VOLKSWAGEN

GROUP MALAYSIA

GENERAL TERMS AND CONDITIONS OF PURCHASE FOR GOODS AND SERVICES

Volkswagen Group Malaysia Sdn Bhd (Company No. 200501036120 (718267-U)) (**Company**) of Level 26, Menara ETIQA, No. 3 Jalan Bangsar Utama 1, 59000 Kuala Lumpur, Malaysia purchases Goods and Services on the following terms and conditions and any Purchase Order issued by the Company, unless otherwise agreed in writing.

1. DEFINITIONS

1.1 Unless the context otherwise requires:
Deliverables means Goods and Services.
Goods means the products, materials, supplies, equipment and other goods the subject of a Purchase Order and, if applicable, forming part of the Services.
Purchase Order means an order by the Company on the Supplier for the supply of Goods or Services.
Services means all services to be performed by the Supplier as set out in a Purchase Order.
Site means the locations stated in a Purchase Order for the delivery of Goods or the performance of Services.
Supplier means all services to be performed by the Supplier as set out in a Purchase Order.
Terms means these terms and conditions.

2. ORDERS

2.1 These Terms apply to and govern all Purchase Orders placed by the Company whereby Deliverables are supplied, provided and/or delivered by the Supplier to the Company.
2.2 A Purchase Order and the Terms will constitute the entire agreement between the Company and the Supplier for the supply of the Deliverables. No terms and conditions stated by the Supplier in any quotation, invoice/e-invoice or other document will be binding on the Company unless accepted in writing by an authorised signatory of the Company.
2.3 To the extent that any conflict exists between the Terms and any other document forming part of any Purchase Order the following order of priority will apply:
(a) the Purchase Order;
(b) any attachments to, or other documents referred to in, the Purchase Order; and
(c) these Terms.
2.4 In no event shall the Supplier's general terms and conditions or other terms of whatever kind apply (whether the same are in addition to or in lieu of any provision set forth in the contract) unless the Company has expressly agreed thereto in writing.
2.5 Within three (3) business days of receipt of a Purchase Order, the Supplier must reply to the Company to confirm receipt and that the Purchase Order will be completed by the time stated in the Purchase Order.
2.6 In the absence of a Purchase Order, nothing in these Terms nor any action taken by the Company will give rise to a contractual relationship between the Company and the Supplier.

3. SUPPLY OF GOODS AND SERVICES

3.1 Goods supplied pursuant to a Purchase Order must:
(a) comply with the quantity, volume, description, standard and specifications required under the Purchase Order;
(b) follow the current international standard DIN EN ISO 9000ff for quality management as well on *Verband Deutsche Automobilindustrie* (VDA) directives and the requirements of the Volkswagen Group (i.e. Formel Q) ;
(c) be delivered by the time specified and in accordance with all instructions in the Purchase Order;
(d) comply with all applicable laws, codes and standards; and
(e) pass such inspections and tests as may be required by the Company.
3.2 Services performed pursuant to a Purchase Order must:
(a) comply with the description, standard and specifications required under the Purchase Order;
(b) be fit for the purposes of the Company;
(c) be supplied with the standard of skill, care and quality expected of a provider experienced in the provision of such services;
(d) be completed by the time specified and in accordance with all instructions in the Purchase Order; and
(e) pass such inspections and tests as may be required by the Company.
3.3 The Company relies upon the skill and knowledge of the Supplier in providing the Goods and Services.
3.4 Precise conformity of the Goods and Services with this agreement is of the essence and the Company will be entitled to reject the Goods and/or further performance of the Services and/or terminate the Purchase Order and these Terms under clause 17 if the Goods or Services are not in conformance.

4. CODE OF CONDUCT

4.1 The Supplier must comply with the Company's Code of Conduct for Business Partners (Code), which is available at:

https://www.volkswagen-group.com/de/publikationen/weitere/code-of-conduct-fuer-geschaeftspartner-1885.

4.2 The Supplier acknowledges and agrees that the Supplier's engagement under any Purchase Order is subject to its compliance with the Code.
4.3 In the event that the Company makes any significant variations to the Code during the course of this agreement, the Company will notify the Supplier within a reasonable period.

5. ANTI-BRIBERY

5.1 Both parties must:
(a) at all times comply with all applicable Malaysian laws, statutes, regulations and codes relating to anti-bribery and improper payments (the Anti-Bribery Requirements);
(b) not give or offer or promise to give, receive or agree to accept, any payment, gift or other benefit or advantage which violates an Anti-Bribery Requirement;
(c) have and maintain throughout the term of this agreement its own policies and procedures to ensure compliance with the Anti-Bribery Requirements and enforce them where appropriate;
(d) not prepare, approve or execute any contract or other document or make any record in connection with this agreement that a party knows, or ought reasonably know, is false, inaccurate or misleading; and
(e) promptly report to the other party any request or demand for any undue financial or other advantage of any kind received by that party in connection with the performance of this agreement which will or may be in breach of the Anti-Bribery Requirements.

6. MODERN SLAVERY

6.1 The Supplier shall, and shall procure that its subcontractors and the Supplier personnel and any other person who performs services and/or supplies goods within the Supplier's supply chain for the Suppler in relation to this agreement:
(a) To comply with all Applicable Laws relating to slavery and human trafficking ("Anti-Slavery Requirements") including the Federal Constitution, Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007, Penal Code and Germany's Act on Corporate Due Diligence Obligations in Supply Chains;
(b) not take or knowingly permit any action to be taken that would or might cause or lead the Company to be in violation of any Anti-Slavery Requirements; and
(c) at the Company's request, provide the Company with any reasonable assistance to enable it to perform any activity required by any regulatory body for the purpose of complying with Anti-Slavery Requirements.
6.2 The Supplier represents, warrants and undertakes to the Company that neither it nor any other person in its supply chain (including those described in clause 6.1 uses trafficked, bonded, child or forced labour or has attempted to use trafficked, bonded, child or forced labour within its supply chain.
6.3 Any breach of this clause 6 will entitle the Company to:
(a) suspend performance of its obligations under this agreement until it is satisfied (acting in good faith and reasonably) that the breach has been adequately addressed and rectified; or
(b) terminate the Purchase Order and these Terms by giving five (5) business days' written notice.
6.4 In the event of suspension or termination pursuant to this clause 6, the Company will not be required to pay any compensation to Supplier for that suspension or termination or any consequential damages.
6.5 Supplier will indemnify and hold harmless the Company in relation to any losses it suffers (including with respect to brand damage or loss of reputation and any consequential damages) or liabilities or penalties (including statutory penalties) it incurs, as a result of any breach of any of this clause 6.

