

MERCHANT AGREEMENT SUPPLEMENT
FOR WAREHOUSING SERVICES

This Agreement is made as of and with effect from [*sign date for this supplement] 2023 by and between:

Hong Kong TV Shopping Network Company Limited, a company incorporated in Hong Kong with limited liability, with its registered office address at HKTV Multimedia and Ecommerce Centre, No.1 Chun Cheong Street, Tseung Kwan O Industrial Estate, New Territories, Hong Kong ("**Party A**"),

And

[*BR name], [a company incorporated in [*Location (Hong Kong)]], with its registered office address at [*BR address] ("**Party B**").

WHEREAS

- (a) Reference is made to a merchant agreement ("**Merchant Agreement**") dated [*MMS merchant agreement start date (MMS > contract status > document center > merchant agreement)] and entered into between Party A and Party B in relation to, *among other things*, listing of Party B's Products for sale on HKTVmall.
- (b) Party B desires to subscribe to Party A's warehousing services.
- (c) The Parties have agreed to enter into this Agreement to supplement the Merchant Agreement on terms and conditions set out herein.

Now it is agreed as follows:

1. Interpretation

Unless otherwise defined, capitalised terms used herein shall have the meanings as defined in the Merchant Agreement. All references to an "Appendix" or "Appendices" in this Agreement shall refer to the "Appendix" or "Appendices" to this Agreement.

2. Warehousing Services

- 2.1 Party A shall provide and Party B shall subscribe to Party A's warehousing services on terms and conditions set out in the Appendices: -
 - 2.1.1 Particulars of Party A's warehousing services, warehousing fees, warehousing services term and loss and damage tolerance entitled by Party A are set out in **Appendix 1** and Party B has elected Plan A (Plan A: Standard Plan) for warehousing fees;
 - 2.1.2 General terms and conditions applicable to Party A's warehousing services are set out in **Appendix 2**; and
 - 2.1.3 Penalty charges in relation to Party A's warehousing services are set out in **Appendix 3**.

(Appendix 1, 2 and 3, collectively the “**Appendices**”)

2.2 It is agreed by the Parties that: -

- 2.2.1 The Merchant Agreement shall be supplemented by inserting the Appendices in accordance with their respective instructions therein; and
- 2.2.2 The provisions of the Merchant Agreement shall, as supplemented by the Appendices, continue in full force and effect to govern the rights and obligations of the Parties, and shall be read and construed as one single document entered into between the Parties.

3. Further Assurance

Party B shall, at the request of Party A and at its own expense, do all such acts and things necessary or desirable to give effect to the supplements made pursuant to this Agreement.

4. Governing Law and Jurisdiction

- 4.1 This Agreement shall be governed and construed in accordance with the laws of Hong Kong.
- 4.2 It is irrevocably agreed that the courts of Hong Kong will have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Agreement or its subject matter.

Agreed and accepted by

For and on behalf of
Party A

For and on behalf of
Party B

Name
Title

Name
Title **Authorised Representative (Same as MMS)**

[N.B. Please ensure this Agreement is signed by the Authorised Representative of Party B on record]

APPENDIX 1

TO BE INSERTED AFTER PART 1 OF THE MERCHANT AGREEMENT: MERCHANT LISTING

Part 1A: Warehousing Services

In consideration of the payment by Party B of the Warehousing Fees (as set out in Part 2A below) and subject to Party's B compliance with the terms herein and the General Terms and Conditions attached hereto, Party A shall provide Warehousing Services (as particularized in Part 2A below) to Party B.

TO BE INSERTED AFTER PART 2 OF THE MERCHANT AGREEMENT: COMMISSION AND SPECIFICATIONS

Part 2A: Warehousing Services and Warehousing Fees

No.	Warehousing Services	Warehousing Fees	Plan A: By Tote ("Plan A")	Payment term
Mandatory services				
1	Storage space for Products	= Deposit + Order Fulfillment Fee		
		• Deposit =	HK\$ [*\$ per tote] per tote	Plan A: Payable upon signing of this Warehousing Supplemental
		• Order Fulfillment Fee =	Storage Fee + Processing Fee + Check-in-Fee	Plan A: See details below

