Terms and Conditions for *SPOS Services*
Version 1

15 Jan 2009

By using the Services and SPOS (both as defined below), the Customer agrees to comply with the General Conditions for Services of SCCPL ("GCS") and all the terms and conditions stated below. A copy of the GCS can be obtained from SCCPL upon request.

1   Definitions and Interpretation

1.1   Definitions

1.1.1   "Contract" means the contract formed by SCCPL's acceptance of the Customer's registration/ application, whether online or otherwise, for the Services

1.1.2   "Customer" means the entity whose Company Name is stated on the relevant Registration Form.

1.1.3   "Documentation" means the user manuals, user instructions and other related materials in any form supplied by SCCPL to the Customer (whether physically or by electronic means) in relation to the use of the SPOS from time to time, including any part or permitted copy of them.

1.1.4   "SPOS" means the on-line computer system, software, documentation and any customisations, developments, modifications, enhancements, copies or derivations thereto, offering the Services supplied by SCCPL but excluding any source codes thereof.

1.1.5   "SCCPL" means Singapore Cruise Centre Pte Ltd.

1.1.6   "Security Codes" means the account number, security password or logon identification issued by SCCPL to the Customer to access the Services and/or such other personal or security information notified by SCCPL to the Customer for such purpose from time to time.

1.1.7   "Services" means the services described in Attachment 1 and provided by SCCPL from time to time.

1.1.8   "Service Charges" means the fees payable to SCCPL for the use of the Services and SPOS at such prevailing rates as may be notified by SCCPL to the Customer from time to time.

1.1.9   "Software" means the computer software and any customisations, developments, modifications, copy, or derivation thereto supplied by SCCPL to the Customer to access the Services but excluding any source codes thereof.

1.2   Interpretation

With reference to the Contract:

1.2.1   The terms shall be read as mutually explanatory of each other and if there shall be any contradiction or inconsistency between any one or more of them and the conditions contained in these terms and conditions, the latter will prevail.

1.2.2   The successors and permitted assigns of the parties shall be bound by the Contract and the name of a party appearing herein shall be deemed to include its servants, agents and contractors and its successors and permitted assigns.

1.2.3 All agreements and undertakings on the part of any party which comprise more than one person shall be joint and several, unless expressly agreed otherwise.

1.2.4 Any undertaking by any party to do or not to do an act shall be deemed to include an obligation to ensure that such act be done or not be done nor permitted or suffered, as the case may be, by any person acting for the party or by any other person (appearing to the reasonable belief of the other party) to have ostensible authority to act for or on behalf of the party and any failure by any such persons to comply with its obligations under the Contract shall be deemed to be a breach of the obligations of the Contract by the party.

1.2.5 Words denoting a singular number only include the plural and vice versa.

1.2.6 Reference to any statute includes any re-enactment or modification thereof and regulations or orders made under such statute as from time to time amended, extended or re-enacted.

1.2.7 The headings in the Contract are inserted only for convenience and shall not affect its construction.

2 Licence

SCCPL grants the Customer a non-exclusive and non-transferable licence to use SPOS to access the Services only for its own purposes, in consideration of the Customer's payment of the Service Charges.

3 Modification and Enhancement

SCCPL may at the Customer's request develop, modify, customise and/or enhance the Services and/or SPOS to suit the Customer's need at such times and for such fees as may be agreed between SCCPL and the Customer Provided that this clause shall not place an absolute obligation upon SCCPL to do the same and all such development, modification, customisation and/or enhancement shall be subject to the terms and conditions herein unless expressly agreed otherwise by SCCPL in writing.

4 Service Charges and Payment Method

4.1 The Customer shall open an account with SCCPL to facilitate payment of the Service Charges and all other sums payable under the Contract and abide by the terms and conditions for the opening of such account (if any).

4.2 The Customer agrees to pay SCCPL the Service Charges (as in Attachment 2 and such other fees and charges as shall be imposed by SCCPL for use of Services

4.3 The Service Charges and all other costs and expenses payable by the Customer may from time to time be modified by SCCPL in accordance with clause 10

5   Customer's Responsibilities

5.1   <u>General</u>

The Customer shall supply to SCCPL all pertinent data and information and give such assistance as shall be necessary to enable SCCPL to provide the Services under this Contract, including the following:

(1)   to obtain, install and maintain at all times, at the Customer's own expense, all suitable hardware, operating software and communication equipment and lines necessary to enable the Customer to access the Services;

