

Supply Terms and Conditions

These ST&C apply to the supply of Goods in accordance with the Supply Letter.

1. Definitions and Interpretation

1.1 In the Agreement, these Supply Terms and Conditions ("**ST&C**"), where the following capitalised terms are utilised in the ST&C and Supply Letter, they shall have the following meaning:

"**Affiliate(s)**" means in relation to a Party, any entity that it directly or indirectly Controls, is Controlled by, or is under common Control with that Party.

"**Acceptance**" has the same meaning given in Clause 3.19;

"**Agreement**" means the Supply Agreement for the supply of Goods;

"**Bespoke Goods**" means the goods manufactured and procured by the Supplier to a customised design and specification approved by the Purchaser, and supplied by Supplier to be exclusively offered by the Purchaser as part of the Inside Burj Al Arab Experience;

"**Best Industry Practice**" means in relation to any undertaking and any circumstances, the highest degree of professionalism, skill, diligence, prudence and foresight which would be expected from a market leading company engaged in the same type of activity under the same or similar activities;

"**Business Day**" means any day, which is not a Friday, Saturday or a declared private sector public holiday within the United Arab Emirates;

"**Commencement Date**" has the meaning given in Clause 10 of the Supply Letter;

"**Confidential Information**" has the same meaning given in Clause 16.1;

"**Consignment Agreement**" means the agreement between the Supplier and Purchaser by which Supplier shall place at Purchaser's location on a consignment basis such quantities and types of Goods as set forth in the consignment form at Schedule 3 of the Supply Letter and Supplier agrees to be bound by the Consignment Terms and Conditions located at hyperlink provided in the Supply Letter;

"**Control**" means the beneficial ownership of more than 50% of the issued share capital of a company or the legal power to direct or cause the direction of the general management of the company, and controls, controlled and the expression change of control shall be construed accordingly;

"**End Date**" means the end date as set out in the Supply Letter;

"**Force Majeure Event**" has the same meaning given in Clause 3.18;

"**Goods**" are the Bespoke and Non-bespoke goods described in the Supply Letter and/or any Purchase Order in the quantities shown in the same, together with such other goods as the Parties may from time to time agree in writing;

"**IBAAE**" means Inside Burj Al Arab Experience, a luxury hotel operating as a branch of Jumeirah Beach Resort LLC, which may issue Purchase Order(s) for Goods as part of the Inside Burj Al Arab Experience;

"**Intellectual Property Rights**" means (i) all forms of copyright and authors rights (including any and all rights that

may be considered financial rights provided under UAE Federal Law No. 7 of 2002), database rights, patents, designs, inventions, utility models, trade names, trademarks, service marks, rights in trade dress or get-up, goodwill, domain names, know-how, technical information, trade secret, rights to sue for passing off, unfair competition rights, moral rights and Confidential Information; (ii) applications and the right to apply for registration, renewals or extensions for any of these rights; and (iii) all other intellectual property rights or rights of a corresponding nature or similar forms of protection, whether registered or unregistered, existing anywhere in the world;

"Inside Burj Al Arab Experience" means an opulent retail experience whereby Goods, including Bespoke Goods, are offered exclusively to customers and guests visiting and/or staying at Burj Al Arab;

"Law(s)" means (i) all applicable laws, statutes, regulations, by-laws, guidelines and codes in force from time to time in force, with which the Supplier is legally required to comply in any jurisdiction that the Goods are provided to or in respect of; (ii) any binding court order, judgement or decree; (iii) any applicable industry code, policy or standard; and (iv) any applicable direction, policy or order that is binding on the Supplier that is made or given by a regulatory body having jurisdiction over the Supplier or any of the Supplier's assets, resources or business;

"Non-bespoke Goods" means goods which are part of the Supplier's standard range of goods and which do not incorporate the Purchaser Background IP and/or have not been manufactured and procured by Supplier to a personalised design or specification as part of the Inside Burj Al Arab Experience, but rather a standard design

approved by Purchaser, and supplied by Supplier to Purchaser;

"Party" means either the Purchaser or Supplier as the context requires and **"Parties"** means both of them;

"Project IP" means Intellectual Property Rights discovered or coming into existence as a result of, for the purposes of or in connection with the supply of Goods in accordance with the Agreement but does not include Supplier Background IP or Purchaser Background IP;

"Purchaser" means the party described as such in the Supply Letter;

"Purchaser Background IP" means Intellectual Property Rights owned by or licensed to the Purchaser, which exists separately from the Agreement including but not limited to the Purchaser trademarks set out in Schedule 3 of the Supply Letter, as may be added to from time to time by the Purchaser, and does not include Supplier Background IP or Project IP;

"Purchase Order" means an order issued by the Purchaser to the Supplier in writing in the form set out in Schedule 1 of the Supply Letter, or as created by an automated ordering system which generates a purchase order in substantially the same form as that set out in Schedule 1 of the Supply Letter;

"Purchaser Order Number" means the purchase order number as set out in the Purchase Order;

"Site" means the premises described as such in the Supply Letter;

"Specification" means the specifications of the Goods set out in the Supply Letter, as approved by Purchaser and amended from time to time by written agreement between the relevant Parties;

“**Supplier**” is the party described as such in the Supply Letter;

“**Supplier Background IP**” means Intellectual Property Rights owned by or licensed to the Supplier which exists prior to the date of the Agreement, but does not include Purchaser Background IP or Project IP;

“**Variation**” means any change to the Goods or the Purchase Order which is instructed or approved as a Variation under Clause 14;

“**Warranty Period**” means the period set out in the Supply Letter.

1.2 Commencement and term

This Agreement commences on the Effective Date and shall continue for a period of [12][18] months until the End Date, unless terminated earlier in accordance with Clause 14. This Agreement shall remain in force after the End Date until all Purchase Orders entered into by the Parties prior to the End Date have been completed, expired or terminated.

2. Agreement to Supply Goods

2.1 If the Purchaser issues a Purchase Order, the Supplier shall supply the relevant Goods manufactured and procured by the Supplier:

- (a) from the commencement date specified in the relevant Purchase Order (the “**Commencement Date**”);
- (b) for the rates set out in the Supply Letter;
- (c) in accordance with the description of Goods specified in the relevant Purchase Order and in the quantity set out in the Purchase Order; and

- (d) within the period set out in the relevant Purchase Order.

2.2 The Supplier shall during the term of the Agreement:

- (a) promptly provide the Purchaser with such information about the relevant Goods as the Purchaser may require from time to time;
- (b) seek Purchaser's prior approval of the design of the Goods prior to manufacture, supply and/or distribution of the Goods to Purchaser;
- (c) promptly notify the Purchaser of any modification, upgrade, improvement, enhancement or development to the relevant Goods, or which would be applied to the relevant Goods, developed or owned by the Supplier, and obtain prior approval from Purchaser for such changes to the relevant Goods; and
- (d) promptly notify the Purchaser of any changes in the specification of the Goods (or any of them) or the discontinuation of production of any of the Goods and, whenever reasonably possible, at least thirty (30) days before such change or discontinuation takes place.

2.3 The Purchaser may, after placing a Purchase Order, extend the period for supply of the relevant Goods and the Supplier shall not be entitled to additional costs as a result of such change.

2.4 The Supplier shall engage at its own risk, cost and expense appropriately trained and experienced personnel, all relevant materials and sufficient resources to ensure the supply of the Goods will comply with the terms and conditions of

- the Agreement and relevant Purchase Order.
- 2.5 The Supplier shall be obliged to procure the Goods listed in the Supply Letter and/or approved by the Purchaser, and supply such Goods to the Purchaser. The Supplier shall supply, and Purchaser shall purchase, Bespoke Goods on an as-needed basis and according to the Purchase Order(s) issued by the Purchaser and shall not hold stocks of such goods. The Supplier shall keep sufficient stock of Non-bespoke Goods in order to satisfy any Purchase Order issued by Purchaser in accordance with the guidelines set out in the Supply Letter and/or Purchase Order(s).
- 2.6 The Purchaser and Supplier may not promote and display the Goods online for sale.
- 2.7 The rates set out in the Supply Letter are final and may only be reviewed and adjusted as agreed by the Parties in writing.
- 2.8 Any Purchase Order issued by the Purchaser will be confirmed by written instructions (via email or letter) to the Supplier in the form set out in Schedule 1 of the Supply Letter and will be subject to these ST&C.
- 2.9 The Supplier warrants to the Purchaser that:
- (a) the Goods will be supplied in accordance with the terms and conditions of the Agreement and all Laws and guidelines, including guidelines, procedures and directions made by the Purchaser under the Agreement and the Purchase Order;
 - (b) the Bespoke Goods and any other Goods bearing Purchaser Background IP and Project IP will be manufactured and supplied exclusively to Purchaser;
- (c) the Supplier has sufficient resources, plants, materials and appropriately trained staff to properly perform its obligations in accordance with the Agreement and will have sufficient resources, plants, materials and appropriately trained staff to meet the reasonably anticipated demand by the Purchaser for the relevant Goods during the term of the Agreement;
 - (d) the Goods will be supplied in an efficient, and cost effective manner in accordance with Best Industry Practices;
 - (e) the Supplier will be in compliance with all the Laws and any relevant authority, ensuring that the Supplier possesses all relevant authorisations, permits and licences to supply the Goods;
 - (f) the Goods will conform with the requirements set out in the Purchase Order and be fit for their intended purpose;
 - (g) it has the full power and authority to enter into the Agreement and to perform its obligations hereunder;
 - (h) the supply of the relevant Goods and the use of the relevant Goods by Purchaser shall not infringe the rights (including but not limited to Intellectual Property Rights) of any third party; and
 - (i) it has good title to any Goods supplied; and

- (j) the Goods are free from all liens, mortgages, charges and any other encumbrances.
- 2.10 Purchaser may enter into a Consignment Agreement, as set out in Schedule 2 of the Supply Letter, whereby Purchaser shall hold Goods owned by Supplier until sale of such Goods according to the terms of the Agreement and the Consignment Terms and Conditions as referred to at hyperlink provided in the Supply Letter ..
- 3. Delivery and Title**
- 3.1 The Supplier agrees to deliver the relevant Goods purchased by the Purchaser in accordance with the terms and conditions set out in the Agreement, the relevant Purchase Order to the address set out in the relevant Purchase Order and/or the relevant Consignment Agreement (as applicable). Each delivery must be clearly marked in accordance with the Purchase Order.
- 3.2 From the Commencement Date, the Purchaser shall provide the Supplier with access to the Site and all other areas reasonably required for the proper delivery of the Goods. The Supplier acknowledges that it may not be given exclusive access to the Site.
- 3.3 Time of delivery of the Goods is of the essence of the Agreement and the Purchaser shall be entitled to reject all the Goods and cancel the Purchase Order if any part or any instalment of the Goods is not delivered on the agreed date and:
- (a) recover from the Supplier any expenditure reasonably incurred by the Purchaser in obtaining the relevant Goods directly from the Supplier or from any other supplier; and
- (b) to the extent permitted under Laws, claim damages for any additional costs, loss or expenses incurred by the Purchaser which are in any way attributable to the Supplier's failure to deliver the Goods on the due date.
- 3.4 The Purchaser shall have the right to change its delivery instructions including the delivery date at any time by notice in writing to the Supplier.
- 3.5 The Purchaser shall be under no obligation to accept delivery of the Goods before the agreed delivery date, but reserves the right to do so.
- 3.6 Where Goods are delivered in excess of those ordered by the Purchaser, , the Purchaser may at its sole discretion elect to keep such excess goods and treat them as if ordered or to reject them. Any Goods rejected under this Clause 3.6 shall be collected by the Supplier within [five (5)] Business Days of notification of their rejection by the Purchaser. Any Goods awaiting collection shall be at the Supplier's risk and the Purchaser shall have no responsibility or liability in respect of such Goods.
- 3.7 Unless specifically agreed with the Purchaser in writing, the Supplier shall not make any charge for any packing materials (including pallets, packing cases, wrappers or other packing materials of any description). Title in such items shall pass to the Purchaser on delivery and Purchaser may, without notice to the Supplier, dispose of them as Purchaser thinks fit without being liable to account in any way to the Supplier.
- 3.8 The Supplier shall comply with the Purchaser's change management and document management and reporting systems and computer programs, all as notified by the Purchaser to the Supplier and amended by the Purchaser from time to time.

- 3.9 Title to and risk in the relevant Goods supplied to Purchaser shall pass to the Purchaser upon the earlier of delivery, or when the Purchaser pays for the Goods, without any prejudice to any right of rejection which the Purchaser may have under the Agreement or under Law.
- 3.10 The Goods must be accompanied by a delivery note quoting the Purchase Order Number listing the relevant Goods in sufficient detail to enable the Purchaser to check the conformance of the Goods with the Specification at the time of delivery. No responsibility will be accepted by the Purchaser for any Goods unless a delivery note has been signed by the Purchaser. Signature on behalf of the Purchaser of a delivery note or other document presented for signature on delivery or collection of the Goods is not evidence that the correct quality or quantity of the Goods have been delivered or that they otherwise meet the requirements of the Agreement or the Purchase Order.
- 3.11 If the Purchaser claims that a Purchase Order has not been fulfilled or has been incorrectly fulfilled, the Supplier shall be deemed to accept the validity of the claim unless it serves written notice on the Purchaser disputing the said claim and stating the reasons for its dispute within [three (3)] Business Days of the date of the said claim.
- 3.12 Until the Purchaser has signed for the Goods in accordance with the Agreement, all risks including loss, destruction or damage to any Goods and any obligation to insure remains the Supplier's.
- 3.13 Any Goods which are rejected or which are awaiting replacement or repair under Clause 6 shall be at the Supplier's risk from the time of receipt by the Supplier of notice from the Purchaser rejecting the Goods or requiring the Supplier to procure the repair and replacement of the Goods in accordance with Clauses 4 and 6.
- 3.14 The Supplier must provide the Purchaser with satisfactory evidence that the Goods are adequately insured prior to delivery, including marine transport if applicable.
- 3.15 The Purchaser may, at any time, require the Supplier to provide the Purchaser with evidence of the Supplier's compliance with the Supplier's obligations under Clause 2.9 and any other obligations as provided elsewhere in the Agreement.
- 3.16 No later than 10 days from the end of a calendar month, the Supplier shall provide the Purchaser with a report outlining the Goods supplied during the course of the calendar month.
- 3.17 The Purchaser can at any reasonable time come to the Supplier's premises to inspect and test the Goods. If the Goods are not in accordance with the Specifications or requirements of the Agreement then the Purchaser can reject them, not accept delivery and not pay for them until the Supplier has satisfied the Purchaser that the Goods comply with the requirements of the Agreement and the relevant Purchase Order.
- 3.18 Force Majeure
- (a) Force Majeure Event means any circumstance not within a Party's reasonable control including, without limitation: acts of God, flood, drought, earthquake or other natural disaster; epidemic or pandemic; terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations; nuclear, chemical or biological contamination or sonic boom; any law or any action taken by a

government or public authority; collapse of buildings, fire, explosion or accident; and interruption or failure of utility service.

(b) If a Party is directly or indirectly affected by a Force Majeure Event, it shall promptly notify the other Parties, as soon as reasonably practicable but in any event within three (3) days after becoming aware of the commencement of the relevant event, of the nature and the extent of the circumstances in question.

(c) No Party shall be deemed to be in breach of the Agreement or otherwise be liable to the other, for any delay in performance or the non-performance of any of its obligations under the Agreement to the extent that the delay or non-performance is due to any Force Majeure Event, provided that it:

(i) promptly notifies the other of the Force Majeure Event in accordance with Clause 3.18(b) and its expected duration; and

(ii) uses reasonable endeavours to minimise the effects of that event.

(d) Where a Party claims a Force Majeure Event, the other Party shall be entitled to terminate the Agreement where the Force Majeure Event prevents performance for thirty (30) days or more.

(e) If at any time the Supplier claims a Force Majeure Event in respect

of its obligations under the Agreement, then the Purchaser (as applicable) shall be entitled to obtain from any other person such Goods as the Supplier is unable to supply, and will be released from all its obligations to the Supplier under the Agreement.

(f) Before exercising its right of termination under this Clause 3.18, the Party requesting termination shall negotiate in good faith with the other Party to reach an agreement on the continued performance of the Agreement.

(g) No Party shall be entitled to claim a Force Majeure Event in the following cases:

(i) a shortage of or increased price of labour, materials or utilities; or

(ii) any delays, inefficiencies, late performance or similar occurrence of subcontractors; or

(iii) any actions or circumstances caused by the Party's own fault or negligence.

3.19 Acceptance

(a) Any reference in the Agreement to the Purchaser's "acceptance" will mean written approval by the Purchaser as set out in the Purchase Order in accordance with this Clause 3.19 ("**Acceptance**").

(b) Acceptance will mean Acceptance or approval of the

Goods signified by:

- (i) a sign-off sheet signed by the Purchaser; or
- (ii) written approval sent via email from the email address of the Purchaser noting the Acceptance of the Goods delivered.

4. Quality and Rejection of Goods

4.1 To assure the Purchaser of its quality control, the Supplier shall:

- (a) carefully inspect the Goods before despatch for compliance with the Specifications and requirements as set out in the Purchase Order;
- (b) upon request from the Purchaser provide the Purchaser such production representative samples of the relevant Goods for the purposes of quality control inspection or testing as it may require;
- (c) upon request by the Purchaser, demonstrate to the Purchaser's satisfaction that it uses quality procedures and systems for the production of the relevant Goods which will ensure production conformity to the Specification; and
- (d) agree any changes to the Specifications in writing with the Purchaser prior to supplying those Goods during the term of the Agreement.

4.2 If upon any such inspection or testing (whether by Purchaser, or Supplier under Clause 4.1) any Goods are found to be defective or not in accordance with the Agreement or the Purchasing Order (and

where such inspection or testing has been carried out by Purchaser and the Purchaser notifies the Supplier in writing), the Supplier shall at its own expense make good the defect and/or ensure that the Goods comply in all respects with the Agreement and Purchase Order.

4.3 The Supplier shall not unreasonably refuse to provide its consent to changes in the instructions for the treatment, assembly, use and/or storage of the Goods requested by the Purchaser, where the Purchaser can reasonably demonstrate that this is necessary or appropriate. The Supplier shall remain liable under its warranty in this Clause 4 and 5, notwithstanding any instructions received by the Purchaser concerning the treatment, assembly, use and/or storage of the Goods under the Agreement.

4.4 The Supplier shall promptly keep the Purchaser informed of any matter of which it is or reasonably should, as supplier of the Goods, be aware of relating to the storage, transportation, handling, assembly or use of the Goods by the Purchaser (including legislation or advice from responsible or professional or legal bodies in respect of raw materials or chemicals used in the manufacture of the Goods) and the actions it has taken or proposes to take and those that the Purchaser, should take in relation to such matters.

4.5 The Purchaser shall not be deemed to have accepted any Goods until it has had a reasonable time to inspect them following delivery or after any latent defect has become apparent.

4.6 The Purchaser reserves the right to carry out such testing and inspections on the relevant Goods as the Purchaser considers necessary to ensure that Goods tendered for delivery are supplied in conformity with the Purchase Order

and the Agreement and to reject any Goods tendered for delivery found to be non-conforming or to advise the Supplier that the Goods do not or will not meet the requirements of the Purchase Order and the Agreement and will be rejected if tendered for delivery. The costs of testing relating to non-conforming Goods shall be charged to and paid by the Supplier in full.

4.7 Without prejudice to the warranties set out in the Agreement, the Purchaser shall have the right at its own cost and discretion at any time to conduct at the Supplier's premises an audit of the Supplier's operations, facilities and insurance policies and its quality, environmental and health and safety procedures and systems to ensure that the Supplier has the appropriate facilities, procedures, systems and personnel to perform the Agreement in accordance with its terms of the Agreement and in compliance with all relevant Laws. For that purpose, the Purchaser and its authorised representatives shall be entitled to have access to the Supplier's premises during normal working hours on giving reasonable notice to the Supplier.

5. Product Recall

5.1 The Supplier shall immediately notify the Purchaser in writing providing all relevant details if it discovers that there is:

- (a) any defect in the Goods which have been delivered to the Purchaser at any time; or
- (b) any error or omission in the instructions for the use and/or assembly of the Goods,

(whether or not any such defect, error or omission represents a breach of the warranties in Clause 2.9 or any other Clause which causes or may cause any risk of death, injury or damage to property).

5.2 The Purchaser may at its sole discretion and at the Supplier's own cost:

- (a) recall any Goods or any other products into which the Goods have been incorporated already sold by Purchaser to its customers (whether for a refund, credit or replacement which shall in each case be undertaken by the Supplier at the Purchaser's option); and/or
- (b) issue any notification whether in writing or otherwise to its customers about the manner of use or operation of any Goods or any other products into which the Goods have been incorporated already sold by Purchaser to its customers,

in each case on the basis of the identification whether by the Purchaser, its customers or any third party of any defect in the relevant Goods or any error or omission in the instructions for their use or assembly (whether or not that defect, error or omission represents a breach of the warranty in Clause 2.7 or any other Clause) which the Purchaser reasonably concludes affects or may affect any of the Goods supplied which causes or may cause any risk of death, injury or damage to property.

6. Warranty Period

6.1 The Supplier must, at the Supplier's own cost, repair, replace or otherwise make good any defects in the relevant Goods notified by Purchaser to the Supplier during the Warranty Period or such longer period as provided by applicable Law.

6.2 The Supplier must bear all incidental costs, including any costs of removal associated with the repair, replacement or making good of the defects in accordance with Clause 6.1.

- 6.3 The timing of the rectification work described in Clause 6.1 must be agreed with the Purchaser, or failing agreement, must be reasonably specified by the Purchaser, before commencing the work.
- 6.4 If the Supplier fails to rectify the defect within the time agreed or specified by the Purchaser under Clause 6.3, the Purchaser may do so or engage another party to do so at the Supplier's risk and expense.
- 6.5 Any cost incurred by the Purchaser under Clause 6.4 will be a debt due from the Supplier to the Purchaser . For the avoidance of doubt, the Supplier shall reimburse the Purchaser in full any costs and expenses incurred under Clause 4.4.
- 6.6 The Warranty Period will recommence (and restart from the beginning) from the date of the repair, replacement or making good, but only in respect of that part of the Goods repaired, replaced or made good.

7. Insurance and Security

- 7.1 The Supplier shall during the term of the Agreement take out and maintain at its sole cost and expense the insurance policies required in order to supply the Goods in accordance with applicable Laws, with the limits specified in the Supply Letter.
- 7.2 The Supplier shall notify the Purchaser immediately of any cancellation of a relevant insurance policy and of any change to the policy which affects the Purchaser's interests.
- 7.3 Without limiting the Purchaser's rights under any insurance policy taken out by the Supplier in accordance with the Agreement (whether as co-insured or otherwise), if an event occurs or a circumstance arises which may affect the Purchaser's interests and which may give rise to a claim under any insurance

policy to be taken out by the Supplier under the Agreement, the Supplier shall:

- (a) notify the Purchaser within fourteen (14) days of that event;
- (b) actively make a claim under the relevant policy and remit to the Purchaser any insurance proceeds recovered by the Supplier in respect of the Purchaser's rights and interests under or in connection with the Agreement or any liability to third parties; and
- (c) ensure that the Purchaser is kept fully informed of any subsequent actions and developments concerning the relevant claim.

7.4 At the Purchaser's request, the Supplier shall promptly (but within a period not exceeding ten (10) Business Days of such request) produce evidence acceptable to the Purchaser that the Supplier is maintaining the insurances required under the Agreement, including but not limited to, the insurance certificate(s) giving details of cover and the receipt for the current year's premium.

7.5 The Purchaser has the right to take out and maintain any policy of insurance required by this Clause 7 if the Supplier fails to do so.

7.6 The Supplier agrees to reimburse the Purchaser for any expenses the Purchaser incurs in taking out and maintaining any policy of insurance taken out by the Purchaser pursuant to Clause 7.

7.7 The Supplier will ensure that nothing is done or omitted to be done which would prejudice or invalidate any insurance cover obtained in line with this Clause 7.

7.8 The Supplier shall ensure that all the

- insurance policies required by this Clause 7 are through a reputable licensed insurer in the United Arab Emirates that is acceptable to the Purchaser and contains an endorsement that the insurer will provide the Purchaser with not less than thirty (30) days' notice prior to cancellation, termination or alteration of cover.
- 7.9 At any time during the term of the Agreement, the Purchaser reserves the right to modify the insurance requirements, including limits, based on the nature of the risk, exposures, prior experience, insurer(s), coverage, or other special circumstances.
- 7.10 The Supplier and its employees or subcontractors (as applicable) shall comply with all security requirements of the Purchaser's premises or facility, or as otherwise notified by Purchaser to the Supplier. Any failure to comply with such security requirements that results in delays or denial of access to Supplier's employees accepting the Goods properly and on time shall be the Supplier's total responsibility.
8. The Parties shall comply with the applicable data protection laws under local laws, and where no such laws exist, the Parties shall adopt appropriate measures, tools and technologies necessary to guarantee security of any personal data it processes for purchases of the Goods (as defined in the General Data Protection Regulation (EU) 2016/679 "GDPR") and comply with its obligations required under the GDPR.
- 9. Subcontracting, Assignment and Novation**
- 9.1 The Supplier shall not assign any of its rights under the Agreement to any party other than an Affiliate, without the Purchaser's prior written approval.
- 9.2 The Supplier shall not subcontract the supply of the Goods or any part of the Goods without the Purchaser's prior written approval. In the event that part or all of the supply of the Goods is subcontracted, the Supplier shall remain fully responsible in respect of the supply of the Goods.
- 9.3 The Purchaser has the right to assign and/or novate any or all of the Purchaser's rights and obligations under the Agreement. The Supplier acknowledges and agrees to do everything necessary or requested by the Purchaser either during the term, or after the termination of, the Agreement to enable the Purchaser to assign and/or novate any or all of the Purchaser's rights and obligations under the Agreement as aforesaid. If requested by the Purchaser, the Supplier agrees to execute a deed of assignment and/or novation in a form to be approved and provided by the Purchaser.
- 9.4 A novation by the Purchaser shall be effective from a date to be chosen by the Purchaser, provided that the novation is notified to the Supplier by the Purchaser on or before the said date.
- 10. Taxes and Duties**
- 10.1 Subject to Clause 10.2, the Supplier shall be responsible for paying any tax, levy, excise, duty or fee that may be payable in relation to the Goods.
- 10.2 The Purchaser shall, subject always to Clause 11, in addition to paying any amounts due and owing by it under the Agreement, pay the amount of any value added tax ("VAT") properly chargeable in respect of any sums to be paid by the Purchaser to the Supplier.
- 10.3 The Parties agree that they will cooperate and do all things reasonably necessary to assist one another to comply with their obligations in respect of the administration, reporting and

remittance of any VAT, including providing, upon request, any invoice, statement receipt or other accounting document or record to substantiate the amount of VAT paid (or received) under or in accordance with the Agreement.

10.4 The Supplier acknowledges and agrees that if any applicable Law requires the Purchaser to deduct an amount in respect of withholding tax from a payment under the Agreement, such that the Supplier would not actually receive on the due date the full amount provided for under the Agreement then on the due date:

- (a) the Purchaser shall deduct the amount for the withholding tax;
- (b) the Purchaser shall pay an amount equal to the amount deducted to the relevant government authority in accordance with applicable Law and give the original receipt to the Supplier; and
- (c) the Purchaser shall pay the Supplier an amount equal to the difference between the payment and the amount deducted.

11. Invoicing

11.1 The Supplier shall invoice the Purchaser, for the actual quantity of the relevant Goods that have been delivered in accordance with the relevant Purchase Order and accepted by the Purchaser. Acceptance of the Goods shall be subject to Clause 3.19.

11.2 Payment will be made within forty-five (45) days, calculated from the date on which the Purchaser receives the invoice, subject to the terms of the Agreement.

11.3 All invoices shall be submitted to the Purchaser along with a copy of the

signed delivery note and a copy of the Purchase Order. The Purchaser shall not be obliged to make any payment in relation to any invoices which do not have these documents attached.

12. Liability

12.1 Nothing in the Agreement shall limit the Supplier's liability for:

- (a) death or personal injury caused by its negligence, or negligence of its personnel, agents or subcontractors;
- (b) fraud or fraudulent misrepresentation;
- (c) any third party claims that the Goods infringe the Intellectual Property Rights of a third party;
- (d) any claims relating to breach of data protection obligations by the Supplier; or
- (e) any other losses which cannot be excluded or limited under applicable Laws.

12.2 Subject to Clause 12.1, neither Party to the Agreement shall have any liability to the other Party for any indirect or consequential loss arising under or in connection with the Agreement (including but not limited to loss of profits or opportunities), save to the extent caused by the wilful misconduct or gross negligence of the Party.

13. Non-Exclusive Nature

13.1 The Purchaser shall be under no obligation to place any Purchase Order pursuant to the Agreement.

13.2 The Purchaser is under no obligation to obtain the Goods exclusively from the Supplier.

14. Variation

- 14.1 The Purchaser may at any time prior to delivery of the whole or any part of the Goods, issue a written notice directing the Supplier to alter, amend, omit, add to or otherwise vary the Goods and the Supplier must carry out and be bound by any such Variations.
- 14.2 Within ten (10) Business Days of receipt of the written notice referred to in Clause 14.1, and before the Supplier carries out the Variation, the Supplier must provide to the Purchaser a detailed breakdown of the increase or decrease in the applicable rate as a result of the Variation.
- 14.3 No Variation issued in accordance with the Agreement will vitiate or invalidate the Agreement.
- 14.4 A Variation may involve the omission of any part or parts of the Goods and the Supplier agrees that the Purchaser may engage others to supply that part or parts so omitted. The Supplier acknowledges that any one or more omissions will not constitute a basis to allege that the Purchaser has repudiated the Agreement notwithstanding the extent or timing of the omission.
- 14.5 The rate for each Variation shall be determined by agreement between the Parties in writing, or, in absence of the agreement, a valuation will be made by the Purchaser on the basis of the rates set out in the Supply Letter (the Purchaser shall determine the applicable rates), or where there are no applicable rates/prices in the Supply Letter then a fair and reasonable valuation of the Variation shall be made by the Purchaser.
- 14.6 The Supplier is not entitled to any payment (pursuant to the Agreement or any other principle of Law) in relation to any Variation unless:
- (a) the Supplier has been directed to carry out the Variation pursuant to Clause 14.1; and
- (b) the increase or decrease in the Price has been determined in accordance with Clauses 14.2 and 14.5.
- 14.7 In case of adverse economic market conditions such as hyper-inflation, extraordinary increases of raw material, manufacturing, packaging or logistic cost beyond normal levels or other general economic hardship such as the inability to obtain raw material, personnel and/or resources, the Parties shall meet and negotiate to mitigate such effects. If the Parties fail to reach agreement within thirty (30) days, either Party may request a suspension or, if the situation persists permanently, to terminate the affected Goods.
- 15. Termination**
- 15.1 This Agreement will automatically expire and terminate on the End Date, as set out in the Supply Letter.
- 15.2 Without affecting any other right or remedy available to it, the Purchaser may terminate the Agreement with immediate effect by giving written notice to the Supplier if:
- (a) the Supplier breaches the Agreement and (if such breach is remediable) fails to remedy that breach within a period of fifteen (15) days after being notified of the breach. Notwithstanding the forgoing, the Agreement may be terminated immediately where the breach is persistent. A breach of the Agreement will be persistent where the Supplier has already been asked to remedy the breach by the Purchaser and it has recurred not less than [two (2)] further times in any continuous period of

- twelve (12) months;
- (b) the Supplier offers (directly or indirectly) to any person any bribe, gift, gratuity, commission or other thing of value, as an inducement or reward in relation to the Agreement;
 - (c) the Supplier becomes bankrupt or insolvent or has an administrator or other controller appointed;
 - (d) there is a change of Control of the Supplier;
 - (e) the Supplier stops carrying on all or a significant part of its business, or indicates in any way that it intends to do so; or
 - (f) any consent, licence or authorisation held by the Supplier is revoked or modified such that the Supplier is no longer able to comply with its obligations under the Agreement.
- 15.3 If the Agreement is terminated pursuant to Clause 15.2, then the Purchaser shall not be required to pay the Supplier for the Goods until the Purchaser has set off any additional costs it incurs as a result of such termination.
- 15.4 The Purchaser may terminate the Agreement or cancel any Purchase Order placed pursuant to it for any reason at any time in which case it shall pay the Supplier for the cost of the Goods supplied at the date of termination or cancellation of the Purchase Order.
- 15.5 The Parties acknowledge and agree that each Party's entitlement to terminate the Agreement pursuant to this Clause 15 and that a court order will not be required to give effect to any termination of the Agreement under this Clause 15.

16. Confidentiality

- 16.1 Each Party undertakes that it shall not at any time during the Agreement, and for a period of two (2) years after termination or expiry of the Agreement, disclose to any person any confidential information concerning the business, affairs, customers, clients, Supplier, plans or strategy ("**Confidential Information**") of the other Party or of any member of the group of companies to which the other party belongs, except as permitted by Clause 16.2.
- 16.2 Each Party may disclose the other Party's confidential information:
- (a) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of exercising the Party's rights or carrying out its obligations under or in connection with the Agreement. Each Party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other Party's confidential information is aware of its confidential nature and agrees to comply with this Clause 16 as if it were a party;
 - (b) as may be required by Law, a court of competent jurisdiction or any governmental or regulatory authority; or
 - (c) with the written consent of the other Party.
- 16.3 No Party shall use any other Party's Confidential Information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Agreement.
- 16.4 The Supplier shall not, without the prior

written consent of the Purchaser:

- (a) take, or authorise the taking of, any photographs of the Site for use in any publicity or advertising; or
- (b) issue any press release or make any public relations announcement relating to any Purchase Order or the Agreement.

17. Intellectual Property Rights

- 17.1 The Purchaser and/or its Affiliates retain the Intellectual Property Rights in the Purchaser Background IP.
- 17.2 The Purchaser grants the Supplier a revocable, royalty free, non-assignable and non-sublicensable licence to reproduce and use the Purchaser Background IP as necessary for the sole purpose of the Supplier complying with its obligations under the Agreement and applicable Purchase Orders. The Supplier shall not reproduce, use or otherwise deal with the Purchaser Background IP, or allow any other person to do the same, for any other purpose. The Supplier shall not use this license for manufacture, supply and/or distribution of the Goods for any other purpose at any time during or following the termination of the Agreement. The Purchaser has the right to immediately revoke this licence at any time by providing notice in writing to the Supplier.
- 17.3 The Supplier retains the Intellectual Property Rights in the Supplier Background IP.
- 17.4 To the extent that any Supplier Background IP exists in the Project IP, Supplier must disclose the full extent of such rights in writing, including full details of any third party licensed rights and the terms for use of such third party licensed rights. To the extent any exists within the

Project IP, Supplier grants Purchaser and its Affiliates a non-exclusive, perpetual, transferable, royalty free, and worldwide licence to the Project IP, including the right to grant sub-licences at no further cost to Purchaser, to reproduce and use the Supplier Background IP for the purposes of the Agreement and applicable Purchase Orders.

- 17.5 The Supplier agrees and acknowledges that all Project IP shall be vested in and owned by the Purchaser. The Supplier will execute any documents in connection with assigning, transferring and conveying to Purchaser, its successors and assignees, all right, title and interest in and to the Project IP at any time, including following the termination of the Agreement. The Supplier will enter into agreements with its personnel and/or any other party as necessary to establish the Purchaser's sole ownership of the Project IP, and upon the Purchaser's request, the Supplier will provide the Purchaser with copies of such agreements. The Supplier will enter into a power of attorney with the Purchaser at Purchaser's request to execute assignments of, and register all rights to, the Project IP. To the extent that assignment of such rights is not possible under the applicable Laws, Supplier, hereby grants to Purchaser and its Affiliates the exclusive, perpetual, transferable, royalty free, and worldwide licence to the Project IP, including the right to grant sub-licences at no further cost to Purchaser.
- 17.6 Pursuant to the assignment and/or licence (as applicable) in Clause 16.6, Purchaser acquires from Supplier, on an exclusive basis, in particular the rights to use, reproduce, display, disclose, represent, modify, adapt, translate, integrate, transcribe, analyse, perform, distribute, make publicly available and otherwise exploit and use all or part of the Project IP in any manner or form, by any

means, according to any current or future technology, on any media, for the entire world, for the duration of the legal protection applicable to the underlying Intellectual Property Rights in the Project IP. Supplier hereby agrees and undertakes that it shall execute and deliver to Purchaser any documents, assignments, licenses or carry out all other acts or provide whatever required assistance as Purchaser may request to give full effect to the transfer of ownership, evidence, record, and obtain the Intellectual Property Rights, including copyright, related to the Project IP or to enforce or effectuate any of Purchaser's rights related to the foregoing.

17.7 The transfer to Purchaser also includes the exclusive right to:

(a) file application(s) before the relevant offices to protect any aspect of the Project IP, or any adaptation in any country, for the registration, the renewal or the extension of a copyright, a trademark, a design or any other intellectual property rights, and other proprietary rights in the Project IP.

(b) Initiate or continue under its own name, risks and profits as plaintiff or defendant in all instances, procedures or actions, relating to the Project IP, including the right to legally pursue any and all violations and infringements.

17.8 To the extent permitted under applicable Law, Supplier waives any moral rights that subsist in the Project IP. Where it is not possible for moral rights to be waived, Supplier shall not exercise moral rights to the Project IP (if any).

17.9 The Supplier warrants that the supply of the Goods in accordance with the

Agreement shall not infringe the Intellectual Property Rights of any third party.

18. Indemnification

18.1 Supplier shall indemnify, defend and hold Purchaser, its Affiliates, subsidiaries, directors, officers, employees, agents, successors, licensees and assigns harmless from and against any suit, proceeding, claims, liability, loss, damage, costs or expense which Purchaser may incur, suffer or be required to pay arising out of any dispute, adverse publicity, failure or breach of these obligations by Supplier.

18.2 Supplier shall indemnify, defend and hold Purchaser, its Affiliates, subsidiaries, directors, officers, employees, agents, successors, licensees and assigns harmless from and against any suit, proceeding, claims, liability, loss, damage, costs or expense which Purchaser may incur, suffer or be required to pay arising out of infringement or suspected infringement of any third party rights.

19. Miscellaneous

19.1 This Agreement contains the entire Agreement between the Parties and cannot be changed unless such agreement is evidenced in writing and signed by both Parties. The terms and conditions of the Agreement override any terms and conditions the Supplier may try to impose on the Purchaser.

19.2 This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute an original of the Agreement, but all the counterparts shall together constitute the same Agreement.

19.3 Any notice under or in connection with the Agreement shall be in writing; shall be in the English language; and shall be

- sent by courier or by email to the Party due to receive the notice to the address specified in the Supply Letter or to another address specified by that Party by written notice to the other party. A notice shall be deemed to have been received by the Party:
- (a) if sent by courier, when the courier company confirms delivery thereof as supported by written evidence; or
 - (b) if sent by email, at the time of transmission if sent before 4pm (GST) on a Business Day before in the place of receipt, or, if after this time, on the next Business Day.
- 19.4 Notwithstanding anything to the contrary in the Agreement or any Goods, the Purchaser and any Affiliate of the Purchaser shall be entitled to disclose any Goods to any third party in its absolute discretion. The Purchaser shall not be bound by any condition contained within the Goods that affects in any way the Purchaser or the Purchaser's Affiliates' ability to freely disclose the information about the Goods to any third party, whether or not the Goods have been accepted by the Purchaser. Any such condition shall be considered null and void and the terms and conditions of the Agreement shall prevail.
- 19.5 The Supplier and Purchaser are independent contractors. Nothing in the Agreement will be construed as creating any relationship such as joint venture, partnership, association or persons, employer-employee, principal-agent or franchisor-franchisee.
- 19.6 If any provision of the Agreement is determined by any court or governmental authority to be unenforceable, the Parties intend that the Agreement be enforced as if the unenforceable provisions were not present and that any partially valid and enforceable provisions be enforced to the extent that they are enforceable.
- 19.7 A Party does not waive any right under the Agreement by failing to insist on compliance with any of the terms of the Agreement or by failing to exercise any right hereunder. Any waivers granted hereunder are effective only if recorded in a writing signed by the Party granting such waiver.
- 19.8 Save as to Clause 1.2, the Agreement is not intended to be for the benefit of any third party, and is not enforceable by any third person, and shall not confer upon any third party any right, privilege, remedy, claim or other right.
- 19.9 The following provisions survive termination or expiration of any part of the Agreement: Clauses 6 (Warranty Period), 7 (Insurance and Security), 12 (Liability), 16 (Confidentiality), 17 (Intellectual Property Rights), 18 (Miscellaneous), 20 (Governing Law and Jurisdiction) and 21 (Conflicts of Interest and Compliance with Laws).
- 20. Governing Law and Jurisdiction**
- 20.1 This Agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by the laws of the Emirate of Dubai and the federal laws of the United Arab Emirates as applicable to the Emirate of Dubai.
- 20.2 Each party irrevocably agrees that the Dubai Courts shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Agreement or its subject matter or formation.
- 21. Conflicts of Interest and Compliance with Laws**

- 21.1 Supplier shall not pay or give any fee, commission, rebate or anything of value to or for the benefit of any employee of the Purchaser, nor will the Supplier do business with any company knowing the results might directly benefit any employee of the Purchaser.
- 21.2 Supplier shall comply with all applicable Laws relating to anti-bribery, corruption and fraud.
- 21.3 Supplier shall use its best efforts not to permit any of its employees to engage in any activities contrary to or detrimental to the best interest of the Purchaser. Without prejudice to the foregoing, Supplier shall disclose to the Purchaser in writing any employee of the Supplier that are a family member or relative of any of Purchaser's employees.