



STANDARD FORMS -

SOFTWARE
DEVELOPMENT
CONTRACT



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Introductory remarks: In this template agreement, we have identified the information that the customer and developer, respectively, will need to fill in. We strongly recommend that you seek the help of legal counsel to assist you with filling in the document, as this precedent is merely a guiding document, and it may not serve the actual intent of the parties or cater for all scenarios.

DISCLAIMER: THE WRITERS OF THIS DOCUMENT AND THE FIRMS TO WHICH THE WRITERS ARE ATTACHED DISCLAIM ALL LIABILITIES, LOSSES, CLAIMS, AND/OR DAMAGES DUE TO RELYING ON THE CONTENTS OF THE TEMPLATE DOCUMENT IN CONCLUDING/NEGOTIATING A TRANSACTION.

Dated the ____ day of _____ year ____

Between

_____ (the “Customer”)

and

_____ (the “Developer”)

Software Development Contract

AIAC TEC SFs – SDC (v.1)

(Ref. No. _____)

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Articles of Agreement

THIS AGREEMENT is made on the ____ day of _____ year _____.

Between

(Reg. No. / Identification Number
(*strike out non-relevant*): _____) a company incorporated / Person (*strike out non-relevant*) in _____ (state/country) whose registered address is at _____
(address) (the “Customer”) who is in the business of _____ of the first part;

And

(Reg. No. / Identification Number
(*strike out non-relevant*): _____) a company incorporated / Person (*strike out non-relevant*) in _____ (state/country) whose registered address is at _____
(address) (the “Developer”) who is an experienced software developer of the second part (collectively, the “Parties”).

WHEREAS

- A. The Customer is desirous of engaging the service of the Developer to build and develop a certain Software known as _____ for the purpose of _____ and the Developer is desirous of accepting the appointment upon the terms and conditions hereinafter appearing.
- B. The Developer has examined the Project Scope and Specifications as specified in Appendix 1 which forms part of this Contract and offers to execute the Works as defined in and in conformity with the Contract for the sum of RM/USD/ _____ (*strike out all non-relevant currencies or add relevant currency*) _____ (*spell out*) _____ (*numbers*) to be paid according to the Project Schedule in Appendix 2.
- C. The Customer has accepted the Developer’s offer for the development and completion of the Software and the remedying of any omission or defects therein.
- D. If the Parties agree that the Developer is to provide ongoing support and/or system maintenance, the Parties shall execute the Maintenance Agreement in Appendix 6.

Now the Customer and Developer agree as follows:

Article 1. Term

This Contract shall be effective from the Commencement Date and shall continue until the Customer accepts the Software following the Acceptance Test under Clauses 5.1 to 5.6 following the Completion Date set out in Appendix 2, unless terminated under Clause 12.0 or at law.

Article 2. Project Scope and Specifications

The Project Scope and Specifications are set out in Appendix 1. The Parties agree that any variation to the Project Scope and Specifications must be in writing and initiated by a representative of either Party as set out in Clause 9.0.

Article 3. Contract

The following documents shall be deemed to form, and be read and construed as part of the Contract:

- 3.1 Articles of Agreement;
- 3.2 Conditions of Contract;
- 3.3 Appendix 1 – Project Scope and Specifications;
- 3.4 Appendix 2 – Project Schedule;
- 3.5 Appendix 3 – Inspection Test;
- 3.6 Appendix 4 – Acceptance Test;
- 3.7 _____; and
- 3.8 Any other documents incorporated in the Contract, unless expressly stated to be excluded in any of the Contract documents.

In the event of any ambiguity or inconsistency between the provisions in any two or more of the Contract documents, the order of precedence of the Contract documents shall be in the order set out in this Article 3.

Article 4. Contract Sum

The Customer will pay the Developer the sum specified in recital B above in accordance with the terms of the Project Schedule in Appendix 2, and such payments shall become payable at the times and in the manner prescribed by the Contract.

Article 5. Supervising Officer and Officers in Charge

The Supervising Officer is _____. The Officer in Charge of the Customer is _____ and of the Developer is _____.

The Customer may replace the Supervising Officer at any time upon prior written notice to the Developer. Either Party may replace its Officer in Charge at any time upon prior written notice to the other Party.

Article 6. Definitions

In this Contract, the following words and expressions shall have the meanings hereby assigned to them, except where the context otherwise requires:

- 6.1 AIAC means the Asian International Arbitration Centre (Malaysia);
- 6.2 Acceptance Test means the testing performed by the Customer of the Software pursuant to Appendix 4;
- 6.3 Acceptance Test Period means the period of time specified in Appendix 4 from the Completion Date within which the Customer has to complete the Acceptance Test;
- 6.4 Appropriate Authority means any statutory authority having jurisdiction over the Works;

6.5	Commencement Date	means the date the Contract comes into effect and shall be the date specified in the Articles of Agreement or any other date agreed in writing between the Parties;
6.6	Completion Date	means the date of completion of the Works as stated in Appendix 2 or as extended under the Contract or by written agreement of the Parties;
6.7	Confidential Information	means information that: <ul style="list-style-type: none"> (i) is by its nature confidential; or (ii) is explicitly specified by the disclosing Party to the confidant as confidential; or (iii) the confidant knows or ought to know is confidential; and (iv) includes but is not limited to the information provided by the Customer to the Developer, all information and know-how relating to the Software, including but not limited to technical, scientific, financial, documentary information, processes, knowledge, means, methods, formulas, data, written or oral representations of data, drawings and processes, trade secrets, know-how, program codes, flowcharts, algorithms, marketing plans, marketing research, forecasts, unpublished financial statements, budgets, licenses, prices, costs, and employee and customer lists;
6.8	Contract	means the documents listed in Article 3;
6.9	Contract Sum	means the amount to be paid by the Customer to the Developer according to the Project Schedule as specified in Article 4 and Appendix 2;
6.10	Cost	means all expenditures properly incurred by the Developer, including overheads and similar charges, but does not include profit;
6.11	Customer	means the Party named in the first part of the Articles of Agreement and the legal successors in title to this Party or any Person to whom the rights and obligations of the Customer have been transferred with the written agreement of the Developer;
6.12	Day	means calendar day;
6.13	Deliverables	means any documents, data, information, works, and materials created, developed, written, or prepared by the Developer, its employees, agents, or Sub-Contractors in relation to, or as part of, the Software or in connection with this Contract, including, without limitation, any derivative works created by the Developer, Source Code Materials, guides, handbooks, manuals, trainings, blueprints, schematics, requirements, specifications, reports, schedules, plans, procedures, criteria, certificates, drawings, layouts, diagrams, charts, and any other related materials, in machine or human-readable form, stored in any medium, including all future versions and revisions;

6.14	Developer	means the Party named in the second part of this Contract and the legal successors in title to this Party or any Person to whom the rights and obligations of the Developer have been transferred with the written agreement of the Customer;
6.15	Force Majeure	<p>means an exceptional event or circumstance which:</p> <ul style="list-style-type: none"> (a) is beyond a Party's control; (b) neither Party could have reasonably provided against before entering into this Contract; and (c) having arisen, such Party could not reasonably have avoided or overcome; and is not substantially attributable to the other Party. <p>Force Majeure may include, but is not limited to, exceptional events or circumstances of the kind listed below, so long as the conditions in Article 6.15 (a) to (c) above are satisfied:</p> <ul style="list-style-type: none"> (i) war (whether war be declared or not), hostilities, invasion, act of foreign enemies, munitions of war, explosive materials, ionizing radiation, or contamination by radioactivity; (ii) rebellion, terrorism, revolution, insurrection, military or usurped power, or civil war; (iii) riot, commotion, disorder, strike, or lockout by Persons other than the personnel, servants, agents, and employees of the Developer and Sub-Contractors, if any; (iv) natural catastrophe such as earthquakes, hurricanes, typhoons, or volcanic activities; and (v) epidemics and/or pandemics; and (vi) local authorities or government-imposed embargoes or movement restrictions affecting trade and/or access to work premises;
6.16	Good Industry Practice	means the degree of skill, diligence, prudence, and foresight which would ordinarily be expected to be observed by a skilled and experienced professional engaged in the same or similar type of undertaking as that of the Developer under the same or similar circumstances;
6.17	Inspection Test	means the testing performed by the Developer of the Software pursuant to Appendix 3;
6.18	Intellectual Property Rights	means all intellectual property rights wherever in the world, whether registrable or unregistrable, registered or unregistered, including, but not limited to, any application or right of application for such rights, and these "intellectual property rights" include copyright and related rights, database rights, Confidential Information, trade secrets, know-how, business names, trade names, trademarks, service marks, passing off rights, unfair competition rights, patents, petty patents, utility models, source code, and rights in designs;

6.19	Licensed Software	means Software that is the Proprietary Intellectual Property of the Developer or of a third-party from whom the Developer derives the right to grant to the Customer a licence for the Use of the Software, that is to be provided to the Customer in accordance with the terms of this Contract;
6.20	Liquidated Damages	means liquidated and ascertained damages at the rate specified in Clause 10.1 herein;
6.21	Maintenance Agreement	means the written agreement that the Developer is to provide ongoing support and/or systems maintenance according to Appendix 6, if executed;
6.22	Malaysian Data Protection Laws	means the Malaysian Personal Data Protection Act 2010 (Act 709), including any amendments, re-enactments, replacement legislation regulations, regulatory guidance, orders, standards, directions, codes of practice or other similar regulatory instrument issued pursuant thereto (such as the Personal Data Protection Regulations 2012 and Personal Data Protection Standards);
6.23	Officer in Charge	means the Person designated by each Party who has the authority to act on its behalf as specified in Article 5;
6.24	Open-Source Software	means royalty-free third-party Software that is free to use and is not the Proprietary Intellectual Property of the Developer, Customer, or any third-party as the case may be;
6.25	Party	means either the Customer or Developer or both collectively referred to as Parties;
6.26	Person	means a natural person, sole proprietor, firm, partnership, or body corporate;
6.27	Proprietary Intellectual Property	means Intellectual Property Rights, which are: <ul style="list-style-type: none"> (i) an integral part of, or necessary for the Use of, any Software and/or Deliverables or parts thereof, which is not developed or produced by or for the Customer exclusively pursuant to this Agreement; and (ii) owned either by the Developer or a third-party from whom the Developer derives the right to grant a licence to the Customer to enable the Customer to Use the Software and/or Deliverables or parts thereof, and as otherwise contemplated by this Contract;
6.28	Software	means the product that the Developer is to create and develop for the Customer pursuant to the Project Scope and Specifications in Appendix 1;