(2)   to provide SCCPL with the name, designation and identity card or passport number of:
(a)   not more than two (2) of the Customer's personnel of at least executive level appointed by the Customer as data security administrators to ensure proper control over the use of the Security Codes and access to Services; and
(b)   each personnel authorised by the Customer to use the Services,

and inform SCCPL of any changes immediately, including any personnel leaving the Customer's service, so that SCCPL may accordingly assign new or withdraw the existing Security Codes, as the case may be;

5.2   <u>Use of Services</u>

In using SPOS and the Services, the Customer shall:

(1)   use SPOS in a proper and lawful manner and not to copy, modify, misuse or tamper with the same and solely for the purposes of access to and use of the Services for its own business purposes and benefit and not make the use of SPOS available to any third party nor use SPOS on behalf of or for the benefit of any third party;

(2)   unless expressly permitted by SCCPL under this Agreement, not to attempt to obtain access to or interfere with any other programs or data of SCCPL or any other Third Party Service Provider in the course of use of SPOS and the Services;

(3)   observe all regulations and conditions of use of SPOS and the Services as may be notified to the Customer by SCCPL from time to time; and

(4)   observe all applicable laws and regulations in respect of the Services and obtain all necessary licences, consents and permissions required to enter into this Contract and all transactions contemplated under the same.

5.3   <u>Information</u>

The Customer shall take sole responsibility for all information and materials it sends or releases via SPOS to SCCPL or Third Party Service Providers ("the Information") and shall:

(1)   implement all necessary measures (including any disaster recovery procedures) to back-up and salvage the Information sent or released in the course of using the Services;

(2)   ensure that the Information does not infringe the intellectual property rights of any third party, violate any applicable laws nor contain anything obscene, offensive, misleading or

defamatory and is correct, complete, timely and secure from disclosure to, or access, use or misuse, damage or destruction by, any unauthorised person;

(3)   ensure that the Information does not contain or will not import any viruses, Trojan horses, timebombs or other disabling devices intended to detrimentally interfere, damage, surreptitiously intercept or expropriate the system, data or personal information of SCCPL or Third Party Service Providers; and

(4)   inform SCCPL immediately of all information the Customer receives from SPOS which appears to be incorrect, incomplete and/or not intended for the Customer;

and SCCPL reserves the right to remove any information which violates any of the above requirements or creates liability for SCCPL.

5.4   Access

5.4.1   The Customer shall permit only its authorised personnel to access the Services. The Customer shall ensure that its personnel exercise due care in the handling of properties thereat, including the hardware, and shall not waste resources thereat and shall indemnify SCCPL against any damage or loss or wastage caused.

5.4.2   The Customer shall, to the best of its ability, provide training for its authorised personnel to ensure that SPOS are accessed by only such authorised personnel as are competent to do so for the purposes noted.

5.4.3   The Customer shall allow SCCPL's duly authorised representatives full, free, and safe access to the Customer's premises during office hours on any day to ascertain that the Customer is in compliance with this Contract.

5.5   Security

5.5.1   The Customer must keep confidential and take all measures to prevent the disclosure and unauthorised use of the Customer's Security Codes and if the Customer suspects that an authorised person knows the Customer's Security Codes, the Customer must notify SCCPL immediately. The Customer must obtain from its authorised personnel an express undertaking not to disclose or share their Security Codes with anyone else whether inside or outside the office and any breach by the Customer's authorised personnel shall be deemed to be a breach by the Customer of the Contract.

5.5.2   The Customer acknowledges that SCCPL shall be entitled to (but shall not be obliged to) monitor, screen, censor or control any activity, content or material appearing on SPOS, investigate any violation or non-compliance with the terms and conditions herein and do all such acts as may be necessary to ensure the smooth running of SPOS and the provision of the Services, including the right to require:

(1)   the Customer to change the Security Codes whenever SCCPL deems necessary and shall notify the Customer accordingly; and

(2)   to exclude the Customer or its authorised personnel from use of SCCPL and the Services or to withdraw or change the Security Codes assigned to the Customer and its authorised personnel whenever SCCPL suspects that the security provisions in this Contract or any of SCCPL's regulations and conditions of use has been breached until such time as

SCCPL deems safe to permit the Customer or its authorised personnel to use SPOS and the Services again.

5.6   Indemnity

The Customer shall indemnify SCCPL and keep SCCPL fully and effectively indemnified against all actions, proceedings, claims, demands, losses, damages and costs (including legal costs on a full indemnity basis) occasioned to SCCPL as a result of the Customer's failure to observe Clause 5.

