

## 1. Introduction

Mserve Direct is a technology services company. It provides a system to connect individual drivers, vehicle operators or service providers with Users. Mserve Direct does not provide transportation services, nor act as a transportation carrier or provider, courier, postal services provider, delivery services provider, food and beverage supplier or operator, taxi or private hire operator, nor act as an agent for any such person or entity. All Transportation Services are provided directly to You by the Transportation Provider, who is an independent, third party contractor, carrying out business on his/her own account, not under the employment of any Mserve Direct (Pty)Ltd. The App enables users to order and purchase food, beverages, fresh groceries and other items (the "**Food**") from any of the restaurants, grocery stores, retail outlets, liquor stores, pharmacies or other food/snack outlets listed on the App (each a "**Restaurant**").

### About Mserve Direct

Mserve Direct is a technology services company. It provides a system to connect individual drivers, vehicle operators or service providers with Users. Mserve Direct does not provide transportation services, nor act as a transportation carrier or provider, courier, postal services provider, delivery services provider, food and beverage supplier or operator, taxi or private hire operator, nor act as an agent for any such person or entity. All Transportation Services are provided directly to You by the Transportation Provider, who is an independent, third party contractor, carrying out business on his/her own account, not under the employment of any Mserve Direct Company.

The Mserve Direct app provides

1. (MRide), Car ride-sharing,
2. ( MserveFood)- Food delivery services,
3. (MSend)- Parcel delivery,
4. (MHandy)- Handy man services, and
5. (MShop) Shopping delivery services for customers in Botswana.

Definitions and interpretations

1. In these Terms of Use, the following terms have the following meanings:

1. **Account** means the registered account You obtain to access the System as a User;

2. **Additional Charges** is defined in clause 8.3;
3. **Affiliate** means, in relation to a party, any entity that controls, is under the control of, or is under common control with, that party, where control means the direct or indirect ownership of more than 50 per cent of the voting capital or similar right of ownership of that party or the legal power to direct or cause the direction of the general management and policies of that party, whether through the ownership of voting capital, by contract or otherwise, and **controls** and **controlled** shall be interpreted accordingly;
4. **Applicable Law** means all applicable laws, by-laws, enactments, regulations, regulatory policies, ordinances, protocols, industry codes, road traffic codes, regulatory permits, regulatory licences or requirements of any court, tribunal or governmental, statutory, regulatory, judicial, administrative or supervisory authority or body, which are in force from time to time during the term of these Terms of Use;
5. **Driver Application** means the electronic application supplied by MserveDirect and/or MserveDirect Group Companies for Transportation Providers to connect with Users;
6. **Group Companies** means a person and its Affiliates (and **Group Company** will be construed accordingly);
7. **Local Terms** means the supplementary or alternative terms for specific countries, cities, municipalities, metropolitan areas or regions which apply to You, as made available and as updated by MserveDirect from time to time and as set out [here](#);
8. **Mobile Device** is the smartphone, tablet or other mobile device owned or controlled by You which You use to connect to the User Application;
9. **Policies** means any policies, guidelines or information applicable to Users, as notified to You by MserveDirect from time to time (including via the Services, the Websites, the Policies, or to Your email address set out in Your Account), and as may be updated by MserveDirect from time to time;
10. **Specific Terms** means the supplementary or alternative terms which may apply to certain specific parts of the System and/or Transportation Services, as may be notified to You from time to time;
11. **System** means the system provided by MserveDirect to connect Transportation Providers with Users, including the Driver Application, the User Application and related software, websites, platforms, and other support systems and services, including the Websites. For the avoidance of doubt, the System does not include the Transportation Services themselves, as these are provided by Transportation Providers directly to You;

12. **Terms of Use** means these MserveDirect User Terms of Use, all applicable Local Terms and Specific Terms;
  13. **Territory** means the territory in which You use the System;
  14. **Transportation Provider** means the independent third party service provider who offers Transportation Services having been connected to You via the System;
  15. **Transportation Services** means the transportation services provided by Transportation Providers when they are connected to You via the System, which may, depending on Your Territory, include instant courier services, transportation services, food delivery services, personal shopping services, and other services available from Transportation Providers via the System from time to time;
  16. **User** means a registered end user of the User Application;
  17. **User Application** means the electronic application supplied by MserveDirect and/or MserveDirect Group Companies for Users to connect with Transportation Providers;
  18. **User Fees** is defined in clause 8.2;
  19. **Vehicle** means the vehicle used by a Transportation Provider for the purpose of providing Transportation Services;
  20. **Voucher** means electronic monetary value or credit that, when validly applied by a User, may be used to offset certain fees payable by the User via the User Application, in accordance with the terms and conditions specified by MserveDirect; and
  21. **Websites** means any websites operated by MserveDirect Group Companies from time to time.
2. In these Terms of Use (except where the context otherwise requires): (a) a reference to “writing” does not include email unless otherwise specified; and (b) any phrase introduced by the terms “including”, “include”, “in particular”, “for example”, or any similar expression is illustrative and does not limit the meaning of the words preceding those terms. These Terms of Use are drafted in the English language. If these Terms of Use are translated into another language, the English language text will prevail. In the event of any inconsistency, the following order of precedence applies: first, (i) the Local Terms; then (ii) the Specific Terms; and finally (iii) the other parts of these Terms of Use.

Your responsibilities

our commitments to Mserve Direct

1. You confirm that:

1. You have full power and authority to enter into and be legally bound by these Terms of Use and to perform Your obligations under these Terms of Use;
2. You have attained at least the age at which You are capable of being legally bound by these Terms of Use by Applicable Law in the Territory;
3. You will comply at all times with all Applicable Laws and the Policies, and will notify Mserve Direct if You are in breach of any Applicable Laws or the Policies;
4. You will only use the System for lawful purposes and only for the purposes for which it is intended to be used;
5. You shall ensure that any documents and information provided by You (or on Your behalf) to Mserve Direct or otherwise via the System are at all times accurate, current, complete and not misleading;
6. You shall only use an internet access point and data account which You are authorised to use; you shall not engage in any fraudulent, deceptive or misleading conduct; and
7. You shall not impair or circumvent the proper operation of the system or network which the System operates on.

2. Your interactions with Transportation Providers and other Users

3. Your order for Transportation Services from Transportation Providers creates a direct relationship between You and the Transportation Provider, to which Mserve Direct is not a party. To the maximum extent permitted by Applicable Law, Mserve Direct is not responsible or liable for the acts or omissions of a Transportation Provider in relation to You. You have the sole responsibility for any obligations or liabilities to Transportation Providers or any other third parties that arise from Your use of the Transportation Services.

4. You agree:

1. to treat Transportation Providers and other Users with respect, in compliance with the Policies, and not to engage in any unlawful, threatening or harassing behaviour or activities whilst using the Transportation Services or the System;
  2. not to cause any damage to third party property; and
  3. not to contact Transportation Providers for purposes other than to receive and use the Transportation Services.
5. The Transportation Provider has sole discretion whether to accept, reject, or cancel requests for Transportation Services for any reason. Without limiting the foregoing, the relevant Transportation Provider reserves the right to refuse accepting Your order if it has reasonable grounds to suspect a violation of these Terms of Use, the Policies or Applicable Law.

6. For the avoidance of doubt, Mserve Direct does not endorse any third party providers (including the Transportation Providers), applications or websites that are available or to which You are connected through the System, and in no event shall Mserve Direct, its licensors or any of its Affiliates be responsible for any content, products, services or other materials on or available from such third party providers. Any Transportation Provider ratings are intended to be indicative of ratings provided by other Users but do not constitute an endorsement (or otherwise) by Mserve Direct of that Transportation Provider.
7. Complaints
8. Although the Transportation Provider is solely responsible for the Transportation Services, if You have a complaint about the Transportation Services You have received, Mserve Direct has the right to deal with any such complaints through Mserve Direct's complaints handling process. You agree to cooperate fully with such process and to submit any complaint You may have via the User Application. Mserve Direct also reserves the right to redirect Your complaint to the relevant Transportation Provider and may choose, but is not obliged, to facilitate discussions with the Transportation Provider. Mserve Direct's complaints handling process shall not exclude any rights or remedies that cannot be excluded or limited under Applicable Law.
9. If Mserve Direct receives a complaint from a Transportation Provider or another person about You, Mserve Direct has the right to redirect the complaint to You or deal with such complaint via its complaints handling process. Again, You agree to cooperate fully with such process.

#### **Your Account**

1. In order to access the System as a User, You must register for and maintain an Account as a user of the User Application.
2. You are responsible for all activities conducted on Your Account and all decisions made in relation to Your use of the System. You:
  1. must only have one Account;
  2. must keep Your Account information (including Your login details and payment details) confidential and secure;
  3. must not provide any other person with access to Your Account, including to transfer the Account or information from Your Account to any other person;
  4. must promptly notify Mserve Direct if You suspect any unauthorised access to or use of Your Account; and
  5. must not, if You are also a Transportation Provider, use Your Account to make an order as a User that You will accept as a Transportation Provider, or otherwise collaborate with other Transportation Providers or Users in any similar scheme.

3. Mserve Direct reserves the right to block or deny access to Your Account, and/or block features available in the User Application, without prejudice to its other rights and remedies:
  1. if Mserve Direct deems, in its sole discretion, that You have violated any term of these Terms of Use;
  2. during an investigation;
  3. if You owe any money to Mserve Direct or its Group Companies;
  4. if these Terms of Use are terminated for any reason; or
  5. at any other time in Mserve Direct's reasonable discretion.

## **Your use of the System**

### Your commitments to Mserve Direct

1. Subject to Your compliance with these Terms of Use, Mserve Direct and its licensors grant You a revocable, limited, non-exclusive, non-transferable, royalty-free licence during the term of these Terms of Use and in the Territory, to access and use the System solely for Your personal use for the purpose of connecting You with Transportation Providers in respect of Transportation Services.
2. All rights not expressly granted to You under these Terms of Use are reserved by Mserve Direct and its licensors. Nothing in these Terms of Use transfers any ownership in or to the System (in whole or in part) to You.
3. Prohibited conduct
4. In using the System, You shall not:
  1. license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party the System in any way;
  2. modify or make derivative works based on the System, or reverse engineer or access the underlying software for any reason;
  3. use the System to build a competitive product or service, build a product using similar ideas, features, functions or graphics as the System, copy any ideas, features, functions or graphics of the System, or launch an automated program or script which may make multiple server requests per second, or which unduly burdens or hinders the operation and/or performance of the System, or attempt to gain unauthorised access to the System or related systems or networks;
  4. use any application or process to retrieve, index, "data mine", or in any way reproduce or circumvent the navigational structure, presentation or content of the System;
  5. post, distribute or reproduce in any way any copyrighted material, trademarks, or other proprietary information without obtaining the prior consent of the owner of

such proprietary rights, or remove any copyright, trademark or other proprietary rights notices contained in the System;

6. send or store any material for unlawful or fraudulent purposes;
  7. send spam or other unsolicited messages;
  8. send or store infringing, obscene, threatening, libelous, or otherwise unlawful or tortious material;
  9. send material containing software viruses, worms, trojan horses or other harmful computer code, files, scripts, agents or programs;
  10. interfere with or disrupt the integrity or performance of the System or the data contained therein;
  11. impersonate any person or entity or otherwise misrepresent Your affiliation with a person or entity;
  12. deliberately misrepresent Your location, or make or receive orders for Transportation Services other than via the User Application or which are fake;
  13. cause nuisance, annoyance, inconvenience, harassment, personal injury or property damage, whether to Mserve Direct (and its officers, directors, members, employees and agents), any Transportation Provider, or any other party; or
  14. damage Mserve Direct's or any of its Group Companies' reputation in any way.
5. You shall not use the Transportation Services to:
1. commit a crime or do anything contrary to Applicable Law; or
  2. harm or injure another person or infringe another person's rights.
6. Where the Transportation Services involve a Transportation Provider transporting, obtaining or purchasing items on Your behalf, You agree and grant to the Transportation Provider the full power and authority necessary for the Transportation Provider to do so.
7. Transportation Providers are required to agree that they will be careful and provide the Transportation Services safely. However, You are ultimately responsible for Your own safety in Your use of the Transportation Services, and You shall take all necessary precautions.

### **Your Mobile Device**

1. Your access to the User Application will be through a Mobile Device. It is Your responsibility to check and ensure that You download the correct software (including the latest version of the User Application) for Your Mobile Device. Mserve Direct is not liable if You do not have a compatible device or if You do not have the latest version of the software (including the latest version of the User Application) for Your Mobile Device.

2. If a Mobile Device is lost, stolen, broken and/or no longer in Your possession, and this exposes Your Account information to someone else or otherwise affects Mserve Direct's legal rights and/or remedies, You must immediately notify Mserve Direct and follow the procedures notified by Mserve Direct.
3. You are solely responsible for having in place an appropriate internet and mobile plan and for any fees charged by Your telecommunications service provider, such as telephone, SMS and internet data fees. You acknowledge that Your use of the System may consume large amounts of data and that You will be solely responsible for such usage and the associated fees.