7. PRICE AND PAYMENT

7.1 Unless otherwise agreed by the Company in writing, the prices for the Deliverables will:
(a) remain fixed for the term of the Purchase Order and will not be subject to any variation in the cost of materials, labour, delivery, taxes or otherwise;
(b) include all duties, taxes, levies, imposts and other costs; and
(c) include all costs of delivery to the Site as well as all packaging, shipping, carriage and insurance.
7.2 The Supplier may invoice the Company for the charges on or at any time after delivery or performance to the Company's satisfaction. Each invoice/e-invoice must be a proper invoice/e-invoice and quote the correct purchase order number for the Goods and/or Services, and shall comply with any requirements to provide any supporting documentation ("**Valid Invoice**"). Unless otherwise agreed by the Company in writing, the Company will pay the Supplier within thirty (30) days of the Company receiving a Valid Invoice in accordance with the requirements of these Terms and the applicable Purchase Order.
7.3 Unless otherwise agreed in writing between the parties in advance, the Supplier shall send all invoices/e-invoices directly to "vgm.invoice@volkswagen.com.my". If the Company receives an invalid invoice/e-invoice, it shall be entitled to return such invoice/e-invoice and the time for payment of such invoice/e-invoice shall only commence on receipt of a corrected and Valid Invoice. If any invoice/e-invoice is not sent to the Company within two (2) months of delivery of the Goods or performance of the Services, the Company shall have no obligation to pay such charges.
7.4 The Supplier is not entitled to suspend delivery of the Goods or performance of the Services as a result of any sums being outstanding.
7.5 The Company will be entitled to deduct or set off sums due from the Supplier to the Company under this agreement (or any other agreement) against sums due from the Company to the Supplier under this agreement. The Supplier may not set off sums due from the Company to the Supplier under this agreement against sums due from the Supplier to the Company under this agreement.
7.6 Payment of any fees, charges, costs and expenses shall not be made in advance unless expressly identified as a pre-payment in the Purchase Order or otherwise agreed in advance and in writing by a Director of the Company.
7.7 In the event of pre-payment, the Supplier shall cause a first class bank, reasonably acceptable to the Company, to issue an irrevocable and unconditional bank guarantee, payable on first demand, to serve as performance guarantee, as follows:
(a) the amount shall be twenty per cent (20%) of the price of the relevant Deliverables, unless stated otherwise;
(b) the guarantee shall be issued to the Company within twenty (20) days after the date when the Purchase Order becomes effective;
(c) the Company shall be entitled to call the guarantee in case of any breach of the Purchase Order and/or these Terms; and
(d) the guarantee shall remain valid until the date which is sixty (60) days after the expiry of the latest defects liability period, as such may be extended from time to time, in respect of all Deliverables delivered under the Purchase Order and/or these Terms.
7.8 The costs of issuing and maintaining the performance guarantee shall be borne by the Supplier. The delivery of the guarantee in accordance with this clause shall be a condition precedent to any pre-payment by the Company under the Purchase Order and/or these Terms.

8. AMENDMENTS TO A PURCHASE ORDER

8.1 If, prior to supply of the Deliverables, the Company notifies the Supplier in writing of any change to its requirements under a Purchase Order, the following will apply:
(a) if the change would reduce the Supplier's costs, the Supplier will propose a reduced price to fairly reflect any savings. If the change would increase the Supplier's costs, the Supplier will notify the Company promptly, in writing, of a proposed revision of the price to fairly and proportionately reflect any unavoidable increased costs. Following such notice of a change in costs, the Company and the Supplier will use their best endeavours to agree on revised terms in full, including as to price;
(b) if the change, in the reasonable opinion of the Supplier, would be unachievable for any reason, the Supplier may notify the Company in writing with reasons as to why such a change would be unachievable. If the Supplier provides such a notice, both parties will use their best endeavours to agree on revised terms in full, including as to price;
(c) failing notice by the Supplier under clauses 8.1(a) or 8.1(b) within seven (7) days of the Company's notice, the proposed change will be deemed to have been accepted, and the Purchase Order will be deemed to have been varied, with immediate effect to reflect the change with no price increase; and
(d) in no event will the Company be liable to the Supplier in respect of any costs which amount to more than reasonable unavoidable costs actually incurred by the Supplier and directly attributable to the relevant change.

9. DELIVERY

9.1 The Supplier must deliver the Goods to the Site and perform the Services at the Site on the date specified in the Purchase Order during usual business hours, unless otherwise agreed.
9.2 If the Company specifies the delivery address or date after a Purchase Order is placed, the Company will give the Supplier reasonable notice of the details. If no date for delivery is specified, the date for supply will be as soon as reasonably possible as directed by the Company.
9.3 A packing note quoting the Purchase Order reference number, the item number, the Site, contents, quantity, date and method of dispatch and weight must accompany each delivery or consignment of Goods and must be displayed prominently on the outside of the packaging (if any).
9.4 If the Supplier does not supply the Goods or complete the performance of the Services

within the time(s) stated in the Purchase Order, the Company may terminate the Purchase Order and these Terms immediately upon notice in writing to the Supplier.

9.5 The Supplier must, and must ensure that its employees, agents and contractors, while at the Site comply with the Company's reasonable requirements as to security, health and safety, times and areas of access.

9.6 Time for delivery or performance will be of the essence.

10. TITLE, RISK, INSPECTION AND ACCEPTANCE

10.1 The Supplier warrants that, at the time of delivery, it has the right to sell the Goods and the Goods are free from all liens, charges and encumbrances of any kind.

10.2 At any time prior to the supply of any Goods, the Company, upon reasonable notice, may inspect the Goods (and premises for) manufacture and storage. If, as a result of such an inspection, the Company is not satisfied with the quality of the Goods or the standard of their manufacture, storage or handling, the Supplier must take such steps as are necessary to correct any deficiency. If, after the Supplier has been given an opportunity to correct any deficiency, the deficiency has not been corrected to the satisfaction of the Company, the Company may terminate the Purchase Order and these Terms immediately upon notice in writing to the Supplier.

10.3 Title and risk in the Goods will pass to the Company after the Goods have been physically delivered to and inspected and accepted by the Company as being in accordance with the Purchase Order.

10.4 Without prejudice to any other right or remedy which the Company may have (including, without limitation, pursuant to Conditions 3.4 and 17.1), if any Goods are not supplied, or any Services are not performed, in accordance with this agreement or the Supplier fails to comply with any of the Terms of this agreement, the Company will be entitled (but not obliged) to avail itself of any one or more of the following remedies at its discretion, whether or not any part of the Goods or Services have been accepted by the Company:

(a) to rescind this agreement;

(b) to reject the Goods (in whole or part) and return them to the Supplier at the risk and cost of the Supplier on the basis of a full refund for the Goods so returned being paid forthwith by the Supplier;

(c) at the Company's option to give the Supplier the opportunity at the Supplier's expense either to remedy any defect in the Goods or performance of the Services or to supply replacement Goods and / or carry out any other necessary rectification work for the Services at no additional cost to the Company to ensure that the terms of the Agreement are fulfilled;

(d) to refuse to accept any further deliveries of the Goods or further performance of the Services but without any liability to the Company;

(e) to carry out at the Supplier's expense any works necessary to make the Goods and / or the Services comply with this agreement; and

(f) to claim such damages (whether resulting from direct, indirect or consequential loss (all three of which terms include, without limitation, loss of profit)) as may have been sustained in consequence of the Supplier's breach of this agreement.

10.5 If any Deliverables are not delivered, supplied or performed on or by the relevant date specified in the Purchase Order, then, in addition to any other remedies available to the Company, the Company will be entitled to deduct one per cent (1%) of the overall price for those Deliverables, for every week's delay. The Supplier acknowledges and agrees that such amount represents a genuine pre-estimate of the loss or damage which will be suffered by the Company in respect of any such delay.

11. INSURANCE

11.1 The Supplier shall at all times maintain with a reputable insurance company adequate employer's liability and public liability insurance and such other insurance policies as may be required properly to cover any and all liabilities arising out of the provision of the Deliverables.

11.2 Without limiting clause 11.1, the Supplier must insure itself and the Company in relation to the Goods against product liability and product recall liability for the amounts set out in a Purchase Order.

11.3 The Supplier will demonstrate to the Company the terms and currency of any such insurance upon request by the Company.

12. INDEMNITY AND PRODUCT LIABILITY

12.1 The Supplier must indemnify, and keep indemnified, the Company in respect of all costs, expenses (including attorney's fees), claims, damages and liabilities suffered or incurred by the Company or for which the Company is or may become liable in connection with any:

(a) breach or negligent performance or failure in performance by the Supplier of the Terms or any Purchase Order;

(b) claims by any third party in respect of any personal injury, death, property damage, breach of laws or intellectual property rights caused or contributed to by the Supplier; or

(c) negligence of the Supplier or any of its employees, agents or contractors,

whether or not this agreement has expired or been terminated.

12.2 The Supplier agrees to compensate the Company and the Company's customers for all damages or losses which result from product liability claims in connection with the Supplier's performance of this agreement and the Supplier hereby waives any objections based on the statute of limitations.

13. COMPLIANCE AND PERSONAL DATA

13.1 The Supplier will, at its cost, comply with:

(a) all requirements of the Company in any way affecting or applicable to the Goods or Services; and

(b) all applicable laws, codes and standards.

13.2 The Supplier must obtain all permits, licences, consents, approvals and authorisations required in respect of the Deliverables. The Supplier must provide to the Company evidence of compliance at the request of the Company.

13.3 If the Supplier is given access to personal data during the provision of the Deliverables, it shall follow the applicable data protection regulations, and in particular, shall process personal data solely for the purpose of providing the Deliverables or fulfilling a resulting legal obligation (intended purpose), shall ensure that its employees only gain access to the data if absolutely necessary and impose an obligation to maintain data secrecy on its employees in writing and shall instruct them regarding the data protection provisions that must be followed and prove this upon request. If personal data must be processed for purposes other than the provision of Deliverables due to legal obligations, notice of this shall be given to the Company and consent of the individuals whose personal data is processed shall be sought before concluding a contract and before processing the data, unless this is prohibited by law. The Supplier agrees to protect personal data with state of the art technology. If the Supplier is to process personal data on behalf of the Company, a processing agreement must be concluded before the Supplier receives access to such personal data.

14. WARRANTY

14.1 The Supplier warrants that:

(a) the quantity, quality, description and specifications for the Deliverables will be those set out in the Purchase Order;

(b) all Goods will be free from defects in materials and workmanship;

(c) all claims made by the Supplier about any Deliverables, including in the Supplier's advertising and promotional materials, are correct and can be relied upon;

(d) all Services will be performed in a timely and professional manner by personnel who are suitably qualified and experienced;

(e) all Services will be rendered with due care and skill; and

(f) neither the sale and supply of any Deliverable, nor its use by the customer, will breach any rights of any other person.

14.2 If any Goods have been obtained by the Supplier from a third party, any warranties and indemnities the Supplier holds from that third party, in respect of those items, must also be provided to the Company.

14.3 Any Goods or Services determined by the Company not to be in accordance with these Terms or a Purchase Order must be remedied by the Supplier at its own expense upon request of the Company. At the Company's option, without limiting any rights of the Company under the applicable law, the Company may require the Supplier to:

(a) for Services: supply the Services again or pay the cost of having the Services supplied again; and

(b) for Goods: replace the Goods or supply equivalent goods, repair the Goods, pay the cost of replacing the Goods or of acquiring equivalent goods or pay the cost of having the Goods repaired.

14.4 If the Supplier fails to promptly remedy any defect in the Goods or Services on request by, and to the satisfaction of, the Company, then the Company may remedy (or arrange for a third party to remedy) that defect at the cost of the Supplier which will be a debt due and owing to the Company.

15. CONFIDENTIALITY

15.1 All drawings, specifications, computer programs, compilations of data, know-how and other information relating to the Services, the Goods, the Company's operations, financial or business affairs which the Supplier becomes aware of during the term of a Purchase Order, including information which by its nature should reasonably be considered to be confidential information (collectively, **Confidential Information**) are confidential to the Company. Confidential Information does not include any information which the Supplier can prove either is in the public domain or was known by the Supplier at the time of disclosure, other than through a breach of the Terms.

15.2 Confidential Information remains the property of the Company at all times and the Supplier must keep the Confidential Information confidential and secure.

