



## **KERAJAAN MALAYSIA**

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# **Pungutan Hasil Dan Terimaan Bukan Hasil Melalui Rangkaian Pejabat Pos Dan PosOnline**

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**PERBENDAHARAAN MALAYSIA**

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## **PS 2.4 Pungutan Hasil Dan Terimaan Bukan Hasil Melalui Rangkaian Pejabat Pos Dan *PosOnline***

### **1. Tujuan**

- 1.1 Pekeliling Perbendaharaan ini bertujuan untuk menerangkan peraturan dan pelaksanaan pungutan hasil dan terimaan bukan hasil melalui rangkaian Pejabat Pos dan *PosOnline*.

### **2. Pelaksanaan Terimaan**

- 2.1 Pungutan hasil dan terimaan bukan hasil ini merangkumi perkhidmatan kaunter dan pembayaran *online* melalui *PosOnline*. Perkhidmatan kaunter tersebut merangkumi rangkaian Pejabat Pos dan Pos Mini. Manakala *PosOnline* adalah melalui portal *PosOnline* yang boleh dicapai di [www.posonline.com.my](http://www.posonline.com.my)
- 2.2 Bagi pungutan hasil dan terimaan bukan hasil di kaunter, hanya terimaan wang tunai sahaja dibenarkan. Manakala bagi bayaran melalui *PosOnline*, pembayaran secara *direct debit* boleh dilakukan melalui bank yang bekerjasama dengan Pos Malaysia Berhad.

### **3. Caj Perkhidmatan**

- 3.1 Caj perkhidmatan untuk terimaan hasil melalui Pos Malaysia Berhad akan ditanggung oleh Kementerian atau Jabatan. Manakala caj perkhidmatan untuk terimaan bukan hasil seperti pembayaran balik pinjaman perlu ditanggung oleh pembayar.
- 3.2 Kadar caj perkhidmatan yang ditetapkan adalah seperti berikut:

<b>Kaedah</b>	<b>Caj Perkhidmatan</b>
Kaunter	Tidak melebihi RM2.00 bagi setiap transaksi
<i>Online</i>	Tidak melebihi RM0.50 bagi setiap transaksi

- 3.3 Selain daripada caj perkhidmatan tersebut di atas, tiada caj lain boleh dikenakan oleh Pos Malaysia Berhad.

- 3.4 Kementerian atau Jabatan hendaklah menyediakan peruntukan bagi menanggung caj perkhidmatan yang dikenakan.

#### **4. Perakaunan Terimaan**

- 4.1 Pos Malaysia Berhad hendaklah menyerahkan amaun kasar yang dipungut kepada Kementerian atau Jabatan tanpa menolak apa-apa caj yang dikenakan.
- 4.2 Bagi terimaan hasil, pihak Pos Malaysia Berhad hendaklah mengemukakan tuntutan melalui invois kepada Kementerian atau Jabatan untuk bayaran caj perkhidmatan. Manakala bagi terimaan bukan hasil caj perkhidmatan hendaklah dikenakan kepada pembayar.
- 4.3 Kementerian atau Jabatan hendaklah merujuk tatacara pengurusan dan perakaunan terimaan yang dikeluarkan oleh Jabatan Akauntan Negara Malaysia sebagai panduan.

#### **5. Tempoh Pemindahan Wang**

Pos Malaysia Berhad hendaklah memindahkan dana kepada Akaun Terimaan Utama Pejabat Perakaunan dalam tempoh satu (1) hari bekerja selepas hari transaksi (T + 1).

#### **6. Perjanjian Di Antara Kementerian Atau Jabatan Dan Pos Malaysia Berhad**

Bagi memeterai perjanjian di antara Kementerian atau Jabatan dan Pos Malaysia Berhad, format perjanjian yang boleh diguna pakai adalah seperti di **Lampiran A** (*Agency Agreement*).

#### **7. Akaun Pembayaran**

Akaun pembayaran melalui kaunter dan *PosOnline* dianggap sebagai bukti transaksi pembayaran.

# LAMPIRAN

**Lampiran A**

**AGREEMENT**

**BETWEEN**

**GOVERNMENT OF MALAYSIA**

**AND**

**POS MALAYSIA BERHAD**  
(Company No: 229990-M)

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**AGENCY AGREEMENT**

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**THIS AGREEMENT** is made on this ..... day of ..... 20xx

**BETWEEN**

The **GOVERNMENT OF MALAYSIA**, who for the purpose of this Agreement is represented by ..... (name of the relevant Federal Government Ministry/Department) having its address at ..... (hereinafter referred to as “**the Government**”) of the one part;

**AND**

**POS MALAYSIA BERHAD (COMPANY NO. 229990-M)** a company duly incorporated in Malaysia under the Companies Act 2016 [Act 777] and having its registered office at **Level 33, Menara Dayabumi, Jalan Sultan Hishamuddin, 50050 Kuala Lumpur**, (hereinafter referred to as “**PMB**”) of the other part. (hereinafter collectively referred to as the “**Parties**” and individually referred to as “**Party**”).

**WHEREAS —**

- A) PMB has been granted a license by the Ministry of Communications and Multimedia Malaysia to be the exclusive provider of mail services in Malaysia and PMB has the system and infrastructure in place to collect payments on behalf of the corporations from the users/customers of their services/products throughout Malaysia to do all other acts specified therein.
- B) For the purpose of facilitating the collection of dues and/or payments under any Bill (as hereinafter defined) issued by the Government to the public, the Government is desirous to appoint and PMB has agreed to accept such appointment to provide the Services (as hereinafter defined);
- C) Pursuant to the above, the Parties hereto are desirous of entering into this Agreement to set forth the entire understanding between them with respect to, inter alia, their rights and obligations upon the terms and conditions hereinafter set forth.