## **Financial Terms**

### User Application

1. The download and/or use of the User Application is provided for You to use the System and is provided on a royalty-free basis. Mserve Direct reserves the right to charge a fee for all support and services You obtain, directly or indirectly, through the use of the System, as notified to You by Mserve Direct from time to time (including via the Policies).
2. Transportation Providers are entitled to charge You a fee for the Transportation Services, which may include:
  1. a fee (metered or otherwise) for each instance of Transportation Services;
  2. any other amounts payable by You in accordance with the Policies; and
  3. any applicable taxes calculated in accordance with Applicable Law
3. Transportation Providers may charge You certain additional fees, which may include:
  1. any tolls, road-usage charges, parking charges, building or area entrance charges, and any other applicable surcharges (including but not limited to peak hour and midnight surcharges), necessarily incurred by You for each instance of Transportation Services;
  2. any cancellation charges;
  3. any other amounts payable by You in accordance with the Policies; and
  4. any applicable taxes in respect of the above, calculated in accordance with Applicable Law
  5. (together, the **Additional Charges**).
4. The User Fees, any cancellation or other charges and/or taxes (as applicable) for each instance of Transportation Services will be calculated via the User Application or via the Mobile Data Terminal located in the Transportation Provider's Vehicle, and all other Additional Charges will be manually entered by the Transportation Provider into the Driver



Application (without mark-up) and are payable by You via the User Application or otherwise in accordance with the Policies. You have the right to agree with the Transportation Provider on a different fee for provision of the Transportation Services, such agreed fee to be applied only after notification to Mserve Direct and reflected as the fee for Transportation Services in the Driver Application.

5. The fee component of User Fees may increase based on demand and other factors in Your location. Mserve Direct will always endeavour to inform You about any such increase via the User Application and it is Your responsibility to review the User Fees (or the basis on which they will be calculated) carefully before electing to purchase Transportation Services. You will be deemed to be aware of, and You accept responsibility for, all User Fees incurred under Your Account.
6. Mserve Direct may update the basis on which User Fees and Additional Charges are calculated via the System at any time in its absolute discretion. Any User Fees and Additional Charges on or after the date on which the update takes effect shall be subject to the updated calculation.
7. The User Application may provide You with an option to cancel certain Transportation Services before such Transportation Services commence. If You choose to do so, You may be required to pay a cancellation charge, or other applicable Additional Charges, in accordance with the Policies.
8. When using Transportation Services, You must make Yourself available at Your designated pick-up location by the relevant time specified via the User Application or the relevant Policies. If You fail to do so, the Transportation Provider is entitled to cancel the Transportation Services and You may be charged a cancellation charge, or other applicable charges, in accordance with the Policies.
9. You acknowledge and agree that Mserve Direct may, to the extent permitted by Applicable Law, adjust or cancel the User Fees and Additional Charges (or any part thereof) payable in connection with a particular instance of Transportation Services, acting reasonably (for example, where Mserve Direct determines that there is an error in the original calculation, that You have not complied with these Terms of Use, that a fee was charged when it should not have been (or vice versa), or in the case of a complaint).

#### Promotions

10. In order to promote usage of the System, Mserve Direct may from time to time, in its sole discretion, offer promotions based on You meeting specified criteria and complying with specified conditions. You may choose whether or not to participate in the promotion. If You do decide to participate, Your right to benefit from the relevant promotions is conditional on You meeting all of the specified criteria and complying with all of the specified conditions, to Mserve Direct's reasonable satisfaction. If You do not do so, You will not be entitled to the benefits of the relevant promotions. You agree that You will only use such promotions for their intended use and will not abuse, duplicate, sell or transfer the promotions in any

manner. You also understand that the promotions cannot be exchanged for cash and may expire on a certain date, even before You use them.

### Payments

11. Unless otherwise determined by Mserve Direct, all amounts payable by You under these Terms of Use are final and non-refundable, and must be paid using the payment methods offered via the User Application from time to time, including (where applicable) by cash, credit or debit card or by using Vouchers.
12. Where You choose to make payment using cash, You shall pay all User Fees and Additional Charges payable to the Transportation Provider, and any other amounts payable to Mserve Direct, to the Transportation Provider, who shall collect the amounts payable to Mserve Direct on behalf of Mserve Direct.
13. Where You choose to make payment using a non-cash payment method, You grant to Mserve Direct the full power and authority to debit the same using the default payment method designated in Your Account and remit the User Fees and Additional Charges on Your behalf to the Transportation Provider, after deduction (where applicable) of the relevant amounts by Mserve Direct in accordance with its arrangements with the Transportation Providers.
14. If third party payment methods are available via the User Application in Your Territory, Your use of a third party payment method is subject to the terms and conditions of the relevant third party providing such payment method, and may also be subject to separate fees imposed by the third party provider. Mserve Direct makes no representation, warranty, or guarantee regarding the reliability, timeliness, quality, suitability or availability of such third party payment methods, and shall not be responsible to You or such third party provider in respect of Your use of any third party payment method, including any limitations, delays, or failures of the third party payment method.
15. All payments must be in the local currency in the Territory.
16. If Vouchers are available in Your Territory, Your use of Vouchers may be subject to Specific Terms and Local Terms. Please check these carefully before using Vouchers. Mserve Direct may at its absolute discretion reject Your request to use or purchase Vouchers for any reason. For the avoidance of doubt, Vouchers are not redeemable for cash, are not refundable under any circumstances and cannot be resold or exchanged for value.
17. Without prejudice to its other rights and remedies, Mserve Direct may suspend the processing of any transaction where it reasonably believes that the transaction may be fraudulent, illegal or may involve any criminal activity or where it reasonably believes You are in breach of these Terms of Use, the Policies, or Applicable Law. In such an event, You shall not hold Mserve Direct or its Group Companies liable for any withholding of, delay in, suspension of, or cancellation of, any payment or any promotions to You.
18. If You have been incorrectly charged a fee, you may contact us via the User Application or by email to [mservedirect@gmail.com](mailto:mservedirect@gmail.com) for assistance. Mserve Direct has sole discretion in

determining whether to process any refund or return of payment to You and the mode of such refund or return of payment (including by way of Vouchers).

19. These Terms of Use shall be subject to all applicable prevailing statutory taxes, duties, fees, charges and/or costs, however denominated, as may be in force and in connection with any applicable future taxes that may be introduced at any point of time.
20. You agree to do everything necessary and required by Applicable Law to enable, assist and/or defend Mserve Direct to claim or verify any applicable input tax credit, set off, rebate or refund in respect of any taxes paid or payable in connection with the System and/or the Transportation Services.

## **Indemnities and liabilities**

### **Indemnities**

1. You shall defend, indemnify and hold harmless Mserve Direct, its licensors and each such party's Affiliates and their respective officers, directors, members, employees and agents from and against any and all claims, costs, damages, losses, liabilities and expenses (including attorneys' fees and costs) arising out of or in connection with:
  1. Your breach of any term of these Terms of Use, the Policies, or any Applicable Law; and
  2. Your use of the System and/or the Transportation Services, including:
    1. (a) any claim by You or a person acting on Your behalf that any Mserve Direct Group Company, rather than a Transportation Provider, is the provider of the Transportation Services;
    2. (b) any third party claims (including claims by any Transportation Providers) arising from Your use of the System and/or the Transportation Services; and
    3. (c) in respect of any items that You purchase, obtain and/or transport using the Transportation Services.

### **Basis on which the System is provided**

2. The System is provided "as is" and "as available". To the maximum extent permitted by Applicable Law, Mserve Direct disclaims all representations and warranties, express, implied or statutory, save as expressly set out in these Terms of Use, including any warranties of merchantability, fitness for a particular purpose, reasonable care and skill, and non-infringement.
3. Without limitation to clause 9.2, Mserve Direct makes no representation, warranty, or guarantee regarding the reliability, timeliness, quality, suitability or availability of the System, or that the System will be uninterrupted or error-free, or will operate in combination with any other hardware, software, system or data, or that any data will be accurate or reliable.

4. Mserve Direct does not provide and is not responsible for providing or ensuring the provision of the Transportation Services. Mserve Direct does not guarantee the quality, suitability, safety or ability of the Transportation Providers or any other third party providers.
5. The System may be subject to limitations, delays, and other problems inherent in the use of the internet and electronic communications including the device used by You, the Transportation Provider, or other third party provider being faulty, not connected, out of range, switched off or not functioning. Mserve Direct is not responsible for any delays, delivery failures, damages or losses resulting from such problems. Mserve Direct shall not be responsible for any limitations, delays or failures of any Transportation Provider and other third party provider, regardless of whether their systems, goods or services are accessible via the System.
6. Timelines specified for Transportation Services are, unless expressly agreed otherwise by Mserve Direct in writing, indicative. Neither Mserve Direct nor the Transportation Providers make any warranty, representation or undertaking that specified timelines will be met.
7. Mserve Direct is not liable for the download and use of User Application in a rooted or jailbroken device and such use of any rooted or jailbroken device is entirely at Your own risk. You understand and agree that Mserve Direct is not liable for any losses or any other consequences suffered or incurred by You as a result and we have the discretion to suspend Your use of Mserve Direct app in rooted device and block such rooted device from using the User Application.
8. Nothing in these Terms of Use limits or excludes a party's liability for death or personal injury caused by such party's negligence, for fraud, or for any other liability to the extent it cannot be limited or excluded under Applicable Law.
9. To the maximum extent permitted by Applicable Law, Mserve Direct shall not be liable for:
  1. indirect, incidental, special, exemplary, punitive or consequential damages;
  2. loss of use, lost profits, lost data, lost business, lost goodwill, lost contracts or lost opportunity; and
  3. personal injury or property damage, arising from, related to or otherwise in connection with the System or the Transportation Services, whether in contract, tort, breach of statutory duty or otherwise.
10. To the maximum extent permitted by Applicable Law, and unless otherwise specified in the Specific Terms, in no event shall Mserve Direct's maximum aggregate liability arising under and in connection with the System, the Transportation Services and/or these Terms of Use, whether in contract, tort, breach of statutory duty or otherwise, exceed the User Fees and Additional Charges paid by You in connection with the first event giving rise to a claim under these Terms of Use.
11. Unless otherwise specified in the Specific Terms, any claims You have against Mserve Direct under or in connection with the System, the Transportation Services or these Terms of Use

must be notified to Mserve Direct within one (1) year after the events giving rise to such claim, failing which (to the maximum extent permitted by Applicable Law) You will forfeit any rights and remedies You have in respect of such claim.

## **Term & Termination**

These Terms of Use shall continue until terminated in accordance with their terms.

Mserve Direct may terminate these Terms of Use, and/or suspend or terminate Your use of the System in whole or in part:

at any time for any reason by giving notice to You; and

immediately, with or without notice, if You are in breach of any term of these Terms of Use, without prejudice to Mserve Direct's other rights and remedies.

You are under no obligation to use the System and may cease using them at any time by permanently deleting the User Application from Your Mobile Device, thus disabling Your use of the User Application. These Terms of Use are automatically terminated when You permanently delete the User Application from Your Mobile Device.

On termination or expiry of these Terms of Use for any reason, You shall:

promptly (and in any event within three days), pay any money owed to Mserve Direct (which shall become immediately due and payable on termination or expiry), including any outstanding payments in connection with Transportation Services ordered by You prior to termination or expiry; and

immediately delete and fully remove the User Application from Your Mobile Device.

The parties shall have no further obligations or rights under these Terms of Use after termination of the Terms of Use, without prejudice to any obligations or rights which have accrued to either party at the time they are terminated, save that the provisions of clauses 2, 3, 8.15, 8.16, 9, 10, 11, 12 and 13, of these Terms of Use and any other clause which expressly or by its nature is intended to survive, shall continue to have effect after the end of these Terms of Use.

## **Privacy**

You agree and consent to Mserve Direct using and processing Your personal information as set out in our [Privacy Policy](#), as amended from time to time.

## **SPECIFIC TERMS AND CONDITIONS FOR THE USE OF MRide**

### **Additional Definitions**

The definitions and rules of interpretation set out in the Terms of Use apply to these Specific Terms. In addition:

**MRide** means the Transportation Service provided by the Transportation Provider using a four-wheel motorised Vehicle to transport a User from a pick-up location to a destination location designated by the User.

### **Additional Terms for MRide**

1. Mserve Direct does not guarantee that MRide will be available in Your Territory.
2. MRide is not intended for use in transporting goods or other items. If You wish to transport goods or other items, You are encouraged to use GoSend or another applicable service.
3. You must not eat, drink or smoke in the Vehicle.
4. Transportation Providers are required to agree that they will be careful and provide the MRide services safely. However, in accordance with the Terms of Use, You as the user of MRide service shall be liable for Your own safety and if You feel uncomfortable with the manner in which the Transportation Provider drives his/her Vehicle, You are encouraged to remind the Transportation Provider to be more careful.
5. You and any other passengers must wear the seat belts provided by the Transportation Provider during the trip using the MRide service. If no seat belt is available, You should cancel Your order and notify Mserve Direct.
6. You must not interfere with the Transportation Provider's ability to operate the Vehicle safely.
7. You undertake that the number of passengers at a time does not exceed the capacity of passengers permitted for the type of four-wheel Vehicle driven by the Transportation Provider. The Transportation Provider is entitled to decline or cancel Your order if the Transportation Provider finds that the number of passengers will exceed the permitted capacity of passengers.

