVmall”	means HKTVmall located at <a href="http://www.hktvmall.com">www.hktvmall.com</a> and HKTVmall mobile app / site;
“Intellectual Property”	means any and all of the following items, whether or not registered, applications for the following items (whether or not registrable) and the right to apply for the items (where registrable): (a) trade marks, logos, trade / brand names (b) design rights, registered designs, and unregistered designs, (c) copyright, (d) domain names and URLs, (e) rights in respect of confidential information, and (f) all other intellectual property rights and similar rights in any country of the world, in which Party B has an ownership interest or legal right of use;
“Parties”	means Party A and Party B, and “Party” shall mean either one of them;
“Products”	means services and/or products to which Party B has a licence, authorisation, or right to sell in the Territory;
“Storage Fee”	the meaning given in clause C1, Schedule 1;
“Term”	the meaning given in Part 3 and clause 8 below; and
“Territory or Hong Kong”	means the Hong Kong Special Administrative Region of the People’s Republic of China.

**2. PARTY A'S OBLIGATIONS**

- 2.1 Party A shall design, develop, operate and maintain HKTVmall, and shall endeavor to make available HKTVmall for open access at all times.
- 2.2 In pursuance of its objectives set out in clause 2.1, Party A undertakes to:
- 2.2.1 perform as an executive producer to maintain the design, layout, "look and feel" of HKTVmall with the following features –
- (a) a payment gateway capable of managing multiple means of payment for transaction between Party B and buyers;
  - (b) an on-line chat room for Party A to provide customer service support to customers;
  - (c) an enabled access function for personal computers and mobile devices;
- 2.2.2 run regular marketing and promotional campaigns on a platform-wide basis; and
- 2.2.3 handle standard delivery of the Products pursuant to the Customer Orders. If the Product is in the form of voucher, delivery may be made by electronic means.

**3. PARTY B'S OBLIGATIONS**

- 3.1 In order to maintain uniform high standards of the registered merchants, protect the Intellectual Property rights and maintain the goodwill of HKTVmall, Party B agrees during the Term to strictly observe the obligations set out below:
- 3.1.1 Party B shall pay the Annual Fee (subject to adjustment upon Party A's prior notice) per store ID on HKTVmall in advance upon signing of this Agreement for Party A's provision of services on HKTVmall as set out in clause 2. Party B agrees and understands that the Annual Fee paid by Party B is neither refundable nor transferable under any circumstances.
- 3.1.1A Party B shall maintain its business conduct and ethics in the highest standards.
- 3.1.2 Party B shall carry on its business diligently and in a manner in all material respects reasonably satisfactory to Party A, and as may be reasonably required by Party A from time to time to maintain the goodwill of HKTVmall.
- 3.1.3 Party B shall ensure that the Products offered for sale are of merchantable quality, fit for purpose, or fit for human use or consumption. Without limitation, Party B shall ensure that any Products past the "due by date" or "best before date", or marked as "not for sale", "not for individual sale", "tester", "sample" or with wording to a similar effect are not offered for sale.

- 3.1.4 Party B shall set its own prices of the Products, and shall not enter into any anti-competitive agreements, concerted practices and decisions with any of its competitors, or any other person whatsoever in relation to the prices at which Party B will provide the Products. To ensure that consumer interest will be protected, Party B shall ensure that the Products offered for sale at HKTVmall will be on no less favourable terms than those offered by Party B at its physical stores or online stores in the Territory.
- 3.1.5 If the Product is provided in the form of voucher, Party B shall take reasonable steps to ensure voucher buyers will receive non-discriminatory treatment, and accept unconditional returns and refunds upon Party A's instructions.
- 3.1.6 Party B shall be responsible for publishing and maintaining all content relating to the Products on HKTVmall, including without limitation content on the store page, shop banner and product description pages. All content on the store page and product description pages shall be in traditional Chinese and English. Party B shall on a regular basis provide Party A with its price list, catalogues, sales literature, and up-to-date information concerning the Products.
- 3.1.7 Party B shall maintain a dedicated level of stock / quota to fulfill the Customer Orders to the reasonable satisfaction of Party A, and provide Party A with a daily updated appraisal of stock / quota changes. Where Party B is unable to fulfill the Customer Order or if the Products are sold in the form of voucher and Party B is unable to fulfil the redemption, due to (i) the Product(s) being out of stock / quota, (ii) early delivery (iii) late delivery, (iv) non-delivery, (v) incomplete or wrong delivery (including non-merchantable quality) and/or (vi) any cancellation of the Customer Order by Party B, Party B shall pay Party A a penalty charge at the rate of HK\$100 (or such reasonable sum as determined by Party A) for each subsequent delivery and/or collection of wrongly delivered items to fulfill the Customer Order, or for cancellation of the Customer Order.
- 3.1.8 Party B shall strictly comply with the provisions of this Agreement, information security, and data protection policy, as may be published by Party A.
- 3.1.9 Party B shall provide continuing support and assistance to Party A in facilitating transaction processes and effective operations of HKTVmall to the reasonable satisfaction of Party A.
- 3.1.10 Party B shall make available a representative of Party B who shall be contacted by Party A for general enquiries during office hours and emergency enquiries 24 hours a day and 7 days a week.
- 3.1.11 Party B shall provide sale and post-sale service to buyers to the reasonable satisfaction of Party A.
- 3.1.12 Party B shall install a dedicated electronic system for processing the Customer Orders.
- 3.1.13 Party B shall perform its obligations under this Agreement with all due care, skill and diligence in accordance with all applicable laws, rules and regulations, and Party A's policies and/or guidelines in relation to the operations of HKTVmall, fair trade practices, and product safety.
- 3.1.14 Party B shall obtain any necessary import licences, certificates of origin or other requisite

documents, and pay all applicable customs, duties and taxes in respect of the importation of the Products into the Territory and the distribution in the Territory.

- 3.1.15 Party B shall ensure that the Products (as for food) are in compliance with all labelling, packaging, distribution and other applicable legal requirements in the Territory, including without limitation food and nutrition labelling requirements under the Food and Drugs (Composition and Labelling) Regulations (Cap.132W) and Public Health and Municipal Services Ordinance (Cap.132) and restrictions on labelling and advertisements under the Undesirable Medical Advertisements Ordinance (Cap.231).
- 3.1.16 Party B shall ensure that the Products (as for consumer goods) are in compliance with all labelling, packaging, distribution, safety and other applicable legal requirements in the Territory, including without limitation Chinese and English safety warning labelling requirements under the Consumer Goods and Safety Ordinance (Cap.456) and its regulations and the Toys and Children's Products Safety Ordinance (Cap.424).
- 3.1.17 Party B shall ensure that the Products (as for electronics) have valid safety certificates as legally required and are in compliance with all safety and other applicable legal requirements in the Territory, including without limitation the Electricity Ordinance (Cap.406) and the Electrical Products (Safety) Regulations (Cap.406G).
- 3.1.18 Party B shall ensure that the Products (as for pesticides) are registered pesticides under the Pesticides Ordinance (Cap.133) and in compliance with all labelling, packaging, distribution, safety and other applicable legal requirements in the Territory, including without limitation Chinese and English safety labelling requirements under the Pesticides Ordinance (Cap.133) and the Pesticides Regulations (Cap.133A), and that it holds a valid licence or permit for the supply or sale of pesticides.
- 3.1.19 Party B shall ensure that it holds all necessary licences and/or permits for the supply of all Products under applicable laws.
- 3.1.20 Party B shall ensure that the Products and all content published on HKTVmall in relation to the Products comply with all legal requirements in the Territory, including without limitation the Trade Descriptions Ordinance (Cap.362) and the Control of Obscene and Indecent Articles Ordinance (Cap.390).
- 3.1.21 Party B shall not offer to sell any prohibited goods or services as set forth in Schedule 2.
- 3.1.22 Party B shall provide information and documents as Party A may require evidencing authenticity of Products and regulatory compliance.
- 3.1.23 Party B shall take down the Products from HKTVmall and follow Party A's product recall instructions upon Party A's immediate notice. For the avoidance of doubt, Party A will only provide product recall instructions to Party B where such product recall is required or requested by regulatory authorities.
- 3.1.24 Party B shall follow Party A's reasonable product return instructions upon Party A's immediate notice, as set forth in Schedule 1.
- 3.1.25 Party B shall not publish any contact information or content on HKTVmall, display any

promotional information on the goods packaging, place any promotional material (including without limitation leaflets, business cards, posters and brochures) and/or do any act that may advertise or promote (i) Party B's own website and/or social media platform(s), which carries on any e-commerce business in Party A's sole opinion (including without limitation containing a shopping cart or similar function and regardless whether any purchases can be completed on the relevant website or social media platform), and/or (ii) any sales channels other than HKTV mall. For the avoidance of doubt, any product warranty details that contain contact information shall be completed and displayed in accordance with Party A's instructions.