Now, therefore, in consideration of these promises and the mutual covenants and agreement herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed as follows:-

**NOW IT IS HEREBY AGREED as follows:**

## **PART A**

### **GENERAL**

#### **1. DEFINITIONS AND INTERPRETATION**

##### **1.1 Definitions**

In this Agreement the following words and expression shall have the following meaning unless the context otherwise requires:

“Bill”	means any form of notice, including but not limited to any invoices, summons, penalties or assessments, issued by the Government to the public, wherein monies are due and/or payable to the Government;
“Business Day”	means a day (other than Sunday, Saturday or public holidays), on which banks, licensed to carry on banking business under the provisions of the Banking and Financial Institutions Act 1989, are open for business in their respective locations in Malaysia. In States where the banks are closed for business on days other than Saturdays and Sundays and/or public holidays ‘Business Day’ shall be construed and interpreted accordingly;
“Channel”	means the Outlets and PosOnline;
“Commission”	means the amount chargeable by PMB to the Government or the public at the mutually agreed rate as stipulated under Clause 6;
“File Transfer Protocol”	means the database and/or transfer mode which has been setup on PMB’s server, containing daily data and report of payments made to and/or collected by PMB for and on behalf of the Government;
“Outlets”	means PMB’s post offices outlet including post mini

outlets, which may be reviewed from time to time;

“Payment Collection”	means payment made by the public in respect of the Bill and accepted and collected by PMB for and on behalf of the Government through its Channel in cash or any other mode of payment that may be agreed by both Parties from time to time and subject to the terms and conditions of this Agreement;
“PosOnline”	means Pos Malaysia transaction internet portal at <a href="http://www.posonline.com.my">www.posonline.com.my</a> ; and
“Services”	means the services provided by PMB for and on behalf of the Government in collecting the payment from the public through the Channel.

## 1.2 Interpretation

- (a) The recitals, schedules hereto and any documents therein referred to shall be taken, read and construed as an essential and integral part of this Agreement provided however that in the event of any conflict or inconsistency between the various documents forming this Agreement, the following order of precedence shall apply:
  - i) the clauses; and
  - ii) the schedules
- (b) Reference to Recitals, Clauses and Schedules are to be construed as reference to recitals, clauses and schedules of this Agreement, unless otherwise provided herein;
- (c) All references to provisions of statutes include such provisions as amended, modified or re-enacted;
- (d) References to section, subsection, Clause, exhibit, appendix or schedule are references to section, subsection, Clause, exhibit, appendix or schedule to this Agreement;
- (e) The words “law” and “laws” mean in any present or future law and any constitution, decree, judgment, legislation, order, ordinance, statutes, treaty, directive, by-law, rule or regulation as amended from time to time;

- (f) Words applicable to natural persons shall also apply to any body of person, companies, corporation, firm or partnership incorporated or incorporated;
- (g) The expression 'this agreement' or any similar expression shall comprise the Recitals, Clauses and Schedule of this Agreement and include any supplemental written agreement thereto as may be executed and be in force from time to time or any time;
- (h) Words importing any gender shall include any other gender;
- (i) Words importing the singular number shall include the plural number and vice versa including the definitions referred to in Clause 1.1 thereof;
- (j) The headings and subheadings to the clauses of this Agreement are for convenience of reference only and shall not affect the interpretation and construction thereof;
- (k) Where any word or expression is defined in this agreement, the definition shall extend to all grammatical variations and cognate expressions of the word or expression so defined;
- (l) Any technical term not specifically defined in this Agreement shall be construed in accordance with the usage or definition commonly accepted by those in that profession in Malaysia;
- (m) Any reference to "normal business hours" in relation to the Government shall mean the hours between 7.30am to 5.30pm from Monday to Friday but for states where Friday and Saturday are not working days, Friday shall be excluded and Sunday shall be included; and
- (n) Any reference to "writing" or cognate expression, including any communication effected by telex, cable, facsimile, transmission, electronic mail or other comparable means.

### **1.3 Entire Agreement**

This Agreement contains the entire understanding between the Parties with respect to the subject matter hereof and supersedes all prior agreements or understandings, inducements or conditions, express or implied and oral or written.

**2. APPOINTMENT**

The Government hereby appoints PMB for the purposes of providing the Services and PMB hereby accepts such appointment and undertakes to provide the Services subject to the terms and conditions of this Agreement.

**3. CONTRACT PERIOD**

**3.1 Contract Period**

This Agreement shall be valid for a period of two (2) years (hereinafter referred to as “**the Contract Period**”) commencing from ..... (herein after referred to as the “**Effective Date**”) to ..... (herein after referred to as the “**Contract Expiry Date**”).

**3.2 Extension of Contract Period**

PMB may apply to the Government in writing for an extension of the Contract Period not less than three (3) months prior to the Contract Expiry Date if it intends to extend the Contract Period. The Government shall have the absolute discretion whether or not to consider such application. If such application is considered, the Parties may, as soon as reasonably practicable after the receipt of such application by the Government, negotiate the terms and conditions as such extension not later than one (1) month prior to the Contract Expiry Date. If the Parties fail to reach an agreement, this Agreement shall automatically expire on the Contract Expiry Date.

**(The space below is intentionally left blank)**

## **PART B**

### **SCOPE OF SERVICES**

#### **4. SCOPE OF SERVICES**

##### **4.1 Scope**

PMB shall provide the Services to the Government in the following manner:-

- 4.1.1 allows the public to make payment in the manner described in Clause 5 of this Agreement;
- 4.1.2 undertake that all payments made by the public to the Government are credited into the accounts of the Government in accordance with Clause 7 of this Agreement;
- 4.1.3 undertake that all payments made by the public are secured; and
- 4.1.4 undertake that the service levels as described in Schedule B are complied with at all times during the Contract Period.

**(The space below is intentionally left blank)**



**PART C**  
**IMPLEMENTATION**

**5. IMPLEMENTATION OF SERVICES**

PMB agrees to implement the Services in the following manner:-

**5.1 Collection of Payment**

5.1.1 Any payment for the Bill can be made to and/or collected by PMB for and on behalf of the Government either over the counter at the Outlets or through PosOnline (payment steps and processes as set out in "Schedule D" herein).

5.1.2 (a) For payments of the Bill over the counter at the Outlets, the upper portion of the Bills containing an endorsement stating that the payment has been made or a receipt in a form/format to be mutually agreed by both Parties shall be returned forthwith to the person who made such payment.

(b) For payments of the Bills through PosOnline, a virtual receipt with transaction reference number will be generated therefrom for the person who made such payment.

5.1.3 At the end of each Business Day, the data containing information of the payment will be uploaded by PMB and processed at PMB's host system. Daily data and report as per Schedule C will be available at the File Transfer Protocol (FTP) server for the Government by 8.00am on the following Business Day. The data will be kept in the FTP server for one month after which period such data will be transferred to PMB's archive.

**5.2 Successful upload from PMB's Channel to host computer.**

5.2.1 At the end of each Business Day, PMB shall transmit all relevant data in connection with the Payment Collection from its Channel, to its host computer. The host computer shall process the said data accordingly in order to make the data as prescribed in Schedule C available in the manner stipulated in Clause 10.

