

Dated [•]

SATS AIRPORT SERVICES PTE LTD

and

[•]

**AGREEMENT FOR THE CONSTRUCTION
OF
NEW CARGO STAGING AREA
AT SINGAPORE CHANGI AIRPORT**

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AGREEMENT FOR THE CONSTRUCTION OF NEW CARGO STAGING AREA AT SINGAPORE CHANGI AIRPORT

THIS AGREEMENT is made on _____ between

1. **SATS Airport Services Pte Ltd** (Co. Registration No.198500561R), a company incorporated in Singapore and having its registered office at 20 Airport Boulevard SATS Inflight Catering Centre 1, Singapore 819659 ("**Company**"); and
2. **[●]** (Co. Registration No. **[●]**), a company incorporated in **[●]** and having its registered office at **[●]** ("**Contractor**"),

(collectively, the "**Parties**" and each, a "**Party**".)

WHEREAS

The Company has requested and the Contractor has agreed to carry out the Works (as defined herein) at the Premises (as defined herein) in accordance with the Specifications (as defined herein) at the Contract Price (as defined herein).

NOW IT IS AGREED AS FOLLOWS:**1 DEFINITIONS AND INTERPRETATIONS**

- 1.1 In this Agreement, unless the context otherwise requires:

Agreement means the main body of this Agreement and any and all Annexes and Schedules annexed hereto and incorporating all amendments thereto, if any, effected by mutual agreement in writing.

Change Request has the meaning ascribed in **Clause 14**.

Commencement Date means **[●]** or such other date as mutually agreed by the Parties in writing.

Completion Date means **[10 weeks]** from the Commencement Date or such other date as mutually agreed by the Parties in writing.

Conditional Acceptance means conditional acceptance by the Company of the Works in accordance with **Clause 9.10** of this Agreement.

Conditional Acceptance Certificate means the certificate issued by the Company signifying the Company's Conditional Acceptance of the Works in accordance with **Clause 9.10** and in the form set out in **Annex F (Acceptance Tests and Form of Acceptance Certificates)**.

Conditional Acceptance Date means the date of Conditional Acceptance of the Works by the Company.

Confidential Information has the meaning ascribed in **Clause 15.1**.

Contract Price means the agreed fixed price referred to in **Clause 10** and **Annex C (Contract Price, Price Summary and Payment Schedule)** for the Works.

Contractor's Tender Submission means the proposal submitted by the Contractor on *[insert date ●]* as [set out in **Annex B (Contractor's Tender Submission and Letter of Award)**] and accepted by the Company in the Letter of Award.

Documentation means the documents which shall include all manuals, user instructions, Specifications, drawings and other documentation for the Works to be prepared by the Contractor subject to written acceptance by the Company.

Final Acceptance means final acceptance by the Company of the Works in accordance with **Clause 9.8** of this Agreement.

Final Acceptance Date means the date of Final Acceptance of the Works by the Company.

GST means tax on the supply of goods and services sold or rendered in Singapore by a GST-registered entity or person in the course or furtherance of any business carried on by such entity or person.

Intellectual Property Rights includes in Singapore and throughout the world and for the duration of the rights (a) any patents, utility models, copyrights, registered or unregistered trade marks or service marks, trade names, brand names, layout-design rights, registered designs and commercial names and designations; (b) any invention, discovery, trade secret, know-how, or confidential, business, scientific, technical or product information; (c) any other rights resulting from intellectual activity in the commercial, industrial, scientific, literary and artistic fields and whether dealing with manufactured products or services; and (d) any letters patent, deed of grant, certificate or document of title for anything referred to in paragraphs (a), (b) or (c) of this definition.

Latent Defects means any defects in the Works or any part of thereof which could not reasonably have been detected or discovered prior to the expiry of the Defects Liability Period.

Letter of Award means the letter issued by the Company to the Contractor stating that the Contractor's Tender Submission has been accepted and that, in accordance with the terms and contents thereof, the Contractor is to execute this Agreement and furnish requisite Insurance.

Personnel shall mean any officer, employee, servant, agent or permitted subcontractor of the Contractor assigned by the Contractor at any time to perform or provide the Services or any part thereof.

Personnel shall mean any officer, employee, servant, agent or permitted subcontractor of the Contractor assigned by the Contractor at any time to perform or provide the Services or any part thereof.

Specifications means any plans, drawings, technical or other information relating to the Works and any part thereof set out in **Annex A (Contract Documents)** which is to be carried out by the Contractor.

Supplier Code of Conduct means the Company's Supplier Code of Conduct as may be updated from time to time and which may be found at <https://www.sats.com.sg/Tenders/Notices/SATS-Supplier-Code-of-Conduct.pdf>.

Targeted Completion Date means the date specified in the Project Schedule for the satisfactory completion of all the Works.

Taxes means taxes, levies, imposts, charges and duties (including stamp duty and transactional duties) together with any related interest, penalties, fines and expenses in connection with them except if imposed on the overall income of a Party.

Defects Liability Period has the meaning ascribed to it in **Clause 17**.

Works means any and all activities undertaken by the Contractor to complete the scope of the works set out in **Clause 2** below in accordance with the Specifications, and the provisions of this Agreement and shall include but not be limited to the aggregate of provision of all supervision, other work, labour, operations, services, transport, materials, equipment, and other matters of any nature whatsoever necessary for the supply and completion of the Works and the performance of all other obligations of the Contractor hereunder.

- 1.2 Words denoting persons shall include corporations, companies, firms or other bodies as the case may be; words denoting the masculine gender shall include the feminine gender and neuter genders and vice versa; and singular shall include plural and vice versa.
- 1.3 Headings are inserted for the ease of reference only and shall not affect the construction thereof.
- 1.5 Unless otherwise specifically provided, all references in this Agreement to dollar amounts shall be references to amounts in Singapore Dollars.
- 1.6 References in this Agreement to 'working days' shall exclude Saturdays, Sundays, and all gazetted public holidays in Singapore
- 1.7 References in this Agreement to "Affiliates" or expressions of similar meaning and effect shall extend to SATS Ltd. and such entities which SATS Ltd., the holding company of the Company, controls, directly or indirectly. For the purposes of this Agreement, the "expression" control in the relevant context shall mean either (a) control of at least 20% of the issued share capital of an entity; (b) control of at least 20% of the voting rights attached to the shares of the issued share capital of an entity, (c) control of the composition of the board of directors of an entity, or (d) undertaking or control of the management and/or operation of the business of an entity.
- 1.8 References in this Agreement to the premises of the Company or premises belonging to or occupied by the Company or expressions of similar meaning and effect shall extend to such premises of or premises belonging to or occupied by any of its subsidiaries, holding company, related companies, associated companies and affiliated companies.
- 1.9 Reference to law means common law, principles of equity and laws made by parliament (and laws made by parliament include laws and regulations and other instruments under them, and consolidations, amendments, re-enactments or replacements of any of them).
- 1.10 The words "including", "for example" or "such as" when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind.
- 1.11 If there is any discrepancy between the following documents, priority between them shall be as follows:-
 - i) between the terms of this Agreement (including the Contract Price and the Acceptance but excluding the Specifications) and the terms of the Specifications or the Documentation, the terms of this Agreement shall prevail; and
 - ii) between the terms of this Agreement and the Annexes, the terms of this Agreement shall prevail; and
 - iii) between the Documentation and the Specifications, the Specifications shall prevail.

