

**PURCHASE AGREEMENT FOR THE SUPPLY, DELIVERY, TESTING AND
COMMISSIONING ON A TURNKEY BASIS OF SIX (6) REFRIGERATED FOOD
TRUCKS WITH TAILGATE (EUR 6, ON-THE-ROAD, WITHOUT COE)**

**SFI Manufacturing Private Limited
("Buyer")**

AND

("Contractor")

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PURCHASE AGREEMENT FOR THE SUPPLY, DELIVERY, TESTING AND COMMISSIONING ON A TURNKEY BASIS OF SIX (6) REFRIGERATED FOOD TRUCKS WITH TAILGATE (EURO 6, ON-THE-ROAD-WITHOUT COE).

THIS AGREEMENT is made on _____ between

SFI Manufacturing Pte Ltd (Co. Registration No (200603576R) a company incorporated in Singapore and having its registered office at [20 Airport Boulevard, Singapore 819659] (hereinafter referred to as "**Buyer**"); and

2. _____ (Co. Registration No. _____), a company incorporated in _____ and having its registered office at _____ (hereinafter referred to "**Contractor**").

Collectively, the "**Parties**" and individually, a "**Party**".

WHEREAS

- A. The Buyer wishes to purchase the Equipment (defined below) from the Contractor and the Contractor has agreed to supply, deliver, test and commission the Equipment for the Buyer upon the terms and conditions hereinafter set forth.
- B. The Buyer has provided the Specifications (hereafter defined) to the Contractor as set out in **Annex A** of this Agreement.

NOW IT IS AGREED AS FOLLOWS:

1 DEFINITIONS AND INTERPRETATIONS

1.1 In this Agreement, unless the context otherwise requires:

Change Request has the meaning ascribed in **Clause 13**.

Conditional Acceptance means conditional acceptance by the Buyer of the Equipment in accordance with **Clause 8.10** of this Agreement.

Conditional Acceptance Certificate means the certificate issued by the Buyer signifying the Buyer's Conditional Acceptance of the Equipment in accordance with **Clause 8.10** and in the form set out in **Annex H**.

Conditional Acceptance Date means the date of Conditional Acceptance of the Equipment by the Buyer.

Confidential Information has the meaning ascribed in **Clause 14.1**.

Contract Price means the agreed fixed price referred to in **Clause 9** and **Annex C** for the Equipment.

Delivery Schedule means the timetable for the supply and delivery of the Equipment set out in **Annex B**.

Documentation means the documents set out in **Annex E** which shall include all manuals, user instructions, specifications, drawings, training materials and other documentation for the Equipment to be prepared and/or provided by the Contractor and accepted by the Buyer.

Equipment means the Refrigerated Food Trucks according to the Specifications set out in **Annex A**.

Final Acceptance Date means the date of Final Acceptance of the Equipment by the Buyer.

Final Acceptance means final acceptance by the Buyer of the Equipment in accordance with **Clause 8.8** of this Agreement.

Final Acceptance Certificate means the certificate issued by the Buyer signifying the Buyer's Final Acceptance of the Equipment in accordance with **Clause 8.8** and in the form set out in **Annex I**.

Final Acceptance Tests means the testing of the Equipment to determine that the Equipment complies with the (a) Specifications, (b) Documentation, (c) the Final Acceptance test procedure and criteria set out in **Annex D** and (d) the requirements of this Agreement and are ready for operational use.

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 him and on the importation of goods into Singapore.

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 Equipment or any part of thereof which could not reasonably have been detected or discovered prior to the expiry of the Warranty Period.

Payment Schedule means the schedule of payments of the Contract Price set out in **Annex C**.

Personnel shall mean all officers, employees, servants, workers, agents and representatives of the Contractor and its subsidiaries, holding company, related companies, associated companies and affiliated companies, as well as the employees, servants, workers, agents and representatives of Contractor's subcontractors and suppliers.

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) 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 subcontractors by or on behalf of the Buyer or otherwise received or obtained by the Contractor and/or its subcontractors pursuant to, by virtue of, or in the course of negotiating or performing this Agreement (whether before or after the execution of this Agreement).

SATS means SATS Ltd., (Co. Registration No. 197201770G), a company incorporated in Singapore and having its registered office at 20 Airport Boulevard, Singapore 819659.

Site means **SFI Manufacturing Pte Ltd]** or the location designated and agreed between the Parties for the delivery of the Equipment.

Specifications means the specifications of the Equipment set out in **Annex A**.

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.

Warranty Period has the meaning ascribed to it in **Clause 16**.

- 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 References to this Agreement include the annexes hereto which shall form an integral part of this Agreement and be interpreted accordingly.
- 1.4 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 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 "Buyer users" or expressions of similar meaning and effect shall extend to SATS and such entities which SATS, the holding company of the Buyer, 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 Buyer or premises belonging to or occupied by the Buyer 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 a document (including this Contract) includes any variation or replacement of it.
- 1.10 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).
- 1.11 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.
- 1.12 This Agreement comprises of:
 - a) The main body of this Agreement;
 - b) Annex A: Specifications
 - c) Annex B: Delivery Schedule
 - d) Annex C: Contract Price, Price summary and Payment Schedule
 - e) Annex D: Acceptance Test Procedure and Criteria
 - f) Annex E: Documentation

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- g) Annex F: Maintenance and Support Requirements
 - h) Annex G: Work Safety and Health (“WSH”) Rules and Regulations
 - i) Annex H: Conditional Acceptance Certificate
 - j) Annex I: Final Acceptance Certificate
 - k) Annex J: Vendor Reports

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 sell and provide, and the Buyer shall purchase the Equipment 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 the Equipment:

- a) in accordance with the Specifications;
- b) in accordance with the Delivery 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 use appropriately qualified and skilled Personnel to supply the Equipment;

2.2.4 adhere to the Buyer’s administrative procedures applicable to the Contractor and the Buyer’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 Buyer from time to time. In addition, the contractor shall adhere to 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/Tender/Notices/SATS-Supplier-Code-of-Conduct.pdf>

2.2.5 conform with any laws, statutory orders, regulations and standards applicable to the supply of the Equipment and apply for, secure, obtain and maintain all necessary licenses or permits required for the supply of the Equipment;

2.2.6 supply and delivery the Equipment 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 Buyer 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 G**;

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- 2.2.7 provide spares and parts acceptable to the Buyer in accordance with **Annex A**;
 - 2.2.8 cooperate fully with the Buyer and the Buyer's project manager (if any) and/or its authorised representative and if so requested by the Buyer, with other vendors or service providers of the Buyer, and in good faith assist in, participate and contribute to discussions or matters raised by the Buyer with a view to determining and implementing a reasonably practical solution to issues arising in relation to the supply of Equipment;
 - 2.2.9 safeguard the quality of the Equipment and agree that long design life, easy maintenance and operability in accordance with the Specifications are paramount criteria;
 - 2.2.10 ensure that it will resolve any problems/issues arising from the supply of the Equipment and this will be duly resolved without prejudice to the Contractor's obligations to supply the Equipment at no additional costs to the Buyer;
 - 2.2.11 provide training and instruction (including Documentation) to the Buyer's staff on operational and technical maintenance of the Equipment in accordance with **Annex F** and upon request by the Buyer; and
 - 2.2.12 perform and/or provide any and all other work, labour, services, materials, equipment, operations and other matters of any nature whatsoever necessary for the supply and delivery of the Equipment,
- all in accordance with the provisions of this Agreement.
- 2.3 The Contractor warrants and undertakes:
- 2.3.1 it has the right power and authority to enter into this Agreement;
 - 2.3.2 that it has the rights necessary to perform its obligations hereunder and it is not aware as at the date of this Agreement of anything within its reasonable control which might or will adversely affect its ability to fulfill its obligations under this Agreement;
 - 2.3.3 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;
 - 2.3.4 the supply the Equipment and all items supplied by the Contractor to the Buyer 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 Equipment that would be inconsistent with the performance of its obligations under this Agreement;
 - 2.3.5 that (i) the training or instruction of the Buyer's staff and users and (ii) the Documentation and all training and operational manuals shall be complete, accurate and adequate to enable the Buyer to make full and proper use of and to maintain the Equipment in conjunction with the Documentation and training and operational manuals without reference to any person or document;
 - 2.3.6 to provide prompt receipt, analysis and resolution of any technical problems notified by the Buyer to the Contractor and in any event not less than eight (8) hours from the time of the Buyer's notification; and
 - 2.3.7 to provide, without additional charge to the Buyer any upgrades (including without limitation any software upgrades) as may be necessary to ensure the proper functioning and maintenance of the Equipment to meet the objectives set out in the Specifications and the Documentation.
- 2.4 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 Buyer 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 Buyer'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 Buyer.

- 2.5 The Equipment is subject to Final Acceptance by the Buyer.
- 2.6 The review, comments, requirements, instructions, directions or approvals (collectively referred to in this **Clause 2.6** as "**Buyer's directions**") made or given by the Buyer pursuant to this Agreement shall not relieve the Contractor of any of its responsibilities and obligations under this Agreement to fully supply and deliver the Equipment. The Buyer's authorised representative shall be Assistant Vice President Maintenance & Training the only person authorised by the Buyer to make or provide the Buyer's directions on behalf of the Buyer and only those Buyer's directions that are in writing and issued by the Buyer's authorised representative shall be valid. Any Buyer'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 Buyer shall not be treated as authorised by the Buyer and shall not be valid or binding on the Buyer unless supported or verified by the Buyer's authorized representative.
- 2.7 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 Buyer written notice of such alleged conflict for determination by the Buyer. If the Contractor proceeds without notification to Buyer for resolution of such conflict, then all costs incurred in correcting Contractor's interpretation shall be borne by the Contractor.
- 2.8 The Contractor shall provide the Buyer with a list of spare parts/components required for monthly, half-yearly and yearly preventive maintenance, and a recommended spare parts/components list. The Contractor shall hold stock in Singapore of the items and units of spare parts/components as approved by the Buyer to a total value of not less than ten percent (10%) of the amount awarded, for the duration of the Warranty Period.
- 2.9 Notwithstanding Clause 2.8, the Contractor guarantees that the spare parts/components necessary for the efficient working of the Equipment shall be readily available at all times for fifteen (15) years from the date of issue of the Final Acceptances Certificate. The Contractor guarantees that it will deliver or procure the delivery of the said spare parts/components to the Buyer within fourteen (14) days from the date of the Buyer's purchase order, failing which (time being of the essence), the Contractor shall pay the Buyer liquidated damages at the rate of 0.05% of the Contract Price per day following such delay subject to a maximum of ten percent (10%) of the Contract Price.

3. NOT USED

4. NOT USED

5. EMPLOYMENT OF FOREIGN WORKERS

- 5.1 The Contractor will not employ any illegal foreign workers or Personnel in the supply of the Equipment. If any illegal foreign worker or Personnel is employed by the Contractor, the Buyer 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 Buyer or its subsidiaries, holding company, related companies, associated companies or affiliated companies, as the Buyer may deem appropriate in the circumstances.

- 5.2 The Buyer 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 Buyer to enter its premises for this purpose and cooperate with and render all reasonable assistance to the Buyer, at the Contractor's costs, in connection with such verification. Notwithstanding the foregoing and any actual checks done by the Buyer, the Contractor will continue to be fully liable to the Buyer 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 at least ten (10) days from the date of this Agreement and before the commencement of this Agreement, provide the Buyer 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 delivery of Equipment, 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 Buyer in whatever means or form as required by the Buyer), including a copy of each of the following items, to the Buyer 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 delivery of Equipment 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 deliver the Equipment or any part thereof at the Site or any other premises of the Buyer and:
 - (i) are no longer in the Contractor's employ;
 - (ii) are no longer working at the Site or any other premises of the Buyer;
 - (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 airport passes, or any other identification passes (particulars to include the airport 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 Buyer, 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 Buyer or Buyer users.