5.2.2 The data processed under Clause 5.2.1 shall be kept in a file and shall be available and ready to be downloaded by the Government, through internet using FTP mode from PMB's FTP server by 8.00 am on the next Business Day. In the event the Government is not able to

download such data through internet, both Parties shall agree on the manner as how such data shall be furnished to the Government.

5.2.3 Such processed data shall be kept in PMB's FTP server for one calendar month from the day it was processed and the Government may download the files during the said period.

### **5.3 Failure to upload from PMB's Channel to host computer.**

In the event PMB fails to transmit the data in accordance with Clause 5.2.1, PMB shall furnish to the Government the processed data in respect of the transactions carried out on the said transaction day not later than the next Business Day after the said transaction day.

## **6. COMMISSION CHARGEABLE**

6.1 In consideration of PMB providing the Services in accordance with this Agreement, the Parties agree that the Commission payable to PMB shall be in the following manner:

(a) The Government shall pay Commission to PMB for the Services in accordance with the charges described in Schedule A. Payment for commission are subject to arrangement between the Government and PMB.

and/or

(b) PMB shall charge and collect the Commission from the public or from their account, as the case may be, for the Services, in accordance with the charges described in Schedule A.

6.2 Notwithstanding Clause 6.1, in the event the Government requires PMB to carry out any technical changes to its system or revision of the service level for the purpose of the Services (hereinafter referred to as the "**Changes**"), PMB shall consider such request for the Changes and submit to the Government within fourteen (14) Business Days of receipt of such request for the Changes or such other period as may be determined by both Parties, the details and costs of the Changes required for the Government's approval. In the event the Government agrees with the proposal submitted by PMB including any revisions thereof, the Parties shall mutually agree on an implementation plan and timeline for the Changes. PMB shall bear costs relating to the execution of the Changes up to a maximum amount of Ringgit Malaysia Seven Hundred and Fifty (**RM750.00**) only (hereinafter referred to as the "**Maximum Amount**") provided that the Maximum Amount agreed to be borne is applicable for one request only made by the Government during the Contract Period. Any

additional costs beyond the Maximum Amount and all costs pertaining to any subsequent Changes requested by the Government shall be borne by the Government.

- 6.3 Payment for Commission is subject to arrangement between the Government and the PMB. The PMB may issue invoice ..... (**Note: Parties to agree on the time period**) to the Government in which the claimed amount of the commission are to be stated in detail. The Government shall make payment within 14 days from the date of receipt of completed invoice and other supporting documents.

## 7. REMITTANCE OF PAYMENT COLLECTIONS

- 7.1 All Payment Collections shall be remitted to the Government in the following manner:-

7.1.1 In respect of the transactions carried out by PMB, it shall, on the next Business Day, ascertain the following base on the summary report generated by its internal system:-

- (a) the total Payment Collection; and
- (b) the Commission chargeable in accordance with Clause 6.1(a)

7.1.2 PMB shall remit the total Payment Collection and shall not deduct any commission due to the Government via telegraphic transfer and/or Interbank Giro (IBG) to the bank account as advised by the Government within the following timeframe:-

- (a) Counter

T+1 Business Days for payments made over the counter at the Outlets throughout Malaysia

- (b) PosOnline

T+1 Business Days for payments made through PosOnline.  
For the purpose of this Clause, T shall mean "transaction day".

PROVIDED THAT notwithstanding the above, all outstanding amounts due to the Government (if any) pursuant to the reconciliation and closing of the accounts for each particular month, shall be paid to the Government no later than the last Business Day of the following month.

7.1.3 PMB shall furnish to the Government by 4pm via e-mail on the following Business Day the acknowledgment form issued by bank and summary report prepared by PMB in respect of the remittance made in accordance with Clause 7.1.2. In the event of system down, the said documents shall be sent to the Government by any other medium to be mutually agreed by both Parties.

7.2 In the event PMB fails to remit the Total Payment Collection in accordance with Clause 7 of this Agreement, PMB shall pay compensation to the Government for such failure if it is caused or contributed to by any act or omission or negligence on the part of PMB, its employees, agents or servants. The amount of compensation to be paid for each day of delay or any part thereof shall be based on the amount to be remitted multiplied by the interbank rate as determined by Bank Negara Malaysia from time to time and the number of days delayed divided by 365 days as follows:

Amount to be remitted	x	Inter Bank Rate	x	No of days delayed
365				

7.3 Payment of the compensation shall be made within fourteen (14) days from the receipt of notice issued by the Government demanding such payment.

**8. SERVICE LEVEL**

8.1 In the event PMB fails to provide the Services in accordance with Schedule B, PMB shall pay to the Government damages stipulated in Schedule B for such failure if it is caused or contributed to by any act or omission or negligence on the part of PMB, its employees, agents or servants.

8.2 Notwithstanding any other provisions in this Agreement, the Parties hereby agree that for purposes of imposition of damages under Clause 8, the Accountant General’s Department of Malaysia shall make such demand on behalf of the Government. PMB shall make such payment to the Accountant General’s Department of Malaysia within fourteen (14) Business Days from date of receipt of such demand. For the avoidance of doubt, the Parties hereby agree that the Government shall not make any claims whatsoever under this Clause.

**9. UNDER OR OVER PAYMENT BY PMB**

In the event of any discrepancy between the amount collected and the receipts pertaining to the collection, the Government shall immediately inform PMB in writing in respect thereof whereupon auditors from the Government shall inspect the relevant records and the receipts in PMB's Channels to verify the discrepancy. PMB and the Government shall undertake to refund each other deficit or surplus (which ever is applicable) of monies paid within fourteen (14) Business Days from the date both Parties had verified the discrepancy (if any).

## **10. REPORTS**

PMB shall provide, without any charge to the Government, the following reports in the following manner:

- 10.1 transaction reports by 8.00am on the following Business Day, in the form, format and method for reporting as agreed between the Parties in Schedule C; and
- 10.2 the Service Availability Reports, to be make available at the File Transfer Protocol server for the Government, by the fourth week of the following month, in respect of the details of the matters described in paragraph 1, 2 and 3 of Schedule B for each month.

## **11. AUDITING**

- 11.1 PMB agrees that the authorized representatives of the Government including auditors shall have access to the system and data in respect of the Services for audit purposes provided always that prior written notice within reasonable time shall first be given to PMB by the Government before the conduct of the audit and further that the audit conducted shall be at the Government's sole cost and expense.
- 11.2 PMB shall maintain an adequate audit trail within the system and the Government including auditors shall have access to the audit trail.
- 11.3 PMB shall not modify or amend the audit trail log and shall maintain the audit trail for seven (7) years.