- 6.29 Source Code Materials means the following:
- (i) all source codes, source documentation, listings, job control languages, system/program generation instructions, test cases, test programs and other maintenance tools, programmers' notes, and related technical information with respect to the design, Use, operation, and maintenance of Software;
 - (ii) all compilers, interpreters, or the like reasonably necessary to create object code from the source code and to modify the source code, and related documentation, as are applicable to the Systems; and
 - (iii) a description of the development system, hardware, software, compilers, third-party software and the like sufficient for the Customer to continue development, enhancement, and support for such Software, including the names and addresses of any Person or entity which owns or controls any such items;
- 6.30 Specifications means the requirements and specifications as listed in recital B and described in Appendix 1 that specifies the Works, including the Customer's requirements in respect of the Software to be carried out by the Developer, if any;
- 6.31 Sub-Contractor means any sub-contractor, supplier, designer, consultant, or any other Person employed by the Developer for the purposes of the Works;
- 6.32 Supervising Officer means the Person appointed by the Customer as set out in Article 5 to oversee the development of the Works, if no Person is appointed, then there shall be no Supervising Officer;
- 6.33 Upgrade Agreement means the written agreement that the Developer will upgrade the Software in accordance with the agreement in Appendix 5, if executed;
- 6.34 Use means the right to implement, run, adapt, modify, display, perform, distribute, sublicense, and market services related thereto;
- 6.35 Variation means a change to the design (except for design provided by the Developer), quality, or quantity of the Works which is instructed by the Supervising Officer or the Customer's Officer in Charge under the Conditions of Contract;
- 6.36 Warranty Period means period of time during which the Software is under warranty and the Developer must rectify any defects; and
- 6.37 Works means all the work and design (if any) to be performed by the Developer, including temporary work and any Variation.

Article 7. Interpretations

- 7.1 Words importing singular or one gender include the plural or other gender where the context requires and vice versa.

- 7.2 A reference to any laws, acts, legislation, and/or regulations of the Appropriate Authority and its subsidiary laws, acts, legislation, and/or regulations are deemed to include references to any subsequent amendments, consolidation, or replacement of the laws, acts, legislation, and/or regulations.
- 7.3 Headings are used in this Contract for reference only and will not be considered when interpreting this Contract.

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Conditions of Contract

1.0 WARRANTIES AND INDEMNIFICATIONS

Warranties

- 1.1 The Parties represent and warrant that:
- 1.1.1 they have the full capacity and authority and all necessary licences, permits, and consent to enter into and to perform this Contract;
 - 1.1.2 once duly executed, this Contract shall constitute its legal, valid, and binding obligations and shall not violate the terms of any other contract or judgement or court order to which it is bound;
 - 1.1.3 it is not now insolvent and will not be rendered insolvent by any of the transactions contemplated by this Contract. As used in this Clause, “insolvent” means either that (1) the sum of the debts and other probable liabilities of such Party exceeds the present fair saleable value of its assets, or (2) such Party is not able to pay its debts generally as they become due;
 - 1.1.4 the execution and delivery of this Contract, and the performance by that Party of its obligations under it, will not:
 - (a) result in a breach of any provision of its company's constitution;
 - (b) result in a breach of or constitute a default under any instrument or agreement to which it is a Party or by which it is bound; or
 - (c) result in a breach of any order, judgment or decree of any court to which it is a Party or by which it is bound; and
 - 1.1.5 it will perform its obligations under this Contract in accordance with all laws, acts, legislation, and/or regulations of the Appropriate Authority and any other applicable laws as the case may be; and
 - 1.1.6 no conflict of interest of the Parties or its personnel exists or is likely to arise in the performance of their obligations under this Contract.
- 1.2 In addition to any other warranties contained herein, whether express or implied, the Developer represents, warrants, and covenants to the Customer that:
- 1.2.1 it is entitled to grant or transfer the rights and licenses set out in the Contract;
 - 1.2.2 the performance, receipt, or Use of the Software and Deliverables by the Customer in accordance with the terms of this Contract will not infringe on or misappropriate any rights of any third-party, including Intellectual Property Rights;
 - 1.2.3 it will perform the Works in accordance with Good Industry Practice using adequate numbers of qualified individuals with suitable training, education, experience, and skill to perform the Works;
 - 1.2.4 it will use commercially reasonable efforts to perform the Works in the most efficient and cost-effective manner consistent with the required level of quality and performance set out in the Project Schedule contained in Appendix 2;
 - 1.2.5 the information provided by the Developer as to the structure, viability, reliability, insurance cover, capacity, experience, and expertise of the Developer and its personnel, after making due enquiry, is correct to the best of its knowledge; and

- 1.2.6 all material written statements and representations in any written submissions made by the Developer as part of the procurement process remain true and accurate.

Officers in Charge

- 1.3 Upon the commencement of this Contract, the Parties shall each appoint an Officer in Charge who is authorised to act on behalf of such Party in all matters relating to the Contract. The Officers in Charge of the Parties, as well as procedures and notice periods for any replacement thereof, are specified in Article 5.

Indemnification

- 1.4 The Developer will indemnify, defend, and hold harmless the Customer and its directors, officers, and employees from and against all taxes, losses, damages, liabilities, costs, and expenses, including attorneys' fees and other legal expenses, arising directly or indirectly from or in connection with:
- 1.4.1 any negligent, reckless, or intentionally wrongful act of the Developer or the Developer's assistants, employees, or agents;
 - 1.4.2 any breach by the Developer or the Developer's assistants, employees, or agents of any of the covenants, warranties, or representations contained in this Contract;
 - 1.4.3 any failure of the Developer to perform the Services in accordance with all applicable laws, acts, legislation, and/or regulations of the Appropriate Authority; or
 - 1.4.4 any violation or claimed violation of a third-party's rights resulting in whole or in part from the Customer's Use of the work product of the Developer under this Contract.

2.0 CUSTOMER'S OBLIGATIONS

Responsibilities

- 2.1 The Customer accepts responsibility for having expressed the purpose of the procurement and its requirements and needs, in Appendix 1, in a clear manner, as a basis for the performance of the Developer.
- 2.2 The Customer shall facilitate the Developer's performance of its duties under this Contract.
- 2.3 The Customer shall accept the delivery of all conforming Deliverables in the manner specified in Appendix 1 and perform the Acceptance Test in accordance with Clauses 5.1 to 5.6.

Upgrade Obligations

- 2.4 If the Customer requires upgrading of the Software, then the Upgrade Agreement in Appendix 5 shall be executed specifying the upgrade requirements, timeline, and consideration.

Consideration

- 2.5 All prices and the detailed terms governing the consideration to be paid by the Customer for the Deliverables provided by the Developer are set out in Appendix 2.
- 2.6 Disbursements shall only be reimbursed to the extent agreed and shall be paid pursuant to proof of such costs being incurred unless otherwise agreed.

- 2.7 Unless otherwise specified, all prices are quoted in Ringgit Malaysia/ SG Dollar/ US Dollar/ _____ (*strike out non-relevant currency and/or fill in the relevant currency*) and are exclusive of any tax imposed by the Government of Malaysia/ Singapore/ _____ (*strike out the non-relevant jurisdiction and/or fill in the relevant jurisdiction*), or any other relevant government as the case may be.

3.0 DEVELOPER'S OBLIGATIONS

Carry Out and Complete the Works

- 3.1 The Developer shall develop the Software described in the recitals of the Contract. The Software shall be fit for the purpose for which it is intended, and shall conform to the requirements of the Customer and deliver the Deliverables as described in the Project Scope and Specifications in Appendix 1 and in accordance with the Project Schedule in Appendix 2. The Developer is responsible for carrying out the Works, design, development, and testing of the Software in accordance with Clause 3.4.
- 3.2 The Developer shall, during the Term of this Contract, maintain adequate security measures to safeguard the Deliverables and Software from viruses, including, but not limited to, Trojan horse, malware, malicious codes or any code, programming instructions or any harmful codes, or contaminants designed to cause damage to, interfere with, corrupt or otherwise adversely affect a system or data, or unauthorised Use or access.

Upgrade Obligations

- 3.3 The Developer shall carry out any upgrades agreed upon by the Parties pursuant to the Upgrade Agreement in Appendix 5.

Inspection Testing

- 3.4 The Developer shall complete an Inspection Test to verify that the Software works in accordance with the Project Scope and Specifications in Appendix 1. The detailed specification of the Developer's testing is set out in Appendix 3. The Inspection Test shall be commenced and completed within the time limits specified in Appendix 3. The Developer shall give written notice to the Customer stating that the Inspection Test has been completed, and that the Software is ready for the Acceptance Test under Clause 5.0 and Appendix 4.

Duty to Cooperate

- 3.5 The Developer undertakes to cooperate with third-parties to the extent that the Customer deems this necessary for the purpose of performing the duties stipulated in this Contract. The scope of such assistance, as well as any consideration in respect thereof, shall be specified in writing.
- 3.6 The Developer shall, in such cases, adopt an independent position, and act in consultation with the Customer. Clause 3.5 shall not apply if the Developer substantiates to the satisfaction of the Customer that such cooperation will be of material disadvantage to the Developer's relationship with its existing Sub-Contractors or other business contacts.