7. COMPLETION AND DELIVERY

7.1 The Contractor shall complete the supply and delivery of the Equipment at the Site (Incoterms 2010) in accordance with the Delivery Schedule and the provisions of this Agreement.

7A. TITLE AND RISK

7A.1 Title to the Equipment and any materials, goods, accessories or other items supplied by the Contractor and forming a part thereof shall pass to the Buyer on whichever of the following dates first occurs:

7A.1.1 the date on which the Equipment or parts thereof or such items are delivered to the Buyer or otherwise identified to this Agreement;

7A.1.2 the date payment with respect to the Equipment or parts thereof or such items is made;

7A.1.3 the date of issuance of the Conditional Acceptance Certificate;

7A.1.4 the date of issuance of the Final Acceptance Certificate; or

7A.1.5 the date upon which this Agreement shall terminate for any reason.

7A.2 The transfer of title of the Equipment and such items as specified above, shall in no way affect the Buyer's rights or remedies as set forth in other provisions of this Agreement.

7A.3 The Contractor shall not retain any title to the Equipment 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 Equipment or any party thereof, including any lien for monies due to the Contractor by the Buyer. 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 Buyer hereto may (but shall not be obligated to) cause the same to be released at the expense of the Contractor.

7A.4 Notwithstanding that the title is transferred to the Buyer under Clause 7A.1 above, the risk of loss or damage to the Equipment shall remain with the Contractor until the Buyer's issuance of the Final Acceptance Certificate evidencing Final Acceptance of the Equipment.

8. ACCEPTANCE TESTS

8.1 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 D** to meet the criteria set out in **Annex D** 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 Buyer.

8.2 The Buyer or any person authorised by the Buyer shall have the right, to inspect and test the different stages of the assembly or manufacture of the Equipment at any place where such assembly or manufacture is carried out or performed in order to ensure that the Equipment supplied is in accordance with the Specifications, Documentation and the provisions of this Agreement. The Buyer and any person authorised by the Buyer 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 Buyer during inspection and testing at the different stages shall not be deemed acceptance or waiver by the Buyer or relieve the Contractor of any of its responsibilities and obligations under this Agreement.

- 8.3 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 any Equipment to meet the Specifications, Documentation and the provisions of this Agreement.
- 8.4 The Contractor shall give the Buyer written notice of at least seven (7) working days and afford the Buyer 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 [7] working days if the tests are to be carried out at the premises of the Contractor.
- 8.5 At any time prior to delivery to the Buyer and Final Acceptance of the Equipment in accordance with the terms of this Agreement, the Buyer shall have the right to reject any part of the Equipment 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 Equipment shall be corrected or replaced by the Contractor at no additional expense or delay to the Buyer. The Buyer and any person authorised by the Buyer shall be entitled to re-inspect and re-test such part of the Equipment.
- 8.6 The failure of the Buyer to inspect or condemn or reject any Equipment or otherwise to exercise any right entrusted to the Buyer 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 Buyer of faulty or unsatisfactory Equipment or part thereof.
- 8.7 The Contractor shall notify the Buyer in writing when the Contractor has completed or anticipates completing delivery of the Equipment for Final Acceptance. The Parties shall (where applicable) carry out a joint inspection and/or performance of such Equipment or part thereof.
- Within seven (7) working days thereafter, the Buyer shall notify the Contractor in writing of any defects in the Equipment or part thereof or such other defects which the Buyer may discover. The Contractor shall immediately rectify defects notified to it and shall invite the Buyer or persons authorised by the Buyer to re-inspect or re-test the Equipment so rectified. The failure of the Buyer to issue any notice shall not in any way relieve the Contractor of its obligation to supply the Equipment, to rectify any defects therein and to perform its warranty and guarantee obligations in respect thereof.
- 8.8 Final Acceptance of the Equipment will take place on the date of the written acknowledgement by the Buyer to the Contractor of its Final Acceptance of the Equipment. The Buyer's written acknowledgement of its Final Acceptance will be evidenced by the Buyer's signing and issue of the Final Acceptance Certificate.
- 8.9 The Conditional Acceptance and/or Final Acceptance of the Equipment thereof shall not prejudice or act as an estoppel against the exercise of any right of the Buyer in this Agreement, including but not limited to the right to require the Equipment or any part thereof to be repaired, replaced, or to claim for breach or any non-compliance.
- 8.10 The Buyer may effect Conditional Acceptance of the Equipment notwithstanding any minor non-conformity to the Specifications provided the Buyer, in its sole discretion, determines that such nonconformity does not impair the safe or efficient operation of the Equipment or is minor or unsubstantial. The Buyer's written acknowledgement of its Conditional Acceptance will be evidenced by the Buyer'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 Buyer in its sole discretion and an amount equal thereto shall be withheld from the next instalment payable by the Buyer. Such amount shall be paid by the Buyer when the relevant nonconformity shall have been demonstrated to have been corrected or remedied accordingly.

9. CONTRACT PRICE AND PAYMENTS

- 9.1 The Contract Price and the terms and schedule of payment shall be as set out in **Annex C (Contract Price, and Payment Schedule)**.
- 9.2 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 Buyer shall not be liable for any additional costs for variations to the scope of the Equipment in order to secure compliance with the performance criteria of this Agreement.
- 9.3 The Contractor agrees that the Contract Price, and any other charges quoted in this Agreement, shall not be increased except in accordance with **Clause 13**.
- 9.4 The Contractor shall submit its invoices with supporting documents in triplicate to the Buyer at the address stated below or such other address and location as the Buyer may direct in writing:-
Error! Reference source not found.
Attn: Faisal Djojo
Tel.: 97622928
Fax:
E-mail: faisal_djojo@sats.com.sg
- 9.5 The Contract Price (together with GST thereon) shall be paid by the Buyer in accordance with the Payment Schedule set out in **Annex C (Contract Price, Price Summary and Payment Schedule)**, 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 Buyer after the corresponding relevant stage of the supply of the Equipment has been duly completed and accepted by the Buyer in accordance with this Agreement, specifying the amount payable by the Buyer and attaching evidence of acceptance of the Equipment by the Buyer. The Buyer shall pay all undisputed charges within sixty (60) days of receipt of an invoice and all supporting documents.
- 9.6 The Parties shall use their best endeavours to resolve such disputes or differences in relation to the disputed charges in accordance with the dispute resolution process/procedure as contained in **Clause 24**.
- 9.7 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.
- 9.8 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 Buyer.
- 9.9 Unless otherwise expressly provided, all amounts stated in this Agreement expressed to be exclusive of any GST arising in respect of the supply and delivery of Equipment 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 Buyer shall pay to the Contractor all amounts due under this Agreement net of any withholding tax, and 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.
- 9.10 Any payment to the Contractor shall not be construed as acceptance or receipt of the Equipment or any part thereof by the Buyer.

10. LATE COMPLETION

- 10.1 In the event that the Contractor fails to supply the Equipment beyond fourteen (14) days of the scheduled date as provided in the Delivery Schedule, the Buyer shall be entitled to defer payment corresponding to the supply of Equipment until actual performance by the Contractor and acceptance by the Buyer.
- 10.2 If the Contractor shall fail to supply the Equipment by the corresponding delivery date set out in the Delivery Schedule, the Contractor shall pay to the Buyer by way of liquidated damages the sum equivalent to 0.05% of the Contract Price per day commencing on the day after such delivery 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 the Equipment as soon after such delivery date as shall be reasonably possible.
- 10.3 If the Contractor fails to supply the Equipment by more than twenty-four (24) weeks after the corresponding delivery date set out in the Delivery Schedule, the Buyer 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.
- 10.4 The Contractor acknowledges and agrees that the liquidated damages specified in this Agreement represent a genuine pre-estimate of the loss that the Buyer would suffer as a result of the Contractor's breach as specified in the relevant Clause or Annex in this Agreement.

11. SECURITY DEPOSIT

- 11.1 The Contractor shall no later than seven (7) days from the date of this Agreement, furnish a security deposit by way of a banker's guarantee issued by a reputable bank acceptable to the Buyer on terms prescribed by the Buyer, 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 Warranty Period. Should the Contractor fail to furnish the security deposit as required under this Clause, the Buyer may without further notice, and without prejudice to any other rights and/or remedies of the Buyer, 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.
- 11.2 This deposit will be refunded after the thirtieth (30th) day after the last date of expiry of the Warranty Period, if the Buyer 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 Buyer, the actual amount of forfeiture to be determined by the Buyer, and the balance thereof, if applicable, shall be refunded to the Contractor. No interest shall be paid on the deposit or upon refund thereof.

The Contractor shall maintain the amount of the security deposit set out in Clause 11.1 above until the thirtieth (30th) day after the last date of expiry of the Warranty 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.

- 11.3 If the Contractor elects to provide a banker's guarantee pursuant to **Clause 11.1** and if the Buyer anticipates that the banker's guarantee will expire earlier than thirty (30) days from the last date of the Warranty Period, the Buyer shall notify the Contractor to extend the banker's guarantee so that it will expire thirty (30) days from the last date of the Warranty

Period. If the Contractor fails to make such extension within seven (7) days from the date of such notice, the Buyer shall be entitled to call on the banker's guarantee.

12. VENDOR'S REPRESENTATIONS, COVENANTS AND INDEMNITIES

12.1 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 Buyer as follows, and acknowledges that the Buyer 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:

12.1.1 The Contractor has specialized experience in the Equipment.

12.1.2 The Contractor has examined the scope of the Specifications and all other documents, information and requirement of the Buyer, 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 Buyer any errors, discrepancies or inaccuracies in the Specifications or such other documents which an experienced supplier of the Equipment should reasonably have discovered. Both before and during the performance of this Agreement the Contractor shall notify the Buyer immediately when it becomes apparent to the Contractor of any amendments required to the Specifications in order to rectify the Equipment.

12.1.3 The Contractor understands and acknowledges that the Specifications (including without limitation the technical specifications) with respect to the Equipment . The Contractor enters into this Agreement with full knowledge of the Specifications.

12.1.4 The Contractor's failure to fulfil its duty as provided for in **Clauses 12.1.2** and **12.1.3** above shall not relieve the Contractor of its obligation to supply and delivery the Equipment to the Buyer.

12.2 The Contractor shall further fully and effectively indemnify and save the Buyer and its subsidiaries, holding company, related companies, associated companies and affiliated companies harmless against and from:

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

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

12.2.3 without prejudice to **Clauses 12.2.1** and **12.2.2**, 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.

13. CHANGE REQUEST

13.1 The Buyer may in writing request the Contractor from time to time to undertake changes to any part of the Equipment ("**Change Request**"). In the event that any changes in the Equipment is requested, the Parties hereby agree that the procedures set out in this **Clause 13** shall be adhered to in effecting any such variation.

- 13.2 Unless otherwise agreed, upon the Buyer's written request to the Contractor pursuant to **Clause 13.1** above, the Contractor shall promptly and, no later than seven (7) days from the date of the Buyer's aforesaid written request, provide the Buyer with a change order proposal containing reasonable details of the following:
- 13.2.1 description of the Equipment and the materials to be provided under the Change Request;
 - 13.2.2 the impact to the Delivery Schedule;
 - 13.2.3 any adjustments to the Contract Price including downward adjustments where appropriate;
 - 13.2.4 any modifications to the Specifications, Documentation and any other documentation;
 - 13.2.5 any other effect of the Change Request on the supply of the Equipment or; and
 - 13.2.6 any other information (including without limitation any data, calculation, plans, drawings, projections or evaluation) that the Buyer may request.
- 13.3 The Buyer shall evaluate the change order proposal submitted by the Contractor. If the Buyer at its sole discretion opts to proceed with the proposed changes, the Parties shall sign a Change Request. 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 Equipment 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 Buyer provided always that the Buyer accepts such changes to the affected documents.
- 13.4 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 only when the Change Request has been duly signed by the authorised representative of the Buyer and the Contractor. Until a Change Request is duly signed by both Parties, the Contractor will continue to supply and be paid for the Equipment as if the Change Request had not been made.

14. CONFIDENTIALITY

- 14.1 For the purposes of this Agreement, "Confidential Information" includes the terms of this Agreement, the Annexes to this Agreement, all information (written or oral) concerning the business and affairs of the Buyer and its related and associated companies (including, without limitation, information relating to the operational systems and processes as adopted by the Buyer, customers and services of the Buyer or its subsidiaries, holding company, related companies, associated companies or affiliated companies, reports, recommendations, advice or tests, and data obtained or received or accessed by the Contractor as a result of or in connection with the entry or performance of this Agreement. Any information which the Contractor has received or will receive in tangible form from the disclosing Party whether or not marked as "Confidential" or "Proprietary" or with words to similar effect pursuant to this Agreement will also be considered Confidential Information or if by its nature is deemed to be confidential information.
- 14.2 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 Buyer in writing. The Contractor agrees and acknowledges that Confidential Information shall only be used for the purposes of performing its obligations under this Agreement.
- 14.3 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 14**. The Contractor hereby undertakes to take all such steps as

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- shall from time to time be necessary to ensure compliance by its employees agents contractors and subcontractors with the provisions of this **Clause 14**.
- 14.4 Notwithstanding the foregoing, the Contractor shall not be liable to the Buyer 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.
- 14.5 Upon request, the Contractor shall immediately return to the Buyer 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).
- 14.6 The provisions of this **Clause 14** shall survive, and continue to be binding on the after, the termination of this Agreement.

15. INTELLECTUAL PROPERTY

- 15.1 All Intellectual Property Rights comprised in the Equipment and any Documentation as well as any and all other materials or part thereof created or developed by the Contractor for the Buyer (as may be more particularly set out in **Annex A** and/or **Annex B**), shall, unless otherwise expressly agreed between the Parties, be deemed to be irrevocably transferred, assigned to and/or vested in the Buyer on a perpetual, irrevocable and unconditional basis, on and from the date of creation of the same without further charge. If required by the Buyer, the Contractor shall do all such things and sign all such documents necessary to vest all such Intellectual Property Rights assigned or otherwise transferred or granted to the Buyer under this Agreement.
- 15.2 Where the Contractor does not so create or own such Intellectual Property Rights in the Equipment, the Contractor shall obtain and maintain at all times for the Buyer all necessary licences of Intellectual Property Rights for any third party proprietary matter contained in the Equipment to enable the Buyer to use and operate the Equipment (without further costs to the Buyer). For the avoidance of doubt, such third party proprietary matter shall include such software created or owned by the Contractor but not contained in the Equipment for which the Contractor hereby grants to the Buyer the following rights without further charge:-
- 15.2.1 a worldwide, irrevocable, fully paid-up, royalty-free and transferable licence in perpetuity to directly or indirectly use, make, sell, offer for sale, reproduce, distribute, publicly perform and otherwise dispose of the software created or owned by the Contractor; and
- 15.2.2 a right to combine the aforesaid software with any hardware, software or technology whether as part of the Equipment or in combination with any other hardware, software or technology.
- 15.3 The Contractor represents, warrants and undertakes to the Buyer, as a continuing warranty, that this Agreement and the performance of the Contractor's obligations hereunder, shall not breach or otherwise infringe the Intellectual Property Rights of any other parties.
- 15.4 The Contractor shall indemnify and hold harmless the Buyer against any damages, liability, losses, expenses, or claims (including legal costs) arising from or in respect of (a) any breach by the Contractor of the terms of this Agreement and this Clause 15, and (b) without prejudice to the generality of the foregoing, any claim or action by any third party for infringement of the Intellectual Property Rights in connection with the Equipment or Documentation (an "**Intellectual Property Infringement**"). The Buyer shall use reasonable commercial efforts to inform the Contractor of any Intellectual Property Infringement upon becoming aware of the same. In addition to and without prejudice to the above and any other rights in contract or at law:-

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- 15.4.1 if required by the Buyer, the Contractor shall procure the right to continue with the use of the Equipment and/or Documentation or part thereof which is the subject of the Intellectual Property Infringement;
 - 15.4.2 if required by the Buyer, the Contractor shall replace or modify the Equipment and/or Documentation or part thereof which is the subject of the Intellectual Property Infringement so that it is no longer infringing but will function in an equivalent manner. Such replacement or modification shall be subject to the Buyer's approval; and/or
 - 15.4.3 the Buyer shall be entitled to reject the entire Equipment and/or Documentation and terminate this Agreement. Thereupon, the Contractor shall refund to the Buyer the entire Contract Price or all sums which the Buyer has paid to the Contractor. For the avoidance of doubt, the Buyer shall be entitled to exercise its rights under this Clause regardless of the extent or materiality of the Intellectual Property Infringement. Such rights of termination shall be without prejudice to the Buyer's other rights and remedies under this Agreement.

16. WARRANTY

- 16.1 The Contractor shall supply the Equipment diligently in accordance with the Specifications, Documentation and provisions of this Agreement and in conformity with best industry practices.
- 16.2 The Contractor warrants that the Equipment to:
 - 16.2.1 be brand new;
 - 16.2.2 be of suitable grade of its respective kind;
 - 16.2.3 be free from defects in title, design, materials, performance, operation, and workmanship;
 - 16.2.4 strictly conform to the Specifications, Documentation, drawings, samples, performance criteria, and other descriptions referred to herein or provided by the Buyer to Contractor;
 - 16.2.5 be of merchantable quality and fit for the purpose(s) intended according to the Specifications herein;
 - 16.2.6 have long design life, easy maintenance and operability; and
 - 16.2.7 conform to all applicable laws, ordinances, codes and regulationsfor 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 ("**Warranty Period**"). With respect to the Equipment or any part thereof that is repaired, replaced or otherwise altered or performed during the aforementioned period, the Warranty Period shall be extended by an additional twelve (12) months effective from the date of acceptance by the Buyer of the repair, replacement and/or alteration of performance.
- 16.3 If within the Warranty Period the Buyer discovers defects, errors, omissions, misalignments, inaccuracies, operational or performance deficiencies or any other breach of any warranty of the Equipment or any part thereof, the Contractor shall at its own costs promptly rectify, repair, re-perform, replace without costs to the Buyer, the Equipment and all related materials and repair any other damage caused by such defects, errors, omissions, operations or performance deficiencies. All defects and other faults in the Equipment or any part thereof which the Contractor is liable under this Agreement shall be made good by the Contractor at the Contractor's cost.
- 16.4 If the Contractor fails to commence (and having commenced, failed to continue) to

perform the warranty work required under this **Clause 16** within **fourteen (14)** days after being notified by the Buyer in writing of the relevant breach, or in the case of emergency, the Buyer shall be entitled to effect the required repairs or, and the Contractor shall reimburse the Buyer within thirty (30) days after submission by the Buyer to the Contractor of a written invoice therefore, the documented costs incurred by the Buyer in effecting such repairs or replacements.

- 16.5 In addition to the Contractor's warranties under this Agreement, the Contractor shall obtain and procure that the Buyer has the benefits of and right to enforce such warranties against the Contractor's contractors and suppliers of the Equipment and materials used for this Agreement and shall give the Buyer such assistance in enforcing the same as the Buyer may reasonably request.

17. STEP IN RIGHTS

- 17.1 The Buyer reserves the right to appoint an alternative vendor to supply the Equipment (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 Buyer at its sole discretion. Such appointment and step-in works shall be completed within a reasonable period as reasonably determined by the Buyer. The Contractor shall reimburse the Buyer for all additional costs of engaging an alternative vendor. Such right shall be without prejudice to any of the Buyer's rights or remedies under this Agreement or at law.

18. INSURANCE

- 18.1 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:-

- 18.1.1 Workmen Compensation insurance as required by laws, regulations and/or statutes applicable to and covering any employees of the Contractor/subcontractor engaged in the supply of Equipment pursuant to this Agreement. Such insurance shall be endorsed to the effect that claims formulated by the Contractor's Personnel against the Buyer shall be treated as claims against the Contractor and be compensated by such insurance.

The following Endorsements A and B shall be included in the Workmen's Compensation policy:-

ENDORSEMENT A

It is hereby understood and agreed that in the event of any workman employed by the within Insured or by the Insured's Contractors as referred to in Endorsement B herein or any dependant of such workman, bringing or making a claim under the Work Injury Compensation Act (Chapter 354) in force in Singapore against ("**SATS Entity**") and its assigns, subsidiaries, holding company, related companies, associated companies and affiliated companies for personal injury or disease sustained whilst at work on any contract covered by the terms and conditions of the within policy which the Insured may be carrying out for **SATS Entity**, the Insurance Company will indemnify **SATS Entity** and its assigns, subsidiaries, holding company, related companies, associated companies and affiliated companies against such claim, and any costs, charges and expenses in respect thereof. Provided always that the Insurance Company may have the sole conduct and control of all proceedings connected with the claims covered by this endorsement. Nothing in this endorsement shall be construed as affecting the Insured's right to recover damages in any other way under the said Legislation or Common Law in Singapore.

ENDORSEMENT B

It is hereby understood and agreed 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 Work Injury Compensation Act (Chapter 354) or Common Law in Singapore.

- 18.1.2 Contractor All Risk insurance insuring against any property loss and/or damage or personal injury or death arising out of the supply of Equipment or the performance of this Agreement by the Contractor or his sub-contractors and/or suppliers for a limit of not less than \$1,500,000] any one accident/occurrence. Such policy shall be first layer insurance for all co-insured parties and other insurances carried by Buyer shall not be called upon by Contractor's underwriters to contribute or participate on the basis of concurrent contributions, double insurance or otherwise.
- 18.1.3 Comprehensive General Liability insurance which shall include products liability, completed operations and contractual liability and indemnities assumed herein by Contractor.
- 18.1.4 Automobile Liability insurance for all owned, hired and leased vehicles providing coverage for bodily injury or property damage as required by applicable laws, regulations and/or statutes and including passenger liability.
- 18.1.5 where required, Marine Cargo Insurance for 110% of full contract value of the Equipment or part thereof covering the transportation including inland transit of the Equipment or part thereof from the Contractor's (or its sub-contractor's) factory outside Singapore up to the Contractor or Buyer's Site or other agreed destination.
- 18.2 All deductibles applicable to the foregoing insurance policies shall be borne by the Contractor.
- 18.3 All insurance policies covering the Contractor or his subcontractors/suppliers' property shall contain provisions that the insurance companies shall have no right of subrogation or other recourse against the Buyer and any other person indemnified (or the beneficiary of a waiver of subrogation or other recourse) by the Contractor under the Agreement. The following Endorsement shall be included in all insurance policies:-

ENDORSEMENT

Cross Liability Clause with Waiver of Subrogation Rights in Favour of The Principal

Each of the parties comprising the Insured shall for the purpose of this policy be considered as a separate and distinct unit and the words 'the insured' shall be considered as applying to each party in the same manner as if a separate policy has been issued to each of the said parties and the Insurers hereby agree to waive all rights of subrogation or action which they may have or acquire against any of the abovesaid parties arising out of any accident in respect of which any claim is made hereunder, Provided nevertheless that nothing in this clause shall be deemed to increase the Limit of Indemnity in respect of any one accident.

- 18.4 All policies must include the Buyer and its subsidiaries, holding company, related companies, associated companies and affiliated companies as joint insured with the Contractor and must cover liability arising out of occurrences on airport premises.

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- 18.5 The Contractor shall provide Buyer within [60] calendar days after effective date of this Agreement, Certificates of Insurance to evidence that all policies of insurance required above have been purchased. Renewal certificates shall be furnished to Buyer within [60] calendar days from the respective renewal dates.
- 18.6 To the extent possible, the Contractor shall require all of his sub-contractors/suppliers to provide insurance similar to the above, as well as any other that the Contractor considers necessary in accordance with the Contractor's usual practice. The provision of insurance by a sub-contractor/suppliers shall in no event relieve the Contractor of its obligation to provide such coverage under the terms of this Agreement
- 18.7 In order to ensure the adequacy of insurance, the Contractor shall notify its insurers of changes in the nature, extent or program for the supply and delivery of Equipment and ensure the adequacy of the insurance at all time in accordance with the terms of the Agreement.
- 18.8 The Contractor shall provide statements at least thirty (30) calendar days prior written notice of cancellation or material change of the insurance policies required herein.
- 18.9 The Contractor shall comply with all of the terms, conditions and warranties of all insurance effected pursuant hereto and any other insurance taken out in respect of any aspect of the Agreement.
- 18.10 In the event that the Contractor fails to comply with condition imposed by the insurance policies effected pursuant to the Agreement, the Contractor shall, in addition to any other liabilities which the Contractor has, indemnify Buyer and its subsidiaries, holding company, related companies, associated companies and affiliated companies against all losses and claims arising from such failure.
- 18.11 If the Contractor fails or refuses to obtain the insurance required by this Agreement or to provide Buyer with policies or renewal policies as and when required, Buyer shall have the right to procure such insurance at the Contractor's expense, in which event any amounts paid by Buyer for this purpose shall immediately become due and be payable by the Contractor to Buyer; and Buyer in addition to any other remedy available under this Agreement, shall be entitled to deduct such amount from any monies due or which become due to the Contractor. Buyer has no obligation to provide insurance cover to the Contractor or his sub-contractors or suppliers.
- 18.12 The examination of or failure to examine the insurance policies (as submitted by the Contractor) by the Buyer does not in any way relieve the Contractor of its responsibility to effect all necessary insurance as provided for in the Agreement.
- 18.13 All insurance policies provided for in **Clause 18.1** are primary insurance and shall not be considered contributory insurance with any insurance policies of the Buyer, if any.
- 18.14 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.
- 18.15 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. TERMINATION

- 19.1 This Agreement may be terminated:
- 19.1.1 by the Contractor giving written notice to the Buyer if the Buyer fails to pay any undisputed charges due hereunder within ninety (90) days after written notification of such default of the due date therefor; or
 - 19.1.2 by the Buyer 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
 - 19.1.3 by the Buyer at any time upon the giving of thirty (30) days' written notice to the Contractor; or
 - 19.1.4 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.
- 19.2 Upon expiry or early termination of this Agreement, the Contractor will ensure that the Equipment 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 Buyer and/or other vendor(s)/contractor(s) appointed by the Buyer in accordance with the procedures specified by the Buyer.
- 19.3 Upon expiry or termination of this Agreement, a request for return of Confidential Information is deemed to be made and **Clause 14.5** shall apply.
- 19.4 Any termination of this Agreement pursuant to this Clause shall be without prejudice to any other rights or remedies the Buyer 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 Buyer shall, in the event of termination pursuant to **Clause 19.1.3**, pay to the Contractor for the undisputed Equipment which have been supplied and delivered by the Contractor such sums accrued due and payable under **Annex C** (Contract Price, Price Summary and Payment Schedule), pro-rated as determined by the Buyer where necessary in respect of the Equipment (or part thereof) actually supplied and delivered up to and including the date of termination.
- 19.5 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 12.2, 14, 15, 18.10, 21, 22, 23, 24, 25 and 26** shall survive the expiry or termination of this Agreement.

20. PERSONAL DATA PROTECTION

- 20.1 The Contractor and its personnel shall comply in all respects with any applicable or relevant data protection legislation or regulations regarding Personal Data. The Contractor represents warrants and undertakes that it shall use and process the Personal Data only for the purpose of fulfilling its obligations in accordance with this Agreement and that:-
- (i) It shall adhere to the requirements of the Personal Data Protection Act 2012 (No.26 of 2012 of Singapore);

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- (ii) Access to the Personal Data will be given only to the Contractor's and any subcontractor's employees, personnel, agents, principals and contractors who 'need to know' and only to the extent necessary to perform the Contractor's obligations under this Agreement;
 - (iii) It will not modify, alter, delete, publish or disclose any Personal Data to any third party, nor allow any third party to process such Personal Data on the Contractor's behalf unless the Buyer has given its prior written consent; and
 - (iv) It will not retain the Personal Data longer than is necessary for the provision of its obligations in this Agreement.

20.2 The Contractor shall immediately rectify, erase, complete any Personal Data on receiving instructions to this effect from the Buyer. The Contractor undertakes in particular to rectify, erase or complete any Personal Data if it appears that such measures are required by the requirements of any applicable laws, rules and/or regulations.

20.3 The Contractor shall not transfer any Personal Data out of Singapore without the prior written consent of the Buyer. If given, the Contractor shall provide an adequate level of protection to any Personal Data transferred in accordance with applicable laws and regulations, SATS' IT security policy and all reasonable instructions of the Buyer.

20.4 The Contractor shall be liable for the use and processing of the Personal Data and undertakes to indemnify the Buyer in respect of any penalties, liabilities, claims, demands, losses and damages as a result of any breach of the Contractor's obligations under this Clause 20 or the Contractor's fault or negligence in performing these obligations.

21. INDEMNITY

21.1 The Contractor agrees to fully and effectively indemnify and hold harmless the Buyer and its subsidiaries, holding company, related companies, associated companies and affiliated companies from and against all actions, proceedings, claims, damages, liabilities, losses, costs and expenses (including without limitation, legal costs and expenses) whatsoever arising out of or in connection with the acts, omissions, default or negligence of the Contractor and/or its officers, employees, representatives, agents, suppliers, vendors or subcontractors in relation to the Equipment and the Contractor's obligations under this Agreement.

21.2 Notwithstanding **Clause 18**, 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 Buyer 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 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 Buyer.

22. EXCLUSION OF LIABILITY

22.1 The Buyer shall have no responsibility (whether to the Contractor or otherwise) in respect of any losses which are not reasonably foreseeable, any indirect or consequential losses, any loss of 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 claim brought against the Contractor by any third party, howsoever arising (whether in contract, tort or otherwise) and even if the Buyer had been advised of the possibility or likelihood of the same.

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 or by post or by facsimile 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.

If to the Buyer :

[insert]

[20 Airport Boulevard, Singapore 819659,

Attn:

Fax:

If to Contractor:

- 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, 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 in Singapore 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 into this Clause. All arbitration proceedings shall be in the English language.
- 24.3 The commencement of any arbitration proceedings under this Clause shall in no way affect the continual performance of the obligations of the Parties under this Agreement, except insofar as such obligations relate to the subject matter of such proceedings.

25. GOVERNING LAW

- 25.1 The laws of the Republic of Singapore shall govern the validity and interpretation of this Agreement and the legal relationship of the Parties to it.

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 Buyer. The Buyer 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 Buyer. 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 be liable for all such work of the subcontractors.

26.6 Set-Off:

Notwithstanding any other provision to the contrary contained in this Agreement, the Buyer will be entitled, at any time and from time to time, without notice to the Contractor, to set off and deduct from any and all amounts payable to the Contractor (whether under this Agreement or any other agreement), any and all sums that may be due and owing by the Contractor to the Buyer, its related or associated companies, whether under this Agreement or otherwise (including without limitation, any liquidated damages payable under any of the Clauses or provisions of this Agreement, or any amounts previously overpaid to the Contractor).

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 delivery of the Equipment 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 No Partnership or Joint Venture:

Nothing in this Agreement shall create or be deemed to create a partnership or joint venture between the Parties and 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. The Parties enter into this Agreement as independent contractors.

26.9 Publicity:

All media releases, public announcements and public disclosures by the Contractor relating to this Agreement, or the subject matter thereof, including but not limited to promotional marketing material, (but not including any announcement intended solely for internal distribution by the Buyer and the Contractor nor any disclosure required by legal, accounting or regulatory requirements) shall be approved by the Buyer prior to release.

26.10 Exclusion of Third Party Rights:

A person not party to this Agreement (other than a permitted assignee to whom rights have been assigned in accordance with the provisions of this Agreement) shall have no right under any legislation for the enforcement of contractual terms by a third party (whether in force now or to be enacted in the future and as the same may be modified, adapted or supplemented from time to time) to enforce any term of this Agreement. Without prejudice to the generality of the foregoing, The Contracts (Right of Third Parties) Act 2001 is excluded under this Agreement.

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 Buyer 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.

27. ANTI-BRIBERY AND ANTI-CORRUPTION

27.1 The Contractor undertakes, represents and warrants that:

- (i) the Contractor, the Contractor's Personnel and any other person responsible for performing this Agreement on behalf of the Contractor 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
- (ii) without prejudice to the generality of Clause 27.1, each of the Contractor, Contractor's Personnel and any other person responsible for performing this Agreement on behalf of the Contractor 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 (1) improperly influence any act, decision or failure to act by that official or person; (2) 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 (3) 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 Buyer and the Buyer shall have the right to immediately terminate this Agreement by giving written notice to the Contractor.

27.3 Without prejudice to Clause 27.2, the Buyer may determine this Agreement and recover from the Contractor the amount of any loss resulting from such determination if the Contractor offers, gives or agrees to give, or has offered, given or agreed to give, to any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of this Agreement or for showing or forbearing to show favour to

any person in relation to any contract, agreement or transaction with the Buyer or if the like acts shall have been done by any person employed by the Contractor or acting or purportedly acting on its behalf (whether with or without the knowledge of the Contractor) or if in relation to any contract, agreement or transaction with the Buyer, the Contractor or any person employed by it or acting or purportedly acting on its behalf commits any offence under the Penal Code or the Prevention of Corruption Act (Chapters 224 and 241 respectively of the 1985 Edition) or abets or attempts to commit such an offence or gives any fee or reward the receipt of which is an offence under the Penal Code or the Prevention of Corruption Act.

IN WITNESS WHEREOF, the Parties have hereunto set their hands the day and year first above written.

SIGNED BY: _____]
]
]
 _____]
 (Name and designation)]
 for and on behalf of]
 [SATS Entity]
]

 (Signature & Company Stamp)

in the presence of: _____]
 (Name)]
]

 (Signature of Witness)

SIGNED BY: _____]
]
]
 _____]
 (Name and designation)]
 for and on behalf of]
]

 (Signature & Company Stamp)

in the presence of: _____]
 (Name)]
]

 (Signature of Witness)

ANNEXES

ANNEX A SPECIFICATIONS

ANNEX B DELIVERY SCHEDULE

ANNEX C CONTRACT PRICE, PRICE SUMMARY AND PAYMENT SCHEDULE

ANNEX D ACCEPTANCE TEST PROCEDURE AND CRITERIA

ANNEX E DOCUMENTATION

ANNEX F MAINTENANCE AND SUPPORT REQUIREMENTS

ANNEX G WORK SAFETY AND HEALTH (WSH) RULES AND REGULATIONS

ANNEX H CONDITIONAL ACCEPTANCE CERTIFICATE

ANNEX I FINAL ACCEPTANCE CERTIFICATE

ANNEX J VENDOR REPORTS