**12. DISPUTED TRANSACTIONS AND NON-COMPLIANCE WITH SERVICE LEVEL**

- 12.1 For purposes of providing efficient and friendly Services, PMB shall take all reasonable and necessary steps to provide avenues and channels at the Outlets and on PosOnline to enable the public to make and Government and/or PMB to receive any complaints, suggestion or grouses in respect of the Services.
- 12.2 Upon receipt of any complaint from the public, PMB shall notify the Government within fourteen (14) Business Days from the receipt thereof. PMB shall thereafter investigate such complaint or any complaint received by the Government. If PMB requires the necessary information from the Government in relation to the fraudulent transaction, the Government shall upon such request provide PMB with the necessary information. PMB shall submit to the Government a report detailing the investigation carried out and the findings of such investigation within fourteen (14) Business Days from the date PMB notified the Government of such complaint or within fourteen (14) Business Days from the date PMB receives the necessary information from the Government on such complaint (whichever is applicable).
- 12.3 In the event the Government is satisfied —
- (a) that the complaint made relate to a fraudulent transaction in respect of the Bill and the Payment Collection:-
    - (i) the Government shall refund to the appropriate person the Payment Collection received within fourteen (14) Business Days from the date the Government decide that it is fraudulent transaction; and
    - (ii) PMB shall refund to the Government the Commission within fourteen (14) Business Days from the receipt by PMB of such demand from the Government, if any, in respect of the refund.

For the purpose of this Clause “fraudulent transaction” shall include dispute which relate to the genuineness or duplication of a transaction completed in respect of a Bill; or

- (b) that the complaint made is in respect of failure by PMB to comply with the service level described in Schedule B, then the Government shall be entitled to demand from PMB damages stipulated in Schedule B and PMB shall pay to the Government such damages within fourteen (14) Business Days from the date of receipt by PMB of a notice demanding such damages from the Government PROVIDED that payment of such

compensation shall not prejudice the Government's right under this Agreement or under any other law.

12.4 For the avoidance of doubt, any payment to be made by PMB to the Government under this Agreement shall not be set-off against any payment due to PMB from the Government.

## 12.5 **Fraud**

### (a) Assistance in investigation

The Government shall, upon request of PMB, provide to PMB within fourteen (14) Business Day from the date of request, the following information in relation to any investigation arising out of a suspected fraudulent transaction:-

- (i) transaction date;
- (ii) time;
- (iii) mode of authorization; and
- (iv) description of services.

### (b) No liability

PMB acknowledges that the assistance provided by the Government shall not be construed in any way as an admission of liability on the part of the Government and the Government shall not be held liable in any way for any loss or damage suffered by PMB resulting from the fraudulent transaction.

**PART D****OBLIGATIONS OF THE PARTIES****13. OBLIGATIONS OF PMB****13.1 Standard of care and skill**

PMB shall provide the Services and perform its obligations under this Agreement —

- (a) by exercising professional judgment, practice requisite skill and using qualified and experienced personnel;
- (b) with due care, diligence and efficiency;
- (c) in accordance with sound principles and best practices in the communication, management and information technology industry;
- (d) in such manner as shall always safeguard and protect the Government's interests and with all necessary and proper steps taken to prevent abuse or uneconomical or inefficient use of facilities or resource made available to PMB; and
- (e) in accordance with the provisions of this Agreement.

**14. OBLIGATIONS OF THE GOVERNMENT**

14.1 Subject to Clauses 5.1.3 and 5.2.1 the Government shall download the said data and the data summary report from the PMB's FTP server.

14.2 The Government shall upload the FTP server and update the Public's account on the same day it receives the data using its resources.

**15. REPRESENTATIONS AND WARRANTIES**

PMB hereby represents and warrants to the Government that:-

- (a) it is a company validly existing under the laws of Malaysia;
- (b) it has the corporate power to enter into and perform its obligations under this Agreement and to carry out the transactions and business as contemplated under this Agreement;



- (c) it has taken all necessary corporate actions to authorize the entry into and performance of this Agreement and to carry out the transactions contemplated under this Agreement;
- (d) As at the execution date of this Agreement, neither the execution nor performance by it of this Agreement nor any transactions contemplated by this Agreement shall violate in any respect of any provision of:-
  - (i) its Memorandum and Articles of Associations; or
  - (ii) any other document or agreement, which is binding upon it or its assets
- (e) no litigation, arbitration, tax claim, dispute or administrative proceeding is presently current or pending or, to its knowledge, threatened, which is likely to have a material adverse effect upon it or its ability to perform its financial or other obligations under this Agreement;
- (f) this Agreement constitute a legal, valid and binding obligation and is enforceable in accordance with its terms and conditions;
- (g) it has obtained the necessary license, authorization, approvals and certifications in providing the Services and the fulfillment of its obligations under this Agreement;
- (h) the Services shall be provided in conformity with the standards generally observed in the industry for similar Services; and
- (i) the execution of this Agreement and the performance of its obligations under this Agreement will not cause a breach by PMB of any duty arising in law or equity;

AND PMB acknowledges that the Government has entered into this Agreement in reliance on its representations and warranties as aforesaid.

## **PART E**

### **INDEMNITY**

#### **16. INDEMNITY**

##### **16.1 Indemnity against infringement**

16.1.1 PMB shall, at its own cost and expense, fully indemnify the Government against all claim, demands, liabilities and costs incurred by the Government if the Services, or any part thereof, infringes the copyright, trade secrets, patent and trademarks and other intellectual property rights of any third party provided that such infringement:-

- (a) is not caused by the acts of the Government other than the normal use of the Services; or
- (b) relates to any hardware and software procured by PMB for the purposes of this Agreement.

##### **16.2 Notice of Claim or Demand**

16.2.1 The Government shall give notice to the PMB of any such claim or demand that is made against the Government and PMB in such event shall defend any such claim or demand and make settlement thereof at its own expense in order to settle or oppose it.