8. If You allow a person other than Yourself to use a MRide service requested by You via the User Application (whether or not accompanied by You), You shall be responsible for the safety of such person. You shall ensure that any minors using the MRide service are accompanied by an adult. Unless and to the extent that a Mserve Direct service feature provides that Mserve Direct or the Transportation Provider will provide an infant or child seat, You are solely responsible for providing the infant or child seat as required by Applicable Law.
9. Vehicle descriptions are indicative only. To the maximum extent permitted by Applicable Law, Mserve Direct does not guarantee that the Vehicle will match its description.
10. Pick-up and drop-off locations are approximate. The Transportation Provider may elect to pick You up or drop You off at an alternative location nearby where the Transportation Provider reasonably determines that it is dangerous or it is prohibited by Applicable Law to pick You up or drop You off at the original location.

## **MSERVE DIRECT DRIVER SERVICES AGREEMENT**

Please read this Agreement carefully. This is an electronic agreement and by registering for or using any part of the Services, You confirm that You have read, understood, accepted and agreed with this Agreement and will be bound by it. If You do not agree to be bound by this Agreement, You may not access or use any part of the Services. This Agreement constitutes a binding legal agreement between You, an individual driver or vehicle operator (**You or Your**) (**Mserve Direct**). If applicable, Your use of the Services as a User will be governed by the [Mserve Direct User Terms of Use](#).

### **About Mserve Direct**

Mserve Direct is a technology services company. It provides a system to connect individual drivers or vehicle operators with Users. Mserve Direct does not provide transportation services, nor act as a transportation carrier or provider, courier, postal services provider, delivery services provider, food and beverage supplier or operator, taxi or private hire operator, nor act as an agent for any such person or entity. All Transportation Services are provided directly by You to Users, and You act as an independent, third party contractor carrying on business on Your own account, not under the employment of any Mserve Direct Group Company.

### **Definitions and Interpretations**

1. In this Agreement, the following terms have the following meanings:
- Account** means the registered account You obtain to access the Services;
- Additional Charges** is defined in clause 9.4;
- Affiliate** means, in relation to a party, any entity that controls, is under the control of, or is under common control with, that party, where control means the direct or indirect ownership of more than 50 per cent of the voting capital or similar right of ownership of that party or the legal power to direct or cause the direction of the general management and policies of that party, whether through the ownership of voting capital, by contract or otherwise, and **controls** and **controlled** shall be interpreted accordingly;
- Agreement** means this Mserve Direct Driver Services Agreement, all applicable Local Terms and all applicable Specific Terms;
- Applicable Law** means all applicable laws, by-laws, enactments, regulations, regulatory policies, ordinances, protocols, industry codes, road traffic codes, regulatory permits, regulatory licences or requirements of any court, tribunal or governmental, statutory, regulatory, judicial, administrative or supervisory authority or body, which are in force from time to time during the term of this Agreement;
- Driver Application** means the electronic application supplied by Mserve Direct and/or Mserve Direct Group Companies for drivers and vehicle operators to connect with Users;
- Driver Wallet** means the feature within the Driver Application that records the amounts payable by Mserve Direct to the Driver, or by the Driver to Mserve Direct (as the case may be);

**Group Companies** means a person and its Affiliates (and **Group Company** will be construed accordingly);

**Local Terms** means the supplementary or alternative terms for specific countries, cities, municipalities, metropolitan areas or regions which apply to You, as made available and as updated by Mserve Direct from time to time and as set out [here](#);

**Mobile Device** is the smartphone, tablet or other mobile device owned or controlled by You which You use to connect to the Driver Application;

**Policies** means the Community Guidelines, the Privacy Policy, and any other policies, guidelines or information made available by Mserve Direct from time to time (including via the Services, the Website, the Policies, or to Your email address set out in Your Account), in each case as updated from time to time;

**Services** mean the services provided by Mserve Direct to connect individual drivers or vehicle operators with Users, including via the Driver Application, the User Application and related software, websites, platforms, and other support systems and services. For the avoidance of doubt, the Services provided by Mserve Direct do not include the Transportation Services themselves, as these are provided by You directly to Users;

**Service Fees** is defined in clause 9.8;

**Specific Terms** means the supplementary or alternative terms which may apply to certain specific parts of the Services and/or Transportation Services, as may be notified to You from time to time;



**Territory** means the territory in which You are registered to use the Services, as specified in Your Account;

**Transportation Services** means the provision of transportation services, including the transportation of goods and/or passengers, by You to Users;

**User** means a registered end user of the User Application;

**User Application** means the electronic application supplied by Mserve Direct and/or Mserve Direct Group Companies for Users to connect with drivers and vehicle operators;

**User Fees** is defined in clause 9.3;

**User Information** means information about a User made available to You by or on behalf of Mserve Direct or its Group Companies, which may include the User's name, pick-up location, contact information and photo;

**User Terms of Use** means the terms of use that apply to a User's use of the User Application, as updated from time to time; and

**Vehicle** means the vehicle You use for the purpose of providing Transportation Services.

2. In this Agreement (except where the context otherwise requires): (a) a reference to "writing" does not include email unless otherwise specified; and (b) any phrase introduced by the terms "including", "include", "in particular", "for example", or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms. This Agreement is drafted in the English language. If this Agreement is translated into another language, the English language text shall in any event prevail. In the event of any inconsistency, the Local Terms shall prevail over the terms set out in this document.

## Your responsibilities

Your commitments to Mserve Direct

1. You represent, warrant and undertake on a continuing basis throughout the term of this Agreement that:
  1. You have full power and authority to enter into this Agreement and perform Your obligations under this Agreement;
  2. You are able to operate a motor vehicle (including the Vehicle itself) and have a valid driver's licence and all the other required licences, approvals, authorities and consents to provide the Transportation Services in the Territory as required by Applicable Law;

3. You own, or have the legal right and authority to operate, the Vehicle, and that the Vehicle meets the applicable industry safety and maintenance standards for a vehicle of its kind, is in good operating condition, and is in a safe, clean and comfortable condition suitable for the provision of the applicable Transportation Services. If You accept a MRide Kids order, You will use appropriate and approved child restraints in accordance with Applicable Law, Traffic Police standards and the Policies at all material times;
4. if an inward-facing in-vehicle recording device has been installed in the Vehicle you operate to provide the Transportation Services, you must notify us within 24 hours of such installation or at the point of your registration for an Account (whichever is earlier);
5. You are at least 18 years of age (or, if the age at which You are permitted to provide the Transportation Services under Applicable Law in the Territory is higher than 18, You are of at least that age);
6. You have and will maintain a valid policy of liability insurance for the operation of the Vehicle and/or business insurance to cover any anticipated losses related to the provision of the Transportation Services, in each case covering damage to You, Your passengers, any goods or other items, Your Vehicle, and any third parties, at a level of coverage that satisfies the minimum requirements under Applicable Law and the Policies. Mserve Direct does not control, or advise You on, Your insurance arrangements, nor is it obliged to arrange the insurance on Your behalf;
7. You will comply at all times with all Applicable Law and the Policies, and will notify Mserve Direct if You are in breach of any Applicable Law or the Policies;
8. You will only use the Services for lawful purposes and only for the purposes for which they are intended to be used;
9. You do not have a criminal record in the Territory or any other jurisdiction;
10. You will promptly provide Mserve Direct with any additional documents or information requested by Mserve Direct, including proof of identity, proof of ownership or right to use the Vehicle. You acknowledge that You may be subject to background, criminal record and driving record checks from time to time and You will cooperate with these as required by Mserve Direct;
11. You shall ensure that any documents and information provided by You (or on Your behalf) to Mserve Direct are at all times accurate, current, complete and not misleading;
12. You shall only use an internet access point and data account which You are authorised to use;
13. You shall not engage in any fraudulent, misleading, deceptive, illegal or criminal conduct; and

14. You shall not impair or circumvent the proper operation of the system or network which the Services operate on.
2. You are the provider of the Transportation Services and shall therefore be solely responsible for the safe, efficient and proper performance of Transportation Services using all reasonable care and skill. You shall be solely responsible for providing all necessary equipment, materials, tools and other items necessary for the safe, efficient and proper performance of the Transportation Services. You are responsible for Your own safety, and that of Users, in the performance of the Transportation Services, and You shall take all necessary precautions.

#### Your interactions with Users

3. Your provision of Transportation Services to Users creates a direct relationship between You and the User, to which Mserve Direct is not a party. Mserve Direct is not responsible or liable for the acts or omissions of a User in relation to You. To the maximum extent permitted by Applicable Law, You have the sole responsibility for any obligations or liabilities to Users or third parties that arise from Your provision of the Transportation Services.
4. Although You are solely responsible for the Transportation Services, Mserve Direct has the right to deal with any complaints that Users have through Mserve Direct's complaints handling process, or any complaints that You may have about any User. You agree to cooperate fully with such process, and to submit any complaint You may have via the Driver Application. Mserve Direct also reserves the right, at its sole discretion, to redirect any such complaints to You directly and may choose to facilitate discussions with the User. You agree to comply with Applicable Law, the terms of this Agreement and the Policies in Your handling of such User complaints. Mserve Direct's complaints handling process shall not exclude any rights or remedies that cannot be excluded or limited under Applicable Law.

#### Your interactions with third parties

5. You may have an opportunity to enter into arrangements with a third party via the Services. Any such arrangements will be solely between You and the applicable third party, and Mserve Direct has no responsibility or liability in relation to such arrangements. Mserve Direct does not endorse any third party providers, applications or websites that are available through the Services, and in no event shall Mserve Direct, its licensors or any of its Affiliates be responsible for any content, products, services or other materials on or available from such third party providers, applications or websites.

### **Your Account**

In order to access the Services as an individual driver or vehicle operator, You must register for and maintain an Account as a user of the Driver Application.

1. You are responsible for all activities conducted on Your Account. You:

1. must only have one Account;
  2. must keep Your Account information (including Your login details) confidential and secure;
  3. must not provide any other person with access to Your Account, including to transfer the Account or information from Your Account to any other person; and
  4. must promptly notify Mserve Direct if You suspect any unauthorised access to or use of Your Account.
2. Mserve Direct reserves the right to block or deny access to Your Account, and/or block features available in the Driver Application, at any time, with or without notification, without prejudice to its other rights and remedies:
1. if Mserve Direct deems, in its sole discretion, that You have violated any term of this Agreement or the Policies;
  2. during an investigation;
  3. if You owe any money to Mserve Direct or its Group Companies;
  4. if the balance of Your Driver Wallet falls below the minimum threshold specified by Mserve Direct from time to time;
  5. if this Agreement is terminated for any reason;
  6. if Mserve Direct deems, in its sole discretion, that Your Account may be used for or be involved in any fraudulent, illegal or other criminal activity; and/or
  7. at any other time in Mserve Direct's reasonable discretion.

In such an event, any outstanding balance in Your Driver Wallet will be withheld and/or forfeited (in the event of a permanent suspension of Your Account) and You shall not hold Mserve Direct liable for the withholding or forfeiture of any such amount.

3. If Your Account has been inactive for a period of six (6) consecutive months, You agree that Mserve Direct may suspend Your Account and/or charge You an administrative fee for maintaining Your Account, which shall be deducted from Your Driver Wallet balance. Any such action will be notified to You by us from time to time (including via the Policies). Before Your Account is suspended, You will have an opportunity to withdraw any outstanding balance in Your Driver Wallet and may, at any time submit a request to Mserve Direct to restore access to Your Account, in accordance with the process notified to You. Mserve Direct shall have sole discretion in determining whether access to Your Account or any Services may be restored.

## **Your use of the Services**

1. Subject to Your compliance with this Agreement, Mserve Direct and its licensors grant You a revocable, limited, non-exclusive, non-transferable, royalty-free licence during the term of this Agreement and in the Territory, to access and use the Services, including the Driver Application and any information and materials provided through the Driver Application, solely for Your personal use for the purpose of connecting You with Users in respect of Transportation Services.
2. All rights not expressly granted to You under this Agreement are reserved by Mserve Direct and its licensors. Nothing in this Agreement transfers any ownership in or to the Services (in whole or in part) to You.
3. In using the Services, You shall not:
  1. license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party the Services in any way;
  2. modify or make derivative works based on the Services, or reverse engineer or access the underlying software for any reason;
  3. use the Services to build a competitive product or service, build a product using similar ideas, features, functions or graphics as the Services, copy any ideas, features, functions or graphics of the Services, or launch an automated program or script which may make multiple server requests per second, or which unduly burdens or hinders the operation and/or performance of the Services, or attempt to gain unauthorised access to the Services or related systems or networks;
  4. use any application or process to retrieve, index, "data mine", or in any way reproduce or circumvent the navigational structure, presentation or content of the Services;
  5. post, distribute or reproduce in any way any copyrighted material, trademarks, or other proprietary information without obtaining the prior consent of the owner of such proprietary rights, or remove any copyright, trademark or other proprietary rights notices contained in the Services;
  6. send or store any material for unlawful or fraudulent purposes;
  7. send spam or other unsolicited messages;
  8. send or store infringing, obscene, threatening, libelous, or otherwise unlawful or tortious material;
  9. send material containing software viruses, worms, trojan horses or other harmful computer code, files, scripts, agents or programs;
  10. interfere with or disrupt the integrity or performance of the Services or the data contained therein;
  11. impersonate any person or entity or otherwise misrepresent Your affiliation with a person or entity;

12. deliberately misrepresent Your location, or make or receive orders for Transportation Services other than via the User Application or which are fake;
13. cause nuisance, annoyance, inconvenience, harassment, personal injury or property damage, whether to Mserve Direct (and its officers, directors, members, employees and agents), any User, or any other party; or
14. damage Mserve Direct's or any of its Group Companies' reputation in any way.