6   Intellectual Property Rights

6.1   Title

All intellectual property rights, including patents, copyrights, trademarks, service marks, trade secrets and all other proprietary rights whatever in or related or ancillary to any information or materials provided by SCCPL to the Customer (including SPOS and the Services) and/or created by SCCPL pursuant to this Contract, and any customisation, enhancement, development, modification, copy, translation, adaptation or derivation thereof whether registered or not shall remain vested in and be the absolute property of SCCPL.

6.2   Protection

The Customer shall:

(1)   promptly and fully notify SCCPL of any actual threatened or suspected infringement or third party claim on any of SCCPL's Intellectual Property Rights which comes to the Customer's notice;

(2)   at SCCPL's request , do all such things as may be reasonably required to assist SCCPL in protecting SCCPL's Intellectual Property Rights;

(3)   not cause or permit any action which may damage or endanger any of SCCPL's Intellectual Property Rights, or the title to it or to assist or allow others to do so and in particular, the Customer agrees-

(a)   not to remove, suppress or modify in any way any proprietary marking, including any trade mark or copyright notice, in the information provided by SCCPL to the Customer and to incorporate such proprietary markings in any copies of such information;

(b)   not to register, directly or indirectly, any patent, trademark, service mark, trade name, company name, internet domain name or other proprietary or commercial right that is identical or confusingly similar to SCCPL's Intellectual Property Rights;

6.3   Indemnity

The Customer shall indemnify SCCPL for any loss, damages (including but not limited to indirect, special, incidental or consequential damages) and costs howsoever arising from the Customer's infringement of SCCPL's Intellectual Property Rights.

7   Confidentiality

7.1   By Customer

The Customer shall keep confidential any information received through SPOS or use of the Services and in relation to this Contract, including the Security Codes and the Service Charges ("**Confidential Information**"). The Customer shall not copy, transmit, transfer, retain, resell, redistribute, disclose or otherwise provide to anyone in any manner whatsoever the Confidential Information.

7.2   By SCCPL

SCCPL may use or disclose any information received in relation to the Contract.

7.3   Survival

The provisions of this clause shall survive the termination of the Contract for whatever reason.

8   Liability

8.1   Customer's liability

The Customer is responsible for the use of the Services by itself or purportedly by it and all transactions made on the Customer's account. When the Customer uses the Customer's Security Codes, the Customer is authorising SCCPL to carry out all the Customer's instructions and to debit or credit the Customer's account with the amount of all Service transactions without requirement of any further authority or authentication.

8.2   SCCPL's liability

8.2.1   SCCPL will use reasonable efforts to ensure that SPOS is operated and managed properly.

8.2.2   SPOS, the Services and any information supplied by SCCPL pursuant to these terms and conditions are provided on an "as is" and "as available" basis without warranty of any kind, either expressed or implied, including, but not limited to, freedom from viruses or other harmful components on-line and the implied warranties of merchantability or fitness for a particular purpose, accuracy, or availability, to the extent permitted by law.

8.2.3   Save for death and personal injuries proven to be caused by the willful negligence of SCCPL, SCCPL, in spite of its best efforts, shall not be liable in any event for failure of any service and the Customer shall fully indemnify and hold SCCPL harmless from any loss, damage or expense (including indirect, special or consequential loss) arising out of, in relation to or in connection with:-

(a)   the access, use, inability to access or inability to use SPOS;

(b)   failure or fault in equipment, cabling, software, hardware or internet browsers, internet service providers, telecommunication service providers or other service providers or system operators, or their respective agents or subcontractors, or any other person or circumstance beyond SCCPL's control;

(c)   system failures, processing errors, transmission delays, software defects, operating mistakes, hardware breakdowns, capacity inadequacies, network vulnerabilities, control weaknesses, security shortcomings, computer virus, malicious attacks, hacking incidents, fraudulent actions and inadequate recovery capabilities which arise despite SCCPL's best efforts;

(d)   any corruption or loss of any data (whether stored in any equipment, terminal or system, whether belonging to or operated by SCCPL or Customer) or in the course of transmission thereof through the Internet or SCCPL's LAN or any computer or terminal or system used or operated by SCCPL or the provision or operation of any services or SPOS, including any errors generated in the transmission of any data; or

(e)   inaccurate, garbled, or incomplete data originated from Customer or Customer's computer system.

8.3   Liability limit

Save for death and personal injuries, in the event that SCCPL is held liable, its liability under this Contract arising for any reason whatsoever shall be limited to direct loss or damage which, in the ordinary course of events, might reasonably be expected to result from the circumstances in question and only if such loss or damage is caused by SCCPL's gross negligence or willful default, and shall not under any circumstances exceed the sum total of the Service Charges paid by the Customer to SCCPL for the month immediately preceding the event.

8.4   Time limit

Any action for any cause whatsoever related to this Contract shall be brought within one (1) year from the date when the circumstances have occurred which have given rise to the action.

8.5   Reasonableness

The Customer expressly acknowledges that the provisions of this clause satisfy the requirements of reasonableness specified in the Unfair Contract Terms Act (Cap 396) and that the Customer is stopped from claiming the contrary at any future date in the event of any dispute with SCCPL concerning SCCPL's liability hereunder.

8.6   Evidence

SCCPL's data log (whether in magnetic disks or back-up magnetic tapes or any other media) shall constitute conclusive evidence against the Customer but not SCCPL in respect of the facts stated therein, including data entries and receipts and the Customer shall not challenge its admissibility as evidence whether in court or otherwise.

8.7   Prevailing Clause

This clause prevails over all the other provisions herein but shall be without prejudice to any other provision limited SCCPL's liability.

8.8   Survival

The provisions of this clause shall survive the termination of the Contract for whatever reason.

9   Shut-Down Time, Delays and System Constraints

9.1   In normal circumstances the Services shall be made available on-line for all twenty-four (24) hours of the day save where SCCPL shuts down SPOS for routine system maintenance. The time and length of the shut-down may vary for whatever reasons not being limited to major conversion exercise and the Customer shall have no claim whatsoever against SCCPL in respect thereof.

9.2   The Customer acknowledges and understands that there may be occasional delays and system constraints in accessing SPOS and/or in using the Services and the same may not always be error free or free from computer virus or other invasive or damaging code. SCCPL does not guarantee or warrant that such delays, constraints, errors or virus will not occur and the Customer specifically waives any right to bring any claim against SCCPL for any damages or losses that the Customer may have suffered as a result of such delays, constraints, errors or virus.

10   Changes

SCCPL reserves the right to change any term of this Contract, any aspect or feature of the Services (including suspending and/or withdrawing any Services) and the rates of the Service Charges at any time and at its discretion and such changes shall be binding on the Customer immediately upon notice thereof, which may be given by any means (including posting on SPOS or by electronic or conventional mail). Any use of the Services by the Customer after such notice shall be deemed to constitute the Customer's acceptance of such changes.

11   Suspension

SCCPL may suspend access immediately if:

(1)   incorrect Security Codes are used to attempt to access the Customer's account; or

(2)   SCCPL suspects an unauthorised person is attempting to access the Customer's account;

(3)   any service agreement between the Customer and SCCPL for services and/or facilities is suspended; or

(4)   if the Customer shall fail to fulfill any obligations under this Contarct or any other agreement between the Customer and SCCPL (including but limited to payment obligations and obligations to observe all health, safety and security requirements).

12   Termination

12.1   Either party may terminate this Contract at any time by giving to the other at least one (1) month's prior notice in writing.

12.2   SCCPL may terminate the Contract immediately by notice to the Customer if in the opinion of SCCPL:

(1)   the Customer has breached any of the terms and conditions of this Contract and the Customer has not remedied such breach within fourteen (14) days after SCCPL written request to the Customer to do so; or

(2)   the Customer is unable to pay the Customer's debts or enters into compulsory or voluntary liquidation or compounds with or convenes a meeting of the Customer's creditors or has a receiver or manager or an administrator appointed or ceases for any reason to carry on business or takes or suffers any similar action which may mean that the Customer may be unable to pay the Customer's debts or perform the Contract satisfactorily;

12.3   In the event of any termination of this Contract, the Customer shall:

(1)   pay all outstanding sums incurred in relation to this Contract up to the date of termination and where the Customer fail to give notice as required in clause 12.1, the Customer shall pay to SCCPL in lieu of notice an amount equivalent to the total of all Service Charges and other sums paid by the Customer for the previous month; and

(2)   cease to use SPOS forthwith and to return the same, all associated SCCPL's equipment and RFID boarding passes to SCCPL in good condition.

13   General

13.1   <u>Assignment</u>

The Customer shall not assign, transfer, sub-licence, sub-contract or delegate any of the Customer's rights, benefits duties or obligations arising under the Contract without SCCPL's prior written approval.

13.2   <u>Relationship</u>

Notwithstanding that the Customer may contract the Services as an agent for another party, the Customer agrees that SCCPL deals with the Customer as principal only at all times for the purposes of this Contract.

13.3   <u>Governing Laws and Jurisdiction</u>

13.3.1   The validity and construction of the Contract shall be governed by the laws of the Republic of Singapore.

13.3.2   Notwithstanding any other provision of this Contract, the application of the Contracts (Rights of Third Parties) Act 2001 is hereby specifically excluded.

13.4   <u>Non-Waiver</u>

No failure or delay on the part of either party to exercise any right or remedy under the Contract shall be construed or operate as a waiver thereof nor shall any single or partial exercise of any right or remedy as the case may be.

13.5   <u>Severance</u>

If any provision of the Contract is declared by any judicial or other competent authority to be void, voidable, illegal or otherwise unenforceable or indications to that effect are received by either of the parties from any competent authority, the parties shall amend that provision in such reasonable manner as achieves the intention of the parties without illegality or at the SCCPL's discretion, it may be severed from the Contract and the remaining provisions of the Contract shall remain in full force and effect unless SCCPL, in its discretion, decides that the effect of such declaration is to defeat the original intention of the parties in which event SCCPL shall be entitled to terminate the Contract by thirty (30) days' notice to the Customer and the provisions of clause 12.1 shall apply accordingly.

13.6   <u>Entire agreement</u>

This Contract constitutes the complete and only agreement between the parties and supersedes all previous communications, representations and other arrangements whether written or oral. The Customer acknowledges that no reliance is placed on any communication, representation or other arrangement, oral or written, which is not embodied or included in the Contract.

13.7   <u>Notices</u>

Any notice to be served on either of the parties by the other shall be sent by prepaid recorded delivery or registered post to the address of the relevant party shown at the head of the Contract or by facsimile transmission or by electronic mail or by telex and shall be deemed to have been received by the addressee within seventy-two (72) hours of posting or twenty-four (24) hours if sent by facsimile transmission or by electronic mail or by telex to the correct facsimile number or electronic mail number of the addressee (with correct answerback).

13.8   <u>Rights cumulative</u>

All rights granted to either of the parties shall be cumulative and no exercise by either of the parties of any right under the Contract shall restrict or prejudice the exercise of any other right granted by the Contract or otherwise available to it.

13.9   <u>Force Majeure</u>

Notwithstanding anything else contained in this Contract, neither party shall be liable for any delay in performing its obligations hereunder if such delay is caused by circumstances beyond its reasonable control. Subject to the party so delaying promptly notifying the other party in writing of the reasons for the delay and the likely duration of the delay, the performance of such party's obligations shall be suspended during the period that the said circumstances persist and such party shall be granted an extension of time for performance equal to the period of the delay. In such delay:

(a)   any costs arising from such delay shall be borne by the party incurring the same;

(b)   either party may, if such delay continues for more than one (1) month, terminate this Contract forthwith on giving notice in writing to the other in which event neither party shall be liable to the other by reason of such termination; and

(c)   the delaying party shall take all reasonable steps to bring the delaying event to a close or to find a solution whereby the Contract may be performed notwithstanding such event.

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Attachment 1: Description of SPOS Services

SPOS is SCCPL's sea terminal departure control system that provides the following services to the ferry and cruise communities respectively:

<u>Ferry Community:</u>
- Online application for trips
- Ferry arrival and departure scheduling
- Passenger Check-in and generation of machine readable Boarding Pass
- Baggage Check-in
- Passenger Boarding
- Generation of passenger manifest
- EDI with Ferry Operator's reservation system
- Billing
- Data Repository and Management
- Reports and Enquires

<u>Cruise Community:</u>
- Online application for berths
- Water ordering and facilitation
- Billing
- Reports and Enquires

Provision of Check-in Equipment:

SCCPL shall provide the following equipment for the sole purpose of passenger check-in at the ferry operator's check-in counters:
- RFID-enabled Boarding Pass printer

In addition, SCCPL shall provide Ferry Operator the reusable RFID-enabled boarding passes to be issued to every departing passenger upon check-in.

The quantities of boarding pass printers and boarding passes allocated to individual Ferry Operator are determined by SCCPL and subjected to change from time to time.

Ferry Operators are required to return the RFID-enabled boarding pass to SCCPL under the following circumstances:
(1)   the boarding pass is damaged (i.e cannot be detected by SCCPL's RFID card reader)
(2)   the thermal surface of the boarding pass is faded

Attachment 2: SPOS Price List

The below price list is applicable for ferry operators only

S/N	Description	Unit	Unit Rate (S$)	Remark
1	Deposit for RFID Boarding Pass	ea	2.00	Waived
3	SPOS transaction fee	ea	0.25	Per Departing Pax[1]
4	Reprint of Boarding Pass	txn	0.10	Per re-print
5	Cancellation of Boarding Pass	txn	0.10	Per cancellation or no-show[2]

Notes
1. As manifested for a trip
2. Refers to passenger that has check-in (i.e boarding pass printed) but did not board the ferry (i.e name was not in the passenger manifest)