

**MISC MARITIME SERVICES SDN BHD GENERAL TERMS AND CONDITIONS OF PURCHASE  
ORDER FOR PROVISION OF GOODS AND ASSOCIATED SERVICES (IF APPLICABLE).**

**1.0 DEFINITIONS**

- **ASSOCIATED SERVICES** means the services (if any) identified in this PURCHASE ORDER that are to be performed by the SUPPLIER in relation to the supply of GOODS;
- **ASSOCIATED PERSON** means a person associated with the SUPPLIER including, but not limited to any of its employees, agents, contractors, sub-contractors, consultants, representatives of the SUPPLIER;
- **COMPLETION DATE** shall mean the date on which the ASSOCIATED SERVICES as specified in this PURCHASE ORDER is scheduled to be completed (if any);
- **CUSTOM CHARGES** shall include but not limited to any import duty, surtax and any other statutory imposts levied, which are imposed by or on behalf of the Customs Authority or any other relevant authorities but does not include any export duty, penalties, interest and fines levied by the Customs Authority or any other relevant authorities due to the negligence of the SUPPLIER.
- **DELIVERY DATE** shall mean the date on which the GOODS as specified in this PURCHASE ORDER is scheduled to be delivered;
- **FORCE MAJEURE** means an event beyond the control of an affected party, (including, but not limited to) acts of God, acts of civil or military authority, civil commotions, fire, strikes, hijacking, lockouts or labour disputes (excluding strikes, lockouts, labour disputes or other action primarily by the act of employees or agents of the affected party), epidemics, pandemic, outbreaks of infectious disease or any other public health crisis, wars, riots, earthquakes, storms, sand storms, typhoons, perils of the sea, blockade, embargo, plague or other epidemics or similar events.
- **GOODS** shall mean the materials or products to be supplied by the SUPPLIER as specified in this PURCHASE ORDER and/or any part thereof;
- **GUARANTEE PERIOD** shall have a meaning assigned to it under Item 9.1 and/or ANNEXURE I, Item 2.1(b) respectively;
- **INCOTERMS** shall mean MISC Maritime Services Sdn Bhd, **TBA** ie. the INCOTERMS applicable on the date of this PURCHASE ORDER (if any), issued by the International Chamber of Commerce, Paris, France and any amendments made thereto;
- **PARTY** shall mean either the SUPPLIER or MMS;
- **PARTIES** shall mean the SUPPLIER and MMS;
- **PURCHASE ORDER** shall mean this Purchase Order Form and these general terms and conditions, together with any exhibits attached hereto and made part hereof;
- **MMS** shall mean MISC Maritime Services Sdn Bhd (Registration No. 199201010371 (241874-V)) or its successor-in-title or permitted assigns;
- **MMS GROUP** shall mean MMS, its holding company, subsidiary, affiliates, any other entity directly or indirectly controlled by MMS from time to time, consultants, agents or contractors;
- **RELEVANT OBLIGATIONS** shall mean obligations equivalent to those imposed on the SUPPLIER in Item 22.1;
- **RELEVANT POLICIES** shall mean Part II A (Conflict of Interest) and II B (Fighting Corruption and Unethical Practices) of MMS Code of Conduct and Business Ethics and other related policies, procedures, guidelines and requirements as updated by MMS from time to time;
- **RELEVANT REQUIREMENTS** shall mean all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption;
- **SUPPLIER** shall mean any person or company having a contract under this PURCHASE ORDER for the supply of GOODS to MMS and performance of ASSOCIATED SERVICES (if applicable);
- **SITE(S)** shall mean the place(s) of delivery of GOODS and performance of ASSOCIATED SERVICES (if applicable) as stated in this PURCHASE ORDER.
- **TAXES** shall include but not limited to all income, profit, withholding, franchise, excess profits, royalty, other taxes, personal property taxes, employment taxes and contributions imposed or that maybe imposed by law, regulations or trade union which are imposed by or on behalf of any taxing authority and includes penalties, interest and fines in respect thereof.

## 2.0 PURCHASE ORDER

The PURCHASE ORDER shall be effective on the date mentioned in the Purchase Order form.