- 3.1.26 Party B shall comply with Party A's goods packaging standards as determined by Party A from time to time.
  - 3.1.27 Party B shall not permit third party couriers to charge additional delivery fees to customers (for example, additional fees for home delivery).
  - 3.1.28 Party B shall ensure that Party B's staff and their immediate family members do not leave any comments on HKTVmall on any Products. Party B shall not contribute to any false comments on HKTVmall.
  - 3.1.29 Party B shall ensure that the Products (as for electronics) that are prescribed products under the Energy Efficiency (Labelling of Products) Ordinance (Cap.598) have valid reference numbers and energy labels in the prescribed format attached to the Products and are in compliance with all applicable legal requirements in the Territory, including without limitation the Energy Efficiency (Labelling of Products) Ordinance (Cap.598).
  - 3.1.30 Party B shall ensure that each Product has a unique SKU ID and shall not, in Party A's sole opinion, amend the Product details, descriptions, photographs or videos such that the original Product under an SKU ID is replaced by a different Product.
- 3.2 In order to maintain uniform high standards of the registered merchants, maintain the goodwill of HKTV mall, and protect the legitimate interests of Party A, including its trade secrets, intellectual property rights, know-how, and promotional efforts invested, Party B shall not be directly or indirectly engaged or involved in any online shopping business which competes with Party A within Hong Kong during the Term. Nothing in this clause shall restrict Party B from operating (i) its own online stores on TMall.com or on other online shopping platforms, which are subject to an unexpired contract which commenced before Party B had any business relationship with Party A provided that Party B shall not renew such contract or enter into any other contract with TMall.com or other online shopping platforms after Party B has commenced any business relationship with Party A; (ii) its websites carrying on an e-commerce business on its own account; and/or (iii) its own online stores on other online shopping platforms that are supported by Shoalter Technology. The above condition is considered by the Parties to be reasonable and necessary in the circumstances to protect the legitimate interests of Party A.

#### **4. ADVERTISING**

- 4.1 Party B acknowledges that Party A shall have the exclusive advertising right of HKTVmall and shall be entitled to all revenue received in connection with HKTVmall, including without limitation advertising revenue in connection with HKTVmall's promotional, marketing and advertising activities. Party A shall not be required to make any payment to Party B except as expressly provided in this Agreement.
- 4.2 Party B undertakes not to do anything which may compromise Party A's receipt of the advertising revenue referred to in clause 4.1 above, including without limitation interfering in any way with advertising contents and activities of HKTVmall.

#### **5. EXPENSES**

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Each Party shall bear its own costs and expenses in carrying out its obligations under this Agreement.

**6. COMMISSION AND PAYMENT**

- 6.1 Party B shall pay the Commission to Party A for each Fulfilled Order at the rate set out in Part 2 or at the rate as adjusted by Party A in accordance with clause 6.2 of this Agreement.
- 6.2 Party A reserves the right to adjust the Commission by prior notice, provided that if Party B disagrees with the adjusted Commission, either Party may terminate this Agreement upon thirty (30) days' written notice which shall be given within thirty (30) days from the date of notice of the adjusted Commission. Party B agrees and understands that upon termination under this clause 6.2, the Annual Fee paid by Party B is not refundable in part nor in whole.
- 6.3 In respect of the Products other than sold in the form of voucher, Party A shall pay Party B the amount of net revenue (after deduction of all applicable charges, including without limitation store credit used, store offered discount or rebates, the Commission, Storage Fees, penalty charges, amount refunded or refundable or subject to charge-back to buyers, payers or third parties and advertising fees in accordance with clause 6.9) once per month together with a transaction report to Party B showing the Fulfilled Orders (which the product return period as specified in clause D, Schedule 1 has lapsed) to which the Commission relates and the amount of the Commission and the amount of net revenue payable to Party B. The amount of net revenue payable to Party B shall deem to be final and conclusive if no written notice of dispute is given by Party B within fourteen (14) days from the date of receipt of the transaction report (except for those amount refunded, refundable or subject to charge-back to buyers, payers or third parties as requested subsequently by such parties after the product return period as specified in clause D, Schedule 1). In the event that the amount in dispute raised by Party B is accepted by Party A, the said amount will be adjusted in the next transaction report.
- 6.4 In respect of the Products sold in the form of voucher, Party A will compute the net amount (after deduction of all applicable charges, including store credit used, store offered discount or rebates, the Commission, Storage Fee, penalty charges, and amount refunded or refundable or subject to charge-back to buyers, payers or third parties) in respect of each voucher redeemed in accordance with Party A's records (which shall be final and conclusive) and shall settle the appropriate payment for such net amount once per month together with a transaction report provided to Party B. In case of dispute, the Parties agree and accept that Party A's decision shall be final.
- 6.5 For the avoidance of doubt, Party A shall only be liable to pay the relevant net revenue or net amount to Party B under this Agreement when such revenue or amount is actually received by Party A in accordance with Party A's records (which shall be final and conclusive), and such revenue or amount is not subject to any refund, refund requests, charge-back or charge-back requests by any financial institution, payment processor, buyer, payer or third party and is not otherwise deemed to be a suspicious transaction in Party A's sole opinion.
- 6.6 Party B shall be liable to pay Party A for any amount refunded, refundable, charged-back or subject to charge-back to any financial institution, payment processor, buyer, payer or third party for whatever reason subsequently after payment by Party A to Party B, and Party B shall settle the payment within seven (7) working days upon notice from Party A.
- 6.7 Party B shall be liable to pay Party A for the amount refunded / refundable to buyers as requested subsequently by buyers after the product return period as specified in clause D, Schedule 1, and Party B shall settle the payment within seven (7) working days upon notice from Party A.

- 6.8 Party A has the right to demand penalty charges from Party B as specified in clause F, Schedule 1 and Schedule 3 and Party B shall settle the payment within seven (7) working days upon notice from Party A and/or allow the said amount to be adjusted in the next transaction report.
- 6.9 In respect of advertising fees charged by Party A for marketing and promotional activities provided for Party B including without limitation electronic direct mail campaigns and banner advertisements on HKTVmall, such advertising fees will be adjusted in the transaction report of the following month, unless such advertising fees are required to be prepaid by Party B before the marketing and promotional activities are provided.
- 6.10 Party A may set off against any amounts payable to Party B any amount owed by Party B to Party A (or to a third party, if such third party claims such amount from Party A or, in Party A's sole opinion, will likely do so). Party B shall not have the right to set off any amounts owed by Party A. Any payment made by Party A to Party B shall be without prejudice to any claims or rights which Party A may have against Party B.

## **7. CONFIDENTIALITY**

The Parties undertake that they shall at all times keep confidential the terms and contents of this Agreement and any confidential information concerning the other Party ("Confidential Information"). Each Party shall not, without the prior written consent of the other Party, use or disclose the Confidential Information to any person save and except for the proper performance and discharge of its obligations and responsibilities under this Agreement or where such disclosure is required by law or by the rules, regulations, directives or orders of the regulatory body having jurisdiction over the disclosing Party or required for any legal proceedings or process or if such disclosure is made by a Party to its auditors or other professional advisers or required to be made pursuant to the rules of a stock exchange.

Notwithstanding the above paragraph, Party B agrees that Party A may share certain data collected through HKTVmall including without limitation data relating to sales transactions, user traffic, logistics and warehouse performance publicly and with Party A's partners including without limitation with existing and potential business partners, registered merchants, sellers or suppliers of the goods/services on HKTVmall, start-up entrepreneurs and academics.

## **8. TERM**

The Term of the Agreement shall commence on the Commencement Date and unless terminated earlier in accordance with the provisions of this Agreement shall continue for a period specified in Part 3. This Agreement shall thereafter automatically be renewed for periods of one (1) year unless either Party shall give the other Party three (3) months' written notice that the Agreement is at an end before the expiry of the Term.

## **9. TERMINATION**

- 9.1 This Agreement may be terminated by either Party on giving immediate written notice to the other if (i) the other Party is in material breach of the terms of this Agreement, or (ii) the other Party files a petition in bankruptcy, or has filed against it an involuntary petition in bankruptcy not dismissed within sixty (60) days after filing, or applies for or consent to the appointment of a receiver, custodian, trustee or liquidator, or makes a general assignment for the benefit of creditors. Party B agrees and accepts that any breach of



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the provisions under clauses 3, 4, 6, 7, 10 and 11 shall constitute a material breach.

9.2 Party A may terminate this Agreement at any time by giving Party B a thirty (30) days' advance written notice.

9.3 Either Party may terminate this Agreement in accordance with clause 6.2.

9.4 On expiry or termination of this Agreement, Party A and Party B shall settle the Commission on all Fulfilled Orders up to the date of termination within fourteen (14) days of termination.

## **10. INTELLECTUAL PROPERTY**

10.1 Party B hereby grants to Party A and its subsidiaries, a non-exclusive and royalty-free licence to use the Intellectual Property during the Term in relation to the Products, including without limitation trade marks, Product photographs, videos and Product descriptions, for the purposes of exercising Party A's rights and performing its obligations under this Agreement. Party B hereby acknowledges that the Intellectual Property rights licensed to Party A under this clause may be sub-licensed by Party A to Party A's business partners and service providers during the Term for the purpose of advertising or promoting the Products and/or HKTVmall. Party A acknowledges that except as expressly provided in this Agreement it will not acquire any rights in respect of such rights and goodwill and that they are, and shall remain, vested in Party B or its licensors.

10.2 All rights in the design, text, graphics, photographs (including product photographs produced by Party A), and other material on HKTVmall, and the selection or arrangement thereof are the copyright of Party A. Party B acknowledges that except as expressly provided in this Agreement it will not acquire any rights in respect of such rights and goodwill and that they are, and shall remain, vested in Party A or its licensors.

10.3 Party A hereby grants to Party B, a non-exclusive and royalty-free licence to use the product photographs produced by Party A for the purpose of promoting the Products during the Term.

## **11. REPRESENTATIONS AND WARRANTIES**

11.1 Each Party represents and warrants that it has full power and authority to enter into this Agreement and that upon execution and delivery hereof, this Agreement will constitute the valid and binding obligations of the Party.

11.2 Party B warrants, represents and undertakes to Party A as follows:

11.2.1 Party B is free to enter into this Agreement and grant Party A the rights and licences granted under it and is not under any disability, restriction or prohibition which might prevent Party B from performing or observing any of Party B's obligations under this Agreement;

11.2.2 Party B has not entered into and will not enter into any arrangement which may conflict with this Agreement; and all third party liabilities shall be the sole responsibility of Party B, and Party A shall not incur any liability for these;

11.2.3 Party B is entitled to grant the rights and licences herein, and will maintain throughout the Term all rights, authorisations and licences that are required in order for it to perform its obligations hereunder;

- 11.2.4 there are no allegations or proceedings, pending or threatened, which assert that development, manufacture, use or sale of the Products and/or any content published or to be published on HKTVmall infringe or will infringe third party rights;
- 11.2.5 the use or sale of any of the Products and/or any content published or to be published on HKTVmall do not and will not infringe any third party rights;
- 11.2.6 the Products are fit for human use or consumption;
- 11.2.7 all content in relation to the Products and/or Party B including without limitation content on the store page, shop banner, product description pages and Party B's price list, catalogues, and sales literature are true and accurate and will not contain any untrue, misleading, and deceptive statements, representations or claims in respect of the Products, and Party B will be solely responsible for any errors, omissions or losses in relation to its information published on HKTVmall;
- 11.2.8 all promotional materials and information published on HKTVmall or otherwise made available to Party A shall be solely related to the Products available for sale on HKTVmall;
- 11.2.9 Party B acknowledges that the ownership of the customer data is vested with Party A solely and Party B shall not (and shall contractually procure that its employees, contractors and agents shall not) use the customer data for Party B (or such contractor or agent)'s own marketing purposes nor any purposes other than for handling the Customer Order and shall not transfer any customer data to any person unless such transfer is necessary for handling the Customer Order;
- 11.2.10 Party B shall (and shall contractually procure that its employees, contractors and agents shall) implement adequate security, technical and organisational measures and take all practical steps to prevent unauthorised or accidental access, processing, erasure, loss or use of any customer data;
- 11.2.11 Party B shall (and shall contractually procure that its employees, contractors and agents shall) delete permanently all customer data (including without limitation names, mobile phone numbers and addresses relating to all Customer Orders) within three (3) business days after the relevant delivery of the Customer Order (in the case of drivers, couriers and service providers, this obligation shall apply regardless whether the delivery is successfully completed); and
- 11.2.12 Party B will not conduct its business for any fraudulent or unlawful purpose.

## **12. INDEMNIFICATION**

- 12.1 Party B shall indemnify Party A, its holding company and affiliated companies and their respective officers, employees, consultants, agents and representatives from any and all claims, demands, liabilities, damage and/or expenses, including without limitation legal fees, incurred or sustained by Party A as follows:
  - 12.1.1 in respect of any alleged or actual infringement of any intellectual property rights, copyright, trade mark, design rights or any other rights of any third party;

- 12.1.2 any loss and/or damage sustained by Party A and/or for which Party A may be liable as a result of the failure of Party B to perform its obligations to Party A;
- 12.1.3 in respect of any claims which may be asserted against or suffered by Party A relating to the use of the Products, including without limitation claims based on product liability laws;
- 12.1.4 in respect of any breach by Party B of the warranties, representations, and obligations under this Agreement; and
- 12.1.5 in respect of any fraudulent, unlawful and/or suspicious transactions in respect of the purchase and/or resale of the Products or otherwise relating to or in connection with the Products (regardless of any negligence, default, conduct or fault, in whole or in part, by Party A or any indemnified parties).

### **13. LIMITATION OF LIABILITY**

- 13.1 To the extent permitted by law, the Parties exclude all warranties, conditions, and representations other than expressly stated in this Agreement.
- 13.2 Party A disclaims and excludes all other warranties conditions, representations and guarantees, express or implied, including but not limited to (i) implied warranties of merchantability, fitness for a particular purpose, and non-infringement (ii) warranties as to the quality or performance of the materials, information, goods, services, technology and/or content provided under or in connection with this Agreement, including but not limited to the quality, completeness or accuracy of any content made available on HKTVmall. Party A further makes no warranty that HKTVmall will be uninterrupted, timely or error-free or that the results or information obtained from use of HKTVmall will be accurate or reliable.
- 13.3 To the extent permitted by law, Party A's liability under or in connection with this Agreement, whether arising in contract, tort, negligence, breach of statutory duty or otherwise, shall not exceed the sum of the Commission received from Party B for the preceding twelve (12) months.
- 13.4 Neither Party shall be liable to the other Party in contract, tort, negligence, breach of statutory duty or otherwise for any loss, damage, costs or expenses of any nature whatsoever incurred or suffered by that other Party of an indirect or consequential nature including without limitation any economic loss or other loss of turnover, profits, business or goodwill.
- 13.5 Party A does not intend, and does not undertake, to monitor the materials and information provided by Party B, and accepts no responsibility arising therefrom. Party A shall have the right, at its sole determination, to delete any Party B's materials and information from HKTVmall without any prior notice to Party B.

### **14. GENERAL**

- 14.1 No failure or delay by any Party in exercising any right or remedy provided by law under or pursuant to this Agreement shall impair such right or remedy or operate or be construed as a waiver or variation of it or preclude its exercise at any subsequent time and no single or partial exercise of any such right or remedy shall preclude any other or further exercise of it or the exercise of any other right or remedy.