15.3 The Supplier must not, and must ensure that its employees, agents and contractors do not, disclose the Confidential Information to any third party except as follows:

(a) with the prior written consent of the Company;

(b) to the extent required by law, order of a court or regulatory body; or

(c) to any employee, agent or contractor of the Supplier who has a need to know the information for the purposes of a Purchase Order and is bound by terms no less onerous than those contained in this clause.

15.4 Except where provided otherwise in this agreement, upon expiry or termination of this agreement, each party shall, if so requested in writing by the other Party, immediately return to the other party or destroy all Confidential Information.

16. INTELLECTUAL PROPERTY RIGHTS

16.1 All information and know-how including drawings, specifications and other data provided by the Company in connection with this agreement as well as any documents or data that include, are derived from or are based on such information and know-how shall remain at all times the property of the Company or its affiliate(s) (as the case may be) and may be used by the Supplier only for the purpose of performing this agreement. Any such information and documents are Confidential Information and thus subject to Clause 15 (Confidentiality).

16.2 The Supplier expressly represents and warrants that it will not, and shall ensure that its affiliates and subcontractors will not, either alone or jointly with others, directly or indirectly through any other person, infringe the intellectual property rights of the Company or its affiliate(s) and without prejudice to the foregoing, shall not (a) accept or use, for any reason, any of the proprietary information of the Company or its affiliate(s) which it has reason to believe has been improperly obtained from such party; (b) reveal, or entice any person to reveal, any of the proprietary information of the Company or its affiliate(s) to any third party without prior written approval by the Company; (c) use, or entice any person to use, proprietary information of the Company or its affiliate(s) for any purpose other than that which is expressly authorized by the Company (collectively, the prohibited activities set forth in this sentence shall be referred to as "Piracy"). Any violation by the Supplier of such representation and warranty shall constitute a material breach of this agreement. The Supplier undertakes to promptly inform the Company if the Supplier becomes aware that any third party is engaging in any Piracy of the trade secrets or proprietary information of the Company or its affiliate(s).

16.3 Ownership of any intellectual property rights as well as any rights in the know-how, technology, process and development of products, created in the course of the contractual relationship between the parties shall vest in the Company upon their creation. The Supplier shall do all such things and execute all such documents as may be necessary to effectuate any such ownership of the Company.

16.4 The Supplier warrants that the Deliverables, and any material, design or any other works or information provided by or on behalf of the Supplier, including the use thereof, does not infringe any patent, copyright, registered design, trademark, trade name, trade secret or other intellectual property right of a third party, and the Supplier will, at its expense, defend, indemnify and hold harmless the Company and the Company's customers from and against all claims and liability based on alleged or actual infringement thereof. The Company, at its option, may require the Supplier (a) to procure at the Supplier's expense for the Company and the Company's customers the right to use the Deliverables, (b) to take such action to alter, modify or replace the Deliverables or part thereof, such that it no longer infringes, provided however that this does not cause any adverse effect on the Deliverables or its intended use, or (c) to refund the price of the Deliverables or the corresponding part thereof, with interest, upon the return by the Company of the infringing Deliverables.

16.5 Except where clause 16.1 applies, the Supplier must grant to, or obtain for, the Company a perpetual, irrevocable, unrestricted world-wide, royalty free, non-exclusive licence (including the right to novate or assign the licence, and to sublicense) to use, reproduce, adapt, modify and communicate any intellectual property rights contained in any Deliverables provided to the Supplier, in order to receive the full benefit of the Deliverables.

17. SUSPENSION

The Company may at any time instruct the Supplier to suspend the performance of the Deliverables or portion thereof by giving notice to the Supplier. In such case, the Supplier shall (i) discontinue performance under this agreement to the extent specified in the suspension notice, (ii) other than to the extent required in the suspension notice, place no further orders or subcontracts with respect to the suspended part of the Deliverables, (iii) take all other reasonable steps to minimise costs associated with the suspension. Except where the Company has suspended for the Supplier's breach and/or Force Majeure, if and to the extent that the suspension exceeds three (3) months, the Company shall reimburse the Supplier for the direct costs (excluding any profit element) attributable to the suspension which are incurred during the suspension period, provided that the same are reasonable and properly evidenced in writing by the Supplier. The Supplier shall be entitled to no other payment or compensation during the period of the suspension or as a consequence of the suspension. Except as expressly provided in Clause 19 (Force Majeure) and this Clause 17, any suspension of the Deliverables by the Supplier shall be deemed a wilful breach of contract.

18. TERMINATION

18.1 Without limiting any other provision of these Terms, if a party (**Party A**):
(a) breaches any of these Terms and the breach is not capable of being remedied or, if the breach is capable of being remedied, Party A does not remedy that breach within fourteen (14) days of the date of notice to Party A specifying the breach;
(b) becomes, threatens, resolves to become or in the reasonable opinion of the other party (**Party B**) is likely to become subject to any form of insolvency, administration, receivership, bankruptcy or liquidation; or
(c) enters into any composition or arrangement with its creditors or has a receiver appointed over any of its assets or is the subject of any resolution or petition for winding up,
then Party B may:
(i) where Party B is the Company, suspend payment in respect of all Purchase Orders placed by the Company with the Supplier whether or not the Supplier has complied with the terms and conditions attaching to any of those particular Purchase Orders;
(ii) remedy the breach referred to in clause 17.1 on behalf of Party A at the cost of Party A; and/or
(iii) terminate the Purchase Order and these Terms at no cost to Party B.

18.2 Termination of a Purchase Order and these Terms under clause 17.1 will be without prejudice to any other rights and remedies of either party. The conditions which expressly or impliedly have effect after termination will continue to be in force notwithstanding termination.

18.3 Notwithstanding anything else in this clause 17 or elsewhere in the Terms, the Company may terminate a Purchase Order and these Terms, for any reason, by providing thirty (30) days' written notice to the Supplier.

18.4 If a Purchase Order is terminated by the Company under clause 17.3, the Company will be liable only for payments due under the Purchase Order which are invoiced prior to the effective date of termination and any unavoidable reasonable costs actually incurred by the Supplier that are directly attributable to the termination (excluding, without limitation, loss of prospective income or redeployment and redundancy costs and not exceeding 80% of the total price of the relevant Deliverables).

19. FORCE MAJEURE

19.1 "Force Majeure" shall mean any event or circumstance, to the extent that such event or circumstance (i) is beyond the reasonable control of the party relying thereon, (ii) could not reasonably have been foreseen at the date of this agreement, (iii) which the affected party (and/or any third party within the control of such party, including any subcontractor), acting and having acted with all due diligence, could not have prevented, mitigated or overcome, and (iv) is not an act, event or condition, the risks or consequences of which the affected party has expressly agreed to assume under this agreement; including, subject to the conditions set out herein, acts of God, outbreak of diseases, pandemic, epidemic, endemic, war, earthquake, terrorist acts and national strikes or labour disputes. For the avoidance of doubt, factory unrest and employee strikes of any kind (except as expressly stated above), as well as production bottlenecks, or the lack of the required import licenses or import authorizations of the authorities, lack of qualified personnel, lack of material, or financial problems on the part of the affected party shall not be deemed to be Force Majeure events.

19.2 If the performance by either party of its obligations under this agreement is, in whole or in part, prevented or delayed by reason of Force Majeure, then such party shall not be considered in default and shall be excused from the performance or punctual performance, as the case may be, of such obligations, as long as and to the extent that performance of those obligations is affected by the Force Majeure, and any affected obligations, including the corresponding obligations of the party not affected by Force Majeure, as the case may be, shall be equitably adjusted; provided however that, unless otherwise expressly provided herein, the Supplier shall not be entitled to compensation for additional costs incurred by virtue of such Force Majeure.

19.3 A party intending to seek Force Majeure relief under this agreement shall not be entitled to such relief unless such party shall:
a) within three (3) days after becoming aware of the occurrence of Force Majeure, give notice to the other party of its intent to claim Force Majeure;
b) within ten (10) days after becoming aware of the occurrence of Force Majeure, submit to the other party sufficient detail regarding the event or circumstance, including its causes and consequences on the performance of this agreement, and all reasonable evidence serving to establish the Force Majeure; if the Supplier seeks an extension of time due to Force Majeure, it shall in particular provide appropriate evidence that the Force Majeure has in fact impacted the timely delivery of the Deliveries;
c) without undue delay, undertake all reasonable steps to mitigate the effect of the Force Majeure on the performance of this agreement and inform the other party accordingly.

20. ASSIGNMENT AND SUBCONTRACTING

20.1 The Supplier must not assign or innovate, in whole or in part, a Purchase Order or these Terms, without the prior written consent of the Company.

20.2 The Supplier must not subcontract a Purchase Order or these Terms without the prior written consent of the Company.

20.3 An approval given by the Company permitting the Supplier to subcontract any portion of the Services does not relieve the Supplier from its obligations and liabilities pursuant to a Purchase Order or these Terms and the Supplier will be vicariously liable for the acts and omissions of its subcontractors.

21. LIENS

The Supplier must not claim any liens, attachments or similar claims in connection with the Goods or the Services and must defend and indemnify the Company against any liens, attachments or similar claims arising out of or in connection with a Purchase Order.

22. WAIVERS

22.1 Any waiver of any right or remedy of the Company under a Purchase Order or these Terms:
(a) is effective only if it is issued in writing and properly signed on behalf of the Company;
(b) is effective to the extent that the Company expressly states in writing; and
(c) does not constitute a waiver of any other right or remedy.

22.2 No waiver by the Company of any breach by the Supplier will be considered as a waiver of any subsequent breach of the same or any other provision.

23. RELATIONSHIP BETWEEN THE PARTIES

23.1 Except as expressly provided, nothing in this document:
(a) constitutes a partnership between the parties;
(b) makes a party an agent of the other party for any purpose; or
(c) makes the Supplier an employee of the Company.

23.2 Neither party can in any way or for any purpose:
(a) bind the other party; or
(b) undertake or accept any obligation or benefit on behalf of or in the name of the other party.

24. AMENDMENT

24.1 These Terms may only be varied or amended in writing and signed by an authorised signatory of the Company and the Supplier.

25. SEVERABILITY

If any provision of these Terms is held to be invalid or unenforceable in whole or in part the validity of the other Terms, the remainder of the provision in question will not be affected. Every provision is severable from every other provision.

26. NOTICE

26.1 Written notice under these Terms will be deemed to have been given:
(a) in person, on the day in which the notice was given in person;
(b) if posted within Malaysia, on the third (3rd) day after the date of posting;
(c) if posted to a place in another country, on the seventh (7th) day after the date of posting; or
(d) if sent by e-mail, at the time sent, unless the sender is notified by a system or person involved in the delivery of the email that the email was not successfully sent.

27. DISPUTE RESOLUTION

Any dispute between the Supplier and the Company arising out of or in any way connected with a Purchase Order which is not resolved by the Supplier and the Company within fourteen (14) days of a notice by either party to the other advising that it is a notice pursuant to this clause 25 must be referred for determination to the person agreed between the Company and the Supplier or, failing such agreement, to the nominee of the Company, who will act as an independent expert and not as an arbitrator and the expert's written determination is final and binding on the parties.

28. LAW AND JURISDICTION

These Terms and all Purchase Orders will be governed by and interpreted in accordance with the laws of Malaysia. The parties submit to the jurisdiction of the courts of Malaysia. Neither the United Nations Convention on Contracts for the International Sale of Goods, nor any other international regulations relating to the international sale of goods, shall apply to this agreement.