##### **16.3 PMB's Obligations**

16.3.1 If at any time an allegation of infringement of a third party's rights is made, or if in PMB's opinion is likely to be made, in respect of any part used for the purpose of the Services, PMB shall at its own costs and expenses:-

- (a) obtain for the Government the right to continue using such part; or
- (b) modify or replace the part (without detracting from the functionality specified under or pursuant to this Agreement and without affecting the performance of the Services) so as to avoid infringement and in consequence thereof, provide the relevant training for usage of such modification or replacement (if necessary), and the Government agrees that it shall use its best endeavour to provide to PMB all reasonable assistance (other than financial assistance) required to exercise such options.

Notwithstanding the foregoing, the Government shall not incur any liability if PMB fails to obtain such right and fail to modify or replace the infringing part.

- 16.4 In no event shall either Party be liable for consequential, incidental, indirect, special or punitive loss, damage or expenses (including but not limited to business interruption, lost business, lost profits or lost savings) even if it has been advised of their possible existence.

## **17. OTHER INDEMNITY**

### **17.1 Other Indemnity by PMB**

17.1.1 PMB shall be liable for and shall indemnify and keep the Government fully indemnified from and against:-

- (a) any demand, action, damage, expense, liability, loss, claim, suits or proceedings whatsoever arising under any law of Malaysia in respect of any accident, damage, injury or death to any person including defamation, libel and slander or in respect of injury or damage of any kind to any property real or personal by reason of the carrying out of this Agreement; or
- (b) any direct damage to the Government and/or the Government's property, to the extent that the same is occasioned by -
  - (i) defects in any aspect of the Services; and/or
  - (ii) the negligent acts or omissions of PMB, its agents and their respective employees committed in the course of their respective engagements or employment and shall hold the Government harmless from and against any and all claims, actions, damages, demands, liabilities, costs and expenses, including reasonable legal fees and expenses resulting there from.

### **17.2 Indemnity by Government**

Without prejudice to the other provisions of this Agreement, the Government shall indemnify PMB and keep PMB indemnified from and against any payments, losses, costs, charges or expenses whatsoever, legal or otherwise which PMB may sustain, suffer or incur as a consequence of any negligent acts or omissions of the Government and/or its employees and agents arising out of or in connection with this Agreement.

### **17.3 Liability upon Expiry or Earlier Termination**

The expiry or earlier termination of this Agreement shall not affect the liability of any Party for any of its acts or omissions during the Contract Period prior to earlier termination thereof and the aggrieved Party shall be kept indemnified and held harmless in respect of any claim arising there from.

### **17.4 Notification**

The Government shall inform PMB of any claim or proceedings or anticipated claim or proceedings against it in respect of the matters covered by this Clause as soon as practicable after it becomes aware of such claim or proceedings.

## **18. TERMINATION**

### **Termination by the Government**

#### **18.1 Default by PMB**

In the event PMB without reasonable cause:-

- (a) suspends this Agreement and fails to proceed regularly and diligently with the performance of its obligations under this Agreement;
- (b) fails to provide the Services in accordance with this Agreement or persistently neglects to carry out its obligations under this Agreement;
- (c) defaults in performing the duties under this Agreement; or
- (d) breaches any of its obligations or fails to comply with any other terms and conditions of this Agreement,

then the Government shall give notice in writing to PMB specifying the default and requiring PMB to remedy such default within thirty (30) days after the date of the notice. If PMB fails to remedy the relevant default within such period or such other period as may be determined by the Government, the Government shall have the right to terminate this Agreement at any time thereafter by giving notice to that effect.

#### **18.2 General Default**

If at any time during the Contract Period:-

- (a) an order is made or a resolution is passed for the winding-up of PMB, except for the purpose of reconstruction or amalgamation not involving the realization of assets in which the interest of creditors are protected;
- (b) PMB goes into liquidation or a receiver is appointed over the assets of PMB or PMB makes an assignment for the benefit of or enters into an arrangement or composition with its creditors or stops payment or is unable to pay its debts; or
- (c) execution is levied against a substantial portion of PMB's assets, unless it has instituted proceedings in good faith to set aside such execution,

then the Government shall have the right to terminate this Agreement forthwith by giving notice to that effect.

### **18.3 Consequences of Termination by the Government**

Upon termination of this Agreement under Clause 18.1 or 18.2:-

- (a) the rights granted to PMB under this Agreement shall terminate immediately and shall revert to the Government forthwith;
- (b) PMB shall:-
  - (i) forthwith cease all Services; and
  - (ii) submit to the Government the detailed reports of the last status of the Services rendered and any payments which has become due and owing from the Government prior to the termination, for verification and approval by the Government.
- (c) the Government shall:-
  - (i) be entitled to claim against PMB for all the losses and damages damages suffered (if any) as a result of the termination of this Agreement;
  - (ii) be entitled to claim against PMB for all monies due and payable under this Agreement; and
  - (iii) be entitled to appoint a third Party to perform this Agreement.

Provided that the termination shall not affect or prejudice the rights of any Party which have accrued prior to the date of termination of this Agreement and the obligations under this Agreement shall survive the termination of this Agreement in respect of any act, deed, matter or thing happening prior to such termination of this Agreement.

## **Termination by PMB**

### **18.4 Default by the Government**

If the Government without reasonable cause fails to perform or fulfill any of its obligations which adversely affects PMB's obligations under this Agreement, then PMB may give notice in writing to the Government specifying the default and the Government shall remedy the relevant default within thirty (30) days after receipt of such notice or such other extended period as agreed by the Parties. If the Government fails to remedy the relevant default within such period or such other extended period, PMB shall be entitled to terminate this Agreement at any time by giving notice to that effect.

### **18.5 Consequences of Termination by PMB**

Upon such termination, the PMB shall accept the following undertaking by the Government as full and complete settlement of all claims under or arising out of this Agreement:-

- (a) the Government shall pay PMB all monies due and payable to PMB as at the date of the termination of this Agreement which have not been paid (if any) under this Agreement; and
- (b) PMB shall cease to carry out the obligations under this Agreement.

### **18.6 Effect of Termination**

The right to terminate this Agreement under Clause 18.4 shall not prejudice any other right or remedy accorded to PMB in respect of the breach concerned or any other breach. Upon termination of this Agreement for any reason, subject as otherwise provided in this Agreement and to any rights or obligations which have accrued prior to termination, neither Party shall have any further obligation to the other Party under this Agreement.

### **18.7 Termination on National Interest**

Notwithstanding any provision of this Agreement, the Government may terminate this Agreement by giving not less than thirty (30) days notice to that effect to the PMB (without any obligation to give any reason thereof) if it considers that such termination is necessary for national interest, in the interest of national security or for the purposes of Government policy or public policy.