- 14.2 If and to the extent that any provision of this Agreement is held to be illegal, void or unenforceable, such provision shall be given no effect and shall be deemed not to be included in this Agreement but without invalidating any of the remaining provisions of this Agreement.
- 14.3 This Agreement sets forth the entire agreement and understanding of the Parties and supersedes all prior oral or written agreements, understandings or arrangements relating to the subject matter of this Agreement. Neither Party shall be entitled to rely on any agreement, understanding or arrangement that is not expressly set forth in this Agreement.
- 14.4 This Agreement may be executed in any number of counterparts and by the Parties to it on separate counterparts, each of which is an original but all of which together constitute one and the same instrument.
- 14.5 Subject to the following sentence, neither Party may assign, delegate, sub-contract, mortgage, charge or otherwise transfer any or all of its rights and obligations under this Agreement without the prior written agreement of the other Party. Party A may, however, assign and transfer all its rights and obligations under this Agreement to any person to which it transfers all of its business, provided that the assignee undertakes in writing to the other Party to be bound by the obligations of the assignor under this Agreement.
- 14.6 No Party shall issue or make any public announcement or disclose any information regarding this Agreement unless prior to such public announcement or disclosure it furnishes all the Parties with a copy of such announcement or information and obtains the approval of such persons to its terms. However, no Party shall be prohibited from issuing or making any such public announcement or disclosing such information if it is necessary to do so to comply with any applicable law or the regulations of a recognised stock exchange.
- 14.7 Nothing in this Agreement shall be deemed to constitute a partnership between the Parties, nor constitute any Party the agent of the other Party.
- 14.8 Any notice to be given under this Agreement shall be in writing and shall be sent by mail, by fax or email to the relevant Party. Notices sent as above shall be deemed to have been received 4 working days after the day of posting (in the case of local mail), or 7 working days after the date of posting (in the case of air mail), or on the next working day after transmission (in the case of fax messages, but only if a transmission report is generated by the sender's fax machine recording a message from the recipient's fax machine, confirming that the fax was sent to the number indicated above and confirming that all pages were successfully transmitted), or on the next working day after sending (in the case of email). The Parties agree that it shall be effective service of process of any legal action or proceedings arising out of or in connection with this Agreement by serving the process on a Party upon the address set out in this Agreement.
- 14.9 Clauses 6, 7, 9.4, 11, 12, 13, and 14 of this Agreement shall survive the termination of this Agreement.
- 14.10 Each Party shall ensure that, in performing its obligations under this Agreement, it complies with the provisions of the Prevention of Bribery Ordinance and any other applicable anti-bribery law.
- 14.11 Party A's holding company and affiliated companies, and their respective officers, employees, consultants, agents and representatives (each a "Party A Third Party") may, pursuant to the Contracts (Rights of Third Parties) Ordinance (Cap.623), rely on any provision of this Agreement (including

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without limitation any indemnity, limitation or exclusion of liability) which expressly confers rights or benefits on that person. Subject to this, no person who is not party to this Agreement shall have any right to enforce any term of this Agreement under the Contracts (Rights of Third Parties) Ordinance (Cap.623). The parties may, without the consent of any Party A Third Party, rescind or vary this Agreement in such a way as to extinguish or alter the benefits or rights conferred by this clause.

14.12 Party A reserves the right to make changes to these general terms and conditions from time to time without providing any prior notification. The amended general terms and conditions are effective from the date they are notified to Party B. Party B's continued use of Party A's services and/or placement of the Products on HKTVmall shall represent Party B's unconditional acceptance of the latest version of the general terms and conditions.

14.13 This Agreement is governed by the laws of Hong Kong. The courts of Hong Kong shall have exclusive jurisdiction to hear and determine any suit, action or proceedings, and to settle any dispute, which may arise out of or in connection with this Agreement.

**SCHEDULE 1  
DELIVERY AND RETURN  
UNDERTAKINGS**

**A. STANDARD DELIVERY**

1. Unless the Products fall under the exempted items set out in Schedule 4 (Merchant Delivery – Exempted Products), delivery of the Products to the buyers shall be handled by Party A or its authorised agents at its own costs and expenses within the Territory except the closed areas and other areas as may be specified by Party A from time to time at its sole determination. A penalty charge arising from Party B's breach of clause 3.1.7 or this clause A1 shall be borne by Party B.
2. Upon receipt of a Customer Order, Party A shall pass the order information in its prescribed form, including customer name, product code and/or description and quantity to Party B.
3. In respect of the Customer Order placed before 09:00, Party B shall deliver the packed Products (in accordance with Party A's packing instructions) together with Party B's invoice, delivery note, return waybill, return documents and notice (if any) to Party A's designated logistics centre by 18:00 on the same day or such other time as may be instructed by Party A from time to time.
4. The arrangement referred to in clause A3 above is applicable during Monday to Sunday and public holidays.
5. The ownership of the Products remains with Party B and will be at Party B's risk until receipt by the buyer. Party B shall be responsible for, without limitation, the cost of each unit of product lost or damaged in transit.
6. The Products shall be deemed to have been delivered to buyer when the Products are to be left at buyer's address or acknowledged receipt by recipient, irrespective in each case of whether the Products are to be carried to buyer by Party A or its authorised agents. If the Product is in the form of electronic voucher, receipt of the voucher is deemed to be made at the time the electronic record is accepted by the buyer's information system.

**B. MERCHANT DELIVERY**

1. Non-standard delivery of the Products shall be handled by Party B at its own costs and expenses within the Territory in accordance with the agreed delivery schedule between Party B and buyer.
2. Non-standard delivery items which are limited to items listed in Schedule 4 (Merchant Delivery - Exempted Products) shall be delivered by Party B or its suppliers. Party B shall provide Party A with a list of non-standard delivery items for Party A's advance approval. All other items shall be delivered under the Standard Delivery arrangement under section A of this Schedule.

**C. STORAGE FACILITY**

1. Subject to availability, Party A may permit Party B to store the Products at Party A's storage premises pending sale and delivery, provided that Party B shall (i) pay a storage charge to Party A at the rate of five percent (5%) of the selling price of each unit of Products sold ("Storage Fee"); and (ii) bear all costs involved in transporting the Products to and from the Centre or such other place as may be instructed by Party A from time to time.
2. The ownership of the Products remains with Party B and will be at Party B's risk at all times until they are delivered to the buyer. Party B shall be responsible for, without limitation, the cost of each unit of product lost or damaged during storage at the Centre and/or in transit.
3. The nature and quantity of Products to be accepted for storage shall be subject to Party A's final decision.
4. Party B agrees and accepts that no excluded products are permitted to be warehoused at the Centre or Party A's storage premises. For indicative purposes, excluded products include the following items:
  - (i) radioactive, explosive, inflammable, toxic, corrosive, noxious or dangerous items;
  - (ii) glass (including glass bottles or jars), china and other fragile goods unless suitably and securely packed;
  - (iii) meat, fish, fruit, vegetables and other perishable commodities; and
  - (iv) any other products with a shelf life under twelve (12) months.
5. Party B shall ensure that the Products are securely and appropriately packed labelled and marked in accordance with the applicable laws and regulations.
6. Party B agrees and accepts that Party A shall have a right of disposal of the Products in the event that Party B fails to collect and remove the Products from the Centre or Party A's storage premises within the notice period upon receipt of Party A's prior notice. All the delivery expenses related to the Products shall be at the cost of Party B.

**D. PRODUCT RETURNS AND PRODUCT RECALLS**

1. Where the Products that have been sold to the buyer are incomplete or missing in the delivery, or the wrong product has been delivered, Party B shall, at the instructions of Party A, either replace the Products or credit the buyer's account at HKTVmall through Party A for the price of the Products (after deduction of any store offered discount/rebate on that particular item at purchase), provided that the return conforms to Party A's returns policy as published on HKTVmall.

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2. Where Party A recognises that the returnable Products are damaged or defective for reasons not connected with any fault on the part of buyer, Party B shall, at the instructions of Party A:
  - (i) replace the Products (whether entirely or as to any damaged or defective part); or
  - (ii) credit the buyer's account at HKTVmall through Party A for the price of the Products (or an appropriate portion of the price) after deduction of any store offered discount/rebate on that particular item at purchase.
3. Party B undertakes that any replacement Products will meet the standards and other requirements applicable to the Products originally supplied under the Customer Order.
4. For any Product returned through Party A for any reason, if the price of the Product (after deduction of any store offered discount/rebate on that particular item at purchase) is HK\$100 or less, Party B agrees that Party A will not return the Product to Party B and has a right of disposal of the Product.
5. For product recalls under clause 3.1.23 and all product returns, the amounts refunded or refundable to buyers shall be adjusted in the next transaction report in accordance with clause 6 of this Agreement or Party B shall settle the payment within seven (7) working days upon notice from Party A.

**E. INSURANCE**

Party B shall maintain valid comprehensive public liability, product liability, storage, local and overseas transit insurance policies with a reasonable insured sum, covering any claims, actions, or damages which may arise as a direct or indirect result of the use by the public of the Products. Party B shall also ensure that the Party A's interest is noted on such policy as named insured and loss payee and shall upon request provide Party A with full information and documentation concerning such insurance coverage including but not limited to a copy of the insurance policy and receipts for all premiums.

**F. PENALTY CHARGES**

Party B agrees to pay to Party A the penalty charges as set out in Schedule 3 (Penalty Charges) which forms an integral part of these general terms and conditions. Party A reserves the right to make changes to Schedule 3 from time to time without providing any prior notification. The amended Schedule 3 is effective from the date they are notified to Party B. Party B's continued use of Party A's services and/or placement of the Products on HKTVmall shall represent Party B's unconditional acceptance of the latest version of Schedule 3.

