

## GENERAL TERMS AND CONDITIONS

### 1. Use of the Service

- 1.1 The service as contemplated in the Application Form (“**Service**”) is provided solely for the use of the Customer and any authorized users of the Customer. The Customer agrees to comply with all applicable laws and regulations in connection with its use of the Service provided by KS IT Solutions Sdn Bhd (“**KS IT**”).

### 2. Duration

- 2.1 The Service shall be provided for the duration specified in the Application Form (“**Duration**”) unless:
- (a) the Customer fails and/or neglects to pay any and all payment due;
  - (b) uses the Service contrary to applicable laws; or
  - (c) a force majeure event has occurred and the Service cannot be restored within sixty (60) days.
- If (a) or (b) occur, KS IT may notify the Customer to remedy the failure and if the Customer fails to remedy the failure within fourteen (14) days, KS IT may terminate the Service and the Customer shall pay KS IT the termination costs as described in Clause 2.3 below. If (c) occur, KS IT may notify the Customer of the cessation date, and the Customer shall pay KS IT all charges in arrears and all due and/or unpaid invoices and/or charges pursuant to the Service. On the occurrence of (c), the Customer shall not be liable to pay charges for the balance of the Duration.
- 2.2 Upon expiry of the Duration, the subscription of Service shall be automatically renewed for a period equivalent to the Duration unless the Customer provide a written notice of not less than thirty (30) days expressing the Customer’s intention to terminate the Service.
- 2.3 If the Customer terminates the Service before the expiry of the Duration, the Customer shall pay KS IT the charges for the balance of the Duration, all charges in arrears and all due and/or unpaid invoices (“**Termination Cost**”). Any and all prior payments made by the Customer, will not be refunded to the Customer.

### 3. Payment

- 3.1 The Customer agrees to pay for the Service, including the cost of installation of equipment (if required) in full without any deduction within thirty (30) days from the date of receipt of the invoice from KS IT, failing which, the Customer shall pay a late payment interest of one and half per centum (1.5%) to be calculated on daily basis from the due date of the invoice until the date in which KS IT receipt of the payment in full.
- 3.2 Notwithstanding the foregoing, KS IT reserves the right to suspend or terminate the Service without prior notice if the Customer fails or neglects to make payment on time.

### 4. Obligations of Customer

- 4.1 The Customer shall:
- (a) provide KS IT and its authorised personnel unrestricted access to the premise in a timely manner as required by KS IT and its authorised personnel to carry out the necessary works for the installation of the equipment for the Service and for maintenance and/or repair of the equipment;
  - (b) comply with all reasonable notices or instructions given by KS IT from time to time in respect of the use of the Service;
  - (c) comply with the rules of any network to which the Customer has access to the Service;
  - (d) comply with and not contravene any and all applicable laws and regulations of Malaysia including but not limited to the Communications and Multimedia Act 1998;
  - (e) be solely responsible for all information retrieved, stored and transmitted by the Customer through the use of the Service; and
  - (f) be responsible for any change and cost associated to any modification made to the external or internal wiring for connectivity of the Service. If the Customer attends to any renovation work that obstructs any access to any drop wire termination point, any necessity for the relocation of drop wire termination point as determined by KS IT shall be at the Customer’s sole cost.

## 5. Equipment

- 5.1 In respect of the equipment provided by KS IT for the Service, the Customer shall:
- (a) take appropriate measures to safeguard the equipment;
  - (b) properly maintain and keep the equipment at a safe place;
  - (c) adhere to all instructions and notice (written or otherwise) given by KS IT from time to time regarding the use of the equipment;
  - (d) be responsible for all costs of repairs incurred in relation to the equipment in the event it is proven that any fault in such equipment whether by act or omission is caused by the Customer;
  - (e) return and surrender the equipment to KS IT in the same condition as and when it was first provided to the Customer, fair wear and tear excepted, upon termination of the Service;
  - (f) be liable to pay KS IT for any equipment which the Customer fails to return or surrender to KS IT upon termination of the Service;
  - (g) not hold KS IT liable in the event that the Customer's equipment and/or other devices is damaged due to, including but not limited to, flood or fire or lightning strike whilst using the equipment; and
  - (h) not hold KS IT liable or responsible in the event that KS IT are unable to replace or change the equipment to a similar model or type as the existing equipment and KS IT reserves the right to replace the equipment to any model or type available at the relevant time, at KS IT's sole discretion.
- 5.2 In the event of any interruption, loss or unavailability of the Service and/or any technical faults encountered with the equipment, the Customer may request for technical support and basic troubleshooting of the same from KS IT. If during visit to the premise, KS IT and/or its appointed contractor determines that such interruption, loss or unavailability of the Service is not attributable to or caused by any fault in the equipment or KS IT's network, KS IT reserves the right to impose reasonable charges as may be prescribed by KS IT from time to time for the visit to the premise.
- 5.3 Replacement of the equipment may not be provided if the relevant component of equipment, product and/or equipment is discontinued.
- 5.4 For any change of package or plan or services, any replacement of the equipment will only be provided at KS IT's sole discretion.


## 6. Intellectual Property Rights

- 6.1 The Service and all intellectual property rights in connection with the Service are the property of KS IT or its licensors. The Customer agrees not to reproduce, modify, distribute or create derivative works of the Service without KS IT's prior written consent.

## 7. Privacy

- 7.1 In providing the Service to the Customer, KS IT may collect and process personal data about the Customer in accordance with its privacy policy which can be accessible at [\[insert link\]](#). The Customer agrees to the collection and processing of personal data by KS IT in connection with the provision of the Service.

## 8. Limitation of Liability

- 8.1 To the greatest extent permitted by laws, KS IT shall not be liable to the Customer for any direct, indirect or consequential loss or damage arising out of the provision of the Service or the Customer's use of the Service. In the event KS IT is found to be liable to the Customer in connection with the provision of the Service, KS IT's liability shall be limited to a sum of RM .

## 9. Suspension or Termination of Service

- 9.1 KS IT may suspend or terminate the Service immediately if the Customer:
- (a) breaches the terms hereof;
  - (b) breaches any applicable laws or regulations; or
  - (c) is placed into bankruptcy, receivership or liquidation or is subject of a petition for relief under any bankruptcy, reorganization, receivership, liquidation or compromise arrangement.
- 9.2 KS IT also reserves its right to suspend or terminate the Service for operational or technical reasons.
- 9.3 Termination under Clause 9.1 is without prejudice to any remedies available to the KS IT at law, in equity or under statutes.
- 9.4 If the Service is terminated by KS IT pursuant to Clause 9.1, or terminated by Customer but not due to any default committed by KS IT, or prior to the expiration of the Duration, then the Customer shall:

- (a) pay the Termination Costs to KS IT within fourteen (14) days from the date of receipt of the notice of termination; and
- (b) grant KS IT unrestricted access to the premise for the purpose of removing the equipment within thirty (30) days from the date of termination. All cost and expenses for the removal of the equipment shall be solely borne by KS IT. In the event the Customer fails, refuses or neglects to grant the access required by KS IT for the removal of the equipment, without prejudice to any other rights KS IT may be available under these terms, in law or in equity, the Customer shall be solely liable for the costs of the equipment accordingly to its depreciated value, as reasonably determined by KS IT.

## 10. DISCLAIMER

10.1 The Service is provided on "best effort" basis. KS IT makes no warranty of any kind, either expressed or implied, and expressly disclaims all implied warranties, including, but not limited to warranties of accuracy, availability, stability or accessibility of the Service including access to any online sites or destination or domain and/or the equipment for a particular purpose of the Customer. KS IT also makes no warranty that the Customer's equipment will be compatible with the equipment or Service. The Customer acknowledges that KS IT does not and cannot in any practical way supervise, edit or control the content and form of any information or data accessed by the Customer through the Service.

## 11. Force Majeure

11.1 The obligations of a party, other than the obligation to pay money, shall be suspended during the time and to the extent that the party is prevented from or delayed in complying with that obligation by a Force Majeure Event.

11.1 The Parties hereby agree that either party may terminate the Service by giving notice to the other party, in the event that the Force Majeure Event which has occurred prevents either party from performing and/or continuing its obligations for more than sixty (60) days.

11.2 For the purpose of this Clause 11, Force Majeure Event means a circumstance beyond the reasonable control of a party including but not limited to acts of god, strikes, picketing, lockouts, riots, civil commotion, war, enemy action, acts of terrorism, sabotage, loss or damage by fire, flood, tempest, shortage of building materials, epidemic, pandemic, order made by any governmental authority, delay by or the default on the relevant authorities to grant the necessary sanction or approval or any other circumstances of whatsoever nature beyond the control of the party which occurs without the fault or negligence of the party affected.

## 12. Anti Bribery and Anti-Corruption

12.1 The Customer agrees that, in connection with the Service:

- (a) The Customer shall strictly comply with all laws and regulations relating to anti-bribery and corruption including but not limited to the Malaysian Anti-Corruption Commission Act 2009 ("**Anti-Bribery and Corruption Laws**");
- (b) The Customer shall inform and undertake that all its employees, representatives, personnel, subcontractors, consultants and agent(s) ("**Representatives**") who has assessed to the Service to comply with the Anti-Bribery and Corruption Laws; and
- (c) The Customer shall take all measures to prevent corrupt practices, unfair means and illegal activities at all times throughout the Duration, including maintaining accurate books, records and accounts related to its activities and internal controls.

12.2 The Customer agrees to indemnify and hold harmless KS IT in respect to any claims made against KS IT arising out of any breach by its Representatives of any provision of this clause or any non-compliance with Anti-Bribery and Corruption Laws.

12.3 The obligations of either party under this Clause 12 shall survive the termination of the Service.

## 13. Confidentiality

13.1 Save and except with the prior written consent of KS IT or as otherwise expressly permitted under these terms, either party shall not at any time communicate to any person any Confidential Information

disclosed to him for the purpose of the provision of the Service or discovered by him in the course of the provision and performance of the Service.

13.2 For the purpose of this Clause 13, Confidential Information means all information that comes into a party's knowledge or possession that relates to:

- (a) the terms or subject matter as stipulated in the Application Form;
- (b) the negotiations relating to the Service; or
- (c) KS IT's business, including, without limitation, all training manuals, operations manuals, business data, business plans, financial projections and results, sales and marketing information, computer programs and other business, commercial or technical information or data concerning the business prospects, strategies, business objectives, business transactions, financial arrangements, operations, equipment and organization, methods, standards, specifications, concepts, ideas, plans, projects, programs, procedures and know-how of that party or its subsidiaries or affiliates, in any tangible medium of expression.

#### **14. Entire Agreement**

14.1 The terms herein are the entire agreement between the parties regarding the subject matter and supersedes and replaces all agreement, arrangements and understanding relating to the subject matter, whether reduced to writing or not.

#### **15. Changes to Terms and Conditions**

15.1 KS IT may change or amend the terms stipulated herein at any time by posting the revised terms on its website. The Customer's continued use of the Service after any such changes shall be deemed acceptance of the revised terms and conditions.

#### **16. Governing Law and Jurisdiction**

16.1 The terms herein shall be governed by and construed in accordance with the laws of Malaysia. Any disputes arising out of or in connection with the terms herein shall be subject to the exclusive jurisdiction of the courts of Malaysia.

#### **17. Other Terms**

17.1 In addition to these terms and conditions, the Service is also subject to the Service Level Agreement which is accessible at [\[insert link\]](#).