## 3.0 DELIVERY DATE

3.1 The SUPPLIER shall ensure that the GOODS are delivered to the SITE(S) on the scheduled DELIVERY DATE in accordance with INCOTERMS and as stated in this PURCHASE ORDER.

3.2 The SUPPLIER is responsible at its cost for packing and transporting the GOODS to the SITE(S).

3.3 In the event of failure by the SUPPLIER to deliver the GOODS contained in this PURCHASE ORDER, other than as a result of FORCE MAJEURE or MMS's written request, MMS shall have the right to cancel all or any remaining part of this PURCHASE ORDER, without payment of compensation, and obtain delivery from other sources. Any and all increased costs and expenses thereby incurred by MMS in obtaining such delivery shall be set off against any moneys due or to become due to the SUPPLIER or shall be recoverable as damages hereunder.

## 4.0 PAYMENT TERMS

MMS shall make payment within thirty (30) days upon the receipt of verified invoices accepted as correct by MMS and all supporting documents for the GOODS and/or ASSOCIATED SERVICES, provided that all SUPPLIER's obligations according to this PURCHASE ORDER have been fulfilled and that delivery of GOODS has taken place and/or ASSOCIATED SERVICES has been performed to the satisfaction of MMS.

## 5.0 PRICE

The prices stated in this PURCHASE ORDER are not subject to any alteration, adjustment or variation unless expressly agreed in writing by MMS.

## 6.0 TAXES AND DUTIES

6.1 Applicable for PURCHASE ORDER for GOODS with INCOTERMS other than DDP ("Delivered Duty Paid")

(a) This PURCHASE ORDER PRICE shall exclude any TAXES and expenses to be incurred by the SUPPLIER arising from this PURCHASE ORDER. MMS shall withhold any taxes on payments to the SUPPLIER if required by law.

(b) This PURCHASE ORDER PRICE shall also exclude CUSTOM CHARGES payable under this PURCHASE ORDER.

6.1 Applicable for PURCHASE ORDER for GOODS with INCOTERMS of DDP

(a) This PURCHASE ORDER PRICE shall exclude any TAXES and expenses to be incurred by the SUPPLIER arising from this PURCHASE ORDER. MMS shall withhold any taxes on payments to the SUPPLIER if required by law.

(b) This PURCHASE ORDER PRICE shall include CUSTOM CHARGES payable under this PURCHASE ORDER.

(c) The GOODS detailed in this PURCHASE ORDER PRICE must be segregated based on the following:

i. GOODS purchased locally and its applicable CUSTOM CHARGES; and/or

ii. Imported GOODS and its applicable CUSTOM CHARGES.

6.2 The SUPPLIER agrees that MMS shall at its sole discretion, may not affect any payment unless proper documents are submitted. MMS shall withhold any taxes on payments to the SUPPLIER when so required by law. The SUPPLIER shall indemnify and hold MMS harmless from any liability resulting from failure by the SUPPLIER or its subcontractors or suppliers to make timely payments of, or to pay any of, all such taxes and duties.

6.3 Sales tax clause

- (a) Where Sales Tax is applicable to any taxable goods manufactured and supplied in Malaysia by the SUPPLIER under the CONTRACT, MMS shall be responsible for and pay the Sales Tax when invoiced by the SUPPLIER for such taxable goods supplied, provided that SUPPLIER shall provide MMS a copy of valid Sales Tax notification letter issued by the Customs Authority confirming that SUPPLIER is licensed under the applicable Act as a taxable person supplying taxable goods.
- (c) Sales Tax amount shall be separately stated from the prices and/or rates, and shall be separately itemized in the invoice.
- (d) For avoidance of doubt, "Sales Tax" as mentioned above refers to the tax imposed on taxable goods provided by registered person in Malaysia effective from 1 September 2018 as set out in the Sales Tax Act 2018.

**7.0 PASSING OF PROPERTY AND RISK**

7.1 Title and risk in the GOODS shall remain with the SUPPLIER until they are delivered at the point specified in this PURCHASE ORDER or in accordance with the relevant provision of INCOTERMS, whichever is applicable. At such time, title and risk shall transfer to MMS. However, until such title is passed to MMS, MMS shall have a lien on all of the SUPPLIER's materials and supplies forming part of the GOODS arising from this PURCHASE ORDER and other payments made by MMS to the SUPPLIER.