For the avoidance of doubt, the penalty charges in this clause do not affect the application of clauses 9 (termination) and 12 (indemnification).



**SCHEDULE 2**  
**RESTRICTED OR PROHIBITED GOODS / SERVICES**

Party B shall not offer to sell any restricted or prohibited goods / services, including but not limited to the followings:

1. any infringing goods / services of whatsoever nature arising from or in relation to any infringement or alleged infringement of any intellectual property rights;
2. any used articles and stolen goods;
3. dutiable commodities;
4. obscene and indecent articles;
5. explosives, firearms and ammunition, and prohibited weapons;
6. strategic commodities;
7. animals and plants;
8. controlled and hazardous chemicals, and infectious goods;
9. dangerous drugs, pharmaceutical products and medicine, and proprietary Chinese medicines and Chinese herbal medicines; and
10. any goods / services prohibited by law or regulated by licence or permit.

**SCHEDULE 3**  
**PENALTY CHARGES**

Party B (“**Merchant**”) agrees to pay to Party A (“**HKTVMall**”) the penalty charges as set out in this Schedule 3 (Penalty Charges) which forms an integral part of the Merchant Agreement General Terms and Conditions. Merchant agrees that any penalty charges and price of any refunds shall be deducted by HKTVMall in the transaction report of the following month.

In order to ensure the quality of Products offered for sale by Merchants on HKTVMall, and that the Products conform to related regulations and the Merchant Agreement General Terms and Conditions and HKTVMall’s written guidelines, we have implemented a Penalty Charge Scheme. Merchants are liable to a payment of the penalty where (i) HKTVMall receives any written enquiry, request for information, notice, warning letter, notice of legal action or penalty in respect of any breach or suspected breach of any applicable law or regulation of the Product from any tribunal, court or regulatory authority, and/ or (ii) there is any breach or suspected breach, in HKTVMall’s sole opinion, in relation to the Merchant’s Product of any applicable law, regulation, the Merchant Agreement General Terms and Conditions or HKTVMall’s written guidelines.

Merchant shall be liable to pay the price of any Products to be refunded for Customers Orders within six (6) months prior to the date of the above mentioned cases at HKTVMall’s sole discretion, and agrees that the commission shall be retained by HKTVMall and the relevant Product SKUs shall immediately be taken offline at HKTVMall’s sole discretion. HKTVMall reserves its right to terminate the Merchant Agreement and/or to claim Merchant for any damages, loss or expenses incurred on an indemnity basis, under the Merchant Agreement General Terms and Conditions.

Please refer to the following tables for details:

Table 1: Penalty charge of any written enquiry, request for information, notice, warning letter, notice of legal action or penalty in respect of any breach or suspected breach of any applicable law or regulation of the Product from regulatory authorities, tribunals or courts

<b>Related Regulations</b>	<b>Penalty Charge (per SKU)</b>
supply or offer to supply counterfeit product	HK \$ 20,000, plus refund of Customer Orders within previous six months
Cap. 406 & Cap. 406G Electricity Ordinance & Electrical Products (Safety) Regulation— supply or offer to supply an electrical product which does not comply with the essential safety requirements and/ or the specific safety requirements for the electrical product;	HK \$ 20,000 plus refund of Customer Orders within previous six months
Cap. 138: Pharmacy and Poisons Ordinance— supply or offer to supply pharmaceutical products containing regulated poison ingredients	HK \$ 20,000 plus refund of Customer Orders within previous six months
Cap. 549 Chinese Medicine Ordinance— 1. supply or offer to supply proprietary Chinese medicine not registered under Hong Kong Regulations; or 2. supply or offer to supply Chinese herbal medicine which is listed in Schedule 1 of the Ordinance	HK \$ 20,000 plus refund of Customer Orders within previous six months
Cap. 231: Undesirable Medical Advertisements Ordinance— publishing product advertisements referring to certain diseases or conditions	HK \$ 20,000

<p>Cap. 603: Product Eco-responsibility Ordinance— Merchant who offers electrical products cannot comply with the removal service plan endorsed under Environmental Protection Department</p>	<p>HK \$ 20,000 plus refund of Customer Orders within previous six months</p>
<p>Cap.598: Energy Efficiency (Labelling of Products) Ordinance— supply or offer to supply prescribed electronic products without valid reference number and/or energy label</p>	<p>HK \$ 20,000 plus refund of Customer Orders within previous six months</p>
<p>Cap. 132 &amp; Cap. 132W: Public Health and Municipal Services Ordinance &amp; Food and Drugs (Composition and Labelling) Regulations—</p> <ol style="list-style-type: none"> <li>1. Merchant who offers food services cannot provide valid licenses; or</li> <li>2. supply or offer to supply prepackaged food without food label (including nutrition label) in compliance with the regulations;</li> <li>3. supply or offer to supply food not complying with the nature, substance or quality demanded by consumers</li> </ol>	<p>HK \$ 1,000</p>
<p>Cap. 456: Consumer Goods Safety Ordinance— supply or offer to supply products which do not contain proper safety warnings</p>	<p>HK \$ 1,000</p>
<p>Cap. 424: Toys and Children’s Products Safety Ordinance— supply or offer to supply toys and children’s products which do not comply with the general safety requirement or additional safety standards</p>	<p>HK \$ 1,000</p>

<p>Cap. 133: Pesticides Ordinance—</p> <ol style="list-style-type: none"> <li>1. Merchant who offers controlled pesticide product cannot provide valid pesticide license; or</li> <li>2. supply or offer to supply pesticide product containing active ingredients that exceeds the upper concentration limit stated in Registered Pesticide List- Part I; or</li> <li>3. supply or offer to supply pesticide product containing active ingredients stated on Registered Pesticide List- Part II;</li> </ol>	<p>HK \$ 1,000</p>
<p>Cap. 362: Trade Descriptions Ordinance—</p> <ol style="list-style-type: none"> <li>1. supply or offer to supply any goods to which a false trade description is applied; or</li> <li>2. engage in unfair trade practices prohibited under the Trade Descriptions Ordinance</li> </ol>	<p>HK \$ 1,000</p>
<p>Copyright Infringement— use or publishing of copyright materials without permission of the copyright owner</p>	<p>HK \$ 1,000</p>
<p>Cap. 390 Control of Obscene and Indecent Articles Ordinance— display of any indecent content (including advertisements)</p>	<p>HK \$ 1,000</p>
<p>Any other applicable law or regulation</p>	<p>HK \$1,000</p>

Table 2: Penalty charge for cases determined by HKTVmall

<p><b>Related Regulations and Merchant Agreement General Terms &amp; Conditions (“HKTVmall Terms”)</b></p>	<p><b>Penalty Charge (per SKU)</b></p>
<p>HKTVmall Terms Section 3.1.30—</p> <ol style="list-style-type: none"> <li>1. failure to ensure that each Product has a unique SKU ID; and/or</li> <li>2. amendment of the Product details, descriptions, photographs or videos such that the original Product under an SKU ID is replaced by a different Product</li> </ol> <p>(in sole opinion of HKTVmall)</p>	<p>HK \$ 10,000 plus refund of affected Customer Orders</p>

<p>Cap. 406 &amp; Cap. 406G Electricity Ordinance &amp; Electrical Products (Safety) Regulation—</p> <ol style="list-style-type: none"> <li>3. supply or offer to supply an electrical product which does not comply with the essential safety requirements and/ or the specific safety requirements for the electrical product; or</li> <li>4. cannot provide Certificate of Safety Compliance for the electrical product</li> </ol>	<p>HK \$ 500</p>
<p>Cap. 138 Pharmacy and Poisons Ordinance— supply or offer to supply pharmaceutical products containing regulated poison ingredient</p>	<p>HK \$ 500</p>
<p>Cap. 549 Chinese Medicine Ordinance—</p> <ol style="list-style-type: none"> <li>1. supply or offer to supply proprietary Chinese medicine not registered under Hong Kong Regulations; or</li> <li>2. supply or offer to supply Chinese herbal medicine which is listed Schedule 1 of the Ordinance</li> </ol>	<p>HK \$ 500</p>
<p>Cap. 231 Undesirable Medical Advertisements Ordinance— publish product advertisements referring to certain diseases or conditions</p>	<p>HK \$ 500</p>
<p>Cap. 603 Product Eco-responsibility Ordinance— Merchant who offers electrical products cannot comply with the removal service plan endorsed under Environmental Protection Department</p>	<p>HK \$ 500</p>
<p>Cap. 132 &amp; Cap. 132W: Public Health and Municipal Services Ordinance &amp; Food and Drugs (Composition and Labelling) Regulations—</p> <ol style="list-style-type: none"> <li>1. Merchant who offers food services cannot provide valid licenses; or</li> <li>2. supply or offer to supply prepackaged food without food label (including nutrition label) in compliance with the regulations;</li> <li>3. supply or offer to supply food not complying with the nature, substance or quality demanded by consumers</li> </ol>	<p>HK \$ 500</p>
<p>Cap. 456 Consumer Goods Safety Ordinance— supply or offer to supply products which do not contain proper safety warnings</p>	<p>HK \$ 500</p>