		* Storage Fee=	Ambient $\text{HK\\$}[\text{\\$per tote}]^1/\text{mth/tote} \times [\text{no of tote}] \text{ tote} = \text{HK\\$}[\text{\\$min charge}]^2/\text{month, and}$ Air-Con $\text{HK\\$}[\text{\\$per tote}]^2/\text{mth/tote} \times [\text{no of tote}] \text{ tote} = \text{HK\\$}[\text{\\$min charge}]^3/\text{month,}$ subject to a minimum of $\text{HK\\$}[\text{\\$min charge}]/\text{month}$	Plan A: Payable as invoiced (in advance)
		* Processing fee=	$\text{HK\$}[\text{\$ per pick pack}]^3/\text{qty of SKU}^4 + \text{HK\$}2/\text{qty of fragile SKU}^5$	Plan A: Payable as invoiced (in arrears)

¹ Storage Fee/mth/tote is determined as follows: -

	Ambient	Air-Con
1-199 Totes		
	HK\$ 65	HK\$ 69
200-499 Totes		
	HK\$ 58	HK\$ 62
500-999 Totes		
	HK\$ 50	HK\$ 54
1000 Totes or over		
	HK\$ 45	HK\$ 49

² Storage Fee (for Plan A) and minimum Order Fulfilment Fee (for Plan B) shall increase accordingly if the number of totes required by Party B increases.

³ Processing fee/qty of SKU is determined as follows: -

1-199 Totes
HK\$ 6
200-499 Totes
HK\$ 5.5
500-999 Totes
HK\$ 5
1000 Totes or over
HK\$ 4.5

⁴ Qty refers to quantity and SKU refers to stock keeping unit of each Product

⁵ Party A shall have the full discretion to determine whether an SKU is fragile

		* Check-in fee =	HK\$[*\$3]/tote	
		*		
Optional services				
2	Check-out	Check-out fee=	HK\$[*\$10]/tote	Plan A: Payable as invoiced
3	Set to oversell Products	Oversale fee=	3% of SKU selling price ⁶ x qty of SKU ⁵ set for oversale	
4	Temporary storage	Temporary storage fee=	HK\$[*\$7]/tote/day	
5	Stocktake	Stocktake fee =	HK\$[*\$7]/tote	

TO BE INSERTED AFTER PART 3 OF THE MERCHANT AGREEMENT: TERM

Part 3A: Warehousing Services Term

Warehousing Services Term	Period (both dates inclusive)	Automatic renewal for
[1/2/3 year]	From [*01 July 2023] ⁷ to the earlier of (i) [*01 July 2024] or (ii) the expiry or termination date of the Merchant Agreement.	[1/2/3 year], unless either Party gives the other Party 1 month's written notice prior to its expiry. For the avoidance of doubt, Party B understands and agrees that it shall be liable to pay the Order Fulfillment Fee for the remaining term despite any early termination.

TO BE INSERTED AFTER PART 4 OF THE MERCHANT AGREEMENT: INSURANCE

Part 4A: Others

Items	Amount	Loss Settlement Period
Loss and damage tolerance ("Loss Tolerance")	1% of total qty of all SKU ⁸ checked-in in a Loss Settlement Period x (their respective SKU selling prices ⁹ minus its applicable Commission ⁹)	Each year of subscription of our warehousing services shall constitute 1 separate and independent Loss Settlement Period; and The final Loss Settlement Period shall refer to the period commencing from the latest

⁶ Selling price of SKU shall be the last transacted selling price of the SKU, and if inapplicable, the selling price of the SKU as provided by Party B, determined at the time a booking is made for oversale.

⁷ Commencement of Warehousing Services Term is conditional on minimum Storage Fee (for Plan A) or minimum Order Fulfillment Fee (for Plan B), being paid in full.

⁸ Qty refers to quantity and SKU refers to stock keeping unit of each Product.