7.2 Notwithstanding anything to the contrary, the passing of title and risk of GOODS shall not affect the right to reject the GOODS.

7.3 In the case of GOODS delivered by the SUPPLIER not conforming with this PURCHASE ORDER whether by reason of not being of the quality or in the quantity or measurement stipulated or being unfit for the purpose for which they are required, MMS shall have the right to reject such GOODS within a reasonable time of their delivery and inspection and to purchase elsewhere and to claim for any additional expense incurred without any prejudice to any other right which MMS may have against the SUPPLIER.

**8.0 WARRANTIES**

8.1 The SUPPLIER represents and warrants that GOODS furnished under this PURCHASE ORDER:

- (a) shall be new unless otherwise stated by MMS in this PURCHASE ORDER;
- (b) shall conform to the specification in this PURCHASE ORDER;
- (c) shall have clear title, free from all liens, taxes, and/or encumbrances;
- (d) may be used by MMS without infringing upon any patent relating to the GOODS; and
- (e) shall be free from apparent and hidden defects or deficiencies for a period mutually agreed by both PARTIES.

## **9.0 DEFECTS LIABILITY**

9.1 The SUPPLIER warrants all GOODS against any defect from the date of acceptance of the GOODS to the satisfaction of MMS until the expiry of this PURCHASE ORDER or any other duration that mutually agreed by MMS and the SUPPLIER.

9.2 The SUPPLIER shall ensure that all warranties provided by its subcontractors and manufacturers are assigned to MMS. The SUPPLIER shall deliver a copy of each written warranty provided by its subcontractors and manufacturers to MMS. For the avoidance of doubt, this warranties and guarantees are in addition to the guarantees and warranties provided by the SUPPLIER under Item 9.1.

9.3 Upon receipt of a notice from MMS of any defect in any GOODS during the GUARANTEE PERIOD due to defective design, materials, workmanship, unmerchantable quality or unfit for intended purpose, the affected items or parts must be redesigned, repaired or replaced as appropriate by the SUPPLIER at no cost to MMS prior to the expiration of the time specified in the notice.

9.4 If the SUPPLIER fails to rectify any defect in the GOODS identified by MMS pursuant to Item 9.3, MMS may rectify any defect in the GOODS at MMS's cost and such costs and expenses shall be recovered from the SUPPLIER as a debt due and payable or set-off against the SUPPLIER's invoices.

## **10.0 LICENSE AND PERMIT**

Subject to the relevant provisions of the INCOTERM, the SUPPLIER shall obtain any license or other permit which is required in the country of shipment and/or origin for implementation of this PURCHASE ORDER. This PURCHASE ORDER is conditional upon such license or other permit being made available in good time in accordance with the DELIVERY DATE stated in this PURCHASE ORDER or any other date specified by MMS.

## **11.0 INSPECTION**

11.1 MMS or any other third party appointed by MMS shall have the right to inspect the GOODS at any time at their own discretion provided always that such inspection shall be conducted reasonably so as not disrupt the SUPPLIER from performing its obligation pursuant to this PURCHASE ORDER subject to prior written notification being given to the SUPPLIER.

11.2 Inspection, witnessing or the lack of both by MMS shall not be construed as acceptance of the GOODS or any part thereof, nor as relieving the SUPPLIER of its obligation pursuant to this PURCHASE ORDER and responsibility for ensuring that the GOODS complies with this PURCHASE ORDER .

11.3 Any inspection made by MMS shall not prejudice MMS's right of rejection.

## **12.0 LIABILITY AND INDEMNITY**

12.1 Both PARTIES shall be responsible for and shall hold harmless and indemnify each other from and against any loss or expense by reason of all claims, proceedings, demands and causes of action in respect of any injury (including death) to any person or loss of or damage to property of either PARTY, howsoever caused.

