

Surat Pekeliling Perbendaharaan

SURAT PEKELILING PERBENDAHARAAN BIL. 6 TAHUN 1996

**SURAT PEKELILING PERBENDAHARAAN MENGENAI
GARIS PANDUAN PENGURUSAN BARANGAN IMPORT KERAJAAN**

1. TUJUAN

1.1 Surat Pekeliling Perbendaharaan ini bertujuan untuk menjelaskan panduan pengurusan barangan import/eksport kerajaan dan perlindungan insuransnya bagi mencapai matlamat mengurangkan pembayaran tak ketara, mengurangkan aliran wang keluar, meningkatkan penglibatan industri pengangkutan dan insurans dan meningkatkan penggunaan pelabuhan tempatan di dalam perolehan barangan import kerajaan oleh semua Kementerian/Jabatan/Badan Berkanun (Agensi) dan Syarikat-syarikat Kerajaan.

1.2 Surat Pekeliling ini juga bertujuan memaklumkan perantikan 'Multimodal Transport Operator' (MTO) Kerajaan dan peraturan pemilihan MTO Kerajaan untuk menguruskan penghantaran barangan import/eksport Kerajaan.

1.3 Surat Pekeliling ini hendaklah dibaca bersekali dengan Arahan Perbendaharaan dan Surat Pekeliling Perbendaharaan lain yang berkaitan.

2. PEROLEHAN BARANGAN IMPORT

2.1 Semua perolehan barangan import Kerajaan hendaklah mematuhi syarat-syarat berikut:

2.1.1 barangan import bernilai melebihi RM50,000 bagi setiap item setahun hendaklah diurus penghantaran dan insuransnya oleh Agensi atau Syarikat-syarikat Kerajaan melalui kaedah pembelian secara Percuma Ke Atas Kapal (PAK)/atau Free On Board (FOB) atau kaedah-kaedah lain yang mempunyai maksud yang serupa di mana urusan pengangkutan dan insurans diurus sendiri oleh pembeli;

2.1.2 urusan penghantaran hendaklah dikendalikan oleh 'Multimodal Transport Operators' yang dilantik oleh Kerajaan bagi mengurus pengangkutan perolehan dari tempat barangan dibeli hingga ke destinasi terakhir yang dinamakan oleh Agensi;

2.1.3 perlindungan insurans barangan import hendaklah ditanggung di bawah Akaun Amanah Kumpulan Wang Insurans Barang-Barang Kerajaan (KWIBK); dan

2.1.4 semua barangan hendaklah dihantar terus dari negara asal barangan dibeli (Country of Origin) ke pengkalan punggah (Port of Discharge) di mana-mana pelabuhan atau pengkalan di Malaysia.

3. DASAR PERCUMA ATAS KAPAL ATAU FOB

3.1 Agensi hendaklah mensyaratkan di dalam dokumen tender bahawa tawaran harga hendaklah berdasarkan harga FOB atau kaedah-kaedah lain yang seumpama seperti exwork dan Free Carrier (FCA) di mana urusan pengangkutan dan insurans adalah diurus oleh pembeli atau Agensi bermula dari tempat barangan diterima dan kegagalan petender mematuhi arahan ini akan menyebabkan tawaran petender tidak akan dipertimbangkan.

Petender juga hendaklah disyaratkan mengemukakan maklumat terperinci atau deskripsi barangan yang ditawarkan Mengikut Format di Lampiran A1 kepada Panduan Tatacara Pengurusan Barangan Import dan Perlindungan Insuransnya (Lampiran II). Agensi hendaklah, berasaskan maklumat Lampiran A1 daripada petender yang berjaya menyediakan dokumen sebutharga menggunakan Lampiran A2 untuk mendapatkan tawaran perkhidmatan penghantaran barangan dari MTO Kerajaan.

3.2 Semua dokumen tender hendaklah mempunyai satu sahaja ruangan tawaran harga iatu FOB atau kaedah-kaedah lain dalam Incoterms oleh International Chamber of Commerce (ICC) 1990 dimana pembeli bertanggungjawab menguruskan perkara-perkara yang berkaitan dengan pengangkutan dan insurans. Walau bagaimanapun jika difikirkan perlu, Agensi dibenar menggunakan harga CIF atau kaedah-kaedah lain sebagai perbandingan sahaja.

3.3 Untuk barangan import, Lembaga Perolehan Agensi hanya boleh menimbang dan mensetujuterima tawaran harga FOB atau kaedah-kaedah lain yang seumpama dengannya sahaja. Bagi barangan eksport pula Lembaga Perolehan Agensi hanya boleh menerima harga tawaran secara CIF atau kaedah-kaedah lain yang seumpama dengannya dimana penjual bertanggungjawab menguruskan hal-hal berkaitan dengan pengangkutan dan insurannya.

3.4 Tawaran harga bersih (nett delivered price) boleh diterima jika petender menawarkan barangan import yang sudah berada di dalam negeri (ex-stock) dan ianya menguntungkan Kerajaan.

3.5 Semua barangan import Kerajaan hendaklah dibuat penghantaran terus daripada tempat barangan diterima atau pengkalan memuat (port of loading) negara asal barangan dibeli (country of origin) ke pengkalan punggah (port of discharge) di mana-mana pelabuhan atau lapangan terbang di Malaysia sebelum dihantar ke destinasi terakhir. 'Transshipment' hanya dibenarkan sekiranya tiada langsung terdapat perkhidmatan penghantaran terus melalui kapal atau pesawat yang dinamakan ketika itu sedangkan barangan perlu sampai pada tarikh yang ditetapkan. Jika ini berlaku keutamaan hendaklah diberi kepada kapal atau pesawat Malaysia bagi pengangkutan barangan seterusnya.

3.6 Bagi dagangan merbahaya iaitu semua item kelas 1 yang dikelaskan dibawah International Maritime Organisation (IMO) seperti bahan letupan, Agensi hendaklah membantu MTO Kerajaan bagi memastikan penghantaran dagangan merbahaya dari pengkalan punggah hingga ke destinasi terakhir adalah selamat.

3.7 Agensi diwajibkan mematuhi dasar pak/fob ini. Kegagalan mematuhinya boleh menyebabkan pegawai yang bertanggungjawab dikenakan tindakan surcaj.

4. MULTIMODAL TRANSPORT OPERATOR(MTO) KERAJAAN

4.1 Semua urusan penghantaran dan pengangkutan barangan import/eksport Kerajaan hendaklah diurus oleh Multimodal Transport Operator (MTO) yang dilantik oleh Kerajaan. Syarikat MTO yang telah dilantik oleh Kerajaan beserta alamatnya adalah seperti berikut:

4.1.1 Kontena Nasional Bhd.
Bangunan Kontena Nasional Bhd.,
Batu 9, Jalan Klang Lama,
P.O. Box 6503,
47307 Petaling Jaya,
Seri Setia,
Selangor
Tel : 03-7761933
Fax : 03-7772542
Kontrak No. PERB/PK/49/1996

4.1.2 Malaysian Shipping Agencies Sdn. Bhd.
Tingkat 6, Centre Link, Wisma Tractors,
No. 7, Jalan SS 16/1, Subang Jaya,
47500 Petaling Jaya,
Selangor
Tel : 03-7343034
Fax : 03-7343028
Kontrak No. PERB/PK/50/1996

4.1.3 MISC Agencies Sdn. Bhd.
Lot 8 dan 10, Leboh Sultan Hishamuddin Satu,
Bandar Sultan Sulaiman, Pelabuhan Utara,
P.O. Box 146,
42008 Pelabuhan Klang,
Selangor
Tel : 03-3765753
Fax : 03-3762857
Kontrak No. PERB/PK/51/1996

4.1.4 Shapadu Trans-System Sdn. Bhd.
165A, Persiaran Raja Muda Musa,
42000 Pelabuhan Klang,
Selangor
Tel : 03-3688809
Fax : 03-3674216
Kontrak No. PERB/PK/52/1996

4.1.5 Gapima Sdn. Bhd.
Bangunan Rent, Suite 1.01,
No. 1-5, Jalan SS 15/5A,
47500 Subang Jaya,
Selangor
Tel : 03-7340354
Fax : 03-7340408
Kontrak No. PERB/PK/53/1996

5. PEMILIHAN MTO DALAM MENGENDALIKAN BARANGAN IMPORT/EKSPORT KERAJAAN

5.1 Pemilihan MTO Kerajaan untuk urusan penghantaran barangan import/eksport kerajaan adalah berdasarkan tawaran kompetitif secara sebutharga ke atas penghantaran barangan di bawah satu kontrak atau tender yang telah disetujuterima oleh Lembaga Perolehan. Untuk tawaran tambang pengangkutan dan perkhidmatan penghantaran lain yang bernilai sehingga RM50,000 hendaklah disetujuterima oleh Jawatankuasa Sebutharga manakala melebihi RM50,000 tetapi kurang dari RM7 juta disetujuterima oleh Lembaga Perolehan Agensi berkenaan. Kontrak induk bermaksud tender yang telah disetujuterima atau kontrak bekalan/perkhidmatan atau kerja yang telah diikat antara jabatan dengan kontraktor.

5.2 Syarikat MTO Kerajaan di dalam mengurus penghantaran barangan import Kerajaan boleh menguruskan penghantaran dari tempat barangan dikeluarkan hingga ke destinasi terakhir yang diarahkan bagi penghantaran ini. Walau bagaimanapun permulaan operasi

tertakluk kepada kaedah pembelian yang digunakan di dalam kontrak induk.

5.3 Terma-terma kontrak dengan MTO Kerajaan adalah sepertimana di dalam Kontrak Perjanjian di Lampiran I.

5.4 Tatacara pemilihan MTO adalah seperti yang digaris di dalam Lampiran II, Panduan Tatacara Pengurusan Barangan Import Kerajaan dan Perlindungan Insurannya.

6. PERLINDUNGAN INSURANS BARANGAN IMPORT KERAJAAN

6.1 Akaun Amanah Kumpulan Wang Insurans Barang-Barang Kerajaan (Akaun Amanah KWIBK)

6.1.1 Akaun ini bertujuan memberi perlindungan insurans terhadap barangan Kerajaan yang diimport. Insurans ini juga melindungi perjalanan pergi dan balik apabila barangan tersebut perlu dibaiki/diganti. Perlindungan ini tidak termasuk perjalanan barangan yang dilakukan oleh Agensi Kerajaan di dalam Semenanjung Malaysia dan di antara Sabah dan Sarawak.

6.1.2 Perlindungan yang diberi ialah untuk perkara-perkara berikut:

i) Segala risiko (all risk) yang lazimnya digunakan oleh syarikat insurans. Perlindungan berkenaan seperti di Lampiran D kepada Panduan Tatacara Pengurusan Barangan Import Kerajaan dan Perlindungan Insuransnya (Lampiran II).

ii) perjalanan barangan daripada kilang atau gudang di seberang laut ke stor agensi Kerajaan termasuk semua bayaran seperti harga barangan, tambang, pertukaran pengangkutan ke pelabuhan pengekspor, bayaran untuk dermaga, 'Bill of Lading/Airway Bill' dan tambang pengangkutan ke destinasi terakhir sama ada darat atau laut sekiranya ia merupakan sebahagian daripada perjalanan dari seberang laut.

6.1.3 Perolehan barangan import Syarikat Kerajaan, Kerajaan negeri dan Badan Berkanun negeri tidak dilindungi oleh Akaun Amanah ini.

6.1.4 Barangan Kerajaan untuk tujuan eksport tidak dilindungi oleh Akaun Amanah ini.

6.2 Peraturan Pelaksanaan

6.2.1 Bayaran premium yang dikenakan ialah 0.5% daripada kos barangan atau invoice pembekal, tambang dan 10% atau diringkaskan 0.5% [(kos barangan + tambang) + 10% (kos barangan + tambang)].

6.2.2 Bagi Jabatan, bayaran premium dibayar dengan mengkreditkan ke Akaun Amanah KWIBK secara pelarasan melalui potongan dibaucar bayaran apabila membuat bayaran kepada kontraktor dan MTO bagi barangan yang diimport. Satu salinan baucer tersebut hendaklah dikemukakan ke Perbendaharaan (Bahagian Pengurusan Perolehan Kerajaan).

6.2.3 Bagi Badan-badan Berkanun, premium hendaklah dibayar dengan cek berpaling atas nama Ketua Setiausaha Perbendaharaan dan dihantar terus kepada Perbendaharaan (Bahagian Pengurusan Perolehan Kerajaan).

6.2.4 Kegagalan Agensi membayar premium insurans akan mengakibatkan ia bertanggungjawab sekiranya berlaku kerosakan atau kehilangan yang berlaku ke atas barangan yang diimport.

6.2.5 Sekiranya sesuatu pembelian dibuat secara Percuma ke Atas Kapal/fob dan pembayaran tambang dibuat secara berasingan, maka pembayaran premium insurans kepada Akaun Amanah KWIBK juga bolehlah dibuat secara berasingan.

6.2.6 Bagi tiap-tiap tahun kewangan, Agensi hendaklah menyediakan satu lejar akaun yang menunjukkan jumlah yang telah dikreditkan kepada Akaun Amanah Kumpulan Wang Insurans Barang-Barang Kerajaan, jumlah pembelian luar negeri, negeri asal dan juga jumlah tuntutan yang dibuat dan jumlah tuntutan yang telah diluluskan oleh Akaun Amanah Kumpulan Wang Insurans Barang-Barang Kerajaan. Maklumat ini hendaklah dikemukakan ke Perbendaharaan, Bahagian Pengurusan Perolehan Kerajaan selewat-lewatnya 31 Mac tahun berikutnya.

6.2.7 Sekiranya pembekal-pembekal atau pihak-pihak berkaitan berkehendakkan jaminan Perakuan Lepas Tanggung Rugi atau polisi atas Insurans Perdagangan, maka Jabatan bolehlah mengeluarkan Jaminan seperti di Lampiran E kepada Panduan Tatacara Pengurusan Barangan Import Kerajaan dan Perlindungan Insuransnya.

7. TEMPOH PERALIHAN

7.1 Bagi kontrak bekalan/perkhidmatan/kerja, Agensi yang sedang berkuatkuasa dimana mensyaratkan penggunaan Wakil Penghantaran Kerajaan iaitu Syarikat Kontena Nasional dan Malaysian Shipping Agencies hendaklah dipinda kepada MTO Kerajaan. Wakil Penghantaran Kerajaan tersebut hendaklah meneruskan perkhidmatannya setakat penghantaran yang Arahan Perkapalan telah dikeluarkan. Jika kontrak induk masih berkuatkuasa tetapi terdapat penghantaran barangan yang belum selesai dan arahan perkapalan belum dikeluarkan, Agensi hendaklah memanggil tawaran secara sebutharga dikalangan MTO Kerajaan yang telah dilantik bagi menguruskan baki penghantaran yang belum selesai. Panduan Tatacara Pengurusan Pembelian Barangan Import dan Perlindungan Insuransnya seperti di Lampiran II hendaklah dipatuhi.

8. KUATKUASA DAN PEMBATALAN

8.1 Surat Pekeliling ini adalah berkuatkuasa mulai 16 Ogos 1996. Dengan keluarnya Surat Pekeliling ini, Surat-surat Pekeliling yang berikut adalah dibatalkan:

8.1 Surat Pekeliling Perbendaharaan Bilangan 11 Tahun 1991

8.2 Surat Pekeliling Perbendaharaan Bilangan 8 Tahun 1994

8.3 Tambahan Pertama Kepada Surat Pekeliling Perbendaharaan Bil. 8 Tahun 1994

8.4 Tambahan kedua kepada Surat Pekeliling Perbendaharaan Bilangan 8 Tahun 1994.

'BERKHIDMAT UNTUK NEGARA'
'JIMAT DAN PRODUKTIF'

Saya yang menurut perintah,



(DATO' DR. ABDUL AZIZ BIN MUHAMAD)
Setiausaha,
Bahagian Pengurusan Perolehan Kerajaan,
b.p. Ketua Setiausaha Perbendaharaan,
Kementerian Kewangan Malaysia

Bertarikh : Ogos 1996.

No. Fail :

s.k.

Akauntan Negara Malaysia;
Ketua Audit Negara Malaysia;
Semua Yang Berhormat Pegawai Kewangan Negeri; dan
Semua Ketua Bahagian Perbendaharaan Malaysia.

LAMPIRAN

CONTRACT NO. PERB/PK/ /1996

CONTRACT

BETWEEN

GOVERNMENT OF MALAYSIA

AND

.....

AS

THE GOVERNMENT'S MULTIMODAL TRANSPORT OPERATOR

AND FOR

THE PROVISION OF SERVICES RELATING THERETO

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SCHEDULE NO.5 - SHIPPING INSTRUCTION/ARAHAN PERKAPALAN

CONFIDENTIAL

THIS CONTRACT is made this day of between the **GOVERNMENT OF MALAYSIA**, hereinafter referred to as "the **GOVERNMENT**", of the one part and, a company incorporated under the laws of Malaysia and whose registered office is at, hereinafter referred to as "the **COMPANY**", of the other part, both also to be hereinafter referred to singly as "**PARTY**" and collectively as "**PARTIES**".

WHEREAS the **GOVERNMENT** is desirous of appointing the **COMPANY** as the **GOVERNMENT's** multimodal transport operator to carry out the responsibility for the transportation of goods from point of receipt in one country to point of destination in another country, hereinafter referred to as "the **SERVICE**", and to render such other services as the **GOVERNMENT** may, from time to time, require.

AND WHEREAS the **COMPANY** has agreed to be appointed as the **GOVERNMENT's** multimodal transport operator and to carry out the **SERVICE** and render such other services as may be required by the **GOVERNMENT** upon the terms and conditions hereinafter appearing.

NOW THEREFORE it is hereby agreed as follows:

CLAUSE 1 DEFINITION AND INTERPRETATION

1.1 Definition

1.1.1 For the purpose of this Contract, unless the context otherwise requires, the expressions appearing hereunder shall have the meanings assigned to them as follows:

"carrier" means the person who performs or undertakes to perform the carriage or part

thereof as specified in Clause 13 whether or not such person is identical with the **COMPANY**;

"Classification means the organization as specified Society" in Schedule No. 3;

"clean receipt" means the receipt given by the **COMPANY** receiving goods into its care or possession which bears no statement or notation, thus indicating that the goods were received in apparent good order and condition;

"**COMPANY**" means and shall include its heir, administrator, assign, successor and duly appointed representative;

"contractor" includes the manufacturer or supplier who has concluded an agreement with the GOVERNMENT ENTITY to supply the goods;

"effective date means the date of signing of the of the Contract" Contract as provided in Clause 44;

"general average" means a contribution by the several interests engaged in a maritime venture to make good the loss of one of them for the voluntary sacrifice of a part of the ship or cargo to save the residue of the property and the lives of those on board, or for extraordinary expenses necessarily incurred for the common benefit and safety of all;

"**GOVERNMENT**" means the Government of Malaysia, and shall also include to mean the Secretary General, Ministry of Finance, Malaysia, or its duly authorised representative;

"GOVERNMENT includes the Ministry, Department, ENTITY" statutory body and local authority of the Federal or State Government and shall also include to mean the corporation and any other body wherein the Federal or State Government holds an equity;

"**GOVERNMENT's** means the **COMPANY**, Gapima Sdn. multimodal transport Bhd., Malaysian Shipping Agencies, operator" MISC Agencies Sdn. Bhd. and Shapadu Trans System Sdn. Bhd.;

"Letter of means a letter which is to certify - Acceptance" (a) the acceptance by the GOVERNMENT ENTITY of a tender for the SERVICE based on tender documents; and/or

(b) acceptance of the terms and conditions which have been negotiated pursuant to a Letter of Intent; or

(c) acceptance of the terms and conditions which have been agreed to pursuant to a negotiation,

in the form of a "Surat Setujuterima" as per Schedule No.1;

"Letter of means a letter issued by the Intent" GOVERNMENT ENTITY indicating the intent of such GOVERNMENT ENTITY to accept the offer made by the **COMPANY** subject to the terms and conditions specified by the GOVERNMENT ENTITY. Such

letter does not create an obligation on the part of the GOVERNMENT ENTITY to conclude an agreement with the **COMPANY**;

"multimodal transport" means the carriage of goods by at least two different modes of transport on the basis of a multimodal transport contract from the point at which the goods are taken in charge by the multimodal transport operator to a place designated for final

delivery;

"multimodal means a single contract whereby a transport contract" multimodal transport operator undertakes to perform or procure the performance of multimodal transport;

"multimodal transport means a document evidencing a document" multimodal transport contract and which contains the particulars as specified in Schedule No.2;

"multimodal transport means the **COMPANY** who on its own operator" behalf or through another party acting on its behalf concludes a multimodal transport contract and who acts as a principal, not as an agent or on behalf of the consignor or of the carriers participating in the multimodal transport operation, and who assumes responsibility for the performance of the contract;

"person" includes a body of persons, corporate or unincorporate;

"Shipping Instruction" means a document containing the instruction of the **GOVERNMENT ENTITY** to the **COMPANY** relating to the performance of the **SERVICE** in the form as prescribed in Schedule No.5.

1.1.2 Interpretation

(a) Words of any gender shall include all genders.

(b) Words importing the singular shall include the plural and vice versa wherever the context so admits.

(c) Upon the expiration, termination, suspension or liquidation of the Contract pursuant to any provisions thereof, the validity of the Letter of Acceptance and any Shipping Instruction issued under such Letter of Acceptance shall also cease, unless otherwise specified in this Contract.

(d) Reference to "the/this Contract" shall be construed as a reference to such Contract as it may be amended, modified or supplemented, from time to time, and shall include a reference to any document which amends, modifies or supplements it, or is entered into, made or given pursuant to or in accordance with its terms.

(e) Whenever the Contract refers to a number of days, such days shall refer to calendar days.

(f) The headings are for ease of reference only and shall not affect the interpretation and/or construction of this Contract.

CLAUSE 2 SCOPE OF CONTRACT

2.1 The **COMPANY** shall carry out and complete the supply and performance of the **SERVICE** and other services stipulated herein in accordance with the provisions of this Contract in every respect and to the direction and satisfaction of the **GOVERNMENT** and/or **GOVERNMENT ENTITY**.

2.2 The **COMPANY** shall perform the **SERVICE** and its other obligations under this Contract with the diligence, care and expertise expected of professionals experienced in providing services similar to the **SERVICE**.

CLAUSE 3 PROVISION OF SERVICE

3.1 The **COMPANY** shall provide the **SERVICE** upon being awarded a Letter of Acceptance from the **GOVERNMENT ENTITY**.

3.2 The **COMPANY** shall commence the provision of the **SERVICE** on a date to be specified in such Letter of Acceptance.

CLAUSE 4 DURATION OF CONTRACT

The Contract shall be for a period of twenty-four (24) months from the effective date of the Contract.

CLAUSE 5 EXTENSION OF CONTRACT

5.1 The **GOVERNMENT** may extend the period of the Contract upon its expiration for a further period of twenty-four (24) months provided that the **COMPANY** has performed its obligations under this Contract to the satisfaction of the **GOVERNMENT**.

5.2 The **GOVERNMENT** shall give the **COMPANY** written notice of its intention to extend the Contract five (5) months prior to the expiry date of the Contract. Such extension shall be subject to the same terms and conditions of the Contract or to such other terms and conditions as may be determined by the **GOVERNMENT**.

5.3 In the event the Contract is not extended and where a Shipping Instruction has been issued by the **GOVERNMENT ENTITY** to the **COMPANY** prior to the expiration of the Contract and the **COMPANY** has commenced the provision of the **SERVICE** in accordance with such Shipping Instruction, the **COMPANY** shall continue to carry out the **SERVICE** until its completion subject to the provisions of the Contract which are deemed to be in full force and effect for that purpose.

CLAUSE 6 UNDERTAKING

The **COMPANY** undertakes that -

- (a) it shall, at all times, be registered with the Ministry of Finance, Malaysia;
- (b) it shall promptly obtain and maintain in full force and effect any relevant authorisation or registration which may become necessary to obtain to enable it to perform any of the **SERVICE** contemplated in, or comply with any of the provisions of, this Contract;
- (c) it shall comply with any laws, rules or regulations of any organisation on Multimodal Transportation;
- (d) it shall not engage in any unethical business practices in order to secure the award of the Letter of Acceptance or in its conduct or performance of the **SERVICE**;
- (e) it shall, within twenty-four (24) months from the effective date of the Contract, execute the following:
 - (i) the **COMPANY** shall increase its minimum paid-up capital to Ringgit Malaysia One Million (RM1,000,000.00);

(ii) the **COMPANY** shall establish not less than three offices overseas to supply and carry out the SERVICE. For the purpose of this Clause the term "office" shall mean a branch of the **COMPANY** or a joint-venture company in which the **COMPANY** holds an equity of fifty one percent (51%);

(iii) the **COMPANY** shall restructure its organisation in order to establish a specific Department or Division which shall be responsible to carry out the SERVICE; and

(iv) the **COMPANY** shall provide its personnel with the necessary training relating to the SERVICE to further enhance the professionalism of such personnel.

CLAUSE 7 WARRANTY

The **COMPANY** warrants that the SERVICE to be provided to the GOVERNMENT ENTITY pursuant to this Contract and the performance of all its obligations herein shall be of the highest standard and quality.

CLAUSE 8 DESCRIPTION OF SERVICE

8.1 The SERVICE to be provided by the **COMPANY** shall include, among other things, the following:

- (a) to transport and deliver goods from point of receipt in one country to point of destination in another country in accordance with the specification or instruction of the GOVERNMENT ENTITY;
- (b) to transport and deliver goods by means of air, sea or inland transportation;
- (c) to ensure that the carriage of goods involves at least two modes of transport;
- (d) to ensure that goods transported by sea or air shall not be subjected to transshipment without the prior written consent of the GOVERNMENT ENTITY;
- (e) to ensure that goods shall be placed at the actual location or site as instructed or determined by the person receiving such goods upon arrival at the final destination;
- (f) to issue the GOVERNMENT ENTITY a document known as the multimodal transport document;
- (g) to ensure that only vessels which have been classed by any recognised Classification Society are utilised;
- (h) to ensure that under no circumstances shall a clean receipt on delivery of the goods be issued in the event such goods are damaged, incomplete or improperly packed;
- (i) to ensure that only a third party who is registered with the Ministry of Finance, Malaysia shall be engaged by the **COMPANY** to carry out the activities relating to the SERVICE in Malaysia;
- (j) to be responsible for the acts and omissions of its agents and servants and of any other persons of whose services it makes use for the performance of the carriage, when such agents, servants or other persons are acting within the scope of their employment, as if such acts or omissions were his own; and
- (k) to carry out all necessary actions to ensure that goods are delivered to the final destination in accordance with the delivery schedule.

8.2 Notwithstanding any provisions of this Contract, the **COMPANY** shall be allowed to carry out the SERVICE in which the carriage of goods involves only one mode of transport, unless directed otherwise by the **GOVERNMENT**.

CLAUSE 9 DESCRIPTION OF PERSONNEL

The **COMPANY** shall provide qualified, competent, skilled and experienced personnel to carry out the SERVICE. In the event that any of the personnel is found by the **GOVERNMENT ENTITY** to be incompetent or inefficient in discharging his duties during the performance of the SERVICE, the **COMPANY** shall, upon the request by the **GOVERNMENT ENTITY**, provide a person of equivalent or higher qualification, competence, skill and experience to carry out the SERVICE.

CLAUSE 10 PERFORMANCE BOND

10.1 The **COMPANY** shall furnish the **GOVERNMENT**, within fourteen (14) days from the effective date of the Contract, a Performance Bond in the form of a Bank Guarantee issued by a bank licensed and operating in Malaysia for a minimum sum of Ringgit Malaysia Four Hundred and Fifty Three Thousand (RM453,000.00). The Bank Guarantee shall be as per Schedule No. 4 and it shall be kept valid from the date of issue up to twelve (12) months after the expiry date of the Contract. In the event of termination of this Contract, such Bank Guarantee shall be kept valid not later than twelve (12) months after the date of notification of such termination.

10.2 Apart from any other remedy available to the **GOVERNMENT** and/or **GOVERNMENT ENTITY** under this Contract, the **COMPANY** shall allow for the amount secured therein to be paid to the **GOVERNMENT** and/or **GOVERNMENT ENTITY** for breach of any of the provisions of this Contract by the **COMPANY**.

10.3 Notwithstanding Clause 10.1, the **COMPANY** shall, upon request by the **GOVERNMENT**, furnish an amount, in addition to the amount specified in Clause 10.1, which shall be equivalent to not more than ten percent (10%) of the value of the SERVICE provided at any time.

10.4 The **COMPANY** shall ensure that the value of the Performance Bond shall be maintained at the amount specified in Clause 10.1 at all times plus such additional amount referred to in Clause 10.3 throughout its validity period.

CLAUSE 11 TERMS OF PAYMENT

11.1 The **GOVERNMENT ENTITY** shall pay the **COMPANY** all charges relating to the provision of the SERVICE within thirty (30) days from the date of presentation of the multimodal transport document by the **COMPANY**.

11.2 The **GOVERNMENT ENTITY** may, in addition to the presentation of the multimodal transport document, request the **COMPANY** to present other duly certified supporting documents, which include, a copy of the invoice, bill of lading or air waybill.

11.3 Any payment to be made by the **GOVERNMENT ENTITY** to the **COMPANY** for the provision of the SERVICE shall be in Ringgit Malaysia.

CLAUSE 12 SHIPPING INSTRUCTION

12.1 The **GOVERNMENT ENTITY** shall provide the **COMPANY** a copy of the Shipping Instruction thirty (30) days before the anticipated date of the shipment of the goods.

12.2 The **COMPANY** shall forthwith confirm the details in the Shipping Instruction with the contractor supplying the goods to the GOVERNMENT ENTITY in order to ensure that the details are correct and may be implemented accordingly and within the time period as scheduled.

CLAUSE 13 CARRIER

13.1 The **COMPANY** shall ensure that the transportation of all goods shall be carried out by carrier which fulfilled the requirement as set out below.

13.2 Sea

13.2.1 The carrier to be utilised by the **COMPANY** in the order of priority is as follows:

13.2.1.1 the carrier is a shipping company incorporated in Malaysia and is a Bumiputra shipping company registered with the Ministry of Finance, Malaysia, whose vessel is -

(a) owned by a citizen of Malaysia or company incorporated in Malaysia; and/or

(b) registered in Malaysia;

13.2.1.2 the carrier referred to in Clause 13.2.1.1 which operate through a joint service with any third party provided that the bill of lading is issued by such carrier;

13.2.1.3 the carrier referred to in Clause 13.2.1.1 which charters a vessel;

13.2.1.4 the carrier is a shipping company incorporated in Malaysia whose vessel is -

(a) owned by a citizen of Malaysia or company incorporated in Malaysia; and/or

(b) registered in Malaysia; or

13.2.1.5 the carrier is a foreign shipping company provided that the carrier referred to in Clauses 13.2.1.1, 13.2.1.2, 13.2.1.3 and 13.2.1.4 is not available.

13.3 Air

13.3.1 The carrier to be utilised by the **COMPANY** in the order of priority is as follows:

13.3.1.1 the carrier is an airline company incorporated in Malaysia;

13.3.1.2 the carrier referred to in Clause 13.3.1.1 which operate through a joint service with any third party provided that the air waybill is issued by such carrier; or

13.3.1.3 the carrier is a foreign airline company and member of the International Air Transport Association provided that the carrier referred to in Clauses 13.3.1.1 and 13.3.1.2 is not available.

13.4 Notwithstanding Clauses 13.2 and 13.3, and subject to the written approval of the **GOVERNMENT**, the **COMPANY** may utilised itself as the carrier for the transportation of the goods.

13.5 Inland

13.5.1 The carrier to be utilised by the **COMPANY** for all inland transportation in Malaysia shall be the Bumiputra transport companies registered with the Ministry of Finance, Malaysia.

13.5.2 The transportation of goods by rail in Malaysia shall be carried out by Keretapi

Tanah Melayu Berhad or any such carrier as may be specified by the **GOVERNMENT**.

13.6 In the event the **COMPANY** is not able to comply with any of the requirement under this Clause, the **COMPANY** shall obtain from the **GOVERNMENT** an exemption from such requirement in writing.

CLAUSE 14 INSURANCE

14.1 The **GOVERNMENT** shall carry its own insurance for the goods transported by the **COMPANY** for the **GOVERNMENT ENTITY**.

14.2 The **COMPANY** shall notify the **GOVERNMENT** and **GOVERNMENT ENTITY** the estimated and actual quantity and value of each consignment and any other information as may be required by the **GOVERNMENT** and/or **GOVERNMENT ENTITY** in the following manner:

14.2.1 if the shipment is by sea, the estimated value of the consignment shall be submitted five (5) days prior to the date of the departure of the vessel and the actual value of the consignment shall be submitted within fourteen (14) days before the date of the arrival of the vessel; and

14.2.2 if the shipment is by air, the estimated value of the consignment shall be submitted three (3) days prior to the date of the departure of the aircraft and the actual value of the consignment shall be submitted immediately upon the loading of the goods on board the aircraft through facsimile transmission, to enable the **GOVERNMENT** to arrange insurance coverage for such consignment and to enable the **GOVERNMENT ENTITY** to be kept informed of the status of such consignment.

14.3 The **COMPANY** shall immediately inform the **GOVERNMENT** and/or **GOVERNMENT ENTITY** in the event the goods is deemed lost as referred to in Clause 23.1.2 to enable the **GOVERNMENT** and/or **GOVERNMENT ENTITY** to initiate its claim on the insurance.

14.4 In the event the **COMPANY** fails to comply with Clause 14.2 and the consignment is lost, damaged or destroyed during shipment, the **COMPANY** shall indemnify the **GOVERNMENT ENTITY** the total value of the consignment plus ten percent (10%) of the value of such consignment.

CLAUSE 15 SURVEY

Upon request by the **GOVERNMENT** and/or **GOVERNMENT ENTITY**, the **COMPANY** shall appoint, on its own or together with a third party, a surveyor to carry out a survey of the goods and to produce a survey report relating thereto.

CLAUSE 16 REPORT OF SERVICE PROVIDED

16.1 Upon the effective date of the Contract, the **COMPANY** shall submit to the **GOVERNMENT** a report of the **SERVICE** provided to the **GOVERNMENT ENTITY** once every three (3) months which shall be submitted before the seventh day of the preceding month.

16.2 The report referred to in Clause 16.1 shall contain details relating to the **SERVICE** provided, which include, among other things, the following:

16.2.1 name of the **GOVERNMENT ENTITY** to whom the **SERVICE** is provided;

16.2.2 nature and volume of goods;

16.2.3 value of the freight, insurance and other service charges, if any;

16.2.4 mode of transportation and name of the carrier;

16.2.5 country of origin from which the goods are transported; and

16.2.6 any other information as may be required, from time to time, by the **GOVERNMENT**.

16.3 The **COMPANY** shall also provide special reports relating to the **SERVICE** as and when required by the **GOVERNMENT**.

CLAUSE 17 INABILITY TO PROVIDE SERVICE

17.1 The **COMPANY** hereby undertakes that, subject to the approval of the **GOVERNMENT**, in the event it is unable to provide the **SERVICE** upon receipt of notice from the contractor of the date the goods are ready to be shipped, hereafter referred to as "the shipment date", it shall within thirty (30) days from the shipment date take remedial action as follows:

17.1.1 arrange with the other **GOVERNMENT**'s multimodal transport operator to carry out the **SERVICE**; or

17.1.2 arrange with the contractor supplying the goods to carry out the **SERVICE**.

17.2 Notwithstanding Clause 17.1, if at any point of time the **GOVERNMENT ENTITY** is of the opinion that the **COMPANY** is unable to provide the **SERVICE**, the **GOVERNMENT ENTITY** shall have the right to instruct any third party to undertake the performance of such **SERVICE**.

17.3 The **GOVERNMENT ENTITY** shall only be responsible to pay for the price of the **SERVICE** as agreed upon in the Letter of Acceptance. Any difference in such price and the price of the **SERVICE** arising from the arrangement in Clauses 17.1 and 17.2 shall be borne by the **COMPANY**.

CLAUSE 18 GENERAL AVERAGE

18.1 In the event a general average is declared, the **COMPANY** shall not be held liable in any respect provided that the **COMPANY** shall assist the **GOVERNMENT** or **GOVERNMENT ENTITY**, wherever necessary, on any matter relating thereto.

18.2 Notwithstanding the aforesaid, the **COMPANY** shall be held liable in the event it is acting as a carrier which shall be determined in accordance with the principles of general average.

CLAUSE 19 MEETING

The **COMPANY** shall attend the meeting as may be convened by the **GOVERNMENT** for the purpose of monitoring and reviewing the implementation of this Contract.

CLAUSE 20 INSPECTION OF OFFICE

20.1 The **COMPANY** shall allow free access to the representative of the **GOVERNMENT** into its offices located in and outside Malaysia for the purpose of inspection.

20.2 During the course of such inspection, the **COMPANY** shall render every assistance as may be required by the representative of the **GOVERNMENT**.

20.3 Any expenses relating to the conduct of the inspection by the representative of the **GOVERNMENT** under this Clause shall be borne by the **GOVERNMENT**.

CLAUSE 21 TECHNICAL ASSISTANCE

21.1 The **COMPANY** shall provide technical assistance as may be required by the **GOVERNMENT** and/or **GOVERNMENT ENTITY**, from time to time, which includes, among other things, the following:

21.1.1 to advice on any matter relating to the **SERVICE**;

21.1.2 to conduct familiarisation course relating to the provision of the **SERVICE** for the personnel of the **GOVERNMENT** and/or **GOVERNMENT ENTITY**; and

21.1.3 to keep the **GOVERNMENT** and/or **GOVERNMENT ENTITY** informed of any up-to-date development in the industry of the **SERVICE**.

21.2 Any expenses relating to the provision of the technical assistance under this Clause shall be borne by the **COMPANY**.

CLAUSE 22 CLASSIFIED INFORMATION

The **COMPANY** shall not disclose any information supplied to it by the **GOVERNMENT** and/or **GOVERNMENT ENTITY** under, or pursuant to, this Contract, or discovered by it in the course of the provision of the **SERVICE**, to any third party except with the prior written consent of the **GOVERNMENT** and/or **GOVERNMENT ENTITY**.

CLAUSE 23 INDEMNIFICATION

23.1 Notwithstanding any other remedies available to the **GOVERNMENT** and/or **GOVERNMENT ENTITY** under this Contract, the **COMPANY** shall keep the **GOVERNMENT** and/or **GOVERNMENT ENTITY** indemnified in respect of loss or damage to, or action or claim against, the **GOVERNMENT** and/or **GOVERNMENT ENTITY** in the circumstances, which includes, among other things, the following:

23.1.1 if the goods received by the **GOVERNMENT ENTITY** is damaged as a result of any wilful act, negligence, omission or default of the **COMPANY** in the performance of the **SERVICE**;

23.1.2 if the goods received by the **GOVERNMENT ENTITY** is discovered to be incomplete before the final acceptance and such goods is not recovered by the **COMPANY** within fourteen (14) days from the date of such discovery and which thereafter such goods shall be deemed lost;

23.1.3 if any action is taken or claim is made by a third party as a result of any wilful act, negligence, omission or default of the **COMPANY** in the performance of the **SERVICE**;
or

23.1.4 if any action is taken or claim is made by any person in the employment of the **COMPANY** or any other person in respect of any injury, fatal or otherwise, or loss sustained by such person, or damage to property, including, the property of the **GOVERNMENT** and/or **GOVERNMENT ENTITY** as a result of the wilful act, negligence, omission or default of the **COMPANY** or of any circumstances within its control.

23.2 The **COMPANY** shall indemnify the **GOVERNMENT** and/or **GOVERNMENT ENTITY** the total value of the loss or damage to, or action or claim against, the **GOVERNMENT** and/or **GOVERNMENT ENTITY** arising from the circumstances specified in Clause 23.1 plus ten percent (10%) of the value of such loss or damage to, or action or claim.

CLAUSE 24 LIQUIDATED DAMAGES

Time shall be deemed to be the essence of this Contract. If delay in the delivery and/or incompleteness of supply of the goods is due to the performance of the **SERVICE** and not due to an event of Force Majeure under Clause 26, the **COMPANY** shall pay liquidated damages proportionately at the rate of one percent (1%) of the value of such goods so delayed or incomplete for every fourteen (14) days delay.

CLAUSE 25 PROMPT CLEARANCE OF GOODS

25.1 The **COMPANY** shall take the necessary steps for the prompt clearance of the goods at the port of discharge in order to avoid delay and imposition of storage, demurrage or other port charges.

25.2 In the event there is delay in the clearance of such goods and storage, demurrage or other port charges are imposed, the **COMPANY** shall be liable for such charges unless it is proved, to the satisfaction of the **GOVERNMENT** or **GOVERNMENT ENTITY**, that the delay is not due to any wilful act, negligence, omission or default of the **COMPANY**.

CLAUSE 26 FORCE MAJEURE

26.1 The **COMPANY** shall not be in breach of its obligations under this Contract if it is unable to perform such obligations as a result of the occurrence of an event of Force Majeure.

26.2 An event of Force Majeure shall mean an event not within the control of the **COMPANY** and has a direct effect on its obligations in the performance of this Contract, which it is unable to prevent, avoid or remove and shall include war whether declared or not, hostilities, invasion, armed conflict, act of foreign enemy, riot, insurrection, strikes, resolution or usurped power, act of terrorism, sabotage or criminal damage, natural disasters, including, earthquakes, lightning, volcanic eruptions, hurricanes, tempest, fires and floods.

26.3 Upon the occurrence of an event of Force Majeure, the **COMPANY** shall immediately notify the **GOVERNMENT** and/or **GOVERNMENT ENTITY** in writing, through facsimile transmission, of such occurrence. If the **COMPANY** is unable to perform the Contract or wishes to apply for an extension of time to perform the Contract, the **COMPANY** shall, as soon as possible, but not later than seventy two (72) hours from the occurrence of such event of Force Majeure, provide the **GOVERNMENT** and/or **GOVERNMENT ENTITY** with all necessary proof of the occurrence of the event of Force Majeure and its effect on the performance of the Contract. The **GOVERNMENT** and/or **GOVERNMENT ENTITY** shall be entitled to conduct investigation to determine whether the performance of the Contract is affected by a genuine event of Force Majeure. If it is determined that the performance of Contract was affected by a genuine event of Force Majeure, the **COMPANY** may be relieved from the performance of the Contract or the time

to perform the Contract may be extended for a period equal to the period the Contract was actually affected, provided always that the period so extended shall not exceed thirty (30) days unless otherwise agreed by the **GOVERNMENT** and/or **GOVERNMENT ENTITY**.

26.4 It is the responsibility of the **COMPANY** to mitigate any effect on the performance of the Contract and endeavour to perform the Contract within the agreed time period at no additional expense to the **GOVERNMENT** and/or **GOVERNMENT ENTITY**.

26.5 The **COMPANY**'s right to claim relief from its obligations or an extension of time under this Clause shall not be considered if it fails to notify the **GOVERNMENT** and/or **GOVERNMENT ENTITY** of the occurrence of any event of Force Majeure and to provide the necessary proof thereof as required under Clause 26.3 and such right shall be deemed to have been forfeited.

CLAUSE 27 SETTLEMENT OF DISPUTES

27.1 The **GOVERNMENT** and/or **GOVERNMENT ENTITY** and **COMPANY** shall take all measures to settle any dispute that may arise out of or in connection with this Contract by way of negotiation. Either the **GOVERNMENT** and/or **GOVERNMENT ENTITY** or **COMPANY** may request for such negotiation by written notice to the other which shall be held within thirty (30) days from the date of receipt of such notice.

27.2 In the event that the **GOVERNMENT** and/or **GOVERNMENT ENTITY** and **COMPANY** failed to resolve the dispute, either the **GOVERNMENT** and/or **GOVERNMENT ENTITY** or the **COMPANY** may refer such dispute to arbitration.

27.3 For the purposes of the arbitration the following shall apply:

27.3.1 the arbitration shall be carried out in accordance with the Arbitration Act 1952;

27.3.2 the arbitration panel shall consists of three (3) arbitrators, one arbitrator to be appointed by each of the **GOVERNMENT** and/or **GOVERNMENT ENTITY** and **COMPANY** and a presiding arbitrator to be jointly appointed by the two arbitrators; and

27.3.3 the decision of the arbitrators shall be final and binding on both the **GOVERNMENT** and/or **GOVERNMENT ENTITY** and **COMPANY**.

CLAUSE 28 LIQUIDATION

If the **COMPANY** passes a resolution to wind up, other than for the purpose of amalgamation or reconstruction, or if a lawfully constituted court of competent jurisdiction shall make an order that the **COMPANY** be wound up, or if a receiver or a manager on behalf of a creditor shall be appointed to make a winding up order, the **COMPANY** undertakes to inform the **GOVERNMENT** and/or **GOVERNMENT ENTITY** as early as possible of the said circumstances and -

(a) where a Shipping Instruction has been issued by the **GOVERNMENT ENTITY** to the **COMPANY** prior to the happening of such circumstances and the **COMPANY** has commenced the provision of the **SERVICE** in accordance with such Shipping Instruction, -

(i) the **COMPANY** shall continue to carry out the **SERVICE** until its completion; or

(ii) in the event the **COMPANY** is unable to complete the **SERVICE**, the **GOVERNMENT** and/or **GOVERNMENT ENTITY** shall have the right to appoint any third party to carry out such **SERVICE** and any difference in the price of the **SERVICE** as agreed upon in the Letter of Acceptance and the price of the **SERVICE** arising from the arrangement with the third party shall be borne by the **COMPANY**; or

(b) subject to paragraph (a), the **GOVERNMENT** shall have the right to terminate the Contract.

CLAUSE 29 SUSPENSION OF CONTRACT

29.1 The **GOVERNMENT** and/or GOVERNMENT ENTITY shall have the right to suspend this Contract if it is discovered that the **COMPANY** has failed to perform its obligations stipulated therein to the satisfaction of the **GOVERNMENT** and/or GOVERNMENT ENTITY. In such an event and subject to Clause 29.2, the **GOVERNMENT** and/or GOVERNMENT ENTITY shall have the right to appoint the other **GOVERNMENT**'s multimodal transport operator to perform such SERVICE.

29.2 The suspension of this Contract under Clause 29.1 shall not affect the performance of the SERVICE by the **COMPANY** where a Shipping Instruction has been issued by the GOVERNMENT ENTITY to the **COMPANY** prior to the date of suspension of the Contract and the **COMPANY** has commenced the provision of the SERVICE in accordance with such Shipping Instruction. For this purpose the provisions of this Contract shall remain in full force and effect until the **COMPANY** has completed the performance of the SERVICE.

29.3 The GOVERNMENT ENTITY shall only be responsible to pay for the price of the SERVICE as agreed upon in the Letter of Acceptance and any difference in such price and the price of the SERVICE arising from the arrangement pursuant to Clause 29.1 shall be borne by the **COMPANY**.

29.4 The period of suspension of the Contract shall be as determined by the **GOVERNMENT** and/or GOVERNMENT ENTITY.

CLAUSE 30 TERMINATION OF CONTRACT

30.1 The **GOVERNMENT** shall, after giving fourteen (14) days written notice to the **COMPANY**, have the right to terminate this Contract if -

30.1.1 the **COMPANY** fails to perform or breach any provision of this Contract;

30.1.2 it is discovered that the **COMPANY** has engaged in any unethical business practices and/or illegal activities in relation to securing, obtaining or executing this Contract or the Letter of Acceptance; or

30.1.3 it is discovered that the **COMPANY** has contravened any rules or regulations of any organization on Multimodal Transportation and if remediable, continues unremedied for a period of thirty (30) days after becoming aware of such contravention.

30.2 The termination of this Contract under Clause 30.1 shall not affect the performance of the SERVICE by the **COMPANY** where the Shipping Instruction has been issued by the GOVERNMENT ENTITY to the **COMPANY** during the duration of this Contract and the **COMPANY** has commenced the provision of the SERVICE in accordance with such Shipping Instruction. For this purpose the provisions of the Contract shall remain in full force and until the **COMPANY** has completed the perform of the SERVICE.

30.3 In the event that this Contract is terminated, the **GOVERNMENT** shall be entitled to recover from the **COMPANY** the amount of any loss and damages resulting from such termination.

CLAUSE 31 SUB-CONTRACTING

The **COMPANY** shall not sub-contract the SERVICE except with the prior written consent of the **GOVERNMENT**.

CLAUSE 32 SET-OFF

If the **GOVERNMENT ENTITY** has any payment due from the **COMPANY**, then the **GOVERNMENT ENTITY** may deduct whatever money that is due to be paid to the **COMPANY** under this Contract. If the money due to be paid to the **COMPANY** is insufficient for the purpose of deduction, the **GOVERNMENT ENTITY** may claim the balance from the **COMPANY** and the **COMPANY** shall make the necessary payment within thirty (30) days from the date of receipt of such claim. In the event the **COMPANY** fails to make payment within the said period, the **GOVERNMENT ENTITY** shall have the right to claim the said amount from any other existing contract which has been entered into between the **GOVERNMENT** and **COMPANY**.

CLAUSE 33 NON-WAIVER

The failure of the **GOVERNMENT** and/or **GOVERNMENT ENTITY** or **COMPANY** to exercise or enforce any right, remedy or provision contained in this Contract at any time shall not constitute a waiver of such right, remedy or provision of this Contract.

CLAUSE 34 WAIVER

Any waiver of any rights of the **GOVERNMENT** and/or **GOVERNMENT ENTITY** under this Contract shall not be valid unless it is made in writing and signed by the Secretary General, Ministry of Finance, Malaysia, or by any officer duly authorised by him, or the Secretary General of the relevant **GOVERNMENT ENTITY** or any officer duly authorised by him.

CLAUSE 35 ASSIGNMENT

Unless otherwise specified in this Contract, the **COMPANY** shall not be entitled to assign or transfer any of its rights or obligations under this Contract to a third party except with the prior written consent of the **GOVERNMENT**.

CLAUSE 36 ADVERTISEMENT

No advertisement or statement in respect of this Contract shall be published by the **COMPANY** or with the **COMPANY's** authority in any newspaper, magazine or in any other form of media without the prior written consent of the **GOVERNMENT**.

CLAUSE 37 AMENDMENT OF CONTRACT

Any amendment to this Contract shall be made in the form of a written amendment, fully agreed and signed by the **PARTIES** hereto.

CLAUSE 38 SEVERABILITY

If any provision of this Contract is held to be illegal or invalid under any law effective and applicable during the term of this Contract, such provision shall be fully severable and this Contract shall be construed as if such illegal or invalid provision had never comprised a part of this Contract and the remaining provisions of this Contract shall remain in full force and effect and shall not be affected by the illegal or invalid provision or by its severance from

this Contract.

CLAUSE 39 ADMINISTRATION OF CONTRACT

The Secretary General, Ministry of Finance, Malaysia or his authorised representative shall be the overall administrator of the Contract. The Secretary General of the relevant GOVERNMENT ENTITY or his authorised representative shall be the administrator of the performance of the SERVICE rendered to such GOVERNMENT ENTITY under this Contract.

CLAUSE 40 ENTIRE AGREEMENT

This Contract constitutes the entire agreement between the **GOVERNMENT** and **COMPANY** and supersedes and cancels all prior representations, negotiations, letters, acceptances, agreements and understandings, whether verbal or written, between the **GOVERNMENT** and **COMPANY**, with respect to or in connection with any matters or things to which this Contract applies or refers.

CLAUSE 41 CUSTODY OF CONTRACT

This Contract shall remain in the custody of the **GOVERNMENT** and copies shall be reproduced as and when required by the **COMPANY**. The **GOVERNMENT** shall furnish the **COMPANY** one (1) original of the signed Contract.

CLAUSE 42 NOTICE

42.1 Any notice, request, requirement, approval, permission, consent or other communication required, authorised, permitted or contemplated to be given hereunder by the **COMPANY** to the **GOVERNMENT** shall be in writing signed by or on behalf of the **COMPANY** and shall be deemed to have been given if delivered by hand, to the **GOVERNMENT**'s representative, or mailed by registered mail or sent by telex or facsimile transmission addressed to the **GOVERNMENT** at the following address:

SECRETARY GENERAL,
MINISTRY OF FINANCE,
KHAZANAH MALAYSIA,
JALAN DUTA,
50592 KUALA LUMPUR,
MALAYSIA.

(ATTENTION: GOVERNMENT PROCUREMENT
MANAGEMENT DIVISION)

TELEX NO.: FEDTRY MA 30242

FACSIMILE NO.: 03 - 2553096

42.2 Any notice, request, requirement, approval, permission, consent or other communication required, authorised, permitted or contemplated to be given hereunder by the **COMPANY** to the GOVERNMENT ENTITY shall be in writing signed by or on behalf of the **COMPANY** and shall be deemed to have been given if delivered by hand, to the GOVERNMENT ENTITY's representative or mailed by registered mail or sent by telex or facsimile transmission at the address as specified in the Letter of Acceptance.

42.3 Any notice, request, requirement, approval, permission, consent or other

communication required, authorised, permitted or contemplated to be given hereunder by the **GOVERNMENT** and/or **GOVERNMENT ENTITY** to the **COMPANY** shall be in writing signed by or on behalf of the **GOVERNMENT** and/or **GOVERNMENT ENTITY** and shall be deemed to have been given if delivered by hand, to the **COMPANY**, or sent by telex or facsimile transmission addressed to the **COMPANY** at the following address:

CLAUSE 43 APPLICATION OF LAWS

This Contract shall be governed by, and construed in accordance with, the laws of Malaysia. The **COMPANY** hereby irrevocably submits to the exclusive jurisdiction of the courts of Malaysia.

CLAUSE 44 COMING INTO FORCE OF CONTRACT

This Contract shall come into force from the date of signing of this Contract by both **PARTIES**.




IN WITNESS WHEREOF the **PARTIES** hereto have caused this Contract to be executed in their names by their duly authorised representatives, the day and year first above written.

Signed for and on behalf of the)
GOVERNMENT OF MALAYSIA) GOVERNMENT PROCUREMENT
) MANAGEMENT DIVISION,
) MINISTRY OF FINANCE,
) MALAYSIA.

In the presence of)
) GOVERNMENT PROCUREMENT
) MANAGEMENT DIVISION,
) MINISTRY OF FINANCE,
) MALAYSIA.

Signed for and on behalf of)
)
)

In the presence of)

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