⁹ Selling price of 1 SKU shall mean the selling price of that SKU as provided by Party B determined at the time of SKU checking-in.

		anniversary date of [*01 July 2023] (3PL effective date)] and ending on the termination date of the warehousing services.
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APPENDIX 2

TO BE INSERTED AS CLAUSE C IN SCHEDULE 1 (DELIVERY AND RETURN UNDERTAKINGS) OF THE MERCHANT AGREEMENT

C. WAREHOUSING SERVICES

1. Warehousing Fees

1.1. Party B understands and agrees that all Warehousing Fees is neither refundable nor transferable under any circumstances, except:

1.1.1. The Deposit shall only be refundable when the totes are returned by Party B to Party A without any damages at the expiry or termination of the Warehousing Services Term.

1.2. Party A agrees that Warehousing Fees shall not be revised during a Warehousing Services Term, save and except:-

1.2.1. For Plan B, a drop at 20% or more in Party B's monthly average basket size (i.e. the average transaction value of Party B's Products in a single customer order in a month) within a Warehousing Services Term shall result in an increase in the rate of Order Fulfillment Fee. If Party B has subscribed to Plan B but does not agree to the revised fees of Plan B, Plan B shall be automatically terminated and replaced by Plan A upon expiry of 14 days from the day the revised fee notice is issued to Party B.

1.3. Subject to clause C1.2 above, Party A shall be entitled to revise Warehousing Fees from time to time, including upon renewal of a Warehousing Services Term. Revised fees are effective as notified to Party B. Continued acceptance of warehousing services provided by Party A shall represent Party B's acceptance of the revised fees.

1.4. Warehousing Fees shall be deductibles for the purpose of clauses 6.3 and 6.4.

2. Party B's obligations

2.1. Party B shall keep Party A fully informed of any particular requirement and risk relating to storage and handling of the Products and, including, without limitation, any requirement as to storage environment, their fragility, shelf life, possible deterioration or damage, their hazardous nature or likelihood to contaminate or otherwise affect other goods, property, persons and/or the warehouse, or specific regulations which govern the storage of such Products.

2.2. The following Products are not permitted to be stored at the Party A's warehouse: -

- (a) dangerous goods as defined in the Dangerous Goods Ordinance (Cap. 295);
- (b) fragile goods unless they are suitably and securely packed;
- (c) fresh meat, fish and other perishable commodities;
- (d) restricted or prohibited goods listed in Schedule 2 (Restricted or Prohibited Goods/ Services); and
- (e) goods of such nature which are unsuitable for storage in Party A's opinion.

- 2.3. Party B shall observe and comply with Party A's policies and/or guidelines in relation to use of its warehousing services.

3. Ownership and Risk

- 3.1. The ownership of the Products remains with Party B until they are delivered to the buyer, subject to Party A's general and particular lien on the Products in its custody or control as security for payment of all outstanding sums due and payable by Party B.
- 3.2. Party A may, without prejudice to its other rights and remedies, give notice in writing to Party B of its intention to sell or otherwise dispose of some or all of the Products in its custody or control if the amount outstanding is not settled in full within the period stipulated under such notice. If the amount due is not paid by the expiry of such period, Party A may sell or otherwise dispose of some or all of the Products in its custody or control, at Party B's expense and risk, and shall remit the proceeds of sale or disposal of such Products to Party B after deduction of all amounts due to Party A (including without limitation all types of charges, fees, Commission and interests owing to Party A, all types of costs and expenses incurred by Party A in relation to sale or disposal of the Products or to otherwise enforce Party A's rights under this Agreement, and indemnification given by Party B under clause 12). Party A shall not be liable for the price obtained for the sale or disposal of the Products.
- 3.3. If Party B fails to remove the Products from Party A's warehouse within the period requested by Party A, Party A shall be entitled to, whether through itself or its employees, agents and representatives, sell or otherwise dispose of all or some of the Products which have not been removed by the end of such period, as agent of Party B and at Party B's expense and risk, and, in the event of sale, shall remit the proceeds of sale or disposal of such Products to Party B after deduction of all amounts due to Party A from Party B and the expenses incurred by Party A for the sale or disposal of the Goods. Party A shall not be liable for the price obtained for the sale or disposal of the Goods or for value of the Products disposed under this clause.