4.0 SUSPENSION OF WORK

- 4.1 The Customer may request, by written notice to the Developer, the temporary suspension of the delivery of the Deliverables. The Customer shall specify, in such notice, the date (milestone) the delivery of the Deliverables that shall be suspended under Appendix 2, and the date the delivery of the Deliverables is to recommence.
- 4.2 The Developer shall immediately, and no later than five (5) Days after the notice has been received, send the Customer a notice referencing the Deliverables under the Project Schedule in Appendix 2 that are to be sustained during the suspension period. The delivery of the Deliverables shall recommence upon written notice from the Customer.
- 4.3 The Customer shall reimburse the Developer for its documented costs relating to the reassignment of personnel on the part of the Developer and its Sub-Contractors, as well as other direct costs incurred by the Developer as a result of the suspension due to the request of the Customer. If the Customer requests that personnel who participated in the delivery of the Deliverables prior to the suspension shall recommence the work and complete the delivery of the Deliverables, the Customer shall reimburse the Developer the documented payroll costs of the Developer in respect of such personnel, provided that no such reimbursement will apply if the Developer has used such personnel for other income-generating work during the period of suspension of the delivery of the Deliverables. The Developer shall submit a claim for any such reimbursement no later than the notice referred to in Clause 14.2.
- 4.4 The Developer shall not be entitled to any costs if the suspension is due to any act, omission, or negligence on the part of the Developer.
- 4.5 Clauses 8.0 and 9.0 shall apply in the event that the suspension affects the progress of the delivery of the Deliverables or the Contract Sum as stated in Article 4 and Appendix 2. If any such suspension has continued for a period of one hundred and twenty (120) Days or more, the Developer may, without cause, by written notice to the Customer, inform the Customer that the Contract is to be terminated. Unless the Customer serves on the Developer a written notice, within fourteen (14) Days of receipt of the Developer's notice, stating that the delivery of the Deliverables shall recommence, the termination provisions in Clause 12.0 shall apply.

5.0 DEFECTS AND TESTING

Acceptance Test

- 5.1 The Developer, together with the Customer, shall prepare a plan for the Acceptance Test, with acceptance procedures suitable for verifying that the Deliverables meet the Project Scope and Specifications stated in Appendix 1. The Developer shall provide the Acceptance Test to the Customer within fourteen (14) Days from the Commencement Date / or fourteen (14) Days prior to the Inspection Test in Clause 3.4 _____ (*strike out non-relevant time frame and/or fill in the relevant time frame*). The Customer shall then provide written notice within seven (7) Days with either comments or agreeing to the Acceptance Test. The Developer shall then amend the Acceptance Test in accordance with the Customer's comments. If no notice is received within seven (7) Days, the Acceptance Test shall be deemed to have been agreed to by the Customer. The Acceptance Test shall:
 - 5.1.1 include a detailed description of how the Customer will conduct the Acceptance Test;
 - 5.1.2 specify the various tests to be performed and the acceptance criteria; and
 - 5.1.3 identify the level and category of errors.

- 5.2 The Customer will have a specified number of Days as identified in Appendix 4 following the Completion Date as identified in the Project Schedule in Appendix 2 to inspect, assess, and test the Deliverables in accordance with the Acceptance Test and determine whether it satisfies the acceptance criteria as identified in Appendix 4.
- 5.3 Should the Software pass the Acceptance Test, the Customer shall give the Developer written notice of its acceptance of the Software within fourteen (14) Days. Unless otherwise agreed between the Parties, the Software shall be deemed to have passed the Acceptance Test if within fourteen (14) Days from the expiry of the Acceptance Test Period the Customer does not provide written notice stating that the Acceptance Test failed and the Customer puts the Software into Use.
- 5.4 The Acceptance Test shall be deemed to have failed if any critical or serious errors as identified in Appendix 4 exist, and the Customer provides the Developer written notice to such effect within fourteen (14) Days. If minor errors as identified in Appendix 4 exist and the Customer fails to provide written notice, the Software shall be deemed to have passed the Acceptance Test under Clause 5.3.
- 5.5 Should the Software fail the Acceptance Test, the Customer shall give the Developer written notice within fourteen (14) Days and may provide an explanation. In the event that:
- 5.5.1 the Developer does not dispute the Customer's finding, the Developer shall within fourteen (14) Days submit to the Customer a schedule for rectifying the relevant errors or omissions. The Developer shall remedy at no cost to the Customer any error found during the Acceptance Test due to the Developer. The Developer shall within three (3) Days submit to the Customer a written notice that the relevant errors have been rectified and the Customer may resume the Acceptance Test; or
- 5.5.2 the Developer disputes the Customer's finding, the Developer shall within fourteen (14) Days of being notified of the Acceptance Test's failure submit to the Customer a written justification disputing the Customer's findings. Upon receipt of the Developer's written justification, if the Customer continues to refuse to approve the Acceptance Test, then the dispute shall be resolved according to Clause 13.0.
- 5.6 The Customer shall only Use the Software after the Acceptance Test has been successfully performed and the Customer has accepted the Software in accordance with Clause 5.3.

Failure to Rectify Defects

- 5.7 Without prejudice to any other provision or at law, the Developer is deemed to have breached this Contract if the Deliverables do not conform to the agreed specifications, functions, requirements, or time limits prescribed in Appendix 1 and Appendix 2.
- 5.8 Nevertheless, there is no breach of the Contract if the situation is caused by circumstances related to the Customer or by a Force Majeure event. A Force Majeure event will be deemed to have occurred if the elements in Article 6.15 exist.
- 5.9 In the event of a breach of the Contract by the Developer, the Customer shall submit written notice within fourteen (14) Days upon the discovery of the breach.
- 5.10 The Developer shall, upon receipt of the written notice in Clause 5.9, immediately commence and complete the effort of remedying the breach of the Contract to achieve the specified quality, and for the Deliverables to function as intended.

- 5.11 If the Developer fails to remedy the breach, the Customer may, without prejudice to all its other remedies in law for breach of contract, request a proportional price reduction or terminate the Contract for breach pursuant to the provisions of Clause 12.0.
- 5.12 If the Developer fails to remedy the breach within the stipulated or agreed time limit, or if the conditions for termination for breach are met, the Developer shall pay all expenses incurred by the Customer in obtaining a remedy or replacement software from a third-party. Nevertheless, the Customer may not allow a third-party to remedy the defect or develop a replacement software until any extended time limit has expired.
- 5.13 The Customer shall give written notice to the Developer prior to the appointment of the third-party in Clause 5.12 above. Failure to do so shall deprive the Customer of recovering any associated expenses.
- 5.14 In the event a defect is discovered during the Acceptance Test, the Developer shall remedy the defect and the Acceptance Test shall be repeated.
- 5.15 If the defect is discovered after the Customer accepts the Software under Clause 5.3 and before the expiry of the Warranty Period, then the Developer shall remedy the defect at no additional charge.

6.0 THIRD-PARTY SOFTWARE AND MATERIALS

- 6.1 The Developer shall seek the written consent of the Customer in the event that an Open-Source Software is used or included in the development of the Software. The Developer shall ensure that any Open-Source Software and/or materials used or applied will be royalty-free with a perpetual licence and are compatible with the Project Scope and Specifications under Appendix 1, or compatible with the license terms governing any other software that forms part of the Deliverables. The Developer shall prepare an overview of the relevant Open-Source Software and/or materials which will include the specification thereof and a copy of the license terms governing the relevant Open-Source Software and/or materials.
- 6.2 Where the Customer requires the use of specific Open-Source Software and/or materials as part of the Deliverables, the Customer shall bear the costs resulting from any inadequate functionality caused by errors or defects in the Deliverables by reason of the use of the Open-Source Software and/or materials. The Developer shall advise the Customer to the extent of its awareness as to whether the Open-Source Software and/or materials are suitable or functional to be used, fit for purpose, compatible with the Project Scope and Specifications in Appendix 1, or compatible with the license terms governing other software that forms part of the Deliverables, or may infringe third-party rights. The Developer shall assist the Customer with the remediation of any defects in title and other defects in the Open-Source Software and/or materials that is specified by the Customer as an additional service subject to charges.
- 6.3 The Developer shall ensure that all Licensed Software and/or materials are licensed to the Customer in accordance with the relevant licensor's standard licensing terms and/or sub-licensed to the Customer on reasonable terms notified in writing by the Developer to the Customer.
- 6.4 In the event the Software requires interfacing or interoperability with third-parties, the Developer shall ensure that the Software includes all interfaces required to integrate the Software and is compatible and interoperable with any third-parties' software or hardware. The Developer shall immediately inform the Customer if any aspect of the Software may not be interfaced or interoperable with a third-party and advise the Customer on any necessary changes to be made to Appendix 1.

- 6.5 The Developer shall, where practicable, employ technology platforms, systems and solutions that have the ability to interface and interoperate with industry-standard technology platforms and systems and all interfaces should be prepared and developed using open standards and open communication protocols, using applications and software tools that are generally available in the market, if any, rather than bespoke applications or software tools created for the purpose of developing a specific interface unless otherwise agreed between the Parties and in accordance with Good Industry Practice in the software development industry.
- 6.6 In the event the interfacing or interoperability of the Software with third-parties require the disclosure of Confidential Information, the Developer shall seek the Customer's written consent to disclose the same and ensure that the third-parties are bound to provisions in Clause 11.0.

7.0 PAYMENTS

Invoicing

- 7.1 Without prejudice to any right or remedy that the Customer may possess, payment to the Developer shall be made within thirty (30) Days of the invoice date. To enable the Customer to check and confirm whether the invoice conforms to the agreed Deliverables, the Developer shall submit invoices that are supported by relevant documentation, which will include the details of the work done and progress up to date, referencing the Deliverables in Appendix 2.
- 7.2 All invoices relating to hours recorded on an ongoing basis shall be accompanied by a detailed specification of the hours accrued. Disbursements shall be specified separately.
- 7.3 The payment schedule and other payment terms are set out in the Project Schedule in Appendix 2.

Late Payment Interest

- 7.4 If the Customer fails to pay at the agreed time, the Developer shall be entitled to claim interest at five per cent (5%) per annum on any overdue amount.

Payment Default

- 7.5 In a case where the amount stated in any invoice, including any late payment interest, has not been paid within thirty (30) Days of the due date, the Developer may send a written notice to the Customer, stating that the Contract will be terminated within thirty (30) Days of receipt of such notice, unless settlement has taken place within the thirty (30) Day period.
- 7.6 Termination for breach shall not take place if the Customer settles all payments due, including any late payment interest, before the expiration of the thirty (30) Day period in Clause 7.5.

8.0 PROCEDURE FOR CLAIMS OF TIME AND COST

Procedure for Claims

- 8.1 The Developer may request for an extension of time or Cost, which must have the written approval of the Customer in order to take effect. Any application for an extension of time shall be made using Appendix 7, and any application for Cost shall be made using Appendix 8. The Developer shall state the reason for such request.

- 8.2 If the extension of time or Cost is approved, the Customer shall not be entitled to claim for damages in respect of such. An extension of time or Cost request shall not affect the entitlement of the Customer to any damages that may have accrued prior to the request.

Notification Obligation

- 8.3 In respect of any event that may lead to a request for extension of time or Cost, the Developer shall notify the Customer as soon as practicable, but no later than fourteen (14) Days after the Developer has become aware of an event giving rise to such request. If the Developer fails to give such notice within fourteen (14) Days, the Developer shall not be entitled to any extension of time or Cost, and the Customer shall be discharged from all liability in connection with the claim.
- 8.4 If the Software and Deliverables cannot be delivered pursuant to the Project Schedule in Appendix 2, the Developer shall give the Customer written notice thereof pursuant to Clause 8.1. The notice shall specify the reason and, to the extent possible, when the Software and Deliverables can be delivered. A corresponding obligation shall apply if additional delays are expected and encountered after the first notice has been given.

9.0 VARIATION

Instruction to Vary

- 9.1 Should the Parties agree to vary the Contract, such Variation shall be set out in the Variation agreement in Appendix 9 with the effective date specified. Each Variation shall be numbered, in writing, and executed separately.

Claim Notification

- 9.2 The Party that proposes to vary the Contract shall complete, sign, and send the Variation agreement to the other Party. Within seven (7) Days of receipt of the Variation agreement, the other Party shall inform the first Party whether the terms of the variation agreement are accepted. If the terms of the Variation agreement are accepted, the other Party shall sign the same.
- 9.3 The Party requesting the Variation shall notify the other Party as soon as practicable, but no later than fourteen (14) Days after becoming aware, or ought to have been aware of the event giving rise to the Variation. Failure to do so will discharge the other Party of and from any and all liability in connection with any claim for variation.

Cost of Variation

- 9.4 Variations which reduce the Contract Sum should be recorded as a negative amount. Variations which increase the Contract Sum should be recorded as additional amounts. Variations which do not change the Contract Sum should also be recorded. If the cost of the Variation is not specified, the Contract Sum shall be deemed as not changed.

Delay Caused by Variation

- 9.5 Variations may change the Completion Date of the Contract. Additional time required to carry out the Variation work, or reductions, of time, should be recorded in the variation agreement. If the Developer fails to comply with the varied timeline in accordance with the Variation agreement, the Customer shall have the same remedies under this Contract.

Late Payment for Variation

- 9.6 If the Customer fails to make payment in accordance with the Variation agreement, the Developer shall have the same remedies under Clause 7.0.

10.0 DELAY AND LIQUIDATED DAMAGES

Failure to Complete by the Completion Date

- 10.1 If the Developer fails to provide the Deliverables pursuant to the Project Schedule in Appendix 2, or within any extended time fixed under Clause 8.0 or as mutually agreed by the Parties, then the Developer shall pay to or allow the Customer a sum calculated at the rate of zero point one per cent (0.1%)/ _____ (if any rate other than 0.1%, strike out “zero point one per cent (0.1%)” and fill in the rate) of the undelivered Deliverable per Day of delay from the due date for delivery under Appendix 2 up to the date the Customer accepts such Deliverable, provided, however, if the undelivered Deliverable has to be used in combination with or as an essential function under Appendix 1 for the Project Scope and Specifications already accepted by the Customer, the penalty shall be calculated in full on the cost of the combination.

Liquidated and Ascertained Damages

- 10.2 The Liquidated Damages stated in Clause 10.1 is deemed to be a reasonable loss and/or damage which the Customer will suffer in the event that the Developer is in breach of the Clause hereof.
- 10.3 Further and in any event, the Customer and the Developer acknowledge and declare that it will be difficult to assess damages for the actual damage or loss incurred as a result of the Developer's failure to deliver the Software and Deliverables by the due date and/or Completion Date pursuant to Appendix 2. The Developer acknowledges that the Liquidated Damages stated in Clause 10.1 represent the loss or damage that would be caused to the Customer which naturally arose in the usual course of things from the breach and/or which the Parties knew, when they made the Contract, to be likely to result from the breach of the Contract. The Developer irrevocably undertakes that it will not, whether by legal proceedings or otherwise, contend that such sums and the limits thereon in Clause 10.1 are not reasonable nor will he put the Customer to the proof thereof, nor further contend that its agreement to such sum and undertaking as aforesaid were arrived at by force, duress, coercion, mistake or misrepresentation on the part of the Customer.
- 10.4 For the avoidance of doubt, the Liquidated Damages imposed or deducted by the Customer shall not relieve the Developer from its obligation to complete the Software and Deliverables or from any other duties, obligations, or responsibilities which it may have under the Contract.

11.0 CONFIDENTIALITY AND DATA PROTECTION

Confidentiality Obligations

- 11.1 Information that comes into the possession of the Parties in connection with the Contract and the implementation of the Contract shall be deemed to be confidential and be kept confidential, and shall not be disclosed to any third-party without the consent of the other Party.
- 11.2 The Parties shall take all necessary precautions to prevent unauthorised persons from gaining access to, or knowledge of, the Confidential Information.

- 11.3 The confidentiality obligation shall apply to the employees, Sub-Contractors, and other third-parties who act on behalf of the Parties in connection with the implementation of the Contract. The Parties may only transmit Confidential Information to such Sub-Contractors and third-parties to the extent as may be necessary for the implementation of the Contract, provided always that they are subjected to a confidentiality obligation corresponding to that stipulated in this Clause 11.0 and the non-disclosure agreement in Appendix 10, if executed.
- 11.4 The confidentiality obligation shall not prevent the Parties from utilising experience and competency developed in connection with the implementation of the Contract.
- 11.5 Subject to this Clause, the confidentiality obligations contained herein shall be perpetual and shall survive the termination or expiry of this Contract. The employees or others who resign from their positions with one of the Parties shall be subjected to a confidentiality obligation following their resignation as far as the circumstances mentioned above are concerned.

Data Protection

- 11.6 By executing this Contract, the Customer agrees that the Developer may collect, obtain, store, and process the Customer's personal data that is provided for the performance of the Project Scope and Specifications in Appendix 1 and consents to the Developer disclosing the personal data to any relevant government authorities and/or third-parties required by law. The Customer also agrees that the Customer's personal data may be transferred pursuant to any assignments or sub-contracting under Clause 16.0, which may include a location outside Malaysia / Europe / _____ *(strike out all irrelevant jurisdictions and/or fill in the relevant jurisdictions)*.
- 11.7 The Developer shall take all reasonable steps to ensure all personal data is destroyed or permanently deleted if it is no longer required for the purpose for which it was processed in accordance with Malaysian Data Protection Laws / Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 / Personal Information Protection Law (President's Order No. 91) of the People's Republic of China / _____
 _____ *(strike out all irrelevant personal data acts or regulations and/or fill in the relevant personal data acts or regulations)*.
- 11.8 The Parties shall observe compliance with the Malaysian Data Protection Laws / Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016/ Personal Information Protection Law (President's Order No. 91) of the People's Republic of China / _____
 _____ *(strike out all irrelevant personal data acts or regulations and/or fill in the relevant personal data acts or regulations)* including compliance with the requirements pertaining to security objectives, security strategy, risk assessment, and proportional safeguarding of the data and include the protection of natural persons with regard to the processing of personal data and on the free movement of such data.
- 11.9 The Developer shall implement appropriate technical and organisational measures against the accidental, unauthorised or unlawful processing, loss, alteration, destruction, disclosure, or damage of personal data, including but not limited to the data protection security standards agreed to in writing and specified in Appendix 11 and as required by the applicable data protection laws.
- 11.10 Upon becoming aware of any actual or suspected personal data breach relating to the Customer's personal data, the Developer shall:

- 11.10.1 without undue delay, and in any event no later than two (2) Days after becoming aware of any actual or suspected personal data breach, notify the Customer in writing of all known details relating to such personal data breach, including but not limited to:
- (a) a description of the nature of such personal data breach including, where possible, the categories and approximate number of individuals and records concerned;
 - (b) the name and contact details of the primary contact Person, such as data protection officer or data protection lead, where more information can be obtained;
 - (c) a description of the likely consequences of such personal data breach; and
 - (d) a description of the measures taken or proposed to be taken to address such personal data breach, including, where appropriate, measures to mitigate its possible adverse effects;
- 11.10.2 mitigate any harmful effects of such personal data breach, repair its associated vulnerabilities and provide the Customer with regular status updates, including actions taken to resolve the incident, and share additional information related to such personal data breach as soon as more details become available; and
- 11.10.3 provide all reasonable assistance to the Customer in relation to its obligations arising under applicable data protection laws as a result of such personal data breach.

12.0 TERMINATION

Termination by Either Party

- 12.1 Either Party may terminate this Contract at any time during the term of the Contract without cause by giving the other Party ninety (90) Days written notice.

Termination for Breach by Customer

- 12.2 In the event of a breach, the Customer may, after giving the Developer written notice and a reasonable deadline for remedying the situation, terminate the Contract, in full or in part, for breach with immediate effect.
- 12.3 The Customer may terminate all or part of the Contract for breach with immediate effect if the Software and Deliverables are materially delayed. There is a material delay if delivery has not taken place within thirty (30) Days / _____ (*strike out "thirty (30) Days" and fill in the limit of time for delay if anything other than thirty (30) Days*) from the time for delivery in accordance with Appendix 2, or of any extended date for delivery.

Termination for Breach due to Title

- 12.4 A defect in title that is not cured, and that is of such a nature as to be of material importance to the other Party, shall give the other Party the right to terminate the Contract for breach.
- 12.5 For the avoidance of doubt, the Customer may not terminate the Contract for breach due to title if the defect to title relates to the Open-Source Software or Licensed Software, or any other third-party software, and/or materials specified by the Customer. In this regard, the Developer shall, as soon as possible, notify the Customer of any possible issues relating to a defect in title if the same is unable to be remedied under Clause 6.1.

Termination for Breach by Developer

- 12.6 In the event of a default in payment, the Developer may terminate the Contract for breach if the Customer has failed to settle overdue payments within thirty (30) Days of the Customer having received the Developer's written notice pursuant to Clause 7.5.
- 12.7 In the event of any other breach, the Developer may send the Customer a written notice stating that the Contract will be terminated for breach unless the Customer has discontinued or cured the breach within thirty (30) Days after it receives the notice.

Termination for Insolvency, Liquidation, or Ceasing to Carry on Business

- 12.8 If any Party commits an act of bankruptcy, or a receiving order is made against it, or it makes or negotiates for any composition or arrangement for the benefit of its creditors or if a petition for its winding-up has been presented against it in a court of competent jurisdiction or it becomes insolvent or ceases to carry on its business, the other Party may terminate this Contract.

Settlement upon Termination

- 12.9 Upon termination, the rights to the Software and Deliverables prepared under this Contract, including all Intellectual Property Rights, shall be assigned to the Customer, subject to any right or remedy that the Developer may possess, and the Customer shall pay the agreed consideration for Software and Deliverables that have been delivered prior to the date of termination.
- 12.10 The Customer shall be entitled, if necessary for the activities of the Customer, to utilise the Software and Deliverables as agreed after the termination, but shall as soon as possible find an alternative solution to replace the Software and Deliverables. If the termination was caused by breach of the Contract on the part of the Customer, the Developer may make continued utilisation conditional upon the Customer providing additional consideration being thirty per cent (30%) of the Contract Sum, or any other amount agreed in writing by the Parties, and satisfactory collateral.
- 12.11 Termination or expiry of this Contract shall not affect any rights, remedies, obligations, or liabilities of the Parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry. Any termination of the Contract shall discharge the Parties from liability for further performance under this Contract. Any obligations which, either expressly or from the context of this Contract, are intended to survive the expiry or termination of this Contract shall so survive.
- 12.12 Upon termination, the Developer shall return or destroy or delete all Confidential Information provided by the Customer and discontinue any Use of the same. The Developer shall forthwith provide written confirmation to the Customer that it has complied with Clause 11.0 and the non-disclosure agreement in Appendix 10, if executed.

13.0 DISPUTE RESOLUTION AND GOVERNING LAWS

Negotiations

- 13.1 Should a dispute arise between the Parties as to the interpretation, application, and/or the legal effects of the Contract, the Parties shall first seek to resolve such dispute through negotiations. If such negotiations do not succeed within fourteen (14) Days, either Party may refer the dispute to arbitration in accordance with Clause 13.2.

Arbitration

- 13.2 Any dispute, controversy, difference or claim arising out of or relating to this Contract, including the breach, termination or invalidity thereof, as well as any non-contractual claims, shall be finally determined by arbitration, administered by the AIAC, in accordance with the AIAC Arbitration Rules and using the Fast Track Procedure in force at the time of the commencement of the arbitration.
- 13.3 The seat of arbitration shall be _____ *(if unspecified, then the seat of arbitration shall be Kuala Lumpur, Malaysia).*
- 13.4 The arbitral tribunal shall consist of _____ arbitrator(s) *(if unspecified, then the number of arbitrators shall be one (1)).*
- 13.5 The language of the arbitration shall be English.
- 13.6 The law governing the arbitration clause shall be _____ *(if unspecified, then the governing law shall be the Laws of Malaysia).*

Governing Law

- 13.7 The governing law of the Contract shall be _____ *(if unspecified, then the governing law shall be the Laws of Malaysia).*

Compliance with Laws

- 13.8 The Parties shall comply with the laws, acts, legislation, regulations, ordinances, codes, *etc.*, of the Appropriate Authority in relation to the performance of this Contract.

Severability

- 13.9 The provisions of this Contract are intended by the Parties to be severable in the event that any part of it is held to be illegal or unenforceable (in whole or in part) and such part shall not affect the validity and enforceability of the remaining provisions or the remainder of the affected provision under this Contract.

Entire Agreement

- 13.10 The documents set out in Article 3 contain the entire agreement of the Parties with respect to the subject matter of this Contract and supersede all previous communications, representations, understandings, and agreements, either oral or written, between the Parties with respect to the said subject matter. No terms, provisions, or conditions of any purchase order, acknowledgement, or other business forms that either Party may use in connection with the transactions contemplated by this Contract will have any effect on the rights, duties, or obligations of the Parties under, or otherwise modify, this Contract, regardless of any failure of a receiving Party to object to these terms, provisions, or conditions.

Modifications

- 13.11 No amendment, modification, or addition to this Contract shall be effective or binding on either of the Parties unless set forth in writing and executed by them through their Officers in Charge.

14.0 NOTICES AND COMMUNICATION

Notices, Decisions and Instructions

- 14.1 All notices, decisions, and instructions referred to in these Conditions shall be made in writing.
- 14.2 All notices relating to dispute, controversy, difference, or claim arising out of or relating to this Contract, including the breach, termination, or invalidity shall be notified to the other Party in writing within fourteen (14) Days from when the dispute, controversy, difference, or claim arises or within the statutorily prescribed statute of limitations period.

Services of Notices or Documents under the Contract

- 14.3 Unless otherwise specifically provided under these Conditions, any written notice of other documents to be given under the Contract shall be given or sent by:
- 14.3.1 hand, in which case, the notice or document shall be deemed to have been duly served at the time of delivery on the address specified in Clause 14.4 or any change thereof;
- 14.3.2 ordinary mail or registered post, in which case, the notice or document shall be deemed to have been duly served after three (3) Days of posting on the address specified in Clause 14.4 or any change thereof;
- 14.3.3 facsimile transmission, in which case, the notice or document shall be deemed to have been duly served at the time of successful transmission to the facsimile number specified in Clause 14.4 or any change thereof; or
- 14.3.4 email transmission, in which case, the notice or document shall be deemed to have been duly served at the time of successful transmission to the email address specified in Clause 14.4 or any change thereof.

Written Communication

- 14.4 All written communication, including notices, shall be sent to the address, facsimile number, or email address stated below, unless otherwise notified in writing.
- 14.4.1 All written communication to the Customer shall be sent to the following address(es):
- MailingAddress(Attention: _____): _____
- _____
- Facsimile: _____
- Email(s): _____
- _____
- 14.4.2 All written communication to the Developer shall be sent to the following address(es):
- MailingAddress(Attention: _____): _____
- _____
- _____
- Facsimile: _____
- Email(s): _____
- _____

- 14.5 If either Party's address, facsimile number, or email address changes, it shall notify the other Party in writing of the change within fourteen (14) Days from the change.

Services and Information Prior to Commencement Date

- 14.6 All services performed by the Developer and all information and other materials disclosed between the Parties prior to the Commencement Date will be governed by the terms of this Contract, except where the services are covered by a separate agreement between the Developer and Customer.

15.0 NON-SOLICITATION

- 15.1 For the duration of the Contract Period and for a period of one (1) year following the Completion Date and handover of the Software, neither Party shall solicit for hire the employees or staff involved in the development of the Software or in the execution of this Contract of the other Party.

16.0 ASSIGNMENTS AND SUB-CONTRACTING

Assignments

- 16.1 Other than assigning its rights, interests, or benefits under the Contract to its financial institution, neither the Customer nor the Developer shall, without the written consent of the other Party, which consent shall not be unreasonably delayed or withheld, assign the Contract or any part thereof, or any benefit or interest therein or thereunder to another Person.
- 16.2 To the extent that the Customer is a public body, the Customer may assign its rights and obligations under this Contract to another public body. The body to which the rights and obligations are assigned shall be entitled to corresponding terms and conditions, provided that the rights and obligations under the Contract are assigned jointly. The Developer may only assign its rights and obligations under the Contract with the written consent of the Customer. The same shall apply if the Developer is merged with another company, de-merged into several companies, or if the assignment is to a subsidiary or another company within the same group. Consent shall not be unreasonably withheld. The right to consideration under this Contract may be assigned freely. Such assignment shall not release the relevant Party from its obligations and responsibilities.

Sub-Contracting

- 16.3 The Developer shall not, without the written consent of the Customer, which consent shall not be unreasonably delayed or withheld, sub-contract the Works, in whole or in part, except as otherwise provided by the Contract. Such consent, if given, shall not relieve the Developer from any liability or obligation under the Contract. The Developer shall be fully responsible for the acts, defaults, neglects, or breach of the Contract of any of the Sub-Contractors, its agents, servants, or workmen as if they were the acts, defaults, breaches, or neglects of the Developer. The Developer shall indemnify the Customer for any loss or damage suffered by the Customer due to any non-performance by the Sub-Contractor.

17.0 OWNERSHIP

- 17.1 Nothing in this Contract shall operate to transfer ownership of:
- 17.1.1 any Intellectual Property Rights belonging to a Party prior to the Commencement Date; or

- 17.1.2 any Intellectual Property Rights in any items which are independently developed by a Party otherwise than under the Contract, whether or not used in connection with the Software.
- 17.2 The Customer shall exclusively own all Intellectual Property Rights embodied in, arising out of, or in respect of the Software, Specifications, Deliverables, Works, and any other work product, materials, or codes developed exclusively for the Customer pursuant to this Contract (collective, **"Foreground IPR"**). The Developer hereby presently assigns and transfers to the Customer all such present and future Foreground IPR.
- 17.3 Upon completion and full payment of the Contract Sum, the Developer will deliver the Software to the Customer, including all Source Code Materials of the Software and any relevant Licensed Software in object code and machine-readable form. In the event the Parties agree that the handover is to be in the form of a license, the Parties shall execute a separate license agreement which will grant the Customer a license to install and use the Licensed Software in accordance with the license agreement.
- 17.4 Without prejudice to the foregoing, where the Software and/or Deliverables or parts thereof are only partially completed, the Customer shall nonetheless have and be granted the licences for the Proprietary Intellectual Property in respect of the same.
- 17.5 The Developer shall cause any such employees, agents, or Sub-Contractors to waive all moral rights with respect to any copyrightable work developed or produced hereunder.
- 17.6 The Developer shall indemnify and hold the Customer harmless in respect of any claim or action by a third-party in the event that the normal operation, possession, or Use of the Software by the Customer infringes the copyright or other Intellectual Property Rights of any third-party under Clauses 12.4 and 12.5.
- 17.7 The Developer shall provide to the Customer before the start of the Acceptance Test, details of all Proprietary Intellectual Property included or to be included in the Software and Deliverables, such details to include, without limitation:
- 17.7.1 details necessary to Use the Proprietary Intellectual Property owned by the Developer and of the Software and/or Deliverables or parts thereof; and
- 17.7.2 details necessary to Use the Proprietary Intellectual Property owned by a third-party, the terms on which the Developer has the rights to use such Proprietary Intellectual Property under license or sublicense, details of the Software and/or Deliverables or parts thereof to which they relate, and whether there are any limitations on the ability of the Developer to license, or to procure a license of, such rights to the Customer.
- 17.8 The Developer shall, forthwith upon request by the Customer, execute all necessary documents and do all such acts and things, including, without limitation, the execution of user agreements, declarations, and licences as are required to perfect and record the Foreground IPR belonging to the Customer and the Customer's right to Use the Software and Deliverables as contemplated by this Contract.
- 17.9 The Developer hereby represents and warrants to the Customer that:
- 17.9.1 all rights to any Licensed Software and associated Deliverables or any Proprietary Intellectual Property or any other material or information furnished or used by the Developer in the performance of this Agreement shall be proprietary to the Developer or used under licence or sub-licence and will not infringe any Intellectual Property Rights or any other rights whatsoever of any third-party;

- 17.9.2 the Developer has obtained any and all licenses and consents, including the right to sublicense the same to the Customer, necessary to enable the Customer to Use any Open-Source Software or Licenced Software, or any other third-party software, and unless otherwise provided for under this Contract, any third-party materials furnished with the Software are without additional payment by the Customer to any such third-party; and
 - 17.9.3 the manufacture, repair, maintenance, operation, Use, and sale of any of the Software and/or Deliverables, or of the services available from the Software and/or Deliverables, do not infringe or violate the Intellectual Property Rights of any third-party to the extent required to allow the Developer to perform its obligations under this Contract and for the Customer to Use and operate the Software and Deliverables as contemplated in this Contract.
- 17.10 This Clause 17.0 shall remain in full force and effect notwithstanding any termination or expiry of this Contract.

18.0 WAIVER

- 18.1 Unless otherwise provided, no failure or delay on the part of either Party to exercise any right or remedy under this Contract shall be construed or operate as a waiver thereto, nor shall any single or partial exercise of any right or remedy be construed as a waiver of any other rights or remedies provided in this Contract. Such rights and remedies are cumulative and not exclusive of any rights or remedies provided by the law.

19.0 WARRANTY

Scope of the Warranty

- 19.1 The Warranty Period for the Software and Deliverables shall be six (6) months / _____ *(if a different period of time is to be specified, strike out “six (6) months” and designate the period of time)* from the date on which the Customer accepts the Software following the Acceptance Test under Clause 5.3.
- 19.2 The Developer shall, during the Warranty Period, rectify any errors, bugs, or defects in the Software governed by this Contract, at no additional cost to the Customer, conditional upon normal, diligent use on the part of the Customer. The warranty is conditional upon the Customer having provided notice to the Developer about the matter before the expiry of the Warranty Period.

Performance Level

- 19.3 Any maintenance services beyond the scope of the warranty as stated in Clause 19.2 shall be specified and priced in a designated Maintenance Agreement, as contained in and regulated by the performance level in Appendix 6.
- 19.4 If the parties have concluded a Maintenance Agreement, the performance level of such agreement, as contained in Appendix 6, shall also form the basis for the performance level during the Warranty Period.
- 19.5 If no Maintenance Agreement has been concluded, the performance level during the Warranty Period shall be specified in Appendix 1.

- 19.6 All work involved in remedying errors, omissions, and defects shall be commenced and completed without undue delay after the Developer has received notice of such errors, omissions, or defects.
- 19.7 If the Developer chooses to rectify errors during the Warranty Period by delivering a new version of the Software, the Developer shall not be entitled to any additional payment or consideration in respect of the new version, even if it contains improvements, updates, or upgrades. The Developer may only rectify errors by way of the delivery of a new version if the Customer is able to utilise such new version on the Customer's existing technical platform.

Additional Consideration

- 19.8 In respect of errors, defects, or omissions that could have been discovered during the Warranty Period and/or Acceptance Test and where notice of such errors, defects, or omissions is given after the Warranty Period, the Developer may claim compensation for any additional expenses incurred as the result of late notification of such defects or omissions.
- 19.9 In the event of errors, omissions, and defects that fall outside the scope of the warranty, the Developer may perform the same service as agreed above, but in the form of a chargeable service. The Developer's standard prices / hourly rates / _____ (*strike out irrelevant pricing structure and/or fill in relevant pricing structure*) for such services shall apply, unless otherwise agreed.

20.0 MISCELLANEOUS

- 20.1 Each Party shall bear its own costs and expenses incurred in relation to or in connection with the negotiation, preparation, and execution of this Contract, save that stamp duty payable on this Contract shall be borne by the Customer.
- 20.2 It is understood that nothing contained in or done pursuant to this Contract shall be construed so as to create a partnership or joint venture or association among or between the Parties or impose any partnership, duty, obligation, or liability with respect to the Parties.
- 20.3 This Contract may be executed in any number of counterparts or duplicates, each of which shall be an original, and such counterparts or duplicates shall together constitute one and the same agreement.

The remainder of this page is intentionally left blank.

EXECUTION PAGE

IN WITNESS WHEREOF, the Parties hereto have executed this Contract on the day and year written above in the Articles of Agreement.

The Customer

Signed for and on behalf of
(Company No.:)

in the presence of:

Name:
NRIC/Passport No.:
Designation:

Witness Name:
NRIC/Passport No.:

The Developer

Signed for and on behalf of
(Company No.:)

in the presence of

Name:
NRIC/Passport No.:
Designation:

Witness Name:
NRIC/Passport No.:

APPENDICES

DISCLAIMER: all appendices are template forms which may be modified to fit the needs of the Customer and Developer. If the titles or numbering of any appendices are modified, ensure that Article 3 is amended accordingly.

Appendix 1 – Project Scope and Specifications

The Project Scope and Specifications of the Works are as follows:

- A. The Project Scope is _____

_____.
- B. The design of the Software shall include _____

_____ (see attached drawings, if applicable).
- C. The Software Specifications are inclusive of the following attachments (if applicable):
i. _____;
ii. _____; and
iii. _____.
- D. The Software shall contain the following functions:

Function:	Which shall: (description and sub-points for function)

E. The Software should be on the following technical platform, _____, using the following programming language, _____, and shall be available on the following platforms, _____ (e.g., iOS, Android, etc.).

F. The Developer shall include the following Software integrations:
i. _____;
ii. _____; and
iii. _____.

G. The Developer shall provide the following Deliverables:
i. _____;
ii. _____; and
iii. _____.

H. The Deliverables shall comply with the following Deliverables Specifications: _____

_____.

I. The Developer shall perform the following services during the Warranty Period:
i. the rectification of any errors, bugs and/or defects in the software;
ii. communicate with the relevant Customer's team on issues requiring the Developer's support;
iii. _____; and
iv. _____.

J. The level of service shall be as follows for:

Level of Error ¹	Initial Response Time ²	Resolution Time ³
A		
B		
C		

K. During the maintenance period specified in item A above, the Developer shall assign a support representative, who will, during regular support hours, i.e., Monday to Friday, from 8:30 to 17:30 and Saturday from 8:30 to 13:00 MYT (GMT +8:00) / _____ (strike out MYT (GMT +8) and fill in time-zone if any other time-zone than Malaysian Standard Time), excluding public and statutory holidays observed in _____ (applicable location), provide assistance to the Customer to address errors arising from or with the Software. After-hours support will be available via telephone call or email for errors falling under Levels A and B under Appendix 4.

L. The support channels to contact the Developer are (i.e., URL of the support ticketing system, email, phone number(s), etc.):
i. Office Hours: _____;
ii. After-Hours: _____.

M. Should the Customer require training, it may request for such until the expiry of the Warranty Period.

1 The level of error shall correspond to those defined in Appendix 4

2 From the time when an error or issue is reported, the duration of time, subject to the support hours, that the will Developer commits to provide an initial response

3 From the time when an error or issue is reported, the duration of time or Days, subject to the support hours, that the Developer commits to provide working restoration or resolution of the error or issue

Appendix 2 – Project Schedule

Task / Deliverable ¹	Deadline ²	Instalment Payments (%) ³
Completion of the Works		100% (or remaining)

1 Description of the portion of the Works to be completed

2 Date on which the Task / Deliverable shall be completed

3 Percentage (%) of the Contract Sum to be disbursed to the Software Developer upon satisfactory completion on the Task / Deliverable

Appendix 3 – Inspection Test

The Inspection Test agreed by the Parties hereby follows:

- A. The Inspection Test shall be completed _____ (*number of days*) Days before the Completion of the Works as specified in Appendix 2 and run for _____ (*number of days*) Days.
- B. The tests to be performed as part of the Acceptance Test include the following, and shall be conducted as follows:
- i. _____ (*test*): _____ (*conduct*);
 - ii. _____ : _____ ;
 - iii. _____ : _____ ;
 - iv. _____ : _____ ;
 - v. _____ : _____ ;
 - vi. _____ : _____ ;
 - vii. _____ : _____ ; and
 - viii. _____ : _____ .

The Developer hereby notifies the Customer that the Inspection Test was completed on _____ (*date Inspection Test completed*) and the Software is now ready for the Acceptance Test under Clause 5.0 of the Contract and Appendix 4.

The Developer

Signed for and on behalf of
(Company No.: _____)

in the presence of

Name:
NRIC/Passport No.:
Designation:

Witness Name:
NRIC/Passport No.:

Appendix 4 – Acceptance Test

The Acceptance Test agreed by the Parties hereby follows:

- A. The Acceptance Test Period shall run for _____ (*number of days*) Days from the Completion Date of the Works as specified in Appendix 2.
- B. The tests to be performed as part of the Acceptance Test include the following, and shall be conducted as follows:
- i. _____ (*test*): _____ (*conduct*);
 - ii. _____ : _____ ;
 - iii. _____ : _____ ;
 - iv. _____ : _____ ; and
 - v. _____ : _____ .
- C. The criteria for the Acceptance Test is as follows: _____

 _____.

Unless otherwise agreed, the Acceptance Test shall be based on the following definition of errors:

Level	Category	Description
A	Critical Error	<ul style="list-style-type: none"> – Error that results in the stoppage of the system, the loss of data, or in other functions that are of critical importance to the Customer not being delivered or not working as agreed. – The documentation being incomplete or misleading, and thus resulting in the Customer being unable to use the system or material parts thereof. – Breach of the laws, acts, regulations, ordinances, codes, <i>etc.</i>, of the Appropriate Authority in relation to the performance of this Contract.
B	Serious Error	<ul style="list-style-type: none"> – Error that results in functions of importance to the Customer not working as described in the Contract, and which it is time-consuming or costly to avoid. – The documentation being incomplete or misleading, and thus resulting in the Customer being unable to use functions that are of importance to the Customer.
C	Minor Error	<ul style="list-style-type: none"> – Error that results in individual functions not working as intended, but which can be avoided with relative ease by the Customer. – The documentation being incomplete, imprecise, or easily misunderstood.

Appendix 5 – Upgrade Agreement

On _____ (date) the Parties hereby agree that the Developer is to upgrade the Software under Contract (Ref. No. _____) dated _____ (date of Contract) pursuant to the agreements set out below.

The Parties hereby agree that:

- A. The upgrades by the Developer of the Software shall conform to the following requirements: _____

 _____.
- B. The requirements shall be performed pursuant to the following schedule:

Upgrade ¹	Deadline ²	Consideration ³

The execution portion is on the following page.

-
- 1 Description of the upgrade to be made to the Software
 2 Date on which the upgrade shall be completed
 3 Amount to be paid by the Customer to the Developer for the upgrade

The Customer

Signed for and on behalf of
(Company No.:)

in the presence of:

Name:
NRIC/Passport No.:
Designation:

Witness Name:
NRIC/Passport No.:

The Developer

Signed for and on behalf of
(Company No.:)

in the presence of

Name:
NRIC/Passport No.:
Designation:

Witness Name:
NRIC/Passport No.:

Appendix 6 – Maintenance Agreement

On _____ (date) the Parties hereby agree that the Developer is to perform maintenance on the completed Works under Contract (Ref. No. _____) dated _____ (date of Contract) pursuant to the agreements set out below.

The Parties hereby agree:

- A. The Developer shall perform maintenance on the completed Works starting after the date of completion of the works for a period of three (3) years / five (5) years / _____ years (*strike out non-relevant period of time and/or fill in the relevant period of time*).
- B. The maintenance shall be performed on a tri-annual / bi-annual / _____ basis (*strike out non-relevant period of time and/or fill in the relevant period of time*).
- C. In consideration for the maintenance, the Customer agrees to pay the Developer Ringgit Malaysia / US Dollar / SG Dollar _____ (*strike out non-relevant currency and/or fill in the relevant currency*) _____ (*fill in the sum to be paid*) on a tri-annual / bi-annual / _____ basis (*strike out non-relevant period of time and/or fill in the relevant period of time*) until the expiry of the maintenance period specified in item A above.
- D. Maintenance shall not include the implementation of any new features, systems, specifications, and/or designs. Should the Customer desire to amend the Software or make any upgrades, a separate agreement shall be executed for such.
- E. Maintenance shall include the following functions (*be as descriptive as possible*):
 - i. the rectification of any errors, bugs and/or defects in the Software;
 - ii. _____;
 - iii. _____;
 - iv. _____;
 - v. _____;
 - vi. _____;
 - vii. _____;
 - viii. _____; and
 - ix. _____.
- F. Upon the expiry of the maintenance period specified in item A above, the Developer shall no longer be liable to fix any bugs and/or defects. Should the Customer wish for the Developer to amend the software or make any upgrades, a separate agreement shall be executed for such.

The level of service shall be the same as indicated in Appendix 1, unless otherwise agreed by the Parties (*either strike out items G, H, and/or I below if the service level is to be the same as the Warranty Service Level or if the parties agree otherwise, fill in the below*).

- G. The level of service shall be as follows for:

Level of Error ¹	Initial Response Time ²	Resolution Time ³
A		
B		
C		

¹ The level of error shall correspond to those defined in Appendix 4

² From the time when an error or issue is reported, the duration of time, subject to the support hours, that the will Developer commits to provide an initial response

³ From the time when an error or issue is reported, the duration of time or Days, subject to the support hours, that the Developer commits to provide working restoration or resolution of the error or issue

- H. During the maintenance period specified in item A above, the Developer shall assign a support representative, who will, during regular support hours, *i.e.*, Monday to Friday, from 8:30 to 17:30 and Saturday from 8:30 to 13:00 MYT (GMT +8:00) / _____ (*strike out MYT (GMT +8) and fill in time-zone if any other time-zone than Malaysian Standard Time*), excluding public and statutory holidays observed in _____ (*applicable location*), provide assistance to the Customer to address errors arising from or with the Software. After-hours support will be available via telephone call or email for errors falling under Levels A and B under Appendix 4.
- I. The support channels to contact the Developer are (*i.e.*, *URL of the support ticketing system, email, phone number(s), etc.*):
- i. Office Hours: _____;
- ii. After-Hours: _____.

The Customer

Signed for and on behalf of

(Company No.: _____)

in the presence of:

Name:
NRIC/Passport No.:
Designation:

Witness Name:
NRIC/Passport No.:

The Developer

Signed for and on behalf of

(Company No.: _____)

in the presence of

Name:
NRIC/Passport No.:
Designation:

Witness Name:
NRIC/Passport No.:

Appendix 7 – Extension of Time

On _____ (date), the Developer hereby applies for an extension of time under the Contract (Ref. No. _____) dated _____ (date of Contract) as stated below:

Task / Deliverable ¹	Reason ²	Deadline ³	Applied Deadline ⁴	Approved ⁵

The Customer

Signed for and on behalf of

(Company No.: _____)

in the presence of:

Name:
NRIC/Passport No.:
Designation:

Witness Name:
NRIC/Passport No.:

The Developer

Signed for and on behalf of

(Company No.: _____)

in the presence of

Name:
NRIC/Passport No.:
Designation:

Witness Name:
NRIC/Passport No.:

- 1 Description of the portion of the Works to be completed
- 2 Description of the event giving rise to such request for an extension of time
- 3 Date on which the Task / Deliverable is to be completed pursuant to Appendix 2 (or any other extension of time granted by the Customer)
- 4 Date on which the Developer is applying for the deadline to be extended until
- 5 Initial of the Customer if the applied deadline is approved; if an extension is approved, but for a different date than applied for, the Customer shall state the date on which the extension is approved until; if an extension is not approved, then the Customer shall write "NO" and initial

Appendix 8 – Cost Claim

On _____ (date), the Developer hereby applies for a Cost under the Contract (Ref. No. _____) dated _____ (date of Contract) as stated below:

Description of Cost ¹	Reason ²	Amount ³	Approved ⁴

The Customer

Signed for and on behalf of

(Company No.: _____)

in the presence of:

Name:
NRIC/Passport No.:
Designation:

Witness Name:
NRIC/Passport No.:

The Developer

Signed for and on behalf of

(Company No.: _____)

in the presence of

Name:
NRIC/Passport No.:
Designation:

Witness Name:
NRIC/Passport No.:

-
- 1 Description of the cost
 - 2 Description of the event giving rise to such request for cost
 - 3 Amount of the cost
 - 4 Initial of the Customer if the applied cost is approved; if a cost is approved, but for a different sum than applied for, the Customer shall state the sum which the cost is approved for; if a cost is not approved, then the Customer shall write "NO" and initial

Appendix 9 – Variation Agreement

On _____ (date of agreement) the Parties hereby agree to the following Variation to the Contract (Ref. No. _____) dated _____ (date of Contract), which was proposed by the Customer / Developer (~~strike out irrelevant Party~~) on _____ (date of variation proposal).