For the purposes of this Clause, what constitutes "national interest", "interest of national security", "Government policy" and "public policy" shall be solely made and determined by the Government and such determination shall for all

intent and purposes be final and conclusive and shall not be open to any challenge whatsoever.

### **18.8 Termination on Corruption**

- (a) Without prejudice to any other rights, if the Government is satisfied that PMB, its personnel or agents is or are involved in corruption or unlawful or illegal activities in relation to this Agreement or any other agreement that PMB may have with the Government, the Government shall be entitled to terminate this Agreement at any time, by giving immediate written notice to that effect to PMB.
- (b) Upon such termination, the Government shall be entitled to all losses, costs, damages and expenses (including any incidental costs and expenses) incurred by the Government arising from such termination.

## **19. FORCE MAJEURE**

### **19.1 Events of Force Majeure**

Neither the Government nor PMB shall be in breach of its obligations under this Agreement if it is unable to perform or fulfill any of its obligations thereunder as a result of the occurrence of an Event of *Force Majeure*. An "Event of *Force Majeure*" shall mean an event not within the control of the Party affected, which that Party is unable to prevent, avoid or remove and shall include:-

- (a) war, hostilities (whether declared or not), invasion, act of foreign enemies, rebellion, revolution, insurrection, military or usurped power, civil war or act of terrorism;
- (b) ionizing radiation or contamination by radioactivity from any nuclear waste, from the combustion of nuclear fuel, radioactive toxic explosive, or other hazardous properties of any explosive, nuclear assembly or nuclear component thereof;
- (c) pressure waves caused by aircraft or other aerial devices traveling at sonic or supersonic speeds;
- (d) natural catastrophe including but not limited to earthquakes, floods subsidence, lightning and exceptionally inclement weather; and
- (e) riot and disorders, criminal damage, sabotage, strike, lock out, labour unrest or other industrial disturbances (affecting the performance of this

Agreement) that causes or can reasonably be expected to cause either Party to fail to comply with its obligations,

PROVIDED THAT Event of Force Majeure shall not include economic downturn, non-availability or insufficient of fund or lack of financing on the part of the Company to perform its obligations under this Agreement.

#### **19.2 Event of *Force Majeure* Affecting PMB**

If an Event of *Force Majeure* occurs by reasons of which PMB is unable to perform any of its obligations under this Agreement, PMB shall inform the Government as soon as reasonably practicable of the occurrence of that Event of *Force Majeure* and take all reasonable measures to mitigate any delay or interruption to the Services.

#### **19.3 Event of *Force Majeure* Affecting the Government**

If an Event of *Force Majeure* occurs by reason of which the Government is unable to perform any of its obligations under this Agreement, the Government shall inform PMB as soon as reasonably practicable of the occurrence of that Event of *Force Majeure* and shall take all reasonable measures to mitigate any delay or interruption to the Services.

#### **19.4 Termination by *Force Majeure***

If either Party considers the event of *Force Majeure* to be of such severity or to be continuing for such period of time that either Party is unable to perform any of its obligations hereunder, this Agreement may be terminated by mutual agreement.

#### **19.5 Determination of Event of *Force Majeure***

Neither Party shall be entitled to rely upon the provisions of Clause 18.4 above if both Parties reasonably determine that an Event of *Force Majeure* has not occurred. If either Party does not agree that an Event of *Force Majeure* has not occurred the dispute may be referred to the Dispute Resolution Committee.

#### **19.6 Effect of Termination**

Where this Agreement is terminated pursuant to Clause 19.4, PMB shall comply with all instructions and directions given by the Government.



### **19.7 Continuing Obligations**

For avoidance of doubt, the Parties shall continue to perform those parts of those obligations not affected, delayed or interrupted by an Event of *Force Majeure* and such obligations shall, pending the outcome of Clause 19.5 continue in full force and effect.

**(The space below is intentionally left blank)**

**PART F**  
**DISPUTE RESOLUTION**

**20. DISPUTE RESOLUTION COMMITTEE**

**20.1 Composition of the Dispute Resolution Committee**

Any dispute between the Parties in respect of any matter under this Agreement (except in relation to the Government exercising its sole discretion under this Agreement) may be referred to a dispute resolution committee ("the Dispute Resolution Committee") comprising:-

- (a) the Secretary General of the Ministry of.....or his representative /the Director General of the Department of .....or his representative as the Chairman ;
- (b) two (2) representatives appointed by the Government; and
- (c) two (2) representative appointed by PMB.

**20.2 Independent Expert**

The Dispute Resolution Committee may appoint an independent expert to advise it on any matter referred to it and all costs, fees and expenses of any independent expert so appointed shall be borne equally by the Parties.

**20.3 Amicable Settlement**

The Dispute Resolution Committee shall determine its own procedures. The Dispute Resolution Committee shall meet and endeavor to achieve an amicable settlement between the Parties in respect of any matter referred to it.

**20.4 Non-settlement**

If any matter, dispute or claim, which is referred to the Dispute Resolution Committee, cannot be mutually agreed by the Parties within thirty (30) days after the date of referral, then either Party may refer that matter, dispute or claim to arbitration pursuant to Clause 21.

## **21. ARBITRATION**

### **21.1 Submission**

If any matter, dispute or claim cannot be settled amicably by the Parties hereto within thirty (30) days after the same have been referred to the Dispute Resolution Committee, then the matter, dispute or claim may be referred by either Party to an arbitrator to be agreed between the Parties, or failing agreement, to be nominated on the application of any Party by the Director of the Asian International Arbitration Centre (Malaysia) and any such reference shall be deemed to be a submission to arbitration within the meaning of the Arbitration Act 2005.

### **21.2 Venue and Rules**

The arbitration proceedings shall be held at the Asian International Arbitration Centre (Malaysia) using the arbitration rules of the centre and utilizing the facilities and system available at that centre.

### **21.3 Language of Proceedings**

The arbitration proceedings shall be conducted in the English language and/or Bahasa Melayu.

### **21.4 Costs**

Each Party shall bear its own costs of the arbitration proceedings.

### **21.5 Decision and Award Binding**

The decision and award of the arbitrator shall be final and binding on the Parties.

### **21.6 Continuity**

The reference to any matter, dispute or claim to arbitration pursuant to this Clause or the continuance of any arbitration proceedings consequent thereto shall in no way operate as a waiver of the obligations of the Parties to perform their respective obligations under this Agreement.

## **PART G**

### **MISCELLANEOUS PROVISIONS**

#### **22. CONFIDENTIALITY**

##### **22.1 Confidentiality of Agreement**

This Agreement and all matters pertaining hereto shall be considered as confidential information (hereinafter referred to as “**Confidential Information**”).

##### **22.2 Non-Disclosure**

Except with the prior written consent of the disclosing Party and subject to Clause 22.3, the recipient Party, its personnel and agents shall not at any time:-

- (a) communicate to any person or body or entity except those employees, agents and other suppliers on a need-to-know basis, any Confidential Information disclosed to it for the purpose of the Agreement or discovered by it in the course of the provision and performance of the Agreement;
- (b) make public any information as to the recommendations, assessments and opinions formulated in the course of or as a result of the provision and performance of the Agreement; or
- (c) make or cause to be made any press statement or otherwise relating to the Agreement nor publish or cause to be published any material whatsoever relating to the Agreement.

##### **22.3 Exceptions**

The obligations in Clause 22.2 shall not apply to any Confidential Information which:-

- (a) is in the recipient party's possession (with full right to disclose) before receiving it from the Government;
- (b) is or becomes public knowledge other than by breach of Clause 22.2;
- (c) is independent or developed by the recipient Party without access to or use of the Confidential Information; or

(d) is lawfully received from a third party (with full rights to disclose).

**22.4 Survival**

Clause 22 shall survive the expiry of or the earlier termination of this Agreement.

**23. NOTICES**

(a) Any notices, demands, invoices, permissions, claims or consent required, authorized, permitted or contemplated to be served or given hereunder shall be in writing signed by or on behalf of the Party concerned and shall be deemed to be duly given or made, in the case of delivery in person or by facsimile transmission, when delivered to the recipient at such addresses or facsimile number which is duly acknowledged -

**For the Government :**

Address : (address of the respective Federal Government Ministry/Department)  
 Telephone No. : (..... -.....)  
 Facsimile No. : (..... - .....

**For PMB :**

Address : Pos Malaysia Berhad  
 Head of Operations, PosNiaga  
 Level 7, Kompleks Dayabumi  
 50670 Kuala Lumpur  
 Telephone No. : (603 -22741122)  
 Facsimile No. : (603 - 26946897)

(b) Any change of address of the Parties as specified herein shall be duly notified to the other by giving one (1) month prior written notice. No change of address of either Party herein mentioned shall be effective or binding on either Party unless that Party has given to the other Party the actual notice of the change of address.

(c) Any notice sent by facsimile transaction shall be deemed served when dispatched and any notice served by prepaid registered post shall be deemed served five (5) days after posting. In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that such letter was properly stamped, addressed and placed in the post or delivered personally or by courier.

**24. NO AGENCY AND NO PARTNERSHIP****24.1 No Agency**

PMB shall not hold itself out to be the principal or agent of the Government for any purpose and under no circumstances shall any action of PMB shall bind the Government.

**24.2 No Partnership**

Nothing contained in this Agreement shall be construed as creating or be deemed to imply a partnership between the Government and PMB.

**25. AMENDMENT**

No amendment, modifications or waiver of any provision of this Agreement shall have any legal force or effect unless made by mutual consent and made in writing by way of a supplementary agreement specifically referring to this Agreement and duly signed by each of the Parties hereto.

**26. WAIVER**

Failure by either Party to enforce at any time, any provisions of this Agreement shall not be construed as a waiver of its right to enforce against the breach of such provision or any other provision in this Agreement or as a waiver of anything continuing, succeeding or subsequent breach of any provision or other provision of this Agreement.

**27. SEVERABILITY**

If any provision of this Agreement or any part thereof is rendered void, illegal or unenforceable by any legislation to which it is subjected, it shall be rendered void, illegal or unenforceable to that extent and no further. Such provision which is rendered void, illegal or unenforceable shall be deemed to be restated to reflect as nearly as possible the original intentions of the Parties hereto in accordance with the applicable law and the remainder of this Agreement shall remain in full force and effect as if this Agreement had been entered into without the void, illegal or unenforceable provision.

**28. APPLICABLE LAWS**

This Agreement shall be governed by and constructed in accordance with the laws of Malaysia and the Parties submit to the jurisdiction of the courts of Malaysia.

**29. COMPLIANCE WITH APPLICABLE LAWS**

PMB shall comply with all applicable laws and with all directions, orders, requirements and instructions given to PMB by any authority competent to do so under any applicable law.

**30. ASSIGNMENT**

This Agreement may not be assigned (by operation of law or otherwise) or otherwise transferred in whole or in part by PMB unless PMB has received prior written permission from the Government. To the extent PMB is permitted to assign this Agreement, all provisions of this Agreement shall be binding upon PMB's successors or assigns.

**31. BINDING EFFECT**

This Agreement shall be binding upon the Parties hereto and their personal representatives, heirs, successor's in-title and permitted legal assigns.

**32. COSTS AND STAMP DUTY**

All costs incidental to the preparation and completion of this Agreement and all duties payable shall be borne and paid for by PMB. However, each Party shall bear its own solicitors cost.

**33. TIME**

Time wherever mentioned herein shall be of essence for the purposes of any provision of this Agreement.

**IN WITNESS WHEREOF** the Parties hereto has executed this Agreement on the day and year herein before appearing.

Signed by )  
for and on behalf of )  
the **GOVERNMENT OF MALAYSIA** )

in the presence of: )

Signed by )  
for and on behalf of )  
**POS MALAYSIA BERHAD** )

in the presence of: )



**SCHEDULE A**  
**COMMISSION CHARGEABLE**

Commission rate payable to PMB per successful transactions as follows:

PosOnline	not exceeding RM0.50 per transaction
Counter Payment	not exceeding RM2.00 per transaction

- Commission chargeable is due to the Government for Revenue Collection only
- For the avoidance of doubt, the issuance of a virtual receipt in respect of transaction conducted through PosOnline shall be deemed to be a successful transaction.

## **SCHEDULE B**

### **SERVICE LEVEL TERM**

#### **OBJECTIVE**

The purpose of this Schedule is to set out the standard measures and performance level to be provided by the PMB in respect of the Services.

#### **1. Operating requirements**

##### **1.1 Service Availability**

###### **1.1.1 PosOnline**

Twenty-four (24) hours, seven (7) days a week

###### **1.1.2 Outlets**

As the respective business hours of the Outlets. For this purpose PMB shall submit to the Government the business hours of its Outlets within 14 (fourteen) Business Day from the date of execution of this Agreement. PMB shall inform the Government forthwith any change in respect of the business hours of any of its Outlet.

##### **1.2 System Availability**

The monthly minimum percentage of the system availability as follows:-

###### **1.2.1 PosOnline**

The monthly minimum percentage of the system availability shall be ninety eight percent (98%) of the service availability stated in paragraph 1.1.1 provided that the duration of scheduled downtime shall be excluded from the determination of such availability.

###### **1.2.2 Outlets**

The monthly minimum percentage of the system availability shall be ninety eight percent (98%) of the service availability stated in paragraph 1.1.2 provided that the duration of

scheduled downtime shall be excluded from the determination of such availability.

### 1.3 Scheduled Downtime Management.

#### 1.3.1 PosOnline

Maximum of four (4) hours per calendar month.

#### 1.3.2 Outlets

Maximum of four (4) hours per calendar month.

PMB shall inform the Government in writing seven (7) days prior to any scheduled downtime and shall further provide notification at the Channels of the scheduled downtime at least seven (7) consecutive days prior to such scheduled downtime.

## 2. Problem Resolution

2.1 The public is to contact 1300 300 300, visit any of the Outlets or email to [csc@pos.com.my](mailto:csc@pos.com.my).

2.2 The public to provide the following details for faster processing:-

- Name
- Contact No
- Pay to (Billing Organization)
- Payment Amount
- Transaction Date
- Brief Inquiry/Problem Description

2.3 For purposes of addressing any complaints made by the public, clause 11 of this Agreement shall apply.

## 3. Helpdesk

The PMB shall provide a helpdesk support from 9.00 a.m. to 6.00 p.m., Monday to Friday for any problems and/or queries by the Government in accordance with item 2.0 above. Upon request of the Government the PMB shall extend the Helpdesk service hours.

**4. Liquidated damages**

4.1 In the event that PMB fails to provide the Services –

- (a) in accordance with this Schedule; or
- (b) PosOnline and the Outlets system operations down time exceed 2 hours (except for scheduled downtime),

PMB shall pay to the Government by way of penalty the sum of RM20 per hour provided that the sum payable shall not exceed RM100 per day.

**(The space below is left blank intentionally)**

## **SCHEDULE C**

### **REPORTS**

#### **OBJECTIVE**

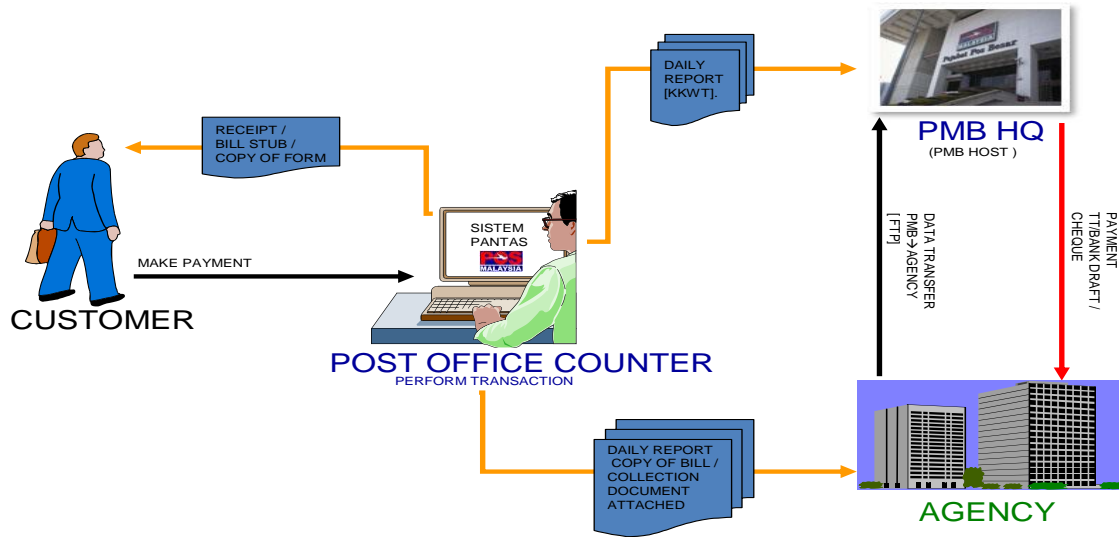
The purpose of this Schedule is to describe in detail the reports in relation to the Services.

PMB will provide the softcopy of text file with the following file minimum information:

- a) Payer Code (Agency as collection station)
- b) Date (Header, Detail)
- c) Transaction Count
- d) Total Amount
- e) Bill Reference
- f) Account number
- g) I/C No.
- h) Name
- i) Transaction Amount
- j) Revenue/Non revenue code
- k) Commission amount
- l) Nett amount
- m) Channel

### SCHEDULE D

### PAYMENT STEPS AND PROCESSES (Refer to Annexed Flow Chart)



**POS MALAYSIA POSNIAGA AGENCY PROCESS FLOW: ONLINE**

**Participating banks:**

1. www.hlbb.com.my
2. www.cimb.com.my
3. www.bankrakyat.com.my
4. www.rhbbank.com.my
5. www.pospay.com.my

**Future participating banks:**

1. Affin Bank
2. Bank Islam



Input payment info

www.posonline.com.my



BANK SERVER

T+1  
Data transfer from Banks to PMB



PMBHQ (PMB HOST)

PMB host prepare data to be retrieve by agencies (Data from online payment and counter payment consolidated in same file)

Agency retrieve data daily via FTP



AGENCY

**POS MALAYSIA PosNiaga CARTA ALIR PELANGGAN - POSONLINE**



CUSTOMER

POS MALAYSIA ONLINE PAYMENT



- Access PosOnline website - [www.posonline.com.my](http://www.posonline.com.my)
- Perform First Time Registration
- Logon to PosOnline

- Open Payment, choose billers
- Key-in payment details e.g. bill account no, bill no, amount
- Select payment gateway, CIMB, Hong Leong, Bank Rakyat, Rhb, Pospay

- Enter Login ID & Password
- Select Debiting Account
- Enter TAC
- Submit Transaction
- Transaction completed

- Q-COOPENPAYMENT GATEWAY\*
- Cimb
  - Hong Leong
  - Bank Rakyat
  - Rhb
  - PosPay

Validation result forwarded to Pos Malaysia

- Transaction result is displayed by Pos Malaysia

CUSTOMER



Perform transaction validation

- Print the transaction receipt
- Logoff from PosOnline