2. SCOPE OF AGREEMENT AND OBLIGATIONS

- 2.1 The Contractor shall supply, perform and complete the Works in accordance with and subject to the terms of this Agreement.
- 2.2 In particular, but without limiting the generality of **Clause 2.1**, the Contractor shall at its own cost and expense:
- 2.2.1 Supply and perform the Works:
 - a) in accordance with the Specifications;
 - b) in accordance with the Project Schedule;
 - c) in accordance with the best industry practice;
 - d) diligently, efficiently, in a timely manner with reasonable care and skill to be expected of a reputable supplier, vendor and contractor experienced in the type of work to be carried out under this Agreement;
 - 2.2.2 conduct the Final Acceptance Tests and all other acceptance tests pursuant to this Agreement;
 - 2.2.3 prepare the Documentation in accordance with **Clause 4 (Documentation)**;
 - 2.2.4 use appropriately qualified and skilled Personnel to supply and perform the Works. The Contractor shall use the Personnel identified in **Annex D (Contractor's Personnel)** or such Personnel as shall have been approved by the Company (in its sole discretion) to perform its obligations under this Agreement and shall not, without the prior written consent of the Company, change the Personnel allocated. The Company may at its sole discretion require the Contractor to substitute any of its Personnel that has been allocated for the supply and performance of the Works under this Agreement;
 - 2.2.5 adhere to the Company's administrative procedures applicable to the Contractor and the Company's reasonable instructions and guides issued from time to time in relation to this Agreement made available to the Contractor and which may be revised by the Company from time to time;
 - 2.2.6 conform with any and all laws, statutory orders, regulations and standards applicable to the supply and performance of the Works and apply for, secure, obtain and maintain all necessary licenses or permits required for the supply and performance of the Works;
 - 2.2.7 ensure the Contractor's Personnel and authorised representative attend progress meetings as required by the Company, and prepare and deliver a progress report in writing to the Company in time for discussion at the next progress meeting. For the avoidance of doubt, this report will include a report on the progress of the Works and such other matters as the Company may require;
 - 2.2.8 supply and perform the Works in a safe and secure manner, with active regard to safety and in accordance with all applicable work safety, health, fire and security regulations imposed by law, by the Company or its authorised representative. Without prejudice to the generality of the foregoing, the Contractor shall comply with the Work, Safety and Health Rules and Regulations set out in **Annex E (Work, Safety and Health Rules and Regulations)**;
 - 2.2.9 at all times duly comply with the terms of the Supplier Code of Conduct;

- 2.2.10 cooperate fully with the Company and the Company's project manager (if any) and/or its authorised representative and if so requested by the Company, with other vendors or service providers of the Company, and in good faith assist in, participate and contribute to discussions or matters raised by the Company with a view to determining and implementing a reasonably practical solution to issues arising in relation to the supply and performance of Works;
 - 2.2.11 safeguard the quality of the Works and agree that long design life, easy maintenance and operability are paramount criteria;
 - 2.2.12 ensure that it will resolve any problems and issues arising from the supply and performance of the Works and this will be duly resolved without prejudice to the Contractor's obligations to supply and perform the Works with no additional costs to the Company;
 - 2.2.13 If applicable, the Contractor shall comply with and give notices and pay all fees required by any laws, regulations, orders or by-laws of any local authorities and/or public service companies relating to the provision and performance of the Works, and the Contractor will keep the Company fully indemnified against any fees, charges, penalties and liabilities of every kind arising from the breach of the Contractor's obligation hereunder;
all in accordance with the provisions of this Agreement.
- 2.3 The Contractor represents, warrants and undertakes:
- 2.3.1 this Agreement is enforceable against the Contractor in accordance with its terms and conditions and that all corporate and governmental approvals, consents, licenses and permits required for the Contractor to validly enter into and perform its obligations under this Agreement have been obtained and will continue in force for the duration of the Works;
 - 2.3.2 the execution and delivery of, and performance by it of its obligations under this Agreement will not result in a breach of, or constitute a default under, any agreement or licence to which it is a party or by which it is bound and which is material in the context of the transactions contemplated by this Agreement;
 - 2.3.3 the Contractor possesses and shall continue to possess at all times during this Agreement all expertise, resources, knowledge and skills required for the due and proper provision of the Works in accordance with the Specifications;
 - 2.3.4 each of its Personnel is competent, properly qualified and possesses the relevant experience;
 - 2.3.5 all Works provided under this Agreement shall at all times be performed with due skill, care and diligence and in a good workmanlike manner. In addition, all Works shall be performed strictly in accordance with the Specifications and to the satisfaction of the Company, and shall be free from any defect, deficiency or flaw or any other failure or fault;
 - 2.3.6 the Contractor, its Personnel and any other person responsible for providing and performing the Works will at all times duly comply with all laws, regulations and directives applicable to it, and shall ensure that the Works are provided and performed in a manner which does not infringe any applicable law or regulation;
 - 2.3.7 the Contractor possesses all necessary and applicable licences, permits and adequate insurance coverage as required by the Company, and will obtain the same at no cost to the Company;

- 2.3.8 the Contractor shall conform in every respect with such safety and security rules and regulations as the Company may prescribe in connection with entering onto or remaining at the Site;
- 2.3.9 its title to and property in the Documentation is free and unencumbered and it owns or has all necessary rights to grant the rights contemplated hereunder including all Intellectual Property Rights in the Documentation;
- 2.3.10 the supply and performance of the Works and all items supplied by the Contractor to the Company under this Agreement do not alone or in any combination infringe any Intellectual Property Rights, and it is not aware of any claims of the Intellectual Property Rights in the Works that would be inconsistent with the performance of its obligations under this Agreement;
- 2.3.11 that (i) the training or instruction of the Company's technical support staff and users and (ii) the Documentation and all training and operational manuals shall be complete, accurate and adequate to enable the Company to make full and proper use of and to maintain the Works in conjunction with the Documentation and training and operational manuals without reference to any person or document;
- 2.3.12 to provide prompt receipt, analysis and resolution of any technical problems notified by the Company to the Contractor and in any event not less than [forty eight (48)] hours from the time of the Company's notification.
- 2.4 The undertakings, representations and warranties in **Clause 2** shall be separate and independent and shall not be limited by reference to any other sub-clause of **Clause 2.3** or by anything in this Agreement
- 2.5 The Company may audit, at its sole cost, the Contractor's authorised representatives and/or licensors at any time during normal office hours on premises where the Works are being assembled or manufactured and/or performed.
- 2.6 Where the Contractor and its subcontractors (if any) and its authorised Personnel has been granted access to the Site or any other premises of the Company in connection with the Contractor's performance of its obligations under this Agreement, the Contractor will comply and will ensure that its employees, subcontractors (if any) and other authorised Personnel comply, with the Company's site or office regulations (including its working arrangements with other vendors or contractors) and other instructions whilst at the Site or any other premises of the Company.
- 2.7 The Works are subject to Final Acceptance by the Company.
- 2.8 The review, comments, requirements, instructions, directions or approvals (collectively referred to in this **Clause 2.8** as "Company's directions") made or given by the Company pursuant to this Agreement shall not relieve the Contractor of any of its responsibilities and obligations under this Agreement to fully complete the Works. The Company's authorised representative shall be the only person authorised by the Company to make or provide the Company's directions on behalf of the Company and only those Company's directions that are in writing and issued by the Company's authorised representative shall be valid. Any Company's directions made or provided by any other person including, without limitation, any employee, servant, agent, representative (other than the aforesaid authorised representative) or contractor of the Company shall not be treated as authorised by the Company and shall not be valid or binding on the Company unless supported or verified by the Company's authorized representative.
- 2.9 If the Contractor discovers that any requirement or provision of this Agreement may conflict with any other requirement or provision, it is the Contractor's responsibility to give Company written notice of such alleged conflict for determination by the Company. If the

Contractor proceeds without notification to Company for resolution of such conflict, then all costs incurred in correcting Contractor's interpretation shall be borne by the Contractor.

3. RESPONSIBILITIES FOR DESIGN AND ENGINEERING

- 3.1 The Contractor shall undertake the supply and performance of the Works using methods consistent with best industry practices. The Company or any person authorised by the Company shall have the right to inspect and review all engineering data, designs, drawings and models during their development and the Contractor shall as and when so instructed by the Company provide such data to, and liaise and cooperate with, other sub-contractors as may be reasonably necessary to coordinate, supply, deliver, install, test and commission and perform the Works. Any significant change to the specifications of the materials or equipment to be used in the supply and performance of the Works following such modification, design and engineering shall require the approval of the Company.
- 3.2 Without prejudice to any other provisions in this Agreement, the Contractor shall be fully responsible for the supply and performance of the Works and that the Works are fully functional and in compliance in all respects with the Specifications, including any performance specifications or requirements.

4. DOCUMENTATION

- 4.1 Upon the execution of this Agreement, the Contractor shall prepare the Documentation based on the Specifications and the Company's requirement.
- 4.2 The Contractor shall complete the preparation of the Documentation in accordance with the Project Schedule.
- 4.3 Forthwith upon completion of the Documentation, the Contractor shall submit the same for approval by the Company.
- 4.4 The Company shall, within [fourteen (14) working days] of receipt of the aforesaid Documentation, serve written notice upon the Contractor either to approve or reject the aforesaid Documentation with such review, comments and/or requests for amendment as the Company shall give.
- 4.5 The Contractor shall take account of all review, comments and/or requests for amendment received from the Company pursuant to **Clause 4.4** and shall incorporate the same in a revised version of the Documentation to be prepared and delivered to the Company within [five (5) days] from the date of the said review, comment and/or request for amendment.
- 4.6 The process described in **Clauses 4.4** and **4.5** shall be repeated until such time as the Company has approved the Documentation.
- 4.6.1 The Documentation shall be prepared by the Contractor based on and in accordance with the Specifications and the Company's requirement. The process described in **Clauses 4.3, 4.4** and **4.5** shall apply *mutatis mutandis* to the preparation of the other Documentation.
- 4.6.2 The review, comments and/or requests for amendment made by the Company of the draft Documentation shall not relieve the Contractor of any of its responsibilities under this Agreement to supply and perform the Works. The Contractor shall be responsible for all additional costs and expenses resulting from:
- a) any deficiency or shortcoming in the Works;

- b) for any further re-design, modification, re-engineering, supply, installation, testing, commissioning or re-work undertaken for purposes of compliance with this Agreement or as a result of conflict or incompatibility during the supply and performance of the Works; or
- c) any rectification or making good of or any modification of the entire or any part of the Works as a result of the incompatible or erroneous design, modification, engineering, manufacture, supply, installation, testing and commissioning of the Works.

5. EMPLOYMENT OF FOREIGN WORKERS

- 5.1 The Contractor will not employ any illegal foreign workers or Personnel in the supply and the performance of the Works. If any illegal foreign worker or Personnel is employed by the Contractor, the Company may take such measures, including without limitation the termination of this Agreement, withholding of payments due to the Contractor, forfeiture of the security deposit and/or debarment of the Contractor from future tenders/quotations of the Company or its subsidiaries, holding company, related companies, associated companies or affiliated companies, as the Company may deem appropriate in the circumstances.
- 5.2 The Company may conduct random on-site checks on the Contractor's Personnel at the Contractor's premises to verify that the Contractor has complied with this **Clause 5**, and the Contractor will permit the Company to enter its premises for this purpose and cooperate with and render all reasonable assistance to the Company, at the Contractor's costs, in connection with such verification. Notwithstanding the foregoing and any actual checks done by the Company, the Contractor will continue to be fully liable to the Company and its subsidiaries, holding company, related companies, associated companies and affiliated companies for any lack of compliance with this **Clause 5**.
- 5.3 The Contractor will, within [ten (10)] days from the date of this Agreement and before the Commencement Date, provide the Company with a list of the names and particulars (including address, nationality, passport number and work permit number) of all the Personnel of the Contractor who will be engaged in the supply and performance of the Works, including without limitation in connection with the performance and discharge of the Contractor's obligations under this Agreement. The Contractor will submit an updated and duly-certified information sheet on its Personnel (such information to be given to the Company in whatever means or form as required by the Company), including a copy of each of the following items, to the Company weekly for its inspection and record:
 - (a) Personal particulars (including name, address, nationality, passport number and work permit number) of its Personnel involved in the supply and performance of the Works or any part thereof pursuant to this Agreement;
 - (b) The work permits of new Personnel;
 - (c) The passports, entry permits or re-entry permits of these Personnel showing that they have lawfully entered and remained in Singapore;
 - (d) Personal particulars (including name, identity card, passport and/or foreign identification numbers, and nationality) of all its Personnel currently or previously (as appropriate) employed by the Contractor to supply and perform the Works or any part thereof at the Site or any other premises of the Company and:
 - (i) are no longer in the Contractor's employ;
 - (ii) are no longer working at the Site or any other premises of the Company;

- (iii) have tendered their resignation to the Contractor or whose employment has been terminated by the Contractor; or
- (iv) have been absent without official leave from the Contractor.
- (e) Full personal particulars of all its Personnel who have or had been issued with security passes, or any other identification passes (particulars to include the security and other identification pass numbers and expiry dates of such passes), and an update on the return of such passes to the issuing authorities.

6. PILFERAGE

- 6.1 The Contractor will be responsible for ensuring that its Personnel do not, without prior express authorization from the Company, remove any property other than items belonging to the Contractor and the respective Personnel absolutely, from the Site and any premises belonging to or occupied by the Company or Company users. The Contractor will be liable for the cost of any property so removed (regardless of how such property may have come into its possession) and will indemnify the Company in full under **Clause 21** against all liability resulting from such removal.

7. COMPLETION AND DELIVERY

- 7.1 The Contractor shall complete the supply and performance of the Works at the Site in accordance with the Project Schedule and the provisions of this Agreement.

8. TITLE AND RISK

- 8.1 Title to the Works and any materials, equipment, goods, accessories or other items supplied by the Contractor and forming a part thereof shall pass to the Company on whichever of the following dates first occurs:
- 8.1.1 the date on which the Works or parts thereof or such items are delivered to the Company or otherwise identified to this Agreement,
 - 8.1.2 the date payment with respect to the Works or parts thereof or such items is made,
 - 8.1.3 the date of issuance of the Conditional Acceptance Certificate, or
 - 8.1.4 the date of issuance of the Final Acceptance Certificate, or
 - 8.1.5 the date upon which this Agreement shall terminate for any reason.
- 8.2 The transfer of title of the Works and such items as specified above, shall in no way affect the Company's rights or remedies as set forth in other provisions of this Agreement.
- 8.3 The Contractor shall not retain any title to the Works or place, create, or permit to be placed or created, any liens, charges, or encumbrances on, or security interests as to, or pledges of, the Works or any part thereof, including any lien for monies due to the Contractor by the Company. Any lien, charge, encumbrance, or security interest so placed or created (other than those expressly permitted above) shall be forthwith released by the Contractor. Upon the Contractor's failure to do so, the Company hereto may (but shall not be obligated to) cause the same to be released at the expense of the Contractor.
- 8.4 Notwithstanding that the title is transferred to the Company under **Clause 8.1** above, the risk of loss or damage to the Works and parts thereof shall remain with the Contractor until the Company's issuance of the Final Acceptance Certificate evidencing Final Acceptance of the Works.

9. ACCEPTANCE TESTS

- 9.1 The Contractor shall at its own costs and expenses perform all Final Acceptance Tests (including without limitation testing and commissioning) in accordance with the acceptance procedures attached hereto as **Annex F (Acceptance Tests and Form of Acceptance Certificates)** to meet the criteria set out in therein and all other acceptance tests required in relation to or pursuant to this Agreement. The Contractor shall further comply with all quality control and assurance systems of the Company.
- 9.2 The Company or any person authorised by the Company shall have the right, to inspect and test the different stages of the assembly or manufacture of the Works and supply and performance of the Works at any place where such assembly or manufacture or supply or performance of Work is carried out or in preparation or performed in order to ensure that the Works are being performed in accordance with the Specifications, Documentation and the provisions of this Agreement. The Company and any person authorised by the Company for this purpose shall have free, uninterrupted and safe access at all reasonable times as and when required for such inspection and testing. Notwithstanding the aforementioned, the review, comments, requirements, instructions, directions or approvals made or given by the Company during inspection and testing at the different stages shall not be deemed acceptance or waiver by the Company or relieve the Contractor of any of its responsibilities and obligations under this Agreement.
- 9.3 The Contractor shall be responsible for the cost of all such inspection and testing carried out in accordance with the Specifications, Documentation and the provisions of this Agreement and with best industry practices and of any additional inspection and testing as a result of the failure of the entire or any part of the Works to meet the Specifications, Documentation and the provisions of this Agreement.
- 9.4 The Contractor shall give the Company written notice of at least seven (7) working days and afford the Company or its representative the full opportunity to attend all tests (including but not limited to the Conditional Acceptance tests and the Final Acceptance tests) at the Site and [fourteen (14)] working days if the tests are to be carried out at the premises of the Contractor.
- 9.5 At any time prior to delivery to the Company and Final Acceptance of the Works in accordance with the terms of this Agreement, the Company shall have the right to reject any part of the Works found to be defective with respect to the Specification, Documentation or otherwise not in accordance with this Agreement and any such defects in any part of the Works shall be corrected or replaced by the Contractor at no additional expense or delay to the Company. The Company and any person authorised by the Company shall be entitled to re-inspect and re-test such part of the Works.
- 9.6 The failure of the Company to inspect or condemn or reject any Works or otherwise to exercise any right entrusted to the Company shall not excuse the Contractor from the performance of this Agreement nor shall such action or inspection imply any Conditional Acceptance, Final Acceptance or any acceptance in any manner whatsoever by the Company of faulty or unsatisfactory Works or part thereof.
- 9.7 The Contractor shall notify the Company in writing when the Contractor has completed or anticipates completing delivery of the Works for Final Acceptance. The Parties shall (where applicable) carry out a joint inspection and/or performance of such Works or part thereof.