12.2 The SUPPLIER shall further indemnify and hold MMS safe and harmless from and against all injuries to, including death of, and loss of or damage to property of third parties arising out of or in connection with the delivery of GOODS and performance of ASSOCIATED SERVICES (where applicable).

### **13.0 CONSEQUENTIAL LOSS**

MMS shall not be liable for any incidental, indirect, consequential damages whatsoever (which shall include but not limited to damages for loss of earnings, loss of anticipated profits, income or savings, goodwill, anticipated savings or interruption of business) that may be suffered or incurred by the SUPPLIER, even if advised of the possibility of such damages including any form of compensation, arising out of or in connection with this PURCHASE ORDER and/or termination and/or cancellation of this PURCHASE ORDER.

### **14.0 INSURANCE**

14.1 The SUPPLIER shall at its own cost and expense, procure and maintain reasonable and adequate insurance to cover against the exposures for the delivery of GOODS and performance of ASSOCIATED SERVICES (where applicable) and as required by law, including but not limited to property damage insurance, employee benefits/social security payments and comprehensive general liability insurance with minimum limit of RM200,000 covering legal liability to third parties for incidents arising from delivery of GOODS hereunder and resulting in property damage, bodily injuries, including death, sustained by any person.

14.2 Whenever requested, the SUPPLIER shall within fourteen (14) days from such request furnish to MMS certified copies of the certificates of insurances provided for in Item 14.1 hereof, accompanied by certified copies of official receipts evidencing payment of the full premiums thereof. Policies and/or extension certificates or documents shall be furnished to MMS as and when requested by MMS. The furnishing of certificates of insurances shall not be interpreted as implying that MMS assumes responsibility for the correctness of such documents or that the SUPPLIER has complied with its other obligations contained in this PURCHASE ORDER.

### **15.0 LIQUIDATED DAMAGES**

15.1 In the event the DELIVERY DATE and/or the COMPLETION DATE (where applicable) is not met by the SUPPLIER, the SUPPLIER shall pay MMS liquidated damages (which the SUPPLIER and MMS hereby agree shall not be considered as penalty).

15.2 In the absence of any express provision in this PURCHASE ORDER, liquidated damages shall be paid by the SUPPLIER to MMS in the amount calculated at zero point five percent (0.5%) of the price stipulated and agreed in these terms and conditions per day for each day of delay (pro-rated), up to the maximum of ten percent (10%) of such price.

15.3 The liquidated damages stated in this Item 15.0 is deemed to be the actual loss which MMS will suffer in the event that the SUPPLIER fails to deliver the GOODS on the DELIVERY DATE. The SUPPLIER by entering into this PURCHASE ORDER agrees to pay to MMS the said amount(s) if the same becomes due without the need for MMS to prove actual damage or loss.

15.4 In the event the delay continues and the SUPPLIER is unable to deliver the GOODS and complete the performance of the ASSOCIATED SERVICES and accumulates the maximum amount of liquidated damages payable by the SUPPLIER to MMS pursuant to Item 15.2 above, MMS shall have the right to terminate this PURCHASE ORDER immediately pursuant to Item 16.0 hereof .

### **16.0 TERMINATION/CANCELLATION**

16.1 In the event of any material breach of any of the terms and conditions of this PURCHASE ORDER, MMS may, without prejudice to any other right under this PURCHASE ORDER or at law, terminate/cancel this PURCHASE ORDER with immediate effect and shall return the GOODS (where applicable) previously supplied under this PURCHASE ORDER for full credit of all payments made to the SUPPLIER. Upon such termination/cancellation, the SUPPLIER shall immediately cease performance of the ASSOCIATED SERVICES (where applicable).

16.2 MMS may also terminate/cancel this PURCHASE ORDER with immediate effect if:-

- (a) the SUPPLIER generally suspends payment of its debts as they become due; or
- (b) a petition is filed or an order is filed or an order is made or entered (and is not stayed within thirty (30) days of service thereof) against the SUPPLIER; or
- (c) a resolution is passed or an involuntary petition is filed for the winding up, receivership, bankruptcy or reorganisation of the SUPPLIER; or
- (d) the SUPPLIER makes an assignment for benefit of all or substantially all its creditors or a receiver or administrator is appointed to all or substantially all of its assets; or
- (e) the ownership or control of the SUPPLIER has been materially altered.