### **Your Mobile Device**

1. Your access to the Driver Application will be through a Mobile Device. It is Your responsibility to check and ensure that You download the correct software (including the latest version of the Driver Application) for Your Mobile Device. Mserve Direct is not liable if You do not have a compatible device or if You do not have the latest version of the software (including the latest version of the Driver Application) for Your Mobile Device.
2. You are solely responsible for the procurement and use of the Mobile Device including but not limited to the purchase of the Mobile Device itself.
3. You are solely responsible for having in place an appropriate internet and mobile plan and for any fees charged by Your telecommunications service provider, such as telephone, SMS and internet data fees. You acknowledge that Your use of the Services may consume large amounts of data and that You will be solely responsible for such usage and the associated fees.
4. If a Mobile Device is lost, stolen, broken and/or no longer in Your possession, and this exposes Your Account information to someone else or otherwise affects Mserve Direct's legal rights and/or remedies, You must immediately notify Mserve Direct and follow the procedures notified by Mserve Direct.
5. You may only access Your Account through the Mobile Device which uses the telephone number provided to Mserve Direct during the Account registration. You must not lend, lease or transfer the Mobile Device to any other person for the purpose of accessing Your Account without Mserve Direct's prior written consent.

### **Your Relationship with Mserve Direct**

1. Your relationship with Mserve Direct is that of an independent contractor. You expressly agree that: (a) this Agreement is not an employment agreement, nor does it create an employment relationship (including from a labour law, tax law or social security law perspective), between Mserve Direct and You, nor result in You being engaged by Mserve Direct as a worker or a deemed worker; and (b) no joint venture, partnership, or agency relationship exists between Mserve Direct and You. You have no authority to bind Mserve

Direct and You undertake not to hold Yourself out as an employee, agent, worker or representative of Mserve Direct.

2. You acknowledge that Mserve Direct does not, and does not seek to, exercise any general rights of control over You and Your activities. You retain the absolute discretion to accept, decline, or cancel any request for Transportation Services via the Driver Application and to determine how long You wish to use the Services for. If You no longer wish to use the Services, You can choose to cease doing so at any time. You have complete discretion as to whether to use the Services. You are also free in Your absolute discretion to engage in any occupation or business of Your choosing.
3. If, notwithstanding clauses 8.1 and 8.2, You are found to be an employee, agent, worker or representative of Mserve Direct or any Mserve Direct Group Company by mandatory provision of Applicable Law, You agree that any payments made to You will be taken to be inclusive of: (a) superannuation contributions; (b) social security and insurance contributions and premiums, employee insurance contributions and premiums, compulsory government saving fund contributions and equivalent contributions; and (c) amounts equivalent to all taxes (including but not limited to income taxes) payable by You in respect of those payments; and (d) equivalent or analogous payments or liabilities in any jurisdiction, in each case that Mserve Direct may be required to pay by such mandatory provision of Applicable Law.

## **Financial Terms**

### **Driver Wallet**

1. Payments to and from You made under this Agreement will be administered via the Driver Wallet, and You grant to Mserve Direct the full power and authority to receive any amounts payable to You on Your behalf and to deduct any amounts payable to Mserve Direct in accordance with this Agreement. Subject to the terms of this Agreement, You may withdraw the balance in Your Driver Wallet via the Driver Application. You must designate a valid local currency account with a bank in the Territory to receive such balance.

### **Driver Application**

2. Payment for Your use of the Services shall be made in accordance with clause 9.8. The download and/or use of the Driver Application is provided for You to receive the Services and is provided on a royalty-free basis.

### **User Fees and Additional Charges**

3. You are entitled to charge Users a fee for Transportation Services, which may include:
  1. a fee for each instance of Transportation Services;
  2. any other amounts payable by the User to You in accordance with the User Terms of Use or the Policies; and

3. any applicable taxes in respect of the above, calculated in accordance with Applicable Law

(together, the **User Fees**).

4. You may be allowed to charge Users and/or other parties certain additional fees, which may include:
  1. any tolls, road-usage charges, parking charges, and building or area entrance charges necessarily incurred by You during the provision of Transportation Services;
  2. any cancellation charges;
  3. any other amounts in accordance with the User Terms of Use or the Policies; and
  4. any applicable taxes in respect of the above, calculated in accordance with Applicable Law

(together, the **Additional Charges**).

5. As part of the Services, Mserve Direct facilitates the User's payment of the User Fee and Additional Charges by suggesting the fee for each instance of Transportation Services, any cancellation or other charges and/or taxes (as applicable), which are calculated via the Driver Application. All other charges must be manually entered by You into the Driver Application (without mark-up). If You fail to enter such amounts, You may not be able to recover them. You have the right to agree with the User on a different fee for provision of the Transportation Services, such agreed fee to be applied only after notification to Mserve Direct and reflected as the fee for Transportation Services in the Driver Application.
6. Mserve Direct may update the basis on which any component of User Fees or Additional Charges (as applicable) is calculated via the Driver Application, at any time in its absolute discretion. Any such update will be notified to You. Any User Fees or Additional Charges on or after the date on which the update takes effect shall be subject to the updated calculation.
7. You acknowledge and agree that Mserve Direct may, to the extent permitted by Applicable Law, adjust or cancel the User Fees or Additional Charges (or any part thereof) payable in connection with a particular instance of Transportation Services, acting reasonably (for example, where Mserve Direct determines that there is an error in the original calculation, that You have not complied with this Agreement or the Policies, that a fee was charged when it should not have been (or vice versa), or in the case of a complaint from a User).

#### Payment Methods

8. Users may choose to pay the User Fees, the Additional Charges, and any other amounts payable by Users to Mserve Direct, by the payment methods offered via the User Application from time to time, including (where applicable) cash, credit or debit card or by using Vouchers, as follows:



1. for cash payments, Users will pay the User Fees and Additional Charges payable to You, and any other amounts payable by Users to Mserve Direct, directly to You. For this purpose, You agree to collect any amounts payable by Users to Mserve Direct on behalf of Mserve Direct, and that Mserve Direct is entitled to deduct such amounts, together with any other amounts You owe to Mserve Direct (including the Service Fee) from Your Driver Wallet; and
2. for any non-cash payments, the amount of the User Fees and Additional Charges, after deduction of any amounts owed to Mserve Direct (including the Service Fee), will be credited into Your Driver Wallet via the Driver Application.

#### Incentive Payments

9. Mserve Direct may from time to time, in its sole discretion, offer incentive payments based on You meeting specified criteria and complying with specified conditions, this Agreement and the Policies. You have absolute discretion as to whether or not to participate in the offer. If You do decide to participate, any incentive payments are conditional on You meeting all of the specified criteria and complying with all of the specified conditions, this Agreement and the Policies to Mserve Direct's reasonable satisfaction. If You do not do so, You may not receive the relevant incentive payments. If You receive an incentive payment, the amount of the payment will be credited into Your Driver Wallet.

#### Service Fees

10. Mserve Direct will receive a service fee equal to a certain percentage of the User Fees (less any applicable tax component therein) received or receivable by You, on a per-transaction basis, as payment for Your use of the Services (**Service Fees**). Service Fees are non-refundable. The relevant percentage will be calculated via the Services from time to time and may be applied at any time by Mserve Direct. Mserve Direct may update the basis on which the Service Fees are calculated via the Services, at any time in its absolute discretion. Any such update will be notified to You. Any Service Fees payable to Mserve Direct on or after the date on which the update takes effect will be subject to the updated calculation. As part of the Services, a receipt or transaction history will be generated for each instance of Transportation Services, documenting the User Fees payable by the User in each instance.
11. Mserve Direct will deduct the Service Fees, as well as any amount You owe to Mserve Direct or its Group Companies and any other amounts Mserve Direct is required to withhold or deduct by Applicable Law, from Your Driver Wallet, at a frequency determined by Mserve Direct in its discretion from time to time.

You acknowledge and agree that Mserve Direct may:

1. require You to maintain an amount of money above a certain threshold in Your Driver Wallet, as determined and specified by Mserve Direct at its sole discretion from time to time;
  2. deduct or set-off from amounts owed to You (including the User Fees or any incentive payments) any amounts that You owe to Mserve Direct (including the Service Fees), or require You to remit to Mserve Direct any amounts that have been incorrectly remitted to Your designated bank account;
  3. where You have authorised a third party to receive amounts in Your Driver Wallet, disable the function allowing You to withdraw the balance in Your Driver Wallet, and/or remit such amounts to such third party and, for this purpose, Mserve Direct shall be entitled to rely on any written authorization provided to Mserve Direct by You and/or such third party without further inquiry; and
  4. without prejudice to Mserve Direct's other rights and remedies, suspend the processing of any transaction where it reasonably believes that the transaction may be fraudulent, illegal or may involve any criminal activity or where it reasonably believes You or the User are in breach of this Agreement or the Policies. In such an event, You shall not hold Mserve Direct liable for any withholding of, delay in, suspension of, or cancellation of, any payment (including any User Fees or incentive payments) to You.
12. This Agreement shall be subject to all applicable prevailing statutory taxes, duties, fees, charges and/or costs, however denominated, as may be in force and in connection with any applicable future taxes that may be introduced at any point of time.
13. You agree that You are solely responsible for taxes on Your own income arising from Your performance of the Transportation Services. You warrant that You will perform the necessary obligations imposed by the relevant tax or revenue authority in relation to the reporting of Your income and payment of taxes on the same.
14. You agree that Mserve Direct may in its sole discretion (but subject always to clause 8) declare, collect and/or pay any relevant taxes on Your behalf, and disclose all necessary or relevant information to the relevant tax or revenue authority for such purposes. To the extent authorised or permitted under Applicable Law, Mserve Direct shall be entitled to withhold or deduct any amounts from Your Driver Wallet for the purpose of declaring, collecting, and/or paying any relevant taxes on Your behalf.
15. You agree to do everything necessary and required by Applicable Law to enable, assist and/or defend Mserve Direct to claim or verify any applicable input tax credit, set off, rebate or refund in respect of any taxes paid or payable in connection with the Services.

### **Warranties, Indemnities and liability**

#### **Indemnities**

1. You shall defend, indemnify and hold harmless Mserve Direct, its licensors and each such party's Affiliates and their respective officers, directors, members, employees and agents from and against any and all claims, costs, damages, losses, liabilities and expenses (including attorneys' fees and costs) arising out of or in connection with:
  1. Your breach of any term of this Agreement, the Policies, or any Applicable Law;
  2. Your provision of the Transportation Services;
  3. Your use of the Services;
  4. taxes and tax liabilities, duties, levies, claims and penalties that are imposed on You and/or on any Mserve Direct Group Company in connection with Your own income arising from Your performance of the Transportation Services or otherwise arising from Your failure to comply with Your tax obligations; and
  5. any claim asserting that You are an employee, worker, agent or representative of Mserve Direct or any Mserve Direct Group Company, or if You may be deemed to be an employee, worker, agent or representative of Mserve Direct or any Mserve Direct Group Company, any claims by any other person, entity, regulator or government authority based on such implied employment, worker, agency or representative relationship, including in respect of superannuation contributions, wages, duties, withholdings, social security and insurance contributions and premiums, employee insurance contributions and premiums, compulsory government saving fund contributions and equivalent or analogous payments or liabilities in any jurisdiction, and, for this purpose, Mserve Direct shall be entitled to deduct any amounts from Your Driver Wallet.

Basis on which the Services are provided

2. The Services are provided "as is" and "as available". To the maximum extent permitted by Applicable Law, Mserve Direct disclaims all representations and warranties, express, implied or statutory, save as expressly set out in this Agreement, including any warranties of merchantability, fitness for a particular purpose, reasonable care and skill and non-infringement.
3. Without limitation to clause 10.2, Mserve Direct makes no representation, warranty, or guarantee regarding the reliability, timeliness, quality, suitability or availability of the Services, or that the Services will be uninterrupted or error-free, or will operate in combination with any other hardware, software, system or data, or that any data will be accurate or reliable. Mserve Direct does not guarantee the quality, suitability, safety or ability of third party providers. Mserve Direct does not guarantee that Your use of the Services will generate any minimum number of requests for Transportation Services or any minimum User Fees for You. The Services may be subject to limitations, delays, and other problems inherent in the use of the internet and electronic communications including the device used by You or the User being faulty, not connected, out of range, switched off or not functioning.

Mserve Direct is not responsible for any delays, delivery failures, damages or losses resulting from such problems.

#### Exclusions and limitations of liability

4. Nothing in this Agreement limits or excludes a party's liability for death or personal injury caused by negligence, for fraud, or for any other liability to the extent it cannot be limited or excluded under Applicable Law.
  5. To the maximum extent permitted by Applicable Law, Mserve Direct shall not be liable for:
    1. indirect, incidental, special, exemplary, punitive or consequential damages;
    2. loss of use, lost profits, lost data, lost business, lost goodwill, lost contracts or lost opportunity; and
    3. personal injury or property damage,
  6. arising from, related to or otherwise in connection with the Services or this Agreement, whether in contract, tort, breach of statutory duty or otherwise.
  7. To the maximum extent permitted by Applicable Law, in no event shall Mserve Direct's maximum aggregate liability arising under and in connection with the Services and/or this Agreement, whether in contract, tort, breach of statutory duty or otherwise, exceed the Service Fees paid to Mserve Direct in connection with Your Account in the six (6) month period immediately preceding the event giving rise to the claim.
  8. Any claims You have against Mserve Direct under or in connection with the Services or this Agreement must be notified to Mserve Direct within one year after the events giving rise to such claim, failing which (to the maximum extent permitted by Applicable Law) You will forfeit any rights and remedies You have in respect of such claim.
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1. This Agreement shall continue until terminated in accordance with its terms.
  2. Mserve Direct may terminate this Agreement:
    1. at any time for any reason by giving notice to You;
    2. immediately, with or without notice, if You are in breach of any term of this Agreement, without prejudice to Mserve Direct's other rights and remedies; and
    3. immediately, with or without notice, if You are breach of any other agreement with Mserve Direct.
  3. You are under no obligation to use the Services and may cease using them at any time in Your sole and absolute discretion by permanently deleting the Driver Application from Your Mobile Device, thus disabling Your use of the Driver Application. This Agreement is

automatically terminated when You permanently delete the Driver Application from Your Mobile Device or if Your Account is closed.

4. On termination or expiry of this Agreement for any reason, You shall:
  1. immediately delete and fully remove the Driver Application from Your Mobile Device;
  2. immediately cease using the Services (save to the extent that You are permitted to use the User Application as a User pursuant to the User Terms of Use); and
  3. promptly (and in any event within three days), pay any money owed to Mserve Direct (which shall become immediately due and payable on termination or expiry) (and, for this purpose, Mserve Direct shall be entitled to deduct the relevant amount from Your Driver Wallet).
5. The parties shall have no further obligations or rights under this Agreement after termination or expiry of the Agreement, without prejudice to any obligations or rights which have accrued to either party at the time it is terminated, save that the provisions of clauses 2, 3, 8, 9.11 to 9.14, 10, 11, 12, 13 and 14 of this Agreement and any other clause which expressly or by its nature is intended to survive, shall continue to have effect after the end of this Agreement.

## **Privacy**

1. You agree and consent to Mserve Direct using and processing Your personal information as set out in our [Privacy Policy](#), as amended from time to time.
2. To the extent that You have access to any personal information in connection with the Services, You agree to process it in accordance with Applicable Law, the Policies (including the Privacy Policy) and Mserve Direct's instructions. Without limitation, in using the Services, You may have access to certain User Information. You agree that Your Use of such User Information shall be strictly limited to usage as is necessary in order to perform the Transportation Services in accordance with this Agreement. Without limitation, You shall keep the User Information secure and shall not share the User Information with anyone else, or retain a copy of the User Information, or use it for any other purpose.

## **General**

1. Mserve Direct shall not be liable for delay or failure in performance resulting from causes beyond Mserve Direct's reasonable control.
2. You shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of Mserve Direct or any of its affiliated companies.
3. Mserve Direct may amend this Agreement at its sole discretion from time to time. Mserve Direct will use its reasonable endeavours to notify You of any material changes to the Agreement; however You agree that it is Your responsibility to review the Agreement regularly and Your continued use of the Services will constitute Your acceptance to the

amendments. Otherwise, no addition to or modification of this Agreement will be binding on the parties unless made in writing by the parties.

4. The rights of each party under this Agreement may be exercised as often as necessary, are cumulative and not exclusive of rights or remedies provided by law and may be waived only in writing and specifically. Delay in the exercise or non-exercise of any right is not a waiver of that right.
5. This Agreement constitutes the entire agreement and understanding of the parties relating to the subject matter of this Agreement and supersedes any previous agreement or understanding between the parties in relation to such subject matter. The parties also hereby also exclude all implied terms in fact. In entering into this Agreement, the parties have not relied on any statement, representation, warranty, understanding, undertaking, promise or assurance of any person other than as expressly set out in this Agreement. Each party irrevocably and unconditionally waives all claims, rights and remedies which but for this clause it might otherwise have had in relation to any of the foregoing. Nothing in this Agreement excludes liability for fraud or any other liability that cannot be limited or excluded under Applicable Law.
6. You may not assign, sub-license, transfer, subcontract, or otherwise dispose of any of Your rights or obligations, under this Agreement without Mserve Direct's prior written consent. Mserve Direct may at any time assign, sub-license, transfer, subcontract or otherwise dispose of its rights or obligations under this Agreement without notice or consent (save to the extent required by Applicable Law).
7. If any Court or relevant authority determines that any part of this Agreement is illegal, invalid or unenforceable under Applicable Law, the remaining parts of this Agreement will remain in full force and effect and the relevant part will be replaced with a provision that is legal, valid and enforceable and that has, to the maximum extent possible, an equivalent effect to the substituted part of this Agreement.
8. A person who is not a party to this Agreement has no right to rely upon or enforce any term of this Agreement.
9. Mserve Direct may give notice to You by means of a general notice published on the Driver Application or otherwise via the Services, the Website, the Policies, or to Your email address set out in Your Account. You must give notice to Mserve Direct by email to [drivercare.sg@gokjek.com](mailto:drivercare.sg@gokjek.com).

# MSERVE DIRECT DRIVER SERVICE AGREEMENT

## About this Agreement

Please read this Agreement carefully. This is an electronic agreement and by registering for or using any part of the Services, You confirm that You have read, understood, accepted and agreed with this Agreement and will be bound by it. If You do not agree to be bound by this Agreement, You may not access or use any part of the Services. This Agreement constitutes a binding legal agreement between You, an individual driver or vehicle operator (**You or Your**) and Mserve Direct Pty. Ltd. (**Mserve Direct**). If applicable, Your use of the Services as a User will be governed by the [Mserve Direct User Terms of Use](#).

### 1. About Mserve Direct

Mserve Direct is a technology services company. It provides a system to connect individual drivers or vehicle operators with Users. Mserve Direct does not provide transportation services, nor act as a transportation carrier or provider, courier, postal services provider, delivery services provider, food and beverage supplier or operator, taxi or private hire operator, nor act as an agent for any such person or entity. All Transportation Services are provided directly by You to Users, and You act as an independent, third party contractor carrying on business on Your own account, not under the employment of any Mserve Direct Group Company.

### 2. Definitions and Interpretation

1. 3.1 In this Agreement, the following terms have the following meanings:

1. **Account** means the registered account You obtain to access the Services;
2. **Additional Charges** is defined in clause 9.4;
3. **Affiliate** means, in relation to a party, any entity that controls, is under the control of, or is under common control with, that party, where control means the direct or indirect ownership of more than 50 per cent of the voting capital or similar right of ownership of that party or the legal power to direct or cause the direction of the general management and policies of that party, whether

through the ownership of voting capital, by contract or otherwise, and **controls** and **controlled** shall be interpreted accordingly;

4. **Agreement** means this Mserve Direct Driver Services Agreement, all applicable Local Terms and all applicable Specific Terms;
5. **Applicable Law** means all applicable laws, by-laws, enactments, regulations, regulatory policies, ordinances, protocols, industry codes, road traffic codes, regulatory permits, regulatory licences or requirements of any court, tribunal or governmental, statutory, regulatory, judicial, administrative or supervisory authority or body, which are in force from time to time during the term of this Agreement;
6. **Driver Application** means the electronic application supplied by Mserve Direct and/or Mserve Direct Group Companies for drivers and vehicle operators to connect with Users;
7. **Driver Wallet** means the feature within the Driver Application that records the amounts payable by Mserve Direct to the Driver, or by the Driver to Mserve Direct (as the case may be);
8. **Group Companies** means a person and its Affiliates (and **Group Company** will be construed accordingly);
9. **Local Terms** means the supplementary or alternative terms for specific countries, cities, municipalities, metropolitan areas or regions which apply to You, as made available and as updated by Mserve Direct from time to time and as set out [here](#);
10. **Mobile Device** is the smartphone, tablet or other mobile device owned or controlled by You which You use to connect to the Driver Application;
11. **Policies** means the Community Guidelines, the Privacy Policy, and any other policies, guidelines or information made available by Mserve Direct from time to time (including via the Services, the Website, the Policies, or to Your email address set out in Your Account), in each case as updated from time to time;
12. **Services** mean the services provided by Mserve Direct to connect individual drivers or vehicle operators with Users, including via the Driver Application, the User Application and related software, websites, platforms, and other support systems and services. For the avoidance of doubt, the Services provided by Mserve Direct do not include the Transportation Services themselves, as these are provided by You directly to Users;
13. **Service Fees** is defined in clause 9.8;



14. **Specific Terms** means the supplementary or alternative terms which may apply to certain specific parts of the Services and/or Transportation Services, as may be notified to You from time to time;
15. **Territory** means the territory in which You are registered to use the Services, as specified in Your Account;
16. **Transportation Services** means the provision of transportation services, including the transportation of goods and/or passengers, by You to Users;
17. **User** means a registered end user of the User Application;
18. **User Application** means the electronic application supplied by Mserve Direct and/or Mserve Direct Group Companies for Users to connect with drivers and vehicle operators;
19. **User Fees** is defined in clause 9.3;
20. **User Information** means information about a User made available to You by or on behalf of Mserve Direct or its Group Companies, which may include the User's name, pick-up location, contact information and photo;
21. **User Terms of Use** means the terms of use that apply to a User's use of the User Application, as updated from time to time; and
22. **Vehicle** means the vehicle You use for the purpose of providing Transportation Services.

3.2 In this Agreement (except where the context otherwise requires): (a) a reference to "writing" does not include email unless otherwise specified; and (b) any phrase introduced by the terms "including", "include", "in particular", "for example", or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms. This Agreement is drafted in the English language. If this Agreement is translated into another language, the English language text shall in any event prevail. In the event of any inconsistency, the Local Terms shall prevail over the terms set out in this document.

### 3. Your responsibilities

#### Your commitments to Mserve Direct

- 4.1 You represent, warrant and undertake on a continuing basis throughout the term of this Agreement that:
  - 4.1.1 You have full power and authority to enter into this Agreement and perform Your obligations under this Agreement;
  - 4.1.2 You are able to operate a motor vehicle (including the Vehicle itself) and have a valid driver's licence and all the other required licences, approvals,

authorities and consents to provide the Transportation Services in the Territory as required by Applicable Law;

4.1.3 You own, or have the legal right and authority to operate, the Vehicle, and that the Vehicle meets the applicable industry safety and maintenance standards for a vehicle of its kind, is in good operating condition, and is in a safe, clean and comfortable condition suitable for the provision of the applicable Transportation Services. If You accept a GoCar Kids order, You will use appropriate and approved child restraints in accordance with Applicable Law, Traffic Police standards and the Policies at all material times;

4.1.4 if an inward-facing in-vehicle recording device has been installed in the Vehicle you operate to provide the Transportation Services, you must notify us within 24 hours of such installation or at the point of your registration for an Account (whichever is earlier);

4.1.5 You are at least 18 years of age (or, if the age at which You are permitted to provide the Transportation Services under Applicable Law in the Territory is higher than 18, You are of at least that age);

4.1.6 You have and will maintain a valid policy of liability insurance for the operation of the Vehicle and/or business insurance to cover any anticipated losses related to the provision of the Transportation Services, in each case covering damage to You, Your passengers, any goods or other items, Your Vehicle, and any third parties, at a level of coverage that satisfies the minimum requirements under Applicable Law and the Policies. Mserve Direct does not control, or advise You on, Your insurance arrangements, nor is it obliged to arrange the insurance on Your behalf;

4.1.7 You will comply at all times with all Applicable Law and the Policies, and will notify Mserve Direct if You are in breach of any Applicable Law or the Policies;

4.1.8 You will only use the Services for lawful purposes and only for the purposes for which they are intended to be used;

4.1.9 You do not have a criminal record in the Territory or any other jurisdiction;

4.1.10 You will promptly provide Mserve Direct with any additional documents or information requested by Mserve Direct, including proof of identity, proof of ownership or right to use the Vehicle. You acknowledge that You may be subject to background, criminal record and driving record checks from time to time and You will cooperate with these as required by Mserve Direct;

4.1.11 You shall ensure that any documents and information provided by You (or on Your behalf) to Mserve Direct are at all times accurate, current, complete and not misleading;

4.1.12 You shall only use an internet access point and data account which You are authorised to use;

4.1.13 You shall not engage in any fraudulent, misleading, deceptive, illegal or criminal conduct; and

4.1.14 You shall not impair or circumvent the proper operation of the system or network which the Services operate on.

4.2 You are the provider of the Transportation Services and shall therefore be solely responsible for the safe, efficient and proper performance of Transportation Services using all reasonable care and skill. You shall be solely responsible for providing all necessary equipment, materials, tools and other items necessary for the safe, efficient and proper performance of the Transportation Services. You are responsible for Your own safety, and that of Users, in the performance of the Transportation Services, and You shall take all necessary precautions.

#### Your interactions with Users

4.3 Your provision of Transportation Services to Users creates a direct relationship between You and the User, to which Mserve Direct is not a party. Mserve Direct is not responsible or liable for the acts or omissions of a User in relation to You. To the maximum extent permitted by Applicable Law, You have the sole responsibility for any obligations or liabilities to Users or third parties that arise from Your provision of the Transportation Services

4.4 Although You are solely responsible for the Transportation Services, Mserve Direct has the right to deal with any complaints that Users have through Mserve Direct's complaints handling process, or any complaints that You may have about any User. You agree to cooperate fully with such process, and to submit any complaint You may have via the Driver Application. Mserve Direct also reserves the right, at its sole discretion, to redirect any such complaints to You directly and may choose to facilitate discussions with the User. You agree to comply with Applicable Law, the terms of this Agreement and the Policies in Your handling of such User complaints. Mserve Direct's complaints handling process shall not exclude any rights or remedies that cannot be excluded or limited under Applicable Law.

#### **Your interactions with third parties**

4.5 You may currently have, or may have an opportunity to enter into arrangements with a third party via the Services. Any such arrangements will be solely between You and the applicable third party, and Mserve Direct has no responsibility or liability in relation to such arrangements. Mserve Direct does not endorse any third party

providers, applications or websites that are available through the Services, and in no event shall Mserve Direct, its licensors or any of its Affiliates be responsible for any content, products, services or other materials on or available from such third party providers, applications or websites.

#### **4. Your Account**

5.1 In order to access the Services as an individual driver or vehicle operator, You must register for and maintain an Account as a user of the Driver Application.

5.2 You are responsible for all activities conducted on Your Account. You:

5.2.1 must only have one Account;

5.2.2 must keep Your Account information (including Your login details) confidential and secure;

5.2.3 must not provide any other person with access to Your Account, including to transfer the Account or information from Your Account to any other person; and

5.2.4 must promptly notify Mserve Direct if You suspect any unauthorised access to or use of Your Account.

5.3 Mserve Direct reserves the right to block or deny access to Your Account, and/or block features available in the Driver Application, at any time, with or without notification, without prejudice to its other rights and remedies:

5.3.1 if Mserve Direct deems, in its sole discretion, that You have violated any term of this Agreement or the Policies;

5.3.2 during an investigation;

5.3.3 if You owe any money to Mserve Direct or its Group Companies

5.3.4 if the balance of Your Driver Wallet falls below the minimum threshold specified by Mserve Direct from time to time;

5.3.5 if this Agreement is terminated for any reason;

5.3.6 if Mserve Direct deems, in its sole discretion, that Your Account may be used for or be involved in any fraudulent, illegal or other criminal activity; and/or

5.3.7 at any other time in Mserve Direct's reasonable discretion.

In such an event, any outstanding balance in Your Driver Wallet will be withheld and/or forfeited (in the event of a permanent suspension of Your Account) and You shall not hold Mserve Direct liable for the withholding or forfeiture of any such amount.

5.4 If Your Account has been inactive for a period of six (6) consecutive months, You agree that Mserve Direct may suspend Your Account and/or charge You an administrative fee for maintaining Your Account, which shall be deducted from Your Driver Wallet balance. Any such action will be notified to You by us from time to time (including via the Policies). Before Your Account is suspended, You will have an opportunity to withdraw any outstanding balance in Your Driver Wallet and may, at any time submit a request to Mserve Direct to restore access to Your Account, in accordance with the process notified to You. Mserve Direct shall have sole discretion in determining whether access to Your Account or any Services may be restored.

## **5. Your use of the Services**

1. 6.1 Subject to Your compliance with this Agreement, Mserve Direct and its licensors grant You a revocable, limited, non-exclusive, non-transferable, royalty-free licence during the term of this Agreement and in the Territory, to access and use the Services, including the Driver Application and any information and materials provided through the Driver Application, solely for Your personal use for the purpose of connecting You with Users in respect of Transportation Services.

6.2 All rights not expressly granted to You under this Agreement are reserved by Mserve Direct and its licensors. Nothing in this Agreement transfers any ownership in or to the Services (in whole or in part) to You.

6.3 In using the Services, You shall not:

6.3.1 license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party the Services in any way;

6.3.2 modify or make derivative works based on the Services, or reverse engineer or access the underlying software for any reason;

6.3.3 use the Services to build a competitive product or service, build a product using similar ideas, features, functions or graphics as the Services, copy any ideas, features, functions or graphics of the Services, or launch an

automated program or script which may make multiple server requests per second, or which unduly burdens or hinders the operation and/or performance of the Services, or attempt to gain unauthorised access to the Services or related systems or networks;

6.3.4 use any application or process to retrieve, index, “data mine”, or in any way reproduce or circumvent the navigational structure, presentation or content of the Services;

6.3.5 post, distribute or reproduce in any way any copyrighted material, trademarks, or other proprietary information without obtaining the prior consent of the owner of such proprietary rights, or remove any copyright, trademark or other proprietary rights notices contained in the Services;

6.3.6 send or store any material for unlawful or fraudulent purposes;

6.3.7 send spam or other unsolicited messages;

6.3.8 send or store infringing, obscene, threatening, libelous, or otherwise unlawful or tortious material;

6.3.9 send material containing software viruses, worms, trojan horses or other harmful computer code, files, scripts, agents or programs;

6.3.10 interfere with or disrupt the integrity or performance of the Services or the data contained therein;

6.3.11 impersonate any person or entity or otherwise misrepresent Your affiliation with a person or entity;

6.3.12 deliberately misrepresent Your location, or make or receive orders for Transportation Services other than via the User Application or which are fake;

6.3.13 cause nuisance, annoyance, inconvenience, harassment, personal injury or property damage, whether to Mserve Direct (and its officers, directors, members, employees and agents), any User, or any other party;

6.3.14 damage Mserve Direct’s or any of its Group Companies’ reputation in any way; or

6.3.15 use the Driver Application on any device or operating system that has been modified outside the mobile device or Mserve Direct’s operating system and configurations. This includes devices that have been “rooted” or “jailbroken”. A rooted or jailbroken device means one that has been freed from the limitations imposed on it by your mobile service provider and the phone manufactured without their approval. The use of the Driver Application on a rooted device may compromise security and lead to fraudulent transactions.

## **Your Mobile Device**

7.1 Your access to the Driver Application will be through a Mobile Device. It is Your responsibility to check and ensure that You download the correct software (including the latest version of the Driver Application) for Your Mobile Device. Mserve Direct is not liable if You do not have a compatible device or if You do not have the latest version of the software (including the latest version of the Driver Application) for Your Mobile Device.

7.2 You are solely responsible for the procurement and use of the Mobile Device including but not limited to the purchase of the Mobile Device itself.

7.3 You are solely responsible for having in place an appropriate internet and mobile plan and for any fees charged by Your telecommunications service provider, such as telephone, SMS and internet data fees. You acknowledge that Your use of the Services may consume large amounts of data and that You will be solely responsible for such usage and the associated fees.

7.4 If a Mobile Device is lost, stolen, broken and/or no longer in Your possession, and this exposes Your Account information to someone else or otherwise affects Mserve Direct's legal rights and/or remedies, You must immediately notify Mserve Direct and follow the procedures notified by Mserve Direct.

7.5 You may only access Your Account through the Mobile Device which uses the telephone number provided to Mserve Direct during the Account registration. You must not lend, lease or transfer the Mobile Device to any other person for the purpose of accessing Your Account without Mserve Direct's prior written consent.

## **Your relationship with Mserve Direct**

8.1 Your relationship with Mserve Direct is that of an independent contractor. You expressly agree that: (a) this Agreement is not an employment agreement, nor does it create an employment relationship (including from a labour law, tax law or social security law perspective), between Mserve Direct and You, nor result in You being engaged by Mserve Direct as a worker or a deemed worker; and (b) no joint venture, partnership, or agency relationship exists between Mserve Direct and You. You have no authority to bind Mserve Direct and You undertake not to hold Yourself out as an employee, agent, worker or representative of Mserve Direct.

8.2 You acknowledge that Mserve Direct does not, and does not seek to, exercise any general rights of control over You and Your activities. You retain the absolute discretion to accept, decline, or cancel any request for Transportation Services via the Driver Application and to determine how long You wish to use the Services for. If You no longer wish to use the Services, You can choose to cease doing so at any time. You

have complete discretion as to whether to use the Services. You are also free in Your absolute discretion to engage in any occupation or business of Your choosing.

8.3 If, notwithstanding clauses 8.1 and 8.2, You are found to be an employee, agent, worker or representative of Mserve Direct or any Mserve Direct Group Company by mandatory provision of Applicable Law, You agree that any payments made to You will be taken to be inclusive of: (a) superannuation contributions; (b) social security and insurance contributions and premiums, employee insurance contributions and premiums, compulsory government saving fund contributions and equivalent contributions; and (c) amounts equivalent to all taxes (including but not limited to income taxes) payable by You in respect of those payments; and (d) equivalent or analogous payments or liabilities in any jurisdiction, in each case that Mserve Direct may be required to pay by such mandatory provision of Applicable Law.

## **Financial Terms**

### Driver Application

9.2 Payment for Your use of the Services shall be made in accordance with clause 9.8. The download and/or use of the Driver Application is provided for You to receive the Services and is provided on a royalty-free basis.

### User Fees and Additional Charges

9.3 You are entitled to charge Users a fee for Transportation Services, which may include:

9.3.1 a fee (metered or otherwise) for each instance of Transportation Services;

9.3.2 any other amounts payable by the User to You in accordance with the User Terms of Use or the Policies; and

9.3.3 any applicable taxes in respect of the above, calculated in accordance with Applicable Law

(together, the **User Fees**).

9.4 You may be allowed to charge Users and/or other parties certain additional fees, which may include:

9.4.1 any tolls, road-usage charges, parking charges, building or area entrance charges, and any other applicable surcharges (such as but not limited peak hour and midnight surcharges), necessarily incurred by You during the provision of Transportation Services;

9.4.2 any cancellation charges;



9.4.3 any other amounts in accordance with the User Terms of Use or the Policies; and

9.4.4 any applicable taxes in respect of the above, calculated in accordance with Applicable Law

(together, the **Additional Charges**).

9.5 As part of the Services, Mserve Direct facilitates the User's payment of the User Fee and Additional Charges by suggesting the fee for each instance of Transportation Services, any cancellation or other charges and/or taxes (as applicable), which are calculated via the Driver Application or via the Mobile Data Terminal located in Your Vehicle (where applicable). All other charges must be manually entered by You into the Driver Application (without mark-up). If You fail to enter such amounts, You may not be able to recover them. You have the right to agree with the User on a different fee for provision of the Transportation Services, such agreed fee to be applied only after notification to Mserve Direct and reflected as the fee for Transportation Services in the Driver Application.

9.6 Mserve Direct may update the basis on which any component of User Fees or Additional Charges (as applicable) is calculated via the Driver Application, at any time in its absolute discretion. Any such update will be notified to You. Any User Fees or Additional Charges on or after the date on which the update takes effect shall be subject to the updated calculation.

9.7 You acknowledge and agree that Mserve Direct may, to the extent permitted by Applicable Law, adjust or cancel the User Fees or Additional Charges (or any part thereof) payable in connection with a particular instance of Transportation Services, acting reasonably (for example, where Mserve Direct determines that there is an error in the original calculation, that You have not complied with this Agreement or the Policies, that a fee was charged when it should not have been (or vice versa), or in the case of a complaint from a User).

#### Payment Methods

9.8 Users may choose to pay the User Fees, the Additional Charges, and any other amounts payable by Users to Mserve Direct, by the payment methods offered via the User Application from time to time, including (where applicable) cash, credit or debit card or by using Vouchers, as follows:

9.8.1 for cash payments, Users will pay the User Fees and Additional Charges payable to You, and any other amounts payable by Users to Mserve Direct, directly to You. For this purpose, You agree to collect any amounts payable by Users to Mserve Direct on behalf of Mserve Direct, and that Mserve Direct is entitled to deduct such amounts, together with any other amounts You owe to Mserve Direct (including the Service Fee) from Your Driver Wallet; and

9.8.2 for any non-cash payments, the amount of the User Fees and Additional Charges, after deduction of any amounts owed to Mserve Direct (including the Service Fee), will be credited into Your Driver Wallet via the Driver Application.

### Incentive Payments

9.9 Mserve Direct may from time to time, in its sole discretion, offer incentive payments based on You meeting specified criteria and complying with specified conditions, this Agreement and the Policies. You have absolute discretion as to whether or not to participate in the offer. If You do decide to participate, any incentive payments are conditional on You meeting all of the specified criteria and complying with all of the specified conditions, this Agreement and the Policies to Mserve Direct's reasonable satisfaction. If You do not do so, You may not receive the relevant incentive payments. If You receive an incentive payment, the amount of the payment will be credited into Your Driver Wallet.

### Service Fees

9.10 Mserve Direct will receive a service fee equal to a certain percentage of the User Fees, or may deduct a flat amount from the User Fees (less any applicable tax component therein) received or receivable by You, on a per-transaction basis, as payment for Your use of the Services (**Service Fees**). Service Fees shall be inclusive of VAT/GST. Service Fees are non-refundable. The relevant percentage will be calculated via the Services from time to time and may be applied at any time by Mserve Direct. Mserve Direct may update the basis on which the Service Fees are calculated via the Services, at any time in its absolute discretion. Any such update will be notified to You. Any Service Fees payable to Mserve Direct on or after the date on which the update takes effect will be subject to the updated calculation. As part of the Services, a receipt or transaction history will be generated for each instance of Transportation Services, documenting the User Fees payable by the User in each instance.

9.11 Mserve Direct will deduct the Service Fees, as well as any amount You owe to Mserve Direct or its Group Companies and any other amounts Mserve Direct is required to withhold or deduct by Applicable Law, from Your Driver Wallet, at a frequency determined by Mserve Direct in its discretion from time to time.

9.12 You acknowledge and agree that Mserve Direct may:

9.12.1 require You to maintain an amount of money above a certain threshold in Your Driver Wallet, as determined and specified by Mserve Direct at its sole discretion from time to time;

9.12.2 deduct or set-off from amounts owed to You (including the User Fees or any incentive payments) any amounts that You owe to Mserve Direct (including the Service Fees), or require You to remit to Mserve Direct any amounts that have been incorrectly remitted to Your designated bank account;

9.12.3 where You have authorised a third party to receive amounts in Your Driver Wallet, disable the function allowing You to withdraw the balance in Your Driver Wallet, and/or remit such amounts to such third party and, for this purpose, Mserve Direct shall be entitled to rely on any written authorization provided to Mserve Direct by You and/or such third party without further inquiry; and

9.12.4 without prejudice to Mserve Direct's other rights and remedies, suspend the processing of any transaction where it reasonably believes that the transaction may be fraudulent, illegal or may involve any criminal activity or where it reasonably believes You or the User are in breach of this Agreement or the Policies. In such an event, You shall not hold Mserve Direct liable for any withholding of, delay in, suspension of, or cancellation of, any payment (including any User Fees or incentive payments) to You, and for this purpose, Mserve Direct shall be entitled to deduct any amounts from Your Driver Wallet.

## Taxes

9.13 This Agreement shall be subject to all applicable prevailing statutory taxes, duties, fees, charges and/or costs, however denominated, as may be in force and in connection with any applicable future taxes that may be introduced at any point of time.

9.14 You agree that You are solely responsible for taxes on Your own income arising from Your performance of the Transportation Services. You warrant that You will perform the necessary obligations imposed by the relevant tax or revenue authority in relation to the reporting of Your income and payment of taxes on the same.

9.15 You agree that Mserve Direct may in its sole discretion (but subject always to clause 8) declare, collect and/or pay any relevant taxes on Your behalf, and disclose all necessary or relevant information to the relevant tax or revenue authority for such

purposes. To the extent authorised or permitted under Applicable Law, Mserve Direct shall be entitled to withhold or deduct any amounts from Your Driver Wallet for the purpose of declaring, collecting, and/or paying any relevant taxes on Your behalf.

9.16 You agree to do everything necessary and required by Applicable Law to enable, assist and/or defend Mserve Direct to claim or verify any applicable input tax credit, set off, rebate or refund in respect of any taxes paid or payable in connection with the Services.

## **6. Warranties, indemnities and liability**

### **Indemnities**

10.1 You shall defend, indemnify and hold harmless Mserve Direct, its licensors and each such party's Affiliates and their respective officers, directors, members, employees and agents from and against any and all claims, costs, damages, losses, liabilities and expenses (including attorneys' fees and costs) arising out of or in connection with:

10.1.1 Your breach of any term of this Agreement, the Policies, or any Applicable Law;

10.1.2 Your provision of the Transportation Services;

10.1.3 Your use of the Services;

10.1.4 taxes and tax liabilities, duties, levies, claims and penalties that are imposed on You and/or on any Mserve Direct Group Company in connection with Your own income arising from Your performance of the Transportation Services or otherwise arising from Your failure to comply with Your tax obligations; and

10.1.5 any claim asserting that You are an employee, worker, agent or representative of Mserve Direct or any Mserve Direct Group Company, or if You may be deemed to be an employee, worker, agent or representative of Mserve Direct or any Mserve Direct Group Company, any claims by any other person, entity, regulator or government authority based on such implied employment, worker, agency or representative relationship, including in respect of superannuation contributions, wages, duties, withholdings, social security and insurance contributions and premiums, employee insurance contributions and premiums, compulsory government saving fund contributions and equivalent or analogous payments or liabilities in any jurisdiction,

and, for this purpose, Mserve Direct shall be entitled to deduct any amounts from Your Driver Wallet.

### **Basis on which the Services are provided**

10.2 The Services are provided “as is” and “as available”. To the maximum extent permitted by Applicable Law, Mserve Direct disclaims all representations and warranties, express, implied or statutory, save as expressly set out in this Agreement, including any warranties of merchantability, fitness for a particular purpose, reasonable care and skill and non-infringement.

10.3 Without limitation to clause 10.2, Mserve Direct makes no representation, warranty, or guarantee regarding the reliability, timeliness, quality, suitability or availability of the Services, or that the Services will be uninterrupted or error-free, or will operate in combination with any other hardware, software, system or data, or that any data will be accurate or reliable. Mserve Direct does not guarantee the quality, suitability, safety or ability of third party providers. Mserve Direct does not guarantee that Your use of the Services will generate any minimum number of requests for Transportation Services or any minimum User Fees for You. The Services may be subject to limitations, delays, and other problems inherent in the use of the internet and electronic communications including the device used by You or the User being faulty, not connected, out of range, switched off or not functioning. Mserve Direct is not responsible for any delays, delivery failures, damages or losses resulting from such problems.

#### Exclusions and limitations of liability

10.4 Nothing in this Agreement limits or excludes a party’s liability for death or personal injury caused by negligence, for fraud, or for any other liability to the extent it cannot be limited or excluded under Applicable Law.

10.5 To the maximum extent permitted by Applicable Law, Mserve Direct shall not be liable for:

10.5.1 indirect, incidental, special, exemplary, punitive or consequential damages;

10.5.2 loss of use, lost profits, lost data, lost business, lost goodwill, lost contracts or lost opportunity; and

10.5.3 personal injury or property damage,

arising from, related to or otherwise in connection with the Services or this Agreement, whether in contract, tort, breach of statutory duty or otherwise.

10.6 To the maximum extent permitted by Applicable Law, in no event shall Mserve Direct’s maximum aggregate liability arising under and in connection with the Services and/or this Agreement, whether in contract, tort, breach of statutory duty or otherwise, exceed the Service Fees paid to Mserve Direct in connection with Your Account in the six (6) month period immediately preceding the event giving rise to the claim.

10.7 Any claims You have against Mserve Direct under or in connection with the Services or this Agreement must be notified to Mserve Direct within one year after the events giving rise to such claim, failing which (to the maximum extent permitted by Applicable Law) You will forfeit any rights and remedies You have in respect of such claim.

## **7. Term and termination**

11.1 This Agreement shall continue until terminated in accordance with its terms.

11.2 Mserve Direct may terminate this Agreement:

11.2.1 at any time for any reason by giving notice to You;

11.2.2 immediately, with or without notice, if You are in breach of any term of this Agreement, without prejudice to Mserve Direct's other rights and remedies; and

11.2.3 immediately, with or without notice, if You are breach of any other agreement with Mserve Direct.

11.3 You are under no obligation to use the Services and may cease using them at any time in Your sole and absolute discretion by permanently deleting the Driver Application from Your Mobile Device, thus disabling Your use of the Driver Application. This Agreement is automatically terminated when You permanently delete the Driver Application from Your Mobile Device or if Your Account is closed.

11.4 On termination or expiry of this Agreement for any reason, You shall:

11.4.1 immediately delete and fully remove the Driver Application from Your Mobile Device;

11.4.2 immediately cease using the Services (save to the extent that You are permitted to use the User Application as a User pursuant to the User Terms of Use); and

11.4.3 promptly (and in any event within three days), pay any money owed to Mserve Direct (which shall become immediately due and payable on termination or expiry) (and, for this purpose, Mserve Direct shall be entitled to deduct the relevant amount from Your Driver Wallet).

11.5 The parties shall have no further obligations or rights under this Agreement after termination or expiry of the Agreement, without prejudice to any obligations or rights which have accrued to either party at the time it is terminated, save that the provisions of clauses 2, 3, 8, 9.11 to 9.14, 10, 11, 12, 13 and 14 of this Agreement and

any other clause which expressly or by its nature is intended to survive, shall continue to have effect after the end of this Agreement.

## **8. Privacy**

12.1 You agree and consent to Mserve Direct using and processing Your personal information as set out in our [Privacy Policy](#), as amended from time to time.

12.2 To the extent that You have access to any personal information in connection with the Services, You agree to process it in accordance with Applicable Law, the Policies (including the Privacy Policy) and Mserve Direct's instructions. Without limitation, in using the Services, You may have access to certain User Information. You agree that Your Use of such User Information shall be strictly limited to usage as is necessary in order to perform the Transportation Services in accordance with this Agreement. Without limitation, You shall keep the User Information secure and shall not share the User Information with anyone else, or retain a copy of the User Information, or use it for any other purpose.

## **Disputes**

13.1 This Agreement (and any and all disputes arising out of or in connection with this Agreement (including any alleged breach, or challenge to the validity or enforceability, of this Agreement or any provision hereof)) will be subject to the laws of Singapore.

13.2 Any and all disputes arising out of or in connection with this Agreement will be finally settled by binding arbitration under the Arbitration Rules of the Singapore International Arbitration Centre (**Rules**) (which Rules are deemed to be incorporated by reference into this Agreement) by one arbitrator, appointed in accordance with the Rules. The arbitration will take place in Singapore and the language of the arbitration will be English.

## **General**

14.1 Mserve Direct shall not be liable for delay or failure in performance resulting from causes beyond Mserve Direct's reasonable control.

14.2 You shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of Mserve Direct or any of its affiliated companies.

14.3 Mserve Direct may amend this Agreement at its sole discretion from time to time. Mserve Direct will use its reasonable endeavours to notify You of any material changes to the Agreement; however You agree that it is Your responsibility to review the Agreement regularly and Your continued use of the Services will constitute Your acceptance to the amendments. Otherwise, no addition to or modification of this Agreement will be binding on the parties unless made in writing by the parties.

14.4 The rights of each party under this Agreement may be exercised as often as necessary, are cumulative and not exclusive of rights or remedies provided by law and may be waived only in writing and specifically. Delay in the exercise or non-exercise of any right is not a waiver of that right.

14.5 This Agreement constitutes the entire agreement and understanding of the parties relating to the subject matter of this Agreement and supersedes any previous agreement or understanding between the parties in relation to such subject matter. The parties also hereby also exclude all implied terms in fact. In entering into this Agreement, the parties have not relied on any statement, representation, warranty, understanding, undertaking, promise or assurance of any person other than as expressly set out in this Agreement. Each party irrevocably and unconditionally waives all claims, rights and remedies which but for this clause it might otherwise have had in relation to any of the foregoing. Nothing in this Agreement excludes liability for fraud or any other liability that cannot be limited or excluded under Applicable Law.

14.6 You may not assign, sub-license, transfer, subcontract, or otherwise dispose of any of Your rights or obligations, under this Agreement without Mserve Direct's prior written consent. Mserve Direct may at any time assign, sub-license, transfer, subcontract or otherwise dispose of its rights or obligations under this Agreement without notice or consent (save to the extent required by Applicable Law).

14.7 If any Court or relevant authority determines that any part of this Agreement is illegal, invalid or unenforceable under Applicable Law, the remaining parts of this Agreement will remain in full force and effect and the relevant part will be replaced with a provision that is legal, valid and enforceable and that has, to the maximum extent possible, an equivalent effect to the substituted part of this Agreement.

14.8 A person who is not a party to this Agreement has no right to rely upon or enforce any term of this Agreement.

14.9 Mserve Direct may give notice to You by means of a general notice published on the Driver Application or otherwise via the Services, the Website, the Policies, or to Your email address set out in Your Account. You must give notice to Mserve Direct by email to [mservedirect@gmail.com](mailto:mservedirect@gmail.com).



## **MSERVEFOOD TERMS OF USE**

**as of 12 February 2024**

We thank you for Your trust in MserveFood Service in the Mserve Direct Application or any other application/site which can access MserveFood Service. Please take Your time to read the whole Terms of Use of MserveFood ("**MserveFood Terms of Use**").

This MserveFood Terms of Use is an integral part of the (i) [MserveDirect Terms of Use](#) as long as You are using the MserveFood Service on the MserveDirect Application; and (ii) Terms of Use of any other application or site where You can access and use MserveFood Service, You will be deemed to have read and agreed to the abovementioned of Terms and Conditions and this MserveFood Terms of Use. Therefore, if You do not agree to part or all of the conditions of the MserveFood Terms of Use, You may discontinue the use of MserveFood Service.

### **1. GENERAL TERMS**

Unless specifically defined below and in other parts of MserveFood Terms of Use, capital letters used in the MserveFood Terms of Use must be interpreted in accordance with the terms in the MserveDirect Terms of Use.

- a. **Outlet** is restaurants, bistros, shop stalls, carts and/or other physical forms which are owned and managed by Merchants which are registered in MserveFood Service.
- b. **MserveFood Service** is one of the services available in the MserveDirect Application or any other relevant application or site as provided from time to time, where You can make Transactions in the Outlet.

- c. **Courier Partner** is a third parties or Our affiliates who are goods delivery service providers who cooperate with Us and/or Our affiliates, with their main role as one of the delivery service providers for MserveFood Services which distributed through the MserveDirect Application or other relevant application or site.
- d. **Driver Partner** is inter alia (i) an independent third party Service Provider who agrees to be Our partner, or (ii) Courier Partner which cooperates with Us in partnership scheme, and is not Our employee, agent and/or representative.
- e. **Merchant** is the party that owns and/or manages Outlets which acts as provider of Products.
- f. **Product** is food and/or beverages that You order through MserveFood Service at the Outlet You choose.
- g. **Transaction** is ordering, purchasing and delivering/picking up Products through MserveFood Service.

## 2. ORDERING

Unless otherwise specified in these MserveFood Terms of Use or other terms and conditions specifically regulated in the MserveDirect Application or other relevant application/site, by using MserveFood Services, You can place orders for Products instantly or on a scheduled basis with the Scheduled Order feature, which allows You to schedule Product orders and deliveries in advance in accordance with the provisions that apply to MserveFood Services. Specifically for Scheduled Order, You can only place orders and cancel products according to the time limit We set. Products that You have ordered can be delivered by the Driver Partner or for self pick-up. Specifically for Scheduled Order, Your order can only be delivered by Driver Partner. You also agree that We may disclose Your personal data to the Merchant and Driver Partners for the purpose of providing MserveFood Services to You. You agree and understand that every transaction through MserveFood can be done in the following ways:

- a. The Driver Partner will follow up on Your order, including but not limited to, locating the Outlet, ordering directly at the Outlet, paying for and delivering Product.
- b. To minimize inaccuracy during the execution of Transaction by the Driver Partner, You are expected to provide full and complete details on the Product ordered and delivery information.
- c. You are responsible for ensuring that the details You enter in connection with the order and product delivery on the MserveDirect Application or other relevant application/site are accurate and complete. In the event that there are errors in the details provided by You, neither We nor the Driver Partner are responsible, including

but not limited to errors in Product purchases, deficiencies in product quality and quantity, delays in delivery and/or non-receipt or delivery of the Product you ordered.

- d. You can contact and/or be contacted by the Driver Partner to obtain confirmation or clarification regarding Transaction, including but not limited to the availability and/or change of Product, Outlet location, change in Product price, delivery address, recipient of the Product, or other information, through the communication features provided in MserveFood Services before or during ordering, purchasing and/or delivering the Product.
- e. Any cancellation of Your order can only be conducted by following the applicable cancellation process as set forth in MserveFood Services. In the event the purchase of Product has been acknowledged by Merchant and/or picked up by the Driver Partner, You cannot cancel the Transaction. You will be liable for payment of the applicable fees either (i) upon receipt of the Transaction; (ii) if You are not present or do not appear at the specified delivery location to pick up the Product ordered to be delivered at the Product delivery location; (iii) You cannot be physically met or (iv) You cannot be contacted by the Driver Partner after the Driver Partner arrives at the specified delivery location.
- f. We will notify You if there is something that may result in your order not being carried out, including but not limited to if the Merchant's Outlet closes at the time of your specified order.
- g. In the event You choose to use self pick-up service, there will be no involvement from the Driver Partner, so all of the Transaction will be conducted directly between You and the chosen Merchant.

### **3. PAYMENT**

You can choose the payment method that will be used when making the Transaction. Payment methods that can be used are cash, GoPay and other methods available in the MserveDirect Application or any other payment method which available in relevant application/site where MserveFood can be accessed. Please be informed that any payment using GoPay will be processed according to the [terms and conditions that apply to GoPay service](#). Specifically for Scheduled Order, payments can only be made with a non-cash payment method as available in MserveFood Services.

- a. You understand that the Transaction fees that You are required to pay include, but not limited to, the Product prices and Product delivery fees and/or any other fees as informed by Us from time to time.
- b. You understand that the price of the Product displayed on MserveFood Services is an estimated price. Merchant has the full authority to determine and make changes to the Product prices from time to time. Therefore, We are not responsible if there is a

change in Product prices at the time of purchase at the Outlet or difference between the prices listed in the MserveFood Service and the prices applied by the Merchant outside MserveFood Service.

- c. Referring to the above conditions, You agree to pay the Product price in the amount stated in the receipt or purchase receipt issued by the Merchant as submitted by the Driver Partner to You or directly to You (if Transaction is using self pick-up) after the Transaction is conducted.
- d. You may be benefited from promotional programs in the form of MserveFood cashback vouchers or other forms of promotions that You have as available in MserveFood Services and/or Merchant's Outlet. However, the terms and conditions for using the promotion are subject to the terms and conditions that apply to each promotional program, including how, when and where it can be used.
- e. If there are other costs incurred in connection with the Transaction, including but not limited to parking fees and building entrance fees, You shall be fully responsible for these costs and the Driver Partner has the right to request reimbursement of these other costs from You by providing supporting evidence (e.g. parking receipt).
- f. In the event that there is a discrepancy, error or failure in the provision of MserveFood Services by Driver Partner who are individual partner who are registered as Our partners or partners provided by Courier Partner, then You can claim for Your loss to each Driver Partner in accordance with the procedure determined by Us, provided that you must be able to prove that the loss is occurred due to the mistake of the Driver Partner.

#### **4. DELIVERY**

- a. You or other parties that You appoint to receive the Product understand to make themselves available, contactable and can receive when the Product is delivered by the Driver Partner.
- b. You agree that if You choose Product delivery from the Merchant's Outlet by a Driver Partner, the Driver Partner will be responsible for and guarantee the implementation of the delivery service (as long as the service is available at your location). If the delivery service fails or is canceled, which according to the Driver Partner is due to reasons related to You (for example, you provide the wrong delivery address), you will still be charged, but not more than the full price for the delivery service. If the delivery service fails or is cancelled, You are entitled to a refund in connection with the Transaction.
- c. You can provide review of the Product as available in MserveFood Service after Your Transaction is complete. You understand and agree that the review will be displayed in the MserveDirect Application or any other relevant application/site, as applicable, where it can be read and accessed publicly and shall be subject to the specific terms

and conditions as stipulated in the MserveDirect Application or any other relevant application/site.

- d. Unless otherwise stated in this MserveFood Terms of Use, We are not responsible for Product, including but not limited to the following:
  - i. the price differences listed on MserveFood Service and Outlets;
  - ii. condition and quality;
  - iii. duration of delivery by the Driver Partner;
  - iv. failure to complete orders and/or deliveries by the Driver Partner; and
  - v. incompatibility of Products ordered with Products delivered.

## **5. PROMOTION PROGRAM**

- a. We and/or the Merchant are entitled to offer a promotion which will be applicable in MserveFood Service and Dine-in.
- b. Unless stated otherwise, promotion that has been received by You cannot be exchanged with other promotion or converted into cash and cannot be refunded.
- c. By agreeing to follow a MserveFood Service promotion program, You will be deemed to have agreed with the specific terms and conditions which apply for the promotion program as stipulated in the MserveDirect Application or any other relevant application/site.
- d. We will not be liable for any losses suffered by You due to any fault or mistake which were conducted by You or any other third party.
- e. You agree that We are not obligated to accept delays in submitting promotional codes and discounts or promotions in other forms after the Transaction process on MserveFood Services or transactions that occur at the Merchant's Outlets is complete. We shall not be liable for any loss, damage, costs and expenses suffered or incurred as a result of theft or illegal or fraudulent use of promo codes and discounts. We have the right to take any action against You if You are found to be using promotional codes and discounts in an unauthorized or fraudulent manner, including without limitation, suspending or terminating Your Account.

## **6. USER'S REPRESENTATION AND WARRANTY**

- a. The representations and warranties of the User as stipulated in this Article 6 are in addition to the representations and warranties provided by the User as contained in the MserveDirect Terms of Use. There are no provisions under this Article 6 that reduce or limit the applicability of the representations and warranties provided by the User in the MserveDirect Terms of Use.

- b. You represent and warrant that:
  - (i) The Product You ordered is true at Your will and needs and/or at the request of the other party You have appointed and has been informed to agree to accept the Product;
  - (ii) The Product is not ordered to cause harm or inconvenience to another person or to the recipient of the Product; and
  - (iii) You will pay in full for the Product You ordered in accordance with the Transaction.
- c. In the event there is loss or problem You experience at the delivery of MserveFood Service, We will, with Our best efforts, help to mediate You with the related Driver Partner and/or Merchant in seeking solutions for the problem. We do not have any liability for any problems or disputes that arise between You, the Driver Partner and/or the Merchant, including taking legal action deemed necessary by You, the Driver Partner and/or the Merchant.
- d. We, the Merchant or the Driver has the right to refuse Your MserveFood Service request, including ordering, if We or the Driver Partner has reasonable reasons to suspect that You have, or by accepting Your request, you will violate the MserveFood Terms of Use, the MserveDirect Terms of Use or applicable laws and regulations.

## **7. DISCLAIMER OF MSERVEFOOD SERVICES**

- a. We nor the Driver Partner will guarantee the Product availability in the Merchant's Outlet.
- b. We do not own, sell or resell any food and/or drinks and do not control the Merchant, or any services provided by the Merchant. You understand that every order that you place must be subject to the availability of the Product and the ability to serve the location by the Merchant and/or Driver Partner. You further acknowledge that the Driver Partner has the right to pool several orders for travel efficiency, if necessary.
- c. We will not guarantee that all Products including the food or beverage content which is provided by the Merchant is halal or does not contain pork or alcohol.
- d. The display of halal logos or halal statements in MserveFood Service, MserveDirect Application or other relevant application/site is in accordance with the information provided by the Merchant. We will not be liable for any misleading or wrong information related to the display of this halal logo or statement.
- e. We will not be liable or responsible for any review, comment or complaint which is displayed in the comment or review column in MserveDirect Application or any other relevant application/site.
- f. We are not responsible for any information and/or content displayed on the Merchant's page, including but not limited to the menus, prices, addresses and

operating hours of the outlets. We are not responsible if there are differences in the information submitted by the Merchant on MserveFood Services and outside of MserveFood Services, including for dine-in. For the avoidance of doubt, We are not involved in and will not be responsible for any separate arrangements between You and the Merchant and/or Driver Partner.

- g. In connection with the purchase of alcohol, if it turns out that You are under the age of twenty-one (21) years, then You hereby pledge that You will be fully responsible for bearing the legal consequences and release Us, Merchant and/or Driver Partners, from all claims and other obligations, arising from or in connection with the purchase or ordering of alcoholic products made through Your Account on the MserveDirect Application or any other relevant application/site, including without limitation, all obligations arising from Your actions to outmaneuver or deceive the Our system, Merchant and/or Driver Partner, related to such minimum age limit.

## **8. COMPLAINTS AND REFUND PROCESS**

- a. You may file complaints to Us in the such following events, ie. incomplete items with the Products purchased, wrong Products delivered to You, quality of Products purchased is not consumable.
- b. We will assess and evaluate Your complaints case-by-case basis and may refund monies to You in these events or any other matters as solely determined based on Our discretion.
- c. In the event We deem any of the above mentioned scenarios has occurred, then:
  - i. if its happening in MserveDirect Application then We may refund the amount, as calculated by Us to Your Account, or communicate with Merchant to provide replacement of purchased Products to You or perform other actions deemed necessary by Us, with the procedures as solely determined by Us.
  - ii. if its happening outside MserveDirect Application ecosystem, then we will follow the procedure as determined in such application/site.

## HOW TO CONTACT US

You can contact Us through the Help Page within MserveDirect Application or via email to [mservedirect@gmail.com](mailto:mservedirect@gmail.com). All Your correspondence will be recorded and stored for Our records.

You shall immediately report your complaint no later than 2x24 hours from the time the order is delivered by the Driver Partner or since the order is completed by Our Merchant if the order is self pick-up by You. We are not responsible for the complaint that You submit if it has passed the time limit for submitting a complaint that We have set.

Before We can proceed with Your complaint, We have the right to collect data and/or information from You on the following matters:

- Order number or transaction number;
- Menu ordered and complained;
- Menu which received and complained;
- Attach photo(s), which proves the order that has been received is not properly wrapped up or broken (not wrapped), the entire contents of the order can be seen, and the condition of the photo must be clear (not blurry);
- Attach proof of purchase receipt/screenshot of the order summary displayed on the relevant application; and/or
- Other information.

Refund for payment with credit/debit card



If you use a credit/debit card when ordering MserveDirect but experience such problems below, you don't need to worry because your balance can be refunded.

- If you have a problem because the **driver completed the order without picking up/delivering the order**, please report it in the articles below so we can help you.
- [Driver didn't pick up but has completed my order](#) for transportation services such as GoRide/MRide/GoBluebird.
- [Driver completed my order without delivering](#) for delivery services such as MserveFood/MDirectShop/GoSend/GoMart.

If you have a problem where the **order got canceled or the transaction failed, but the credit/debit card balance was deducted**, worry not. The credit/debit card balance will be returned automatically in the following period:

- maximum 7 working days

If you have waited until the specified time but the balance has not been returned, please **report** this matter to us via Mserve Direct **Help page** (under **My Profile** menu) by clicking the **Contact Us\*** button below.

*\***Contact Us** button only accessible when you open this page on your phone/tablet*

Hope this information help you