Within seven (7) working days thereafter, the Company shall notify the Contractor in writing of any defects in the Works or part thereof or such other defects which the Company may discover. The Contractor shall immediately rectify defects notified to it and shall invite the Company or persons authorised by the Company to re-inspect or re-

test the Works so rectified and the Contractor shall re-perform the Works. The failure of the Company to issue any notice shall not in any way relieve the Contractor of its obligation to supply and complete such Work, to rectify any defects therein and to perform its warranty and guarantee obligations in respect thereof.

- 9.8 Final Acceptance of the Works will take place on the date of the written final acceptance by the Company of the Works. The Final Acceptance will occur only upon, and shall be evidenced by, the Company's signing and issue of the Final Acceptance Certificate.
- 9.9 The Conditional Acceptance and/or Final Acceptance of the Works thereof shall not prejudice or act as an estoppel against the exercise of any right of the Company in this Agreement, including but not limited to the right to require the Works or any part thereof to be re-performed, repaired, replaced, or to claim for breach or any non-compliance.
- 9.10 The Company may effect Conditional Acceptance of the Works notwithstanding any minor non-conformity to the Specifications provided the Company in its sole discretion determines that such nonconformity does not impair the safe or efficient operation of the Works or is minor or unsubstantial. The Company's written acknowledgement of its Conditional Acceptance will be evidenced by the Company's signing and issue of the Conditional Acceptance Certificate. The Contractor shall remain obliged to and shall use its best endeavours to correct or remedy such nonconformity as soon as practicable. The value of such non-conformity shall be determined by the Company in its sole discretion and an amount equal thereto shall be withheld from the next instalment payable by the Company. Such amount shall be paid by the Company when the relevant nonconformity shall have been demonstrated to have been corrected or remedied accordingly.

10. CONTRACT PRICE AND PAYMENTS

- 10.1 The Contract Price shall be set out in the Letter of Award, Bills of Quantities and Value Engineering Items and the terms and schedule of payment shall be as set out in Payment Schedule.
- 10.2 This Agreement is a turnkey contract. The Contract Price is a lump sum price which includes all contingencies necessary to ensure compliance with the performance criteria set out in the Specifications. The Company shall not be liable for any additional costs for variations to the scope of the Works or in order to secure compliance with the performance criteria of this Agreement.
- 10.3 The Contractor agrees that the Contract Price, and any other charges quoted in this Agreement, shall not be increased except in accordance with **Clause 14**.
- 10.4 The Contractor shall submit its invoices with supporting documents [in duplicate] to the Company at the address stated below or such other address and location as the Company may direct in writing:-

SATS

Attn: Ernest Lim
Tel.: +65 6541 3872
Fax: +65 6545 0523
E-mail: Ernest_limla@sats.com.sg

- 10.5 An advance payment of --- the Contract Price shall be paid by the Company with the remaining sum (together with GST thereon) to be paid by the Company in accordance with the Payment Schedule set out in the Conditions of Contract, after receipt of invoice together with all supporting documents from the Contractor. Each invoice for the relevant part of the Contract Price or the charges, as the case may be, shall be issued to the Company after the

- corresponding relevant stage of the supply and performance of Works has been duly completed and accepted by the Company in accordance with this Agreement, specifying the amount payable by the Company and attaching evidence of acceptance of the Works by the Company. The Company shall pay all undisputed charges within thirty (30) days of receipt of an invoice and all supporting documents.
- 10.7 Unless otherwise specified, all invoices will be billed in Singapore Dollars and all payments required to be made under this Agreement shall be made in Singapore Dollars.
- 10.8 Unless otherwise specified herein or agreed, all permits, licenses, royalties and fees whatsoever claimable by or payable to any person, firm or corporation or government or in connection with intellectual property used or required to be used in connection with the Contractor's obligations under this Agreement are deemed to be included in the Contract Price, and shall be for the account of the Contractor and shall not be charged to the Company.
- 10.9 Unless otherwise expressly provided, all amounts stated in this Agreement expressed to be exclusive of any GST arising in respect of the supply and performance of the Works made hereunder shall on the issue of a valid tax invoice in respect of the same be paid to the Party making such supply by the Party to whom it is made in addition to any other consideration payable. Save for the foregoing, all other Taxes shall be borne by the Contractor, including without limitation any withholding tax payable as a result of this Agreement. The Company shall pay to the Contractor all amounts due under this Agreement net of any withholding tax, and the Company shall be permitted and entitled, if required in compliance with applicable laws or regulations, to withhold or deduct from the amounts payable to the Contractor under this Agreement such taxes, withholdings and/or deductions.
- 10.10 Any payment to the Contractor shall not be construed as acceptance or receipt of the Works or any part thereof by the Company.
- 11. LATE COMPLETION**
- 11.1 In the event that the Contractor fails to supply the Works or to complete the Works within [five (5)] days of the scheduled date as provided in the Project Schedule, the Company shall be entitled to defer payment corresponding to that portion of the Works until actual supply and/or performance by the Contractor and acceptance by the Company
- 11.2 If the Contractor fails to achieve the supply of the Works or fails to achieve the completion of the Works by the Targeted Completion Date, the Contractor shall pay to the Company by way of liquidated damages the sum equivalent to 0.2% of the Final Contract Sum per day commencing on the day after the Targeted Completion Date and expiring on the Final Acceptance Date subject to a maximum of ten percent (10%) of the Contract Price. Such payment shall be without prejudice to the Contractor's obligation to supply and complete the Works as soon after the Targeted Completion Date as shall be reasonably possible.
- 11.3 If the Contractor fails to achieve the supply of the Works or fails to achieve the completion of the Works by more than [twenty (20)] weeks after the Targeted Completion Date, the Company shall be entitled without prejudice to any other rights or remedies it may have hereunder or at law to terminate forthwith this Agreement immediately (without liability on its part) by giving written notice to the Contractor.
- 11.4 The Contractor acknowledges and agrees that the liquidated damages specified in this Agreement represent a genuine pre-estimate of the loss that the Company would suffer as a result of the Contractor's breach as specified in the relevant Clause, Schedule or Annex in this Agreement.

12. SECURITY DEPOSIT

- 12.1 The Contractor shall no later than seven (7) days from the date of this Agreement, furnish a security deposit by way of cash or a banker's guarantee issued by a reputable bank acceptable to the Company on terms prescribed by the Company, of a sum equivalent to five percent (5%) of the Contract Price, valid up to and including the thirtieth (30th) day after the last date of expiry of the Defects Liability Period. Should the Contractor fail to furnish the security deposit as required under this Clause 12, the Company may without further notice, and without prejudice to any other rights and/or remedies of the Company, set off and deduct against any payment(s) due to the Contractor, such amounts sufficient to comprise the security deposit, and shall hold the same as the security deposit in cash pursuant to this **Clause 12**.
- 12.2 This deposit will be refunded after the thirtieth (30th) day after the last date of expiry of the Defects Liability Period, if the Company is satisfied that the Contractor has fulfilled all the terms and conditions and obligations of this Agreement, in Singapore currency by way of a cheque drawn on a bank in Singapore or return of the banker's guarantee if requested by the Contractor, as the case may be. If the Contractor breaches this Agreement, the Contractor will forfeit part or the whole of this deposit to the Company, the actual amount of forfeiture to be determined by the Company, and the balance thereof, if applicable, shall be refunded to the Contractor. No interest shall be paid on the deposit or upon refund thereof.
- 12.3 The Contractor shall maintain the amount of the security deposit set out in **Clause 12.1** above until the thirtieth (30th) day after the last date of expiry of the Defects Liability Period and following the deduction of any amount from the security deposit, the Contractor undertakes to top up the cash or provide an additional or replacement banker's guarantee so as to ensure that the amount of the security deposit is at all times equivalent to five percent (5%) of the Contract Price.
- 12.4 If the Contractor elects to provide a banker's guarantee pursuant to **Clause 12.1** and if the Company anticipates that the banker's guarantee will expire earlier than thirty (30) days from the last date of the Defects Liability Period, the Company shall notify the Contractor to extend the banker's guarantee so that it will expire thirty (30) days from the last date of the Defects Liability Period. If the Contractor fails to make such extension within seven (7) days from the date of such notice, the Company shall be entitled to call on the banker's guarantee.

13. THE CONTRACTOR'S REPRESENTATIONS, COVENANTS AND INDEMNITIES

- 13.1 In addition to any other representations, warranties and covenants made or given by the Contractor, the Contractor represents and warrants to, and covenants with, the Company as follows, and acknowledges that the Company enters into this Agreement in reliance on such representations, warranties and covenants and shall be entitled to exercise all rights and remedies available to it under applicable laws in the event that such representations prove to be incorrect:
- 13.1.1 The Contractor is an expert with specialized experience in the supply and performance of the Works.
- 13.1.2 The Contractor has examined the scope of the Specifications, the Documentation and all other documents, information and requirement of the Company, and has satisfied itself as to the adequacy thereof for the performance of this Agreement. It is the duty of the Contractor to draw to the attention of the Company any errors, discrepancies or inaccuracies in the Specifications, Documentation and/or such other documents which an experienced supplier of the Works should reasonably have discovered. Both

before and during the performance of this Agreement the Contractor shall notify the Company immediately when it becomes apparent to the Contractor of any amendments required to the Specifications, Documentation and/or such other documentation in order to rectify the Works or the performance of the Works.

13.1.3 The Contractor understands and acknowledges that the Specifications (including without limitation the technical specifications) and the Documentation with respect to the Works and the supply and performance of the Works have been determined under the scope of Works. The Contractor enters into this Agreement with full knowledge of the requirements of the scope of the Works, the Specifications, Documentation and the Company's requirements with respect to the Works.

13.1.4 The Contractor's failure to fulfil its duty as provided for in **Clauses 13.1.2 and 13.1.3** above shall not relieve the Contractor of its obligation to complete the supply and performance of the Works to the Company.

13.2 The Contractor shall further fully and effectively indemnify and save the Company and its Affiliates harmless against and from:

13.2.1 any breach, non-observance or non-performance by the Contractor or its officers, employees, representatives, agents or subcontractors of the terms of this Agreement;

13.2.2 any act or omission of the Contractor, its officers, employees, representatives, agents or subcontractors which render the Contractor liable to the Company under the terms of this Agreement;

13.2.3 without prejudice to **Clauses 13.2.1 and 13.2.2**, any claim, damage, loss or expense to the extent due to or resulting from any negligence or breach of duty on the part of the Contractor and its Personnel.

14. CHANGE REQUEST

14.1 The Company may in writing request the Contractor from time to time to undertake changes to any part of the Works. In the event that any changes in the scope of the Works is requested, the Parties hereby agree that the procedures set out in this **Clause 14** shall be adhered to in effecting any such variation.

14.2 Unless otherwise agreed, upon the Company's written request to the Contractor pursuant to **Clause 14.1** above, the Contractor shall promptly and, no later than [seven (7) days] from the date of the Company's aforesaid written request, provide the Company with a change order proposal containing reasonable details of the following:

14.2.1 description of the works to be performed and the materials to be provided under the Change Request;

14.2.2 the impact to the Project Schedule;

14.2.3 any adjustments to the Contract Price including downward adjustments where appropriate;

14.2.4 any modifications to the Specifications, Documentation and any other documentation;

14.2.5 any other effect of the Change Request on the supply of the performance of the Works; and

14.2.6 any other information (including without limitation any data, calculation, plans, drawings, projections or evaluation) that the Company may request.

- 14.3 The Company shall evaluate the change order proposal submitted by the Contractor. If the Company at its sole discretion opts to proceed with the proposed changes, the Parties shall sign a Change Request in the form set out in **Annex G (Change Requests)**. The Contractor shall promptly implement the agreed changes in accordance with the Change Request and shall incorporate all changes, modifications, variations, alterations arising from or connected with the Change Request in the Works and related documents including but not limited to the Specifications, the Documentation, and other agreed annexes (collectively referred to as “the affected documents”) and give revised copies of the affected documents to the Company provided always that the Company accepts such changes to the affected documents.
- 14.4 All Change Requests shall form an integral part of this Agreement as an addendum to this Agreement. The Contractor shall only commence works based on the Change Request when the Change Request has been duly signed by the authorised representative of the Company and the Contractor. Until a Change Request is duly signed by both Parties, the Contractor will continue to perform and be paid for the performance of the Works as if the Change Request had not been made.

15. CONFIDENTIALITY

- 15.1 For the purposes of this Agreement, “Confidential Information” includes the terms of this Agreement, the Annexes to this Agreement, any and/or all information (written or oral) concerning the business and affairs of the Company and its related and associated companies including all information (including information of a commercial, technical, legal or financial nature) that has been or is hereafter provided to the Contractor by or on behalf of the Company in the course of, for the purpose of and/or in relation to the supply and performance of the Works; which contains, amongst other matters, trade secrets, know-how, show-how, patents research, development or technical information, confidential and/or proprietary product or information, any information or matter comprising or containing part of the intellectual property rights of the Company or any other person, business plans, operations or systems, financial and trading positions, details of customers, suppliers, debtors or creditors, information relating to the officers, directors or employees of the Company, marketing information, brochures, printed matter, rates and rate tables, and/or contracts of any nature; regardless of form, format or media including, without limitation, written, oral, or information reduced to tangible form or information in electronic form; and “Confidential Information” also includes information communicated or obtained through meetings, documents, correspondence or inspection of tangible items, whether or not marked ‘confidential’ or the like or expressed to be disclosed as confidential information or if by its nature is deemed to be confidential information.
- 15.2 The Contractor agrees to keep confidential, and to procure that its Personnel keep confidential, any Confidential Information, and shall not, disclose the Confidential Information to any other person unless disclosure has been expressly permitted by the Company in writing. The Contractor agrees and acknowledges that Confidential Information shall only be used for the purposes of performing its obligations under this Agreement.
- 15.3 The Contractor agrees to disclose such Confidential Information only to the extent necessary to such of its officers, employees, representatives and agents, approved vendors and subcontractors as shall have a strict need to know for the proper purposes referred to in this **Clause 15**. The Contractor hereby undertakes to take all such steps as shall from time to time be necessary to ensure compliance by its employees, agents, contractors and subcontractors with the provisions of this **Clause 15**.
- 15.4 Notwithstanding the foregoing, the Contractor shall not be liable to the Company for the disclosure of any Confidential Information which is in or later enters the public domain, other than by reason of any breach, default or wilful or negligent act or omission of the Contractor or any of its officers, employees, representatives, agents, vendors or subcontractors.

- 15.5 Upon request, the Contractor shall immediately return to the Company all tangible materials (including copies thereof). If not returned, such tangible materials shall be destroyed (or deleted if stored or contained in a database or compilation system).
- 15.6 The provisions of this **Clause 15** shall survive, and continue to be binding on the Parties after, the termination of this Agreement.

16. INTELLECTUAL PROPERTY RIGHTS & LICENCES

- 16.1 All Intellectual Property Rights comprised in or subsisting in the Works, which shall include without limitation, any customization done by the Contractor for the Company pursuant to this Agreement and the Specifications (including, without limitation, any derivative Specifications) and Documentation, as well as any and all other materials or part thereof provided to or acquired by the Contractor, or created or developed by the Contractor for the Company for this Agreement shall irrevocably, unconditionally and automatically vest in the Company on passing of the title in accordance with **Clause 8.1** above without further charge or costs. If required by the Company, the Contractor shall do all things and sign all documents necessary to vest all such Intellectual Property Rights in the Company. For avoidance of doubt, the Contractor shall have no title to or ownership of the Intellectual Property Rights comprising in or subsisting in the Works, Specifications, and Documentation and the Contractor shall have no right to sublicense, assign or transfer such Intellectual Property Rights and the Specifications, and Documentation to any third party.
- 16.2 Where the Contractor does not so create or own such Intellectual Property Rights, the Contractor shall obtain and maintain at all times for the Company an irrevocable, unconditional, exclusive, transferable, and royalty-free licence to use in perpetuity the Intellectual Property Rights comprising in or subsisting in any third party proprietary matter contained in the Works, Specifications and Documentation and any other related documents to enable the Company to use, operate, maintain, lease or otherwise deal with the Works, Specifications and Documentation.
- 16.3 The Contractor shall fully and effectively indemnify and hold harmless the Company and its Affiliates against any damages, liability, losses, claims (including legal costs) arising in respect of any claim or action by any third party for infringement of the Intellectual Property Rights in the Works and Documentation (an "**Intellectual Property Infringement**"), provided always that the Company:
- 16.3.1 gives notice to the Contractor of any Intellectual Property Infringement forthwith upon becoming actually aware of the same;
 - 16.3.2 gives the Contractor the sole conduct of the defence (at the Contractor's sole cost and expense) to any claim or action in respect of any Intellectual Property Infringement; and
 - 16.3.3 acts in accordance with the reasonable instructions of the Contractor and gives to the Contractor such assistance as it shall reasonably require (at the Contractor's sole cost and expense) in respect of the conduct of the said defence including without prejudice to the generality of the foregoing the filing of all pleadings and other court process and the provision of all relevant documents.
- 16.4 In addition to and without prejudice to the above and any rights and remedies of the Company under this Agreement or at law:
- 16.4.1 If required by the Company, the Contractor shall procure the right to continue with the use, operation, maintenance, lease or dealing of the Works, Specifications and Documentation or part thereof which is the subject of the Intellectual Property Infringement;

- 16.4.2 If required by the Company, the Contractor shall replace or modify the Works, Specifications and/or Documentation or part thereof which is the subject of the Intellectual Property infringement so that it is no longer infringing but will ensure that the Works will fully function in an equivalent manner and that the Works, Specifications and Documentation can be used, relied on or dealt with in any manner whatsoever by the Company and its assignees and authorised users. Such replacement or modification shall be subject to the Company's approval and at no additional cost to the Company;
- 16.4.3 Without prejudice to any other rights and remedies available to the Company under this Agreement or at law, the Company shall be entitled to reject the Works and Documentation or any part thereof and:
- (i) in the event the Company rejects the Works and the Documentation the Contractor shall refund to the Company the entire Contract Price and all sums which the Company has paid to the Contractor; or
 - (ii) in the event the Company rejects part of the Works and/or the Documentation, the Contractor shall refund to the Company such proportion of the Contract Price and sums which the Company has paid to the Contractor in respect of that part of the Works and/or Documentation that has been rejected by the Company.

17. DEFECTS LIABILITY

- 17.1 The Contractor shall supply and perform and complete the Works diligently in accordance with the Specifications, Documentation and provisions of this Agreement and in conformity with best industry practices.
- 17.2 The Contractor warrants the Works to:
- 17.2.1 be brand new;
 - 17.2.2 be of suitable grade of its respective kind;
 - 17.2.3 be free from defects in title, design, materials, performance, operation, and workmanship;
 - 17.2.4 strictly conform to the Specifications, Documentation, drawings, samples, performance criteria, and other descriptions referred to herein or provided by the Company to Contractor;
 - 17.2.5 be of merchantable quality and fit for the purpose(s) intended;
 - 17.2.6 have long design life, easy maintenance and operability; and
 - 17.2.7 conform to all applicable laws, ordinances, codes and regulations for a period commencing from the Final Acceptance Date to the expiry of period of [twelve (12)] months from the Final Acceptance Date or as may be extended in accordance with this Agreement ("**Defects Liability Period**"). With respect to the Works or any part thereof that is repaired, replaced or otherwise altered or performed during the aforementioned period, the Defects Liability Period shall be extended by an additional [twelve (12)] months effective from the date of acceptance by the Company of the repair, replacement and/or alteration of performance.
- 17.3 If within the Defects Liability Period the Company discovers defects, errors, omissions, misalignments, inaccuracies, operational or performance deficiencies or any other breach of any warranty of the Works or any part thereof, the Contractor shall at its own

costs promptly rectify, repair, re-perform, replace without cost to the Company, the Works and all related equipment or materials and repair any other damage caused by such defects, errors, omissions, operations or performance deficiencies. All defects and other faults in the Works or any part thereof which the Contractor is liable under this Agreement shall be made good by the Contractor at the Contractor's cost.

- 17.4 If the Contractor fails to commence (and having commenced, failed to continue) to perform the warranty work required under this **Clause 17** within [fourteen (14)] days after being notified by the Company in writing of the relevant breach, or in the case of emergency, the Company shall be entitled to effect the required repairs or, and the Contractor shall reimburse the Company within thirty (30) days after submission by the Company to the Contractor of a written invoice therefore, the costs incurred by the Company in effecting such repairs or replacements.
- 17.5 In addition to the Contractor's warranties under this Agreement, the Contractor shall obtain and procure that the Company has the benefits of and right to enforce such warranties against the Contractor's contractors and suppliers of the Works and equipment and materials used for this Agreement and shall give the Company such assistance in enforcing the same as the Company may reasonably request.

18. STEP IN RIGHTS

- 18.1 The Company reserves the right to appoint an alternative contractor to supply and perform the Works or part thereof in the event that the Contractor is unable to perform any of its obligations under this Agreement, such inability to be determined by the Company at its sole discretion. Such appointment and step-in works shall be completed within a reasonable period as reasonably determined by the Company. The Contractor shall reimburse the Company for all additional costs of engaging an alternative contractor. Such right shall be without prejudice to any of the Company's rights or remedies under this Agreement or at law.

19. INSURANCE

- 19.1 The Contractor shall, without prejudice to its liabilities, obligations and responsibilities under the Agreement, procure, maintain and continue in force at its own costs and expense for the duration of this Agreement the following insurance policies:-
- 19.1.1 Comprehensive general liability insurance (with the Company and its Affiliates as additional insured) against claims for personal injury, death or property damage or loss and such other risks customary to such policies in an amount not less than S\$5,000,000 in respect of any one incident. For the avoidance of doubt, the aforesaid insurance should cover property in the insured's care, custody and control;
- 19.1.2 All Risks insurance against loss and/or damage to the insured's property, in an amount not less than S\$5,000,000 in respect of any one incident; and
- 19.1.3 Work injury compensation insurance (with the Company and its Affiliates as additional insured) against liability arising under the Work Injury Compensation Act (Cap. 354) and at common law arising out of the master-servant relationship, which shall contain the following endorsements:
Endorsement A: If any workmen employed by the insured or by the insured's contractors as referred to in Endorsement B herein or any dependant of such workman, brings or makes claim against the Company and/or its Affiliates under any mandatory legislation in force in Singapore providing for compensation to employees for injury suffered in the course of their employment for personal injury or disease sustained whilst at work, the insurance company will indemnify

the Company and/or its Affiliates against such claim, that the insurance company may have the sole conduct and control of all proceedings connected with claims covered by this endorsement. Nothing in the endorsement will be construed as affecting the insured/s rights to recover damages in any other way under the said legislation.

Endorsement B: It is hereby understood that the indemnity herein granted is intended to cover the legal liability of the insured to workmen in the employment of contractors performing work for the insured while engaged in the business and occupation in respect of which the within policy is granted but only so far as regards claims under any work injury compensation legislation or common law in force in Singapore.

- 19.2 The examination of or failure to examine the insurance policies (as submitted by the Contractor) by the Company does not in any way relieve the Contractor of its responsibility to effect all necessary insurance as provided for in the Agreement.
- 19.3 All insurance policies provided for in **Clause 19.1** are primary insurance and shall not be considered contributory insurance with any insurance policies of the Company, if any.
- 19.4 The insolvency, liquidation, bankruptcy or failure of any insurance company providing insurance for Contractor or his sub-contractors or suppliers, or failure of any such insurance company to pay claims accruing, shall not be considered a waiver of, nor shall it excuse Contractor from complying with any of the provisions of this Agreement.
- 19.5 Each Party shall give the other prompt written notice of any claim under any of the insurance policies to be maintained by the other under the Agreement, together with details of the event giving rise or likely to give rise to a claim. Each Party shall render to the other all reasonable assistance that may be required for the preparation and negotiation of insurance claims.
- 19.6 The Contractor shall, whenever reasonably required by the Company, provide for the Company's inspection the policy or policies of insurance and the receipts for the payment of current premiums. If the Contractor fails upon request to produce to such satisfactory evidence that there is in force any of the insurances required, then in such case the Company:
 - (1) may effect and keep in force any such insurance and pay such premium or premiums as may be necessary for that purpose and recover the same as a debt due from the Contractor; and
 - (2) will be entitled at its absolute discretion to deny all of the Contractor's personnel from access to the Site until such evidence has been provided to the Company.

20. TERMINATION

- 20.1 This Agreement may be terminated:
 - 20.1.1 by the Contractor giving written notice to the Company if the Company fails to pay any undisputed charges due hereunder within [ninety (90)] days of a written notification of such default of the due date therefor; or
 - 20.1.2 by the Company giving written notice to the Contractor if the Contractor commits any breach of any term of this Agreement and which (in the case of a breach capable of being remedied) shall not have been remedied within [fourteen (14)] days of a written request to remedy the same; or

- 20.1.3 by the Company at any time upon the giving of [thirty (30)] days' written notice to the Contractor; or
- 20.1.4 by either Party giving written notice to the other Party ("the other Party") in the event that the other Party (a) files for bankruptcy; (b) becomes or is declared insolvent, or is the subject of any proceedings related to its liquidation, insolvency or the appointment of a receiver or similar officer for it; (c) makes an assignment for the benefit of all or substantially all of its creditors; or (d) enters into an agreement for the composition, extension, or readjustment of substantially all of its obligations.
- 20.2 Upon expiry or early termination of this Agreement, the Contractor will ensure that the Works and all other deliverables rendered or delivered up to and including the date of expiry or termination will be properly and fully handed over to the Company and/or other vendor(s)/contractor(s) appointed by the Company in accordance with the procedures specified by the Company.
- 20.3 Upon expiry or termination of this Agreement, a request for return of Confidential Information is deemed to be made and **Clause 15.5** shall apply.
- 20.4 Any termination of this Agreement pursuant to this Article shall be without prejudice to any other rights or remedies the Company may be entitled to under this Agreement or at law and shall not affect any accrued rights or liabilities of either Party. For avoidance of doubt, the Company shall, in the event of termination pursuant to **Clause 20.1.3**, pay to the Contractor for the undisputed Works which have been performed by the Contractor and accepted by the Company such sums accrued due and payable under **Annex C (Contract Price, Price Summary and Payment Schedule)**, pro-rated as determined by the Company where necessary in respect of the amount of work actually done up to and including the date of termination.
- 20.5 All Clauses of this Agreement so intended to survive after expiry or termination of this Agreement shall survive the expiry or sooner termination of this Agreement. Without prejudice to the generality of the foregoing and for the avoidance of doubt, **Clauses 13.2, 15, 16, 21, 22, 23, 24, 25 and 26** shall survive the expiry or earlier termination of this Agreement.

21. INDEMNITY

- 21.1 The Contractor shall indemnify the Company its Affiliates against all claims, liabilities, expenses, costs, loss or damage of whatever nature (including legal costs on a full indemnity basis incurred by the Company) brought against, suffered or incurred by the Company arising out of or in connection with this Agreement or the Contractor's supply, delivery, installation, testing and commissioning of the Works or the Contractor's performance or purported performance of or failure to perform the Works (other than any delay in respect of which liquidated damages are paid to the Company in accordance with **Clause 11**), including without prejudice to the generality of the foregoing:
- 21.1.1 any breach of any term of this Agreement by the Contractor;
- 21.1.2 any death of and/or injury to any person and/or loss of or damage to any property which may arise out of or in consequence of the supply, delivery, installation, testing and commissioning of the Works and/or the performance or provision of the Works and/or the presence of the Contractor or the Contractor's Personnel on the Premises;
- 21.1.3 any statement, act, omission, fraud, misconduct, negligence or default whatsoever of the Contractor or the Contractor's Personnel (which the Contractor agrees it shall be fully and solely liable and responsible for); and

- 21.1.4 any enforcement or attempted enforcement by the Company of its rights or remedies against the Contractor.
- 21.2 Notwithstanding **Clause 19**, the Contractor agrees to maintain at its own cost a comprehensive policy of insurance to adequately cover its entire liability in respect of any act or default for which it may become liable to indemnify the Company and its subsidiaries, holding company, related companies, associated companies and affiliated companies under the terms of this Agreement.
- 21.3 The remedies contained in this **Clause 21** are without prejudice to and in addition to any warranties, indemnities, remedies or other rights provided by law, and/or under any other provision of this Agreement for the benefit of the Company.

22. EXCLUSION AND LIMITATION OF LIABILITY

- 22.1 The Company shall have no responsibility (whether to the Contractor or otherwise) in respect of any losses which are not reasonably foreseeable, any indirect, consequential, special or punitive losses, any loss of anticipated revenue, profit, use, anticipated savings, goodwill, reputation, or business contracts, or any other form of pure economic loss, or any loss or damage suffered by the Contractor as a result of, or in connection with, any claims brought against the Contractor by any third party, howsoever arising (whether in contract, tort or otherwise) and even if the Company had been advised of the possibility or likelihood of the same.
- 22.2 Without prejudice to the generality of the foregoing, and notwithstanding anything to the contrary herein, the aggregate liability of the Company arising out of or in connection with this Agreement shall not in any event exceed the Contract Price.

23. NOTICES

- 23.1 All notices required or permitted to be given hereunder shall be in writing and in the English language and shall be sent by hand, post, facsimile or electronic mail to the respective addresses and/or numbers of the Parties set out below or to such other address or numbers as the relevant Party may hereafter specify to the other Party by notice in writing expressed to be for the purposes of this **Clause 23**.

If to SATS:

SATS AIRPORT SERVICES PTE LTD
[● SATS Airfreight Terminal 5,
Core K, Level 5
30 Airline Road, Singapore 819830]

Attn: Ernest Lim
AM Projects
Fax: +65 65450532
Ernest_limla@sats.com.sg

If to Contractor:

Attn: [name of contact person]
[designation]
[Address]

Attn:
Fax:
Email Address:

- 23.2 Any notice, demand or other communication so addressed to the relevant Party shall be deemed to have been delivered if (i) delivered by hand, on the date of receipt, (ii) delivered by post, five (5) days after despatch, or (iii) delivered by fax or electronic mail, when transmitted, error free.

24. DISPUTE RESOLUTION

- 24.1 In the event of any dispute of difference arising out of or in connection to this Agreement or the breach thereof including any question regarding its existence, validity or termination, the Parties shall use their best endeavours to settle such disputes or differences through

amicable discussions. To this effect, they shall consult and negotiate with each other, in good faith and understanding of their mutual interests, to reach an amicable and equitable solution satisfactory to both Parties.

- 24.2 If the Parties are unable to reach any solution within a period of thirty (30) days after the commencement of the negotiation then the disputes or differences shall be referred to and finally resolved by arbitration administered by the Singapore International Arbitration Centre ("SIAC") in accordance with the Arbitration Rules of the Singapore International Arbitration Centre ("SIAC Rules") for the time being in force, which rules are deemed to be incorporated by reference in this Clause. The seat of the arbitration shall be Singapore. The Tribunal shall consist of one arbitrator. The language of the arbitration shall be English.

25. GOVERNING LAW AND JURISDICTION

- 25.1 This Agreement shall be governed by and construed in accordance with the laws of Singapore.
- 25.2 Subject to the dispute resolution provisions in Clause 24, the parties agree to submit to the non-exclusive jurisdiction of the courts of Singapore.

26. GENERAL

26.1 Waiver:

No waiver of any rights arising under this Agreement shall be effective unless in writing and signed by the Party against whom the waiver is to be enforced. No waiver of any breach of this Agreement shall operate as a waiver of any subsequent breach of the same or any other provision. The failure of either Party to enforce at any time of the provisions of this Agreement shall in no way be interpreted as a waiver of such provision.

26.2 Severability:

If any term or provision of this Agreement shall be held to be invalid, illegal or unenforceable, the remaining terms and provisions of this Agreement not affected by such invalidity, illegality or unenforceability shall remain in force and effect and such invalid, illegal or unenforceable term or provision shall be deemed not to be part of this Agreement.

26.3 Assignment/Novation:

This Agreement is personal to the Contractor and shall not be assigned or novated either as to the whole or any part thereof, without the prior written consent of the Company. The Company may, by notification to the Contractor, assign or novate the whole or any part of this Agreement to any party. The Contractor shall be deemed to have consented to such assignment or novation.

26.4 Binding Effect on Successors-in-title:

This Agreement shall operate for the benefit of and be binding on the successors-in-title and permitted assigns of each Party.

26.5 Sub-Contracting:

The Contractor shall carry out its obligations hereunder personally. The Contractor shall not subcontract the whole or any part of its obligations under this Agreement without the prior written consent of the Company. If the Contractor subcontracts any works to a subcontractor, the Contractor agrees that:

- (i) The appointment of any subcontractor shall not release the Contractor from any of its obligations under this Agreement; and
- (ii) The Contractor shall remain fully liable for all such work of the subcontractors.

26.6 Set-Off:

The Company may, to the extent permitted by law, deduct from or set-off any amount due and payable to the Contractor from the Company against any payment or sum due and payable to the Company and/or any of its Affiliates from the Contractor, whether under this Agreement or otherwise and whether as damages or otherwise.

26.7 Entire Agreement/Amendments:

This Agreement including all annexes and attachments hereto contains the entire agreement between the Parties with respect to the supply and performance of the Works and supersedes all previous agreements and understandings between the Parties relating to the subject matter herein. No amendments or changes to this Agreement shall be effective unless made in writing and signed by authorised representatives of the Parties.

26.8 Relationship between the Parties:

The Contractor shall for the purposes of this Agreement be deemed to be an independent contractor, and nothing contained in this Agreement is intended nor shall it be regarded as constituting a partnership, agency, joint venture or fiduciary relationship between the Parties. Unless otherwise expressly provided in this Agreement no Party shall enter into or have authority to enter into any engagement or make any representation or warranty on behalf or pledge the credit of or otherwise bind or oblige the other Party thereto.

26.9 Publicity:

The Contractor shall not publicise (including, without limitation, by making press statements or by issuing press releases) or release any information in relation to or about this Agreement except with the Company's prior written consent.

26.10 Exclusion of Third Party Rights:

A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act (Chapter 53B) to enforce any term of this Agreement, save that any of the Company's Affiliates may enforce and rely on the provisions of **Clauses 21.1 and 26.6** to the same extent as if it were a party to this Agreement, provided nevertheless that this Agreement may be terminated and any term of this Agreement may be amended or waived without the consent of any of such Affiliates.

26.11 Time is of the essence:

Time is of the essence for this Agreement but no failure or delay on the part of the Company in exercising any right, power, privilege or remedy shall impair any such right, power, privilege or remedy or be construed as a waiver thereof or an acquiescence to such default.

26.12 Non-Exclusivity:

The Contractor acknowledges and agrees that it may not be the exclusive provider of the Works to the Company and the Company may procure the Works or works similar to the Works from or otherwise conduct business with other parties who may be in competition, whether directly or indirectly, with the Contractor.

26.13 Change of Control:

In the event there is any proposed change in the ownership or shareholding of the Contractor, the Contractor shall seek the Company's written consent prior to such change.

26.14 Non-Solicitation:

For the duration of this Agreement and for an additional term of **2 years** following the expiry or earlier termination of this Agreement, the Contractor agrees not to induce or attempt to induce any person who is an employee of the Company and who is or was involved in the performance of this Agreement to terminate his or her employment with the Company.

26.15 Counterparts:

This Agreement may be executed by the Parties in any number of counterparts, each of which is an original but all of which together constitute one and the same instrument.

26.16 Personal Data:

- a) In this Clause 26.16, "**Personal Data**" means all data which is defined to be "personal data" under the Personal Data Protection Act 2012 (No. 26 of 2012 of Singapore) ("**PDPA**") and/or other applicable data protection laws (together with the PDPA, "**Applicable Data Protection Laws**") which are collected, processed, disclosed and/or used by any Party for any purpose arising out of or in connection with this Agreement, and includes all information which identifies or which relates to an individual, whether true or not, in any form, disclosed, furnished or made available directly or indirectly to the Contractor and/or its permitted subcontractors by or on behalf of the Company or otherwise received or obtained by the Contractor and/or its permitted subcontractors pursuant to or by virtue of this Agreement.
- b) Each of the Company and the Contractor shall, in its collection, processing, disclosure or other use of Personal Data adhere to the requirements of the PDPA and other Applicable Data Protection Laws. Without prejudice to the generality of the foregoing, each Party shall, where required and in the manner required by any Applicable Data Protection Laws:
 - a. use Personal Data only for purposes which would be considered appropriate by a reasonable person in the circumstances and only after notifying such purposes and obtaining the consent of the individual to whom the Personal Data relates ("**Subject Individual**");
 - b. ensure that its personnel who are authorized to collect, process, disclose and/or use Personal Data are under appropriate and legally enforceable confidentiality obligations;
 - c. provide Subject Individuals with access to their Personal Data and the ability to correct such Personal Data upon request along with their other rights under Applicable Data Protection Laws and promptly notify the other Party upon receipt of any such request from Subject Individuals seeking to exercise such rights;
 - d. use reasonable efforts to ensure the accuracy of Personal Data;

- e. institute reasonable technical and organizational security arrangements to protect the Personal Data from unauthorised access and similar risks;
 - f. securely destroy the Personal Data where it is no longer required; and
 - g. not transfer any Personal Data outside Singapore without the prior written consent of the other Party, and if consent is given, to transfer Personal Data outside Singapore only in accordance with the requirements in the PDPA.
- c) Each Party shall return or destroy Personal Data provided to it by the other forthwith upon being required to do so by the other or immediately without request upon the expiry or earlier termination of this Agreement, save that a Party may nonetheless retain Personal Data if such retention is necessary for its business or legal purposes (including without limitation compliance, audit or regulatory purposes).

27. ANTI-BRIBERY AND ANTI-CORRUPTION

27.1 The Contractor undertakes, represents and warrants that:

- (a) the Contractor, the Contractor's Personnel and any other person responsible for supplying and performing the Works is in compliance with all anti-corruption and anti-bribery laws, and will remain in compliance with all such laws during the term of this Agreement; and
- (b) without prejudice to the generality of Clause 27.1(a), each of the Contractor, Contractor's Personnel and any other person responsible for supplying and performing the Works has not made, authorized or offered to make payments, gifts or other transfers of value, directly or indirectly, to any government official or private person in order to (i) improperly influence any act, decision or failure to act by that official or person; (ii) improperly induce that official or person to use his influence with a government or business entity to affect any act or decision by such government or entity; or (iii) secure any improper advantage.

27.2 The Contractor agrees that should it learn or have reason to know of any payment, gift or other transfer of value, directly or indirectly, to any government official or private person that would violate any anti-corruption or anti-bribery law, it shall immediately disclose such activity to the Company and the Company shall have the right to immediately terminate this Agreement by giving written notice to the Contractor.

27.3 The Company shall have the right to terminate this Agreement if the Contractor breaches this Clause 27.

28. URGENT REMEDY PLAN

28.1 Without limiting its other rights or remedies, the Company may by 2 days' written notice require the Contractor to remedy a breach by the Contractor of any of these Conditions or contract clauses. The Contractor shall continue to perform all obligations under this contract and shall:

28.2 devote all necessary resources to the resolution or mitigation of the breach for immediate resolution, promptly meet with the Company to agree on a strategy (the "Urgent Remedy Plan"), which if approved by the Company, shall be implemented by the Contractor immediately;

- 28.3 and the Contractor shall report on a daily basis until resolution to the Company's satisfaction.
- 28.4 The Contractor shall at the same time draft a "Prevention Plan" to prevent a recurrence, after which upon the Company's approval the "Prevention Plan" shall be included into the supplied scope, at no cost to the Company.
- 28.5 A failure by the Contractor to comply with these obligations constitutes a material breach of this Contract, without prejudice to the Company's other rights and remedies.

29. Local Subcontractors

- 29.1 The Contractor shall to provide a list of local (in country) subcontractors and local (in country) suppliers pertaining to this contract. The list will include the name of the local (in country) supplier, the local (in country) subcontractor, their nature of business and the scope of supply to the Contractor pertaining to the Contractor's supplied scope to the Company. This list of the Contractor's local (in country) subcontractors and local (in country) suppliers shall be submitted to the Company for approval before commencement of supply. Subsequently, the Contractor shall continue to update the list to the Company and shall in a timely manner seek the Company for prior approval, for any changes. This list of the Contractor's local (in country) suppliers and local (in country) subcontractors shall also be provided in the form of an excel file upon demand and periodically throughout the duration of this contract.
- 29.2 The Contractor shall declare, and continue to regularly declare all of the Contractor's parent companies, Affiliates, joint ventures, subsidiaries, associated companies and other subsidiaries of the Contractor's parent companies. The Contractor shall declare all relationships to any company having any number of the same shareholders, entities, directors, management personnel, controlling interests and any family members holding such positions in other companies with an interest pertaining to this contract scope. The Contractor shall declare any other company which is its related corporation (as defined in the Companies Act (Cap. 50) of Singapore) or its associated companies.

[The rest of this page is intentionally left blank]

In witness whereof this Agreement has been entered into on the date stated at the beginning.

The Company

SIGNED by [•]

for and on behalf of

SATS Airport Services Pte Ltd

in the presence of:

}

Witness' signature

Name:

Designation:

The Contractor

SIGNED by [•]

for and on behalf of

[•]

in the presence of:

}

Witness' signature

Name:

Designation: