

## GENERAL TERMS AND CONDITIONS OF PURCHASE ORDER FOR GOODS & SERVICES

The Supplier (as defined hereunder) understands, agrees and undertakes to be a panel supplier to the Procurement Agent (as hereinafter defined) and agrees to be bound by the terms and conditions stipulated herein.

### 1. DEFINITION AND INTERPRETATION

#### 1.1 Definitions

“**Affiliates**” means the Purchaser’s and/or the Procurement Agent’s holding, subsidiaries, associates, group of companies and/or related companies and/or their respective directors and officers (whichever is applicable).

“**Contract Sum**” means the sums payable by the Purchaser to the Supplier in consideration of the provision of the Services and/or supply of the Products under each PO.

“**Delivery Location**” means location described in the relevant PO or Document.

“**Document**” means all the documents stipulated in Clauses 2.1 collectively and/or severability depends on the application to the context of the Agreement.

“**Employees**” means the employees, workers, personnel, agents and/or representatives of the Supplier.

“**Equipment**” means equipment, machines, materials, tools and/or Products belonging to the Purchaser and/or the Procurement Agent.

“**General Terms and Conditions**” means these General Terms and Conditions of the Purchase Order for Services & Products which shall be executed by the Supplier upon the Procurement Agent agreeing to appoint the Supplier as a panel supplier of the Procurement Agent and any reference to the “General Terms and Conditions” shall include any amendments that may be made by the Purchaser from time to time in accordance with the conditions stipulated herein.

“**Intellectual Property**” means any and all patents, trademarks, service marks, domain names, registered designs, utility models, application for and the right to make applications for any such rights, inventions, trade and business names, including rights in any get up or trade dress, copyrights, (including rights in computer software and in websites) and other rights in designs and rights in databases, subsisting anywhere in the world; rights under licences, consents, orders, statutes or otherwise in respect of any rights of the nature specified in this definition “Intellectual Property” and rights of the same effect or nature as or to those above in each case in any jurisdiction.

“**Intellectual Property Right**” includes the right to exploit any Intellectual Property or any right which is similar or analogous to any Intellectual Property; any moral right; any licence, right or interest of any kind arising out of or granted or created in respect of any Intellectual Property; any right to bring an action for passing off any similar analogous proceeding.

“**Materials**” means all or any of the articles, equipment, chattels, goods, properties, tools, products and materials (inclusive of raw materials) that are required and necessary in the performance and completion of the Services and to be supplied at the expense of the Supplier pursuant to the provisions of the Agreement (including but without limitation of any parts, spare parts, replacement parts, hardware or such materials or parts) under the scopes of Services to be provided by the Supplier under that Agreement.

“**Part**” means any part of the Equipment used to replace an existing part of the Equipment.

“**Party Information**” means the document executed by the Supplier and the Purchaser which contains the details of the Supplier, the Purchaser, commencement and expiry dates of the Supply Agreement, renewal period of the Supply Agreement.

“**Procurement Agent**” means Genting Malaysia Berhad, a company incorporated in Malaysia with Company No. 58019-U which has been duly authorized by the Purchaser to source, procure and/or purchase the Services and/or the Products on behalf of the Purchaser, to issue a PO on behalf of the Purchaser and to act on behalf of the Purchaser such authorities

more particularly specified in Clause 3.1 herein subject to the terms and conditions stipulated in the agreement between the Procurement Agent and the Supplier.

**“Products”** means generally, the products to be supplied by the Supplier the details of which are more particularly referred to in the Document and/or the PO.

**“Purchase Order”** or **“PO”** means the document(s) issued by the Procurement Agent on behalf of the Purchaser to the Supplier specifying the Services to be provided and/or Products to be supplied by the Supplier under that PO. Each PO shall be issued subject to the General Terms and Conditions and terms and conditions stipulated in the Document and unless otherwise agreed by the Purchaser and the Supplier, each PO issued by the same Purchaser shall form a separate Agreement with the Supplier. Whenever applicable, any reference to the “Purchase Order” or “PO” shall include its variations, amendment(s) or modification(s) that may be made by the Procurement Agent from time to time.

**“Purchaser”** means the purchaser(s) named in each PO and/or the Document, either the Procurement Agent or its principal(s) who have appointed the Procurement Agent to be its agent to source, procure and purchase any Products and/or Services which the Purchaser intends or desirous to purchase, including but not limited to the subsidiaries, associates and related companies of the Procurement Agent, the Procurement Agent’s major shareholder and Genting Berhad. Any reference to the “Purchaser” shall include its successors-in-title and assigns respectively and for the avoidance of doubt, whenever more than one Purchaser is named in any of the PO and/or the Document, the Supplier shall be deemed to have entered into separate contract with each of the Purchaser so named whereby termination of the PO by any of the Purchasers shall not affect the validity of the other contract(s) that may be entered by the Supplier with the same Purchaser or the other Purchaser(s) unless otherwise specified by the Procurement Agent and/or the Purchaser(s).

**“Resort”** means Genting Highlands Resort, Genting Highlands, 69000 Pahang.

**“Schedule(s)”** means the document that may be attached to the PO stipulating details of the Products, Services, Materials, the Contract Sum and such other obligations of the Supplier and applicable terms and conditions.

**“Services”** means generally, the services and works to be provided by the Supplier in accordance with the details more particularly referred to in the PO and/or the Document or whenever applicable, the scope of services and works that may be ordered by the Purchaser under the relevant PO.

**“Site”** means the location at which the Supplier is to perform the relevant Services and/or works.

**“Special Terms and Conditions”** means the document that may be attached to the PO stipulating the details of the Products, Services and other applicable terms and conditions not specified in the PO and/or the Schedule(s) and/or the General Terms and Conditions.

**“Supplier”** means the supplier whose name and particulars are more particularly stated at the end of this General Terms and Conditions and shall include its successors-in-title and permitted assigns.

**“Supply Agreement”** means the contract stipulating the terms and conditions governing the relevant Services to be provided and/or the Products to be supplied by the Supplier to the Purchaser from time to time and each Supply Agreement shall consist of the documents more particularly listed in Clause 2.1 herein and any reference to the “Supply Agreement” shall include any amendments that may be made by the Purchaser from time to time in accordance with the conditions stipulated herein and any reference to “Supply Agreements” shall be the plural of “Supply Agreement”.

**“Term”** means the Term of the relevant Supply Agreement, if applicable.

**“Trade Marks”** means any word, name or symbol, or device or any combination thereof (either registered or not) adopted and used by the Procurement Agent and/or the Purchaser to identify its goods, services and/or corporation.

**“Trial Period”** means the period more particularly specified in the PO, Schedule or Special Terms and Conditions within which the performance, quality and/or suitability of Services to be provided and/or Products to be supplied to the Purchaser shall be assessed by the Purchaser;

**“Variation”** means any alteration or modification to the Services (includes addition, omission, remedial or substitution of any work, the alteration of the kind or standard of any of the Materials or goods to be used in the Services) and the

Products for the purpose of clarification, "Variation" does not include any alterations required arising from or in connection with any breach or default on the part of the Supplier in observing or performing the Services and/or providing the Products.

## 1.2 Interpretation

- (a) The headings and sub-headings to Clauses of this Supply Agreement are inserted for convenience only and shall be ignored in construing the provisions of this Supply Agreement.
- (b) Words applicable to natural persons include any body of person, Purchaser, corporation, firm or partnership, corporate or incorporate and vice versa. Words importing the masculine gender shall include the feminine and neuter genders and vice versa. Words importing the singular number shall include the plural number and vice versa.
- (c) Any reference to "Parties", shall be a reference to the Purchaser and/or the Procurement Agent (whichever is applicable) and the Supplier and any reference to "Party" shall either be a reference to any one or more of them, as the case may be.

## 2. **THE APPLICATION**

2.1 Any Products or Services that may be supplied by the Supplier at any time shall be governed by the Supply Agreement comprising the following documents and in the event of inconsistency, the following order shall take priority:

- 2.1.1 the relevant PO;
- 2.1.2 the Schedule(s) (if any);
- 2.1.3 Party Information;
- 2.1.4 The Special Terms and Conditions (if any);
- 2.1.5 The General Terms and Conditions (including the Appendix to the General Terms and Conditions, if applicable) and whenever the context admits, any reference to the "General Terms and Conditions" shall be read as the "Supply Agreement" in construing that Supply Agreement and any reference to "Party" or "Parties" herein shall be referring to the "Purchaser" and/or the "Supplier" in the Supply Agreement.

2.2 This Supply Agreement shall constitute the sole agreement between the Parties and shall supersede any prior agreements, correspondence and/or understanding, either oral or written and all other terms and conditions stipulated in the documents such as the delivery order(s) and/or quotation(s) prepared by the Supplier.

2.3 The Supplier understands and agrees that these General Terms and Conditions shall bind all PO(s) that may be issued by the Procurement Agent to the Supplier unless expressly excluded or varied in the PO and/or the Document and the Supplier shall be deemed to have agreed to provide and/or supply the Services and/or Products specified in the relevant PO UNLESS AND EXCEPT that the Supplier has immediately notified the Procurement Agent of any one or more of the following within two (2) working day from the date of the PO:-

- 2.3.1 The Supplier has been issued the PO in error, or
- 2.3.2 The Supplier is unable to supply, comply with the terms in PO or unable to accept the PO for whatever reasons, or
- 2.3.3 The Supplier is only ready to do partial deliveries of the Services and/or Products specified in the relevant PO.

2.4 It is the Supplier's responsibility and duty to obtain confirmation and clarification from the Procurement Agent in the event of any irregularities or uncertainty in the PO (eg the Procurement Agent has requested or ordered Products and/or Services from the Supplier for which the Supplier has never given any quotation to the Procurement Agent and/or if the Purchaser has never previously dealt with the Supplier) failing which the Procurement Agent and/or the Purchaser shall be entitled to reject the Services and/or Products so supplied by the Supplier at any time and the Procurement Agent and the Purchaser shall not be liable to the Supplier in whatever manner, including but not limited to any costs and expenses that may have incurred by the Supplier pursuant to that PO.

- 2.5 Unless otherwise decided by the Procurement Agent in its absolute discretion, termination of any Supply Agreement will not affect the validity of the other Supply Agreement(s) that may be entered by the Purchaser(s) and the Supplier at the material time. All Agreements that may be entered between the Supplier and any Purchaser(s) will be automatically terminated subject to such terms and conditions stipulated herein in the event the Procurement Agent removes the Supplier from its list of panel Suppliers for whatever reasons the Procurement Agent shall deem fit at its absolute discretion.
- 2.6 In the event the Purchaser and the Supplier enters into any formal agreement pursuant to any of the Supply Agreements (hereinafter referred to as the “**Formal Agreement**”), the terms and conditions of the Formal Agreement shall supersede and prevail over the Supply Agreement concerned if there is any discrepancy between the terms and conditions of the Supply Agreement and the Formal Agreement. For the purpose of clarification, the terms and conditions of the Formal Agreement shall be applicable for that particular transaction only and nothing herein contained shall be construed that the General Terms and Conditions will be amended in accordance with the terms and conditions of that Formal Agreement. All other terms and conditions in the Supply Agreement, which are not mentioned or superseded by the Formal Agreement, shall be applicable to the Formal Agreement accordingly.
- 2.7 Trial Period (where applicable)
- 2.7.1 Without prejudice to the Purchaser’s right to terminate the Supply Agreement(s) during the Trial Period more particularly described hereunder, the Procurement Agent and/or the Purchaser shall have the right at any time by giving fourteen (14) days notice in writing to the Supplier to terminate the Supply Agreement(s) and upon the expiry of the said notice, the Supply Agreement(s) shall be terminated and neither party shall have any claim against the other save and except for any antecedent breaches of the Supply Agreement(s).
- 2.7.2 The Supplier shall be subject to the Trial Period for such period specified in Clause 2.7.1 above. In the event the performance of the Services and/or Products do not meet the level of performance stipulated in this Supply Agreement, the Procurement Agent and/or the Purchaser shall have the right at any time during the Trial Period, by giving notice in writing to the Supplier, to terminate the Supply Agreement and Clause 2.7.3 shall apply. If the Procurement Agent and/or the Purchaser do/does not terminate the Supply Agreement(s) during the Trial Period, the Supply Agreement(s) shall automatically continue in operation until termination pursuant to the provisions of the Supply Agreement(s).
- 2.7.3 Upon the early termination of the Trial Period, the following consequences shall apply:-
- (i) The Purchaser shall pay all outstanding sums due and owing to the Supplier for the Services and/or the Products provided to the Purchaser during the Trial Period provided that there is no dispute of the said outstanding amount and subject to Clause 6.2.1 (ii) to (viii); and
  - (ii) Clause 6.2.2 shall apply (where applicable).

### 3. PARTIES TO THE AGREEMENT

#### 3.1 The Supplier understands and agrees that:-

- 3.1.1 The Procurement Agent has been authorized by the Purchaser to source, negotiate, conclude, sign and enter into the Agreement on behalf of the Purchaser;
- 3.1.2 As the context so admits and whenever applicable, any reference to the Procurement Agent herein may include the Purchaser and vice versa;
- 3.1.3 All Agreements entered by Procurement Agent on behalf of Purchaser shall be binding on the Purchaser;
- 3.1.4 If there are any discrepancies between the directions, requests, requirements and/or instructions of the Procurement Agent and the Purchaser, whatever directions, requests and requirements stipulated in the PO and/or Document shall prevail directions, requests, requirements and/or instructions of the Purchaser and/or the Procurement Agent (whether such directions, requests, requirements and/or instructions given by the Purchaser are in writing or verbal) SAVE AND EXCEPT such directions, requests, requirements and/or instructions are given by the Procurement Agent in writing via Variation Order (as hereinafter defined) or letter;
- 3.1.5 The Procurement Agent and/or the relevant Purchaser shall have the liberty and authority to initiate and take all actions, legal actions, proceedings, defences and/or demands against the Supplier for all

losses and/or damages (including legal costs on a solicitor and client basis) that may be suffered by the Purchaser and/or the Procurement Agent in relation to any default or breach on the part of the Supplier (either directly or indirectly);

3.1.6 The Purchaser and/or the Procurement Agent shall be entitled to retain payment of the Contract Sums or to deduct and set-off whatever sum(s) that are payable by the Supplier to the Purchaser under the terms and conditions of any Agreement that may be entered between the Supplier and any of the Purchaser(s):-

- (i) from the Contract Sum payable by the relevant Purchaser under that particular Agreement; and/or
- (ii) from any other Contract Sum(s) that may be payable by the relevant Purchaser under any other Agreement(s); and/or
- (iii) from any Contract Sum(s) payable by any other Purchaser(s) under any other Agreement(s) with the Supplier;

AND if all of the above is insufficient to cover whatever amounts payable by the Supplier to all of Purchaser(s) under all of Supply Agreement(s) entered by the Supplier with the Purchaser(s), the Supplier shall pay such difference on demand without any set-off or counterclaim.

### **3A. COVENANTS & OBLIGATIONS OF THE SUPPLIER**

The Supplier agrees and covenants that unless otherwise specified in the PO and/or the Document, any Services that may be provided by the Supplier in favour of the Purchaser and/or the Products that may be supplied by the Supplier to the Purchaser from time to time shall be governed and subject to the following terms and conditions (whichever applicable):-

## **PART I – COVENANTS & OBLIGATIONS RELATED TO PROVISION OF SERVICES**

### **4.1 Standard of Services**

4.1.1 The Supplier shall provide the Services in accordance with generally acceptable practices and in accordance with the standards in the industry and without prejudice to the generality of the foregoing, the Supplier shall always provide the Services faithfully and diligently.

4.1.2 The Supplier shall co-operate and comply at all times with all requests, demands, directions and instructions of the Purchaser that are reasonable and pertaining to the Services.

### **4.2 Conditions of Performance and Delivery of Services**

4.2.1 Upon receipt of any PO issued by the Procurement Agent, the Procurement Agent and Purchaser shall be entitled to assume that the Supplier has accepted all of the terms and conditions stipulated in the PO, Document and the General Terms and Conditions SAVE AND UNLESS the Supplier immediately informs the Purchaser and/or the Procurement Agent in accordance with Clause 2.3 above without prejudice to the rights of the Procurement Agent and/or the Purchaser to exercise any other remedies and rights that may be available to the Procurement Agent and/or the Purchaser.

4.2.2 The Supplier shall furnish a photocopy of the PO and Document to the Procurement Agent and/or the Purchaser before commencement of the Services stipulated in the PO and Document concerned. The Procurement Agent and/or the Purchaser shall have the discretion not to permit the Supplier to commence the provision of the Services until a photocopy of the PO and Document is furnished to the Procurement Agent and/or the Purchaser and the Procurement Agent and/or the Purchaser shall not be liable to pay for any losses or damages that may be suffered by the Supplier in connection thereto.

4.2.3 The Services shall be performed and completed in accordance with the terms and conditions of the relevant Supply Agreement (which shall include but not limited to the location, commencement and completion of Services and scope of services or works), which shall always be of the essence in the Supply Agreement.

- 4.2.4 Where applicable, Services that have been performed and completed by the Supplier shall be verified and certified as satisfactorily completed by a duly qualified consultant or specialist who is required by law, regulation, guideline, bye-law, statute, act or by industry practice and such verification or certification shall be proof of completion of the Services specified therein.
- 4.2.5 The Supplier shall ensure that all its workers and employees are skilled, qualified and experience workmen.
- 4.2.6 The Supplier shall supply of all that is requisite for the completion of the Services and deliver the completion of the Services to the Purchaser in good and acceptable condition on or before the agreed completion date.

#### 4.3 Materials

- 4.3.1 The Supplier shall provide all Materials and fittings which are reasonably required for the completion of the Services including such Materials, fittings or works may not explicitly mentioned in the PO or Document.
- 4.3.2 The Materials used and provided by the Supplier shall be new, of reasonably and generally acceptable materials, not unlawful or illegal or obtain or purchase in an illegal or unlawful manner and the specifications of the Materials shall meet the Schedule(s) and descriptions in the Special Terms and Conditions in respect of the quality and brands.
- 4.3.3 Whenever so required by the Procurement Agent and/or the Purchaser, the Supplier shall provide samples of the Materials to the Procurement Agent and/or the Purchaser provided always that this shall not absolve the Supplier from fulfilling its responsibilities and/or liabilities in whatever circumstances when using such Materials that have been approved by the Procurement Agent and/or the Purchaser.
- 4.3.4 All unsatisfactory Materials shall be immediately removed from the Site and any Service executed with such defective Materials shall be made good by the Supplier at its own cost and expense.
- 4.3.5 The Supplier shall be liable to ensure the Materials are safely stored at the Site or such places allocated by the Procurement Agent and/or the Purchaser at the Supplier's own risk and the Procurement Agent and/or the Purchaser shall not be liable at all times for any loss, missing or damage to the Materials in whatever manners.

#### 4.4 Recommendation & Quotation

- 4.4.1 Whenever applicable, and depending on the nature of Services required by the Procurement Agent and/or the Purchaser, the Supplier shall provide advice, designs and/or recommendations of such requirement(s) that are necessary to achieve the Procurement Agent and/or the Purchaser's requirements, objectives and/or purposes to the Purchaser (hereinafter referred to as "**Recommendation**") (with or without visit(s) and inspection(s) to the Site, depending on the nature of services required), the Supplier shall provide a quotation or document stating the Recommendation together with the quoted prices and/or fees of such Recommendations to be carried out by the Supplier (hereinafter referred to as "**Quotation**") and the Supplier shall be deemed to have inspected and to be satisfied with the condition of the Site upon submission of the Quotation whereby the Supplier shall not be entitled to vary the Quotation that have been accepted by the Procurement Agent and/or Purchaser in reliance on the condition of the Site.
- 4.4.2 The Supplier understands and agrees that the Purchaser shall rely on such Recommendation and Quotation provided by the Supplier and thereafter in the event the Recommendation and/or Quotation fail to meet the requirements, objectives and/or purposes of the Purchaser or cause the Purchaser and/or the Procurement Agent to incur additional cost and expense to achieve the abovementioned requirements, objectives and/or purposes, the Supplier shall be deemed to have breached the Agreement and /or the Formal Agreement that may be entered after the Agreement.

#### 4.5 Inspection & Testing

- 4.5.1 If applicable, the Supplier hereby expressly agrees and covenants that the Purchaser and/or the Procurement Agent may examine and/or inspect the performance of the Services and/or test the quality of the Services or appoint a consultant as determined by the Purchaser who shall be authorized to inspect and/or examine the performance of the Services and/or test the quality of the Services PROVIDED ALWAYS THAT the inspections and testing shall not preclude or entitle the Supplier to disclaim or exclude itself from any liabilities and obligations to be performed by the Supplier herein and under the law and such inspection and testing shall not be deemed that the Purchaser and/or the Procurement Agent has accepted the Services and/or completion of the Services save and except the Purchaser and/or the Procurement Agent indicates otherwise to the Supplier in writing.
- 4.5.2 Whenever applicable, the Services will be deemed to have completed only after acceptance of the results of the user acceptance test by the Purchaser and for clarification purposes, only the Purchaser shall be entitled to accept the Services provided by the Supplier and not the Procurement Agent.

#### 4.6 Deposit or Performance Bond and Retention Sum

- 4.6.1 The Supplier shall upon the execution of the Supply Agreement, whenever so required under the Agreement, provide a deposit or a performance bond in the form and substance agreeable and acceptable by the Purchaser of the amount specified in the Document as a security to guarantee the due performance of the Services and the terms and conditions of the Supply Agreement.
- 4.6.2 The amount of the aforesaid deposit or performance bond shall be maintained throughout the Term of the Agreement unless otherwise agreed by the Parties in writing.
- 4.6.3 Without prejudice to the other rights and remedies available to the Purchaser under the Supply Agreement and laws, the Purchaser shall be entitled to forfeit the whole sum of the deposit or performance bond in the event the Supplier fails to execute the Services pursuant to the terms and conditions of the Supply Agreement or is in breach or default of any of the terms and conditions of the Supply Agreement.
- 4.6.4 Save as herein provided to the contrary, the deposit or the performance bond shall be returned (free of interest) to the Supplier upon the expiration of the defect liability period stated in the Supply Agreement less such sums as may then be due and owing to the Purchaser but without prejudice to any other claims which the Purchaser may have against the Supplier pursuant to the Supply Agreement.
- 4.6.5 The Purchaser and/or the Procurement Agent shall be entitled to forfeit the deposit, make a demand on the performance bond or to forfeit the retention sum as stipulated in the *Document* and the Purchaser shall not be liable to pay the Supplier the retention sum in the event the Supplier breaches or is in default of any terms or conditions of the Agreement

#### 4.7 Defective Works

- 4.7.1 If the Procurement Agent and/or Purchaser rejects all or any part of the Services and/or Products which are defective (hereinafter referred to as “**Defective Works**”), the Supplier shall be responsible to carry out all necessary remedial works to rectify or replace the Defective Works.
- 4.7.2 The extent of the Defective Works to be remedied and the method to be used in the remedy of the Defective Works shall be in accordance with the instruction or direction of the Procurement Agent and/or the Purchaser.
- 4.7.3 If the Defective Works affect the finished works of other supplier/s of related Services and/or Products, the Supplier shall be wholly liable for the losses and damage that may be suffered by the Procurement Agent and/or Purchaser or the other supplier/s arising from or in connection with the Defective Works, including but not limited to the costs and expenses of the remedial works required in making good the other works within a reasonable time.

4.7.4 All the remedial works shall be carried out to the satisfaction of the Procurement Agent and/or the Purchaser.

4.7.5 For the avoidance of doubt, the date of completion of the Services and/or Products provided by the Supplier shall not be delayed or postponed by virtue of the time spent by the Supplier to rectify any defective works unless expressly agreed by the Procurement Agent and/or the Purchaser in writing.

#### 4.8 Defects Liability Period

The Supplier shall, entirely at the Supplier's cost and risk, replace or make good any defect of the Materials and/or the quality of the Materials and/or the Services provided by the Supplier and/or the Employees, if any defects or other faults in the Services that appear within the defect liability period of the relevant Supply Agreement.

#### 4.9 Damage, Loss, Disruption, Obstruction and/or Interference

The Supplier shall not cause any damage and/or loss to the following in the course of carrying out the Services:-

4.9.1 any property belonging to the Purchaser, the Purchaser's related companies, the Purchaser's and/or its related companies' tenants, licensees, customers and/or guests;

4.9.2 disruption, obstruction and/or interference to the Purchaser, the Purchaser's related companies, the Purchaser's and/or its related companies' tenants, licensee's, customers and/or guests.

#### 4.10 Rights of the Purchaser

The Supplier understands and agrees that any output, final artwork, design, creation, drawing, plan, sketch, document or articles in softcopy and hardcopy (including but without limitation any draft copy in softcopy or hardcopy and subsequent amended copy in softcopy or hardcopy of all the abovementioned) prepared, created, designed and/or used by the Supplier pursuant to this Supply Agreement shall be deemed to be works created under the commission of the Purchaser for the Services and therefore the works created shall belong to the Purchaser absolutely.

#### 4.11 Part Warranty

4.11.1 The Supplier warrants the Part against defects in materials and workmanship under normal use during the warranty period and that it shall materially conform to the specifications in the Documents and/or PO for the period specified in the Documents and/or PO.

4.11.2 The Part may contain used parts that are equivalent to new parts in performance and reliability and are warranted as new.

4.11.3 The Supplier warrants that the Products, which may contain parts and/or materials from other manufacturers or distributors, are good and of merchantability quality and fit for the provision of the Services and the purpose of the Supply Agreement.

4.11.4 The warranty period shall commence on the date of delivery of the Part, or upon the completion of installation of the Part by the Supplier, whichever is the later.

4.11.5 The Part shall be compatible with the existing Equipment, hardware, software and/or system of the Purchaser, to achieve the objective of the Supply Agreement between the parties.

4.11.6 The Supplier warrants that the Part installed by the Supplier shall not cause damage to the existing hardware, software and/or system of the Purchaser.

#### 4.12 Services Warranty

4.12.1 The Supplier warrants that it shall perform and execute the Services using generally recognized commercial practices and standards. The Supplier shall at its own cost and expense re-execute the



Services not executed in accordance with the warranty herein.

4.13 Installation of Part and/or Equipment

Where installation services are required, the Procurement Agent or the Purchaser shall make available the necessary tools to the Supplier upon request made by the Supplier only, SUBJECT TO the availability of such tools. The provision of the Services shall not be affected if the Procurement Agent and/or the Purchaser are unable to provide such equipment as requested by the Supplier. The Supplier shall deliver the Part to the designated location to be determined by the Procurement Agent and/or Purchaser before carrying out the installation work or the Services at the Delivery Location specified in the PO and/or Document.

4.14 Briefing and/or Training

If applicable, the Supplier shall provide the necessary briefing and/or training to the Purchaser's assigned employees and personnel without any additional charges whereby the training shall be inclusive of the following:-

- (i) the provision of copies of the operation manual for the Part and/or Equipment;
- (ii) training on the proper usage or operation of the Part and/or Equipment.

**PART II- COVENANTS & OBLIGATIONS RELATED TO PRODUCTS**

The Supplier warrants and covenants as follows:

4.15 The Products

4.15.1 The Products supplied to the Purchaser throughout the Term shall be new, genuine, original, not smuggled or counterfeit products, in good condition, materials of a specific quality, merchantable quality, fit for the purpose to be used, substantially conforming with the sample(s) provided and shall be such as to meet the governing Schedule(s) referred to in the PO or Documents in relation to quantity, Delivery Location, quality standards and description.

4.15.2 The Supplier agrees, on request, to supply the Purchaser with any necessary declarations and documents stating the origin of the Products.

4.15.3 The Products supplied by the Supplier shall be as follows:-

- (i) conform to the quantity, quality and description as stated in the PO or other Document issued in connection therewith;
- (ii) fit for the Purchaser's purpose and/or of merchantable quality whether expressly or impliedly stated;
- (iii) correspond with the sample(s), pattern(s) or Schedule(s) provided to the Supplier;
- (iv) the title of the Products is NOT charged, encumbered or pledged to another;
- (v) the quality is acceptable and in accordance with general industry practice;
- (vi) shall be in conformance to or in compliance with the laws, regulation, statutes, acts or guidelines affecting the provision of the Products;
- (vii) shall be original or genuine, does not infringe the copyright, design, patent, trademarks or other intellectual property rights of other third party(ies); and
- (viii) shall NOT be in breach of any terms of the Agreement;

AND for clarification purpose, the Supplier shall be deemed to have breached its covenants of the Supply Agreement and/or the Supply Agreement(s) and/or in relation to the registration of a panel supplier if the Procurement Agent and/or the Purchaser have grounds to suspect or reasonably suspect the Products supplied by the Supplier are not in compliance with any one or more of the requirements listed above and if the Supplier fails to provide any document(s) to prove that the Products supplied conform with the requirements listed above, the Supplier shall be deemed to be in breach or in default of the above covenants.

#### 4.16 Packing, Marking And Documentation

- 4.16.1 The Products shall be properly packed in compliance with the regulations of set the authorities, marked and delivered to the Delivery Location at the Supplier's expense.
- 4.16.2 Where the Products are imported, delivery must be made in its original packing form from the country of origin and shall also include a description of the same in English language.
- 4.16.3 Each advice note, bill of lading and invoice shall bear the reference number of the relevant PO, any applicable component number, delivery date and the Delivery Location. Advice notes and bill of lading must be sent as directed on the PO.
- 4.16.4 If applicable, a separate invoice must be rendered by the Supplier for each individual delivery of the Products.
- 4.16.5 The following details shall be shown on the outside of every package unless otherwise specified in the PO:-
- (i) a description of the Product which shall include, without limitation, the weight of the Product where available and the PO number;
  - (ii) the quantity in the package where available;
  - (iii) any special direction for storage;
  - (iv) the expiry date of the contents where available;
  - (v) the batch number; and
  - (vi) the name of the manufacturer of the Products and the Supplier.
- 4.16.6 All Products that customarily bear any mark, tab, brand, label or any other device indicating place of origin, inspection by any government or other body or standard of quality must be delivered with all the said marks, tabs, brands, labels, serial numbers or other devices intact.

#### 4.17 Conditions of Delivery

- 4.17.1 Upon receipt of any PO issued by the Procurement Agent, the Supplier shall be deemed to have accepted all of the terms and conditions stipulated in the PO, Document and the General Terms SAVE AND UNLESS the Supplier immediately informs the Purchaser if the Supplier is unable to meet any PO in order for the Purchaser to seek alternative Suppliers for the purposes of mitigating its liability towards the Purchaser in accordance with Clause 2.3 above without prejudice to the rights of the Procurement Agent and/or the Purchaser to exercise any other remedies and rights that may be available to the Procurement Agent and/or the Purchaser.
- 4.17.2 Unless otherwise required under the Agreement or otherwise specified in the PO and/or Document of the delivery time and day(s) for the Delivery Location, all deliveries must be made strictly in accordance with the following times and at the following locations:-

No.	Locations	Time Frame and Days
1.	Genting Highlands Resort 69000 Genting Highlands Pahang	Between 0900 hours to 1630 hours from Mondays to Fridays and 0900 hours to 1230 hours on Saturdays
2.	Wisma Genting, Jalan Sultan Ismail, 50250 Kuala Lumpur	Between 0900 hours to 1700 hours from Mondays to Fridays
3.	Other Delivery Location	As per the provision in the relevant Agreement

Any Products delivered to location number three (3) above shall be deemed accepted only after five (5) business days from the date of the Purchaser's acceptance of the Products indicated on the delivery order or document (hereinafter referred to as "**Acceptance Date**"). For the avoidance of doubt, the Purchaser's indication of its acceptance of the Products by signing and acknowledging any delivery order or document given by the Supplier or its agent shall not be deemed to be acceptance of the Products by the Purchaser.

- 4.17.3 Any carrier engaged in the carriage and/or delivery of the Products shall be deemed to be an agent of the Supplier.
- 4.17.4 The type of truck to be used in delivery of the Products shall be in good and suitable for delivery of the Products to the Purchaser and/or conform with the requirements specified in the PO and/or Document, if any.
- 4.17.5 All delivery trucks must be kept clean at all times to ensure that there are no pests or germs which may contaminate the Products or cause Products poisoning. The Purchaser reserves the right to reject all Products if the Products are delivered in an unsanitary truck.
- 4.17.6 The Supplier's delivery order must be accompanied by a photocopy of the PO. The Purchaser shall not accept any delivery without a photocopy of the PO and the Purchaser shall not assume the responsibility to pay in the event the Supplier chooses to deliver the Products without a formal PO.
- 4.17.7 The Products are to be delivered according to the details stated in the PO and/or Document, which shall include among others, the Delivery Location, time and date, and the quantity ordered. Delivery times and dates shall always be of the essence in this Agreement unless the Purchaser otherwise agrees in writing from time to time.
- 4.17.8 The Supplier and/or its agent shall at all times comply with the receiving procedures of the Purchaser.
- 4.17.9 In the event of any late delivery, non-delivery or undersupply, without prejudice to the other remedies available to the Purchaser, the Purchaser may purchase replacement Products of equivalent or higher quality from alternative sources at the prevailing market price and the Supplier shall reimburse the Purchaser for any additional expenses that may be reasonably incurred by the Purchaser in connection with the purchase of the replacement Products that are late delivered, non-delivered or undersupplied. In such an event, the Purchaser shall be entitled to deduct and set-off the aforesaid sums from whatever sums that are payable by the Purchaser to the Supplier and if the sums are insufficient to cover the additional expenses, the Supplier shall pay on demand without any set-off or counterclaim.
- 4.17.10 Any carrier engaged in the carriage and/or delivery of the Products shall at all times be the agent of the Supplier and shall not at any time be deemed to be the agent of the Purchaser and/or the Procurement Agent.

#### 4.18 Rejection of Products

- 4.18.1 Products shipped or delivered to the Purchaser in advance of the delivery schedule may be returned to the Supplier at the Supplier's expense. If the Purchaser decides to accept such Products, the payment date for such Products shall be calculated from the original delivery date stated in the relevant PO and not the date of acceptance. In addition, the Purchaser reserves the right to deduct from the purchase price an amount equivalent to the costs and expenses incurred by the Purchaser in accepting the said Products ahead of the delivery schedule, including but not limited to administration and storage fees.
- 4.18.2 If delivery pursuant to the PO is incomplete, the Purchaser reserves the right (without prejudice to any of its other rights or remedies) to accept or reject partial delivery of the Products whereupon the Purchaser and/or the Procurement Agent shall have the absolute discretion to cancel or vary the balance of that PO without any liability to the Supplier in whatever manner.

- 4.18.3 The Purchaser reserves the absolute right to reject any excess deliveries and in the event the Purchaser accepts such excess deliveries, the Purchaser will pay for the items delivered in excess of the quantity stated in the PO subject to the same terms and conditions of the Agreement.
- 4.18.4 If the Supplier delay in delivery of the Products to the Purchaser, the Purchaser reserves the right to accept the Products or partial delivery of the Products or to reject all of the Products so delivered without any liability to the Supplier in whatever manner, and if the Purchaser accepts all or part of the Products, the Supplier shall only issue invoice(s) to the Purchaser from the relevant date of acceptance in accordance with the quantity that has been accepted by the Purchaser and the Supplier shall at its own cost and expense collect the other part of the Products which is not accepted immediately; failing which the Purchaser shall at its absolute discretion to dispose or keep the Products at all costs and expenses of the Supplier and the Purchase shall not be responsible or liable in any manner whatsoever to the Supplier for the consequences of any loss, damage expense caused by such action(s).
- 4.18.5 In any event of rejection of Products by the Purchaser under any Supply Agreement or pursuant to termination of any Supply Agreement and/or the General Terms and Conditions (as the case may be), the Supplier shall at its own cost and expense collect the Products immediately and shall not leave the Products in the Resort, the Purchaser's warehouse or any other Delivery Location failing which the Purchaser shall have absolute discretion to dispose or keep the Products at all costs and expenses of the Supplier and the Purchase shall not be responsible or liable in any manner whatsoever to the Supplier for the consequences of any loss, damage expense caused by such action(s).

#### 4.19. Passing of Property and Risk

- 4.19.1 Property and risk of loss or damage to the Products delivered by the Supplier to the Purchaser to locations other than to the locations mentioned in Clause 4.17.2 above, shall not be deemed to have passed to the Purchaser and the Purchaser and/or the Procurement Agent reserves its rights under Clause 4.18.2.
- 4.19.2 Notwithstanding to the Purchaser's inspection and acceptance of the Products and such property or risk of loss or damage to the Products shall have been passed to the Purchaser, the Purchaser shall reserve the right (without prejudice to any of its other rights or remedies) to reject such Products either in whole or in part if the Purchaser deems necessary or appropriate without assigning any reasons to the Supplier. If the Supplier postpones the delivery at the request of the Purchaser, the property and risk in the Products shall pass to the Purchaser only upon delivery, inspection and acceptance thereof by the Purchaser without prejudice to the application of the Acceptance Date.
- 4.19.3 Without prejudice to the generality of sub-clause 4.18 aforesaid, the risk of loss or damage to any rejected Products for non-conformance with the PO and/or Document, excess in deliveries or partial deliveries of the Products that may be stored in the warehouse, the Resort or any Delivery Location, shall remain with the Supplier whereby the Purchaser and/or the Procurement Agent shall not at any time be responsible or liable for any damage or destruction of those Products in whatever manners. The Supplier shall at its own cost and expense collect the abovementioned Products, which is not accepted immediately from the date of notice from the Procurement Agent and/or the Purchaser failing which the Purchaser and/or the Procurement Agent shall at its absolute discretion to dispose or keep the Products at all costs and expenses of the Supplier and the Purchase shall not be responsible or liable in any manner whatsoever to the Supplier for the consequences of any loss, damage expense caused by such action.

#### 4.20 Delays in Acceptance

If for any reason the Purchaser is unable to accept delivery of Products at the time when the Products are due and ready for delivery by the Supplier, the Supplier shall store and safeguard the Products at its own risk and costs and expense and the Procurement Agent and/or the Purchaser shall not be liable for any damage or destruction to the Products prior to acceptance by the Purchaser, and the Supplier shall take all reasonable steps to prevent their deterioration until their actual delivery is taken place.

#### 4.21 Product Recall

In the event the Products delivered and/or already delivered and used by the Purchaser are not in compliance with and/or prohibited by any and/or all laws, by-laws, rules, regulations and/or of the appropriate authorities having power affecting the selling of the Products and/or other related Products in connection with this Agreement which are now in force or which may hereafter be enacted (hereinafter referred to as “**Product Recall**”):-

- 4.21.1 Upon demand by the Purchaser and/or the Procurement Agent, the Supplier shall refund and return all monies paid to the Supplier for the purchase of the Products; and/or
- 4.21.2 The Supplier shall within three (3) working days replace the Products with other Products which are similar and carry the same quality or higher and same quantity to the Purchaser at no additional/extra cost to the Purchaser; and/or
- 4.21.3 Upon demand by the Purchaser, the Supplier shall refund and return any difference of the prices between the Products and the replacement Products mentioned above; and/or
- 4.21.4 The Supplier shall at its own cost and expense collect such Products within three (3) working days failing which the Purchaser shall be entitled to dispose the Products at the cost and expense of the Supplier; and/or
- 4.21.5 Upon demand by the Purchaser, the Supplier shall pay all cost and expense incurred and/or suffered by the Purchaser due to Product Recall.

#### 4.22 Guarantee and Warranty of Products

- 4.22.1 If within the guarantee or warranty period after delivery named in the PO and/or Document (hereinafter called “the **Warranty Period**”), the Purchaser shall give the Supplier a notice in writing of any defect in the products which shall arise under proper use from faulty design (other than a design made, furnished or specified by the Purchaser for which the Purchaser has in writing disclaimed responsibility), materials or workmanship then the Supplier shall as soon as possible replace or make good of the Products so as to remedy the defects and the Supplier’s own costs and expenses.
- 4.22.2 Upon the Purchaser has informed the Supplier of any defect, return the defective Products or parts of the defective Products within such number of days as specified by the Purchaser in its notice to the Supplier, the Supplier shall at its own risk and expense.

#### 4.23 Minimum Stock-Keeping

- 4.23.1 If applicable, the Supplier shall be required to keep ready an average estimated quantify of roducts per month for the purpose of fulfillment the minimum delivery lead time (hereinafter referred to as the “**Balance of Products**”). Provided that the Supplier has not breached any term of the Supply Agreement, the Procurement Agent and/or the Purchaser will undertake to purchase the Balance of Products at the quantity being agreed upon if there is any changes to the Products design, specification or artwork.
- 4.23.2 In the event of termination of the Supply Agreement, the Purchaser and/or Procurement Agent shall purchase the Balance Products at the prevailing purchase price of the current period.

### **PART III – GENERAL COVENANTS & OBLIGATIONS FOR PROVISION OF SERVICES OR SUPPLY OF PRODUCTS**

#### 4.24 The Document

- 4.24.1 All PO and/or Document must be in writing.
- 4.24.2 Any PO or Document sent to the Supplier if:-
  - (i) by hand shall be deemed to have served on the day of delivery;

- (ii) by facsimile and confirmed by the delivery of a copy thereof by hand or registered post) shall be
- (iii) deemed to have been served upon confirmation of completion of transmission;
- (iv) by registered post shall be deemed to have been served on the 3rd (third) day after posting; or by e-mail or electronic transmission shall be deemed to have been received on the 1st (first) business day after the e-mail is sent;
- (v) if delivery or receipt occurs on a day that is not a business day (business day shall be in accordance to the working day of the Procurement Agent) in the place to which the Notice is sent or is later than 4pm (local time) at that place, it will be taken to have been duly given or made at the commencement of business on the next business day in that place.

#### 4.25 Variation to the Services & Products

4.25.1 The Supplier shall be deemed to have taken note of and agreed with the Variation save and unless the Supplier has indicated and notified the Purchaser and/or Procurement Agent otherwise within three (3) days from the date of any Variation made by the Procurement Agent and/or the Purchaser.

4.25.2 In the event of any Variation to the Agreement:

- (i) any Variation (including variation to the Contract Sum pursuant to the Variation) that have been agreed to by the parties shall be in writing and shall form part of the Agreement and shall hereinafter be referred to as the “**Variation Order**”;
- (ii) unless otherwise specified in the relevant Variation Order, the Variation Order shall not in any way delay, extend or postpone the completion date or the term for the completion of the Services as stipulated in the original PO.

4.25.3 For the purpose of clarification, in the event of any Variation, which involves the substitution with other products or the cancellation of any Products originally agreed to be carried out by the Supplier, the Purchaser shall be entitled to a corresponding reduction in the Contract Sum.

#### 4.26 Compliance

4.26.1 The Supplier shall be responsible to comply and to cause its Employees to comply with all statutes, ordinances, by-laws, proclamations, orders of the local council and central government or other appropriate authority having jurisdiction or authority over or in respect of the Site, the Services or regulations which are now in force or which may hereafter be enacted, including but not limited to safety and health guidelines, practices, such rules and regulations set out by the Purchaser governing the Resort, Site, the Delivery Location, the Purchaser’s warehouse or areas occupied and/or controlled by the Purchaser and all Intellectual Property Right and also to apply and to keep valid and in force all licenses and permits required by law or statute for the performance of the Services. Whenever so required by the Purchaser, the Supplier shall furnish a copy of all the relevant licences and approvals to the Purchaser as proof that all such licences are maintained. The Supplier shall keep the Purchaser, informed of all the relevant laws or by-laws applicable or that may be changed from time to time.

4.26.2 Without prejudice to the generality of Clause 4.26.1, the Supplier shall be responsible to comply and to cause its Employees comply with all statutes, ordinances, by-laws, proclamations, orders of the local council, central government and other appropriate authority, and regulations which are now in force or which may hereafter be enacted relating to safety and health including, but not limited to the Environmental Quality Act 1974, the Occupational Safety and Health Act 1994 and the Factories and Machinery Act 1967.

4.26.3 The Supplier shall not directly or indirectly employ, engage and/or hire any persons below the age of 21 or any entities likely to employ, engage and/or hire any persons below the age of 21 to perform and deliver any of the Services for and/or on behalf of the Supplier if the Site is within the casino premises of the Resort. The Supplier acknowledges and agrees that the Purchaser and/or Procurement Agent will not issue and, if already issued, will recall any worker permit and/or visitor permit to any person below the age of 21 if such persons are to perform and deliver any works within the casino premises of the Resort.

- 4.26.4 The Supplier shall not provide Services and/or supply Products which obtained or from the source not in a legal manner and/or contravene with any laws, acts, by-laws or statutes.
- 4.26.5 The Supplier shall also ensure that the Employees shall not use the Site for any illegal/unlawful or immoral purposes or purposes which are morally reprehensible and/or are not in conformance with societal norm or to cause to commit or permit any act(s) which the Purchaser in its opinion finds objectionable.
- 4.26.6 The Supplier shall not infringe or be suspected of infringing any third party's Intellectual Property Rights when providing the Services and/or Products to the Procurement Agent and/or Purchaser. Whenever so required by the Purchaser and/or Procurement Agent, the Supplier shall furnish a copy of all the relevant licences and approvals to the Purchaser and/or Procurement Agent as proof that all such licences or approvals are maintained.
- 4.26.7 The Supplier shall not cause any damage and/or loss to any property belonging to the Procurement Agent or Purchaser and/or its Affiliates or customer, guest, visitor or the contractor, supplier, tenant or licensee of the Procurement Agent or Purchaser and/or the Affiliates or any third party.
- 4.26.8 The Supplier shall not cause any injury or embarrassment to any employee, customer, guest, visitor, contractor, supplier, tenant or licensee of Procurement Agent or Purchaser and/or the Affiliates or any third party.
- 4.26.9 The Supplier represents and warrants that it and its Employees are not of a notorious or unsavoury reputation and that none of the Employees which are performing and delivering the Services have been convicted of any criminal offences and/or are associated with or support subversive movements. The Supplier shall immediately notify the Purchaser and/or Procurement Agent in the event of a breach or likely breach of the foregoing representations and warranties.

#### 4.27 Insurance

- 4.27.1 Throughout the Term, the Supplier shall be solely responsible to effect and keep effected in favour of its Employees insurance against any employment injury (including fatal accident) that may be suffered by its employees and workers in the course of performing any undertakings related or connected with the Supply Agreement.
- 4.27.2 The Supplier shall at its own costs and expenses keep its tools, Equipment, Materials, chattels, goods and properties on the Site or allocated areas insured against loss or damage by fire, theft, burglary or such other risks as the Supplier shall deem fit with a reputable insurance company.
- 4.27.3 The Supplier shall ensure that its Employees who will be performing and delivering the Services to the Purchaser will be advised that they are to purchase at their own costs and expenses the applicable travel, international health insurance and/or personal accident policies as they shall deem appropriate, such that the Purchaser will not be responsible for any medical claims or any personal injury (including but not limited to fatal accident) that may be sustained by the Employees, when they are present at the Resort.
- 4.27.4 The Purchaser shall not be liable for the medical claims and/or injury (including but not limited to fatal accident) that may be suffered by the Supplier's Employees and the Supplier shall advise the Employees to ensure that all the aforesaid persons are adequately insured throughout the term of the Supply Agreement.
- 4.27.5 Throughout the Term, the Supplier shall also be solely responsible to effect and keep in effect public liability insurance against any claim brought by or on behalf of any third parties for personal injury or property damage or otherwise (including fatal accident) that may be suffered by any third parties in connection with the Supplier's performance of the Services and any undertakings related to or connected with this Supply Agreement or due to any fault, omission or negligence on the part of the Supplier and/or its Employees. The amount of the insurance coverage shall be determined by the Purchaser and/or the Procurement Agent at their sole discretion.

#### 4.28 Behaviour and Conduct of the Supplier and its Employees

4.28.1 The Supplier shall cause its Employees, while the Employees are at the Resort, Site, the Delivery Location and/or in the Resort, to behave and conduct itself/themselves in an orderly and proper manner and shall not do or cause to be done anything which may impair or otherwise bring the reputation of Purchaser, the Procurement Agent and/or their respective Affiliates into disrepute including but without limitation to the following:-

- (i) to observe and comply with all security procedures and rules and regulations governing the Site, the Delivery Location, the Resort, the Purchaser's warehouse or areas occupied and/or controlled by the Purchaser;
- (ii) not to quarrel, fight or create any chaos or disorder with the other employees, guests, agents and staff of the Purchaser, the Procurement Agent and/or their Affiliates (whichever is applicable);
- (i) not be intoxicated or use any prohibited drugs at all times; and
- (ii) not to indulge in behaviour prejudicial to the interest of the Purchaser, the Procurement Agent and/or their Affiliates (whichever is applicable), including but not limited to being charged with and/or found guilty of acts contravening the laws of Malaysia (without prejudice to the generality of the foregoing, including being involved in breach of the peace, hooliganism or gaming activities).

4.28.2 The Supplier shall cause its Employees to observe and comply with all the rules, guidelines and regulations governing the Resort, Site and/or the Delivery Location whenever they are present in the Resort, Site and/or the Delivery Location for purposes of the PO and/or Document concerned, including but not limited to the following:-

- (i) to register themselves with the Security Department of the Purchaser before they commence the Services;
- (ii) to wear their uniform and/or worker's pass before entering the Site;
- (iii) not to permit any vehicles including motorcycles, scooters and bicycles to be kept in any part or in any part of the common areas in the Resort, Site and/or the Delivery Location so as to cause an obstruction;
- (iv) shall ensure the vehicles of the Supplier and/or the Employees do not emit black or toxic smoke or cause air or noise pollution or contravene with any acts or laws governing environmental protection or quality or any acts or laws;
- (v) to obtain the tag with the words/meaning of "Permit To Work"/ "Visitor" from the Purchaser whenever present at the Resort to provide the Services and/or other purpose relating to the Agreement; and
- (vi) to refrain from smoking, handling any incendiary devices or doing any thing which may cause fire, damage or danger to any property at the Delivery Location, or near/in any flammable area(s) or at such area(s) prohibited by the Purchaser.

#### 4.29 Indemnity

4.29.1 The Supplier shall indemnify and keep the Purchaser, Procurement Agent and their Affiliates harmless against any and all losses, damages, summons, claims, demands or expenses of whatever kind or nature (including reasonable legal fees and expenses incurred in defending such claims) resulting from or in connection with any breach of all or any contractual obligations, warranties or undertakings as stated in Supply Agreement or General Terms and Conditions, negligence or omission on the part of the Supplier, Supplier's contractor or agent (whether directly or indirectly) including, any claim of libel, slander, piracy, plagiarism, invasion of privacy, or infringement of copyright or other intellectual property interest which may be made or brought against or suffered or incurred by the Purchaser, Procurement Agent and their Affiliates.

4.29.2 The Supplier shall indemnify and hold the Purchaser, Procurement Agent and their Affiliates together with its employees agents and representatives and assigns harmless against any loss, expense or



damage including the Purchaser and/or the Procurement Agent and/or their Affiliates' solicitor-client fees incurred or suffered by or threatened against the Purchaser, Procurement Agent and their Affiliates in connection with or as a result of any claim for personal injury or property damage or otherwise brought by or on behalf of any third person as a result of, or in connection with the Supply Agreement and/or General Terms and Conditions.

- 4.29.3 Without prejudice to other clauses herein contained, the Supplier hereby expressly agrees and acknowledges that the Supplier and its Employees shall be providing the Services and/or supplying the Products in and/or near the Site, the Delivery Location and/or the Resort and/or such other location as specified, at its/their own risk. The Supplier hereby releases the Purchaser, the Procurement Agent and their Affiliates of all responsibilities and liabilities, to the full extent permitted by law.

#### 4.30 Representation & Warranties

- 4.30.1 By agreeing to provide the Services and/or supplying the Products to the Purchaser, it shall be deemed that the Supplier has the capacity to enter into this Agreement and possesses all the valid and requisite licenses, permits and/or approvals.
- 4.30.2 The Supplier warrants that the Products, Services and/or Materials that may be used or supplied under all Supply Agreements shall be clean and free from any charges, liens, pledges or other encumbrances and title shall pass to the Purchaser without restriction or cause additional cause and/or inconveniences to the Purchaser once the Purchaser has made payment to the Contract Sum subject to the terms and conditions of that Supply Agreement.
- 4.30.3 The Supplier warrants that it does not have any Close Relationship (as defined herein) with any of the Purchaser and/or Procurement Agent and/or their Affiliates and/or the directors, officers, representatives or employees of the Purchaser, the Procurement Agent and/or their Affiliates who will be entering into any arrangements, contracts or agreements with the Supplier on behalf of the Purchaser and/or the Procurement Agent or who is in the position to influence the decision of the Purchaser and/or the Procurement Agent in whatever manners (either directly or indirectly) (hereinafter referred to as the “**Related Personnel**”):
- (i) In the case of a Supplier who is an individual, sole proprietor and/or partnership, “**Close Relationship**” means a relationship as a spouse, parent, grandparent, sibling, child and/or grandchild with any one or more of the Related Personnel;
  - (ii) In the case of a Supplier which is a company, “**Close Relationship**” shall mean that the Supplier or a director officer or marketing representative of the Supplier or a person or body corporate connected with the Supplier or has a controlling interest in the Supplier has a relationship as a spouse, parent, grandparent, sibling, child and/or grandchild with any one or more of the Related Personnel;
  - (iii) The Supplier shall immediately notify the Purchaser and/or the Procurement Agent if its warranties and representations in relation to “Close Relationship” with any of directors, officers, representatives or employees of the Purchaser, the Procurement Agent and/or their Affiliates become not true.
- 4.30.4 The Supplier warrants that it shall not approach or cause any of the Purchaser's and/or the Procurement Agent's and/or its Affiliates' personnel, employees, agents and/or to receive any commission, incentive or whatsoever benefits (whether in cash or in kind) which shall affect or influence the decision of the Purchaser and/or the Procurement Agent in whatever manners, including but not limited to them agreeing to any of the terms of the Supply Agreement proposed by the Supplier and/or their agreement to accept the Services and/or the Products supplied by the Supplier which are not in compliance with the requirements of the Agreement.

#### 4.31 Storage of Tools, Equipment and/or Materials

- 4.31.1 Where applicable, the Supplier shall deliver and keep the Part, Materials, Equipment, tools, equipment and/or chattels belonging to the Supplier or its agent for the performance of the Services to the designated location to be determined by the Procurement Agent and/or Purchaser (hereinafter referred to as “**Store**”) or Site before carrying out the installation work or the Services at the Site specified in

the PO and/or Document at its own risk. The Supplier hereby releases to the full extent permitted by the law the Procurement Agent and/or the Purchaser from all claims and demands of any kind and from all or any injury to any person whatsoever (including without limitation to the damage or loss of the Materials and/or tools, Equipment and/or chattels kept in the Store for the installation and Services), criminal acts of violence in or near the Site or other areas of the Resort and the Supplier agrees that the Procurement Agent and/or Purchaser shall have no responsibility or liability for any loss or damage to the Part and/or Materials.

- 4.31.2 The Supplier shall at its own costs and expense keep the Part, Materials, Equipment, tools, equipment and/or chattels belonging to the Supplier's or its agent at the Store or designated area insured against loss or damage by fire, theft, burglary or such other risks as the Supplier shall deem fit with a reputable insurance company.
- 4.31.3 The Supplier shall at its own cost and expense relocate the Materials, Equipment, tools, equipment and/or chattels belonging to the Supplier or its agent in the Store to another area as and when requested by the Procurement Agent and/or the Purchaser if the Store is required for another purpose.
- 4.31.4 The Supplier shall not at any time misuse the Store or use the Store to keep any illegal, counterfeit or any other items which are not related to the provision of the Services.
- 4.31.5 Other than the Equipment and tools that may be made available by the Procurement Agent and/or Purchaser as specified in the Document and/or PO, the Supplier shall provide and maintain, in a satisfactory condition on the Site, all necessary equipment and tools for the completion of the Services.
- 4.31.6 The Supplier shall be liable to ensure that the tools, equipment and/or chattels belonging to the Supplier and/or its agent are properly kept and stored at the Site and/or the Store and the Procurement Agent and/or the Purchaser shall not at any time be liable for any loss or damage to the tools or equipment belonging to the Supplier in whatever manner.
- 4.31.7 All tools, Equipment, Part and/or material furnished by the Purchaser to the Supplier and any replacement, or any material affixed thereof, shall remain the property of the Purchaser. The Supplier shall only use such property in connection with the delivery of the Products and/or Services only. The Supplier shall maintain the said property in good order and condition and insure them against all risks whilst in the Supplier's custody and upon acceptance of the Products and/or completion of the Services or as otherwise directed by the Purchaser, the Supplier shall return them to the purchaser in good condition (fair wear and tear excepted).
- 4.31.8 In the event the Supplier fails to return the said property in condition, the Purchaser may either withhold payment or the Contract Sum due to the Supplier, set-off or deduct from the Contract Sum the amount required to replace them or to restore them.

#### 4.32 Confidentiality

- 4.32.1 The Supplier hereby agree to maintain the confidentiality of the terms and conditions of the Agreement, and such other information which the Supplier may have access or obtained pursuant to the Supply Agreement (hereinafter referred to as "**Confidential Information**") unless such Confidential Information has been made or obtained from a public domain.
- 4.32.2 This condition shall survive the termination of the Supply Agreement.
- 4.32.3 The Supplier take all the necessary precautions to ensure that the Supplier and/its Employees shall treat all Confidential Information as confidential and in so doing, the Supplier shall ensure that its Employees shall observe and comply with this clause as if they are a party to the Supply Agreement.
- 4.32.4 The Supplier shall ensure that any Confidential Information coming into its possession in the performance of this Supply Agreement shall be protected and sufficient precautions shall be taken against any loss, unauthorized access, use, modification or disclosure, and other misuse.

4.32.5 The Supplier shall not, without the prior written approval of the Purchaser, disclose to any person or others any of the Confidential Information.

4.32.6 The Supplier hereby acknowledges that the Confidential Information is a valuable, special and/or unique asset belonging to the Purchaser and any unauthorised disclosure or use of Confidential Information could cause irreparable harm and significant injury to the Purchaser, which may be difficult to ascertain and may constitute an infringement of the Purchaser's Intellectual Property Rights. Accordingly, the Supplier agrees that the Purchaser shall have the right to seek and obtain immediate injunctive relief from breaches of the Agreement, in addition to any other rights and remedies it may have in equity or law.

#### 4.33 Non-Assignment

The Supplier shall not assign nor sub-contract any part or all of its obligations and responsibilities under this Supply Agreement to any other party or sub-contractor without the prior written consent or approval of the Procurement Agent and/or the Purchaser. In the event the Procurement Agent and/or the Purchaser agrees that the Supplier assigns any part or all of its obligations and responsibilities under this Supply Agreement to other party or sub-contractor, the Supplier shall ensure and be responsible that :-

- (i) the other party or sub-contractor possesses all the valid and requisite licenses, permits and/or approvals to perform its duties stated in this Supply Agreement and
- (ii) observe all the terms of this Supply Agreement that apply to the Supplier.

#### 4.34 Others Covenants

- (i) All Trade Marks, tag lines adopted or used by the Procurement Agent and the Purchaser, and consisting of either word, symbol, pattern, device or design are and shall remain the exclusive property of the Procurement Agent or the Purchaser (as the case may be) and the Supplier may not use, infer or the Trade Marks or tag lines of the Procurement Agent and the Purchaser and/or their Affiliates for whatever purposes unless expressly stated or agreed to in writing by the relevant party.

4.35 The legal and beneficial ownership of all intellectual property rights in respect of the Products commissioned and supplied by the Supplier under this Supply Agreement and the Products' design and/or concept shall vest in and assigned to the Purchaser absolutely and the Supplier shall have no right whatsoever to use, produce, distribute, sell or deal with, in any manner whatsoever, any part of the Products and its design and/or concept without the Purchaser's prior written consent.

### 5. **CONTRACT SUM**

5.1 The applicable Contract Sum for each Agreement shall be determined based on the amount quoted by the Supplier. The Contract Sum stated in the PO and/or Document based on the quotation of the Supplier shall always be maintained unless and except both the Procurement Agent and the Supplier have agreed in writing for any changes of the Contract Sum in the Supplier's earlier quotation or in Variation Order where in such case, the later PO or Variation Order issued by the Procurement Agent shall be the agreed Contract Sum.

5.2 The rate of the Contract Sum shall be net (inclusive of all costs and taxes), maintained and remain valid throughout the term of the Agreement and can only be varied under the circumstances stipulated herein below.

5.3 Unless otherwise specified in the PO or Document, the regulating currency of the Contract Sum shall be Ringgit Malaysia (RM).

5.4 The Contract Sum shall include:-

- 5.4.1 the costs and expenses that may be incurred by the Supplier in effecting the insurance policies required under the Supply Agreement throughout the Term;
- 5.4.2 packaging, transportation, carriage and other charges;
- 5.4.3 the supply of the Materials, products, delivery to and from the Site, installation, testing and commissioning of the Services as stated in the tender Schedule(s);

- 5.4.4 all types of taxes (other than goods and services tax) and custom duties (whichever is applicable) payable by the Supplier, the Purchaser and/or the Procurement Agent to the relevant authorities throughout the Term;
- 5.4.5 time loss due to public holidays and festivals in accordance to the calendar of Malaysia and inclement weather and for working beyond normal working hours if necessary during the Term.
- 5.5 Unless otherwise mutually agreed by the Purchaser and the Supplier, payment of the Contract Sum shall always be made in such manner(s) and at such time(s) as specified in the relevant PO.
- 5.6 The Purchaser and/or Procurement Agent shall be entitled at any time to set-off from the Contract Sum any amount that may be due and payable by:- (i) the Supplier to the Purchaser named in that Agreement, (ii) the Supplier to that Purchaser under any other Agreement, (iii) the Supplier to any other Purchaser(s) under any other Agreement(s), (iv) the Supplier to the Procurement Agent and/or (v) the Supplier to any of the Affiliates of the Purchaser(s) and/or the Procurement Agent for whatever reasons.
- 5.7 Save and except otherwise stipulated in the relevant PO and/or Document, the credit period shall be thirty (30) days from the date of receipt of the relevant invoice.
- 5.8 All invoices shall be addressed to the Procurement Agent unless otherwise provided in the PO or the Document.
- 5.9 The Supplier shall include the following information and/or documents in its Invoice:-
  - 5.9.1 the reference number of the PO;
  - 5.9.2 List the items in the same sequence as the PO;
  - 5.9.3 Attach a photocopy each of the delivery note/order and the PO; and
  - 5.9.4 State the code of the items (if any).

For the avoidance of doubt, the credit period for each PO issued shall only commence from the date the Procurement Agent receives all of the documents listed above.

- 5.10 Any withholding tax imposed on the payment of the Contract Sum shall be solely borne by the Supplier. The Purchaser and/or the Procurement Agent reserve the right to make such necessary deductions from the Contract Sum for the payment of such withholding tax.
- 5.11 If goods and services tax (hereinafter referred to as “**GST**”) is required under the Goods and Services Tax Act 2014 (hereinafter referred to as “**GST Act**”, which expression shall include any subsidiary legislations, guidelines, rulings and/or regulations made under the GST Act) to be paid to the relevant authorities in Malaysia for the goods and/or services supplied under this Agreement, the Contract Sum payable by the Purchaser to the Supplier shall be deemed to be exclusive of any GST. In such an event, the Purchaser shall pay to the Supplier the GST chargeable subject always to the following:
  - (i) the Supplier is duly registered and is duly authorised to charge and collect GST under the GST Act;
  - (ii) the appropriate GST for the supply is included in the relevant tax invoice; and
  - (iii) all tax invoices issued by the Supplier to the Purchaser are in compliance with the requirements of the GST Act.

The Supplier hereby agrees that no GST shall be payable by the Purchaser unless the Supplier has complied with the provisions of this Clause. The Parties agree to use all reasonable efforts to do everything required by the GST Act to enable or assist the other Party to claim or verify any input tax credit, set off, rebate or refund in respect of any GST paid or payable in connection with goods and/or services supplied under this Agreement.

## 6. TERMINATION

### 6.1 Event of Default

In addition to the event of defaults that may be stipulated in the PO and/or Document, an event of default shall occur if:-

- 6.1.1 The Supplier commits a default or breach of any of the covenants, obligations or stipulations to be observed and performed by the Supplier under the Supply Agreement and/or the General Terms and Conditions and/or terms and conditions governing the registration of the Supplier as panel supplier of the Procurement Agent and the Supplier fails to rectify the defaults or breaches within such period as the Purchaser and/or the Procurement Agent may stipulate;
- 6.1.2 all or part of the representations, warranties or statements that may be given by the Supplier at any time discovered to be false or untrue;
- 6.1.3 the Products and/or Services provided or Materials used by the Supplier infringes or are discovered to infringe the copyright, design, patent, trademark or other intellectual property rights of third party(ies);
- 6.1.4 the Products and/or Services or Materials used are suspected to be or do not conform or comply with the laws, regulation, statutes, acts or guidelines which having power affecting the provision of the Services which are now in force or which may hereafter be enacted; or
- 6.1.5 the Supplier shall go into liquidation or if a winding-up petition has been presented against the Supplier or an order is made or a resolution is passed for the winding up of the Supplier otherwise than for the purpose of reconstruction or amalgamation; or
- 6.1.6 if any Receiver and/or Manager has been appointed in respect of the assets or business of the Supplier or a judicial manager has been appointed; or
- 6.1.7 if the Supplier makes any assignment for the benefit of or composition with its creditors or an arrangement of similar import; or
- 6.1.8 if any execution or distress proceedings has been initiated against the Supplier and the same are not settled within a period of SEVEN (7) DAYS.

### 6.2 Consequences of Termination of the Supply Agreement and General Terms and Conditions

Upon the occurrence of any one or more of the events of default, the Procurement Agent and/or the Purchaser shall have the absolute discretion to terminate the Supplier's registration with the Procurement Agent and to remove the Supplier from its list of suppliers AND/OR to terminate only the Supply Agreement concerned or any other Agreement(s) that may be entered between the Supplier and the Purchaser concerned and/or the other Purchaser(s).

#### 6.2.1 Consequences of Termination of the Supply Agreement

Upon termination of the Supply Agreement:-

- (i) the Purchaser shall only be liable to pay such portion of the Contract Sum for the Products and/or Services accepted by the Purchaser prior to the termination of the Agreement without prejudice to its right to set-off or retain payment as stipulated in this General Terms and Conditions;
- (ii) the Purchaser may engage other suppliers to replace and/or continue with the of the Services and/or Products covered under the affected Supply Agreement which may be equivalent to or of higher quality at the prevailing market price and the Supplier shall be liable to reimburse the Purchaser for any additional costs and expenses that may be reasonably incurred by the Purchaser in obtaining the replacement supplier(s). In such an event, the Purchaser and/or the Procurement Agent shall be entitled to deduct and set-off the aforesaid sums from whatever sums that are payable by the Purchaser to the Supplier and if the sums are insufficient to cover

the additional expenses, the Supplier shall pay the difference to the Procurement Agent and/or the Purchaser on demand without any set-off or counterclaim; or

- (iii) as against the Supplier, if the Purchaser has made full or part payment for the Services to be or that have been provided by the Supplier, the Supplier shall, within a period of not more than fourteen (14) days from the termination date and without prejudice to any other rights and remedies available to the Purchaser and/or the Procurement Agent under the provisions of the Supply Agreement and under the law, return or refund to the Purchaser whatever amount(s) that have been paid by the Purchaser and/or the Procurement Agent together with all costs and expenses that may be suffered or incurred by the Purchaser, including without limitation to such additional costs and expenses that may be reasonably incurred by the Purchaser in connection with the replacement, rectification and/or continuation of the Services and the Supplier's liability to refund shall not be affected or delayed by virtue of the fact that the parties are in the process of agreeing the amount(s) that may be payable by the Purchaser for the works done (if any); or
- (iv) as against the Supplier, if the Purchaser has made full payment for the Products to be delivered or that have been delivered and accepted by the Purchaser, the Supplier shall, within a period of not more than fourteen (14) days from the termination date and without prejudice to any other rights and remedies available to the Purchaser and/or the Procurement Agent under the provisions of the Supply Agreement and under the law, return or refund to the Purchaser whatever amount(s) that have been paid by the Purchaser and/or the Procurement Agent together with all costs and expenses that may be suffered or incurred by the Purchaser, including without limitation to such additional costs and expenses that may be reasonably incurred by the Purchaser in connection with the replacement or rectification of the Product and the Supplier's liability to refund shall not be affected or delayed by virtue of the fact that the parties are in the process of agreeing the amount(s) that may be payable by the Purchaser for the works done (if any) ;
- (v) the Supplier shall upon request, return or destroy all of the Confidential Information as defined in Clause 4.32 in the possession of the Supplier other than those required to be kept by the Supplier for its record purposes; and
- (vi) the non-defaulting party shall be entitled to exercise any other remedies and rights available under the Supply Agreement and by operation of law; and
- (vii) all duties and obligations of the parties shall cease to have effect immediately upon the effective date of termination of the Supply Agreement; and
- (viii) neither party shall have any further claim against each other except for antecedent breach.

#### 6.2.2 Consequences of Termination of the Registration

If the Procurement Agent decides to terminate the registration of the Supplier as their panel supplier:-

- (i) all of the Supply Agreement(s) that have been entered between all of the Purchasers and the Supplier shall be terminated automatically unless otherwise agreed by the relevant Purchaser with the Supplier;
- (ii) Clauses 6.2.1 (i) to (viii) shall apply mutatis mutandis to all of the Supply Agreements that have been so terminated respectively; and
- (iii) the Supplier shall not be listed as per panel supplier of the Procurement Agent.

6.3 Without prejudice to the Purchaser's and/or the Procurement Agent's right to terminate the Supply Agreement and/or the registration of the Supplier as a panel supplier under Clauses 6.2.1 and 6.2.2 above, either party shall have the rights at any time by giving one (1) month's notice in the writing to the Supplier to terminate the Supply Agreement and/or the registration of Supplier as one of the panel suppliers (as the case may be) and upon expiry of the said notice:-

- (i) in the case of termination of the Supply Agreement, the Purchaser shall pay and settle whatever amounts owing to the Supplier less such sums payable by the Supplier to the Purchaser under the Clause 3.1.6 and Clauses 6.2.1(i) to (viii) shall apply;

- (ii) in the case of termination of the registration of the Supplier as one of the panel suppliers, Clause 6.2.2 shall apply.

## **7. MISCELLANEOUS**

### **7.1 Relationship of the Parties**

- 7.1.1 Nothing herein contained shall be deemed or construed as creating the relationship of partnership, joint venture or employer-employee or agency between the Supplier and the Procurement Agent and/or the Purchaser.
- 7.1.2 Save and expressly authorized under the provisions of the Supply Agreement or this General Terms and Conditions, neither party, their employees, agents, permitted assigns and successors-in-title shall have the right, power, authority or jurisdiction to act for and/or on behalf of the other in any manner whatsoever.

### **7.2 Time**

Time, whenever mentioned in the Supply Agreement and the General Terms and Conditions, shall be of the essence of the Supply Agreement and General Terms and Conditions.

### **7.3 Legal Costs and Stamp Duty**

- 7.3.1 The Purchaser's and/or the Procurement Agent's and the Supplier's legal cost in respect of the Supply Agreement together with the stamp duty thereon shall be borne and paid by the Supplier.
- 7.3.2 Each Party (the Procurement Agent's and the Supplier's) shall bear its legal cost in relation to the registration of a panel supplier save that the Supplier shall bear the stamp duty in relation to the registration of a panel supplier.

### **7.4 Amendments to the General Terms and Conditions**

The Supplier agrees that the Procurement Agent shall possess the absolute discretion to amend, vary, modify or waive any terms and conditions of the General Terms and Conditions and/or any other terms and conditions governing the registration as panel supplier (whichever is applicable) as and when the Procurement Agent deems fit and the Supplier shall be deemed to have been duly notified of the amendments once the Procurement Agent posted such amendments on the relevant websites and unless otherwise excluded by the Procurement Agent, the amended General Terms and Conditions shall be binding on the existing Supply Agreements between the Supplier and the Purchasers and the Supplier shall be deemed to have agreed and accepted such amendments if the Supplier:-

- 7.4.1 continues its relationship with the Procurement Agent without any written objection,
- 7.4.2 continues its Supply Agreements with the Purchaser without any written objection;
- 7.4.3 takes such actions or makes any statements, representations or warranties which is reasonably to cause the Procurement Agent to assume, deem or construe that the Supplier agreed to accept such amendments.

### **7.5 Waiver**

- 7.5.1 No failure or delay on the part of either Party in exercising any power or right hereunder shall operate as waiver thereof nor shall the knowledge or acquiescence by any party of or in breach of any terms or conditions of this Supply Agreement constitute a waiver of such terms or conditions.
- 7.5.2 The waiver by any Party of a breach of any term or condition of this Supply Agreement and/or the General Terms and Conditions shall not constitute a waiver of any subsequent breach of the same or any other term or condition of this Supply Agreement nor shall any single or partial exercise of such right or power preclude any other or further exercise thereof or the exercise of any other right or power therein.

## 7.6 Notice

7.6.1 Unless otherwise provided herein, any notice, request or other communication with reference to this Agreement shall be in writing.

7.6.2 A notice request or other communication sent:-

- (i) by hand shall be deemed to have served on the day of delivery;
- (ii) by facsimile (and confirmed by the delivery of a copy thereof by hand, post or registered post) shall be deemed to have been served upon confirmation of completion of transmission;
- (iii) by registered post shall be deemed to have been served on the 3rd (third) day after posting; or
- (iv) by e-mail or electronic transmission shall be deemed to have been received on the first (1<sup>st</sup>) business day after the e-mail is sent;
- (v) by posting the notice on the relevant websites, the day such notice is posted;
- (vi) if delivery or receipt occurs on a day that is not a business day (business day shall be in accordance to the working day of Purchasing Department of the Purchaser) in the place to which the Notice is sent or is later than four (4) pm (local time) at that place, it will be taken to have been duly given or made at the commencement of business on the next business day in that place.

## 7.7 Severability

If any one or more of the provisions contained in the Supply Agreement and/or the General Terms and Conditions or any documents executed in connection herewith shall be invalid illegal or unenforceable in any respect under the applicable law, the validity legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired.

## 7.8 Governing Law

The Supply Agreement and/or the General Terms and Conditions shall be governed by and construed in accordance with the laws of Malaysia and the parties shall submit to the exclusive jurisdiction of the courts of Malaysia.

## 7.9 Non-exclusivity

Nothing herein contained shall be construed as implying that the Supplier shall have or may expect exclusivity in whatever manners.

## 7.10 Force Majeure

7.10.1 If a Party is prevented or delayed by force majeure in the performance of any of its obligations under the Supply Agreement and/or the General Terms and Conditions and gives written notice thereof to the other Party specifying the matters constituting force majeure, together with such evidence as it reasonably can give and specifying the period for which it is estimated that such prevention or delay will continue then such Party shall be excused from (as applicable) the performance or punctual performance of its obligations under the Supply Agreement and/or the General Terms and Conditions as from the date of such notice and for so long as such cause of prevention or delay shall continue and neither party shall be held liable for any costs, expenses or damages that may be incurred or suffered as a result of the other party being unable to comply strictly with the terms and conditions of the Supply Agreement and/or the General Terms and Conditions due to the occurrence of any event of force majeure.

7.10.2 For the purpose of the Supply Agreement and/or the General Terms and Conditions, "force majeure" shall be deemed to be any cause affecting the performance of the Agreement and/or the General Terms and Conditions arising from or attributable to acts, events, omissions or accidents beyond the reasonable control of the performing Party and shall include but without prejudice to the generality of the foregoing, acts of God, fire, explosion, storm, flood, earthquake or other natural physical disaster, civil commotion, riot, invasion, war threat or preparation for war, strikes, lock-outs or other industrial actions, changes in applicable laws or in the interpretation or application thereof by any governmental, quasi-governmental or other body charged with the administration thereof and political interference



with the normal operations of the performing Party or of the group of companies of which such Party is a member.

7.11 Successors-in-title

The Supply Agreement and General Terms and Conditions shall be binding upon the successors in title of the Parties.

7.12 Change of Circumstances

Where the introduction, imposition or variation of any law, order or regulation or official directive or any change in the interpretation or application thereof by any competent authority makes it apparent to either the Purchaser and/or the Procurement Agent or the Supplier that it is unlawful or impractical without breaching such law, order or regulation or official directive for the party to give effect to its obligations under this Supply Agreement, then notwithstanding anything herein contained to the contrary, the Purchaser and/or the Procurement Agent or the Supplier concerned at the written request the other, shall immediately consult with the other in the spirit of mutual understanding and co-operation to decide on any revision of the terms and conditions of the Supply Agreement and General Terms and Conditions in view of such circumstances.

7.13 Compliance with Bribery Laws

The Supplier warrants that it has not made or ordered any payment, taken any action, or directed any person to make any payment or take any action, and/or that it will not make or order any payment, take any action, or direct any person to make any payment or take any action, that violates or could violate the United States of America Foreign Corrupt Practices Act of 1977, the United Kingdom Bribery Act 2010, the Malaysian Anti-Corruption Commission Act 2009 or any laws in Malaysia or any other jurisdiction that prohibits bribery and corrupt practices, including but not limited to the unlawful direct or indirect payments to governments, government officials, public bodies, public officials, political organizations, or political officials.

7.14 Personal Data Protection

The Parties will comply with all applicable privacy and personal data protection laws and regulations. The Supplier may be required to provide to the Purchaser and/or the Procurement Agent personal data (as defined in the Personal Data Protection Act 2010) of third parties (including but not limited to the Supplier's contact persons and Employees) as part of and/or for the performance of the Supply Agreement. The Supplier represents and warrants that it has and will comply with any applicable laws to provide notices to or obtain consents from any such individuals to allow sharing of their personal data with the Purchaser and/or the Procurement Agent and/or their employees or agents to facilitate the performance of the Supply Agreement and any other ancillary matters related to the performance of the Supply Agreement, including but not limited to the disclosing of their personal data to any other third parties on a need to know basis. The personal data provided by the Supplier pursuant to the Supply Agreement will be used and processed in accordance with the Purchaser's and/or the Procurement Agent's personal data processing statement (privacy policy).

7.15 Upholding of Human Rights

Unless otherwise required or prohibited by law, the Supplier warrants, to the best of its knowledge, that in relation to the supply of Products or Services under this Agreement:

7.15.1 The Supplier does not employ, engage or otherwise use any child labour;

7.15.2 The Supplier does not use forced labour in any form;

7.15.3 The Supplier provides a safe and healthy workplace to its employees;

7.15.4 The Supplier does not practice any form of discrimination against any employees on any ground (including race, religion, disability or gender);

7.15.5 The Supplier complies with the laws on working hours, minimum wage and employment rights in the countries in which it operates;

7.15.6 The Supplier is respectful of its employees' right to join and form trade unions and freedom of association;

7.15.7 The Supplier shall encourage compliance with ethical standards and human rights by any supplier of goods and services that are used by the Supplier when performing its obligations under this Agreement.

7.16 Counterparts

This Agreement may be executed in any number of counterparts, each of which when executed will be an original, but, all of which together will constitute one and the same instrument. Executed copy of the signature page(s) of this Agreement transmitted electronically in PDF shall be treated as original, fully binding and with full legal force and effect.

7.17 Effective Date

This Agreement shall become effective on the date stated in the preamble, notwithstanding the diverse dates on which the Parties respectively executed this Agreement.

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**ACKNOWLEDGMENT AND ACCEPTANCE OF THESE GENERAL TERMS AND CONDITIONS**

We, [ ] (Company Registration No. ) hereby expressly declare and acknowledge that we have read and fully understand and we further confirm our agreement and acceptance of all the terms and conditions stated in the above General Terms and Conditions.

We hereby covenant and undertake that we will comply strictly with and observe all the terms and conditions in the General Terms and Conditions

.....

(Signatory)

Name of Authorised Signatory & Designation:

Company stamp:

Date:

*(The remainder of this page is intentionally left blank)*

