

**1. DEFINITIONS AND INTERPRETATION**

1.1 The following words have these meanings in this Agreement, unless the contrary intention appears:

“**Act**” means the Communications and Multimedia Act, 1998 as amended and/or revised from time to time.

“**Activation Date**” means the date stated on the Commencement Notice on which the Services and Customer Account (hereinafter defined) is made ready and available and are activated for the Customer by REDtone as more particularly described in Clause 2.2 of this Agreement.

“**Addendum**” means any addendum or supplemental executed by the Customer and accepted by REDtone for additional or supplemental services.

“**Agreement**” means the agreement for the Services made between REDtone and the Customer in accordance with these terms and conditions, the Service Order Form, the Addendum and other documents which are expressly agreed to form part of the Agreement.

“**Charges**” means all sums payable by the Customer to REDtone for the provision of the Services and all matters relating to the Services at the rate as indicated in REDtone Service Order Form or any new rates as may be reviewed at REDtone sole discretion from time to time.

“**Commencement Notice**” means the notice or certificate issued by REDtone to the Customer specifying the Activation Date for the commencement of the Services. The Commencement Notice shall also contain the Customer’s Internet Protocol (IP) address or login name and password, as the case may be.

“**Customer**” under this Agreement shall mean a natural person other than a minor and shall include a corporate body, partnership, associations, company, government and/or non-governmental organizations whose application to enter into this Agreement is accepted by REDtone and shall include his or its successors and permitted assigns and is synonymous with the term “subscriber” or “applicant” wherever used in other correspondence or documents.

“**Customer Account**” means an account under the name of the Customer in relation to the Services subscribed by the Customer.

“**Customer Equipment**” means the equipment, software and all facilities to be procured, installed and maintained by the Customer at the Customer’s premises in order to use the Services, including without limitation, cabling and wiring which is connected to the REDtone Network as well as the horizontal cabling from the Customer’s premises to the REDtone Network.

“**Customer Information**” any information provided by the Customer to REDtone including in the Service Order Form as part of the registration process.

“**Designated Address**” means the Customer’s installation address for the Services as stated in the Service Order Form.

“**Internet**” means a global network of interconnected computer networks using the Transmission Control Protocol/Internet Protocol and/or such other standard network connection protocols as may be adopted from time to time, which is used to transmit content that is directly or indirectly delivered for display to an end user whether such content is delivered through on-line browsers, off-line browsers or through “push” technology, electronic mail, broadband distribution, satellite, wireless or otherwise.

“**Leased Equipment**” means equipment which excludes Customer Equipment and may consist of, but is not limited to, Switch, Router, Optical Network Terminal (ONT), Residential Gateway (RGW) and Single Line Telephone or Digital Enhanced Cordless Telecommunications (DECT), Analogue Telephone Adapter (ATA) or any part thereof and such other equipment or modem provided by REDtone on a lease basis to enable usage of the Service by the Customer, as may be decided by REDtone from time to time at its sole discretion.

“**Log-on Detail**” means the user identification detail and accompanying password supplied to the Customer under this Agreement for access to the Services (where applicable).

“**MCMC**” means Malaysian Communications and Multimedia Commission established under the Act

“**Minimum Subscription Period**” means the minimum period as stated in Section 5 in the Service Order Form for the subscription of the Services by the Customer and as more particularly described in Clause 3 of this Agreement.

“**Minister**” means the Minister of Information, Communications and Culture or, if different, the Minister administering the Act.

“**Personal Data**” includes the Customer Information required for purposes of applying and registering for the Services and all data relating to the provision of the Services offered to the Customer by REDtone including but not limited to the call data records or reports related thereto, including any expression of opinion about the Customer.

“**Premises**” means any land, building or structure, whether owned, leased or occupied by the Customer at the Designated Address where the Service is or will be provided.

“**REDtone**” means collectively (i) REDtone Telecommunications Sdn Bhd (Company No.: 378160-H); (ii) REDtone Engineering & Network Services Sdn Bhd (Company No.: 526020-T); (iii) SEA Telco Engineering Services Sdn Bhd (Company No.:593355-A) for the provision of the Services, including their successors and assigns.

“**REDtone Network**” means network facilities and/or network services comprising of the system or series of system, equipment, software and facilities operated and/or owned by REDtone or through any other network deemed necessary to enable the provision of the Services to the Customer.

“**REDtone’ Website**” means the URL <http://www.redtone.com> or such other URL as may be notified by REDtone to the Customer from time to time.

“**REDtone Working Hours**” means the period between 8:30am to 5.30pm of a business day on which commercial bank are open for business excluding gazetted public holidays or such other working hours that may be notified by REDtone to Customer from time to time.

“**Related Corporations**” means the related corporations as defined under the Companies Act, 1965 and include their respective employees and directors.

“**Service Order Form**” means the Customer’s duly completed application for the registration to subscribe for the Services and which has been accepted by REDtone.

“**Registration Date**” means the effective date of this Agreement which is the date upon which REDtone approves the Customer’s application for the Services, as more particularly described in Clause 2.1 herein.

“**Services**” means any and all communications services provided by REDtone including but not limited to Wired Line Internet access service, Fixed Wireless Internet access service, VSAT internet access, xDSL internet access, Shared or Broadband internet access, Wired Point to point, Fixed Wireless point to point and any other VAS as may be offered by REDtone from time to time.

“**SKMM**” means the Suruhanjaya Komunikasi dan Multimedia Malaysia established under the Act.

“**Termination Charges**” means the monthly recurring Charges for the Services for the remainder or unfulfilled of the Minimum Subscription Period.

“**VAS**” means value added services as may be introduced and/or offered by REDtone to its subscribers from time to time.

1.2 In the Agreement, unless the contrary intention appears:

(a) a reference to a statutory provision includes that provision as modified or re-enacted from time to time so far as such modification or re-enactment applies or is capable of applying to any transaction entered into, under or in connection with the Agreement;

(b) the singular shall include plural and vice versa;

(c) a reference to a person includes the person’s executors, administrators, successors, substitutes (including, without limitation, persons taking by novation) and assigns;

(d) words denoting one gender include all genders and words importing persons shall include firms, associations, bodies corporate and unincorporated;

(e) a reference to “**day(s)**” shall mean a twenty-four (24) hours period as in calendar day and a reference to “**business day(s)**” shall mean any day where commercial banks are open for business in Malaysia and gazetted public holidays; and

(f) where more than one (1) party is referred to as “Customer”, their obligations are joint and several.

1.3 Headings are inserted for convenience only and do not affect the interpretation of the provisions of the Agreement.

1.4 No rule of construction or interpretation shall apply to prejudice the interest of the party preparing the Agreement.

1.5 Where anything is due to be done on a day which is a not a business day, it must be done on the next business day.

1.6 References to the Agreement shall mean the Agreement as amended from time to time in accordance with the provisions herein.

**2. AGREEMENT PERIOD**

2.1 This Agreement shall be effective on the Registration Date. REDtone reserves the right to decline any application for the subscription of the Services without assigning any reason thereto.

2.2 The Services shall commence on the Activation Date as may be indicated on the Commencement Notice issued by REDtone to the Customer.

Initial by customer

**3. MINIMUM SUBSCRIPTION PERIOD**

- 3.1 The Customer shall subscribe to the Services for a period of not less than the Minimum Subscription Period effective from the Activation Date.
- 3.2 This Agreement shall remain in full force and effect for the duration of the Minimum Subscription Period. Upon expiry of the Minimum Subscription Period, this Agreement will automatically be renewed on a monthly basis unless earlier terminated by either Party hereto in accordance with the provisions of this Agreement, specifically in Clause 15.

**4. APPLICATION FOR THE SERVICES**

- 4.1 Upon submission of the Service Order Form, the Customer confirms that all information (and documents) submitted to REDtone for the purpose of subscribing to the Services (including the Personal Information) are accurate, true, current and complete. The Customer undertakes to inform REDtone of any updates to such Personal Information in the event of any changes thereto.
- 4.2 In the event the Customer cancels or terminate his order or application for the Services at any time during the term of this Agreement (whether prior to or after the Activation Date), REDtone is entitled to charge the Customer the Termination Charges.

**5. PROVISIONING OF SERVICES**

- 5.1 Subject to Clauses 2.1 and 2.2, REDTONE agrees to provide the Services to the Customer on best effort and as available basis in accordance with the terms and conditions of this Agreement. Unless otherwise indicated in this Agreement, the Services shall not include the provision or maintenance for the Customer Equipment. The Customer agrees that Customer shall be solely responsible for procuring and maintaining the Customer Equipment.
- 5.2 All Residential Packages are subject to a Fair Usage Policy. REDtone reserve the right to implement Fair Usage to ensure that a good quality of internet usage experience is provided to all customers.
- 5.3 For the provisioning of the Services, REDtone shall establish the connectivity (including the necessary cabling and wiring works) from REDtone Network to the Leased Equipment and/or the Customer Equipment at the Premises. For this purpose, Customer agrees to lease the Leased Equipment from REDtone and further agrees to pay REDtone the Charges for the leasing of the Leased Equipment.
- 5.4 In the event that the Services is not available at the Designated Address, REDtone may inform the Customer of this and the Customer's application will be kept in REDtone' record as an application pending availability of the Services at the Designated Address. Where the Customer's application is recorded as a pending application, REDtone makes no guarantee or warranty to the Customer that the Services will become available at the Designated Address, and REDtone shall not be held liable or responsible in the event that REDtone is unable to provide the Customer with or facilitate availability of the Services at the Designated Address.
- 5.5 In the event that the Services is available at the Designated Address, REDtone shall as soon as practicable fix an appointment for and carry out the installation of the Service and the Leased Equipment for the Customer in accordance with the provisions in Clause 7 and the terms and conditions of this Agreement, unless specified otherwise.
- 5.6 The Customer shall at all times ensure continued supply of electricity to the Premises especially during the installation of the Services. REDtone shall not be responsible or liable for any problem or interruption in the installation process of the Services arising or due to any disruption of electricity supply to the Premises.
- 5.7 REDtone does not guarantee or warrant the availability of the Services or continuous, uninterrupted or secure access to the Internet (only applicable for ADSL, and VSAT KU Band services)
- 5.8 Without prejudice to any other rights or remedies and notwithstanding any waiver by REDtone of any previous breach by the Customer, REDtone may, with or without prior written notice given to the Customer, suspend the Services (indefinitely or for such period as REDtone may consider appropriate or until a problem is proved dissolved) for operational and/or technical reasons or in an emergency situation or in circumstances that concerns national security, any breach of the Act or by directive of the relevant authority including the SKMM/MCMC or the Minister.
- 5.9 REDtone may in its absolute discretion and at any time vary the Services and/or the duration of the Services.

**6. CUSTOMER READINESS**

- 6.1 Upon submission of the Customer's application to REDtone, REDtone shall conduct a verification and confirmation exercise to determine accuracy of the Customer Information together with availability of the Designated Address provided by the Customer for the subscription of the Service.

- 6.2 REDtone may conduct site assessment at the Premises prior to the installation activity. The Customer shall be briefed on the installation and cabling guideline and the installation procedure. Customer agrees to adhere to the said guideline and procedures.
- 6.3 For the purposes of installation pursuant to **Clause 7**, the Customer shall ensure that the Customer is ready with all the basic requirement, including without limitation the following requirements:
  - (a) Customer Equipment such as Routers or Switch (for Networking purposes);
  - (b) Sufficient and continued power/electricity supply, unblocked piping for cabling and trunking, Internal wiring;
  - (c) Any other requirement as specified in the Service Order Form and/or on upon terms as REDtone may notify to the Customer from time to time.
- 6.4 The Customer shall obtain all required consent, permission, license and all the approvals from the developer or the building management corporation or the building owner for REDtone to access the Premises and perform the installation of the Services.
- 6.5 REDtone shall not be liable in any way whatsoever for any costs, expenses, loss or damage to any property or injury to any person howsoever caused, whether negligent or otherwise, arising out of any installation activity.
- 6.6 REDtone and/or its appointed contractor shall not be liable or responsible for any technical problem, loss, interruption or unavailability of the Service, or other loss or damage suffered by the Customer which arises from or is caused by the Customer's Equipment, whether connected to the Leased Equipment or otherwise.
- 6.7 In the event the Customer requests for REDtone' appointed contractor to conduct additional cabling or wiring other than REDtone standard cabling and wiring procedure, or further technical investigation for the purpose of identifying and/or rectifying any problem arising from the Customer Equipment and REDtone' appointed contractor agrees to render such assistance, the Customer shall bear all the costs and expenses involved and as may be imposed by the contractor. REDtone will not be involved or responsible for any fees or charges for such additional services which REDtone' appointed contractor may impose on the Customer. REDtone shall not be liable or responsible for any loss or damage suffered by the Customer howsoever caused, whether negligent or otherwise arising out of the provision of additional support services to the Customer and/or in relation to the Customer's Equipment by any appointed contractor.

**7. INSTALLATION OF THE SERVICES**

- 7.1 Upon the Customer's readiness for the provision of the Services pursuant to Clause 6, the parties shall fix an appointment (at a mutually agreed date and time pursuant to Clause 7.2 below) allowing REDtone and/or its authorised representative and/or registered contractor ("REDtone' Installer") to perform the installation of the Services including the Leased Equipment at the Customer's Designated Address for installation. The Customer consents to REDtone and/or REDtone' Installer to perform all required and necessary works including the cabling and wiring work for the installation of the Services and the Leased Equipment at the Designated Address.
- 7.2 REDtone shall only provide surface trunking for the cable wiring within the Customer's Premises or whenever the existing underground piping within the Customer's Premises is blocked. In the case where the Customer requires concealed cable (for example in cornices, false ceilings, walls for inside premise or under the tiles for outdoor premise), the Customer shall, at its own costs, be responsible to get its own contractor to carry out the hacking and concealment work. REDtone shall set another appointment date for the installation of the Services. Customer will be charged for the appointment deferment.
- 7.3 The Customer must be present during the site assessment and the installation activity. Alternatively, the Customer may designate a person aged eighteen (18) years and above to acknowledge the installation of the Services. REDtone will not proceed with the installation activity in the absence of the Customer or the designated person.
- 7.4 REDtone shall conduct connectivity testing upon completion of the installation activity. Upon successful completion of the test, both the Customer and REDtone shall sign the certificate of acceptance of the Service on the Premises. Such certification may be deemed as the Commencement Notice. The Charges shall commence upon completion of the connectivity testing at the Premises.
- 7.5 In the event that the Customer is not ready with the basic equipment and/or requirement as required in Clause 6 above, the installation of the Services will be deferred. The Customer shall resolve any issues (being the cause of the deferment) and reschedule a new installation appointment within twenty one (21) days from the such cancelled date, failing which, REDtone has the right to commence the billing as per the Service Order Form. The Customer may indicate the new preferred date and time for the installation appointment but the actual appointment date is still subject to the availability of REDtone' Installer. REDtone reserves the right to charge rescheduling fees as may be prescribed by REDtone from time to time for the visit to the Customer's Premises.

Initial by customer

**8. CHARGES AND PAYMENT**

- 8.1 The Customer must, throughout the duration of this Agreement:
  - (a) promptly pay all amounts of Charges due to REDtone as reflected in the official bill statement
  - (b) continue to be liable for any applicable Charges and fees during the period of interruption, suspension or loss of the Services or part thereof from any cause whatsoever and cease to utilize the Services or any part thereof for such period as may be required by REDtone.
- 8.2 The Customer's official start billing date will commence from the Activation Date.
- 8.3 Any refundable deposit tied to the Services or any part thereof shall be held to the Customer's credit and repaid to the Customer without interest after termination of the Services, and subject to the deduction of any amount due to REDtone by the Customer. REDtone reserves the right to deduct from the refundable deposit any amount due and payable to REDtone at any time and may request the Customer to make a further refundable deposit payment towards maintaining the refundable deposit at the level determined by REDtone.
- 8.4 The Customer agrees to pay all Charges applicable for the provision of the Services including but not limited to the deposit Charges, the installation Charges, the monthly subscription Charges, the appointment rescheduling Charges at the applicable rates indicated in the Service Order Form.
- 8.5 The monthly subscription Charge for the Services shall be continuously chargeable and payable by the Customer from the Activation Date regardless of the usage by the Customer of the Services.
- 8.6 The Charges for the provision of the Services shall commence from the Activation Date. The Customer shall be liable for and shall promptly pay to REDtone, within the time period specified in REDtone' bill for the Services, all Charges, fees, rentals, costs, taxes or other amounts whatsoever as reflected in REDtone' bill, notwithstanding that the Customer may dispute the same for any reason(s) whatsoever.
- 8.7 The Customer has thirty (30) days from the date of the official bill statement to notify REDtone in writing of any valid disputes or errors arising from the official bill statement, failing which the Customer shall be deemed to have accepted the official bill statement rendered for any period as correct and final.
- 8.8 The Customer hereby acknowledges and agrees that his or her or its obligation to pay promptly all Charges due and payable as stated in the official bill statement to REDtone shall not be waived, absolved or diminished by virtue of:-
  - (a) the Customer not receiving any official bill statement from REDtone for any particular billing period; and/or
  - (b) the Customer's failure or neglect to check, enquire, understand and ascertain the nature of the Services subscribed or used by the Customer and the applicable charges associated with such Services.
- 8.9 In addition to its obligations under Clause 8.1, it shall be the Customer's responsibility to:-
  - (a) request from REDtone for the official bill statement which it has not received for any given billing period;
  - (b) to check the applicable handbooks or brochures and/or addendums or supplemental thereto made available by REDtone from time to time and make the necessary enquiries with REDtone to understand and ascertain the nature of the Services subscribed or used by the Customer and the applicable charges associated with the Services.
- 8.10 In the event the amount stated in REDtone' bill or any part thereof remains unpaid after the due date, REDtone reserves the right to charge the Customer interest on the sum that remains unpaid as aforesaid at the rate of 1.5% per month to be calculated from the due date to the date of full payment.
- 8.11 The Customer agrees to bear all legal costs and expenses incurred by REDtone in recovering any moneys, charges, costs, and expenses payable by the Customer under the Agreement, and the Customer also agrees to indemnify REDtone against all costs, expenses and charges or legal fees incurred by REDtone in enforcing the Agreement or in bringing any action or proceeding to recover all charges, costs and expenses payable by the Customer.
- 8.12 The Customer acknowledges and agrees that REDtone may offset any outstanding payment from the Customer with any refund of any unclaimed money that may be due to the Customer. For this purpose, "unclaimed money" means all sums of money which are legally payable to the Customer and have remained unpaid for a period of not less than one (1) year they have become payable.

**9. ALTERATION/MODIFICATION**

- 9.1 A request by the Customer for relocation of Services and/or the Leased Equipment

shall be considered and treated as a termination of Service (refer to Termination of Services) and such relocation shall be subjected and treated as a new installation of the Services.

- 9.2 Any alteration/modification/restoration/investigation to the Service or Service configuration, based on the Customer's request is chargeable to the Customer at a rate as specified in the Service Order Form or any other rate as may be specified by REDtone from time to time.

**10. CHANGE OF SERVICE PACKAGE PLAN**

- 10.1 Subject to Clauses 10.2 and 10.3 hereinafter mentioned, the Customer may upgrade or downgrade the Service package plan and/or the bandwidth of the Services whether during or after the Minimum Subscription Period, subject to REDtone' prior written approval and the bandwidth availability of REDtone' network.
- 10.2 Every request for upgrade in the Service package plan or upgrade or downgrade of the Service bandwidth is chargeable. All upgrade or downgrade agreed shall be documented to reflect the new requirement and the new price which shall be payable upon such application to upgrade.
- 10.3 In the event of termination of the Service before expiry of the Minimum Subscription Period, the Customer shall be liable to pay the upgrade rate of the Service Charges for the remainder of the Minimum Subscription Period.

**11. CUSTOMER'S OBLIGATIONS**

- 11.1 The Customer shall, at its sole expense, procure, install, maintain and be responsible for the Customer Equipment required to facilitate access to the Services to enable connection to the REDtone Network and the Leased Equipment.
- 11.2 The Customer shall be responsible for ensuring the compatibility of the Customer Equipment with the REDtone Network and the Leased Equipment. In the event that changes are introduced to the REDtone Network and/or the Leased Equipment, the Customer shall be responsible for ensuring the continued compatibility of the Customer Equipment with the REDtone Network and/or the Leased Equipment and the Customer shall have no claim whatsoever against REDtone arising therefrom.
- 11.3 The Customer Equipment must be configured and run at all times in compliance with the manufacturer's specifications, including power outlet, power consumption and clearance requirements.
- 11.4 The Customer shall not:
  - (a) send or disclose Log-on Details to any person other than REDtone;
  - (b) store Log-on Details in any form, whether coded or un-encoded, in a location where they are capable of being read by anybody other than the Customer;
  - (c) share the Service with any person without the prior written consent of REDtone.
- 11.5 The Customer shall:
  - (a) use the Services only for the purpose for which it is intended;
  - (b) at all times use only his own Log-on Details for accessing the Services; (where applicable)
  - (c) be responsible for the secure storage of Log-on Details, including without limitation changing the Customer's passwords from time to time and shall not reveal the same to any other person;
  - (d) be responsible for all usage of, and charges for, the Services;
  - (e) ensure the Customer's readiness for installation of the Services on the appointment date as provided in **Clause 7** herein;
  - (f) comply with all notices or instruction given by REDtone from time to time in relation to the use of the Services;
  - (g) comply with the rules of any network to which the Customer has access through the Services;
  - (h) conform to the Internet etiquette that is required by electronic forums and the SKMM/MCMC rules, regulations and guidelines;
  - (i) be solely responsible for obtaining, at his own cost, all licenses, permits, consents, approvals, and intellectual property or other rights as may be required for using the Services;
  - (j) be solely responsible for all information retrieved, stored and transmitted by the Customer through the use of the Services;
  - (k) be responsible for ensuring that the Customer Equipment is equipped with network port;
  - (l) obtain REDtone' prior consent before making any changes to the REDtone Network

Initial by customer

configuration and interconnecting the private network to any public network;

- (m) provide true, accurate and complete information as requested in the Service Order Form and when requested by REDtone, from time to time;
- (n) comply with and adhere to the terms and conditions of this Agreement;
- (o) comply with and not contravene with any and all applicable laws of Malaysia relating to the Services, including without limitation the Act and its subsidiary legislation, other acts, statutes, by-laws, rules and regulations issued by relevant government and regulatory agencies, which may be amended from time to time;
- (p) provide basic infrastructure for installation of the Leased Equipment including but not limited to internal wiring and in the event that the Customer is not leasing the Leased Equipment from REDtone, the Customer shall be responsible for purchasing the equipment at his own cost to enable connectivity of the Service;
- (q) be responsible for any change and cost associated to any modification made to the external or internal wiring for connectivity of the Service. If the Customer conducts any renovation work that obstructs any access to any drop wire termination point, any necessity for the relocation of drop wire termination points as determined by REDtone shall be at Customer's cost.
- (r) pay and settle all Charges and any other charges due to REDtone in accordance with this Agreement;
- (s) abide and adhere to the terms and conditions of this Agreement and any amendments, changes and variations thereto;
- (t) be responsible to maintain in good condition any Leased Equipment by REDtone. In the event the Leased Equipment and any part of the Leased Equipment is faulty, lost or damaged due to any fault, act, omission or negligence of the Customer, the Customer shall bear the cost of the Leased Equipment according to its depreciated value which shall be determined by REDtone;
- (u) not resell or sublet or transfer the Services and/or the Leased Equipment or otherwise provide the Services and/or Leased Equipment to anyone without the prior consent of REDtone;
- (v) report immediately to REDtone upon the discovery of any fraud, theft, loss, unauthorised usage or any other occurrence of unlawful acts in relation to the Service, Leased Equipment and its use. In this respect, the Customer agrees to lodge a police report whenever instructed by REDtone (if one has not already been lodged) and to give REDtone a certified copy of such report;
- (w) be present during all appointment dates either for the installation of the Services, restoration of the Services and/or repossession of the Leased Equipment; and

**11.6** The Customer shall not use the Services:

- (a) to send unsolicited or unwelcome or bulk electronic mail messages of any kind to anyone or otherwise cause excessive or disproportionate load on the Services or the REDtone Network;
- (b) to gain unauthorised access to any computer system connected to the Internet or any information regarded as private by other person;
- (c) for any unlawful purposes such as, but not limited to vice, gambling or other criminal purposes whatsoever or for sending to or receiving from any person or displaying any message or posting which is offensive on moral, religious, communal or political grounds, or is abusive or of an indecent, obscene or menacing character;
- (d) for any purpose which is against public interest, public order, national or racial harmony;
- (e) to send or receive any message which is offensive on moral, religious, racial or political grounds or of any anxiety to any person including a company or a corporation. Transmission of any material in violation of any international, federal, state or local laws or regulations is prohibited;
- (f) to publish defamatory, infringing, obscene or other unlawful material;
- (g) in connection with the infringement of the copyright, patent, trademark, trade secret or other proprietary rights of any third party or rights of publicity or privacy;
- (h) interfere with, damage, disrupt or unlawfully use or gain access to any service, equipment or computer network without authorisation by the owner of the said service, equipment or computer network;
- (i) in violation of any laws relating to unfair competition, anti-discrimination or false advertising;
- (j) that result in distribution of viruses, trojan horses, worms, time bombs, cancelbots, or other similar harmful or deleterious programming routines;
- (k) in any manner, which in the opinion of REDtone may adversely affect the use of the Service by other Customers or efficiency or security as a whole.

**12. SECURITY OF DATA, LEASED EQUIPMENT AND CUSTOMER EQUIPMENT**

- 12.1 The Customer shall take all precautions and appropriate measures necessary to protect and safeguard the Leased Equipment, Customer Equipment, Customer system, data and network.
- 12.2 The Customer shall be responsible for maintaining the confidentiality of his, her or its passwords, if any, (including without limitation changing his passwords from time to time) and shall not reveal the same to any other person. Where user identification is necessary to access the Service, the Customer shall use only his, her or its user identification.
- 12.3 The Customer shall inform REDtone immediately (within 24 hours) if the account or Log-on Detail is stolen or lost. Prior to such a report being lodged with REDtone, the Customer shall remain responsible for all transactions and access using the account and/or Log-on Detail by any third party. REDtone shall not be held liable or responsible for any prohibited and/or unauthorised use of the Services as provided in this Agreement.
- 12.4 The Customer acknowledges that REDtone shall not be liable for the security of the Customer's data on any of the Customer Equipment or passing over the Services or the REDtone Network and that REDtone shall have no obligation to ensure, and makes no representations or warranties concerning the security of such data. The Customer shall be solely responsible for the data retrieved, stored or transmitted through the Services or the REDtone Network.
- 12.5 The Customer agrees that REDtone and its Related Corporations shall not be liable for any unauthorised access to the Customer's data even where the access occurs as a result of a fault in the REDtone Network or any other equipment or software owned, operated or supplied by REDtone.

**13. LEASED EQUIPMENT**

- 13.1 In respect of the Leased Equipment installed by REDtone, the Customer shall:
  - (a) take appropriate measures to safeguard the Leased Equipment;
  - (b) properly maintain and keep the Leased Equipment at a safe place;
  - (c) adhere to all instructions and notice given by REDtone from time to time in respect of the use of the Leased Equipment;
  - (d) be responsible for all costs of repairs incurred in relation to the Leased Equipment in the event it is proven that any fault in such Leased Equipment whether by act or omission is caused by the Customer;
  - (e) return and surrender the Leased Equipment to REDtone in the same condition as and when it is provided to the Customer (normal wear and tear excepted) upon termination of the Service.
  - (f) be liable to pay REDtone for any Leased Equipment which the Customer fails to return or surrender to REDtone upon termination of the Service;
  - (g) not hold REDtone liable in the event that the Customer's Equipment and/or other device(s) is/are damaged due to, including but not limited to, floods, fire, lightning strike or surge of power supply whilst using the Leased Equipment; and
  - (h) not hold REDtone liable or responsible in the event that REDtone is unable to replace or change the Leased Equipment to a similar model or type as the Customer's existing Leased Equipment, in respect of which REDtone reserves the right to replace the Leased Equipment to any model or type available at the relevant time, at REDtone's sole discretion.
- 13.2 In the event of any interruption, loss or unavailability of the Service and/or any technical faults encountered with the Leased Equipment, the Customer may request for technical support and basic troubleshooting of the same from REDtone. Upon visiting the Customer's Premises, if REDtone and/or its appointed contractor determines that such interruption, loss or unavailability of the Services is not attributable to or caused by any fault in the Leased Equipment or REDtone network, then REDtone reserves the right to impose Charges Service Order Form as may be prescribed by REDtone from time to time for the visit to the Customer's Premises.

**14. REDtone' RIGHT**

- 14.1 REDtone and/or its Related Corporations reserves the right to make any alteration or changes to the Services, Leased Equipment or any part thereof, or suspend the Services or any part thereof without prior notice subject to operational and/or technical reasons or in an emergency situation or in circumstances that concerns national security, any breach of the Act or by directive of the relevant authority including the SKMM/MCMC or the Minister. REDtone and/or its Related Corporations shall not be liable for any loss or inconvenience to the Customer resulting therefrom.
- 14.2 REDtone reserves the right at its absolute discretion, from time to time, to vary, add to or otherwise amend the terms and conditions of the Agreement or any part thereof including the Charges. The Customer's continued use of the Services after the effective date of any variation, addition or amendments to the terms and

Initial by customer

conditions of the Agreement including the Charges shall constitute unconditional acceptance of such variations, additions or amendments by the Customer.

Agreement and has not remedied the default within thirty (30) days of receipt of written notice from the Customer requiring the remedy of the default, the Customer may, by written notice to REDtone, be entitled to terminate the Agreement forthwith.

**15. SUSPENSION AND TERMINATION**

15.1 The Agreement shall commence on the Registration Date and shall continue until terminated by the Customer or REDtone pursuant to this Agreement.

15.2 The Services shall commence on the Activation Date and shall continue during the Minimum Subscription Period or any extension thereof until terminated by the Customer or REDtone pursuant to this Agreement.

15.3 In the event the Customer:

- (a) fails to pay in full any sums or Charges due and payable pursuant to the Agreement within thirty (30) days of the relevant due date for payment; or
- (b) is otherwise in default of its obligations under the Agreement and has not remedied the default within fourteen (14) days of receipt of written notice from REDtone requiring remedy of such default; or
- (c) is insolvent or takes any corporate action or other steps are taken or legal proceedings are commenced from its winding up, liquidation or dissolution (other than for purposes of solvent reconstruction on terms approved by REDtone) or for the appointment of a receiver, receiver and manager, official manager, liquidation, provisional liquidator, trustee, or similar officer over the Customer or any or all of its revenues or assets;

REDtone shall be entitled by written notice to the Customer to treat such failure, breach or default as a repudiation of the Agreement and to immediately terminate the Agreement and the Services.

15.4 Without prejudice to REDtone' rights under this Agreement, REDtone shall be entitled at its absolute discretion to immediately suspend or terminate the Services or any part thereof or the Agreement, without liability, at any time, without any notice and may not be required to give any reason whatsoever, including but not limited to the following reasons:

- (a) if any technical failure occurs in the Services or REDtone' Network or the Related Corporations' network;
- (b) while the Services are being upgraded, modified or maintained;
- (c) if there is a Distributed Denial of Service(DDOS) attack which may in REDtone' opinion, lead to, including but not limited to, the damage or injury to the Services or REDtone' and/or the Related Corporations network;
- (d) if the Customer breaches any of the terms and conditions of the Agreement and/or any Addendum;
- (d) if the Customer does anything which may in REDtone' opinion, lead to, including but not limited to, the damage or injury to the Services or REDtone' and/or the Related Corporations network and/or reputation;
- (e) if REDtone is required to do so by law, statute, enactment, code or by any relevant authorities including the SKMM/MCMC;
- (f) if it is in REDtone opinion that the Services, REDtone' or the Related Corporations network is or may be used fraudulently, illegally or for unlawful purposes; or
- (g) suspension of the Services for the purposes of scheduled preventive maintenance, corrective maintenance and network upgrading necessary to be carried out on REDtone' network. REDtone is not liable for any loss (including any loss of revenue) by the Customer due to loss of service or connectivity (outage) during the implementation of the maintenance work.

REDtone will endeavour to resume the Services as soon as possible if suspension or disconnection occurs for the reasons set out in Clause 15.4(a), (b) and (c) above. The Customer shall be liable for all applicable Charges during the period of interruption, suspension or loss of the Services or part thereof from any cause whatsoever.

15.5 The Customer shall use the Services within the bandwidth range applied for in the Service Order. REDtone reserves the right at its sole discretion to request the Customer to increase the bandwidth at any time in the event the Customer's usage of the Services has exceed the bandwidth range applied for, failing which REDtone shall not be responsible for any service degradation.

15.6 Any suspension of the Services or any part thereof by REDtone pursuant to the provisions of this Agreement shall not prejudice the right of REDtone to continuously bill the Customer for the Service Charges for the remaining duration of the Minimum Subscription Period and/or recover all other Charges, costs and interests due and other incidental damages incurred thereto. REDtone may in its absolute discretion reconnect the Services, subject to the Customer paying a reconnection fee, all outstanding amounts due to REDtone and a refundable deposit as may be required by REDtone for the reconnection of the Service

15.7 In the event REDtone is in material default of any of its obligations under the

15.8 In the event of termination of the Customer Account at any time during the Minimum Subscription Period, the Customer shall be liable to pay to REDtone the monthly recurring Charges for the Services for the remainder of the Minimum Subscription Period within thirty (30) days from the date of such termination.

15.9 In the event the termination of the Customer Account at any time after the expiry of the Minimum Subscription Period, the Customer shall be liable to pay REDtone the monthly recurring Charges due up to and including the date of termination of the Services within thirty (30) days from the date of such termination.

15.10 On termination of the Agreement by the Customer or REDtone for any reason whatsoever, the Customer shall immediately pay REDtone and be liable for:

- (a) all outstanding Charges in accordance with the Customer's account and/or relating to the Services with REDtone;
- (b) all Charges and amounts due and unpaid as at the termination date and any accrued interests thereon;
- (c) the cost of the Leased Equipment if is not returned in good condition, fair wear and tear excepted.

**16. INDEMNITY**

16.1 The Customer undertakes and agrees to indemnify and hold REDtone and its Related Corporation and their respective employees, officers, suppliers, contractors and agents harmless from and against any and all claims, demands, damages, loss, costs, charges, liabilities and expenses (including solicitor s fees and costs) of every nature directly and indirectly, arising out of or in connection with, including but not limited to:

- (a) any claims for libel, invasion of privacy, infringement of patent, trademark, copyright or intellectual property right or other proprietary right, breach of confidence or breach of any law or regulation whatsoever arising from or attributable to the Customer Equipment, Customer data or the use of the Services or the Leased Equipment (whether with or without Customer s authorisation);
- (b) the use of the Services by a person using the Logon Details with, or without, the Customer's consent and/or authority;
- (c) any non-compliance with or breach of any provisions of this Agreement by the Customer;
- (d) any negligent or willful act of the Customer or any of its officers, employees, contractors or agents which would have been a breach of this Agreement if performed by the Customer using the Log-on Details; and
- (e) any damage to property or personal injury (including death) arising from or in connection with the Customer Equipment.

16.2 The Customer shall indemnify and keep indemnified REDtone from any loss, damage, liability or expenses arising from any claims for libel, invasion of privacy, infringement of copyright, patent, breach of confidence or privilege or breach of any law or regulation whatsoever arising from the material transmitted, received or stored via the Services or part thereof and from all other claims arising out of any act or omission of the Customer or any unauthorized use or exploitation of the Services or part thereof.

**17. CUSTOMER'S WARRANTIES**

17.1 The Customer warrants that:

- (a) he, she or it has the power to enter into and observe all its obligations under the Agreement;
- (b) all consents, qualifications and authorisations from all necessary or relevant parties (including but not limited to developers, building management corporations or building owners) government and other authorities for the performance by the Customer of his, her or its obligations hereunder have been duly obtained and are in full force and effect; and
- (c) the execution, delivery and performance by the Customer of the Agreement have been duly authorised by all necessary corporate action and that the Agreement constitutes a valid and effective and legally binding contract and shall be enforceable against the Customer in accordance with the terms herein.

17.2 The Customer shall not use the Services and/or the Leased Equipment to cause embarrassment, distress, annoyance, irritation or nuisance to any person.

17.3 The Customer undertakes and agrees to inform REDtone immediately of any change of the Customer's information provided in the Service Order Form and/or to REDtone for purposes related to and associated with the Services. The

Initial by customer



Customer's failure to do so shall be a waiver of the Customer's rights, including the rights to be notified under this agreement and shall constitute a breach of terms and conditions of this Agreement for which REDtone reserves the right to suspend, disconnect the Services or terminate this Agreement.

**18. DISCLAIMERS AND LIMITATION OF LIABILITY**

- 18.1 The Service is provided on an "AS IS" basis and the Customer expressly acknowledges that no condition, warranty or representation is given or made by REDtone or the employees, officers, representatives, customers or agent (collectively "Personnel") of REDtone and its Related Corporations with respect to the Services and/or the Leased Equipment and all other conditions, warranties, guarantees or representation, express or implied, statutory or otherwise: (i) as to the state, quality, description or otherwise of the Services and/or Leased Equipment; or (ii) as to the Services and/or Leased Equipment's fitness for any purpose, merchantability, non-infringement; or (iii) which arises from a course of dealing, usage, law or trade practice; or (iv) as to performance of any equipment, Leased Equipment or materials supplied in connection with the provision of the Services; are hereby expressly excluded to the fullest extent permitted by law.
- 18.2 The Customer shall exercise discretion when using the Services at all times and REDtone shall not be held responsible and hereby disclaims any and all liabilities whatsoever with regard to any information or content accessed through the Service by the Customer.
- 18.3 Notwithstanding anything to the contrary herein contained, in no event shall REDtone, its Related Corporation and their respective Personnel or suppliers be liable to the Customer in contract, tort (including negligence whatsoever) or otherwise in respect of any claim brought by a third party or by the Customer whatsoever for any loss of profit or revenue or loss of business or loss of data or for interrupted or suspended communications or for any direct, indirect, special, incidental, consequential damages, or for any injury caused or suffered by a person or damage to property or any damages arising out of or in connection with the Services, Leased Equipment or the Agreement, whether or not REDtone, its Personnel or suppliers was or should have been aware of the possibility that such damage or loss would occur. The aforesaid limitation and exclusion shall apply to the fullest extent permitted by law. The exclusion referred to here applies to any action giving rise to an obligation, duty or liability even if the action was not authorised or capable of being authorised by the Customer.
- 18.4 Without limiting the generality of Clause 18.3, REDtone and/or its Related Corporations shall not be liable for:-
  - (a) any claim for libel, slander, infringement of any intellectual property rights arising from the transmission and receipt of material in connection with the Service and any claims arising out of any act or omission of the Customer in relation to the Service or any part thereof.
  - (b) any loss or damage caused to the Customer as a result of the suspension/barring/termination of the Agreement and the interruption/loss of the Service or any part thereof from any cause.
  - (c) any loss, distortion or corruption of data arising from the use of the Service to transmit data or for data communication purposes at any stage of the transmission including any unlawful or unauthorised access to the Customer's transmission or data.
  - (d) interruption or unavailability of the service as a result of including but not limited to adverse weather conditions, electromagnetic interference, equipment failure or congestion in REDtone and/or the Related Corporations network or telecommunication systems.
- 18.5 REDtone and/or its Related Corporations shall not be liable for, and the Customer agrees to indemnify REDtone and/or its Related Corporations against all claims, losses, liabilities proceedings, demands, costs and expenses (including legal fees) which may result or which REDtone and/or its Related Corporations may sustain in connection with or arising from the provision of the Services and/or the leased Equipment to the Customer.

**19. PERSONAL DATA**

- 19.1 The Customer acknowledges that REDtone and/or its Related Corporations collect, use, disclose and otherwise process Personal Data as set out in the REDtone Privacy Statement. The current version of the REDtone Privacy Statement is available at [www.redtone.com](http://www.redtone.com) and at all REDtone Service Centres.
- 19.2 REDtone may update the REDtone Privacy Statement from time to time. When it changes the REDtone Privacy Statement in a material way, it will post notice of this at [www.redtone.com](http://www.redtone.com) and will also attempt to notify the Customer directly using either email, SMS or post.
- 19.3 The Customer will be deemed to have consented to the use of their Personal Data in the manner set out in the REDtone Privacy Statement by submitting their Personal Data and using the Services.

**20. NOTICES**

- 20.1 Any legal notices or communications to be given by REDtone to the Customer under the Agreement shall be in writing and sent to the Customer's last known address or facsimile number provided and stated in the Service Order Form submitted to REDtone during the application process for the Services. Any notice to be given by the Customer to REDtone shall be in writing and sent to **REDtone Telecommunications Sdn Bhd**, Suites 22-28, 5<sup>th</sup> Floor, IOI Business Park, 47100 Puchong, Selangor or to any other address notified by REDtone from time to time or fax to REDtone at +603 8073 2285 (Attention: Head of Sales) or to any other fax number notified by REDtone from time to time or as published in the official website ([www.redtone.com](http://www.redtone.com)) and/or published in and/or published in national newspapers in the main languages, published daily and circulating generally throughout Malaysia, as the case may be.
- 20.2 For operational or technical notices or communications to be given by one party to the other, the party may contact the other party by telephone or electronic mail at its last known telephone number or electronic mail address respectively.
- 20.3 Any notice given pursuant to this Clause shall be deemed to have been served if:
  - (a) sent by prepaid registered post, on the second business day after the date of posting;
  - (b) sent by ordinary post, on the fifth business day after the date of posting;
  - (c) hand delivered, upon delivery provided it is delivered during REDtone Working Hours on a business day; or
  - (d) sent by facsimile, upon completion of transmission.

**21. FORCE MAJEURE**

- 21.1 Without limiting the generality of any provision of this Agreement, REDtone and/or its Related Corporations shall not be liable for failure to perform its obligations under the Agreement caused by an act of God, insurrection or civil disorder, war, military operations or act of terrorism, national or local emergencies, act or omissions of government or other competent authorities, industrial disputes of any kind, fire, lightning or explosions, flood, inclement weather, subsidence, acts or omissions of persons or entities for whom REDtone and/or its Related Corporations have no control over, including third party suppliers or operators, contractors or agents whom REDtone may use to perform the Services or any part thereof, or any cause whether similar or dissimilar or outside REDtone and/or its Related Corporations reasonable control.
- 21.2 The parties hereby agree that either party may terminate this Agreement, by giving fourteen (14) days' notice to the other party in the event that the force majeure event which has occurred prevents either party from performing and/or continuing its obligations for more than a period of sixty (60) days.
- 21.3 Notwithstanding the event of force majeure, the Customer shall remain obliged to pay all fees and Charges which are outstanding and/or due and payable to REDtone in accordance with the Agreement.

**22. GOVERNING LAW AND JURISDICTION**

- 22.1 The Agreement and the transactions contemplated by the Agreement shall be governed by and construed in accordance with the laws of Malaysia without reference to its principle of conflict of laws. Disputes arising out of or related to the Agreement shall be exclusively subject to the jurisdiction of the courts of Malaysia.

**23. COSTS AND TAXES**

- 23.1 The Customer shall bear the stamp duty on this Agreement.
- 23.2 Any costs incurred in relation to preparation and legal review of this Agreement shall be borne by REDtone and the Customer respectively.
- 23.3 The Customer shall bear all government taxes, levies and other costs imposed by law in relation to the provision of the Service by REDtone. Goods and Services tax ("GST") is applicable to services or equipment provided by REDtone under this Agreement, REDtone is entitled to charge the service tax or GST payable to the government on the Service and/or any REDtone services or equipment supplied to the Customer and these taxes shall be added to the bills issued to the Customer.
- 23.4 In the context of GST stated in Clause 23.3 hereinabove, REDtone shall:
  - (a) provide to the Customer information that may be reasonably required to establish the liability for GST;
  - (b) provide a tax invoice as may be required by the Customer to enable the Customer to claim an input tax credit under the law applicable to GST; and
  - (c) where a taxable supply has been made and consideration charged but the applicable GST has not been charged, the increase in the consideration required by clause 23.2 shall be paid by the Customer.
- 23.5 If the fees, charges, damages or any other monies due under this Agreement by the

Initial by customer

Customer to REDtone is to be recovered through any process of law or if the said monies or any part thereof shall be placed in the hands of solicitors for collection, the Customer shall pay (in addition to the said monies) REDtone solicitors fees and any other fees or expenses incurred in respect of such collection as may be determined by the court of law.

h) Legal documentation and/ or action consented to a contract or facility granted

25.3 This consent shall remain applicable as long as the Customer is maintaining an account or any transaction with REDtone.

**24. GENERAL**

24.1 REDtone may from time to time, make any alterations, variations or changes to the Services and/or the Leased Equipment or vary the terms and conditions of this Agreement and/or the REDtone Privacy Statement. These terms and conditions for the Services and the REDtone Privacy Statement are subject to change, and the prevailing terms and conditions and REDtone Privacy Statement as updated on our official website shall apply and supersede any and all previous versions, including in these terms and conditions. The Customer is responsible to regularly review information relating to the Services posted on REDtone official website which may include changes to these terms and conditions of the Services and the REDtone Privacy Statement. The Customer's continued use of the Services after the effective date of any change to these terms and conditions shall constitute irrevocable and unconditional acceptance of such alterations, variations, additions or amendments by the Customer and the Customer shall be bound by the same. REDtone shall not be liable for any loss, damages, costs, expenses or inconvenience to the Customer resulting therefrom. If the Customer does not accept such alteration, variation or change, the Customer shall be entitled to terminate the Agreement by giving written notice to REDtone prior to the effective date of such alterations, variations or changes.

24.2 A provision or a right created under this Agreement may not be waived except in writing signed by the party granting the waiver. No delay or omission by either party to exercise any right or power under the Agreement shall impair such right or power or be construed to be a waiver thereof. A waiver by any party of any of the obligations to be performed by the other party or any breach thereof shall not be construed to be a waiver of any succeeding breach thereto or of any other obligation.

24.3 REDtone may assign or novate any of its rights or obligations under this Agreement to any third party by notice to the Customer but without the Customer's consent. The Customer may not assign or novate any of its rights and obligations under this Agreement without REDtone written consent.

24.4 In the event of a conflict or inconsistency between the Service Order Form, the Customer Terms for REDtone Services and General Terms and Conditions (REDtone Services), the terms and conditions on REDtone official website and the Addendum, such inconsistency shall be resolved by giving precedence in the following order: the Addendum, the terms and conditions in REDtone official website, the Customer Terms for REDtone Services and General Terms and Conditions (REDtone Services) and the Service order form for the Services.

24.5 This Agreement constitutes the entire agreement between the parties concerning the subject matter herein and supersedes all previous agreements, understanding, proposals, representing and warranties relating to that subject matter.

24.6 Those Clauses which by their nature would survive the termination of the Agreement shall so survive

24.7 Time is of essence in performance hereunder and a significant and material term hereof.

24.8 If any term or provision (other than a term or provision relating to any payment obligation) of the Agreement or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable and the remainder of the Agreement shall be capable of substantial performance, then each term and provision of the Agreement not so affected shall be valid and enforceable to the extent permitted by law.

24.9 The Customer agrees that the Agreement will be for the benefit of the Customer only and does not confer any rights or benefits on any third party, including without limitation the Customer's Personnel, and that there are no third party beneficiaries of the Customer as to this or any part or specific provision of the Agreement.

**25. CREDIT INFORMATION**

25.1 The Customer and its directors jointly agree their consent to REDtone to search on both company and director/ shareholder/ account holder at any time

25.2 The Customer, either its Directors/ Shareholders/ Business Interest Parties, hereby give their consent to obtain and/or disclose any credit information (as defined in the Credit Reporting Agencies Act 2010) at any sources deemed appropriate may deem fit under any applicable law, regulation, guidelines, regulatory requirement or directive in relation to the company's credit application or transaction with REDtone for the following purposes (but not limited to):-

- a) Opening of account
- b) Credit evaluation
- c) Credit/ account review
- d) Credit/ account monitoring
- e) Debt recovery purposes
- f) Scoring solutions
- g) Employment evaluation

Initial by customer