<p>Cap. 424 Toys and Children’s Products Safety Ordinance— supply or offer to supply toys and children’s products which do not comply with the general safety requirement or additional safety standards</p>	<p>HK \$ 500</p>
<p>Cap. 133 Pesticides Ordinance—</p> <ol style="list-style-type: none"> <li>1. Merchant who offers controlled pesticide product cannot provide valid pesticide license; or</li> <li>2. supply or offer to supply pesticide product containing active ingredients that exceeds the upper concentration limit stated in Registered Pesticide List- Part I; or</li> <li>3. supply or offer to supply pesticide product containing active ingredients stated on Registered Pesticide List- Part II;</li> </ol>	<p>HK \$ 500</p>
<p>Cap. 362 Trade Descriptions Ordinance—</p> <ol style="list-style-type: none"> <li>1. supply or offer to supply any goods to which a false trade description is applied; or</li> <li>2. engage in unfair trade practices prohibited under the Trade Descriptions Ordinance</li> </ol>	<p>HK \$ 500</p>
<p>Copyright Infringement— use or publishing of copyright materials without permission of the copyright owner</p>	<p>HK \$ 500</p>
<p>Cap. 390 Control of Obscene and Indecent Articles Ordinance— display of any indecent content (including advertisements)</p>	<p>HK \$ 500</p>
<p>Cap.598 Energy Efficiency (Labelling of Products) Ordinance— supply or offer to supply prescribed electronic products without valid reference number and/or energy label</p>	<p>HK \$ 500</p>
<p>Any other applicable law or regulation</p>	<p>HK \$ 500</p>

<p>HKTVMall Terms Section 3.1.25— Unauthorized customer redirection (in sole opinion of HKTVMall) including without limitation—</p> <ol style="list-style-type: none"> <li>1. unauthorized or improper use of customers’ data; or</li> <li>2. displaying or placing any promotional information on             <ol style="list-style-type: none"> <li>i. store page; or</li> <li>ii. product description page; or</li> <li>iii. goods packaging;</li> </ol> </li> <li>3. inappropriate marketing techniques (e.g. Merchant’s website or other sales channel)</li> <li>4. displaying or placing any contact information relating to merchant (e.g. phone number) on store pages or product description page</li> </ol>	<p>Penalty charge would be different based on the circumstances:</p> <ol style="list-style-type: none"> <li>1. HK\$20,000; plus immediate termination of this Agreement;</li> <li>2. i. HK \$ 1,000 (per store) ii. HK \$ 1,000 (per SKU) iii. HK \$100 (per package)</li> <li>3. HK \$ 1,000 (per store)</li> <li>4. HK \$100 (per store)</li> </ol>
<p>HKTVMall Terms Section 3.1.3— supply or offer to supply products marked as “not for sale”, “not for individual sale”, “sample”, “tester”, or with wording to a similar effect</p>	<p>HK \$ 500</p>
<p>HKTVMall Terms Section 3.1.28— Merchant leaves comment on its Products on HKTVMall or contributes to any false comments on HKTVMall (including Merchant’s staff and their immediate family members)</p>	<p>HK \$ 500 (per comment); related comment would be removed immediately</p>
<p>HKTVMall Terms Section 3.1.27—</p> <ol style="list-style-type: none"> <li>1. customer being charged for additional delivery fees by third party couriers (e.g. residential surcharge)</li> <li>2. display information about additional delivery fees on store page and/ or product description page(s) except for large furniture or large electrical appliances</li> </ol>	<p>Penalty charge would be different based on the circumstances:</p> <ol style="list-style-type: none"> <li>1. HK \$ 500 (per order)</li> <li>2. HK \$ 500 (per store)</li> </ol>
<p>HKTVMall Terms Section 3.1.3— supply or offer to supply products past the “due by date” or “best before date”</p>	<p>HK \$ 100 (per order)</p>
<p>HKTVMall Terms Section 3.1.13— failure to comply with HKTVMall’s marketing campaign rules</p> <ol style="list-style-type: none"> <li>1. Large marketing campaigns e.g. Thanksgiving and seasonal campaigns</li> <li>2. Other marketing campaigns</li> </ol>	<p>Penalty charge would be different based on the circumstances,</p> <ol style="list-style-type: none"> <li>1. Dependent on factors which may include losses incurred and value of Customer Orders</li> <li>2. HK \$ 100 (per SKU)</li> </ol>



<p>HKTVMall Terms Section 3.1.13— failure to comply with HKTVMall’s policies and/or guidelines in relation to the operations of HKTVMall, fair trade practices, and product safety</p>	<p>Penalty charge would be different based on the circumstances,  (\$100 (per SKU)  *penalty stated in the latest Guideline/ Notice shall prevail</p>
<p>HKTVMall Terms Section 3.1.6— failed to provide HKTVMall with up-to-date and/ or clear information concerning the Products on a regular basis</p>	<p>HK \$100 (per SKU)</p>

Table 3: Penalty charge for cases about delivery:

<p><b>Related Regulations and Merchant Agreement General Terms &amp; Conditions (“HKTVMall Terms”)</b></p>	<p><b>Penalty Charge</b></p>
<p>HKTVMall Terms Section 3.1.7— wrong delivery, early delivery, late delivery, non-delivery, incomplete delivery</p>	<p>HK \$100 (per order)</p>
<p>HKTVMall Terms Section 3.1.7— any cancellation of the Customer Order by Merchant</p>	<p>HK \$100 (per order)</p>
<p>HKTVMall Terms Section 3.1.26— failed to comply with HKTVMall’s goods packaging standards or packing guidelines (in sole opinion of HKTVMall)</p>	<p>HK \$100 (per order)</p>
<p>Schedule 3 — Party B does not take the initiative to cancel incomplete orders which are caused by out of stock.</p>	<p>HK \$200 (per order)</p>
<p>Schedule 1 — Merchant Delivery arrangement used for items not falling under Schedule 4 (Merchant Delivery - Exempted Products) without HKTVMall’s prior approval</p>	<p>HK \$100 (per SKU / order, as applicable)</p>

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**Important Note:**

If a Merchant's Products are found to have violated the same regulations or guidelines in a subsequent product inspection, the penalty charge shall be calculated at a rate of **two (2) times** of the penalty charge for the previous violation (excluding violations under Table 3).

HKTVMall reserves the right to make changes to this Schedule 3 (Penalty Charges) from time to time without providing any prior notification. The amended Schedule 3 (Penalty Charges) is effective from the date it is notified to the Merchant. Merchant's continued use of HKTVMall's services and/or placement of the Products on HKTVMall shall represent Merchant's unconditional acceptance of the latest version of Schedule 3 (Penalty Charges).

Last updated: 2021 August 11

## 附件三— 罰款

乙方(即商戶)同意向甲方(即香港電視購物網絡有限公司) 繳付於附件三中列表所列事項的相關罰款。商戶亦同意相關罰款或任何退款應由香港電視購物網絡有限公司在商戶的下一盈利月結報告中扣除。

為確保香港電視購物網絡平台上出售的貨品質素，香港電視購物網絡有限公司實行罰款制度以提醒商戶銷售貨品時必須依照相關法例、合約條款，以及香港電視購物網絡有限公司的產品上載指引。

若收到經任何法庭、法院或監管機構就貨品違反法例或懷疑貨品違反法例而發出的書面諮詢或通知書(包括但不限於採取法律行動通知、罰款通知及收集資料通知)、投訴及警告信等，或由香港電視購物網絡有限公司發現貨品不符合相關法例、合約條款或產品上載指引中對貨品的要求，商戶均須繳付相關罰款。商戶須對香港電視購物網絡有限公司負責，承擔香港電視購物網絡有限公司就事件中蒙受的損失及所產生費用，其中包括但不限於過去六個月已售出的受影響貨品的所有退款及貨品回收費用，以及過程中所產生的費用。

商戶亦同意香港電視購物網絡有限公司保留有關貨品的銷售佣金，而有關貨品須即時下架。香港電視購物網絡有限公司保留即時終止與該商戶合作的權利，及/ 或就彌償基礎上向商戶追討過程中所導致的損失、賠償及費用。

詳情及細則請參考以下列表：

列表一： 收到任何法庭、法院或監管機構投訴貨品違反法例或懷疑貨品違反法例而發出的書面諮詢或通知書(包括但不限於採取法律行動通知、罰款通知及收集資料通知)、投訴及警告信懷疑貨品違反相關法例，香港電視購物網絡有限公司向商戶收取的罰款

相關法例及條款	罰款(以每一件 SKU 計算)
出售假冒貨品	HK \$ 20,000, 有關商戶亦須承擔在過去六個月內所有已出售的貨品的所有退款
Cap. 406 及 Cap. 406G: 《電力條例》及《電氣產品(安全)規例》— 供應的電氣產品未能符合基本安全規例 及/ 或特定安全規例	HK \$ 20,000 有關商戶亦須承擔在過去六個月內所有已出售的貨品的所有退款

<p>Cap. 138: 《藥劑業及毒藥規例》— 供應的藥劑制品中含有毒藥列表中所列的毒藥成分</p>	<p>HK \$ 20,000 有關商戶亦須承擔在過去六個月內所有已出售的貨品的所有退款</p>
<p>Cap. 549: 《中醫藥條例》—</p> <ol style="list-style-type: none"> <li>1. 供應的中成藥制品沒有根據香港法例註冊; 或</li> <li>2. 供應該條例中的附表一中所列之中藥材</li> </ol>	<p>HK \$ 20,000 有關商戶亦須承擔在過去六個月內所有已出售的貨品的所有退款</p>
<p>Cap. 231: 《不良廣告(醫藥)條例》— 為產品發布含有該條例中所限制的醫療聲稱字句的廣告</p>	<p>HK \$ 20,000</p>
<p>Cap. 603: 《產品環保責任條例》— 供應的電器產品未備有或商戶沒有遵守經環保署批註的除舊服務方案</p>	<p>HK \$ 20,000 有關商戶亦須承擔在過去六個月內所有已出售的貨品的所有退款</p>
<p>Cap. 598: 《能源效益(產品標籤)條例》— 供應的訂明電器產品未備有有效表列型號的參考編號及 / 或能源效益標籤</p>	<p>HK \$ 20,000 有關商戶亦須承擔在過去六個月內所有已出售的貨品的所有退款</p>
<p>Cap. 132 及 Cap. 132W: 《公眾衛生及市政條例》及《食物及藥物(成分組合及標籤)規例》—</p> <ol style="list-style-type: none"> <li>1. 商戶未有取得及/ 或提供有效的營業牌照; 或</li> <li>2. 供應的預先包裝食品沒有附上符合規例的食物標籤 (包括營養標籤)</li> <li>3. 供應的食物的性質、物質或品質方面誤導他人</li> </ol>	<p>HK \$ 1,000</p>
<p>Cap. 456: 《消費品安全的相關法例》— 供應的產品上或產品描述中未有附上適當的安全警告字句</p>	<p>HK \$ 1,000</p>
<p>Cap. 424: 《玩具及兒童產品安全條例》— 供應的玩具及兒童產品未符合一般安全規定及附加安全標準</p>	<p>HK \$ 1,000</p>

<p>Cap. 133: 《除害劑條例》—</p> <ol style="list-style-type: none"> <li>1. 供應第一部分或第二部分註冊除害劑的商戶未取得或提供有效除害劑牌照; 或</li> <li>2. 供應的除害產品所含有的第一部分註冊除害劑列表中的除害成分的濃度超出列表所示之最高濃度; 或</li> <li>3. 供應的除害產品含有第二部分註冊除害劑列表中所列的除害成分;</li> </ol>	<p>HK \$ 1,000</p>
<p>Cap. 362: 《商品說明條例》—</p> <ol style="list-style-type: none"> <li>1. 供應已應用虛假或具誤導成分的商品說明的貨品</li> <li>2. 作出構成餌誘式廣告宣傳的營業行為</li> </ol>	<p>HK \$ 1,000</p>
<p>侵犯版權— 未經版權擁有者的准許發布其原創作品</p>	<p>HK \$ 1,000</p>
<p>Cap. 390: 《淫褻及不雅物品管制條例》— 展示不雅事物(包括廣告)</p>	<p>HK \$ 1,000</p>
<p>違反任何其他適用法律或法規</p>	<p>HK \$ 1,000</p>

相關法例及條款	罰款 (以每 SKU 計算)
<p>合約條款第 3.1.30 項—</p> <ol style="list-style-type: none"> <li>1. 未能確保每款產品都擁有獨立的 SKU ID; 及/或</li> <li>2. 更改產品描述頁上的產品說明、描述內容、圖片或影片，以致原本屬於該 SKU ID 的產品被取代為另一款不同的產品</li> </ol> <p>(按照香港電視購物網絡有限公司的決定)</p>	<p style="text-align: center;">HK \$ 10,000</p> <p style="text-align: center;">有關商戶亦須承擔受影響訂單的貨品的所有退款</p>
<p>Cap. 406 及 Cap. 406G: 《電力條例》及《電氣產品(安全)規例》—</p> <ol style="list-style-type: none"> <li>1. 供應的電氣產品未能符合基本安全規例 及/ 或特定安全規例; 及/ 或</li> <li>2. 未能為供應的電氣產品提供產品安全證書</li> </ol>	<p style="text-align: center;">HK \$ 500</p>
<p>Cap. 138: 《藥劑業及毒藥規例》—</p> <p>供應的藥劑制品中含有毒藥列表中所列的毒藥成分</p>	<p style="text-align: center;">HK \$ 500</p>
<p>Cap. 549: 《中醫藥條例》—</p> <ol style="list-style-type: none"> <li>1. 供應的中成藥制品沒有根據香港法例註冊; 或</li> <li>2. 供應該條例中的附表一中所列之中藥材</li> </ol>	<p style="text-align: center;">HK \$ 500</p>
<p>Cap. 231: 《不良廣告(醫藥)條例》—</p> <p>為產品發布含有該條例中所限制的醫療聲稱字句的廣告</p>	<p style="text-align: center;">HK \$ 500</p>
<p>Cap. 603: 《產品環保責任條例》—</p> <p>供應的電器產品未備有或商戶沒有遵守經環保署批註的除舊服務方案</p>	<p style="text-align: center;">HK \$ 500</p>

<p>Cap. 132 及 Cap. 132W: 《公眾衛生及市政條例》及《食物及藥物(成分組合及標籤)規例》—</p> <ol style="list-style-type: none"> <li>1. 商戶未有取得及/ 或提供有效的營業牌照; 或</li> <li>2. 供應的預先包裝食品沒有附上符合規例的食物標籤 (包括營養標籤)</li> <li>3. 供應不符合性質、物質或品質要求的食物</li> </ol>	<p>HK \$ 500</p>
<p>Cap. 456: 《消費品安全的相關法例》—</p> <p>供應的產品上或產品描述中未有附上適當的安全警告字句</p>	<p>HK \$ 500</p>
<p>Cap. 424: 《玩具及兒童產品安全條例》—</p> <p>供應的玩具及兒童產品未符合一般安全規定及附加安全標準</p>	<p>HK \$ 500</p>
<p>Cap. 133: 《除害劑條例》—</p> <ol style="list-style-type: none"> <li>1. 供應第一部分或第二部分註冊除害劑的商戶未取得或提供有效除害劑牌照; 或</li> <li>2. 供應的除害產品所含有的第一部分註冊除害劑列表中的除害成分的濃度超出列表所示之最高濃度; 或</li> <li>3. 供應的除害產品含有第二部分註冊除害劑列表中所列的除害成分;</li> </ol>	<p>HK \$ 500</p>
<p>Cap. 362: 《商品說明條例》—</p> <ol style="list-style-type: none"> <li>1. 供應已應用虛假或具誤導性的商品說明的貨品</li> <li>2. 作出構成餌誘式廣告宣傳的營業行為</li> </ol>	<p>HK \$ 500</p>
<p>侵犯版權—</p> <p>未經版權擁有者的准許發布其原創作品</p>	<p>HK \$ 500</p>
<p>Cap. 390: 《淫褻及不雅物品管制條例》—</p> <p>展示不雅事物(包括廣告)</p>	<p>HK \$ 500</p>

<p>Cap. 598: 《能源效益(產品標籤)條例》—</p> <p>供應的訂明電器產品未備有有效表列型號的參考編號及 / 或能源效益標籤</p>	<p>HK \$ 500</p>
<p>違反任何其他適用法律或法規</p>	<p>HK \$ 500</p>
<p>合約條款第 3.1.25 項—進行未經授權的客戶轉移行為 (按照香港電視購物網絡有限公司的決定):</p> <ol style="list-style-type: none"> <li>1. 未授權情況下使用或盜取客戶資料</li> <li>2. 展示任何促銷資訊於： <ol style="list-style-type: none"> <li>i. 店舖介紹頁面</li> <li>ii. 貨品描述頁面</li> <li>iii. 貨品包裝</li> </ol> </li> <li>3. 展示香港電視購物網絡平台以外的購物渠道或方法</li> <li>4. 在貨品本身或其包裝、貨品描述頁面或店舖介紹頁面上展示商戶或負責該商戶業務之人士的聯絡資料 (例如電話號碼)</li> </ol>	<p>(罰款因應情況而有所不同)</p> <ol style="list-style-type: none"> <li>1. HK \$ 20,000; 並即時終止與商戶的合約協議</li> <li>2. <ol style="list-style-type: none"> <li>i. HK \$ 1,000 (以每店舖計算)</li> <li>ii. HK \$ 1,000 (以每 SKU 計算)</li> <li>iii. HK \$ 100 (以每包裝計算)</li> </ol> </li> <li>3. HK \$ 1,000 (以每店舖計算)</li> <li>4. HK \$ 100 (以每店舖計算)</li> </ol>
<p>合約條款第 3.1.3 項— 出售非賣品或試用裝的貨品，例如貨品上印有 “Not for Sale”, “Sample”, “Tester” 的貨品</p>	<p>HK \$ 500</p>
<p>合約條款第 3.1.28 項— 在香港電視購物網絡平台的留言頁上作虛假評價</p>	<p>HK \$ 500 (以每留言計算); (有關評價/ 留言會被即時刪除)</p>



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<p>合約條款第 3.1.27 項—</p> <ol style="list-style-type: none"> <li>1. 導致客戶被收取額外送貨運費，例如經快遞公司收取的住宅附加費</li> <li>2. 於店舖或產品描述頁面上展示任何關於個別收取額外送貨運費的資訊 (大型傢俬或大型電器除外)</li> </ol>	<p>(罰款因應情況而有所不同)</p> <ol style="list-style-type: none"> <li>1. HK \$ 500 (以每訂單計算)</li> <li>2. HK \$ 500 (以每店舖計算)</li> </ol>
<p>合約條款第 3.1.3 項— 出售 過期 產品</p>	<p>HK \$ 100 (以每訂單計算)</p>
<p>合約條款第 3.1.13 項 – 不遵守香港電視購物網絡有限公司的市場推廣的規則</p> <ol style="list-style-type: none"> <li>1. 大型市場推廣，例如: 感謝祭及季節性的營銷活動</li> <li>2. 其他市場推廣</li> </ol>	<p>(罰款因應情況而有所不同)</p> <ol style="list-style-type: none"> <li>1. 取決於可能導致損失和客戶訂單價值</li> <li>2. HK\$ 100 (以每 SKU 計算)</li> </ol>
<p>合約條款第 3.1.13 項—不遵守香港電視購物網絡有限公司有關營運、公平交易和產品安全的規則、指引或通知</p>	<p>(罰款因應情況而有所不同)</p> <p>\$100 (以每 SKU 計算)</p> <p>*罰款額以最新的指引或通知為準</p>
<p>合約條款第 3.1.6 項—</p> <p>沒有向 HKTVmall 提供清晰和 / 或適時的產品描述</p>	<p>HK \$100 (以每 SKU 計算)</p>

列表三：發現貨品發生與送貨有關的問題時，香港電視購物網絡有限公司會向商戶收取的罰款

相關法例及條款	罰款
<p>合約條款第 3.1.7 項— 錯誤送貨或不準時送貨(包括提早送貨、延遲送貨、未能送貨、遺漏送貨)</p>	<p>HK \$100 (以每訂單計算)</p>
<p>合約條款第 3.1.7 項— 由商戶取消訂單</p>	<p>HK \$100 (以每訂單計算)</p>
<p>合約條款第 3.1.26 項—不遵守包裝指引或貨品包裝不符合香港電視購物網絡有限公司要求(按照香港電視購物網絡有限公司的決定)</p>	<p>HK \$100 (以每訂單計算)</p>

<附件三> 商戶沒有主動取消因缺貨而未能完成的訂單	HK \$200 (以每訂單計算)
<附件一> 商戶未經 HKTVMall 預先批准下以「商戶派送」形式自行派送<附件四>豁免產品清單以外的產品	HK \$100 (以每 SKU 或每訂單計算，如適用)

### 注意事項

香港電視購物網絡有限公司在進行下一次產品檢查時，若發現商戶所銷售的貨品再次違反相同條例，其罰款將以上一次被罰金額 (不包括列表三所列的項目) 雙倍計算。

本公司保留全權自行決定於任何時候就附件三— 罰款作出任何更改，而且不作預先通知。修改後的附件三— 罰款會在通知商戶後生效，繼續使用香港電視購物網絡有限公司服務及/ 或繼續於 HKTVMall 經營業務的商戶應無條件接受更改後的附件三— 罰款。

最後更新日期: 2021 年 8 月 11 日

**SCHEDULE 4**  
**MERCHANT DELIVERY - EXEMPTED PRODUCTS**

All Products (except exempted Products) must be delivered under the Standard Delivery arrangement under Schedule 1 section A.

The exempted Products that **must** be delivered under the Merchant Delivery arrangement under Schedule 1 section B are limited to the following:-

Product Category	Example	Remark
Product Exceeding Delivery Volumetric Weight*	Large Furniture: Bed / Mattress Wardrobe Storage Cabinet Office Chair / Office Desk / Computer Desk Dining Table Sofa Massage Sofa	*Volumetric Weight Out of HKTVmall Delivery Allowance:  1. Carton / product exceeding 20 kg; or  2. Either side of the carton / product exceeding 130 cm; or  3. The sum of length, width and height of each carton / product exceeding 180 cm.
	Large Electronic Appliances: Washing Machine Refrigerator Television Monitor of 24 Inch or Above	
Flowers, Fruit Hamper and Poon Choi	Flowers, Fruit Hamper and Poon Choi	
Electronic Appliances Pricing above HK\$4,000	Smartphone / Tablet	
Product Requiring Installation Services	Security Safe Range Hood Smart Door Lock Water Purifier Water Heater Thermo Ventilators Built-in Microwave Oven / Electric Cooktops Other Built-in Kitchenware	
0-4°C Chilled Food**	Ready To Cook Dishes	**Each product will be reviewed for approval
Fine Jewelry	Pure Gold / Diamond	
Wine	Whiskies / Spirits / Red Wine / White Wine	Product pricing above HK\$2,000

## 附件四—必須安排商戶派送的豁免產品清單

所有產品（獲豁免的產品除外）必須按照附表一，甲部分(Schedule 1, Section A, Standard Delivery) 的條款安排送貨。而獲豁免的產品必須按照附表一，乙部分(Schedule 1, Section B, Merchant Delivery) 的條款安排送貨，獲豁免的產品只限於以下產品：

貨品種類	貨品例子	備註
超過可集運貨品之體積 / 重量*	大型傢俬： 床架 / 床褥 衣櫃 儲物櫃 辦公椅 / 書枱 / 電腦枱 餐枱 梳化 按摩椅  大型家庭電器： 洗衣機 雪櫃 電視 24 吋或以上之顯示器	*不可由 HKTVMall 集運貨品之體積 / 重量： 1. 貨箱 / 貨件的重量超過 20 公斤；或 2. 貨箱 / 貨件的其一單邊長超過 130 厘米(cm)；或 3. 貨箱 / 貨件的長度、闊度及高度相加之總和超過 180 厘米(cm)。
鮮花、果籃及盆菜	鮮花、果籃及盆菜	
售價高於 HK\$4,000 之電子產品	智能電話 / 平板電腦	
如需上門安裝之貨品	夾萬 抽油煙機 智能門鎖 濾水器 熱水爐 浴室寶 嵌入式微波爐 / 煮食爐 各類嵌入式廚具	
0-4°C 冷凍食品**	新鮮饅菜包	**需按照商品種類及視乎實際情況，每款商品進行個別審批
珠寶首飾	足金 / 鑽石	
酒類	威士忌 / 烈酒 / 紅酒 / 白酒	售價高於 HK\$2,000