4. Party A's liability

- 4.1. Party B shall lodge to Party A all its claims for loss and damage arisen in a Loss Settlement Period (as defined in Part 4A) within 30 days of expiry of such Loss Settlement Period. All loss and damage not lodged by Party B within the said period shall extinguish and be waived by Party B.
- 4.2. For any loss and damage of Products, Party A shall only be liable to Party B for an amount in excess of Loss Tolerance (as defined in Part 4A).
- 4.3. Notwithstanding anything to the contrary, for and in connection with the provision of warehousing services, Party A shall be liable to Party B only for loss and damage attributed to the wilful act, gross negligence or default of Party A, and such liabilities shall be capped at:

(a) for each SKU of Product, the lesser of: -

- i. its cost (which shall be the last transacted selling price of the SKU, and if inapplicable, the selling price of the SKU listed by Party B, determined at the time of confirmation of loss and damage of the SKU, minus its applicable Commission); and

ii. HK\$2,000; and

(b) an aggregate liability of a maximum of HKD\$1,000,000 for a full year, and for any Loss Settlement Period shorter than a year, this maximum aggregate liability shall be reduced accordingly on a pro-rata basis.

4.4. The payment by Party A to Party B in respect of loss and damages shall be, subject to any set-off rights Party A may have, accrued and paid within 60 days after the end of a Loss Settlement Period.

APPENDIX 3

TO BE INSERTED AS NEW TABLE 4 IN SCHEDULE 3 (PENALTY CHARGES) OF THE MERCHANT AGREEMENT

Table 4: Penalty charge for cases about warehousing services:

Related Cases	Penalty Charge
Schedule 1 Section C – Warehousing Services Party B:- cancels any booking made for checking-in / checking-out / tote collection / tote return within 2 days prior to the day under such booking; does not show up at the reserved time slot on the day under booking for checking- in / checking-out / tote collection / tote return; or shows up at the reserved time slot on the day under booking but the tote for checking- in to Party A's warehouse does not meet the requirements of Party A	HK \$3 (per tote) (for each incident relating to checking-in / tote collection / tote return services) HK \$10 (per tote) (for each incident relating to checking out tote services)
Schedule 1 Section C – Warehousing Services Number of totes checked into Party A's warehouse is different from the number of totes booked by Party B	When number of totes checked into warehouse < 70% of number of totes booked HK\$3 (per number of totes representing the shortfall)
Schedule 1 Section C – Warehousing Services Cancellation of Customer Orders caused by checking-out booking made by Party B	HK\$10 (per each quantity of a SKU under a cancelled order)
Schedule 1 Section C – Warehousing Services Party B cancels booking made for stock take within 2 days prior to the day under such booking	HK\$1,000 (per booking cancelled)
Schedule 1 Section C – Warehousing Services Tote provided by Party A for use in relation to warehousing services is damaged or lost	HK\$135 (per tote)

列表四：與倉儲服務相關的罰款

相關情況	罰款
附件一第C部分 - 倉儲服務 商戶:- 1. 在預約日子的前2天內取消任何入倉/退倉/提領/歸還儲存箱的預約 2. 沒有在預約入倉/退倉/提領/歸還儲存箱的時間段出現; 或 3. 在預約的時間段內出現, 但存入在香港電視購物網絡有限公司倉庫的儲存箱不符合香港電視購物網絡有限公司的要求	HK \$ 3 (每個儲存箱) (與入倉 / 提領/歸還儲存箱服務相關的每次事件) HK \$ 10 (每個儲存箱) (與退倉服務相關的每次事件)
附件一第C部分 - 倉儲服務 存入香港電視購物網絡有限公司倉庫的儲存箱數量與商戶預訂的儲存箱數量不同	當存入倉庫的儲存箱數量 < 預訂的儲存箱數量的70% HK \$ 3 (每個缺少儲存箱)
附件一第C部分 - 倉儲服務 因商戶做出退倉預約而導致任何客人訂單取消	HK\$10 (每件取消訂單下的產品)
附件一第C部分 - 倉儲服務 商戶在預約盤點日子的前2天內取消預約	HK\$1,000 (每次取消預約)
附件一第C部分 - 倉儲服務 提供予商戶使用於倉儲服務的儲存箱遭損壞或遺失	HK\$135 (每個儲存箱)