16.3 This PURCHASE ORDER may also be terminated/cancelled with immediate effect at any time by MMS by giving seven (7) days written notice to the SUPPLIER, without providing any reason whatsoever. After such notice has been given, the SUPPLIER shall not order further GOODS which relates to this PURCHASE ORDER, and shall attempt to cancel contracts already entered into where this is possible without cost and/or liability to MMS. Upon issuance of such notice the SUPPLIER shall stop further performance of ASSOCIATED SERVICES (where applicable).

#### **17.0 FORCE MAJEURE**

17.1 Neither party shall be liable for any failure to fulfill any term of this PURCHASE ORDER if fulfillment has been delayed, interfered with or prevented by FORCE MAJEURE provided the party is not already in default of those obligations under this PURCHASE ORDER whose performance is delayed, interfered with or prevented by FORCE MAJEURE.

17.2 For the avoidance of doubt, labour disputes or riot involving the SUPPLIER and labour disputes, fire, flood, war or riot involving the SUPPLIER's subcontractors shall not be considered to be a FORCE MAJEURE event.

17.3 The affected party is obligated to notify the other party as soon as reasonably practicable after it becomes aware of a FORCE MAJEURE. MMS and the SUPPLIER shall concur as to the actions to be taken, if any, to mitigate the effects of the FORCE MAJEURE.

#### **18.0 WAIVER AND VALIDITY**

18.1 Failure by MMS to enforce the performance of any of the provision of this PURCHASE ORDER against the SUPPLIER shall neither be deemed to be a waiver of its rights hereunder nor shall it affect the validity of this PURCHASE ORDER in any way.

18.2 Any waiver by MMS to any breach of PURCHASE ORDER by the SUPPLIER shall not constitute a precedent and shall not be deemed a waiver of any succeeding breach of the same provision or any other provision of this PURCHASE ORDER.

18.3 Any provision herein which is or becomes illegal or unenforceable shall be severed from this PURCHASE ORDER and shall not affect the validity of the remaining provisions hereof.

#### **19.0 HEALTH, SAFETY AND ENVIRONMENT ("HSE")**

The SUPPLIER shall ensure that its personnel, its agents or subcontractors, shall comply with all rules, regulations, standard requirements, PETRONAS/MMS's Personal Protective Equipment; and other policies (including those related to security, administrative and safety arrangements) applicable for the

provision of GOODS and ASSOCIATED SERVICES. A copy of the relevant HSE policies and documents can be obtained from MMS upon request.

## **20.0 CONFIDENTIAL INFORMATION**

The SUPPLIER shall keep confidential any technical information, data, and information concerning the business and research plans or activities of MMS, its affiliates, or third parties which is made available to the SUPPLIER by MMS or its affiliates or which results from the provision of GOODS supplied by the SUPPLIER to MMS.

## **21.0 BUSINESS CONDUCT**

21.1 The SUPPLIER must comply with the relevant parts of MMS Code of Conduct and Business Ethics, Country Supplement, other applicable rules, regulations, policies, procedures, guidelines and requirements as updated by MMS from time to time in providing GOODS and/or performing any ASSOCIATED SERVICES for MMS.

21.2 A copy of MMS Code of Conduct and Business Ethics and Country Supplement can be obtained from MMS upon request.

21.3 The SUPPLIER must ensure that all ASSOCIATED PERSONS who provide GOODS and/or perform any ASSOCIATED SERVICES in connection with this PURCHASE ORDER comply with all relevant parts of MMS Code of Conduct and Business Ethics, Country Supplement, other applicable rules, regulations, policies, procedures, guidelines and requirements as updated by MMS from time to time.

21.4 From time-to-time, at the reasonable request of MMS, the SUPPLIER shall confirm in writing that the SUPPLIER and the ASSOCIATED PERSONS have complied with the obligations imposed upon in this Item 21 and provide any information reasonably requested by MMS in support of the compliance obligations.

21.5 In the event that the SUPPLIER and the ASSOCIATED PERSONS refuse, fail and/or is negligent in complying with the provisions as stated in this Item 21.0, MMS may take any such action as deemed necessary including termination of this PURCHASE ORDER in accordance with the terms stated in Item 16.0 without any payment of compensation to the SUPPLIER.

## **22.0 CONFLICT OF INTEREST, FIGHTING CORRUPTION AND UNETHICAL PRACTICES**

22.1 The SUPPLIER shall:

- (a) comply with all RELEVANT REQUIREMENTS and RELEVANT POLICIES;
- (b) have in place and maintain throughout the term of this PURCHASE ORDER, RELEVANT POLICIES and procedures to ensure compliance with the RELEVANT REQUIREMENTS and RELEVANT POLICIES;
- (c) with respect to any matter arising out of this PURCHASE ORDER, maintain adequate internal controls and accurately record all transactions in its books and records;
- (d) enforce the policies and procedures referred to in Item 22.1 (b) where appropriate;
- (e) promptly report to MMS any breach of this Item 22.1 arising in connection with this PURCHASE ORDER and take such steps as MMS may reasonably require in order to rectify any such breach;

(f) promptly report any request or demand for any undue financial or other advantage of any kind received by the SUPPLIER in connection with the performance of this PURCHASE ORDER and take such steps in response to any such request as MMS may reasonably require;

(g) immediately notify MMS in writing if a foreign public official becomes an officer or employee of the SUPPLIER or acquires a direct or indirect interest in the SUPPLIER and the SUPPLIER warrants that no foreign public officials are officers or employees of the SUPPLIER or have direct or indirect interests in the SUPPLIER at the date of this PURCHASE ORDER.

22.2 The SUPPLIER must ensure that all ASSOCIATED PERSONS who provide GOODS and/or perform any ASSOCIATED SERVICES in connection with this PURCHASE ORDER comply with the RELEVANT OBLIGATIONS.

22.3 The SUPPLIER shall be responsible for the observance and performance by ASSOCIATED PERSONS of the RELEVANT OBLIGATIONS and shall be directly liable to MMS for any breach of the RELEVANT OBLIGATIONS by an ASSOCIATED PERSON.

22.4 Breach of this Item 22.0 shall be deemed a material breach and MMS may terminate this PURCHASE ORDER in accordance with the terms stated in Item 16.0 of this PURCHASE ORDER without any payment of compensation to the SUPPLIER.

#### 22.5 Anti-Bribery and Corruption

22.5.1 SUPPLIER has not indulged and shall not indulge in act of corruption, fraud or money laundering and shall indemnify MMS for any pre-acquisition acts of corruption, fraud or money-laundering. In the event of breach, MMS shall be entitled to claim for indemnity from SUPPLIER and thereafter, terminate this PURCHASE ORDER forthwith.

22.5.2 SUPPLIER shall ensure its personnel comply with the requirements under this Article 22.5. In the event of breach, MMS shall be entitled to claim for indemnity from SUPPLIER and thereafter, terminate its personnel and this PURCHASE ORDER forthwith.

### **23.0 USE OF TRADEMARKS**

The SUPPLIER shall not, without the prior written consent of MMS, use the name or any trade name or trademark of MMS or MMS GROUP in any advertising or communications to the public in any format whatsoever.

### **24.0 ILLEGAL INFORMATION BROKERING**

The SUPPLIER warrants and represents that it has not and will not utilize confidential information of others or illicit influence such as illegal information brokering in connection with this PURCHASE ORDER.

### **25.0 SUBCONTRACTING**

The SUPPLIER shall not subcontract all or any part of its obligations under this PURCHASE ORDER without MMS's prior written approval. The SUPPLIER shall bind every subcontractor to the terms of this PURCHASE ORDER.

### **26.0 ASSIGNMENT AND NOVATION**

The SUPPLIER shall not novate or assign this PURCHASE ORDER in whole or in part without the prior written approval of MMS, which approval shall not be unreasonably withheld.



## **27.0 AMENDMENT**

No amendment or variation of the provisions of this PURCHASE ORDER shall be binding upon any party unless it is mutually agreed in writing by both PARTIES.

## **28.0 TIME**

Time shall be of essence to the terms stipulated in this PURCHASE ORDER.

## **29.0 APPLICABLE LAW**

This PURCHASE ORDER shall be governed by and construed in all respects in accordance with the laws of Malaysia and subject to the jurisdiction of Malaysian Court.

## **30.0 ENTIRE AGREEMENT**

The terms and conditions set out on this PURCHASE ORDER together with any subsequent amendments made in writing by MMS and the SUPPLIER represent the entire terms and conditions of this PURCHASE ORDER between MMS and the SUPPLIER. This PURCHASE ORDER supersedes the inquiry, bid offer, clarification and other agreements or documents previously made between MMS and the SUPPLIER.

## **31.0 PROVISION OF ASSOCIATED SERVICES**

For supply of GOODS that involves provision of ASSOCIATED SERVICES, the additional terms and conditions of ANNEXURE 1 shall be applicable.

## **32.0 COST OF PREPARING**

32.1 Each PARTY shall bear its own costs and expenses incurred in connection with the preparation of this PURCHASE ORDER.

32.2 Any stamp duty payable in respect of this PURCHASE ORDER shall be borne by the SUPPLIER.

## **33.0 CONTRACT**

In existence of a valid contract between MMS and the SUPPLIER, the terms of this PURCHASE ORDER shall not be applicable.

## ANNEXURE 1

### TERMS AND CONDITIONS FOR ASSOCIATED SERVICES

#### **1.0 COMPLETION OF SERVICES**

1.1 The SUPPLIER shall ensure that the ASSOCIATED SERVICES are performed and completed at the SITE(S) on the scheduled COMPLETION DATE as stated in this PURCHASE ORDER.

1.2 In the event of failure by the SUPPLIER to perform the ASSOCIATED SERVICES contained in this PURCHASE ORDER, other than as a result of FORCE MAJEURE or MMS's written request, MMS shall have the right to cancel all or any remaining part of this PURCHASE ORDER, without payment of compensation, and obtain ASSOCIATED SERVICES from other sources. Any and all increased costs and expenses thereby incurred by MMS in obtaining such ASSOCIATED SERVICES shall be set off against any moneys due or to become due to the SUPPLIER or shall be recoverable as damages hereunder.

#### **2.0 WARRANTIES AND GUARANTEES**

2.1 The SUPPLIER warrants and guarantees to MMS that:

(a) the SUPPLIER has the experience, capability and all necessary registrations and licenses to perform the ASSOCIATED SERVICES under this PURCHASE ORDER;

(b) the ASSOCIATED SERVICES shall be of good quality, good workmanship and fit for purpose for which it is generally intended and/or for which MMS has informed the SUPPLIER or the SUPPLIER has represented it is intended and shall be completed without any omission; and

(c) the ASSOCIATED SERVICES performed under this PURCHASE ORDER shall be in accordance with good principles and accepted professional standards and meeting the intents and objectives of this PURCHASE ORDER.

2.2 The SUPPLIER's warranty and guarantee under Item 2.1(b) shall commence from the completion of the ASSOCIATED SERVICES to the satisfaction of MMS and shall expire on the date specified by MMS.

2.3 The SUPPLIER shall be responsible for making good with all possible speed, any failure or omission and defects in the ASSOCIATED SERVICES or any portion thereof which may appear or occur during the GUARANTEE PERIOD. Remedied ASSOCIATED SERVICES shall be at the SUPPLIER's cost and shall carry an additional guarantee period as mutually agreed by both MMS and the SUPPLIER from the period the ASSOCIATED SERVICES are remedied.

2.4 The SUPPLIER's liability hereunder shall extend to all damages proximately caused by the omissions or defects, including incidental damages such as removal, inspection, costs of return or storage.

#### **3.0 LICENSE AND PERMIT**

Subject to the relevant provisions of applicable law, the SUPPLIER shall obtain any license or other permit which is required in the country of implementation of this PURCHASE ORDER. This PURCHASE ORDER is conditional upon such license or other permit being made available in good time prior to the commencement of the ASSOCIATED SERVICES.

#### **4.0 INSPECTION**

4.1 The SUPPLIER shall be responsible for ensuring that all inspections and testing of the performance of the ASSOCIATED SERVICES are carried out in accordance with generally accepted industry standards applicable to an international contractor and shall provide such inspection and testing plan to MMS.

4.2 MMS or any third party appointed by MMS shall have the right at all reasonable times to inspect or witness any test of any part of the performance of the ASSOCIATED SERVICES at any place where the ASSOCIATED SERVICES is being performed. Inspection, witnessing or the lack of both by MMS shall not be construed as acceptance of any part of the performance of ASSOCIATED SERVICES, nor as relieving the SUPPLIER of its obligation to fulfil all requirements of the ASSOCIATED SERVICES and responsibility for ensuring that the performance of the ASSOCIATED SERVICES complies with this PURCHASE ORDER.

#### **5.0 TAXES AND DUTIES**

5.1 This PURCHASE ORDER price shall exclude any TAXES and expenses to be incurred by the SUPPLIER arising from this PURCHASE ORDER. The SUPPLIER is responsible for its own tax compliance and payment of any TAXES that are imposed on them. MMS shall withhold any taxes on payments to the SUPPLIER when so required by law.

5.2 This PURCHASE ORDER price must be segregated based on the following, where applicable:

- (a) SERVICES performed inside Malaysia;
- (b) SERVICES performed outside Malaysia;
- (c) Reimbursements / disbursements inside Malaysia arising from the performance of the SERVICES;
- (d) Reimbursement / disbursements outside Malaysia arising from the performance of the SERVICES; and/or
- (e) Hotel accommodation charges during travels in Malaysia arising from the performance of the SERVICES.

5.3 MMS shall have the right to withhold TAXES from payments due to the SUPPLIER under this PURCHASE ORDER to the extent that such withholding may be required by the Inland Revenue Board ("IRB") or any other tax relevant authorities, and payment by MMS to the IRB of the amount of money so withheld shall relieve MMS from any further obligation to the SUPPLIER with respect to the amount so withheld.

5.4 Where the SUPPLIER is of the opinion that withholding tax are not applicable, it is the sole responsibility of the SUPPLIER to secure the written direction from the IRB enabling MMS to make payments for the services without any deduction of TAXES.

5.5 The SUPPLIER and their personnel rendering the SERVICES under this PURCHASE ORDER are independent parties and are not authorized to act as the agent or representative of MMS. The SUPPLIER and MMS agree that no employment relationship shall exist between MMS or any of its affiliates and the SUPPLIER's personnel by virtue of the SERVICES rendered under this PURCHASE ORDER. The SUPPLIER further undertakes that:

- (a) The SUPPLIER shall be responsible for ensuring that all wages, fees, contributions, social security, charges and TAXES required to be paid by the SUPPLIER and/or its personnel are paid as required by the relevant applicable law; and

(b) The SUPPLIER shall ensure that all appropriate deductions are made from the wages of their personnel in respect of TAXES, employee social security and other contributions including where required workmen compensation insurance contributions.

5.6 The SUPPLIER agrees that MMS, at its sole discretion, may not effect any payment unless proper documents are submitted. The SUPPLIER shall indemnify and hold MMS harmless from any liability resulting from failure by the SUPPLIER or its subcontractors or suppliers to make timely payments of, or to pay any of, all such taxes and duties.

5.7 Service tax clause

(a) Where Service Tax is applicable to any services rendered by the SUPPLIER under the CONTRACT, MMS shall be responsible for and pay the Service Tax when invoiced by the SUPPLIER for any taxable services rendered, provided that SUPPLIER shall provide MMS a copy of valid Service Tax notification letter issued by the Royal Malaysian Customs Department ("Customs Authority") confirming that SUPPLIER is registered under the applicable Act as a taxable person providing taxable services.

(b) Service Tax amount shall be separately stated from the prices and/or rates, and shall be separately itemized in the invoice.

(c) For avoidance of doubt, "Service Tax" as mentioned above refers to the tax imposed on taxable services provided by taxable person in Malaysia effective 1 September 2018 as set out in the Service Tax Act 2018.