

Standard Terms and Conditions for Purchase of Goods and Services

PRELIMINARY

- (A) In these Conditions Time Energy Sdn Bhd is referred to as "Time Energy" and the supplier with whom Time Energy contracts with is referred to as "Supplier". Time Energy and Supplier shall collectively be referred to as the "Parties" and individually as a "Party"
- (B) The Parties agree to be bound by the terms and conditions contained in the Letter of Appointment ("**LOA**") issued by Time Energy together with the general terms and conditions contained herein ("**General Terms and Conditions**") (this LOA and the General Terms and Conditions collectively referred to as "**Agreement**").
- (C) Acceptance of the LOA by the Supplier, Time Energy instruction to the Supplier to proceed with the supply of goods or services or confirmation to proceed with the supply of goods or services by Time Energy, whichever occurs first, shall constitute a binding contract between the Parties and as well as Supplier acceptance of these General Terms and Conditions (if any).
- (D) The contract (meaning the LOA, these General Terms and Conditions and all other documents referred to in them) constitutes the entire agreement between Time Energy and the Supplier and supersedes all prior negotiations, understandings, representations whether written or oral in relation to these services.
- (E) The documents forming the contract, including all drawings, schedules and appendices, are to be taken as mutually explanatory of one another. However, should there be any ambiguity or discrepancy between them, their order of priority for the purposes of interpretation shall be: the LOA; these General Terms and Conditions; then all other contract documents.

Sunday is observed as the weekly holiday and/or with respect to the performance of any payment obligations, Saturday, Sunday, a public holiday in that particular State and a national public holiday throughout Malaysia. For clarity, the performance of any payment obligations shall be subject to Selangor State holidays; and

- (b) where an activity is to be performed in a State where Friday is observed as the weekly holiday (excluding the performance of any payment obligations), Friday and Saturday, a public holiday in that particular State and a national public holiday throughout Malaysia;

"Change Request"

means a specific written request raised for a change, introduction of alterations, additions, amendments or modifications to a Purchase Order in accordance with **Clause 6.4**;

"Charges"

means the amount stated in the Purchase Order and/or the Statement of Work payable to the Supplier for the Services in accordance with this Agreement;

"Confidential Information"

includes all information relating to either Party including but not limited to information, knowledge or data of an intellectual, technical, scientific, financial, cost, pricing, commercial or marketing nature which is not in the public domain and in which the Disclosing Party has a business, proprietary or ownership interest or has a legal duty to protect, whether or not received from a third party in whatever form including but not limited to technical data/know-how, drawings, photographs, specifications, standards, manuals, reports, formulae, algorithms, processes, information lists, trade secrets, computer programs, computer software, computer data bases, computer development, processes, engineering techniques, strategies, Time Energy's (including any personal information and/or other non-public personal information about such end-users and any list, description or other grouping of end-users that is derived using any such personal information or non-public information), internal procedures, employees, business opportunity which the Disclosing Party considers to be confidential and whether it is identified by the Disclosing Party as confidential nature or otherwise and which may be furnished by either Party during the period of this Agreement;

"Control"

means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person or entity, whether through the ownership of voting securities, by contract or otherwise;

"Time Energy"

means Time Energy Sdn Bhd;

"Time Energy's Business Integrity & Anti-Corruption Policy"

means the TIME Group's Business Integrity & Anti-Corruption Policy as set out in <https://www.emitsolar.com/> which may be amended and/or supplemented from time to time;

"Deliverables"

means any related documentation, designs, plans, reports, specifications, maps, papers and other materials, which the Supplier is obligated to provide under a Purchase Order as part of the provision of Goods or Services and any item, work or service that is incidental, ancillary or in any way imperative to the provision of the Services;

"Disclosing Party"

means the Party disclosing the Confidential Information;

1. DEFINITIONS AND INTERPRETATION

- 1.1. In this Agreement, the following words and expressions shall, save where the context otherwise requires, have the following meanings:

"Affected Party" means a Party which is or could reasonably be expected to be, materially prevented, hindered or delayed from performing any of its obligations under this Agreement or any Purchase Order by reason of a Force Majeure Event;

"Affiliates" means of a specified entity or person, whether incorporated or not shall mean another entity or person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such first entity or person.

"Agreement" means this agreement including the schedules, any such modifications, variations, amendments or additions thereto, as the Parties may agree in writing from time to time;

"Applicable Laws" means all published laws, statutes, regulations, by-laws, rules, codes, treaties, ordinances, instruments, judgements, decrees, injunctions, and orders of any court, arbitrator, government or governmental agency or authority and all rules, regulations, orders, permits, licences and consents of any government, governmental authority, local authority, court, or other body in the territory having jurisdiction;

"Best Industry Practice" means, in relation to any undertaking and any circumstances, the exercise of the degree of skill, care, diligence, prudence, foresight and judgement which could reasonably be expected from highly skilled, experienced persons, entities and world leading service providers engaged in comparable types of undertaking under similar circumstances, applying equivalent or better standards currently applied in the industry relevant to the Supplier and/or Goods or Services to ensure, without limitation, the objectives identified in this Agreement and Purchase Orders that include best practice and value in respect of price, and performance are achieved;

"Business Day" means a day other than the following days:

- (a) where an activity is to be performed in a State where

		representatives, contractors and subcontractors and the personnel of such agents, advisers, representatives, contractors and subcontractors;
“Dispute”	has the meaning ascribed to it in Clause 31.1 ;	
“Dispute Notice”	has the meaning ascribed to it in Clause 31.1 ;	“Purchase Order”
“End-User or End-Users”	means the premise owner of which the Solar PV System is installed or the end-user of any Goods;	means the order issued by Time Energy and confirmed by the Supplier in accordance with this Agreement for the supply or provision of the Services;
“Force Majeure Event”	has the meaning ascribed to it in Clause 27.1 ;	“Purchase Order Price”
“Goods”	means the goods or products to be provided by the Supplier in accordance with Clause 5 and as more particularly set out in the LOA ;	means the amount of money indicated in the Purchase Order;
“Government”	means the Government of Malaysia;	“Receiving Party”
“Intellectual Property Rights”	means: (a) patents, trademarks, service marks, rights (registered or unregistered) in any designs, applications for any of the foregoing, trade or business names, copyright (including rights in computer software) and topography rights, know-how, secret formulae and processes, lists of suppliers and Time Energy’s and other proprietary knowledge and information, internet domain names, rights protecting goodwill and reputation, database rights, moral rights and all rights and forms of protection of a similar nature to any of the foregoing or having equivalent effect anywhere in the world and all rights under licences and consents in respect of any of the rights and forms of protection mentioned in this definition; and (b) any application or right to apply for registration of any of the rights referred to in (a) above, are currently existing or will exist in the future;	means the Party receiving the Confidential Information; “Services” means the services to be performed by the Supplier in accordance with the LOA ;
“Invoice(s)”	means the document to be issued to Time Energy in respect of the amounts indicated and cleared as being payable to the Supplier;	“Statement of Work”
“Key Personnel”	means personnel identified as the key members in the Clause 14.2 ;	means one or more statement of works for each Service. The scope of work will contain the requisite information listed out in Clause 4 ;
“Licences”	means all software, hardware, user, point, tag, equipment, device licenses and end-user licenses granted by the Supplier to Time Energy to operate and utilize the Goods or obtain the benefit of the Services which are worldwide, irrevocable and perpetual in nature and shall include all sub-licenses granted by the Supplier to Time Energy to use, develop, modify and maintain the Goods (where applicable)	“Term”
“Performance Guarantee”	means an "unconditional on-demand" and irrevocable guarantee required to be procured by the Supplier from a reputable financial institution acceptable to Time Energy from time to time as security for the due performance of the Supplier of its obligations under a Purchase Order;	means the period of the appointment of the Supplier as provided in Clause 18.1 of this Agreement including any extensions granted thereto; and
“Permitted Sub-contractor”	means the sub-contractor approved by Time Energy to undertake certain obligations of the Supplier under a Purchase Order;	“Warranties”
“Personal Data”	means all or a part of personal data, personal information or data relating to individuals of any kind provided by Time Energy or its Affiliates to the Supplier that relates directly or indirectly to Time Energy or its Affiliates or in the possession of Time Energy or its Affiliates including any expression of opinion about Time Energy’s or its Affiliates;	the warranties provided by the Supplier to Time Energy in relation to the Goods and Services as set out in the LOA or Statement of Work;
“Personnel”	means in relation to a Party, its employees, directors, officers, agents, advisers,	“Warranty Period”
		means any warranty period for the Goods and/or Services as stated in the LOA or as provided by the Supplier;
		“Workers’ Compensation Legislation”
		means all laws dealing with employment and/or social security benefits, including without limitation to the following: (a) the Employment Act 1955 [Act 265]; (b) the Employee’s Provident Fund Act 1991 [Act 452]; (c) the Industrial Relations Act 1967 [Act 177]; (d) the Employees’ Social Security Act 1969 [Act 4]; and (e) the Workmen’s Compensation Act 1952 [Act 273].
		1.2. In this Agreement, unless the context otherwise requires:
		1.2.1. words denoting the:
		(a) singular include the plural and vice-versa;
		(b) masculine gender shall include the feminine and neuter genders and vice-versa; and
		(c) natural persons include bodies corporate and unincorporated;
		1.2.2. references to any legislation or to any provision of legislation shall include any modification or re-enactment of that legislation or any legislative provision substituted for, and all regulations, directives, by-laws, rules and statutory instruments issued or made under such legislation or provision;
		1.2.3. references to an enactment or statutory provision include a reference to any repealed statute or statutory provision which it re-enacts (with or without modification);
		1.2.4. where a word or a phrase is defined, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;
		1.2.5. references to any Party to this Agreement or any other agreement or instrument shall include that Party’s

successors and permitted assigns;

- 1.2.6. references to any agreement or instrument shall include references to such agreement or instrument as amended, novated, supplemented, varied or replaced from time to time;
- 1.2.7. references to "writing" shall include any modes of reproducing words in any legible form and shall include email except where expressly stated otherwise;
- 1.2.8. references to "includes" or "including" shall mean "includes without limitation" or "including without limitation";
- 1.2.9. if an event must occur on a stipulated day which is not a Business Day then the stipulated day will be taken to be the next Business Day;
- 1.2.10. if a period of time is specified and runs from a given day or the day of an act or event, it shall be calculated exclusive of that day;
- 1.2.11. references to rights and remedies "at law" includes common law and equity;
- 1.2.12. no rule of construction or interpretation applies to the disadvantage or detriment of the Party having control or being responsible for the preparation of this Agreement;
- 1.2.13. in construing any of the provision in this Agreement and/or the Purchase Order which do not specifically provide as to how any additional or increased cost is to be dealt with, then in such case, it shall be deemed that such cost is included in the Purchase Order Price;
- 1.2.14. where a general obligation is followed by a more specific obligation, the general obligation shall not be construed restrictively by reference to the specific obligation or deemed to be fully performed if the specific obligation is performed and similarly where the description of a service in general terms is followed by the more specific description of certain elements of that service, the general description of the service shall not be construed restrictively by reference to the elements more specifically described, nor shall the service necessarily be deemed to be fully performed if only elements which are described are provided; and
- 1.2.15. references to:
 - (a) a Clause, means a clause in the main body of this Agreement;
 - (b) a Paragraph, means a paragraph in Schedule to this Agreement; and
 - (c) obligations in this Agreement or the Purchase Order, includes representations, warranties, undertakings and indemnities in this Agreement or the Purchase Order, as the case may be.

2. GENERAL SCOPE OF THE AGREEMENT

- 2.1. This Agreement governs the purchase by Time Energy and the provision by the Supplier of Goods and Services, as applicable.
- 2.2. Nothing in this Agreement shall prohibit Time Energy from procuring any similar goods or services or from entering into any partnership or collaboration with any other third party relating to the supply of any Goods or Services.

3. STRUCTURE OF THIS AGREEMENT

- 3.1. This Agreement comprises the following documents which shall be read and construed as an integral part of this Agreement:
 - 3.1.1. this Agreement consisting of:
 - (a) the LOA including all Schedules to the LOA;
 - (b) these General Terms and Conditions; and
 - 3.1.2. Purchase Order(s) issued pursuant to this Agreement, as updated, amended or replaced by the Parties from time to time in accordance with the terms of this Agreement.
- 3.2. Subject to **Clause 3.3**, the documents forming this Agreement are

to be taken as mutually explanatory of one another save to the extent any of them expressly provides otherwise.

- 3.3. **Order of Precedence** The LOA, these General Terms and Conditions and all other contract documents.

4. STATEMENT OF WORK FOR SERVICES

- 4.1. The Statement of Work is a separate document(s) executed or to be executed between the Parties for a particular Service(s). The Statement of Work is part of the LOA and shall form an integral part of this Agreement. The terms and conditions of this Agreement shall govern the Statement of Work subject to such additions and modifications stated in the Statement of Work.
- 4.2. The Statement of Work shall contain the specific details and the scope of the **Services** including but not limited to the following, where applicable:
 - 4.2.1. the Services to be provided by the Supplier;
 - 4.2.2. service levels, key performance indicators and/or performance evaluation criteria;
 - 4.2.3. agreed liquidated damages and/or service credits;
 - 4.2.4. the project schedules and milestones;
 - 4.2.5. the requirement and/or quantum of the Performance Guarantee; and
 - 4.2.6. any other terms and conditions (including any commercial terms) which are specific to the Services under the said Statement of Work.
- 4.3. Time Energy is not obliged to purchase and/or pay for any Services under any executed Statement of Work unless and until a Purchase Order with respect to the Statement of Work is issued by Time Energy and accepted by the Supplier in accordance with this Agreement.
- 4.4. Unless otherwise stated in the LOA / Statement of Work / Purchase Order, for any delays in fulfilling orders beyond the time period set out in the Purchase Order or such time period for delivery as agreed between the Parties, the Supplier shall pay to Time Energy liquidated damages of 5% of the price of the Purchase Order for each day of delay.

5. PURCHASE OF GOODS

- 5.1. The Supplier shall in good faith provide preferential pricing to Time Energy for the supply of Goods and guarantee a competitive pricing structure for the Goods in accordance with this Agreement.
- 5.2. The Supplier shall make available to Time Energy all of the Supplier's product offerings and such product offerings shall not be subject to any territory restrictions and the Supplier shall make available all its products sold in all territories to Time Energy if so requested by Time Energy. The prices made available by the Supplier to Time Energy for any Goods shall be the best pricing made available by the Supplier to its customers for similar Goods.
- 5.3. To enhance collaborative efforts between Time Energy and the Supplier, the Supplier shall, upon Time Energy's request, provide all required sales and technical training to Time Energy's employees, personnel and representatives on the Goods and the technology contained within the Goods, and any other technical requirements or information relating to the Goods.
- 5.4. The Supplier shall use its best endeavours to manage, address, and mitigate any negative reputational issues or concerns that may arise in relation to the reputation of its brand in Malaysia, or which are brought to its attention by Time Energy, in a prompt and commercially reasonable manner. The Supplier further undertakes to cooperate fully with Time Energy in addressing such matters, including taking corrective actions, as may reasonably be requested by Time Energy, to safeguard the reputation and goodwill of its brand and ensure that such matters do not result in any negative impact to Time Energy.
- 5.5. All Goods supplied by the Supplier to Time Energy shall be in accordance with the specifications as set out in the LOA and Purchase Orders.
- 5.6. The Supplier hereby undertakes as follows:-
 - 5.6.1. if the Goods comprise of software and/or parts manufactured and/or developed by a person other than the Supplier, the Supplier shall deliver the Goods duly equipped with such software and/or parts in accordance with the provisions of this Agreement;

- 5.6.2. the Goods shall conform with the specifications as set out in the LOA, are fit and sufficient for the purpose for which they are manufactured, are of good material and workmanship and are free from defects;
 - 5.6.3. where applicable, the Goods can be connected directly to solar panels during installation without additional surge protection devices and overcurrent devices or any devices performing similar functions (and all Warranties set out in the LOA shall continue to apply in full regardless of the existence of such devices);
 - 5.6.4. it shall perform, carry out, complete and discharge its obligations as set out in this Agreement, and all other services, functions and responsibilities not specifically described in this Agreement but which are necessary or incidental to and related to the provision of the Goods;
 - 5.6.5. in performing its obligations hereunder, it shall not take or omit to take any action which would be contrary to the terms and conditions of this Agreement; and
 - 5.6.6. it shall promptly furnish to Time Energy all necessary documentation or information relating to the Goods as Time Energy may from time to time request.
- 5.7. In the event that the Supplier launches any newer models of the Goods, the Supplier shall ensure that such new models take into account the features and specifications of the Goods previously supplied to Time Energy. The Supplier shall further ensure that any software, including software specifications and functionalities incorporated within the new Goods or which are necessary for the proper functioning of the Goods, is backward compatible and interoperable with the Goods previously supplied by the Supplier to Time Energy. In the event that any new model is not backward compatible or interoperable, the Supplier shall do all such acts and things as may be required to cause such new models to be compatible with the Goods previously supplied to Time Energy at the Supplier's sole cost and expense, including any required updates, modifications, or adaptations to the software or hardware contained within the Goods.
- 5.8. The Supplier agrees to make available to Time Energy, at no additional cost, all upgrades, updates, and enhancements to any software contained within the Goods, or which are necessary for the proper functioning of the Goods, for the duration of the Warranty Period. The Supplier further undertakes that the existing features and functionalities of the Goods shall remain constant and unimpaired throughout the Warranty Period. The Supplier shall provide Time Energy with reasonable advance written notice of any proposed changes or modifications to the software contained within the Goods or which are necessary for the proper functioning of the Goods. Such notice shall be given within a reasonable time to allow Time Energy to review and assess the impact of the changes. In the event that Time Energy requires, the Supplier shall provide dedicated support for the testing, integration, and implementation of any software enhancements, updates, or modifications to ensure the continued performance and compatibility of the Goods, at no extra cost to Time Energy.
- 5.9. **Clauses 5.7 and 5.8** above shall survive the expiry or termination of this Agreement.

6. PURCHASE ORDER

6.1. General

- 6.1.1. Each Purchase Order issued by Time Energy and accepted by the Supplier constitutes a binding contract between Time Energy and the Supplier, and is governed by the terms and conditions of this Agreement and the Statement of Work to which it relates. Any pre-printed terms and conditions inserted by the Supplier in any Purchase Order and/or acceptance of the Purchase Order shall be null and void.
- 6.1.2. The Purchase Order shall refer to the following documents and/or information, which shall form an integral part of the Purchase Order:
 - (a) the relevant Statement of Work;
 - (b) Goods and Services ordered including the order number, pricing, delivery date and delivery arrangements and duration of the Services; and

(c) other documents and information which Time Energy reasonably believes shall form part of the Purchase Order.

6.2. Procedure for Ordering

- 6.2.1. Time Energy may, at any time and from time to time, order any Goods or Services (based on the relevant pricing set out in the LOA) by issuing a Purchase Order to the Supplier.
- 6.2.2. The Supplier may only reject a Purchase Order within one (1) Business Day from the date of receipt of the Purchase Order from Time Energy, failing which it shall be deemed to have been accepted by the Supplier. The Supplier may only reject a Purchase Order if it is incomplete, inaccurate or in conflict with the LOA.
- 6.2.3. If the Supplier rejects a Purchase Order, the Supplier shall promptly notify Time Energy of the reasons for such rejection. If Time Energy elects not to cancel such Purchase Order, the Parties shall agree to amend and adjust the Purchase Order accordingly.

6.3. Amending or Cancelling Purchase Order / Delivery timelines

- 6.3.1. Time Energy may amend a Purchase Order by way of a Change Request, in accordance with **Clause 6.4**.
- 6.3.2. Time Energy may cancel any Purchase Order in whole or in part, without any liability, by written notice at any time provided that such cancellation is any time before the performance date of such Services or delivery date of the Goods, as applicable. Upon such cancellation, any monies which have been paid in advance by Time Energy to the Supplier and/or any material collected from Time Energy by the Supplier, shall be refunded and/or returned by the Supplier to Time Energy within seven (7) days from the date of receipt of the cancellation notice by the Supplier.
- 6.3.3. Notwithstanding any other provisions in the Agreement, Time Energy shall have the sole discretion to vary any delivery timelines for the Goods or Services in the Purchase Order by written notice to the Supplier.

6.4. Change Request

- 6.4.1. If Time Energy wishes to make any amendment, variation, addition or deletion to the requirements of a Statement of Work, the LOA and/or Purchase Order (the "**Amendment**"), Time Energy shall notify the Supplier in writing specifying in reasonable detail the nature of the Amendment ("**Change Request**").
- 6.4.2. Only to the extent that the Supplier will incur cost or there is a variation on the number of units of Goods to be ordered, the Supplier shall, as soon as reasonably practicable, submit to Time Energy a quotation for such Amendment ("**Quotation**") specifying the reasonable changes (if any) which will be required to the Statement of Work or any other part of the Purchase Order.
- 6.4.3. The Parties shall, within seven (7) days from the date Time Energy receives the Quotation (if there is a Quotation) or from the date of the Change Request (if there is no Quotation), meet to discuss the Quotation (if applicable) and any revisions required. Thereafter, Time Energy may accept (in which case, amendments to the Purchase Order is required) or reject the Quotation. If the Change Request is:

- (a) accepted, the Change Request shall only take effect on the date the Change Request is executed by both Parties or such other date to be mutually agreed by the Parties; or
- (b) rejected, the Change Request shall not take effect but the Parties may choose to further discuss details of the Change Request.

7. QUANTITY AND DELIVERY

7.1. Delivery of Goods

- 7.1.1. The quantity of the Goods to be delivered to Time Energy shall be set out in the Purchase Order(s). There shall be no minimum order quantity for any Goods and Time Energy shall, in its sole discretion, determine the quantity of the Goods to be purchased as set out in each Purchase Order. All Goods shall be delivered by

- the Supplier to Time Energy's warehouse in accordance with the timeline as specified in the Purchase Order.
- 7.1.2. The Supplier shall maintain a minimum stock level of Goods available at all times for Time Energy, such quantity shall be determined by mutual agreement between the Parties. The Supplier is responsible for monitoring and managing inventory to meet this requirement. If the stock level falls below the agreed minimum level and the Supplier is unable to fulfill the request from Time Energy for the relevant Goods, the Supplier shall provide Time Energy with the next best available substitute from the warehouse, which shall be of comparable or higher quality, specifications, and value. The Supplier shall notify Time Energy of any such substitution in advance. The minimum stock level shall be reviewed on a quarterly basis by mutual agreement between Time Energy and the Supplier.
- 7.1.3. Upon receipt of a Purchase Order from Time Energy for the Goods, the Supplier shall ensure that the ordered Goods are delivered to Time Energy within 3 business days from the date of receipt of the Purchase Order. For any delays in fulfilling orders beyond this period the Supplier shall pay to Time Energy liquidated damages of 5% of the price of the relevant Goods for each day of delay unless otherwise agreed in the LOA / Purchase Order.
- 7.1.4. Unless otherwise specified in the LOA or Purchase Order, all Goods shall be delivered on a DDP (Incoterms 2020) basis to Time Energy's designated delivery location.
- 7.2. Damage after delivery**
- 7.2.1. If within a reasonable time after delivery of the Goods to Time Energy's possession and on external inspection the packaging of the equipment is damaged (whether it shows evidence of water damage or any other form of damage), Time Energy can reject those items that are contained in the packaging that is damaged.
- 7.2.2. If Time Energy partially rejects the Goods that are damaged, Time Energy shall only be liable to pay for the remainder of the Goods that is not damaged in accordance with the Purchase Order. The acceptance of the remainder of the Goods that is not damaged, does not mean that the Supplier shall be relieved of its full obligations under the respective Purchase Order.
- 7.2.3. Notwithstanding the discounted purchase price, Time Energy shall be entitled to seek late delivery charges from the Supplier if the accepted goods are not delivered within the agreed time.
- 7.3. Post-inspection rights**
- 7.3.1. After the Goods have been inspected and upon unpacking of the Goods, if it is discovered that the Goods are damaged, destroyed, not according to the Specifications, not those which this Agreement relates to, has any missing parts, or is unlikely to be compatible or operational, then Time Energy may require the Supplier to immediately replace the Goods and/or supply replacement parts or Goods of the same quantity regardless of the terms of the original purchase and all costs arising from the same shall be borne by the Supplier. Such replacement shall be provided within one (1) day from the issuance of a notice from Time Energy. Failure to do so entitles Time Energy to reject the entire shipment and seek compensation or full refund from the Supplier.
- 7.3.2. The Supplier agrees to maintain an adequate stock of ancillary components required for the operation and installation of Goods. This stock shall be readily available to ensure that any missing components can be immediately supplied and resolved without delay. The Supplier shall implement necessary measures to ensure continuous availability and prompt delivery of such components upon request to minimize disruption to operations. The Supplier shall, where requested by Time Energy, provide Time Energy with stock of ancillary components to be stored at Time Energy's warehouse to ensure that such components can be supplied without delay. The number of units of such components to be stored at Time Energy's warehouse shall be subject to mutual agreement by the Parties.
- 7.3.3. Where, upon inspection, there are missing items or
- components for the Goods, the Supplier may request a one for one replacement of such missing items which shall be delivered to Time Energy within one (1) day from the issuance of a notice by Time Energy on the same.
- 7.3.4. In this Agreement, a reference to "damage" in relation to Goods refers to any physical or functional impairment of the Good that makes it unsuitable for use or prevents it from operating as intended. In the event of any dispute between Time Energy and the Supplier regarding whether a Good is damaged, the Parties agree that Time Energy's determination shall prevail. Time Energy's assessment of the Good's condition shall be final and binding on both Parties.
- 7.4. Late delivery**
- 7.4.1. If the Supplier fails to deliver to Time Energy's warehouse or make available the Goods for collection by Time Energy's authorized representative at the agreed time, Time Energy is entitled to claim from the Supplier based on the rates specified in **Clause 7.1.3**.
- 7.4.2. If the Supplier should fail on two (2) occasions to deliver the Goods within the time specified in the Purchase Order, Time Energy shall have the right to terminate the relevant Purchase Order or this Agreement. Notwithstanding termination, if Time Energy shall have to obtain such Goods from other sources, all additional costs or expenses thereby incurred shall be deducted from any monies due or becoming due to the Supplier under this Agreement or alternatively shall be recoverable as a debt.
- 7.5. Title and risk**
- 7.5.1. The title in the Goods shall pass to Time Energy upon delivery of the Goods by the Supplier to Time Energy. While the Good remains stored in the Supplier's warehouse, the Supplier shall assume all risks associated with the Goods, including, but not limited to, risk of loss, damage, or deterioration of the Goods. Risk of damage to or loss of the Goods shall pass to Time Energy only upon delivery of the Goods to Time Energy's warehouse. The risk of damage or loss that passes to Time Energy refers to the damage or loss which is not caused by the Supplier. If the damage or loss is caused by the Supplier, then this clause does not absolve the Supplier's obligations in relation to such damage or loss including the obligation to replace the damaged Goods.
- 8. CHARGES**
- 8.1. General**
- 8.1.1. The Charges for any Goods or Services shall be as specified in and calculated in accordance with the LOA.
- 8.1.2. Unless otherwise agreed by the Parties in the LOA, all prices shall be quoted in Ringgit Malaysia and Time Energy shall only make payment for Goods and Services after the Goods or Services have been fully delivered or completed, as applicable.
- 8.1.3. In respect of any purchase of Goods, the Parties agree that there shall be a quarterly review of the Charges and pursuant to such review, the Charges may be revised downwards as agreed between the Parties. For the avoidance of doubt, the Charges as set out in the LOA shall be a ceiling price which shall not be revised upwards during the quarterly reviews.
- 8.2. Sufficiency of the Purchase Order and Charges**
- The Supplier warrants that, as at the time of acceptance of each Purchase Order, it has satisfied itself as to the correctness and sufficiency of:
- 8.2.1. the Purchase Order including all documents forming part of the Purchase Order; and
- 8.2.2. the Charges set out in the Purchase Order, which shall be the full and exclusive remuneration of the Supplier for the provision of the Goods or Services specified in the Purchase Order and all other scope, matters and things which are in connection with, incidental, ancillary and in any way imperative to or to be inferred from the provision of the Services or supply of Goods to Time Energy.

8.3. **Supplier Responsible for Cost of Performing its Obligations**

The Supplier agrees that it is fully responsible for the cost of performing its obligations under any Purchase Order and the time required to carry out and complete such obligations and shall be deemed to have obtained all information and taken account of all circumstances which may affect such cost and time before agreeing to the Charges and the terms of the Purchase Order.

8.4. **Submission of statement of account**

The Supplier agrees to submit a statement of account within seven working days from the beginning of each month and shall send the same to Time Energy's finance team at the email address notified in writing by the Supplier.

9. **INVOICING AND PAYMENT**

9.1. **Invoicing**

9.1.1. Each Invoice issued by the Supplier pursuant to any Purchase Order shall specify:

- (a) the Purchase Order numbers under which any Services were ordered;
- (b) the Statement of Work and description of the Services ordered;
- (c) the Purchase Order Price including the breakdown of the price for each Good or Service;
- (d) any applicable tax and the relevant tax registration number;
- (e) payment due date;
- (f) account details to which payment is to be made to; and
- (g) any other information reasonably required by Time Energy to process the payment.

9.1.2. All Invoices shall be accompanied by applicable supporting documents to enable Time Energy to verify the contents and the amounts of the Invoice, failing which Time Energy may reject an Invoice. The LOA may contain additional specifications on the supporting documents required by Time Energy.

9.1.3. Any Invoice submitted shall be in accordance to the invoicing milestones set out in the LOA, Statement of Work and/or Purchase Order, as applicable. If not otherwise specified, Supplier shall issue invoices to Time Energy within seven (7) days from the end of the month for Services rendered in the preceding month.

9.1.4. Invoices for supply of Goods shall only be issued after the Goods have been delivered unless otherwise specified in the LOA.

9.2. **Over-Charging or Error in Charging**

If the Supplier has over-charged and/or wrongly charged Time Energy for any of the Goods or Services and Time Energy has paid for the same, then:

9.2.1. where there is an overpayment, the Supplier shall immediately refund such overcharged amount directly to Time Energy and the Supplier shall not be entitled to offset and/or contra such overcharged amount against any other sum owed or owing to the Supplier unless otherwise agreed by Time Energy; or

9.2.2. where there is an amount undercharged, the Supplier shall, subject to **Clause 9.3**, invoice Time Energy for the balance amount due by Time Energy,

provided the overpaid or underpaid amounts are not disputed by the Parties.

9.3. **Back-Billing**

All Invoices must be issued to Time Energy within six (6) months from the date on which the Invoice should have been issued ("**Invoicing Period**"), failing which the Supplier shall be deemed to have waived and forfeited its rights to issue the Invoice. Time Energy is not obligated to pay any late Invoice issued after the Invoicing Period.

9.4. **Payment**

9.4.1. Subject to **Clause 9.1 to Clause 9.3**, Time Energy shall pay the Supplier all amounts undisputed by Time Energy in the Invoice within forty-five (45) days from the date of receipt of the Invoice provided that the Purchase Order to which the Invoice relates has been issued and accepted in accordance with **Clause 9.1**.

9.4.2. All payments will be made in Ringgit Malaysia or such other currency agreed between the Parties.

9.4.3. Time Energy may at all times set-off any amounts due to the Supplier with any amounts that the Supplier owes to Time Energy under this Agreement, the Purchase Order or such other agreement entered pursuant to this Agreement.

9.4.4. Any payments made by Time Energy to the Supplier prior to the performance of the Services shall be without prejudice to Time Energy's right to cancel a Purchase Order in accordance with the terms of this Agreement and/or the Purchase Order.

9.5. **Payment Disputes**

9.5.1. Time Energy may, with reason, dispute any amount paid to or invoiced by the Supplier notwithstanding that payment has been made under a Purchase Order. The Parties agree in good faith to resolve the billing dispute within thirty (30) days failing which such dispute must be resolved in accordance with **Clause 31**.

9.5.2. Time Energy may withhold the disputed amount of any Invoice for such period of time as is required to resolve any such dispute. The provision of any Services and supply of Goods shall not be suspended by the Supplier on the basis that Time Energy has withheld the disputed amount in accordance with this **Clause 9**.

9.6. **Tax**

9.6.1. The Charges stated shall be inclusive of all the disbursements, Supplier's out of pocket expenses and all applicable direct and indirect taxes, including but not limited to value added tax, consumption tax, sales tax or analogous taxes, service tax, tariffs, fiscal charges and other dues or any similar tax-related charges or levies of whatsoever nature imposed, levied or assessed by any governmental authority unless stated otherwise in the LOA, Statement of Work and/or Purchase Order.

9.6.2. Time Energy shall not be liable for any personal income tax which may be payable in respect of the Supplier's personnel or any corporate taxes, dues or levies in relation to the Supplier or the Supplier's personnel.

9.6.3. Withholding of Tax

The Supplier shall be responsible for any tax that might be incurred by the Supplier in Time Energy's country as a result of incomes or revenue obtained by the Supplier arising from and/or in connection with this Agreement, Statement of Work and/or Purchase Order. If withholding taxes are payable in Time Energy's country, Time Energy shall withhold such sums from the Supplier taking into account the bilateral fiscal agreement between Time Energy's and the Supplier's countries to avoid double taxation and pay to the relevant authorities in accordance with the Applicable Laws. The onus shall be on the Supplier to obtain official documents from local authorities and provide a copy of these official documents to Time Energy if the Supplier deems withholding taxes are waived, whether partially or in full, in Time Energy's country. Where payment of withholding taxes is made by Time Energy, Time Energy shall provide to the Supplier, as soon as reasonably practicable following the month the withholding tax is levied, an original or duplicate original or a certified copy of the official tax receipt or other appropriate evidence issued by the relevant tax authorities in the name of the Supplier for any tax which is paid on behalf of the Supplier.

9.7. **Payment Not Conclusive Evidence**

Any payment made pursuant to this Agreement shall not be considered as conclusive evidence as to the sufficiency of the Services to which it relates nor shall it relieve the Supplier from any of its liability whatsoever as arising out of this Agreement or such other agreement entered pursuant to this Agreement. In any

case, no invoice shall be final and binding in any dispute between Time Energy and the Supplier if the dispute is brought to any court or tribunal.

this LOA or the applicable Purchase Order(s), but which are necessary or incidental and related to the Services.

10. SERVICE LEVELS AND KEY PERFORMANCE INDICATORS

10.1. Service Levels and Key Performance Indicators

The Supplier shall strictly comply and achieve the service levels and/or key performance indicators stipulated in the Statement of Works (if any).

10.2. Liquidated Damages and Service Credits

The applicable liquidated damages and service credits shall be as stated in the LOA. If the liquidated damages are not stated in the LOA, the liquidated damages set out in these General Terms and Conditions will apply.

11. SOLAR PV SYSTEMS INSTALLATION

11.1. The installation of Solar PV Systems ("Installation") shall take place at the premise of the End-User, on the date a NEM Certificate is obtained by Time Energy or on such other dates as may be mutually agreed in writing between the Parties.

11.2. Testing and commissioning of the solar panels shall take place upon successful Installation of the Solar PV Systems or any such date as agreed between the Parties. The Supplier and Time Energy, End-User shall mutually agree on the date for the testing and commission of the Solar PV Systems and shall be present on the date agreed.

11.3. Where the testing and commissioning has been concluded (i) without the presence of Time Energy and/or End-user, or (ii) that the test results revealed the Solar PV Systems as having performed at their intended standard and which no further correction and/or adjustments is required, the Installation shall be deemed as completed and delivered in conformity with the functionality, and free of all deformities or deficiency.

11.4. Completion Date

11.4.1. The Completion Date for each Purchase Order relating to the installation of Solar PV Systems shall be the date Net Energy Metering is successfully converted as the official metering equipment for each respective Solar PV System.

11.5. Extension Of Completion Date

11.5.1. If for any reason each respective Solar PV System hereby effected under the Purchase Order shall not be completed on the Completion Date, Parties may mutually, in writing, complete the project on a subsequent date. Then, the reference throughout the Purchase Order to the Completion Date shall thereupon be substituted by reference to the actual date of completion. Any Warranty Period shall therefore only commence on such delayed Completion Date.

11.5.2. The Parties hereby agree that an extension so caused shall not constitute nor be construed as any delay on the part of the Supplier, and/or a breach of this Agreement by the Supplier, unless such extension is caused solely by the act or omission of the Supplier

12. PERFORMANCE GUARANTEE

12.1. Time Energy reserves the right to withhold, by written notice to the Supplier, in whole or in part, payment for any of the Goods or Services that: (i) is inadequate or defective; or (ii) which fails to comply with any term, condition or any other requirement under the Agreement.

12.2. Any payment withheld under **Clause 12.1** shall be released and remitted to the Supplier within thirty (30) calendar days of the Supplier's remedy or resolution of the inadequacy or defect. Where Time Energy has made payment for the aforementioned Goods or Services, Time Energy shall be entitled to a refund accordingly and the refund shall be paid by the Supplier to Time Energy within three (3) business days from the date of written notification by Time Energy to the Supplier requesting such refund.

13. THE SUPPLIER'S OBLIGATIONS

13.1. The Supplier shall provide the Goods and carry out the Services in accordance with the terms of this Agreement and the LOA and Statement of Work. The Supplier shall further perform all other services, functions and responsibilities not specifically described in

13.2. In the supply of Goods and performance of the Services, the Supplier shall:

13.2.1. use its best endeavors and apply the Best Industry Practice to carry out and complete the Services;

13.2.2. exercise the standard, skill, care and diligence that would be expected of an experienced professional providing services similar to that of the Services under this Agreement and the Purchase Order;

13.2.3. comply with all the requirements of permits, licenses, approvals, consents and other forms of authorization required under the law in connection with the provision of Goods and supply of Services;

13.2.4. comply at all times with the provisions of all applicable written laws which it may be required to comply and/or the policies, practices and procedures of Time Energy as set out in this Agreement and the Purchase Order in relation to the Goods and/or Services;

13.2.5. ensure that any Goods provided and Deliverables under the Services shall comply with the requirements and purposes specified in this Agreement and the Purchase Order. Deliverables which were not contemplated at the time of execution of the Purchase Order, but are incidental, ancillary and in any way imperative to or inferred from the provision of the Services or integral and necessary for the performance of the Services, will not be considered as additional work, for which the Supplier will not be paid any extra fees;

13.2.6. exercise good faith and act in the best interests of Time Energy and in accordance with the provisions of this Agreement, and keep Time Energy regularly informed about all matters affecting or relating to the Goods and Services; and

13.2.7. shall keep accurate, systematic and up-to-date records and accounts in respect of the provision of the Goods and Services in such form and detail as is customary in the profession or as may be reasonably required by Time Energy from time to time as shall be sufficient to establish accurately that the costs and expenditure referred to in the Statement of Works and/or Purchase Order has been duly incurred.

13.3. The Supplier acknowledges that Time Energy has entered into this Agreement relying on the skill, care, expertise, experience and ability of the Supplier as represented by the Supplier to Time Energy to provide the Goods and Services, and the representations and warranties under this Agreement.

13.4. In the event of any delay or failure on the part of the Supplier to carry out the Services to the satisfaction of Time Energy in accordance with the terms of this LOA and/or these General Terms, or any extended time period granted by Time Energy, Time Energy shall be entitled to carry out the Services by itself or to appoint any other person or persons to carry out the same, both at the cost and expense of the Supplier.

13.5. Time Energy may issue instructions to the Supplier in respect of the carrying out and completion of each and every Statement of Work and/or Purchase Order, including any rectification of Services thereto. The Supplier shall within one (1) business day from the date of a written instruction from Time Energy, undertake to carry out and complete the services including any rectification of the services thereto.

13.6. Time Energy may periodically issue to the Supplier the specifications, guidelines, checklists and standard operating procedures as may be issued by Time Energy and the Supplier shall comply with the same in carrying out and completing the Services.

13.7. The Supplier shall make good and rectify all damage or destruction of the property of any third party, including damage to the roof, walls, ceilings, floors, windows and any other fixtures and fittings in buildings caused or contributed by the acts or omissions of the Installer whilst carrying out and completing the Services, at the Installer's own costs and expenses. Should the Installer fail, neglect and/or refuse to do so, Time Energy may by itself or employ any other person to undertake the rectification works and all costs and expenses incurred by Time Energy shall be paid by the Installer to Time Energy.

13.8. If the Installer is physically present at a designated site for installation of the Solar PV System and such installation is canceled

by Time Energy or the customer on the same day, Time Energy may compensate the Installer for mobilisation costs (where applicable), subject to Time Energy's prior written approval on a case by case basis. Except as expressly provided herein, Time Energy shall not have any liability to the Installer for cancellations of installations under any other circumstances.

14. SUPPLIER'S PERSONNEL

14.1. **General**

14.1.1. The Supplier shall use such qualified, certified, skilled and experienced personnel and commit such number of Personnel as is necessary to perform its obligations under this Agreement and the Purchase Order. All Personnel shall possess relevant certifications from the appropriate authorities required for them to carry out the Services.

14.1.2. If Time Energy believes that the performance or conduct of any Supplier's Personnel is unsatisfactory, in its reasonable discretion, Time Energy may notify the Supplier and upon receipt of any such notification the Supplier shall, within five (5) Business Days, take prompt and corrective action at the Supplier's own cost. If after such five (5) Business Days, the problem is not rectified to Time Energy's reasonable satisfaction, the Supplier shall, as soon as practicable but not later than ten (10) Business Days, replace such person with another person reasonably acceptable to Time Energy at the Supplier's own cost.

14.1.3. Notwithstanding **Clause 14.1.2**, if Time Energy believes that any of the Supplier's Personnel has engaged in improper conduct including without limitation, violations of law or Time Energy's policies (including without limitation Time Energy's code of conduct) or any policies issued by all relevant authorities (including SEDA, the Energy Commission and Standards and Industrial Research Institute of Malaysia (SIRIM)), upon written notice to the Supplier from Time Energy which shall include a description of the improper conduct, such Supplier's Personnel shall be immediately removed and shall be replaced with another person reasonably acceptable to Time Energy at the Supplier's own cost.

14.2. **Key Personnel**

The continuity of the Key Personnel shall be maintained by the Supplier throughout the Services. If for any reason beyond the reasonable control of the Supplier, it becomes necessary to substitute any of the Key Personnel or if the Supplier determines in its reasonable judgment that it is appropriate to change or substitute any of the Key Personnel, the Supplier is not to remove or assign the Key Personnel without:

14.2.1. providing Time Energy with twenty (20) Business Days prior written notice (including identification of Key Personnel, explanation of reassignment or removal, identification of the experience and qualifications of the individual proposed to replace the departing Key Personnel, a plan and schedule showing how the transfer of knowledge between the departing and incoming individual will occur, and how the impact on the work will be minimised); and

14.2.2. receiving Time Energy's written consent, such consent shall not be unreasonably withheld.

14.3. **Supplier's Obligations as to its Personnel**

14.3.1. The Supplier is fully responsible for all acts and omission of its Personnel. In addition, the Supplier is solely and exclusively responsible for the payment of salaries, other compensation and other benefit and plans required by law to its Personnel and for the payment of any and all federal, state and local taxes, withholding, benefits payments or other payments due on such compensation.

14.3.2. The Supplier shall ensure that its Personnel and sub-contractors have the requisite visas, work permits, employment passes, approvals and consents to perform the obligations under this Agreement and the Purchase Order.

15. REPRESENTATIONS AND WARRANTIES

15.1. **Reliance**

15.1.1. The Supplier acknowledges and agrees that:

- (a) Time Energy has entered into this Agreement;
- (b) in the case of provision of Services, the Statement of Works are executed and will be executed; and
- (c) Purchase Orders will be issued and are issued,

in reliance on the representations and warranties set out in this Agreement.

15.1.2. The Supplier acknowledges and agrees that as this Agreement is a framework agreement, additional representations and warranties may be incorporated into the LOA or Statement of Works to cater for and address specific requirements of Time Energy pursuant to that LOA or Statement of Work. Reference to representations and warranties under this Agreement shall also include the additional representations and warranties stipulated in the LOA or Statement of Works.

15.2. **Separate, Distinct and Continuing Representation and Warranties**

15.2.1. Each of the representation and warranties are, and shall be construed as, separate and distinct from the other representations and warranties.

15.2.2. The representations and warranties given and undertaken by the Supplier in this Agreement shall be given as at the date of this Agreement and repeated by the Supplier by reference to the facts and circumstances at the time each Purchase Order is placed by Time Energy and for the duration of the Services.

15.3. **General**

Each Party represents and warrants to the other that:

15.3.1. it is and will remain duly incorporated and validly existing under the laws of its incorporation and has all the necessary powers and authority to carry on its business as presently conducted;

15.3.2. it has and will continue to have at all times the necessary power, authority, licences, permits and consents to execute, deliver and perform its obligations under this Agreement and the Purchase Order and that this Agreement and each Purchase Order to be executed constitutes legal, valid and binding obligation, enforceable against it in accordance with the terms of this Agreement and the Purchase Order;

15.3.3. the execution and delivery of this Agreement, Statement of Work and the Purchase Order, and the performance by that party of its obligations under it, will not:

- (a) result in a breach of any provision of its memorandum or articles of association;
- (b) result in a breach of or constitute a default under any instrument or agreement to which it is a party or by which it is bound;
- (c) result in a breach of any order, judgement or decree of any court, government body, statutory authority, regulatory body or other government agency to which it is a party or by which it is bound; and/or
- (d) result in a breach of Time Energy's Business Integrity & Anti-Corruption Policy.

15.4. **Additional Representation and Warranties by the Supplier**

The Supplier represents and warrants to Time Energy that:

15.4.1. it is a professional, experienced and skilled expert and possesses the requisite resources, capacity, professional skill and technical expertise to perform its obligations under this Agreement and any Purchase Order, as the case may be, in accordance with the

- current and future Best Industry Practices;
- 15.4.2. the Services shall be performed with due care, in a professional manner and in accordance with the services description in the LOA, Statement of Work and Best Industry Practices;
- 15.4.3. all Goods provided are suitable for the intended purpose and shall be new, merchantable, of good quality, compatible and operable and free from all defects in design, materials, construction and workmanship;
- 15.4.4. where applicable, it has obtained the approval and authorization of the manufacturer of the Goods to distribute and sell the Goods to Time Energy and provide all warranties and warranty services for the Goods on behalf of the manufacturer in accordance with the terms outlined in the LOA;
- 15.4.5. it shall obtain and maintain at all times all required licenses in relation to the Goods, including Licenses required for the use and operation of the Goods and the Licenses are and shall remain worldwide, perpetual, valid and in place, that the scope of such Licenses shall properly cover the intended use of the Goods and all such Licenses shall include the right to transfer and the right to grant sub-licenses;
- 15.4.6. all Goods supplied shall be free from any and all liens and encumbrances;
- 15.4.7. all Goods have been designed, manufactured, developed and delivered in compliance with all applicable laws and regulations;
- 15.4.8. all Goods are provided with and accompanied by all information and instructions necessary for the proper and safe use of the Goods;
- 15.4.9. the Goods are newly manufactured (that is not second hand, reconditioned and/or containing used items);
- 15.4.10. the Goods provided by the Supplier, and the receipt and use of the Goods by Time Energy including any deliverables arising thereof do not violate or infringe any third-party Intellectual Property Rights;
- 15.4.11. its obligations hereunder shall be performed in such a way as not to cause any fault or malfunction in the Goods and/or damage to any of Time Energy's software or system;
- 15.4.12. its obligations hereunder shall be performed in such a way as not to cause any interruption to the business processes of Time Energy;
- 15.4.13. it possesses the required resources, expertise, knowledge and availability of able and competent personnel in order to perform its obligations under this Agreement;
- 15.4.14. all information provided to Time Energy shall be true, complete and accurate at all times and the Supplier agrees that Time Energy may rely on all such information without having to carry out any independent verification;
- 15.4.15. it has examined, will examine and become familiar with this Agreement, the relevant Statement of Work and Purchase Order, and will obtain all necessary information as to risks, contingencies and all other circumstances that an experienced Supplier would take into account as influencing or affecting the Purchase Order and the Statement of Work.
- 15.4.16. it is adequately and properly financed to meet all its financial obligations which it may be required to assume under this Agreement and any Purchase Order and it will perform its obligations under this Agreement and the Purchase Order in an expeditious and economical manner.
- 15.5. In this Agreement, a reference to a "fault" or "defect" of a Good refers to a defect, flaw, or deficiency in the design, manufacturing or marketing of the Good that makes it unsuitable for use or prevents it from operating as intended. In the event of any dispute between Time Energy and the Supplier regarding whether a product is faulty or defective, the Parties agree that Time Energy's determination shall prevail. Time Energy's assessment of the product's condition, including but not limited to claims of defects or faults in design, manufacturing, or quality, shall be final and binding on both Parties.
- 15.6. The representations and warranties in this **Clause 15** shall be separate and independent and shall not be limited by reference to any other sub-clause or by anything in this Agreement.
- 16. WARRANTIES FOR GOODS AND SERVICES AND TECHNICAL SUPPORT**
- 16.1. Warranty Period**
- 16.1.1. The Supplier warrants that the Goods delivered and Services provided will meet the functionality, specifications and standards set out in the LOA. The Supplier warrants that this warranty shall remain valid and subsisting for the relevant Warranty Period as set out in the LOA.
- 16.1.2. If any of the Goods or Services are found to be incompatible, defective, infected by viruses or malicious code or otherwise do not conform to the requirements of the Agreement during the Warranty Period, Time Energy shall notify the Supplier and may without prejudice to any other rights or remedy available to it under this Agreement or at law, at its sole discretion:
- (a) require the Supplier promptly to repair or replace the non-performing Goods or rectify the defective Services, at no additional costs to Time Energy;
- (b) in the event the Supplier fails to repair or replace the defective Goods or Services within two (2) days from the Supplier's receipt of the notice of defect from Time Energy or any other reasonable period of time as may be determined by Time Energy taking into account the circumstances, Time Energy shall be entitled to carry out repairs by itself or to appoint any other person or persons to carry out such replacements or repairs, both at the cost and expense of the Supplier;
- (c) notwithstanding the foregoing, in the event that Time Energy deems necessary, Time Energy in its sole discretion without any notice to the Supplier shall be entitled to carry out repairs by itself or to appoint any other person or persons to carry out such replacement or repairs, both at the cost and expense of the Supplier; or
- (d) seek compensation from the Supplier or exercise any other rights available under this Agreement or at law, where the Supplier is unable to rectify the damage, incompatibility or defects in items (a) and (b) above.
- 16.1.3. Notwithstanding any provision to the contrary contained in this Agreement, the Warranty Period shall be extended by a period equal to the period during which the Goods cannot be used by reason of the incompatibility, defect or damage or in the case of Services, by a period equal to the time taken to carry out the repairs or replacements.
- 16.1.4. The Supplier shall maintain sufficient stock of Goods or spare parts during the Warranty Period to ensure prompt and immediate supply of Goods or spare parts for any warranty claim by the Supplier during the Warranty Period.
- 16.1.5. Time Energy may provide the contact details of the Supplier to any End-User of the Goods or Services and such End-User may contact and initiate a claims process directly with the Supplier. The Supplier shall not reject any claims process by reason that the End-User did not enter into a direct contract with the Supplier in relation to the Goods or Services. The Supplier shall facilitate the claims process initiated by such End-User and treat the End-User as if it were Time Energy when handling the claims process. Such claims shall be subject to the same response times for warranty claims as set out in the LOA and this Agreement.
- 16.1.6. The Supplier must further provide all technical support, including setting up of a local technical team, as

- required by the Supplier to troubleshoot any issues relating to the Goods and Services during normal working hours from 9am to 6pm. The contact details for the local technical team shall be as stated in the LOA. The Supplier shall respond promptly but in no event later than thirty (30) minutes to acknowledge any request by Time Energy to troubleshoot any issues relating to the Goods and Services. Any issue that requires resolution shall be resolved within two (2) hours from the time when Time Energy first contacted the Supplier on the issue unless otherwise agreed between the Parties or provided for in this Agreement. The local technical team shall be the single point of contact between Time Energy and the Supplier for all warranty claims, remote and on-site support, training requirements and resolution of any issues raised by Time Energy in relation to the Goods or Services. The support to be provided by the Supplier shall include:
- (a) **Phone Support:** The Supplier's local technical team will communicate with Time Energy via phone to discuss and diagnose issues. During such communications, the local technical team will provide verbal instructions and guidance to assist Time Energy in resolving the issues.
 - (b) **Walkthrough Assistance:** The Supplier's local technical team will actively walk Time Energy through troubleshooting steps, solutions, and necessary actions over the phone. This support will continue until the issue is resolved or an alternative solution is agreed upon between the Parties.
 - (c) **Availability:** Remote support will be available during Time Energy's normal business hours and where support is required outside of normal business hours for emergency cases, the Supplier shall provide a contact number for the Time Energy to obtain such support. The Supplier shall use reasonable efforts to ensure timely responses and the prompt resolution of issues raised by Time Energy. "emergency" refers to any urgent situation which in Time Energy's reasonable opinion requires immediate action to prevent serious harm, damage, or loss.
 - (d) **On-site Support:** Where requested by Time Energy, the Supplier's local technical team shall dispatch appropriately qualified technical personnel to Time Energy's facilities or customer locations within Malaysia to address and resolve technical issues relating to the Goods and Services.
 - (e) **Resolution Commitment:** The Supplier commits to working diligently with Time Energy and provide continuous guidance and support until the issue is fully resolved, including in situations where the issue or problem requires an on-site visit which will be carried out by the local technical team as soon as reasonably practicable.
 - (f) **Training:** The Supplier's local technical team shall provide training programs for Time Energy's personnel and appointed representatives on the installation, operation and maintenance of the Goods and Services upon request by Time Energy.
 - (g) Time Energy and the Supplier shall agree on any additional appropriate service levels and key performance indicators for the provision of support by the Supplier to Time Energy under this clause.
- 16.1.7. Notwithstanding any other provision in this Agreement, if the Supplier or the Supplier's technical team intends to access the Goods remotely or make any changes to the Goods including to the software contained in the Goods, it shall not do so unless it receives prior written consent from Time Energy.
- 16.1.8. Notwithstanding any other provision in this Agreement, Time Energy reserves the right to assign any warranties under this Agreement to any End-User of the Goods or Services and such End-User shall be entitled to receive the benefits of and to make claims under the applicable warranties provided by the Supplier to Time Energy. The Supplier acknowledges and agrees that the End-User shall be entitled to the benefits of the warranties and the Supplier shall facilitate such claims accordingly pursuant to **Clause 16.1.5** above.
- 16.1.9. The response time for any warranty claims made under this Agreement shall commence upon Time Energy's first contact with the Supplier's local technical support team regarding the warranty claim. The time of such initial contact, whether made in writing, via email, or through any other agreed communication method, shall be deemed the starting point for calculating the Supplier's response obligations.
- 16.1.10. The Supplier shall be the primary point of contact for all warranty claims, end user support, complaints and service requests in relation to the Goods and Services. The Supplier will provide all necessary technical support and assistance to Time Energy in resolving these issues and where required, shall procure that, where applicable, the manufacturer of the Product provides the requisite support and assistance to address all warranty claims. Time Energy shall not be required to liaise with the manufacturer of the Goods for the warranty claims. The Supplier will ensure that all warranty services provided are consistent with the warranty terms agreed upon with Time Energy as set out in this Agreement.
- 16.1.11. In the event of any inconsistency, the specific warranty terms set forth in this Agreement shall prevail over the terms in any warranty document provided by the Supplier.
- 16.1.12. Notwithstanding any other term in this Agreement, any Warranty Period for Goods shall only commence upon the unpacking of such Goods.
- 16.2. Post-Warranty Period**
- 16.2.1. In the event Time Energy discovers any damage, incompatibility, defect or non-conformance of the Goods or Services after the expiry of the Warranty Period, Time Energy shall be responsible at its own costs and expense to rectify such damage, incompatibility, defect and/or non-conformance. If applicable, the Supplier shall provide to Time Energy a spare part list and maintain stock of Goods and spare parts after the expiry of the Warranty Period. If the Supplier intends to stop manufacturing, developing and supplying any of the Goods or any spare parts, the Supplier shall provide reasonable advance notice to Time Energy of such intentions, being at least one (1) year in advance.
- 16.2.2. Parties agree that as soon as practicable and before the expiry of the Warranty Period (including any extensions therein), Parties may enter into a separate agreement for the post-warranty maintenance and support of the Goods on terms and conditions to be agreed upon.
- 16.2.3. The Supplier shall continue to keep such number of spare parts as Time Energy may reasonably request to provide technical support and maintenance services to Time Energy (and relevant customers of Time Energy) even after the discontinuation of any models previously purchased by Time Energy and if required, to assist Time Energy to transition to the new models where so requested by Time Energy.
- 16.3. Advance Replacement**
- 16.3.1. The Supplier shall provide advance replacement and one for one replacement service to Time Energy during the Warranty Period until the duration of the Goods' life span. Once Time Energy discovers that any part of the Good is damaged, incompatible, defective or the Good as a whole is inoperable, it shall notify the Supplier to determine the damage, incompatibility or defect and to ship the replacement Good to Time Energy on that day or the next business day to the location of the Good. Upon receiving the replacement Good and the damage, incompatibility or defect is rectified, Time Energy shall return the damaged, incompatible or defective Good to the Supplier. All costs of shipping for this service shall be borne by the Supplier. For the avoidance of doubt,

Time Energy shall be entitled to determine whether such Good is one that requires replacement and the Supplier shall accept such determination and provide the replacement in accordance with this clause. Without limiting the foregoing, if a Good cannot be repaired on-site and Time Energy will need to commence a warranty claim for such Good, such a Good would be treated as one where advance replacement and one for one replacement is applicable. The requirement to provide advance replacement and one for one replacement service shall continue during the Warranty Period notwithstanding that the Supplier intends to stop manufacturing, developing or supply any of the Goods.

16.4. Additional terms relating to warranties

- 16.4.1. Notwithstanding any other clause in the Seller's warranty document, the response times for any warranty claim shall be as follows: (i) response time to address the claim – 30 minutes; and (ii) response time to repair the Good, provide spare parts or replacement Good – 1 business day.
- 16.4.2. In the event that the Supplier does not meet the response times set out above, Time Energy may carry out the required repairs or replacement works or appoint any other person or persons to carry out such replacement works at the Supplier's costs (whereby such costs may comprise of a one-off charge as determined by Time Energy for remedying the issue). Time Energy shall be entitled to set off such costs and expenses against any unpaid invoices or future orders or request for a refund from Supplier for the same whereby such refund shall be paid within seven (7) days of Time Energy's request.
- 16.4.3. For the avoidance of doubt, all delivery costs, taxes, dues and levies including any import duties and sales taxes for the delivery of any replacement items under any warranty claims shall be borne by the Supplier.
- 16.4.4. Any acts of God or Force Majeure events relating to the Goods and any actions carried out by Time Energy under Clause 16.4.2 or otherwise in accordance with this Agreement shall not affect or cause the warranties provided by the Supplier to be void.
- 16.4.5. The warranties for the Goods shall also not be voided if the Good's protection features are activated or function as intended to prevent damage. For instance, if a circuit breaker trips due to an overloaded circuit or similar protective mechanisms engage to safeguard the Good, such activation shall not constitute grounds for voiding the warranty.
- 16.4.6. Any specific terms set out in these General Terms shall supercede the warranty terms set out in the Supplier's warranty document.
- 16.4.7. The warranties provided by the Supplier shall remain in full force and effect and continue to apply irrespective of the design specifications, modifications, or variations in the Solar PV System designed by Time Energy. The Supplier's obligations for the warranties are not contingent upon, nor affected by, the specific design, configuration, or layout selected or implemented by Time Energy for the Solar PV System.
- 16.4.8. The contact details of the Supplier for any warranty claims shall be as stated in the LOA.

16.5. Survival

The warranty under the Warranty Period and the obligations of the Supplier under **Clause 16** shall survive the expiry or termination of this Agreement.

17. INTELLECTUAL PROPERTY RIGHTS AND KNOW HOW

17.1. Performance of Services

- 17.1.1. All reports, materials or data compiled or prepared in the course of performing the Services shall be confidential and shall be the absolute property of Time Energy (unless otherwise stated in the Statement of Work or where such ownership is precluded by pre-existing intellectual property rights belonging to third party) throughout their preparation and at all times thereafter. The Supplier shall deliver all these materials to Time Energy upon completion of this Agreement. The Supplier may retain a copy of such data for its own

record but shall not use the same for purposes unrelated to this Agreement without the prior written approval of Time Energy.

- 17.1.2. All designs, methodologies, techniques, training methodologies, skills, and related documentation (including but not limited to method statements, design plans, processes, and training materials) provided by Time Energy under this Agreement are proprietary and the exclusive property of Time Energy. The Supplier agrees that it shall not, without prior written consent from Time Energy, use, replicate, or adapt such designs, methods, training methodologies, or skills in the performance of services for any third party, including but not limited to any competitor of Time Energy. The Supplier further agrees that any training provided by Time Energy shall be used solely for the purpose of carrying out the services required under this Agreement and shall not be used in the delivery of services to any other party.

- 17.1.3. Further, the Supplier agrees that for a period of three (3) years following the termination or expiry of this Agreement, it shall not provide similar services to any third party that it provides to Time Energy (including to any competitor of Time Energy). This obligation shall survive the termination of this Agreement and shall be binding on the Supplier's successors and assigns.

17.2. Supply of Goods

- 17.2.1. The Supplier acknowledges that any and all Intellectual Property Rights that subsists in or is connected with the Goods, Services, Confidential Information, cooperation, processes, including any software thereof, contents of the Handover Documents and all other documentation and materials acquired, created or developed by the Supplier and delivered to Time Energy are and shall remain the sole property of Time Energy or such other party as may be identified therein or thereon and Supplier shall not during or at any time after the expiry or termination of this Agreement in any way question or dispute the ownership by Time Energy or such other party of any such rights.

- 17.2.2. If so required by Time Energy, the Supplier shall do all such things and execute all such documents necessary to vest all such Intellectual Property Rights assigned or otherwise transferred or granted to Time Energy under this Agreement.

- 17.2.3. Except to the extent that the Intellectual Property Rights of the Goods or Services vest in Time Energy, the Supplier hereby grants to Time Energy all Licenses on a worldwide, perpetual, irrevocable and unconditional basis to access and use all inventions, software, designs and marks embodied in the Goods or Services to allow Time Energy to use such Goods or obtain the benefit such Services as contemplated in this Agreement.

- 17.2.4. The Supplier also acknowledges that such Intellectual Property Rights belonging to Time Energy or such other party may only be used by Supplier with the consent of Time Energy and during the continuation of this Agreement. The Supplier undertakes to faithfully reproduce all copyright, trademarks and other legends as may appear in, on or in respect of the Intellectual Property on all material or media whether or not the Supplier is permitted to reproduce the same or not. Upon expiry or termination of this Agreement, the Supplier shall forthwith discontinue such use, without any right of compensation for such discontinuation.

- 17.2.5. The Supplier shall not during or after the expiry or termination of this Agreement, without the prior written consent of Time Energy, use or adopt any name, trade name, trading style, trade dress or commercial designation that includes or is similar to or may be mistaken for the whole or any part of any trade mark, trade name, trading style, trade dress or commercial designation used or provided by the Time Energy.

- 17.2.6. In the event that the provision of the Goods or Services including any Deliverables arising thereof by the Supplier, and the receipt and use of the same by Time Energy infringes third party Intellectual Property Rights, the Supplier shall, upon obtaining approval in writing from Time Energy, promptly and at the Supplier's own expense:

- (a) procure the right for Time Energy to continue using the Goods including any

Deliverables arising thereof in accordance with this Agreement;

- (b) make such alterations, modifications or adjustments to the Goods or Services including any Deliverables arising thereof, so that the same shall become non-infringing without incurring a material diminution in performance or function; or
- (c) replace the Goods or Services including any Deliverables arising thereof with a non-infringing substitute provided that such substitute does not entail a material diminution in performance or function.

17.2.7. If none of the options set out in **Clauses 17.2.6(a), (b) or (c)** are carried out by the Supplier to Time Energy's satisfaction within three (3) months from the date that it receives notice of the third party Intellectual Property Rights infringement or such other period of time as Time Energy may in its sole discretion determine taking into account the circumstances, Time Energy may terminate this Agreement and the Supplier (without prejudice to other rights and remedies of Time Energy at law or in equity) shall forthwith refund to Time Energy all sums previously paid to the Supplier under this Agreement and all Purchase Orders.

17.3. Indemnity

17.3.1. The Supplier undertakes to indemnify and keep the Time Energy indemnified from and against all actions, suits, demands, costs, charges or expenses arising in connection with any claims by third parties that the provision of the Goods or Services by the Supplier, and the receipt and use of the Goods or Services by Time Energy and/or the Time Energy's customers including any deliverables arising thereof violates or infringes such third party's Intellectual Property Rights.

17.3.2. In the event of any claim being made against Time Energy by reason of any matter referred to above and in respect of which the Supplier is liable under this **Clause 17.3**, the Supplier shall be promptly notified thereof and may at its own expense conduct all negotiations for the settlement of the same and any litigation that may arise therefrom. Time Energy shall not unless and until the Supplier shall have failed to take over the conduct of the negotiations or litigation make any admission which might be prejudicial thereto. The conduct by the Supplier of such negotiations or litigation shall be conditional upon the Supplier having first given to Time Energy such reasonable security as shall, from time to time, be required by Time Energy to cover the amount ascertained, or agreed, or estimated as the case may be, of any compensation, damages, expenses and costs for which Time Energy may become liable. Time Energy shall at the request of the Supplier afford all available assistance for any such purpose and shall be repaid any expenses incurred in so doing by the Supplier.

18. TERM AND TERMINATION

18.1. Term of this Agreement

18.1.1. This Agreement shall come into effect on the date of signing of the LOA and shall remain in full force and effect for a period stated in the LOA unless earlier terminated in accordance with this Agreement.

18.1.2. Notwithstanding the termination or expiry of this Agreement and/or Statement of Work, the terms and/or any applicable warranties of this Agreement and/or Statement of Work shall continue to apply to Purchase Orders which are still subsisting after the termination or expiry of this Agreement and/or Statement of Work until the Purchase Order is completed or earlier terminated.

18.2. Term of Purchase Order

The term of a Purchase Order shall commence from:

- 18.2.1. the commencement date stated in the confirmed Purchase Order; or
- 18.2.2. in its absence, the date the Purchase Order is confirmed by the Supplier,

and shall continue until all the obligations of the Parties have been fully performed, unless terminated at an earlier date in accordance with this Agreement.

18.3. Termination by Time Energy for Cause

Without prejudice to any other rights of Time Energy under this Agreement, the Purchase Order or at law, this Agreement, any Statement of Work and/or any of the Purchase Order, as the case may be, may forthwith be terminated by Time Energy by giving written notice to the Supplier where:

18.3.1. the Supplier breaches any warranty, representation, term and condition of this Agreement, the Statement of Work and/or the Purchase Order, as the case may be, (other than a breach referred to in **Clauses 18.3.9** and **Clause 18.3.10**) and such breach is incapable of being remedied or where capable of remedy, is not remedied within thirty (30) days of receipt by the Supplier of a notice in writing from Time Energy specifying the nature of the breach unless otherwise agreed in writing by the non-defaulting Party; or

18.3.2. the Supplier fails to perform its obligations strictly in accordance with the service levels and/or key performance indicators stipulated in the LOA or Statement of Work, with respect to a particular Purchase Order; or

18.3.3. an order is made or an effective resolution is passed for the reconstruction and amalgamation of the Supplier under section 366 to 368 of the Companies Act 2016 or any other similar action or proceeding under any other law and the order or resolution is not withdrawn, revoked or annulled within a period of forty-five (45) days from the date of the order or resolution; or

18.3.4. an order is made or an effective resolution is passed for winding up or dissolution of the Supplier and the order or resolution is not withdrawn, revoked or annulled within a period of forty-five (45) days from the date of the order or resolution; or

18.3.5. a receiver, receiver and manager, provisional liquidator, liquidator, or like official is appointed over the whole or a substantial part of the undertaking and property of the Supplier and such appointment is not withdrawn, revoked or annulled within a period of forty-five (45) days from the date of such appointment; or

18.3.6. a holder of an encumbrance takes possession of the whole or any substantial part of the undertaking and property of the Supplier and such action is not withdrawn, invalidated or reversed within a period of forty-five (45) days from the date of commencement of such action; or

18.3.7. the Supplier ceases its business or threaten to cease its business; or

18.3.8. there is a change of Control of the Supplier which change may materially affect Time Energy's interest or may materially prejudice the interest of Time Energy; or

18.3.9. the Supplier is in breach of its anti-bribery and corruption obligations under **Clause 24**; or

18.3.10. the Supplier is in breach of its personal data protection obligations under **Clause 23**.

The Supplier shall notify Time Energy immediately upon the occurrence of any of the events referred to in **Clause 18.3.3** to **Clause 18.3.10**.

18.4. Termination by the Supplier for Cause

Without prejudice to any other rights of the Supplier under this Agreement, the Purchase Order or at law, this Agreement, any Statement of Work and/or any of the Purchase Order, as the case may be, may forthwith be terminated by the Supplier by giving written notice to Time Energy where:

18.4.1. Time Energy fails to pay the Supplier an undisputed sum under a Purchase Order in accordance with the provisions of the Purchase Order and Time Energy fails to remedy such breach within thirty (30) days from the date of written notice requiring Time Energy to do so from the Supplier; or

18.4.2. an order is made or an effective resolution is passed for the reconstruction and amalgamation of Time Energy under section 366 to 368 of the Companies Act 2016 or any other similar action or proceeding under any other

law and the order or resolution is not withdrawn, revoked or annulled within a period of forty-five (45) days from the date of the order or resolution; or

18.4.3. an order is made or an effective resolution is passed for winding up or dissolution of Time Energy and the order or resolution is not withdrawn, revoked or annulled within a period of forty-five (45) days from the date of the order or resolution; or

18.4.4. a receiver, receiver and manager, provisional liquidator, liquidator, or like official is appointed over the whole or a substantial part of the undertaking and property of Time Energy and such appointment is not withdrawn, revoked or annulled within a period of forty-five (45) days from the date of such appointment; or

18.4.5. a holder of an encumbrance takes possession of the whole or any substantial part of the undertaking and property of Time Energy and such action is not withdrawn, invalidated or reversed within a period of forty-five (45) days from the date of commencement of such action; or

18.4.6. Time Energy ceases its business or threaten to cease its business.

18.5. Termination for Convenience

Time Energy may terminate this Agreement, any Statement of Work and/or any Purchase Order for convenience, without cause, by giving at least seven (7) days prior written notice to the Supplier.

19. CONSEQUENCES OF TERMINATION

19.1. Termination of this Agreement

Upon receipt of a termination notice to terminate this Agreement pursuant to **Clause 18.3 or Clause 18.5** by Time Energy or **Clause 18.4** by the Supplier, the Supplier shall deal with the Confidential Information in accordance with **Clause 22.6**.

19.2. Termination of a Purchase Order

Upon receipt of a termination notice to terminate any or all Purchase Order pursuant to **Clause 18.3 or Clause 18.5** by Time Energy or **Clause 18.4** by the Supplier:

19.2.1. in the case of termination for cause by Time Energy, Time Energy has the right to reject any Goods or Services and the Supplier shall repay any and all amounts paid for any undelivered Goods or unperformed Services in accordance with the requirements of the Purchase Order. If Time Energy chooses to accept all or any part of the Goods delivered or Services performed at the date of termination, then the Supplier shall be paid for the Goods delivered or Services performed based on the relevant Purchase Order;

19.2.2. where the Goods or Services have yet to be performed and/or delivered and Time Energy has paid in advance, the Supplier shall refund to Time Energy all Charges it has paid in advance in respect of the Goods or Services not performed or not delivered by the Supplier as at the date of termination under the terminated Purchase Order;

19.2.3. the Supplier shall discontinue its performance of its obligations under the terminated Purchase Order except for those part of the works or services as Time Energy may instruct the Supplier to protect, making safe or tidying up such part of the works or services as may already have been executed;

19.2.4. the Supplier shall take immediate steps to assist Time Energy to ensure a smooth transition if a third party has been appointed to replace the Supplier in the performance of the obligations under the terminated Purchase Order;

19.2.5. in the case of a termination for convenience by Time Energy, Time Energy shall upon verification pay on a quantum merit basis, where applicable, to the Supplier the reasonable costs (substantiated by documentary evidence) incurred by the Supplier up to the date of termination. The Supplier shall use its best efforts to mitigate its losses and expenses; and

19.2.6. in the case of a termination by the Supplier for cause, Time Energy shall pay the Supplier the amounts owing to the Supplier for part of the Services that have already

been performed or the Goods that have been delivered in accordance with the Purchase Order at the date of termination.

19.3. The Effects of Termination

19.3.1. Notwithstanding the termination or expiry of this Agreement, the terms of this Agreement shall continue to apply to Purchase Orders which are still subsisting after termination or expiry of this Agreement until the Purchase Order is completed or earlier terminated.

19.3.2. Notwithstanding the termination or expiry of a Statement of Work, the terms of a Statement of Work shall continue to apply to any subsisting Purchase Orders, which relates to that Statement of Work, until such Purchase Orders are completed or earlier terminated.

19.3.3. If a Party terminates a Purchase Order due to a breach by the other Party of any term and condition under the said Purchase Order:

(a) that Party shall also be entitled to terminate the Statement of Work to which such Purchase Order relates; and

(b) where the breach by the other Party only relates to a particular Purchase Order, then the right to terminate shall only be in respect of that Purchase Order.

The termination of that Purchase Order shall not cause this Agreement, or any other Purchase Order to terminate automatically. As such, this Agreement, and all other Purchase Orders shall remain in force unless and until they are terminated or expire in accordance with their own terms.

19.3.4. For the avoidance of doubt, the expiry or termination of this Agreement, any Statement of Work and/or any Purchase Order shall not operate as a waiver of any breach by either Party of any provisions under this Agreement, any Statement of Work and/or any Purchase Order, and is also without prejudice to any accrued rights, liabilities or obligations of the respective Parties including the right of indemnities.

20. LIMITATION OF LIABILITY

20.1. Subject to **Clause 20.3 and 20.4**, neither Party will be liable, whether for negligence, breach of contract, tort, strict liability or otherwise and whether or not reasonably or actually possible to contemplate, for any indirect, incidental or consequential loss or damage.

20.2. Subject to **Clause 20.3**, the maximum liability of Time Energy for damages and losses arising under or in connection with this Agreement and all Purchase Order regardless of the form of action (whether in contract, tort or otherwise) shall be capped at 100% of the total value of the Agreement and all Purchase Orders.

20.3. Nothing in this Agreement or Purchase Order shall exclude a Party's liability where such exclusion is precluded by law.

20.4. The exclusion under **Clause 20.1** shall not apply to or restrict or the Supplier's liabilities in the following claim(s):

20.4.1. any damages for personal or bodily injury (including death) caused by that Party;

20.4.2. damage to real property and tangible personal property caused by that Party;

20.4.3. losses caused by illegal acts, willful misconduct, fraud, misrepresentation or gross negligence;

20.4.4. losses caused by the infringement of Intellectual Property Rights;

20.4.5. breach of any anti-bribery provisions under **Clause 24** (including non-compliance with Anti-Bribery and Corruption Laws and/or Time Energy's Business Integrity & Anti-Corruption Policy);

20.4.6. breach of personal data protection under **Clause 23**;

20.4.7. breach of confidentiality obligations under **Clause 22**; and

20.4.8. under any indemnity provided by the Supplier in respect of any of the matters set out in **Clause 21**.

21. **INDEMNITIES**

- 21.1. The Supplier shall fully indemnify Time Energy, including Time Energy's Affiliates and Time Energy's Personnel, for all costs, losses, claims, damages, expenses, penalties, fines, actions, demands, legal fees and disbursements, judgments, suits and/or proceedings incurred or suffered by, or brought against Time Energy, Time Energy's Affiliates and/or Time Energy's Personnel, which arises out of or in connection with any of the following:
- 21.1.1. any failure to perform any Services or supply the Goods in accordance with the terms of this Agreement and/or any Purchase Order;
 - 21.1.2. any wilful misconduct, negligence, fraud, unlawful act or omission on the part of the Supplier or any Supplier's Personnel;
 - 21.1.3. any injury or death of any person caused by any defect in the Goods or the Supplier or any Supplier's Personnel in the course of performing the Supplier's obligations or other duties under this Agreement and/or any Purchase Order;
 - 21.1.4. any act or omission of the Supplier or any Supplier's Personnel in connection with this Agreement and/or any Purchase Order resulting in or contributing to loss of or damage to the property of Time Energy or any third party;
 - 21.1.5. the breach by the Supplier of confidentiality obligations under **Clause 22**;
 - 21.1.6. the breach by the Supplier of the personal data protection obligations under **Clause 23**;
 - 21.1.7. the breach by the Supplier of its anti-bribery and corruption obligations under **Clause 24** and/or non-compliance with Anti-Bribery and/or Corruption Laws and/or Time Energy's Business Integrity & Anti-Corruption Policy;
 - 21.1.8. any infringement of Intellectual Property Rights; or
 - 21.1.9. any claims, actions, demands, suits or proceedings brought against Time Energy by the Supplier's sub-contractor engaged by the Supplier for this Agreement and Purchase Orders for any non-payment by the Supplier.
- 21.2. The indemnities contained in this **Clause 21** and other parts of this Agreement are absolute and unconditional, and are continuing obligations of the indemnifying Party, separate and independent from its other obligations and shall survive the termination or expiry of this Agreement and/or Purchase Order.

22. **CONFIDENTIALITY**

- 22.1. All Confidential Information disclosed or communicated by one Party to the other Party or obtained by one Party from the other Party in connection with this Agreement and Purchase Order including but not limited to the business and operations of a Party and the terms of this Agreement and Purchase Orders shall be treated as Confidential Information unless the information:
- 22.1.1. is or becomes publicly available through no fault of the Receiving Party;
 - 22.1.2. which the Receiving Party can prove was in its possession or known to it prior to its receipt from the Disclosing Party;
 - 22.1.3. is or was rightfully received by the Receiving Party from a third party without a duty of confidentiality being owed by the Receiving Party to the third party, except where the Receiving Party has knowledge that the third party has obtained that information either directly or indirectly as a result of a breach of any duty of confidence owed to the disclosing Party; or
 - 22.1.4. independently developed by the Receiving Party without the use of the Confidential Information.
- 22.2. Each Party's Confidential Information shall be held in strict confidence by the other Party, using no lesser security measures and degree of care as it uses to protect its own Confidential Information. In any event, the security measures and the degree of care it uses shall, as a minimum, comply with the standards imposed by the Applicable Laws. The Receiving Party shall further ensure that the Confidential Information is secured from

unauthorised access from internal and external parties and that all Confidential Information used, stored and/or processed shall be free from virus, malware or other malicious codes.

- 22.3. No Party shall publicise or announce the execution or existence of this Agreement and Purchase Order except where its disclosure becomes mandatory pursuant to any laws or any acts of authority or rules of any stock exchange, or is for the purposes of enforcing its rights and/or court or arbitral proceedings under this Agreement and/or Purchase Order.
- 22.4. The Confidential Information shall not be used, copied, reproduced, distributed or disclosed by the Receiving Party for any purpose except that:
- 22.4.1. it may be disclosed to its employees or sub-contractors strictly on a need to know basis to implement or perform this Agreement and/or Purchase Orders only provided its employees and sub-contractors is subject to and maintains the confidentiality obligation under this Agreement; and/or
 - 22.4.2. its disclosure becomes mandatory pursuant to any laws or any acts of authority or rules of any stock exchange;
 - 22.4.3. is required to be disclosed for the purpose of that Party's enforcement of its rights or for the purpose of any arbitral or judicial proceedings under this Agreement or a Purchase Order;
 - 22.4.4. is required to be disclosed to a Party's professional advisers, lawyers, auditors and insurers, for the purpose of providing services to that Party provided that in each case such persons are informed of the confidential nature of the information and agree to keep the information confidential except to the extent the information is required by law, rule or requirement of any regulatory authority which it is bound to comply; or
 - 22.4.5. in the case of Time Energy only, is disclosed to any existing and potential investor, lender, financier and their respective advisors for investment and/or fund raising purposes.
- 22.5. Where the Receiving Party is required to disclose any Confidential Information pursuant to any laws or any acts of authority or rules of any stock exchange, the Receiving Party:
- 22.5.1. shall where practicable and lawful give twenty-four (24) hours' notice to the Disclosing Party that it is required to disclose the Confidential Information so that the Disclosing Party has an opportunity to protect the confidentiality of its Confidential Information; and
 - 22.5.2. provides the Disclosing Party with a copy of the Confidential Information that the Receiving Party is to disclose.
- 22.6. Upon the expiry or termination of this Agreement, the Receiving Party shall within seven (7) days return to the disclosing Party or, where instructed, destroy Confidential Information of the Disclosing Party, at its own cost and immediately cease using all such Confidential Information. Where required by the Disclosing Party, the Receiving Party shall provide to the Disclosing Party a written undertaking confirming that it has fully complied with the requirements of this **Clause 22.6** and that it is not in possession or control of any of the Disclosing Party's Confidential Information.
- 22.7. The Receiving Party shall ensure that each of its Personnel strictly complies with the obligations under this **Clause 22**.
- 22.8. The obligations of the Receiving Party in this **Clause 22** shall survive termination or expiry of this Agreement.

23. **PERSONAL DATA PROTECTION**

- 23.1. In the event the Supplier receives any Personal Data from Time Energy pursuant to this Agreement and/or Purchase Order, the Supplier shall ensure that it fully complies with the provisions of the Personal Data Protection Act 2010 ("**PDPA**") and only deals with such Personal Data within the scope permitted by Time Energy to fulfil its duties and obligations provided under this Agreement.
- 23.2. The Supplier irrevocably and unconditionally represents and warrants to Time Energy that it has sufficient technical and organizational security measures in place for the purpose of protecting access to Personal Data or systems or databases containing Personal Data from any loss, misuse, modification, unauthorized or accidental access or disclosure, alteration or destruction, having regard to:-
- 23.2.1. the nature of the Personal Data and the harm that

- would result from such loss, misuse, modification, unauthorized access or disclosure, alteration or destruction;
- 23.2.2. the place or location where it is stored;
- 23.2.3. any security measures incorporated into equipment storing the Personal Data; and
- 23.2.4. the measures taken for ensuring the secure transfer of the Personal Data.
- 23.3. The Supplier shall not, and shall ensure that the Supplier's Personnel shall not, do anything in relation to any Personal Data which may cause Time Energy to be in breach under the PDPA.
- 23.4. The Supplier shall allow reasonable access by Time Energy to such information by way of audit or otherwise as is necessary to ensure that the Supplier complied with **Clause 23** and the PDPA as a whole. Such access includes allowing Time Energy and/or its Personnel to inspect and audit the Supplier data processing activities (and/or those of the Supplier's Personnel) and comply with all reasonable requests or directions by Time Energy to enable Time Energy to verify and/or procure that the Supplier is in full compliance with its obligations under this **Clause 23** and the PDPA.
- 23.5. The Supplier shall not disclose the Personal Data to any Affiliates or sub-contractors in any circumstances other than with the written consent of Time Energy. Where such consent is given by Time Energy, the Supplier shall take all reasonable steps to ensure that the Affiliates or sub-contractors comply with the requirements of this Agreement and PDPA.
- 23.6. The Supplier shall return or destroy all Personal Data as directed by Time Energy, upon expiry or termination of this Agreement.
- 23.7. If the Supplier becomes aware of any actual or suspected:
- 23.7.1. breach of **Clause 23** or breach of any Applicable Laws by the Supplier ("**Breach**");
- 23.7.2. action taken through the use of computer networks that attempts to access or result in an actual or potentially adverse effect on the Supplier's information system and/or any data provided by Time Energy residing on that system ("**Cyber Incident**"); and/or
- 23.7.3. any other unauthorized access or use by a third party or misuse, damage or destruction by any person ("**Other Incident**"),
- the Supplier must:
- (a) notify Time Energy in writing immediately (and no longer than six (6) hours after becoming aware of the Breach, Cyber Incident and Other Incident);
- (b) provide sufficient information and assistance to allow Time Energy to meet its respective obligations to report the Breach, Cyber Incident or other Incident to the relevant authorities or inform the customers under the applicable privacy or data protection and other laws;
- (c) co-operate with Time Energy and the relevant authorities to take all reasonable steps to assist in the investigation, mitigation and remediation of the Breach, Cyber Incident or Other Incident; and
- (d) comply with any directions issued by Time Energy in connection with the Breach, Cyber Incident or Other Incident.
- 23.8. The Supplier must take out and maintain insurance to protect against the risks of a Cyber Incident.
- 23.9. The obligations of the Supplier under **Clause 23** shall survive the termination and/or expiry of this Agreement.
- 24. ANTI-BRIBERY AND ANTI-CORRUPTION**
- 24.1. The Supplier agrees that, in connection with the Agreement and each Purchase Order:
- 24.1.1. it shall strictly comply with all laws and regulations relating to anti-bribery and corruption including but not limited to the Malaysian Anti-Corruption Commission Act 2009 ("**Anti-Bribery and Corruption Laws**");
- 24.1.2. it has read, understands and agrees at all times during the term of the Agreement to comply with Time Energy's Business Integrity & Anti-Corruption Policy as provided by Time Energy, which may be amended by Time Energy from time to time;
- 24.1.3. it shall cause its authorized representative to execute Time Energy's Business Integrity & Anti-Corruption Declaration form as requested by Time Energy and inform all its employees, representatives, personnel, subcontractors, consultants and agent(s) ("**Representatives**") who will work on the Agreement of the requirements of Time Energy's Business Integrity & Anti-Corruption Policy; and
- 24.1.4. it shall take all measures to prevent corrupt practices, unfair means and illegal activities at all times throughout the term of the Agreement including maintain accurate books, records and accounts related to its activities and internal controls.
- 24.2. The Supplier agrees that any non-compliance with Anti-Bribery and Corruption Laws or Time Energy's Business Integrity & Anti-Corruption Policy is a ground for Time Energy to forthwith terminate the Agreement.
- 25. COMPLIANCE WITH LAW**
- 25.1. The Parties agree that that they will comply with all Applicable Laws in the performance of its obligations under this Agreement and any Purchase Order including but not limited to environmental laws and health and safety laws.
- 25.2. The Supplier shall ensure that all Services and its Supplier Personnel shall comply with all Applicable Laws and shall obtain from competent Authorities all necessary permits, licences, visas and authorisations required to perform its obligations in this Agreement.
- 26. INSURANCE**
- 26.1. Without in any way limiting the Supplier's duties, obligations and liabilities under this Agreement, the Supplier shall take and maintain, at its own cost, the necessary insurance of appropriate value for the total duration of the provision of Goods and Services under this Agreement.
- 26.2. The insurance policies required shall include any insurances set out in the LOA and:
- 26.2.1. in respect of the provision of Services, the professional indemnity insurance of not less than the amount stated in the Statement of Work only, to cover the Supplier's liability on all costs, losses and damages, which may be sustained by Time Energy arising out of the acts, neglect or omissions of the Supplier, its employees, servants and/or agents in the performance of the Services;
- 26.2.2. the insurance required by law including under the Worker's Compensation Legislation in respect of the Supplier's employees, servants and/or agents, including but not limited to workmen's compensation, social security and employer's liability insurance pursuant to the relevant Workers' Compensation Legislations; and
- 26.2.3. such other policies of insurance as Time Energy may instruct and/or it deems appropriate in respect of the obligations required by the Supplier under this Agreement, with an insurer or insurers with an AM Best Rating A- (A minus) or better as may be approved by Time Energy.
- 26.3. Except as otherwise expressly agreed, the amounts and scope covered by the insurance policies pursuant to **Clause 26.1** and **Clause 26.2** and/or the absence of any insurance policy shall not be construed as acceptance by either Party of a limitation of the other Party's liabilities or responsibilities as defined in this Agreement.
- 26.4. Time Energy excludes any and all responsibility in respect of any injury, demise, suffering, or incapacity caused by any accident, health hazard, illness etc., suffered or experienced by the Supplier's employees or sub-contractors whilst providing the Service to Time Energy.
- 26.5. In the discretion of Time Energy, if the Supplier fails to obtain the required insurance policies, the Supplier shall be held responsible for any reported and unreported claims and agrees to waive all subrogation rights against Time Energy for any loss arising from any negligent acts, omission or error in carrying out its professional role in relation to the Services throughout the Term of its appointment and any extended period as the case may be which extension shall be at the sole discretion of Time Energy.

27.

FORCE MAJEURE

27.1. In this **Clause 27**, a "**Force Majeure Event**" means, in relation to any Party, any act, event or circumstance including but not limited to, acts of God, war (whether declared or not), insurrections, or national emergency, sabotage, riot, natural disaster, failure of public infrastructure (such as power and telecommunications networks), or any governmental act or omission, the cause of which is not of such Party's making nor within that Party's reasonable control, which are not reasonably foreseeable and could not, taking into account the last sentence below in this **Clause 27.1**, have been guarded or avoided through the exercise of reasonable precautions or actions against or such occurrence which have not been predisposed in the country of Time Energy provided always that:

- 27.1.1. lack of funds shall not be interpreted as an act, event or circumstance which is not of a Party's making nor within a Party's reasonable control;
- 27.1.2. the effects of a Force Majeure Event which could have been avoided through the proper operation of a business continuity plan shall not be interpreted as an act, event or circumstance which is not of the Supplier's making nor within the Supplier's reasonable control; and
- 27.1.3. the Force Majeure Event shall exclude a mechanical or electrical breakdown or failure of equipment, strikes, lockouts, industrial or labour disputes, work bans, blockades or picketing which does not affect the relevant industry or a substantial portion of it, failure of a sub-contractor or third party supplier to supply goods or services to the Supplier, a shortage of labour or materials unless such failure is as a result of an event set out in **Clause 27.1**;

The Supplier shall take all necessary action and steps that are commercially reasonable to ensure that it is able to supply and perform the Services in view of the political, social and economical environment in the country of Time Energy.

27.2. If a Party is unable to perform any obligation under this Agreement or a Purchase Order by reason of a Force Majeure Event and the Affected Party:

- 27.2.1. gives the other Party to which the obligation is owed prompt notice in writing of the Force Majeure Event with reasonably full particulars thereof and an estimate of the extent and duration of its inability to perform; and
- 27.2.2. shall continue to take all actions within its power to comply as fully as possible with its obligations under this Agreement and the Purchase Order,

then the obligations affected by the Force Majeure Event is suspended insofar as it is affected by, and during the continuance of the Force Majeure Event.

27.3. Neither Party shall be released from any of its obligations under any Purchase Order or this Agreement as a result of a Force Majeure Event, and all Purchase Orders and this Agreement shall, subject to **Clause 27.5**, remain in effect for the duration of a Force Majeure Event.

27.4. The Affected Party shall furnish written reports every seven (7) days to the other Party on its progress in complying with its obligations, and provides any information relating to the Force Majeure Event and its effects that the other Party may reasonably request. If the Force Majeure Event continues beyond fourteen (14) days after the notice is given under **Clause 27.2** above, the Parties shall meet to discuss in good faith a mutually satisfactory resolution to the problem.

27.5. If the performance by the Affected Party of substantially all of its obligations under a Purchase Order is materially prevented, hindered or delayed by reason of a Force Majeure Event for a period of more than ninety (90) consecutive days, the other Party may terminate the Purchase Order with immediate effect by notice to the Affected Party on or at any time after the expiry of such ninety (90) day period. Upon termination of any Purchase Order by reason of Force Majeure Event, the amounts payable for a Purchase Order shall (after taking into account amounts previously paid under the Purchase Order) be limited to:

- 27.5.1. the relevant part of the Purchase Order Price, related to such parts of the System, Hardware, Software and Documentation that are delivered (for those System, Hardware, Software and Documentation which Time Energy orders for delivery only) or have successfully achieved the relevant milestone for payment at the date of termination, and

27.5.2. the relevant part of the Purchase Order Price, related to such parts of the Services that are performed at the date of termination.

27.6. Immediately after the end of the Force Majeure Event, the Affected Party shall notify the other Party in writing that the Force Majeure Event has ended and shall resume performance of its obligations under the Purchase Order or this Agreement, as the case may be.

28.

ASSIGNMENT

28.1. The Supplier shall not, without the prior written consent of Time Energy, assign, novate or transfer this Agreement, the Statement of Work and/or Purchase Order or any part thereof to any person, corporation, partnership, limited liability company, association, trust or other entity or organization in any way.

28.2. Time Energy may assign, novate or transfer this Agreement, Statement of Work and/or Purchase Order to any of its Affiliates by notice in writing to the Supplier. The Supplier shall, where requested by Time Energy, take such reasonable steps to execute such documents to give effect to the said assignment, novation and/or transfer.

29.

SUBCONTRACTING

29.1. The Supplier shall not sub-contract the performance of any of its obligations under this Agreement and/or a Purchase Order to any third party without prior written consent of Time Energy, which may be granted or withheld by Time Energy, in its sole discretion. The failure to comply with this **Clause 29** shall be construed as a material breach of this Agreement and/or a Purchase Order.

29.2. If the Supplier uses a Permitted Sub-contractor, the Supplier:

29.2.1. is fully liable and responsible for all acts, defaults and neglects of such sub-contractors including its agents, servants, workmen and personnel as if they were the acts, defaults and/or neglect of the Supplier. Consent by Time Energy shall not affect in any way the Supplier's primary liability to Time Energy;

29.2.2. warrants that each sub-contractor engaged by the Supplier possesses all requisite resources, capacity, skills, qualifications and technical and financial means to perform the obligations sub-contracted to such Permitted Sub-contractor and where requested by Time Energy, the Supplier shall promptly provide to Time Energy, the evidence to demonstrate the same; and

29.2.3. shall ensure that any and all obligations subcontracted to the Permitted Sub-contractors shall be performed by the Permitted Sub-contractor strictly in accordance with the relevant terms and conditions of this Agreement, Statement of Work and Purchase Order and shall further ensure the Permitted Sub-contractor comply with the same obligations as far as is reasonably practicable to which the Supplier is required to adhere to under this Agreement, the Statement of Works and Purchase Order.

30.

SERVICE OF NOTICE

30.1. A notice, invoice, approval, consent, request or other communication in connection with this Agreement:

- 30.1.1. must be in writing and in the English language; and
- 30.1.2. must be left at the address of the addressee, or sent by A.R registered post or licensed courier to the address of the addressee or sent by email to the email address of the addressee which is set out below or if the addressee notifies another address or email then to that address or email.

30.2. The address of each Party is as stated in the LOA.

30.3. Any notice, invoice, approval, consent, request or other communication is, in the absence of contrary evidence, deemed to be received:

- 30.3.1. in the case of A.R registered post, on the third Business Day after posting (if posted to an address in the same country) or fifth (5th) Business Day after the date of posting (if posted to an address in another country);
- 30.3.2. in the case of a communication left at the address of the addressee or licensed courier, at the time the

communication was so left; and

30.3.3. in the case of a communication by email, at the time of sending the email, provided that no delivery failure notification was received by the sender.

30.4. A notice received or deemed to be received in accordance with **Clause 30.3** above on a day which is not a Business Day or after 6 p.m. on any Business Day, according to local time in the place of receipt, shall be deemed to be received on the next following Business Day.

31. **DISPUTE RESOLUTION**

31.1. In the event that there is any dispute, controversy or claim arising out of or relating to this Agreement, or any breach, termination or invalidity of this Agreement or or in the interpretation of this Agreement, the Statement of Work or Purchase Order ("**Dispute**"), either Party may issue a written notice ("**Dispute Notice**") to the other Party stating the nature of the Dispute and requesting that the authorised representative of each Party resolve the Dispute. If the authorised representatives of the Parties are not able to resolve the Dispute after a period of sixty (60) days from the date of the Dispute Notice or such other extended period as may be mutually agreed between the Parties, then either Party may commence court proceedings in relation to the Dispute. No Party may commence court proceedings in relation to any Dispute until it has first attempted to settle the Dispute in accordance with this **Clause 31.1**.

31.2. The Parties hereby submit to the exclusive jurisdiction of the Malaysian courts.

31.3. Notwithstanding the existence of any dispute, negotiation, mediation or dispute resolution proceedings at any time, the Parties shall, unless otherwise agreed, continue with the performance of their respective obligations under this Agreement.

32. **GOVERNING LAW**

This Agreement, the Statement of Work and any Purchase Order, including the arbitration agreement herein and which applies to the Statement of Work and Purchase Order, shall be governed by and shall be construed in accordance with Malaysian law.

33. **AMENDMENT**

No amendment or variation to this Agreement, Statement of Work and/or Purchase Order shall be effective or valid unless it is in writing and signed by a duly authorized representative of both Parties.

34. **SEVERABILITY**

Where any provision of, or the application of any provision of this Agreement, the Statement of Work and/or Purchase Order is illegal, invalid or unenforceable or deemed to be illegal, invalid or unenforceable, in whole or in part, such provision shall continue to apply with the necessary modification or replacement in order that that provision is legal, valid and enforceable provision and to also achieve as similar as possible the original contractual intent and rights of the Parties. In the event that it is not possible to modify or replace the relevant provision to make the provision legal, valid and enforceable, then such part of the provision which is illegal, invalid or unenforceable shall be severed but the remaining parts of the provision, and the remainder of this Agreement shall remain unaffected.

35. **SURVIVAL OF PROVISIONS**

The termination or expiry of this Agreement and the Purchase Order howsoever arising shall not affect such of the provisions hereof as are expressed to survive, operate or have effect thereafter until fulfilled including **Clauses 1, 3, 4, 5.7, 5.8, 15, 16, 17, 19, 20, 21, 22, 23, 24, 25, 26, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 41, 43 and 44**.

36. **TIME OF THE ESSENCE**

Where a time period has been specifically provided for in this Agreement, the Statement of Work or a Purchase Order, the time period stated therein shall be of the essence.

37. **WAIVER OF REMEDIES**

37.1. No failure or delay by any Party in exercising any right, power or remedy under this Agreement, Statement of Work and/or Purchase Order shall operate as a waiver thereof, nor shall any single or partial exercise of the same preclude any further exercise thereof or the exercise of any other right, power or remedy.

37.2. Without limiting the foregoing, no waiver by any Party of any breach of any provision of this Agreement, Statement of Work and/or Purchase Order shall be deemed to be a waiver of any subsequent breach of that or any other provision of this Agreement, Statement of Work or Purchase Order. Any waiver by any Party hereto of a breach or default of any provisions in this Agreement, Statement of Work and/or Purchase Order shall be in writing, signed by a duly authorized representative of both Parties.

37.3. No approval or acceptance of any Services shall operate to waive any rights of Time Energy or obligations of the Supplier in respect of any Services nor shall such approval or acceptance operate to remove any liability which the Supplier may have in respect of any default relating to such Services.

38. **CUMULATIVE RIGHTS AND REMEDIES**

Except where provided otherwise in this Agreement or Statement of Work, and/or Purchase Order, all rights and remedies provided under this Agreement, the Statement of Work and/or any Purchase Order are cumulative and not exclusive of the rights, powers or remedies provided in this Agreement, Statement Work, any the Purchase Order or at law.

39. **FURTHER ASSURANCES**

Each Party agrees that from time to time, at the request of the other Party and without further consideration, it will execute and deliver such other documents and take such other actions as such other Party may reasonably request to consummate more effectively the transactions contemplated under a Purchase Order.

40. **RELATIONSHIP OF THE PARTIES**

Nothing in this Agreement, Statement of Work or any Purchase Order or in any document referred to in it or any arrangement contemplated by it shall be construed to constitute either Party a partner or agent of the other Party for any purpose whatsoever, nor shall the execution, completion and implementation of this Agreement, Statement of Work or any Purchase Order confer on any Party any power to bind or impose any obligations to any third parties on the other Party or to pledge the credit of the other Party.

41. **BINDING EFFECT**

This Agreement, the Statement of Works and Purchase Order shall be binding upon the Parties and their permitted legal assigns and successors in title.

42. **COST AND EXPENSES**

Each Party is responsible for its own legal costs and expenses incurred in relation to the preparation of this Agreement, the Statement of Work and/or Purchase Order. The stamp duty in respect of this Agreement, the Statement of Work and the Purchase Order shall be borne by the Supplier.

43. **LANGUAGE**

43.1. All data, correspondences, documents, descriptions, diagrams, instructions, markings for ready identification of major items in relation to the Deliverables and correspondences shall be in the English language.

43.2. Should the text of this Agreement, the Statement of Work or a Purchase Order exist in another language other than English, then the present English version shall prevail over any other language versions.

44. **COUNTERPARTS AND ELECTRONIC SIGNATURE**

44.1. This Agreement, Statement of Work, Purchase Order and other documents to be delivered under this Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original copy and all of which, when taken together, shall be deemed to constitute one and the same, and shall be effective when counterparts have been signed by each of the Parties and delivered to the other Parties.

44.2. The Parties may sign and deliver this Agreement, Statement of Work, Purchase Order or any other documents contemplated by this Agreement electronically. Each Party agrees that the electronic signatures, whether digital or encrypted, of the Parties are intended to authenticate this Agreement, Purchase Order and any other document contemplated by this Agreement to have the same force and effect as manual signatures. Delivery of a copy of this Agreement, Purchase Order or any other document contemplated by this Agreement, bearing electronic signature (i) by electronic

mail in "portable document format" (PDF) or similar format intended to preserve the original graphic and pictorial appearance of a document; or (ii) through the use of electronic signature software shall have the same effect as physical delivery of the paper document bearing a wet ink signature. The Supplier consents to Time Energy's use of any third party electronic signature service provider as may be chosen by Time Energy.

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