The Variation takes effect on _____ (date variation is to come into force). Subject to the Variation set out herein, the Contract (Ref. No. _____) dated _____ (date of Contract) shall remain in full force in all respects.

The Variation is summarised below:

Variation Ref. No.	
Task / Deliverable to be Varied	
Date Task / Deliverable was due	
Description of the Variation	
Date Variation is due	
Cost for the Variation	

The Customer

Signed for and on behalf of

(Company No.: _____)

in the presence of:

 Name:
 NRIC/Passport No.:
 Designation:

 Witness Name:
 NRIC/Passport No.:

The Developer

Signed for and on behalf of

(Company No.: _____)

in the presence of

 Name:
 NRIC/Passport No.:
 Designation:

 Witness Name:
 NRIC/Passport No.:

Appendix 10 – Non-Disclosure Agreement (NDA)

The Parties hereby agree that the confidentiality obligations in the Contract (Ref. No. _____) dated _____ (*date of Contract*) shall be unilateral, whereas the Customer shall have sole ownership of the Software with the Developer being prohibited from disclosing Confidential Information that is to be released by the Customer in an effort to develop the Software.

In this non-disclosure agreement (“Agreement”), unless the context otherwise requires, the defined words in this Agreement shall have the same meanings as provided in the Contract.

In so agreeing, the Developer acknowledges that:

- (a) all material and information in electronic, oral, printed, written, or another tangible or intangible form that is supplied by the Customer which has or will come into the Developer’s possession or knowledge of the Developer in connection with its performance under this Agreement, is to be considered the Customer’s Confidential Information. By way of illustration, but not as a limitation, Confidential Information includes the Software, trade secrets, processes, data, know-how, program codes, documentation, flowcharts, algorithms, marketing plans, marketing research, forecasts, unpublished financial statements, budgets, licenses, prices, costs, and employee and customer lists;
- (b) the Confidential Information is the sole property of the Customer. The Developer agrees that any unauthorised disclosure of such Confidential Information to, or use by, third-parties, either during or after this Agreement, will cause the Customer irreparable damage; and
- (c) the Customer’s purpose in pursuing the development of the Software is to gain a significant competitive advantage over competitors operating without such Software and that such advantage will be jeopardised if such competitors learn of the Customer’s negotiations with the Developer or the performance by the Developer of its obligations hereunder. Accordingly, the Developer agrees to keep such negotiations and performance of its obligations hereunder strictly confidential and not to disclose any information to any third-party or entity without the prior written permission of the Customer. In no event shall the Developer or any of its employees use the Customer as a reference in marketing the Developer’s services to any third-party or entity without the Customer’s prior written permission.

The Developer’s undertakings and obligations under this Agreement will not apply, however, to any Confidential Information which:

- (i) is or becomes generally known to the public through no direct or indirect wrongful act on the Developer’s part;
- (ii) is generally disclosed to third-parties by the Customer without restriction on such third-parties; or
- (iii) is approved for release by written authorisation of the Customer.

Upon termination of this Agreement or at any other time upon request, the Developer will promptly delete or deliver to the Customer all notes, memoranda, notebooks, drawings, records, reports, files, documented source codes, and other documents, and all copies or reproductions of such materials, in its possession or under its control, whether prepared by the Developer or others, which contain Confidential Information and is capable of delivery up, and delete, erase, or otherwise destroy all Confidential Information as contained in any computer memory, magnetic, optical, laser, electronic, digital, or any other form, which is not capable of delivery up.

The confidentiality obligations in this Agreement shall survive the termination of this Agreement and Developer’s duty to hold Confidential Information in confidence shall remain in effect until the Confidential Information no longer qualifies as a trade secret or until the Customer sends the Developer a written notice releasing the Developer from the obligation, whichever occurs first.

The confidentiality obligations in this Agreement shall be binding on the representatives, assignees, and successors of each Party.

The Developer agrees to use best efforts to hold Confidential Information in the strictest confidence, not to make use of it other than for the performance of its obligations hereunder, to release it only to the Developer's employees or contractors with a need to know such information and not to release or disclose it to any other Party. The Developer further agrees not to release such information to any employee or contractor who has not signed a written agreement between Developer and the employee expressly binding the employee not to use or disclose the Confidential Information, except as expressly permitted herein. The Customer shall be listed as a third-party beneficiary of any such agreement.

The Developer shall notify the Customer in writing of any circumstances within its knowledge relating to any unauthorised possession, use, or knowledge of such Confidential Information. At any time, upon request, the Developer shall return any such information within its possession to the Customer.

The Developer's undertakings and obligations under this Agreement will not apply, however, to Confidential Information which is required to be disclosed by law or by any governmental or regulatory authority.

The Customer

Signed for and on behalf of

(Company No.:)

in the presence of:

Name:
NRIC/Passport No.:
Designation:

Witness Name:
NRIC/Passport No.:

The Developer

Signed for and on behalf of

(Company No.:)

in the presence of

Name:
NRIC/Passport No.:
Designation:

Witness Name:
NRIC/Passport No.:

Appendix 11 – Data Protection Security Standards

DISCLAIMER: *These standards are merely an example the Parties may agree to. However, such is subject to the written agreement of the Parties, and it may be modified, amended, and/or edited to fit the needs of the Customer and Developer.*

The Parties hereby agree that the Developer shall comply with following data protection security standards to be applicable to the Contract (Ref. No. _____) dated _____ (date of Contract).

Physical Access Control

The Developer shall take, among others, the following technical and organisational measures in order to establish the identity of the authorised persons, prevent unauthorised access to the Developer's premises and facilities in which the personal data are processed and protect the data from accidental destruction or loss:

- All entrances are locked and can only be accessed with the appropriate key/chip card;
- Windows and doors are protected by an alarm system;
- All visitors are required to present identification and are signed in by authorised staff;
- Visitors are accompanied by the Developer's personnel at all times;
- Trained security guards are stationed in and around the building twenty-four / seven (24/7);
- Co-location facility - separate locked server suites with card readers;
- Appliances for the monitoring of temperature and humidity; and
- Fire/smoke detectors and fire extinguishers in the areas where data is stored/processed.

Logical Access Control

The Developer shall take, among others, the following technical and organisational measures in order to prevent unauthorised access to the data processing systems:

- Unique user authentication via user name and password for each network and system access required, e.g., *default passwords changed at first login*;
- User passwords are changed at least every ninety (90) Days and only allow complex passwords or use two-factor certification;
- Use of anti-virus software that includes email filtering and malware detection;
- Use of firewalls;
- Access to electronic documents/applications is documented via auditable log files;
- Use of encryption for all data at rest and in transit;
- Access privilege rights in place allowing only the necessary access for users to accomplish their job function on a "need-to-know-basis";
- Starter, mover, and leaver housekeeping processes in place which covers role-based access rights;
- Two-factor authentication in place for remote connections;
- Network monitoring services in place twenty-four / seven (24/7) to detect unauthorised activities;
- Vulnerability scanning and remediation in place;
- Logical separation of client data;
- Security penetration testing programme in place;
- Secure data destruction processes in place;
- Administration of user rights through system administrators and number of administrators are reduced to the absolute minimum;
- IT governance and controls audits undertaken annually by external third-party or internal control audits undertaken regularly;
- Access to electronic documents/applications is documented via auditable log files; and
- International standards or the International Organization for Standardization and the International Electrotechnical Commission or other equivalent industry-approved information security management system.

Data Transfers

The Developer shall take, among others, the following technical and organisational measures in order to ensure that personal data cannot be read, copied, altered or removed by unauthorised persons under their electronic transmission or during their transport or recording on data carriers and to guarantee that it is possible to examine and establish where personal data are or have had to be transmitted by data transmission equipment:

- Remote access, including during remote maintenance or service procedures, to the IT systems only via VPN tunnels or other secure, encrypted connections;
- Data transferred by the Developer is transported and saved in encrypted form;
- The relevant areas of the data carriers are encrypted using data and hard drive encryption software;
- If applicable, data storage devices and paper documents are locked away when not in use, *e.g., clean desk policy*;
- Physical transports are only performed with locked containers and/or guarded vehicles
- Use of document shredders;
- Secure destruction processes in place to industry standards utilising specialised third-party with disposal certificates produced;
- The secure transfer modes and encryption methods are regularly updated and kept state-of-the-art;
- Secure communication session established via Hypertext Transfer Protocol Secure protocols across all applications/services; and
- Encrypted certificates utilised for authentication between the web client and the webserver across all websites.

Business Continuity

The Developer shall take, among others, the following technical and organisational measures, as applicable to the Services, in order to protect the data from accidental destruction or loss:

- Data recovery measures and emergency plan in place and regularly tested;
- Implementation of backup methods such as: tape backup, data mirroring, and so on;
- Physical separation of the backup data;
- Data stored in the archive is saved using redundant systems;
- Uses a combination of full, differential, and cumulative backups to ensure data integrity and timely restoration;
- To ensure an uninterrupted supply of power to the system, redundant power supply units are built into the systems wherever possible; and
- Data is stored redundantly on multiple devices.

The Customer

Signed for and on behalf of

(Company No.:)

in the presence of:

Name:
NRIC/Passport No.:
Designation:

Witness Name:
NRIC/Passport No.:

The execution portion is on the following page.

The Developer

Signed for and on behalf of
(Company No.:)

in the presence of

Name:
NRIC/Passport No.:
Designation:

Witness Name:
NRIC/Passport No.: